

MEMORANDUM FOR: All Hub and Program Center Directors

FROM: Shaun Donovan, Deputy Assistant Secretary for Multifamily Housing Programs, HT

SUBJECT: Implementation of HUD's New Lead Safe Housing Rule

HUD's new Lead Safe Housing Rule, 24 CFR 35, takes effect on September 15, 2000. This memorandum summarizes the rule's requirements and effective dates for various types of multifamily housing programs. It also describes funding and training assistance available to multifamily owners to help them fully comply with the rule. This is critical and timely information that should be communicated immediately to the owners in your jurisdiction.

The new rule applies to housing built before 1978, requiring lead hazard evaluation and control depending on the type of housing assistance. You can read the rule and a set of questions and answers, and access other information about lead-based paint issues on the Office of Healthy Homes and Lead Hazard Control's website at www.hud.gov/lea or by calling the Office's Lead Paint Compliance Assistance Center toll free at 1-(866) HUD-1012. Any policy interpretation questions about the rule can be addressed to the HUD Office of Healthy Homes and Lead Hazard Control, (202) 755-1785 extension 104, or lead_regulations@hud.gov.

The major Multifamily Programs covered by the rule are: (1) new applications for mortgage insurance, (2) HUD owned and mortgagee in possession (m.i.p.) property, and (3) project-based rental assistance (with separate requirements for units receiving more than \$5,000 per unit per year, and for units receiving up to that amount):

- (1) Insurance commitments for pre-1978 properties issued on or after September 15, 2000 are covered under 24 CFR 35.600. Applications for refinancing which do not require an appraisal (i.e., applications pursuant to Section 223(a)(7)) are excluded from the regulation.
- (2) HUD owned or mortgagee in possession properties are covered under 24 CFR 35.800. Generally, pre-1978 built property in inventory or m.i.p. on September 15, 2000, shall have a risk assessment and lead-based paint inspection before offering for sale or by December 15, 2000, whichever is

earlier. For properties acquired or becoming m.i.p. after September 15, 2000, the inspection and risk assessment shall be conducted within 90 days or before offering for sale, whichever is earlier. If lead hazards are found, the regulation describes interim controls and ongoing maintenance and reevaluation requirements.

(3) Project-Based Rental Assistance:

- a) Properties receiving more than \$5,000 per unit per year in project-based assistance are covered under 24 CFR 35.700. For existing multifamily assistance, risk assessments are required on or before September 17, 2001 for residential property constructed before 1960. For residential property constructed after 1959 and before 1978, risk assessments shall be completed by September 15, 2003.
- b) Properties receiving up to \$5,000 in rental assistance are covered under 24 CFR 35.720. These properties are subject to the regulation as of September 15, 2000. A visual assessment, paint stabilization and ongoing lead-based paint maintenance are required.

In order to ensure that the rule is effectively implemented, HUD has developed a Transition Plan. This will temporarily affect portions of the applicability described above, so it is important to read and understand both the regulation and the transition. The Transition Plan has a three-part strategy:

(1) Establish **transition periods** based on either capacity as follows:

- a) Jurisdictions in geographic areas lacking capacity to comply with the rule can build that capacity and focus their resources on the housing stock with the greatest need, by submitting a Statement of Inadequate Capacity to HUD by November 15, 2000, and an accompanying Transition Implementation Plan by December 15, 2000. They will have a six-month transition period until March 15, 2001, at which time they must comply with the rule.
- b) Post-1960 properties occupied by children under six receiving only tenant-based rental assistance have a transition period until September 17, 2001.
- c) Properties receiving federal rehabilitation assistance greater than \$25,000 per unit that are occupied by the elderly, where no child under six resides or is expected to reside have a transition period until September 17, 2001.

(2) Provide **training assistance** to jurisdictions that need help building capacity.

(3) Supply **funding to reduce the costs** of complying with the rule.

You can obtain a summary of this transition plan, the September 11, 2000, Federal Register Notice implementing the transition periods, and training and other guidance documents at the above website.

When a property is covered by two types of housing programs (such as when a family with a tenant-based rental assistance voucher lives in a property with mortgage insurance), the requirements of the more stringent of the two subparts apply to the housing and the shorter transition period applies. Property owners which are involved in housing programs whose jurisdiction is outside the Office of Housing will also receive notices shortly from the appropriate office, either the Office of Public and Indian Housing or the Office of Community Planning and Development. In addition, property owners should check with the appropriate local jurisdiction to determine if the jurisdiction qualified for a transition period based on inadequate capacity. If so, that same transition period will apply to the property owner's units.

