UNDERSTANDING TITLE X:
A PRACTICAL GUIDE TO THE RESIDENTIAL LEAD-BASED PAINT HAZARD REDUCTION ACT OF 1992

Prepared For

Housing Providers, Health Professionals, Prevention Programs and Advocates

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ALLIANCE TO END CHILDHOOD LEAD POISONING
Background and Purpose

On October 28, 1992, President Bush signed into law the Housing and Community Development Act of 1992 (P.L. 102-550), an omnibus housing bill which includes as Title X the "Residential Lead-Based Paint Hazard Reduction Act of 1992". "Title X," as this bill is commonly referred to, is unquestionably the most comprehensive and significant lead poisoning prevention legislation in more than two decades. Its development and passage evidences the federal government's heightened commitment to a housing-based approach to preventing lead poisoning.

Over the next 12 to 24 months, Title X will alter virtually every aspect of dealing with lead-based paint hazards in U.S. housing, prompting profound changes in efforts to prevent childhood lead poisoning across the nation. These changes will eventually affect property owners, landlords, lenders, realtors, insurers, parents, tenants, abatement contractors, inspectors, laboratories, trainers, home remodelers, and state and local government agencies.

Because Title X fetches into a number of other federal laws to amend statutory language, deciphering its text is challenging. This guide provides a summary and analysis of Title X's changes. Part I provides an overview of the bill and explains its conceptual framework and major features. Part II reviews Title X's provisions section by section. Rather than an exhaustive technical explanation of Title X's provisions, this guide emphasizes the impact and implications of (and at points, the rationale behind) its important changes.
PART I

OVERVIEW AND CONCEPTUAL FRAMEWORK

I. A Transitional Law

Title X was conceived as a transitional bill, not the final solution to lead-based paint (LBP) hazards in housing. It recognizes the scope of lead poisoning hazards in the U.S. housing stock and the reality that, in most cases, prevention efforts have been ineffective over the past several decades. Title X’s central purpose is to mobilize national resources to support expanded prevention efforts on a broad scale. This goal is advanced by several strategies:

- Developing a new framework for lead hazard reduction to focus resources for maximum health benefit and to trigger a range of actions appropriate to various hazard and housing situations,
- Imposing specific requirements and deadlines on federally owned, insured and assisted housing to make the federal government a responsible landlord, encourage the growth and development of a quality abatement industry, and begin to clarify confusion over standards of care in private rental housing,
- Providing long overdue federal leadership: increased resources for abatement, specific timetables for action, and clear standards for licensing contractors, protecting workers, certifying laboratories, and accrediting training programs, and
- Creating new mechanisms for raising public awareness and engaging market forces to catalyze action in private housing.

II. Fixing Problem Houses, Not Just Poisoned Children

As it has evolved over the years, the common approach to addressing lead hazards in housing has been to use a lead-poisoned child as the trigger for action. Screening children for lead poisoning is important, and progress is being made toward the national goal of “universal screening.” But screening and reacting to lead-poisoned children is not sufficient. Title X’s fundamental focus is prevention -- true prevention: finding and fixing LBP hazards in housing before children are poisoned. Amendments to the federal law in 1988 had called for this policy change. To make this housing-based approach work on a broad scale, Title X redefines the nature of the LBP problem.
A. Redefining the Problem

Federal legislative amendments in 1988 to the Lead-Based Paint Poisoning Prevention Act (LBPPPA) shifted focus from the poisoned child to lead paint hazards in housing. Those amendments, however, defined the presence of any and all LBP as an actionable hazard. The fact that over half the U.S. housing stock has some LBP makes using this approach to set priorities and target resources impractical. In addition, in many instances the relationship between the presence of LBP and the immediate risk to the child is indirect. Therefore, Title X focuses attention and resources on situations believed to present lead exposure hazards. "Lead-based paint hazard," as explicitly defined in section 1004, includes those six situations which are believed to produce lead exposures that can poison children. In addition to "inspections" to determine the presence of LBP, Title X mandates "risk assessments" to identify conditions causing lead exposures of concern. Much greater emphasis is placed on the hazards of lead in surface dust, which many experts believe is the most common vector of poisoning.

