

GAO

Report to the Chairman, Subcommittee  
on Toxic Substances, Environmental  
Oversight, Research and Development,  
Committee on Environment and Public  
Works, U.S. Senate

April 1993

# LEAD-BASED PAINT POISONING

## Children Not Fully Protected When Federal Agencies Sell Homes to Public



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**Resources, Community, and  
Economic Development Division**

B-251744

April 5, 1993

The Honorable Harry Reid  
Chairman, Subcommittee on Toxic  
Substances, Environmental Oversight,  
Research and Development  
Committee on Environment  
and Public Works  
United States Senate

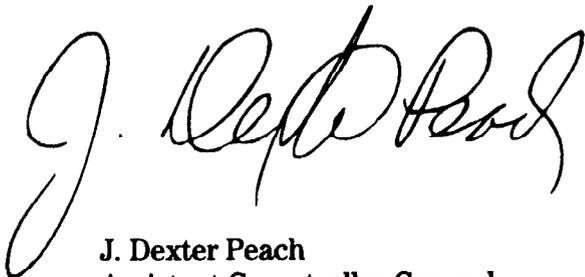
Dear Mr. Chairman:

This report responds to your request that we review whether the Departments of Housing and Urban Development (HUD) and of Veterans Affairs (VA) and the Farmers Home Administration (FmHA) in the U.S. Department of Agriculture have complied with the provisions of the Lead-Based Paint Poisoning Prevention Act, as amended. Our report contains recommendations designed to better protect purchasers of federally owned residential properties.

As agreed with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from the date of this letter. At that time, we will send copies to the Secretaries of HUD, VA, and Agriculture and to other interested parties. We will also make copies available upon request.

This work was performed under the direction of Judy A. England-Joseph, Director, Housing and Community Development Issues, who can be reached on (202) 512-7631 if you or your staff have any questions. Other major contributors are listed in appendix I.

Sincerely yours,



J. Dexter Peach  
Assistant Comptroller General

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# Executive Summary

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## Purpose

Lead poisoning is the most common and devastating environmental disease of young children, according to the Centers for Disease Control. Lead paint was used in homes until the 1970s, including many of the 110,060 homes sold to the public in fiscal year 1992 by the Departments of Housing and Urban Development (HUD) and of Veterans Affairs (VA), and the Farmers Home Administration (FmHA) in the U.S. Department of Agriculture.

As requested by the Chairman of the Subcommittee on Toxic Substances, Environmental Oversight, Research and Development, Senate Committee on Environment and Public Works, GAO reviewed whether the three agencies' sales of federally owned residential properties are consistent with provisions of the Lead-Based Paint Poisoning Prevention Act, as amended. Specifically, this report discusses (1) whether current federal lead-based paint regulations are consistent with the act's requirements, (2) how the agencies have implemented these regulations, and (3) how recent legislative changes affect the act's requirements.

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## Background

The act was passed in 1971 to eliminate poisoning hazards caused by lead-based paint. Amendments in 1973 required the Secretary of HUD to establish and implement procedures to eliminate as far as practicable these hazards in federally owned single-family houses and certain other properties. In 1976, HUD issued regulations for all federal agencies (including HUD, VA, and FmHA) that sell residential single-family properties to the public. The regulations require that houses be visually inspected for defective paint surfaces (cracked, chipped, or loose surfaces) and that these surfaces be eliminated. In 1987, HUD issued regulations for its own sales program for single-family properties, requiring not only visual inspections and treatment of defective surfaces but also testing and treatment of a home's chewable surfaces if a prospective purchaser's child had a high level of lead in the blood.

In February 1988, the Congress established new requirements for covered housing. Agencies were required to test—rather than visually inspect—painted surfaces, treat both defective and intact surfaces containing lead, and notify purchasers of test results. Also, coverage was extended from pre-1950 to pre-1978 housing. In 1992, the Residential Lead-Based Paint Hazard Reduction Act refocused certain 1988 requirements.

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## Results in Brief

HUD never revised the regulations applicable to all federal agencies' residential properties to recognize the tougher 1988 testing and treatment requirements. For example, the regulations require only visual inspections rather than testing of painted surfaces as called for in the 1988 act. HUD also did not revise the regulations for its own single-family property disposition program to conform with the 1988 requirements. Revisions were not made primarily because of concerns about the high costs of testing and treatment and the private sector's limited capacity to undertake such actions, according to HUD officials.

Even the less stringent regulations have not been fully implemented by the agencies' field offices. For example, although HUD required that inspections be documented, the field offices GAO reviewed sometimes lacked this documentation. Until 1991, VA field offices were not required to document inspections or notifications. FmHA's procedures were outdated—only properties built before 1950 were covered. Finally, none of the three agencies routinely monitored its field offices' compliance with lead-based paint requirements. Such monitoring could have helped detect weaknesses in field offices' activities.

In the 1992 act, the Congress recognized that, despite legislative mandates, little had been done to address the serious problem of lead-based paint hazards. Thus, the 1992 act is intended to focus federal resources on areas where they are needed most, for example, by requiring abatement of hazards in houses built before 1960, rather than 1978. Parents living in post-1960 properties will be primarily responsible for safeguarding their children by following specialized cleaning instructions and making repairs. Unless federal agencies monitor how these actions are implemented, their effectiveness may not be known.

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## Principal Findings

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### Current Regulations Are Limited

HUD's current regulations for federally owned properties are limited in identifying and eliminating lead-based paint poisoning hazards. For example, the regulations generally prescribe only visual inspections rather than testing of painted surfaces as required by the 1988 and 1992 amendments. Nor do the regulations address the problem of dust contaminated with lead-based paint—the most common cause of low-level lead poisoning.

According to HUD officials, the regulations were not revised to address the 1988 amendments' tougher requirements because of the cost of implementing the requirements, the limited capacity of the private sector to undertake large-scale testing and abatement, and other factors. The current regulations are likely to remain in effect until 1995, when regulations for the 1992 act are to be issued.

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### Current Regulations Have Not Been Fully Implemented

GAO found that HUD, VA, and FmHA did not completely implement the current regulations. However, GAO could not fully determine the extent of these agencies' inspection, treatment, and notification because their field offices did not always document whether these activities took place. For HUD, field offices generally inspected properties and provided notification but could give little or no assurance that defective surfaces were treated. For example, of the 205 files for pre-1978 properties reviewed at six HUD offices, 91 percent contained evidence of an inspection for defective paint surfaces. However, the files often did not have evidence that treatment was done. For the two HUD offices where treatment documentation was supposed to be placed in property disposition files, 44 percent and 39 percent of the files lacked this documentation. In the other four offices, treatment documentation was placed in other files and could not be easily located by GAO.

VA implemented its procedures less completely than did HUD. Before 1991, two of the six VA regional offices visited did not visually inspect for defective surfaces in pre-1978 housing, and three offices did not treat these surfaces, as required. Also, until 1991, VA did not require that inspections or notifications be documented. VA has begun to address these problems.

Although FmHA procedures go beyond current regulations, its field offices' implementation was the least complete. FmHA procedures require testing of painted surfaces, but they cover only properties built before 1950, not those built between 1950 and 1978, as required by the 1988 act. Also, officials at the 10 county offices visited generally had not tested for or treated lead-based paint hazards in residences. Instead of treatment, some county offices placed restrictions on deeds that prevented purchasers from legally occupying the homes until they abated the hazards. Furthermore, FmHA procedures do not require documenting that purchasers have been notified about lead-based paint hazards.

Monitoring is an integral part of any system of management controls. However, of the three agencies, only HUD had reviewed its field offices'

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compliance with lead-based paint requirements. In one such review, HUD found that defective paint surfaces were not treated in some properties. VA and FmHA did not address compliance with lead-based paint requirements in their reviews of field offices' activities.

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### New Legislation Revises Requirements

The 1992 act substantially revised requirements for selling federally owned residential properties. Although the new law retains the testing requirement for pre-1978 properties, it requires treatment only for pre-1960 properties, which pose the greatest risks. For pre-1960 properties, agencies must test for and abate all lead-based paint hazards. For post-1960 properties, rather than abating hazards, agencies must provide prospective purchasers with test results and information on interim controls and abatements. Because these measures may be costly and involve specialized equipment and technical knowledge, it is unclear how well purchasers will implement them. Unless HUD, VA, and FmHA monitor implementation of these measures, adequate information may not be available to assess their effectiveness.

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### Recommendations

To better protect purchasers of federally owned residential properties, GAO makes several recommendations to the Secretaries of HUD, VA, and Agriculture to improve implementation of current procedures on lead-based paint. These include requiring field offices to verify that copies of inspection and treatment documentation are placed in property disposition files. GAO also recommends that the agencies verify field offices' compliance with lead-based paint requirements.

To determine whether interim controls and abatements are implemented fully and safely in post-1960 homes, GAO recommends that the Secretaries of HUD, VA, and Agriculture periodically survey a sample of parents living in such homes on how they are implementing these measures.

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### Agency Comments

GAO discussed the information in this report with HUD's Director of the Office of Lead-Based Paint Abatement and Poisoning Prevention and officials responsible for property management and disposition programs at all three agencies. These officials generally agreed with the information presented. As requested, GAO did not obtain written agency comments on a draft of the report.

# Contents

<b>Executive Summary</b>		<b>2</b>
<b>Chapter 1</b>		<b>8</b>
<b>Introduction</b>	Potential for Lead-Based Paint Poisoning Is Widespread	8
	Federal Laws Enacted to Prevent Lead-Based Paint Poisoning	9
	Regulations Promulgated for Federally Owned Properties	10
	Agencies' Property Disposition Procedures Include Lead-Based Paint Requirements	11
	Objectives, Scope, and Methodology	16
<b>Chapter 2</b>		<b>19</b>
<b>HUD's Response to Congressional Mandate Has Been Slow, but New Legislation May Offer a More Practical Approach</b>	1988 Legislation Substantially Strengthened Lead-Based Paint Requirements	19
	HUD's Current Regulations Are Narrow	19
	HUD Did Not Revise Regulations for Federally Owned Properties Because of Cost and Capacity Concerns	23
	Recently Enacted Legislation Changes Requirements for Disposition of Federally Owned Properties	26
	Conclusions	30
	Recommendation	30
<b>Chapter 3</b>		<b>31</b>
<b>No Agency Completely Implemented Current Lead-Based Paint Regulations</b>	HUD Generally Inspected Homes and Notified Purchasers, but Lacked Assurance That Treatment Was Performed	31
	VA's Implementation Was Inadequate	37
	FmHA's Implementation Was Inadequate	39
	Only HUD Monitors Compliance With Lead-Based Paint Requirements	42
	Conclusions	44
	Recommendations	44
<b>Appendix</b>	Appendix I: Major Contributors to This Report	46
<b>Related GAO Products</b>		<b>48</b>
<b>Table</b>	Table 2.1: Documentation of Inspections in Six HUD Field Offices	<b>32</b>
<b>Figures</b>		

---

Figure 1.1: Number of Properties Acquired by HUD, VA, and FmHA, Fiscal Years 1988-92	12
Figure 1.2: Properties Sold by HUD, Va, and FmHA, Fiscal Year 1992	13
Figure 1.3: Inventory Levels of HUD, VA, and FmHA Properties, as of September 30, 1992	14

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**Abbreviations**

AMB	area management broker
CDC	Centers for Disease Control
FmHA	Farmers Home Administration
FHA	Federal Housing Administration
GAO	General Accounting Office
HUD	Department of Housing and Urban Development
PMB	property management broker
VA	Department of Veterans Affairs

# Introduction

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Lead poisoning is the most common and devastating environmental disease of young children, according to the Centers for Disease Control (CDC). Millions of U.S. children from all geographic areas and socioeconomic groups have blood lead levels high enough to be associated with adverse health effects. Lead is a poison that affects virtually every system in the body, and health experts believe that the consequences of lead poisoning are irreversible. It is particularly harmful to the developing brain and nervous system of fetuses and young children. Adverse effects of lead on fetuses include decreased gestational weight, miscarriage, and stillbirth. Young children can suffer from decreased intelligence, developmental delays, behavioral disturbances, seizures, and comas. Lead poisoning has also been linked to kidney disease and hypertension in adults. In extreme cases, lead poisoning can cause death.

