



Regulations Division  
Office of General Counsel  
U.S. Department of Housing and Urban Development  
Washington DC 20410-0500

**RE: Docket No. FR-5816-P-01**

The National Multifamily Housing Council (NMHC) and the National Apartment Association (NAA) appreciate the opportunity to provide comments in response to the publication by the Department of “Requirements for Notifications, Evaluation and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance; Response to Elevated Blood Lead Levels.”

For more than 20 years, NMHC and NAA have partnered in a joint legislative program to provide a single voice for America’s apartment industry. Our combined memberships are engaged in all aspects of the apartment industry, including ownership, development, management and finance. NMHC represents the principal officers of the apartment industry’s largest and most prominent firms. As a federation of nearly 170 state and local affiliates, NAA encompasses over 69,000 members representing more than 8.1 million apartment homes throughout the United States and Canada.

Housing affordability is a significant challenge facing many Americans today who are seeking to rent an apartment. The number of households renting their homes stands at an all-time high, placing significant pressure on the apartment industry to meet that demand. Our members are committed to providing safe, affordable and accessible housing and have been strong partners with HUD and EPA in eliminating residential lead-based paint hazards.

While blood lead levels (BLL) nationwide have dropped significantly as a result of federal and state efforts to limit exposure to lead in gasoline, plumbing fixtures, food containers and paint and coatings, there are still some children who are identified as having a dangerous level of lead in their blood. We support HUD’s decision to peg the environmental intervention actions to children who have been identified as having harmful lead levels per the definitions promulgated by the Centers for Disease Control and Prevention. The programed recalculation of BLL based on continuous epidemiologic surveillance presents a liability concern for housing providers. HUD should extend the compliance deadline for one-year so that housing authorities and private property owners can become familiar with the new requirements and train their workforce on the new policies and procedures.

A 2015 study by HUD’s Office of Lead Hazard Control Grant Program found that treatments to eliminate lead hazards were effective in maintaining a lead-safe residential environment 6 years post-treatment. Accordingly, we suggest that any on-site hazard investigations and treatments should remain valid for 12 months; if HUD adjusts the environmental intervention BLL during those 12 months and a child occupant of the property is identified with an EBLL, a property owner should be

able to rely on the presumption that residence was compliant with the appropriate hazard control standards at the time that the child was identified.

We remain concerned that under Title X, HUD and EPA regulate “lead regardless of the source” as lead-based paint (LBP) and “lead hazards” property owners and managers of target housing built before 1978 uniquely responsible for lead exposure in resident children and mothers. There is a considerable amount of lead entrained as dust in the general environment that has no nexus to LBP and that once deposited on residential property is likely to become a “lead-hazard” when it is tracked-in to the dwelling unit. Sources of this lead are historic automobile emissions, ongoing industrial emissions and emissions for aircraft and other vehicles.

HUD is “encouraging property owners to evaluate for sources of lead exposure in units other than those covered by this subpart, and to control such sources.” We would appreciate clarification of this statement in order to refine on-site investigation protocols.

Recent attention to the widespread problem of lead in drinking water has properly sparked the attention of policymakers. According to a recent study by that Natural Resources Defense Council 17.6 million people are served by 5300 water systems that have been identified as having lead in drinking water in excess of the regulatory limits proscribed under the Safe Drinking Water Act administered by EPA.<sup>1</sup> The testing and treatment of water is the responsibility of water suppliers not housing providers yet residential property owners around the country are now finding that there may be elevated levels of lead in the water that is supplied to their property. HUD is proposing that water testing be part of an environmental investigation when a child is identified as having an EBL. Whether HUD is now considering lead in water to be a “regardless of the source” lead hazard isn’t clear nor is it clear how property owners can address a potential situation that goes well beyond the boundaries of their property. If water testing on-site finds high levels of lead, what will property owners be required to do? The potential significant expense of replacing service lines and a fouled building plumbing system have not been addressed by HUD.

Thank you for considering our comments. Please contact Eileen Lee of the NMHC/NAA joint legislative staff ([elee@nmhc.org](mailto:elee@nmhc.org)) should you have any questions.

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<sup>1</sup> <https://www.nrdc.org/sites/default/files/whats-in-your-water-flint-beyond-report.pdf>

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