

HIGHROAD FELLOWSHIP REPORTS

TASKFORCE ON THE PREVENTION OF CHILDHOOD LEAD POISONING

Update

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With the Community Foundation for

Greater Buffalo



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2017 High Road Fellow
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**Analysis of 2010 NYS Task Force on the
Prevention of Childhood Lead Poisoning**

Executive Order June 2009

Establishing the Governor's Task Force on the Prevention of Childhood Lead Poisoning

A. Background

- a. Establishment of a body of State officials/agencies who are charged with the execution of the State's policies and programs.
- b. New York State Advisory Council on Lead Poisoning Prevention (Public Health Law 130-b) to develop a comprehensive statewide plan to prevent lead poisoning.

B. Goals:

- a. How to maximize available State resources for the purpose of State and local primary prevention activities aimed at eliminating childhood lead poisoning.
- b. The need to partner with county and local governments in primary prevention efforts.
- c. The feasibility of measures to ensure that public housing and housing supported by State assistance are free of lead-based paint hazards prior to occupancy by a child under six years of age.
- d. How to ensure that housing renovations performed with public funding include lead-based paint hazard remediation.
- e. The need for an education and awareness campaign targeted to parents and guardians and health care practitioners about the importance of screening and testing children for lead poisoning pursuant to the regulations of the Department of Health.
- f. How to educate the owners, lessors and, tenants of residential real property as to the importance of allowing access to authorized inspectors for purposes of identifying the presence of conditions conducive to lead poisoning.
- g. How to effectively increase enforcement efforts requiring owners and lessors of residential real property to comply with governmental demands for alleviation of conditions conducive to lead poisoning.
- h. How to encourage and/or mandate the use of LSWP in the renovation and maintenance of pre-1978 housing by real property owners and by persons and entities engaged in the construction industry.
- i. Whether an assessment of lead-based paint hazards, including chipping or peeling paint, should be required in connection with the sale and/or lease of residential real property.
- j. The need to examine the status of compliance with existing state and federal lead paint hazard notification requirements for tenants and new homeowners upon the purchase or lease of residential real property.
- k. The need to examine the status of potential sources of funding or revenue, including, but not limited to, federal grants to help fund State and local primary prevention activities aimed at eliminating childhood lead poisoning.

C. Task Force

- a.** Preliminary Report identifying specific primary prevention actions already undertaken by State agencies and recommending other such actions that can be taken immediately. (November 30, 2009)
- b.** Final report of its findings and recommendations (November 30, 2010)

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Preliminary Report 2009

Task Force on the Prevention of Childhood Lead Poisoning

I. Executive Summary

- a. Primary Prevention Actions Already Undertaken by the Governor
- b. 9 Recommended Enhancements (to be implemented in the near term)
 - i. **Enhancement #1:** Connect lead poisoning prevention programs with clean energy and weatherization assistance programs.
 - ii. **Enhancement #2:** Enhance procedures for ensuring that family-based child care programs are lead-safe and that consistent protocols are followed for assessing lead hazards in facility-based child care.
 - iii. **Enhancement #3:** Increase awareness of lead poisoning among human service providers and other local organizations that work directly with young children at high risk for lead poisoning.
 - iv. **Enhancement #4:** Balance housing funding streams to prioritize older homes (built before 1960) and high-risk communities.
 - v. **Enhancement #5:** Develop a targeted education and awareness campaign regarding the importance of blood lead screening and housing inspections for lead hazards.
 - vi. **Enhancement #6:** Work with the NYS Office of Court Administration and the Administrative Judges for each of the municipal courts and district courts to fully use their equitable jurisdiction to assure that lead-paint hazards are remediated.
 - vii. **Enhancement #7:** Facilitate training of lead-safe work practices (LSWP) by piggy-backing on existing energy services contractor training programs.
 - viii. **Enhancement #8:** Amend the Property Maintenance Code of New York State to require LSWP and repair of underlying problems when peeling paint is repaired in dwellings built before 1978, and train code inspectors on the new requirement.
 - ix. **Enhancement #9:** Explore strategies for enhancing compliance with existing state and federal lead hazard notification requirements.

II. Background

- a. The Effects of Lead Poisoning
 - i. The most common source of childhood lead poisoning is lead-based paint (LBP) in older homes and the primary exposure pathway is the ingestion of lead-contaminated settled interior dust and bare-contaminated soil.
 - ii. Lead exposure can result in neurological damage, including intellectual impairment, developmental delays, learning disabilities, memory loss, hearing problems, attention deficits, hyperactivity, behavioral disorders, and other health problems.
- b. A National Perspective on Primary Prevention

- i. Years of federal, state, and local activity have resulted in a decline in the number of children with elevated blood lead levels (EBLLs). From 1994 to 2006, the number dropped by 86 percent, from 890,000 to 120,000 (from 4.4 percent to 0.6 percent of all children).
 - ii. In 2004, the Centers for Disease Control and Prevention's (CDC) Advisory Committee on Childhood Lead Poisoning Prevention (ACCLPP) called for a more aggressive housing-based primary prevention approach.
- c. Lead Poisoning in NYS
 - i. New York consistently ranks high on key risk factors associated with lead poisoning, including many young children living in poverty, a large immigrant population, and an older, deteriorated housing stock
 - ii. Several localities have adopted primary prevention laws (NYC has adopted a local ordinance requiring investigation and remediation of LBP hazards in dwellings that house young children. Rochester's lead ordinance applies to all rental units, regardless of child occupancy.)
- d. NYS Advisory Council on Lead Poisoning Prevention
 - i. The Lead Poisoning Prevention Act of 1992 established the New York State Advisory Council on Lead Poisoning Prevention within the Department of Health (DOH).
 - ii. Section 1370-b of the NYS Public Health Law (PHL) charges the Council with the following roles and duties:
 - 1. To develop a comprehensive statewide plan to prevent lead poisoning and to minimize lead exposure;
 - 2. To coordinate the activities of its member agencies with respect to environmental lead policy and the statewide plan;
 - 3. To recommend adoption of policies with regard to the detection and elimination of lead hazards in the environment;
 - 4. To recommend the adoption of policies with regard to the identification and management of children with elevated lead levels;
 - 5. To recommend the adoption of policies with regard to education and outreach strategies related to lead exposure, detection and risk reduction;
 - 6. To comment on regulations of DOH when the Council deems appropriate;
 - 7. To make recommendations to ensure the qualifications of persons performing inspection and abatement of lead through a system of licensure and certification;
 - 8. To recommend strategies for funding the lead poisoning prevention program, including, but not limited to, ways to enhance the funding of screening through insurance coverage and other means and ways

to financially assist property owners in abating environmental lead, such as tax credits, loan funds and other approaches; and

9. To report on or before December 1 of each year to the Governor and the Legislature concerning the development and implementation of the statewide plan and operation of the program, together with recommendations it deems necessary and the most currently available lead surveillance measures.

e. NYS Lead Poisoning Prevention Program (LPPP)

- i. In 2004, the state published its strategic elimination plan, which set forth a comprehensive approach to childhood lead poisoning prevention including:
 1. Surveillance and data analysis;
 2. Surveillance and data analysis
 3. Primary prevention
 4. Early identification (screening/testing)
 5. Case management (follow-up) services for children with EBLs
 6. Targeting high-risk areas and populations
 7. Strategic partnerships.