According to the CDC, there are many sources of childhood lead poisoning, including paint, water, soil, dust, and food. However, lead-based paint accounts for most cases of lead poisoning in the United States.<sup>1</sup> Children may be exposed to lead when they ingest chips and flakes of lead-based paint and paint-contaminated house dust during normal hand-to-mouth activities and when they chew on protruding painted surfaces.

Lead-based paint was widely used in residences until the 1950s and to a declining extent into the 1970s and is found as often in the homes of the well-to-do as the poor. The greatest concentrations of lead in paint occur in housing built before 1940. Although the paint industry adopted a voluntary standard limiting the use of lead in interior paints in 1955, the Consumer Product Safety Commission did not ban the sale of lead-based paint to consumers until 1978.

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## Potential for Lead-Based Paint Poisoning Is Widespread

According to a 1990 Department of Housing and Urban Development (HUD) survey of lead-based paint in privately owned housing, 57 million, or 74 percent, of the 77 million homes built before 1980 contain lead-based paint. An estimated 9.9 million of these homes are occupied by families with children under the age of 7, who are most susceptible to lead poisoning. Further, an estimated 3.8 million of these homes have conditions that pose priority hazards of peeling lead-based paint or excessive lead-contaminated dust. These conditions place children at a high risk of exposure.

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<sup>1</sup>Strategic Plan for the Elimination of Childhood Lead Poisoning, Centers for Disease Control, Department of Health and Human Services, Public Health Service, Feb. 1991, p. 33.

As of 1970, the Public Health Service considered the level at which exposure to lead warranted medical intervention as 60 micrograms of lead per deciliter of blood. In 1975, the level was lowered to 30 micrograms, then to 25 micrograms in 1985. The current threshold—set in 1991—is 10 micrograms.

These reductions significantly increase the number of children considered to be at risk of neurological and other impairments. For example, in 1984 the CDC estimated that 200,000 white and black children under the age of 6 living in metropolitan areas had blood lead levels of 25 micrograms per deciliter of blood or greater. For levels of 15 micrograms or greater, the estimate was 2.4 million children. Thus, according to the CDC's estimates, reducing the level from 25 to 15 micrograms increased the number of children considered to be at risk by a factor of more than 10. While the CDC did not estimate the number of children at risk using the current threshold of 10 micrograms, the number would probably be even higher.

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## Federal Laws Enacted to Prevent Lead-Based Paint Poisoning

Beginning in 1971, the federal government enacted a series of laws to identify and eliminate poisoning hazards from lead-based paint. The Lead-Based Paint Poisoning Prevention Act (P.L. 91-695, Jan. 13, 1971) originally authorized the Department of Health, Education, and Welfare (now the Department of Health and Human Services) to provide grants to local governments for developing and implementing programs to identify and eliminate poisoning hazards from lead-based paint in housing. HUD was required to conduct a research and demonstration program to determine the nature and extent of lead-based paint poisoning nationwide and the methods by which lead-based paint can most effectively be removed from residential housing. The act also defined lead-based paint as any paint containing more than 1 percent lead by weight.

In 1973 amendments to the act, the Congress gave HUD significant responsibility for lead-based paint hazards. In particular, HUD was to establish and implement procedures to

- eliminate as far as practicable lead-based paint hazards in federally insured and assisted housing built before 1950,
- eliminate such hazards in all pre-1950 properties owned by federal agencies before they were sold as residences, and
- notify purchasers and tenants of such housing of the hazards of lead-based paint, symptoms and treatment of lead-based paint poisoning, and the

importance and availability of maintenance and removal techniques for eliminating the hazards.

Amendments to the act enacted in 1976 lowered the standard in 1977 for allowable lead in paint to 0.06 percent, the current standard.

Major new requirements for federally insured, assisted, and owned housing were promulgated by the Housing and Community Development Act of 1987 (P.L. 100-242, Feb. 5, 1988), which extended coverage to housing constructed or substantially rehabilitated prior to 1978.<sup>2</sup> These requirements were in effect when we conducted our field work and are described in detail in chapter 2.

On October 28, 1992, the Congress enacted the Residential Lead-Based Paint Hazard Reduction Act of 1992 as title X of the Housing and Community Development Act of 1992 (P.L. 102-550). Among other things, the act is designed to (1) develop a national strategy to build the infrastructure necessary to eliminate lead-based paint hazards in all housing as expeditiously as possible; (2) reorient the national approach to the presence of lead-based paint in housing to implement, on a priority basis, a broad program to evaluate and reduce lead-based paint hazards in the nation's housing stock; and (3) mobilize national resources expeditiously, through a partnership among all levels of government and the private sector, to develop the most promising, cost-effective methods for evaluating and reducing lead-based paint hazards. Among other revisions, the new law makes major changes to the Lead-Based Paint Poisoning Prevention Act's requirements concerning the disposition of federally owned properties. These changes are described in detail in chapter 2.

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## **Regulations Promulgated for Federally Owned Properties**

Pursuant to the 1973 amendments to the act, HUD promulgated lead-based paint regulations in 1976 for all federal agencies, such as the Department of Veterans Affairs (VA) and the Farmers Home Administration (FmHA) in the U.S. Department of Agriculture, that sell residential properties to the public. These regulations (24 C.F.R., Part 35), which are still in effect, require, among other things, (1) visual inspection of the housing to

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<sup>2</sup>Other new requirements were enacted later in 1988, through the Stuart B. McKinney Homeless Assistance Amendments Act (P.L. 100-628, Nov. 7, 1988). However, these requirements generally addressed lead-based paint in public housing.

determine whether defective (nonintact) paint surfaces exist,<sup>3</sup> (2) elimination of these defective paint surfaces by covering or removal, and (3) notification to prospective purchasers and tenants of the hazards of lead-based paint, the symptoms and treatment of lead paint poisoning, and maintenance and removal techniques for eliminating such hazards.<sup>4</sup>

In addition to the 1976 regulations, HUD promulgated regulations in 1987, subsequent to a court case,<sup>5</sup> that address lead-based paint in the disposition of HUD-owned single-family properties (24 CFR Ch. II, Subpart O, Section 200.815). These regulations require not only visual inspections and treatment of defective paint surfaces but also testing and treatment of a home's chewable surfaces if a high lead level is identified in the blood of a prospective purchaser's child.<sup>6</sup>

## Agencies' Property Disposition Procedures Include Lead-Based Paint Requirements

HUD's Federal Housing Administration (FHA), VA, and FmHA sell residential, single-family properties, acquired through foreclosure or voluntary conveyance, to the general public. These agencies acquire properties when borrowers are unable to repay home mortgages that are insured, guaranteed, or provided by one of the agencies.<sup>7</sup> The agencies then must dispose of the acquired properties.

Each of these agencies has established procedures for disposing of single-family properties. In concert with HUD's lead-based paint regulations for federally owned properties, HUD, VA, and FmHA have incorporated lead-based paint requirements into their procedures for disposing of single-family properties.

During the 5-year period, fiscal years 1988 through 1992, HUD, VA, and FmHA acquired a total of 603,720 single-family properties as the result of foreclosure or voluntary conveyance. For example, in fiscal year 1992, the

<sup>3</sup>A defective paint surface is defined as any interior or exterior painted surface of a residential structure on which the paint is cracking, scaling, chipping, peeling, or loose.

<sup>4</sup>In 1988, pursuant to legislative amendments, HUD revised the regulations to extend coverage to housing constructed or substantially rehabilitated prior to 1978 and clarified the definition of "applicable surfaces."

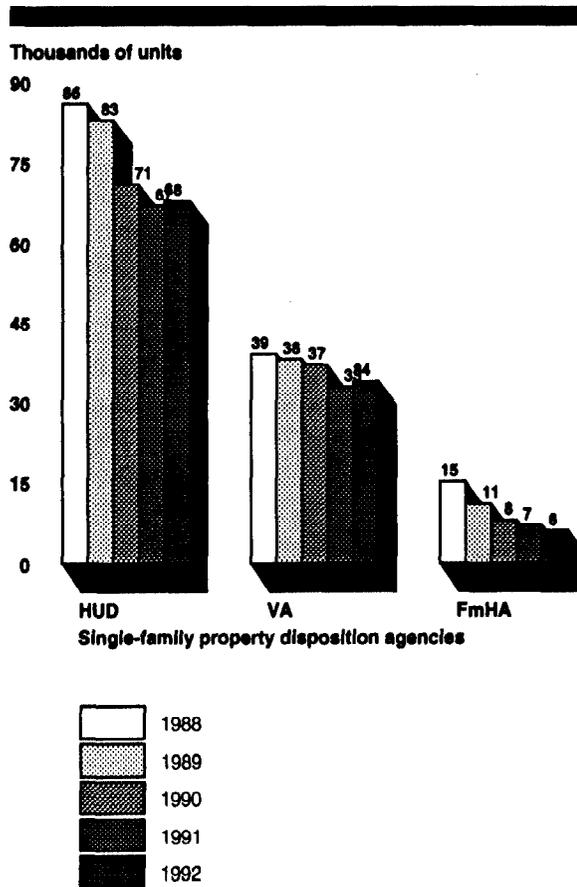
<sup>5</sup>*Ashton v. Pierce*, 716 F. 2d 56 (D.C. Cir. 1983).

<sup>6</sup>A chewable surface is defined by HUD as any chewable protruding painted surface that is up to 5 feet from the floor or ground such as protruding corners, windowsills and frames, doors and frames, and other protruding woodwork, and that is readily accessible to children under 7 years of age.

