



Helping Communities to Help Themselves



Lead Based Paint Hazard Law
League of Municipalities - Lunch and Learn

Lead AND ITS Associated Hazards



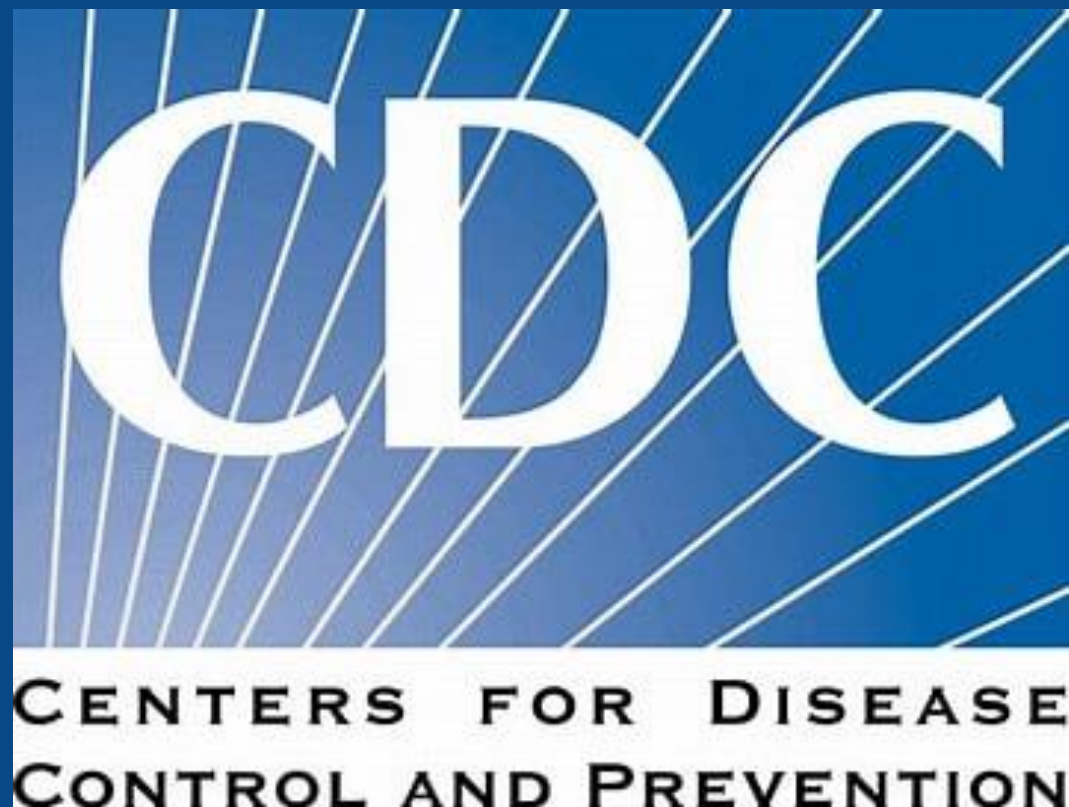
Lead is a naturally occurring element and heavy metal in our environment.

Historically, it was widely used in industrial processes and commercial products such as gasoline, paint, cosmetics, spices, and pottery.

Throughout the 20th century to the present day, lead's harmful effects on human physiological and behavioral health have become increasingly understood by public health experts.

Lead exposure happens when people encounter lead in their environment. This can be through old household paint, contaminated soil, or other sources. Exposure is determined by measuring the concentration of lead in a person's blood.

Lead AND ITS Associated Hazards



Lead exposure occurs when lead has been introduced into the bloodstream by ingestion or inhalation of lead dust. Our bodies cannot distinguish lead from other minerals, like iron or calcium, which our bodies need. Lead is then deposited in our organs as well as our brain and bone marrow.

The Centers for Disease Control (CDC) sets the threshold for elevated blood lead levels. Lead exposure can be of particular concern for children, because it can cause:

- Nervous system damage
- Kidney damage
- Learning disabilities like attention-deficit disorder
- Decreased intelligence
- Behavioral problems
- Speech and language problems
- Hearing damage
- Decreased muscle and bone growth
- Poor muscle coordination

Children under the age of six and pregnant women are at the highest risk for exposure. Any lead that a pregnant woman is exposed to transfers to the fetus and is present at birth, and small children have a high rate of hand-to-mouth contact.

