

Sec.

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SUBCHAPTER I—GRANTS FOR DETECTION AND TREATMENT OF LEAD-BASED PAINT POISONING

§ 4801. Repealed. Pub. L. 95-626, title II, § 208(b), Nov. 10, 1978, 92 Stat. 3588

Section, Pub. L. 91-695, title I, §101, Jan. 13, 1971, 84 Stat. 2078; Pub. L. 93-151, §1, Nov. 9, 1973, 87 Stat. 565; Pub. L. 94-317, title II, 204(a), June 23, 1976, 90 Stat. 705, related to the development of local programs with respect to detection and treatment of lead-based paint poisoning.

EFFECTIVE DATE OF REPEAL

Section 208(b) of Pub. L. 95-626 provided that the repeal of this section is effective Oct. 1, 1979.

SHORT TITLE

Section 1 of Pub. L. 91-695 provided: "That this Act [enacting this chapter] may be cited as the 'Lead-Based Paint Poisoning Prevention Act'."

SUBCHAPTER II—GRANTS FOR ELIMINATION OF LEAD-BASED PAINT POISONING

§ 4811. Repealed. Pub. L. 95-626, title II, § 208(b), Nov. 10, 1978, 92 Stat. 3588

Section, Pub. L. 91-695, title II, §201, Jan. 13, 1971, 84 Stat. 2078; Pub. L. 93-151, §2, Nov. 9, 1973, 87 Stat. 565, related to the development of local programs for the elimination of lead-based paint poisoning.

EFFECTIVE DATE OF REPEAL

Section 208(b) of Pub. L. 95-626 provided that the repeal of this section is effective Oct. 1, 1979.

SUBCHAPTER III—FEDERAL DEMONSTRATION AND RESEARCH PROGRAM: FEDERAL HOUSING ADMINISTRATION REQUIREMENTS

§ 4821. Development of program; consultation; nature of program; safe level of lead; report to Congress

(a) The Secretary of Housing and Urban Development, in consultation with the Secretary of Health and Human Services, shall develop and carry out a demonstration and research program

to determine the nature and extent of the problem of lead based paint poisoning in the United States, particularly in urban areas, including the methods by which the lead based paint hazard can most effectively be removed from interior surfaces, porches, and exterior surfaces of residential housing to which children may be exposed.

(b) The Chairman of the Consumer Product Safety Commission shall conduct appropriate research on multiple layers of dried paint film, containing the various lead compounds commonly used, in order to ascertain the safe level of lead in residential paint products. No later than December 31, 1974, the Chairman shall submit to Congress a full and complete report of his findings and recommendations as developed pursuant to such programs, together with a statement of any legislation which should be enacted or any changes in existing law which should be made in order to carry out such recommendations.

(Pub. L. 91-695, title III, §301, Jan. 13, 1971, 84 Stat. 2079; Pub. L. 93-151, §3, Nov. 9, 1973, 87 Stat. 566; Pub. L. 96-88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-151 incorporated existing first sentence in provisions designated as subsec. (a).

Subsec. (b). Pub. L. 93-151 required the Chairman of the Consumer Product Safety Commission to conduct research to ascertain the safe level of lead in provisions designated as subsec. (b), incorporated existing second sentence as the second sentence of the subsection, substituting requirement of submission of report by the Chairman no later than Dec. 31, 1974, for former similar requirement for submission of a report by the Secretary within one year after Jan. 13, 1971.

CHANGE OF NAME

"Secretary of Health and Human Services" substituted for "Secretary of Health, Education, and Welfare" in subsec. (a) pursuant to section 509(b) of Pub. L. 96-88, which is classified to section 3508(b) of Title 20, Education.

