

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**24 CFR Part 200**

[Docket No. FR-4137-F-02]

RIN 2502-AG84

Use of Materials Bulletins Used in the HUD Building Product Standards and Certification Program

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule implements a HUD Building Product Standards and Certification Program proposed rule and adopts the following Use of Materials Bulletins: 38j Grademarking of Lumber, 60a Construction Adhesives for Wood Floor Systems, 70b Particleboard Interior Stair Treads, and 111 Fenestration Products (Windows and Doors). It also references related national voluntary consensus standards, provides a labeling and third party certification procedure to assure that the building products used in HUD programs meet the appropriate national voluntary consensus standards, supplements the HUD Building Product Standards and Certification Program by requiring that additional information be included on the label, tag, or mark that each manufacturer would affix to a certified product, and specifies the frequency with which products must be tested in order to be acceptable to HUD. The final rule also allows the use of American Society for Quality Control (ASQC/ISO) 9000 series standards to be used as voluntary guidelines in any quality review.

DATES: Effective March 4, 1998. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 4, 1998.

FOR FURTHER INFORMATION CONTACT: David R. Williamson, Director, Office of Consumer and Regulatory Affairs, Department of Housing and Urban Development, 451 Seventh Street S.W., Room 9156, Washington, D.C. 20410-8000; telephone: voice (202) 708-6423; TTY, (202) 708-4594 (these are not toll free numbers).

SUPPLEMENTARY INFORMATION:**I. The Proposed Rule**

On May 19, 1997, the Department published in the **Federal Register** at 62 FR 27486 a rule which proposed to adopt the following Use of Materials Bulletins (UMs):

UM 73b Plastic Plumbing Fixtures at § 200.937.

UM 44e Carpet and Carpet with Attached Cushion at § 200.942.

UM 38j Grademarking of Lumber at § 200.943.

UM 40c Plywood and Other Wood-Based Structural-Use Panels at § 200.944.

UM 72b Carpet Cushion at § 200.948.

UM 105 Elastomeric Joint Sealants at § 200.951.

UM 70b Particleboard Interior Stair Treads at § 200.952.

UM 110 Sprayed Polyurethane Foam Roof Insulation at § 200.953.

UM 60a Construction Adhesives for Wood Floor Systems at § 200.954.

UM 111 Fenestration Products (Windows and Doors) at § 200.955.

Of the UMs included in the proposed rule, this rule adopts the following Use of Materials Bulletins: 38j Grademarking of Lumber, 60a Construction Adhesives for Wood Floor Systems, 70b Particleboard Interior Stair Treads, and 111 Fenestration Products (Windows and Doors). The other proposed UMs will be updated to reference current relevant standards and will be issued once more in a proposed rule for comment.

The May 19, 1997 rule also proposed to update the reference in § 900.929(b)(2) to cite the 1994 edition of the MPS compilation; to provide the current HUD address, in § 200.931, for public examination of the MPS; to amend § 200.935(d)(4)(ii) to allow the use of American Society for Quality Control (ASQC/ISO) 9000 series standards to be used as voluntary guidelines in any quality review; and to remove §§ 200.938, 200.939, and 200.941. No comments were received on any of these proposed amendments and they are adopted here without change.

II. Discussion of Public Comments

Five comments were received regarding UM 105, and one comment was received concerning UM 110. No comments were received regarding UMs 38j, 40c, 44e, 60a, 70b, 72b, 73b, or 111. Since the only UMs that received any public comment are being reissued in another proposed rule for additional comment, this rule adopts without change four UMs as noted in section I. of this preamble, above.

The text of the UMs is not being reproduced in the final rule, because the new sections of 24 CFR part 200 set forth below incorporate the substance of the standards. However, copies are available for public inspection during regular business hours in the Office of Consumer and Regulatory Affairs, Department of Housing and Urban

Development, 451 Seventh Street S.W., Room 9156, Washington, D.C. 20410 and in the Office of the Rules Docket Clerk, Office of General Counsel, 451 Seventh Street S.W., Washington, D.C. 20410.

III. Findings and Certifications*Impact on Small Entities*

The Secretary, in approving this rule for publication, certifies in accordance with 5 U.S.C. 605(b), the Regulatory Flexibility Act, that this rule would not have a significant economic impact on a substantial number of small entities. These UMs would adopt standards that are nationally recognized throughout the affected industry, and their adoption will not create a burden on manufacturers, which are currently meeting these standards. The rule will have no adverse or disproportionate economic impact on small businesses.

Paperwork Reduction Act

The information collection requirements for these UM's under HUD's Building Product Standards and Certification Programs have been approved by the Office of Management and Budget, under section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), and assigned OMB control number 2502-0313. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule does not impose any Federal mandates on any State, local or tribal governments or the private sector within the meaning of the Unfunded Mandates Reform Act of 1995.

Environmental Impact

At the time of publication of the proposed rule, a Finding of No Significant Impact with respect to the environment was made in accordance with HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The proposed rule is adopted by this final rule without significant change. Accordingly, the initial Finding of No Significant Impact remains applicable, and is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the office of the Rules Docket Clerk at the above address.

