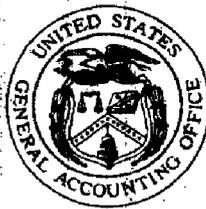


July 1994

# LEAD-BASED PAINT HAZARDS

## Abatement Standards Are Needed to Ensure Availability of Insurance



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

B-257413

July 15, 1994

**The Honorable Donald W. Riegle, Jr.  
Chairman****The Honorable Alfonse M. D'Amato  
Ranking Minority Member  
Committee on Banking, Housing  
and Urban Affairs  
United States Senate****The Honorable Henry B. Gonzalez  
Chairman****The Honorable Jim Leach  
Ranking Minority Member  
Committee on Banking, Finance  
and Urban Affairs  
House of Representatives**

In recent years, the problems associated with lead-based paint have received considerable national attention. Lead poisoning is the number one environmental health problem affecting children in the United States, according to the Centers for Disease Control. The Centers estimate that up to 3 million children, or about 15 percent of all children under the age of 6, may have unacceptably high levels of lead in their blood. The primary route of exposure to lead is the incidental ingestion of dust and soil contaminated by lead from the deteriorated paint surfaces of walls, door jambs, and window sashes.

Because the nation's housing stock, both public and private, is a major source of lead paint hazards, the Congress passed the Residential Lead-Based Paint Hazard Reduction Act of 1992, which mandates a comprehensive effort to deal with the problems.<sup>1</sup> In establishing the respective responsibilities of the Environmental Protection Agency (EPA) and the Department of Housing and Urban Development (HUD), the act requires EPA to develop work-practice standards for use during inspection and abatement activities, as well as health-based standards for lead-based paint hazards and lead-contaminated dust and soil. The act requires HUD to issue guidelines primarily for reducing lead hazards in the agency's federally assisted properties.

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<sup>1</sup>The Residential Lead-Based Paint Hazard Reduction Act of 1992, among other things, amended the Lead-Based Paint Poisoning Prevention Act of 1971.

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As an additional part of that mandate, the act requires that we address the problems that property owners face in obtaining insurance for lead paint hazards. Without insurance or standards for removing lead hazards, property owners are less inclined to rent to families with children, participate in federally assisted housing programs, and invest in removing lead hazards. Thus, in consultation with your offices, we agreed to examine

- the risks facing property owners because of the limited availability of insurance for lead hazards and the reasons why insurance companies are excluding this coverage;
- contractors' experiences in obtaining liability insurance for their lead abatement activities; and
- measures taken by the states and the federal government for increasing the availability of liability insurance for lead-based paint hazards.

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## Results in Brief

Millions of property owners face significant financial risks because liability insurance for lead hazards is becoming increasingly difficult to obtain. A number of owners and their insurers have already made payments—some have paid millions of dollars—to the families of lead-poisoned children. To avoid the growing number of claims, property owners can attempt to remove lead hazards—which can be costly—but no nationally accepted methods or standards for such abatement exist. Consequently, the owners cannot be sure that their abatement efforts will reduce their liability. Moreover, the insurance companies believe that it is not good business to insure against unpredictable claims for damages resulting from widespread lead hazards. Thus, until EPA establishes reasonable standards for the inspection and abatement of lead hazards in privately owned property, little progress will be made toward providing insurance for property owners or abatement contractors.

Except for some large contractors with proven records of abating environmental hazards, contractors generally have had difficulties obtaining insurance for claims arising in connection with testing for and abating lead hazards. This situation is a growing concern in the housing industry because it is the smaller-sized firms that will perform much of the abatement and rehabilitation work. Without lead hazard coverage, contractors and property owners may face substantial claims.

