

July 6, 2010

NEW EPA LEAD PAINT RULE IMPACTS RENOVATIONS AND REPAIRS ON PRE-1978 HOUSING AND CHILD-OCCUPIED FACILITIES

If you have questions regarding the information in this alert or would like to receive further information regarding our environmental law department, please contact:

Richard A. Barr
313.465.7308
rbarr@honigman.com

Naeha Dixit
313.465.7682
ndixit@honigman.com

Kenneth C. Gold
313.465.7394
kgold@honigman.com

S. Lee Johnson
313.465.7432
sjohnson@honigman.com

**Megan Conlon
McCulloch**
313.465.7444
mmcculloch@honigman.com

H. Kirk Meadows
517.377.0739
hkmeadows@honigman.com

**Steven C. Nadeau
Chair**
313.465.7492
snadeau@honigman.com

Joseph M. Polito
313.465.7514
jpolito@honigman.com

Jeffrey L. Woolstrum
313.465.7612
jwoolstrum@honigman.com

On April 22, 2010, the U.S. Environmental Protection Agency's ("EPA") "renovation, repair and painting" rule ("RRP Rule") became effective. The RRP Rule applies to most repairs and renovations of pre-1978 housing ("target housing") and child-occupied facilities. It requires use of lead-safe work practices, training and certification of renovators and renovation firms, and recordkeeping, all aimed at preventing lead poisoning due to the presence of lead-based paint.

The RRP Rule applies to companies or individuals who perform renovations for compensation on target housing or child-occupied facilities. "Renovation" is defined as "modification of any existing structure, or portion thereof, that results in the disturbance of painted surfaces," unless performed as part of an abatement.

Renovations performed "for compensation" includes renovations by landlords – including work performed by their maintenance staff – and contractors, painters, and other tradespeople. The term does not apply to homeowners performing work in their own home. EPA estimates that more than 37 million structures are affected by the RRP Rule.

Among other things, the RRP Rule requires:

- Persons performing renovations in target housing or child-occupied facilities must be properly trained to do so without creating new lead hazards by, for example, creating and spreading lead-containing dust.
- Renovators must use lead-safe work practices during the renovation activity.
- Only EPA-certified renovators may direct renovations on target housing or child-occupied facilities.
- Only EPA-certified firms may perform renovations on target housing or child-occupied facilities.
- Recordkeeping.

A child-occupied facility is defined as a building, or portion of a building, constructed before 1978, visited regularly by the same child, under six years of age, on at least two different days within any week, provided that each day's visit lasts at least three hours, and the combined weekly visits last at least six hours, and the combined annual visits last at least 60 hours. Child-occupied facilities may include, but are not limited to, day care centers, preschools and kindergarten classrooms.

Detroit**Lansing****Oakland County****Ann Arbor****Kalamazoo**

Before starting work, renovators must provide the owners and occupants of target housing and child-occupied facilities with the EPA pamphlet titled “Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools.” Notice of the work and availability of the pamphlet must also be given to all residents affected by renovations in common areas in multi-unit target housing and parents and guardians of children who use child-occupied facilities being renovated.

The RRP Rule does not apply to minor maintenance or repair activities that disrupt six square feet or less of painted surface per room for interior activities or 20 square feet or less of painted surface for exterior activities. Window replacement, demolition activities, and projects involving prohibited practices do not qualify for the minor maintenance or repair exclusion.

Target housing excludes “0-bedroom” dwellings. It also excludes housing for the elderly or persons with disabilities unless a child six years of age or less is expected to live there.

The RRP Rule also does not apply to renovations that affect only components that have been determined to be lead paint-free using EPA-approved procedures.

Penalties for non-compliance can be as high as \$32,500 per day, per violation, plus possible prison time.

+