f. NYS Childhood Lead Poisoning Primary Prevention Program (CLPPPP as a pilot program)

- i. Required DOH to “identify and designate a zip code in certain counties with significant concentrations of children identified with elevated blood lead levels for purposes of implementing a pilot program to work in cooperation with local health officials to develop a primary prevention plan for each such zip code identified to prevent exposure to lead based paint.”
- ii. The legislation also authorized the NYS Commissioner of Health to provide technical assistance and to enter into agreements or Memoranda of Understanding (MOUs) with local health officials, local building code officials, property owners, and community organizations.
- i. LHDs in the eight counties (treating the five counties within New York City for these purposes as a single county) with the highest number of annual incident cases of lead poisoning among children under age six received funding in Year One of the Pilot.
- ii. Under PHL § 1370-a, as revised in 2009 and implemented by DOH, grantees are under contract with DOH to conduct the following activities:
 1. Use the “area of high risk” designation and the Notice and Demand (N&D) process of equivalent enforcement mechanism, as appropriate, to complete remediation work in targeted areas;
 2. Identify communities of concern that had a high prevalence of actual or presumed LBP hazards, based on lead surveillance data, prior case histories, demographic information, age and condition of housing, and other factors;

3. Refer children under six who had not received required lead screenings to their primary care providers and/or LHD lead poisoning prevention program for follow-up;
4. Develop a housing inspection program that includes:
 - a. Prioritization of dwellings within target areas for inspections;
 - b. Inspection of high-risk dwellings for potential lead hazards;
 - c. Correction of identified lead hazards using effective LSWP;
 - d. Appropriate oversight of remediation work; and
 - e. Clearance by certified inspectors;
5. Develop formal partnerships, including formal agreements or MOUs, with other county and municipal agencies and programs. Prospective partners include code enforcement offices, local social services departments, local housing agencies, HUD Lead Hazard Control grantees, and existing lead poisoning prevention community groups;
6. Develop new or use existing enforcement policies and activities to assure safe and effective remediation of identified lead hazards;
7. Coordinate available financial and technical resources to assist property owners with remediation;
8. Develop and implement LSWP training for property owners, contractors, and residents, and promote development and use of a certified workforce for lead remediation activities; and
9. Collect and report data to DOH to evaluate the progress and effectiveness of the CLPPPP.

III. Task Force Activities

- a. Assessment of Current Programs/Laws/Regulations.
- b. Task Force Work Groups for Program Enhancements
 - i. Awareness and Education
 - ii. Partnerships
 - iii. Lead Safe Housing Compliance Activity
 - iv. Funding/Incentives (to maintain/improve paint conditions)
- c. Programs
 - i. Prevent childhood lead poisoning or environmental lead exposures including occupational exposures, including outreach, awareness and education activities
 - ii. Partnerships/agreements with local government (county, city, village, town) regarding (a) child focused/based services, including day care and the location or placement of families into housing, or (b) LBP safety
 - iii. Residential housing inspections and safety standards (housing codes, property transfers, rental conditions, responsibilities of real estate professionals—sales, inspections, conditions of subsidies/loans)

- iv. Subsidizing of (a) the purchase or rental of residential housing, and (b) the rehabilitation and maintenance of residential housing
- v. Incentives/financial assistance to maintain/renovate residential housing (direct money, insurance or tax reductions or credits).

IV. Recommended Enhancements (to be implemented in the near term without new legislative or budgetary authority)

- a. How to maximize state resources for the purpose of state and local primary prevention activities aimed at eliminating childhood lead poisoning and the need to partner with county and local governments in primary prevention efforts.
 - i. **Problems:**
 - Current housing repair programs are not uniformly available to the high-risk communities under the state-funded primary prevention programs.
 - Funding for weatherization is rarely combined with lead hazard control work.
 - 1. **Enhancement #1:** Connect lead poisoning prevention programs with clean energy and weatherization assistance programs.
 - 2. **Enhancement #2:** Enhance procedures for ensuring that family-based child care programs are lead-safe and that consistent protocols are followed for assessing lead hazards in facility-based child care.
- b. Feasibility of measures to ensure that public housing/state assisted housing are free of LBP hazards prior to occupancy by a child under six years of age.
 - i. **Problem:** Although federal law requires that federally assisted properties meet Housing Quality Standards, resources to enforce these requirements at the local levels are limited. (lack of competent inspectors, lack of lead-safe housing registry)
 - 1. **Enhancement #3:** Increase awareness of lead poisoning among those who work directly with high-risk young children.
- c. Ensure that publicly funded housing renovations include lead-based paint hazard remediation and potential sources of funding or revenue, including, but not limited to, federal grants to help fund state and local primary prevention activities aimed at eliminating childhood lead poisoning.
 - i. **Problem:** Federal Lead Hazard Control grant programs account for less than 10 percent of all available federal funding for housing repairs.
 - 1. **Enhancement #4:** Balance housing funding streams to prioritize homes built before 1960 and high-risk communities.
- d. Need for an education and awareness campaign about the importance of screening and testing children for lead poisoning pursuant to the regulations of the DOH; and how to educate on the importance of allowing access to authorized inspectors for purposes of identifying the presence of conditions conducive to lead poisoning.

- Targeted at Parents and Health Care Practitioners (Screening/Treatment)
 - Targeted at Owners/Lessors/Tenants (Prevention)
- i. **Problems:**
- Although NYS requires blood lead testing of all children between one and two years, many health care providers fail to meet these standards.
 - Refusal to allow entry for the purposes of lead inspections stemming from tenant (especially among immigrant residents) and landlord misconceptions.
1. **Enhancement #5:** Develop a targeted education and awareness campaign on importance of blood lead testing and housing inspections.
- e. Increase enforcement efforts requiring owners/lessors to comply with governmental demands for alleviation of conditions conducive to lead poisoning.
- i. **Problem:**
- Lead violation cases receive lower priority among administrative or criminal violations heard by city courts. (Only Buffalo & NYC have a formal “Housing Court”)
 - Owners delay/ignore compliance notices.
1. **Enhancement #6:** Work with NYS Office of Court Administration and the Administrative Judges for each of the municipal courts and district courts.
- f. Encourage and/or mandate the use of lead-safe work practices (LSWP) in the renovation and maintenance of pre-1978 housing by real property owners and by those engaged in the construction industry.
- i. **Problem:** The International Property Maintenance Code does not specify that LSWP must be followed when repairing chipping/peeling paint.
1. **Enhancement #7:** Facilitate training of LSWP in contractor training programs.
2. **Enhancement #8:** Amend the Property Maintenance Code of NYS to require LSWP and train code inspectors on the new requirement.
- g. Assessment for LBP hazards and examination of compliance status to be required in the sale and/or lease of residential property and the need to examine the status of compliance with existing state and federal LBP hazard notification requirements upon the purchase or lease of residential property.
- i. **Problem:** Although federal law requires owners to disclose known LBP hazards at the sale or lease of a home built before 1978, the law does not require a LBP inspection.
1. **Enhancement #9:** Explore strategies for enhancing compliance with existing state and federal lead hazard notification requirements.

