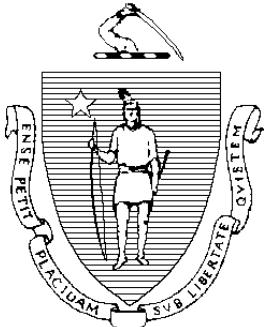


# The Massachusetts Register

**Published by:**  
**The Secretary of the Commonwealth,**  
**William Francis Galvin, Secretary**

**\$15.00**





**THE COMMONWEALTH OF MASSACHUSETTS**  
*Secretary of the Commonwealth - William Francis Galvin*

**The Massachusetts Register**  
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**Notice of Expiration of Emergency Regulation**

There are no Notices of Expiration in this *Massachusetts Register*

-

**Emergency Regulations**

<b>205 CMR</b>	<b>Massachusetts Gaming Commission</b>	
134.00	Licensing and Registration of Employees, Vendors, Junket Enterprises and Representatives, and Labor Organizations	59
	<i>Governs the licensing and registration of gaming employees, vendors, junket enterprises and representatives, and labor organizations. Ensures the Commission only requires information from the applications that are necessary to complete the background investigations.</i>	
<b>244 CMR</b>	<b>Board of Registration in Nursing</b>	
4.00	The Practice of Nursing in the Expanded Role	61
	<i>Pertains to advanced practice nursing, including prescriptive practice. Sets requirements on the prescribing of hydrocodone-only extended release medications that are not in an abuse deterrent format by registered nurses with advanced practice authorization including prescriptive practice. Intends to reduce the potential for opioid misuse, abuse and overdose.</i>	
<b>801 CMR</b>	<b>Executive Office for Administration and Finance</b>	
4.00	Rates	63
	<i>Relates to parking fees charged by the Department of Conservation and Recreation for out-of-state residents at 5 locations. Implements the program on an emergency basis, for the summer recreation season.</i>	

**Permanent Regulations**

<b>101 CMR</b>	<b>Executive Office for Health and Human Services</b>	
411.00	Rates for Certain Placement and Support Services - <i>Compliance</i>	65
420.00	Rates for Adult Long-term Residential Services - <i>Compliance</i>	67
<b>103 CMR</b>	<b>Department of Correction</b>	
924.00	County Correctional Facilities - Security and Control	69
	<i>Establishes rules and regulations to maintain physical security at the county correctional facilities. Also limits the use of restraints on pregnant and post-partum inmates while those inmates are in transit or receiving medical attention.</i>	

<b>322 CMR</b>	<b>Division of Marine Fisheries</b>	
4.00	Fishing and Shellfish Equipment	71
	<i>Moves the commercial net fishing regulations for bluefish from 322 CMR 4.05 to the bluefish management section at 322 CMR 6.18.</i>	
6.00	Regulation of Catches	73
	<i>Incorporates the commercial net fishing regulations for bluefish, previously located at 322 CMR 4.05, in the bluefish management section at 322 CMR 6.18. During the relocation sections were updated and clarified to improve the regulation.</i>	
8.00	Coastal Fisheries and Conservation Management	75
	<i>Establishes a June 10<sup>th</sup> - December 31<sup>st</sup> allowance for the use of small mesh trawls for squid south of Martha's Vineyard and Nantucket bounded 70°46' to the west and 70°00' to the east.</i>	
<b>454 CMR</b>	<b>Department of Labor Standards</b>	
22.00	Deleading and Lead-safe Renovation Regulations	77
	<i>Applies to the activities of employers, employees and others engaged in deleading of residences containing Dangerous Levels of Lead, except for the activities of: owners of residential premises and owners' agents who perform deleading work in accordance with regulations promulgated by the Director of the Childhood Lead Poisoning Prevention Program pursuant to M.G.L. c. 111, § 197(d); and contractors who, pursuant to 105 CMR 460.000, perform low-risk deleading activities in accordance with 105 CMR 460.175(A) or the activities set forth at 105 CMR 460.100(D) in or on short-term vacation or recreational rentals. Also applies to all renovation work conducted for compensation in Target Housing and Child-occupied Facilities.</i>	
<b>603 CMR</b>	<b>Department of Elementary and Secondary Education</b>	
53.00	Student Discipline	79
	<i>Establishes certain procedural requirements for student suspensions &amp; expulsions in public, charter &amp; virtual schools as required by St. 2012, c. 222, "An Act Relative to Student Access to Educational Services and Exclusion from School". Includes: minimum requirements &amp; procedures applicable to the suspension of a student under the M.G.L. c. 71, § 37H<sup>3/4</sup>; the minimum requirements &amp; procedures necessary to ensure that all students who have been suspended or expelled, have an opportunity to make academic progress during their suspension or expulsion, in accordance with M.G.L. c. 76, § 21; and the requirements for data reporting.</i>	

<b>801 CMR</b>	<b>Executive Office for Administration and Finance</b>	
55.00	IT and Facilities Infrastructure Program	81
	<i>Creates a capital program totaling no more than \$1 million in fiscal year 2015 to give grants to eligible municipalities for IT and other infrastructure projects.</i>	
<b>957 CMR</b>	<b>Center for Health Information and Analysis</b>	
7.00	Nursing Facilities Cost Reporting Requirements	83
	<i>Governs the filing requirements, procedures and time frames for nursing facilities to report their costs and other data to the Center.</i>	

## Acts 2014

CHAPTER NUMBER	BILL NUMBER	TITLE	DATE
119	H 4081	Making Appropriations for the Fiscal Year 2014 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects.	5/29/2014
120	S 2065	Relative to the Board of Health in the City of Worcester.	6/6/2014
121	S 2013	Amending the Charter of the City Known as the Town of Greenfield.	6/6/2014
122	S 1963	Designating June 14 as the Birthday of the United States Army and June 9 as General Sylvanus Thayer Day.	6/6/2014
123	S 2134	Relative to the Disability Retirement of Woburn Police Officer Robert Denapoli.	6/6/2014
124	S 1872	Authorizing the Town of Milton to Assess an Additional Amount of Real Estate and Personal Property Taxes.	6/6/2014
125	H 3630	Relative to the Town of Dennis Barrier Beach Protection Stabilization Fund.	6/6/2014
126	S 1962	Authorizing the City of Northampton to Issue an Additional License for the Sale of All Alcoholic Beverages to be Drunk on the Premises.	6/6/2014
127	H 3457	Authorizing the City of Newton to Place an Advisory Question on the Ballot.	6/6/2014
128	H 4056	Establishing a Sick Leave Bank for Anne Marie McDonough, an Employee of the Trial Court.	6/9/2014
129	H 4052	Authorizing the Town of Danvers to Grant 6 Additional Licenses for the Sale of Alcoholic Beverages to be Drunk on the Premises.	6/12/2014
130	S 2006	Authorizing the Division of Capital Asset Management and Maintenance to Convey Certain Property at Northampton State Hospital.	6/12/2014
131	S 1675	Designating a Certain Bridge in the City of Easthampton as the Korean War Veterans Memorial Bridge.	6/12/2014
132	S 2089	Relative to the Financial Condition of the City of North Adams.	6/13/2014
133	H 4053	Authorizing the City of Peabody to Grant 10 Additional Licenses for the Sale of All Alcoholic Beverages to be Drunk on the Premises.	6/13/2014
134	H 3775	Authorizing the Department of Fish and Game to Acquire Certain Parcels of Land in the Town of Grafton from the Grafton Water District.	6/13/2014

## Acts 2014

CHAPTER NUMBER	BILL NUMBER	TITLE	DATE
135	H 3814	Relative to Quincy College.	6/13/2014
136	H 4027	Establishing the Position of an Appointed Town Treasurer-Collector in the Town of Somerset.	6/17/2014
137	S 2040	Providing for Recall Elections in the Town of Lancaster.	6/17/2014
138	H 3637	Exempting Martin B. Parayno from the Maximum Age Requirement for Firefighters in the City of Methuen.	6/17/2014
139	H 880	Relative to Continuing Education Requirement for Insurance Producers.	6/17/2014
140	H 3958	Establishing a Sick Leave Bank for Anne Federico, an Employee of the Department of Public Health.	6/19/2014
141	H 3935	Relative to a Certain Parcel of Land in the Town of Stow.	6/20/2014
142	S 1995	Authorizing the Wilkinsonville Water District to Convey a Certain Parcel of Land.	6/20/2014
143	H 3734	Relative to the Substitution of Biosimilars.	6/23/2014
144	S 2195	Restoring the Minimum Wage and Providing Unemployment Insurance Reforms.	6/26/2014
145	H 4126	Extending the Statute of Limitations in Civil Child Sexual Abuse Cases.	6/26/2014
146	S 2051	Authorizing the Town of Chesterfield to Continue the Employment of Police Chief Gary Wickland.	6/26/2014
147	H 3941	Relative to the Pathfinder Regional Vocational-Technical High School District.	6/26/2014
148	S 2132	Establishing the Domestic Workers Bill of Rights.	6/26/2014
149	H 4164	Relative to Natural Gas Leaks.	6/26/2014
150	H 3733	Relative to Breast Cancer Early Detection.	6/26/2014
151	H 4217	Making Certain Appropriations for the Fiscal Year 2015 Before Final Action on the General Appropriation Bill.	6/26/2014

# STATE REGISTER OF HISTORIC PLACES

**WEEKS OF:** May 10, 2014 – June 13, 2014

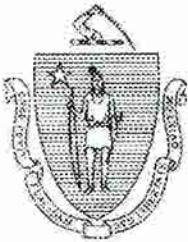
For further information call the Massachusetts Historical Commission (617-727-8470)

## ACTIONS TAKEN UNDER 950 CMR 71.00

Town/Property/Agency	Finding	Date
NONE		

## ADDITIONAL LISTINGS UNDER 950 CMR 71.00

Town/Name/Address	Designation	Date	Number of Properties
<b>Bridgewater</b> First Parish Church 50 School St	PR	12/24/2013	1
<b>Chilmark</b> Lot 5/6 Site (Portion on Lot 5) (Boundary Increase)	PR	5/28/2014	1
<b>Dartmouth</b> Russells Mills Village School 1205 Russells Mills Rd	PR	5/21/2014	1
<b>Egremont</b> South Egremont Village School 42 Main St, South Egremont	PR	5/14/2014	1
<b>Leverett</b> Moore's Corner Historic District North Leverett, Dudleyville, Rattlesnake Gutter & Church Hill Rds	NRDIS	5/19/2014	53
<b>New Bedford</b> Rural Cemetery and Friends Cemetery 149 Dartmouth St	NRIND	4/28/2014	68
<b>New Bedford</b> Oak Grove Cemetery Parker St	NRIND	4/28/2014	84
<b>Newburyport</b> Congregation Ahavas Achim Synagogue 53 ½ Washington St	PR	4/29/2014	1
<b>Truro</b> First Congregational Parish Historic District 3 First Parish Ln, 26 Bridge Rd	NRDIS	5/19/2014	55
<b>Whitman</b> Commonwealth Shoe & Leather Co. 7 Marble St	NRIND	5/13/2014	4



DEVAL L. PATRICK  
GOVERNOR

THE COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE FOR  
ADMINISTRATION AND FINANCE  
STATE HOUSE • ROOM 373  
BOSTON, MASSACHUSETTS 02139

(617) 727-2040

GLEN SHOR  
SECRETARY

SECRETARY OF STATE  
REGULATIONS DIVISION

2014 JUN 17 PM 1:19

June 18, 2014

**Potential Regulations by A&F Agencies**

**Operational Services Division**

802 CMR 8.00: Supplier Diversity Office Certification

**Department of Revenue**

**New Regulations:**

830 CMR 62.6M.1, Community Investment Tax Credit (New credit effective 1/1/14  
created by St. 2012, c. 238, § 29.)

830 CMR 62B.2.4, Withholding on Sales of Real Estate by Non-Residents (Under G.L. c. 62B, § 2, the Commissioner is authorized to require persons other than employers to deduct and withhold taxes from payments other than wages in order to protect the revenue of the Commonwealth. 830 CMR 62B.2.4 will establish and explain the withholding requirements imposed on transferees (buyers) of real estate from non-resident transferors.)

830 CMR 62C.24A.1, Unified Audit Procedures for Pass-Through Entities (Authorized by c. 131 of the Acts of 2010.)

**Regulation Amendments:**

830 CMR 62.10.1, Income Tax on Trusts and Estates (Update regulation to reflect current law.)

830 CMR 62C.16.2, Sales and Use Tax Returns and Payments (Update regulation.)

830 CMR 62C.19.I, Extensions of Time for Filing Returns (Repeal obsolete regulation.)

830 CMR 62C.31A.1, Responsible Persons (Update existing regulation.)

830 CMR 62C.37A.1, Settlement of Tax Liabilities (Update provisions relating to statute of limitations.)

830 CMR 63.30.2, Net Operating Loss Deductions and Carryover (Update existing regulation to reflect impact of combined reporting legislation.)

830 CMR 63.38.1, Apportionment of Income (Update regulation to provide guidance on market-based sourcing of sales other than sales of tangible personal property based on a recent statutory change to c. 63, s. 38(f).)

830 CMR 63.38G.2, Foreign Sales Corporations and Interest Charge DISCs (Update existing regulation.)

830 CMR 63.38M.1, Massachusetts Research Credit (Update existing regulation to reflect impact of combined reporting legislation.)

830 CMR 63.38N.1, Economic Opportunity Area Credit (Update existing regulation to reflect Economic Development Incentive Program "EDIP" legislation.)

830 CMR 63.39.1: Corporate Nexus (Update existing regulation.)

830 CMR 64F.6.1, Fuels and Special Fuel Acquired Outside of MA (Update rates.)

830 CMR 64J.4.1, General Application of the Aircraft (Jet) Fuel Tax (Update rates.)

830 CMR 65C.1.1, Administrative Provisions for Estate Tax (Repeal obsolete regulation.)

830 CMR 65C.2.1, Massachusetts Gross Estate (Repeal obsolete regulation.)

830 CMR 111M.2.1: Health Insurance Individual Mandate, Personal Income Tax Return Requirements (Update regulation in light of the federal Patient Protection and Affordable Care Act.)



# Massachusetts Department of Elementary and Secondary Education

75 Pleasant Street, Malden, Massachusetts 02148-4906

Telephone: (781) 338-3000  
TTY: N.E.T. Relay 1-800-439-2370

Mitchell D. Chester, Ed.D.  
Commissioner

June 30, 2014

Steven P. Kfoury, Executive Director  
State Publications and Regulations Division  
Secretary of the Commonwealth  
One Ashburton Place – Room 1613  
Boston, MA 02108

Re: Semi-annual List of Prospective Regulations

Dear Mr. Kfoury:

As required by G.L. c. 30A, section 6D, I am providing the following list of Board of Elementary and Secondary Education regulations that I anticipate will be amended in FY2015:

603 CMR 3.00	Private Occupational Schools ( <i>rescission</i> )
603 CMR 4.00	Vocational-Technical Education ( <i>amendments</i> )
603 CMR 7.00	Educator Licensure and Preparation Program Approval and
603 CMR 44.00	Educator License Renewal ( <i>amendments – teachers of deaf/hard of hearing students</i> )
603 CMR 18.00	Program and Safety Standards for Approved Public or Private Day and Residential Special Education School Programs and
603 CMR 46.00	Physical Restraint ( <i>amendments on restraint and seclusion</i> )
603 CMR 54.00	Recovery High Schools ( <i>new</i> )

This list is subject to revision. If you need further information, please contact me at [rschneider@doe.mass.edu](mailto:rschneider@doe.mass.edu) or 781-338-3410. Thank you for your assistance.

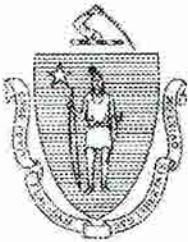
Sincerely,

Rhoda E. Schneider  
General Counsel

C: Jim DiTullio, General Counsel, Executive Office of Education

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SECRETARIAL STATE  
REGULATIONS DIVISION



DEVAL L. PATRICK  
GOVERNOR

THE COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE FOR  
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*The Commonwealth of Massachusetts*  
*Executive Office of Energy and Environmental Affairs*  
*100 Cambridge Street, Suite 900*  
*Boston, MA 02114*

Deval L. Patrick  
GOVERNOR

Maeve Vallely Bartlett  
SECRETARY

Tel: (617) 626-1000  
Fax: (617) 626-1081  
<http://www.mass.gov/envir>

---

To: Steven P. Kfoury, Executive Director, State Publications and Regulations Division  
cc: Maeve Vallely Bartlett, Secretary, Executive Office of Energy and Environmental Affairs (EEA)  
Barbara Kates-Garnick, Undersecretary for Energy, EEA  
Martin Suuberg, Undersecretary for Environment, EEA  
Gary Davis, Jr., General Counsel, EEA  
Richard Lehan, General Counsel, Department of Fish and Game  
Rebecca Tepper, General Counsel, Department of Public Utilities  
Nancy Kaplan, General Counsel, Department of Environmental Protection  
From: Margaret Callanan, Deputy General Counsel, EEA *MC*  
Re: Semi-Annual List of Prospective Regulations  
Date: June 19, 2014

---

The following list of regulations expected to be promulgated during the next six month period is being provided for the Energy and Environmental Secretariat pursuant to the requirements of M.G.L c. 30A.

**Department of Public Utilities**

220 CMR 1.00 Procedural Rules  
220 CMR 260.00 Motor Carriers and Brokers

**Department of Environmental Protection**

310 CMR 1.00 Adjudicatory Proceedings (Intervention and Participation)  
310 CMR 7.00 Air Regulations (Municipal Waste Combustors)  
310 CMR 7.00 Air Regulations (Prevention of Significant Deterioration)  
310 CMR 7.00 Air Regulations (Auto Inspection & Maintenance "Kit Cars")  
310 CMR 7.00 Air Regulations (Removal of Stage II Vapor Recovery)  
310 CMR 9.00 Waterways Regulations (Reg Reform: Timeframes, Small Docks, & Other Changes, etc.)

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REGULATIONS DIVISION  
SECRETARY OF STATE

310 CMR 9.00	Waterways Regulations (Permitting Amendments)
310 CMR 9.00	Waterways Regulations (Designated Port Areas)
310 CMR 10.00	Wetlands Regulations (Reg Reform: Buffer Zone, Stormwater, etc., & Other Changes)[Severe Weather Emergency Declaration]
310 CMR 80.00	Underground Storage Tanks (Program Revisions)
310 CMR 48.00	Natural Resource Damages, Oil Spill Regulations
314 CMR 7.00	Wastewater Regulations (Reg Reform: Sewer Ext/Conn Permits)
314 CMR 9.00	Water Quality Certification Regulation (Reg Reform: permit coordination, & Other Changes)
310 CMR 36.00	Water Management Act Regulations (Sustainable Water Management Initiative Changes)

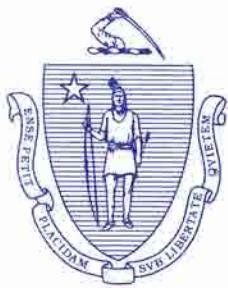
### **Department of Fish and Game**

#### **Division of Marine Fisheries**

322 CMR 6.02	Taking of Lobsters in the Coastal Waters of the Commonwealth
322 CMR 6.13	Lobster Trap Limit in the Commonwealth
322 CMR 6.21	Whelk Management and Conservation
322 CMR 6.40	Tautog Fishery Limits
322 CMR 16.00	Shellfish Harvesting and Handling

#### **Division of Fisheries and Wildlife**

321 CMR 3.02(1)	Hunting of Bear
321 CMR 3.02(4)	Youth Deer Hunt
321 CMR 10.90	List of Endangered, Threatened, and Special Concern Species



The Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
One Ashburton Place, Room 1109  
Boston, Massachusetts 02108

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JOHN W. POLANOWICZ  
Secretary

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Fax: (617) 573-1891  
[www.mass.gov/eohhs](http://www.mass.gov/eohhs)

To: Steven P. Kfoury, Executive Director, State Publications and Regulations Division  
From: Carrie Wicker, General Counsel *CH*  
Re: Semi Annual List of Prospective Regulations  
Date: June 20, 2014

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As per your request and in compliance with M.G.L. C.30A: section 6D. The following is the list of regulations expected to be promulgated by the Executive Office of Health and Human Service Agencies during the next twelve months.

Office of Medicaid

- 130 CMR 404.000: Adult Day Health Services
- 130 CMR 405.000: Community Health Center Services
- 130 CMR 406.000: Pharmacy Services
- 130 CMR 407.000: Transportation Services
- 130 CMR 408.000: Adult Foster Care Services
- 130 CMR 410.000: Outpatient Hospital Services (AOH and COH)
- 130 CMR 415.000: Acute Inpatient Hospital Services
- 130 CMR 420.000: Dental Services
- 130 CMR 421.000: Family Planning Agency Services
- 130 CMR 423.000: Freestanding Ambulatory Surgery Center Services
- 130 CMR 424.000: Podiatrist Services
- 130 CMR 426.000: Audiologist Services
- 130 CMR 429.000: Mental Health Center Services
- 130 CMR 432.000: Therapist Services
- 130 CMR 433.000: Physician Services
- 130 CMR 437.000: Hospice Services
- 130 CMR 442.000: Orthotic Services
- 130 CMR 443.000: Reserved for Limited Services Clinics)
- 130 CMR 450.000: Administrative and Billing Regulations
- 130 CMR 484.000: Abortion Services
- 130 CMR 485.000: Sterilization and Hysterectomy Services
- 130 CMR 501.000: Health Care Reform: MassHealth: General Policies
- 130 CMR 502.000: Health Care Reform: MassHealth: The Request for Benefits

2014 JUN 20 PH 3:09  
SECRETARY OF STATE  
REGULATIONS DIVISION



The text of the regulations published in the electronic version of the Massachusetts Register is unofficial and for informational purposes only. The official version is the printed copy which is available from the State Bookstore at <http://www.sec.state.ma.us/spr/sprcat/catidx.htm>.

130 CMR 503.000:	Health Care Reform: MassHealth: Universal Eligibility Requirements
130 CMR 504.000:	Health Care Reform: MassHealth: Citizenship and Immigration
130 CMR 505.000:	Health Care Reform: MassHealth: Coverage Types
130 CMR 506.000:	Health Care Reform: MassHealth: Financial Requirements
130 CMR 508.000:	Health Care Reform: MassHealth: Managed Care Requirements
130 CMR 515.000:	MassHealth: General Policies
130 CMR 516.000:	MassHealth: The Eligibility Process
130 CMR 517.000:	MassHealth: Universal Eligibility Requirements
130 CMR 518.000:	MassHealth: Citizenship and Immigration
130 CMR 519.000:	MassHealth: Coverage Types
130 CMR 520.000:	MassHealth: Financial Eligibility
130 CMR 522.000:	MassHealth: Other Division Programs
130 CMR 610.000:	MassHealth: Fair Hearing Rules

#### Executive Office of Health and Human Services

101 CMR 18.00:	Quality Care Fund
101 CMR 19.00:	Workplace Violence Prevention & Crisis Response Plan
101 CMR 129.00:	Rate and Charge Determination for Certain Intermediate Care Facilities Operated by the Department of Developmental Services
101 CMR 204.00:	Resident Care Facilities
101 CMR 206.00:	Nursing Facilities
101 CMR 306.00:	Rates of Payment for Mental Health Services
101 CMR 307.00:	Psychiatric Day Treatment
101 CMR 308.00:	Outpatient Tuberculosis Control Services
101 CMR 309.00:	Independent Living Services for the Personal Care Attendant Program
101 CMR 314.00:	Dental Services
101 CMR 316.00:	Surgery and Anesthesia
101 CMR 318.00:	Radiology
101 CMR 320.00:	Clinical Laboratory Services
101 CMR 322.00:	Durable Medical Equipment, Oxygen, and Respiratory Therapy Equipment
101 CMR 327.00:	Ambulance Services
101 CMR 329.00:	Psychological Services
101 CMR 330.00:	TEAM Evaluation Services
101 CMR 331.00:	Prescribed Drugs
101 CMR 337.00:	Chronic Maintenance Dialysis Treatments and Home Dialysis Supplies
101 CMR 339.00:	Rehabilitation Centers, Audiological Services, and Restorative Services
101 CMR 340.00:	Worker's Compensation (ambulatory care services to industrial accident patients)
101 CMR 343.00:	Hospice Services
101 CMR 345.00:	Temporary Nursing Services
101 CMR 346.00:	Rates for Certain Substance Use Disorder Programs
101 CMR 347.00:	Freestanding Ambulatory Surgery Centers
101 CMR 349.00:	Rates for Early Intervention Program Services
101 CMR 350.00:	Home Health Services
101 CMR 353.00:	Primary Care Clinician Plan Services Including Pay for Performance Program
101 CMR 354.00:	Acquired Brain Injury Waiver and Related Services
101 CMR 355.00:	Free-standing Birth Centers
101 CMR 356.00:	Money Follows the Person Demonstration Services
101 CMR 411.00:	Placement and Support Services
101 CMR 413.00:	Payments for Youth Intermediate-Term Stabilization Services
101 CMR 414.00:	Family Stabilization Services
101 CMR 415.00:	Community-Based Day Support Services
101 CMR 416.00:	Rates for Clubhouse Services

101 CMR 417.00:	Certain Elder Care Services
101 CMR 420.00:	Adult Long-Term Residential Services
101 CMR 421.00:	Rates for Adult Housing & Community Support Services
101 CMR 504.00:	Social, Rehabilitation, and Health Care Services
101 CMR 613.00:	Health Safety Net (Eligibility Services)
101 CMR 614.00:	Health Safety Net Payments and Funding
114.1 CMR 41.00:	Hospital Services Provided to Industrial Accident Patients
114.3 CMR 6.00:	Mental Health Services Provided in Community Health and Mental Health Centers
114.3 CMR 7.00:	Psychiatric Day Treatment
114.3 CMR 8.00:	Outpatient Tuberculosis Control Services
114.3 CMR 9.00:	Independent Living Services for the Personal Care Attendant Program
114.3 CMR 14.00:	Dental Services
114.3 CMR 16.00:	Surgery and Anesthesia
114.3 CMR 18.00:	Radiology
114.3 CMR 20.00:	Clinical Laboratory Services
114.3 CMR 22.00:	Durable Medical Equipment, Oxygen, and Respiratory Therapy Equipment
114.3 CMR 27.00:	Ambulance Services
114.3 CMR 29.00:	Psychological Services
114.3 CMR 30.00:	TEAM Evaluation Services
114.3 CMR 31.00:	Prescribed Drugs
114.3 CMR 37.00:	Chronic Maintenance Dialysis and Home Supplies
114.3 CMR 39.00:	Rehabilitation Centers, Audiological Services, and Restorative Services
114.3 CMR 40.00:	Workers' Compensation (ambulatory care services to industrial accident patients)
114.3 CMR 47.00:	Freestanding Ambulatory Surgical Facilities
114.3 CMR 49.00:	Early Intervention Program Services
114.3 CMR 50.00:	Home Health Services
114.3 CMR 53.00:	Primary Care Clinician Plan Services Including Pay for Performance Program
114.3 CMR 54.00:	Acquired Brain Injury Waiver and Related Services
114.3 CMR 55.00:	Free-Standing Birth Centers
114.4 CMR 13.00:	Youth Intermediate-Term Stabilization Services
114.4 CMR 15.00:	Community Based Day Support Services
114.4 CMR 16.00:	Rates for Clubhouse Services
114.5 CMR 4.00:	Social, Rehabilitation, and Health Care Services
114.5 CMR 12.00:	Nursing Facility User Fee

#### Department of Children and Families

110 CMR 1.00	Principles and Responsibilities of the DCF
110 CMR 2.00	Glossary
110 CMR 4.00	Intake
110 CMR 5.00	Assessment
110 CMR 6.00	Service Plan and Case Reviews
110 CMR 7.000	Services
110 CMR 8.00	Service Denial, Reduction, or Termination
110 CMR 9.00	Case Closure
110 CMR 12.00	Records
110 CMR 18.00	Criminal Offender Record Checks

## MA Office of Refugees and Immigrants

121CMR 1.00	Fair Hearings
121 CMR 2.00	MA Refugee Resettlement Program
121 CMR 3.00	MA Refugee Resettlement Program: Auxiliary Activities
121 CMR 4.00	CORI

## Executive Office of Elder Affairs

651 CMR 3.00	Home Care Program
651 CMR 4.00	The State Funded Nutrition Program for Elderly Persons
651 CMR 12.00	Assisted Living Residence Application and Certification Procedures and Standards for Assisted Living Residences
651 CMR 15.00	Prescription Advantage Program

## Department of Mental Health

104 CMR 27.00	Licensing and Operational Standards for Mental Health Facilities
104 CMR 28.00	Licensing and Operational Standards for Community Programs
104 CMR 29.00	Application for DMH Services, Referral, Service Planning and Appeals
104 CMR 32.00	Investigation and Reporting Responsibilities

## Department of Youth Services

109 CMR 4.00	Classification
109 CMR 5.00	Room Confinement
109 CMR 6.00	Mechanical Restraints
109 CMR 7.00	Passes
109 CMR 8.00	Granting and Revocation of Conditional Liberty
109 CMR 11.00	Client Medical Care and Treatment
109 CMR 13.00	Victim Notification

## Department of Veterans' Services

108 CMR 2.00	General Provisions
108 CMR 3.00	Eligibility for Veterans' Benefits
108 CMR 4.00	Responsibilities of Veterans' Services Agents
108 CMR 5.00	Determination of Benefits
108 CMR 6.00	Alternative Sources of Income
108 CMR 7.00	Payments to Applicants and Recipients in Special Circumstances
108 CMR 8.00	Change in Recipient's Circumstances, Terminations, Refund and Appeals
108 CMR 9.00	Annuities and Burials
108 CMR 10.00	Medical Care
108 CMR 11.00	Persian Gulf War Bonus
108 CMR 12.00	Districts and Duties of Veterans' Services Agents
108 CMR 13.00	Reimbursements to Municipalities Regulatory Authority
108 CMR 14.00	Certification of Veterans' Services Agents

## Soldiers' Home in Holyoke

101 CMR 15	CORI
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Department of Transitional Assistance

106 CMR 701.000 et seq.	Transitional Cash Assistance Programs
106 CMR 203.000 et seq.	Transitional Aid to Families with Dependent Children
106 CMR 320.000 et seq.	Emergency Aid to the Elderly, Disabled and Children
106 CMR 327.000 et seq.	State Supplement Program
106 CMR 360.000 et seq.	Supplemental Nutrition Assistance Program
106 CMR 343.000 et seq.	Fair Hearing Rules
106 CMR 100.000 et seq.	Fair Information Practices



*Commonwealth of Massachusetts*  
**EXECUTIVE OFFICE OF**  
**HOUSING & ECONOMIC DEVELOPMENT**  
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DEVAL L. PATRICK  
GOVERNOR

GREGORY BIALECKI  
SECRETARY

TELEPHONE  
(617) 788-3610

FACSIMILE  
(617) 788-3605

By Electronic Mail

June 20, 2014

Steven P. Kfouri, Executive Director  
State Publications and Regulations Division  
Office of the Secretary of State  
One Ashburton Place, Room 1613  
Boston, MA 02108  
[Steven.kfouri@sec.state.ma.us](mailto:Steven.kfouri@sec.state.ma.us)

**Re: EOHED Prospective Regulations—Annual List**

Dear Mr. Kfouri:

The following is the list of regulations that Executive Office of Housing and Economic Development agencies expect to promulgate or amend in the next twelve months:

Thank you for your attention to this matter. Please call me if you have any questions or concerns.

**Department of Housing and Community Development:**

- 760 CMR 4.00: General Administration of Local Housing Authorities
- 760 CMR 5.00: Eligibility and Selection Criteria
- 760 CMR 6.00: Occupancy Standards and Tenant Participation for State-aided Housing
- 760 CMR 11.00: Modernization and Development of State-aided Public Housing
- 760 CMR 19.00: Facilities Consolidation Fund Program
- 760 CMR 23.00: Housing Innovations Funds
- 760 CMR 24.00: Massachusetts Housing Stabilization Fund
- 760 CMR 38.00: Department of Mental Health Rental Subsidy Program
- 760 CMR 49: Massachusetts Rental Voucher Program
- 760 CMR 49.00: Massachusetts Rental Voucher Program
- 760 CMR 56.00: Comprehensive Permit; Low or Moderate Income Housing
- 760 CMR 60.00: Community-Based Housing Fund Program
- 760 CMR 62.00: Commercial Area Transit Node Housing Program
- 760 CMR 67.00: Eligibility for Emergency Assistance (EA)

**Office of Business Development**

403 CMR 2.00: Economic Development Incentive Program

**Office of Consumer Affairs and Business Regulations:**

**Division of Banks:**

209 CMR 32.00: Disclosure of Consumer Credit Costs and Terms  
209 CMR 40.00: Unfair and Deceptive Practices in Consumer Transactions  
209 CMR 43.00: Audit Requirements for Credit Unions  
209 CMR 44.00: Licensing of Foreign Transmittal Agencies  
209 CMR 45.00: The Licensing and Regulation of Check Cashers  
209 CMR 53.00: Determination and Documentation of Borrower's Interest

**Division of Professional Licensure:**

**Board of Examiners of Sheet Metal**

271 CMR 2.00: Definitions  
271 CMR 3.00: Individual Licensure  
271 CMR 4.00: Continuing Education  
271 CMR 5.00: Code of Professional Ethics And Standards Of Professional Practice  
271 CMR 6.00: Uniform Sheet Metal Installation Rules  
271 CMR 7.00: Business Licensure  
271 CMR 8.00: Sheet Metal Worker Training Programs  
271 CMR 9.00: Permits And Inspections

**Board of Registration of Architects**

231 CMR 2.00: General Provisions  
231 CMR 3.00: Procedures for Application, Examination and Registration  
231 CMR 4.00: Rules of Professional Conduct

**Board of Registration of Cosmetology**

240 CMR 2.00: Licensure of Cosmetologists, Manicurists, Aestheticians,  
Demonstrators and Instructors  
240 CMR 3.00: Salons  
240 CMR 4.00: Operation of Cosmetology Schools  
240 CMR 5.00: Operation of Aesthetic Schools  
240 CMR 6.00: Advanced Seminars In Hairdressing  
240 CMR 7.00: Operation of Manicuring Schools

Board of Registration in Speech-Language Pathology and Audiology

260 CMR 2.00: Application and Licensing Requirements

**Division of Insurance:**

211 CMR 3.00: Motorcycle Insurance  
211 CMR 15.00: Statistical Plans  
211 CMR 36.00: The Use of AIDS-Related Information for Life and Health Insurance and Informed Consent  
211 CMR 38.00: Coordination of Benefits  
211 CMR 40.00: Marketing of Insured Health Plans  
211 CMR 52.00: Managed Care Network Standards  
211 CMR 55.00: Disclosure Requirements for Life Insurance Policies with Accelerated Benefit Provisions and Annuity Contracts with Waiver of Surrender Charges for Early Withdrawal of Annuity Proceeds in the Event of Total and Permanent Disability  
211 CMR 65.00: Long-Term Health Insurance  
211 CMR 66.00: Small Group Health Plans  
211 CMR 70.00: Memorandum of Order Relative to the Establishment of a Statistical Plan (Massachusetts Automobile Statistical Plan)  
211 CMR 71.00: Medicare Supplement Insurance -- To Facilitate the Implementation of M.G.L. c. 176K and Section 1882 of the Federal Social Security Act  
211 CMR 96.00: Consumer Protection in Annuity Transactions  
211 CMR 97.00: Cancellation and Non-Renewal Motor Vehicle Insurance  
211 CMR 113.00: Requirements Regarding Workers' Compensation Insurance Deductibles  
211 CMR 115.00: Requirements Regarding Workers' Compensation Insurance Deductibles  
211 CMR 121.00: Procedures Concerning Filings of Medicare Supplement Insurance Policies and Evidences of Coverage Issued Pursuant to a Cost Contract, Rates Thereof, and the Conduct of Hearings Therefor  
211 CMR 123.00: Direct Payment of Motor Vehicle Collision and Comprehensive Coverage Claims and Referral Repair Shop Programs  
211 CMR 129.00: Life and Health Reinsurance Agreements  
211 CMR 142.00: Insurance Sales by Banks and Credit Unions  
211 CMR 155.00: Risk Bearing Provider Organizations [New]  
211 CMR 156.00: Rating Factor Implementation Transitional Period [New]

Please note that the Division of Insurance will likely be seeking to promulgate several addition new regulations in 2014 that would implement financially-related legislation that the Division has already proposed for enactment, or will be proposing for enactment in the Legislature in 2014, on the following topics: the Credit for Reinsurance Model Law; the Principal-Based

Stephen P. Khoury  
June 20, 2014

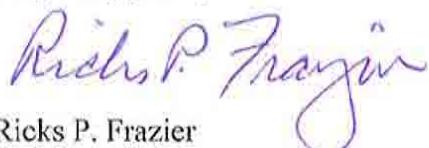
Reserving Model Law; the Supervisory Colleges Model Law; the Own-Risk Solvency Assessment (ORSA) Model Law; and the Property & Casualty Opinion Model Law.

In addition the Division expects to make final decisions relative to whether or not changes should be made to the following regulations.

211 CMR 8.00:	INVESTMENTS OF OFFICERS, DIRECTORS, AND PRINCIPAL STOCK- HOLDERS OF DOMESTIC STOCK INSURANCE COMPANIES
211 CMR 20.00:	Risk Based Capital (RBC) for Insurers
211 CMR 24.00:	Limited Liability Companies and Limited Liability Partnerships; Minimum Amount of Liability Insurance
211 CMR 25.00:	Risk-Based Capital (RBC) for Health Organizations
211 CMR 39.00 :	Annuity Mortality Tables for Use in Determining Reserve Liabilities for Annuities
211 CMR 42.00:	The Form and Contents of Individual Accident and Sickness Insurance
211 CMR 50.00:	Continuing Education for Insurance Producers
211 CMR 54.00:	Procedure for Surrender and Non-Renewal of licenses by insurers Authorized to Write Motor Vehicle Insurance
211 CMR 67.00:	Workers Compensation Self-Insurance Groups
211 CMR 88.00:	Procedures for the Appeal of Safe Driver Insurance Plan (SDIP) Motor Vehicle Accident Surcharges and for Conduct of the SDIP Motor Vehicle Accident Surcharge Hearings
211 CMR 152:	Health Benefit Plans Using Limited, regional or Tiered Provider Networks

Please advise the undersigned if you have any questions regarding this information.

Very truly yours,



Ricks P. Frazier  
General Counsel  
Executive Office of Housing and Economic Development



THE COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT

DEVAL L. PATRICK  
GOVERNOR

RACHEL KAPRIELIAN  
SECRETARY

June 9, 2014

*Via Electronic Mail (steven.kfouri@sec.state.ma.us)*

Steven P. Kfouri, Executive Director  
State Publications and Regulations Division  
Office of the Secretary of State  
One Ashburton Place, Room 1613  
Boston, MA 02108

Re: EOLWD Regulations—Annual List

Dear Mr. Kfouri:

The following is the list of regulations that EOLWD agencies expect to promulgate or amend in the next six months:

Department of Career Services

430 CMR 14.00 – Work Force Training Fund

Department of Unemployment Assistance

430 CMR 4.00 – Benefit Series

430 CMR 6.03 – Definitions

430 CMR 7.00 – Medical Security Plan for the Unemployed

430 CMR 10.00 – Unemployment Health Insurance Contributions

430 CMR 15.00 – Fair Share Employer Contribution

New regulation called for by G. L. c. 151A, § 25(k) (relating to disqualification decisions under § 25(c)(2))

Department of Labor Standards

453 CMR 6.00 - The Removal, Containment or Encapsulation of Asbestos

453 CMR 7.00 - Apprentice Training

453 CMR 9.00 - Civil Administrative Penalties

454 CMR 2.00 – Toilets in Industrial Establishments

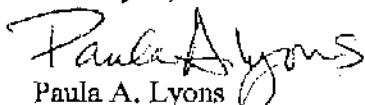
454 CMR 4.00 – Industries Where Anthrax is a Hazard

454 CMR 6.00 – General Safety and Machinery Standards

ONE ASHBURTON PLACE • SUITE 2112 • BOSTON, MA 02108  
TEL: 617-626-7100 • TTY: 617-727-4404 • FAX: 617-727-1090  
[www.mass.gov/lwd](http://www.mass.gov/lwd)

454 CMR 7.00 – Working Conditions in Iron and Steel Foundries and Employment of Women in Core Rooms  
454 CMR 8.00 – Working Conditions in Brass Foundries  
454 CMR 9.00 – Benzol, Carbon Tetrachloride and Other Substances Hazardous to Health  
454 CMR 10.00 - Construction Industry Rules and Regulations  
454 CMR 11.00 - Structural Painting Safety Code  
454 CMR 12.00 - Requirements for the Care of Employees Taken Ill in Industrial Establishments  
454 CMR 13.00 - Protection of the Health and Safety of Employees in the Rubber, Plastic and Allied Industries  
454 CMR 14.00 - Safeguarding Woodworking Machinery  
454 CMR 15.00 - Safeguarding Power Press Tools  
454 CMR 16.00 - Light Code for Factories, Workshops, Manufacturing, Mechanical and Mercantile Establishments  
454 CMR 17.00 - Common Drinking Cup and Common Towel in Factories, Workshops, Manufacturing, Mechanical and Mercantile Establishments  
454 CMR 19.00 - Window Cleaning  
454 CMR 22.00 - Deleading and Lead-Safe Renovation  
454 CMR 23.00 - Occupational Lead Poisoning Registry  
455 CMR 1.00 – Temporary Workers Right to Know and Employment Agency Regulations  
455 CMR 2.00 - Minimum Wage

Thank you,



Paula A. Lyons  
Deputy General Counsel  
EOLWD



The Commonwealth of Massachusetts  
Executive Office of Public Safety and Security  
One Ashburton Place, Room 2133  
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**Deval L. Patrick**  
Governor

**Andrea Cabral**  
Secretary

Steven P. Kfoury, Executive Director  
State Publications and Regulations Division  
Office of the Secretary of the Commonwealth  
One Ashburton Place, Room 1613  
Boston, MA 02108

June 19, 2014

**RE: Annual Regulation Update for 2014**

Dear Director Kfoury:

The following is an updated list of regulations for calendar year 2014 from the Executive Office of Public Safety and Security (“EOPSS”) on behalf of EOPSS and all of the agencies within the Secretariat, pursuant to G.L. c. 30A, § 6A.

**Executive Office of Public Safety and Security**

501 CMR 7.13: Formal Target Shooting Firearms Roster  
501 CMR 8.00: Standards for Law Enforcement Training in the Use of Electronic Weapons and the Sale of Electronic Weapons in the Commonwealth  
501 CMR 16.00: Harbormaster Safety Training Council  
501 CMR 15.00: Police ID

**Department of Correction**

103 CMR 157: Regulations Governing Access to and Dissemination of Evaluative Information  
103 CMR 180: Regulations Governing Research and Evaluation  
103 CMR 403: Inmate Property  
103 CMR 405: Inmate Funds  
103 CMR 410: Sentence Computation  
103 CMR 411: Deduction from Sentence  
103 CMR 455: Correctional Industries  
103 CMR 462: International Transfer Policy

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REGULATIONS OF THE  
SECRETARY OF STATE

103 CMR 464: Work Release  
103 CMR 471: Religious Programs and Services  
103 CMR 478: Library Services  
103 CMR 481: Inmate Mail  
103 CMR 483: Visiting Procedures  
103 CMR 485: Volunteers and Volunteer Programs  
103 CMR 486: Attorney Access at Massachusetts Correctional Institutions, and  
103 CMR 491: Inmate Grievance Procedures

### **Department of Fire Services**

502 CMR 3.00: Provisions for Approving Underground Steel Storage Tank Dismantling Yards  
502 CMR 5.00: Permit Requirements and Annual Inspection of Above Ground Storage Tanks or Containers of More than Ten Thousand Gallons' Capacity  
527 CMR: Board of Fire Prevention Regulations (total rewrite of the Fire Safety Code by adoption of NFPA- 1, with amendments particular to Massachusetts)

### **Department of Public Safety**

520 CMR 11: Continuing Education Requirements for Engineers and Firemen

### **Architectural Access Board**

521 CMR 1.00: Authority  
521 CMR 2.00: Purpose and Scope  
521 CMR 3.00: Jurisdiction  
521 CMR 4.00: Appeal and Variance  
521 CMR 5.00: Definitions  
521 CMR 7.00: Retail Establishments  
521 CMR 8.00: Transient Lodging Facilities  
521 CMR 9.00: Multiple Dwellings  
521 CMR 10.00: Public Use and Common Use Spaces in Multiple Dwellings  
521 CMR 11.00: Commercial Buildings  
521 CMR 12.00: Educational Facilities  
521 CMR 13.00: Medical Care Facilities  
521 CMR 14.00: Places of Assembly  
521 CMR 15.00: Detention Facilities  
521 CMR 16.00: Houses of Worship  
521 CMR 17.00: Restaurants  
521 CMR 18.00: Transportation Terminals  
521 CMR 19.00: Recreational Facilities  
521 CMR 20.00: Accessible Route  
521 CMR 21.00: Curb Cuts

521 CMR 22.00: Walks and Walkways  
521 CMR 23.00: Parking and Passenger Loading Zones  
521 CMR 24.00: Ramps  
521 CMR 25.00: Entrances  
521 CMR 26.00: Doors and Doorways  
521 CMR 27.00: Stairs  
521 CMR 28.00: Elevators  
521 CMR 30.00: Public Toilet Rooms  
521 CMR 31.00: Bathing Rooms  
521 CMR 32.00: Kitchens  
521 CMR 33.00: Dressing, fitting and Changing Rooms  
521 CMR 34.00: Storage  
521 CMR 35.00: Tables and Seating  
521 CMR 36.00: Drinking Fountains  
521 CMR 37.00: Public Telephones  
521 CMR 38.00: Automated Teller Machines  
521 CMR 39.00: Controls  
521 CMR 40.00: Alarms  
521 CMR 41.00: Signage  
521 CMR 42.00: Group 1 Bathrooms  
521 CMR 43.00: Group 1 Kitchens Storage  
521 CMR 44.00: Group 2 Bathrooms  
521 CMR 45.00: Group 2 Kitchens  
521 CMR 46.00: Group 1 Bedrooms  
521 CMR 47.00: Group 2 Bedrooms

#### Board of Boiler Rules

522 CMR 1: RESERVED  
522 CMR 2: Power Boilers  
522 CMR 3: Power Boilers, Power Reactor Vessels and Piping and Unfired Pressure Vessels as used in Atomic Energy Installations  
522 CMR 4: Steam and Hot Water Boilers and Heat Storage Sources  
522 CMR 5: Heating Boilers  
522 CMR 6: Low Pressure Heating Boilers  
522 CMR 7: Air Tanks  
522 CMR 8: Existing Air Tanks  
522 CMR 9: Refrigeration and Air Conditioning Systems  
522 CMR 10: Material Specifications  
522 CMR 11: Welding Specifications  
522 CMR 12: Fiberglass-Reinforced Plastic Pressure Vessels  
522 CMR 13: In-service Inspection of Nuclear Power Plant Components-Division I  
522 CMR 14: Reserved  
522 CMR 15: National Boiler and Pressure Vessel Inspection Code  
522 CMR 16: Controls and Safety Devices for Automatically Fired Boilers (Asme Safety Code, No. Csd-1, Part Cw Steam and Waterside Controls, 1977) Units Over 200,000 BTU's

522 CMR 17: Process Piping

522 CMR 18: Continuing Education Requirements for Engineers and Firemen

State Athletic Commission

523 CMR 5: General Provisions

523 CMR 6: Licensing and Registration

523 CMR 7: Medical Advisory Board

523 CMR 8: Identification Cards

523 CMR 9: Contracts and Financial Arrangements

523 CMR 10: Arranging and Promoting Programs of Unarmed Combat

523 CMR 11: Tickets and Admissions

523 CMR 12: Facilities, Equipment and Supplies

523 CMR 13: Weight Classes, Weigh-Ins, Pre-and Post-Fight Physical Examinations, and Medical Conditions

523 CMR 14: General Requirements for All Unarmed Combat Contests and Exhibitions

523 CMR 15: Boxing Contests and Exhibitions

523 CMR 16: Mixed Martial Arts Contests and Exhibitions

523 CMR 17: Unarmed Combat Contests and Exhibitions Other Than Boxing and Mixed Martial Arts

523 CMR 18: Special Rules for Female Unarmed Combatants

523 CMR 19: Amateur Contests and Exhibitions

523 CMR 20: Prohibited Acts; Disciplinary Actions

523 CMR 21: Disciplinary Proceedings

523 CMR 22: State Championship Program

523 CMR 23: Southeast Asian Kickboxing

Board of Elevator Regulations

524 CMR 1: Elevator, Escalator, Wheelchair Lift, Dumbwaiter and Other Special Hoisting Equipment: Installation and Maintenance

524 CMR 3: Elevator, Escalators, Dumbwaiters and Moving Walks: Definitions

524 CMR 9.02: Elevator Operator Licenses

524b CMR 35.00: Safety Code for Elevators and Escalators A17.1-2004 and the Massachusetts Modifications of that Code

Bureau of Pipefitters, Sprinkler Fitters and Refrigeration Technicians

528 CMR 10.00: Power Piping

528 CMR 11.00: Prerequisites for Examinations for Pipefitters, Refrigeration Technicians, and Sprinkler Systems

528 CMR 12.00: Fire Protection Sprinkler System Contractor Licensing

528 CMR 13.00: Process Piping

8<sup>th</sup> Edition Massachusetts State Building Code

780 CMR 51, Appendix F: Add Radon Control  
780 CMR 110 R5: Continuing Education  
780 CMR 110 R1: Concrete Testing  
780 CMR 110 R3: Manufactured Buildings

**Parole Board**

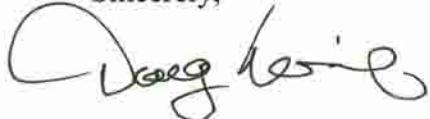
120 CMR 100.00: Definitions  
120 CMR 101.03: Powers & Duties of Massachusetts Parole Board  
120 CMR 200.00: Parole Eligibility  
120 CMR 200.02: Parole Eligibility Calculations  
120 CMR 200.10: Early Consideration of Parole Release  
120 CMR 200.12: Parole Eligibility for Habitual Offenders  
120 CMR 300.03: Parole Hearing Panel  
120 CMR 300.04: Parole Release Decision Making  
120 CMR 300.07: Standard & Special Conditions of Parole  
120 CMR 301.06 (6): 2/3 Vote Needed for Lifers  
120 CMR 303.01: Revocation of Parole: General Provisions  
120 CMR 303.05: Issuance of Warrant for Parole Supervision under the Interstate Compact  
120 CMR 303.11: Evidentiary Process at a Preliminary Revocation Hearing  
120 CMR 303.16: Withdrawal, Service, or Vacating of the Parole Violation Warrant  
120 CMR 303.17: Final Revocation Hearing: General Provisions  
120 CMR 304.03: Reconsideration of Decision of Parole Board Members  
120 CMR 305.00: Community Parole Supervision for Life  
120 CMR 400.00: Victim Input and Notification of Parole Hearings and Decisions  
120 CMR 401.00: Victim Access Hearings

**State 911 Department**

560 CMR 3.00: Regulations Establishing an Equitable and Reasonable Method for the Remittance and Collection of a Surcharge on Prepaid Wireless Telephone Service

If you have any questions or need any further information please contact me at (617) 727-7775.

Sincerely,



Doug Levine  
General Counsel



Deval L. Patrick, Governor  
Richard A. Davey, Secretary & CEO

**massDOT**  
Massachusetts Department of Transportation

Via Email and U.S. Mail – [regulations@sec.state.ma.us](mailto:regulations@sec.state.ma.us)

June 19, 2014

Mr. Steven P. Kfoury, Executive Director  
The Commonwealth of Massachusetts  
Office of the Secretary of the Commonwealth  
State Publications and Regulations  
One Ashburton Place, Room 1613  
Boston, Massachusetts 02108

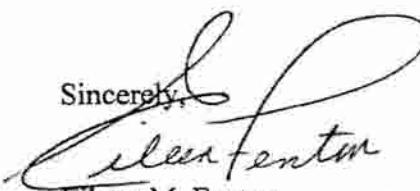
Re: Annual List of Prospective Regulations

Dear Mr. Kfoury,

The Massachusetts Department of Transportation (“MassDOT”) expects to promulgate new regulations and/or amend or repeal existing regulations during the next twelve month period. In accordance with M.G.L. c. 30A, § 6D, MassDOT has preliminarily identified the subject and CMR designation of said regulations, which is attached hereto as “Attachment A”.

Please contact me at 857-368-8764 if you have questions or require additional information.

Sincerely,

  
Eileen M. Fenton  
Senior Counsel

2014 JUN 20 AM 9:21  
SECRETARY OF STATE  
REGULATIONS DIVISION

Attachment

Ten Park Plaza, Suite 4160, Boston, MA 02116

Tel: 617-248-2880, TDD: 617-973-7306

[www.mass.gov/massdot](http://www.mass.gov/massdot)

Leading the Nation in Transportation Excellence

The text of the regulations published in the electronic version of the Massachusetts Register is unofficial and for informational purposes only. The official version is the printed copy which is available from the State Bookstore at <http://www.sec.state.ma.us/spr/sprcat/catidx.htm>.

**"ATTACHMENT A"**

**540 CMR: REGISTRY OF MOTOR VEHICLES**

- 2.05 - Motor Vehicle Registrations
- 2.06 - Operator Licensing Requirements
- 2.07 - Year of Manufacture Plates
- 2.15 - Licensing of Operators of School Buses and School Pupil Transport Vehicles
- 2.16 - Evacuation Plan for School Pupil Transport Vehicles
- 2.22 - Markings on Commercial Vehicles
- 2.23 - Display of Reflectorized License Plates
- 2.24 - Adoption of Applicable Federal Regulations
- 4.00 - Annual Safety and Combined Safety and Emissions Inspection of All Motor Vehicles, Trailers, Semi-Trailers.
- 13.00 - International Registration Plan Regulations
- 14.00 - Motor Carrier Safety and Hazardous Material Transportation
- 18.00 - Minimum Standards for the Issuance and Use of General Registrations and General Registration Number Plates
- 21.00 - Semiannual Safety Inspection of School Pupil Transport Vehicles
- 23.00 - Licensing, Certification and Operating Requirements for Professional Driving School Instructors
- 24.00 - Licensure of School Bus Operators of Pupil Transport Vehicles
- 24.06 - Epilepsy and Seizure Standard

**700 CMR: MASSACHUSETTS DEPARTMENT OF TRANSPORTATION**

- 11.00 – Maurice J. Tobin Memorial Bridge

**701 EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION**

- 5.00 – The Public Works Economic Development Program
- 6.00 – Transit-Oriented Development Infrastructure and Housing Support Program

**702 CMR: MASSACHUSETTS AERONAUTICS DIVISION**

- 2.00 - General
- 3.00 – General Rules
- 4.00 - Flight Rules
- 5.00 - Airports and Restricted Landing Areas
- 6.00 - Aircraft Accidents
- 7.00 - Alteration of Licenses, Approval Forms, Etc.

**720 CMR: DEPARTMENT OF HIGHWAYS**

- 3.00 – Rules for the Adoption of Administrative Regulations Upon Petition of an Interested Person
- 5.00 - Prequalification of Contractors and Prospective Bidders for Statewide Engineering Field Survey Services
- 9.00 - Driving on State Highways

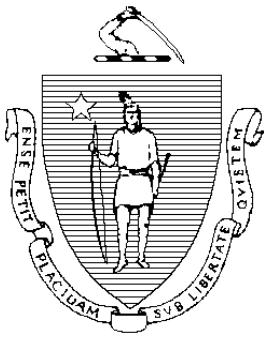
11.00 – Small Town Road Assistance Program (STRAP)

13.00 – Approval of Access to State Highways

**730 CMR: MASSACHUSETTS TURNPIKE AUTHORITY**

2.00 - Rules for Adopting, Amending, or Repealing Administrative Regulations, and for  
Issuing Advisory Rulings

6.00 – Massachusetts Turnpike Authority Tourism Grant Program

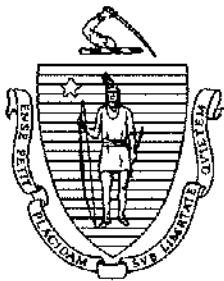


**THE COMMONWEALTH OF MASSACHUSETTS**  
*Secretary of the Commonwealth - William Francis Galvin*

**NOTICES OF PUBLIC REVIEW OF PROSPECTIVE REGULATIONS  
PUBLISHED IN COMPLIANCE WITH M.G.L. c. 30A, §§ 2 AND 3**

July 4, 2014

Attorney General, Office of the	940 CMR 11.00	Electronic and written comments accepted until 7/23/14 @ 5:00 P.M.
Labor Standards, Department of	454 CMR 24.00	7/21/14 @ 10:00 A.M.; 7/22/14 @ 1:00 P.M.; 7/25/14 @ 10:00 A.M. Written comments accepted until 8/1/14 at the close of business.
Nursing, Board of Registration in	244 CMR 4.00	7/18/14 @ 1:00 P.M. Written testimony accepted until 7/18/14 @ 5:00 P.M.
Public Health, Department of	105 CMR 700.000 & 721.000	7/30/14 @ 10:00 A.M. Electronic and written testimony accepted until 7/30/14 @ 5:00 P.M.
Revenue. Department of	830 CMR 111M.2.1	7/30/14 @ 10:00 A.M. Written comments accepted in advance of the hearing.



