

Pursuant to the authority vested in the Commissioner of Health by Public Health Law sections 206(1)(n), 1370 and 1370-a, Subparts 67-1 and 67-3 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York are amended, to be effective October 1, 2019, to read as follows:

Subdivision (e) of section 67-1.1 is amended to read as follows:

(e) "Elevated blood lead level" means a blood lead concentration equal to or greater than [10] 5 micrograms per deciliter of whole blood.

Paragraphs (8) through (10) of subdivision (a) of section 67-1.2 are amended to read as follows:

(8) Primary health care providers shall provide or make reasonable efforts to ensure the provision of risk reduction education and nutritional counseling for each child with an elevated blood lead level equal to or greater than [10] 5 micrograms per deciliter of whole blood.

(9) Primary health care providers shall confirm blood lead levels equal to or greater than [10] 5 micrograms per deciliter of whole blood obtained on a capillary specimen from a child using a venous blood sample.

(10) For each child who has a confirmed blood lead level equal to or greater than [15] 5 micrograms per deciliter of whole blood, primary health care providers shall provide or make reasonable efforts to ensure the provision of a complete diagnostic evaluation; medical treatment, if necessary; and referral to the appropriate local or State health unit for environmental management. A complete diagnostic evaluation shall include at a minimum: a detailed lead

exposure assessment, a nutritional assessment including iron status, and a developmental screening.

Section 67-3.3 is repealed.

REGULATORY IMPACT STATEMENT

Statutory Authority:

Public Health Law (PHL) § 206 (1)(n) authorizes the Commissioner of Health to establish rules and regulations for the protection of the public health against lead poisoning. PHL § 1370 authorizes the New York State Department of Health (Department) to establish a blood lead level that constitutes an elevated lead level. As part of the New York State Fiscal Year (NYS FY) 2020 Enacted Budget, the Legislature amended PHL § 1370 to change the definition of “elevated lead levels” to a blood lead level equal to or greater than 5 micrograms per deciliter ($\mu\text{g}/\text{dL}$). PHL § 1370-a authorizes the Department to establish programs to prevent lead poisoning, including requirements for follow-up of children who have elevated blood lead levels.

Legislative Objective:

PHL sections 206(1)(n), 1370 and 1370-a charge the Department with regulating testing, reporting, follow-up and prevention of lead poisoning. This proposal implements that charge by updating the blood lead level that constitutes an elevated lead level, as well as the blood lead levels that trigger medical and environmental interventions, to reflect current understanding of the risks of lead poisoning to children and to meet the statutory mandate of the recently enacted amendment to the definition of “elevated lead level” in PHL § 1370.

Needs and Benefits:

Lead is a toxic metal that is harmful to human health if ingested or inhaled. Children under six years old are more likely to get lead poisoning than any other age group. Most often, children get

lead poisoning from breathing in or swallowing dust from old lead paint that gets on floors, window sills, hands, and toys. Children are at the greatest risk from lead exposure as scientists have linked lead exposure to reduced growth indicators; delayed puberty; lowered IQ; hyperactivity; attention, behavior, and learning problems; as well as other adverse health effects.

For these reasons, and to meet the statutory mandate of the recently enacted amendment to the definition of “elevated lead level” in PHL § 1370, the Department is proposing to change the definition of an elevated blood lead level from greater than or equal to 10 $\mu\text{g}/\text{dL}$, to greater than or equal to 5 $\mu\text{g}/\text{dL}$. This lowers the level at which primary health care providers must provide education and counseling on risk reduction and nutrition, complete a diagnostic evaluation, provide follow-up blood testing, and perform medical treatment and/or other activities. The local or State health departments must also ensure primary health care providers are performing the required activities and may assist with the delivery of these services, including providing education, counseling, and follow-up interventions.

Additionally, the Department is proposing to lower the level at which local or State health departments conduct environmental management activities to address lead sources, from a blood lead level greater than or equal to 15 $\mu\text{g}/\text{dL}$, to greater than or equal to 5 $\mu\text{g}/\text{dL}$. Environmental management activities include education, exposure assessment, inspection, and enforcement.

