

# NC Balance of State CoC

Lead Safe Housing Rule Webinar:

ESG & HUD CoC-Funded Rapid Rehousing and Permanent Supportive Housing

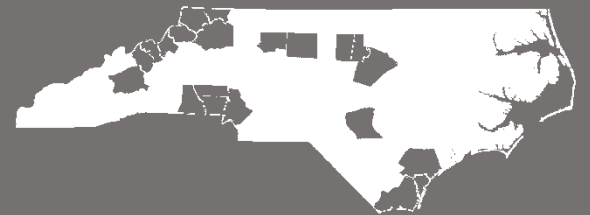
February 28, 2023

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**NC COALITION** to  
**HOMELESSNESS** end

# Agenda



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Concern with Lead and Lead-Based Paint



Lead Rules

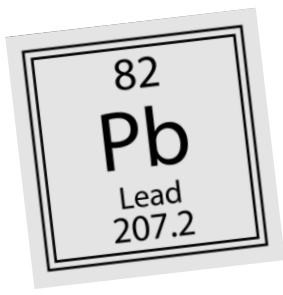


Exceptions to the Lead Safe Housing Rule



How to follow the Lead Safe Housing Rule





# Why is Lead a Concern?

Lead is a naturally occurring element and is used in manufactured products such as paint. It is considered unsafe in certain quantities.

People who are at High Risk of elevated exposure to lead:

1. Children under 6 years of age
  - Their bodies absorb more lead and more likely to accidentally ingest lead dust and paint chips – hand-to-mouth, crawling, eating paint chips, chewing on painted surfaces
  - Lead exposure impacts the body, reducing bone and muscle growth & impacting brain development. Lead can be a causal factor in hearing loss, learning disabilities, damage to organs, damage to the nervous system, and can cause anemia.
2. People who are pregnant
  - Can have an elevated blood lead level and expose a developing fetus
3. Certain workers
  - Construction, industrial workers

# Focus on Lead-Based Paint

- Paint or other surface coatings are considered lead-based if they contain lead equal to or exceeding 1 milligram/per square centimeter.
  - Some communities' standards are lower than this, so you have to check.
- Lead-Based Paint Hazards include:
  - Deteriorated lead-based paint
  - Dust with lead levels at or above the lead-dust standard, *the amount of which was reduced in January 2020.*
- Lead-Based Paint itself is not a hazard. It becomes a hazard when it **deteriorates**.
- Trigger Level of Lead:
  - HUD – 5 micrograms/deciliter of blood
  - CDC – 3.5 micrograms/deciliter of blood

# HUD's Lead Regulations – 24 CFR Part 35

1. Lead Disclosure Rule (effective March 1996): Applies to almost all housing, public & private built before January 1, 1978, when selling, renting, or leasing a unit.

- This includes renting or leasing a unit for Homelessness Prevention, Rapid Rehousing, and Permanent Supportive Housing.

2. Lead Safe Housing Rule (LSHR) (effective 2000): Applies to almost all federally assisted & federally-owned housing built before January 1, 1978. HUD established the LSHR to protect children.

- ESG and HUD CoC-funded HP, RRH, and PSH must follow Subpart M of the Lead Safe Housing Rule.



# Exceptions:

- Housing constructed after January 1, 1978: Lead-based paint was banned from production after this time.
- Housing constructed prior to January 1, 1978, proven, with documentation, to be lead-free by an inspection where *all* Lead-Based Paint has been identified, removed, & clearance achieved.
- 0-bedroom units/Single Room Occupancies because it is presumed children under 6 do not live there. *If this size of unit does include a child under the age of 6 or is expected to house a child under the age of 6, then the exception does not apply.*
- Housing specifically set aside for people who are elderly (62 years or older) or disabled. *If a child under 6 lives there or is expected to live there, then the exception does not apply.*