MARTHA COAKLEY  
ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL  
ONE ASHBURTON PLACE  
BOSTON, MASSACHUSETTS 02108

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(617) 727-4765 TTY  
[www.mass.gov/ago](http://www.mass.gov/ago)

NOTICE OF COMMENT PERIOD

Notice is hereby given pursuant to M.G.L. c. 30A, § 3, that the Attorney General affords interested persons an opportunity to present data, views, or arguments on proposed amendments to regulation 940 CMR 11.00, *Fair Information Practices Act*.

- (a) The regulatory authority for such action is M.G.L. c. 66A, § 3.
- (b) The anticipated time of such action is August 15, 2014.
- (c) In substance, the proposed action will amend the sections of the Attorney General's regulations that govern the Attorney General Office's collection, maintenance, and dissemination of certain information, defined as "personal data" by M.G.L. c. 66A, § 1, in order to better effectuate the purposes of M.G.L. c. 66A.
- (d) We suggest that the promulgation of the regulation will have no effect on nor will result in any cost to the cities and towns, as the regulation will govern the operations of the Attorney General's Office, only.
- (e) The proposed regulation has been posted on the Attorney General's website: <http://www.mass.gov/ago/regulations>. The proposed regulation may also be requested by calling Lorraine A.G. Tarrow at 617 963 2066.
- (f) The manner in which comments may be made is submission either electronically or in writing.

To submit comments electronically, please submit comments as an attached Word document to an e-mail. Please type "Fair Information Practices Act" in the subject line. All submissions should be sent to [AGORegulations@state.ma.us](mailto:AGORegulations@state.ma.us) and must include the sender's full name, address, and e-mail address.

To submit comments in writing, please send the comments to:

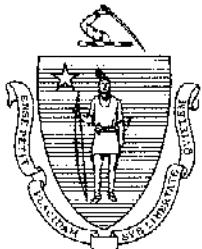
Office of Attorney General Martha Coakley  
One Ashburton Place  
Boston, MA 02108

Attn: Lorraine A.G. Tarrow  
Assistant Attorney General  
General Counsel's Office

Electronic or written comments will be accepted until 5:00 pm on July 23, 2014.

- (g) The Attorney General has notified the Local Government Advisory Committee and has submitted a request to publish legal notice to the Boston Globe.

2014 JUN 18 PM 3:01  
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MASSACHUSETTS



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL

ONE ASHBURTON PLACE

BOSTON, MASSACHUSETTS 02108

MARTHA COAKLEY  
ATTORNEY GENERAL

(617) 727-2200  
[www.mass.gov/ago](http://www.mass.gov/ago)

June 18, 2014

The Honorable William Francis Galvin  
Secretary of the Commonwealth of Massachusetts  
Regulations Division  
State House, Room 117  
Boston, MA 02133

**RE: Small Business Impact Statement for 940 CMR 11.00**

Dear Secretary Galvin:

Pursuant to G.L. c. 30A, § 3, agencies promulgating regulations must submit a Small Business Impact Statement (“Statement”) for inclusion with the record of the regulations. The Attorney General’s Office (“AGO”) submits the following Statement pertaining to proposed amendments to regulation 940 CMR 11.00, in accordance with this requirement.

**1. Estimate the number of small businesses subject to the proposed regulation.**

Because the proposed regulation will govern the operations of the AGO, only, we estimate that the number of small businesses subject to the proposed regulation will be zero.

**2. What are the projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation?**

Because no small businesses will be subject to the proposed regulation, the projected reporting, recordkeeping, and other administrative costs will be zero dollars.

**3. Detail the appropriateness of performance standards versus design standards.**

Neither performance standards nor design standards are applicable to the proposed regulatory changes.

**4. Identify the regulations of the promulgating agency, or of another agency or department of the Commonwealth, which may duplicate or conflict with the proposed regulation.**

None.



**5. Analyze whether the proposed regulation is likely to deter or encourage the formation of new businesses in the Commonwealth.**

Because the proposed regulation will govern the operations of the AGO, only, it will neither deter nor encourage the formation of new businesses in the Commonwealth.

I submit this Small Business Impact Statement on behalf of the Attorney General pursuant to the requirements of G.L. c. 30A, § 3.

Sincerely,



Lorraine A.G. Tarrow  
Assistant Attorney General  
General Counsel's Office



THE COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT  
DEPARTMENT OF LABOR STANDARDS

DEVAL L. PATRICK  
GOVERNOR

RACHEL KAPRIELIAN  
SECRETARY  
HEATHER E. ROWE  
DIRECTOR

## HEARING NOTICE

### PROPOSED REGULATIONS OF THE DEPARTMENT OF LABOR STANDARDS

Pursuant to the provisions of G.L. c. 30A, notice is hereby given of the following proposed action:

#### EMPLOYMENT AGENCY AND TEMPORARY WORKERS RIGHT TO KNOW REGULATIONS

Promulgation of 454 CMR 24.00, et seq.

The Department of Labor Standards (DLS) is conducting three Public hearings to seek comment from members of the regulated community and the general public on proposed regulations for the Employment Agency and Temporary Workers Right To Know Regulations, 454 CMR 24.00. The proposed regulation is promulgated in accordance with and under the authority of the Employment Agency Law, M.G.L. c. 140, ss. 46A – 46R, and the Temporary Workers Right to Know Law, M.G.L. c. 149, s. 159C.

The regulation addresses definitions of key terms, record-keeping requirements, and clarifies processes so that the Department of Labor Standards may effectively administer the two laws. In order to clarify how agencies are covered under the statutes, the regulations establish three terms for labor market intermediaries/ labor brokers/providers: (a) Employment agency; (b) Placement agency; and (c) Staffing agency. The regulations: (1) clearly establish how to categorize businesses into the above terms; (2) clearly itemize the obligations of each entity in terms of licensure or registration requirements; (3) outline the legal requirements for providing information to workers or job applicants; (4) establish record-keeping requirements on the part of agencies; and (5) outline prohibited business practices. The regulations establish a definition of a “domestic employee” as being a worker performing work of a domestic nature who is paid directly by a household or a family (the worker is the employee of the family or household). The consequence of this definition is that businesses that directly employ workers for domestic service are excluded from licensure or registration requirements.

CHARLES F. HURLEY BUILDING • 19 STANIFORD STREET • 2nd FLOOR • BOSTON, MA 02114  
TEL: 617-626-6975 • FAX: 617-626-6965  
[www.mass.gov/dols](http://www.mass.gov/dols)

DLS is taking this opportunity to invite you to attend the Public Hearings and provide comment on the proposed regulations. The hearing dates and times are:

**Monday, July 21, 2014 at 10:00AM**

Quinsigamond Community College  
670 W. Boylston Street  
Worcester, MA 01606  
Hebert Auditorium in the Surprenant Building

**Tuesday, July 22, 2014 at 1:00PM**

Charles F. Hurley Building  
19 Staniford Street  
Boston, MA 02114  
Minihan Hall, 6th Floor

**Friday, July 25, 2014 at 10:00AM**

State Office Building  
436 Dwight Street, Room 305  
Springfield, MA 01103

Interested parties may provide testimony at the hearing or may submit written comments. All written comments must be received no later than the **close of business on August 1, 2014**, presented in a legible manner, and addressed to Heather Rowe, Director, Department of Labor Standards, 19 Staniford Street, 2nd floor, Boston, MA 02114.

Auxiliary aids and services or other reasonable accommodations for persons with disabilities are available upon request. Please include a description of the accommodation you will need, including as much detail as you can. Also include a way we can contact you if we need more information. Please allow at least two weeks (14 days) advance notice. Last minute requests will be accepted, but may be impossible to fulfill. Send an e-mail to Rex Gerlach-Brown ([rex.gerlach-brown@state.ma.us](mailto:rex.gerlach-brown@state.ma.us)) or Dennis Johnson ([dennis.1.johnson@state.ma.us](mailto:dennis.1.johnson@state.ma.us)), Executive Office of Labor and Workforce Development/Diversity/ADA Office or call 617/626-5138 or 617/626-5111. For hearing-impaired relay services, call 1-800-439-0183 or 711.

A copy of the proposed regulations and a summary explanation is available upon written request to the above address, or may be found on the DLS website at [www.mass.gov/dols](http://www.mass.gov/dols).

## **SMALL BUSINESS IMPACT STATEMENT, PURSUANT TO M.G.L. c. 30A, §§ 2 and 3.**

*In order to accurately predict the impact the adoption, amendment, or repeal of a regulation will have on small businesses, the promulgating authority must conduct a thorough analysis that not only considers the potential effects of the action but also quantifies the costs, if any, associated with each. The questions below are designed to aid promulgating authorities in conducting their analysis.*

**Agency Submitting Regulation:** Executive Office of Labor and Workforce Development, Department of Labor Standards

**Subject Matter of Regulation:** Employment Agency and Temporary Workers Right To Know Regulations

**Regulation No:** 454 CMR 24.00

**Statutory Authority:** Employment Agency Law, M.G.L. c. 140, ss. 46A – 46R, and the Temporary Workers Right To Know Law, M.G.L. c. 149, s. 159C

**Other Agencies Affected:** Office of the Attorney General's Fair Labor Division

**Other Regulations That May Duplicate or Conflict with the Regulation:** None

### **Describe the Scope and Objectives of the Regulation:**

The regulation addresses definitions of key terms, record-keeping requirements, and clarifies processes so that the Department of Labor Standards may effectively administer the two laws, enforce the Employment Agency Law, and the Office of the Attorney General may enforce the Temporary Workers Right to Know Law. In order to clarify how agencies are covered under the statutes, the regulations establish three terms for labor market intermediaries/ labor brokers/providers: (a) Employment agency; (b) Placement agency; and (c) Staffing agency.

The regulations:

- Clearly establish how to categorize businesses into the above terms;
- Clearly itemize the obligations of each entity in terms of licensure or registration requirements;
- Outline the legal requirements for providing information to workers or job applicants;
- Establish record-keeping requirements on the part of agencies;
- Outline prohibited business practices.

The regulations establish a definition of a “domestic employee” as being a worker performing work of a domestic nature who is paid directly by a household or a family (the worker is the employee of the family or household). The consequence of this definition is that businesses that directly employ workers for domestic service are excluded from licensure or registration

requirements. For example, a home care agency which directly employs, assigns, and manages its workers to service the needs of the business' clientele is not "providing domestic employees" under M.G.L. c. 140, sec. 46A-46R, and is not regulated by the Employment Agency Statute. The definition of a domestic employee also excludes a licensed medical professional, such as a medical doctor, registered or licensed practical nurse, or similarly trained and licensed individual who performs services relating to the delivery of specialized medical care.

**Business Industry(ies) Affected by the Regulation:** These regulations will have no impact on small businesses beyond the impact that the laws at M.G.L. c. 140, ss. 46A-46R and M.G.L. c. 149, s. 159C already have. The regulations will not adversely impact operations of employment, placement, or staffing agencies, nor will they create a new financial impact. The annual license and registration application is \$300 (\$180 for branch placement agency registrations). Employment agencies are required by statute to carry a \$3,000 surety bond. Neither of these costs is proposed to be increased through these regulations. More likely, these entities will benefit operationally by the clarity that these proposed regulations will bring to the interpretation of two different statutes that must be read in tandem.

**Types of Businesses Included in the Industry(ies):**

Employment, placement, and staffing agencies. Some home care agencies which are currently being regulated will no longer be regulated under this regulatory framework.

**Total Number of Small Businesses Included in the Regulated Industry(ies)** *Please see the attached guidance documents for assistance determining the total number of small businesses:*  
Approximately 1,500 businesses.

**Number of Small Businesses Potentially Subject to the Proposed Regulation:** approximately 1,500 businesses

**Effective Date Used In Cost Estimate:** N/A

Yes	No	<i>*Note: For each question, please answer "yes" or "no" and offer a brief explanation. Please describe any facts, data, views, arguments, or other input from small businesses, organizations or any other sources that were used to quantify the impacts outlined below.</i>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<b>Will small businesses have to create, file, or issue additional reports?</b> No change to existing statutory requirements.
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	<b>Will small businesses have to implement additional recordkeeping procedures?</b> Businesses will be required to maintain records of accepted job applicants, job applications, and job assignments as well as basic client records.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<b>Will small businesses have to provide additional administrative oversight?</b> No change to existing statutory requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<b>Will small businesses have to hire additional employees in order to comply with the proposed regulation?</b>

		No change to existing statutory requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<b>Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)?</b> No change to existing statutory requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<b>Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation?</b> No change to existing statutory requirements.
Yes <input type="checkbox"/>	No <input type="checkbox"/>	<b>Are performance standards more appropriate than design standards?</b> Not applicable.
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	<b>Does the regulation require small businesses to cooperate with audits, inspections, or other statutory enforcement activities?</b> Yes, but no change to existing statutory requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<b>Will the regulation have the effect of creating additional taxes and/or fees for small businesses?</b> No change to existing statutory requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<b>Does the regulation require small businesses to provide educational services to keep up to date with statutory requirements?</b> No change to existing statutory requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<b>Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts?</b> No change to existing statutory requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<b>Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts?</b> No change to existing statutory requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<b>Can the regulation provide for less stringent compliance or reporting requirements for small businesses?</b> No change to existing statutory requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<b>Can the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses?</b> No change to existing statutory requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<b>Can the compliance or reporting requirements be consolidated or simplified for small businesses?</b> No change to existing statutory requirements
Yes <input type="checkbox"/>	No <input type="checkbox"/>	<b>Can performance standards for small businesses replace design or operational standards?</b> Not applicable.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<b>Are there alternative statutory methods that would minimize the adverse impact on small businesses?</b> No change to existing statutory requirements
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<b>Were any small businesses or small business organizations contacted during the preparation of this document? If so, please describe.</b>

		No.
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Department of Labor Standards  
By:

Heather Rowe  
Director

Dated: June 18, 2014



The Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Department of Public Health  
Division of Health Professions Licensure  
Board of Registration in Nursing  
239 Causeway Street, Suite 500, Boston, MA 02114

DEVAL L. PATRICK  
GOVERNOR

JOHN W. POLANOWICZ  
SECRETARY

CHERYL BARTLETT, RN  
COMMISSIONER

Tel: 617-973-0900  
Fax: 617-973-0984  
[www.mass.gov/dph/boards/rn](http://www.mass.gov/dph/boards/rn)

#### NOTICE OF PUBLIC HEARING

Notice is hereby given pursuant to M.G.L. c. 30A, § 2, that the Board of Registration in Nursing (Board) within the Department of Public Health (Department), will hold a public hearing on the Board's amendment of its regulation at 244 CMR 4.00, *The Practice of Nursing in the Expanded Role*. The amendments inserts a provision at 244 CMR 4.28, setting requirements, intended to reduce the potential for opioid abuse, misuse and overdose, that must be met prior to the prescribing of hydrocodone-only extended release medication that is not in an abuse deterrent formulation.

The public hearing will be held on **Friday, July 18, 2014, at 1:00 p.m. in Room 417A/B (4th Floor), 239 Causeway Street, Boston, Massachusetts 02114**. Hearing testimony may be presented orally or in writing; a written copy of any oral testimony will be requested.

The Board encourages all interested parties to submit testimony electronically to the following address: [Reg.Testimony@state.ma.us](mailto:Reg.Testimony@state.ma.us). Please submit electronic testimony as an attached Word document or as text within the body of an email, with "Nursing amendments re: hydrocodone-only extended release medication that is not in an abuse deterrent formulation " in the subject line. All submissions must include the sender's full name and address. The Board will post all electronic testimony that complies with these instructions on its website. Parties who are unable to submit electronic testimony should mail submissions to: LouAnn Stanton, Office of the General Counsel, Department of Public Health, 250 Washington Street, Boston, Massachusetts 02108. All testimony must be submitted by **5:00 p.m. on Friday, July 18, 2014**.

A copy of the Notice of Public Hearing and the proposed amendment to Board regulations may be viewed on the Department's website or obtained from LouAnn Stanton, Office of the General Counsel, at 617-624-5220.

## **SMALL BUSINESS IMPACT STATEMENT**

*In order to accurately predict the impact the adoption, amendment, or repeal of a regulation will have on small businesses, the promulgating authority must conduct a thorough analysis that not only considers the potential effects of the action but also quantifies the costs, if any, associated with each. The questions below are designed to aid promulgating authorities in conducting their analysis.*

**Agency Submitting Regulation:** Department of Public Health/Division of Health Professions Licensure/Board of Registration in Nursing

**Subject Matter of Regulation:** Regulations governing the Practice of Nursing in the Expanded Role

**Regulation No:** 244 CMR 4.00

**Statutory Authority:** M.G.L. c. 112, §§ 80B, 80C, 80E, 80G and 80H; c. 94C.

**Other Agencies Affected:** Department of Public Health/Drug Control Program, Board of Registration in Medicine

**Other Regulations That May Duplicate or Conflict with the Regulation:** 243 CMR 2.07(25) (duplicate)

**Describe the Scope and Objectives of the Regulation:** The regulations at 244 CMR 4.00 set forth the regulatory requirements that govern the practice of nurses in the expanded role known as Advanced Practice Registered Nursing. The amendments are proposed in response to increased rates of opioid related overdoses and the introduction of hydrocodone-only extended release medications that are not in an abuse deterrent form into the prescription drug market. The proposed amendments set forth requirements a prescribing nurse must undertake prior to prescribing a hydrocodone-only extended release medications that is not in an abuse-deterrent form. The amendments are intended to safeguard against opiate addiction, abuse, diversion of opiates for a non-medical use, and unintentional opioid-related overdose deaths.

**Business Industry(ies) Affected by the Regulation:** 621111 (Offices of Physicians, except Mental Health Specialists), 621112 (Offices of Physicians, Mental Health Specialists), 621330 (Offices of Mental Health Practitioners (except Physicians), 621399 (Offices of all other miscellaneous health practitioners), 521410 (Family Planning Centers)

**Types of Businesses Included in the Industry(ies):** Health care practitioner offices where nurses with advanced practice authorization that includes prescriptive authority may be employed.

**Total Number of Small Businesses Included in the Regulated Industry(ies) Please see the attached guidance documents for assistance determining the total number of small businesses:** The estimated number of MA small businesses with the above-referenced NAISC codes, using the SBA dynamic small business search tool, is 59. Notably, businesses grouped under these NAISC codes are not limited to those involving Registered Nurses with Advanced Practice Authorization, thus this estimate is over-inclusive.

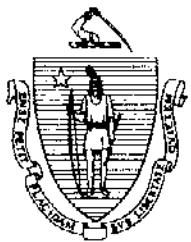
**Number of Small Businesses Potentially Subject to the Proposed Regulation:** 59

**Effective Date Used In Cost Estimate:** April 28, 2014

Yes	No	<i>*Note: For each question, please answer "yes" or "no" and offer a brief explanation. Please describe any facts, data, views, arguments, or other input from small businesses,</i>
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		<i>organizations or any other sources that were used to quantify the impacts outlined below.</i>
Yes	No	<b>Will small businesses have to create, file, or issue additional reports?</b>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	The practice of nurses in the expanded role will not need to create, file or issue additional reports as a result of the proposed amendments.
Yes	No	<b>Will small businesses have to implement additional recordkeeping procedures?</b>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Nurses in the expanded role that treat patients with chronic pain conditions would need to record in patients' medical records certain requirements consistent with the proposed emergency regulations. Those requirements include entering into Pain Management Treatment Agreements and supplying pharmacies with Letters of Medical Necessity.
Yes	No	<b>Will small businesses have to provide additional administrative oversight?</b>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Nurses in the expanded role are already responsible for compliance with all laws, regulations, rules, advisories and orders of the Board of Registration of Nursing and the Department of Public Health.
Yes	No	<b>Will small businesses have to hire additional employees in order to comply with the proposed regulation?</b>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	The practice of nursing in the expanded role will not need to hire additional employees in order to comply with the proposed emergency regulations.
Yes	No	<b>Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)?</b>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	The practice of nursing in the expanded role will not need to hire other professionals in order to comply with the proposed emergency regulations.
Yes	No	<b>Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation?</b>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	The practice of nursing in the expanded role will not need to make capital investments or purchase a product in order to comply with the proposed emergency regulations.
Yes	No	<b>Are performance standards more appropriate than design standards?</b>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Not applicable.
Yes	No	<b>Does the regulation require small businesses to cooperate with audits, inspections, or other regulatory enforcement activities?</b>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	The practice of nursing in the expanded role is currently subject to inspections and other regulatory enforcement activities.
Yes	No	<b>Will the regulation have the effect of creating additional taxes and/or fees for small businesses?</b>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	The proposed emergency regulations will not create any additional taxes or fees for small businesses.

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<b>Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements?</b>  The proposed emergency regulations do not require the practice of nursing in the expanded role to provide educational services to keep up-to-date with regulatory requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<b>Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts?</b>  The proposed emergency regulations are not likely to deter the formation of small businesses in Massachusetts.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<b>Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts?</b>  The proposed emergency regulations are not likely to encourage the formation of small businesses in Massachusetts.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<b>Can the regulation provide for less stringent compliance or reporting requirements for small businesses?</b>  The proposed emergency regulations do not create any reporting requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<b>Can the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses?</b>  The proposed emergency regulations do not establish any schedules or deadlines for compliance or reporting requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<b>Can the compliance or reporting requirements be consolidated or simplified for small businesses?</b>  The proposed emergency regulations do not create reporting requirements. Consolidated or simplified compliance requirements would not adequately safeguard against opiate abuse and addiction, diversion of opiates for a non-medical use and unintentional opioid-related overdose deaths.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<b>Can performance standards for small businesses replace design or operational standards?</b>  Not applicable
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<b>Are there alternative regulatory methods that would minimize the adverse impact on small businesses?</b>  There is no adverse impact on small businesses anticipated to result from the proposed amendments.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<b>Were any small businesses or small business organizations contacted during the preparation of this document? If so, please describe.</b>  Due to the emergency nature of the proposed amendments, no small business or small business organization were contacted during the preparation of this document.



**The Commonwealth of Massachusetts**  
**Executive Office of Health and Human Services**  
**Department of Public Health**  
**250 Washington Street**  
**Boston, MA 02108-4619**

**DEVAL L. PATRICK**  
GOVERNOR

**JOHN W. POLANOWICZ**  
SECRETARY

**CHERYL BARTLETT, RN**  
COMMISSIONER

**NOTICE OF PUBLIC HEARING**

Notice is hereby given pursuant to M.G.L. c. 30A, §2, that the Department of Public Health will hold a public hearing on amendments to 105 CMR 700.000, *Implementation of M.G.L. c. 94C and* 105 CMR 721.000, *Standards for Prescription Format and Security in Massachusetts.*

Amendments to 105 CMR 700.000 and 105 CMR 721.000 (1) enhance utilization of the Massachusetts Prescription Monitoring Program (PMP) by providing prescribers and dispensers with additional information that can inform clinical decision making; (2) permit delegates to use the PMP; (3) permit physicians to prescribe naloxone to a person other than the ultimate user; and (4) make the regulations consistent with new rules regarding prescriptions issued by physician assistants.

The public hearing will be held on Wednesday, July 30 at 10:00 a.m. in the Public Health Council Room, Second Floor, Department of Public Health, 250 Washington Street, Boston, MA. Speakers are requested to provide a copy of their oral testimony. The Department encourages all interested parties to submit testimony electronically to the following address: [Reg.Testimony@state.ma.us](mailto:Reg.Testimony@state.ma.us). Please submit electronic testimony as an attached Word document or as text within the body of an email and type “Drug Control Program: PMP regulations” in the subject line for testimony on either 105 CMR 700.000 and 105 CMR 721.000. All submissions must include the sender’s full name and address. The Department will post all electronic testimony that complies with these instructions on its website. Parties who are unable to submit electronic testimony should mail submissions to LouAnn Stanton, Office of the General Counsel, Department of Public Health, 250 Washington Street, Boston, MA 02108. All written or oral comments submitted to the Department may be posted on the Department’s website and released in response to a request for public records. All testimony must be submitted by 5:00 p.m. on Wednesday, July 30, 2014.

A copy of the proposed amendments may be viewed on the Department’s website or obtained from the Office of the General Counsel at 617-624-5220.

2014 JUN 19 AM 10:30  
REGULATORY  
SECRETARY OF STATE

## **SMALL BUSINESS IMPACT STATEMENT**

*In order to accurately predict the impact the adoption, amendment, or repeal of a regulation will have on small businesses, the promulgating authority must conduct a thorough analysis that not only considers the potential effects of the action but also quantifies the costs, if any, associated with each. The questions below are designed to aid promulgating authorities in conducting their analysis.*

**Agency Submitting Regulation:** Department of Public Health

**Subject Matter of Regulation:** Implementation of M.G.L. c. 94C and Standards for Approved Prescription Forms in Massachusetts

**Regulation No:** 105 CMR 700.000 and 105 CMR 721.000

**Statutory Authority:** M.G.L. c.94C, s. 7

**Other Agencies Affected:** none

**Other Regulations That May Duplicate or Conflict with the Regulation:** none

Describe the Scope and Objectives of the Regulation:

**Business Industry(ies) Affected by the Regulation:** none

**Types of Businesses Included in the Industry(ies):** none

**Total Number of Small Businesses Included in the Regulated Industry(ies):** Please see the attached guidance documents for assistance determining the total number of small businesses: none

**Number of Small Businesses Potentially Subject to the Proposed Regulation:** none

**Effective Date Used In Cost Estimate:** 3/18/14

Yes	No	<i>*Note: For each question, please answer "yes" or "no" and offer a brief explanation. Please describe any facts, data, views, arguments, or other input from small businesses, organizations or any other sources that were used to quantify the impacts outlined below.</i>
Yes	No	Will small businesses have to create, file, or issue additional reports? <input type="checkbox"/> <input checked="" type="checkbox"/>
Yes	No	Will small businesses have to implement additional recordkeeping procedures? <input type="checkbox"/> <input checked="" type="checkbox"/>
Yes	No	Will small businesses have to provide additional administrative oversight?

<input type="checkbox"/>	<input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation?
Yes	No	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation?
Yes	No	Are performance standards more appropriate than design standards?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections, or other regulatory enforcement activities?
Yes	No	Will the regulation have the effect of creating additional taxes and/or fees for small businesses?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements?
Yes	No	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts?
Yes	No	Can the regulation provide for less stringent compliance or reporting requirements for small businesses?
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Can the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses?

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<b>Can the compliance or reporting requirements be consolidated or simplified for small businesses?</b>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<b>Can performance standards for small businesses replace design or operational standards?</b>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<b>Are there alternative regulatory methods that would minimize the adverse impact on small businesses?</b>
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<b>Were any small businesses or small business organizations contacted during the preparation of this document? If so, please describe.</b>

THE COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF REVENUE

SECRETARY OF STATE  
REGULATIONS

2014 JUN 19 AM 11:25

**NOTICE OF PUBLIC HEARING**

Pursuant to the provisions of General Laws Chapter 14, Section 6(1), Chapter 30A, Section 2, and Chapter 62C, Section 3, the Commissioner will hold a public hearing on the following proposed regulation:

**830 CMR 111M.2.1: Health Insurance Individual Mandate; Personal Income Tax Return Requirements**

**Scheduled Hearing Date:**

Wednesday, July 30, 2014 at 10:00 A.M.  
100 Cambridge Street, 2<sup>nd</sup> Floor  
Boston, Massachusetts 02114

**Subject Matter:**

Under the Massachusetts Health Care Reform Act, a resident is required to indicate whether he or she has health insurance on his or her Massachusetts personal income tax return. A resident who has access to affordable coverage but who does not obtain the coverage, and to whom an exception does not apply, is subject to penalties under M.G.L. c. 111M, § 2 which will be imposed through the individual's personal income tax return. For tax years beginning on or after January 1, 2014, the federal Affordable Care Act instituted a federal mandate on individuals to obtain and maintain health insurance. While both Massachusetts and federal health care reform include this individual responsibility requirement, there are differences associated with the penalties imposed. For tax year 2014 and subsequent years, to ensure that no taxpayer is subject to the aggregation of both the state and federal penalties, this proposed regulation provides an adjustment in the circumstance where an individual is subject to both the federal and the Massachusetts penalties.

**Information:**

A copy of the proposed regulation will be sent electronically via e-mail to practitioners who are on the Rulings and Regulations Bureau's e-mail list. In addition the proposed regulation is posted on the Department of Revenue's Web site at: [http://www.dor.state.ma.us/rul\\_reg](http://www.dor.state.ma.us/rul_reg). Hard copies of the proposed regulation may be obtained from the Rulings and Regulations Bureau, Post Office Box 9566, Boston, Massachusetts 02114-9566. Written comments in advance of the hearing are encouraged and should be sent to the Rulings and Regulations Bureau. Alternatively, comments may be emailed to [RulesandRegs@dor.state.ma.us](mailto:RulesandRegs@dor.state.ma.us) or faxed to 617-626-3290. All persons desiring to be heard on this matter should appear at the designated time and place.

  
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Amy Pitter  
Commissioner of Revenue

434713

Small Business Impact Statement pursuant to G.L. c. 30A, §§ 2 and 3

Under the Massachusetts Health Care Reform Act, a resident is required to indicate whether he or she has health insurance on his or her Massachusetts personal income tax return. A resident who has access to affordable coverage but who does not obtain the coverage, and to whom an exception does not apply, is subject to penalties under M.G.L. c. 111M, § 2 which will be imposed through the individual's personal income tax return. This proposed regulation, 830 CMR 111M.2.1, Health Insurance Individual Mandate; Personal Income Tax Return Requirements, explains various aspects of the health insurance individual mandate. For tax years beginning on or after January 1, 2014, the federal Affordable Care Act instituted a federal mandate on individuals to obtain and maintain health insurance. While both Massachusetts and federal health care reform include this individual responsibility requirement, the details associated with the respective mandates differ. For tax year 2014 and subsequent years, to ensure that no taxpayer is subject to the aggregation of both the state and federal penalties, this regulation provides an adjustment in the circumstance where an individual is subject to both the federal and the Massachusetts penalties.

No small businesses are expected to be impacted by the proposed regulation repeals. No projected reporting, record keeping, or other administrative costs directed at small businesses have been identified as required for compliance with the provisions of this proposed regulation. Additionally, the proposed regulation does not contain design or performance standards directed at small businesses and does not duplicate or conflict with other regulations of the Department of Revenue ("Department"). The Department has not identified any regulations of other agencies that conflict with this proposed regulation. And finally, the proposed regulation is likely to neither deter nor encourage the formation of new businesses, small or otherwise, in the Commonwealth.

428018

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SECRETARY OF STATE  
REGISTRATION



**2014**  
**CUMULATIVE TABLE TO**  
**THE MASSACHUSETTS REGISTER**  
**1251 - 1264**

The cumulative Table lists all regulations and amendments thereto published in the Massachusetts Register during the current year. The Table is published in each Register.

State agencies are listed in the Table as they appear in the Code of Massachusetts Regulations (CMR or Code) in CMR numerical order which is based on the cabinet structure. For example, all Human Service agencies are prefaced by the number "1" and are designated as 101 CMR through 130 CMR.

The Cumulative Tables published in the last issue of previous years will have a listing of all regulations published for that year. These Registers are:

April 6, 1976 - 1977	Register: # 88	Date: 1997	Register: # 833
1978	138	1998	859
1979	193	1999	885
1980	241	2000	911
1981	292	2001	937
1982	344	2002	963
1983	396	2003	989
1984	448	2004	1016
1985	500	2005	1042
1986	546	2006	1068
1987	572	2007	1094
1988	598	2008	1120
1989	624	2009	1146
1990	650	2010	1172
1991	676	2011	1198
1992	702	2012	1124
1993	729	2013	1250
1994	755		
1995	871		
1996	Supp. # 2 807		

*Effective  
Issue Date*

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**101 CMR      Executive Office for Health and Human Services**

204.00	Rates of Payment to Resident Care Facilities - <i>Emergency</i> . . . . .	1260	4/17/14
206.00	Standard Payments to Nursing Facilities - <i>Emergency Re-file</i> (MA Reg. # 1245) . . . . .	1252	9/27/13
		1255	2/28/14

			<i>Issue</i>	<i>Effective Date</i>
306.00	Rates of Payment for Mental Health Services Provided by Community Health Centers and Mental Health Centers - <i>Emergency</i>	1258		3/27/14
312.00	Family Planning Services .....	1261		5/23/14
313.00	Rates for Freestanding Clinics Providing Abortion and Sterilization Services .....	1261		5/23/14
346.00	Rates for Certain Substance Abuse Disorder Programs - <i>Emergency Re-file</i> (MA Reg. # 1241) .....	1254	8/2/13	
	.....	1256	3/14/14	
348.00	Day Habilitation Program Services - <i>Emergency</i> .....	1254	2/1/14	
	- <i>Compliance</i> (MA Reg. # 1254) .....	1261	2/1/14	
349.00	Rates for Early Intervention Program Services - <i>Emergency Re-file</i> (MA Reg. # 1250) .....	1257	12/6/13	
	- <i>Emergency Re-file</i> (MA Reg. # 1250) .....	1263	12/6/13	
351.00	Adult Foster Care - <i>Compliance</i> (MA Reg. # 1250) .....	1256	11/27/13	
410.00	Rates for Competitive Integrated Employment Services .....	1260	5/9/14	
411.00	Rates for Certain Placement and Support Services .....	1257	3/28/14	
	- <i>Emergency</i> .....	1259	4/1/14	
	- <i>Compliance</i> (MA Reg. # 1259) .....	1264	4/1/14	
412.00	Rates for Family Transitional Support Services .....	1257	3/28/14	
414.00	Rates for Family Stabilization Services - <i>Emergency</i> .....	1262	5/23/14	
418.00	Payments for Youth Short-term Stabilization - <i>Correction</i> (MA Reg. # 1237) .....	1257	6/21/13	
420.00	Rates for Adult Long-term Residential Services - <i>Emergency</i> .....	1259	4/1/14	
	- <i>Compliance</i> (MA Reg. # 1259) .....	1264	4/1/14	
613.00	Health Safety Net Eligible Services - <i>Correction</i> (MA Reg. # 1250) .....	1255	1/1/14	
	- <i>Correction</i> (MA Reg. # 1250) .....	1257	1/1/14	
614.00	Health Safety Net Payments and Funding - <i>Emergency Re-file</i> (MA Reg. # 1245) .....	1252	10/1/13	
	<i>Emergency Re-file</i> (MA Reg. # 1245) .....	1258	10/1/13	
	.....	1263	6/20/14	

**103 CMR      Department of Correction**

924.00	County Correctional Facilities – Security and Control - <i>Emergency</i> ..	1256	2/20/14
	- <i>Emergency Re-file</i> (MA Reg. # 1256) .....	1262	2/20/14
	.....	1264	7/4/14

**104 CMR      Department of Public Health**

30.00	Fiscal Administration .....	1254	2/14/14
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**105 CMR      Department of Public Health**

130.000	Hospital Licensure .....	1255	2/28/14
140.000	Licensure of Clinics .....	1251	1/3/14
150.000	Licensing of Long-term Care Facilities .....	1255	2/28/14
170.000	Emergency Medical Services System .....	1257	3/28/14
	- <i>Correction</i> (MA Reg. # 1257) .....	1259	3/28/14
171.000	Massachusetts First Responder Training - <i>Emergency</i> .....	1258	3/27/14
	- <i>Correction</i> (MA Reg. # 1258) .....	1262	3/27/14
	- <i>Compliance</i> (MA Reg. # 1258) .....	1262	3/27/14

			<i>Issue</i>	<i>Effective Date</i>
445.000	Minimum Standards for Bathing Beaches (State Sanitary Code, Chapter VII) .....	1262		6/6/14
700.000	Implementation of M.G.L. c. 94C - <i>Emergency</i> .....	1258		3/27/14
	- <i>Compliance</i> (MA Reg. # 1258) .....	1262		3/27/14
800.000	Requests and Consent for Anatomical Donations .....	1255		2/28/14
<b>106 CMR</b>	<b>Department of Transitional Assistance</b>			
705.000	Transitional Cash Assistance Program: Related Benefits .....	1257		3/28/14
<b>107 CMR</b>	<b>Massachusetts Rehabilitation Commission</b>			
14.00	Criminal Offender Record Reviews .....	1253		1/31/14
<b>110 CMR</b>	<b>Department of Children and Families</b>			
10.00	Fair Hearings and Grievances .....	1253		1/31/14
<b>112 CMR</b>	<b>Commission for the Deaf and Hard of Hearing</b>			
3.00	Interpreter Services for the Deaf and Hard of Hearing: Procedures and Structures for the Provision of Interpreters for the Deaf and Hard of Hearing by State Agencies .....	1262		6/6/14
<b>114 CMR</b>	<b>Division of Health Care Finance and Policy</b>			
<b>114.3</b>				
6.00	Rates of Payment for Mental Health Services Provided by Community Health Centers and Mental Health Centers - <i>Emergency</i> .....	1258		3/27/14
12.00	Family Planning Services .....	1261		5/23/14
13.00	Rates for Freestanding Clinics Providing Abortion and Sterilization Services .....	1261		5/23/14
48.00	Day Habilitation Program Services - <i>Emergency</i> .....	1254		2/1/14
	- <i>Compliance</i> (MA Reg. # 1254) .....	1261		2/1/14
49.00	Rates for Early Intervention Program Services - <i>Emergency</i> .....	1252		12/20/13
	- <i>Emergency Re-file</i> (MA Reg. # 1252) .....	1257		12/20/13
	- <i>Emergency Re-file</i> (MA Reg. # 1252) .....	1263		12/20/13
51.00	Adult Foster Care - <i>Compliance</i> (MA Reg. # 1250) .....	1256		12/2/13
<b>114.4</b>				
10.00	Rates for Competitive Integrated Employment Services .....	1260		5/9/14
11.00	Rates for Certain Placement and Support Services .....	1257		3/28/14
12.00	Rates for Family Transitional Support Services .....	1257		3/28/14
16.00	Rates for Clubhouse Services - <i>Correction</i> (MA Reg. # 1209) .....	1255		7/1/12
<b>114.6</b>				
14.00	Health Safety Net Payments and Funding - <i>Emergency Re-file</i> (MA Reg. # 1246) .....	1252		10/1/13
	- <i>Emergency Re-file</i> (MA Reg. # 1246) .....	1258		10/1/13
	- <i>Compliance</i> (MA Reg. # 1246) .....	1263		10/1/13

<b>119 CMR</b>	<b>Soldiers' Home in Holyoke</b>		
1.00	Criminal Offender Record Checks . . . . .	1252	1/17/14
<b>130 CMR</b>	<b>Division of Medical Assistance</b>		
403.000	Home Health Agency - <i>Correction</i> (MA Reg. # 1247) . . . . .	1253	11/8/13
	- <i>Correction</i> (MA Reg. # 1250) . . . . .	1255	1/1/14
405.000	Community Health Center (MA Reg. # 1250) . . . . .	1255	1/1/14
414.000	Independent Nurse Services - <i>Correction</i> (MA Reg. # 1247) . . . . .	1253	11/8/13
420.000	Dental Services - <i>Emergency</i> . . . . .	1259	3/1/14
421.000	Family Planning - <i>Correction</i> (MA Reg. # 1250) . . . . .	1255	1/1/14
429.000	Mental Health Center Services - <i>Emergency</i> . . . . .	1258	3/27/13
450.000	Administrative and Billing Regulations		
	- <i>Correction</i> (MA Reg. # 1247) . . . . .	1253	11/8/13
	- <i>Correction</i> (MA Reg. # 1250) . . . . .	1255	1/1/14
501.000	Health Care Reform: MassHealth: General Policies		
	- <i>Correction</i> (MA Reg. # 1250) . . . . .	1255	1/1/14
502.000	Health Care Reform: MassHealth: The Request for Benefits		
	- <i>Correction</i> (MA Reg. # 1250) . . . . .	1255	1/1/14
503.000	Health Care Reform: MassHealth: Universal Eligibility Requirements - <i>Correction</i> (MA Reg. # 1250) . . . . .	1255	1/1/14
504.000	Health Care Reform: Mass Health: Citizenship and Immigration - <i>Correction</i> (MA Reg. # 1250) . . . . .	1255	1/1/14
505.000	Health Care Reform: MassHealth: Coverage Types		
	- <i>Correction</i> (MA Reg. # 1250) . . . . .	1255	1/1/14
506.000	Health Care Reform: MassHealth: Financial Requirements		
	- <i>Correction</i> (MA Reg. # 1250) . . . . .	1255	1/1/14
508.000	Health Care Reform: MassHealth: Managed Care Requirements		
	- <i>Correction</i> (MA Reg. # 1250) . . . . .	1255	1/1/14
515.000	MassHealth: General Policies - <i>Correction</i> (MA Reg. # 1250) . . . . .	1255	1/1/14
516.000	MassHealth: Eligibility Process - <i>Correction</i> (MA Reg. # 1250) . . . . .	1255	1/1/14
517.000	MassHealth: Universal Eligibility Requirements		
	- <i>Correction</i> (MA Reg. # 1250) . . . . .	1255	1/1/14
518.000	MassHealth: Citizenship and Immigration		
	- <i>Correction</i> (MA Reg. # 1250) . . . . .	1255	1/1/14
519.000	MassHealth: Coverage Types - <i>Correction</i> (MA Reg. # 1250) . . . . .	1255	1/1/14
520.000	MassHealth: Financial Eligibility - <i>Correction</i> (MA Reg. # 1250) . . . . .	1255	1/1/14
522.000	MassHealth: Other Division Programs - <i>Correction</i> (MA Reg. # 1250)	1255	1/1/14
<b>205 CMR</b>	<b>Massachusetts Gaming Commission</b>		
3.00	Harness Horse Racing . . . . .	1253	1/31/14
4.00	Horse Racing . . . . .	1253	1/31/14
101.00	M.G.L. c. 23K Adjudicatory Proceedings . . . . .	1253	1/31/14
102.00	Construction and Application . . . . .	1253	1/31/14
112.00	Required Information and Applicant Cooperation . . . . .	1253	1/31/14
118.00	Phase 2 Administrative Proceedings - <i>Emergency</i> . . . . .	1256	2/24/14
	- <i>Compliance</i> (MA Reg. # 1256) . . . . .	1262	2/24/14

			<i>Issue</i>	<i>Effective Date</i>
121.00	Licensing Fee - <i>Emergency</i> .....	1256	2/24/14	
	- <i>Compliance</i> (MA Reg. # 1256) .....	1262	2/24/14	
125.00	Surrounding Communities - <i>Emergency</i> .....	1258	3/21/14	
	- <i>Compliance</i> (MA Reg. # 1256) .....	1262	3/21/14	
133.00	Voluntary Self-exclusion .....	1262	6/6/14	
134.00	Licensing and Registration of Employees, Vendors, Junket Enterprises and Representatives, and Labor Organizations .....	1253	1/31/14	
	- <i>Correction</i> (MA Reg. # 1253) .....	1256	1/31/14	
	- <i>Emergency</i> .....	1264	6/18/14	
135.00	Monitoring of Project Construction and Licensee Requirements - <i>Emergency</i> .....	1260	4/23/14	
<b>209 CMR      Division of Banks and Loan Agencies</b>				
48.00	Licensee Record Keeping .....	1262	6/6/14	
<b>211 CMR      Division of Insurance</b>				
7.00	Financial Surveillance of Massachusetts Insurance Holding Company Systems .....	1258	4/11/14	
	- <i>Correction</i> (MA Reg. # 1258) .....	1260	4/11/14	
71.00	Medicare Supplement Insurance To Facilitate the Implementation of M.G.L. c. 176K and Section 1882 of the Federal Social Security Act	1255	2/28/14	
<b>220 CMR      Department of Public Utilities</b>				
22.00	Notification of Vegetation Maintenance Activities for Transmission Rights-of-way .....	1263	6/20/14	
<b>225 CMR      Department of Energy Resources</b>				
14.00	Renewable Energy Portfolio Standard (Class I) .....	1259	4/25/14	
15.00	Renewable Energy Portfolio Standard (Class II) .....	1263	6/20/14	
<b>234 CMR      Board of Registration in Dentistry</b>				
5.00	Requirements for the Practice of Dentistry and Dental Hygiene - <i>Emergency</i> .....	1261	5/7/14	
	- <i>Correction</i> (MA Reg. # 1261) .....	1262	5/7/14	
<b>243 CMR      Board of Registration in Medicine</b>				
2.00	Licensing and the Practice of Medicine - <i>Emergency</i> .....	1260	4/23/14	
<b>244 CMR      Board of Registration in Nursing</b>				
4.00	The Practice of Nursing in the Expanded Role - <i>Emergency</i> .....	1264	6/11/14	
<b>247 CMR      Board of Registration in Pharmacy</b>				
8.00	Pharmacy Interns and Technicians - <i>Emergency</i> .....	1261	5/6/14	
9.00	Code of Professional Conduct; Professional Standards for Registered Pharmacists, Pharmacies and Pharmacy Departments - <i>Emergency</i> ..	1261	5/6/14	
10.00	Disciplinary Proceedings - <i>Emergency</i> .....	1259	4/1/14	

		<i>Effective Issue Date</i>
<b>249 CMR</b>	<b>Board of Registration in Podiatry</b>	
3.00	Application and Licensure - <i>Emergency</i> .....	1262 5/19/14
4.00	Practice of Podiatric Medicine - <i>Emergency</i> .....	1262 5/19/14
<b>250 CMR</b>	<b>Board of Registration of Professional Engineers and Land Surveyors</b>	
3.00	The Registration Process - <i>Correction</i> (MA Reg. # 1248) .....	1256 11/22/13
6.00	Land Surveying Procedures and Standards - <i>Correction</i> (MA Reg. # 1248) .....	1251 11/22/13
<b>263 CMR</b>	<b>Board of Registration of Physician Assistants</b>	
5.00	Scope of Practice and Employment of Physician Assistants - <i>Emergency</i> .....	1261 5/8/14
<b>264 CMR</b>	<b>Board of Registration of Real Estate Appraisers</b>	
1.00	Disciplinary Proceedings .....	1251 1/3/14
2.00	General Provisions .....	1251 1/3/14
4.00	Renewal Procedures and Continuing Education Requirements .....	1251 1/3/14
6.00	Practice of Real Estate Appraisal .....	1251 1/3/14
<b>310 CMR</b>	<b>Department of Environmental Protection</b>	
4.00	Timely Action Schedule and Fee Provisions .....	1263 6/20/14
7.00	Air Pollution Control .....	1259 4/25/14
	.....	1263 6/20/14
9.00	Waterways .....	1261 5/23/14
	- <i>Correction</i> (MA Reg. # 1261) .....	1262 5/23/14
15.00	The State Environmental Code, Title 5: Standard Requirements for the Siting, Inspection, Upgrade, and Expansion of On-site Sewage Treatment and Disposal Systems and for the Transport and Disposal of Septage .....	1251 1/3/14
	- <i>Correction</i> (MA Reg. # 1251) .....	1254 1/3/14
19.000	Solid Waste Management .....	1253 1/31/14
	.....	1254 2/14/14
	- <i>Correction</i> (MA Reg. # 1254) .....	1263 2/14/14
40.0000	Massachusetts Contingency Plan .....	S1259 4/25/14
	- <i>Correction</i> (MA Reg. # S1259) .....	1261 4/25/14
<b>314 CMR</b>	<b>Division of Water Pollution Control</b>	
2.00	Permit Procedure .....	1251 1/3/14
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**THE COMMONWEALTH OF MASSACHUSETTS****William Francis Galvin**

Secretary of the Commonwealth

**Regulation Filing** *To be completed by filing agency*CHAPTER NUMBER: **205 CMR 134.00**CHAPTER TITLE: **Licensing and Registration of Employees, Vendors, Junket Enterprises and Representatives, and Labor Organizations**AGENCY: **Massachusetts Gaming Commission**SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*

These regulations govern the licensing and registration of gaming employees, vendors, junket enterprises and representatives, and labor organizations. The proposed changes to this section are designed to ensure the Commission only requires information from the applications that are necessary to complete the background investigations.

REGULATORY AUTHORITY: **M.G.L. c.23K, s.3, 12, 16, 30 and 31**AGENCY CONTACT: **Danielle Holmes** PHONE: **617-979-8411**ADDRESS: **84 State St., 10th Floor, Boston, MA 02109****Compliance with M.G.L. c. 30A**EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*

These regulations are being adopted on an emergency basis due to the currently ongoing nature of the licensing, and to avoid a negative impact upon the applicants' ability to complete the process.

PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.*PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*

Date of public hearing or comment period:

**FISCAL EFFECT -** *Estimate the fiscal effect of the public and private sectors.*

For the first and second year: The Commission anticipates these regulations to result in a conservation of resources.

For the first five years: \_\_\_\_\_

No fiscal effect: \_\_\_\_\_

**SMALL BUSINESS IMPACT -** *M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.*

Date amended small business impact statement was filed: \_\_\_\_\_

**CODE OF MASSACHUSETTS REGULATIONS INDEX -** *List key subjects that are relevant to this regulation: Gaming, Gambling, Licensing, Vendor licensing, junket, Gaming Commission*

**PROMULGATION -** *State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number:*

**Amending 205 CMR 134**

**ATTESTATION -** *The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency.* ATTEST:

SIGNATURE: SIGNATURE ON FILE DATE: Jun 18 2014

Publication - *To be completed by the Regulations Division*

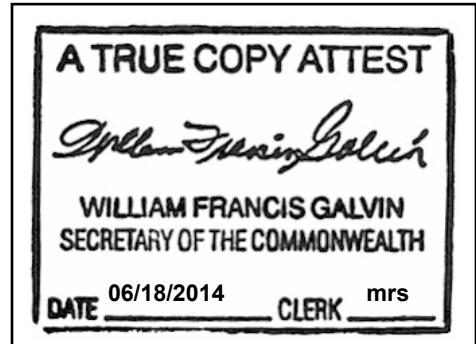
MASSACHUSETTS REGISTER NUMBER: 1264 DATE: 07/04/2014

EFFECTIVE DATE: 06/18/2014

**CODE OF MASSACHUSETTS REGULATIONS**

*Remove these pages:* Insert these pages:

This is an emergency regulation. There are no replacement pages.



## 205 CMR 134.00: LICENSING AND REGISTRATION OF EMPLOYEES, VENDORS, JUNKET ENTERPRISES AND REPRESENTATIVES, AND LABOR ORGANIZATIONS

## Section

- 134.01: Key Gaming Employee Licensees
- 134.02: Gaming Employee Licensees
- 134.03: Gaming Service Employees
- 134.04: Vendors
- 134.05: Labor Organizations
- (134.06: Junket Enterprises and Junket Representatives: Reserved)
- 134.07: Forms
- 134.08: Submission of Application
- 134.09: Investigation, Determination, and Appeals for Gaming Establishment Employees and Vendors
- 134.10: Affirmative License Standards for the Licensing of Employees and Vendors of the Gaming Establishment
- 134.11: Affirmative Registration Standards for the Registration of Employees and Vendors of the Gaming Establishment and Labor Organizations
- 134.12: Temporary Licenses
- 134.13: Fingerprinting
- 134.14: Identification
- 134.15: Fees
- 134.16: Term of Licenses
- 134.17: Renewals
- 134.18: Duties of Applicants and Licensees
- 134.19: Disciplinary Action

134.01: Key Gaming Employee Licensees

No individual shall be employed by or perform services for a gaming licensee as a key gaming employee, as defined by M.G.L. c. 23K, § 2, unless the individual has been licensed in accordance with M.G.L. c. 23K, §30 and 205 CMR 134.00. There shall be two categories of key gaming employee licensees: key gaming employee- executive and key gaming employee- standard.

- (1) An individual holding one of the following positions at a gaming establishment, and any person in a similar or equivalent position, regardless of job title, whose employment relates to gaming shall be designated as a key gaming employee- executive:
  - (a) Assistant General Manager;
  - (b) Chief Internal Audit Officer;
  - (c) Gaming Manager;
  - (d) Chief Financial Officer;
  - (e) Chief of Security;
  - (f) General Manager;
  - (g) Chief Surveillance Officer;
  - (h) Chief Compliance Officer;
  - (i) Principal executive Officer;
  - (j) Principal operating Officer;
  - (k) Principal accounting Officer;
  - (l) Chief Information Officer;
  - (m) Other executive level employees who are not identified as a key gaming employee- standard in accordance with 205 CMR 134.01(2) as determined by the commission.
- (2) An individual holding one of the following positions at a gaming establishment, and any person in a similar or equivalent position, regardless of job title, whose employment relates directly to a gaming establishment shall be designated as a key gaming employee- standard:
  - (a) Controller;
  - (b) Electronic gaming device or slot machines manager;
  - (c) Human resources manager;
  - (d) Information technology manager;
  - (e) Pit boss;

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- (f) Shift supervisor of table games, of a slot department, credit department, security, surveillance, accounting department, cage, or player development;
- (g) Credit manager;
- (h) Cage manager;
- (i) Hotel Manager;
- (j) Entertainment Director;
- (k) Food & Beverage Manager;
- (l) Other managerial employees who are not identified as a key gaming employee-executive in accordance with 205 CMR 134.01(1), but who are empowered to make discretionary decisions which impact gaming establishment operations, or as determined by the commission.

(3) Any individual who is a qualifier of a gaming licensee but who does not perform any of the duties of the positions identified in 205 CMR 134.01(a) or (b) does not have to become licensed as a key gaming employee. Such individual does have to be approved as a qualifier and issued a positive determination of suitability in accordance with 205 CMR 111.00: *Phase 1 Application Requirements*, 115.00: *Phase 1 Suitability Determination, Standards and Procedures*, and 116.00: *Persons Required to Be Licensed or Qualified*. An individual who has been issued a positive determination of suitability in accordance with 205 CMR 111.00: *Phase 1 Application Requirements* and who will be performing the responsibilities requiring licensure as a key gaming employee shall apply for licensure in accordance with 205 CMR 134.08(2) subject to the term limitation of 205 CMR 134.16(4).

134.02: Gaming Employee Licensees

No individual shall be employed by or perform services for a gaming licensee as a gaming employee, as defined by M.G.L. c. 23K, § 2, unless the individual has been licensed in accordance with M.G.L. c. 23K, § 30 and 205 CMR 134.00. An individual holding one of the following positions at a gaming establishment, and any person in a similar or equivalent position, regardless of job title, whose employment relates directly to a gaming establishment shall be designated as a gaming employee:

- (a) Boxpersons;
- (b) Cashiers;
- (c) Change personnel;
- (d) Clerks;
- (e) Count room personnel;
- (f) Data processing personnel;
- (g) Dealers and croupiers;
- (h) Floorpersons;
- (i) Gaming Hosts;
- (j) Internal audit and accounting personnel whose duties include reviewing, verifying, and recording gaming revenue entries, the processing or control of active accounting documents related to gaming activity, or that have access to active accounting documents related to gaming activity;
- (k) An individual who is directly connected to the operation or maintenance of a slot machine or game taking place in a gaming establishment (whether employed by the gaming licensee or a vendor licensed in accordance with 205 CMR 134.00);
- (l) Personnel authorized to extend complimentary services, including employees performing functions similar to those performed by a junket representative;
- (m) Junket representative employed by the gaming licensee or affiliate of the gaming license or a junket enterprise licensed as a gaming vendor in accordance with 205 CMR 134.00;
- (n) Personnel authorized to issue credit;
- (o) Personnel authorized to issue promotional play including persons who identify patrons or groups of patrons who shall receive complimentaries based on actual patron play, authorize such complimentaries, or determine the amount of such complimentaries;
- (p) Personnel with security administrator access to a slot machine tracking system;
- (q) Security personnel, including guards and game observers, or an employee with knowledge of security procedures of the gaming establishment;

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- (r) Surveillance personnel, including surveillance equipment maintenance and repair technicians (whether employed by the gaming licensee or a vendor licensed in accordance with 205 CMR 134.00);
- (s) Any employee who conducts or participates in the conduct of gaming, who participates in the transfer or handling of chips, tokens or money, or who participates in audit or accounting functions;
- (t) Any employee whose has access to a restricted area of a gaming establishment;
- (u) A person who supervises a person required to be licensed as a gaming employee in accordance with 205 CMR 134.02;
- (v) An employee of a gaming establishment whom the Bureau deems necessary to be licensed to ensure compliance with the M.G.L. c. 23K and 205 CMR and to protect the public and ensure the credibility and integrity of gaming in the Commonwealth.

