



Public Health Service  
[ 42 CFR Part 90 ]

LEAD-BASED PAINT POISONING PRE-  
VENTION IN FEDERAL AND FEDER-  
ALLY ASSISTED CONSTRUCTION

Notice of Proposed Rule Making

Section 401 of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831) provides that the Secretary of Health, Education, and Welfare shall take appropriate action 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.

Notice is hereby given of a proposal to implement this provision by adding to Title 42, Code of Federal Regulations, a new Subchapter H, entitled "Lead-Based Paint Poisoning Prevention" and a new Part 90 as set forth below.

Inquiries may be addressed and data, views, and arguments may be submitted in writing, preferably in triplicate, to the Bureau of Community Environmental Management, Room 15-87, 5600 Fishers Lane, Rockville, Maryland 20852. All material received within 30 days following publication of this notice in the FEDERAL REGISTER will be considered. All comments in response to the proposed regulations will be available for public inspection during regular business hours at the foregoing address.

It is therefore proposed to amend Chapter I of Title 42 in the manner set forth below.

Chapter I of Title 42 is amended by adding a new Subchapter H and Part 90, to read as follows:

PROPOSED RULE MAKING

SUBCHAPTER H—LEAD-BASED PAINT  
POISONING PREVENTION

PART 90—LEAD-BASED PAINT POI-  
SONING PREVENTION IN FEDERAL  
AND FEDERALLY ASSISTED CON-  
STRUCTION

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AUTHORITY: The provisions of this Part 90  
issued under sec. 401, 84 Stat. 2079; 42 U.S.C.  
4831.

§ 90.1 Scope.

The regulations of this part are pro-  
mulgated to implement the prohibition  
in section 401 of the Lead-Based Paint  
Poisoning and Prevention Act against  
the use of lead-based paint in residen-  
tial structures constructed or rehabili-  
tated by the Federal Government or with  
Federal assistance in any form and are  
applicable to all Federal agencies.

§ 90.2 Definitions.

Any term not defined herein shall have  
the meaning given it by the Act.

(a) "Act" means the Lead-Based  
Paint Poisoning Prevention Act (Public  
Law 91-695, 84 Stat. 2078).

(b) "Secretary" means the Secretary  
of Health, Education, and Welfare and  
any other officer or employee of the  
Department of Health, Education, and  
Welfare to whom the authority involved  
may be delegated.

(c) "Federal agency" means the  
United States and all executive depart-  
ments, independent establishments, ad-  
ministrative agencies and instrumental-  
ties of the United States, including cor-  
porations in which all or substantially  
all of the stock is beneficially owned by  
by the United States or by any of the  
foregoing departments, establishments,  
agencies and instrumentalities.

(d) "Agency Head" means the prin-  
cipal official of a Federal agency and  
includes those persons duly authorized  
to act in his behalf.

(e) "Lead-based paint" means any  
paint containing more than 1 per centum  
lead by weight (calculated as lead metal)  
in the total nonvolatile content of liquid  
paints or in the dried film of paint  
already applied.

(f) "Residential structure" means the  
interior surfaces and those exterior sur-  
faces readily accessible to children under  
7 years of age of any house, apartment,  
or structure intended for human habita-  
tion including any institutional structure  
where persons reside such as an orphan-  
age, boarding school dormitory, or  
extended-care facility.

§ 90.3 Federal construction; prohibi-  
tion against use of lead-based paint.

No Federal agency shall, in any resi-  
dential structure constructed or rehabili-

tated by such agency, use or permit the use of lead-based paint.

**§ 90.4 Federally assisted construction; prohibition against use of lead-based paint.**

(a) Each Agency Head shall issue regulations and take such other steps as in his judgment are necessary to prohibit the use of lead-based paint in any residential structures constructed or rehabilitated by such agency under any federally assisted program.

(b) Such regulations shall require the inclusion of appropriate provisions in contracts and subcontracts pursuant to which such federally assisted construction or rehabilitation is performed, prohibiting the use of lead-based paint, and shall include provisions for enforcement of that prohibition.

**§ 90.5 Reports to the Secretary.**

To assist the Secretary in fulfilling his responsibilities under the Act, each Federal agency shall furnish to the Secretary, not later than 3 months after the effective date of these regulations, a report of the steps it has taken to comply with this Part 90.

Dated: October 7, 1971.

VERNON E. WILSON,  
*Administrator, Health Services  
and Mental Health Adminis-  
tration.*

Approved: November 1, 1971.

ELLIOT L. RICHARDSON,  
*Secretary.*

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