



AN EASY-TO-FOLLOW GUIDE

# STOP LEAD POISONING

FROM HARMING YOUR COMMUNITY

# INTRODUCTION

We designed this easy-to-follow guide to help you assess and improve current lead-poisoning prevention policies in your community or to help you create a draft policy to bring to your local government.



**Learn from communities across the U.S. to develop your own local policy or assess one that's not working**

Lead poisoning threatens children in communities across the U.S., especially in low-income communities of color where tenants vulnerable to lead hazards have few options for affordable housing. Because federal rules fall short of protecting children from lead poisoning, every community must protect its own. This creates a disconnected web of policies from city to city with varying degrees of success.



**We went all lawyer on it**

Lawyers like the weeds, so that's what we did. We studied lead-poisoning prevention programs across the country to unearth lessons learned and best practices from on-the-ground experiences of more than two dozen communities. We learned that successful programs in one place may not be successful everywhere, so this guide conveys for you the conditions necessary for a given approach to actually drive down rates of lead poisoning. We go beyond policy recommendations to share successes and failures—and the reasons behind them—to help you learn from others.



# LEAD POISONING PREVENTION STRATEGIES THAT WORK BEST

Lead poisoning damage is irreversible, causing life-long debilitating harm associated with both acute and chronic health conditions in children. Our children deserve better. The best and most effective strategies to address lead poisoning remove the hazards before our children become the barometer of what's unsafe. Based on our research of programs across the country, three types of primary prevention programs could address the majority of lead threats in our homes and communities:

## **Proactive rental inspection programs**

In many communities, most lead poisoned children live in rental housing. Use our easy-to-follow guide beginning on page 3 to develop a policy for your community or assess your community's policy.

## **State-based renovation, repair, and painting programs**

Learn more about why these policies are important and steps to adopt them on page 19.

## **Drinking water lead line replacement programs**

Learn more on page 22 and see links to existing resources at [BetterLeadPolicy.org](https://www.betterleadpolicy.org).



## **HOW TO USE OUR GUIDE**

How to get Started - Page 3

Fill-in-the-Blank Rental Inspection Policy Generator - Page 7

Rental Inspection Policy Cheat Sheet - Page 10

State-Based Renovation, Repair, and Painting Programs - Page 19

Lead Water Line Replacement and Additional Resources - Page 22

# START DEVELOPING YOUR PROACTIVE RENTAL INSPECTION POLICY

We simplified our nationwide research into this easy-to-follow guide to help you outline a policy that can be formalized into an ordinance to protect your community. Before we dig into the policy details, do this homework to increase buy-in and determine financial impacts.

## Effective Policy Can't be Created Alone: Meaningful Stakeholder Input and Oversight

Lead poisoning prevention programs affect many stakeholders — putting burdens on them, providing benefits to them or changing how they do their jobs. Developing and implementing local policies without meaningful stakeholder input can lead to unintended consequences, including landlords challenging a program, politicians underfunding a program, city staff failing to implement or enforce a program, or tenants suffering from higher rents or displacement. Involving stakeholders before policy development, during the process, and while the programs are implemented, can greatly increase buy-in across the community and therefore the effectiveness of the program.

### A lead-focused coalition should include:

- Parents of children who have been lead poisoned (otherwise it's awkward)
- Tenant and neighborhood advocates to share the real impact to tenants
- Landlord advocates to understand landlord concerns
- Local government employees to understand current structures and systems
- Medical professionals to understand local health impacts
- Education professionals to know how to reach local families and support lead-poisoned children
- Grassroots health and environmental organizations that advocate for and assess policies
- Local philanthropy groups to facilitate funder engagement
- Academics with ability to provide neutral information about the housing stock, economic impact, and the effects of the policies.

Check [BetterLeadPolicy.org](https://BetterLeadPolicy.org) to see examples of lead coalitions.

