

10-144

Chapter 292

STATE OF MAINE

RULES RELATING TO THE LEAD POISONING CONTROL ACT



DEPARTMENT OF HEALTH & HUMAN SERVICES
MAINE CENTER FOR DISEASE CONTROL & PREVENTION
~~DIVISION OF DISEASE CONTROL~~
~~CHILDHOOD LEAD POISONING PREVENTION PROGRAM~~
11 STATE HOUSE STATION
AUGUSTA, MAINE 04333

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Chapter 292
Environmental and Occupational Health Program
Division of Environmental Health
Maine Center for Disease Control and Prevention
Department of Health and Human Services

STATE OF MAINE
RULES RELATING TO THE *LEAD POISONING CONTROL ACT*

SUMMARY STATEMENT

These rules were established to protect public health by ensuring that rental properties housing lead-poisoned children are abated and landlords fulfill their responsibilities as identified in the *Lead Poisoning Control Act* (22 M.R.S. §§ 1320 & 1320A).

The *rules Relating to the Lead Poisoning Control Act* are intended to clarify requirements relating to the scope of Environmental Lead Hazard Investigations when a lead poisoned child is found, clarify requirements for supplying substitute dwelling units to residents of dwellings impacted by lead hazards, describe certain requirements regarding inspections, posting and abatement orders, and also clarify the Department's enforcement authority for violations of the Act.

AUTHORITY

22 M.R.S., Chapter 252, §1315-A

EFFECTIVE DATE

~~Last amended: September 6, 2016~~

~~The effective date of these regulations is November 24, 1993.~~

Non-Discrimination Notice

In accordance with Title VI of the *Civil Rights Act of 1964*, as amended by the *Civil Rights Restoration Act of 1991* (42 U.S.C. 1981, 2000e *et seq.*) Section 504 of the *Rehabilitation Act of 1973*, as amended (29 U.S.C. 794), the *Age Discrimination Act of 1975*, as amended (42 U.S.C. 6101 *et seq.*), Title II of the *Americans with Disabilities Act of 1990* (42 U.S.C. 12101 *et seq.*), and Title IX of the *Education Amendments of 1972*, the Maine Department of Human Services does not discriminate on the basis of sex, color, national origin, disability or age in admission or access to or treatment or employment in its programs and activities.

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SECTION 1. APPLICABILITY

This rule applies to all:

- Residential dwellings and child-occupied facilities in the State of Maine, and the owners of such properties;
- All Head Start Facilities;
- All health care providers and health care facilities;
- All clinics that dispense benefits of the Women, Infant and Children Special Supplemental Food Program of the *Federal Child Nutrition Act of 1966*.

SECTION 2. VALIDITY OF LOCAL ORDINANCES

Nothing in these rules shall be construed to prevent any municipality or political subdivision from enacting or enforcing an ordinance which establishes a system of lead poisoning control that provides the same or higher standards than those provided in these regulations.

SECTION 3. DEFINITIONS

- A. Abate, Abatement or Lead Abatement** means any measure or set of measures designed to permanently eliminate lead hazards. "Abate," "Abatement," or "Lead Abatement" includes, but is not limited to:
- (1) The removal of lead-based paint and lead-contaminated dust, the permanent enclosure or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures and the removal or covering of lead-contaminated soil; and
 - (2) All preparation, cleanup and post-abatement clearance testing activities associated with such measures.
- "Abatement" does not include interim controls or renovation and remodeling as defined in The Department of Environmental Protection, Lead Management Regulations, 06-096 CMR Ch. 424. For purposes of this definition, "permanently" means for at least 20 years.
- B. Blood Lead Analysis** refers to the determination of the amount of lead found in the blood as determined by an analytical laboratory or a CLIA waived blood lead testing device
- C. Blood Lead Draw** refers to the drawing of blood from a patient through a capillary or vein to determine lead levels.
- D. Blood Lead Testing** includes the processing, analyzing and reporting of child blood lead samples.
- E. Child** means a person or persons up to 6 years of age.

