

MDE LEAD POISONING PREVENTION PROGRAM
AFFECTED PROPERTIES & PROPERTY OWNER COMPLIANCE
FAQ's



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PURPOSE

This document serves as a guidance document for the MDE, Lead Poisoning Prevention Program. It is intended to give clarification on questions that staff may receive from the regulated community and the public in general.. Please consult with your immediate supervisor for additional information.

LEAD- 101- GENERAL- FREQUENTLY ASKED QUESTIONS

WHAT IS THE MARYLAND LEAD LAW?

Title 6, Subtitle 8, of the Environment Article, Annotated Code of Maryland, Reduction of Lead Risk in Housing (“Law”) was enacted in 1994, to reduce the incidence of lead poisoning while maintaining affordable rental housing. Currently, compliance is mandatory for rental dwelling units built prior to 1978 (Affected Properties), regardless of renovation history. The Department of the Environment (MDE or Department) was given statutory and regulatory authority to enforce provisions of the Law.

WHO IS CONSIDERED AN OWNER UNDER THE LAW?

An owner is a person, firm, corporation, vendee in possession, authorized agent, property manager, leasing agent., receiver, trustee, executor, or legal representative who, alone or jointly or severally with others, owns, holds, or controls the whole or any part of the interest to the property, with or without actual possession.

WHAT IS CONSIDERED AN AFFECTED PROPERTY UNDER THE LAW?

An Affected Property is a room or a group of rooms built prior to 1950, or effective January 1, 2015, built prior to 1978, that has separate provisions for eating, sleeping and sanitation. An Affected Property may also be a unit within a multi-family dwelling.

WHAT PROPERTIES MUST COMPLY WITH THE LAW?

The Law requires Rental properties built before 1978 (Pre-1978) to comply.

DO FEDERALLY OWNED PROPERTIES NEED TO COMPLY?

The Law requires owners of Affected Properties that are federally assisted or owned, including housing authorities and section 8 housing to comply. The property owner must also comply with any federal requirements in addition to complying with Maryland’s lead Law.

WHAT ARE CONSIDERED TEMPORARY, SEASONAL OR TRANSIENT PROPERTIES?

Pre-1978 hotels, motels, or other seasonal or transient residential facilities may be exempt from the Law if the lease demonstrates that the tenant shall leave the premises within a specified period of time, generally less than 3 months. If for any reason the tenant may continue to legally remain in the property, then the rental property is not considered temporary, seasonal, or transient and compliance with the Law is mandatory. An example of a seasonal property that is exempt from the Law is a summer rental.

DO PRIVATELY OWNED RENTAL ASSISTANCE (SECTION 8/TENANT BASED) PROPERTIES NEED TO COMPLY?

If the privately owned section 8 property is an Affected Property, meeting all requirements defined in the Law, the owner must comply with Maryland's Law. In addition to any federal requirements.

DOES HOUSING OWNED BY THE MILITARY NEED TO COMPLY?

An Affected Property that is owned by a branch of the military that is offered for rent is subject to the Law. Some members of the military may also choose to live in non-military housing that is privately owned. In these circumstances the owner of the privately owned property must comply with the Law.

Note: At this time most military housing is privately managed and or owned in part by private companies. In these situations both the military branch and the private owner may be considered owners under the Law.

DOES THE LAW APPLY TO RENTAL UNITS IN CONDOMINIUMS BUILT PRIOR TO 1978?

The Law does apply to condominium units that are rented. This includes the exterior of the condominium building which falls under the requirements of exterior surfaces under the Law. The owner of the unit being rented is required to meet the requirements of the Law.

DOES THE LAW APPLY TO PRE-1978 RENTAL UNITS IN MOBILE HOMES?

If the mobile home is an Affected Property, meeting all requirements defined in the Law, the owner must comply with the Law.

DOES THE LAW APPLY TO PRE-1978 RENTAL UNITS THAT ARE SUB-LEASED?

