

103^D CONGRESS
2^D SESSION

S. 729

AN ACT

To amend the Toxic Substances Control Act to reduce the levels of lead in the environment, and for other purposes.

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To amend the Toxic Substances Control Act to reduce the levels of lead in the environment, and for other purposes.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Lead Exposure Reduction Act of 1994”.

1 (b) TABLE OF CONTENTS.—The table of contents of
 2 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—LEAD ABATEMENT

Sec. 101. Findings and policy.

Sec. 102. Definitions.

Sec. 103. Restrictions on continuing uses of certain lead-containing products.

Sec. 104. Inventory of lead-containing products and new use notification procedures.

Sec. 105. Product labeling.

Sec. 106. Batteries.

Sec. 107. Lead contamination in schools and day care facilities.

Sec. 108. Blood-lead and other abatement and measurement programs.

Sec. 109. Establishment of National Centers for the Prevention of Lead Poisoning.

Sec. 110. Conforming amendments.

Sec. 111. Amendment to table of contents.

TITLE II—MISCELLANEOUS

Sec. 201. Reporting of blood-lead levels; blood-lead laboratory reference project.

Sec. 202. Update of 1988 report to Congress on childhood lead poisoning.

Sec. 203. Additional conforming amendments.

Sec. 204. Non-interference.

Sec. 205. Sense of the Senate concerning lead fishing sinkers.

TITLE III—AUTHORIZATION OF APPROPRIATIONS

Sec. 301. Authorization of appropriations.

3 (c) REFERENCE TO TOXIC SUBSTANCES CONTROL
 4 ACT.—Wherever in title I an amendment or repeal is ex-
 5 pressed in terms of an amendment to, or repeal of, a sec-
 6 tion or other provision, the reference shall be considered
 7 to be made to a section or other provision of the Toxic
 8 Substances Control Act (15 U.S.C. 2601 et seq.), except
 9 to the extent otherwise specifically provided.

1 **TITLE I—LEAD ABATEMENT**

2 **SEC. 101. FINDINGS AND POLICY.**

3 (a) REDESIGNATIONS.—Sections 401 and 402
4 through 412 (15 U.S.C. 2681 and 2682 through 2692)
5 are redesignated as sections 402, and 411 through 421,
6 respectively.

7 (b) FINDINGS AND POLICY.—Title IV (15 U.S.C.
8 2681 et seq.) is amended by inserting before section 402
9 (as so redesignated) the following new section:

10 **“SEC. 401. FINDINGS AND POLICY.**

11 “(a) FINDINGS.—Congress finds that—

12 “(1) lead poisoning is the most prevalent dis-
13 ease of environmental origin among American chil-
14 dren today, and children under 7 years of age are
15 at special risk because of their susceptibility to the
16 potency of lead as a neurologic toxin;

17 “(2)(A) the effects of lead on children may in-
18 clude permanent and significant neurologic and
19 physiologic impairment; and

20 “(B) additional health effects occur in adults
21 exposed to similar exposure levels;

22 “(3) because of the practical difficulties of re-
23 moving lead already dispersed into the environment,
24 children and adults will continue to be exposed to
25 lead for years;

1 “(4) as a result of decades of highly dispersive
2 uses of lead in a variety of products, contamination
3 of the environment with unacceptable levels of lead
4 is widespread; and

5 “(5) the continued manufacture, import, proc-
6 essing, use, and disposal of some lead-containing
7 products may cause further releases of lead into the
8 environment, and the releases contribute to further
9 environmental contamination and resultant exposure
10 to lead.

11 “(b) POLICY.—It is the policy of the United States
12 that further releases of lead into the environment should
13 be minimized, and methods should be developed and imple-
14 mented to reduce sources of lead that result in adverse
15 human or environmental exposures.”.

16 **SEC. 102. DEFINITIONS.**

17 Section 402, as redesignated by section 101(a) of this
18 Act, is amended—

19 (1) by striking “For the purposes” and insert-
20 ing “(a) IN GENERAL.—Subject to subsection (b),
21 for the purposes”;

22 (2) by redesignating—

23 (A) paragraphs (13) through (17) as para-
24 graphs (18) through (22), respectively;

1 (B) paragraphs (5) through (12) as para-
2 graphs (7) through (14), respectively; and

3 (C) paragraph (4) as paragraph (5);

4 (3) by inserting after paragraph (3) the follow-
5 ing new paragraph:

6 “(4) DISTRIBUTOR.—The term ‘distributor’
7 means any individual, firm, corporation, or other en-
8 tity that takes title to goods purchased for resale.”;

9 (4) by inserting after paragraph (5) (as so re-
10 designated) the following new paragraph:

11 “(6) FACILITY.—The term ‘facility’ means any
12 public or private dwelling constructed before 1980,
13 public building constructed before 1980, commercial
14 building, bridge, or other structure or super-
15 structure.”;

16 (5) by inserting after paragraph (14) (as so re-
17 designated) the following new paragraphs:

18 “(15) PACKAGE.—The term ‘package’ means a
19 container that provides a means of marketing, pro-
20 tecting, or handling a product. The term includes a
21 unit package, an intermediate package, a crate, a
22 pail, a rigid foil, unsealed receptacle (such as a car-
23 rying case), a cup, tray, wrapper or wrapping film,
24 a bag, tub, shipping or other container, any package
25 included in the American Society for Testing and

1 Materials (referred to in this title as ‘ASTM’) Speci-
2 fication D-996, and such other packages as the Ad-
3 ministrator may specify by regulation.

4 “(16) PACKAGING COMPONENT.—The term
5 ‘packaging component’ means any individual assem-
6 bled part of a package (including any interior or ex-
7 terior blocking, bracing, cushioning, weatherproof-
8 ing, exterior strapping, coating, closure, ink, or
9 label). For the purposes of this title, tin-plated steel
10 that meets the ASTM Specification A-623 shall be
11 deemed an individual packaging component.

12 “(17) PERSON.—The term ‘person’ means an
13 individual, trust, firm, joint stock company, corpora-
14 tion (including a government corporation), partner-
15 ship, association, State, municipality, commission,
16 political subdivision of a State, or interstate body.
17 The term shall include each department, agency, or
18 instrumentality of the United States.”; and

19 (6) by adding at the end the following new sub-
20 section:

21 “(b) EXCEPTIONS.—As used in this title, the terms
22 ‘package’ and ‘packaging component’ shall not include—

23 “(1) ceramic ware or crystal;

24 “(2) a container used for radiation shielding;

25 “(3) any casing for a lead-acid battery;

1 “(4) steel strapping; or

2 “(5) any package or packaging component con-
3 taining lead that is regulated or subject to regula-
4 tion under the Federal Food, Drug, and Cosmetic
5 Act (21 U.S.C. 301 et seq.).”.

6 **SEC. 103. RESTRICTIONS ON CONTINUING USES OF CER-**
7 **TAIN LEAD-CONTAINING PRODUCTS.**

8 Title IV (15 U.S.C. 2681 et seq.), as amended by
9 section 101 of this Act, is further amended by inserting
10 after section 402, as redesignated by section 101(a) of this
11 Act, the following new section:

12 **“SEC. 403. RESTRICTIONS ON CONTINUING USES OF CER-**
13 **TAIN LEAD-CONTAINING PRODUCTS.**

14 “(a) GENERAL RESTRICTIONS.—

15 “(1) IN GENERAL.—

16 “(A) PROHIBITION ON THE IMPORT, MAN-
17 UFACTURING, OR PROCESSING OF A PROD-
18 UCT.—Beginning on the date that is 1 year
19 after the date of enactment of this subsection,
20 no person may import, manufacture, or process
21 a product in any of the product categories de-
22 scribed in paragraph (2).

23 “(B) PROHIBITION ON THE DISTRIBUTION
24 IN COMMERCE OF A PRODUCT.—Beginning on
25 the date that is 2 years after the date of enact-

1 ment of this subsection, no person may distrib-
2 ute in commerce a product in any of the prod-
3 uct categories described in paragraph (2).

4 “(2) PRODUCT CATEGORIES.—The product cat-
5 egories described in this paragraph are as follows:

6 “(A) Paint containing more than 0.06 per-
7 cent lead by dry weight, other than—

8 “(i) corrosion inhibitive coatings, in-
9 cluding electrocoats and electrodeposition
10 primers, applied by original equipment
11 manufacturers to motor vehicle parts and
12 containing no more than 1.9 percent lead
13 by weight in dry film;

14 “(ii) certain paints and primers for
15 equipment used for agricultural, construc-
16 tion, general, and industrial forestry pur-
17 poses;

18 “(iii) paints containing lead chromate
19 pigments; and

20 “(iv) zinc-enriched industrial paint
21 with respect to which the incidental pres-
22 ence of lead does not exceed 0.19 percent
23 lead by dry weight.

24 “(B) Toys and recreational game pieces
25 containing more than 0.1 percent lead by dry

1 weight, except for toys and games with respect
2 to which all lead is contained in electronic or
3 electrical parts or components and that meet
4 the standards and regulations for content, man-
5 ufacture, processing, and distribution estab-
6 lished by the Consumer Product Safety Com-
7 mission under the Federal Hazardous Sub-
8 stances Act (15 U.S.C. 1261 et seq.).

9 “(C) Curtain weights—

10 “(i) that are not encased in vinyl or
11 plastic;

12 “(ii) that contain more than 0.1 per-
13 cent lead by dry weight; and

14 “(iii) that are common in residential
15 use.

16 “(D) Inks containing more than 0.1 per-
17 cent lead by dry weight used in printing news-
18 papers, newspaper supplements, or magazines
19 published more than once per month.

20 “(3) GLASS COATINGS.—

21 “(A) IN GENERAL.—Beginning on the date
22 that is 5 years after the date of enactment of
23 this subsection, no person may import, manu-
24 facture, or process a product in any of the
25 product categories described in subparagraph

1 (B), and beginning on the date that is 6 years
2 after the date of enactment of this subsection,
3 no person may distribute in commerce a prod-
4 uct in any of the product categories described
5 in subparagraph (B).

6 “(B) PRODUCT CATEGORIES.—The prod-
7 uct categories described in this subparagraph
8 are as follows:

9 “(i) Architectural glass coatings con-
10 taining more than 0.06 percent lead by dry
11 weight.

12 “(ii) Automotive window coatings con-
13 taining more than 0.06 percent lead by dry
14 weight.

15 “(4) STATUTORY CONSTRUCTION.—Nothing in
16 this section shall prohibit the recycling of any prod-
17 uct listed in this subsection if, following the original
18 use of the product, the product is reused as a raw
19 material in the manufacture of any product that is
20 not listed under this subsection.

21 “(b) MODIFICATION OF RESTRICTIONS.—

22 “(1) IN GENERAL.—The Administrator may,
23 after public notice and opportunity for comment,
24 promulgate regulations to modify, pursuant to para-
25 graphs (2) and (3), the percentage of the allowable

1 lead content for a product, or a group of products,
2 within a product category described in subpara-
3 graphs (A) through (D) of subsection (a)(2) or sub-
4 section (a)(3)(B).

5 “(2) REDUCED PERCENTAGE.—The Adminis-
6 trator may, pursuant to paragraph (1), establish by
7 regulation a percentage by dry weight of the allow-
8 able lead content that is less than the percentage
9 specified under subsection (a) (including
10 nondetectable levels) for a product, or a group of
11 products, within any product category described in
12 subparagraphs (A) through (D) of subsection (a)(2)
13 or subsection (a)(3)(B) if the Administrator deter-
14 mines that a reduction in the percentage of the al-
15 lowable lead content is necessary to protect human
16 health or the environment.

17 “(3) INCREASED PERCENTAGE.—

18 “(A) IN GENERAL.—The Administrator
19 may, pursuant to paragraph (1), establish by
20 regulation a percentage by dry weight of the al-
21 lowable lead content that is greater than the
22 percentage specified under subsection (a) for a
23 product, or a group of products, within any
24 product category described in subparagraphs
25 (A) through (D) of subsection (a)(2) or sub-

1 section (a)(3)(B) if the Administrator deter-
2 mines that an increase in the percentage of the
3 allowable lead content will not adversely affect
4 human health or the environment.

5 “(B) REVIEW.—Not later than 2 years
6 prior to the termination date of a regulation
7 promulgated under paragraph (1) in accordance
8 with subparagraph (A), the Administrator shall
9 review the regulation. If the Administrator de-
10 termines, pursuant to subparagraph (A), that
11 the promulgation of a revised regulation is ap-
12 propriate, the Administrator, not later than 1
13 year prior to the termination date of the regula-
14 tion, may promulgate a revised regulation that
15 shall terminate on the date that is 6 years after
16 the date the revised regulation becomes final.

17 “(4) WAIVERS FOR TOYS AND RECREATIONAL
18 GAME PIECES.—Not later than 1 year after the date
19 of enactment of this subsection, the Administrator
20 shall promulgate regulations to waive the require-
21 ments of subsection (a)(2)(B) with respect to certain
22 toys and recreational game pieces that are collectible
23 items and scale models intended for adult acquisi-
24 tion.

