

# NYCHA Compliance Department: **4<sup>th</sup> 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 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. In contrast, 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 fourth report assessing compliance with Paragraphs 14 and 15.

To evaluate NYCHA’s ability to certify to the requirements of Paragraphs 14 and 15 on January 31, 2021, the Compliance Department conducted a review of NYCHA records and activities for the period between June 16, 2020 through December 15, 2020 (“Covered Period”).<sup>1</sup> 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 (June to December 2020) that should be read in tandem with this Report. Due to COVID-19, EHS Lead Oversight activities were suspended from March 20, 2020 – August 20, 2020. Lead Oversight Team Specialists (“LOTS”) resumed oversight activities on August 21, 2020. From August through November 2020, EHS onboarded and provided training to two Compliance Assurance vendors who will provide personnel to supplement the Lead Oversight Team. The vendors are UNYSE, LLC and H2M Architects and Engineers.

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.

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<sup>1</sup> The 30(b) certification technically covers the period from August 1, 2020 to January 31, 2021.

- **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, 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:** This 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 any 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 \(July 31, 2020\)](#)

On July 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 some lead abatement activities (paragraph 14(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 does not have adequate controls to collect RRP checklist and pre-work notice documentation from vendors. (paragraph 15(e)(f)(h)(i)).
- NYCHA is generally 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 generally 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 exhibited adequate controls or documentation to demonstrate compliance with the following sub-paragraphs:

- Paragraphs 14 (a), (b), (c), (f): Completion of lead abatement activities pursuant to CFR 40 C.F.R. § 745.227(e)-2, 4, 5, 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.

- Paragraph 15(d): NYCHA confirms that its storerooms have sufficient supplies that can be used by NYCHA staff daily to fulfill the lead safe work practice requirements pursuant to 24 CFR § 35.1350 and 40 CFR § 785.85

Since July 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 high rate of compliance for abatement projects. EHS observed 406 work phases, averaging a 99% compliance rate. EHS observed 234 NYCHA employees performing RRP work. All but one did not have the required certification, leading to a 99.57% compliance rate. LOT observed all four (4) phases in 38 jobs, reporting a 100% compliance rate. Based on results from field and file review, NYCHA has attained substantial compliance in the following parts of Paragraph 14: a, b, c, e and f.

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(g), and so long as compliant work practices and record-keeping are maintained, NYCHA is getting closer to fully meeting its obligations under Paragraph 14.

Despite these improvements, continued field and documentary oversight is necessary to detect non-compliance and ensure staff accountability. Compliance is a continuous process and NYCHA needs to guard against backsliding. As described in this report, despite overall substantial compliance, there were three abatement-related escalations during the reporting period concerning non-compliance during abatement projects that required follow-up action by Compliance and EH&S.

**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. Field monitoring performed by EHS continues to show that NYCHA renovators are adhering to their training in the field. EHS has also observed improvements in all aspects of RRP performance and availability of RRP equipment in storerooms. The major issues preventing certification with Paragraph 15 are the continued 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. NYCHA Compliance recently enhanced these efforts, and that work is described in this report.

On notices of hazard reduction, NYCHA has performed testing of its automated notices of hazard reduction through Siebel and launched this process in November 2020. This new system was largely successful but as described in this report, additional improvements for this requirement are needed. On clearance examinations, NYCHA has built new dashboards and systems that improve the management of clearance examinations. While clearance examinations remain a significant compliance shortfall,

performance has stabilized over the past year, and Compliance and LHC are focusing on this requirement on a daily basis.

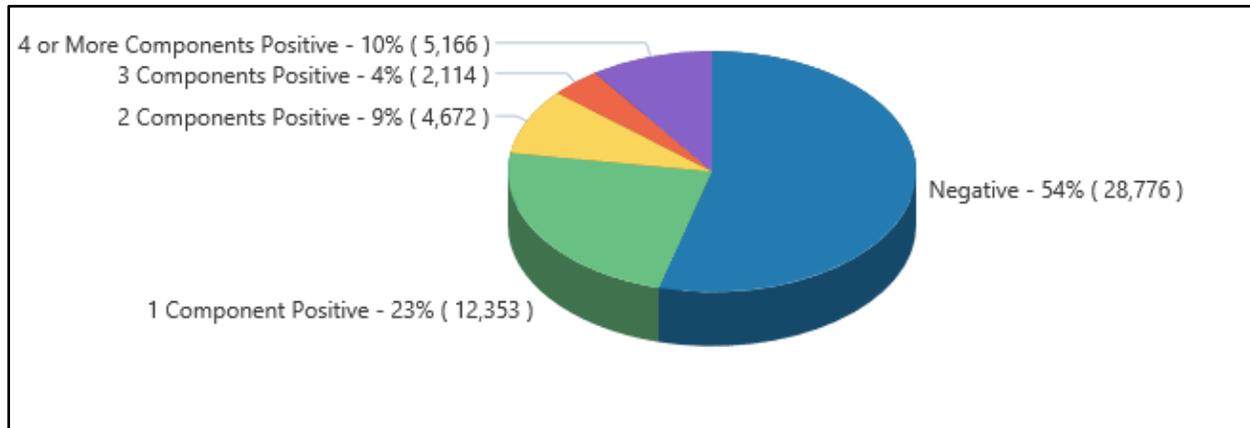
Compliance and EH&S identified two RRP projects during the reporting period that required issuance of counseling memos to staff for not following RRP protocols. These instances are described further below.

**Update on XRF Component Level Data:** NYCHA continues to progress with its initiative to perform XRF inspections in approximately 134,000 apartments. After each individual inspection is completed, the XRF results for the apartment, down to specific architectural components, are placed into Maximo and made visible to NYCHA staff performing work in the apartments. These results are also shared with the resident.

NYCHA has completed 64,299 inspections and, of these, 53,081 have inspection results uploaded in the system. The breakdown of the positive components identified in the 53,081 apartments is set forth below.:

Number of Components	Number of Units
Negative (0 Components)	28,776
1 Component	12,353
2 Components	4,672
3 Components	2,114
4 or More Components	5,166

Breakdown of Positive/Negative Apartments



**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, as required, evaluate exterior areas (including bare soil), interior common areas, and units. This project will evaluate lead-based paint risks at 238 developments.

Risk Assessments of Exterior & Common Areas

*Total Number of Developments: 238*

*Completed: 228 (96%)*

Note: the 10 remaining developments are the FHA Homes properties, and the work is in progress.

In Unit Risk Assessment in Developments w/Positive Components

*Number of Developments: 90*

*Total Number of Target Apartments: 1,902*

*Completed: 2,257 (100% completed)*

In-Unit Risk Assessment in Developments w/ No Positive Components in Apartments (DW only)

*Number of Developments: 148*

*Total Number of Target apartments: 3,410*

*Completed: 2,078 (60% completed)*

**Completion of Update to the Lead Procedure Manual and Quick Reference Guides:** On September 9, 2020, NYCHA published the revised the Lead Safe Housing Procedure (SP 050:2:1). NYCHA also published seven Quick Reference Guides to improve employee awareness and knowledge of key lead-based paint requirements. The Quick Reference Manuals are:

- “How to Comply With the HUD Lead Disclosure Rule”
- “Lead-Based Paint Abatement”
- “Lead Safe Work Practices – Renovation, Repair, and Painting Work”
- “Renovation, Repair, and Painting Work – Identifying Lead Components”
- “Lead Safe Housing – What Every Employee Should Know”
- “Children with an Elevated Blood Lead Level”
- “Lead Based Paint Inspection”

NYCHA will provide training on the Manual to Lead Hazard Control Staff by April 15, 2021. NYCHA has already launched a web-based training for employees on the Lead Disclosure Rule.