There may be times when the original tenant residing in a rental unit may vacate the property for a period of time and sublease the property to a second tenant. For this reason, the first tenant will actually become the owner under the Law. However, the actual owner who originally leased the property remains liable.

WHAT ARE CONSIDERED EXTERIOR SURFACES OF AN AFFECTED PROPERTY?

Exterior surfaces of an Affected Property include:

- All fences and buildings that are part of the Affected Property
- All outside areas of the Affected Property, that are attached to the outside of the Affected Property or other buildings and structures including fences, porches, play equipment, laundry poles, except those structures that are not owned or controlled by the property owner
- All painted surfaces in stairways, hallways, entrance areas. and recreation areas laundry areas and garages within a multi-family rental dwelling unit

ARE OUTBUILDINGS, SUCH AS BARN, SHEDS, GARAGES CONSIDERED PART OF AN AFFECTED PROPERTY?

Unless the lease specifically excludes their use of these structures, they are considered part of the Affected Property.

CAN AN OWNER GET A WINTER WAIVER TO COMPLY WITH THE LAW DURING THE WINTER MONTHS?

- An “exterior winter waiver” is an inspection option used to temporarily delay a property owner’s obligation to perform exterior paint stabilization necessary to meet the Lead Paint Risk Reduction Standards. Generally speaking, paint related work on the exterior of homes is not practical during the colder months, and that is why this option is available.
- MDE does not issue exterior winter waivers
- An exterior winter waiver may not be used to meet the lead free or limited lead free standard.
- A rental owner must contact the local code official in the specific county or municipality where the property is located

Local Codes and Contacts by County - Building Codes Administration

Note: Baltimore City will not issue winter waivers. Anne Arundel County has an automatic winter waiver codified (Title 4. Property Maintenance Code, Subtitle 4-Abatement and Demolition, § 15-4-404. Seasonal waiver for exterior violations on affected properties. [LINK](#))

- If approved the waiver period is generally granted from November 1st through April 1st.
- An accredited inspector will check the appropriate category for the exterior waiver on the lead certificate and submit to the Department
- The property owner must completed all exterior work within 30 days after the end of the applicable winter waiver period allowed by the local code official

- Once work is completed the property owner is required to have the exterior surfaces re-inspected. The inspector must perform a visual review of the exterior. If the exterior is satisfactory, the inspector must submit the Supervisor Statement of Work (Form D) to the department
- If the property is not cleared within the 30 day time period, the certificate is no longer valid.

WHAT ARE THE REQUIREMENTS UNDER THE LAW FOR A MULTI-USE BUILDING?

If the commercial building is an apartment complex with tenants, the complex is considered residential for the purpose of the Law and owners must comply. If the building is a multi-use building with commercial (retail, etc.) tenants and residential tenants, the owner must comply with the Law on the residential portion of the building. This may require the owner to ensure all exterior components of the entire building, regardless of if they are commercial, have no defective paint prior to a lead inspection.

WHAT MUST AN OWNER OF AN AFFECTED PROPERTY DO TO COMPLY WITH THE LAW?

- Register each property with the Maryland Department of Environment (MDE) and renew annually. There is a \$30 per unit registration fee that must also be paid annually.
- Property owners must obtain a lead risk reduction certificate at every change in tenancy and other triggering events.
- Property owners are required to provide education materials to tenants prior to occupancy and every two years after.
- Property owners are required to use properly accredited contractors to perform all work in Affected Properties
- Property owners are required to hire properly accredited inspectors to issue compliance certificates on Affected Properties.

NOTE: In addition to being registered with MDE, Owners may also be required to register their rental unit in the county or city where the rental property is located. MDE recommends rental owners to consult with the local jurisdiction where the rental unit is located, to determine what local ordinances require.

HOW DOES AN OWNER REGISTER WITH MDE?

If an owner has never registered with MDE, they should contact the Rental Registry Division at 410-537-4199 or 1-800-776-2706. Existing owners should renew their registration on-line.

HOW MUCH DOES IT COST TO REGISTER AN Affected Property WITH MDE?