B. Using Both Short-Term and Long-Term Strategies

Although the 1988 federal statute lacked the specificity and mechanisms to force action in most cases, it assumed that full and permanent abatement was the only response indicated whenever LBP was identified. In response, some groups tried to use the high cost of removing all LBP in U.S. housing as an excuse for ignoring lead hazards completely. Title X recognizes that even under a prioritized approach, it will take many years to abate all LBP hazards in U.S. housing. To protect children in the interim, Title X therefore relies on a combination of short-term strategies ("interim controls") as well as long-term abatement. Short-term strategies are appropriate for immediate implementation on a much broader scale and may prove to be cost-effective in many cases.

C. Establishing a Strategic Framework for Lead Hazard Reduction

Title X's goal is "lead hazard reduction," not necessarily the removal of any and all LBP. This objective is carried out by two broad categories of activity: evaluating and reducing lead hazards. Hazard evaluation may be accomplished by either a risk assessment or an inspection. A risk assessment is an on-site investigation to identify LBP hazards which present or are likely to present exposures of concern to human health. An inspection is a surface-by-surface investigation to determine the presence of LBP.

After LBP hazards have been identified by a risk assessment or by other means, the property owner can reduce LBP hazards through either short-term or long-term interventions. Abatement is the elimination of LBP hazards (not necessarily the removal of all LBP), using strategies such as paint removal, enclosure, encapsulation or component replacement. Interim controls temporarily reduce human lead exposures...
by correcting LBP hazards and stabilizing the remaining LBP through activities such as temporary containment, repairs, repainting, and specialized cleaning. Title X establishes ongoing monitoring to identify LBP hazards as an integral component of all interim control strategies.

The following diagram presents Title X’s strategic framework for lead hazard reduction. Section 1004 should be referred to for definitions of terms.

III. Protecting Health Through Federal Regulations

Before embarking on broad-based efforts to evaluate and reduce lead-based paint hazards in housing, federal standards must be in place to protect the health and safety of both the workers undertaking the interventions and the families who live or will live in treated housing. To ensure that Title X succeeds in producing lead-safe housing without harming workers, the law establishes a federal regulatory floor.

A. Building a Quality Abatement Industry

Title X uses a combination of "carrot and stick" strategies to ensure that contractors are trained and qualified. Title X establishes strict requirements for contractor certification and licensing (§ 1021; TSCA § 402), training-provider accreditation (TSCA § 402), laboratory licensing (TSCA § 405), and performance standards for testing and abatement products (TSCA § 405). State certification and licensing programs must meet minimum national standards; if states fail to act, EPA must enforce these requirements. At the same time, the resources provided by Title X and its requirements for lead hazard reduction in federally-associated housing will provide the impetus to greatly
accelerate the growth of this emerging industry and constitute an effective lever for ensuring quality control.

B. Establishing Health-Based Lead Hazard Reduction Standards

Title X sets a much needed regulatory floor by requiring EPA to promulgate regulations defining lead-based paint hazards and dangerous levels of lead in interior surface dust and bare soil (§ 1021; TSCA § 403) and regulations for performing lead hazard reduction activities (TSCA § 402). In the interim, HUD must issue guidelines for LBP hazard evaluation and reduction activities (§ 1017).

C. Protecting Workers from Lead Hazards

Title X closes a serious loophole by protecting workers against lead poisoning. By April, 1993, OSHA must issue interim final regulations on lead in the construction industry, which will apply not only to LBP activities in residential housing but to all construction settings, including structural steel work (§ 1031).

D. Reducing the Risks of Remodeling Projects

Title X mandates action to reduce the risks of creating new LBP hazards during renovation and remodeling projects which can disturb LBP in older housing (§ 1021; TSCA § 402 and 406).

IV. Making the Federal Government a Model Landlord

Several key provisions of Title X are designed to substantially expand the scope of lead hazard evaluation and reduction activities in federally-owned and assisted housing. Federal activities can simultaneously create lead-safe housing, provide work for people entering the hazard evaluation and reduction industries, and signal the private sector about appropriate standards of care.

