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TITLE 326 AIR POLLUTION CONTROL BOARD

SECOND NOTICE OF COMMENT PERIOD #02-189(APCB)

DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING LEAD-BASED PAINT ACTIVITIES

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for amendments to 326 IAC 23 concerning the licensing and approval of individuals and contractors engaged in lead-based paint activities and training programs providing instruction in such activities. With this rulemaking, IDEM is adding a new licensing discipline of clearance examiner to implement the requirements of House Enrolled Act (HEA) 1171 and adding U.S. EPA amendments to 40 CFR 745 to maintain program approval. By this notice, IDEM is soliciting public comment on the draft rule language. IDEM seeks comment on the affected citations listed and any other provisions of Title 326 that may be affected by this rulemaking.

HISTORY

First Notice of Comment Period: July 1, 2002, Indiana Register (25 IR 3464).

CITATIONS AFFECTED: 326 IAC 23-1-4; 326 IAC 23-1-4.5; 326 IAC 23-1-7.5; 326 IAC 23-1-9; 326 IAC 23-1-10; 326 IAC 23-1-11; 326 IAC 23-1-11.5; 326 IAC 23-1-11.7; 326 IAC 23-1-17; 326 IAC 23-1-21.5; 326 IAC 23-1-23; 326 IAC 23-1-27; 326 IAC 23-1-27.5; 326 IAC 23-1-32.5; 326 IAC 23-1-33.5; 326 IAC 23-1-33.7; 326 IAC 23-1-34.5; 326 IAC 23-1-37; 326 IAC 23-1-40; 326 IAC 23-1-42; 326 IAC 23-1-43; 326 IAC 23-1-44; 326 IAC 23-1-45; 326 IAC 23-1-46; 326 IAC 23-1-47; 326 IAC 23-1-48.5; 326 IAC 23-1-48.6; 326 IAC 23-1-52.5; 326 IAC 23-1-54.5; 326 IAC 23-1-55.5; 326 IAC 23-1-59.5; 326 IAC 23-1-60.5; 326 IAC 23-1-60.6; 326 IAC 23-1-60.7; 326 IAC 23-1-61.5; 326 IAC 23-1-62.5; 326 IAC 23-1-63; 326 IAC 23-1-69.5; 326 IAC 23-1-69.6; 326 IAC 23-1-69.7; 326 IAC 23-1-70.5; 326 IAC 23-2-1; 326 IAC 23-2-3; 326 IAC 23-2-4; 326 IAC 23-2-5; 326 IAC 23-2-6; 326 IAC 23-2-8; 326 IAC 23-2-9; 326 IAC 23-3-1; 326 IAC 23-3-3; 326 IAC 23-3-4.5; 326 IAC 23-3-5; 326 IAC 23-3-7; 326 IAC 23-3-12; 326 IAC 23-4-1; 326 IAC 23-4-2; 326 IAC 23-4-3; 326 IAC 23-4-4; 326 IAC 23-4-5; 326 IAC 23-4-6; 326 IAC 23-4-7; 326 IAC 23-4-9; 326 IAC 23-4-13; 326 IAC 23-5.

AUTHORITY: IC 13-14-9; IC 13-17-14-5.

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

IDEM established a lead-based paint program in 326 IAC 23 effective February 5, 1999, to ensure that a person conducting lead-based paint activities in certain specified housing and child-occupied facilities does so in a manner that protects the health of the building's occupants, especially children six (6) years of age and younger. This program requires a person to be licensed by IDEM to perform lead-based paint abatement activities. It establishes fees for the licensing of individuals, contractors, and the approval of training courses and training course providers. This program is similar to the accreditation program for asbestos workers.

On January 5, 2001, the U.S. EPA issued a final regulation under section 403 of the Toxic Substances Control Act (TSCA) as amended by the Residential Lead-Based Paint Hazard Reduction Act of 1992, also known as "Title X", to establish standards for lead-based paint hazards in pre-1978 housing and child occupied facilities. The department has added specific amendments to 326 IAC 23 from this Federal Register (66 FR 1205).

In 2002, the Indiana General Assembly enacted HEA 1171, which amends the Indiana Code under IC 13-17-14 for the lead-based paint program. HEA 1171 requires the air pollution control board to amend 326 IAC 23 by July 1, 2003, to incorporate the new statutory changes. This rulemaking will meet that requirement. HEA 1171 may be reviewed at www.state.in.us/legislative/session/archives.html.

SUMMARY/RESPONSE TO COMMENTS FROM THE FIRST COMMENT PERIOD

IDEM requested public comment from July 1, 2002, through July 31, 2002, on alternative ways to achieve the purpose of the rule and suggestions for the development of draft rule language. IDEM received comments from the following parties by the comment period deadline:

Improving Kids' Environment (IKE)

Environmental Management Institute (EMI)

Following is a summary of the comments received and IDEM's responses thereto:

Comment: The rule must incorporate the work practice requirements in IC 13-17-14-12. The Lead-Safe Task Force participants, those working on lead poisoning prevention, feel it is vital to incorporate these requirements into the rule. A single place to look to for the state's

lead-based paint rules is needed. If the work practice provisions are omitted, bid specs and local standards are likely to omit them. (IKE)(EMI)

Response: The department will add the statutory language to 326 IAC 23 as a new rule to provide easy access to remodeling and work practice standards by those to whom they apply and by local health departments. The department notes, however, that the legislature did not give the department the directive or sufficient resources for a program to implement and enforce these standards.

Comment: Add a definition of risk investigation and risk examination to make it equivalent to a risk assessment. Some people are marketing a risk assessment but calling it a risk examination to avoid the specific requirements of a risk assessment. (IKE)

Response: If an activity meets the definition of risk assessment, it must be performed by a licensed contractor regardless of how it is marketed. Additional definitions are not necessary for IDEM to be able to enforce the legal requirements.

Comment: Add “abatement” after lead based paint and delete “activities”. (EMI)

Response: The department does not agree with the suggested changes. The current definition of lead paint activities includes abatement as one of several activities. The term will be “lead-based paint activity” throughout the article.

Comment: Under 326 IAC 23-1, add definitions for clearance examiner and clearance examination concerning conducting visual inspection and collection of dust wipe samples according to 326 IAC 23-4-9 at the completion of a lead abatement or interim control project to indicate the project is complete. (IKE)(EMI)

Response: Presently the department is as stringent as federal U.S. EPA procedures. The department has added a definition for “clearance examiner” at 326 IAC 23-1-42.5. We have post-abatement clearance procedures under 326 IAC 23-4-9 and will add a similar new section under 326 IAC 23-5 for nonabatement clearance procedures.

Comment: Under 326 IAC 23-1 add a definition of elevated blood lead level (EBL) investigation to make it clear that it must be conducted by an Indiana licensed risk assessor. (IKE)(EMI)

Response: The definition of elevated blood lead level is in the Indiana Department of Health’s rules and is enforced by that state agency. If there is an inspection or risk assessment, risk assessors need to be licensed as defined in 326 IAC 23.

Comment: Under 326 IAC 23-1-4, amend the section to remove the grand fathering clause concerning October 1, 1990. (EMI)

Response: The department agrees and will make the change to the draft rule.

Comment: Under 326 IAC 23-1-10 amend the definition of “completion date” to add “and clearance sampling” and to clarify that dust is “above clearance levels”. (EMI)

Response: The department agrees and will make the change to the draft rule.

Comment: Under 326 IAC 23-1-23, delete the definition of “emergency abatement operations” as this is not an issue with lead. (EMI)

Response: The department agrees and will propose to repeal this section of the rules.

Comment: Under 326 IAC 23-1-27 amend the definition of “Facility” to add “facility for purposes of this rule must be target housing and child-occupied facility only” or delete the definition and do not use the term in the rule. (EMI)

Response: The department agrees and will amend the draft rule to specify target housing or child-occupied facility.

Comment: Under 326 IAC 23-1-33 amend the definition of “Lead Inspection” to say “an inspection includes any collection of samples according to 326 IAC 23-4-2 to determine the presence of lead-based paint conducted by persons who, through the person’s company name or promotional literature, represent, advertise, or hold themselves out to be in the business of performing LBP inspections.” (IKE)(EMI)

Comment: Under 326 IAC 23-1-60(2), modify the definition of “Risk assessment” to include situations where the service is being marketed or sold as a risk assessment. The term needs to be revised to reflect U.S. EPA’s current interpretation that taking dust wipe samples is not a risk assessment unless it is promoted or identified as a risk assessment. (IKE)(EMI)

Response: The department does not agree that any collection of samples should be defined as a risk assessment. Licenses are not needed when only taking samples.

Comment: Under 326 IAC 23-1-36 amend the definition of “Lead-based paint activities” by adding “clearance examination and risk investigation” to the list of lead-based paint activities. If a LBP activity is called an inspection, risk-assessment, lead hazard screen, clearance examination, risk investigation, abatement or equivalent term, the person conducting the activity in target housing or a child occupied facility must have an Indiana license. (EMI)(IKE)

Response: The term lead-based paint activity is from U.S. EPA. The department prefers to maintain U.S. EPA’s definition to ensure consistency of state rules with federal rules. It is not necessary to add these terms to the list of lead-based paint activities for U.S. EPA program approval.

Comment: Under 326 IAC 23-1-37(b), amend the definition of “Lead-based paint hazard” to allow the handing out of an “equivalent” lead hazard information pamphlet. An equivalent is allowed by U.S. EPA rules. (EMI)

Response: The department prefers to distribute U.S. EPA’s pamphlet in order to ensure that appropriate information is properly disseminated.

Comment: Under 326 IAC 23-1-40, drop the definition of “Lead-contaminated waste material”. The term is not used consistently throughout the rule. (EMI)(IKE)

Response: The department will delete the word “material” to reflect the term used in the rule.

Comment: Under 326 IAC 23-1-41, amend the definition of “Lead hazard screen” to mean “any collection of samples according to 326 IAC 23-3 to determine the presence of LBP hazards conducted by persons who, through the person’s company name or promotional literature represent, advertise or hold themselves out to be in the business of performing a lead hazard screen.” (IKE)(EMI)

Response: The department’s rules are as stringent as U.S. EPA’s regulations and currently meet U.S. EPA Toxic Substances Control Act (TSCA) requirements. No change is necessary.

Comment: Under the definition in 326 IAC 23-1-43, a contractor is not only the abatement contractor but could be an inspector or risk assessor as well. (EMI)

Comment: Change all uses of the word “contractor” to “firm” as in U.S. EPA rules. Do you intend for an abatement contractor only to be a contractor? U.S. EPA uses firm here. (EMI)

Response: The department prefers the word contractor in the rule and has defined the word “contractor” so as not to confuse the individual reading the rule. Under 326 IAC 23-1-43, it is not necessary to have a contractor’s license. There is no requirement to be only a contractor.

Comment: Under 326 IAC 23-1-46, amend the definition of “Lead risk assessor” to add “lead-hazard screens, clearance examinations, elevated blood-lead level investigation”. A risk assessor also samples for the presence of lead in dust and soil for the purposes of abatement clearance testing. (IKE)(EMI)

Response: The department has added “lead-hazard screens” to the rule.

Comment: Under 326 IAC 23-1-63(2), “Target housing” definition, use zero-bedroom dwelling instead. It is possible for some, but not all dwellings in a building to be zero bedrooms. (EMI)

Response: The department agrees and will make the change to the draft rule.

Comment: Under 326 IAC 23-1-64, amend the definition of “Third-party examination” to add “an initial” before licensure requirement as required under this article for inspectors, risk assessors, and supervisors. (EMI)

Response: The department disagrees. Third-party exams are not only for initial applications.

Comment: Under 326 IAC 23-2-1(a), amend the applicability section by adding “clearance technician.” (EMI)

Response: The department has added “clearance examiner” to the list.

Comment: Under 326 IAC 23-2-2(c)(1)(C), amend General provisions to include a time frame such as forty-eight hours. (EMI)

Response: The department does not agree with adding a time frame as it limits our ability to perform inspections.

Comment: Under 326 IAC 23-2-3(a), 326 IAC 23-2-4(a), and 326 IAC 23-3-1(a), add clearance examiner as a new discipline for licensure. (EMI)

Response: The department agrees and will make the changes to the draft rule.

Comment: Under 326 IAC 23-2-3, add a new subdivision to allow for license reciprocity from other states. (EMI)

Response: Reciprocal license procedures will be added to 326 IAC 23-3 under the training course provider rule.

Comment: Under 326 IAC 23-2-3(b)(3) add the following: “Clearance examiner applicants shall take and pass the clearance examiner course and pass all required examinations. No additional experience or education is needed.” (EMI)

Response: Rule language concerning clearance examiner has been added under subsection (b)(1).

Comment: Under 326 IAC 23-2-3(c)(6) and (c)(7), delete both subdivisions as there is no air sampling in lead. (EMI)

Response: The department agrees and will propose the changes.

Comment: Under 326 IAC 23-2-3, Licensing; qualifications, add a new subsection (f) as follows: “(f) The third party examination will be maintained by the department and will cover relevant and current topics and methodologies, as well as current regulations. It shall not contain questions that do not reflect current state and federal guidelines, or are not applicable to the operation of all models of XRFs.(IKE)(EMI)

Response: Under subsection (f), the department prefers to use U.S. EPA’s third party exam.

Comment: Under 326 IAC 23-2-3(h), Licensing; qualifications, amend current subsection (h) to extend the time lapse from eighteen (18) months to three (3) years. (EMI)

Response: The department agrees and will propose the change to the draft rule.

Comment: Under 326 IAC 23-2-4(b)(2), the contractor application requirements that are submitted to receive supervisor license are redundant. (EMI)(IKE)

Response: The department needs the copies submitted as required since different staff members review applications for particular disciplines. The license process will be slowed if copies need to be made for every application.

Comment: Under 326 IAC 23-2-4(b)(3), (b)(5), (7)(F), and (8), if this is an initial license, it would be hard to have completed any projects. (EMI)

Response: The department disagrees because the applicant could have worked in other states. Therefore, all information is needed for review.

Comment: Under 326 IAC 23-2-4(b)(6), is the list of any contractual penalties for any contracts or just lead? Add a time frame, such as within the last seven (7) years. (EMI)

Response: The term “lead-based paint” will be added to describe the types of penalties. The department does not want to add a time frame to the rule because we want to know if at any time a penalty was paid. The department needs this information in order to fully evaluate the application.

Comment: Under 326 IAC 23-2-4(e) and 326 IAC 23-2-5(c), change the requirements for two (2) photographs to one (1) photograph to be scanned and placed on the face of the license. (EMI)

Response: The department needs two (2) copies of a picture. The wording will be amended to make it clearer.

Comment: Under 326 IAC 23-2-3 and 326 IAC 23-2-4(f), add the following: “The license or denial of the license application will be sent by the department to the applicant within two (2) weeks of the receipt of a completed application.” (EMI)(IKE)

Response: The department disagrees with the suggested changes. The department strives to issue all licenses as quickly as possible. In some cases, however, it takes more than two (2) weeks to verify all information on the application.