Efforts to increase abatement and make insurance more available to private property owners have occurred primarily at the state level, where

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property insurance is regulated. For example, Massachusetts and Maryland require that insurance companies offer insurance, provided that property owners reduce lead hazards to meet certain abatement standards. Industry officials told us that the availability of insurance is unlikely to increase until the federal or state governments establish abatement standards and limits on liability for property owners. At the federal level, HUD assisted housing authorities in procuring a master insurance policy during the early 1990s that protected housing authorities and their contractors against claims as a result of lead testing and abatement activities. However, after the policy expired, HUD decided not to implement another, choosing instead to develop criteria for housing authorities to use in obtaining coverage for lead hazards. Federal attention is now focused on the work of a legislatively mandated task force that is studying the problem of lead-based paint and plans to report in early 1995 on a wide array of issues.

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## Background

Lead poisoning is the most common environmental health problem affecting young children in the United States, according to the Centers for Disease Control. Although lead was banned from residential paint in 1978, more than half of the housing stock—an estimated 57 million older homes—still contains lead-based paint. To combat this health threat, the Congress enacted the Residential Lead-Based Paint Hazard Reduction Act of 1992 (known as title X of the Housing and Community Development Act of 1992).

Title X aims to develop a national strategy for building the infrastructure necessary to eliminate lead-based paint hazards in all housing as expeditiously as possible.<sup>2</sup> For example, title X requires that HUD provide public housing authorities and other owners of federally assisted properties with guidelines for evaluating and reducing the lead hazards in their properties. The legislation also requires that EPA develop work-practice standards for the abatement contractor industry to use during the inspection and abatement of lead-based paint in both private and federally assisted properties. EPA is also to develop health-based standards for lead-based paint hazards and lead-contaminated dust and soil. A key provision of title X created the Task Force on Lead-Based Paint Hazard Reduction and Financing to recommend efforts to reduce lead-based paint hazards in privately owned housing.

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<sup>2</sup>Title X defines a lead-based paint hazard as any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces and that would result in adverse human health effects.

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Insurance is a system in which a person transfers the financial consequences of loss exposures to an insurer who covers the insured for losses and provides for sharing financial losses among all of those insured. The insurers choose the risks they plan to cover by a process called underwriting, which identifies and evaluates risks and sets the premium to be charged for the risk accepted by the insurer. The insurers have maintained that the basic concerns of underwriting a risk—the fortuity of occurrence and the predictability of loss—cannot be satisfied when dealing with pollution risks such as lead-based paint, thereby making these risks difficult to insure.

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### Limited Availability of Insurance Places Property Owners at Risk

Millions of property owners could face substantial financial losses because of the presence of lead paint hazards in their rental units. At greatest risk are the owners of low- and moderately valued single-family and multifamily dwellings who are facing potentially expensive lead liability settlements and abatement costs. Making the property owners' problems worse is the absence of nationally accepted methods for reducing lead hazards. Because of the lack of abatement standards and the limits on liability, and in keeping with the basic tenets of the insurance industry, the insurance companies have increasingly chosen not to offer liability coverage for those properties containing lead-based paint. Without liability insurance, those property owners who are unable to reduce financial risks to a minimum may abandon their rental properties, thereby reducing the supply of affordable housing. Given these realities, many believe that increasing the availability of insurance is a necessary part of a comprehensive solution to this problem.

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### Lead-Based Paint Claims Reportedly Are Increasing

Despite the lack of reliable national data, several sources indicate that the number of lawsuits against property owners on behalf of children harmed by lead hazards have increased in recent years. This increase is particularly evident since the mid-1980s in Boston and Baltimore area courts. As of August 1993, both cities had about 1,500 cases pending. Although insurance company officials said that they have seen an increasing number of lead poisoning claims in the last few years, they did not have enough data to establish a clear trend. Some insurers expect that lead poisoning claims will increase significantly over the next few years. One reason is that when the Centers for Disease Control lowered in 1991 the threshold at which children are considered to be at risk, the potential universe of such children expanded greatly.