Compliance Costs:**Costs to Private Regulated Parties:**

The number of children with blood lead levels of 5 µg/dL or greater is larger than the number of children who have a blood lead level of 10 µg/dL or greater. Therefore, there will be an increase in the number of children (from approximately 3,000 children to an expected 18,200 per year) who will require education, counseling, diagnostic evaluation, and medical treatment from a primary health care provider. This will likely increase costs to the health care industry, including private and public insurers, as primary health care providers will likely bill for time spent providing education, counseling, diagnostic evaluation, and medical treatment to a greater number of children.

Also, lowering the blood lead level that triggers environmental management to 5 µg/dL will increase the number of properties that may need remediation to address lead exposures to children. Remediation actions may include replacing leaded components, covering lead paint with durable materials, removing lead paint, and stabilizing and maintaining defective lead paint. Since remediation can encompass a variety of different actions, the costs to an owner of a property that is determined, after an environmental investigation, to have condition(s) conducive to lead poisoning can range from approximately \$600 to \$10,000.

Costs to State Government and Local Government:

Current regulations require local and State health departments to implement measures to identify and provide case management for children with elevated blood lead levels. The number of children with blood lead levels of 5 µg/dL or greater is expected to be six times greater than the number of children with blood lead levels equal to or greater than 10 µg/dL, which will result in

a six-fold increase in the number of children in need of case coordination by local and State health departments. Case coordination typically includes ensuring primary health care providers are performing the required activities and assisting with the delivery of these services including providing education, counseling, and follow-up interventions at an estimated cost of \$713 per child. Because each county differs in population, the costs of the proposed amendment will vary by county.

In addition, lowering the blood lead level that triggers environmental management to 5 µg/dL will increase the number of environmental management activities that will need to be conducted by the local or State health departments. Environmental management activities include education, exposure assessment, inspection, and enforcement. The estimated number of children that may require environmental management activities is expected to increase statewide from approximately 1,100 to 18,200. It is estimated that local and State health departments spend \$2,123 per environmental investigation. However, as stated above, the costs to each local health department will depend on the number of children with elevated blood lead levels in each county.

Additionally, the State will fund a portion of the local health department costs through State Aid available pursuant to Article 6 of the Public Health Law. As part of the NYS FY 2020 Enacted Budget, approximately \$9,400,000 was invested to support local health department implementation of this proposal. In addition, approximately \$4,400,000 was invested to support costs to the State to implement this proposal.

Local Government Mandates:

Current regulations require the local and State health departments to implement measures to identify and provide case coordination to children with blood lead levels of 10 µg/dL or greater to ensure appropriate follow-up, and to provide environmental management activities for children with blood lead levels of 15 µg/dL or greater. The proposed amendments require that these services be provided to children with blood lead levels equal to 5 µg/dL or greater, which is a larger number of children.

Paperwork:

The proposed regulation will not impose any new paperwork. The current paperwork that is utilized when a child has an elevated blood lead level will continue to be used, however it is expected that there will be an increase in the volume of paperwork needed as the number of children with an elevated blood lead level will increase.

Duplication:

There will be no duplication of existing State or Federal regulations.

Alternatives:

No alternatives were considered with regard to changing the definition of an “elevated lead level” as this proposed regulation is a result of a statutory mandate. Additionally, no alternatives were considered for lowering the level at which primary health care providers must provide education and counseling on risk reduction and nutrition, complete a diagnostic evaluation,

provide follow-up blood testing, and perform medical treatment and/or other activities, as these activities occur when a child is determined to have an elevated lead level.

With regard to the blood lead level that triggers environmental management, leaving the blood lead level unchanged at 15 mcg/dL was considered. This option had the lowest associated cost but left a wide disparity in the number of children with blood lead levels considered elevated and those receiving environmental management. This option would result in approximately 16,200 children with an elevated blood lead level not receiving environmental management.

Another alternative that was considered was to provide environmental management at a blood lead level of 10 mcg/dL. This option would reach more children with an elevated blood lead level, but still results in approximately 13,500 children with an elevated blood lead level not receiving environmental management.