Comment: Under 326 IAC 23-2-4, delete subsections (g) concerning grandfathering of requirements and (h) concerning applications received in writing. (EMI)

Response: The department will delete 326 IAC 23-2-4(g). The department requires applications to be submitted in writing as required by 326 IAC 23-2-4(h).

Comment: Under 326 IAC 23-2-5(a), Renewal of lead-based paint license, add “clearance examiner” to the list of disciplines to renew a license. (EMI)

Response: The department agrees and has added the term.

Comment: Under 326 IAC 23-2-5(a), delete (2)(A) and (2)(B) as no other state in Region IV or V requires this. (EMI)

Response: These requirements have been a part of Indiana’s license rules since they were adopted in 1999, and the department prefers to retain them because they ensure that the individuals in these disciplines are knowledgeable about the broad range of lead-based paint abatement activities they review.

Comment: Delete the requirements to take and pass a third-party examination in 326 IAC 23-2-5(a)(3) as it sounds like they have to take the test again. Under 326 IAC 23-2-5(a), delete (4)(B) as a person could not have an initial license without this, why should it have to be submitted again? (EMI)

Response: The wording will be rewritten under 326 IAC 23-2-5(a)(3) to be more clear. Different staff within the Asbestos section review the submitted application. If new copies have to be made, it will slow down the review process.

Comment: Under 326 IAC 23-2-5(b) change twelve (12) months to thirty-six (36) months in submitting updated information. Under 326 IAC 23-2-5(e), change eighteen (18) months to thirty-six (36) months time lapse between two (2) classes. (EMI)

Response: The department agrees and will make the change to the draft rule.

Comment: Delete 326 IAC 23-2-6(a)(10) and (11). There are no regulations for this waste and therefore this is not applicable. (EMI)

Response: The department agrees and will delete 326 IAC 23-2-6(a)(10) and (11).

Comment: Under 326 IAC 23-2-7(d), is this section only for a firm or for all lead-based paint activities? If it is only for a abatement firm then change accordingly. (EMI)

Response: It is for all licensed personnel.

Comment: Under 326 IAC 2-3-3(1)(H), delete the reference to OSHA respiratory protection requirement. Risk assessors should not be using respirators in the normal course of their work and if they do, let OSHA handle it. (IKE) (EMI)

Response: The department agrees and has made the change to the draft rule.

Comment: Under 326 IAC 23-3-3(4), delete clause (I). This was covered in the supervisor course which is a requirement. Don’t have time to do it again and don’t need to. (EMI)

Response: These are U.S. EPA requirements and the department prefers to keep them in the rule to maintain consistency with federal requirements.

Comment: Under 326 IAC 23-3-5, change the number of questions for risk assessors and project designers to fifty (50) questions. (EMI)

Response: This requirement is part of the original program approved by U.S. EPA and the department prefers to not change these requirements at this time.

Comment: Under 326 IAC 23-3-6(f). U.S. EPA allows worker and supervisor to be taught together. If this will encourage more training providers to offer the course, and allow for more workers to find a course, the department should encourage this. (IKE)(EMI)

Response: Separate training courses are part of the original Indiana program approved by U.S. EPA. The department prefers to maintain this aspect of the program to allow for more comprehensive individual courses.

Comment: Under 326 IAC 23-3-7(a), change the expiration of a training course approval from one (1) year to three (3) years just like the individual applicants. Under subsection (b), delete (3) through (9) and subsections (e) and (f) concerning documents to be submitted for reapproval. (EMI)

Response: The department agrees with changing the time extension from eighteen (18) to thirty-six (36) months for consistency within the rule. Amendments have been made to section 7 to remove all but the essential curriculum requirements.

Comment: Under 326 IAC 23-3-11 Course notifications, amend (1)(B) from four (4) to two (2) weeks for submittal of notice of courses. (EMI)

Response: The department needs four (4) weeks’ notification in order to assure staff’s ability to attend courses for the purpose of audits.

Comment: Under 326 IAC 23-4-1(a) Applicability, amend (a) by adding project designer. (EMI)

Response: The department agrees and will make the change to the draft rule.

Comment: Add to 326 IAC 23-4-2(3) a new subsection as follows: “(k) Include a statement that the property owner must disclose all information found in the report”. This U.S. EPA requirement is critical and is often missed. (IKE)

Response: The department agrees and has added a new subdivision (4).

Comment: Under 326 IAC 23-4-3 Lead hazard screens, amend (4) to delete “trough” after window. Protocols are now for sills and the component is not mentioned in U.S. EPA rule. Under (5), after “dust samples” add “or single surface samples”. Labs will not analyze composite currently. (EMI)

Response: The department agrees and will make the changes to the draft rule.

Comment: Under 326 IAC 23-4-4(4) change “a” to “the” and under (7), add “(C) bare soil located throughout the yard”. (EMI)

Response: The department agrees and will propose the changes.

Comment: Under 326 IAC 23-4-5, add new work practice standards. (EMI)

Response: The department will add the new work practice standards under a new rule, 326 IAC 23-5.

Comment: Under 326 IAC 23-4-5(6)(A) what is the definition of “lead contaminated”? U.S. EPA says four hundred (400) ppm.

(EMI)

Response: The department will add U.S. EPA's standard of four hundred (400) ppm to the draft rule.

Comment: Under 326 IAC 23-4-5(9) and 326 IAC 23-4-7, it would be easier to use the same warning sign as HUD and OSHA require. (EMI)

Response: The department agrees and will make the change to the draft rule to use wording that HUD and OSHA require.

Comment: Under 326 IAC 23-4-5, delete (11) as it is a duplicate of 326 IAC 23-4-5(5)(D). (EMI)

Response: The department agrees and will propose the change to the rule.

Comment: Delete 326 IAC 23-4-5(14)(A) concerning HEPA vacuuming. (EMI)

Response: The department agrees the HEPA vacuuming is not required for lead-based paint activities and will propose to delete (A).

Comment: Under 326 IAC 23-4-5(14)(B), lead-contaminated waste shall be stored outside. What is outside? (EMI)

Response: The term "outside" under (B) will be changed to stored "in locked containers, rooms, trucks, or trailers" as in other parts of the rules.

Comment: Under 326 IAC 23-4-5(14)(D) add "or as lead-contaminated waste" to the end as consistent language. (EMI)

Response: Under (D) the term will be changed to "lead contaminated waste".

Comment: Under 326 IAC 23-4-6(A)(iv), add "soil removal" to encapsulation. Under (a)(2)(A) delete items (v) through (ix) and under (D), delete item (i) as not abatement activities. (EMI)

Response: The department will propose the addition of soil removal and will delete items (A)(v) through (ix). Abatement will remain as part of the list.

Comment: Under 326 IAC 23-4-6(a)(2)(G), delete "linear feet" as it is not a lead term. (EMI)

Response: Under 326 IAC 23-4-6(a)(2)(G), a measurement of linear feet is possible when there is lead-based paint on pipes.

Comment: Under 326 IAC 23-4-6(a)(2)(K) define "waste handling emission control procedures". (EMI)

Response: The phrase "waste handling emission control procedures" will be proposed for deletion from 326 IAC 23-4-6(a)(2)(K).

Comment: Delete 326 IAC 23-4-6(a)(2)(M) as this is unnecessary when it is not a regulated waste and can go to a CDD landfill. (EMI)

Response: The department will propose to delete 326 IAC 23-4-6(a)(2)(M).

Comment: Under 326 IAC 23-4-6(a)(2)(N), add "of the facility" after owner or operator. (EMI)

Response: The department will amend 326 IAC 23-4-6(a)(2)(N) with the suggested language.

Comment: Under 326 IAC 24-4-6(a)(2)(O)(ii), is this saying that an inspection or risk assessment is required? Is a LBP activity clearance? Would not have that information prior to, but probably could identify the firm. (EMI)

Response: The department will amend 326 IAC 23-4-6(a)(2)(O) for more clarity.

Comment: Under 326 IAC 23-4-6(a)(3)(A) amend by striking "stripping or removal" and adding "abatement" before "start date". (EMI)

Response: The department disagrees because the department only needs this notification when actual disturbance of the lead-based paint begins for the purpose of inspecting the project. Abatement is a broad term than encompasses many aspects of the project and such notice would not be sufficient to ensure appropriate notice of actual stripping and removal activities.

Comment: Under 326 IAC 23-4-7(3), lead abatement procedures; interior, delete "nonmovable" and add "or covered" after wrapped. (EMI)

Response: The department agrees and will propose the changes.

Comment: Under 326 IAC 23-4-7(8), add "eight (8) hours maximum" on the posted hours. (EMI)

Response: The department does not agree with the addition of a time frame. It is possible for a crew to work longer than eight (8) hours, especially those that work four (4) ten (10) hour days per week.

Comment: Amend 326 IAC 23-4-8(2) by deleting (E). Liquid waste does not have to go to a disposal facility. Under 326 IAC 23-4-8(3), are the procedures allowed as described? (EMI)

Response: The department does not agree to delete clause (E). Dry methods may have to be used on wiring or instances where a water application is not possible. The procedures under this rule are allowed as described and are U.S. EPA approved.

Comment: Under 326 IAC 23-4-9(5), delete "within a minimum" and add "no sooner than". (EMI)

Response: This is approved U.S. EPA language and must remain in the rule to ensure consistency with federal rules.

Comment: Under 326 IAC 23-4-9(6)(A)(ii) delete "no less than four (4) rooms, hallways, or stairwells within the containment area; and" and add a new "(iii) a minimum of four (4) rooms, hallways, or stairwells within the containment area". (EMI)

Response: This is approved U.S. EPA language and it must remain in the rule without change to ensure consistency with federal rules.

Comment: Under 326 IAC 23-4-9(6)(B), delete "two (2) samples shall be taken from no fewer than four (4) rooms" and add a new item " (iv) no fewer than four (4) rooms, hallways, or stairwells in the target housing or cof". Under (iii), delete the rest of the sentence after "floor". (EMI)

Response: This is approved U.S. EPA language and it must remain in the rule without change to ensure consistency with federal rules.

Comment: Under 326 IAC 23-4-9(C) add the word "project" after "Following an exterior paint abatement". (EMI)

Response: The department does not agree with the suggested change, the word project is not necessary in this context.

Comment: Under 326 IAC 23-4-9(6)(C)(iii) delete (BB) as it is not required by U.S. EPA or HUD. Add new paint chip requirements. (EMI)

Response: The department agrees and will delete 326 IAC 23-4-9(6)(C)(iii)(BB). The new paint chip requirements have been added under 326 IAC 23-5.

Comment: Under 326 IAC 23-4-10, change the title of the section from “Lead-based paint sampling procedures” to “Multi-family housing clearing procedures” and delete all of 326 IAC 23-4-10(4) and move to 326 IAC 23-4-5. (EMI)

Response: The department prefers the current title of this section to include lead-based paint sampling. The abatement report shall remain in this section.

Comment: Delete 326 IAC 23-4-11(3) and (4), Lead-based paint abatement disposal procedures. Why is subdivision (4) required when the waste is not regulated? (EMI)

Response: The department disagrees. The language in the rule will be maintained as a safety precaution for children.

Comment: Delete 326 IAC 23-4-13(e)(10) and (11). (EMI)

Response: The department agrees and will propose the change to the draft rule.

REQUEST FOR PUBLIC COMMENTS

This notice requests the submission of comments on the draft rule language, including suggestions for specific revisions to language to be contained in the draft rule. Mailed comments should be addressed to:

#02-189(APCB)Lead-based paint

Suzanne Whitmer

c/o Administrative Assistant, Rules Development Section

Air Programs Branch

Office of Air Quality

Indiana Department of Environmental Management

P.O. Box 6015

Indianapolis, Indiana 46206-6015.

Hand delivered comments will be accepted by the receptionist on duty at the 10th floor reception desk, Office of Air Quality, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile at the IDEM fax number: (317) 233-2342, Monday through Friday, between 8:15 and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules Section at (317) 233-0426.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by December 2, 2002.

Additional information regarding this action may be obtained from Suzanne Whitmer, Rule Development Section, Office of Air Quality, (317) 232-8229 or (800) 451-6027 (in Indiana). Technical information may be obtained from David White, Asbestos Section, Office of Air Quality, (317) 232-8219.

DRAFT RULE

SECTION 1. 326 IAC 23-1-4 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-1-4 “Approved initial training course” defined

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 4. “Approved initial training course” and “approved refresher training course” means a course approved by the department pursuant to this article for the purposes of providing initial or refresher training to persons to become licensed under 326 IAC 23-2. ~~Between October 1, 1990, and the effective date of this article, an approved initial or refresher training course may include a course:~~

~~(1) approved by the department;~~

~~(2) that has full or contingent approval by the U.S. EPA; or~~

~~(3) that has been approved by a U.S. EPA-authorized state or tribal accredited training curriculum.~~

(Air Pollution Control Board; 326 IAC 23-1-4; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1432; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)

SECTION 2. 326 IAC 23-1-4.5 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-4.5 “Arithmetic mean” defined

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 4.5. “Arithmetic mean” means the algebraic sum of data values divided by the number of data values. As an example, the sum of the concentration of lead in several soil samples divided by the number of samples. *(Air Pollution Control Board; 326 IAC 23-1-4.5)*

SECTION 3. 326 IAC 23-1-7.5 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-7.5 “Clearance examiner” defined

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 7.5. “Clearance examiner” means a person who has been trained by an Indiana-approved training course provider and licensed by the department to perform clearance examinations. (Air Pollution Control Board; 326 IAC 23-1-7.5)

SECTION 4. 326 IAC 23-1-9 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-1-9 “Common area group” defined

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 9. “Common area group” means a group of common areas that are similar in design, construction, and function or a portion of a building that is generally accessible to all occupants or users. The term includes, but is not limited to, the following:

- (1) A hallway.
- (2) A stairway.
- (3) A laundry room.
- (4) A recreational room.
- (5) A playground.
- (6) A community center.
- (7) A garage.
- (8) A boundary fence.

(Air Pollution Control Board; 326 IAC 23-1-9; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1433; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)

SECTION 5. 326 IAC 23-1-10 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-1-10 “Completion date” defined

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 10. “Completion date” means the date by which a final visual inspection has and clearance sampling have been completed by the Indiana licensed risk assessor or inspector, it is and the risk assessor or inspector has determined that no dust, debris, or residue is present in the work area, and warning signs and demarcation can be removed. (Air Pollution Control Board; 326 IAC 23-1-10; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1433; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)

SECTION 6. 326 IAC 23-1-11 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-1-11 “Component or building component” defined

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 11. “Component or building component” means a specific design or structural element or fixture of a building, residential dwelling, or child-occupied facility that is distinguished from each other by form, function, and location, including the following:

- (1) The term includes, but is not limited to, the following interior components:
 - (A) Ceilings.
 - (B) Crown molding.
 - (C) Walls.
 - (D) Chair rails.
 - (E) Doors and door trim.
 - (F) Floors.
 - (G) Fireplaces.
 - (H) Radiators and other heating units.
 - (I) Shelves and shelf supports.
 - (J) Stair treads, stair risers, stair stringers, newel posts, railing caps, and balustrades.
 - (K) Windows and trim, including sashes, window heads, jambs, sills and stools, and troughs.
 - (L) Built-in cabinets.
 - (M) Columns and beams.
 - (N) Bathroom vanities.
 - (O) Counter tops.
 - (P) Air conditioners.