134.03: Gaming Service Employees

An individual employed in a gaming establishment who is not classified as a key gaming employee in accordance with 205 CMR 134.01, or a gaming employee in accordance with 205 CMR 134.02, shall be designated as a gaming service employee and shall register in accordance with 205 CMR 134.09 prior to engaging in the provision of employment services. An individual employed by a vendor of a gaming establishment for work in a gaming establishment shall be considered a gaming service employee unless otherwise specified in 205 CMR 134.02.

134.04: Vendors

No person shall conduct business with a gaming licensee as a vendor to a gaming establishment unless such person has been licensed as a gaming vendor, as defined by M.G.L. c. 23K, § 2, or registered as a non-gaming vendor, as defined by M.G.L. c. 23K, § 2, in accordance with 205 CMR 134.00. A person shall be considered to be conducting business upon commencement of performance of a contract or provision of a good or service.

A subcontractor to a vendor shall not be required to obtain licensure or registration under 205 CMR 134.00. For purposes of 205 CMR 134.00 a subcontractor shall be considered a person that contracts with a licensed or registered vendor to provide goods or services necessary to fulfill the licensed or registered vendor's contract with a gaming licensee. As part of the application process, vendors shall be required to identify all of its known or anticipated subcontractors and shall have a continuing duty to update the Bureau relative to the identification of any new subcontractors. The Bureau may, at its discretion, require the submission of additional information and documents, including but not limited to the Subcontractor Information Form as provided in 205 CMR 134.07(11).

(1) Gaming Vendors.

- (a) Gaming Vendors- Primary. A person who conducts business with a gaming applicant or gaming licensee on a regular or continuing basis for provision of goods or services which directly relates to gaming, as defined by M.G.L. c. 23K, § 2, including, but not limited to a person who does any of the following, shall be designated as a gaming vendor-primary:

1. Manufactures, sells, leases, supplies, or distributes devices, machines, equipment (except gaming table layouts), accessories, or items that meet at least one of the following conditions:
  - a. are designed for use in a gaming area as defined by M.G.L. c. 23K, § 2;
  - b. are designed for use in a simulcast wagering area;
  - c. are used in connection with a game in the gaming area;
  - d. have the capacity to affect the calculation, storage, collection, electronic security, or control of the gaming revenues from a gaming establishment.
2. provides maintenance services or repairs gaming or simulcast wagering equipment, including slot machines;
3. acts as a junket enterprise; or
4. provides items or services that the Commission has determined are used in or are incidental to gaming or to an activity of a gaming facility.

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Exception. Any person, by submission of a written petition, may request a determination from the commission that the person providing goods or services deemed by the Bureau to meet a description contained in 205 CMR 134.04(1)(a) need not be licensed as a Gaming Vendor-primary on the grounds that they are not providing services on a regular or continuing basis or that they do not directly relate to gaming.

(b) Gaming Vendors- Secondary. Any person who regularly conducts over \$250,000 in gross sales with any one gaming licensee within a 12 month period or a person who conducts over \$100,000 in gross sales with any one gaming licensee within a three month period, and who does not otherwise qualify for designation as a Gaming Vendor-primary in accordance with 205 CMR 134.04(1)(a)1., may be designated a Gaming Vendor-secondary by the Commission regardless of the type of goods or services being provided. This designation may be made either by virtue of submission of a *Business Entity Disclosure Form- Gaming Vendor-secondary* application by the vendor in anticipation of meeting the monetary threshold, or in accordance with 205 CMR 134.04(3).

(2) Non-gaming Vendors. A person who offers to a gaming establishment or gaming licensee goods or services which are not directly related to gaming, as defined by M.G.L. c. 23K, § 2, including, but not limited to any of the following, shall be designated as a non-gaming vendor:

- (1) construction company;
- (2) vending machine provider;
- (3) linen supplier;
- (4) garbage handler;
- (5) maintenance company;
- (6) limousine service company;
- (7) food purveyor;
- (8) supplier of alcoholic beverages;
- (9) a person that sells, distributes, tests, or repairs antique slot machines as described in M.G.L. c. 271, § 5A;
- (10) suppliers of gaming table layouts.

(3) The Division of Licensing shall determine upon review of the agreement submitted in accordance with 205 CMR whether a registered non-gaming vendor has met the conditions provided in 205 CMR 134.04(1)(b). If the Division of Licensing determines that the non-gaming vendor registrant has met the threshold it shall forward notice of such to the vendor of its obligation to submit an application for licensure as a gaming vendor-secondary. Within 45 days of service of the notice, the registrant shall either submit a completed *Business Entity Disclosure Form- Gaming Vendor- Secondary* as set forth in 205 CMR 134.07(7) for licensure as a gaming vendor-secondary, discontinue providing the goods or services it is contracted to provide, file for an exemption in accordance with 205 CMR 134.04(6), or file a written request to the Division of Licensing for reconsideration from the determination requiring filing of an application for licensure as a gaming vendor-secondary on the grounds that they are not providing goods or services on a regular or continuing basis.

(4) Gaming Vendor Qualifier.

(a) The following persons shall be designated as a gaming vendor qualifier and must establish their qualifications for licensure in accordance with 205 CMR 134.09 and 134.10:

1. If the gaming vendor applicant is a sole proprietor: The owner.
2. If the gaming vendor applicant is a corporation:
  - a. Each officer;
  - b. Each inside director and those outside directors serving on the audit or compliance committees;
  - c. Any person owning more than 5% of the common stock of a company applying for licensure as a gaming vendor as provided by 205 CMR 134.04(1)(a), or a holding, intermediary or subsidiary company of such company;
  - d. Any person who will act as a sales representative or regularly engage in the solicitation of business from a licensed gaming establishment;
  - e. In the judgment of the Bureau any person with significant and substantial responsibility for the applicant's business in the Commonwealth.

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3. If the applicant is a limited liability corporation:
  - a. Each Member;
  - b. Each transferee of a Member's interest;
  - c. Each Manager;
  - d. In the judgment of the Bureau any person with significant and substantial responsibility for the applicant's business in the Commonwealth.
4. If the applicant is a limited partnership:
  - a. Each General Partner;
  - b. Each Limited Partner;
  - c. In the judgment of the Bureau any person with significant and substantial responsibility for the applicant's business in the Commonwealth.
5. If the applicant is a partnership:
  - a. Each Partner;
  - b. In the judgment of the Bureau any person with significant and substantial responsibility for the applicant's business in the Commonwealth.

(b) In all cases, any person who, in the opinion of the commission or Bureau, can exercise control or provide direction to a gaming vendor or applicant for a gaming vendor license or holding, intermediary or subsidiary companies thereof may be designated a Gaming Vendor qualifier.

(c) Other Qualifiers. The commission or Bureau may, at its discretion, require other persons that have a business association of any kind with the applicant for a gaming vendor license to be licensed as a gaming vendor qualifier. These persons include, but are not limited to an affiliate or holding, intermediary or subsidiary companies of the applicant for a gaming vendor license.

(d) An applicant may appeal any determination made by the Bureau in accordance with 205 CMR 134.04(4) to the commission by filing a petition on a form prescribed by the commission. The commission shall decide the appeal at a public hearing on the matter at which it may allow representatives of the petitioner and Bureau to testify.

(5) Waiver. Upon written petition, the commission may waive the requirement to be licensed as a gaming vendor qualifier for:

- (a) institutional investors holding up to 15% of the stock of the gaming vendor or applicant for a gaming vendor license, or holding, intermediary or subsidiary company thereof, upon a showing by the person seeking the waiver that it purchased the securities for investment purposes only and does not have any intention to influence or affect the affairs or operations of the gaming vendor or applicant for a gaming vendor license or a holding, intermediary or subsidiary company thereof. Provided, however, any institutional investor granted a waiver which subsequently determines to influence or affect the affairs or operations of the gaming vendor or applicant for a gaming vendor license, or a holding, intermediary thereof shall provide not less than 30 days' notice to the commission of such intent and shall file an application and be subject to the licensing requirements of 205 CMR 134.00 before taking any action that may influence or affect the affairs of the gaming vendor or applicant for a gaming vendor license or a holding, intermediary or subsidiary company. Any person holding over 15% of a gaming vendor or applicant for a gaming vendor license, or a holding, intermediary or subsidiary company thereof, shall be required to apply for a license before doing business in the Commonwealth; or
- (b) Any person who, in the opinion of the Bureau or the commission, cannot exercise control or provide direction to a gaming vendor or applicant for a gaming vendor license or a holding, intermediary or subsidiary company thereof. Provided, however, a person who is not an institutional investor and who holds more than 5% of the common stock of a company, or holding, intermediary or subsidiary company of such a company may not petition for waiver in accordance with 205 CMR 134.04(5)(b).

(6) Exemptions. For purposes of 205 CMR 134.04 the following persons engaged in the following fields of commerce who provide goods or services to a gaming applicant or gaming licensee, and that are not otherwise required to be licensed as a key gaming employee, gaming employee, or gaming service employee, shall not be deemed to be conducting business for purposes of M.G.L. c. 23K, § 31 and accordingly shall not be required to obtain licensure or registration as a vendor:

134.04: continued

- (a) insurance companies and insurance agencies;
- (b) television, radio, newspaper, internet or other similar media outlets used for advertising purposes;
- (c) transactions with a governmental entity;
- (d) professional legal, accounting, and financial services;
- (e) physicians;
- (f) labor organizations, unions, or affiliates registered in accordance with 205 CMR 134.00;
- (g) utility companies;
- (h) telecommunications companies;
- (i) training seminars, publication subscriptions, conference registration or membership dues for professional associations intended to directly contribute to the work performance or professional development of an employee;
- (j) non-profit charitable corporations or organizations, provided that no consideration is received for the contribution;
- (k) court order or stipulation of settlement or for settlement of guest losses or guest refunds
- (l) payments for freight charges to freight transporters select by the vendor for delivering goods;
- (m) professional entertainers and/or celebrity appearances;
- (n) any other person that, by submission of a written petition, can demonstrate to the commission that registration as a non-gaming vendor is not necessary to protect the public interest.

134.05: Labor Organizations

- (1) Each labor organization, union or affiliate seeking to represent employees who are employed at a gaming establishment shall register with the Commission in accordance with 205 CMR 134.05.
- (2) Within 30 days of the date on which it begins organizing activities directed at the employees who are employed in a gaming establishment, a labor organization, union or affiliate shall file with the Bureau a labor organization registration statement in accordance with 205 CMR 134.08. Organizing activities shall include, without limitation, soliciting membership by means of any direct personal contact, or any public notices such as the posting or distribution of fliers, posters or advertisements.
- (3) Each officer, agent or principal employee of the labor organization, union or affiliate shall file a Labor Organization Individual Disclosure Form in accordance with 205 CMR 134.08 at the time the pertinent labor organization, union or affiliate registers or should register, or within 30 days of the date on which the individual is elected, appointed or hired, whichever is later, or within such additional time as the Bureau may, upon a showing of good cause, permit.
- (4) Notwithstanding 205 CMR 134.05 a Labor Organization Individual Disclosure Form need not be filed by an officer, agent or principal employee of a national or international labor organization who exercises no authority, discretion or influence over the operation of such labor organization with regard to any employment matter relating to employees who are employed in a Massachusetts gaming establishment provided that the Bureau may direct such officer to file such form or to provide any other information in the same manner and to the same extent as may be required of any other officer of a labor organization which is required to register.
- (5) Neither a labor organization, union, or affiliate, nor its officers who are not otherwise licensed or registered as a key gaming employee, gaming employee, gaming service employee, gaming vendor, gaming vendor qualifier, or non-gaming vendor, may hold any financial interest in a gaming establishment whose employees are represented by the labor organization, union, or affiliate.

(134.06: Junket Enterprises and Junket Representatives: Reserved)

134.07: Forms

(1) Multi-jurisdictional Personal History Disclosure Form for Key Gaming Employees-Executive. *The Multi-jurisdictional Personal History Disclosure Form For Key Gaming Employees- Executive* shall contain the following information:

- (a) Name, including maiden name and any aliases or nicknames and applicable dates of use;
- (b) Date of birth;
- (c) Physical description;
- (d) Current address and residence history;
- (e) Social Security Number, which information is voluntarily provided in accordance with 5 U.S.C. § 552a;
- (f) Citizenship and, if applicable, information regarding resident alien status, including information regarding passports;
- (g) Marital history, spouse, dependents and other family data;
- (h) The gaming licensee or qualifier, gaming vendor licensee or qualifier or holding company, as applicable, with which the qualifier is affiliated, and the nature of the qualifier's position with or interest in such entity;
- (i) Telephone number at the current place of employment, and home number;
- (j) Email address;
- (k) Employment history of the qualifier and qualifier's immediate family;
- (l) Education and training;
- (m) Record of military service;
- (n) Government positions and offices presently or previously held, and the offices, trusteeships, directorships or fiduciary positions presently or previously held with any business entity;
- (o) Trusteeships or other fiduciary positions held by the qualifier and the qualifier's spouse, and any denial or suspension of, or removal from, such positions;
- (p) Current memberships in any social, labor or fraternal union, club or organization;
- (q) Licenses and other approvals held by or applied for by the qualifier or, where specified, the qualifier's spouse, in the Commonwealth of Massachusetts or any other jurisdiction, as follows:
  - 1. Any professional or occupational license held by or applied for by the qualifier or the qualifier's spouse;
  - 2. Motor vehicle registrations and operator licenses held by or applied for by the qualifier or the qualifier's spouse, and any revocation or suspension thereof;
  - 3. Possession or ownership of any pistol or firearm, or any application for any firearm permit, firearm dealer's license, or permit to carry a pistol or firearm;
  - 4. Any license, permit, approval or registration required to participate in any lawful gambling operation in the Commonwealth of Massachusetts or any jurisdiction held by or applied for by the qualifier; and
  - 5. Any denial, suspension or revocation by a government agency of a license, permit or certification held by or applied for by the qualifier or the qualifier's spouse, or any entity in which the qualifier or the qualifier's spouse was a director, officer, partner or any owner of a 5% or greater interest.
- (r) Any interest in or employment presently or previously held by the qualifier with any entity which has applied for a permit, license, certificate or qualification in connection with any lawful gambling or alcoholic beverage operation in the Commonwealth of Massachusetts or any other jurisdiction; and any current employment or other association by the qualifier's family with the gambling or alcoholic beverage industries in the Commonwealth of Massachusetts or any other jurisdiction;
- (s) Civil, criminal and investigatory proceedings in any jurisdiction, as follows:
  - 1. Any arrest, indictment, charge, or conviction of the applicant;
  - 2. Any instance where the applicant has been named as a co-conspirator in a criminal proceeding or held as a material witness;
  - 3. Any appearance before, investigation by or request to take a polygraph examination by any governmental agency, court, committee, grand jury or investigatory body, and any refusal to comply with a request to do so;
  - 4. Any pardons, dismissals, suspensions or deferrals of any criminal investigation, prosecution, or conviction;
  - 5. Lawsuits to which the applicant was or is a party;

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6. Any citation or charge for a violation of a statute, regulation or code or any jurisdiction, other than a criminal disorderly persons, petty disorderly persons or motor vehicle violation; and
7. Any use, distribution, or possession of any narcotic, hallucinogenic, drug, barbiturate, amphetamine or other substance listed in M.G.L. c. 94C other than pursuant to a valid prescription issued by a licensed physician.

(t) Any exclusion or barring from any casino, gaming establishment or gambling/gaming related entity in any jurisdiction;

(u) Financial data, as follows:

1. All assets and liabilities of the applicant, and the applicant's spouse and dependent children as indicated on the net worth statement and supporting schedules in a format prescribed by the commission, including cash, bank accounts, notes payable and receivable, real estate and income taxes payable, loans, accounts payable and any other indebtedness, contingent liabilities, securities, real estate interests, real estate mortgages and liens, life insurance, pension funds, vehicles and other assets;
2. Bank accounts, including any right of ownership in, control over or interest in any foreign bank account, and safe deposit boxes;
3. Real estate interests held by the applicant or the applicant's spouse or dependent children;
4. Businesses owned;
5. Copies of federal tax returns and related information;
6. Judgments or petitions for bankruptcy, insolvency or liquidation concerning the qualifier or any business entity in which the qualifier held a 5% or greater interest, other than a publicly traded corporation, or in which the qualifier served as an officer or director;
7. Any business entity in which the qualifier was an owner, director or officer which has been placed under some form of governmental administration or monitoring;
8. Any garnishment or attachment of wages, charging order or voluntary wage execution, including the amount, court, nature of the obligation and the holder of the obligation;
9. Any repossessions of real or personal property;
10. Any guarantees, co-signatures or insuring of payments of financial obligations of any persons or business entities;
11. Status as executor, administrator or fiduciary of any estate;
12. Life insurance policies on the applicant's life which name someone other than the applicant's family as a beneficiary;
13. Positions held, assets held, or interest received in any estate or trust;
14. Whether the applicant has ever been bonded for any purpose or been denied any type of bond, including the nature of the bond and if applicable, the reason for denial;
15. Insurance claims in excess of \$100,000.00 by the applicant or the applicant's spouse or dependent children;
16. Referral or finder's fees in excess of \$10,000.00;
17. Loans in excess of \$10,000.00 made or received by the applicant, the applicant's spouse or dependent children;
18. Gifts in excess of \$10,000.00 given or received by the applicant or the applicant's immediate family;
19. Brokerage or margin accounts with any securities or commodities dealer;
20. Currency exchanges in an amount greater than \$10,000.00;
21. Information regarding any instance where the applicant or any entity in which the applicant was a director, officer or holder of a 5% or greater interest has traded in foreign currencies or in a foreign commodities exchange, sold or purchased discounted promissory notes or other commercial paper, or been a party to any leasing arrangements in excess of \$50,000.00; and
22. Information regarding any ownership interest or financial investment by the applicant in any entity which holds or is an applicant for a license issued by the commission, or in any gambling venture which does not require licensure by the commission, including persons providing or reasonably anticipated to provide the applicant with support in the financing of such investment or interest; the extent and nature of the applicant's involvement in the management and operation of the entity; whether the applicant has or has agreed to assign, pledge or hypothecate such interest or investment, the nature and terms of any such transaction and a copy of any such agreement.

134.07: continued

- (v) The name, address, occupation and phone number of persons who can attest to the qualifier's good character and reputation;
- (w) A signed, dated Statement of Truth affidavit.

(2) Massachusetts Supplement Form For Key Gaming Employees- Executive. The Massachusetts Supplement Form For Key Qualifiers Gaming Employees- Executive shall contain the following information:

- (a) Name, including maiden name and any aliases or nicknames and applicable dates of use;
- (b) Date of birth;
- (c) Physical description;
- (d) Current address, mailing and home, if different;
- (e) Home, cell, and work telephone numbers;
- (f) Social Security Number, which information is voluntarily provided in accordance with 5 U.S.C. § 552a;
- (g) Whether any civil judgments have been obtained against the applicant pertaining to antitrust or security regulation;
- (h) The gaming license applicant or holding company, as applicable, with which the applicant is affiliated, and the nature of the applicant's position with or interest in such entity;
- (i) Citizenship and, if applicable, resident alien status, including any employment authorization with expiration date; country of which the applicant is a citizen, place of birth, port of entry to the United States, and name and addresses of sponsor(s) upon the applicant's arrival;
- (j) Whether during the last ten years any entity in which the applicant has been a director, officer, principal employee or a holder of 5% or more interest has:
  - 1. Made or been charged with (either itself or through third parties acting for it) bribes or kickbacks to any government official, domestic or foreign, to obtain favorable treatment or to any company, employee or organization to obtain a competitive advantage;
  - 2. Held a foreign bank account or has had authority to control disbursements from a foreign bank account;
  - 3. Maintained a bank account or other account, whether domestic or foreign, which is not reflected on the books or records of the business or which is in a name other than the name of the business;
  - 4. Donated, loaned or used funds or property for the use or benefit or in opposing any government, political party, candidate or committee either domestic or foreign;
  - 5. Compensated any of its directors, officers or employees for time and expenses incurred in performing services for the benefit of or in opposing any government or political party domestic or foreign; or
  - 6. Made any loans, donations or other disbursement to its directors, officers or employees for the purpose of making political contributions or reimbursing such individuals for political contributions whether domestic or foreign;
  - 7. Copies of federal and foreign tax returns and related information for the last five years;
  - 8. The name, address, occupation and phone number of persons who can attest to the qualifier's good character and reputation;
  - 9. A signed, dated and notarized release authorization which shall direct all courts, law enforcement agencies, probation departments, military organizations, selective service boards, employers, education institutions, banks, financial and other institutions and all governmental agencies, federal, state and local, both foreign and domestic, to release any and all information pertaining to the qualifier as requested by the commission, the bureau or a contractor investigator;
  - 10. A signed, dated Statement of Truth;
  - 11. A waiver of liability as to the Commonwealth of Massachusetts and its instrumentalities and agents for any damages resulting from any disclosure and publication of information acquired during the license or investigation process; and
  - 12. Consent to fingerprinting, photographing, supplying of handwriting exemplars, and any lawful inspection, search, or seizure of the applicant, licensee, or registrant while present in a gaming establishment, and/or their personal effects present in a gaming establishment conducted in accordance with 205 CMR.

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(3) Key Gaming Employee- Standard Application Form. A Key Gaming Employee- Standard Application Form shall contain the following information:

- (a) Name, including maiden name and any aliases or nicknames along with applicable dates of usage;
- (b) Date and place of birth;
- (c) Physical description;
- (d) Current address and telephone number, and residence history for the past ten years;
- (e) Social Security Number, which information is voluntarily provided in accordance with § 7 of the Privacy Act, 5 U.S.C. § 552a;
- (f) Citizenship and, if applicable, resident alien status, including any employment authorization and expiration date, country of which the applicant is a citizen, place of birth, port of entry to the United States, and name and address of sponsor(s) upon the applicant's arrival;
- (g) Reason for filing the Key Gaming Employee- Standard Application Form;
- (h) Marital history and other family data;
- (i) Employment history, including any gaming-related employment, for the past ten years;
- (j) Education and training;
- (k) Record of military service;
- (l) Licenses and other approvals held by or applied for by the applicant or, where specified, the applicant's spouse, in the Commonwealth of Massachusetts or any other jurisdiction, including:
  - 1. Any license, permit, approval or registration required to participate in any lawful gambling operation in the Commonwealth of Massachusetts or any jurisdiction;
  - 2. Any denial, suspension or revocation by a government agency in the Commonwealth of Massachusetts or any other jurisdiction of a license, permit, approval or registration held by or applied for by the applicant or the applicant's spouse; and
  - 3. Motor vehicle registrations and operator licenses held by or applied for by the applicant or the applicant's spouse, and any revocation or suspension thereof.
- (m) Civil, criminal and investigatory proceedings in any jurisdictions, as follows:
  - 1. Any arrest, indictment, charge, or conviction of the applicant;
  - 2. Any appearance before, investigation by or request to take a polygraph examination by any governmental agency, court, committee, grand jury or investigatory body;
  - 3. Lawsuits to which the applicant was or is a party in the past ten years; and
  - 4. Whether any civil judgments have been obtained against the applicant pertaining to antitrust or security regulation.
- (n) Financial data, as follows:
  - 1. All assets and liabilities of the applicant, and the applicant's spouse and dependent children as indicated on the net worth statement and supporting schedules in a format prescribed by the Commission, including cash, bank accounts, notes payable and receivable, real estate and income taxes payable, loans, accounts payable, credit card debt and any other indebtedness, contingent liabilities, securities, real estate interests, real estate mortgages and liens, life insurance, pension funds, vehicles and other assets;
  - 2. Bank accounts, including any right of ownership in, control over or interest in any foreign bank account during the last ten year period as well as with regard to safe deposit boxes;
  - 3. Real estate interests held by the applicant or the applicant's spouse or dependent children in the past ten years regardless of whether such interest was held under a recorded or unrecorded instrument;
  - 4. Any business in which the applicant has held an ownership interest for the past 20 years;
  - 5. Copies of federal and state tax returns and related information for the last five years;
  - 6. Judgments or petitions for bankruptcy or insolvency concerning the applicant or any business entity in which the applicant held a 5% or greater interest, other than a publicly traded corporation, in the past 20 years or in which the applicant served as an officer or director;
  - 7. Any garnishment or attachment of wages, charging order or voluntary wage execution, during the past ten-year period including the amount, court, nature of the obligation and the name and address holder of the obligation;
  - 8. Positions held or interest received in any estate or trust during the last ten-year period;

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- (gg) Copies of all Internal Revenue Forms 1120 (corporate income tax return), all Internal Revenue Forms 1065 (partnership return) or all Internal Revenue Forms 1040 (personal return) filed for the last five years;
- (hh) A copy of a business registration certificate or other proof of valid business registration in Massachusetts;
- (ii) A Subcontractor Information Form completed in accordance with 205 CMR 134.07(11), if so authorized by the Bureau;
- (jj) In addition to the information above, a completed BED GVP shall include the following documents, which shall be dated and signed by the president, chief executive officer, partners, general partner, sole proprietor or other authorized person and notarized:
  1. A Statement of Truth;
  2. A Release Authorization directing all courts, law enforcement agencies, probation departments, selective service boards, employers, educational institutions, banks, financial and other institutions and all governmental agencies, federal, state and local, both foreign and domestic, to release any and all information pertaining to the vendor as requested by the Commission; and
  3. An acknowledgment of receipt of notice regarding confidentiality, and non-refundability of filing fees.

(7) Business Entity Disclosure Form - Gaming Vendor- Secondary. *A Business Entity Disclosure Form Gaming Vendor- Secondary (BED GVS) shall contain the following information:*

- (a) The current or former official and trade names used and the dates of use;
- (b) The current post office address and, if a corporation, the name of the state under the laws of which it was incorporated, the location of its principal place of business and the names and addresses of its directors and stockholders;
- (c) The former business addresses within the last ten-year period and dates of use;
- (d) The business telephone number;
- (e) The name, title and telephone number of the contact person;
- (f) Whether the application is for initial licensure or retention of that license and, if retention, the license number and date of last submission;
- (g) The business form and, as appropriate, a copy of the certificate of incorporation, charter, bylaws, partnership agreement and all amendments, trust agreement or other documentation relating to the legal organization of the business;
- (h) If a publicly traded corporation, the stock exchange its stock is traded on and its symbol;
- (i) The Federal Employer Identification Number;
- (j) A description of the nature, type, number of shares, terms, conditions, rights and privileges of all classes of stock issued by the vendor, if any, and the amount outstanding of each, or which the vendor plans to issue;
- (k) The identity of every person having a direct or indirect interest in the business and the nature of such interest; provided, however, that if the disclosed entity is a trust, the application shall disclose the names and addresses of all beneficiaries; provided further, that if the disclosed entity is a partnership, the application shall disclose the names and addresses of all partners, both general and limited; and provided further, that if the disclosed entity is a limited liability company, the application shall disclose the names and addresses of all members;
- (l) The name, home address, date of birth, current title or position and, if applicable, number of shares and class of stock and percentage of ownership for the following persons:
  1. Each officer, director or trustee;
  2. Each partner whether general, limited or otherwise;
  3. A sole proprietor;
  4. Each natural person or entity that directly or indirectly holds any beneficial or ownership interest of 5% or more of the entity completing the form;
  5. Each sales representative or other person who will regularly solicit business from a gaming licensee;
  6. Any other person not otherwise specified in 205 CMR 134.07(7)(l)1. through 5. who has signed or will sign any agreement with a gaming licensee.
- (m) The annual compensation of each partner, officer, director and trustee;

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- (n) The name, home address, date of birth, position, length of time employed and the amount of compensation of each person, other than the persons identified in 205 CMR 134.07(7)(l), who is currently expected to receive annual compensation of more than \$300,000;
- (o) If the vendor is a partnership, a description of the interest held by each partner, whether limited or general, amount of initial investment, amount of additional contribution, amount and nature of any anticipated future investments, degree of control of each partner, percentage of ownership of each partner, and method of distributing profits to each partner;
- (p) A description of the nature, type, terms, covenants, and priorities of all outstanding debt and the name, address and date of birth of each debt holder or security holder, type and class of debt instrument held, original debt amount and current debt balance;
- (q) A description of the nature, type, terms and conditions of all securities options;
- (r) Within the last ten years, the following information for each account held by a bank, savings and loan association or other financial institution, whether foreign or domestic, in the name of the vendor or its nominee or which is otherwise under the direct or indirect control of the vendor:
  - 1. The name and address of the financial institution;
  - 2. The type of account;
  - 3. The account numbers; and
  - 4. The dates held.
- (s) A description of any civil, criminal, administrative and investigatory proceedings in any jurisdiction in which the vendor or its subsidiaries have been involved as follows:
  - 1. Any arrest, indictment, charge or conviction for any criminal or disorderly persons offense;
  - 2. Any criminal proceeding in which the business or its subsidiaries has been a party or has been named as an unindicted co-conspirator;
  - 3. Existing civil litigation if damages are reasonably expected to exceed \$100,000, except for claims covered by insurance;
  - 4. Any judgment, order, consent decree or consent order entered against the vendor pertaining to a violation or alleged violation of the federal antitrust, trade regulation or securities laws or similar laws of any state, province or country; and
  - 5. Any judgment, order, consent decree or consent order entered against the vendor pertaining to a violation or alleged violation of any other state or federal statute, regulation or code which resulted in the imposition of a fine or penalty of \$50,000 or more.
- (t) Within the last ten years, for the vendor and any holding or intermediary company, information regarding any judgments or petitions by or against it for bankruptcy or insolvency and any relief sought under any provision of the Federal Bankruptcy Act or any state insolvency law, and any receiver, fiscal agent, trustee, reorganization trustee, or similar officer appointed for the property or business of the vendor or its parent, any holding, intermediary or subsidiary company;
- (u) Within the last ten years, whether the vendor has had any license or certificate denied, suspended or revoked by any government agency in the Commonwealth of Massachusetts or any other jurisdiction, the nature of such license or certificate, the agency and its location, the date of such action, the disposition, the reasons therefore, and the facts related thereto;
- (v) Whether the vendor has ever applied for a license, permit or authorization to participate in any lawful gaming operation in the Commonwealth of Massachusetts or any other jurisdiction, the agency and its location, date of application, the nature of the license permit or authorization, number and expiration date;
- (w) Within the last ten years, whether the vendor or any director, officer, partner, employee or person acting for or on behalf of the vendor has made bribes or kickbacks to any employee, company, organization or government official, foreign or domestic, to obtain favorable treatment or to obtain a competitive advantage;
- (x) The names and addresses of any current or former directors, officers, partners, employees or third parties who would have knowledge or information concerning 205 CMR 134.07(7)(w);
- (y) A copy of each of the following:
  - 1. Annual reports for the past five years;

134.07: continued

2. If the enterprise is a corporation registered under the Securities Act of 1933 or the Securities Exchange Act of 1934, any annual reports prepared within the last five years on Form 10K pursuant to the Securities Exchange Act of 1934;
3. An audited financial statement for the last fiscal year, including, without limitation, an income statement, balance sheet and statement of sources and application of funds, and all notes to such statements and related financial schedules;
4. Copies of all annual financial statements, whether audited or unaudited, prepared in the last five fiscal years, any exceptions taken to such statements by an independent auditor and the management response thereto; and an independent audit report of all financial activities and interests including, but not limited to, the disclosure of all contributions, donations, loans or any other financial transactions to or from a gaming entity or operator in the past five years;
5. Any current report prepared due to a change in control of the vendor, an acquisition or disposition of assets, a bankruptcy or receivership proceeding, a change in the vendor's certifying accountant or any other material event, or, if the vendor is registered with the SEC, a copy of the most recently filed Form 8K;
6. The most recent Proxy or Information Statement filed pursuant to § 14 of the Securities Exchange Act of 1934; and
7. Registration Statements filed in the last five years pursuant to the Securities Act of 1933.

(z) An organizational chart of the vendor, including position descriptions and the name of the person holding each position;

(aa) Copies of all Internal Revenue Forms 1120 (corporate income tax return), all Internal Revenue Forms 1065 (partnership return) or all Internal Revenue Forms 1040 (personal return) filed for the last five years;

(bb) A copy of a business registration certificate or other proof of valid business registration in Massachusetts;

(cc) A Subcontractor Information Form completed in accordance with 205 CMR 134.07(11), if so authorized by the Bureau;

(dd) In addition to the information above, a completed BED GVS shall include the following documents, which shall be dated and signed by the president, chief executive officer, partners, general partner, sole proprietor or other authorized person and notarized:

1. A Statement of Truth;
2. A Release Authorization directing all courts, law enforcement agencies, probation departments, selective service boards, employers, educational institutions, banks, financial and other institutions and all governmental agencies, federal, state and local, both foreign and domestic, to release any and all information pertaining to the vendor as requested by the commission; and
3. An acknowledgment of receipt of notice regarding confidentiality and non-refundability of filing fees.

(8) Non-gaming Vendor Registration Form. A *Non-gaming Vendor Registration Form* shall contain the following information:

- (a) Any official or trade name used by the non-gaming vendor;
- (b) The current address and telephone number of the non-gaming vendor;
- (c) The nature of the non-gaming vendor's business and the type of goods and services to be provided to a gaming licensee;
- (d) The Federal Employer Identification Number;
- (e) The name, residence address, social security number, and date of birth of each of the following persons:
  1. The sales representative(s) or other person(s) who solicit(s) business from a gaming licensee or applicant and such person's immediate supervisors; and
  2. Any person authorized to sign any agreement with the gaming licensee or applicant on behalf of the vendor; and
  3. The name(s), address(es) and percentage of ownership held by each entity or person directly owning more than five percent of the enterprise.
- (f) A Subcontractor Information Form completed in accordance with 205 CMR 134.07(11), if so authorized by the Bureau.
- (g) Consent to fingerprinting, photographing, and the supplying of handwriting exemplars signed by any individual identified in accordant to 205 CMR 134.07(8)(e).

134.07: continued

(h) A Release Authorization directing all courts, law enforcement agencies, probation departments, selective service boards, employers, educational institutions, banks, financial and other institutions and all governmental agencies, federal, state and local, both foreign and domestic, to release any and all information pertaining to the vendor as requested by the Commission.

(9) Labor Organization Registration Statement. A *Labor Organization Registration Statement* shall contain the following information:

- (a) The name of the registrant as shown on its charter or in its constitution;
- (b) The current business addresses of the registrant, including the address, telephone and fax numbers of any office where matters pertaining to employees of a gaming licensee will be conducted;
- (c) The name, title, email address, telephone and fax numbers of a primary contact person;
- (d) Whether the submission is an initial or biennial renewal registration;
- (e) The names of the registrant's parent organization and all affiliates of the registrant or its parent organization, whether chartered by the parent organization or governed by the same constitution or bylaws;
- (f) The name and nature of the actual or probable involvement of any affiliate which represents or is seeking to represent employees who are employed in a gaming establishment or which is involved or seeking to be involved in the control or direction of such representation;
- (g) Financial data, including information concerning any financial interests held in a gaming establishment; and
- (h) The name, address and, where applicable, date of birth, title or position and authority or responsibility, of the following persons or entities:
  - 1. Any pension or welfare system maintained by the registrant;
  - 2. Each officer and agent of any pension or welfare system maintained by the registrant;
  - 3. Each officer and officer-elect of the registrant;
  - 4. Each agent authorized to represent the registrant in Massachusetts; and
  - 5. Each principal employee of the registrant.
- (i) A notarized Statement of Truth, which shall be dated and signed by the registrant's president or other authorized officer;
- (j) A waiver of liability as to the Commonwealth of Massachusetts and its instrumentalities and agents for any damages resulting to the registrant from any disclosure or publication of information acquired during the investigation process;

(10) Labor Organization Individual Disclosure Form. A *Labor Organization Individual Disclosure Form* shall contain the following information:

- (a) Name, including maiden name and any aliases or nicknames;
- (b) Title or position with the labor organization;
- (c) Date and place of birth;
- (d) Physical description;
- (e) Current address and home telephone number, email address, and residence history for the past year;
- (f) Social Security Number, which information is voluntarily provided in accordance with § 7 of the Privacy Act, 5 U.S.C. § 552a;
- (g) Citizenship and, if applicable, information concerning resident alien status;
- (h) Full name of the labor organization represented;
- (i) Telephone number and email address at current place of employment;
- (j) Employment history:
  - 1. All positions held with a labor organization, union or affiliate, whether or not compensated, for the past five years; and
  - 2. Last three jobs, indicating any gaming-related positions;
- (k) Licenses or other approvals held or applied for which are required to participate in any lawful gambling operation in the Commonwealth of Massachusetts or any jurisdiction;
- (l) A signed, dated and notarized Statement of Truth;
- (m) A waiver of liability as to the Commonwealth of Massachusetts and its instrumentalities and agents for any damages resulting to the officer, agent or principal employee from any disclosure or publication of information acquired during the investigation process.

134.07: continued

(11) Subcontractor Information Form. A Subcontractor Information Form shall contain the following information:

- (a) The official or trade name (for purposes of 205 CMR 134.07(11) a subcontractor shall be considered a person that contracts with a licensed or registered vendor to provide goods or services necessary to fulfill the licensed or registered vendor's contract with a gaming licensee);
- (b) The current address, telephone number, email address, and any website for the subcontractor;
- (c) The nature of the subcontractor's business and the type of goods and services to be provided to the vendor including the term and value of the contract;
- (d) The Federal Employer Identification Number of the subcontractor;
- (e) The name, residence address, social security number, and date of birth of each of any person authorized to sign any agreement with the vendor on behalf of the subcontractor; and
- (f) Consent to fingerprinting, photographing, and the supplying of handwriting exemplars signed by any individual identified in accordance with 205 CMR 134.07(11);
- (g) The name(s), address(es) and percentage of ownership held by each entity or person directly owning more than 5% of the enterprise;
- (h) A Release Authorization directing all courts, law enforcement agencies, probation departments, selective service boards, employers, educational institutions, banks, financial and other institutions and all governmental agencies, federal, state and local, both foreign and domestic, to release any and all information pertaining to the subcontractor as requested by the commission.

134.08: Submission of Application

(1) An application for the initial issuance of a key gaming employee license in accordance with 205 CMR 134.01, a gaming employee license in accordance with 205 CMR 134.02, a gaming service employee registration in accordance with 205 CMR 134.03, a gaming vendor license in accordance with 205 CMR 134.04(1), a non-gaming vendor registration in accordance with 205 CMR 134.04(2), a Gaming Vendor qualifier license in accordance with 205 CMR 134.04(1)(c), a Labor Organization registration in accordance with 205 CMR 134.05, and officers, agents, and principal employees of a Labor Organization in accordance with 205 CMR 134.05 shall include all of the following:

- (a) A completed application form as follows:
  1. An applicant for a key gaming employee-executive license shall file a *Multi-jurisdictional Personal History Disclosure Form For Key Gaming Employees-Executive* as set forth in 205 CMR 134.07(1) and a *Massachusetts Supplement Form For Key Gaming Employees- Executive* as set forth in 205 CMR 134.07(2);
  2. An applicant for a key gaming employee- standard license shall file a Key Gaming Employee-standard Application Form as set forth in 205 CMR 134.07(3);
  3. An applicant for a gaming employee license shall file a Gaming Employee License Form as set forth in 205 CMR 134.07(4);
  4. An applicant for a gaming service employee registration shall file a Gaming Service Employee Registration Form as set forth in 205 CMR 134.07(5);
  5. An applicant for a gaming vendor-primary license shall file a Business Entity Disclosure Form- Gaming Vendor-primary as set forth in 205 CMR 134.07(6);
  6. An applicant for a Gaming Vendor-secondary license shall file a Business Entity Disclosure Form- Gaming Vendor-secondary as set forth in 205 CMR 134.07(7);
  7. An applicant for a non-gaming vendor registration shall file a Non-gaming Vendor Registration Form as set forth in 205 CMR 134.07(8);
  8. A gaming vendor-primary qualifier (individual) shall file a Key Gaming Employee-standard Application Form as set forth in 205 CMR 134.07(2);
  9. A gaming vendor-secondary qualifier (individual) shall file a Gaming Employee Application Form as set forth in 205 CMR 134.07(4);
  10. A gaming vendor-primary qualifier (entity) shall file a Business Entity Disclosure Form- Gaming Vendor-primary as set forth in 205 CMR 134.07(6);
  11. A gaming vendor-secondary qualifier (entity) shall file a Business Entity Disclosure Form – Gaming Vendor-Secondary as set forth in 205 CMR 134.07(7).
  12. A Labor Organization shall file a Labor Organization Registration Statement as set forth in 205 CMR 134.07(9);
  13. Officers, agents, and principal employees of a Labor Organization shall file a Labor Organization Individual Disclosure Form as set forth in 205 CMR 134.07(10).

134.08: continued

- (b) A passport style photograph of the applicant, taken within the preceding 12 months;
- (c) Proof of fingerprinting in accordance with 205 CMR 134.13;
- (d) The documents required for identification by 205 CMR 134.14
- (e) Any applicable fee required by 205 CMR 134.15.
- (f) (For Gaming Employees and Gaming Service Employees) Proof of an offer of employment from a gaming licensee pending licensure or registration of the applicant.

(2) Notwithstanding 205 CMR 134.08(1)(a), a qualifier for a gaming vendor license may, if authorized by the Bureau, file licensing information, including but not limited to, for publicly traded companies, copies of their securities filings and/or audited consolidated financial statements for a period as determined by the Bureau, in *lieu* of the form identified in 205 CMR 134.08(1)(a).

(3) An applicant for a key gaming employee license who has previously been issued a positive determination of suitability by the Commission as part of an RFA-1 investigation may file supplemental licensing information that updates their previous filing submitted as part of the qualifier suitability investigation as directed by the Division of Licensing in *lieu* of the full application identified in 205 CMR 134.08(1)(a).

(4) Each applicant shall file a complete application pursuant to 205 CMR 134.08(1) with the Bureau by mail, in person at the address specified on the application form, or via the Commission's website. The Bureau shall not accept an incomplete application.

(5) Reciprocity for Vendors. If an applicant for a gaming vendor license or non-gaming vendor registration is licensed or registered in another jurisdiction within the United States with comparable license and registration requirements, as determined by the Bureau, and is in good standing in all jurisdictions in which it holds a license or registration, the commission may enter into a reciprocal agreement with the applicant, upon the recommendation of the Bureau, to allow for an abbreviated licensing or registration process and issue a gaming vendor license or registration in accordance with 205 CMR 134.00; provided, however, as part of any such an agreement that the commission shall reserve its rights to investigate the qualifications of an applicant at any time and may require the applicant to submit to a full application for a gaming vendor license or provide further information for registration. The reciprocal agreement shall identify the nature of the investigation to be conducted prior to issuance of the requested license or registration including, but not limited to, such provisos as the review of any investigatory reports from any jurisdictions in which the applicant is approved to conduct business, interviewing of any witnesses, and the filing of all required Massachusetts business filings.

(6) Scope of Duties. An employee of a gaming establishment may, where otherwise qualified, engage in the following duties without further licensure by the commission:

- (a) A person who is licensed as a Key Gaming Employee-executive may, where otherwise qualified, engage in the performance of duties of a Key Gaming Employee-standard, gaming employee or gaming service employee.
- (b) A person who is licensed as a Key Gaming Employee-standard may, where otherwise qualified, engage in the performance of duties of a gaming employee or gaming service employee.
- (c) A person who is licensed as a gaming employee may engage in the performance of duties of a gaming service employee.

134.09: Investigation, Determination, and Appeals for Gaming Establishment Employees and Vendors

(1) Upon receipt of an application for a key gaming employee license in accordance with 205 CMR 134.01, a gaming employee license in accordance with 205 CMR 134.02, a gaming service employee registration in accordance with 205 CMR 134.03, a gaming vendor license in accordance with 205 CMR 134.04(1), a non-gaming vendor registration in accordance with 205 CMR 134.04(4), a gaming vendor qualifier license in accordance with 205 CMR 134.04(4), or a Labor Organization in accordance with 205 CMR 134.05 the Division of Licensing shall conduct a review of each application for administrative completeness and then forward the application to the Bureau which shall conduct an investigation of the applicant. In the event an application is deemed incomplete, the Division of Licensing may either request supplemental

134.09: continued

information from the applicant or forward the application to the commission with a recommendation that it be denied. For individuals, the investigation shall include obtaining and reviewing criminal offender record information from the Department of Criminal Justice Information Services (DCJIS) and exchanging fingerprint data and criminal history with the Massachusetts Department of State Police and the United States Federal Bureau of Investigation. The investigation shall be conducted for purposes of determining whether the applicant is suitable to be issued a license or registration in accordance with 205 CMR 134.10 and 134.11.

205 CMR: MASSACHUSETTS GAMING COMMISSION

NON-TEXT PAGE

**THE COMMONWEALTH OF MASSACHUSETTS****William Francis Galvin**

Secretary of the Commonwealth

**Regulation Filing** *To be completed by filing agency*CHAPTER NUMBER: **244 CMR 4.00**CHAPTER TITLE: **The Practice of Nursing in the Expanded Role**AGENCY: **Board of Registration in Nursing**SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*

244 CMR 4.00 pertains to advanced practice nursing, including prescriptive practice. This regulation sets requirements on the prescribing of hydrocodone-only extended release medications that are not in an abuse deterrent format by registered nurses with advanced practice authorization including prescriptive practice. The regulations are intended to reduce the potential for opioid misuse, abuse and overdose.

REGULATORY AUTHORITY: **MGL ch. 112, §§ 80B, 80C, 80E, 80G and 80H**AGENCY CONTACT: **Vita P. Berg** PHONE: **617-973-0821**ADDRESS: **Board of Registration in Nursing, 239 Causeway Street, 5th Floor, Boston, MA 02114****Compliance with M.G.L. c. 30A**EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*

Immediate inclusion of this regulation is necessary to protect the public health, safety and welfare against opioid addiction and abuse, diversion of opioids and unintentional opioid-related overdose deaths underlying the public health emergency declared by the Governor on March 27, 2014.

PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.*

**Notification to the Executive Office of Communities and Development and the Massachusetts Municipal Association was sent on June 11, 2014; EO485 approval obtained on May 9, 2014.**

PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*Date of public hearing or comment period: **to be scheduled**

FISCAL EFFECT - *Estimate the fiscal effect of the public and private sectors.*

For the first and second year: \_\_\_\_\_

For the first five years: \_\_\_\_\_

No fiscal effect: **No fiscal effect** \_\_\_\_\_

SMALL BUSINESS IMPACT - *M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.*

Date amended small business impact statement was filed: \_\_\_\_\_

CODE OF MASSACHUSETTS REGULATIONS INDEX - *List key subjects that are relevant to this regulation:*  
**Nursing**  
**Advanced Practice Nursing**

PROMULGATION - *State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number:*

**Amends 244 CMR 4.00 by inserting a new clause at 4.28.**

ATTESTATION - *The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency.* ATTEST:

SIGNATURE: SIGNATURE ON FILE DATE: Jun 11 2014

Publication - *To be completed by the Regulations Division*

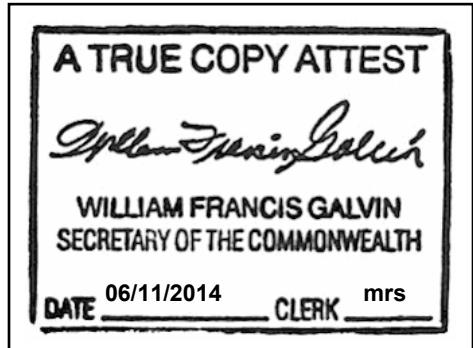
MASSACHUSETTS REGISTER NUMBER: 1264 DATE: 07/04/2014

EFFECTIVE DATE: 06/11/2014

CODE OF MASSACHUSETTS REGULATIONS

*Remove these pages:* Insert these pages:

This is an Emergency Regulation. There are no Replacement Pages.



4.27: Self-prescribing and Prescribing for Family Members

A nurse authorized to prescribe medication is prohibited from prescribing drugs in Schedules II, III, and IV for personal use. Except in an emergency, such nurse is prohibited from prescribing Schedule II drugs to a member of his or her immediate family, including spouse or equivalent, a parent, child, sibling, parent-in-law, son/daughter-in-law, brother/sister-in-law, step-parent, step-child, step-sibling, and any other relative residing in the same household.

4.28: Prescribing Hydrocodone-only Extended Release Medication

Prior to prescribing a hydrocodone-only extended release medication that is not in an abuse deterrent form, a licensee must:

- (a) Thoroughly assess the patient, including an evaluation of the patient's risk factors, substance abuse history, presenting condition(s), current medication(s) and a check of the online Prescription Monitoring Program;
- (b) Discuss the risks and benefits of the medication with the patient;
- (c) Enter into a Pain Management Treatment Agreement with the patient that shall appropriately address drug screening, pill counts, safe storage and disposal and other requirements based on the patient's diagnoses, treatment plan, and risk assessment;
- (d) Supply a Letter of Medical Necessity as required by the Board of Registration in Pharmacy that includes the patient's diagnoses and treatment plan, verifies that other pain management treatments have failed, indicates that a risk assessment was performed and that the licensee and the patient have entered into a Pain Management Treatment Agreement; and
- (e) Document 244 CMR 4.28(a) through (d) in the patient's medical record.

The purpose of 244 CMR 4.28 is to enhance the public health and welfare by promoting optimum therapeutic outcomes, avoiding patient injury and eliminating medication errors. Nothing in 244 CMR 4.28 shall alter the standard of care a licensee must use when prescribing any Schedule II, III or IV controlled substance.

4.29: Authority of Board of Registration in Medicine

Nothing in 244 CMR 4.00 shall limit the Board of Registration in Medicine's review, monitoring and investigation of its licensees' activities and the medical direction they are required to provide by 244 CMR 4.00.

**REGULATORY AUTHORITY**

244 CMR 4.00: M.G.L. c. 112, §§ 80B, 80C, 80E, 80G, and 80H; M.G.L. c. 94C.

244 CMR: BOARD OF REGISTRATION IN NURSING

NON-TEXT PAGE

**THE COMMONWEALTH OF MASSACHUSETTS****William Francis Galvin**

Secretary of the Commonwealth

**Regulation Filing** *To be completed by filing agency*CHAPTER NUMBER: **801 CMR 4.00**CHAPTER TITLE: **Rates**AGENCY: **Executive Office for Administration and Finance**SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*

The portion of this regulation that is to be amended relates to parking fees charged by the Department of Conservation and Recreation for out-of-state residents at 5 locations. This program is being implemented on an emergency basis, for the summer recreation season.

REGULATORY AUTHORITY: **M.G.L. c.7; line 2800-0100 of s.2 of c.139 of Acts of 2012; M.G.L. c.92, ss.33, 37; M.G.L. c.132A, s.7**AGENCY CONTACT: **Janet Fogel** PHONE: **617-727-2040**ADDRESS: **State House Room 373, Boston, MA 02133****Compliance with M.G.L. c. 30A**EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*

**This regulation is sought on an emergency basis in order to implement this program during the 2014 summer recreation season. DCR will seek to make the subject fees permanent later in 2014.**

PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.*PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*

Date of public hearing or comment period:

FISCAL EFFECT - *Estimate the fiscal effect of the public and private sectors.*

For the first and second year: additional revenue for DCR estimated \$100,000 annually

For the first five years: additional revenue for DCR estimated \$100,000 annually

No fiscal effect: \_\_\_\_\_

SMALL BUSINESS IMPACT - *M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.*

Date amended small business impact statement was filed: \_\_\_\_\_

CODE OF MASSACHUSETTS REGULATIONS INDEX -

*List key subjects that are relevant to this regulation:*

**Rates**

**Parking**

**Fees**

PROMULGATION - *State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number:*

**This regulation amends a portion of existing 801 CMR 4.02 [302 Department of Conservation and Recreation].**

ATTESTATION - *The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency.* ATTEST:

SIGNATURE: SIGNATURE ON FILE

DATE: Jun 19 2014

Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: 1264

DATE: 07/04/2014

EFFECTIVE DATE: 06/20/2014

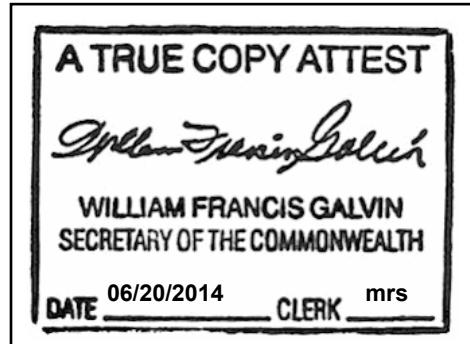
CODE OF MASSACHUSETTS REGULATIONS

*Remove these pages:*

*Insert these pages:*

This is an emergency regulation.

There are no replacement pages.



4.02: continued

302 Department of Conservation and Recreation

(1) Harvesting of Timber			
(a) Massachusetts residents	\$15	annual	
(b) Non-residents of Massachusetts	30	annual	
(2) Forester Licensing Fee			
(a) Initial application fee	100		
(b) Annual renewal fee	50		
(3) Well Digging or Drilling Registration		50	annual
(4) Dam Safety			
(a) First time dam registration	75		
(b) Dam registration after transfer to new dam owner after real estate transaction	50		
(c) Chapter 253 Dam Safety Permits			
1. Application to construct, materially alter, perform major repairs, breach, or remove dam	50		
2. Review and issuance of permit for dam construction project with total engineer and construction costs up to \$100,000	250		
3. Review and issuance of permit for dam construction project with total engineer and construction costs of \$100,001 through \$500,000	500		
4. Review and issuance of permit for dam construction project with total engineer and construction costs of \$500,001 through \$1,000,000	750		
5. Review and issuance of permit for dam construction project with total engineer and construction costs of over \$1,000,000	1000		
(d) Dam safety emergency inspection and inspections of unsafe non-compliant dams	up to \$1000		
[Exclusions: The Commonwealth, its agencies, authorities and political sub-divisions, including municipalities, are exempt from the payment of fees in this sub-section (d).]			
(5) Camping Fees (all rates are per site or service, unless otherwise noted)			
(a) Coastal campsite, non-resident	17	per day	
(b) Coastal campsite, Mass. resident	15	per day	
(c) Inland campsite, non-resident	14	per day	
(d) Inland campsite, Mass. resident	12	per day	
(e) Limited service campsite, non-resident	10	per day	
(f) Limited service campsite, Mass. resident	8	per day	
(g) Primitive campsite, non-resident	8	per day	
(h) Primitive campsite, Mass. resident	6	per day	
(i) Electric utility hook-up	3	per day	
(j) Water utility hook-up	2	per day	
(k) Sewer utility hook-up	2	per day	
(l) Group campsites	25	for 1-25 persons; more than 25 persons, \$1 per person per day	
(m) Safari field camping	15	per unit per day	
(n) Cabin - one-room	30	per day	
(o) Cabin - two-room	40	per day	
(p) Cabin - three-room	50	per day	
(q) Yurt - small	30	per day	
(r) Yurt - large	40	per day	
(s) Day visitor parking	5	per vehicle per day	
(t) Dump station use (non-campers)	15	per day	
(u) Reservation cancellation/transfer	10		
(v) Coin-operated shower	.25	per three minutes	

4.02: continued

(6) Parking - Day Use			
(a) Car -ocean beaches	up to \$7	per day	
(b) Car -inland beaches	5	per day	
(c) Car - scenic and historic Areas	2	per day	
(d) Bus -ocean beaches	40	per day	
(e) Bus - inland beaches, scenic and historic areas	30	per day	
(f) Youth group bus pass - single visit	10		
(g) Youth group bus pass - ten visits	75		
(h) Season pass, Mass. resident	35	per season	
(i) Season pass, non-resident	45	per season	
(j) Season pass - second vehicle	15	per season	
(k) Senior Citizens.			
1. Day Use Parking fees for locations other than Nahant and Nantasket beaches shall be waived for all senior citizens displaying a current and valid Massachusetts State Parks and Recreation Senior Citizen Pass. Senior Citizen passes shall be issued at state forests, parks, and reservations where entrance fees are collected and at DCR regional offices. All Massachusetts residents age 62 and older are eligible to receive the Massachusetts State Parks and Recreation Senior Citizen Pass upon presentation of a duly issued Massachusetts driver's license or other suitable documentation of age and residence. Day use parking fees for Nahant and Nantasket beaches shall be \$2 for senior citizens (aged 62 and older).			
2. Handicapped Person or Disabled Veteran. A disabled veteran or a handicapped person whose vehicle bears the distinctive type number plate or designated handicapped hang tag authorized by M.G.L. c. 90 shall not be required to pay the day use parking fees imposed under 801 CMR 4.02 [302](6)(a), (b) and/or (c).			
(7) Special Services and Facilities			
(a) Small picnic pavilion	35	per day	
(b) Large picnic pavilion	75	per day	
(c) Meeting or function room; recreational building	50	per four hour period	
(d) Weymouth pool rental (indoor pool)	25	per hour	
(e) Stadium rental	87	per hour (5 hr minimum)	
rental for more than five hours	15	per additional hour	
concession permit (daily)	20		
(f) Athletic fields			
[Rental periods: 9:00 A.M.-12:00 P.M.; 12:00 P.M.-3:00 P.M.; 3:00 P.M.-5:00 P.M.; 5:00 P.M.-7:00 P.M.; 7:00 P.M.-9:00 P.M.; 9:00 P.M.-11:00 P.M. (late evening field use may only be scheduled on lighted fields and when neighborhood disturbance is not a concern)]			
1. Daily rental	25	per rental period	
2. Electrical surcharge	40	per hour electrical charge is added for use of field lights (for daily and seasonal rentals)	
3. Seasonal rental	100	per field per rental period for the season	
[Note: a season is approximately ten weeks in length and varies due to weather and other factors. Sports seasons generally are spring (early April to mid-June), summer (mid-June to late August), and fall (late August to early November). Rules and regulations pertaining to the use of DCR athletic fields are at 302 CMR 12.00.]			

