

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY
CHAPTER 110. LEAD-BASED PAINT MANAGEMENT**

Before the Air Quality Advisory Council on June 17, 2020
Before the Environmental Quality Board on September 15, 2020

RULE IMPACT STATEMENT

Subchapter 3. Definitions

252:110-3-1. [AMENDED]

Subchapter 5. Incorporation by Reference

252:110-5-1. [AMENDED]

Subchapter 9. Additional Accreditation Requirements

252:110-9-1.2. [NEW]

Subchapter 11. Additional LBP Certification Requirements

252:110-11-7.1. [NEW]

Subchapter 13. Additional Work Practice Standards

252:110-13-7. [NEW]

Subchapter 15. Additional Renovation, Repair, and Painting (RRP) Requirements

252:110-15-3.1. [NEW]

252:110-15-4. [AMENDED]

252:110-15-5. [AMENDED]

1. **DESCRIPTION:** The Department of Environmental Quality (Department or DEQ) is proposing to amend Oklahoma Administrative Code (OAC) 252:110, Lead-Based Paint Management, to update the incorporation by reference section, to include provisions to implement the military reciprocity bill (59 O.S., Section 4100, et seq., Military Service Occupation, Education, and Credentialing Act), to lower dust-lead hazard levels in compliance with recent changes to 40 C.F.R. Part 745, to update clearance levels in order to parallel the U.S. Environmental Protection Agency's dust-lead hazard changes and clearance levels already being used by the U.S. Department of Housing and Urban Development's Office of Healthy Homes and Lead Hazard Control, and to correct minor punctuation and grammar errors. The gist of the proposed rulemaking is to update the rule in accordance with recent changes to the federal lead-based paint (LBP) poisoning prevention requirements, and to provide reciprocity for active duty military service members and their spouses.
2. **CLASSES OF PERSONS AFFECTED:** Classes of persons affected by the proposed rule change are individuals and firms performing or offering to perform RRP activities for compensation in target housing and child-occupied facilities, as well as owners and occupants, especially children, of said housing and facilities. Training providers that seek accreditation to offer LBP activities and RRP training courses will also be affected. The proposed rule change would also affect LBP Contractors and firms conducting LBP activities in target housing and child-occupied facilities, as well as owners and occupants, especially children, of said housing and facilities. Military members and their spouses that wish to perform or offer to perform LBP activities or RRP activities following transfer or

discharge to Oklahoma will also be affected. In addition, accredited laboratories conducting wipe sample analyses will be affected.

3. **CLASSES OF PERSONS WHO WILL BEAR COSTS:** LBP Contractors will bear the cost to conduct lead hazard screens, cleaning of abatement sites, and clearances. Property owners may incur increased costs if said costs are passed through by the contractors. It is not expected that RRP Certified Renovators will bear any additional costs.
4. **INFORMATION ON COST IMPACTS FROM PRIVATE/PUBLIC ENTITIES:** The Department has received no information on cost impacts from private or public entities associated with the proposed rule.
5. **CLASSES OF PERSONS BENEFITTED:** Small children and families will experience the most benefit through protection from lead-based paint poisoning. Military and their spouses will benefit from the proposed reciprocity provisions.
6. **PROBABLE ECONOMIC IMPACT ON AFFECTED CLASSES OF PERSONS:** The Department anticipates no significant economic impact as a result of the proposed changes. To reach the revised clearance levels, minimal costs may be incurred by contractors and firms that perform LBP activities for compensation. Property owners may incur increased costs if said costs are passed through by the contractors. Rule changes will cause a positive economic impact for those individuals affected by the military reciprocity amendment, as the amendment includes fee waivers for certain applications.
7. **PROBABLE ECONOMIC IMPACT ON POLITICAL SUBDIVISIONS:** The Department anticipates no economic impact on political subdivisions as a result of this rule change.
8. **POTENTIAL ADVERSE EFFECT ON SMALL BUSINESS:** The Department anticipates minimal, if any, adverse effects on small businesses due to the potential for increased costs to the contractors that may or may not be passed on to property owners.
9. **LISTING OF ALL FEE CHANGES, INCLUDING A SEPARATE JUSTIFICATION FOR EACH FEE CHANGE:** No fee changes are included in the proposed amendment.
10. **PROBABLE COSTS AND BENEFITS TO DEQ TO IMPLEMENT AND ENFORCE:** The Department does not expect significant cost increases associated with implementing and enforcing the proposed revision to OAC 252:110. The Department and the citizens of Oklahoma will benefit from clarification of the requirements.
11. **PROBABLE COSTS AND BENEFITS TO OTHER AGENCIES TO IMPLEMENT AND ENFORCE:** There are none. No other agencies will be implementing or enforcing this rule.

