

114TH CONGRESS
1ST SESSION

S. 1987

To amend the Toxic Substances Control Act relating to lead-based paint renovation and remodeling activities.

IN THE SENATE OF THE UNITED STATES

AUGUST 5, 2015

Mr. INHOFE (for himself, Mr. THUNE, and Mr. GRASSLEY) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Toxic Substances Control Act relating to lead-based paint renovation and remodeling activities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Lead Exposure Reduc-
5 tion Amendments Act of 2015”.

6 **SEC. 2. DEFINITIONS.**

7 Section 401 of the Toxic Substances Control Act (15
8 U.S.C. 2681) is amended—

9 (1) in paragraph (1)—

1 (A) by redesignating subparagraphs (A)
 2 and (B) as clauses (i) and (ii), respectively, and
 3 indenting appropriately;

4 (B) in the first sentence, by striking “The
 5 term” and inserting the following:

6 “(A) IN GENERAL.—The term”;

7 (C) by striking “Such term includes—”
 8 and inserting the following:

9 “(B) INCLUSIONS.—The term ‘abatement’
 10 includes—”; and

11 (D) by adding at the end the following:

12 “(C) EXCLUSIONS.—The term ‘abatement’
 13 does not include any renovation, remodeling, or
 14 other activity—

15 “(i) the primary purpose of which is
 16 to repair, restore, or remodel target hous-
 17 ing, public buildings constructed before
 18 1978, or commercial buildings; and

19 “(ii) that incidentally results in a re-
 20 duction or elimination of lead-based paint
 21 hazards.”;

22 (2) by redesignating—

23 (A) paragraphs (4) through (12) as para-
 24 graphs (5) through (13);

1 (B) paragraph (13) as paragraph (15);

2 and

3 (C) paragraphs (14) through (17) as para-
4 graphs (18) through (21), respectively;

5 (3) by inserting after paragraph (3) the fol-
6 lowing:

7 “(4) EMERGENCY RENOVATION.—The term
8 ‘emergency renovation’ means a renovation or re-
9 modeling activity that is carried out in response to
10 an event—

11 “(A) that is an act of God, as that term
12 is defined in section 101 of the Comprehensive
13 Environmental Response, Compensation, and
14 Liability Act of 1980 (42 U.S.C. 9601); or

15 “(B) that if not attended to as soon as is
16 practicable—

17 “(i) presents a risk to the public
18 health or safety; or

19 “(ii) threatens to cause significant
20 damage to equipment or property.”;

21 (4) by striking paragraph (10) (as redesignated
22 by paragraph (2)) and inserting the following:

23 “(10) LEAD-BASED PAINT.—

1 “(A) IN GENERAL.—The term ‘lead-based
2 paint’ means paint or other surface coatings
3 that contain lead in excess of—

4 “(i) 1.0 milligrams per centimeter
5 squared; or

6 “(ii) 0.5 percent by weight.

7 “(B) TARGET HOUSING.—With respect to
8 paint or other surface coatings on target hous-
9 ing, the term ‘lead-based paint’ means paint or
10 other surface coatings that contain lead in ex-
11 cess of the lower of—

12 “(i) the level described in subpara-
13 graph (A); or

14 “(ii) a level established by the Sec-
15 retary of Housing and Urban Development
16 under section 302(c) of the Lead-Based
17 Paint Poisoning Prevention Act (42 U.S.C.
18 4822(c)).”;

19 (5) by inserting after paragraph (13) (as redes-
20 ignated by paragraph (2)) the following:

21 “(14) POSTABATEMENT CLEARANCE TEST-
22 ING.—The term ‘postabatement clearance testing’
23 means testing that—

24 “(A) is carried out upon the completion of
25 any lead-based paint activity to ensure that—

1 “(i) the reduction is complete; and

2 “(ii) no lead-based paint hazards re-
3 main in the area in which the lead-based
4 paint activity occurs; and

5 “(B) includes a visual assessment and the
6 collection and analysis of environmental sam-
7 ples from an area in which lead-based paint ac-
8 tivities occur.”; and

9 (6) by inserting after paragraph (15) (as redes-
10 igned by paragraph (2)) the following:

11 “(16) RENOVATION.—The term ‘renovation’
12 has the meaning given such term in section 745.83
13 of title 40, Code of Federal Regulations (as in effect
14 on the date of enactment of this paragraph).