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- F. Child-occupied facility** means a building or portion of a building visited regularly by the same child, up to 6 years of age, on at least 2 different days within any week, provided that each day's visit lasts at least 3 hours, the combined weekly visit lasts at least 6 hours, and the combined annual visits last at least 60 hours.
- G. CLIA** is the Clinical Laboratory Improvements Amendments, administered by the U.S. Centers for Medicare and Medicaid Services.
- H. Confirmed blood lead level** is a blood lead test result based on a venous sample analysis as per Department guidance.
- I. Department** means the Department of Health and Human Services, Environmental & Occupational Health Program.
- J. Environmental Lead Hazard** is synonymous with the term "Lead Hazard."
- K. Environmental Lead Investigation** means a detailed and extensive inspection to determine the probable cause of a case of lead poisoning in a child. An Environmental Lead Investigation may evaluate more sources than a Risk Assessment as defined in DEP rules (06-096 CMR Ch. 424).
- L. Health Care Facility** means a facility, institution or entity licensed pursuant to Maine Statute, Title 22, that offers health care to persons in Maine, including a home health care provider, hospice program and a pharmacy licensed pursuant to Maine Statute, Title 32. For the purposes of this section, "health care facility" does not include a state mental health institute, the Elizabeth Levinson Center, the Aroostook Residential Center or Freeport Towne Square.
- M. Health Care Program** refers to a program that provides services to children up to six years of age, and that provides guidance supporting well child care (such as but not limited to HeadStart and clinics that dispense benefits of the Women, Infants and Children (WIC) Special Supplemental Food Program of the federal *Child Nutrition Act of 1966*)
- N. Health Care Provider** means a person licensed by this State to provide or otherwise lawfully providing health care or a partnership or corporation made up of those persons or an officer, employee, agent or contractor of that person acting in the course and scope of employment, agency or contract related to or supportive of the provision of health care to individuals.
- O. In-Office** means, for the purpose of blood lead testing, means a location where a patient can have his or her blood drawn, analyzed and receive testing results during the same scheduled visit, so that any necessary confirmation testing can be ordered at this time, to avoid potential transportation related barriers to blood lead testing.
- P. Interim Controls** means a set of measures designed to temporarily reduce exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting stabilization, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs.
- R. Lead-based paint** means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter or equal to or in excess of 0.5% by weight.
- S. Lead-based Substance** means any substance that contains lead at a level that constitutes or potentially constitutes an environmental lead hazard.

- T. Lead-contaminated Dust** means surface dust that contains a concentration of lead equal to or exceeding ~~40 ug/ft²~~ 10 micrograms per square foot (10 ug/ft²) on floors, ~~250 ug/ft²~~ 100 ug/ft² on interior window sills, or 400 ug/ft² on window troughs, based on wipe samples, ~~and no higher than~~ or surface dust concentration levels defined in the Department of Environmental Protection rules cited in Section 3(A) above, whichever is lowest.
- U. Lead-contaminated Soil** means soil that contains an amount of lead that is equal to or exceeding 375 ppm in bare soil in play areas, or is equal to or exceeding 1,000 ppm in bare soil in building perimeter areas other than play areas, and no higher than levels defined in the Department of Environmental Protection rules cited in Section 3(A) above.
- V. Lead-contaminated Water** means water containing equal to, or exceeding, 15 ug/L (ppb) lead, and no higher than levels defined in the Department of Environmental Protection rules cited in Section 3(A) above.
- W. Lead Hazard** means any condition that may cause exposure to lead from lead-contaminated dust, lead-contaminated soil, lead-contaminated water or lead-based paint that is in poor condition as defined in the Department of Environmental Protection rules cited in Section 3(A) above. Chewable, friction and impact surfaces with lead-based paint may be identified as lead-hazards dependent upon the surface condition, location and other relevant factors. For example, chewable surfaces that evidence children's teeth marks, friction surfaces that are subject to abrasion and where the lead dust level on the nearest horizontal surface is equal to or greater than the lead dust hazard threshold defined in "Lead-contaminated dust" above, are lead hazards.
- X. Lead Inspector** means a person licensed by the Maine Department of Environmental Protection to perform lead inspections.
- Y. Lead poisoned or lead poisoning** means a confirmed blood lead level that is equal to, or exceeds, 5 micrograms of lead per deciliter of blood (5ug/dl).
- Z. Lead-safe** means a residential dwelling unit or child-occupied facility that contains no lead hazards. Note: Please note that proper building maintenance must be performed in order to remain lead-safe. Buildings with chipping or flaking lead-based paint do not meet the criteria of lead-safe.
- AA. Occupant** means a person who either resides in or regularly uses a dwelling or child-occupied facility for 6 or more hours per week.
- BB. Order to Abate** is the Department's identification of the existence of the environmental lead hazard and an order from the Department that the owner remove, replace or securely and permanently cover (abate) the lead-based substances within 30 days of the Department's notice. It may also serve as the Department's Requirement to Relocate Tenant and a Notice of Penalty Assessment, as appropriate.
- CC. Owner** means any person who individually, jointly or in common with others:
- (1) is the chief executive officer of the municipality, school administrative unit or state agency that controls the use of publicly owned property;

