

DCA Webinar Series: Question and Answer

Questions on the Law

1. If regulations have not been adopted, how can it be enforceable already?
The law became effective on July 22, 2022; it was enforceable as of that date.
2. Can owners appeal the violations in the Construction Board of Appeals?
Because it is not a Uniform Construction Code matter, the violations would not be appealable to the Construction Board of Appeals.
3. Is there a state database of certified dwellings?
No; there is a database of multiple dwellings, some of which may be subject to the Law.
4. What local agencies, if any, were surveyed or consulted prior to adoption of this law? So, it could be established if local agencies feel that they could handle or enforce this regulation and all work associated with it.
The Department was not involved in the Legislative process and is not aware of what entities were consulted as part of this process. DCA will be holding a stakeholder meeting to discuss ways to help municipalities develop the tools to implement P.L.2021, c.182.
5. Why is the inspection cycle every three years if the lead-free certificate expires in two years?
Those timeframes were established by the legislature, and the Department is implementing that language. A lead-safe certification is good for two years no matter what happens with tenancy. After two years, property owners have to get a re-inspection if their tenant leaves. If the tenant doesn't leave after three years from the date of the certification, the property must be inspected, and a new lead-safe certification will be issued. Then the cycle starts over.
6. Since N.J.A.C. 5:10 Hotel and Multiple Dwelling regulations already contain lead regulations and DCA already has a staffed office and inspection force, how come this regulation wasn't put under their control, even if for just multiple dwellings?
The Legislature deemed that local municipalities would be responsible for performing inspections pursuant to the Law. Please note that multiple dwellings may be exempt from the inspection requirement pursuant to Section 1.c.(3) of P.L.2021, c.182.
7. If a property is completely gutted and renovated how does that property get exempted from the two-year certification.
Any property which undergoes renovation, and in the process of that renovation is certified to be lead-free, would be exempt from inspections pursuant to P.L.2021, c.182.
8. First inspection? Or is it all inspections completed by 2024?
P.L.2021, c.182 establishes a periodic inspection procedure. The language of the law requires that the initial inspection must be undertaken by July 22, 2024, or upon tenant turnover, whichever is earlier. After the initial inspection is performed, inspections must occur every three years, or upon tenant turnover, whichever is sooner. The only time an inspection upon tenant turnover is not needed is when the property has a valid lead-safe certification or if it is otherwise exempt pursuant to the Act.

9. There is a statutory exemption for multi-family dwellings who have passed their past two Bureau of Housing Inspections and received their registration certificate. Does the Bureau of Housing Inspection conduct lead hazard inspections during these cyclical inspections?

The Bureau of Housing Inspection conducts inspections for lead-safe maintenance in accordance with N.J.A.C. 5:01-6.6.

10. Although the certificate is good for 2 years, inspection is not required again until the 3-year anniversary of the previous inspection date? Is the gap in between the two dates (expiration of the certification after 2 years and 3-year inspection) considered to be in compliance?

Yes. A lead-safe certification is good for two years no matter what happens with tenancy. After two years, property owners have to get a re-inspection if their tenant leaves. If the tenant doesn't leave after three years from the date of the certification, the property must be inspected, and a new lead-safe certification will be issued. Then the cycle starts over.

11. When a certificate of occupancy is issued (where the inspection included a visual lead inspection) and no lead paint is visually seen, do we physically issue the three-year certificate that would then need to be reinspected every two-years? Still a bit confused about the three-year versus two-year terms.

Please refer page 13 to the guidance document, available online at <https://www.nj.gov/dca/divisions/codes/resources/leadpaint.html>.

The certification pursuant to this Law is a lead-safe certification. The certification is valid for two years; in that two-year period, dwellings are exempt from tenant turnover inspections.

This means that a lead-safe certification is good for two years no matter what happens with tenancy. After two years, property owners have to get a re-inspection if their tenant leaves. If the tenant doesn't leave after three years from the date of the certification, the property must be inspected, and a new lead-safe certification will be issued. Then the inspection cycle starts over.

