DISTRICT OF COLUMBIA

OFFICIAL CODE

TITLE 8.

ENVIRONMENTAL AND ANIMAL CONTROL AND PROTECTION.

CHAPTER 2A.

LEAD-HAZARD PREVENTION AND ELIMINATION.

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DISTRICT OF COLUMBIA OFFICIAL CODE

CHAPTER 2A. LEAD-HAZARD PREVENTION AND ELIMINATION.

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CHAPTER 2A. LEAD-HAZARD PREVENTION AND ELIMINATION.

§ 8-231.01. DEFINITIONS.

For the purposes of this chapter, the term:

(1) "Abatement" means any measure or a set of measures, except interim controls, that eliminates lead-based paint hazards by either the removal of paint and dust, the enclosure or encapsulation of lead-based paint, the replacement of painted surfaces or fixtures, or the removal or covering of soil, and all preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures.

(2) "Accredited training provider" means a training provider that has been approved by the Mayor to provide training for individuals who conduct lead-based paint activities.

(3) "Business entity" means a partnership, firm, company, association, corporation, sole proprietorship, government, quasi-government entity, nonprofit organization, or other business concern.

(4) "Child-occupied facility" means a building, or portion of a building, constructed prior to 1978, which as part of its function receives children under the age of 6 on a regular basis, and is required to obtain a certificate of occupancy as a precondition to performing that function. The term "child-occupied facility" may include a preschool, and kindergarten classroom, and child development facility licensed under subchapter II of Chapter 20 of Title 7. The location of a child-occupied facility as part of a larger structure does not make the entire structure a child-occupied facility. Only the portion of the facility occupied or regularly visited by children under age 6 shall be considered the child-occupied facility.

(5) "Clearance examination" is an evaluation of a property to determine whether the property is free of any deteriorated lead-based paint and underlying condition, or any lead-based paint hazard, underlying condition, lead-contaminated dust, and lead-contaminated soil hazards, that is conducted by a certified risk assessor, a lead-based paint inspector, or in accordance with limitations specified by statute or by rule, a dust sampling technician.

(6) "Clearance report" means a report issued by a risk assessor, a lead-based paint inspector, or a dust sampling technician that finds that the area tested has passed a clearance examination, and that specifies the steps taken to ensure the absence of lead-based paint hazards, including confirmation that any encapsulation performed as part of a lead hazard abatement strategy was performed in accordance with the manufacturer's specifications.

(7) "Containment" means a system, process, or barrier used to contain lead-based paint hazards inside a work area.

(8) "Day" means a calendar day.

(9) "Deteriorated paint" means paint that is cracking, flaking, chipping, peeling, chalking, not intact, or otherwise separating from the substrate of a building component, except that pinholes and hairline fractures attributable to the settling of a building shall not be considered deteriorated paint.

(9A) "Dust action level" means the concentration of lead that constitutes a lead-based paint hazard for dust and requires lead-based paint hazard elimination.

(10) "Dust sampling technician" means an individual who:

(A) Has successfully completed an accredited training program;

(B) Has been certified to perform a visual inspection of a property to confirm that no deteriorated paint is visible at the property, and to sample for the presence of lead in dust for the purposes of certain clearance testing and lead dust hazard identification; and

(C) Provides a report explaining the results of the visual inspection and dust sampling.

(11) "Dwelling unit" means a room or group of rooms that form a single independent habitable unit for permanent occupation by one or more individuals, that has living facilities with permanent provisions

for living, sleeping, eating, and sanitation. The term "dwelling unit" does not include:

(A) A unit within a hotel, motel, or seasonal or transient facility, unless such unit is or will be occupied by a person at risk for a period exceeding 30 days;

(B) An area within the dwelling unit that is secured and accessible only to authorized personnel;

(C) Housing for the elderly, or a dwelling unit designated exclusively for persons with disabilities, unless a person at risk resides or is expected to reside in the dwelling unit or visit the dwelling unit on a regular basis; or

(D) An unoccupied dwelling unit that is to be demolished; provided, that the dwelling unit will remain unoccupied until demolition.

(12) "EBL child" means a child with an elevated blood lead level.

(13) "Elevated blood lead level" means the concentration of lead in a sample of whole blood equal to or greater than 10 micrograms of lead per deciliter (<>g/dL) of blood , or such more stringent standard as may be established by the U.S. Centers for Disease Control and Prevention as the appropriate level of concern, or adopted by the Mayor by rule.

(14) "Encapsulation" means the application of a covering or coating that acts as a barrier between the lead-based paint and the environment, and that relies for its durability on adhesion between the encapsulant and the painted surface and on the integrity of the existing bonds between paint layers and between the paint and the substrate.

(15) "Enclosure" means the use of rigid, durable construction materials that are mechanically fastened to the substrate to act as a barrier between lead-based paint and the environment.

(16) "EPA" means the federal Environmental Protection Agency.

(17) "Exterior surfaces" means:

(A) All surfaces that are attached to the outside of a property;

(B) All structures that are appurtenances to a property;

(C) Fences that are a part of the property; and

(D) For a property within a multi-unit dwelling, all painted surfaces in stairways, hallways, entrance areas, recreation areas, laundry areas, and garages that are common to individual dwelling units or located on the property.

(18) "HUD" means the federal Department of Housing and Urban Development.

(19) "Interim controls" means a set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs.

(20) "Lead-based paint" means any paint or other surface coating containing lead or lead in its compounds in any quantity exceeding 0.5% of the total weight of the material or more than one milligram per square centimeter (1.0 mg/cm^2), or such more stringent standards as may be specified in federal law or regulations promulgated by EPA or HUD, which shall be adopted by the Mayor by rule.

(21) "Lead-based paint activities" means the identification, risk assessment, inspection, abatement, use of interim controls, or elimination of lead-based paint, lead-based paint hazards, lead-contaminated dust, and lead-contaminated soil, and all planning, project designing, and supervision associated with any of the these activities.

(22) "Lead-based paint hazard" means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, deteriorated lead-based paint or presumed lead-based paint, or lead-based paint or presumed lead-based paint that is disturbed without containment.

(23) "Lead-based paint inspector" or " inspector" means an individual who has been trained by an accredited training provider and certified to conduct lead inspections. For the purpose of clearance testing, a certified lead-based paint inspector also samples for the presence of lead in dust and in bare soil.