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- (2) is the mortgagee who has taken actual possession in accordance with applicable law. A mortgagee who has not taken actual possession is not the owner; or
- (3) is characterized by the following:
- (a) has legal title to any residential dwelling unit;
 - (b) has charge, care or control of any premises as owner or agent of the owner and has authority to expend money for compliance with the state sanitary code or as an executor, an administrator, a trustee or a guardian of the estate or the holder of legal title;
 - (c) is a real estate property manager or other entity that has the authority to fund capital or major property rehabilitation on the owner's behalf;
 - (d) is an estate or trust of which the premises is a part or the grantor or beneficiary of an estate or trust; or
 - (e) is the association of unit owners of a condominium or cooperative, which is considered as owner solely with respect to common areas and exterior surfaces and fixtures of that condominium or cooperative.
- DD. Paint** means any substance applied to a surface as a coating, including, but not limited to, household paints, varnishes and stains.
- EE. Person** means any individual, firm, corporation, association, partnership, the state, or any political subdivision of the state.
- FF. Premises** means a plotted lot or part of a plotted lot, an unplotted lot or parcel of land, including developed and undeveloped land and any structure that exists on the land, if children use the lot, parcel or structure.
- GG. Previous residence** means any residential dwelling occupied by a child prior to the primary residence, within 3 months of the identification of lead poisoning.
- HH. Primary residence** means the residential dwelling in which the child resided at the time case of lead poisoning is identified.
- II. Residential dwelling** means a structure, including common areas and appurtenant structures such as porches and stoops, which is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons, including children's homes as defined in 22 M.R.S. §8101.
- JJ. Secondary premises** means any residential dwellings that are not primary residences and/or child occupied facilities in which a child up to 6 years of age lives, visits, or is at 6 or more hours per week.
- KK. Single-Family Residence** means a residential dwelling consisting of only one dwelling unit.

- LL. State Lead Investigator** means a lead investigator who is currently licensed by the Department of Environmental Protection as a lead inspector or risk assessor, and is employed or authorized by the Department to conduct environmental lead investigations.
- MM. Substitute dwelling unit** means a dwelling unit of like or similar accommodation and in like or similar location that is lead safe, to which a family with a lead poisoned child may be moved to prevent further lead exposure of the child. The Department will determine whether a dwelling unit's accommodations are similar by evaluating measures such as, but not limited to, the number of bedrooms in the unit, presence in the same school district, similar access and commute distance to work for the tenant.

SECTION 4. ENVIRONMENTAL LEAD INVESTIGATIONS

A. General Provisions

The *Lead Poisoning Control Act*, 22 M.R.S. §§ 1320 & 1320-A specifies conditions under which the Department may perform an environmental lead investigation. Pursuant to the Act, the Department must, except in the case of an owner-occupied single-family residence, inspect any dwelling unit within the dwelling, when a lead poisoned child or lead based substance is found. These rules clarify which dwellings, premises or facilities are to be inspected, and under which circumstances inspections are required.

B. Residential Dwellings Subject to Environmental Lead Investigations

- (1) **Primary Residences:** Except in the case of an owner occupied, single family residence, all dwelling units within a residential dwelling shall be subject to an environmental lead investigation by a state lead investigator within 30 days of the discovery of any of the following circumstances:
 - (a) The primary residential dwelling or dwelling unit has a child with a case of lead poisoning; or
 - (b) Lead-based substances have been found in any dwelling unit within the dwelling where lead-based substances include lead hazards as determined by a lead inspector.
- (2) Primary Residences may be subject to an environmental lead investigation by a State lead investigator, to the extent that resources allow, when the following occurs:
 - (a) There are reasonable grounds (such as, but not limited to, evidence of chipping and peeling lead paint, as determined by a lead check performed by a third party or a positive home lead dust test kit in dwelling with children), to suspect that there are lead-based substances in, or upon, the exposed surfaces of any dwelling unit; or
 - (b) Upon request of either the owner or the occupant with whom children reside.
- (3) **Secondary premises:** May be inspected when a child remains lead poisoned and no other potential sources were identified in the child's primary residence, or the child visits such secondary premises for at least 6 hours per week.
- (4) **Previous residences:** May be inspected when no other potential sources were identified in the primary or secondary residences, or if the parent or guardian has reported the previous residence to have paint in deteriorated condition.
- (5) **New residence:** May be inspected in the event a child with a lead poisoning moves or temporarily relocates to a new residential dwelling, such new premises may be subject to an environmental lead investigation under the following circumstances:
 - (a) there is not clear evidence of a drop in the child's blood lead level; and/or