(Q) Baseboards.

(2) The term includes, but is not limited to, the following exterior components:

- (A) Painted roofing.
- (B) Chimneys.
- (C) Flashing.
- (D) Gutters and down spouts.
- (E) Ceilings.
- (F) Soffits, fascias, rake boards, corner boards, and bulkheads.
- (G) Doors and door trim.
- (H) Fences.
- (I) Floors and joists.
- (J) Lattice work.
- (K) Railings and railing caps, handrails, stair risers, treads, stair stringers, columns, or balustrades.
- (L) Window sills or stools, troughs, casings, sashes, and wells.
- (M) Siding.
- (N) Air conditioners.

(O) Porch floors.

(Air Pollution Control Board; 326 IAC 23-1-11; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1433; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)

SECTION 7. 326 IAC 23-1-11.5 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-11.5 “Concentration” defined

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 11.5. “Concentration” means the amount of a specific substance contained within a larger mass. For example, the amount of lead, in micrograms per gram or parts per million by weight, in a sample of dust or soil. *(Air Pollution Control Board; 326 IAC 23-1-11.5)*

SECTION 8. 326 IAC 23-1-11.7 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-11.7 “Contractor” defined

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 11.7. “Contractor” means a:

- (1) person;**
- (2) company;**
- (3) partnership;**
- (4) corporation;**
- (5) sole proprietorship;**
- (6) association; or**
- (7) other business entity;**

that performs lead-based paint activities to which the department has issued a license under 326 IAC 23-2. *(Air Pollution Control Board; 326 IAC 23-1-11.7)*

SECTION 9. 326 IAC 23-1-17 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-1-17 “Deteriorated paint” defined

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 17. “Deteriorated paint” means:

- (1) any interior or exterior paint or other coating that is chalking, cracking, flaking, chipping, or peeling; or**
- (2) any paint or coating located on an interior or exterior surface or fixture;**

that is otherwise damaged or separating from the substrate of a building component. *(Air Pollution Control Board; 326 IAC 23-1-17; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1434; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)*

SECTION 10. 326 IAC 23-1-21.5 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-21.5 “Dust-lead hazard” defined

Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 21.5. “Dust-lead hazard” means surface dust in a residential dwelling or child-occupied facility that contains a mass-per-area concentration of lead equal to or exceeding forty (40) milligrams per square foot on floors or two hundred fifty (250) milligrams per square foot on interior window sills based on wipe samples. (*Air Pollution Control Board; 326 IAC 23-1-21.5*)

SECTION 11. 326 IAC 23-1-27 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-1-27 “Facility” defined

Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 27. “Facility” means any ~~institutional, commercial, public, industrial, or residential building or structure~~; target housing or child-occupied facility. (*Air Pollution Control Board; 326 IAC 23-1-27; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1435; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477*)

SECTION 12. 326 IAC 23-1-27.5 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-27.5 “Friction surface” defined

Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 27.5. “Friction surface” means an interior or exterior surface that is subject to abrasion or friction, including, but not limited to, window, floor, and stair surfaces. (*Air Pollution Control Board; 326 IAC 23-1-27.5*)

SECTION 13. 326 IAC 23-1-32.5 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-32.5 “Impact surface” defined

Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 32.5. “Impact surface” means an interior or exterior surface that is subject to damage by repeated sudden force, including parts of door frames. (*Air Pollution Control Board; 326 IAC 23-1-32.5*)

SECTION 14. 326 IAC 23-1-33.5 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-33.5 “Inspector” defined

Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 33.5. “Inspector” means a person who has been trained by an Indiana-approved training course provider and licensed by the department to conduct inspections. A licensed inspector also samples for the presence of lead in dust and soil for the purposes of abatement clearance testing. (*Air Pollution Control Board; 326 IAC 23-1-33.5*)

SECTION 15. 326 IAC 23-1-33.7 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-33.7 “Interior window sill” defined

Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 33.7. “Interior window sill” means the portion of the horizontal window ledge that protrudes into the interior of the room. (*Air Pollution Control Board; 326 IAC 23-1-33.7*)

SECTION 16. 326 IAC 23-1-34.5 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-34.5 “Lead abated waste” defined

Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 34.5. “Lead abated waste” means lead removed from an abatement project. (*Air Pollution Control Board; 326 IAC 23-1-34.5*)

SECTION 17. 326 IAC 23-1-37 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-1-37 “Lead-based paint hazard” defined

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 37. (a) “Lead-based paint hazard” means ~~any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as identified by the U.S. EPA under Toxics Substances Control Act (TSCA); Section 403, 15 U.S.C. 2683*~~ **a paint-lead hazard, a soil-lead hazard, or a dust-lead hazard.**

(b) Effective June 1, 1999, pursuant to Section 406(b) of the TSCA*, persons who perform renovations shall provide a lead hazard information pamphlet “Protect Your Family From Lead in Your Home”** under the following conditions:

- (1) The renovation is to target housing.
- (2) The renovation is for compensation, including money or services.
- (3) The renovation will disturb more than two (2) square feet of paint per component.

Work performed by do-it-yourselfers in their own homes is excluded from the requirements of this subsection.

***This document is incorporated by reference.** Copies of the ~~Toxic Substances Control Act (TSCA)~~ may be obtained from the Government Printing Office, **732 North Capitol Street NW**, Washington, D.C. ~~20402. Copies of pertinent sections 20401 or~~ **20401** are also available for review and copying at the Indiana Department of Environmental Management, Office of Air ~~Management, Quality,~~ **Management, Quality,** Indiana Government Center-North, **Tenth Floor**, 100 North Senate Avenue, Indianapolis, Indiana 46204.

Copies of the lead hazard information pamphlet, in bulk, may be obtained from the Government Printing Office, **732 North Capitol Street NW, Washington, D.C. ~~20402~~ **20401** or the National Lead Information Center at (800) 424-LEAD. Single copies are also available at the Indiana Department of Environmental Management, Office of Air ~~Management, Quality,~~ **Management, Quality,** Indiana Government Center-North, **Tenth Floor**, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Board; 326 IAC 23-1-37; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1436; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477*)

SECTION 18. 326 IAC 23-1-40 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-1-40 “Lead-contaminated waste” defined

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 40. “Lead-contaminated waste” ~~material~~ means materials that contain lead equal to or in excess of one (1.0) milligram per square centimeter or more than five-tenths percent (0.5%) by weight. (*Air Pollution Control Board; 326 IAC 23-1-40; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1436; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477*)

SECTION 19. 326 IAC 23-1-48.5 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-48.5 “Loading” defined

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 48.5. “Loading” means the quantity of a specific substance present per unit of surface area. For example, the amount of lead in micrograms contained in the dust collected from a certain surface area divided by the surface area in square feet or square meters. (*Air Pollution Control Board; 326 IAC 23-1-48.5*)

SECTION 20. 326 IAC 23-1-48.6 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-48.6 “Mid-yard” defined

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 48.6. “Mid-yard” means an area of a residential yard approximately midway between the dripline of a residential building and the nearest property boundary or between the driplines of a residential building and another building on the same property. (*Air Pollution Control Board; 326 IAC 23-1-48.6*)

SECTION 21. 326 IAC 23-1-52.5 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-52.5 “Paint-lead hazard” defined

Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 52.5. “Paint-lead hazard” means any one (1) of the following:

- (1) Any lead-based paint on a friction surface that is subject to abrasion and where the lead dust levels on the nearest horizontal surface underneath the friction surface, including the interior window sill or floor, are equal to or greater than the dust-lead hazard levels identified in this rule.**
- (2) Any damaged or otherwise deteriorated lead-based paint on an impact surface that is caused by impact from a related building component including a door knob that knocks into a wall or a door that knocks against its door frame.**
- (3) Any chewable lead-based painted surface on which there is evidence of teeth marks.**
- (4) Any other deteriorated lead-based paint in any residential building or child-occupied facility or on the exterior of any residential building or child-occupied facility.**

(Air Pollution Control Board; 326 IAC 23-1-52.5)

SECTION 22. 326 IAC 23-1-54.5 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-54.5 “Play area” defined

Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 54.5. “Play area” means an area of frequent soil contact by children of less than six (6) years of age as indicated by, but not limited to, such factors as the presence of play equipment, including sandboxes, swing sets, and sliding board, toys, or other children’s possessions, observations of play patterns, or information provided by parents, residents, care givers, or property owners. *(Air Pollution Control Board; 326 IAC 23-1-54.5)*

SECTION 23. 326 IAC 23-1-55.5 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-55.5 “Project designer” defined

Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 55.5. “Project designer” means a person who has been trained by an Indiana-approved training course provider and licensed by the department to prepare abatement project designs, occupant protection plans, and abatement reports. *(Air Pollution Control Board; 326 IAC 23-1-55.5)*

SECTION 24. 326 IAC 23-1-59.5 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-59.5 “Residential building” defined

Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 59.5. “Residential building” means a building containing one (1) or more residential dwellings. *(Air Pollution Control Board; 326 IAC 23-1-59.5)*

SECTION 25. 326 IAC 23-1-60.5 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-60.5 “Risk assessor” defined

Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 60.5. “Risk assessor” means a person who has been trained by an Indiana-approved training course provider and licensed by the department to conduct inspections, lead-hazard screens, and risk assessments. A risk assessor also samples for the presence of lead in dust and soil for the purposes of abatement clearance testing. *(Air Pollution Control Board; 326 IAC 23-1-60.5)*

SECTION 26. 326 IAC 23-1-60.6 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-60.6 “Room” defined

Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 60.6. “Room” means a separate part of the inside of a building, including a bedroom, living room, dining room, kitchen, bathroom, laundry room, or utility room. To be considered a separate room, the room must be separated from adjoining rooms

by built-in walls or archways that extend at least six (6) inches from an intersecting wall. Half walls or bookcases are room separators, if built-in. Movable or collapsible partitions or partitions consisting solely of shelves or cabinets are not considered built-in walls. A screened in porch that is used as a living area is a room. (*Air Pollution Control Board; 326 IAC 23-1-60.6*)

SECTION 27. 326 IAC 23-1-60.7 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-60.7 “Soil-lead hazard” defined

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 60.7. “Soil-lead hazard” means bare soil on residential real property or on the property of a child-occupied facility that contains total lead equal to or exceeding four hundred (400) parts per million in a play area or average of one thousand two hundred (1,200) parts per million of bare soil in the rest of the yard based on soil samples. (*Air Pollution Control Board; 326 IAC 23-1-60.7*)

SECTION 28. 326 IAC 23-1-61.5 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-61.5 “Soil sample” defined

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 61.5. “Soil sample” means a sample collected in a representative location using ASTM E 1727 “Standard Practice for Field Collection of Soil Samples for Lead Determination by Atomic Spectrometry Techniques*”, or equivalent method.

*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Board; 326 IAC 23-1-61.5*)

SECTION 29. 326 IAC 23-1-62.5 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-62.5 “Supervisor” defined

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 62.5. “Supervisor” means a person who has been trained by an Indiana-approved training course provider, licensed by the department to supervise and conduct abatements, and prepares occupant protection plans and abatement reports. (*Air Pollution Control Board; 326 IAC 23-1-62.5*)

SECTION 30. 326 IAC 23-1-63 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-1-63 “Target housing” defined

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 63. “Target housing” means housing constructed before January 1, 1978. The term does not include the following:

(1) Housing for the elderly or individuals with disabilities that is not occupied by or expected to be occupied by a child six (6) years of age or younger.

(2) A building without a bedroom: **zero-bedroom dwelling.**

(*Air Pollution Control Board; 326 IAC 23-1-63; filed Jan 6, 1999, 4:28 p.m.; 22 IR 1439; readopted filed Jan 10, 2001, 3:20 p.m.; 24 IR 1477*)

SECTION 31. 326 IAC 23-1-69.5 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-69.5 “Weighted arithmetic mean” defined

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 69.5. (a) “Weighted arithmetic mean” means the arithmetic mean of sample results weighted by the number of subsamples in each sample. Its purpose is to give influence to a sample relative to the surface area it represents. Sample results can be as follows:

(1) A single surface sample is comprised of a single subsample.

(2) A composite sample may contain from two (2) to four (4) subsamples of the same area as each other and of each single

surface sample in the composite.

(b) The weighted arithmetic mean is obtained by summing, for all samples, the product of the sample's result multiplied by the number of subsamples in the sample, and dividing the sum by the total number of subsamples contained in all samples:

- (1) the weighted arithmetic mean of a single surface sample containing sixty (60) milligrams per square foot;
- (2) a composite sample of three (3) subsamples containing one hundred (100) milligrams per square foot; and
- (3) a composite sample of four (4) subsamples containing one hundred ten (110) milligrams per square foot.

The equation is:

$$(60 + (3 \times 100) + (4 \times 110)) / 1 + 3 + 4 = 100 \text{ milligrams per square foot}$$

(Air Pollution Control Board; 326 IAC 23-1-69.5)

SECTION 32. 326 IAC 23-1-69.6 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-69.6 "Window trough" defined

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 69.6. "Window trough" means for a typical double-hung window, the portion of the exterior window sill between the interior window sill or stool and the frame of the storm window. If there is no storm window, the window trough is the area that receives both the upper and lower window sashes when they are both lowered. The window trough is sometimes referred to as the window well. (Air Pollution Control Board; 326 IAC 23-1-69.6)

SECTION 33. 326 IAC 23-1-69.7 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-69.7 "Wipe sample" defined

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 69.7. "Wipe sample" means a sample collected by wiping a representative surface of known area as determined by ASTM E 1728, "Standard Practice for Field Collection of Settled Dust Samples Using Wipe Sampling Methods for Lead Determination by Atomic Spectrometry Techniques*", or equivalent method, with an acceptable wipe material as defined in ASTM E 1792, "Standard Specification for Wipe Sampling Materials for Lead in Surface Dust**".