§ 4822. Requirements for housing receiving Federal assistance**(a) General requirements****(1) Elimination of hazards**

The Secretary of Housing and Urban Development (hereafter in this section referred to as the "Secretary") shall establish procedures to eliminate as far as practicable the hazards of lead based paint poisoning with respect to any existing housing which may present such hazards and which is covered by an application for mortgage insurance or housing assistance payments under a program administered by the Secretary or otherwise receives more than \$5,000 in project-based assistance under a Federal housing program. Beginning on January 1, 1995, such procedures shall apply to all such housing that constitutes target housing, as defined in section 4851b of this title, and shall provide for appropriate measures to conduct risk assessments, inspections, interim controls, and abatement of lead-based paint hazards. At a minimum, such procedures shall require—

(A) the provision of lead hazard information pamphlets, developed pursuant to section 2686 of title 15, to purchasers and tenants;

(B) periodic risk assessments and interim controls in accordance with a schedule determined by the Secretary, the initial risk assessment of each unit constructed prior to 1960 to be conducted not later than January 1, 1996, and, for units constructed between 1960 and 1978—

(i) not less than 25 percent shall be performed by January 1, 1998;

(ii) not less than 50 percent shall be performed by January 1, 2000; and

(iii) the remainder shall be performed by January 1, 2002;

(C) inspection for the presence of lead-based paint prior to federally-funded renovation or rehabilitation that is likely to disturb painted surfaces;

(D) reduction of lead-based paint hazards in the course of rehabilitation projects receiving less than \$25,000 per unit in Federal funds;

(E) abatement of lead-based paint hazards in the course of substantial rehabilitation projects receiving more than \$25,000 per unit in Federal funds;

(F) where risk assessment, inspection, or reduction activities have been undertaken, the provision of notice to occupants describing the nature and scope of such activities and the actual risk assessment or inspection reports (including available information on the location of any remaining lead-based paint on a surface-by-surface basis); and

(G) such other measures as the Secretary deems appropriate.

(2) Additional measures

The Secretary may establish such other procedures as may be appropriate to carry out the purposes of this section.

(3) Disposition of federally owned housing

(A) Pre-1960 target housing

Beginning on January 1, 1995, procedures established under paragraphs (1) and (2) shall require the inspection and abatement of lead-based paint hazards in all federally owned target housing constructed prior to 1960.

(B) Target housing constructed between 1960 and 1978

Beginning on January 1, 1995, procedures established under paragraphs (1) and (2) shall require an inspection for lead-based paint and lead-based paint hazards in all federally owned target housing constructed between 1960 and 1978. The results of such inspections shall be made available to prospective purchasers, identifying the presence of lead-based paint and lead-based paint hazards on a surface-by-surface basis. The Secretary shall have the discretion to waive the requirement of this subparagraph for housing in which a federally funded risk assessment, performed by a certified contractor, has determined no lead-based paint hazards are present.

(C) Budget authority

To the extent that subparagraphs (A) and (B) increase the cost to the Government of outstanding direct loan obligations or loan guarantee commitments, such activities shall be treated as modifications under section 661c(e) of title 2 and shall be subject to the availability of appropriations. To the extent that paragraphs (A) and (B) impose additional costs to the Resolution Trust Corporation and the Federal Deposit Insurance Corporation, its requirements shall be carried out only if appropriations are provided in advance in an appropriations Act. In the absence of appropriations sufficient to cover the costs of subparagraphs (A) and (B), these requirements shall not apply to the affected agency or agencies.

(D) Definitions

For the purposes of this subsection, the terms “inspection”, “abatement”, “lead-based paint hazard”, “federally owned housing”, “target housing”, “risk assessment”, and “certified contractor” have the same meaning given such terms in section 4851b of this title.

(4) Definitions

For purposes of this subsection, the terms “risk assessment”, “inspection”, “interim control”, “abatement”, “reduction”, and “lead-based paint hazard” have the same meaning given such terms in section 4851b of this title.

(b) Measurement criteria

The procedures established by the Secretary under this section for the risk assessment, interim control, inspection, and abatement of lead-based paint hazards in housing covered by this section shall be based upon guidelines developed pursuant to section 4852c of this title.

