

REPORT BY THE  
**Comptroller General**  
OF THE UNITED STATES

**HUD Not Fulfilling Responsibility To  
Eliminate Lead-Based Paint Hazard  
In Federal Housing**

Lead poisoning is a serious illness afflicting thousands of young children, primarily those living in old, dilapidated inner-city housing which contains hazardous amounts of lead-based paint. While many sources of lead contribute to health problems in children, the effects of lead paint prompted the Congress to give the Department of Housing and Urban Development a mandate to research the problem and eliminate lead paint where possible in federally assisted housing.

HUD is not fully complying with many of its own regulations and procedures directed at eliminating the hazards of lead-based paint. Its research program has had only limited success. A new research agenda, better procedures, and a stronger commitment to eliminating lead hazards in housing is needed to improve HUD's efforts.

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COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

B-201111

The Honorable Max Baucus  
Chairman, Subcommittee on  
Limitations of Contracted  
and Delegated Authority  
Committee on the Judiciary  
United States Senate

Dear Mr. Chairman:

In response to your June 25, 1980, request, we are reporting on the Department of Housing and Urban Development's administration of its research and program responsibilities under the Lead-Based Paint Poisoning Prevention Act. The report discusses the Department's slow progress in carrying out its responsibilities and the fact that it has not placed a high priority on the prevention of lead-based paint poisoning. At your request, we did not obtain agency comments.

We will send copies of this report to the Director, Office of Management and Budget; the Secretary of Housing and Urban Development; and the Secretary of Health and Human Services.

As arranged with your office, we will make this report available to interested parties 30 days after the issue date, unless you publicly release its contents earlier.

Sincerely yours,

A handwritten signature in cursive script, reading "James B. Starks".

Comptroller General  
of the United States



D I G E S T

The Department of Housing and Urban Development (HUD) is not fully complying with many of its own regulations and procedures directed at eliminating the hazards of lead-based paint in federally assisted housing. It needs a new agenda for its research into the problem, better administrative procedures, and a stronger commitment to eliminating lead hazards in housing.

Although some evidence suggests that the incidence of lead poisoning in children is declining, an estimated 150,000 to 200,000 young children have undue amounts of lead in their bodies. Ingestion of lead-based paint chips is generally believed to be the principal cause of the more serious cases of poisoning. Without proper care, crippling effects can take place, including death in severe but rare cases.

Concern over childhood lead poisoning prompted the Congress to enact the Lead-Based Paint Poisoning Prevention Act of 1971. This act and subsequent amendments authorized HUD to conduct research on the nature and extent of childhood lead paint poisoning, and to develop cost effective techniques for eliminating lead paint from houses. The act mandated that HUD eliminate as far as practicable the hazards of lead paint from housing assisted by HUD and to monitor other Federal agency hazard removal procedures. (See p. 4.)

LITTLE SUCCESS FROM HUD RESEARCH RESULTS

Nine years and \$9 million of HUD-sponsored research have yielded innovative lead paint abatement products and techniques, but

their high cost has prevented any from having a practical use. Current lead paint removal and abatement techniques are the same ones used before HUD began its research mission. The lack of an extensive commercial market for HUD's innovations and its past research management deficiencies are some reasons why little practical success has been achieved. Further research on developing cost-effective ways to abate lead hazards is not likely to yield promising new techniques. (See p. 12.)

Several unresolved issues still exist regarding HUD's responsibility to research the nature and extent of childhood lead paint poisoning:

- The extent of lead paint problems in HUD-associated housing is not well known.
- The contribution of other sources to lead poisoning in children is not well understood.

Research on all aspects of the nature of lead poisoning is beyond the scope and expertise of HUD researchers, but more light can be shed on the extent of the lead paint problem in housing. HUD's future research priorities should be based on how researchers can help program offices identify the best ways to eliminate lead hazards. (See p. 16.)

HUD researchers' poor relationships with some program staff and with Federal health agencies over the years have resulted in missed opportunities for better research projects. Cooperation problems center on HUD researchers' belief that lead paint is overstated as a primary cause of childhood lead poisoning-- a belief not shared by many health officials. (See p. 15.)

#### HUD REGULATORY RESPONSE HAS BEEN LIMITED

HUD regulations and procedures for eliminating lead paint hazards in housing contain many limitations:

- HUD limits its regulations to correcting only peeling or chipping paint, yet children can be and are exposed to hazards by chewing on "intact" paint on accessible surfaces. HUD's own lawyers have determined that "intact" surfaces containing lead paint should not be ignored.
- HUD requires inspection and elimination of lead paint only when dwelling units change occupancy.
- HUD notifies tenants of lead paint hazards only in pre-1950 dwelling units, yet lead paint was commonly used in the 1950s and 1960s.
- Confusion exists within HUD regarding whether its hazard elimination program is limited to pre-1950 housing only. (See p. 20.)

LEAD-BASED PAINT REGULATIONS  
NOT BEING FOLLOWED

HUD is not complying with all of its lead-based paint regulations, and thus many tenants may be unnecessarily exposed to lead paint hazards. GAO's spot checks in several major programs and recent HUD Inspector General reports all indicate noncompliance. (See p. 29.)

GAO contacted 12 local housing authorities--several of which are among the Nation's largest--and found that none were complying with the requirement to notify tenants residing in pre-1950 dwelling units about the dangers of lead-based paint. Most authorities were unaware of the notification requirement. (See p. 29.)

HUD-assisted dwelling units are not inspected regularly for lead paint; therefore, notification may be the tenants' only means of being alerted to the dangers of lead paint hazards. Similar circumstances have been found in HUD's Section-8 Existing Housing Program and in HUD-owned properties. (See p. 32.)

Deficiencies in HUD program instructions may be a cause of inaction. Enforcement provisions and management controls are generally lacking in program instructions for implementing lead paint regulations. Procedures contain inconsistent requirements and standards. For example, the requirement for lead paint inspection is limited to pre-1950 dwelling units in one HUD program, pre-1971 units in another, and all dwelling units in another. (See p. 37.)

Lack of resources for abating lead hazards and low priority given the abatement program by program managers may be other causes of inaction.

MONITORING IS WEAK--MORE  
AGGRESSIVENESS NEEDED

HUD has not fully evaluated any of its programs for regulatory compliance, has little information on the extent of the lead poisoning problem in HUD housing, and has not had an effective monitoring office. It is doing little to monitor other Federal agencies' activities to eliminate lead hazards, such as housing assistance programs administered by the Farmers Home Administration and the Bureau of Indian Affairs. Efforts to strengthen monitoring are hindered by lack of authority and resources. (See p. 40.)

RECOMMENDATIONS

The Secretary of HUD should:

- Develop a lead-based paint research agenda that represents the needs of all Department offices administering lead-based paint programs. (See p. 18.)
- Fully involve all Department offices in current and future lead-based paint program activities. (See p. 18.)



- Assess the costs and benefits of alternative regulatory strategies in terms of creating regulatory language that not only fully satisfies the Congress but also allows the most effective use of limited funds to eliminate lead paint hazards from HUD-assisted housing. (See p. 26.)
- Establish a strong central monitoring office with the authority and resources to properly evaluate and report on program compliance. Program Assistant Secretaries should develop an adequate management reporting system on hazard inspection and elimination and tenant notification. (See p. 44.)
- Notify all appropriate HUD-associated housing tenants of the hazards of lead-based paint. (See p. 39.)
- Revise program instructions to assure that they are consistent, include appropriate enforcement provisions, and are understood by individuals responsible for carrying out lead-based paint regulations. (See p. 39.)
- Establish goals and priorities for overall Departmental strategy for addressing lead-based paint hazards in HUD-associated housing. (See p. 39.)

AGENCY COMMENTS

GAO made this review at the request of the Subcommittee on Limitations of Contracted and Delegated Authority, Senate Judiciary Committee. As requested by the subcommittee, GAO did not obtain agency comments.



C o n t e n t s

		<u>Page</u>
DIGEST		i
CHAPTER		
1	INTRODUCTION	1
	Childhood lead poisoning is still a serious health problem	1
	Federal, State, and local efforts to control lead	3
	Lead-poisoning costs to society are large	6
	Objectives, scope, and methodology	7
2	HUD RESEARCH HAS HAD ONLY LIMITED SUCCESS	8
	HUD's research program	8
	Nature and extent of lead-based paint poisoning not fully known	9
	Limited successful technology has been achieved	12
	Cost of abating lead hazards	13
	Coordination problems	15
	Conclusions	17
	Recommendations	18
3	HUD REGULATIONS ARE INADEQUATE	19
	HUD's regulatory program	19
	A narrow interpretation of law adopted	20
	Cost concerns have influenced HUD regulations	22
	Lead-poisoning litigation	23
	Conclusions	25
	Recommendation	26
4	HUD IS NOT FULLY COMPLYING WITH ITS LEAD-BASED PAINT REGULATIONS	27
	Programs covered by regulations	27
	Extent of lead-poisoning problem in HUD-associated housing	28
	Noncompliance in implementing HUD regulations	29
	Other indications of noncompliance	34
	Deficiencies in program procedures	36
	Conclusions	38
	Recommendations	39

CHAPTER

PAGE

5	HUD NEEDS TO IMPROVE ITS REGULATORY MONITORING	40
	Current monitoring activities	40
	Management information lacking	41
	Lack of resources	42
	Low priority given to lead paint regulations	43
	Conclusions	44
	Recommendations	44

APPENDIX

I	Letter dated June 25, 1980, from Senator Max Baucus	45
II	HUD lead-based paint regulations	48

ABBREVIATIONS

CDC	Centers for Disease Control
CPSC	Consumer Product Safety Commission
GAO	General Accounting Office
HEW	Department of Health, Education, and Welfare
HHS	Department of Health and Human Services
HUD	Department of Housing and Urban Development
NAHRO	National Association of Housing and Redevelopment Officials
OIG	Office of Inspector General
PHA	Public housing authority

## CHAPTER 1

### INTRODUCTION

Lead is a useful but highly toxic metal that presents significant risks to the health of many Americans, especially young children. Lead exposure stems from many environmental sources including water, air, food, and dust. For the urban child under age 7, the greatest danger of lead exposure comes from eating lead-based paint chips--a common substance found in old, dilapidated inner-city housing. For these children, the adverse health effects can be serious and permanent. Concern about the health problems resulting from childhood lead exposure has led to Federal, State, and local regulatory action. The adequacy of such action as it relates to the Department of Housing and Urban Development's (HUD's) responsibilities is the focus of this report.

### CHILDHOOD LEAD POISONING IS STILL A SERIOUS HEALTH PROBLEM

Undue lead absorption 1/ in children is a serious health problem due to the adverse effects of lead and the number of children afflicted. The toxic effects of lead are well known and include learning disabilities, mental retardation, behavioral disorders and, in severe cases, death. Children are especially vulnerable to the adverse effects of lead because their vital organs are more susceptible to damage than those of adults. Severe cases of lead poisoning leading to mental retardation and death are now relatively rare. Of growing concern to medical authorities, however, are the possible adverse effects of low levels of exposure--exposures which were previously thought to be safe--that involve substantially greater numbers of children. Although judged to be inconclusive, some studies show that children with only moderately elevated lead levels display learning disabilities and subtle neurological change.

#### Extent of the problem

Although reliable estimates of the number of children afflicted with undue lead absorption are not available, the extent of the problem is generally considered serious. Based on a series of crude assumptions, the National Bureau of

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1/The Centers for Disease Control (CDC), Department of Health and Human Services (HHS), defines "undue lead absorption" as children with blood lead levels exceeding 30mg/DL (micrograms per deciliter).

Standards in 1972 estimated that as many as 600,000 children under age 7 may have undue lead. CDC estimates that about 1 percent (which would be about 150,000 to 200,000 children) under age 7 may have undue lead levels.

Local health screening programs, which are conducted in inner cities where the lead problem is more prevalent, consistently reveal that 4 to 7 percent of city children screened have undue body lead. Some cities, however, are still reporting unsafe lead levels in up to 20 percent of those tested. When screening programs were first implemented in the late 1960s, reported cases of lead poisoning were commonplace with some cities reporting 25 to 40 percent of tested children burdened with lead, along with several lead-poisoning deaths annually. With the advent of screening programs, education, and control strategies, severe or overt childhood lead poisoning is apparently declining. Data supporting a general reduction in lead exposure among children, however, is not conclusive as lead is still prevalent in the environment.

By comparison, about 3 to 4 percent of the adult population is estimated to have lead levels at or above amounts considered hazardous to children. The toxic effects of these levels in adults are less of a health concern--an exception being pregnant women who, like children, are in a special risk category.

#### Sources of lead among children

Ingestion of lead-based paint chips has long been recognized and is still considered by most authorities to be the primary means by which children absorb excessive amounts of lead. It is also widely recognized that other sources of lead contribute to a child's elevated lead level. Chief among these are lead from dust and dirt (to which paint chips can contribute), and lead from air, food, and water. Among those children with clinical cases of lead poisoning (high dose victims), paint chips and dust ingestion are probably the primary pathways of exposure. Among the much larger group of children with slightly and moderately elevated lead levels, lead from other sources might be a greater contributing source. The data supporting the contribution of lead from these various sources to the total body burden is not conclusive. Other characteristics of lead absorption among children follow.

--Individual tolerance for lead varies; some children exhibit symptoms at relatively low absorption levels while others are without symptoms (asymptomatic) at dangerously high levels.

- Unless specifically tested for, lead toxicity is often misdiagnosed.
- Undue lead exposure, while far more prevalent and serious among children residing in inner cities where older, dilapidated dwelling units are concentrated, is geographically and socioeconomically widespread.

### Lead in paint

Although lead is now virtually eliminated for use in residential paint, millions of old homes still have dangerous amounts of lead-based paint on interior and exterior surfaces. Lead was a common and useful residential paint pigment until the 1940s. During the 1940s, titanium dioxide began replacing lead and is still a common paint additive. Pre-1940 paint contained as much as 60 percent lead, far more than is currently considered safe (less than 0.06 percent). In 1955 the paint industry adopted a voluntary level of 1 percent maximum lead content, a level the Congress established as a standard in 1971 for use on federally assisted housing. This standard was subsequently lowered to 0.5 percent in 1973 and 0.06 percent in 1977, as the Government was unable to show that a 0.5 percent level was safe. In 1978 lead was banned as a hazardous substance in paint used for residential purposes above the 0.06 percent level. Lead content standards apply only to paint used for households, toys, and furniture.

Although household paints are currently required to be essentially lead free, an estimated 35 million American homes were built before 1950 when high lead content paint was still commonly used, and 29 million of these are pre-1940 vintage when very high lead content paint was prevalent. An estimated 5-7 million of these pre-1950 dwelling units are in a deteriorating condition--and likely to contain defective paint conditions conducive to child ingestion--exposing an estimated 2-3 million children under age 7 to a leaded paint environment. Lead-based paint was still being used in the early 1970s but in far less quantity.