12. Do you have template language for the ordinance change related to assessing the \$20 fee, plus any local charges?

The Department does not have a template ordinance for this Law at this time.

13. Who collects the \$20 fee if a contractor performs the inspection or if the landlord hires a contractor?

Whoever performs the inspection collects the fee and deposits it into the Lead Hazard Control Assistance Fund.

14. How often does the State fee of \$20 need to be sent to the State (monthly/quarterly)? Is there a form that accompanies the fee to the State? Mailing address?

This fee should be remitted monthly. Checks must be addressed to Treasurer, State of NJ and can be mailed to Department of Community Affairs, Lead Hazard Control Fund, PO Box 811, Trenton, NJ 08625. This payment should be mailed to the attention of the Division of Housing and Community Resources.

15. Will the new law include group homes for Special Need Individuals?

Group homes for Special Needs Individuals that meet the statutory definition for covered dwellings must be inspected pursuant to P.L.2021, c.182.

16. Who issues penalties and how?

Municipalities may issue penalties against property owners for failure to comply with the requirement of P.L.2021, c.182. The law established municipal authority to issue penalties and could be cited in any violation notice.

Similarly, the Department has the authority to issue penalties against municipalities for failure to comply with the law.

17. Who is ultimately responsible for collecting the \$20 Fee for the lead hazard control fund, the contractor doing the inspection or the municipality?

The municipality is responsible for collecting this fee and depositing it into the Lead Hazard Control Assistance Fund.

18. Is the \$20 fee required if the owner hires their own inspection service

Yes, the surcharge is still required and must be provided to the municipality.

19. Is the \$20 fee a DCA subsidy?

The surcharge must be deposited into the Lead Hazard Control Assistance Fund, which the Division of Housing and Community Resources may utilize to provide grant and loan opportunities.

20. Is the \$20 fee required after every inspection to DCA?

This fee should be remitted monthly. Checks must be addressed to Treasurer, State of NJ and can be mailed to Department of Community Affairs, Lead Hazard Control Fund, PO Box 811, Trenton, NJ 08625. This payment should be mailed to the attention of the Division of Housing and Community Resources.

21. Given the capacity challenges around enforcement of this new law, how will the DCA approach enforcement, especially with regard to Environmental Justice communities and the short window of 30 days to "cure?"

At this time, the Department is in the process of establishing enforcement protocols.

22. Does DCA have a template ordinance for these updates?

No model ordinance is available at this time, but municipalities may utilize the published Guidance Document, as well as the pending rulemaking, to understand the requirements of the Law.

23. Under the Law, what is the definition of a Permanent Local Agency?

A permanent local agency is a local, municipal agency maintained for the purpose of conducting inspections and enforcing laws, ordinances, and regulations concerning buildings and structures within its jurisdiction.

24. The proposed regulations have not been adopted yet. Is the comment period ongoing?

The public comment period ended on September 16, 2022, and the Department is undertaking the adoption process.

Questions on Tenants/Landlords/Owners

25. Who is responsible for maintaining a record of certification with tenant names? Landlord or testing company?

The municipality is responsible for maintaining a record of lead-safe certifications issued. This information must also be maintained by the landlord, along with tenant information.

26. For a sale of a one- or two-family dwelling, does the lead inspection occur as part of the CCO process for the sale or only if the new owner decides to rent the home out?

There is no inspection requirement for home sales pursuant to the Law.

27. Is the landlord responsible for paying the cost of the inspector? Does the Township have the company bill the landlord if the township hires the inspector?

The municipality is required to bill the landlord or property owner. The Law requires the municipality to establish fees to offset the cost of implementation of these requirements. This fee must include the cost of retaining a lead evaluation contractor, where necessary.

28. What happens if the landlord states that they want to take care of the inspection on their own, but then doesn't complete it by the deadline?

The proposed regulations allow for the municipality to prohibit a property owner from hiring a private lead evaluation contractor and instead receive an inspection conducted by the municipality's lead inspector in situations where the property owner has failed to have an inspection performed.

