the lead-based paint hazards in accordance with § 35.1325 or § 35.1330 within 30 calendar days, or within 90 calendar days if more than 20 units have lead-based paint hazards such that the control work would disturb painted surfaces that total more than the de minimis threshold of § 35.1350(d). Lead-based paint hazard reduction is considered complete when clearance is achieved in accordance with § 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.

(3) The requirements of this paragraph (f) of this section do not apply if:

(i) The designated party or the owner, between the date the child's blood was last sampled and the date the owner received the notification of the elevated blood lead level, both conducted a risk assessment of the other assisted dwelling units covered by paragraph (f)(1) of this section and the common areas servicing those units, and the owner conducted interim controls of identified lead-based paint hazards in accordance with § 35.1225(c); or

(ii) The owner has documentation of compliance with evaluation, notification, lead disclosure, ongoing lead-based paint maintenance, and lead-based paint management requirements under this part throughout the 12 months preceding the date the owner received the environmental investigation report pursuant to paragraph (a) of this section; and,

(iii) In either case, the owner provided the HUD field office, within 10 business days after receiving the notification of the elevated blood lead level, documentation that it has conducted the activities described in this paragraph (f)(3).

(g) *Data collection and record keeping responsibilities.* At least quarterly, the designated party shall attempt to obtain from the public health department(s) with area(s) of jurisdiction similar to that of the designated party the names and/or addresses of children of less than 6 years of age with an identified elevated blood lead level. At least quarterly, the designated party shall also report an updated list of the addresses of units receiving assistance under a tenant-based rental assistance program to the same public health department(s), except that the report(s) to the public health department(s) is not required if the health department states that it does not wish to receive such report. If it obtains names and addresses of elevated blood lead level children from the public health department(s), the designated party shall match information on cases of elevated blood lead levels with the names and addresses of families receiving tenant-based rental assistance, unless the public health department performs such a matching procedure.

If a match occurs, the designated party shall carry out the requirements of this section.

[82 FR 4171, Jan. 13, 2017]

Subparts N–Q [Reserved]

Subpart R—Methods and Standards for Lead-Paint Hazard Evaluation and Hazard Reduction Activities

SOURCE: 64 FR 50218, Sept. 15, 1999, unless otherwise noted.

§ 35.1300 Purpose and applicability.

The purpose of this subpart R is to provide standards and methods for evaluation and hazard reduction activities required in subparts B, C, D, and F through M of this part.

§ 35.1305 Definitions and other general requirements.

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

§ 35.1310 References.

Further guidance information regarding evaluation and hazard reduction activities described in this subpart is found in the following:

(a) The HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (Guidelines);

(b) The EPA Guidance on Residential Lead-Based Paint, Lead-Contaminated Dust, and Lead Contaminated Soil;

(c) Guidance, methods or protocols issued by States and Indian tribes that have been authorized by EPA under 40

CFR 745.324 to administer and enforce lead-based paint programs.

§ 35.1315 Collection and laboratory analysis of samples.

All paint chip, dust, or soil samples shall be collected and analyzed in accordance with standards established either by a State or Indian tribe under a program authorized by EPA in accordance with 40 CFR part 745, subpart Q, or by the EPA in accordance with 40 CFR 745.227, and as further provided in this subpart.

§ 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/ft² (mg/m²)	Interior window sills, µg/ft² (mg/m²)	Window troughs, µg/ft² (mg/m²)
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.

[69 FR 34273, June 21, 2004]

§ 35.1325 Abatement.

Abatement shall be performed in accordance with methods and standards established either by a State or Indian tribe under a program authorized by EPA, or by EPA at 40 CFR 745.227(e), and shall be completed by achieving clearance in accordance with § 35.1340. If encapsulation or enclosure is used as a method of abatement, ongoing lead-based paint maintenance activities shall be performed as required by the applicable subpart of this part in accordance with § 35.1355. Abatement of an intact, factory-applied prime coating on metal surfaces is not required unless the surface is a friction surface.