4.02: continued

(8)	General Non-commercial Marine Activity				
(a)	FLOATS AND PIERS LOCATED ON LAKEFRONTS	\$100	annual		
(b)	MOORINGS FOR BOATS ON LAKES	80	annual		
(c)	MOORINGS IN CHARLES RIVER BASIN	6	per foot per season		
(d)	SWIMMING FLOATS ON LAKEFRONTS	60	annual		
(9)	MYLES STANDISH STATE FOREST				
(a)	COTTAGE - FEARINGS POND	1620	annual		
(b)	COTTAGE - OTHER PONDS	3800	annual		
(10)	Ashmere Lake				
(a)	CAMPsite	50	annual		
(b)	COTTAGE	900	annual		
(11)	DCR-Operated Ice Skating Rinks				
(a)	In-season Rentals (with ice):				
1.	Youth hockey organizations	175	per 50 minute hour		
2.	Municipally-funded organizations and secondary schools	175	per 50-minute hour		
3.	Individuals	200	per 50-minute hour		
4.	Other organizations and commercial entities	200	per 50-minute hour		
5.	Rental of small ice rink	80	per 50-minute hour		
6.	Colleges and college-funded organizations	200	per 50-minute hour		
(b)	Off-season rink rentals (with ice):				
1.	Youth hockey organizations	175	per 50 minute hour		
2.	Municipally-funded organizations and secondary schools	175	per 50-minute hour		
3.	Individuals	200	per 50-minute hour		
4.	Other organizations and commercial entities	200	per 50-minute hour		
5.	Rental of small ice rink	80	per 50-minute hour		
6.	Colleges and college-funded organizations	200	per 50-minute hour		
(c)	Energy surcharge for September and October ONLY (applies to all usage)	25	per 50-minute hour		
(d)	Off-season facility rental (no ice)	75	per event		
(12)	Golf Courses (Leo J. Martin and Ponkapoag)				
(a)	Dual membership (both courses)	1200	annual		
(b)	Season ticket(adult: seven days/week)	875	annual		
(c)	Season ticket (adult: weekdays)	650	annual		
(d)	Season ticket (senior citizen: Monday-Friday)	475	annual		
(e)	Season ticket (junior: Monday-Friday; Sat., Sun., Holiday after 4:00 P.M.)	75	annual		
(f)	Twilight fee: after 6:00 P.M.	12			
(g)	Green fee (adult: Monday-Thursday)	27	for 18 holes		
(h)	Green fee (adult: Monday-Thursday)	19	for 9 holes		
(i)	Green fee (senior citizen: Monday-Thursday)	17	for 18 holes		
(j)	Green fee (senior citizen: Monday-Thursday)	15	for 9 holes		
(k)	Green fee (junior: Monday-Thursday)	17	for 18 holes		
(l)	Green fee (junior: Monday-Thursday)	15	for 9 holes		
(m)	Green fee (adult, senior citizen, junior: Friday, Saturday, Sunday, Holiday)	30	for 18 holes		

4.02: continued

(n)	Green fee (adult, senior citizen, junior: Friday, Saturday, Sunday, Holiday)	\$19	for 9 holes
(o)	League registration	200	per event
(p)	Tournament	150	per event
For purposes of subsection (12), season tickets are available to Massachusetts residents only.			
For purposes of subsection (12), junior rates apply to those aged 16 years and younger; senior citizen rates apply to those aged 62 and older.			
(13)	Quabbin Reservoir Fishing Program		
(a)	Parking and fishing access - vehicle only	6	per vehicle
(b)	Parking and fishing access - vehicle and trailer	8	per vehicle
(c)	Boat and motor rental - full day	40	
(d)	Boat and motor rental - half day	30	
(e)	Boat only rental - full day	14	
(f)	Boat only rental - half day	10	
(g)	Seasonal parking pass	50	
(h)	Senior citizens (62+) - parking/access, season pass	Half Price	
(i)	Senior citizens (62+) - boat rental	Half Price	Weekdays
(j)	Handicapped - parking, boat rental, season pass	Half Price	
(14)	Quabbin Park Cemetery		
(a)	Interments		
1.	Over four feet long	400	weekdays
		700	Saturdays
2.	Less than four feet long	100	weekdays
		200	Saturdays
3.	Cremains	75	weekdays
		175	Saturdays
4.	Concrete foundation	1.75 per cubic foot (\$30 minimum)	
(b)	Grave Lots		
1.	Eight grave lot	924	
2.	Six grave lot	693	
3.	Four grave lot	462	
4.	Two grave lot	231	
5.	One grave lot	116	
(15)	Permits		
(a)	Construction and Access Fees and Permits		
1.	Administration application fee for construction permits	50	
2.	Driveway access		
i.	Residential purposes: two units or fewer	40	
ii.	Each additional unit	25	
iii.	Non-residential: less than 25,000 square feet	1,000	
iv.	Non-residential: 25,000 sq. ft through 100,000 sq. ft.	2,000	
v.	Non-residential: greater than 100,001 sq. ft.	2,000	per each addition-al 100,000 sq. ft.
3.	DCR Parkway/Roadway Excavation Fees		
i.	Road surface five years or older	6	per sq. ft.*
ii.	Road surface less than five years old	8	per sq. ft.*
iii.	Sidewalk and DCR Property excavation	4	per sq. ft.*
* For purposes of calculating square footage, all trenches will be calculated at a minimum width of one foot			
4.	Trucks greater than 5000 lbs and measuring over 7 ft. on restricted DCR Parkways and roadways	100	per day
5.	Mitigation in the form of improvements to the area of the project may not amount to less than the above fees.		
(b)	Special use permit	35	per application
(c)	Permit for commercial vehicles on parkways	100	annual
(d)	Permit for loading/unloading on parkway	100	per day

4.02: continued

(16) Use of DCR's 800 MHz Smart Net Telecommunications System		
(a) Control station and/or portable radio, no airtime charge	\$10	per month per unit
(b) Data link to Central Electronics Bank (CEB)	100	per month per

309 Board of Registration of Hazardous Waste Site Cleanup Professionals

(1) Application	\$245	per application
(2) Annual Fee	225	per year
(a) Annual Fee for DEP Employees	60	per year
(3) Renewal	100	3 years
(4) Licensing Exam Fee	325	per exam
(5) Inactive Status	225	per year
(a) Inactive Status for DEP Employees	60	per year

310 Department of Environmental ProtectionWetlands and Waterways Program

Fees assessed pursuant to the Wetlands Protection Act, M.G.L. c. 131, § 40, are set forth in the Department of Environmental Protection's fee regulations at 310 CMR 4.00.

321 Division of Fisheries and Wildlife

The following schedule of fees shall apply to licenses effective on and after January 1, 1999.

(1) Resident Citizen Minor Hunting	\$6.50	annual
(2) Resident Citizen/Alien Fishing License	22.50	annual
(3) Resident Citizen Hunting License	22.50	annual
(4) Resident Citizen Sporting License	40	annual
(5) Resident Citizen Trapping License	30.50	annual
(6) Resident Citizen/Alien 3-day Fishing License	7.50	3-day
(7) Resident Alien Hunting License	22.50	annual
(8) Resident Citizen Minor Fishing License	6.50	annual
(9) Resident Citizen Hunting License - Ages 65-69	11.25	annual
(10) Resident Citizen Minor Trapping License	6.50	annual
(11) Resident Citizen Fishing License - Ages 65-69	11.25	annual
(12) Resident Citizen Sporting License - Ages 65-69	20	annual
(13) Resident Citizen Trapping License - Ages 65-69	15.25	annual
(14) Non-resident Citizen/Alien 3-day Fishing License	18.50	3-day
(15) Non-resident Citizen/Alien Small Game Hunting License	60.50	annual
(16) Non-resident Citizen/Alien Big Game Hunting License	94.50	annual
(17) Non-resident Citizen/Alien Fishing License	32.50	annual
(18) Non-resident Trapping Permit	200	annual
(19) Antlerless Deer Permit	5	annual
(20) Bear Permit	5	annual
(21) Turkey Permit	5	annual
(22) Archery Stamp	5.10	annual
(23) Primitive Firearm Stamp	5.10	annual
(24) Waterfowl Stamp	5	annual
(25) Trap Registration	5	biennial
(26) Class III Aquaculture License	100	annual
(27) Class IV Propagators License - Three Categories:		
Animal Aid to Handicap	0	annual
Commercial	50	annual
All Other	25	annual
(28) Class VI Dealers License	25	annual
(29) Permit to Take Shiners for Bait	30	annual
(30) Game Tags	0.10	per tag
(31) Fish Tags	0.05	per tag
(32) Posters and Signs	0.50	per item

4.02: continued

(33)	Importation Permit - Two Categories:			
	One time	\$25	each	
	Annual/Single Source	50	per source	
(34)	Taxidermist License	25	annual	
(35)	License--Duplicate	2.50		
(36)	Non-Resident/Alien Fur Buyer License	90	annual	
(37)	Class I Private Waters License	15	annual	
(38)	Non-resident Citizen/Alien Minor Fishing License	6.50	annual	
(39)	Ferret Breeding Permit	1,000	annual	
(40)	Endangered Species Propagation Permit	25	annual	
(41)	*Resident Citizen Commercial Shooting Preserve License	5	per day	
(42)	*Non-resident Citizen/Alien Commercial Shooting Preserve License	5	per day	
(43)	Class VIII Quail License	10	annual	
(44)	Class IX Falconry License	25	annual	
(45)	Class X Raptor Breeding License	25	annual	
(46)	Problem Animal Control Permit - Two Categories:			
	Municipal	0	annual	
	Commercial	100	annual	
(47)	Bird Banding Permit	10	annual	
(48)	Field Trial Permit	25	each	
(49)	Mounting Permit	10	each	
(50)	Salvage Permit	10	annual	
(51)	Scientific Collecting Permit - Two Categories:			
	Government/Non-profit	0	annual	
	Commercial	100	annual	
(52)	Commercial Permit for Taking and Sale of Snapping Turtles	30	annual	
(53)	Wildlife Rehabilitation Permit	10	annual	
(54)	Permit to Use Poisons on Unprotected Species - Two Categories:			
	Individual	0	each	
	Commercial	25	each	
(55)	Commercial Shooting Preserve Permit - Two Categories:			
	Class A: Commercial	100	annual	
	Class B: Club	50	annual	
(56)	Commercial Permit for Taking and Sale of Carp and Suckers	30	annual	
(57)	Resident Fur Buyers License	30	annual	
(58)	Permit to Trap and Kill Unprotected Birds	5	annual	
(59)	Letter Permit	0	annual	
(60)	Fish Liberation Permit	0	each	
(61)	Game Liberation Permit	0	each	
(62)	Commercial Permit for Taking and Sale of Eels	25	annual	
(63)	Road-Killed Deer Salvage Permit	0	each	
(64)	Farmer/Landowner Antlerless Deer Permit	0	annual	
(65)	Farmer/Landowner Turkey Permit	0	annual	
(66)	Class XI Raptor Salvage License	1	annual	



# THE COMMONWEALTH OF MASSACHUSETTS

## William Francis Galvin

## Notice of Compliance

*To be completed by filing agency*

CHAPTER NUMBER: 101 CMR 411.00

## CHAPTER TITLE: Rates for Certain Placement and Support Services

**AGENCY: Executive Office for Health and Human Services**

THIS REGULATION WAS ORIGINALLY FILED AS AN EMERGENCY:

Published in Massachusetts Register Number: 1259 Date: 04/25/2014

**PRIOR NOTIFICATION AND/OR APPROVAL -** *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.*

Executive Order 145 notification: 4/2/14

**Executive Order 485 approval: 6/6/14**

**PUBLIC REVIEW - M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.**

Date of public hearing or comment period: **5/6/14**

**SMALL BUSINESS IMPACT -** M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.

Date amended small business impact statement was filed:

n/a

AGENCY CONTACT: **Deborah Briggs, MassHealth Publications** PHONE: 617-847-3302

ADDRESS: 100 Hancock Street, Quincy, MA 02171

**ATTESTATION -** *The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency.* **ATTEST**

ATTEST:

SIGNATURE: SIGNATURE ON FILE DATE: Jun 12 2014

Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: 1264 DATE: 07/04/2014

EFFECTIVE DATE: 04/01/2014

CODE OF MASSACHUSETTS REGULATIONS

*Remove these pages:* Insert these pages:

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<b>A TRUE COPY ATTEST</b>		
		
<b>WILLIAM FRANCIS GALVIN</b>		
SECRETARY OF THE COMMONWEALTH		
DATE	<u>06/12/2014</u>	CLERK
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411.03: Rate Provisions

(1) Services Included in the Rate. The approved rate includes payment for all care and services that are part of the program of services of an eligible Provider, as explicitly set forth in the terms of the purchase agreement between the eligible Provider and the purchasing Governmental Unit or Units.

(2) Reimbursement as Full Payment. Each eligible Provider must, as a condition of acceptance of payment made by any purchasing Governmental Units for services rendered, accept the approved program rate as full payment and discharge of all obligations for the services rendered. Payment from any other source is used to offset the amount of the purchasing Governmental Unit's obligation for services rendered to the publicly assisted Client.

(3) Payment Limitations. No purchasing Governmental Unit may pay less than or more than the approved program rate, except as cited in 101 CMR 411.03.

(4) Approved Program Rates. For all purchases, the approved rate is the lower of the Provider's charge or amount accepted as payment from another payer or the rate listed in 101 CMR 411.03(4).

(a) Rates Effective April 1, 2014.

1. Intensive Foster Care.

Service	Operational	Stipend	Total Rate	Unit
Community-based Alternative to Detention Bed Hold	N/A	\$25.00	\$25.00	Per Day
Sibling	\$7.45	\$22.99	\$30.44	Per Placement Per Day
Intensive Foster Care One	\$53.94	\$56.59	\$110.52	Per Placement Per Day
Intensive Foster Care Two	\$53.94	\$67.05	\$120.98	Per Placement Per Day
Community-based Alternative to Detention	\$53.94	\$81.59	\$135.52	Per Placement Per Day
Teen Parent	\$61.38	\$79.58	\$140.96	Per Placement Per Day
Enhanced Foster Care	\$96.61	\$87.97	\$184.58	Per Placement Per Day

2. Intensive Foster Care Specialty.

Service	Operational	Stipend	Total Rate	Unit
Transitions to Adulthood	\$68.97	\$64.96	\$133.92	Per Placement Per Day
Emergency Shelter Homes	\$62.36	\$75.42	\$137.77	Per Placement Per Day
Child Home-based Rehabilitation	\$64.25	\$77.51	\$141.75	Per Placement Per Day
Transitions to Adult Services	\$131.55	\$57.93	\$189.48	Per Placement Per Day
Multiple Acute Level A	\$102.70	\$104.59	\$207.29	Per Placement Per Day
Multiple Acute Level B	\$178.54	\$104.59	\$283.13	Per Placement Per Day
Sexually Exploited Youth	\$109.42	\$108.89	\$218.31	Per Placement Per Day

411.03: continued

3. Family Residential.

Service	Operational	Units
Family Residential	\$133.48	Per Placement Per Day
Family Residential Acute A	\$210.94	Per Placement Per Day
Family Residential Acute B	\$251.40	Per Placement Per Day

4. AMSS. All rates are paid upon completion of the particular product-based service.

AMSS Product-based Services	Rate
1. Adoption Consultation Services:	
Adoption Assessment of a Child	\$1,800.51
Adoption Assessment/Home Study of a Foster/relative family (with whom the child is placed)	\$1,800.51
Adoption Assessment/Home Study of a relative (child is not in the home)	\$2,264.62
MAPP training/Home Study of a referred person or couple	\$2,264.62
Appearance fee	\$272.11
MAPP Training only	\$469.60
2. Adoption Placement Case Management Services:	
Case acceptance/assignment	\$469.60
Adoption Assessment of a child	\$1,800.51
Adoption Assessment/Home Study of a family with whom the child is placed	\$1,800.51
<b>Placement</b>	
Mild	\$3,737.06
Moderate	\$6,012.66
Severe	\$9,087.01
<b>Family Development</b>	
Mild	\$3,000.84
Moderate	\$4,812.32
Severe	\$7,218.48
<b>Reevaluations</b>	
Mild	\$736.22
Moderate	\$1,200.34
Severe	\$1,800.51
<b>Child(ren)/Legalization</b>	
Mild	\$3,737.06
Moderate	\$6,012.66
Severe	\$9,087.01

411.03: continued

AMSS Product-Based Services	Rate
Adjustment for a case held at least 3 years but less than 5.	\$566.16
<b>Sibling Bonus in Same Home/Legalization</b>	
2 siblings	\$1,064.28
3 siblings	\$2,264.62
4 siblings	\$4,189.11
5 or more siblings	\$1,336.39
Family Bonus for Provider's Home at Legalization per child, minimum of 2 children	\$469.60
Closure	\$1,200.34
Delayed Adoption	\$408.16
Transfer of case	\$1,064.28
3. Adoption Family Development Services:	
Purchase of Home	\$4,529.24
Reuse of a Closed Home	\$1,601.91
4. Recruitment:	
Child-specific recruitment	\$1,601.91
Child-specific recruitment renewal	\$1,601.91
5. Intervention Services	\$44.80 per hour
6. Interstate Cases:	
Home Study	\$2,126.00
Assignment	\$469.60
Case Supervision	\$3,737.06
7. Non-US Cases:	
Non-US Family Evaluation Home Study	\$1,475.00

##### 5. Additional Support Services.

Support Contracts	Rate	Unit
Youth Permanency Connections	\$47.60	Per Client Per Day Rate
Foster Home Management and Recruitment	\$16,572	Accommodation Rate Per Month
Multiple Pre-adoption Services	\$61,289	Accommodation Rate Per Month
Complex Foster Care Medical	\$284.64	Per Client Per Day Rate
Multiple Post-adoption Services	\$133,898	Accommodation Rate Per Month
Multiple Foster Parent Support Services	\$142,627	Accommodation Rate Per Month

411.03: continued

(b) Rates Effective Pursuant to Contracts Executed Under FY 2014 or Subsequent Procurements.1. Intensive Foster Care.

Service	Operational	Stipend	Total Rate	Unit
Community-based Alternative to Detention Bed Hold	N/A	\$25.00	\$25.00	Per Day
Sibling	\$7.45	\$22.99	\$30.44	Per Placement Per Day
Intensive Foster Care One	\$57.70	\$56.59	\$114.29	Per Placement Per Day
Intensive Foster Care Two	\$57.70	\$67.05	\$124.75	Per Placement Per Day
Community-based Alternative to Detention	\$57.70	\$81.59	\$139.29	Per Placement Per Day
Teen Parent	\$65.15	\$79.58	\$144.73	Per Placement Per Day
Enhanced Foster Care	\$102.16	\$87.97	\$190.13	Per Placement Per Day

2. Intensive Foster Care Specialty.

Service	Operational	Stipend	Total Rate	Unit
Transitions to Adulthood	\$73.28	\$64.96	\$138.24	Per Placement Per Day
Emergency Shelter Homes	\$67.23	\$75.42	\$142.65	Per Placement Per Day
Child Home-based Rehabilitation	\$68.01	\$77.51	\$145.52	Per Placement Per Day
Transitions to Adult Services	\$135.11	\$57.93	\$193.04	Per Placement Per Day
Multiple Acute Level A	\$109.81	\$104.59	\$214.40	Per Placement Per Day
Multiple Acute Level B	\$189.20	\$104.59	\$293.79	Per Placement Per Day
Sexually Exploited Youth	\$115.44	\$108.89	\$224.33	Per Placement Per Day

3. Family Residential.

Service	Operational	Units
Family Residential	\$147.57	Per Placement Per Day
Family Residential Acute A	\$235.69	Per Placement Per Day
Family Residential Acute B	\$276.15	Per Placement Per Day



# Notice of Compliance

## Regulation Filing

*To be completed by filing agency*

CHAPTER NUMBER: 101 CMR 420.00

## CHAPTER TITLE: Rates for Adult Long-Term Residential Services

AGENCY: Executive Office for Health and Human Services

THIS REGULATION WAS ORIGINALLY FILED AS AN EMERGENCY:

Published in Massachusetts Register Number: 1259 Date: 04/25/2014

**PRIOR NOTIFICATION AND/OR APPROVAL -** *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.*

Executive Order 485 - 6/6/14

Department of Housing and Community Development - 4/1/14

Massachusetts Municipal Association - 4/1/14

**PUBLIC REVIEW - M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.**

Date of public hearing or comment period: **May 6, 2014**

**SMALL BUSINESS IMPACT -** M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.

Date amended small business impact statement was filed:

n/a

**AGENCY CONTACT:** **Deborah M. Briggs** **PHONE:** **617-847-3302**

ADDRESS: 100 Hancock Street, 6th Floor, Quincy, MA 02171

**ATTESTATION -** *The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency.* **ATTEST**

ATTEST:

**SIGNATURE:**

SIGNATURE ON FILE

Jun 10 2014

Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: 1264 DATE: 07/04/2014

EFFECTIVE DATE: 04/01/2014

CODE OF MASSACHUSETTS REGULATIONS

*Remove these pages:* Insert these pages:

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<b>A TRUE COPY ATTEST</b>		
		
WILLIAM FRANCIS GALVIN SECRETARY OF THE COMMONWEALTH		
DATE	06/10/2014	CLERK kr

## 101 CMR 420.00: RATES FOR ADULT LONG-TERM RESIDENTIAL SERVICES

## Section

- 420.01: General Provisions
- 420.02: Definitions
- 420.03: Rate Provisions
- 420.04: Filing and Reporting Requirements
- 420.05: Severability

420.01: General Provisions

- (1) Scope. 101 CMR 420.00 governs the payment rates for Adult Long-term Residential (ALTR) Services, as further described below, purchased by a Governmental Unit including but not limited to the Department of Developmental Services (DDS), Massachusetts Commission for the Blind (MCB) or Massachusetts Rehabilitation Commission (MRC).
- (2) Disclaimer of Authorization of Services. 101 CMR 420.00 is neither authorization for nor approval of the services for which rates are determined pursuant to 101 CMR 420.00. Governmental units that purchase the services described in 101 CMR 420.00 are responsible for the definition, authorization, and approval of services extended to Clients.
- (3) Administrative Bulletins. The Executive Office of Health and Human Services may issue administrative bulletins to clarify its policy on substantive provisions of 101 CMR 420.00.
- (4) Authority. 101 CMR 420.00 is adopted pursuant to M.G.L. c. 118E.

420.02: Definitions

Meaning of Terms. As used in 101 CMR 420.00, unless the context requires otherwise, terms shall have the meanings ascribed in 101 CMR 420.02.

Add-on Rate. A rate that is intended to provide an additional, necessary service not included in the current programmatic model, which will be instituted at the discretion of the purchasing Governmental Unit.

ALTR Services. Residential site specific programs that provide adult clients a place of overnight housing for an extended period of time in a residential facility with necessary daily living, physical, social, and clinical and/or medical support, and that are not subject to licensure under M.G.L. c. 111 § 71.

Basic. The category of ALTR Service Models for clients who need daily intervention, supervision, and skills training in activities of daily living, managing within a home environment and community integration. Individuals may require some physical assistance or accommodation due to cognitive and/or intellectual disability, including a mild to moderate developmental delay.

Basic Lower Intensity. The category of ALTR Service Models for clients who require minimal 24-hour support, supervision, and skills training in activities of daily living, managing within a home environment and community integration.

Center. The Center for Health Information and Analysis established under M.G.L. c. 12C.

Client. An individual receiving ALTR services purchased by a Governmental Unit.

Cost Report. The document used to report costs and other financial and statistical data. The Uniform Financial Statements and Independent Auditor's Report (UFR) are used when required.

Direct Care (DC) Staff Intensity Level. The number of Full Time Equivalent (FTE) positions for Direct Care staff included in each program model. The DC Staff Intensity Level reflects the sum of the FTEs for Direct Care workers (DC I + II + III), including Overnight staffs.

EOHHS. The Executive Office of Health and Human Services established under M.G.L. c. 6A.

Full-time Equivalent (FTE). Staff position equivalent to a full time employee.

420.02: continued

Governmental Unit. The Commonwealth, any board, commission, department, division, or agency of the Commonwealth and any political subdivision of the Commonwealth.

Intermediate. The category of ALTR Service Models designed to meet the needs of clients with support need beyond the Basic level. These program models include specialized staffing, training or additional skills for staff, and/or additional operational support when compared to Basic. The selection of intermediate tier programs is based on client need for behavioral supports, enhanced supervision or interventions designed to address multiple disabilities.

Medical/Clinical. The category of ALTR Service Models that delivers additional supports, when compared to the Intermediate models, in one or more of the following staff classifications: direct nursing services, highly experienced or credentialed direct care staff, and/or behavioral/clinical consultation. In this category, the intermediate models are used as the foundation for all Medical/Clinical programs. For each Intermediate model, there are four associated Medical/Clinical models, each reflecting the additional resources for one of four varying but standardized incremental, intensity-based credentialed staff support assumptions.

Model Type	DC %	CNA %	LPN% RN%	RN%
<b>Intermediate</b>	100	0	0	0
<b>Medical/Clinical Level 1</b>	80	0	10	10
<b>Medical/Clinical Level 2</b>	50	25	10	15
<b>Medical/Clinical Level 3</b>	40	20	15	25
<b>Medical/Clinical Level 4</b>	15	20	25	40

(a) Medical/Clinical Level 1. This level reflects a predominance of Direct Care staffing, with a relatively light complement of LPN and RN direct supports.

(b) Medical/Clinical Level 2. This level reflects approximately 50% Direct Care staffing and the balance of staffing reflecting enhanced CNA and higher-skilled nursing resources.

(c) Medical/Clinical Level 3. This level continues to rely less on Direct Care staffing and more on higher-skilled nursing resources.

(d) Medical/Clinical Level 4. This level represents the highest intensity of direct nursing supports with the lowest level of Direct Care staffing.

New Program/Replacement Rate. Rate for a new program site or replacement of an existing site.

Program Per Diem. Program service unit based on a 24-hour period of care.

Provider. Any individual, group, partnership, trust, corporation or other legal entity that offers services for purchase by a Governmental Unit and that meets the conditions of purchase or licensure that have been or may be adopted by a purchasing Governmental Unit.

Reporting Year. The Provider's fiscal year for which costs incurred are reported to the Operational Services Division on the UFR.

Service Model Rate. A rate which includes the programmatic resources to provide the client focused direct care and support services, including consultants, materials and supplies and administrative services attributed to the service portion of the program. It does not include the resources for provision of the physical space associated with the program and included in the Site Rate.

Site Rate. A rate established for the provision of the physical site and associated costs of the building that houses the ALTR program which includes, but is not limited to, lease or rental payments, depreciation, interest associated with long-term debt, durable equipment, insurance on buildings and equipment, real estate taxes, maintenance and/or condominium fees, electricity, heat, water, and meals. Lease payments to related parties must not exceed the cost of what the provider would pay if the provider directly owned the property.

420.02: continued

Site Unit Cost. The result of dividing the total annualized cost of a program's physical site for the July 1, 2011, through June 30, 2012, time period by the product of the capacity times 365.

420.03: Rate Provisions

(1) Services Included in the Rate. The approved rate shall include payment for all care and services that are part of the program of services of an eligible provider, as explicitly set forth in the terms of the purchase agreement between the eligible provider and the purchasing governmental unit(s).

(2) Reimbursement as Full Payment. Each eligible provider shall, as a condition of acceptance of payment made by any purchasing governmental units for services rendered, accept the approved program rate as full payment and discharge of all obligations for the services rendered. Payment from any other source shall be used to offset the amount of the purchasing governmental unit's obligation for services rendered to the publicly assisted client.

(3) Payment Limitations. No purchasing governmental unit may pay less than or more than the approved program rate, except as cited in 101 CMR 420.03.

(4) Blended Contract Rate Calculation. Purchasing Governmental Units may pay a Blended Contract Rate for purchase of two or more ALTR programs. The Blended rate will be calculated according to the following formula:

Sum of {[*(Per Diem* rate for Program Model 1)\*(Capacity of Program Model 1)], [*(Per Diem* rate for Program Model 2)\*(Capacity of Program Model 2)], [*(Per Diem* rate for Program Model 3)\*(Capacity of Program Model 3)],...} Divided by the Sum of the Capacities of all programs in the contract.

(5) Service Model Naming Convention. 101 CMR 420.03(5)(a) and (b) describes the naming convention for the Service Models as listed in the rate tables:

(a) Basic and Intermediate. The name of each Service Model rate consists of three characters. The first character represents the category of the service tier, B for Basic and I for Intermediate. The second character is the number that describes the model's daily capacity. The third character represents the specific model level within that capacity for the category.

Example: I1A describes an Intermediate category, one person capacity, and the Service Model A.

(b) Medical/Clinical: The name of each Medical/Clinical Service Model rate consists of five characters. The first three characters represent a specific Intermediate model that serves as the foundation. The fourth character represents the level of incremental resources contained in the Medical/Clinical Service Model. The fifth character reflects the fact that it is a Medical Clinical Service Model.

Example: I1A – 1M represents the Medical/Clinical level 1 for the Intermediate model, I1A.

(6) Programs Located Outside the Commonwealth of Massachusetts.

(a) If an ALTR is located outside of the Commonwealth of Massachusetts in a state that has an established state rate or price setting mechanism the purchasing Governmental Unit will pay for the service using the rate established, authorized or approved by the state in which the program is located, provided that the rate is the lowest charged by a Provider for the program. In order for the purchasing Governmental Unit to pay this rate, the following must be submitted to the purchasing Governmental Unit by the Provider:

1. A certification from the Provider that the rate requested to be authorized is the lowest charged by the Provider for the program; and
2. A copy of the rate authorization or approval by the state in which the program is located, including the effective dates of the rate.

If the requested rate is not the lowest charged by the Provider for the program, the Provider must identify and document the amount of the lowest rate charged, which will then be used by the purchasing Governmental Unit to pay for services.

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(b) If an ALTR Service is located outside the Commonwealth of Massachusetts in a state where there is no established state rate or price setting mechanism, the purchasing Governmental Unit will pay for the service using the rates set forth in 101 CMR 420. 03(7).

(7) Approved Rates. The rates set forth below govern the payment rates for services purchased by a Governmental Unit including but not limited to DDS, MCB, and MRC, provided pursuant to contracts executed under their FY 2014 or subsequent procurements. The approved rate shall be the lower of the provider's charge or amount accepted as payment from another payer or the rate listed below:

(a) Per Diem Service Model Program Rates Effective April 1, 2014.

1. Basic Lower Intensity.

<u>Program Model</u>	<u>Direct Care</u> <u>Staff Intensity Level</u>	<u>Per Diem Rate</u>
L2A	3.45	\$319.17
L3A	3.45	\$223.02
L4A	3.45	\$186.55
L5A	3.45	\$155.38
L7A	7.56	\$183.23
L7B	8.30	\$194.66
L9A	8.48	\$161.61
L11A	9.85	\$152.27
L12A	8.73	\$132.46
L13A	12.23	\$154.16

2. Basic.

<u>Program Model</u>	<u>Direct Care</u> <u>Staff Intensity Level</u>	<u>Per Diem Rate</u>
B2A	4.35	\$374.35
B2B	4.50	\$383.55
B2C	5.15	\$423.40
B3A	4.35	\$259.81
B3B	5.00	\$286.38
B3C	5.50	\$306.82
B3D	6.00	\$327.26
B3E	6.90	\$347.63
B3F	7.25	\$361.93
B3G	7.90	\$388.50
B4A	5.50	\$249.39
B4B	6.13	\$268.55
B4C	6.90	\$280.00
B4D	7.53	\$307.69
B4E	8.15	\$318.32
B4F	8.90	\$341.31
B5A	6.53	\$230.80
B5B	7.53	\$245.47
B5C	8.38	\$266.32
B5D	8.88	\$278.58
B6A	8.03	\$219.90
B8A	9.95	\$202.86

420.03: continued

3. Intermediate.

<u>Program Model</u>	<u>Direct Care Staff Intensity Level</u>	<u>Per Diem Rate</u>
I1A	3.15	\$502.24
I1B	3.45	\$550.32
I1C	3.95	\$615.92
I1D	4.55	\$685.91
I1H	7.22	\$1,008.96
I2A	3.70	\$356.64
I2B	4.35	\$400.94
I2C	4.90	\$446.64
I2D	5.25	\$469.59
I2E	5.50	\$503.44
I2F	5.85	\$526.40
I2G	6.13	\$544.77
I2H	6.50	\$569.04
I2I	7.25	\$610.60
I2J	7.75	\$643.40
I2K	8.40	\$660.32
I2L	8.90	\$693.18
I2M	9.40	\$725.94
I3A	4.35	\$277.61
I3B	4.90	\$308.07
I3C	5.50	\$359.40
I3D	6.90	\$388.57
I3E	7.25	\$424.29
I3F	7.50	\$431.34
I3G	7.93	\$451.62
I3H	8.43	\$473.48
I3I	8.93	\$495.35
I3J	9.60	\$518.09
I3K	10.40	\$553.07
I3L	10.80	\$570.57
I4A	6.13	\$285.76
I4B	6.90	\$311.02
I4C	7.25	\$322.49
I4D	7.93	\$347.96
I4E	8.33	\$369.80
I4F	8.95	\$390.30
I4G	9.70	\$414.90
I4H	10.10	\$426.53
I4I	10.85	\$431.68
I4J	11.20	\$441.66
I4K	11.68	\$457.40
I4L	12.20	\$474.46
I4M	12.70	\$502.34
I5A	6.90	\$258.27
I5B	7.40	\$271.39
I5C	7.90	\$284.50
I5D	8.30	\$298.13
I5E	8.58	\$301.61
I5F	8.95	\$318.43
I5G	9.70	\$326.09
I5H	10.20	\$339.21
I5I	10.70	\$352.33
I5J	11.20	\$374.78
I5K	11.68	\$386.05
I5L	12.20	\$399.69
I5M	12.70	\$410.67
I6A	8.95	\$271.68
I8A	11.58	\$247.57

420.03: continued

4. Medical/Clinical.

<u>Program Model</u>	<u>Medical Blend Staff Intensity Level</u>	<u>Per Diem Rate</u>
I1A - 1M	3.15	<b>\$595.38</b>
I1A - 2M	3.15	<b>\$650.74</b>
I1A - 3M	3.15	<b>\$710.02</b>
I1A - 4M	3.15	<b>\$814.14</b>
I1B - 1M	3.45	<b>\$650.87</b>
I1B - 2M	3.45	<b>\$711.51</b>
I1B - 3M	3.45	<b>\$776.44</b>
I1B - 4M	3.45	<b>\$890.47</b>
I1C - 1M	3.95	<b>\$728.82</b>
I1C - 2M	3.95	<b>\$798.25</b>
I1C - 3M	3.95	<b>\$872.58</b>
I1C - 4M	3.95	<b>\$1,003.14</b>
I1D - 1M	4.55	<b>\$813.64</b>
I1D - 2M	4.55	<b>\$893.61</b>
I1D - 3M	4.55	<b>\$979.24</b>
I1D - 4M	4.55	<b>\$1,129.63</b>
I2A - 1M	3.70	<b>\$409.99</b>
I2A - 2M	3.70	<b>\$442.50</b>
I2A - 3M	3.70	<b>\$477.32</b>
I2A - 4M	3.70	<b>\$538.47</b>
I2B - 1M	4.35	<b>\$462.33</b>
I2B - 2M	4.35	<b>\$500.56</b>
I2B - 3M	4.35	<b>\$541.49</b>
I2B - 4M	4.35	<b>\$613.38</b>
I2C - 1M	4.90	<b>\$514.82</b>
I2C - 2M	4.90	<b>\$557.89</b>
I2C - 3M	4.90	<b>\$603.99</b>
I2C - 4M	4.90	<b>\$684.97</b>
I2D - 1M	5.25	<b>\$542.10</b>
I2D - 2M	5.25	<b>\$588.24</b>

420.03: continued

<u>Program Model</u>	<u>Medical Blend Staff Intensity Level</u>	<u>Per Diem Rate</u>
I2D - 3M	5.25	<b>\$637.64</b>
I2D - 4M	5.25	<b>\$724.41</b>
I2E - 1M	5.50	<b>\$579.04</b>
I2E - 2M	5.50	<b>\$627.38</b>
I2E - 3M	5.50	<b>\$679.13</b>
I2E - 4M	5.50	<b>\$770.02</b>
I2F - 1M	5.85	<b>\$606.32</b>
I2F - 2M	5.85	<b>\$657.74</b>
I2F - 3M	5.85	<b>\$712.78</b>
I2F - 4M	5.85	<b>\$809.46</b>
I2G - 1M	6.13	<b>\$628.15</b>
I2G - 2M	6.13	<b>\$682.02</b>
I2G - 3M	6.13	<b>\$739.70</b>
I2G - 4M	6.13	<b>\$841.01</b>
I2H - 1M	6.50	<b>\$656.99</b>
I2H - 2M	6.50	<b>\$714.12</b>
I2H - 3M	6.50	<b>\$775.28</b>
I2H - 4M	6.50	<b>\$882.70</b>
I2I - 1M	7.25	<b>\$715.45</b>
I2I - 2M	7.25	<b>\$779.17</b>
I2I - 3M	7.25	<b>\$847.39</b>
I2I - 4M	7.25	<b>\$967.20</b>
I2J - 1M	7.75	<b>\$754.43</b>
I2J - 2M	7.75	<b>\$822.54</b>
I2J - 3M	7.75	<b>\$895.46</b>
I2J - 4M	7.75	<b>\$1,023.54</b>
I2K - 1M	8.40	<b>\$779.40</b>
I2K - 2M	8.40	<b>\$853.22</b>
I2K - 3M	8.40	<b>\$932.26</b>
I2K - 4M	8.40	<b>\$1,071.08</b>
I2L - 1M	8.90	<b>\$818.37</b>

420.03: continued

<u>Program Model</u>	<u>Medical Blend Staff Intensity Level</u>	<u>Per Diem Rate</u>
I2L - 2M	8.90	<b>\$891.75</b>
I2L - 3M	8.90	<b>\$975.50</b>
I2L - 4M	8.90	<b>\$1,122.58</b>
I2M - 1M	9.40	<b>\$857.35</b>
I2M - 2M	9.40	<b>\$939.96</b>
I2M - 3M	9.40	<b>\$1,028.41</b>
I2M - 4M	9.40	<b>\$1,183.76</b>
I3A - 1M	4.35	<b>\$318.54</b>
I3A - 2M	4.35	<b>\$344.03</b>
I3A - 3M	4.35	<b>\$371.31</b>
I3A - 4M	4.35	<b>\$419.24</b>
I3B - 1M	4.90	<b>\$353.53</b>
I3B - 2M	4.90	<b>\$382.24</b>
I3B - 3M	4.90	<b>\$412.98</b>
I3B - 4M	4.90	<b>\$466.96</b>
I3C - 1M	5.50	<b>\$409.80</b>
I3C - 2M	5.50	<b>\$442.02</b>
I3C - 3M	5.50	<b>\$476.52</b>
I3C - 4M	5.50	<b>\$537.12</b>
I3D - 1M	6.90	<b>\$470.92</b>
I3D - 2M	6.90	<b>\$511.34</b>
I3D - 3M	6.90	<b>\$554.63</b>
I3D - 4M	6.90	<b>\$630.65</b>
I3E - 1M	7.25	<b>\$489.10</b>
I3E - 2M	7.25	<b>\$531.58</b>
I3E - 3M	7.25	<b>\$577.06</b>
I3E - 4M	7.25	<b>\$656.94</b>
I3F - 1M	7.50	<b>\$498.21</b>
I3F - 2M	7.50	<b>\$542.15</b>
I3F - 3M	7.50	<b>\$589.20</b>
I3F - 4M	7.50	<b>\$671.83</b>

420.03: continued

<u>Program Model</u>	<u>Medical Blend Staff Intensity Level</u>	<u>Per Diem Rate</u>
I3G - 1M	7.93	<b>\$527.09</b>
I3G - 2M	7.93	<b>\$573.52</b>
I3G - 3M	7.93	<b>\$623.24</b>
I3G - 4M	7.93	<b>\$710.55</b>
I3H - 1M	8.43	<b>\$553.07</b>
I3H - 2M	8.43	<b>\$602.44</b>
I3H - 3M	8.43	<b>\$655.29</b>
I3H - 4M	8.43	<b>\$748.11</b>
I3I - 1M	8.93	<b>\$579.06</b>
I3I - 2M	8.93	<b>\$631.35</b>
I3I - 3M	8.93	<b>\$687.33</b>
I3I - 4M	8.93	<b>\$785.67</b>
I3J - 1M	9.60	<b>\$607.34</b>
I3J - 2M	9.60	<b>\$663.59</b>
I3J - 3M	9.60	<b>\$723.81</b>
I3J - 4M	9.60	<b>\$829.57</b>
I3K - 1M	10.40	<b>\$648.91</b>
I3K - 2M	10.40	<b>\$709.85</b>
I3K - 3M	10.40	<b>\$775.09</b>
I3K- 4M	10.40	<b>\$889.67</b>
I3L - 1M	10.80	<b>\$669.70</b>
I3L - 2M	10.80	<b>\$732.98</b>
I3L - 3M	10.80	<b>\$800.72</b>
I3L - 4M	10.80	<b>\$919.71</b>
I4A - 1M	6.13	<b>\$327.42</b>
I4A - 2M	6.13	<b>\$354.34</b>
I4A - 3M	6.13	<b>\$383.15</b>
I4A - 4M	6.13	<b>\$433.76</b>
I4B - 1M	6.90	<b>\$357.43</b>
I4B - 2M	6.90	<b>\$387.73</b>
I4B - 3M	6.90	<b>\$420.17</b>

420.03: continued

<u>Program Model</u>	<u>Medical Blend Staff Intensity Level</u>	<u>Per Diem Rate</u>
I4B - 4M	6.90	<b>\$477.14</b>
I4C - 1M	7.25	<b>\$371.07</b>
I4C - 2M	7.25	<b>\$402.91</b>
I4C - 3M	7.25	<b>\$437.00</b>
I4C - 4M	7.25	<b>\$496.86</b>
I4D - 1M	7.93	<b>\$404.57</b>
I4D - 2M	7.93	<b>\$439.39</b>
I4D - 3M	7.93	<b>\$476.68</b>
I4D - 4M	7.93	<b>\$542.16</b>
I4E - 1M	8.33	<b>\$428.88</b>
I4E - 2M	8.33	<b>\$465.46</b>
I4E - 3M	8.33	<b>\$504.63</b>
I4E - 4M	8.33	<b>\$573.42</b>
I4F - 1M	8.95	<b>\$453.24</b>
I4F - 2M	8.95	<b>\$492.57</b>
I4F - 3M	8.95	<b>\$534.68</b>
I4F - 4M	8.95	<b>\$608.63</b>
I4G - 1M	9.70	<b>\$482.47</b>
I4G - 2M	9.70	<b>\$525.10</b>
I4G - 3M	9.70	<b>\$570.73</b>
I4G - 4M	9.70	<b>\$650.88</b>
I4H - 1M	10.10	<b>\$496.55</b>
I4H - 2M	10.10	<b>\$540.93</b>
I4H - 3M	10.10	<b>\$588.45</b>
I4H - 4M	10.10	<b>\$671.91</b>
I4I - 1M	10.85	<b>\$517.83</b>
I4I - 2M	10.85	<b>\$565.51</b>
I4I - 3M	10.85	<b>\$616.56</b>
I4I - 4M	10.85	<b>\$706.21</b>
I4J - 1M	11.20	<b>\$529.96</b>
I4J - 2M	11.20	<b>\$579.18</b>

420.03: continued

<u>Program Model</u>	<u>Medical Blend Staff Intensity Level</u>	<u>Per Diem Rate</u>
I4J - 3M	11.20	<b>\$631.87</b>
I4J - 4M	11.20	<b>\$724.42</b>
I4K - 1M	11.68	<b>\$548.67</b>
I4K - 2M	11.68	<b>\$600.00</b>
I4K - 3M	11.68	<b>\$654.95</b>
I4K - 4M	11.68	<b>\$751.46</b>
I4L - 1M	12.20	<b>\$568.94</b>
I4L - 2M	12.20	<b>\$622.55</b>
I4L - 3M	12.20	<b>\$679.95</b>
I4L - 4M	12.20	<b>\$780.76</b>
I4M - 1M	12.70	<b>\$588.43</b>
I4M - 2M	12.70	<b>\$644.23</b>
I4M - 3M	12.70	<b>\$703.98</b>
I4M - 4M	12.70	<b>\$808.92</b>
I5A - 1M	6.90	<b>\$295.42</b>
I5A - 2M	6.90	<b>\$319.68</b>
I5A - 3M	6.90	<b>\$345.65</b>
I5A - 4M	6.90	<b>\$391.26</b>
I5B - 1M	7.40	<b>\$311.01</b>
I5B - 1M	7.40	<b>\$337.03</b>
I5B - 1M	7.40	<b>\$364.88</b>
I5B - 1M	7.40	<b>\$413.80</b>
I5C - 1M	7.90	<b>\$326.60</b>
I5C - 1M	7.90	<b>\$354.38</b>
I5C - 1M	7.90	<b>\$384.11</b>
I5C - 1M	7.90	<b>\$436.33</b>
I5D - 1M	8.30	<b>\$342.21</b>
I5D - 2M	8.30	<b>\$371.39</b>
I5D - 3M	8.30	<b>\$402.63</b>
I5D - 4M	8.30	<b>\$457.49</b>
I5E - 1M	8.58	<b>\$350.11</b>

420.03: continued

<u>Program Model</u>	<u>Medical Blend Staff Intensity Level</u>	<u>Per Diem Rate</u>
I5E- 2M	8.58	<b>\$380.25</b>
I5E - 3M	8.58	<b>\$412.53</b>
I5E- 4M	8.58	<b>\$469.21</b>
I5F - 1M	8.95	<b>\$368.78</b>
I5F - 2M	8.95	<b>\$400.24</b>
I5F - 3M	8.95	<b>\$433.93</b>
I5F - 4M	8.95	<b>\$493.09</b>
I5G - 1M	9.70	<b>\$380.14</b>
I5G - 2M	9.70	<b>\$414.24</b>
I5G - 3M	9.70	<b>\$450.75</b>
I5G - 4M	9.70	<b>\$514.87</b>
I5H- 1M	10.20	<b>\$395.73</b>
I5H - 2M	10.20	<b>\$431.59</b>
I5H - 3M	10.20	<b>\$469.98</b>
I5H - 4M	10.20	<b>\$537.41</b>
I5I - 1M	10.70	<b>\$411.32</b>
I5I - 2M	10.70	<b>\$448.94</b>
I5I - 3M	10.70	<b>\$489.21</b>
I5I - 4M	10.70	<b>\$559.94</b>
I5J - 1M	11.20	<b>\$436.25</b>
I5J - 2M	11.20	<b>\$475.62</b>
I5J - 3M	11.20	<b>\$517.77</b>
I5J - 4M	11.20	<b>\$591.81</b>
I5K - 1M	11.68	<b>\$449.85</b>
I5K - 2M	11.68	<b>\$490.89</b>
I5K - 3M	11.68	<b>\$534.83</b>
I5K - 4M	11.68	<b>\$612.01</b>
I5L- 1M	12.20	<b>\$466.06</b>
I5L - 2M	12.20	<b>\$508.93</b>
I5L - 3M	12.20	<b>\$554.83</b>
I5L - 4M	12.20	<b>\$635.45</b>

420.03: continued

<u>Program Model</u>	<u>Medical Blend Staff Intensity Level</u>	<u>Per Diem Rate</u>
I5M- 1M	12.70	<b>\$479.51</b>
I5M - 2M	12.70	<b>\$524.14</b>
I5M - 3M	12.70	<b>\$571.92</b>
I5M - 4M	12.70	<b>\$655.84</b>
I6A - 1M	8.95	<b>\$313.63</b>
I6A - 2M	8.95	<b>\$339.85</b>
I6A - 3M	8.95	<b>\$367.92</b>
I6A - 4M	8.95	<b>\$417.23</b>
I8A - 1M	11.58	<b>\$294.80</b>
I8A - 2M	11.58	<b>\$320.23</b>
I8A - 3M	11.58	<b>\$347.46</b>
I8A - 4M	11.58	<b>\$395.28</b>

5. Add-on Rates.

<u>Category</u>	<u>Unit</u>	<u>Rates</u>	<u>Regulatory Sources (if applicable)</u>
DC Workers Level I	Hourly Rate Day Rate	\$15.63 \$125.01	
DC Workers Level II	Hourly Rate Day Rate	\$16.72 \$133.74	
Relief Level I	Hourly Rate	\$13.64	
Relief Level II	Hourly Rate	\$14.59	
RN	Hourly Rate	\$40.12	114.3 CMR 50.00: <i>Home Health Services</i>
LPN	Hourly Rate Day Rate	\$33.44 \$267.52	114.3 CMR 50.00: <i>Home Health Services</i>
Certified Nurse Assistant (CNA)	Hourly Rate	\$17.62	
Clinician	Hourly Rate	\$50.44	
Psychologist (Ph.D)/Psychiatrist	Hourly Rate	\$122.30	

420.03: continued

<u>Category</u>	<u>Unit</u>	<u>Rates</u>	<u>Regulatory Sources (if applicable)</u>
Vehicle Upgrade from Minivan to Wheelchair Van	Day Rate - Capacity 2	\$8.69	
	Day Rate - Capacity 3	\$5.79	
	Day Rate - Capacity 4	\$4.35	
	Day Rate - Capacity 5	\$3.48	
Adding a Wheelchair Van	Day Rate - Capacity 1	\$45.31	
	Day Rate - Capacity 2	\$22.65	
	Day Rate - Capacity 3	\$15.10	
	Day Rate - Capacity 4	\$11.33	
	Day Rate - Capacity 5	\$9.06	

(b) Site Rates.

1. Site Rates for Programs Operating in That Location for Longer Than Two Years. The following table lists *per diem* benchmark cost ranges and the corresponding *per diem* rate. The rate is determined by selecting the range within which the Site Unit Cost falls.

<u>Range</u>	<u>Per Diem Rate</u>
\$0.01 - \$12.76	\$11.63
\$12.77 - \$17.22	\$16.13
\$17.23 - \$21.68	\$20.24
\$21.69 - \$26.15	\$24.80
\$26.16 - \$30.60	\$29.19
\$30.61 - \$35.07	\$33.41
\$35.08 - \$39.52	\$37.74
\$39.53 - \$43.98	\$42.05
\$43.99 - \$48.44	\$46.70
\$48.45 - \$52.90	\$51.39
\$52.91 - \$57.36	\$55.61
\$57.37 - \$61.82	\$60.07

## 420.03: continued

<u>Range</u>	<u>Per Diem Rate</u>
\$61.83 - \$66.28	\$63.13
\$66.29 - \$70.74	\$68.60
\$70.75 - \$75.20	\$73.39
\$75.21 - \$79.66	\$77.72
\$79.67 - \$84.12	\$82.64
\$84.13 - \$88.58	\$87.43
\$88.59 - \$94.15	\$92.26
\$94.16 - \$99.73	\$97.02
\$99.74 - \$103.07	\$100.35
\$103.08+	\$146.21

2. New Program Site or Current Site Replacement Rate. The site rate for a program that is operating at that location for less than two years will be based on the Federal Housing and Urban Development (HUD) Fair Market Rent for that site's location and bedroom size times a factor of 1.98 plus an additional factor for food at \$7.45 per client per day. Sites with more than four bedrooms will use the amount for a four bedroom location. The site *per diem* rate will be calculated as follows:

$$[\text{HUD Fair Market Rent} * 1.98] \text{ divided by } (30.42 * \text{program capacity}) + \$7.45$$

In cases in which the standard HUD occupancy pricing approach described above will not suffice for the purpose of developing a new site rate based on the particular needs of the individuals proposed for placement at the site, an alternate site rate may be developed using the Occupancy Worksheet for New ALTR Sites with Exceptional Characteristics. This Occupancy Worksheet for New ALTR Sites with Exceptional Characteristics, which shall be issued by EOHHS, shall include the provider's best estimates of site-specific costs and must be supported by available documentation and a statement detailing the specific exceptional characteristics that pertain to the proposed site. This Worksheet will be subject to EOHHS audit and verification of actual costs to ensure they are not excessive. The Purchasing Governmental Unit may require the provider to return any excess funding received through this provision.

#### 420.04: Filing and Reporting Requirements

- (1) General Provisions.
  - (a) Accurate Data. All reports, schedules, additional information, books, and records that are filed or made available to the Center shall be certified under pains and penalties of perjury as true, correct and accurate by the Executive Director or Chief Financial Officer of the Provider.
  - (b) Examination of Records. Each Provider shall make available to the Center or purchasing Governmental Unit upon request all records relating to its reported costs, including costs of any entity related by common ownership or control.
- (2) Required Reports. Each Provider must file:
  - (a) an annual UFR completed in accordance with the filing requirements of 808 CMR 1.00: *Compliance, Preparing and Auditing for Human and Social Services*;
  - (b) any Cost Report supplemental schedule as issued by the Center; and
  - (c) any additional information requested by the Center within 21 days of a written request.

420.04: continued

(3) Penalties. EOHHS may reduce the payment rates by 15% for any Provider that fails to submit required information to the Center, subject to the approval of the purchasing governmental unit. EOHHS will notify the Provider in advance of its intention to impose a rate reduction. The rate reduction will remain in effect until the required information is submitted to the Center.

420.05: Severability

The provisions of 101 CMR 420.00 are severable. If any provision of 101 CMR 420.00 or application of such provision to any eligible provider or fiscal intermediary is held invalid or unconstitutional, such determination will not affect the validity or constitutionality of any remaining provisions of 101 CMR 420.00 or application of such provisions to eligible providers or fiscal intermediaries in circumstances other than those held invalid.

REGULATORY AUTHORITY

101 CMR 420.00: M.G.L. chs. 12C and 118E.

(PAGES 1015 AND 1016 ARE RESERVED FOR FUTURE USE.)

**THE COMMONWEALTH OF MASSACHUSETTS****William Francis Galvin**

Secretary of the Commonwealth

**Regulation Filing** *To be completed by filing agency*CHAPTER NUMBER: **103 CMR 924.00**CHAPTER TITLE: **County Correctional Facilities- Security and Control**AGENCY: **Department of Correction**SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*

The regulation establishes rules and regulations to maintain physical security at the county correctional facilities. The regulation also limits the use of restraints on pregnant and post-partum inmates while those inmates are in transit or receiving medical attention.

