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CHRISTINE C. FERGUSON
COMMISSIONER

The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
Bureau of Environmental Health Assessment
Childhood Lead Poisoning Prevention Program
250 Washington Street
Boston, MA 02108
(800)532-9571

105 CMR 460.000 REGULATIONS FOR LEAD POISONING PREVENTION AND CONTROL

460.100(D): Short Term Vacation or Recreational Rental Exemption from the Obligation to Abate and/or Contain Paint, Plaster or Other Accessible Structural Material Containing Dangerous Levels of Lead

(1) The owner(s) of a dwelling unit, including but not limited to a private residence, condominium, hotel, motel, or bed and breakfast establishment that is leased, rented or occupied for vacation or recreational purposes for a period of 31 days or less shall not be required to abate or contain any paint, plaster or other accessible structural material containing dangerous levels of lead in compliance with 105 CMR 460.110 when a child under six years of age is an occupant, upon meeting and maintaining the following conditions:

- (a) The owner or owner's agent shall visually inspect as least annually all of the interior surfaces and the exterior casing, sash and sill of all windows of the particular dwelling unit, but not interior common areas if present, to ensure that there is no cracked or otherwise deteriorated plaster or putty or peeling, chipping or flaking paint.
- (b) Any peeling, chipping or flaking paint, deteriorated plaster or putty shall be made intact according to the procedures of the Protocol for Maintaining Intact Paint issued by the Director.
- (c) The owner or owner's agent shall provide a copy of the Short-Term Vacation Rental Notification (Vacation Rental Notification) issued by the Director to each tenant with a child under six years of age.
- (d) The owner or owner's agent shall date the Vacation Rental Notification to indicate when the visual inspection was conducted and all paint, plaster and putty was intact on relevant surfaces of the dwelling unit, indicated at 105 CMR 460.100(D)(1)(a).
- (e) The owner or owner's agent shall indicate on the Vacation Rental Notification the number of days for which the dwelling unit is rented.
- (f) The owner shall write his or her telephone number on the Vacation Rental Notification so that the tenant may contact the owner for prompt repair of any deteriorated paint, plaster or putty on relevant surfaces indicated at 105 CMR 460.100(D)(1)(a). The owner may substitute the name and telephone number of an agent who is authorized to repair non-intact paint, plaster or putty.

(g) The owner or owner's agent and tenant shall sign and date the Vacation Rental Notification and retain a copy. If the owner or owner's agent has provided the tenant with the Vacation Rental Notification but the tenant refuses to sign the Vacation Rental Notification, the owner or owner's agent may attach to the Vacation Rental Notification a statement that the tenant has received the Vacation Rental Notification but the tenant has refused to sign it.

(h) If peeling, chipping, flaking paint or deteriorated plaster or putty is present on relevant surfaces of the dwelling unit, indicated at 105 CMR 460.100(D)(1)(a), or the owner fails to provide the Vacation Rental Notification in accordance with 105 CMR 460.100(D)(1)(c) through (g), the owner is not exempt from the requirements for abatement or containment at 105 CMR 460.110 or liability for damages at 105 CMR 460.180.

(2) An owner who complies with 105 CMR 460.100(D)(1)(a) through (g) may rent a dwelling unit under the Short Term Vacation or Recreation Rental Exemption for as many periods of 31 days or less as he or she may choose, provided that the same tenant with a child under six years of age does not occupy the same dwelling unit for a period of more than 31 days in any twelve-month period.

SHORT-TERM VACATION OR RENTAL EXEMPTION NOTIFICATION

Under the Massachusetts Lead Law (M.G.L. c.111, s.199B) and Regulations (105 CMR 460.100(D)), the owner of the property located at:

_____ MA _____
(street) (apt.) (city) (zip)

that is being rented or occupied for vacation purposes, certifies that: (Check One)

- all paint in the dwelling unit is intact including on the exterior parts of the windows and qualifies for an exemption from the Lead Law which requires the owner to abate or contain lead paint if a child under six years of age is in residence.
- the dwelling unit has received a compliance document certifying that the unit met standards for full deleading or interim control compliance on _____ (date). A copy of the compliance document and inspection/reinspection reports associated with this unit has been placed in the dwelling unit for review

The Department of Public Health advises parents of young children under six years of age who are tenants or occupants under this exemption for a period not to exceed a total of thirty-one days, that occupying a dwelling unit for a short period of time where lead paint is intact does not present a health hazard for children under six years of age. Should you be concerned about peeling paint that you have found in the dwelling unit, contact:

_____ Name of Owner or Agent Authorized To Make Repairs	_____ Telephone Number
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Date of Visual inspection when all paint or other coating was intact on relevant surface_____

_____ Signature of Owner or Agent Performing Visual Inspection	_____ Date
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Number of Days Rented or Occupied (Not to Exceed 31 Days) _____

_____ Signature of Tenant or Occupant with Child Under Six Years of Age	_____ Signature of Owner or Agent Presenting Notification to Tenant
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Date

Date

If peeling paint is present in the dwelling unit, the owner is not exempt from the obligations of the Lead Law.