# You Must Document Exceptions

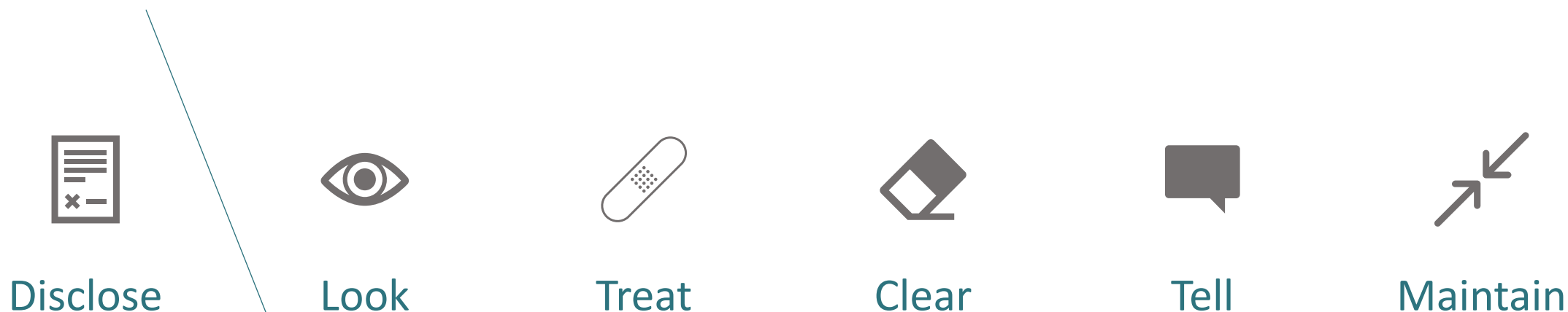
Grantees that meet an Exception *must provide documentation* that they have addressed the Lead Safe Housing Rule!

- If the housing unit was constructed after January 1, 1978, must have documentation showing that it was built after 1978.
- If the housing unit was constructed before 1978 & lead was abated from the property, must have documentation of the abatement, clearing the property of lead-based paint.
- 0-bedroom/SRO – document size of unit and no child in the household or not expected to become part of the household.
- If the housing unit built after 1987 only serves the elderly or disabled, with no chance of a child under the age of 6 living there, must document it only serves people who are elderly or disabled.





# Steps to Address the Lead Safe Housing Rule



These only apply if a child under the age of 6 lives in the unit or is expected to live in the unit.



# DISCLOSE

- Property owners of rental units are to disclose any known or unknown lead-based paint in units constructed prior to January 1, 1978. This disclosure is required regardless of whether there is a child under the age of 6 in the household or expected to be in the household. It must be signed before or at lease signing, not after.
  - [Sample Disclosure Form](#)
  - Or use language from this form in the lease.
- As a grantee, provide a Disclosure Pamphlet:  
[https://www.hud.gov/program\\_offices/healthy\\_homes/enforcement/disclosure](https://www.hud.gov/program_offices/healthy_homes/enforcement/disclosure)
  - The pamphlet is available in several other languages, just click on this link above.
  - Have clients sign a form indicating they received a Disclosure Pamphlet and understand what to do if they see deteriorated paint – notify the landlord.





- If there is a child under the age of 6 in the household or expected to be in the household, a **visual assessment** must be completed by a trained inspector who looks for deteriorated paint prior to move-in (incorporated into the disclosure), at unit turnover, or annually, whichever occurs sooner.
- Training is free at this link:  
<https://apps.hud.gov/offices/lead/training/visualassessment/h00101.htm>
  - Assign this task of visual assessment to the appropriate staff.
  - Have that staff person take the visual assessment training and become certified.
  - Keep a record of staff trained in visual assessment. At the completion of the training, it will provide a certificate. Keep this certificate in your project files.
- Visual Assessment Findings and Resolution Record Log (use photos):  
<https://files.hudexchange.info/resources/documents/LSHR-Visual-Assessments-Findings-Resolution.pdf>