Identifying Lead Based Hazards

Deteriorating lead-based paint (peeling, chipping, chalking, cracking, or damaged paint) is a hazard and needs immediate attention. It may also be a hazard when found on surfaces that get a lot of wear-and-tear, such as windows and windowsills, doors and door frames, stairs, railings, banisters, and porches.

Lead dust can form when lead-based paint is scraped, sanded, or heated. Dust also forms when painted surfaces bump or rub together. Lead chips and dust can reside on surfaces and objects that people touch. Settled dust can reenter the air when people vacuum, sweep, or walk through the affected area.

What is P.L. 2021, c.182?



- P.L.2021, c.182 is a law concerning certain lead-based paint hazards in residential rental property.
- The law imposes an obligation on municipalities to perform or hire a certified lead evaluation contractor to perform inspections of certain single-family, two-family, and multiple rental dwellings for lead-based paint hazards, at times specified within the law.
- A municipality shall permit dwelling owners/landlords to directly hire a certified lead evaluation contractor for this purpose. If lead-based paint hazards are identified, then the owner of the dwelling shall remediate the hazards through abatement or lead-based paint hazard control mechanisms.
- Individuals are certified as lead inspector/risk assessors, lead abatement workers, and lead abatement supervisors by the New Jersey Department of Health pursuant to their regulations at N.J.A.C. 8:62, adopted under the authority of N.J.S.A. 26:2Q-1, et seq. Information on the requirements for an individual to be certified may be found online at: <https://www.nj.gov/health/ceohs/lead/lead-workers-supervisors/>.
- Firms that perform lead evaluation or abatement services are certified by the Department of Community Affairs. Information about lead evaluation companies may be found online at: https://www.nj.gov/dca/divisions/codes/offices/leadhazard_abatement.html.

What is P.L. 2021, c.182?

Dwellings that must be inspected for lead-based paint hazards in accordance with P.L.2021, c.182:



- **Single-family rental dwellings**
- **Two-family rental dwellings**
- **Multiple rental dwellings**

Dwellings Exempt from Inspection

- Dwellings that were constructed during or after 1978.
- Dwellings that have been certified to be free of lead-based paint in accordance with regulations promulgated by the Department, N.J.A.C. 5:17-3.6(b).
- Dwellings with a valid lead-safe certification issued pursuant to this Law, which is valid for two years.
- Single-family and two-family seasonal rental dwellings which are rented for less than six-months duration each year by tenants that do not have consecutive lease renewals. This exemption does not apply to seasonal multiple dwellings.



Dwellings Exempt from Inspection Continued

- Multiple rental dwellings that have been registered with the Department of Community Affairs for at least ten years and have no outstanding lead violations from the most recent cyclical inspection performed on the multiple dwelling under the “Hotel and Multiple Dwelling Law.”
 - All multiple dwellings constructed prior to 1978 and registered with the Department for at least ten years that have a certificate of inspection issued by the Department of Community Affairs, Bureau of Housing Inspection, are exempt from this requirement.
 - A certificate of inspection means that there are no outstanding violations.
- A multiple dwelling that has been registered with the Department for at least ten years with an open inspection that has no violations for paint is also exempt from this requirement.
 - Open inspections means that inspections are ongoing to remediate violations during a cyclical inspection.
 - During the cyclical inspections, the Department cites paint violations rather than lead violations. In order to ensure periodic lead-based paint inspections occur where needed, any open paint violation in a dwelling unit will necessitate compliance with this Law.

Periodic Inspection - Responsibility

Municipal Inspector

In a municipality that maintains a permanent local agency for the purpose of conducting inspections and enforcing laws, ordinances, and regulations concerning buildings and structures, such agency is responsible for performing the required inspections.

Lead Evaluation Contractor

In a municipality that does not maintain a permanent local agency for the purpose of conducting inspections and enforcing laws, ordinances, and regulations concerning buildings and structures within the municipality, such municipality must hire a lead evaluation contractor to perform the required inspections.