Consequently, lowering the blood lead level that requires environmental management activities to 5 mcg/dL was determined to be the most appropriate action. Matching the blood lead level that requires environmental management with the definition of an elevated blood lead level ensures that all children with an elevated blood lead level are receiving environmental management activities. Additionally, this change would harmonize State regulations with federal reference level as well as the activities and local requirements of a number of municipalities, standardizing responses across the State.

Federal Standards:

The Centers for Disease Control and Prevention currently has a recommended reference level of 5 µg/dL to identify if a child has an elevated blood lead level.

Compliance Schedule:

The proposed regulations will become effective October 1, 2019.

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REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESS AND LOCAL GOVERNMENTS

Effect on Small Business and Local Governments:

The proposed amendments will increase the number of children that have an elevated blood lead level (from approximately 3,000 children to an expected 18,200 per year). Therefore, primary health care providers will now be required to provide education, counseling, diagnostic evaluation, and medical treatment to a greater number of children. Many primary health care providers are small businesses.

The proposed amendments will also require local health departments to provide services at blood lead levels of 5 $\mu\text{g}/\text{dL}$ or greater, rather than 10 $\mu\text{g}/\text{dL}$ and 15 $\mu\text{g}/\text{dL}$ or greater, which will result in the local health department providing care coordination to a larger number of children, as well as conducting a greater number of environmental management activities.

Additionally, the proposed amendments will also affect small businesses that include landlords of residential rental properties, childcare facilities and any other small businesses where a child with an elevated blood lead level spends a significant amount of time. As a result of the anticipated increase in environmental investigations, more properties owned or leased by these small businesses will now be investigated by local health departments, and more small business owners will be required to remediate environmental lead hazards.

Compliance Requirements:

This proposal lowers the level at which primary health care providers must conduct education, counseling, diagnostic evaluation, and medical treatment, and at which local health departments must conduct care coordination, including ensuring primary health care providers are performing the required activities and assisting with the delivery of these services including providing education, counseling, and follow-up interventions. Similarly, it lowers the levels at which the local health departments must provide environmental management activities.

Reporting and Recordkeeping:

The proposed regulation will not impose any new reporting or paperwork. The current reporting and paperwork that is utilized when a child has an elevated blood lead level will continue to be used; however, it is expected that there will be an increase in the volume of reporting and paperwork needed as the number of children with an elevated blood lead level will increase.

Professional Services:

Some local health departments may hire additional professional staff to handle the increased number of children who require care coordination and environmental management activities, which may include nurses and lead risk assessors.

Compliance Costs:**Costs to Small Businesses:**

The number of children with blood lead levels of 5 µg/dL or greater is larger than the number of children who have a blood lead level of 10 µg/dL or greater. Therefore, there will be an increase in the number of children (from approximately 3,000 children to an expected 18,200 per year)

who will require education, counseling, diagnostic evaluation, and medical treatment. This will likely create increased costs to the health care industry.

Also, lowering the blood lead level that triggers environmental management to 5 µg/dL will increase the number of properties that may need remediation to address lead exposures to children. Remediations may include replacing leaded components, covering lead paint with durable materials, removing lead paint and stabilizing and maintaining defective lead paint. Since remediation can encompass a variety of different actions the costs to an owner of a property that is determined, after an environmental investigation, to have condition(s) conducive to lead poisoning can range from approximately \$600 to \$10,000.

Costs to Local Government:

Current regulations require local health departments to implement measures to identify and provide case management for children with elevated blood lead levels. The number of children with blood lead levels of 5 µg/dL or greater is expected to be six times greater than the number of children with blood lead levels equal to or greater than 10 µg/dL, which will result in a six-fold increase in the number of children in need of care coordination by local health departments. Case coordination typically includes ensuring primary health care providers are performing the required activities and assisting with the delivery of these services including providing education, counseling, and follow-up interventions at an estimated cost of \$713 per child. Because each county differs in population, the cost of the proposed amendment will vary by county.

