

Report on Compliance with Exhibit A, Paragraph 14 and 15 – July 31, 2019
Prepared by: Compliance Department, NYCHA

NYCHA has not fully complied with the Lead Safe Housing Rule (“LSH Rule”), the Renovation, Repair and Painting Rule (“RRP Rule”), and the Abatement Rule for the time-period from January 31, 2019 to July 31, 2019. (These rules shall be collectively referred to as the “Lead Rules” and the period between January 31, 2019 and July 31, 2019 shall be referred to as the “Covered Period.”)

On May 31, 2019, NYCHA disclosed key compliance shortfalls with respect to interim controls performed in units identified on the Immediate Action List, including regarding record-keeping, clearance examinations, and resident notifications. In June and July 2019, NYCHA attended meetings and participated in calls with the Federal Monitor, SDNY, HUD, and EPA to discuss these shortfalls and to develop a corrective action plan due to these shortfalls. Currently, these conversations are ongoing and, in NYCHA’s view, are leading towards improved processes for at least some of the key shortfalls.

This document describes NYCHA’s current compliance with paragraphs 14 and 15 of Exhibit A of the HUD agreement.¹ NYCHA shall describe its current compliance with each requirement based on the following criteria:

- **Existence of Written Policies, Procedures, and/or Contract Specifications:** This criterion evaluates whether NYCHA has established specific written policies, procedures, and/or contract specifications that required staff and/or vendors to perform the requirements set forth in the regulations during the Covered Period.
- **Existence of IT Controls:** This criterion evaluates whether NYCHA’s Maximo Work Order system (or other system) has established IT controls that addressed compliance with the applicable regulatory requirement during the Covered Period.
- **Quality Assurance or Field Monitoring Protocols:** This criterion evaluates whether NYCHA has performed any quality assurance or any field monitoring protocols during the Covered Period of abatement, interim control, or RRP projects to assess compliance with each specific regulatory requirement.
- **Recordkeeping/File Review:** This criterion evaluates whether project files for work orders closed from January 31, 2019 to June 25, 2019² contain documentation required by and/or evidencing compliance with each specific regulatory requirement.
- **Overall Assessment of Compliance:** This criterion includes an overall assessment of NYCHA’s compliance during the Covered Period with each specific requirement based upon the above-described criteria and any additional information provided by NYCHA staff. This criterion shall also disclose any identified deficiencies with each specific regulatory requirement.

¹ This assessment should not be considered exhaustive of all compliance areas related to lead, including potential deficiencies. For instance, the Compliance Department was unable to assess compliance with Lead Rules in common areas, which it intends to assess in the next six-month reporting cycle. Additionally, if relevant business units provide missing documentation or additional relevant information, it may merit modifications to this assessment.

² To ensure adequate time to complete the file review, the Compliance Department limited its review to work orders closed before June 25, 2019.

General Scope of Review for Paragraph 14:

The Compliance Department requested NYCHA IT provide all closed lead abatement work orders from Maximo for the period of January 31, 2019 through June 25, 2019. IT identified 490 closed lead abatement work orders during this period. The Compliance Department provided the list of work orders to Lead Hazard Control, which in turn limited the list to lead abatement work orders that were performed by Lead Abatement Workers (LAWs) or Lead Abatement contractors in units and with the Maximo failure class "LEADAPTABATE" and "NEEDSABATEMENT." This step was performed because the original 490 work orders also contained non-abatement projects, such as mold remediation, RRP work over 100 square feet, and duplicates. Additionally, common space work orders were also removed from the sample size.³ Following this process, the Compliance Department identified 247 project files of abatements performed in units from the period from January 31, 2019 to June 25, 2019.

The Monitoring Unit of the Compliance Department (MU) then requested the 246 project files from Long Island City's centrally located filing system. Lead Hazard Control was able to locate all 246 project files: 162 files were "complete" and 84 files were marked as "in progress." Files characterized as "complete" are files that Lead Hazard Control has sent to storage area for recordkeeping. Files characterized as "in progress" are files with closed Maximo work orders, but include files where Lead Hazard Control has not received final documentation from the contractors, as well as a small number of files where it is unclear if any work remains. The Compliance Department conducted its file review on 162 "closed" files and performed limited review of the 84 "in progress" files.

→ Description of Compliance with Paragraph 14(a): NYCHA shall ensure that a certified supervisor is onsite or otherwise available in accordance with 40 CFR § 745.227(e).

Regulatory Requirements: 40 CFR §745.226(a) and (b)(1) sets forth the EPA-certification requirements for certified supervisors.

40 CFR §745.227(e)(2) states "A certified supervisor is required for each abatement project and shall be onsite during all work site preparation and during the post-abatement cleanup of work areas. At all other times when abatement activities are being conducted, the certified supervisor shall be onsite or available by telephone, pager or answering service, and able to be present at the work site in no more than 2 hours."

Applicable NYCHA Written Policies, Procedures, and/or Contract Specifications: The Compliance Department performed a search of the NYCHA Forms and Reference Library (FRL) and requested from Lead Hazard Control staff any written policies, procedures, and/or contract specifications governing lead processes to determine if these written policies, procedures, and/or contract specifications, if any, addressed the requirement set forth in 40 CFR § 745.227(e)(2).⁴

³ The Compliance Department was not able to perform a review of any abatements performed in common spaces during the Covered Period. The Compliance Department will conduct a monitoring of any such abatements by October 31, 2019 and provide the results to the Monitor.

⁴ It should be noted that, in its current six-month plan (July 2019 to December 2019), the Compliance Department, in coordination with NYCHA Operations, Healthy Homes, and Legal, is developing an overall lead policy manual for the agency.

On the FRL, the Compliance Department identified GM 3758 (March 30, 2010), entitled “Lead-Based Paint Testing and Abatement.” GM 3758, among other things, “establishes the criteria for requesting LBP testing/abatement services for move-out apartments.” The Manual references the “Technical Service Department’s Environmental Health and Safety Unit” as responsible for the performance of abatement activities and, therefore GM 3758 is outdated, as abatement is presently overseen by Lead Hazard Control in Healthy Homes.⁵ In any event, GM 3758 states “that an Environmental Field Operations (EFO) Supervisor, or designee, schedules the abatement and clearance Work Orders, and assigns the job plans (as applicable),” but does not identify the credential of this supervisor or make them responsible for the obligations set forth in 40 CFR §745.227(e). Therefore, there is no current written policy or procedure for Lead Hazard Control staff covering this requirement.

Lead Hazard Control does currently use a form entitled, “Lead Abatement Procedure & Occupant Protection Plan.” A copy of this form is annexed as Attachment 1. The form contains a regulatory compliance section, which lists, among other regulations, 40 CFR Part 745 and 24 CFR § 35.1325. The form also requires: “Following final clean-up of each work area, a visual inspection will be performed by the lead abatement supervisor, and by the third-party vendor who will be perform [sic] the dust wipe clearance inspection.” This form must be signed by the Lead Abatement Supervisor. While the form cites the applicable sections of the CFR, the form does not specifically require that the Lead Abatement Supervisor be onsite and available in the manner required by 40 CFR § 745.227.

With respect to contract specifications, Lead Hazard Control identified one vendor that performed abatement during the Covered Period. See Attachment 2.⁶ Exhibit 2 of the contract contains a Scope of Services for Lead Abatement. The Scope defines “Adequate Personnel” as “a minimum of two (2) workers and one (1) supervisor at each abatement site. A given supervisor may be able to properly supervise more than one abatement site depending on the jobs’ relative proximity and size.” See Scope, 1.2.1. The contract provides that a monitor can be assigned for the project, with the authority to stop work “should the Monitor witness improper Work procedures or the lack of Adequate Personnel present on the abatement site.” The contract specifications further state, “The lead supervisor shall inspect the abatement area during the performance of the abatement and during cleanup and final inspection.” See Scope, 2.7.2.2.2. Lead Hazard Control stated that it has used in-house staff to performing monitoring of the contractor since approximately February or March 2019, but there are no records of this monitoring.

IT Controls: There are no IT controls in place that mandate the assignment of a certified supervisor before the start of an abatement project.