A. Expanding Mandates for Federally-Associated Housing

In sharp contrast to the previous statute's generally worded objective ("to eliminate as far as practicable immediate hazards"), which proved too vague to stimulate widespread action, Title X establishes specific requirements for action in federally-associated housing, subject to deadlines and triggers. Beginning January 1, 1995, requirements take effect governing pre-1978 housing units which are: sold by any federal agency (§ 1013); subsidized with federal project-based assistance (§ 1012); or rehabilitated with federal funds (§ 1012).

In addition to those federally insured and assisted units previously covered, Title X
extends federal LBP-related requirements to all units receiving more than $5,000 in project-based assistance under any federal housing or community development program (§ 1012). And all federal facilities, including housing owned by the Department of Defense and other federal agencies, are subject to Title X's requirements, as well as state and local requirements (which may be more stringent) (§ 1021; TSCA §408).

B. Disposing of Property Responsibly

A large number of federal agencies own or control and eventually transfer residential property, often to low- and moderate-income purchasers. Subject to appropriations, Title X requires abatement of such properties constructed prior to 1960 and inspection and disclosure for properties constructed between 1960 and 1978 (§ 1013). These requirements apply to an expanded universe of agencies including the Federal Deposit Insurance Corporation and the Resolution Trust Corporation (§ 1004(8)).

C. Maintaining Momentum in Public Housing

For public housing, Title X leaves intact the 1988 statute's requirements for inspections of all developments by December, 1994 and abatement of all LBP (not just LBP hazards) in the course of modernization projects (LBPPA § 302).

V. Promoting Lead Hazard Reduction in Private Housing

Only one provision of Title X -- albeit a critically important one -- directly imposes requirements on owners of purely private housing. A number of provisions, however, are designed to directly and indirectly prompt action on lead hazard evaluation and reduction in private housing. In the meantime, the duty of landlords to provide safe, habitable housing continues to be governed by state and local statutes and common law, as are the rights of tenants.

A. Ensuring Disclosure of Hazards

Effective October, 1995, Title X imposes LBP-related disclosure and warning requirements at the time of sale or rental of any pre-1978 housing unit (§ 1018). These requirements, including a 10-day opportunity for home buyers to arrange for a risk assessment or inspection, will increase attention to LBP hazards and engage market forces.

B. Expanding Federal Resources

Title X recognizes the need for federal subsidies to reduce the extensive lead-based
paint hazards prevalent in low-income private housing. HUD's competitive grants program (funded at $47.7 million in 1992 and $100 million in 1993) is formalized in statute and authorized at $250 million for 1994 (§ 1011). The actual amount of grant funds available in 1994 will be determined by subsequent Appropriations Acts. Title X also makes lead hazard reduction activities eligible for funding under other existing federal housing and community development programs (§ 1012).

C. Integrating Lead Hazard Evaluation and Reduction into Local Housing Programs

Every "metropolitan city" and state must develop a Comprehensive Housing Affordability Strategy (CHAS) as a prerequisite to receiving federal housing and community development funds, (including CDBG and HOME grants). Title X requires that LBP hazards be explicitly considered as each state or local government develops its CHAS (§ 1014).

D. Educating the Public

Title X mandates expanded federal public education and information efforts. The federal hotline (1-800-LEAD-FYI) which recently became operational is to be upgraded to serve as a national clearinghouse. In addition, Title X requires the Consumer Product Safety Commission to work with EPA to develop point-of-sale educational materials, such as information for display by hardware stores selling paint removal products.

E. Establishing a National Task Force

Title X also mandates creation of a national "Task Force on Lead-Based Paint Hazard Reduction and Financing" (§ 1015) to make policy and technical recommendations to HUD and EPA on a number of sensitive issues related to extending prevention efforts to the universe of private housing, especially private rental housing. Members of this task force will include key organizations and groups involved in housing, real estate, insurance, lending, abatement, worker training and protection, and advocates for low-income housing and public health.
PART II
SECTION-BY-SECTION ANALYSIS

Introduction

This section-by-section analysis summarizes Title X's important provisions. Although all sections of Title X are included (note that section numbers are not sequential in all cases), discussion focuses on provisions of greatest policy and program significance. This analysis is therefore less than comprehensive. In many cases, the text of Title X is paraphrased for clarity and interpreted to provide background and context. This guide is intended to complement the actual text of Title X, which should be referred to for resolution of any questions or ambiguities. The Senate Committee report for Title X (S. Rpt. 102-332) also provides important insight into legislative intent.