15 “(17) RENOVATION AND REMODELING REGULA-
16 TION.—The term ‘renovation and remodeling regula-
17 tion’ means a regulation promulgated under section
18 402(a) and revised pursuant to section 402(c)(3)(A),
19 as the regulation is applied to renovation or remod-
20 eling activities in target housing, public buildings
21 constructed before 1978, and commercial build-
22 ings.”.

1 **SEC. 3. LEAD-BASED PAINT ACTIVITIES TRAINING AND**
 2 **CERTIFICATION.**

3 Section 402(c) of the Toxic Substances Control Act
 4 (15 U.S.C. 2682(c)) is amended—

5 (1) by striking paragraph (2) and inserting the
 6 following:

7 “(2) STUDY OF CERTIFICATION.—

8 “(A) IN GENERAL.—Not later than 1 year
 9 prior to proposing any renovation and remodel-
 10 eling regulation after the date of enactment of
 11 the Lead Exposure Reduction Amendments Act
 12 of 2015, the Administrator shall conduct, sub-
 13 mit to Congress, and make available for public
 14 comment (after peer review) the results of a
 15 study of the extent to which persons engaged in
 16 various types of renovation and remodeling ac-
 17 tivities in target housing, public buildings con-
 18 structed before 1978, or commercial build-
 19 ings—

20 “(i) are exposed to lead in the conduct
 21 of those activities; and

22 “(ii) disturb lead and create a lead-
 23 based paint hazard on a regular or occa-
 24 sional basis in the conduct of those activi-
 25 ties.

“(B) SCOPE AND COVERAGE.—A study conducted under subparagraph (A) shall consider the risks described in clauses (i) and (ii) of that subparagraph with respect to each separate building type described in that subparagraph, as the regulation to be proposed would apply to each building type.”;

(2) in paragraph (3)—

(A) in the first sentence by striking “Within 4 years” and inserting the following:

“(A) IN GENERAL.—Not later than 4 years”; and

(B) by adding at the end the following:

“(B) EXEMPTION.—An emergency renovation shall be exempt from any renovation and remodeling regulation, and a person carrying out an emergency renovation shall be exempt from any regulation promulgated under section 406(b) with respect to the emergency renovation.

“(C) PROHIBITION ON POSTABATEMENT CLEARANCE REQUIREMENT.—No renovation and remodeling regulation may require postabatement clearance testing.”; and

(3) by adding at the end the following:

1 “(4) TARGET HOUSING OWNERS.—

2 “(A) IN GENERAL.—Not later than 60
3 days after the date of enactment of this para-
4 graph, and subject to subparagraph (B), the
5 Administrator shall promulgate regulations to
6 permit an owner of a residential dwelling that
7 is target housing, who resides in the residential
8 dwelling, to authorize a contractor to forgo
9 compliance with the requirements of a renova-
10 tion and remodeling regulation with respect to
11 the residential dwelling.

12 “(B) WRITTEN CERTIFICATION.—The reg-
13 ulations promulgated under subparagraph (A)
14 shall require that an owner of a residential
15 dwelling that is target housing, who resides in
16 the residential dwelling, may only authorize a
17 contractor to forgo compliance with the require-
18 ments of a renovation and remodeling regula-
19 tion if the owner submits to the contractor a
20 written certification stating that—

21 “(i) the renovation or remodeling
22 project is to be carried out at the residen-
23 tial dwelling in which the owner resides;

24 “(ii) no pregnant woman or child
25 under the age of 6 resides in the residen-

1 tial dwelling as of the date on which the
2 renovation or remodeling project com-
3 mences, or will reside in the residential
4 dwelling for the duration of the project;
5 and

6 “(iii) the owner acknowledges that, in
7 carrying out the project, the contractor will
8 be exempt from the requirements of a ren-
9 ovation and remodeling regulation.