(b) there are reasonable grounds to suspect that there are lead-based substances in or upon the exposed surfaces of any dwelling unit or child occupied facility.

(6) **Single Family Owner-Occupied Residence:** The Department, at its discretion, **may** inspect an owner-occupied single-family residence whenever a lead-poisoned child has been identified as residing in or receiving care in that residence.

C. Scope of Environmental Investigations. The Department may gather relevant information pertaining to the environmental lead investigation, including, but not by way of limitation, the following:

- (1) Number of units in the building;
- (2) Number of units rented or leased to families with children up to 6 years of age;
- (3) Names and telephone numbers of adult occupants of all dwelling units in a multi-unit building;
- (4) Age and history of the building, including any renovation in both residential dwelling units and common areas; and
- (5) The collection of samples of paint, soil, dust, or water as is appropriate.

D. Notice of Environmental Lead Hazards

- (1) **Notice posted.** Upon determination of an environmental lead hazard the State lead investigator shall post in a conspicuous place or places a "notice" of the existence of the environmental lead hazards prior to leaving the dwelling on the date of the investigation. In multi-unit buildings, this notice shall be positioned in a common area for all building residents to view. The notice or notices shall be posted in such a way as to be visible to all building tenants.

This notice may not be removed until the Department demonstrates that the identified lead hazard(s) no longer exist. It is the responsibility of the owner to ensure the notice remains in place.

- (2) **Notice to All Occupants.** In the case of a rental unit, "a residential lead-based paint notice" shall also be mailed or delivered to the occupants.

E. Report to Owner and Order to Abate

- (1) **Notice to Owner.** The Department shall send a copy of the environmental lead investigation report to the owner of the residential dwelling premises, residential child-care facility or child-occupied facility. The report shall be sent by certified mail, return receipt requested.
- (2) **Order to Abate.** The Department shall order the owner to abate the environmental lead hazards identified in the environmental lead investigation report within thirty (30) days of receipt of notice.

- (3) **Extension of Time to Abate.** If the lead-based hazards cannot be removed, replaced or securely and permanently covered within 30 days, the owner, or abatement contractor, may request an extension for a reasonable period of time. The request must be made in writing to the Maine Childhood Lead Poisoning Prevention Program, and must state the work completed to date, the reason why the remaining work cannot be completed in 30 days, and an outline of an expected completion date. The Department may grant an extension in writing, to complete the abatement activity within a reasonable period of time. Additional extension requests, if needed, follow the same procedure.
- (4) In the case of an owner-occupied, single family residence, the Department may, in its discretion, provide such technical assistance and guidance to the property owner as it determines appropriate to achieve a lead-safe environment in the residential dwelling unit. The Department may provide such technical assistance and guidance, in its discretion, either in lieu of, or in coordination with an enforcement action by the Department.
- (5) **Selling of property**
 - (a) If the owner opts to sell the dwelling, premises, child care facility, premises of the family child care provider, residential child-occupied facility or nursery school prior to abatement, the owner shall notify the prospective buyer in writing of the environmental lead hazard;
 - (b) The new owner is required to assume the responsibilities for abatement and other specified actions such as but not limited to relocation, as identified in the Order to Abate.

F. Owner requirements for eviction and relocation of tenants and re-rental of units

- (1) **Eviction:** The owner may not evict any occupying family with children for the reason of the presence of lead-based paint or building materials which is unsuspected and then becomes known, in any posted dwelling unit.
- (2) **Relocation:** Until the owner complies with the ordered abatement of the lead hazards in the child-occupied dwelling unit, the owner shall relocate the occupying family to a substitute dwelling unit. The owner shall be responsible for the costs of the relocation, including, but not limited to:
 - (a) Moving expenses;
 - (b) Any use and occupancy charges, including any difference in rent, in excess of the normal monthly rent paid to the owner
 - (c) The cost of establishing utilities at the substitute dwelling unit, utility usage charges at the vacated unit until the unit is cleared for re-occupancy; and
 - (d) The security deposit and the last month's rent, if required by owner and/or being paid in installments by tenant, will be returned to the tenant for use as the security deposit and the last month's rent for a substitute dwelling unit. Any difference in cost between the security deposit/last month's rent for the affected dwelling and any security deposit/last month's rent for the substitute dwelling, will be supplied by the owner. If a security deposit/last month's rent was not

required originally, but is required for the substitute dwelling, then the owner will be responsible for payment of such expenses.