<sup>7</sup>FHA insures private lenders against losses on loans made to borrowers. VA guarantees lenders that it will repay a part of the loan amount if a borrower defaults on a loan. FmHA makes housing loans to qualified, low-income rural Americans.

three agencies acquired 108,712 single-family properties. In general, the number of properties each agency acquired declined from year to year, as shown in figure 1.1.

Figure 1.1: Number of Properties Acquired by HUD, VA, and FmHA, Fiscal Years 1988-92



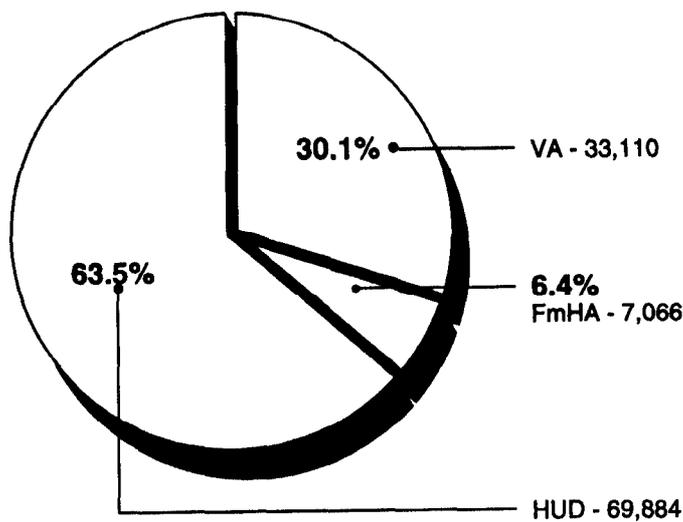
Source: Prepared by GAO from HUD, VA, and FmHA data.

Overall, HUD and VA attributed the decrease in acquisitions to economic improvements in depressed areas of the country. However, FmHA officials credited the reduction to a change in FmHA's policy. Specifically, in 1988, FmHA discontinued its practice of allowing a borrower in danger of default to voluntarily convey title of the home to FmHA. FmHA now encourages borrowers in danger of default to try to sell the home on their own to

settle their debt. If they are unsuccessful, then FmHA forecloses on the home. FmHA officials stated that the policy was changed in an effort to reduce the costs associated with maintaining homes in inventory.

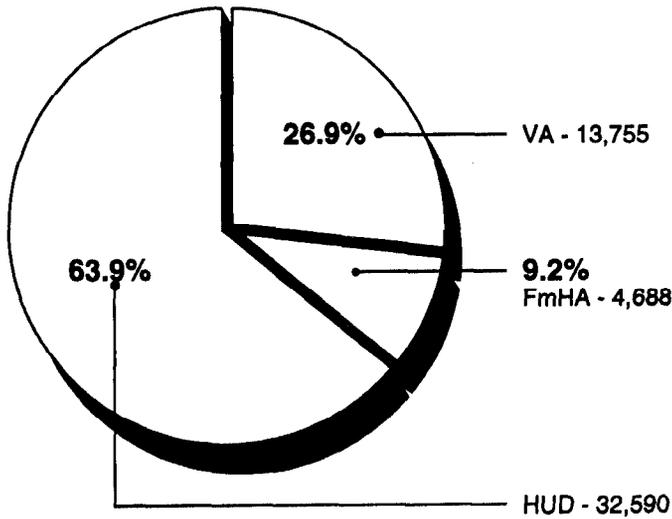
During fiscal year 1992, these agencies sold 110,060 single-family homes, and their inventories, as of September 30, 1992, totaled 51,033. Figure 1.2 shows the number of properties sold by each agency and figure 1.3 shows the inventory for each agency.

Figure 1.2: Properties Sold by HUD, Va, and FmHA, Fiscal Year 1992



Source: Prepared by GAO from HUD, Va, and FmHA data.

Figure 1.3: Inventory Levels of HUD, VA, and FmHA Properties, as of September 30, 1992



Source: Prepared by GAO from HUD, VA, and FmHA data.

Properties are sold by each agency through property disposition personnel in field offices around the country. Prior to the sale of properties, each agency is required to carry out specific lead-based paint inspection, treatment, and notification procedures, as detailed below.

## HUD

HUD headquarters establishes policies and guidance for disposing of single-family properties, including requirements on inspecting for, treating, and notifying buyers about the hazards of lead-based paint in HUD-owned properties built prior to 1978. HUD's 10 regional offices oversee the property disposition activities of 73 field offices that are responsible for property disposition. Field offices hire private contractors, called area management brokers (AMBS), to manage the properties while they are in inventory. Among other duties, AMBS are responsible for visually inspecting properties for defective paint surfaces, hiring contractors to treat these surfaces, and documenting the results of the inspection. HUD also contracts with a national appraisal company for appraisals of inventory properties. The appraisers are also responsible for inspecting for defective paint surfaces and documenting the results of these inspections.

All sales of properties are handled by contract real estate brokers under the oversight of the field offices. HUD relies on these brokers to notify potential purchasers about the hazards of lead-based paint.

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VA

Like HUD, VA's central office establishes single-family property disposition policies and procedures, including lead-based paint requirements. VA's 49 regional offices are responsible for overseeing the disposition of VA-owned properties. Regional offices hire private contractors, called property management brokers (PMBs), that receive fees to inspect and manage properties. Among other duties, PMBs are responsible for visually inspecting properties for defective paint surfaces, hiring contractors to treat these surfaces, and documenting the results of the inspection.

As with HUD, sales of properties generally are handled by contract real estate brokers under the oversight of VA regional offices. VA relies on these brokers to notify potential purchasers about the hazards of lead-based paint.

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FmHA

Like HUD and VA, FmHA headquarters establishes property disposition policies and procedures, including lead-based paint requirements. FmHA's 46 state offices oversee over 200 district offices, which in turn oversee more than 1,900 county offices. The county offices handle the disposition of properties. County supervisors are responsible for managing properties in FmHA's inventory. Actual management activities may be done by property managers and real estate brokers hired under contract. Unlike HUD's and VA's procedures, FmHA's lead-based paint procedures require not only visual inspections for defective paint surfaces but also testing for lead content in homes built before 1950. However, FmHA will test for and treat lead-based paint poisoning hazards in pre-1950 homes for which it intends to provide FmHA financing. FmHA generally will not test for or treat lead-based paint hazards in homes it is selling but not financing.

As with HUD and VA, FmHA generally sells properties through real estate brokers under the oversight of county offices. FmHA staff may sell the properties when there are fewer than five properties in the county office's jurisdiction. FmHA county supervisors are required to notify potential purchasers of the hazards of lead-based paint.

## Objectives, Scope, and Methodology

The Chairman, Subcommittee on Toxic Substances, Environmental Oversight, Research and Development, Senate Committee on Environment and Public Works, requested that we review whether HUD, VA, and FmHA have complied with the provisions of the Lead-Based Paint Poisoning Prevention Act, as amended,<sup>8</sup> concerning sales of federally owned residential properties (42 U.S.C. 4822). As agreed with the Chairman's office, we determined

- whether current federal lead-based paint regulations are consistent with the act's requirements,
- how the agencies have implemented these regulations, and
- how recent legislative changes affect the act's requirements.

Through discussions with the Chairman's office, we agreed to limit our review to HUD's, VA's, and FmHA's disposition of single-family properties. Further, we agreed to perform our review at these agencies' offices in three midwestern states—Illinois, Indiana, and Wisconsin—and three mid-Atlantic locations—the District of Columbia,<sup>9</sup> Maryland, and Pennsylvania. These locations were selected on the basis of several discussions with the Chairman's office.

To address the first objective, we reviewed the act, its legislative history, and the regulations. We also interviewed HUD's Director and Deputy Director of the Office of Lead-Based Paint Abatement and Poisoning Prevention and a Senior Attorney from HUD's Office of General Counsel regarding the current regulations.

To address the second objective, we interviewed HUD headquarters officials, including HUD's Director of the Single Family Property Disposition Division, and field personnel about lead-based paint policies and practices. We reviewed property disposition files at HUD's field offices in Baltimore, Chicago, Indianapolis, Milwaukee, Philadelphia, and Washington, D.C., to examine documentation for compliance with lead-based paint inspection, treatment, and notification requirements. We selected a random sample of files at these HUD locations from a universe of single-family homes sold during a short time period—June, July, and August 1991—rather than for a year because HUD sells a large number of properties. Our total sample size for the six HUD locations consisted of 250

<sup>8</sup>As noted earlier, the Feb. 1988 amendments were in effect at the time we conducted our audit work. The 1992 amendments were enacted in Oct. 1992.

<sup>9</sup>Unlike HUD and VA, FmHA does not have a field office in Washington, D.C. Therefore, we contacted FmHA state and county offices in Illinois, Indiana, Maryland, Pennsylvania, and Wisconsin.

files. During our initial review of property disposition files at HUD, we noted that most of the field offices' files contained little or no documentation about repairs, including those dealing with lead-based paint; such documentation is typically placed in other files. Moreover, we learned that such repair documents often have no clear cross-reference to a specific property, making it difficult to trace events from the property disposition file to these other files, which were often voluminous. Because this effort required an extensive amount of time with a limited number of files, we agreed with the Chairman's office to restrict this effort to only those field offices whose practice was to place repair documentation in the property disposition files.

We met with officials from VA's Central Office, including VA's Assistant Director for Property Management, and personnel at VA regional offices in the same six cities as HUD's field offices. However, we were able to select a random sample of files at only one of the six VA offices. At the other five VA offices, we could not do so because lead-based paint documentation procedures were just being implemented.

We met with FmHA headquarters officials, including FmHA's Chief of the Single Family Housing Servicing and Property Management Division. We also visited five FmHA state offices in Champaign, Illinois; Dover, Delaware (for Maryland); Harrisburg, Pennsylvania; Indianapolis, Indiana; and Stevens Point, Wisconsin; and 10 county offices in Danville and Taylorville, Illinois; Denton and Oakland, Maryland; Lancaster and York, Pennsylvania; Lafayette and Marion, Indiana; and Portage and Mauston, Wisconsin. We were able to select judgmental samples of files at only 2 of the 10 county offices visited. At the other eight offices, we could not do so because either lead-based paint documentation was unavailable or the office had not acquired any properties for several years.

We also reviewed the monitoring efforts of each agency for its single-family property disposition program to see whether criteria on lead-based paint were included in the review plans. We interviewed headquarters and field personnel at the three agencies and obtained documentation on review procedures.

