

NYCHA Compliance Department: 3rd Assessment of Compliance with Requirements Of Paragraphs 14 and 15 of Exhibit A to the January 31, 2019 Agreement Between NYCHA, HUD, SDNY, and the City of New York

Introduction and Methodology

On January 31, 2019, the New York City Housing Authority (“NYCHA”), the United States Department of Housing and Urban Development (“HUD”), the Southern District of New York, and the City of New York (“City”) entered into a settlement agreement (“HUD Agreement”) which sets forth specific requirements for NYCHA to meet to remedy physical conditions in its developments, including with respect to lead-based paint. Exhibit A of the HUD Agreement sets forth the requirements pertaining to lead-based paint.

Paragraph 30(b) of Exhibit A requires NYCHA to provide, every six months, “the United States and the Monitor a certification describing its compliance with paragraph 8 through 15” of Exhibit A. Paragraphs 8 through 13 of Exhibit A set forth future obligations that NYCHA must comply with concerning long-term lead abatement projects. Paragraphs 14 and 15 represent ongoing compliance obligations for NYCHA under the EPA Abatement Rule (40 CFR § 745.227) (“Abatement Rule”), and the lead safe work practice requirements set forth in the Lead Safe Housing Rule (24 CFR Part 35, subparts B – R) (“Lead Safe Housing Rule”) and the Renovation, Repair, and Painting Rule (40 CFR Part 745, subpart E) (“RRP Rule”). This is NYCHA’s third report assessing compliance with Paragraphs 14 and 15.

To evaluate NYCHA’s ability to certify to the requirements of Paragraphs 14 and 15 on July 31, 2020, the Compliance Department conducted a review of NYCHA records and activities for the period between January 16, 2020 through June 15, 2020 (“Covered Period”).¹ Additionally, the NYCHA Environmental Health and Safety Department (EHS) issued a report (annexed as Attachment A) documenting field oversight activities during three months of the Covered Period (January to March 2020) that should be read in tandem with this Report. Field monitoring activities were suspended on March 20, 2020 due to the COVID-19 national emergency. Field monitoring activities are beginning to restart as of July 2020.

The Compliance Department uses the following methodology to evaluate NYCHA’s compliance with Paragraphs 14 and 15:

- **Existence of Written Policies, Procedures or Contract Specifications:** This criterion evaluates whether NYCHA has established specific written policies, procedures, contract specifications, trainings or instructional materials 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 strengthen 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 during the Covered Period of abatement,

¹ The 30(b) certification covers the period from January 1, 2020 to July 31, 2020.

interim control, or RRP projects to assess compliance with each specific regulatory requirement and the results of the quality assurance or field monitoring activities.

- **Recordkeeping/File Review:** This criterion evaluates whether project files for work orders closed during the Covered Period contain documentation required by and/or evidencing compliance with each specific regulatory requirement.
- **Overall Assessment of Compliance:** The overall assessment of NYCHA's compliance during the Covered Period with each specific requirement is based upon the above-described criteria and any additional information provided by NYCHA staff. This shall also disclose identified deficiencies with each specific regulatory requirement and, where available, provide action items that NYCHA must conduct in the next six months to address compliance shortfalls.

[Update on Compliance-Related Activities Since Last 30\(b\) Certification \(January 31, 2020\)](#)

On January 31, 2020, NYCHA was unable to certify to compliance with Paragraphs 14 and 15 for the following main reasons.

- NYCHA lacked sufficient field monitoring data on lead abatement activities (paragraphs 14(a),(b),(c),(d), and (e));
- NYCHA did not have sufficient controls on collecting and reviewing vendor firm and worker certification requirements under the RRP rule (paragraph 15(b))
- NYCHA did not have sufficient RRP supplies when inspected by EHS in 20% of the storerooms inspected (paragraph 15(d))
- NYCHA did not have adequate controls to collect RRP checklist and pre-work notice documentation from vendors. (paragraph 15(e)(f)(h)(i)).
- NYCHA was not in compliance with the Notice of Hazard Reduction requirement set forth in 24 CFR §35.125(b) (paragraphs 14(g) and 15(g));
- NYCHA was not in compliance with the clearance examination requirements due to inadequate worksite controls while waiting for dust wipe results and missed or late clearance examinations. (paragraph 15(j)).

NYCHA Compliance did determine that NYCHA had exhibit adequate controls or documentation to demonstrate compliance with the following sub-paragraphs:

- Paragraph 14(f): Preparation of lead abatement reports pursuant to 40 CFR §745.227(e)(10).
- Paragraph 15(a): Establishing sufficient information in NYCHA's renovation and maintenance computer systems to readily identify renovation and maintenance projects involving work to which lead-safe work practice regulations apply in accordance with 24 CFR §§35.1330; 35.1350 and 40 CFR §745.85, 745.89.
- Paragraph 15(c): NYCHA is a certified RRP firm.

Since January 31, 2020, NYCHA has continued to take certain actions to correct or attempt to improve its ability to meet the requirements set forth in Paragraphs 14 and 15. Major new and continuing actions related to Paragraphs 14 and 15 compliance and overall lead-based paint compliance include the following:

Compliance Improvements for Paragraph 14: NYCHA has made significant strides in building a compliant abatement program. Both documentary and field monitoring from the Covered Period show a higher rate of compliance for abatement projects. Compliance credits this to the leadership of LHC, which has worked to build, and follow, procedures that are tied to the requirements. LHC has also had tremendous support from NYCHA IT in building out digital platforms to store abatement documents in Maximo. Once some recordkeeping and documentation issues are addressed for Paragraphs 14(d) and 14(f), and so long as compliant work practices and record-keeping are maintained, it seems likely that NYCHA could certify to Compliance in the next reporting period. NYCHA Compliance hopes to work in partnership with the Federal Monitor team over the next six months to perform a quality assurance review of documentation and field monitoring data before the next certification.

Compliance Improvements for Paragraph 15: NYCHA has also made significant strides in compliance with RRP and LSHR requirements set forth in Paragraph 15. As described below, NYCHA has improved the Maximo work order system by incorporating new lead inspection data into the RRP work orders. Additionally, field monitoring performed by EHS continues to show that NYCHA renovators are adhering to their training. EHS has also observed improvements in the availability of RRP equipment in storerooms. Moreover, the digitized checklists for pre- and post- renovation into RRP work orders have increased compliance for these requirements and have allowed the Monitoring Unit to review the checklists on a monthly basis. The major issues preventing certification with Paragraph 15 are the need for better controls on vendor RRP documentation, notices of hazard reduction, and clearance examinations. On vendor RRP documentation, in May, NYCHA launched a Vendor Compliance Portal, which requires vendors to upload RRP firm and worker certificates into a centralized database. On notices of hazard reduction, NYCHA has performed testing of its automated notices of hazard reduction through Siebel and expect that the automated notices will finally begin before the end of September. On clearance examinations, NYCHA has built new dashboards and systems that improve the management of clearance examinations. While clearance examinations remain a compliance shortfall, performance has improved over the past year. Compliance, LHC, and IT are focusing on this requirement on a daily basis.

Incorporation of XRF Component Level Data into Maximo Corrective Maintenance Work Orders: In February 2020, NYCHA instituted a significant change to its Maximo Work Order system. Prior to February 2020, NYCHA placed a “flag” in Maximo signifying the presence of lead-based paint on an entire unit. This “RRP flag” then required that any paint-disturbing work in the unit would need to follow RRP protocols, including a clearance examination. The initial “RRP flag” increased NYCHA’s RRP compliance burden because NYCHA followed RRP protocols even when surfaces did not have lead-based paint.

Through its ongoing XRF Initiative, NYCHA conducts lead-based paint inspections of each individual unit. These inspections enable NYCHA to understand which specific components in the unit have lead-based paint. Based on the results from 39,970 individual unit inspections to date, the majority of units with positive components have 2 or less positive components in the unit.

Number of Positive Components Per Unit for Units in XRF Testing Initiative

Number of Components	Number of Units
Negative (0 Components)	18,435
1 Component	10,562
2 Components	4,236
3 Components	1,933
3+ Components	4,804

In February 2020, NYCHA enhanced the “RRP flag” in Maximo. For units where new XRF inspections have been performed, the Maximo work order now identifies which specific components are positive for lead-based paint. The certified renovator can use their handheld device to select any positive components that their work affects, or indicate that their work will not affect any of the components. The renovator must certify that they are making the proper selection. If the renovator selects positive components, the work must follow all RRP requirements, including RRP documentation and lead clearance examinations. If the renovator is not affecting any of the components, the renovator will follow normal work practices.

If a unit has not yet been XRF tested, the “RRP flag” will remain at the unit level until the unit is XRF tested, meaning that all work orders that disturb paint must follow RRP rules. NYCHA also will keep the “RRP flag” at the unit level for high risk lead developments such as East River, Williamsburg, and Harlem River. This new IT control is discussed in Paragraph 15(a) below.

