

§ 200.940 Supplementary specific procedural requirements under HUD Building Product Standards and Certification Program for Sealed Insulating Glass Units.

(a) *Applicable standards.* (1) Sealed insulating glass units shall be designed, assembled and tested in compliance with the following American Society of Testing and Materials (ASTM) standards:

ASTM E-546-75—Standard Test Method for Frost Point of Sealed Insulating Glass Units;

ASTM E-773-81—Standard Test Method for Seal Durability of Sealed Insulating Glass Units; and

ASTM E-774-81—Specification for Sealed Insulating Glass Units.

(2) These standards have been approved by the Director of the Federal Register for incorporation by reference. They are available from the American Society for Testing Materials (ASTM) 1916 Race St. Philadelphia, PA 19103. The standards are also available for inspection at the Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408.

(b) *Labeling.* (1) 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. In the case of sealed insulating glass units, the following additional information shall be included on the certification label:

(i) The manufacturer's statement of conformance to the appropriate referenced ASTM standard.

(ii) The manufacturer's name and code identifying the plant location.

(2) The certification label shall be affixed to each sealed insulating glass unit.

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

(1) At least every twelve months, beginning with the initial administrator visit, a sample of each certified sealed insulated glass unit shall be selected by the administrator for testing in an approved laboratory, in compliance with the applicable standards.

(2) The administrator shall visit the

manufacturer's facility at least once every six months to assure that the initially accepted quality procedures continue to be followed.

(Sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); Sec. 211 of the National Housing Act, 12 U.S.C. 1715b.)

Dated: December 19, 1983.

W. Calvert Brand,

Acting Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 84-110 Filed 1-3-84; 8:45 am]

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24 CFR Part 200

[Docket No. R-83-1101; FR-1405]

Use of Materials Bulletin No. 39a—HUD Building Product Standards and Certification Program for Aluminum Windows, Storm Windows, Sliding Glass Doors and Storm Doors

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

ACTION: Final rule.

SUMMARY: This rule adopts as a part of HUD's Minimum Property Standards (MPS), a Use of Materials Bulletin that incorporates certain standards issued by the American National Standards Institute, Inc. (ANSI) for the manufacture of aluminum windows, storm windows, sliding glass doors and storm doors. UM 39a revises and supersedes existing UM 39.

This rule also supplements HUD's building products certification program by requiring that certain additional information be included on the label which each manufacturer affixes to the certified product, and by specifying the frequency with which aluminum windows, storm windows, sliding doors and storm doors must be tested in order to be acceptable under HUD programs.

EFFECTIVE DATE: Upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, but not before further notice of the effective date is published in the *Federal Register*. The approval by the director of the *Federal Register* of the incorporations by reference in this document will become effective on the effective date of this rule.

FOR FURTHER INFORMATION CONTACT: Mr. Leslie H. Breden, Construction Standards Division, Office of Manufactured Housing and Construction Standards, Room 3222, Department of Housing and Urban Development, Washington, D.C. 20410 (202) 755-5929. This is not a toll free number.

SUPPLEMENTARY INFORMATION: HUD published a proposed rule on August 5, 1983 at 48 FR 35668 which would adopt technical standards prepared and issued by the American National Standards Institute/Architectural Aluminum Manufacturer's Association (ANSI/AAMA), relating to the design, assembly, and testing of aluminum windows, storm windows, sliding glass doors and storm doors.

HUD received only one public comment on the proposed rule. The commentor suggested that (1) § 200.938(a)(1) be revised to state that ANSI/AAMA 1002.9-1977 is applicable until July 1, 1984, after which it will be superseded by ANSI/AAMA 1002.10-1983; and (2) § 200.938(c)(1) be revised to state that at least every four years a sample aluminum window, storm window, sliding glass door and storm door of the maximum size commercially available and submitted for certification shall be selected by the program administrator for testing in accordance with the performance requirements of the applicable standard by an approved laboratory. (Corrections recommended in the public comment are underlined.)

Response to Comment No. 1: Upon further review, HUD has determined that the listed references were incorrect, but that the necessary change is not precisely that recommended by the commentor. ANSI/AAMA 1002.9-1977 was superseded by ANSI/AAMA 1002.10-1980, which was then revised in 1983. Therefore, ANSI/AAMA 1002.9-1977 is obsolete and is being deleted from the UM in this final rule.

Response to Comment No. 2: Addition of "and submitted for certification" is incorporated in the Final Rule, as the commentor suggested. Addition of "performance requirements" is not acceptable to HUD. Testing of sample units must be in accordance with all provisions of the referenced standards, not just the performance requirements.

