

which may come in contact with drinking water shall be considered lead free if the solder, flux, or storage tank interior surface contains more than 0.2 percent lead. The Administrator may establish more stringent requirements for treating any part or component of a drinking water cooler as lead free for purposes of this part whenever he determines that any such part may constitute an important source of lead in drinking water.

(3) Local educational agency

The term “local educational agency” means—

(A) any local educational agency as defined in section 7801 of title 20,

(B) the owner of any private, nonprofit elementary or secondary school building, and

(C) the governing authority of any school operating under the defense dependent’s education system provided for under the Defense Dependent’s Education Act of 1978 (20 U.S.C. 921 and following).

(4) Repair

The term “repair” means, with respect to a drinking water cooler, to take such corrective action as is necessary to ensure that water cooler is lead free.

(5) Replacement

The term “replacement”, when used with respect to a drinking water cooler, means the permanent removal of the water cooler and the installation of a lead free water cooler.

(6) School

The term “school” means any elementary school or secondary school as defined in section 7801 of title 20 and any kindergarten or day care facility.

(7) Lead-lined tank

The term “lead-lined tank” means a water reservoir container in a drinking water cooler which container is constructed of lead or which has an interior surface which is not lead free.

(July 1, 1944, ch. 373, title XIV, §1461, as added Pub. L. 100-572, §2(a), Oct. 31, 1988, 102 Stat. 2884; amended Pub. L. 103-382, title III, §391(p), Oct. 20, 1994, 108 Stat. 4024; Pub. L. 104-182, title V, §501(f)(7), Aug. 6, 1996, 110 Stat. 1692; Pub. L. 107-110, title X, §1076(x), Jan. 8, 2002, 115 Stat. 2093.)

REFERENCES IN TEXT

The Defense Dependent’s Education Act of 1978, referred to in par. (3)(C), probably means the Defense Dependents’ Education Act of 1978, title XIV of Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 2365, as amended, which is classified principally to chapter 25A (§921 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 921 of Title 20 and Tables.

AMENDMENTS

2002—Pars. (3)(A), (6). Pub. L. 107-110 substituted “section 7801 of title 20” for “section 8801 of title 20”.

1996—Pub. L. 104-182 made technical amendment to section catchline and first word of text.

1994—Par. (3)(A). Pub. L. 103-382, §391(p)(1), substituted “section 8801 of title 20” for “section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3381)”.

Par. (6). Pub. L. 103-382, §391(p)(2), substituted “section 8801 of title 20” for “section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2854)”.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107-110, set out as an Effective Date note under section 6301 of Title 20, Education.

§ 300j-22. Recall of drinking water coolers with lead-lined tanks

For purposes of the Consumer Product Safety Act [15 U.S.C. 2051 et seq.], all drinking water coolers identified by the Administrator on the list under section 300j-23 of this title as having a lead-lined tank shall be considered to be imminently hazardous consumer products within the meaning of section 12 of such Act (15 U.S.C. 2061). After notice and opportunity for comment, including a public hearing, the Consumer Product Safety Commission shall issue an order requiring the manufacturers and importers of such coolers to repair, replace, or recall and provide a refund for such coolers within 1 year after October 31, 1988. For purposes of enforcement, such order shall be treated as an order under section 15(d) of that Act (15 U.S.C. 2064(d)).

(July 1, 1944, ch. 373, title XIV, §1462, as added Pub. L. 100-572, §2(a), Oct. 31, 1988, 102 Stat. 2885; amended Pub. L. 104-182, title V, §501(f)(8), Aug. 6, 1996, 110 Stat. 1692.)

REFERENCES IN TEXT

The Consumer Product Safety Act, referred to in text, is Pub. L. 92-573, Oct. 27, 1972, 86 Stat. 1207, as amended, which is classified generally to chapter 47 (§2051 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 2051 of Title 15 and Tables.

AMENDMENTS

1996—Pub. L. 104-182 made technical amendment to section catchline and first word of text.

§ 300j-23. Drinking water coolers containing lead

(a) Publication of lists

The Administrator shall, after notice and opportunity for public comment, identify each brand and model of drinking water cooler which is not lead free, including each brand and model of drinking water cooler which has a lead-lined tank. For purposes of identifying the brand and model of drinking water coolers under this subsection, the Administrator shall use the best information available to the Environmental Protection Agency. Within 100 days after October 31, 1988, the Administrator shall publish a list of each brand and model of drinking water cooler identified under this subsection. Such list shall separately identify each brand and model of cooler which has a lead-lined tank. The Administrator shall continue to gather information regarding lead in drinking water coolers and shall revise and republish the list from time to time as may be appropriate as new information or analysis becomes available regarding lead contamination in drinking water coolers.