25 “(5) EXEMPTION OF PAINTS.—

1 “(A) DETERMINATION.—

2 “(i) IN GENERAL.—Not later than 5
3 years after the date of enactment of this
4 subsection, the Administrator shall deter-
5 mine, following public notice and oppor-
6 tunity for comment, whether there is—

7 “(I) 1 (or more) primer paint
8 suitable for use as an electrocoat or
9 electrodeposition primer (or both) on
10 motor vehicle parts that contains less
11 than 1.9 percent lead by weight in dry
12 film;

13 “(II) 1 (or more) original equip-
14 ment manufacturer paint, primer, or
15 service paint or primer for mirror
16 manufacturing or for equipment used
17 for agricultural, construction, and
18 general industrial and forestry pur-
19 poses that, in the dry coating, has a
20 lead solubility of less than 60 milli-
21 grams per liter, as described in the
22 American National Standards Insti-
23 tute (referred to in this title as
24 ‘ANSI’) standard Z66.1;

1 “(III) 1 (or more) substitute for
2 paints containing lead chromate pig-
3 ments for use in any class or category
4 of uses that contains less than or
5 equal to 0.06 percent lead by weight
6 in dry film; or

7 “(IV) 1 (or more) substitute for
8 zinc-enriched industrial paint for use
9 in any class or category of uses that
10 contains less than 0.19 percent lead
11 by weight in dry film.

12 “(ii) ADDITIONAL DETERMINATION BY
13 ADMINISTRATOR.—The Administrator also
14 shall determine whether 1 (or more) paint
15 or primer referred to in clause (i)—

16 “(I) has substantially equivalent
17 corrosion inhibition and related per-
18 formance characteristics to any paint
19 or primer; and

20 “(II) does not pose a greater risk
21 to human health and the environment
22 than a paint or primer,
23 in use for the applicable purpose specified
24 in clause (i) on the date of enactment of
25 this subsection.

1 “(B) IDENTIFICATION.—If the Adminis-
2 trator determines pursuant to subparagraph
3 (A), that 1 (or more) of the paints and primers
4 referred to in subparagraph (A) meets the ap-
5 plicable specifications under such subparagraph,
6 the Administrator shall identify the lead con-
7 tent of the paint or primer of each applicable
8 category of paints or primers (or both) under
9 subclauses (I) through (IV) of subparagraph
10 (A)(i).

11 “(C) PROHIBITION ON IMPORTATION, MAN-
12 UFACTURING, AND PROCESSING.—For a cat-
13 egory of paints or primers (or both) referred to
14 in subparagraph (B), beginning on the date
15 that is 3 years after the Administrator makes
16 a determination under subparagraph (B), no
17 person shall import, manufacture, or process
18 any paint or primer with a lead content that ex-
19 ceeds the level identified by the Administrator
20 pursuant to subparagraph (B).

21 “(D) PROHIBITION ON DISTRIBUTION IN
22 COMMERCE.—For a category of paints or prim-
23 ers (or both) referred to in subparagraph (B),
24 beginning on the date that is 4 years after the

1 Administrator makes a determination under
2 subparagraph (B), no person shall—

3 “(i) distribute in commerce any paint
4 or primer with a lead content that exceeds
5 the level identified by the Administrator; or

6 “(ii) import, manufacture, or process
7 any new motor vehicle or new motor vehi-
8 cle part or new equipment part coated with
9 the paint or primer with a lead content
10 that exceeds the level identified by the Ad-
11 ministrator.

12 “(E) EFFECT OF NEGATIVE DETERMINA-
13 TION.—If the Administrator determines, pursu-
14 ant to subparagraph (A), that there is no paint
15 or primer suitable for a use referred to in
16 subclause (I), (II), (III), or (IV) of subpara-
17 graph (A)(i) that meets the applicable require-
18 ments under subparagraph (A)—

19 “(i) beginning on the date that is 13
20 years after the date of enactment of this
21 subsection, no person shall import, manu-
22 facture, or process any paint or primer for
23 the use specified in the determination pur-
24 suant to subparagraph (A); and

1 “(ii) beginning on the date that is 14
2 years after the date of enactment of this
3 subsection, no person shall distribute in
4 commerce any paint or primer for the use
5 specified in the determination pursuant to
6 subparagraph (A) (or import, manufacture,
7 or process any motor vehicle or motor vehi-
8 cle part or new equipment part coated with
9 the paint or primer),
10 that contains a lead content that exceeds a level
11 of lead content that the Administrator shall de-
12 termine, on the basis of the identification of the
13 lead content of paints and primers for the use.

14 “(c) STATEMENTS BY THE ADMINISTRATOR RELAT-
15 ING TO MODIFICATIONS OF RESTRICTIONS.—In promul-
16 gating any regulation under subsection (b) with respect
17 to the allowable lead content for a product, or a group
18 of products, under a product category, the Administrator
19 shall, prior to the promulgation of a final regulation, con-
20 sider and publish a statement that describes the effects
21 of the proposed allowable lead content level for the prod-
22 uct, or group of products, under the product category on
23 human health and the environment.

24 “(d) LEAD SOLDER.—

1 “(1) IN GENERAL.—Not later than 2 years
2 after the date of enactment of this subsection, the
3 Administrator shall promulgate regulations to ban
4 the manufacture, importation, processing, sale, and
5 distribution in commerce of lead solders commonly
6 used in plumbing systems, including lead solder that
7 contains 50 percent tin and 50 percent lead (50–50
8 tin-lead solder) and lead solder that contains 85 per-
9 cent tin and 15 percent lead (85–15 tin-lead solder).

10 “(2) IN GENERAL.—

11 “(A) RESTRICTIONS ON SALE AND DIS-
12 PLAY OF LEAD SOLDERS.—Not later than 2
13 years after the date of enactment of this sub-
14 section, the Administrator shall promulgate reg-
15 ulations to restrict the sale and display of lead
16 solders that are reasonable capable of being
17 used in plumbing systems, including, at a mini-
18 mum—

19 “(i) a prohibition on the sale or dis-
20 play of the lead solders in the plumbing
21 supply section of a retail establishment;

22 “(ii) a restriction on the sale or dis-
23 play of the lead solders in a wholesale
24 plumbing establishment;

1 “(iii) a prohibition on the sale or dis-
2 play of the lead solders in proximity to
3 plumbing materials in an establishment;
4 and

5 “(iv) a requirement that each of the
6 lead solders be labeled to indicate that the
7 solder is not intended for use in a plumb-
8 ing system.

9 “(B) FURTHER RESTRICTIONS ON LEAD
10 SOLDERS.—The Administrator shall by regula-
11 tion establish a further restriction on the manu-
12 facture, sale, display, or labeling of lead solders,
13 if the Administrator determines that the restric-
14 tion is necessary to prevent the use of lead sol-
15 ders in plumbing systems.

16 “(e) PLUMBING FITTINGS AND FIXTURES.—

17 “(1) IN GENERAL.—If a voluntary standard for
18 the leaching of lead from new plumbing fittings and
19 fixtures that are intended by the manufacturer to
20 dispense water for human ingestion is not estab-
21 lished by the date that is 1 year after the date of
22 enactment of this subsection, the Administrator
23 shall, not later than 2 years after the date of enact-
24 ment of this subsection, promulgate regulations set-
25 ting a health-effects-based performance standard es-

1 establishing maximum leaching levels from new plumb-
2 ing fittings and fixtures that are intended by the
3 manufacturer to dispense water for human inges-
4 tion. The standard shall take effect on the date that
5 is 5 years after the date of promulgation of the
6 standard.

7 “(2) ALTERNATIVE REQUIREMENT.—If regula-
8 tions are required to be promulgated under para-
9 graph (1) and have not been promulgated by the
10 date that is 5 years after the date of enactment of
11 this subsection, no person may import, manufacture,
12 process, or distribute in commerce a new plumbing
13 fitting or fixture, intended by the manufacturer to
14 dispense water for human ingestion, that contains
15 more than 4 percent lead by dry weight.

16 “(f) PACKAGING.—

17 “(1) DEFINITIONS.—As used in this subsection:

18 “(A) INCIDENTAL PRESENCE.—The term
19 ‘incidental presence’ means the presence of lead
20 in a package or packaging component that was
21 not purposely introduced into the package or
22 packaging component for the properties or
23 characteristics of the lead.

24 “(B) INTENTIONALLY INTRODUCE.—The
25 term ‘intentionally introduce’ means to purpose-

1 fully introduce lead into a package or packaging
2 component with the intent that the lead be
3 present in the package or packaging component.

4 The term does not include—

5 “(i) the presence of background levels
6 of lead that naturally occur in raw mate-
7 rials or are present as postconsumer addi-
8 tions, and that are not purposefully added
9 to perform as part of a package or packag-
10 ing component; and

11 “(ii) any trace amounts of a process-
12 ing aid or similar material that is used to
13 produce a product from which a package
14 or packaging component is manufactured.

15 “(2) INTENTIONAL INTRODUCTION.—Beginning
16 on the date that is 4 years after the date of enact-
17 ment of this subsection—

18 “(A) no package or packaging component
19 shall be sold or distributed in commerce by a
20 manufacturer or distributor; and

21 “(B) no product shall be distributed in
22 commerce by the manufacturer or distributor of
23 the product in a package,

24 if the product includes, in the package, or in any
25 packaging component, any ink, dye, pigment, adhe-

1 sive, stabilizer, or other additive to which lead has
2 been intentionally introduced as an element during
3 manufacturing or distribution (as opposed to the in-
4 cidental presence of lead).

5 “(3) LIMITATIONS ON THE AVERAGE OF CON-
6 CENTRATION LEVELS FROM INCIDENTAL PRESENCE
7 OF LEAD.—Notwithstanding paragraph (2), the av-
8 erage of the concentration levels from any incidental
9 presence of lead present in any package or packag-
10 ing component, other than the lead originating from
11 the product contained in the package, shall not ex-
12 ceed—

13 “(A) for the fifth 1-year period after the
14 date of enactment of this subsection, 600 parts
15 per million by weight (0.06 percent);

16 “(B) for the sixth 1-year period after the
17 date of enactment of this subsection, 250 parts
18 per million by weight (0.025 percent); and

19 “(C) for the seventh 1-year period after
20 the date of enactment of this subsection, and
21 for each 12-month period thereafter, 100 parts
22 per million by weight (0.01 percent).

23 “(4) PROHIBITION.—No package or packaging
24 component shall be sold or distributed in commerce
25 by a manufacturer or distributor, and no product

1 shall be sold or distributed in commerce in a pack-
2 age by a manufacturer or distributor, if the package
3 or packaging component exceeds the applicable level
4 provided under paragraph (3).

5 “(5) CERTIFICATE OF COMPLIANCE.—

6 “(A) IN GENERAL.—A certificate of com-
7 pliance stating that a package or packaging
8 component is in compliance with the require-
9 ments of this section shall be prepared and re-
10 tained by the manufacturer or distributor of the
11 package or packaging component.

12 “(B) STATEMENT RELATING TO EXEMP-
13 TION.—In any case in which compliance with
14 this section is based on an exemption under
15 paragraph (6), the certificate shall state the
16 specific basis upon which the exemption is
17 claimed.

18 “(C) SIGNATURE OF AUTHORIZED OFFI-
19 CIAL.—A certificate of compliance shall be
20 signed by an authorized official of the manufac-
21 turer or distributor referred to in subparagraph
22 (A).

23 “(6) EXEMPTION FROM PACKAGING REQUIRE-
24 MENTS.—Prior to the expiration of the 7-year period
25 beginning on the date of enactment of this sub-

1 section, on receipt of an application (in such form
2 and containing such information as the Adminis-
3 trator may prescribe by regulation), the Adminis-
4 trator may exempt from the requirements of para-
5 graph (2), (3) or (4)—

6 “(A) a package or packaging component
7 manufactured prior to the date of enactment of
8 this subsection, as determined by the Adminis-
9 trator; and

10 “(B) a package or packaging component to
11 which lead has been added in the manufactur-
12 ing, forming, printing, or distribution process in
13 order to comply with health or safety require-
14 ments of Federal law or the law of any State
15 or political subdivision of a State.

16 “(g) EXEMPTIONS.—

17 “(1) IN GENERAL.—The Administrator shall,
18 by regulation, exempt from the restrictions described
19 in subsection (a)(1) on the lead content of paint any
20 products that are imported, processed, manufac-
21 tured, or distributed in commerce for use by artists
22 in creating, restoring, and preserving works of art,
23 including graphic works of art, if the paint is sold
24 or otherwise distributed in a package labeled pursu-
25 ant to the requirements under section 405(c)(1).

