





**1B. ODH not only has the authority but has a duty to ensure this registry is what it purports to be: “lead-safe”.**

ODH must have the authority to carry out the expressed intent of Ohio law, which requires, among other things, that “the director of health shall establish and maintain a lead-safe residential rental unit registry...” (ORC 3742.41(A)) and to put in place appropriate “standards and procedures to be followed when registering a residential rental unit on the lead-safe residential rental unit registry...” (ORC 3742.45(A)(6)). While these standards and procedures must be “based on information from the United States environmental protection agency” (ORC 3742.45(A)(6)), federal law is only the minimum, a floor – not a ceiling – which bars states from going below a particular standard. Ohio should not rely solely on the federal government to protect our children, but should also be guided by what research and best practice suggest to ensure adequate protections are in place.

As more recent data and research demonstrate, a lead-safe registry can only be achieved with an adequate assessment requiring dust wipe testing. The ODH director has not only been vested with the authority by our legislature to implement this directive but in fact, has a duty to “require reports and make inspections and investigations that the director considers necessary” (underline added) in carrying out the responsibilities of the office (ORC 3701.04(A)(1). ODH’s knowledge that “deteriorating lead-based paint is the most probable cause of elevated blood lead levels in people in the vast majority of ODH’s environmental assessments,” coupled with the serious harm caused to children by lead-poisoning, makes “necessary” that the inspection “to ensure that no dust hazards” remain in a rental property is one based on good science, specifically laboratory testing of any dust wipe sampling.

**RECOMMENDATION:**

81-01(G))

(OAC 3701-

**2A. Quality assurance is an essential component of ODH meeting its duty of establishing and maintaining a lead-safe registry but the proposed rule has no enforcement mechanisms in place.**

Quality control and enforcement are essential to maintaining the integrity of the registry. A 2016 review of regulatory policies aimed at reducing environmental hazards, including lead in residential units, found that

whether an owner “falsified any required records, failed to comply with any requirement of this Chapter or failed to maintain required records” consistent with OAC 3701-81-02(F).

Moreover, where a determination has nevertheless, somehow, been made finding an owner has failed to comply, or even worse, falsified documents under these rules, the current rule does not require any penalties or consequences. The lack of disincentives for breaking the rules, especially where the actions are intentional and where potential lead poisoning can occur, is poor policy. At a minimum, where records have been falsified, the property should be removed from the registry.

**RECOMMENDATION:**

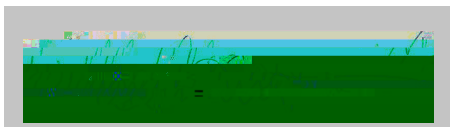
**2B. Quality control measures are needed specifically for addressing rental units on the lead-safe registry where a child who resides in that unit has been found to have elevated blood lead levels (between 5-9 micrograms per deciliter).**

Since 2012, the CDC has declared that there is no safe level of lead exposure, changing its recommendation to BLL  $\leq 5 \mu\text{g/dL}$  as the “reference level” at which children should be monitored.<sup>7</sup> Nevertheless, these proposed rules do not address what to do where a child residing in a rental unit on the registry is identified with elevated blood lead levels between 5-9 micrograms per deciliter. Instead, ODH should require appropriate action by removing – or suspending – the rental unit from the lead-safe registry until property owners can demonstrate through an adequate lead assessment that the property is lead-safe. This suspension from the registry should only be lifted once the unit is cleared through a full lead risk assessment or, at a minimum, an assessment that includes dust wipe testing. To do nothing is to ignore the reality that a lead poisoned child may continue to reside in a unit that is deemed “lead-safe” on the registry and that future children may also be at risk of lead poisoning.

**RECOMMENDATION:**

For all these reasons, we urge ODH to revise its proposed rules as recommended in order to achieve the best results for Ohio’s children, families and all taxpayers. The creation of this voluntary, lead-safe registry is an important step toward protecting children from potential harm caused by lead hazards, but only if it will be a reliable and accurate public resource. Thank you for your consideration of these comments and suggestions. Please know we are available should there be any questions or need for further information or assistance.

Respectfully,



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<sup>7</sup> Centers for Disease Control and Prevention. What do parents need to know to protect their children? Retrieved at: [https://www.cdc.gov/nceh/lead/acclpp/blood\\_lead\\_levels.htm](https://www.cdc.gov/nceh/lead/acclpp/blood_lead_levels.htm)