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## **TITLE 326 AIR POLLUTION CONTROL BOARD**

### **Proposed Rule**

LSA Document #02-189

### **DIGEST**

Amends 326 IAC 23-1, 326 IAC 23-2, 326 IAC 23-3, and 326 IAC 23-4 concerning the licensing of individuals and contractors engaged in lead-based paint and training activities. Adds 326 IAC 23-5 to add work practice standards for nonabatement activities. Repeals 326 IAC 23-1-22, 326 IAC 23-1-23, 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, and 326 IAC 23-1-47. Effective 30 days after filing with the secretary of state.

### **HISTORY**

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

Second Notice of Comment Period: November 1, 2002, Indiana Register (26 IR 548).

Change in Notice of Public Hearing: February 1, 2003, Indiana Register (26 IR 1592).

First Public Hearing: Opened on February 5, 2003, and continued to March 5, 2003.

Continuation of First Public Hearing: March 5, 2003.

### **PUBLIC COMMENTS UNDER IC 13-14-9-4.5**

IC 13-14-9-4.5 states that a board may not adopt a rule under IC 13-14-9 that is substantively different from the draft rule published under IC 13-14-9-4, until the board has conducted a third comment period that is at least twenty-one (21) days long.

### **REQUEST FOR PUBLIC COMMENTS**

This proposed (preliminarily adopted) rule is substantively different from the draft rule published on November 1, 2002, at 26 IR 548. The Indiana Department of Environmental Management (IDEM) is requesting comment on the entire proposed (preliminarily adopted) rule.

The proposed rule contains numerous changes from the draft rule that make the proposed rule so substantively different from the draft rule that public comment on the entire proposed rule is advisable. This notice requests the submission of comments on the entire proposed rule, including suggestions for specific comments. These comments and the department's responses thereto will be present to the board for its consideration at final adoption under IC 13-14-9-6. Mailed comments should be addressed to:

#02-189 Lead-based paint

Suzanne Whitmer

c/o Administrative Assistant

Rule Development Section

Office of Air Quality

Indiana Department of Environmental Management

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Hand delivered comments will be accepted by the receptionist on duty at the Office of Air Quality, Tenth Floor East, 100 North Senate Avenue, Indianapolis, Indiana. Comments may also be submitted by facsimile to (317) 233-2342, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rule Development Section at (317) 233-0426.

### **COMMENT PERIOD DEADLINE**

Comments must be postmarked, hand delivered, or faxed by April 22, 2003.

### **SUMMARY/RESPONSE TO COMMENTS FROM THE SECOND COMMENT PERIOD**

IDEM requested public comment from November 1, 2002, through December 2, 2002, on IDEM's draft rule language. IDEM

received comments from the following parties:

Cabinet for Health Services, Commonwealth of Kentucky (KY)  
City of Bloomington, Bruce Jennings (COB)  
Community Housing Development Organization (CHD)  
Elkhart Housing Partnership, Inc. (EHP)  
Environmental Management Institute (EMI)  
Greentree Environmental Svc., Inc (GES)  
Housing Opportunities Inc. (HOI)  
Improving Kids' Environment (IKE)  
Ohio Valley Opportunities, Inc. (OVO)

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

### **Reciprocity**

*Comment:* Individuals in states near Indiana find it difficult to operate in Indiana without a reciprocity agreement for licensing. If Indiana would accept training from all course providers that were either an EPA-approved course or approved by states authorized by the U.S. EPA to approve course providers, the cost and difficulty of reciprocity would be reduced enormously. To ensure that persons know the special Indiana requirements, they could be required to take an Indiana rules course taught by any course provider with Indiana approval for the supervisor initial or risk assessor initial courses. (IKE)

*Comment:* One of the more prevalent issues between the lead-based paint programs in Indiana and Kentucky is dealing with the acceptance of certified companies and individuals that have received their certification from Kentucky. Although the training is provided by one of the common credited trainers, those trained in Kentucky must re-take courses and the third-party test in order to work in Indiana. It would seem this is redundant and a hindrance for certain lead compliance situations. Kentucky would like to have a reciprocity agreement with the state of Indiana to better address lead hazard issues on a regional scale. (KY)

*Comment:* As stipulated by U.S. Department of Housing and Urban Development (HUD), projects that exceed twenty-five thousand dollars (\$25,000) in rehabilitation hard costs are required to be performed by licensed abatement workers or contractors. The reciprocity provisions under the training course provider rule has limited potential. A direct reciprocity provision for license holders from states contiguous to Indiana would transform potential into reality. (OVO)(EHP)(CHD)(HOI)

*Comment:* New language for reciprocal licensing should include that the training course provider is U.S. EPA approved, the applicant has a valid training certificate certified by the training course provider, an Indiana rules class is completed, and an application is submitted with a twenty-five dollar (\$25) fee. (EMI)

*Response:* The department has added a provision for reciprocity at 326 IAC 23-2-6.5. A person who holds a current U.S. EPA or U.S. EPA state or tribe authorized lead-based paint program license may submit a completed application on forms provided by the department, a copy of the current license, proof of having attended the two (2) hour Indiana lead-based paint awareness course, and additional documentation indicating that the applicant or the applicant's designated representative meets the experience, education, and training requirements including proof of taking and passing all initial and required refresher courses. These requirements will make it easier for licensees from other states to obtain an Indiana license, while ensuring that they are aware of Indiana's particular rules. In addition to license reciprocity, a person who receives training in another state may use that training to fulfill the training requirement for an initial Indiana license under 326 IAC 23-2-4.

*Comment:* Under 326 IAC 23-3-3, Initial Training Course Requirements, new language is suggested as minimum requirements for training course reciprocity. (EMI)

*Response:* Under 326 IAC 23-2-4, language has been added to allow a person who has received training from a U.S. EPA approved or U.S. EPA state or tribal authorized lead-based paint course in another state to use that training to fulfill the training requirement for an initial Indiana license.

*Comment:* Why charge additional fees per license for reciprocity, if an Indiana refresher course would be required. It seems at every opportunity fees are being levied to these contractors. (COB)

*Response:* The fee charged for processing an application for each discipline reflects a portion of the administrative costs incurred by the department to perform the required background check that is performed on each application.

*Comment:* Kentucky requires a refresher course to be taken within two (2) years of licensing while Indiana utilizes a three (3) year period. Differences between the programs must be worked out before reciprocity can be accomplished between the states. (KY)

*Response:* The department understands Kentucky's concern. However, the three (3) year period between refresher courses is stipulated by Indiana statute and cannot be amended by this administrative rule process.

### **Definitions**

*Comment:* Please define the term "access" to project supervisors. Will supervisors be required to be physically present on site during work, or does access include by cell phone? (COB)

*Response:* "Access to project supervisors" means that project supervisors must be physically present on-site to be accessible to

workers.

*Comment:* During the first comment period, we requested the definition of “lead-based paint activities” at 326 IAC 23-1-36 be amended by adding clearance examination to the list of activities. IDEM stated it prefers to not vary from the federal rules, but IDEM is now regulating clearance examiners who conduct clearance examinations after nonabatement activities. HEA 1171 requires that the state rules vary from the federal rules in this regard. (IKE)

*Response:* The department has followed the requirements of HEA 1171 by adding “clearance examiner” as a licensed discipline at 326 IAC 23-2-3 and by adding work practice standards for nonabatement activities at 326 IAC 23-5. However, adding clearance examination to the definition of “lead-based paint activities” would be an expansion of the lead-based paint regulatory program that is beyond the scope of this rulemaking.

*Comment:* A definition of “clearance examination” is needed. (IKE)

*Response:* The department agrees and a definition of clearance examination has been added to the draft rule at 326 IAC 23-1-7.5.

*Comment:* Emergency repairs should remain a part of this rule and defined to include “activities performed in an effort to reduce or eliminate lead exposure to a child when identified as lead poisoned in any facility or housing unit by a licensed risk assessor as an exposure contributing pathway during elevated blood lead (EBL) investigation.” Clearance testing should be required before occupancy. (GES)

*Response:* U.S. EPA does not address emergency repairs in the lead-based paint rules. Emergency situations are not recognized in the lead paint license program except for elevated blood lead levels, which are addressed by the health department. Therefore the language is not appropriate in this rule.

*Comment:* A definition of “renovation” is needed. The term is used four times in section 37. EPA’s definition at 40 CFR 745.83 should be used. (IKE)

*Response:* The department agrees and has added the federal definition in the draft rule at 326 IAC 23-1-58.5.

*Comment:* In the record keeping section of the rule, 326 IAC 23-4-13, the word “days” should be defined either “calendar” or “working”. (COB)

*Response:* The department has added the term “calendar” to the term “days” in 326 IAC 23-4-13 for record keeping.