QA/Field Monitoring Protocols: In an interview by the Compliance Department with Lead Hazard Control staff on July 26, 2019, staff indicated that two NYCHA staff had been assigned as field monitors for work orders performed by the vendor since approximately February or March 2019. Lead Hazard Control staff indicated that the two NYCHA staff do not create checklists or reports to document this field

⁵ On February 22, 2019, the Compliance Department concluded a monitoring to assess NYCHA’s compliance with regulatory requirements related to lead abatement activities (“February 2019 MR”). The report is annexed as Attachment 2. The February 2019 MR reviewed a sample size of 69 closed work orders from 2018 and 74 closed work orders from 2009.

⁶ The attachment includes only the relevant pages from the contract, which is voluminous. A full copy of the contract can be produced upon request. Note, the agreement is a “piggy-back” contract and thus the scope refers to HPD.

monitoring. These staff did not perform monitoring of abatements performed by NYCHA lead abatement workers.

File Review: The Compliance Department requested certifications from all NYCHA-employed certified supervisors that supervised abatement projects from January 31, 2019 through the present. A copy of these certifications is available upon request. When a vendor performs the abatement, the vendor provides the certified supervisor as required by NYCHA's contract provisions.

The Monitoring Unit (MU) reviewed 25 randomly selected lead abatement work orders from January 31-June 25, 2019 and confirmed that certified supervisors were identified on all the work orders, as indicated in the Labor Information field in Maximo.

Overall Description of Compliance: NYCHA has deficiencies in the following areas that currently prevent it from fully certifying to compliance with 40 CFR § 745.227(e):

- For the Covered Period, NYCHA has no adequate policy, procedure, IT control, QA/field reports, or documentation to evidence compliance with the requirement that the certified supervisor was actually onsite during "all work site preparation and during the post-abatement cleanup of work areas," as required by the rule.
- For the Covered Period, there is no IT control in Maximo that automatically assigns a certified supervisor to each abatement work order or requires the certified supervisor to indicate that they were present at the site during the required time periods.
- The February 2019 MR indicates that the Monitoring Unit "was told that re-cleaning activities, which occur when lead abatement work fails to pass a 3rd party clearance inspection, do not require that a certified Supervisor be present; MU was unable to identify regulatory evidence supporting this exemption." See Attachment 3, at 5. The Compliance Department remains concerned about this issue, as at least one file reviewed contained a failed clearance examination and a later passing clearance examination, but insufficient documentation of the re-cleaning activity.

Notwithstanding these deficiencies, the file review indicated that certified supervisors were assigned to all 25 of the 25 work orders reviewed. In addition, Lead Hazard Control's form entitled, "Lead Abatement Procedure & Occupant Protection Plan" is a required document for each project and must be signed by the certified supervisor.⁷ Also, the contract used by NYCHA for abatement during the Covered Period did contain adequate specifications on the need for the certified supervisor. Finally, Lead Hazard Control indicated that they did commence a field oversight program for abatements performed by vendors, although these site visits were not documented in any way.

→ Description of Compliance with Paragraph 14(b): "NYCHA shall notify EPA of lead-based paint abatement activities electronically using EPA's Central Data Exchange (CDX) in accordance with 40 CFR § 745.227(e)(4)(vii)."

⁷ Notably, this form has not been officially approved through NYCHA's standard process and it is not located on the official NYCHA FRL.

Regulatory Requirements: 40 CFR § 745.227(e)(4)(vii) states as follows: *“Notification must be accomplished using any of the following methods: Written notification, or electronically using the Agency's Central Data Exchange (CDX). Written notification can be accomplished using either the sample form titled “Notification of Lead-Based Paint Abatement Activities” or similar form containing the information required in paragraph (e)(4)(vi) of this section. All written notifications must be delivered by U.S. Postal Service, fax, commercial delivery service, or hand delivery (persons submitting notification by U.S. Postal Service are reminded that they should allow 3 additional business days for delivery in order to ensure that EPA receives the notification by the required date). Instructions and sample forms can be obtained from the NLIC at 1-800-424-LEAD (5323), or on the Internet at <http://www.epa.gov/lead>.”*

Applicable Written Policies, Procedures, and Contract Specifications: The Compliance Department performed a search of the NYCHA FRL and requested information from the staff of Lead Hazard Control for any written policies, procedures, and/or contract specifications governing lead processes to determine if these written policies, procedures, and/or contract specification, if any, addressed the requirement set forth in 40 CFR § 745.227(e)(2).

On the FRL, the Compliance Department identified GM 3758 (March 30, 2010), entitled “Lead-Based Paint Testing and Abatement.” As stated above, this document is significantly outdated, but remains on the NYCHA FRL. While outdated, GM 3758 does state as follows: “Due to federal and locally mandated notification procedures, the abatement cannot begin for, at least, 5 business days (10 business days for large abatement jobs). After submission of an abatement notice, Technical Services Department’s Field Operations (EFO) staff schedules each development in Maximo Assignment Manager, at least 2 business days prior to scheduled Lead-Based Paint (LBP) abatement and/or remediation activities.”

Lead Hazard Control currently uses a form entitled, “Lead Abatement Procedure & Occupant Protection Plan.” See Attachment 1. The form contains a regulatory compliance section, which lists, among other regulations, 40 CFR Part 745 and 24 CFR § 35.1325. The form requires the EPA CDX notification as a required attachment.

With respect to contract specifications, Lead Hazard Control identified one vendor that performed abatement during the Covered Period. Exhibit 2 of the contract contains a Scope of Services for Lead Abatement. See Attachment 2. The contract specifications do not specifically require the EPA notification, but the specifications do require compliance with all applicable federal laws, including certification requirements. As indicated below, the February 2019 MR determined that the vendor was not following this requirement and the vendor was directed to do so in January 2019.

IT Controls:

There are no additional IT controls currently associated with this requirement.⁸

QA Protocols: There are currently no QA Protocols applicable to this requirement. However, as discussed further below, the February 2019 MR did identify that the vendor was not following this requirement, and Lead Hazard Control staff directed the vendor to take corrective action.

⁸ A previous issue was raised about auto-population of the supervisor’s name on the CDX form. This issue had been resolved before the monitoring period covered in this report.

File Review: NYCHA's Compliance Department conducted a file review to determine if the notice required by 40 CFR § 745.227(e)(4)(vii) was present in the relevant project files. The Compliance Department reviewed a total of 162 completed project files. Of these 162 files, 162 project files contained the required EPA notification (100%). However, in at least one file reviewed, the file contained only the updated CDX notification and did not include the original CDX notification.

The February 2019 MR also identified the following issue with respect to CDX notifications by NYCHA's vendor: "MT reviewed 6 notices submitted to the EPA by a vendor currently assisting NYCHA with conducting lead abatement work. MT found that the EPA notices were not filed 5 days before the performance of lead abatement work, as required. When the Deputy Director of the Lead Hazard Control Department spoke with the vendor to correct the noncompliant submission of EPA notices, the vendor stated that they were unaware of the required 5 day waiting period between the submission of an EPA notice and the performance of lead abatement work." See Attachment 3, at 4.

Overall Description of Compliance: NYCHA has deficiencies in the following areas that currently prevent it from fully certifying to compliance with 40 CFR § 745.227(e):

- For the Covered Period, NYCHA does not have current written policies or procedures, IT controls, or ongoing QA protocols to ensure that the CDX notification requirements are followed in accordance with 40 CFR § 745.227(e).
- During the Covered Period, the February 2019 MR identified that the vendor was not adhering to the EPA notification protocols. While NYCHA issued a written communication to the vendor to correct this violation going forward, it is not clear if the vendor or NYCHA previously disclosed this deficiency to EPA.
- During the Covered Period, at least one file reviewed only contained a copy of the Updated CDX notification. As an abatement firm can only submit an updated CDX notification if the firm has already submitted an original notification, NYCHA needs to obtain a copy of both the original and updated CDX notifications for its project files.

Notwithstanding these deficiencies, all 162 files reviewed contained copies of CDX notifications. Additionally, the Compliance Department obtained documentation from IT demonstrating that the name of certified supervisor is no longer automatically filled on the form.

→Description of Compliance with Paragraph 14(c): NYCHA shall prepare and implement written occupant protection plans for all abatement projects in accordance with 40 CFR § 745.227(e)(5).

Regulatory Requirements: 40 CFR § 745.227(e)(5) states: "A written occupant protection plan shall be developed for all abatement projects and shall be prepared according to the following procedures: (i) The occupant protection plan shall be unique to each residential dwelling or child-occupied facility and be developed prior to the abatement. The occupant protection plan shall describe the measures and management procedures that will be taken during the abatement to protect the building occupants from exposure to any lead-based paint hazards. (ii) A certified supervisor or project designer shall prepare the occupant protection plan."

