

HUD can't remove lead-paint hazards in all FHA homes

By The Washington Post

WASHINGTON — The Department of Housing and Urban Development has proposed new rules for removing lead-paint hazards from all government-assisted housing, but decided it was not "practicable" to remove the paint in single-family homes insured by the Federal Housing Administration, even though a federal judge has ordered it to include such houses in the paint-removal plans.

U.S. District Judge Gerhard A. Gesell's order said single-family homes, privately owned apartment buildings constructed with federal assistance and apartments leased with rental-assistance certificates were to be covered by the new regulations.

The court order stems from a 1981 lawsuit against HUD in which Gesell ruled that the department's lead paint removal regulations fell short of what Congress intended when it passed the Lead-Based Paint Poisoning Prevention Act.

Cheryl C. Burke, an attorney representing the District of Columbia public housing tenants who sued HUD seeking removal of the lead paint in their apartments, said that in the proposals affecting rental-assistance programs, as in some other suggested regulations, "the effect is to make children the testing machines. Children who are healthy when they move in will have no protection from lead paint in the dwellings. I object to that on moral grounds."

The suit against HUD was filed after a 3-year-old girl living in Southeast Washington was hospitalized with lead poisoning. An estimated 200 children die from lead poisoning each year and another 10,000 or more become ill.

Current HUD regulations provide for removing lead paint if it is flaking or cracking, but Gesell ruled new regulations must be implemented to provide for elimination of intact, or "tight," paint.

In the proposed regulations published last week in the Federal Register, HUD said it would test for and remove tight paint from some multi-family rental housing receiving federal assistance.

The poisoning-prevention law requires the government to remove lead-paint hazards "as far as practicable."

HUD general counsel John J. Knapp

said the FHA insurance program cannot meet the standard with regard to intact paint. He said "the court order doesn't supersede the statute."

Burke said she would file comments protesting HUD's interpretation of the law.

The department also proposed to limit its lead-paint testing and removal in the rental-assistance units to those occupied by families with children who already have elevated levels of lead in their blood.

Proposed rules issued in February for public and Indian housing called for removing intact paint containing 0.7 milligrams or more of lead per square centimeter from "chewables" surfaces, such as corners of walls, doors and woodwork.

The proposals say cracked or flaking paint on surfaces where it is an "immediate hazard" is to be removed. Cracked paint on surfaces 5 feet above the floor and intact paint on flat surfaces are classified as potential hazards.

About 3 million home buyers a year apply for FHA mortgage insurance, and it is estimated that about 1 million of their homes might have lead-based paint. HUD estimates that about half of the nation's 13 million public-housing units contain lead-based paint.

But there are only about 400 machines in the United States for testing the lead content of paint. And about 8,000 appraisers, who would be responsible for ensuring that homes are free of lead paint hazards, work in the FHA insurance program. Knapp said current rules requiring removal of chipped and peeling paint from FHA-insured homes will be continued.

The scarcity of testing equipment also is a large factor in limiting the rules covering housing leased with federal rental-assistance certificates, as is the belief that blood-screening facilities and testing machinery are likely to be available in large cities, where most children with high levels of lead in their blood are found, Knapp said. The so-called Section 8 rental assistance is the federal government's largest housing-aid program.

The proposed rules say HUD will decide whether testing and abatement programs will be limited to housing built before 1960 or will include all structures built before 1978 after a 60-day comment period before the rules become final.

Cheryl's Big Hud Win

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