

THE NEW YORK CITY CHILDHOOD LEAD POISONING PREVENTION ACT OF 2003

(LOCAL LAW 1 OF 2004)

Highlights

- **Certified Lead Safe Workers** are required for all **work on surfaces of 2 – 100 square feet in apartments and common areas** of buildings where children under seven reside.
- **Abatement Contractors** are required when work exceeds 100 square feet per room in apartments with children, including routine apartment painting in many cases.
- **No worker training required for work in apartments without children**, but dry scraping and other **unsafe work practices are prohibited** in all cases.
- **All lead-based paint hazards**, including the mere presence of lead-based paint on friction and impact surfaces, must be **remediated on turnover** of an apartment.
- **Dust clearance testing** by independent certified inspectors or risk assessors is **required** after all **work in apartments with children; work in common areas and work on turnover**.
- New **notices to tenants** inquiring about children under seven are required with all vacancy and renewal leases, and annually.
- **Owners have to inspect for children** when tenants do not respond to the annual notice.
- **Visual inspections** for lead-based paint hazards are required at least **annually for apartments with children under seven**.
- **Tenants** must be **relocated** when work makes the apartment unsafe.
- **Ten-year record keeping** requirement.

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LOCAL LAW 1 OF 2004

The New York City Childhood Lead Poisoning Prevention Act of 2003 (Local Law 1 of 2004) puts significant new responsibilities on owners and managers of apartment buildings in New York City, effective August 2, 2004.

The law generally applies to all multiple dwellings, and units in private dwellings or co-ops or condos not occupied by the owner, built before January 1, 1960. It also applies to dwelling units built before January 1, 1978 when the owner has actual knowledge that lead-based paint is present.

Here's what is required under Local Law 1 of 2004:

Obligations of Owner

An owner is obligated under the law to remediate all lead-based paint hazards and underlying defects in a dwelling unit where a child under seven years of age resides and in the common areas of the multiple dwelling.

Lead-based paint hazards include any conditions that cause exposure to lead contaminated dust from lead-based paint that is peeling or from lead-based paint that is present on chewable surfaces, deteriorated subsurfaces, friction surfaces, or impact surfaces. The law also presumes that paint in any building built prior to January 1, 1960 is lead-based paint, subject to testing.

Notices to Tenants

A “**Lease/Commencement of Occupancy Notice for Prevention of Lead-Based Paint Hazards — Inquiry Regarding Child**” (pages 13-14) must be provided in English and Spanish with every vacancy and renewal lease, or at the commencement of occupancy if there is no lease. The tenant must complete the form in duplicate, retaining one copy and returning one to the owner or agent. The form requires the tenant to report whether or not a child under seven years of age resides in the apartment. In addition, the lease notice must be accompanied by a copy of a pamphlet entitled “**Preventing Childhood Lead Poisoning — What Every Tenant Should Know About Local Law 1**” prepared by the New York City Department of Health and Mental Hygiene.

An “**Annual Notice for Prevention of Lead-Based Paint Hazards—Inquiry Regarding Child**” (pages 15-16) must also be delivered to the tenant in English and Spanish every year between January 1st and January 16th. It may be sent by first class mail, hand delivered, sent with the annual Window Guard notice, or delivered with the January rent bill. If delivered with the rent bill, it may be delivered as early as December 15th. The form must be sent in duplicate, so the tenant can keep a copy and return one.

If the tenant does not respond to the notice by February 15th, the owner is obligated to attempt to inspect the apartment for children. If the owner cannot determine whether a child under seven resides in the apartment, after reasonable efforts, by March 1st, the owner must notify the Department of Health and Mental Hygiene in writing. (See “Record keeping” Page 7.)

Inspections

If a child under seven resides in an apartment, the owner must make a **visual inspection of the apartment and common areas of the building for lead-based paint hazards at least annually**. Common areas, for purposes of the law, include areas regularly used by residents for access to or egress from any apartment in a multiple dwelling. For example, a basement laundry room might not be a common area under this definition if tenants only went there to do laundry, but would be if tenants routinely passed through it on their way to a parking lot entrance. Despite this definition, owners should be alert to all areas where children might be exposed to lead hazards.

Work in Apartments with Children and Common Areas

Work that disturbs more than two square feet of paint but less than 100 square feet per room in apartments with children under seven or common areas in buildings with children must be done by certified workers. The minimum level of certification is Lead-Safe Worker, which requires an 8-hour course.

Workers must follow the same procedures outlined for turnover, above, post the 10-Day notice info described below, plus:

(v) **Instructing occupants.** Occupants shall be instructed by the owner and contractor to avoid entering the work area until final clean up has been completed.

(vi) **Hazardous materials.** All paints, thinners, solvents, chemical strippers or other flammable materials shall be delivered to the building and maintained during the course of the work in their original containers bearing the manufacturer's labels, and all material safety data sheets, as may be required by law, shall be on-site and shall be made available upon request to the occupants of the dwelling unit.

The final cleaning process in occupied units shall:

(a) start no sooner than one (1) hour after lead-based paint disturbance activities have been completed, but before repainting, if necessary.