The settlements and verdicts in lead poisoning cases have reached millions of dollars. In New York City, for example, a child who was poisoned by lead in a city-owned apartment recently won a \$10 million verdict against the city. In Washington, D.C., a jury found both the landlord and the property manager liable for the injuries to two brain-damaged children who were exposed to peeling lead-based paint. The children were awarded \$2.7 million in damages. Such awards, however, are the exception, not the rule. Still, the costs are substantial. A 1993 study by The National Center for Lead-Safe Housing estimated that most lead poisoning cases in Boston and Baltimore are settled for amounts from \$50,000 to \$400,000. Because of the expensive litigation costs and the potential for jury awards in millions of dollars, an insurer told us that many companies prefer to settle their smaller claims before they reach the court.

### Lack of National Standards for Lead Hazard Control and High Abatement Costs Pose a Dilemma for Property Owners

In many states, little guidance is available to private property owners who want to reduce—as opposed to fully abate—lead hazards in their rental properties. Although HUD has developed guidelines on testing procedures and abatement techniques for lead-based paint, the guidance applies specifically to public housing and may not be practical for use in privately owned properties (although the guidance could provide a model for property owners who wish to fully abate their properties). Therefore, to provide guidance to property owners and landlords who wish to properly maintain their buildings or at least reduce the levels of lead hazards in their buildings, HUD has recently developed guidelines describing affordable actions to reduce lead hazards in all housing—public, federally assisted, and private—and expects to complete them by the end of 1994. These proposed guidelines focus on hazard containment and reduction and provide a list of cost-effective steps that property owners can take in lieu of total lead-based paint abatement.

Developing standards for use by contractors in performing lead-based paint inspection, hazard mitigation, and full abatement activities in privately owned residences is the responsibility of EPA. These standards are generally more technical than HUD's guidelines for property owners. However, as we reported in May 1994, EPA has been delayed in developing these standards because of the time needed to consult with state and local governments to ensure that the standards will meet their needs.<sup>3</sup> We recommended that in the interim EPA promote the use of HUD's guidelines for public housing. EPA's development of standards for removing lead

<sup>3</sup>Toxic Substances: Status of EPA's Efforts to Develop Lead Hazard Standards (GAO/RCED-94-114, May 16, 1994).

hazards in the private sector has been further hindered by concerns about the accuracy and reliability of testing technology. Thus, property owners remain uncertain about how to safely and effectively reduce the risk of lead poisoning in rental housing inhabited by children.

The cost of abatement is part of the dilemma facing property owners, who must weigh the expense against the potential costs of liability judgments that could result in the loss of their property. The property owner representatives we spoke with also were concerned about whether owners could realistically afford to abate lead hazards, even if agreed-upon standards were established. The cost of total abatement—completely removing all lead—can, in some cases, exceed the rental income generated from the property, or even exceed the value of the property. According to a recent study,<sup>4</sup> the costs of full abatement of all lead-based paint in a housing unit can range from \$7,500 to \$40,000. In 1990, HUD estimated that the total cost of testing for and removing lead-based paint from a residence was about \$8,000 and that the total of such costs for all pre-1980 privately owned housing was about \$500 billion over a 10-year period. Individuals representing a property owner organization and an insurance company told us that the supply of low-income housing will decrease if expensive abatement measures are required across the country. However, according to HUD officials, HUD recently estimated that under its proposed hazard reduction guidelines for all housing, the costs to mitigate or contain lead hazards with new paint and minor repairs would range from \$2,000 to 2,500 per unit for pre-1978 multifamily housing and rise to about \$3,500 for pre-1960 single-family housing.

### Lack of Abatement Standards and Other Uncertainties Threaten Availability of Insurance

The increasing number of claims and the uncertainties involving lead hazard mitigation are causing many insurance companies to withdraw from the market for lead liability coverage. In addition, many insurers have taken the position that lead-based paint in housing presents an uninsurable exposure when the paint is not completely removed or abated. Most recently, several state insurance departments, which regulate most coverage, have received numerous requests from companies to eliminate or reduce their coverage of lead hazards. For example, as of March 1993 the New York State Insurance Department granted 21 insurance companies the right to exclude lead poisoning from the coverage that they offer property owners. Later, New York officials became so concerned about the consequences of granting the exclusions that they placed a

<sup>4</sup>Lead-Based Paint Hazards and the Comprehensive Housing Affordability Strategy (The National Center for Lead-Safe Housing, 1993).