(24) "Lead-contaminated dust" means surface dust based on a wipe sample that contains a mass per area concentration of lead equal to or exceeding:

(A) For dust action levels or for the purpose of clearance examination:

(i) 40 micrograms per square foot ("<>g/ft^2") on floors; or

(ii) 250 <>g/ft^2 on interior windowsills;

(B) For the purpose of clearance examination:

(i) 400 <>g/ft^2 on window troughs; or

(ii) 800 <>g/ft^2 on concrete or other rough exterior surfaces; or

(C) Such more stringent standards as may be:

(i)(I) Specified in federal law; or

(II) Specified in regulations promulgated by the United States Environmental Protection Agency or the United States Department of Housing and Urban Development; or

(ii) Adopted by the Mayor by rule.

(25) "Lead-contaminated soil" means bare soil on real property that contains lead in excess of 400 ppm, or such other more stringent level specified in federal law or regulations promulgated by EPA or HUD, and adopted by the Mayor by rule.

(26) "Lead-disclosure form" means the form developed by the Mayor for a property owner to disclose an owner's knowledge of any lead-based paint or of any lead- based paint hazards, and information about any pending actions ordered by the Mayor pursuant to this law, to tenants, purchasers, or prospective tenants or purchasers.

(27) "Lead-free property" means a property that contains no lead-contaminated soil, and the interior and exterior surfaces do not contain any lead-based paint or other surface coatings that contain lead equal to or in excess of one milligram per square centimeter (1.0 mg/cm^2).

(28) "Lead-free unit" means a unit for which the interior and exterior surfaces appurtenant to the unit do not contain any lead-based paint or other surface coatings that contain lead equal to or in excess of one milligram per square centimeter (1.0 mg/cm^2), and for which the approaches thereto remain lead-safe. The Mayor, by rule, may establish a method to ensure that approaches to lead-free units remain lead-safe.

(29) "Lead-safe work practices" means a prescribed set of activities that, taken together, ensure that any work that disturbs a painted surface on a structure constructed prior to 1978 generates a minimum of dust and debris, that any dust or debris generated is contained within the immediate work area, that access to the work area by non-workers is effectively limited, that the work area is thoroughly cleaned so as to remove all lead-contaminated dust and debris, and that all such dust and debris is disposed of in an appropriate manner, all in accordance with the methods and standards established by the Mayor by rule consistent with applicable federal requirements, as they may be amended.

(30) "Owner" means a person, firm, partnership, corporation, guardian, conservator, receiver, trustee, executor, legal representative, registered agent, or the federal government, who alone or jointly and severally with others, owns, holds, or controls the whole or any part of the freehold or leasehold interest to any property, with or without actual possession.

(31) "Person at risk" means a child under age 6 or a pregnant woman.

(32) "Presumed lead-based paint" means paint or other surface coating affixed to a component in or on a dwelling unit or child-occupied facility, constructed prior to 1978.

(33) "Relocation expenses" means reasonable expenses directly related to relocation to temporary replacement housing that complies with the requirements of this chapter, including:

(A) Moving and hauling expenses;

(B) Payment of a security deposit;

(C) The cost of replacement housing; provided, that the tenant continues to pay the rent on the dwelling unit from which the tenant has been relocated; and

(D) Installation and connection of utilities and appliances.

(34) "Renovation" means the modification of any existing structure or portion thereof, that results in the disturbance of painted surfaces, unless that activity is performed as part of an abatement. The term "renovation" includes the removal, modification, or repair of painted surfaces or painted components, the removal of building components, weatherization projects, and interim controls that disturb painted surfaces.

(35) "Renovator" means an individual who either performs or directs workers who perform renovations. A certified renovator is a renovator who has successfully completed a renovator course accredited by EPA or by the District.

(36) "Risk assessment" means an on-site investigation to determine and report the existence, nature, severity, and location of conditions conducive to lead poisoning, including:

(A) The gathering of information regarding the age and history of the housing and occupancy by persons at risk;

(B) A visual inspection of the property;

(C) Dust wipe sampling, soil sampling, and paint testing, as appropriate;

(D) Other activity as may be appropriate;

(E) Provision of a report explaining the results of the investigation; and

(F) Any additional requirements as determined by the Mayor.

(37) "Risk assessor" means an individual who has been trained by an accredited training program and certified to conduct risk assessments.

(38) "Underlying condition" means the source of water intrusion or other problem that is causing paint to deteriorate which may be damaging the substrate of a painted surface.

(Mar. 31, 2009, D.C. Law 17-381, § 2, 56 DCR 1596; Mar. 31, 2011, D.C. Law 18-348, § 2(a), 58 DCR 717; Sept. 26, 2012, D.C. Law 19-171, § 60(a), 59 DCR 6190.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 18-348, in par. (1), substituted "a set of measures, except interim controls, that eliminates" for "set of measures that eliminate"; in pars. (4), (29), and (32), substituted "1978," for "March 1, 1978,"; added par. (9A); in par. (13), substituted "or adopted by the Mayor" for "and adopted by the Mayor"; in par. (20), substituted "which shall be adopted" for "and adopted"; rewrote par. (24); in par. (26), substituted "lead-based paint hazards" for "lead hazards" and substituted "to tenants, purchasers, or prospective tenants or purchasers" for "to prospective rental tenants". Prior to amendment, par. (24) read as follows:

"(24) 'Lead-contaminated dust' means surface dust that contains a mass per area concentration of lead equal to or exceeding 40 micrograms per square foot ('<<mu>>g/ft2 <<SYM>>) on floors or 250 <<mu>>g/ft2 on interior windowsills based on wipe sample, or, for the purpose of clearance examination, 400 <<mu>>g/ft2 on window troughs based on wipe sample, or such more stringent standards as may be specified in federal law or regulations promulgated by EPA or HUD, and adopted by the Mayor by rule."

D.C. Law 19-171, in par. (29), validated a previously made technical correction in the punctuation.

Legislative History of Laws

Law 17-381, the "Lead-Hazard Prevention and Elimination Act of 2008", was introduced in Council and assigned Bill No. 17-936 which was referred to the Committee on Public Works and the Environment. The Bill was adopted on first and second readings on December 2, 2008, and December 16, 2008, respectively. Signed by the Mayor on January 29, 2009, it was assigned Act No. 17-722 and transmitted to both Houses of Congress for its review. D.C. Law 17-381 became effective on March 31, 2009.

Law 18-348, the "Lead Hazard Prevention and Elimination Amendment Act of 2010", was introduced in Council and assigned Bill No. 18-64, which was referred to the Committee Government Operations and the Environment. The Bill was adopted on first and second readings on November 23, 2010, and December 7, 2010, respectively. Signed by the Mayor on January 19, 2011, it was assigned Act No. 18-697 and transmitted to both Houses of Congress for its review. D.C. Law 18- 348 became effective on March 31, 2011.

For history of Law 19-171, see notes under § 8-105.02.