THIS FORM MUST BE COMPLETED FOR A VALID EXEMPTION

PROTOCOL FOR MAINTAINING INTACT PAINT IN VACATION RENTAL PROPERTY

Dwelling units rented for thirty-one days or less for vacation or recreational purposes are eligible for the short-term vacation rental exemption from the Lead Law. To obtain the exemption, the owner must make sure that the interior of the dwelling unit and exterior window surfaces are free of chipping or peeling paint.

Visual Inspection of the Eligible Unit for Chipping or Peeling Paint

At least once a year, the owner or his/her agent must visually inspect any eligible unit that might be rented to a family with a child under six years of age. The Department of Public Health recommends that the yearly visual inspection (and any work needed to repair loose paint) be done before the vacation/rental season begins.

Surfaces to be visually inspected and, if necessary, repaired include:

1. those in interior rooms and areas intended for use only by the family occupying the dwelling unit:
 - bedrooms, bathrooms, screened-in porches, interior passageways, and living, dining, and kitchen areas not shared with other tenants.
2. interior and exterior surfaces of all windows located in these interior rooms and areas, including:
 - the window sashes (the part of the window that moves);
 - the parting beads (the "track" that the sashes of a double-hung window ride up and down on);
 - the window wells (where the window sash rests when the window is closed); and
 - the interior and exterior window casings, stops (the "trim" that borders the window sash) and sills.

Although not required, an owner may have testing done to determine which specific surfaces contain lead. Testing options include:

1. hiring a licensed lead inspector to do a full lead inspection;
2. hiring an inspector to perform a lead determination (the testing of a limited number of surfaces for lead);
3. sending in paint chip samples to a laboratory for analysis.

If only some of the surfaces are tested and they do not contain lead, do not assume that other surfaces on the property do not contain lead.

Performing the Repair Work Necessary to Make Loose Paint Intact

In determining who should carry out the repair work of the loose paint and how it should be done, the owner or his/her agent should estimate how much lead dust and debris will be generated. Factors to be considered include:

1. the amount of chipping or peeling paint to be repaired;

2. whether the paint contains lead (*if unknown, always assume that paint contains lead*);
3. the types of repairs required to make the paint intact:
 - minor (such as removing a few flakes of defective paint);
 - major (involves significant renovations such as the repair of a large amount of water-damaged paint and plaster).

Repair Work Generating Limited Amounts of Lead Dust and Debris

Follow these safety precautions and work practices:

Isolate rooms and areas where repair work will be done. Shut windows and doors to eliminate drafts that could spread lead dust and contaminate other areas.

Remove furnishings from areas and rooms where repairs are being done. Furniture, small appliances, throw rugs, curtains, etc. should be removed to avoid lead contamination.

Cover the floor area where the work will occur and remaining furniture and fixtures with plastic sheeting. Tape plastic floor coverings to the base of the wall. Tape plastic fixture coverings to the floor.

Shut down ventilation systems in the work area. Cover vents and registers with plastic sealed with tape.

Avoid activities that cause the ingestion or inhalation of lead dust. Do not eat, drink, smoke, or chew gum/tobacco during repair activities.

Repair surfaces with loose paint.

1. Wet surfaces with water from a spray bottle or sponge to reduce dust. (Discard sponges after use.)
2. Remove chipping and peeling paint by hand scraping.
3. Remove loose plaster and patch holes and cracks.
4. Prime and repaint surfaces.
5. Do not use power sanders, heat guns, torches, or chemical paint removers on paint or plaster known or assumed to contain lead.

Properly clean up work area.

1. Carefully remove the plastic to avoid spilling any debris.
2. Sponge all surfaces with a detergent.
3. Rinse with clear water and wipe dry with paper towels.
4. Double bag debris and dispose of in trash.
5. Do not use a household vacuum to clean the area because this will spread lead dust and contaminate the vacuum.

Repair Work Generating Significant Amounts of Lead Dust

Additional safety precautions and specialized equipment will be required to protect the health of workers and to prevent the property from being contaminated with lead dust and debris. Workers may need to wear protective clothing and respirators. Generally, more extensive steps should be taken to protect the property and furnishings from being contaminated by lead dust. A clean-up should occur at the end of the work using a detergent wash and a special vacuum called a HEPA vacuum. ***The Department highly recommends that the owner hire a licensed deleader or other trained and equipped contractor to perform the work.***

If the owner and his agents do decide to do work that would generate significant amounts of lead dust, they should call 1-800-532-9571 and request further information on how to perform the work safely. If the owner performs the work himself, the Department highly recommends that the owner hire a licensed deleader to do a thorough clean-up of the property to eliminate any lead dust.

A tenant with a child under the age of six years occupying a unit for less than thirty-one days for vacation or recreational purposes may report chipping or peeling paint to the owner or his agent. The owner must have it repaired promptly, following the general guidelines laid out above.

CLPPP Protocol 94-1