# Attachment 11

# Minimum and Recommended Lead Hazard Requirements

**[Code of Federal Regulations]**
**[Title 24, Volume 1]**
**[Revised as of April 1, 2001]**
**From the U.S. Government Printing Office via GPO Access**
**[CITE: 24CFR35]**

# TITLE 24--HOUSING AND URBAN DEVELOPMENT

## PART 35--LEAD-BASED PAINT POISONING PREVENTION IN CERTAIN RESIDENTIAL STRUCTURES

Subpart A--Disclosure of Known Lead-Based Paint Hazards Upon Sale or Lease of Residential Property


Sec.
35.80 Purpose.
35.82 Scope and applicability.
35.84 Effective dates.
35.86 Definitions.
35.88 Disclosure requirements for sellers and lessors.
35.90 Opportunity to conduct an evaluation.
35.92 Certification and acknowledgment of disclosure.
35.94 Agent responsibilities.
35.96 Enforcement.
35.98 Impact on State and local requirements.

Subpart B--General Lead-Based Paint Requirements and Definitions for All Programs

35.100 Purpose and applicability.
35.105 Effective dates.
35.106 Information collection requirements.
35.110 Definitions.
35.115 Exemptions.
35.120 Options.
35.125 Notice of evaluation and hazard reduction activities.
35.130 Lead hazard information pamphlet.
35.135 Use of paint containing lead.
35.140 Prohibited methods of paint removal.
35.145 Compliance with Federal laws and authorities.
35.150 Compliance with other State, tribal, and local laws.
35.155 Minimum requirements.
35.160 Waivers.
35.165 Prior evaluation or hazard reduction.
35.170 Noncompliance with the requirements of subparts B through R.
35.175 Records.

Subpart C--Disposition of Residential Property Owned by a Federal Agency Other Than HUD

35.200 Purpose and applicability.
35.205 Definitions and other general requirements.
35.210 Disposition of residential property constructed before 1960.
35.215 Disposition of residential property constructed after 1959 and before 1978.

Subpart D--Project-Based Assistance Provided by a Federal Agency Other Than HUD

35.300 Purpose and applicability.
35.305 Definitions and other general requirements.
35.310 Notices and pamphlet.
35.315 Risk assessments.

**35**.320 Hazard reduction.
**35**.325 Child with an environmental intervention blood lead level.

Subpart E [Reserved]

Subpart F--HUD-Owned Single Family Property

**35**.500 Purpose and applicability.
**35**.505 Definitions and other general requirements.
**35**.510 Required procedures.

Subpart G--Multifamily Mortgage Insurance

**35**.600 Purpose and applicability.
**35**.605 Definitions and other general requirements.
**35**.610 Exemption.
**35**.615 Notices and pamphlet.
**35**.620 Multifamily insured property constructed before 1960.
**35**.625 Multifamily Insured Property constructed after 1959 and before 1978.
**35**.630 Conversions and Major Rehabilitations.

Subpart H--Project-Based Rental Assistance

**35**.700 Purpose and applicability.
**35**.705 Definitions and other general requirements.
**35**.710 Notices and pamphlet.
**35**.715 Multifamily properties receiving more than $5,000 per unit.
**35**.720 Multifamily properties receiving up to $5,000 per unit, and single-family properties.
**35**.725 Section 8 rent adjustments.
**35**.730 Child with an environmental intervention blood lead level.

Subpart I--HUD-Owned and Mortgagee-in-Possession Multifamily Property.

**35**.800 Purpose and applicability.
**35**.805 Definitions and other general requirements.
**35**.810 Notices and pamphlet.
**35**.815 Evaluation.
**35**.820 Interim controls.
**35**.825 Ongoing lead-based paint maintenance and reevaluation.
**35**.830 Child with an environmental intervention blood lead level.

Subpart J--Rehabilitation

**35**.900 Purpose and applicability.
**35**.905 Definitions and other general requirements.
**35**.910 Notices and pamphlet.
**35**.915 Calculating rehabilitation costs, except for the CILP program.
**35**.920 Calculating rehabilitation costs for the Flexible-Subsidy--CILP Program.
**35**.925 Examples of determining applicable requirements.
**35**.930 Evaluation and hazard reduction requirements.
**35**.935 Ongoing lead-based paint maintenance activities.
**35**.940 Special requirements for insular areas.

Subpart K--Acquisition, Leasing, Support Services, or Operation.

**35**.1000 Purpose and applicability.
**35**.1005 Definitions and other general requirements.
**35**.1010 Notices and pamphlet.
**35**.1015 Visual assessment, paint stabilization, and maintenance.

**35**.1020 Funding for evaluation and hazard reduction.

Subpart L--Public Housing Programs

**35**.1100 Purpose and applicability.
**35**.1105 Definitions and other general requirements.
**35**.1110 Notices and pamphlet.
**35**.1115 Evaluation.
**35**.1120 Hazard reduction.
**35**.1125 Evaluation and hazard reduction before acquisition and development.
**35**.1130 Child with an environmental intervention blood lead level.
**35**.1135 Eligible costs.
**35**.1140 Insurance coverage.

Subpart M--Tenant-Based Rental Assistance

**35**.1200 Purpose and applicability.
**35**.1205 Definitions and other general requirements.
**35**.1210 Notices and pamphlet.
**35**.1215 Activities at initial and periodic inspections.
**35**.1220 Ongoing lead-based paint maintenance activities.
**35**.1225 Child with an environmental intervention blood lead level.

Subparts N-Q [Reserved]

Subpart R--Methods and Standards for Lead-Based Paint Hazard Evaluation and Hazard Reduction Activities.

**35**.1300 Purpose and applicability.
**35**.1305 Definitions and other general requirements.
**35**.1310 References.
**35**.1315 Collection and laboratory analysis of samples.
**35**.1320 Lead-based paint inspections and risk assessments.
**35**.1325 Abatement.
**35**.1330 Interim controls.
**35**.1335 Standard treatments.
**35**.1340 Clearance.
**35**.1345 Occupant protection and worksite preparation.
**35**.1350 Safe work practices.
**35**.1355 Ongoing lead-based paint maintenance and reevaluation activities.

Authority: 42 U.S.C. 3535(d), 4821, and 4851.

Subpart A--Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property

Source: 61 FR 9082, Mar. 6, 1996, unless otherwise noted. Redesignated at 64 FR 50201, Sept. 15, 1999.

Sec. **35**.80 Purpose.

This subpart implements the provisions of 42 U.S.C. 4852d, which impose certain requirements on the sale or lease of target housing. Under this subpart, a seller or lessor of target housing shall disclose to the purchaser or lessee the presence of any known lead-based paint and/or lead-based paint hazards; provide available records and reports; provide the purchaser or lessee with a lead hazard information pamphlet; give purchasers a 10-day opportunity to conduct a risk assessment or inspection; and attach specific disclosure and warning language to the sales or leasing contract before the purchaser or lessee is obligated

under a contract to purchase or lease target housing.

Sec. **35**.82 Scope and applicability.