*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (Air Pollution Control Board; 326 IAC 23-1-69.7)

SECTION 34. 326 IAC 23-1-70.5 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-1-70.5 "Worker" defined

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14; IC 22-8-1.1

Sec. 70.5. "Worker" means a person who has been trained by an Indiana-approved training course provider and licensed by the department to perform abatements. (Air Pollution Control Board; 326 IAC 23-1-70.5)

SECTION 35. 326 IAC 23-2-1 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-2-1 Applicability

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-14-2-2; IC 13-17-14; IC 22-8-1.1

Sec. 1. (a) A person who engages in lead-based paint activities must obtain a license under this article. The department may issue a license for the following disciplines:

- (1) Inspector.
- (2) Risk assessor.
- (3) Project designer.
- (4) Supervisor.
- (5) Worker.
- (6) Contractor.
- (7) Clearance examiner.

(b) This article does not apply to the following:

(1) A person conducting an inspection under the authority of IC 22-8-1.1 (the Indiana Occupational, Safety, and Health Act).
(2) A person who performs lead-based paint activities within a residential dwelling that the person owns, unless the residential dwelling is occupied by:

(A) a person, other than the owner or the owner's immediate family, while these activities are being performed; or

(B) a child who:

(i) is six (6) years of age or younger; and

(ii) resides in the building and has been identified as having an elevated blood lead level.

(c) This article may not be construed as requiring the abatement of lead-based paint hazards in a child-occupied facility or target housing.

(d) All persons engaging in lead-based paint activities shall comply with work practice standards as set forth in section 4 of this rule. (*Air Pollution Control Board; 326 IAC 23-2-1; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1440; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477*)

SECTION 36. 326 IAC 23-2-3 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-2-3 Licensing; qualifications

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14

Sec. 3. (a) To become licensed by the department as an inspector, risk assessor, project designer, supervisor, ~~or~~ worker, **or clearance examiner**, the applicant must do the following:

(1) Successfully complete an Indiana-approved lead-based paint course in the appropriate discipline and receive a certificate of training from an Indiana-approved training course provider.

(2) Meet or exceed the experience and education requirements for each desired discipline as listed in subsection (b).

(3) For inspector, risk assessor, **project designer**, and supervisor applicants, pass the third-party examination in the appropriate discipline offered by the department or its designated representative.

(b) At a minimum, the following experience, education requirements, and course work must be fulfilled for each desired discipline:

(1) Worker **and clearance examiner** applicants have no additional education or experience requirements other than under subsection (a)(1).

(2) Inspector applicants shall have a high school diploma or general equivalency diploma (GED).

(3) Risk assessor applicants shall take and pass the inspector and risk assessor courses and pass all required examinations, including third-party examinations. Applicants must meet any one (1) of the following combinations of education and experience:

(A) Bachelor's degree and one (1) year of experience.

(B) Associate's degree and two (2) years of experience.

(C) A high school diploma or GED and three (3) years of experience.

Required experience must be in a related field, **such as including** lead, asbestos, environmental remediation work, or construction.

(4) Supervisor applicants shall take and pass the supervisor courses and all required examinations, including third-party exams, and meet one (1) of the following:

(A) One (1) year of experience as a certified lead-based paint abatement worker.

(B) Two (2) years of experience in a related field, **such as including** lead, asbestos, environmental remediation, or work in the construction trades.

(5) Project designer applicants are required to take and pass the supervisor and project designer courses and pass all the required examinations, including third party examinations and shall have:

(A) a bachelor's degree in engineering, architecture, or a related profession and one (1) year of experience in building construction design or a related field; or

(B) four (4) years of experience in building construction and design or a related field.

(c) A person who enters into a contract requiring the person to execute lead-based paint activities to be conducted for compensation shall hold a lead-based paint activities contractor license. To become licensed by the department as a lead-based paint activities contractor, the applicant must comply with the following:

(1) The applicant must meet or have a designated representative who meets all of the following:

(A) Successfully complete an approved lead-based paint supervisor course, receive a certificate of training from an Indiana-approved training course provider, and take and pass a third-party examination.

(B) One (1) year of experience as a licensed lead-based paint abatement worker or two (2) years of experience in a related field, **such as to include** lead, asbestos, environmental remediation, or work in the construction trades.

(2) The contractor may not allow an agent or employee of the contractor to:

(A) exercise control over a lead-based paint activities project;

(B) come into contact with lead-based paint in connection with lead-based paint activities; or

(C) engage in lead-based paint activities;

unless the agent or employee is licensed under this rule.

(3) The contractor and all of its agents and employees shall, when performing lead-based paint activities projects, comply with the work practice standards under 326 IAC 23-4 for performing the appropriate lead-based paint activities.

(4) Each contractor is required to have at least one (1) licensed lead-based paint project supervisor, responsible for direct supervision of workers, in the work area of the lead-based paint activity project. Lead-based paint workers shall have access to the project supervisors throughout the duration of the project.

(5) Each contractor shall ensure that the current lead-based paint program license belonging to each project supervisor and worker is kept on the jobsite during all lead-based paint activities. The lead-based paint licenses shall be kept outside the work area, and shall be available for inspection by the department.

~~(6) For the purpose of fulfilling the requirements of this rule, collecting or analyzing air samples for determining the completion of the lead-based paint project shall not be done by a person employed by the lead-based paint contractor or a partner or subsidiary entity thereof, implementing a lead-based paint project.~~

~~(7) Contractor applicants must themselves have or have a designated representative who has:~~

~~(A) one (1) year of experience as a certified lead-based paint abatement worker; or~~

~~(B) at least two (2) years of experience in a related field; such as lead, asbestos, environmental remediation, or work in the construction trades; and~~

~~(C) successfully completed an approved lead-based paint supervisor course, received a certificate of training from an Indiana-approved training course provider, and taken and passed a third-party examination.~~

(d) The following documents shall be submitted to the department to demonstrate compliance with the requirements of this section:

(1) Official academic transcripts or diplomas to demonstrate compliance with the education requirements.

(2) Resumes, letters of reference, or documentation of work experience to demonstrate compliance with the work experience requirements.

(3) Certificates of training from lead-specific or other related training courses, issued by approved training course providers, to demonstrate compliance with the training requirements.

(e) To take the third-party examination, a person shall:

(1) successfully complete an Indiana-approved training course in the appropriate discipline;

(2) receive a certificate of training from an approved training course provider; and

(3) meet or exceed the education and experience requirements in subsections (b) and (c).

(f) An applicant may take the third-party examination, if required, no more than three (3) times within six (6) months of receiving a certificate of training.

(g) If a person does not pass the third-party examination and receive a license within six (6) months of receiving his or her certificate of training, the person must retake the appropriate initial course from an Indiana-approved training course provider before reapplying for a license from the department.

(h) Any individual who has had ~~an eighteen (18)~~ **a thirty-six (36)** month time lapse between any two (2) training courses of the same discipline shall:

(1) be required to attend an initial training course for the discipline in which he or she is seeking licensing; and

(2) take the third-party examination required for the discipline in which he or she is seeking licensure.

(Air Pollution Control Board; 326 IAC 23-2-3; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1441; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)

SECTION 37. 326 IAC 23-2-4, AS AMENDED AT 25 IR 3108, SECTION 95, IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-2-4 License; application

Authority: IC 13-17-14-5

Affected: IC 13-17-14

Sec. 4. (a) Any person applying for an initial lead-based paint license from the department as a lead-based paint inspector, a risk assessor, a project designer, a supervisor, a worker, **a clearance examiner**, or a contractor shall do the following:

(1) Submit a completed application on forms provided by the department.

(2) Submit a copy of all required documents, as provided in section 3(d) of this rule, that the person meets the experience, education, and training requirements in section 3 of this rule, including that the applicant successfully completed the approved initial and any requisite refresher training courses.

(3) Receive passing scores on all written examinations for the courses.

(4) Pay the license application fee specified in section 8 of this rule.

(5) For persons applying for inspector, risk assessor, or supervisor licenses, provide proof of passing the third-party examination.

(b) Any person applying for an initial license from the department to conduct lead-based paint activities as a contractor shall do the following:

(1) Submit a completed application on forms provided by the department, which shall include a signed statement that the person has read and understands this rule and 40 CFR 745 "Lead; Requirements for Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities; Final Rule"*.

(2) Submit a copy of all required documents, as provided in section 3(d) of this rule, indicating that the applicant or the applicant's designated representative meets the experience, education, and training requirements in section 3 of this rule, including having successfully completed the approved initial and any requisite refresher training courses for lead-based paint project supervisor and received passing scores on all written examinations for such courses, including third-party examinations.

(3) Submit a complete list of contracts for the prior ~~twelve (12)~~ **thirty-six (36)** months for lead-based paint projects, including names, addresses, and telephone numbers of persons for whom projects were performed.

(4) Submit an up-to-date copy of the contractor's written standard operating procedures that include current compliance procedures.

(5) Submit a description of any lead-based paint projects that the contractor conducted that were prematurely terminated or not completed, including the circumstances surrounding the termination or failure to complete.

(6) Submit a list of any **lead-based paint** contractual penalties that the contractor has paid for noncompliance with contract specifications.

(7) Submit copies of any and all:

(A) warning letters;

(B) notices and orders of the commissioner;

(C) agreed orders;

(D) citations;

(E) notices of violation; or

(F) findings of violation;

levied against the contractor by any federal, state, or local government agency for violations of regulations or other laws pertaining to lead-based paint activities, including names and locations of the projects, the dates, and a description of how the allegations were resolved.

(8) Submit a description detailing all legal proceedings, lawsuits, warning letters to supervisors from the department, or claims that have been filed or levied against the contractor or any of the contractor's past or present employees, while employed by the contractor, for lead-based paint related activities.

(9) Submit documentation of the contractor's financial responsibility with a current certificate of insurance with at least five hundred thousand dollars (\$500,000) of liability insurance. The company offering the insurance coverage must be recognized or licensed by the Indiana department of insurance.

(10) Pay the license application fee specified in section 8 of this rule.

(c) If the department determines the information on the application to be incomplete, the department shall request in writing that the applicant submit the missing information. If the information is not submitted within one (1) year of the department's receipt of the application, the application will expire and the fee is not transferable.

(d) In addition to the requirements of subsections (a) through (b), the department may require an applicant or a designated representative of a contractor, in the case of subsection (b), to take an examination administered by the department. The examination shall cover only the discipline for which the applicant is seeking a license. The commissioner shall deny the application if the applicant does not receive a passing score of seventy percent (70%). If the department denies the application, the certificate of training is invalid and the applicant must retake and pass the initial training course for the discipline for which the applicant is seeking a license, and any subsequent third-party examination.

(e) The applicant shall provide two (2) copies of a clear and recent one and one-half (1½) inch by one and one-half (1½) inch identifying color photograph at the time of application. ~~to be attached to the face of the lead-based paint license prior to issuance of the license by the department.~~

(f) The department shall review the application and shall make a determination as to the eligibility of the person. The department shall issue a lead-based paint program license to any person who fulfills the requirements established by this rule. The department may deny an application for a lead-based paint program license based on any of the applicable criteria listed in section 6 of this rule or for failure to comply with any other provision of this rule.

~~(g) Individuals who have received lead-based paint activities training between October 1, 1990, and March 1, 1999, shall be eligible for licensing under the following alternative procedures:~~

~~(1) Applicants for license as an inspector, risk assessor, or supervisor shall:~~

~~(A) demonstrate that the applicant has successfully completed training or on-the-job training in the conduct of a lead-based paint activity;~~

- (B) demonstrate that the applicant meets or exceeds the education and experience requirements in section 3 of this rule;
 - (C) successfully complete an Indiana-approved refresher training course for the appropriate discipline;
 - (D) pass a third-party examination administered by the department or its designated representative for the appropriate discipline;
 - (E) submit a completed application on forms provided by the department; and
 - (F) pay the license application fee specified in section 8 of this rule.
- (2) Applicants for licensure as an abatement worker or project designer shall:
- (A) demonstrate that the applicant has successfully completed training or on-the-job training in the conduct of a lead-based paint activity;
 - (B) demonstrate that the applicant meets the education and experience requirements in section 3 of this rule;
 - (C) successfully complete an Indiana-approved refresher training course for the appropriate discipline;
 - (D) submit a completed application on forms provided by the department; and
 - (E) pay the license application fee specified in section 8 of this rule.
- (3) This subsection remains in effect for twelve (12) months from the date that this rule becomes effective. After that date, all applicants under this rule must comply with all other provisions of this rule.

(h) (g) Applications must be completed in writing and submitted for processing. The department shall not process applications on a walk-in basis or process applications over the telephone. If the license is approved, the license will be sent to the applicant via the U.S. Postal Service to the address listed on the application.

~~*These documents are~~ *This document is incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Board; 326 IAC 23-2-4; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1442; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; filed May 21, 2002, 10:20 a.m.: 25 IR 3108*)

SECTION 38. 326 IAC 23-2-5 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-2-5 Renewal of lead-based paint license

Authority: IC 13-17-14-5

Affected: IC 13-17-14

Sec. 5. (a) Any person seeking to renew a license as a lead-based paint inspector, risk assessor, project designer, supervisor, worker, **clearance examiner**, or contractor shall meet the following requirements:

- (1) Have possessed a valid license in the same discipline in which renewal is being sought within the previous six (6) months.
- (2) Have attended, within the previous twelve (12) months, an approved refresher training course for the discipline in which the person was previously licensed. The following disciplines have additional requirements:
 - (A) A risk assessor shall take both the inspector refresher course and the risk assessor refresher course.
 - (B) A project designer shall take both the supervisor refresher course and the project designer refresher training course.
- (3) Have taken and passed a third-party examination **and maintained all required refresher training since initial licensure**, as required for inspector, risk assessor, or project supervisor.
- (4) Submit a completed application on forms provided by the department and include a copy of:
 - (A) the certificates of training indicating that the person successfully completed the refresher training course and passed the written examination; and
 - (B) for inspectors, risk assessors, and supervisors, provide proof of having passed the third-party examination.
- (5) Pay the license application fee as specified in section 8 of this rule.

(b) Any person seeking to renew a lead-based paint license as a contractor shall include updated information in the application if any information has changed during the previous ~~twelve (12)~~ **thirty-six (36)** months. The contractor shall routinely examine and update the standard operating procedures manual to reflect the compliance assurance methodologies that meet current federal, state, and local regulations or other laws pertaining to lead-based paint.

(c) The applicant shall provide two (2) copies of a clear and recent one and one-half (1½) inch by one and one-half (1½) inch identifying color photograph at the time of application. ~~to be attached to the face of the lead-based paint license prior to issuance of the license by the department.~~

(d) The department shall review the application and shall make a determination as to the eligibility of the person. The department shall issue a lead-based paint license renewal to any person who fulfills the requirements established in this rule. However, the department may deny an application for renewal of a lead-based paint license based on any of the criteria listed in section 6 of this rule, as applicable, or for failure to comply with any other provision of this rule.