(c) Inspection requirements

The Secretary shall require the inspection of all intact and nonintact interior and exterior painted surfaces of housing subject to this section for lead-based paint using an approved x-ray fluorescence analyzer, atomic absorption spectroscopy, or comparable approved sampling or testing technique. A certified inspector or laboratory shall certify in writing the precise results of the inspection. If the results equal or exceed a level of 1.0 milligrams per centimeter squared or 0.5 percent by weight, the results shall be provided to any potential purchaser or tenant of the housing. The Secretary shall periodically review and reduce the level below 1.0 milligram per centimeter squared or 0.5 percent by weight to the extent that reliable technology makes feasible the detection of a lower level and medical evidence supports the imposition of a lower level. The requirements of this subsection shall apply as provided in subsection (d) of this section.

(d) Abatement required

(1) Transitional testing and abatement in public housing receiving modernization assistance

In the case of public housing assisted with capital assistance provided under section 1437g

of this title, the Secretary shall require the inspection described in subsection (c) of this section for—

(A) a random sample of dwellings and common areas in all public housing projects assisted under such section; and

(B) each dwelling in any public housing project in which there is a dwelling determined under subparagraph (A) to have lead-based paint hazards, except that the Secretary shall not require the inspection of each dwelling if the Secretary requires the abatement of the lead-based paint hazards for the surfaces of each dwelling in the public housing project that correspond to the surfaces in the sample determined to have such hazards under subparagraph (A).

The Secretary shall require the inspection of all housing subject to this paragraph in accordance with the modernization schedule. A public housing agency may elect to test for lead-based paint using atomic absorption spectroscopy and may elect to abate lead-based paint and dust containing lead under standards more stringent than that in subsection (c) of this section, including the abatement of lead-based paint and dust which exceeds the standard of lead permitted in paints by the Consumer Product Safety Commission under this chapter, and such abatement shall qualify for capital assistance provided under section 1437g of this title. The Secretary shall require abatement of lead-based paint and lead-based paint hazards in housing in which the test results equal or exceed the standard established by or under subsection (c) of this section. Final inspection and certification after abatement shall be made by a qualified inspector, industrial hygienist, or local public health official.

(2) Abatement demonstration program

(A) Abatement demonstration program

In carrying out the requirements of this subsection with respect to single-family and multifamily properties owned by the Department of Housing and Urban Development and public housing, the Secretary shall utilize a sufficient variety of abatement methods in a sufficient number of areas and circumstances to demonstrate their relative cost-effectiveness and their applicability to various types of housing. For purposes of the demonstration, a public housing agency may elect to test for lead-based paint using atomic absorption spectroscopy and may elect to abate lead-based paint and dust containing lead under standards more stringent than that in subsection (c) of this section, including the abatement of lead-based paint and dust which exceeds the standard of lead permitted in paints by the Consumer Product Safety Commission under this chapter, and such abatement shall qualify for assistance under section 1437l¹ of this title.

(B) Report

Not later than 18 months after the effective date of the regulations issued to carry

out this subsection, the Secretary shall transmit to the Congress the findings and recommendations of the Secretary as a result of the demonstration program, including any recommendations of the Secretary for legislation to revise the requirements of this subsection. Based on the demonstration, the Secretary shall prepare and include in the report a comprehensive and workable plan for the cost-effective inspection and abatement of public housing in accordance with paragraph (3), including an estimate of the total cost of abatement in accordance with paragraph (3)(B). In preparing such report, the Secretary shall examine—

(i) the most reliable technology available for detecting lead-based paint, including X-ray fluorescence and atomic absorption spectroscopy;

(ii) the most efficient and cost-effective methods for abatement, including removal, containment, or encapsulation of the contaminated components, procedures which minimize the generation of dust (including the high efficiency vacuum removal of leaded dust), and procedures that provide for offsite disposal of the removed components, in compliance with all applicable regulatory standards and procedures;