*Comment:* The definition of “common area group”, 326 IAC 23-1-9, is not used anywhere else in the rule. The term “common area” is essential to the rule. The common area group definition should not have been created by deleting a regulation-specific term. Please restore the definition to its original form. (EMI)

*Response:* U.S. EPA changed the term “common area” in the January 5, 2001, Federal Register (66 FR 1205) to “common area group”. The department has proposed to change the term to common area group within the entire rule to reflect this new amendment. The new term’s definition is more inclusive and must be added to the rules to assure minimum federal requirements are met.

*Comment:* The definition of “containment” at 326 IAC 23-1-12 is not needed. Other parts of this rule make it illegal to conduct lead-based paint abatement without processes in place to control exposures to the lead-contaminated dust and debris created during abatement. The commentator suggests rule language to include the use of barriers and work practices to reduce dust and debris from the work area. (EMI)

*Response:* There are two (2) distinctions between the U.S. EPA and HUD definition of containment. The HUD rule applies narrowly to only federally owned and assisted housing and only applies to preventing dust and debris from leaving the worksite. The U.S. EPA rule applies more broadly to all target housing and child-occupied facilities and is meant to protect workers and the environment. The U.S. EPA standard is more generally defined and, therefore, more protective. For these reasons, the department must include the U.S. EPA definition of containment to ensure Indiana rules meet the same level of stringency.

*Comment:* In the definition of “deteriorated paint” at 326 IAC 23-1-17, we suggest use of the U.S. EPA’s definition from 40 CFR 745.63. (EMI)

*Response:* The department agrees and will change the definition.

*Comment:* Please cite the relevant U.S. EPA standards for the following definitions “dust-lead hazard” (326 IAC 23-1-21.5), “paint-lead hazard” (326 IAC 23-1-52.5), and “soil-lead hazard” (326 IAC 23-1-60.6) and revise them to include the reference. (EMI)

*Response:* The department agrees and has added the U.S. EPA standards to each section of the rule.

*Comment:* Under 326 IAC 23-1-22 and 326 IAC 23-2-1(b)(2)(B)(ii), change the term “elevated blood lead level” to “environmental intervention blood lead level”. The national definition of “elevated blood lead level” is a confirmed concentration above ten (10) micrograms per deciliter. Indiana should not try to redefine this term. (EMI)

*Response:* The department agrees and has changed the term to “environmental intervention blood lead level” in both rule sections.

*Comment:* A definition of “elevated blood lead level” is needed for the term in 326 IAC 23-5-1(b)(2)(C) and should refer to the state department of health’s definition. (IKE)

*Response:* In order to clarify the rules, the department has revised the term from “elevated blood lead level” to “environmental intervention blood lead level” at 326 IAC 23-1-22 and has used the national definition.

*Comment:* It is not usual to remove lead from a project. Removal of metallic lead would be less dangerous than improper removal of lead-based paint. Delete and replace the definition of “lead-contaminated waste” in 326 IAC 23-1-40 and 326 IAC 23-4-5 with the suggested language for “lead abated waste”. (EMI)

*Comment:* There is no reason to use the term at 326 IAC 23-1-40, “lead-contaminated waste” since Indiana does not regulate lead-based paint wastes from residential work. The term “lead-abated waste” is more useful for describing project wastes. (EMI)

*Response:* The department agrees and will propose to delete the term “lead-contaminated waste” under 326 IAC 23-1-40 and add a new definition of “lead abated waste” at 326 IAC 23-1-33.5. The term will also be changed in other sections of the rule.

*Comment:* The definition of “mid-yard” at 326 IAC 1-2-48.6 should be deleted since it is not used anywhere else in the rule. (EMI)

*Response:* The definition will be deleted from the draft rule.

*Comment:* We assume that “paint in poor condition” as defined at 326 IAC 23-1-52 means to follow the federal de minimis amounts which are twenty (20) square feet on an exterior component. We would ask that this definition be changed to twenty (20) square feet on exterior components. (GES)

*Response:* The department agrees and will add “twenty (20) square feet” to the definition in 326 IAC 23-1-52.

*Comment:* The U.S. EPA definition of “paint-lead hazard” at 40 CFR 745.65 should be used in the definition of “paint-lead hazard” at 326 IAC 23-1-52.5. (EMI)

*Response:* The federal language was changed from “lead paint hazard” to “paint lead hazard” in the January 5, 2001, Federal Register (66 FR 1205). The term will be amended to “paint lead hazard” consistent with 40 CFR 745.

*Comment:* The definition of “play area” at 326 IAC 23-1-54.5 should include the term “or younger” after “six (6) years of age”. All other IDEM and U.S. EPA definitions include six (6) year olds. (EMI)

*Response:* The department agrees and will add the language to 326 IAC 23-1-54.5.

*Comment:* A set of parentheses are missing from the equation in the definition of “weighted arithmetic mean” at 326 IAC 23-1-69.5. (EMI)

*Response:* The department has corrected the equation.

#### **Risk Assessors/Risk Assessment**

*Comment:* Add to 326 IAC 23-4-2 that upon delivery of the risk assessment report to the stated individuals, the risk assessor should also forward a copy to the county assessors office for inclusion in the property records in an effort to reduce reoccupancy levels and alleviate the possibility of additional children being poisoned from the same property. (GES)

*Response:* The Air Pollution Control Board does not have statutory authority to direct county assessors to include the report in the property records and establishing this process is beyond the scope of this rulemaking.

*Comment:* In 326 IAC 23-4-4(4) (risk assessment), there is confusion on what constitutes one (1) or more children coming in contact with dust. Does this include the time requirement of six (6) hours per week contained in the definition of child-occupied facility at 326 IAC 23-1-7? (GES)

*Response:* Yes, if contact is more than six (6) hours per week, per one (1) or more children six (6) years of age or younger, it is defined as a child-occupied facility.

#### **Federal requirements**

*Comment:* In 326 IAC 23-3-6(f), U.S. EPA allows worker and supervisor training to be taught together. For consistency, Indiana should follow U.S. EPA’s approach and make it easier to attract workers. It is inappropriate for IDEM to resist improving the rule because the language was in the original approved program. (IKE)

*Response:* U.S. EPA provides for combined worker and supervisor training through policy rather than by rule. The department will address combined worker and supervisor training in policy.

*Comment:* Section 37(b) of the rule (326 IAC 23-1-37) is designed to incorporate the essential provisions of 40 CFR 745.83 into the rules. However, there are significant changes to the federal requirements that make the requirements ineffective. U.S. EPA requires the pamphlet be provided to the owner and occupant and requires written acknowledgment of receipt of the pamphlet from the owner of the target housing. Indiana provides an exemption for lead abatement work performed by people on their own property. U.S. EPA is silent on this issue. U.S. EPA allows a contractor to avoid providing the notice where there is a licensed inspector who confirms that the paint is not lead based. Indiana provides no exemption. Indiana should incorporate the federal requirements by reference. They should not make modification to the carefully crafted federal requirements. (IKE)

*Response:* The department will add the requirements under 40 CFR 745.85 to the rule at 326 IAC 23-1-52.5 concerning notification of receipt of the pamphlet. The exemption for lead abatement work performed by people on their own property is from the Indiana statute and is not a requirement from U.S. EPA. The exemption to notification that U.S. EPA provides under 40 CFR 745.82(b)(3) is for renovation activities which are not included in this rule.

*Comment:* Under 326 IAC 23-4-5, Indiana’s exclusion on work standards being required on properties constructed after 1960 is not consistent with federal guidelines which require safe work practices to be performed on all properties constructed prior to January 1, 1978. This will confuse contractors and work to circumvent the federal statute and does not meet the same as or more

stringent than state requirements for rule development. (GES)

*Response:* The language regarding properties constructed after 1960 is a statutory requirement, IC 13-14-17, regarding nonabatement activities. The department must address statutory requirements.

*Comment:* In previous comments, it was suggested that IDEM follow U.S. EPA's policy and allow an equivalent lead hazard information pamphlet be distributed other than U.S. EPA's. IDEM is being inconsistent by not following U.S. EPA's policy. (IKE)

*Response:* At a minimum, the department requires the U.S. EPA pamphlet to be distributed to assure consistency of information to all affected parties, however, additional information may be added to the handout materials. By requiring the distribution of U.S. EPA's pamphlet, U.S. EPA's up-to-date rules and policies are available to all affected parties.

*Comment:* We request adoption in the statute of the contractor disclosure requirements in the federal U.S. EPA "Lead Pre-Renovation Rule". (GES)

*Response:* Adoption of such requirements by state rule would be a significant expansion of the lead-based paint program to include renovation, remodeling, and precursors to those programs and is beyond the scope of HEA 1171 and our current statutory authority.

### **Sampling/Work Practice**

*Comment:* In 326 IAC 23-4-4(7)(B), there is no U.S. EPA or IDEM lead-paint hazard standard for dripline soil. Why should a sample be collected if it cannot be interpreted? Delete subdivision (B) and add "the rest of the yard where bare soil is present including nonplay areas". (EMI)

*Response:* The department has added the suggested language as subdivision (C) and maintained subdivision (B). Dripline soil is governed by the soil lead hazard standard, in the amended federal rule under TSCA Section 403, of four hundred (400) parts per million.