REGULATORY AUTHORITY: **M.G.L. c. 124, § 1 (c), (d) and (q); c. 127, §§ 1A and 1B**AGENCY CONTACT: **Tabitha M. Schneider** PHONE: **617-727-3300 x. 153**ADDRESS: **70 Franklin Street, Suite 600, Boston, MA 02110****Compliance with M.G.L. c. 30A**EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*

PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.*

Both members of the Local Government Advisory Commission were notified on March 13, 2014. No state of impact was received from either office; thus this regulation was deemed to have no impact. Approval of the Governor's Office and the Executive Office of Administration and Finance has also

PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*

Date of public hearing or comment period: **Public hearing was held on April 22, 2014**

FISCAL EFFECT - *Estimate the fiscal effect of the public and private sectors.*

For the first and second year: \_\_\_\_\_

For the first five years: \_\_\_\_\_

No fiscal effect:  \_\_\_\_\_

SMALL BUSINESS IMPACT - *M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.*

Date amended small business impact statement was filed: June 11, 2014

CODE OF MASSACHUSETTS REGULATIONS INDEX - *List key subjects that are relevant to this regulation:*  
**House of Correction; restraint; pregnancy; post-partum; medical care**

PROMULGATION - *State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number:*

**Admends 103 CMR 924**

ATTESTATION - *The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency.* ATTEST:

SIGNATURE: SIGNATURE ON FILE DATE: Jun 19 2014

Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: 1264 DATE: 07/04/2014

EFFECTIVE DATE: 07/04/2014

CODE OF MASSACHUSETTS REGULATIONS

Remove these pages: Insert these pages:

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<u>329, 330</u>	<u>329, 330</u>

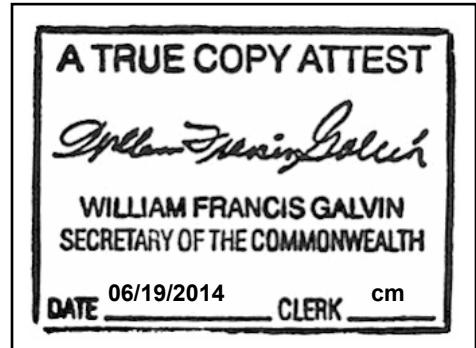


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## 103 CMR 924.00: COUNTY CORRECTIONAL FACILITIES -- SECURITY AND CONTROL

## Section

- 924.01: Physical Security Measures
- 924.02: Security and Control Management
- 924.03: Post Orders
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- 924.05: Inmate Movement
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- 924.16: Reporting and Inspections
- 924.17: Transportation and Security of Pregnant Inmates

924.01: Physical Security Measures

In order to maintain physical security at the county correctional facility, written policy and procedure shall require:

- (1) A control center to be manned 24 hours per day and monitor and control all day-to-day facility operations, including the facility's security, life safety, and communications systems.
- (2) All security perimeter entrances, control center doors, cell block doors and all doors opening into an unsecured corridor are kept locked, except when used for admission or exit of employees, inmates or visitors, and in emergencies. This requirement shall not apply to community release facilities.
- (3) A plan of perimeter security, which includes perimeter patrols and watchtowers, if applicable. This requirement shall not apply to community release facilities.
- (4) A system for screening persons entering the facility, including surveillance and metal detector or other similar equipment, to prevent the introduction of weapons or other contraband. This requirement shall not apply to community release facilities.
- (5) A system for inspecting and logging in and out all vehicles entering the secure perimeter. This requirement shall not apply to community release facilities.
- (6) An annual security equipment needs assessment to include, but not be limited to, firearms, ammunition, disorder control and restraint equipment, chemical agents, and communications equipment.

924.02: Security and Control Management

Written policy and procedure shall:

- (1) Ensure that no inmate or group of inmates is given control or authority over other inmates;
- (2) Provide security and control requirements which include:
  - (a) that no staff member enters a high security cell block without the availability of immediate assistance from another staff member;
  - (b) that trained personnel provide around-the-clock supervision of all inmates;
  - (c) that personal contact and interaction is facilitated between staff and inmates;
  - (d) that all high security and special management inmates are observed by appropriate security staff at least every 30 minutes, but on an irregular schedule;

## 924.02: continued

- (e) that more frequent observation is required for those inmates who are violent, mentally disordered, or who demonstrate unusual or bizarre behavior; and,
- (f) suicidal inmates are under continuous observation (meaning one-on-one observation) by correctional officers, medical staff, or other appropriate persons as determined by the Sheriff/facility administrator; and

(3) Require that correctional officer posts shall be located in or immediately adjacent to inmate living areas to permit officers to hear and respond promptly to emergency situations.

## 924.03: Post Orders

- (1) The county correctional facility shall provide written orders for every custodial post. These post orders are to be available to staff, reviewed annually and updated if necessary.
- (2) Written policy and procedure shall require that all personnel read, sign and date the appropriate post orders at timeframes stipulated by the Sheriff/facility administrator, but at least annually and when revisions occur.

## 924.04: Disorder Management (Required)

- (1) The county correctional facility shall develop and implement reaction plans to include written policy and procedures addressing, at a minimum, the following types of disorder situations:
  - (a) inmate disorders, including:
    - 1. escapes;
    - 2. work stoppage;
    - 3. hunger strikes;
    - 4. property destruction; and
    - 5. riot.
  - (b) disorders between two or more inmate factions;
  - (c) intrusion of outside individuals or groups intent on disruption of normal operation or facility security;
  - (d) bomb threats;
  - (e) hostage incidents;
  - (f) staff job action;
  - (g) environmental disorders which include, but are not limited to:
    - 1. loss of utilities,
    - 2. toxic chemical contamination,
    - 3. inclement weather conditions that disrupt normal operations or restrict availability of staff;
  - (h) fires; and,
  - (i) space requirements for overcrowding situation, especially due to a mass arrest, or a large scale transfer from another facility.
- (2) All plans are to include procedures, routes and designated holding areas for evacuation of the county correctional facility as necessary and a system of notification of appropriate staff and outside agencies.

## 924.05: Inmate Movement

Written policy and procedure shall provide:

- (1) A system for staff to regulate inmate movement; and
- (2) A system to physically count inmates, which includes strict accountability for inmates on work and education release, furlough, and other approved temporary absences.

924.06: Searches

Written policy and procedures shall govern searches of the county correctional facility and inmates in order to detect and prevent the introduction of contraband, recover missing or stolen property, and to prevent escapes and other disturbances. The search policy, but not the procedure, shall be made available to the inmates and the public and shall be reviewed annually and updated as necessary. The search policy shall include, but not be limited to, written policy and procedures on the following:

- (1) Visual inspection of the facility to include housing units, shops, program and activity areas, vehicles and deliveries, which are to be thorough and documented;
- (2) Personal (pat) searches of inmates, ensuring that cross-gender pat searches of inmates shall be conducted in relative privacy with as much dignity as possible.
- (3) Provided the circumstances warrant and following applicable legal restrictions, strip searches of inmates ensuring that said searches shall be conducted in relative privacy with as much dignity as possible by security personnel and conducted by staff of the same sex as the inmate. Cross gender pat searches of inmates shall be conducted in relative privacy with as much dignity as possible. Strip searches shall be conducted by one security personnel and a second security personnel within ear shot, except in an emergency as determined by the Sheriff/facility administrator or designee. Said searches may be employed in, but not limited to, the following situations:
  - (a) entrance or exit into secure area,
  - (b) transportation to and from court/medical trips/visits,
  - (c) alleged disciplinary infraction,
  - (d) inmate believed to be in possession of contraband,
  - (e) after escape or attempted escape,
  - (f) placement into isolation or segregation,
  - (g) prior to and following visits, and,
  - (h) return from temporary release (furlough, work release, *etc.*).
- (4) Intrusive body cavity searches, ensuring that said searches, manual or instrumental, shall not be conducted unless all of the following have occurred:
  - (a) Probable cause has been determined by staff through reasonable belief that the inmate is carrying contraband or other prohibited material;
  - (b) Authorization has been given by the Sheriff/facility administrator; and
  - (c) Search warrant has been obtained.

Note: The body cavity search shall be done by qualified health care personnel or correctional personnel thoroughly trained by health care personnel and shall be conducted in private.

- (5) Searches of visitors to the facility. (*See 103 CMR 950.04*);
- (6) Procedures detailing the seizure and disposal of all discovered contraband items, ensuring that staff document the circumstances;
- (7) Specific guidelines for search and preservation of evidence when a crime is suspected and prosecution is possible.

924.07: Firearms, Ammunition, and Chemical Agents (Required)

Written policy and procedure shall govern the use and storage of firearms, ammunition, and chemical agents, and shall include, but not be limited to, the following:

- (1) The types of firearms, ammunition, and chemical agents authorized for use by the Sheriff/facility administrator or designee. Only those items authorized for use may be issued/carried and only with prior authorization by the Sheriff/facility administrator or designee.
- (2) (a) Firearms may be used only as a last resort (when all other means have failed or would be ineffective) and only in the following situation: - to prevent an act which is likely to create an imminent risk of death or serious bodily injury to an employee or another person; and

924.07: continued

- (b) Firearms may be used only with the prior authorization of the Sheriff/facility administrator or designee unless an emergency exists requiring the immediate use of a firearm to prevent death or serious bodily injury.
- (3) Firearms, ammunition and chemical agents shall be subject to stringent safety regulations and monthly inspections and inventories.
- (4) Each shall be stored in a secure but readily accessible depository outside of inmate housing and activity areas. There shall be an area for safe loading and unloading of firearms located outside the secure inner perimeter of the facility.
- (5) Only employees authorized by the Sheriff/facility administrator and who have been properly trained and/or requalified during the past 12 months are issued firearms and ammunition;
- (6) Chemical agents shall be issued only to employees authorized by the Sheriff/facility administrator and who have received documented training within the past 24 months in the use of chemical agents and in the treatment of individuals exposed to the chemical agents.
- (7) Employees supervising inmates outside the facility perimeter follow proper procedure for security of weapons;
- (8) Employees on duty at the facility only use firearms issued by the facility or authorized by the Sheriff and only when directed or authorized by the Sheriff/facility administrator or designee. If the Sheriff/facility administrator allows for an employee working at the facility to store a county-owned weapon at home, such authorization shall be documented in writing. Such home storage shall only be authorized if the employee working at the facility maintains a valid firearms license in the state where he/she resides.
- (9) Logs are maintained on routine and emergency distribution of all firearms, ammunition, or chemical agents; and
- (10) If a firearm or chemical agent is discharged in any instance, excluding training, the employee discharging the firearm or chemical agent must submit a full written report in accordance with Sheriff's Department policy and no later than the conclusion of duty, unless prevented by extraordinary circumstances such as injury.

924.08: Disorder Control and Communication Equipment

Written policy and procedure shall govern the storage and use of all disorder control and communication equipment and shall include, but not be limited to the following:

- (1) The types of disorder control and communication equipment authorized for use by the Sheriff/facility administrator or designee;
- (2) At least quarterly inventory and inspection of all such devices for damaged, worn or inoperable devices with replacement as required;
- (3) Proper storage in a secure locker or area readily accessible yet located outside inmate housing or activity areas;
- (4) Annual equipment needs assessment;
- (5) Recording both routine and emergency issuance;
- (6) Use of disorder control equipment by authorized and qualified staff who are instructed in use of force; and,
- (7) Reporting of the use of disorder control equipment, especially in the use of force, must be completed in accordance with Sheriff's Department policy.

924.14: Control of Keys

Written policy and procedure shall govern the control and use of keys and shall include, but not be limited to requirements that:

- (1) County correctional facility keys shall be inventoried and stored in areas that are not accessible to inmates;
- (2) A physical count and inspection of all keys subject to being issued, except for those issued on a 24 hour basis, shall be conducted daily;
- (3) Lost or damaged keys shall be reported immediately;
- (4) The issuance of keys shall be noted by the exchange of a chit or by a written or electronic record; and
- (5) Keys which are issued on a 24 hour basis shall be approved in writing by the Sheriff/facility administrator or designee.

924.15: Inmate Transportation

Written policy and procedure shall govern inmate transportation and shall include, but not be limited to, ensuring the following:

- (1) Plan of transportation;
- (2) The use and security of county correctional facility vehicles;
- (3) That all vehicles shall be well maintained, inspected, and contain two-way radio communication and, where appropriate, safety screen; and
- (4) That use of personal vehicles for official purposes shall be prohibited, except when authorized by the Sheriff/facility administrator or designee and when provision for insurance coverage has been outlined.

924.16: Reporting and Inspections

Written policy and procedure shall:

- (1) Require the facility to maintain a written or electronic record which shall include, but not be limited to, the following:
  - (a) personnel on duty;
  - (b) inmate count;
  - (c) admissions and releases of inmates;
  - (d) shift activities;
  - (e) entry and exit of all visitors to the county correctional facility or a unit within the facility (M.D., attorneys, government officials, *etc.*); and
  - (f) unusual occurrences.
- (2) Require custodial staff to maintain written or electronic logs in each living unit and prepare a shift record daily recording, at a minimum: post assignments, routine and emergency situations, and unusual occurrences;
- (3) Govern the prompt reporting of all incidents that result in physical harm to, or threaten the safety of, any person in the county correctional facility, or that threaten the security of the facility; and
- (4) Govern the inspection of the county correctional facility's physical plant and reporting of any deficiencies and shall include, but not be limited to, the following:
  - (a) the Sheriff/facility administrator or designee, chief custodial officer and department/division head shall visit all living and activity units within the county correctional facility at least weekly, and initiate corrective action as needed; and

924.16: continued

(b) line supervisors and line staff (custodial and program) shall inspect their respective units daily, and report findings to their supervisor.

924.17: Transportation and Security of Pregnant Inmates

In order to maintain appropriate treatment of pregnant and post-partum inmates at the county correctional facility, written policy and procedure shall require and, absent such written policy and procedure, 103 CMR 924.17 requires:

(1) Transportation To/From Medical and/or Court Visits. When transporting pregnant inmates to and from visits to medical providers and court proceedings, a vehicle with seatbelts shall be utilized, and restraints, if any, shall be used as follows:

- (a) During the second or third trimester, only handcuffs in the front shall be applied.
- (b) An inmate who is in any stage of labor, as determined by a medical professional, shall not be placed in restraints.
- (c) During post-delivery recuperation, as determined by the attending physician, only handcuffs in the front shall be applied, except where a correction officer makes a determination, approved by a superintendent, that extraordinary circumstances necessitate greater restraint. The least restrictive restraint necessary to address those extraordinary circumstances shall be used. The type of restraint used and approval process shall be documented.

(2) In-hospital Security for Pregnant Inmates.

- (a) During the second or third trimester, only handcuffs in the front shall be applied.
- (b) An inmate who is in any stage of labor, as determined by a medical professional, shall not be placed in restraints. One correction officer may remain in the hospital room during delivery or physical examination; however, the correction officer shall, if possible, be female and be situated in a locale respective of the inmate's privacy.
- (c) During post-delivery recuperation, as determined by the attending physician, no restraint shall occur unless a correction officer makes a determination, approved by a superintendent, that extraordinary circumstances necessitate restraint, and a medical professional determines that such restraints are not medically contraindicated. The least restrictive restraint necessary to address those extraordinary circumstances shall be used. The type of restraint used and approval process shall be documented.
- (d) If the attending physician or nurse treating the pregnant inmate requests that the restraints be removed for a medical reason, the correction officer shall immediately remove all restraints, followed by an immediate verbal notification to a superintendent that is additionally documented in writing.
- (e) Nothing in 103 CMR 924.17(2) shall prohibit use of hospital restraints requested by a treating physician for the medical safety of a patient.

(3) Use of Leg Irons and Waist Chains. Neither leg irons nor waist chains shall be used on an inmate who is pregnant or in post-partum recuperation, as determined by the treating physician.

(4) Extraordinary Circumstances. For the purposes of 103 CMR 924.17, extraordinary circumstances exist where a correction officer makes an individualized determination, with prior approval by a superintendent if practicable, that the inmate presents an immediate, serious threat of hurting herself or others, or that the inmate presents an immediate and credible risk of escape that cannot be reasonably contained through other methods. Absent prior approval, immediate verbal notification of the application of restraints shall be made to a superintendent. If an inmate is restrained, the restraints shall be the least restrictive available and the most reasonable under the circumstances, but in no case shall include leg or waist restraints. Any determination of extraordinary circumstances must be documented in writing in advance of the application of any restraint or, if not practicable, by the conclusion of the correction officer's shift. This written documentation shall include the reasons the officer determined extraordinary circumstances existed; the kind of restraints used; and the reasons those restraints were considered the least restrictive available and the most reasonable under the circumstances.

**REGULATORY AUTHORITY**

103 CMR 924.00: M.G.L. c. 124, § (1), (c), (d) and (q); c. 127, §§ 1A and 1B.

**THE COMMONWEALTH OF MASSACHUSETTS****William Francis Galvin**

Secretary of the Commonwealth

**Regulation Filing** *To be completed by filing agency*CHAPTER NUMBER: **322 CMR 4.00**CHAPTER TITLE: **Fishing and Shellfish Equipment**AGENCY: **Division of Marine Fisheries**SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*

**Moves the commercial net fishing regulations for bluefish from 322 CMR 4.05 to the bluefish management section at 322 CMR 6.18.**

REGULATORY AUTHORITY: **MGL 130 s 17A**AGENCY CONTACT: **Daniel J. McKiernan** PHONE: **617-626-1536**ADDRESS: **251 Causeway Street, Suite 400, Boston, MA****Compliance with M.G.L. c. 30A**EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.***MFC: 3/6/14****DFG: 4/9/14****GOV/ANF: 6/20/14**PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*Date of public hearing or comment period: **PC: 11/20/13-12/26/13; PH: 12/19/13**

FISCAL EFFECT - *Estimate the fiscal effect of the public and private sectors.*

For the first and second year: No fiscal effect expected.

For the first five years: No fiscal effect expected.

No fiscal effect: This regulation is a clarification, no fiscal effect is expected.

SMALL BUSINESS IMPACT - *M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.*

Date amended small business impact statement was filed: 6/19/14

CODE OF MASSACHUSETTS REGULATIONS INDEX - *List key subjects that are relevant to this regulation:*

PROMULGATION - *State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number:*

**322 CMR 4.05**

ATTESTATION - *The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency.* ATTEST:

SIGNATURE: SIGNATURE ON FILE DATE: Jun 20 2014

Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: 1264 DATE: 07/04/2014

EFFECTIVE DATE: 07/04/2014

CODE OF MASSACHUSETTS REGULATIONS

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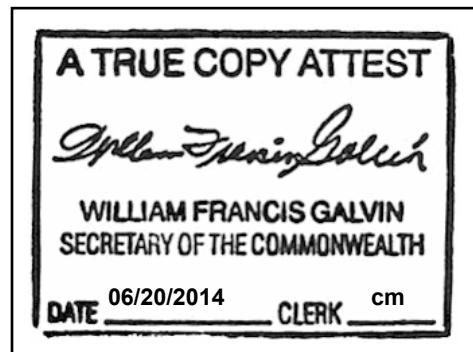


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## 322 CMR 4.00: FISHING AND SHELLFISH EQUIPMENT

## Section

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- 4.02: Use of Nets in Inshore Restricted Waters
- 4.04: Fish Weir Buffer Zone
- 4.05: Further Regulation of Fishing Gear (Reserved)
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4.01: Use of Purse Seines in Cape Cod Bay

Rules and Regulations Governing the Use of Purse Seines in Cape Cod Bay, adopted under provisions of M.G.L. c. 30A and M.G.L. c. 130, §§ 2, 17A and 104.

- (1) General.
  - (a) No person shall fish with nets or seines, commonly known as purse seines, in Cape Cod Bay inside of a line drawn from Sesuit Harbor in Dennis, northerly to #1 buoy on Billingsgate Shoal, thence northeasterly to Jeremy Point, so-called, in Wellfleet unless he is the holder of a Special Permit for a Regulated Fishery which may be issued by the Division.
  - (b) All persons fishing within the regulated area shall, inasmuch as possible, monitor channel 2638 on the marine radio or channel 23 CB for information pertaining to sport fishing activity in the area and shall avoid fishing in the immediate areas where sports fishermen are concentrated.
  - (c) The Director or his agents shall have the right to board and inspect any vessels engaged in the regulated fishery and to immediately suspend fishing operations, if in his judgement, such action is warranted to protect any fishery.
- (2) Restricted Area. In addition to 322 CMR 4.01(1) governing seining in the said portion of Cape Cod Bay, seining inside of a line drawn from Rock Harbor, Orleans, northwesterly to the #2 flashing red/bell buoy, thence northerly to Jeremy Point, so-called, in Wellfleet shall be subject to the following specific regulations:
  - (a) Permittees shall obtain special authorization from the Director to seine within the restricted area.
  - (b) Permittees wishing to seine in the restricted area shall post a bond in the amount of \$1,500 to cover any costs incurred by local or state government for picking up and disposing of any fish that may be spilled by the permittee.
  - (c) Seining shall be prohibited in the restricted area prior to June 7<sup>th</sup> of each year.
  - (d) Not more than two vessels may seine in the restricted area at any one time.
  - (e) Applications for special authorization to seine in the restricted area must be received at the office of the Director by June 1<sup>st</sup>, of each year. In the event that there are more than two applicants for special authorization, the Director shall have the right to set up a drawing by chance to determine the allocation of special authorizations.
  - (f) Permittees shall notify the Division (at 617-727-3189) and the Harbor Master of the Town of Wellfleet on each day that they intend to conduct seining operations in the restricted area.
  - (g) All carrier boats must "stand by" or "lay off" outside of the #10 buoy in the Wellfleet Harbor channel and shall not operate inside of said buoy except for direct ingress or egress from the harbor or to immediately take on or land the catch from the permitted seining operation.
- (3) Closed Area. Seining is prohibited at all times in Wellfleet Harbor north of latitude 41° 55'.

## 4.02: Use of Nets in Inshore Restricted Waters

(1) Purpose. The purpose of 322 CMR 4..02 is to manage net fishing participation in the nearshore harbors, bays, estuaries, tidal creek, river, and salt ponds inshore waters of the Commonwealth on a year-round basis with a particular focus on winter flounder and the spawning season. In addition, it is designed to reduce conflicts between different fisheries and users and to identify and regulate all inshore net fisheries for purposes of resource conservation and management.

(2) Inshore Restricted Waters. 322 CMR 4.02 contains a listing of the defined inshore waters and the description of the outer boundaries as delineated by specific structures such as jetties, points, and other landmarks.

(a) Boston and North

1. Merrimack River. Waters inside a line drawn between easternmost tips of north and south jetties.
2. Plum Island Sound. Waters inside a line drawn from the dome on Castle Hill, Ipswich to the southernmost tip of Plum Island -- Approx. 5° True.
3. Essex Bay. Waters inside northwesternmost point of Wingaersheek Beach to the southeasternmost point of Castle Neck -- Approx. 72° True.
4. Annisquam River, Gloucester. Waters inside line from northern tip of Farm Point to the Annisquam River Horn on Wigwam Point -- Approx. 53° True.
5. Rockport Harbor. Waters inside line drawn from the spit on the southern shore of the Harbor to the flasher on the easternmost tip of the north breakwater -- Approx. 354° True.
6. Gloucester Harbor. Waters inside line drawn from Eastern Point Flashing beacon to Mussel Point -- Approx. 350° True.
7. Manchester Harbor. Waters inside line drawn from westernmost tip of Proctor Point to Tucks Point -- Approx. 350° True.
8. Beverly Harbor. Waters inside line drawn eastern most tip of Yacht Club Pier to southernmost tip of Woodbury Point -- Approx. 29° True.
9. Salem Harbor. Waters inside line drawn from Ft. Pickering Light to nothernmost tip of Naugus Head, Marblehead -- Approx. 148° True.
10. Marblehead Harbor. Waters inside line drawn from flashing green beacon on northernmost tip of Marblehead Neck to the flag tower at Ft. Seawall -- Approx. 302° True.
11. Lynn Harbor. Waters inside line drawn from easternmost tip of Point of Pines to the Cupola on Little Nahant -- Approx. 108° True.
12. Boston Harbor. All waters inside lines drawn from the tower on Telegraph Hill in the town of Hull to the southernmost point of Lovell Island thence from the northernmost point of Lovell Island to the southeasternmost tip of Deer Island.

(b) Cape Cod Canal to Boston

1. Little Harbor, Cohasset. All waters west and south of Atlantic Avenue.
2. Cohasset Harbor. All waters inside line drawn from northernmost point of Strawberry Point to easternmost point of Quarry Point -- Approx. 268° True.
3. Scituate Harbor. Waters inside line drawn from northernmost point of First Cliff to the flashing red beacon on the eastern tip of the breakwater on Cedar Point -- Approx. 43° True.
4. North River/South River. Waters inside line drawn from northernmost point of Fourth Cliff to the southernmost point of Third Cliff -- Approx. 322° True.
5. Green Harbor, Marshfield. Waters inside line drawn between the southernmost tips of the entrance jetties.
6. Plymouth, Kingston, Duxbury Harbors. All waters inside line drawn from the southwestern point of Saquish Head to the northernmost point of Plymouth Beach -- Approx 218° True.

(c) Cape Cod

1. Sandwich Harbor. Waters inside line drawn between northernmost tips of entrance jetties.

## 4.02: continued

(b) Small Bait Net. A person may, without a special permit, use a small net of no more than 250 square feet inside those inshore waters listed in 322 CMR 4.02(2) or inside any estuary, embayment, salt pond, tidal creek, river or other similar body of inshore water for the sole purpose of obtaining bait fish for personal use provided all other requirements of law are met.

(6) Conditions. The Director may establish any conditions to the special permit that are necessary for purposes of conservation of the resource or management of the fishery.

(7) Prohibitions. Except as otherwise provided by 322 CMR 4.02(5), it is unlawful to set or use any net inside any inshore water set forth in 322 CMR 4.02(2) or any estuary, embayment, salt pond, tidal creek, river or other similar body of inshore water:

- (a) to take winter flounder between February 1<sup>st</sup> and May 31<sup>st</sup> of any year; or
- (b) without a special permit issued from the Director or contrary to the terms or conditions of the special permit.

## 4.04: Fish Weir Buffer Zone

(1) Purpose. Unlike mobile fishing gear that is used in active pursuit of fish or fixed gear such as fish pots or gillnets that can be moved to follow migrating fish, weirs, authorized by M.G.L. c. 130, § 29 and set in coastal waters with permission of appropriate cities or towns, are completely stationary and dependent on fish coming to them. Since fish tend to follow the weir's leader to the head (heart and bowl), they become concentrated and attract other fishermen to the weir where fish are available and more easily caught. This use of the weir's fish-attracting traits by other fishermen; for example, by fishing in the bowl or heart or alongside the leader, can interfere with the weir's operation and/or success and cause conflicts on the water between weir and other fishermen. Consequently, to avoid these conflicts, a reasonable buffer zone within which no person may conduct commercial or recreational fishing, except the weir owner or those with the owner's consent to remove fish and squid from the head(s), has been established.

(2) Definitions.

Buffer zone means the area around the fish weir which is circumscribed by buoys attached to weir pole anchors. The zone's boundary around the bowl is defined by imaginary straight lines between the buoys. The zone's extension from the bowl towards shore and parallel to the leader is defined by imaginary straight lines between the buoys on either side of the bowl to buoys attached to leader pole anchors. The shoreward end of the zone is defined by an imaginary straight line between the leader pole anchor buoys 500 feet from the first leader pole at the entrance to the weir's heart. When a weir has two heads, the zone extends the entire distance from the most seaward head to leader pole buoys 500 feet shoreward of the first leader pole at the entrance to the most shoreward head.

Commercial Fishing means fishing for purposes of sale, barter or exchange.

Fish Weir (also known as pound net or fish trap) means a stationary or fixed maze of nets attached to poles anchored to the sea bed and comprised of the leader (line of poles with net attached) extending from near-shore seaward to the heart which is adjacent to the bowl where fish and squid accumulate. A weir may have two heads each with a heart and bowl.

Fishing means to harvest, catch or take or attempt to harvest, catch or take any fish or squid.

Recreational Fishing means fishing for purposes of personal or family use by angling or hook and line.

(3) Marking

(a) Weirs with one head shall have anchors marked on the surface by buoys tied to the end of anchor lines of the most seaward pole of the bowl and of the poles on both sides of the bowl. The shoreward extension of the zone along and parallel to the leader shall be marked on the surface by buoys tied to the anchor at the end of anchor lines on both sides of the leader 500 feet from the leader pole at the entrance to the heart.

(b) Weirs with two heads shall have anchors marked on the surface by buoys tied to the end of the anchor line of the most seaward pole of the most seaward bowl and tied to the ends of anchor lines of the poles on both sides of the two heads' bowls. The shoreward extension of the zone along and parallel to the leader shall be marked on the surface by buoys tied to the anchor at the end of anchor lines on both sides of the leader 500 feet from the leader pole at the entrance to the most shoreward head's heart.

(c) All buoys shall be 12 inches diameter, orange, inflated balls marked with the weir number assigned by DMF. A weir with one head shall be marked with five buoys. A weir with two heads shall be marked with seven buoys.

322 CMR: DIVISION OF MARINE FISHERIES

NON-TEXT PAGE

4.04: continued

(4) Prohibition. It is prohibited for any person to conduct commercial or recreational fishing within the buffer zone except the weir owner and those with the owner's consent to remove fish and squid from the bowl(s).

(5) Maximum Buffer Zone Width.

- (a) The maximum distance between the anchor line buoys and the weir poles of the bowl shall be 150 feet.
- (b) The maximum distance between the anchor line buoys and the weir poles of the leader shall be 200 feet.

4.05: Further Regulation of Fishing Gear (Reserved)

4.06: Use of Mobile Gear

(1) Definitions. For purposes of 322 CMR 4.06 only the following words shall have the following meanings:

Director means the Director of the Division of Marine Fisheries, 100 Cambridge Street, Boston, MA.

Ghost Gear means any fixed fishing gear including but not limited to gillnets with their flyers and floats and lobster pots with their buoys and line, which are no longer buoyed to the surface of the water, are not visible from the surface and become entangled with mobile gear.

Hauling Back means retrieving a net from the ocean bottom and placing the contents of the cod end on the deck or hold of the vessel.

4.06: continued

Mobile Gear means any moveable or encircling fishing gear or nets which are towed, hauled or dragged through the water for the harvest of fish including but not limited to pair trawls, otter trawls, beam trawls, mid-water trawls, scottish seines, danish seines, pair seines, purse seines or shellfish dredges.

Molted Lobster means any newly molted lobster whose carapace has not hardened and may be dented by exerting lateral pressure with the fingertips.

Night Fishing means conducting fishing operations with mobile gear by a vessel between  $\frac{1}{2}$  hour after sunset to  $\frac{1}{2}$  hour before sunrise.

Vessel means any commercial fishing vessel registered under the laws of the state and conducting commercial fishing operations within waters under the jurisdiction of the Commonwealth.

(2) Gear Retrieval. Any vessel with mobile gear whose gear becomes entangled with ghost gear may haul said ghost gear on board for the purpose of identification and return to the rightful owner, if authorized in writing by said owner.

(3) Closures. The Director may close those waters under the jurisdiction of the Commonwealth determined by him to be either:

- (a) susceptible to gear conflicts at night due to high densities of fixed fishing gear; or
- (b) in need of special and immediate conservation measures based upon high densities of molted lobsters.

(4) Procedure. A closure shall not be effective until:

- (a) it has been approved by a majority of the members of the Marine Fisheries Advisory Commission;
- (b) a notice of closure has been filed with the Massachusetts Register stating:
  1. a determination of need and the basis for the closure;
  2. the exact area to be closed; and
  3. the duration during which the closure shall remain in effect; and
- (c) the notice of closure has been posted in conspicuous places accessible to the fishermen.

(5) Comment Period. During the effective date of any closure the Director shall consider any written comments on the closure which may be submitted to the Director by the public or a state or federal agency. Based upon these written comments the Director may alter, amend or rescind the closure pursuant to the procedural requirements of 322 CMR 4.06(5).

(6) Prohibitions. It shall be unlawful:

- (a) for any vessel fishing with mobile gear or hauling back in waters under the jurisdiction of the Commonwealth to exceed the lobster landing/possession limits established in 322 CMR 6.26: *Bycatch Lobster Landing/Possession Limits*;
- (b) for any vessel or its occupants to molest, damage, destroy, cut or deface any fixed and stable fishing gear;
- (c) for any vessel or its occupants to possess any ghost gear without proper written authorization of the owner; or
- (d) to use in any manner any mobile fishing gear in or possess any fish including lobsters harvested from an area which has been closed pursuant to 322 CMR 4.06(5).

(7) Penalties. Violations of any provision of 322 CMR 4.06 may result in:

- (a) forfeiture of all fish and lobsters unlawfully possessed;
- (b) forfeiture of all vessels and gear unlawfully used;
- (c) suspension of the commercial fisherman permit;
- (d) a fine of not less than \$50 nor more than \$1,000; or
- (e) any combination of the above.

(4.08: Fishing and Shellfish Equipment (Reserved))

## 4.11: continued

(4) Exception. 322 CMR 4.11 shall not apply to inshore net areas set forth in 322 CMR 4.02 or to persons permitted to take bluefish in accordance with 322 CMR 4.05.

4.12: Use of Nets for Taking Striped Bass (*Morone saxatalis*) or Shad (*Alosa sapidissima*)

(1) It is unlawful to offload onto any vessel within waters under the jurisdiction of Massachusetts or to offload or land onto any pier, wharf or other structure within Massachusetts any striped bass or shad which was harvested, caught or taken by any net.

(2) It is unlawful for any vessel registered under the laws of the state as that term is defined in M.G.L. c. 130, § 1 to harvest, catch or take any striped bass or shad by any net in any waters under the jurisdiction of Massachusetts or in those waters within the United States 200 miles exclusive economic zone bounded in such a way that the inner boundary is a line coterminous with the seaward boundary of each coastal state and the outer boundary is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured, as depicted on nautical charts of the National Oceanic and Atmospheric Administration.

(3) It is unlawful for any person, firm, corporation, restaurant, supermarket or other retail or wholesale distributor or fish or fish products to possess any striped bass or shad harvested, caught, or taken by nets except striped bass or shad lawfully harvested, caught, taken or possessed in jurisdictions other than Massachusetts.

## 4.13: Fixed Gear Marking and Maximum Length Requirements

(1) Purpose. A vast amount of fixed gear is being fished in and outside of Massachusetts waters on fishing grounds which must be shared by fishermen using many different gear types. These fixed gear marking requirements will assist fishermen to see and avoid each other's gear thereby reducing conflicts between fixed and mobile gear fishermen fishing in waters under the jurisdiction of the Commonwealth. Fixed gear marking requirements also help identify entangled or abandoned gear. Maximum length requirements also will help fishermen identify the ends of fixed gear and will facilitate co-existence of fishermen on the same fishing grounds. The gillnet length requirement only pertains to gillnets set in waters under the jurisdiction of the Commonwealth.

(2) Definitions.

East End means that part of the gillnet or pot trawl extending from 01 through 180° magnetic.

Pot Trawls means lobster pot trawls, fish pot trawls, and conch pot trawls and refers to single pots tied together in a series and buoyed at both ends.

Single Pots means individual lobster pots, fish pots, and conch pots.

Twin Orange Markers means a pair of identical orange flag-like strips of material that are clearly visible and attached to the buoy stick or high flyer.

West End means that part of a gillnet or pot trawl extending from 181 through 00° magnetic.

(3) Fixed Gear Marking Requirements. The following minimum requirements apply to the marking of fixed gear within waters under the jurisdiction of the Commonwealth.

(a) Gillnets.

1. the east end of a gillnet shall be marked with a high flyer and standard 12-inch tetrahedral corner radar reflector; the west end shall be marked with a high flyer with flag and a standard 12-inch tetrahedral corner radar reflector;
2. the buoy line shall be marked with a four inch green mark midway on the buoy line.
3. all buoys shall be permanently and visibly marked or branded with the permit number of the owner.
4. Exception. Regarding 322 CMR 4.13(3)(a)2., if the color of the rope is the same as or similar to a color code, a white mark may be substituted for that color code.

4.13: continued

(b) Pot Trawls and Single Pots.

1. the east end of a pot trawl shall be marked with a double buoy, consisting of any combination of two seven inches x seven inches or five inches x 11 inches buoys and one or more three foot sticks. The west end of a pot trawl shall be marked with a single seven inches x seven inches or five inches x 11 inches buoy with a three foot stick and a flag. Single pots shall each be marked with a single seven inches x seven inches or five inches x 11 inches buoy. Sticks are optional, but if used, shall not have a flag attached.
2. all buoys shall be permanently and visibly marked or branded with the permit number of the owner;
3. fished or authorized to fish in LCMA 1, LCMA 2 or the Outer Cape Cod LCMA as defined in 322 CMR 6.33: *Lobster Management Areas*, the buoy line shall be marked with a four inch red mark midway on the buoy line;
4. fished or authorized to fish in LCMA 3 as defined in 322 CMR 6.33: *Lobster Management Areas*, the buoy line shall be marked with a four inch black mark midway on the buoy line;
5. fished or authorized to fish in the Gulf of Maine, Outer Cape Cod and Southern New England Recreational Lobster Area as defined in 322 CMR 6.33: *Lobster Management Areas*, the buoy line shall be marked with a four inch red mark midway on the buoy line beginning January 1, 2010.
6. Exception, regarding 322 CMR 4.13(3)(b)3., 4. and 5., if the color of the rope is the same as or similar to a color code, a white mark may be substituted for that color code.

(c) Trawl Marking Exemptions. Within the prescribed areas listed in 322 CMR 4.13(3)(c) it shall be lawful to fish with trawls marked on one end with a plastic bottle attached by at least ten feet of  $\frac{1}{2}$  inch cotton line or similar light material, provided that said substitute buoy shall be painted with the buoy colors and permit number of the owner. A standard buoy as specified in 322 CMR 4.13(3)(b) shall be attached to the other end of the trawl, except that sticks need not be used. Single pots shall be marked with a standard buoy attached by light line in channel areas.

Boston Harbor and its Approaches. In waters under the jurisdiction of the Commonwealth and circumscribed by an imaginary line beginning at Point Allerton in Hull; thence in an easterly direction to the #1 buoy at Thieves Ledge; thence in a northerly direction to the BG buoy; thence in a westerly direction to Grovers Cliff in Winthrop.

(d) Cape Cod Bay Critical Habitat Restrictions. Lobster pots set in Cape Cod Bay Critical Habitat as defined in 322 CMR 12.10: *Exceptions* during January through May 15<sup>th</sup> that are properly modified with those features required in 322 CMR 12.03: *Prohibition on Certain Gear or Lines in Waters under Jurisdiction of the Commonwealth* designed to reduce the risk of whale entanglement must be marked as follows:

1. Two-pot trawls or "doubles" shall be marked with a single buoy line. The buoy shall be rigged with a three-foot stick and twin orange markers visibly attached to the top of the buoy stick.
2. All buoys marking either ends of a trawl shall have twin orange markers visibly attached to the buoy stick in addition to the existing marking requirements in 322 CMR 4.13(3)(b).

These twin orange markers must be removed from all buoy sticks after May 15<sup>th</sup> and before June 1<sup>st</sup> and fishermen may not re-attach them until after November 30<sup>th</sup> of each year.

(e) Prohibition. It shall be unlawful to mark fixed gear as required in 322 CMR 4.13(3)(d) if the lobster pots are not properly rigged with those features required in 322 CMR 12.05: *Fixed Gear Seasonal Gear Restrictions* to reduce risk of whale entanglement.

(4) Gillnet Maximum Length: the total continuous length of gillnets shall not exceed 2,400 feet from end to end of an entire net set in waters under the jurisdiction of the Commonwealth.

(5) Pot Trawl Maximum Length: The total length of pot trawls set in waters under the jurisdiction of the Commonwealth shall not exceed 2,500 feet from end to end.

(6) All buoys used to mark all fixed gear shall be permanently and visibly marked with the permit number of the owner.

**THE COMMONWEALTH OF MASSACHUSETTS****William Francis Galvin**

Secretary of the Commonwealth

**Regulation Filing** *To be completed by filing agency*CHAPTER NUMBER: **322 CMR 6.00**CHAPTER TITLE: **Regulation of Catches**AGENCY: **Division of Marine Fisheries**SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*

This regulation incorporates the commercial net fishing regulations for bluefish, previously located at 322 CMR 4.05, in the bluefish management section at 322 CMR 6.18. During the relocation sections were updated and clarified to improve the regulation.

REGULATORY AUTHORITY: **M.G.L. c. 130 s. 17A and 21**AGENCY CONTACT: **Daniel J. McKiernan** PHONE: **617-626-1536**ADDRESS: **251 Causeway Street, Suite 400, Boston, MA****Compliance with M.G.L. c. 30A**EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.***MFC: 3/6/14****DFG: 4/9/14****GOV/ANF: 6/20/14**PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*Date of public hearing or comment period: **PC: 11/20/13-12/26/13; PH: 12/19/13**

FISCAL EFFECT - *Estimate the fiscal effect of the public and private sectors.*

For the first and second year: No fiscal effect expected.

For the first five years: No fiscal effect expected.

No fiscal effect: This regulation is a clarification, no fiscal effect is expected.

SMALL BUSINESS IMPACT - *M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.*

Date amended small business impact statement was filed: 6/19/14

CODE OF MASSACHUSETTS REGULATIONS INDEX - *List key subjects that are relevant to this regulation:*

PROMULGATION - *State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number:*

**322 CMR 6.18**

ATTESTATION - *The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency.* ATTEST:

SIGNATURE: SIGNATURE ON FILE DATE: Jun 20 2014

Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: 1264 DATE: 07/04/2014

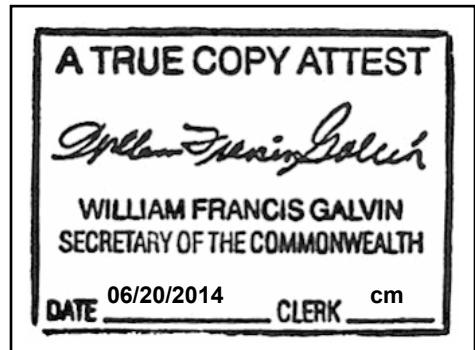
EFFECTIVE DATE: 07/04/2014

CODE OF MASSACHUSETTS REGULATIONS

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53 - 54.2

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6.17: continued

(2) Definitions.Batch means all fish in any separate container.Catch and Release means a method of angling whereby all catch is released immediately following capture to ensure survival.Container means any box, tote, bag, bucket or other receptacle containing loose fish which may be separated from the entire load or shipment.Land means to transfer or offload fish from a vessel onto any dock, pier, wharf or other artificial structure used for the purpose or receiving fish.River Herring means those species of fish known as alewives (*Alosa pseudoharengus*) and bluebacks (*Alosa aestivalis*).Shad means that species of fish known as *Alosa sapidissima*.(3) River Herring.(a) Taking and Possession of River Herring in Waters under the Jurisdiction of the Commonwealth. It shall be unlawful for any person to harvest, possess or sell river herring in the Commonwealth or in the waters under the jurisdiction of the Commonwealth.(b) Exceptions. The Director may authorize the harvest and possession of river herring from a particular spawning run for personal use based on documentation that the spawning run from which herring are harvested is not depleted.(c) By-catch Tolerance for Bait Fisheries Conducted in Federal Waters. A person may possess or land a batch of bait fish that comprises up to 5% of river herring, by count, provided the bait fish is caught in federal waters. Notwithstanding the foregoing, the operator of a vessel, as defined by 322 CMR 7.01(1): *Vessel*, that lands sea herring, or a wholesale dealer, as defined by 322 CMR 7.01(3)(a): *Wholesale Dealer*, that processes sea herring, may possess a batch of bait fish that exceeds 5% of river herring, by count, if said batch has been sorted and graded after the bait fish has landed.(4) Shad Possession Limits.(a) Merrimack and Connecticut Rivers. No fisherman may possess more than three shad taken from the Connecticut or Merrimack River.(b) All Other Waters of the Commonwealth. It shall be unlawful for any fishermen to possess any American shad taken from any waters other than the Connecticut and Merrimack Rivers. All fishing for American shad in these waters shall be limited to catch and release only.6.18: Bluefish Limits (*Pomatomus saltatrix*)(1) Recreational Bag Limit. No person may catch, land or possess more than ten bluefish per calendar day unless he or she is the holder of a commercial fishermen permit or a dealer permit.(2) Commercial Catch Limits. For the period January 1<sup>st</sup> through December 31<sup>st</sup>, it is unlawful for commercial fishermen to land or possess more than 5,000 pounds of bluefish, per calendar day or per trip, whichever period of time is longer. Holders of valid commercial fishermen permits may sell bluefish to licensed dealers only.(3) Use of Gillnets for Taking Bluefish for Commercial Purposes(a) Management Areas. There is established the following management areas:

1. Northern Area shall be those territorial waters of the Commonwealth north of a straight line extending from the east entrance of the Cape Cod Canal through Race Point Light, Provincetown to the marine boundary of the Commonwealth.
2. Southern Area shall be those territorial waters of the Commonwealth south of straight line extending from the east entrance of the Cape Cod Canal through Race Point Light, Provincetown to the marine boundary of the Commonwealth, including all waters of Buzzards Bay, Vineyard Sound, and Nantucket Sound.

6.18: continued

(b) Authorization. The following permits and conditions shall apply in the following areas:

1. In the northern and southern areas a regulated fishery permit shall be required to harvest, catch or take bluefish by any net as a directed fishing effort. Directed fishing effort is defined as any consecutive 30 day catch of which 50% or more is bluefish.
2. In the southern area a regulated fishery permit shall be required to harvest, catch or take bluefish by means of a gillnet in the southern area and shall be issued only to those individuals who held a valid bluefish gillnet regulated fishery permit in 1982 as determined by the licensing records of the Division.
3. Dealers may not purchase bluefish from commercial fishermen without written authorization from the Director.
4. Commercial fishermen shipping bluefish to dealers outside the Commonwealth shall be required to become authorized dealers pursuant to 322 CMR 6.18(2)(b)3. 322 CMR 6.18(2)(b)4. shall not apply if the out of state dealer is licensed and authorized to purchase bluefish in Massachusetts.

(c) Restrictions. The following restrictions on the use of gillnets for the harvesting, catching or taking of bluefish in the southern area shall apply:

1. the total length of any net to be set by each permittee and/or vessel may not exceed 1500 feet.
2. all nets are to be conspicuously marked with high flyers or floats at both ends;
3. each high flyer or float shall be conspicuously and legibly marked at both ends with the regulated fishery permit number of the individual operating the gear;
4. minimum mesh size of gillnets to be used for taking bluefish may be no less than five inches stretched measure;
5. nets are to be tended by the individual permittee or his/her authorized agent at all times; and
6. harvesting, catching or taking or attempting to harvest, catch or take bluefish by means of a gillnet is prohibited during the night time, defined as  $\frac{1}{2}$  after sunset to  $\frac{1}{2}$  hour before sunrise.

(d) Closures.

1. Permanent Closure. The following area is closed to any fishing for bluefish by means of a gillnet: all waters within an area bounded by an imaginary line beginning at the westernmost tip of the southern entrance jetty at Pamet Harbor to the Number 1 buoy on Billingsgate Shoal, thence southerly to the Number 1 gong off Sesuit Harbor, thence to the northernmost tip of the east entrance jetty off Sesuit Harbor, thence along the shoreline of Dennis, Orleans, Eastham, Wellfleet and Truro to the westernmost tip of the southern entrance jetty at Pamet Harbor.
2. Contingency Closures. If the Director determines that gear conflicts are occurring or are likely to occur he may, as provided for in 322 CMR 6.18, close areas to gillnetting.
3. Contingency Closure Procedure. An area closure shall not be effective until:
  - a. it has been approved by a majority of the members of the Marine Fisheries Advisory Commission;
  - b. a notice of closure has been filed with the *Massachusetts Register*; and
  - c. a copy of the notice of closure has been mailed to all gillnet regulated fishery permit holders.

(e) Prohibitions. It is unlawful for any person to harvest, catch or take or attempt to harvest, catch or take any bluefish by means of a gillnet in the southern area;

1. without a valid regulated fishery permit;
2. between  $\frac{1}{2}$  hour after sunset to  $\frac{1}{2}$  hour before sunrise;
3. with greater than 1500 feet of net;
4. with any net which is unmarked by high flyers or floats, or which has not been legibly marked with the regulated fishery permit number;
5. with any net which has a stretched mesh opening of less than five inches;
6. with any net that is left unattended;
7. having failed to file a timely and accurate catch report or having falsified a catch report;
8. when the gillnet fishery has been closed by a notice of closure; or
9. when an area has been closed by the Director pursuant to 322 CMR 6.18(3)(d).

(4) Penalties. Violation of 322 CMR 6.18 shall be governed by the provisions of M.G.L. c. 130, §§ 2 and 80.

6.19: Blue Crab Restrictions

- (1) Definition. Blue crab means that species of crustacean known as *Callinectes sapidus*.
- (2) Minimum Size. No person shall take, offer for sale, or possess at any time any blue crab measuring less than five inches across the shell from tip to tip of the posterior-most, longest spines along the lateral margins of the carapace.
- (3) Possession Limits. It shall be unlawful for any recreational fisherman or commercial fisherman to take or possess:
  - (a) more than 25 blue crabs per 24-hour day; or
  - (b) any egg-bearing blue crab or female crabs with the egg mass (sponge), egg pouch or bunion removed at any time.

6.20: Minimum Sizes for Quahogs, Soft Shelled Clams and Oysters

- (1) Definitions.

Batch means all shellfish in each separate container.

Container means any bag, box, basket, cage, tote or other receptacle containing loose shellfish or fish which may be separated from the entire load or shipment.

Hinge Width means the distance between the convex apex of the right shell and the convex apex of the left shell.

Oyster means that species of mollusk known as *Crassostrea virginica*.

Quahog or Hard Clam means that genus of mollusk known as *Mercenaria* sp.

Soft Shelled Clam means that species of mollusk known as *Mya arenaria*.

- (2) Minimum Sizes.
  - (a) No person shall take or have in possession quahogs less than one inch shell thickness (hinge width) to the amount of more than 5% of any batch unless authorized by a permit issued by the Director.
  - (b) No person shall take or have in possession soft shelled clams less than two inches in longest diameter to the amount of more than 5% of any batch unless authorized by a permit issued by the Director.
  - (c) No person shall take or have in possession oysters less than three inches in longest diameter to the amount of more than 5% of any batch unless authorized by a permit issued by the Director.

(3) Restrictions on Oysters and Quahogs Raised by Aquaculturists and Sold to Dealer. Holders of an aquaculture propagation permit may possess undersized oysters or quahogs produced under the authority of the permit, and may be authorized to sell said shellfish provided the oysters are at least 2½ inches in longest diameter and the quahogs are at least 7/8 inches in diameter.

- (a) Sales of undersized shellfish by authorized aquaculture propagation permit holders shall be allowed only outside of the Commonwealth by authorized wholesale dealers who are approved as primary buyers by the Director pursuant to 322 CMR 7.07: *Dealers Acting as Primary Buyers*, and are certified by the Department of Public Health for the transport and sale of shellfish outside the Commonwealth.
- (b) Wholesale dealers who receive undersized shellfish from authorized holders of an aquaculture propagation permit are prohibited from selling said product to any person or dealer within the Commonwealth and are prohibited from receiving or selling undersized shellfish from any source outside the Commonwealth.
- (c) No naturally occurring non-aquaculturally reared wild seed may be sold in an amount of more than 5% of any batch as defined at 322 CMR 6.20(1).
- (d) Dealer records shall denote that undersized shellfish are aquaculturally reared and such shellfish shall bear red tags that state "aquaculturally reared."

6.21: Whelk Conservation and Management(1) Definitions.

Channeled Whelk means the species known as *Busycon canaliculatus*.

Knobbed Whelk means the species known as *Busycon carica*.

Shell Width means the diameter of the shell measured across its greatest width perpendicular to the long axis of the shell.

Operculum is the lid that closes the aperture of the shell when the animal is retracted.

Trip means that period of time that begins when a fishing vessel departs from a dock, berth, beach, seawall, ramp or port to carry out commercial fishing operations and that terminates with a return to a dock, berth seawall, ramp or port.

(2) Minimum Size.

(a) It shall be unlawful for any person to possess a knobbed or channeled whelk with a shell width less than:

1. 2 $\frac{7}{8}$  inches in 2014; and
2. three inches in 2015 and beyond.

(b) Method of Measurement. The minimum size for all knobbed and channeled whelks shall be determined by measuring the shell width with the operculum facing down.

(c) Processing. For the purpose of compliance with 322 CMR 6.21, all knobbed whelk and channeled whelk shall be landed whole in the shell and processed at a facility licensed for that purpose.

(3) Possession Limit. For commercial fishermen fishing with mobile gear under the authority of a Coastal Access Permit, issued in accordance with 322 CMR 7.05: *Coastal Access Permit (CAP)*, it shall be unlawful to take, possess or land more than 1,000 pounds of channeled whelk and knobbed whelk combined during any single fishing trip or 24-hour day, whichever period of time is longer.

6.22: Summer Flounder (Fluke) Restrictions(1) Definitions.

Commercial Fishermen means fishermen fishing for purposes of sale, barter, or exchange.

Longline means any fishing gear having a single weighted main line set along the ocean bottom to which many gangions or leaders (short-line sections) are attached with each one ending with a baited hook.

Possession Limits. For purposes of 322 CMR 6.22 all possession limits shall be per trip or per 24-hour day whichever is the longer period of time, except where noted otherwise and shall be vessel limits regardless of the number of commercial fishermen with fluke special permits on board said vessel.

Quota means the Commonwealth's 6.8% share of the annual commercial summer flounder quota adopted by the Atlantic States Marine Fisheries Commission.

Recreational Fisherman means fishermen fishing for purposes of personal or family use by angling.

Summer Flounder means fluke or that species of fish known as *Paralichthys dentatus*.

(2) Commercial Fishery.

(a) Minimum Size. It shall be unlawful for commercial fishermen to land or possess summer flounder less than 14 inches in total length.

6.22: continued

(b) Seasonal Quota Allocations. The annual quota shall be split with a target allocation of 30% to the Period I from January 1<sup>st</sup> through April 22<sup>nd</sup>, 70% allocated to the Period II from April 23<sup>rd</sup> through December 31<sup>st</sup>. Any unused portion of the quota from Period I may be re-allocated to Period II. Overharvest of either period allocation may be deducted from the corresponding period in the following year.

(c) Period I. It is unlawful for any commercial fisherman during the period January 1<sup>st</sup> through April 22<sup>nd</sup> to land or possess during a 24-hour day:

1. any summer flounder during the period January 1<sup>st</sup> through January 31<sup>st</sup>:
2. more than 500 pounds of summer flounder caught with nets beginning February 1<sup>st</sup>;
3. more than 100 pounds of summer flounder caught with nets when 25% or more of the annual quota has been reached.

(d) Period II.

1. April 23<sup>rd</sup> through June 9<sup>th</sup>. It is unlawful for any commercial fisherman during the period April 23<sup>rd</sup> through June 9<sup>th</sup> to land or possess:
  - a. more than 100 pounds of summer flounder caught with nets or longlines during a 24-hour day.
  - b. summer flounder caught with handlines or rod-and-reel.
2. June 10<sup>th</sup> through December 31<sup>st</sup>.
  - a. It is unlawful for any commercial fisherman to possess or land summer flounder on Fridays or Saturdays.
  - b. It is unlawful for any commercial fishermen using nets to possess or land more than 300 lbs. of summer flounder and for any commercial fishermen using hooks to possess or land more than 200 lbs. of summer flounder.

(e) Closure. It is unlawful for commercial fishermen to land or possess summer flounder when the Director closes the fishery during any of the two periods in 322 CMR 6.22.

(f) Vessel Limits. The landing/possession limits described in 322 CMR 6.22(2) shall apply to any vessel involved in the commercial summer flounder fishery, regardless of the number of commercial fishermen with summer flounder special permits on board said vessel.

(g) Exception for Transport Vessels.

1. The limits described in 322 CMR 6.22(2) do not apply to vessels which are transporting summer flounder for authorized summer flounder dealers.
2. A vessel transporting summer flounder for an authorized dealer:
  - a. shall have a letter of authorization from the Director on board said vessel when transporting summer flounder in excess of the limits as allowed by 322 CMR 6.22(2) and
  - b. shall not have fishing gear capable of catching fish on board while transporting summer flounder.

(h) Landing Prohibition. It is unlawful for commercial fishermen to land or possess summer flounder from 8:00 P.M. through 6:00 A.M.

322 CMR: DIVISION OF MARINE FISHERIES

NON-TEXT PAGE

**THE COMMONWEALTH OF MASSACHUSETTS****William Francis Galvin**

Secretary of the Commonwealth

**Regulation Filing** *To be completed by filing agency*CHAPTER NUMBER: **322 CMR 8.00**CHAPTER TITLE: **Coastal Fisheries and Conservation Management**AGENCY: **Division of Marine Fisheries**SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.***Establishes a June 10 - December 31 allowance for the use of small mesh trawls for squid south of Martha's Vineyard and Nantucket bounded 70°46' to the west and 70°00' to the east.**REGULATORY AUTHORITY: **M.G.L. c. 130 s. 17A**AGENCY CONTACT: **Daniel J. McKiernan** PHONE: **617-626-1536**ADDRESS: **251 Causeway Street, Suite 400, Boston, MA****Compliance with M.G.L. c. 30A**EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.***MFC: 3/6/14****DFG: 4/9/14****GOV/ANF: 6/20/14**PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*Date of public hearing or comment period: **PC: 11/20/13-12/26/13; PH: 12/19/13**

FISCAL EFFECT - *Estimate the fiscal effect of the public and private sectors.*

For the first and second year: Enhance trawl fishing revenue by increase opportunistic squid fishing opportunities

For the first five years: Enhance trawl fishing revenue by increase opportunistic squid fishing opportunities

No fiscal effect: \_\_\_\_\_

SMALL BUSINESS IMPACT - *M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.*

Date amended small business impact statement was filed: 6/19/14

CODE OF MASSACHUSETTS REGULATIONS INDEX - *List key subjects that are relevant to this regulation:*

PROMULGATION - *State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number:*

**322 CMR 8.07**

ATTESTATION - *The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency.* ATTEST:

SIGNATURE: SIGNATURE ON FILE DATE: Jun 20 2014

Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: 1264 DATE: 07/04/2014

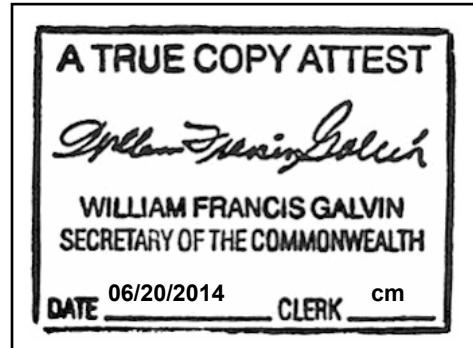
EFFECTIVE DATE: 07/04/2014

CODE OF MASSACHUSETTS REGULATIONS

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8.03: Night Closure to Mobile Gear Fishing

All waters under the jurisdiction of the Commonwealth shall be closed to night fishing with trawls or shellfish dredges but shall not be closed to purse seines or mid-water trawls used to harvest sea herring by vessels issued a special permit pursuant to 322 CMR 8.08(3).