### FEDERAL, STATE, AND LOCAL EFFORTS TO CONTROL LEAD

Despite the long history of the known adverse effects of lead in humans, 1/ the lead content of paint was not

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1/Childhood lead poisoning was positively associated with ingestion of lead paint in 1872, and by the 1920s, numerous poisoning cases were reported.

federally regulated until 1971 when the Congress passed the Lead-Based Paint Poisoning Prevention Act. The principal provisions of this act

- authorized the Department of Health, Education, and Welfare (HEW), now HHS, to fund local lead detection, treatment, and abatement programs;
- directed HUD to fund a research program to determine the nature and extent of lead-based paint poisoning and to develop methods by which lead-based paint can most effectively be removed from housing surfaces; and
- established a Federal standard of 1 percent lead content in residential paint used for federally assisted housing. HEW was responsible enforcing this provision.

In 1973 the Congress amended this act by giving HUD a regulatory mission. These amendments directed HUD to eliminate the hazards of lead-based paint poisoning in housing it financially assists or owns. The Congress also lowered the lead content standard to 0.5 percent and directed the Consumer Product Safety Commission (CPSC) to determine a safe level. In 1977 CPSC action resulted in a Federal standard of 0.06 percent maximum allowable lead in paint. CPSC subsequently banned the use of lead above 0.06 percent in paint for all residential purposes in 1978.

In 1976 the Congress again amended and revised the Lead-Based Paint Poisoning Prevention Act by transferring to HUD from HEW the responsibility for administering the ban on future use of lead-based paint in federally assisted housing.

#### Health screening programs

Using Federal supporting funds, over 60 cities operate programs for screening children, treating lead poisoning, and abating lead hazards. HHS' Centers for Disease Control administers the program. Since 1972, when screening programs began as a result of the 1971 act, the following results have been reported:

- Over 2.9 million children have been screened--  
about 3 percent of children between ages 1 to 5  
are currently being screened.
- Over 200,000--about 7 percent of the children  
screened--have been found with confirmed levels  
of undue lead absorption. Significant variations



of reported toxicity exist from city to city with cities reporting up to 20 percent of the children with unsafe lead levels.

--CDC has been appropriated over \$50 million since 1972 to operate lead-screening programs.

--Other federally sponsored medical programs now incorporate lead screening, such as the Women, Infants, and Children program of the U.S. Department of Agriculture, and HHS' Early Periodic Screening and Testing Program. We previously reported on HHS lead-poison control activities as part of a review on mental retardation ("Preventing Mental Retardation--More Can Be Done," HRD-77-37, Oct. 3, 1977).

#### Other Federal regulatory activity

No fewer than 16 separate Federal agencies, operating under at least eight separate statutes, administer programs designed to limit human lead exposure. In addition to those programs administered by HUD and CDC, other regulatory activity includes

--the Food and Drug Administration, which regulates lead content in food;

--the Consumer Product Safety Commission, which regulates lead content in new paint for use on items accessible to children;

--the Environmental Protection Agency, which regulates allowable lead in gasoline, air, and drinking water; and,

--the Occupational Safety and Health Administration, which regulates occupational exposure to lead.

Describing current Federal programs as being fragmented and disjointed, a 1980 National Academy of Sciences report recommends, among other things, that improved institutional mechanisms are needed to "permit a more systematic, consistent approach to the management of lead hazards."

Federal research activity on lead is also widespread. The National Academy of Sciences report identified 21 Federal agencies or subagencies researching lead-related issues within the last 5 years. During this period, these agencies spent \$18 million on research directly related to lead and another \$63 million for multi-element research that included lead.

HUD-sponsored research within the last 3 years totals \$2.3 million, or 12.6 percent of all Federal lead research, and following a Federal trend, is declining. HUD's 1981 lead paint research budget request is for \$100,000. Since 1971 HUD has spent nearly \$9 million on lead-based paint poisoning research and demonstration efforts.

#### Local program activity

Many, but not all, States and local communities have regulations designed to eliminate the existing hazards of lead-based paint. Generally speaking, these regulations are health codes that are enforced only after a child becomes lead toxic. HUD regulations, as a preventative measure, require only "immediate" (defined by HUD as cracking or peeling paint) lead paint hazards to be removed when discovered, regardless of whether children are present. Local codes, however, typically come into force only when a young child develops lead poisoning and inspection of the child's dwelling discloses a lead paint hazard.

#### LEAD-POISONING COSTS TO SOCIETY ARE LARGE

Excessive lead exposure is a costly illness in terms of medical care, special education for those permanently afflicted, and lost productivity and earnings resulting from a lead-poisoning victim's diminished capacities. Only crude estimates have been developed to determine what lead poisoning costs society. A University of Illinois assistant professor estimates that lead poisoning may cost from about \$400 million to \$1.0 billion annually (1978 dollars). These estimates are broken out as follows:

- \$120 to \$260 million to treat lead-poisoned children.
- \$280 million to \$770 million to provide special education because of lead-induced intellectual impairments in school-age children.
- \$25 to \$65 million in lost productivity in adults stemming from lead-induced impairments when they were school-aged children. 1/

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1/George Provenzano, "The Social Costs of Excessive Lead Exposure During Childhood," Low Level Lead Exposure: The Clinical Implications of Current Research, H.L. Needleman, ed. (Raven Press, 1980).

These estimates represent the costs of childhood lead poisoning contracted from all environmental sources, not just lead-based paint. Although the assumptions upon which these estimates are made are subject to varying interpretations, it appears that lead poisoning is a substantial cost to the Nation.

#### OBJECTIVES, SCOPE, AND METHODOLOGY

At the request of the Subcommittee on Limitations of Contracted and Delegated Authority, Senate Judiciary Committee (see app. I), we reviewed how effectively HUD manages its lead-based paint research and regulatory responsibilities. Interviews were conducted with several dozen officials at HUD headquarters and field offices. Over a dozen public housing authorities were contacted as were officials from HHS and from community-based lead control projects. Numerous medical and other experts in lead poisoning were consulted throughout the review.

The principal objectives of our review focused on three overall policy questions:

- How effectively has HUD met its research and demonstration responsibilities?
- What progress has HUD made in implementing and enforcing its lead-based paint regulations?
- How effectively has HUD coordinated its lead-based paint activities with other Federal agencies?

Because of the limited time available for this review, we concentrated our efforts on HUD's major housing programs: public housing, section-8 existing housing, and HUD-owned properties. These programs represent the majority of dwelling units subject to HUD's lead-based paint regulatory program.

The majority of our information was derived from existing data. We relied on telephone surveys and some limited records examination in Washington, D.C., and in Atlanta, Georgia. The period of review was from July to October 1980.

## CHAPTER 2

### HUD RESEARCH HAS

#### HAD ONLY LIMITED SUCCESS

HUD research managers have not been fully successful in meeting their statutory goals to research the nature and extent of lead paint poisoning and to develop cost-effective lead abatement techniques. Also, problems of coordination between researchers, some program offices, and other agencies have prevented optimum use of past research results. HUD's current research, although addressing important issues, needs redirection and needs more cooperation among those offices and agencies responsible for abating lead paint hazards.

#### HUD's RESEARCH PROGRAM

HUD's research mission comes from title III of the 1971 Lead-Based Paint Poisoning Prevention Act which states in part:

"The Secretary of Housing and Urban Development, in consultation with the Secretary of Health, Education, and Welfare, shall develop and carry out a demonstration and research program to determine the nature and extent of the problem of lead-based paint poisoning in the United States, particularly in urban areas, and the methods by which lead-based paint can most effectively be removed from interior surfaces, porches, and exterior surfaces to which children may be commonly exposed, of residential housing."

This language expresses the Congress' concern over the lack of comprehensive information on the extent of lead-based paint poisoning and the need for effective techniques to eliminate the hazard of lead-based paint in urban housing. The Congress reiterated its concern to eliminate the hazards of lead-based paint in 1973 when it extended (and amended) the 1971 act.

HUD responded to its 1971 mandate with a multiphased research program that still exists today although it has been greatly reduced in size and budget. Since 1971 HUD has spent about \$9 million for over 45 studies, demonstrations, and other projects covering hazard identification, abatement, and problem analysis. The National Bureau of Standards alone has published over 35 technical reports on various aspects million worth--has been spent on ways to eliminate lead paint

hazards. Another \$2 million was used to determine the nature and extent of lead in urban children.

NATURE AND EXTENT OF LEAD-BASED PAINT POISONING  
NOT FULLY KNOWN

Although HUD researchers have devoted extensive time and effort to studying the nature and extent of lead-based paint poisoning, the following issues remain unsolved.

- No reliable data exists on the total number of children with unsafe levels of lead in their bodies.
- The extent of lead-based paint in homes and, in particular, HUD-associated housing is still an unknown.
- The relative contributions of ingested paint chips versus other sources of lead are not known.

Extent of lead poisoning

Lead poisoning is not a reportable disease and, despite HHS screening program data, no reliable figures exist on the extent of the lead-poisoning problem. Indications are that childhood lead poisoning is decreasing, especially the more severe cases, but this is not conclusive. These information gaps need attention, especially as relating to trends, to assist in analyzing appropriate regulatory strategies.

It is not known how much housing in this country contains hazardous levels of lead paint or what fraction contains a chipping and peeling paint conducive to possible ingestion by young children. More importantly, HUD has little information on how many housing units it subsidizes, insures, or owns that contain lead paint or fall within the jurisdiction of its own regulations--an important information need discussed later in this report. In 1976 HUD researchers did compile estimates on the extent of housing potentially falling under its regulations. These were rough estimates only, contain many limitations, and have never been updated or revised. In mid-1980 a HUD economist began developing this kind of information as part of a preliminary regulatory analysis. HUD's report on the nature and extent of the lead-poisoning problem, published in 1972 in response to the 1971 mandate, extensively qualified its data estimates and cited the need for additional, more precise data. The National Bureau of Standards in a subsequent report published in 1976 further stated:

"At present, however, only crude estimates are available for the number of each type [of housing], which are occupied or awaiting occupancy, and what effect current housing trends will have on this number and hence how potential benefits would be affected. It would be helpful if better estimates were available."

#### Nature of lead poisoning

Although a consensus exists regarding the importance of paint as a "high dose" source of lead poisoning, other sources, especially dust, are increasingly being recognized as important causes of undue lead absorption in children. HUD and many experts believe more has to be known about the contribution of paint versus other sources of lead poisoning. For example:

- "The linkages between the existence of lead paint in homes, potential for ingestion by children, the elevation of blood lead, and the emergence of symptoms of lead poisoning are not well understood." (From a 1980 HUD Federal Register Notice.)
- "Research on the nature of lead paint hazards, however, is still in its infancy." (From a former Secretary of HUD)
- "The greatest research need for assessing control opportunities related to paint is therefore to obtain more exact information on the routes and rates of transfer of lead from paints into children's bodies." (From a 1980 National Academy of Sciences report sponsored by HUD.)
- "The extent and severity of the hazard is not well defined" (From a 1978 consultant report sponsored by HUD.)

In a 1978 self evaluation report, HUD research managers admitted that significant information gaps exist regarding the nature and extent of lead poisoning.

"The contribution of lead from other sources to children's lead levels is an unknown dimension and the relative contribution of these other sources vis-a-vis lead-based paint cannot be determined at the present time."

Pointing to the need for better information, the same report went on to state:

"An understanding of the nature and extent of lead poisoning is essential if successful control strategies are to be identified and the most effective and efficient alternatives for hazard reduction implemented."

The reasons why 9 years of HUD research has not yielded more definitive knowledge on the nature of lead poisoning is a controversial subject. Over the past several years, HUD research managers have been widely criticized for their belief that lead-based paint is overstated as the primary cause of childhood lead poisoning, a belief that causes coordination problems, as is discussed later. This belief is not generally shared by HUD officials charged with the responsibility for implementing HUD's lead-based paint regulations nor by leading medical authorities normally associated with childhood lead-poisoning issues. This latter group includes HHS and its Centers for Disease Control. Many experts believe HUD should confine its concern to the nature and extent of lead paint poisoning in housing.

Research on the extent of lead paint poisoning is also somewhat controversial. HUD researchers believe that sufficient information already exists on the extent of lead paint in housing and that the additional cost of refining existing data would not be cost effective. For example, in 1976 researchers canceled a project which would have yielded more precise data on the extent of lead paint in HUD-associated housing. Despite the lack of good data in this area, HUD canceled the project because of its cost (\$400,000). We agree that sufficient information already exists on the extent of lead paint in HUD housing to make policy decisions, but more refinements of this information are needed to help program managers decide upon appropriate regulatory strategies. For example, information on the following questions would be beneficial:

- Which HUD programs have the greatest number of children at risk?
- Where should HUD concentrate its lead abatement to achieve the greatest benefit versus the least cost?
- Where could past research results best be employed?

Answers to these questions might yield information on potential benefits of various HUD regulatory strategies

and would help HUD set priorities for its funds available for lead-based paint elimination.

LIMITED SUCCESSFUL TECHNOLOGY  
HAS BEEN ACHIEVED

Most of HUD's research thrust has been for determining the most effective means for abating the hazard of lead-based paint. Although some success has been achieved, HUD research has been unable to substantially economize the lead paint abatement process. Abatement procedures, for the most part, are still being performed using techniques which predate HUD's research program.

HUD's most useful research success has been in lead detection. HUD researchers helped refine a product which detects lead paint swiftly and effectively. Local lead abatement programs are heavily dependent upon the devices for determining the level of lead in paint.

For abating lead hazards, which includes devices for removing and for covering up lead, HUD has funded several separate techniques. Only two or three are judged by HUD to be technically feasible and effective. More important, they are not less costly than existing methods of abatement, and few if any of these HUD-developed techniques are being used by people who do abatement. Abatement techniques currently used are typically scraping and repainting or use of conventional barrier materials such as panelling or wallboard. We found little evidence that any HUD-developed abatement technologies are being utilized nor can HUD identify any lead-abating use of products developed from their technology. Only one HUD abatement technique--a fiberglass mat system used in conjunction with insulating paint--is in commercial development, but lead abatement is not the primary use being promoted by the manufacturer.

HUD researchers believe the main reasons why their technology is not being used include the following:

- Abatement is largely a labor-intensive process. Even if a cheap, effective barrier or wall covering were developed, the cost of installation would remain the major expense. Also, in many cities the primary lead hazard is in the woodwork and trim--surface areas which are difficult to cover.
- The market for innovative products is limited. HUD researchers believe that a major factor limiting the adoption and transfer of their technology is that



producers are unwilling to commit resources for manufacturing abatement products for such a limited market. Although about 27 million dwelling units have a potential lead hazard, abatement occurs in an unknown but probably small number of units. Local abatement activity is largely limited to instances where children are poisoned and subsequently found to reside in a leaded unit. Only then is an abatement order prepared. Thus, as local and Federal regulations are currently written, the market for abatement technologies is not large.