Each unit is \$30. A single-family home rental is considered one unit and would pay \$30. A rental property with more than one unit is required to pay \$30 per unit for every unit in the building. The registration fee is an annual fee, and the property owner must renew the registration each year before December 31.

WHAT TYPE OF INSPECTION IS REQUIRED FOR TENANT TURNOVER?

An owner is required to meet the minimum lead standard, known as the Full Risk Reduction at each tenant turnover. The full risk reduction requires the property to pass an inspection for lead contaminated dust, performed by an MDE accredited inspection contractor. In order to pass the inspection the property must be free of defective paint on the interior and exterior of the property.

WHAT IS THE MINIMUM STANDARD REQUIRED FOR THE OWNER OF AN AFFECTED PROPERTY IN MARYLAND?

An owner is required to meet the Full Risk Reduction Standard prior to every change in occupancy, by having an inspection for lead contaminated dust conducted by an MDE accredited inspector. The inspector is required to perform a visual inspection to verify that the interior and exterior of the units is free of defective paint, followed by a dust inspection.

ARE BASEMENTS PART OF THE AFFECTED PROPERTY?

- In general, a basement that is accessible to the tenants and has a floor (other than dirt) is considered part of the Affected Property. The basement must meet room testing requirements depending on which standard is going to be met.
- In the event that a basement has a dirt floor, inspectors should consider this to be part of the exterior area ("other structures") of the Affected Property and will only observe the paint condition or what is required for which standard will be met.
- In the event an owner has denied access to the basement as part of the lease, they must ensure that denying access to a room is allowable under code for their county or jurisdiction. Also, if the tenant has a key, that is not denying access. MDE has no way of knowing if denying access to things like utilities (furnaces, hot water heaters and electric panel boxes) is allowed.
- It is ultimately the accredited inspectors responsibility to pass the property. If we determine that the any of the above have not been considered, MDE may choose to invalidate

WHAT INFORMATION DOES AN OWNER NEED TO PROVIDE TO TENANTS AND WHEN?

The owner must provide tenants with the “NOTICE OF TENANT RIGHTS” and “PROTECT YOUR FAMILY FROM LEAD IN YOUR HOME” brochures and a copy of the current lead inspection certificate. This information must be delivered at the start of each new tenancy and every two years after that for existing tenants.

WHAT IF AN OWNER OF AN AFFECTED PROPERTY RECEIVES A NOTICE OF DEFECT FROM THE TENANT OR SOMEONE ELSE?

Within 30 days after receipt of a written notice from the tenant, or from any other source, of the presence of defects in the unit, the owner is required to:

- Provide for the permanent relocation of all tenants to a property that is certified lead free or in compliance with the full risk reduction standard; or
- Temporarily relocated all tenants while all performing specific lead hazard reduction treatments. The lead hazard treatment must be performed by an MDE Accredited Contractors
- Once work is completed the owner is required to obtain a passing modified risk reduction certificate prior to the tenants moving back into the property.

WHAT DOES AN OWNER OF AN AFFECTED PROPERTY NEED TO DO WHEN THEY RECEIVE A NOTICE THAT A “PERSON AT RISK” RESIDES IN THEIR RENTAL PROPERTY?

Within 30 days of being notified a person at risk (pregnant woman or child under 6 years of age) has a blood lead level of 5 micrograms per deciliter or more (3.5 effective January 1, 2024) and an Environmental Investigation has identified defects, or an owner is required to:

- Provide for the permanent relocation of all tenants to a property that is certified lead free or in compliance with the full risk reduction standard; or
- Temporarily relocated all tenants while all performing specific lead hazard reduction treatments. The lead hazard treatment must be performed by an MDE Accredited Contractor
- Once work is completed the owner is required to obtain a passing modified risk reduction certificate prior to the tenants moving back into the property.

HOW CAN AN OWNER OF AN AFFECTED PROPERTY OBTAIN AN EXEMPTION TO THE LAW?