Applicable Written Policies, Procedures, and Contract Specifications: On the FRL, the Compliance Department identified GM 3758 (March 30, 2010), entitled "Lead-Based Paint Testing and Abatement."

As stated above, this document is outdated, but remains on the NYCHA FRL. The document does not reference occupant protection plans.

Lead Hazard Control currently uses a form entitled, "Lead Abatement Procedure & Occupant Protection Plan." The form contains language which states, "Occupant Protection Plan (OPP) requirements will be followed according to 40 CFR § 745.227(e) (5) (ii) and 24 CFR § 35.1345." The form is signed by a certified abatement supervisor.

The contract specifications reference compliance with federal laws, but do not specifically require the preparation of an occupant protection plan.

IT Controls: There are no IT controls in place to enforce the occupant protection plan requirement.

QA or Field Monitoring Protocols: NYCHA did not perform QA or field monitoring of abatement projects performed by NYCHA lead abatement workers. Lead Hazard Control staff state that they did perform monitoring of abatement projects performed by the vendor, but this monitoring was not documented through any checklist or field report, and thus it is unknown if the monitoring evaluated the vendors' compliance with the Occupant Protection Plans.

File Review: NYCHA's Compliance Department conducted a file review to determine if the written occupant protection plan required by 40 CFR § 745.227(e)(5) was present in the relevant project files. The Compliance Department reviewed a total of 162 completed project files. Of these 162 files, 148 files had completed occupant protection plans (as evidenced by the Lead Abatement Procedure & Occupant Protection Plan form) for abatement projects. Of the remaining 15 files, 5 project files contained incomplete occupant protection plans (3%), and 10 project files had no occupant protection plan (6.1%). Thus, overall 9.1% of the files review did not contain documentary evidence satisfying the regulatory requirement.

Overall Compliance Assessment: NYCHA has deficiencies in the following areas that currently prevent it from fully certifying to compliance with 40 CFR § 745.227(e)(5):

- For the Covered Period, NYCHA did not have adequate written policies or procedures or IT Controls to ensure that the occupant protection plan was prepared by a certified supervisor before the abatement project.
- For the Covered Period, NYCHA did not have adequate QA or Field Monitoring protocols to ensure that the NYCHA abatement workers or vendors were adhering to the Occupant Protection Plan during abatement projects.
- During the Covered Period, the Compliance Department's file review indicates that 5 files out of 162 did not have completed occupant protection plans and 10 files out of 162 did not have any documentation of occupant protection plans.

Notwithstanding these deficiencies, Lead Hazard Control has developed the Lead Abatement Procedure & Occupant Protection Plan form, which is now a required document for all abatement projects. Additionally, 148 out of 162 files (90.7%) reviewed had completed occupant protection plans.

→Description of Compliance with Paragraph 14(d): NYCHA shall specify methods of collection and lab analysis in accordance with 40 CFR § 745.227(f).

Regulatory Requirements: 40 CFR § 745.227(f) states: “Any paint chip, dust, or soil samples collected pursuant to the work practice standards contained in this section shall be: (1) Collected by persons certified by EPA as an inspector or risk assessor; and (2) Analyzed by a laboratory recognized by EPA pursuant to section 405(b) of TSCA as being capable of performing analyses for lead compounds in paint chip, dust, and soil samples.”

The following compliance assessment is applicable only to samples collected for abatement projects.

Applicable Written Policies, Procedures, and Contract Specifications: NYCHA does not have current written policies or procedures that outline these specific requirements.

During the covered period, NYCHA utilized vendors to perform third-party clearance examinations for the abatements. The Compliance Department reviewed the contractor specifications, and the specifications satisfied the above requirement. A copy of the specification reviewed by Compliance is annexed as Attachment 4.

IT Controls: NYCHA does not have any existing IT controls that address these requirements.

QA or Field Monitoring Protocols: NYCHA did not conduct any field QA.

File Review: The Compliance Department reviewed 162 completed abatement files. Of these, 155 out of 162 had completed clearance examination reports.

Overall Compliance Assessment: NYCHA has deficiencies in the following areas that currently prevent it from fully certifying to compliance with 40 CFR § 745.227(f).

- During the Covered Period, NYCHA lacks written policies or procedures specifying the requirements of 40 CFR §745.227(f). Further, NYCHA lacks a field monitoring program to ensure that the third-party vendors performing the sampling are adhering to these requirements.

Notwithstanding this deficiency, the contract specifications contain sufficient specifications on the requirements and the file review indicates that supporting documentation on credentials of vendor staff and laboratories is being maintained in the project files.

→Description of Compliance with Paragraph 14(e): NYCHA shall ensure that a clearance examination is performed, and a clearance examination report provided by a lead paint inspector/risk assessor certified and licensed as applicable for the property location, in accordance with 24 CFR § 745.227(e)(8) - (9). The lead paint inspector/risk assessor must be independent of the lead-based paint abatement firm, supervisor, and contractors performing the abatement work.

Regulatory Requirements: 40 CFR § 745.227(e)(8) states, in relevant part: *The following post-abatement clearance procedures shall be performed only by a certified inspector or risk assessor*

“(i) Following an abatement, a visual inspection shall be performed to determine if deteriorated painted surfaces and/or visible amounts of dust, debris or residue are still present. If deteriorated painted surfaces or visible amounts of dust, debris or residue are present, these conditions must be eliminated prior to the continuation of the clearance procedures.

(ii) Following the visual inspection and any post-abatement cleanup required by paragraph (e)(8)(i) of this section, clearance sampling for lead in dust shall be conducted. Clearance sampling may be conducted by employing single-surface sampling or composite sampling techniques.

(iii) Dust samples for clearance purposes shall be taken using documented methodologies that incorporate adequate quality control procedures.

(iv) Dust samples for clearance purposes shall be taken a minimum of 1 hour after completion of final post-abatement cleanup activities.

(v) The following post-abatement clearance activities shall be conducted as appropriate based upon the extent or manner of abatement activities conducted in or to the residential dwelling or child-occupied facility:

(A) After conducting an abatement with containment between abated and unabated areas, one dust sample shall be taken from one interior window sill and from one window trough (if present) and one dust sample shall be taken from the floors of each of no less than four rooms, hallways or stairwells within the containment area. In addition, one dust sample shall be taken from the floor outside the containment area. If there are less than four rooms, hallways or stairwells within the containment area, then all rooms, hallways or stairwells shall be sampled.

(B) After conducting an abatement with no containment, two dust samples shall be taken from each of no less than four rooms, hallways or stairwells in the residential dwelling or child-occupied facility. One dust sample shall be taken from one interior window sill and window trough (if present) and one dust sample shall be taken from the floor of each room, hallway or stairwell selected. If there are less than four rooms, hallways or stairwells within the residential dwelling or child-occupied facility then all rooms, hallways or stairwells shall be sampled.

(C) [*Exterior abatement provision omitted*]

(vi) The rooms, hallways or stairwells selected for sampling shall be selected according to documented methodologies.

(vii) The certified inspector or risk assessor shall compare the residual lead level (as determined by the laboratory analysis) from each single surface dust sample with clearance levels in paragraph (e)(8)(viii) of this section for lead in dust on floors, interior window sills, and window troughs or from each composite dust sample with the applicable clearance levels for lead in dust on floors, interior window sills, and window troughs divided by half the number of subsamples in the composite sample. If the residual lead level in a single surface dust sample equals or exceeds the applicable clearance level or if the residual lead level in a composite dust sample equals or exceeds the applicable clearance level divided by half the number of subsamples in the composite sample, the components represented by the failed sample shall be re-cleaned and retested.

(viii) The clearance levels for lead in dust are 40 µg/ft² for floors, 250 µg/ft² for interior window sills, and 400 µg/ft² for window troughs.

*****This description of compliance intentionally omits 40 CFR 745.227(e)(9) as NYCHA has not utilized the random sampling clearance methodology during this reporting period.**

Applicable Written Policies, Procedures, and Contract Specifications: NYCHA does not currently have written policies and procedures in place that delineate all steps of the clearance examination process for abatement projects.

