

ENVIRONMENTAL PRACTICE GROUP

Environmental and regulatory compliance issues can often provide an unexpected twist in your business or real estate transactions.

Our group has extensive experience handling those bumps and finding acceptable business solutions to get your deal closed.

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New York City's Newest Lead Paint Rules: What You Need to Know

The past 15 months has seen significant updates to New York City's lead rules. Local laws 64-73, passed on April 14, 2019 and Local laws 27-31 passed on February 11, 2020 provide various updates to Local Law 1 of 2004, governing lead paint in NYC multi-family housing and daycare facilities, lead in water, lead in soils and home improvement contractor licensing.

Two of the most time sensitive new lead paint requirements include:

1. Certification of Compliance with Local Law 1 in HPD's Annual Property Registration: As of May 2020, annual property registrations include five questions, to which the property owner or manager must certify that it has complied with Local Law 1. Owners/ property managers must certify that they have provided annual notices, have taken appropriate action to obtain responses, are conducting annual inspections and providing results to tenants, correcting any lead hazards using certified contractors, abating lead paint at vacancy and turnover, using lead safe work practices and maintaining documentation for 10 years.
2. XRF Inspections to be Required for ALL Units: Local Law 31 of 2020 - Effective August 9, 2021, owners must have XRF inspections of all surfaces in every unit conducted by a third party EPA certified inspector/ risk assessor to determine whether lead paint is present. This must be completed within five years of the effective date of the law (by August 9, 2025) **OR** within one year of a child under 6 residing in that unit, whichever is sooner. So, if a child under 6 currently resides in a unit, an XRF must be completed for that unit by August 9, 2021.

Some of the additional significant changes impacting lead paint requirements in multi-family housing, include:

- Local Law 64 of 2019: Local Law 1's requirements apply to units in which a child under 6 "resides." This term was previously not defined but is now defined to mean a child under 6 routinely spends 10 or more hours per week in the dwelling unit.
- Local law 66 of 2019, retroactively effective June 1, 2012: The blood lead level which indicates that a child has been lead poisoned has been lowered from 10 to 5 ug/dl to be consistent with the level set by the CDC.
- Local Law 66 of 2019: Lead dust wipe standards were lowered to 10 ug/ft² on floors, 50 ug/ft² on window sills, 100 ug/ft² on window sills, with those numbers going down to 5/40/100 effective June 1, 2021.
- Local Law 66 of 2019: Provides instances in which a lead free exemption issued prior to 8/12/19 shall lose effect, including at turnover, and a new exemption must be requested.
- **Local Law 70 of 2019: HPD must audit a minimum of 200 buildings per year for records of compliance with Local Law 1/ 2004. (§27-2056.17). Many of our clients have already received Record Production Orders (RPOs) from HPD demanding production of documents relating to their compliance with Local Law 1. Responding to these RPOs requires assembling records dating back 10 years including, among other things, documentation of annual notices and inspections,**

correction of lead hazards using safe work practices and abatement of lead paint in units at vacancy prior to turnover.

- Local Law 70 of 2019: Revisions to safe work practices rules.
- **Local Law 28 of 2020: Added a mandate to §27-2056.9 for HPD to issue violations for abatement at turnover under §27-2056.8 (effective 2/11/21) if an inspection shows presence of lead paint and apartment has been turned over since 8/2/04. This violation may be corrected by abating the condition and providing documentation to HPD.**
- Local law 29 of 2020, effective February 11, 2021: Multiple dwellings will be defined to include one and two family house rentals except the units occupied by the owner's family.
- Local Law 31 of 2020: Contractors applying for Home Improvement License, must certify that they are federal RRP (Renovation, Repair and Painting) certified or will not be conducting work covered by the RRP.

If you have buildings that are subject to NYC Local Law 1, Meltzer Lippe is here to assist you with responses to RPOs or compliance with Local Law 1's new requirements. For further information, please contact Sami B. Groff at (516) 747-0160 or sgroff@meltzerlippe.com or your Meltzer Lippe attorney.