*Comment:* In 326 IAC 23-4-9(6)(A), clearance exam protocols, there is a requirement that a minimum of eight (8) surface samples (wipes) to be taken. We would ask that a minimum wipe requirement be established or "come in contact with" be defined. This will go far in establishing a consistent sampling protocol for all state licensed risk assessors as well as course instructors when training potential licensees. (GES)

*Comment:* In 326 IAC 23-1-60(2), under the definition of risk assessment, taking wipes of any kind is the responsibility of a licensed risk assessor. By definition, sampling is an on-site investigation to determine the existence of lead-based paint in what ever location and or amounts found. (GES)

*Response:* The number of wipes is pre-determined by the number of rooms being sampled at 326 IAC 23-4-3 and 326 IAC 23-4-4. Since the number of rooms and the size of the facility being inspected can vary in size and number from one (1) location to another, we are unable to provide a de minimis number of wipes to be listed in the rule.

### **Licensing**

*Comment:* No state takes longer to issue licenses than Indiana. Since the state has no need to consult anything other than the submitted paperwork and its own records in order to issue a refresher certificate, there seems to be little reason to take more than a single hour for such renewals. The rule needs to set time limits after the date of receipt of the application for informing the applicant of any deficiencies and then set further limits for issuing the license after all materials are received. The commentator submits suggested language and time frames for reviewing license applications. (EMI)

*Response:* The department processes lead-based paint licenses as expeditiously as possible while meeting our responsibility to ensure that licenses are appropriate for each application. The lead-based paint license process includes a variety of steps to be able to issue a license. These steps include applicants taking the third-party exam, submittal of the application and appropriate fees, review of the application for completeness, and verification of training and actual issuance and mailing of the license. In addition to the steps listed above, training course providers have up to two (2) weeks to submit their class rosters to the department to verify training. Lead-based paint license applications are prioritized on a first come, first served basis along with asbestos license applications. A one (1) hour turn-around time cannot be achieved with all the steps listed above. IDEM will continue to strive to issue licenses as expeditiously as possible and implement efficiencies wherever possible.

*Comment:* In 326 IAC 23-3-3(4), initial training course requirements, delete clause (I) which lists the personal protective equipment to be worn by a project designer. This was covered in the required supervisor course. There is not enough time to repeat this information and it is not required by U.S. EPA. (EMI)

*Response:* The department agrees and will strike the language from the draft rule in 326 IAC 23-3-3(4)(I).

### **Fraud**

*Comment:* The commentator submits suggested language for the inclusion and exclusion of activities related to a lead hazard screen. (EMI)

*Comment:* While HUD only requires lead inspectors and risk assessors to be certified, the spirit of the provision is that these individuals should be licensed and regulated by the state. As the Indiana rule is currently written, there is too much ambiguity in the definitions of what constitutes a lead inspection and a risk assessment. Consequently, individuals and firms may skirt the

licensing requirement and propagate fraud by marketing equivalent services by another name. Any individual or firm that takes a lead sample or provides recommendations on mitigating lead hazards on a contractual basis should be licensed. (OVO)(EHP)(CHD)(HOI)

*Comment:* We are concerned that unlicensed individuals may be advertising their services as a risk assessment but then claim to be conducting only a risk investigation or risk examination or some other task that does not require a license. The definition of risk assessment needs to be modified to include situations where an individual advertises his or her services as a risk assessment. Similar changes are needed to the definition of lead-hazard screen, abatement, and inspection. (IKE)

*Comment:* Because Indiana narrowly interprets the rules to be applicable only to abatement activities, almost any project can be defined out of the regulated category. People are purporting to perform lead-based paint hazard services who do not have the necessary training and experience to perform the work well. The problem is especially severe with regard to risk assessments and inspections. Lead-based paint risk assessment and lead-based paint inspection need to be regulatory terms so consumers can compare vendor quotes accurately. The state needs to include U.S. EPA's language in 40 CFR 745.220 and 40 CFR 745.223. (EMI)

*Comment:* Modify the definition of "risk assessment" to make it clear that the collecting of samples does not constitute a risk assessment. IDEM agreed with this conclusion in its response to comments, but decided further clarification was not needed in the rule. (IKE)

*Response:* The rules at 326 IAC 23-4-2 and 326 IAC 23-4-4 require that both an "inspection" and a "risk assessment" include a detailed set of tasks to be performed. The department has further defined "inspection" by including at 326 IAC 23-1-62.5 that a "surface-by-surface investigation," as used in the definition of "inspection" at 326 IAC 23-1-33, means an investigation of the entire target housing or child-occupied facility. If a company claims that it is providing an inspection or a risk assessment, and such services do not meet the definitions or include all of the tasks set forth in 326 IAC 23-4-2 and 326 IAC 23-4-4, that company would be in violation of the rules and may be subject to either civil or criminal enforcement. If a company provides services that are something less than an inspection or risk assessment, and calls it something other than an inspection or risk assessment, the department does not regulate such activity.

*Comment:* 326 IAC 23-2-3(c)(1) essentially restates the requirements to become a licensed lead supervisor. It would be clearer to amend the rule to state that an abatement contractor must have a licensed lead supervisor as an agent or employer. (IKE)

*Response:* The department disagrees. The supervisor and contractor licenses have different requirements and, therefore, are listed in separate sections of the rule to clarify those differences.

*Comment:* The dual use of the term "contractor" as both a specific type of license and a business structure is confusing. Change the word "contractor" or "lead-based paint activities contractor" to "abatement contracting firm" in all instances in the rule. (EMI)

*Comment:* Change the word contractor to firm in all instances in the rule. (EMI)

*Comment:* The current rules define a licensed contractor as any person conducting lead-based paint activities which include risk assessment and inspections. However, the licensing requirements for a licensed contractor contemplate only abatement work and not risk assessment or inspections. The licensing requirement clearly does not require that any person doing a risk assessment become a licensed contractor. The term licensed contractor should be limited to abatement activities or use the term "firm" in place of contractor. (IKE)

*Response:* The department wants to distinguish between the term "contractor" and U.S. EPA's term "firm". The definition of "contractor," specific to this program, will be amended to be clearer.

*Comment:* 326 IAC 23-2-3(c) requires all risk assessors who do work for compensation to be licensed contractors and licensed supervisors. IDEM's practice is to only require a contractor's license for those who intend to perform abatement work. We agree with IDEM's practice and suggest the rules be revised to reflect that practice. (IKE)

*Comment:* Under the definition of "Risk assessment" at 326 IAC 23-1-60, add language to specify that a risk assessment includes projects other than lead hazard screens as defined in 326 IAC 23-1-41, for which there is a written contract or other document which provides that an individual or firm will be conducting activities in or to a regulated facility that shall result in the determination of the presence of lead-based paint hazards in the facility. Risk assessment does not include activities for which the person performing the activities receives no compensation by any person who has a current or future financial interest in the property, or is performed by a representative of the owner or occupant or by a prospective buyer of the facility, if the person performing the activity provides a disclaimer in all advertising that results reported do not constitute a complete lead inspection, risk assessment, or lead hazard screen. (EMI)

*Response:* The definition of risk assessment, risk assessor, inspection, and inspector meet U.S. EPA definitions. We have further clarified definitions of inspector by defining "surface-by-surface investigations" to make it clear that it includes the entire facility. Inspection, lead hazard screen, and risk assessments are defined in 326 IAC 23-4-2 and 326 IAC 23-4-4 by including specific steps that must be part of the activities and the report. Anyone who purports to perform inspections, lead hazard screens, or risk assessments and who does not follow these rules may be subject to enforcement.

*Comment:* A licensed supervisor, inspector, risk assessor, or clearance examiner should be permitted to take the refresher training

anytime after receiving the license. The person should not be required to take the refresher training any less than thirty-six (36) months before applying for a license renewal. If the person feels that he or she would benefit from the refresher training immediately after getting a license, the person should be allowed to do so without having to take the course again later. 326 IAC 23-2-5(a)(2) should say previous thirty-six (36) months, not previous twelve (12) months or twenty-four (24) months. (IKE)

*Response:* Because the license term is being extended to three (3) years from one (1) year, the department believes that refresher training should be taken within twelve (12) months of license renewal. Otherwise, a person could go almost six (6) years without a refresher course. For example, a refresher course could be taken in the first year of the license term and not until the third year of the next license term, with a gap of nearly six (6) years. The department has an interest to ensure that refresher courses are taken in closer proximity to license renewal. Nothing in the rule prevents a person from taking a refresher course sooner, if the person believes he or she would benefit from it.

*Comment:* In 326 IAC 23-2-5(a)(2), the word “course” in the phrase “take appropriate training course” should be singular, not plural, for particular discipline. The individual would not need both inspector and risk assessor refreshers and would not be reciprocal with other states with this language. (EMI)

*Response:* This language is not being included in the rule, but we are proposing a license reciprocity program under 326 IAC 23-2-6.5.