Delegation of Authority

Delegation of Authority--Lead-Hazard Prevention and Elimination Act of 2008, see Mayor's Order 2009-113, June 18, 2009 (56 DCR 6861).

§ 8-231.02. PROHIBITIONS.

(a) All dwelling units, common areas of multifamily properties, and child-occupied facilities constructed prior to 1978 shall be maintained free of lead-based paint hazards.

(b) No person shall apply a lead-based paint or glaze to any surface, including the interior and exterior surfaces, of any residential, public, or commercial building, bridge, or other structure or superstructure, or on any paved surface.

(c) Notwithstanding any other provision of law, the District government may deny any license, registration, or permit relating to the use or occupancy of a child-occupied facility or dwelling unit to an owner of that property if the owner is in violation of this chapter.

(Mar. 31, 2009, D.C. Law 17-381, § 3, 56 DCR 1596; Mar. 31, 2011, D.C. Law 18-348, § 2(b), 58 DCR 717; Sept. 26, 2012, D.C. Law 19-171, § 60(b), 59 DCR 6190.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 18-348, in subsec. (a), deleted "March 1," following "prior to".

D.C. Law 19-171, in subsec. (a), validated a previously made technical correction in the punctuation.

Legislative History of Laws

For Law 17-381, see notes following § 8-231.01.

For history of Law 18-348, see notes under § 8-231.01.

For history of Law 19-171, see notes under § 8-105.02.

§ 8-231.03. RISK REDUCTION OF LEAD-BASED PAINT HAZARDS.

(a) Whenever a child under age 6 with an elevated blood lead level resides in, or regularly visits a dwelling unit or child-occupied facility in the District, or upon reasonable belief that any other property located in the District may have contributed to a child's lead exposure, the Mayor shall conduct a risk assessment of the appropriate properties, and the owner, occupant or owner's agent shall cooperate with and shall not impede the Mayor's conduct of such assessment.

(b) Upon reasonable belief, which may be based upon a request by a tenant or may be based on other information, that there is risk of a lead-based paint hazard in a dwelling unit, accessible common area, or child-occupied facility constructed before 1978, the Mayor shall take action, which may include a risk assessment, clearance examination, or visual examination of the dwelling unit, accessible common area, or child-occupied facility, and provide a report to the owner and the tenant.

(c) Whenever action taken by the Mayor pursuant to subsection (a) or (b) of this section identifies lead-based paint hazards, the Mayor shall determine the actions necessary to eliminate the lead-based paint hazards at the property, including abatement or interim controls, and may order the property owner to perform any action considered necessary by the Mayor to protect the health and safety of the occupants of the property, including relocation in accordance with subsection (d)(1)(D) of this section.

(d)(1) Upon receipt of an order from the Mayor described in subsection (c) of this section, the owner of the property shall:

(A) Perform the measures required by the Mayor to eliminate any lead-based paint hazards and underlying conditions;

(B) Obtain a permit from the Mayor, if the elimination of lead-based paint hazards and underlying conditions employs abatement;

(C) Ensure that any individual working to eliminate identified or presumed lead hazards:

(i) Abides by the work practice standards of § 8-231.11; and

(ii) Is trained in lead-safe work practices.

(D) Make temporary comparable alternative arrangements for the relocation of any person at risk who is a tenant residing at the property, as determined by the Mayor, in accordance with paragraph (2) of this subsection; and

(E) Reimburse the Mayor for the costs associated with conducting the risk assessment.

(2)(A) The owner shall pay all reasonable temporary relocation expenses that may be required until the dwelling unit has passed a clearance examination and a reasonable amount of time has passed to allow the tenant to return to the dwelling unit, unless a risk assessment report issued by the Mayor states that temporary tenant relocation is not necessary.

(B) The Mayor shall provide a tenant with a copy of any order by the Mayor regarding temporary relocation within 5 days of issue. Before any relocation of a tenant, the owner shall provide the tenant with at least 14 days of written notice, unless a shorter time period is ordered by the Mayor or agreed to by the owner and the tenant. The owner shall make all reasonable efforts to provide to the tenant as early as possible before the commencement of the proposed relocation the contact information and address of the temporary unit and a statement that the tenant has the a right to return to the unit at the conclusion of work to eliminate any lead-based paint hazards and underlying conditions, and under the same terms.

(C) The owner shall make all reasonable efforts to minimize the duration of any temporary relocation, and shall determine whether there are any appropriate temporary relocation units within the same housing accommodation.

(D) The owner shall make all reasonable efforts to ensure that the household is relocated to a dwelling unit that is in the same school district or ward, near public transportation, as appropriate.

(E) The tenant has a right to return to the unit under the same terms at the conclusion of the work to eliminate lead-based paint hazards.

(F) In lieu of relocation to a dwelling unit identified by the owner, the tenant may agree to make alternative arrangements for temporary relocation.

(3) The owner shall comply with requirements of this subsection within 30 days of receipt of a written

order from the Mayor, unless otherwise directed on the notice. The 30-day time period may be extended by the Mayor, in increments of a maximum of 30 days, in response to a timely written request for extension from the owner or tenant, in such manner as required by the Mayor by rule; provided, that the Mayor shall extend the 30-day time period only if the owner has provided a good-faith basis for the request.

(4) Upon completion of the work ordered by the Mayor in subsection (c) of this section, the owner shall submit to the Mayor and any tenant a clearance report that has been completed by a risk assessor. If the elimination of lead-based paint hazards and underlying conditions employs interim controls, the Mayor may require that the owner submit to the Mayor a clearance report periodically, as determined by the Mayor, following the date of the initial clearance report.

(e) Nothing in this section shall be construed to interfere with tenants' rights under other District law. If the owner intends to substantially rehabilitate, demolish, or discontinue any housing accommodation to comply with the requirements of this chapter, the procedures set forth in §§ 42-3505.01 and 42-3507.01 shall apply.

(f) Whenever presumed lead-based paint is identified in an uncontained and non-intact condition, the Mayor shall be authorized to issue a Notice of Violation. A Notice of Violation shall include an order to repair non-intact presumed lead-based paint and its underlying cause using lead-safe work practices, and shall require production of a clearance report. Presumed lead-based paint may be rebutted by production of a lead-based paint inspection report from an inspector or risk assessor, affirming that such paint is not lead-based.