This subpart applies to all transactions to sell or lease target housing, including subleases, with the exception of the following:
(a) Sales of target housing at foreclosure.
(b) Leases of target housing that have been found to be lead-based paint free by an inspector certified under the Federal certification program or under a federally accredited State or tribal certification program. Until a Federal certification program or federally accredited State certification program is in place within the State, inspectors shall be considered qualified to conduct an inspection for this purpose if they have received certification under any existing State or tribal inspector certification program. The lessor has the option of using the results of additional test(s) by a certified inspector to confirm or refute a prior finding.
(c) Short-term leases of 100 days or less, where no lease renewal or extension can occur.
(d) Renewals of existing leases in target housing in which the lessor has previously disclosed all information required under Sec. **35**.88 and where no new information described in Sec. **35**.88 has come into the possession of the lessor. For the purposes of this paragraph, renewal shall include both renegotiation of existing lease terms and/or ratification of a new lease.

Sec. **35**.84 Effective dates.

The requirements in this subpart take effect in the following manner:
(a) For owners of more than four residential dwellings, the requirements shall take effect on September 6, 1996.
(b) For owners of one to four residential dwellings, the requirements shall take effect on December 6, 1996.

Sec. **35**.86 Definitions.

The following definitions apply to this subpart.
The Act means the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. 4852d.
Agent means any party who enters into a contract with a seller or lessor, including any party who enters into a contract with a representative of the seller or lessor, for the purpose of selling or leasing target housing. This term does not apply to purchasers or any purchaser's representative who receives all compensation from the purchaser.
Available means in the possession of or reasonably obtainable by the seller or lessor at the time of the disclosure.
Common area means a portion of a building generally accessible to all residents/users including, but not limited to, hallways, stairways, laundry and recreational rooms, playgrounds, community centers, and boundary fences.
Contract for the purchase and sale of residential real property means any contract or agreement in which one party agrees to purchase an interest in real property on which there is situated one or more residential dwellings used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.
EPA means the Environmental Protection Agency.
Evaluation means a risk assessment and/or inspection.
Foreclosure means any of the various methods, statutory or otherwise, known in different jurisdictions, of enforcing payment of a debt, by the taking and selling of real property.

Housing for the elderly means retirement communities or similar types of housing reserved for households composed of one or more persons 62 years of age or more at the time of initial occupancy.
Inspection means:
(1) A surface-by-surface investigation to determine the presence of lead-based paint as provided in section 302(c) of the Lead-Based Paint Poisoning and Prevention Act [42 U.S.C. 4822], and
(2) The provision of a report explaining the results of the investigation.
Lead-based paint means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter or 0.5 percent by weight.
Lead-based paint free housing means target housing that has been found to be free of paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter or 0.5 percent by weight.
Lead-based paint hazard means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as established by the appropriate Federal agency.
Lessee means any entity that enters into an agreement to lease, rent, or sublease target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations.
Lessor means any entity that offers target housing for lease, rent, or sublease, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations.
Owner means any entity that has legal title to target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations, except where a mortgagee holds legal title to property serving as collateral for a mortgage loan, in which case the owner would be the mortgagor.
Purchaser means an entity that enters into an agreement to purchase an interest in target housing, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations.
Reduction means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls and abatement.
Residential dwelling means:
(1) A single-family dwelling, including attached structures such as porches and stoops; or
(2) A single-family dwelling unit in a structure that contains more than one separate residential dwelling unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the residence of one or more persons.
Risk assessment means an on-site investigation to determine and report the existence, nature, severity, and location of lead-based paint hazards in residential dwellings, including:
(1) Information gathering regarding the age and history of the housing and occupancy by children under age 6;
(2) Visual inspection;
(3) Limited wipe sampling or other environmental sampling techniques;
(4) Other activity as may be appropriate; and
(5) Provision of a report explaining the results of the investigation.
Seller means any entity that transfers legal title to target

housing, in whole or in part, in return for consideration, including but not limited to individuals, partnerships, corporations, trusts, government agencies, housing agencies, Indian tribes, and nonprofit organizations. The term ``seller" also includes:
(1) An entity that transfers shares in a cooperatively owned project, in return for consideration; and
(2) An entity that transfers its interest in a leasehold, in jurisdictions or circumstances where it is legally permissible to separate the fee title from the title to the improvement, in return for consideration.
Target housing means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing) or any 0-bedroom dwelling.
TSCA means the Toxic Substances Control Act, 15 U.S.C. 2601.
0-bedroom dwelling means any residential dwelling in which the living area is not separated from the sleeping area. The term includes efficiencies, studio apartments, dormitory housing, military barracks, and rentals of individual rooms in residential dwellings.

Sec. **35**.88 Disclosure requirements for sellers and lessors.

(a) The following activities shall be completed before the purchaser or lessee is obligated under any contract to purchase or lease target housing that is not otherwise an exempt transaction pursuant to Sec. **35**.82. Nothing in this section implies a positive obligation on the seller or lessor to conduct any evaluation or reduction activities.
(1) The seller or lessor shall provide the purchaser or lessee with an EPA-approved lead hazard information pamphlet. Such pamphlets include the EPA document entitled Protect Your Family From Lead in Your Home (EPA -747-K-94-001) or an equivalent pamphlet that has been approved for use in that State by EPA.
(2) The seller or lessor shall disclose to the purchaser or lessee the presence of any known lead-based paint and/or lead-based paint hazards in the target housing being sold or leased. The seller or lessor shall also disclose any additional information available concerning the known lead-based paint and/or lead-based paint hazards, such as the basis for the determination that lead-based paint and/or lead-based paint hazards exist, the location of the lead-based paint and/or lead-based paint hazards, and the condition of the painted surfaces.
(3) The seller or lessor shall disclose to each agent the presence of any known lead-based paint and/or lead-based paint hazards in the target housing being sold or leased and the existence of any available records or reports pertaining to lead-based paint and/or lead-based paint hazards. The seller or lessor shall also disclose any additional information available concerning the known lead-based paint and/or lead-based paint hazards, such as the basis for the determination that lead-based paint and/or lead-based paint hazards exist, the location of the lead-based paint and/or lead-based paint hazards, and the condition of the painted surfaces.
(4) The seller or lessor shall provide the purchaser or lessee with any records or reports available to the seller or lessor pertaining to lead-based paint and/or lead-based paint hazards in the target housing being sold or leased. This requirement includes records and reports regarding common areas. This requirement also includes records and reports regarding other residential dwellings in multifamily target housing, provided that such information is part of an evaluation or reduction of lead-based paint and/or lead-based paint hazards in the target housing as a whole.
(b) If any of the disclosure activities identified in paragraph (a) of this section occurs after the purchaser or lessee has provided an

offer to purchase or lease the housing, the seller or lessor shall complete the required disclosure activities prior to accepting the purchaser's or lessee's offer and allow the purchaser or lessee an opportunity to review the information and possibly amend the offer.

(Approved by the Office of Management and Budget under control number 2070-0151)

[61 FR 9082, Mar. 6, 1996, as amended at 64 FR 14382, Mar. 25, 1999]

Sec. **35**.90 Opportunity to conduct an evaluation.

(a) Before a purchaser is obligated under any contract to purchase target housing, the seller shall permit the purchaser a 10-day period (unless the parties mutually agree, in writing, upon a different period of time) to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.
(b) Notwithstanding paragraph (a) of this section, a purchaser may waive the opportunity to conduct the risk assessment or inspection by so indicating in writing.