It is unclear how large a market is needed to attract manufacturers and what cost impact might result, or to what extent new technologies or refinements of old ones are necessary and technically possible to bring down the cost of abatement.

Some experts, including HUD's lead-based paint research director, believe more technological success might have been achieved had HUD relied more on its own expertise and less on private contractors to generate ideas for cost-effective abatement techniques. It is not clear whether this latter approach would have resulted in better technology. Opinion is divided regarding whether additional research effort could yield a truly cost-effective abatement product or process. Given the labor-intensive nature of abatement, we doubt whether a technological solution to the high cost of abatement could be easily achieved, even with a larger research budget.

#### COST OF ABATING LEAD HAZARDS

The cost of abating the Nation's lead paint hazards is an important consideration in understanding the dynamics of the lead-poisoning problem and in evaluating lead control regulatory strategies. HUD has devoted considerable effort to developing cost estimates for deleading, but such estimates are hindered by the many uncertainties regarding the nature and extent of the problem.

Using estimates developed and reported by the National Bureau of Standards, the following are various dimensions of the lead abatement costs.

- The cost of total abatement of the Nation's 28 million dwelling units likely to contain lead ranges between \$28 and \$35 billion in 1976 dollars. These figures exclude abatement of exteriors, which are known to be high lead sources, and administrative costs of operating a nationwide deleading program. Because of the

assumptions used in making these estimates, these numbers represent an upper-limit cost range.

- The cost of correcting only defective paint (the current HUD standard) is estimated at about \$2.1 billion in 1976 dollars.
- The cost of deleading if existing owners and tenants were to supply the labor would range from \$0.2 to \$0.3 billion (data developed from 1977 information).
- On a per dwelling unit basis, the cost of abating pre-1940 interiors ranges from \$370 to \$2,886 (in 1976 dollars) depending on labor, supply costs and amount of lead present.

#### Cost of abating HUD-associated housing

In 1976 HUD researchers estimated the following:

- 863,000 dwelling units were pre-1950 HUD-associated, of which 612,000 represented direct assistance programs (mostly public housing) and 251,000 were units from other assistance programs.
- Assuming all units were inspected and abated of any lead hazards, as many as 330,000 additional units would require abatement in the next year (mostly from newly insured units).
- The cost to Government would be about \$50 million; the cost to private homeowners and landlords would be \$36 million.

These figures are rough estimates only and are subject to many limitations. A HUD economist has recently estimated what it would cost to comply with a more stringent HUD standard (similar to local health codes). Assuming 1,200,000 HUD-associated units in need of abating, the cost would be as much as \$2.3 billion, \$1.2 billion of which represents the cost to abate public housing--the major area of Government expense.

Several factors complicate development of accurate estimates. For example, reliable data on the extent of lead paint in housing is unavailable. Abatement costs vary significantly based upon how much wall and trim contains lead, how many layers of lead paint need removal, access to the dwelling, whether the unit is a single or multifamily unit, labor rates and materials, and local abatement code requirements.

HUD cost estimates, although prepared using rational assumptions, may be overstated based on actual experience. For example, at a recent conference on abatement, several local lead control project abaters discussed their experiences. The consensus was that HUD estimates are too high and that actual costs for abating average more in the \$400-\$600 range, which is substantially less than HUD's estimated \$1,500 per unit. Although this group represents only seven cities and their individual abatement standards and labor forces differ, it does illustrate that abating lead hazards is being performed on a less costly basis.

#### COORDINATION PROBLEMS

Significant coordination problems exist between HUD researchers, the program office in charge of enforcing HUD's lead-based paint regulations, and the Centers for Disease Control which administers the nationwide childhood lead-screening and treatment program. The result is less than optimum use of research managers and their research results.

HUD research managers are generally excluded from certain Department policy discussions and program actions to which research representation would be beneficial. For example:

- A recent conference in Atlanta was arranged by the Lead-Based Paint Program Staff and CDC to hear experiences of abatement techniques and practices. Discussions of HUD research results were included along with many other subjects of direct concern to HUD research managers. HUD research managers were not invited to or advised of the conference.
- A demonstration program is being developed between the Program Staff and CDC for the purpose of collecting information on the extent of HUD housing in which children are found to have elevated blood lead levels. HUD researchers have not been consulted or advised of the demonstration despite the role they could play in helping Program Staff understand and best take advantage of the information.
- HUD Program Staff are generally unaware of specific HUD research projects as little contact or coordination exists between the two groups regarding the potential usefulness of current or past research results.

--Current HUD research efforts are focusing on the nature of lead poisoning in several cities. This information would be of direct benefit to HUD Program Staff, yet they are unaware of the nature of these studies.

Despite a philosophical difference of opinion between HUD researchers, the HUD Lead-Based Paint Program Staff, and CDC regarding the contribution of paint to lead poisoning, the avoidance of each other's advice and information and the adversarial nature of their relationship have led to missed opportunities for improving research--the above-described demonstration could have benefited from early research involvement, for example--and resulted in not taking advantage of existing expertise. The lack of high priority accorded to lead-based paint activities has allowed these coordination problems to persist. As a minimum, we believe HUD researchers need to be involved in all Department policy discussions on lead-based paint. Creation of institutional mechanisms, such as the previously discussed demonstration, needs to involve HUD researchers.

#### Change in research focus needed

HUD's current research program departs from the role embodied in the 1971 lead poisoning act. Guided by researchers' doubts about the relative contribution of lead paint to childhood lead exposure, most of HUD's current research budget is aimed at analyzing and studying those factors other than lead-based paint that contribute to high blood levels. HUD is funding a variety of epidemiologically related studies designed to examine various environmental sources of lead poisoning in conjunction with demographic and social characteristics. HUD researchers believe these types of studies are part of their mandate to study the "nature" as well as the extent of lead-based paint poisoning. Projects on abatement techniques are nearly complete and no new efforts are planned in this area.

We believe the issues being addressed by these studies are important research questions worthy of examination. We also believe, as does the National Academy of Sciences, that these kinds of studies need to be sponsored by "agencies with greater expertise and resources to support costly, sophisticated metabolic and epidemiological research." To the extent that these studies produce results useful to program offices in managing their programs and to HUD's regulatory monitoring office to help formulate regulatory strategies, this type of research has a role. Program offices, however, need to be involved in the studies--something that is not occurring now.

More important, HUD's research agenda should be jointly set by research and program officials based upon the needs of all HUD offices administering lead-based paint activities.

HUD requested the Academy to examine its research program and make recommendations. Their recommendations, published in mid-1980, suggest that HUD concentrate on topics relating to:

- determining lead sources in and around housing,
- determining the extent and seriousness of lead exposure in housing including the development of a national inventory of the extent of the housing problem, and
- studying the contribution of lead paint mixing with dirt and dust.

In addition, the Academy reported that while it may not be cost efficient to continue abatement research, improvements can be made by

- evaluating the best methods presently available to use for abating under varying conditions,
- determining the relative usefulness of various approaches to reducing exposure to lead in housing (such as education and counseling) and
- conducting economic assessments of policy alternatives.

HUD researchers have expressed disappointment with the Academy report and believe that its recommendations were already analyzed before the 1980 report. We believe these recommendations do provide the parameters within which future research decisions can be made, but their implementation would be costly.

#### CONCLUSIONS

Although HUD's research success has been limited, questions regarding the nature and extent of lead poisoning and developing cost-effective abatement techniques are expensive and difficult to resolve. More research can be done in these areas, but HUD researchers cannot do it alone.

HUD researchers' questioning of the long-held and still-accepted belief that lead-based paint is a major health

problem has led to severe coordination problems which inhibit the effectiveness of lead-based paint research activities.

RECOMMENDATIONS

We recommend that the Secretary of Housing and Urban Development

- direct the Assistant Secretary for Policy Development and Research to develop a lead-based paint research agenda that represents the needs of all offices administering lead-based paint programs and
- direct all Assistant Secretaries having lead-based paint programs to take steps to fully involve all offices in current and future program activities.

## CHAPTER 3

### HUD REGULATIONS ARE INADEQUATE

In 1973 the Congress intended HUD to eliminate the hazard of lead-based paint as far as is practicable in housing owned or supported by the Federal Government. HUD interpreted its responsibility narrowly, and despite a 7-year-old regulatory mission, implementing regulations and procedures contain inadequacies. Current efforts to strengthen its regulations are underway, but these efforts are resisted by HUD program offices largely due to cost factors. An immediate need exists for HUD to evaluate its current regulations in terms of its conformance with the Congress' mandate.

### HUD'S REGULATORY PROGRAM

HUD's regulatory mission stems from the 1973 amendments to the 1971 Lead-Based Paint Poisoning Prevention Act which directed HUD to eliminate as far as is practicable the hazards of lead-based paint poisoning with respect to housing it assists. As a minimum, the Congress directed HUD to

- establish appropriate measures to eliminate as far as practicable immediate hazards from lead-based paint to which children may be exposed,
- notify purchasers and tenants of such housing of the hazard from lead-based paint, and
- establish procedures to eliminate lead-based paint hazards from all federally owned properties prior to their sale for residential use.

Congress directed HUD to apply these procedures to all housing built before 1950, but it may include post-1950 housing if the Secretary so determines.

HUD's responsibility to prohibit the future use of lead-based paint in residential structures constructed or rehabilitated with Federal assistance is its other regulatory role.

In July 1976, 32 months after the 1973 amendments became effective, HUD published final regulations implementing the provisions of the 1973 amendments. The regulations apply to all "HUD-associated housing," which HUD defines as any residential structure owned by HUD or financially assisted under any programs administering by the Secretary of HUD. These regulations also apply to housing owned by other federal agencies. Key provisions of the regulations include:

- Notifying all tenants and purchasers of HUD-associated housing constructed before 1950 of the hazards of lead-based paint.
- Eliminating the hazards of lead-based paint in HUD-associated housing, including other federally owned housing,
- Prohibiting the future use of lead-based paint in HUD-associated and all other federally assisted housing.
- Compliance by HUD, as an owner of housing, with all State and local laws and ordinances pertaining to lead paint hazard abatement.

Responsibility for inspecting dwelling units and abating the lead paint hazard generally rests with HUD or local government. HUD regulations do not apply to the private housing market, which makes up the bulk of existing dwellings potentially having a lead paint hazard. HUD estimates that 35 million existing total dwelling units built before 1950, probably less than 3 percent were or are currently "HUD-associated."

Each HUD Assistant Secretary is responsible for taking the necessary actions to implement lead-based paint regulations affecting his or her program. Other Federal agencies are responsible for complying with the lead-based paint regulations to the extent they assist or own residential housing. HUD has a monitoring role with respect to other agency actions.

#### A NARROW INTERPRETATION OF LAW ADOPTED

In developing its regulations to implement the 1973 amendments, HUD had many options to choose from but eventually opted for a relatively narrow regulatory strategy. The result is that 7 years since passage of the amendments and 9 years after the Congress first declared its concern about hazardous levels of lead paint, HUD regulations are limited and may not be in full compliance with congressional intent.

Examples of how HUD chose a narrow regulatory approach include the following:

- HUD regulations apply only to "immediate" hazards. Immediate hazards are defined by HUD as paint on applicable surfaces which is cracking, scaling, chipping, peeling, or loose, and this definition



excludes some lead-based paint surfaces to which many children are exposed. Paint that is "tight" Yet, intact or non-defective paint is a hazard to children, a fact that was well known before and during HUD's regulatory deliberations. For example, in a 1973 court case involving HUD, experts reported that about 22 percent of the poisoning cases occurred in children who chewed intact (also called "chewable") surfaces. Also, most local health codes include intact paint as hazardous in areas accessible to children (usually under 4 or 5 feet in height). HUD's own lawyers have determined that correcting defective paint only is not in compliance with the congressional mandate and that the danger of lead poisoning because of non-removal of lead-based paint from chewable surfaces still exists.

--HUD regulations for inspecting and abating lead paint hazards apply only when dwelling units are changing occupancy or are being occupied for the first time. However, with respect to public housing, the requirements are not clear. Existing occupants are, according to HUD regulations, merely "notified" that a potential hazard may exist. Since inspection cycles in general vary from program to program, the risk of poisoning could continue for years before a change in occupancy triggers an inspection for lead paint hazards.

--HUD's tenant notification procedures apply only to pre-1950 housing, yet lead-based paint was commonly used in homes built after 1950. Surveys have shown that lead-based paint was used at least up to the early 1970s. Also, research conducted by the National Academy of Sciences has showed that a 1-percent lead paint level, the federally allowable level in 1971, is not safe. Although the 1973 amendments creating this requirement established 1950 as a minimum date for notification, the Congress also advised HUD it may include post-1950 housing if a determination reveals such housing contains paint hazards. No such determination has been made despite evidence that post-1950 homes also pose a lesser but potential hazard. HUD's 1976 regulations regarding hazard elimination are very similar to regulations published by HUD in 1972, before the Congress enacted the 1973 amendments. These earlier regulations were promulgated by HUD under its own initiative and contained procedures for eliminating the hazard of lead-based paint from HUD-associated properties and prohibiting

the future use of lead-based paint in HUD housing. Whether the Congress intended in 1973 for HUD to strengthen these existing hazard elimination procedures is subject to debate.

Other aspects of HUD regulations are confusing and misleading. For example:

--It is not clear whether HUD's inspection and hazard elimination procedures are limited to pre-1950 housing. The 1973 amendments require procedures to apply to pre-1950 housing but may apply to post-1950 housing if HUD so determines. HUD regulations contain no reference at all to a pre- or post-1950 restriction--all defective paint, regardless of dwelling unit age, is presumed to be lead-based paint and must be corrected. The National Academy of Sciences report to HUD, a 1978 HUD consultant report, and some HUD program officials all assume, however, that hazard elimination procedures apply only to pre-1950 housing.

--HUD's earlier 1972 regulations may erroneously give housing officials and private landlords a reason for ignoring the 1976 regulations. The 1972 regulations allowed local housing authorities to selectively test a sample of their units in projects for the presence of lead-based paint and, upon developing a negative finding, could apparently be exempted from any further inspection for lead paint. Unfortunately, this 1972 allowable procedure was inadequate and did not establish the absence of lead-based paint. No such procedures exist in the current regulations. We discovered that one of the Nation's largest housing authorities used this procedure in 1974 to claim an exemption from notifying tenants of the hazards of lead-based paint. The housing authority is still not doing so despite evidence that its units contain lead paint. We do not know how many other housing authorities used this procedure to excuse themselves from complying with lead-based paint procedures.

HUD has recently initiated an Advanced Notice of Proposed Rulemaking regarding its lead-based paint regulations. A HUD legal opinion regarding the inadequacies of current HUD regulations led to this action. Many of the problems we describe above are being considered.

#### COST CONCERNS HAVE INFLUENCED HUD REGULATIONS

Concern about the cost and impact of implementing lead-based paint regulations and the possible adverse effect of

such regulations on the Department's housing supply programs have been motivating forces behind HUD lead-based paint policy actions. Also present has been the fear that potential lawsuits brought by poisoned victims residing in HUD-owned dwelling units might cause the courts to force HUD into implementing a stronger regulatory role and thus further affect its programs.