*Comment:* In 326 IAC 23-2-4(b)(2), if a supervisor has a license, they have submitted the information required by 326 IAC 23-2-3(d). By submitting name and proof of license, this has been submitted. (EMI)

*Response:* Because there are two (2) separate application packages, it is necessary to require the information be resubmitted for efficiency in the processing of applications.

*Comment:* Under licensing qualifications, define two (2) years of work in the construction trade. Are you going to allow someone who has worked at Lowe’s as a sales representative to count that as construction time and experience, or are you going to be more specific on construction work experience? (COB)

*Response:* The department will review the application for work experience in construction. Work as a sales representative would not qualify as construction work.

*Comment:* In 326 IAC 23-2-7, lead license revocation and denial, IDEM should define terms and penalty periods for a lead contractor found in violation of regulations. IDEM should maintain a listing of such violators that is accessible to the public. Also, define procedures for renewal application for reinstatement of revoked contractors licenses. (COB)

*Response:* Revocations are in the current rule at 326 IAC 23-2-7 and are determined on a case-by-case basis. Any contractor whose license has been revoked would refer to the applicable reapplication procedures in 326 IAC 23-2-4. Penalty periods for violations are addressed by the Office of Enforcement, pursuant to the statutory authority in IC 13-30-4 and IC 13-30-5. Notices of violations and agreed orders are on IDEM’s web site at [www.state.in.us/idem/enforcement/](http://www.state.in.us/idem/enforcement/).

*Comment:* Under 326 IAC 23-2-5(b), for license renewal, how will any new information be forwarded to qualified contractors? Will it be the responsibility of the contractor to collect the information or will IDEM forward it to license contractors. Who will monitor updated manuals? Will copies need to be turned in with renewal applications? Samples of the most current risk assessments should be included for review by IDEM in the renewal application for risk assessor. (COB)

*Response:* Contractors are required to stay abreast of current information. The department will review the updated manuals at the time of submittal for renewal. It is the department’s policy to provide compliance assistance to the regulated community when new rules and guidance are issued.

### **Work Practice Standards**

*Comment:* IDEM indicated in the second notice that 326 IAC 23-5 would provide procedures for nonabatement clearance procedures. We could not identify these in the draft rule. (IKE)

*Response:* The department responded at second notice that the statutory language would be included in the rule to provide easy access to the work practice standards for nonabatement activities. That language has been added under 326 IAC 23-5-1 and 326 IAC 23-5-2. Licensed clearance examiners will follow U. S. Department of Housing and Urban Development (HUD) regulations for procedures on nonabatement activities.

*Comment:* In 326 IAC 23-4-6 delete linear feet. Lead-based paint on pipes is not a normal course of lead-based paint abatement. Pipes are not a component. We are working with construction issues. (EMI)

*Response:* Pipes can contain lead-based paint and it would be measured in linear feet to notify the department of the scope of the abatement project. The department will add pipes to the list of components in the definition of “component or building component” defined at 326 IAC 23-1-11.

### **Testing**

*Comment:* Previous comments requested that a third party examination not contain questions that do not reflect current state and federal guidelines or are not applicable to the operation of all models of x-ray fluorescent scopes. IDEM’s preference to use U.S. EPA’s third-party exam is contrary to the purpose of the rule. (IKE)

*Response:* U.S. EPA has invested significant resources into development of these examinations and encourages states to use them. We believe these exams are sufficient to ensure the applicant has been appropriately trained. We will continue to review the examinations and provide comments to U.S. EPA and verify the content of the examinations is sufficient to determine if the applicant is adequately trained.

*Comment:* Under 326 IAC 23-4-5, abatement procedures for all projects, change the number of questions for risk assessors and project designers to fifty (50) questions. (IKE)

*Comment:* In 326 IAC 23-3-5, examination requirements, the risk assessor exam should be fifty (50) questions. (EMI)

*Response:* The department believes that one hundred (100) questions provides a more thorough examination to assure that applicants have been trained on a wide variety of topics.

#### **Contractors**

*Comment:* The department should require any other agency or local government office receiving state or federal funding to assist in documentation and monitoring requirements for any lead contractors utilized in a lead project funded with state or federal monies. (COB)

*Response:* Neither the department nor the Air Pollution Control Board has statutory authority over other agencies or local governments for these purposes.

*Comment:* Under lead abatement notification procedures, 326 IAC 23-4-6(a), add the term “or agent” to the sentence “Each owner or operator”. As the City of Bloomington we provide notices as would any agency receiving state or federal funding for lead project. (COB)

*Response:* IDEM believes the term “agent” is implicit in the term “owner or operator” because an agent is part of a contractual relationship with the owner or operator. An agent, in this case, would be contractually obligated to follow the rule as it applies to owners or operators. Therefore, it is not necessary to change the language to include “agent”.

*Comment:* Change the wording under 326 IAC 23-2-4(b)(6) from “lead-based paint contractual penalties” to “contractual penalties related to lead-based paint activities”. (IKE)

*Response:* The department agrees and will recommend the change.

*Comment:* The requirements for abatement contracting firms are unduly restrictive since the law generally allows minor, older problems to be ignored when no repeat pattern is present. Actual violation of the law should be reported indefinitely, but there is no reason to include customer disputes after a few years have passed. Limit the description of lead-based project to the previous thirty-six (36) months and specify that ongoing current projects need not be included. (EMI)

*Response:* The department believes that prospective clients should be able to review the work history of a contractor with whom they may contract. Additionally, the department needs to perform a complete and accurate review and also must have access to the work history. For these reasons, the requested changes have not been made.

#### **Fees**

*Comment:* Fees charged by the state for its services should primarily reflect the effort needed to conduct the service and may secondarily reflect the value of the service to the user and the user’s ability to pay. The fee schedule is higher than for asbestos on a per-license basis, but the lead license fees are cheaper on a per-year basis since they are three (3) year rather than one-year licenses. The fee should not set the bar so high that persons are discouraged from entering the discipline, since building capacity should be part of the rule’s role. Under 326 IAC 23-2-8, delete “nonrefundable”, change worker and clearance examiner fees to seventy-five dollars (\$75) and contractor to three hundred dollars (\$300). (EMI)

*Response:* Although the department is proposing to increase fees to the statutory limit of one hundred fifty dollars (\$150), this fee will cover a three year rather than a one year application period. This change in license fee amount and duration will result in a cost savings to most licensees ranging from one hundred fifty dollars (\$150) to three hundred dollars (\$300), depending on the discipline. We have evaluated the fees in light of program costs and the impact of a three (3) year licensing cycle. The schedule proposed in the rule provides a cost savings to most licensees while ensuring sufficient resources for the state to maintain a high level licensing oversight, compliance, and other activities.

*Comment:* We are concerned about the noncompetitive aspects of high fees for courses for which few students enroll. If we had to pay one thousand dollars (\$1,000) for each course as required by 326 IAC 23-3-12, application fee, we would discontinue offering worker courses entirely and we would be unlikely to offer the clearance examiner and Indiana Rules courses since the price impact for each enrollment would be significant and further reduce the number of students trained. There should be no fees for either of these two (2) courses. Instead they should be automatically allowed for any approved course providers with the proper qualifications. Since this requires no additional work on the part of the agency, the assessment of fees does not seem justified. (EMI)

*Response:* Each course offered requires review by department staff of the initial curriculum as well as other oversight activities, such as field audits. The fees included in the draft rule are necessary to support this work.

### **SUMMARY/RESPONSE TO COMMENTS RECEIVED AT THE FIRST PUBLIC HEARING**

On March 5, 2003, the air pollution control board (board) conducted the first public hearing/board meeting concerning the development of amendments to 326 IAC 23-1, 326 IAC 23-2, 326 IAC 23-3, 326 IAC 23-4, and new rule 326 IAC 23-5. Comments were received by the following parties:

Improving Kids' Environment (IKE)

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

*Comment:* Improving Kids' Environment supports the changes made to the rule. We will provide comments on a few minor issues regarding the number of questions on the examinations and the definition of elevated blood lead level at the next comment period. We understand the difficulty of addressing our issue concerning fraud and we think the department has done as much as it can do on this issue. However, we encourage the board to preliminarily adopt this rule so it can be final adopted by July 1, 2003.

*Response:* IDEM appreciates the comments and will continue to work with the interested parties during the next comment.