(Approved by the Office of Management and Budget under control number 2070-0151)

[61 FR 9082, Mar. 6, 1996, as amended at 64 FR 14382, Mar. 25, 1999]

Sec. **35**.92 Certification and acknowledgment of disclosure.

(a) Seller requirements. Each contract to sell target housing shall include an attachment containing the following elements, in the language of the contract (e.g., English, Spanish):
(1) A Lead Warning Statement consisting of the following language:

Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

(2) A statement by the seller disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being sold or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards. The seller shall also provide any additional information available concerning the known lead-based paint and/or lead-based paint hazards, such as the basis for the determination that lead-based paint and/or lead-based paint hazards exist, the location of the lead-based paint and/or lead-based paint hazards, and the condition of the painted surfaces.
(3) A list of any records or reports available to the seller pertaining to lead-based paint and/or lead-based paint hazards in the housing that have been provided to the purchaser. If no such records or reports are available, the seller shall so indicate.
(4) A statement by the purchaser affirming receipt of the information set out in paragraphs (a)(2) and (a)(3) of this section and

the lead hazard information pamphlet required under section 15 U.S.C. 2696.
(5) A statement by the purchaser that he/she has either:
(i) Received the opportunity to conduct the risk assessment or inspection required by Sec. **35**.90(a); or
(ii) Waived the opportunity.
(6) When any agent is involved in the transaction to sell target housing on behalf of the seller, a statement that:
(i) The agent has informed the seller of the seller's obligations under 42 U.S.C. 4852d; and
(ii) The agent is aware of his/her duty to ensure compliance with the requirements of this subpart.
(7) The signatures of the sellers, agents, and purchasers, certifying to the accuracy of their statements, to the best of their knowledge, along with the dates of signature.
(b) Lessor requirements. Each contract to lease target housing shall include, as an attachment or within the contract, the following elements, in the language of the contract (e.g., English, Spanish):
(1) A Lead Warning Statement with the following language:

Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, lessors must disclose the presence of lead-based paint and/or lead-based paint hazards in the dwelling. Lessees must also receive a federally approved pamphlet on lead poisoning prevention.

(2) A statement by the lessor disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being leased or indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards. The lessor shall also disclose any additional information available concerning the known lead-based paint and/or lead-based paint hazards, such as the basis for the determination that lead-based paint and/or lead-based paint hazards exist in the housing, the location of the lead-based paint and/or lead-based paint hazards, and the condition of the painted surfaces.
(3) A list of any records or reports available to the lessor pertaining to lead-based paint and/or lead-based paint hazards in the housing that have been provided to the lessee. If no such records or reports are available, the lessor shall so indicate.
(4) A statement by the lessee affirming receipt of the information set out in paragraphs (b)(2) and (b)(3) of this section and the lead hazard information pamphlet required under 15 U.S.C. 2696.
(5) When any agent is involved in the transaction to lease target housing on behalf of the lessor, a statement that:
(i) The agent has informed the lessor of the lessor's obligations under 42 U.S.C. 4852d; and
(ii) The agent is aware of his/her duty to ensure compliance with the requirements of this subpart.
(6) The signatures of the lessors, agents, and lessees certifying to the accuracy of their statements to the best of their knowledge, along with the dates of signature.
(c) Retention of certification and acknowledgment information. (1) The seller, and any agent, shall retain a copy of the completed attachment required under paragraph (a) of this section for no less than 3 years from the completion date of the sale. The lessor, and any agent, shall retain a copy of the completed attachment or lease contract containing the information required under paragraph (b) of this section for no less than 3 years from the commencement of the leasing period.
(2) This recordkeeping requirement is not intended to place any limitations on civil suits under the Act, or to otherwise affect a lessee's or

purchaser's rights under the civil penalty provisions of 42 U.S.C. 4852d(b)(3).
(d) The seller, lessor, or agent shall not be responsible for the failure of a purchaser's or lessee's legal representative (where such representative receives all compensation from the purchaser or lessee) to transmit disclosure materials to the purchaser or lessee, provided that all required parties have completed and signed the necessary certification and acknowledgment language required under paragraphs (a) and (b) of this section.

(Approved by the Office of Management and Budget under control number 2070-0151)

[61 FR 9082, Mar. 6, 1996, as amended at 64 FR 14382, Mar. 25, 1999]

Sec. **35**.94 Agent responsibilities.

(a) Each agent shall ensure compliance with all requirements of this subpart. To ensure compliance, the agent shall:
(1) Inform the seller or lessor of his/her obligations under Secs. **35**.88, **35**.90, and **35**.92.
(2) Ensure that the seller or lessor has performed all activities required under Secs. **35**.88, **35**.90, and **35**.92, or personally ensure compliance with the requirements of Secs. **35**.88, **35**.90, and **35**.92.
(b) If the agent has complied with paragraph (a)(1) of this section, the agent shall not be liable for the failure to disclose to a purchaser or lessee the presence of lead-based paint and/or lead-based paint hazards known by a seller or lessor but not disclosed to the agent.

(Approved by the Office of Management and Budget under control number 2070-0151)

[61 FR 9082, Mar. 6, 1996, as amended at 64 FR 14382, Mar. 25, 1999]

Sec. **35**.96 Enforcement.

(a) Any person who knowingly fails to comply with any provision of this subpart shall be subject to civil monetary penalties in accordance with the provisions of 42 U.S.C. 3545 and 24 CFR part 30.
(b) The Secretary is authorized to take such action as may be necessary to enjoin any violation of this subpart in the appropriate Federal district court.
(c) Any person who knowingly violates the provisions of this subpart shall be jointly and severally liable to the purchaser or lessee in an amount equal to 3 times the amount of damages incurred by such individual.
(d) In any civil action brought for damages pursuant to 42 U.S.C. 4852d(b)(3), the appropriate court may award court costs to the party commencing such action, together with reasonable attorney fees and any expert witness fees, if that party prevails.
(e) Failure or refusal to comply with Secs. **35**.88 (disclosure requirements for sellers and lessors), Sec. **35**.90 (opportunity to conduct an evaluation), Sec. **35**.92 (certification and acknowledgment of disclosure), or Sec. **35**.94 (agent responsibilities) is a violation of 42 U.S.C. 4852d(b)(5) and of TSCA section 409 (15 U.S.C. 2689).
(f) Violators may be subject to civil and criminal sanctions pursuant to TSCA section 16 (15 U.S.C. 2615) for each violation. For purposes of enforcing this subpart, the penalty for each violation applicable under 15 U.S.C. 2615 shall be not more than $10,000.

Sec. **35**.98 Impact on State and local requirements.

Nothing in this subpart shall relieve a seller, lessor, or agent from any responsibility for compliance with State or local laws, ordinances, codes, or regulations governing notice or disclosure of known lead-based paint and/or lead-based paint hazards. Neither HUD nor EPA assumes any responsibility for ensuring compliance with such State or local requirements.

Subpart B--General Lead-Based Paint Requirements and Definitions for All Programs.

Source: 64 FR 50202, Sept. 15, 1999, unless otherwise noted.

Sec. **35**.100 Purpose and applicability.

