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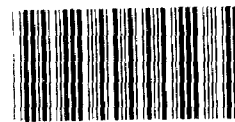
Testimony

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Limited Federal Response to Reduce Radon
Contamination in Housing

Statement of
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Before the
Subcommittee on Superfund and Environmental
Oversight
Committee on Environment and Public Works
United States Senate



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Mr. Chairman and Members of the Subcommittee:

We appreciate this opportunity to discuss the results of our work on radon,¹ which we performed at your request, Mr. Chairman. As a result of your concern about the efforts of federal agencies to deal with radon contamination in housing, we

- described the status of the Environmental Protection Agency's (EPA) radon detection and mitigation efforts;
- identified actions taken in response to potential radon hazards by the Department of Housing and Urban Development (HUD), the Farmers Home Administration (FmHA), the Veterans Administration (VA), and the National Park Service; and
- studied the federal government's potential liability for indoor radon hazards in federally insured or assisted housing.

In summary, we found that the extent of federal activity varied considerably by agency. At EPA there are a number of efforts underway to identify and correct radon problems. However, HUD, FmHA, and the VA, which finance and insure civilian housing, have radon activities that range from responding to a few site-specific problems to not being involved with indoor radon issues at all. Only the National Park Service, which provides housing to some of its employees, has a radon program or policy in place. In addition, the courts have not addressed the federal government's liability for radon in housing when it acts as a seller, insurer, or landlord.

¹ Indoor Radon: Limited Federal Response to Reduce Contamination in Housing (GAO/RCED-88-103, Apr. 1988).

What factors account for the general inaction by federal housing agencies to develop radon programs or policies? HUD, FmHA, and VA officials told us that the overall absence of a specific legislative mandate for an agency radon program is a primary reason. They also pointed to the uncertainty over the extent of the radon problem and the lack of a federal radon standard as reasons for their limited activity. While EPA does not intend to develop a radon standard, the agency has developed radon guidelines and is working on identifying high risk areas.

EPA HAS A NUMBER OF
RADON EFFORTS UNDERWAY

As I mentioned, EPA has a number of major efforts to identify and mitigate radon problems. One is a national radon assessment of the extent of the radon problem in homes, as required by the Superfund Amendments and Reauthorization Act of 1986.²

The planned national assessment has encountered delays, however, and it is not expected to be completed until fiscal year 1991. The assessment has been delayed in large part because of comments from a subcommittee of an EPA Science Advisory Board.³ The subcommittee found that the survey design presented a valid approach for a national assessment. However, it did express a number of concerns, such as the exclusion of rental units from the national assessment. This issue had not been resolved at the time of our review.

In another effort, EPA is providing assistance to states to identify high risk areas. In 1987, EPA assisted 10 states. These

² The legislation requires that work and educational institutions also be included in the assessment, but EPA's planned assessment is devoted exclusively to residences.

³ The Science Advisory Board is an independent group of scientists brought together to advise EPA on various scientific matters.

surveys disclosed elevated radon levels in 21 percent of the approximately 10,000 houses tested.

EPA officials also said they will use a growing body of radon information now available from private radon testing firms. EPA plans to ask the major firms to submit their radon test results to it for consolidation and analysis. However, EPA has not set a time frame for performing this work, and funds were not requested for such work in its fiscal year 1988 budget. Because we believe the data may add measurably to existing radon knowledge, we recommended in our report that EPA act on this matter.

HUD'S RADON RESPONSE

IS PIECEMEAL

I would like now to discuss HUD's role. HUD, as the lead federal housing agency, has not delineated a specific policy or course of action it will take in response to emerging radon issues. Instead, HUD has responded to radon hazards in a limited, piecemeal manner.

For instance, HUD provides radon disclosure notices to prospective applicants of HUD-insured mortgages in three areas where radon problems were found prior or 1980.⁴ It does not provide disclosure notices to mortgage applicants in other areas where high radon levels have been found. For example, radon disclosure notices are not used in Colorado or Kansas, even though EPA's state surveys found elevated radon levels in 39 percent of 900 houses tested in Colorado, and 21 percent of 1,000 houses tested in Kansas.

