

---

**NEW YORK STATE**

---

# **REGISTER**

---

***INSIDE THIS ISSUE:***

- Empire State Independent Film Production Tax Credit Program
- Lead Poisoning Prevention Control
- LIPA's Household Assistance Rate (HAR) Program

**Rule Review**

**Notice of Availability of State and Federal Funds**

**Appendix**

---

The last date for submission of public comments is indicated on each Notice of Proposed Rule Making. Unless a different date is specified by statute, the proposing agency must accept comments for at least: 60 days after the date of *Register* publication of a Notice of Proposed Rule Making or combined Notice of Emergency Adoption and Proposed Rule Making; and 45 days after publication of a Notice of Revised Rule Making or combined Notice of Emergency Adoption and Revised Rule Making. When a public hearing on a proposed rule is statutorily required: the hearing may not be held until at least 60 days after the publication date of the notice; and comments must be accepted for at least 5 days after the last required hearing. When a public comment period for a proposed rule is scheduled to end on a Saturday, Sunday or public holiday, comments are accepted through the next succeeding business day.

***For notices published in this issue:***

- the 60-day period expires on June 7, 2026
- the 45-day period expires on May 23, 2026

**KATHY HOCHUL  
GOVERNOR**

**WALTER T. MOSLEY  
SECRETARY OF STATE**

**NEW YORK STATE DEPARTMENT OF STATE**

For press and media inquiries call:  
(518) 486-9844

For *State Register* production, scheduling and subscription information  
call: (518) 474-6957  
E-mail: adminrules@dos.ny.gov

For legal assistance with *State Register* filing requirements  
call: (518) 474-6740  
E-mail: dos.dl.inetcounsel@dos.ny.gov

An electronic version of the *New York State Register* is freely available at:  
[dos.ny.gov/state-register](http://dos.ny.gov/state-register)



*The New York State Register* (ISSN 0197 2472) is published weekly. Subscriptions are \$80 per year for first class mailing and \$40 per year for periodical mailing. The *New York State Register* is published by the New York State Department of State, One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231-0001. Periodical postage is paid at Albany, New York and at additional mailing offices.

POSTMASTER: Send address changes to NY STATE REGISTER, the Department of State, Division of Administrative Rules, One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231-0001

 printed on recycled paper

---

NEW YORK STATE  
**REGISTER**

---

**Be a part of the rule making process!**

Public comment on proposed rules is encouraged and may be submitted to the agency that is proposing the rule. Address your comments to the agency representative whose name and address is printed in the rule making notice. No special form is required; a handwritten letter will do. Individuals who access the online *Register* ([dos.ny.gov/state-register](http://dos.ny.gov/state-register)) may send public comment via electronic mail to e-mail addresses that may be provided in Notices of Proposed Rule Making. This includes Proposed, Emergency/Proposed, Revised Proposed and Emergency/Revised Proposed rule makings.

To be considered, comments should reach the agency before expiration of the public comment period. The State Administrative Procedure Act provides for a minimum 60-day public comment period after publication in the *Register* for Notices of Proposed Rule Making, and a 45-day public comment period for Notices of Revised Rule Making. If a public hearing is required by statute, public comments are accepted for at least five days after the last such hearing. Agencies are also required to specify in each notice the last date of the public comment period.

When a public comment period would end on a Saturday or Sunday, the agency accepts public comment through the following Monday; when the comment period ends on a public holiday, public comment will be accepted through the next succeeding business day. Agencies cannot adopt a proposed rule until the day after the conclusion of the public comment period.

The Administrative Regulations Review Commission (ARRC) reviews newly proposed regulations to examine issues of compliance with legislative intent, impact on the economy, and impact on affected parties. In addition to sending comments or recommendations to the agency, please do not hesitate to transmit your views to ARRC:

Administrative Regulations Review Commission  
State Capitol  
Albany, NY 12247  
Telephone: (518) 455-2731

---

Each paid subscription to the *New York State Register* includes one weekly issue for a full year and four "Quarterly Index" issues. The Quarterly is a cumulative list of actions that shows the status of every rule making action in progress or initiated within a calendar year.

