

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).

Statutory Notes and Related Subsidiaries

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

Pub. L. 93-151, §4(b), Nov. 9, 1973, 87 Stat. 566, 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 had not issued the lead-based paint technical guidelines on reliable testing protocols by Apr. 1, 1990, the Department's Sept. 29, 1989, draft guidelines would take effect 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

Pub. L. 100-242, title V, §566(b), Feb. 5, 1988, 101 Stat. 1947, 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.)

Editorial Notes

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).

Statutory Notes and Related Subsidiaries

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.

(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.)

Editorial Notes

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, 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.