

QUESTIONNAIRE
FOR FILING PROPOSED RULES WITH THE
ARKANSAS LEGISLATIVE COUNCIL

DEPARTMENT/AGENCY Arkansas Department of Health
DIVISION Center Public Health Practice, Epidemiology Branch
DIVISION DIRECTOR Center Director Shirley Louie
CONTACT PERSON Lori Simmons, Branch Chief
ADDRESS 4815 West Markham, Slot 16, Little Rock, AR 72205
PHONE NO. (501) 661-2936 **FAX NO.** _____ **E-MAIL** Lori.Simmons@arkansas.gov
NAME OF PRESENTER AT COMMITTEE MEETING Laura Shue, General Counsel
PRESENTER E-MAIL Laura.Shue@arkansas.gov; 501-661-2297

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this
- D. Rule" below.
- E. Submit two (2) copies of the Questionnaire and Financial Impact Statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Jessica C. Sutton
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201

1. What is the short title of this rule? RULES PERTAINING TO LEAD - BASED PAINT ACTIVITIES

2. What is the subject of the proposed rule? Lead-Based Paint Activities

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes No

If yes, please provide the federal rule, regulation, and/or statute citation.

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act?
Yes No
If yes, what is the effective date of the emergency rule? _____

When does the emergency rule expire? _____

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes No

5. Is this a new rule? Yes No If yes, please provide a brief summary explaining the rule.

Does this repeal an existing rule? Yes No If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule? Yes No If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."

Changes the clearance levels for lead in dust to meet industry standards.

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation.

§ 20-27-2501 et seq.

7. What is the purpose of this proposed rule? Why is it necessary?

Changes the clearance levels for lead in dust to meet industry standards.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).

<https://www.healthy.arkansas.gov/proposed-amendment-to-existing-rules>

9. Will a public hearing be held on this proposed rule? Yes No If yes, please complete the following:

Date: _____

Time: _____

Place: _____

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

08/06/2021

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

01/01/2022

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice. attached

13. Please provide proof of filing the rule with the Secretary of State as required pursuant to Ark. Code Ann. § 25-15-204(e). _____

14. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.

None

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Department of Health

DIVISION Center Public Health Practice, Epidemiology Branch

PERSON COMPLETING THIS STATEMENT Laura Shue, General Counsel 501-661-2297

TELEPHONE NO. (501) 661-2936 FAX NO. _____ EMAIL: Laura.Shue@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two (2) copies with the Questionnaire and proposed rules.

SHORT TITLE OF THIS RULE RULES PERTAINING TO LEAD - BASED PAINT ACTIVITIES

1. Does this proposed, amended, or repealed rule have a financial impact? Yes No

2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?
Yes No

3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If an agency is proposing a more costly rule, please state the following:

a) How the additional benefits of the more costly rule justify its additional cost;

b) The reason for adoption of the more costly rule;

c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and

d) Whether the reason is within the scope of the agency's statutory authority, and if so, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

Next Fiscal Year

General Revenue _____

General Revenue _____

Federal Funds _____

Federal Funds _____

Cash Funds _____

Cash Funds _____

Special Revenue _____

Special Revenue _____

Other (Identify) _____

Other (Identify) _____

Total \$ 0.00 _____

Total \$ 0.00 _____

b) What is the additional cost of the state rule?

Current Fiscal Year

Next Fiscal Year

General Revenue _____

General Revenue _____

Federal Funds _____

Federal Funds _____

Cash Funds _____

Cash Funds _____

Special Revenue _____

Special Revenue _____

Other (Identify) _____

Other (Identify) _____

Total \$ 0.00 _____

Total \$ 0.00 _____

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$ _____

\$ _____

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

Next Fiscal Year

\$ _____

\$ _____

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?
Yes No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

NOTICE OF PUBLIC HEARING

The Arkansas Department of Health will hold a public hearing on August 11, 2021 at 10:00 AM at the 4815 West Markham Street, Room 2508, at Little Rock, Arkansas, to allow interested persons to comment on the proposed adoption of Rules for the Arkansas Central Cancer Registry pursuant to Act 345 of 2021, An Act to Remove Barriers to the Release of Data in the Arkansas Central Cancer Registry to Qualified Cancer Researchers.

Copies of the proposed Rules will be available for public inspection and copying at the Health Statistics Branch, Arkansas Central Cancer Registry, Arkansas Department of Health, 4815 West Markham Street, Little Rock, Arkansas.

The public may submit written comments to: Abby Holt, Section Chief, Arkansas Department of Health, 4815 West Markham Street, Slot #7, Little Rock, Arkansas 72205-3867 no later than 9:00 a.m. on August 11, 2021.

This proposed amendment to the Arkansas Department of Health Rules pertaining to Lead-Based Paint changes the clearance levels for lead in dust to meet industry standards. This rule change amends the definition of “Dust-lead hazard” to mean a surface dust in a residential dwelling or child-occupied facility that contains a mass-per-area concentration of lead equal to or exceeding 10 µg/ft² (micrograms per square foot) on floors or 100 µg/ft² on interior windowsills based on wipe samples.

In December 2020, EPA announced a new action to better protect American children from the dangers of lead. The Final Rule lowers the clearance levels for the amount of lead that can remain in dust on floors and windowsills after lead removal activities. EPA’s new clearance levels are 10 micrograms (µg) of lead in dust per square foot (ft²) for floor dust and 100 µg/ft² for windowsill dust, lower than the previous levels of 40 µg/ft² for floor dust and 250 µg/ft² for windowsill dust. These new clearance levels will reduce lead dust-related risks to children in pre-1978 homes and childcare facilities where lead abatement activities take place. The EPA requires state’s update their Rules to reflect this change by January 1, 2022.