**Approval of Initial Lead Action Plan:** On January 20, 2021, the Federal Monitor approved NYCHA’s Initial Lead Action Plan for Lead-Based Paint. Among other things, the plan establishes the TEMPO program. This program will expedite abatement activities in apartments with a child under 6 and with 2 or fewer lead based components. TEMPO will also establish a team of skilled trades that will perform more expeditious and better sequenced repairs in apartments with 3 or more lead components in order to minimize dust during construction. The Initial Action Plan also formalizes the Lead Exceptions Report process performed by Compliance and EH&S, and sets forth a plan to improve NYCHA’s monitoring of vendors performing RRP work.

## 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.

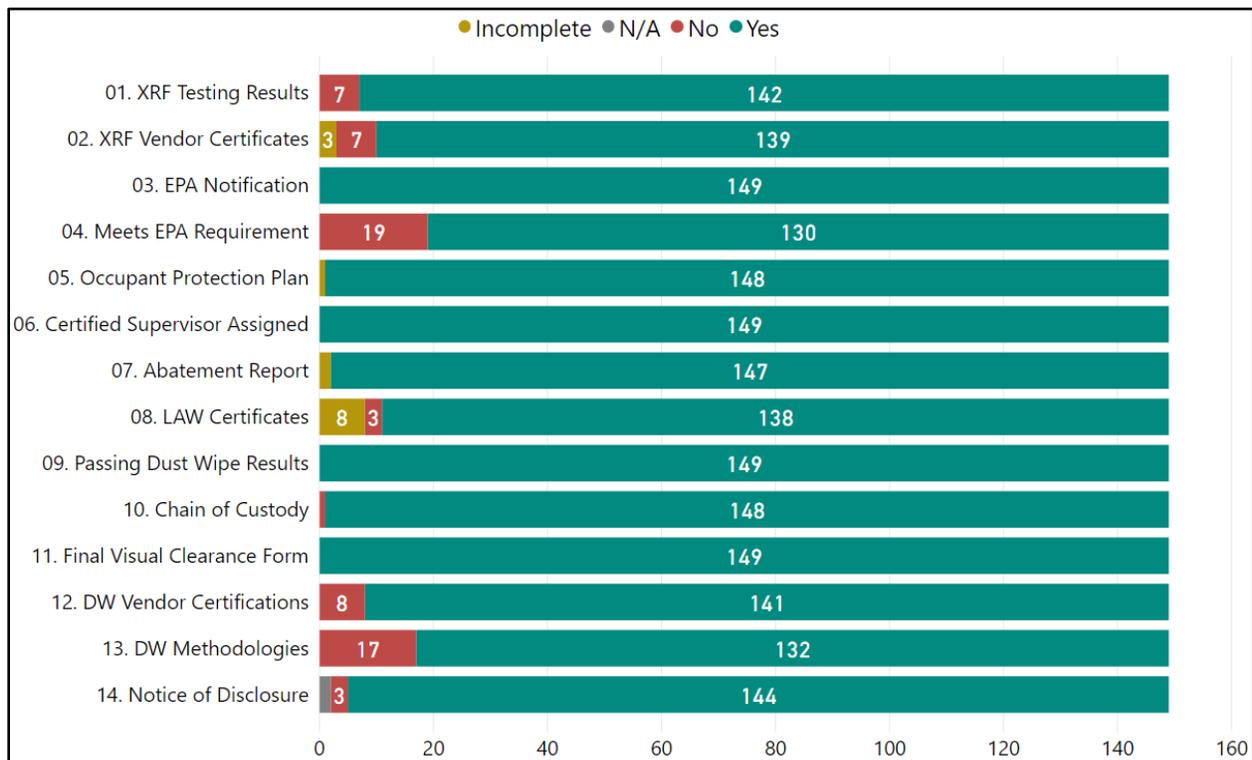
**Abatement File Review:** Compliance performed a file<sup>2</sup> review of 150 closed abatement work orders. The Compliance Department selected a random sample of 150 abatement work orders out of a total of 354 work orders that had an “Actual Finish” date between June 16, 2020 to December 15, 2020, and a work order status of “CLOSE” as of December 15, 2020. Of this sample, 1 work order was removed from review because an abatement did not occur. The remaining sample of 149 work orders was reviewed by the Compliance Department for the 14 indicators set forth below. The results of this review are set forth in Attachment B.

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

<sup>2</sup> For the purposes of this review, “files” refers to Maximo work orders associated with a particular abatement

<b>11. Final Visual Clearance Form</b>	Visual Clearance form completed for final passing dust wipe results	40 C.F.R. § 745.227(e)(8)-(9)	14(e)
<b>12. DW Vendor Certifications</b>	ELLAP and NLLAP Certifications	40 C.F.R. § 745.227(e)(8)-(9)	14(e)
<b>13. DW Methodologies</b>	Specified methods of collection and lab analysis of dust wipes	40 C.F.R. § 745.227(f)	14(d)
<b>14. Notice of Disclosure</b>	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.



**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 sets forth the following procedures related to requirement set forth in paragraph 14(a):

- A certified abatement supervisor:
  - Must be onsite during all work area preparation. The certified abatement supervisor confirms they are on site by entering the actual start time in Maximo. *See* Lead SP, § VII.G.1(j)(1)(b)(i).
  - Must be onsite or available on call and able to be present at the work area in no more than two hours at all other times when abatement activities are being performed. The certified abatement supervisor must post their telephone number at the abatement location to ensure they can be contacted. *See* Lead SP, § VII.G.1(j)(1)(b)(ii).

*Contract Specifications:* During the Covered Period, NYCHA utilized four vendors to perform abatements. The specifications for the contracts are described below:

<b>Vendor Name</b>	<b>Agreement to comply with 40 CFR § 745.227 (e)</b>
Linear	<i>See</i> Attachment D, § 1.1.6; <i>Id</i> , § 1.2.1; <i>Id</i> , § 1.4.5
Joseph Environmental	<i>See</i> Attachment D.1, § 1.1.6; <i>Id</i> , § 1.2.1; <i>Id</i> , § 1.4.5
ADG	<i>See</i> Attachment D.2 § 1.1.6; <i>Id</i> § 1.2.1; <i>Id</i> § 1.4.7
Sherwani	<i>See</i> Attachment D.3 § VII.C.(ii)

[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 for NYCHA performed and vendor performed abatement work orders:

- The system maintains the list of vendor personnel and NYCHA personnel who are certified as Lead Abatement Supervisors;
- 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;
- 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 245 abatement jobs. A certified supervisor was present for 98% of these jobs. Of the 245 Supervisors observed, 197 (81%) were NYCHA employees. See EHS Report (Attachment A) for additional information.

On October 21, 2020, EHS issued an escalation report for an October 19, 2020 abatement project performed by NYCHA Lead Abatement Workers at East River Houses. See Attachment A. EHS reported that (i) “warning signs were not posted on the Apartment entrance door;” (ii) “there was no Occupant Protection Plan posted in the public area next to the unit;” (iii) there was no EPA notice posted for this job; and (iv) “there was no certified abatement supervisor present at the worksite during setup.” On October 21, 2020 Compliance notified the General Manager and Director of Healthy Homes of the violations observed by EHS.

On November 18, 2020, Lead Hazard Control management issued counseling memorandum to the Lead Abatement Supervisor and Lead Abatement Worker involved with this deficiency. It should be noted that the Lead Abatement Worker refused to sign the counseling memorandum.

On November 12, 2020 EHS issued an escalation report for a November 10, 2020 abatement project performed by NYCHA Lead Abatement Workers at Fiorentino Plaza. See Attachment A. EHS observed the LAW unclogging a HEPA vacuum outside of the containment area. The HEPA vacuum had been used in the cleaning activities. The abatement supervisor was not onsite during this activity. On November 13, 2020, Compliance sent the escalation report to Director and Deputy Director of Lead Hazard Control. The Compliance Department informed Lead Hazard Control that the abatement supervisor was the same supervisor involved in the incident at East River Houses on October 19, 2020. On November 24, LHC investigated the incident and issued a counseling memorandum to the Lead Abatement Worker for violating containment protocols and for not waiting for the supervisor before commencing cleaning activities. Copies of the counseling memos are on file with Compliance.