The *Register* costs \$80 a year for a subscription mailed first class and \$40 for periodical (second) class. Prepayment is required. To order, send a check or money order payable to the NYS Department of State to the following address:

NYS Department of State  
One Commerce Plaza  
99 Washington Avenue  
Suite 650  
Albany, NY 12231-0001  
Telephone: (518) 474-6957

KEY: (P) Proposal; (RP) Revised Proposal; (E) Emergency; (EP) Emergency and Proposal; (A) Adoption; (AA) Amended Adoption; (W) Withdrawal

Public comment may be sent via electronic mail to e-mail addresses that may appear in Notices of Proposed Rule Making. This includes Proposed, Emergency/Proposed, Revised Proposed and Emergency/Revised Proposed rule makings.

**Rule Making Activities**

**Civil Service, Department of**

- 1 / Jurisdictional Classification (A)
- 3 / Jurisdictional Classification (P)
- 9 / Supplemental Military Leave Benefits (P)
- 10 / Jurisdictional Classification (P)

**Corrections and Community Supervision, Department of**

- 10 / Packages and Articles Sent to Institutions (P)
- 11 / Incarcerated Individual Telephone Calls (RP)

**Economic Development, Department of**

- 13 / Empire State Independent Film Production Tax Credit Program (P)
- 14 / Empire State Film Production Tax Credit Program (P)

**Financial Services, Department of**

- 15 / Agent Training Allowance Subsidies for Certain Life Insurance and Annuity Business (P)
- 15 / Regulations Implementing the Comprehensive Motor Vehicle Insurance Reparation Act Claims for Personal Injury Protection Benefits (P)

**Health, Department of**

- 16 / Lead Poisoning Prevention Control (A)

**Long Island Power Authority**

- 19 / LIPA's Household Assistance Rate (HAR) Program (E)

**Public Service Commission**

- 20 / Gas Moratorium Consumer Protections (A)
- 20 / Tariff Amendments (A)
- 21 / Gas Moratorium Customer Protections (A)
- 21 / Minimum Broadband Download Speeds Required Under the ABA (A)
- 21 / Extreme Heat Protections (A)
- 22 / Level 2 EV Make-Ready Program (A)
- 23 / Lightened Regulation (A)
- 23 / Minor Rate Increase (A)
- 23 / Waiver of Timing Requirement (A)
- 24 / Transfer of Indirect Ownership of Telephone Systems, Cable Television System and Cable Franchises (A)
- 26 / New Tariff Schedule P.S.C. No. 1 - Water (A)
- 26 / Submetering of Electricity (A)
- 26 / Maintenance Tier Funding (A)
- 27 / 2026 Electric Emergency Response Plan (A)
- 28 / 2026-2027 Installed Reserve Margin (A)
- 28 / 2026 Electric Emergency Response Plan (A)
- 29 / Tariff Amendments (A)
- 29 / Modification of DSIP Filing Cadence (A)

**Action Pending Index / 33**

**Rule Review**

89 / Civil Service, Department of

**Securities Offerings**

91 / State Notices

**Advertisements for Bidders/Contractors**

93 / Sealed Bids

**Notice of Availability of State and Federal Funds**

97 / Environmental Facilities Corporation

98 / Housing and Community Renewal, Division of

**Miscellaneous Notices/Hearings**

101 / Notice of Abandoned Property Received by the State Comptroller

101 / Notice of Public Hearing

102 / Public Notice

**Appendix / 107**





be replaced with gender neutral pronouns throughout the regulation and are not specifically referenced in this summary.

In repealing and replacing section 67-2.2, the definitions of “abatement,” “encapsulation,” “enclosure,” and “lead-based paint” are modified to clarify their meaning and to make them consistent with definitions in the new Subpart 67-5. Abatement is clarified to mean a permanent form of lead remediation. Encapsulation is removed from the abatement category because, although it remediates lead hazards for ten years or more, it does not permanently render lead-based paint inaccessible. The definition of “enclosure” is modified to clarify that rigid materials must be affixed to lead-containing surfaces to render them inaccessible. Additionally, the definition of “enclosure” is modified to remove the term abatement, as enclosure is no longer considered a form of abatement in the revised definition. The definition of “lead-based paint” is revised to include an additional unit of measure that constitutes paint as lead-based.

The definition of “child care facility” was updated in section 67-2.2 to replace the reference to the former state department of social services with the New York State Office of Children and Family Services.