In addition to changes in federal housing law, Title X adds sections 401 through 412 of the Toxic Substances Control Act (TSCA). All changes to TSCA are included in section 1021 of Title X. Unless otherwise indicated, all statutory references and section numbers apply to Title X of P.L. 102-550.

Sec. 1001. Short Title

The title of this Act is the "Residential Lead-Based Paint Hazard Reduction Act of 1992." This legislation was enacted as Title X of the Housing and Community Development Act of 1992 (P.L. 102-550), approved on October 28, 1992.

Sec. 1002. Findings

This section provides the Congress' findings related to: the scope of the problem of childhood lead poisoning; the extent of lead hazards in housing; the lack of meaningful progress; and the need for federal leadership on many fronts.

Sec. 1003. Purposes

Title X is intended to: provide a priority-based framework for evaluating and reducing lead-based paint hazards; ensure responsible action by federal agencies; mobilize resources expeditiously for effective national prevention efforts; and strengthen the abatement industry's quality and capacity.

Sec. 1004. Definitions

Many of Title X's fundamental changes in the national approach to LBP hazards are
accomplished through its detailed definition of terms. Important policy and programmatic implications of key terms are paraphrased and highlighted below. The definitions of terms in §1004 merit close attention.

The term "lead-based paint" is defined as paint on surfaces with lead in excess of 1.0 mg/cm² as measured by x-ray fluorescence (XRF) detector or 0.5 percent by weight (see §1012). The XRF threshold had been established in 1988 amendments to the LBPPPA and remains unchanged. Because the federal statute had not previously set a threshold in terms of weight (for use in "wet chemistry" laboratory tests), some had misconstrued the 0.06 percent standard for new paint (also used as a threshold for abatement funding eligibility in public housing) as the effective definition. Title X's explicit standard of 0.5 percent focuses attention and resources on surfaces with higher levels of lead.

The term "lead-based paint hazard" is defined as any condition that causes exposure to lead sufficient to cause adverse human health effects. The following six situations are cited and separately defined. More detailed criteria will be elaborated in regulations, which EPA is directed to issue by April 1994 (TSCA § 403).

- "Deteriorated LBP" is any interior or exterior LBP that is peeling, chipping, chalking or cracking, or located on any surface or fixture that is damaged or deteriorated.
- LBP on any "friction surface", defined as an interior or exterior surface subject to abrasion or friction, such as painted floors and friction surfaces on windows.
- LBP on any "impact surface", defined as an interior or exterior surface subject to damage by repeated impacts, such as parts of door frames.
- LBP on any "accessible surface", defined as an interior or exterior surface accessible for a young child to mouth or chew, such as a window sill.
- "Lead-contaminated dust" is defined as surface dust in residential dwellings that contains an area or mass concentration of lead in excess of the standard to be established by EPA (in regulations to be issued by April, 1994 pursuant to § 1021; TSCA § 403).
- "Lead-contaminated soil" is defined as bare soil on residential property that contains lead in excess of the standard to be established by EPA (in regulations to be issued by April, 1994 pursuant to § 1021; TSCA § 403).

(It should be noted that the definition of "lead-based paint hazard" in TSCA § 402 is broader so as to extend beyond the universe of residential housing. Public and
The term "evaluation" means risk assessment or inspection, or both. (Also see "Establishing Strategic Framework for Lead Hazard Reduction" in Part I.)

- "Risk assessment" is an on-site investigation of a residential dwelling for LBP hazards and includes: information on the age and history of the dwelling unit; information on occupancy by children under age 6; visual inspection; limited environmental sampling, such as dust wipe samples; and a report of the results.

- "Inspection" is a surface-by-surface investigation to determine the presence of LBP and a report of the results.

The term "reduction" means measures designed to reduce or eliminate human exposure to LBP hazards through interim controls or abatement.

- "Abatement" means any set of measures designed to permanently eliminate LBP hazards in accordance with established federal standards. Abatement strategies include: removal of LBP; encapsulation or enclosure of LBP; replacement of building components covered by LBP; removal of lead-contaminated dust; removal or covering of lead-contaminated soil; as well as all preparation, cleanup, disposal, and post-abatement clearance tests.