326 IAC 23-1-4	326 IAC 23-1-60.5
326 IAC 23-1-5	326 IAC 23-1-60.6
326 IAC 23-1-5.5	326 IAC 23-1-61.5
326 IAC 23-1-6.5	326 IAC 23-1-62.5
326 IAC 23-1-7.5	326 IAC 23-1-62.6
326 IAC 23-1-7.6	326 IAC 23-1-63
326 IAC 23-1-9	326 IAC 23-1-64
326 IAC 23-1-10	326 IAC 23-1-69.5
326 IAC 23-1-11	326 IAC 23-1-69.6
326 IAC 23-1-11.5	326 IAC 23-1-69.7
326 IAC 23-1-12.5	326 IAC 23-1-71
326 IAC 23-1-17	326 IAC 23-2-1
326 IAC 23-1-21	326 IAC 23-2-3
326 IAC 23-1-21.5	326 IAC 23-2-4
326 IAC 23-1-22	326 IAC 23-2-5
326 IAC 23-1-23	326 IAC 23-2-6
326 IAC 23-1-26.5	326 IAC 23-2-6.5
326 IAC 23-1-27	326 IAC 23-2-7
326 IAC 23-1-27.5	326 IAC 23-2-8
326 IAC 23-1-32.1	326 IAC 23-2-9
326 IAC 23-1-32.2	326 IAC 23-3-1
326 IAC 23-1-34	326 IAC 23-3-2
326 IAC 23-1-34.5	326 IAC 23-3-3
326 IAC 23-1-34.8	326 IAC 23-3-5
326 IAC 23-1-37	326 IAC 23-3-7
326 IAC 23-1-40	326 IAC 23-3-11
326 IAC 23-1-42	326 IAC 23-3-12
326 IAC 23-1-43	326 IAC 23-3-13
326 IAC 23-1-44	326 IAC 23-4-1
326 IAC 23-1-45	326 IAC 23-4-2
326 IAC 23-1-46	326 IAC 23-4-3
326 IAC 23-1-47	326 IAC 23-4-4
326 IAC 23-1-48.5	326 IAC 23-4-5
326 IAC 23-1-52	326 IAC 23-4-6
326 IAC 23-1-52.5	326 IAC 23-4-7
326 IAC 23-1-54.5	326 IAC 23-4-9
326 IAC 23-1-55.5	326 IAC 23-4-11
326 IAC 23-1-58.5	326 IAC 23-4-12
326 IAC 23-1-58.7	326 IAC 23-4-13
326 IAC 23-1-60.1	326 IAC 23-5

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

**326 IAC 23-1-4 “Approved initial training course and approved refresher 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, U.S. EPA, or a U.S. EPA state or tribe authorized lead-based paint program 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 23-1-5 IS AMENDED TO READ AS FOLLOWS:

**326 IAC 23-1-5 “Approved training course provider” defined**

**Authority:** IC 13-17-14-5

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

Sec. 5. “Approved training course provider” means a training course provider who has been approved by the department, U.S. EPA, or a U.S. EPA state or tribe authorized lead-based paint program to provide training for individuals engaged in lead-based paint activities or provide an Indiana lead-based paint rules awareness course. This approval is specific to each discipline and to each initial or refresher training course and is not an overall approval to provide training for all training courses. *(Air Pollution Control Board; 326 IAC 23-1-5; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1432; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)*

SECTION 3. 326 IAC 23-1-5.5 IS ADDED TO READ AS FOLLOWS:

**326 IAC 23-1-5.5 “Arithmetic mean” defined**

**Authority:** IC 13-17-14-5

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

Sec. 5.5. “Arithmetic mean” means the algebraic sum of data values divided by the number of data values. For example, the sum of the concentration of lead in several soil samples divided by the number of samples is the arithmetic mean of the lead concentration. *(Air Pollution Control Board; 326 IAC 23-1-5.5)*

SECTION 4. 326 IAC 23-1-6.5 IS ADDED TO READ AS FOLLOWS:

**326 IAC 23-1-6.5 “Chewable surface” defined**

**Authority:** IC 13-17-14-5

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

Sec. 6.5. “Chewable surface” means an interior or exterior surface painted with lead-based paint that a child six (6) years of age or younger can mouth or chew. Hard metal substrates and other materials that cannot be dented by the bite of a child six (6) years of age or younger are not considered chewable. *(Air Pollution Control Board; 326 IAC 23-1-6.5)*

SECTION 5. 326 IAC 23-1-7.5 IS ADDED TO READ AS FOLLOWS:

**326 IAC 23-1-7.5 “Clearance examination” defined**

**Authority:** IC 13-17-14-5

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

Sec. 7.5. “Clearance examination” means an activity conducted by an Indiana licensed clearance examiner for the purpose of interim controls, as defined by the U.S. Department of Housing and Urban Development (HUD) in 24 CFR 35.110, Lead-

**based paint poisoning and prevention in certain residential structures; definitions.** (*Air Pollution Control Board; 326 IAC 23-1-7.5*)

SECTION 6. 326 IAC 23-1-7.6 IS ADDED TO READ AS FOLLOWS:

**326 IAC 23-1-7.6 “Clearance examiner” defined**

**Authority:** IC 13-17-14-5

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

**Sec. 7.6. “Clearance examiner” means a person who has been trained by an approved training course provider and licensed by the department to perform clearance examinations.** (*Air Pollution Control Board; 326 IAC 23-1-7.6*)

SECTION 7. 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, areas include, but is are 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 8. 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 9. 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.**
- (R) Pipes.**

(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 10. 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 is the concentration of lead in the sample.** *(Air Pollution Control Board; 326 IAC 23-1-11.5)*

SECTION 11. 326 IAC 23-1-12.5 IS ADDED TO READ AS FOLLOWS:

**326 IAC 23-1-12.5 “Contractor” defined**

**Authority:** IC 13-17-14-5

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

**Sec. 12.5. “Contractor” means:**

- (1) a company;**
- (2) a partnership;**

- (3) a corporation;
- (4) a sole proprietorship;
- (5) an association; or
- (6) other business entity;

that performs lead-based paint abatement to which the department has issued a license under 326 IAC 23-2. (*Air Pollution Control Board; 326 IAC 23-1-12.5*)

SECTION 12. 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 cracking, flaking, chipping, peeling, or chalking; or
- (2) any paint or coating located on an interior or exterior surface or fixture;

that is otherwise separating damaged or separated 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 13. 326 IAC 23-1-21 IS AMENDED TO READ AS FOLLOWS:

**326 IAC 23-1-21 “Dripline” defined**

**Authority: IC 13-17-14-5**

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

Sec. 21. “Dripline” means the farthest extended point around a foundation where water drips off the building onto the ground, including, but not limited to, gutters, overhangs, soffits, and porches: area within three (3) feet surrounding the perimeter of a building. (*Air Pollution Control Board; 326 IAC 23-1-21; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1434; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477*)

SECTION 14. 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. (a) “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) micrograms per square foot on floors or two hundred fifty (250) micrograms per square foot on interior window sills based on wipe samples.

(b) A dust-lead hazard is present in a residential dwelling or child occupied facility:

- (1) in a residential dwelling on floors and interior window sills when the weighted arithmetic mean lead loading for all single surface or composite samples of floors and interior window sills are equal to or greater than forty (40) micrograms per square foot for floors and two hundred fifty (250) micrograms per square foot for interior window sills;
- (2) on floors and interior window sills, in an unsampled residential dwelling in a multi-family dwelling, if a dust-lead hazard is present on floors or interior window sills, respectively, in at least one (1) sampled residential unit on the property; and
- (3) on floors and interior window sills in an unsampled common area in a multi-family dwelling, if a dust-lead hazard is present on floors or interior window sills, respectively, in at least one (1) sampled common area in the same common area group on the property.

(*Air Pollution Control Board; 326 IAC 23-1-21.5*)

SECTION 15. 326 IAC 23-1-26.5 IS ADDED TO READ AS FOLLOWS:

**326 IAC 23-1-26.5 “Environmental intervention blood lead level” or “EIBLL” defined**

**Authority:** IC 13-17-14-5

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

**Sec. 26.5. “Environmental intervention blood lead level” or “EIBLL” means an excessive absorption of lead that is a confirmed concentration of lead in whole blood of:**

**(1) ten (10) micrograms of lead per deciliter of whole blood for one (1) venous test; or**

**(2) fifteen (15) to nineteen (19) micrograms of lead per deciliter of whole blood in two (2) consecutive tests taken three**

**(3) to four (4) months apart.**

*(Air Pollution Control Board; 326 IAC 23-1-26.5)*

SECTION 16. 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 17. 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 18. 326 IAC 23-1-32.1 IS ADDED TO READ AS FOLLOWS:

**326 IAC 23-1-32.1 “Impact surface” defined**

**Authority:** IC 13-17-14-5

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

**Sec. 32.1. “Impact surface” means any interior or exterior surface that is subject to damage by repeated sudden force, including parts of door frames.** *(Air Pollution Control Board; 326 IAC 23-1-32.1)*

SECTION 19. 326 IAC 23-1-32.2 IS ADDED TO READ AS FOLLOWS:

**326 IAC 23-1-32.2 “Inspector” defined**

**Authority:** IC 13-17-14-5

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

**Sec. 32.2. “Inspector” means a person who has been trained by an 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 23-1-32.2)*

SECTION 20. 326 IAC 23-1-34 IS AMENDED TO READ AS FOLLOWS:

**326 IAC 23-1-34 “Interim controls” defined**

**Authority:** IC 13-17-14-5

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

Sec. 34. "Interim controls" means a set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards, including the following:

- (1) Specialized cleaning.
- (2) Repairs.
- (3) Maintenance.
- (4) Painting.
- (5) Clearance.**
- ~~(5)~~ **(6)** Temporary containment.
- ~~(6)~~ **(7)** Ongoing monitoring of lead-based paint hazards or potential hazards.
- ~~(7)~~ **(8)** The establishment and operation of management and resident education programs.