In addition, lowering the blood lead level that triggers environmental management to 5 µg/dL will increase the number of environmental management activities that will need to be conducted by the local or state health departments. Environmental management activities include education, exposure assessment, inspection, and enforcement. The estimated number of children that may require environmental management activities would increase statewide from approximately 1,100 to 18,200. It is estimated that local health departments spend \$2,123 per environmental investigation. However, as stated above, the costs to each local health department will depend on the number of children with elevated blood lead levels in each county.

Additionally, the State will fund a portion of the local health department costs through State Aid pursuant to Article 6 of the Public Health Law. As part of the NYS FY 2020 Enacted Budget, approximately \$9,400,000 was invested to support local health department implementation of this proposal. In addition, approximately \$4,400,000 was invested to support costs to the State to implement this proposal.

Economic and Technological Feasibility:

Currently available technology is adequate to meet the proposal.

Minimizing Adverse Impact:

The State will be providing financial assistance, as stated above, to local governments to reduce the financial burden of this proposal.

Small Business and Local Government Participation:

Small business and local governments were consulted on this proposal. This proposal was included in the NYS FY 2020 Executive Budget. Additionally, the Department held a webinar to present the NYS FY 2020 Executive Budget proposals related to lead poisoning prevention to key stakeholders including members of the Advisory Council on Lead Poisoning Prevention as well as representatives of the New York State Association of County Health Officials, the Conference of Environmental Health Directors, Children's Environmental Health Centers of Excellence, Regional Lead Resource Centers, American Academy of Pediatrics, and the American College of Obstetricians and Gynecologists. The Department also convened the Advisory Council on Lead Poisoning Prevention, which was open to the public, to further discuss this proposal.

RURAL AREA FLEXIBILITY ANALYSIS

Types and Estimated Numbers of Rural Areas:

The proposed amendments apply uniformly throughout the state, including rural areas.

Compliance Requirements:

This proposal lowers the level at which primary health care providers, including those in rural areas, must conduct education, counseling, diagnostic evaluation, and medical treatment, and at which local health departments must conduct care coordination, including ensuring primary health care providers are performing the required activities and assisting with the delivery of these services including providing education, counseling, and follow-up interventions. Similarly, it lowers the levels at which the local health departments must provide environmental management activities.

Reporting and Recordkeeping:

The proposed regulation will not impose any new reporting or paperwork. The current reporting and paperwork that is utilized when a child has an elevated blood lead level will continue to be used; however, it is expected that there will be an increase in the volume of reporting and paperwork needed as the number of children with an elevated blood lead level will increase.

Professional Services:

Some rural local health departments may hire additional professional staff to handle the increased number of children who require follow-up and environmental management activities, which may include nurses and lead risk assessors.

Costs to Rural Private Regulated Parties:

The number of children with blood lead levels of 5 µg/dL or greater is larger than the number of children who have a blood lead level of 10 µg/dL or greater. Therefore, there will be an increase in the number of children (from approximately 3,000 children to an expected 18,200 per year) who will require education, counseling, diagnostic evaluation, and medical treatment. This will likely increase costs to the health care industry, including private and public insurers, as primary health care providers will likely bill for time spent providing services to a greater number of children who have an elevated blood lead level.

Also, lowering the blood lead level that triggers environmental management to 5 µg/dL will increase the number of properties that may need remediation to address lead exposures to children. Remediation may include replacing leaded components, covering lead paint with durable materials, removing lead paint and stabilizing and maintaining defective lead paint. Since remediation can encompass a variety of different actions the costs to an owner of a property that is determined, after an environmental investigation, to have condition(s) conducive to lead poisoning can range from approximately \$600 to \$10,000.

Costs to Rural Local Government:

Current regulations require local health departments to implement measures to identify and provide case management for children with elevated blood lead levels. The number of children with blood lead levels of 5 µg/dL or greater is expected to be six times greater than the number of children with blood lead levels equal to or greater than 10 µg/dL, which will result in a six-fold increase in the number of children in need of care coordination by local health departments.

Case coordination typically includes ensuring primary health care providers are performing the required activities and assisting with the delivery of these services including providing education, counseling, and follow-up interventions at an estimated cost of \$713 per child. Because each county differs in population, the costs of the proposed amendment will vary by county.

