U.S. EPA: Dust-Lead Hazard Standards/Dust-Lead Clearance Levels Webinar

August 23, 2023

2:00 – 4:00 PM ET

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Chloe Durand, EPA: Hello everyone, and thank you for joining us. My name is Chloe Durand, and I'm going to be helping facilitate this session. Just a couple webinar reminders for today. We recommend disconnecting from any VPN, so that you have the best audio and video quality. If you experience any kind of audio or video issues, we recommend leaving the meeting and then re-entering. We will not have a Q&A for this session. We will have a presentation followed by registered verbal comments. If you have any other technical difficulties, you can email myself, Chloe Durand, at durand.chloe@epa.gov.

The agenda is as follows: We'll start with some opening remarks, followed by a presentation, and then we will move into the registered verbal comments.

I'm now going to turn it over to Eileen Murphy for the opening remarks.

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Eileen Murphy, EPA: Okay, Thank you, Chloe. Thank you so much. I appreciate it.

Hi, everyone, welcome, welcome! My name's Eileen Murphy, and I'm the director of the Existing Chemicals Risk Management Division with EPA's Office of Pollution Prevention and Toxics, and I'm really excited to be here to kick off this public engagement of EPA's recently released proposal to strengthen lead standards.

Although exposure sources and pathways for lead are complex and numerous, lead-based paint and house dust remain two of the primary sources of lead exposure, particularly for children, and the proposal we're discussing today would align EPA's dust-lead hazard standards and dust-lead clearance levels with the best available science, further strengthening EPA's efforts to protect children and adults from lead hazards. So we're pleased to see this level of interest in the proposed rulemaking, and individuals signed up to provide comment today. Thank you.

In 2019 and 2021, EPA revised the existing dust-lead hazard standards and the dust-lead clearance level to 10 µg/ft² for floors, and 10 µg/ft² for windows sills, that's ten and one hundred. EPA is proposing now more protective dust-lead hazard standards and dust-lead clearance levels, among other amendments to the lead-based paint activities program. These proposed new standards will strengthen requirements for the removal of lead-based paint hazards in pre-1978 buildings and childcare facilities. These are known as abatement activities, and this will better protect children and communities from the harmful effects of exposure to lead dust. EPA's proposal will lower the hazard standards to any reportable level greater than zero which would decouple the health-based hazard standard value from the clearance level value for the first time since EPA's first regulations defining the hazard standards over twenty years ago. This is being done in response to a fourth decision that I'll touch on briefly in a minute.

EPA is also proposing to lower the clearance levels to 3 µg/ft² for floors, 20 µg/ft² for windowsills, and 25 µg/ft² for window troughs, which are the lowest post-abatement dust-lead levels that the agency believes can be reliably and effectively achieved, and the lowest we've ever proposed. So as I noted, the proposed action is in response to a May 2021 Ninth Circuit Court of Appeals opinion that requires EPA to identify lead-based paint hazards based only on health factors. So accordingly, EPA proposed these dust-lead health standards based on the results of our health analysis, and in recognition that there is no safe blood lead level in children.

Our goal today is to explain in plain language the rationale for EPA's proposed action, several of the key details, and highlight specific areas where we're seeking comments from you to inform the development of the final rule. And I want to emphasize that last point - we are sincerely interested in your comments and feedback as we work to finalize this and other rulemakings. As you'll hear several times during the presentation, we strongly encourage you to submit comments to the dockets, and the proposed rule has a list of all the topics that we're specifically seeking public opinion and input on. And we'd also appreciate comment on any other aspect of the rule as well.

We are glad to be able to share this very important proposed rulemaking with you and want to emphasize that your continued participation is critical to helping us write and finalize this rule. Again, cannot emphasize enough our appreciation for your time and any of the information that you provide to us. On behalf of the Office of Pollution Prevention and Toxics, we continue to look forward to working with you. I will now turn it over to Claire Brisse, the rule lead, and the next speaker, who will lead you through the presentation describing the proposal.

Thank you.

00:05:48.470 --> 00:42:46.510

Claire Brisse, EPA: Thank you so much for that introduction, Eileen and Chloe. I'm going to quickly share my screen so we can begin the briefing.

Slide 1:

So once again I just want to welcome everyone and express my gratitude for folks being here today and participating in this public webinar.

Our focus, once again, you're going to hear me repeat some of the points that Eileen has already pointed out, but today we'll be discussing the dust-lead hazard standards and the dust-lead clearance levels reconsideration rulemaking. As a friendly reminder, this is at the proposed rule stage.

Slide 2:

So quickly, just to cover an agenda for how the briefing will be laid out today, we're going to go over some purpose and overview, as well as a summary of some of the key proposed changes in the rulemaking as well as background, some of our regulatory approaches, and we'll finish with next steps. I know that this group participating today probably has a wide range of a knowledge base, so we're going to begin with some background.

Slide 3:

Our purpose and overview for today is to inform you, the public, as well as the regulated community, excuse me, about the recent proposal for the dust-lead hazard standards and the dust-lead clearance levels reconsideration rulemaking and to provide you and the stakeholders an opportunity to comment. As you'll see throughout the briefing, dust-lead hazard standards will be abbreviated moving forward as DLHS, and you will likely see the clearance levels abbreviated as DLCL. And so generally this rule protects children's health by reducing lead-related IQ loss and other health impacts by minimizing dust-lead exposure.

Once again, we revised these hazard standards and clearance levels in 2019 and 2021. However, in accordance with the May 2021 court opinion from the U.S. Court of Appeals for the Ninth Circuit, we are proposing these revisions to the hazard standards and clearance levels.

Slide 4:

And as a summary before we dive into some of the more specifics as we continue in the briefing, we estimate that lowering these hazard standards and clearance levels, further protects children from lead-based paint dust hazards and in this rulemaking, once again, we are proposing something called greater than zero, which is codified as any reportable level for the dust-lead hazard standards, partnered with a clearance level of 3/20/25 µg/ft² for windowsills, or excuse me, for floors, windowsills, and window troughs. And just a note that window troughs are the window well that a window will sit in when the window is closed.

And so within this proposal we are also requesting comment on two other approaches for revising the hazard standards, as well as an alternate dust-lead clearance level of 5/40/100 µg/ft². This rulemaking also has several other changes proposed, including changes to the regulatory definition of abatement, so that the recommendation for action applies when dust-lead loading levels are at or above the clearance value, rather than at or above the hazard standards. Previously, historically, our recommendation for action has been when levels are at the hazard standards. But again, we are proposing a change to that definition of abatement, and I will touch on that further in the regulatory approach section.

Slide 5:

So, starting with some background.

Slide 6:

We wanted to set the stage with some EPA lead terminology.

For starters, when we refer to a lead-based paint activity, so that's our lead-based paint activities program, we're referring to specifically inspections, risk assessments and abatements in target housing and child-occupied facilities. So these lead-based paint hazards, those are conditions that cause exposure to lead from lead-contaminated dust, soil and paint, that is deteriorated or present in accessible surfaces, friction surfaces or impact surfaces that would result in adverse human health effects. And so an example of a friction surface could be, you know, windows.

Second, or thirdly, target housing, so that is, any housing constructed prior to 1978, except for housing for elderly or persons with disabilities, so there are some exceptions, as well as your bedroom dwellings. I'll note that this definition was amended. It stems from a statutory definition, and that was amended in

2017, and we'll be incorporating those changes in the definition of target housing into our regulations within this proposal.

Additionally, we're also proposing amendments to the definition of child-occupied facilities which I'll touch on in a moment. And just to emphasize that the reason target housing is focused on pre-1978 housing is that is before lead in new paint was banned.

Child-occupied facilities are again pre-1978 housing, uh pre-1978 buildings, excuse me. But more specifically, are visited regularly by the same child, and this is a child under six years of age or under on at least two different days within any week, provided that each of those visits lasts three hours, in total for six hours for the week combined, to be an annual amount of sixty hours or more. And so think of Pre-K, Kindergarten, things like that.