Commencement of Biennial Risk Assessment Reevaluations: While not part of the Paragraph 30(b) certification, another important update from the Covered Period is NYCHA’s commencement of biennial risk assessments pursuant to 24 CFR §35.1355(b) and Exhibit A, Paragraph 18 of the HUD Agreement. The biennial risk assessments will, as required, evaluate exterior areas (including bare soil), interior common areas, and units. This project will evaluate lead-based paint risks at approximately 250 developments.

NYCHA Community Center with Child Under 6 Programs XRF Testing and Remediation Project: In February 2020, NYCHA commenced a project to conduct XRF testing, visual assessments, and, if necessary, remediation in 174 community centers with programming for children under the age of 6. NYCHA has substantially completed this initiative, but is performing follow-up testing based on quality control reviews of inspection reports and additional hazard control work on certain surfaces, such as buildings with high ceilings. The current status of this major project is below:

Description	Number of Centers
Total Planned	174 Community Centers
Completed (inspections & / or paint stabilization)	157
No Inspection Due to New Building	9
Cancelled Due to Conditions	2
To be rescheduled	1
High ceiling/wall	5
Results of testing for 157 Community Centers	
LBP – negative	84
LBP – positive and intact	29
LBP – peeling and paint stabilization completed	44
Total completed (pre-QA review)	157
Reports completed and deemed final based on QA Review	135
Missing components based on QA review	14
Missing paint chip sampling based on QA review	8
Total Follow-up work Needed [based on QA Review + High Ceiling + Rescheduled + Cancelled]	30 Community Centers

Submission of Draft Lead Action Plan and Revision of Lead Safe Housing Standard Procedure Manual: In March 2020, NYCHA submitted its proposed draft of its first Lead Action Plan under the HUD Agreement. NYCHA is awaiting comments from HUD, SDNY, and EPA. In addition, NYCHA is substantially completed with its first revision to the Lead Safe Housing Procedure Manual. The revised manual includes the processes for biennial risk assessments and the new RRP flag, and addresses gaps from the first manual. The new manual is expected to be published in August 2020.

I. Assessment of Compliance with Paragraph 14 for the Covered Period

General Statement

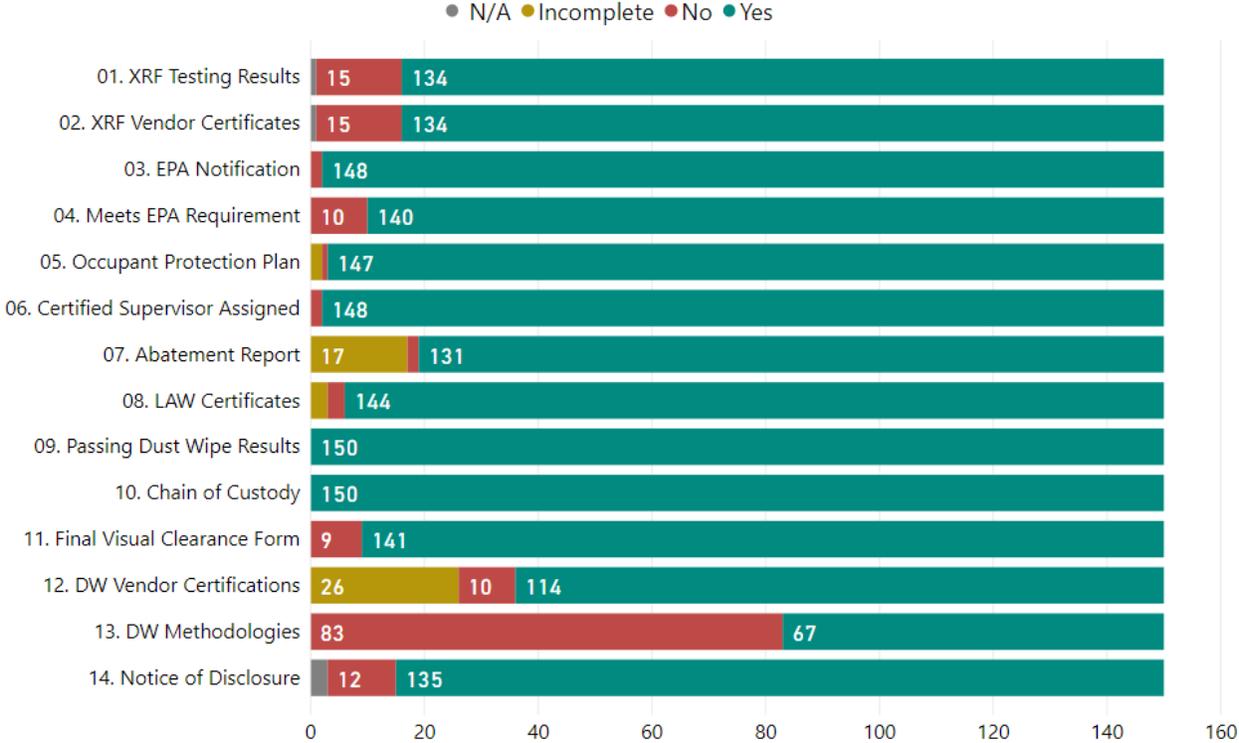
Field Monitoring Report: Documentation of the abatement field monitoring performed by EHS that is described in this section is set forth in Attachment A.

Abatement File Review: The abatement file review of 150 closed abatement files performed by Compliance that is described in this section is set forth in Attachment B. The Compliance Department selected a random sample of 150 abatement work orders with an “Actual Finish” date between January 16, 2020 to June 15, 2020. The 14 indicators reviewed by Compliance for the file review are set forth below.

	Description	Regulations	Agreement Section Referenced
1. XRF testing results	XRF Testing Results Performed Prior to Abatement	-	-
2. XRF Vendor Certifications	Certification for XRF Testing Vendor	-	-
3. EPA Notification	EPA was notified of abatement, and original notification is uploaded to Maximo	40 C.F.R. § 745.227(e)(4)(vii)	14(b)
4. Meets EPA Requirement	EPA must be notified 5 full business days prior to the start of abatement	40 C.F.R. § 745.227(e)(4)(vii)	14(b)
5. Occupant Protection Plan	Completion of the Occupant Protection Plan	40 C.F.R. § 745.227(e)(5)	14(c)
6. Certified Supervisor Assigned	Certified lead abatement supervisor assigned to abatement with current certification on file	40 C.F.R. § 745.227(e)	14(a)
7. Abatement Report	Completion of Abatement Report	40 C.F.R. § 745.227(e)(10)	14(f)
8. LAW Certificates	Certifications on file for each lead abatement worker assigned to abatement	40 C.F.R. § 745.227(e)	14(a)
9. Passing Dust Wipe Results	Final passing dust wipe results	40 C.F.R. § 745.227(e)(8)-(9)	14(e)
10. Chain of Custody	Chain of Custody completed for final passing dust wipe results	40 C.F.R. § 745.227(e)(8)-(9).	14(e)
11. Final Visual Clearance Form	Visual Clearance form completed for final passing dust wipe results	40 C.F.R. § 745.227(e)(8)-(9)	14(e)

12. DW Vendor Certifications	ELLAP and NLLAP Certifications	40 C.F.R. § 745.227(e)(8)-(9)	14(e)
13. DW Methodologies	Specified methods of collection and lab analysis of dust wipes	40 C.F.R. § 745.227(f)	14(d)
14. Notice of Disclosure	LHC sends to development for future tenants to sign prior to move-in disclosing abatement of lead hazard	24 CFR § 35.125(b)	14(g)

A summary of the overall results of the file review based on the 14 indicators is set forth below.



Lead Safe Housing Standard Procedure Manual (“Lead SP”)(SP#050:20:1): The Lead SP (annexed as Attachment C) was posted on the NYCHA Forms and Reference Library on January 21, 2020. Following its posting, on February 3, 2020, the Acknowledgement Portal was activated for all relevant staff (3,469 employees) to acknowledge their receipt of the procedure by March 23, 2020. Due to the COVID-19 situation, an extra two weeks was given for employees to acknowledge receipt. The Compliance Department sent six email reminders over the two month period. 1,539 employees acknowledged receiving the Lead SP and 1,930 have not acknowledged receipt of the SP.

A. 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 for 14(a):

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 for 14(a):

Written Policies and Procedures: The Lead SP includes the requirements set forth in 40 CFR § 745.227(e)(2). Lead SP, §§ VII.F.1.h & VII.F.2.h.

Contract Specifications: During the Covered Period, NYCHA utilized a vendor to perform abatements. The specifications for the contract (the contract specification is annexed hereto as Attachment D) makes express reference to the requirements set forth in 40 CFR Part 745 and contains the following requirements:

- “All employees of the Consultant and of its subcontractors conducting Lead-Based Paint Abatement activities must be EPA certified Lead Abatement Workers under the direction of a EPA certified Lead Abatement Supervisor.” See Attachment D, § 1.1.6.
- “Adequate Personnel: 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.” *Id*, § 1.2.1.
- Establishment of a Contract Monitor, with the authority to “stop the Services should the Monitor witness improper work procedures or the lack of *Adequate Personnel* present on an abatement job. Services may restart only upon authorization of the Monitor. If the Services are terminated, the Consultant at its own cost and expense must safeguard the abatement area in a manner that will prevent the possible spread of contamination. *Id*, § 1.4.5 (emphasis added).