(b) First, all polyethylene sheeting shall be sprayed with water mist and swept prior to removal. Polyethylene sheeting shall be removed by starting with upper-level polyethylene, such as that on windows, cabinets and counters, folding the corners, ends to the middle, and placing in double four-mil or single six-mil plastic bags. Plastic bags shall be sealed and properly disposed of in a lawful manner.

(c) Second, all surfaces in the work area shall be HEPA-vacuumed. Vacuuming shall begin with ceilings and proceed down the walls to the floors and include furniture and carpets.

(d) Third, all surfaces in the work area shall be washed with a detergent solution. Washing shall begin with the ceiling and proceed down the walls to the floor. Wash water shall be properly disposed of in a lawful manner.

(e) Fourth, all surfaces exposed to lead dust generated by the lead-based paint disturbance process shall be HEPA-vacuumed again. Vacuuming shall begin with ceilings and proceed down the walls to the floors and include furniture and carpets.

(f) Fifth, all surfaces shall be inspected to ensure that all surfaces have been cleaned and all visible dust and debris have been removed. If all visible dust and debris have not been removed, affected surfaces shall be re-cleaned.

Again, **dust testing by an independent certified tester is required** before re-occupancy of the work area.

There are also temporary relocation requirements, detailed below, where the work will interfere with the tenants' use of sleeping, bathroom or kitchen facilities.

Over 100 Sq. Ft. Per Room

Work that disturbs more than 100 square feet of lead-based paint per room in an apartment with children, or that involves replacing two or more windows, or work to correct a violation issued by the Department of Housing Preservation and Development, or the Department of Health and Mental Hygiene, must be performed by a certified abatement firm. There does not appear to be any prohibition on an owner having his or her own employees trained and certified to do abatements (although dust clearance testing must always be done by an independent third party).

The posting and work requirements are similar to those for addressing smaller areas in apartments occupied by children, above, but the level of worker training and supervision required is higher.

Determining whether 100 square feet of lead-based paint in a room might be disturbed can be difficult. HPD takes the position that running a scraper over a surface is "disturbing," so that even just wet scraping all surfaces of any room or apartment for a routine painting would trigger the requirement to use a certified abatement contractor rather than a painter with Lead Safe Worker training. Owners and managers must make a determination if that level of scraping is necessary.

10-Day Notice

Before disturbing more than 100 square feet in an apartment with children under seven, or performing any abatement to correct a violation, **owners must give at least ten days notice to the Department of Health and Mental Hygiene including:**

- (1) *The name, address and telephone number of the owner of the premises in which the lead-based paint work is to be performed;*
- (2) *The address of the building and the specific location of the lead-based paint work within the building;*
- (3) *The name, address and telephone number of the firm who will be responsible for performing the work;*
- (4) *The date and time of commencement of the work, working or shift hours, and the expected date of completion;*
- (5) *A complete description and identification of the surfaces and structures, and surface areas, subject to the work; and*
- (6) *Any changes in the information contained in the notice required by this section shall be filed with the department of health and mental hygiene prior to commencement of work, or if work has already commenced, within 24 hours of any such change.*

A copy of the Notice of Commencement of Work filing must also be posted at the entrance to the apartment. The Department of Health and Mental Hygiene plans to publish a suggested form for this notice.

If it is impossible to give 10 days notice because of other deadlines — the 21 day limit for correcting HPD violations, for example, combined with the time required to complete the work — the initial filing must be made as soon as possible, but before commencement of the work.

Relocation

Owners are required to relocate tenants while lead remediation work is being conducted in their apartments unless tenants have safe access to a sleeping area, a bathroom, and kitchen facilities at the end of each day, including entry and egress pathways, and so long as there are no other hazards, such as exposed wiring.

If tenants remain in the unit, they are not allowed in the work area during the day, and the following daily clean-up precautions must be taken:

Daily clean-up. At the completion of work each day, the work area shall be thoroughly wet-mopped or HEPA-vacuumed. No polyethylene sheeting, drop cloths, or other materials that are potentially hazardous to young children or infants shall be accessible outside the work area. In addition, any work area and other adjoining area exposed to lead or lead-contaminated materials shall be cleaned as follows:

- (a) *Large debris. Large demolition-type debris (e.g., door, windows, trim) shall be wrapped in six-mil polyethylene, sealed with waterproof tape, and moved to the area designated for trash storage on the property to be properly disposed of in a lawful manner.*
- (b) *Small debris. Small debris shall be HEPA-vacuumed or wet swept and collected. Before wet sweeping occurs, the affected surfaces shall be sprayed with a fine mist of water to keep surface dust from becoming airborne. Dry sweeping is prohibited. The swept debris and all disposable clothing and equipment shall be placed in double four-mil or single six-mil plastic bags which shall be sealed and stored along with other contaminated debris in the work area and shall be properly disposed of in a lawful manner.*
- (c) *Clean-up adjacent to the work area. On a daily basis, as well as during final clean-up, the area adjacent and exterior to the work area shall be examined visually to ensure that no lead debris has escaped containment. Any such debris shall be wet swept and HEPA-vacuumed, collected and disposed of as described above.*
- (d) *Supply storage. Upon finishing work for the day, all rags, cloths and other supplies used in conjunction with chemical strippers or other flammable materials, or materials contaminated with lead dust or paint shall be stored at the end of each work day in sealed containers or removed from the premises, in a lawful manner.*

Further, there must be no safety hazards (including, but not limited to, exposed electric wiring or holes in the floor) and vents must be uncovered.