Slide 7:

Our statutory authority for this rulemaking stems from the Toxic Substances Control Act, Title IV, which required establishment of lead-based paint hazards, and provided certain regulatory authority to EPA. TSCA 401, 402 and 403 in particular, are relevant to this rulemaking. 401 defines what a lead-based paint hazard is, as well as what an abatement is. And lead-based paint hazards, once again, are conditions that cause exposure to lead from lead contaminated dust, soil or paint, that would result in adverse human health effects.

And abatements are defined, as you know, measures designed to permanently eliminate those hazards, including post-abatement clearance testing activities. 402 directs us to regulate lead-based paint activities, and that we must take into account reliability, effectiveness, and safety when doing so, and 403 directs us to identify dangerous levels of lead.

Slide 8:

I'm going to turn on my laser pointer, so slide eight represents the proposed recommendation for this rulemaking and the proposed use of the hazards and clearance levels graphically. So I'll start off with the top, once again, those hazard standards, i.e. conditions that would result in adverse human health effects; that stems from that statutory language we just covered. And the dust-lead clearance levels indicate the amount of lead in dust on a surface, following the completion of an abatement activity, and that may become more clear as I go through the graphic, but essentially it's the amount of dust that's left on a surface once the work is considered complete.

In the far-left corner you can see that there are two lines, one is dashed and one is solid. A dashed line represents our recommended activity, a solid line recommends a required activity. So on the far-left there is something, a triggering event, I like to use the example of a child with an elevated blood lead level. From there the recommendation, once again, this is not a requirement according to the EPA lead-based paint activities program, but our recommendation is that if you have a child with an elevated blood level, you would perform an inspection or a risk assessment. A risk assessment, for more detail, is when a certified individual would come into a home, for example, a pre-1978 home, and they would do various testing to better understand the severity in nature of the lead-based paint hazards, and then provide a report at the end that would include recommendations. So during that sort of inspection or risk assessment processes, you would take something called a dust wipe sample, and a dust wipe sample

is essentially, you would take a wipe and test a certain area, and then you would send that to an accredited lead laboratory.

From there, if the results of that dust-lead sample are less than our proposed hazard standards, and there's no deteriorated lead-based paint present, so no flaking, deteriorated lead-based paint, then the home could be deemed that there was no lead-based paint hazard present, in terms of dust-lead. However, because we're recommending, or we're proposing hazard standards and clearance levels that are decoupled for the first time, you could have a result that falls between, so under the clearance levels, but above or equal to our hazard standards, and if that would be the case, we would not recommend an abatement. Instead, we would recommend regular safe practices and cleaning.

And finally, if there were a sample, or if the dust-lead sample came back and the levels were greater than or equal to our clearance values, from there, once again, the recommendation from our program, not the requirement, but the recommendation would be to perform an abatement. And once you engage in that abatement activity, from there our program has several required activities, that you must engage in. So, once the abatement work is considered complete, it is required that you would take another dust-wipe sample, and once again you would send that to an accredited lead laboratory, and if the results were greater than or equal to our clearance values, the sample would fail, and you would have to reclean, sometimes doing additional work, and then test again. If that dust-lead sample comes back, and it's less than the clearance values or our proposed clearance values, from there you would pass, and the abatement could be considered complete.

Slide 9:

Just to set the stage a little bit more in terms of our regulatory history for these standards, so in 2021 in our lead-based paint hazard standards rule they were first established at 40 µg/ft² for floors, and 250 µg/ft² for windowsills. These were mirrored between the hazard standards and the clearance levels, and there was a clearance value established for troughs, or window wells, at 400 µg/ft².

We have recently taken a two-prong approach to revising those standards in 2019 and in 2021. Once again establishing mirroring levels for floors and windowsills of 10 µg/ft², and 100 µg/ft². For this proposal, which came out recently, we are proposing hazard standards of any level greater than zero, as reported by an EPA recognized laboratory and proposing clearance values of 3 µg/ft² for floors, 20 µg/ft² for windows sills, and 25 µg/ft² for window troughs.

To provide additional context in August of 2019, so this is after our revision to the dust-lead hazard standards, a lawsuit was filed by public health advocates in the Ninth Circuit Court of Appeals that sought judicial review of that 2019 final rule. So in May of 2021, the court remanded EPA's 2019 rule, and stated that the hazard standards were not lowered to a level sufficient to protect health as Congress directed. And this was because EPA looked into factors in addition to health. So remanded to EPA essentially means that that rule remains in place, but we're tasked with revising it. The court also affirmed at that time in that court opinion, that we could consider other factors, mainly the statutory criteria, reliability, effectiveness, and safety when setting the clearance values. And so the court opinion created that distinction between the two standards.

Slide 10:

A little more context within our regulatory program we have something called authorized programs, and these are states, territories and federally recognized tribes that can become authorized to administer their own lead-based paint activities programs. Once again, that includes inspections, those risk assessments I mentioned and abatements in target housing and child-occupied facilities. These programs must be at least as protective of human health in the environment as our program.

Additionally, they must demonstrate that their program meet any sort of new requirements imposed by this rulemaking, no later than two years after the effective date. And the effective date would be after we finalize the rulemaking.

So we administer the lead-based paint activities program only where states, territories and tribes are not authorized by EPA to operate their own. And there's more specifics about where that is and the following two sub-bullets, but basically we administer the program in most tribes as well as eleven states.

Slide 11:

So potentially impacted entities by this rule, this is not an all-inclusive list, but there were some that we wanted to highlight. So those states, territories and federally recognized tribes with authorized programs that I just mentioned on the previous slide, those include, you know, any health or environmental departments that run those programs, they could be impacted by this rulemaking. Once again, they would have to show once the rule is finalized and effective, within two years they would have to show that they were as stringent as this rulemaking.

Additionally, any public housing authorities, either in states or territories or tribes that have authorized programs or are run by EPA, could be impacted. And just note that those public housing authorities could also be subject to HUD's lead safe housing rule.

Any sort of locally run lead-based paint activities program, such as the city level. Additionally, any lead-based paint professionals, especially certified risk assessors and firms that perform abatements. Also laboratories certified by EPA's National Lead Laboratory Accreditation Program or NLLAP for short, may also be impacted. And sort of generally the public, homeowners, those that own child-occupied facilities, etc.

Slide 12:

So transitioning into the regulatory approaches that are discussed in further depth in the rulemaking.

Slide 13:

We'll start with our approach to revising the dust-lead hazard standards. So once again as I mentioned earlier, that statute requires us to identify hazard standards at dust-lead levels that would result in adverse human health effects. And that court opinion that we've been mentioning held that our 2019 rule identified hazard standards inappropriately, because at that time we considered non-health factors such as feasibility. And that EPA must reconsider the hazard standards using only health factors. So with that in mind we considered three different approaches in this rulemaking.

The first is the greater than zero approach, which is what we've proposed. It's a non-numeric or sort of a non-static value.

The second is a numeric standard. So this would be an actual number, and based on health modeling only. And then the third is a post-1977 background approach, which is the mean dust-lead level across post-1977 housing. And I'll touch on these in a little more depth in the upcoming slides.

Slide 14:

So this greater than zero approach would establish a non-numeric hazard standard, which would be any reportable level as identified by an accredited lead laboratory.

Some of the rationale for this proposal is that there is no evidence that we are aware of a threshold for lead exposure, below which there are no harmful effects on cognition. Greater than zero, as previously mentioned, is also a more protective approach. It's also 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 their blood lower levels and their IQ decrement. So once again, this proposal is decoupling the hazards from the clearance levels, which is different than the sort of historical approach where they've mirrored each other. If finalized as proposed, a key point about this option is that the action level for laboratories and for recommendations such as abatement would become the clearance levels, rather than the hazard standards.

So, for example, with accredited lead laboratories, they need to meet fifty percent of the action level for their quantitation limit. That with this approach would become the clearance levels, as opposed to the hazard standards. And so essentially this approach would allow residents to know that the dust-lead is present, and that lead from dust can pose health hazards and can work as a form of disclosure for the public.