- "Interim controls" means any set of measures designed to reduce temporarily human exposure or likely exposure to LBP hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, management and resident education programs. Ongoing monitoring of lead exposures is an integral element of interim controls.

Title X uses a new set of terms to define the universe of housing subject to various requirements or eligible for HUD’s abatement grants:

- "Target housing" is the universe of housing in which LBP hazards are of most pressing concern: units constructed prior to 1978 in which children are likely to live (efficiency apartments and most elderly units are excluded). The HUD Secretary has discretion to change the date for jurisdictions which banned lead paint earlier (e.g., New York City’s ban took effect in 1960).

- "Priority housing" is the subset of "target housing" units that qualify as affordable housing (under § 215 of the Cranston-Gonzalez National Affordable Housing Act (NAHA)). This term is used in Title X to target HUD’s competitive
abatement grant funds to benefit low-income families.

- As used in Title X, the term "federally assisted housing " has a special, more narrow meaning than its common usage: residential dwellings receiving project-based assistance under a broad range of federal programs (see § 1004 for listing). Intentionally excluded from Title X's requirements for federally assisted housing are units with tenant-based subsidies (such as section 8 vouchers or certificates). Tenant-based subsidy units are treated as "private housing," so as not to place low-income families searching for rental housing with a voucher or certificate at a disadvantage. Such units are eligible for funding under HUD's abatement grants (§1011).

- "Federally owned housing " is defined to ensure maximum application of requirements related to the sale of residential properties by federal agencies. The Resolution Trust Corporation and the Federal Deposit Insurance Corporation are specifically included.

Section 1011. Grants for Lead-Based Paint Hazard Reduction in Target Housing

This section formally authorizes the HUD competitive grants program (separately funded at $47.7 million in FY 1992 and $100 million in 1993) and increases its authorization to $250 million in 1994. Grants are awarded competitively to states or units of local government which may use funds in many ways, including grants, loans, loan guarantees, interest write-downs, in tandem with other programs, etc. Grant recipients must have an approved CHAS and provide a 10 percent matching share.

These grant funds are for reducing LBP hazards in low-income, privately owned housing, both owner-occupied and rental units (including those with section 8 tenant-based subsidies). Funds may be used for a broad range of activities related to LBP hazard evaluation and reduction, including such activities as temporary relocation of families during abatement, blood-lead monitoring of workers, post abatement clearance tests, and public education. Up to 10 percent is available for administrative expenses.

The Appropriations Acts which funded these grants in FY 1992 and 1993 require that all projects be "conducted by contractors certified and workers trained through a federally- or State-accredited program." TSCA § 402 requires EPA to issue regulations by April 1994 requiring the use of certified contractors for inspections, risk assessments, and abatement in all target housing. Title X provides for two sources of federal support to help states establish contractor certification, licensing and training programs which meet minimum national standards set by EPA: an open-ended authorization for EPA grants under TSCA § 404(g); and $3 million in HUD funds in 1993 and 1994 for $200,000 grants per state. States without approved programs by
April, 1996 will be ineligible for HUD’s abatement grants.

**Sec. 1012. Evaluation and Reduction of Lead-Based Paint Hazards in Federally Assisted Housing**

This section makes several important changes to the Lead-Based Paint Poisoning Prevention Act (LBPPPA; 42 USC § 4822) to establish more explicit requirements for reducing lead hazards in federally associated housing. The addition of the phrase, "or otherwise receives more than $5,000 in project-based assistance" substantially expands the universe of federally-insured and assisted housing subject to LBP-related requirements. (See definition of "federally assisted housing" in § 1004.)

Title X drops the broad, though vague, directive in the second sentence of § 302(a) of LBPPPA, which called for HUD to take "appropriate measures to eliminate as far as practicable immediate hazards due to the presence of accessible intact, intact, and nonintact interior and exterior painted surfaces that may contain lead. . .". This provision implied that any and all LBP constitutes an actionable hazard. In contrast, Title X's "lead hazard reduction framework" offers a strategic approach to reducing LBP hazards.