1 “(2) EXEMPTIONS.—The Administrator shall,
2 by regulation, exempt from the applicable restric-
3 tions on lead content under subsection (a) or (b) any
4 product, or group of products, within a product cat-
5 egory used—

6 “(A) for a medical purpose (as defined by
7 the Administrator, in consultation with the Sec-
8 retary of Health and Human Services);

9 “(B) for a purpose in the paramount inter-
10 est of the United States (as determined by the
11 Administrator, in consultation with the Sec-
12 retary of Defense);

13 “(C) for radiation protection (as jointly de-
14 fined by the Administrator and the Nuclear
15 Regulatory Commission), including any product
16 or product category used in connection with the
17 national security programs of the Department
18 of Energy;

19 “(D) in the mining industry to determine
20 the presence of noble metals in geological mate-
21 rials; or

22 “(E) as radiation shielding in any elec-
23 tronic device, or in specialized electronics uses
24 in any case in which the Administrator has de-

1 containing products sold or distributed in commerce
2 in the United States.

3 “(2) DEVELOPMENT OF INVENTORY.—

4 “(A) IN GENERAL.—On the basis of the
5 survey described in paragraph (1), the Adminis-
6 trator shall develop an inventory of all lead-con-
7 taining products sold or distributed in com-
8 merce (referred to in this section as the ‘inven-
9 tory’).

10 “(B) PRODUCT CATEGORIES.—In develop-
11 ing the inventory, the Administrator may group
12 in product categories those products that meet
13 both of the following criteria:

14 “(i) The products are functionally
15 similar.

16 “(ii) The products provide similar op-
17 portunities for lead exposure or release
18 during manufacturing, processing, or use,
19 or at the end of the useful life of the prod-
20 uct (taking into account other applicable
21 regulations).

22 “(3) PUBLICATION OF DRAFT INVENTORY.—

23 “(A) IN GENERAL.—The Administrator
24 shall—

1 “(i) publish the inventory in the Fed-
2 eral Register in draft form; and

3 “(ii) solicit public comment on the
4 draft inventory and the grouping of prod-
5 ucts by the Administrator pursuant to
6 paragraph (2).

7 “(B) PUBLICATION.—Not later than 4
8 years after the date of enactment of this para-
9 graph, after providing public notice and oppor-
10 tunity for comment on the draft inventory, the
11 Administrator shall publish a final inventory.

12 “(4) PRODUCTS CONTAINING COMPONENTS IN-
13 CLUDED ON INVENTORY.—For the purposes of this
14 section, any product that contains lead-containing
15 components included on the inventory shall be
16 deemed to be included on the inventory.

17 “(5) FAILURE OF ADMINISTRATOR TO PUBLISH
18 INVENTORY.—If the Administrator fails to publish
19 the inventory by the date specified in paragraph
20 (3)(B), the list of products referred to in subsection
21 (c)(6)(C) shall be deemed to comprise the inventory.

22 “(6) MODIFICATIONS.—The Administrator may,
23 from time to time, after notice and opportunity for
24 comment, make modifications to the inventory pub-
25 lished under this subsection. If the Administrator

1 modifies the inventory, the Administrator shall pub-
2 lish the modified inventory.

3 “(b) LIST OF USES OF LEAD IN PRODUCTS THAT
4 POSE EXPOSURE CONCERNS.—

5 “(1) IN GENERAL.—Beginning on the date that
6 is 6 years after the date of enactment of this para-
7 graph, the Administrator shall issue regulations that
8 establish a list (referred to in this section as the
9 ‘list’) of lead-containing products or categories of
10 products that the Administrator determines may
11 reasonably be anticipated to present an unreasonable
12 risk of injury to human health or the environment
13 due to—

14 “(A) exposure to lead released during and
15 from use of such a product by a consumer;

16 “(B) direct exposure of the product to the
17 environment; or

18 “(C) exposure to lead at the end of the
19 useful life of the product;

20 taking into account other applicable regulations.

21 “(2) CRITERIA FOR DETERMINATION TO LIST A
22 PRODUCT OR CATEGORY OF PRODUCT.—Each deter-
23 mination to list a product or category of product
24 shall be based on exposure-related information per-
25 taining to the product or category of products, or to

1 a product or category of products that poses similar
2 exposure risks.

3 “(3) SPECIFICATION OF LEAD CONCENTRA-
4 TION.—For each product or category of products,
5 the Administrator shall specify the concentration of
6 lead (as a percentage of the dry weight of the prod-
7 uct or category of products) that the Administrator
8 determines to be the maximum concentration of lead
9 found in the product or category of products.

10 “(4) MODIFICATION OF LIST.—

11 “(A) ADDITIONS TO LIST.—After promul-
12 gating the list, the Administrator may, by regu-
13 lation—

14 “(i) add a product or category of
15 products to the list, if the Administrator
16 determines that the product or category of
17 products meets the standard established in
18 paragraph (1); or

19 “(ii) remove a product or category of
20 products from the list, if the Administrator
21 determines that the product or category of
22 products does not meet the standard estab-
23 lished in paragraph (1).

24 “(B) PETITIONS FOR MODIFICATIONS.—

1 “(i) IN GENERAL.—Any person may
2 petition the Administrator to make a de-
3 termination to add a product or category
4 of products to the list, or to remove a
5 product or category of products from the
6 list.

7 “(ii) ACTION BY THE ADMINIS-
8 TRATOR.—Not later than 2 years after re-
9 ceipt of a petition under clause (i), the Ad-
10 ministrator shall take one of the following
11 actions:

12 “(I) Grant the petition, initiate a
13 procedure to promulgate a regulation
14 to add or delete the product or prod-
15 uct category as requested in the peti-
16 tion, and complete the procedure by
17 not later than 2 years after initiating
18 the procedure.

19 “(II) Deny the petition and pub-
20 lish an explanation of the basis for de-
21 nying the petition in the Federal Reg-
22 ister.

23 “(5) CONSTRUCTION.—Nothing in this sub-
24 section shall be construed to affect any authority of
25 any person under section 5 or 6 concerning the man-

1 ufacturing or processing of a lead-containing product
2 or a category of such products.

3 “(c) NOTIFICATION OF NEW USES OF LEAD IN
4 PRODUCTS IN COMMERCE.—

5 “(1) IN GENERAL.—

6 “(A) PUBLICATION.—After the publication
7 of the inventory in final form pursuant to sub-
8 section (a)(3), any person who manufactures,
9 processes, or imports a lead-containing product
10 referred to in subparagraph (B) shall submit to
11 the Administrator a notice prepared pursuant
12 to paragraph (2) on the commencement of the
13 manufacture, processing, or importation of the
14 product.

15 “(B) APPLICABILITY.—Subparagraph (A)
16 shall apply to any lead-containing product for
17 which a notice is required under subparagraph
18 (A) that—

19 “(i) is not listed in the inventory de-
20 veloped under subsection (a); or

21 “(ii) is a product that—

22 “(I) is identified on the list pro-
23 mulgated under subsection (b), or
24 that is included in a category of prod-
25 ucts identified on the list; and

1 “(II) utilizes a greater concentra-
2 tion of lead, as a percentage of dry
3 weight, than the concentration identi-
4 fied by the Administrator for the
5 product or category under subsection
6 (b)(3) (unless the concentration is ex-
7 ceeded on a percentage basis solely as
8 a result of efforts to reduce the size or
9 weight of the product, rather than by
10 the addition of greater quantities of
11 lead into the product).

12 “(2) CONTENTS OF NOTICE.—The notice re-
13 quired by paragraph (1) shall include—

14 “(A) a general description of the product;

15 “(B) a description of the manner in which
16 lead is used in the product;

17 “(C) the quantity of the product manufac-
18 tured, processed, or imported; and

19 “(D) the quantity and percentage of lead
20 used in the manufacturing of the product, or
21 the quantity and percentage of lead contained
22 in the imported product.

23 “(3) REPORT BY THE ADMINISTRATOR.—On an
24 annual basis, the Administrator shall publish a re-
25 port that provides a nonconfidential summary of new

1 uses identified pursuant to this subsection. The re-
2 port shall include aggregated information regarding
3 the amount of lead associated with the new uses.

4 “(4) RELATIONSHIP WITH OTHER PROVI-
5 SIONS.—The notification requirement under para-
6 graph (1) shall be subject to the confidentiality pro-
7 visions under section 5, and the research and devel-
8 opment exemption under section 5.

9 “(5) AMENDMENT OF LIST AND INVENTORY.—
10 After the receipt of a notice under paragraph (1),
11 the Administrator shall—

12 “(A) make such amendments to the inven-
13 tory established under subsection (a) as the Ad-
14 ministrator determines to be appropriate; and

15 “(B) evaluate whether any new products
16 should be added to the list established under
17 subsection (b).

18 “(6) DELAY IN PUBLICATION.—

19 “(A) IN GENERAL.—If the publication of a
20 final list is delayed beyond the date specified in
21 subsection (b), subparagraphs (B) and (C) shall
22 apply.

23 “(B) PROHIBITION.—Beginning on the
24 date that the final list is required to be promul-
25 gated under subsection (b), and until such time

1 as a final list is published, no person shall man-
2 ufacture, process, or import a product that is
3 listed or included within a product category
4 identified in subparagraph (C), if—

5 “(i) the product, or a substantially
6 similar product, has not been distributed
7 in commerce prior to the date of enact-
8 ment of this paragraph; or

9 “(ii) the product contains a greater
10 percentage of lead than any substantially
11 similar product distributed in commerce
12 before the date of enactment of this para-
13 graph,

14 unless the person has submitted a notice under
15 paragraph (2).

16 “(C) LIST OF PRODUCTS OR CAT-
17 EGORIES.—The list of products or categories of
18 products referred to in subparagraph (B) shall
19 be the products listed under section 403(a)(2)
20 and subsections (d) through (f) of section 403.

21 “(D) BURDEN OF PROOF.—In any pro-
22 ceeding to enforce subparagraph (B) with re-
23 spect to a product, the manufacturer, processor,
24 or importer shall have the burden of dem-
25 onstrating that the manufacturer, processor, or

1 importer had a reasonable basis for concluding
2 that the product (or a substantially similar
3 product) had been distributed in commerce
4 prior to the date of publication of the final list,
5 as referred to in subparagraph (B).

6 “(d) EXEMPTIONS.—

7 “(1) IN GENERAL.—Subsections (b) and (c)
8 shall not apply to the following:

9 “(A) Stained glass products.

10 “(B) Articles referred to in section
11 3(2)(B)(v).

12 “(C) Containers used for radiation shield-
13 ing.

14 “(2) AUTOMOTIVE DISMANTLERS.—This section
15 shall not apply to any metal, glass, paper, or textile
16 sold or distributed by the owner or operator of any
17 automotive dismantler or recycling facility regulated
18 by a State or the Administrator.”.

19 **SEC. 105. PRODUCT LABELING.**

20 Title IV (15 U.S.C. 2681 et seq.) is further amended
21 by inserting after section 404, as added by section 104
22 of this Act, the following new section:

23 **“SEC. 405. PRODUCT LABELING.**

24 “(a) IN GENERAL.—

25 “(1) LABELING.—

1 “(A) IN GENERAL.—Not later than 6 years
2 after the date of enactment of this paragraph,
3 the Administrator shall promulgate regulations
4 that provide for the labeling of products in-
5 cluded in the list established under section
6 404(b).

7 “(B) EXEMPTIONS.—The regulations pro-
8 mulgated under this paragraph shall not apply
9 to—

10 “(i) lead-acid batteries, to the extent
11 that the labeling of the batteries as to the
12 lead content of the batteries is regulated
13 under any other Federal law;

14 “(ii) products regulated under the
15 Federal Food, Drug and Cosmetic Act (21
16 U.S.C. 301 et seq.); and

17 “(iii) during or after disposal.

18 “(C) DIFFERENTIATION IN LABELING.—
19 The regulations promulgated under this section
20 may distinguish between—

21 “(i) labels required for products in-
22 cluded in the list established under section
23 404(b) that present a risk of exposure to
24 lead during distribution or use; and

1 “(ii) labels required for products in-
2 cluded in the list that present a risk of ex-
3 posure to lead during or after disposal.

4 “(2) EFFECTIVE DATE OF REGULATIONS.—The
5 regulations promulgated pursuant to paragraph (1)
6 shall take effect not later than the date that is 7
7 years after the date of enactment of this paragraph.

8 “(b) CONTENT OF REGULATIONS.—The regulations
9 described in subsection (a) shall specify the wording, type
10 size, and placement of the labels described in subsection
11 (a).

12 “(c) LABELING OF CERTAIN ITEMS.—

13 “(1) IN GENERAL.—The Administrator shall
14 promulgate regulations requiring that the following
15 labeling be included in the labeling of the packaging
16 of the following items:

17 “(A) For any paint for use by artists (in-
18 cluding graphic artists) described in section
19 403(g):

20 **“‘CONTAINS LEAD—FOR USE**
21 **BY ADULTS ONLY. DO NOT USE**
22 **OR STORE AROUND CHILDREN**
23 **OR IN AREAS ACCESSIBLE TO**
24 **CHILDREN.’.**

1 “(B) For each toy or recreational game
2 piece that is a collectible item and for each
3 scale model that is subject to the regulations
4 promulgated under section 403(b)(4) and is
5 manufactured on or after the effective date of
6 the regulations promulgated under this sub-
7 section:

8 **“‘COLLECTIBLE ITEM, CON-**
9 **TAINS LEAD, NOT SUITABLE**
10 **FOR CHILDREN.’**

11 “(2) CRITERIA FOR REGULATIONS.—The regu-
12 lations promulgated pursuant to paragraph (1) shall
13 specify the type, size, and placement of the labeling
14 described in paragraph (1).