Slide 15:

In terms of the alternate approaches that we considered for the dust-lead hazard standards, there's more information in the rulemaking itself, in particular in Unit IV.A.2, and I've linked the Federal Register notice here. But the numeric standard approach would require essentially establishing sort of a cut point or a level of exposure from IQ, or blood lead level modeling data that would result in adverse human health effects. Essentially, the numeric standard approach would require us to kind of draw a line in the sand, for what would result in adverse health effects, or what adverse health effects are.

And then that post-1977 background approach would establish the hazard standards as the national post-1977 background levels of dust lead, which are estimated to be 0.2 $\mu g/ft^2$ for floors and 0.8 $\mu g/ft^2$ for windowsills. And so essentially this approach of the post-1977 background would address the disparities in the dust-lead levels that children in target housing, so that’s pre-1978 housing, may be exposed to, and the sort of corresponding disparate health risks. So essentially comparing the post-1977 backgrounds, which is not target housing, to the target housing population. And just to keep in mind that for the two alternate dust-lead hazard standards, for example the numeric standard approach and the post-1977 background approach, in that situation the sort of action level for lead laboratories will become the hazard standard.

Slide 16:

Our approach to revising the clearance levels, and just as a friendly reminder, those clearance levels are the amount of lead in dust that remains on a surface following the completion of an abatement activity,

so essentially clearance levels are the amount of dust lead that's actually left after the work is considered complete.

So we're proposing a clearance value of 3/20/25 µg/ft² for floors, windowsills, and troughs. We also have discussion and take comment on an alternate of 5/40/100 µg/ft², and we considered the following when we were looking at revising the clearance levels: What percentage of jobs are able or estimated to clear to that level based off of a previous survey, as well as if there were any sort of examples at state or local level of specific lower clearance levels already being used and enforced. For example, for the alternative clearance levels of 5/40/100 µg/ft² that's already being enforced in New York City. As well as, we looked at laboratory capabilities and capacity. Essentially, the ability of labs to provide test results for these lower, dust-lead levels.

Slide 17:

Additionally, we looked at revising the definition of abatement. So we are proposing to amend that definition in our regulations. And the purpose of that, once again, is to modify the trigger, for when we recommend an abatement. So once again we're proposing changes that mean that we would only recommend an abatement when dust-lead loadings are at or above the clearance levels, rather than at or above the hazard standards, as has been the case historically.

And the reason we're doing this is because we're proposing decoupled standards. So there's going to be this in between the hazards and clearance levels, and if we didn't change the recommendation for abatement, there could be a situation where you're recommending an abatement, but clear to a higher value, and then you would need to recommend an abatement again, basically there could be this do loop. So in order to avoid that, we proposed changing the trigger for recommendation to be a clearance, to the clearance values.

And one key thing we want to emphasize is that owners of properties covered by the lead-based paint activities rule are not compelled by EPA to evaluate their properties for the presence of dust-lead hazards. So essentially they're not compelled to do an inspection or a risk assessment, or to take action, such as an abatement, if those dust-lead hazards are identified at or above the clearance levels. So basically within the EPA lead-based paint program, there are not requirements to engage in those activities. There are recommendations, but it's not required. I will note, though, that HUD and some other State or local governments do require action, or may require action in some circumstances.

Slide 18:

Finally, one other item that we wanted to mention was revising the abatement report. So, after the completion of that abatement, or the work being performed to remove those hazards, a report is required to be developed, and the certified firm or individual must provide a copy to the individual or entity who contracted for its services. So we're recommending, including some particular language in that abatement report when those dust-lead levels fall between hazards and clearance. And basically, that language points the public to a reference titled: "Protect Your Family From Lead in Your Home," it also acknowledges that lead-based paint hazards, particularly dust-lead hazards, could remain after an abatement.

So the goal of this language in the abatement report is to sort of ensure that these occupants are provided information and tools, you know, available to them to sort of minimize these dust-lead

hazards, and to take actions to protect themselves from exposure, even after the abatement is considered complete. So we're particularly interested in requesting comment on this. You can see the goal is to sort of inform and educate the public about what they can do to continue to protect themselves. If folks have feedback on what else we could use to do that, please feel free to submit written or verbal comments today.

Slide 19:

Finally, there are some economic cost and benefit takeaways we wanted to point out. So 528,000 to 655,000 housing units per year are estimated to have dust-lead level testing that indicates loadings between current and proposed hazards and clearance levels. Also on this slide we have our total costs and quantified benefits listed, and finally, this rule is estimated to reduce lead exposures of 250,000 to 500,000 children under age six per year.

Slide 20:

So next, we'll transition into some of the other amendments that are included in this proposal.

Slide 21:

The first we'll touch on is the definition of target housing. Once again, the definition of target housing defines which housing is subject to EPA's lead-based paint rules. So this includes both the lead-based paint activities that we've been talking about today, the lead-based paint activities program that includes abatement, as well as the renovation, repair and painting program.

So in 2017, Congress amended the definition of target housing to include 0-bedroom dwellings where children under six are expected to live. You can see the statutory change is represented in red text below. So essentially, we're proposing to amend our regulatory definition to incorporate the statutory change, basically to conform with that statutory change in 2017 and to just adjust the age range to less than six years of age. And this is just being done in order to establish consistency throughout the program.

Slide 22:

On a similar vein, we're also proposing to revise our definition of child-occupied facilities and living areas, and again, we're revising this to, this regulatory language to children under six years of age, and once again this was proposed in order to sort of establish consistency throughout the program, and to make it simpler for the regulated community. For example, just making everything across the board under six years of age, similar to the age in the definition of target housing in the statute.

Slide 23:

And lastly, I want to touch quickly on electronic submissions. So we're also proposing to require submissions for application payments, applications and notices to be done electronically via EPA's central data exchange system. I just want to note for the public that this is already, the mass majority is already doing it this way, this is just us codifying it in our regulations. So in 2016, the U.S. Treasury Department changed their process, so that paper checks would no longer be allowed for the payment of fees. So overall, these revisions will, you know, reduce administration costs, we will be able to get rid of a fax machine that we use and sort of conform with that Treasury change, and provide further

clarification and uniformity in the application process. There's a few other sort of minor or other amendments to the lead program regulations, and if you're interested in more information, please see unit IV.F. in the Federal Register notice.

Slide 25:

In terms of next steps, right now we're in the middle of our public comment period. So the proposal is currently out, and this public comment period will last for sixty days, and it ends on October 2, 2023. We definitely welcome you to submit any written comments on www.regulations.gov, and I've provided the docket ID number here for your reference. I want to point out specifically that unit VII of the Federal Register Notice has more information on what type of details and comments that EPA is particularly interested in receiving.

Slide 26:

The next three slides will go into some of those more specific requests, but I just want to point out that these are not at all an inclusive list, and that I recommend you look at unit VII of the rule. Once again, before I get into some of the more specifics, we are requesting comment on the entire proposed rulemaking, including all, you know, relevant changes, and we're just really interested in your feedback across the board.

But more particularly, requests for comment on the hazard standards in particular, we're really interested in feedback on any information or data for a level of dust-lead exposure that would not result in adverse health effects. So any information on how much exposure in terms of blood lead level, or change in IQ decrement, would be the most scientifically appropriate to compare to the model results, or as a rationale to set the hazard standards. This includes how appropriate or not appropriate our threshold of probability of exceedance for a child from the subpopulation of interest, so essentially right now, we're looking at kind of the most extreme case, the 95th percentile of our subpopulation, and we're interested in the appropriateness of that. I just want to emphasize these two points in particular but because once again, we can only consider health effects from dust-lead exposure when revising the hazard standards.

So when providing comment, particularly on the hazard standards we're really interested in that point. In terms of health effects, EPA believes that we are focused solely on the dust-lead exposure piece and not larger public health concerns.

