

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/cm<sup>2</sup> 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

231, 232, 241 or 242 of the National Housing Act. The requirements of this section do not apply to 0-bedroom units. The requirements of paragraph (c) of this section apply to projects that have not received a conditional commitment for insurance on or before May 1, 1987.

(b) *Defective paint surfaces.* In the case of a residential structure constructed prior to 1978, the HUD or coinsurer's architect and the sponsor's architect shall inspect the property for defective paint surfaces before the issuance of a commitment. If defective paint surfaces are found, treatment as required by 24 CFR 35.24(b)(2)(ii) shall be completed before final endorsement as a condition of the firm commitment.

(c) *Chewable surfaces—(1)(i) Random sample.* In the case of a residential structure constructed prior to 1978 a random sample of dwelling units shall be tested for lead-based paint on chewable surfaces. Ten units shall be tested in projects with twenty or more units, and six units shall be tested in projects with fewer than twenty units, together with a sample of common areas and exterior applicable surfaces. Common areas included in the sample should include non-dwelling facilities commonly used by children under seven years of age, such as child care centers. All chewable surfaces in selected units shall be tested. If none of the tested units, common areas or exterior applicable surfaces contain lead-based paint, the project may be considered free of lead-based paint, and no further testing or abatement action will be required. If lead-based paint is found in any unit in the sample, all units in the project are required to be tested. If lead-based paint is found in any common area, all common areas in the project are required to be tested. If lead-based paint is found in any exterior applicable surface, all exterior applicable surfaces in the project are required to be tested.

(ii) *EBL Child.* In the case of a residential structure constructed prior to 1978, if the developer is presented with test results that indicate a child seven years of age or younger living in a unit has an EBL the developer must test the unit occupied by the child and if such test is positive for lead-based paint, abate the unit surfaces in accordance

with the methods set out at 24 CFR 35.24(b)(2)(ii) or choose not to test, and abate all the unit surfaces.

(2) *Testing requirements.* Testing shall be performed using an X-ray fluorescence analyzer (XRF) or other method approved by the Commissioner. Test readings of 1 mg/cm<sup>2</sup> or higher using an XRF shall be considered positive for presence of lead-based paint. Testing of chewable surfaces shall be performed by a State or local health or housing agency or by an inspector certified or regulated by the State or local health or housing agency. The testing entity shall certify to the results of the test. The mortgagor shall be responsible for obtaining these testing services.

(3) *Treatment.* 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). After joint inspection and during the write-up stage, completion of abatement of defective paint surfaces and lead-based paint on chewable surfaces will be a special condition requirement in the commitment. The developer will be required to abate all defective paint surfaces and lead-based paint on chewable surfaces. HUD or the coinsuring lender will reinspect all units after repair and before final endorsements.

(4) *Abatement without testing.* In lieu of the procedures set forth in paragraphs (c)(1)(i), (2) and (3) of this section, in the case of a residential structure constructed prior to 1978, the developer may forego testing and abatement, and abate all applicable surfaces in accordance with the methods set out at 24 CFR 35.24(b)(2)(ii) before final endorsement. HUD or the coinsuring lender will reinspect all units after repair and before final endorsement.

(d) *Tenant protection.* Owners shall take appropriate action as prescribed by the Commissioner to protect tenants from hazards associated with abatement procedures.

(e) *Monitoring and enforcement.* (1) For multifamily insurance programs, compliance with any rehabilitation requirement will utilize the standard construction compliance regulations

(e.g., 24 CFR 207.19(c)(6)) for the assurance of completion requirements for section 207 and the incomplete repair escrow requirement of section 223(f) for each program.

(2) For coinsurance, owner compliance with the requirements of this section shall be monitored by the approved coinsurance lender. Compliance with any requirements of this section shall also be enforced by the Assurance of Completion Agreement as provided under 24 CFR 251.402(d) or by escrow under 24 CFR 255.401(c).

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

**§ 200.825 HUD-owned multifamily property disposition.**

(a) *General.* The requirements of this section apply to the sale of any HUD-owned multifamily property when its use is intended for residential habitation. This section does not apply to projects for the elderly or handicapped (except for units housing children under seven years of age). The requirements of this section do not apply to 0-bedroom units.

(b) *Defective paint surfaces.* For residential structures constructed prior to 1978, HUD shall cause the property to be inspected for defective paint surfaces before offering the property for sale. If defective paint surfaces are found, treatment as required by 24 CFR 35.24(b)(2)(ii) shall be completed before delivery of the property to the purchaser or, if the disposition program under 24 CFR part 290 provides for repairs to be performed by the purchaser, such treatment may be included in the required reports. Residential structures assisted under section 223(f) of the National Housing Act are to be inspected and treated as set forth in this paragraph.

(c) *Chewable surfaces.* If the residential structure was constructed or substantially rehabilitated prior to 1978, HUD shall cause a random sampling of dwelling units to be tested for lead-based paint on chewable surfaces as part of the sales contracting procedure. Random testing shall be performed as described in § 200.820(c)(1). Testing shall be performed using an X-ray fluorescence analyzer (XRF) or other method approved by the Commissioner. Test

readings of 1 mg/cm<sup>2</sup> or higher using an XRF shall be considered positive for presence of lead-based paint. Testing shall be conducted by a State or local health or housing agency, an inspector certified or regulated by the State or local health or housing agency, a qualified HUD inspector, or an organization recognized by HUD. The testing entity shall certify to the results of the test. Where lead-based paint on chewable surfaces is identified, the entire interior or exterior 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). Treatment shall be completed before delivery of the property to the purchaser, or, if the disposition program under 24 CFR part 290 provides for repairs to be performed by the purchaser, such treatment may be included in the required repairs.

(1) *EBL Child.* In the case of a residential structure constructed prior to 1978, if HUD is presented with test results that indicate a child seven years of age or younger living in a unit has an elevated blood level or EBL, HUD must test or cause to be tested the unit occupied by the child and if such test is positive for lead-based paint, abate the unit surfaces in accordance with the methods set out at 24 CFR 35.24(b)(2)(ii) or choose not to test and abate all the unit surfaces.

(2) *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 forego testing, and abate all applicable surfaces in accordance with the methods set out in 24 CFR 35.24(b)(2)(ii).

(d) *Tenant protection.* HUD or the purchaser, as appropriate, shall take appropriate action as prescribed by the Commissioner to protect tenants from hazards associated with abatement procedures.

[52 FR 1891, Jan. 15, 1987; 52 FR 9828, Mar. 27, 1987, as amended at 53 FR 20800, June 6, 1988]

**§ 200.830 Compliance with other Federal, State and local laws.**

(a) *HUD responsibility.* If HUD determines that a State or local law, ordinance, code or regulation provides for lead-based paint testing or hazard