(iii) safety considerations in testing, abatement, and worker protection;

(iv) the overall accuracy and reliability of laboratory testing of physical samples, x-ray fluorescence machines, and other available testing procedures;

(v) availability of qualified samplers and testers;

(vi) an estimate of the amount, characteristics, and regional distribution of housing in the United States that contains lead-based paint hazards at differing levels of contamination; and

(vii) the merits of an interim containment protocol for public housing dwellings that are determined to have lead-based paint hazards but for which comprehensive improvement assistance under section 1437l¹ of this title is not available.

(3) Testing and abatement of other public housing

(A) Required inspection

The Secretary shall require the inspection described in subsection (c) of this section for—

(i) a random sample of dwellings and common areas in all public housing that is not subject to paragraph (1); and

(ii) each dwelling in any public housing project in which there is a dwelling determined under clause (i) to have lead-based paint hazards, except that the Secretary shall not require the inspection of each dwelling if the Secretary requires the abatement of the lead-based paint hazards for the surfaces of each dwelling in the public housing project that correspond to the surfaces in the sample determined to have such hazards under clause (i).

(B) Schedule

The Secretary shall require the inspection of all housing subject to this paragraph prior

¹ See References in Text note below.

to the expiration of 5 years after the report is required to be transmitted under paragraph (2)(B). The Secretary may prioritize, within such 5-year period, inspections on the basis of vacancy, age of housing, or projected modernization or rehabilitation. The Secretary shall require abatement and final inspection and certification of such housing in accordance with the last two sentences of paragraph (1).

(4) Report required

Not later than 9 months after completion of the demonstration required by paragraph (2), the Secretary shall, based on the demonstration, prepare and transmit to the Congress, a comprehensive and workable plan, including any recommendations for changes in legislation, for the prompt and cost effective inspection and abatement of privately owned single family and multifamily housing, including housing assisted under section 1437f of this title. After the expiration of the 9-month period referred to in the preceding sentence, the Secretary may not obligate or expend any funds or otherwise carry out activities related to any other policy development and research project until the report is transmitted.

(e) Exceptions

The provisions of this section shall not apply to—

- (1) housing for the elderly or handicapped, except for any dwelling in such housing in which any child who is less than 7 years of age resides or is expected to reside;
- (2) any project for which an application for insurance is submitted under section 1715v, 1715w, 1715z-6, or 1715z-7 of title 12; or
- (3) any 0-bedroom dwelling.

(f) Funding

The Secretary shall carry out the provisions of this section utilizing available Federal funding sources. The Secretary shall use funds available under the Capital Fund under section 1437g of this title to carry out this section in public housing. The Secretary shall submit annually to the Congress an estimate of the funds required to carry out the provisions of this section with the reports required by paragraphs (2)(B) and (4).

(g) Interpretation of section

This section may not be construed to affect the responsibilities of the Environmental Protection Agency with respect to the protection of the public health from hazards posed by lead-based paint.

(Pub. L. 91-695, title III, §302, as added Pub. L. 93-151, §4(a)(1), Nov. 9, 1973, 87 Stat. 566; amended Pub. L. 100-242, title V, §566(a), Feb. 5, 1988, 101 Stat. 1945; Pub. L. 100-628, title X, §1088(a)-(f), (h), Nov. 7, 1988, 102 Stat. 3280-3282; Pub. L. 102-550, title X, §§1012(a)-(d), 1013, Oct. 28, 1992, 106 Stat. 3904, 3905, 3907; Pub. L. 105-276, title V, §522(b)(4), Oct. 21, 1998, 112 Stat. 2564.)

REFERENCES IN TEXT

Section 1437f of this title, referred to in subsec. (d)(2)(A), (B)(vii), was repealed by Pub. L. 105-276, title V, §522(a), Oct. 21, 1998, 112 Stat. 2564.

