Maximum flying weight		**580 kp / 1280 lbs**		
Maximum airspeeds:		**km/h**	**kts**	**mph**
In calm air:	V_{NE}	250	135	155
In rough air:	V_{RA}	180	97	115
Aerotow:	V_T	170	92	105.5
Winch or auto tow:	V_W	120	65	74.5
Airbrakes extended:	V_{FE}	250	135	155
Maneuvering speed:	V_A	180	97	115

(iii) install the following flight limitation placard on Model G103C TWIN II ACRO (aerobatic category) sailplanes:	Prior to further flight after doing the actions in paragraph (e)(3) of this AD.	Follow GROB Service Bulletin No. OSB 315–66, dated October 16, 2003.

Maximum flying weight		**600 kp / 1323 lbs**		
Maximum airspeeds:		**km/h**	**kts**	**mph**
In calm air:	V_{NE}	280	151	174
In rough air:	V_B	200	108	124
Aerotow:	V_T	185	100	115
Winch or auto tow:	V_W	140	76	87
Airbrakes extended:	V_{FE}	280	151	174
Maneuvering speed:	V_A	185	100	115

May I Request an Alternative Method of Compliance?

(f) You may request a different method of compliance or a different compliance time for this AD by following the procedures in 14 CFR 39.19. Unless FAA authorizes otherwise, send your request to your principal inspector. The principal inspector may add comments and will send your request to the Manager, Standards Office, Small Airplane Directorate, FAA. For information on any already approved alternative methods of compliance, contact Gregory A. Davison, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4130; facsimile: (816) 329–4090.

May I Get Copies of the Documents Referenced in This AD?

(g) You must do the actions required by this AD following the instructions in GROB Alert Service Bulletin No. ASB315–64/2, dated August 13, 2003; GROB Service Bulletin No. MSB315–65, dated September 15, 2003; GROB Service Bulletin No. OSB 315–66, dated October 16, 2003; and GROB Work Instruction for OSB 315–66, dated October 16, 2003. The Director of the Federal Register approved the incorporation by reference of this service bulletin in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may get a copy from GROB Luft- und Raumfahrt, Lettenbachstrasse 9, D–86874 Tussenhausen-Mattsies, Germany; telephone: 011 49 8268 998139; facsimile: 011 49 8268 998200; e-mail: *productsupport@grob-aerospace.de.* You may review copies at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Is There Other Information That Relates to This Subject?

(h) German AD Number D–2004–002, dated January 23, 2004, also addresses the subject of this AD.

Issued in Kansas City, Missouri, on June 9, 2004.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–13566 Filed 6–18–04; 8:45 am]

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 35, 200, 291, 598, 891, 982 and 983

[Docket No. FR–3482–C–10]

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, Conforming Amendments and Corrections

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule; conforming amendments and corrections.

SUMMARY: This final rule makes conforming amendments to HUD's lead-based paint regulations, and certain technical corrections and clarifying changes. Among other things, this rule clarifies HUD's definitions and standards for dust-lead and soil-lead hazards to make them consistent with the final rule of the U.S. Environmental Protection Agency (EPA) on

Identification of Dangerous Levels of Lead, as required by Title X of the Housing and Community Development Act of 1992.

DATES: *Effective Date:* July 21, 2004.

FOR FURTHER INFORMATION CONTACT: Warren Friedman, Office of Healthy Homes and Lead Hazard Control, Department of Housing and Urban Development, 451 Seventh Street, SW., Room P–3206, Washington, DC 20410–3000; telephone (202) 755–1785, extension 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; telephone (202) 708–0614, extension 5190 (this is not a toll-free number). Persons with hearing or speech impediments may access the above telephone numbers through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

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On September 15, 1999, HUD published a final rule (64 FR 50140) that revised and consolidated the Department's lead-based paint regulations. The revisions implemented sections 1012 and 1013 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851 *et seq.*). The September 15, 1999, rule became effective on September 15, 2000, and is found at 24 CFR part 35. Other parts of title 24 were amended to conform to and cite the consolidated regulations in part 35. The purpose of 24 CFR part 35 is to ensure to the extent practicable that housing receiving Federal assistance or being sold by the Federal Government does not have lead-based paint hazards that could cause lead poisoning in young children residing in such housing. As a result of HUD's experience with the rule since its issuance, and to conform HUD's regulations to EPA's rule on Identification of Dangerous Levels of Lead (66 FR 1205, January 5, 2001) under section 403 of the Toxic Substances Control Act (15 U.S.C. 2683), this rule makes several clarifications to 24 CFR part 35 and related provisions at 24 CFR parts 200, 291, 598, 891, 982, and 983. The clarifications of this final rule are as follows:

A. Clarification of the Title of Subpart H of 24 CFR Part 35

The existing title of subpart H of 24 CFR part 35 is ''Project-Based Rental Assistance.'' The existing title is misleading, because some housing assistance programs covered by this subpart provide only an interest rate subsidy and do not provide financial assistance to pay rent. Therefore, this rule removes the word ''Rental'' from the title of subpart H in the list of subparts and sections at the beginning of part 35 as well as in the text of the rule.

B. Deletion of References to the Comprehensive Improvement Loan Program

The regulations at 24 CFR part 35 have several references to the Comprehensive Improvement Loan Program (CILP). This program is no longer funded, so no new rehabilitation projects will begin. All funding of CILP projects ceased before September 15, 2000, the effective date of the final rule (*see* 64 FR 50140). Therefore, this final rule removes all references to this program, including those in §§ 35.110,

35.910, 35.915, 35.920, 35.930, and 35.935.

C. Conformance With EPA Regulations

HUD's final rule established temporary standards for dust-lead and soil-lead hazards pending promulgation of EPA's related standards pursuant to section 403 of the Toxic Substances Control Act (15 U.S.C. 2683). Federal law requires that EPA set the legal standards for dust-lead and soil-lead hazards (*see* 15 U.S.C. 2683). On January 5, 2001, the EPA published the standards in its final rule, Identification of Dangerous Levels of Lead (66 FR 1206), creating subpart D of 40 CFR part 745 and amending subparts L and O. These EPA standards, effective March 6, 2001, are available from the Internet at *http://www.epa.gov/lead/leadhaz.htm.* Therefore, this rule incorporates the new EPA standards at 24 CFR part 35, which are HUD's final dust-lead and soil-lead standards. The clarifications are in the definitions as well as in the standards. These refinements were made to maximize the consistency of language used in the HUD and EPA regulations and to comply with 15 U.S.C. 2683.

1. *Clarification of definition of ''dust-lead hazard'' in § 35.110.* This rule replaces the general reference in § 35.110 to ''section 403 of the Toxic Substances Control Act'' with a more direct citation of the EPA regulation at ''40 CFR 745.65.'' This rule also replaces the word ''at'' with ''equal to'' to use language identical to the EPA regulation and makes other minor editorial clarifications.

2. *Clarification of definition of ''soil-lead hazard'' in § 35.110.* This rule replaces the general reference in § 35.110 to ''section 403 of the Toxic Substances Control Act'' with a more direct citation of the EPA regulation at ''40 CFR 745.65.'' This rule also removes the actual numerical levels from this definition and makes other minor editorial clarifications. Numerical standards are provided at § 35.1320.

3. *Clarification of § 35.1320 to include reference to the new EPA provision on determinations.* The EPA added a new paragraph to its regulations that restates the standards and conditions under which a lead-based paint inspector or risk assessor determines the presence of lead-based paint or a paint-lead hazard, dust-lead hazard, or soil-lead hazard. (40 CFR 745.227(h)). Therefore, this final rule adds references to the new paragraph (h) of 40 CFR 745.227 in § 35.1320(a) and (b).

4. *Clarification of standards for dust-lead hazards in § 35.1320(b)(2).* The EPA rule at 40 CFR 745.227(h) sets the standards for dust-lead and soil-lead hazards. The HUD standards listed in 24 CFR part 35 differ from EPA's final rule. This rule clarifies and conforms the HUD standards at § 35.1320(b) to the EPA standards, as required by both the HUD regulation and Title X of the 1992 Housing and Community Development Act (42 U.S.C. 4851 *et seq.*). The differences reflected in clarifications of this rule are (i) the new EPA standard for dust-lead in window troughs at the time of clearance examinations is 400 micrograms per square feet (μg/ft ^{2}), whereas the previous HUD standard was 800 μg/ft ^{2}; (ii) for composite dust samples during clearance examinations, the new EPA rule requires that the relevant single-sample standard (*i.e.*, for floors, interior window sills, or window troughs) must be divided by one-half the number of subsamples, allowing from two to four subsamples, whereas the previous HUD standards had no such requirement; and (iii) the new EPA rule at 40 CFR 745.227(h)(3)(i) states that a dust-lead hazard is present ''when the weighted arithmetic mean lead loading for all single surface or composite samples'' is equal to or greater than the standard for floors or interior window sills, whereas the previous HUD standards did not have a similar provision.

5. *Clarification of soil-lead standards for non-play areas in § 35.1320(b)(2)(ii)(B).* The new EPA hazard standard for bare soil in non-play areas is 1,200 parts per million (ppm) (40 CFR 745.65(c)). The previous HUD standard was 2,000 ppm. In HUD's definitions of ''soil-lead hazard'' and ''dust-lead hazard'', the regulation states that the HUD standard is ''* * * equal to or exceeding levels promulgated by the U.S. Environmental Protection Agency, or if such levels are not in effect, the following * * *.'' Because the new EPA standards became effective in 2001, this final rule conforms the HUD standards to the new EPA standard, as required by Title X of the 1992 Housing and Community Development Act. Therefore, HUD's regulation at 24 CFR 35.1320(b)(2)(ii)(B) is refined as follows: ''For the rest of the yard, a soil-lead hazard is bare soil that totals more than 9 square feet (0.8 square meters) per property with lead equal to or exceeding 1,200 parts per million (micrograms per gram).''