29. It may cost as much to do dust sampling as it costs to do a full Lead Inspection Risk Assessment. The DCA Lead Assistance Programs pay \$610 for a LIRA, which includes 8 dust samples and HUD approved hazard report. Would it not make the most sense for landlords to order a LIRA and control all hazards?

P.L.2021, c.182 does not require municipalities to perform a Lead Inspection/Risk Assessment, and property owners are not required to order a LI/RA; however, property owners may choose to have an LI/RA undertaken to satisfy the requirements of this law.

30. In a duplex, if one unit has a tenant turnover and fails, but the other unit has not yet had a tenant turnover, does it then need to be tested as well?

Yes, P.L.2021, c.182 requires the other unit to be inspected pursuant to Section 1.g(3).

31. The bill has money for assessment, remediation/abatement, and clearance. How do landlords access this money?

The Division of Housing and Community Resources will be making funding information available when the program is established.

Questions on Rentals

32. Would college suites and apartments be considered "seasonal rentals" as the students occupy the dwelling for less than 6 months in the 2022 Fall semester and less than 6 months for the 2023 Spring semester?

The exemption for seasonal rental dwellings contained within P.L.2021, c.182 only covers seasonal rentals which are rented for less than six months in a calendar year. As such, any college apartments or suites which are occupied for more than six months during the year must be inspected pursuant to the Law.

33. Is there registration that keeps track of single- and two-family homes that are rented?
The State does not keep track of these properties. Municipalities are required to maintain one- and two-unit rental dwelling information pursuant to N.J.A.C. 5:29.
34. Do you have sample letter that can be sent to all owners of rental dwellings about the law? Do you have a sample recording spreadsheet of info that municipalities should maintain?
No, there is no sample letter. Additionally, there is no record-keeping spreadsheet. However, municipalities are encouraged to provide all property owners a copy of the Department's guidance, available online at <https://www.nj.gov/dca/divisions/codes/resources/leadpaint.html>.
35. If a rental property owner chooses to use own inspector, who collects the \$20.00 for the state?
The municipality must collect the fee to be deposited into the Lead Hazard Control Assistance Fund. This should be done once results from the inspection are provided to the municipality by the lead evaluation contractor who performed the inspection.
36. Is a townhouse considered a single-family rental?
Yes.
37. How will inspections be completed in a municipality that does not perform rental inspections?
The municipality will have to appoint staff to perform these periodic lead-based paint inspections. This may be done through the use of shared services with other municipalities or county departments. Additionally, these municipalities may retain a lead evaluation contractor to perform these inspections.

Questions on Municipalities

38. Can a municipality simply adopt a local ordinance to make the homeowner have the inspection performed by a licensed lead evaluation contractor and then submit it to the municipality?
No. While the Law allows landlords/owners to hire their own lead evaluation contractors, it does not allow the municipality to require such.
39. Can municipalities enforce owners to hire their own evaluator? Or is it simply owner's choice?
No. It must be the owner's choice.
40. Can a municipality choose to hire a contractor if there is an agency that can perform the inspections?
No, the law requires municipalities that maintain a permanent local agency to perform the inspections. This may include the use of shared services agreements with other municipalities or county agencies.
41. Has a deadline been set for municipalities to establish inspection capabilities and record keeping measures to track compliance?
No deadline has been set for recordkeeping; however, the requirements of P.L.2021, c.182, are in effect as of July 22, 2022, and compliance is required.
42. Do you recommend/require municipalities to have an ordinance requiring the lead certification?

The Law does not require municipalities to adopt an ordinance for this Law, and the lead-safe certification is available online at

<https://www.nj.gov/dca/divisions/codes/resources/leadpaint.html>.

43. Does the person in the municipality have to be certified in checking the visual inspection?

Yes, the inspector performing visual assessments must complete the HUD visual assessment certification training, which is available online. The Department's guidance links the online training within its guidance document on Page 13,

<https://www.nj.gov/dca/divisions/codes/resources/leadpaint.html>.

44. How do municipalities get code enforcement officers who conduct housing inspections certified to do dust wipe sampling? Subchapter 2, item 4 states, "The municipality may appoint staff members to conduct periodic lead-based paint inspections."