IT Controls for 14(a):

In December 2019, NYCHA placed controls within Maximo to reinforce the requirement for the lead abatement supervisor be onsite during the set up and clean-up phases for apartment work orders. The business requirements document (BRD) explaining the scope of this and other abatement-related IT controls is annexed as Attachment E. Maximo now has the following requirements:

- The system maintains the list of NYCHA personnel who are certified as Lead Abatement Supervisors [note: system will not have all possible vendor personnel information unless IT receives a specific request from LHC].
- Adding a trade skill level that is set to “Supervisor”;

- The abatement work order must have at least one labor transaction where the craft is that of a lead abatement supervisor. If it does not, the system will not allow the work order to be closed;²
- Lead abatement work orders now must be made visible on handheld devices to both lead abatement workers and lead abatement supervisors.

[Field Monitoring/QA for 14\(a\):](#)

During the Covered Period, EHS observed 79 abatement jobs. A certified supervisor was present for 100% of these jobs. See EHS Report (Attachment A) for additional information.

[File Review for 14\(a\):](#)

The Compliance Department confirmed that certified supervisors were identified on 148 of 150 (99%) work orders, as indicated in the Labor Information field in Maximo or listed on the abatement work order. A detailed table documenting this file review is annexed as Attachment B. The two that did not have certified supervisors were abatements performed by a vendor that were missing certified supervisor certificates attached to the file.

The Compliance Department requested and received lead abatement supervisor certifications from all NYCHA-employed certified supervisors who are recorded as having supervised abatement projects during the Covered Period. 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.

[Overall Description of Compliance for 14\(a\):](#)

During the Covered Period, NYCHA made demonstrable progress towards compliance with the requirement set forth in Paragraph 14(a) of the HUD Agreement. Evidence of progress towards compliance consists of:

- Documented policies and procedures;
- Documented establishment of abatement field monitoring indicating 100% compliance with this requirement;
- Establishment of Maximo IT Control to require Certified Abatement Supervisors to document their site presence on the abatement work order;
- Contract specifications including this requirement;
- File review indicating the labor hours of Lead Abatement Supervisors on 148 out of 150 work orders (99%), with exceptions being due to lack of certificates on file by the vendor.

Based on this documentation, there is evidence supporting that NYCHA is in substantial compliance with the requirements set forth in 14(a).

² Note, labor can be recorded in any sequence and system does not have any restriction for supervisor to be first labor on work order. There is enforcement where system will not allow to close work order if supervisor labor is missing.

B. 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).”

Regulatory Requirements for 14(b):

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 for 14(b):

Policies and Procedures: The Lead SP sets forth the following procedures related to requirement set forth in paragraph 14(b):

- An LHC Assistant Director must notify EPA at least five days prior to the abatement using EPA’s CDX online portal. See Lead SP, § VII.F.1(b)(3)(c) and at § VII.F.2(b)(2)(c). If a vendor is performing the abatement, the vendor is responsible for the CDX notification and must send the notice to an LHC project manager. *Id.*
- The notice must be annexed to the abatement work order. *Id.*, § VII.F.1.b.3(d).
- If there is a change to the scope of the abatement or the anticipated start date, the LHC Assistant Director or vendor ensures that the proper updated notifications are filed with the EPA. *Id.*, § VII.F.1.d and VII.F.1.g. All updated notifications must be annexed to the work order. *Id.*

Contract Specifications: Exhibit O in the Contract (Attachment D hereto) for abatement services sets forth the following requirements related to Paragraph 14(b):

- “Consultant shall use the EPA CDX system to file notifications. Copies of the notifications are to be emailed to NYCHA.” See Attachment D, at § 1.4.2.
- Requiring the invoice for each payment request to have annexed “Copy of EPA notification, if applicable.” *Id.*, at § 1.5.2.
- Provides NYCHA with authority to monitor contractor, including for ensuring “that Consultant has notified, as required, the EPA, DOH and other applicable Federal, State and Municipal agencies of its intent to perform Lead-Based Paint Abatement work.” *Id.*, at § 2.4.2.
- “Immediately upon verification of a Task Order scope, Consultant shall complete in full and submit the Notification of Commencement of Lead Abatement form and any applicable variances endorsed by the Project Coordinator for each Task Order, to the EPA and DOHMH when applicable, to notify of the intent to perform lead abatement work. Copies are to be submitted to NYCHA prior to commencement of Services. Services shall commence and be completed within

one week as per NYCHA's established start and completion dates on the Task Order or as directed by the Project Coordinator." *Id.*, at § 2.6.3.

[IT Controls for 14\(b\):](#)

In December 2019, NYCHA IT instituted additional controls for abatement work orders. One of these controls requires LHC to upload a copy of the EPA notification as an attachment to the Maximo work order. Without this attachment, the work order cannot be closed. *See* Attachment E.

[Field Monitoring/QA for 14\(b\):](#)

EHS has developed field monitoring checklists for assessing compliance with abatement requirements, including the requirements set forth in Paragraph 14(b). *See* Attachment A. The Lead Abatement Inspection Work Order contains the following items:

- Is the EPA Notice posted at the entrance of the work area?
- Does the work location including the unit number match the location on the EPA Notice of Commencement ("NOC")?
- Is the abatement occurring within the timeframe specified on the NOC?
- Certified Abatement Supervisor: Does the abatement supervisor's name match the name on the EPA NOC?

The NOC must include when work will start and end, the form's EPA certification number, and the location where work will be conducted. During an Abatement observation, LOT verifies that the notice is present, the required information is documented and accurate, and work is occurring within the timeframe indicated on the notice.

LOT conducted 79 inspections and 95% complied with the NOC requirements. EPA Notice of commencement showed a monthly improvement, an 88% compliance rate for January; and 100% in February and March consecutively. *See* Attachment A for more details.

[File Review for 14\(b\):](#)

The MU conducted a review of work order records in Maximo to determine if the notice required by 40 CFR § 745.227(e)(4)(vii) was present in the relevant project files. The MU reviewed a total of 150 work orders completed during the reporting period. 148 of the 150 (99%) files reviewed contained the required EPA original notification. *See* Attachment B. 140 (93%) notified the EPA at least five or more business days ahead of the scheduled abatement, or were cases of emergency. The remaining ten EPA notifications (7%) did not contain the original submission date on file and are therefore undeterminable by Compliance due to a gap in LHC recordkeeping. There were no instances of the original submission date being on file and out of compliance with the required timeframe.

[Overall Description of Compliance for 14\(b\):](#)

During the Covered Period, NYCHA made demonstrable progress towards compliance with the requirement set forth in Paragraph 14(b) of the HUD Agreement. Evidence of progress towards compliance consists of:

- Documented policies and procedures;

- Establishment of abatement field monitoring, with an overall rate of compliance of 95% for this requirement;
- Documented establishment of Maximo IT Control to require the EPA notification to be uploaded to the work order;
- Contract specifications including this requirement;
- File review indicating the presence of the notice in 148 out of 150 files (99%), with ten EPA notifications (7%) missing the original submission date in Maximo records. LHC should ensure recordkeeping of EPA notifications includes the original submission date.
- Lead SP including the requirements set forth in Paragraph 14(b).

Based on this documentation, there is evidence supporting that NYCHA is in substantial compliance with the requirements set forth in 14(b).

C. 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 for 14(c):

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 for 14(c):

Policies and Procedures: The Lead SP (effective January 21, 2020) sets forth the following procedures related to the requirements set forth in paragraph 14(c):

- Requires lead abatement supervisor or vendor to prepare and sign the Occupant Protection Plan (“OPP”). *See* SP, § VII.F.1.c. & VII.F.2.d. The Lead SP includes requirements on what must be included in the OPP. *Id.* The Lead SP includes a template OPP. *Id.*
- Requires that the OPP be annexed to the abatement work order. *Id.*, § VII.F.1.c and VII.F.2.d. The plan must be provided to the resident if the unit is occupied. *Id.* It must be posted in common areas. *Id.*

IT Controls for 14(c):

In December 2019, IT enhanced Maximo to require that the OPP be attached to Maximo abatement work orders. *See* Attachment E. The work orders cannot be closed without this attachment.

Field Monitoring/OA for 14(c):

EHS finalized its inspection work order for abatement projects. The inspection checklist includes the following items:

- Does the Occupant Location on the Occupant Protection Plan match the unit’s occupancy status during the abatement i.e. Occupied vs Unoccupied?
- The abatement inspection work order also includes numerous items regarding specific lead safe work practices.

The LOTS reviewed 79 OPPs during abatement oversight inspections from January 2– March 20, 2020. LOT observed 100% of compliance for the OPP inspections. *See Attachment A for more details.*

[File Review for 14\(c\):](#)

The Compliance Department conducted a review of work orders in Maximo to determine if the written OPP required by 40 CFR § 745.227(e)(5) was uploaded in the relevant work orders. *See Attachment B.* The Compliance Department reviewed a total of 150 completed project files. 147 files (98%) contained a complete OPP. Two of the remaining files (1.3%) contained an incomplete OPP, and one (0.7%) was missing an OPP. The file missing an OPP was an abatement ordered by DOHMH, which has separate documentation requirements, however an OPP was still required.

