

What You Need to Know About New Lead-Based Paint Regs

The Environmental Protection Agency (EPA) and the Department of Housing and Urban Development (HUD) have issued joint regulations for the disclosure of known information on lead-based paint and lead-based paint hazards before individuals purchase or lease pre-1978 housing. The statute requires that sellers and lessors provide purchasers and lessees with an EPA lead hazard information pamphlet.

by MARY BETH COYA

To protect families from exposure to lead from paint, dust, and soil, Congress passed the Residential Lead-Based Paint Hazard Reduction Act of 1992 which directed the two agencies to require this disclosure before the sale or lease of most housing built before 1978.

What is Required

Before ratification of a contract for housing sale or lease:

- Sellers and landlords must disclose known lead-based paint and lead-based paint hazards and provide available reports to buyers or renters.
- Sellers and landlords must give buyers and renters the pamphlet, developed by EPA, HUD, and the Consumer Product Safety Commission (CPSC), titled *Protect Your Family from Lead in Your Home*.
- Home buyers will get a 10-day period to conduct a lead-based paint inspection or risk assessment at their own expense, unless mutually agreed otherwise in writing. The rule gives the two parties flexibility to negotiate key terms of the evaluation.
- Sales contracts and leasing agreements must include certain notification and disclosure language.



- Sellers, lessors, and real estate agents share responsibility for ensuring compliance.

What is Not Required

- This rule does not require any testing or removal of lead-based paint by sellers or landlords.
- This rule does not invalidate leasing and sales contracts.

Type of Housing Covered

- Most private housing, public housing/federally owned housing, and housing receiving Federal assistance are affected by this rule.
- Common areas in multi-family housing structures that are used or are accessible to all occupants are covered.

Type of Housing Not Covered

- Housing built after 1977 (Congress did not cover post-1977 housing because the CPSC banned the use of lead-based paint for residential use in 1978).
- Zero-bedroom units, such as efficiencies, lofts, and dormitories.
- Leases for less than 100 days, such as vacation houses or short-term rentals.
- Housing for the elderly (unless children live there).
- Housing for the handicapped (unless children live there).

- Rental housing that has been inspected by a certified inspector and found to be free of lead-based paint.
- Foreclosure sales.

Effective Dates

- For owners of more than 4 dwelling units, the effective date is September 6, 1996.
- For owners of 4 or fewer dwelling units, the effective date is December 6, 1996.

EPA and HUD have provided a sample format for disclosure that could be used during transactions to sell or lease target housing. This form will 1) document known information on lead-based paint and lead-based paint hazards; 2) alert purchasers and lessees to their rights under the Act; and 3) serve as a record of compliance for sellers, lessors, and agents. This final rule provides great flexibility to negotiating parties to develop their own forms provided that the form meets the mandated elements.

Liability

A seller, lessor, or agent who fails to give the proper information can be sued for triple the amount of damages. In addition, they may be subject to civil and criminal penalties.

For more information, a copy of the pamphlet, sample disclosure forms, or the rule, call the National Lead Information Clearinghouse at 800/424-LEAD. You may fax your request to 202/659-1192 or by Internet E-mail to ehc@cais.com. The pamphlet is available in English and Spanish. Bulk copies of the pamphlet are available from the Government Printing Office at 202/512-1800. Refer to the complete title *Protect Your Family from Lead in Your Home* or GPO stock number 055-000-00507-9. The price is \$26 for a pack of 50 copies. The pamphlet may be copied if the text and graphics are reproduced in full. Camera-ready copies of the pamphlet are available from the National Lead Information Clearinghouse.

For specific questions about lead-based paint and lead-based paint hazards, call the National Lead Information Clearinghouse at 1-800-424-LEAD.

The Virginia Association of REALTORS® is mailing a copy of the pamphlet to each REALTOR® statewide.

The EPA pamphlet and rule are also available electronically and may be accessed through the Internet.

Gopher: gopher.epa.gov.70/11/Offices/PestPreventToxic/toxic/lead_pm

WWW: http://www.epa.gov/docs/lead_pm

<http://www.hud.gov>

Dial up: 919-558-0335

FTP: ftp.epa.gov (To login, type "anonymous." Your password is your Internet e-mail address.)

Lead-based Paint Study in Virginia

NVAR will continue to monitor the Virginia General Assembly's Joint Subcommittee Studying the Abatement of Lead-based Paint. The legislative subcommittee is studying lead-poisoning and abatement issues, with particular emphasis on lead poisoning of children. The legislative study also will 1) follow the implementation of the certification program for lead contractors; 2) evaluate the federal funding and requirements related to lead abatement; and (3) make any further recommendations as needed to facilitate Virginia's resolution of lead abatement issues.

Call NVAR Member Store at 703/207-3215 for copies of the handbook, \$0.75 each.

PROFESSIONALLY SPEAKING

FHA Revised Lead-Based Paint Disclosure Requirements

Mandatory Use of Revised Form Will Begin on May 22, 1996

by JO LANKENAU

In the past, prior to, or at loan application, FHA has required borrowers to complete an FHA form concerning lead-based paint. Revision of the form now includes information on the importance of obtaining a general home inspection and how a borrower may pay for it. Since HUD does not warrant the condition of a property, it is important to have a home inspection performed on the property. Up to \$200 of the cost to perform the inspection may be financed into your mortgage.

Another revision - the form must be signed and dated by the borrower on or before the date that the sales contract is executed (or re-executed if necessary) for all transactions that will involve FHA mortgage insurance. Therefore, the REALTOR® will now have the responsibility of having the purchaser sign the revised HUD form on or before the date of execution of the contract.

For insured mortgages secured by properties built before 1978, the entire form must be in the lender's case binder, with the borrower's signature and date on the second page. For those properties built during or after 1978, only the top portion of the form must be submitted, with the borrower's signature and date on the first page.

The forms may be obtained from your local FHA office or a lender.

If you have any questions, call the local FHA office: Mr. Steve Weitz, Federal Office of Lead-based Paint Abatement and Poison Prevention, (202) 755-1785; or the National Lead Information Center, 1-800-FYI-LEAD.

The Federal lead-based paint disclosure regulations will supersede the FHA requirements. Effective dates for federal regulations:

1. September 6, 1996 For property owners who own more than four properties.
2. December 6, 1996 For property owners who own less than five properties.