*(Air Pollution Control Board; 326 IAC 23-1-34; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1435; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)*

SECTION 21. 326 IAC 23-1-34.5 IS ADDED TO READ AS FOLLOWS:

**326 IAC 23-1-34.5 "Interior window sill" defined**

**Authority:** IC 13-17-14-5

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

**Sec. 34.5. "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 23-1-34.5)*

SECTION 22. 326 IAC 23-1-34.8 IS ADDED TO READ AS FOLLOWS:

**326 IAC 23-1-34.8 "Lead abated waste" defined**

**Authority:** IC 13-17-14-5

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

**Sec. 34.8. "Lead abated waste" means lead or lead contaminated materials removed from an abatement project.** *(Air Pollution Control Board; 326 IAC 23-1-34.8)*

SECTION 23. 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 equals the loading.** *(Air Pollution Control Board; 326 IAC 23-1-48.5)*

SECTION 24. 326 IAC 23-1-52 IS AMENDED TO READ AS FOLLOWS:

**326 IAC 23-1-52 "Paint in poor condition" defined**

**Authority:** IC 13-17-14-5

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

Sec. 52. "Paint in poor condition" means:

- (1) more than ~~ten (10)~~ **twenty (20)** square feet of deteriorated paint on exterior components with large surface areas such as walls, ceilings, floors, and doors;
- (2) more than two (2) square feet of deteriorated paint on interior components with large surface areas, such as walls, ceilings, floors, and doors; or
- (3) more than ten percent (10%) of the total surface area of the component is deteriorated on interior or exterior components with small surface areas, such as window sills, baseboards, soffits, and trim.

*(Air Pollution Control Board; 326 IAC 23-1-52; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1438; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)*

SECTION 25. 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. (a) “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.**

**(b) Effective June 1, 1999, pursuant to Section 406(b) of the TSCA, persons who perform renovations shall provide the owner and occupants of the unit with a lead hazard information pamphlet “Protect Your Family from Lead in Your Home”\* under all of 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.**

**The renovator shall obtain from the owner a written acknowledgment that the owner has received the pamphlet. Lead abatement work performed by people on their own property is excluded from the requirements of this subsection.**

*\*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. 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 Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (Air Pollution Control Board; 326 IAC 23-1-52.5)*

SECTION 26. 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 six (6) years of age or younger as indicated by, but not limited to, such factors as the presence of play equipment, including sand boxes, 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 27. 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 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 28. 326 IAC 23-1-58.5 IS ADDED TO READ AS FOLLOWS:

**326 IAC 23-1-58.5 “Renovation” defined**

**Authority:** IC 13-17-14-5

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

**Sec. 58.5. “Renovation” means the modification of any existing structure, or portion thereof, that results in the disturbance of painted surfaces unless that activity is performed as part of an abatement. (Air Pollution Control Board; 326 IAC 23-1-58.5)**

SECTION 29. 326 IAC 23-1-58.7 IS ADDED TO READ AS FOLLOWS:

**326 IAC 23-1-58.7 “Residential building” defined**

**Authority:** IC 13-17-14-5

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

**Sec. 58.7. “Residential building” means a building containing one (1) or more residential dwellings. (Air Pollution Control Board; 326 IAC 23-1-58.7)**

SECTION 30. 326 IAC 23-1-60.1 IS ADDED TO READ AS FOLLOWS:

**326 IAC 23-1-60.1 “Risk assessor” defined**

**Authority:** IC 13-17-14-5

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

**Sec. 60.1. “Risk assessor” means a person who has been trained by an 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 23-1-60.1)**

SECTION 31. 326 IAC 23-1-60.5 IS ADDED TO READ AS FOLLOWS:

**326 IAC 23-1-60.5 “Room” defined**

**Authority:** IC 13-17-14-5

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

**Sec. 60.5. “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 23-1-60.5)**

SECTION 32. 326 IAC 23-1-60.6 IS ADDED TO READ AS FOLLOWS:

**326 IAC 23-1-60.6 “Soil-lead hazard” defined**

**Authority:** IC 13-17-14-5

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

**Sec. 60.6. (a) “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.**

**(b) A soil-lead hazard is present:**

- (1) in a play area when the soil-lead concentration from a composite play area sample of bare soil is equal to or greater than four hundred (400) parts per million; or
- (2) in the rest of the yard when the arithmetic mean lead concentration from a composite sample or composite samples of bare soil from the rest of the yard, including nonplay areas, for each residential building on a property equal to or greater than one thousand two hundred (1,200) parts per million.

(c) If the soil is removed, the soil:

- (1) shall be replaced by soil with a lead concentration as close to local background as practicable, but no greater than four hundred (400) parts per million.
- (2) that is removed shall not be used as top soil at another residential property or child-occupied facility.

*(Air Pollution Control Board; 326 IAC 23-1-60.6)*

SECTION 33. 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\*”.**

*\*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 34. 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 approved training course provider, licensed by the department to supervise and conduct abatements, and prepare occupant protection plans and abatement reports. (Air Pollution Control Board; 326 IAC 23-1-62.5)**

SECTION 35. 326 IAC 23-1-62.6 IS ADDED TO READ AS FOLLOWS:

**326 IAC 23-1-62.6 “Surface-by-surface investigation” defined**

**Authority: IC 13-17-14-5**

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

**Sec. 62.6. “Surface-by-surface investigation” means an investigation of an entire target housing or child-occupied facility to determine the presence of lead-based paint as described in Chapter 7, Guidelines for the Evaluation and Control of Lead-based Paint Hazards in Housing, June 1995, U.S. Department of Housing and Urban Development (HUD)\*.**

*\*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, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (Air Pollution Control Board; 326 IAC 23-1-62.6)*

SECTION 36. 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 37. 326 IAC 23-1-64 IS AMENDED TO READ AS FOLLOWS:

**326 IAC 23-1-64 "Third-party examination" defined**

**Authority: IC 13-17-14-5**

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

Sec. 64. "Third-party examination" means ~~an~~ **a U.S. EPA developed** examination administered by:

(1) the department or its designated representative; **or**

(2) **U.S. EPA or an authorized state or tribe;**

as a licensure requirement as required under this article for inspectors, risk assessors, and supervisors. *(Air Pollution Control Board; 326 IAC 23-1-64; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1439; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)*

SECTION 38. 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. The types of samples include the following:

(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) micrograms per square foot;

(2) a composite sample of three (3) subsamples containing one hundred (100) micrograms per square foot; and

(3) a composite sample of four (4) subsamples containing one hundred ten (110) micrograms per square foot.

The equation is:

$(60 + (3 * 100) + (4 * 110)) / (1 + 3 + 4) = 100$  micrograms per square foot

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

SECTION 39. 326 IAC 23-1-69.6 IS ADDED TO READ AS FOLLOWS:

**326 IAC 23-1-69.6 "Window trough or window well" 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 or window well" means for a 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. *(Air Pollution Control*

Board; 326 IAC 23-1-69.6)

SECTION 40. 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\*, 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 41. 326 IAC 23-1-71 IS ADDED TO READ AS FOLLOWS:

**326 IAC 23-1-71 “Worker” defined**

**Authority:** IC 13-17-14-5

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

**Sec. 71. “Worker” means a person who has been trained by an approved training course provider and licensed by the department to perform abatements. (Air Pollution Control Board; 326 IAC 23-1-71)**

SECTION 42. 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~~ **environmental intervention** 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 326 IAC 23-4.** (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 43. 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 course provider.

**(2) Have attended an Indiana lead-based paint two (2) hour awareness course, if the approved lead-based paint course in subdivision (1) is not an Indiana-approved course.**

~~(3)~~ **(3)** Meet or exceed the experience and education requirements for each desired discipline as listed in subsection (b).

~~(4)~~ **(4)** For inspector, risk assessor, and supervisor applicants, pass the third-party examination in the appropriate discipline offered by the department or its designated representative.

**(5) Notwithstanding subdivisions (1) through (4), an applicant may follow the reciprocity provisions in section 6.5 of this rule.**

(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~~ **must comply with** 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 licensed~~ lead-based paint abatement worker.

(B) Two (2) years of experience in a related field, ~~such as includes~~ 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 abatement~~ **abatement** to be conducted for compensation shall ~~hold be a lead-based paint activities contractor license.~~ **licensed under this article.** 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~~ **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)~~ **(6)** Contractor applicants must themselves have or have a designated representative who has:

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

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

~~(C)~~ **(B)** successfully completed an approved lead-based paint supervisor course, received a certificate of training from an **Indiana-approved 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)~~ **(d)** 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)~~ **(e)** 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)~~ **(f)** 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 approved** training course provider before reapplying for a license from the department.