V. Conclusion and Next Steps

- a. Comprehensive Assessment of Existing State Programs Directly/Indirectly Addressing Childhood Lead Poisoning Prevention.
- b. Identification of 9 Enhancements.
- c. Strategies for Further Exploration.

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Final Report 2010

Task Force on the Prevention of Childhood Lead Poisoning

I. Executive Summary

- a. Outlines the Implementation by State Agencies of the 9 Enhancements.
- b. 10 Recommendations for Future Administrative Actions and Legislative and Regulatory Changes and Administrative Actions.

II. Background

- a. The Effects of Lead Poisoning
- b. National Trends
 - i. The US Environmental Protection Agency's (EPA) Renovation, Repair, and Painting Rule (April 22, 2010) requires contractors who disturb LBP in pre-1978 homes and child-occupied facilities to be certified as renovators and to follow specified work practices to prevent lead contamination.
- c. Lead Poisoning in NYS
- d. Statewide Lead Poisoning Prevention Programs and Initiative
 - i. Advisory Council on Lead Poisoning Prevention
 - ii. NYS Lead Poisoning Prevention Program
 - iii. NYS Childhood Lead Poisoning Primary Prevention Program
 1. DOH conducted a comprehensive evaluation of the CLPPP since its inception. The Task Force reviewed the reports and identified several practices with implications for statewide policy.
 2. https://www.health.ny.gov/environmental/lead/exposure/childhood/primary_prevention/pilot_program/year_two/final_report.pdf
 - a. Agreements with Providers of Care for Young Children
 - b. Improved Outreach to Refugee Families
 - c. Incentivizing LSWP Training
 - d. Lead-Safe Housing Registries
 - e. Use of Existing Legal Authority to Facilitate Remediation
 - f. Use of the Court System to Facilitate Remediation
 - g. Disclosure of Information about Foreclosed Properties: Oneida County has a process to support disclosure of lead hazards before the bidding process on the sale of foreclosed units.
 - h. Partnerships that Enhance Funding and Resources
 - iv. Local Lead Laws

III. Task Force Activities and Accomplishments

- a. Four Work Groups to Explore Possible Program Enhancements (9 Enhancements from Preliminary Report)
 1. Awareness and Education;

2. Partnerships;
 3. Lead-Safe Housing Compliance Activity; and
 4. Funding/Incentives to maintain/improve paint conditions.
- ii. Purpose:
- a. To monitor implementation of the enhancements recommended in the preliminary Task Force Report and to explore additional enhancements that would require more complex changes to policies or programs.
 - b. Activities undertaken by the Task Force to implement the enhancements recommended in the Preliminary Report.
(Summary of Task Force Accomplishments)
- b. **Awareness and Education:** Enhancement #3, Enhancement #5, Increase awareness of additional routes of exposure (e.g., toys, jewelry, lunchboxes, batteries, electronics), and Identify, monitor, and publicize progress in reducing childhood lead poisoning in high-risk areas.
- i. **Enhancement #3:**
1. In the Fall of 2009, OCFS sent a letter to 19,000 licensed and registered child day care providers with information for both child day care providers and families about lead poisoning prevention
 2. In 2010, DOH reprinted the brochure “Lead Poisoning is Danger for Every Baby and Child” and provided copies to OCFS for mailing to child day care providers.
 3. OCFS sponsored the development of an online training course for child day care providers. Child day care providers who take this course will receive credit toward the 30 hours of training needed every two years to maintain their license or registration.
 4. Enhanced outreach to refugee populations, a specific high-risk population.
- ii. **Enhancement #5:**
1. DOH joined a national media campaign developed through a partnership between HUD, EPA, and the Coalition to End Childhood Lead Poisoning. The campaign was launched in early May 2010 and ran for approximately 18 months.
 2. DOH made public its newly revised pages on lead poisoning prevention and management on its website: www.nyhealth.gov/lead (April 2010)
- iii. **Increase Awareness of Additional Routes of Exposure:**
1. The NYS Consumer Protection Board (CPB) focused on developing a more comprehensive and expeditious response system to consumer items found to contain unacceptable levels of lead, including educating the public, advancing state legislation and working with the

US Consumer Product Safety Commission (CPSC) as its state designee to promote marketplace safety.

2. CPB began testing toys and other juvenile products with certified laboratories in 2009.

iv. Identify, Monitor, and Publicize Progress in Reducing Childhood Lead Poisoning in High-Risk Areas:

1. Assess the extent of the childhood lead poisoning problem, identify high-risk communities and populations with the greatest need for interventions, and monitor and evaluate the effectiveness of interventions.
2. In January 2010, the Governor's Office launched EmpireStat (a public accountability initiative that includes two lead-related measures: blood lead testing and primary prevention housing inspections).

c. Compliance and Enforcement: Enhancement #2, Enhancement #4, Enhancement #6, Enhancement #8, and Enhancement #9.

i. Enhancement #2:

1. LHDs' initial and renewal inspections of licensed child day care centers and school age child day care programs will include a visual inspection for lead-based paint hazards. OCFS Fire and Safety Representatives (FSRs) will continue to visually inspect family-based child day care programs prior to licensing/registration and again prior to renewal.

ii. Enhancement #4:

1. Federal LHC grant programs account for less than ten percent of all available federal funding for housing repairs.
2. The Task Force examined several housing programs for opportunities to increase investment in lead-safe housing. (Many programs amended their language to include lead requirements)

iii. Enhancement #6:

1. The Compliance and Enforcement Work Group recommended that training be provided for municipal judges.
2. The Governor's Office coordinated with the Judicial Training Institute to place lead poisoning prevention on its 2011 annual training schedule.

iv. Enhancement #8:

1. DOS sent a mass e-mailing to municipal Code Enforcement Officers regarding the "mandatory" code update training required for the 2010 Codes of NYS.

v. Enhancement #9:

1. The Compliance and Enforcement Work Group identified 3 legislative proposals. The first proposal would add a new section to the Real Property Law to require “due diligence” visual assessments at the sale or lease of a property built before 1978. A second proposal would ensure that all sale and lease documents reflect and align with federal and state lead-based paint requirements. A third proposal would cover properties that have been transferred in foreclosures, which are presently exempt from federal lead disclosure rules.

d. **Partnerships:** Enhancement #1 and Enhancement #7

i. **Enhancement #1:**

1. To tackle the barriers of combining window replacement and energy efficiency, the Partnerships Work Group convened a “Windows of Opportunity” Summit on June 16, 2010.
 - a. **Energy Efficiency:** Window replacement is low on the list of efficiency measures. The Governor’s Office will write to the US DOE to request a more flexible approach to the SIR for weatherization activities.
 - b. **Financing:** HUD LHC Grant funds, Historic Preservation Tax Credits, Green Jobs-Green New York (GJ-GNY) loans
 - c. **Historic Preservation:** Leveraging the State’s historic tax credit to repair and maintain older homes would bring value to the State’s historic neighborhoods, while also ensuring their health and safety.
 - d. **Market Development:** Although many window manufacturers have had concerns with aspects of the RRP Rule, its implementation means that lead hazard reduction can be a useful tool for encouraging retrofit window sales.
2. Better coordination between energy retrofit programs and primary prevention of lead would create a more efficient and holistic approach to service delivery.

ii. **Enhancement #7:**

1. Several Task Force member agencies contributed to training efforts to ensure the timely and effective implementation of the RRP Rule. (April 2010)
 - a. DOH prepared a field memo for LHDs.
 - b. OCFS sent letters to day care providers, foster and adoptive agencies, LDSSs, and domestic violence agencies concerning the RRP Rule.
 - c. HCR offered free training for contractors working on HCR projects. (May 2010)

- d. DOS sent two mass e-mail communications about the RRP Rule.
- e. NYSERDA conducted outreach to notify partner energy service contractors of the RRP Rule.