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

The Compliance Department confirmed that certified supervisors were identified on 149 of 149 (100%) work orders, as indicated in the Labor Information field in Maximo or listed on the abatement work order. Certifications for the certified supervisor were uploaded to the Maximo work order in 147 out of 149 (99%) of cases. Certifications for all lead abatement workers, including the certified supervisor, were uploaded to the Maximo work order in 138 out of 149 (93%) cases. A detailed table documenting this file review is annexed as Attachment B.

On March 26, 2020, the EPA issued a memorandum stating that the agency would not enforce certification obligations where COVID-19 was the cause of non-compliance. The policy was in effect from date of issue through August 31, 2020 and covered lapsed certified supervisor certifications due to a pause in EPA recertification courses. The Compliance Department reviewed a subset of 100 work orders for valid certifications and found that in 100 of 100 work orders (100%) had certified supervisor certificates that were in compliance with EPA guidance. In 19 of 100 work orders (19%) certified supervisors were assigned to abatements with certifications that had lapsed but were in accordance with COVID-19 EPA guidelines. 53 of the 149 reviewed abatements were performed after the expiration date of the EPA memorandum, and all 53 (100%) had certified supervisors with certifications that were up to date at the time of abatement. A copy of the lead abatement supervisor certification for all NYCHA-employed certified supervisors who are recorded as having supervised abatement projects during the Covered Period 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;
- Abatement field monitoring indicating 99% 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;
- Document review indicating the labor hours of Lead Abatement Supervisors on 149 out of 149 work orders (100%). All lead supervisors assigned to abatement work orders had the appropriate certification given EPA COVID-19 guidance issued on March 26, 2020.

EHS did escalate two issues to Compliance that identified deficiencies with the requirements of Paragraph 14(a). LHC responded to the October 21, 2020 escalation with a detailed counseling memo for the abatement supervisor and the abatement worker. However, these two incidents appear isolated, given that EHS observed a 99% compliance rate with this requirement. NYCHA, however, will need to continue to re-emphasize this requirement to abatement supervisors at upcoming departmental trainings in 2021.

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

### **A. 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):

- A Lead Hazard Control Department assistant director ensures the EPA is notified at least five business days prior to the abatement using the EPA’s Central Data Exchange online portal. *See* Lead SP, § VII.G.2(e)
- If a vendor is performing the abatement, the vendor notifies the EPA at least five business days prior to the abatement using the EPA’s Central Data Exchange online portal. The vendor sends the EPA notice to a Lead Hazard Control Department assistant director. *Id.*
- The EPA notice is printed and attached to the work order. *Id.*
- If an abatement start date is changed so it will start before the original start date provided to the EPA, the updated notification must be provided to the EPA at least 5 business days before the new start date. VII.G.2(g)(a)(i)
- The updated notifications are attached to the work order. If a vendor performs these steps, they send the updated notifications to a Lead Hazard Control Department assistant director. *Id.*

*Contract Specifications:* During the Covered Period, NYCHA utilized four vendors to perform abatements. The specifications for the contracts are described below:

<b>Vendor Name</b>	<b>Agreement to comply with 40 CFR § 745.227 (e)(4)(vi)</b>
Linear	<i>See</i> Attachment D, § 1.4.2; <i>Id</i> § 1.5.2; <i>Id</i> 2.4.2; <i>Id</i> § 2.6.3
Joseph Environmental	<i>See</i> Attachment D.1, § 1.4.2; <i>Id</i> § 1.5.2; <i>Id</i> 2.4.2; <i>Id</i> § 2.6.3
ADG	<i>See</i> Attachment D.2, § 1.4.2; <i>Id</i> § 1.5.2; <i>Id</i> 2.4.3; <i>Id</i> § 2.6.3
Sherwani	<i>See</i> Attachment D.3 § VII.C.(ii)

[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, LOTS verifies that the notice is present,

the required information is documented and accurate, and work is occurring within the timeframe indicated on the notice.

The LOT conducted 245 inspections and 98% complied with the NOC requirements. EPA Notice of commencement showed a monthly improvement, with a 96% compliance rate in September, 98% in October and 100% in November and December consecutively. See Attachment A for more details.

The EHS escalation report on October 21, 2020 found that no EPA notice was posted for that particular job. NYCHA's response to this incident is outlined in Paragraph 14(a) above.

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

The MU conducted a review of work order records in Maximo to determine if the EPA notification required by 40 CFR § 745.227(e)(4)(vii) was present in the relevant project files. The MU reviewed a total of 149 work orders completed during the reporting period. 149 of the 149 (100%) work orders reviewed submitted the EPA notification. See Attachment B. In 10 (7%) cases, the Maximo records did not contain the EPA notification submission date but LHCD provided the dates to the Compliance Department upon request. In 131 (88%) work orders, NYCHA notified the EPA at least five or more business days ahead of the scheduled abatement or were emergency cases. Of the 19 (13%) work orders that did not meet EPA notification guidelines, 2 (11%) were performed by NYCHA and 17 (89%) were performed by a vendor.

#### [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;
- Field monitoring revealed 98% compliance rate for posting EPA Notice and accurately completing Notice of Commencement.
- Documented establishment of Maximo IT Control to require the EPA notification to be uploaded to the work order;
- Contract specifications including this requirement;
- Document review indicating the notice was issued to the EPA in 149 out of 149 (100%) of work orders. However, ten EPA notifications (7%) were missing the original submission date in Maximo records, and the EPA requirement of 5 business days between notification date and abatement was not followed in 19 (13%) cases.
- 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 most requirements set forth in 14(b). However, Compliance found that 13% of the notifications were not in compliance with the 5 business day requirement, indicating that further improvements are needed for this specific requirement.

### **B. 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.2.d. The Lead SP includes requirements on what must be included in the OPP. *Id.* The Lead SP includes a template OPP. *Id.*, Appendix F.
- Requires that the OPP be annexed to the abatement work order. *Id.*, § VII.F.2.e. The plan must be provided to the resident if the unit is occupied. *Id.*, § VII.F.1.g It must be posted in common areas. *Id.* § VII.F.2.d(3)

*Contract Specifications:* During the Covered Period, NYCHA utilized four vendors to perform abatements. The specifications for the contracts are described below:

<b>Vendor Name</b>	<b>Agreement to comply with 40 CFR § 745.227 (e)(5)</b>
Linear	<i>See</i> Attachment D, § 3.6.1
Joseph Environmental	<i>See</i> Attachment D.1, § 3.6.1
ADG	<i>See</i> Attachment D.2, § 3.3.3
Sherwani	<i>See</i> Attachment D.3 § VII.C.(ii)

### 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/QA 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 245 OPPs during abatement oversight inspections from August 12-December 31, 2020. Only one inspection did not have an OPP. LOT observed 99% of compliance for the OPP inspections. *See* Attachment A for more details.

In the October 21, 2020 Escalation Report concerning East River Houses, EHS observed that there was no OPP posted at the jobsite. NYCHA's response to this incident is discussed in Paragraph 14(a) above.

#### [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 149 completed work orders, 148 (99%) of which contained a complete OPP. For the 1 (1%) work order which did not contain a complete OPP, the OPP attached did not indicate whether or not the apartment was vacant or occupied.

#### [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;
- Abatement field monitoring, with an observed 99% compliance with this requirement;
- Establishment of Maximo IT Control to require the OPP to be uploaded to the work order;
- Document review indicating the presence of the OPP in 148 out of 149 files (99%).
- 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).

### **C. 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.H.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.H.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.*

*Contract Specifications:* During the Covered Period, NYCHA utilized seven vendors to perform dust wipes. The specifications for the contracts are described below. Attachments D4 and D5 have the requirements in sections D.