## Do the math: budgeting and reducing harm

### If your city will do inspections itself, start with basic cost calculations:

$$\frac{\text{\# Units to be inspected}}{\text{\# of years between inspection}} \div = \text{\# inspections per yr}$$

$$\frac{\text{Inspections per year}}{\text{annual inspections per inspector}} \div = \text{\# of inspectors}$$

$$\text{\# of inspectors} \times \text{Salary} + \text{Operation Costs}^* = \text{program cost}$$

$$\frac{\text{Program cost}}{\text{\# Units}} \div = \text{cost per unit fees}$$

\*(lead tests, tablets, software, GIS mapping system, IT and admin support)

To be successful, we must design and implement primary prevention programs to best protect kids given the context of financial and other realities within a community. For example, it would be a mistake to require full abatement and removal of all lead hazards in a community with low housing values because landlords could not afford those fixes. Likewise, if a program calls for home inspections every four years, but only requires measures that will control lead hazards for two years, children will face lead hazards before a reinspection. Because these factors vary across communities, adopting another community's approach without "doing the math" yourself will likely lead to program failure.

### Other "math-based" questions to consider:

How much would it cost for the city to do the inspection versus landlords hiring third-party inspectors and the city auditing the program?

If a program inspects all housing every two years, how many inspectors are needed (either as city employees or in the private market) based on how long inspections take and how large the rental market is?

What's the cost difference between lead risk assessment, X-ray fluorescence, dust wipe clearance, paint chip or soil testing? Can you find a way to afford risk assessments?

## Approach the problem holistically



### Three case studies and their final resolutions

#### Rochester, NY

Rochester added lead to its existing rental inspection program in 2006 and has experienced a greater drop in lead-poisoning cases than other cities across New York.

#### Cleveland, OH

Cleveland adopted what is likely the strongest proactive rental inspection program in the country in 2019 using a robust stakeholder process.

#### Philadelphia, PA

Philadelphia adopted changes in 2019 to its ineffectual rental inspection program to fix its problems.

Our research found communities with the best outcomes approach the lead poisoning issue holistically, looking at primary prevention policies, financing, transparency, enforcement, outreach, testing and remediation, early intervention support for lead-poisoned children, cultural competency, community buy-in, workforce development and tenant protections together.

## YOU CAN CREATE EFFECTIVE LOCAL LEAD POISONING PREVENTION POLICY

Now that you've done the foundational work, you're ready to use our Fill-in-the-Blank Policy Generator to outline a proactive rental inspection policy that your local government can help you turn into local law.

Check out these examples that we ran through our fill-in-the-blank policy generator. We paired each with its law so you can see it in its legal form. Go to [BetterLeadPolicy.org](https://BetterLeadPolicy.org).





**YOUR FILL-IN-THE-BLANK  
RENTAL INSPECTION  
POLICY GENERATOR**

# RENTAL INSPECTION POLICY GENERATOR

## Program Design

1. Which units are inspected? ☐ All units ☐ All units built before 1978  
Exemptions - any exemptions must be clearly justified in the text of the law  
☐ None ☐ Other \_\_\_\_\_

How many units will this policy cover? \_\_\_\_\_

## 2. What do they look for?

- ☐ All lead hazards ☐ Lead paint only ☐ Other housing hazards

### Lead Testing

- ☐ Risk Assessment ☐ Collect + analyze Samples ☐ Visual + dust wipe clearance

## 3. What do you do if there is a lead hazard?

- ☐ Full abatement ☐ Interim Controls  
☐ Require lead safe work practices ☐ Require dust clearance

## 4. How often are the inspections? \_\_\_\_\_

## 5. Who does the inspection? ☐ City ☐ Third Party ☐ Both

## Implementation, Accountability, and Enforcement

### Legal Foundation for the inspection program

All housing built before 1978 is presumed to contain lead paint

Lead hazards are a nuisance and are prohibited

City has right of entry with permission or administrative warrant

Need help completing a section?  
Reference your Policy Cheat Sheet on pages 10.