15 “(3) EFFECTIVE DATE.—Each regulation pro-
16 mulgated under paragraph (1) shall take effect on
17 the date that is 1 year after the date of the promul-
18 gation of the regulation.

19 “(4) LABELS.—If, by the date that is 2 years
20 after the date of enactment of subsection (a)(1), the
21 Administrator has not promulgated regulations that
22 specify the alternate type, size, and placement of the
23 wording for labels referred to in paragraph (1), the
24 wording shall be placed prominently on the package
25 in letters the same size as the largest text letter (ex-

1 cept for letters in logos or brand markings) other-
2 wise affixed to the label or packaging of the product
3 until such time as the Administrator promulgates
4 the regulations.

5 “(d) BAR.—Except as provided (by reference or oth-
6 erwise) in any Federal, or State, law or judicial decision
7 other than section 404 or this section, compliance with
8 the labeling requirements of this section shall not con-
9 stitute, in whole or in part, a defense for liability relating
10 to, or a cause for reduction in damages resulting from,
11 any civil or criminal action brought under any Federal or
12 State law, other than an action brought for failure to com-
13 ply with the labeling requirements of this section. Except
14 as provided (by reference or otherwise) in any Federal,
15 or State, law or judicial decision other than section 404
16 or this section, nothing in section 404 or this section shall
17 be construed to create any additional liability, to create
18 any additional defense, or to in any other manner increase
19 or decrease the liability (including liability for damages),
20 for any party relating to any civil or criminal action
21 brought under any Federal or State law, other than an
22 action brought for failure to comply with the requirements
23 of such sections.”.

1 **SEC. 106. BATTERIES.**

2 Title IV (15 U.S.C. 2681 et seq.) is further amended
3 by inserting after section 405, as added by section 105
4 of this Act, the following new sections:

5 **“SEC. 406. RECYCLING OF LEAD-ACID BATTERIES.**

6 “(a) PROHIBITIONS.—

7 “(1) IN GENERAL.—Beginning on the date that
8 is 1 year after the date of enactment of subsection
9 (c), no person shall—

10 “(A) place a lead-acid battery in any land-
11 fill; or

12 “(B) incinerate any lead-acid battery.

13 “(2) DISPOSAL.—No person may—

14 “(A) discard or otherwise dispose of a
15 lead-acid battery in mixed municipal solid
16 waste; or

17 “(B) discard or otherwise dispose of a
18 lead-acid battery in a manner other than by re-
19 cycling in accordance with this section.

20 “(3) EXEMPTION.—Paragraphs (1) through (2)
21 shall not apply to an owner or operator of a munici-
22 pal solid waste landfill, incinerator, or collection pro-
23 gram that inadvertently receives any lead-acid bat-
24 tery that—

25 “(A) is commingled with other municipal
26 solid waste; and

1 “(B) is not readily removable from the
2 waste stream,
3 if the owner or operator of the facility or collection
4 program has established contractual requirements or
5 other appropriate notification or inspection proce-
6 dures to ensure that no lead-acid battery is received
7 at, or burned in, the facility or accepted through the
8 collection program.

9 “(b) GENERAL DISCARD OR DISPOSAL REQUIRE-
10 MENTS.—Beginning on the date that is 1 year after the
11 date of enactment of subsection (c), no person (except a
12 person described in subsection (c), (d), or (e)) may discard
13 or otherwise dispose of any used lead-acid battery except
14 by delivery to 1 of the following persons (or an authorized
15 representative of the person):

16 “(1) A person who sells lead-acid batteries at
17 retail or wholesale.

18 “(2) A lead smelter regulated by a State or the
19 Administrator under the Solid Waste Disposal Act
20 (42 U.S.C. 6901 et seq.) or the Clean Air Act (42
21 U.S.C. 7401 et seq.).

22 “(3) A collection or recycling facility regulated
23 by a State or subject to regulation by the Adminis-
24 trator under the Solid Waste Disposal Act (42
25 U.S.C. 6901 et seq.).

1 “(4) An automotive dismantler (as defined by
2 the Administrator).

3 “(5) A community collection program operated
4 by, or pursuant to an agreement with, a govern-
5 mental entity.

6 “(6) A manufacturer of batteries of the same
7 general type.

8 “(c) DISCARD OR DISPOSAL REQUIREMENTS FOR
9 RETAILERS.—Beginning on the date that is 1 year after
10 the date of enactment of this subsection, no person who
11 sells lead-acid batteries at retail may discard or otherwise
12 dispose of any used lead-acid battery except by delivery
13 to 1 of the following persons (or an authorized representa-
14 tive of the person):

15 “(1) A person who sells lead-acid batteries at
16 wholesale.

17 “(2) A lead smelter regulated by a State or the
18 Administrator under the Solid Waste Disposal Act
19 (42 U.S.C. 6901 et seq.) or the Clean Air Act (42
20 U.S.C. 7401 et seq.).

21 “(3) A battery manufacturer.

22 “(4) A collection or recycling facility regulated
23 by a State or subject to regulation by the Adminis-
24 trator under the Solid Waste Disposal Act (42
25 U.S.C. 6901 et seq.).

1 “(5) An automotive dismantler (as defined by
2 the Administrator).

3 “(d) DISCARD OR DISPOSAL REQUIREMENTS FOR
4 WHOLESALERS, AUTOMOTIVE DISMANTLERS, AND COM-
5 MUNITY COLLECTION PROGRAMS.—

6 “(1) IN GENERAL.—Beginning on the date that
7 is 1 year after the date of enactment of this sub-
8 section—

9 “(A) no person who sells lead-acid bat-
10 teries at wholesale;

11 “(B) no automotive dismantler; and

12 “(C) no community collection program op-
13 erated pursuant to an agreement with a govern-
14 mental entity,

15 may discard or otherwise dispose of any used lead-
16 acid battery, except by delivery to 1 of the persons
17 described in paragraph (2) (or an authorized rep-
18 resentative of the person).

19 “(2) PERSONS.—The persons described in this
20 paragraph are as follows:

21 “(A) A lead smelter regulated by a State
22 or the Administrator under the Solid Waste
23 Disposal Act (42 U.S.C. 6901 et seq.) or the
24 Clean Air Act (42 U.S.C. 7401 et seq.).

25 “(B) A battery manufacturer.

1 “(C) A collection or recycling facility regu-
2 lated by a State or subject to regulation by the
3 Administrator under the Solid Waste Disposal
4 Act (42 U.S.C. 6901 et seq.).

5 “(e) DISCARD OR DISPOSAL REQUIREMENTS FOR
6 MANUFACTURERS.—

7 “(1) IN GENERAL.—Beginning on the date that
8 is 1 year after the date of enactment of this sub-
9 section, no person who manufactures lead-acid bat-
10 teries may discard or otherwise dispose of any used
11 lead-acid battery, except by delivery to 1 of the per-
12 sons described in paragraph (2) (or an authorized
13 representative of the person).

14 “(2) PERSONS.—The persons described in this
15 paragraph are as follows:

16 “(A) A lead smelter regulated by a State
17 or the Administrator under the Solid Waste
18 Disposal Act (42 U.S.C. 6901 et seq.) or the
19 Clean Air Act (42 U.S.C. 7401 et seq.).

20 “(B) A collection or recycling facility regu-
21 lated by a State or subject to regulation by the
22 Administrator.

23 “(f) COLLECTION REQUIREMENTS FOR RETAIL-
24 ERS.—

1 “(1) IN GENERAL.—Beginning on the date that
2 is 1 year after the date of enactment of this sub-
3 section, a person who sells, or offers for sale, lead-
4 acid batteries at retail shall—

5 “(A) accept from customers used lead-acid
6 batteries of the same general type as the bat-
7 teries sold and in a quantity approximately
8 equal to the number of batteries sold; and

9 “(B) collect a deposit in an amount not
10 less than \$10 for the sale of any new replace-
11 ment automotive type lead-acid battery that is
12 not accompanied by the return of a used auto-
13 motive type lead-acid battery.

14 “(2) DEPOSITS.—A person who pays a deposit
15 pursuant to this subsection shall receive from the re-
16 tailer a refund in an amount equal to the deposit
17 paid, if the person returns a used automotive type
18 lead-acid battery of the same general type as the
19 battery purchased from the retailer not later than
20 30 days after the date of sale of the battery pur-
21 chased. All unredeemed deposits shall inure to the
22 benefit of the retailer. The used lead-acid batteries
23 shall be accepted at the place where lead-acid bat-
24 teries are offered for sale.

1 “(g) COLLECTION REQUIREMENTS FOR WHOLE-
2 SALERS.—

3 “(1) IN GENERAL.—Beginning on the date that
4 is 1 year after the date of enactment of this sub-
5 section, a person who sells, or offers for sale, lead-
6 acid batteries at wholesale (referred to in this sec-
7 tion as a ‘wholesaler’) shall accept from customers
8 used lead-acid batteries of the same general type as
9 the batteries sold and in a quantity approximately
10 equal to the number of batteries sold.

11 “(2) WHOLESALER WHO SELLS LEAD-ACID
12 BATTERIES TO A RETAILER.—In the case of a whole-
13 saler who sells, or offers for sale, lead-acid batteries
14 to a retailer, the wholesaler shall also provide for re-
15 moving used lead-acid batteries at the place of busi-
16 ness of the retailer. Unless the quantity of batteries
17 to be removed is less than 5, the removal shall occur
18 not later than 90 days after the retailer notifies the
19 wholesaler of the existence of the used lead-acid bat-
20 teries for removal. If the quantity of batteries to be
21 removed is less than 5, the wholesaler shall remove
22 the batteries not later than 180 days after the noti-
23 fication referred to in the preceding sentence.

24 “(h) COLLECTION REQUIREMENTS FOR MANUFAC-
25 TURERS.—Beginning on the date that is 1 year after the

1 date of enactment of this subsection, a person who manu-
2 factures lead-acid batteries shall accept from customers
3 used lead-acid batteries of the same general type as the
4 batteries sold and in a quantity approximately equal to
5 the number of batteries sold.

6 “(i) WRITTEN NOTICE REQUIREMENTS FOR RETAIL-
7 ERS.—

8 “(1) IN GENERAL.—Beginning on the date that
9 is 1 year after the date of enactment of this sub-
10 section, a person who sells, or offers for sale, lead-
11 acid batteries at retail shall post written notice
12 that—

13 “(A) is clearly visible in a public area of
14 the establishment in which the lead-acid bat-
15 teries are sold or offered for sale;

16 “(B) is at least 8½ inches by 11 inches in
17 size; and

18 “(C) contains the following language:

19 “(i) ‘It is illegal to throw away a
20 motor vehicle battery or other lead-acid
21 battery.’.

22 “(ii) ‘Recycle your used batteries.’.

23 “(iii) ‘Federal law requires battery re-
24 tailers to accept used lead-acid batteries
25 for recycling when a battery is purchased.’.

1 “(iv) ‘Federal law allows you to sell or
2 return used batteries to an authorized bat-
3 tery collector, recycler, or processor, or to
4 an automotive dismantler.’.

5 “(2) FAILURE TO POST NOTICE.—Any person
6 who, after receiving a written warning by the Ad-
7 ministrator, fails to post a notice required under
8 paragraph (1) shall, notwithstanding section 16, be
9 subject to a civil penalty in an amount not to exceed
10 \$1,000 per day.

11 “(j) LEAD-ACID BATTERY LABELING REQUIRE-
12 MENTS.—

13 “(1) IN GENERAL.—Beginning on the date that
14 is 18 months after the date of enactment of this
15 subsection, it shall be unlawful for any lead-acid bat-
16 tery manufacturer to sell, or offer for sale, any lead-
17 acid battery that does not bear a permanent label
18 that contains the statements required under para-
19 graph (3).

20 “(2) SALES.—Beginning on the date that is 2
21 years after the date of enactment of this subsection,
22 it shall be unlawful to sell a lead-acid battery that
23 does not bear a permanent label that contains the
24 statements required under paragraph (3).

1 “(3) LABELS.—A label described in paragraph
2 (1) or (2) shall be considered to be consistent with
3 the requirements of this section if the label—

4 “(A) identifies that the lead-acid battery
5 contains lead; and

6 “(B) contains the following statements:

7 “(i) ‘Federal law requires recycling.’.

8 “(ii) ‘Retailers must accept in ex-
9 change.’.

10 “(4) RECYCLING SYMBOLS.—Nothing in this
11 section shall be interpreted as prohibiting the display
12 on the label of a lead-acid battery of a recycling
13 symbol (as defined by the Administrator) or other
14 information intended to encourage recycling.