6. *Clarification regarding teeth marks as evidence of chewable surface.* The new EPA regulation located at 40 CFR 745.65(a)(3) states that a paint-lead hazard includes ''any chewable lead-painted surface on which there is evidence of teeth marks.'' The previous HUD rule did not use the particular term ''teeth marks'' as evidence of chewing, but currently states at 24 CFR 35.1330(d)(1) that ''chewable surfaces are required to be treated only if there is evidence that a child of less than 6 years of age has chewed on the painted surface, * * *.'' Therefore, to maximize consistency between EPA and HUD regulations, this final rule inserts ''of teeth marks, indicating'' after ''evidence'' in the immediately preceding quoted text.

7. *Clarification of standard for replacement soil.* The new EPA regulation of January 5, 2001 (66 FR 1205), states at 40 CFR 745.227(e)(7)(i)(A) that if soil is removed to abate a soil-lead hazard ''the soil shall be replaced by soil with a lead concentration as close to local background as practicable, but no greater than 400 ppm.'' The previous HUD regulation at 24 CFR 35.1330(f), which pertained to interim control treatments of soil-lead hazards, set a standard of 200 μg/g for impermanent surface covering material. To maximize consistency between EPA and HUD regulations, this final rule substitutes ''400 μg/g'' for ''400 ppm'' in 24 CFR 35.1330(f)(3)(i)(C). HUD recommends, but does not require, that replacement soil have a lead content no more than 200 ppm to incorporate a reasonable margin of safety.

8. *Clarification of effective date of the EPA certification rule in § 35.165.* The EPA rule of August 6, 1999 (64 FR 42849), extended the effective dates under section 402 of the Toxic Substances Control Act for certification of individuals and firms and use of work practice standards (see 15 U.S.C. 2682). To avoid possible confusion HUD amended its rule on January 21, 2000 (65 FR 3386), citing, ''the date specified in 40 CFR 745.239(b),'' rather than list a specific date which had not yet arrived. The EPA regulation has since gone into effect and thus, the specific effective date, March 1, 2000, is inserted into the HUD rule to give it greater clarity. (§§ 35.165(a)(1),(2); (b)(2)(3); and (d)(1)(2)).

D. Clarification of §§ 35.110, 35.125(a), 35.615(a), 35.710(a), 35.810(a), 35.910(a), 35.1110(a), and 35.1210(a) Explaining That a Visual Assessment Is Not Considered an Evaluation and Does Not, by Itself, Require a Notice to Occupants of the Results of an Evaluation

Several parties asked HUD whether after a visual assessment for deteriorated paint, when such a visual assessment is the only evaluative activity that is required and conducted, a notice of evaluation must be provided to

occupants in accordance with § 35.125. HUD's regulations require that a visual assessment to identify deteriorated paint be conducted in housing receiving certain types of assistance. HUD requires that either occupants be notified of the results of an evaluation conducted in housing in which they live, or if a landlord or property owner elects to assume that lead exists and the regulation requires an evaluation, the occupants be notified that a presumption of the existence of lead-based paint hazards was made in place of testing.

HUD does not require that a notice of evaluation or presumption be provided after conducting only a visual assessment for deteriorated paint, because a visual assessment only produces information that most people could obtain by themselves by simply looking at painted surfaces.

Section 35.1010(a) states that, ''A visual assessment is not considered an evaluation for purposes of this part,'' and § 35.1210(a) states that, ''A visual assessment is not an evaluation.'' The term ''evaluation'' means only procedures that include the measurement of the amount of lead in paint, dust, or soil. Also, the definition of ''evaluation'' in § 35.110 does not include mention of a visual assessment. Nevertheless, because HUD has received numerous questions as to whether a notice of evaluation or presumption is required after a visual assessment, this rule inserts additional statements of the meaning in several appropriate places in the rule—the definition of ''visual assessment'' in §§ 35.110, 35.125(a), 35.615(a), 35.710(a), 35.810(a), 35.910(a), and 35.1110(a). Also, the relevant statement at § 35.1210(a) is edited to be identical to such statements in other subparts. The statement repeated in the sections listed in the prior two sentences is, ''A visual assessment alone is not considered an evaluation for the purposes of this part.'' In addition, at § 35.125(a), this document adds the following statement: ''If only a visual assessment alone is required by this part, and no evaluation is performed, a notice of evaluation or presumption is not required.''

E. Clarification of § 35.125(a)(1)(i) Requiring Inclusion of Dates of Evaluation in Notices of Evaluation

Section 35.125(a) describes, among other things, the required content of notices to occupants of the results of evaluations. The list of information to be included in notices of evaluation does not include the date of the evaluation, an obvious omission. The date of a risk assessment is important to occupants because risk assessments go out of date, typically in 12 months (*see* § 35.165(b)(1)). Requiring inclusion of the date of the evaluation in notices to occupants is not a burden to owners because it is readily available information—it must be on the evaluation report—in accordance with EPA regulations at 40 CFR 745.227(b), (c), and (d). This rule corrects this omission by adding ''dates'' to § 35.125(a)(1)(i) so that it reads, ''A summary of the nature, dates, scope, and results of the evaluation.'' This rule does not make a similar correction to the list of information that must be in a notice of presumption because the owner made the presumption, and the date the owner did so, as distinguished from the date of the notice, is not necessarily a matter of record.

F. Clarification of § 35.125(b) Requiring Inclusion of the Dates of the Hazard Reduction Activity and the Date of the Notice in a Notice of Hazard Reduction Activity

Similarly, the list of information to be included in a notice of hazard reduction activity, which is provided at § 35.125(b)(1)(i), does not include the dates associated with the performance of the hazard reduction activity. These dates also are readily available to the owner because they must be on an abatement report, in accordance with EPA regulations at 40 CFR 745.227(e)(10)(i). Further, the dates must be on a report of hazard reduction activities other than abatement, in accordance with HUD regulations at § 35.1340(c)(2)(i), which require the date or dates of the clearance examination. This rule corrects the omission by adding ''dates,'' to § 35.125(a)(1)(i) so that it reads, ''A summary of the nature, dates, scope, and results (including clearance) of the hazard reduction activities.''

The list of information to be included in a notice of evaluation or presumption is provided at §§ 35.125(a)(1) and (2) and includes, among other things, the date of the notice itself. However, the list of information to be included in a notice of hazard reduction activity, which is provided at § 35.125(b)(1), does not include the date of the notice. This rule corrects this obvious omission by adding a new paragraph (b)(1)(iv) to § 35.125 that reads, ''The date of the notice.''

G. Clarification of § 35.125(b) Explaining That a Notice of Hazard Reduction Activity Is Not Required if a Clearance Examination Is Not Required

HUD's regulation states, at § 35.1340(g), that ''Clearance is not required if maintenance or hazard reduction activities in the worksite do not disturb painted surfaces of a total area more than that set forth in § 35.1350(d).'' The surface areas stated at § 35.1350(d) are known as the ''de minimis'' areas, which are small areas of paint, which, if disturbed, are not expected to generate enough dust to create a significant risk of human exposure to lead. It follows that a notice to occupants of the results of hazard reduction activity should not be required if a clearance examination is not required, because there is no information about the presence or absence of risk to transmit to occupants. This rule, therefore, incorporates such a statement in a new paragraph (3) of § 35.125(b) that reads, ''Provision of a notice of hazard reduction is not required if a clearance examination is not required.''

H. Clarification of § 35.915 and § 35.925, Regarding Calculation of the Amount of Federal Rehabilitation Assistance

This rule clarifies the instructions at 24 CFR 35.915 on the method of calculating the amount of Federal rehabilitation assistance, an amount used in subpart J. This calculation must be done correctly to determine which of three sets of lead-based paint requirements a rehabilitation project must comply with, *i.e.*, those for projects receiving no more than $5,000, $5,001 to $25,000, or more than $25,000 in Federal rehabilitation assistance.

HUD considers all the Federal funds that make a rehabilitation project possible to be Federal rehabilitation assistance, regardless of the use of such funds. For example, under the Community Development Block Grant program or the Home Investment Partnerships (HOME) program, if program funds are used to acquire a property for rehabilitation, those acquisition funds are considered to be rehabilitation assistance, as well as any Federal funds used for construction activities. However, the statute indicates that the stringency of the requirements should bear some relationship to whether the extent of improvements being provided to the property is ''substantial.'' The concept of ''substantial'' rehabilitation implies a major amount of construction that is measured in part by so-called ''hard'' costs, *i.e.*, labor, materials, equipment and the like, as opposed to administrative or design costs.

Thus, there are two concepts of what constitutes Federal funds for rehabilitation projects for the purposes of implementing the statute: total

Federal funds flowing to the project and the hard costs of rehabilitation. The statute is not precise on which concept should apply. The statute calls for ''reduction of lead-based paint hazards in the course of rehabilitation projects receiving less than $25,000 per unit in Federal funds'' or ''abatement of lead-based paint hazards in the course of *substantial* rehabilitation projects receiving more than $25,000 per unit in Federal funds'' (emphasis added). (*See* generally, 42 U.S.C. 4822.)

HUD, in writing its regulation, was aware of possible results of selecting one concept of ''Federal funds'' or the other. If HUD chose to count only Federal funds being used for the hard costs of rehabilitation, grantees might allocate as much of the Federal funds as possible to acquisition or some other non-construction purpose. On the other hand, if HUD chose to count all Federal assistance, regardless of the use of the funds, the result might be that many projects that would not reasonably be considered to be ''substantial rehabilitation'' would be classified in the ''more than $25,000'' category.