#### [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\(d\):](#)

EHS began conducting compliance assurance for dust wipe clearance activities in August 2020. See Attachment A. As part of the compliance assurance inspection, EHS examines whether the personnel is properly certified. EHS specialists verify for post-abatement clearance. LHC observed 100% compliance with the certification requirement for both abatement and RRP projects.

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

The Compliance Department reviewed 149 closed abatement files. 132 of 149 (89%) files contained documented methodologies for collection and lab analysis of dust wipes. Of the 17 (11%) files that did not contain documented methodologies, 9 (53%) were dust wipes handled by a vendor, and 8 (47%) were for dust wipes handled by NYCHA.

#### [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;
- EHS observations that 100% of the clearance examiners had proper credentials;
- Documentation review indicating that 133 of 149 (89%) files contained documented methodologies, and 9 of 17 files (53%) that did not contain documented methodologies were for dust wipes handled by a vendor. This is an improvement since the July 31, 2020 Certification, and NYCHA must continue to 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).

**D. 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/ft<sup>2</sup> for floors, 250 µg/ft<sup>2</sup> for interior windowsills, and 400 µg/ft<sup>2</sup> for window troughs.”<sup>3</sup>

*\*\*\* 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.H.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.H.4.
- Sets forth the basic protocols for the certified risk assessor or lead inspector to follow for dust wipe sampling. *See* Lead SP, §VII.H.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.H.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.

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<sup>3</sup> Lead dust clearance standards in New York City during the Covered Period were as follows: 10 µg/ft<sup>2</sup> for floors; 50 µg/ft<sup>2</sup> for window sills; and 100 µg/ft<sup>2</sup> for window wells (troughs).

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

EHS commenced field oversight for dust wipe clearance compliance in August 2020. EHS reviewed 132 clearance examinations, covering both abatement and RRP projects. EHS observed 100% compliance for these 132 jobs. EHS noted that all clearance examiners had proper credentials for their job type; that all jobs adhered to the 1-hour wait time between clearance and cleaning activities; and that all clearance examiners conducted the visual inspection phase of the clearance examination; and that the clearance examiners adhered to dust wipe sample collection protocols.

Despite reporting 100% compliance, EHS did escalate one matter to Compliance concerning an abatement-related clearance examination at Pennsylvania-Wortman Houses. On December 4, 2020, EHS observed the abatement supervisor using a dust wipe cleaning wipe to re-clean areas within one hour before the sample was taken by a vendor. Compliance issued the escalation report to LHC and requested that LHC reclean the work areas and re-perform the clearance examination. The clearance examination passed on December 18, 2020. On December 18, 2020, the Deputy Director of LHC sent an email to employees, attaching excerpts from the Lead SP and Chapter 15 of the HUD Guidelines, and reminded staff members of clearance examination protocols, focusing on the one hour wait time. The supervisor was also spoken to by management about the deficiency. On December 29, 2020, Compliance also issued a directive to the clearance vendor and required an explanation for the deviation from clearance protocols. The vendor responded to Compliance's directive on January 14, 2020, and outlined measures that it will take to prevent this type of deviation for future clearance examinations.

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

The Compliance Department reviewed 149 closed abatement files. Of these, 149 (100%) contained the final clearance report. 141 of 149 (95%) had certifications for both the risk assessor and laboratory. 141 of 149 (95%) had certifications on file for the risk assessor<sup>4</sup>, and 136 of 149 (90%) had certifications on file for the 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;
- Field review indicates compliance with clearance examination protocols.
- Document review indicating the presence of the final clearance report in 149 out of 149 completed abatement files (100%).
- Document review determined that 141 out of 149 (95%) of completed abatements had certifications on file for the risk assessor, and 136 out of 149 (91%) had certifications on file the dust wipe laboratory and the risk assessor.
- Lead SP including the requirements set forth in Paragraph 14(e).

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<sup>4</sup> In a subset sample of 90 work orders, 90 (100%) risk assessor certifications had valid expiration dates

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 substantial compliance with the requirements referenced in Paragraph 14(e).

### **E. 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.H.9. 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 149 abatement work orders reviewed for the Covered Period, 149 had completed abatements and of these, 147 files (99%) contained the complete abatement report. 2 of 149 (1%) work orders contained abatement reports that were incomplete due to omitted dust wipe clearance information.

#### 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;
- Document review indicating the presence of a completed abatement report in 147 out of 149 completed abatements (99%), and 2 out of 149 files (1%) 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).

## **F. 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.D.2.

### 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. Due to COVID-19 restrictions, Lead Hazard Control is not compiling a final paper file. Instead, staff verify that Maximo has all records before the Notice of Disclosure is issued.

### File Review for 14(g):

The Compliance Department reviewed 149 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. A review of notices of evaluation and notices of hazard reduction was performed as part of this certification, paragraph 15(g).

### 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 and there are no results of an XRF test in that apartment available in Maximo, all painted surfaces in an apartment or component must be presumed to be lead-based paint.” See Lead SP, § VII.1.3.a.(1).

*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 an overview of the RRP process for NYCHA renovators. The second QRG, entitled “Renovation, Repair, and Painting (RRP) Work: Identifying Lead Components,” (Attachment H) provides an 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 building 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 168 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 began regular RRP Component Validation on August 11, 2020 and reviewed 434 work orders for it during the Covered Period. RRP Component Validation is a comparison of the work order classification in Maximo to the component, or room, actually worked on. The possible outcomes are a component match, a component does not match, no component was selected, or the XRF results are negative. For work orders with component level information, renovators confirmed the correct work location 87% of the time.

On January 12, 2021 Compliance identified an RRP deficiency at South Jamaica Houses based on a review of work orders, in which a plasterer failed to identify the scope of work as subject to RRP. The CCO directed the employee’s supervisor to investigate and a counseling memo was issued to the plasterer. Compliance also directed that dust wipes be taken by LHC in the work area. As of February 1, 2021, the results are still pending.

#### 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).

### **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.

#### [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).

- 233 out of 234 (99%) NYCHA workers observed performing RRP work were RRP certified.
- Out of the 234 observed employees, four were unable to produce a copy of the certificate for inspection. Only one of these employees was not certified.
- Out of the 168 RRP jobs, a least one worker present had a valid Certified Renovator credential.

On October 28, 2020, EHS sent compliance an escalation report regarding a non-certified caretaker assisting an RRP-certified plasterer on a September 3, 2020 RRP project at St. Nicholas. The Lead SP requires all workers on an RRP worker to be certified RRP renovators. Compliance still needs to conduct follow-up inquiries regarding this escalation report.

#### [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 570 work orders completed by 1,291 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 570 work orders completed by NYCHA employees, 1,285 (99%) were RRP certified.

The Compliance Department also surveyed randomly selected developments and the Procurement Department to determine if the RRP vendors NYCHA uses have their RRP certifications listed in the RRP Vendor Support Portal. Compliance was able to identify 13 out of 14 (93%) vendor certificates. This supporting information is available upon request.

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. NYCHA contacted 116 vendors on January 5, 2021 and again on January 13 that may perform RRP work. As of January 20, 2021, NYCHA has received 69 certifications out of 116 vendors that contacted. 17 out of 116 (15%) vendors have replied that they are not certified. NYCHA is currently verifying if the work these 17 vendors even require RRP certification or whether they are currently performing any work for NYCHA. 30 vendors have not yet responded and received another follow-up email on January 20, 2021.

While this control, as it is currently designed, is not nearly 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.

#### 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 (99% compliance) from field monitoring activities that these requirements are being followed in the field staff;
- Strong evidence (99% compliance) from file review activities that these requirements are being followed for staff and good evidence (93% compliance) 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 still 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 December 2020, two NYCHA SPs govern storeroom management procedures. NYCHA SP 006:19:1, Operation of Development Storerooms MMD Locations. NYCHA SP 040:04:2, Operation of Development Storerooms.