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moratorium on them. While the exclusions are in effect, the property owners covered by these policies are liable for any lead poisoning claims made against them.

Insurance companies and other knowledgeable individuals whom we spoke with gave the following primary reasons for citing lead as an uninsurable risk and for causing insurance companies to seek lead exclusions from general liability policies:<sup>5</sup>

- The medical and legal communities are uncertain as to what constitutes lead poisoning in children.
- No nationally recognized lead abatement standards exist for property owners to follow that will lead to reducing lead hazards, limiting the number of poisoning claims, and creating some predictability in the size and timing of the stream of payments that the insurance companies will need to cover the smaller number of expected losses.
- The insurance companies do not have enough data about past losses to confidently predict future losses and to assess premiums. Insurance officials also said that if lead liability could be priced, property owners probably could not afford it.
- Increased screening of the levels of lead in children's blood and the public's increased awareness of the causes of lead paint poisoning are likely to result in increased lead paint litigation.
- The perception is that many landlords cannot afford or have little incentive to minimize lead hazards.

The inability of owners of rental properties to obtain liability insurance may ultimately affect the availability of affordable housing. Property owner representatives told us that rather than face the expense of abatement (\$7,500 to \$40,000) or the threat of claims (which have reached \$10 million) from poisoned children, some property owners may abandon their properties.

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### Insurance Is Part of a Comprehensive Solution for Reducing Lead Hazards and Compensating Victims

Insurance has emerged as a key component in the search for a solution to the long-term problems inherent in attempting to reduce lead paint poisoning in children. Insurance officials concur that lead poisoning is a societal problem whose far-reaching implications demand the joint efforts of government and housing experts as well as the insurance industry. They believe that insurance is critical but that a unified effort involving not only

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<sup>5</sup>A significant source for this material is *Lead Liability Insurance for the Private Owners of Low to Moderate Income Rental Housing: Is Adequate, Affordable Coverage Available?* (The National Center for Lead-Safe Housing, Aug. 1993).

government and housing policymakers but also property owners and residents, under a comprehensive plan, will be necessary to effectively reduce lead hazards. For insurance to be part of the solution, insurance officials want to see limits placed on the property owners' liability after lead hazards in rental properties have been reduced.

In addition to a combined effort by the key stakeholders, insurance officials and others believe that abatement standards and the future of relevant technology must be addressed. According to insurance officials, at the very least, acceptable standards must address deteriorated lead-based paint that is chipping, flaking, or peeling. The development of abatement standards depends on the ongoing research on removal methods and the growth of technology. Although manufacturers are racing to produce testing and abatement technology, the experts we spoke with questioned the reliability of the most predominant testing method and therefore the precision and accuracy of the equipment. In the absence of dependable methods and equipment, insurance officials believe that educating the public about lead exposure and protective measures will go a long way toward enabling residents to protect themselves against the health risks posed by lead.

Once abatement standards are in place, insurers will be more likely to require owners of rental housing to reduce lead-based paint hazards as a condition for obtaining coverage. For example, an insurer could require owners to conform to minimum standards of maintenance or to abate existing lead-based paint. Likewise, insurers could charge different premiums for different abatement levels. In addition to providing the incentive to reduce existing lead hazards, insurance provides the means to adequately compensate the victims of lead hazards, although preventing lead poisoning is always preferable to compensating victims, regardless of how serious the harm.

