

SECTION .3100 - CHILDHOOD LEAD POISONING PREVENTION PROGRAM**.3101 DEFINITIONS**

As used in this article, unless the context requires otherwise:

- (1) "Inspection" is a surface by surface investigation to determine the presence of lead-based paint and may include dust and soil sampling and a report of the results.
- (2) "Risk assessment" is an on-site investigation of a residential housing unit to discover any lead-based paint hazards. A risk assessment includes:
 - (a) an investigation of the age, history, management, and maintenance of the residential housing unit;
 - (b) the number of children less than six years old and women of child-bearing potential who are residents;
 - (c) a visual assessment;
 - (d) limited environmental sampling; and
 - (e) preparation of a report identifying acceptable abatement, remediation, and interim control strategies based on specific conditions.
- (3) "Safe work practices" are methods used to avoid creating lead-based paint hazards during on-site work that disturbs paint that may contain lead. Such methods include:
 - (a) taking precautions to prevent the spread of lead-contaminated dust by limiting access to the work area to workers only until final cleanup is completed and by having workers remove protective clothing such as gloves and shoes before leaving the work area;
 - (b) covering the work area including doorways and sealing floors, closets, and cabinets with heavy duty polyethylene plastic secured with duct tape or the equivalent;
 - (c) For exterior surfaces, securing heavy duty polyethylene plastic on the ground from the foundation extending 10 feet beyond the perimeter of the work area;
 - (d) shutting off the heating, ventilation, and cooling system and covering heating, ventilation, and cooling registers with heavy duty polyethylene plastic secured with duct tape or the equivalent;
 - (e) protecting workers by providing necessary protective equipment, training, and cleanup equipment and by not allowing eating, drinking, chewing gum or tobacco, or smoking in the work area;
 - (f) protecting occupants which may include temporary relocation as necessary;
 - (g) protecting occupants' belongings by covering with heavy duty polyethylene plastic secured with duct tape or the equivalent or by removing them from the work area;
 - (h) misting interior painted surfaces before disturbing and hand scraping all loose paint, wallpaper, and plaster;
 - (i) wet sweeping and collecting and containing visible debris and plastic sheeting in a secure container;
 - (j) performing specialized cleaning upon completion of work to remove residual dust and debris;
 - (k) removing all materials, tools, and contained debris from the work area and the residential housing unit upon completion of maintenance activities; and
 - (l) avoiding unsafe practices, including prohibited methods listed in G.S. 130A-131.9C(g).
- (4) "Specialized cleaning" is the use of cleaning protocols that have been shown to be effective in removing lead-contaminated dust as specified by the U.S. Department of Housing and Urban Development in the Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing and any updates and revisions.
- (5) "Visual inspection" is an on-site investigation by a certified lead inspector or a certified lead risk assessor to determine the completion of abatement, remediation, and maintenance standard activities. A visual inspection shall include paint, dust, or soil sampling, and a notification of the results.

History Note: Authority G.S. 130A-131.5; 130A-131.7; 130A-131.8; 130A-131.9A;
Eff. October 1, 1990;
Transferred and Recodified from 15A NCAC 19I .0101 Eff. August 28, 1991;
Transferred and Recodified from 15A NCAC 21E .0401 Eff. February 18, 1992;
Amended Eff. August 1, 1996; January 1, 1995; July 1, 1992;
Temporary Amendment Eff. November 21, 1997;
Amended Eff. April 1, 1999.

.3102 PERSISTENT ELEVATED BLOOD LEAD LEVEL

The determination of a persistent elevated blood lead level may be based on more than three consecutive blood lead tests performed within the timeframe set forth in G.S. 130A-131.7 so long as all of the consecutive blood lead test results are equal to 15 micrograms per deciliter or greater.

History Note: Authority G.S. 130A-131.5; 130A-131.7; 130A-131.8; 130A-131.9A-G;

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Amended Eff. August 1, 1996; January 1, 1995;
Temporary Amendment Eff. November 21, 1997;
Amended Eff. April 1, 1999.

.3103 EXAMINATION AND TESTING

(a) When the Department learns of a lead poisoning hazard in a residential housing unit or a child-occupied facility, the Department shall notify the parents of all children less than six years old who reside in, regularly visit, or attend the unit or facility. The notice shall advise the parents of the adverse health effects of lead exposure and recommend that they have their child examined and tested.

(b) Examination and testing shall be required for all children in a residential housing unit or a child-occupied facility in which a lead poisoning hazard has been identified if any child tested who has resided in, regularly visited, or attended the unit or facility has an elevated blood lead level.

(c) Notification of the need for testing shall be repeated every six months until all lead-based paint hazards have been abated and all other lead poisoning hazards have been remediated.