§ 35.1330 Interim controls.

Interim controls of lead-based paint hazards identified in a risk assessment shall be conducted in accordance with the provisions of this section. Interim control measures include paint stabilization of deteriorated paint, treatments for friction and impact surfaces where levels of lead dust are above the levels specified in § 35.1320, dust control, and lead-contaminated soil control. As provided by § 35.155, interim controls may be performed in combination with, or be replaced by, abatement methods.

(a) *General requirements.* (1) Only those interim control methods identified as acceptable methods in a current risk assessment report shall be used to control identified hazards, except that, if only paint stabilization is required in accordance with subparts F, H, K or M of this part, it shall not be necessary to have conducted a risk assessment.

(2) Occupants of dwelling units where interim controls are being performed shall be protected during the course of the work in accordance with § 35.1345.

(3) Clearance testing shall be performed at the conclusion of interim control activities in accordance with § 35.1340.

(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):

(i) A lead-based paint abatement supervisor course accredited in accordance with 40 CFR 745.225;

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

(iii) A renovator course accredited in accordance with 40 CFR 745.225.

(iv) ''The Remodeler's and Renovator's Lead-Based Paint Training Program,'' prepared by HUD and the National Association of the Remodeling Industry; or

(v) Another course approved by HUD for this purpose after consultation with EPA.

(b) *Paint stabilization.* (1) Interim control treatments used to stabilize deteriorated lead-based paint shall be performed in accordance with the requirements of this section. Interim control treatments of intact, factory applied prime coatings on metal surfaces are not required. Finish coatings on such surfaces shall be treated by interim controls if those coatings contain lead-based paint.

(2) Any physical defect in the substrate of a painted surface or component that is causing deterioration of the surface or component shall be repaired before treating the surface or component. Examples of defective substrate conditions include dry-rot, rust, moisture-related defects, crumbling plaster, and missing siding or other components that are not securely fastened.

(3) Before applying new paint, all loose paint and other loose material shall be removed from the surface to be treated. Acceptable methods for preparing the surface to be treated include wet scraping, wet sanding, and power sanding performed in conjunction with a HEPA filtered local exhaust attachment operated according to the manufacturer's instructions.

(4) Dry sanding or dry scraping is permitted only in accordance with

§ 35.140(e) (i.e., for electrical safety reasons or for specified minor amounts of work).

(5) Paint stabilization shall include the application of a new protective coating or paint. The surface substrate shall be dry and protected from future moisture damage before applying a new protective coating or paint. All protective coatings and paints shall be applied in accordance with the manufacturer's recommendations.

(6) Paint stabilization shall incorporate the use of safe work practices in accordance with § 35.1350.

(c) *Friction and impact surfaces.* (1) Friction surfaces are required to be treated only if:

(i) Lead dust levels on the nearest horizontal surface underneath the friction surface (e.g., the window sill, window trough, or floor) are equal to or greater than the standards specified in 35.1320(b);

(ii) There is evidence that the paint surface is subject to abrasion; and

(iii) Lead-based paint is known or presumed to be present on the friction surface.

(2) Impact surfaces are required to be treated only if:

(i) Paint on an impact surface is damaged or otherwise deteriorated;

(ii) The damaged paint is caused by impact from a related building component (such as a door knob that knocks into a wall, or a door that knocks against its door frame); and

(iii) Lead-based paint is known or presumed to be present on the impact surface.

(3) Examples of building components that may contain friction or impact surfaces include the following:

(i) Window systems;

(ii) Doors;

(iii) Stair treads and risers;

(iv) Baseboards;

(v) Drawers and cabinets; and

(vi) Porches, decks, interior floors, and any other painted surfaces that are abraded, rubbed, or impacted.