Definitions were also added for “interim controls,” “lead-paint analyzer,” “paint film stabilization,” “remediation,” and “workplan.” The definition of “interim controls” was added to clarify the difference between efforts that have the potential to temporarily reduce exposure to lead hazards and permanent efforts to eliminate exposure defined as abatement. The term “risk reduction efforts” is removed accordingly. The definition of “lead-paint analyzer” was added to replace the definition of X-ray fluorescence analyzer or XRF due to advancing technologies in lead identification. The term X-ray fluorescence analyzer is no longer used in Subpart 67-5 so the definition is removed. The definition of “paint film stabilization” was added to further eliminate the incorrect use of the term abatement to describe the remediation method used to temporarily stabilize lead-based paint. The definition of “remediation” was added to further eliminate the incorrect use of the term abatement as a term to describe all actions used to discontinue condition(s) conducive to lead poisoning. Remediation is the correct term to describe actions necessary to discontinue conditions conducive to lead poisoning and could include paint film stabilization, encapsulation, enclosure, or abatement activities such as replacement or removal. The definition of “workplan” is added because it is referenced in section 67-2.6(b).

Section 67-2.3 is amended to add inspection of buildings, structures, or portions thereof that are accessible to a child, and specifies the conditions for which an additional dwelling requires investigation.

The instructions for substrate correction readings when using an X-ray fluorescence analyzer are removed from section 67-2.4 addressing sampling for lead, and are replaced with references to U.S. Environmental Protection Agency (EPA) protocols and manufacturer’s guidelines to address improvements in sampling method technology.

The requirement for issuance of a notice and demand was changed from may to shall for consistency with PHL § 1373(1) and long-standing guidance issued by the Department. Section 67-2.6 replaced the incorrect reference of PHL § 1373(2) with the corrected reference to PHL § 1373(1). The requirement for the owner of a qualifying dwelling to comply with a notice and demand was added to this section to stipulate enforcement for failure to comply with any aspect of the notice and demand, such as adhering to a response timeline or workplan submission requirements. Previously, the owner’s compliance with the notice and demand was only referenced as a requirement to remediate conditions conducive to lead poisoning upon receipt of the notice and demand.

Section 67-2.7(c) was revised to clarify that the owner is the responsible party for relocation of occupants until remediation is complete.

References to “abatement” were replaced with “remediation” throughout the Subpart where abatement had been incorrectly used in instances where other types of less permanent remediation may be acceptable. The term “risk reduction efforts” was replaced with “interim controls” to describe acceptable actions an owner could take prior to receipt of a notice and demand.

Reference to the Commissioner or their designated representative complying with applicable laws or regulations was removed because the regulation clearly states it is the owner of the dwelling who is responsible for complying with all Federal, State, and local laws, and for providing documentation of such compliance to the Commissioner or their designated representative on request.

The prohibition on reoccupying a vacant dwelling which has not met the requirements of the notice and demand was strengthened in section 67-2.6.

Requirements for encapsulation as a remediation method were restructured to be clearer and a statement that encapsulation is not considered an abatement method was added. Likewise, requirements for enclosure as a remediation method were restructured to be clearer.

Subpart 67-5 is added to Part 67, promulgating regulations to administer a targeted State rental property registry and enforce proactive lead hazard inspection requirements pursuant to Public Health Law (PHL) § 1377(6).

---

---

## Department of Health

---

---

### NOTICE OF ADOPTION

#### Lead Poisoning Prevention Control

I.D. No. HLT-52-24-00002-A

Filing No. 271

Filing Date: 2026-03-24

Effective Date: 2026-04-08

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Amendment of Subpart 67-2; and addition of Subpart 67-5 to Title 10 NYCRR.

**Statutory authority:** Public Health Law, sections 1370-a, 1373, 1374, 1375 and 1377

**Subject:** Lead Poisoning Prevention Control.

**Purpose:** Outlines the targeted State rental registry and proactive lead safety inspections for rental units in dwellings with two or more units.

**Substance of final rule:** The following summarizes the adopted regulations pertaining to the creation of Subpart 67-5 and the substantive proposed amendments to Subpart 67-2 (Environmental Assessment and Abatement) of Title 10 Part 67 of the New York Codes Rules and Regulations. Existing code language with gender specific pronouns would

Section 67-5.1 outlines the purpose of Subpart 67-5, establishing the administrative requirements for a targeted State rental registry and lead safety certification requirements in multi-family dwellings built before 1980 in communities of concern as identified pursuant to PHL § 1370-a(3).

Section 67-5.2 provides definitions for terms used in the regulation.

Section 67-5.3 outlines the applicability of the regulation and provides specific examples of residential uses to which the Subpart does not apply, including dwellings located in cities of a population of one million residents or more. Other residential environments to which 67-5 does not apply, because they do not meet the requirements of the enabling statute, include temporary residences such as hotels and motels, campgrounds, children's camps, correctional facilities, hospitals, nursing homes, college dormitories owned by an academic institution, or any other dwellings which the Department determines, based on the nature of the property's occupancy, do not meet the requirements of the statute.