IV. **Conclusion**

- a. Significant outreach and education to regional and local service providers on general/specific lead information and training.
- b. OCFS and DOH forged a new partnership to safeguard children in commercial and family child day care.
- c. Challenges of combining lead poisoning prevention with energy efficiency programs.
- d. Increase the availability of lead-safe affordable housing.

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Update on Task Force on the Prevention of Childhood Lead Poisoning

I. Background

Executive Order No. 21 (June 2, 2009) established the Governor's Task Force on the Prevention of Childhood Lead Poisoning to reduce childhood lead poisoning through increased inter-agency collaboration and coordination. The Task Force was comprised of state representatives who were charged with issuing a preliminary report to the Governor and to the New York State Advisory Council on Lead Poisoning Prevention (the Advisory Council) before November 30, 2009 and a final report before November 30, 2010. The Preliminary Report focused on an assessment of current programs and recommended nine enhancements that could be made *immediately* without additional legislative or budget authority. The Final Report summarized the actions taken by the Task Force (between December 2009 and October 2010) to implement the nine enhancements itemized in the Preliminary Report and specified the Task Force's ten recommendations for future administrative actions and regulatory changes helping to eliminate childhood lead poisoning in the State of New York, these recommendations requiring a longer implementation period than the short life of the Task Force itself.

This update assesses the progress made on implementing and overseeing the Task Force's ten recommendations and identifies the most promising steps moving forward for local coalitions and statewide efforts to fulfill the ultimate objective of Governor Paterson's Executive Order: the eradication of childhood lead poisoning in the State of New York.

II. Task Force Recommendations and Progress

1. **Recommendation #1:** To monitor and coordinate statewide lead poisoning prevention efforts, the Task Force recommends that an ongoing Interagency Work Group continue to monitor the implementation of the Task Force enhancements and pursue the Task Force's recommendations for the future. The Interagency Work Group would coordinate agency efforts on lead poisoning and with annual updates to the Governor's Office and the Advisory Council.
 - A. The President's Task Force on Environmental Health Risks and Safety Risks to Children (1997) has addressed issues such as childhood asthma, unintentional injuries, lead poisoning, developmental disorders, childhood cancer, and climate change.
 - a. CDC, the Department of Housing and Urban Development (HUD), U.S. Environmental Protection Agency (EPA), and other agencies have developed a **federal interagency strategy** to eradicate childhood lead poisoning by 2010:
<https://www.cdc.gov/nceh/lead/about/fedstrategy2000.pdf>
 - a. The Strategy put forward a set of recommendations aimed at eliminating childhood lead poisoning in the United States. It focused primarily on expanding efforts to correct lead-paint hazards (especially in low-income

housing), a major source of lead exposure for children. Although children's blood lead levels have fallen significantly on a national level since the publication of the Strategy, exposures to lead, particularly lead paint and dust from lead paint in older houses, still pose risks to the health and well-being of America's children. Further, it is clear that addressing lead exposures in the United States requires consideration of sources of lead exposure beyond that of lead paint to include, among others, drinking water and consumer products.

- b. Released Key Federal Programs to Reduce Childhood Lead Exposures and Eliminate Associated Health Impacts, which highlights more than 70 federal programs directed to preventing childhood lead exposures.

2. **Recommendation #2:** NYS Energy Research and Development Authority (NYSERDA), NYS Homes and Community Renewal (HCR), NYS Historic Preservation Office (SHPO), and NYS Department of Health (DOH) should convene to develop criteria/definition for like replacement windows, that are energy efficient, appropriate for historical preservation, and lead-free. Following the development of the criteria/definition, NYSEDA and HCR should meet with window manufacturers to challenge the industry to create the desired product.

- A. Impediments

- a. Abatement of leaded components, especially window replacement, is the most durable, longest-lasting option but can be more expensive than other control methods such as paint stabilization. Beyond lead poisoning prevention, window replacement is also known to improve energy conservation and the market value of homes.
- b. Federal programs, however, have tended to discourage window replacement. For example, the Department of Energy's weatherization programs do not typically replace windows, because larger energy savings may be accomplished through insulation and air sealing, and weatherization assistance programs have a "walk away" policy if the cost of lead hazard control is deemed to be too large.
 - i. "Walk away" policy: Dwellings where Low-Income Weatherization Assistance Program (LIWAP) funds or crew training are insufficient to do the tasks in a lead paint safe work manner.
- c. The Department of Housing and Urban Development's lead hazard control program guidance requires time consuming testing and photographing of virtually all windows before replacement, which is not required for any other building component.

- B. In 2007, the Illinois General Assembly passed **Public Act 095-0492**, establishing the Comprehensive Lead Education, Reduction, and Window Replacement Program (ClearWin).
- a. Objective: Evaluate a state bond-financed pilot program that replaced old lead-contaminated windows with new lead-free energy efficient ones.
 - b. The primary objectives were (1) to determine whether a state health department can cost-effectively conduct a window replacement program in both small and large cities such as Peoria and Chicago (Englewood neighborhood) using state bond financing; and (2) to quantify reductions in geometric mean lead dust [loadings are unit weight of lead (micrograms) divided by unit surface area (square feet)] in homes where windows are replaced from baseline to 1 year after treatment.
 - a. Results:
 - i. PbD from baseline to 1 year for interior floors, interior sills, and exterior troughs declined by 44%, 88%, and 98%, respectively ($P < .001$).
 - ii. Households reported improvements in uncomfortable indoor temperatures ($P < .001$) and certain health outcomes.
 - iii. Economic benefits [market & energy value of window + monetized health benefit (gains in lifetime earnings due to avoided loss of IQ)] were estimated at \$5912219 compared with a cost (installed window cost + administrative cost) of \$3451841, resulting in a net monetary benefit of \$2460378 in 466 units.
 - iv. A state health department can successfully implement a window replacement program that dramatically reduces childhood lead exposure.
- C. Medicaid may offer a route to help families living in low- income homes replace windows.
- a. New York Medicaid Air Conditioner Prior Approval Guidelines (1997)
 - i. Air conditioners are not considered to have a primary medical purpose and clearly do not meet the definition of durable medical equipment as defined in 18 NYCRR 505.5(a)(1). However, it has also been the policy to review and prior approve payment of air conditioners if the individual case meets "**medically necessary**" criteria spelled out in Social Services Law, Section 365-a(2). To assist in determining medical necessity, the following factors should be considered:

1. Does the ordering physician persuasively demonstrate (with documented evidence of an existing medical condition) that air conditioner control of room temperature and humidity is required as a part of the comprehensive treatment plan and failure to provide this element of care presents a severe risk to life or substantially exacerbates a disability?
2. Is the air conditioner clearly required to alleviate or prevent the exacerbation of an established clinical condition for which the only alternative medical treatment would be of a more extensive nature, such as hospitalization?
3. Is the patient's clinical condition directly affected by or related to ambient temperature?
4. Is the patient confined to home; what are the physical activity restrictions; what is his/her cardiac status and medical prognosis?
5. Is the primary purpose of the request intended to enhance the patient's general comfort rather than to address a specific medical problem?

b. **Rhode Island currently has a federal waiver that allows Medicaid to pay for window replacement in homes of lead-poisoned children.** This concept could be expanded into a preventative measure to include homes that contain lead-hazards but before a child has been poisoned.