Slide 27:

In terms of specific request for comment for clearance, for the clearance levels, we're particularly interested EPA recognized lead laboratories and their ability to test to these clearance levels, especially given if finalized as proposed, the quantitation limit would be 50% of the clearance levels. And so that would be 1.5 $\mu g/ft^2$ for floors, 10 $\mu g/ft^2$ for windowsills, and 12.5 $\mu g/ft^2$ for window troughs. And that would be the quantization limit folks would need to meet in order to remain in the NLLAP program.

So we're looking for feedback on that as well as, you know, if lead-based paint professionals can clean or achieve clearance at these levels, either the proposed clearance values or the alternative, and why or why not, any sort of data or information you may have on that, or whether you know windowsills and window troughs should be the same clearance values, and why or why not. As well as just generally if

there's some other clearance combination besides the primary and alternative options that we have considered that is appropriate sort of given those criteria of reliability effectiveness and safety.

And just a reminder, once again, we can consider non-health factors when revising the clearance levels, in particular, that statutory criteria of reliability effectiveness.

Slide 28:

And then our last slide about specific requests focuses on the methods, models and data that are used in our supporting materials, and so mainly, that's our economic analysis and our technical support document. So in particular for the economic analysis, we use a specific function or equation to calculate our IQ loss for ages in young children, particularly at these very low levels. We're interested in feedback on that, as well as you know, if there are any comments or peer-review information about quantifying other health or behavioral endpoints, including adult cardiovascular mortality, in addition to those that we're already doing, which is children's IQ loss.

We're also interested for the economic analysis, you know, the potential impacts to the non-federally-assisted rental housing market, any information or data you may have on, you know, the potential economic or health impacts to current residents and landlords of housing that is subsidized by HUD or the USDA. In addition for lead laboratories, we're curious about, you know, analysis turnaround times, the costs, and the possible loss of NLLAP-recognized labs due to this rule.

And finally, we're interested in collecting as much information as we can on child-occupied facilities in order to inform the economic analysis, and that includes, you know, if you have any data on the number or cost of abatements performed, partnered with what the actual dust-lead loading results were, and you know how many children were present in that child occupied facility at that time.

So once again, this is not at all a complete list of what we're interested in, but if you could take a look at Unit VII. of the Federal Register notice, there's more information there, and we welcome comment on all aspects of the proposal.

Slide 29:

And then to finish it out in terms of additional information, this presentation, along with a transcript will be included on our website after this. So in addition to that, if you want more information on the hazards and clearance levels, I have some links here that you'll be able to access once you get the briefing, we have our EPA website listed as well as a press release, the rule itself is linked here as well.

And then just as an FYI for folks, the final rule is estimated to publish in fall of next year, so that's fall of 2024, and we are currently proposing an effective date of one year after publication., again, we're requesting comment on everything, if you have feedback for that one-year effective date. And additionally, I've included my contact information, so my email address is there, if you have follow up questions or additional comments or thoughts, feel free to reach out. I know that we've covered a sort of wide breath of information today and like I said, there's probably varying levels of knowledge base, so if folks have questions like I said, feel free to reach out.

And then additionally, we are hosting an upcoming lead-based paint technical workshop, and while this isn't focused on the dust-lead hazard standards and clearance levels specifically, it was an aspect of that court opinion that came out in May 2021. And so this workshop is focused more particularly on the

definition of lead-based paint, and in case folks here are interested, that will be on November 1 and 2 of this year. So if you'd like to attend, we welcome you to register online, and again, if you have questions about that or anything else, feel free to reach out via my email.

Slide 30:

So from there I'm going to pause and turn it back over to Chloe and Sarah, to begin our public comment opportunity. But I just want to say thank you again for being here and participating.

00:42:50.480 --> 00:43:17.879

Chloe Durand, EPA: Excellent, thank you, Claire. We will now be moving into our verbal comments. These are for registered commenters. We will call your name, and we will then unmute you, at which point you will have three minutes to make your comment.

00:43:20.490 --> 00:43:32.269

Sarah Soliman, EPA: All right, so my name is Sarah, and I am going to start with Andrew McLellan, and I will allow you to unmute, and again you have three minutes.

00:43:33.150 --> 00:46:05.600

Andrew McLellan: Awesome, I get to be first. Hi. My name is Andrew McLellan, I'm President and Training Director for Environmental Education Associates, an EPA accredited lead-based paint and RRP Trainer located in Manhattan, Buffalo, and Utica, New York.

Our organization applauds EPA's efforts to create truly lead safe housing that encourages local and state agencies in New York to embrace this effort and take on their responsibility to implement the means to foster lead safe housing and child-occupied facilities in our communities. I talked to a father today in Hamburg, New York, whose daughter, was diagnosed with a BLL of 5 µg/dL, who was living in a dwelling where dust testing indicated lead dust concentrations below or slightly above the current DLHS and DLCL. He didn't care about the difference between what was present versus elevated. He was only concerned that his child was exposed to lead dust. EAA trains thousands of individuals in lead abatement, inspection, risk assessment, and lead safe renovation every year. Among the challenges we face educating our course attendees is the difficulty of using outdated EPA-issued training curriculum and outdated HUD guidance. I encourage EPA and HUD, in conjunction with NLLAP, to provide updated training course materials, including PowerPoint presentations, course manuals and video.

The EPA-issued course curriculum we are approved to use for lead-based paint activities dates to 2000 and RRP to 2021, which is great for now. This is especially frustrating for prospective lead inspectors and risk assessors, who must pass a third-party test, who may be confused by the myriad of conflicting values in the training course, materials, notes, and handouts we provide to help clarify the differences.

I would also encourage EPA to consider a LBP certification application mechanism whereby trainers and others who submit individual applications could apply on behalf of the applicant. Many of those who

attend abatement training in particular do not have the means, capability or desire to apply electronically. I look forward to learning more about EPA's efforts to implement these proposed revisions, so that we begin to advise those who attend our initial and refresher training a clear and concise description of these new DLHS and DLCL standards and other provisions. Thank you.

00:46:12.470 --> 00:46:24.460

Sarah Soliman, EPA: Thank you so much. You did a great job, especially since we put you on the spot being first. Alright, alright, Ted, you are up. You have your three minutes.

00:46:26.300 --> 00:48:31.460

Ted Pitas: Yeah, hi, Ted Peters, I'm a lead-safe remodeler. And yeah, I don't know if I like that greater than zero approach, I mean, it seems like you're always going to find lead, and that means you'll be recommending that something be done always, even with these really, really low levels. So I think the higher standard is probably better. One of those higher standards that you mentioned, instead of the zero lead at all.

The other thing I was wondering about, this lead test by laboratory, it seems like there's going to be some long turnaround time there. I'm not sure why we wouldn't be able to get better test kits and test ourselves unless you don't trust us, which I guess that that could be possible too. If we have to use some certified lead tester or assessor, or whatever, I'd be wondering how many of those are around, and what their availability is, what it costs to have these guys come in. You know, that's all something that has to be added into the cost of a job. And you know, when the costs get so prohibitive, then these people who have this housing will probably not want to do anything, or maybe a homeowner could still do it themselves anyway, and maybe they'd be more inclined to do it, or employ friends, or whatever, just so they can skirt any of these standards that are being recommended. Um, so. Um, yeah, that's the other thing about using these laboratory facilities for testing or a certified tester, is that while you're waiting for these results to come back, the space is probably unusable. I mean, you couldn't have people move their stuff back in and start using the space until it's clear, so there's going to be some more time that the space is unusable. And that might be a factor that would prevent people from doing anything as well. I guess that's all I have.

00:48:34.660 --> 00:48:45.610

Sarah Soliman, EPA: Thank you very much for your comments, Ted. Next, we have George. George, you should be able to unmute yourself, and the floor is yours.

00:48:47.590 --> 00:48:52.489

Claire Brisse, EPA: Before we move to George, Sarah, is there one thing I could clarify really quickly?