HUD recognizes that its limited regulatory strategy of inspecting for lead-based paint only upon change of occupancy--and then only correcting defective paint--would not result in eliminating all hazards of lead-based paint. However, its regulations reflect what it considers to be the most practical solution to lead poisoning and hazard abatement. More stringent regulations, according to HUD, would increase Government costs without a corresponding increase in protection since only a small number of children are poisoned. In promulgating its 1976 regulations, HUD stated:

"While completely removing all lead-based paint from all housing could substantially eliminate one source of lead poisoning, the potential costs involved would be prohibitive. In addition, such costs could adversely affect the value of the housing involved and could also substantially reduce the supply of otherwise standard housing available to low and moderate income families."

Questions raised by HUD researchers regarding nonpaint sources of lead may contribute to the Department's reluctance to adopt stringent regulations. In addition, the proposed rulemaking action to strengthen existing lead-based paint regulations was initially opposed by every HUD Assistant Secretary, primarily on grounds of its potentially adverse cost and program impact.

We believe that while these cost and program impact concerns are legitimate, proper evaluation of regulatory approaches suffers from a lack of basic data from which cost benefit evaluations can be made. Despite the long history of HUD's regulatory mission and its many years of program experience, we found no evidence that HUD has attempted to relate the actual or estimated cost of eliminating lead paint hazards to the potential benefit from reduced poisonings.

#### LEAD-POISONING LITIGATION

We identified 23 cases of litigation involving lead-based paint poisoning issues, but only 6 involved HUD.

Despite the few cases involving HUD, the potential impact on HUD programs that could result from future lawsuits concerns many HUD officials. Recent administrative claims against HUD have brought these concerns into sharper focus.

Cases involving HUD are summarized below.

City Wide Coalition Against Childhood  
Lead Paint Poisoning v. HUD

This was a 1973 class action brought against the Philadelphia housing authority and HUD to enjoin the sale of residential housing without first complying with HUD rules and regulations and local rules and regulations concerning correcting lead-based paint surfaces. A preliminary injunction was issued enjoining HUD from selling residential properties in Philadelphia until all lead-based paint accessible to children was removed.

City of Philadelphia v. Page v. HUD

This was a 1973 action in which the city of Philadelphia sought to enjoin a homeowner from allowing hazardous lead paint to remain unabated. The homeowner felt that HUD should assume the responsibility for abatement since HUD sold the property to the homeowner in 1969. The court found that HUD breached an implied warranty of habitability by selling the home containing dangerous lead levels in violation of local health codes.

Davis v. Romney

This was a 1974 class action brought against HUD for damages and relief on the basis that insured mortgages be secured by property meeting local ordinances. Relief was granted but not damages. On appeal by both parties, the court found that HUD must make efforts to ascertain that homes with insured mortgages meet municipal housing code standards. Injunctive relief was judged inappropriate.

Other litigation includes Bledsoe v. HUD, brought in 1974 under the Tort Claims Act. The U.S. was substituted as the proper party defendant in 1975. Docket entries in the case show that the parties agreed upon a settlement and the suit was discussed with prejudice in 1978. A 1973 case (Willoughby v. Leah & HUD) which was dismissed because the HUD area office promptly brought the property into compliance with local regulations. A more recent suit was filed in Delaware in 1980. The suit is a class action on behalf of tenants in a public housing project who claim the local

housing authority and HUD have failed to perform their duties to comply with both local and Federal regulations pursuant to lead-based paint hazards. A 5-year-old child living in the project has been diagnosed as having lead poisoning, allegedly resulting from ingesting lead-based paint chips. The plaintiffs are asking the court to, among other things, enjoin the public housing authority from committing these violations and to treat lead paint removal as a high priority activity.

In addition to this current lawsuit, other recent claims against HUD have been filed. Four claims filed in New Jersey involve lead-poisoned children who are living or had lived in HUD-owned housing. HUD is taking action on these claims.

In cases not involving HUD (17 identified), most involved actions on behalf of tenants (some of whom were lead-poisoning victims) to force the owner or landlord to remove a lead paint hazard. The legal basis for the suits varied (that is, local code violations, landlord liability), and landlord liability was not always established.

The actual number of lawsuits involving lead-poisoning victims is unknown, since reported cases represent a fraction of all lawsuits filed. As to why relatively few cases of lead poisoning apparently exist, the most common reason cited by experts with whom we spoke is the lack of awareness of potential legal remedies by the parents of victims, who tend to be poor. Another factor cited might be the stigma of parental negligence that might accompany a legal proceeding as the parents might have to admit that their child was observed eating paint chips.

Many HUD officials believe there is potential for future litigation stemming from poisoned children residing in HUD-owned housing. When HUD was developing its 1976 regulations, various staff option papers expressed concern that successful lawsuits might result in the courts forcing HUD--as they did in Philadelphia--to adopt and enforce a much stricter regulatory language than it wanted. Stricter language might result in a greater drain on HUD's budget and could adversely affect the housing supply. Although such lawsuits never materialized, the recent lawsuit and claims filed by poisoning victims have rekindled this concern in HUD.

#### CONCLUSIONS

HUD regulations contain several limitations: not all hazardous lead-paint surfaces are covered, inspections for hazards occur only in housing changing occupancy, and tenant notification is limited to older buildings, even though newer

ones can also have a hazard. In addition, the regulations are confusing: when and how often to inspect for lead paint hazards is not clear, and the 1972 regulation may be misleading HUD program officials. Concern about the cost of implementing regulation and potential impact on the housing supply are key factors influencing HUD policy decisions.

#### RECOMMENDATION

We recommend that the Secretary of Housing and Urban Development assess the costs and benefits of alternative regulatory strategies in terms of creating regulatory language that not only fully satisfies the congressional mandate but also allows the most effective use of limited funds to eliminate lead paint hazards from HUD-assisted housing.

## CHAPTER 4

### HUD IS NOT FULLY COMPLYING WITH ITS LEAD-BASED PAINT REGULATIONS

Although HUD's lead-based paint regulations have been in place since 1976, we found little evidence that its major programs were complying with those regulations. Inadequate program instructions and the low priority accorded lead paint regulations by program officials contribute to noncompliance. HUD needs to develop procedures that are consistent with its regulations and that contain adequate management controls. A greater commitment to enforcing lead-based paint regulations is needed among HUD Assistant Secretaries in charge of implementing them.

#### PROGRAMS COVERED BY REGULATIONS

Implementing lead-based paint regulations is the responsibility of individual Assistant Secretaries whose programs are directly affected by the lead-based paint mandate. Aside from the regulations themselves, no agencywide instructions exist for implementing the regulations due to the diversity of HUD programs. Procedures vary by program and are provided in the form of specific notices and handbooks to be used by program offices, local housing authorities, and other organizations participating in HUD programs. Major programs subject to lead-based paint regulations include:

- Public housing. This program supports about 1.2 million dwelling units. Public housing authorities (PHAs) are responsible for complying with lead-based paint regulations.
- Section 8 existing housing. This, the Department's major rental assistance program, includes about 600,000 units. Owners are responsible for complying with lead-based paint regulations.
- FHA-insured housing. During the 6-year period ending September 30, 1979, almost 2.8 million housing units had received FHA insurance. Sellers are required to comply with lead-based paint procedures.
- Community Development Block Grants. HUD awards grants to local governments to fund a variety of community development needs, some of which are housing. The

number of units rehabilitated with these grants is unknown although HUD budgeted over \$400 million in fiscal year 1979 for this purpose. A tandem program, section 312, provided loans for rehabilitating over 21,000 units on a \$234 million budget in fiscal year 1979. Grantees and borrowers are responsible for lead-based paint compliance.

--HUD-owned property. As of June 1980, HUD owned over 60,000 dwelling units and another 12,000 units were in the process of becoming HUD owned. In general HUD is responsible for complying with lead-based paint requirements.

A variety of other assistance programs are also subject to lead-based paint regulations, but all of them combined account for far fewer dwelling units than the above-described programs. For example, the Experimental Housing Allowance Program provides direct cash assistance to 25,000 households.

#### EXTENT OF LEAD-POISONING PROBLEM IN HUD-ASSOCIATED HOUSING

The total number of dwelling units subject to existing HUD lead-based paint regulations is an unknown. In 1976 HUD researchers estimated that about 863,000 units assisted or insured by HUD were built before 1950, the era of high lead paint usage. A more recent estimate by a HUD economist is that about 1,200,000 units are likely to be in need of lead abatement if HUD were to expand the scope of its regulations to include accessible surfaces and adopt a pre-1971 building age standard. The total "stock" of HUD-associated units in need of abatement is constantly changing over time, making precise estimates difficult. For example, the stock would be reduced by past abatement activity and public and private rehabilitation efforts. Increases would result from additions to the assisted housing stock (section-8 existing housing and new insured mortgages) and from general deterioration. Also, since HUD regulations require only correcting defective paint and not total lead removal, a defective paint condition can reappear in a previously abated unit.

A more important figure on the extent of the problem would be how many children are at risk living in HUD-associated housing. As discussed in chapter 1, 150,000 to 200,000 children, or about 1 percent of all children under age 7, are estimated to have undue lead in their bodies. Since HUD-associated housing accounts for a small percentage of all "at risk" housing, only a small percentage of children is likely to reside in HUD-associated housing. A still



smaller percentage is likely to live in housing owned by HUD. (A 1980 report on HUD's Experimental Housing Allowance Program estimates that between 10 and 25 percent of the 10,000 program participants live in housing having both a defective paint condition and a child under 7 present.)

Another measure of the extent of children with elevated lead levels residing in HUD housing is illustrated from health statistics compiled by HHS' Centers for Disease Control. CDC reports that over a 6-month period ending December 1979, 1,708 HUD-associated dwelling units were found with lead-based paint and had children with elevated lead levels. This data is severely limited, however, due to the confusion over the definition of "HUD-associated" as interpreted by local officials reporting the data. More important, the majority of the dwelling units probably represent addresses within a certain block grant eligibility area and thus may or may not be HUD associated. About 200 dwelling units are identified as being either public housing or HUD-owned properties as reported by local lead project directors. During the same period CDC reported that 1092 were abated. It is not known how many of the remainder are in the process of having their lead hazards corrected. If general trends from health screening programs hold true, many will not be abated, thus reexposing the children to a leaded environment.

The low level of abatement associated with lead toxic children distresses health officials who attribute several causes:

- Cost burden to owner-occupant and to landlords whose rents charged frequently are too low to recover abatement costs.
- Lack of local enforcement.
- Insufficient abatement resources.

Only this year has HUD received this kind of information, and it plans to use this data to assure elimination of lead hazards from such dwelling units. This is a positive step that HUD should give top priority.

#### NONCOMPLIANCE IN IMPLEMENTING HUD REGULATIONS

Although HUD has little or no idea what degree of compliance exists among its various programs, indications are that confusion and noncompliance are widespread. Our survey yielded few positive signs that HUD offices and housing authorities are actively notifying tenants and/or purchasers

of the hazards of lead-based paint--a key provision of HUD regulations. Similar findings have been reported by the HUD Inspector General.

#### Public housing

We found little indication that tenants residing in old dwelling units were being notified of the hazards, symptoms, and precautions of lead-based paint poisoning as required by statute, HUD regulations, and HUD procedures. Public housing is HUD's largest direct assistance program. Several hundred thousand public housing units are pre-1950 and thus probably contain high levels of lead. We believe noncompliance is due to lack of awareness and confusion regarding lead-based paint regulations and procedures.

Assured notification of the hazards of lead-based paint is required to be given to purchasers and tenants of all pre-1950 housing. Recipients are to be advised of the symptoms and treatment of lead-based paint poisoning, and of the importance and availability of maintenance and removal techniques for eliminating such hazards. To implement this requirement in public housing, in June 1974 HUD sent a notice to all public housing authorities, setting forth specific procedures by which the tenants residing in low-rent public housing constructed before 1950 were to be provided with the required information. The procedures were to be followed for each tenant in occupancy in June 1974, and for each new tenant. The required information was to be provided to the tenant through a specific HUD form, which contained a signature space wherein the tenant certified that the required information had been received. The tenant was to keep one copy of the form while the second, signed copy, was to be attached to the lease and maintained in the PHA's file for HUD review.

In order to determine whether this assured notification system was being followed, we contacted 12 PHAs, all of which have units that were constructed before 1950. None of the PHAs we contacted were maintaining this notification system. One of these is among the Nation's largest, having over 50,000 pre-1950 units in 1974. Most of the PHA officials we contacted told us that they were not even aware of this requirement. Of the four PHAs that were aware of the requirement, two said that they had carried out the procedure when it was established in 1974 but not since then. One of the other two PHAs told us that it had written to HUD in 1974 asking for an exemption from the requirement based on a sample of apartments tested which showed no lead paint on the walls (lead paint did exist on trim, however). Because HUD did not respond, the PHA assumed that its request for an exemption

had been granted. Several of the PHAs asked us for a copy of the tenant notice form (which we provided) so that the assured notification system could be followed.

The HUD area office in Atlanta informed us that the housing authorities in its area had carried out the notification procedure in 1974 but are not doing so now. We were informed that the area office would have to consider whether or not to tell the PHAs to comply with the procedure. However, the HUD area office in Philadelphia told us that it would tell the PHAs in its area to comply with the procedure.

#### Confusion over requirement

Confusion exists among various HUD officials as to whether the assured notification procedure established in 1974 still exists. This confusion may be a factor contributing to the noncompliance at every housing authority we contacted.

After we found noncompliance with the 1974 procedure, a HUD program official to whom we were referred for contact told us that the 1974 HUD notice had expired due to a procedure established in 1976 whereby all HUD notices expire after 6 months. We were told that the 1974 HUD notice was, in effect, incorporated into HUD's lead-based paint regulations when they were established in 1976. However, several HUD program officials were unable to tell us whether all PHAs have those regulations on hand or whether PHAs would refer to them as a part of their operating procedures. We contacted several PHAs and learned that they did not have the regulations on hand. Many PHAs told us they believe that the tenants are probably generally aware of lead paint poisoning, through things like (1) the news media, (2) tenant meetings, (3) word-of-mouth, and (4) bulletin board notices posted in project managers' offices in years past. They saw no need to systematically provide that information to the tenants in pre-1950 units in spite of the legal requirement.

We subsequently learned that PHAs were informed as recently as March 1979 that the 1974 HUD procedure was still an active requirement, a fact which surprised at least one HUD headquarters individual. In addition, we noted that HUD's control record of notices listed the 1974 notice as still active in September 1980.