Floor coverings containing leaded dust and debris and hazardous materials must be removed; and floors in the work area must be re-covered with a non-skid floor covering securely taped to the floor.

Finally, a checklist of these and additional steps taken at the end of the workday must be completed and signed by the person responsible for overseeing the work before access is permitted.

If the tenants must be relocated, the "owner shall offer a suitable, decent, safe and similarly accessible dwelling unit that does not have lead-based paint hazards to such occupants for temporary relocation. Unreasonable refusal by such occupants to relocate pursuant to such offer shall constitute a refusal of access under the housing maintenance code..."

The law and regulations offer no practical guidance or cost limits on the relocation requirement, particularly for owners who do not have vacant available apartments in their building.

After the work and final clean-up are completed, tenants may return to the apartment temporarily for up to five days while waiting for dust clearance test results. If the tests fail, the tenants would have to move out again for re-cleaning and testing. All dust clearance tests results must be provided to the tenant.

General Prohibitions

Under Local Law 1 of 2004, the following methods shall **not be used** while performing work in accordance with these rules that disturbs lead-based paint or paint of unknown lead content:

- Open flame burning or torching.
- Machine sanding or grinding without HEPA local exhaust control.
- Abrasive blasting or sandblasting without HEPA local exhaust control.
- Heat guns operating above 1100 degrees Fahrenheit or charring the paint.
- Dry sanding or dry scraping.
- Paint stripping in a poorly ventilated space using a volatile stripper that is a hazardous substance in accordance with regulations of the United States consumer product safety commission and/or a hazardous chemical in accordance with the United States occupational safety and health administration regulations.

Encapsulants

Local Law 1 permits the use of encapsulants (certain copolymer paints and other treatments) instead of sheetrock to "permanently" cover lead-based paint. Permanently is defined as at least 20 years, and if encapsulants are used the owner must provide for periodic inspection to determine that they are holding up. A list of approved encapsulants is available from the Department of Health and Mental Hygiene, and **only certified abatement contractors may apply encapsulants.**

Record Keeping

The law requires owners to keep all records of notices (even to apartments without children), all responses, records of attempts at access, work, and workers, including copies of visual inspection reports; licenses and training certificates of employees, contactors, and contractors' employees; dust clearance tests; dates of work; and descriptions of work done pursuant to Local Law 1 for ten years. Records must be provided to new owners upon sale.

The failure of any current owner to produce all records on demand by HPD would be a violation of the law. It is not clear how building buyers should deal with properties that do not have appropriate records after August 2, 2004.

Presumptions, Protests and Exemptions

Local Law 1 presumes that any paint in an apartment in a pre-1960 building, where a child under seven resides, is lead based paint. The regulations allow owners to protest an HPD violation based on the presumption of lead paint in pre-1960 buildings by submitting test results from a certified lead-based paint inspector or risk assessor. There is no specific provision for challenging violations based on testing done by HPD inspectors with x-ray fluorescence machines.

All of the notice, inspection, work, and relocation requirements are based on the presumption of lead-based paint being present. **Exemptions from the presumption can be obtained by filing test results on a building-wide or apartment-by-apartment basis.**

For example, if an apartment turns over in a 1950 building where the owner is reasonably confident that no lead paint is present on smooth sheet-rocked walls or new metal window frames, the unit's surfaces can be tested with an XRF machine by a certified inspector or risk assessor and the negative results filed immediately with HPD, permitting normal preparation and rental to move forward. In the future, the owner would not have to serve notices to occupants of that unit, use trained workers for repairs, provide relocation during work, or take any special precautions unless a subsequent inspection by the City found some new source of lead. The cost of testing a single unit would likely be in the hundreds of dollars vs. thousands for preparation and maintenance under Local Law 1.

Similarly, owners of older buildings that have been substantially rehabilitated may readily be able to obtain a building-wide exemption. Under Local Law 1 the tester must test every surface of every room except where the owner can provide the tester with documentation of similar components having a common painting history – as would be the case when every apartment was gutted or sheetrocked.

Professional testing companies may be able to advise owners on the likelihood of obtaining building-wide or unit-by-unit exemptions based on visual inspections and available records.

Testing should be considered on a unit-by-unit or building-by-building basis. Moreover, if there is very little lead in a building, it may be worth pursuing J-51 benefits for voluntary abatement and getting the building exempt.

Owners should also be aware, however, that if they find lead on surfaces in vacant units, they may have to hire certified abaters to correct the condition, depending on the size and location of the area. No J-51 incentives are available for work in vacant units.

J-51 Incentives

Local Law 1 provides for J-51 tax incentives for the costs of abatement performed voluntarily in an apartment where a child under seven resides, including the costs of lead testing and dust clearance, when the tests initially showed that there was lead paint. No incentives are available for correcting violations, and there is no compensation for initial paint testing that proves negative.