15 “(k) PUBLICATION OF NOTICE.—Not later than 180
16 days after the date of enactment of this subsection, the
17 Administrator shall publish in the Federal Register a no-
18 tice of the requirements of this section and such other re-
19 lated information as the Administrator determines to be
20 appropriate.

21 “(l) WARNINGS AND CITATIONS.—The Administrator
22 may issue a warning or citation (or both) to any person
23 who fails to comply with any provision of this section.

24 “(m) EXPORT FOR PURPOSES OF RECYCLING.—Not-
25 withstanding any other provision of this section, any per-

1 son may export any used lead-acid battery for the purpose
2 of recycling.

3 “(n) DEFINITION.—As used in this section, the term
4 ‘lead-acid battery’ means a battery that—

5 “(1) consists of lead and sulfuric acid;

6 “(2) is used as a power source; and

7 “(3) is not a rechargeable battery, as defined in
8 section 407.

9 **“SEC. 407. MERCURY-CONTAINING AND RECHARGEABLE**
10 **BATTERY MANAGEMENT.**

11 “(a) DEFINITIONS.—As used in this section:

12 “(1) BATTERY PACK.—The term ‘battery pack’
13 means any combination of rechargeable batteries
14 containing 1 or more regulated batteries that com-
15 monly has wire leads, terminals, and dielectric hous-
16 ing.

17 “(2) BUTTON CELL.—The term ‘button cell’,
18 used with respect to a battery, means any button-
19 shaped or coin-shaped battery.

20 “(3) EASILY REMOVABLE.—The term ‘easily re-
21 movable’, used with respect to a rechargeable battery
22 or battery pack, means the battery or battery pack
23 is detachable or removable from a rechargeable
24 consumer product by a consumer with the use of

1 common household tools at the end of the life of the
2 battery or battery pack.

3 “(4) MERCURIC-OXIDE BATTERY.—The term
4 ‘mercuric-oxide battery’ means a battery that uses a
5 mercuric-oxide electrode.

6 “(5) RECHARGEABLE BATTERY.—The term ‘re-
7 chargeable battery’—

8 “(A) means any type of enclosed device or
9 sealed container consisting of 1 or more voltaic
10 or galvanic cells, electrically connected to
11 produce electric energy, that is designed to be
12 recharged for repeated uses; and

13 “(B) does not include—

14 “(i) any lead-acid battery used to
15 start an internal combustion engine or as
16 the principal electrical power source for a
17 vehicle, such as an automobile, a truck,
18 construction equipment, a motorcycle, a
19 garden tractor, a golf cart, a wheelchair, or
20 a boat;

21 “(ii) any lead-acid battery used for
22 load leveling or for the storage of elec-
23 tricity generated by an alternative energy
24 source, such as a solar cell or wind driven
25 generator;

1 “(iii) any battery used as a backup
2 power source for memory or program in-
3 struction storage, timekeeping, or any
4 similar purpose that requires uninter-
5 rupted electrical power in order to function
6 if the primary energy supply fails or fluc-
7 tuates momentarily; and

8 “(iv) any alkaline battery.

9 “(6) RECHARGEABLE CONSUMER PRODUCT.—

10 The term ‘rechargeable consumer product’—

11 “(A) means any product that when sold at
12 retail includes a regulated battery as a primary
13 energy supply and that is primarily intended for
14 personal or household use; and

15 “(B) does not include any product that
16 uses a battery solely as a backup power source
17 for memory or program instruction storage,
18 timekeeping, or any similar purpose that re-
19 quires uninterrupted electrical power in order to
20 function if the primary energy supply fails or
21 fluctuates momentarily.

22 “(7) REGULATED BATTERY.—The term ‘regu-
23 lated battery’ means any rechargeable battery that—

1 “(A) contains a cadmium or a lead elec-
2 trode or any combination of cadmium and lead
3 electrodes; or

4 “(B) has another electrode chemistry and
5 is the subject of a determination by the Admin-
6 istrator pursuant to subsection (b)(5).

7 “(8) REMANUFACTURED PRODUCT.—The term
8 ‘remanufactured product’ means a rechargeable
9 consumer product that has been altered by the re-
10 placement of a part, repackaged, or repaired, after
11 initial sale by the original manufacturer.

12 “(b) RECHARGEABLE CONSUMER PRODUCTS AND
13 LABELING.—

14 “(1) PROHIBITION.—

15 “(A) IN GENERAL.—No person shall sell to
16 an end user for use in the United States a reg-
17 ulated battery or rechargeable consumer prod-
18 uct manufactured on or after the date that is
19 1 year after the date of enactment of this sub-
20 section, unless—

21 “(i) the regulated battery—

22 “(I) is easily removable from the
23 rechargeable consumer product;

1 “(II) is contained in a battery
2 pack that is easily removable from the
3 product; or

4 “(III) is sold separately from the
5 product; and

6 “(ii) the rechargeable consumer prod-
7 uct and the regulated battery are labeled
8 in accordance with paragraph (2).

9 “(B) APPLICATION.—Subparagraph (A)
10 shall not apply to—

11 “(i) the sale of a remanufactured
12 product unless subparagraph (A) applied
13 to the sale of the product when originally
14 manufactured; and

15 “(ii) a product intended for export
16 purposes only.

17 “(2) LABELING.—Each regulated battery, bat-
18 tery pack, or rechargeable consumer product without
19 an easily removable battery or battery pack, manu-
20 factured on or after the date that is 1 year after the
21 date of enactment of this subsection, whether pro-
22 duced domestically or imported, shall be labeled
23 with—

24 “(A)(i) 3 chasing arrows or a comparable
25 recycling symbol;

1 “(ii) proximate to such arrows or symbol—

2 “(I) on each nickel-cadmium battery
3 or battery pack, the chemical name or the
4 abbreviation ‘Ni-Cd’; and

5 “(II) on each lead-acid battery or bat-
6 tery pack, ‘Pb’ or the words ‘LEAD’, ‘RE-
7 TURN’, and ‘RECYCLE’; and

8 “(iii) on each regulated battery or battery
9 pack, the phrase ‘NICKEL-CADMIUM BAT-
10 TERY. MUST BE RECYCLED OR DIS-
11 POSED OF PROPERLY.’ or ‘SEALED
12 LEAD BATTERY. BATTERY MUST BE
13 RECYCLED.’, as applicable;

14 “(B) on each rechargeable consumer prod-
15 uct without an easily removable battery or bat-
16 tery pack, the phrase ‘CONTAINS NICKEL-
17 CADMIUM BATTERY. BATTERY MUST
18 BE RECYCLED OR DISPOSED OF PROP-
19 ERLY.’ or ‘CONTAINS SEALED LEAD
20 BATTERY. BATTERY MUST BE RECY-
21 CLED.’, as applicable; and

22 “(C) on the packaging of each recharge-
23 able consumer product, and the packaging of
24 each regulated battery or battery pack sold sep-
25 arately from such a product, unless the relevant

1 label is clearly visible through the packaging,
2 the phrase ‘CONTAINS NICKEL-CADMIUM
3 BATTERY. BATTERY MUST BE RECY-
4 CLED OR DISPOSED OF PROPERLY.’ or
5 ‘CONTAINS SEALED LEAD BATTERY.
6 BATTERY MUST BE RECYCLED.’.

7 “(3) EXISTING LABELING.—

8 “(A) SUBSTANTIAL COMPLIANCE.—For a
9 period of 2 years after the date of enactment of
10 this subsection, regulated batteries and battery
11 packs, rechargeable consumer products contain-
12 ing regulated batteries, and rechargeable
13 consumer product packages, that are labeled in
14 substantial compliance with paragraph (2) shall
15 be deemed to comply with the labeling require-
16 ments of paragraph (2).

17 “(B) DIFFERENT LABEL.—Upon applica-
18 tion by a person subject to the labeling require-
19 ments of paragraph (2) or the labeling require-
20 ments promulgated by the Administrator under
21 paragraph (5), the Administrator may approve
22 a different label and certify that the different
23 label meets the requirements of paragraph (2)
24 or (5), respectively, if the different label—

1 “(i) is substantially similar to the
2 label required under paragraph (2) or (5),
3 respectively; or

4 “(ii) conforms with a recognized inter-
5 national standard and is consistent with
6 the overall purposes of this section.

7 “(4) POINT OF SALE INFORMATION.—Any retail
8 establishment that offers for sale any battery, bat-
9 tery pack, or product subject to the labeling require-
10 ments of paragraph (2) or the labeling requirements
11 promulgated by the Administrator under paragraph
12 (5), shall display, in a manner visible to a consumer,
13 a written notice that informs the consumer that reg-
14 ulated batteries and battery packs, whether sold sep-
15 arately or in rechargeable consumer products, shall
16 be recycled or disposed of properly.

17 “(5) RULEMAKING AUTHORITY OF THE ADMIN-
18 ISTRATOR.—

19 “(A) IN GENERAL.—If the Administrator
20 determines that other rechargeable batteries
21 having electrode chemistries different from reg-
22 ulated batteries described in subsection
23 (a)(7)(A) are toxic and may cause substantial
24 harm to human health and the environment if
25 discarded into the solid waste stream for land

1 disposal or incineration, the Administrator may,
2 with the advice and counsel of State regulatory
3 authorities and manufacturers of rechargeable
4 batteries, battery packs, and rechargeable
5 consumer products, and after public comment—

6 “(i) promulgate labeling requirements
7 for the batteries with different electrode
8 chemistries, battery packs containing the
9 batteries, rechargeable consumer products
10 containing the batteries that are not easily
11 removable batteries, and packaging for the
12 products; and

13 “(ii) promulgate easily-removable de-
14 sign requirements for rechargeable
15 consumer products designed to contain the
16 batteries or battery packs.

17 “(B) SUBSTANTIAL SIMILARITY.—The reg-
18 ulations promulgated pursuant to subparagraph
19 (A) shall be substantially similar to the require-
20 ments set forth in paragraphs (1) and (2).

21 “(6) UNIFORMITY.—After the effective dates of
22 a requirement set forth in paragraph (1), (2), or (3)
23 or a regulation promulgated by the Administrator
24 under paragraph (5), no Federal agency, State, or
25 political subdivision of a State may enforce any easy

1 removability or environmental labeling requirement
2 for a rechargeable battery, battery pack, or re-
3 chargeable consumer product that is not identical to
4 the requirement or regulation.

5 “(7) EXEMPTIONS.—

6 “(A) IN GENERAL.—With respect to any
7 rechargeable consumer product, any person may
8 submit an application to the Administrator for
9 an exemption from the requirements of para-
10 graph (1) in accordance with the procedures
11 under subparagraph (B). The application shall
12 include—

13 “(i) a statement of the specific basis
14 for the request for the exemption; and

15 “(ii) the name, business address, and
16 telephone number of the applicant.

17 “(B) GRANTING OF EXEMPTION.—Not
18 later than 60 days after receipt of an applica-
19 tion under subparagraph (A), the Administrator
20 shall approve or deny the application. Upon ap-
21 proval of the application, the Administrator
22 shall grant an exemption to the applicant. The
23 exemption shall be issued for a period of time
24 that the Administrator determines to be appro-
25 priate, except that the period shall not exceed

1 2 years. The Administrator shall grant an ex-
2 emption on the basis of evidence supplied to the
3 Administrator that the manufacturer has been
4 unable to commence manufacturing the re-
5 chargeable consumer product in compliance
6 with this subsection and with an equivalent
7 level of product performance without the prod-
8 uct—

9 “(i) resulting in danger to human
10 health, safety, or the environment; or

11 “(ii) violating requirements for ap-
12 provals from governmental agencies or
13 widely recognized private standard-setting
14 organizations (including Underwriters Lab-
15 oratories).

16 “(C) RENEWAL OF EXEMPTION.—A person
17 granted an exemption under subparagraph (B)
18 may apply for a renewal of the exemption in ac-
19 cordance with the requirements and procedures
20 described in subparagraphs (A) and (B). The
21 Administrator may grant a renewal of such an
22 exemption for a period of not more than 2 years
23 after the date of granting of the renewal.

24 “(c) REQUIREMENTS.—For the purposes of carrying
25 out the collection, storage, transportation, recycling, or

1 proper disposal of used rechargeable batteries, used bat-
2 tery packs, and used rechargeable consumer products con-
3 taining rechargeable batteries that are not easily remov-
4 able rechargeable batteries, persons involved in collecting,
5 storing, or transporting such batteries, battery packs, or
6 products to a facility for recycling or proper disposal shall
7 be subject, in the same manner and with the same limita-
8 tions, to the same requirements as would apply if the per-
9 sons were collecting, storing, or transporting batteries
10 subject to subpart G of part 266 of title 40, Code of Fed-
11 eral Regulations, as in effect on January 1, 1993, notwith-
12 standing any regulations adopted pursuant to a grant of
13 authority to a State under section 3006 of the Solid Waste
14 Disposal Act (42 U.S.C. 6926).