In addition, lowering the blood lead level that triggers environmental management to 5 µg/dL will increase the number of environmental management activities that will need to be conducted by the local or state health departments. Environmental management activities include education, exposure assessment, inspection, and enforcement. The estimated number of children that may require environmental management activities is expected to increase statewide from approximately 1,100 to 18,200. It is estimated that local and State health departments spend \$2,123 per environmental investigation. However, as stated above, the costs to each local health department will depend on the number of children with elevated blood lead levels in each county.

Additionally, the State will fund a portion of the local health department costs through State Aid, pursuant to Article 6 of the Public Health Law. As part of the NYS FY 2020 Enacted Budget, approximately \$9,400,000 was invested to support local health department implementation of this proposal. In addition, approximately \$4,400,000 was invested to support costs to the State to implement this proposal.

Economic and Technological Feasibility:

Currently available technology is adequate to meet the proposal.

Minimizing Adverse Impact:

The State will be providing financial assistance, as stated above, to local governments to reduce the financial burden of this proposal.

Rural Area Participation:

Small business and local governments were consulted on this proposal. This proposal was included in the NYS FY 2020 Executive Budget. Additionally, the Department held a webinar to present the NYS FY 2020 Executive Budget proposals related to lead poisoning prevention to key stakeholders including members of the Advisory Council on Lead Poisoning Prevention as well as representatives with New York State Association of County Health Officials, the Conference of Environmental Health Directors, Children's Environmental Health Centers of Excellence, and Regional Lead Resource Centers. The Department also convened the Advisory Council on Lead Poisoning Prevention, which was open to the public, to further discuss this proposal.

**STATEMENT IN LIEU OF
JOB IMPACT STATEMENT**

A Job Impact Statement for these amendments is not being submitted because it is apparent from the nature and purposes of the amendments that they will not have a substantial adverse impact on jobs and/or employment opportunities. The Department believes this regulation will have a positive impact on jobs.

ASSESSMENT OF PUBLIC COMMENT

The New York State Department of Health (Department) received 22 comment letters from stakeholders, including but not limited to counties, local health departments, housing and community advocacy groups, lead poisoning prevention advocacy groups, and members of the New York State Assembly, on the proposed rulemaking amending Part 67 of Title 10 of the New York State Codes, Rules and Regulations (NYCRR). These comments and the Department's responses are summarized below.

COMMENT: Several commenters stated that the Department's estimate of the cost of the proposed regulation do not reflect actual anticipated costs of the proposed regulation.

RESPONSE: The costs for county health departments were estimated at \$30 million, collectively. The Regulatory Impact Statement and Chapter 57 of the Laws of 2019 assume local investment to support this effort. This estimate was based upon the expected additional number of children that will require care coordination and environmental management on a statewide basis per year (based on statewide data from 2011 to 2015). The Department acknowledges that costs for each county will differ depending on population size.

The Department acknowledges that the proposed regulation will result in an increased number of children with elevated blood lead levels who will require confirmatory testing, education, counseling, diagnostic evaluation, and medical treatment, which will increase costs to the health care system, including private and public insurers. The majority of this cost will be to the State Medicaid program, as approximately 77% of children with elevated lead levels are enrolled in Medicaid. No changes to the regulation were made as a result of this comment.

COMMENT: Several commenters requested additional funding to support the proposed regulation.

RESPONSE: The New York State Fiscal Year 2019-2020 Enacted Budget provided \$9.4 million in General Public Health Work (GPHW) funding. The GPHW funding allows local health departments (LHDs) to seek State aid reimbursement for qualified expenses related to lead poison prevention, in the amount of 25% for New York City and 36% for all other counties. The Department is pursuing measures that will assist LHDs with implementation of the regulation, including:

- (1) developing a comprehensive prioritization tool for children with blood lead levels of 5 to < 15 µg/dL;
- (2) performing training and issuing guidance;
- (3) streamlining the training requirements for lead assessors and inspectors;
- (4) revising Lead Poisoning Prevention Program contracts to align with the regulation;
- (5) providing added flexibility in the existing contract for the Childhood Lead Poisoning Primary Prevention Program;
- (6) exploring shared services and equipment opportunities including the shared use of X-ray fluorescence equipment between LHDs and the Department; and
- (7) upgrading data collection tools and reporting systems including the development of electronic inspection forms.