The Department of Health is undertaking review of current training programs. This training is also available through a number of companies. Further, The Guidance Document contains links for relevant training through HUD, located on page 15.

45. Are we charging the municipality for not remediating a violation and not the landlord/owner of the building?

The Department has the authority to fine municipalities for not enforcing the regulations; municipalities have the authority to fine landlords/owners for not remediating hazards.

46. For a municipality with an inspection agency, is an inspector "employed" via a shared service agreement with another municipality considered "on staff?"

Yes; a shared service agreement constitutes a permanent local agency.

47. How does the township confirm that there are no open paint violations from DCA on multiple dwelling registered with the DCA? Does a township have a responsibility to keep records on these exempted units regardless of whether there are open violations?

This information is available on the Bureau of Housing Inspection's website through the DCA Service Portal, <https://www.nj.gov/dca/divisions/codes/offices/housinginspection.html>. In addition, any inspection results are provided to the owner of the multiple dwelling and must be made available upon request. The municipality is not required to maintain this information, but it should confirm inspection statuses with multiple dwellings located in the municipality.

48. Does the municipality have to hire an inspector/company and place on our appointment resolution, or do we just have to call and schedule if the landlord does not wish to do it themselves?

Property owners must contact the municipality to schedule an inspection upon tenant turnover.

49. Do the draft rules essentially mean that municipalities don't have to be concerned with multi-family dwelling units inspected by the state?

Municipalities will only need to inspect multiple dwellings that are inspected by the State if it has an outstanding paint violation.

50. Will municipalities issue certificate of occupancy for tenancy without lead-safe inspections until the municipality is set up to complete these inspections?

Tenant turnovers do not necessitate the issuance of a certificate of occupancy pursuant to the Uniform Construction Code, N.J.A.C. 5:23. Municipal ordinances may establish local certificates for tenant turnover, and the requirements of P.L.2021, c.182 apply upon the first tenant turnover or July 24, 2024, whichever is earlier.

51. If it is a visual inspection only town, do they still have to charge the \$20 fee for the state?

Yes, the \$20 surcharge fee is still required to be collected and deposited into the Lead Hazard Control Assistance Fund.

52. What happens if the municipality conducts an inspection, but the property owner doesn't pay the established fee?

This is an issue to be addressed by the municipality. The law does allow for municipalities to issue penalties to enforce a property owner's failure to comply with the law pursuant to N.J.S.A. 52:27D-437.19(b).

53. If a municipality performs home inspections prior to occupancy does the municipality have to do the inspections or does the health department?

The agency performing the inspection will vary from municipality to municipality; municipal or county health departments may be utilized, as well as building or housing departments, depending on the structure of the municipality. The Department encourages the use of Shared Services agreements to meet the inspection requirements.

54. Given state budget rules on tax levy and appropriation caps, and anticipation of revenues, how does the DCA expect municipalities to come up with the "front money" for administration, training, and hiring inspectors?

The attendant responsibilities stem from the legislation, which DCA is administering. This question is best addressed by the municipality's CFO or Business Administrator.

55. Do we need to create a brand-new scheduling system to build an entire database that details applicable units within our municipality where no change of occupancy occurs, in which we charge money for, and proactively inspect every two years as a standard rotating proactive schedule?

Municipalities will need records and inspection schedules to comply with this law; there is no set standard for what the recording and scheduling system must be.

56. Will there be any technical assistance from NJDCA to help municipalities develop their inventories of dwellings that require these inspections?

Municipalities are required to maintain inventories of these dwellings pursuant to N.J.A.C. 5:29. The Bureau of Housing Inspection maintains a list of all multiple dwelling units, which is available online through the DCA Service Portal at:
<https://www.nj.gov/dca/divisions/codes/offices/housinginspection.html>.

57. Does DCA need a copy of the lead-safe/lead-free certificate for their records, or should the municipality keep those?

The municipality must maintain the lead-safe certifications for their records. The Department may ask for copies of these records should there be a need to examine compliance information throughout municipalities.