For 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 December 22, 2020, MMD still does not control fourteen developments’ storerooms. Of those fourteen, ten developments (71%) also appear on the list of the 92 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. Of the 92 RRP Developments, 5 (5%) of them are now privately managed under the Rental Assistance Demonstration Program (RAD). They include 344 East

28 Street, Independence, Manhattanville Rehab, Weeksville Gardens, and Wise Towers. Wise Towers is the only development of the 5 RAD RRP Developments that is also on the list of 14 developments currently not management by MMD. 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 December 22, 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 42 storerooms inspected for required RRP supplies, 39 were in compliance (93%). Non-compliance indicates that one or more supplies was missing from the storeroom.
- The Compliance rate decreased by 4% from 97% in Q1 to 93% in this reporting period.
- The most common failure point was missing duct tape, which occurred in two inspections.

#### 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 93% compliance, with a downward compliance trend during the monitoring period until the December inspections;
- 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. I.7 through VII. I.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.

#### 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, this control does not apply to their work.

#### 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 observed 168 RRP jobs in this period which is 16% lower than its target observation of 200 (40 per month) RRP jobs from August to December 2020.
- Among all the RRP work phases the "Worksite Preparation" phase achieved 100% compliance rates. 118 "Worksite Preparations" activities were observed
- 128 "Work Activities" were observed, averaging a 100% compliance rate.
- 81 "Cleanup Activities" were observed, averaging a 100% compliance rate.
- 79 "Cleanup Verification Activities" were observed, averaging a 100% compliance rate.
- LOT observed all four phases in 38 jobs, reporting a 100% compliance rate.
- 406 work phases were observed, average a 99% compliance rate.

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

The Compliance Department assessed 570 work orders (completed between June 16, 2020 and December 15, 2020) for the required attachments and confirmed if the employees were certified RRP renovators. 99% (564 out of 570) of the work orders had 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. Compliance will investigate the work orders where the checklist was missing (i.e., left blank, with the exception of the certification checklist item).

**Table 1: Renovator Checklists January 16, 2020 to June 15, 2020**

	June	July	August	September	October	November	December
<b>RRP Checklists Present</b>	42	77	68	100	99	100	78
<b>RRP Checklists Missing</b>	1	1	1	0	1	0	2
<b>Total</b>	43	78	69	100	100	100	80
<b>Compliance Rate</b>	<b>98%</b>	<b>99%</b>	<b>99%</b>	<b>100%</b>	<b>99%</b>	<b>100%</b>	<b>97%</b>

### [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 99% across all four work phases;
- The data supports an overall upward average compliance trend from Q4 2019 to Q1 2020.
- File review showing an upward trend of compliance to 99% for completion of the renovator's checklist.

The new RRP Vendor Portal is now operational and can be used to verify a vendor firm's RRP certificate as well as that firm's individual employee RRP certificates. However, Compliance is not aware of a systemic process for collecting RRP checklists from vendors and recording that information in Maximo or other location.

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 VII.I.5.

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, this control does not apply to their work.

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 574 work orders (completed between June 16, 2020 and December 15, 2020) for the required attachments and confirmed if the pre-renovation acknowledgement form was offered to the resident. 99% (570 out of 574) of the work orders indicated the pre-renovation acknowledgment form was offered to the resident. In one instance, the work order had a comment that the resident refused cleaning. See the table below for details regarding completion of the renovator’s checklist:

**Table 2: Renovator Checklists June 16, 2020 to December 15, 2020**

	June	July	August	September	October	November	December
<b>RRP Checklists Present</b>	43	78	69	100	100	100	80
<b>RRP Checklists Missing</b>	1	0	0	0	1	0	2
<b>Total</b>	44	78	69	100	101	100	82

	June	July	August	September	October	November	December
<b>Rate</b>	<b>98%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>99%</b>	<b>100%</b>	<b>98%</b>

The Compliance Department also reviewed 10 RRP work orders to determine if NYCHA staff are offering the EPA pamphlet ‘Renovate Right’ to the residents before starting an RRP job as required. Compliance contacted residents for 6 out of 10 (60%) work orders. 1 out of 6 (17%) residents said they received the RRP pamphlet, 3 out of 6 (50%) said they did not receive the pamphlet, and 2 out of 6 (33%) said they did not remember if they received the pamphlet or not. 10 out of 10 (100%) staff confirmed that they distributed the pamphlet to the residents for the same work orders in question. While this is a small sample size, the discrepancy between the resident’s answers and the staff’s answers merits a closer look by Compliance in the next sixth months. To ensure that the pamphlet is consistently distributed to residents in advance of RRP work, Compliance will (i) issue a Compliance Advisory Alert reminding skilled trades and maintenance workers to distribute the pamphlet in advance of RRP work; (ii) conduct monthly reviews of a sample of work orders to ensure that the resident received the EPA pamphlet; (iii) emphasize the importance of distributing the pamphlet at upcoming trainings and informational sessions required by the Initial Lead Action Plan.

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 acknowledgment form before they can close an RRP work order;
- File review showing an average rate of compliance of 99%.

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(f):

Paragraph 15(g) requires compliance with 24 CFR § 35.125, which, among other things, sets forth the requirements for issuing notices of evaluation following lead testing, inspections, and risk assessments,

and notices of hazard reduction, which must occur upon the completion or abatement or interim controls. 40 CFR § 745.84 sets forth the work notification requirements for RRP projects in residences and common areas. Compliance with section 40 CFR § 745.84 is also referenced in Paragraph 15(f) and this section shall focus on compliance with 24 CFR § 35.125.

#### Written Policies, Procedures, and/or Contract Specifications for 15(f):

*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 and be published approximately in June 2021. (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. This automated process generates a hard copy Notice of Hazard Reduction after a passing clearance examination. The letter is then mailed to the resident. An electronic version of the letter (in four languages) is also stored in the resident MyNYCHA App file. The process auto-generates letters for “non-exception cases,” meaning that all necessary criteria for the work order match in Maximo and no manual review is necessary to resolve discrepancies.<sup>5</sup> If a case does not meet this criteria, the process auto-generates a list of “exception” cases, which Lead Hazard Control must review, resolve discrepancies and, if necessary, manually generate the Notice of Hazard Reduction.<sup>6</sup>

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<sup>5</sup> **Non-Exception (auto) Hazard Reduction Notice:** Hazard Reduction Notice that is automatically generated by Siebel and mailed out by General Services, based on the following into one of the following categories:

- Dust wipes taken matched exactly to the dust wipes that were planned
- Dust wipes planned at apartment level but were taken at the room level
- Dust wipes taken were more than dust wipes planned but contained all dust wipes that were planned

<sup>6</sup> **Exception Hazard Reduction Notice:** Hazard Reduction Notice that’s manually generated by the Lead Hazard Control Dust Wipe Unit and mailed out, based on following into one of the following categories; further investigation needed:

- Dust wipes taken were less than dust wipes planned

On January 11, 2021, IT and General Services confirmed that the presence of the Hazard Reduction letter in Siebel confidently and reliably demonstrates that the letter was physically printed and mailed out to the resident within 1-2 business days of its creation and submission into Siebel.

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

No field monitoring for the paragraph.

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

*Notices of Evaluation:* The Compliance Department ran a report of XRF inspection work orders in Maximo completed between June 16, 2020 and December 15, 2020. Of 2,330 completed XRF inspections, all work orders (100%) contained the required Notice of Evaluation in Maximo. This result is similar to the July 31, 2020 Certification where all work orders contained the required the Notice of Evaluation in Maximo.

*Notices of Hazard Reduction:*

From November 18, 2020 through December 31, 2020 a total of 444 “Non-Exception” cases – i.e., the Notices of Hazard Reduction were generated through the automated system - were identified from the IT Department data pull. MU selected a sample of 100 of these cases and found that all 100 (100%) of these cases contained a copy of the hazard reduction letter attached in Siebel.