(Mar. 31, 2009, D.C. Law 17-381, § 4, 56 DCR 1596; Mar. 31, 2011, D.C. Law 18-348, § 2(c), 58 DCR 717; Sept. 26, 2012, D.C. Law 19-171, § 61(a), 59 DCR 6190.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 18- 348, in subsec. (b), substituted "shall take" for "shall, in his or her discretion" and substituted "1978," for "March 1, 1978,"; in subsec. (c), substituted "and may order the property owner to perform any action considered necessary by the Mayor to protect the health and safety of the occupants of the property, including relocation in accordance with subsection (d)(1)(D) of this section" for "and order the property owner to perform those measures required to eliminate the lead-based paint hazards and underlying conditions, and any other action considered necessary by the Mayor to protect the health and safety of the occupants of the property" ; and, in subsec. (d)(2)(A), substituted "examination and a reasonable amount of time has passed to allow the tenant to return to the dwelling unit" for "examination".

D.C. Law 19-171, in subsec. (c)(2), validated a previously made technical correction.

Legislative History of Laws

For Law 17-381, see notes following § 8-231.01.

For history of Law 18-348, see notes under § 8-231.01.

For history of Law 19-171, see notes under § 8-105.02.

§ 8-231.04. DISCLOSURE AND RISK REDUCTION REQUIREMENTS.

(a)(1) The owner of a dwelling unit constructed before 1978 shall disclose to the purchaser or tenant of the dwelling unit information reasonably known to the owner about the presence of any of the following conditions in the unit:

(A) Lead-based paint;

(B) Lead-based paint hazards; and

(C) Pending actions ordered by the Mayor pursuant to this chapter.

(2) The disclosures shall be provided on the lead disclosure form provided by the Mayor.

(3) The disclosures shall be provided before the purchaser or tenant is obligated under any contract to purchase or lease the dwelling unit.

(b) The owner of a dwelling unit constructed before 1978, which unit will be occupied or regularly visited by a person at risk, shall provide to the tenant an accurately and fully completed lead disclosure form and a clearance report issued within the previous 12 months. The disclosures required by this subsection shall be disclosed before the tenant is obligated under any contract to lease the dwelling unit.

(c) If a tenant of a dwelling unit constructed before 1978, in which unit a person at risk resides or which unit a person at risk regularly visits, notifies the owner of the property in writing that a person at risk resides in or regularly visits the dwelling unit, the owner of the dwelling unit shall provide to the tenant within 30 days a clearance report issued within the previous 12 months.

(d) Instead of providing the disclosure form and clearance report required by this section, an owner may provide:

(1) A report from a risk assessor or inspector certifying that the dwelling unit is a lead-free unit; provided, that for the purposes of this subsection, the term "lead-free unit" shall mean the definition of lead- free unit in effect at the time of unit certification; or

(2) Three clearance reports issued at least 12 months apart and within the previous 7 years; provided, that the property was not, and is not, subject to any housing code violations that occurred during the past 5 years or any that are outstanding.

(e) The owner of a dwelling unit shall provide notice to its tenants of their rights under this chapter on a form provided by the Mayor whenever the tenant executes or renews a lease for the unit and whenever the owner provides notice of a rent increase.

(f) If the owner of a dwelling unit learns of the presence of lead-based paint in a dwelling unit, the owner shall:

(1) Notify the tenant of the presence of lead-based paint within 10 days after discovering its presence; and

(2) Provide the tenant with a Lead Warning Statement described in 40 C. F.R. § 745.113 and the lead hazard information pamphlet described in section 1018 of the Residential Land-Based Paint Hazard Reduction Act of 1992, approved October 28, 1992 (106 Stat. 3910; 42 U.S.C. § 4852d); provided, that the Lead Warning Statement and lead hazard information pamphlet need not be provided if they have been provided to the tenant within the prior 12 months.

(g) Twelve months after the effective date of rules implementing this chapter, the Mayor shall submit a report on the status of the implementation of this section. The report shall include:

(1) A statement on the capacity, to date, of both the private and public sector to carry out the provisions of this section in all units in buildings built before 1950; and

(2) An analysis of other factors which may impact expanding compliance to all units in buildings built before 1950, such as existing federal requirements, cost, and liability.

(h)(1) Within 90 days after March 31, 2011, the Mayor shall:

(A) Provide the lead disclosure form to be used as the basis for the lead disclosure statement required by subsections (a) and (b) of this section; and

(B) Petition for approval from the EPA certifying that the District's form meets the federal disclosure standards.

(2) The form issued by the Mayor as required by paragraph (1)(A) of this subsection shall include all elements required by 24 CFR §§ 35.90 and 35.92 and 40 CFR § 745.107, promulgated by Lead; Requirements for Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards in Housing, Final Rule, including the Lead Warning Statement, to meet the Federal standard for use of alternative disclosure forms.

(Mar. 31, 2009, D.C. Law 17-381, § 5, 56 DCR 1596; Mar. 31, 2011, D.C. Law 18-348, § 2(d), 58 DCR 717.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 18-348, rewrote the section, which formerly read:

"(a)(1) Beginning January 1, 2010, and in accordance with the time frames established under subsection (c) of this section, owners of residential properties constructed before March 1, 1978, shall disclose to tenants information reasonably known to the owner about the presence of any of the following conditions in the unit or property:

"(A) Lead-based paint;

"(B) Lead-based paint hazards; and

"(C) Pending actions ordered by the Mayor pursuant to this chapter.

"(2) The requirements of this subsection shall be disclosed before any change in occupancy or contract for possession is executed.

"(3) Within 180 days after March 31, 2009, the Mayor shall provide the lead disclosure form to be used as the basis for the lead disclosure statement required by subsections (a) and (b) of this section.

"(b) In accordance with the time frames established under subsection (c) of this section, before a lessee is obligated under any contract to lease a residential property constructed before March 1, 1978, that will be occupied by a person at risk, the lessee shall be provided by the owner of the property a completed lead disclosure form and a clearance report issued within the previous 12 months. The requirements of this subsection do not apply to an owner who provides:

"(A) A report from a risk assessor or inspector certifying that the unit is a lead-free unit; or

"(B) Three clearance reports issued at least 12 months apart and within the previous 7 years; provided, that the owner of the property is or was not subject to any housing code violations that occurred during the past 5 years, or that are outstanding.

"(c)(1) The requirements of subsections (a) and (b) of this section shall be implemented in 3 phases, as described in paragraph (2), (3), and (4) of this subsection.

"(2)(A) Within 180 days of March 31, 2009, the requirements of subsections (a) and (b) of this section shall apply to rental dwelling units to be inhabited by persons at risk.

"(B) In a rental dwelling unit with a tenancy commencing, or with a lease agreement or lease renewal signed, after March 31, 2009, an owner shall provide, upon request, a clearance report to a tenant in whose household a person at risk resides, or regularly visits.

"(C) The owner shall provide notice to tenants of their rights under this chapter on a form provided by the Mayor.