58. Municipalities are concerned over liabilities having staff trained via the HUD visual training alone, can you provide more information?

Any concerns with municipal liability should be discussed with the municipal attorney. However, please note that any municipality may utilize dust wipe sampling as the inspection method.

59. Is there a template for the additional \$20.00 fee that municipalities must charge?

No, there is not.

60. Will financial support be provided to municipalities from either the bill's appropriation or the new ARPA funds?

The Division of Housing and Community Resources will be making funding information available when the program is established.

61. Who issues the fines? Construction Officials or do local judges issue the fines?

Whichever agency is responsible for performing inspections may issue the fines.

Questions on Inspectors

62. NJDOH states "Important: In order to perform lead inspections and risk assessment in NJ, certified lead Inspector/Risk Assessors must be employed by a Lead Evaluation Contractor licensed by the NJ Department of Community Affairs." Does this preclude my staff members from conducting the inspection since we need to do dust wipe sampling?

It does not; the NJDOH regulations apply in situations where a child has been confirmed to have an elevated blood lead level. In addition, DCA's regulations exempt municipal staff from the requirements for licensure within N.J.A.C. 5:17-2.1. In municipalities that must inspect via dust wipe sampling, HUD/EPA Dust Wipe Technician Certification is required for any inspector responsible for performing inspection pursuant to P.L.2021, c.182.

63. Is a building inspector, who is not a LIRA but is trained, either via the HUD visual paint assessment program or by a LIRA, to identify potential lead hazards, qualified to conduct these types of inspections?

Any municipal inspector performing inspections pursuant to P.L.2021, c.182, must undertake the appropriate training. For visual assessments, the HUD visual assessment certification is required; this training is available online, with the link available on page 13 of the Department's guidance document at <https://www.nj.gov/dca/divisions/codes/resources/leadpaint.html>. Dust wipe sampling requires HUD/EPA Dust Wipe Technician certification. A number of entities provide this training throughout the State. In addition, it is recommended that municipalities have a minimum of one staff who is certified as lead inspector/risk assessor, in accordance with Department of Health requirements within N.J.A.C. 8:62.

If the municipality is hiring a lead evaluation contractor, that contractor must be certified by the Department of Community Affairs pursuant to N.J.A.C. 5:17. Individual lead inspector/risk assessors must be certified by the Department of Health pursuant to N.J.A.C. 8:62.

64. Can a municipality hire a NJDOH lead certified inspector, or does it have to be a DCA evaluation contractor?

The law requires the municipality to retain a lead evaluation contractor licensed by the DCA. These contractors must employ a LI/RA licensed by DOH pursuant to the certification requirements in N.J.A.C. 5:17-2.3.

65. Can the landlord obtain the appropriate certifications to inspect or assess their own property or are they required to hire an outside firm?

The law does not allow for self-certification. Landlords are allowed to hire a lead evaluation contractor.

66. Since they are now being exposed to lead paint, what kind of PPE do inspectors need to wear? Who is buying the PPE, and what is the liability on the municipality since they are now sending workers into hazardous environments? If a worker gets sickness that is tied to lead paint, what happens? Are entry and exit physicals now required to get baseline medicals on the lead inspectors?

These matters should be addressed by the municipality.

67. Is there any plan for additional training from NJDCA and/or NJDOH for dust wipe technicians?

The Department of Health is undertaking review of current training programs. This training is also available through a number of companies.

68. The Department of Community Affairs certifies lead evaluation contractors. The Department of Health licenses individual lead inspectors/risk assessors. Is this correct? Can you explain this?

Yes, that is correct. DCA certifies the firms that perform lead evaluation and abatement work, and DOH licenses individual workers, including LI/RAs and lead abatement workers.

69. If a municipality employs a lead evaluation contractor, can the lead evaluation contractor's employee be certified via the EPA's Dust Wipe Sampling Technician course or are they required to be a NJ Inspector/Risk Assessor? Additionally, can an evaluation contractor's employee be certified via DWT if the contractor is employed by the property owner?