There also appears to have been a reluctance on the part of PHAs to implement the procedure from its very inception. In their National Newsletter dated August 26 1974, the National Association of Housing and Redevelopment Officials

(NAHRO) referred to HUD's assured notification procedure for tenants in pre-1950 public housing and stated:

"It has been reported to NAHRO that a number of housing authorities are concerned about the strong wording of the form and feel that it may cause undue alarm among tenants. In addition, it may result in the filing of a number of claims against LHA's [local housing authorities] for damages caused by lead-based paint. It has been further reported that distribution of this particular form to tenants would conceivably result in the cancellation of PHAs public liability policies."

In view of (1) this indication of a reluctant attitude on the part of PHAs, (2) the noncompliance with the assured notification procedure at every housing authority we contacted, and (3) the apparent confusion within HUD as to this requirement, we have serious reservations as to the extent to which the procedure has been carried out in public housing.

We focused our attention in HUD's public housing program on the tenant notification requirement because it represents the minimum HUD is required to do under the lead-based paint statute. The extent to which PHAs are inspecting dwelling units and eliminating paint hazards--the other major legal requirement--is an unknown. HUD officials do not collect information on the number of homes inspected for and abated of lead paint hazards. The confusion we encountered, lack of awareness, and resulting noncompliance in tenant notification--a far simpler requirement--suggest little reason to believe public housing hazard abatement procedures are aggressively being pursued. In fact, indications exist to the contrary. For example, the former director of HUD's Lead-Based Paint Program Staff stated in an internal document in 1979, "There is a growing body of data that a number of Public Housing Authorities are not performing the unit inspections as required by the Department's Lead-Based Paint Prevention Program."

#### Section-8 existing housing

We discovered several problems with the way in which lead-based paint regulations are administered in the Department's Section-8 Existing Housing Program. As with other programs we examined, indications are that tenant notification requirement procedures are not being properly followed.

Since May 1976, HUD regulations for section-8 existing housing have included the requirement that families are to

be notified of the hazards, symptoms, and treatment of lead paint poisoning and the precautions to be taken. This information is to be included in a packet of other information provided by the administering PHA at the time the family is selected for participation in the program. In August 1976 these regulations were included in HUD's section-8 existing housing handbook that was provided to program participants and HUD staff.

In May 1977 a HUD study found that more than 1 of every 10 PHAs surveyed were not providing the required packet of information to participating families. In July 1979 a HUD Office of Inspector General (OIG) report disclosed that the families were not always provided with a copy of HUD's booklet regarding lead-based paint poisoning, even though the family's unit was constructed before 1950. The report indicated that 345 section-8 existing units had been inspected during the OIG review but did not indicate how many of the 345 units were built before 1950. Of the pre-1950 units, OIG found that families in 28 units (covering 8 of HUD's 10 regions) had not been provided with the lead paint booklet.

The November 1979 revision of HUD's section-8 existing housing handbook restated the 1976 handbook requirements and also mentioned the HUD Form 52591 as a source of the needed information on lead paint poisoning. The 1979 handbook, however, does not make clear whether this particular form is required or optional, or whether a copy signed by the tenant is also to be retained by the PHA as proof that it has complied with the assured notification requirement. The form in question has a space at the bottom for such a signature.

A HUD official told us that the form is optional. The Secretary of HUD has recently stated that no specific form was used to provide the required information. However, HUD's lead-based paint regulations require a HUD brochure to be used to provide the notification. We believe that these variances between regulations and procedures and their lack of specificity have contributed to noncompliance with the assured notification requirement.

Audits by us and HUD's Inspector General have reported that substandard units were being subsidized in the Section 8 Existing Housing Program. The substandard conditions included the potential for lead-based paint poisoning in some units. The audits indicated a lack of adequate guidance and uniform interpretation of housing quality standards nationwide. In one HUD regional office, no inspections were occurring. Because of these concerns, HUD issued a new housing quality inspection

form for PHAs on August 27, 1980. It appears to be a significant improvement over previous inspection procedures, and includes a room-by-room check for defective paint conditions. Common hallways, however, are excluded from inspection for lead-based paint, but they need to be included since children can and do play in such areas.

#### HUD-owned housing

The results of our inquiry into six HUD area offices responsible for following lead-based paint regulations in HUD-owned properties indicate noncompliance with one or more of the various requirements in all offices contacted. For properties it owns, HUD is required to notify tenants and purchasers of pre-1950 housing of the hazards of lead-based paint and to inspect for the presence of lead hazards. When the property is sold certain modifications and addendums with respect to lead paint hazards are to be made a part of every sales contract.

Only two of the six offices contacted were following tenant notification requirements. In Pittsburgh, for example, a city in which more than 90 percent of HUD-owned properties are pre-1950, a HUD property disposition officer acknowledged that he was unfamiliar with the basic lead-based paint regulations and procedural requirements. This lack of action may affect as many as 100 tenants occupying pre-1950 dwellings that were not provided any notification of lead-based paint hazards. A similar situation exists in Atlanta. When we asked the property disposition officer about tenant notification, he said he was unaware of the requirement and immediately initiated steps to correct this deficiency.

HUD can sell its properties without eliminating any lead hazard found by inspection. In such cases, it must attach an addendum to the sales contract advising the purchasers that they have a responsibility to abate the hazard before tenant occupancy. Before sale is complete, HUD requires that an escrow account be established to cover hazard elimination. These requirements are clearly identified in HUD's property disposition instructions for all area offices. Only one area office we contacted claimed awareness of the addendum to modify the sales contract.

#### OTHER INDICATIONS OF NONCOMPLIANCE

HUD's Office of Inspector General reports have also identified examples of noncompliance with lead-based paint requirements. One such report reviewed the New York area

office procedures covering the receipt and disposition of lead-based paint escrows required from purchasers of properties sold by HUD on an "as is" basis. As-is sales are properties that are offered for sale on a cash basis, without warranty or mortgage insurance. The OIG review noted " \* \* \* that NYAO [New York area office] was not complying with HUD policies and procedures established to implement the Lead-Based Paint Poisoning Prevention Act."

The Inspector General attributed this noncompliance to the low priority assigned the program and lack of supervision given. Since HUD has no assurance that lead-based paint hazards are being removed, people may be living in homes containing potentially hazardous conditions. Also noted in the same report was an inconsistency in the enforcement of lead-based paint health hazard guidelines. Homeowners in New York were required to correct any lead-based paint hazard existing in homes sold as is, while homeowners purchasing similar units in Newark had lead-based paint hazards corrected at Government expense. Handbook provisions now permit each local office the option to select the method used by either the Newark or the New York offices.

OIG reports have also noted noncompliance in Community Development Block Grant rehabilitation activities. A recent OIG report of the Denver regional/area office stated the following:

"All three grantees were not in full compliance with the lead-based paint restriction \* \* \*. In all 14 cases the tenants indicated to us that they had not received the required information. Also, grantee inspection documentation did not disclose that efforts were made to discover lead-based paint hazards. The three grantees were of the opinion that lead-based paint was no longer available on the market and, therefore, compliance appeared to have received a low priority. In our opinion, the availability of lead-based paint is only partially relevant to the requirements. The regulations are concerned with the prohibition of lead paint but also with the discovery of existing hazards and education of property occupants."

Another OIG report on the Philadelphia area office also disclosed several deficiencies:

"All four grantee programs did not identify properties with HUD lead-based paint violations."

Homeowners were not provided information by the grantee or contractor concerning the hazards of lead-based paint. Grantee inspections did not include an examination of this potentially hazardous condition."

In total, we discovered seven separate OIG reports which identified noncompliance with lead-based paint requirements.

#### Program office survey

Concern over noncompliance in HUD program offices recently led to an informal telephone survey by a member of the Lead-Based Paint Program Staff. Although the results have not been published or analyzed, the responses indicate lack of full awareness among several HUD area offices regarding HUD headquarters lead-based paint program activities.

#### Program compliance activities

Although our review results revealed noncompliance with HUD's tenant notification requirements, several program officials, including the Deputy Assistant Secretary for Housing Programs, believe that HUD is actively inspecting lead hazards in its many program areas. We are aware that in some areas abatement is occurring. For example, the director of Philadelphia's lead control project told us that he has worked with HUD's property disposition officials and knows of HUD's extensive abatement activities in Philadelphia. We have also heard other local lead control project directors describe how they work with HUD in abating hazards. The extent to which compliance is occurring, however, is unknown as HUD has not evaluated or monitored compliance.

#### DEFICIENCIES IN PROGRAM PROCEDURES

Contributing to noncompliance with lead paint regulations may be inadequate program procedures, which we found flawed in many ways.

#### Lack of enforcement

Although HUD regulations require each Assistant Secretary to include enforcement provisions in his or her procedures, we found few such provisions in any HUD regulations. Also, no attempts have been made to determine if lead-based paint regulations are being complied with in any HUD program areas. This lack of data on inspection and abatement activity in HUD programs severely limits HUD's ability to enforce its



regulations. No single individual in HUD headquarters or field offices is generally responsible for monitoring lead-based paint compliance within HUD program areas.

The range of documentation required to evidence regulatory compliance ranges from extensive in section-8 existing housing, in which a room-by-room inspection is required, to minimal in public housing, in which very little documentation is required.

#### Inconsistent requirements and standards

HUD's program instructions are inconsistent in several respects:

- Assured notification of the hazards of lead-based paint is required by statute and by HUD regulations to be given to all tenants and purchasers of HUD-associated housing constructed before 1950 or later if the Secretary so determines. A HUD brochure developed for this provision uses a 1955 building age date, while other brochures and instructions use the required 1950 construction date. Neither date is appropriate since it is well known that hazardous levels of lead paint were used throughout the 1950s, 1960s, and early 1970s.
- Discovery of the presence of lead paint hazards may or may not affect continued Federal support, depending on the program. In FHA insured housing, for example, elimination of any lead paint hazard is a precondition to receiving Federal assistance. Discovery of a lead paint hazard in public housing or in block grant recipients, however, will not necessarily affect continued Federal support. HUD can sell property it owns with or without first abating hazards.
- Frequency and timing of inspection for lead-based paint varies by program. Upon change of ownership, all units in all HUD-associated property must be inspected for lead paint hazards. Section-8 existing dwellings also require an annual unit inspection and recertification of the absence of lead-based paint. No similar provision exists in public housing or in HUD-owned units. The practical effect of this difference is that public housing and HUD-owned housing tenants may live for years in a hazardous dwelling unit whereas a section-8 tenant's unit will be inspected at least annually. In HUD-owned housing, inspection and subsequent hazard elimination are required just 30 days before sale and HUD procedures

allow it to sell its properties without first abating any hazard. Although HUD also inspects properties when they are acquired, years of occupancy can and do occur before sale and thus before an inspection for lead paint hazards. In one area office we noted that HUD owned several pre-1950 projects for several years. The tenants in these projects may be unnecessarily exposed to a lead paint hazard for long periods of time.

--Age of dwelling units subject to inspection varies by program. Although the Congress intended HUD, as a minimum, to include pre-1950 dwellings under its inspection and hazard elimination program, HUD regulations use no such building age standard. Program instructions use a variety of standards. For HUD-owned properties, inspecting and eliminating hazards apply only to pre-1971 housing. In section-8, no building age cutoff date is used. In public housing, instructions are particularly confusing. A still active 1974 instruction to all PHAs uses a pre-1950 standard and references HUD's 1972 regulations, which were superseded in 1976. A 1978 instruction to all PHAs encloses the 1976 regulation (which has no building age standard) that conflicts with the previous instruction. As a result of these varying standards, PHAs may be correcting defective paint conditions in newer section-8 units--which are far less likely to have a dangerous lead content--and at the same time missing dangerous defective paint in older public housing projects.

## CONCLUSIONS

We found much confusion and noncompliance with lead-based paint regulations in several HUD programs. Other sources, including HUD's Inspector General have yielded similar findings of noncompliance. HUD's noncompliance with tenant notification requirements--the major regulation requirement we focused on--is particularly important because (1) advising tenants in old buildings of the potential hazard of lead-based paint is a relatively simple and cost-effective procedure and (2) since not all HUD-associated units are inspected for lead-based paint, notification is the only preventive measure available to these existing tenants. Some tenants may live in units for several years before an inspection takes place.

Deficiencies in HUD's program instructions may be a cause for HUD inaction. Inadequate enforcement mechanisms and inconsistent requirements characterize HUD inspection

and abatement procedures. As a result of these administrative deficiencies, program monitoring for lead-based paint compliance is made difficult at best; at worst, HUD is not complying with its own regulations and thus is unnecessarily exposing young children to a major source of lead poisoning.

#### RECOMMENDATIONS

We recommend that the Secretary of Housing and Urban Development direct those Assistant Secretaries having programs subject to lead-based paint regulations to

- take immediate steps to notify all appropriate HUD-associated housing tenants of the hazards of lead-based paint;
- revise program instructions to assure that they are consistent, include appropriate enforcement provisions, and are understood by individuals responsible for carrying out lead-based paint regulations; and
- establish goals and priorities for carrying out HUD's lead-based paint responsibilities as part of an overall Department strategy for addressing lead-based paint hazards in HUD-associated housing.

## CHAPTER 5

### HUD NEEDS TO IMPROVE

#### ITS REGULATORY MONITORING

HUD's monitoring of lead-based paint regulatory responsibilities is inadequate. Despite a regulatory mission in place since 1973, HUD has not evaluated its programs for lead-based paint regulatory compliance. HUD has neither the information nor the resources necessary to properly manage its regulatory monitoring responsibilities, despite its long history of a lead-based paint role. The Department's general lack of commitment to enforcing its lead-based paint regulations has greatly inhibited past monitoring efforts. Several corrective actions are necessary to improve monitoring.

#### CURRENT MONITORING ACTIVITIES

Responsibility for administering and enforcing Department lead-based paint regulations rests with HUD's Assistant Secretaries. Monitoring overall HUD enforcement is the responsibility of the Lead-Based Paint Program Staff, who work for the Assistant Secretary for Neighborhoods, Voluntary Associations, and Consumer Protection. Major program activities include:

- developing lead-based paint educational materials,
- monitoring and handling consumer complaints regarding lead-based paint, and
- reviewing lead-based paint instructions and contracts to assure regulatory compliance.

The program staff is currently attempting to finalize a demonstration aimed at identifying and tracking poisoned children living in HUD-associated housing to assure expeditious abatement. It has also recently circulated an Advanced Notice of Proposed Rulemaking which would strengthen HUD's current lead paint regulations.

In addition to these programs, the program staff is responsible for

- establishing and implementing procedures to eliminate the hazards of lead-based paint in all federally assisted housing and

- prohibiting the future use of lead-based paint on federally assisted housing (responsibility transferred to HUD from HEW in 1976).

#### MANAGEMENT INFORMATION LACKING

The absence of basic management information regarding program compliance has greatly limited HUD in properly monitoring its lead-based paint regulations. Examples of such deficiencies include the following.

- No comprehensive inventory of all HUD lead-based paint program instructions exists.
- No systems exist to compile information on the number of HUD-associated houses subject to regulations, inspected, or cleared of lead paint hazards.
- No procedures exist to handle the disposition of lead-poisoning claims in HUD-associated housing.
- Recent OIG reports on noncompliance in some HUD programs are unknown to current program staff officials.