Frequently Asked Questions

- Q.** What do I have to do immediately, August 2, 2004?
- A.** The work rules, turnover, and lease notice requirements (vacancy and renewal) are effective immediately. The annual notice must be done in January 2005. Annual visual inspections can begin anytime after you have notice of a child from the lease or annual notices. They must be completed once a year, but there are no specific dates for doing them. Any lead based paint hazard observed in an apartment with a child under seven should be addressed immediately.
- Q.** What should I do about window sills.
- A.** Protruding edges on window sills are considered a "chewable" hazard by law. If you are sure they are new and don't contain lead, you can have them tested and leave them. Otherwise you can remove them, shave off the protruding edge and repaint, cover them with thin plywood or sheetrock, or encapsulate them. Encapsulants, however, must be applied by a certified abater.
- Q.** Do I need an abatement contractor to replace windows buildingwide?
- A.** You need an abatement contractor if two or more windows are being replaced in an apartment with a child under seven, which is likely to occur in most buildingwide jobs. Eventually, window companies are expected to have staff trained as abatement supervisors, or subcontract with an abatement company for part of the work or supervision.
- Q.** Can I get an Individual Apartment Improvement Rent Increase (1/40th) for abatement work on turnover?
- A.** It is expected that it will be treated the same way as painting. If you just paint, or just encapsulate, it will probably not qualify. If you replace doors or cabinets, the fact that you did it to get rid of lead is incidental, and it should qualify normally, as well as any painting (or encapsulation) required by the installations.
- Q.** What do I do if I have to relocate tenants and don't have vacant units available?
- A.** First, try to avoid the relocation requirement by staging the work. Do one room at a time or even part of a room so as to allow access to sleeping, eating, and bathroom facilities each night. If that can't be done, offer the tenant a per diem based on the rent, or even one month's rent rebate.

FEDERAL REQUIREMENTS

The federal Pre-Renovation Education Rule and Lead Disclosure rules, administered respectively by the Environmental Protection Agency and the Department of Housing and Urban Development, remain in effect in addition to Local Law 1. They are separate and sometimes duplicative requirements, but owners have to comply with all three sets of rules

Details OF EPA "Pre-Renovation Education Rule"

The U.S. Environmental Protection Agency's pre-renovation lead warning notice requirements went into effect June 1, 1999. The rule covers "target housing" including all pre-1978 residential dwellings except zero bedroom units or senior citizen housing.

DISTURBING PAINT FOR COMPENSATION

Under the rules, no one can disturb more than two square feet of painted surface in a home or apartment built before 1978, for compensation, without providing the occupant and owner notice of the scope of work, expected duration, and a copy of the pamphlet "Protect Your Family From Lead in Your Home." EPA says the rule applies to apartment superintendents and handymen who disturb paint while performing routine repairs and maintenance. They also apply to Lead Safe Workers or abatement contractors.

SIGNED RECEIPTS

The rule requires a signed receipt for the notice and pamphlet, delivered any time up to 60 days before the work commences. An affidavit that service was attempted and that the information was left in the apartment or slipped under the door is also acceptable. No notice is required before emergency work; i.e. fixing an active leak, but it is required for patching if it is not done at the same time. Alternatively, a contractor can mail the notice and pamphlet, with proof of mailing, between seven and 60 days before the work.

COMMON AREAS

For work in common areas, notices must be delivered to all tenants no more than 60 days in advance by either slipping under doors (and keeping an affidavit of service) or mailing with proof of mailing.

Contractors are responsible for these notice requirements, so, if you hire contractors, they are responsible for service and record keeping.

EPA'S INTERPRETATION OF THE RULES

EPA issued an interpretive guidance, May 28, 1999 describing some flexibility on duplicative building-wide notices and explaining how time frames can be used in notices. Following are the relevant sections:

Q. If the letter of the regulation is strictly followed, tenants in a large apartment complex will receive several notices regarding repairs to common areas every month, sometimes several in a single week. Is there anyway to avoid such duplication?

A. (1) Category Notices

When renovation activities fall within distinct categories which are performed on a cyclical or recurring basis (e.g., hallway painting), they may be grouped into a single notice that describes the categories and provides a description of the locations affected. To fulfill the requirement for providing timing information for the renovations, owners/managers may either list the expected starting and ending dates, or employ one of the other methods for meeting the timing requirements described below.

(2) Bi-monthly Notices

To minimize the number of notices required, owners/managers may group all of the renovation activities expected to occur over a 60-day period into a single notice distributed bi-monthly (every other month). Renovation activities which were expected to occur within a given 60-day period, but which were canceled or postponed, would simply be addressed in the subsequent bi-monthly notice. Including renovation notices in, or as an attachment to, a pre-existing newsletter is acceptable provided that the cover of the newsletter prominently indicates that lead-based paint renovation notices are contained in or attached to the newsletter.

(3) Descriptions of Renovation Timing

Although providing specific dates is preferable wherever possible, the Agency is aware that unexpected events or circumstances often result in delays and/or cancellations of planned renovation activities. Owners/managers may employ the following terminology to address the following timing scenarios to avoid needing to issue supplemental notices:

"On or about" when the expected starting or ending date occurs one week before or after the date given.

"Early [insert month name]" acceptable when the expected starting or ending date occurs during the first half of the specified month.

"Late [insert month name]" acceptable when the expected starting or ending date occurs during the second half of the specified month.

"Ongoing for the 12-month period beginning [insert month name]" acceptable when the renovation commences within 60 days of the issuance of the notice and continues throughout the 12-month period. If an interruption of more than 60 days occurs anytime after commencement of such activity, a new notice will be required before the activity may restart.