Landlord or Owner Choice

Regardless of whether the municipality has a permanent local agency, if the landlord or owner so chooses, all municipalities must allow the dwelling owner or landlord to directly hire a certified lead evaluation contractor to perform the required inspection.

Periodic Inspection Procedure Deadline



- All rental dwelling units required to be inspected pursuant to P.L.2021, c.182 must be inspected for lead-based paint within two years of the effective date of the law, July 22, 2022, or upon tenant turnover, whichever is earlier
 - This means that the first inspection must take place no later than July 22, 2024.

Periodic Inspection Procedure

- For dwellings located in a municipality in which less than three percent of children tested, six years of age or younger, have a blood lead level greater than or equal to five micrograms per deciliter, the inspection may be carried out through visual inspection. However, these municipalities may elect to undertake dust wipe sampling,
- For dwellings located in a municipality in which at least three percent of children tested, six years of age or younger, have a blood lead level greater than or equal to five micrograms per deciliter, the inspection must be carried out through dust wipe sampling.

Inspection Timeline

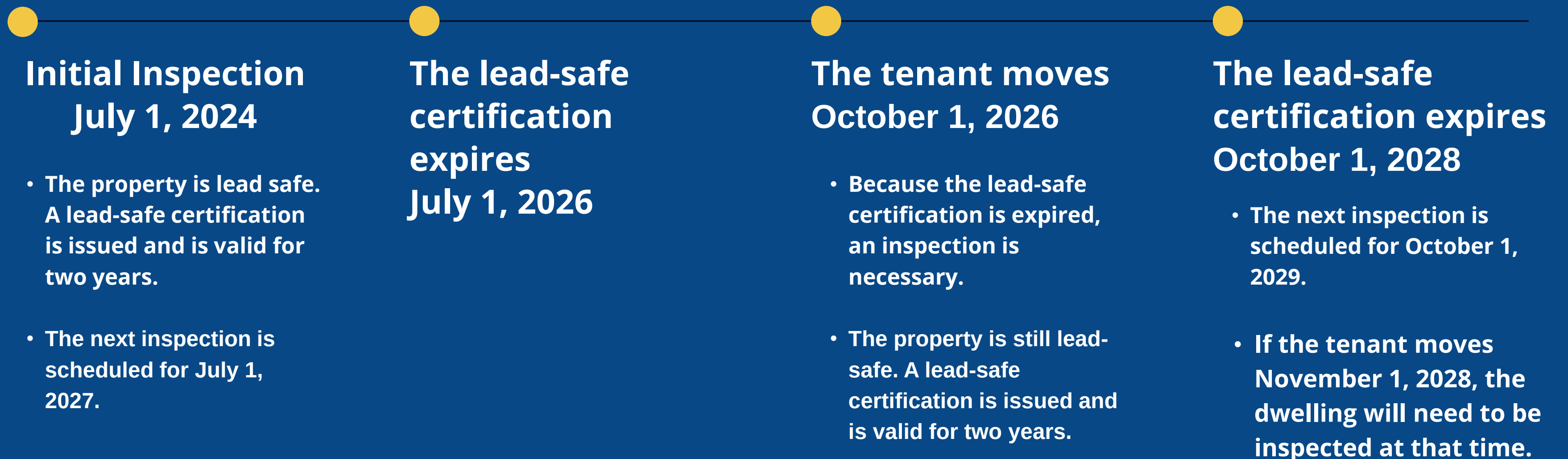


- For nonexempt units, after the initial inspection is conducted, units shall be inspected for lead-based paint hazards every three years, or upon tenant turnover, whichever is earlier.
- An inspection upon tenant turnover is not required if the owner has a valid lead-safe certification. Lead-safe certifications are valid for two years. Accordingly, if the lead-safe certification has expired, and there will be a tenant turnover, an inspection will be necessary before the three-year inspection.
- An inspection upon tenant turnover will reset the clock for the three-year inspection.

Inspection Timeline

A hypothetical timeline is provided below to demonstrate how this inspection cycle may be structured. For ease of use, this chart only addresses inspections where no lead-based paint hazards are found.