The Basic Applicability, Requirements and Effective Dates of the Lead Safe Housing Rule

HUD's Lead Safe Housing Rule was published in the Federal Register on September 15, 1999. The new regulation puts all of the Department's lead-based paint regulations in one part of the Code of Federal Regulations, 24 CFR Part 35, making it much easier to find HUD policy on the subject. The new requirements take effect on September 15, 2000. In order to ensure that the rule is effectively implemented, HUD has developed a Transition Plan, which is described below.

What is this new requirement all about and what housing does it affect?

The regulation's hazard reduction requirements give much greater emphasis than existing regulations to reducing lead in house dust. Scientific research has found that exposure to lead in dust is the most common way young children become lead poisoned. Therefore the new regulation requires dust testing after paint is disturbed to make sure the home is lead-safe.

The new regulation is directed to the following:

- It applies only to housing that was built before 1978, when lead-based paint was banned nationwide for consumer use.
- It does not apply to housing exclusively for the elderly or people with a disability, unless a child under age 6 is expected to reside there.
- It does not apply to zero-bedroom dwellings, including efficiency apartments, single-room occupancy housing (SRO), dormitories, or military barracks.
- It does not include properties that have been found to be free of lead-based paint by certified lead-based paint inspectors.
- It does not include properties where all lead-based paint has been removed.
- It does not include unoccupied housing that will remain vacant until it is demolished.
- It does not include any rehabilitation or housing improvement that does not disturb a painted surface.

The attached *Summary of Requirements* is just a quick overview for affected parties for new Multifamily Mortgage Insurance, HUD Project-Based Assistance, and HUD-Owned Multifamily Property programs. You should not rely solely on this summary, but should become familiar with the rule itself to ensure that you understand the requirements of your specific housing programs. You can read the rule and a set of questions and answers, and access other information about lead-based paint issues on the Office of Healthy Homes and Lead Hazard Control's website at www.hud.gov/lea.

SUMMARY OF REQUIREMENTS

Subpart of Rule / Type of Program	Requirements	Construction Period	Transition Period Ends *
G New Multifamily Mortgage Insurance:			
1. For properties that are currently residential	<ul style="list-style-type: none"> · Provision of pamphlet. · Risk assessment. · Interim controls. · Notice to occupants. · Ongoing LBP maintenance. 	Pre-1960	9/15/2000
	<ul style="list-style-type: none"> · Provision of pamphlet. · Ongoing LBP maintenance. 	1960-1977	9/15/2000
2. For conversions and major renovations.	<ul style="list-style-type: none"> · Provision of pamphlet. · LBP inspection. · Abatement of LBP. · Notice to occupants. 	Pre-1978	9/15/2000
H Project-Based Assistance (HUD Program):			
1. Multifamily property Receiving more than \$5,000 per unit per year	<ul style="list-style-type: none"> · Provision of pamphlet. · Risk assessment. · Interim controls. · Notice to occupants. · Ongoing LBP maintenance and reevaluation. · Response to environmental intervention blood lead level (EIBLL) child. 	Pre-1960	9/17/2001
		1960-1977	9/15/2003
2. Multifamily property - receiving less than or equal to \$5,000 per unit per year, and single family properties	<ul style="list-style-type: none"> · Provision of pamphlet. · Visual assessment. · Paint stabilization. · Notice to occupants. · Ongoing LBP maintenance. · Response to EIBLL child. 	Pre-1978	9/15/2000

I	HUD-Owned Multifamily Property	<ul style="list-style-type: none"> · Provision of pamphlet. · LBP inspection and risk assessment. ** · Interim controls. · Notice to occupants. · Ongoing LBP maintenance and reevaluation. · Response to EIBLL child. 	Pre-1978	9/15/2000
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* Before the end of the transition period, the requirements of the rules in effect before September 15, 2000 apply to the properties.

** The LBP inspection and risk assessment shall be conducted no later than 90 days after the date subpart I becomes applicable to the property or before publicly advertising the property for sale, whichever is sooner.

Subparts F through M of the rule cover different types of HUD housing programs. In addition to the types of programs shown in the chart above, there are three subparts of 24 CFR Part 35 that apply to all programs. Subpart A is the existing disclosure regulation that requires sellers and lessors of most pre-1978 housing to disclose known information on lead-based paint and/or lead-based paint hazards to prospective buyers and renters. Subpart B describes the scope of coverage of the new regulation and provides definitions and general requirements for all programs. Subpart R describes methods and standards for lead-based paint hazards evaluation and regulation activities.

