

financial

By F. Stephen Masek, President
Masek Consulting Services, Inc.

Part 1 – New Law Takes Effect on April 22 EPA Renovation, Repair, and Painting Misperceptions Can Cost You Dearly

Owners, managers and contractors who want to save money and avoid costly problems must avoid misperceptions regarding the new EPA lead-based paint regulation, which takes effect on April 22.

The penalties for non-compliance are severe, EPA is very serious, and ignorance of the law is no excuse. Here are the facts.

"I don't want to know if there is lead-based paint on my building(s)."

Owners and managers who have not had their buildings tested now have to assume that **ALL** paint on their buildings built before 1978 is lead-based paint, and it must be handled accordingly by contractors and employees of **ALL** trades working on their buildings. "I don't want to know" is no longer an option. Those days are over!

"Nobody but the EPA cares about their new regulation."

Competent contractors are aware of the new regulation, and will have to raise their prices for work done on pre-1978 buildings. You can also be sure that tenants' attorneys will focus on it. You do not have to have a lead-poisoning situation to have a violation. You don't even have to have

lead-based paint to have a violation. Liberty Mutual has started requiring lead surveys of pre-1978 buildings in New Jersey, and such requirements are likely to spread to other states and other insurers.

Some lenders have been requiring lead surveys, and more are likely to require them. Owners and managers need to be especially careful about relying on limited lead surveys done for lenders (e.g., 10 test locations, when a proper survey of even a duplex will require many more test locations).

"Small maintenance tasks and repairs are exempt."

Of course, renovations that affect only components that have been determined to be free of lead-based paint are exempt. For untested components and components coated with lead-based paint, activities that disturb under six square feet on the interior or 20 square feet on the exterior are exempt, unless they involve window replacement, demolition, or projects involving prohibited practices, such as using torches to remove paint.

Senior housing and commercial buildings are exempt but only when the same child who is less than six years old does not visit two or more days per

week, three or more hours per visit, six or more hours per week, and 60 or more hours per year.

"Lead poisonings, lawsuits, fines, and jail sentences happen to other apartment owners, contractors, and property managers."

Have you ever gone to a gambling hall and bet your entire net worth on the turn of a card? With fines for violating the regulation in the \$20,000 to \$30,000 per day range, it's almost the same. What would do if you were served with a lawsuit over lead poisoning tomorrow? What if EPA arrived a year from now and wanted to examine your records? What if a tenant calls EPA next month about work being done on your units?

How would you pay a multi-thousand dollar fine just for a simple paperwork violation? Worse, how would you deal with being sentenced to a federal prison for a willful violation?

These are very real possibilities under the new regulation so proceed with caution on future work. Stay tuned next month for more information on this new law.

For more information, Masek can be reached at 949-581-8503.