~~(h)~~ **(g)** Any individual who has had ~~an eighteen (18)~~ **more than 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.**

**(h) 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.**

**(4) Official documentation indicating the passage of a third-party exam.**

*(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 44. 326 IAC 23-2-4 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, **project designer**, 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 contractual penalties **related to lead-based paint activities** 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 **application** fee is not transferable **and nonrefundable**.

(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 lead-based paint program license shall expire three (3) years after issuance.** 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.~~

~~(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 45. 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) For a contractor, submit a complete list of contracts for the prior thirty-six (36) months for lead-based paint activities, including names, addresses, and telephone numbers of persons for whom projects were performed.**
- ~~(5)~~ **(6) 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:

- (1) include updated information in the application, if any information has changed during the previous ~~twelve (12)~~ thirty-six (36) months; The contractor shall**
- (2) 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; and**
- (3) submit a complete list of contracts for the prior thirty-six (36) months for lead-based paint projects, including names, addresses, and telephone numbers of persons for whom projects were performed.**

(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. **The lead-based paint program license shall expire three (3) years after issuance.** 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 46. 326 IAC 23-2-6 IS AMENDED TO READ AS FOLLOWS:

### **326 IAC 23-2-6 Compliance requirements for lead-based paint activities 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 47. 326 IAC 23-2-6.5 IS ADDED TO READ AS FOLLOWS:

**326 IAC 23-2-6.5 Lead-based paint license reciprocity**

**Authority: IC 13-17-14-5**

**Affected: IC 4-21.5; IC 13-17-14**

**Sec. 6.5. (a) Any person holding a current U.S. EPA state or tribe authorized lead-based paint program license from another state, who is applying for an initial Indiana lead-based paint license from the department as a lead-based paint inspector, risk assessor, project designer, supervisor, worker, or clearance examiner under this rule, shall do the following:**

- (1) Submit a completed application on forms provided by the department.**
- (2) Submit a copy of all current lead-based paint program licenses.**
- (3) For persons applying for inspector, risk assessor, project designer, or supervisor licenses, provide proof of having passed the third-party examination.**
- (4) Have attended an approved Indiana lead-based paint rules awareness course.**
- (5) Pay the license application fee specified in section 8 of this rule.**

**(b) Any person holding a current U.S. EPA state or tribe authorized lead-based paint program license, who is applying**

for an initial Indiana license from the department to conduct lead-based paint activities as a contractor under this rule, 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 U.S. EPA or U.S. EPA state or tribe authorized lead-based paint program licenses and documentation indicating that the applicant or the applicant's designated representative meets the experience, education, and training requirements of 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 an up-to-date copy of the contractor's written standard operating procedures that include current compliance procedures.
- (4) 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.
- (5) Attended an Indiana lead-based paint two (2) hour awareness course.
- (6) 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 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, to take an examination administered by the department. The examination shall cover only the discipline for which the applicant is seeking licensure. 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 examinations.

(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.

(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 lead-based paint license shall expire three (3) years after issuance. 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) Applications must be completed in writing and submitted for processing. If the license is approved, the license will be sent to the applicant via the United States Postal Service to the address listed on the application. (*Air Pollution Control Board; 326 IAC 23-2-6.5*)

SECTION 48. 326 IAC 23-2-7 IS AMENDED TO READ AS FOLLOWS:

**326 IAC 23-2-7 Lead-based paint license revocation; denial**

**Authority:** IC 13-17-14-5

**Affected:** IC 4-21.5; IC 13-17-14

Sec. 7. (a) The department may, under IC 4-21.5, deny an application for a license, reprimand a license, or suspend or revoke a license for any of the following reasons:

(1) Violating any requirement of the following:

(A) This title.

(B) 40 CFR 745 (Lead; Requirements for Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities\*.

(C) IC 13-17-14.

**(D) Any federal, state, or local lead-based paint regulations.**

- (2) Falsifying information on an application for a lead-based paint license, including but not limited to, approval records, instructor qualifications, or other approval information.
- (3) Violating or failing to meet any requirement specified in this article.
- (4) Conducting a lead-based paint project, or related activity, in a manner that is hazardous to the public health.
- (5) Performing work requiring a lead paint license at a job site without being in physical possession of initial and current certificates of training or license.
- (6) Permitting the duplication or use of one's own lead-based paint license by another person.
- (7) Performing work for which a lead-based paint license has not been received.
- (8) Obtaining training from a training course provider who does not have the approval to offer training for the particular discipline for which the license was received.
- (9) Obtaining training documentation through fraudulent means.
- (10) Gaining admission to and completing an approved training curriculum through misrepresentation of admission requirements.
- (11) Fraudulently or deceptively obtaining a license or attempts to obtain a license through misrepresentation of certificate of training requirements, third-party examination, or related documents dealing with education, training, professional registration, or experience.
- (12) Misrepresenting the extent of a training courses's approval.
- (13) Failing to submit required information or notifications in a timely manner.

(b) In addition to the causes in subsection (a), the department may, under IC 4-21.5, reprimand a lead-based paint contractor or suspend or revoke a lead-based paint license if the contractor:

- (1) performs work requiring licensure at a jobsite with individuals who are not licensed;
- (2) fails to comply with the work practice standards established in 326 IAC 23-4;
- (3) misrepresents facts in the contractor's letter of application for a license;
- (4) fails to maintain required records; or
- (5) fails to comply with federal, state, or local lead-based paint rules, regulations, or statutes.

(c) In addition to an administrative or judicial finding of violation, for purposes of this section only, execution of a consent agreement in settlement of an enforcement action constitutes evidence of a failure to comply with relevant statutes or regulations.

(d) If the department finds that a lead-based paint activities project is not being performed in accordance with air pollution control laws or rules adopted by the board, the department may enjoin further work on the lead-based paint project without prior notice or hearing by completing the following procedures:

- (1) A notice shall be delivered to:
  - (A) the lead-based paint activities contractor engaged in the lead-based paint activities project; or
  - (B) an agent or representative of the lead-based paint activities contractor.
- (2) A notice issued under this section must:
  - (A) specify the violations of law that are occurring on the lead-based paint activities project; and
  - (B) prohibit further work on the lead-based paint activities project until the specified violations cease and the notice is rescinded by the commissioner.
- (3) The contractor shall have fourteen (14) days in which to provide written notification to the department that violations have been corrected.
- (4) Not later than ten (10) days after receiving written notification from a contractor that violations specified in a notice issued under this section have been corrected, the commissioner shall issue a determination regarding rescission of the notice.

\*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, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Board; 326 IAC 23-2-7; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1445; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477; filed May 21, 2002, 10:20 a.m.: 25 IR 3109*)

SECTION 49. 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 **nonrefundable application for each of the following disciplines** 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).**
- ~~(7)~~ (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 50. 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 a valid state-issued driver's license, an Indiana issued identification card, a valid United States 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 51. 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) A person may apply to the department to be an approved training course provider to offer an Indiana lead-based paint rules awareness course.**

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

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

~~(d)~~ **(e)** 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 North 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,~~ **Indiana Government Center-North, Tenth Floor**, 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 52. 326 IAC 23-3-2 IS AMENDED TO READ AS FOLLOWS:

### **326 IAC 23-3-2 Initial and refresher training course and rules awareness course application for approval**

**Authority: IC 13-17-14-5**

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

Sec. 2. The following procedures shall be followed by a training course provider to receive approval by the department to offer initial or refresher lead-based paint activities courses **or Indiana lead-based paint rules awareness course**:

(1) A training course provider seeking approval for each training course shall submit one (1) written application, per discipline, for each initial and refresher training course **or rules awareness course** on forms provided by the department. The application for approval 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) The training course test blueprint for each course.
- (E) A letter from the training course provider that clearly indicates how the course meets the applicable requirements of this rule, including the following information:
  - (i) Length of training in days.
  - (ii) A description of the facilities and equipment to be used for lecture and hands-on training.
  - (iii) Amount and type of hands-on training.
  - (iv) Description of the examinations, including the length, format, and passing score.
  - (v) A description of the activities and procedures that will be used for conducting the assessment of hands-on skills for each course.

(vi) Topics covered in the course.

(vii) A copy of the quality control plan as defined in 326 IAC 23-1-56.

(viii) A copy of the certificates of training.

(F) If a training course provider uses U.S. EPA-recommended model training materials, the training course manager shall include a statement certifying that the recommended version will be used.

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

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

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

(i) Name and address of 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~~ **thirty-six (36) months** 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.

(J) A list of all U.S. EPA authorized 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.

(K) 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.

**(L) The requirements under clauses (D), (E)(iii) through (E)(v), (E)(vii), (H), and (I)(iv) are not required for the rules awareness course.**

(2) 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:

(A) A copy of the student and instructor manuals.

(B) A copy of the course agenda.

(3) A training course provider may apply for approval 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.

(4) 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 is not transferable or refundable.