(e) Any individual who has had ~~an eighteen (18)~~ **a thirty-six (36)** month time lapse between any two (2) training courses of the

same discipline shall:

(1) be required to attend an initial training course for the discipline to which they are seeking to be licensed; and

(2) **take the third-party examination required for the discipline in which he or she is seeking licensure.**

(Air Pollution Control Board; 326 IAC 23-2-5; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1444; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)

SECTION 39. 326 IAC 23-2-6 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-2-6 Compliance requirements for lead-based paint contractors

Authority: IC 13-17-14

Affected: IC 13-17

Sec. 6. (a) A lead-based paint activities contractor licensed under this rule shall compile records concerning each lead-based paint activities project performed by the lead-based paint activities contractor. The records must include the following information on each lead-based paint activities project:

(1) The name, address, and proof of license of the following:

(A) The person who supervised the lead-based paint activities project for the lead-based paint activities contractor.

(B) Each employee or agent of the lead-based paint activities contractor that worked on the project.

(2) The name, address, and signature of each licensed risk assessor or inspector conducting clearance sampling and the date of clearance testing.

(3) The site of the lead-based paint activities project.

(4) A description of the lead-based paint activities project.

(5) The date on which the lead-based paint activities project was started, and the date on which the lead-based paint activities project was completed.

(6) A summary of procedures that were used in the lead-based paint activities project to comply with applicable federal and state standards for lead-based paint activities projects.

(7) A detailed written description of the lead-based paint activities, including the following:

(A) Methods used.

(B) Locations of rooms or components where lead-based paint activities occurred.

(C) Reasons for selecting particular lead-based paint activities methods for each component.

(D) Any suggested monitoring of encapsulants or enclosures.

(8) The occupant protection plan.

(9) The results of clearance testing and all soil analysis, if applicable, and the name of each federally-recognized laboratory that conducted the analysis. The laboratory **that conducted the analysis** must be recognized by U.S. EPA, pursuant to Section 405(b) of TSCA*, as being capable of performing analyses for lead compounds in paint chips, dust, and soil samples. ~~that conducted the analysis.~~

~~(10) The amount of material containing lead-based paint that was removed from the site of the project.~~

~~(11) The name and address of each disposal site used for the disposal of lead-based paint containing material that was disposed of as a result of the lead-based paint activities project.~~

~~(12)~~ (10) A copy of each receipt issued by a disposal site.

(b) A lead-based paint activities contractor shall retain the records compiled under this section concerning a particular lead-based paint activities project for at least three (3) years after the lead-based paint activities project is concluded.

(c) A lead-based paint activities contractor shall make records available to the department upon request.

(d) A lead-based paint activities contractor shall provide a copy of all reports or plans to the building owner who contracted for the services.

***This document is incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.** *(Air Pollution Control Board; 326 IAC 23-2-6; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1444; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)*

SECTION 40. 326 IAC 23-2-8 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-2-8 Fees

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14

Sec. 8. (a) ~~Upon application~~ **The applicant** for a lead-based paint ~~program~~ license ~~a person~~ shall ~~pay a fee~~ **submit the appropriate**

nonrefundable fees as follows:

- (1) Inspector, one hundred fifty dollars (\$150).
- (2) Risk assessor, one hundred fifty dollars (\$150).
- (3) Project designer, one hundred **fifty** dollars ~~(\$100)~~; **(\$150)**.
- (4) Supervisor, one hundred fifty dollars (\$150).
- (5) Worker, **one hundred** fifty dollars ~~(\$50)~~; **(\$150)**.
- (6) Clearance examiner, one hundred fifty dollars (\$150).**
- ~~(6) (7) Contractor, one hundred fifty dollars (\$150).~~

(b) Fees paid by mail shall be paid by check or money order and shall be made payable to the lead trust fund and sent to the Cashier, Indiana Department of Environmental Management, P.O. Box 7060, Indianapolis, Indiana 46206-7060.

(c) The application fee shall not be:

- (1) transferable from one (1) type of lead-based paint license to another;
- (2) transferable from one (1) person to another; **or**
- (3) transferable to any other type of license or approval issued by the department; **or**
- ~~(4) refundable;~~

unless requested by the applicant within three (3) days of submittal to the department or prior to processing by the department, whichever is earlier.

(d) If the department determines the information on the application to be incomplete, the applicant will be requested to submit the missing information. If the information is not submitted within one (1) year of the department's receipt of the application, the application will expire and the fee is not transferable. ~~or refundable.~~ *(Air Pollution Control Board; 326 IAC 23-2-8; filed Jan 6, 1999, 4:28 p.m.; 22 IR 1446; readopted filed Jan 10, 2001, 3:20 p.m.; 24 IR 1477)*

SECTION 41. 326 IAC 23-2-9 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-2-9 Duplicate lead-based paint program licenses

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14

Sec. 9. (a) To replace a lead-based paint program license that has been lost or stolen, a person shall submit a completed application for a duplicate license on a form provided by the department.

(b) The form shall include a statement indicating that the original lead-based paint program license was lost or stolen.

(c) The department shall issue no more than two (2) duplicate licenses to any person in any calendar year.

(d) The application must be submitted in person to the department by the licensee. Two (2) pieces of identification must be shown at the time of application. Acceptable pieces of identification include an Indiana issued driver's license, an Indiana issued identification card, a valid U.S. passport, or a valid Immigration and Naturalization Service (INS) identification, one (1) of which must include a picture of the applicant. *(Air Pollution Control Board; 326 IAC 23-2-9; filed Jan 6, 1999, 4:28 p.m.; 22 IR 1446; readopted filed Jan 10, 2001, 3:20 p.m.; 24 IR 1477)*

SECTION 42. 326 IAC 23-3-1 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-3-1 Applicability

Authority: IC 13-17-14-5

Affected: IC 13-11-2-158; IC 13-17-14; IC 36-1-2-10; IC 36-1-2-23

Sec. 1. (a) A person may apply to the department to be an approved training course provider to offer lead-based paint activities initial or refresher courses in any of the following disciplines:

- (1) Inspector.
- (2) Risk assessor.
- (3) Project designer.
- (4) Supervisor.
- (5) Worker.
- (6) Clearance examiner.**

(b) Training course providers may apply to the department for approval of their lead-based paint activities courses or refresher courses pursuant to this rule on or after the effective date of this rule.

(c) A training course provider shall not provide, offer, or claim to provide approved lead-based paint activities courses without applying for and receiving approval from the department as required under this rule.

(d) Section 12 of this rule does not apply to a training course provider that is:

- (1) a state;
- (2) a unit as defined in IC 36-1-2-23;
- (3) a municipal corporation as defined in IC 36-1-2-10; or
- (4) an exempt organization under 26 U.S.C. 501(a)*.

***This document is incorporated by reference.** Copies of the United States Code (U.S.C.) are available may be obtained from the Government Printing Office, 732 Capitol Street NW, Washington, D.C. 20402. Copies of pertinent sections 20401 or are available for review and copying from Indiana Department of Environmental Management, Office of Air Management, Quality, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Board; 326 IAC 23-3-1; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1446*)

SECTION 43. 326 IAC 23-3-3 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-3-3 Initial training course requirements

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14

Sec. 3. To offer lead-based paint course instruction in any one (1) or all of the disciplines, training course providers must ensure that their courses of study meet, at a minimum, the following training hour requirements and hands-on activities:

(1) The course of study for an inspector must last a minimum of twenty-four (24) training hours. This course of study shall include a minimum of eight (8) hours of hands-on training and shall contain the following course topics:

- (A) Role and responsibilities of an inspector.
- (B) Background information on lead and its adverse health effects.
- (C) Lead-based paint inspection methods, including selection of rooms and components for sampling or testing. This course of study shall include hands-on activities.
- (D) Paint, dust, and soil sampling methodologies. This course of study shall include hands-on activities.
- (E) Clearance standards and testing, including random sampling. This course of study shall include hands-on activities.
- (F) Preparation of the final inspection report. This course of study shall include hands-on activities.
- (G) Record keeping.

~~(H) Employee respiratory protection and personal protective equipment to include the following:~~

- ~~(i) Classes and characteristics of respirator types.~~
- ~~(ii) Limitations of respirators.~~
- ~~(iii) Proper selection, inspection, donning, use, maintenance, and storage procedures for respirators.~~
- ~~(iv) Methods for field testing of the face piece-to-mouth seal (positive and negative pressure fitting tests).~~
- ~~(v) Qualitative and quantitative fit testing procedures.~~
- ~~(vi) Variability between field and laboratory protection factors.~~
- ~~(vii) Factors that alter respirator fit, for example, facial hair.~~
- ~~(viii) The components of a proper respiratory protection program.~~
- ~~(ix) Selection and use of personal protective clothing.~~
- ~~(x) Use, storage, and handling of nondisposable clothing.~~

~~(H) (H) Regulatory review to include the following:~~

- ~~(i) TSCA Title IV*.~~
- ~~(ii) Occupational Safety and Health Administration (OSHA) respirator requirements found at 29 CFR 1926.62**.~~
- ~~(iii) Applicable local, state, and federal regulations and guidance that pertain to lead-based paint and lead-based paint activities.~~

(2) The course of study for a risk assessor must last a minimum of sixteen (16) training hours and shall include a minimum of four (4) hours of hands-on training and contain the following course topics:

- (A) Role and responsibilities of a risk assessor.
- (B) Collection of background information to perform a risk assessment.
- (C) Sources of environmental lead contamination, ~~such as including~~ paint, surface dust and soil, water, air, packaging, and food.
- (D) Visual inspection for the purposes of identifying potential sources of lead-based paint hazards. The course of study includes hands-on activities.
- (E) Lead hazard screen protocol.
- (F) Sampling for other sources of lead exposure. The course of study includes hands-on activities.
- (G) Interpretation of lead-based paint and other lead sampling results, including all applicable state or federal guidance or regulations pertaining to lead-based paint hazards. The course of study includes hands-on activities.
- (H) Development of hazard control options, the role of interim controls, and operations and maintenance activities to reduce lead-based paint hazards.

- (I) Preparation of a final risk assessment report.
 - (J) Regulatory review, including, at minimum, the following:
 - (i) OSHA lead construction standard found at 29 CFR 1926.62**.
 - (ii) U.S. EPA Lead-Based Paint Poisoning Prevention rule found at 40 CFR 745**.
 - (iii) All applicable local, state, and federal regulations.
- (3) The course of study for a supervisor must last a minimum of thirty-two (32) training hours, and shall include a minimum of eight (8) hours of hands-on training, and contain the following course topics:
- (A) Role and responsibilities of a supervisor.
 - (B) Background information on lead and its adverse health effects.
 - (C) Regulatory review to include, at minimum, the following:
 - (i) OSHA lead construction standard found at 29 CFR 1926.62**. (Occupational Safety and Health Administration, Occupational Exposure to Lead).
 - (ii) U.S. EPA Lead-Based Paint Poisoning Prevention rule found at 40 CFR 745**.
 - (iii) All applicable local, state, and federal regulations.
 - (D) Liability and insurance issues relating to lead-based paint abatement.
 - (E) Risk assessment and inspection report interpretation. This course of study includes hands-on activities.
 - (F) Development and implementation of an occupant protection plan and abatement report.
 - (G) Lead-based paint hazard recognition and control. This course of study includes hands-on activities.
 - (H) Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices. This course of study includes hands-on activities.
 - (I) Interior dust abatement and cleanup or lead-based paint hazard control and reduction methods. This course of study includes hands-on activities.
 - (J) Soil and exterior dust abatement or lead-based paint hazard control and reduction methods. This course of study includes hands-on activities.
 - (K) Clearance standards and testing.
 - (L) Cleanup and waste disposal.
 - (M) Record keeping.
 - (N) Employee personal respiratory protection and personal protective equipment, including the following:
 - (i) Classes and characteristics of respirator types.
 - (ii) Limitations of respirators.
 - (iii) Proper selection, inspections, donning, use, maintenance, and storage procedures for respirators.
 - (iv) Methods for field testing of the face piece-to-mouth seal (positive and negative pressure fitting tests).
 - (v) Qualitative and quantitative fit testing procedures.
 - (vi) Variability between field and laboratory protection factors.
 - (vii) Factors that alter respirator fit, for example, facial hair.
 - (viii) The components of a proper respiratory protection program.
 - (ix) Selection and use of personal protective clothing.
 - (x) Use, storage, and handling of nondisposable clothing.
 - (xi) Regulations covering personal protective equipment.
 - (O) Respiratory protection programs and medical surveillance programs.
- (4) The course of study for a project designer must last a minimum of eight (8) training hours and contain the following course topics:
- (A) Role and responsibilities of a project designer.
 - (B) Development and implementation of an occupant protection plan for large scale abatement projects.
 - (C) Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices for large-scale abatement projects.
 - (D) Interior dust abatement and cleanup or lead hazard control and reduction methods for large-scale abatement projects.
 - (E) Clearance standards and testing for large-scale abatement projects.
 - (F) Integration of lead-based paint abatement methods with modernization and rehabilitation projects for large-scale abatement projects.
 - (G) OSHA requirements for lead sites.
 - (H) Relevant federal, state, and local regulatory requirements with a discussion of procedures and standards.
 - (I) Employee personal protective equipment, including the following:
 - (i) Classes and characteristics of respiratory types.
 - (ii) Limitations of respirators.
 - (iii) Proper selection, inspection, donning, use, maintenance, and storage procedures.
 - (iv) Methods for field testing of the face piece-to-mouth seal (positive and negative pressure fitting tests).
 - (v) Qualitative and quantitative fit testing procedures.
 - (vi) Variability between field and laboratory protection factors.
 - (vii) Factors that alter fit, for example, facial hair.
 - (viii) Components of a proper respiratory protection program.

