

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 Common-

wealth 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.

(ii) Unless the definition of the term "lead-based paint" has been established by a determination of the Consumer Product Safety Commission pursuant to clause (i) of this subparagraph, the term "lead-based paint" means, with respect to paint which is manufactured after the expiration of the twelve-month period beginning on such date of enactment, paint containing more than six one-hundredths 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.

(Pub. L. 91-695, title V, § 501, Jan. 13, 1971, 84 Stat. 2080; Pub. L. 93-151, § 6, Nov. 9, 1973, 87 Stat. 567; Pub. L. 94-317, title II, § 204(c), June 23, 1976, 90 Stat. 706; Pub. L. 96-88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 102-531, title III, § 312(g), Oct. 27, 1992, 106 Stat. 3506.)

REFERENCES IN TEXT

The National Health Promotion and Disease Prevention Act of 1976, referred to in par. (3)(B)(i), probably means Pub. L. 94-317, June 23, 1976, 90 Stat. 695, as

amended, which enacted sections 300u to 300u-5 of this title, amended sections 201, 243, 247b, 247c, 264, 300f, 4801, 4831, and 4841 to 4843 of this title, and enacted provisions set out as notes under sections 201, 247b, and 247c of this title. For complete classification of this Act to the Code, see Tables.

Such date of enactment, referred to in par. (3)(B)(ii), probably means the date of approval of Pub. L. 94-317, which was June 23, 1976.

AMENDMENTS

1992—Par. (3)(B)(i). Pub. L. 102-531 substituted “Centers for Disease Control and Prevention” for “Center for Disease Control”.

1976—Par. (3). Pub. L. 94-317 substituted provisions redefining standards for lead in paint and procedures used to determine such standards, for provisions defining standards of lead-based paint to be paint containing more than five-tenths of 1 per centum of lead by weight prior to Dec. 31, 1974, and after such date, paint containing more than six one-hundredths of 1 per centum of lead by weight, except where the Chairman of the Consumer Product Safety Commission determined that the pre-1974 level was safe, then such level to become effective.

1973—Par. (3). Pub. L. 93-151 amended par. (3). Prior to amendment, par. (3) defined “lead-based paint” to mean any paint containing more than 1 per centum lead by weight (calculated as lead metal) in the total non-volatile content of liquid paints or in the dried film of paint already applied.

CHANGE OF NAME

“Secretary of Health and Human Services” substituted for “Secretary of Health, Education, and Welfare” in par. (3)(B)(i) pursuant to section 509(b) of Pub. L. 96-88, which is classified to section 3508(b) of Title 20, Education.

§ 4842. Consultation by Secretary with other departments and agencies

In carrying out their respective authorities under this chapter, the Secretary of Housing and Urban Development and the Secretary of Health and Human Services shall each cooperate with and seek the advice of the heads of any other departments or agencies regarding any programs under their respective responsibilities which are related to, or would be affected by, such authority.

(Pub. L. 91-695, title V, § 502, Jan. 13, 1971, 84 Stat. 2080; Pub. L. 94-317, title II, § 204(d), June 23, 1976, 90 Stat. 706; Pub. L. 96-88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

AMENDMENTS

1976—Pub. L. 94-317 substituted “In carrying out their respective authorities under this chapter, the Secretary of Housing and Urban Development and the Secretary of Health, Education, and Welfare shall each” for “In carrying out the authority under this chapter, the Secretary of Health, Education, and Welfare shall”.

CHANGE OF NAME

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

§ 4843. Authorization of appropriations

(a) There are authorized to be appropriated to carry out this chapter \$10,000,000 for the fiscal year 1976, \$12,000,000 for the fiscal year 1977, and \$14,000,000 for the fiscal year 1978.

(b) Any amounts appropriated under this section shall remain available until expended when so provided in appropriation Acts; and any amounts authorized for one fiscal year but not appropriated may be appropriated for the succeeding fiscal year.

(Pub. L. 91-695, title V, § 503, Jan. 13, 1971, 84 Stat. 2080; Pub. L. 93-151, § 7(a)-(d), Nov. 9, 1973, 87 Stat. 567; Pub. L. 94-317, title II, § 204(e), June 23, 1976, 90 Stat. 706.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-317, § 204(e)(1), substituted provisions authorizing appropriations for this chapter of \$10,000,000 for fiscal year 1976, \$12,000,000 for fiscal year 1977, and \$14,000,000 for fiscal year 1978 for provisions authorizing appropriations for subchapter I of this chapter not to exceed \$3,330,000 for fiscal year 1971, \$6,660,000 for fiscal year 1972, and \$25,000,000 for each of fiscal years 1974 and 1975.

Subsec. (b). Pub. L. 94-317, § 204(e)(1), (2), redesignated subsec. (d) as (b). Former subsec. (b), which provided authorization of appropriations for subchapter II of this chapter not to exceed \$5,000,000 for fiscal year 1971, \$10,000,000 for fiscal year 1972, and \$35,000,000 for each of fiscal years 1974 and 1975, was struck out.

Subsec. (c). Pub. L. 94-317, § 204(e)(1), struck out subsec. (c) which provided for authorization of appropriations for subchapter III of this chapter not to exceed \$1,670,000 for fiscal year 1971, \$3,340,000 for fiscal year 1972, and \$3,000,000 for each of fiscal years 1974 and 1975.

Subsec. (d). Pub. L. 94-317, § 204(e)(2), redesignated subsec. (d) as (b).

1973—Subsec. (a). Pub. L. 93-151, § 7(a), provided for appropriations authorization of \$25,000,000 for fiscal years 1974 and 1975 for carrying out subchapter I provisions.

Subsec. (b). Pub. L. 93-151, § 7(b), provided for appropriations authorization of \$35,000,000 for fiscal years 1974 and 1975 for carrying out subchapter II provisions.

Subsec. (c). Pub. L. 93-151, § 7(c), provided for appropriations authorization of \$3,000,000 for fiscal years 1974 and 1975 for carrying out subchapter III provisions.

Subsec. (d). Pub. L. 93-151, § 7(d), substituted “amounts authorized for one fiscal year but not appropriated may be appropriated for the succeeding fiscal year” for “amounts authorized for the fiscal year 1971 but not appropriated may be appropriated for the fiscal year 1972”.

§§ 4844, 4845. Repealed. Pub. L. 95-626, title II, § 208(b), Nov. 10, 1978, 92 Stat. 3588

Section 4844, Pub. L. 91-695, title V, § 504, as added Pub. L. 93-151, § 7(e), Nov. 9, 1973, 87 Stat. 567, related to the eligibility of certain State agencies with respect to grants made under former sections 4801 and 4811 of this title.

Section 4845, Pub. L. 91-695, title V, § 505, as added Pub. L. 93-151, § 7(e), Nov. 9, 1973, 87 Stat. 568, provided for the establishment of a National Childhood Lead Based Paint Poisoning Advisory Board.

EFFECTIVE DATE OF REPEAL

Pub. L. 95-626, title II, § 208(b), Nov. 10, 1978, 92 Stat. 3588, provided that the repeal is effective Oct. 1, 1979.

§ 4846. State laws superseded, and null and void

It is hereby expressly declared that it is the intent of the Congress to supersede any and all laws of the States and units of local government insofar as they may now or hereafter provide for a requirement, prohibition, or standard relating to the lead content in paints or other similar surface-coating materials which differs from the provisions of this chapter or regulations issued