Important analysis that we think is common to well-run programs has not been performed. For example, cost-benefit analysis has not been performed on HUD's current regulations. As a result, HUD has very little practical basis upon which to argue what the effects of strengthening its current regulations might be. To our knowledge, only a limited cost analysis of alternative regulatory strategies was made when HUD promulgated regulations in 1976. Regulations have been in place since 1972, yet HUD has not attempted to analyze past regulatory results in terms of alternative regulatory concepts.

In addition to its lack of critical management information, we found no evidence of HUD monitoring its regulatory responsibilities to non-HUD federally assisted housing. Although all Federal agencies have been required to develop procedures to eliminate the hazards of lead paint in their assisted housing since 1973, HUD has not monitored other agency activity. Other Federal sources of housing assistance include the Farmers Home Administration and the Bureau of Indian Affairs. Current program officials have advised us that they do not know the extent to which other agencies have hazard elimination procedures. HUD officials are currently attempting to develop this information. A similar lack of monitoring exists with respect to the prohibition against the future use of lead paint in all Federal housing. Since lead-

based paint has been essentially banned by the Consumer Product Safety Commission, monitoring its future use is of less concern. 1/

#### LACK OF RESOURCES

HUD has committed few resources for monitoring its lead paint regulations or for abating hazards. A separate monitoring office has existed only since 1977. Before that time, the HUD research office was responsible for monitoring activities. Until mid-1980, staff committed to enforcing lead paint regulations has never totaled more than one full-time staff member and this lack of resources concerns the existing program staff. From a draft memo, the current program staff declares:

"The Lead-Based Program is currently budgeted for salaries and expenses only. It has no funds allotted for program activities (e.g. loans or grants for abatement, prevention projects). Program activities are further hindered by limited staffing. The size of the present regulatory staff (Director and Secretary) allows only a cursory compliance review. The lack of staff and budgeted program dollars renders the program ineffective as a meaningful regulatory apparatus."

Irrespective of the merits of a larger staff and more resources for the program staff, current monitoring capabilities are minimally effective, and the lack of basic management information regarding what the Department is doing to comply with its regulations greatly restricts the ability of the program staff to evaluate compliance among HUD's lead-based paint programs.

For abating lead hazards in HUD programs, no separate funding exists. In public housing however, HUD has a modernization program which can be tapped for abating lead hazards.

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1/All paint sold for residential use to which children may be exposed must contain less than .06 percent lead. This standard went into effect in 1978, and the likelihood of many homes currently being painted with lead paint is remote.

### Consultant report recommendations never adopted

Upon receiving responsibility for lead-based paint regulatory monitoring in 1977, the Assistant Secretary for Regulatory Functions requested a consultant to assess the adequacy of HUD's existing regulatory strategy and to make recommendations for improvements. These recommendations, which were made in a June 1978 report, were never adopted by HUD. The 1978 consultant report recommended the following:

- Measure the results achieved from HUD's current regulatory approach.
- Reexamine regulatory choices including broadening the regulatory focus beyond just HUD, programs; reassess the adequacy of HUD's "immediate hazard standard"; and expand to local and State government some of the enforcement burden.
- Decide if a more centralized monitoring and enforcement role is necessary.
- Reach agreement with HUD researchers on research objectives and priorities, policy analysis, and evaluation of regulatory responsibilities.

The former Deputy Assistant Secretary for Regulatory Functions told us that these recommendations were never implemented due to a lack of resources.

### LOW PRIORITY GIVEN TO LEAD PAINT REGULATIONS

HUD's lead-based paint regulatory requirements are not accorded high priority among program offices as evidenced by

- the lack of awareness among most program officials we contacted regarding lead paint requirements;
- the lack of enforcement of lead hazard requirements;
- the absence of a budget for lead abatement activities in any of HUD's program areas; and
- the slowness with which HUD has responded in developing regulations (3 years after passage of the statute), program instructions (still being developed), and a monitoring office (4 years after passage of the statute).

Program officials frequently told us that HUD has given lead-based paint regulations a low priority. Both the offices responsible for conducting research and the Lead Paint Program Staff also share this view.

A general belief that strict enforcement of the Department's lead-based paint regulations would be too costly or adversely affect its housing supply goals is perhaps at the root of the low priority problem. This belief persists despite the fact that no comprehensive evaluation of the costs of implementing current HUD regulations has ever been performed, nor has any cost-benefit analysis been conducted on alternative regulatory strategies.

#### CONCLUSIONS

Despite a 7-year-old regulatory mission, HUD has never evaluated the past results of its lead-based paint regulatory efforts and still lacks the basic management tools with which to properly monitor its regulatory performance. Although recent improvements in monitoring regulations have been made, further progress is severely restricted by the low priority accorded to lead-based paint regulations by the program Assistant Secretaries.

#### RECOMMENDATIONS

We recommend that the Secretary of Housing and Urban Development establish a strong central monitoring office with the authority and resources to properly evaluate and report on program compliance. Program Assistant Secretaries should develop an adequate management reporting system on hazard inspection and elimination and tenant notification.



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## United States Senate

COMMITTEE ON THE JUDICIARY  
 WASHINGTON, D.C. 20510

June 25, 1980

Honorable Elmer B. Staats  
 Comptroller General  
 General Accounting Office  
 441 G Street, N.W.  
 Washington, D.C. 20548

Dear Mr. Staats:

As part of my subcommittee's investigation of certain programs in the Department of Housing and Urban Development, I request that the General Accounting Office conduct a review -- as soon as possible -- of HUD's Lead-Based Paint Removal Program. I would like this report to serve as a basis for primary testimony in hearings I plan to hold in early October on this subject.

It is my understanding that the Lead-Based Paint Removal Program is allegedly not fulfilling its Congressional mandate to ensure removal of lead-based paint from all HUD-owned and HUD-associated housing. This negligence may be endangering the health of thousands of children living in affected housing. Children can be poisoned when eating lead-based paint chips or when old paint "chalks" from walls and is ingested as dust.

The Congressional mandate also requires HUD to carry out research and demonstrations into the nature and extent of lead-based paint poisoning in the U.S. and into methods of removal of lead-based paint poisoning hazards. An estimated ten million dollars have so far been spent on research. But it is my understanding that the agency has developed little new technology for removing lead-based paint, while spending millions of dollars for studies to prove lead-based paint is not a primary cause of lead poisoning. This would seem to run counter to the intent of the Congressional mandate.

Because of the serious nature of this problem, I feel it is important to promptly investigate and hold hearings on HUD's lead-based paint activities.

I would like GAO's review and report to answer three overall policy questions:

1. How effectively has HUD met its responsibilities under Title III of the 1971 Lead-Based Paint Poisoning Prevention Act, as amended, regarding its research and demonstration activities?

Honorable Elmer B. Staats  
June 25, 1980  
Page Two

2. What progress has HUD made in implementing and enforcing its 1976 lead-based paint regulations?

3. How effectively has HUD coordinated its lead-based paint activities with other Federal agencies that share lead-based paint responsibilities?

Within those policy areas, GAO's review should include, but not be limited to, answers to the following specific questions:

1. Has HUD research clearly identified the nature and extent of the U.S. lead poisoning problem?

2. Has HUD research found more effective and/or cheaper ways of detecting and eliminating lead-based paint in housing units? If so, please specify.

3. If complete lead-based paint removal has been found to be impractical, what other less thorough but effective methods of blocking lead poisoning have been developed? If developed, have they been implemented?

4. What is the approximate cost of de-leading an average one-bedroom, two-bedroom, and three-bedroom housing unit?

5. What procedures has HUD established to eliminate lead-based paint hazards in HUD-owned and HUD-associated housing? How have such procedures been implemented?

6. How does HUD monitor lead-based paint removal?

a. Is there a specific responsible individual in charge of implementing the program at each field office?

b. Are there HUD building inspectors specifically trained to identify lead-based paint hazards? How many such inspectors are there?

c. How many HUD-owned and HUD-associated units are inspected each year for lead-based paint hazards?

7. How many housing units does HUD currently own nationwide? Of that number, how many have had lead-based paint removed from all interior surfaces? How many units still contain potential lead-based paint hazards?

8. Is there a definite plan and timetable to remove hazards in remaining units? What would be the current cost to HUD of de-leading every agency-owned unit with a potential lead-based paint hazard?

Honorable Elmer B. Staats  
June 25, 1980  
Page Three

9. Of the HUD-owned units with potential lead-based paint hazards, how many are family units?

10. How many children are potentially endangered by lead-based paint hazards in HUD-owned housing?

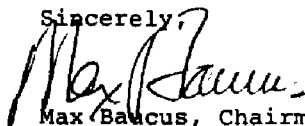
11. What are the annual approximate health care and other costs to government for lead poisoning victims?

12. Have there been any lawsuits filed against HUD on behalf of such victims? If so, how many lawsuits have there been and what has been the disposition of the cases?

Members of my staff have talked with auditors at HUD headquarters regarding this issue. I understand they have already performed some analysis of HUD's research in lead-based paint, and that substantial amounts of materials are available.

I would appreciate your commencement of this review as soon as possible. If you have any questions, please contact Ann Leigh of my staff at 224-5065. Thank you.

Sincerely,



Max Baucus, Chairman  
Subcommittee on Limitations of  
Contracted and Delegated Authority

HUD LEAD-BASED PAINT REGULATIONS**Subtitle A—Office of the Secretary****§ 35.3**

the public interest or in the best interests of the Department;

(b) At the expiration of the 30 day period specified in § 25.4(c) if the mortgagee has not requested a hearing; or

(c) 30 days after the hearing officer's written determination pursuant to § 25.4(d).

**PART 35—LEAD-BASED PAINT POISONING PREVENTION IN CERTAIN RESIDENTIAL STRUCTURES****Subpart A—Notification to Purchasers and Tenants of HUD-Associated Housing Constructed Prior to 1950 of the Hazards of Lead-Based Paint Poisoning**

Sec.

35.1 Purpose and scope.

35.3 Definitions.

35.5 Requirements.

**Subpart B—Prohibition Against the Use of Lead-Based Paint in HUD-Associated Housing**

35.10 Purpose and scope.

35.12 Definitions.

35.14 Requirements.

**Subpart C—Elimination of Lead-Based Paint Hazards in HUD-Associated Housing**

35.20 Purpose and scope.

35.22 Definitions.

35.24 Requirements.

35.25 Clearinghouse.

**Subpart D—Local Codes and Regulations**

35.40 Compliance with local laws.

35.42 Requirements.

**Subpart E—Elimination of Lead-Based Paint Hazards in Federally-Owned Properties Prior to Sale for Residential Habitation**

35.50 Purpose and scope.

35.52 Applicability.

35.54 Definitions.

35.56 Requirements.

**Subpart F—Prohibition Against the Use of Lead-Based Paint in Federal and Federally-Assisted Construction or Rehabilitation of Residential Structures**

35.60 Scope.

35.61 Definitions.

35.62 Federal construction; prohibition against use of lead-based paint.

35.63 Federally assisted construction; prohibition against use of lead-based paint.

35.64 Reports to the Secretary.

Sec.

35.65 Authority for Subpart B of these regulations.

APPENDIX I—THE DANGER OF LEAD POISONING FOR HOMEOWNERS

APPENDIX II—THE DANGER OF LEAD POISONING FOR RENTERS

AUTHORITY: Pub. L. 91-695, 84 Stat. 2078, as amended by Pub. L. 93-151 (42 U.S.C. 4801 et seq.); sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)), unless otherwise noted.

SOURCE: 41 FR 28876, July 13, 1976, unless otherwise noted.

**Subpart A—Notification to Purchasers and Tenants of HUD-Associated Housing Constructed Prior to 1950 of the Hazards of Lead-Based Paint Poisoning****§ 35.1 Purpose and scope.**

This Subpart A establishes procedures to assure that purchasers and tenants of all HUD-associated housing constructed prior to 1950 are notified of the hazards of lead-based paint which may exist in such housing, of the symptoms and treatment of lead-based paint poisoning and of the precautions to be taken to avoid lead-based paint poisoning.

**§ 35.3 Definitions.**

For the purposes of this subpart, the following definitions are applicable:

(a) "Act" means the Lead-Based Paint Poisoning Prevention Act, Pub. L. 91-695, 84 Stat. 2078, as amended by Pub. L. 93-151 and Pub. L. 94-317 (42 U.S.C. 4801).

(b) "Department" or "HUD" means the Department of Housing and Urban Development.

(c) "Secretary" means the Secretary of Housing and Urban Development or a HUD official delegated the Secretary's authority with respect to the Act.

(d) "Assistant Secretaries" means the Assistant Secretaries in the Department of Housing and Urban Development.

(e) "HUD-associated housing" means any residential structure as defined in paragraph (f) of this section, which is owned by the Department or Secretary or Housing and Urban Development or financially assisted under any

**§ 35.5****Title 24—Housing and Urban Development**

programs administered by the Secretary, when such structures are being constructed, sold, purchased, leased, rehabilitated (including routine maintenance work), modernized or improved with any form of HUD financial assistance whether by grant, loan, advance, housing assistance payments, the proceeds of a HUD-guaranteed loan or a HUD-insured mortgage.

(f) "Residential structure" means any house, apartment or structure intended for human habitation, including any institutional structure where persons reside, such as an orphanage, boarding school, dormitory, day care center, or extended care facilities, college housing, hospitals, group practice facilities and community facilities.

(g) "Applicable surfaces" means all interior surfaces, whether accessible or not, and those exterior surfaces such as stairs, decks, porches, railings, windows and doors which are readily accessible to children under 7 years of age.

(h) "Potential hazard" means paint (which may contain lead) on applicable surfaces which are in a sound, tight condition, but which may become an immediate hazard, as defined in paragraph (i) of this section, by reason of cracking, chipping, scaling, peeling or loosening.

(i) "Immediate hazard" means paint (which may contain lead) on applicable surfaces which is cracking, scaling, chipping, peeling or loose.

(j) "Defective paint condition" means any paint on applicable surfaces which is cracking, scaling, chipping, peeling or loose.

(Pub. L. 91-695, 84 Stat. 2078, as amended by Pub. L. 94-317 (42 U.S.C. 4801 et seq.); sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)))

(41 FR 28876, July 13, 1976, as amended at 42 FR 5043, Jan. 27, 1977)

**§ 35.5 Requirements.**

(a) Purchasers and tenants of HUD-associated housing constructed prior to 1950 shall be notified: (1) That the property was constructed prior to 1950, (2) that the property may contain lead-based paint, (3) of the potential and immediate hazards of lead-based paint, (4) of the symptoms and treatment of lead-based paint poison-

ing, and (5) of the precautions to be taken to avoid lead-based paint poisoning (including maintenance and removal techniques for eliminating such hazards). Prospective purchasers of renters shall receive the above notifications prior to purchase or rental. Appendix I, which is attached hereto and made a part hereof, consists of HUD brochures, copies of which shall be used to provide the required notification.