15 “(d) COOPERATIVE EFFORTS.—Notwithstanding any
16 other provision of law, if 2 or more persons who partici-
17 pate in projects or programs to collect and properly man-
18 age used rechargeable batteries, used battery packs, or
19 used rechargeable consumer products advise the Adminis-
20 trator of their intent, the persons may agree to develop
21 jointly, or to share in the costs of participating in, such
22 a project or program and to examine and rely upon such
23 cost information as is collected during the project or pro-
24 gram.

25 “(e) REPORT TO CONGRESS.—

1 “(1) REPORT DEADLINES IN GENERAL.—Not
2 later than 3 years after the date of enactment of
3 this subsection, the Administrator, after consultation
4 with and obtaining relevant industrywide data from
5 the States, environmental and consumer groups, and
6 organizations representing rechargeable battery
7 manufacturers, rechargeable consumer product man-
8 ufacturers, and retailers, and after conducting a
9 public hearing and considering public comment, shall
10 submit to Congress a report that provides the infor-
11 mation specified in paragraph (2). In collecting in-
12 formation for the report, the Administrator shall co-
13 ordinate with such States, environmental and
14 consumer groups, and organizations to minimize the
15 frequency and scope of any reporting requirements
16 associated with the manufacture, sale, or collection
17 of regulated batteries.

18 “(2) CONTENT OF REPORT.—The report de-
19 scribed in paragraph (1) shall include each of the
20 following:

21 “(A) A review of the activities carried out
22 by the entities listed in paragraph (1) with re-
23 spect to the labeling, collection, transportation,
24 recycling, and disposal of regulated batteries.

1 “(B) An estimate, for the period beginning
2 on the date of enactment of this subsection and
3 ending on the date of preparation of the report,
4 of the number of regulated batteries entering
5 the solid waste stream for disposal in inciner-
6 ators, landfills, and municipal solid waste facili-
7 ties.

8 “(C) A review of the recycling and rec-
9 lamation rates for regulated batteries.

10 “(D) A review of the availability of per-
11 mitted facilities sufficient to handle the current
12 and projected volume of used regulated bat-
13 teries, along with a complete evaluation of po-
14 tential regulatory impediments to management
15 options.

16 “(E) A list of entities involved in the pro-
17 duction and distribution of regulated batteries
18 or rechargeable consumer products and partici-
19 pating in programs for the collection of regu-
20 lated batteries.

21 “(F) A list of entities involved in the pro-
22 duction and distribution of regulated batteries
23 or rechargeable consumer products, excluding
24 retailers, that are not participating in programs
25 for the collection of regulated batteries. In for-

1 mulating the list, the Administrator shall not
2 require any participant to report the name of
3 any such nonparticipant. Prior to listing any
4 entity as such a nonparticipant, the Adminis-
5 trator shall determine that the entity should be
6 a participant, and independently verify with the
7 entity that the entity is not a participant.

8 “(3) FREQUENCY OF REPORT.—Not later than
9 2 years after publication of the report required in
10 paragraph (1), and every 2 years thereafter, the Ad-
11 ministrators shall issue a report that provides an up-
12 date of the information specified in paragraph (2).

13 “(f) LIMITATIONS ON THE SALE OF ALKALINE-MAN-
14 GANESE BATTERIES CONTAINING MERCURY.—No person
15 shall sell, offer for sale, or offer for promotional purposes
16 any alkaline-manganese battery manufactured on or after
17 January 1, 1996, with a mercury content that was inten-
18 tionally introduced (as distinguished from mercury that
19 may be incidentally present in other materials), except
20 that the limitation on mercury content in alkaline-man-
21 ganese button cell batteries shall be 25 milligrams of mer-
22 cury per button cell battery.

23 “(g) LIMITATIONS ON THE SALE OF ZINC CARBON
24 BATTERIES CONTAINING MERCURY.—No person shall
25 sell, offer for sale, or offer for promotional purposes any

1 zinc carbon battery manufactured on or after January 1,
2 1995, that contains any mercury that was intentionally
3 introduced as described in subsection (f).

4 “(h) LIMITATIONS ON THE SALE OF BUTTON CELL
5 MERCURIC-OXIDE BATTERIES.—No person shall sell,
6 offer for sale, or offer for promotional purposes any button
7 cell mercuric-oxide battery on or after January 1, 1995.

8 “(i) LIMITATIONS ON THE SALE OF MERCURIC-
9 OXIDE BATTERIES.—No person shall sell, offer for sale,
10 or offer for promotional purposes any mercuric-oxide bat-
11 tery on or after January 1, 1997.

12 “(j) INFORMATION DISSEMINATION.—In consultation
13 with representatives of rechargeable battery manufactur-
14 ers, rechargeable consumer product manufacturers, and
15 retailers, the Administrator shall establish a program to
16 provide information to the public concerning the proper
17 handling and disposal of used regulated batteries and used
18 rechargeable consumer products without easily removable
19 batteries.

20 “(k) ENFORCEMENT.—For the purposes of this sec-
21 tion:

22 “(1) Whenever on the basis of any information
23 the Administrator determines that any person has
24 violated or is in violation of any requirement of this
25 section, the Administrator may issue an order as-

1 assessing a civil penalty for any past or current viola-
2 tion, requiring compliance immediately or within a
3 reasonable specified time period, or both, or the Ad-
4 ministrator may commence a civil action in the Unit-
5 ed States district court in the district in which the
6 violation occurred for appropriate relief, including a
7 temporary or permanent injunction.

8 “(2) Any order issued pursuant to this sub-
9 section shall state with reasonable specificity the na-
10 nature of the violation. Any penalty assessed in the
11 order shall not exceed \$10,000 for each such viola-
12 tion. In assessing such a penalty, the Administrator
13 shall take into account the seriousness of the viola-
14 tion and any good faith efforts to comply with appli-
15 cable requirements.

16 “(3) Any order issued under this subsection
17 shall become final unless, not later than 30 days
18 after the order is served, the person or persons
19 named in the order request a public hearing. If such
20 a request is made, the Administrator shall promptly
21 conduct a public hearing. In connection with any
22 proceeding under this subsection, the Administrator
23 may issue subpoenas for the attendance and testi-
24 mony of witnesses and the production of relevant pa-
25 pers, books, and documents.

1 “(4) If a violator fails to take corrective action
2 within the time period specified in a compliance
3 order issued under this subsection, the Adminis-
4 trator may assess a civil penalty of not more than
5 \$10,000 for the continued noncompliance with the
6 order.

7 “(l) INFORMATION GATHERING AND ACCESS.—For
8 the purposes of this section:

9 “(1) Any person who is required to comply with
10 this section, including—

11 “(A) a regulated battery manufacturer;

12 “(B) a rechargeable consumer product
13 manufacturer;

14 “(C) a mercury-containing battery manu-
15 facturer; and

16 “(D) an authorized agent of a manufac-
17 turer described in subparagraph (A), (B), or
18 (C);

19 shall establish and maintain such records and report
20 such information as the Administrator may by rule
21 reasonably require to carry out this section.

22 “(2) The Administrator, or an authorized rep-
23 resentative of the Administrator upon presentation
24 of credentials, may at reasonable times have access

1 to and copy any records required to be maintained
2 under paragraph (1).

3 “(3) The Administrator shall maintain the con-
4 fidentiality of such records or information main-
5 tained or reported under this subsection as contain
6 proprietary information.

7 “(m) STATE AUTHORITY.—Except as provided in
8 subsection (b)(6), or as provided in subsection (c), (relat-
9 ing to requirements and the labeling of rechargeable bat-
10 teries, battery packs, or rechargeable consumer products
11 or packages containing the products), nothing in this sec-
12 tion shall be construed so as to prohibit a State from en-
13 acting and enforcing a standard or requirement that is
14 more stringent than a standard or requirement established
15 or promulgated under this section.

16 “(n) AUTHORIZATION OF APPROPRIATIONS.—There
17 are authorized to be appropriated such sums as are nec-
18 essary to carry out this section.”.

19 **SEC. 107. LEAD CONTAMINATION IN SCHOOLS AND DAY**
20 **CARE FACILITIES.**

21 Title IV (15 U.S.C. 2681 et seq.) is further amended
22 by inserting after section 407, as added by section 106
23 of this Act, the following new section:

1 **“SEC. 408. LEAD CONTAMINATION IN SCHOOLS AND DAY**
2 **CARE FACILITIES.**

3 “(a) DEFINITIONS.—As used in this subsection:

4 “(1) COVERED DAY CARE FACILITY.—The term
5 ‘covered day care facility’ means the interior and ex-
6 terior of any building constructed before 1980 that
7 is used as a day care facility that regularly provides
8 day care services for children in kindergarten or
9 younger children.

10 “(2) COVERED SCHOOL.—The term ‘covered
11 school’ means the interior and exterior of any build-
12 ing constructed before 1980 that is used—

13 “(A) as an elementary school (as defined
14 in section 1471(8) of the Elementary and Sec-
15 ondary Education Act of 1965 (20 U.S.C.
16 2891(8))); or

17 “(B) as a kindergarten that regularly pro-
18 vides education for children in kindergarten or
19 younger children.

20 “(3) DAY CARE FACILITY.—The term ‘day care
21 facility’ means any portion of a facility used for day
22 care for children in kindergarten or younger children
23 and owned or operated by a person that provides the
24 day care for compensation, and that—

25 “(A) is licensed or regulated under State
26 law for day care purposes; or

1 “(B) receives Federal funds for day care
2 purposes.

3 “(4) LEAD HAZARD.—The term ‘lead hazard’
4 means—

5 “(A) lead-based paint that is chipping,
6 peeling, flaking, or chalking;

7 “(B) any surface coated with lead-based
8 paint that is subject to abrasion;

9 “(C) any surface coated with lead-based
10 paint that can be mouthed by a child under 6
11 years of age; and

12 “(D) interior dust that contains a dan-
13 gerous level of lead, as identified by the Admin-
14 istrator.

15 “(5) LEAD INSPECTION.—The term ‘lead in-
16 spection’ means an inspection to detect the presence
17 of any lead-based paint or lead hazard.

18 “(6) LOCAL EDUCATION AGENCY.—The term
19 ‘local education agency’ means—

20 “(A) any local educational agency (as de-
21 fined in section 1471(12) of the Elementary
22 and Secondary Education Act of 1965 (20
23 U.S.C. 2891(12)));

24 “(B) the owner of any private nonprofit el-
25 ementary or secondary school building; and

1 “(C) the governing authority of any school
2 operating under the defense dependents’ edu-
3 cation system provided for under the Defense
4 Dependents’ Education Act of 1978 (20 U.S.C.
5 921 et seq.).

6 “(7) OWNER OR OPERATOR.—The term ‘owner
7 or operator’, when used with respect to a school,
8 means the local education agency that has jurisdic-
9 tion over the school.

10 “(8) SIGNIFICANT USE.—The term ‘significant
11 use’ means use by more than 1 child at least 2 times
12 per week, and for a total period of at least 2 hours
13 per week.

14 “(b) COVERED SCHOOLS AND COVERED DAY CARE
15 FACILITIES.—

16 “(1) IN GENERAL.—Except as provided in sub-
17 section (d)(4), not later than 3 years after the date
18 of enactment of this subsection, the Administrator
19 shall promulgate regulations that shall be adequate
20 to carry out this section and be consistent with other
21 regulations promulgated by the Administrator under
22 this title.

23 “(2) REGULATIONS.—Pursuant to paragraph
24 (1), the Administrator shall promulgate regulations

1 that require each State that receives a grant under
2 subsection (d) to—

3 “(A) not later than 3 years after the date
4 of promulgation of the regulations or the date
5 on which amounts are allotted to the State
6 under subsection (d)(2), whichever is later, con-
7 duct—

8 “(i) an inspection of—

9 “(I) each room of each covered
10 school and covered day care facility
11 that is used daily or receives signifi-
12 cant use by children in kindergarten
13 or by younger children to detect inte-
14 rior lead-based paint and an inspec-
15 tion of each covered school that is
16 chipping, peeling, flaking, or chalking;
17 and

18 “(II) each covered school and
19 covered day care facility to detect ex-
20 terior lead-based paint; and

21 “(ii) an inspection of each room at
22 each covered school and covered day care
23 facility that is used daily or receives sig-
24 nificant use by children in kindergarten or
25 by younger children for the purpose of de-

1 tecting any lead-based paint or interior
2 dust in the rooms of the school or day care
3 facility that contains a dangerous level of
4 lead, as identified by the Administrator
5 pursuant to section 412; and

6 “(B) prepare a report that includes—

7 “(i) the results of the inspections re-
8 ferred to in subparagraph (A); and

9 “(ii) recommendations as to whether
10 any lead hazard detected pursuant to an
11 inspection should be alleviated through en-
12 capsulation, in-place management, or other
13 form of abatement.