- (ix) Selection and use of personal protective clothing.
 - (x) Use, storage, and handling of nondisposable clothing.
- (5) The course of study for an abatement worker must last a minimum of sixteen (16) training hours. This course of study includes a minimum of eight (8) hours of hands-on activities and contain the following course topics:
- (A) Role and responsibilities of an abatement worker.
 - (B) Background information on lead and its adverse health effects.
 - (C) Background information on federal, state, and local regulations and guidance that pertain to lead-based paint abatement.
 - (D) Lead-based paint hazard recognition and control. This course of study includes hands-on activities.
 - (E) Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices, with hands-on activities.
 - (F) Interior dust abatement methods and cleanup or lead-based paint hazard reduction, with hands-on activities.
 - (G) Soil and exterior dust abatement methods or lead-based paint hazard reduction, with hands-on activities.
 - (H) Employee personal protective equipment, including the following:
 - (i) Classes and characteristics of respirator types.
 - (ii) Limitations of respirators and their proper selection, inspection, donning, use, maintenance, and storage procedures.
 - (iii) Methods for field testing of the face piece-to-mouth seal (positive and negative pressure fitting tests).
 - (iv) Qualitative and quantitative fit testing procedures.
 - (v) Variability between field and laboratory protection factors.
 - (vi) Factors that alter respirator fit, for example, facial hair.
 - (vii) The components of a proper respiratory protection program.
 - (viii) Selection and use of personal protective clothing, use, storage, and handling of nondisposable clothing.
 - (ix) Regulations covering personal protective equipment.
 - (I) Hazards encountered during abatement activities and how to deal with them, including the following:
 - (i) Electrical hazards.
 - (ii) Heat stress.
 - (iii) Air contaminants other than lead.
 - (iv) Fire and explosion hazards.
 - (v) Scaffold and ladder hazards.
 - (vi) Slips, trips, and falls.
 - (vii) Confined spaces.
 - (J) Applicable federal, state, and local regulations and guidance that pertains to lead-based paint and lead-based paint activities.
- (6) The course of study for a clearance examiner must last a minimum of five (5) training hours. This course of study shall follow the U.S. EPA approved Lead Sampling Technician Training Course, including the use of all guidelines, manuals, and appendices and contain the following course topics:**
- (A) Introduction and background shall contain the following topics:**
 - (i) A brief overview to the course.**
 - (ii) Introduction of course objectives and general background on the health risks of lead and the purpose of lead sampling.**
 - (B) Skills shall contain the following topics:**
 - (i) How to perform a visual assessment.**
 - (ii) Preparation for and collection of dust wipe samples.**
 - (iii) Selection of an accredited lab, sample submission, and interpretation of acceptable results.**
 - (C) Application shall contain the following topics:**
 - (i) Overview of federal, state, and local regulations applying to lead sampling.**
 - (ii) How to perform lead samples in post-renovation clearance, HUD-required clearance, and other lead sampling examinations.**
 - (D) Writing and delivering reports shall include the following:**
 - (i) The preparation of reports.**
 - (ii) The procedures for explaining results to clients.**

***/**Copies of pertinent sections of the Toxic Substances Control Act (TSCA), and the United States Code (U.S.C.), and the Code of Federal Regulations (CFR) are available from the Government Printing Office, 732 Capitol Street NW, Washington, D.C. 20402 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Management, Quality, Indiana Government Center-North, 100 North Senate Avenue, Tenth Floor, Indianapolis, Indiana 46204.**

****Copies of pertinent sections of the Code of Federal Regulations (CFR) are available from the Government Printing Office, Washington, D.C. 20402 or are available for copying at the Indiana Department of Environmental Management, Office of Air Management, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana 46204. (Air Pollution Control Board; 326 IAC 23-3-3; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1448)**

SECTION 44. 326 IAC 23-3-4.5 IS ADDED TO READ AS FOLLOWS:

326 IAC 23-3-4.5 Training course reciprocity

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-4

Sec. 4.5. The following procedures shall be followed by a training course provider to receive training course reciprocity approval by the department for the purpose of offering initial or refresher lead-based paint activities courses:

(1) A training course provider seeking approval or reapproval of a training course shall submit one (1) written application, per discipline, for each initial and refresher training course on forms available from the department. The application for approval or reapproval shall contain the following information:

(A) The training course provider's name, address, telephone number, and primary contact person.

(B) The name of the training course.

(C) The course agenda or curriculum.

(D) A copy of the training course examination.

(E) A list of and proof of all U.S. EPA authorized and nonapproved states in which the course has received full or contingent U.S. EPA approval. Also provide a list and proof of courses directly approved by the U.S. EPA.

(F) The names and qualifications of the course instructors, including guest instructors, to include academic credentials and field experience.

(G) An example of the numbered certificates issued to students who complete the course and pass the examination, with the following information:

(i) Name and address of the accredited person.

(ii) Discipline of the training course completed.

(iii) Dates of the training course.

(iv) Date of the examination.

(v) An expiration date not to exceed one (1) year after the date upon which the person successfully completed the course and passed the examination.

(vi) The name, address, and telephone number of the training course provider who issued the certificate.

(vii) A statement that the person receiving the certificate has completed the requisite training for lead-based paint accreditation.

(viii) A statement that the training course meets the requirements as outlined by Indiana under this rule.

(H) A detailed statement of how the training course provider ensures that all requirements for training students be met in the event that:

(i) the instructor does not speak a language understood by all students; or

(ii) the course materials are not in a language understood by all students.

(I) A written statement indicating how the training course curriculum for each discipline approval is being sought.

(2) A training course provider seeking reciprocity shall pay the application fee in section 12 of this rule.

(3) A training course provider may apply for reciprocity approval to offer initial courses or refresher courses in as many disciplines as it chooses. A training course provider may seek reciprocity approval for additional courses at any time as long as the training course provider can demonstrate that it meets the requirements of this rule.

(4) Application for reciprocity will be approved if the application meets all of the requirements of this section and the training course provider holds a certificate of training approval issued by U.S. EPA or by a state that has a U.S. EPA authorized lead-based paint program.

(5) If the department determines the information on the application to be incomplete, the applicant will be requested to submit the missing information. If the information is not submitted within one (1) year of the department's receipt of the application, the application will expire and the application fee will not be transferred.

(Air Pollution Control Board; 326 IAC 23-3-4.5)

SECTION 45. 326 IAC 23-3-5 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-3-5 Examination requirements

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14

Sec. 5. (a) Each initial and refresher training course shall include a closed-book written examination at the conclusion of each course.

(b) Each individual must successfully complete the hands-on skills assessment and receive a passing score on the course test to pass any course.

(c) The training manager is responsible for maintaining the validity and integrity of the hands-on skills assessment to ensure that it accurately evaluates the trainees' performance of the work practices and procedures associated with the course of study contained in section 3 of this rule.

(d) The training manager is responsible for maintaining the validity and integrity of the written examination to ensure that it accurately evaluates the trainees' knowledge and retention of the course of study.

(e) Each examination shall adequately cover the course of study included in the training course for that discipline.

(f) The written examination shall be developed in accordance with the test blue print submitted with the training approval application.

(g) Written examinations shall have a passing score of at least seventy percent (70%) and shall consist of multiple-choice questions for each respective discipline. In addition, the training course provider shall include a hands-on skill assessment if applicable to the requirements for that discipline. The following number of questions shall be required for each respective discipline:

- (1) Inspector, fifty (50) questions.
- (2) Risk assessor, one hundred (100) questions.
- (3) Project designer, one hundred (100) questions.
- (4) Supervisor, one hundred (100) questions.
- (5) Worker, fifty (50) questions.
- (6) Clearance examiner, fifty (50) questions.**

(h) No two (2) training course examinations, initial or refresher, may contain more than ten percent (10%) of the same questions. (*Air Pollution Control Board; 326 IAC 23-3-5; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1451*)

SECTION 46. 326 IAC 23-3-7 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-3-7 Expiration of course approval; reapproval

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14

Sec. 7. (a) Unless reapproved, a training course approval, including refresher training approval, shall expire ~~one (1) year~~ **thirty-six (36) months** from the date of issuance. A training course provider seeking reapproval of each training course shall submit one (1) written application per discipline for each initial and each refresher training course on forms ~~provided by~~ **available from** the department no later than ninety (90) days before its current approval expires. The department cannot guarantee that a determination on the application will be made before the end of the current approval period if a training course provider does not submit a timely, complete application for reapproval.

(b) The training course provider's application for reapproval shall contain the following information:

(1) ~~The training course provider's name; address; telephone number; and primary contact person.~~ **A completed and signed application form for lead-based paint training courses.**

~~(2) The name of the training course.~~

~~(3) The course agenda or curriculum.~~

~~(4) A letter from the training course provider that clearly indicates how the course meets the applicable requirements of this rule; including the following information:~~

~~(A) Length of training in days.~~

~~(B) A description of the facilities and equipment to be used for lecture and hands-on training.~~

~~(C) A description concerning any changes to the training facility, equipment, or course materials since the last application was approved that adversely affects students' ability to learn.~~

~~(D) Amount and type of hands-on training.~~

~~(E) Description of the examinations; including the length; format; and passing score.~~

~~(F) A description of the activities and procedures that will be used for conducting the assessment of hands-on skills for each course.~~

~~(G) Topics covered in the course.~~

~~(H) A copy of the quality control plan.~~

~~(5) A detailed statement about the development of the examinations and a copy of the examinations used in the course.~~

~~(6) (2) The names and qualifications of the course instructors, including guest instructors to include and academic credentials and field experience.~~

~~(7) A description and an example of numbered certificates issued to students who complete the course and pass the examination; with the following information:~~

~~(A) Name and address of the accredited person.~~

~~(B) Discipline of the training course completed.~~

~~(C) Dates of the training course.~~

~~(D) Date of the examination.~~

~~(E) An expiration date not to exceed one (1) year after the date upon which the person successfully completed the course and~~

passed the examination:

~~(F) The name, address, and telephone number of the training course provider who issued the certificate.~~

~~(G) A statement that the person receiving the certificate has completed the requisite training for lead-based paint accreditation.~~

~~(H) A statement that the training course meets the requirements as outlined by Indiana under this rule.~~

~~(8) A list of both U.S. EPA approved and nonapproved states in which the course has received full or contingent approval. Also provide a list of courses directly approved by the U.S. EPA.~~

~~(9) A detailed statement of how the training course provider ensures that all requirements for training students be met in the event that:~~

~~(A) the instructor does not speak a language understood by all students; or~~

~~(B) the course materials are not in a language understood by all students.~~

~~(10) A list of courses for which the training course provider is applying for reapproval.~~

~~(11) (3) A description of any changes to the training facility, equipment, or course materials curriculum since its last application was approved that adversely affects the students' ability to learn.~~

~~(12) (4) A statement signed by the program manager stating that~~

~~(A) the training course provider complies at all times with:~~

~~(A) all requirements in this rule as applicable; and~~

~~(B) the record keeping and reporting requirements of this section shall be followed.~~

(c) Upon request, the training course provider shall allow the department to audit the training curriculum to verify the contents of the application for reapproval.

(d) A training course provider may apply for reapproval to offer initial courses or refresher courses in as many disciplines as it chooses. A training course provider may seek approval for additional courses at any time as long as the training course provider can demonstrate that it meets the requirements of this rule.

~~(e) If a training course provider's training course materials are based on U.S. EPA-recommended model training materials or training materials approved by Indiana; another approved state or Indian tribe; the training course manager shall include a statement certifying that the recommended version will be used.~~

~~(f) If a training course provider's training course materials are not based on U.S. EPA-recommended model training materials or training materials approved by an EPA-approved state or Indian tribe; the training course provider's application for approval shall include the following for each course:~~

~~(1) A copy of the student and instructor manuals;~~

~~(2) A copy of the course agenda;~~

(Air Pollution Control Board; 326 IAC 23-3-7; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1451)

SECTION 47. 326 IAC 23-3-12 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-3-12 Application fee

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14; IC 36-1-2-10; IC 36-1-2-23

Sec. 12. (a) Upon application for initial or refresher lead-based paint activities course approval, **initial or refresher training course reapproval, or reciprocity approval or reapproval**, a training course provider shall pay a one (1) time, **nonrefundable** application fee of one thousand dollars (\$1,000) for each of the following disciplines:

(1) Inspector.

(2) Risk assessor.

(3) Project designer.

(4) Supervisor.

(5) Worker.

(6) Clearance examiner.

~~(b) Upon application for initial or refresher training course reapproval; a training course provider shall pay an annual application fee of five hundred dollars (\$500) for each of the following disciplines:~~

~~(1) Inspector.~~

~~(2) Risk assessor.~~

~~(3) Project designer.~~

~~(4) Supervisor.~~

~~(5) Worker.~~

~~(c)~~ **(b)** Fees paid by mail shall be paid by check or money order and shall be made payable to the lead trust fund.

~~(d)~~ (c) The application fee is not:

- (1) transferable from one (1) type of discipline to another;
- (2) transferable from one (1) training course provider to another; **or**
- (3) transferable to any other type of license or approval issued by the department; **or**
- ~~(4) refundable;~~

unless requested by the applicant within three (3) days of submittal to the department or prior to the processing of the application by the department, whichever is earlier.

(d) The following may request an exemption from the payment of fees established under this section:

- (1) A state.**
- (2) A municipal corporation, as defined in IC 36-1-2-10.**
- (3) A unit, as defined in IC 36-1-2-23.**
- (4) An organization exempt from income taxation under 26 U.S.C. 501(a).**

Any request for an exemption must include proof as to the qualification of the exemption with the license application. (*Air Pollution Control Board; 326 IAC 23-3-12; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1454*)

SECTION 48. 326 IAC 23-4-1 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-4-1 Applicability

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14

Sec. 1. (a) This rule contains procedures and requirements for work practice standards for conducting lead-based paint activities. Any licensed person or company performing the following activities shall comply with the appropriate work practices as outlined in this rule:

- (1) Inspection.
- (2) Lead-hazard screening.
- (3) Risk assessment.
- (4) Abatement.
- (5) Project designer.**

(b) A political subdivision or a state agency may not accept a bid for a lead-based activities project from a person that does not hold a lead-based paint activities license. (*Air Pollution Control Board; 326 IAC 23-4-1; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1455; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477*)

SECTION 49. 326 IAC 23-4-2 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-4-2 Inspections

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14

Sec. 2. An inspection for lead-based paint in a child-occupied facility or target housing shall be conducted only by a person licensed by the department as an inspector or risk assessor. The inspection shall include each component with a distinct painting history, except those components that the inspector or risk assessor determines through the examination of receipts for architectural proof to have been replaced after 1978 or do not contain lead-based paint. If conducted, an inspection shall be conducted as follows:

- (1) When conducting an inspection, the following locations shall be selected according to documented methodologies and tested for the presence of lead-based paint:
 - (A) In a residential dwelling and child-occupied facility, each interior component with a distinct painting history and each exterior component with a distinct painting history shall be tested for lead-based paint.
 - (B) In a multi-family dwelling or child-occupied facility, each component with a distinct painting history in every common area.
- (2) Paint shall be sampled in either, or both, of the following ways:
 - (A) The analysis of paint to determine the presence of lead shall be conducted using documented methodologies that incorporate adequate quality control procedures.
 - (B) All collected paint chip samples shall be analyzed by a laboratory recognized by U.S. EPA pursuant to TSCA Sec. 405(b) as capable of performing analyses for lead compounds in paint chips, dust, and soil samples to determine if they contain detectable levels of lead that can be quantified numerically.
- (3) The licensed inspector or risk assessor shall prepare an inspection report that shall include the following information:
 - (A) Date of each inspection.
 - (B) Address of building.
 - (C) Date of construction.
 - (D) Apartment number, when applicable.
 - (E) Name, address, and telephone number of the owner or owners of each residential dwelling or child-occupied facility.

- (F) Name, signature, and license number of each licensed inspector or risk assessor conducting testing.
- (G) Name, address, and telephone number of the firm employing each inspector or risk assessor, when applicable.
- (H) Each testing method and device or sampling procedure employed for paint analysis, including quality control data and, if used, the serial number of any x-ray fluorescence device.
- (I) Specific locations of each painted component tested for the presence of lead-based paint.
- (J) The results of the inspection, expressed in terms appropriate to the sampling method used.