00:48:52.500 --> 00:48:54.380

Sarah Soliman, EPA: Oh, yes, go for it.

00:48:54.720 --> 00:49:54.259

Claire Brisse, EPA: Thank you so much for your comment. I just wanted to emphasize one point that we're hoping we can clear up with the public is just, we're interested in feedback on it in the proposal, but that recommendation to change the definition of abatement, I just want to emphasize that we're hoping to shift the recommendation for action from, you know, greater than zero or the hazard standards to specifically the clearance levels. So, instead of recommending action based off of you know any reportable level, it would be recommending an abatement based off of, if finalized as proposed, the 3/20/25 $\mu g/ft^2$, which is still, you know, a reduction from the current levels, but I just wanted to make sure to clarify that. Hopefully that was helpful. Thank you again.

00:49:55.760 --> 00:50:00.690

Sarah Soliman, EPA: Thanks, Claire. All right, George. You are good to go.

00:50:01.430 --> 00:53:11.409

George Land: Hello, everyone. My name is George Land, and I'm the quality assurance manager from AMA Analytical Services, an NLLAP accredited lead laboratory. If the newly proposed dust-lead clearance levels are enacted, it is very unlikely that labs will continue to be able to meet the required quantization limits, using the current flame atomic absorption spectroscopy technology, without unrealistic changes to the way we currently operate. Ah, FLAA is used by the majority of labs for the types of samples in question. I've examined years of method detection limit studies using an FLAA data acquired by both older and newer models, and the data indicates an identical sensitivity. This leads me to believe that the current FLAA technology is unable to meet the more stringent quantitation limits. Some possible options for labs would be to increase the minimum wipe area requirements from field IHs, in order to get close to the required limits. This is a problematic solution, considering some windowsill and window trough surfaces do not have a large enough surface area to allow laboratories to meet the current required limits, let alone these newer, stringent sensitivities. Digesting samples, using a lower volume of nitric acid can help reduce MDL studies in half, but this could lead to laboratories consuming one hundred percent of the digestate before getting any viable data. Another option would be to decrease the acceptable control limits for blank samples as well as initial calibration, blank and continuing calibration blank verification samples. If the control limits on these are tightened, then the variation between blank samples can be reduced, lowering the standard deviation used in the method detection limit calculations. This would also result in more reruns with the possibility of running out of sample digestate before getting viable data. By using a combination of all three of these techniques lead labs could feasibly get FLAA to the required quantitation limits, but this would certainly increase the likelihood of re-sampling due to running out of sample digestive before having passing QC data.

This is a complex issue that needs to be discussed with industrial hygiene clientele to prepare everyone for the upcoming changes that will affect all aspects of this industry. Good communication and preparedness will be necessary for the transition into the future of lead dust testing. If these regulations are enacted, I see the only realistic way forward is to abandon the current flame atomic absorption technology and purchase new equipment, such as ICP-AES to meet these required sensitivities. This transitionary period will result in lengthy wait times for acquiring instrumentation and new accreditation for alternative sample preparation and analysis methods. It will also cause large price increases for historically affordable samples. One year from the approval of these new requirements will not be enough time for laboratories and accrediting agencies to comply. Thank you for your time.

00:53:14.910 --> 00:53:24.899

Sarah Soliman, EPA: Thank you, George. Next we have Kevin Stanley. And Kevin, you have your three minutes. Go right ahead.

00:53:27.350 --> 00:53:41.499

Kevin Stanley: Hi, I'm Kevin Stanley, Maryland, Department of the Environment. This may have been premature, at this time the Department of Environment is going to pause on submitting any comments, and we may submit our comments in writing. Thank you very much.

00:53:43.310 --> 00:53:56.569

Sarah Soliman, EPA: Not a problem, thank you so much, Kevin. Next we have Zach. And Zach, you are ready for your three minutes.

00:53:56.730 --> 00:55:07.610

Zachary Burkons: Great. Thank you very much. My name is Zachary Burkons. I'm a lead assessor in Cleveland, Ohio. We are testing thousands of units in Cleveland, Ohio, many of them in low-income areas which are the targets for reducing lead exposure. In speaking with a number of different labs, they repeat exactly what George just said. That going to ICP is going to be their only way. They're going to have to get out of the business if they have to get rid of Flame AA. And in general, it's going to increase costs dramatically. I can tell you firsthand that many, many of the people that we service can barely afford our prices with Flame AA. To increase it twofold, threefold, or even tenfold, with longer return times is going to make doing our job absolutely impossible, and do nothing but turn people off from trying to do the right thing. This is a perfect example of the perfect killing the good enough. Nobody wants lead, and that's understood, but to get to a perfect world, the technology is not there or reliable for this at this time. Thank you very much.

00:55:11.690 --> 00:55:22.659

Sarah Soliman, EPA: Thank you for your comments, Zach. All right. Next, we have Melissa McArthur. Melissa, the floor is yours.

00:55:23.700 --> 00:56:21.819

Melissa McArthur: Okay. So I'm from the Chemung County Health Department. I'm part of the CLPP+ program. So we do primary prevention for children before they're elevated. I also do the lead program, so the biggest problem that we're seeing is people passing the current dust wipe clearances. They can't pass it now, so lowering it even more is going to be even bigger challenge for our health department. We currently pay the labs for the dust wipe clearances. So it's going to be an even bigger burden and time consuming thing for the Health Department to even achieve this. I think it's going to be very difficult for us. So those are the only comments I have to provide you. It's just going to be very unachievable for us I feel like, and very burdening on our Health Department for paying for it.

00:56:25.190 --> 00:56:27.679

Sarah Soliman, EPA: Thank you for your comments, Melissa. All right, next we have Alex Cates. Alex, The floor is yours.

00:56:27.890 --> 00:58:03.569

Alex Cates: Thanks a lot, Sarah, and great, great webinar, appreciate the information and applaud the rulemaking changes or at least proposals. I completely understand the NLLAP situation. But my comment / kind of a question, and I don't think we're answering questions, but would be really around creating a uniform definition of what a HEPA vac is. The RRP does a great job of absolutely defining what a HEPA vac is supposed to be in the EPA's eyes, which is, is the right way to do it. Unfortunately, in the lead and construction standards 29 CFR 1926.62, it just simply says HEPA VAC and if you've got a suspect sub-contractor, which we manage a lot of these, doing abatement, and they don't want to spend the amount of money that it takes to get a true HEPA vac, they'll grab a shop back from, you know, Home Depot or some other big box that claims to be a HEPA filter, but doesn't have any certifications or quantification, and the lead dust that's, you know, accumulating, in the vacuum cleaning just goes in, and of course, right out. So if there's any way that we can take the RRP standard for the HEPA vac definition and apply that uniformly across what EPA considers a HEPA vac in the other standards, that would be very helpful, and I'll turn it back over.

00:58:07.420 --> 00:59:39.399

Sarah Soliman, EPA: Thank you, Alex. We appreciate your comments. Next, we are going to have Dr. Manavalan. I hope, I said that correctly.

Ah, I don't see Dr. Manavalan on the line. Give me one second. I just want to make sure we are not missing. Okay, I don't see doctor on the line, so we are going to move to the next speaker.

So we are going to have Lewis Brown, who I also do not see on the line. Just double checking.

Okay. So we will go to the next one. There we go. Okay, perfect. Ady Padan, you are all set, and the floor is yours.

00:59:58.990 --> 01:02:47.479

Ady Padan: Okay, good afternoon. So, first of all, thank you. Thank you very much for giving me the opportunity. My name is Ady Padan, I'm the President and Technical Director of AES International in Puerto Rico. We are AIHA-accredited laboratory, and we have a RRP and lead training school. Basically, I have a number of issues that I would like to address. First of all, you mentioned that the DLHS is going to be lower to a reportable level greater than zero. And comes the question, by which means is this: by ICP? By AA? Because obviously, if you're having different machines with different sensitivities, then this means that every sample that you take almost an example is going to fail, if you have a very low sensitivity.