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## **Insurance for Lead Abatement Contractors Also Is Limited**

Liability coverage is generally not available for small, inexperienced lead abatement contractors. However, the availability of coverage for lead hazards could grow, as did asbestos abatement coverage, because the two hazards are similar. Insurance for asbestos abatement contractors was scarce during the mid-1980s, but standards for asbestos removal that were developed by EPA helped to increase the availability of insurance.

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## Availability of Coverage for Small Contractors Is Limited

According to officials of insurance companies and lead abatement contractors, small contractors will have problems obtaining insurance to cover the risks associated with testing for and abating lead hazards because covering these contractors is perceived as a high risk and the cost of coverage for them is therefore high. These officials further said that the lack of abatement standards and the potential for numerous claims for which verdicts and settlements can reach millions of dollars are reasons why coverage for the contractors performing residential abatement is limited. Without such standards, the property owners who hire the contractors have no assurance that hazards in their units are properly abated, and contractors risk being held liable for the harm incurred by children during the abatement process. In cases in which some coverage is provided, several insurance firms cited typical premiums ranging from \$60,000 to \$70,000 for the minimum insurance offered (typically, \$1 million). An abatement consultant told us that high insurance premiums are passed on to the consumer, thereby increasing abatement costs and possibly increasing the presence of cheaper but uninsured contractors who may possibly create liability problems for property owners.

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## Lessons Learned From Asbestos Removal May Enhance Availability of Lead Insurance

Asbestos and lead removal are alike in some ways and are often carried out by the same contractors; however, they are different in ways that affect the availability of liability insurance. For example, one insurance official told us that similar methods are used for asbestos and lead removal and that abatement of both, if conducted improperly, may actually increase rather than reduce hazards. A recent lead poisoning case settled in Wisconsin required an insurance company to pay \$1.5 million to a child who was poisoned when the landlord removed the lead-based paint by scraping it off the walls. This method of lead abatement actually spread lead dust throughout the home, which increased the level of lead in the child's blood. Similarly, asbestos dust will spread through the air if asbestos is improperly abated. However, differences exist in the effects of the hazards. With asbestos injuries, which primarily affect adults, decades usually pass before the damage becomes evident. In contrast, lead injuries to children are manifested much more quickly. In addition, most asbestos removal work has been done primarily in remote areas of commercial buildings, such as basements, whereas lead abatement occurs in millions of homes where children are likely to live.

During the 1980s, insurance for asbestos contractors was generally unavailable, but it became more obtainable after federal abatement standards were developed. The regulations issued under the Asbestos

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Hazard Emergency Response Act of 1986 established requirements for training and accrediting contractors and for the monitoring methods they used. These regulations increased the availability of asbestos liability insurance for abatement contractors. We believe that the recent increase in the availability of insurance for asbestos removal contractors may be a harbinger of similar developments in the lead removal business if similar standards are developed.

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## State and Federal Governments Seek Viable Means to Increase Availability of Insurance

Several states and the federal government have recently initiated efforts to increase the availability of insurance for lead hazards. The states play an important role in determining the availability of insurance because they regulate the insurance offered in their states. Massachusetts, Maryland, and New York have been particularly active in seeking ways to make insurance more widely available.

At the federal level, EPA is developing standards for lead hazard inspection and abatement and for contractor certification, licensing, and training programs to provide a basis or guidance for the states' programs, contractors, and property owners. In addition, during the early 1990s, HUD assisted public housing authorities in obtaining a master insurance policy to protect the authorities and their contractors against claims for bodily injury occurring as a result of the work being done during testing and abatement. Also, recent legislation charged a task force with identifying a comprehensive approach to reduce lead hazards in residential housing. As part of that approach, the task force plans to provide specific guidance, along with reasonable time frames for taking action, to EPA and HUD.