To address the third objective, we reviewed the provisions of the Residential Lead-Based Paint Hazard Reduction Act of 1992 that changed the inspection, abatement, and notification requirements for the sale of federally owned residential properties as delineated in the Lead-Based

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**Paint Poisoning Prevention Act. Further, we reviewed the new act's legislative history.**

**Our review was conducted from March 1991 through November 1992 in accordance with generally accepted government auditing standards. As the Chairman's office requested, we did not obtain written agency comments on a draft of this report. However, we discussed its contents with HUD's Director of the Office of Lead-Based Paint Abatement and Poisoning Prevention and officials responsible for property management and disposition programs at all three agencies and incorporated their comments and suggestions where appropriate.**

# HUD's Response to Congressional Mandate Has Been Slow, but New Legislation May Offer a More Practical Approach

HUD's current lead-based paint regulations for the sale of federally owned residential properties are limited in determining the existence of and eliminating lead-based paint poisoning hazards. The current regulations prescribe only a visual inspection for painted surfaces that are peeling or chipping—termed defective paint surfaces by HUD—and treatment of only these surfaces.<sup>1</sup> HUD did not revise these regulations (applicable to all federal agencies) to address the more stringent requirements in the Lead-Based Paint Poisoning Prevention Act, as amended in February 1988.<sup>2</sup> HUD also did not change the regulations for its own single-family property disposition program to conform with the 1988 requirements. Revisions were not made primarily because of the cost of implementing the act's requirements and the limited capacity of the private sector to undertake large-scale testing and abatement. Because of these difficulties in implementing the 1988 requirements, the Congress recently enacted legislation intended to redirect federal lead-based paint policy towards what it considers a more cost-effective and practical approach. The new law also defined a set of "interim controls" to temporarily reduce exposure to lead-based paint hazards.

## 1988 Legislation Substantially Strengthened Lead-Based Paint Requirements

HUD's 1976 lead-based paint regulations were found deficient by a federal district court in 1983. This decision prompted, at least in part, the February 1988 amendments, which substantially strengthened the requirements placed on federal agencies for lead-based paint testing, treatment, and notification.

## HUD's Current Regulations Are Narrow

In 1976, HUD promulgated lead-based paint regulations for eliminating lead-based paint hazards in federally owned residential properties prior to their sale (24 CFR, Part 35, Subpart E). These regulations implemented the 1973 amendments to the Lead-Based Paint Poisoning Prevention Act and apply to HUD and other federal agencies, such as VA and FmHA, that sell residential properties to the public. The regulations require, among other things, (1) visual inspection of the housing to determine whether defective, or nonintact, paint surfaces exist; (2) elimination of the defective paint surfaces by covering or removing them; and (3) notification to prospective purchasers and tenants of the hazards of lead-based paint, the symptoms and treatment of lead paint poisoning, and maintenance and

<sup>1</sup>More specifically, HUD defines a defective paint surface as any interior or exterior painted surface of a residential structure on which the paint is cracking, scaling, chipping, peeling, or loose.

<sup>2</sup>The Housing and Community Development Act of 1987 (42 U.S.C. 5301), enacted on Feb. 5, 1988.

removal techniques for eliminating such hazards. With the exception of changing the construction cut-off date from 1950 to 1978, clarifying the definition of applicable surfaces, and making minor revisions, the current regulations are virtually the same as those issued by HUD in 1976.

As we reported in 1980,<sup>3</sup> HUD interpreted its responsibilities under the act narrowly in developing these regulations. For example, the 1973 amendments required HUD to establish measures to eliminate, as far as practicable, immediate hazards from lead-based paint to which children may be exposed. HUD addressed this requirement by establishing regulations that apply only to defective paint surfaces and exclude intact surfaces, which can also be hazardous if covered by lead-based paint and chewed upon by children. Thus, woodwork that is covered by lead-based paint but is not defective would not require treatment under HUD's lead-based paint regulations for federally owned properties.

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### 1983 Court Case Challenged the Regulations' Adequacy

In a 1983 lawsuit, *Ashton v. Pierce* (716 F. 2d 56 (D.C. Cir. 1983)), public housing tenants in the District of Columbia challenged the adequacy of HUD's lead-based paint regulations. The court ruled that HUD's 1976 regulations, which called for visual inspection for and treatment of only defective paint surfaces, were deficient in the definition of immediate hazard for not including "intact" lead-based paint surfaces that are accessible to children. The court concluded that the act's language and legislative history demonstrated that the Congress intended that HUD eliminate at least lead-based paint that is accessible to, and chewable by, children.

In response to this court ruling, HUD promulgated regulations in January 1987 (24 CFR Ch. II, Subpart O, Section 200.815) for removing lead-based paint from chewable, or protruding, surfaces from housing that is part of HUD's single-family property disposition program. However, these regulations do not cover housing programs administered by other agencies. The regulations require not only visual inspections and treatment of defective paint surfaces but also testing and treatment of a home's chewable surfaces if a high blood lead level is identified in the purchaser's child.

To document these steps for the disposition of HUD-owned single-family properties, HUD uses a form called the lead-based paint addendum, which

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<sup>3</sup>HUD Not Fulfilling Responsibility to Eliminate Lead-Based Paint Hazard in Federal Housing (GAO/CEd-81-31, Dec. 16, 1980).

prospective purchasers who plan to reside in the home—"owner-occupant purchasers"—are required to complete and submit with the sales contract. A prospective owner-occupant purchaser who has a child under the age of 7 is required to follow certain procedures. Upon HUD's acceptance of a purchase offer, any purchaser's child under the age of 7 will be tested, at the purchaser's expense, for an elevated blood lead level. If the child has an elevated blood lead level, HUD is to test the chewable surfaces of the home for lead-based paint using an approved method. If the property tests positive for lead-based paint, HUD may choose to treat the entire chewable surface and proceed with the sale or may elect not to treat the property because of excessive costs and cancel the contract.<sup>4</sup>

The requirement to test children for elevated blood lead levels does not apply to owner-occupant purchasers who do not have any children or have no children under 7 years of age. Additionally, it does not apply to an investor who does not plan to reside in the home but plans to renovate it for resale or rental.

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## The Congress Strengthened Legislative Requirements

In February 1988 amendments, the Congress established new requirements for lead-based paint inspection, treatment, and notification that were much stronger than those set forth in HUD's regulations. In order to be consistent with *Ashton v. Pierce*, the Congress required HUD to establish procedures to eliminate, as far as practicable, intact, as well as nonintact, lead-based paint on interior and exterior surfaces in all covered housing. This revision necessarily requires, in addition to visual inspections for defective paint surfaces, testing of all painted surfaces for lead-based paint. Further, the House Committee on Banking, Finance and Urban Affairs, which considered the legislation, stated that the "health" approach used by HUD in its January 1987 regulations, which required the identification of a high lead level in a child's blood before HUD would test for and remove lead-based paint from chewable surfaces, was unacceptable.

More specifically, the act required the following:

- Test housing for lead-based paint. This provision required testing of all intact and nonintact interior and exterior painted surfaces of housing covered by the act for lead-based paint using an approved x-ray

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<sup>4</sup>HUD procedures also state that the purchaser has the option of completing the sale if (1) a blood lead level screening program is not reasonably available, (2) the purchaser refuses to have the child or children tested, or (3) HUD is unable to test the property for the existence of lead-based paint.

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**Chapter 2**  
**HUD's Response to Congressional Mandate**  
**Has Been Slow, but New Legislation May**  
**Offer a More Practical Approach**

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- fluorescence analyzer,<sup>5</sup> atomic absorption spectroscopy,<sup>6</sup> or a comparable approved technique.
- **Eliminate lead-based paint hazards.** This requirement redefined the conditions under which elimination was to occur, from an "immediate hazard" of exposure for children to one of all intact and nonintact surfaces that may contain lead in housing for a child of 7 years of age or younger.
  - **Establish condition-based criteria.** This provision required that any detection and elimination procedures are to be based on criteria that measure the condition of the housing rather than on criteria that measure the health of the housing's residents.
  - **Utilize a brochure for notification.** This provision required HUD to develop an informational brochure, in consultation with the National Institute of Building Sciences, to notify purchasers about lead-based paint hazards, symptoms and treatment of lead-based paint poisoning, and the importance and availability of maintenance and removal techniques.
  - **Notify purchasers of testing results.** This requirement stated that the results of testing for lead-based paint shall be provided to any potential purchaser of the housing.

The act applied these requirements to federally insured, assisted, and owned housing that was constructed or substantially rehabilitated prior to 1978.

The act also required HUD to conduct an abatement demonstration program. This provision, which applied to properties owned by HUD and public housing, required HUD to use different abatement methods to demonstrate their cost-effectiveness and applicability to various types of housing. In addition, it required HUD to prepare and transmit to the Congress a report, based on the results of the HUD-owned housing demonstration, detailing HUD's plan for the prompt and cost-effective inspection and abatement of privately owned housing.

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<sup>5</sup>An instrument that determines lead concentration in paint using the principle of x-ray fluorescence, in which lead produces light while being acted upon by x-rays.

<sup>6</sup>Atomic absorption spectroscopy determines the concentration of lead in paint samples by measuring the amount of light absorbed by atoms.

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## HUD Did Not Revise Regulations for Federally Owned Properties Because of Cost and Capacity Concerns

The February 1988 amendments required, among other things, testing for lead-based paint and elimination of hazards in intact, as well as nonintact surfaces, in federally owned residential properties prior to their sale. However, HUD did not revise the regulations applicable to all federal agencies' property disposition programs and its own single-family property disposition program to conform to these requirements. Among other things, the current regulations continue to require that (1) federal agencies visually inspect for and treat defective paint surfaces rather than test all paint surfaces and treat any surfaces that contain lead and (2) HUD perform tests of and treat chewable paint surfaces for its own single-family property disposition program only if purchasers' children under the age of 7 have elevated blood lead levels.

During our review, HUD officials offered several reasons why HUD did not develop regulations to conform to the more stringent testing and treatment requirements. The primary reasons cited were concerns about the cost of implementing these requirements and the limited capacity of the private sector to undertake testing and abatement on a large scale.

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## Implementation Would Be Costly

HUD has long been concerned with the cost of abating lead-based paint hazards. This concern was first expressed in the 1976 regulations, in which HUD viewed the removal of only defective paint conditions as the most workable method of eliminating, as far as practicable, the immediate hazards of lead-based paint, as required under the law. At the time, HUD concluded that the potential costs to completely remove all lead-based paint from all housing would be prohibitive.

In its December 1990 report, HUD estimated that the cost of testing and removing all lead-based paint from all pre-1980 privately owned housing units over a 10-year period was about \$50 billion annually, or a total of \$500 billion.<sup>7</sup> In March 1992 testimony before the Congress, a HUD official stated that full abatement of all surfaces covered with lead paint is not a realistic goal because of the enormous costs that would be involved. At that time, HUD estimated the cost of testing and removing all lead-based paint from its inventory of pre-1978 single-family properties as approximately \$280 million annually. Further, using information provided

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<sup>7</sup>Using the results of the demonstration program for HUD-owned housing and HUD's national survey of lead-based paint in housing, HUD estimated that 82.3 million units needed testing and 60.8 million of these units required abatement. The demonstration program showed that the average cost of abatement per unit was \$7,704 for removal of all lead-based paint and the average cost of testing per unit was \$375. The annual costs of testing and removal over a 10-year period were \$3.1 billion and \$46.8 billion, respectively, for a total annual cost of about \$50 billion.

by VA, HUD estimated the cost of testing for and abating all lead-based paint from VA's pre-1978 single-family property inventory at about \$135 million each year.<sup>8</sup>

A cost-benefit analysis done by CDC also showed that abatement costs were high. However, the analysis also determined that there were significant costs of not performing abatement. In its 1991 Strategic Plan for the Elimination of Childhood Lead Poisoning, CDC estimated that the total present cost of abating all pre-1950 housing with lead-based paint over a 20-year period was approximately \$34 billion.<sup>9</sup> CDC used these data in developing a cost-benefit analysis that compared the cost and benefits of abatement in pre-1950 housing. CDC characterized the benefits of preventing lead exposure in children as reduced medical costs, reduced special education costs, increased future productivity, and reduced infant mortality. The total present value of the benefits of abatements conducted over a 20-year period was estimated to be approximately \$62 billion. Therefore, the total present value of the net benefits of abatement over a 20-year period would be about \$28 billion.