(4) All property owners, from the date of receipt of the lead-based paint inspection report, must disclose all information contained in the report to potential occupants and buyers of the inspected property prior to occupancy or sale of the property.

(Air Pollution Control Board; 326 IAC 23-4-2; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1455; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)

SECTION 50. 326 IAC 23-4-3 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-4-3 Lead hazard screen

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14

Sec. 3. A lead hazard screen shall be conducted only by a person licensed by the department as a risk assessor. A lead hazard screen shall be conducted as follows:

- (1) Background information regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to one (1) or more children six (6) years of age or younger shall be collected.
- (2) A visual inspection of the residential dwelling or child-occupied facility shall be conducted to:
 - (A) determine if any deteriorated paint is present; and
 - (B) locate at least two (2) dust sampling locations.
- (3) If deteriorated paint is present, ~~each surface with deteriorated paint which is the following surfaces that are~~ determined, using documented methodologies, to be in poor condition and to have a distinct painting history, shall be tested for the presence of lead:
 - (A) Each friction surface or impact surface with visibly deteriorated paint.**
 - (B) All other surfaces with visibly deteriorated paint.**
- (4) In residential dwellings, two (2) composite dust samples shall be collected **and analyzed**, one (1) from the floors and one (1) from ~~a an interior window through sill in all living areas, including, but not limited to,~~ rooms, hallways, or stairwells where ~~one (1) or more children; any child~~ six (6) years of age or younger ~~are most~~ is likely to come in contact with dust.
- (5) In multi-family dwellings and child-occupied facilities, ~~in addition to the floor and window samples required in subdivision (4),~~ (3) shall be taken in:
 - (A) each room, hallway, or stairwell utilized by any child six (6) years of age and under; and**
 - (B) other common areas in the child-occupied facility where any children six (6) years of age and under are likely to come into contact with dust.**

In addition, the risk assessor shall also collect **and analyze** at least two (2) composite **or single-surface** dust samples from ~~common areas interior window sill and floor where one (1) or more children; any child,~~ six (6) years of age or younger, ~~are most~~ is likely to come into contact with dust.

- (6) Dust samples shall be collected and analyzed in the following manner:
 - (A) All dust samples shall be taken using documented methodologies that incorporate adequate quality control procedures.
 - (B) All collected dust samples shall be analyzed to determine if they contain detectable levels of lead that can be quantified numerically.
- (7) Paint shall be sampled in either, or both, of the following manners:
 - (A) The analysis of paint to determine the presence of lead shall be conducted using documented methodologies that incorporate adequate quality control procedures.
 - (B) All collected paint chip samples shall be analyzed to determine if they contain detectable levels of lead that can be quantified numerically.
- (8) The risk assessor shall prepare a lead hazard screen report, which shall include the following information:
 - (A) Date of assessment.
 - (B) Address of building.
 - (C) Date of construction.
 - (D) Apartment number, if applicable.
 - (E) Name, address, and telephone number of each owner or owners of each residential dwelling or child-occupied facility.
 - (F) Name, signature, and license number of each licensed risk assessor conducting the assessment.
 - (G) Name, address, and telephone number of the firm employing each licensed risk assessor.
 - (H) Name, address, and telephone number of each recognized laboratory conducting the analysis of the collected samples.
 - (I) Each testing method and device or sampling procedure employed for paint analysis, including quality control data and, if used, the serial number of any x-ray fluorescence device.

- (J) Specific locations of each painted component tested for the presence of lead-based paint.
 - (K) The results of the assessment including but not limited to visual inspections in terms appropriate to the sampling method used.
 - (L) All results of laboratory analysis on collected paint, soil, and dust samples.
 - (M) Any background information collected.
 - (N) To the extent that they are used as part of the lead-based paint hazard determination, the results of any previous inspections or analyses for the presence of lead-based paint, or other assessments of lead-based paint-related hazards.
 - (O) A description of the location, type, and severity of lead-based paint hazards and other potential lead hazards.
 - (P) A description of interim controls and abatement options for each identified lead-based paint hazard and a suggested prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, the report shall recommend a maintenance and monitoring schedule for the encapsulant or enclosure.
- (Air Pollution Control Board; 326 IAC 23-4-3; filed Jan 6, 1999, 4:28 p.m.; 22 IR 1456; readopted filed Jan 10, 2001, 3:20 p.m.; 24 IR 1477)*

SECTION 51. 326 IAC 23-4-4 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-4-4 Risk assessment

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14

Sec. 4. A risk assessment shall be conducted only by a person licensed by the department as a risk assessor. A risk assessment shall be conducted as follows:

- (1) Background information regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to one (1) or more children six (6) years of age or younger shall be collected.
- (2) A visual inspection for risk assessment of the residential dwelling or child-occupied facility shall be undertaken to locate the existence of deteriorated paint, assess the extent and causes of the deterioration, and other potential lead-based paint hazards.
- (3) Each of the following surfaces determined using documented methodologies to have a distinct painting history shall be tested for the presence of lead:
 - (A) Deteriorated paint in poor condition.
 - (B) Paint with a potential health hazard.
- (4) In residential dwellings, dust samples (either composite or single-surface samples) from ~~the a~~ window and floor shall be collected in all living areas where one (1) or more children, six (6) years of age or younger are most likely to come into contact with dust.
- (5) For multi-family dwellings and child-occupied facilities, additional window and floor dust samples (either composite or single-surface samples) shall be collected in the following locations:
 - (A) Common areas adjacent to the sampled residential dwelling or child-occupied facility.
 - (B) Other common areas in the building where the risk assessor determines that one (1) or more children, six (6) years of age or younger, are likely to come into contact with dust.
- (6) For child-occupied facilities, **interior window sill** and floor dust samples (either composite or single-surface samples) shall be collected **and analyzed for lead concentration** in:
 - (A) each room, hallway, or stairwell used by one (1) or more children, six (6) years of age or younger; and
 - (B) in other common areas in the child-occupied facility where the risk assessor determines one (1) or more children, six (6) years of age and younger, are likely to come into contact with dust.
- (7) Soil samples shall be collected and analyzed for lead concentrations in the following locations:
 - (A) Exterior play areas where bare soil is present.
 - (B) Dripline or foundation areas where bare soil is present.
 - (C) The rest of the yard where bare soil is present, including the nonplay areas.**
- (8) Any paint, dust, or soil sampling or testing shall be conducted using documented methodologies that incorporate adequate quality control procedures.
- (9) Any collected paint chip, dust, or soil samples shall be analyzed to determine if they contain detectable levels of lead that can be quantified numerically.
- (10) The licensed risk assessor shall prepare a risk assessment report that shall include the following information:
 - (A) Date of assessment including visual inspections.
 - (B) Address of each building.
 - (C) Date of construction.
 - (D) Apartment number, if applicable.
 - (E) Name, address, and telephone number of each owner or owners of each residential dwelling or child-occupied facility.
 - (F) Name, signature, and license number of the licensed risk assessor conducting the assessment.
 - (G) Name, address, and telephone number of the firm employing each licensed risk assessor.
 - (H) Name, address, and telephone number of each recognized laboratory conducting analysis of the collected samples.

- (I) Each testing method, device, or sampling procedure employed for paint analysis, including quality control data and, if used, the serial number of any x-ray fluorescence device.
- (J) Specific locations of each painted component tested for the presence of lead-based paint.
- (K) All results of laboratory analysis on collected paint, soil, and dust samples.
- (L) Any background information collected.
- (M) To the extent that they are used as part of the lead-based paint hazard determination, the results of any previous inspections or analyses for the presence of lead-based paint, or other assessments of lead-based paint-related hazards.
- (N) A description of the location, type, and severity of lead-based paint hazards and other potential lead hazards.
- (O) A description of interim controls and abatement options for each identified lead-based paint hazard and a suggested prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, the report shall recommend a maintenance and monitoring schedule for the encapsulant or enclosure.
- (P) Results of visual inspections.

(Air Pollution Control Board; 326 IAC 23-4-4; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1456; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)

SECTION 52. 326 IAC 23-4-5 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-4-5 Abatement procedures for all projects

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14

Sec. 5. An abatement shall be conducted only by a person licensed by the department to remove lead-based paint. An abatement shall be conducted as follows:

- (1) A licensed supervisor is required for each abatement project and shall be on site and responsible for direct supervision of workers during all:
 - (A) work site preparation;
 - (B) abatement activities; and
 - (C) post-abatement cleanup of work areas.

Lead-based paint workers shall have access to the supervisor throughout the duration of the project.

- (2) The licensed supervisor and the licensed contractor employing that supervisor shall ensure that all abatement activities are conducted according to the requirements of this section and all other federal, state, and local requirements.
- (3) Notification of the commencement of lead-based paint abatement activities in target housing or child-occupied facility or as a result of a federal, state, or local order shall be given to the department prior to the commencement of abatement activities as provided in section 6 of this rule.
- (4) A written occupant protection plan shall be developed for all abatement projects and shall be prepared according to the following procedures:
 - (A) The occupant protection plan shall be unique to each residential dwelling or child-occupied facility and be developed prior to the abatement. The occupant protection plan shall describe the measures and management procedures that will be taken during the abatement to protect the building occupants from exposure to any lead-based paint hazards.
 - (B) A licensed supervisor or project designer shall prepare the occupant protection plan.
- (5) The work practices shall be restricted during an abatement as follows:
 - (A) Open-flame burning or torching of lead-based paint is prohibited.
 - (B) Machine sanding or grinding or abrasive blasting or sandblasting of lead-based paint is prohibited unless used with HEPA exhaust control that removes particles of three-tenths (0.3) micron or larger from the air at ninety-nine and ninety-seven hundredths percent (99.97%) or greater efficiency.
 - (C) Dry scraping of lead-based paint is permitted only in conjunction with heat guns or around electrical outlets or when treating defective paint spots totaling no more than two (2) square feet in any one (1) room, hallway, or stairwell or totaling no more than twenty (20) square feet on exterior surfaces.
 - (D) Operating a heat gun on lead-based paint is permitted only at temperatures below one thousand one hundred (1,100) degrees Fahrenheit.
- (6) If conducted, soil abatement shall be conducted in one (1) of the following ways:
 - (A) If soil is removed, the lead-contaminated soil shall be replaced with soil ~~that is not lead-contaminated: with a lead concentration as close to local background as practicable, but not greater than four hundred (400) parts per million.~~
 - (B) The soil that is removed shall not be used as top soil at another residential property or child-occupied facility.**
 - ~~(B)~~ (C) If soil is not removed, the lead-contaminated soil shall be permanently covered.
- (7) When sealing the work area off from the nonwork area, six (6) mil sheeting shall be used and all tears, breaks, cracks, and openings in the containment system shall be repaired as they occur.
- (8) All persons entering a work area during a lead-abatement project that involves breaking or disturbing lead-painted surfaces shall wear disposable shoe covers that shall be removed upon leaving the work area and placed with abatement waste. Any persons entering a work area during lead paint removal activity ~~such as~~ using a heat gun, scraping, HEPA sanding, or chemical stripping, or during replacement and during the cleanup process shall also wear appropriate respirator protection in accordance with all

OSHA requirements found at 29 CFR 1926.62*. In every abatement activity that results in the disturbance of lead-based paint, polyethylene plastic sheeting shall always be placed directly below the work area.

(9) A supervisor shall post warning signs at all entrances and exits to work area. The warning signs posted shall read ~~“Caution Lead Hazard—Do Not Enter Work Area Unless Authorized”~~; **“Warning Lead Work Area Poison No Smoking or Eating”**.

(10) Access of nonworkers to abatement work areas shall be limited. The abatement work crew supervisor is responsible for enforcing this limited access. Only the persons informed by the supervisor of potential lead hazards and who have a direct relationship to the project may enter the work area.

~~(11) Heat guns shall not be operated in excess of one thousand one hundred (1,100) degrees Fahrenheit.~~

~~(12)~~ (11) Any surfaces that have been stripped with caustic chemicals or that have come into contact with caustic or solvent-based liquid waste shall be cleaned by wet washing until there is no visible residue.

~~(13)~~ (12) Work areas shall be restricted by barrier tape.

~~(14)~~ (13) A thorough cleanup of the entire area under active abatement shall occur daily during the entire interior and exterior abatement process. This daily cleanup shall consist of the following:

~~(A) HEPA vacuum all surfaces and place debris into labeled six (6) mil polyethylene sheets.~~

~~(B)~~ (A) Lead-contaminated waste shall be stored in an area inside the property line designated and posted as a lead waste storage area, and covered with six (6) mil polyethylene sheeting. Lead-contaminated waste shall be stored ~~outside~~; **in locked containers, rooms, trucks, or trailers.**

~~(C)~~ (B) Small debris shall be swept up using a HEPA vacuum and bagged in a six (6) mil polyethylene or double four (4) mil bags and stored in a designated secure area.

~~(D)~~ (C) Consumable and disposable supplies, ~~such as including~~ mop heads, plastic sheeting, sponges, and rags shall be treated as **lead contaminated debris: waste.**

***This document is incorporated by reference. Copies may be obtained from the Government Printing Office, 732 Capitol Street NW, Washington, D.C. 20401 or are available for review and copying from Indiana Department of Environmental Management, Office of Air Quality, 100 North Senate Avenue, Indianapolis, Indiana 46204. (Air Pollution Control Board; 326 IAC 23-4-5; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1457; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)**

SECTION 53. 326 IAC 23-4-6 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-4-6 Lead abatement notification procedures

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14

Sec. 6. (a) Each owner or operator of a lead abatement activity site to whom this rule applies shall do the following:

(1) Provide the department with written notice of intention to conduct an activity on a form to be provided by the department and update such notice as necessary, including, but not limited to, the following:

(A) The project start date.

(B) The activity contractor.

(C) An indication of whether the notice is the original, a revised copy, or a canceled copy.

(D) Name, address, and telephone number of both the facility owner and operator and the lead abatement contractor owner or operator.

(2) Postmark or hand deliver the notice as follows:

(A) At least two (2) working days before ~~an~~ **lead-based paint** activity, including:

(i) abatement;

(ii) repair;

(iii) removal; **or**

(iv) **soil removal or** encapsulation;

~~(v) storage;~~

~~(vi) stripping;~~

~~(vii) dislodging;~~

~~(viii) cutting; or~~

~~(ix) drilling;~~

that results in the disturbance of lead-based paint.

(B) If the activity is an emergency abatement operation, notice shall be given as early as possible but not later than the following working day after the activity is started.

(C) Delivery of the notice by the United States postal service, facsimile, commercial delivery service, or hand delivery is acceptable. If the notice is being updated, a copy of the previous notification being updated shall be attached to the new, revised notification.

(D) Include any of the following types of operations in the notification:

(i) Wet or dry stripping.

(ii) Encapsulation.

