

# Dust-Lead Hazard Standards and Dust-Lead Clearance Levels Reconsideration

## Proposed Rule

### General Overview

October 16, 2023



# Purpose and Overview

## Purpose:

- To provide background information on the recent proposal for the dust-lead hazard standards (DLHS) and dust-lead clearance levels (DLCL) reconsideration rulemaking.

## Overview:

- EPA is proposing greater than zero (GTZ) codified as “any reportable level” for the DLHS with a DLCL of 3/20/25  $\mu\text{g}/\text{ft}^2$  for floors/sills/troughs.
  - Within the proposal EPA is requesting comment on two other approaches to revising the DLHS and an alternative DLCL of 5/40/100  $\mu\text{g}/\text{ft}^2$ .
- EPA is also proposing to change the definition of abatement, as well as several other amendments, such as revising the definition of target housing to conform with the statute.



DLHS & DLCL Reconsideration Rulemaking

# BACKGROUND



# Statutory Authority

- Toxic Substances Control Act Title IV required establishment of lead-based paint hazard standards and provided certain regulatory authority to EPA:
  - TSCA§401: Defines lead-based paint (LBP) hazards and abatement
    - LBP hazards are conditions that cause “exposure to lead from lead-contaminated dust, lead-contaminated soil, lead-contaminated paint ... that would result in adverse human health effects” (15 U.S.C. 2681(10)).
    - Abatements are defined as, “measures designed to permanently eliminate lead-based paint hazards,” including “post[-]abatement clearance testing activities” (15 U.S.C. 2681(1)).
  - TSCA§402: Directs EPA to regulate lead-based paint activities
    - These regulations must “tak[e] into account reliability, effectiveness, and safety” (15 U.S.C. 2682(a)(1)).
  - TSCA§403: Directs EPA to identify dangerous levels of lead



# Regulatory History

µg/ft <sup>2</sup>	2001 Lead-Based Paint Hazards Rule		2019 Rule	2021 Rule	2023 Proposed Rule	
	DLHS	DLCL	DLHS	DLCL	DLHS	DLCL
Floors	40	40	10	10	Any level greater than zero reported by an EPA-recognized laboratory	3
Sills	250	250	100	100		20
Troughs	no standard	400	no standard	400	no standard	25

## August 2019

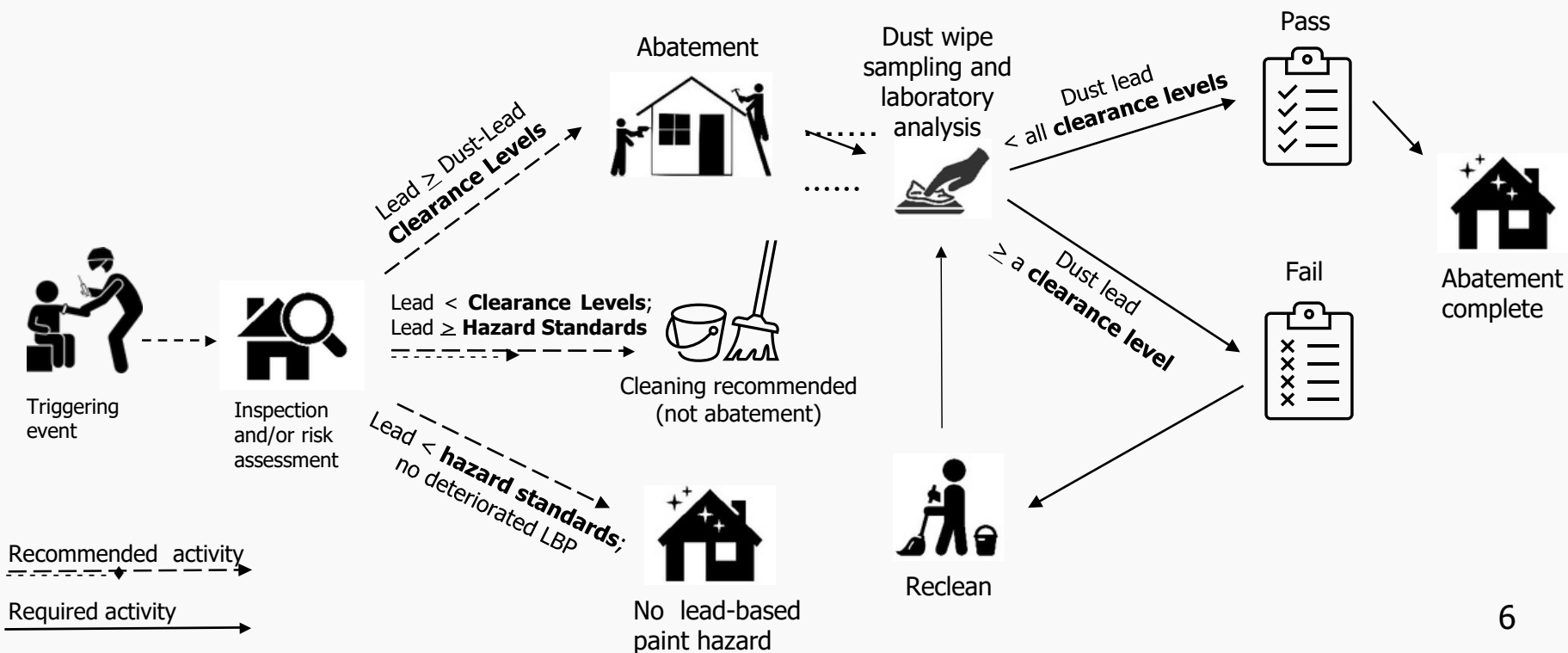
- Lawsuit filed by public health advocates in the Ninth Circuit Court of Appeals sought judicial review of the 2019 final rule.