In lieu of the general charge "to eliminate as far as practicable immediate hazards," Title X prescribes specific requirements for federally-associated housing with triggers for action and deadlines for compliance. Requirements for conducting risk assessments, interim controls, inspections and abatements in federally-associated "target housing" take effect on January 1, 1995, based on guidelines for these activities developed by HUD by October, 1993. In addition, Title X directs, at a minimum, the following specific actions:

- An initial risk assessment of federally-assisted (project-based) units built prior to 1960 must be conducted by January 1, 1996, to be followed by implementation of interim controls.

- An initial risk assessment of such federally-assisted units built between 1960 and 1978 must be conducted based on a schedule over the period 1998 to 2002, to be followed by implementation of interim controls.

- An inspection for LBP must be carried out prior to all federally-funded renovation or rehabilitation projects likely to disturb painted surfaces in pre-1978 units.

- Abatement of LBP hazards is required in the course of all rehabilitation projects receiving more than $25,000 per unit in federal funds. Integrating LBP hazard abatement into major renovation projects can offer an opportunity for significant
cost savings.

- Reduction of LBP hazards (either abatement or interim controls) is required in the course of rehabilitation projects receiving less than $25,000 in federal funds. At best, this provision will encourage property owners to seize the opportunity presented by renovation projects to realize savings by incorporating abatement work into the renovation project. At worst, this provision will ensure that renovation projects do not create LBP hazards by leaving behind excessive levels of lead dust.

- All purchasers and tenants of target housing must be provided a Lead Hazard Information Pamphlet to be developed by EPA, and occupants must be notified of the results of all risk assessment, inspection or lead hazard reduction activities conducted in federally-associated housing.

Section 1012 makes a number of conforming changes to other federal housing and community development programs related to LBP hazard evaluation and reduction:

- LBP hazard evaluation and reduction activities are made eligible for funding under Community Development Block Grants, HOME grants, all HOPE programs, rural housing programs, FHA Home Improvement and Rehabilitation Loans, and are made an eligible "rehabilitation" activity under FHA Insurance for Multifamily Housing.

- The HUD Secretary is given discretion (subject to the availability of appropriations) to provide adjustments in the maximum monthly rents to cover LBP-related costs for units receiving Section 8 project-based assistance.

- All wording changes related to public housing are technical in nature to conform to Title X's new terminology. Title X makes no programmatic changes related to LBP inspection and abatement in public housing.

It should be noted that, in light of Title X's exclusive emphasis on prevention, this statute includes no specific requirements for action based on the identification of a lead-poisoned child. The principle stands that whenever a child is poisoned, appropriate action is required, based on guidelines issued by the Centers for Disease Control and Prevention (CDC), to tend to the child's medical needs, identify the cause of the poisoning, and reduce the exposure hazard. Several HUD regulations must be updated and strengthened to conform to CDC's guidelines, separate and apart from other Title X mandates.
Sec. 1013. Disposition of Federally Owned Housing

This section tightens requirements governing the sale of residential units owned by federal agencies. Title X deletes the general language in § 302(a) of LBPPPA ("establish and implement procedures to eliminate the hazards of lead-based paint poisoning in all federally owned properties prior to the sale. . .") and substitutes the following specific requirements, subject to the availability of appropriations:

- The Resolution Trust Corporation and the Federal Deposit Insurance Corporation are required to meet all federal property disposition requirements. (See definition of "Federally owned housing" in § 1004.)

- Prior to sale by federal agencies, all target housing units must have a LBP inspection. If a federally-funded risk assessment detects no LBP hazards, this requirement may be waived by the Secretary.

- Target housing units constructed prior to 1960 must have LBP hazards abated. For units built between 1960 and 1978, the inspection report is to be provided to the prospective purchasers.

Sec. 1014. Comprehensive Housing Affordability Strategy

Under the Cranston-Gonzales National Affordable Housing Act (NAHA), state and local governments must develop a Comprehensive Housing Affordability Strategy (CHAS) as a prerequisite to receiving federal housing or community development funds. Title X requires consideration of LBP hazards in each CHAS. The CHAS must estimate the number of housing units occupied by low-income families containing LBP hazards and outline the actions being taken or proposed. Title X further directs that health and child welfare agencies be consulted in this process. (The National Center for Lead-Safe Housing is developing a CHAS guide to assist state and local governments in assessing LBP hazards in housing, which will be available early in 1993.)

