

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT****24 CFR Part 30**

[Docket No. FR-4609-F-01]

RIN 2501-AC74

**Initiation of Civil Money Penalty Action
for Failing To Disclose Lead-Based
Paint Hazards: Amendments
Concerning Official To Initiate Action**

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: HUD's civil money penalty regulations currently state that the Director of HUD's Office of Lead Hazard Control, or the Director's designee, may initiate a civil money penalty action against any person who knowingly violates 42 U.S.C. 4852d(b)(1). This final rule makes minor changes to the applicable provision in the civil money penalty regulations in two respects. First, the reference to the Director of the Office of Lead Hazard Control (OLHC) is changed to the Director of the new successor office to OLHC which is the Office of Healthy Homes and Lead Hazard Control. Second, this rule corrects an incorrect statutory citation in these regulations.

DATES: *Effective Date:* September 18, 2000.

FOR FURTHER INFORMATION CONTACT: John B. Shumway, Office of General Counsel, Room 9262, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410-2000; telephone (202) 708-3137 x5190 (this is not a toll-free number). Persons with hearing-or speech-impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION:**I. Background Information**

HUD has created a new office in the Office of the Secretary, the Office of Healthy Homes and Lead Hazard Control. This office will perform all of the former functions of the Office of Lead Hazard Control, but will also be responsible for carrying out functions concerning other home and safety issues. Upon creation of the Office of Healthy Homes and Lead Hazard

Control, the Office of Lead Hazard Control will no longer exist.

HUD's civil money penalty regulations at 24 CFR 30.65 identify the Director of the Office of Lead Hazard Control as the official with the authority to initiate a civil money penalty action against any person who has failed to comply with the lead-based paint disclosure requirements set out in 42 U.S.C. 4852d(b)(1). Since the Office of Lead Hazard Control no longer exists, this provision is being updated in this final rule to name the Director of the Office of Healthy Homes and Lead Hazard Control to carry out this function.

This final rule also corrects an incorrect citation which appears in 24 CFR 30.65. The reference to 42 U.S.C. 4852d(b)(1) should be 42 U.S.C. 4852d, since the language of this provision is intended to reference any violation of the Residential Lead-Based Paint Hazard Control Act.

II. Justification for Final Rulemaking

HUD generally publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking at 24 CFR part 10. Part 10 provides for exceptions to the general rule if the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is "impracticable, unnecessary, or contrary to the public interest" (24 CFR 10.1). For the following reasons, HUD finds that good cause exists to publish this rule for effect without first soliciting public comment.

This final rule makes nomenclature changes to 24 CFR 30.65. As a result of internal HUD organizational changes the position referred to in the current regulations no longer exists as it did when the regulations were issued. This final rule merely replaces a reference to the Director of the Office of Lead Hazard Control with the Director of Healthy Homes and Lead Hazard Control. The rule also corrects a misstated citation in the language of 24 CFR 30.65. Neither of these two amendments make any substantive changes to the substance of 24 CFR 30.65. Therefore, HUD determined that it is unnecessary to publish this rule for public comment prior to publishing the rule for effect.

III. Findings and Certifications*Environmental Impact*

In accordance with 24 CFR 50.19(c)(1) of HUD's regulations, this proposed rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Therefore, this proposed rule is categorically excluded from the requirements of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*).

Regulatory Flexibility Act

The Secretary has reviewed this final rule before publication and by approving it certifies, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this final rule would not have a significant economic impact on a substantial number of small entities. This final rule implements a nomenclature change only and does not make any substantive changes to the regulation at 24 CFR 30.65. Therefore, the action taken by this rule (the nomenclature change) does not create any additional burden.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (Public Law 104-4, 109 Stat. 48, 64, codified at 2 U.S.C. 1531-1538) (UMRA) requires Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and on the private sector. This final rule does not impose, within the meaning of the UMRA, any Federal mandates on any State, local, or tribal governments or on the private sector.

Executive Order 13132, Federalism

This final rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of Executive Order 13132 (entitled "Federalism").

List of Subjects in 24 CFR Part 30

Administrative practice and procedure, Loan programs—housing and community development, Mortgages, Penalties.

For the reasons discussed in the preamble, HUD amends 24 CFR part 30 as follows:

**PART 30—CIVIL MONEY PENALTIES:
CERTAIN PROHIBITED CONDUCT**

1. The authority citation for part 30 continues to read as follows:

Authority: 12 U.S.C. 1701q–1, 1703, 1723i, 1735f–14, 1735f–15, 15 U.S.C. 1717a; 28 U.S.C. 2461 note; 42 U.S.C. 3535(d).

2. Revise § 30.65 to read as follows:

§ 30.65 Failure to disclose lead-based paint hazards.

(a) *General.* The Director of the Office of Healthy Homes and Lead Hazard

Control, or his or her designee, may initiate a civil money penalty action against any person who knowingly violates 42 U.S.C. 4852d.

(b) *Amount of penalty.* The maximum penalty is \$11,000 for each violation.

Dated: August 11, 2000.

Andrew Cuomo,

Secretary.

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