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Please thank Patti Hokama for providing us with the latest info about lead based paint!

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### **Lead-Based Paint Hazard Information May 22, 1997**

EPA and Department of HUD, Environmental Protection Agency Lead Paint Disclosure & The Real Estate Industry Workshop was held at the University of Hawaii.

This event was co-sponsored by: U.S. Environmental Protection Agency, University of Hawaii Environmental Center; Hawaii Association of REALTORS®; State Department of Health; Maui County Community College; and Kona Board of REALTORS®.

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Congress passed the Residential Lead-Based Paint Hazard Reduction Act of 1992 and the disclosure rules went into effect in 1996. It was my understanding that due to our lobbying efforts of NAR, it went from required testing and abatement to the now required education and disclosure to the general public. That was the reason for the delay in the enforcement of this ruling. Can you imagine the cost of selling or renting a home and the effects of what it would be like for the real estate industry if we were required to do testing and abatement for the affected properties?

Be sure to pick up the Lead-Based Paint Addenda for both Sellers and Landlords at HBR. Also thank our many Vendors for their support in providing the copying service to our members. Don't forget in addition to your addendum, knowledge and reports (if, any), right of testing for Buyer, and the "Protect Your Family From Lead in your Home" booklet must be provided to the buyer or tenant, too.

**Further basic lead information and guidance documents can also be accessed from:**

**EPA's web site at: <http://www.epa.gov/opptintr/lead/index.html>**

**New EPA Information: <http://www.epa.gov/lead/new.htm>**

**HUD's web site at: <http://www.hud.gov/lea/leahome.html>**

**HUD Addendums: <http://www.hud.org/mchud/mc-lbp.htm>**

**Sample Sales & Rental Addendum:** <http://www.nsc.org/ehc/nlic/ledsampl.htm>

**Or call National Lead Information Clearinghouse: 1 (800) 424-LEAD**

At the workshop, we learned more about:

Prior to 1990's safe limit levels of blood-lead was considered 40 micrograms per deciliter. After 1990's it was found to be 10 micrograms per deciliter (Imagine a 2 liter bottle and then visualize a minute grain of sand = 10 micrograms/deciliter)

Once lead is in our body, it takes about 20-25 years to get out of our system. It is believed that the lead-based paint issue affects about 75% of our housing stock nationwide.

Main focus is on lead-based paint in houses areas such as windows, doors, base boards, walls and areas that we would come in contact with most and increase the wear on the paint surface. The concern is with the deterioration and maintenance of the painted surface causing exposure to underlying possible lead-based paint. As for pencils, they are producing graphite pencils. As for water and lead solder used in plumbing, it was found that if you ran the water a little before consumption, you would have removed the lead sitting in the pipes. Lead poisoning testing in humans, particularly children would note levels in the blood usually occurring within 24 hours because after that it moves into the bone according to the representative from the State Dept. of Health.

Construction of the project prior to 1978 is the determining factor not the Completion of the project. May need to research the building permit applications. If in doubt, best to disclose and use addendum.

Documentation records were referenced to be kept as a minimum three year guideline but until further clarification of the liability issues, it may be best to store your records. Although our DROA disclosure law has a two year right of recourse, the lead-based paint issue may be applicable to the general statute of limitation of 6 years from time of discovery or time which is what is considered as one reasonably should have known about it.

### **Lead-Based Paint Testing:**

Be aware that there are currently no State Certified Lead-Based Paint testing companies in Hawaii. Bill # 1838 awaits the Governor's signature to begin the process of certifying testers and abatement companies in the State. Certification would take place in 1998. Call the Hawaii State Department of Health at 586-5800 to check on the certification of a company on a National level before allowing them to complete your testing requirements now. Also, it was advised to request that the company provide you with a sample report so that you can see if you are able to understand the results. The report should reference the standards of lead poisoning levels for you to refer to in comparing your results. Just to let you know that companies may only provide you with a sample asbestos testing report for your review at this time.

If testing will not be done by paint chips, and the X-ray technique is considered, we were advised to check on the calibration used on the machine to check the surface depth and

not the pipes behind the wall. It was guesstimated that the X-ray technique would be 500-1000 per unit and the paint samples (2"X2") would be 750-1500 per unit. We had understood that the samples would be taken and then sent to a lab on the mainland for testing. Testing was approximated at \$25 per paint chip. The benefit of the X-ray technique is that it is faster and less damaging to the painted surfaces but need to be concerned about the exposure to X-rays by the tester.

## **Federal Register / Vol. 61. No. 45/ Wednesday March 6, 1996/ Rules and Regulations**

### **Agent Responsibilities**

Title X specifically addresses the responsibilities of agents, requiring them to ensure compliance with the provision of the law. Agents fulfill this requirement by informing sellers or lessors of their obligations and by making sure that the activities are completed either by the seller or lessor or by the agent personally. Accordingly, 24 CFR 35.94 (b) and 40 CFR 745.107 (c) identify the seller's affirmative duty to disclose to the agent any known lead-based paint and or lead-based paint hazards on the property. Provided that the agent has actually informed the seller or lessor of his/her obligation, the final rule notes that the agent will not be responsible for information withheld from the agent by the seller or lessor.

After receiving a notice from the Department of Veterans Affairs on December 19, 1996, Mike Imanaka of HBR researched this notice further with NAR and found:

On June 7, 1996, HUD published proposed rules governing the evaluation and reduction of lead-based paint and/or lead-based paint hazards in housing. The proposed rules states that:

- (1) For residential property built prior to 1960, FEDERAL agencies will be required to conduct a paint inspection, risk assessment and abatement of all lead-based paint hazards; and,
- (2) For residential property build from 1960 through 1977, FEDERAL agencies will be required to conduct a paint inspection and risk assessment, and provide the results to purchasers.

HUD's Office of Lead-Based Paint Abatement and Poisoning Prevention has stated that final regulations will not be promulgated until mid-1997. The proposed effective date of these regulations is 1 year after promulgation. This is supposed to be the FEDERAL government taking a step in setting an example with their own housing projects.

#### **Contact Information:**

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