For effective date of the regulations issued to carry out this subsection, referred to in subsec. (d)(2)(B), see section 566(b) of Pub. L. 100-242, set out as a note below.

AMENDMENTS

1998—Subsec. (d)(1). Pub. L. 105-276, §522(b)(4)(A), in introductory provisions, substituted “assisted with capital assistance provided under section 1437g of this title” for “assisted under section 1437f of this title” and, in concluding provisions, substituted “capital assistance provided under section 1437g of this title” for “assistance under section 1437f of this title”.

Subsec. (f). Pub. L. 105-276, §522(b)(4)(B), substituted “under the Capital Fund under section 1437g of this title” for “for comprehensive improvement assistance under section 1437f of this title”.

1992—Pub. L. 102-550, §1012(a)(1), amended section catchline generally.

Subsec. (a). Pub. L. 102-550, §1012(a)(2)-(4), designated first sentence of subsec. (a) as par. (1), inserted heading, inserted before period at end of first sentence “or otherwise receives more than \$5,000 in project-based assistance under a Federal housing program”, substituted “Beginning on January 1, 1995, such procedures shall apply to all such housing that constitutes target housing, as defined in section 4851b of this title, and shall provide for appropriate measures to conduct risk assessments, inspections, interim controls, and abatement of lead-based paint hazards. At a minimum, such procedures shall require—” and subpars. (A) to (G) for former second sentence of subsec. (a) which read as follows: “Such procedures shall apply to all such housing constructed or substantially rehabilitated prior to 1978 and shall as a minimum provide for (1) appropriate measures to eliminate as far as practicable immediate hazards due to the presence of accessible intact, intact, and nonintact interior and exterior painted surfaces that may contain lead in any such housing in which any child who is less than 7 years of age resides or is expected to reside, and (2) assured notification (using a brochure developed after consultation with the National Institute of Building Sciences) to purchasers and tenants of such housing of the hazards of lead based paint, of the symptoms and treatment of lead based paint poisoning, and of the importance and availability of maintenance and removal techniques for eliminating such hazards.”, and designated former third sentence of subsec. (a) as par. (2) and inserted heading.

Pub. L. 102-550, §1013, added pars. (3) and (4) and struck out former fourth sentence of subsec. (a) which read as follows: “Further, the Secretary shall establish and implement procedures to eliminate the hazards of lead based paint poisoning in all federally owned properties prior to the sale of such properties when their use is intended for residential habitation.”

Subsec. (b). Pub. L. 102-550, §1012(b), substituted “for the risk assessment, interim control, inspection, and abatement of lead-based paint hazards in housing covered by this section shall be based upon guidelines developed pursuant to section 4852c of this title.” for “for the detection and abatement of lead-based paint poisoning hazards in any housing, including housing assisted under section 1437f of this title—

“(1) shall be based upon criteria that measure the condition of the housing; and

“(2) shall not be based upon criteria that measure the health of the residents of the housing.”

Subsec. (c). Pub. L. 102-550, §1012(c), substituted “certified inspector” for “qualified inspector” and substituted “centimeter squared or 0.5 percent by weight” for “centimeter squared” in two places.

Subsec. (d)(1). Pub. L. 102-550, §1012(d), in heading, substituted “modernization” for “CIAP” and in fourth sentence, substituted “of lead-based paint and lead-based paint hazards” for “to eliminate the lead-based paint poisoning hazards”.

1988—Pub. L. 100-242 designated existing provisions as subsec. (a) “General requirements”, substituted “housing constructed or substantially rehabilitated prior to 1978” for “housing constructed prior to 1950”, in cl. (1), substituted “accessible intact, intact, and nonintact interior and exterior painted surfaces that may contain lead in any such housing in which any child who is less

than 7 years of age resides or is expected to reside” for “paint which may contain lead and to which children may be exposed”, in cl. (2), inserted “(using a brochure developed after consultation with the National Institute of Building Sciences)” after “notification”, and struck out after second sentence “Such procedures may apply to housing constructed during or after 1950 if the Secretary determines, in his discretion, that such housing presents hazards of lead based paint.”, and added subsec. (b) to (f).