In addition, the requirement for the identity and location of the manufacturer, specification designation, and series or model number has been deleted. The Department has determined that these items constitute unnecessary information collection.

The text of UM 39a is not being reproduced in this rule because its substance is embodied in the new § 200.938 which HUD is adopting as set forth below. However, a copy of UM 39a is available for public inspection during regular business hours in the Construction Standards Division, Office of Manufactured Housing and

Construction Standards, Room 3222, and in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10278, Department of Housing and Urban Development, Washington, D.C. 20410.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implements Section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection and copying during regular business hours in the Office of the Rules Docket Clerk, at the above address.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of \$100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities. UM 39a adopts product standards that are both nationally recognized and generally followed throughout the affected industry.

This rule was listed under the Office of Housing in the Department's Semiannual Agenda of Regulations published on October 17, 1983, 48 FR 47429, pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Housing standards, Loan programs: Housing and community development, Mortgage insurance, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Minimum Property Standards, Incorporation by reference.

PART 200—[AMENDED]

Accordingly, 24 CFR Part 200 is amended by adding a new § 200.938, to read as follows:

§ 200.938 Supplementary specific procedural requirements under HUD Building Product Standards and Certification Program for Aluminum Windows, Storm Windows, Sliding Glass Doors and Storm Doors.

(a) Applicable standards. (1) Aluminum windows, storm windows, sliding glass doors and storm doors certified for this program shall be designed, assembled, and tested in conformance with the following American National Standards Institute/Architectural Aluminum Manufacturer's Association (ANSI/AAMA) standards:

ANSI/AAMA 302.9-1977 Specifications for Aluminum Prime Windows.

ANSI/AAMA 402.9-1977 Specifications for Aluminum Sliding Glass Doors.

ANSI/AAMA 1002.10-1983 Specifications for Aluminum Insulating Storm Products for Windows and Sliding Glass Doors.

ANSI/AAMA 1102.7-1977 Specifications for Aluminum Storm Doors.

(2) These standards have been approved by the Director of the Federal Register for incorporation by reference. They are available from the American National Standards Institute, Inc, 1430 Broadway, New York, NY 10018. The standards are also available for inspection at the Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20406.

(b) *Labeling.* (1) 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. In the case of aluminum windows, storm windows, sliding glass doors and storm doors, the following additional information shall be included on the certification label:

(i) The manufacturer's statement of conformance to the appropriate referenced ANSI/AAMA standard.

(ii) The manufacturer's name and the code identifying plant location.

(2) The specification label shall be permanently affixed to each aluminum window, storm window, sliding glass door and storm door.

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

(1) At least every four years, a sample unit of the maximum size commercially available and submitted for certification, shall be selected by the administrator for testing by an approved laboratory, in accordance with the applicable standard.

(2) The administrator shall visit the manufacturer's facility at least once every six months to assure that the initially accepted quality procedures continue to be followed.

(Sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); Sec. 211 of the National Housing Act, 12 U.S.C. 1715b)

Dated: December 19, 1983.

W. Calvert Brand,

Acting Assistant Secretary for Housing—
Federal Housing Commissioner.

[FR Doc. 84-112 Filed 1-3-84; 8:45 am]

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24 CFR Part 200

[Docket No. R-83-1100; FR-1358]

HUD Building Product Standards and Certification Program for Plastic Bathtub Units, Plastic Shower Receptors and Stalls, Plastic Lavatories, Plastic Water Closet Bowls and Tanks; Adoption of Use of Materials Bulletin No. 73a

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

ACTION: Final rule.

SUMMARY: This rule adopts as a part of HUD's Minimum Property Standards (MPS), a Use of Materials Bulletin (UM) that incorporates certain standards issued by the American National Standards Institute, Inc. for the manufacture of plastic bathtub units, shower receptors and stalls, lavatories, and water closet bowls and tanks. UM 73a revises supersedes existing UM 73.

The rule also supplements HUD's building products certification procedures by requiring, for this particular certification program, that certain additional information be included in the label which each manufacturer affixes to the certified product, and specifies the frequency with which plastic bathroom fixtures must be tested in order to be acceptable to HUD.

EFFECTIVE DATES: Upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, but not before further notice of the effective date is published in the Federal Register. The approval by the

Director of the Federal Register of the incorporations by reference in this document will become effective on the effective date of this rule.