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### Capacity for Testing and Abatement Is Limited

A HUD official also said that the regulations were not revised because of the limited capacity of the private sector to undertake testing and abatement. The testing and abatement industry is in an embryonic state. Only four states—Maryland, Massachusetts, Minnesota, and Rhode Island—currently have certification programs for inspectors and abatement contractors, according to a HUD official.<sup>10</sup> HUD and other entities, such as CDC and the Alliance to End Childhood Lead Poisoning, have identified capacity-building as a major ingredient in establishing an effective national abatement program for housing. HUD and CDC officials have stated that solving the capacity problem and promoting abatement activity will require a cooperative effort between federal, state, and local governments and the private sector.

Building capacity will take some time because a number of preliminary steps have to be undertaken before a safe and effective abatement program can begin. CDC has determined that these steps include

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<sup>8</sup>Testimony of Joseph G. Schiff, Assistant Secretary for Public and Indian Housing, Department of Housing and Urban Development, Before the Subcommittee on Housing and Urban Affairs, Senate Committee on Banking, Housing, and Urban Affairs, Mar. 19, 1992.

<sup>9</sup>CDC obtained data on the costs of testing and abatement from abatement programs in New York City, St. Louis, and Boston. The method of abatement relied upon by all three programs involved scraping, spackling, and repainting only nonintact areas.

<sup>10</sup>California and New Jersey are scheduled to institute certification programs during 1993.

developing (1) testing and abatement guidelines for use by states, localities, and individuals in privately owned homes; (2) worker training and certification programs to ensure the quality and consistency of worker training; and (3) laboratory accreditation programs to ensure that consistent and reliable laboratory results are obtained.

The issues related to capacity have begun to be addressed by HUD and other agencies, such as the Environmental Protection Agency (EPA). Among other efforts, HUD has begun to convert and update its hazard identification and abatement guidelines for public housing so that they can be used for privately owned housing by state and local governments and the private sector. EPA is developing training and certification programs to ensure that personnel conducting testing and abatement are qualified.

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### **Congress Required New HUD Office of Lead-Based Paint Abatement and Poisoning Prevention**

Because of HUD's slow pace in addressing lead-based paint abatement issues, in 1991 the Congress required HUD to establish a new office to handle lead-based paint responsibilities. The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriation Act of 1992 (P.L. 102-139, Oct. 28, 1991) required HUD to establish an Office of Lead-Based Paint Abatement and Poisoning Prevention in the Office of the Secretary. The office was to be responsible for all lead-based paint abatement and poisoning prevention activities, including research, abatement, training regulations, and policy development.

The Senate Appropriations Committee's report on the bill specifically linked the establishment of the new office to the Committee's concerns about HUD's "uneven and sluggish pace" in implementing congressional mandates and Committee directives on the issue of lead-based paint abatement.<sup>11</sup> The Committee noted that while nearly 57 million homes in the United States contain lead-based paint, according to HUD's 1990 report, there was (1) no framework or policy in place to identify when the presence of lead constitutes a hazard to individuals and families in the house and (2) no plan of action in place on how to abate the hazard once it has been identified. The Committee also noted that even in the area where there is a federal mandate to abate harmful lead—in public housing—"the Department's progress in combating this evil has been lackluster and inconsistent."

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<sup>11</sup>Senate Report 102-107, Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriation Bill, 1992, Senate Committee on Appropriations, July 11, 1991.

Although HUD established the new Office of Lead-Based Paint Abatement and Poisoning Prevention in December 1991, it had made limited progress in revising current lead-based paint regulations as of September 1992. The office's Deputy Director was not able to say with any certainty when the regulations for federally owned residential properties would be published as a final rule or how the requirements of the 1988 amendments would be addressed. HUD also did not have any concrete schedule or planned completion dates for these revised regulations.

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## **Recently Enacted Legislation Changes Requirements for Disposition of Federally Owned Properties**

In enacting the Residential Lead-Based Paint Hazard Reduction Act of 1992 (P.L. 102-550, Oct. 28, 1992), the Congress sought to provide a more practical and cost-effective approach to reducing lead-based paint hazards than the previous law allowed. The 1992 act makes major changes to the provisions of the Lead-Based Paint Poisoning Prevention Act. Regarding the disposition of federally owned residential properties, these changes reduce the number of houses and paint surfaces to be treated and require that agencies provide detailed inspection (test) results and information to prospective purchasers.

These new provisions are intended to place greater emphasis on parental involvement to protect children from the hazards of lead-based paint. However, the actions parents will have to take to protect their children—such as removing all lead-based paint and/or continual dusting to remove lead dust—make it uncertain that children will be protected.

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## **Major Provisions of the Law Are Changed**

The 1992 law substantially revised the provisions dealing with the disposition of residential properties owned by HUD and other federal agencies such as VA and FmHA. For example, it deleted the 1988 requirement that HUD establish and implement procedures to eliminate lead-based paint hazards on intact as well as nonintact painted surfaces in all pre-1978 covered housing, including federally owned residential properties, prior to their sale. As mentioned previously, HUD had never revised its regulations to conform to this requirement. Instead, the new law limits the definition of "lead-based paint hazard" to actual, rather than potential, hazards—conditions "that cause exposure to lead...that would result in adverse human health effects." As such, the new law addressed intact lead paint that is present only in accessible, friction, or impact

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**Chapter 2**  
**HUD's Response to Congressional Mandate**  
**Has Been Slow, but New Legislation May**  
**Offer a More Practical Approach**

---

surfaces, and deteriorated paint.<sup>12</sup> Further, the definition of lead-based paint hazard now includes lead-contaminated soil and dust, which must be removed as part of the abatement process in federally owned residential properties built prior to 1960.<sup>13</sup> The Senate Committee on Banking, Housing, and Urban Affairs believed that limiting the law's scope to the treatment of actual hazards could reduce the cost of inspection and abatement considerably and permit resources to be targeted more cost-effectively. Under the new law, HUD is required to develop new inspection and abatement procedures, effective January 1, 1995, for the disposition of federally owned properties. According to a HUD official, the Department should be able to meet this deadline.

The new law also makes a distinction, on the basis of age, for abatement of lead-based paint hazards. For pre-1960 properties, HUD's procedures will have to require that agencies inspect (through testing) and abate all lead-based paint hazards. For properties built between 1960 and 1978, HUD's procedures will have to require that agencies inspect for, but not abate, lead-based paint and lead-based paint hazards; however, the results of the inspection must be provided to prospective purchasers, identifying the presence of this paint and its hazards on a surface-by-surface basis. Further, for post-1960 properties, the Secretary of HUD has the discretion to waive the inspection requirements where a federally funded risk assessment has determined that no lead paint hazards exist.<sup>14</sup> The law also states that if appropriations are insufficient to cover the costs of inspections and abatement, the requirements do not apply to the affected agencies. Although the Senate Committee on Banking, Housing, and Urban Affairs agreed to limit the abatement requirements to housing constructed prior to 1960, it viewed this decision as a major concession made with grave reservations. However, the Committee justified the decision in order

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<sup>12</sup> Accessible surface means an interior or exterior surface painted with lead-based paint that is accessible for a young child to mouth or chew. Friction surface means an interior or exterior surface that is subject to abrasion or friction, including certain window, floor, and stair surfaces. Impact surface means an interior or exterior surface that is subject to damage by repeated impacts, for example, certain parts of door frames. Deteriorated paint means any paint that is peeling, chipping, chalking, or cracking.

<sup>13</sup> Lead in house dust can come from chipping or peeling lead-based paint that is ground into dust. Also, opening and closing windows can cause dust to become lead-contaminated because of the abrasion of paint that mixes with the dust commonly found in window wells. From either source, lead dust can then contaminate toys and food and be ingested by young children during normal hand-to-mouth activities. Public health literature has implicated lead in house dust as the most common source of low-level childhood lead poisoning within a home. HUD's current regulations for federally owned properties do not address dust contaminated with lead-based paint.

<sup>14</sup> A risk assessment is an on-site investigation to determine and report the existence, nature, severity, and location of lead paint hazards in homes, including (1) information-gathering on the home's age, history, and occupancy by children under age 6, (2) a visual inspection, (3) limited environmental sampling techniques, and (4) a report explaining the results of the investigation.

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**Chapter 2**  
**HUD's Response to Congressional Mandate**  
**Has Been Slow, but New Legislation May**  
**Offer a More Practical Approach**

---

to target federal resources where hazards can be expected to be greatest—in pre-1960 properties, which contain the majority of lead hazards and tend to have higher concentrations of lead in their paint.

The new legislation also addresses the capacity problem through the establishment of a grant program to assist cities and states in addressing lead-based paint poisoning risks primarily in private low-income housing. To encourage the expansion of the lead hazard reduction industry, technical assistance grants are provided as part of the overall grant program to assist states in developing training, certification, and accreditation programs. One of the purposes of the grant program is to “jump start” the private market's response to lead paint hazards. It is intended that the program will encourage entrepreneurs to enter the testing and abatement business.

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**New Information**  
**Requirements and Interim**  
**Controls Were Established**

The 1992 legislation further states that HUD's new regulations will have to require that federal agencies provide a new information pamphlet on lead hazards to all prospective purchasers of federally owned residential properties. This pamphlet must, among other things, (1) provide information on the presence of lead-based paint hazards in federally owned housing; (2) describe the risks of lead exposure for children under age 6, pregnant women, women of child-bearing age, persons involved in home renovation, and others; (3) describe the risks of renovation in housing with lead-based paint hazards; (4) provide information on approved methods for evaluating and reducing lead-based paint hazards and their effectiveness in identifying, reducing, eliminating, or preventing exposure; and (5) advise persons on how to obtain a list of contractors certified in hazard evaluation and reduction in their areas. The Senate Committee on Banking, Housing, and Urban Affairs expects that HUD will ensure that the pamphlets are widely disseminated and that the information is made accessible to all prospective purchasers and tenants. The Committee intended the new pamphlet to contain considerably more information than is provided in the pamphlets HUD and other agencies currently distribute. The Committee believed that accurate information will greatly increase public awareness of lead hazards.