(b) Each Assistant Secretary shall take necessary actions to implement the requirements of paragraph (a) of this section with respect to the HUD programs within his/her administrative jurisdiction. Such actions shall include the establishment of procedures to: (1) Provide evidence that the information contained in the appropriate HUD brochures, Appendix I, has been received by purchasers and tenants of HUD-associated housing constructed prior to 1950, and to (2) require the inclusion of appropriate provisions in contracts of sale, rental or management of HUD-associated housing to assure the receipt of the information contained in the appropriate HUD brochures by purchasers and tenants of such housing.

**Subpart B—Prohibition Against the Use of Lead-Based Paint in HUD-Associated Housing****§ 35.10 Purpose and scope.**

This subpart implements the provisions of 42 CFR Part 90 issued by the Secretary of Health, Education, and Welfare pursuant to section 401 of the Act which are applicable to federal agencies and which prohibit the use of lead-based paint on applicable surfaces of residential structures constructed or rehabilitated by the Federal Government or with federal assistance and establishes procedures to prohibit the use of lead-based paint on applicable surfaces in all HUD-associated housing.

**§ 35.12 Definition.**

The definitions contained in § 35.3 of Subpart A of this part shall apply to this Subpart B and in addition the following definition is applicable to this Subpart B:

**Subtitle A—Office of the Secretary****§ 35.24**

(a) "Lead-based paint" as defined in Section 501(3) of the Act as amended by Pub. L. 94-317 (42 U.S.C. 4801, et seq), the National Consumer Information and Health Promotion Act of 1976, means: (1) Any paint containing more than five-tenths of 1 per centum lead by weight (calculated as lead metal in the total non-volatile content of the paint or the equivalent measure of lead in the dried film of paint already applied or both; or (2) with respect to paint which is manufactured after June 22, 1977 lead-based paint means any paint containing more than six one-hundredths of 1 per centum lead by weight (calculated as lead metal) in the total nonvolatile content of the paint or the equivalent measure of lead in the dried film of paint already applied.

(Pub. L. 91-695, 84 Stat. 2078, as amended by Pub. L. 94-317 (42 U.S.C. 4801 et seq.); sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d))

[41 FR 28876, July 13, 1976, as amended at 42 FR 5043, Jan. 27, 1977]

**§ 35.14 Requirements.**

(a) No office of the Department shall use or permit the use of lead-based paint on applicable surfaces of HUD-associated housing.

(b) Each Assistant Secretary shall implement the requirements of paragraph (a) of this section with respect to the HUD programs within his/her administrative jurisdiction. Implementation shall include the establishment of procedures to require the inclusion of appropriate provisions in contracts and subcontracts involving HUD-associated housing prohibiting the use of lead-based paint on applicable surfaces of such HUD-associated housing and shall include provisions necessary for enforcement of the prohibition.

**Subpart C—Elimination of Lead-Based Paint Hazards in HUD-Associated Housing****§ 35.20 Purpose and scope.**

This Subpart C implements the provisions of section 302 of the Act with respect to establishing procedures to eliminate as far as practicable the hazards due to the presence of paint

which may contain lead on applicable surfaces of HUD-associated housing.

**§ 35.22 Definitions.**

The definitions contained in § 35.3 shall apply to this Subpart C.

**§ 35.24 Requirements.**

(a) Prior to the occupancy of HUD-associated housing, immediate hazards shall be eliminated by the most practicable means. For this purpose, all defective paint conditions shall be assumed to be immediate hazards.

(b) Each Assistant Secretary shall implement or provide for the implementation of the requirements of paragraph (a) of this section with respect to HUD programs within his/her administrative jurisdiction. Implementation shall include the following:

(1) HUD-associated housing shall be inspected to determine whether or not immediate hazards exist. Responsibility for such inspections shall be as follows:

(i) HUD-owned housing that is to be rehabilitated before sale shall be inspected by local HUD staff or, if appropriate, by the property manager as part of the program for management and disposition of HUD-owned property:

(ii) HUD-owned property that is to be sold in an as-is condition shall be inspected by the local HUD staff or by the property manager as part of the program for management and disposition of HUD-owned property prior to the sale of such property or subsequent to the sale but prior to occupancy thereof for residential use: *Provided, however,* That where properties are conveyed to a unit of state or local government, the state or local governmental body shall be responsible for inspection.

(iii) HUD-owned property that is rented or leased for residential use or will be offered for such rental shall be inspected by the local HUD staff or by the property manager as part of the program for management and disposition of HUD-owned properties.

(iv) Existing housing proposed for HUD-FHA mortgage insurance shall be inspected by the local HUD staff or by fee appraisers where otherwise permitted under existing procedures;

**§ 35.25****Title 24—Housing and Urban Development**

(v) Low-income public housing (including occupied units) shall be inspected by the local housing authority, local public agency or other agency responsible for the maintenance, management, repair and operation of such housing;

(vi) In the rehabilitation of HUD-associated college housing, the architect shall be responsible for inspection of the premises;

(vii) In housing assisted with Community Development funds, the appropriate local public agency, local public body, city demonstration agency or unit of local government or agency thereof shall be responsible for inspection of the premises;

(2) Notwithstanding the requirements of paragraph (b)(1) of this section, in the Section 8 Housing Assistance Payments Program, (sec. 8 of the United States Housing Act of 1937, as amended by Title II, Housing and Community Development Act of 1974), the owner of the assisted housing shall be responsible for providing a certification to the local HUD staff, the local public housing agency or the state housing agency, if any, that the property has been inspected and treated in accordance with the applicable provisions of this part.

(3) Treatment necessary to eliminate immediate hazards shall, as a minimum, consist of the following:

(i) All surface conditions identified as immediate hazards shall be thoroughly cleaned (washed, sanded, scraped, wire brushed or otherwise cleaned) so as to remove all cracking, scaling, peeling, chipping and loose paint on applicable surfaces. Such surfaces that have been so treated shall then be repainted with two coats of a suitable non-lead paint in accordance with the requirements of § 35.14; or

(ii) Where the paint film integrity of the applicable surface cannot be maintained, the paint shall be completely removed or the surface recovered with a suitable material such as gypsum wallboard, plywood, or plaster before any repainting is undertaken; and

(4) Appropriate provisions for the inspection and elimination of immediate hazards and provisions necessary for enforcement of the requirements shall

be included in contracts and subcontracts involving HUD-associated housing.

**§ 35.25 Clearinghouse.**

In order to facilitate the exchange of information and suggestions with respect to elimination of lead-based paint hazards, the Lead-Based Paint Research Program, Room 8136, Office of Policy Development and Research, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, will serve as a Clearinghouse for suggestions, inquiries and requests for information. The transcript of the hearings held by HUD are available for examination at this office and reports of the research projects undertaken will likewise be made available to interested persons.

**Subpart D—Local Codes and Regulations****§ 35.40 Compliance with local laws.**

(a) HUD, as owner of federally-owned housing, will comply with State or local laws, ordinances, codes, or regulations governing lead-based paint hazard abatement.

(b) Nothing in this Part 35 is intended to relieve an owner or tenant of HUD-associated housing of any responsibility for compliance with State or local laws, ordinances, codes, or regulations governing lead-based paint hazard abatement.

(c) HUD does not assume any responsibility with respect to inspection, enforcement, interpretation or determination of compliance with such State or local requirements, except that the Federal standard for lead content in paint supersedes any State or local requirement, prohibition, or standard, as provided in section 506 of the Act.

**§ 35.42 Requirements.**

Each Assistant Secretary shall take necessary actions to implement the intent of § 35.40.

**Subtitle A—Office of the Secretary****§ 35.56****Subpart E—Elimination of Lead-Based Paint Hazards in Federally-Owned Properties Prior to Sale for Residential Habitation****§ 35.50 Purpose and scope.**

This Subpart E implements the provisions of section 302 of the Act which directs the Secretary to establish and implement procedures to eliminate the hazards of lead-based paint poisoning in all federally-owned properties prior to the sale of such properties when their use is intended for residential habitation.

**§ 35.52 Applicability.**

The requirements established by this Subpart E are applicable to all federally-owned properties prior to their sale by a federal agency when their use is intended for residential habitation.

**§ 35.54 Definitions.**

The following are applicable to this Subpart E:

(a) "Federal agency" means the United States or any executive departments, independent establishments, administrative agencies and instrumentalities of the United States, including corporations in which all or substantially all of the stock is beneficially owned by the United States or by any of the foregoing departments, establishments, agencies or instrumentalities.

(b) "Federally-owned properties" means any properties owned by a federal agency as defined in paragraph (a) of this section.

(c) "Act" means the Lead-Based Paint Poisoning Prevention Act, Pub. L. 91-695, 84 Stat. 2078, as amended by Pub. L. 93-151 (42 U.S.C. 4801 et seq.).

(d) "Residential structure" means any house, apartment or structure intended for human habitation, including any institutional structure where persons reside, such as an orphanage, boarding school, dormitory, day care center, or extended care facilities, college housing, hospitals, group practice facilities and community facilities.

(e) "Applicable surfaces" means all interior surfaces, whether accessible or not, and those exterior surfaces such

as stairs, decks, porches, railings, windows and doors which are readily accessible to children under 7 years of age.

(f) "Immediate hazard" means paint (which may contain lead) on applicable surfaces which is cracking, scaling, chipping, peeling or loose.

(g) "Defective paint condition" means any paint on applicable surfaces which is cracking, scaling, chipping, peeling or loose.

(h) "Use for residential habitation" means the use of a property as a residential structure as defined in paragraph (d) of this section.

**§ 35.56 Requirements.**

(a) Prior to occupancy of a federally-owned property where its use subsequent to sale is intended for residential habitation, the federal agency selling the property shall assure that the following steps are taken:

(1) The property is inspected to determine whether or not immediate hazards exist; for this purpose all defective paint conditions shall be assumed to be immediate hazards; and

(2) All surface conditions identified as immediate hazards are thoroughly cleaned (washed, sanded, scraped, wire brushed, or otherwise cleaned) so as to remove all cracking, scaling, peeling, chipping and loose paint on applicable surfaces and then repainted with two coats of a suitable non-lead paint in accordance with the requirements of § 35.14;

(3) Where the paint film integrity of the applicable surface cannot be maintained, the paint shall be completely removed or the surface recovered with a suitable material such as gypsum wallboard, plywood, or plaster before any repainting is undertaken.

(4) Prospective purchasers are provided all notifications described in § 35.5 (a) of this regulation.

(b) The provisions of this Subpart E shall be binding upon all federal agencies as provided by section 302 of the Act; however, nothing contained in this Part 35 shall preclude any federal agency from promulgating such other procedures or additional requirements as may be necessary to implement the provisions of the Act.



**§ 35.60****Title 24—Housing and Urban Development****Subpart F—Prohibition Against the Use of Lead-Based Paint in Federal and Federally-Assisted Construction or Rehabilitation of Residential Structures**

**SOURCE:** 42 FR 5043, Jan. 27, 1977, unless otherwise noted. Correctly designated at 42 FR 13112, Mar. 9, 1977.

**§ 35.60 Scope.**

The regulations of this subpart are promulgated to implement section 401 of the Lead-Based Paint Poisoning Prevention Act, as amended, which directs the Secretary of Housing and Urban Development to take such steps and impose such conditions as may be necessary or appropriate to prohibit the use of lead-based paint in residential structures constructed or rehabilitated by the Federal Government or with Federal assistance in any form. The regulations are applicable to all Federal agencies.

**§ 35.61 Definitions.**

The definitions contained in § 35.3 shall apply to this Subpart F and in addition the following definitions are applicable to this Subpart F:

(a) "Federal Agency" means the United States or any executive departments, independent establishments, administrative agencies and instrumentalities of the United States, including corporations in which all or substantially all of the stock is beneficially owned by the United States or by any of the foregoing departments, establishments, agencies or instrumentalities.

(b) "Agency Head" means the principal official of a Federal Agency and includes those persons duly authorized to act in his behalf.

(c) "Lead-based paint" as defined in Section 501(3) of the Act as amended by Pub. L. 94-317 (42 U.S.C. 4801 et seq), the National Consumer Information and Health Promotion Act of 1976, means: (1) Any paint containing more than five-tenths of 1 per centum lead by weight (calculated as lead metal) in the total non-volatile content of the paint or the equivalent measure of lead in the dried film of paint already applied or both; or (2) with respect to paint which is manu-

factured after June 22, 1977 lead-based paint means any paint containing more than six one-hundredths of 1 per centum lead by weight (calculated as lead metal) in the total nonvolatile content of the paint or the equivalent measure of lead in the dried film of paint already applied.

**§ 35.62 Federal construction; prohibition against use of lead-based paint.**

No Federal agency shall, in any residential structure constructed or rehabilitated by such agency, use or permit the use of lead-based paint on applicable surfaces.

**§ 35.63 Federally assisted construction; prohibition against use of lead-based paint.**

(a) Each Agency Head shall issue regulations and take such other steps as in his or her judgment are necessary to prohibit the use of lead-based paint on applicable surfaces of any residential structures constructed or rehabilitated by such agency under any federally assisted program.

(b) Such regulations shall require the inclusion of appropriate provisions in contracts and subcontracts pursuant to which such Federally assisted construction or rehabilitation is performed, prohibiting such use of lead-based paint, and shall include provisions for enforcement of that prohibition.

**§ 35.64 Reports to the Secretary.**

(a) To assist the Secretary in fulfilling her responsibilities under the Act, each Federal agency shall furnish to the Secretary, not later than 3 months after the effective date of these regulations, a report of the steps it has taken to comply with this Subpart F, Part 35.

(b) Each Federal agency shall submit such additional reports on its activities in the implementation of this part as may be deemed necessary by the Secretary.

**§ 35.65 Authority for Subpart B of these regulations.**

On or after the effective date of these amended regulations, Subpart F will serve as the authority for Subpart B of these regulations.

**Subtitle A—Office of the Secretary****App. I****APPENDIX I—THE DANGER OF LEAD POISONING FOR HOMEOWNERS**

This housing or apartment was built before 1950. There is a possibility that it may contain lead paints. Lead paint is poisonous if eaten. Many children do eat paint flakes and frequently become very sick. You as a parent are in the best position to safeguard your child's health by preventing him or her from eating paint or paint chips. This pamphlet will answer some of your questions about how to know if your child has been eating lead paint and what to do about it.

Lead poisoning is a serious problem in this country. Each year thousands of children under 7 years of age are poisoned when they eat bits of paint containing lead. Children who eat lead can become mentally retarded, blind, paralyzed, or even die. You can safeguard your child's health by preventing him from eating paint chips which may contain lead. The Department of Housing and Urban Development has prepared this pamphlet to make you aware of the problem of lead paint poisoning in the home.