FOR FURTHER INFORMATION CONTACT: Mr. Leslie H. Breden, Construction Standards Division, Office of Manufactured Housing and Construction Standards, Room 3222, Department of Housing and Urban Development, Washington, D.C. 20410; telephone (202) 755-5929. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: A proposed rule was published in the *Federal Register* on August 5, 1983 regarding UM 73a—HUD Building Product Standards and Certification Program for Plastic Bathtub Units, Plastic Shower Receptors and Stalls, Plastic Lavatories, Plastic Water Closet Bowls and Tanks. Comments were received from the Cultured Marble Institute and from the Spartan Manufacturing Company, Inc. Responses to resolve these comments are as listed below.

Discussion of Public Comments

1. *Comment:* The requirement in 24 CFR 200.937(b)(2) which states that a certification label shall be permanently affixed to each plastic bathroom fixture duplicates a requirement in the Manufactured Home Construction and Safety Standards which states that the fixtures be marked or labeled with the manufacturer's name and trademark. This requirement is also ambiguous in terms of what is intended by use of the word "permanently."

Response: These standards are promulgated for use with conventional housing built in conformance with the HUD Minimum Property Standards. Manufactured Home Construction and Safety Standards apply only to manufactured (mobile) homes built in conformance with Title VI of the National Manufactured Housing Construction and Safety Standards Act of 1974. (Section 200.937(b)(2) has been revised by the deletion of the word "permanently.")

2. *Comment:* A commenter recommends that a twelve month interval for product testing and inspections be adopted.

Response: Section 200.937(c)(3) has been revised to state that an administrator shall review a manufacturer's compliance with quality control procedures when he tests its plastic bathtub units, plastic shower receptors and stalls, plastic water closet bowls and tanks (every six months) and lavatories (every twelve months).

3. *Comment:* The biannual plant inspection required by 24 CFR 200.937(c)(3) will drastically increase the cost of producing goods for the HUD/FHA market.

Response: This practice already exists and is recommended by the industry.

4. *Comment:* A commenter suggested that a uniform national building standard be created.

Response: UM 73a is a revision to an existing UM, to reference only those standards which have been developed and accepted by the private sector, in accordance with OMB Circular A 119. It eliminates reference to HUD-developed standards, and also separate fire and smoke requirements.

5. *Comment:* Administrators are not qualified to conduct meaningful inspections of manufacturers plants.

Response: These administrators have been effectively monitoring this program for almost five years. HUD has examined their credentials and monitors their program for certification of manufacturers. The administrator's visits are only to determine that plastic bathroom fixtures continue to comply with the appropriate standards and that quality control procedures are maintained.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implements Section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection and copying during regular business hours in the Office of General Counsel, Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulations issued by the President on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of \$100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule would not have a significant

economic impact on a substantial number of small entities. UM 73a adopts product standards that are nationally recognized throughout the affected industry and will not create a burden on manufacturers currently meeting the standards.

This rule was listed as Item H-22-81 under the Department's Semiannual Agenda of Regulations published on October 17, 1983, 48 FR 47450, pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Housing standards, Loan programs: Housing and community development, Mortgage insurance, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Minimum Property Standards Incorporation by reference.

PART 200—[AMENDED]

Accordingly, 24 CFR Part 200 is amended by adding a new § 200.937, to read as follows:

§ 200.937 Supplementary specific procedural requirements under HUD Building Product Standards and Certification Program for Plastic Bathtub Units, Plastic Shower Receptors and Stalls, Plastic Lavatories, Plastic Water Closet Bowls and Tanks.

(a) *Applicable standards.* (1) Plastic bathtub units, plastic shower receptors and stalls, plastic lavatories, and plastic water closet bowls and tanks shall be designed, assembled and tested in compliance with the following standards, which are incorporated by reference:

ANSI Z124.1—(1980) Plastic Bathtub Units
ANSI Z124.2—(1980) Plastic Shower Receptors and Stalls
ANSI Z124.3—(1980) Plastic Lavatories
ANSI Z124.4—(1983) Plastic Water Closet Bowls and Tanks

(2) These standards have been approved by the Director of the Federal Register for incorporation by reference. They are available from the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018. The standards are also available for inspection at the Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408.

(b) *Labeling.* (1) Under the procedures set forth in paragraph (d)(6) of Sec. 200.935, 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. In the case of plastic bathtub units, plastic shower receptors and stalls, plastic lavatories, and plastic water closet bowls and tanks, the following additional information shall be included on the certification label:

(i) Manufacturer's statement of conformance to UM 73a;

(ii) Manufacturer's name and code identifying the plant location.

(2) The certification label shall be affixed to each plastic bathroom fixture.

