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Margaret M. Dotzel,*Acting Associate for Commissioner for Policy.*

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**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT****24 CFR Parts 35, 968, and 1000**

[Docket No. FR-3482-C-07]

RIN 2501-AB57

**Requirements for Notification,
Evaluation and Reduction of Lead-
Based Paint Hazards in Housing
Receiving Federal Assistance and
Federally Owned Residential Property
Being Sold; Correction****AGENCY:** Office of the Secretary—Office of Lead Hazard Control, HUD.**ACTION:** Correction.

SUMMARY: This document makes several corrections to HUD's September 15, 1999 final rule implementing sections 1012 and 1013 of the Residential Lead-Based Paint Hazard Reduction Act of 1992. Among other corrections, this document corrects the numbering of the sections containing the regulatory requirements governing lead-based paint disclosure; corrects the September 15, 1999 final rule to reflect the effective date of a related rule issued by the Environmental Protection Agency; and corrects several typographical errors contained in the final rule.

DATES: *Effective date:* September 15, 2000.

FOR FURTHER INFORMATION CONTACT: Steve Weitz, Special Assistant, Office of Lead Hazard Control, Department of Housing and Urban Development, 451 Seventh Street, SW, Room P-3206, Washington, DC 20410; telephone: (202) 755-1785, ext. 104 (this is not a toll-free number); E-mail: lead-regulations@hud.gov. For legal questions, contact John B. Shumway, Office of General Counsel, Department of Housing and Urban Development, Room 9262. Persons with hearing or speech impediments may access the above telephone number via TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

SUPPLEMENTARY INFORMATION: On September 15, 1999, HUD published a final rule (64 FR 50140) that implements sections 1012 and 1013 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851 *et seq.*). The purpose of the rule is to

ensure that Federally-owned or assisted housing does not pose lead-based paint hazards to young children. The majority of the provisions contained in the final rule will become effective on September 15, 2000 (one year following the date of publication). This document makes several corrections to the September 15, 1999 final rule. The corrections made by this document are as follows:

A. Correction of Section Numbers for Lead-Based Paint Disclosure Requirements (24 CFR part 25, subpart A)

The September 15, 1999 final rule redesignated subpart H of 24 CFR part 35 as subpart A. The purpose of this action was simply to relocate the regulatory requirements governing lead-based paint disclosure (which had been promulgated by final rule published on March 6, 1996 (61 FR 9082)) from subpart H to subpart A without any change in text. This was done to allow the new regulatory requirements established by the September 15, 1999 final rule to be described uninterrupted through the remainder of part 35. However, the September 15, 1999 final rule also incorrectly revised the section numbers of the relocated disclosure provisions. These redesignations may cause confusion because existing section references in the lead-based paint literature may not reflect the revised section numbers. This document corrects the section numbers of the disclosure requirements contained in part 35, subpart A. The numbering of these sections is now identical to that originally published in the March 6, 1996 final rule.

B. Conformance With EPA Regulations

The September 15, 1999 final rule relies on a nationwide framework of personnel who are or will be trained and certified in accordance with regulations issued by the U.S. Environmental Protection Agency (EPA). The EPA program is designed to ensure the safe and effective performance of lead-based paint inspections, risk assessments, and abatements. When the September 15, 1999 rule was published, the effective date of the relevant EPA regulations at 40 CFR part 745 was August 30, 1999. Therefore, the September 15, 1999 final rule (at § 35.165) specifies that this is the date after which all lead-based paint inspections, risk assessments and abatements must be performed by persons certified in accordance with 24 CFR part 745.

On August 6, 1999 (64 FR 42851), the EPA published an amendment that extends the effective dates for

certification of individuals and firms and use of work practices standards from August 30, 1999 to March 1, 2000. Therefore, HUD must correct the September 15, 1999 final rule to conform to the new EPA effective date. To avoid possible further confusion, this document provides a citation to the EPA regulation instead of a specific date. This reduces the likelihood that HUD will have to again correct the September 15, 1999 final rule if EPA should have to again change the effective date.

C. Applicability of Subpart K

This document corrects the § 35.1000, which describes the purpose and applicability section of subpart K. This section erroneously provides that the subpart K requirements apply to "residential rehabilitation activities." These activities are covered under subpart J (entitled "Rehabilitation"), not subpart K. Subpart K establishes the lead-based paint requirements acquisition, leasing, support services, or operation of residential property.

D. NAHASDA Assisted Activities

The September 15, 1999 final rule revised 24 CFR 1000.40, which describes the lead-based paint requirements for housing activities assisted under the Native American Housing Assistance and Self-Determination Act (NAHASDA). In referring to the subparts of 24 CFR part 35 that are applicable to NAHASDA assisted activities, the September 15, 1999 revision erroneously referred to subparts E and G, which do not apply to NAHASDA activities. The September 15, 1999 revision did not refer to subpart J, which pertains to rehabilitation activities, including NAHASDA rehabilitation assistance. This document corrects § 1000.40 by removing the references to subparts E and G of part 35, and adding a reference to 24 CFR part 35, subpart J.