*(Air Pollution Control Board; 326 IAC 23-3-2; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1447)*

SECTION 53. 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) An 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.
- (7) The course of study for the Indiana lead-based paint rules awareness course must be a minimum of two (2) training hours. This course of study shall include the use of all Indiana guidelines, manuals, and appendices on 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.
- (B) Indiana lead-based paint rules to include the following:**
- (i) Review and comparison of Indiana lead-based paint rules to federal rule requirements.
  - (ii) Student question and answer session on Indiana lead-based paint rules.
- (C) Indiana lead-based paint forms to include the following:**
- (i) Licensing application form.
  - (ii) Project notification form.
  - (iii) Inspection and risk assessment reports.

**\*/\*\*Copies of pertinent sections of the Toxic Substances Control Act (TSCA) and the United States Code (U.S.C.) are available \*These documents are incorporated by reference. Copies may be obtained from the Government Printing Office, 732 North 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, Tenth Floor, 100 North Senate Avenue, 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 54. 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 **minimum** 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)~~ **fifty (50)** questions.
- (4) Supervisor, one hundred (100) questions.
- (5) Worker, fifty (50) questions.
- (6) Clearance examiner, fifty (50) questions.**

**(h) No more than twenty percent (20%) of the same questions may be retained between any two (2) exams.**

**(i) The Indiana lead-based paint rules awareness course does not require the administration of an examination for the completion of the course. (Air Pollution Control Board; 326 IAC 23-3-5; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1451)**

SECTION 55. 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, **or 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 **applicable** 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 **or the Indiana lead-based paint rule awareness course.** 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 56. 326 IAC 23-3-11 IS AMENDED TO READ AS FOLLOWS:

### **326 IAC 23-3-11 Course notification and record submittal requirements**

**Authority:** IC 13-17-14-5

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

Sec. 11. All approved providers of approved initial and refresher training courses **or the Indiana lead-based paint rule awareness course** shall comply with the following requirements:

(1) Notify the department in writing of all intended training courses to be held. Notification shall contain course dates, daily scheduled beginning and ending times, and exact course locations. Submission information shall be as follows:

(A) Notice of courses to be held in Indiana shall be submitted to the department two (2) weeks prior to the scheduled course start date.

(B) Notice of courses to be held outside Indiana shall be submitted to the department four (4) weeks prior to the scheduled course start date.

(C) Notice of course cancellation shall be submitted to the department two (2) working days prior to the scheduled course start date.

(2) All approved providers of accredited initial and refresher training courses **or the Indiana lead-based paint rule awareness course** shall provide the department, not later than two (2) weeks after the completion of each course, the following:

(A) A list of all course attendee names.

(B) The type of course attended.

(C) The date or dates of the course and the examination.

(D) Exam scores for each attendee.

(E) The certificate number issued to each attendee.

*(Air Pollution Control Board; 326 IAC 23-3-11; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1454)*

SECTION 57. 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 **an** initial or refresher lead-based paint activities course approval **or an initial or refresher training course 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 approval or reapproval of an Indiana lead-based paint rule awareness course~~, a training course provider shall pay ~~an annual a nonrefundable~~ application fee of ~~five hundred dollars (\$500)~~

for each of the following disciplines: **one thousand dollars (\$1,000).**

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

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

(d) 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.

**(e) The following are exempt 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.**

**\*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, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204. (Air Pollution Control Board; 326 IAC 23-3-12; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1454)**

SECTION 58. 326 IAC 23-3-13 IS AMENDED TO READ AS FOLLOWS:

### **326 IAC 23-3-13 Representation of training course approval**

**Authority: IC 13-17-14-5**

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

Sec. 13. No person shall make representation as conducting an approved initial training course or approved refresher training course **or the Indiana lead-based paint rule awareness course** for the purpose of licensing persons under 326 IAC 23-2 without prior written approval from the department under this rule. *(Air Pollution Control Board; 326 IAC 23-3-13; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1455)*

SECTION 59. 326 IAC 23-4-1 IS AMENDED TO READ AS FOLLOWS:

### **Rule 4. Work Practices for Abatement Activities**

#### **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 60. 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 **group**.

(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 parties to a transfer of the inspected property as required by 876 IAC 1-4-2.**

(*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 61. 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 which 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 trough 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 used by any child six (6) years of age and under; and**

**(B) other common area groups in the child-occupied facility where any child six (6) years of age and under is 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 sills and floors~~ 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.)*

SECTION 62. 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~~ **area groups** adjacent to the sampled residential dwelling or child-occupied facility.

(B) Other common ~~areas~~ **area groups** 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~~ **area groups** 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) Any yard area 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 63. 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:~~ **as follows:**

(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. The soil that is removed shall not be used as top soil at another residential property or child-occupied facility.**

(B) 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~~ **lead abated** 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) Lead-contaminated~~ **(A) Lead abated** 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~~

**(B) Lead abated** waste shall be stored ~~outside:~~ **in locked containers, rooms, trucks, or trailers.**

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

**\*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 from 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 23-4-5; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1457; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)**

SECTION 64. 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~~ **a 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.

(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 65. 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 **group** 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 **group** shall be erected.

(8) If a safe passage cannot be created and alternative entrances and exits do not exist, then abatement in common ~~areas~~ **area groups** 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 66. 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 one (1) 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 licensed~~ 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 as follows:**

**(i) Forty (40) micrograms per square foot for floors.**

**(ii) Two hundred fifty (250) micrograms per square foot for interior window sills.**

**(iii) Forty (40) micrograms 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 67. 326 IAC 23-4-11 IS AMENDED TO READ AS FOLLOWS:

### **326 IAC 23-4-11 Lead-based paint abatement disposal procedures**

**Authority: IC 13-17-14-5**

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

Sec. 11. The following procedures shall be followed when disposing of lead-based paint waste:

- (1) All lead-based paint waste left at a facility or stored elsewhere prior to disposal, shall be securely stored in a manner that restricts access by unauthorized persons to the material.
- (2) The material shall be stored in locked containers, rooms, trucks, or trailers.
- (3) Lead hazard warning signs or labels shall be prominently displayed on the door of the locked containers, rooms, trucks, or other security measures shall be employed, including the use of barriers, barrier tape, or other measures approved by the department.
- (4) Lead warning labels shall be posted in all areas where lead is stored.
- (5) All waste shall be transported in accordance with United States department of transportation requirements and disposed of in accordance with ~~329 IAC 2-21; 329 IAC 3-1-6-1; 329 IAC 10-8-1~~; **329 IAC 3.1-6** and ~~329 IAC 10-8-1~~; **329 IAC 3.1-10**.

*(Air Pollution Control Board; 326 IAC 23-4-11; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1461; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)*

SECTION 68. 326 IAC 23-4-12 IS AMENDED TO READ AS FOLLOWS:

### **326 IAC 23-4-12 Analysis of samples**

**Authority:** IC 13-17-14-5

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

Sec. 12. (a) Any paint chip, dust, or soil samples collected pursuant to the work practice standards contained in this section shall be:

- (1) collected by persons licensed by the department as an inspector or risk assessor; and
- (2) analyzed by a laboratory recognized by the U.S. EPA pursuant to the TSCA, Section 405(b) U.S.C. 2685(b)\* as being capable of performing analyses for lead compounds in paint chip, dust, and soil samples.

(b) The following conditions shall apply when composite dust sampling is conducted:

- (1) Composite dust samples shall consist of at least two (2) subsamples.
- (2) Every component that is being tested shall be included in the sampling.
- (3) Composite dust samples shall not consist of subsamples from more than one (1) type of component.

**\*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 are also **20401** or available for **review and** copying at the Indiana Department of Environmental Management, Office of Air ~~Management, Quality~~, Indiana Government Center-North, **Tenth Floor**, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Board; 326 IAC 23-4-12; filed Jan 6, 1999, 4:28 p.m.: 22 IR 1462; readopted filed Jan 10, 2001, 3:20 p.m.: 24 IR 1477)*

SECTION 69. 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) **calendar** 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) **calendar** 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 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 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 70. 326 IAC 23-5 IS ADDED TO READ AS FOLLOWS:

#### **Rule 5. Work Practices for Nonabatement Activities**

##### **326 IAC 23-5-1 Applicability**

**Authority:** IC 13-17-14-5; IC 13-17-14-12

**Affected:** IC 13-11-2-61.5; 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) 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) 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 as defined at IC 13-11-2-61.5.

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

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

**Authority:** IC 13-17-14-5; IC 13-17-14-12

**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 (b) through (d).

**(b) 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.**

**(c) 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.**

**(d) A person conducting remodeling, renovation, or maintenance 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 71. THE FOLLOWING ARE REPEALED: 326 IAC 23-1-22; 326 IAC 23-1-23; 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.

### ***Notice of Public Hearing***

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

*The purpose of this hearing is to receive comments from the public prior to final 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 new rule and 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, Rule Development Section, Office of Air Quality, (317) 232-8229 or (800) 451-6027 (in Indiana).*

*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 Government Center-North, 100 North Senate Avenue, Tenth Floor East and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public*

*inspection.*

Janet G. McCabe  
Assistant Commissioner  
Office of Air Quality