Subsec. (c). Pub. L. 100-628, §1088(f), inserted “, atomic absorption spectroscopy,” after “fluorescence analyzer” in first sentence, and “or laboratory” after “inspector” in second sentence.

Subsec. (d)(1). Pub. L. 100-628, §1088(a), substituted “Transitional testing and abatement in public housing receiving CIAP assistance” for “Public housing” in heading, substituted “section 1437f of this title” for “section 1437g of this title” in first sentence, added subpars. (A) and (B) and second and third sentences, inserted “, industrial hygienist, or local public health official” before period at end of last sentence, and struck out former subpars. (A) to (C) and second and third sentences which read as follows:

“(A) each vacant dwelling prior to rerenting;

“(B) a random sample of all occupied dwellings; and

“(C) each dwelling in any housing in which there is a dwelling determined under subparagraph (A) or (B) to have lead-based paint hazards.

The Secretary shall require the inspection of all housing subject to this paragraph prior to the expiration of 5 years from the date of the publication of final regulations pursuant to this subsection. The Secretary shall prioritize, within such 5-year period, inspections on the basis of vacancy, age of housing, or projected modernization or rehabilitation.”

Subsec. (d)(2). Pub. L. 100-628, §1088(b)(1), substituted “Abatement demonstration program” for “HUD-owned properties” in heading.

Subsec. (d)(2)(A). Pub. L. 100-628, §1088(b)(2), inserted “and public housing” after “Urban Development”, and inserted at end “For purposes of the demonstration, a public housing agency may elect to test for lead-based paint using atomic absorption spectroscopy and may elect to abate lead-based paint and dust containing lead under standards more stringent than that in subsection (c) of this section, including the abatement of lead-based paint and dust which exceeds the standard of lead permitted in paints by the Consumer Product Safety Commission under this chapter, and such abatement shall qualify for assistance under section 1437f of this title.”

Subsec. (d)(2)(B). Pub. L. 100-628, §1088(b)(3), in introductory provisions, inserted after first sentence “Based on the demonstration, the Secretary shall prepare and include in the report a comprehensive and workable plan for the cost-effective inspection and abatement of public housing in accordance with paragraph (3), including an estimate of the total cost of abatement in accordance with paragraph (3)(B).”

Subsec. (d)(2)(B)(i). Pub. L. 100-628, §1088(c)(1), inserted “, including X-ray fluorescence and atomic absorption spectroscopy” after “lead-based paint”.

Subsec. (d)(2)(B)(ii). Pub. L. 100-628, §1088(c)(2), inserted “, including removal, containment, or encapsulation of the contaminated components, procedures which minimize the generation of dust (including the high efficiency vacuum removal of leaded dust), and procedures that provide for offsite disposal of the removed components, in compliance with all applicable regulatory standards and procedures” after “methods for abatement”.

Subsec. (d)(2)(B)(iii). Pub. L. 100-628, §1088(c)(3), inserted “, abatement, and worker protection” after “in testing”.

Subsec. (d)(2)(B)(vii). Pub. L. 100-628, §1088(c)(4)-(6), added cl. (vii).

Subsec. (d)(3), (4). Pub. L. 100-628, §1088(d), added par. (3) and redesignated former par. (3) as (4).

Subsec. (f). Pub. L. 100-628, §1088(e), inserted at end “The Secretary shall submit annually to the Congress

an estimate of the funds required to carry out the provisions of this section with the reports required by paragraphs (2)(B) and (4).”

Subsec. (g). Pub. L. 100-628, §1088(h), added subsec. (g).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105-276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105-276, set out as a note under section 1437 of this title.