(a) Purpose. The requirements of subparts B through R of this part are promulgated to implement the Lead-Based Paint Poisoning Prevention Act, as amended (42 U.S.C. 4821 et seq.), and the Residential Lead-Based Paint Hazard
Reduction Act of 1992 (42 U.S.C. 4851 et seq.).
(b) Applicability--(1) This subpart. This subpart applies to all target housing that is federally owned and target housing receiving Federal assistance to which subparts C, D, F through M, and R of this part apply, except where indicated.
(2) Other subparts--(i) General. Subparts C, D, and F through M of this part each set forth requirements for a specific type of Federal housing activity or assistance, such as multifamily mortgage insurance, project-based rental assistance, rehabilitation, or tenant-based rental assistance. Subpart R of this part provides standards and methods for activities required in subparts B, C, D, and F through M of this part.
(ii) Application to programs. Most HUD housing programs are covered by only one subpart of this part, but some programs can be used for more than one type of assistance and therefore are covered by more than one subpart of this part. A current list of programs covered by each subpart of this part is available on the internet at www.hud.gov, or by mail from the National Lead Information Center at 1-800-424-LEAD. Examples of flexible programs that can provide more than one type of assistance are the HOME Investment Partnerships program, the Community Development Block Grant program, and the Indian Housing Block Grant Program. Grantees, participating jurisdictions, Indian tribes and other entities administering such flexible programs must decide which subpart applies to the type of assistance being provided to a particular dwelling unit or residential property.
(iii) Application to dwelling units. In some cases, more than one type of assistance may be provided to the same dwelling unit. In such cases, the subpart or section with the most protective initial hazard reduction requirements applies. Paragraph (c) of this section provides a table that lists the subparts and sections of this part in order from the most protective to the least protective. (This list is based only on the requirements for initial hazard reduction. The summary of requirements on this list is not a complete list of requirements. It is necessary to refer to the applicable subparts and sections to determine all applicable requirements.)
(iv) Example. A multifamily building has 100 dwelling units and was built in 1965. The property is financed with HUD multifamily mortgage insurance. This building is covered by subpart G of this part (see Sec. **35**.625--Multifamily mortgage insurance for properties constructed after 1959), which is at protectiveness level 5 in the table set forth in paragraph (c) of this section. In the same building, however, 50 of the 100 dwelling units are receiving project-based assistance, and the average annual assistance per assisted unit is $5,500. Those 50 units, and common areas servicing those units, are covered by the requirements of subpart H of this part (see Sec. **35**.715--Project-based assistance for

multifamily properties receiving more than $5,000 per unit), which are at protectiveness level 3. Therefore, because level 3 is a higher level of protectiveness than level 5, the units receiving project-based assistance, and common areas servicing those units, must comply at level 3, while the rest of the building can be operated at level 5. The owner may choose to operate the entire building at level 3 for simplicity.

(c) Table One. The following table lists the subparts and sections of this part applying to HUD programs in order from most protective to least protective hazard reduction requirements. The summary of hazard reduction requirements in this table is not complete. Readers must refer to relevant subpart for complete requirements.

| Level of protection | Subpart, section, and type of assistance | Hazard reduction requirements |
|---|---|---|
| 1 | Subpart L, Public housing. Subpart G, Sec. 35.630, Multifamily mortgage insurance for conversions and major rehabilitations. | Full abatement of lead-based paint. |
| 2 | Subpart J, Sec. 35.930(d), Properties receiving more than $25,000 per unit in rehabilitation assistance. | Abatement of lead-based paint hazards. |
| 3 | Subpart G, Sec. 35.620, Multifamily mortgage insurance for properties constructed before 1960, other than conversions and major rehabilitations. Subpart H, Sec. 35.715, Project-based assistance for multifamily properties receiving more than $5,000 per unit. Subpart I, HUD-owned multifamily property. Subpart J, Sec. 35.930(c), Properties receiving more than $5,000 and up to $25,000 per unit in rehabilitation assistance. | Interim controls. |
| 4 | Subpart F, HUD-owned single family properties. Subpart H, Sec. 35.720, Project-based rental assistance for multifamily properties receiving up to $5,000 per unit and single family properties. Subpart K, Acquisition, leasing, support services, or operation. Subpart M, Tenant-based rental assistance. | Paint stabilization. |
| 5 | Subpart G, Sec. 35.625, Multifamily mortgage insurance for properties constructed after 1959. | Ongoing lead-based paint maintenance. |
| 6 | Subpart J, Sec. 35.930(b), Properties receiving up to and including $5,000 in rehabilitation assistance. | Safe work practices during rehabilitation. |

---

Sec. 35.105 Effective dates.

The effective date for subparts B through R of this part is September 15, 2000, except that the effective date for prohibited methods of paint removal, described in Sec. 35.140, is November 15, 1999. Subparts F through M of this part provide further information on the application of the effective date to specific programs. Before September 15, 2000, a designated party has the option of following the procedures in subparts B through R of this part, or complying with current HUD lead-based paint regulations.

Sec. 35.106 Information collection requirements.

The information collection requirements contained in this part have been approved by the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 2501-3520), and have been assigned OMB control number 2539-0009. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a

valid control number.

Sec. **35**.110 Definitions.

Abatement means any set of measures designed to permanently eliminate lead-based paint or lead-based paint hazards (see definition of ``permanent''). Abatement includes:
(1) The removal of lead-based paint and dust-lead hazards, the permanent enclosure or encapsulation of lead-based paint, the replacement of components or fixtures painted with lead-based paint, and the removal or permanent covering of soil-lead hazards; and
(2) All preparation, cleanup, disposal, and post abatement clearance testing activities associated with such measures.
Act means the Lead-Based Paint Poisoning Prevention Act, as amended, 42 U.S.C. 4822 et seq.
Bare soil means soil or sand not covered by grass, sod, other live ground covers, wood chips, gravel, artificial turf, or similar covering.
Certified means licensed or certified to perform such activities as risk assessment, lead-based paint inspection, or abatement supervision, either by a State or Indian tribe with a lead-based paint certification program authorized by the Environmental Protection Agency (EPA), or by the EPA, in accordance with 40 CFR part 745, subparts L or Q.
Chewable surface means an interior or exterior surface painted with lead-based paint that a young child can mouth or chew. A chewable surface is the same as an ``accessible surface'' as defined in 42 U.S.C. 4851b(2)). Hard metal substrates and other materials that cannot be dented by the bite of a young child are not considered chewable.
Clearance examination means an activity conducted following lead-based paint hazard reduction activities to determine that the hazard reduction activities are complete and that no soil-lead hazards or settled dust-lead hazards, as defined in this part, exist in the dwelling unit or worksite. The clearance process includes a visual assessment and collection and analysis of environmental samples. Dust-lead standards for clearance are found at Sec. **35**.1320.
CILP recipient means an owner of a multifamily property which is undergoing rehabilitation funded by the Flexible Subsidy-Capital Improvement Loan Program (CILP).
Common area means a portion of a residential property that is available for use by occupants of more than one dwelling unit. Such an area may include, but is not limited to, hallways, stairways, laundry and recreational rooms, playgrounds, community centers, on-site day care facilities, garages and boundary fences.
Component means an architectural element of a dwelling unit or common area identified by type and location, such as a bedroom wall, an exterior window sill, a baseboard in a living room, a kitchen floor, an interior window sill in a bathroom, a porch floor, stair treads in a common stairwell, or an exterior wall.
Composite sample means a collection of more than one sample of the same medium (e.g., dust, soil or paint) from the same type of surface (e.g., floor, interior window sill, or window trough), such that multiple samples can be analyzed as a single sample.
Containment means the physical measures taken to ensure that dust and debris created or released during lead-based paint hazard reduction are not spread, blown or tracked from inside to outside of the worksite.
Designated party means a Federal agency, grantee, subrecipient, participating jurisdiction, housing agency, CILP recipient, Indian tribe, tribally designated housing entity (TDHE), sponsor or property owner responsible for complying with applicable requirements.
Deteriorated paint means any interior or exterior paint or other coating that is peeling, chipping, chalking or cracking, or any paint or coating located on an interior or exterior surface or fixture that is otherwise damaged or separated from the substrate.