[Overall Compliance Assessment for 14\(c\):](#)

During the Covered Period, NYCHA made demonstrable progress towards compliance with the requirement set forth in Paragraph 14(c) of the HUD Agreement. Evidence of progress towards compliance consists of:

- Documented policies and procedures;
- Establishment of Interim LCAP including abatement field monitoring, with an observed 100% compliance with this requirement;
- Establishment of Maximo IT Control to require the OPP to be uploaded to the work order;
- File review indicated the presence of the notice in 147 out of 150 files (98%). However, every abatement needs an OPP so the deficiency will need to be addressed by LHC.
- Lead SP including the requirements set forth in Paragraph 14(c).

Based on this documentation, there is evidence supporting that NYCHA is in substantial compliance with the requirements set forth in 14(c).

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

[Regulatory Requirements for 14\(d\):](#)

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.”

[Applicable Written Policies, Procedures, and Contract Specifications for 14\(d\):](#)

Policies and Procedures: The Lead SP (effective January 21, 2020) contains the following procedures related to Paragraph 14(d):

- Clearance examinations following abatement must be performed by a certified risk assessor or lead inspector. Lead SP, § VII.G.1. If the work is to be performed by a vendor, the LHC Assistant Director must ensure that the vendor submits the documentation meeting this requirement. *Id.*, § VII.G.3.
- Dust wipe samples following abatement must be submitted to an EPA National Lead Laboratory Accreditation Program (“NLLAP”) and New York State Environmental Laboratory Approval Program (“ELAP”) certified testing laboratory. Lead SP, § VII.G.5.
- Paint chip sampling (which is performed during lead paint inspections in advance of an abatement) must be performed by a certified risk assessor or lead inspector. SP, § VII.D.2. These samples must be submitted to an EPA NLLAP-recognized and New York State ELAP certified testing laboratory. *Id.*

[IT Controls for 14\(d\):](#)

In December 2019, NYCHA IT enhanced Maximo to require that the abatement report, which should include the credentials of individuals and laboratories performing sampling/testing, be uploaded to the work order. The work order cannot be closed without these attachments. See Attachment E.

[QA/Field Monitoring Protocols for 14\(d\):](#)

There are no specific field monitoring protocols in place for this aspect of abatement at the present time but there is a general inspection work order created to oversee clearance activities. See Attachment F.

[File Review for 14\(d\):](#)

The Compliance Department reviewed 150 closed abatement files. 67 of 150 (45%) files contained documented methodologies for collection and lab analysis of dust wipes. Of the 83 (55%) files that did not contain documented methodologies, 19 (23%) were dust wipes handled by a vendor, and 64 (77%) were for dust wipes handled by NYCHA. The contract specifications contain sufficient specifications on the requirements.

[Overall Compliance Assessment for 14\(d\):](#)

During the Covered Period, NYCHA made demonstrable progress towards compliance with the requirement set forth in Paragraph 14(d) of the HUD Agreement. Evidence of progress towards compliance consists of:

- Documented establishment of Maximo IT Control to require the Abatement Report to be uploaded to the work order;
- File review determined that 67 of 150 (45%) files contained documented methodologies, and 64 of 83 files (77%) that did not contain documented methodologies were for dust wipes handled by NYCHA. NYCHA must ensure methodologies are uploaded for the dust wipes handled in-house.
- Lead SP including the requirements set forth in Paragraph 14(d).

Based on the documentation, NYCHA needs improvements to recordkeeping to reach substantial compliance with the requirements of 14(d).

E. 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 for 14(e):

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.

(i) 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.

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

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

(iv) 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*]

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

(vi) 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 recleaned and retested.

(vii) The clearance levels for lead in dust are 40 µg/ft² for floors, 250 µg/ft² for interior windowsills, and 400 µg/ft² for window troughs.”³

**** NYCHA has not utilized the random sampling clearance methodology during this reporting period, so this section intentionally omits 40 CFR 745.227(e)(9).*

[Applicable Written Policies, Procedures, and Contract Specifications for 14\(e\):](#)

The Lead SP contains the following provisions on the requirements set forth in Paragraph 14(e):

- Requires that the clearance examination be performed by a certified risk assessor or lead paint inspector. *See* Lead SP, § VII.G.1.
- Requires the certified risk assessor or certified lead paint inspector perform a visual inspection and sets forth the protocols if the work area fails the visual inspection. *See* Lead SP, § VII.G.4.
- Sets forth the basic protocols for the certified risk assessor or lead inspector to follow for dust wipe sampling. *See* Lead SP, §VII.G.5. The Lead SP does not provide detailed means and methods on how the risk assessor and lead inspector needs to conduct the dust wipe samples.
- Requires that the clearance be documented in a dust wipe report and that this report be uploaded to Maximo. *See* Lead SP, § VII.G.6.

[IT Controls for 14\(e\):](#)

In December 2019, NYCHA IT implemented enhancements to the abatement work order. The creation of the abatement work order will now auto-generate a dust wipe work order. *See* Attachment E. Additionally, Maximo now requires staff to upload the abatement report to the abatement work order before the work order can be closed.

[Field Monitoring/QA for 14\(e\):](#)

During the Covered Period, NYCHA did not perform field monitoring to ensure that contracted risk assessor or inspectors are appropriately performing the clearance examination for abatement projects. A

³ Lead dust clearance standards in New York City during the Covered Period were as follows: 10 µg/ft² for floors; 50 µg/ft² for window sills; and 100 µg/ft² for window wells (troughs).

separate compliance assurance checklist was created for field observation of the dust wipe sampling process. This includes reviewing the credentials of the clearance examiner to ensure they are either a risk assessor or lead inspector for abatement jobs as well as observing dust wipe sampling methodology. However, lab analysis will not be a part of field oversight. EHS is making changes to the dust wipe clearance observation checklist based on enhancements recently made to LHC's dust wipe sampling process. EHS anticipates that this information will be accessible for reporting purposes by September 2020.

[File Review for 14\(e\):](#)

The Compliance Department reviewed 150 closed abatement files. Of these, 150 (100%) contained the final clearance report. 140 of 150 (93%) had certifications on file for the risk assessor, and 114 of 150 (76%) also had certifications on file for the laboratory. Ten of 150 (7%) had no certifications on file for either the risk assessor or laboratory.

[Overall Compliance Assessment for 14\(e\):](#)

During the Covered Period, NYCHA made demonstrable progress towards compliance with the requirement set forth in Paragraph 14(e) of the HUD Agreement. Evidence of progress towards compliance consists of:

- Documented establishment of Maximo IT Control to auto-generate dust wipe work orders and require the Abatement Report to be uploaded to the work order;
- File review indicating the presence of the final clearance report in 150 out of 150 completed abatement files (100%).
- File review determined that 140 out of 150 (93%) of files had certifications on file for the risk assessor, and 114 out of 150 (76%) had certifications on file for both the dust wipe laboratory and the risk assessor.
- Lead SP including the requirements set forth in Paragraph 14(e).

While NYCHA developed protocols and checklists for EHS to perform field oversight activities, field oversight data is not included in this report. EHS is making changes to the dust wipe clearance observation checklist based on enhancements recently made to LHC's dust wipe sampling process. EHS anticipates that this information will be accessible for reporting purposes by September 2020. Until this data is available to review, the CCO does not recommend certifying to full compliance with the requirements set forth in 14(e). Prior to the next certification, the CCO expects to review a significant quantity QA data from EHS to confirm that the NYCHA staff and vendor staff are adhering to these written protocols in the field.

F. 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 for 14\(f\):](#)

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 for 14\(f\):](#)

Policies and Procedures: The Lead SP sets forth the following procedures related to the requirements set forth in paragraph 14(f):

- Requires that the certified abatement supervisor for each abatement project prepare an abatement report within 30 days of clearance. See Lead SP, § VII.G.10. The report must contain all of the items set forth in 24 CFR § 745.227(e)(10). *Id.*
- LHC adopted a template for certified supervisors to use in preparing the report. A copy of this template is annexed as Attachment G.

[IT Controls for 14\(f\):](#)

In December 2019, NYCHA IT enhanced Maximo to require staff to upload the abatement report to the abatement work order. The work order cannot be closed without this attachment.

[Field Oversight/QA for 14\(f\):](#)

There are no field oversight protocols in place or expected to monitor the creation of this final report.

[File Review for 14\(f\):](#)

Of the 150 abatement work orders reviewed for the Covered Period, 131 files (87%) contained the complete abatement report. 17 of 150 (11%) work orders contained abatement reports that were incomplete. The last two files were missing abatement reports. LHC has implemented a new Abatement Report which was utilized by abatement firms beginning approximately May 1, 2020.