IT Controls: NYCHA does not currently have IT controls in place for clearance examination performed in association with abatement projects. The Compliance Department identified a current gap in Maximo for abatement project work orders performed during move-outs. For abatements performed as a result of COTAs or move outs, the abatement project and the dust wipe are created as two separate child work orders. It is the Compliance Department's understanding that these work orders can be closed out independently from one another. This opens a potential risk that abatement project will not be properly closed out.

QA or Field Monitoring Protocols: NYCHA does not currently perform field monitoring to ensure that contracted risk assessor or inspectors are appropriately performing the clearance examination for abatement projects. NYCHA does have in-house staff review sampling results received from laboratories to confirm if the dust wipe sample passed or failed. However, if the sample fails, there is not adequate documentation of the steps taken to re-clean and retest the unit.

File Review: Of 162 files reviewed, 155 were found to contain copies of clearance examination reports. One additional file contained an incomplete report (0.6%), and seven files did not contain clearance examination reports (4.3%).

Overall Compliance Assessment: NYCHA has deficiencies in the following areas that currently prevent it from fully certifying to compliance with 40 CFR § 745.227(e)(8):

- During the Covered Period, NYCHA did not have adequate written policies or procedures, or a field QA process to ensure that the clearance examinations were performed in compliance with 40 CFR § 745.227(e)(8).⁹
- During the covered period, the file review indicated that approximately 7 out of the 162 files (4.9%) were missing or contained incomplete information on the clearance examination. Additionally, the February 2019 MR reveals several discrepancies associated with the documentation of the clearance examination process in Maximo. See February 2019 MR, at 18 – 22.
- During the covered period, there is inadequate documentation of re-cleaning following a failed clearance examination, including whether this recleaning was supervised by a certified abatement supervisor.

Notwithstanding these deficiencies, the contract specifications for vendors performing clearance examinations are in line with 40 CFR § 745.227(e)(8). Additionally, 155 out of the 162 completed project files (95%) contain documentation of completed clearance examinations. However, based on the findings of this assessment and the 2019 February MR, the Compliance Department will evaluate the clearance examination process for abatement to detect any deficiencies or gaps in this process.

⁹ During the Covered Period, the Compliance Department conducted a limited review on the clearance examinations for the project files labelled as in progress. The Compliance Department is still investigating the chronology of the clearance examinations for these in progress files to determine whether all work was performed in accordance with the regulatory requirements.

→Description of Compliance with Paragraph 14(f): NYCHA shall ensure that the certified supervisor on each abatement project prepares an abatement report in accordance with 40 CFR § 745.227(e)(10).

Regulatory Requirements: 40 CFR § 745.227(e)(10) states as follows: *“An abatement report shall be prepared by a certified supervisor or project designer. The abatement report shall include the following information: (i) Start and completion dates of abatement. (ii) The name and address of each certified firm conducting the abatement and the name of each supervisor assigned to the abatement project. (iii) The occupant protection plan prepared pursuant to paragraph (e)(5) of this section. (iv) The name, address, and signature of each certified risk assessor or inspector conducting clearance sampling and the date of clearance testing. (v) The results of clearance testing and all soil analyses (if applicable) and the name of each recognized laboratory that conducted the analyses. (vi) A detailed written description of the abatement, including abatement methods used, locations of rooms and/or components where abatement occurred, reason for selecting abatement methods for each component, and any suggested monitoring of encapsulants or enclosures.”*

Applicable Written Policies, Procedures, and Contract Specifications: NYCHA does not have any written policies, procedures, or contract specifications that were provided by Lead Hazard Control that would ensure adherence to this requirement.

IT Controls: NYCHA does not currently have IT controls in place for completion of the required abatement report.

QA Protocols: NYCHA does not have any QA protocols to ensure that this requirement is being adhered to.

File Review: Of the 162 completed files, 0 projects contained an abatement report prepared by a certified supervisor.

Overall Compliance Assessment: NYCHA is not in compliance with this paragraph 14(f) and 40 CFR § 745.227(e)(10), as the certified supervisor has not prepared the required abatement reports. While NYCHA has most of the documentation that would be included in the abatement report in its project files, NYCHA does not have a certified supervisor or project designer prepare the required abatement report.

→Description of Compliance with 14(g): NYCHA shall maintain records in accordance with 40 CFR § 745.227(i) and 24 CFR § 35.125.

Regulatory Requirements: 40 CFR § 745.227(i) states *“All reports or plans required in this section shall be maintained by the certified firm or individual who prepared the report for no fewer than 3 years. The certified firm or individual also shall provide copies of these reports to the building owner who contracted for its services.”*

24 CFR §35.125 states, *“The designated party ... shall keep a copy of each notice, evaluation, and clearance or abatement report required by subparts C, D, and F through M of this part for at least three years. Those records applicable to a portion of a residential property for which ongoing lead-based paint maintenance and/or reevaluation activities are required shall be kept and made available for the Department's review, until at least three years after such activities are no longer required.”*

Applicable Written Policies, Procedures, and Contract Specifications: NYCHA does not have specific written policies and procedures that specifically apply to lead abatement records.

IT Controls: NYCHA does not have IT controls that support this requirement.

QA Protocols: Before NYCHA deems a file complete, it requires that Lead Hazard Control staff review the file's contents and ensure that it contains the documentation for a completed file before it is sent to the central storage facility in Long Island City.

File Review: For purposes of this assessment, the Compliance Department requested 162 completed files. Lead Hazard Control was able to provide partial files for these projects although, as indicated above, certain project files were missing key documents, and all project files were missing the required abatement report.

In the previous February 2019 MR, the Compliance Department located 55% of the files, 78 out of 143, within a combined sample of records from 2009 and 2018.

Overall Compliance Assessment: NYCHA has deficiencies in the following areas that currently prevent it from fully certifying to compliance with 40 CFR § 745.227 and 24 CFR § 35.125:

- NYCHA must update its record-keeping checklist to encompass all required documents pursuant to the Abatement and LSH Rules. As indicated above, all project files are missing the required abatement report, and other several files are missing key documents.
- The February 2019 MR identified missing records from the years 2009 and 2018. This assessment indicates that files are not being stored in accordance with the requirements. Most of the missing files were from 2009.
- Through staff interviews, the Compliance Department learned that Lead Hazard Control often waits a significant period before completing its files designed as in progress because it is awaiting the final reports to be sent by the vendor. However, per contract requirements, the vendor should be sending draft final reports within two weeks and the length of time from draft final to final should be no more than two additional weeks. Lead Hazard Control should be enforcing this requirement with its contractors. A similar issue was also identified in the February 2019 MR. See February 2019 MR, at 19.

Notwithstanding these deficiencies, Lead Hazard Control was able to produce 162 files for its completed projects although, as noted above, some of the required documents were missing some of the "complete" records.

Description of Compliance with Paragraph 15 (RRP and Interim Control Projects): "NYCHA shall comply with lead-safe work practice requirements set forth in the [LSH Rule] and the [RRP Rule], when directing or performing renovation ... or maintenance work in Lead Paint Developments to which lead-safe work practices apply..."

Beginning during 2018 and continuing through the Covered Period, NYCHA conducted the following number of Interim Control Projects:

Status	NYCHA Progress as of July 29, 2019
Total Number of Units in Lead Paint Developments	46,372
Moveouts	118
Units with Completed Visual Assessments	44,387
Units Still Requiring Visual Assessments Despite Attempted Access	1,864 (does not include 3 that have no attempts)
Units with Identified Deficiencies	39,596
Units with no Deficiencies	4,791
Number of Units Where NYCHA Performed Interim Controls Below Lead Safe Housing Rule De Minimus Levels	3,365
Number of Units where NYCHA Performed Interim Controls Above Lead Safe Housing Rule De Minimus Levels	9,489
Units Still Requiring Interim Controls	26,742

The total number of RRP projects in the Lead Paint Developments from January 31st, 2019 to July 30th, 2019 are 4,178 in 3,061 apartments.

Given the overall volume of projects, for this assessment, the Compliance Department conducted file review and used NYCHA databases to assess trends in overall compliance. The sample sizes and methods varied dependent upon the specific requirement and will be explained in each section below.

→Description of Compliance with 15(a): Establishing and maintaining sufficient information in NYCHA’s renovation and maintenance computer systems to readily identify renovation and maintenance projects involving work to which lead-safe work practices regulations apply in accordance with 24 CFR §§ 35.1330, 35.1350 and 40 CFR §§ 745.85, 745.89.