Dry sanding means sanding without moisture and includes both hand and machine sanding.
Dust-lead hazard means surface dust that contains a dust-lead loading (area concentration of lead) at or exceeding the levels promulgated by the EPA pursuant to section 403 of the Toxic Substances Control Act or, if such levels are not in effect, the standards in Sec. **35**.1320.
Dwelling unit means a:
(1) Single-family dwelling, including attached structures such as porches and stoops; or
(2) Housing unit in a structure that contains more than 1 separate housing unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the home or separate living quarters of 1 or more persons.
Encapsulation means the application of a covering or coating that acts as a barrier between the lead-based paint and the environment and that relies for its durability on adhesion between the encapsulant and the painted surface, and on the integrity of the existing bonds between paint layers and between the paint and the substrate. Encapsulation may be used as a method of abatement if it is designed and performed so as to be permanent (see definition of ``permanent'').
Enclosure means the use of rigid, durable construction materials that are mechanically fastened to the substrate in order to act as a barrier between lead-based paint and the environment. Enclosure may be used as a method of abatement if it is designed to be permanent (see definition of ``permanent'').
Environmental intervention blood lead level means a confirmed concentration of lead in whole blood equal to or greater than 20 <greek-m>g/dL (micrograms of lead per deciliter) for a single test or 15-19 <greek-m>g/dL in two tests taken at least 3 months apart.
Evaluation means a risk assessment, a lead hazard screen, a lead-based paint inspection, paint testing, or a combination of these to determine the presence of lead-based paint hazards or lead-based paint.
Expected to reside means there is actual knowledge that a child will reside in a dwelling unit reserved for the elderly or designated exclusively for persons with disabilities. If a resident woman is known to be pregnant, there is actual knowledge that a child will reside in the dwelling unit.
Federal agency means the United States or any executive department, independent establishment, administrative agency and instrumentality of the United States, including a corporation in which all or a substantial amount of the stock is beneficially owned by the United States or by any of these entities. The term ``Federal agency'' includes, but is not limited to, Rural Housing Service (formerly Rural Housing and Community Development Service that was formerly Farmer's Home Administration), Resolution Trust Corporation, General Services Administration, Department of Defense, Department of Veterans Affairs, Department of the Interior, and Department of Transportation.
Federally owned property means residential property owned or managed by a Federal agency, or for which a Federal agency is a trustee or conservator.
Firm commitment means a valid commitment issued by HUD or the Federal Housing Commissioner setting forth the terms and conditions upon which a mortgage will be insured or guaranteed.
Friction surface means an interior or exterior surface that is subject to abrasion or friction, including, but not limited to, certain window, floor, and stair surfaces.
g means gram, mg means milligram (thousandth of a gram), and <greek-m>g means microgram (millionth of a gram).
Grantee means any State or local government, Indian tribe, IHBG recipient, insular area or nonprofit organization that has been designated by HUD to administer Federal housing assistance under a

program covered by subparts J and K of this part, except the HOME program or the Flexible Subsidy-Capital Improvement Loan Program (CILP).
Hard costs of rehabilitation means:
(1) Costs to correct substandard conditions or to meet applicable local rehabilitation standards;
(2) Costs to make essential improvements, including energy-related repairs, and those necessary to permit use by persons with disabilities; and costs to repair or replace major housing systems in danger of failure; and
(3) Costs of non-essential improvements, including additions and alterations to an existing structure; but
(4) Hard costs do not include administrative costs (e.g., overhead for administering a rehabilitation program, processing fees, etc.).
Hazard reduction means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls or abatement or a combination of the two.
HEPA vacuum means a vacuum cleaner device with an included high-efficiency particulate air (HEPA) filter through which the contaminated air flows, operated in accordance with the instructions of its manufacturer. A HEPA filter is one that captures at least 99.97 percent of airborne particles of at least 0.3 micrometers in diameter.
Housing for the elderly means retirement communities or similar types of housing reserved for households composed of one or more persons 62 years of age or more, or other age if recognized as elderly by a specific Federal housing assistance program.
Housing receiving Federal assistance means housing which is covered by an application for HUD mortgage insurance, receives housing assistance payments under a program administered by HUD, or otherwise receives more than $5,000 in project-based assistance under a Federal housing program administered by an agency other than HUD.
HUD means the United States Department of Housing and Urban Development.
HUD-owned property means residential property owned or managed by HUD, or for which HUD is a trustee or conservator.
Impact surface means an interior or exterior surface that is subject to damage by repeated sudden force, such as certain parts of door frames.
Indian Housing Block Grant (IHBG) recipient means a tribe or a tribally designated housing entity (TDHE) receiving IHBG funds.
Indian tribe means a tribe as defined in the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.)
Inspection (See Lead-based paint inspection).
Insular areas means Guam, the Northern Mariana Islands, the United States Virgin Islands and American Samoa.
Interim controls means a set of measures designed to reduce temporarily human exposure or likely exposure to lead-based paint hazards. Interim controls include, but are not limited to, repairs, painting, temporary containment, specialized cleaning, clearance, ongoing lead-based paint maintenance activities, and the establishment and operation of management and resident education programs.
Interior window sill means the portion of the horizontal window ledge that protrudes into the interior of the room, adjacent to the window sash when the window is closed. The interior window sill is sometimes referred to as the window stool.
Lead-based paint means paint or other surface coatings that contain lead equal to or exceeding 1.0 milligram per square centimeter or 0.5 percent by weight or 5,000 parts per million (ppm) by weight.
Lead-based paint hazard means any condition that causes exposure to lead from dust-lead hazards, soil-lead hazards, or lead-based paint that is deteriorated or present in chewable surfaces, friction surfaces, or impact surfaces, and that would result in adverse human health effects.
Lead-based paint inspection means a surface-by-surface investigation