(d) Children less than six months old are not required to be tested when lead poisoning hazards are identified in a residential housing unit or a child-occupied facility. The Department may require that these children be examined and tested within 30 days after reaching six months of age if they continue to reside in, regularly visit, or attend a unit or facility containing lead poisoning hazards.

History Note: Authority G.S. 130A-131.5; 130A-131.7; 130A-131.8; 130A-131.9;
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Amended Eff. August 1, 1996;
Temporary Amendment Eff. November 21, 1997;
Amended Eff. April 1, 1999.

.3104 INVESTIGATION TO IDENTIFY LEAD POISONING HAZARDS

(a) The Department shall conduct an investigation when it reasonably suspects that a lead poisoning hazard to children exists. Reasonable suspicion of a lead poisoning hazard to children may be based on the presence of the following characteristics:

- (1) a residential housing unit or a child-occupied facility built before 1950, a unit or facility built before 1978 that contains readily accessible deteriorated paint, or a unit or facility built before 1978 that is undergoing or has undergone renovations or remodeling within the last six months, unless the unit is lead-safe housing or is in compliance with the maintenance standard;
- (2) a child less than six years old residing in, regularly visiting, or attending the unit or facility; and
- (3) a referral by a local, state, or federal public health, environmental protection, or human services official, or building inspector.

(b) Notwithstanding the existence of a certificate of compliance with the maintenance standard, the Department shall investigate a residential housing unit occupied or regularly visited by a child less than six years old who has a persistent elevated blood lead level or confirmed lead poisoning.

(c) The Department may upon request conduct an investigation to identify lead poisoning hazards at a proposed or substitute residential housing unit of a child less than six years old with a persistent elevated blood lead level or confirmed lead poisoning who is seeking alternative housing.

History Note: Authority G.S. 130A-131.5; 130A-131.7; 130A-131.8; 130A-131.9A;
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Amended Eff. August 1, 1996;
Temporary Amendment Eff. November 21, 1997;
Amended Eff. April 1, 1999.

.3105 LEAD POISONING HAZARD AND CLEARANCE STANDARD FOR SOIL

(a) Bare soil at a residential housing unit or a child-occupied facility is a lead poisoning hazard when:

- (1) it contains greater than 400 parts per million lead in high contact areas for children including sandboxes, gardens, play areas, pet sleeping areas, and areas within three feet of a residential housing unit or a child-occupied facility;
 - (2) it contains 2000 parts per million lead or greater in other locations at a residential housing unit or a child-occupied facility where contact by children is less likely; or
 - (3) it is determined by the Department to be hazardous to children less than six years old pursuant to 15 U.S.C. 2681 et seq., 42 U.S.C. 4851 et seq. and the regulations promulgated under these Sections.
- (b) Unless otherwise determined by the Department on the basis of credible site-specific evidence including soil lead bioavailability, speciation, or particle size, land use and condition, or epidemiologic or other relevant scientific data, all remediation plans pursuant to G.S. 130A-131.9C shall require that:
- (1) bare soil lead concentrations greater than 400 parts per million and less than 2000 parts per million at a residential housing unit or a child-occupied facility in high contact areas for children including sandboxes, gardens, play areas, pet sleeping areas, and areas within three feet of the unit or facility be:
 - (A) permanently covered with four to six inches of gravel, mulch, or sod with a vegetative cover;
 - (B) physically restricted by a permanent barrier;
 - (C) removed; or
 - (D) paved over with concrete or asphalt;
 - (2) bare soil lead concentrations of 2000 parts per million or greater at a residential housing unit or a child-occupied facility be:
 - (A) physically restricted by a permanent barrier;
 - (B) removed; or
 - (C) paved over with concrete or asphalt; and
 - (3) ground coverings such as gravel, mulch, sod, or other vegetative covers must be established and maintained.

History Note: Authority G.S. 130A-131.5; 130A-131.7; 130A-131.8; 130A-131.9A-G;
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Amended Eff. August 1, 1996; January 1, 1995;
Temporary Amendment Eff. November 21, 1997;
Amended Eff. April 1, 1999.

.3106 ABATEMENT AND REMEDIATION

(a) Notwithstanding the existence of a certificate of compliance, the Department may require abatement of lead-based paint hazards and remediation of other lead poisoning hazards identified at a residential housing unit that is occupied or regularly visited by a child less than six years old who has confirmed lead poisoning when:

- (1) a visual inspection reveals that the owner or managing agent has failed to continue to comply with the maintenance standard; or
- (2) the blood lead level of a child with confirmed lead poisoning increases on two consecutive blood tests within a six-month period.

(b) When compliance with the maintenance standard is used to meet remediation requirements, maintenance standard activities must be conducted in accordance with an approved remediation plan in accordance with G.S. 130A-131.9C. The remediation plan must address all lead poisoning hazards identified on interior and exterior surfaces including floors, walls, ceilings, windows, porches, decks, garages, railings, steps, and bare soil.

