

ATTACHMENT 3

Project-Based Rental Assistance

24 CFR 35, Subpart H

TITLE 24--HOUSING AND URBAN DEVELOPMENT

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

Subpart H--Project-Based Rental Assistance

Sec. 35.700 Purpose and applicability.

Source: 64 FR 50210, Sept. 15, 1999, unless otherwise noted.

(a) This subpart H establishes procedures to eliminate as far as practicable lead-based paint hazards in residential properties receiving project-based assistance under a HUD program. The requirements of this subpart apply only to the assisted dwelling units in a covered property and any common areas servicing those dwelling units. This subpart does not apply to housing receiving rehabilitation assistance or to public housing, which are covered by subparts J and M of this part, respectively.

(b) For the purposes of competitively awarded grants under the Housing Opportunities for Persons with AIDS Program (HOPWA), the Supportive Housing Program (42 U.S.C. 11381-11389) and the Shelter Plus Care Program project-based rental assistance and sponsor-based rental assistance components (42 U.S.C. 11402-11407), the requirements of this subpart shall apply to grants awarded pursuant to Notices of Funding Availability published on or after October 1, 1999. For the purposes of formula grants awarded under the Housing Opportunities for Persons with AIDS Program (HOPWA) (42 U.S.C. 12901 et seq.), the requirements of this subpart shall apply to activities for which program funds are first obligated on or after September 15, 2000.

Sec. 35.705 Definitions and other general requirements.

Definitions and other general requirements that apply to this subpart are found in subpart B of this part.

Sec. 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 Sec. 35.125.

(b) Lead hazard information pamphlet. The owner shall provide the lead hazard information pamphlet in accordance with Sec. 35.130.

Sec. 35.715 Multifamily properties receiving more than \$5,000 per unit.

The requirements of this section shall apply to a multifamily residential property that is receiving an average of more than \$5,000 per assisted dwelling unit annually in project-based assistance.

(a) Risk assessment. Each owner shall complete a risk assessment in accordance with Sec. 35.1320(b). A risk assessment is considered complete when the owner receives the risk assessment report. Until the owner conducts a risk assessment as required by this section, the

requirements of paragraph (d) of this section shall apply. After the risk assessment has been conducted the requirements of paragraphs (b) and (c) of this section shall apply. Each risk assessment shall be completed no later than the following schedule or a schedule otherwise determined by HUD:

(1) Risk assessments shall be completed on or before September 17, 2001, in a multifamily residential property constructed before 1960.

(2) Risk assessments shall be completed on or before September 15, 2003, in a multifamily residential property constructed after 1959 and before 1978.

(b) Interim controls. Each owner shall conduct interim controls in accordance with Sec. 35.1330 to treat the lead-based paint hazards identified in the risk assessment. Interim controls are considered completed when clearance is achieved in accordance with Sec. 35.1340. Interim controls shall be completed no later than the following schedule:

(1) In units occupied by families with children of less than 6 years of age and in common areas servicing those units, interim controls shall be completed no later than 90 days after the completion of the risk assessment. In units in which a child of less than 6 years of age moves in after the completion of the risk assessment, interim controls shall be completed no later than 90 days after the move-in.

(2) In all other dwelling units, common areas, and the remaining portions of the residential property, interim controls shall be completed no later than 12 months after completion of the risk assessment for those units.

(c) Ongoing lead-based paint maintenance and reevaluation activities. Effective immediately after completion of the risk assessment required in Sec. 35.715(a), the owner shall incorporate ongoing lead-based paint maintenance and reevaluation into the regular building operations in accordance with Sec. 35.1355, unless all lead-based paint has been removed. If the reevaluation identifies new lead-based paint hazards, the owner shall conduct interim controls in accordance with Sec. 35.1330.

(d) Transitional requirements--(1) Effective date. The requirements of this paragraph shall apply effective September 15, 2000, and continuing until the applicable date specified in Sec. 35.715(a) (1) or (2) or until the owner conducts a risk assessment, whichever is first.

(2) Definitions and other general requirements that apply to this paragraph are found in subpart B of this part.

(3) Ongoing lead-based paint maintenance. The owner shall incorporate ongoing lead-based paint maintenance activities into regular building operations, in accordance with Sec. 35.1355(a), except that clearance is not required.

(4) Child with an environmental intervention blood lead level. If a child of less than 6 years of age living in a dwelling unit covered by this paragraph has an environmental intervention blood lead level, the owner shall comply with the requirements of Sec. 35.730.