No changes to the regulation were made as a result of this comment.

COMMENT: Commenters recommended the proposed regulation include an analysis of alternatives to implementing the statute, including the option of a phased-in approach based on county resources.

RESPONSE: Chapter 57 of the Laws of 2019 requires the Department, within 180 days of enactment, to adopt all necessary regulations to amend the definition of an elevated lead level to mean a blood lead level greater than or equal to 5 µg/dL, and to lower blood lead levels used in the Lead Poisoning Prevention Program. The intent of the legislation is to ensure children with elevated exposure to lead be provided services to promptly mitigate or reduce those exposures. Accordingly, a phased-in approach to implementation would not be consistent with the statute. No changes to the regulation were made as a result of this comment.

COMMENT: A commenter suggested the inclusion of a liability release for counties that do not meet the requirements of the regulation due to budgetary concerns.

RESPONSE: Chapter 57 of the Laws of 2019 amended the PHL to lower the lead level that constitutes an “elevated lead level.” Therefore, the LHDs must ensure compliance with the PHL and the regulation. Further, the Department does not have the authority to release counties from any liability. No changes to the regulation were made as a result of this comment.

COMMENT: Several commenters requested that the Department include an algorithm in the regulation to assist counties in prioritizing cases and to allow for the medical discharge of a child whose blood lead level remains over 5 µg/dl after medical and environmental interventions.

RESPONSE: The Department does not intend to incorporate an algorithm in the regulation to prioritize cases. However, the Department is developing a comprehensive prioritization tool for children with blood lead levels ≥ 5 and < 15 µg/dL. The tool will be provided as guidance to LHDs.

Additionally, the updated “NYS Guidelines for Health Care Providers for the Prevention, Identification, and Management of Lead Exposure in Children” states that medical discharge or case closure is recommended only after two consecutive confirmed blood lead tests below 5 µg/dL. No changes to the regulation were made as a result of this comment.

COMMENT: Commenters stated that the proposed regulation would result in a significant mid-year unbudgeted expense for local governments, and place a liability risk on local governments, if the local governments lack implementation resources. Several commenters requested a delay to the implementation date to allow counties time to prepare for implementation.

RESPONSE: Chapter 57 of the Laws of 2019 requires the Department to, within 180 days of enactment, adopt all necessary regulations to amend the definition of an elevated lead level to mean a blood lead level greater than or equal to 5 µg/dL and to lower blood lead levels used in the Lead Poisoning Prevention Program. As stated above, the Department is pursuing options to assist LHDs. No changes to the regulation were made as a result of this comment.

COMMENT: Commenters requested that the regulation be amended to require environmental management begin at 10 µg/dL to be consistent with the Centers for Disease Control and Prevention (CDC) recommendations, which considers available resources.

RESPONSE: The Department recognizes that a blood lead level of ≥ 5 µg/dL in children less than 6 years old may indicate an on-going environmental exposure. Intervention at the earliest point of exposure is imperative for a beneficial outcome. Therefore, the Department is proposing environmental intervention at a confirmed blood lead level of 5 µg/dL. No changes to the regulation were made as a result of this comment.

COMMENT: A commenter requested that section 67-1.2(7) and (8) be amended to remove the phrase “reasonable effort.”

RESPONSE: The Department will take this comment under advisement but believes this is the most appropriate standard at this time. No changes to the regulation were made as a result of this comment.

COMMENT: Commenters requested that the definition of “elevated blood lead level” be changed to reference the CDC’s “reference value.”

RESPONSE: Chapter 57 of the Laws of 2019 requires the Department, in consultation with the Advisory Council on Lead Poisoning Prevention, to make recommendations to the Governor and Legislature regarding actions the State should take if the CDC recommends a revised and lower reference level for blood lead than 5 µg/dL. No changes to the regulation were made as a result of this comment.