To resolve the issue, the Department decided to use a dual threshold method to determine the amount of Federal assistance. The grantee would calculate both the total Federal assistance per dwelling unit (regardless of the use of the funds) *and* the per unit hard costs of rehabilitation (regardless of the source of funds). The level of regulatory assistance for determining the lead-based paint hazard reduction requirements would be the lesser of the two numbers.

HUD provided, at § 35.925, examples of how grantees must consider both the total per unit amount of Federal assistance and the hard costs of rehabilitation in determining the applicable requirements. However, the dual threshold approach was not clearly reflected in the instructions in § 35.915 on the method of calculating the level of Federal rehabilitation assistance for a given project. This rule corrects this shortcoming in subpart J. The correction includes a change to the title of § 35.915 as well as changes to the text. The section title is also changed in the list of sections at the beginning of 24 CFR part 35. This rule also amends the example of the calculation at § 35.915(c)(2) and moves it to § 35.925, which is the section that provides examples of determinations of applicable requirements. These changes make the two sections of the rule clearer and more internally consistent.

I. Clarification of §§ 35.930(c) and (d) Explaining Requirements Pertaining to Reduction of Lead-Based Paint Hazards Created by Rehabilitation Work

HUD requires, at §§ 35.930(c) and (d), that there be hazard reduction of ''all lead-based paint hazards identified by the paint testing or risk assessment'' *and* of ''any lead-based paint hazards created as a result of the rehabilitation work'' in housing receiving Federal rehabilitation assistance of more than $5,000 per unit. Section 35.930(c) requires that hazards be reduced by interim controls, at a minimum, and § 35.930(d) requires that hazards be abated. After receiving many questions on the meaning and implications of the phrase, ''any lead-based paint hazards created as a result of the rehabilitation work,'' HUD has concluded that this provision is unnecessarily confusing, and therefore is clarifying it.

It is clear how a grantee or other recipient of Federal rehabilitation assistance will determine what lead-based paint hazards are identified by the paint testing and the risk assessment, because the risk assessor must provide a report identifying the hazards and listing acceptable methods of controlling such hazards. The risk assessment is to be conducted before the rehabilitation work begins, so the grantee can program the hazard reduction work with the rehabilitation. It is not clear, however, how a grantee or other recipient is to determine whether additional lead-based paint hazards, not identified by the risk assessment, are being created during the course of the rehabilitation work and, if they are being created, what should be done to control or abate such hazards. The Department has provided guidance and training to state and local program managers and rehabilitation contractors and workers on the use of lead-safe work practices during rehabilitation, but it has not provided definitions or guidance on identifying lead-based paint hazards created by rehabilitation that must be abated. At what point, for example, does a cut in a wall that is painted with lead-based paint become a lead-based paint hazard that must be abated, and what exactly must be abated?

HUD's objective in including the questionable phrase in the regulation was to implement the statute and assure that rehabilitation be conducted using lead-safe work practices, which are required in association with both interim controls and abatement. However, the wording is ambiguous, and it is necessary to replace the phrase with a clear statement that lead-safe work practices must be used throughout rehabilitation work covered by the rule. Therefore, this rule removes from §§ 35.930(c) and (d) the requirement of reduction of lead-based paint hazards created by the rehabilitation work and inserts a statement requiring safe work practices. There is no change in the burden on owners, and the tenants are protected in the same manner as before, because clearance is performed.

J. Clarification of § 35.1015(c) Explaining That Ongoing Lead-Based Paint Maintenance Is Required in Subpart K

HUD's regulation at § 35.1015(c) requires that, for properties subject to subpart K, ''The grantee or participating jurisdiction shall incorporate ongoing lead-based paint maintenance activities into regular building operations, in accordance with § 35.1355(a).'' This provision has generated two questions: (1) Under what conditions does this requirement apply? and (2) If the grantee or participating jurisdiction is not the owner or operator of the property, as is often the case, can the grantee or participating jurisdiction assign the responsibilities of ongoing lead-based maintenance to the owner or operator of the property?

With regard to the first question, the preamble to HUD's final rule (at 64 FR 50175) states that ongoing lead-based paint maintenance would be required in subpart K ''where there is a continuing and active financial relationship with the property,'' but this policy is not stated in the regulation. Affected parties have asked whether mortgage insurance is a continuing and active financial relationship. On that question, the rule states at § 35.1000(a), that programs covered by this subpart ''do not include mortgage insurance, sale of federally owned housing, project-based or tenant-based rental assistance, rehabilitation assistance, or assistance to public housing. For requirements pertaining to those activities or types of assistance, see the applicable subpart of this part.'' Since subpart K does not cover mortgage insurance, it is not covered by the requirements of § 35.1015(c). To clarify this issue, this rule inserts language at the end of § 35.1015(c) that provides if the dwelling unit or residential property has a continuing, active, financial relationship with a Federal housing assistance program, except that mortgage insurance or loan guarantees are not considered to constitute an active programmatic relationship for the purposes of this subpart.

With regard to the second question, the rule states at § 35.1000(b) that, for properties subject to subpart K, ''The

grantee or participating jurisdiction may assign to a subrecipient or other entity the responsibilities set forth in this subpart.'' Therefore, no change is necessary to clarify the policy regarding whether the grantee or participating jurisdiction can make another party responsible for ongoing lead-based paint maintenance.

K. Clarification of § 35.1215(b) Explaining That Paint Stabilization of Deteriorated Painted Surfaces Is Required for Housing Receiving Tenant-Based Rental Assistance To Meet Housing Quality Standards

HUD's regulation states at § 35.1215(b) that owners of housing receiving tenant-based rental assistance covered by this section must complete paint stabilization of any deteriorated paint found by the visual assessment conducted by the administering agency (usually a local public housing agency (PHA)) within a specified period of being notified of the results of the visual assessment. The completion of the paint stabilization is required for the unit to meet Housing Quality Standards (HQS) (*see* 24 CFR part 982, Section 8 Tenant-Based Assistance: Housing Choice Voucher Program, especially §§ 982.401(a)(3) and (j)). The unit remains in non-compliance with the HQS until the paint stabilization is completed or this unit is no longer covered by this subpart because the unit is no longer under a housing assistance payment (HAP) contract with the housing agency. Once the unit leaves the program, the process starts anew if and when another family is requesting the unit.

While this is explicitly noted in the case of a child with an environmental intervention blood lead level (§§ 35.1225(a) and (c)), it was omitted from § 35.1215(b). Therefore, this rule adds a new sentence to the end of § 35.1215(b): ''If the owner does not complete the hazard reduction required by this section, the dwelling unit is in violation of HQS until the hazard reduction is completed or the unit is no longer covered by this subpart because the unit is no longer under a HAP contract with the housing agency.''

L. Clarification of § 35.1215 Explaining That Time Extensions May Be Provided To Complete Paint Stabilization in Housing Receiving Tenant-Based Rental Assistance

HUD's regulation at § 35.1215(b) states that owners of housing receiving tenant-based rental assistance must complete paint stabilization of any deteriorated paint found by the visual assessment conducted by the administering agency (usually a local PHA) within 30 days of being notified of the results of the visual assessment. No provision is made for an extension of this 30-day period by the agency administering the program (except for the delay when weather conditions are unsuitable for conventional construction activities for exterior surfaces, § 35.115(a)(12)). PHAs have authority to grant reasonable time extensions to owners for corrections of other violations of the housing quality standards for the Housing Choice Voucher Program. It is reasonable that such authority be available for the correction of deteriorated paint. Accordingly, this document adds a new § 35.1215(d): ''The designated party may grant the owner an extension of time to complete paint stabilization and clearance for reasonable cause, but such an extension shall not extend beyond 90 days after the date of notification of the owner of the results of the visual assessment.''

M. Clarification of § 35.1220 Explaining the Role of Owner in Incorporating Ongoing Lead-Based Paint Maintenance Activities

HUD's regulation at § 35.1220 requires the owner of a property receiving tenant-based rental assistance to incorporate ongoing lead-based paint maintenance activities into regular building operations in accordance with § 35.1355(a). HUD was asked whether the PHA is responsible for this ongoing activity when the Federal housing program is the Section 8 Housing Choice Voucher Program. The question is based on the identification in § 35.1200(b)(2)(ii) of the PHA as the designated party for purposes of that program, and the general requirement of § 35.1355(a)(7) that the designated party ''shall * * * stabilize the deteriorated paint or repair the encapsulation or enclosure * * *.''

HUD's rationale for stating in § 35.1220 that the owner must comply with ongoing lead-based maintenance requirements is that in all HUD tenant-based rental assistance programs, it is the owner who is responsible for keeping the assisted property in compliance with HQS or other similar standards. While the role of the designated party is to be ''responsible for complying with applicable requirements'' (*see* definition of designated party in § 35.110), HUD views that responsibility to be broad. In subpart L, as in subparts J and K, the rule specifically authorizes the designated party to ''assign to a subrecipient or other entity the responsibilities of the designated party in this subpart,'' and the assignee can be the owner (*see* § 35.1200(b)(7)). Nevertheless, HUD is clarifying this identification to remove potential uncertainty by adding the phrase, ''Notwithstanding the designation of the PHA, grantee, participating jurisdiction or IHBG recipient as the designated party for this subpart,'' to the beginning of § 35.1220.

