

§ 35.155

24 CFR Subtitle A (4-1-06 Edition)

M, and R of this part, would be duplicative or otherwise cause inefficiencies, HUD may modify or waive some or all of the requirements of the subparts in a manner that will promote efficiency while ensuring a comparable level of protection.

(b) *Participant responsibility.* Nothing in this part is intended to relieve any participant in a program covered by this subpart of any responsibility for compliance with State, tribal or local laws, ordinances, codes or regulations governing evaluation and hazard reduction. If a State, tribal or local law, ordinance, code or regulation defines lead-based paint differently than the Federal definition, the more protective definition (i.e., the lower level) shall be followed in that State, tribal or local jurisdiction.

§ 35.155 Minimum requirements.

(a) Nothing in subparts B, C, D, F through M, and R of this part is intended to preclude a designated party or occupant from conducting additional evaluation or hazard reduction measures beyond the minimum requirements established for each program in this regulation. For example, if the applicable subpart requires visual assessment, the designated party may choose to perform a risk assessment in accordance with § 35.1320. Similarly, if the applicable subpart requires interim controls, a designated party or occupant may choose to implement abatement in accordance with § 35.1325.

(b) To the extent that assistance from any of the programs covered by subparts B, C, D, and F through M of this part is used in conjunction with other HUD program assistance, the most protective requirements prevail.

§ 35.160 Waivers.

In accordance with § 5.110 of this title, on a case-by-case basis and upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of subparts B, C, D, F through M, and R of this part.

§ 35.165 Prior evaluation or hazard reduction.

If an evaluation or hazard reduction was conducted at a residential property or dwelling unit before the property or

dwelling unit became subject to the requirements of subparts B, C, D, F through M, and R of this part, such an evaluation, hazard reduction or abatement meets the requirements of subparts B, C, D, F through M, and R of this part and need not be repeated under the following conditions:

(a) *Lead-based paint inspection.* (1) A lead-based paint inspection conducted before March 1, 2000, meets the requirements of this part if:

(i) At the time of the inspection the lead-based paint inspector was approved by a State or Indian tribe to perform lead-based paint inspections. It is not necessary that the State or tribal approval program had EPA authorization at the time of the inspection.

(ii) Notwithstanding paragraph (a)(1)(i) of this section, the inspection was conducted and accepted as valid by a housing agency in fulfillment of the lead-based paint inspection requirement of the public and Indian housing program.

(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) *Risk assessment.* (1) A risk assessment must be no more than 12 months old to be considered current.

(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.

(4) Paragraph (b) of this section does not apply in a case where a risk assessment is required in response to the identification of a child with an environmental intervention blood lead level. In such a case, the requirements in the applicable subpart for responding to a child with an environmental intervention blood lead level shall apply.

(c) *Interim controls.* If a residential property is under a program of interim controls and ongoing lead-based paint