The Committee also stated that it expects parents to exercise greater precautions to limit exposure to existing hazards by implementing “interim controls” and abatements in order to protect the health of their children. The new law defines interim controls as a set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint

hazards. These controls would include specialized cleaning, repairs, maintenance, painting, temporary containment, and ongoing monitoring of hazards or potential hazards. This approach is modeled after HUD's approach to treating lead-based paint in public housing.

HUD's public housing approach involves a variety of strategies and methods aimed at reducing lead-based paint hazards. These require that parents possess some technical knowledge, access to specialized equipment, and an understanding of why the interim controls are important. The following are elements of interim controls that currently apply to public housing:

- For peeling exterior paint, loose paint and dust should be removed by "wet scraping," debris should be gathered with a wet/dry vacuum, and surfaces should be cleaned with damp sponges and resealed by painting. The area should be protected with certain coverings that must be disposed of in accordance with local hazardous waste disposal rules.
- For peeling interior paint, procedures similar to those used for exterior paint must be employed. However, furnishings and belongings must be removed or covered, and all floors must be covered. The work area must be sealed. A wet/dry vacuum should be used for the debris from the wet scraping. Vacuuming with a high efficiency, wet-dry vacuum should be done the end of each work day.
- For excessive lead dust without peeling paint, exterior walkways, stairs, and landings should be washed down on a regular basis. Good housekeeping measures should be employed, including frequent wet-wiping/wet-mopping of interior surfaces, and frequent washing of children's hands and toys.

HUD has also issued new guidance to purchasers of HUD homes that states that window sills should be wiped down frequently, and floors should be kept clear of dust and debris, but not with a vacuum cleaner, which can poison the air with lead dust.

Although the law places primary responsibility on parents to safeguard their children from lead-based paint hazards in post-1960 housing purchased from federal agencies, it does not place any requirements on federal agencies for following up to determine the extent to which parents are implementing interim controls or abatements. Follow-up is important to ensure that children are being protected from the dangers of lead-based paint.

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## Conclusions

In enacting the Residential Lead-Based Paint Hazard Reduction Act of 1992, the Congress sought to redirect federal lead-based paint policy to acknowledge the scope of the residential lead poisoning problem and to begin to solve the problem in a systematic and cost-effective way. In enacting this legislation, the Congress recognized that, despite the legislative mandates over the years, little had been done, and lead-based paint hazards remain a serious problem in housing. Accordingly, in deciding to require federal agencies to abate only pre-1960 federally owned residential properties, the Congress decided to target available resources to those properties with the greatest dangers of lead exposure. We believe that this step should address HUD's reasons for not revising current lead-based paint regulations.

The legislation places primary responsibility on parents to safeguard their children from known lead-based paint hazards in post-1960 residential properties purchased from federal agencies. While reliable information about test results and more comprehensive brochures on the dangers of lead-based paint can create a desire in parents to act responsibly, the specific steps involved in interim controls and abatements can be numerous, technical, and expensive, and can involve specialized equipment and skills. Therefore, some parents may have difficulty in fully and safely implementing these steps. Unless the federal agencies that sell post-1960 properties take steps to determine the extent to which parents are implementing the interim steps and abatement procedures, there may be insufficient information available to assess their effectiveness in reducing children's exposure to lead-based paint hazards.

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## Recommendation

We recommend that the Secretaries of HUD, VA, and Agriculture periodically survey a sample of parents living in post-1960 homes sold by federal agencies to determine the degree to which interim controls and abatements have fully and safely been implemented. The surveys should be designed to determine not only the extent to which interim controls and abatements have been implemented, but also what additional or improved guidance will help parents be more effective in reducing their children's exposure to lead-based paint hazards.

# No Agency Completely Implemented Current Lead-Based Paint Regulations

HUD, VA, and FmHA have not completely implemented current lead-based paint regulations for the sale of federally owned residential properties. We could not fully determine the extent to which the agencies have not implemented the regulations' inspection, treatment, and notification requirements because their field offices did not always document that they had performed these activities.

However, on the basis of available records and discussions with the agencies' officials, we determined that HUD field offices generally implemented the inspection and notification requirements but could give little or no assurance that defective (nonintact) lead-based paint surfaces were treated—the most important activity to protect children. Further, of six VA regional offices visited, two did not perform inspections, three did not treat lead-based paint hazards, and none documented whether potential purchasers had been notified. FmHA county offices did not properly implement the testing, treatment, and notification requirements because FmHA's procedures are outdated and contradictory and county office personnel are confused about or unaware of the procedures. We also found that, generally, headquarters officials at the three agencies did not monitor whether their field offices were following lead-based paint requirements. Although the 1992 act requires HUD to develop new regulations for the disposition of federally owned properties, current regulations will still be in place until January 1, 1995, when the new regulations are to be issued.

## HUD Generally Inspected Homes and Notified Purchasers, but Lacked Assurance That Treatment Was Performed

HUD has generally implemented lead-based paint inspection requirements for single-family properties at the field offices we visited; however, little testing has been done of properties' chewable surfaces. Further, HUD's Philadelphia office has generally implemented the special court-ordered requirements for properties within the city of Philadelphia. The court called for testing and abatement of lead-based paint in HUD-owned properties prior to their sale. With respect to treatment, we could not determine whether treatment was performed for properties in four of the six offices visited because we could not locate documentation that was kept apart from property disposition files. For the two HUD offices where treatment documentation was said to be kept in property disposition files, we found that a large number of files did not contain the documentation; therefore, there is no assurance that treatment was performed. The vast majority of files in the six offices visited contained documentation showing that purchasers were notified of lead-based paint hazards. However, we also determined that, until October 1, 1992, HUD had no

requirement to notify subsequent purchasers of homes originally bought from HUD by investors of the possible existence of lead-based paint.

**Most HUD Files Contained Inspection Documentation**

Pursuant to the current regulations, HUD's lead-based paint policies and procedures for single-family property disposition require HUD field offices to inspect properties visually for defective paint surfaces. As part of this initial inspection, the area management broker must complete a "Certification of Inspection for Defective Paint Surfaces," which is to be kept in the property disposition file. The broker must certify that the property has been inspected for defective paint surfaces, state whether any defective paint surfaces exist, and estimate the cost of treatment.

Of 250 properties at six HUD field offices, most pre-1978 properties had been inspected and the inspection certification document had been completed. As shown in table 2.1, 205 of the properties reviewed,<sup>1</sup> or 82 percent, were built prior to 1978 and thus are covered by the act. Of this number, 186, or 91 percent, contained evidence of an inspection for defective paint surfaces. There was no documentation to show that the other 19 properties had been inspected.

**Table 2.1: Documentation of Inspections in Six HUD Field Offices**

Location	Baltimore	Chicago	Indianapolis	Milwaukee	Philadelphia	Washington, D.C.	Total
Total sample	34	50	50	50	16 <sup>a</sup>	50	250
Age of home							
Pre-1978	27	45	43	43	15	32	205
Post-1978	7	5	7	7	0	17	43
Age not available	0	0	0	0	1	1	2
AMB Inspection							
Yes	24	44	40	38	9	31	186
No	3	1	3	5	6	1	19
Defective paint surface?							
Yes	23	22	23	31	2	12	113
No	1	22	17	7	7	19	73

<sup>a</sup>We reviewed 50 property disposition files at HUD's Philadelphia office. Of this number, 34 files were for properties within the city, and 16 were for properties outside the city's boundaries.

<sup>1</sup>This number includes files reviewed for properties sold outside the city of Philadelphia but does not include files reviewed for properties sold by HUD within the city, where more stringent lead-based paint procedures apply. This information is presented later in this chapter.

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## HUD Seldom Tested Chewable Surfaces

HUD's current regulations for its own single-family property disposition program require testing of a home's chewable surfaces if a potential owner-occupant has a child under age 7 who has tested positive for an elevated blood lead level. HUD requires these purchasers to complete and sign a lead-based paint addendum to the sales contract (as discussed in ch. 2) and submit it with the purchase offer. The primary purpose of the addendum is to document the choice made by owner-occupant purchasers about testing their child's blood lead level. Additionally, it provides information to a prospective purchaser that the property was constructed prior to 1978 and that a lead-based paint health hazard may be present.

Of the six HUD offices visited, only the Baltimore office had tested any chewable surfaces of properties for lead-based paint because a prospective owner-occupant's child had an elevated blood lead level.<sup>2</sup> A HUD official stated that this has been done in two instances in Baltimore since the current regulations were issued. According to this official, in both cases, the homes tested positive for lead-based paint, and HUD cancelled the sales contracts because it determined that abatement would be prohibitively expensive. According to officials at the Indianapolis, Milwaukee, Philadelphia, and Washington, D.C., field offices, no testing of properties had been performed because no children of prospective owner-occupant purchasers had elevated blood lead levels. Finally, an official with HUD's Chicago field office stated that although they had one case in which a purchaser's child had an elevated blood lead level, testing of the home was not done because the contract was cancelled.

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## Treatment Documentation Could Not Be Easily Traced at Four of Six HUD Offices

Of the six HUD field offices visited, four—Baltimore, Chicago, Philadelphia, and Washington, D.C.—had a practice of placing treatment documentation in files other than property disposition files, such as contractors' or area management brokers' files. As stated in chapter 1, we did not review these other files because of the difficulty in locating repair documents that often have no clear cross-reference to a specific property. Since we could not trace the documentation, we do not know whether treatment had taken place.

For the other two offices—Indianapolis and Milwaukee—HUD officials told us it is their practice to keep treatment documentation in property disposition files. However, we found that many of these files lacked this documentation. Of the 50 files reviewed at the Indianapolis office, for

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<sup>2</sup>As discussed earlier, HUD's Philadelphia office is required, pursuant to a consent decree, to test all painted surfaces of properties located within Philadelphia for lead-based paint before their sale.

example, 27 pre-1978 properties had defective paint surfaces. Of the 27, 15 (or 56 percent) of the files contained documentation showing that treatment had occurred, but the other 12 did not. Of the 50 files reviewed at the Milwaukee office, 31 pre-1978 properties had defective paint surfaces. Of the 31, 19 (or 61 percent) contained documentation that treatment had occurred, but the other 12 did not.

In explaining why all the files did not contain documentation, an official in HUD's Indianapolis office stated that staff turnover probably caused files to be maintained improperly. Further, we were told that the AMBs may not have contracted for the repair but may have scraped the paint themselves; thus, no documentation of the repair would exist. Officials with HUD's Milwaukee office offered two reasons for the lack of treatment documentation: (1) a property was sold to a local community group, and the Milwaukee office's policy is not to treat defective paint surfaces in properties sold to such groups; and (2) a property that had a porch with defective paint surfaces was not treated because the porch was removed from the house.