N. Clarification of § 35.1320(a) Explaining the Qualification for Performance of Paint Testing

HUD's regulation at § 35.110 defines ''paint testing'' as ''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.'' HUD has received several questions as to whether paint testing can be done by someone other than a certified lead-based paint inspector or risk assessor. This rule adds ''paint testing'' to the title of § 35.1320(a) and adds a statement in the same paragraph that ''paint testing to determine the presence or absence of lead-based paint on deteriorated paint surfaces or surfaces to be disturbed or replaced shall be performed by a certified lead-based paint inspector or risk assessor.''

O. Clarification of § 35.1320(b) To Include Lead Hazard Screens

The HUD standards include dust-lead standards for lead-hazard screens at § 35.1320(b)(2), but there is no mention of this in the title of § 35.1320(b) or in the introductory text of § 35.1320(b)(1). Therefore, to clarify the rule, this rule adds ''lead hazard screens'' to the title of § 35.1320(b) and inserts ''and lead hazard screens'' after ''Risk assessments'' in § 35.1320(b)(1) to make the terminology in the title and introductory section consistent.

P. Editing of § 35.1320(c) To Include a Recommendation That Sampling Technicians Provide a Plain-Language Summary for Occupants

Section 35.1320(c) of HUD's regulations recommends, but does not require, ''that lead-based paint inspectors and risk assessors provide a summary of the results suitable for posting or distribution to occupants * * *.'' The purpose of this recommendation is to assist property owners in complying with the requirement to provide notices to occupants regarding the results of hazard evaluations or the clearance examination following hazard reductions (*see* §§ 35.125(b) and (c)). For consistency among the several lead-

hazard evaluation disciplines, this rule adds ''sampling technicians'' to the list of individuals who could prepare the summary recommended by paragraph (c) of § 35.1320. The function of the summary is being clarified to indicate that it is to be written in plain language suitable for comprehension by lay people. (Additional information may be attached to the plain-language summary.) As a result, in paragraph (c) of § 35.1320, this rule adds the phrase ''plain-language'' before ''summary of the results'' to describe the summary.

Q. Clarification of § 35.1330(a)(4) Explaining That Qualification Requirements for Interim Controls Workers Do Not Apply if De Minimis Amounts of Painted Surfaces Are Being Disturbed

Safe work practices and clearance are not required if the area of paint being disturbed is within the de minimis amounts specified at § 35.1350(d). It follows, but it is not stated in the regulation, that persons performing interim controls should not be required to be trained in safe work practices if they are disturbing paint areas less than the de minimis levels. To correct this omission, this rule inserts the following prior to the colon in the first sentence of § 35.1330(a)(4): ''except that this supervision or lead-safe work practices training requirement does not apply if the interim controls do not disturb painted surfaces more than the de minimis limits of § 35.1350(d).''

R. Clarification of § 35.1330(a)(4) Explaining the Reference to OSHA Regulations

HUD's regulation at § 35.1330(a)(4) states the qualifications required of persons performing interim controls. The provision begins by stating, ''A person performing interim controls must be trained in accordance with 29 CFR 1926.59 and * * *.'' This is a reference to the hazard communication standard of the Occupational Safety and Health Administration (OSHA). Some training providers have interpreted the reference as a call for training on the entire OSHA lead-in-construction standard, which is not HUD's intent. Therefore, this rule inserts a clarifying phrase before the citation of 29 CFR 1926.59 to reference the hazard communication standard for the construction industry issued by the Occupational Safety and Health Administration of the U.S. Department of Labor.

S. Clarification of § 35.1330(a)(4) Regarding Approved Courses for Interim Controls Workers

HUD's regulation at § 35.1330(a)(4) lists certain training courses that satisfy the lead-safe work practices training requirements for interim controls workers and also states that other courses may be approved by HUD after consultation with EPA. HUD's requirement for lead-safe work practices training is separate from OSHA's hazard communication requirement. The list of lead-safe work practices courses in the rule is out of date, because, in accordance with § 35.1330(a)(4)(v), HUD has approved several courses since the publication of the rule. Rather than attempt to keep the list of courses in the rule up to date by continual amendments, this rule removes references to the two named courses from the list in the rule—the ones prepared by the National Environmental Training Association (NETA) and by HUD and the National Association of the Remodeling Industry (HUD/NARI)—and adds the following statement to the end of paragraph (v): ''A current list of approved courses is available on the Internet at *http://www.hud.gov/offices/lead* or from the HUD Office of Healthy Homes and Lead Hazard Control by calling (202) 755–1785, extension 104 (this is not a toll-free number).'' The list as of today includes both the NETA and the HUD/NARI courses mentioned above.

T. Clarification of § 35.1340(b)(1) Regarding Terminology for Sampling Technicians

The regulations use terminology for persons who are trained to perform clearance examinations under specified conditions and controls, which is outdated. Such persons are identified as ''clearance technicians'' in the regulations, but the term now being used is ''sampling technician'' (see, for example, the House Appropriations Committee Report for H.R. 106–286, in regard to the HUD Office of Lead Hazard Control). Therefore, §§ 35.1340(b)(1)(iii) and (iv) are revised to replace, in two instances in each paragraph, the term ''clearance technician'' with ''sampling technician.''

U. Clarification of § 35.1340(b)(2)(i) Regarding Exterior Clearance

HUD has received questions about the protocol for clearance examinations in exterior areas. One common question is whether soil sampling is necessary. The answer is no, in conformance with EPA regulations at 40 CFR 745.227(e)(8)(v)(C); for clearance following exterior abatement, § 35.1340(a) applies; and for exterior activities other than abatement, § 35.1340(b) applies. Another common question is whether interior clearance is required if only exterior work has been conducted. The answer is no, if all building openings (windows, doors, vents) in the vicinity of the worksite were sealed during the work to keep dust from the worksite from traveling into interior spaces. In such a case, a visual assessment is required only for visible dust and debris at the work site and on the outdoor living area closet to the treated surface, and for paint chips on the dripline or next to the foundation below any exterior surface where work was performed. This rule amends § 35.1340(b)(2)(i) by adding a new sentence, which reads, ''Soil sampling is not required.'' (**Note** that replacement surface covering material used for interim controls under § 35.1330(f)(3)(i)(C), which must contain no more than 400 parts per million of lead, is typically sampled or otherwise evaluated before installation.) Another new sentence is added to read, ''If clearance is being performed after lead-based paint hazard reduction, paint stabilization, maintenance, or rehabilitation that affected exterior surfaces but did not disturb interior painted surfaces or involve elimination of an interior dust-lead hazard, interior clearance is not required if affected window, door, ventilation and other openings are sealed during the exterior work.''

V. Clarification of § 35.1340(g) Regarding the Required Extent of Clearance

HUD has received questions as to whether the clearance examination must extend to the entire dwelling unit or common area if the hazard reduction work was conducted in only a part of the unit or area. Generally, unit-wide or common-area-wide clearance is the best practice. However, in conformance with the EPA regulation at 40 CFR 745.227(e)(8)(v)(A), pertaining to clearance after abatement with containment between abated and unabated areas, HUD allows clearance of only the worksite or the containment area following interim controls and other non-abatement activities, provided dust generated during the work has been contained to the area being cleared. This policy is implied in HUD's regulation at § 35.1340(g), but is not explicit because that provision could be interpreted as applying only to rehabilitation with no more than $5,000 of Federal assistance per unit or ongoing lead-based paint maintenance. Therefore, this rule adds

the following two new sentences to the beginning of § 35.1340(g) to address rehabilitation, interim controls, standard treatments, and ongoing maintenance, respectively: ''Clearance of only the worksite is permitted after work covered by §§ 35.930, 35.1330, 35.1335, or 35.1355, when containment is used to ensure that dust and debris generated by the work is kept within the worksite. Otherwise, clearance must be of the entire dwelling unit, common area or outbuilding, as applicable.''

The procedure for worksite clearance after non-abatement work is modeled after the abatement clearance procedure. The procedure is never more stringent because non-abatement work is no more capable of generating dust and debris than abatement. When non-abatement work is uncontained, clearance includes taking floor and window dust wipe samples in four room equivalents. When the work is contained, clearance includes taking floor and window dust wipe samples in at least four contained room equivalents, and a dust wipe from a nearby floor outside the containment area, preferably along the path where most dust and debris were removed from the contained area. When fewer than four room equivalents are present, all are sampled. Therefore, this rule revises § 35.1340(g) to include a sentence that reads: ''When clearance is of an interior worksite which is not an entire dwelling unit, common area, or outbuilding, dust samples shall be taken for paragraph (b) of this section as follows: (1) Sample, from each of at least four rooms, hallways, stairwells, or common areas within the dust containment area: (i) The floor (one sample); and (ii) windows (one interior sill sample and one trough sample, if present); and (2) sample the floor in a room, hallway, stairwell, or common area connected to the dust containment area, within five feet outside the area (one sample).''

Finally, this rule moves the last sentence of § 35.1340(g) to the end of paragraph (b) of § 35.1340, to clarify that clearance is not required after any *de minimis* level work.

W. Clarification of § 35.1350(b) Regarding Training Requirement To Ensure Occupant Protection, Worksite Preparation, and Specialized Cleaning for Work Requiring Safe Work Practices

HUD has received questions about how workers are to know how to perform occupant protection, worksite preparation, and specialized cleaning in cases where the workers have not received training in safe work practices. Such training is required for workers performing interim controls, paint stabilization, ongoing lead-based paint maintenance, or abatement. (For the occupant protection and worksite preparation, supervision by a lead-based paint abatement supervisor can replace training, as provided in § 35.1330(a)(4).) This inconsistency regarding the lack of lead-safe work practices training (or qualified supervision) arises only for rehabilitation under $5,000 of Federal assistance per unit (see § 35.930(b)(2)), when work of the same scope does require training (or qualified supervision) under the other subparts of the rule. Therefore, this rule adds the following sentence to the end of § 35.1350(b), ''A person performing this work shall be trained on hazards and either be supervised or have successfully completed one of the specified courses, in accordance with § 35.1330(a)(4).''