to determine the presence of lead-based paint and the provision of a report explaining the results of the investigation.
Lead hazard screen means a limited risk assessment activity that involves paint testing and dust sampling and analysis as described in 40 CFR 745.227(c) and soil sampling and analysis as described in 40 CFR 745.227(d).
Mortgagee means a lender of a mortgage loan.
Mortgagor means a borrower of a mortgage loan.
Multifamily property means a residential property containing five or more dwelling units.
Occupant means a person who inhabits a dwelling unit.
Owner means a person, firm, corporation, nonprofit organization, partnership, government, guardian, conservator, receiver, trustee, executor, or other judicial officer, or other entity which, alone or with others, owns, holds, or controls the freehold or leasehold title or part of the title to property, with or without actually possessing it. The definition includes a vendee who possesses the title, but does not include a mortgagee or an owner of a reversionary interest under a ground rent lease.
Paint stabilization means repairing any physical defect in the substrate of a painted surface that is causing paint deterioration, removing loose paint and other material from the surface to be treated, and applying a new protective coating or paint.
Paint testing means the process of determining, by a certified lead-based paint inspector or risk assessor, the presence or the absence of lead-based paint on deteriorated paint surfaces or painted surfaces to be disturbed or replaced.
Paint removal means a method of abatement that permanently eliminates lead-based paint from surfaces.
Painted surface to be disturbed means a paint surface that is to be scraped, sanded, cut, penetrated or otherwise affected by rehabilitation work in a manner that could potentially create a lead-based paint hazard by generating dust, fumes, or paint chips.
Participating jurisdiction means any State or local government that has been designated by HUD to administer a HOME program grant.
Permanent means an expected design life of at least 20 years.
Play area means an area of frequent soil contact by children of less than 6 years of age, as indicated by the presence of play equipment (e.g. sandboxes, swing sets, sliding boards, etc.) or toys or other children's possessions, observations of play patterns, or information provided by parents, residents or property owners.
Project-based rental assistance means Federal rental assistance that is tied to a residential property with a specific location and remains with that particular location throughout the term of the assistance.
Public health department means a State, tribal, county or municipal public health department or the Indian Health Service.
Public housing development means a residential property assisted under the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.), but not including housing assisted under section 8 of the 1937 Act.
Reevaluation means a visual assessment of painted surfaces and limited dust and soil sampling conducted periodically following lead-based paint hazard reduction where lead-based paint is still present.
Rehabilitation means the improvement of an existing structure through alterations, incidental additions or enhancements. Rehabilitation includes repairs necessary to correct the results of deferred maintenance, the replacement of principal fixtures and components, improvements to increase the efficient use of energy, and installation of security devices.
Replacement means a strategy of abatement that entails the removal of building components that have surfaces coated with lead-based paint and the installation of new components free of lead-based paint.
Residential property means a dwelling unit, common areas, building

exterior surfaces, and any surrounding land, including outbuildings, fences and play equipment affixed to the land, belonging to an owner and available for use by residents, but not including land used for agricultural, commercial, industrial or other non-residential purposes, and not including paint on the pavement of parking lots, garages, or roadways.

Risk assessment means:

(1) An on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards; and

(2) The provision of a report by the individual or firm conducting the risk assessment explaining the results of the investigation and options for reducing lead-based paint hazards.

Single family property means a residential property containing one through four dwelling units.

Single room occupancy (SRO) housing means housing consisting of zero-bedroom dwelling units that may contain food preparation or sanitary facilities or both (see Zero-bedroom dwelling).

Soil-lead hazard means bare soil on residential property that contains lead equal to or exceeding levels promulgated by the U.S. Environmental Protection Agency pursuant to section 403 of the Toxic Substances Control Act or, if such levels are not in effect, the following levels: 400 <greek-m>g/g in play areas; and 2000 <greek-m>g/g in other areas with bare soil that total more than 9 square feet (0.8 square meters) per residential property.

Sponsor means mortgagor (borrower).

Subrecipient means any nonprofit organization selected by the grantee or participating jurisdiction to administer all or a portion of the Federal rehabilitation assistance or other non-rehabilitation assistance, or any such organization selected by a subrecipient of the grantee or participating jurisdiction. An owner or developer receiving Federal rehabilitation assistance or other assistance for a residential property is not considered a subrecipient for the purposes of carrying out that project.

Standard treatments means a series of hazard reduction measures designed to reduce all lead-based paint hazards in a dwelling unit without the benefit of a risk assessment or other evaluation.

Substrate means the material directly beneath the painted surface out of which the components are constructed, including wood, drywall, plaster, concrete, brick or metal.

Target housing means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless a child of less than 6 years of age resides or is expected to reside in such housing for the elderly or persons with disabilities) or any zero-bedroom dwelling. In the case of jurisdictions which banned the sale or use of lead-based paint prior to 1978, HUD may designate an earlier date.

Tenant means the individual named as the lessee in a lease, rental agreement or occupancy agreement for a dwelling unit.

Visual assessment means looking for, as applicable:

(1) Deteriorated paint;

(2) Visible surface dust, debris and residue as part of a risk assessment or clearance examination; or

(3) The completion or failure of a hazard reduction measure.

Wet sanding or wet scraping means a process of removing loose paint in which the painted surface to be sanded or scraped is kept wet to minimize the dispersal of paint chips and airborne dust.

Window trough means the area between the interior window sill (stool) and the storm window frame. If there is no storm window, the window trough is the area that receives both the upper and lower window sashes when they are both lowered.

Worksite means an interior or exterior area where lead-based paint hazard reduction activity takes place. There may be more than one

worksite in a dwelling unit or at a residential property.
Zero-bedroom dwelling means any residential dwelling in which the living areas are not separated from the sleeping area. The term includes efficiencies, studio apartments, dormitory or single room occupancy housing, military barracks, and rentals of individual rooms in residential dwellings (see Single room occupancy (SRO)).

Sec. **35**.115 Exemptions.

(a) Subparts B through R of this part do not apply to the following:
(1) A residential property for which construction was completed on or after January 1, 1978, or, in the case of jurisdictions which banned the sale or residential use of lead-containing paint prior to 1978, an earlier date as HUD may designate (see Sec. **35**.160).
(2) A zero-bedroom dwelling unit, including a single room occupancy (SRO) dwelling unit.
(3) Housing for the elderly, or a residential property designated exclusively for persons with disabilities; except this exemption shall not apply if a child less than age 6 resides or is expected to reside in the dwelling unit (see definitions of ``housing for the elderly'' and ``expected to reside'' in Sec. **35**.110).
(4) Residential property found not to have lead-based paint by a lead-based paint inspection conducted in accordance with Sec. **35**.1320(a) (for more information regarding inspection procedures consult the 1997 edition of Chapter 7 of the HUD Guidelines). Results of additional test(s) by a certified lead-based paint inspector may be used to confirm or refute a prior finding.
(5) Residential property in which all lead-based paint has been identified, removed, and clearance has been achieved in accordance with 40 CFR 745.227(b)(e) before September 15, 2000, or in accordance with Secs. **35**.1320, **35**.1325 and **35**.1340 on or after September 15, 2000. This exemption does not apply to residential property where enclosure or encapsulation has been used as a method of abatement.
(6) An unoccupied dwelling unit or residential property that is to be demolished, provided the dwelling unit or property will remain unoccupied until demolition.
(7) A property or part of a property that is not used and will not be used for human residential habitation, except that spaces such as entryways, hallways, corridors, passageways or stairways serving both residential and nonresidential uses in a mixed-use property shall not be exempt.
(8) Any rehabilitation that does not disturb a painted surface.
(9) For emergency actions immediately necessary to safeguard against imminent danger to human life, health or safety, or to protect property from further structural damage (such as when a property has been damaged by a natural disaster, fire, or structural collapse), occupants shall be protected from exposure to lead in dust and debris generated by such emergency actions to the extent practicable, and the requirements of subparts B through R of this part shall not apply. This exemption applies only to repairs necessary to respond to the emergency. The requirements of subparts B through R of this part shall apply to any work undertaken subsequent to, or above and beyond, such emergency actions.
(10) If a Federal law enforcement agency has seized a residential property and owns the property for less than 270 days, Secs. **35**.210 and **35**.215 shall not apply to the property.
(11) The requirements of subpart K of this part do not apply if the assistance being provided is emergency rental assistance or foreclosure prevention assistance, provided that this exemption shall expire for a dwelling unit no later than 100 days after the initial payment or assistance.
(12) Performance of an evaluation or lead-based paint hazard reduction or lead-based paint abatement on an exterior painted surface