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## States Have Had Mixed Success in Offering Lead Coverage

Massachusetts requires insurance companies to offer lead hazard coverage provided that property owners either take steps to reduce hazards or pay an additional premium. The state's experience with lead hazard liability dates to the 1970s, when property owners were made strictly liable for claims arising from lead-poisoned children living in their properties. The law required that property owners remove lead-based paint from walls and windows up to 4 feet from the floor. In 1990, the insurance industry sought the state's approval to exclude lead liability coverage from policies, and the state acquiesced. Beginning in 1991, Massachusetts approved a limited exclusion provided that insurance companies offer property owners with unabated rental units the opportunity to purchase lead liability coverage

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for an additional premium of \$340 per rental unit.<sup>6</sup> Property owners who have abated lead hazards according to the state's standards, however, must be offered coverage by insurance companies at no additional charge.

Recently, Massachusetts developed new procedures to help make insurance more available to property owners and thereby reduce their liability. The procedures call for the Massachusetts Department of Health to promulgate regulations to establish a program of interim control measures to reduce lead hazards. The state will give property owners who perform some abatement measures a letter certifying for up to 2 years that the property is safe from hazards but not lead-free. After 2 such years, the property owner must take further abatement measures, according to the state's specifications. Once these measures have been taken, insurance must be made available and the owner's liability is reduced. The position of the Massachusetts Childhood Lead Poisoning Prevention Program is that the combination of liability insurance, abatement measures, and education will provide a powerful incentive to property owners to control lead hazards.

Moving in a direction similar to that taken by Massachusetts, Maryland recently enacted legislation requiring that insurance companies provide liability coverage for lead hazards once property owners notify tenants of the presence of lead and take certain abatement measures prescribed by the state. In return, property owners facing lead poisoning suits will be liable for a maximum of \$17,000 in damages. Insurance industry officials told us that reducing the risk and limiting the property owners' future liability are necessary before they can reasonably offer lead liability coverage.

The New York State Insurance Department also has sought to increase the availability of general liability insurance for property owners by proposing two options to insurance companies. First, the state asked insurance companies if they were willing to underwrite coverage for lead hazards through a voluntary reinsurance pool. Because few insurers expressed interest in this approach, it was not adopted. Second, the state proposed that all companies be required to provide lead hazard coverage for all homes by participating in a joint underwriting association. During public hearings held in May 1993, insurance officials opposed the joint underwriting proposal and reiterated their belief that lead hazards are uninsurable. They also maintained that the proposed requirement would

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<sup>6</sup>The National Association of Insurance Commissioners told us that of 26 states answering a survey, Massachusetts was 1 of only 3 that require insurance companies to offer property owners the option to purchase the excluded coverage.

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provide little incentive for owners to reduce lead hazards in their properties. The insurance companies were unalterably opposed to the proposal, citing their concern that mandating lead liability coverage in the absence of abatement could not only increase the cost of coverage but also reduce its availability. These results, they stated, could thwart the achievement of the primary goal: sparing children from the effects of exposure to lead hazards. The state insurance department decided not to mandate the programs after concluding that a comprehensive solution was needed to address the problem.

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### Federal Efforts Include EPA's Development of Standards and HUD's Aid to Housing Authorities

Title X of the Housing and Community Development Act of 1992 required that EPA, in consultation with other agencies including HUD, develop work-practice standards for lead inspection and abatement activities. Title X also requires EPA to develop health-based standards for lead-based paint hazards and lead-contaminated dust and soil. Abatement contractors will use such standards to ensure that lead hazards are identified and eliminated in the safest and most effective manner. The standards also will play an important role in increasing the availability of liability insurance for lead hazards.

For years, public housing authorities have had difficulty obtaining lead liability insurance. They differ from private property owners in that HUD has provided housing authorities with guidance on a variety of strategies and methods aimed at reducing lead-based paint hazards. HUD has also funded the housing authorities' lead testing and abatement activities. Approximately 400,000 children reside in the 1.3 million public housing units. Roughly 60 percent of the units were built before 1978 and may contain lead-based paint, thereby putting the children living in these units at risk.

