

### § 35.5

seven years of age, such as a child care center.

*Secretary.* The Secretary of Housing and Urban Development or a HUD official delegated the Secretary's authority with respect to the Act.

[51 FR 27787, Aug. 1, 1986, as amended at 61 FR 5204, Feb. 9, 1996]

#### §35.5 Requirements.

(a) Purchasers and tenants of HUD-associated housing constructed prior to 1978 shall be notified:

(1) That the property was constructed prior to 1978;

(2) That the property may contain lead-based paint;

(3) Of the hazards of lead-based paint;

(4) Of the symptoms and treatment of lead-based paint poisoning; and

(5) Of the precautions to be taken to avoid lead-based paint poisoning (including maintenance and removal techniques for eliminating such hazards).

Prospective purchasers or renters shall receive the above notifications prior to purchase or rental.

(b) Each Assistant Secretary shall take necessary actions to implement the requirements of paragraph (a) of this section with respect to the HUD programs within his/her administrative jurisdiction. Such actions shall include providing the required notification (prepared by the Secretary after consultation with the National Institute of Building Sciences) and establishing procedures to:

(1) Provide evidence that the required notification has been received by purchasers and tenants of HUD-associated housing constructed prior to 1978, and

(2) Require the inclusion of appropriate provisions in contracts of sale, rental or management of HUD-associated housing to assure that purchasers and tenants receive the required notification.

(c) Any requirement of this section, except use of the required notification, shall be deemed superseded by a regulation promulgated by an Assistant Secretary with respect to any program under his or her jurisdiction which states expressly that it is promulgated pursuant to the authorization granted in this section and supersedes, with respect to programs within its defined scope, the notification requirements

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prescribed by this section. *Sec. e.g.*, 24 CFR 570.680(b) (Community Development Block Grants).

[51 FR 27787, Aug. 1, 1986, as amended at 53 FR 20798, June 6, 1988]

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

### §35.10 Purpose and scope.

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

[41 FR 28876, July 13, 1976, as amended at 50 FR 9269, Mar. 7, 1985]

### §35.12 Definitions.

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

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

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