[Overall Compliance Assessment for 14\(f\):](#)

During the Covered Period, NYCHA made demonstrable progress towards compliance with the requirement set forth in Paragraph 14(f) of the HUD Agreement. Evidence of progress towards compliance consists of:

- Documented Training Materials from LHC Director to NYCHA Abatement Supervisors on this specific requirement;
- Establishment of Maximo IT Control to require the Abatement Report to be uploaded to the work order;
- File review indicating the presence of the notice in 131 out of 150 files (87%) contained the abatement report, and 17 out of 150 files (11%) contained an incomplete abatement report.
- Lead SP including the requirements set forth in Paragraph 14(f);

- An agency template for the abatement report, which is implemented to reflect improved LHC procedures for creating the abatement report.

Based on this documentation, there is evidence supporting that NYCHA is in substantial compliance with the requirements set forth in 14(f).

G. Paragraph 14(g): NYCHA shall maintain records in accordance with 40 CFR § 745.227(i) and 24 CFR § 35.125.

Regulatory Requirements for 14(g):

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 for 14(g):

Policies and Procedures: The Lead SP (effective January 21, 2020) sets forth the following procedures related to the requirements set forth in paragraph 14(g):

- “A Lead Hazard Control Department assistant director ensures all records related to this Standard Procedure are retained in the Lead Hazard Control Department central office for the life of the building while under NYCHA ownership, plus an additional three years.” See Lead SP, § VIII.C.
- Requires issuance of the hazard reduction letter following abatement activities. See Lead SP, § VII.G.8.

IT Controls for 14(g):

NYCHA does not have IT controls that support this requirement, although as of December 2019, the OPP, the EPA notification, and abatement reports can be attached to the Maximo work orders.

Field Monitoring/QA for 14(g):

Per LHC, 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 14(g):

The Compliance Department reviewed 150 closed abatement work orders in Maximo. LHC maintained and uploaded documentation required for all work orders reviewed although, as indicated above, certain project files were missing required documents. The Compliance Department did not perform sufficient file review to evaluate hazard reduction notices in this Covered Period.

Overall Compliance Assessment for 14(g):

During the Covered Period, NYCHA made demonstrable progress towards compliance with the recordkeeping requirement set forth in Paragraph 14(g) of the HUD Agreement. Evidence of progress towards compliance consists of:

- Documented establishment of Maximo IT Control to require the OPP, the EPA Notice, and the Abatement Report to be uploaded to the work order;
- LHC demonstrated maintenance of all work orders in Maximo to the Compliance Department (although a small number of work orders were missing required documentation).
- Lead SP including the requirements set forth in Paragraph 14(g).

With respect to hazard reduction letters, the Compliance Department reviewed a sample of files for purposes of this certification. Given that the hazard reduction letter process has presented a compliance challenge for NYCHA in the context of interim controls and RRP work, CCO recommends to not yet certifying to paragraph 14(g).

I. Paragraph 15

A. Paragraph 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 for 15(a):

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 for 15(a):

Policies and Procedures: The Lead 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." See Lead SP, § VII.H.2.a.

Quick Reference Guides: NYCHA also published two Quick Reference Guides ("QRG") related to RRP work and the "RRP flag." The first, entitled "Lead Safe Work Practices: Renovation, Repair, and Painting Work" (Attachment H) provides a 5-page overview of the RRP process for NYCHA renovators. The second QRG, entitled "Renovation, Repair, and Painting (RRP) Work: Identifying Lead Components," (Attachment H) provides a two-page overview of the "RRP flag" in Maximo, and provides examples of building components that may appear in the system. Both QRGs are available on the NYCHA FRL.

[IT Controls for 15\(a\):](#)

Based on prior lead inspection data, Maximo places a “RRP flag” on units that could require RRP work. A training document explaining this IT enhancement is annexed as Attachment I.

In February 2020, NYCHA enhanced the “RRP flag” for units that have received an individual XRF inspection through the 2019 XRF Initiative. Once a unit receives a new XRF test and the results are placed into Maximo, the “RRP flag” will be moved from the unit level to the component level and made available to NYCHA renovators performing work in the apartment on their handhelds.

Before the commencement of work, Maximo asks the user “Are you performing RRP work that would disturb the components listed below?” See Attachment I, Slides 4 through 6. The work order then lists the individual positive components by Room/Side/Component/Substrate. See Attachment I, Slide 4. If a particular component is positive for an entire room, the work order will state Room/All/Component/Substrate. See Attachment I, Slide 4. The renovator must then select any positive components that they may disturb in their work. See Attachment I, Slide 6. If the renovator is not disturbing any of the positive components, they must select “None from List.” See Attachment I, Slide 14. After the renovator makes their selected, they are prompted with the following certification: “I certify that the above-information is true and complete.” See Attachment I, Slides 6 and 14.

If the renovator selects positive components, the work will be performed under RRP work requirements, and the work order requires completion of the pre-renovator acknowledge form, adherence to lead safe work practices, the post renovation checklist, and a clearance examination. See Attachment I, Slides 7 through 12. If the renovator is not disturbing positive components, the work order is performed under standard work rules.

The component-level “RRP flag” is only activated after the unit is XRF tested and the XRF results are loaded into Maximo. See Attachment I, Slides 2, 3, and 22. Until that happens, the “RRP flag” remains at the unit level, meaning that any work order disturbing painted surfaces must be performed under RRP Rules. In addition, the NYCHA determined to retain the unit-level “RRP flag” for six high risk developments, so that all paint disturbing work must follow RRP work rules. The six developments are East River, Harlem River I, Harlem River II, Williamsburg, Gravesend, and Manhattanville. See Attachment I, Slide 18. In addition, for units that tested negative through the 2019 XRF initiative, the work order will remove the “RRP flag” and replace it with the following notification “Apartment XRF Results are Negative.” See Attachment I, Slide 19.

NYCHA took several actions in its implementation of the new component level flag. NYCHA sought review and comment on the component level enhance from the Federal Monitor, HUD, and SDNY. Then, before the new component-level “RRP flag” went live in the system, NYCHA IT performed user acceptance testing in February 2020. NYCHA provided live training on the new component level “RRP flag” for development staff and skilled trades from February 27, 2020 to March 6, 2020. The training materials are annexed as Attachment I (note, training materials were revised during the training – the final version is attached).

[Field Monitoring/QA for 15\(a\):](#)

Please refer to the EHS report (Attachment A) for a description of RRP-related field monitoring activities during the Covered Period. Additionally, it should be noted that EHS uses Maximo to select RRP projects for onsite monitoring. EHS conducted onsite monitoring of 199 work orders during the Covered Period.

EHS does not solely rely on Maximo to identify vendor work because some vendors use paper work orders to document their work.

[File Review for 15\(a\):](#)

The Compliance Department did not conduct file review for 15(a) during the Covered Period.

[Overall Description of Compliance for 15\(a\):](#)

Based on the existence of written standard procedures, the existence of IT controls, and the existence of a field monitoring program for RRP, NYCHA has established a system that can ensure compliance with the requirements referenced in Paragraph 15(a) for apartments.

B. Paragraph 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 for 15\(b\):](#)

NYCHA interprets this paragraph, and the regulations cited therein, as requiring that NYCHA have policies, procedures, controls, and practices to only permit RRP-certified staff or vendors to perform paint-disturbing work in lead paint Developments.

[Written Policies, Procedures, and/or Contract Specifications for 15\(b\):](#)

Regarding vendors, the Lead 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.” Lead SP, §§ VII.H.2.g.1. Developments using vendors must also provide the vendor with the “Lead Safe Practices Vendor notice.” Lead SP, §§ VII.H.2.g.1 and Appendix E.

Regarding NYCHA staff, the Lead SP states as follows: “Only Certified Renovators can perform Renovation, Repair, and Painting (RRP) work that requires RRP certification.” Lead SP, § VII.H.2. The Lead 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.” Lead SP, § VII.H.2.c.

[IT Controls for 15\(b\):](#)

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 J.

At present, 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.

In May 2020, NYCHA launched a vendor RRP compliance portal that requires vendors performing RRP work to upload both their firm and worker certifications into a portal. NYCHA intends to use this portal to improve its oversight of vendor RRP compliance. For the initial phase of this project, NYCHA consulted with Procurement and Operations on the most significant RRP vendors. Twenty-three vendors were selected. On May 12, 2020, NYCHA emailed the 23 RRP vendors, requiring they create a profile and upload EPA certifications for their firm and relevant certified employees to NYCHA's web portal. Subsequent emails were sent to the vendors on June 5th and June 16, 2020 reminding them to request an account and upload their certifications by June 30, 2020. The Compliance Department emailed a letter of direction to the non-compliant vendors on July 16th, 2020. To date, 18 of the 23 vendors contacted have complied by uploading the certifications and Compliance will review these certifications to ensure they meet the requirements.

While this control, as it is currently designed, is not as robust as the controls for work orders performed by NYCHA staff, it will improve the ability to track worker certifications in a centralized location.