Regulatory Requirements: NYCHA interprets this requirement as ensuring that its computerized work order system, Maximo, can identify developments in which paint disturbing projects require adherence to lead safe work practices, as those requirements are defined in the above-cited regulations.

Written Policies, Procedures, and/or Contract Specifications: NYCHA Standard Procedure Manual SP:040:18 Lead Safe for Renovation, Repair, and Painting (December 2018) (“RRP SP) states as follows: “Maximo flags locations in which lead-based paint is or may be present, and identifies when RRP requirements must be met. If a Maximo work order identifies that RRP is required, all painted surfaces must be presumed to be lead-based paint.” RRP SP, at 1 – 2. The RRP SP is annexed as Attachment 5.

IT Controls: Based on prior random sampling lead inspection data, Maximo places a “flag” on units that could require RRP work. A document setting forth this IT enhancement is annexed as Attachment 6.

QA or Field Monitoring: From February 2019 to present, the Compliance Department oversaw field monitoring, performed by staff from the New York City Department of Sanitation, of RRP work at the Lead Paint Developments. The results of this monitoring are annexed as Attachment 7.¹⁰

File Review: The Compliance Department randomly selected 25 work orders that were flagged as requiring lead-safe work practices in Maximo. To test the controls for identifying work that requires lead safe work practices, the Compliance Department reviewed the work orders to verify that these units were on the list of apartments presumed to have lead-based paint. All 25 units were on the list presumed to have lead-based paint. Based on this sample size, the controls appear adequate and sufficient to readily identify units in which renovation and maintenance projects require lead safe work practices.

Overall Description of Compliance: Based on the existence of written standard procedures, the existence of IT controls, and the existence of a field monitoring program, NYCHA has established a system that can ensure compliance with the requirements referenced in Paragraph 15(a). However, the Compliance Department believes the following measures should be improved to improve actual day-to-day compliance.

- NYCHA should expand its field monitoring protocols to include interim control projects arising from the annual visual assessments.
- NYCHA’s Compliance Department should perform field monitoring to ensure that certified renovators are appropriately identifying projects that fall within the de minimus exceptions.
- NYCHA, including the Compliance Department, should more systematically address project-specific deficiencies by initiating corrective actions against staff and vendors that do not follow the stipulated requirements.

→Description of Compliance with 15(b): Ensuring that only properly trained and certified firms and workers are assigned to perform work to which lead-safe work practices apply in accordance with 24 CFR §§ 35.1330, 35.1350 and 40 CFR §§ 745.85, 745.90.

Regulatory Requirements: NYCHA adheres to the above-stated requirements by only permitting RRP-certified staff or vendors to perform paint-disturbing work in Lead Paint Developments.

Written Policies, Procedures, and/or Contract Specifications: Regarding vendors, the RRP SP states as follows, “Property maintenance supervisors ensure vendor employees: (1) Are Certified Renovators. (2) Have their RRP certificates on file at the development. (3) Follow lead-safe work practices under federal and local law and regulations. (4) Provide the required notifications.” See RRP SP, at 16. Developments using vendors must also provide the vendor with the “Lead Safe Practices Vendor notice.” RRP SP, at 16 and Appendix A.

Regarding NYCHA staff, the RRP states as follows: “Only Certified Renovators can perform Renovation, Repair, and Painting (RRP) work that requires RRP certification.” See RRP SP, at 14. The RRP

¹⁰ NYCHA is providing Monitoring Reports from February 2019 through June 2019. NYCHA will provide the Monitoring Report for July 2019 in early August 2019.

SP further states, “Supervisors are not permitted to assign work that requires a Certified Renovator to employees who are not Certified Renovators. If an employee who is not a Certified Renovator is assigned to complete a work order that has the ACTION REQUIRED message noted above, the employee must tell their immediate supervisor that they are not certified to complete the work order.... In Assignment Manager and ESD Dispatching, the Labor List has a field to indicate which employees are Certified Renovators. The RRP certification information is imported from the Human Resources Database daily.”

IT Controls: NYCHA has IT controls that ensure that NYCHA assigns potential RRP work orders in Lead Paint Developments to RRP certified NYCHA staff. A document describing this IT control is annexed as Attachment 6. At present, however, Maximo does not identify the vendor or vendor staff assigned to perform RRP work at the Lead Paint developments. NYCHA instead relies upon either Development staff or NYCHA paint supervisors to manually check the qualifications of the vendor and vendor staff at the development.

QA or Field Monitoring: The Compliance Department has assigned the DSNY to perform onsite compliance assessments of NYCHA staff or vendors performing RRP work. The results of this monitoring are annexed as Attachment 7. DSNY has not generally conducted onsite monitoring of interim control projects to correct paint deficiencies identified in 2018 or 2019 visual assessments.

File Review: Regarding vendors’ compliance with the certification requirements, the Compliance Department randomly selected 17 work orders from 17 distinct developments. The Compliance Department then requested the certifications of the vendor firms and workers from the associated developments. The Compliance Department then compared the certificates to the work orders in Maximo. Of the 13 responses received, ten responses included a copy of the vendor certification and a copy of the worker’s certification; two responses only had the workers certification. One development submitted the vendor and worker certificates, however; the Compliance Department deemed the development to be noncompliant because the certificates were not on file, and the vendor forwarded the certificates to the Compliance Department. Four developments did not respond to the document request.

The MU also reviewed 100 randomly selected paint contracts provided by procurement. Three did not include the firm’s RRP certificate (3%).

Regarding NYCHA staff, according to an RRP work order report generated from NYCHA’s Maximo database, from January 31, 2019 to June 25, 2019, NYCHA had 2,232 RRP work orders with 815 distinct NYCHA employees performing the work. The Compliance Department randomly selected 250 NYCHA employees and then reviewed 250 work orders associated with these employees. The Compliance Department compared the names of the NYCHA employees and work order dates from the Maximo report to a list of certified RRP employees obtained from NYCHA’s Human Resources. The analysis shows that all 250 randomly selected NYCHA employees were certified at the start of the reviewed RRP work order.

Overall Description of Compliance: Regarding vendors, NYCHA has deficiencies in the following areas that currently prevent it from fully certifying to compliance with paragraph 15(b):

- During the Covered Period, the IT controls in Maximo are not sufficient for ensuring that the vendor and vendor staff have the appropriate certifications because Maximo does not identify the vendor assigned to the work. The required certifications are instead checked through a manual process at the development which is challenging to verify.

- During the Covered Period, the Compliance Departments requested documentation on 17 work orders to evaluate whether the development maintained the required certifications. Of the 17, 4 did not respond to the information request, and two developments did not have a copy of the vendor certification.

Notwithstanding these deficiencies, NYCHA has written procedures that require RRP certified vendors and workers to perform paint disturbing work at the Lead Paint Developments. In addition, the Compliance Department reviewed 100 randomly selected paint contracts provided by the NYCHA Procurement Department and identified that all but three had submitted the required certification.

Regarding NYCHA staff: through an aggressive training program that has certified 2643 NYCHA staff under the RRP Rule, development of IT controls that restrict the assignment of workers to RRP-certified staff, the existence of a standard procedures, and the results of the DSNY field monitoring and file review, NYCHA currently has a system in place that should ensure compliance or detect any project-specific non-compliance, with the requirements set forth in subparagraph (b). However, the controls described above apply to RRP work performed in units, and the Compliance Department has yet to assess NYCHA's compliance with RRP work performed in common areas. Therefore, until staff assignment for common area work is sufficiently reviewed and assessed, NYCHA cannot fully certify to the requirements set forth in paragraph 15(b) as to NYCHA staff.

→Description of Compliance with 15(c): Obtaining and Maintaining certification as a certified renovation firm if any of the workers described in this paragraph are NYCHA employees, and the work they do is covered by 40 CFR part 745, subpart E ... in accordance with 40 CFR §§ 745.81, 745.89.

Overall Description of Compliance: NYCHA is a certified RRP firm. Proof of the certification is annexed as Attachment 8.

→Description of Compliance with 15(d): Ensuring supplies necessary to perform lead-safe work practices in accordance with 24 CFR § 35.1350 and 40 CFR § 785.85 are readily available to trained and certified workers.

Regulatory Requirements: NYCHA interprets this requirement as ensuring that its storerooms have sufficient supplies that can be used by NYCHA staff daily to fulfill the lead safe work practice requirements.