For “Exception” cases – i.e., where Lead Hazard Control is manually generating the Notice of Hazard Reduction - the Compliance Department requested IT to generate a list of RRP work orders that were closed and passed dust wipe clearance between June 16, 2020 and December 15, 2020. IT produced a list of 1,121 exception work orders, and the Compliance Department randomly selected a sample of 39 work orders for review (3.5%).

The Compliance Department requested evidence of email delivery from LHC to the developments with Notice of Hazard Reduction attached in the email to the development. Of the 39 work orders sampled, LHC responded that all but of them had the “Hazard Reduction Letter sent and attached to Dust Wipe Work Order in Maximo.” Upon review, however, the Compliance Department found that 34 of the 39 work orders sampled (87%) had the respective emails *and* Notice of Hazard Reduction uploaded in Maximo. One of the 39 work orders (2.5%) had an attached Notice of Hazard Reduction in Maximo, however, the supplemental email evidencing LHC provided the notice the development was *not* attached. This is an improvement from the July 31, 2021 certification when only 27 (69%) of 39 work orders had respective emails and Notice of Hazard Reduction uploaded in Maximo.

The delay between the clearance inspection date and the date of notice on the Hazard Reduction Notice for “exception” cases appears to be an issue. The review in Maximo revealed that 9 of the 34 emails (26%) with Hazard Reduction Notice attached which were sent from LHC to development staff did not occur until two months after the clearance inspection date. 1 of these 9 emails (11%) indicated that LHC did not send the actual email and respective Hazard Reduction Notification to the Development until 9 months after the clearance inspection.

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- Dust wipes taken were more than dust wipes planned but did not include all dust wipes planned

The Compliance Department finds LHC had the notices for 34 of the 39 work orders sampled but did not distribute within the 15-day statutory deadline for any of the 34 work orders.

5 of the 39 work orders (13%) were missing notices of hazard reduction. LHC provided two reasons for the missing notifications:

- In 3 of the 39 work orders (8%), notification emails and hazard reduction notices were not sent
- 2 of the 39 work orders (5%) contained hazard reduction letters for incorrect apartments that were attached to the dust wipe work orders.

LHC is aware of these findings and is working to make improvements in the future.

#### Overall Description of Compliance for 15(g):

NYCHA launched the automated IT process for generating hazard reduction letters through Siebel on November 18, 2020. Prior to the go-live date, In June and July 2020, NYCHA IT performed testing to validate the accuracy of the automated notices. The review of the sample selection of 100 non-exception Work Orders, exhibited a positive result for 100% of the notices.

While NYCHA has established practices in place for the Notice of Evaluation, 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.

In addition, there is still not a process for notifying residents in writing following a failed dust wipe clearance. Instead, upon a failed clearance, residents are notified by telephone or email about the need for the development to reschedule a re-cleaning of the work area and a second clearance examination. Now that an automated system is in place, NYCHA needs to work on a method to auto-generate written notice to the resident following a failed clearance examination.

Compliance, IT and LHCD will continue to work together to improve the processes for Notice of Hazard Reduction.

**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.I.9 through VII.I.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.

#### [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 maintained a 100% compliance rate throughout the period
- Out of 118 EHS observations of worksite preparation activities, 100% 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 100% for worksite preparation activities and 98% 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.I.12.

### 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.

### 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:

- EHS conducted 81 Cleanup work phase observations, overall compliance rate of 99%.
- The LOT observed 100% compliance rate throughout the reporting period except for November which was 98%.

### 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.

### 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 99% 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.

#### [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 79 Cleanup Verification work phase observations, with an overall a compliance rate of 99%.
- The one deficiency observed resulted from the personnel observed not having valid EPA credentials.

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.

EHS commenced field oversight for dust wipe clearance compliance in August 2020. EHS reviewed 132 clearance examinations, covering both abatement and RRP projects. EHS observed 100% compliance for these 132 jobs. EHS noted that all clearance examiners had proper credentials for their job type; that all jobs adhered to the 1-hour wait time between clearance and cleaning activities; and that all clearance examiners conducted the visual inspection phase of the clearance examination; and that the clearance examiners adhered to dust wipe sample collection protocols. See Attachment A.

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

In 2020, Compliance, NYCHA IT, and Lead have developed a series of dashboards and reports to evaluate overall compliance with clearance examination requirements for interim controls and other RRP work orders. This section shall provide an overview of these dashboards and the trends that they are currently showing for the reporting period. It should be noted that NYCHA still needs to perform additional validation of the data from the dashboards, and the below tables represent the best available information at this time. Compliance examines the following indicators to better understand the current compliance rate for clearance examinations:

- **Timing of Initial Clearance Examination:** Compliance evaluates whether NYCHA is performing or attempting to perform the clearance examination within 24 hours, 48 hours, or after 48 hours of final labor transaction on the Corrective Maintenance work order. Compliance also assesses whether the clearance was performed before the end of each weekly reporting cycle.
- **Pass/Fail/Pending Status of Dust Wipe Batches:** Compliance examines the trends exhibited each month for the number of dust wipe batches that (i) have passed (ii) have passed after the initial dust wipe failed; (iii) remain in fail status; (iv) have failed based on a visual clearance; and (v) have results pending at the laboratory. Compliance also evaluates the levels of failed dust wipe samples to distinguish between minor exceedance to more significant exceedances.
- **Re-Cleaning and Re-Clearance:** Compliance examines the timing of recleaning following a failed clearance examination. The CCO is copied on correspondence from LHC to the individual

developments when the development does not respond to LHC’s request for a recleaning following a clearance failure.

- **Skilled Trade and Development Staff Performance on RRP Cleaning:** Compliance examines which trades/staff are associated with dust wipe failures, and evaluates whether particular trades or employees require re-training on RRP protocols. These proactive efforts will begin in 2021.

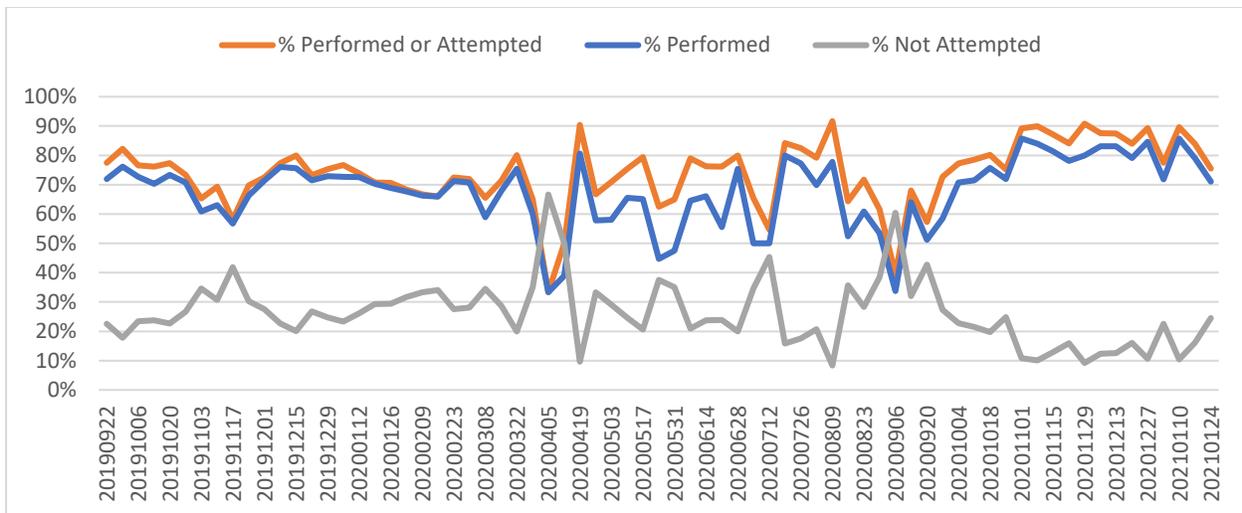
**Timing of Initial Clearance Examinations and Overall Performance**

Month	CM Work Orders	Clearances Performed in 24 Hours	Clearances Performed in 48 Hours	Clearances Performed After 48 Hours	Total Clearances Performed by End of Weekly Reporting Cycle	Dust Wipe Batch Currently in Passed Status
June	262	97	25	48	170	159
July	282	143	17	35	195	190
August	211	66	21	33	120	134
September	349	126	19	45	190	212
October	1281	903	29	46	978	967
November	1068	792	37	39	868	852
December	921	665	26	48	739	507
<b>Grand Total</b>	<b>4374</b>	<b>2792</b>	<b>174</b>	<b>294</b>	<b>3260</b>	<b>3021</b>

*Analysis:* During the reporting period, NYCHA completed the 74.5% of clearance examinations within the weekly reporting cycle used to examine clearance examinations. NYCHA completed 63.8% of the samples within 24 hours of the last labor transaction on the Corrective Maintenance work order. NYCHA completed 67.8% of clearance examinations in 48 hours of the last labor transaction on the Corrective Maintenance work order.