Section 67-5.4 outlines the administrative requirements of the rental registry and the responsibilities of the owners of applicable dwellings to register qualifying properties.

Section 67-5.5 outlines the technical and frequency requirements of lead hazard inspections, inspector qualifications, and dust wipe sampling requirements. It outlines exemptions from the inspection requirements for owner-occupied units and units verified by the Department or its designated representative to be free of lead-based paint. These units are still subject to registration in the rental registry.

Section 67-5.6 outlines the requirements for obtaining a lead safety certificate, including receipt of a satisfactory lead safety inspection and satisfactory dust wipe sampling results. A lead safety certificate must be signed by a qualified lead safety inspector and must indicate that, at the time of the attestation, the unit was free from visible conditions conducive to lead poisoning including the presence of lead dust.

Section 67-5.7 addresses the issuance of a notice and demand (or equivalent) when lead-based paint hazards and/or visual lead soil hazards are identified, and requires the owner to comply with the notice and demand (or equivalent). The property owner is required to attest in writing that they will follow lead safe work practices and comply with all applicable Federal, State and local laws.

Section 67-5.8 outlines protections for tenants occupying dwellings subject to the rental registry, including notification of lead-based paint hazards and/or visual lead soil hazards, exclusion of pregnant people and children from work areas when warranted or, in extremely hazardous cases, temporary relocation of tenants. The section also prohibits retaliatory action against tenants for reporting suspected lead hazards. Section 67-8(f) clarifies that the owner is the responsible party for relocation of occupants until remediation is complete.

Section 67-5.9 outlines the basis for formal enforcement when an owner fails to comply with provisions of the Subpart, and allows for administrative action as authorized by Public Health Law for submission of fraudulent information into the rental registry.

**Final rule as compared with last published rule:** Nonsubstantial changes were made in sections 67-2.7(f)(i), 67-2.9, 67-5.2(u) and 67-5.6(a).

**Revised rule making(s) were previously published in the State Register** on December 3, 2025.

**Text of rule and any required statements and analyses may be obtained from:** Katherine Ceroalo, DOH, Bureau of Program Counsel, Reg. Affairs Unit, Room 2438, ESP Tower Building, Albany, NY 12237, (518) 473-7488, email: regsqna@health.ny.gov

#### **Revised Regulatory Impact Statement**

##### **Statutory Authority:**

Public Health Law (PHL) § 1370 authorizes the Department of Health (Department) to establish a program responsible for establishing and coordinating activities to prevent lead poisoning and minimize risk of exposure to lead. PHL § 1373 requires the Department to designate "communities of concern" as areas presenting high risk for lead poisoning and to issue a written notice and demand for the discontinuance of a paint condition conducive to lead poisoning in any designated dwelling in an area of high risk. PHL § 1374 outlines receivership provisions for failure to comply with a notice and demand, and PHL § 1375 establishes enforcement agencies having jurisdiction for the Title. Most recently, PHL § 1377 directs the Department to develop a registry and lead safety certification program for all residential dwellings with two or more units built prior to 1980 which are potentially eligible for rental, lease or hiring out, and which are located in communities of concern as identified by the Department pursuant to PHL § 1370-a(3).

##### **Legislative Objectives:**

The legislative objective in PHL § 1377 is to protect the health and safety of children by reducing childhood lead poisoning in rental properties located in communities of concern through the creation of a registry of rental properties and establishing requirements for lead hazard inspections

of rental properties with two or more units built prior to 1980. Communities of concern are areas with the highest prevalence of children with elevated blood lead levels. The objective is to protect children from the hazardous effects of lead poisoning. The proposed amendments to Part 67 (addition of Subpart 67-5 and amendments to Subpart 67-2) meet the legislative objective by requiring that eligible units be registered in a rental registry established by the Department, lead hazard inspections be completed, and lead-based paint hazards and/or visual lead soil hazards be safely remediated, and a lead safety certification issued for each eligible unit on a 3-year recurring cycle. Additionally, the amendments provide for protection of tenants and clarify administrative provisions for program oversight and implementation.

##### **Needs and Benefits:**

The effects of lead poisoning on a child are devastating and irreversible. Investment in lead hazard control results in an enormous financial return as it prevents the deleterious, lifelong impacts of lead poisoning.