"(3)(A) Twelve months after the effective date of regulations implementing this chapter, the Mayor shall submit a report on the status of the implementation of the first phase of this section, as described in paragraph (2) of this subsection, and the prospect of an expansion into the second phase. The report shall include:

"(i) A statement on the capacity, to date, in both the private and public sector to carry out the provisions of this section in all units in buildings built before 1950; and

"(ii) An analysis of other factors which may impact expanding compliance to all units in buildings built before 1950, such as existing federal requirements, cost, and liability.

"(B) Based on the findings of the report submitted by the Mayor as required by subparagraph (A) of this paragraph , the Mayor may submit a legislative proposal for Council consideration on expanding compliance to all units in buildings built before 1950. The Council must approve, by act, the Mayor's proposal to enact this second phase, and the approval must occur prior to the implementation of the third phase under paragraph (4) of this subsection.

"(4)(A) Twelve months after the effective date of the act approving the second phase pursuant to paragraph (3) of this subsection, the Mayor shall submit a report on the status of the implementation of the second phase. The report shall include:

"(i) A statement on the capacity, to date, in both the private and public sector to carry out the provisions of this section in all units in buildings built before 1978; and

"(ii) An analysis of other factors which may impact expanding compliance to all units in buildings built before 1978, such as existing federal requirements, cost, and liability.

"(B) The Mayor may submit a legislative proposal for Council consideration on expanding compliance to all units in buildings built before 1978. The Council must approve, by act, the Mayor's proposal to enact this third phase."

Legislative History of Laws

For Law 17-381, see notes following § 8-231.01.

For history of Law 18-348, see notes under § 8-231.01.

§ 8-231.05. RIGHT OF ENTRY, INSPECTIONS, ANALYSES, CORRECTIVE ACTIONS, AND NOTICES.

(a) Upon the presentation of appropriate credentials to the owner, agent in charge, or tenant, the Mayor shall have the right, subject to subsection (f) of this section, to enter any property or inspect any activity reasonably believed to be subject to this chapter. Upon reasonable belief of imminent threat to the health and safety of the occupants of the property, the Mayor shall have the right of entry and inspection without notice. The right of entry and inspection shall be for the following purposes:

(1) To conduct a risk assessment or inspection;

(2) To collect dust, paint chips, soil or other environmental samples and submit them to a laboratory for analysis;

(3) To inspect or copy any reports from certified personnel that the owner is required to retain under this chapter;

(4) To inspect any interior or exterior surfaces;

(5) To otherwise verify compliance with this chapter or rules implementing the chapter; or

(6) For any reason related to ensuring the safety of occupants after detection of an elevated blood lead level in the occupants of, or persons who regularly visit, the property.

(b) If the Mayor has reason to believe that either there has been a violation of this chapter or of the rules issued pursuant to this chapter, the Mayor may:

(1) Issue a cease and desist order, or any other order necessary to protect the public health or welfare and the environment, which shall take effect upon issuance;

(2) Impose fines and penalties in accordance with §§ 8-231.15 and 8- 231.16; and

(3) Request the Attorney General for the District of Columbia to commence appropriate civil action in the Superior Court of the District of Columbia to secure a temporary restraining order, a preliminary injunction, a permanent injunction, or other appropriate relief.

(c) If the Mayor is denied access to conduct a risk assessment in accordance with this chapter, the Mayor may apply to the Superior Court of the District of Columbia for a search warrant. An owner's denial of access to conduct an inspection in accordance with this section shall constitute a violation of this section, and the owner shall be subject to the civil and administrative penalties imposed by § 8-231.15 and the criminal penalties imposed by § 8-231.16.

(d) Any notice required by this chapter, or as the Mayor may prescribe by regulation, may be served upon an owner of the dwelling or agent of the owner in the same manner as a summons in a civil action, or by registered or certified mail to his or her last known address or place of residence.

(e) If any owner, individual, or business entity fails to follow any order by the Mayor, the Mayor may take the action ordered, the cost of which shall be borne by the owner, individual, or business entity and shall be a judgment against the owner, individual, or business entity, and a continuing and perpetual lien in favor of the District upon all property owned by the owner, individual, or business entity, whether real or personal. The lien shall not be valid against any bona fide purchaser, or holder of a security interest, mechanic's lien, or other creditor interest in the property, until notice of the lien is filed with the Recorder of Deeds. The lien shall be satisfied by payment of the amount of the lien to the District Treasurer.

(f) No entry or inspection of any residential premises shall be made without the permission of the occupant of the premises unless a warrant is obtained from the Superior Court of the District of Columbia pursuant to § 11-941, authorizing entry and inspection of the premises for the purpose of determining compliance with provisions of this chapter.

(Mar. 31, 2009, D.C. Law 17-381, § 6, 56 DCR 1596; Mar. 31, 2011, D.C. Law 18-348, § 2(e), 58 DCR 717.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 18-348, in subsec. (a), substituted "subsection (f) of this section" for "14 DCMR § 707.18"; in subsec. (b)(1), substituted "order, or any other order necessary to protect the public health or welfare and the environment,' for "order"; and added subsec. (f).

Legislative History of Laws

For Law 17-381, see notes following § 8-231.01.

For history of Law 18-348, see notes under § 8-231.01.

§ 8-231.06. TENANT PROVISION OF ACCESS TO DWELLING UNIT.

(a) A tenant shall allow access to his or her dwelling unit, at reasonable times, to the unit owner or the owner's employee or representative to facilitate any work or inspection required under this chapter following the provision of written notice by the owner at least 48 hours prior to the work or inspection; provided, that entry or inspection of any residential premises shall not be made without the permission of the occupant of the premises unless a warrant is obtained first from the Superior Court of the District of Columbia pursuant to § 11-941.

(b) Notice required by subsection (a) of this section shall include:

(1) A description of the general nature and locations of the planned work or inspection by the owner or his employee or representative;

(2) Related requirements for containment, occupant protection, and relocation;

(3) The expected starting and ending dates of the planned work; and

(4) Any other information prescribed by the Mayor.

(c) If the owner demonstrates to the satisfaction of the Mayor that the tenant refuses to allow access after the owner provides notice of no less than 7 days, the owner shall be exempt from meeting any requirements of this chapter that are dependent upon such access as long as that tenant occupies that dwelling unit or until the tenant provides written notice of the tenant's willingness to allow access or otherwise allows access. Nothing in this subsection shall prohibit the Mayor from ordering the owner to fulfill the tenant's reasonable conditions for access or take other action to ensure that the ordered work can

be completed.