In all scenarios, the three-year inspection should be scheduled from the most recent inspection which resulted in a lead-safe certification.



Visual Inspections



- For municipalities that may perform visual assessments, the inspector should examine rental dwellings for deteriorated paint or visible surface dust, debris, or residue.
- Paint is deteriorated when it is peeling, chipping, chalking, or cracking. Tack and nail holes, small hairline cracks, and other surface imperfections may not be considered deteriorated paint.
- The inspector should look for deteriorated paint on all painted building components, especially any walls, window, or trim. Also, the inspector should look on surfaces that experience friction or impact. When two surfaces slide across each other or strike one another, the painted surface may become deteriorated. Examples of friction and impact surfaces are doors, windows, floors, and trim areas.
- The inspector should look for paint chips or dust from painting activities that were not cleaned up and paint residue on the floors, which could be a hazard for small children.

Dust Wipe Sampling

- Dust wipe sampling is collected by wiping a representative surface, including floors (both carpeted and uncarpeted), interior windowsills, and other similar surfaces, and testing in accordance with a method approved by HUD.
- These samples must be undertaken properly to ensure that results are accurate. N.J.A.C. 5:17 contains requirements for dust wipe sampling. In addition, Appendix 13.1 of the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing provides the protocol for sample collection.
- It is recommended that, where dust wipe sampling has been performed, a visual inspection also occur.



Fees for Inspection




In accordance with P.L. 2021, c.182, municipalities must charge the dwelling owner or landlord a fee sufficient to cover the cost of inspection. For municipalities that must hire a lead evaluation contractor to perform the inspection, the fee should include the cost of hiring the lead evaluation contractor.

In addition, each municipality must assess an additional fee of \$20 per unit inspected, which shall be deposited into the Lead Hazard Control Assistance Fund, unless the Department has already assessed this additional lead surcharge fee.

Periodic Inspection Results

NO LEAD BASED HAZARDS

- If it is determined upon inspection that no lead-based paint hazards exist in a dwelling, the lead evaluation contractor or local enforcing agency shall certify the dwelling unit as lead-safe.
- The lead-safe certification is valid for a period of two years.



The image shows a "LEAD - SAFE CERTIFICATE" form from the State of New Jersey. At the top center is the state seal. Below it, the title "LEAD - SAFE CERTIFICATE" is underlined. A paragraph of text certifies that a lead-based paint visual inspection and/or dust wipe sampling has been performed in accordance with N.J.A.C. 5:17, and that no lead-based paint hazards were found. It states that the owner is responsible for ongoing evaluation and maintenance. Below this, it says "This certificate is VALID FOR TWO YEARS." The form contains several fields for site information: "Site Address" (a long box), "Block" (a small box), and "Lot" (a small box). There is a field for "Applicable Dwelling Unit:" followed by a box and the text "(CERTIFICATE IS VALID FOR A DWELLING UNIT AND SHALL BE AFFIXED TO LEASE)". The form is divided into two sections by the word "OR" in red. The first section has fields for "Insp/RA Name" (with a signature line below), "NJDOH ID #", "Evaluation Contractor #:", "Phone", "Contractor Name:", and "Contractor Address:". The second section has fields for "Name of Municipal Inspector" (with a signature line below), "Signature", and "Date Issued (mm / dd / yyyy)".

Periodic Inspection Results

LEAD BASED PAINT HAZARDS ARE FOUND

- If lead-based paint hazards are found during an inspection, the owner of the dwelling unit must remediate the lead-based paint hazard by using lead-based paint hazard control methods (interim controls) or abatement.
- If lead-based paint hazards are found during the course of a visual assessment, the owner of a dwelling may elect to order a dust wipe inspection to confirm the presence of lead-based paint.