Proactive remediation of lead hazards can help decrease the number of children who suffer elevated blood lead levels. According to NYS LeadWeb database, in 2021 alone there were roughly 7,000 children in New York State diagnosed with elevated blood lead levels. Lead poisoning can lead to societal impacts including but not limited to healthcare costs, special education costs, lost tax revenue and increased crime, which could cost New York State up to \$3.5 billion dollars per year. Every dollar invested in lead-based paint hazard control results in a return of \$25 to \$327. Statistics on societal impacts of lead poisoning were taken from this study and adjusted for inflation: Gould, E. (2009). Childhood Lead Poisoning: Conservative Estimates of the Social and Economic Benefits of Lead Hazard Control. *Environmental Health Perspectives*, 117(7), 1162-1167.

New York State has some of the oldest housing stock in the country and lead-based paint in homes remains the most significant contributing factor to lead poisoning in children. Many of the communities of concern are located along the Hudson River and the historic Erie Canal region, where the oldest housing stock can be found. Although the use of lead in household paint has been prohibited since 1978, leaded building components remain in many of these dwellings forty-six years later. Friction and impact surfaces such as windows and doors are particularly problematic due to the difficulty of keeping these surfaces intact such that they do not shed lead dust.

The State rental registry and proactive lead hazard inspection regulations are needed to protect tenants from lead hazards in their homes. They require owners of such dwellings to register units and, through lead hazard inspections, dust wipe sampling, safe remediation of lead hazards and subsequent reinspection, eliminate lead-based paint hazards and/or visual lead soil hazards to ensure tenant safety. Without a preventative program such as this, children with high blood lead levels are identified through routine testing at age one and two or when symptoms of lead poisoning are identified, and at that point, irreversible injury to the child has already occurred.

##### **Costs:**

Costs for the Implementation of and Continuing Compliance with the Regulation to the Regulated Entity:

The proposed amendments to Part 67, authorized by PHL § 1377(6) and (7), will increase costs to regulated entities. The amendments to Subpart 67-2 are not expected to increase existing costs to regulated entities (residential property owners); however, the addition of Subpart 67-5, is expected to increase costs to regulated entities (owners of multi-family dwellings located in communities of concern). Subpart 67-5 will introduce requirements for lead hazard inspections and dust wipe sampling at a minimum frequency of once every three years to obtain a lead safety certificate, the need for additional lead hazard inspections if lead-based paint hazards and/or visual lead soil hazards are identified during the inspection, the need for repeat dust wipe sampling in the event initial dust wipe sampling exceeded the United States Environmental Protection Agency (EPA) threshold for lead in dust, and the requirement to remediate lead hazards.

There are an estimated 282,000 affected units located in communities of concern statewide. Owners (regulated parties) might own just one dwelling with two units or may own multiple dwellings with dozens of units in various states of compliance; therefore, the costs to each regulated party will vary greatly.

The amendments require that a lead hazard inspection, if conducted by a third party, be conducted by an EPA certified risk assessor and the inspection costs will range from an estimated \$250.00 to \$450.00 for each rental unit. If lead-based paint and/or visual lead soil hazards are identified during inspections, there will be remediation costs which could vary from several hundred dollars for paint film stabilization to up to \$40,000 for lead abatement of windows, doors and floors in significantly deteriorated units. There will also be additional costs for re-inspections to evaluate remediation efforts and issue a lead safety certificate. The anticipated

maximum cost to an owner per unit could be approximately \$500 for an initial inspection, \$40,000 for remediation/abatement, and an additional \$500 for a clearance inspection for a total of \$41,000 per unit.

PHL § 1377(7) and the amendments to Part 67 allow for an owner to conduct their own lead safety inspections if they are appropriately qualified, and the statute specifically allows the Department to establish the necessary qualifications for parties conducting and submitting lead hazard inspections to the Department or its designee. If an owner has obtained a valid EPA risk assessor certification, they would qualify to conduct inspections of their own units. The cost to obtain EPA risk assessor certification ranges from \$1200.00 to \$1400.00. This would eliminate the lead hazard inspection cost, but the cost for dust wipe sampling and the remediation costs would still be incurred by the owner.

Flexibility in inspection methods, allowing Local Health Department (LHD) staff or other qualified municipal agencies such as local codes enforcement staff to conduct inspections will allow for decreased costs to the landlord with the cost burden subsequently falling on the above-mentioned agencies. Programmatic costs have been considered and a total of approximately \$18.5 million has been appropriated to the Department, with \$15.86 million appropriated as Aid to Localities to support LHDs with program implementation and will cover costs associated with staff salary, travel, overhead, and supplies.