(4) Interim control treatments for friction surfaces shall eliminate friction points or treat the friction surface so that paint is not subject to abrasion. Examples of acceptable treatments include rehanging and/or planing doors so that the door does not rub against the door frame, and installing window channel guides that reduce or eliminate abrasion of painted surfaces. Paint on stair treads and floors shall be protected with a durable cover or coating that will prevent abrasion of the painted surfaces. Examples of acceptable materials include carpeting, tile, and sheet flooring.

(5) Interim control treatments for impact surfaces shall protect the paint from impact. Examples of acceptable treatments include treatments that eliminate impact with the paint surface, such as a door stop to prevent a door from striking a wall or baseboard.

(6) Interim control for impact or friction surfaces does not include covering such a surface with a coating or other treatment, such as painting over the surface, that does not protect lead-based paint from impact or abrasion.

(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.

(2) Interim control treatments for chewable surfaces shall make the lead-based paint inaccessible for chewing by children of less than 6 years of age. Examples include enclosures or coatings that cannot be penetrated by the teeth of such children.

(e) *Dust-lead hazard control.* (1) Interim control treatments used to control dust-lead hazards shall be performed in accordance with the requirements of this section. Additional information on dust removal is found in the HUD Guidelines, particularly Chapter 11 (see § 35.1310).

(2) Dust control shall involve a thorough cleaning of all horizontal surfaces, such as interior window sills, window troughs, floors, and stairs, but excluding ceilings. All horizontal surfaces, such as floors, stairs, window sills and window troughs, that are rough, pitted, or porous shall be covered with a smooth, cleanable covering or coating, such as metal coil stock, plastic, polyurethane, or linoleum.

(3) Surfaces covered by a rug or carpeting shall be cleaned as follows:

(i) The floor surface under a rug or carpeting shall be cleaned where feasible, including upon removal of the rug or carpeting, with a HEPA vacuum or other method of equivalent efficacy.

(ii) An unattached rug or an attached carpet that is to be removed, and padding associated with such rug or carpet, located in an area of the dwelling unit with dust-lead hazards on the floor, shall be thoroughly vacuumed with a HEPA vacuum or other method of equivalent efficacy. Protective measures shall be used to prevent the spread of dust during removal of a rug, carpet or padding from the dwelling. For example, it shall be misted to reduce dust generation during removal. The item(s) being removed shall be wrapped or otherwise sealed before removal from the worksite.

(iii) An attached carpet located in an area of the dwelling unit with dust-lead hazards on the floor shall be thoroughly vacuumed with a HEPA vacuum or other method of equivalent efficacy if it is not to be removed.

(f) *Soil-lead hazards.* (1) Interim control treatments used to control soil-lead hazards shall be performed in accordance with this section.

(2) Soil with a lead concentration equal to or greater than 5,000 μg/g of lead shall be abated in accordance with 40 CFR 745.227(e).

(3) Acceptable interim control methods for soil lead are impermanent surface coverings and land use controls.

(i) Impermanent surface coverings may be used to treat lead-contaminated soil if applied in accordance with the following requirements. Examples of acceptable impermanent coverings include gravel, bark, sod, and artificial turf.

(A) Impermanent surface coverings selected shall be designed to withstand the reasonably-expected traffic. For example, if the area to be treated is heavily traveled, neither grass or sod shall be used.

(B) When loose impermanent surface coverings such as bark or gravel are used, they shall be applied in a thickness not less than six inches deep.

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

(D) Adequate controls to prevent erosion shall be used in conjunction with impermanent surface coverings.

(ii) Land use controls may be used to reduce exposure to soil-lead hazards only if they effectively control access to areas with soil-lead hazards. Examples of land use controls include: fencing, warning signs, and landscaping.

(A) Land use controls shall be implemented only if residents have reasonable alternatives to using the area to be controlled.

(B) If land use controls are used for a soil area that is subject to erosion, measures shall be taken to contain the soil and control dispersion of lead.

[64 FR 50218, Sept. 15, 1999, as amended at 69 FR 34274, June 21, 2004; 79 FR 35043, June 19, 2014; 82 FR 4172, Jan. 13, 2017]

§ 35.1335 Standard treatments.