The Department may, on a case-by-case basis, waive the requirement to relocate the occupying family to a substitute dwelling unit if the Department determines that interim controls sufficiently protect children of the unit until full abatement of the lead hazards is achieved. The requirement to relocate may be reviewed and reinstated, should new information become available. Examples include, but are not limited to, an increase in blood lead levels.

- (3) **Restriction on Re-rental of Units:** A vacant or vacated dwelling that has been posted for lead hazards and ordered abated may not be rented to any tenants prior to the completion of the required abatement activities.

SECTION 5. SCREENING AND BLOOD LEAD TEST REQUIREMENTS

A. General Provisions

- (1) All health care providers must advise parents of the availability and advisability of screening their children for lead poisoning. A health care program that receives funds from the State of Maine and has a child health component must provide screening of children for lead poisoning, in accordance with rules adopted by the Department. The blood level screening and testing must be performed in accordance with this Section.
- (2) The Department may approve facilities to perform in-office blood lead testing to reduce the barrier of blood lead testing when the patient needs to travel to an offsite location (22 M.R.S. §1319-D). The following describes the conditions under which in-office blood lead testing will be approved, including the requirements for electronic data reporting.

B. Screening by Health Care Providers

For the purposes of 22 M.R.S. §1317-C(1), except as otherwise provided by these rules, all health care providers shall advise parents of the availability and advisability of screening their children for lead poisoning. A health care program that receives funds from the State and has a child health component shall provide screening of children for lead poisoning, in accordance with these rules. Screening in this context is defined as use of the “lead poisoning risk assessment tool” as described in 22 M.R.S. §1317-D(1) and appropriate follow up should blood lead testing be appropriate.

- C. Laboratory Testing:** Except as hereinafter provided by these rules, a blood sample taken from a child, by a health care provider or laboratory to test for blood lead levels should be sent to the State of Maine Health and Environmental Testing Laboratory for analysis. This requirement includes all venous draw blood lead and all capillary blood lead draws.

D. In-Office Blood Lead Testing

- (1) The Department may approve In-Office blood lead testing in locations where the patient can have a blood sample drawn, analyzed and receive the results of the analysis all during the same office visit.
- (2) CLIA waived in-office lead analyzing devices are the only blood lead analyzers approved for this purpose. Health care providers will be responsible for purchasing their own devices and supplies and maintaining the analyzer in compliance with the manufacturers’ instructions.
- (3) **Electronic Reporting Requirements**
 - (a) All in-office blood lead test results (whether elevated or not) on children prior to their sixth birthday shall be reported to the Department within 48 hours. If blood lead results are elevated or require confirmation, venous blood lead testing through the State of Maine Health and Environmental Testing Laboratory is required.
 - (b) In-office blood lead test results will be reported to the Department using a blood lead module through the ImmPact2 immunization registry. If ImmPact2 does not have lead reporting capability, the Department will make available either an

alternate secure web based or email form or fax based form until such time as ImmPact2 has blood lead reporting capability.

(c) **Approval of facilities for in-office blood lead testing**

(i) Health care providers, Head Start facilities, and clinics that dispense benefits of the Women, Infants and Children Special Supplemental Food Program of the *Federal Child Nutrition Act of 1966*, must be approved by the Department before a CLIA-waived In-Office lead analyzing device, can be used. Approval will occur every two years on the same timeline as paying the two year CLIA Waiver certificate fee. Approval will be based on meeting the intent of the legislation which is to address barriers to blood lead testing based on a patient having to travel to an offsite location to have blood drawn. Approval will depend on:

- Current use of the ImmPact2 Immunization Registry;
- Submission of a short description of the protocol for a patient whose blood lead is being tested during a single visit and the reporting of that data to the Department. Head Start facilities and clinics that dispense benefits of the Women, Infants and Children Special Supplemental Food Program of the *Federal Child Nutrition Act of 1966*, are required to describe the protocol for electronic submission of data to both the Department and the provider.
- A copy of the CLIA waiver certificate.