8.04: Mobile Gear Restriction

Vessels using nets may not conduct any fishing activity with disks, rollers or rockhoppers greater than 12 inches in diameter.

8.05: Vessel Length Limits

Vessels greater than 90 feet registered length may not conduct fishing activities in any waters under the jurisdiction of the Commonwealth.

8.06: Minimum Size and Possession Limits(1) Weakfish.

- (a) It is unlawful for any person to possess weakfish less than 16 inches in total length.
- (b) It is unlawful for recreational fishermen to possess more than one weakfish per day.
- (c) It is unlawful for commercial fishermen to possess on board or land more than 100 pounds of weakfish per 24-hour day or trip, whichever period is longer.

(2) White Perch.

- (a) It is unlawful for recreational fishermen to possess white perch less than eight inches in total length.
- (b) It is unlawful for recreational fishermen to possess more than 25 white perch at any time.
- (c) The limits established by 322 CMR 8.06(8)(a) and (b) apply only to white perch harvested in coastal waters as defined by M.G.L. c. 130, § 1.

8.07: Mesh Size Restrictions(1) Trawl Net Mesh Minimum Size.

- (a) A minimum size of 6½ inches throughout the cod-end and six inches throughout the remainder of the net shall apply for all vessels fishing with trawls in waters under the jurisdiction of the Commonwealth north and east of Cape Cod from January 1<sup>st</sup> through December 31<sup>st</sup>, within an area circumscribed by an imaginary line beginning at the intersection of the Loran C line 9960-Y-43940 with the Chatham shoreline; thence seaward following the Loran C line 9960-Y-43940 to the territorial seas line; thence in a northerly direction following the territorial seas line to the Massachusetts/New Hampshire boundary; thence in a westerly direction following the Massachusetts/New Hampshire boundary to the shoreline; thence following the shoreline in a southerly direction to the starting point.
- (b) A minimum mesh size of 6½ inches throughout the cod-end and six inches throughout the remainder of the net shall apply for all vessels fishing with trawls in waters under the jurisdiction of the Commonwealth south of Cape Cod from November 1<sup>st</sup> through April 22<sup>nd</sup>, within an area circumscribed by an imaginary line beginning at the intersection of the Loran C line 9960-Y-43940 with the Chatham shoreline; thence seaward following the Loran C line 9960-Y-43940 to the territorial seas line; thence in a southerly direction following the territorial seas line to its intersection with the 70° W meridian; thence in a southerly direction along the 70° W meridian to its intersection with the territorial seas line; thence following the territorial seas line in a southerly direction and south of Nantucket Island and Martha's Vineyard to the Massachusetts/Rhode Island boundary; thence in a northerly direction following the Massachusetts/Rhode Island boundary to the shoreline; thence following the shoreline in an easterly direction to the starting point.

Exception for Squid Trawling. A minimum mesh size less than 6½ inches throughout the cod-end and six inches throughout the remainder of the net may apply for vessels permitted under 322 CMR 8.08(5) during the period April 23<sup>rd</sup> through June 9<sup>th</sup>. The Director may extend the small-mesh squid trawling season if he determines that continued fishing with small mesh will not result in large catches of small squid less than five inches mantle length and/or juvenile scup, black sea bass, or fluke.

## 8.07: continued

- (c) No mesh size less than 6½ inches throughout the cod-end and six inches throughout the remainder of the net shall be possessed by vessels fishing from June 10<sup>th</sup> through April 22<sup>nd</sup> in the area defined in 322 CMR 8.07(1)(b).
- (d) No mesh size less than 6½ inches throughout the cod-end and six inches throughout the remainder of the net shall be possessed by vessels fishing in the area defined in 322 CMR 8.07(1)(b) when more than a total of 100 pounds of winter flounders, yellowtail flounder, fluke, or windowpane flounder, in any combination, is in possession.

(2) Small Mesh Exemption for Vessels Fishing for Whiting. Vessels may use raised footrope trawls as defined in 322 CMR 8.14(2) to fish for whiting in two areas:

- (a) Cape Ann Whiting Area during September as defined in 322 CMR 3.02(2)
- (b) Upper Cape Cod Bay Whiting Area during September through November 20<sup>th</sup> as defined in 322 CMR 8.14.

(3) Experimental Fisheries. The Director may in his discretion authorize small-mesh trawling in other areas and times for the purposes of collecting data to determine other appropriate times and places that small-mesh trawling may be appropriate. Vessels must request and obtain a letter of authorization to conduct experimental fishing.

(4) Mesh Measurements. Mesh sizes are measured by a wedge-shaped gauge having a taper of two centimeters in eight centimeters and thickness of 3.2 millimeters, inserted into the meshes under a pressure or pull of five kilograms. The mesh size will be the average of the measurements of any series of 20 consecutive meshes. The mesh in the cod end will be measured at least ten meshes from the lacings beginning at the after-end and running parallel to the long axis. The Director may approve in writing the use of other mesh size gauges or methods.

(5) Net Modifications. No fishing vessel may use any means, device, or material, including but not limited to ropes, lines, chafing gear, liners, net strengtheners, or double nets, if it obstructs the meshes of the net or otherwise diminishes the size of meshes of the net described in 322 CMR 8.07. All netting in trawl nets not made on a braiding machine, whether of braided or twisted twine, whether machine made or hand made, shall use only one knot, the weavers knot or sheet bend or a knot by another name, which is *only* a weavers knot. The ends of the twine, called the bars, that exit the knot are constructed so their lay does not cross or twist. One splitting strap and one bull rope (if present) consisting of line or rope no more than two inches in diameter, may be used if such splitting strap and/or bull rope does not obstruct the meshes of the net or otherwise diminish the size of meshes of the net. Canvas, netting, or other material may be attached to the underside of the cod end to reduce wear and prevent damage provided that no more than 25% of the meshes are obstructed.

## 8.08: Permits

In addition to any other permit required by law, the following permits are required for the following activities:

- (1) At-sea Processing. At-sea processing of any fish or shellfish in any waters under the jurisdiction of the Commonwealth, including all of Nantucket Sound and Cape Cod Bay, requires a special permit of the Director pursuant to 322 CMR 7.01: *Form, Use and Contents of Permits*, unless otherwise authorized pursuant to 322 CMR 11.00: *Internal Waters Processing*, or unless 25 pounds or less of fish fillets per person are in possession and intended for personal use only and not for purposes of sale, barter, or exchange. The 25-pound limit on fillets does not apply to fish caught by hook and line recreational fishing, and it does not apply to species which cannot be mutilated, such as striped bass.
- (2) Fish and Shellfish. Fishing for scup, sea bass or conch by means of a pot requires a special permit of the Director pursuant to 322 CMR 7.01: *Form, Use and Contents of Permits*.

**THE COMMONWEALTH OF MASSACHUSETTS****William Francis Galvin**

Secretary of the Commonwealth

**Regulation Filing** *To be completed by filing agency*CHAPTER NUMBER: **454 CMR 22.00**CHAPTER TITLE: **Deleading and Lead-safe Renovation Regulations**AGENCY: **Department of Labor Standards**SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*

(1) **Deleading.** 454 CMR 22.00 applies to the activities of employers, employees and others engaged in deleading of residences containing Dangerous Levels of Lead, except for the activities of: owners of residential premises and owners' agents who perform deleading work in accordance with regulations promulgated by the Director of the Childhood Lead Poisoning Prevention Program pursuant to M.G.L. c. 111, § 197(d); and contractors who, pursuant to 105 CMR 460.000, perform low-risk deleading activities in accordance with 105 CMR 460.175(A) or the activities set forth at 105 CMR 460.100(D) in or on short-term vacation or recreational rentals. (2) **Lead Safe Renovation.** 454 CMR 22.00 also applies to all renovation work conducted for compensation in Target Housing and Child-Occupied Facilities.

REGULATORY AUTHORITY: **M.G.L. c. 111, ss. 189A through 199B and M.G.L. c. 149, s. 6**AGENCY CONTACT: **Heather Rowe** PHONE: **(617) 626-6973**ADDRESS: **19 Staniford Street, 2nd Floor, Boston, MA 02114****Compliance with M.G.L. c. 30A**EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.***Notice to the Department of Housing and Community Development and Massachusetts Municipal Association, mailed on January 10, 2014.**PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*Date of public hearing or comment period: **February 24 and 26, 2014**

FISCAL EFFECT - *Estimate the fiscal effect of the public and private sectors.*

For the first and second year: \_\_\_\_\_

For the first five years: \_\_\_\_\_

No fiscal effect:  \_\_\_\_\_

SMALL BUSINESS IMPACT - *M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.*

Date amended small business impact statement was filed: 06/19/2014

CODE OF MASSACHUSETTS REGULATIONS INDEX - *List key subjects that are relevant to this regulation:*

- **Licensing Procedures for Deleading Contractors, Lead-Safe Renovation Contractors, Deleader-Supervisors and Workers; Certification Procedures for Lead-Safe Renovator-Supervisors**
- **Training Requirements and Recordkeeping Requirements**
- **Work Practices and Other Requirements for Renovation Work and Deleading Projects**

PROMULGATION - *State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number:*

**Amendment of 454 CMR 22.00**

ATTESTATION - *The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency.* ATTEST:

SIGNATURE: SIGNATURE ON FILE DATE: Jun 20 2014

Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: 1264 DATE: 07/04/2014

EFFECTIVE DATE: 07/04/2014

CODE OF MASSACHUSETTS REGULATIONS

*Remove these pages:* Insert these pages:

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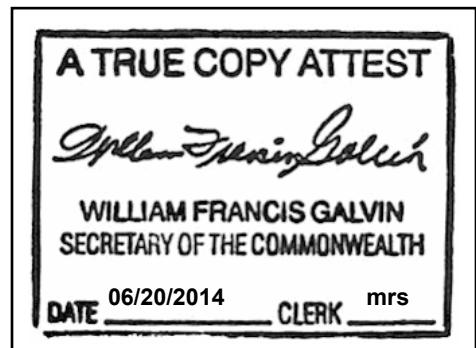


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## 454 CMR 22.00: DELEADING AND LEAD-SAFE RENOVATION REGULATIONS

## Section

- 22.01: Authority, Purpose and Scope
- 22.02: Definitions
- 22.03: General Requirements
- 22.04: Licensing Procedures for Deleading Contractors and Lead-safe Renovation Contractors
- 22.05: Licensing Procedures for Deleader-supervisors and Deleader-workers
- 22.06: Certification Procedures for Lead-safe Renovator-supervisors; Training Requirements for Persons Carrying Out Renovation Work in the Capacity of Workers
- 22.07: Licensing Requirements for Providers of Deleading and Lead-safe Renovation Training
- 22.08: Training Requirements
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- 22.14: Cease Work Orders, Responsibility for Compliance, Penalties
- 22.15: Administrative License and Certificate Actions - Denial, Revocation, Suspension or Refusal to Renew a License or Certificate; Civil Administrative Penalties
- 22.91: Appendix 1
- 22.92: Appendix 2

22.01: Authority, Purpose and Scope

(1) Authority. 454 CMR 22.00 is promulgated in accordance with and under the authority of M.G.L. c. 23, § 1, M.G.L. c. 111, §§ 189A through 199B and M.G.L. c. 149, § 6.

(2) Purpose. 454 CMR 22.00 shall establish and/or constitute:

- (a) Minimum work standards to protect the health and safety of inspectors, deleaders, renovators and the general public.
- (b) Standards of competency for persons or entities engaged in or performing deleading and renovation work that disturbs lead paint or lead paint debris.
- (c) Minimum standards to be used by insurers in the inspection of risk, measurement of hazards and the determination of adequate and reasonable rates of insurance as prescribed by the provisions of M.G.L. c. 152, § 65J.
- (d) Standards for the licensure or certification of persons, firms, corporations or other entities who or which enter into, engage in or work at the business of deleading work.
- (e) Standards for the licensure or certification of persons, firms, corporations or other entities who or which enter into, engage in or work at the business of renovating residences and child-occupied facilities containing dangerous levels of lead.
- (f) Standards for the licensure of entities engaged in the business of training others, where such training is a condition of licensure or certification pursuant to 454 CMR 22.00.

(3) Scope.

(a) Deleading. The provisions of 454 CMR 22.00, as indicated, apply to the activities of employers, employees and others engaged in deleading of residences containing Dangerous Levels of Lead, except for the activities of owners of residential premises and owners' agents who perform deleading work in accordance with regulations promulgated by the Director of the Childhood Lead Poisoning Prevention Program pursuant to M.G.L. c. 111, § 197(d); and contractors who, pursuant to 105 CMR 460.000: *Lead Poisoning Prevention and Control*, perform low-risk deleading activities in accordance with 105 CMR 460.175(A) or the activities set forth at 105 CMR 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* in or on short-term vacation or recreational rentals.

(b) Lead Safe Renovation. The provisions of 454 CMR 22.00, as indicated, also apply to all renovation work activities conducted for compensation in Target Housing and Child-occupied Facilities.

## 22.01: continued

(4) Exceptions. The Director of the Massachusetts Department of Labor Standards may grant exceptions to 454 CMR 22.00 in those instances where it is clearly evident that existing conditions prevent compliance, or where compliance will create an undue hardship, but only in circumstances in which granting the exception will maintain the protection of the health and safety of workers and the general public. Requests for exceptions to 454 CMR 22.00 shall be submitted in writing to the Director and shall specify those provisions of 454 CMR 22.00 for which exceptions are sought, the reasons for requesting the exceptions and any proposed alternatives to the requirements of 454 CMR 22.00. Exceptions granted by the Director shall remain in force until rescinded in writing or until a certain date set at the time that the exception is granted.

(5) Alternative Methods. The Director may allow the use of newly developed techniques, methods, or equipment that provide a level of protection for workers and the general public that equals or exceeds that specified by 454 CMR 22.00, so long as such methods are not inconsistent with methods that have been approved by the Director of the Childhood Lead Poisoning Prevention Program pursuant to M.G.L. c. 111, § 192A. Requests for approval of an alternative method shall be submitted in writing to the Director and shall contain a detailed description of the proposed alternative method(s) for performing the work. The Director, in his or her sole discretion, may approve or deny the request for the use of proposed alternate method(s). The Director's decision shall be final.

(6) Severability. If any provision of 454 CMR 22.00 shall be held inconsistent with M.G.L. c. 111, M.G.L. c. 149 or any other Massachusetts law or held unconstitutional, either on its face or as applied, the inconsistency or unconstitutionality shall not affect the remaining provisions of 454 CMR 22.00.

## 22.02: Definitions

ASTM American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103.

Certification. The authorization to act as a lead-safe renovator-supervisor on renovation projects, which is conferred by the Department to persons who have successfully completed the initial training and applicable refresher training for lead-safe renovator-supervisors and who have not had such authorization suspended or revoked pursuant to 454 CMR 22.15.

Certified Firm. An entity that has been certified by the EPA in accordance with 40 CFR 745.89 to carry out renovation work in states that have not received EPA authorization to administer and enforce their own lead renovation regulations pursuant to 40 CFR 745, Subpart Q.

Child-occupied Facility. A building or a portion of a building, constructed prior to 1978, and visited by the same child younger than six years of age on at least two different days within any week (Sunday through Saturday), provided that each day's visit lasts at least three hours and the combined weekly visits last at least six hours, and the combined annual visits last at least 60 hours. Child-occupied facilities may be located in target housing or in public or commercial buildings. With respect to common areas in public or commercial buildings that contain child-occupied facilities, the child-occupied facility encompasses those common areas that are routinely used by children younger than six years old. Common areas that children younger than six years old pass through, such as hallways, stairways and garages which are not routinely used by children younger than six years old in such public and commercial buildings, are not included. With respect to the exteriors of buildings that contain child-occupied facilities, the child-occupied facility encompasses only the exterior sides of the building that are immediately adjacent to the child-occupied facility.

Class I Deleading Project or Work. Deleading work which includes abatement activities other than those defined as low-risk deleading or moderate risk deleading in 454 CMR 22.00.

Cleaning Verification Card. A card developed and distributed, or otherwise approved by EPA for the purpose of determining, through comparison of wet and dry disposable cleaning cloths with the card, whether post-renovation cleaning has been adequately completed.

22.02: continued

CLPPP. The Commonwealth of Massachusetts Department of Public Health, Childhood Lead Poisoning Prevention Program.

Common Area. A portion of a building generally accessible to all residents or users of the building, including but not limited to hallways, stairways, laundry and recreational rooms, playgrounds, community centers and boundary fences.

Containment. An enclosure or barrier constructed of plastic sheeting, gypsum board, plywood, metal sheathing or similar smooth, impermeable materials that is installed around the work area of a deleading or renovation project in such a way as to limit dust or debris generated by work performed within the work area to the space enclosed by the enclosures or barriers.

Contractor Licensing Waiver. A document signed by the Director, in his or her sole discretion, which permits an entity to conduct renovation work subject to the requirements of 454 CMR 22.00 without obtaining a Deleading Contractor License or a Lead-safe Renovation Contractor License pursuant to 454 CMR 22.04.

Dangerous Level of Lead. The level of lead in paint or other coating, putty, or plaster designated as dangerous by the Director of the Childhood Lead Poisoning Prevention Program of the Department of Public Health and set forth in 105 CMR 460.020: *Meaning of Terms*.

Deleading Contractor. Any person, firm, corporation or other entity who or which has a valid license issued by the Director for the purpose of entering into or engaging in Class I deleading work.

Deleader-supervisor. An individual or agent of a deleading contractor who is duly licensed pursuant to 454 CMR 22.03(2) and 22.05 to perform Class I deleading work, determine the proper conduct of deleading operations and exert supervisory control over deleader-workers on deleading projects.

Deleader-worker. A person not acting as a deleader-supervisor who is duly licensed pursuant to 454 CMR 22.03(2) and 22.05 to perform Class I deleading work as an employee, and who performs such work under the direction of another, with or without compensation.

Deleading Project or Work. The abatement or containment of materials containing dangerous levels of lead in residences by the removal, covering or encapsulation of lead paint or by replacement of whole building components in instances described by one or more of the following:

- (a) Where the owner of the property has received an Order to Correct Violations pursuant to M.G.L. c. 111, § 197;
- (b) Where the purpose of the work is to achieve a Letter of Compliance pursuant to 105 CMR 460.760(D): *Full Compliance* or a Letter of Interim Control pursuant to 105 CMR 460.105(D): *Issuance of a Letter of Interim Control*, or tax credit eligibility pursuant to 830 CMR 62.6.3: *Lead Paint Removal Credit*;
- (c) Where the owner of the property is required to delead pursuant to M.G.L. c. 111, § 197 and the effect of the work if performed would be to accomplish, or contribute to the accomplishment of, deleading compliance as specified by 105 CMR 460.760(D): *Full Compliance* or 460.105(D): *Issuance of a Letter of Interim Control*; or
- (d) Where the Director of the Childhood Lead Poisoning Prevention Program or other authority with competent jurisdiction has designated the work a deleading project.

Deleading Projects or Work may include Class I deleading work, moderate-risk deleading work and low-risk deleading work.

DEP. The Commonwealth of Massachusetts Department of Environmental Protection.

Demolition. The wrecking or razing of a structure or architectural component through destructive methods, as distinguished from a piece-by-piece dismantling which preserves the structural integrity of the component(s).

22.02: continued

Department. The Department of Labor Standards, as established by M.G.L. c. 23.

Director. The Director of the Massachusetts Department of Labor Standards.

DOT. The United States Department of Transportation.

Encapsulant. A coating product listed on the Register of Approved Encapsulants pursuant to 105 CMR 460.115: *Process for Approval of Encapsulants for the Containment of Lead-based Paint* which is formulated to contain lead hazards by providing a long-lasting and resilient barrier over painted surfaces and which is applied in liquid form, with or without a structural reinforcement.

EPA. The United States Environmental Protection Agency.

Hands On Training. Specific training which provides the trainee with actual practice in performing mechanical operations utilized in deleading or lead-safe renovation activities.

HEPA Filter. A filter capable of filtering out monodispersive particles of 0.3 microns or greater in diameter from a body of air at 99.97% efficiency or greater.

Inspection. The determination of the location and levels of lead paint in all applicable surfaces, as specified by 105 CMR 460.000: *Lead Poisoning Prevention and Control*.

Inspector. Lead paint inspectors, both private and code enforcement, as regulated by 105 CMR 460.000: *Lead Poisoning Prevention and Control*.

Lead-safe Renovation Contractor. A person, firm, corporation, or other business entity who or which is duly licensed by 454 CMR 22.03(3) and 22.04 to enter into, engage in or work at the business of conducting renovation work in target housing and child-occupied facilities. A Lead-safe Renovation Contractor is also authorized to carry out moderate risk deleading work where a licensed deleader-supervisor, or a certified lead-safe renovator-supervisor who has received the additional training specified by 454 CMR 22.08(4)(e), who is an employee or responsible person of said contractor, supervises and/or performs the work, in accordance with 454 CMR 22.12(2).

Lead-safe Renovator-supervisor. A person who is duly certified under 454 CMR 22.06 to carry out supervisory functions on renovation projects, and with the additional training specified by 454 CMR 22.08(4)(e), to carry out supervisory functions and/or performs the work, in accordance with 454 CMR 22.12(2), on moderate-risk deleading projects.

License. A document issued by the Department:

- (a) permitting a deleading contractor to enter into, engage in or work at the business of performing deleading work;
- (b) permitting a deleader-supervisor to engage in the activities set forth in the definition of deleader-supervisor contained in 454 CMR 22.02;
- (c) permitting a deleader-worker to engage in the activities set forth in the definition of deleader-worker contained in 454 CMR 22.00;
- (d) permitting a lead-safe renovation contractor to enter into, engage in or work at the business of renovation work; or
- (e) permitting a training provider to offer the training specified for the licensure or certification of persons engaging in deleading or renovation work regulated by 454 CMR 22.00.

Licensed Training Provider. Any entity which has been duly licensed pursuant to 454 CMR 22.03(5) and 22.07.

Low-risk Deleading Project or Work. Deleading work which exclusively consists of one or more of the abatement activities set forth at 105 CMR 460.175(A).

22.02: continued

Minor Repair and Maintenance Activities (Projects or Work). Renovation, repair and painting activities carried out for a fee in or on target housing or child-occupied facilities that disrupt six or fewer square feet of painted surface per room on building interiors or a total of 20 or fewer square feet of painted surface on exterior surfaces where none of the work practices prohibited by 454 CMR 22.11(1)(a) are used and where the work does not involve window replacement or disturbance of painted surfaces.

Moderate-risk Deleading Project or Work. Deleading work, excluding work conducted by demolition, which has been inspected by a licensed lead inspector pursuant to 454 CMR 22.12(2)(a)1., and which consists of one or more of the following activities:

- (a) The removal and replacement of: window components, including sashes, parting beads, window stops, sills, header stops, casings, and aprons; interior stair components, including treads, risers, stringers, newel posts, balusters, handrails and railing caps; door components, including casings, jambs, and thresholds; baseboards; chair rails; shelf supports; built-in cabinet shelves and interior cabinet frames in their entirety; exterior porch components; fences; bulkheads; lattices; and individual shingles or clapboards from exterior building sides.
- (b) The repair or making intact of up to two square feet of non-intact lead-painted surface per room on the interior of residences or up to ten square feet of non-intact lead-painted surface on the exterior of residences, except where the removal or covering of said lead-painted surfaces is required by 105 CMR 460.110(B)(2) or (3).
- (c) Any other activities designated by the Director of CLPPP.

Owner. Any person who alone or jointly or severally with others:

- (a) has legal title to any premises;
- (b) has charge or control of any premises as a manager who has authority to expend money for compliance with the sanitary code;
- (c) is the executor, administrator, trustee or guardian of the estate of the holder of the legal title;
- (d) is an estate or trust of which such premises is a part, or the grantor or beneficiary of such an estate or trust; or
- (e) is the association of unit owners of a condominium or cooperative, which shall be considered an owner solely with respect to common areas and exterior surfaces of such condominium or cooperative.

No bank, lending institution, mortgage company or mortgagee, except where such mortgagee takes actual possession and acquires legal title of the residential premises pursuant to applicable law, shall be considered an owner.

Owner's Agent. An individual who meets one or both of the following criteria:

- (a) An individual who meets the definition of "owner's agent" as that term is defined in 105CMR 460.020: *Meaning of Terms*. A contractor may carry out deleading work as an owner's agent only when hired by the owner to accomplish low-risk deleading pursuant to 105 CMR 460.175: *Low- and Moderate-risk Abatement and Containment* or to engage in the activities set forth in 105 CMR 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* with respect to short-term vacation or recreational rentals.
- (b) An individual over whom the owner exercises sufficient control and direction to be considered an agent under Massachusetts common law. The category of owners' agents includes, but is not limited to, the owner's employee or property manager, and an individual who works with or for the owner without compensation. An owner's agent does not include a contractor hired by an owner for the purpose of completing a specific task or set of tasks who works largely unsupervised by the owner and brings his own tools to the job.

Painted Surface. A component surface covered in whole or in part with paint or other surface coating.

Qualified Independent Translator. A person or entity, which is not owned, controlled, related to or employed by the applicant for licensure and which provides professional translation services.

22.02: continued

Recognized Test Kit. A commercially available kit recognized by EPA pursuant to 40 CFR 745.88 as being capable of determining the presence of lead at levels equal to or in excess of 1.0 milligrams per square centimeter or 0.5% lead by weight, in a paint chip, paint powder, or painted surface.

Renovation. The modification of any existing structure, or portion thereof, that results in the disturbance of painted surfaces. The term renovation includes, but is not limited to, the removal or modification of painted surfaces or painted components (e.g., modification of painted doors, surface preparation activity such as sanding, scraping, or other such activities that may generate paint dust); the removal of portions of structures (e.g., walls, ceiling, large surface replastering, major re-plumbing); and window replacement.

Renovation Project or Work. The renovation of any unit of target housing or a child-occupied facility, or a portion thereof, which is conducted for compensation and which results in or may result in the disturbance of paint or paint debris, but which is distinguished from a deleading project as defined in 454 CMR 22.02: Renovation Project or Work or by one of the following conditions:

- (a) The work is carried out in or on a structure which is required to be delead by M.G.L. c. 111, § 197 but is unrelated to deleading compliance, both in terms of purpose and effect.
- (b) The work is carried out in or on a structure which is not required to be delead pursuant to M.G.L. c. 111, § 197, and the purpose of the work is other than the achievement of a Letter of Full Deleading Compliance pursuant to 105 CMR 460.760(D): *Full Compliance*.

Reporting Physician's Statement. A written medical opinion from the physician who conducts the examination required by 454 CMR 22.09(4) which contains the following information:

- (a) The physician's opinion as to whether the applicant or employee has any detected medical condition which would place his or her health at increased risk of material impairment from exposure to lead;
- (b) Any recommended special protective measures to be provided to the applicant or employee, or limitations to be placed upon the applicant's or employee's activities which concern potential exposure to lead; and
- (c) Any recommended limitation on the applicant's or employee's use of respirators.

Residence. Every building or shelter used or intended for use as human habitation, including exterior surfaces and all common areas thereof, and all other property, including land and other noncommercial structures located within the same lot line, which is subject to the Massachusetts Lead Law, M.G.L. c. 111, §§ 189A through 199B and 105 CMR 460.000: *Lead Poisoning Prevention and Control*.

Responsible Persons(s). Person(s) having management control over an entity or employer. In the case of a corporation, the responsible person(s) shall be the officers of the corporation and any other managing agent of such corporation. In the case of a sole proprietorship or a partnership, the responsible person(s) shall be the owners or partners and any other managing agent of such sole proprietorship or partnership. In the case of a limited liability company, the responsible person(s) shall be the members and managers, if any, of such company.

Revocation. The recall by the Department of the certificate or license of a deleading contractor, deleader supervisor, deleader-worker, training provider, lead-safe renovation contractor, or lead-safe renovator-supervisor.

Risk Assessment.

- (a) An on-site investigation to determine the existence, nature, severity and location of lead paint hazards, or
- (b) a report which documents the existence, nature, severity and location of lead paint hazards and options for reducing them.

Risk Assessor. An individual who, pursuant to 105 CMR 460.400(E): *Procedure for Obtaining a License or Master Inspector Status* and (F), has been trained and licensed to conduct risk assessments.

## 22.02: continued

Secretary. The Massachusetts Secretary of Labor and Workforce Development.

Suspension. The temporary removal by the Department of the certificate or the license of a deleading contractor, deleader-supervisor, deleader-worker, training provider, lead-safe renovation contractor or lead-safe renovator-supervisor.

Target Housing. Any housing or dwelling constructed prior to 1978, except housing for the elderly or persons with disabilities (unless a child younger than six years old resides, or is expected to reside in such housing) and any zero-bedroom dwelling.

Training Certificate. A document issued by a licensed training provider certifying that the recipient has completed the appropriate training courses and has passed the appropriate examination.

Training Provider License. A document issued by the Department permitting training providers to engage in deleading or lead-safe renovation training.

Vertical Containment. A vertical barrier consisting of plastic sheeting or other impenetrable material over scaffolding or a rigid frame, or an equivalent system of containing the work area. Vertical containment is required for some exterior renovations but may be used on any renovation.

Work Area. The location where deleading or renovation work is being performed, or such areas of a facility which the Director determines may be hazardous to the health and safety of workers and the general public as a result of such work.

Zpp. Zinc protoporphyrin.

## 22.03: General Requirements

(1) General Requirements for Licensure of Deleading Contractors. Except as allowed by 454 CMR 22.03(1)(a) through (c), no person, firm, corporation or other entity shall enter into, engage in or work at the business of lead abatement unless such person, firm, corporation or other entity has been duly licensed as a Deleading Contractor, in accordance with 454 CMR 22.04. For the purposes of 454 CMR 22.03(1), the phrase "engage in . . . the business of lead abatement" includes, but is not limited to, advertising Deleading services and submitting bids for work in which the majority of the contract-value of the project involves Deleading Work.

(a) Owners and Owners' Agents who perform Deleading Work in or on the property of the Owner in accordance with regulations promulgated by the Director of CLPPP pursuant to M.G.L. c. 111, § 197(d), are not required to be licensed as Deleading Contractors, provided that said persons are trained pursuant to 105 CMR 460.175(D) and have received a certificate of instruction pursuant to 105 CMR 460.175(E): *Certificate of Instruction*.

(b) Where the business or work includes only Moderate-risk Deleading Work, the entity carrying out the work may be licensed as a Lead-safe Renovation Contractor pursuant to 454 CMR 22.04 in *lieu* of being licensed as a Deleading Contractor, provided that the work is carried out or supervised by a Deleader-supervisor, or a Lead-safe Renovator-supervisor who has received the additional training specified at 454 CMR 22.08(4)(e), and the work is performed in accordance with 454 CMR 22.12(2).

(c) Contractors and other entities who perform only Low-risk Deleading Work in or on the property of the Owner in accordance with regulations promulgated by the Director of CLPPP, pursuant to M.G.L. c. 111, § 197(d), are not required to be licensed as Deleading Contractors or Lead-safe Renovation Contractors, provided that the persons carrying out said work are trained pursuant to 105 CMR 460.175(D) and have received a certificate of instruction pursuant to 105 CMR 460.175(E): *Certificate of Instruction*.

(2) Requirements for Licensure or Certification of Supervisors and Workers on Deleading Projects.

(a) All persons who perform the functions of Deleader-supervisors and Deleader-workers on Class I Deleading Projects shall be licensed pursuant to the procedures set forth at 454 CMR 22.05.

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(b) All persons who perform the functions of supervisors on Moderate Risk Deleading Projects shall be licensed as Deleader-supervisors pursuant to 454 CMR 22.05 or Certified as Lead-safe Renovator-supervisors pursuant to 454 CMR 22.06. Lead-safe Renovator-supervisors who carry out supervisory functions or performs the work on Moderate Risk Deleading Projects shall have received training in the subjects listed at 454 CMR 22.08(4)(e) and be in possession of a current certificate of training issued by a Licensed Training Provider which includes the designation, "Lead-safe Renovator-supervisor Moderate Risk Deleading Option."

(c) All persons who carry out the functions of workers on Moderate Risk Deleading work sites shall be Licensed as Deleader-workers or Deleader-supervisors pursuant to 454 CMR 22.05 or Certified as Lead-safe Renovator-Supervisors pursuant to 454 CMR 22.06.

(3) General Requirements for Licensure of Lead-safe Renovation Contractors. No person, firm, corporation or other entity shall perform, offer, or claim to perform Renovation Work in Target Housing or Child-occupied Facilities unless that person, firm, corporation or other entity has been licensed as a Lead-safe Renovation Contractor in accordance with 454 CMR 22.04, except that:

(a) Persons, firms, corporations or other entities who carry out Renovation Work at their own property using their own regular employees or Responsible Persons need not be licensed as Lead-safe Renovation Contractors or Deleading Contractors, provided that: said person, firm, corporation or other entity is in possession of a duly executed Contractor Licensing Waiver, as specified at 454 CMR 22.04(5); that the requirements of 454 CMR 22.11(1)(c) and (d) are met; and the work is otherwise conducted in accordance with the applicable requirements of 454 CMR 22.00.

(b) Persons, firms, corporations or other entities who are in possession of current, valid certification as a Certified Firm issued by EPA pursuant to 40 CFR 745.89 prior to July 9, 2010 are not required to be licensed as Lead-Safe Renovation Contractors or Deleading Contractors, provided that: said person, firm, corporation or other entity is in possession of a duly executed Contractor Licensing Waiver, as specified at 454 CMR 22.04(5); that the requirements of 454 CMR 22.11(1)(c) and (d) are met; and the work is otherwise conducted in accordance with the applicable requirements of 454 CMR 22.00.

(4) Requirements for the Use of Certified Supervisors and Trained Workers on Renovation Projects.

(a) All persons who perform the functions of supervisors on Renovation Projects shall be Certified as Lead-safe Renovator-supervisors in accordance with 454 CMR 22.06.

(b) Persons, firms or other entities who carry out Renovation Projects shall ensure that an employee or Responsible Person who is Certified as a Lead-safe Renovator-supervisor, is assigned to each Project and that said Supervisor carries out the functions set forth at 454 CMR 22.11(1)(d).

(c) Persons carrying out the functions of workers on Renovation Projects need not be licensed or certified by 454 CMR 22.00, provided that they have received the training specified at 454 CMR 22.08(4)(i).

(5) Requirement for Licensure of Providers of Deleading and Lead-safe Renovation Training. Persons who provide or work at the business of providing training required for Licensure or Certification by 454 CMR 22.00 shall be duly Licensed pursuant to 454 CMR 22.07 prior to engaging in such work, and shall otherwise comply with the requirements of 454 CMR 22.07. For the purposes of 454 CMR 22.03(5), the phrase "work at the business of providing training" includes, but is not limited to advertising Deleading or Lead-safe Renovation training services and submitting bids for work where the majority of the contract value of the project involves Deleading or Lead-safe Renovation training.

(6) Requirements for Training. All persons requiring training as a prerequisite for Licensure or Certification pursuant to 454 CMR 22.03(1) through (4), or for participation in Renovation Projects in the capacity of workers, shall be trained pursuant to 454 CMR 22.08, in their own language.

## 22.03: continued

(7) Worker Protection and Medical Monitoring Requirements. The requirements of 454 CMR 22.09 shall apply to the personal protection and medical monitoring of all persons engaged in Deleading Work and Renovation Work, except Owners and Owner's Agents who conduct Deleading Work in accordance with M.G.L. c. 111, § 197(d).

(8) Notification Requirements for Deleading Projects. Persons carrying out Deleading Projects shall comply with the notification requirements of 454 CMR 22.10.

(9) Requirements for the Conduct of Renovation Work. Persons, firms, corporations or other entities who carry out Renovation Work shall ensure that the requirements of 454 CMR 22.11 for such work are met.

(10) Requirements for the Conduct of Deleading Projects. Persons, firms, corporations or other entities who carry out Deleading Projects shall ensure that the requirements of 454 CMR 22.12 for such work are met.

(a) Class I Deleading Projects. Class I Deleading Projects shall be carried out in accordance with the provisions of 454 CMR 22.12(1).

(b) Moderate-risk Deleading Projects. Moderate-risk Deleading Projects shall be carried out in accordance with the provisions of 454 CMR 22.12(2).

(c) Low-risk Deleading Projects. Low-risk Deleading Projects shall be carried out in accordance with the provisions of 454 CMR 22.12(3).

(11) Record Keeping Requirements. Licensed Deleading Contractors, Lead-safe Renovation Contractors and Training Providers shall maintain records in accordance with the requirements of 454 CMR 22.13.

(12) Requirements Pertaining to the Use of Personnel for Renovation and Deleading Work.

(a) Persons employed or engaged to perform Deleading or Renovation Work shall only be assigned to perform those tasks or functions authorized by 454 CMR 22.00.

(b) No Responsible Person of a firm, corporation or other business entity engaged in Deleading or Renovation Work shall allow any person to work under conditions which violate any provision of 454 CMR 22.00.

(c) Persons must be at least 18 years of age to perform any Deleading or Renovation Work which results in the disturbance of painted surfaces or to receive Licensure or Certification in any Deleading or Renovation discipline pursuant to 454 CMR 22.00.

(13) Presentation of Deleading and Lead Safe Renovation Licenses and Certificates. Persons holding Deleading and Renovation Licenses and/or Certificates issued pursuant to 454 CMR 22.00 shall maintain them at the Deleading or Renovation work site and produce the same for inspection whenever requested by the Director or the Director's representative.

(14) Requirements for Compliance with Applicable Provisions of 105 CMR 460.000: Lead Poisoning Prevention and Control. Deleaders, Renovators, Training Providers, employers and other entities subject to the requirements of 454 CMR 22.00 shall also comply with the applicable provisions of 105 CMR 460.000: *Lead Poisoning Prevention and Control*.

(15) Administrative License and Certificate Actions. As set forth at 454 CMR 22.15, the Director may deny, suspend, revoke or refuse to renew a License or Certificate issued pursuant to 454 CMR 22.04 through 22.07, attach conditions to a License or Certificate; issue a civil penalty pursuant to 453 CMR 9.00: *Civil Administrative Penalties* or take other administrative actions against a License or Certificate holder for sufficient cause.

22.04: Licensing Procedures for Deleading Contractors and Lead-safe Renovation Contractors

(1) Application for Licensure. Applicants for licensure as Deleading Contractors or Lead-safe Renovation Contractors shall submit the following to the Director:

(a) A completed application form with attachments as prescribed by the Director, which shall include the following:

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1. A list of all names, acronyms or other identifiers under which the applicant does or has done business, and the address(es) and telephone number(s) of the business(es).
2. A list of the states in which the applicant holds a current license, accreditation, or other approval for Deleading or Renovation Work.
3. A list of the names and addresses of all Deleading or Renovation firms or entities in which the Responsible Persons of the applicant have or have had a financial interest or management responsibility in the previous five years.
4. For corporations and LLCs only, a copy of a Certificate of Legal Existence (or a Foreign Corporation Certificate, if organized outside of Massachusetts) issued by the Massachusetts Secretary of the Commonwealth, and a Certificate of Good Standing, if applicable. For sole proprietorships and partnerships, a copy of a business certificate, if applicable, for the Deleading or Renovation Firm of the applicant issued by the city or town where the business is located.
5. Certification of compliance with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting of child support in accordance with M.G.L. c. 62C, § 149A(a); unemployment health insurance contributions in accordance with M.G.L. c. 151A, § 14G(e); unemployment insurance contributions in accordance with M.G.L. c. 151A, § 19A(a); and workers' compensation insurance in accordance with M.G.L. c. 152, § 25C(6).
6. A list of employees in his or her present work force and those employees who have worked for him or her for any period of time during the preceding 12 months and a certificate of insurance or a letter of binder from an insurance carrier indicating that the Deleading or Renovation Work to be performed by the applicant is covered by a current workers' compensation policy or self-insurance program acceptable to the Commonwealth or a notarized statement that the contractor has no employees. In *lieu* of a notarized statement, said statement may be witnessed by an employee of the Department.
7. A list of all citations or notices of violation relating to occupational health and safety and environmental protection, including notices of noncompliance, notices of responsibility, notices of intent to assess an administrative penalty, orders, consent orders and court judgments, received by the Responsible Persons of the applicant in the two years prior to the date of application, and the issuing agency or department and final disposition of such citation or notice.
8. A statement made under the penalties of perjury by a Responsible Person of the applicant that all employees to be engaged in Deleading or Renovation Work who are required to be licensed, certified or trained will be licensed, certified or trained prior to any work being performed by them, pursuant to the requirements of 454 CMR 22.00.
9. list of the names and addresses of all Responsible Persons and managers of the applicant who have primary responsibility for, and control over, Deleading or Renovation Work of the applicant.
10. On a form issued by the Director, a signed affirmation of compliance with the medical monitoring requirements prescribed by 29 CFR 1926.62.

(b) Training certificates, or legible copies thereof, indicating that a Responsible Person or manager of the applicant listed pursuant to 454 CMR 22.04(1)(a)9. has successfully completed the applicable initial and refresher training requirements for Deleader-supervisors or Lead-safe Renovator-supervisors, as applicable.

(c) For applicants for Deleading Contractor Licenses only, the results of all blood lead tests conducted pursuant to 454 CMR 22.09 or the OSHA Lead in Construction Standard, 29 CFR 1926.62, and a signed physician's statement, as set forth at 454 CMR 22.09(4)(f), for all persons in his or her work force who have been or will be engaged in Deleading Work.

(d) For applicants for Lead Safe Renovation Contractors with a designation for Moderate Risk Deleading, proof that a Lead Safe Renovator Supervisor employed by the applicant has successfully completed the Moderate Risk Deleading training prescribed by 454 CMR 22.08(4)(e).

(e) Such other information as the Director may reasonably require.

(f) A money order or certified bank check payable to the Commonwealth of Massachusetts in the amount of the entire fee established for such license by M.G.L. c. 7, § 3B, plus any applicable surcharges. A schedule of asbestos and lead licensing fees and surcharges is available from any Department office upon request. The fee payment is not refundable.

## 22.04: continued

(2) Applications received by DLS which omit any of the information or documentation required for submittal set forth in 454 CMR 22.04(1) in excess of 60 calendar days from the date of written notification to the applicant apprising the applicant of the omitted information or documentation, will not be acted upon, and the application fee will be forfeited to defray the administrative cost of review and processing such incomplete application.

(3) Upon receipt of a completed application for licensure, the Director shall evaluate the application and make a determination as to whether to approve or deny the license application. The Director shall notify the applicant of his or her decision, in writing, within 40 calendar days of receipt of a completed application.

(4) License Renewal. Deleading Contractor Licenses issued pursuant to 454 CMR 22.04 shall be valid for a period of one year from the date of issuance. Lead-safe Renovation Contractor Licenses issued pursuant to 454 CMR 22.04 shall be valid for a period of five years from the date of issuance. The Director may renew a License issued pursuant to this section, provided the current License holder submits a renewal application at least 30, but not more than 60, calendar days before the expiration of the current License. Applications for renewal shall contain the information prescribed in 454 CMR 22.04(1)(a) through (e). Applications for renewal which omit any of the information or documentation required for submittal set forth in 454 CMR 22.04(4), in excess of 60 calendar days from the date of written notification to the applicant apprising the applicant of the omitted information or documentation, will not be acted upon and the renewal fee will be forfeited to defray the administrative cost of review and processing of such incomplete renewal application.

(5) Contractor Licensing Waivers. Contractor Licensing Waivers may be issued by the Director, in his or her sole discretion, to:

- (a) persons, firms, corporations or other entities that meet the exceptions to the requirement for licensing as Lead-safe Renovation Contractors set forth at 454 CMR 22.03(3)(a) or (b); or
- (b) to an entity to conduct Renovation work in or on property owned by the entity. Said Contractor Licensing Waiver shall be on a form prescribed by the Director and signed by the Director. A Contractor Licensing Waiver shall expire five years from the date of issuance, except that a Contractor Licensing Waiver issued pursuant to 454 CMR 22.03(3)(b) shall expire on the expiration date of the corresponding Certified Firm certificate issued by EPA or on the date that such Certified Firm certificate is suspended or revoked by EPA, whichever is earlier. A Contractor Licensing Waiver issued pursuant to 454 CMR 22.03(3)(b) is not renewable.

22.05: Licensing Procedures for Deleader-supervisors and Deleader-workers

(1) Licensure of Deleader-supervisors and Deleader-workers. An applicant for licensure as a Deleader-supervisor or a Deleader-worker must submit to the Department in person the following:

- (a) A completed application form prescribed by the Director.
- (b) A current Training Certificate issued by a Licensed Training Provider, or a current Training Certificate that meets the reciprocity requirements set forth at 454 CMR 22.08(2) in the discipline for which licensure is sought.
- (c) A form of government-issued personal photo identification that includes proof that the applicant is 18 years of age or older.
- (d) A signed physician's statement, as set forth at 454 CMR 22.09(4)(f).
- (e) The results of all blood lead and zpp monitoring conducted on the applicant in the three-month period prior to application, including at least one blood lead and one zpp result.
- (f) A money order or certified bank check payable to the Commonwealth of Massachusetts in the amount of the entire fee established for such license by M.G.L. c. 7, § 3B, plus any applicable surcharges. A schedule of licensing fees and surcharges is available from any Department office upon request. The fee payment is not refundable.
- (g) An applicant for licensure as a Deleader-supervisor must also pass an examination given by the Department with a score of at least 70%.

## 22.05: continued

Applications received by DLS which omit any of the information or documentation required for submittal set forth herein in excess of 60 calendar days from the date of written notification to the applicant apprising the applicant of the omitted information or documentation, will not be acted upon and the application fee shall be forfeited to defray the administrative costs of review and processing of the incomplete application.

(2) Renewal of License. Deleader-supervisor and Deleader-worker Licenses shall be valid for a period of one year from the date of issuance. The Director may renew a License issued pursuant to 454 CMR 22.05, provided the current License holder submits in person a renewal application at least seven calendar days before the expiration of the current License. Applications received later than seven calendar days before the expiration of the current License will be processed in the normal course of business, which may result in the License being renewed after its expiration date. Said renewal application shall include:

- (a) A completed application form, as prescribed by the Director;
- (b) A current certificate of refresher training specified by 454 CMR 22.08(4)(f);
- (c) The items specified at 454 CMR 22.05(1)(c) through (e); and
- (d) A money order or certified bank check payable to the Commonwealth of Massachusetts in the amount of the entire annual fee established for such license by M.G.L. c. 7, § 3B, plus any applicable surcharges. A schedule of asbestos and lead licensing fees and surcharges is available from any Department office upon request. The fee payment is not refundable.

Applications for renewal received by DLS which omit any of the information or documentation required for submittal set forth herein in excess of 60 calendar days from the date of written notification to the applicant apprising the applicant of the omitted information or documentation, will not be acted upon and the renewal fee shall be forfeited to defray the administrative costs of review and processing of the incomplete renewal application.

22.06: Certification Procedures for Lead-safe Renovator-supervisors; Training Requirements for Persons Carrying out Renovation Work in the Capacity of Workers

(1) Certification Procedures. Persons who have successfully completed the training specified for Lead-safe Renovator-supervisors at 454 CMR 22.08(4)(d) and, where applicable, 454 CMR 22.08(4)(f), from a Licensed Training Provider and are in possession of a current, valid certificate of Lead-safe Renovator-supervisor training shall be deemed to have fulfilled the Certification requirements for carrying out the functions specified at 454 CMR 22.11(1)(d) on Renovation Projects, where such Certification has not been suspended or revoked pursuant to 454 CMR 22.15. Persons who have successfully completed the training specified for Lead-safe Renovator-supervisors at 454 CMR 22.08(4)(e) and, where applicable, 454 CMR 22.08(4)(f), from a Licensed Training Provider and are in possession of a current, valid certificate of Lead-safe Renovator-supervisor Training-moderate Risk Deleading Option shall be deemed to have fulfilled the Certification requirements for carrying out the functions specified at 454 CMR 22.11(1)(d) on Renovation Projects and the functions of Supervisors on Moderate Risk Deleading Projects, where such Certification has not been suspended or revoked pursuant to 454 CMR 22.15.

(2) Training Requirements for Persons Performing as Workers on Renovation Projects. Licensure or Certification is not required by 454 CMR 22.00 for persons participating in Renovation Projects in the capacity of workers. Said persons shall have received the training specified by 454 CMR 22.08(4)(i) prior to engaging in Renovation Work. Persons who are in possession of current Deleader-worker, Deleader-supervisor or Lead-safe Renovator-supervisor Training Certificate shall also be deemed to have met the training requirements of 454 CMR 22.06(2) for participation in Renovation Projects in the capacity of workers.

22.07: Licensing Requirements for Providers of Deleading and Lead-safe Renovation Training

(1) Scope. A training program shall not provide, offer, or claim to provide authorized Deleading and/or Lead Safe Renovation training for the performance of such activities within the Commonwealth of Massachusetts without applying for and receiving a License issued under 454 CMR 22.07.

22.07: continued

(2) Application Process. Applicants for Licensure as providers of Deleading and Lead-safe Renovation training shall submit to the Director an application on forms provided by the Department. Training Provider Licenses will only be granted to those applicants whose training programs are determined by the Director to be in compliance with the applicable requirements of 454 CMR 22.07 and 22.08. Applicants for Training Provider licensure shall submit the following information:

- (a) A completed application form, as prescribed by the Director, which includes the name, address and telephone number of the firm or individual(s) conducting the course(s), the name under which the Training Provider conducts or intends to conduct the training and the courses for which approval is requested. Courses taught in different languages are considered to be separate courses that require separate approval under 454 CMR 22.07(2).
- (b) For corporations and LLCs, a copy of a Certificate of Legal Existence (or a Foreign Corporation Certificate, if organized outside of Massachusetts) issued by the Massachusetts Secretary of the Commonwealth, and a Certificate of Good Standing, if applicable. For sole proprietorships and partnerships, a copy of a business certificate for the firm of the applicant issued by the city or town where the business is located.
- (c) Certification of compliance with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting of child support in accordance with M.G.L. c. 62C, § 49A(a); unemployment health insurance contributions in accordance with M.G.L. c. 151A, § 14G(e); unemployment insurance contributions in accordance with M.G.L. c. 151A, § 19A(a), and workers' compensation insurance in accordance with M.G.L. c. 152, § 25C(6).
- (d) A certificate of insurance or a letter of binder from an insurance carrier indicating that the lead training activity to be performed by the applicant is covered by a current workers' compensation policy or self-insurance program acceptable to the Commonwealth or a notarized statement that the training provider has no employees.
- (e) A list of all citations or notices of violation relating to occupational health and safety and environmental protection, including notices of noncompliance, notices of responsibility, notices of intent to assess an administrative penalty, orders, consent orders and court judgments, received by the Responsible Persons of the applicant in the two years prior to the date of application, and the issuing agency or department, and final disposition of such citation or notice.
- (f) A course outline for each course for which approval is sought, showing topics covered and the amount of time given to each topic.
- (g) A copy of the course manual for each course for which approval is sought, including all printed material to be distributed in the course.
- (h) A description of teaching methods to be employed, including a description of audio-visual aids to be used.
- (i) A description of the hands-on facility to be utilized, including protocols for instruction, the number of students which may be accommodated, and the number of instructors.
- (j) A description of the equipment that will be used in classroom lectures and hands-on training.
- (k) A list of the names and qualifications of the persons who will provide the training in each course, including verifiable documentation of their education, training and experience.
- (l) An example of the written examination to be given in each course for which approval is sought.
- (m) When applying for approval to offer a course in a language other than English, a signed statement from a Qualified Independent Translator that the course was compared to the English language version and that the translation was found to be accurate.
- (n) A list of tuition or other fees required.
- (o) A copy of the certificate given to course participants upon completion of the course.
- (p) Any additional information or documentation that the Director may reasonably require to evaluate the adequacy of the application.
- (q) A money order or certified bank check, payable to the Commonwealth of Massachusetts in the amount of the entire annual fee established for such license by M.G.L. c. 7, § 3B, plus any applicable surcharges. The fee payment is not refundable.

22.07: continued

Applications received by DLS which omit any of the information or documentation required for submittal set forth in 454 CMR 22.07(1), in excess of 60 calendar days from the date of written notification to the applicant apprising the applicant of the omitted information or documentation, will not be acted upon and the application fee shall be forfeited to defray the administrative cost of reviewing and processing the incomplete application.

(3) Renewal of Licenses. Training Provider Licenses shall be valid for a period of one year from the date of issuance. The Director may renew a Training Provider License, provided the current License holder submits a renewal application at least 30, but not more than 60, calendar days before the expiration of the current License. Applications received later than 30 calendar days before the expiration of the current License will be processed in the normal course of business, which may result in the License being renewed after its expiration date. Said renewal application shall include:

- (a) A completed application form, as prescribed by the Director.
- (b) Written confirmation or disclosure of any changes in the information originally submitted pursuant to 454 CMR 22.07(2)(a) through (p).
- (c) A money order or certified bank check, payable to the Commonwealth of Massachusetts in the amount of the entire annual fee established for such license by M.G.L. c. 7, § 3B, plus any applicable surcharges. The fee payment is not refundable.

Applications for renewal received by DLS which omit any of the information or documentation required for submittal set forth in 454 CMR 22.07, in excess of 60 calendar days from the date of written notification to the applicant apprising the applicant of the omitted information or documentation, will not be acted upon and the renewal fee shall be forfeited to defray the administrative cost of reviewing and processing the incomplete renewal application.

(4) Approval by the Director. Upon receipt of a completed application for Licensure, the Director shall evaluate the application and make a determination as to whether to approve or deny such status. The Director shall notify the applicant of his or her decision, in writing, within 40 days of receipt of a completed application.

(5) Non-transferability. A Training Provider License cannot be transferred from one person or corporation to another.

(6) Licensed Training Provider Administrative Tasks. Licensed Training Providers shall perform the following as a condition of such status:

- (a) Notify the Director in writing or by electronic means, at least ten days prior to the commencement of any training course covered by 454 CMR 22.07(6), of the location, title, and anticipated starting and ending dates of such course.
- (b) Issue serially-numbered Training Certificates to all students who successfully complete initial and refresher training courses. Said certificates shall include: the name of the student; a digital photograph of the student; the name of the course completed, as specified in 454 CMR 22.08; the language in which the course was given (if other than English); the dates of the course and the examination; and a statement that the student passed the examination. Training Certificates issued to persons who successfully complete Deleader-supervisor and Deleader-worker training shall include an expiration date set at one year following the date on which the Training Certificate was issued. Training Certificates issued to persons who successfully complete Lead-safe Renovator-supervisor training shall include an expiration date set at five years following the date on which the Training Certificate was issued. Training Certificates issued to persons who successfully complete courses that include instruction in the training subjects listed at 454 CMR 22.08(4)(d) and (e) shall include the designation, "Lead-safe Renovator-supervisor Moderate Risk Deleading Option."
- (c) Maintain training records, including: the name, address, telephone number and digital image and a valid driver's license or other government issued form of identification of the person trained; the course title, location and dates; sign in/sign out logs for each session of training; the final examination of each student; a copy of the certificate of completion of each student who passed the course; and the names, addresses and telephone numbers of the person(s) who taught the course and proctored the examination. Said records shall be made available for inspection upon the request of the Director or his or her representative and retained for a period of ten years by the Licensed Training Provider, as required by 454 CMR 22.13(3).

## 22.07: continued

- (d) Notify the Director in writing of any change in the course content, training aids used, facility utilized or other matters which would alter the instruction from that originally submitted for licensure. Minor changes in agenda, such as guest speakers (if otherwise qualified) and course schedule are excepted.
- (e) Utilize and distribute information or training materials furnished by the Department.
- (f) Where non-English-speaking students are trained, provide written course materials, oral instruction and a written examination to each student in a language in which he or she is fluent.
- (g) Provide to the Director within ten calendar days of the conclusion of each initial and refresher training course, the title of the course, the date(s) on which the course was provided and the name, address, digital photograph and examination score of each student who has attended the course.
- (h) Attend any "train the trainer" seminars required by the Department.