- i. Rhode Island received approval for a Medicaid waiver that would provide Medicaid coverage for window replacement in a unit where a child under the age of six was a Medicaid recipient and had a blood lead level equal to or greater than 15 mcg/dL.
- ii. Windows are not a medical service traditionally covered by Medicaid. The waiver was approved by the federal Health Care Financing Administration in December 1998.
- iii. Lead follow-up services are provided through four "lead centers" that are certified through the state health department. Lead centers bill Medicaid for each service provided to Medicaid recipients and are reimbursed at different amounts for varying services.

1. Interviewees, however, indicated that this structural remediation benefit has been seldom used, primarily for the following two reasons:

- a. First, the current reimbursement rate for window replacements (\$214 per window) is typically lower than the actual replacement costs.
 - b. The mechanisms by which lead centers receive reimbursement for this service are too cumbersome. The process by which the lead centers must pay for the window replacement first, and then subsequently seek reimbursement, may have posed a financial barrier to some lead centers.
 - c. Additionally, families often move out of rental units with lead hazards rather than await window replacement; under the current system, once the family has moved, the lead center is ineligible for window replacement reimbursement.
 - D. Encourage NYSERDA to include benefits from eliminating lead exposures in the Savings to Investment Ratio (SIR) for efficiency program calculations.
 - a. Weatherization can produce health-related non-energy benefits directly by changing the physical condition of homes.
 - b. Massachusetts recently accepted, tentatively, a new valuation of health benefits in single family low income programs including the assessment and monetization of numerous health and household related benefits attributable to the weatherization of low-income homes.
 - c. **Low-Income Single-Family Health- and Safety-Related Non-Energy Impacts Study**
 - i. Eversource, New England's largest energy delivery company along with six other gas and electric utility companies in the State of MA contracted Three3 to estimate the health and safety-related non-energy impacts (NEIs) accruing to recipients of energy efficiency services residing in low-income households in Massachusetts.
 - ii. The NEI study includes the evaluation and monetization of eight NEIs: 1) reduced asthma symptoms; 2) reduced cold-related thermal stress; 3) reduced heat-related thermal stress; 4) reduced missed days at work; 5) reduced use of short-term, high interest loans; 6) increased home productivity; 7) reduced carbon monoxide (CO) poisoning; and 8) reduced home fires.

- iii. The overall valuation results were driven quite strongly by the assertion that the program is saving lives.
 - iv. The annual estimated total values of the monetized NEIs selected for the study, per weatherized unit, for both societal and household benefit categories are as follows:
 - 1. Annual Total Household Benefit, per weatherized home: \$941.87 (without avoided death benefit: \$224.88)
 - 2. Annual Total Societal Benefit—per weatherized home: \$439.84
3. **Recommendation #3:** NYS Historic Preservation Office should revise its policy for window replacement in DOH-designated communities of concern to enable categorical approval of like replacements in one-to-four-unit homes with lead-painted windows.
- A. Blanket Statement
 - a. The New York State Historic Preservation Office (SHPO) is part of the Division for Historic Preservation in the Office of Parks, Recreation and Historic Preservation (OPRHP).
 - b. Because historic windows are often an important feature of historic buildings, OPRHP carefully reviews window replacement proposals. There are cases in which the **historic windows are beyond repair** and replacement is warranted.
 - i. If this is suspected to be the case, photographic documentation of the window condition must be included in an application for OPRHP to review. If the OPRHP confirms that window replacement is warranted, proposed replacement windows will be reviewed.
 - c. OPRHP advises to avoid replacing historic windows with new windows. Replacement windows are often expensive, have a limited life span, and can irrevocably change the character of a historic house.
 - d. The key to successful planning for window maintenance is to consider the needs of each window. **There is no need to take the same action for all the windows in the building.**
4. **Recommendation #4:** NYSERDA should add lead awareness information to the \$10 million Green Jobs Green New York outreach and marketing effort. NYSERDA should incorporate the EPA RRP Rule training into its GJ-GNY workforce development.
- A. Contractors are required to follow lead-safe practices in Home Performance with ENERGY STAR and EmPower New York; however, NYSERDA does not take on the responsibility of monitoring or verifying compliance.

- a. NYSERDA has a Materials and Installation Guide (MIG) that provides contractors with the requirements for installing energy efficiency measures through the Program. In general NYSERDA will require things be performed in accordance with all applicable State and Federal regulations, but does not check certifications. The MIG addresses lead by referring to the EPA Guidelines:

B. 1.4.5 Lead Paint

- a. 1.4.5.1 Definition
 - i. Lead was a common ingredient in many paints up until its use was banned in 1978. Lead ingestion or inhalation of lead dust or particles has been shown to cause damage to the central nervous system.
 - ii. Children in particular are at a high risk for nervous system damage from lead exposure.
- b. 1.4.5.2 Requirements
 - i. In any home built before 1978 there is a possibility that lead paint was applied to some or all surfaces. If specified work in the home will require cutting into areas that are potentially covered with lead paint the EPA Lead Safe Guidelines and all Lead Safe Practices as outlined in Title 40: Protection of Environment, Subsection 745.85 must be followed.

5. **Recommendation #5:** OTDA, DOH, and OCFS should explore opportunities to pilot collaborations between their grantees in one or more communities of concern to evaluate strategies to prevent the placement of clients in homes with lead-based paint hazards. The results from the pilot(s) should inform statewide policy.

- A. OTDA continues to collaborate with DOH as it remains an active member of the NYSDOH Advisory Council on Lead Poisoning Prevention.
 - a. OTDA has worked with DOH's Center for Environmental Health to create and translate publications that are intended for refugee audiences. OTDA distributes any and all publications to its grantees to use for educational purposes. An example of using grantees to disseminate this important information to refugee parents and children can be found in the Refugee School Impact Grant program curriculum. The Welcome to Our Schools curriculum is used by Academic Coaches in our RSIG Academy held each summer in Buffalo, Rochester and Utica, <http://otda.ny.gov/programs/bria/documents/WtOS-Curriculum.pdf>. In Module 6: Stay Healthy, Lead Poisoning information is delivered to newly arriving refugee Students and Parents.