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**HUD Field Offices**  
**Generally Implemented**  
**Notification Requirements**

HUD's property disposition procedures require that prospective purchasers of pre-1978, HUD-owned single-family properties be notified of potential lead-based paint hazards in a variety of ways. According to these procedures, newspaper advertisements and other listings must identify that these properties may contain lead-based paint. Field offices rely on real estate brokers who sell HUD properties to give all prospective purchasers—both owner-occupants and investors—an informational brochure entitled Watch Out for Lead Paint Poisoning.<sup>8</sup> As a condition of sale, prospective purchasers acknowledge receipt of this brochure and their understanding that potential lead-based paint hazards may exist in the property by signing the sales contract. Of the 205 pre-1978 properties whose files we reviewed, 189, or 92 percent, contained the signed sales contract.

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<sup>8</sup>This brochure informed purchasers that the property was constructed prior to 1978 and might contain lead-based paint, and it discussed the hazards of lead-based paint, the symptoms and treatment of lead-based paint poisoning, and precautions to be taken to avoid lead-based paint poisoning. HUD officials have developed a new notice that reflects state-of-the-art knowledge about lead-based paint hazards. The new notice began to be used on Oct. 1, 1992.

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**Subsequent Purchasers of  
Homes Bought by  
Investors Did Not Know of  
Potential Lead-Based Paint  
Hazards**

Until recently, HUD's disposition procedures for single-family properties required that the lead-based paint addendum to the sales contract be submitted only by prospective owner-occupant purchasers. The addendum, which states that the property may contain lead-based paint, survives the sale's closing and is transferred along with the title to any subsequent purchasers of the property. However, HUD's procedures did not, until recently, provide for any transfer of information on lead-based paint hazards to subsequent purchasers of properties originally bought from HUD by investors.

The Baltimore office, however, required such notification. This office requires investors to complete an addendum to the sales contract that survived the sale's closing and transfer of the property's title to notify subsequent purchasers of potential lead-based paint hazards in the property.<sup>4</sup> The other five offices visited did not have any such mechanism in place. In the Baltimore office, 19 of 27 pre-1978 properties reviewed were purchased by investors. All of the 19 investor-purchased properties had a copy of the addendum in the files.

Notification of subsequent purchasers of homes originally bought by investors is important. The majority of pre-1978 properties whose files we reviewed at the six HUD field offices were bought by investors—121 of the 205 pre-1978 properties, or 59 percent.

On August 11, 1992, HUD issued revised notification procedures, including a new, more detailed lead-based paint hazard brochure. The new procedures, which became effective on October 1, 1992, require that the lead-based paint addendum to the sales contract be completed by all potential purchasers—owner-occupants and investors—and that the document survive the closing of the sale and be transferred to subsequent purchasers of the property.

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**HUD's Philadelphia Office  
Generally Implemented  
Special Requirements**

For properties located within the city of Philadelphia, HUD's Philadelphia field office follows more stringent procedures. As the result of a 1976 consent decree,<sup>5</sup> HUD must test for and abate lead-based paint before selling a HUD-owned property located within the city. Also, a city ordinance

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<sup>4</sup>Officials at HUD's Baltimore office and headquarters could not tell us how this special addendum originated.

<sup>5</sup>City-Wide Coalition Against Childhood Lead Paint Poisoning, et al. v. United States Department of Housing and Urban Development, et al. (Civil Action No. 72-1515, U.S. District Court for the Eastern District of Pennsylvania, Oct. 27, 1976).

provides that no person shall permit a lead-based coating to remain on any exterior or interior surface that may be readily accessible to children under the age of 6 and that presents a health hazard, as determined by the city's Department of Public Health. Under the terms of the consent decree, HUD is required to test, under contract with the city, all interior and exterior painted surfaces using an x-ray fluorescence analyzer. If the result is positive, HUD must remove all lead-based paint from chewable surfaces below 5 feet, in accordance with Department of Public Health regulations. Additionally, HUD must remove all defective paint surfaces. Once the abatement is complete, city personnel must reinspect the property in order to issue a lead-free certification, at which point the property is ready for sale or occupancy.

Of the 34 files reviewed for pre-1978 properties within the city, 31 (or 91 percent) contained evidence that the required testing had been performed. All 31 properties had tested positive for lead-based paint. For the three files that showed no evidence of testing, a HUD official told us that either the testing documentation was temporarily removed from the property disposition file by HUD personnel or that the test had yet to be conducted because of the purchaser's refusal to allow entry into the home. In the latter case, the official stated that cooperation is always achieved because \$1,500 of the purchaser's money is held in escrow and returned only after the property is tested, abated, and certified as lead-free by the city.

As of November 1991, 16 of the 31 properties determined to have lead-based paint had been abated and were in compliance with city regulations. The remainder of the properties had not yet received their lead-free certification from the city.

HUD's Philadelphia office also has a more stringent notification process for properties within the city than for other properties. In addition to the standard HUD brochure on lead-based paint, the office provides prospective purchasers with a comprehensive guide detailing general information on lead-based paint, potential health risks from this paint, sales procedures and purchasers' responsibilities, and guidance and precautions on abatement. For 34 files, we found documentation that all of the purchasers had received the standard HUD lead-based paint brochure. However, no requirement exists to document whether purchasers have received the comprehensive guide.

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## **VA's Implementation Was Inadequate**

VA's implementation of inspection, treatment, and notification requirements has been inadequate. Although VA has had inspection requirements in place since 1977, only four of the six offices visited had performed inspections prior to late 1991. Further, although treatment requirements had also been in effect since 1977, only three of the six offices had performed treatment prior to our visits. Finally, the offices did not have to document inspections and notification of potential purchasers prior to 1991 and did not give information on lead-based paint hazards to purchasers in a timely manner.

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## **Four of Six VA Offices Performed Inspections Prior to 1991**

Since 1977, VA's property management policies and procedures for sales of acquired properties (including single-family properties) have required a visual inspection for defective paint surfaces. VA procedures did not require that inspections be documented until January 1991. Under this requirement, the management broker is to complete a form—"Inspection for Defective Paint Surfaces"—stating whether any defective paint surfaces have been found and the proposed method and estimated cost of treatment. This form is to be kept in the property disposition file. Officials with the six VA regional offices we visited during the latter part of 1991 told us that they had either just begun or were going to begin to implement this new documentation requirement.

Officials in two VA regional offices we visited—Milwaukee and Philadelphia—stated that management brokers were not inspecting properties for defective paint surfaces prior to mid-1991. Officials in the other four regional offices—Baltimore, Chicago, Indianapolis, and Washington, D.C.—stated that prior to 1991 management brokers were directed to inspect properties for defective paint surfaces. However, an official with VA's Baltimore office stated that this was not always done. For the Chicago VA office, we reviewed a judgmental sample of 40 files for homes sold between June and September 1991; of the 38 properties built prior to 1978, 33 (or 87 percent) contained evidence of an inspection for defective paint surfaces. In the Indianapolis and Washington, D.C., offices, officials stated that management brokers were instructed to note the existence of defective paint surfaces in the repair section of the initial property inspection report.

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## **Half of VA Offices Visited Did Not Treat Defective Paint Surfaces Before 1991**

Since 1977, VA procedures have required that defective paint surfaces be covered or removed before residents occupy the property. VA property managers are to list any paint treatments in the repair contract for each

property. The exceptions to the treatment requirement are properties that are offered for sale as "investor specials." These are defined by VA in its January 1991 procedures as properties that require substantial repairs prior to occupancy but are not required to be treated because VA believes that they will be repaired by the purchaser prior to rental or resale.

Officials in three regional offices—Milwaukee, Philadelphia, and Washington, D.C.—told us that, contrary to VA procedures, defective paint surfaces were not treated prior to 1991. A VA official in Milwaukee told us that the regional office had previously authorized paint repairs only to increase property marketability, not to treat defective paint surfaces. An official with VA's Philadelphia Regional Office stated that defective paint surfaces have been treated only since July 1991. An official with VA's Washington, D.C., Regional Office stated that all properties are sold "as is," and repairs to defective paint are not made.

VA officials in Baltimore, Chicago, and Indianapolis stated that they had been treating defective paint surfaces. In Baltimore, we could not verify this statement because repair documents were located in files other than property disposition files and could not be easily traced. Chicago's treatment documentation showed no evidence of treatment for 7 of 13 properties determined to have defective paint surfaces. In Indianapolis, we found evidence that the office had begun to repair defective paint surfaces.

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**VA Did Not Require  
Notification  
Documentation Until 1991**

The January 1991 revision to VA's property management policies and procedures also formalized the requirement that purchasers receive notification. According to an official with VA's Central Office, prior to January 1991, purchasers were notified about the hazards of lead-based paint poisoning through an informational brochure given to them at the time of settlement. However, this practice gave purchasers little time to make an informed decision. Additionally, this notification was not documented, making it uncertain as to whether a purchaser had received this information.

VA's new notification procedures require regional offices to give potential purchasers two documents—the Lead Paint Notice and Important Information on Lead Paint Poisoning. The potential purchaser is required to sign the notice signifying his or her receipt and understanding of the dangers of lead poisoning. The purchaser has the option of proceeding with or withdrawing the purchase offer on the basis of the information

provided. As of November 1991, implementation of this requirement by the offices we visited had either just begun or was to begin within the next several months.<sup>6</sup>

## FmHA's Implementation Was Inadequate

FmHA's lead-based paint procedures are outdated and contradictory about what properties they cover. Although FmHA goes beyond current regulations for the sale of federally owned residential properties by requiring testing for lead-based paint hazards (in addition to visual inspections), few properties have been tested by the county offices we visited. Further, the implementation of treatment and notification requirements is inadequate. County office personnel were either unaware of or confused about the lead-based paint requirements.

## FmHA Procedures Are Outdated and Contradictory

FmHA's procedures are outdated because they only cover properties built prior to 1950. Homes built between 1950, which was the original construction cutoff date under the Lead-Based Paint Poisoning Prevention Act, and 1978 are not covered, even though these homes have been included in current regulations since 1988. FmHA headquarters officials told us that they are waiting for HUD to revise the regulations for the sale of federally owned residential properties before changing the construction cutoff date to 1978 in their own procedures.

FmHA's procedures are also contradictory about which properties are covered. In 1987, FmHA issued lead-based paint procedures to its county offices that require that all pre-1950 houses that are to be repaired, renovated, or rehabilitated be tested for lead content.<sup>7</sup>

In 1989, FmHA headquarters issued other testing guidance that contradicts the 1987 procedures in terms of properties covered. The 1989 guidance requires that all houses built before 1950 be tested for lead content. However, FmHA headquarters officials told us that they intend for the 1987 testing procedures to be followed by county offices. These officials also agreed that this contradictory guidance was somewhat confusing and

<sup>6</sup>VA's Philadelphia Regional Office requested and received permission from the Central Office to use a notification document other than the Lead Paint Notice. The document used instead generally contains the same information but in a different format. This office also provides the brochure entitled Important Information on Lead Paint Poisoning to potential purchasers.

<sup>7</sup>FmHA generally repairs, renovates, or rehabilitates only homes that are deemed eligible for future financing under the FmHA mortgage loan program. Homes not deemed eligible for future financing are sold "as is," with no repairs, including those to lead-based paint surfaces, made by FmHA prior to sale. In these instances, the property's deed is required to contain a covenant restricting occupancy until repairs are made by the new owner.

stated that the guidance would be changed as soon as HUD revises lead-based paint regulations for the sale of federally owned residential properties.