(c) *Periodic tests and quality control inspections.* Under the procedures set forth in paragraph (d)(8) of § 200.935, concerning periodic tests and quality control inspections, the frequency of testing for a product shall be described in the specific building product certification program. In the case of plastic bathroom fixtures, 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 of each certified plastic bathtub unit, plastic shower receptor and stall, plastic water closet bowl and tank for testing in an approved laboratory, in accordance with applicable standards.

(2) At least every twelve months, the administrator shall visit the manufacturer's facility to select a sample of each certified plastic lavatory for testing in accordance with applicable standards.

(3) The administrator shall also review quality control procedures at each visit to determine that they continue to be followed.

(Sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); sec. 211 of the National Housing Act, 12 U.S.C. 1715b)

Dated: December 19, 1983.

W. Calvert Brand,

Acting Assistant Secretary for Housing—
Federal Housing Commissioner.

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

Approval of Pennsylvania Permanent Regulatory Program Amendments

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: OSM is announcing the approval of certain amendments to the Pennsylvania permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). These amendments relate to Pennsylvania's subsidence control regulations.

By letter dated August 1, 1983, Pennsylvania submitted amendments consisting of a suspension order suspending certain portions of 25 PA Code sections 89.143-89.147 pertaining to subsidence control.

After providing opportunity for public comment and conducting a thorough review of the program amendments, the Secretary has determined that the modifications to the Pennsylvania program meet the requirements of SMCRA and the Federal permanent program regulations. The Federal rules at 30 CFR Part 938 which codify decisions concerning the Pennsylvania permanent regulatory program are being amended to implement these actions.

EFFECTIVE DATE: The approval of the program amendments is effective January 4, 1984.

FOR FURTHER INFORMATION CONTACT: Robert Biggi, Director, Harrisburg Field Office, Office of Surface Mining, 101 South 2nd Street, Harrisburg, Pennsylvania 17101; Telephone: (717) 782-4036.

SUPPLEMENTARY INFORMATION:

I. Background on the Pennsylvania State Program

On July 30, 1982, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved the program subject to the correction of ten minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the July 30, 1982 *Federal Register* (47 FR 33050-33080).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Pennsylvania program can be found in the July 30, 1982 *Federal Register*.

II. Submission of Revisions and Program Amendments

By letter dated August 1, 1983, OSM received from the Commonwealth of Pennsylvania, pursuant to the 30 CFR 732.17 procedures, certain revisions to its subsidence control regulations. These revisions are contained in a suspension order published in *13 Pennsylvania*

Bulletin 2057 dated July 2, 1983, suspending certain portions of 25 PA Code Sections 89.143-89.147 pertaining to Pennsylvania's subsidence control regulations. The suspension order was not a proposed rulemaking, but a temporary action explicitly authorized in the Administrative Code, that does not amend the Pennsylvania Code, but does suspend certain subsidence regulations. This action was ordered by the Chairman of the Environmental Quality Board (EQB) in an effort to keep the requirements of the Pennsylvania program consistent with the revised Federal requirements published in the June 1, 1983 *Federal Register* (48 FR 24638).

Additionally, the State submitted to OSM a draft copy of revised subsidence control regulations that was to be submitted to the EQB on August 16, 1983, for rulemaking. The EQB did not act on these revised regulations. In a letter dated November 22, 1983, the Department of Environmental Resources (DER) notified OSM that when proposed regulations are approved by the Board and published in the Pennsylvania Bulletin, it will submit such regulations as a program amendment. Therefore, OSM will not take further action on the draft proposed regulations submitted with the program amendment on August 1, 1983.

III. Secretary's Finding

The Secretary finds, in accordance with SMCRA and 30 CFR 732.15 and 732.17, that the program amendment submitted on August 1, 1983, pertaining to the suspension of certain subsidence regulations meets the requirements of SMCRA and 30 CFR Chapter VII as discussed below.

Finding 1

The Secretary finds that the suspension of PA 89.143(2)(iii) (A), (B), (C), and (D); 89.143(4); 89.146(e); and 89.147(a) affects subsidence control provisions pertaining to surface features or structures and not to surface lands, which is no less effective than the revised Federal standards at 30 CFR Part 784 and 817 pertaining to subsidence control.

In making this finding, the Secretary notes that Pennsylvania requires a subsidence control plan to be submitted and approved as part of the permit application for an underground mine consistent with 30 CFR 784.20 and distinguishes between damage to land and damage to structures or facilities in a manner no less effective than the distinction provided in 30 CFR 817.121. Material damage to land must be