If a municipality employs a lead evaluation contractor, or if the property owner chooses to hire one, the lead evaluation contractor will appoint the appropriate staff to perform the inspection.

70. When you go to the HUD site for the visual training there is a note that says, "This course will not qualify you to perform clearance sampling or lead-based risk assessments." Does this training still allow us to perform the visual inspection required by this new law?

Yes, because the inspection required by P.L.2021, c.182, is not a lead inspection/risk assessment and is not a clearance test, the HUD visual assessment training is all that is needed for municipal inspectors to perform visual assessments in accordance with the Law.

71. Can an EPA inspector certified in New York perform the dust wipe inspection?

Whoever is performing the inspection must either be employed by a permanent local agency or by a lead evaluation contractor licensed by the DCA. Independent dust wipe technicians cannot provide the necessary inspection pursuant to P.L.2021, c.182.

72. Do you have a list of municipalities that can perform visual lead-based paint inspections once training has been received?

Yes, the municipal listing is available on the Department's website at <https://www.nj.gov/dca/divisions/codes/resources/leadpaint.html>. This website includes the inspection method for each municipality by county.

Questions on Inspections

73. Does EPA Lead Inspector/Risk Assessor qualify to conduct inspections?

Whoever is performing the inspection must either be employed by a permanent local agency or by a lead evaluation contractor licensed by the DCA. Independent dust wipe technicians cannot provide the necessary inspection pursuant to P.L.2021, c.182.

74. Does the lead paint return? If the initial inspection finds no lead, then why does it have to be done again in three years? Where are they getting new lead-based paint or how is lead based paint re-entering the structure?

Due to the nature of lead-based paint, deterioration and damage overtime can cause lead-based paint hazards to come to the surface, requiring the need for ongoing inspection on a periodic basis as described by the law.

75. Lead-safe is dust wipe inspection or visual?

Either a visual assessment or dust wipe inspection can result in a lead-safe certification. The method of inspection for each municipality is available online at <https://www.nj.gov/dca/divisions/codes/resources/leadpaint.html>.

76. What is a visual inspection and how does a visual inspection determine if lead-based paint is present? Isn't that something that only XRF or paint chip sampling can determine?

See Section 3.3.3, Visual Inspections, of the Department's Guidance Document, available online at <https://www.nj.gov/dca/divisions/codes/resources/leadpaint.html>.

77. Is chipped paint determined to be a "lead hazard" requiring remediation by a licensed contractor? For a visual inspection, is any deteriorated paint going to be automatically assumed to be leaded paint?

Yes, any deteriorated paint is a hazard and must be addressed.

78. Will there be definitions for deterioration? Is it a specific amount, or just any deterioration? For example, is one hairline crack in the paint due to lack of humidity in the winter considered a reason to fail an inspection and now requires remediation?

This information is included in the Department's guidance, available online at: <https://www.nj.gov/dca/divisions/codes/resources/leadpaint.html>. 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; there is some room for judgement involved in a visual assessment.

79. Are evaluations dust wipes or XRF?

The inspections are either a visual assessment or a dust wipe test depending on the municipality. The Law does not require the use of XRF machines.

80. Will DCA be issuing funds or reimbursements for dust wipes?

The Department is in the process of determining the appropriate use of funding pursuant to the Law.

81. How can dust wipe samples confirm if a painted component observed as having deteriorated paint does in fact have deteriorated lead paint? Wouldn't an XRF reading on that component have to be taken especially if the owner disputes that the component has lead paint?

Dust wipes are tested in a laboratory which provides the exact amount of lead present on the wipe.

82. Are follow-up inspections visual only?

The method of inspection depends on the DOH data on EBL cases in the municipality; this is available online at <https://www.nj.gov/dca/divisions/codes/resources/leadpaint.html>. Any inspections after a remediation has occurred must be a dust-wipe sampling.

83. Is there a particular uniform or gear that would be worn for these inspections?

No.

84. Are there any tools or templates that can be used to help track property inspections for when it's time for the lead test?

The Department does not currently maintain a database or provide a system for tracking properties.