# RENTAL INSPECTION POLICY GENERATOR CONTINUED

## Require inspection as a condition of renting

- ☐ Certificate of Occupancy    ☐ Certificate of Compliance    ☐ Rental License  
☐ Lead-safe or lead-free certificate    ☐ Charge for certificate/license \_\_\_\_\_

## Rental registration

Fee \_\_\_\_\_ Frequency \_\_\_\_\_ ☐ Public online mapping system

## Adequate staffing and technology to support the program

Number of inspectors (City/Third Party) \_\_\_\_\_

Strategy to hire from community \_\_\_\_\_

Administrative and technical capacity to track compliance \_\_\_\_\_

## Enforcement mechanisms

- ☐ Escalating administrative fines  
☐ Tenants can sue for landlord noncompliance  
☐ No eviction if landlord has code violation  
☐ Nonprofits can help tenants sue  
☐ Lead court

## Tenant protections

- ☐ Prohibit retaliation  
☐ Evaluate for unintended consequences of policy  
☐ Provide alternate housing if tenants must vacate for repairs

**Periodic reporting**    ☐ City reports of inspections    ☐ Track elevated blood lead levels

☐ Reports of third-party inspections    ☐ Develop metrics for effectiveness

**Public oversight mechanisms**    ☐ Advisory Committee    ☐ Auditor

**Funding to help landlords afford repairs** ☐

**Other** \_\_\_\_\_

A woman with dark hair tied back, wearing a white lace top and a gold necklace, is speaking into a microphone. She is gesturing with her left hand. In the background, there is a wall covered in many small photographs and a table with water bottles. The image is framed by a large, light green, organic shape.

**YOUR RENTAL INSPECTION  
POLICY CHEAT SHEET TO HELP  
YOU FILL IN THE BLANKS**

# USE THIS EASY REFERENCE GUIDE TO HELP YOU FILL IN THE BLANKS OF YOUR POLICY GENERATOR ON PAGES 7 AND 8.

Even when broken into small steps, it can be daunting to understand a proactive rental inspection policy. If you want additional insights and examples, please see Deep Dive Into the Policy at [BetterLeadPolicy.org](https://BetterLeadPolicy.org). The online version features specific examples from across the country.

## Program Design

### Which units are inspected?

- ➡ All rental housing (best practice, especially if addressing all housing hazards)
- ➡ Housing built before 1978 (best practice if only addressing lead)
- ➡ Exemptions (you must explain in your policy why exempting these properties will still accomplish the goal of reducing lead poisoning)
  - Common:  
Owner-occupied or homes that have had full lead abatement
  - Use caution:  
If exempting public housing or excluding big apartment complexes
  - Avoid:  
Applying inspection rules to only housing where kids under 6 live



## 🔍 What do they look for?

### ➡ All lead sources (best practice)

- Risk assessment identifying locations of lead in paint, dust, soil
- Clearance examination including visual assessment, collection and analysis of environmental samples (performed by a clearance technician, lead inspector, or lead risk assessor)

### ➡ Lead Paint Only

- Visual inspection + dust wipe or dust wipe clearance (better practice)
- Visual only (not recommended because cannot detect lead dust)

### ➡ Other housing hazards (smoke detectors, mold, carbon monoxide)

Lead-only inspections can be done with third-party inspectors while housing code compliance must be government staff inspectors. Ensure this aligns with your answer to who does the inspection



user shield

## Who does the inspection?

- City inspects for lead and other hazards
- Landlords are responsible for getting third-party lead certification

## Considerations

- Is your city too big for city staff to handle the inspections?
- Does your city already have a housing inspection program?
- Are you interested in only lead or other hazards as well (smoke detectors, mold) ?

