

Office of the Secretary, HUD

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standard treatment measures used previously and any newly-conducted evaluation and hazard reduction activities. The report shall include the information in 40 CFR 745.227(d)(11), and shall:

(i) Identify any lead-based paint hazards previously detected and discuss the effectiveness of any hazard reduction or standard treatment measures used, and list those for which no measures have been used.

(ii) Describe any new hazards found and present the owner with acceptable control options and their accompanying reevaluation schedules.

(iii) Identify when the next reevaluation, if any, must occur, in accordance with the requirements of paragraph (b)(4) of this section.

(c) *Response to the reevaluation*—(1) *Hazard reduction omission or failure found by a reevaluation.* The designated party shall respond in accordance with paragraph (b)(6)(iii)(A) of this section to a report by the risk assessor of a hazard reduction control that has not been implemented or is failing, or that deteriorated lead-based paint is present.

(2) *Newly-identified lead-based paint hazard found by a reevaluation.* The designated party shall treat each:

(i) Dust-lead hazard or paint lead hazard by cleaning or hazard reduction measures, which are considered completed when clearance is achieved in accordance with § 35.1340.

(ii) Soil-lead hazard by hazard reduction measures, which are considered completed when clearance is achieved in accordance with § 35.1340.

[64 FR 50218, Sept. 15, 1999, as amended at 69 FR 34275, June 21, 2004]

PART 40—ACCESSIBILITY STANDARDS FOR DESIGN, CONSTRUCTION, AND ALTERATION OF PUBLICLY OWNED RESIDENTIAL STRUCTURES

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AUTHORITY: 42 U.S.C. 3535(d), 4153.

SOURCE: 36 FR 24437, Dec. 22, 1971, unless otherwise noted.

§ 40.1 Purpose.

This part prescribes standards for the design, construction, and alteration of publicly owned residential structures to insure that physically handicapped persons will have ready access to, and use of, such structures.

§ 40.2 Definition of “residential structure”.

(a) As used in this part, the term *residential structure* means a residential structure (other than a privately owned residential structure and a residential structure on a military reservation):

(1) Constructed or altered by or on behalf of the United States;

(2) Leased in whole or in part by the United States after August 12, 1968, if constructed or altered in accordance with plans and specifications of the United States; or

(3) Financed in whole or in part by a grant or loan made by the United States after August 12, 1968, if such residential structure is subject to standards for design, construction, or alteration issued under authority of the law authorizing such grant or loan.

(b) As used in this part, *residential structure* includes the following:

(1) Any residential structure which, in whole or in part, is intended for occupancy by the physically handicapped or designed for occupancy by the elderly;

(2) All elevator residential structures;

(3) Any residential structure that contains 15 or more housing units, unless otherwise specifically prescribed by the Uniform Federal Accessibility Standards.

(4) Nonresidential structures appurtenant to a residential structure covered under this part.

[36 FR 24437, Dec. 22, 1971, as amended at 49 FR 31620, Aug. 7, 1984; 83 FR 26361, June 7, 2018]

§ 40.3 Applicability.

(a) The standards prescribed in § 40.4 are applicable to residential structures designed after the effective date of this

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part. If the design of a structure commenced prior to that date, the standards shall be made applicable to the maximum extent practicable, as determined by the head of the department, agency, or instrumentality of the United States concerned. If no design stage is involved in the construction or alteration of a residential structure, the standards of § 40.4 shall be applicable to construction or alteration for which bids are solicited after the effective date of this part.

(b) The standards prescribed in § 40.4 are not applicable to:

(1) Any portion of a residential structure or its grounds which need not, because of its intended use, be made accessible to, or usable by, the public or by physically handicapped persons;

(2) The alteration of an existing residential structure to the extent that the alteration does not involve work which is related to the standards of this part; or

(3) The alteration of an existing building, or of such portions thereof, to which application of the standards is not structurally feasible.

§ 40.4 Standards.

Residential structures subject to this part shall be designed, constructed or altered to ensure that physically handicapped persons have access to, and use of, these structures. This requirement is satisfied by using the Uniform Federal Accessibility Standards (UFAS).

[49 FR 31621, Aug. 7, 1984, as amended at 83 FR 26361, June 7, 2018]

§ 40.5 [Reserved]

§ 40.6 Records.

The administering agency's file on each contract, grant, or loan involving the design, construction, or alteration of a residential structure shall include appropriate documentation indicating:

(a) That the standards prescribed in § 40.4 are applicable to and have been or will be incorporated in the residential structure, or (b) that the grant or loan has been or will be made subject to the requirement that the standards are applicable and will be incorporated in the residential structure. The file should also indicate any modification or waiver

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er of the standards which has been issued by the Secretary of HUD.

§ 40.7 Availability of Accessibility Standards.

Copies of the Uniform Federal Accessibility Standards are available from the Office of Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development, Room 5230, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 755-5404 (this is not a toll-free number). Hearing or speech-impaired individuals may call HUD's TDD number (202) 708-0113 or 1-800-877-8399 (Federal Information Relay Service TDD). (Other than the "800" number, these are not toll-free numbers.)

[61 FR 5204, Feb. 9, 1996]

PART 41—POLICIES AND PROCEDURES FOR THE ENFORCEMENT OF STANDARDS AND REQUIREMENTS FOR ACCESSIBILITY BY THE PHYSICALLY HANDICAPPED

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41.1 Applicability.

41.2 Definitions.

41.3 Assurance and declaration required.

41.4 Waiver or modification of standards.

41.5 Achieving compliance.

41.6 Matters involving the Architectural and Transportation Barriers Compliance Board.

AUTHORITY: Architectural Barriers Act of 1968, as amended by Pub. L. 90-480, 42 U.S.C. 4151 *et seq.*

SOURCE: 44 FR 62806, Oct. 31, 1979, unless otherwise noted.

§ 41.1 Applicability.

This part sets forth policies and procedures for the enforcement of standards and requirements for accessibility by the physically handicapped imposed:

(a) For nonresidential buildings or facilities by regulations issued by the General Services Administration at subchapter D of the Federal Property Management Regulations, subpart 101-19.6—Accommodations for the Physically Handicapped, or

(b) By regulation or contract under any other program of the Department, except a program subject only to standards or requirements at 24 CFR