By Meeting the Lead-Free Standard

A rental dwelling unit, in which all painted surfaces on the interior and exterior of the unit are tested and identified to be below the threshold for lead in paint (below 0.7mg/cm² or paint chip samples below 0.5% by weight), may be exempt from annual MDE registration, including fees and from further risk reduction certification requirements. The owner must obtain a Lead-Free certificate issued by a properly accredited Maryland Lead Inspector to meet this exemption.

By Meeting the Limited Lead-Free Standard

A rental dwelling unit, in which all painted surfaces on the interior of the unit are tested and identified to be below the threshold for lead in paint (below 0.7mg/cm² or paint chip samples below 0.5% by weight), may be exempt from annual MDE registration, including fees and from further risk reduction certification requirements provided all exterior surfaces identified with lead are intact. When a lead paint inspection, performed by a properly accredited Maryland Lead Inspector determines that there is no lead paint on interior surfaces of the unit, but has identified lead paint on exterior surfaces, that unit may qualify for a Limited Lead- Free certificate. Once an owner is issued a Limited Lead-Free certificate, the owner must have the exterior of the unit visually re- inspected every two years on or before the date of the original inspection to ensure there is no chipping, peeling or flaking paint on those surfaces. If the re-inspection does not occur in a timely manner the original certificate is no longer valid. NOTE: These properties would still be subject to federal lead paint disclosure requirements.

Lead- Free Processing Fee

When an owner submits a lead-free or limited lead-free certificate to the Department, they are required to also submit a lead-free inspection fee payment with the appropriate processing fee. The processing fee is \$10 (per unit) for every unit represented by the certificate.

MY PRE-1978 RENTAL PROPERTY HAS BEEN COMPLETELY REHABBED AND THE ONLY THING THAT REMAINS IS THE EXISTING FOUNDATION- DOES MY PROPERTY QUALIFY FOR AN EXEMPTION?

Regardless of renovation history, all pre-1978 rental properties are subject to the lead Laws. If an owner believes there is no lead in their rental property, the owner must obtain a Lead-Free certificate issued by a properly accredited Maryland Lead Inspector to be exempt from the Law.

LEAD- 102- LESS FREQUENTLY ASKED QUESTIONS

The FAQ's under this section may need further discussion. Please consult with your immediate supervisor for additional clarification.

DOES THE LAW APPLY TO PRE-1978 HOUSING ON A FARM?

If a farmer /owner has housing on a farm that otherwise meets the definition of an Affected Property, that is available to those who pay rent, be the farm workers or others than the Law applies. To clarify, a Pre-1978 rental dwelling unit that is offered for rent to the public would be an Affected Property under the Law, regardless of its location.

A pre-1978 property that is only offered to farm workers may or may not be an Affected Property under the Law. If the owner rented the property, by payments of cash or in kind, to the farm workers, then the Law would apply. A Pre 1978 property which is provided to the farm workers, and there is no rent charged does not meet the definition of an Affected Property under the Law.

DO FRATERNITY OR SORORITY HOUSES NEED TO COMPLY?

If a pre-1978 rental property has a group of bedrooms with a shared kitchen and bathroom the owner must comply with the Law. In most instances college fraternity and sorority houses consist of a group of bedrooms and the students share a kitchen and bathroom. In these situations the property owner must obtain one certificate for the entire house in addition to annually registering with MDE. A Full Risk Reduction certificate will remain valid on the home until the entire property becomes vacant or the owner is required to respond to a Notice of Defect.

ARE THERE PENALTIES ASSOCIATED WITH NON-COMPLIANCE?

MDE is authorized to order compliance and assess administrative and/or civil penalties on property owners, contractors and inspectors.

DO HOMELESS SHELTERS NEED TO COMPLY WITH THE LAW?

In most situations homeless shelters are considered transient and are not subject to the Law. However, the Department urges owners/operators of shelters to assess whether there are any lead-based paint hazards at the facility, and to the extent lead-based paint hazards are identified, hire accredited Maryland accredited lead contractors to perform treatments to eliminate the lead hazards.