- (iii) Enclosure.
- (iv) Emergency abatement.
- (v) Soil removal.
- (vi) Interior abatement.
- (vii) Exterior abatement.
- (E) Description of the facility or affected part of the facility, including the following:
 - (i) Size in square feet.
 - (ii) Number of floors.
 - (iii) Age.
 - (iv) Present and prior use of the facility.
- (F) Procedure, including analytical methods, employed to detect the presence and amount of lead-based paint.
- (G) An estimate the approximate amount of lead-based paint to be removed in the facility in terms of linear feet or square feet on facility components.
- (H) Location and street address, including:
 - (i) building number, building name, and floor or room number location, if available;
 - (ii) city;
 - (iii) county; and
 - (iv) state;
 where the activity is to take place.
- (I) Scheduled starting abatement removal date and completion dates as indicated by the posting and removal of lead-based paint hazard demarcations in the work area.
- (J) Description of planned activity work to be performed and methods to be employed, including techniques to be used and a description of the affected facility components.
- (K) Description of work practices and engineering controls to be used to comply with this rule, including lead removal. ~~and waste handling emission control procedures.~~
- (L) Description of procedures to be followed in the event that unexpected lead-based paint becomes a lead-based paint hazard and warrants immediate action.
- ~~(M) Name and location of the waste disposal site where lead containing waste material will be deposited.~~
- ~~(N)~~ **(M)** A signed certification from the owner or operator **of the facility** that the information provided in this notification is correct and that only Indiana licensed workers and project supervisors will be used to implement lead abatement activity.
- ~~(O)~~ **(N)** For lead-based paint activities, the name, address, telephone number, and license number issued to the following, **if applicable**:
 - (i) The person who inspected the facility for lead-based paint.
 - (ii) The person who will conduct risk assessment lead abatement activities.
 - (iii) The contractor who will conduct lead abatement activities.**
- ~~(P)~~ **(O)** For emergency lead abatement activities, the date and hour that the emergency occurred, including a description and an explanation of how the event causes a lead-based paint hazard and warrants immediate action.
- ~~(Q)~~ **(P)** Name, address, and telephone number of the waste transporter.
- (3) When the lead abatement activity will begin:
 - (A) on a date after the date specified in the original or the most recent revised notification, provide written notice of the new stripping or removal start date to the department postmarked at least two (2) working days or delivered at least one (1) working day before the start date of the lead abatement activity specified in the notification that is being updated; or
 - (B) on a date earlier than the date specified in the original or the most recent revised notification, provide written notice of the new activity start date to the department postmarked or delivered at least two (2) working days before the start date of the lead abatement activity begins.

(b) In no event shall lead abatement activities begin on a date other than the date contained in the most recent written notification. (Air Pollution Control Board; 326 IAC 23-4-6; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1458; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)

SECTION 54. 326 IAC 23-4-7 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-4-7 Lead abatement procedures; interior

Authority: IC 13-17-14-5
Affected: IC 13-11; IC 13-17-14

Sec. 7. Interior abatement shall include the following procedures:

- (1) Post warning signs at entrances and exits to work area and the sign shall read ~~“Caution Lead Hazard—Do Not Enter Work Area Unless Authorized.”~~ **“Warning Lead Work Area Poison No Smoking or Eating”**.
- (2) The department strongly recommends that wall-to-wall carpeting be removed. However, if left in place, it shall be covered with at least two (2) sheets of six (6) mil polyethylene sheeting, secured to the wall or baseboard with masking tape to ensure no

contamination by lead dust or other lead-contaminated materials.

(3) ~~Nonmoveable~~ Objects remaining in the work area shall be wrapped **or covered** with six (6) mil polyethylene sheeting and sealed with tape.

(4) After all moveable objects have been removed from the work area, the area shall be sealed from nonwork areas.

(5) After sealing off the work area, floors shall be covered with at least two (2) layers of six (6) mil polyethylene sheeting.

(6) Forced-air heating and air conditioning systems shall be shut down, and all air intake and exhaust points of these systems shall be sealed.

(7) If a common area is an abatement work area, and there are no alternative entrances and egresses that are located outside of the work area, a protected passage through the common area shall be erected.

(8) If a safe passage cannot be created and alternative entrances and exits do not exist, then abatement in common areas shall be conducted between established and posted hours and the work area shall be cleaned with a HEPA vacuum at the end of each working day until all surfaces are free of all visible dust and debris.

(Air Pollution Control Board; 326 IAC 23-4-7; filed Jan 6, 1999, 4:28 p.m.; 22 IR 1460; readopted filed Jan 10, 2001, 3:20 p.m.; 24 IR 1477)

SECTION 55. 326 IAC 23-4-9 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-4-9 Post-abatement clearance procedures

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14

Sec. 9. The following post-abatement final visual clearance procedures shall be performed only by a licensed inspector or risk assessor:

(1) Following an abatement and prior to removal of warning signs or other demarcation, a visual inspection shall be completed by an Indiana licensed inspector or risk assessor to determine if deteriorated, painted surfaces or visible amounts of dust, debris, or residue are still present.

(2) If deteriorated painted surfaces or visible amounts of dust debris or residue are present, they must be wet wiped or HEPA vacuumed until such conditions are eliminated prior to the continuation of the clearance procedures.

(3) Following the visual inspection and any post-abatement cleanup required in this rule, clearance sampling for lead-contaminated dust shall be conducted by employing single-surface sampling or composite sampling techniques.

(4) Dust samples on surfaces for clearance purposes shall be taken using documented methodologies that incorporate adequate quality control procedures.

(5) Dust samples for clearance purposes shall be taken within a minimum of one (1) hour after completion of final post-abatement clean-up activities.

(6) The following post-abatement clearance activities shall be conducted as appropriate based upon the extent or manner of abatement activities conducted in or to the target housing or child-occupied facility:

(A) After conducting an abatement with containment between abated and unabated areas:

(i) one (1) dust sample shall be taken from one (1) **interior window sill and from one (1) window trough**, if ~~available~~; **present**;

(ii) one (1) dust sample shall be taken from the ~~floor~~ **floors of each** of no less than four (4) rooms, hallways, or stairwells within the containment area; and

(iii) one (1) dust sample shall be taken from the floor outside the containment area.

If there are fewer than four (4) rooms, hallways, or stairwells within the containment area, then all rooms, hallways, or stairwells shall be sampled.

(B) After conducting an abatement with no containment:

(i) two (2) dust samples shall be taken from **each of** no fewer than four (4) rooms, hallways, or stairwells in the target housing or child-occupied facility;

(ii) one (1) dust sample shall be taken from one (1) **interior window sill and window trough**, if ~~available~~; **present**; and

(iii) one (1) dust sample shall be taken from the floor of each room, hallway or stairwell selected.

If there are fewer than four (4) rooms, hallways, or stairwells within the residential dwelling or child-occupied facility, then all rooms, hallways, or stairwells shall be sampled.

(C) Following an exterior paint abatement, a visible inspection shall be conducted as follows:

(i) All horizontal surfaces in the outdoor living area closest to the abated surface shall be found to be clean of visible dust and debris.

(ii) A visual inspection shall be conducted to determine the presence of paint chips on the dripline or next to the foundation below any exterior surface abated.

(iii) If paint chips are present,

~~(AA) the chips shall be removed from the site and properly disposed of, according to all applicable federal, state, and local requirements. and~~

~~(BB) soil sampling shall be performed by documented methodologies to determine if the lead hazard has been removed.~~

(D) The rooms, hallways, or stairwells selected for sampling shall be selected according to documented methodologies.

(E) The certified inspector or risk assessor shall compare the residual lead level, as determined by the laboratory analysis, from

each **single surface** dust sample with applicable clearance levels for lead in dust on floors, **interior window sills**, and ~~windows~~. **window troughs divided by half the number of subsamples in the composite sample.** If the residual lead ~~levels~~ **level:**

(i) in a **single surface** dust sample ~~exceed~~ **equals or exceeds** the applicable clearance levels; or

(ii) in a **composite dust sample equals or exceeds the applicable clearance level divided by half the number of subsamples in the composite sample;**

all the components represented by the failed sample shall be recleaned and retested until clearance levels are met.

(F) The clearance levels for lead in dust are forty (40) milligrams per square foot for floors, two hundred fifty (250) milligrams per square foot for interior window sills, and forty (40) milligrams per square foot for window troughs.

(Air Pollution Control Board; 326 IAC 23-4-9; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1460; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)

SECTION 56. 326 IAC 23-4-13 IS AMENDED TO READ AS FOLLOWS:

326 IAC 23-4-13 Record keeping

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14

Sec. 13. (a) All reports or plans required in this rule shall be completed no later than sixty (60) days from the completion of the abatement project.

(b) All reports and plans shall be maintained for no fewer than three (3) years by the licensed person or contractor who prepared the report.

(c) The licensed person or contractor shall provide copies of these reports to the building owner who contracted for services no later than sixty (60) days from the completion of the abatement project.

(d) The licensed person or contractor shall make reports available to the department upon request.

(e) A lead-based paint activities contractor licensed under this rule shall compile records concerning each lead-based paint activities project performed by the lead-based paint activities contractor. The records shall include the following information on each lead-based paint activities project:

(1) The name, address, and proof of license of:

(A) the person who supervised the lead-based paint activities project for the lead-based paint activities contractor; and

(B) each employee or agent of the lead-based paint activities contractor that worked on the project.

(2) The name, address, and signature of each certified risk assessor or inspector conducting clearance sampling and the date of clearance testing.

(3) The site of the lead-based paint activities project.

(4) A description of the lead-based paint activities project.

(5) The date on which the lead-based paint activities project was started and the date on which the lead-based paint activities project was completed.

(6) A summary of procedures that were used in the project to comply with applicable federal, state, and local standards for lead-based paint activities projects.

(7) A detailed written description of the lead-based paint activities, including methods used, locations of rooms or components where lead-based paint activities occurred, reasons for selecting particular lead-based paint activities methods for each component, and any suggested monitoring of encapsulants or enclosures.

(8) The occupant protection plan.

(9) The results of clearance testing and all soil analysis and the name of each federally-approved laboratory that conducted the analysis.

~~(10) The amount of material containing lead-based paint that was removed from the site of the project.~~

~~(11) The name and address of each disposal site used for the disposal of lead-based paint containing material that was disposed of as a result of the lead-based paint activities project.~~

(f) A copy of each receipt issued by a disposal site must be included in the records. *(Air Pollution Control Board; 326 IAC 23-4-13; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1462; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)*

SECTION 57. 326 IAC 23-5 IS ADDED TO READ AS FOLLOWS:

Rule 5. Work Practice Standards for Nonabatement Activities

326 IAC 23-5-1 Applicability

Authority: IC 13-17-14-5

Affected: IC 13-11; IC 13-17-14

Sec. 1. (a) This rule applies to:

- (1) remodeling, renovation, and maintenance activities at target housing and child occupied facilities built before 1960; and**
- (2) lead-based paint activities.**

(b) This rule does not apply to an individual who performs remodeling, renovation, or maintenance activities within a residential dwelling that the individual owns, unless the residential dwelling is occupied:

- (1) while the activities are being performed, by an individual other than the owner or a member of the owner's immediate family; or**
- (2) by a child who:**
 - (A) is six (6) years of age or younger;**
 - (B) resides in the building; and**
 - (C) has been identified as having an elevated blood lead level.**

(Air Pollution Control Board; 326 IAC 23-5-1)

326 IAC 23-5-2 Remodeling, renovation, and maintenance activities

Authority: IC 13-17-5

Affected: IC 13-11; IC 13-17-14

Sec. 2. (a) A person who performs an activity under section 1 of this rule that disturbs:

- (1) exterior painted surfaces of more than twenty (20) square feet;**
 - (2) interior painted surfaces of more than two (2) square feet in any one (1) room or space; or**
 - (3) more than ten percent (10%) of the combined interior and exterior painted surface area of components of the building;**
- shall meet the requirements of subsections (c) through (e).**

(b) For purposes of this rule, paint is considered to be lead-based paint unless the absence of lead in the paint has been determined by a lead-based paint inspection conducted under this article.

(c) A person may not use any of the following methods to remove lead-based paint:

- (1) Open flame burning or torching.**
- (2) Machine sanding or grinding without high efficiency particulate air local exhaust control.**
- (3) Abrasive blasting or sandblasting without high efficiency particulate air local exhaust control.**
- (4) A heat gun that:**
 - (A) operates above one thousand one hundred (1,100) degrees Fahrenheit; or**
 - (B) chars the paint.**
- (5) Dry scraping, except:**
 - (A) in conjunction with a heat gun; or**
 - (B) within one (1) foot of an electrical outlet.**
- (6) Dry sanding, except within one (1) foot of an electrical outlet.**

(d) In a space that is not ventilated by the circulation of outside air, a person may not strip lead-based paint using a volatile stripper that is a hazardous chemical under 29 CFR 1910.1200*, as in effect July 1, 2002.

(e) A person conducting activities under this rule on painted exterior surfaces may not allow visible paint chips or painted debris that contains lead-based paint to remain on the soil, pavement, or other exterior horizontal surface for more than forty-eight (48) hours after the surface activities are complete.

***These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (Air Pollution Control Board; 326 IAC 23-5-2)**

SECTION 58. THE FOLLOWING ARE REPEALED: 326 IAC 23-1-23; 326 IAC 23-1-42; 326 IAC 23-1-43; 326 IAC 23-1-44; 326 IAC 23-1-45; 326 IAC 23-1-46; 326 IAC 23-1-47.

Notice of First Meeting/Hearing

Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on February 5, 2003 at 1:00 p.m. at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana the Air Pollution Control Board will hold a public hearing on amendments to 326 IAC 23.

The purpose of this hearing is to receive comments from the public prior to preliminary adoption of these rules by the board. All interested persons are invited and will be given reasonable opportunity to express their views concerning the proposed amendments. Oral statements will be heard, but for the accuracy of the record, all comments should be submitted in writing.

Additional information regarding this action may be obtained from Suzanne Whitmer, Rules Section, Office of Air Quality, (317)

232-8229 or (800) 451-6027 (in Indiana). Technical information regarding this action may be obtained from David White, Asbestos Section, Office of Air Quality, (317) 232-8219 or the toll-free number.

Individuals requiring reasonable accommodations for participation in this event should contact the Indiana Department of Environmental Management, Americans with Disabilities Act coordinator at:

Attn: ADA Coordinator

Indiana Department of Environmental Management

100 North Senate Avenue

P.O. Box 6015

Indianapolis, Indiana 46206-6015

or call (317) 233-0855. TDD: (317) 232-6565. Speech and hearing impaired callers may contact IDEM via the Indiana Relay Service at 1-800-743-3333. Please provide a minimum of 72 hours' notification.

Copies of these rules are now on file at the Office of Air Quality, Indiana Department of Environmental Management, Indiana Government Center-North, 100 North Senate Avenue, 10th Floor, Indianapolis, Indiana and are open for public inspection.