NYCHA saw considerable improvement in clearance performance time from the beginning of the reporting period to its end. NYCHA exceeded an 80% weekly completion rate in both November and December. NYCHA also was able to improve its clearance performance even as the number of overall projects rose significantly over this time period. The increase of overall projects was related to the restart of interim control work to address deficiencies from the 2018 and 2019 visual assessments. The increased performance over this period can be attributed to the strong coordination between Lead Hazard Control and the Department of Management and Planning, which oversees the interim control work.

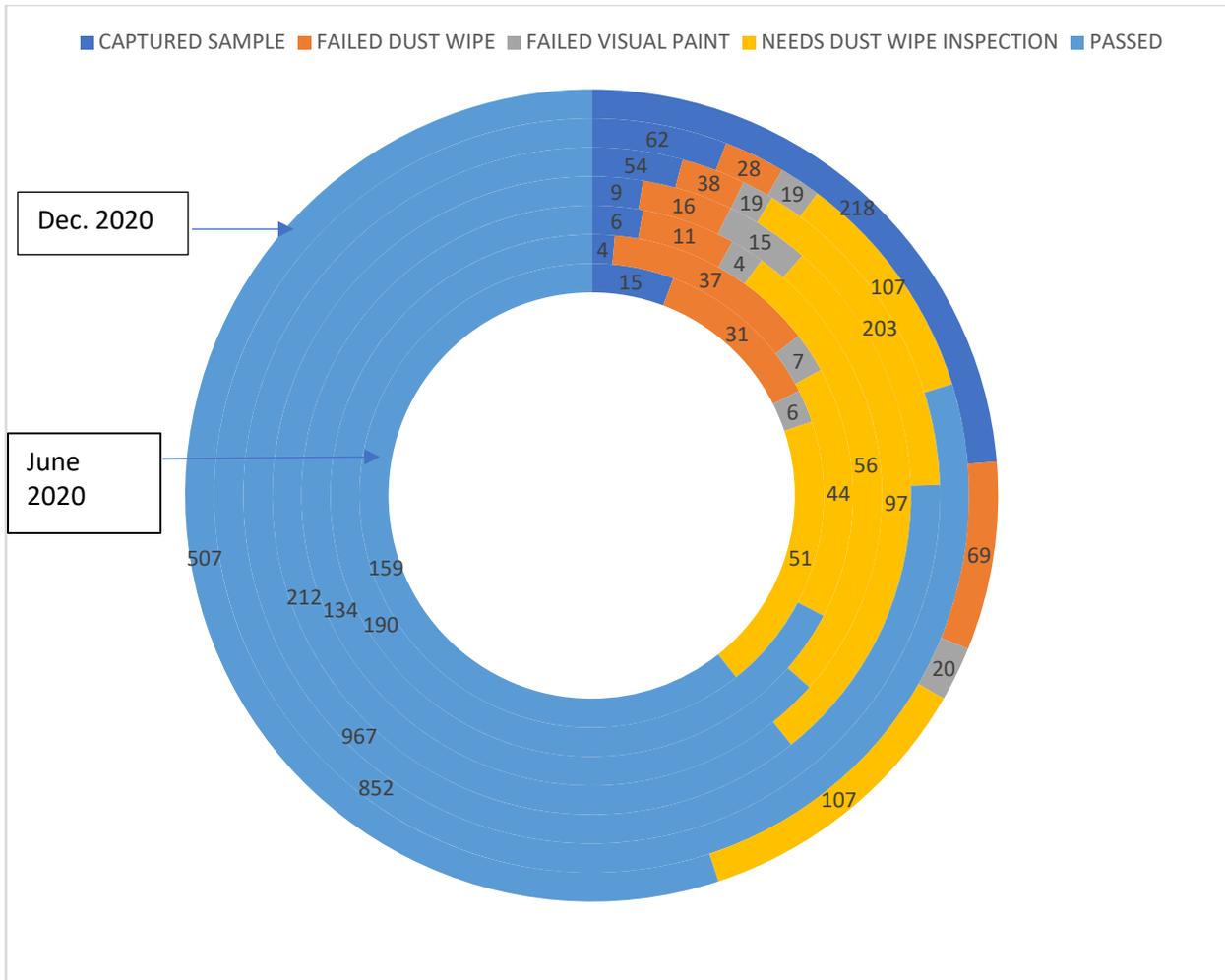
**Trends from 9/22/2019 to 1/24/2021 (showing performed or attempted by end of Weekly Report Cycle)**



*Analysis:* Over the sixth month reporting period, NYCHA experienced a decline in performance in August and early September, but significantly improved its performance in October through December. Indeed, performance in this time period slightly exceeded performance in the pre-pandemic time period. It is the opinion of Compliance that the decline in performance was related to the pandemic’s disruption of the work order process, and that the clearance examinations were predominantly related to non-interim control RRP projects during this timeframe, which are more difficult to coordinate than interim control projects. The improved performance during the October 2020 through December 2020 can be attributed to the re-start of the interim control work performed by the Department of Management and Planning. The interim control work focuses on a set number of developments at a time, making the work easier to coordinate the clearance examinations.

**Passed/Failed/Pending/Unperformed Statuses at the End of the Sixth Month Reporting Cycle:** Compliance conducted a review of the current status (as of 1/28/2020) of all clearance examinations from June to December 2020. This analysis generally shows whether the clearance examination passed, remains in a failed status (and requires re-clearance), is still pending with the laboratory, or remains unperformed at this time. Note, the below visualization does not include the “fail history,” i.e., clearance examinations that initially failed but were re-tested and have now passed. Those clearance examinations are included in the “passed category.”

Each ring represents a calendar month, with June 2020 as the inner most ring and December 2020 as the outer most ring. The term “capture sample” means that the sample has been collected and is likely pending with the laboratory.



Year 2020

Count of DUST_WO	Column Labels							Grand Total
	June	July	Aug	Sept	Oct	Nov	Dec	
CAPTURED SAMPLE	15	4	6	9	54	62	218	368
FAILED DUST WIPE	31	37	11	16	38	28	69	230
FAILED VISUAL PAINT	6	7	4	15	19	19	20	90
NEEDS DUST WIPE INSPECTION	51	44	56	97	203	107	107	665
PASSED	159	190	134	212	967	852	507	3021
<b>Grand Total</b>	<b>262</b>	<b>282</b>	<b>211</b>	<b>349</b>	<b>1281</b>	<b>1068</b>	<b>921</b>	<b>4374</b>

*Analysis:* As of January 28, 2021:

- 69% of the clearance examinations performed over the reporting period are in “pass” status;
- 15.2% have not had clearances examinations yet;
- 8.4% have been collected and are pending lab analysis;
- 5.2% remain in fail status; and
- 2% failed the visual phase of the clearance examination.

While NYCHA improved its performance over the course of the sixth month reporting period, there are some compliance shortfalls that NYCHA needs to address.