In 1989, HUD officials became concerned that public housing authorities' liability insurance might not cover claims for lead-based paint hazards. Insurers contended that such claims were excludable under the provisions of their policies, which would necessitate litigation before insurance companies would cover these claims. HUD officials considered alternative measures to at least protect the authorities and their contractors from liability claims arising from their lead testing and abatement work; however, these measures would not cover lead poisoning occurring in the normal course of a person's occupying a unit where lead had not been abated. In 1990, HUD sought to remedy this situation by assisting housing authorities in obtaining a master insurance policy to protect them and

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their contractors. Approximately 900 housing authorities took advantage of the master policy to insure their lead testing and abatement activities.

When the master policy expired on October 1, 1993, HUD did not renew it for several reasons. First, the insurance company issuing the policy notified HUD that it would not renew the policy; thus, HUD would have to find a new insurer. Second, the HUD Inspector General concluded in September 1991 that HUD's involvement in contracting for the master policy was not warranted. Finally, because of the passage of title X, it was expected that contractors performing testing and abatement work would need insurance while working for entities other than housing authorities, and a master policy insuring them only while working for the authorities would not be practical. HUD is now drafting final regulations setting forth criteria for housing authorities to use in obtaining coverage for lead hazards.

Other means of insurance are also available, including self-insurance and group insurance. For example, of the 20 housing authorities we contacted, 2 that have self-insured against claims from residents for pre-existing lead hazards—New Orleans and Chicago—have also received the largest number of claims. A New Orleans Housing Authority official said that because of the number of settlements, the authority no longer has commercial liability insurance and must now self-insure. For example, during 1991 the New Orleans Housing Authority settled over 60 lawsuits that cost over \$1 million in claims and attorneys' fees. Having no insurance, the authority recently requested and received an additional \$340,000 from HUD to pay these claims.<sup>7</sup> The Housing Authority Risk Retention Group, started in 1987, is an alternative insurer that insures many of the larger housing authorities that maintain their properties in "lead-safe" condition. The group also offers coverage to members engaged in lead abatement activities.

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### Task Force Will Recommend to HUD and EPA Ways to Reduce Lead Hazards

In addition to requiring EPA to develop standards, title X created the Task Force on Lead-Based Paint Hazard Reduction and Financing and charged it with identifying a comprehensive approach to evaluate and reduce lead hazards in privately owned residential housing. Title X mandates that the task force recommend to HUD and EPA methods for preventing lead poisoning through comprehensive changes to both standards and regulations. The issues that title X mandates the task force to address are

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<sup>7</sup>Lead-Based Paint Poisoning: Children in Public Housing Are Not Adequately Protected (GAO/RCED-93-138, Sept. 17, 1993).

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broader than the regulatory standards being developed by EPA and include the following:

- Increasing the availability of insurance for owners of rental housing and contractors. Under this issue, the task force intends to explore such questions as the following: How can insurance encourage reductions in lead hazards? What factors affect the type of insurance available and its cost? Is insurance covering lead-based paint currently available to rental property owners and abatement contractors?
- Clarifying standards for lead hazard control by landlords and lenders. Under this issue, the task force is seeking to define a comprehensive set of measures to control lead hazards in private housing and will explore questions such as the following: How are hazards identified and controlled?
- Revising guidelines and regulations issued by HUD and other federal agencies for preventing lead-based paint poisoning. Questions that the task force will address under this issue include the following: What is a lead-based paint risk assessment (hazard evaluation)? What are the barriers to increasing hazard evaluations in private housing?

To help accomplish title X's purpose of eliminating lead hazards, the task force comprises a broad range of government and insurance industry officials, members of public interest groups, property owners, and the scientific community. Our work shows that the housing community is looking forward to the work of the task force to develop a national strategy, specific actions for federal agencies, and workable time frames for reducing lead hazards.

