

110TH CONGRESS
2D SESSION

S. 3495

To protect pregnant women and children from dangerous lead exposures.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 16, 2008

Mrs. BOXER (for herself, Mrs. CLINTON, Mr. CARDIN, and Mr. WHITEHOUSE) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To protect pregnant women and children from dangerous lead exposures.

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 “Protect Pregnant
5 Women and Children from Dangerous Lead Exposures
6 Act of 2008”.

7 SEC. 2. FINDINGS.

8 Congress finds that—

9 (1) the Centers for Disease Control and Preven-
10 tion recognize that lead is a poison that—

1 (A) affects virtually every system in the
2 human body; and

3 (B) is particularly harmful to the devel-
4 oping brains and nervous systems of fetuses
5 and young children;

6 (2) the Administrator has determined that
7 lead—

8 (A) is associated with a wide array of
9 harmful impacts, including damage to the nerv-
10 ous system, the reproductive system, the cardio-
11 vascular system, physical development, the kid-
12 neys, hearing, and the immune system; and

13 (B) can cause adverse behavioral impacts.

14 (3) the Centers for Disease Control and Preven-
15 tion and the Administrator have determined that
16 children in general, and children in low socio-
17 economic conditions and minority children in par-
18 ticular, are at increased risk of lead exposure and
19 adverse health impacts from that exposure;

20 (4) the Census Bureau estimates that in 2006
21 more than 12,800,000 children under the age of 18
22 lived in poverty;

23 (5) in 1991, the Centers for Disease Control
24 and Prevention recognized that 10 micrograms per
25 deciliter of lead in blood should prompt public health

1 actions, but that harmful impacts may occur at
2 blood lead levels below 10 micrograms per deciliter;

3 (6) the Environmental Protection Agency (in-
4 cluding the Children's Health Protection Advisory
5 Committee of the Environmental Protection Agency)
6 and other Federal entities recognize that scientific
7 studies since 1991 have strengthened the evidence
8 that blood lead levels below 10 micrograms per deci-
9 liter, particularly in children, can harm human
10 health;

11 (7) the Administrator recognizes that recent
12 studies have demonstrated that some reductions in
13 cognitive function can occur at the initial and lowest
14 levels of lead exposure, though additional harm can
15 occur with continued exposure to lead;

16 (8) according to the Administrator, approxi-
17 mately 310,000 children in the United States be-
18 tween the ages of 1 and 5 years have blood-lead lev-
19 els greater than 10 micrograms per deciliter;

20 (9) the Administrator has determined that lead-
21 based paint can pose a health threat through various
22 types of exposure, including through indoor dust and
23 paint chips following renovation activities;

24 (10) in 1992, Congress passed Public Law
25 102-550 (106 Stat. 3672), title X of which is cited

1 as the Residential Lead-Based Paint Hazard Reduction
2 Act of 1992 (42 U.S.C. 4851 et seq.);

3 (11) section 1021(a) of the Residential Lead-
4 Based Paint Hazard Reduction Act of 1992 amended
5 the Toxic Substances Control Act (15 U.S.C.
6 2601 et seq.) by adding a title IV to that Act relating
7 to lead exposure reduction (106 Stat. 3912);

8 (12) title IV of the Toxic Substances Control
9 Act (15 U.S.C. 2681 et seq.) required the Administrator to undertake a number of actions to protect
10 individuals, including pregnant women and children, from dangerous lead exposures, including by requiring the Administrator—

14 (A) by not later than April 28, 1994, to promulgate regulations identifying lead-based
15 paint hazard standards for use in determining
16 standards and regulations for reducing the risk
17 of exposure to those hazards;

19 (B) by not later than April 28, 1995, to conduct and publish a study on the extent to
20 which persons engaged in various types of renovation and remodeling activities in target
21 housing, public buildings constructed before
22 1978, and commercial buildings are exposed to
23 lead in the conduct of the activities, or disturb

1 lead and create a lead-based paint hazard, on a
2 regular or occasional basis; and

3 (C) by not later than October 28, 1996, to
4 revise the regulations that apply to renovation
5 and remolding activities in target housing, pub-
6 lic buildings constructed before 1978, and com-
7 mercial buildings that create lead-based paint
8 hazards;

9 (13) on January 5, 2001, the Administrator
10 promulgated the lead-based paint hazard regulations
11 required under section 403 of the Toxic Substances
12 Control Act (15 U.S.C. 2683), which identified dan-
13 gerous levels of lead dust on floors at 40 micrograms
14 per square foot or greater and for window sills at
15 250 micrograms per square foot or greater;

16 (14) in promulgating the regulations, the Ad-
17 ministrator stated that the “standards [were] based
18 on the best science available to the Agency. The En-
19 vironmental Protection Agency recognizes, however,
20 that the science is constantly developing . . . If new
21 data become available (e.g., empirical data showing
22 that very small amounts of deteriorated paint pose
23 a serious health risk or data showing that hazard
24 control activities are more effective at reducing long-
25 term dust-lead levels than assumed by the Environ-

1 mental Protection Agency), the Agency will consider
2 changing the standards to reflect these data.”;

3 (15) on January 23, 2007, the Administrator
4 issued a draft final dust study examining renovation
5 and remodeling activities and lead-contaminated
6 dust hazards;

7 (16) on August 30, 2007, the Clean Air Science
8 Advisory Committee of the Environmental Protec-
9 tion Agency—