(7) Written Examination. The Director retains the right to administer, or to have a third party administer, a written examination of his or her own choosing to students of training providers licensed under 454 CMR 22.07.

(8) Course Audits. Licensed Training Providers shall allow auditing inspections of training courses by the Director or his or her representative. Where training courses are offered outside the Commonwealth, the Training Provider shall, at the Department's option, bear the costs to the Department for one course audit per year for each course for which approval is granted pursuant to 454 CMR 22.07(4). Said costs shall include two-way travel and food and lodging expenses for one individual for the entire length of each course. In *lieu* of visitation, the Training Provider may, at the Director's option, be required to submit to the Department a video-taped recording of a training course for review and evaluation.

22.08: Training Requirements

(1) Persons Requiring Training. All applicants for Licensure or Certification pursuant to 454 CMR 22.05 and 22.06 shall have successfully completed the applicable initial and refresher training from a Licensed Training Provider for the discipline(s) in which they wish to be Licensed or Certified. Persons participating in Renovation Projects in the capacity of workers shall receive the training specified by 454 CMR 22.08(4)(i) prior to engaging in such work.

(2) Reciprocity and Recognition of Prior Training Courses. Persons who have received Deleading or Lead-Safe Renovation training from out-of-state providers shall be considered to have fulfilled the applicable training requirements for Licensure or Certification pursuant to 454 CMR 22.00, provided that said training:

- (a) Was provided by a state or EPA-sponsored or approved training provider, and
- (b) Was substantially equivalent in length and content to the training specified by 454 CMR 22.00 for the discipline in which the applicant wishes to become licensed or certified. The Director shall determine whether previously-supplied and out-of state training courses are equivalent to the training and examination requirements of 454 CMR 22.00.

(3) Recognition of Higher Level Training Courses. Persons who have successfully completed the applicable training requirements for Deleader-Supervisors pursuant to 454 CMR 22.08(4)(c) shall be considered to have met the associated training requirements for Licensure as Deleader-workers and for participation in Renovation Work in the capacity of workers. Persons who have successfully completed the applicable training requirements for Deleader-workers pursuant to 454 CMR 22.08(4)(b) shall be considered to have met the associated training requirements for persons participating in Renovation Work in the capacity of workers.

(4) Training Curricula.

(a) General.

1. Courses of instruction required for Licensure of Deleader-supervisors and Deleader-workers and for Certification of Lead-safe Renovator-supervisors are set forth at 454 CMR 22.08(4)(b) through (f). The required subjects of instruction shall be presented through a combination of lectures, demonstrations, field trips and hands-on training, as appropriate.

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2. Courses requiring hands-on training shall be presented in an environment suitable to permit participants to have actual experience performing tasks associated with Deleading and Lead-safe Renovation. Demonstrations not involving individual participation shall not substitute for hands-on training. Hands-on training sessions shall maintain a student to instructor ratio of not greater than 10:1.
3. For the purposes of 454 CMR 22.00, one training day shall consist of 6½ hours of actual instruction, excluding time taken for lunch and breaks.
4. Initial training courses for Deleader-supervisors and Deleader-workers shall be provided on consecutive calendar or business days, unless otherwise approved by the Director. Initial training courses for Lead-safe Renovator-supervisors may be provided in four-hour segments, provided that all training is completed within a two-week period.
5. Electronic learning and other alternative course delivery methods are permitted for the classroom portion of the required training but not for the hands on portion of these courses, or for final course exams or proficiency tests required by 454 CMR 22.08(4). Electronic learning courses must comply with the following requirements:
  - a. A unique identifier must be assigned to each student.
  - b. The training provider must maintain each student's course log-ins, launches, progress, and completion, and maintain these records in accordance with 454 CMR 22.08(4)(c)11.
  - c. The course must include periodic knowledge checks.
  - d. There must be a test of at least 20 questions at the end of the electronic learning portion of the course, of which 80% must be answered correctly by the student for successful completion of the electronic learning portion of the course. The test must be designed so that students do not receive feedback on their test answers until after they have completed and submitted the test.
  - e. Each student must be able to save or print a copy of an electronic learning course completion certificate. [ref 40 CFR 745.225(c)(6)(viii)]

(b) Training Requirements for Deleader-workers. Persons seeking certification as Deleader-workers shall successfully complete an approved three-day training course. Said course shall include lectures, at least eight hours of hands-on training, a course review and a written examination consisting of 25 multiple-choice questions. Successful completion of the course shall be demonstrated by achieving a score of at least 72% on the examination. The course shall adequately address the following topics:

1. Background Information on Lead. Relevant lead facts, including the history of lead use and sources of environmental lead contamination (paint, surface dust and soil, water, air, food).
2. Health Effects of Lead Exposure. The most common routes of human lead exposure. Also, the nature of lead-related disease, including, but not limited to, effects on the nervous system, reproductive system, musculoskeletal systems and kidneys, dose-response relationships and differences between effects on adults and on children.
3. Other Health Hazards of the Deleading Workplace. Health hazards presented by Encapsulants, other solvents, gases, vapors and caustic materials commonly encountered in the Deleading workplace; the OSHA Hazard Communication Standard 29 CFR 1910.1200; how to read a material safety data sheet (MSDS) and take precautionary measures; and exposure hazards associated with surface preparation activities.
4. Regulatory Review. An overview of pertinent federal, state and local regulations pertaining to the prevention of lead exposure in residential, industrial, and construction settings, including, but not limited to: 454 CMR 22.00; 105 CMR 460.000: *Lead Poisoning Prevention and Control*; 40 CFR 745, including requirements pertaining to lead-based paint activities contained in Subpart L; and 29 CFR 1926.62.
5. Personal Protective Equipment and Devices. The selection and use of proper personal protective equipment for Deleading work sites including, but not limited to, respirators, protective clothing and eye protection. This training cell shall include fit testing demonstrations and hands-on training in the use of protective clothing and respirators. Emphasis will be given to personal protective equipment which protects against hazardous substances commonly found at Deleading work sites, including lead, solvents, Encapsulants and caustic paste removers. Also, information shall be provided on personal hygiene practices for minimizing lead exposure, the maintenance of a respiratory protection program, respirator use and maintenance, and medical examination requirements for persons who use respirators.

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6. Medical Monitoring Requirements. A comprehensive overview of the medical monitoring requirements of 29 CFR 1926.62 and 454 CMR 22.09, including, but not limited to, all federal and state requirements for physical examinations, blood lead monitoring, medical removal, and rights of employees to medical records.
7. Lead Hazard Recognition. Methods of lead hazard recognition including, but not limited to, material identification, exposure measurements, site characterizations, and safety and health plans.
8. Lead Abatement, Containment and Hazard Control Methods. A review of Work Area preparation methods, engineering controls, removal techniques, cleanup and decontamination procedures for Deleading projects, including restricted practices, area clearance procedures and waste disposal; use of HEPA vacuums and wet cleaning methods.
9. Safety Hazards Other Than Lead. Other safety hazards encountered during typical lead abatement projects and how to protect against them. Discussion to include, but not be limited to, electrical hazards, exposure to heat and cold, fire hazards, scaffold and ladder hazards and slips, trips and falls.
10. Use of Encapsulants and Other Low Risk Deleading Methods. The requirements of 105 CMR 460.000: *Lead Poisoning Prevention and Control* and 454 CMR 22.00 pertaining to the use of Encapsulants and other Low-risk Deleading methods, the particulars of related guidance documents and protocols issued by the Director and CLPPP pertaining to the use of Encapsulants and other Low-risk Deleading methods, including inspection procedures, surface selection, notification procedures, restrictions on occupancy, worker protection, Encapsulant selection, surface preparation and testing, application procedures, post-application testing, methods of covering, associated work practices, clearance inspections and dust testing, operation and maintenance procedures and record keeping.

(c) Training Requirements for Deleader-supervisors. Persons seeking Licensure as Deleader-supervisors shall successfully complete an approved four-day training course. Said course shall include lectures, at least ten hours of hands-on training, a course review and a written examination consisting of 50 multiple-choice questions. Successful completion of the course shall be demonstrated by achieving a score of at least 70% on the examination. In addition to the subjects specified at 454 CMR 22.08(4)(b)1. through 10., the training curriculum for Deleader-supervisors shall include the following subjects:

1. Overview of the Roles and Responsibilities of the Supervisor on Deleading Projects.
2. Lead Hazard Identification and Assessment. Reading and interpreting lead inspection reports and risk assessments, including interpreting floor plans, identification of leaded surfaces, identification of low-risk/moderate-risk eligible activities, specifications of surface conditions.
3. Deleading Contract Specifications and Requirements. Formats of Deleading contracts; project specifications; the legal responsibilities of Deleading-contractors and Deleader-supervisors.
4. Lead Abatement Methods/Options. Allowable abatement methods specified by applicable state standards; selection factors and requirements peculiar to each option; advantages and disadvantages; prohibited methods for Deleading Projects; methods of work area isolation and containment for Deleading Work.
5. Work Site Clean-up. Work site clean-up methods and requirements for Deleading Projects; use of HEPA vacuum and wet cleaning methods.
6. Clearance Standards and Related Testing for Deleading Projects. Dust monitoring requirements and associated work practice requirements, including restrictions on reoccupancy.
7. Disposal and Hazardous Waste Management. Debris containerization and disposal requirements, including a review of hazardous waste regulations which may apply to Deleading operations; hazardous waste testing procedures, such as TCLP; other possible hazardous wastes at the Deleading work site.
8. Insurance and Liability. Workers' compensation coverage and exclusions, and liability insurance coverage and exclusions.
9. Supervisory Functions and Techniques. Effective supervisory practices to enforce and reinforce the required work practices, discourage unsafe practices and optimize worker relations and performance.

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10. Requirements of 780 CMR: *Massachusetts State Building Code* and Home Improvement Contractor Registration Law Applicable to Residential Renovation/Moderate-risk Abatement. The requirements of the Massachusetts Building Code, 780 CMR 110.R5: *Licensing of Construction Supervisors* pertaining to the licensure of construction supervisors; the requirements of 201 CMR 18.00: *Registration and Enforcement of Home Improvement Contractor Program* pertaining to home improvement contractor registration; standards of workmanship for Deleading Work.
11. Recordkeeping Requirements. A review of the various records required to be kept by the Deleading-contractor under 29 CFR 1926.62, 454 CMR 22.00, and 105 CMR 460.000: *Lead Poisoning Prevention and Control*; recordkeeping for Deleading Projects as required by federal, state and local regulations including, but not limited to: notification of Deleading Work to the appropriate agencies; inspection and testing results; medical monitoring reporting; clearance results and procedures; compliance with required work practices; waste disposal requirements, and records recommended for legal and insurance purposes.
12. Historic Preservation. An overview of appropriate methods for abating lead paint hazards in historic housing, including information about the *State Register of Historic Places* and compliance exemptions.

(d) Lead-safe Renovator-supervisor Training. Persons seeking Certification as Lead-safe Renovator-supervisors shall successfully complete an approved one-day training course. Said course shall include lectures, at least two hours of hands-on training, a course review and a written examination consisting of 25 multiple-choice questions. Successful completion of the course shall be demonstrated by achieving a score of at least 72% on the examination. The training curriculum for Lead-safe Renovator-supervisors shall include the following subjects:

1. Roles and Responsibilities of a Lead-safe Renovator-supervisor on Renovation Projects.
2. Background Information on Lead. An overview of the history of lead use, sources of lead exposure and health effects, including the effects on the nervous, reproductive and musculoskeletal systems and kidneys, Dose-response relationships, differential effects on adults and children and trends in lead poisoning rates.
3. Regulatory Review. An overview of pertinent federal, state and local regulations pertaining to the prevention of lead exposure in children and adults and renovation activities, including, without limitation, the Massachusetts Lead Law (M.G.L. c. 111, §§ 189A through 199B); 454 CMR 22.00; 105 CMR 460.000: *Lead Poisoning Prevention and Control*; 40 CFR 745, Subpart E and 29 CFR 1926.62.
4. Lead Hazard Identification. Reading and interpreting lead inspection reports, including floor plans; identifying leaded surfaces, and specifying surface conditions. Procedures and protocols for using Recognized Test Kits and for the collection of paint chip samples.
5. Work Practices for Renovation Projects. A review of Work Area pre-cleaning and isolation methods, use of engineering controls and Containment, work methods and techniques, dust minimization, cleanup and decontamination, containment and disposal of lead-painted components and debris and minor repair of non-intact surfaces. Specialized methods for removing windows from the exterior, emptying and maintaining HEPA vacuums, removing porches and constructing specialized containments.
6. Work Area Clearance Requirements. Interior and exterior clean-up methods, final cleanup, cleaning verification procedures, dust monitoring options and clearance requirements for Renovation Projects.
7. Waste Handling and Disposal. Debris containerization and disposal requirements, including a review of hazardous waste regulations which apply to Deleading and Renovation operations; hazardous waste testing procedures, such as TCLP; exemptions for lead-contaminated debris generated by household Renovation Projects; and other possible hazardous wastes at the Deleading or Renovation work sites.
8. Personal Protection and Medical Monitoring Requirements. A discussion of the selection and use of personal protective equipment for Renovation Work including, but not limited to, respirators, protective clothing and eye protection.
9. Other Health and Safety Hazards of the Renovation Workplace. Possible health and safety hazards commonly encountered in the Renovation workplace, including exposure to solvents, gases, vapors and caustic materials, electrical hazards, exposure to heat and cold, fire hazards, scaffold and ladder hazards and slips, trips and falls.

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10. Requirements of 780 CMR: Massachusetts State Building Code and Home Improvement Contractor Registration Law Applicable to Renovation Work. The requirements of the Massachusetts Building Code, 780 CMR 110.R5: *Licensing of Construction Supervisors* pertaining to the licensure of construction supervisors. The requirements of 201 CMR 18.00: *Registration and Enforcement of Home Improvement Contractor Program* pertaining to home improvement contractor registration. Compliance standards for renovation work.

11. Record Keeping Requirements. A review of the various records required to be kept by Lead-Safe Renovation Contractors and Supervisors under 40 CFR 745.86, 29 CFR Part 1926.62, 454 CMR 22.00, and 105 CMR 460.000: *Lead Poisoning Prevention and Control.*

(e) Additional Training Requirement for Lead-safe Renovator-supervisors Who Supervise Moderate Risk Deleading Projects. In addition to receiving the training specified by 454 CMR 22.08(4)(d), Lead-safe Renovator-supervisors who carry out the functions of supervisors on Moderate-risk Deleading Projects shall have received an additional four hours of training, which includes instruction in the subjects listed at 454 CMR 22.08(4)(e)1. through 6. Successful completion of additional training segment shall be demonstrated by achieving a score of at least 70% on the examination, which shall consist of 20 multiple choice questions. The Training Certificates issued to persons who successfully complete courses that include instruction in the training subjects listed at 454 CMR 22.08(4)(d) and (e) shall include the designation, "Lead-safe Renovator-supervisor Moderate Risk Deleading Option."

1. Roles and Responsibilities of a Lead-safe Renovator-supervisor on Moderate Risk Deleading Projects.
2. Distinctions between various Deleading options and requirements and those pertaining to Renovation Work. Eligibility requirements for Moderate Risk Deleading Work.
3. In-depth Workshop on Interpretation of Lead Inspection Reports. Pre-work inspection requirements. Restriction on use of Recognized Test Kits for Moderate Risk Deleading Projects.
4. Specialized Work Practices for Moderate Risk Deleading Work. Restrictions on occupancy during work.
5. Project Cleanup and Clearance Requirements. Clean-up and disposal requirements and methods. Mandatory use of dust wipe clearance by Lead Inspector or Risk Assessor. Associated clearance standards.
6. Recordkeeping Requirements for Deleading Work.

(f) Refresher Training. Deleader-supervisors and Deleader-workers shall successfully complete annual refresher training of at least one day given by Licensed Training Providers as a precondition to renewal of their Licenses or Certificates. Lead-safe Renovator-supervisors shall successfully complete refresher training of at least four hours every five years as a condition of maintaining Certified status and eligibility to carry out the functions of Lead-safe Renovator-supervisors. Lead-safe Renovator-supervisors who have successfully completed the training specified at 454 CMR 22.08(4)(e) shall repeat said training every five years in order to maintain eligibility to perform the functions of supervisors on Moderate Risk Deleading Projects. Refresher training for all disciplines shall be specific to the discipline, and shall include: a review of the health effects of lead exposure; the health effects of other hazardous substances typically found at Deleading and Renovation work sites; the use of respirators and other protective equipment to reduce exposures; state and federal laws, guidelines or policies applicable to Deleading and Lead-safe Renovation and any pertinent changes thereto; developments or changes in state-of-the-art Deleading and Lead-safe Renovation procedures and equipment; and a review of the key areas of the initial training specific to each discipline. Successful completion of refresher training will be demonstrated by achievement of a score of at least 72% on a written examination consisting of at least 25 multiple-choice questions administered by the Licensed Training Provider.

(g) Grace Period After Expiration of Training Certificates. Where an initial or refresher Training Certificate has expired, the holder shall have a grace period of one year from the date of expiration of said Training Certificate in which to take another refresher training course in the same discipline in *lieu* of re-taking the applicable initial course of training.

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(h) Encapsulant Manufacturer-supplied Training. Prior to working on or engaging in a Deleading Project in which an Encapsulant is to be used, licensed Deleader-supervisors, in addition to completing the training specified in 454 CMR 22.08(4)(c) or (f), shall take any training recommended by the manufacturer, dealer or distributor of the specific Encapsulant to be used which is approved by the Director.

(i) Training of Persons Performing as Workers on Renovation Projects. Where workers on Renovation Projects have not received the training for Deleader-workers specified by 454 CMR 22.08(4)(b), the training specified for Deleader-supervisors specified by 454 CMR 22.08(4)(c) or the training specified for Lead-safe Renovator-supervisors by 454 CMR 22.08(4)(d), they shall receive training from the Lead-safe Renovator-supervisor assigned to the project prior to engaging in the work. Said training shall include a review of the work methods to be used on each Renovation Project and a review of the subjects set forth in the OSHA Construction Standard for Lead at 29 CFR 1926.62(l)(2).

#### 22.09: Worker Protection and Medical Monitoring Requirements

(1) Applicability. The requirements of 29 CFR 1926.62, and other applicable OSHA standards shall apply to the personal protection and medical monitoring of employees other than employees of the Commonwealth or any of its political subdivisions, except that:

- (a) In accordance with 454 CMR 22.13(1), Deleading Contractors shall maintain as records the results of all personal exposure monitoring, respirator fit testing, medical examinations and blood lead testing conducted pursuant to the requirements of 29 CFR 1926.62(d),(f) and (j) or pursuant to the requirements of 454 CMR 22.09; and
- (b) The frequency of blood monitoring of employees licensed as Deleader-supervisors and Deleader-workers shall be governed by 454 CMR 22.09(5)(a).
- (c) The personal protection and medical monitoring of employees of the Commonwealth and its political subdivisions and other employees exempted from coverage by OSHA standards shall be governed by the provisions of 454 CMR 22.09.

(2) General Respiratory Protection Requirements. The Deleading Contractor, Lead-safe Renovation Contractor, or employer conducting Class I Deleading, Moderate-risk Deleading or Renovation Work shall ensure that employees, inspectors and other persons involved in said work are provided with respiratory protection which meets the requirements of relevant OSHA regulations, including 29 CFR 1910.134 and 29 CFR 1926.62(f). Employers shall provide respirators and all necessary maintenance materials at no cost to employees and shall provide proper respirator fit testing prior to initial use and at least annually thereafter.

(3) Requirements for the Use of Protective Clothing and Equipment. The Deleading Contractor, Lead-safe Renovation Contractor, or employer conducting Class I Deleading, Moderate-risk Deleading or Renovation Work shall ensure that employees, inspectors and other persons involved in said work are provided with protective clothing and other personal protective equipment in accordance with relevant OSHA regulations, including 29 CFR 1926.62(g). In addition, the following specific requirements must be met:

- (a) Employers shall provide employees with protective clothing and equipment without cost.
- (b) Protective clothing shall provide sufficient coverage and be sufficiently impermeable to lead dust, caustic paste, chemical solvents and other contaminants to prevent contamination of underlying garments or body surfaces.
- (c) Where dust generating methods are used, the employer shall provide a minimum of two changes of protective clothing during an eight-hour day.
- (d) Where caustic paste is used to remove paint, the employer shall provide and ensure the use of: full-body overalls impervious to caustic substances; gloves impervious to caustic substances; glove extenders; appropriate boot or shoe covers; and where caustic paste is to be applied or removed at or above face level, face shields.

(4) Medical Examinations and Consultations. The Deleading Contractor, Lead-safe Renovator Contractor, or other employer conducting Class I Deleading Work, Moderate-risk Deleading Work or Renovation Work shall ensure that employees are provided with medical examinations and consultations in accordance with 29 CFR 1926.62(j)(1) and (3) and 454 CMR 22.09(4)(a) through (g).

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(a) Frequency of Medical Examinations. The medical examinations specified by 454 CMR 22.09(4) shall be provided:

1. As soon as possible, upon notification by an employee either that the employee has developed signs or symptoms commonly associated with lead intoxication, that the employee desires medical advice concerning the effects of current or past exposure to lead on the employee's ability to procreate a healthy child, that the employee is pregnant, or that the employee has demonstrated difficulty in breathing during a respirator fitting test or during use; or
2. Immediately following medical removal specified by 454 CMR 22.09(5)(b) or as medically appropriate, as determined by a physician.

(b) Requirement for Physician's Involvement or Oversight. All medical examinations and consultations conducted pursuant to 454 CMR 22.09(4) shall be performed by or under the direction of a physician.

(c) Information Provided to Examining and Consulting Physicians. The Deleading Contractor, Lead-safe Renovation Contractor or other employer shall provide to the physician conducting a medical examination or consultation under 454 CMR 22.09 the following information:

1. A copy of the following sections of the Department's regulations:
  - a. 454 CMR 22.09: *Worker Protection and Medical Monitoring Requirements*;
  - b. 454 CMR 22.11: *Work Practices and Other Requirements for Renovation Work*; and
  - c. 454 CMR 22.12: *Work Practices and Other Requirements for Deleading Projects*.
2. A description of the employee's duties as they relate to exposure to lead or other harmful substances;
3. The employee's exposure level or anticipated exposure level to lead and, where applicable, to any other toxic substance;
4. A description of any personal protective equipment used or to be used;
5. Prior blood lead determinations; and
6. All prior written medical opinions in the employer's possession or control.

(d) Employer's Instructions to Physicians. The Deleading Contractor, Lead-safe Renovation Contractor, or other employer shall instruct any examining or consulting physician to:

1. Not reveal to the employer, either in a written statement of medical findings or in any other means of communication, any findings, including laboratory results or diagnoses unrelated to an applicant's occupational exposure to lead or ability to engage in Deleading or Renovation Work;
2. Advise the applicant or employee of any medical condition, occupational or non-occupational, which dictates further medical examination or treatment;
3. Provide the applicant or employee with a clear warning of the reproductive hazards caused by exposure to lead; and
4. Provide to the employer a copy of the Reporting Physician's Statement for provision to the applicant or employee as required under 454 CMR 22.09(4)(f).

(e) Elements of Medical Examination. Medical examinations made pursuant to 454 CMR 22.09 shall include the following elements:

1. A detailed work history and a medical history, with particular attention to past lead exposure, personal habits and hygiene, and past or present gastrointestinal, hematologic, renal, cardiovascular, reproductive and neurological problems;
2. A thorough physical examination, with particular attention to teeth, gums, hematologic, gastrointestinal, renal, cardiovascular, neurological, and pulmonary systems;
3. A blood pressure measurement;
4. A blood sample which determines:
  - a. Blood lead level;
  - b. Hemoglobin and hematocrit determinations, red cell indices, and examination of peripheral smear morphology;
  - c. Zpp;
  - d. Blood urea nitrogen;
  - e. Serum creatinine;
5. A routine urinalysis with microscopic examination; and

## 22.09: continued

6. Any laboratory or other test relevant to lead exposure which the examining physician deems necessary by sound medical practice.

(f) Reporting Physician's Statement. Within two working days after receipt of the Reporting Physician's Statement, the Deleading Contractor, Lead Safe Renovation Contractor, or other employer, shall furnish a copy of the same to the applicant or employee.

(g) Reporting of Blood Lead Levels. Within two working days after the receipt of the report of the applicant's or employee's blood lead level, the Deleading Contractor, Lead-safe Renovation Contractor, or other employer shall furnish the applicant or employee with a copy thereof.

(5) Blood Lead and Zpp Level Monitoring.

(a) Frequency of Testing.

1. Deleader-supervisors and Deleader-workers shall receive blood lead and zpp monitoring every two months during the first six months following licensure or certification and at least quarterly thereafter.
2. Except as specified by 454 CMR 22.09(5)(a)3., Lead-safe Renovator-supervisors and Workers on Renovation Projects shall receive blood lead and zpp monitoring according to the schedule set forth at 29 CFR 1926.62(j).
3. Persons tested pursuant to 454 CMR 22.09(5)(a)1. or 2. whose last blood lead analysis indicates a lead level at or above 25 ug/dl of whole blood shall be tested at least every two months until two consecutive blood lead analyses indicate blood lead levels below 25 ug/dl of whole blood.
4. Where a person is removed from Deleading or Renovation Work pursuant to 454 CMR 22.09(5)(b), said person shall receive blood lead and zpp testing at least monthly during the period of medical removal.
5. Upon being hired to perform Deleading Work for a new employer, and before engaging in such work, Deleader-supervisors and Deleader-workers shall receive blood lead and zpp monitoring in accordance with the schedule set forth at 454 CMR 22.09(5)(a) unless more frequent testing is indicated by 454 CMR 22.09(5)(a)3. or 4.

(b) Medical Removal. No person whose blood lead level is above 50 ug/dl shall be permitted to engage in Deleading or Renovation Work that further exposes the individual to lead hazards. Said person shall immediately be removed from any lead exposure when the result of any single test of his or her blood lead level is at or above 50 ug/dl of whole blood. In order to confirm the accuracy of the laboratory test result, a second blood test shall be taken within two weeks.

(c) Return to Work Following Medical Removal. A person medically removed from Deleading or Renovation Work pursuant to 454 CMR 22.09(5)(b) may return to his or her former job status when two consecutive blood sampling tests indicate that the blood lead level is at or below 40 ug/dl of whole blood.

(d) Blood Lead Testing Laboratories. Blood lead samples collected in accordance with 454 CMR 22.00 shall be analyzed by the Department of Labor Standards, Industrial Hygiene Laboratory, or by laboratories approved by OSHA-CDC for blood lead analysis.

## 22.10: Notification Requirements for Deleading Projects

(1) General Requirements. All persons who carry out Deleading Projects, except Owners of residential premises and Owners' Agents who perform Deleading Work in accordance with regulations promulgated by the Director of the Childhood Lead Poisoning Prevention Program and M.G.L. c. 111, § 197(d), shall satisfy the notification requirements of 454 CMR 22.10 prior to carrying out said work. All Deleading Work notifications required by 454 CMR 22.10(2) and (3) shall be made on forms prescribed by the Director and the Director of CLPPP. All applicable sections of each notification form shall be accurately completed. All Deleading notifications shall minimally include: the address of the residence or facility, the name of the Owner, the name, business address and license number (where applicable) of the Deleading Contractor or Lead-safe Renovation Contractor conducting the Deleading Work, the start date and estimated completion date for the work, the work methods to be used (scraping, covering, replacement, encapsulation, *etc.*) and whether the work will be conducted as Class I, Moderate-risk or Low-risk Deleading Work. All notifications required by 454 CMR 22.10 shall be mailed, hand-delivered, submitted electronically, or transmitted by facsimile to: the Director, the Director of CLPPP, the Massachusetts Historical Commission if the residence is listed on the *State Register of Historic Places*, and the local board of health or code enforcement agency. In addition, and in the same manner, such notifications shall be mailed to all residents of any building in which any Common Areas are to be deleaded, and to the residents of each individual unit which is to be deleaded.

## 22.10: continued

(2) Requirements for Class I Deleading Projects. The Deleading Contractor shall provide the notification specified by 454 CMR 22.10(1) at least ten days before the project start date.

(3) Requirements for Moderate-risk Deleading Projects. Where Moderate-risk Deleading Work is carried out by a licensed Deleading Contractor, or a Lead-safe Renovation Contractor in accordance with 454 CMR 22.12(2), said Contractor shall provide the notification specified by 454 CMR 22.10(1) at least five business days before the project start date.

(4) Requirements for Low-risk Deleading Projects. Where Low-risk Deleading Work is carried out by a licensed Deleading Contractor or Lead-safe Renovation Contractor in accordance with 454 CMR 22.12(3), said Contractor shall provide the notification specified by 454 CMR 22.10(1) at least five business days before the project start date.

22.11: Work Practices and Other Requirements for Renovation WorkWork Practices and Other Requirements for Renovation Work.

(a) Applicability. The requirements of 454 CMR 22.11(1) shall apply to all Renovation Work, except:

1. Renovation Work for which a Lead Paint Inspector or Risk Assessor certified pursuant to 105 CMR 460.000: *Lead Poisoning Prevention and Control* has made a determination that the surfaces affected by the Renovation are free of paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams per square centimeter or 0.5% by weight and where the entity performing the work has obtained a signed statement to that effect; or
2. Renovation Work for which a Certified Lead-safe Renovator-supervisor, using a Recognized Test Kit, as specified by 40 CFR Parts 745.83 and 745.88, and following the Kit manufacturer's instructions, has tested each component affected by the Renovation in accordance with protocols taught in the training course for Certification of Lead-safe Renovator-supervisors and determined that the components are free of paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams per square centimeter or 0.5% by weight. If the components make up an integrated whole, such as would the individual stair treads and risers of a single staircase, the Certified Lead-safe Renovator-supervisor is required to test only one of the individual components, unless the individual components appear to have been repainted or refinished separately.

Where the testing specified by 454 CMR 22.11(1)(a) 1. or 2. has not been carried out, work that results in the disturbance of greater than six square feet of painted surface per room on the interiors of buildings, or greater than 20 square feet of painted surface on the exterior of a building, or involves window replacement or partial demolition of painted surfaces shall be carried out as Renovation Work in accordance with 454 CMR 22.11(1). Where, in accordance with 454 CMR 22.11(1)(a)1., a Lead Paint Inspector or Risk Assessor has made the determination that the surfaces affected by the Renovation are free of paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams per square centimeter or 0.5% by weight, the Deleader-contractor, Lead-safe Renovation Contractor or other entity performing the work shall maintain a signed statement to that effect as a record pursuant to 454 CMR 22.13(2)(c). Where the Lead-safe Renovator-supervisor assigned to the Renovation Project makes the determination specified at 454 CMR 22.11(1)(a)2., the results of such testing, including a schematic or a description of the locations where testing was performed, shall be maintained as a record pursuant to 454 CMR 22.13(2)(c).

(b) Requirement for the Use of Licensed Contractors. All Renovation Work shall be carried out by Lead-safe Renovation Contractors who have been licensed in accordance with 454 CMR 22.03(3) and 22.04, except that persons, firms, corporations or other entities who are in possession of a current, valid Contractor Licensing Waiver issued pursuant to 454 CMR 22.04(3) may carry out Renovation Work without being licensed, provided that the requirements of 454 CMR 22.11(1)(c) and (d) are met; and the work is otherwise conducted in accordance with the applicable requirements of 454 CMR 22.00.

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(c) Responsibilities of Lead-safe Renovation Contractors. The Responsible Person(s) of the Licensed Lead-safe Renovation Contractor, or other entity carrying out Renovation Work shall ensure that:

1. All individuals performing Renovation Work on behalf of the Contractor or entity are Responsible Persons or employees of said Contractor or entity.
2. All individuals performing Renovation Work on behalf of the Contractor or entity are Certified Lead-safe Renovator-supervisors, Licensed Deleader-supervisors in the capacity of workers, Licensed Deleader-workers or workers who have been trained in accordance with 454 CMR 22.08(4)(i).
3. All Renovation Work is performed in accordance with the work practice requirements of 454 CMR 22.11(1)(i).
4. The pre-renovation notification requirements of 454 CMR 22.11(1)(h) are met.
5. The recordkeeping requirements of 454 CMR 22.13(2) are met.
6. A person who is Certified as a Lead-safe Renovator-supervisor is assigned to every Renovation Project, and the functions and requirements specified at 454 CMR 22.11(4) are complied with.

(d) Responsibilities of Certified Lead-safe Renovator-supervisors at Renovation Worksites. The Supervisor assigned to the Renovation Project in accordance with 454 CMR 22.03(4) and 454 CMR 22.11(1)(d)6. shall:

1. Carry out, or sufficiently oversee workers in the performance of, the work practices specified by 454 CMR 22.11(1)(a) to ensure compliance with the same.
2. Provide on-the-job training to workers in the work practices they will be using in performing their assigned tasks.
3. Be physically present at the work site and in control of the work at all times when Renovation Work is in progress.
4. In the absence of testing carried out by a Licensed Inspector or Risk Assessor, use a Recognized Test Kit to determine the presence of lead on components that would be affected or disturbed during Renovation Work or assume that all components that would be disturbed by the Renovation Work contain or are covered by paint or other materials containing Dangerous Levels of Lead.
5. Perform the visual clearance and cleaning verification required by 454 CMR 22.11(1)(a)8.

(e) Exemption from Licensing and Certification Requirements for Persons Performing Renovation Work in the Capacity of Workers. Workers who participate in Renovation Work under the direct supervision of a Certified Lead-safe Renovator-Supervisor need not be Licensed or Certified, provided that all persons participating in said Renovation Work in the capacity of workers have received the training specified by 454 CMR 22.08(4)(a) and the OSHA Lead In Construction Standard at 29 CFR 1926.62(l).

(f) Prohibition on the Use of Minors. No person younger than 18 years old shall be employed to work on any Renovation Project.

(g) Personal Protection and Hygienic Precautions. The employer or other entity carrying out Renovation Work shall provide medical monitoring and personal protective equipment to employees, as specified by 454 CMR 22.09. No person shall eat, drink, smoke, chew gum or tobacco, or apply cosmetics in any Work Area.

(h) Distribution of Lead Hazard Information. Persons or entities who carry out Renovation Work shall comply with all the requirements of 40 CFR 745.84 pertaining to the distribution of the specified lead hazard information.

(i) Work Practice Requirements.

1. Prohibited Practices. The following work practices shall be prohibited:
  - a. Open flame burning or torching of painted surfaces.
  - b. The use of power operated equipment on painted surfaces to remove paint through high-speed sanding, grinding, planing, impacting, blasting or abrading, except where such power tools are equipped with HEPA-filtered exhaust ventilation.
  - c. The use of heat guns that operate at temperatures at or above 1,100° F on painted surfaces [ref 40 CFR Part 745.85].

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2. Exclusion of Personnel. Access to the Work Area shall be limited to persons directly engaged in carrying out the work, emergency response personnel, consultants carrying out work within the scope of their authority and inspectors operating under their own jurisdiction. Limitations on access to the Work Area shall be in place at all times when work is in progress and until such time as the standards for post-renovation cleaning verification set forth at 454 CMR 22.11(1)(i)8. are met. The Contractor is not required to employ the use of a sign in/out log to ensure the exclusion of unauthorized persons from accessing the Work Area as would be required on a Deleading Project. However, the use of a sign in/out log is one means of documenting compliance with 454 CMR 22.00.
3. Signs. Signs, barriers or other appropriate means necessary to effect the security of the Work Area shall be used. To the extent practicable, signs shall be in the primary language of the occupants. Signs shall be posted before the commencement of the Renovation Work and remain in place until the standards for post-renovation cleaning verification set forth at 454 CMR 22.11(1)(i)8. are met. Warning signs shall meet the standards set forth at 29 CFR 1926.62(m).
4. Work Practices for Interior Renovations.
  - a. Shutdown and Isolation of HVAC Systems. Where the Work Area of the facility being renovated is serviced by a forced air heating, ventilation or air conditioning system (HVAC), said system shall be shut down, and all ducts opening into the Work Area shall be covered with plastic sheeting or other impermeable material to form a dust-tight seal, prior to the commencement of the work.
  - b. Removal of Movable Objects. All movable objects which may be contaminated by lead dust or debris from the work activity shall be removed from the Work Area.
  - c. Covering of Non-movable Objects. All non-movable or fixed objects remaining within the Work Area shall be sufficiently covered with plastic sheeting taped down to form a dust-tight seal, so as to prevent their contamination for the duration of the Renovation Project.
  - d. Isolation and Containment of the Work Area. The Work Area shall be sufficiently isolated from adjacent interior spaces of the dwelling by plastic sheeting, or other appropriate impermeable material, to prevent contamination of said adjacent spaces. The integrity of the containment shall be maintained throughout the course of Renovation Work until such time as the standards for post-renovation cleaning verification set forth at 454 CMR 22.11(1)(a)8. are met. Work area containments shall not be installed in such a manner as to interfere with occupant or worker egress in the event of an emergency.
  - e. Doors and Windows. Doors in the Work Area that are not used to access the Work Area shall be closed and covered with plastic sheeting secured with tape or sealed around the edges, to form a dust-tight seal. Windows in the Work Area shall be closed and covered with plastic sheeting secured with tape to form a dust-tight seal. Doors used as entrances to the Work Area shall be covered in such a manner as to allow workers to pass through, while confining dust and debris to the Work Area.
  - f. Covering of Floor Surfaces. The surfaces of floors shall be covered with plastic sheeting in all instances except those where the floor itself is included in the Renovation operation. The plastic sheeting shall extend a minimum of six feet beyond the perimeter of surfaces being renovated or a sufficient distance to contain the dust, whichever is greater.
5. Requirements for Exterior Renovations.
  - a. Closing of Doors and Windows. Where Renovation Work involves the disturbance of lead paint, lead-painted structures or lead paint debris on the side of a building, all doors and windows within a horizontal distance of 20 feet from the area where the work is taking place, on the same floor, and on all floors below, shall be closed for the duration of the work.
  - b. Covering of Plants and Ground. The ground and any plants or shrubs in the area in which exterior lead paint removal or other work which disturbs exterior lead paint or paint debris is taking place shall be covered with a tarpaulin, plastic sheeting or other appropriate impermeable material. Said covering shall extend en feet from the surfaces undergoing Renovation, or a sufficient distance to collect any and all falling paint debris, whichever is greater.

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- c. Prevention of Remote Contamination. Exterior Renovation Work shall be conducted so as to confine any generated lead dust or debris to the Work Area, and in no case shall said project be equipped and operated so as to permit the migration of generated lead dust or debris to an abutting property. Barriers, containments and engineering controls may be employed to comply with this requirement.
- d. Material Disposition. Paint chips or other materials containing Dangerous Levels of Lead generated during work operations shall not be allowed to fall distances in excess of 40 feet, except where such transfer of lead-containing materials takes place in dust-tight chutes or enclosures.
- e. Vertical Containment. If the renovation will affect surfaces within ten feet of the property line, vertical containment shall be erected to ensure that dust and debris from the renovation does not contaminate adjacent buildings or migrate to adjacent properties. Vertical containment may also be necessary in other situations, such as in windy conditions, or order to prevent contamination of other buildings, other areas of the property, or adjacent buildings or properties.
6. Clean-up Requirements. All interior and exterior surfaces which may have become contaminated with lead dust or debris, and all tools and equipment used during work operations, shall be cleaned of all paint chips, dust, debris and other residue at the conclusion of the project. Acceptable cleaning methods shall include HEPA-filtered vacuuming, wet wiping or washing with solutions of tri-sodium phosphate or any general household detergent and other forms of low-disturbance mechanical transfer. Non-HEPA-equipped vacuums shall not be used. Dry sweeping and compressed air release shall not be employed as cleaning methods.
  - a. When vacuuming carpets and rugs, the HEPA-vacuum shall be equipped with a beater bar.
  - b. Plastic sheeting and other barriers that separate the Work Area from other areas shall remain in place until all other areas of the Work Area have been thoroughly cleaned of all dust and debris, and the requirements of 454 CMR 22.11(1)(i)8. have been met.
  - c. Interior horizontal surfaces shall be cleaned by HEPA-vacuuming followed by wet wiping or mopping. Vertical surfaces shall be cleaned by HEPA-vacuuming or by wet wiping.
  - d. The Work Area and any other areas exposed to lead dust, paint chips or lead-contaminated debris from the Work Area shall be cleaned of all such visible contamination at the end of each day. All lead-contaminated materials shall be securely contained in the Work Area or disposed of according to applicable EPA and DEP regulations.
  - e. All equipment used in Renovation Work shall be thoroughly cleaned of visible dust and debris prior to removal from the Work Area.
  - f. At the conclusion of a Renovation Project, all surfaces within the Work area shall be cleaned to the level of no visible dust and debris using HEPA-vacuuming, mopping, washing or a combination of these methods.
7. Waste Disposal. The preparation, transportation and disposal of waste material containing lead shall be carried out in accordance with applicable EPA, DOT and DEP regulations. Plastic sheeting used during the Renovation Work shall be disposed of as waste at the conclusion of each Renovation Project. Tarpaulins used to satisfy the requirement for covering of plants and ground at 454 CMR 22.11(1)(i)5.b. may only be re-used for other exterior work after they are cleaned of all visible dust and debris by HEPA-vacuuming or the use of wet cleaning methods. Said tarpaulins shall not subsequently be used for interior Renovation Work in Target Housing or Child-occupied Facilities.
8. Post Cleaning Verification. At the conclusion of Renovation Work and before plastic sheeting and other barriers that separate the Work Area from other areas are removed, a Certified Lead-safe Renovator-supervisor assigned to the Project shall:
  - a. Carry out the procedures for post renovation cleaning verification set forth in 454 CMR 22.92: *Appendix 2* and ensure that the Work Area meets the associated standard for cleaning set forth in 454 CMR 22.92: *Appendix 2*; or

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b. Ensure that the Work Area passes the Lead Dust Monitoring levels set forth at 105 CMR 460.170: *Lead Dust Monitoring*. Dust wipe testing as prescribed by 105 CMR 460.170: *Lead Dust Monitoring* and associated dust wipe protocols may be used for post clearance verification, in *lieu* of the method set forth in 454 CMR 22.92: *Appendix 2*. Where dust wipe testing is used, it shall be carried out as prescribed by 105 CMR 460.170: *Lead Dust Monitoring* and the associated dust wipe protocols of CLPPP, and the Work Area will be considered to have passed clearance when it has met the criteria set forth at 105 CMR 460.170(B).

9. Activities Conducted After Post-renovation Cleaning Verification. Activities that do not disturb paint, such as applying paint to walls that have already been prepared, are not regulated by 454 CMR 22.11 if they are conducted after post-renovation cleaning verification has been performed and if they do not result in the disturbance of painted surfaces.

22.12: Work Practices and Other Requirements for Deleading Projects

(1) Requirements for Class I Deleading Projects. Persons, firms, corporations or other entities who conduct Class I Deleading Projects and the Deleader Supervisor required to be on-site by 454 CMR 22.12(1)(a)2. shall ensure that said Project is arranged, equipped and operated in a manner that complies with the requirements of 454 CMR 22.12, any other applicable section of 454 CMR 22.00, 105 CMR 460.000: *Lead Poisoning Prevention and Control* and any other applicable Massachusetts regulation.

(a) General Requirements.

1. Requirement for Performance by Licensed Deleading Contractor. Except as allowed by M.G.L. c. 111, § 197(d), Class I Deleading Projects shall be conducted by Deleading Contractors licensed pursuant to 454 CMR 22.04.
2. Requirement for On-site Deleader-supervisor. A person who is licensed as a Deleader Supervisor pursuant to 454 CMR 22.05 and who is an employee or Responsible Person of the business entity which entered into the Class I Deleading Work shall be physically present at the Work Area and in control of all Deleading Work being performed therein at all times when said Work is in progress.
3. Requirement for Use of Licensed Workers. Persons who perform Class I Deleading Work under the direction of the Deleader-supervisor required to be on-site by 454 CMR 22.12(1)(a)2. shall be employees or Responsible Persons of the business entity which entered into the Class I Deleading Work and licensed as Deleader-supervisors or as Deleader-workers pursuant to 454 CMR 22.05.
4. Required Deleading Notification. No Class I Deleading Work shall take place until notice has been given to the Department, as required by 454 CMR 22.10.
5. Hygienic Precautions. The Deleading Contractor and Deleader-supervisor shall not permit anyone to eat, drink, smoke, chew gum or tobacco, or apply cosmetics in the Work Area or changing area.
6. Material Disposition. Paint chips or other materials containing Dangerous Levels of Lead generated during Deleading Work shall not be allowed to fall distances in excess of 40 feet, except where such transfer of lead-containing materials takes place in dust-tight chutes or enclosures.
7. Prevention of Remote Contamination. All Deleading Work performed on any structure shall be arranged, equipped and operated in a manner which eliminates the possibility of lead contaminants or lead-contaminated materials escaping from the Work Area.
8. Methods of Paint Removal. Only the methods of paint removal specified by 105 CMR 460.120: *Removal and Making Intact Lead-based Paint and Other Coatings* shall be permissible for the removal of lead-based paint.
9. Ground Fault Circuit Interrupter (GFCI) Protection. All electrical circuits supplying power tools or equipment used in connection with Deleading Work shall be ground fault circuit interrupter-protected.

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10. Sign In/Out Log. The Deleading Contractor or other entity carrying out a Class I Deleading Project shall ensure that each person entering or leaving the Work Area individually completes the appropriate entries in a sign in/out log. The sign in/out log shall include: the location of the project; current date; printed name; signed name; Massachusetts License number, where applicable; and the time of each entry or exiting.
- (b) Work Area Preparation. Prior to commencing a Class I Deleading Project, the Deleading Contractor and Deleader-supervisor shall ensure that the following steps are taken:
  1. Restriction of Access. Access to the Work Area shall be restricted to the Owner, deleaders, licensed lead paint inspectors, representatives of the Director, and any others authorized by the Director. Signs warning that Deleading Work is being conducted shall be posted at all approaches to the Work Area. Such signs shall include the words "WARNING: LEAD PAINT REMOVAL HAZARD" in bold lettering not smaller than two inches tall, with additional language prohibiting entrance to the Work Area by unauthorized personnel. The Deleading Contractor and Deleader-supervisor shall use barriers or other appropriate means to secure the Work Area.
  2. Isolation of Interior Work Areas. Interior Work Areas shall be isolated from other areas of the Residence by sealing all openings, including but not limited to, windows (where they are not to be abated), doors, ventilation openings, drains, grilles and grates with plastic sheeting with a minimum thickness of six mils and duct tape or the equivalent. Entrances to the Work Area shall be sealed by constructing air locks as follows: one sheet of plastic sheeting of sufficient size to fully cover the entrance shall be taped along the upper edge of the top of the entrance and allowed to hang freely. A second sheet of plastic of comparable size shall be taped over the first so as to be outermost from the Work Area with respect to the first. The second sheet shall be taped on all four sides and slit vertically in the middle to allow a person to walk through.
  3. Isolation of Forced-air Systems. Forced-air systems which are exposed to the Work Area shall be shut down, locked out and isolated to prevent lead contamination and lead dust dispersal to spaces outside of the Work Area.
  4. Covering/Removal of Objects. All movable objects in the Work Area shall be removed or covered in such a manner as to ensure that the objects are not contaminated by lead dust or other lead contaminated materials. Objects remaining in the Work Area shall be wrapped or covered with plastic sheeting with a minimum thickness of six mils, and shall be sealed with duct tape or the equivalent.
  5. Covering of Floors. Except as allowed by 454 CMR 22.12(1)(b)5.a. and b., floors of rooms in the Work Area shall be covered with two layers of plastic sheeting with a minimum thickness of six mils. The edges of said floor coverings shall be securely taped with duct tape or its equivalent, so as to prevent leakage.
    - a. Where lead paint is to be removed from floor surfaces, the requirement for covering of floor surfaces is exempted.
    - b. A tarpaulin or another impermeable covering may be used in place of plastic sheeting where the use of the latter would create slipping hazards, *e.g.*, around ladders.
  6. Installation and Use of Change Area. A change area which is equipped with separate storage facilities for protective work clothing, equipment, and for street clothes shall be provided and used. The walls and floor of said clean change area shall be covered with plastic sheeting with a minimum thickness of six mils. The changing area shall be adjacent to the Work Area. No person shall exit the changing area to enter the Work Area unless they are equipped in conformance with 454 CMR 22.09. No contaminated person shall exit the Work Area unless such person has removed their protective clothing, gloves, boot or shoe covers, and respirator, nor shall a person in any other way cause lead contaminants to enter a non-work area.
  7. Covering of Doors and Windows. Where exterior lead paint removal is performed, doors and windows on the side of the building being delead on the same floor where work is taking place and all floors below, shall be closed and covered with plastic sheeting with a minimum thickness of six mils.

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8. Covering of Plants and Ground. The ground and all plants or shrubs in the areas where exterior Deleading Work is performed shall be covered with a tarpaulin or plastic sheeting with a minimum thickness of six mils. Such covering shall cover from the side of the structure to a point at least ten feet away from the structure or a sufficient distance to collect any and all falling paint debris, whichever is greater. The covering shall be taped or otherwise securely attached to the side of the structure.

(c) Clean-up.

1. Interior. The Deleading Contractor and Deleader-supervisor shall ensure that the Work Area and any other areas exposed to lead dust or lead-contaminated debris from the Work Area are cleaned of all such visible contamination at the end of each day. All lead-contaminated materials shall be securely contained in the Work Area or disposed of according to applicable EPA and DEP regulations. The final clean-up shall be performed by the Deleading Contractor no sooner than two hours after the completion of active abatement and/or containment activities, including, without limitation, all sanding and any other dust-generating surface preparation necessary for encapsulation, repainting or sealing. At the end of each Deleading Project the cleaning shall include, but not be limited to:
  - a. Vacuuming all surfaces with a HEPA- filtered vacuum cleaner;
  - b. Disposing of all plastic sheeting and debris; and
  - c. Mopping or washing all surfaces with a solution of tri-sodium phosphate or any general household detergent.

Until the conclusion of the final clean-up, the Deleading Contractor and Deleader-supervisor shall ensure that access to the Work Area is restricted to only those persons to whom access is allowed by 454 CMR 22.12(1)(b)1. and that all Work Area barriers required by 454 CMR 22.12(1)(b)2. remain in place.

2. Equipment. All equipment used in Deleading Work shall be thoroughly cleaned with a solution of tri-sodium phosphate or any other household detergent or vacuumed with a HEPA-filter vacuum prior to removal from the Work Area.
3. Clothing. All clothing used during the Deleading Work shall be secured in leak-proof containers prior to removal from the Work Area.
4. Exterior. The Work Area shall be cleaned of lead paint chips and other debris generated by the Deleading Work at the end of each work day. Any debris shall be completely removed and disposed of in accordance with applicable EPA and DEP regulations.

(d) Disposal.

1. All dry, lead-contaminated materials without sharp edges shall be containerized in double-thickness plastic bags with a minimum thickness of six mils and then sealed, before being removed from the Work Area. Dry contaminated materials with sharp edges shall be containerized in fiber, plastic or metal drums, or in plastic-lined boxes, in accordance with applicable EPA, DOT and DEP regulations before being removed from the Work Area. Water-saturated, lead-contaminated materials shall be containerized in plastic or metal drums before being removed from the Work Area.
2. Lead-contaminated soil shall be disposed of in accordance with applicable DEP requirements.

(e) Lead Dust Monitoring Requirements. Where lead dust monitoring is required by 105 CMR 460.170: *Lead Dust Monitoring*, the Deleading Contractor and Deleader-supervisor shall ensure that the Work Area is repeatedly cleaned at the conclusion of the Deleading Work until the lead dust clearance monitoring requirements of 105 CMR 460.170: *Lead Dust Monitoring* are met.

(f) Declaration of Performance. Following satisfaction of the lead dust monitoring requirements of 105 CMR 460.170: *Lead Dust Monitoring*, the Licensed Deleader-supervisor who carried out the work shall submit a signed statement to the Inspector or Risk Assessor who performs the reinspection required by 105 CMR 460.760: *Reinspection and Full Compliance*. Said signed statement, which shall include the Deleader-supervisor license number and its expiration date, the Deleading Contractor license number and its expiration date, a description of the work performed and a statement that the work was performed in accordance with the applicable requirements of 454 CMR 22.00 and 105 CMR 460.000: *Lead Poisoning Prevention and Control*, shall be maintained as a record by the Deleading Contractor pursuant to 454 CMR 22.13(1)(e).

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(2) Requirements for Moderate-risk Deleading Projects. Moderate-risk Deleading Work shall be conducted in accordance with the requirements of 454 CMR 22.12(2) and other applicable sections of 454 CMR 22.00 and 105 CMR 460.000: *Lead Poisoning Prevention and Control*.

(a) General Requirements.

1. Requirement for Prior Inspection. Persons carrying out Moderate-risk Deleading Work shall ensure that said work has been inspected and designated eligible for Moderate-risk Deleading by a licensed Inspector or Risk Assessor pursuant to the relevant provisions of 105 CMR 460.000: *Lead Poisoning Prevention and Control* prior to engaging in said work.
2. Licensing Requirements. Except for Renovation Work carried out by Owners and Owners' Agents, who are allowed by M.G.L. c. 111, § 197(d) to perform Deleading Work in accordance with regulations promulgated by the Director of CLPPP without being licensed pursuant to 454 CMR 22.00, all Moderate-risk Deleading Work shall be carried out by Deleading Contractors or Lead-safe Renovation Contractors. Where a Lead-safe Renovation Contractor carries out Moderate Risk Deleading Work, said work shall be supervised and/or performed by a Deleader Supervisor or a Lead-safe Renovator-supervisor who has received the training specified by 454 CMR 22.03(2) and 22.08(4)(e).
3. Requirement for On-site Supervisor. Persons carrying out Moderate-risk Deleading Work shall ensure that a person who is Licensed as a Deleader-supervisor, or a person who is Certified as a Lead-safe Renovator-supervisor and has received the training specified by 454 CMR 22.03(2) and 454 CMR 22.08(4)(e), and who is an employee or Responsible Person of the business entity which entered into the Moderate-risk Deleading Work, is physically present at the Work Area and in control of all Moderate-risk Deleading Work at all times when said Work is in progress.
4. Requirement for Use of Licensed or Certified Workers. All persons who perform Moderate-risk Deleading Work under the direction of a Deleader-supervisor or a Lead-safe Renovator-supervisor shall be licensed as Deleader-workers or certified as Lead-safe Renovator-supervisors pursuant to 454 CMR 22.05 or 22.06 and shall be employees or Responsible Persons of the business entity which entered into the Moderate-risk Deleading Work.
5. Restrictions On Presence of Persons in the Work Area. Access to the Work Area shall be restricted to the Owner, licensed deleaders, licensed Inspectors, Lead-safe Renovator-supervisors, representatives of the Director, and any others authorized by the Director. Signs warning that Deleading Work is being conducted shall be posted at all approaches to the Work Area. Such signs shall include the words "WARNING: LEAD PAINT REMOVAL HAZARD" in bold lettering not smaller than two inches tall, with additional language prohibiting entrance to the Work Area by unauthorized personnel. The contractor or supervisor shall use barriers or other appropriate means as necessary to secure the Work Area.
6. Limitations on Scope of Activities. Any Deleading Work, conducted as a Moderate-risk Deleading Project, but which exceeds the scope of the work previously designated as "Moderate-risk Deleading Work" pursuant to 454 CMR 22.12 (2)(a)1. or which is undertaken by persons who are not licensed or certified as required by 454 CMR 22.12(2)(a)2. through 4., shall be considered unauthorized deleading under 454 CMR 22.00 and subject to all the penalties thereof.
7. Required Deleading Notification. No Moderate-risk Deleading Work shall take place until notice has been given to the Department and others, as set forth at 454 CMR 22.10.
8. Sign In/Out Log. The Deleading Contractor or other entity carrying out a Moderate Risk Deleading Project shall ensure that each person entering or leaving the Work Area individually completes the appropriate entries in a sign-in/out log. The sign in/out log shall include: the location of the project; current date; printed name; signed name; Massachusetts License number, where applicable; and the time of each entry or exiting.

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(b) Work Practice Requirements.