- b. In terms of collaborating with OCFS, DOH has not worked on any projects together but they have disseminated translated materials to their child care sites on occasions.
 - B. OCFS disseminated lead poisoning prevention brochures (produced by the NYS Department of Health (DOH)) to all legally operating day care programs in NYS (approx. 20,000 programs).
 - a. Developed an on-line training for all day care program staff and allowed continuing training credits for participation. This training remains available on their website.
 - b. Sent DOH all day care addresses within high lead level communities and they prioritized those addresses for lead evaluation services.
 - c. OCFS continue to collaborate with the local DOH whenever lead hazards are suspected at day care sites.
 - d. The NYS Division of Child Care Services suspends the license or registration of any child care program that is the source of an elevated blood lead level in a day care child until the situation is remediated and satisfactory to DOH standards
- 6. **Recommendation #6:** DOH and OCFS should explore further integration of lead poisoning primary prevention activities into prenatal, postpartum, and early childhood home visiting programs as an opportunity for increasing the number of homes receiving primary prevention visits for lead poisoning.
 - A. NYS is working to improve the health and well-being of at-risk children and families through its **Maternal, Infant and Early Childhood Home Visiting (MIECHV) Initiative**.
 - B. The NYS MIECHV Program was developed with extensive input and collaboration from more than 100 home visiting stakeholders and a core group of state agency partners including:
 - i. NYS Office of Children and Family Services
 - ii. NYS Council on Children and Families
 - b. NYS developed the New York State Plan for a State Home Visiting Program which identified at-risk communities to be targeted and two evidence-based home visiting models to be implemented:
 - i. **Nurse-Family Partnership (NFP)** programs in Bronx, Chemung, Kings, Monroe, Nassau, Onondaga counties
 - 1. Home visits are conducted by trained registered nurses on average two times per month during pregnancy and until the infant's second birthday.
 - 2. With each visit, nurses do have a focus on **environmental health** (nurses are given a checklist that differs depending on the neighborhood they are visiting).

- ii. **Healthy Families New York** (HFNY) programs in Bronx, Dutchess, Erie, Kings, Schenectady counties.
 - 1. Home visits are conducted by trained paraprofessionals who are reflective of the communities they serve.
 - 2. Home visits do not directly conduct environmental health checks, but if concern over lead-based paint hazards is voiced, a referral to the County Health Department will be made.
- C. DOH Brochure (2015): *Are you Pregnant? Learn how to Protect Yourself and your Baby* <https://www.health.ny.gov/publications/2593.pdf>. This brochure is available in English, Spanish, and Chinese.
7. **Recommendation #7:** DOH should continue to update and expand its analysis of surveillance data to monitor progress in reducing lead hazards and lead poisoning, with an emphasis on the highest-risk communities and populations. DOH should continue to implement and refine primary prevention efforts in high-risk areas including providing guidance to local health departments regarding strategies and options for getting into homes for the purpose of identifying lead-based paint hazards.
- A. **NYS Childhood Lead Poisoning Primary Prevention Program (CLPPPP) Year 8 Summary**
 - a. In 2007, the NYS legislature passed, and the governor signed into law, a program to curtail childhood lead poisoning dramatically (PHL1370-a).
 - b. The Childhood Lead Poisoning Primary Prevention Program authorized health departments to gain access to high-risk homes for the purposes of education and inspection. This represented a significant policy shift since previously health departments could only gain access to a home if a child had already been diagnosed with an elevated blood lead level.
 - c. The eight original pilot locations (funded in 2007) included Albany, Erie, Monroe, Oneida, Onondaga, Orange, and Westchester counties and New York City. In 2008, four new sites received funding: Broome, Chautauqua, Dutchess, and Schenectady counties. In 2009, Niagara and Rensselaer counties received funding. The Year 4 (2010-2011) addition of Ulster County brought the total number of grantees to 15. From 2011-2014 (years 5, 6, and 7), 15 grantees continue doperating primary prevention programs.
 - a. The CLPPPP grantees seek to achieve five goals:
 - i. Identify housing at greatest risk of lead-based paint hazards.

- ii. Develop partnerships and community engagement to promote primary prevention.
- iii. Promote interventions to create lead-safe housing units.
- iv. Build lead-safe work practices (LSWP) workforce capacity.
- v. Identify community resources for lead-hazard control.

B. National Center for Healthy Housing (NCHH) Results

- a. Since the CLPPP Program’s inception on October 1, 2007, grantees have visited and inspected the interiors of 37,731 homes, impacting over 23,000 children.
- b. The National Center for Healthy Housing (NCHH) provides technical and evaluation assistance to the NYSDOH and to CLPPP grantees. The contract enables NCHH field investigators to work with each grantee to provide model practices, peer networking, and support on program design and implementation issues.
- c. Since the beginning of the program, grantees have cleared (deemed lead-safe) 75.6% (9,703) of the units having one or more confirmed or potential interior hazards. Typically, clearing a housing unit includes conducting a visual inspection to assure that all lead-based paint hazards have been treated appropriately and performing dust wipe clearance tests to confirm that lead dust levels on floors, windowsills, and window wells are below the national standards.

C. New York State’s Childhood Lead Poisoning Primary Prevention Program Grantee Impact Summaries October 2007 – March 2012

Erie County Department of Health Childhood Lead Primary Prevention Program Summary	Monroe County Department of Health Childhood Lead Primary Prevention Program Summary
Inspected 3,917 homes and identified lead-based paint hazards in 3,007 of them. Its efforts have already made 1,538 housing units lead-safe	Inspected 8,625 homes and identified lead-based paint hazards in 1,246 of them. It visited without inspecting an additional 630 homes. Its efforts have already made 881 housing units lead-safe
Program staff go block-by-block surveying the building characteristics, physical condition and occupancy status of each housing unit. Staff assess the exterior of each housing structure with an XRF (X-Ray Fluorescence) machine to measure the concentration of lead on painted surfaces.	Code enforcement officers conduct a visual inspection for deteriorated paint above de minimis ¹ levels on the interior and exterior and on bare soil if it is found.
In conjunction with the exterior risk assessment, staff try to identify and gain access to units where young children reside.	Additional dust wipe sampling is completed in all units that pass the initial visual inspection

<p>Upon gaining access, they assess the paint condition of the interior of the dwelling unit, educate the resident about lead poisoning and ways to protect their family, determine if all children have received blood lead level testing, and provide cleaning supplies to help ensure a lead-safe environment.</p>	<p>At properties inspected by the program itself, EPA-certified risk assessors inspect the properties. These inspections use elevated blood lead protocols, including visual inspection and XRF (X-Ray Fluorescence) measurement of lead on painted household surfaces.</p>
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8. **Recommendation #8:** HCR should explore including incentives for grantees who propose to carry out LHC under future Unified Funding Rounds. This could include assigning additional points in Unified Funding scoring for those preservation/rehabilitation projects that will target housing units identified as at-risk for LBP hazards, particularly in communities of concern identified by DOH, and providing financial incentives for the performance of lead-based paint hazard remediation.

A. The NYS Housing Trust Fund Corporation (HTFC)

- a. Invites applications for housing assistance through the 2010 Unified Funding (UF) process. This Request for Proposals (RFP) describes the application requirements and selection criteria for the programs listed above. These programs (collectively known as, Local Program Administrator or “LPA” programs) provide funding for the rehabilitation of owner-occupied and rental housing, homebuyer assistance, tenant based rental assistance, accessibility modifications, and emergency repair of housing owned and occupied by persons over 60. Potential applicants should review the specifics of each program to determine which best meets the needs of the community to be served.