(4) Descriptions of Renovation Ending Dates

Due to the difficulties in estimating the duration of many renovation activities, owners/managers are encouraged to make allowances for unexpected delays when providing descriptions of ending dates. Any estimated ending date with a rational basis is acceptable.

Q. Must notifications for common area renovations be provided to every unit in a multifamily housing complex in all cases?

A. In most cases where such renovations are performed, all units in the housing are "affected units" because a common area is, by definition, "a portion of a building that is generally accessible to all occupants." In some limited instances in large apartment buildings, however, EPA recognizes that certain areas of the building are, in practice, used almost exclusively by an identifiable subset of tenants, e.g., a hallway on an upper floor of a multi-story building. Therefore, for purposes of this rule, EPA will interpret the common area notification requirements of the rule as follows:

First, where renovation activity takes place in an area within a common area which is used almost exclusively by an identifiable subset of residents of a large apartment building, the Agency will interpret the term "affected units" to refer only to those units serviced by, or in close proximity to, the limited use common area.

Second, the term "large apartment building" shall mean multifamily housing with 50 or more dwelling units.

Third, to ensure notification of tenants who may enter a limited use common area but are not among the subset of tenants identified for individual notification, the renovator must post placards at all accessible entrances to the renovation work site which prominently conveys the same information required in the notices.

CO-OPS AND CONDOMINIUMS

In a typical **co-op**, the corporation will generally be considered the owner of the entire building and individual resident shareholders or persons who rent from them will be considered tenants/occupants for purposes of notification. In a typical **condo**, the individual owners will be considered owners of individual units and the association will be considered the owner of common areas.

In apartment buildings generally, managing agents who direct work are considered agents of the owner and do not have to notify themselves. Contractors may also notify managing agents rather than owners directly.

CLOSING COMMON AREAS

EPA also clarified that building-wide notices would not be required if a common area can be physically closed to tenant access during work by use of a wall, fence or other physical barrier; but not rope, tape, pylons or other devices that can be easily bypassed. Work on the exterior of a building in an apartment complex will be considered work in a common area requiring notice of all units in all buildings, unless the area can be considered a 'limited use common area' accessible only to a small subset of tenants.

MULTIPLE CONTRACTORS

While the focus in this bulletin is on building personnel doing work, the original targets of the federal law and regulations were renovators. Most contractors -- plumbers, electricians, painters, etc. -- are still unaware of the rules. The guidance notes that a general contractor doing work for a building owner is required to perform notifications for himself and all subcontractors. Where individual "renovators" contract separately with an owner to do work, for example where an electrician is hired to break a wall to replace wires, a plasterer is hired to patch the walls, and a painter is hired to repaint the walls, they are all required to provide the occupants and owner with notices. Alternatively, subsequent contractors may rely on signed written representations from prior contractors or the owner or agent that the notice requirements have been met.

CHHP has developed sample notices (pages 21-22) for individual apartment work and for work in common areas. In all cases, a duplicate copy should be kept for three years.

Federal Lead Disclosure Notices

Federal requirements for disclosure of lead hazards and **all available records and reports pertaining to lead-based paint and/or lead-based paint hazards** to tenants in pre-1978 "target housing" went into effect September 6, 1996. Target housing includes all homes or apartments built before 1978 except zero bedroom dwelling units and senior citizen housing.

It appears that all lead paint and dust clearance tests obtained under Local Law 1, even negative ones, must be disclosed under this rule.

Anyone in a rental unit as of September 1996 should have received disclosure forms and lead safety pamphlets at their first lease renewal or, if they did not have a lease, the next change in rent. Subsequently, all new tenants should have received the disclosure documents. Disclosure of known hazards to purchasers of pre-1978 housing is also required. Full copies of the regulations and sample forms are available by calling 1-800-424-LEAD.

Although a new notice is not normally required at lease renewal, it is required at the next renewal when the owner obtains new lead-related information, such as a dust clearance test.

NEW TENANTS

All new tenants must receive a disclosure form and a copy of the federal pamphlet "Protect Your Family From Lead In Your Home." This is in addition to the federal pre-renovation notices and Local Law 1 requirements.

HUD'S INTERPRETATION OF THE RULES

The Department of Housing and Urban Development and the Environmental Protection Agency issued a set of answers to common questions in 1996. Excerpts follow:

- Q.** May a seller or lessor authorize a representative or agent to sign the certification of accuracy?
- A.** Yes, however the seller or lessor is ultimately responsible. If the representative or agent acting on behalf of the seller or lessor is also functioning as an agent they are also required to carry out those duties and to sign the certification in that capacity.
- Q.** The rule states that lessors must give each lessee copies of all records or reports relating to lead-based paint hazards. May the lessor give the lessee a summary?
- A.** Lengthy documents may be excerpted. For paint inspection and risk assessment reports, lessors may provide lessees with a summary prepared by a certified paint inspector or risk assessor. Where documents are excerpted or summarized they must be accompanied by a list of all complete records and reports available to the lessee. Lessor must provide the lessee with an opportunity to review the complete documents.

Q. In cases where there have been building wide evaluation or reduction activities, must the contents of the reports be disclosed to every prospective purchaser or lessee of individual units.