Sec. 35.720 Multifamily properties receiving up to \$5,000 per unit, and single family properties.

Effective September 15, 2000, the requirements of this section shall apply to a multifamily residential property that is receiving an average of up to and including \$5,000 per assisted dwelling unit annually in project-based assistance and to a single family residential property that is receiving project-based assistance through the Section 8 Moderate Rehabilitation program, the Project-Based Certificate program, or any other HUD program providing project-based assistance.

(a) Activities at initial and periodic inspection.--(1) Visual assessment. During the initial and periodic inspections, an inspector trained in visual assessment for deteriorated paint surfaces in

accordance with procedures established by HUD shall conduct a visual assessment of all painted surfaces in order to identify any deteriorated paint.

(2) Paint stabilization. The owner shall stabilize each deteriorated paint surface in accordance with Sec. 35.1330(a) and Sec. 35.1330(b) before occupancy of a vacant dwelling unit or, where a unit is occupied, within 30 days of notification of the results of the visual assessment. Paint stabilization is considered complete when clearance is achieved in accordance with Sec. 35.1340.

(3) Notice. The owner shall provide a notice to occupants in accordance with Secs. 35.125(b) (1) and (c) describing the results of the clearance examination.

(b) Ongoing lead-based paint maintenance activities. The owner shall incorporate ongoing lead-based paint maintenance activities into regular building operations in accordance with Sec. 35.1355(a), unless all lead-based paint has been removed.

(c) Child with an environmental intervention blood lead level. If a child of less than 6 years of age living in a dwelling unit covered by this section has an environmental intervention blood lead level, the owner shall comply with the requirements of Sec. 35.730.

Sec. 35.725 Section 8 Rent adjustments.

HUD may, subject to the availability of appropriations for Section 8 contract amendments, on a project by project basis for projects receiving Section 8 project-based assistance, provide adjustments to the maximum monthly rents to cover the costs of evaluation for and reduction of lead-based paint hazards, as defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.

Sec. 35.730 Child with an environmental intervention blood lead level.

(a) Risk assessment. Within 15 days after being notified by a public health department or other medical health care provider that a child of less than 6 years of age living in a dwelling unit to which this subpart applies has been identified as having an environmental intervention blood lead level, the owner shall complete a risk assessment of the dwelling unit in which the child lived at the time the blood was last sampled and of common areas servicing the dwelling unit. The risk assessment shall be conducted in accordance with 35.1320(b) and is considered complete when the owner receives the risk assessment report. The requirements of this paragraph apply regardless of whether the child is or is not still living in the unit when the owner receives the

notification of the environmental intervention blood lead level. The requirements of this paragraph (a) shall not apply if the owner conducted a risk assessment of the unit and common areas servicing the unit between the date the child's blood was last sampled and the date when the owner received the notification of the environmental intervention blood lead level. If a public health department has already conducted an evaluation of the dwelling unit, the requirements of this paragraph shall not apply.

(b) Verification. After receiving information from a person who is not a medical health care provider that a child of less than 6 years of age living in a dwelling unit covered by this subpart may have an environmental intervention blood lead level, the owner shall immediately verify the information with the public health department or other medical health care provider. If that department or provider verifies that the child has an environmental intervention blood lead level, such verification shall constitute notification, and the owner shall take the action required in paragraphs (a) and (c) of this section.

(c) Hazard reduction. Within 30 days after receiving the report of the risk assessment conducted pursuant to paragraph (a) of this section or the evaluation from the public health department, the owner shall complete the reduction of identified lead-based paint hazards in accordance with Sec. 35.1325 or Sec. 35.1330. Hazard reduction is considered complete when clearance is achieved in accordance with Sec. 35.1340 and the clearance report states that all lead-based paint hazards identified in the risk assessment have been treated with interim controls or abatement or the public health department certifies that the lead-based paint hazard reduction is complete. The requirements of this paragraph do not apply if the owner, between the date the child's blood was last sampled and the date the owner received the notification of the environmental intervention blood lead level, already conducted a risk assessment of the unit and common areas servicing the unit and completed reduction of identified lead-based paint hazards.

(d) Notice. If evaluation or hazard reduction is undertaken, each owner shall provide a notice to occupants in accordance with Sec. 35.125.

(e) Reporting requirement. The owner shall report the name and address of a child identified as having an environmental intervention blood lead level to the public health department within 5 working days of being so notified by any other medical health care professional.