(c) Abandonment of a residential housing unit or a child-occupied facility is an acceptable method of remediation. A remediation plan of abandonment shall contain a statement that the owner or managing agent agrees to submit a modified remediation plan to the Department at least 14 days before the abandoned unit or facility is reoccupied if the property will be used as a residential housing unit or a child-occupied facility. The lead-based paint hazards must be abated and other lead poisoning hazards must be remediated in accordance with an approved remediation plan. Nothing in this Rule shall be construed as authorizing an owner or managing agent to evict an occupant of a residential housing unit in violation of G.S. 42.

(d) Demolition of a residential housing unit or a child-occupied facility is an acceptable method of remediation. The remediation plan shall indicate containment measures for lead-contaminated dust and soil, and storage and disposal methods for lead-contaminated construction debris. The owner or managing agent must notify the Department and the occupants of any adjacent unit or facility of the dates of demolition at least three days prior to commencement of demolition.

History Note: Authority G.S. 130A-131.5; 130A-131.7; 130A-131.8; 130A-131.9A; 130A-131.9B; 130A-131.9C;
130A-131.9D; 130A-131.9E
Eff. January 1, 1995;

Amended Eff. September 1, 1996;
Temporary Amendment Eff. November 21, 1997;
Amended Eff. April 1, 1999.

.3107 MAINTENANCE STANDARD

(a) Property owners and managing agents shall use safe work practices to repair and repaint deteriorated paint on interior surfaces of a residential housing unit and to correct the cause of deterioration including structural conditions causing water infiltration, interior moisture, and poor paint adhesion.

For pre-1950 single family and duplex residential housing units, property owners and managing agents shall repair and repaint both interior and exterior surfaces including all walls, ceilings, windows, porches, decks, garages, railings, and steps, and shall correct the causes of deterioration. In addition, for pre-1950 single family and duplex residential housing units, property owners and managing agents shall establish and maintain a vegetative cover in areas of bare soil within three feet of the residential housing unit.

(b) Property owners and managing agents shall conduct specialized cleaning on interior horizontal surfaces to remove dust that may contain lead.

(c) Property owners and managing agents shall correct conditions in which painted surfaces are rubbing, binding, or being damaged to protect the integrity of the paint and to prevent the generation of lead dust.

(d) Subject to the occupant's approval, property owners and managing agents shall steam shampoo carpets or use other specialized cleaning methods to remove dust that may contain lead.

(e) Property owners and managing agents shall provide smooth and cleanable interior horizontal surfaces by recoating deteriorated hardwood floors with a durable coating, replacing or recovering worn-out linoleum floors, making interior window sills smooth and cleanable, capping window troughs with vinyl or aluminum coil stock, and providing drainage from storm window frames.

(f) Property owners and managing agents shall provide occupants with the Environmental Protection Agency-developed pamphlet "Protect Your Family from Lead in Your Home", any summaries of reports prepared by a certified lead inspector or a certified lead risk assessor on lead-based paint hazards, an educational pamphlet developed by the Department describing the maintenance standard and the effects of compliance on the owner, and information related to previous certificates of compliance issued.

History Note: Authority G.S. 130A-131.5; 130A-131.7; 130A-131.9D; 130A-131.9E; 130A-131.9F; 130A-131.9G;
Temporary Adoption Eff. November 21, 1997;
Eff. April 1, 1999.

.3108 APPLICATION AND ISSUANCE OF CERTIFICATE OF COMPLIANCE

(a) Written application for a certificate of compliance shall be made by an owner or managing agent on a form developed by the Department and shall include a copy of the tax record or other documentation indicating the date of construction of the residential housing unit.

(b) To obtain a certificate of compliance with the maintenance standard, an owner or managing agent shall comply with the provisions of G.S. 130A-131.7 and these Rules.

(c) Proof of compliance shall include:

- (1) a sworn statement by the owner or managing agent that either he has complied with all provisions of the maintenance standard or a sworn statement that no child less than six years old has resided in or regularly visited the unit for the past year;
- (2) a signed statement by the occupants, if any, acknowledging that information was provided as required under G.S. 130A-131.7 and these Rules;
- (3) a written summary of the visual inspection conducted by a certified lead inspector or a certified lead risk assessor; and
- (4) measurements of at least two composite dust samples, one each from floors and either interior window sills or window troughs, indicating the absence of dust that constitutes a lead poisoning hazard. Each composite sample must contain no more than four subsamples including a bedroom, a playroom, a den, and a kitchen. All samples must be analyzed by a laboratory recognized by the Department and the U.S. Environmental Protection Agency pursuant to section 405(b) of the Toxic Substances Control Act as being capable of performing analyses for lead in paint, dust, and soil.