[Field Monitoring/QA for 15\(b\):](#)

A full description of field monitoring activities for RRP projects is set forth in the EHS Report, annexed as Attachment A. This section shall briefly summarize EHS's findings relevant to Paragraph 15(b).

- All 341 NYCHA workers observed performing RRP work were RRP certified. Out of the 341 RRP certified employees, 16 were unable to produce a copy of the certificate for inspection but were trained. These 16 employees were working with another employee who had their certificate ready for inspection.
- Out of the 199 RRP jobs, there were two jobs where none of the employees were unable to produce a copy of certificate for inspection but EHS verified that they were trained.

[File Review for 15\(b\):](#)

The Compliance Department randomly selected at least 100 work orders each month to verify if employees and staff were certified. The reviewed work orders included 488 work orders completed by 960 employees during the Covered Period. The Compliance Department compared data from closed RRP work orders on Maximo with training results from HR, or requested vendor certificates from the development. Of the 488 work orders completed by NYCHA employees, 960 (100%) were RRP certified.

The Compliance Department also randomly selected nine RRP vendor work orders to evaluate whether the firm certification was on file with procurement and readily available for review. Compliance was able to identify nine out of the nine vendor certificates. This supporting information is available upon request.

[Overall Description of Compliance for 15\(b\):](#)

During the Covered Period, NYCHA made demonstrable progress towards compliance with the requirement set forth in Paragraph 15(b) of the HUD Agreement. Evidence of progress towards compliance consists of:

- The existence of policies and procedures addressing the requirements of Paragraph 15(b);
- The existence of IT controls for work orders performed by NYCHA staff to ensure that only RRP certified workers can be assigned to RRP work orders;
- Strong evidence from field monitoring activities that these requirements are being followed in the field by both staff;
- Strong evidence (100% compliance) from file review activities that these requirements are being followed for staff and good evidence that these requirements are being followed for vendors.
- Launched the RRP public web-based portal to track RRP certification for vendor companies and their employees

Based on the documentation, NYCHA is showing significant progress on compliance with this paragraph, but must further strengthen its controls on vendors prior to certifying compliance.

C. Paragraph 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 for 15(c):

NYCHA is a certified RRP firm. Proof of the certification is annexed as Attachment K. Based on this documentation, there is evidence supporting that NYCHA is in substantial compliance with the requirements set forth in 15(c).

D. Paragraph 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 for 15(d):

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 for 15(d):

The Lead SP sets forth the mandatory materials that must be included in the standard RRP kit and available at the developments. See Lead SP, § VII.H.8

Starting in April 2019, four developments per week had their storerooms inventory converted over from development control to Materials Management Department (“MMD”) control. As of June 2020, two NYCHA SPs govern storeroom management procedures. NYCHA SP 006:19:1, Operation of Development Storerooms governs storerooms under MMD control. NYCHA SP 040:04:2, Operation of Development Storerooms governs storerooms under development control.

At storerooms under MMD control, MMD monitors and distributes all maintenance work related materials out of the storeroom, including RRP required supplies. MMD implemented an initiative on April 1, 2019 to improve RRP storeroom supplies management at developments by establishing a visible model display of each item that is required to conduct RRP work. The Storeroom Caretaker at each development is responsible for RRP item monitoring, and reports to MMD supervisor any issues or items that need replenishment. Frequently used inventory item levels such as RRP supplies are monitored every 30 days.

MMD's Long Island City warehouse makes weekly deliveries of RRP supplies to each development, and services approximately 40 developments per day. Some items that MMD does not have in stock may be ordered and delivered directly from a vendor.

It should be noted that, as of March 18, 2020, MMD temporarily returned nineteen development storerooms back to development management due to pandemic related staff shortages. As of July 10, 2020, MMD still does not control fourteen developments' storerooms. Of those fourteen, ten developments (71%) also appear on the list of the 92 Renovation Repair Painting (RRP) Developments provided by LHC. They include Bronx River, Claremont Rehab (Group 4), Eastchester Gardens, Gun Hill, Highbridge Gardens, Mill Brook, Parkside, Pelham Parkway, Webster, and Wise Towers. MMD Director does not have an approximate start date for MMD to begin managing any of the remaining fourteen development storerooms due to pandemic related staff shortages and the temporarily unavailable eight-day training course.

[IT Controls for 15\(d\):](#)

There are currently no IT controls for the requirements set forth in 15(d).

As of June 24, 2020, MMD was in the process of creating a minimum and maximum inventory level requirement for all items, however it has been delayed due to the pandemic. At MMD controlled development storerooms, the Storeroom Caretaker monitors both the physical shelf inventory and virtual Maximo inventory. MMD supervisors check inventory levels in Maximo but cannot visit every development every day.

[Field Monitoring/QA for 15\(d\):](#)

A full description of field monitoring activities for RRP projects is set forth in the EHS Report, annexed as Attachment A. This section shall briefly summarize EHS's findings relevant to Paragraph 15(d).

- Out of the 126 storerooms inspected for required RRP supplies, 122 were in compliance (97%). Non-compliance indicates that one or more supplies was missing from the storeroom.
- The most common failure point was missing duct tape, which occurred in two inspections.
- Compliance rate increased significantly from 77% in Q4 2019 to 97% in Q1 2020, showing a 20% compliance rate improvement.

[File Review for 15\(d\):](#)

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

[Overall Description of Compliance for 15\(d\):](#)

During the Covered Period, NYCHA made demonstrable progress towards compliance with the requirement set forth in Paragraph 15(d) of the HUD Agreement. Evidence of progress towards compliance consists of:

- The existence of policies and procedures addressing the requirements set forth in 15(d);
- Field monitoring data showing an overall rate of 97% compliance, with an upward compliance trend during the monitoring period;
- Creation of new centralized inventory management for the majority of developments.

Based on this documentation, there is evidence supporting that NYCHA is in substantial compliance with the requirements set forth in 15(d).

E. Paragraph 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 for 15(e):

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.
- (iv) 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). Covering doors in the work area that were being used to allow passage but prevent spread of dust
- (E) 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).
- (F) Installing (if necessary) vertical containment to prevent migration of dust and debris to adjacent property (exteriors).

(v) 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).

[Written Policies, Procedures, and/or Contract Specifications for 15\(e\):](#)

The Lead SP sets forth the required procedures for lead safe work practices, and for completing the required renovator's checklist. Lead SP, §§ VII.H.7 through VII.H.12. The template Renovator's Checklists (for vendors and staff) are also annexed to the Lead SP.

In November 2019, NYCHA created digital versions of the post renovator checklists for use in the handheld and desktop versions of Maximo. Screenshots of the digitized checklists are located in Attachment I, Slides 10 and 11. NYCHA received comments from HUD on the checklist items used for these digitized checklists. This enhancement is further discussed in the IT Controls for 15(e) section below.

Additionally, in August 2019, NYCHA updated the Renovator's checklist to add checklist items related to the EPA cleaning verification requirement. The checklist was also revised to allow renovators to more accurately indicate whether or not they observed waste being transported offsite.

[IT Controls for 15\(e\):](#)

As of November 2019, the pre-acknowledgment form and renovator’s checklist were digitized and added into the Maximo work ticket. RRP work orders cannot be closed without completing these forms with required signatures and user-provided information about the renovation. Since vendors do not have handhelds, vendor forms would need to be uploaded on the desktop version of Maximo.

[Field Monitoring/QA for 15\(e\):](#)

A full description of field monitoring activities for RRP projects is set forth in the EHS Report, annexed as Attachment A. With respect to overall compliance with RRP work practices, EHS made the following overall observations:

- The LOT surpassed the quarterly target of observing 120 RRP jobs by 66%, observing 199 RRP Jobs
- Worksite Preparation (97%) and Cleanup phase (95%) achieved the highest compliance rates
- 165 Worksite Preparations were observed, averaging a 96% compliance rate
- 173 Work activities were observed, averaging an 92% compliance rate
- 144 Cleanup activities were observed, averaging an 94% compliance rate
- 145 Cleanup Verification activities were observed, averaging 91% compliance rate
- LOT observed all four (4) phases for 112 jobs, of which 91 were 100% in compliance. The average compliance rate improved by 10% from Q4 2019.
- 627 total work phases were observed, averaging a 93% compliance rate

[File Review for 15\(e\):](#)

The Compliance Department assessed 488 work orders (completed between January 15, 2020 and June 15, 2020) for the required attachments and confirmed if the employees were certified RRP renovators. 99% (483 out of 488) of the work orders had the RRP Renovation Checklist. This is a significant improvement since the last reporting period, when 86% of files has the RRP Renovation Checklist. The new digitized checklists apply to work orders created starting in November 2019. The Compliance Department saw improvement during the reporting period as illustrated below:

Table 1: Renovator Checklists January 15, 2020 to June 15, 2020

	January	February	March	April	May	June
RRP Checklists Present	81	97	100	76	72	57
RRP Checklists Missing	0	5	0	0	0	0
Total	81	102	100	76	72	57
Rate	100%	95%	100%	100%	100%	100%

[Overall Description of Compliance for 15\(e\):](#)

During the Covered Period, NYCHA made demonstrable progress towards compliance with the requirement set forth in Paragraph 15(e) of the HUD Agreement. Evidence of progress towards compliance consists of:

- The existence of policies and procedures addressing the requirements set forth in 15(e);

- Successful application of IT controls that require workers to complete the Renovator’s Checklist before they can close the RRP work order;
- Field monitoring data providing an average rate of compliance of 93% across all four work phases;
- File review showing an upward trend of compliance to 99% for completion of the renovator’s checklist.