A. In large multifamily properties, evaluations do not necessarily examine every dwelling unit in the housing. While such evaluations might not include data on a specific unit, the fact that the evaluation was designed to provide information on the housing as a whole makes it relevant. If there is unit-specific information that was not part of a building-wide evaluation, such information must be disclosed only during sales or rentals of the specific units that were evaluated. (Note that buildingwide assessments of lead in connection with insurance or financing would seem to be covered by the first part of this answer and must be disclosed, even if lead is not found)

Q. If the lessee has a month to month arrangement, what is the responsibility of the lessor with respect to disclosure?

A. The rule excludes short-term leases of 100 days or less. If both parties wish to extend a previously exempted short-term lease beyond the 100-day limit, all provisions of this rule must be satisfied. In some cases, leasing arrangements switch to "open-ended" month-to-month arrangements after an initial period of occupancy and may continue indefinitely...a significant change in the lease agreement constituting lease renewal would be a rental rate adjustment. (As, for example, a Maximum Collectible Rent increase under rent control.)

Q. Is an original signature required on the disclosure form?

A. No. It may be reproduced, for example, by photocopy, facsimile, autopen or rubber stamp.

Q. Who is responsible for disclosure in the case of co-ops or condos?

A. A person selling or leasing a co-op or condo unit would be responsible for complying with the disclosure requirements both with respect to the unit itself and to any associated interest in common areas that is transferred... the corporation or association would be responsible for disclosing information regarding (common areas).

(Note that a seller or lessor, including the co-op shareholder or corporation, may designate an agent to comply with the rules).

FEDERAL EXEMPTIONS

Finally, there are provisions under the federal rules to exempt buildings from both the lease disclosure requirements and pre-renovation notices if they are declared lead free by a certified inspector. The same criteria will generally result in the building being exempt under Local Law 1.

HUD established the required contents of the lead disclosure forms for rentals and sales, but not the format. A sample form for rental disclosures appears on page 23.

APPENDIX A

LEASE/COMMENCEMENT OF OCCUPANCY NOTICE FOR PREVENTION OF LEAD-BASED PAINT HAZARDS—INQUIRY REGARDING CHILD

You are required by law to inform the owner if a child under seven years of age resides or will reside in the dwelling unit (apartment) for which you are signing this lease/commencing occupancy. If such a child resides or will reside in the unit, the owner of the building is required to perform an annual visual inspection of the unit to determine the presence of lead-based paint hazards. **IT IS IMPORTANT THAT YOU RETURN THIS FORM TO THE OWNER OR MANAGING AGENT OF YOUR BUILDING TO PROTECT THE HEALTH OF YOUR CHILD.** If you do not respond to this notice, the owner is required to attempt to inspect your apartment to determine if a child under seven years of age resides there.

If a child under seven years of age does not reside in the unit now, but does come to live in it at any time during the year, you must inform the owner in writing immediately. If a child under seven years of age resides in the unit, you should also inform the owner immediately at the address below if you notice any peeling paint or deteriorated subsurfaces in the unit during the year.

Please complete this form and return one copy to the owner or his or her agent or representative when you sign the lease/commence occupancy of the unit. Keep one copy of this form for your records. You should also receive a copy of a pamphlet developed by the New York City Department of Health and Mental Hygiene explaining about lead-based paint hazards when you sign your lease/commence occupancy.

- CHECK ONE:
- A child under seven years of age resides in the unit
 - A child under seven years of age does not reside in the unit.

_____ (Occupant signature)

Print occupant's name, address and apartment number: _____

(NOT APPLICABLE TO RENEWAL LEASE) Certification by owner: I certify that I have complied with the provisions of §27-2056.8 of Article 14 of the Housing Maintenance Code and the rules promulgated thereunder relating to duties to be performed in vacant units, and that I have provided a copy of the New York City Department of Health and Mental Hygiene pamphlet concerning lead-based paint hazards to the occupant.

_____ (Owner signature)

RETURN THIS FORM TO: _____

OCCUPANT: KEEP ONE COPY FOR YOUR RECORDS
OWNER COPY/OCCUPANT COPY

APPENDIX B
ANNUAL NOTICE FOR PREVENTION OF LEAD-BASED PAINT HAZARDS—INQUIRY
REGARDING CHILD

You are required by law to inform the owner if a child under seven years of age resides or will reside in your dwelling unit (apartment). If such a child resides or will reside in the unit, the owner of the building is required to perform an annual visual inspection of the unit to determine the presence of lead-based paint hazards. **IT IS IMPORTANT THAT YOU RETURN THIS FORM TO THE OWNER OR MANAGING AGENT OF YOUR BUILDING TO PROTECT THE HEALTH OF YOUR CHILD.** If you do not respond to this notice, the owner is required to attempt to inspect your apartment to determine if a child under seven years of age resides there.

If a child under seven years of age does not reside in the unit now, but does come to reside in it at any time during the year, you must inform the owner in writing immediately. If a child under seven years of age lives in the unit you should also inform the owner immediately if you notice any peeling paint or deteriorated surfaces in the unit during the year. You may request that the owner provide you with a copy of any records required to be kept as a result of a visual inspection of your unit.

Please complete this form and return one copy to the owner or his or her agent or representative by February 15th. Keep one copy of this form for your records.

CHECK ONE: A child under seven years of age resides in the unit.