(d) For multi-family residential housing units consisting of five or more units in a single property, visual inspections and laboratory measurements are only required for a statistical sampling of the units as specified for risk assessments of similar dwellings by the U.S. Department of Housing and Urban Development in Chapter 5 of the Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing and any updates and revisions. Any such sampling protocol shall focus on the units most likely to contain lead-based paint hazards and units where children less than six years old reside or regularly

visit.

(e) For annual renewal of the certificate of compliance, periodic surveillance may be conducted by an owner or a managing agent who has a good compliance record, with no outstanding violations of these Rules, in lieu of a visual inspection so long as the written summary of a visual inspection conducted by a certified lead inspector or a certified lead risk assessor is provided at least once every three years. Periodic surveillance shall include a written report and composite dust sampling measurements as described in 15A NCAC 18A .3108(c)(4).

(f) The Department shall issue a certificate of compliance within 30 days after receipt of proof of compliance unless the residential housing unit has been designated for on-site monitoring by the Department. If the residential housing unit has been selected for on-site monitoring, the certificate of compliance shall be issued within 30 days after the Department has verified compliance with G.S. 130A-131.7 and these Rules by a visual inspection. The visual inspection shall occur within 30 days after receipt of the application for a certificate of compliance.

(g) The certificate of compliance shall be signed, dated, and issued by the Department. The certificate shall state the date of issue, the date of expiration, and the address of the residential housing unit.

(h) The certificate of compliance shall expire one year from the date of its issuance.

(i) The owner or managing agent shall notify the Department and the occupants of a residential housing unit three days prior to commencing maintenance, renovation, or remodeling activities that occur after a certificate of compliance is issued but before the certificate expires. Such activities shall be performed using safe work practices.

(j) The Department shall notify the occupants at the time a certificate of compliance is issued or reissued. Such notification shall include an educational pamphlet describing the maintenance standard and the effects of compliance on the owner and the lead poisoning hazard information package described in these Rules.

History Note: Authority G.S. 130A-131.5; 130A-131.7; 130A-131.8; 130A-131.9A-G;
Temporary Adoption Eff. November 21, 1997;
Eff. April 1, 1999.

.3109 REVOCATION AND DENIAL OF CERTIFICATE OF COMPLIANCE

(a) The Department may deny or revoke a certificate of compliance when:

- (1) the Department finds failure or refusal to comply or maintain compliance with G.S. 130A-131.7 or these Rules;
- (2) the Department finds that the information submitted by the owner or managing agent is incomplete or falsified;
or
- (3) the Department is denied entry by the owner or managing agent to conduct a visual inspection.

(b) The Department shall give notice of denial or revocation to the owner or managing agent within 30 days after receipt of the application for a certificate of compliance, or within 30 days after the Department was denied entry by the owner or managing agent to conduct a visual inspection, or within 30 days after the Department finds that the owner or managing agent failed to comply or maintain compliance with the provisions of G.S. 130A-131.7 or these Rules.

(c) The notice of denial or revocation of a certificate of compliance shall be in writing and shall set forth the grounds for the denial or revocation.

(d) The notice of denial or revocation shall indicate that the owner or managing agent has the right to appeal the denial or revocation in accordance with G.S. 130A-24(a1).

(e) The notice of denial or revocation shall be delivered personally or mailed by registered or certified mail return receipt requested.

History Note: Authority G.S. 130A-131.5; 130A-131.7; 130A-131.8; 130A-131.9A-G;
Temporary Adoption Eff. November 21, 1997;
Eff. April 1, 1999.

.3110 MONITORING

(a) The Department shall monitor the validity of information submitted by owners who seek certificates of compliance with the maintenance standard.

(b) Monitoring activities shall include a review of application materials submitted and may include on-site compliance monitoring to verify the accuracy and adequacy of the information provided.

(c) The Department shall design and implement a plan to conduct visual inspections of up to 50% of the residential housing units for which applications are submitted for certificates of compliance with the maintenance standard.

(d) For residential housing units subject to abatement and remediation requirements in which children less than six years of age have resided in or regularly visited within the past year, the Department shall conduct visual inspections and residual lead dust monitoring to verify continued compliance with the maintenance standard annually and at any other time the Department deems necessary to carry out the provisions of G.S. 130A-131.7 or these Rules.

History Note: Authority G.S. 130A-131.5; 130A-131.7; 130A-131.8; 130A-131.9A-G;
Temporary Adoption Eff. November 21, 1997;
Eff. April 1, 1999.

.3111 RESIDENT RESPONSIBILITIES

When a child less than six years old has an elevated blood lead level of 10 micrograms per deciliter or greater, the Department shall provide to the owner or managing agent and the parents or legal guardians of the child a lead poisoning hazard information package. The information provided shall comply with the provisions of G.S. 130A-131.9G.

History Note: Authority G.S. 130A-131.5; 130A-131.7; 130A-131.8; 130A-131.9G;
Temporary Adoption Eff. November 21, 1997;
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