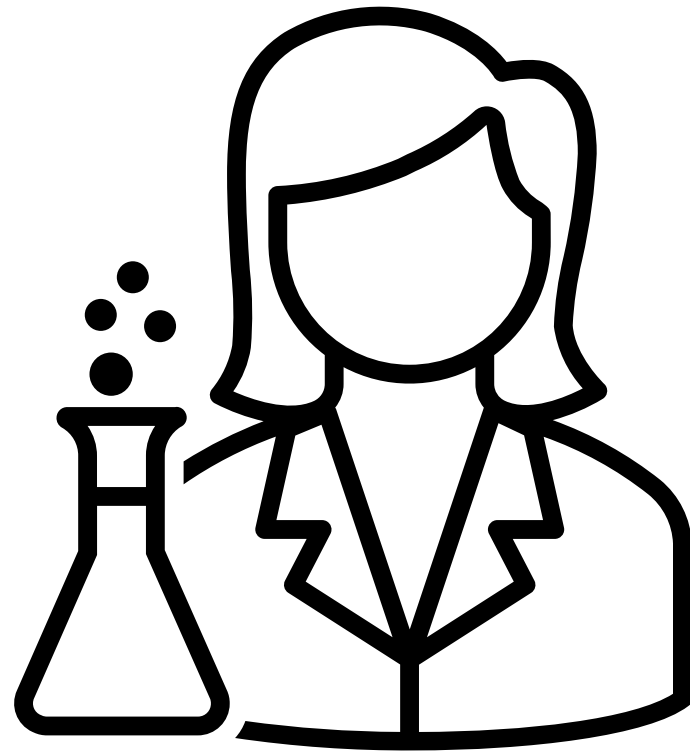
# Other Types of Exceptions:

- Maintenance the doesn't disturb painted surfaces – replace water heater, HVAC.
- When only disturbing De Minimus levels, then just have to follow lead-safe work practices. Must prove – use photos.
  - 2 square feet per interior space
  - 10% of small component type – woodwork (space not easily measured by sq. feet)
  - 20 square feet of exterior work
- Emergency Action – to protect life, health, safety, or structure.
  - *For example:* If a unit is damaged in a natural disaster (a hurricane causes a tree to fall on the roof leaving a giant hole where rain and cold air can get in) or a structural issue has occurred - a water leak) *and* these damages cause great risk to the property and ultimately people living in the unit. Can take emergency action, but need to follow lead rules for the repair. Must document. Use photos.
- Adverse Weather – For Example: Below freezing and exterior work is needed, can delay until above freezing



# Test

- After Visual Assessment, if there are findings - could test for Lead-Based Paint to determine if there is a need to **treat**.
- Testing must be done by a Certified Risk Assessor/Certified Lead Professional





# TREAT



If during the visual assessment, deteriorated paint is identified, it must be stabilized.

Paint Stabilization (removing the loose paint & other materials from the surface to be treated & repair any defects in the substrate or material below the surface of the paint (like drywall), applying a new coat of paint.

- a. Must use *qualified* contractors (trained and certified in EPA's Renovation, Repair & Painting Rule & follow Lead Safe Work Practices) for this work, if not at or below HUD's De Minimis levels.
- b. Identify contractors/companies so you can share them with the property owner when treatment needs to be done.
- c. Must provide residents with the [Renovate Right Brochure](#).
- d. Treatment can be done while clients remain housed or clients may need to be relocated.
- e. Possessions/furniture also have to be protected during treatment either in the unit or by being temporarily moved out of the unit.
  - a. Sample Form: [LSHR-Post-Work-Checklist-for-Lead-Hazard-Reduction-Activities.pdf](#)





# CLEAR

Clearance must be done by a 3<sup>rd</sup> party (not the same company that did the treatment). It must be performed by a Certified Risk Assessor, Lead-Based Paint Inspector or Certified Sampling Technician. Clearance can be performed by someone who did paint testing. You must keep documentation of their credentials in your project file.

- a. The person conducting clearance does a visual assessment to determine completion of the work; and
- b. They also gather a dust sampling processed by an accredited laboratory; must meet dust clearance levels. If it doesn't meet clearance levels, they have to re-clean &/or re-test.
- c. They provide a clearance report showing at or below dust clearance levels.
- d. Clearance report to be provided. Give a copy to clients and to the owner, grantee keeps this report in the client's file.





# TELL

Staff take information from the clearance report and put it in a Notice of Lead Hazard Reduction document and provide to clients and the owner within 15 days of work completion or achieving clearance.