X. Clarification of § 35.1355 Regarding Exemption From Maintenance Requirements

This rule clarifies the statement in § 35.1355(a)(1) regarding properties that are exempt from the requirements of ongoing lead-based paint maintenance. Section 35.1355(a)(1) states that the lead-based paint maintenance activities required by § 35.1355(a) need not be conducted if both of the following conditions exist: (1) The property is lead-based paint free, as determined by a lead-based paint inspection, or as a result of removal of all lead-based paint; and (2) if a risk assessment is required by the applicable subpart of the rule, and a current risk assessment indicates that there are no dust-lead or soil-lead hazards present. This two-part standard for an exemption from ongoing lead-based paint maintenance is not consistent with the general exemptions, stated in §§ 35.115(a)(4) and (5), that the regulation does not apply to a property found by a lead-based paint inspection to be free of lead-based paint or in which all lead-based paint has been removed, as determined by a lead-based paint inspector or risk assessor. A property that meets the exemption provisions of § 35.115(a)(4) or (5) is exempt from all requirements of the rule. No additional provisions can be established. Therefore, this rule revises § 35.1355(a)(1) and removes §§ 35.1355(a)(1)(i) and (ii) pertaining to a risk assessment and lead-based paint hazards.

Y. Correction of § 35.1355(b)(1)(iii) Regarding Typographical Error

The third word from the end of § 35.1355(b)(1)(iii) is misspelled. The word should be spelled ''enclosures'' instead of ''inclosures.'' This rule corrects the spelling to read ''enclosures.''

Z. Deletion of § 200.810(a)(2) To Correct an Error Pertaining to Indian Housing Activities

This rule corrects an error pertaining to Indian housing activities contained in the September 15, 1999, final rule. The September 15, 1999, final rule revised HUD's mortgage insurance regulations at 24 CFR part 200, subpart O (see 64 FR 50224, amendatory instruction number 14). In so doing, HUD included a provision at § 200.810(a)(2), stating that the section ''is also applicable to single family mortgage insurance on Indian reservations (12 U.S.C. 1715z–13) and loan guarantees for Indian housing (25 U.S.C. 4191).'' That statement was in error. If HUD guarantees notes or other obligations of an Indian Tribe and the proceeds are used to buy housing, such housing would be subject to 24 CFR part 35, subpart K, not part 200, subpart O. Therefore, this rule removes § 200.810(a)(2) in its entirety.

AA. Correction of § 291.430 Regarding a Typographical Error

Between the fifth and sixth words from the end of § 291.430, the word ''to'' was omitted. This rule corrects the omission so that the last phrase of the section reads, ''apply to activities covered by this subpart.''

BB. Correction of Subpart E of 24 CFR Part 598 Regarding Urban Empowerment Zones

This rule corrects an error regarding the Urban Empowerment Zones (EZ) program. HUD has received questions regarding the lead hazard control requirements for that program's rehabilitation, acquisition, leasing, support services, or operation activities. For rehabilitation, subpart J applies (as do supporting subparts A, B, and R); for acquisition, leasing, support services, or operation activities, subpart K applies (as do subparts A, B, and R). In the preamble to the final rule, the Department noted that it had ''launched a major restructuring to meet the changing housing and development needs of communities across the country'' (64 FR 50142). The EZ program was within the scope of that restructuring, having had at that time recent rulemaking for its Round II (63 FR 19155, April 16, 1998, and 63 FR 53262, October 2, 1998). The September 15, 1999, final Lead-Safe Housing rule did not, however, explicitly describe the EZ program coverage. Under the EZ program for both Rounds II and III,

which are governed by regulations at 24 CFR part 598, the community describes its goals and identifies its methods and commitments to achieve them in its strategic plan. HUD funds have been made available to be used in conjunction with economic development activities consistent with the strategic plan for each EZ in Round II. The implementation of the strategic plan for an EZ in Round II may include rehabilitation of pre-1978 target housing; for such housing, the Lead-Safe Housing rule applies to the rehabilitation. The Lead-Safe Housing rule also applies to any other EZ that receives HUD funding under this program. This rule requires that an implementation plan that includes rehabilitation of pre-1978 target housing incorporate the applicable portions of the September 15, 1999, Lead-Safe Housing final rule. Therefore, this rule corrects part 598, subpart E, Post-Designation Requirements, by adding § 598.408, ''Lead-based paint requirements. The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851–4856), and the lead-based paint requirements set forth at part 35, subparts A, B, J, K, and R of this title apply to the activities funded by HUD under this program.''

CC. Corrections to § 891.155 and § 891.325 To Cite Subpart J of 24 CFR Part 35 as an Applicable Subpart

Part 891 of HUD's regulations (24 CFR part 891) pertains to Supportive Housing for the Elderly and Persons With Disabilities under Section 202 of the Housing Act of 1959 (12 U.S.C. 1708) and Section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013). These programs provide a Federal capital advance and project-based rental assistance. The capital advance can be used for rehabilitation. Therefore, subpart J, which provides the requirements for housing receiving Federal rehabilitation assistance, should apply to these programs. (**Note**, however, that § 35.115(a)(3) exempts housing designated for the elderly, or a residential property designated exclusively for persons with disabilities, except where a child less than 6 years of age resides or is expected to reside in the dwelling unit.) Sections 891.155 and 891.325 list the lead-based paint regulations that apply to these programs, but do not list subpart J as being applicable. Therefore, this rule adds subpart J of 24 CFR part 35 to the list of applicable lead-based paint regulations in 24 CFR 891.155 and 24 CFR 891.325.

DD. Correction of § 982.305(b)(1)(ii) Regarding Regulatory Reference Numbering

The September 15, 1999, final rule (at 64 FR 50229) at amendatory instruction 88, revised the Housing Choice Voucher (HCV) Program rule on PHA approval of assisted tenancy at § 982.305(b)(3) to require disclosure of information on lead-based paint to the tenant before the lease term, in accordance with the Lead Disclosure rule, 24 CFR part 35, subpart A. The current HCV rule places this regulatory reference at § 982.305(b)(1)(ii). The numbering of the Lead Disclosure rule paragraph cited, § 35.92(b)(2), was changed in the 1999 final rule (at 64 FR 50201, at amendatory instruction 2) to § 35.13(b)(2), and restored to its original numbering on January 21, 2000 (at 65 FR 3386, at amendatory instruction 2). The HCV rule uses the Lead Disclosure rule numbering as changed in 1999, rather than the current numbering. Therefore, this rule corrects § 982.305(b)(1)(ii) to use the current Lead Disclosure rule paragraph numbering, namely, § 35.92(b)(2).

EE. Correction of § 983.203(d) Regarding Responsibility for Provision of Lead Information Pamphlet

The September 15, 1999, final rule (at 64 FR 50230) at amendatory instruction 94, stated incorrectly at 24 CFR 983.203(d) that PHAs, in administering the Section 8 Project-Based Certificate program, must provide families with ''a copy of the lead hazard information pamphlet, as required by part 35, subpart A of this title.'' Under subpart A, the lead disclosure rule (24 CFR part 35), it is the responsibility of the lessor of the housing (typically the owner), not the PHA, to provide the pamphlet. This rule revises the requirement so that the public housing agency must provide the pamphlet unless it can demonstrate that the pamphlet has already been provided, using the same conditions as in § 35.130 regarding previous provision of the pamphlet. Therefore, this rule replaces ''the PHA must provide * * * a copy of the lead hazard information pamphlet as required by part 35, subpart A of this title'' with ''the PHA must provide * * * a copy of the lead hazard information pamphlet described in § 35.130 of this title, except that the PHA need not provide the pamphlet if the PHA can demonstrate that the pamphlet has already been provided in accordance with § 35.130 of this title.''

Findings and Certifications

Justification for Final Rulemaking

In general, HUD publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking at 24 CFR part 10. Part 10, however, provides for exceptions from that general rule where HUD finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when the prior public procedure is ''impracticable, unnecessary, or contrary to the public interest'' (24 CFR part 10).

HUD finds that good cause exists to publish this final rule for effect without first soliciting public comment, in that prior public procedure is unnecessary. The reason for HUD's determination is that this rule merely makes conforming and clarifying amendments to certain regulations in 24 CFR parts 35, 200, 291, 598, 891, 982 and 983. No substantive changes to the regulations are made by this rule. This rule merely gives clarity and facilitates understanding and, therefore, public comment is unnecessary.

Environmental Impact

A Finding of No Significant Impact with respect to the environment for this rule has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4321(2)(C)). The Finding of No Significant Impact is available for public inspection between 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, SW., Washington, DC 20410–0500.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This final rule does not impose a Federal mandate on any State, local, or tribal governments, or on the private sector within the meaning of the Unfunded Mandates Reform Act of 1995.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule does not have a significant economic impact on a substantial number of small entities. There are no

anti-competitive discriminatory aspects of the rule with regard to small entities, and there are no unusual procedures that would need to be complied with by small entities.

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt State law within the meaning of the Executive Order.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers are 14.157, 14.244, 14.311, 14.871, and 14.900.

List of Subjects in 24 CFR

Part 35

Grant programs-housing and community development, Lead poisoning, Mortgage insurance, Rent subsidies, Reporting and recordkeeping requirements.

Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Housing standards, Lead poisoning, Loan programs-housing and community development, Mortgage insurance, Organization and functions (Government agencies), Penalties, Reporting and recordkeeping requirements, Social security, Unemployment compensation, Wages.

Part 291

Community facilities, Homeless, Low and moderate income housing, Mortgages, Reporting and recordkeeping requirements, Surplus Government property.

Part 598

Community development, Indians, Intergovernmental relations, Reporting and recordkeeping requirements, Urban areas.

Part 891

Aged, Grant programs-housing and community development, Individuals with disabilities, Loan programs-housing and community development, Rent subsidies, Reporting and recordkeeping requirements.

Part 982

Grant programs-housing and community development, Grant programs-Indians, Indians, Public housing, Rent subsidies, Reporting and recordkeeping requirements.

Part 983

Grant programs-housing and community development, Rent subsidies, Reporting and recordkeeping requirements.

■ Accordingly, for the reasons described in the preamble, the Department amends 24 CFR parts 35, 200, 291, 598, 891, 982, and 983 as follows:

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

■ 1. The authority citation for part 35 continues to read as follows:

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

■ 2. Section 35.110 is amended by removing the definition of ''CILP recipient,'' and by revising the definitions of ''designated party,'' ''dust-lead hazard,'' ''grantee,'' ''soil-lead hazard'' and ''visual assessment'' to read as follows:

§ 35.110 Definitions.

* * * * *

Designated party means a Federal agency, grantee, subrecipient, participating jurisdiction, housing agency, Indian Tribe, tribally designated housing entity (TDHE), sponsor, or property owner responsible for complying with applicable requirements.

* * * * *

Dust-lead hazard means surface dust that contains a dust-lead loading (area concentration of lead) equal to or exceeding the levels promulgated by the EPA at 40 CFR 745.65 or, if such levels are not in effect, the standards for dust-lead hazards in § 35.1320.

* * * * *

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.

* * * * *

Soil-lead hazard means bare soil on residential property that contains lead equal to or exceeding levels promulgated by the EPA at 40 CFR 745.65 or, if such levels are not in effect, the standards for soil-lead hazards in § 35.1320.

* * * * *

A *visual assessment* alone is not considered an evaluation for the purposes of this part. Visual assessment means looking for, as applicable:

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.

* * * * *

■ 3. Section 35.125 is amended by revising paragraphs (a), (a)(1)(i), (b)(1), (b)(1)(i), (b)(1)(ii), (b)(1)(iii), and by adding new paragraphs (b)(1)(iv) and (b)(3) to read as follows:

§ 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 § 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. A visual assessment alone is not considered an evaluation for the purposes of this part. If only a visual assessment alone is required by this part, and no evaluation is performed, a notice of evaluation or presumption is not required.

(1) * * *

(i) A summary of the nature, dates, scope, and results of the evaluation;

* * * * *

(b) * * *

(1) Provide a notice to occupants not more than 15 calendar days after the hazard reduction activities (including paint stabilization) have been completed. Notice of hazard reduction shall include, but not be limited to:

(i) A summary of the nature, dates, scope, and results (including clearance) of the hazard reduction activities;

(ii) A contact name, address, and telephone number for more information;

(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; and

(iv) The date of the notice.

* * * * *

(3) Provision of a notice of hazard reduction is not required if a clearance examination is not required.

* * * * *

■ 4. Section 35.165 is amended 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 March 1, 2000, meets the requirements of this part if:

* * * * *

(2) A lead-based paint inspection conducted on or after March 1, 2000, must have been conducted by a certified lead-based paint inspector.

(b) * * *

(2) A risk assessment conducted before March 1, 2000, 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 March 1, 2000, must have been conducted by a certified risk assessor.

* * * * *

(c) * * *

(d) *Abatement.* (1) An abatement conducted before March 1, 2000, meets the requirements of this part if:

* * * * *

(2) An abatement conducted on or after March 1, 2000, must have been conducted under the supervision of a certified lead-based paint abatement supervisor.

■ 5. Section 35.615 is amended by revising paragraph (a) to read as follows:

§ 35.615 Notices and pamphlet.

(a) *Notice.* If evaluation or hazard reduction is undertaken, the sponsor shall provide a notice to occupants in accordance with § 35.125. A visual assessment alone is not considered an evaluation for the purposes of this part.

* * * * *

Subpart H—Project-Based Assistance

■ 6. Part 35 is amended to correct the title of subpart H to read as shown above.

■ 7. Section 35.710 is amended by revising paragraph (a) to read as follows:

§ 35.710 Notices and pamphlet.

(a) *Notice.* If evaluation or hazard reduction is undertaken, each owner shall provide a notice to occupants in accordance with § 35.125. A visual assessment alone is not considered an evaluation for the purposes of this part.

* * * * *

■ 8. Section 35.810 is amended by revising paragraph (a) to read as follows:

§ 35.810 Notices and pamphlet.

(a) *Notices.* When evaluation or hazard reduction is undertaken, the Department shall provide a notice to occupants in accordance with § 35.125. A visual assessment alone is not considered an evaluation for the purposes of this part.

* * * * *

■ 9. Section 35.910 is revised to read as follows:

§ 35.910 Notices and pamphlet.

(a) *Notices.* In cases where evaluation or hazard reduction or both are undertaken as part of federally funded rehabilitation, the grantee or participating jurisdiction shall provide a notice to occupants in accordance with § 35.125. A visual assessment alone is not considered an evaluation for the purposes of this part.

(b) *Lead hazard information pamphlet.* The grantee or participating jurisdiction shall provide the lead hazard information pamphlet in accordance with § 35.130.

■ 10. Section 35.915 is revised to read as follows:

§ 35.915 Calculating Federal rehabilitation assistance.

(a) *Applicability.* This section applies to recipients of Federal rehabilitation assistance.

(b) *Rehabilitation assistance.* (1) Lead-based paint requirements for rehabilitation fall into three categories that depend on the amount of Federal rehabilitation assistance provided. The three categories are:

(i) Assistance of up to and including $5,000 per unit;

(ii) Assistance of more than $5,000 per unit up to and including $25,000 per unit; and

(iii) Assistance of more than $25,000 per unit.

(2) For purposes of implementing §§ 35.930 and 35.935, the amount of rehabilitation assistance is the lesser of two amounts: the average Federal assistance per assisted dwelling unit and the average per unit hard costs of rehabilitation. Federal assistance includes all Federal funds assisting the project, regardless of the use of the funds. Federal funds being used for acquisition of the property are to be included as well as funds for construction, permits, fees, and other project costs. The hard costs of rehabilitation include all hard costs, regardless of source, except that the costs of lead-based paint hazard evaluation and hazard reduction activities are not to be included. Costs of site preparation, occupant protection, relocation, interim controls, abatement, clearance, and waste handling attributable to compliance with the requirements of this part are not to be included in the hard costs of rehabilitation. All other hard costs are to be included, regardless of whether the source of funds is Federal or non-Federal, public or private.

(c) *Calculating rehabilitation assistance in properties with both assisted and unassisted dwelling units.* For a residential property that includes both federally assisted and non-assisted units, the rehabilitation costs and Federal assistance associated with non-assisted units are not included in the calculations of the average per unit hard costs of rehabilitation and the average Federal assistance per unit.

(1) The average per unit hard costs of rehabilitation for the assisted units is calculated using the following formula:

Per Unit Hard Costs of Rehabilitation $ = (a/c) + (b/d)

Where:

a = Rehabilitation hard costs for all assisted units (not including common areas and exterior surfaces)
b = Rehabilitation hard costs for common areas and exterior painted surfaces
c = Number of federally assisted units
d = Total number of units

(2) The average Federal assistance per assisted dwelling unit is calculated using the following formula:

Per unit Federal assistance = e/c

Where:

e = Total Federal assistance for the project
c = Number of federally assisted units

§ 35.920 [Removed and reserved.]

■ 11. Section 35.920 is removed and reserved.

■ 12. Section 35.925 is amended by adding a new paragraph (d) to read as follows:

§ 35.925 Examples of determining applicable requirements.

* * * * *

(d) If eight dwelling units in a residential property receive Federal rehabilitation assistance [symbol c in § 35.915(c)(2)] out of a total of 10 dwelling units [d], the total Federal assistance for the rehabilitation project

is $300,000 [e], the total hard costs of rehabilitation for the dwelling units are $160,000 [a], and the total hard costs of rehabilitation for the common areas and exterior surfaces are $20,000 [b], then the lead-based paint requirements would be those described in § 35.930(c), because the level of Federal rehabilitation assistance is $22,000, which is not greater than $25,000. This is calculated as follows: The total Federal assistance per assisted unit is $37,500 (e/c = $300,000/8), the per unit hard costs of rehabilitation is $22,000 (a/c + b/d = $160,000/8 + $20,000/10), and the level of Federal rehabilitation assistance is the lesser of $37,500 and $22,000.

■ 13. Section 35.930 is amended by revising paragraphs (a), (b) introductory text, (c) introductory text, (c)(3), (d) introductory text, (d)(3) and by adding new paragraphs (c)(4) and (d)(4) to read as follows:

§ 35.930 Evaluation and hazard reduction requirements.

(a) *Paint testing.* The grantee or participating jurisdiction shall either perform paint testing on the painted surfaces to be disturbed or replaced during rehabilitation activities, or presume that all these painted surfaces are coated with lead-based paint.

(b) *Residential property receiving an average of up to and including $5,000 per unit in Federal rehabilitation assistance.* Each grantee or participating jurisdiction shall:

* * * * *

(c) *Residential property receiving an average of more than $5,000 and up to and including $25,000 per unit in Federal rehabilitation assistance.* Each grantee or participating jurisdiction shall:

* * * * *

(3) Perform interim controls in accordance with § 35.1330 of all lead-based paint hazards identified pursuant to paragraphs (c)(1) and (c)(2) of this section.