1. General. Persons or entities undertaking Moderate-risk Deleading Work shall carry out said Work in accordance with the work practices specified at 454 CMR 22.11(9)(a) through (g), the applicable work practices specified at 105 CMR 460.120: *Removal and Making Intact Lead-based Paint and Other Coatings*, 460.130: *Containment Using Approved Coverings*, 460.135: *Containment Using Encapsulants* and 460.140: *Removing and Replacing Components and Fixtures*, with the exception of the practices specified at 105 CMR 140.120(C), and as otherwise directed by the Director.
2. Hygienic Precautions. No person shall eat, drink, smoke, chew gum or tobacco, or apply cosmetics in any Work Area.
3. Worksite Cleanup Requirements. Following the completion of Moderate-risk Deleading Work, the Deleading Contractor, Lead-safe Renovation Contractor or other person or entity who conducted the work shall clean the worksite of visible dust and debris, in accordance with 454 CMR 22.11(9)(f) and 105 CMR 460.160(D): *Clean-up*.
4. Lead Dust Monitoring Requirements. Where lead dust monitoring is required by 105 CMR 460.170: *Lead Dust Monitoring*, the Deleading Contractor, Lead-Safe Renovation Contractor or other persons or entities undertaking Moderate-Risk Deleading Work shall, at the conclusion of the Work, ensure that the lead dust clearance monitoring requirements of 105 CMR 460.170: *Lead Dust Monitoring* are met.
5. Declaration of Performance. Following satisfaction of the lead dust monitoring requirements specified by 454 CMR 22.12(2)(b)4., the Licensed Deleader-supervisor or Certified Lead-safe Renovator Supervisor who carried out the work shall submit a signed statement to the Inspector or Risk Assessor who performs the reinspection required by 105 CMR 460.760: *Reinspection and Full Compliance*. Said signed statement, which shall include the license or certification number of the Deleader-supervisor or Lead-safe Renovator-supervisor and its expiration date, the number of the Deleading Contractor or Lead-safe Renovation Contractor license and its expiration date, a description of the work performed and a statement that the work was performed in accordance with the applicable requirements of 454 CMR 22.00 and 105 CMR 460.000: *Lead Poisoning Prevention and Control*, shall be maintained as a record pursuant to 454 CMR 22.13(1)(e).

(3) Requirements for Low-risk Deleading Projects.

- (a) Requirement for Low-risk Designation. Persons who carry out Low-risk Deleading Work shall ensure that said work has been inspected and designated eligible for low-risk "Owner and Owner's Agent Abatement" by a licensed Inspector or Risk Assessor pursuant to 105 CMR 460.175(A) and 460.750: *Notice of Results of Inspections, Risk Assessments, Reinspections, Post-compliance Assessments and Lead Determination Enforcement Procedures* prior to engaging in such work.
- (b) Training and Certification Requirements. Low-risk Deleading Work shall only be carried out by persons who have completed the training specified by 105 CMR 460.175(D) and have obtained the certificate of instruction pursuant to 105 CMR 460.175(E): *Certificate of Instruction*.
- (c) Limitations on Scope of Activities. Any abatement and/or containment activities performed by Owners, Owners' Agents, unlicensed contractors and others that exceed the scope of activities authorized by 105 CMR 460.175(A), or which are undertaken by persons who have not completed all training required by M.G.L. c. 111, § 197(d) and 105 CMR 460.175(D) or obtained a certificate of instruction pursuant to 105 CMR 460.175(E): *Certificate of Instruction*, shall be considered unauthorized deleading under 454 CMR 22.00 and subject to all the penalties thereof.

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(d) Work Practice and Health and Safety Requirements. Persons or entities undertaking Low-Risk Deleading Work shall conduct such work in accordance with the work practice and health and safety requirements specified in the applicable sections of 105 CMR 460.000: *Lead Poisoning Prevention and Control*, including but not limited to 460.105: *Lead Violations: The Emergency Lead Management Plan and Interim Control*, 460.130: *Containment Using Approved Coverings*, 460.140: *Removing and Replacing Components and Fixtures*, 460.160: *Safety Precautions and Clean-up Procedures in Areas Undergoing Deleading and Interim Control Work*, 460.170: *Lead Dust Monitoring* and 460.175: *Low- and Moderate-risk Abatement and Containment* and as otherwise directed by the Director of CLPPP.

22.13: Recordkeeping Requirements

(1) Deleading Projects Carried out by Deleading Contractors, Including Moderate Risk Deleading Projects Carried out by Lead-safe Renovation Contractors. Deleading Contractors and Lead-safe Renovation Contractors shall maintain the records listed at 454 CMR 22.13(1)(a) through (e), and shall present such records to the Director, or his or her representative, upon request. Records required to be kept by 454 CMR 22.13(1)(a) through (c) shall be kept on-site. All other records required to be kept by 454 CMR 22.13(1) shall be kept at the principal place of business of the Deleading Contractor or Lead-safe Renovation Contractor. Deleading Contractors and Lead-safe Renovation Contractors whose principal place of business is outside the Commonwealth shall present the records listed at 454 CMR 22.13(1)(d) and (e), or notarized copies of the same, within five business days of the Director's request.

- (a) Copies of all Deleading and Lead-safe Renovation Licenses required to be held by said contractor and members of his or her workforce.
- (b) Copies of Training Certificates for all members of his or her deleading workforce. Where a Lead-safe Renovation Contractor carries out Moderate Risk Deleading Work, as allowed by 454 CMR 22.03(2)(b), the Training Certificates maintained shall include a Training Certificate for the supervisor who supervised each such Moderate Risk Deleading Project, which shall indicate that each such supervisor was trained as a Deleader-supervisor, as specified by 454 CMR 22.08(4)(c) and (f), as applicable, or as Lead-safe Renovator-supervisor Moderate Risk Deleading Option, as specified by 454 CMR 22.08(e) and (f), as applicable.
- (c) The sign in/out logs required by 454 CMR 22.12(1)(a)10. and (2)(a)8., as applicable.
- (d) Copies of all medical documents required by 454 CMR 22.09 or 29 CFR 1926.62, including physicians' statements, the results of all physical examinations, blood lead level and respirator fit tests and any other medical documentation required by 29 CFR 1926.62.
- (e) Copies of all notification forms as required by 454 CMR 22.10, results of tape tests, patch tests, and all personal and environmental air and dust wipe monitoring, all declarations of performance required by 454 CMR 22.12(1)(f) and (2)(b)5., and a list of the names of all deleaders or renovators who were involved in each operation.

(2) Renovation Projects Carried out by Lead-safe Renovation Contractors. Lead-safe Renovation Contractors carrying out Renovation Projects shall maintain the records listed at 454 CMR 22.13(2) and shall present such records to the Director, or his or her representative, upon request. Records required to be maintained by 454 CMR 22.13(2)(a) through (c) shall be kept on-site. All other records required to be kept by 454 CMR 22.13(2) shall be kept at the principal place of business of the Lead-safe Renovation Contractor. Lead-safe Renovation Contractors whose principal place of business is outside the Commonwealth shall present the records listed at 454 CMR 22.13(2)(d) and (e), or notarized copies of the same, to the Department, within five business days of the Director's request.

- (a) Copies of all Licenses required to be held by said Lead-safe Renovation Contractors and Deleading Contractors, Deleader-supervisors and Deleader Workers carrying out Renovation Work.
- (b) Copies of all Certifications (training certificates) required to be held by Lead-safe Renovator-supervisors carrying out Renovation Work.

22.13: continued

(c) Records related to lead paint testing. Records shall include, where applicable:

1. All applicable reports of lead testing conducted by Lead Paint Inspectors or Risk Assessors licensed pursuant to 105 CMR 460.000: *Lead Poisoning Prevention and Control*, including all certifications that lead-based paint is not present on the components affected by the Renovation Work, as referenced at 454 CMR 22.11(1)(a)1.
2. All results of lead testing conducted by the Certified Lead Safe Renovator-supervisor assigned to the project who has used a Recognized Test Kit to determine the presence of lead-based paint or paint debris in or on components that would be disturbed by the Renovation Work, as referenced at 454 CMR 22.11(1)(a)2. When test kits are used, the Lead-safe Renovation Contractor or Deleading Contractor must, within 30 days of the completion of the renovation, provide information identifying the manufacturer and model of the test kits used, a description of the components that were tested including their locations, and the test kit results to the person who contracted for the renovation, and the property owner.
3. Copies of records regarding any collection of paint chip samples, including a description of the components that were tested, including their locations, the name and address of the NVLAP recognized entity performing the analysis, and the results of each sample [ref 40 CFR 745.86(b)(1)(iii)].

(d) Records relating to compliance with the lead hazard information distribution requirements specified by 454 CMR 22.11(1)(h) and 40 CFR 745.84, including the applicable records required to be kept by 40 CFR 745.86(b)(2) through 745.86(b)(5).

(e) Records Relating to Compliance with Work Practices.

1. A written certification that a Lead-safe Renovator-supervisor was assigned to the Project, provided oversight for the work and, where applicable, performed the post-renovation cleaning verification specified by 454 CMR 22.11(1)(i)8.a. and 454 CMR 22.92: *Appendix 2*. This documentation shall include a copy of the training certificate of the Lead-safe Renovator-supervisor.
2. A written certification by the Lead-safe Renovator-supervisor assigned to the Project that includes the elements specified at 40 CFR 745.86(b)(6).
3. If dust clearance sampling is performed in *lieu* of cleaning verification as permitted by 454 CMR 22.11(1)(i)8.b., the Lead-safe Renovation Contractor or Deleading Contractor must retain said results as a record and provide, within 30 days of the completion of the Renovation, a copy of the dust sampling report to the person who contracted for the Renovation, and the property owner.
4. If the Lead-safe Renovation Contractor or Deleading Contractor was unable to comply with all of the requirements of this rule due to the work being carried out as an Emergency Renovation as defined in 454 CMR 22.02, the firm must document the nature of the emergency and the provisions of the rule that were not followed and maintain this documentation as a record.

(3) Licensed Providers of Deleading and Lead-Safe Renovation Training. Licensed Training Providers shall establish and maintain the records required by 454 CMR 22.07(6)(c) and shall make such records and documents available to the Director upon request. Licensed Training Providers whose principal place of business is outside Massachusetts shall provide notarized photocopies of such records within ten business days of receipt of a written request from the Director.

(4) Record Retention. Records and documents required by 454 CMR 22.13 shall be retained for a period of ten years. Entities or persons ceasing to do business shall so notify the Director in writing within 30 calendar days of such event. The Director, on receipt of such notification, may instruct that the records be surrendered to the Department, or may specify a repository for such records.

22.14: Cease Work Orders, Responsibility for Compliance, Penalties

- (1) Cease-work Orders. The Director or his or her representative may issue an immediately effective cease work order to any person whose activities are subject to 454 CMR 22.00 and who violates the terms or conditions of any Certificate or License issued, any work practice required under 454 CMR 22.00 or M.G.L. c. 111, §§ 189A through 199B, or any regulation or order issued thereunder, if such violation will endanger or materially impair the health or well being of any occupant of a residence, Inspector, deleader or any person employed in performing Renovation or Deleading Work.
- (2) Responsibility for Compliance. All business entities, Responsible Persons, Deleading Contractors, Deleader-supervisors, Deleader-workers, Lead-safe Renovation Contractors, Lead-safe Renovator-supervisors, and any other individuals performing work subject to the requirements of 454 CMR 22.00 shall be responsible for compliance with the provisions thereof.
- (3) Penalties. Any entity or person who violates the provisions of 454 CMR 22.00 shall be subject to the administrative sanctions specified in 454 CMR 22.00 and any fines or penalties allowed pursuant to M.G.L. c. 111, § 197B(f) and M.G.L. c. 149, § 6.

22.15: Administrative License and Certification Actions - Denial, Revocation, Suspension or Refusal to Renew a License or Certificate; Civil Administrative Penalties

- (1) General Administrative Proceedings. The Director may deny, revoke, suspend or refuse to renew a license or certificate issued pursuant to 454 CMR 22.00 upon finding of sufficient cause. License or certificate applicants or holders shall be advised by the Director in writing of the proposed denial, revocation, suspension or refusal to renew and the reasons therefore. Said parties shall have the right to appeal the Director's determination through an administrative hearing in accordance with the provisions of M.G.L. c. 30A and 801 CMR 1.00: *Standard Adjudicatory Rules of Practice and Procedure* by submitting to the Director a written request for such hearing within 14 calendar days of the date of the notice of such administrative action.
- (2) Sufficient Cause. The following shall be sufficient cause for the Director's denial, revocation, suspension or refusal to renew a license or certificate issued pursuant to 454 CMR 22.00:
  - (a) False statements in the application;
  - (b) Misrepresentation or falsification of documentation or information required to be submitted to the Director pursuant to any provisions of 454 CMR 22.00, 105 CMR 460.000: *Lead Poisoning Prevention and Control* and orders issued by the Director or the Director of CLPPP pursuant to the same;
  - (c) Failure to comply with the applicable provisions of M.G.L. c. 149 or 111F; 454 CMR 22.00; M.G.L. c. 111, §§ 189A through 199B; 105 CMR 460.000: *Lead Poisoning Prevention and Control*; or rules or orders issued thereunder;
  - (d) Failure to comply with laws, rules and regulations relating to occupational or public safety and health or to environmental protection;
  - (e) Failure to maintain records required by 454 CMR 22.13 or make them available to the Director upon request;
  - (f) In the case of Licensed Training Providers, or applicants for Licensed Training Provider status, the following shall also constitute sufficient cause:
    1. Failure to demonstrate the ability to provide the training courses for which the applicant seeks to be certified in compliance with the requirements of 454 CMR 22.07;
    2. Failure to maintain the standards of training or minimum instruction required by 454 CMR 22.07 and/or 22.08;
    3. Failure to report to the Department any change in staff or program which deviates from the information contained in the application; or
    4. Failure to comply with the requirements set forth in 454 CMR 22.07(6)(a) through (h) or any other applicable requirements of 454 CMR 22.00; and
    5. Any other cause affecting the responsibility of the License or Certificate holder which the Director determines to be of such serious and compelling nature as to warrant denial, suspension, revocation or refusal to renew.

22.15: continued

(3) Conditional Licenses, Consent Agreements and Probation. The Director may issue licenses subject to conditions specified therein, enter into consent agreements with the holder or place the license holder on probation for sufficient cause.

(4) Suspension Prior to Hearing. The Director may summarily suspend a license or certificate on an emergency basis, if, in his or her determination, the actions of the license or certificate holder show willful disregard for the health, safety or welfare of the public or workers or for the health of the environment. If a license or certificate is summarily suspended, the affected party may appeal the summary action in accordance with 454 CMR 22.15(1). If an appeal is filed, the matter shall be set down for hearing at the earliest possible time. At such hearing the Director must establish that the summary action is factually supported and that there is a substantial likelihood of sustaining the suspension in a full evidentiary hearing. The summary action shall continue against the affected party unless the hearing officer determines that the Director did not meet his or her burden under the standard specified herein. Summary suspensions may be issued in conjunction with license or certificate revocations or refusals to renew.

(5) Civil Administrative Penalties. In addition to the actions the Director may take under 454 CMR 22.15(1) through (4), the Director may issue Civil Administrative Penalties pursuant to 453 CMR 9.00: *Civil Administrative Penalties.*

22.91: Appendix 1

THE COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT  
DEPARTMENT OF LABOR STANDARDS

MAIN AND DISTRICT OFFICES

Boston Office  
19 Staniford St., 2nd Fl.  
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FAX: (617) 626-6965

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FAX: (978) 372-9998

New Bedford Office  
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2nd Floor  
New Bedford, MA 02740  
TEL: (508) 984-7718  
FAX: (508) 984-3562

Springfield Office  
165 Liberty Street  
Springfield, MA 01102  
TEL: (413) 781-2676  
FAX: (413) 732-6374

Taunton Office  
Taunton Career Center Bldg.  
72 School Street  
Taunton, MA 02780

Westborough Office  
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Room G62  
Westborough, MA 01581  
TEL: (508) 616-0461  
FAX: (508) 616-0467

Lawrence Office  
Senator William X. Wall  
Experiment Station  
37 Shattuck Street  
Lawrence, MA 01843

22.92: Appendix 2

## Procedures for Post-renovation Cleaning Verification

**I. Interiors.**

- (i) A Certified Lead-safe Renovator-supervisor must perform a visual inspection to determine whether dust, debris or residue is still present. If dust, debris or residue is present, these conditions must be removed by re-cleaning and another visual inspection must be performed.
- (ii) After a successful visual inspection, the Certified Lead-safe Renovator-Supervisor must:
  - (A) Verify that each windowsill in the work area has been adequately cleaned, using the following procedure:
    - (1) Wipe the windowsill with a wet disposable cleaning cloth that is damp to the touch. If the cloth matches or is lighter than the cleaning verification card, the windowsill has been adequately cleaned.
    - (2) If the cloth does not match and is darker than the cleaning verification card, re-clean the windowsill as directed at 454 CMR 22.11(1)(i)6., then either use a new cloth or fold the used cloth in such a way that an unused surface is exposed, and wipe the surface again. If the cloth matches or is lighter than the cleaning verification card, that windowsill has been adequately cleaned.
    - (3) If the cloth does not match and is darker than the cleaning verification card, wait for one hour or until the surface has dried completely, whichever is longer.
    - (4) After waiting for the windowsill to dry, wipe the windowsill with a dry disposable cleaning cloth. After this wipe, the windowsill has been adequately cleaned.
  - (B) Wipe uncarpeted floors and countertops within the work area with a wet disposable cleaning cloth. Floors must be wiped using an application device with a long handle and a head to which the cloth is attached. The cloth must remain damp at all times while it is being used to wipe the surface for post-renovation cleaning verification. If the surface within the work area is greater than 40 square feet, the surface within the work area must be divided into roughly equal sections that are each less than 40 square feet. Wipe each such section separately with a new wet disposable cleaning cloth. If the cloth used to wipe each section of the surface within the work area matches or is lighter than the cleaning verification card, the surface has been adequately cleaned.
    - (1) If the cloth used to wipe a particular surface section does not match the cleaning verification card, re-clean that section of the surface as directed at 454 CMR 22.11(1)(i)6., then use a new wet disposable cleaning cloth to wipe that section again. If the cloth matches the cleaning verification card, that section of the surface has been adequately cleaned.
    - (2) If the cloth used to wipe a particular surface section does not match the cleaning verification card after the surface has been re-cleaned, wait for one hour or until the entire surface within the work area has dried completely, whichever is longer.
    - (3) After waiting for the entire surface within the work area to dry, wipe each section of the surface that has not yet achieved post-renovation cleaning verification with a dry disposable cleaning cloth. After this wipe, that section of the surface has been adequately cleaned.
- (iii) When the work area passes the post-renovation cleaning verification, remove the warning signs.

**II. Exteriors.**

- (i) A Certified Lead-safe Renovator Supervisor must perform a visual inspection to determine whether dust, debris or residue is still present on surfaces in and below the work area, including windowsills and the ground. If dust, debris or residue is present, these conditions must be eliminated and another visual inspection must be performed. When the area passes the visual inspection, remove the warning signs.

## REGULATORY AUTHORITY

454 CMR 22.00: M.G.L. c. 23, § 1; M.G.L. c. 111, §§ 189A through 199B and M.G.L. c. 149, § 6.

**THE COMMONWEALTH OF MASSACHUSETTS****William Francis Galvin**

Secretary of the Commonwealth

**Regulation Filing** *To be completed by filing agency*CHAPTER NUMBER: **603 CMR 53.00**CHAPTER TITLE: **Student Discipline**AGENCY: **Department of Elementary and Secondary Education**SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*

The new regulations establish certain procedural requirements for student suspensions & expulsions in public, charter & virtual schools as required by Chapter 222 of the Acts of 2012, "An Act Relative to Student Access to Educational Services and Exclusion from School". The regulations include: minimum requirements & procedures applicable to the suspension of a student under the M.G.L. c. 71, §37 H $\frac{1}{4}$ ; the minimum requirements & procedures necessary to ensure that all students who have been suspended or expelled, have an opportunity to make academic progress during their suspension or expulsion, in accordance with M.G.L. c. 76, §21; and the requirements for data reporting.

REGULATORY AUTHORITY: **M.G.L. c.69, s.1B & c. 71, s. 37H & 37H 3/4**AGENCY CONTACT: **Dianne Curran** PHONE: **781-338-3400**ADDRESS: **75 Pleasant Street, Malden, MA 02148****Compliance with M.G.L. c. 30A**EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.***Joint Committee on Education, 1/30/14; Massachusetts Municipal Association, 1/30/14, Department of Housing & Community Development, 1/30/14, Requirements of Executive Order 485 met.**PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*Date of public hearing or comment period: **2/15/14 - 3/25/14**

FISCAL EFFECT - *Estimate the fiscal effect of the public and private sectors.*

For the first and second year: The cost each year for public schools & districts depends on the number of students excluded and program model chosen to provide education services

For the first five years: \_\_\_\_\_

No fiscal effect: \_\_\_\_\_

SMALL BUSINESS IMPACT - *M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.*

Date amended small business impact statement was filed: 4/23/14

CODE OF MASSACHUSETTS REGULATIONS INDEX - *List key subjects that are relevant to this regulation:*  
**Student Discipline**  
**Student Suspension**  
**Student Expulsion**

PROMULGATION - *State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number:*

**New Regulation, 603 CMR 53.00**

ATTESTATION - *The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency.* ATTEST:

SIGNATURE: SIGNATURE ON FILE DATE: Jun 20 2014

Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: 1264 DATE: 07/04/2014

EFFECTIVE DATE: 07/04/2014

CODE OF MASSACHUSETTS REGULATIONS

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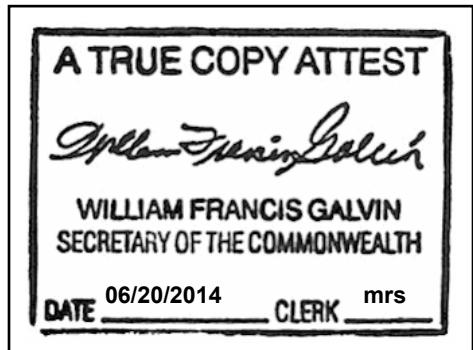


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801 CMR 55.00: IT AND FACILITIES INFRASTRUCTURE PROGRAM

Section

55.01: General Provisions

55.02: Eligibility

55.03: Application

55.04: Awards

55.05: Payment

55.06: Reporting Requirements

55.01: General Provisions

(1) 801 CMR 55.00 sets rules for a grant program totaling no more than \$1 million in fiscal year 2015 to eligible cities and towns.

(2) Definitions. The terms used in 801 CMR 55.00 shall have the meanings ascribed to them in 801 CMR 55.01(2), unless otherwise specified in 801 CMR 55.00.

Applicant refers to a city or town.

Grantee refers to an applicant who has been awarded a grant under this program by the Executive Office for Administration and Finance.

55.02: Eligibility

(1) Applicant Eligibility. A city or town may be eligible for a grant under this program

(2) Project Eligibility. Eligible projects must provide for the repair, renovation, or construction of municipal facilities or infrastructure, including technology infrastructure, upgrades and purchase of equipment.

55.03: Application

(1) The Executive Office for Administration and Finance shall prepare and make available an application for this program.

(2) The application shall include:

- (a) purpose and scope of the project;
- (b) project benefit;
- (c) cost impact;
- (d) measures of success;
- (e) project budget for requested amount; and
- (f) project timeline.

(3) Applications shall be sent to the Executive Office for Administration and Finance.

(4) Review of Applications. The Executive Office for Administration and Finance shall evaluate all complete applications for this program that satisfy the program requirements. Applications shall be evaluated based upon criteria including:

- (a) An assessment of fiscal and budgetary constraints facing the applicant;
- (b) An analysis of the proposed budget;
- (c) The applicant's plan to fund and conduct annual maintenance;
- (d) The need for the project;
- (e) The potential benefits that will result;
- (f) The use of collaborative approaches to improve the effectiveness and quality of local government services;
- (g) The overall merits of the proposal; and
- (h) Other evidence it deems relevant to the success of the applicant's project.

55.04: Awards

(1) Grant Awards. The Secretary of the Executive Office for Administration and Finance shall select, based on information at his disposal, including based on the need and/or the importance of such project for the state and municipalities, project(s) to be awarded funds under this program. Awards to individual projects will be no greater than \$500,000.

(2) Unspent Awards. An award must be spent within two years of the grant of the award. Grantees will forfeit any remaining award unused after two years. The Executive Office for Administration and Finance shall give due consideration to any extenuating circumstances presented in writing by the applicant and may waive this restriction at its discretion.

55.05: Payment

(1) The Executive Office for Administration and Finance shall prepare an agreement for each approved project. The agreement for each project shall include a funding disbursement schedule and reporting requirements.

(2) The Executive Office for Administration and Finance shall also review the agreement with each grantee prior to signing to ensure that:

- (a) The grantee will be in compliance with all applicable State and municipal law and regulation in execution of the project; and
- (b) The grantee agrees to comply with the terms of the agreement.

(3) The Executive Office for Administration and Finance shall disburse funds to the grantee according to the conditions set forth in the contract agreement referenced under 801 CMR 55.04

55.06: Reporting Requirements

(1) Within 30 days of the conclusion of contract agreement end date each grant recipient shall submit a report to the Executive Office for Administration and Finance detailing the following information: documentation of project activities, achievement of project completion, benefits, lessons learned, documents created.

**REGULATORY AUTHORITY**

801 CMR 55.00: St. 2008, c. 304, § 2C, item 1100-3001.

(PAGES 313 THROUGH 320 ARE RESERVED FOR FUTURE USE.)

**THE COMMONWEALTH OF MASSACHUSETTS****William Francis Galvin**

Secretary of the Commonwealth

**Regulation Filing** *To be completed by filing agency*CHAPTER NUMBER: **801 CMR 55.00**CHAPTER TITLE: **IT and Facilities Infrastructure Program**AGENCY: **Executive Office for Administration and Finance**SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*

This regulation creates a capital program totaling no more than \$1 million in fiscal year 2015 to give grants to eligible municipalities for IT and other infrastructure projects.

REGULATORY AUTHORITY: **St. 2008, c.304 § 2.c item 1100-3001**AGENCY CONTACT: **Pam Kocher** PHONE: **617-727-2040 ext. 35410**ADDRESS: **State House Room 373, Boston MA 02108****Compliance with M.G.L. c. 30A**EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.***Notice sent to the Local Government Advisory Commission April 28, 2014**PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*Date of public hearing or comment period: **April 30, 2014 - June 4, 2014**

**FISCAL EFFECT -** *Estimate the fiscal effect of the public and private sectors.*

For the first and second year: \_\_\_\_\_

For the first five years: \_\_\_\_\_

No fiscal effect: **no fiscal effect to the Commonwealth**

**SMALL BUSINESS IMPACT -** *M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.*

Date amended small business impact statement was filed: **June 18, 2014**

**CODE OF MASSACHUSETTS REGULATIONS INDEX -** *List key subjects that are relevant to this regulation:*  
**municipal**  
**infrastructure**  
**technology**

**PROMULGATION -** *State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number:*

**No change in other CMRs**

**ATTESTATION -** *The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency.* **ATTEST:**

SIGNATURE: SIGNATURE ON FILE DATE: **Jun 19 2014**

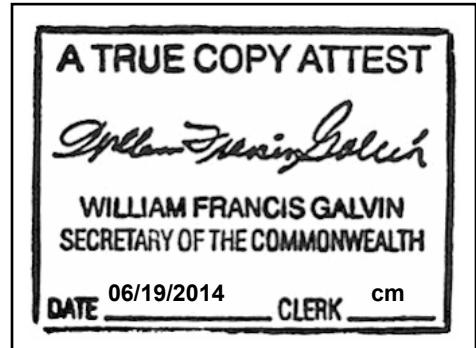
Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: **1264** DATE: **07/04/2014**

EFFECTIVE DATE: **07/04/2014**

CODE OF MASSACHUSETTS REGULATIONS

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**THE COMMONWEALTH OF MASSACHUSETTS****William Francis Galvin**

Secretary of the Commonwealth

**Regulation Filing** *To be completed by filing agency*CHAPTER NUMBER: **957 CMR 7.00**CHAPTER TITLE: **Nursing Facilities Cost Reporting Requirements**AGENCY: **Center for Health Information and Analysis**SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.***957 CMR 7.00 governs the filing requirements, procedures and time frames for nursing facilities to report their costs and other data to the Center. The regulation is effective 7/4/14.**REGULATORY AUTHORITY: **M.G.L. c. 12C**AGENCY CONTACT: **Sarah Ragland, General Counsel** PHONE: **617-988-3221**ADDRESS: **Two Boylston Street, Boston, MA 02116****Compliance with M.G.L. c. 30A**EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.*

**John Robertson (4/25/14)      Marilyn Contreas (4/25/14)**  
**MA Municipal Assoc.      Dept of Housing & Com. Dev.**  
**1 Winthrop Sq, Boston MA 02110      100 Cambridge St, Boston MA 02114**

PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*Date of public hearing or comment period: **6/3/14**

FISCAL EFFECT - *Estimate the fiscal effect of the public and private sectors.*

For the first and second year: There is no fiscal impact on cities and towns and no fiscal impact anticipated on nursing facilities.

For the first five years: \_\_\_\_\_

No fiscal effect: \_\_\_\_\_

SMALL BUSINESS IMPACT - *M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.*

Date amended small business impact statement was filed: 6/17/14

CODE OF MASSACHUSETTS REGULATIONS INDEX - *List key subjects that are relevant to this regulation:*  
**Nursing Facilities Cost Reporting Requirements**

PROMULGATION - *State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number:*

**Adopts 957 CMR 7.00**

ATTESTATION - *The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency.* ATTEST:

SIGNATURE: SIGNATURE ON FILE DATE: Jun 19 2014

Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: 1264 DATE: 07/04/2014

EFFECTIVE DATE: 07/04/2014

CODE OF MASSACHUSETTS REGULATIONS

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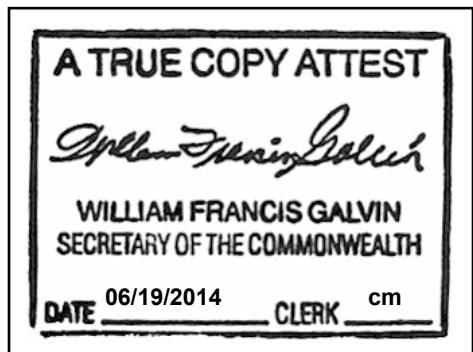


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957 CMR 7.00: NURSING FACILITIES COST REPORTING REQUIREMENTS

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7.01: General Provisions

957 CMR 7.00 governs the cost reporting requirements for Nursing Facilities.

7.02: Definitions

All defined terms in 957 CMR 7.00 are capitalized. As used 957 CMR 7.00, unless the context requires otherwise, terms have the following meanings:

Additions. New Units or enlargements of existing Units that may or may not be accompanied by an increase in Licensed Bed Capacity.

Administrative and General Costs. Administrative and General Costs include the amounts reported in the following accounts: administrator salaries; payroll taxes - administrator; workers' compensation - administrator; group life/health - administrator; administrator pensions; other administrator benefits; clerical; EDP/payroll/bookkeeping services; administrator-in-training; office supplies; phone; conventions and meetings; help wanted advertisements; licenses and dues (resident-care related); education and training - administration; accounting - other; insurance - malpractice; other operating expenses; realty company variable costs; management company allocated variable costs; and management company allocated fixed costs.

Administrator-in-training. A person registered with the Board of Registration of Nursing Home Administrators and involved in a course of training as described in 245 CMR 2.00: *Nursing Home Administrators*.

Audit. An examination of the Provider's cost report and supporting documentation to evaluate the accuracy of the financial statements and identification of Medicaid patient-related costs.

Building Costs. Building Costs include the direct cost of construction of the structure that houses residents and expenditures for service Equipment and fixtures such as elevators, plumbing and electrical fixtures made a permanent part of the structure. Building Costs also include the cost of bringing the building to productive use, such as permits, engineering and architect's fees, and certain legal fees. Building Costs include interest paid during construction to Building Costs but not Mortgage Acquisition Costs.

Capital Costs. Capital Costs include building depreciation, Financing Contribution, building insurance, real estate taxes, non-income portion of Massachusetts Corporate Excise Taxes, other rent and Other Fixed Costs.

Center. The Center for Health Information and Analysis established under M.G.L. c. 12C.

Change of Ownership. A *bona fide* transfer, for reasonable consideration, of all the powers and *indicia* of ownership. A Change of Ownership may not occur between Related Parties. A Change of Ownership must be a sale of assets of the Provider rather than a method of financing. A change in the legal form of the Provider does not constitute a Change of Ownership unless the other criteria are met.

7.02: continued

CMS. The federal Centers for Medicare & Medicaid Services.

Department. The Massachusetts Department of Public Health.

Direct Restorative Therapy. Services of physical therapists, occupational therapists, and speech, hearing, and language therapists provided directly to individual residents to reduce physical or mental disability and to restore the resident to maximum functional level. Direct Restorative Therapy Services are provided only upon written order of a physician, physician assistant or nurse practitioner who has indicated anticipated goals and frequency of treatment to the individual resident. Direct Restorative Therapy Services include supervisory, administrative, and consulting time associated with provision of the services. These include, but are not limited to, reviewing pre-admission referrals, informally communicating with families, scheduling treatments, completing resident care documentation including MDS documentation, screening of patients, writing orders, meeting with aides to discuss patients, consulting with physicians and nurse practitioners, managing equipment and assessing equipment needs of patients.

EOHHS. The Executive Office of Health and Human Services established under M.G.L. c. 6A.

Equipment. A fixed asset, usually moveable, accessory or supplemental to the Building, including such items as beds, tables, and wheelchairs.

Financing Contribution. Payment for the use of necessary capital assets whether internally or externally funded.

Generally Available Employee Benefits. Employee benefits that are nondiscriminatory and available to all full-time employees.

Hospital-based Nursing Facility. A separate Nursing Facility Unit or Units located in a hospital building licensed for both hospital and Nursing Facility services in which the Nursing Facility licensed beds are less than a majority of the facility's total licensed beds and the Nursing Facility patient days are less than a majority of the facility's total patient days. It does not include free-standing Nursing Facilities owned by hospitals.

Improvements. Expenditures that increase the quality of the Building by rearranging the Building layout or substituting improved components for old components so that the Provider is in some way better than it was before the renovation. Improvements do not add to or expand the square footage of the Building. An improvement is measured by the Provider's increased productivity, greater capacity, or longer life.

Indirect Restorative Therapy. Indirect Restorative Therapy Services consist only of services of physical therapists, occupational therapists, and speech, hearing and language therapists to provide the following: orientation programs for aides and assistants; in-service training to staff; consultation and planning for continuing care after discharge; pre-admission meetings with families; quality improvement activities such as record reviews, analysis of information and writing reports; personnel activities including hiring, firing, and interviewing; rehabilitation staff scheduling; and attending team meetings including quality improvement, falls, skin team, daily admissions, interdisciplinary, departmental staff, discharge planning, and family meetings when the resident is not present.

Industrial Accident Resident. A person receiving Nursing Facility services for which an employer or an insurer is liable under the Workers' Compensation Act, M.G.L. c. 152.

Licensed Bed Capacity. The number of beds for which the Nursing Facility is either licensed by the Department of Public Health pursuant to 105 CMR 100.020: *Definitions*, or for a Nursing Facility operated by a government agency, the number of beds approved by the Department of Public Health. The Department of Public Health issues a license for a particular level of care.

7.02: continued

Massachusetts Corporate Excise Tax. Those taxes that have been paid to the Massachusetts Department of Revenue in connection with the filing of Form 355A, Massachusetts Corporate Excise Tax Return.

Maximum Available Bed Days. The total number of licensed beds for the calendar year, determined by multiplying the Mean Licensed Bed Capacity for the calendar year by the days in the calendar year.

Mean Licensed Bed Capacity. A Provider's weighted average Licensed Bed Capacity for the calendar year, determined by:

- (a) multiplying Maximum Available Bed Days for each level of care by the number of days in the calendar year for which the Nursing Facility was licensed for each level;
- (b) adding the Maximum Available Bed Days for each level; and
- (c) dividing the total Maximum Available Bed Days by the number of days in the calendar year.

Mortgage Acquisition Costs. Those costs (such as finder's fees, certain legal fees, and filing fees) necessary to obtain long-term financing through a mortgage, bond, or other long-term debt instrument.

Nursing Costs. Nursing costs include the Reported Costs for Director of Nurses, Registered Nurses, Licensed Practical Nurses, Nursing Aides, Nursing Assistants, Orderlies, Nursing Purchased Services, and the Workers' Compensation expense, Payroll Tax expense, and Fringe Benefits, including Pension Expense, associated with those salaries.

Nursing Facility. A nursing or convalescent home; an infirmary maintained in a town; a charitable home for the aged, as defined in M.G.L. c. 111, § 71; or a Nursing Facility operating under a hospital license issued by the Department pursuant to M.G.L. c. 111, and certified by the Department for participation in MassHealth. It includes facilities that operate a licensed Residential Care Unit within the Nursing Facility.

Other Fixed Costs. Other Fixed Costs include real estate taxes, personal property taxes on the Nursing Facility Equipment, the non-income portion of the Massachusetts Corporate Excise Tax, Building insurance, and rental of Equipment located at the facility.

Other Operating Costs. Other Operating Costs include, but are not limited to the following reported costs: plant, operations and maintenance; dietary; laundry; housekeeping; ward clerks and medical records librarian; medical director; advisory physician; utilization review committee; employee physical exams; other physician services; house medical supplies not resold; pharmacy consultant; social service worker; Indirect Restorative Therapy and recreation therapy expense; other required education; job related education; quality assurance professionals; management minute questionnaire nurses; staff development coordinator; motor vehicle expenses including, but not limited to depreciation, mileage payments, repairs, insurance, excise taxes, finance charges, and sales tax; and Administrative and General Costs.

Patient Days. The total number of days of occupancy by residents in the facility. The day of admission is included in the computation of Patient Days; the day of discharge is not included. If admission and discharge occur on the same day, one resident day is included in the computation. It includes days for which a Provider reserves a vacant bed for a Publicly-aided Resident temporarily placed in a different care situation, pursuant to an agreement between the Provider and the MassHealth agency. It also includes days for which a bed is held vacant and reserved for a non publicly aided resident.

Provider. A Nursing Facility providing care to Publicly-aided Residents or Industrial Accident Residents.

Prudent Buyer Concept. The assumption that a purchase price that exceeds the market price for a supply or service is an unreasonable cost.

## 7.02: continued

Publicly-aided Resident. A person for whom care in a Nursing Facility is in whole or in part subsidized by the Commonwealth or a political subdivision of the Commonwealth. Publicly-aided Residents do not include residents whose care is in whole or in part subsidized by Medicare.

Related Party. An individual or organization associated or affiliated with, or that has control of, or is controlled by, the Provider; or is related to the Provider, or any director, stockholder, trustee, partner or administrator of the Provider by common ownership or control or in a manner specified in sections 267(b) and (c) of the Internal Revenue Code of 1954 as amended provided, however, that 10% is the operative factor as set out in sections 267(b)(2) and (3). Related individuals include spouses, parents, children, spouses of children, grandchildren, siblings, fathers-in-law, mothers-in-law, brothers-in-law, and sisters-in-law.

Reported Costs. All costs reported in the cost report, less costs adjusted and/or self-disallowed.

Required Education. Educational activities, conducted by a recognized school or authorized organization, required to maintain a professional license of employees that provide care to Publicly-aided Residents. Required education also includes training for nurses' aides.

Residential Care. The minimum basic care and services and protective supervision required by the Department in accordance with 105 CMR 150.000: *Licensing of Long-term Care Facilities* for residents who do not routinely require nursing or other medically-related services.

Residential Care Unit. A Unit within a Nursing Facility licensed by the Department to provide residential care.

Unit. A Unit is an identifiable section of a Nursing Facility such as a wing, floor, or ward as defined by the Department in 105 CMR 150.000: *Licensing of Long-term Care Facilities*.

## 7.03: Reporting Requirements

(1) Required Cost Reports.

- (a) Nursing Facility Cost Report. Each Provider must complete and file a Nursing Facility cost report each calendar year with the Center. The Nursing Facility cost report must contain the complete financial condition of the Provider, including all applicable management company, central office, and real estate expenses. If a Provider has closed on or before November 30<sup>th</sup>, the Provider is not required to file an HCF-1 report.
- (b) Realty Company Cost Report. A Provider that does not own the real property of the Nursing Facility and pays rent to an affiliated or non-affiliated realty trust or other business entity must file or cause to be filed a realty company cost report with the Center.
- (c) Management Company Cost Report. A Provider must file a separate management company cost report with the Center for each entity for which it reports management or central office expenses related to the care of Massachusetts Publicly-aided Residents. If the Provider identifies such costs, the Provider must certify that costs are reasonable and necessary for the care of Publicly-aided Residents in Massachusetts.
- (d) Financial Statements. If a Provider or its parent organization is required or elects to obtain independent audited financial statements for purposes other than 957 CMR 7.00, the Provider must file a complete copy of its audited financial statements with the Center, that most closely correspond to the Provider's Nursing Facility cost report fiscal period. If the Provider or its parent organization does not obtain audited financial statements but is required or elects to obtain reviewed or compiled financial statements for purposes other than 957 CMR 7.00, the Provider must file with the Center a complete copy of its financial statements that most closely correspond to the Nursing Facility cost report fiscal period. Financial statements must accompany the Provider's Nursing Facility cost report filing. Nothing in this section shall be construed as an additional requirement that nursing homes complete audited, reviewed, or compiled financial statements solely to comply with the Center's reporting requirements.

7.03: continued

(e) CMS-2540 Reports. State operated Nursing Facilities that meet the definition in 42 CFR 433.50(a)(i) must file a CMS-2540 report with the Center annually. The State operated Nursing Facility must report the final disposition made by the Medicare intermediary.

(2) General Cost Reporting Requirements.

(a) Accrual Method. Providers must complete all required reports using the accrual method of accounting.

(b) Documentation of Reported Costs. Providers must maintain accurate, detailed and original financial records to substantiate reported costs for a period of at least five years following the submission of required reports or until the final resolution of any appeal of a rate for the period covered by the report, whichever is later. Providers must maintain complete documentation of all of the financial transactions and census activity of the Provider and affiliated entities including, but not limited to, the books, invoices, bank statements, canceled checks, payroll records, governmental filings, and any other records necessary to document the Provider's reported costs. Providers must be able to document expenses relating to affiliated entities for which it has identified costs related to the care of Massachusetts Publicly-aided Residents whether or not they are Related Parties.

(c) Fixed Asset Ledger. Providers must maintain a fixed asset ledger that clearly identifies each asset for which expenses are reported, including location, date of purchase, cost, salvage value, accumulated depreciation, and the disposition of sold, lost or fully depreciated assets.

(d) Job Descriptions and Time Records. Providers and management companies must maintain written job descriptions including qualifications, duties, responsibilities, and time records such as time cards for all positions that the Provider identifies as related to the care of Massachusetts Publicly-aided Residents. Facilities organized as sole proprietors or partnerships in which the sole proprietor or partner functions as administrator with no reported administrator salary or benefits must maintain documentation to support the provision of administrator services by the sole proprietor or partner.

(e) Indirect Restorative Therapy Services Record. Providers must maintain a record of Indirect Restorative Therapy services documented by a written summary available for inspection in the Nursing Facility as required by the Department in accordance with 105 CMR 150.010(F): *Records and Reports*.

(f) Other Cost Reporting Requirements.

1. Administrative Costs. The following expenses must be reported as administrative:
  - a. All compensation, including payroll taxes and benefits, for the positions of administrator, assistant administrator, Administrator-in-training, business manager, secretarial and clerical staff, bookkeeping staff, and all staff or consultants whose duties are primarily administrative rather than directly related to the provision of on-site care to residents or to the on-site physical upkeep of the Nursing Facility;
  - b. Expenses related to tasks performed by persons at a management level above that of an on-site Provider department head, that are associated with monitoring, supervising, and/or directing services provided to residents in a Nursing Facility as well as legal, accounting, financial and managerial services or advice including computer services and payroll processing; and
  - c. Expenses related to policy making, planning and decision making activities necessary for the general and long-term management of the affairs of a Nursing Facility, including but not limited to the following: the financial management of the Provider, including the cost of financial accounting and management advisory consultants, the establishment of personnel policies, the planning of resident admission policies and the planning of the expansion and financing of the Provider.
  - d. Providers must report the cost of administrative personnel to the appropriate account. The cost of administrative personnel includes all expenses, fees, payroll taxes, fringe benefits, salaries or other compensation.
  - e. Providers may allocate administrative costs among two or more accounts. The Provider must maintain specific and detailed time records to support the allocation.
2. Draw Accounts. Providers may not report or claim proprietorship or partnership drawings as salary expense.
3. Expenses that Generate Income. Providers must identify the expense accounts that generate income.

7.03: continued

4. Fixed Costs.
  - a. Additions. If the square footage of the building is enlarged, Providers must report all Additions and renovations as building Additions.
  - b. Allocation. Providers must allocate all fixed costs, except Equipment, on the basis of square footage. A Provider may elect to specifically identify Equipment related to the Nursing Facility. The Provider must document each piece of Equipment in the fixed asset ledger. If a Provider elects not to identify Equipment, it must allocate Equipment on the basis of square footage.
  - c. Replacement of Beds. If a Provider undertakes construction to replace beds, it must write off the fixed assets that are no longer used to provide care to Publicly-aided Residents and may not identify associated expenses as related to the care of Massachusetts Publicly-aided Residents.
  - d. Fully Depreciated Assets. Providers must separately identify fully depreciated assets. Providers must report the costs of fully depreciated assets and related accumulated depreciation on all Cost Reports unless they have removed such costs and accumulated depreciation from the Provider's books and records. Providers must attach a schedule of the cost of the retired Equipment, accumulated depreciation, and the accounting entries on the books and records of the Provider to the cost report when Equipment is retired.
  - e. Major Repair Projects. Providers must report all expenditures for major repair projects whose useful life is greater than one year, including, but not limited to, wallpapering and painting as Improvements. Providers may not report such expenditures as prepaid expenses.
5. Laundry Expense. Providers must separately identify the expense associated with laundry services for which non-Publicly-aided Residents are billed. Providers must identify such expense as non-related to Medicaid patient care.
6. Mortgage Acquisition Costs. Providers must classify Mortgage Acquisition Costs as other assets. Providers may not add Mortgage Acquisition Costs to fixed asset accounts.
7. Nursing Costs. The costs must be associated with direct resident care personnel and be required to meet federal and state laws.
8. Related Parties. Providers must disclose salary expense paid to a Related Party and must identify all goods and services purchased from a Related Party. If a Provider purchases goods and services from a Related Party, it must disclose the Related Party's cost of the goods and services.

(g) Special Cost Reporting Requirements.

1. Facilities in which other programs are operated. If a Provider operates an adult day health program, an assisted living program, or provides outpatient services, the Provider may not identify expenses of such programs as related to the care of Massachusetts Publicly-aided Residents.
  - a. If the Provider converts a portion of the Provider to another program, the Provider must identify the existing Equipment no longer used in Nursing Facility operations and remove such Equipment from the Nursing Facility records.
  - b. The Provider must identify the total square footage of the existing Building, the square footage associated with the program, and the Equipment associated with the program.
  - c. The Provider must allocate all shared costs, including shared capital costs, using a well-documented and generally accepted allocation method. The Provider must directly assign to the program any additional capital expenditures associated with the program.
2. Hospital-based Nursing Facilities. A Hospital-based Nursing Facility must file cost reports on a fiscal year basis consistent with the fiscal year used in the DHCFP-403 Hospital Cost Report and any successor state agency template cost report. The Provider must:
  - a. identify the existing Building Costs and Improvement costs associated with the Nursing Facility. The Provider must allocate such costs on a square footage basis.

7.03: continued

- b. report major moveable Equipment and fixed Equipment in a manner consistent with the Hospital Cost Report. In addition, the Provider must classify fixed Equipment as either Building Improvements or Equipment in accordance with the definitions contained in 957 CMR 7.02. The Provider may elect to report major moveable and fixed Equipment by one of two methods:
  - i. A Provider may elect to specifically identify the major moveable and fixed Equipment directly related to the care of Publicly-aided Residents in the Nursing Facility. The Provider must maintain complete documentation in a fixed asset ledger that clearly identifies each piece of Equipment and its cost, date of purchase, and accumulated depreciation. The Provider must submit this documentation to the Center with its first notification of change in beds.
  - ii. If the Provider elects not to identify specifically each item of major moveable and fixed Equipment, the fixed Equipment will be allocated to the extent allowable on a square footage basis.
- c. The Provider must report additional capital expenditures directly related to the establishment of the Nursing Facility within the hospital as Additions. Capital expenditures that relate to the total plant will be allocated to the extent allowable on a square footage basis.
- d. The Provider must use direct costing whenever possible to obtain operating expenses associated with the Nursing Facility. The Provider must allocate all costs shared by the hospital and the Nursing Facility using the statistics specified in the Hospital Cost Report instructions. The Provider must disclose all analysis, allocations and statistics used in preparing the Nursing Facility cost report.

(3) General Cost Principles. In order to report a cost as related to Medicaid patient care, a cost must satisfy the following criteria:

- (a) The cost must be ordinary, necessary and directly related to the care of Publicly-aided Residents;
- (b) The cost must adhere to the Prudent Buyer Concept;
- (c) Payments to related parties. Expenses otherwise allowable shall not be included for purposes of determining rates under 101 CMR 206.00: *Standard Payments to Nursing Facilities* where such expenses are paid to a Related Party unless the Provider identifies any such Related party and expenses attributable to it in the reports submitted under 957 CMR 7.00 and demonstrates that such expenses do not exceed the lower of the cost to the Related Party or the price of comparable services, facilities or supplies that could be purchased elsewhere. The Center may request either the Provider or the Related Party, or both, to submit information, books and records relating to such expenses for the purpose of determining whether the expenses are allowable;
- (d) Employee Benefits. Only the Provider's contribution of Generally Available Employee Benefits shall be deemed an allowable cost. Providers may vary Generally Available Employee Benefits by groups of employees at the option of the employer. To qualify as a Generally Available Employee Benefit, the Provider must establish and maintain evidence of its nondiscriminatory nature. Generally Available Employee Benefits shall include but are not limited to group health and life insurance, pension plans, seasonal bonuses, child care, and job related education and staff training. Bonuses related to profit, private occupancy, or directly or indirectly to rates of reimbursement shall not be included for calculation of prospective rates. Benefits which are related to salaries shall be limited to allowable salaries. Benefits, including pensions, related to non-administrative and non-nursing personnel will be part of the other operating cost center. Benefits that are related to the Director of Nurses, including pensions and education, shall be part of the Nursing Cost Center. Providers may accrue expenses for employee benefits such as vacation, sick time, and holidays that employees have earned but have not yet taken, provided that these benefits are both stated in the written policy and are the actual practice of the Provider and that such benefits are guaranteed to the employee even upon death or termination of employment. Such expenses may be recorded and claimed for reimbursement purposes only as of the date that a legal liability has been established;
- (e) The cost must be for goods or services actually provided in the Nursing Facility;
- (f) The cost must be reasonable; and

## 7.03: continued

(g) The cost must actually be paid by the Provider. Costs not considered related to the care of Massachusetts Publicly-aided Residents include, but are not limited to: costs discharged in bankruptcy; costs forgiven; costs converted to a promissory note; and accruals of self-insured costs based on actuarial estimates.

(h) A Provider must report the following costs as non-allowable costs:

1. Bad debts, refunds, charity and courtesy allowances and contractual adjustments to the Commonwealth and other third parties;
2. Federal and state income taxes, except the non income related portion of the Massachusetts Corporate Excise Tax;
3. Expenses not directly related to the provision of resident care including, but not limited to, expenses related to other business activities and fund raising, gift shop expenses, research expenses, rental expense for space not required by the Department and expenditure of funds received under federal grants for compensation paid for training personnel and expenses related to grants of contracts for special projects;
4. Compensation and fringe benefits of residents on a Provider's payroll;
5. Penalties and interest, incurred because of late payment of loans or other indebtedness, late filing of federal and state tax returns, or from late payment of municipal taxes;
6. Any increase in compensation or fringe benefits granted as an unfair labor practice after a final adjudication by the court of last resort;
7. Expenses for Purchased Service Nursing services purchased from temporary nursing agencies not registered with the Department under regulation 105 CMR 157.00: *The Registration and Operation of Temporary Nursing Service Agencies* or paid for at rates greater than the rates established by EOHHS pursuant to 101 CMR 345.00: *Temporary Nursing Services*;
8. Any expense or amortization of a capitalized cost that relates to costs or expenses incurred prior to the opening of the Nursing Facility;
9. All legal expenses, including those accounting expenses and filing fees associated with any appeal process;
10. Prescribed legend drugs for individual patients;
11. Recovery of expense items, that is, expenses that are reduced or eliminated by applicable income including but not limited to, rental of quarters to employees and others, income from meals sold to persons other than residents, telephone income, vending machine income and medical records income. Vending machine income shall be recovered against Other Operating Costs. Other recoverable income shall be recovered against an account in the appropriate cost group category, such as Administrative and General Costs, Other Operating Costs, nursing costs, and capital costs. The cost associated with laundry income which is generated from special services rendered to private patients shall be identified and eliminated from claims for reimbursement. Special services are those services not rendered to all patients (e.g., dry cleaning, etc.). In the event that the cost of special services cannot be determined, laundry income shall be recovered against laundry expense;
12. Costs of ancillary services required by a purchasing agency to be billed on a direct basis, such as prescribed drugs and direct therapy costs; and
13. Accrued expenses which remain unpaid more than 120 days after the close of the reporting year, excluding vacation and sick time accruals, shall not be included in the prospective rates. Upon receipt of satisfactory evidence of payment, the adjustment will be reversed and include that cost, if otherwise allowable, in the applicable prospective rates.

## 7.04: Filing Deadlines

(1) General. Except as provided below, Providers must file required Cost Reports for the calendar year by 5:00 P.M. of April 1<sup>st</sup> of the following calendar year. If April 1<sup>st</sup> falls on a weekend or holiday, the reports are due by 5:00 P.M. of the following business day.

(a) Hospital-based Nursing Facilities. Hospital-based Nursing Facilities must file Cost Reports no later than 90 days after the close of the hospital's fiscal year.

7.04: continued

(b) Appointment of a Resident Protector Receiver. If a receiver is appointed pursuant to M.G.L. c. 111, § 72N, the Provider must file Cost Reports for the current reporting period or portion thereof, within 60 of the receiver's appointment.

(2) Extension of Filing Date. The Center may grant a request for an extension of the filing due date for a maximum of 30 calendar days. In order to receive an extension, the Provider must:

- (a) submit the request itself, and not by agent or other representative;
- (b) demonstrate exceptional circumstances that prevent the Provider from meeting the deadline; and
- (c) file the request with the Center no later than 30 calendar days before the due date.

(3) Administrative Bulletin. The Center may modify the filing deadlines by issuing an Administrative Bulletin 30 days prior to any proposed change.

7.05: Incomplete Submissions

If the Cost Reports are incomplete, the Center will notify the Provider in writing within 120 days of receipt. The Center will specify the additional information that the Provider must submit to complete the Cost Reports. The Provider must file the required information within 25 days of the date of notification or by April 1<sup>st</sup> of the year the Cost Reports are filed, whichever is later. If the Center fails to notify the Provider within the 120-day period, the Cost Reports will be considered complete and will be deemed to be filed on the date of receipt.

7.06: Audits

The Center and EOHHS may conduct Desk Audits or Field Audits to ensure accuracy and consistency in reporting. Providers must submit additional data and documentation relating to the cost report, the operations of the Provider and any Related Party as requested during a Desk or Field Audit even if the Center has accepted the Provider's Cost Reports.

7.07: Penalties

- (1) The Center may impose a fine of up to \$500 on Providers that knowingly fail to file or that knowingly file falsified data.
- (2) If a Provider has without justifiable cause refused to furnish the Center with information as required by 957 CMR 7.00, the Center may petition the Superior Court to issue an order directing all Governmental Units to withhold payment to the Provider until further order of the Court.
- (3) The Center may refer delinquent Providers to EOHHS, with recommendations that EOHHS impose penalties, including:
  - (a) Reduction in delinquent Providers' rates;
  - (b) Removal of delinquent Providers from the list of eligible Providers; and
  - (c) Any other penalty authorized by M.G.L. c. 118E or applicable regulations.
- (4) The Center may refer delinquent Providers or Providers that knowingly file falsified information to the appropriate licensing authority, which may seek suspension or revocation of the Providers' license.

7.08: Administrative Bulletins

The Center may issue Administrative Bulletins to clarify its policies on and understanding of substantive provisions of 957 CMR 7.00 and to specify information and documentation necessary to implement the data collection requirements of 957 CMR 7.00. Such bulletins shall be deemed to be incorporated in the provisions of 957 CMR 7.00.

7.09: Severability

The provisions of 957 CMR 7.00 are severable. If any provision of 957 CMR 7.00 or the application of any provision of 957 CMR 7.00 is held invalid or unconstitutional, such provision will not be construed to affect the validity or constitutionality of any other provision of 957 CMR 7.00 or the application of any other provision.

REGULATORY AUTHORITY

957 CMR 7.00: M.G.L. c. 12C.