10 (A) reviewed the study on renovation and
11 remodeling activities and lead-contaminated
12 dust hazards and the approach of the Environ-
13 mental Protection Agency to characterizing
14 lead-contaminated dust levels after renovation
15 and remodeling activities; and

16 (B) concluded that—

17 (i) “[s]tandards need to be strength-
18 ened in view of recent epidemiological data
19 indicating that children are more suscep-
20 tible to effects from lead than was pre-
21 viously thought.”;

22 (ii) “[t]he lead dust loading values of
23 40 $\mu\text{g}/\text{ft}^2$ for floors and 250 $\mu\text{g}/\text{ft}^2$ for win-
24 dow sills are presented as adequately pro-
25 tective of children against lead poisoning,

1 i.e., to guard against blood lead levels of
2 greater than 10 (>10) $\mu\text{g}/\text{dL}$. However,
3 the Panel notes that these residual surface
4 contamination standards are obsolete on
5 the basis of recent epidemiology findings
6 that indicate that adverse health effects
7 are found in children with blood lead levels
8 less than five (<5) $\mu\text{g}/\text{dL}$. . .).”;

9 (iii) “[t]he cleaning procedures em-
10 ployed are inadequate, such that post-
11 cleaning lead levels do not even meet the
12 existing Environmental Protection Agency
13 standards. Moreover, the qualitative and
14 simplistic method used to verify the effec-
15 tiveness of these cleaning procedures, i.e.,
16 the ‘white cloth verification tests’, does not
17 yield consistently reliable results, leading
18 to an inaccurate assessment of cleaning ef-
19 ficiency after repair and renovation activi-
20 ties.”; and

21 (iv) “[t]he Panel strongly feels that it
22 is imprudent to substitute a simplistic and
23 qualitative white cloth test for highly spe-
24 cific, analytical measures of lead in house
25 dust.”;

(17) on March 31, 2008, the Administrator issued final lead-based paint renovation, repair, and painting regulations that are based on—

4 (A) cleaning practices that—

5 (i) the scientific advisors of the Ad-
6 ministrator have criticized as “inad-
7 equate”; and

(ii) are based on the goal of meeting the lead dust loading values of 40 micrograms per square foot for floors and 250 micrograms per square foot for window sills, which those scientific advisors have called “obsolete” based on studies demonstrating that the values may be inadequately protective of children’s health; and

17 (B) the “white cloth” method to verify the
18 effectiveness of cleaning practices, which the
19 scientific advisors of the Administrator have
20 called “inaccurate” and “simplistic”; and

(A) to use the best available science on the
adverse impacts of lead on children's health;

(B) to adequately protect the health of pregnant women and children from lead poisoning; and

4 (C) to contain enforceable methods of
5 verifying that lead levels in homes and other fa-
6 cilities are safe following lead-based paint ren-
7 ovation, repair, and painting activities.

8 SEC. 3. DEFINITIONS.

9 In this Act:

10 (1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Environmental Protection Agency.

1 SEC. 4. PROTECTION OF PREGNANT WOMEN AND CHIL-

2 DREN.

3 (a) BEST AVAILABLE SCIENCE.—

4 (1) FINAL REGULATIONS.—Not later than April
5 30, 2009, the Administrator shall use the best avail-
6 able science—

7 (A) to promulgate a final rule revising the
8 lead-based paint hazard standard of the Envi-
9 ronmental Protection Agency promulgated
10 under section 403 of the Toxic Substances Con-
11 trol Act (15 U.S.C. 2683) to a more protective
12 level that safeguards the health of pregnant
13 women and children; and

14 (B) to require the use of a lead dust clean-
15 ing clearance methodology that ensures lead
16 dust levels meet the standard revised under
17 subparagraph (A).

18 (2) PEER REVIEW OF ANALYSES.—The Admin-
19 istrator shall ensure that the Clean Air Science Ad-
20 visory Committee of the Environmental Protection
21 Agency peer reviews the analyses that the Adminis-
22 trator uses—

23 (A) to revise the lead-based paint hazard
24 standard; and

25 (B) to require the use of a lead dust clean-
26 ing clearance methodology.

1 (b) IMPLEMENT PROTECTIONS FOR PREGNANT
2 WOMEN AND CHILDREN.—Not later than April 22, 2010,
3 the Administrator shall integrate into the revised rules of
4 the Environmental Protection Agency on renovation and
5 remolding activities that create lead-based paint haz-
6 ards—

7 (1) the lead-based paint hazard standard re-
8 vised under subsection (a)(1)(A); and

9 (2) the lead dust cleaning clearance method-
10 ology required under subsection (a)(1)(B).

11 (c) PERIODIC REVALUATION.—The Administrator
12 shall review and reevaluate the health protectiveness of the
13 rule promulgated under subsection (a)(1)(A), for the sole
14 purpose of determining whether to increase protections for
15 the health of pregnant women and children, with the re-
16 view and reevaluation occurring—

17 (1) at least once every 5 years; or

18 (2) more frequently, as necessary, if significant
19 scientific findings indicate that the standard de-
20 scribed in subsection (a)(1)(A) should be revised to
21 increase protections for the health of pregnant
22 women and children.

23 **SEC. 5. NO EFFECT ON OTHER EFFECTIVE DATES.**

24 Nothing in this Act or any amendment made by this
25 Act modifies or otherwise affects any effective date de-

1 scribed in the final rule of the Environmental Protection
2 Agency entitled “Lead; Renovation, Repair, and Repaint-
3 ing Program” (73 Fed. Reg. 21692 (April 22, 2008)).