For landlords, the cost of remediation will depend on the level of lead-based paint hazards and/or visual lead soil hazards identified. In Rochester, where local codes enforcement has supported inspections for lead hazards for the last 15 years, roughly 5% of rental properties were found to have interior lead hazards and roughly 10% were found to have exterior lead hazards. If the number of interior and exterior hazards remains similar to those seen in Rochester, approximately 4,700 interior hazards and approximately 9,400 exterior hazards may be identified per year across all communities of concern. If we assume 20% of properties are found to have interior lead hazards, then the number of interior hazards may be closer to 18,800 per year. To support landlords, there is approximately \$20 million in funds available via the Homes and Community Renewal (HCR) program to support remediation and abatement. The cost of implementation is expected to escalate at the rate of inflation for subsequent implementation periods, while the total annual cost of remediation is expected to decrease as eligible properties are remediated or abated.

Costs to State and Local Governments:

Approximately \$18.5 million was allocated to the Department to support implementation of this program. A majority of these funds, approximately \$15.86 million, will be allocated to LHDs to support local implementation and enforcement of this program. Funds for each LHD will vary from approximately \$500,000 in the county with the least number of units in a community of concern, to \$1.3 million in the county with multiple communities of concern and the largest number of rent-eligible units in those communities. The remaining funds will be used by the Department to support database management of the rental registry and outreach and communication with partners across sectors. The funds allocated to LHDs are expected to be sufficient to stand up and support core functions related to program management, database management, inspection management, and enforcement, as well as stakeholder engagement. The total cost of the program, across the Department and HCR, is estimated to be approximately \$120 million for the first three-year compliance period.

Costs to the Department of Health:

The Department will create and maintain a data management system to collect, track, and report data on all aspects of the rental registry program, in part to fulfill the statutory reporting obligations found at PHL § 1377(11). The cost of this software procurement is expected to be approximately \$1-2 million per year and will come out of the State portion of the appropriation. Additionally, several staff positions will be created at the Department to support effective implementation and evaluation of this program.

Local Government Mandates:

This regulation affects LHDs and their partners such as Local Codes Enforcement. LHDs will be contracted by the Department to oversee the lead hazard inspection and lead safety certificate programs for communities of concern in their jurisdictions. Flexibility in inspection methods will allow LHD staff, other municipal agencies such as local code enforcement staff, or certified third-parties to conduct inspections. LHDs will be required to conduct audit inspections of a minimum of 10% of third party inspections. This regulation requires that LHDs implement and enforce all components of the Lead Rental Registry, which will require outreach and education, notification to the regulated community and tracking of inspections.

Paperwork:

This regulation requires that LHDs implement and enforce all components of the Lead Rental Registry, which will require outreach and education, notification to the regulated community, and tracking of inspections.

However, the Department is working to procure a database management system will support automation of many, if not all, of these activities so additional paperwork burden is expected to be minimal.

Duplication:

These amendments do not duplicate any State or federal requirements; however, they do build on existing federal regulations promulgated by the EPA and Housing and Urban Development (HUD) related to the Residential Lead-Based Paint Hazard Reduction Act.

Alternatives:

Since promulgation of these regulations are required by Public Health Law § 1377(6) and (7), no other alternatives were considered.

Federal Standards:

There are no federal standards for administering a lead rental registry or conducting proactive lead hazard inspections. However, the EPA oversees a Risk Assessor Certification Program to license professionals conducting Lead Risk Assessments as well as Lead Renovation, Repair, and Painting and Lead Abatement contractor certifications to support use of lead safe work practices.

Compliance Schedule:

This proposed rule will become effective immediately upon adoption. Beginning on November 3, 2025, the effective date of PHL § 1377, regulated entities can register, inspect, and submit a Lead Safety Certification throughout the three-year monitoring period. If lead hazards are identified, regulated entities must take actions immediately to address the lead hazards as appropriate to receive a Lead Safety Certification.

#### **Revised Regulatory Flexibility Analysis**

Changes made to the last published rule do not necessitate revision to the previously published RFA.

#### **Revised Rural Area Flexibility Analysis**

Changes made to the last published rule do not necessitate revision to the previously published RAFA.

#### **Revised Job Impact Statement**

Changes made to the last published rule do not necessitate revision to the previously published JIS.