(d) Notwithstanding subsections (a) through (c) of this subsection, if entrance is for the purpose of performing work, the tenant may deny access to any person not properly certified pursuant to § 8-231.10 to perform that work.

(Mar. 31, 2009, D.C. Law 17-381, § 7, 56 DCR 1596; Mar. 31, 2011, D.C. Law 18-348, § 2(f), 58 DCR 717.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 18-348 rewrote subsec. (a), which had read as follows:

"(a) Subject to 14 DCMR § 707.18, a tenant shall allow access to his or her dwelling unit, at reasonable times, to the owner or his or her employee or representative to facilitate any work or inspection required under this chapter following the provision of written notice by the owner at least 48 hours prior to the work or inspection."

Legislative History of Laws

For Law 17-381, see notes following § 8-231.01.

For history of Law 18-348, see notes under § 8-231.01.

§ 8-231.07. PROHIBITION AGAINST RETALIATION.

(a) A tenant may provide information to the Mayor concerning deteriorated paint or lead-based paint hazards within a property or elevated blood levels of a person at risk.

(b) The provision of information in subsection (a) of this section shall be considered tenant rights.

(Mar. 31, 2009, D.C. Law 17-381, § 8, 56 DCR 1596.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 17-381, see notes following § 8-231.01.

§ 8-231.08. PROPERTY OWNER'S CONCURRENT OBLIGATIONS.

The provisions of this chapter do not reduce, replace, or eliminate:

(1) The duties and obligations of a property owner to monitor, repair, or maintain the property as required under any applicable District law or regulation; or

(2) The authority of the Mayor to enforce applicable housing codes or to issue orders in accordance with any applicable District law or regulation.

(Mar. 31, 2009, D.C. Law 17-381, § 9, 56 DCR 1596.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 17-381, see notes following § 8-231.01.

§ 8-231.09. LEAD POISONING PREVENTION FUND.[REPEALED]

(Mar. 31, 2009, D.C. Law 17-381, § 10, 56 DCR 1596; Mar. 31, 2011, D.C. Law 18-348, § 2(g), 58 DCR 717; Sept. 14, 2011, D.C. Law 19-21, § 9090, 58 DCR 6226.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 17-381, see notes following § 8-231.01.

For history of Law 18-348, see notes under § 8-231.01.

For history of Law 19-21, see notes under § 8-102.03.

§ 8-231.10. CERTIFICATION REQUIREMENTS FOR INDIVIDUALS AND BUSINESS ENTITIES CONDUCTING LEAD-BASED PAINT ACTIVITIES.

(a) An individual or business entity shall obtain the appropriate certification from the Mayor by demonstrating compliance with subsections (b) or (c) of this section, as applicable, prior to conducting a lead-based paint activity, clearance examination, or renovation in any structure, built before 1978.

(b) An individual risk assessor, inspector, dust sampling technician, renovator, and supervisor shall submit proof to the Mayor that the individual has passed an examination required by the Mayor, or EPA-approved state program, for that discipline, and:

(1) A current appropriate certification from EPA or an EPA-approved state program; or

(2) Proof of the successful completion of an accredited training course and any required accredited review course.

(c) A business entity shall demonstrate to the satisfaction of the Mayor that all its employees and subcontractors conducting a lead-based paint activity, clearance examination, or renovation are:

(1) Certified pursuant to subsection (b) of this section;

(2) Comply with work practice rules established by the Mayor pursuant to this chapter; and

(3) Comply with all applicable federal and District laws, regulations, and rules governing the disposal of all waste containing lead.

(d) The Mayor may establish additional criteria and procedures for certification by rule.

(e) Certifications for lead-based paint activities shall expire 24 months from the date of issuance, or when otherwise determined by the Mayor. To maintain certifications for dust sampling technicians, individuals shall complete a refresher course within 5 years from the date of initial issuance of the certification.

(f) Individuals and business entities seeking certification and certification renewal in the District shall pay a reasonable fee set by the Mayor. The Mayor, by rulemaking, may revise the certification and certification renewal fees as necessary to cover the administrative costs associated with the issuance of certificates and inspection of lead-based paint activities.

(g) Except with regard to persons conducting lead-based paint activities pursuant to § 8-231.03, who must always comply with the provisions of this section, exceptions to this section are limited to the following:

(1) Individuals who perform lead-based paint activities or renovations in a residence which they own; provided, that the residence is occupied solely by the owner or the owner's immediate family, and there is no person at risk residing therein;

(2) Performance of maintenance, repair, or renovation work involving lead-based paint that results in disturbances of lead-based paint in a total of 2 square feet or less of surface area per room, except for window removal or replacement, are *de minimis* activities that do not trigger certification requirements;

(3) Individuals who perform maintenance, repair, painting, and renovation work that does not disturb painted surfaces; and

(4) Individuals who perform risk assessment and lead-based paint inspections for litigation or other forensic purpose, in compliance with all work practice rules established by the Mayor pursuant to this chapter, by an individual who possesses the appropriate certification by EPA or an EPA-approved state program.

(Mar. 31, 2009, D.C. Law 17-381, § 11, 56 DCR 1596; Mar. 31, 2011, D.C. Law 18-348, § 2(h), 58 DCR 717; Sept. 26, 2012, D.C. Law 19-171, § 61(b), 59 DCR 6190.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 18-348, in subsec. (a), substituted "any structure" for "dwelling unit or child-occupied facility" and substituted "1978," for "March 1, 1978,".

D.C. Law 19-171, in subsec. (a), validated a previously made technical correction.

Legislative History of Laws

For Law 17-381, see notes following § 8-231.01.

For history of Law 18-348, see notes under § 8-231.01.

For history of Law 19-171, see notes under § 8-105.02.

§ 8-231.11. WORK PRACTICE STANDARDS.

(a) Any owner, individual, or business entity conducting any lead-based paint activity, or demolition, renovation, remodeling, painting, carpentry, plumbing, or other activity, that may generate lead-based paint chips, dust, or other lead-based paint debris, in or on the exterior of a dwelling unit or child-occupied

facility, built prior to 1978, shall use lead-safe work practices.

(b) In addition, any owner, individual, or business entity shall:

(1) Comply with the following work practice standards, as applicable:

(A) Work practice standards in 40 C.F.R. § 745.226 and 40 C.F.R. § 745.227, or any successor regulation of EPA;

(B) U.S. Department of Labor, Occupational Safety and Health Administration standards relating to lead, including those standards found at 29 C.F.R. § 1926.62 and 29 C.F.R. § 1910.1025, and any successor regulations;

(C) HUD Methods and Standards for Lead-Paint Hazard Evaluation and Hazard Activities contained in Chapter 35 of Title 24 of the Code of Federal Regulations, and any successor regulations; and

(D) Any other standards required by the Mayor by rule;

(2) Conform with the prohibition of unsafe practices listed at 24 C.F.R. § 35.140;

(3) Prevent paint dust, chips, debris, or residue from being dispersed onto adjacent property or increasing the risk of public exposure to lead-based paint; and

(4) Adhere to other requirements for renovations listed at 40 C.F.R. §§ 745.80 through 745.91 and any other requirements established by the Mayor.