Standard treatments shall be conducted in accordance with this section.

(a) *Paint stabilization.* All deteriorated paint on exterior and interior surfaces located on the residential property shall be stabilized in accordance with § 35.1330(a)(b), or abated in accordance with § 35.1325.

(b) *Smooth and cleanable horizontal surfaces.* All horizontal surfaces, such as uncarpeted floors, stairs, interior window sills and window troughs, that are rough, pitted, or porous, shall be covered with a smooth, cleanable covering or coating, such as metal coil stock, plastic, polyurethane, or linoleum.

(c) *Correcting dust-generating conditions.* Conditions causing friction or impact of painted surfaces shall be corrected in accordance with § 35.1330(c)(4)–(6).

(d) *Bare residential soil.* Bare soil shall be treated in accordance with the requirements of § 35.1330, unless it is found not to be a soil-lead hazard in accordance with § 35.1320(b).

(e) *Safe work practices.* All standard treatments described in paragraphs (a) through (d) of this section shall incorporate the use of safe work practices in accordance with § 35.1350.

(f) *Clearance.* A clearance examination shall be performed in accordance with § 35.1340 at the conclusion of any lead hazard reduction activities.

(g) *Qualifications.* An individual performing standard treatments must meet the training and/or supervision requirements of § 35.1330(a)(4).

§ 35.1340 Clearance.

Clearance examinations required under subparts B, C, D, F through M, and R, of this part shall be performed in accordance with the provisions of this section.

(a) *Clearance following abatement.* Clearance examinations performed following abatement of lead-based paint or lead-based paint hazards shall be performed in accordance with 40 CFR 745.227(e) and paragraphs (c)–(f) of this section. Such clearances shall be performed by a person certified to perform risk assessments or lead-based paint inspections.

(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) *Qualified personnel.* Clearance examinations shall be performed by:

(i) A certified risk assessor;

(ii) A certified lead-based paint inspector;

(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).

(ii) The visual assessment shall be performed to determine if deteriorated paint surfaces and/or visible amounts of dust, debris, paint chips or other residue are still present. Both exterior and interior painted surfaces shall be examined for the presence of deteriorated paint. If deteriorated paint or visible dust, debris or residue are present in areas subject to dust sampling, they must be eliminated prior to

the continuation of the clearance examination, except elimination of deteriorated paint is not required if it has been determined, through paint testing or a lead-based paint inspection, that the deteriorated paint is not lead-based paint. If exterior painted surfaces have been disturbed by the hazard reduction, maintenance or rehabilitation activity, the visual assessment shall include an assessment of the ground and any outdoor living areas close to the affected exterior painted surfaces. Visible dust or debris in living areas shall be cleaned up and visible paint chips on the ground shall be removed.

(iii) Dust samples shall be wipe samples and shall be taken on floors and, where practicable, interior window sills and window troughs. Dust samples shall be collected and analyzed in accordance with § 35.1315 of this part.

(iv) Clearance reports shall be prepared in accordance with paragraph (c) of this section.

(c) *Clearance report.* When clearance is required, the designated party shall ensure that a clearance report is prepared that provides documentation of the hazard reduction or maintenance activity as well as the clearance examination. When abatement is performed, the report shall be an abatement report in accordance with 40 CFR 745.227(e)(10). When another hazard reduction or maintenance activity requiring a clearance report is performed, the report shall include the following information:

(1) The address of the residential property and, if only part of a multifamily property is affected, the specific dwelling units and common areas affected.

(2) The following information on the clearance examination:

(i) The date(s) of the clearance examination;

(ii) The name, address, and signature of each person performing the clearance examination, including certification number;

(iii) The results of the visual assessment for the presence of deteriorated paint and visible dust, debris, residue or paint chips;

(iv) The results of the analysis of dust samples, in μg/sq.ft., by location of sample; and

(v) The name and address of each laboratory that conducted the analysis of the dust samples, including the identification number for each such laboratory recognized by EPA under section 405(b) of the Toxic Substances Control Act (15 U.S.C. 2685(b)).