- i. **Environmental Health and Safety** - Applications that will only assist units that have been identified as at-risk for lead paint hazards, radon, asbestos, indoor air quality problems or other environmental health and safety issues will receive up to five points.

1. **Rehabilitation programs (5 points)** – Applicants proposing to use all of their HOME award for the replacement of dilapidated mobile or manufactured homes will receive five points Applicants proposing that only a portion of their award be used for such replacement activity will receive fewer points. Applicants that propose targeting all assisted units to housing units that have been identified as unsafe/unhealthy due to the presence of one or more of the following hazards will receive five points.

Applicants that target at least 60% of assisted units to remediate these hazards will receive three points. No points will be awarded for applications that propose lower targeting, or which exhibit significant deficiencies in this area.

2. The hazardous conditions that will be considered are: Lead based paint; Asbestos; Moisture-related health problems, such as mold; other indoor air quality issues (i.e. CO problems related to faulty heating systems); other immediate threat health and safety issues (cited by code for dangerous electrical hazards, lack of potable water, etc.).

B. In Unified Funding rounds 2011, 2012, 2013 and 2014 HCR incentivized applications for multi-family housing proposing the rehabilitation and lead abatement of existing rental housing in zip codes identified by the NYS DOH as having significant concentrations of children with elevated blood lead levels. Unfortunately, no applications were funded probably due to the fact that the scattered site rehab that would have been required under the early award goal was a challenging project type for many developers of reasons.

a. The following language is in HCR's Unified Funding 2011 Request for Proposals for Multi-family Programs dated November 2010.

i. Lead Abatement Projects:

1. "Applications proposing the rehabilitation and lead abatement of existing rental housing in zip codes identified by the NYS Department of Health as having significant concentrations of children with elevated blood lead levels. Projects must propose that at least 75% of project units will involve the rehabilitation and lead abatement of existing rental units. See the UF 2011 Reference Materials for a listing of DOH high risk zip codes."

b. After no applications were submitted under the Lead Abatement Project early application option, the following language was included in the UF 2012:

i. Lead Abatement Projects

1. "These applications will propose the rehabilitation and lead abatement of existing rental housing in zip codes identified by the State Department of Health as having significant concentrations of children identified with elevated blood lead levels. Projects

must propose that at least 50% of projects units will involve the rehabilitation and abatement of existing rental units.”

9. **Recommendation #9:** NYS Department of State should pursue further development of the legislative proposals recommended by the Compliance and Enforcement Work Group to improve the current lead disclosure process in New York State.

- A. **Lead Disclosure Rule (Residential Lead-Based Paint Hazard Reduction Act of 1992, also known as Title X)**

- a. The federal Disclosure requirements entail the seller or lessor of target housing (residential housing built before 1978, with some exceptions) to disclose to the purchaser or lessee the presence of any **known** lead-based paint and/or lead-based paint hazards; provide available records and reports; provide an EPA-approved information pamphlet on lead hazards (Protect Your Family From Lead in Your Home); give purchases a 10-day opportunity to conduct a risk assessment or inspection for lead-based paint hazards; and attach specific disclosure and warning language to the contract before obligation.

- B. **Proposals**

- a. The first proposal would add a new section to the Real Property Law to require “due diligence” visual assessments at the sale or lease of a property built before 1978. The seller or lessor would be required to conduct a simple visual assessment of the property to identify deteriorated paint, bare soil, or visible paint dust or chips, and would sign a checklist that would be provided to the purchaser/renter.
- b. A second proposal would ensure that no sale, lease, or other document related to property transfer results in a waiver of the right created under state or federal law to determine the presence of lead-based paint and/or lead-based paint hazards (e.g., a due diligence inspection or risk assessment). In other words, this proposal would ensure that all sale and lease documents reflect and align with federal and state lead-based paint requirements.
 - i. No information was found as to whether any State has actually tried to prohibit the lead based paint inspection waiver.
- c. A third proposal would cover properties that have been transferred in foreclosures, which are presently exempt from federal lead disclosure rules. Under this proposal, the transferee would be responsible for checking available records, including from the health department, regarding any known LBP or LBP hazards.

1. New York Consolidated Laws, Real Property Law - RPP § 463. Exemptions: A property condition disclosure statement shall not be required in connection with any of the following transfers of residential real property:
2. A transfer pursuant to a foreclosure sale that follows a default in the satisfaction of an obligation that is secured by a mortgage;
3. A transfer by a mortgagee, or a beneficiary under a mortgage, or an affiliate or agent thereof, who has acquired the residential real property at a sale under a mortgage or who has acquired the residential real property by a deed in lieu of foreclosure;

C. New York City's Childhood Lead Poisoning Prevention Act (Local Law 1 of 2004)

- a. Requires landlords to identify and remediate lead-based paint hazards in the apartments of young children, using trained workers and safe work practices. Lead-based paint is presumed to exist in a multiple dwelling unit if: the building was built before 1960 (or between 1960 and 1978 if the owner knows that there is lead-based paint) and a child under the age of six lives in the apartment.
- b. Owners of such buildings must:
 - i. Investigate lead-based paint hazards and remediate those hazards upon turnover of the apartment using safe work practices and trained workers.
 - ii. Give new occupants a form inquiring if a child under age six will reside in the unit. Owners must also certify on this form that they have performed the required work prior to occupancy of the unit by the new occupants.
 - iii. Include a notice about owner responsibilities under the law with each lease and provide a pamphlet informing occupants about lead.
 - iv. Annually investigate units where children under six reside as well as common areas in the property to find peeling paint, chewable surfaces, deteriorated subsurfaces, and friction and impact surfaces. Maintain records about annual inspections and any work performed.
 - v. Correct any outstanding lead-based paint violations (issued under previous lead-based paint laws) using safe work practices set forth in Local Law 1, and maintain records about work performed.

D. Ohio Revised Code §5301.252

- a. To prevent acts of nondisclosure that can threaten unsuspecting families with young children who move into these homes, the District Board of Health has begun using a provision in Ohio law (Ohio Revised Code 5301.252) allowing the attachment of affidavits to property titles to force the disclosure of unremediated lead hazards to homebuyers conducting deed searches. The health department believes that this strategy will be a credible deterrent to the sale of toxic houses to unsuspecting buyers – many of them with young children susceptible to these lead hazards.

- E. Thomas Muscarella, Erie County Department of Health Senior Public Health Sanitarian, wanted the ability to attach an affidavit to the deeds of homes with hazardous lead paint conditions. Attaching an affidavit to a property with a hazardous lead paint condition would: 1) allow Buffalo Housing Court to provide an injunction from sale until the hazardous condition was remedied; 2) would provide knowledge to future residents who may reside within the property; 3) would prevent landlords from claiming a lack of notice; and 4) would properly assess the true value of the homes impacted by a hazardous lead paint condition.