Remediation Work



- Remediation work must be performed by certified individuals in accordance with all applicable Federal and State regulations.
- The New Jersey Department of Community Affairs certifies firms that perform lead evaluation or abatement. Information may be found online at: https://www.nj.gov/dca/divisions/codes/offices/leadhazard_abatement.htm
- The New Jersey Department of Health licenses individual lead inspectors, risk assessors, and abatement workers. Information may be found online at: <https://www.nj.gov/health/ceohs/lead/lead-workers-supervisors/#4>.
- The United States Environmental Protection Agency (EPA) certifies Renovation, Repair, and Painting contractors. These firms are certified to perform renovation, repair, and painting projects that address lead-based paint in homes and childcare facilities. This work is often involved in interim control methods. Information may be found online at: <https://www.epa.gov/lead/lead-renovation-repair-and-painting-program>.

Interim Controls

- Interim Controls are measures designed to temporarily reduce human exposure to lead-based paint hazards.
- It is easiest and most appropriate to use interim controls when fixtures are structurally sound and lead exposure comes primarily from deteriorating paint and excessive levels of lead in household dust.
- Interim controls are also appropriate if the housing unit is slated for demolition or renovation within a few years, and the investment in more costly abatement is not merited. In many cases, resources will not be available to finance abatement, making interim controls the only feasible approach.



Interim Control Measures

Paint Stabilization

- All deteriorated paint on exterior surfaces should be stabilized in accordance with the HUD guidelines.

Making surfaces smooth and cleanable

- All surfaces, such as floors, stairs, and interior windowsills, that are rough, pitted, or porous should be made smooth and easy to clean.
- Minor surface damage may be correctable by spackling and recoating. Otherwise, it may necessary to cover or coat the surface with a material such as plastic, sheet vinyl, linoleum, etc.

Correcting dust-generating conditions

- HUD guidelines include the necessary measures for correcting dust-generating conditions.

Abatement



In certain cases, interim controls are unlikely to be effective, especially if the building has substantial structural defects or if interior or exterior walls, or major components, are seriously deteriorated or subject to excessive moisture. In these situations, abatement is more appropriate in addressing lead-based paint hazards.

Abatement Measures

Paint Removal

- This includes the removal of lead-based paint by mechanical methods.
- Examples include wet scraping, wet sanding methods, non-abrasive blasting, etc.

Building Component Replacement

- This includes the careful removal of any building component which contains a lead-based paint hazard.
- These new components cannot be brought into the working area until all dust-generating activity is completed and has been cleaned to ensure the new component does not become exposed to lead hazards.

Enclosure

- This includes enclosing lead-based paint hazards behind other materials.
- Drywall, fiberboard, or its functional equivalent may be used for interior wall enclosures; moisture-resistant greenboard must be used in damp areas.
- Old flooring must be covered with one-half inch or thicker plywood before any other floor covering is added.