14 “(3) RANKING.—In conducting inspections of
15 covered schools and covered day care facilities re-
16 quired by paragraph (2), the appropriate official of
17 the State shall—

18 “(A) rank facilities in the State in order of
19 the severity of the suspected lead hazard of the
20 areas, in accordance with procedures that the
21 Administrator shall establish; and

22 “(B) give priority to inspecting covered
23 schools and covered day care facilities serving
24 populations at greatest risk.

1 “(4) PROCEDURES.—The procedures referred
2 to in paragraph (3) shall use factors for assessing
3 facilities, including—

4 “(A) medical evidence regarding the extent
5 of lead poisoning (as determined through lead
6 screening) of children in the area;

7 “(B) the ages of children in the area;

8 “(C) the age and condition of school build-
9 ings in the area; and

10 “(D) the age and condition of the housing
11 in the area,

12 in order to determine which facilities in the State
13 are most likely to have a lead hazard.

14 “(5) DISSEMINATION OF REPORTS.—

15 “(A) IN GENERAL.—Each State shall pro-
16 vide to the owner or operator of each covered
17 school and covered day care facility of the State
18 a copy of the report required under paragraph
19 (2)(B).

20 “(B) REQUIREMENTS FOR OWNERS OR OP-
21 ERATORS.—

22 “(i) IN GENERAL.—Except as pro-
23 vided under paragraph (6), in each case in
24 which an inspection conducted pursuant to
25 the requirements of paragraph (2) indi-

1 cates the presence of lead-based paint that
2 poses a lead hazard, or interior dust con-
3 taining a dangerous level of lead (as identi-
4 fied by the Administrator pursuant to sec-
5 tion 412) at a covered school or covered
6 day care facility, the owner or operator of
7 the covered school or covered day care fa-
8 cility shall, not later than 60 days after re-
9 ceiving the report under subparagraph (A),
10 provide a copy of risk disclosure informa-
11 tion that meets the requirements of sub-
12 paragraph (C) to all teachers and other
13 school personnel and parents (or guard-
14 ians) of children attending the covered
15 school or covered day care facility con-
16 cerned.

17 “(ii) NOTIFICATION TO NEW PERSON-
18 NEL MEMBERS AND PARENTS AND GUARD-
19 IANS OF NEW STUDENTS.—During such
20 time as lead-based paint, or interior dust
21 containing a dangerous level of lead (as
22 identified by the Administrator pursuant to
23 section 412), continues to be present at the
24 covered school or covered day care facility,
25 the owner or operator of the covered school

1 or covered day care facility shall also pro-
2 vide the risk disclosure information re-
3 ferred to in clause (i) to newly hired teach-
4 ers and other personnel and parents (or
5 guardians) of newly enrolled children.

6 “(iii) NO CAUSE OF ACTION.—The
7 failure of a teacher or other school person-
8 nel member of a covered school or covered
9 day care facility, or parent (or guardian)
10 of a child (including a newly enrolled child)
11 attending a covered school or covered day
12 care facility, to receive a copy of the risk
13 disclosure information shall not constitute
14 a cause of action under this subsection.

15 “(C) RISK DISCLOSURE.—

16 “(i) IN GENERAL.—As part of the
17 regulations required under paragraph (2),
18 the Administrator shall prescribe the con-
19 tents of the risk disclosure information re-
20 quired to be provided to the persons speci-
21 fied in the regulations.

22 “(ii) CONTENTS OF RISK DISCLOSURE
23 INFORMATION.—The information shall in-
24 clude each of the following, with respect to

1 each covered school or covered day care fa-
2 cility:

3 “(I) A summary of the results of
4 the inspection conducted pursuant to
5 paragraph (2).

6 “(II) A description of the risks of
7 lead exposure to children in kinder-
8 garten and younger children, teachers,
9 and other personnel at the covered
10 school or covered day care facility that
11 takes into account the accessibility of
12 lead-based paint or interior dust con-
13 taining a dangerous level of lead (as
14 identified by the Administrator pursu-
15 ant to section 412) to children in kin-
16 dergarten and younger children, and
17 other factors that the Administrator
18 determines to be appropriate.

19 “(III) A description of any abate-
20 ment undertaken, or to be under-
21 taken, by the owner or operator.

22 “(D) METHOD OF PROVIDING INFORMA-
23 TION.—An owner or operator of a covered
24 school or covered day care facility may provide
25 the risk disclosure information to the parents

1 (or guardians) of the children attending the
2 covered school or covered day care facility con-
3 cerned in the same manner as written materials
4 are regularly delivered to the parents (or guard-
5 ians).

6 “(6) EXEMPTION FROM NOTICE REQUIRE-
7 MENT.—An owner or operator of a covered school or
8 covered day care facility shall not be required to pro-
9 vide notification under paragraph (5) if, not later
10 than 180 days prior to the date on which the notifi-
11 cation would otherwise be required—

12 “(A) the owner, operator, or the State per-
13 forms encapsulation, in-place management or
14 other form of abatement;

15 “(B) the State conducts a reinspection;
16 and

17 “(C) the owner or operator obtains a re-
18 port from the State that shows that—

19 “(i) the lead-based paint that poses a
20 lead hazard; and

21 “(ii) any interior dust containing a
22 dangerous level of lead, as identified by the
23 Administrator,

24 have been removed, encapsulated, or managed
25 in place.

1 “(7) AVAILABILITY OF CERTAIN REPORTS.—In
2 lieu of notification under paragraph (5), an owner or
3 operator that elects to perform encapsulation, in-
4 place management, or other form of abatement
5 under this subsection shall—

6 “(A) make a copy of the inspection reports
7 for inspections conducted pursuant to this sub-
8 section available in each administrative office of
9 the owner or operator; and

10 “(B) notify parent, teacher, and employee
11 organizations of the availability of the reports.

12 “(c) RENOVATED AREAS.—With respect to each ren-
13 ovation of a covered school or covered day care facility
14 that commences on or after the date that is 1 year after
15 the date of promulgation of a regulation under subsection
16 (b)(2), for each covered school or covered day care facility
17 in which a renovation will be undertaken, the owner or
18 operator of the covered school or covered day care facility
19 or the State (on the request of the owner or operator)
20 shall, prior to the renovation—

21 “(1) conduct an inspection of the area to be
22 renovated to detect any lead-based paint that could
23 be disturbed as a result of the renovation; and

24 “(2) take any action that is necessary to ensure
25 that the renovation does not result in a dangerous

1 level of lead (as identified by the Administrator pur-
2 suant to section 412), in interior dust.

3 “(d) FEDERAL ASSISTANCE.—

4 “(1) IN GENERAL.—

5 “(A) GRANTS.—The Administrator shall
6 make grants to States for the purposes of test-
7 ing, at covered schools and covered day care fa-
8 cilities, for—

9 “(i) lead-based paint that poses a lead
10 hazard; and

11 “(ii) interior dust containing a dan-
12 gerous level of lead (as identified by the
13 Administrator pursuant to section 412).

14 “(B) USE OF GRANT AWARD.—A grant
15 awarded pursuant to this subsection may be
16 used by a State only to cover expenses incurred
17 by the State after the date of enactment of this
18 subsection for lead hazard inspection in covered
19 schools and covered day care facilities.

20 “(2) ALLOTMENT.—For each fiscal year, from
21 amounts appropriated pursuant to the authorization
22 under subsection (j), the Administrator shall allot to
23 each State for the purpose of making grants under
24 this subsection, an amount that bears the same ratio
25 to the appropriated amounts as the number of chil-

1 dren under 7 years of age in the State bears to the
2 number of children under age 7 in all States.

3 “(3) REALLOTMENT.—If the Administrator de-
4 termines that the amount of the allotment of any
5 State determined under paragraph (2) for any fiscal
6 year will not be required for carrying out the pro-
7 gram for which the amount has been allotted, the
8 Administrator shall make the amount available for
9 reallotment.

10 “(4) RESERVATION BY STATE.—For each fiscal
11 year, from the amounts allotted to a State under
12 paragraph (2), the State shall reserve not more than
13 5 percent of the amounts for administrative costs.

14 “(5) LIMITATION ON REQUIREMENT.—

15 “(A) IN GENERAL.—Except as provided in
16 paragraph (6), the Administrator shall require
17 each State to fulfill the requirements of sub-
18 section (b) relating to inspections only to the
19 extent that assistance under this section is
20 available to cover the costs of the inspections.

21 “(B) REQUIREMENTS FOR REGULA-
22 TIONS.—

23 “(i) IN GENERAL.—With respect to
24 any State that fails to carry out an appli-
25 cable requirement under subsection (b),

1 the Administrator shall take such action as
2 may be necessary to ensure that the State
3 meets all applicable requirements of sub-
4 section (b) not later than 2 years after the
5 first day on which the cumulative total of
6 all amounts appropriated to the States
7 pursuant to the authorization under sub-
8 section (j) equals or exceeds \$90,000,000.

9 “(ii) PLAN.—With respect to any
10 State that fails to—

11 “(I) submit to the Administrator,
12 by the date that is 6 years after the
13 date of enactment of this subsection,
14 a plan that the Administrator deter-
15 mines adequate to complete all appli-
16 cable requirements of subsection (b)
17 by not later than 8 years after the
18 date of enactment of this subsection;
19 or

20 “(II) implement the plan referred
21 to in subclause (I),
22 the Administrator shall ensure that the ac-
23 tions are completed within the 8-year pe-
24 riod referred to in subclause (I), or by not
25 later than 9 years after the date of enact-

1 ment of this subsection, in the case of any
2 State that fails to implement the plan.

3 “(6) REQUIREMENT FOR PAYMENTS.—No pay-
4 ments shall be made under this section for any fiscal
5 year to a State unless the Administrator determines
6 that the aggregate expenditures of the State for
7 comparable lead inspection programs for the year
8 equaled or exceeded the aggregate expenditures for
9 the most recent fiscal year for which data is avail-
10 able.

11 “(7) STATUTORY CONSTRUCTION.—Nothing in
12 this section is intended to prohibit the expenditure
13 of Federal funds for the purposes authorized under
14 this section in or by sectarian institutions. No provi-
15 sion of law (including a State constitution or State
16 law) shall be construed to prohibit the expenditure
17 in or by sectarian institutions of any Federal funds
18 provided under this section. Except as provided in
19 the preceding sentence, nothing in this section is in-
20 tended to supersede or modify any provision of State
21 law that prohibits the expenditure of public funds in
22 or by sectarian institutions.

23 “(e) PUBLIC PROTECTION.—No owner or operator of
24 a covered school or covered day care facility may discrimi-
25 nate against a person on the basis that the person pro-

1 vided information relating to a potential violation of this
2 section to any other person, including a State or the Ad-
3 ministrator.

4 “(f) PENALTIES.—

5 “(1) IN GENERAL.—Notwithstanding any other
6 provision of this Act, the amount of any penalty that
7 may be assessed for a violation of this section pursu-
8 ant to section 16 shall not exceed an amount equal
9 to \$5,000 for each day during which the violation of
10 this section continues.

11 “(2) MANNER OF ASSESSMENT.—Any civil pen-
12 alty under this subsection shall be assessed and col-
13 lected in the same manner, and subject to the same
14 provisions, as for civil penalties assessed and col-
15 lected under section 16.

16 “(3) VIOLATION DEFINED.—As used in this
17 subsection, the term ‘violation’ means a failure to
18 comply with a requirement of this section with re-
19 spect to a single covered school or covered day care
20 facility.

21 “(g) USE OF PENALTIES.—In any action against a
22 State or an owner or operator (or both) of a covered school
23 or covered day care facility for a violation of this section,
24 the court shall have the discretion to order that any civil
25 penalty collected under this section be used by the State

1 or the owner or operator (or both) for the cost of inspec-
2 tion and reporting, as required under subsection (b)(2),
3 or lead-based paint abatement activities undertaken for
4 the purpose of complying with this title (or both).

5 “(h) INSPECTIONS.—An inspection required under
6 this section and any abatement performed in lieu of notifi-
7 cation under this section shall be carried out by a lead-
8 based paint abatement contractor who is in compliance
9 with certification requirements under applicable Federal
10 law.

11 “(i) ANNUAL REPORTS TO ADMINISTRATOR.—Each
12 State shall, not later than 1 year after receiving assistance
13 under this section, and annually thereafter, submit to the
14 Administrator an annual report. The report shall include,
15 with respect to the State—

16 “(1) a description of the manner in which the
17 assistance provided under this section was used;

18 “(2) the number of covered schools and covered
19 day care facilities affected by the assistance;

20 “(3) an estimate of the number of children
21 served by the covered schools and covered day care
22 facilities;

23 “(4) an estimate of the magnitude and cost of
24 future efforts required to carry out this section; and

1 “(5) any other information the Administrator
2 may require.

3 “(j) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to carry out this sec-
5 tion—

6 “(1) \$30,000,000 for the fiscal year 1995;

7 “(2) \$30,000,000 for the fiscal year 1996; and

8 “(3) \$30,000,000 for the fiscal year 1997.”.