85. Where do we get dust wipes?

See Section 3.3.4 of the Department's Guidance Document, available online at <https://www.nj.gov/dca/divisions/codes/resources/leadpaint.html>, which references HUD materials for dust wipe sampling.

86. For rentals that require dust wipe sampling. Must every room in the home be tested? And do both windowsills and floors need to be wipe sampled in every room?

Yes, floors and windowsills need to be tested throughout the entirety of the dwelling.

87. How many dust wipe samples should be taken?

See Section 3.3.4 of the Department's Guidance Document, available online at <https://www.nj.gov/dca/divisions/codes/resources/leadpaint.html>.

88. It appears to not include exterior paint, but where is the cutoff for building components like windows that have both interior and exterior components. If there is damaged paint would only the interior portion and trough of the window require interim controls or abatement? Similarly for doors, would the interior of the door and door jamb be included, but not the exterior of the door?

Only interior portions must be included for all building components.

89. What if a replacement window well dust wipe comes back positive?

If a clearance test is performed, and lead-based paint hazards still exist, then further remediation work must be undertaken to ensure lead-based paint hazards are appropriately addressed.

90. What is visual inspection fee cost?

This cost may vary from municipality to municipality. However, when establishing the cost, municipalities should take labor hours into account and consider other inspections currently included within municipal fee schedules.

91. Is the certificate used by lead testing companies or is it a municipal certificate (where can we find the NJ certificate for lead inspection companies?)

The lead-safe certification is available on the Department's website at <https://www.nj.gov/dca/divisions/codes/resources/leadpaint.html>. This certification is to be utilized by either the municipality or the lead evaluation contractor, whichever entity performed the inspection. Lead-free certifications are established and issued by lead abatement companies.

92. If lead inspector/risk assessors are going in and doing a visual assessment for damaged paint specifically, without the use of XRF on a surface-by-surface basis, how can we give them a lead-free certificate? By fixing only deteriorated paint, we are not assessing the presence of intact paint - therefore it's not lead-free

A lead-free certification is only issued as the result of a completed abatement project. A visual assessment that shows no damaged paint will only ever result in the two-year lead-safe certification.

93. What about friction and impact surfaces? Are we to assume all friction and impact surfaces are lead-based paint and a hazard?

Yes, any deterioration or damage to friction and impact surfaces would be considered a hazard.

94. I have collected samples from a floor in front of a door that was in intact condition, when tested with an XRF, it was found positive for lead-based paint, however, it failed lead-based paint wipe sampling on the floor directly in front of the door. So, a visual inspection in this case would not have caught the hazard of this friction surface. Was this considered when these requirements were established?

The Law established rules for periodic lead-based paint inspections which require either visual or dust-wipe sampling. It does not require the use of XRF testing. Lead-based paint is hazardous when it is not in intact condition.

95. There is an issue with landlords and realtors interpreting the law where a visual or lead dust inspection is required based on the central lead screening database. Often, they do not have the initial inspection report identifying where lead-based paints are located. At this point we need to perform an initial inspection or are we assuming all paint is lead-based paint?

The law requires an initial inspection by July 22, 2024, or upon tenant turnover, whichever is sooner. The type of inspection is determined based on the information from the Department of Health and available on DCA's website: <https://www.nj.gov/dca/divisions/codes/resources/leadpaint.html>.

96. Will water samples be incorporated into these inspections at some point to address drinking water as a source of lead in children?

This law is only applicable to lead-based paint; it does not take into account other sources of lead exposure.

97. When an owner refuses to allow the lead inspector inside, what's the recourse?

This is an issue that must be dealt with by the municipality. The law does allow for municipalities to issue penalties to enforce a property owner's failure to comply with the law pursuant to N.J.S.A. 52:27D-437.19(b).

Questions on Remediation Procedures

98. Who is a contractor on the lead-safe certification?

The lead-safe certification must be signed by a lead evaluation contractor (listed as contractor on the certification) or by a municipal inspector.

99. Can the abatement take place during occupancy, or must the unit remain vacant until the lead abatement is completed?

This determination is made by the lead abatement contractor.