Post-Remediation Inspection

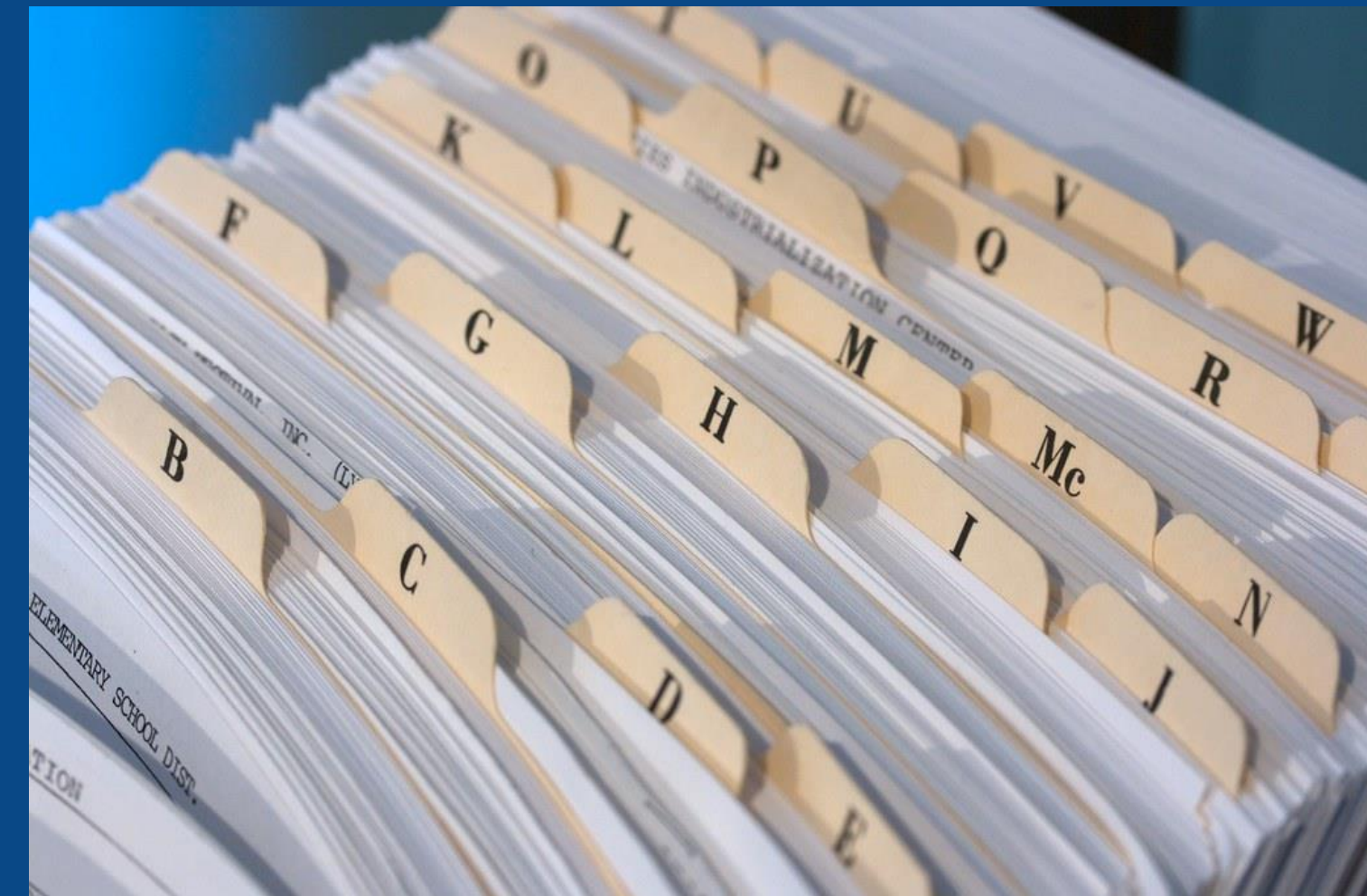


- After remediation has been completed, whether through interim controls or abatement, the municipality or lead evaluation contractor must perform an additional inspection within 60 days of the initial periodic lead-based paint inspection to ensure there are no further lead-based paint hazards.
- Upon conducting the reinspection in dwellings that have been remediated using interim controls, if no lead-based paint hazards are found, the municipality or inspector must certify the dwelling to be lead safe pursuant to P.L.2021, c.182.
- If the dwelling has been remediated using abatement, pursuant to N.J.A.C. 5:17-9.1, and a lead abatement clearance certification has been issued by the local enforcing agency, then the lead-free certification issued at the final clearance inspection shall exempt the dwelling from future inspections pursuant to P.L.2021, c.182.

