

For Housing Providers who work with the D.C. Housing Authority

Frequently asked Questions:

A). What is this “Part 35” that D.C. Housing refers too?

- 1). They are referring to 24 CFR Part 35
- 2). That is Title 24
- 3). CFR- Code of Federal Regulations

a) The **Code of Federal Regulations** (CFR) is the codification of the general and permanent rules and regulations (sometimes called **administrative law**) published in the Federal Register by the executive departments and agencies of the federal government of the United States.

Why is that important?

Administrative Law has the lowest standard of review when considering an appeal and Courts will typically give deference to an Agencies interpretation an application of their regulations.

The **Standard** the agency **must** meet- **Substantial evidence** means more than a mere scintilla but less than a preponderance; it means such relevant evidence as a reasonable mind **might** Accept as adequate to support a conclusion.

Federal Register

A daily publication of the US federal government that issues proposed and final administrative regulations of federal agencies.

- 4). PART 35 is the part that contains the standards you have to adhere to.

B). How many parts does pertinent regulation have that matter to me?

It has 15 parts and 8 that may pertain to you.

C) What are the triggers?

1). Target Housing- Target housing CFR 24 part 35 part B

Target housing means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless a child of less than 6 years of age resides or is expected to reside in such housing for the elderly or persons with disabilities) or any zero-bedroom dwelling. In the case of jurisdictions which banned the sale or use of lead-based paint prior to 1978, HUD may designate an earlier date.

2).Housing receiving Federal assistance

Housing receiving Federal assistance means housing which is covered by an application for HUD mortgage insurance, receives housing assistance payments under a program administered by HUD, or otherwise receives more than \$5,000 in project-based assistance under a Federal housing program administered by an agency other than HUD.

D) Where may I find the regulations that pertain to a question that I have regarding D.C. Department of Housing Requirement that pertain to Lead Paint Issues?

Google: CFR 24 part 35 then and a subpart from one of the list below.

Subpart A - Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards upon Sale or Lease of Residential Property (§§ 35.80 - 35.98)

- Subpart B - General Lead-Based Paint Requirements and Definitions for All Programs. (§§ 35.100 - 35.175)
- Subpart D - Project-Based Assistance Provided by a Federal Agency Other Than HUD (§§ 35.300 - 35.325)
- Subpart G - Multifamily Mortgage Insurance (§§ 35.600 - 35.630)
- Subpart H - Project-Based Assistance (§§ 35.700 - 35.730)
- Subpart I - HUD-Owned and Mortgagee-in-Possession Multifamily Property (§§ 35.800 - 35.830)
- Subpart M - Tenant-Based Rental Assistance (§§ 35.1200 - 35.1225)
- Subpart R - Methods and Standards for Lead-Paint Hazard Evaluation and Hazard Reduction Activities (§§ 35.1300 - 35.135)

Note that the Subparts have sub sections “§§”

E). What is the legal standard in the District of Columbia regarding my disclosing Lead Paint Issues to my tenant and where may I find the standard?

- 1). To find the HUD's standard look to -24CFR Part 35 sub section 35.88 – there you will find the *least stringent* standard of “any known”
- 2). To find D.C. Law Look to- Title 20 DCMR chapter 33 subsections 3313... – there you will find a *more stringent* standard of “Reasonably Known”

F). Is there a standard for disclosing that I am required to adhere to?

- 1). Yes. That standard can be found at Title 20 DCMR chapter 33 subsection 3312.2 – It says the disclosures shall be provided on the lead disclosure form issued by DDOE – which is now known as DOEE.
- 2). You are required to have perspective tenants to read and sign a **Tenants Rights Form** that was created by DOEE **BEFORE you lease up**. You may find the form written in English and Spanish at <https://doee.dc.gov/publication/tenant-rights-under-districts-lead-law>

G). Am I required by law to have my property inspected for lead paint hazards, in Targeted Housing on my own (not in connection with D.C. Housing Authority requirements)?

- 1). Probably, You may find the answer at Title 20 DCMR chapter 33, subsection 3314. 1-10.
- 2). If not, you will find the reason at 3314.4-8

H). Is the D.C. Housing Authority REQUIRED to inspect to look for deteriorated paint?

Yes. You will the requirement at 24 CFR Part 35.1215.

I). What does the Part 35 say I must do?

Look to 24 CFR Part 35.1215. (b)(c)

J). May the D.C. Housing Authority grant me an extension?

Yes. Look to 24 CFR Part 35.1215. (d)

K). Who is allowed to fix the issue pointed to by the D.C. Housing Authority Inspector?

1). If paint condition can be repaired using temporary measures then anyone who has an AARP or a License issued by the D.C. Department of Energy and Environment can complete abatements. 24 CFR part 35. Sec 35.1330.

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L). Am I required by the regulations to have the work cleared after it is completed?

Yes. See 24 CFR par 35. Sec 35.1330 (3) and 35.1340

M). Would failing a clearance inspection cause me any additional problems? If yes what problems may it cause me?

Yes. Failing would cause you to have to notify your tenant of the failure and a lots of other requirements. See 24 CFR 35.125 (a) - (c).

M). Is there a quantity of work that does not require “Lead safe work practices”?

Yes. De minimis levels.

- 1). 20 square feet on the exterior
- 2). 2 square feet in any on interior room or space
- 3). 10 percent of the total surface area of an interior or exterior type of component with a small area.