Despite this progress, NYCHA is still developing a more cohesive policy on collecting and storing required RRP documentation from vendors and monitoring their performance. The collection and storage of this information currently is not centralized. The new RRP Vendor Portal provides NYCHA an opportunity to create a more cohesive policy on this issue to prevent non-compliance.

Overall, the Compliance Department recommends not certifying to this requirement until field monitoring shows a period of consistent compliance for vendors and NYCHA strengthens policies on vendor record-keeping.

F. Paragraph 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 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 for 15(f):

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 for 15(f):

The Lead SP sets forth the required procedure for distributing the required pre-renovation materials and obtaining the acknowledgment form from the resident. See Lead SP, at VIII.H.4.

IT Controls for 15(f):

As of November 1, 2019, the pre-renovation acknowledgment form and renovator’s checklist were digitized and added into the Maximo work ticket. A screenshot of the pre-renovation checklist as it appears in Maximo is located in Attachment I, Slide 8. RRP work orders cannot be closed without completing these forms with required signatures and user-provided information about the renovation. Since vendors do not have handhelds, vendor forms would need to be uploaded on the desktop version of Maximo.

Field Monitoring/QA for 15(f):

EHS does not include this requirement in their onsite monitoring.

File Review for 15(f):

The Monitoring Unit assessed 488 work orders (completed between January 15, 2020 and June 15, 2020) for the required attachments and confirmed if the pre-renovation acknowledgement form was attached to the work order. 99% (477 out of 488) of the work orders had the pre-renovation acknowledgement form. There was only one pre-acknowledgement form not uploaded into Maximo. This is a significant improvement since the last reporting period, when 88% of the files had the pre-acknowledgement form in Maximo. The Compliance Department saw improvement during the reporting period as illustrated below:

Table 2: Renovator Checklists January 15, 2020 to June 15, 2020

	January	February	March	April	May	June
RRP Checklists Present	81	101	100	76	72	57
RRP Checklists Missing	0	1	0	0	0	0
Total	81	102	100	76	72	57
Rate	100%	99%	100%	100%	100%	100%

[Overall Description of Compliance for 15\(f\):](#)

During the Covered Period, NYCHA made demonstrable progress towards compliance with the requirement set forth in Paragraph 15(f) of the HUD Agreement. Evidence of progress towards compliance consists of:

- The existence of policies and procedures addressing the requirements set forth in 15(f);
- Successful application of IT controls that require workers to complete the pre-renovation acknowledgement form before they can close an RRP work order;
- File review showing an upward trend of compliance to 100% for completion of the renovator’s checklist.

Despite this progress, NYCHA is still developing a more cohesive policy on monitoring vendor performance and ensuring that residents receive the pre-acknowledgment forms when vendors complete work in their apartments. The RRP vendor portal provides NYCHA an opportunity to create a more cohesive policy on this issue to prevent non-compliance.

Overall, the Compliance Department recommends not certifying to this requirement until field monitoring shows a period of consistent compliance for vendors and NYCHA strengthens policies on vendor record-keeping.

G.Paragraph 15(g): Retaining records demonstrating compliance with the regulations set forth at 24 CFR § 35.125 and 40 CFR § 745.84.

Regulatory Requirements for 15(g):

This section focuses 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. 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 for 15\(g\):](#)

Policies and Procedures: The Lead SP contains policies and procedures on the Notice of Evaluation. See Lead SP, VII.D.2.d. (notice of evaluation following XRF inspection); Lead SP, VII.E.7 (notice of evaluation for biennial re-evaluations); see also NYCHA Form 060.851, Notice of Evaluation. NYCHA has a template Notice of Hazard Reduction (NYCHA Form 060.852) but does not provide clear policies and procedures on sending this required form. The Lead SP will be revised to reflect this process (see Overall Description of Compliance section below for complete details).

Contract Specifications: The contract specifications for the NYCHA XRF initiative require vendors performing the x-ray fluorescence (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.

The XRF contract is available on request.

[IT Controls for 15\(g\):](#)

IT has developed a system to automate the sending of hazard reduction letters through Siebel. While the IT programming has been completed, this project is still in the testing phase to ensure that the hazard reduction letters accurately pull the necessary data from Maximo.

[Field Monitoring/QA for 15\(g\):](#)

With respect to the 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. LHC reviews a sample of these notices, and they are uploaded to the Maximo work order.

[File Review for 15\(g\):](#)

The Compliance Department ran a report of XRF inspection work orders in Maximo completed between January 16, 2020 and June 15, 2020. Of 10,018 completed XRF inspections, all work orders contained the required Notice of Evaluation in Maximo. This is an improvement from the January 31, 2020 Certification where seven inspection work orders were initially found to be missing the Notice of Evaluation. LHC was then able to produce the respective Notice of Evaluation for those seven work orders when requested. LHC said seven work orders were closed prematurely, preventing the vendor from uploading the form. Additionally, LHC cannot, in all instances, be certain that the vendor sent the notice to the resident in the required 15-day period.

With respect to the Notice of Hazard Reduction, the notice is still generated manually by LHC upon dust wipe clearance of work orders flagged as RRP. After generation, the notice is supposed to be emailed to the developments, which then hand delivers them to the residents. Compliance attempted to conduct a file review for this parameter, but the review indicated that this notice requirement is frequently not being followed and that this remains a compliance shortfall.

[Overall Description of Compliance for 15\(g\):](#)

While NYCHA has established practices in place for the Notice of Evaluation, NYCHA continues to have shortfalls with respect to the Notices of Hazard Reduction. NYCHA will take the following actions to address this ongoing shortfall:

- The Compliance Department will incorporate the Notice of Hazard Reduction process into the Lead SP. This was an oversight that needs to be corrected. The goal is to complete this process and post the updated Lead SP on the FRL in August 2020. According to the Procedures Unit of the Compliance Department, this notice is being added to the updated Lead SP. However, the revised Lead SP is expected to be posted on the FRL in August 1, 2020.
- NYCHA will launch the automated IT process for generating the letters through Siebel. This is still under development. In June and July 2020, NYCHA IT performed testing to validate the accuracy of the automated notices. The testing exhibited a positive result for over 90% of the notices. It is expected that this automated process will be in place by September 30, 2020.

NYCHA cannot certify to the requirements set forth in 15(g) until it significantly improves its overall compliance with the Notice of Hazard Reduction process. It is expected that the automated process will

be in place before the next Paragraph 30(b) certification, which is expected to significantly improve compliance.

Paragraph 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 for 15(h):

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 for 15(h):

The Lead SP sets forth the containment and worksite isolation requirements. See Lead SP, §§ VII.H.9 through VII.H.12.

IT Controls for 15(h):

The RRP Containment requirements referenced in this paragraph are addressed in the renovator’s checklist. As of November 1, 2019, the pre-acknowledgment form and renovator’s checklist were digitized and added into the Maximo work ticket. RRP work orders cannot be closed without completing these forms with required signatures and user-provided information about the renovation. Since vendors do not have handhelds, this control does not apply to their work. However, this information should appear in the desktop version of Maximo for vendor work orders.

Field Monitoring/QA for 15(h):

A full description of field monitoring activities for RRP projects is set forth in the EHS Report, annexed as Attachment A. With respect to overall compliance with RRP work practices, EHS made the following overall observations:

- The Worksite Preparation phase showed improvement throughout the quarter, as the compliance rate was 92% for January, 100% for February, and 100% for March, with an overall compliance rate of 96%.
- Out of 165 EHS observations of worksite preparation activities, 96% were found to be in compliance.

[File Review for 15\(h\):](#)

The results of the file review are discussed in the Description of Compliance with paragraph 15(e), which identifies the work orders where the RRP checklist was completed.

[Overall Description of Compliance for 15\(h\):](#)

During the Covered Period, NYCHA made demonstrable progress towards compliance with the requirement set forth in Paragraph 15(h) of the HUD Agreement. Evidence of progress towards compliance consists of:

- The existence of policies and procedures addressing the requirements set forth in 15(h);
- Successful application of IT controls that require workers to complete the Renovator's Checklist before they can close the RRP work order;
- Field monitoring data providing average compliance rates of 96% for worksite preparation activities and 92% for work activities;
- File review showing an upward trend of compliance to 100% for completion of the renovator's checklist.

Despite this progress, NYCHA still needs to develop a more cohesive policy monitoring vendor work and collecting required RRP documentation from vendors. EHS did not observe any vendors during its field monitoring. Overall, the Compliance Department recommends not certifying to this requirement until NYCHA strengthens policies on vendor record-keeping and monitoring.