10. **Recommendation #10:** DOS should assist DOH with the implementation of Title X of Article 13 of the NYS PHL by encouraging those local governments that are responsible for administration and enforcement of the Uniform Fire Prevention and Building Code to pay particular attention to Sections 304.2 and 305.3 of the Property Maintenance Code of NYS, a component of the Uniform Code, which requires the elimination of peeling, flaking and chipped paint on exterior surfaces and the repair, removal or covering of peeling, chipping, flaking or abraded paint on interior surfaces, respectively, and by alerting local code enforcement officials to the existence of the Federal regulations that may apply when work is to be performed in a building built prior to 1978.

A. http://www2.iccsafe.org/states/new_york/NY_Property/PDFs/Chapter%203.pdf

B. Proposed Legislative Changes to Address Lead Issues (Erie County):

a. Code Enforcement- Chapter 137

- i. Amend Section 7 Schedule of Offenses to allow building inspectors to write tickets for chipping and peeling paint and/or lead hazards which include:
 - 1. PM 304- Exterior Structure- 304.2- Protective Treatment- Fine Class E- \$105
 - 2. PM 305- Interior Structure-305.3- Interior Structures- Fine Class E- \$105

Bill Analysis (NYS)

Action	Regulation/ Law No.	Sponsor	Description	Additional Comments
1/4/2012: Referred to Health	A1601A/S666 A	Mceneny	Provides for annual school lead-copper tap water testing; requires the publishing of reports of contamination and abatement of such contamination.	
1/9/2017: Referred to Housing	A858	Rodriguez	Enacts the “Public Housing Safety and Security Act of 2017”; grants the division of housing and community renewal the authority to issue grants to public housing authorities or agencies for use in improving security in public housing projects; provides eligible activities for such grants; requires periodic safety inspections and an annual report.	
2/1/2017: Referred to Housing	A4170	Rosenthal	Requires owners to provide prospective lessees with notification where lead-based paint or lead contaminated dust has been found and any and all abatement measures that have been taken in the rental unit.	
2/15/2017: Referred to Health	S4465	Carlucci	Provides that on each seasonal and decorative lighting product manufactured, sold or delivered that contains an electrical cord casing made with polyvinyl chloride in which lead is used as a fire-retardant and stabilizer there shall be a warning label. (Civil penalties)	
3/3/2017: Referred to Health	S4961	Diaz	Increases the penalty for the failure to comply with a notice and demand for the discontinuance of a paint condition conducive to lead poisoning from two thousand five hundred to five thousand dollars.	
3/3/2017: Referred to Health	S4952	Diaz	Requires the Commissioner of Health to report to the attorney general any information regarding the use of improper measures which could endanger public safety by exposure to possible lead poisoning.	

3/6/2017: Referred to Social Services	S5028	Hoylman	Section one amends social services law section 143-b and creates a new Subsection to bar state and local governmental agencies from arranging to place families in housing that will be subsidized with state funds unless the dwelling unit has first been inspected by properly qualified personnel and determined to be free of lead-based paint hazards.	
3/27/2017: Recommit, Enacting Clause Stricken	S5032	Hoylman	Enacts the childhood lead poisoning prevention and safe housing act of 2017 to make enforcement of lead hazard control standards in the state of New York more certain and more effective.	Versions Introduced in Previous Legislative Sessions: 2015-2016: S2412 (Died in Health) 2013-2014: S1568 (Died in Health) 2011-2012: S2419A (Died in Health) 2009-2010: S1002A (Died in Health)
4/10/17: Referred to Health	A7148/S4439	Ryan	Requires day care facilities (child day care centers, group family day care homes, and family day care homes licensed or registered with the Office of Children and Family Services) to test their drinking water for lead contamination.	
5/5/2017: Amended on Third Reading	A3899/S3941 A	Morelle	Grants schools access to a student's blood lead information in the statewide immunization information system in order to provide appropriate educational services.	
6/14/2017: Passed Senate	S1200A/A180 9	Alcantara (BRONX)	Requires the Commissioner of Health to take action when an area of lead poisoning has been designated (Requires the Commissioner of Health to provide written notice instructing such condition be discontinued within a specified period of time)	
6/15/2017: Passed Assembly	A7723A/S243 3-A	Ryan	This bill would require jewelry containing 40 parts/millions of lead to	

			carry a warning that the jewelry "may be harmful if eaten or chewed."	
6/15/2017: Passed Assembly	A6906/S6472	Ryan	Changes the definition of elevated blood lead levels from a blood lead level greater than or equal to ten micrograms of lead per deciliter of whole blood to five micrograms of lead per deciliter of whole blood.	
6/13/2017: Rules Report Cal.246	A7786	Ryan	Prohibits the exclusion of coverage for losses or damages caused by exposure to lead-based paint from liability coverage provided to rental property owners.	
6/13/2017: Reported Referred to Ways and Means	A2237	Peoples- Stokes	Provides a tax abatement to landlords for the removal of leaded paint from their residential properties.	

DRAFT

Lead Laws/Ordinances

Rochester’s Lead-Based Paint Poisoning Prevention Ordinance (July 1, 2006)	New York State	Erie County Department of Health (ECDOH) Buffalo’s Lead Poisoning Primary Prevention Program
<p>The Monroe County Health Department in 2013 began tracking the number of children who test within the CDC’s threshold without the state’s assistance. (NYS DOH)</p>	<p>The NYS Health Department is several years behind in releasing lead poisoning data and fails to include children who test within the federal threshold.</p>	<p>Operates in 1, 2, or 3 family homes in HUD/NYSDOH targeted ZIP codes.</p>
<p>Locally established a requirement to inspect one and two-unit rental buildings every six years. Also requires lead inspections every three years for properties with three or more rental units.</p>	<p>Certificate of occupancy inspections must be carried out every three years for buildings with three or more rental units.</p>	
<p>Added a lead hazard inspection to the routine housing inspections already being carried out in connection with the city’s certificate of occupancy inspections for rental housing. (Applies to most rental properties constructed prior to 1978)</p>	<p>There is no requirement that certificate of occupancy inspections include an examination for lead paint hazards. (The state’s Property Maintenance Code contains no prohibitions against lead paint hazards. Although deteriorated paint is prohibited, it is not presumed to pose a lead hazard)</p>	
<p>In addition to the routine visual inspection for lead paint hazards (deteriorated paint or bare soil near the house), housing in high risk areas require the use of dust wipes if the visual inspection finds no deteriorated paint.</p>	<p>Sellers and landlords must disclose information on known LBP hazards, but are not required to undertake any new investigations or assessments to find out whether their rental dwellings contain lead paint hazards.</p>	<p>Each home receives a full exterior inspection, and in some cases, an interior inspection and a lead education visit for the occupant.</p>
<p>A compliance notice is issued requiring the owner to obtain a lead clearance (lead abatement or interim controls) by a certified risk assessor.</p>	<p>The Federal Government (EPA & HUD) does not require property owners to conduct any form of lead paint abatement (except for properties owned or assisted by HUD or in response to a child with an elevated blood lead level)</p>	
<p>The city has a public database of lead-safe properties to let renters and homebuyers know where it is safe to live.</p>	<p>If a rental property was built prior to 1978, a landlord must supply tenants with a lead-based paints disclosure form and a copy of the US EPA’s “Protect Your Family from Lead in the Home” educational pamphlet.</p>	<p>Does not have a database on neighborhoods that are identified as high-risk for lead poisoning.</p>

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