(ii) **Denial and review**

- (a). If an application is denied, the Department will report the reasons for the denial and any deficiencies identified can be corrected and the facility can reapply.
- (b). Reasons for denial may include:
- (1). Need for the patient to leave the health care providers offices to have blood drawn and reported to the patient.
 - (2). Lack of access to draw blood and report results to the patient within a single visit.
 - (3). Lack of access to ImmPact2 for the purpose of reporting blood lead results to the Department.
 - (4). Lack of CLIA waiver certificate.
 - (5). Not reporting blood lead test results (evaluated upon 2 year review).

SECTION 6. VIOLATIONS

The *Lead Poisoning Control Act* at 22 M.R.S. §§ 1320 and 1320-A, provides three remedies to address violations. For each violation, the Department is authorized to impose administrative penalties, pursue violations as a class E crime and/or seek a mandatory injunction to remove the lead hazards.

A. Administrative Penalties

(1) Administrative penalties may be imposed when the following occurs:

- (a) The *Lead Poisoning Control Act*, these rules, and/or an order issued pursuant to these rules, requires an action which is either not taken or not completed by a specified deadline. This trigger includes, but is not limited to, a property owner denying the Department access to inspect, removing Department postings, missing specified timelines or denying tenants' relocation (or denying reimbursement for relocation).
- (b) The *Lead Poisoning Control Act*, these rules, and/or an order issued pursuant to these rules, prohibits an action, and the action is performed. Examples include, but are not limited to, re-renting an apartment identified with a lead hazard once it has been posted and ordered to be cleared of lead-based substances, removing required posted notices or evicting a family due to notification of the presence of lead based paint.

(2) Assessment of Administrative Penalties

- (a) When the Department is considering imposing a penalty pursuant to these rules, it shall issue a notice of potential penalty assessment. The Notice of Potential Penalty Assessment may be included in an Order to Abate or a letter requiring access to a property. The Notice of Potential Penalty Assessment will identify the date after which a penalty may be assessed.
- (b) Following the date set forth in the Notice of Potential Penalty Assessment, the Department may then issue a Notice of Penalty Assessment with a specified penalty to be paid. Such notice shall state how the property owner may appeal a Notice of Penalty Assessment to the Department's Office of Administrative Hearings. Any ~~such~~ hearing resulting from such appeal, shall be governed by 10-144 *Code of Maine Rules* ("CMR") Chapter 1, Administrative Hearings Regulations. The Department may issue successive Notices of Penalty for continuing or new violations.
- (c) The penalty assessed may be no greater than \$500 per violation, per day, per dwelling unit. Each day that a violation remains uncorrected counts as a separate violation.

(3) Reduction or Waiving of Administrative Penalties: The Department may assess a penalty or waive the penalty assessed, based on, but not limited to, the following criteria:

- (a) Steps were taken by the owner to prevent the violation;

- (b) Steps were taken by the owner to mitigate the damages resulting from the violation; or
 - (c) Steps were taken to address the violation.
- (4) **Assessment of Administrative Penalties – Enforcement**

The penalty assessed may be no greater than \$500 per violation, per day, per dwelling unit. Each day during which the person fails to comply with an order of the Department constitutes a separate and distinct violation.

B. Criminal Violation.

A person who violates any section of the *Lead Poisoning Control Act* or rules adopted, pursuant to this chapter, commits a Class E crime. Violations existing with individual dwelling units are considered separate violations. The Department reserves the right to pursue any legal or equitable sanction or order available.

C. Injunction requiring removal.

If the lead based substance remains an environmental lead hazard at the expiration of 30 days or at the expiration of an extension given by the commissioner pursuant to 22 M.R.S. §1321, that is a violation of this chapter. When a violation has occurred, the Department, in addition to any other remedies it has, may seek a mandatory injunction ordering the environmental lead hazard to be removed by a suitable third party at the expense of the owner of the affected dwelling, premises, residential child-occupied facility, child care facility, premises of the family child care provider or nursery school.

EFFECTIVE DATE:

November 24, 1993

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May 5, 1996

AMENDED:

January 19, 2004 - filing 2004-16

October 20, 2012 – filing 2012-287

September 12, 2016 – filing 2016-149

April 1, 2020 – filing 2020-088 (EMERGENCY)
, 2020 – filing 2020- (ROUTINE TECHNICAL RULE)