## Compare

City Does Inspections	Third-Party Inspections
High level control	Places burden on landlords to schedule and pay for inspection
Can cover housing hazards beyond lead	Low city staffing means lower cost for city
Inspectors may have leeway on enforcement	Can require more frequent inspections, which can lower cost of fixes between inspections
High level of staffing is costly	Risk of fraud
May be several years between inspections	Difficulty knowing whether landlords are doing it
Targeted inspections (rather than all rentals) may miss lead hazards	If private inspectors don't exist in the marketplace, it can be expensive

## 🕒 How often are the inspections?

- ➡ Periodic
  - Recommend: at least every 2 years
  - Caution: More than 2 years, change in tenants, or performance-based sliding scale
- ➡ Upon request — not recommended unless it is in addition to periodic inspections
- ➡ Recommend inspection period tied to the length of time the remediation/abatement will last (if the fix lasts 2 years, inspect every 2 years)
- ➡ Prioritization when rolling out program: highest-risk neighborhoods, those with complaints or those whose owners requested inspections. Roll out can help spread out inspection workload.

## ⚠️ What do you do if there is a lead hazard?

- ➡ Remediation = Interim control + dust clearance to minimize lead hazards. Cheaper but interim measures will eventually fail.
- ➡ Abatement = designed to permanently eliminate lead-based paint hazards. Designed to permanently address the lead problem, but often costly.
- ➡ If less than full abatement, inspection must be frequent enough to identify hazards before interim measures fail.
- ➡ Require lead-safe work practices: strongly recommend state or local requirements to comply with renovation, repair, and painting requirements. See page 19.
- Consult with a local lawyer to determine whether state laws limit local action.



## Implementation, Accountability, and Enforcement

### 👁️ Require inspection as a condition of renting

Periodic rental inspections, in conjunction with some type of fee-based registration or certificate, help the city identify rental housing stock, identify where there are inspection needs, and fund the program.

### 📋 Types of registration or certificates

- ➡️ Certificate of Occupancy: renewable certificates coupled with inspections for compliance with the housing code protect health and preserve the property.
  - ➡️ Certificate of Compliance: indicates a property meets the housing code
  - ➡️ Rental Licensing: many require inspection as condition of valid license
  - ➡️ Lead-Free or Lead-Safe Certificate: property has been inspected for lead hazards
    - A lead-safe certificate means that a pre-1978 unit has a clearance examination report (valid for two years) indicating lack of lead hazards
    - Lead free = built after 1978 with full abatement of all hazards
  - ➡️ Rental Registration: requires landlords to register their rental units and pay a fee for the registration

Recommend: the landlord be required to designate actual person with a local physical address (or registered agent) to aid enforcement
- These approaches may often be combined.



## Ensure adequate staffing and technology to support the program

- ➡ Cities need adequate funding to support staffing levels to implement the program (enough inspectors if city-led inspections or enough enforcement staff if third-party inspections)
- ➡ If using third-party inspectors, take steps to ensure there are enough private companies to keep costs low
- ➡ Hire and train local community members to do the work and outreach; renters will trust them more and it's the right thing to do. A staggered compliance schedule can ensure there is a year-round work for inspectors and contractors.
- ➡ Consider employing technology — tablets and software programs speed up data collection, reduce paperwork, allow information to be mapped and shared publicly
- ➡ Hire administrative support staff so trained staff has more time for inspections and enforcement
- ➡ Create public database of rental units to help track compliance

## Escalate administrative fines to fund the lead program

- ➡ Create mechanisms for the city to issue administrative penalties, like tickets with escalating fines, without requiring a legal conviction
  - Large escalating administrative fines for non-compliance
  - Assess penalties if owner fails to register a unit
  - If fines are too low, landlords may intentionally avoid compliance if the fine is less than the cost to fix the problem
- ➡ Establish mechanisms to collect the fines; many housing fines go uncollected
- ➡ Registration “meter maids” can look for noncompliance

