

NMHC/NAA Viewpoint

The apartment industry is committed to providing safe, healthy housing for its 37 million residents and that includes adhering to strict environmental codes governing lead-based paint. Given that existing regulations have successfully reduced lead exposure, the industry opposes efforts to needlessly expand regulations to all public and commercial buildings, regardless of age, when no public health reason supports it.

Although many lawmakers think about housing when considering dangerous lead levels, general aviation fuel emissions are the single largest unregulated source of lead in the environment. Airborne lead is deposited in soil and dust.

LEAD-BASED PAINT

Health concerns over lead exposure have resulted in a number of laws that reduced or eliminated lead from a variety of products from auto fuel to house paint to plumbing solder. As a result, national blood lead levels (BLL), which measure exposure, declined more than 90 percent over the past 20 years. Today, the single largest source of lead is associated with the use of general aviation fuel (Avgas) that result in lead being deposited in dust and soil.

The primary lead-based paint law governing housing providers is the Residential Lead-Based Paint Hazard Reduction Act of 1992, known as “Title X.” Title X authorized a number of regulations that apply to lead-based paint in pre-1978 housing and in “child-occupied facilities.” Under the law, housing providers must disclose the presence of any lead-based paint to prospective renters, any they must assume such paint is present in all pre-1978 properties unless a certified inspector determines otherwise. In addition, workers who disturb paint when repairing, maintaining or renovating their properties must be trained in EPA/HUD-approved work practices and must be certified by EPA or work under an EPA-certified individual. Occupational Safety and Health Administration regulations require air monitoring for all jobs that generate lead dust over certain regulated levels regardless of the type of building or its date of construction.

Title X also directed EPA to evaluate whether renovations in public and commercial (P/C) buildings may result in lead hazards. EPA failed to undertake studies on this matter and was sued by coalition of environmental groups. As part of a settlement agreement EPA is moving forward with a rulemaking although it has failed to (1) define “dangerous levels of lead” for P/C spaces; (2) approve a testing methodology for use in these buildings; and (3) determine whether actual hazards exist in P/C buildings that are unregulated by other federal statutes. In addition, EPA has failed to clarify whether apartments built after 1978 would be considered commercial properties for the purposes of this rulemaking.

Congress should use its oversight authority to require EPA complete the required survey of lead in P/C building stock prior before proceeding with a rulemaking based on theoretical assumptions. Congress should direct federal agencies to determine whether emissions from other sources, including Avgas presents a threat to the public health.