- 12. SOURCE OF REVENUE TO BE USED TO IMPLEMENT AND ENFORCE RULE:** Federal grants and fees will continue to be used as the sources of revenue to implement and enforce the rule.
- 13. PROJECTED NET LOSS OR GAIN IN REVENUES FOR DEQ AND/OR OTHER AGENCIES, IF IT CAN BE PROJECTED:** The proposed revision should have little effect on net revenues for the Department and/or other agencies.
- 14. COOPERATION OF POLITICAL SUBDIVISIONS REQUIRED TO IMPLEMENT OR ENFORCE RULE:** Cooperation of political subdivisions will not be required to implement or enforce the rule.
- 15. EXPLANATION OF THE MEASURES THE DEQ TOOK TO MINIMIZE COMPLIANCE COSTS:** No measures were necessary to minimize compliance costs as the increase in compliance costs should be minimal.
- 16. DETERMINATION OF WHETHER THERE ARE LESS COSTLY OR NONREGULATORY OR LESS INTRUSIVE METHODS OF ACHIEVING THE PURPOSE OF THE PROPOSED RULE:** The Department has determined that there are no less costly or nonregulatory or less intrusive methods of achieving the purpose of the proposed rule.
- 17. DETERMINATION OF THE EFFECT ON PUBLIC HEALTH, SAFETY AND ENVIRONMENT:** The proposed rule should result in improved public health and safety for the citizens of Oklahoma, especially children. Updating state regulations to match federal dust-lead hazard levels and aligning lead clearance levels with the updated dust-lead hazard levels is intended to reduce the risk of exposure to LBP hazards.
- 18. IF THE PROPOSED RULE IS DESIGNED TO REDUCE SIGNIFICANT RISKS TO THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT, EXPLANATION OF THE NATURE OF THE RISK AND TO WHAT EXTENT THE PROPOSED RULE WILL REDUCE THE RISK:** Lead-based paint can cause a wide array of negative effects on multiple organ systems, most notable are the effects of lead-based paint in children under the age of six (6) years old who are still developing. The proposed rules would result in improved public health, safety, and protection of the environment by reducing the risk of exposure to lead-based paint hazards by lowering the hazard levels and clearance levels.
- 19. DETERMINATION OF ANY DETRIMENTAL EFFECT ON THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT IF THE PROPOSED RULE IS NOT IMPLEMENTED:** If certain provisions of the proposed rule are not implemented, the Department's delegation of the LBP program may be jeopardized. Those receiving grants through HUD's Office of Healthy Homes and Lead Hazard Control will still be required to meet the lower clearance levels. However, for those children in homes that do not have HUD-funded lead cleanup, the children may be adversely affected due to the possibility of

LBP Contractors exacerbating lead dust hazards. This may also cause an enforcement loophole if dust-lead hazard levels and clearance levels are not aligned.

- 20. PROBABLE QUANTITATIVE AND QUALITATIVE IMPACT ON BUSINESS ENTITIES (INCLUDE QUANTIFIABLE DATA WHERE POSSIBLE):** There will be minimal, if any, quantitative impact on business entities, since the proposed changes will better align state regulations with the current federal standards, and prevent LBP abatement workers/supervisors from creating a dust lead hazard. There will be a probable positive impact on the military and their spouses due to the reciprocity provisions.

THIS RULE IMPACT STATEMENT WAS PREPARED ON: May 15, 2020