For More Information:

For information about the transition strategy for implementing the Rule, you may call the Lead Paint Compliance Assistance Center toll-free at 1-866-HUD-1012.

For copies of the Lead Safe Housing Rule or general questions about lead in housing, you can call the National Lead Information Center toll-free at 1-800-424-LEAD, or TDD 1-800-526-5456 for the hearing impaired.

You can also download the Rule, guidance about its implementation, and other educational materials on lead from www.hud.gov/lea.

To answer other questions about the Rule, you may call the Office of Healthy Homes and Lead Hazard Control at 1-202-755-1785, ext. 104, or e-mail lead_regulations@hud.gov.

Training and Funding Assistance on the new HUD Lead Safe Housing Rule for Multifamily Owners

To ensure that property owners have adequate resources to reduce the hazards of lead-based paint, the Transition Plan includes funding to pay for inspections and risk assessments in project-based housing. HUD has also agreed to train Training Providers and Clearance Technicians and establish a Lead Paint Compliance Assistance Center.

Inspections and risk assessments

To ensure that property owners have adequate resources to reduce the hazards of lead-based paint, the Transition Plan includes funding to pay for inspections and risk assessments in project-based housing. HUD's Real Estate Assessment Center (REAC) will contract for these services at a bulk rate and will arrange the inspections and risk assessments at the request of the property owners. Letters will be sent from REAC to property owners letting them know that these inspections and assessments are available. Once a property owner requests an inspection or assessment from REAC, REAC will notify the contractor who will then be responsible for working with the property owner to complete the inspections and assessments requested. REAC expects to have the contractor on board by the beginning of 2001.

Training for Training Providers and Clearance Technicians

HUD will train 50 accredited, geographically-dispersed Training Providers and 5,000 Clearance Technicians. To access this training, the property owners should call the Lead Paint Compliance Assistance Center at 1-866-HUD-1012.

Initial Implementation of the new HUD Lead Safe Housing Rule for Multifamily Programs

Multifamily Mortgage Insurance

For all proposed multifamily insured projects for which a firm commitment has not been issued before September 15, 2000, the Hub/Program Center shall require the sponsor to comply with the lead-based paint regulations that were in effect prior to September 15, 2000. At the sponsor's discretion, it may comply with the new Lead Safe Housing Rule and inform the Hub/Program Center of this decision.

For proposed multifamily insured projects that are formally placed in processing by HUD on or after September 15, 2000, the Hub/Program Center shall access the HUD website at www.hud.gov/lea to determine if the jurisdiction in which the proposed project is located has been accepted for transition assistance. If the jurisdiction is not receiving transition assistance, the Hub/Program Center shall require the sponsor to comply with the new Lead Safe Housing Rule. If the jurisdiction is receiving transition assistance, the Hub/Program Center shall review the data on the HUD website, and consult with the CPD Division to determine which programs or types of assistance covered by the new regulation for which capacity to comply does not exist for the jurisdiction. If the program or types of assistance affects one of the three categories of multifamily insurance programs (pre-1960 construction, 1960-1977 construction, or major rehabilitation/conversion of pre-1978 construction), the Hub/Program Center shall require the sponsor to comply with the lead-based paint regulations that were in effect before September 15, 2000, for that category of multifamily insurance program.

Project-Based Rental Assistance

For a project-based rental assistance (PBRA) project, the Hub/Program Center shall access the HUD website at www.hud.gov/lea to determine if the jurisdiction in which the proposed project is located is receiving transition assistance. If the jurisdiction is not receiving transition assistance, the Hub/Program Center shall require the sponsor to comply with the new Lead Safe Housing Rule.

If the jurisdiction is receiving transition assistance, the Hub/Program Center shall review the data on the HUD website, and consult with the CPD Division to determine which programs or types of assistance covered by the new regulation for which capacity to comply does not exist for the jurisdiction. If the program or types of assistance affects PBRA, the Hub/Program Center shall require the sponsor to comply with the lead-based paint regulations that were in effect before September 15, 2000. At the end of the transition assistance mode for these PBRA projects, the Hub/Program Center shall require the sponsor to comply with the new lead-based paint regulations.

HUD Owned and Mortgagee-In Possession Property

For HUD Owned and Mortgagee-In-Possession Property that are offered for sale on or after September 15, 2000, the Hub/Program Center shall comply with the new Lead Safe Housing Rule.