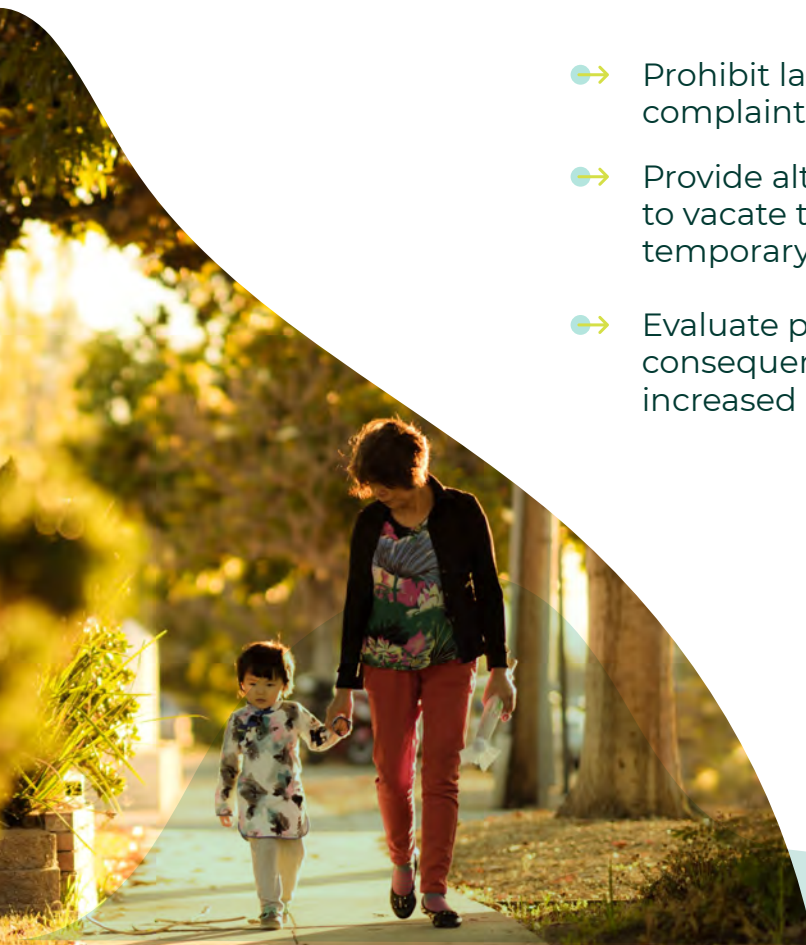
## Legal mechanisms

- ➡ Allow tenants to sue landlords who violate the law
- ➡ Limit eviction proceedings to units with no violations
- ➡ Consider allowing non-profits to help tenants sue landlords
- ➡ Issue a vacate order when the city recognizes severe lead hazards that aren't addressed in a timely manner. This should require landlords to pay for alternate housing for the tenants.
- ➡ A specialized "lead court" can be helpful if the judge understands issues tenants face, provides free lawyers for tenants, and requires code compliance quickly



## Additional Tenant protections

- ➡ Prohibit landlord retaliation when tenants make a complaint
- ➡ Provide alternate housing if repairs require tenants to vacate the apartment. Ideally this is city-provided temporary housing that landlords pay for
- ➡ Evaluate program for unintended adverse consequences such as displacement from housing, increased prices, or a shrinking rental market





## 📢 Make lead information for housing publicly available

- ➡ Link the city's online rental unit registration to a publicly accessible mapping system that also shows inspection results (and potentially other code violations)
- ➡ Consider a sticker system that uses color-coded stickers in front window showing registration and inspection expiration dates

## 📊 Reporting the numbers of inspections, results, and metrics to determine effectiveness

- ➡ Produce an annual report with the number of inspections, frequency of lead hazards, and other metrics posted on an easily accessible website
- ➡ Ensure third-party inspections are public, searchable and auditable
- ➡ Develop metrics to measure effectiveness, especially tracking blood lead results

## 🔧 Funding to help landlords afford repairs

- ➡ A revolving loan fund can assist struggling landlords with making repairs to their homes
- ➡ Public-private partnerships can bring money from the philanthropic community with an opportunity to work with landlords, not in opposition to them



# **GUIDE FOR STATE-BASED RENOVATION, REPAIR, AND PAINTING PROGRAMS**

## **REDUCE LEAD HAZARDS WHEN RENOVATING, REPAIRING, OR PAINTING**

A renovation, repair and painting program requires those professionals who are renovating, repairing, or painting homes built before 1978 to use lead-safe work practices to minimize and control lead dust.