(4) Implement safe work practices during rehabilitation work in accordance with § 35.1350 and repair any paint that is disturbed and is known or presumed to be lead-based paint.

(d) *Residential property receiving an average of more than $25,000 per unit in Federal rehabilitation assistance.* Each grantee or participating jurisdiction shall:

* * * * *

(3) Abate all lead-based paint hazards identified by the paint testing or risk assessment conducted pursuant to paragraphs (d)(1) and (d)(2) of this section, in accordance with § 35.1325, except that interim controls are acceptable on exterior surfaces that are not disturbed by rehabilitation and on paint-lead hazards that have an area smaller than the *de minimis* limits of § 35.1350(d). If abatement of a paint-lead hazard is required, it is necessary to abate only the surface area with hazardous conditions.

(4) Implement safe work practices during rehabilitation work in accordance with § 35.1350 and repair any paint that is disturbed and is known or presumed to be lead-based paint.

■ 14. Section 35.935 is revised to read as follows:

§ 35.935 Ongoing lead-based paint maintenance activities.

In the case of a rental property receiving Federal rehabilitation assistance under the HOME program, the grantee or participating jurisdiction shall require the property owner to incorporate ongoing lead-based paint maintenance activities in regular building operations, in accordance with § 35.1355(a).

■ 15. Section 35.1015 is amended by revising paragraph (c) to read as follows:

§ 35.1015 Visual assessment, paint stabilization, and maintenance.

* * * * *

(c) The grantee or participating jurisdiction shall require the incorporation of ongoing lead-based paint maintenance activities into regular building operations, in accordance with § 35.1355(a), if the dwelling unit has a continuing, active financial relationship with a Federal housing assistance program, except that mortgage insurance or loan guarantees are not considered to constitute an active programmatic relationship for the purposes of this part.

* * * * *

■ 16. Section 35.1110 is amended by revising paragraph (a) to read as follows:

§ 35.1110 Notices and pamphlets.

(a) *Notice.* In cases where evaluation or hazard reduction is undertaken, each public housing agency (PHA) shall provide a notice to residents in accordance with § 35.125. A visual assessment alone is not considered an evaluation for purposes of this part.

* * * * *

■ 17. Section 35.1210 is amended by revising paragraph (a) to read as follows:

§ 35.1210 Notices and pamphlet.

(a) *Notice.* In cases where evaluation or paint stabilization is undertaken, the owner shall provide a notice to residents in accordance with § 35.125. A visual assessment alone is not considered an evaluation for purposes of this part.

* * * * *

■ 18. Section 35.1215 is amended by revising paragraph (b) and by adding new paragraph (d) to read as follows:

§ 35.1215 Activities at initial and periodic inspection.

* * * * *

(b) The owner shall stabilize each deteriorated paint surface in accordance with §§ 35.1330(a) and (b) before commencement of assisted occupancy. If assisted occupancy has commenced prior to a periodic inspection, such paint stabilization must be completed within 30 days of notification of the owner of the results of the visual assessment. Paint stabilization is considered complete when clearance is achieved in accordance with § 35.1340. If the owner does not complete the hazard reduction required by this section, the dwelling unit is in violation of Housing Quality Standards (HQS) until the hazard reduction is completed or the unit is no longer covered by this subpart because the unit is no longer under a housing assistance payment (HAP) contract with the housing agency.

* * * * *

(d) The designated party may grant the owner an extension of time to complete paint stabilization and clearance for reasonable cause, but such an extension shall not extend beyond 90 days after the date of notification to the owner of the results of the visual assessment.

■ 19. Section 35.1220 is revised to read as follows:

§ 35.1220 Ongoing lead-based paint maintenance activities.

Notwithstanding the designation of the PHA, grantee, participating jurisdiction, or Indian Housing Block Grant (IHBG) recipient as the designated party for this subpart, the owner shall incorporate ongoing lead-based paint maintenance activities into regular building operations in accordance with § 35.1355(a).

■ 20. Section 35.1320 is revised to read as follows:

§ 35.1320 Lead-based paint inspections, paint testing, risk assessments, lead-hazard screens, and reevaluations.

(a) *Lead-based paint inspections and paint testing.* Lead-based paint inspections shall be performed in accordance with methods and standards established either by a State or Tribal program authorized by the EPA under 40 CFR 745.324, or by the EPA at 40 CFR 745.227(b) and (h). Paint testing to

determine the presence or absence of lead-based paint on deteriorated paint surfaces or surfaces to be disturbed or replaced shall be performed by a certified lead-based paint inspector or risk assessor.

(b) Risk assessments, lead-hazard screens and reevaluations. (1) Risk assessments and lead-hazard screens shall be performed in accordance with methods and standards established either by a state or tribal program authorized by the EPA, or by the EPA at 40 CFR 745.227(c), (d), and (h) and paragraph (b)(2) of this section. Reevaluations shall be performed by a certified risk assessor in accordance with § 35.1355(b) and paragraph (b)(2) of this section.

(2) Risk assessors shall use standards for determining dust-lead hazards and soil-lead hazards that are at least as protective as those promulgated by the EPA at 40 CFR 745.227(h) or, if such standards are not in effect, the following levels for dust or soil:

(i) *Dust.* A dust-lead hazard is surface dust that contains a mass-per-area concentration (loading) of lead, based on wipe samples, equal to or exceeding the applicable level in the following table:

DUST LEAD STANDARDS

Evaluation method	Surface		
	Floors, µg/ft^2 (mg/m^2)	Interior window sills, µg/ft^2 (mg/m^2)	Window troughs, µg/ft^2 (mg/m^2)
Risk Assessment	40 (0.43)	250 (2.7)	Not Applicable.
Lead Hazard Screen	25 (0.27)	125 (1.4)	Not Applicable.
Reevaluation	40 (0.43)	250 (2.7)	Not Applicable.
Clearance	40 (0.43)	250 (2.7)	400 (4.3).

Note 1: ''Floors'' includes carpeted and uncarpeted interior floors.

Note 2: A dust-lead hazard is present or clearance fails when the weighted arithmetic mean lead loading for all single-surface or composite samples is equal to or greater than the applicable standard. For composite samples of two to four subsamples, the standard is determined by dividing the standard in the table by one half the number of subsamples. See EPA regulations at 40 CFR 745.63 and 745.227(h)(3)(i).

(ii) Soil. (A) A soil-lead hazard for play areas frequented by children under six years of age is bare soil with lead equal to or exceeding 400 parts per million (micrograms per gram).

(B) For the rest of the yard, a soil-lead hazard is bare soil that totals more than 9 square feet (0.8 square meters) per property with lead equal to or exceeding an average of 1,200 parts per million (micrograms per gram).

(3) Lead-hazard screens shall be performed in accordance with the methods and standards established either by a state or Tribal program authorized by the EPA, or by the EPA at 40 CFR 745.227(c), and paragraphs (b)(1) and (b)(2) of this section. If the lead-hazard screen indicates the need for a follow-up risk assessment (*e.g.*, if dust-lead measurements exceed the levels established for lead-hazard screens in paragraph (b)(2)(i) of this section), a risk assessment shall be conducted in accordance with paragraphs (b)(1) and (b)(2) of this section. Dust, soil, and paint samples collected for the lead-hazard screen may be used in the risk assessment. If the lead hazard screen does not indicate the need for a follow-up risk assessment, no further risk assessment is required.

(c) It is strongly recommended, but not required, that lead-based paint inspectors, risk assessors, and sampling technicians provide a plain-language summary of the results suitable for posting or distribution to occupants in compliance with § 35.125.

■ 21. Section 35.1330 is amended by revising paragraphs (a)(4), (a)(4)(ii) and (iii), (d)(1), and (f)(3)(i)(C) to read as follows:

§ 35.1330 Interim controls.

* * * * *

(a) * * *

(4) A person performing interim controls must be trained in accordance with the hazard communication standard for the construction industry issued by the Occupational Safety and Health Administration of the U.S. Department of Labor at 29 CFR 1926.59, and either be supervised by an individual certified as a lead-based paint abatement supervisor or have completed successfully one of the following lead-safe work practices courses, except that this supervision or lead-safe work practices training requirement does not apply to work that disturbs painted surfaces less than the *de minimis* limits of § 35.1350(d):

* * * * *

(ii) A lead-based paint abatement worker course accredited in accordance with 40 CFR 745.225; or

(iii) Another course approved by HUD for this purpose after consultation with the EPA. A current list of approved courses is available on the Internet at *http://www.hud.gov/offices/lead,* or by mail or fax from the HUD Office of Healthy Homes and Lead Hazard Control at (202) 755–1785, extension 104 (this is not a toll-free number). Persons with hearing or speech impediments may access the above telephone number via phone or TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

* * * * *

(d) Chewable surfaces. (1) Chewable surfaces are required to be treated only if there is evidence of teeth marks, indicating that a child of less than six years of age has chewed on the painted surface, and lead-based paint is known or presumed to be present on the surface.

* * * * *

(f) * * *

(3) * * *

(i) * * *

(C) The impermanent surface covering material shall not contain more than 400 µg/g of lead.

* * * * *

■ 22. Section 35.1340 is amended by revising paragraphs (b) introductory text, (b)(1)(iii), (b)(1)(iv), (b)(2)(i), and (g) to read as follows:

§ 35.1340 Clearance.