Federalism Impact

The General Counsel has determined, as the Designated Official for HUD under section 6(a) of Executive Order 12612, Federalism, that this rule does not have federalism implications concerning the division of local, State, and Federal responsibilities. The rule only adopts standards that are already nationally recognized throughout the affected industry.

Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

This rule will not pose an environmental health risk or safety risk on children.

Incorporation by Reference

These standards have been approved by the Director of the Federal Register for incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the standards may be obtained from the American National Standards Institute, Inc. (ANSI), 11 West 42nd St., New York, N.Y. 10036, the American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, West Conshohocken, PA 19428 or from the organizations specifically mentioned in the referenced section.

List of Subjects in 24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Home improvement, Housing standards, Incorporation by reference, Lead poisoning, Loan programs—housing and community development, Minimum property standards, Mortgage insurance, Organization and functions (Government agencies), Penalties, Reporting and recordkeeping requirements, Social security, Unemployment compensation, Wages.

Accordingly, 24 CFR part 200 is amended as follows:

PART 200—INTRODUCTION

1. The authority citation for 24 CFR part 200 continues to read as follows:

Authority: 12 U.S.C. 1701–1715z–18; 42 U.S.C. 3535(d).

2. In § 200.929, paragraph (b)(2) is revised to read as follows:

§ 200.929 Description and identification of minimum property standards.

* * * * *

(b) * * *

(2) MPS for Housing 4910.1, 1994 edition. This volume applies to buildings and sites designed and used for normal multifamily occupancy,

including both unsubsidized and subsidized insured housing, and to care-type housing insured under the National Housing Act. It also includes, in Appendix K, a reprint of the MPS for One and Two Family Dwellings identified in paragraph (b)(1) of this section.

3. Section 200.931 is revised to read as follows:

§ 200.931 Statement of availability.

(a) Updated copies of the Minimum Property Standards and Use of Materials Bulletins are available for public examination in the Office of Consumer and Regulatory Affairs, Department of Housing and Urban Development, room 9156, 451 Seventh St. SW., Washington, D.C. 20410–8000. In addition, copies of volumes 1, 2, and 3 of the Minimum Property Standards may be purchased from the U.S. Government Printing Office, Washington, D.C. 20402.

(b) Publications approved by the Director of the Federal Register for incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 are available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, D.C.

4. In § 200.935, paragraph (d)(4)(ii) is revised to read as follows:

§ 200.935 Administrator qualifications and procedures for HUD building products certification programs.

* * * * *

(d) * * *

(4) * * *

(ii) *Quality assurance system review.*

(A) Each administrator shall examine a participating manufacturer's facilities and quality assurance system procedures to determine that they are adequate to assure continuing production of the product that complies with the applicable standard. These quality assurance system procedures shall be documented in the administrator's and the manufacturer's files. If a manufacturer's quality assurance system is not satisfactory to the administrator, validation of the manufacturer's declaration of certification shall be withheld. The following American Society for Quality Control (ASQC) standards, which are incorporated by reference, may be used as guidelines in any quality assurance review:

(1) ASQC Q9000–1–1994 Quality Management and Quality Assurance Standards Guidelines for Selection and Use;

(2) ASQC Q9001–1994 Quality Systems—Model for Quality Assurance in Design, Development, Production, Installation, and Servicing;

(3) ASQC Q9002–1994 Quality Systems—Model for Quality Assurance in Production, Installation, and Servicing;

(4) ASQC Q9003–1994 Quality Systems—Model for Quality Assurance in Final Inspection and Test;

(5) ASQC Q9004–1–1994 Quality Management and Quality System Elements-Guidelines.

(B) These standards have been approved by the Director of the Federal Register for incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. They are available from the American Society for Quality Control (ASQC), 611 East Wisconsin Avenue, Milwaukee, WI 53202.

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§§ 200.938, 200.939, and 200.941 [Removed]

5. Sections 200.938, 200.939, and 200.941 are removed.

6. Section 200.943 is revised to read as follows:

§ 200.943 Supplementary specific requirements under the HUD building product standards and certification program for the grademarking of lumber.

(a) *Applicable standard.* (1) In accordance with UM 38j, lumber shall be grademarked in compliance with the U.S. Department of Commerce Voluntary Product Standard PS 20–94 American Softwood Lumber Standard. (2) This standard has been approved by the Director of the Federal Register for incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. It is available from the U.S. Department of Commerce, NIST, Office of Voluntary Product Standards, Gaithersburg, MD 20899.

(b) *Labeling.* Under the procedures set forth in § 200.935(d)(6) concerning labeling of a product, the administrator's validation mark and the manufacturer's certification of compliance with the applicable standard are required on the certification label issued by the administrator to the manufacturer. However, in the case of grademarking of lumber, the following information shall be included on the certification label or mark:

- (1) The registered symbol which identifies the grading agency;
- (2) Species or species combination;
- (3) Grade;
- (4) Identification of the applicable grading rules when not indicated by the species identification or agency symbol;
- (5) Mill or grader;
- (6) For members which are less than 5 inches in nominal thickness, indication that the lumber was green or dry at the time of dressing;

(7) Indication that the lumber was finger jointed; and

(8) The certification mark shall be affixed to each piece of lumber.