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## Conclusions

The financial risks for multifamily property owners, even those who want to reduce lead hazards, have increased as insurance companies continue to exclude lead coverage from their general liability policies. If insurance for lead follows the same path as asbestos, then coverage for abatement contractors may increase in the future. However, little progress toward providing insurance for property owners or abatement contractors will be made until EPA develops, as mandated by law, reasonable standards for the inspection and abatement of lead hazards. HUD's proposed guidelines for the evaluation and control of lead-based paint hazards in all homes are expected to become final by December 1994. Once this occurs, the states may be more inclined to implement the national standards by enacting legislation requiring that insurance companies provide coverage for lead hazards. Reasonable standards will encourage insurers to offer coverage,

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which, in turn, will provide owners with an incentive to reduce the lead hazards in their properties.

Through title X of the Housing and Community Development Act, the Congress has set the stage for a comprehensive approach to identifying and reducing lead-based paint hazards in residential housing. If the legislatively mandated Task Force on Lead-Based Paint Hazard Reduction and Financing is successful in addressing the questions it has identified, it will be in a position to make practical recommendations to HUD and EPA for reducing lead hazards and establishing new or improving existing abatement standards. In this way, the task force will have contributed to the wider availability of insurance.

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## Agency and Industry Comments

The Senate Committee on Banking, Housing and Urban Affairs requested and the House Committee on Banking, Finance and Urban Affairs agreed that we not obtain written agency comments on a draft of this report. We did, however, provide a complete draft of this report to HUD, EPA, the American Insurance Association, the National Center for Lead-Safe Housing, and members of the Task Force on Lead-Based Paint Hazard Reduction and Financing for review and oral comment. Subsequently, we obtained comments on the draft from officials of HUD's Offices of Lead-Based Paint Abatement and Poisoning and Prevention and Public and Indian Housing; EPA's Office of Prevention, Pesticides and Toxic Substances, Chemical Management Division; the National Center for Lead-Safe Housing; and the American Association of Insurance Companies. These officials generally agreed with the information presented in the report and provided us with updated information and suggested changes that would enhance the report's completeness and clarity.

HUD officials noted that HUD is drafting new guidelines for the evaluation and control of lead-based paint hazards that will identify cost-effective measures for all property owners to reduce or control lead hazards. Also, as EPA officials suggested, we clarified the role that insurance can play in motivating property owners to reduce the lead hazards in their properties, and we explained the role of the Housing Authority Risk Retention Group in offering lead-based paint liability insurance to housing authorities.

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## Scope and Methodology

We obtained information for this report from officials of 10 insurance companies, 7 state insurance departments, 2 insurance brokers, 5

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contractors, and 4 property owner associations. We also discussed insurance issues with HUD and EPA officials and analyzed data on housing and lead paint that they provided to us. In addition, we discussed the availability of insurance and the implications of a lack of insurance with various members of the Task Force on Lead-Based Paint Hazard Reduction and Financing. Finally, we contacted by telephone 20 large and small public housing authorities to determine their experiences in abating lead paint hazards and obtaining liability insurance. We conducted our review between July 1993 and June 1994 in accordance with generally accepted government auditing standards.

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We are sending copies of this report to the appropriate congressional committees and subcommittees, the Secretary of HUD, the Administrator of EPA, and the Director of the Office of Management and Budget. We will also make copies available to others on request.

If you would like additional information on this report, please call me at (202) 512-7631. Major contributors to this report are listed in appendix I. A list of related GAO products appears at the end of the report.



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# Related GAO Products

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Lead-Based Paint Poisoning: Children in Section 8 Tenant-Based Housing Not Adequately Protected From Lead Poisoning (GAO/RCED-94-137, May 13, 1994).

Toxic Substances: Status of EPA's Efforts to Develop Lead Hazard Standards (GAO/RCED-94-114, May 16, 1994).

Lead-Based Paint Poisoning: Children Not Fully Protected When Federal Agencies Sell Homes to Public (GAO/RCED-93-38, Apr. 15, 1993).

Lead-Based Paint Poisoning: Children in Public Housing Are Not Adequately Protected (GAO/RCED-93-138, Sept. 17, 1993).

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