E. Corrections of Typographical Errors

This document also corrects the following typographical errors contained in the September 15, 1999 final rule.

1. *Correction to § 35.930(b)(3).* This document corrects a typographical error contained in § 35.930(b)(3) of the September 15, 1999 final rule. At the end of the second sentence of this section, an incorrect reference is made to § 35.1350(b). This document corrects the reference to read "§ 35.1350(d)."

2. *Correction to § 35.1200(b)(2)(i).* This document corrects a typographical error contained in § 35.1200(b)(2)(i) of the September 15, 1999 final rule. Specifically, an incorrect reference to

“September 15, 200” is corrected to read “September 15, 2000.”

3. *Correction to § 35.1200(b)(4)(i).*

This document corrects a typographical error contained in § 35.1200(b)(4)(i) of the September 15, 1999 final rule. This section provides an incorrect effective date for tenant-based rental assistance competitively awarded under the Housing Opportunities for Persons With AIDS (HOPWA) program. This document corrects the effective date from “October 1, 1999” to “September 15, 2000.” This correction conforms the effective date provided in § 35.1200(b)(4) to the effective dates provided elsewhere in the September 15, 1999 final rule, including those for competitively awarded HOPWA grants in 24 CFR part 35, subparts J and K.

F. Revision Superseded by Other HUD Rulemaking

The September 15, 1999 final rule revises HUD’s public housing modernization regulations at § 968.210(e)(2)(ii) (see 64 FR 50229, amendatory instruction number 80). However, by final rule published on June 23, 1999 (64 FR 33636), HUD removed § 968.210(e). This document corrects the September 15, 1999 final rule by removing the reference to § 968.210(e).

Accordingly, in the final rule captioned “Requirements for Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance,” FR Document 99–23016, beginning at 64 FR 50140, in the issue of Wednesday, September 15, 1999, the following corrections are made:

PART 35—[CORRECTED]

1. On page 50201, in the first column, regulatory amendment 2 is corrected to read as follows:

2. Remove Subpart A and redesignate subpart H, consisting of § 35.80 through 35.98, as subpart A. The table of contents to redesignated subpart A is revised to read as follows:

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.

2. On page 50208, in the first and second columns, correct § 35.165 by revising paragraphs (a)(1) introductory text, (a)(2), (b)(2), (b)(3), (d)(1) introductory text, and (d)(2) to read as follows:

§ 35.165 Prior evaluation or hazard reduction.

(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:

(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) ***
 (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.

(d) *Abatement.* (1) An abatement conducted before the date specified in 40 CFR 745.239(b) meets the requirements of this part if:

(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.

3. On page 50214, in the first column, correct § 35.930(b)(3) to read as follows:

§ 35.930 Evaluation and hazard reduction requirements.

(b) ***
 (3) After completion of any rehabilitation disturbing painted surfaces, perform a clearance examination of the worksite(s) in accordance with § 35.1340. Clearance is not required if rehabilitation did not disturb painted surfaces of a total area more than that set forth in § 35.1350(d).

4. On page 50214, in the third column, correct the first sentence of § 35.1000(c)(2) to read as follows:

§ 35.1000 Purpose and applicability.

* * * * *
 (c) * * *

(2) For purposes of the CDBG Entitlement program and the Indian Housing Block Grant program, the requirements of this subpart shall apply to activities (except those otherwise exempted) for which funds are first obligated on or after September 15, 2000. * * *

5. On page 50217, in the first column, correct § 35.1200(b)(2)(i) and § 35.1200(b)(4)(i) to read as follows:

§ 35.1200 Purpose and applicability.

(b) * * *
 (2) * * *
 (i) The requirements of this subpart are applicable where an initial or periodic inspection occurs on or after September 15, 2000; and

(4) * * *
 (i) The requirements of this subpart shall apply to grants awarded pursuant to Notices of Funding Availability published on or after September 15, 2000; and

PART 968—[CORRECTED]

§ 968.210 [Corrected]

6. On page 50229, in the second column, remove regulatory amendment 80.

PART 1000—[CORRECTED]

7. On page 50230, in the second column, correct the second sentence of § 1000.40 to read as follows:

§ 1000.40 Do lead-based paint poisoning prevention requirements apply to affordable housing activities under NAHASDA?

* * * The applicable requirements for NAHASDA are HUD’s regulations at part 35, subparts A, B, H, J, K, M and R of this title, which implement the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822–4846) and the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851–4856).

Dated: January 6, 2000.
David E. Jacobs,
Director, Office of Lead Hazard Control.
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