Number two, and this was addressed by George actually, so yeah, obviously when lowering the limits and our limit of the quantification to get half to the actual clearance levels, there's going to be an issue, how we're going to get to those with using flame atomic absorption. And like he mentioned it in case the wiping area of, decreasing the amount of the acid. So yeah, it's going to be a major issue, probably is going to, probably is going to be a really switching to an ICP, which means a higher cost, and obviously also a lower rate of samples.

Number three, regarding what you mentioned that if you are going to be above the clearance level, and you are going to actually do abatement, and then you're going to pass the abatement, and it's going to be under three. But obviously like you mentioned, you still have a hazards in place, and then comes the question, and what you're gonna do, if you're gonna come up with one for example, one micro gram per square feet. Then you can probably gonna have to do some internal control, but you know, you cannot declare the area clean.

Another issue I have is regarding the RRP. RRP, as you know, they go by actually visual declaring the area clean, but using visual examination, with those cards, which it's impossible even today, with the levels today, it's impossible to declare that area clean, knowing that one gram of lead-based paint would contaminate, with the level today, 500 square feet. So if you go down to three, you are going to contaminate 1,666 square feet. So how is RRP going to declare that area clean? I don't know. And then finally the last thing that I have is, because we are involved with the abatement of course and clearances, is this really feasible for contractors to actually go down to those levels with the existing cleaning methods today? Thank you very much.

01:02:49.620 --> 01:03:53.010

Sarah Soliman, EPA: Thank you so much for your comments. I just wanted to just quickly interject. Just to let everyone know that the people who are making comments are the ones that registered and then confirmed with us. So if you have questions, or you think of something to share, we'll put the contact information back up again so you can submit those comments as well. I do see someone with their hand

up with no name, so I'm going to unmute you to see if you are one of our two missing speakers that we couldn't find a minute ago.

Ah, person with their hand up with the name NA? Okay, alright. Well, then, we are going to move on to our next speaker. And. Alright, Robert DeMalo, the floor is yours.

01:03:54.010 --> 01:05:42.070

Rob DeMalo: Well, thank you, Sarah. As you said, I'm Rob DeMalo, Vice President, Indoor Environmental Concepts, an industrial hygiene consulting firm here in New Jersey. I'm also a licensed lead inspector and risk assessor in the States of New Jersey and Pennsylvania. I also work for a national accredited lead lab for over twenty years. So based on that experience, my comments really echo a lot of the previous comments. I agree with them regarding the proposed hazard level, going to above any reported level, that is really going to be a challenge, both in the field and for the laboratories will, I think, yield a very inconsistent and confusing interpretation based on the field inspectors area sampled, and which laboratory they choose to submit their samples to based on the lab's analytical instrumentation they're utilizing and their method development studies. So we're going to have varying results and standards out there. With respect to the clearance levels, again, as previously stated, I think the proposed lower limits are going to be very difficult to achieve, and will require most labs to abandon flame atomic absorption spectroscopy, and go to more expensive, slower analytical technologies, such as ICP and ICP mass spec, which will at least triple the per sample unit cost, which will, I think, make it very difficult for more coverage for the sampling and the protection of the environment. Those are my comments, and I thank you for putting on this webinar.

01:05:45.670 --> 01:05:59.280

Sarah Soliman, EPA: Thank you so much, Rob. We appreciate your comments. Next we are going to have Ariana Makau. Again, I apologize if I'm butchering your name. But you are all set, and the floor is yours.

01:06:00.840 --> 01:09:07.399

Ariana Makau: Hello! This is Ariana Makau. That is correct. I am the President and principal conservator of Nzilani Glass Conservation based in Oakland, California. I also was the previous health and safety chair of Stained Glass Association of America, and our motto is be safe, have fun, do excellent work, and a lot of that has to do with the fact that the primary components of stained glass are lead came and glass, and I know I'm coming to this from a slightly different angle than a lot of the people who have commented before, and stained glass is a very small subsection of lead workers. But I think it's interesting and important to note that also, considering if we're thinking about kids who are six, and under being in a space, if you're thinking about churches and sometimes preschools, pre-k that are attached to churches, these requirements are going to be applicable to those locations as well, or repurposed churches as housing which has come to a fore.

I just have a few comments related to what has been presented. I would like to know, and I can put this in questions later, if stained glass companies were included in your survey. I also really like the idea of the abatement report, although it does take more work. We are really strong in documentation, so this is something that we include already in our work, not just the physical removal, restoration, and reinstallation of windows, but reporting so our clients understand what the processes were and what the exposure levels were, and then to what some of the other speakers have talked about. We are at the highest level of testing both and protecting our own people. I should also mention that I'm abatement and lead worker certified. And work with abatement, sorry asbestos, and lead worker certified, and we work with abatement companies. And in testing, it depends on what the materials are. So previous people talked about, can we even hit those levels if those are our goals? Thinking about porous sill materials, and floor materials such as cement or marble, going over and testing those again and again and cleaning them. I think it might have a detrimental effect of having people not even wanting to do testing, knowing that those materials are extremely hard to get down to a low level, and also thinking about the economic costs of testing, especially if you're a smaller stained-glass studio. Either you're going to go out of business, or again, detrimentally, just not even testing and having lower health and safety standards. I thank you very much for having this a meeting, and I look forward to hearing other comments. Thank you.

01:09:09.270 --> 01:09:18.240

Sarah Soliman, EPA: Thank you so much, Ariana. Next we are going to have Kelly. Kelly, you are all set, and the floor is yours.

01:09:18.390 --> 01:11:29.780

Kelly Lester: Great, thank you so much. My name is Kelly Lester. I'm an associate attorney with Earthjustice's toxic exposure and health program and Earthjustice in an environmental law firm. I wanted to say, thanks for hosting this webinar today, and we just have a few brief comments about the proposed rule. So, first of all, we're encouraged to see a proposal that recognizes that any level of lead is harmful to human health. In proposing to lower the hazard standards and the clearance levels, EPA is taking an important first step in addressing lead exposures that are faced by hundreds of thousands of young children all across the country. We also support the proposal to decouple the hazard and the clearance levels which complies with the Ninth Circuit Court of Appeals, 2021 order in a community voice versus EPA that was described earlier. This case was brought by Earthjustice's clients, and in it the court held that, setting the hazard level, EPA must consider only risks to health. While in setting the clearance level it can take into account reliability, effectiveness, and safety. And because the two levels are based on a different set of considerations, it makes sense that they are set at two different values in the proposal.

We do recognize that there may be some concern about the language hazard standard and clearance level, and some of those concerns you may hear today, but we would just caution that concerns about terminology are not about the substance of the proposed rule and terminology changes, like for example, renaming the clearance level to an action level, or removing the term standard in reference to

a hazard, are non-substantive changes that EPA can make in its final rule. In all, we think that EPA's proposal is an important step in protecting the public from lead exposure, and it also aligns with this administration's commitment to address lead exposure which often disproportionately burden communities of color and those living in low wealth households. So we do look forward to EPA finalizing a rule that recognizes that any level of lead is dangerous, and that sets the lowest clearance level that is feasible. Thank you.

Sarah Soliman, EPA: Thank you so much, Kelly. Next we have Kayla. Kayla, you are all good to go.

01:11:32.810 --> 01:13:11.990

Kayla Lesperance: Hello and thank you for having me. I work in Adams County, and that is a Health Department in Colorado as a local health department, and I am a risk inspector and I would like to encourage the EPA to partner with more state entities to create a clear training going forward. There's already differing action or clearance limits even now with State regulations and Federal regulations, so I think a more formal communication would be definitely helpful. I would also like to say that the EPA grants are already sort of hard to manage and report on and for lead hazard control, and I'd imagine how this will affect the application to grants in the future. If this were passed, and then I think that we would recommend working with lab analytics and ask for possible time increases or funding for labs to get the correct equipment. And then maybe you know, of course, interview the labs a little bit more before proposing this new rule, and adopting this new rule, and that's all I have to say. Thank you.