EFFECTIVE DATE

Section 4(b) of Pub. L. 93-151 provided that: “The amendments made by subsection (a) of this section [enacting this section] become effective upon the expiration of ninety days following the date of enactment of this Act [Nov. 9, 1973].”

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (f) of this section relating to annual submittal to Congress of estimate of funds, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and item 22 on page 97 of House Document No. 103-7.

LEAD-BASED PAINT ABATEMENT TRAINING AND CERTIFICATION REQUIREMENTS AND TRAINING GRANTS

Pub. L. 102-139, title III, Oct. 28, 1991, 105 Stat. 765, 766, which provided for regulations governing lead-based paint abatement activities to ensure that individuals engaged in such activities are properly trained, that training programs are accredited, that contractors are certified, and that laboratories engaged in testing for substances are certified, and which also provided for grants for training and education of workers who are or may be directly engaged in lead-based paint abatement activities, was omitted as superseded by section 2682(a)(1) of Title 15, Commerce and Trade, which provided in part that on Oct. 28, 1992, the provisions of law formerly set out in this note would cease to have any force and effect.

LEAD-BASED PAINT TECHNICAL GUIDELINES; DRAFT GUIDELINES

Pub. L. 101-144, title II, Nov. 9, 1989, 103 Stat. 853, provided that: “If the Secretary of the Department of Housing and Urban Development has not issued the lead-based paint technical guidelines on reliable testing protocols, safe and effective abatement techniques, cleanup methods and acceptable post-abatement lead dust levels by April 1, 1990, the Department’s September 29, 1989, draft guidelines shall take effect and remain in force until revised by the Secretary.”

PREREQUISITES TO IMPLEMENTATION OF REGULATIONS REGARDING TESTING AND ABATEMENT OF LEAD-BASED PAINT IN PUBLIC HOUSING

Pub. L. 100-404, title I, Aug. 19, 1988, 102 Stat. 1021, provided that: “None of the funds provided in this Act [see Tables for classification] or heretofore provided may be used to implement or enforce the regulations promulgated by the Department of Housing and Urban Development on June 6, 1988, with respect to the testing and abatement of lead-based paint in public housing until the Secretary develops comprehensive technical guidelines on reliable testing protocols, safe and effective abatement techniques, cleanup methods, and acceptable post-abatement lead dust levels.”

REGULATIONS AND CONSULTATION

Section 566(b) of Pub. L. 100-242, as amended by Pub. L. 100-418, title V, §5115(c), Aug. 23, 1988, 102 Stat. 1433; Pub. L. 100-628, title X, §1088(g), Nov. 7, 1988, 102 Stat. 3282, provided that:

“(1) PROPOSED REGULATIONS.—Not later than the expiration of the 60-day period following the date of the enactment of this Act [Feb. 5, 1988], the Secretary of Housing and Urban Development shall publish proposed regulations to carry out the amendments made by this section [amending this section].

“(2) FINAL REGULATIONS.—The Secretary shall publish final regulations to carry out the amendments made by this section, which shall become effective not later than the expiration of the 120-day period following the date of the enactment of this Act.

“(3) REQUIRED CONSULTATIONS.—Before issuing proposed regulations and in preparing reports under this section, the Secretary shall consult with—

“(A) the National Institute of Building Sciences, the Environmental Protection Agency, the National Institute of Environmental Health Sciences, the Centers for Disease Control [now Centers for Disease Control and Prevention], the Consumer Product Safety Commission, major public housing organizations, other major housing organizations, and the National Institute of Standards and Technology with respect to the most cost-effective methods of detecting and abating lead-based paint poisoning hazards; and

“(B) public housing agencies to develop a cost-efficient plan for detecting and abating lead-based paint poisoning hazards in dwelling assisted under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] and dwellings in public housing assisted under such Act [42 U.S.C. 1437 et seq.]”

