



Regulators Hiring, So Fight With The Facts

By F. Stephen Masek

The regulators are hiring. I attended a meeting on lead-based paint regulations in early March. The California Division of Occupational Safety and Health, better known as Cal/OSHA, informed the audience that they have hired more field inspectors. The Los Angeles County Environmental Health Department is also hiring. If you thought you only had to worry about the remote Federal Environmental Protection Agency (EPA), think again. Region IX of EPA, based in San Francisco, is auditing property owner/managers and contractors in Southern California.

Don't make the mistake of thinking they are the only threat.

Los Angeles County Environmental Health inspectors assume that all peeling paint on pre-1978 buildings is a lead hazard. They might note such paint during a routine inspection, or in response to a complaint by a tenant. The presentation confirmed what most of us already know: tenants are prolific informants.

When Cal/OSHA performs

an inspection, they may not limit it to one issue, but may consider all potential violations. It would be a shame to be tagged for several violations just because a tenant complained about peeling paint which is not even lead-based paint. Sometimes both Cal/OSHA and County Environmental Health inspectors will come together.

County inspectors perform investigations when a child with an elevated blood lead level is identified. Medical personnel are required to report all findings of elevated blood lead levels. Of course, your tenants' children may be exposed to lead in many ways. Cooking in improperly glazed ceramic pots or being

exposed to deteriorated paint at a daycare facility or other residences could also be a problem.

If your building has been inspected and found to have no lead-based paint, or none in a unit in which a child with an elevated blood lead level lives, you will waste far less time dealing with such a case. Even if lead-based paint is present in the unit in which the child lives, documentation validating that it is in good condition is essential. Having proper lead inspection data allows you to focus on maintaining areas where lead-based paint is actually present.

City inspectors also assume that all deteriorated paint on pre-1978 buildings is a lead hazard, and may demand that it be immediately addressed. We have worked with owners of buildings that had to deal with such demands.

Enough bad news. The good news is that none of the regulators will force you to remove lead-based paint in good condition. Proper maintenance is the key to avoiding the high cost of lead abatement.

Every owner or manager of a pre-1978 building should have it inspected for lead-based paint. There is no good excuse for

not having done so. The inspections pay for themselves very quickly. They refute government assumption that all paint on all apartment buildings and houses constructed before 1978 is lead-based paint. Thus, there is no need for cumbersome and expensive lead-safe work practices, nor excessive worries about deteriorated spots on paint which are not lead-based. Many managers have told me that prices for work double if lead-based paint is present, or assumed to be present.

If you hire a certified (the class AAGLA offers, plus registration with EPA) contractor to do the work, don't think you are off the hook. The contractor might be here today and gone tomorrow. Meanwhile, you and your building are here to stay. Owners and managers

are the "deep pockets" which liability always finds. If you hire an uncertified contractor, good luck when an audit or complaint comes about. You're ultimately responsible if the contractor or your employees leave lead contamination. You're also on the hook if you buy a building which was already contaminated.

If you've read my previous articles, you know that lead-based paint is rare in buildings built 1960 and later. Half have no lead-based paint, and the other half had very, very little. Most owners who find they have a building with little lead-based paint immediately removed, to reach the coveted lead-based paint free status. There will be some lead-based paint on most buildings built before 1960, and those in the fanciest neighborhoods tend to

have the most, as the best and most expensive paint had the most lead. Old wood windows are a common problem area, so lead-based paint is one more good reason to completely replace them. My company has inspected thousands of buildings, and we've never seen a building with it everywhere, not even on a military base.

That real-world reality is miles apart from the regulator's costly assumption. An owner or manager who has had a building inspected for lead-based paint should make sure that the tenants know, and are reminded periodically. It will prevent tenant worries about any peeling or chipping non-lead-based paint, and prevent wasting time and money responding to inspectors.

If a complaint involves peeling paint which is not lead-based, the owner or manager may simply respond that it has been tested, and state it is not lead-based, so it's just an appearance issue which will be addressed at their convenience. No further questions from the inspector, and no fines to pay!

Potential tenants, especially those with infants and toddlers, may be attracted to lead-based paint free units. Many owners use their "lead-based paint free" certificates as advertising, posting them in conspicuous places. Lenders, insurers, and buyers will look more favorably on such buildings.

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