(b) Prohibition

No person may sell in interstate commerce, or manufacture for sale in interstate commerce,

any drinking water cooler listed under subsection (a) of this section or any other drinking water cooler which is not lead free, including a lead-lined drinking water cooler.

(c) Criminal penalty

Any person who knowingly violates the prohibition contained in subsection (b) of this section shall be imprisoned for not more than 5 years, or fined in accordance with title 18, or both.

(d) Civil penalty

The Administrator may bring a civil action in the appropriate United States District Court (as determined under the provisions of title 28) to impose a civil penalty on any person who violates subsection (b) of this section. In any such action the court may impose on such person a civil penalty of not more than \$5,000 (\$50,000 in the case of a second or subsequent violation).

(July 1, 1944, ch. 373, title XIV, §1463, as added Pub. L. 100-572, §2(a), Oct. 31, 1988, 102 Stat. 2885; amended Pub. L. 104-182, title V, §501(f)(9), Aug. 6, 1996, 110 Stat. 1692.)

AMENDMENTS

1996—Pub. L. 104-182 made technical amendment to section catchline and subsec. (a) designation.

§ 300j-24. Lead contamination in school drinking water

(a) Distribution of drinking water cooler list

Within 100 days after October 31, 1988, the Administrator shall distribute to the States a list of each brand and model of drinking water cooler identified and listed by the Administrator under section 300j-23(a) of this title.

(b) Guidance document and testing protocol

The Administrator shall publish a guidance document and a testing protocol to assist schools in determining the source and degree of lead contamination in school drinking water supplies and in remedying such contamination. The guidance document shall include guidelines for sample preservation. The guidance document shall also include guidance to assist States, schools, and the general public in ascertaining the levels of lead contamination in drinking water coolers and in taking appropriate action to reduce or eliminate such contamination. The guidance document shall contain a testing protocol for the identification of drinking water coolers which contribute to lead contamination in drinking water. Such document and protocol may be revised, republished and redistributed as the Administrator deems necessary. The Administrator shall distribute the guidance document and testing protocol to the States within 100 days after October 31, 1988.

(c) Dissemination to schools, etc.

Each State shall provide for the dissemination to local educational agencies, private nonprofit elementary or secondary schools and to day care centers of the guidance document and testing protocol published under subsection (b) of this section, together with the list of drinking water coolers published under section 300j-23(a) of this title.

(d) Remedial action program

(1) Testing and remedying lead contamination

Within 9 months after October 31, 1988, each State shall establish a program, consistent with this section, to assist local educational agencies in testing for, and remedying, lead contamination in drinking water from coolers and from other sources of lead contamination at schools under the jurisdiction of such agencies.

(2) Public availability

A copy of the results of any testing under paragraph (1) shall be available in the administrative offices of the local educational agency for inspection by the public, including teachers, other school personnel, and parents. The local educational agency shall notify parent, teacher, and employee organizations of the availability of such testing results.

(3) Coolers

In the case of drinking water coolers, such program shall include measures for the reduction or elimination of lead contamination from those water coolers which are not lead free and which are located in schools. Such measures shall be adequate to ensure that within 15 months after October 31, 1988, all such water coolers in schools under the jurisdiction of such agencies are repaired, replaced, permanently removed, or rendered inoperable unless the cooler is tested and found (within the limits of testing accuracy) not to contribute lead to drinking water.

(July 1, 1944, ch. 373, title XIV, §1464, as added Pub. L. 100-572, §2(a), Oct. 31, 1988, 102 Stat. 2886; amended Pub. L. 104-182, title V, §501(f)(10), Aug. 6, 1996, 110 Stat. 1692.)

AMENDMENTS

1996—Pub. L. 104-182 made technical amendment to section catchline and subsec. (a) designation.

§ 300j-25. Federal assistance for State programs regarding lead contamination in school drinking water

(a) School drinking water programs

The Administrator shall make grants to States to establish and carry out State programs under section 300j-24 of this title to assist local educational agencies in testing for, and remedying, lead contamination in drinking water from drinking water coolers and from other sources of lead contamination at schools under the jurisdiction of such agencies. Such grants may be used by States to reimburse local educational agencies for expenses incurred after October 31, 1988, for such testing and remedial action.

(b) Limits

Each grant under this section shall be used by the State for testing water coolers in accordance with section 300j-24 of this title, for testing for lead contamination in other drinking water supplies under section 300j-24 of this title, or for remedial action under State programs under section 300j-24 of this title. Not more than 5 percent of the grant may be used for program administration.