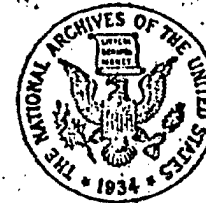


Registered
Federal Order



Public Health Service

[42 CFR Part 90]

LEAD-BASED PAINT POISONING PREVENTION IN FEDERAL AND FEDERALLY 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 POISONING PREVENTION IN FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

- Sec.
90.1 Scope.
90.2 Definitions.
90.3 Federal construction; prohibition against use of lead-based paint.
90.4 Federally assisted construction; prohibition against use of lead-based paint.
90.5 Reports to the Secretary.

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 promulgated to implement the prohibition in section 401 of the Lead-Based Paint Poisoning and Prevention Act against the use of lead-based paint in residential structures constructed or rehabilitated 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 departments, independent establishments, administrative agencies and instrumentalities of the United States, including corporations in which all or substantially all of the stock is beneficially owned by the United States or by any of the foregoing departments, establishments, agencies and instrumentalities.

(d) "Agency head" means the principal 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 surfaces readily accessible to children under 7 years of age of any house, apartment, or structure intended for human habitation including any institutional structure where persons reside such as an orphanage, boarding school dormitory, or extended-care facility.

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

No Federal agency shall, in any residential 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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