* * * * *

(b) Clearance following activities other than abatement. Clearance examinations performed following interim controls, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation shall be performed in accordance with the requirements of this paragraph (b) and paragraphs (c) through (g) of this section. Clearance is not required if the work being cleared does not disturb painted surfaces of a total area more than that set forth in § 35.1350(d).

(1) * * *

* * * * *

(iii) A person who has successfully completed a training course for sampling technicians (or a discipline of similar purpose and title) that is developed or accepted by EPA or a State or tribal program authorized by EPA pursuant to 40 CFR part 745, subpart Q, and that is given by a training provider accredited by EPA or a State or Indian Tribe for training in lead-based paint inspection or risk assessment, provided a certified risk assessor or a certified lead-based paint inspector approves the work of the sampling technician and signs the report of the clearance examination; or

(iv) A technician licensed or certified by EPA or a State or Indian Tribe to perform clearance examinations without the approval of a certified risk assessor or certified lead-based paint inspector, provided that a clearance examination by such a licensed or certified technician shall be performed only for a single-family property or individual dwelling units and associated common areas in a multi-unit property, and provided further that a clearance examination by such a licensed or certified sampling technician shall not be performed using random sampling of dwelling units or common areas in multifamily properties, except that a clearance examination performed by such a licensed or certified sampling technician is acceptable for any residential property if the clearance examination is approved and the report signed by a certified risk assessor or a certified lead-based paint inspector.

(2) *Required activities.* (i) Clearance examinations shall include a visual assessment, dust sampling, submission of samples for analysis for lead in dust, interpretation of sampling results, and preparation of a report. Soil sampling is not required. Clearance examinations shall be performed in dwelling units, common areas, and exterior areas in accordance with this section and the steps set forth at 40 CFR 745.227(e)(8). If clearance is being performed after lead-based paint hazard reduction, paint stabilization, maintenance, or rehabilitation that affected exterior surfaces but did not disturb interior painted surfaces or involve elimination of an interior dust-lead hazard, interior clearance is not required if window, door, ventilation, and other openings are sealed during the exterior work. If clearance is being performed for more than 10 dwelling units of similar construction and maintenance, as in a multifamily property, random sampling for the purpose of clearance may be conducted in accordance with 40 CFR 745.227(e)(9).

* * * * *

(g) *Worksite clearance.* Clearance of only the worksite is permitted after work covered by §§ 35.930, 35.1330, 35.1335, or 35.1355, when containment is used to ensure that dust and debris generated by the work is kept within the worksite. Otherwise, clearance must be of the entire dwelling unit, common area, or outbuilding, as applicable. When clearance is of an interior worksite that is not an entire dwelling unit, common area, or outbuilding, dust samples shall be taken for paragraph (b) of this section as follows:

(1) Sample, from each of at least four rooms, hallways, stairwells, or common areas within the dust containment area:

(i) The floor (one sample); and

(ii) Windows (one interior sill sample and one trough sample, if present); and

(2) Sample the floor in a room, hallway, stairwell, or common area connected to the dust containment area, within five feet outside the area (one sample).

■ 23. Section 35.1350 is amended by revising paragraph (b) to read as follows:

§ 35.1350 Safe work practices.

* * * * *

(b) *Occupant protection and worksite preparation.* Occupants and their belongings shall be protected, and the worksite prepared, in accordance with § 35.1345. A person performing this work shall be trained on hazards and either be supervised or have completed successfully one of the specified courses, in accordance with § 35.1330(a)(4).

* * * * *

■ 24. Section 35.1355 is amended by revising paragraph (a)(1), removing paragraphs (a)(1)(i) and (a)(1)(ii), and by correcting in paragraph (b)(1)(iii) the misspelling of the word ''inclosures'' to ''enclosures,'' to read as follows:

§ 35.1355 Ongoing lead-based paint maintenance and reevaluation activities.

(a) * * *

(1) Maintenance activities need not be conducted in accordance with this section if a lead-based paint inspection indicates that no lead-based paint is present in the dwelling units, common areas, and on exterior surfaces, or a clearance report prepared in accordance with § 35.1340(a) indicates that all lead-based paint has been removed.

* * * * *

(b) * * *

(1) * * *

PART 200—INTRODUCTION TO FHA PROGRAMS

■ 25. The authority citation for part 200 continues to read as follows:

Authority: 12 U.S.C. 1702–1715z–21; 42 U.S.C. 3535(d).

§ 200.810 [Amended]

■ 26. Section 200.810 is amended by removing and reserving paragraph (a)(2).

PART 291—DISPOSITION OF HUD-ACQUIRED SINGLE FAMILY PROPERTY

■ 27. The authority citation for part 291 continues to read as follows:

Authority: 12 U.S.C. 1701 *et seq.*; 42 U.S.C. 1441, 1441a, and 3535(d).

§ 291.430 [Amended]

■ 28. Section 291.430 is amended by adding the word ''to'' between ''apply'' and ''activities''.

PART 598—URBAN EMPOWERMENT ZONES: ROUND TWO AND THREE DESIGNATIONS

■ 29. The authority citation for part 598 continues to read as follows:

Authority: 26 U.S.C. 1391; 42 U.S.C. 3535(d).

■ 30. Part 598, subpart E is amended by adding new § 598.408 to read as follows:

§ 598.408 Lead-based paint requirements.

The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851–4856), and the lead-based paint requirements set forth at part 35, subparts A, B, J, K, and R of this title apply to the activities funded by HUD under this program.

PART 891—SUPPORTIVE HOUSING FOR THE ELDERLY AND PERSONS WITH DISABILITIES

■ 31. The authority citation for part 891 continues to read as follows:

Authority: 12 U.S.C. 1701q; 42 U.S.C. 1437f, 3535(d), and 8013.

■ 32. Section 891.155 is amended by revising paragraph (g) to read as follows:

§ 891.155 Other Federal requirements.

* * * * *

(g) Lead-based paint. The requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851–4856), and implementing

regulations at part 35, subparts A, B, H, J, and R of this title apply to these programs.

■ 33. Section 891.325 is revised to read as follows:

§ 891.325 Lead-based paint requirements.

The requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851–4856), and implementing regulations at part 35, subparts A, B, H, J, and R of this title apply to the section 811 program and to projects funded under §§ 891.655 through 891.790.

PART 982—SECTION 8 TENANT-BASED ASSISTANCE: HOUSING CHOICE VOUCHER PROGRAM

■ 34. The authority citation for part 982 continues to read as follows:

Authority: 42 U.S.C. 1437f and 3535(d).

■ 35. Section 982.305 is amended by revising paragraph (b)(1)(ii) to read as follows:

§ 982.305 PHA approval of assisted tenancy.

* * * * *

(b) * * *

(1) * * *

(ii) The landlord and the tenant have executed the lease (including the HUD-prescribed tenancy addendum, and the lead-based paint disclosure information as required in § 35.92(b) of this title); and

* * * * *

PART 983—SECTION 8 PROJECT-BASED CERTIFICATE PROGRAM

■ 36. The authority citation for part 983 continues to read as follows:

Authority: 42 U.S.C. 1437f and 3535(d).

■ 37. Section 983.203 is amended by revising paragraph (d) introductory text to read as follows:

§ 983.203 Family participation.

* * * * *

(d) Briefing of families. When a family is selected to occupy a project-based unit, the PHA must provide the family with information concerning the tenant rent and any applicable utility allowance, and a copy of the lead hazard information pamphlet described in § 35.130 of this title, except that the PHA need not provide the pamphlet if the PHA can demonstrate that the pamphlet has already been provided in accordance with § 35.130 of this title. The family also must be provided with a full explanation of the following, either in group or individual sessions:

* * * * *

Dated: June 9, 2004.

Alphonso Jackson,

Secretary.

[FR Doc. 04–13873 Filed 6–18–04; 8:45 am]

BILLING CODE 4210–32–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–04–024]

RIN 1625–AA00

Safety Zone; Detroit, Detroit River, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Marshall Field's Target fireworks display on June 23, 2004. This safety zone is necessary to control vessel traffic within the immediate location of the fireworks launch site and to ensure the safety of life and property during the event. This safety zone is intended to restrict vessel traffic from a portion of the Detroit River.

DATES: This temporary final rule is effective from 10 p.m. until 10:45 p.m. on June 23, 2004.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD09–04–024) and are available for inspection or copying at: U.S. Coast Guard Marine Safety Office Detroit, 110 Mt. Elliott Ave., Detroit, MI 48207, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: ENS Cynthia Lowry, U.S. Coast Guard Marine Safety Office Detroit, (313) 568–9580.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The permit application was not received in time to publish an NPRM followed by a final rule before the effective date. Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life or property. The Coast Guard has not received any complaints or negative comments previously with regard to this event.

Background and Purpose

A temporary safety zone is necessary to ensure the safety of vessels and spectators from the hazards associated with fireworks displays. Based on accidents that have occurred in other Captain of the Port zones and the explosive hazard of fireworks, the Captain of the Port Detroit has determined fireworks launches in close proximity to watercraft pose significant risks to public safety and property. The likely combination of large numbers of recreational vessels, congested waterways, darkness punctuated by bright flashes of light, alcohol use, and debris falling into the water could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement around the locations of the launch platforms will help ensure the safety of persons and property at these events and help minimize the associated risk.

The safety zone will encompass all waters of the Detroit River within a 300-yard radius of the fireworks launch platform in approximate position 42°19′35″ N, 083°02′25″ W (off of the Renaissance Center). The geographic coordinates are based upon North American Datum 1983 (NAD 83). The size of this zone was determined using the National Fire Prevention Association guidelines and local knowledge concerning wind, waves, and currents.

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene patrol representative. Entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Detroit or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and