### **? What is the risk?**

It's as easy as this: lead dust from renovations, repairs, and painting is a significant source of lead exposure for all of those involved — residents, your neighbors, visitors to your home, and the workers themselves.



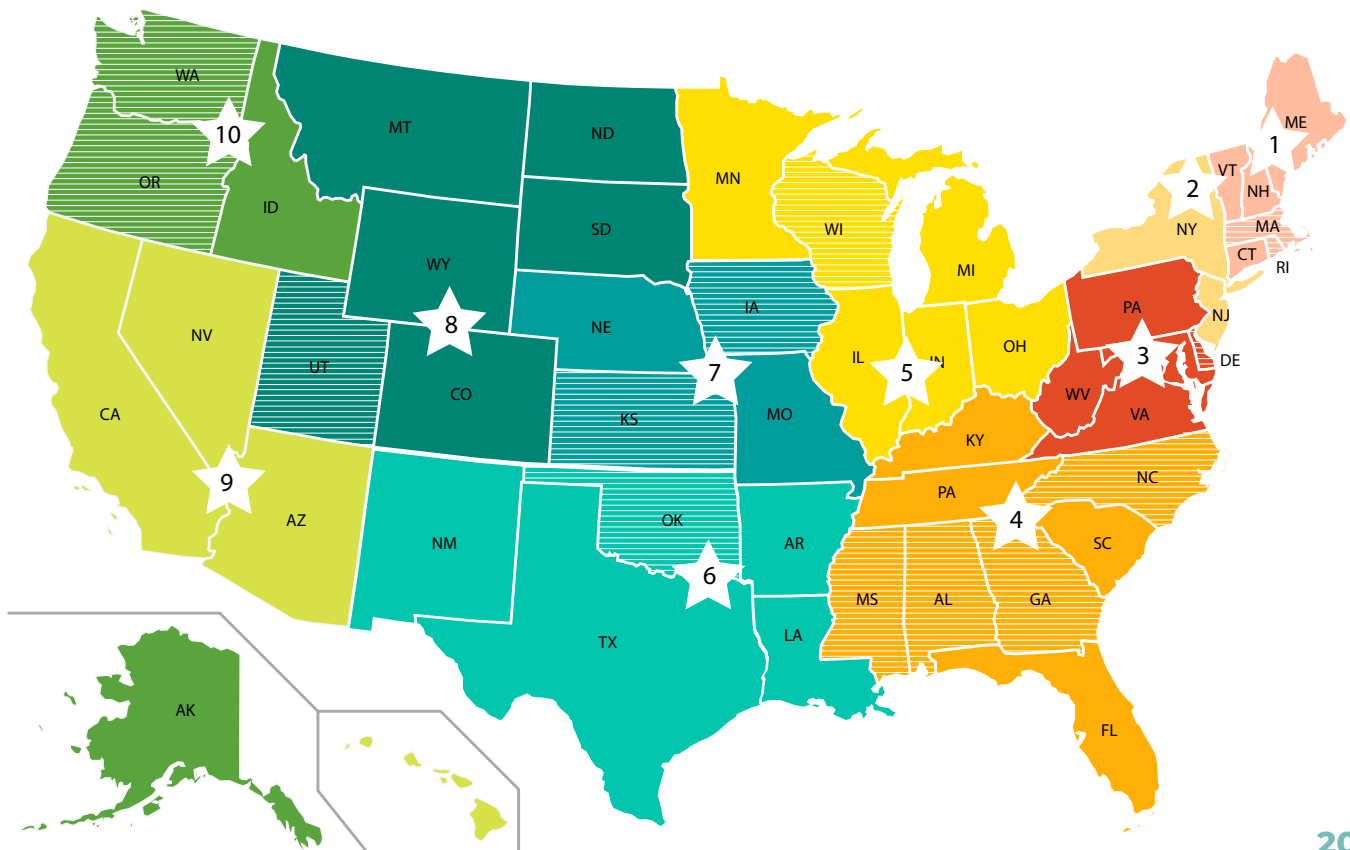
## Doesn't EPA have a program for this?