#### **Initial Review of Rule**

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2029, which is no later than the 3rd year after the year in which this rule is being adopted.

#### **Assessment of Public Comment**

The New York State Department of Health (Department) received twelve public comments by email on the revised rulemaking published in the State Register on December 3, 2025. Commenters included public health, environmental, and medical professionals, an advocacy group, Local Health Departments (LHDs) and municipal governments, and various associations. Additionally, representatives from several organizations, including subject matter experts and physicians, collaborated to provide one set of comments.

Commenters shared concerns over specific definitions in Subpart 67-5. Concerns regarding the definition of lead-based paint hazards included a request that it match the US Environmental Protection Agency (EPA) definition and mention friction and impact surfaces, and an objection to using the current EPA definition of lead-based paint (1.0 mg/cm<sup>2</sup>) on grounds that it is not sufficiently health-protective. Commenters also requested the Department add a definition for 'recurring lead hazards' to section 67-5.2. The Department believes the definitions are science-based and sufficient for consistent and statewide implementation of the regulations. Additional details will be provided in guidance for LHD implementation. No revisions were made based on these comments.

Commenters suggested the definition of 'Owner' in section 67-5.2 is too broad and implicates tenants as a potential owner. The Department reviewed the definition of 'Owner' and removed the word 'lessee' to ensure that property owner responsibilities cannot fall to tenants.

Commenters expressed concern over the impact of Subpart 67-5 on property owners. Concerns included impacts to rental or leasing processes and rental licensing, increased lawsuit risk, and inadequate resources to perform remediation. Commenters requested the Department add detail on tenant access procedures and documentation requirements. Several components of these comments were outside the scope of Subpart 67-5. The Department provided details on available funding to assist with remediations, clarified that property owners have both the authority and responsibility to grant access for statutory inspection purposes, and reiterated the importance of protecting children from the harmful impacts of lead poisoning. Any negative consequences of this rulemaking will be monitored, and additional guidance will be provided to LHDs as needed. No changes were made in response to these comments.

Commenters expressed several concerns regarding lead hazard provisions for soil in Subpart 67-5. Specifically, they stated the regulations lack clarity and the definition of 'visual lead soil hazard' should apply to the

entire yard. Commenters conveyed that the EPA definition of ‘soil hazards’ is not protective and that exceptions to the soil requirement should not be allowed in times of inclement weather. The intent of PHL and Subpart 67-5 is to reduce the potential for lead exposure. Focusing efforts to address bare soil in areas where people are likely to spend time is appropriate. During times of snow cover, soil does not present a direct exposure concern. Property owners and tenants are encouraged through the Department’s website to identify any hazards that may arise following snow melt or other changes. Tenants are encouraged to notify property owners promptly of any hazards and request repair or notify their LHD for follow-up. No changes were made in response to these comments.

Several commenters expressed the opinion that Subpart 67-5 is unclear and lacks detail for successful implementation. Examples include objection to the term ‘manner acceptable to the Department’ and reliance on guidance, templates and forms to outline aspects of the program. The Department asserts that Subpart 67-5 provides adequate detail for property owner compliance and tenant education. Guidance, templates and forms are routinely provided to LHDs and stakeholders. No revisions were made in response to these comments.

One commenter raised concern that the Department was exceeding its authority by allowing exemptions in Subpart 67-5 and for allowing remediation instead of abatement. The Department is authorized to interpret the statute and make reasonable determinations as to whether a specific property falls outside of the statutory requirements of PHL § 1377. The Department also notes that the statute does not reference abatement. No revisions were made in response to this comment.

One commenter posed questions on how Subpart 67-5 would impact Local Code Enforcement processes and protocols. The commenter raised concerns with Code Enforcement Officer authority and increased workload for officers. Several questions were outside the scope of Subpart 67-5 and were forwarded to NYS Department of State for consideration. The Department clarified that officers working in municipal Certificate of Occupancy programs with LHDs fall under the definition of ‘designated representative’ and therefore possess inspection and certificate issuance authority. The Department understands the workload concerns, and procedural solutions will be addressed through collaboration with the NYS Department of State and in guidance.

Commenters raised questions over inspector credentials and EPA Risk Assessor certification requirements in Subpart 67-5. The Department establishes training standards to ensure that LHD staff are qualified to identify and assess hazards pertinent to our childhood lead poisoning prevention programs including the Rental Registry. LHD staff working on these programs are trained by EPA-certified Lead Risk Assessors. No changes were made in response to these comments.