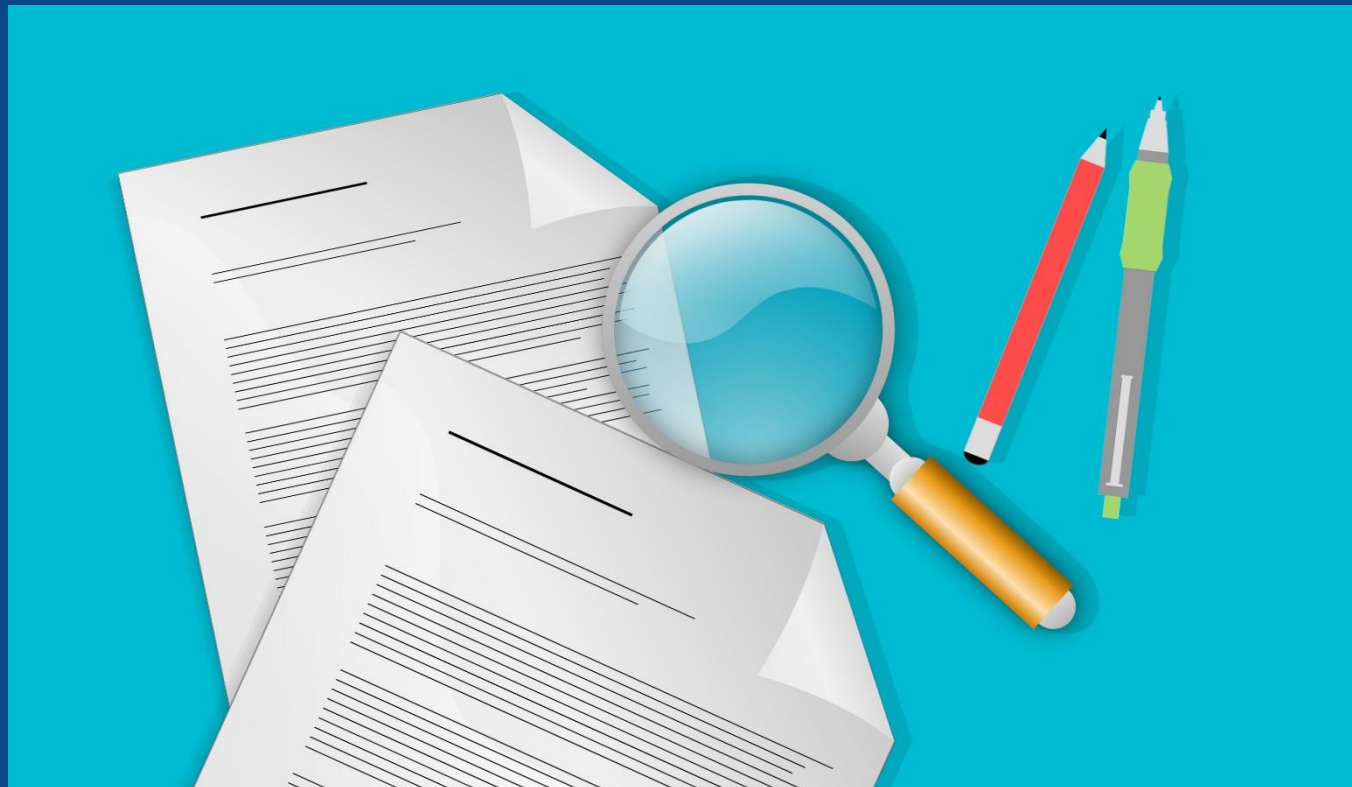
Record Keeping

Municipalities will be required to keep track of all rental dwellings subject to these requirements, their inspection schedule, and whether a lead-based paint hazard has been found.

In addition to the inspection schedule, municipalities must maintain a copy of any lead-safe certifications in their records for the property.