The good news is that your state can formally take charge of implementing this program by following the EPA's guidance document — 14 states and the Bois Forte Tribe already have.

Unless a state adopts its own program, the EPA (Environmental Protection Agency) is responsible for enforcing the program through its nine regional offices. Nine — yes, you read that correctly. It's nearly impossible for the staff of those nine offices to enforce the rules that apply to approximately 320,000 professionals completing 18 million jobs across the country.

States can create their own rules then petition the EPA Administrator showing that their rules on renovation, repair and painting are at least as protective as the federal rules and that they have adequate enforcement mechanisms.

**This map shows the nine EPA regions (color blocks) and the 14 states that have their own programs (striped states).** Four of the nine EPA offices are located in states that run their own program.



State programs can take the following steps to improve upon the federal program.

- Require a validated testing mechanism, such as dust wipe, after renovations and repairs are completed
- Require certified inspectors or risk assessors to test for lead
- Require renovators to be recertified every year
- Recognize training from another state only if that state's training meets baseline quality, curriculum, and standards
- Adapt EPA's training to be culturally competent and accessible to students of different literacy abilities and non-native English speakers
- Require a Start Work Notification, which alerts local authorities where and when renovation, repair and painting program jobs are occurring. Without this, it can be difficult for those enforcing the rule to know where and when work is happening.
- Require a Certified Renovator to be on site
- Require renovators to use personal protective equipment
- Prohibit harmful practices like dry scraping and sanding by hand, heat guns that char paint, paint stripping in a poorly ventilated space using a volatile paint stripper, and unconfined water blasting of paint



### **If your state won't, add protections to your local program**



Some communities have local ordinances that require the use of lead safe work practices. This can give local governments the ability to protect people from lead hazards due to renovation, repair, and painting even if EPA or the state is failing to enforce the protections.

# HOW TO ADDRESS LEAD LINE REPLACEMENTS AND MORE INFORMATION



Many communities across the U.S. suffer from lead poisoning that originates in our drinking water infrastructure, just like we saw in Flint, Michigan. The good news for community advocates is that myriad resources exist to support the development and evaluation of your lead line replacement program. If not designed well, these programs can cause more harm than good. Please work with your local water utility and dig into the list of resources at [BetterLeadPolicy.org](https://BetterLeadPolicy.org) to guide your effort.

## ABOUT THE TEAM AND RESEARCH BEHIND THIS GUIDE

### **Earthjustice is here because the earth needs a good lawyer**

The 130+ staff at the nonprofit public interest environmental law organization wield the power of law and the strength of partnership to protect people's health, to preserve magnificent places and wildlife, to advance clean energy, and to combat climate change.

Earthjustice is committed to combating childhood lead poisoning, particularly in communities hardest hit by lead exposure — low-income communities and communities of color. Learn more at <https://earthjustice.org>.

### **About the author of these materials**

Jill Witkowski Heaps is an environmental lawyer and policy advocate working to protect communities across the country from environmental harms. She served on the National Environmental Justice Advisory Council for six years, advising the EPA to better protect communities of color and low-income communities from environmental injustices. She is dedicated to making legal and policy resources accessible to impacted communities.

### **How did we create this tool?**

We started our research with an initial assessment of the status of lead poisoning programs — both successful and struggling — in 25 communities across the country. We discovered that the information on how to tackle our lead problems is out there, but is often shared in lengthy technical papers or highlighted in local media. We created this tool to share these recommendations from experts and the lived experience of the communities in a way that is accessible to all community advocates.

**We provided details and links to stories, research, policies and examples at [BetterLeadPolicy.org](https://BetterLeadPolicy.org).**