COMMENT: Commenters requested that the new definition of “elevated blood lead level” apply across all policies, including lead screening for pregnant women, which includes expanding the term “follow-up” in section 67-1.1(g) to include actions related to lead-exposed pregnant women.

RESPONSE: The Department will take this comment under advisement. No changes to the regulation were made as a result of this comment.

COMMENT: Commenters suggested that the definition of “environmental investigation” include an examination for specific sources of lead exposure where a child spends a significant amount of time, including exposure from paint, water, soil and other sources at home, daycare, school, and other places.

RESPONSE: The term “environmental investigation” is intentionally general and includes all sources of lead in environments where a child may spend significant time, so as not to exclude any potential exposures. The Department’s environmental management procedures and protocols describe environmental investigations in detail and require examination of all the sources of lead identified in the comments. No changes to the regulation were made as a result of this comment.

COMMENT: Several commenters urged the Department to continue to advance primary prevention practices and policies to identify lead hazards before children are exposed to lead.

RESPONSE: The Department agrees with this recommendation and will continue to pursue options to support primary prevention practices and policies. No changes to the regulation were made as a result of this comment.

COMMENT: Commenters suggested that the regulation be amended to require data collection of home addresses, residential tenure, and current source of health insurance, and to use this data collected to do timely analyses.

RESPONSE: The Department will take this comment under advisement. No changes to the regulation were made as a result of this comment.

COMMENT: A commenter states that school programs are not complying with the requirement that children must be tested for lead prior to starting school programs.

RESPONSE: The Department has developed resources for schools to use to evaluate the testing status of students. No changes to the regulation were made as a result of this comment.

COMMENT: Commenters suggested that the NYS Early Intervention (EI) regulations be amended to allow for a child with a blood lead level of 5 ug/dl or higher to qualify for EI services. A commenter also suggested that an elevated blood lead level should be viewed as a physical condition that has a high probability of resulting in a developmental delay.

RESPONSE: These comments are outside the scope of the proposed regulation. However, the Department will consider modifications to regulations for the EI program. No changes to the regulation were made as a result of this comment.

COMMENT: A commenter recommended that the cross reference in section 67-2.3 be changed from “67-1.2(a)(9)” to “67-1.2(a)(10).”

RESPONSE: The Department takes this comment under advisement for any future amendments to the regulation. No changes to the regulation were made as a result of this comment.

COMMENT: A commenter requested that the proposed regulation result in new designations of communities of concern based on the change in definition of “elevated blood lead level.”

RESPONSE: PHL section 1370-a contains specific requirements for designating communities of concern. No changes to the regulation were made as a result of this comment.

COMMENT: A commenter suggested that the Advisory Council on Lead Poisoning Prevention be strengthened to have a substantial role in lead poisoning policy formation.

RESPONSE: All recommendations and requests from the members of the Advisory Council on Lead Poisoning Prevention are considered by the Department. The Department is committed to ensuring that the Advisory Council fulfills its duties under the PHL. No changes to the regulation were made as a result of this comment.

COMMENT: A commenter requested that the State adopt a standard for environmental remediation of 10 ug/ft² for floors and 100 ug/ft² for windowsills, as the US Environmental Protection Agency (EPA) found these standards to be technically and practically feasible.

RESPONSE: The EPA recently released new hazard definitions for leaded dust in housing. These new standards apply in NYS. The Department will be referencing these standards into guidance documents for LHDs and District Offices. No changes to the regulation were made as a result of this comment.

COMMENT: A commenter suggested the State assume oversight of the Federal Contractor Program and the administration of the federal Renovations, Repair and Painting Program worker training and certification program.

RESPONSE: This comment is outside the scope of the proposed regulation. No changes to the regulation were made as a result of this comment.

COMMENT: A commenter recommended that residential property insurance policies be required to cover lead poisoning insurance.

RESPONSE: This comment is outside the scope of the proposed regulation. No changes to the regulation were made as a result of this comment.

COMMENT: Several commenters supported the proposed regulation due to the risks and costs associated with lead poisoning.

RESPONSE: These comments in support are noted by the Department.