

§ 200.800

Equal Housing Opportunity slogan: "Equal Housing Opportunity."

[37 FR 75, Jan. 5, 1972, as amended at 40 FR 20080, May 8, 1975]

Subpart N [Reserved]

Subpart O—Lead-Based Paint Poisoning Prevention

§ 200.800 Purpose and applicability.

The purpose of this subpart is to implement the provisions of section 302 of the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4821-4186, by establishing procedures to eliminate as far as practicable the hazards of lead-based paint poisoning with respect to existing housing within the coverage hereinafter described. This subpart is promulgated under the authorization granted in 24 CFR 35.24(b)(4), and it supersedes, with respect to all housing to which it applies, the requirements prescribed by subpart C of 24 CFR part 35. Any housing assisted under the programs set out in this part 200 for which no new activity is applied for or required is not covered by this subpart nor by subpart C of part 35. The requirements of subpart A of 24 CFR part 35 apply to all housing constructed prior to 1978 and covered by this subpart.

[52 FR 1891, Jan. 15, 1987]

§ 200.805 Definitions.

Applicable surface. All intact and non-intact interior and exterior painted surfaces of a residential structure.

Chewable surface. All chewable protruding painted surfaces up to five feet from the floor or ground, which are readily accessible to children under seven years of age, e.g., protruding corners, windowsills and frames, doors and frames, and other protruding woodwork.

Defective paint surface. Paint on applicable surfaces that is cracking, scaling, chipping, peeling or loose.

Elevated blood lead level or EBL. Excessive absorption of lead, that is, a confirmed concentration of lead in whole blood of 25 ug/dl (micrograms of lead per deciliter of whole blood) or greater.

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HUD-owned properties. Properties with residential units to which HUD acquired title, or any Federally-owned properties for which HUD has disposition responsibility and which are intended for residential habitation.

Lead-based paint surface. A paint surface, whether or not defective, identified as having a lead content greater than or equal to 1 mg/cm².

Sale of HUD-owned properties. Any sale of federally-owned properties by HUD.

Use for residential habitation. The use of a property as a residential structure as defined in 24 CFR 35.3.

[52 FR 1891, Jan. 15, 1987, as amended at 53 FR 20799, June 6, 1988]

§ 200.810 Single family insurance and coinsurance.

(a) *General.* The requirements of this section apply to any one- to four-family dwelling which is the subject of an application for mortgage insurance under section 203(b) or other sections of the National Housing Act relating to the insurance or coinsurance of mortgages on one- to four-family dwellings. (Such other sections include sections 244 (coinsurance), 213 (cooperative housing insurance), 220 (rehabilitation and neighborhood conservation housing insurance), 221 (housing for moderate income and displaced families), 222 (mortgagor insurance for servicemen), 809 (armed services housing for civilian employees), 810 (armed services housing in impacted areas), 234 (mortgage insurance for condominiums), 235 (mortgage assistance payments for home ownership and project rehabilitation), 237 (special mortgage insurance for low and moderate income families), and 240 (mortgage insurance on loans for purchase of fee simple title from lessors).) Applications for insurance in connection with a refinancing transaction where an appraisal is not required under the applicable procedures established by the Commissioner are excluded from the coverage of this section.

(b) *Appraisal.* The appraiser shall, when appraising a dwelling constructed prior to 1978, inspect the dwelling for defective paint surfaces.

(c) *Abatement.* For defective paint surfaces, treatment shall be provided

to defective areas. Treatment of hazards shall consist of covering or removing defective paint surfaces as described in 24 CFR 35.24(b)(2)(ii).

(d) *Home equity conversion mortgage insurance.* The requirements of this section, as modified by the following sentence, apply to a dwelling which is the subject of an application for mortgage insurance under section 255 of the National Housing Act (home equity conversion insurance) unless the mortgagor provides the certification described in §206.45(d) of this chapter. The defective paint surface may be treated after the mortgage is endorsed for insurance, provided that the defective paint surface is treated as expeditiously as possible in accordance with the repair work provisions contained in §206.47 of this chapter.

[36 FR 24467, Dec. 22, 1971, as amended at 53 FR 20799, June 6, 1988; 54 FR 24832, June 9, 1989; 54 FR 32060, Aug. 4, 1989; 59 FR 50463, Oct. 3, 1994; 61 FR 36263, July 9, 1996]

§200.815 HUD-owned single family property disposition.

(a) *General.* The requirements of this section apply to the sale of HUD-owned one- to four-family dwellings when their use is intended for residential habitation.

(b) *Defective paint surfaces.* For residential structures constructed prior to 1978, HUD shall cause the property to be inspected for defective paint surfaces before the closing of the sale of the property. If defective paint surfaces are found, treatment as required by 24 CFR 35.24(b)(2)(ii) shall be completed before the closing of the sale of the property. In the case of a sale to a non-owner occupant purchaser, treatment may be made a condition of sale, with sufficient sale funds escrowed to assure treatment.

(c) *Chewable surfaces.* This subsection applies to dwellings constructed prior to 1978. If the purchaser is an owner-occupant and the occupant family contains one or more children under the age of seven years, closing of the sale shall be deferred until completion of the following procedures. Where a blood lead level screening program is determined by HUD to be reasonably available, screening of each occupant child under the age of seven years will

be required. If an EBL condition is identified, HUD will cause the dwelling to be tested for lead-based paint on chewable surfaces or follow treatment procedures. Testing shall be conducted by a State or local health or housing agency, an inspector certified or regulated by a State or local health or housing agency, a qualified HUD inspector or an organization recognized by HUD. Lead content shall be tested by using an X-ray fluorescence analyzer (XRF) or other method approved by the Commissioner. Test readings of 1 mg/cm² or higher using an XRF shall be considered positive for presence of lead-based paint. Where lead-based paint on chewable surfaces is identified, the entire interior or exterior chewable surface shall be treated. Treatment shall consist of covering or removal of the paint surface in accordance with 24 CFR 35.24(b)(2)(ii).

(d) *Abatement without testing.* In lieu of the procedures set forth in paragraph (c) of this section in the case of a residential structure constructed prior to 1978, HUD, at its option, may forgo testing and abate all applicable surfaces in accordance with the methods set out at 24 CFR 35.24(b)(2)(ii).

[52 FR 1891, Jan. 15, 1987; 52 FR 9828, Mar. 27, 1987, as amended at 53 FR 20799, June 6, 1988]

§200.820 Multifamily insurance and coinsurance.

(a) *General.* The requirements of this section apply to any existing property which is the subject of an application for mortgage insurance under sections 207 (including applications under section 207 pursuant to section 223(f)), 213, 220, 221 or 234 of the National Housing Act, including applications for mortgage insurance under any of these sections pursuant to section 223(a)(7) of the National Housing Act. This section also applies to the application pursuant to section 223(f), 213, 220, 221 or 234 of the National Housing Act, including applications for mortgage insurance under any of these sections pursuant to section of an existing property. This section does not apply to projects for the elderly or handicapped (except for units housing children under seven years of age) or projects subject to an application for insurance under section