⁴ The three areas are (1) Butte and Anaconda, Montana; (2) Edgemont, South Dakota; and (3) certain portions of Florida.

In another illustration of its piecemeal radon response, HUD authorized radon reduction techniques during the construction of a single HUD-assisted public housing project in Bethlehem, Pennsylvania. HUD may not authorize such action for other HUD-assisted construction projects because the agency has no requirement or policy that radon reduction techniques be incorporated in new construction projects it finances.

Although HUD and EPA share responsibility for radon research under the Superfund Reauthorization, the agencies have not yet defined their roles. Specifically, this legislation requires that EPA and HUD jointly conduct research on methods to assess the potential for radon contamination in new construction and design measures to avoid indoor air pollution. EPA has taken the lead role in responding to this requirement, and, although HUD recently funded a \$40,000 research project, a definitive HUD role remains unclear. Therefore, we recommended in our report that HUD and EPA define their respective roles and planned actions in response to their shared legislative mandate.

HUD officials said they have no other direct statutory mandate and that this is one of the primary reasons why HUD has not developed a radon policy. In addition, HUD officials have taken the position that outstanding radon issues prevent the development of such a policy. These issues include the lack of a federal radon standard, an inadequate methodology for surveying broad areas with potentially high radon levels, and the potential for manipulating short-term radon tests.

We agree that there are many outstanding radon issues, and this fact makes development of a radon policy more difficult. Nevertheless, we note that scientists estimate that from about 5,000 to 20,000 lung cancer deaths a year in the United States may be attributable to radon. Further, we believe that the outstanding issues should not prevent HUD from formulating appropriate policies

and procedures based on current information. Of course, the policies and procedures can be revised, if necessary, as additional knowledge is developed.

If the Congress wishes HUD to assume a more active role in responding to radon, it may want to consider outlining HUD's expected indoor radon responsibilities. These responsibilities could include the following:

- providing prospective mortgage insurance applicants with general radon information through a disclosure notice;
- incorporating, and evaluating the effectiveness of, radon mitigation techniques in new construction financed by the department, at least on a pilot basis; and
- reporting to EPA on the effectiveness of any radon mitigation techniques used in HUD-assisted housing.

RESPONSE OF
OTHER AGENCIES

With respect to the other agencies we reviewed--the FmHA, the VA, and the National Park Service--there are marked differences in their response to potential radon problems. For instance, VA and FmHA officials said they are unaware of any radon problems in the housing their agencies finance or insure, and neither agency has a radon policy. However, the FmHA is planning to develop an air pollution policy that will include radon.

This planned FmHA action contrasts with the VA, which considers radon to be a state and local government issue. The VA takes the position that it is not required to address potential radon problems in houses it insures. Consequently, the VA has no

policy, and has no plans to develop one, related to insuring houses that may have hazardous radon levels.

In contrast, the National Park Service, which provides housing to some of its employees, has tested about 2,800 permanent housing units. It has also tested some of its administrative buildings and seasonal housing. As a result, the Park Service plans to perform mitigation work on about 350 buildings that have shown elevated radon levels.

FEDERAL LIABILITY
FOR RADON

The courts have not addressed whether the federal government is required to compensate for or mitigate radon in housing when it acts as a seller, insurer, or landlord.

Other housing conditions affecting habitability, however, have been addressed by the courts. Under the Housing and Community Development Amendments of 1978, recent lower federal court decisions have required the government as landlord to correct or eliminate conditions such as water leaks and rat infestation. Whether the reasoning of the most recent decisions will be upheld upon appeal, or extended to include exposure to radon at some undetermined level, is an issue that must be resolved by litigation.

Other court cases suggest that, except in unusual circumstances, the courts will not require the federal government as seller or insurer to assure that the housing it sells is free of hazardous levels of radon.

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In conclusion, federal agencies involved with housing have responded differently to radon hazards. Consequently, the overall federal housing response to the radon problem has been fragmented and limited. To more effectively deal with the radon issue, the Congress may wish to consider broadly outlining expected indoor radon responsibilities for federal agencies involved with housing.

Mr. Chairman, this concludes my prepared statement. I would be glad to respond to any questions that you or members of the Subcommittee might have.