as required under this part may be delayed for a reasonable time during a period when weather conditions are unsuitable for conventional construction activities.
(13) Where abatement of lead-based paint hazards or lead-based paint is required by this part and the property is listed or has been determined to be eligible for listing in the National Register of Historic Places or contributing to a National Register Historic District, the designated party may, if requested by the State Historic Preservation Office, conduct interim controls in accordance with Sec. **35**.1330 instead of abatement. If interim controls are conducted, ongoing lead-based paint maintenance and reevaluation shall be conducted as required by the applicable subpart of this part in accordance with Sec. **35**.1355.
(b) For the purposes of subpart C of this part, each Federal agency other than HUD will determine whether appropriations are sufficient to implement this rule. If appropriations are not sufficient, subpart C of this part shall not apply to that Federal agency. If appropriations are sufficient, subpart C of this part shall apply.

Sec. **35**.120 Options.

(a) Standard treatments. Where interim controls are required by this part, the designated party has the option to presume that lead-based paint or lead-based paint hazards or both are present throughout the residential property. In such a case, evaluation is not required. Standard treatments shall then be conducted in accordance with Sec. **35**.1335 on all applicable surfaces, including soil. Standard treatments are completed only when clearance is achieved in accordance with Sec. **35**.1340.
(b) Abatement. Where abatement is required by this part, the designated party may presume that lead-based paint or lead-based paint hazards or both are present throughout the residential property. In such a case, evaluation is not required. Abatement shall then be conducted on all applicable surfaces, including soil, in accordance with Sec. **35**.1325, and completed when clearance is achieved in accordance with Sec. **35**.1340. This option is not available in public housing, where inspection is required.
(c) Lead hazard screen. Where a risk assessment is required, the designated party may choose first to conduct a lead hazard screen in accordance with Sec. **35**.1320(b). If the results of the lead hazard screen indicate the need for a full risk assessment (e.g., if the environmental measurements exceed levels established for lead hazard screens in Sec. **35**.1320(b)(2)), a complete risk assessment shall be conducted. Environmental samples collected for the lead hazard screen may be used in the risk assessment. If the results of the lead hazard screen do not indicate the need for a follow-up risk assessment, a risk assessment is not required.
(d) Paint testing. Where paint stabilization or interim controls of deteriorated paint surfaces are required by this rule, the designated party has the option to conduct paint testing of all surfaces with non-intact paint. If paint testing indicates the absence of lead-based paint on a specific surface, paint stabilization or interim controls are not required on that surface.

Sec. **35**.125 Notice of evaluation and hazard reduction activities.

The following activities shall be conducted if notice is required by subparts D and F through M of this part.
(a) Notice of evaluation or presumption. When evaluation is undertaken and lead-based paint or lead-based paint hazards are found to be present, or if a presumption is made that lead-based paint or lead-based paint hazards are present in accordance with the options

described in Sec. **35**.120, the designated party shall provide a notice to occupants within 15 calendar days of the date when the designated party receives the report or makes the presumption.
(1) The notice of the evaluation shall include:
(i) A summary of the nature, scope and results of the evaluation;
(ii) A contact name, address and telephone number for more information, and to obtain access to the actual evaluation report; and
(iii) The date of the notice.
(2) The notice of presumption shall include:
(i) The nature and scope of the presumption;
(ii) A contact name, address and telephone number for more information; and
(iii) The date of the notice.
(b) Notice of hazard reduction activity. When hazard reduction activities are undertaken, each designated party shall:
(1) Provide a notice to occupants no more than 15 calendar days after the hazard reduction activities have been completed. Notice of hazard reduction shall include, but not be limited to:
(i) A summary of the nature, scope and results (including clearance), of the hazard reduction activities.
(ii) A contact name, address and telephone number for more information; and
(iii) Available information on the location of any remaining lead-based paint in the rooms, spaces or areas where hazard reduction activities were conducted, on a surface-by-surface basis;
(2) Update the notice, based on reevaluation of the residential property and as any additional hazard reduction work is conducted.
(c) Availability of notices of evaluation, presumption, and hazard reduction activities. (1) The notices of evaluation, presumption, and hazard reduction shall be of a size and type that is easily read by occupants.
(2) To the extent practicable, each notice shall be made available, upon request, in a format accessible to persons with disabilities (e.g., Braille, large type, computer disk, audio tape).
(3) Each notice shall be provided in the occupants' primary language or in the language of the occupants' contract or lease.
(4) The designated party shall provide each notice to the occupants by:
(i) Posting and maintaining it in centrally located common areas and distributing it to any dwelling unit if necessary because the head of household is a person with a known disability; or
(ii) Distributing it to each occupied dwelling unit affected by the evaluation, presumption, or hazard reduction activity or serviced by common areas in which an evaluation, presumption or hazard reduction has taken place.

Sec. **35**.130 Lead hazard information pamphlet.

If provision of a lead hazard information pamphlet is required in subparts D and F through M of this part, the designated party shall provide to each occupied dwelling unit to which subparts D and F through M of this part apply, the lead hazard information pamphlet developed by EPA, HUD and the Consumer Product Safety Commission pursuant to section 406 of the Toxic Substances Control Act (15 U.S.C. 2686), or an EPA-approved alternative; except that the designated party need not provide a lead hazard information pamphlet if the designated party can demonstrate that the pamphlet has already been provided in accordance with the lead-based paint notification and disclosure requirements at Sec. **35**.88(a)(1), or 40 CFR 745.107(a)(1) or in accordance with the requirements for hazard education before renovation at 40 CFR part 745, subpart E.

Sec. **35**.135 Use of paint containing lead.

(a) New use prohibition. The use of paint containing more than 0.06 percent dry weight of lead on any interior or exterior surface in federally owned housing or housing receiving Federal assistance is prohibited. As appropriate, each Federal agency shall include the prohibition in contracts, grants, cooperative agreements, insurance agreements, guaranty agreements, trust agreements, or other similar documents.
(b) Pre-1978 prohibition. In the case of a jurisdiction which banned the sale or residential use of lead-containing paint before 1978, HUD may designate an earlier date for certain provisions of subparts D and F through M of this part.

Sec. **35**.140 Prohibited methods of paint removal.