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

[Regulatory Requirements for 15\(i\):](#)

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 for 15\(i\):](#)

The Lead SP sets forth the protocols for managing waste for RRP projects. See Lead SP, §§ VII.H.10 and VII.H.11.

[IT Controls for 15\(i\):](#)

The waste control requirements referenced in this paragraph are included in the renovator's checklist. As of November 1, 2019, the renovator's checklist was digitized and added into the Maximo work ticket. RRP

work orders cannot be closed without completing this form with required signatures and user-provided information about the renovation. Since vendors do not have handhelds, this control does not apply to their work. However, this information should appear in the desktop version of Maximo for vendor work orders.

[Field Monitoring/QA for 15\(i\):](#)

A full description of field monitoring activities for RRP projects is set forth in the EHS Report, annexed as Attachment A. With respect to overall compliance with RRP work practices, EHS made the following overall observations:

- The LOT conducted 144 Cleanup work phase observations, overall compliance rate of 94%.
- Cleanup Activity work phase compliance rate fluctuated from January to March: 96% for January; 90% for February; and 100% for March, with an overall compliance rate of 94%.

[File Review for 15\(i\):](#)

The results of the file review are discussed in the Description of Compliance with paragraph 15(e), which indicates which work orders had the RRP checklist. The Compliance Department further notes that for thirteen digital checklists, it observed that renovators had not checked the “contained waste onsite” item. With the new digital checklist, the Compliance Department will have the ability to more readily check for such issues.

[Overall Description of Compliance for 15\(i\):](#)

During the Covered Period, NYCHA made demonstrable progress towards compliance with the requirement set forth in Paragraph 15(i) of the HUD Agreement. Evidence of progress towards compliance consists of:

- The existence of policies and procedures addressing the requirements set forth in 15(i);
- Application of IT controls that require workers to complete the Renovator’s Checklist before they can close the RRP work order;
- Field monitoring data providing an average compliance rate of 94% for cleanup activities;
- File review showing an upward trend of compliance to 100% for completion of the renovator’s checklist.

Despite this progress, NYCHA still needs to develop a more cohesive policy monitoring vendor work and collecting required RRP documentation from vendors. EHS did not observe any vendors during its field monitoring.

Overall, the Compliance Department recommends not certifying to this requirement until NYCHA strengthens policies on vendor record-keeping and monitoring.

I. Paragraph 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 for 15(j):

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 for 15(j):

Policies and Procedures: The Lead SP sets forth the protocol for cleaning, cleaning verification, and clearance examinations. See Lead SP, §§ VII.H.11 through VII.H.12. During the Covered Period, NYCHA integrated two significant new protocols into its clearance examination process. First, NYCHA now requires certified renovators to perform the EPA cleaning verification after final cleaning. Second, before cleaning activities begin, NYCHA requires the renovator to call into a newly established centralized dispatcher to request a dust wipe technician to be routed to the worksite. The purpose of this new dispatcher function is to improve communications between field staff and LHC.

IT Controls for 15(j):

With respect to clearance examinations, the creation of an RRP or visual assessment (interim control) work order automatically generates a work order for a clearance examination.

In addition, the requirements referenced in this paragraph are included in the RRP checklist. As of November 1, 2019, the RRP checklist was digitized and added into the Maximo work ticket. RRP work orders cannot be closed without completing this form with required signatures and user-provided information about the renovation. Since vendors do not have handhelds, this control does not apply to their work. However, this information should appear in the desktop version of Maximo for vendor work orders.

Field Monitoring/QA for 15(j):

A full description of field monitoring activities for RRP projects is set forth in the EHS Report, annexed as Attachment A. With respect to cleaning activities, EHS makes the following overall observations:

- The LOT conducted 145 Cleanup Verification work phase observations, with an overall a compliance rate of 91%.
- Cleanup Verification phase compliance rate improved over this period, the compliance rate was 86% for January; 96% for February; and 96% for March, with an overall compliance rate of 91%

During the Cleanup Verification work phase, the LOT observes RRP certified workers while they perform cleanup verification with an EPA verification card to ensure verification is performed in complete adherence to the RRP Rule.

[File Review for 15\(j\):](#)

Compliance requested IT to pull dust wipe clearance date from Maximo for Corrective Maintenance Work Orders having their last labor work done between January 15, 2020 and July 2020 (to date). During the Covered Period, Compliance, LHC, and IT continue to evaluate the validity of the lead clearance data and the logic used to pull the information from the system.

One key finding has been that the dust wipe not attempted/not performed column (Column 5 below) often includes work orders that should not have been included for several different reasons. For instance, the CM work order may have been created in error. Additionally, the logic does not in some instances identify attempts or successful samples because of when the labor transactions were entered into the system. Therefore, LHC regularly follows up on corrective maintenance work orders in the “not attempted, not performed” column to determine if a dust wipe is actually needed or if the system misidentified that particular work order.

Despite these limitations, the dust reports and dashboards present the best information that is currently available on NYCHA’s performance of lead clearance examinations.

1. Month	2. Corrective Maintenance WOs	3. TOTAL Dust Wipes (DW) PERFORMED	4. TOTAL DW NOT PERFORMED	5. SYSTEM INDICATES DW NOT ATTEMPTED/FOLLOW-UP REQUIRED	6. DW NOT PERFORMED ONE OR MORE ATTEMPT
JAN	1043	862	181	131	50
FEB	1411	1086	325	311	14
MAR	905	679	226	179	47
APR	135	99	36	31	5
MAY	212	151	61	41	20
JUN	175	114	61	45	16
JUL	21	9	12	10	2
Grand Total	3902	3000	902	748	154

This data indicates that NYCHA collected dust wipe samples for at least 76% of the dust wipe work orders created during the evaluated period of time.

Of the 3,000 dust wipes performed:

- 2,407 were performed within 24 hours from the last CM labor transaction (80%);
- 78 were performed within 48 hours from the last CM labor transaction (3%);
- 515 were performed after 48 hours from the last CM labor transaction (17%).

Another important aspect of the data is evaluating LHC’s proficiency based the work orders where Operations staff properly updated the “Target Start Date” field in Maximo. The Target Start Date field is

designed to notify LHC that a dust wipe is needed on a particular day. For instance, if a CM work order expects to conclude on July 31, the renovator should use a Target Start Date of July 31. However, if work is cancelled, and rescheduled to August 5, the renovator must update the Target Start to August 5. If the Target Start Date is not accurate, LHC will not know in advance that a dust wipe is needed on that date.

Of the 3,902 CM work orders examined, 2,645 had the appropriate target start date. Of the 2,645, LHC performed 2,401 DWs, indicating a 91% rate of performance when the Target Start Date is appropriately updated in the work order.

During the Covered Period, NYCHA also launched a new dust wipe dashboard that tracks on a weekly basis the following parameters:

- Number of CM Work Orders
- Number of CM WOs Where Dust Wipes Not Taken
- Number of CM WOs Where Dust Wipes Have Passed, Failed, or are Pending Status
- Number CM WOs Where Samples Passed on the First Attempt
- Number of CM WO Where Samples Passed After Failure
- Number of CM WOs Where Recleaning Performed or Attempted in 24, 48, and 48+ Hour Windows
- Number of CM WOs Re-Cleaning Has Not Been Performed or Attempted

Compliance, LHC, and IT are still reviewing this dashboard and its underlying logic. However, once this dashboard is fully functional, NYCHA should improve its performance on sample turnaround time and performing re-cleaning and re-clearance after failed samples.

[Overall Description of Compliance for 15\(j\):](#)

With respect to final cleaning, during the Covered Period, NYCHA made demonstrable progress towards compliance with the requirement set forth in Paragraph 15(j) of the HUD Agreement. Evidence of progress towards compliance consists of:

- The existence of policies and procedures on cleaning addressing the requirements set forth in 15(i);
- Application of IT controls that require workers to complete the Renovator's Checklist before they can close the RRP work order;
- Field monitoring data providing an average rate of compliance of 94% in compliance for final cleaning activities and 91% in compliance with the cleaning verification process;
- File review showing an upward trend of compliance to 100% for completion of the renovator's checklist.

With respect to the clearance requirements in Paragraph 15(j), NYCHA continues to have a compliance shortfall but is making progress on collecting samples and using data to track its performance of the clearance process. The following are the key areas that must be addressed to attain compliance:

- **Worksite Protections:** NYCHA must finalize a policy on interim worksite protections before sampling results are received. NYCHA is not currently implementing worksite protections after cleaning but before clearance.

- **Resolution of Target Start Date Deficiencies:** LHC's dust wipe performance is much better when renovators accurately update the Target Start Date in Maximo. The Compliance Department and LHC have begun a project to work with Operations to improve this key part of the process.
- **Improving Recleaning Efforts Following Failure:** When a sample fails, there is regularly a delay in performing the re-clearance and re-testing. The root cause of this is coordination between LHC, Development staff, and the resident. This issue needs to be rectified before NYCHA can certify to compliance with this Paragraph.

Until resolution of these major issues, NYCHA will not be able to certify with the requirements of 15(j).