### **Little Testing of Pre-1950 Properties Has Been Done**

FmHA's lead-based paint procedures require properties built before 1950 to be tested for lead content. However, few pre-1950 properties had been tested by the 10 county offices we visited. Our interviews with officials at 5 FmHA state offices and 10 county offices—in Danville and Taylorville, Illinois; Denton and Oakland, Maryland; Lancaster and York, Pennsylvania; Lafayette and Marion, Indiana; and Portage and Mauston, Wisconsin—showed that many of the officials either were not aware of the testing requirement or were confused about what properties to test because of the contradictory guidance issued in 1987 and 1989.

For example, officials at the two Wisconsin county offices visited said that they were not aware of the FmHA requirement for testing pre-1950 properties for lead content until we contacted them to arrange interviews. One of these offices had recently authorized its first test for lead-based paint.

Each of the two county offices we visited in Illinois had tested at least one pre-1950 property for lead-based paint. However, one of the county offices had sold a pre-1950 home without testing because the county supervisor had interpreted FmHA testing requirements as not applicable to properties sold "as is" and considered not suitable for continued financing by FmHA.

County supervisors at the two Indiana county offices we visited were not entirely familiar with the specifics of FmHA's lead-based paint requirements. They said that they have never had any properties subject to the testing requirement, which they believed to apply only to pre-1960 homes. However, one Indiana county supervisor stated that if he ever had any properties subject to the requirement, testing would be performed on pre-1960 properties because he believed, on the basis of previous FmHA training, lead-based paint may exist in any property built before the early 1960s. The other Indiana county supervisor stated that, on the basis of his understanding of the procedures, he would have tests done on properties built during the 1950s.

Officials with the two Pennsylvania county offices we visited were familiar with the lead-based paint testing requirements. In these offices, no homes had been acquired for several years because of FmHA's 1988 policy of

encouraging borrowers in danger of default to try to sell the property on their own. As a result, no testing for lead-based paint hazards had ever occurred. As of November 1991, only 22 properties were in inventory in the state of Pennsylvania.

In Maryland, no testing had been performed by either of the two offices we contacted because of general unfamiliarity with FmHA's testing procedures. One county supervisor stated that when inspecting pre-1950 homes, he examines the "texture" of painted surfaces on and around the windows to determine whether there is lead-based paint. This is contrary to FmHA procedures, which require testing. If, on the basis of this examination, the county supervisor concludes that lead-based paint is present, he stated that the buyer may contact the Maryland Health Department to perform a toxicology test.

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### **County Offices Did Not Treat Lead-Based Paint Hazards**

FmHA's 1989 procedures state that if the painted surfaces are found to be hazardous—are cracked or loose, or have peeling paint containing lead—the county supervisor must have all interior lead-based paint and any exterior lead-based paint accessible to children removed or covered. The procedures also state that if it is determined that the paint will not be removed or covered, the dwelling should be considered unsafe for residential occupancy, and the county supervisor should use appropriate deed restrictions in all listing, advertising, contract, and transfer documents. The restriction prohibits habitation of the property until the hazard is rectified by the purchaser.

For the 10 county offices we visited, FmHA had not treated any lead-based paint hazards identified through testing before selling the properties. Instead, for pre-1950 housing with lead-based paint hazards identified through testing, the two county offices in Illinois and one of the Wisconsin offices used occupancy restrictions on the deed. Officials with the other county office in Wisconsin, two offices in Indiana, and one office in Maryland stated that treatment had never been performed and deed restrictions had never been used because of lead-based paint. Officials with the other Maryland county office stated that a deed restriction for lead-based paint had been placed on one property. Although officials with the two Pennsylvania county offices were familiar with the requirements, they had never used deed restrictions because no properties had been acquired for several years.

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## Implementation of Notification Requirements Is Inadequate

FmHA's notification procedures are inadequate because only pre-1950 properties are addressed. The procedures require the county representative to give purchasers of properties two notification documents. A five-page brochure entitled Warning—Lead-Based Paint Hazards discusses the hazards of lead-based paint, symptoms and treatment of poisoning, and precautions to avoid poisoning. The second document is a one-page Caution Note on Lead-Based Paint Hazard.

Officials at the two county offices in Illinois, two offices in Indiana, one office in Maryland, and one office in Wisconsin stated that notification information about lead-based paint hazards is distributed to potential purchasers of all pre-1950 properties.<sup>8</sup> However, except for the two county offices visited in Indiana, no documentation is required to demonstrate that this information was received by the potential purchaser. In Indiana, 10 out of a sample of 16 files of properties sold during fiscal year 1991 had evidence that notification had been given.

One county office in Wisconsin had never distributed any information concerning lead-based paint hazards to purchasers.

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## Only HUD Monitors Compliance With Lead-Based Paint Requirements

Monitoring is an integral part of any system of management controls. A monitoring system should include management's methods for following up and checking on field office performance to ensure that appropriate procedures are complied with. Of the three agencies, only HUD monitors field office compliance with lead-based paint requirements of the single-family property disposition program. Although VA and FmHA regularly monitor their field offices' single-family housing activities, compliance with lead-based paint requirements is not covered in these reviews.

HUD's monitoring is limited because criteria for lead-based paint requirements are not always included in the reviews. Staff from the Office of Housing in HUD's regional offices are responsible for reviewing field offices' disposition of single-family properties on an 18-month cycle. HUD's Single Family Property Disposition Division, located at headquarters, formulates standard review criteria for these regional reviews. These criteria are general and do not address specific areas, such as compliance with lead-based paint policies and procedures. For example, the most

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<sup>8</sup>The other Maryland county office distributes the notification only to potential purchasers of properties deemed eligible for future FmHA financing. Also, the two Pennsylvania county offices we visited had not distributed the notification document because no properties had been in inventory for several years.

recent criteria issued for the reviews included monitoring of closing agents, real estate managers (formerly called AMBS), and appraisals. Regional offices are to follow these standard criteria and, if warranted, may add areas, such as compliance with lead-based paint requirements. However, there is no requirement that regional offices include lead-based paint criteria in the reviews.

We found that the Philadelphia Regional Office included lead-based paint criteria in its reviews of single-family property disposition activities at the Baltimore and Philadelphia field offices in May 1990 and March 1991, respectively. The review of the Baltimore field office found that the responsible AMB violated conflict-of-interest provisions regarding lead-based paint procedures. Specifically, the AMB was inspecting properties for defective paint surfaces, treating the properties on his own, and approving his own work. In response to the regional office's report on these violations, the AMB discontinued treatment of defective paint surfaces on his own and began to use contractors to perform this work.

HUD's review of the Philadelphia field office found that the Property Disposition Branch was not in full compliance with lead-based paint procedures for properties outside the city of Philadelphia. The review found no evidence of treatment of defective paint surfaces in some instances. Among other things, the HUD reviewer recommended that written instructions be provided to property disposition staff and AMBS on treatment of defective paint surfaces outside of Philadelphia and that the AMBS be given a copy of the chapter of HUD's Property Disposition Handbook dealing with lead-based paint hazards. In response to these recommendations, the Philadelphia field office reemphasized all lead-based paint requirements to the property disposition branch staff and the AMBS and submitted documentation that compliance was achieved. Although the Chicago Regional Office reviewed the single-family property disposition activities of the Chicago and Indianapolis field offices in fiscal years 1990 and 1991 and the Milwaukee field office in 1991, compliance with lead-based paint requirements was not addressed in the review criteria.

Although VA and FmHA review the single-family property disposition activities of their field offices through quality reviews and coordinated assessment reviews, respectively, criteria dealing with compliance with lead-based paint policies and procedures are not included in these reviews. Officials from both agencies said that many other issues need to be addressed during these reviews.

Because federal agencies are not required to abate post-1960 properties that contain lead-based paint, purchasers of these properties are to be given comprehensive information and will be relied upon to take the necessary precautions to protect their children from exposure. As such, effective monitoring to ensure that field offices are providing the required test results and other detailed notification information to prospective purchasers is paramount.

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## **Conclusions**

Recently enacted legislation should not prevent HUD, VA, and FmHA from properly implementing current lead-based paint regulations, which will be in effect for 2 more years. If the current regulations were completely implemented, young children of purchasers of federally owned residential properties would be at reduced risk for lead poisoning. However, none of the agencies reviewed has completely implemented these regulations. This situation has occurred, at least in part, because all three agencies lacked adequate procedures to ensure that the requirements were carried out.

More specifically, HUD lacked documentation to show that all pre-1978 properties had been inspected and that properties found to have defective paint surfaces had been treated. Until January 1991, VA lacked procedures requiring inspections and notifications to be documented. VA also had not ensured that property managers complied with existing procedures for treatment of defective paint surfaces. FmHA's lead-based paint procedures were outdated and contradictory, and county office personnel were confused about or unaware of the requirements.

Finally, only HUD performed any kind of headquarters monitoring of its field offices' compliance with lead-based paint inspection, treatment, and notification requirements, and that monitoring was limited. Such monitoring could have helped ensure that field offices were properly implementing the requirements. Effective monitoring by the agencies of their field offices' compliance will become even more crucial under the new law's inspection, abatement, and notification requirements, which become effective in January, 1995.

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## **Recommendations**

Until HUD revises lead-based paint regulations for federally owned properties, we recommend that

- the Secretary of HUD direct the Federal Housing Commissioner to ensure that defective paint surfaces have been inspected and treated by requiring

- field offices to verify that copies of the inspection and treatment documentation have been placed in the offices' property disposition files;
- the Secretary of VA ensure that all regional offices follow current lead-based paint inspection, treatment, and notification requirements for pre-1978 properties and require them to verify that copies of the inspection and treatment documentation have been placed in the offices' property disposition files;
  - the Secretary of Agriculture direct the Administrator of FmHA to include properties built between 1950 and 1978 in procedures for lead-based paint. We also recommend that the Secretary of Agriculture direct the Administrator to eliminate any contradictions in procedures issued to county personnel and ensure that these personnel are familiar with lead-based paint policies and procedures for FmHA-owned properties.

Further, in order to help ensure that current and future inspection, treatment, and notification requirements are properly and consistently implemented by the field offices of the three agencies, we recommend that the Secretaries of HUD, VA, and Agriculture direct appropriate headquarters officials to (1) require that all field offices regularly report on their compliance with lead-based paint regulations and procedures and (2) verify such compliance during scheduled field office visits or reviews.

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# Related GAO Products

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Housing and Community Development Products, 1990-91 (GAO/RCED-92-111, Mar. 1992).

Property Disposition: Information on Federal Single-Family Properties (GAO/RCED-91-69, Mar. 29, 1991).

Toxic Substances: Federal Programs Do Not Fully Address Some Lead Exposure Issues (GAO/RCED-92-186, May 12, 1992).

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