The following methods shall not be used to remove paint that is, or may be, lead-based paint:
(a) Open flame burning or torching.
(b) Machine sanding or grinding without a high-efficiency particulate air (HEPA) local exhaust control.
(c) Abrasive blasting or sandblasting without HEPA local exhaust control.
(d) Heat guns operating above 1100 degrees Fahrenheit or charring the paint.
(e) Dry sanding or dry scraping, except dry scraping in conjunction with heat guns or within 1.0 ft. (0.30 m.) of electrical outlets, or when treating defective paint spots totaling no more than 2 sq. ft. (0.2 sq. m.) in any one interior room or space, or totaling no more than 20 sq. ft. (2.0 sq. m.) on exterior surfaces.
(f) Paint stripping in a poorly ventilated space using a volatile stripper that is a hazardous substance in accordance with regulations of the Consumer Product Safety Commission at 16 CFR 1500.3, and/or a hazardous chemical in accordance with the Occupational Safety and Health Administration regulations at 29 CFR 1910.1200 or 1926.59, as applicable to the work.

Sec. **35**.145 Compliance with Federal laws and authorities.

All lead-based paint activities, including waste disposal, performed under this part shall be performed in accordance with applicable Federal laws and authorities. For example, such activities are subject to the applicable environmental review requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Toxic Substances Control Act, Title IV (15 U.S.C. 2860 et seq.), and other environmental laws and authorities (see, e.g., laws and authorities listed in Sec. 50.4 of this title).

Sec. **35**.150 Compliance with other State, tribal, and local laws.

(a) HUD responsibility. If HUD determines that a State, tribal or local law, ordinance, code or regulation provides for evaluation or hazard reduction in a manner that provides a comparable level of protection from the hazards of lead-based paint poisoning to that provided by the requirements of subparts B, C, D, F through M and R of this part and that adherence to the requirements of subparts B, C, D, F through M, and R of this part, would be duplicative or otherwise cause inefficiencies, HUD may modify or waive some or all of the requirements of the subparts in a manner that will promote efficiency while ensuring a comparable level of protection.
(b) Participant responsibility. Nothing in this part is intended to relieve any participant in a program covered by this subpart of any

responsibility for compliance with State, tribal or local laws, ordinances, codes or regulations governing evaluation and hazard reduction. If a State, tribal or local law, ordinance, code or regulation defines lead-based paint differently than the Federal definition, the more protective definition (i.e., the lower level) shall be followed in that State, tribal or local jurisdiction.

Sec. **35**.155 Minimum requirements.

(a) Nothing in subparts B, C, D, F through M, and R of this part is intended to preclude a designated party or occupant from conducting additional evaluation or hazard reduction measures beyond the minimum requirements established for each program in this regulation. For example, if the applicable subpart requires visual assessment, the designated party may choose to perform a risk assessment in accordance with Sec. **35**.1320. Similarly, if the applicable subpart requires interim controls, a designated party or occupant may choose to implement abatement in accordance with Sec. **35**.1325.
(b) To the extent that assistance from any of the programs covered by subparts B, C, D, and F through M of this part is used in conjunction with other HUD program assistance, the most protective requirements prevail.

Sec. **35**.160 Waivers.

In accordance with Sec. 5.110 of this title, on a case-by-case basis and upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of subparts B, C, D, F through M, and R of this part.

Sec. **35**.165 Prior evaluation or hazard reduction.

If an evaluation or hazard reduction was conducted at a residential property or dwelling unit before the property or dwelling unit became subject to the requirements of subparts B, C, D, F through M, and R of this part, such an evaluation, hazard reduction or abatement meets the requirements of subparts B, C, D, F through M, and R of this part and need not be repeated under the following conditions:
(a) Lead-based paint inspection. (1) A lead-based paint inspection conducted before the date specified in 40 CFR 745.239(b) meets the requirements of this part if:
(i) At the time of the inspection the lead-based paint inspector was approved by a State or Indian tribe to perform lead-based paint inspections. It is not necessary that the State or tribal approval program had EPA authorization at the time of the inspection.
(ii) Notwithstanding paragraph (a)(1)(i) of this section, the inspection was conducted and accepted as valid by a housing agency in fulfillment of the lead-based paint inspection requirement of the public and Indian housing program.
(2) A lead-based paint inspection conducted on or after the effective date specified in 40 CFR 745.239(b) must have been conducted by a certified lead-based paint inspector.
(b) Risk assessment. (1) A risk assessment must be no more than 12 months old to be considered current.
(2) A risk assessment conducted before the effective date of 40 CFR 745.239(b) meets the requirements of this part if at the time of the risk assessment the risk assessor was approved by a State or Indian tribe to perform risk assessments. It is not necessary that the State or tribal approval program had EPA authorization at the time of the risk assessment.
(3) A risk assessment conducted on or after the date specified in 40 CFR 745.239(b) must have been conducted by a certified risk assessor.
(4) Paragraph (b) of this section does not apply in a case where a

risk assessment is required in response to the identification of a child with an environmental intervention blood lead level. In such a case, the requirements in the applicable subpart for responding to a child with an environmental intervention blood lead level shall apply.
(c) Interim controls. If a residential property is under a program of interim controls and ongoing lead-based paint maintenance and reevaluation activities established pursuant to a risk assessment conducted in accordance with paragraph (b) of this section, the interim controls that have been conducted meet the requirements of this part if clearance was achieved after such controls were implemented. In such a case, the program of interim controls and ongoing activities shall be continued in accordance with the requirements of this part.
(d) Abatement. (1) An abatement conducted before the date specified in 40 CFR 745.239(b) meets the requirements of this part if:
(i) At the time of the abatement the abatement supervisor was approved by a State or Indian tribe to perform lead-based paint abatement. It is not necessary that the State or tribal approval program had EPA authorization at the time of the abatement.
(ii) Notwithstanding paragraph (d)(1)(i) of this section, it was conducted and accepted by a housing agency in fulfillment of the lead-based paint abatement requirement of the public housing program or by an Indian housing authority (as formerly defined under the U.S. Housing Act of 1937) in fulfillment of the lead-based paint requirement of the Indian housing program formerly funded under the U.S. Housing Act of 1937.
(2) An abatement conducted on or after the date specified in 40 CFR 745.239(b) must have been conducted under the supervision of a certified lead-based paint abatement supervisor.

[64 FR 50208, Sept. 15, 1999; 65 FR 3387, Jan. 21, 2000]

Sec. **35**.170 Noncompliance with the requirements of subparts B through R of this part.

(a) Monitoring and enforcement. A designated party who fails to comply with any requirement of subparts B, C, D, F through M, and R of this part shall be subject to the sanctions available under the relevant Federal housing assistance or ownership program and may be subject to other penalties authorized by law.
(b) A property owner who informs a potential purchaser or occupant of lead-based paint or possible lead-based paint hazards in a residential property or dwelling unit, in accordance with subpart A of this part, is not relieved of the requirements to evaluate and reduce lead-based paint hazards in accordance with subparts B through R of this part as applicable.

Sec. **35**.175 Records.

The designated party, as specified in subparts C, D, and F through M of this part, shall keep a copy of each notice, evaluation, and clearance or abatement report required by subparts C, D, and F through M of this part for at least three years. Those records applicable to a portion of a residential property for which ongoing lead-based paint maintenance and/or reevaluation activities are required shall be kept and made available for the Department's review, until at least three years after such activities are no longer required.