01:13:14.550 --> 01:13:22.389

Sarah Soliman, EPA: Thank you for your comments, Kayla. Next, we have Kenn White. Kenn, you are good to go.

01:13:24.630 --> 01:16:17.190

Kenn White: Thank you. I am Kenn White, from Virginia Beach, Virginia. I am the chair of ASTM International Subcommittee, D22.12 on sampling and analysis of lead for exposure and risk assessment. I am here to address the fact that the currently required method of testing for clearance on floors has only a 50/50 chance of determining an existing clearance failure. Research conducted by HUD as published in the cox paper showed this, and also showed that by collecting four composited single-wide samples, two from the perimeter of the room and two from a central area of the room, the process detected existing clearance failures greater than 90% of the time. As a result of this research, the subcommittee published two standards dealing with clearance. These internationally recognized American consensus standards are E3074, E3074M dealing with single-family dwellings, individual units in multi-family buildings and child-occupied facilities and E2271, E2271M, dealing with multi-family dwellings.

The subcommittee has also published a standard that should replace the existing aged EPA laboratory quality system requirements revision 3 of 5 November 2007. LQSR three is based on the withdrawn version of ISO IEC. 1725 dated 2005. Currently to achieve recognition under the EPA and NLLAP to perform lab analyses, labs must achieve conformance and accreditation to ISO IEC 1725 version 2017 requirements and to the aged LQSR V. three dated 2005. Dated 31 December 2021, ASTM E.1583, standard practice for evaluating laboratories, engaged in determination of lead in paint, dust, airborne particulates, and soil taken from and around buildings and related structures, is an internationally recognized American consensus standard, purposefully written, revised, and updated as a supplement to the current version of ISO IEC, 1725 for lead analyses. ASTM Subcommittee D 22.12 has published twenty-nine internationally recognized American consensus standards which, as required by the National Technology and Transfer Advancement Act of 1995 public law 104, 113, and by the twenty seven January, 2016 OMB Directive A119 should receive EPA special consideration during rulemaking. Thank you for the time.

01:16:20.210 --> 01:16:27.400

Sarah Soliman, EPA: Thank you so much, Kenn. Next, we have Eric. Eric, the floor is yours.

01:16:29.030 --> 01:18:58.379

Eric Oldroyd: Hello, everybody! Thank you for your time. Just a few quick comments. I know there was a reason you guys had to decouple the clearance level and hazard levels, I see the reason for that. But also, I think, the way they are, you know, that's going to be confusing for people, you know to understand that, you know, we're calling something a hazard that we're calling something clear at the end of a job. Um, and just kind of a question, or maybe I like, I say, I know we kept talking about abatement, but a lot of the HUD jobs and everything that we deal with, you know, we're also dealing with interim controls, and I assume these are kind of also the same thing, even though interim controls wasn't specifically mentioned that I saw. I assume these are also in that. Then I guess I see also as a bigger problem than the abatement project is the RRP program. As good as that, I think, as a first step, I think some of the things we need to address are more in the RRP side. You know, as far as at the end, you know, we're talking to clearances now. With the RRP, we're allowing the contractors to do their own clearance. You know, and not only their own clearance, but visually with a card. So we're over here on one side, debating these super low levels, but yet in the RRP we're saying, oh, just look at it, and it's going to be okay. So that, I think needs addressed, and also just with the testing numbers. These contractors to do with a wipe and say something is maybe not lead containing, you know, those kind of wipes that they're allowed, or they color change, you know, that they're allowed to use, you know, can really misled, that you know they may be doing a lot of work on something that's really lead, that it's not. So. I would encourage the EPA to go back to their RRP Rule also. You know, as they're doing this, which is great, I believe you know, to acknowledge that this is a danger, but you know, to see we also have, I think, very much lacking in the RRP realm, so I'll turn it back over, thanks.

01:19:02.680 --> 01:19:09.269

Sarah Soliman, EPA: Thank you so much, Eric. Next we have Jane Williams. Jane, the floor is yours.

01:19:13.310 --> 01:22:01.570

Jane Williams: Thank you. This is Jane Williams, I'm the Executive Director of California Communities Against Toxics, and we are a network of groups in California that work on a wide variety of different pollution related issues, especially as it is related to the protection of children and environmental health.

And we are very concerned about multi-generational exposures to lead. Here in East LA, we did a study called the tooth fairy study with the University of Southern California, where we examined the lead in children's teeth from exposure to wide varieties of different types of lead. And what we found is that almost a third of the lead in children is from their mothers. So essentially children are being poisoned in the womb where our lead is being scavenged along calcium to build the skeletal structures of the fetus. So we have a very different view of this. We understand that there are technological changes to the method detection limits. We know that our ability to detect compounds in the environment, in the air, in our own bodies, in the water and land are changing as we are having this hearing in this webinar.

But lead is such an incredibly dangerous exposure, especially to children. It has such wide sociological impacts, multi-generational sociological impacts that we want to advocate for the strongest possible protections that we can get now. And we really look forward to engaging in this process, and having, you know, working on our professional comments and the docket, working with the agency as the rulemaking process moves forward to get the strongest possible protections in place. It cannot be over emphasized that we are regulating other multi-generational toxins in the part per trillion range, and we are essentially regulating lead in the part per million range in soils and air. We need to drive down these detection limits, even if it does entail changes in technology.

So with that I thank you for the opportunity to make these comments today, and to discuss these very important issues, and just end by saying, we simply must drive detection limits as low as possible in order to protect future generations. Thank you.

01:22:03.990 --> 01:23:12.320

Sarah Soliman, EPA: Thank you so much, Jane, and thank you to all of our speakers today.

A huge thank you for everyone who very much kept to the time limit. We appreciate that. Since we do have some time left over, we are going to open it up to see if anyone else have some comments. A little caveat on that - right now, we are not really answering questions, however, we are keeping up the information for how you can submit a written comment, and we would also, yeah, if anyone would like to raise their hand.

We are going to ask you to still keep to the three minutes. I will cut you off because we want to get as many people as we can. If there are people that want to speak. So with that at the bottom you should see an option to raise your hand, and we'll give it a minute and see if anyone else wanted to make a comment. All right, so, Deborah, I am going to allow you to unmute, and the floor is yours.

01:23:13.280 --> 01:25:21.779

Deborah Brandt: Thank you for the opportunity to make a comment on this, and I understand that we're all being under the guise of the Ninth Circuit Court, where we have to change things to meet their standards. But one of the things that you asked about was whether or not there was any other health factors that should be taken care of, and that is the discussion about hormesis. I've never seen that discussion raised. That's one that Dr. John Doull who wrote the Toxicology Manual with Casarett raised, and that's never been discussed. Now there was a discussion of this with toxicology chief from EPA back when AIHC held a conference in San Diego, and they said, yeah, they recognize it, but it's just too easy to go with the zero, no threshold. The other thing is considering the legally defined conflict between the hazard and the clearance. How is that going to work for a lot of our contractors? Because I'm also a lead trainer, and have been for a long time since 1995, and most of our contractors are very concerned about this. When we started having the lowered limits, a lot of them left, and said, we don't do this. So I think we're heading into a lot of unintended consequences where a lot of our contractors are not going to be available. We've got communities that have lead hazard grants, they're having trouble finding contractors and part of the problem that I understand from talking to the grantees is that when HUD had those grants go out there wasn't a discussion of how many times it took them to reach a clearance. But did they reach a clearance? And some of these are going ten, fifteen, twenty times to try and reach clearance limits. So. I think we need to fall back and take a look at this, and thank you very much for allowing us to comment.

01:25:24.760 --> 01:25:49.030

Sarah Soliman, EPA: Thank you for your comments, Deborah. Ah, Carol, you are going to be next. I do just want to quickly mention, just as a reminder that yes, the PowerPoint and the recording, and everything will be available on the website. It usually takes just a little bit of time because we just kind of want to clean up the transcript and just and make sure everything's good. But we will be posting that.