(c) Subsection (a) of this section does not apply to the following:

(1) Individuals who perform lead-based paint activities in residences that they own; provided, that the residence is occupied by the owner or the owner's immediate family, and there is no person at risk residing therein; and

(2) Performance of maintenance, repair, or renovation work involving lead-based paint that results in disturbances of lead-based paint in a total of 2 square feet or less of surface area per room, except for window removal or replacement.

(d) No person shall cause paint dust, chips, debris, or residue to be dispersed onto adjacent property or increase the risk of public exposure to lead-based paint.

(e) Within 180 days from March 31, 2009, the Mayor shall issue rules establishing comprehensive safe work practice standards and training requirements in conformance with this section.

(f)(1) A clearance examination following elimination of a lead-based paint hazard ordered by the Mayor, or after such work performed in response to a child with an elevated blood lead level, shall not be conducted by:

(A) A risk assessor or lead inspector who is related to the owner or any tenant by blood or marriage;

(B) A risk assessor or lead inspector who is an employee or owner of the abatement firm performing the work;

(C) A risk assessor or lead inspector who is an employee or owner of an entity in which the abatement firm has a financial interest; or

(D) A dust sampling technician.

(2) In all other situations where a clearance examination is required under this chapter, the clearance examination may be performed by a lead inspector, dust sampling technician, or risk assessor, whether or not employed by the owner.

(g) Within 90 days of March 31, 2009, the Mayor shall establish certification requirements for the profession of dust sampling technician. The requirements shall include the successful completion of the appropriate course accredited by EPA under 40 C.F.R. § 745.225.

(h) All renovation work shall conform to such additional requirements as may be issued by the Mayor by rule.

(Mar. 31, 2009, D.C. Law 17-381, § 12, 56 DCR 1596; Mar. 31, 2011, D.C. Law 18-348, § 2(i), 58 DCR 717.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 18-348, in subsec. (a), substituted "1978," for "March 1, 1978,"; in subsec. (b)(1)(C), substituted "Chapter 35 of Title 24 of the Code of Federal Regulations" for "24 C.F.R. § 35.1330"; rewrote subsecs. (b)(4) and (f)(1), which had read as follows:

"(4) Adhere to other requirements established by the Mayor, or promulgated by EPA at 40 C.F.R. § 745.85."

"(f)(1) A clearance examination following either elimination of a lead-based paint hazard ordered by the Mayor, or after such work performed in response to a child with an elevated blood lead level, shall not be

conducted by a risk assessor or lead inspector who is related to the owner or any tenant by blood or marriage, or is an employee or an entity in which the individual or business entity has a financial interest, or by a dust sampling technician."

Legislative History of Laws

For Law 17-381, see notes following § 8-231.01.

For history of Law 18-348, see notes under § 8-231.01.

§ 8-231.12. ACCREDITATION OF TRAINING PROVIDERS.

(a) An individual or business entity may not provide training on performing lead-based paint activities under this chapter unless accredited by the Mayor in accordance with this section.

(b)(1) To receive accreditation, a training provider shall:

(A) Submit an application to the Mayor that shall include the following information:

(i) Qualifications of all training managers and instructors;

(ii) Copies of all instructor and student course materials for each course offered, including materials covering requirements specific to District of Columbia statutes or regulations;

(iii) A description of the facilities and equipment available for lecture and hands-on training; and

(iv) Any other information determined by the Mayor to be necessary for approval of an application for accreditation; and

(B) Pay a reasonable application fee.

(2) The Mayor may exempt any District government agency or nonprofit organization for payment of the application fee and may revise the application fee as necessary to cover the administrative costs through rulemaking.

(c) Where appropriate, the Mayor shall accredit an educational services provider that already has been accredited by another state, EPA, or HUD, on a reciprocity basis, without a complete application; provided, that the educational services provider:

(1) Submits a copy of those portion of its course materials covering requirements specific to District statutes or regulations; and

(2) Pays the fee provided for in subsection (b)(1)(B) of this section.

(d) Accreditation by the Mayor shall expire 3 years from the date of issuance.

(Mar. 31, 2009, D.C. Law 17-381, § 13, 56 DCR 1596.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 17-381, see notes following § 8-231.01.

§ 8-231.13. RECORD KEEPING AND DISCLOSURE REQUIREMENTS.

(a) Owners, business entities, and individuals subject to this chapter shall maintain copies of any records or reports required by this chapter, for 6 years, or as the Mayor may otherwise establish by rule, and shall make those documents available for inspection by the Mayor upon request.

(b) If the Mayor is denied access to any records, reports, documents, or other data requested in connection with ensuring compliance with this chapter, the Mayor may issue a subpoena to obtain all necessary documents.

(c) An owner shall maintain copies of all lead-related reports related to the building or any part thereof and make the reports available to tenants, tenants' agents, and government officials for review and photocopying at reasonable hours and at a location reasonably close to the property.

(Mar. 31, 2009, D.C. Law 17-381, § 14, 56 DCR 1596; Mar. 31, 2011, D.C. Law 18-348, § 2(j), 58 DCR 717.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 18-348 added subsec. (c).

Legislative History of Laws

For Law 17-381, see notes following § 8-231.01.

For history of Law 18-348, see notes under § 8-231.01.

§ 8-231.14. DENIAL, SUSPENSION, OR REVOCATION.

The Mayor, after notice and opportunity for hearing, may suspend, revoke, modify, or refuse to issue, renew, or restore a certificate or accreditation issued under this chapter if the Mayor finds that the applicant or holder:

(1) Has failed to comply with any provision of this chapter or rule issued pursuant to this chapter;

(2) Has misrepresented facts relating to a lead-based paint activity to a client or customer;

(3) Has made a false statement or misrepresentation material to the issuance, modification, or renewal of a certificate, permit, or accreditation;

(4) Has submitted a false or fraudulent record, invoice, or report;

(5) As a training provider, or as an instructor, has provided inaccurate information or inadequate training;

(6) Fails to meet any qualifications required by this chapter;

(7) Does not possess proof of required accreditation, as prescribed by the Mayor;

(8) Has had a history of repeated violations; or

(9) Has had a certificate, permit, or accreditation denied, revoked, or suspended in another state or jurisdiction.