100. Are permits required from the local construction departments if a lead abatement is performed? Do interim controls require a permit?

Abatement work requires a Uniform construction Code permit; interim controls do not.

101. Can the owner or landlord implement interim controls before an inspection? Can an owner and landlord do the interim controls themselves and do they need a RRP certification, or do they need to use a licensed contractor?

Landlords and tenants can use lead-safe maintenance practices in between inspections.

Information for lead-safe maintenance is available on the Department's website:

https://www.nj.gov/dca/divisions/codes/publications/pdf_bhi/leadsafe_maint_for_tenants.pdf.

Interim controls are only performed as a result of a lead-based paint inspection; RRP certification is not required for individuals performing work in their own unit. Any contractor utilized to perform interim controls would be required to be RRP certified.

102. Do lead-free certificates expire?

Lead-free certifications do not have an expiration. This is not to be confused with lead-safe certifications pursuant to P.L.2021, c.182, which are valid for two years.

103. What's the point of implementing interim controls?

Interim controls are often appropriate when the dwelling is structurally sound, and the only issue is deteriorating paint, because this allows for the issue to be addressed without the expense of an abatement.

104. Should interim controls really be appropriate for friction and impact surfaces (doors and windows).

It still can be appropriate where friction surfaces can be made smooth and cleanable, or where it can be repainted to prevent further damage.

105. Who determines when temporary or abatement measures are sufficient?

It is up to the owners whether to utilize interim controls or abatement; however, the inspector can give an opinion based on the extent of the damage.

106. If deteriorated paint is observed, it must be stabilized or abated. If deteriorated paint is abated the law says a lead-free certification shall be issued. How can a lead-free certification be issued in this case? What if there is other lead paint that was not identified as a hazard but may be a hazard in the future?

Pursuant to N.J.A.C. 5:17, to receive a lead-free certification, the entire dwelling will have to be abated; as such, there will not be a situation where there is lead-based paint present in the dwelling.

107. Is the lead abatement contractor allowed to give their own lead-free certification? Wouldn't they have to hire a third party?

No, abatements must be performed in accordance with N.J.A.C. 5:17, which requires clearance by a third-party.

108. Following RRP, will clearance be required?

Regardless of the remediation method utilized, dust wipe sampling is required for clearance for the project under this Law.

Miscellaneous

109. DCA has imposed the requirement for dust wipe sampling in Gloucester City, yet DCA registered multiple dwellings are exempt. Will the DCA be performing dust wipe sampling in Gloucester?

Municipalities are responsible for performing these inspections, either through their permanent local agency, shared services agreements. Any municipality required to inspect via dust wipe sampling must have staff trained in accordance with EPA/HUD dust wipe technician certification. Additionally, multiple dwellings which meet the requirements of Section 1.g(3) of the law are exempt from inspections pursuant to P.L.2021, c.182.

110. How are we to keep these records?

Municipalities will need records and inspection schedules to comply with this law; there is no set standard for what the recording and scheduling system must be.

111. Thus far, the whole presentation tells us WHAT a municipality must do, but no real guidance on how, or any assistance. This is another example of the state "solving" a problem by legislating – but in doing so passing the actual responsibility on to municipalities with no real guidance or assistance other than saying "you'll be fined if you don't do it." Will there be any technical assistance?

The Department has provided guidance to municipalities through these webinars, the guidance document available online at <https://www.nj.gov/dca/divisions/codes/resources/leadpaint.html>, and the proposed regulations, N.J.A.C. 5:28A.

112. Why aren't lead-safe certificates the standard. Why even entertain other certificates that expire and create never-ending work and more work years later. If this is going to be done, why not just make the building owners submit lead-safe certificates, document it once, and everyone moves forward?

The lead-safe certification is valid for a period of two years. While lead-free certifications would ensure that human exposure to lead-based paint hazards are resolved, lead-safe certifications also ensure that there is no human exposure to lead-based paint hazards in dwellings which may contain lead-based paint. This is not a permanent certification, because, due to the nature of lead-based paint, deterioration and damage overtime can cause lead-based paint hazards to come to the surface.