(c) *Periodic tests and quality assurance.* Periodic tests and quality assurance inspections shall be carried out by the American Lumber Standard Committee as defined in PS 20-94.

7. A new § 200.952 is added to subpart S to read as follows:

§ 200.952 Supplementary specific requirements under the HUD building product standards and certification program for particleboard interior stair treads.

(a) *Applicable standards.* (1) All interior particleboard stair treads shall be designed, manufactured, and tested in compliance with ANSI A208.1-1993 Particleboard, Grade M-3.

(2) This standard has been approved by the Director of the Federal Register for incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, and is available from the American National Standards Institute, Inc., 11 West 42nd Street, New York, NY 10036.

(b) *Labeling.* Under the procedures set forth in § 200.935(d)(6) concerning labeling of a product, the administrator's validation mark and the manufacturer's certification of compliance with the applicable standard are required to be on the certification label issued by the administrator to the manufacturer. Each interior particleboard stair tread shall include the manufacturer's statement of conformance to UM 70b, a statement that this product is for interior use only, and the manufacturer's name and plant location.

(c) *Periodic tests and quality assurance.* Under the procedures set forth in § 200.935(d)(8) concerning periodic tests and quality assurance inspections, the frequency of testing for a product shall be described in the specific building product certification program. In the case of interior particleboard stair treads, testing and inspection shall be conducted as follows:

(1) At least once every three months, the administrator shall visit the manufacturer's facility to select a sample for testing in a laboratory approved by the administrator.

(2) The administrator shall also review the quality assurance procedures twice a year to assure that they are being followed by the manufacturer.

8. A new § 200.954 is added to subpart S to read as follows:

§ 200.954 Supplementary specific requirements under the HUD building product standard and certification program for construction adhesives for wood floor systems.

(a) *Applicable standards.* (1) All construction adhesives for field glued wood floor systems shall be designed, manufactured, and tested in compliance with the following American Society for Testing and Materials (ASTM) standard: D 3498-93 Standard Specification for Adhesives for Field-Gluing Plywood to Lumber Framing for Floor Systems except that the mold and bacteria resistance tests shall not be included.

(2) This standard has been approved by the Director of the Federal Register for incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, and is available from the American Society for Testing & Materials Inc., 100 Barr Harbor Drive, West Conshohocken, PA. 19428.

(b) *Labeling.* Under the procedures set forth in § 200.935(d)(6) concerning labeling of a product, the administrator's validation mark and the manufacturer's certification of compliance with the applicable standard are required to be on the certification label issued by the administrator to the manufacturer. Each container shall be marked as being in compliance with UM 60a. The label shall also include the manufacturer's name, plant location, and shelf life.

(c) *Periodic tests and quality assurance.* Under the procedures set forth in § 200.935(d)(8) concerning periodic tests and quality assurance inspections, the frequency of testing for a product shall be described in the specific building product certification program. In the case of construction adhesives for field glued wood floor systems, testing and inspection shall be conducted as follows:

(1) At least every six months, the administrator shall visit the manufacturer's facility to select a sample for testing in a laboratory approved by the administrator.

(2) The administrator shall also review the quality assurance procedures twice a year to assure that they are being followed by the manufacturer.

9. A new § 200.955 is added to subpart S to read as follows:

§ 200.955 Supplementary specific requirements under the HUD building product standard and certification program for fenestration products (windows and doors).

(a) *Applicable standards.* (1) All windows and doors shall be designed, manufactured, and tested in compliance with American Architectural Manufacturers Association (AAMA) standard, AAMA/NWWDA 101/I.S.2-97 Voluntary Specifications for Aluminum, Vinyl (PVC) and Wood Windows and Glass Doors.

(2) This standard has been approved by the Director of the Federal Register for incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, and is available from the American Architectural Manufacturers Association, 1827 Walden Office Square, Suite 104, Schaumburg, IL 60173.

(b) *Labeling.* Under the procedures set forth in § 200.935(d)(6) concerning labeling of a product, the administrator's validation mark and the manufacturer's certification of compliance with the applicable standards are required to be on the certification label issued by the administrator to the manufacturer. Each window or glass door shall include the manufacturer's name, plant location, and statement of compliance with UM 111.

(c) *Periodic tests and quality assurance inspections.* Under the procedures set forth in § 200.935(d)(8) concerning periodic tests and quality assurance inspections, the frequency of testing for a product shall be described in the specific building product certification program. In the case of windows and glass doors, testing and inspection shall be conducted as follows:

(1) At least once every four years, the administrator shall visit the manufacturer's facility to select a commercial sample for testing in a laboratory approved by the administrator.

(2) The administrator shall also review the quality assurance procedures twice a year to assure that they are being followed by the manufacturer.

Dated: January 23, 1998.

Nicolas P. Retsinas,
Assistant Secretary for Housing-Federal
Housing Commissioner.

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