10 “(C) RESTRICTION.—A contractor may not
11 forgo compliance with the requirements of a
12 renovation and remodeling regulation pursuant
13 to a written certification submitted under sub-
14 paragraph (B) if the contractor has actual
15 knowledge of a pregnant woman or child under
16 the age of 6 residing in the residential dwelling
17 as of the date on which the renovation or re-
18 modeling commences (and for the duration of
19 the project).

20 “(D) LIMITATION OF CONTRACTOR LIABIL-
21 ITY.—The Administrator may not hold a con-
22 tractor responsible for a misrepresentation
23 made by the owner of a residential dwelling in
24 a written certification submitted under subpara-

graph (B), unless the contractor has actual knowledge of a misrepresentation.

“(5) TEST KITS.—

“(A) DEFINITIONS.—In this paragraph:

“(i) POST-1960 BUILDING RENOVATION AND REMODELING REGULATION.—

The term ‘post-1960 building renovation and remodeling regulation’ means a renovation and remodeling regulation, as the regulation applies to—

“(I) target housing constructed after January 1, 1960;

“(II) public buildings constructed between January 1, 1960 and January 1, 1978; and

“(III) commercial buildings constructed after January 1, 1960.

“(ii) QUALIFYING TEST KIT.—The term ‘qualifying test kit’ means a chemical test that—

“(I) can determine the presence of lead-based paint, as defined in section 401(10)(A);

“(II) has a false positive response rate of 10 percent or less;

1 “(III) has a false negative re-
2 sponse rate of 5 percent or less;

3 “(IV) does not require the use of
4 off-site laboratory analysis to obtain
5 results;

6 “(V) is inexpensively and com-
7 mercially available; and

8 “(VI) does not require special
9 training to use.

10 “(B) RECOGNITION OF QUALIFYING TEST
11 KIT.—

12 “(i) RECOGNITION.—The Adminis-
13 trator shall recognize for use under this
14 title a qualifying test kit, and publish in
15 the Federal Register notice of the recogni-
16 tion.

17 “(ii) SUSPENSION OF ENFORCEMENT
18 OF CERTAIN REGULATIONS.—If, not later
19 than 1 year after the date of enactment of
20 this paragraph, the Administrator does not
21 recognize a qualifying test kit under clause
22 (i), the Administrator—

23 “(I) shall publish in the Federal
24 Register notice of the failure to recog-
25 nize a qualifying test kit; and

1 “(II) except as provided in clause
2 (iii), may not enforce any post-1960
3 building renovation and remodeling
4 regulation, with respect to a period
5 beginning on the date that is 1 year
6 after the date of enactment of this
7 paragraph and ending on the date
8 that is 6 months after the date on
9 which the Administrator—

10 “(aa) recognizes for use
11 under this title a qualifying test
12 kit; and

13 “(bb) publishes in the Fed-
14 eral Register notice of the rec-
15 ognition and of the date on which
16 enforcement of the post-1960
17 building renovation and remodel-
18 eling regulations will resume.

19 “(iii) APPLICABILITY OF SUSPEN-
20 SION.—The Administrator shall not sus-
21 pend enforcement of any post-1960 build-
22 ing renovation and remodeling regulation
23 for the period described in clause (ii)(II)
24 with respect to a residential dwelling in

1 which a pregnant woman or child under
2 the age of 6 resides.

3 “(6) APPLICABILITY OF CERTAIN PENALTIES.—
4 Any renovation and remodeling regulation requiring
5 the submission of documentation to the Adminis-
6 trator shall provide—

7 “(A) an exemption from an applicable pen-
8 alty for failure to comply with the requirement
9 for a person who—

10 “(i) is submitting the required docu-
11 mentation for the first time; and

12 “(ii) submits documentation that con-
13 tains only de minimus or typographical er-
14 rors, as determined by the Administrator;
15 and

16 “(B) a process by which a person described
17 in subparagraph (A) may resubmit the required
18 documentation.

19 “(7) ACCREDITATION OF RECERTIFICATION
20 COURSES.—The hands-on training requirements re-
21 quired under subsection (a)(2)(D) shall not apply to
22 any recertification course accredited by the Environ-
23 mental Protection Agency that is otherwise required
24 to be completed under this title by a person that is

- 1 certified to engage in renovation and remodeling ac-
- 2 tivities.”.