Written Policies, Procedures, and/or Contract Specifications: Section VIII.F of the RRP SP sets forth the mandatory materials that must be included in the standard RRP kit and available at the developments. See RRP SP, at 21 – 22.

IT Controls: NYCHA does not have any IT controls to ensure compliance with the requirements of paragraph 15(d).

QA or Field Monitoring: At the direction of the Compliance Department, DSNY monitored 90 storerooms for the required supplies, according to NYCHA's Standard Procedure for RRP. Between June 10 and July 1, 2019, seven distinct storerooms did not have the required supplies (7.7%). The missing supplies were polyethylene bags, duct tape, utility knives, and the sample supply kits.

File Review: The Compliance Department did not conduct any file review to evaluate compliance with paragraph 15(d).

Overall Description of Compliance: NYCHA has deficiencies in the following areas that currently prevent it from fully certifying to compliance with paragraph 15(b):

- The DSNY onsite monitoring identified deficiencies at 7 storerooms out of 90 developments. The lack of supplies prevents the NYCHA staff from adhering fully to RRP requirements.

Notwithstanding this deficiency, over 92% of the developments surveyed during this period had adequate supplies and NYCHA has adopted written procedures to specify the supplies needed to fulfill the RRP requirements.

→Description of Compliance with 15(e): Ensuring that firms and workers assigned to perform the renovation or maintenance work to which lead safe work practices apply use the RRP Renovation Checklist and establish and maintain records necessary to demonstrate compliance with the RRP Rule in accordance with 40 CFR § 745.86.

Regulatory Requirements: The relevant portion of 40 CFR § 745.86 states as follows: *“Documentation of compliance with the requirements of § 745.85, including documentation that a certified renovator was assigned to the project, that the certified renovator provided on-the-job training for workers used on the project, that the certified renovator performed or directed workers who performed all of the tasks described in § 745.85(a), and that the certified renovator performed the post-renovation cleaning verification described in § 745.85(b). If the renovation firm was unable to comply with all of the requirements of this rule due to an emergency as defined in § 745.82, the firm must document the nature of the emergency and the provisions of the rule that were not followed. This documentation must include a copy of the certified renovator's training certificate, and a certification by the certified renovator assigned to the project that:*

(i) Training was provided to workers (topics must be identified for each worker).

(ii) Warning signs were posted at the entrances to the work area.

(iii) If test kits were used, that the specified brand of kits was used at the specified locations and that the results were as specified.

(v) The work area was contained by:

(A) Removing or covering all objects in the work area (interiors).

(B) Closing and covering all HVAC ducts in the work area (interiors).

(C) Closing all windows in the work area (interiors) or closing all windows in and within 20 feet of the work area (exteriors).

(D) Closing and sealing all doors in the work area (interiors) or closing and sealing all doors in and within 20 feet of the work area (exteriors).

(E) Covering doors in the work area that were being used to allow passage but prevent spread of dust.

(F) Covering the floor surface, including installed carpet, with taped-down plastic sheeting or other impermeable material in the work area 6 feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to contain the dust, whichever is greater (interiors) or covering the ground with plastic

sheeting or other disposable impermeable material anchored to the building extending 10 feet beyond the perimeter of surfaces undergoing renovation or a sufficient distance to collect falling paint debris, whichever is greater, unless the property line prevents 10 feet of such ground covering, weighted down by heavy objects (exteriors).

(G) Installing (if necessary) vertical containment to prevent migration of dust and debris to adjacent property (exteriors).

(iv) If paint chip samples were collected, that the samples were collected at the specified locations, that the specified NLLAP-recognized laboratory analyzed the samples, and that the results were as specified.

(vi) Waste was contained on-site and while being transported off-site.

(vii) The work area was properly cleaned after the renovation by:

(A) Picking up all chips and debris, misting protective sheeting, folding it dirty side inward, and taping it for removal.

(B) Cleaning the work area surfaces and objects using a HEPA vacuum and/or wet cloths or mops (interiors).

(viii) The certified renovator performed the post-renovation cleaning verification (the results of which must be briefly described, including the number of wet and dry cloths used).¹¹

Written Policies, Procedures, and/or Contract Specifications: Section VIII.G of the RRP SP sets forth the required procedures for lead safe work practices, and for completing the required renovator's checklist. See RRP SP, at 23 – 28. NYCHA also maintains a copy of the renovator's checklist on its FRL for both staff and for vendors.

IT Controls: On April 15, 2019, NYCHA added an IT control that requires renovators to upload a completed renovator's checklist before closing out the Maximo work order. However, as indicated by the Compliance Department's monitoring, Renovators may not be adhering to this requirement because completed or correct checklists are not appearing in Maximo and there is no backend Quality Assurance process to validate the completed form. Additionally, vendors do not have handheld devices, and it is unclear how this control applies to vendors performing RRP work.

QA or Field Monitoring: NYCHA does not conduct QA of documentation in Maximo to ensure that workers are annexing the renovator's checklist before closing out the RRP work order.

File Review: The Compliance Department reviewed RRP flagged work orders that were created by NYCHA staff after April 15th, 2019, which is when the Maximo enhancement described above when

¹¹ As has been recently discussed with SDNY, HUD, EPA, and the Monitor, NYCHA did not include the EPA cleaning verification process in its RRP processes because it was relying upon clearance examinations. However, as discussed in documents submitted regarding the corrective action plan arising from the May 31, 2019 certification, NYCHA will be, going forward, requiring the completion of the EPA cleaning verification for all RRP and interim control projects.

into effect. Pursuant to the notice issued by IT, see Attachment 9, NYCHA staff cannot close work orders without attaching the pre-acknowledgment form and renovator checklist.

The Monitoring Unit assessed 254 work orders (completed between June 1 and July 23rd) for the required attachments and confirmed if the employees were certified RPR renovators. 61% (154 out of 254) of the work orders had the RRP Renovation Checklist. The remainder of checklists were not uploaded into Maximo. The results of this monitoring, broken down by NYCHA management group are as follows:

Management Group	Renovator Checklist missing
Mixed Finance	89 (out of 99 WOs reviewed)
Queens/SI	12 (out of 18 WOs reviewed)
Bronx	8 (out of 10 WOs reviewed)
Brooklyn	12 (out of 37 WOs reviewed)
NGO	17 (out of 49 WOs reviewed)
Manhattan	16 (out of 41 WOs reviewed)

Overall Description of Compliance: NYCHA has deficiencies in the following areas that currently prevent it from fully certifying to compliance with 40 CFR § 745.86:

- During the covered period, the Compliance Department’s file review indicates that approximately 39% of the renovator’s checklists have not been uploaded into the Maximo work order system. It is unknown whether these checklists exist at developments or other locations.
- During the covered period, NYCHA’s IT enhancement to Maximo does not appear effective in terms of ensuring compliance with this requirement.
- The Compliance Department has not yet identified vendor checklists that fulfill these requirements. It is not fully understood at this time if these checklists exist at developments or other locations.

Notwithstanding these deficiencies, NYCHA has adopted written procedures and forms that should allow renovator to fulfill this requirement. NYCHA also has created an IT requirement that would at least enable NYCHA staff that have handhelds to fulfill this requirement.

→Description of Compliance with 15(f): Ensuring that residents of units and developments in which renovation or maintenance work to which lead-safe work practices apply will be performed [sic] are informed of the work to be performed and the risks involved in accordance with 24 CFR § 35.1345 and 40 CFR §§ 745.84, 745.85.

Regulatory Requirements: The regulations cited in paragraph 15(f) require NYCHA to distribute the EPA Renovate Right Pamphlet, and to obtain acknowledgment from an adult occupant of the unit.

Written Policies, Procedures, and/or Contract Specifications: Section VIII.B of the RRP SP sets forth the required procedure for distributing the required pre-renovation materials. See RRP SP, at 17 – 19.

IT Controls: On April 15, 2019, NYCHA added an IT control that requires renovators to upload a completed pre-renovation acknowledgment form before closing out the Maximo work order. However, as indicated by the Compliance Department’s monitoring, it does not appear from Maximo that renovators are adhering to this requirement. Additionally, vendors do not have handheld devices and thus it is unclear whether this IT control applies to RRP work performed by vendors.