SUBCHAPTER IV—PROHIBITION AGAINST FUTURE USE OF LEAD-BASED PAINT

§ 4831. Use of lead-based paint

(a) Prohibition by Secretary of Health and Human Services in application to cooking, drinking, or eating utensils

The Secretary of Health and Human Services shall take such steps and impose such conditions as may be necessary or appropriate to prohibit the application of lead-based paint to any cooking utensil, drinking utensil, or eating utensil manufactured and distributed after January 13, 1971.

(b) Prohibition by Secretary of Housing and Urban Development of use in residential structures constructed or rehabilitated by Federal Government or with Federal assistance

The Secretary of Housing and Urban Development shall take steps and impose such conditions as may be necessary or appropriate to prohibit the use of lead-based paint in residential structures constructed or rehabilitated by the Federal Government, or with Federal assistance in any form after January 13, 1971.

(c) Prohibition by Consumer Product Safety Commission in application to toys or furniture articles

The Consumer Product Safety Commission shall take such steps and impose such conditions as may be necessary or appropriate to prohibit the application of lead-based paint to any toy or furniture article.

(Pub. L. 91-695, title IV, §401, Jan. 13, 1971, 84 Stat. 2079; Pub. L. 93-151, §5, Nov. 9, 1973, 87 Stat. 566; Pub. L. 94-317, title II, §204(b), June 23, 1976, 90 Stat. 705; Pub. L. 96-88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695.)

REFERENCES IN TEXT

January 13, 1971, referred to in subsecs. (a) and (b), was in the original “the date of enactment of this Act”.

AMENDMENTS

1976—Pub. L. 94-317 amended section generally, designating existing provisions as subsec. (a), striking out requirement of consultation with Secretary of Housing and Urban Development and provisions relating to prohibition of use of lead based paint in residential structures constructed or rehabilitated by Federal Government or with Federal assistance, and adding subsecs. (b) and (c).

1973—Pub. L. 93-151 amended section generally, providing for consultation of the Secretaries, incorporating existing provisions as cl. (1), and adding cl. (2).

CHANGE OF NAME

“Secretary of Health and Human Services” substituted for “Secretary of Health, Education, and Welfare” in subsec. (a) pursuant to section 509(b) of Pub. L. 96-88, which is classified to section 3508(b) of Title 20, Education.

SUBCHAPTER V—GENERAL PROVISIONS

§ 4841. Definitions

As used in this chapter—

(1) The term “State” means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

(2) The term “units of general local government” means (A) any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, (B) any combination of units of general local government in one or more States, (C) an Indian tribe, or (D) with respect to lead-based paint poisoning elimination activities in their urban areas, the territories and possessions of the United States.

(3)(A) Except as provided in subparagraph (B), the term “lead-based paint” means any paint containing more than five-tenths of 1 per centum lead by weight (calculated as lead metal) in the total nonvolatile content of the paint, or the equivalent measure of lead in the dried film of paint already applied, or both.

(B)(i) The Consumer Product Safety Commission shall, during the six-month period beginning on the date of the enactment of the National Health Promotion and Disease Prevention Act of 1976, determine, on the basis of available data and information and after providing opportunity for an oral hearing and considering recommendations of the Secretary of Health and Human Services (including those of the Centers for Disease Control and Prevention) and of the National Academy of Sciences, whether or not a level of lead in paint which is greater than six one-hundredths of 1 per centum but not in excess of five-tenths of 1 per centum is safe. If the Commission determines, in accordance with the preceding sentence, that another level of lead is safe, the term “lead-based paint” means, with respect to paint which is manufactured after the expiration of the six-month period beginning on the date of the Commission’s determination, paint containing by weight (calculated as lead metal) in the total nonvolatile content of the paint more than the level of lead determined by the Commission to be safe or the equivalent measure of lead in the dried film of paint already applied, or both.