(Mar. 31, 2009, D.C. Law 17-381, § 15, 56 DCR 1596.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 17-381, see notes following § 8-231.01.

§ 8-231.15. SERVING OF NOTICE; CIVIL PENALTIES.

(a) Any notice or order served upon a respondent or other person pursuant to this chapter may be personally served, delivered to the respondent's or other person's last known home or business address and left with a person of suitable age and discretion residing or employed therein, or mailed to the respondent or other person by first-class mail to the respondent or other person's last known home or business address. When service is by mail, 5 additional days shall be added to the time period in the notice or order within which the respondent or other person may, or is required to, take any action specified in the notice order.

(b) Any violation of this chapter or implementing rule is punishable by a civil penalty not to exceed $25,000 for each day of each offense. Each day a violation continues shall be deemed a separate offense.

(c) Civil infraction fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this chapter or the rules issued under this chapter pursuant to Chapter 18 of Title 2. Adjudication of any infractions shall be pursuant to Chapter 18 of Title 2.

(d) In determining the severity of a civil penalty under subsection (a) of this section, the Superior Court of the District of Columbia shall take into account the nature, circumstances, extent, gravity, actual or potential harm to the environment, and actual or potential harm to human health, of the violation or violations and, with respect to the violator, ability to pay, any history of prior such violations, the degree of culpability, and such other matters as justice may require.

(e) The Attorney General for the District of Columbia may commence appropriate civil action in the Superior Court of the District of Columbia to secure a temporary restraining order, a preliminary injunction, a permanent injunction, or other appropriate relief to enforce compliance with the provisions of this chapter.

(f) As specified by the Mayor in rulemaking, a person adversely affected by an action taken pursuant to the provisions of this chapter, or the rules or regulations promulgated pursuant to this chapter, is entitled to a hearing before the Mayor upon filing with the Mayor, within 15 calendar days of such action, a written request for a hearing. The hearing shall be held in accordance with § 2-509.

(Mar. 31, 2009, D.C. Law 17-381, § 16, 56 DCR 1596; Mar. 31, 2011, D.C. Law 18-348, § 2(k), 58 DCR 717.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 18-348 rewrote subsec. (a), which had read as follows:

"(a) Any notice required by this chapter may be served upon an owner of the dwelling or agent of the owner in the same manner as a summons in a civil action or by registered or certified mail to his or her last known address or place of residence."

Legislative History of Laws

For Law 17-381, see notes following § 8-231.01.

For history of Law 18-348, see notes under § 8-231.01.

§ 8-231.16. CRIMINAL PENALTIES.

(a) Notwithstanding any other provision of this chapter, any person who knowingly or willingly violates the provisions of this chapter, or its implementing rules, shall be subject, upon conviction, to a fine of not more than $ 25,000 for each day of each violation, imprisonment for not more than one year, or both.

(b) Falsification of information required by this chapter shall be a violation of this chapter.

(c) In determining the severity of a criminal penalty, the Superior Court of the District of Columbia shall take into account the nature, circumstances, extent, gravity, actual or potential harm to the environment, and actual or potential harm to human health of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require.

(d) All prosecutions under this section shall be in the Superior Court of the District of Columbia in the name of the District of Columbia and shall be instituted by the Attorney General for the District of Columbia.

(Mar. 31, 2009, D.C. Law 17-381, § 17, 56 DCR 1596.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 17-381, see notes following § 8-231.01.

§ 8-231.17. NO PRIVATE RIGHT OF ACTION AGAINST THE DISTRICT.

Nothing in this chapter is intended to, or does, create a private right of action against the government of the District of Columbia and its officers, employees, agents, representatives, contractors, successors, and assigns based upon compliance or noncompliance with its provisions. No person or entity may assert any claim or right as a beneficiary or protected class under this chapter in any civil, criminal, or administrative action against the District of Columbia.

(Mar. 31, 2009, D.C. Law 17-381, § 18, 56 DCR 1596.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 17-381, see notes following § 8-231.01.

§ 8-231.18. RULEMAKING.

(a) Except as otherwise provided, the Mayor, pursuant to subchapter I of Chapter 5 of Title 2, may issue rules to implement the provisions of this chapter.

(b) Notwithstanding the requirements of § 2-522(c), where the Mayor chooses to adopt a federal regulation as the District's standard under this chapter, the Mayor may do so by incorporating the federal regulation by reference in the Notice of Intent to take rulemaking action. When incorporating the federal regulation by reference, the notice shall include a specific indication of how and where a paper or electronic copy of such document may be inspected or obtained. Any amendments to the incorporated federal rules shall be deemed to be included in the District's rules; provided, that after the initial adoption of the federal regulation, the Mayor shall annually issue a Notice of Intent to re-adopt the federal standard, in whole or in part, or announce an intent to adopt a different standard.

(Mar. 31, 2009, D.C. Law 17-381, § 19, 56 DCR 1596.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 17-381, see notes following § 8-231.01.

§ 8-231.18A. ENFORCEMENT OF HOUSING CODE REGULATIONS.

The presence of loose or peeling paint in residential premises in violation of the housing code regulations codified in Title 14 of the District of Columbia Municipal Regulations which constitutes a lead-based paint hazard under this chapter, shall be enforced by the Mayor according to the provisions of this chapter.

(Mar. 31, 2009, D.C. Law 17-381, § 19a, as added Mar. 31, 2011, D.C. Law 18-348, § 2(l), 58 DCR 717; Sept. 26, 2012, D.C. Law 19-171, § 61(c), 59 DCR 6190.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 19-171, in the section heading, validated a previously made technical correction.

Legislative History of Laws

For history of Law 18-348, see notes under § 8-231.01.

For history of Law 19-171, see notes under § 8-105.02.

§ 8-231.19. COMMON LAW UNAFFECTED.

The remedies under this chapter do not supplant rights and remedies that may be available against property owners and other liable parties under the common law.

(Mar. 31, 2009, D.C. Law 17-381, § 20, 56 DCR 1596.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 17-381, see notes following § 8-231.01.

§ 8-231.20. AUTHORIZATION TO SEEK DELEGATION.

The Mayor is authorized to take actions necessary to obtain authorization from the United States Environmental Protection Agency for the Mayor to administer and enforce state programs pursuant to the Renovation, Repair and Painting and Pre-Renovation Education programs under Part 745 of Chapter 1 of Title 40 of the Code of Federal Regulations.

(Mar. 31, 2009, D.C. Law 17-381, § 20a, as added Mar. 31, 2011, D.C. Law 18-348, § 2(m), 58 DCR 717.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-348, see notes under § 8-231.01.