QA or Field Monitoring: NYCHA does not conduct QA of documentation in Maximo to ensure that workers are annexing the pre-renovator acknowledgment form before closing out the RRP work order.

File Review: The Compliance Department reviewed RRP flagged work orders that were created by NYCHA staff after April 15th, 2019, which is when the Maximo enhancement described above went into effect. Pursuant to the notice issued by IT, see Attachment 9, NYCHA staff cannot close work orders without attaching the pre-acknowledgment form and renovator checklist.

The Monitoring Unit assessed 254 work orders (completed between June 1 and July 23rd) for the required attachments and confirmed if the employees were certified RPR renovators. 51% (129 out of 254) of the work orders had the Pre-Renovation Acknowledgement form attached in Maximo. Based on the Compliance Department’s review the remainder of forms do not appear that they were properly uploaded into Maximo. The results of this monitoring, broken down by NYCHA management group are as follows:

Management Group	Pre-Acknowledgement Form missing
Mixed Finance	85 (out of 99 WOs reviewed)
Queens/SI	8 (out of 18 WOs reviewed)
Bronx	2 (out of 10 WOs reviewed)
Brooklyn	6 (out of 37 WOs reviewed)
NGO	14 (out of 49 WOs reviewed)
Manhattan	14 (out of 41 WOs reviewed)

Overall Description of Compliance: NYCHA has deficiencies in the following areas that currently prevent it from fully certifying to compliance with the requirements set forth:

- During the covered period, the Compliance Department’s file review indicates that approximately 51% of the pre-renovation acknowledgement forms have not been uploaded into the Maximo work order system. It is unknown whether these forms exist at developments or other locations.

- During the covered period, NYCHA's IT enhancement to Maximo does not appear effective in terms of ensuring compliance with this requirement.
- The Compliance Department has not yet identified vendor documentation that fulfill these requirements. It is not fully understood at this time if these forms exist at developments or other locations.

Notwithstanding these deficiencies, NYCHA has adopted written procedures and forms that should allow renovator to fulfill this requirement. NYCHA also has created an IT requirement that would enable NYCHA staff that possess handhelds to fulfill this requirement. Additionally, this review did not include a review of any RRP work performed in common areas, as the focus of the compliance review has been on work performed in units. However, the Compliance Department has scheduled a monitoring of RRP practices in common areas in its six-month departmental plan.

→Description of Compliance with 15(g): Retaining records demonstrating compliance with the regulations set forth at 24 CFR § 35.125 and 40 CFR § 745.84.

Regulatory Requirements: This section shall focus on 24 CFR § 35.125, as the requirements of 40 CFR § 745.84 are discussed in paragraph 15(f). 24 CFR § 35.125 states as follows:

(a) Notice of evaluation or presumption. When evaluation is undertaken and lead-based paint or lead-based paint hazards are found to be present, or if a presumption is made that lead-based paint or lead-based paint hazards are present in accordance with the options described in § 35.120, the designated party shall provide a notice to occupants within 15 calendar days of the date when the designated party receives the report or makes the presumption. A visual assessment alone is not considered an evaluation for the purposes of this part. If only a visual assessment alone is required by this part, and no evaluation is performed, a notice of evaluation or presumption is not required.

(1) The notice of the evaluation shall include: (i) A summary of the nature, dates, scope, and results of the evaluation; (ii) A contact name, address and telephone number for more information, and to obtain access to the actual evaluation report; and (iii) The date of the notice.

(2) The notice of presumption shall include: (i) The nature and scope of the presumption; (ii) A contact name, address and telephone number for more information; and (iii) The date of the notice.

(b) Notice of hazard reduction activity. When hazard reduction activities are undertaken, each designated party shall:

(1) Provide a notice to occupants not more than 15 calendar days after the hazard reduction activities (including paint stabilization) have been completed. Notice of hazard reduction shall include, but not be limited to: (i) A summary of the nature, dates, scope, and results (including clearance) of the hazard reduction activities; (ii) A contact name, address, and telephone number for more information; (iii) Available information on the location of any remaining lead-based paint in the rooms, spaces, or areas where hazard reduction activities were conducted, on a surface-by-surface basis; and (iv) The date of the notice.

(2) Update the notice, based on reevaluation of the residential property and as any additional hazard reduction work is conducted.

(3) Provision of a notice of hazard reduction is not required if a clearance examination is not required.

(c) Availability of notices of evaluation, presumption, and hazard reduction activities.

(1) The notices of evaluation, presumption, and hazard reduction shall be of a size and type that is easily read by occupants.

(2) To the extent practicable, each notice shall be made available, upon request, in a format accessible to persons with disabilities (e.g., Braille, large type, computer disk, audio tape).

(3) Each notice shall be provided in the occupants' primary language or in the language of the occupants' contract or lease.

(4) The designated party shall provide each notice to the occupants by: (i) Posting and maintaining it in centrally located common areas and distributing it to any dwelling unit if necessary because the head of household is a person with a known disability; or (ii) Distributing it to each occupied dwelling unit affected by the evaluation, presumption, or hazard reduction activity or serviced by common areas in which an evaluation, presumption or hazard reduction has taken place. (iii) However, for the protection of the privacy of the child and the child's family or guardians, no notice of environmental investigation shall be posted to any centrally located common area.

Written Policies, Procedures, and/or Contract Specifications: NYCHA does not have written policies or procedures that address the required notice of evaluation and notice of hazard reduction.

The contract specifications for the NYCHA XRF initiative require vendors performing the XRF testing to perform the following: “(a.) Each dwelling unit that is found to contain lead-based paint is to receive a “Notice.”; (b.) The Notice shall be in a single page format that is approved by NYCHA. (c.) The Notice is to be received by the resident within 15 calendar days of knowledge that lead-based paint is present. (d.) Notices are to be mailed directly to the Resident’s address.” See Attachment 10, Section I.12.

IT Controls: There are currently no IT controls or systems, such as Siebel, that are used to generate these required letters to residents. Instead, Lead Hazard Control Unit manually creates the notices and emails them to the development staff, who then is responsible for printing and delivering the notice to resident or placing the letter under residents’ doors.

QA or Field Monitoring: With respect to notices of evaluation arising from the NYCHA XRF initiative, the vendor is responsible for sending the notices of evaluation following completion of the XRF inspections. Lead Hazard Control reviews these notices, and they are uploaded to the Maximo work order.

NYCHA does not perform QA related to hazard reduction notices.

File Review: The Compliance Department attempted to perform a file review of Notices of Hazard Reduction performed for RRP and Interim Control projects. The distribution of these required notices to the development is a manual process, reliant upon emails and information stored on individual staff’s computers. Additionally, Lead Hazard Control does not send the Notice of Hazard Reduction unless it receives the result of clearance examinations. As disclosed below, NYCHA has not performed clearance examinations in a significant number of RRP and Interim Control projects.

Overall Description of Compliance: NYCHA is generally not in compliance with 24 CFR § 35.125(b), although certain individual files and projects may include evidence of piecemeal compliance.

→Description of Compliance with 15(h): Containing or causing to be contained any work area to which lead safe work practices will apply by isolating the work area and waste generated so that no dust or debris leaves the work area in accordance with 24 CFR § 35.1345 and 40 CFR § 745.85(a).

Regulatory Requirements: 24 CFR § 35.1345(b)(1) states as follows: *The worksite shall be prepared to prevent the release of leaded dust, and contain lead-based paint chips and other debris from hazard reduction activities within the worksite until they can be safely removed. Practices that minimize the spread of leaded dust, paint chips, soil and debris shall be used during worksite preparation.*

40 CFR § 745.85(a)(2) states as follows: *“Containing the work area. Before beginning the renovation, the firm must isolate the work area so that no dust or debris leaves the work area while the renovation is being performed. In addition, the firm must maintain the integrity of the containment by ensuring that any plastic or other impermeable materials are not torn or displaced, and taking any other steps necessary to ensure that no dust or debris leaves the work area while the renovation is being performed. The firm must also ensure that containment is installed in such a manner that it does not interfere with occupant and worker egress in an emergency.”*

Written Policies, Procedures, and/or Contract Specifications: Section VIII.G.2. of the RRP SP sets forth the containment and worksite isolation requirements. See RRP SP, 23 – 26.

IT Controls: The information contained in this paragraph must be included in the renovator’s certified checklist. As of April 15, 2019, IT has developed a control in Maximo that requires this checklist to be uploaded before closing the work order. However, as explained in the Description of Compliance to 15(e), of the work orders reviewed by the Compliance Department, 39% of the checklists are missing from the Maximo work order.