A child under seven years of age does not reside in the unit.

_____ (Occupant signature)

Print occupant's name, address and apartment number: _____

RETURN THIS FORM TO: _____

OCCUPANT: KEEP ONE COPY FOR YOUR RECORDS
OWNER COPY/OCCUPANT COPY

APENDICE B
AVISO AÑUAL PARA MEDIDAS DE PRECAUCION CON LOS PELIGROS DE PLOMO
EN LA PINTURA-ENCUESTA RESPECTO AL NIÑO

Usted esta requerido por ley informarle al dueño si un niño menor de siete años de edad esta viviendo o vivirá con usted en su unidad de vivienda (apartamento). Si tal niño vive en la unidad, el dueño del edificio esta requerido hacer una inspección visual anual de la unidad para determinar la presencia peligrosa de plomo en la pintura. POR ESO ES IMPORTANTE QUE USTED LE DEVUELVA ESTE AVISO AL DUEÑO O AGENTE AUTORIZADO DEL EDIFICIO PARA PROTEGER LA SALUD DE SU NIÑO. Si usted no informa al dueño, el dueño esta requerido inspeccionar su apartamento para descubrir si un niño menor de siete años de edad esta viviendo en el apartamento.

Si un niño menor de siete años de edad no vive en la unidad ahora, pero viene a vivir en cualquier tiempo durante el año, usted debe de informarle al dueño por escrito inmediatamente. Usted tambien debe de informarle al dueño por escrito si el niño menor de siete años de edad vive en la unidad y si usted observa que durante el año la pintura se deteriora o esta por pelarse sobre la superficie de la unidad, usted tiene que informarle al dueño inmediatamente. Usted puede solicitar que el dueño le de una copia de los archivos de la inspección visual hecha en su unidad.

Por favor de llenar este formulario y devolver una copia al dueño del edificio o al agente o representante antes de Febrero 15. Mantenga una copia de este formulario para su informacion.

MARQUE UNO: Vive un niño menor de siete años de edad en la unidad.
 No vive un niño menor de siete años de edad en la unidad.

_____ (Firma del inquilino)

Nombre del inquilino, Dirección, Apartamento: _____

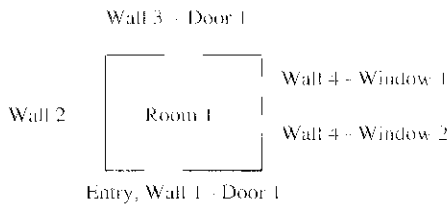
DEVUELVA ESTE FORMULARIO A: _____

INQUILINO: MANTENGA UNA COPIA PARA SU INFORMACION
COPIA DEL DUEÑO/COPIA DEL INQUILINO

Sample Apartment Inspection Form - Page 2

For peeling, deteriorated, or binding surfaces marked with an X on page 1, describe the location and condition below.

Location - Inspections should be conducted from the apartment entryway. If there is more than one room of a particular type, provide detailed description, for example: Master Bedroom, Bathroom off front hall, etc. Locations within rooms can be described in detail or numbered clockwise starting with the entry wall. "Wall 1" is the wall where you enter the room. "Wall 2" is the next wall going clockwise. "Wall 4" in a typical four-walled room is the wall to the right of the entry. Windows and other components are also numbered clockwise, by wall. For example, Wall 4 can have windows 1 and 2, from left to right



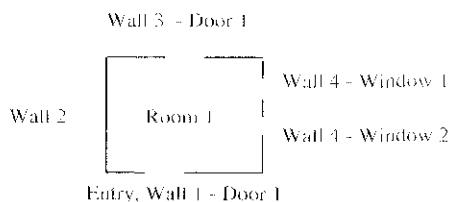
Condition Report

1. Room: _____ Location in room: _____
Condition: _____
2. Room: _____ Location in room: _____
Condition: _____
3. Room: _____ Location in room: _____
Condition: _____
4. Room: _____ Location in room: _____
Condition: _____
5. Room: _____ Location in room: _____
Condition: _____
6. Room: _____ Location in room: _____
Condition: _____
7. Room: _____ Location in room: _____
Condition: _____

Sample Common Area Inspection Form - Page 2

For peeling, deteriorated, or binding surfaces marked with an X on page 1, describe the location and condition below.

Location - Inspections should be conducted from the building entryway. Locations within rooms can be described in detail or numbered clockwise starting with the entry wall when approaching from the building entrance. "Wall 1" is the wall where you enter the room. "Wall 2" is the next wall going clockwise. "Wall 4" in a typical four-walled room is the wall to the right of the entry. Windows and other components are also numbered clockwise, by wall. For example, Wall 4 can have windows 1 and 2, from left to right.



Condition Report

1. Area: _____ Specific location: _____

Condition: _____

2. Area: _____ Specific location: _____

Condition: _____

3. Area: _____ Specific location: _____

Condition: _____

4. Area: _____ Specific location: _____

Condition: _____

5. Area: _____ Specific location: _____

Condition: _____

6. Area: _____ Specific location: _____

Condition: _____

7. Area: _____ Specific location: _____

Condition: _____

USE ADDITIONAL INSPECTION FORMS IF NECESSARY. INDICATE NUMBER OF SHEETS ON TOP OF PAGE 1

Sample Apartment Work Notice

Tenant Name: _____

Address: _____ Apt. No.: _____

City: _____ State: _____ Zip Code: _____

Dear Tenant:

The following work will be done in your apartment.