(3) The following information on the hazard reduction or maintenance activity for which clearance was performed:

(i) The start and completion dates of the hazard reduction or maintenance activity;

(ii) The name and address of each firm or organization conducting the hazard reduction or maintenance activity and the name of each supervisor assigned;

(iii) A detailed written description of the hazard reduction or maintenance activity, including the methods used, locations of exterior surfaces, interior rooms, common areas, and/or components where the hazard reduction activity occurred, and any suggested monitoring of encapsulants or enclosures; and

(iv) If soil hazards were reduced, a detailed description of the location(s) of the hazard reduction activity and the method(s) used.

(d) *Standards.* The clearance standards in § 35.1320(b)(2) shall apply. If test results equal or exceed the standards, the dwelling unit, worksite, or common area represented by the sample fails the clearance examination.

(e) *Clearance failure.* All surfaces represented by a failed clearance sample shall be recleaned or treated by hazard reduction, and retested, until the applicable clearance level in § 35.1320(b)(2) is met.

(f) *Independence.* Clearance examinations shall be performed by persons or entities independent of those performing hazard reduction or maintenance activities, unless the designated party uses qualified in-house employees to conduct clearance. An in-house employee shall not conduct both a hazard reduction or maintenance activity and its clearance examination.

(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).

[64 FR 50218, Sept. 15, 1999, as amended at 69 FR 34274, June 21, 2004]

§ 35.1345 Occupant protection and worksite preparation.

This section establishes procedures for protecting dwelling unit occupants and the environment from contamination from lead-contaminated or lead-containing materials during hazard reduction activities.

(a) *Occupant protection.* (1) Occupants shall not be permitted to enter the worksite during hazard reduction activities (unless they are employed in the conduct of these activities at the worksite), until after hazard reduction work has been completed and clearance, if required, has been achieved.

(2) Occupants shall be temporarily relocated before and during hazard reduction activities to a suitable, decent, safe, and similarly accessible dwelling unit that does not have lead-based paint hazards, except if:

(i) Treatment will not disturb lead-based paint, dust-lead hazards or soil-lead hazards;

(ii) Only the exterior of the dwelling unit is treated, and windows, doors, ventilation intakes and other openings in or near the worksite are sealed during hazard control work and cleaned afterward, and entry free of dust-lead hazards, soil-lead hazards, and debris is provided;

(iii) Treatment of the interior will be completed within one period of 8-daytime hours, the worksite is contained so as to prevent the release of leaded dust and debris into other areas, and treatment does not create other safety, health or environmental hazards (e.g., exposed live electrical wiring, release of toxic fumes, or on-site disposal of hazardous waste); or

(iv) Treatment of the interior will be completed within 5 calendar days, the worksite is contained so as to prevent the release of leaded dust and debris into other areas, treatment does not create other safety, health or environmental hazards; and, at the end of work on each day, the worksite and the area within at least 10 feet (3 meters) of the containment area is cleaned to remove any visible dust or debris, and occupants have safe access to sleeping areas, and bathroom and kitchen facilities.

(3) The dwelling unit and the worksite shall be secured against unauthorized entry, and occupants' belongings protected from contamination by dust-lead hazards and debris during hazard reduction activities. Occupants' belongings in the containment area shall be relocated to a safe and secure area outside the containment area, or covered with an impermeable covering with all seams and edges taped or otherwise sealed.

(b) *Worksite preparation.* (1) The worksite shall be prepared to prevent the release of leaded dust, and contain lead-based paint chips and other debris from hazard reduction activities within the worksite until they can be safely removed. Practices that minimize the spread of leaded dust, paint chips, soil and debris shall be used during worksite preparation.