QA or Field Monitoring: In its monitoring program overseen by the Compliance Department, DSNY has monitoring RRP projects to assess its compliance with this requirement. The results of this assessment are set forth in Attachment 7.

File Review: The results of the file review are discussed in the Description of Compliance with paragraph 15(e).

Overall Description of Compliance: NYCHA has deficiencies in the following areas that currently prevent it from fully certifying to compliance with 40 CFR § 745.85(a)(4).

- NYCHA lacks the required renovator’s checklist for a significant percentage of its projects. Therefore, for many projects NYCHA does not have key document that would allow certification of compliance with this section.
- Additionally, NYCHA does not have centralized copies of its vendors’ renovator’s checklists, and thus additional information is needed to assess their compliance with this section.

Notwithstanding this deficiency, NYCHA has written procedures and forms outlining this protocol, and has performed monitoring through DSNY of a large number of RRP projects indicating that staff have improved their compliance with these requirements.

→Description of Compliance with 15(i): Containing, collecting, and transporting waste from the renovation in accordance with 40 CFR § 745.85(a)(4).

Regulatory Requirements: 40 CFR § 745.85(a)(4) states as follows: *(i) Waste from renovation activities must be contained to prevent releases of dust and debris before the waste is removed from the work area for storage or disposal. If a chute is used to remove waste from the work area, it must be covered. (ii) At the conclusion of each work day and at the conclusion of the renovation, waste that has been collected from renovation activities must be stored under containment, in an enclosure, or behind a barrier that prevents release of dust and debris out of the work area and prevents access to dust and debris. (iii) When the firm transports waste from renovation activities, the firm must contain the waste to prevent release of dust and debris.*

Written Policies, Procedures, and/or Contract Specifications: Sections VIII.I.1 and VIII.I.3.d of the RRP SP sets forth the waste disposal requirements for work covered under the RRP rule.

IT Controls: The information required by this paragraph must be included in the renovator's certified checklist. As of April 15, 2019, IT has developed a control in Maximo that requires this checklist to be uploaded before closing the work order. However, as explained in the Description of Compliance to 15(e), of the work orders reviewed by the Compliance Department, 39% of the checklists are missing from the Maximo work order.

QA or Field Monitoring: In its monitoring program overseen by the Compliance Department, DSNY has monitoring RRP projects to assess its compliance with this requirement. The results of this assessment are set forth in Attachment 7.

File Review: The results of the file review are discussed in the Description of Compliance with paragraph 15(e).

Overall Description of Compliance: NYCHA has deficiencies in the following areas that currently prevent it from fully certifying to compliance with 40 CFR § 745.85(a)(4).

- NYCHA lacks the required renovator's checklist for a significant percentage of its projects. Therefore, for many projects NYCHA does not have key document that would allow certification of compliance with this section.
- Additionally, NYCHA does not have centralized copies of its vendors' renovator's checklists, and thus additional information is needed to assess their compliance with this section.

Notwithstanding this deficiency, NYCHA has written procedures and forms outlining this protocol, and has performed monitoring through DSNY of RRP projects indicating that staff have improved their compliance with these requirements.

→Description of Compliance with 15(j): Performing cleanup of any work area to which lead safe work practices apply until no debris or residue remains in accordance with 24 CFR § 35.1345, 35.1335 and 40 CFR § 745.85(a) and (b), and conducting and passing a clearance examination in accordance with 24 CFR § 35.1340 (including any follow-up as required by that section's subsection (e) after clearance failure(s)), as provided by 40 CFR § 745.85(c).

Regulatory Requirements: The above regulations set forth the mandated cleaning requirements and clearance examination requirements. Due to the number the number and length of these requirements, they are not reproduced in this section.

Written Policies, Procedures, and/or Contract Specifications: With respect to cleaning, Section VIII.I of the RRP SP sets for the mandated cleaning requirements.

With respect to clearance examinations, Section VIII.J of the RRP SP sets forth the clearance examination requirements. Based on a review performed by the NYCHA Compliance Department, the May 31, 2019 certification discloses inadequacies with respect to the clearance examinations set forth in the SP. On July 10, 2019, NYCHA submitted a new proposed SOP for clearance examinations and resident worksite restrictions, which is currently being evaluated by SDNY, HUD, EPA, and the Monitor.

IT Controls: With respect to cleaning, the information required by this paragraph must be included in the renovator's certified checklist. As of April 15, 2019, IT has developed a control in Maximo that requires this checklist to be uploaded before closing the work order. However, as explained in the Description of Compliance to 15(e), of the work orders reviewed by the Compliance Department, 39% of the checklists are currently missing from the Maximo work order.

With respect to clearance examinations, the creation of an RRP or visual assessment (interim control) work order automatically generates a work order for the clearance examination. See Attachment 8. However, as has previously been disclosed in the May 31, 2019 certification, the automated scheduling function has not resulted in timely clearance examinations, and many sites have not received any clearance examinations as required.

QA or Field Monitoring: With respect to cleaning, in its monitoring program overseen by the Compliance Department, DSNY has monitoring RRP projects to assess its compliance with this requirement. The results of this assessment are set forth in Attachment 7.

File Review: As NYCHA currently tracks the number of open clearance examination for RRP and interim control work orders, the Compliance Department did not conduct a file review, but instead relied on the data set provided by IT. The number of units with no clearance examinations since the Summer of 2018 following either RRP or Interim Control work is 12,046 of which approximately 35% have been attempted.

Overall Description of Compliance: With respect to cleaning, NYCHA has deficiencies in the following areas that currently prevent it from fully certifying to compliance with paragraph 15(j):

- NYCHA lacks the required renovator's checklist for a significant percentage of its projects. Therefore, for many projects NYCHA does not have key document that would allow certification of compliance with this section.
- Additionally, NYCHA does not have centralized copies of its vendors' renovator's checklists, and thus additional information is needed to assess their compliance with this section.

Notwithstanding this deficiency, with respect to cleaning, NYCHA has written procedures and forms outlining this protocol, and has performed monitoring through DSNY of RRP projects indicating that staff have improved their compliance with these requirements.

With respect to clearance examinations, and as previously disclosed on May 31, 2019, NYCHA is not in compliance with the clearance examination requirements set forth in paragraph 15(j), particularly with respect to the requirement set forth in 24 CFR § 35.1345(a)(1) and (2). The clearance examination issue was further outlined in the Monitor's first quarter report, dated July 2019. NYCHA also has not followed requirements for restricting resident access to work areas after it has completed the required cleaning but before it has received the results of the clearance examination. See 40 CFR 35.1345(a) and (b).

Following several discussions with the federal government and the Monitor, NYCHA submitted a revised corrective action plan on July 10, 2019 regarding the May 31, 2019 certification, with an additional addendum submitted on July 23, 2019. Both documents are currently under review by SDNY, HUD, EPA, and the Monitor. While certain components of the revised corrective action plan and addendum apply specifically to the immediate action list units, the revised corrective action plan and addendum also set forth new procedures and approaches for conducting timely clearance examinations and installing post-cleaning worksite protections. The SDNY, HUD, EPA, and the Monitor are still reviewing NYCHA's revised procedures and worksite protection protocols and have not yet approved them. However, NYCHA can begin employing certain measures as soon as July 30, although NYCHA expects that it may take through August to see the results of these improved processes:

- Stationing dust wipe technicians at NYCHA developments where a significant number of interim control projects are occurring to facilitate scheduling same-day clearance examinations;
- For projects located at other developments, establishing a dispatcher role to improve communication between field staff performing RRP work and NYCHA staff responsible for deploying dust wipe technicians to attempt same-day clearance examinations;
- Creating a daily report of dust wipe samplings to track all projects;
- Establishing a daily management call to ensure there are enough dust wipe technicians, either in house or vendor, to perform each day's work load;
- Updating procedures and renovator's checklists to require the performance of the EPA cleaning verification pursuant to 40 CFR § 745.85(b), to ensure that the renovator's have completed the project to EPA specifications; and
- Conducting a pilot of resident post-cleaning worksite protections and providing the results of the pilot to EPA and HUD for their technical review.

NYCHA will establish a regular reporting cycle with the Monitor to ensure that it is adhering to its new processes on performing timely clearance examinations.