- Sample Notice of Lead Hazard Reduction Form:  
<https://files.hudexchange.info/resources/documents/LSHR-Sample-Notice-of-Lead-Hazard-Reduction.pdf>

This work will trigger a new disclosure notice at lease renewal and documentation of the work attached to the updated disclosure notice.







# MAINTAIN

The owner is required to provide ongoing monitoring of units as part of their building operations to ensure the units are lead safe. Grantees must keep documentation of ongoing maintenance.

- a. Yearly or at unit tenant turnover, whichever happens first – grantee performs visual assessment & documentation that visual assessment was conducted by a trained and certified visual assessor.
- b. If hazards are identified, then owner must treat or stabilize the paint, and clearance must be achieved by someone trained in RRP.
- c. Owners need to provide written notice asking tenants to report deteriorated paint and any failure of treatment work done and tenants need to sign an acknowledgement.

# Interpretive Guidance

ACTIVITY	RESPONSIBLE PARTY
VISUAL ASSESSMENT – INITIAL and ANNUAL Inspections	Grantee
TREAT – Paint Stabilization	Property Owner
Clearance	Grantee
Notice of Clearance	Property Owner
Incorporation of ongoing lead-based paint maintenance into regular building operations.	Property Owner must perform the ongoing lead-based paint maintenance. Grantee must ensure that the property owner incorporates ongoing maintenance into regular building operations.



# Another Rule: Elevated Blood Lead Level (EBLL)

- Grantee must address the Elevated Blood Lead Level requirement (2017) through quarterly data sharing with the local Health Department:
  - Ask the Health Department for addresses of children that have been found to have an Elevated Blood Lead Level so you can compare those addresses with the units you are using for your program.

OR

- Share with the Health Department a list of addresses of units built prior to 1978 where you have children under 6 residing so they can match the units, to their list of reported children with an elevated blood-lead level.
- Keep this documentation in the program file.
- There are sample letters: <https://www.hudexchange.info/programs/lead-based-paint/lshr-toolkit/subpart-m/implement/>



# EBLL Response

Activity	Timing	Documentation	Owner	PHA/Grantee
Verification, when necessary	ASAP			✓
Initial notification of confirmed case to HUD OLHCHH, HUD FO & public health dept.	5 business days after verification		✓	
Environmental Investigation (may be done by public health dept.)	15 calendar days after verification			✓
Notification to residents	15 calendar days after results	Notice of evaluation	✓	
Lead hazard control on index unit	30 calendar days after EI result		✓	
Risk assessment and lead hazard control on other covered units	30-60 calendar days*		✓	
Clearance after work completed	30 calendar days after EI result 90 calendar days for > 20 units		✓	
Notification of clearance	10 business days to HUD FO 15 calendar days to residents	Notice of clearance	✓	
Notify HUD FO with documentation that activities are conducted	10 business days of deadline of each activity		✓	✓
Ongoing maintenance	Ongoing		✓	



[leadregulations@hud.gov](mailto:leadregulations@hud.gov)

- \* Risk assessments of other covered units must be conducted within
- 30 calendar days for a property with ≤ 20 other covered units
  - 60 calendar days for a property with > 20 other covered units

# Resources

Who is responsible? Owner or Grantee: [Program-Requirements-and-Responsible-Party.pdf](#)

Who Can Conduct What Work? [Lead-Based Paint Workers Handout \(hudexchange.info\)](#)

For Clearance: How to Find Certified Lead Dust Sampling Technician Firms: [Locate Certified Renovation and Lead Dust Sampling Technician Firms | Lead | US EPA](#)

How to Find Renovation, Repair and Painting: [Locate Certified Inspection, Risk Assessment, and Abatement Firms | Lead | US EPA](#)

N.C. Certified Lead Professionals: [NCDHHS - Search for Certified Lead Professionals](#)

HUD's Lead Safe Housing Rule Toolkit: <https://www.hudexchange.info/programs/lead-based-paint/lshr-toolkit/introduction/>

Document Checklist: [LSHR-Lead-Based-Paint-Document-Checklist-TBRA.pdf](#)

HUD Monitoring Tool: [HUD Monitoring Exhibit 24-3: Guide for Review of LBP - Using TBRA](#)



# Wrap Up

Any questions?

Keep in touch

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**NCCEH**