



Volume 1, Number 4

# Enforcement Alert

Office of Regulatory Enforcement

## EPA TAKES ENFORCEMENT ACTIONS AGAINST VIOLATORS OF LEAD PAINT DISCLOSURE RULE

### ABOUT *EnforcementAlert*

The Enforcement Alert is published periodically by EPA's Office of Regulatory Enforcement. It informs and educates the public and regulated community of important environmental enforcement issues, recent trends and significant enforcement actions.

This information should help the regulated community anticipate and prevent violations of federal environmental law that could otherwise lead to enforcement action.

See Page 2 for useful EPA Websites and additional resources.

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### *LAW REQUIRES LANDLORDS, SELLERS, AGENTS TO PROVIDE & DISCLOSE CERTAIN LEAD INFORMATION TO PROSPECTIVE BUYERS, TENANTS*

The Environmental Protection Agency (EPA) proposed its first administrative civil penalties against the U.S. Navy in Kingsville, Texas, two landlords and a realty firm in Pennsylvania and Oklahoma, respectively, on July 28 for failing to disclose to their tenants information on lead-based paint as required by the Real Estate Notification and Disclosure Rule ("Disclosure Rule"), issued under the Residential Lead Based-Paint Hazard Reduction Act of 1992.

EPA and the Department of Housing and Urban Development (HUD) promulgated joint regulations, effective Sept. 6, 1996, for the disclosure of information regarding lead-based paint in housing built before 1978.

Under the Disclosure Rule, sellers, landlords and agents must provide purchasers and tenants with an EPA-approved lead hazard information pamphlet. In addition, the Disclosure Rule allows purchasers a 10-day period to inspect housing units for the presence

of lead-based paint and associated hazards. Furthermore, the Disclosure Rule requires that sales and leasing contracts include certain notification and acknowledgment language.

In all four cases, the properties were occupied by families with young children. Lead poisoning is the number one environmental hazard to young American children. Among minority and low-income children living in older housing, 16 percent suffer from lead poisoning (pregnant women are also very susceptible to lead poisoning).

The four separate civil complaints, with penalties totaling \$439,725, were filed against the landlords and the realty firm for violating the Disclosure Rule. Complaints were brought against:

- ♦ **The U.S. Department of the Navy** in a case involving 11 housing units at Kingsville Naval Air Station, Kingsville, Texas. The units were occupied by enlisted personnel and their families, which included young children under the age of six.

- ♦ **Group One Realty in Ponca City, Okla.**, in a case involving a young child living in an house with lead-based paint.

- ♦ **Risa and Philip Gerber**, who leased an apartment with lead-based paint to a mother with a three-year old

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child, even after the City of Philadelphia declared the apartment unfit for human habitation.

♦ **William E. Smith, a landlord**, in a case involving a mother with two young children under six years old residing in an apartment in Philadelphia, Pa. Smith received a reduced penalty for complying with a City of Philadelphia order to abate the lead-based paint in the apartment.

Since the Agency began enforcing the Disclosure Rule last year, EPA has issued 22 "Notices of Noncompliance" to sellers, brokers, realtors, agents and landlords for less serious violations of the Disclosure Rule, in addition to the four civil penalty cases.

### MD PROPERTY FIRM FIRST COMPANY TO GET PENALTY RELIEF UNDER EPA'S AUDIT POLICY

EPA and Grady Management, Inc. ("Grady") agreed to a settlement on Sept. 10 that recognizes the property management firm's voluntary efforts to find, promptly disclose and expeditiously correct violations of the Dis-

closure Rule.

By meeting the criteria of EPA's "Audit Policy," (formally known as the policy on "Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations"), Grady avoided thousands of dollars in potential penalties.

Grady becomes the first company to be approved for penalty relief under the Audit Policy for violations of the Disclosure Rule.

Because Grady met all of the conditions of the Audit Policy, EPA waived 100 percent of the \$10,560 penalty that otherwise may have applied. Grady disclosed four violations of the Disclosure Rule to EPA in May 1998 after conducting a voluntary self-audit of its 28 apartment complexes in Maryland.

The violations concerned two apartment complexes in which Grady failed to properly disclose the presence of known lead-based paint to its tenants, as required by the Disclosure Rule. After notifying EPA of the violations, Grady promptly abated the lead-based paint in one apartment complex and provided the tenants with the correct disclosure statement in the other complex.

The Audit Policy promotes a higher

standard of self-policing by reducing, and in many cases, eliminating penalties for violations discovered and promptly corrected by the violator. Compliance incentives in the Audit Policy have greatly increased the frequency of self-monitoring efforts among regulated communities.

*For more information, contact Claude Walker, Toxics and Pesticides Enforcement Division, at (202) 564-4042.*

### EPA Policies Reduce, Eliminate Penalties for Self-Policing

*EPA has adopted two policies designed to encourage greater compliance with environmental laws. For more information, see EPA's Audit Policy Website at: <http://www.epa.gov/oeca/auditpol.html>, and the Small Business Policy at: <http://www.epa.gov/oeca/smbusi.html>.*

### Useful Resources

EPA Lead Programs:  
<http://www.epa.gov/opptintr/lead/index.html>

EPA National Lead Information Center:  
<http://www.epa.gov/opptintr/lead/nlic.htm>

National Lead Information Center Hotline:  
1-800-424-LEAD (Tips & Complaints, or assistance)



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