Sec. 1015. Task Force on Lead-Based Paint Hazard Reduction and Financing

Title X directs the HUD Secretary, in consultation with the EPA Administrator, to establish a task force comprised of federal agencies and a broad range of organizations and interests with a stake in lead poisoning prevention (see § 1015(b) for full membership). This task force is to make recommendations to HUD and EPA on a range of issues relating to financing and insurance, underwriting and appraisal guidelines, and clarifying confusion over standards of care for property owners, most of which were too controversial to be resolved through the legislative process on Title X. These issues are crucial to extending the Title X framework to protect children in
millions of privately owned units.

**Sec. 1016. National Consultation on Lead-Based Paint Hazard Reduction**

This section requires HUD to consult with EPA, CDC, other federal agencies and the task force mandated by §1015.

**Sec. 1017. Guidelines for Lead-Based Paint Hazard Evaluation and Reduction**

Title X establishes a deadline of October, 1993 for HUD to develop guidelines for risk assessments, inspections, interim controls, and abatement. These guidelines will govern all HUD-funded LBP activities and serve as a model for EPA regulations due in April, 1994.

**Sec. 1018. Disclosure of Information Concerning Lead Upon Transfer of Residential Property**

For the first time, Title X extends certain requirements related to LBP to privately owned housing, both owner-occupied and rental units. HUD and EPA are required jointly to issue regulations by October, 1994 which take full effect in October, 1995. These regulations shall require that before a purchaser or lessee is obligated under any contract:

- The purchaser or lessee shall be given a Lead Hazard Information Pamphlet developed by EPA,
- The purchaser or lessee shall be informed of any information available on the presence of LBP or LBP hazards,
- The purchaser shall be given at least 10 days to conduct a risk assessment or inspection, and
- The sales contract shall include a Lead Warning Statement (see §1018(a)(3) for specific wording) and a statement signed by the purchaser.

Whenever a seller or lessor enters into a contract with an agent, the agent shall ensure compliance. Knowing violators may be fined and liable to an injured tenant or purchaser for treble damages. The enforcement provisions of the Toxic Substances Control Act (TSCA) apply, including citizen suits against federal agencies for failure to carry out their responsibilities and penalties of up to $10,000 in the case of a failure to comply. These provisions in no way affect requirements governing landlords' responsibilities to provide safe, habitable housing under state or local statutes and common law or diminish rights to enforce compliance.
Sec. 1021. Contractor Training and Certification

This section of Title X amends the Toxic Substances Control Act (TSCA) by adding a lengthy new Title IV (Lead Exposure Reduction), which primarily addresses EPA requirements on contractor training and certification. It should be noted that enacting these provisions as amendments to TSCA makes them subject to enforcement under TSCA, including citizen suits for failure to comply.

TSCA Sec. 401. Definitions

TSCA § 401 includes definitions (for reference under TSCA) of many of the same terms defined in § 1004. These definitions are consistent with respect to lead hazard evaluation and reduction activities in residential housing. The TSCA definition of "lead-based paint hazard" is broader so as to include public and commercial buildings as well as demolition and abatement of structures and superstructures, such as bridges.

TSCA Sec. 402. Lead-Based Paint Activities Training and Certification

These TSCA provisions establish the EPA regulatory framework for certification and training programs which shall encompass all construction settings in which LBP is found, including structural steel work, such as bridge rehabilitation. By April, 1994, EPA (in consultation with HUD, OSHA and NIOSH) shall issue regulations on standards for performing LBP activities. Among other things, these regulations shall:

- Specify requirements for accrediting training programs for LBP contractors, workers, supervisors, inspectors, and planners.
- Establish requirements for certifying and licensing contractors and ensure that all risk assessments, inspections and abatement activities in target housing are performed by certified contractors.

Section 402(c) addresses renovation and remodeling projects which may disturb LBP. EPA is directed to: develop and distribute guidelines to avoid the risks of such hazards, by April, 1994; study the extent of exposures caused by various remodeling activities, by April, 1995; and require certification and training for those conducting activities which cause excessive exposures, by October, 1996.