## May 2021

- The court remanded EPA's 2019 rule, stating that the DLHS were not lowered to “a level sufficient to protect health as Congress directed, because EPA has looked to factors in addition to health.”
- The court also affirmed that EPA could consider other factors (i.e., reliability, effectiveness, and safety) when setting the DLCL.

# Proposed Use of the DLHS and DLCL in EPA's Lead-Based Paint Activities Program

- Dust-Lead Hazards Standards = Identify conditions that would result in adverse human health effects.
- Dust-Lead Clearance Levels = Indicate the amount of lead in dust on a surface following the completion of an abatement activity, taking into consideration non-health factors (i.e., reliability, effectiveness, and safety). To achieve clearance when dust sampling is required, values below these levels must be achieved.





DLHS & DLCL Reconsideration Rulemaking

# REGULATORY APPROACHES



# Approach to Revising the DLHS

- This reconsideration must set the DLHS based only on health factors.
- The GTZ approach would establish a non-numeric DLHS, which would be any reportable level identified by an accredited lead laboratory.
  - There is no evidence of a threshold for lead exposure below which there are no harmful effects on cognition.
  - GTZ is supported by the modeling results, which show that the lower a child's exposure is to dust-lead, the less change they will have in blood lead or IQ levels.
  - This non-numeric DLHS for floors and window sills would not be the same as the DLCL for floors and window sills (i.e., the DLHS and DLCL would be decoupled), which is different than the historical approach wherein the levels have mirrored each other.
- This would allow residents to know there is dust-lead present and that lead from dust can pose health hazards.
- Other approaches to revising the DLHS were considered, see FR notice for more information.





# Approach to Revising the DLCL

- Clearance levels indicate the amount of lead in dust on a surface following the completion of an abatement activity. To achieve clearance when dust sampling is required, values below the DLCL must be achieved.
- EPA is proposing a DLCL of 3/20/25  $\mu\text{g}/\text{ft}^2$  for floors, window sills and troughs. The proposal discusses and takes comment on an alternative DLCL of 5/40/100  $\mu\text{g}/\text{ft}^2$  for floors, window sills and troughs.
- EPA considered the following when reconsidering the DLCL:
  - What percentage of jobs are able to clear to that level.
  - If there are any other examples (at the state or local level) of a specific lower DLCL already being used and enforced.
  - Laboratory capabilities and capacity (e.g., the ability of laboratories to provide test results for lower dust-lead levels).



## Economic Costs & Benefits Take Aways

- 528,000 to 655,000 housing units per year are estimated to have dust-lead level testing that indicates loadings between the current and proposed DLHS and DLCL.
- Total cost of proposed rule: \$536 million to \$784 million/yr.
- The rule would reduce the lead exposures of 250,000 to 500,000 children under age six per year.
- Quantified benefits (from higher lifetime earnings due to avoided neurocognitive effects) are approximately \$1 billion to nearly \$4.7 billion per year.



# Additional Information

- [Learn more about the DLHS and the DLCL](#)
- Press Release: <https://www.epa.gov/newsreleases/biden-harris-administration-proposes-strengthen-lead-paint-standards-protect-against>
- 2023 DLHS/DLCL Reconsideration Proposal: <https://www.federalregister.gov/d/2023-15073>
- Docket ID: [EPA-HQ-OPPT-2023-0231](#)
- The public comment period ended on October 2, 2023; a final rule is estimated to publish in October 2024.
- DLHS/DLCL Reconsideration Rulemaking POC: Claire Brisse ([Brisse.Claire@epa.gov](mailto:Brisse.Claire@epa.gov), 202-564-9004)



# Questions and Comments?