It will begin on or about (date) _____ and be completed on or about (date) _____.

Federal regulations require us to provide you a copy of the pamphlet "Protect Your Family From Lead in Your Home," before beginning work that may disturb more than 2 square feet of painted surface in a building built before 1978.

We attempted to provide you a copy of this notice and pamphlet personally on (date) _____ . In your absence, it was left in your apartment.

We are mailing this information to you on (date) _____ .

Tenant acknowledges receipt of the pamphlet "Protect Your Family From Lead in Your Home."
Tenant Signature: _____ (date) _____ .

Instructions: Contractor must check the appropriate box, above, fill in appropriate date, and obtain tenant signature if serving tenant personally. **Personal service or delivery in the absence of the tenant may be made anytime before work begins. Mail delivery must be sent at least seven days in advance with proof of mailing. If tenant refuses delivery, check here: I made a good faith effort to deliver this information, but was unable to obtain a signature. I left the material at the apartment.**

Signature of person making delivery or mailing: _____

Company Name: _____

Sample Building Work Notice

Tenant Name: _____

Address: _____ Apt. No.: _____

City: _____ State: _____ Zip Code: _____

Dear Tenant:

The following work will be done in common areas of your building.

It will begin on or about (date) _____ and be completed on or about (date) _____.

Federal regulations require us to make copies of the pamphlet "Protect Your Family From Lead in Your Home," available when performing work that may disturb more than 2 square feet of painted surface in public areas of a building built before 1978.

Copies of the pamphlet are available by calling our office at _____. Thank you.

Tenant acknowledges receipt of this notice.
Tenant signature: _____ (date) _____

This information was mailed on (date) _____.

Instructions: Contractor must check the appropriate box, above, fill in appropriate date, and obtain tenant signature if serving tenant personally. **Personal service or delivery in the absence of the tenant may be made anytime before work begins. Mail delivery must be sent at least seven days in advance with proof of mailing. If tenant is not home or refuses delivery, check here:** **I made a good faith effort to deliver this information, but was unable to obtain a signature. I left the material at the apartment.**

Signature of person making delivery or mailing date

Company Name: _____

Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards

Lead Warning Statement

Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, lessors must disclose the presence of known lead-based paint and/or lead-based paint hazards in the dwelling. Lessees must also receive a federally approved pamphlet on lead poisoning prevention.

Lessor's Disclosure

Presence of lead-based paint and/or lead-based paint hazards (Check (i) or (ii) below):

(i) _____ Known lead-based paint and/or lead-based paint hazards are present in the housing (explain).

(ii) _____ Lessor has no knowledge of lead-based paint and/or lead-based paint hazard in the housing.

Records and reports available to the lessor (Check (i) or (ii) below):

(i) _____ Lessor has provided the lessee with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing (list documents below).

(ii) _____ Lessor has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

Agent's Acknowledgement

Agent has informed the lessor of the lessor's obligations under 42 U. S. C. 4852d and is aware of his/her responsibility to ensure compliance.

Lessee's Acknowledgment

Lessee has received copies of all information listed above.

Lessee has received the pamphlet *Protect Your Family from Lead in Your Home*.

_____ Lessee	_____ Date	_____ Lessee	_____ Date
_____ Agent	_____ Date	_____ Agent	_____ Date
_____ Lessor	_____ Date	_____ Lessor	_____ Date

Resources

National Lead Information Center (NLIC)

U.S. Environmental Protection Agency
U.S. Department of Housing and Urban Development
Lead-Based Paint information 1-800-424-LEAD (5323)
www.epa.gov/lead/nlic.htm

New York City Department of Housing Preservation and Development

100 Gold Street
New York, NY 10038
212-863-6389
www.nyc.gov/html/hpd/html/for-owners/lead-paint-treatment.html

New York City Department of Health and Mental Hygiene

Lead Poisoning Prevention Program
253 Broadway, 11th Floor,
NY, NY 10007
212-676-6379
www.ci.nyc.ny.us/html/doh/html/lead/lead.html

New York State Department of Health Center for Environmental Health

1-800-458-1158
www.health.state.ny.us/nysdoh/enviro/lead.htm

Community Housing Improvement Program, Inc.

545 Madison Ave., 13th floor
New York, NY 10022
212-838-7442
Fax: 212-838-7456
<http://www.chipnyc.org>

Professional Environmental Services, Inc.

(Lead Abatement)
3092 Hull Ave. 2nd Floor
Bronx, NY 10467
718-231-8399
Fax: 718-231-8109

ALC Environmental Inc.

(Lead Abatement, Testing & Training)
121 West 27th Street Suite 402
New York, NY 10001
212-675-5544 / 888-466-3620
Fax: 212-675-4698
www.ALCEnvironmental.com

Big Apple Occupational Safety Corp.

(Lead Safe Worker Training)
505 Eighth Avenue Suite 2305
New York, NY 10018
212-564-7656
Fax: 212-564-7661
www.baos.com

Global/CHC Worldwide

(Encapsulation/Encasement)
71 Broadway
New York, NY 10004
212-809-3446
Fax: 212-809-1868
www.encasement.com