TSCA Sec. 403. Identification of Dangerous Levels of Lead

This section requires EPA to issue standards on lead-based paint hazards and dangerous levels of lead in interior dust and bare soil by April, 1994. Title X's
definitions of "lead-contaminated dust" and "lead-contaminated soil" (§ 1004) are linked to these health-based standards to be set by EPA. All current standards for lead in interior surface dust are based on technological feasibility.

**TSCA Sec. 404. Authorized State Programs**

Title X anticipates that in most cases states will establish contractor certification and training programs, subject to approval by EPA. In addition to $3 million of HUD funds for grants of up to $200,000 per state for developing certification programs (§ 1011), this section authorizes EPA to make state grants for such purpose.

By April, 1994, EPA is directed to issue a "model State program" to provide minimum national standards and a high level of reciprocity among states. In fact, EPA is expected to publish its "Model State Accreditation Plan" in early 1993 to advise states of essential program elements so that states can begin to enact enabling legislation and design programs. If a state fails to have in place an EPA-approved program by April, 1996, EPA shall be responsible for enforcing contractor certification and licensing requirements in such state. In most states, early action by states is needed to enact enabling legislation to support effective certification programs.

**TSCA Sec. 405. Lead Abatement and Measurement**

This section calls for several actions by EPA and other agencies to improve and control the quality of lead abatement and measurement:

- EPA must ensure that a program is in place to certify environmental sampling laboratories by October, 1994 and must publish annually a list of certified or accredited laboratories.

- Performance standards must be developed for products and devices used for LBP testing and abatement by April, 1995.

- A series of studies on sources of exposure and occupational risks are to be conducted with a report due to Congress in April, 1995.

- Public education and outreach activities shall be undertaken by EPA and other agencies, including a national hotline and clearinghouse.

**TSCA Sec. 406. Lead Hazard Information Pamphlet**

This section directs EPA, in consultation with HHS and HUD, to develop by October, 1994 the Lead Hazard Information Pamphlet to be used for real estate disclosure (§ 1018). This pamphlet must also be provided by renovation contractors to owners of
target housing prior to commencing a renovation project.

**TSCA Sec. 407. Regulations**

This section directs that recordkeeping and reporting requirements be included in EPA regulations.

**TSCA Sec. 408. Control of Lead-Based Paint Hazards at Federal Facilities**

This provision makes clear that all federal facilities are subject to all federal, state, interstate and local requirements related to LBP. This includes compliance with state or local requirements more stringent than federal regulations.

**TSCA Sec. 409-412 Administrative Issues**

These provisions deal with general requirements related to enforcement, administrative procedures, and authorization of funds under TSCA.

**Sections 1031-1032. Worker Protection**

Title X requires the Secretary of Labor to issue interim final regulations on occupational exposures to lead in the construction industry by April, 1993. These regulations will fill a critical gap as OSHA’s 1978 “general industry” lead regulations specifically exclude the construction industry. Title X explicitly requires that OSHA’s construction regulations be at least as protective as HUD's "Interim Guidelines for Public Housing." Close coordination is mandated between EPA and OSHA, as OSHA worker protection requirements are an integral element of training and certification programs. These regulations apply to all construction activities, including structural steel work and bridge repainting.

**Section 1033. NIOSH Responsibilities**

This section authorizes a minimum of $10 million per year to NIOSH for LBP worker training grants for 1994 and 1995. Close coordination with EPA is again required, as EPA bears responsibility for setting national standards for accrediting training programs (§ 1021; TSCA §§ 402 and 404) and already has in place a university-based national network of Regional Lead Training Centers.

**Sections 1051-1053. Research on Lead Exposure from Other Sources**

Title X sets aside $5 million of 1993 and 1994 HUD funds for research on a broad range of issues related to lead exposure reduction.
Sections 1056 and 1061. Studies and Reports

The Comptroller General is directed to assess the effectiveness of federal enforcement and compliance with statutory and regulatory requirements, including annual inspection procedures in Section 8 housing. The Comptroller General is also directed to study and report on the availability of liability insurance for property owners and contractors. The HUD Secretary is directed to make annual and biennial reports to Congress on progress in implementing Title X.