As a parent, you need to know how to prevent the sickness lead paint can cause. You need to know what to do if your child has lead poisoning.

Your child can get lead poisoning by eating paint, dirt, dust, newspaper, or other non-food items containing lead. The most common cause of lead poisoning is lead-based paint. Children can get dangerous amounts of lead from eating even very small amounts of such paint. Unfortunately, usually there are no obvious signs of lead poisoning. Often lead poisoning can seem like a number of other childhood diseases, but if your child has stomach aches and vomiting, has headaches, a loss of appetite, is cranky, or frequently is too tired to play, he may have lead poisoning. Any or all of these symptoms can be signs of lead poisoning. Often, there are no symptoms at all. If anyone tells you that your child has eaten paint chips or plaster, or if you see any of these signs in your child, he should be tested for lead in his blood as soon as possible. Do not wait too long! Your doctor, local clinic, hospital, or public health department can test your child for lead poisoning. Blood samples can be taken and tested to tell if your child has eaten enough lead to be harmful. In many communities there are blood screening programs operated by local health departments, but screening is usually conducted in older areas of cities where lead-based paint and poisoning is most common. Testing for lead takes only a matter of minutes.

Blood screening programs are usually free and will test children for lead even if they show no symptoms of poisoning and have not been seen eating paint. A number of

blood screening programs are supported by the Department of Health, Education, and Welfare, and local health departments. If you are unaware of a screening program in your area, call your public health nurse or social worker at the local health department. If there are no screening programs in your city and you cannot afford testing, the Medicaid program may pay for screening of children both below six years of age and above the age of six, if a doctor says that testing is necessary.

If tests show that your child has a high level of lead in his blood he will need medical supervision and possibly treatment. If treatment is necessary, your doctor, a local clinic, or hospital will be able to remove the lead in his blood. Such treatments may be paid for by Medicaid or your local health department. If testing shows that your child has a lot of lead in his blood, the local health department may send someone to measure the lead paint in your home. Standards for treatment of lead hazards in housing vary from city to city. Follow the directions and guidance of your local health department.

Lead paint is not the only cause of lead poisoning. Your child can be poisoned by eating paint, dirt, or other non-food substances containing lead. Young children put many things besides food in their mouths, but if those objects contain lead, poisoning is possible. Your child can get lead poisoning from eating or chewing on non-food items which contain lead, including dirt, newspaper, and even some pottery, and furniture. Even common household dust sometimes contains high levels of lead. Lead paint which has weathered and fallen to the ground can collect in dust and soil. Exhaust from automobiles which use leaded gasoline also contains lead which can collect in dust and soil. Children should be discouraged from playing in dust and dirt near busy streets where the lead content in soil is likely to be heaviest.

You should stop your child from eating or chewing paint and other objects that may contain lead. Warn your child of the dangers of eating anything other than food if he is old enough to understand. Make sure that the rest of your family and anyone who babysits for you is aware of the lead paint problem and will prevent your child from eating paint. Often children will eat things if they are bored or hungry. Children are safer if they have activities or toys to keep them busy. If your child is not eating properly, you may want to take him to a doctor.

The best way to prevent lead paint poisoning is to keep your home in good shape. The primary source of the lead paint hazard is peeling and flaking paint. Water leaks from faulty plumbing or defective roofs often

## App. II

## Title 24—Housing and Urban Development

cause paint to peel or flake from walls and ceilings. Quick repair of such leaks can prevent this.

To prevent peeling paint, most housing units should be repainted every three to five years. Any loose or flaking paint should be removed by scraping or brushing. Cracked walls should be replastered before new paint is applied. If your walls are cracking or peeling now, you may have a lead paint hazard. If you have small children, there are some things you should do immediately to protect them: (1) Get a broom or stiff brush and remove all loose pieces of paint from walls, woodwork, and ceilings; (2) sweep up all the pieces of paint and plaster; (3) put the sweepings in a paper bag or wrap them in newspaper and put these packages in a trash can; (4) be careful not to leave paint chips on the floor. Always keep the floor clear of loose bits of paint and plaster. Sweeping the floors clean of paint chips is simple, but it is most important. Children can pick loose paint off walls, so be extra careful about keeping loose paint from the lower part of walls where your child can reach. As an emergency measure to protect your child, you can cover up the lower part of walls with adhesive backed paper and you can cover the woodwork which your child might chew with adhesive tape or paper. As an emergency measure, you might also move heavy furniture against walls with peeling paint.

Remember that you play a major role as a homeowner and as a parent in the prevention of lead poisoning. Your actions and awareness about the lead problem can make a big difference.

#### APPENDIX II—THE DANGER OF LEAD POISONING FOR RENTERS

This housing or apartment was built before 1950. There is a possibility that it may contain lead paint. Lead paint is poisonous if eaten. Many children do eat paint flakes and frequently become very sick. You as a parent are in the best position to safeguard your child's health by preventing him or her from eating paint or paint chips. This pamphlet will answer some of your questions about how to know if your child has been eating lead paint and what to do about it.

Lead poisoning is a serious health problem in this country. Each year thousands of children under 7 years of age are poisoned when they eat bits of paint containing lead. Children who eat lead can become mentally retarded, blind, paralyzed, or even die. You can safeguard your child's health by preventing him from eating paint chips which may contain lead. The Department of Housing and Urban Development has prepared this pamphlet to make you aware of the

problem of lead paint poisoning in the home.

As a parent, you need to know what to do to prevent the sickness lead paint can cause. You need to know what to do if your child has lead poisoning.

Your child can get lead poisoning by eating paint, dirt, dust, newspaper, or other nonfood items containing lead. The most common cause of lead poisoning is lead-based paint. Children can get dangerous amounts of lead from eating even very small amounts of such paint. Unfortunately, usually there are no obvious signs of lead poisoning. Often lead poisoning can seem like a number of other childhood diseases, but if your child has stomach aches and vomiting, has headaches, a loss of appetite, is cranky, or frequently is too tired to play, he may have lead poisoning. Any or all of these symptoms can be signs of lead poisoning. Often, there are no symptoms at all. If anyone tells you that your child has eaten paint chips or plaster, or if you see any of these signs in your child, he should be tested for lead in his blood as soon as possible. Do not wait too long! Your doctor, local clinic, hospital, or public health department can test your child for lead poisoning. Blood samples can be taken and tested to tell if your child has eaten enough lead to be harmful. In many communities there are blood screening programs operated by local health departments, but screening is usually conducted in older areas of cities where lead-based paint and poisoning is most common. Testing for lead takes only a matter of minutes.

Blood screening programs are usually free and will test children for lead even if they show no symptoms of poisoning and have not been seen eating paint. A number of blood screening programs are supported by the Department of Health, Education and Welfare, and local health departments. If you are unaware of a screening program in your area, call your public health nurse or social worker at the local health department. If there are no screening programs in your city and you cannot afford testing, the Medicaid program may pay for screening of children both below six years of age and above the age of six if a doctor says that testing is necessary.

If tests show that your child has a high level of lead in his blood he will need medical supervision and possibly treatment. If treatment is necessary, your doctor, a local clinic, or hospital will be able to remove the lead in your child's blood. Such treatments may be paid for by Medicaid or your local health department. If testing shows that your child has a lot of lead in his blood, your local health department may send someone to measure the lead paint in your home, and may require treatment by the owner of the unit of the lead paint hazards

**Subtitle A—Office of the Secretary****§ 39.5**

on walls and woodwork. Such work is often messy and inconvenient, but it is necessary to prevent the possibility of further sickness from lead. Cooperate with any workmen who are sent to correct the lead condition in your home.

Lead paint is not the only cause of lead poisoning. Your child can be poisoned by eating paint, dirt, or other non-food substances containing lead. Young children put many things besides food in their mouths, but if those objects contain lead, poisoning is possible. A child can get lead poisoning from eating or chewing on non-food items which contain lead, including dirt, newspaper, and even some pottery, and furniture. Even common household dust sometimes contains high levels of lead. Lead paint which has weathered and fallen to the ground can collect in dust and soil. Exhaust from automobiles which used leaded gasoline also contains lead which can collect in dust and soil. Children should be discouraged from playing in dust and dirt near busy streets where the lead content in soil is likely to be heaviest.

You should stop your child from eating or chewing paint and other objects that may contain lead. Warn your child of the dangers of eating anything other than food if he is old enough to understand. Make sure that the rest of your family and anyone who babysits for you is aware of the lead paint problem and will prevent your child from eating paint. Often children will eat things if they are bored or hungry. Children are safer if they have activities or toys to keep them busy. If your child is not eating properly, you may want to take him to a doctor.

The best way to prevent lead paint poisoning is to keep your home in good shape. The primary source of lead paint hazards is peeling and flaking paint. Water leaks from faulty plumbing or defective roofs often cause paint to peel or flake from walls and ceilings. Repair of such leaks can prevent future peeling or flaking. If you have such leaks, or if you have peeling, flaking paint in your apartment, notify the management or landlord.

To prevent peeling paint, most apartments should be repainted every three to five years. It is important to cooperate with the management office when repainting time comes. If your apartment has not been repainted within this period of time, inform the management office, resident manager, or landlord.

You may have a lead paint hazard now if your walls are cracking or peeling. If you have small children, there are some things you should do immediately to protect them. (1) Notify the management office or resident manager or landlord immediately; (2) get a broom or stiff brush and remove all loose pieces of paint from walls, woodwork,

and ceilings; (3) sweep up all the pieces of paint and plaster; (4) put the sweepings in a paper bag or wrap them in newspaper and put these in a trash can; (5) be careful not to leave paint chips on the floor, and keep children away from the dust. Always keep the floor clear of loose bits of paint and plaster. Sweeping the floors clean of paint chips is simple, but it is most important. Children can pick loose paint off walls, so be extra careful about keeping the loose paint from the lower part of walls where your child can reach. As an emergency measure, you might also move heavy furniture against walls with peeling paint.

Remember that you play a major role as a parent in the prevention of lead poisoning. Your actions and awareness about the lead problem can make a big difference.

**PART 39—COST-EFFECTIVE ENERGY CONSERVATION AND EFFECTIVENESS STANDARDS****Sec.**

39.1 Title and purpose.

39.3 Authority.

39.5 Scope.

39.7 Standards.

**APPENDIX—COST-EFFECTIVE ENERGY EFFICIENCY (CONSERVATION) STANDARDS FOR REHABILITATION OF RESIDENTIAL PROPERTIES**

**AUTHORITY:** Sec. 7(d) of the Housing and Urban Development Act (42 U.S.C. 3535(d)).

**SOURCE:** 44 FR 27618, May 10, 1979, unless otherwise noted.

**§ 39.1 Title and purpose.**

The purpose of this part is to set forth cost-effective energy conservation and efficiency standards applicable to HUD programs.

**§ 39.3 Authority.**

This part implements the provisions of the Housing and Community Development Amendments of 1978. 42 U.S.C. 1425(b), et seq., Pub. L. 95-557.

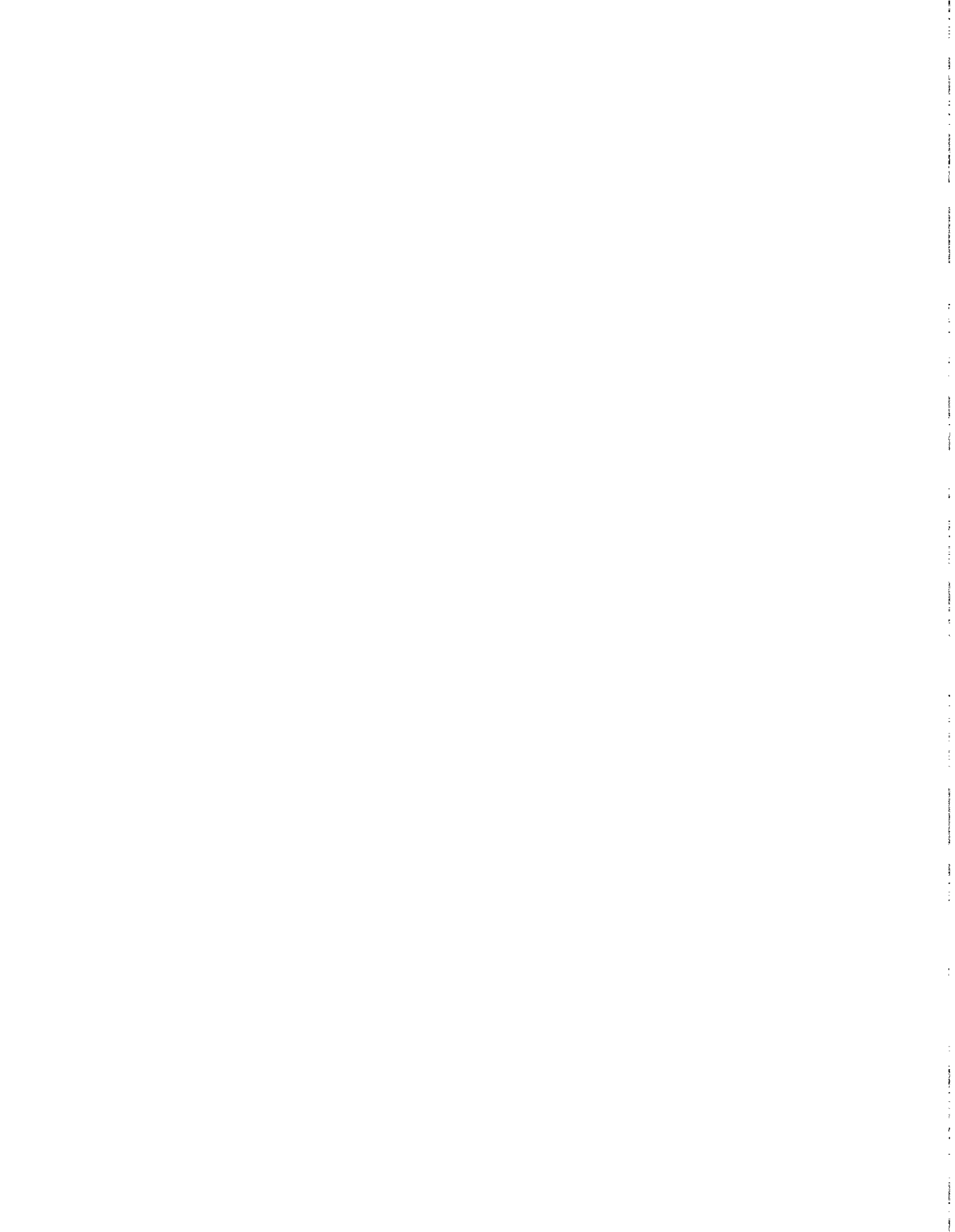
**§ 39.5 Scope.**

The standards apply to the following programs:

(a) Rehabilitation loans under section 312 of the Housing Act of 1964.

(b) Rehabilitation loans under section 203(k) of the National Housing Act.

(c) Operating assistance for troubled multifamily housing projects under section 201 of the Housing and Com-



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