Commenters expressed the need for transparency and public access to the Rental Registry. The Department intends to make some information collected through the Rental Registry data system publicly available and accessible and will also meet the reporting requirements outlined in PHL § 1377(11). No changes were made in response to these comments.

Commenters requested that Subpart 67-5 incentivize permanent abatement and raised concerns with the allowance of paint film stabilization and interim controls. The Department clarified that permanent abatement is incentivized by the availability of an exemption from future inspection requirements upon full abatement, as well as by the availability of remediation funds that prioritize full abatement. Paint film stabilization is a less costly remediation method that can control exposure to lead with regular maintenance. Interim controls are intended to be used prior to remediation to offer immediate, albeit temporary protections for tenants. No changes were made in response to these comments.

Several commenters stated section 67-5.8 does not offer adequate tenant protections. Specific requests included provisions to strengthen tenant protections during remediation; to address landlord retaliation; to clarify how written notices must be provided; to increase funds for tenant relocation; and to specify mechanisms by which tenants can report hazards. Tenant protections in section 67-5.8 are within the enforcement authority and capacity of the Department and LHDs. Standard forms, templates, and outreach materials will be provided and will convey safety information, recourse options, and guidance for tenants to report new hazards or unsafe remediation work. Funding is available for tenant relocation through the NYS Homes and Community Renewal Leading in Lead Pilot Program. No changes were made in response to these comments.

Commenters raised concerns about dust wipe sampling protocols, requesting that Subpart 67-5 reference EPA and/or HUD sampling protocols, specify that the Department has the authority to update dust wipe thresholds and require dust wipe sampling of open porches. The Department has not incorporated HUD sampling protocols by reference, though Section 67-5.10 adopted EPA dust wipe and soil sampling standards memorialized at 40 CFR 745.65 through incorporation by reference. If the EPA modifies its standards, the Department will reevaluate and update the regulations as it deems necessary. Due to a lack of EPA stan-

dards for dust wipe sampling of exterior surfaces, the Department believes it is not technically feasible to require dust wipe sampling of exterior porch floors. No changes were made in response to these comments.

Commenters requested more specificity in Subpart 67-5 for enforcement, notice requirements and appeal rights, and procedures for false certifications. Enforcement requirements and appeal rights are included in PHL § 1375 and § 1377 and cannot be substantively changed in regulation. Procedures for addressing false certifications are outlined in Section 67-5.9(b). Further instruction on enforcement procedures will be provided in guidance to LHDs. No changes were made in response to these comments.

One commenter requested clarification on the exemption process and asked whether LHDs must confirm a dwelling is free of lead-based paint with XRF analysis and dust wipe sampling, or if they can accept third-party documentation. LHDs may rely on third party documentation of a surface-by-surface lead paint analyzer inspection for the purposes of exemption; however, the Department, an LHD or its designated representative must confirm the findings via an onsite audit. The collection of dust wipe samples during such audit are not required. Additional information will be provided in guidance to the LHDs. No changes were made in response to this comment.

A commenter suggested that Naturally Occurring Retirement Communities where homeowners age in place should be exempt from Subpart 67-5. Section 67-5.5(n)(3) outlines an exemption option to inspection and dust wipe sampling requirements for owner-occupied units or units occupied by the owner’s immediate family. The Department recognizes that there may be unique housing scenarios that do not fall within the intent of PHL § 1377. LHDs, in consultation with the Department, can examine the applicability of PHL § 1377 and Subpart 67-5 in relation to these scenarios as they occur. No changes were made in response to this comment.

One commenter requested the term ‘certified inspector’ appearing in section 67-5.6(a) be replaced with ‘qualified inspector’ and that a definition for ‘qualified inspector’ be added. Certified inspector was a typographical error and the Department has corrected the term to ‘qualified inspector,’ as used elsewhere throughout the regulation.

One comment requested a definition and specific criteria for identifying the “communities of concern.” The phrase “communities of concern” has been clearly defined at PHL § 1370-a(3), and has been used to map such communities since 2014. While the Department provided zip code level criteria for its current determinations about the boundaries of Communities of Concern, flexibility was given to LHDs to further refine the areas based on locally available information. Changes to the boundaries must be reviewed and approved by the Department. No changes were made in response to this comment.

Some commenters suggested a phased roll-out of the Rental Registry program or a postponed start to allow owners more time to prepare. Implementation and compliance dates are mandated by PHL § 1377 and the Department does not have the authority to change the deadlines in regulation.

[REDACTED]