(2) A warning sign shall be posted at each entry to a room where hazard reduction activities are conducted when occupants are present; or at each main and secondary entryway to a building from which occupants have been relocated; or, for an exterior hazard reduction activity, where it is easily read 20 feet (6 meters) from the edge of the hazard reduction activity worksite. Each warning sign shall be as described in 29 CFR 1926.62(m), except that it shall be posted irrespective of employees' lead exposure and, to the extent practicable, provided in the occupants' primary language.

§ 35.1350 Safe work practices.

(a) *Prohibited methods.* Methods of paint removal listed in § 35.140 shall not be used.

(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).

(c) *Specialized cleaning.* After hazard reduction activities have been completed, the worksite shall be cleaned using cleaning methods, products, and devices that are successful in cleaning up dust-lead hazards, such as a HEPA vacuum or other method of equivalent efficacy, and lead-specific detergents or equivalent.

(d) *De minimis levels.* Safe work practices are not required when maintenance or hazard reduction activities do not disturb painted surfaces that total more than:

(1) 20 square feet (2 square meters) on exterior surfaces;

(2) 2 square feet (0.2 square meters) in any one interior room or space; or

(3) 10 percent of the total surface area on an interior or exterior type of component with a small surface area. Examples include window sills, baseboards, and trim.

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

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

(a) *Maintenance.* Maintenance activities shall be conducted in accordance with paragraphs (a)(2)–(6) of this section, except as provided in paragraph (a)(1) of this section.

(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.

(2) A visual assessment for deteriorated paint, bare soil, and the failure of any hazard reduction measures shall be performed at unit turnover and every twelve months.

(3) (i) *Deteriorated paint.* All deteriorated paint on interior and exterior surfaces located on the residential property shall be stabilized in accordance with § 35.1330(a)(b), except for any paint that an evaluation has found is not lead-based paint.

(ii) *Bare soil.* All bare soil shall be treated with standard treatments in accordance with § 35.1335(d) through (g), or interim controls in accordance with § 35.1330(a) and (f); except for any bare soil that a current evaluation has found is not a soil-lead hazard.

(4) Safe work practices, in accordance with sec. 35.1350, shall be used when performing any maintenance or renovation work that disturbs paint that may be lead-based paint.

(5) Any encapsulation or enclosure of lead-based paint or lead-based paint hazards which has failed to maintain its effectiveness shall be repaired, or abatement or interim controls shall be performed in accordance with §§ 35.1325 or 35.1330, respectively.

(6) Clearance testing of the worksite shall be performed at the conclusion of repair, abatement or interim controls in accordance with § 35.1340.

(7) Each dwelling unit shall be provided with written notice asking occupants to report deteriorated paint and, if applicable, failure of encapsulation or enclosure, along with the name, address and telephone number of the person whom occupants should contact. The language of the notice shall be in accordance with § 35.125(c)(3). The designated party shall respond to such report and stabilize the deteriorated paint or repair the encapsulation or enclosure within 30 days.

(b) *Reevaluation.* Reevaluation shall be conducted in accordance with this paragraph (b), and the designated party shall conduct interim controls of lead-based paint hazards found in the reevaluation.

(1) Reevaluation shall be conducted if hazard reduction has been conducted to reduce lead-based paint hazards found in a risk assessment or if standard treatments have been conducted, except that reevaluation is not required if any of the following cases are met:

(i) An initial risk assessment found no lead-based paint hazards;

(ii) A lead-based paint inspection found no lead-based paint; or

(iii) All lead-based paint was abated in accordance with §35.1325, provided that no failures of encapsulations or enclosures have been found during visual assessments conducted in accordance with §35.1355(a)(2) or during other observations by maintenance and repair workers in accordance with §35.1355(a)(5) since the encapsulations or enclosures were performed.

(2) Reevaluation shall be conducted to identify:

(i) Deteriorated paint surfaces with known or suspected lead-based paint;

(ii) Deteriorated or failed interim controls of lead-based paint hazards or encapsulation or enclosure treatments;

(iii) Dust-lead hazards; and

(iv) Soil that is newly bare with lead levels equal to or above the standards in §35.1320(b)(2).