First, the number of clearance examinations that are in fail status at the end of the reporting period is over 7%. Many of these failed samples are several months old at this juncture. This shows that NYCHA still has work to do in improving the re-cleaning and re-clearance process. It should be noted that, over the reporting period, NYCHA has improved its focus on this process by notifying the CCO and senior Operations personnel on dust wipe failures to ensure that the re-cleaning work is prioritized. However, while development responsiveness has improved, re-cleaning and re-clearance is still a pain point, affected by access issues, scheduling issues, and coordination challenges between LHC and development staff. It should be noted that Compliance and LHC have recently built dashboards and trackers to monitor development responsiveness on re-cleaning needs and are in the process of identifying specific developments that have repeated problems in this area.

Second, the number of samples that have been collected but not received results from the laboratory is too high. It is possible that some of these pending samples relate to recent re-clearance examinations after a failure, as this table shows the current statuses. However, LHC still needs to establish more reliable, standard turnaround times with laboratories and dust wipe vendors.

Third, the number of unperformed clearance examination is just over 15% for the reporting period, which is still too high. It should be noted that this table does not account for attempts, which is critical to evaluate NYCHA’s efforts. It should also be noted that there have been continuing internal discussions on whether the clearance dashboards may overreport the number of unperformed samples. If the issue relates to access to perform the sample, Compliance recommends that LHC develop a customized communication to resident’s that do not allow access for dust wipe examinations so the residents’ can understand the importance of the examination. Additionally, NYCHA should explore developing right of entry policies for lead clearance once the pandemic subsides.

#### **Lead Dust Levels of Individual Failed Samples by Surface Area**

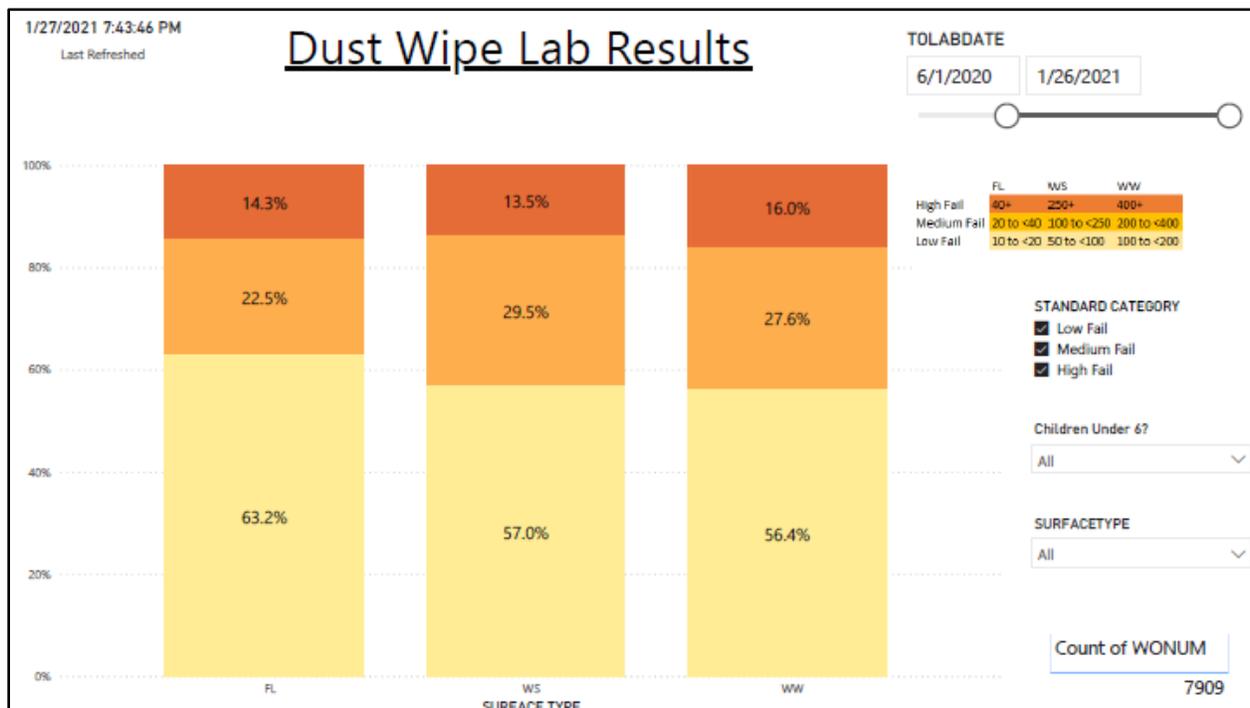
The current New York City and federal dust wipe thresholds are different for window sills and window wells. NYCHA applies the New York City standards because they are more stringent than the federal standards. The below chart shows the difference between the two standards:

Surface	Federal	NYC (which NYCHA uses)
Floor	10 µg/ft <sup>2</sup>	10 µg/ft <sup>2</sup>
Window Sill	100 µg/ft <sup>2</sup>	50 µg/ft <sup>2</sup>
Window Well	400 µg/ft <sup>2</sup>	100 µg/ft <sup>2</sup>

The chart below shows the lead levels of individual failed samples, broken down by a range of low, medium, or high fail categories from June 1, 2020 to January 26, 2021. It should be noted that NYCHA created the ranges for these categories as an evaluative tool, and that any failed sample requires re-cleaning and re-clearance. The ranges (in  $\mu\text{g}/\text{ft}^2$ ) are:

Result	Floor	Window Sill	Window Well
Pass	<10	<50	<100
Low Fail	10 to <20	50 to <100	100 to <200
Medium Fail	20 to <40	100 to <250	200 to <400
High Fail	40+	250+	400+

It should be noted that samples for window sills in the Low Fail category pass the current federal standard of 100 in  $\mu\text{g}/\text{ft}^2$ . Similarly, the samples for window wells in the Low Fail and Medium Fail categories pass the current federal standard of 400 in  $\mu\text{g}/\text{ft}^2$ .



**Analysis:** The above-chart shows that the majority of failed samples for all three surface areas is in the lower fail range. The Low Fail samples for window sills fail the stricter NYC clearance standards, but would be below the current EPA standard of 100  $\mu\text{g}/\text{ft}^2$ . Similarly, only the High Fail samples (16%) for window wells would be above the current federal standard of 400  $\mu\text{g}/\text{ft}^2$ . Thus, this analysis shows that the stricter NYC standards are driving the majority of the fails for window sills and window wells. However, for floors, the standard is the same and thus the differences between the standards has no effect on this surface area. It should be noted, however, that the NYC standard for floors will lower to 5  $\mu\text{g}/\text{ft}^2$  in June 2021.

In late fall of 2020, Compliance developed a new dashboard to track trades and staff members that performed the RRP work prior to dust wipe fails. Compliance is planning to use this dashboard to

proactively identify the trades, developments, and staff members that have the highest fail rates and schedule follow-up meetings with supervisory staff and trainings in hopes of improving cleaning protocols.

Overall Description of Compliance for 15(j):

With respect to final cleaning, during the Covered Period, NYCHA made 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;
- The improvement of IT controls and reporting on clearance examinations;
- Field monitoring observed high rate of compliance with cleaning verification and clearance protocols;
- Evidence of the RRP checklist in Maximo.

However, a review of the Maximo data still shows that NYCHA needs to improve the timing of initial clearance examinations and the performance of re-clearance examinations. NYCHA also needs to reduce the number of projects without clearance examinations and improve the lab turnaround time. NYCHA has also not instituted worksite protections after cleaning but pending final clearance results, which is a very significant aspect of the clearance requirements. This shortfall is addressed in the Initial Lead Action for units with child under 6 units, but NYCHA will face implementation challenges in operationalizing same day clearance or temporary relocation efforts.

On a positive note, NYCHA's dashboards and reporting on lead clearance examinations have improved and can be used to mitigate these shortfalls in future reporting cycles.

However, NYCHA cannot certify to compliance with this paragraph until these shortfalls are addressed.