And with that, Carol, you have the floor.

01:25:49.490 --> =01:27:10.489

Carol Gebhart: Hello, my name is Carol Gebhart, I'm the National Quality Manager for ALS Group USA. We're an environmental testing company who is an NLLAP- accredited. The proposed phrasing for the lower DLHS to any level greater than zero, and the DLCL of 3 µg/ft² on floors are problematic, due to measurement uncertainty. Considering that every result is actually y plus or minus x, where you have your y results, plus the x's that determine measurement uncertainty, these limits have to account for that influence. At what result is the influence of measurement uncertainty negated, and a valid blood exposure risk exists. This is where the DLHS should be established, then the DLCL should be above that again, based on the influence of measurement uncertainty. Consider the required testing procedure to define measurement noise, or method detection limit, and then calculate the limit of quantification and limit of reporting through analysis, method blanks, and spiked samples. For this reason an NLLAP accredited labs do not report results lower than the reporting limit. This means there is never a zero on reports. If an instrument generates a result lower than the reporting limit, as will happen, because

instruments always have a number output. The report will indicate the results as less than LOR, where LOR is the limit of reporting. Those results lower than the LOR are not reliable, due to measurement uncertainty, and should not be considered when making decisions around DLHS.

01:27:10.500 --> 01:27:22.100

Deborah Brandt: *[interruption] something she wrote to make a comment.*

Carol Gebhart: Sorry?

01:27:25.610 --> 01:27:28.620

Deborah Brandt: *[We do realize you now. The world's greatest-]*

01:27:28.890 --> 01:27:30.330

Sarah Soliman, EPA: Oh! I think someone is off mute.

01:27:30.460 --> 01:27:36.389

Carol Gebhart: Oh, is my time up?

01:27:42.689

Sarah Soliman, EPA: Oh, no, you're good, Carol, so I think someone else came off mute. Uh, yes, sorry, you can finish.

01:27:42.700 --> 01:29:03.649

Carol Gebhart: I was just going to say the greatest source of uncertainty will be the sampling process, especially the wipe use. ASTM E1792 requires that wipes have lead background levels less than five micrograms per wipe. This means that without considering other sources of Mu, the results recorded by any lab will already be at least that, uh plus or minus, because there are other variables that impact Mu. ASTM E1792 also requires the wipe seal, the recovery over rate of 80-120% from spiked samples. So there is a plus or minus 20% recovery error already allowed. This means variability and results will also be considerably higher than zero. Laboratories do not consider sampling uncertainty when establishing the LOR. This means that laboratory LOR will be a lower value than the actual M use of the laboratory LOR is only based on analysis. There will also be a difference between testing methods as atomic absorption has increased noise and uncertainty compared to ICP, which we've already heard about from a few others. Since the rule does not indicate different levels based on analysis technique, the testing method with a higher uncertainty must be used for establishing the DLHS and DLCL levels. Based on this

reasoning alone, this suggests that changes are unachievable without significant constant change to existing supplies instrumentation. Thank you for your time.

01:29:05.400 --> 01:29:12.030

Sarah Soliman, EPA: Thank you, Carol. Michelle, you are next. The floor is yours.

01:29:12.960 --> 01:30:55.609

Michelle DeGarmo: Thank you, Michelle DeGarmo, I'm the President of Flatly Read in upstate New York. We are both a training firm and a risk assessment firm. I'm speaking as both a risk assessor of 23 years and a HUD program administrator of 25 years and RRP, I want to echo that while RRP was a great step in the right direction as far as a national standard for non-HUD assisted units, one of the issues that I run into a lot on both the risk assessor side and the administrator side, is the workers who have taken the RRP training, but are not abatement professionals, do not know how to pass a clearance, and when I'm administering a HUD funded program, we do a lot of the interim control programs with homes, CBDG. Et cetera, and what we see is with the current lower standards, it is taking two to five tries for contractors who have taken RRP to pass their clearances. So while I applaud the EPA for trying to lower the standards, I think this is awesome, you should definitely take this into consideration with reference to public health. But I wonder if maybe the RRP curriculum could be addressed, even if we can't, even if the EPA can't take the step of requiring clearances in the public sector or the private sector for all work. Maybe you could redo the curriculum to spend a little more time on how to pass a clearance, because right now it is a very small part of the RRP curriculums. Thank you.

01:30:57.690 --> 01:31:36.520

Sarah Soliman, EPA: Thank you, Michelle. Next we have Adrian White. The floor is yours. Adrian, you can come off of mute. Okay? Well, let's see. Adrian, we will come back to you. Kristy, with your hand up, the floor is yours.

01:31:38.060 --> 01:32:42.529

Christie: Hi, I'm Kristy. I would be probably on the contractor realm of things compared to everyone else so far that I've spoken, and I think most everybody at some point have commented on this as well, but having clear training, would be extraordinarily helpful, but also having performed an abatement where these lower test results have actually been achieved. So that way, we know that it is actually achievable would be, I think, a step in the right direction of making everybody feel a little bit more comfortable with this actually going into an effective ruling, so that we know that it actually is achievable. And what type of testing was utilized after the abatement was performed. So that way we all have kind of a direction to work with in order to be able to make this effective and helpful for everybody. Thank you.

01:32:47.040 --> 01:32:53.749

Sarah Soliman, EPA: Thank you, Kristy. Next we have Christopher. Christopher, the floor is yours.

01:32:54.810 --> 01:33:29.919

Christopher Alonge: Ah, yes, I'm a senior engineer with New York State Dormitory Authority, and I would just like to mention that when it comes to clearance sampling, as well as clearance criteria, it should be a standard across programs, be it an abatement or renovation, as both disturb lead-based coatings and you really want clearance criteria to be consistent. And in addition to that, while RRP is a nice start, it would be nice if it actually applied to public and commercial buildings. But well, who knows when that'll ever happen. So that's my comments. Thank you.

01:33:33.980 --> 01:33:40.459

Sarah Soliman, EPA: Alright, thank you, Christopher. Next, we have Alex. Alex, the floor is yours.

01:33:42.480 --> 01:34:36.280

Alex de Mucha: Thanks, Sarah. My name is Alex de Mucha, I work on lead policy with the public interest, Environmental law group of Earthjustice. I'm based in Philadelphia, where exposure to lead is an enormous issue. I just want to recognize that the proposed levels that EPA put forth would be a big change, as many folks who work every day in abatement and in testing have outlined today. But EPA's own proposed rulemaking projects that significant reductions that this rulemaking would result in significant reductions in lead exposure, and those reductions are going to have a real impact on children's health, especially in low-income communities and communities of color facing the multi-generational effects of exposure. So that's the most important thing. And I hope that EPA will consider that and consider strategies to get levels as low as feasibly possible when they're finalizing this rule.

01:34:41.540 --> 01:34:56.290

Sarah Soliman, EPA: Thank you so much. Alright, let's see. I think that was all for our comments. So with that I am going to turn it back over to Claire.

01:34:59.600 --> 01:36:16.780

Claire Brisse, EPA: Thanks, Sarah and I just wanted to emphasize my thanks to everyone today, and just a friendly reminder that any written comments are due by, it's on the screen, but October 2, 2023. So we still have some time for folks to submit comments. I also just want to further emphasize, you'll see this when the slides go live on the internet, but, just that unit VII that has all our requests for comments, or like more specific request for comment information, and also some of the topics that were raised

today, there's some discussion and some dialogue in the preamble as well, especially revolving around some of the clearance concerns. So if folks have any additional comments on that front or specifics, in terms of you know, amounts or specifics about the laboratory feedback, or anything that we discussed today. we just welcome you to take a look at the rule. Reach out to me if you have additional thoughts or questions through my contact information, and to submit any other written comments by that deadline.

So huge thanks to everybody. We're really grateful for you all participating today. Thank you.

01:36:22.560 --> 01:36:31.039

Sarah Soliman, EPA: Alright. Thank you so much to everyone. And that concludes today's webinar. Thank you so much.