(3) Each reevaluation shall be performed by a certified risk assessor.

(4) Each reevaluation shall be conducted in accordance with the following schedule if a risk assessment or other evaluation has found deteriorated lead-based paint in the residential property, a soil-lead hazard, or a dust-lead hazard on a floor or interior window sill. (Window troughs are not sampled during reevaluation). The first reevaluation shall be conducted no later than two years from completion of hazard reduction. Subsequent reevaluation shall be conducted at intervals of two years, plus or minus 60 days. To be exempt from additional reevaluation, at least two consecutive reevaluations conducted at such two-year intervals must be conducted without finding lead-based paint hazards or a failure of an encapsulation or enclosure. If, however, a reevaluation finds lead-based paint hazards or a failure, at least two more consecutive reevaluations conducted at such two year intervals must be conducted without finding lead-based paint hazards or a failure.

(5) Each reevaluation shall be performed as follows:

(i) Dwelling units and common areas shall be selected and reevaluated in accordance with §35.1320(b).

(ii) The worksites of previous hazard reduction activities that are similar on the basis of their original lead-based paint hazard and type of treatment shall be grouped. Worksites within such groups shall be selected and reevaluated in accordance with §35.1320(b).

(6) Each reevaluation shall include reviewing available information, conducting selected visual assessment, recommending responses to hazard reduction omissions or failures, performing selected evaluation of paint, soil and dust, and recommending response to newly-found lead-based paint hazards.

(i) *Review of available information.* The risk assessor shall review any available past evaluation, hazard reduction and clearance reports, and any other available information describing hazard reduction measures, ongoing maintenance activities, and relevant building operations.

(ii) *Visual assessment.* The risk assessor shall:

(A) Visually evaluate all lead-based paint hazard reduction treatments, any known or suspected lead-based paint, any deteriorated paint, and each exterior site, and shall identify any new areas of bare soil;

(B) Determine acceptable options for controlling the hazard; and

(C) Await the correction of any hazard reduction omission or failure and the reduction of any lead-based paint hazard before sampling any dust or soil the risk assessor determines may reasonably be associated with such hazard.

(iii) *Reaction to hazard reduction omission or failure.* If any hazard reduction control has not been implemented or is failing (e.g., an encapsulant is peeling away from the wall, a paint-stabilized surface is no longer intact, or gravel covering an area of bare soil has worn away), or deteriorated lead-based paint is present, the risk assessor shall:

(A) Determine acceptable options for controlling the hazard; and

(B) Await the correction of any hazard reduction omission or failure and the reduction of any lead-based paint hazard before sampling any dust or soil

the risk assessor determines may reasonably be associated with such hazard.

(iv) *Selected paint, soil and dust evaluation.* (A) The risk assessor shall sample deteriorated paint surfaces identified during the visual assessment and have the samples analyzed, in accordance with 40 CFR 745.227(b)(3)(4), but only if reliable information about lead content is unavailable.

(B) The risk assessor shall evaluate new areas of bare soil identified during the visual assessment. Soil samples shall be collected and analyzed in accordance with 40 CFR 745.227(d)(8)–(11), but only if the soil lead levels have not been previously measured.

(C) The risk assessor shall take selected dust samples and have them analyzed. Dust samples shall be collected and analyzed in accordance with §35.1320(b). At least two composite samples, one from floors and the other from interior window sills, shall be taken in each dwelling unit and common area selected. Each composite sample shall consist of four individual samples, each collected from a different room or area. If the dwelling unit contains both carpeted and uncarpeted living areas, separate floor samples are required from the carpeted and uncarpeted areas. Equivalent single-surface sampling may be used instead of composite sampling.

(7) The risk assessor shall provide the designated party with a written report documenting the presence or absence of lead-based paint hazards, the current status of any hazard reduction and 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

Sec.

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