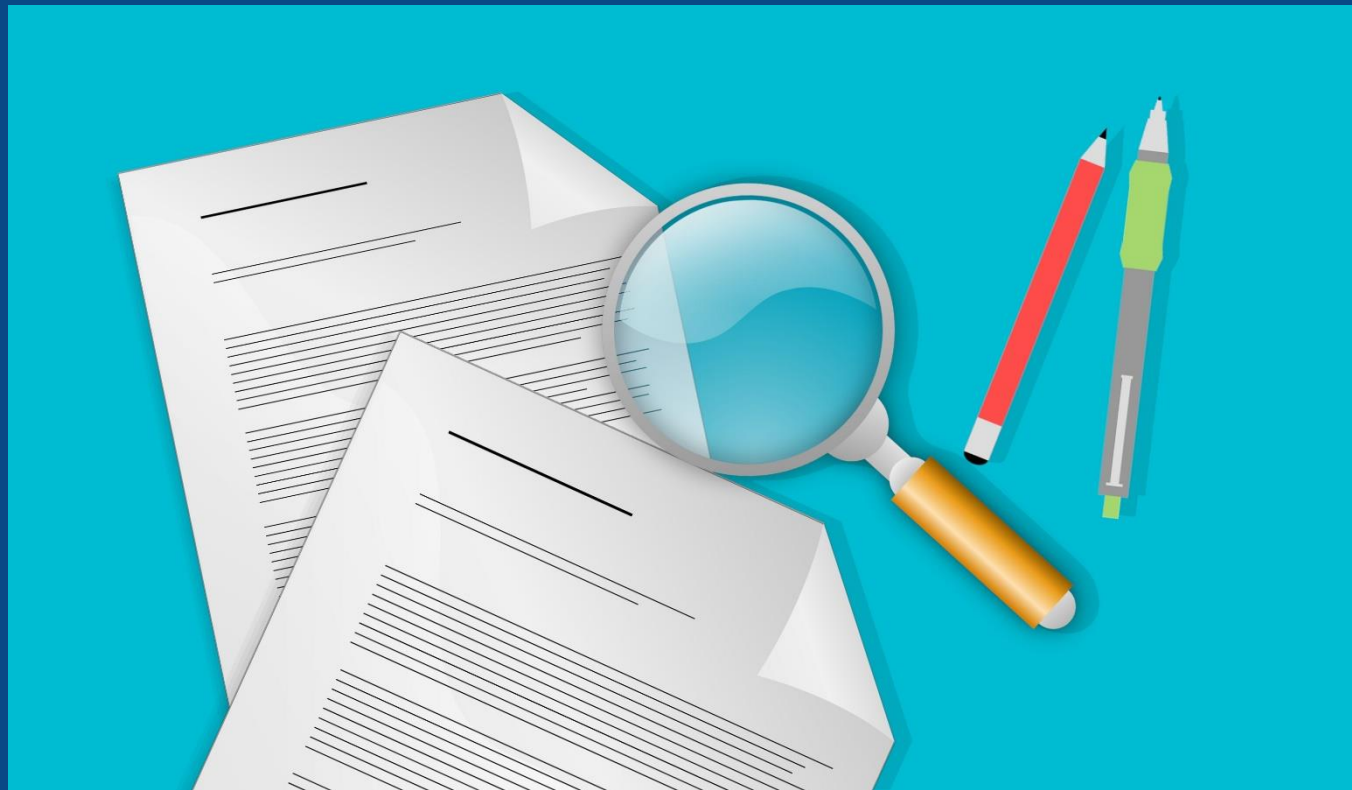


Investigations (Municipal)



- Municipalities are authorized to conduct investigations and issue penalties to enforce a property owner's failure to comply with the requirements of P.L.2021, c.182.
- If a municipality determines that a property owner has failed to comply with the requirements of this law, the property owner must be given 30 days to cure any violation by ordering the necessary inspection or by initiating remediation.
- If the dwelling owner has not cured the violation within 30 days, the owner shall be subject to a penalty not to exceed \$1,000 per week until the required inspection has been conducted or remediation efforts have been initiated. Remediation efforts are considered initiated when the owner has hired a lead abatement contractor or other qualified party to perform lead-hazard control methods.

Investigations Conducted by the Department



- When a complaint is filed with the Department of Community Affairs, or of the Commissioner's own accord, the Commissioner is authorized to conduct investigations and issue penalties against a municipality for its failure to comply with the requirements of P.L.2021, c.182.
- The Department will give the municipality a period of 30 days to undertake necessary inspections and provide proof in the form of valid lead-safe certifications or notification that lead-based paint hazards exist in a dwelling and remediation will be initiated.
- If the municipality has not cured the violation within 30 days, it shall be subject to a penalty not to exceed \$1,000 per week until the necessary action has been taken.

Questions?



Resources

Email Us: leadlaw21pl182@dca.nj.gov

HUD Guidelines for Lead-Based Paint Hazards in Housing

https://www.hud.gov/program_offices/healthy_homes/lbp/hudguidelines

EPA Lead Webpage (RRP info, Educational Materials, etc.)

<https://www.epa.gov/lead>

NJ Department of Health Lead Webpage

<https://www.nj.gov/health/ceohs/lead/>

DCA Lead Webpage

https://www.nj.gov/dca/divisions/codes/offices/leadhazard_abatement.html