9 **SEC. 108. BLOOD-LEAD AND OTHER ABATEMENT AND**
10 **MEASUREMENT PROGRAMS.**

11 Title IV (15 U.S.C. 2681 et seq.) is further amended
12 by inserting after section 408, as added by section 107
13 of this Act, the following new section:

14 **“SEC. 409. BLOOD-LEAD AND OTHER ABATEMENT AND**
15 **MEASUREMENT PROGRAMS.**

16 “(a) STANDARDS FOR BLOOD ANALYSIS LABORA-
17 TORIES.—

18 “(1) IN GENERAL.—

19 “(A) STANDARDS FOR LABORATORY ANAL-
20 YSIS.—The Secretary of Health and Human
21 Services (referred to in this subsection as the
22 ‘Secretary’), acting through the Director of the
23 Centers for Disease Control, shall establish pro-
24 tocols, criteria, and minimum performance

1 standards for the laboratory analysis of lead in
2 blood.

3 “(B) CERTIFICATION PROGRAM.—

4 “(i) IN GENERAL.—Except as pro-
5 vided in clause (ii) and paragraph (4), not
6 later than 18 months after the date of en-
7 actment of this subsection, the Secretary
8 shall establish a certification program to
9 ensure the quality and consistency of lab-
10 oratory analyses.

11 “(ii) EXEMPTION.—If the Secretary
12 determines, by the date specified in sub-
13 paragraph (A), that effective voluntary ac-
14 creditation programs are in place and oper-
15 ating on a nationwide basis at the time of
16 the determination, the Secretary shall not
17 be required to establish the certification
18 program referred to in clause (i).

19 “(2) REPORTING REQUIREMENT.—The quality
20 control program established by the Secretary under
21 this subsection shall provide for the reporting of the
22 results of blood-lead analyses to the Director of the
23 Centers for Disease Control on an ongoing basis.
24 Each report prepared pursuant to this paragraph

1 shall be in such form as the Secretary shall require
2 by regulation.

3 “(3) LIST.—Not later than 2 years after the
4 date of enactment of this subsection, and annually
5 thereafter, the Secretary shall publish and make
6 available to the public a list of certified or accredited
7 blood analysis laboratories.

8 “(4) REVIEW OF VOLUNTARY ACCREDITA-
9 TION.—

10 “(A) IN GENERAL.—If the Secretary deter-
11 mines, under paragraph (1)(B)(ii), that effec-
12 tive voluntary accreditation programs are in ef-
13 fect for blood analysis laboratories, the Sec-
14 retary shall review the performance and effec-
15 tiveness of the programs not later than 3 years
16 after the date of the determination, and every
17 3 years thereafter.

18 “(B) EFFECT OF NEGATIVE DETERMINA-
19 TION.—If, on making a review under this para-
20 graph, the Secretary determines that the vol-
21 untary accreditation programs reviewed are not
22 effective in ensuring the quality and consistency
23 of laboratory analyses, the Secretary shall, not
24 later than 1 year after the date of the deter-

1 mination, establish a certification program that
2 meets the requirements of paragraph (1)(B).

3 “(b) CLASSIFICATION OF ABATEMENT WASTES.—

4 Not later than 6 months after the date of enactment of
5 this subsection, the Administrator shall issue guidelines
6 for the management of lead-based paint abatement debris.
7 The guidelines shall describe steps for segregating wastes
8 from lead-based paint abatement projects in order to mini-
9 mize the volume of material qualifying as hazardous solid
10 waste.

11 “(c) SOIL LEAD GUIDELINES.—

12 “(1) IN GENERAL.—Not later than 2 years
13 after the date of enactment of this subsection, the
14 Administrator shall issue guidelines concerning—

15 “(A) action levels for lead in soil; and

16 “(B) mitigation recommendations.

17 “(2) REQUIREMENTS FOR GUIDELINES.—The
18 guidelines under this subsection establishing action
19 levels and mitigation recommendations shall take
20 into account different soil types, land uses, and
21 other site-related characteristics affecting lead expo-
22 sure conditions and levels of lead in blood.

23 “(d) STUDY OF LEAD IN USED OIL.—

24 “(1) IN GENERAL.—Not later than 18 months
25 after the date of enactment of this subsection, the

1 Administrator shall conduct a study concerning the
2 effects on the environment and public health of
3 burning used oil.

4 “(2) REPORT.—On the completion of the study,
5 the Administrator shall submit a report to Congress
6 on the results of the study.

7 “(3) CONTENTS OF STUDY.—The study shall
8 include an assessment of—

9 “(A) the volume of lead in used oil released
10 into the environment, and the sources of the
11 lead contaminants;

12 “(B) the impact of a variety of approaches
13 to regulation of used oil recycling facilities; and

14 “(C) such other information as the Admin-
15 istrator determines to be appropriate regarding
16 disposal practices of lead in used oil in use at
17 the time of the study and alternatives to the
18 practices, including the manner in which any
19 detrimental effects on the environment or public
20 health (or both) can be reduced or eliminated
21 by the reduction of lead as a constituent of
22 used oil.

23 “(e) COORDINATOR FOR LEAD ACTIVITIES.—Not
24 later than 30 days after the date of enactment of this sub-
25 section, the Administrator shall appoint, from among the

1 employees of the Environmental Protection Agency, a Co-
2 ordinator for Lead Activities to coordinate the activities
3 conducted by the Agency (or in conjunction with the Agen-
4 cy) relating to the prevention of lead poisoning, the reduc-
5 tion of lead exposure, and lead abatement.”.

6 **SEC. 109. ESTABLISHMENT OF NATIONAL CENTERS FOR**
7 **THE PREVENTION OF LEAD POISONING.**

8 Title IV (15 U.S.C. 2681 et seq.) is further amended
9 by inserting after section 409, as added by section 108
10 of this Act, the following new section:

11 **“SEC. 410. ESTABLISHMENT OF NATIONAL CENTERS FOR**
12 **THE PREVENTION OF LEAD POISONING.**

13 “(a) ESTABLISHMENT AND RESPONSIBILITIES.—

14 “(1) IN GENERAL.—The Administrator shall es-
15 tablish a grant program to establish 1 or more Cen-
16 ters for the Prevention of Lead Poisoning (referred
17 to in this section as a ‘Center’).

18 “(2) GRANTS.—The Administrator shall award
19 grants to 1 or more institutions of higher education
20 (as defined in 1201(a) of the Higher Education Act
21 of 1965 (20 U.S.C. 1141(a))) in the United States
22 for the purpose of establishing and funding a Cen-
23 ter. Each Center shall assist the Administrator in
24 carrying out this title, including providing for the

1 transfer of technology and serving as a source of in-
2 formation to the general public.

3 “(b) APPLICATIONS.—The Administrator shall solicit
4 applications from institutions of higher education of the
5 United States for the establishment of a Center. The ap-
6 plication shall be in such form, and contain such informa-
7 tion, as the Administrator may require by regulation.

8 “(c) SELECTION CRITERIA.—The Administrator shall
9 select each grant recipient from among the applicant insti-
10 tutions referred to in subsection (b) in accordance with
11 the following criteria:

12 “(1) The capability of the applicant institution
13 to provide leadership in making national contribu-
14 tions to the prevention of lead poisoning.

15 “(2) The demonstrated capacity of the appli-
16 cant institution to conduct relevant research.

17 “(3) The appropriateness of the projects pro-
18 posed to be carried out by the applicant institution.

19 “(4) The assurance of the applicant institution
20 of a commitment of at least \$100,000 in budgeted
21 institutional funds to relevant research upon receipt
22 of the grant.

23 “(5) The presence at the applicant institution
24 of an interdisciplinary staff with demonstrated ex-
25 pertise in lead poisoning prevention.

1 “(6) The demonstrated ability of the applicant
2 institution to disseminate the results of relevant re-
3 search and educational programs through an inter-
4 disciplinary continuing education program.

5 “(7) Any other criteria that the Administrator
6 determines to be appropriate.

7 “(d) FEDERAL SHARE AND DURATION OF GRANT.—

8 “(1) FEDERAL SHARE.—The Federal share
9 with respect to a grant under this section shall not
10 exceed an amount equal to 95 percent of the cost of
11 establishing and operating a Center and related re-
12 search activities carried out by the Center.

13 “(2) DURATION OF GRANT.—A grant awarded
14 under this section shall be for a period of not more
15 than 2 years.”.

16 **SEC. 110. CONFORMING AMENDMENTS.**

17 (a) CROSS-REFERENCES.—

18 (1) PENALTIES.—Section 16 (15 U.S.C. 2615)
19 is amended by striking “409” each place it appears
20 and inserting “418”.

21 (2) SPECIFIC ENFORCEMENT AND SEIZURE.—
22 Section 17(a)(1)(A) (15 U.S.C. 2616(a)(1)(A)) is
23 amended by striking “409” and inserting “418”.

1 (3) AUTHORIZED STATE PROGRAMS.—Section
2 413, as redesignated by section 101(a), is amend-
3 ed—

4 (A) by striking “402 or 406” each place it
5 appears and inserting “411 or 415”; and

6 (B) in subsection (d), by striking “402”
7 and inserting “411”.

8 (b) AUTHORIZATION OF APPROPRIATIONS.—In sec-
9 tion 421, as redesignated by section 101(a) of this Act,
10 by striking “There are authorized to be appropriated to
11 carry out the purposes of this title” and inserting “There
12 are authorized to be appropriated to carry out this title
13 (other than sections 403 through 410)”.

14 (c) REFERENCES IN OTHER ACTS.—

15 (1) Section 302(a)(1)(A) of the Lead-Based
16 Paint Poisoning Prevention Act (42 U.S.C.
17 4822(a)(1)(A)) is amended by striking “406” and
18 inserting “415”.

19 (2) Section 1011 of the Residential Lead-Based
20 Paint Hazard Reduction Act of 1992 (42 U.S.C.
21 4852) is amended—

22 (A) in subsections (e)(5), (g)(1), and (n),
23 by striking “402” and inserting “411”; and

24 (B) in subsection (n), by striking “404”
25 and inserting “413”.

1 (3) Section 1018(a)(1)(A) of the Residential
 2 Lead-Based Paint Hazard Reduction Act of 1992
 3 (42 U.S.C. 4852d(a)(1)(A)) is amended by striking
 4 “406” and inserting “415”.

5 **SEC. 111. AMENDMENT TO TABLE OF CONTENTS.**

6 The table of contents in section 1 of the Act (15
 7 U.S.C. 2601 et seq.) is amended by striking the items re-
 8 lating to title IV and inserting the following new items:

 “TITLE IV—LEAD EXPOSURE REDUCTION

- “Sec. 401. Findings and policy.
- “Sec. 402. Definitions.
- “Sec. 403. Restrictions on continuing uses of certain lead-containing products.
- “Sec. 404. Inventory of lead-containing products and new use notification procedures.
- “Sec. 405. Product labeling.
- “Sec. 406. Recycling of lead-acid batteries.
- “Sec. 407. Mercury-containing and rechargeable battery management.
- “Sec. 408. Lead contamination in schools and day care facilities.
- “Sec. 409. Blood-lead and other abatement and measurement programs.
- “Sec. 410. Establishment of National Centers for the Prevention of Lead Poisoning.
- “Sec. 411. Lead-based paint activities training and certification.
- “Sec. 412. Identification of dangerous levels of lead.
- “Sec. 413. Authorized State programs.
- “Sec. 414. Lead abatement and measurement.
- “Sec. 415. Lead hazard information pamphlet.
- “Sec. 416. Regulations.
- “Sec. 417. Control of lead-based paint hazards at Federal facilities.
- “Sec. 418. Prohibited acts.
- “Sec. 419. Relationship to other Federal law.
- “Sec. 420. General provisions relating to administrative proceedings.
- “Sec. 421. Authorization of appropriations.”.

9 **TITLE II—MISCELLANEOUS**

10 **SEC. 201. REPORTING OF BLOOD-LEAD LEVELS; BLOOD-**
 11 **LEAD LABORATORY REFERENCE PROJECT.**

12 (a) REPORTING OF BLOOD-LEAD LEVELS.—

1 (1) IN GENERAL.—The Secretary of Health and
2 Human Services (referred to in this section as the
3 “Secretary”), acting through the Director of the
4 Centers for Disease Control (referred to in this sec-
5 tion as the “Director”), shall identify methods for
6 reporting blood-lead levels in a standardized format
7 by State public health officials to the Director.

8 (2) REPORT TO CONGRESS.—Not later than 18
9 months after the date of enactment of this Act, the
10 Secretary shall submit a report to Congress that—

11 (A) describes the status of blood-lead re-
12 porting; and

13 (B) evaluates the feasibility and desirabil-
14 ity of instituting a national requirement for
15 mandatory preschool blood-lead screening.

16 (3) ADDITIONAL REPORT.—Not later than 2
17 years after the date of enactment of this Act, the
18 Secretary, in consultation with the Secretary of
19 Labor and the Administrator of the Environmental
20 Protection Agency, shall submit a report to Congress
21 that assesses the effectiveness of the blood-lead re-
22 porting provisions under the regulations establishing
23 the accreditation and certification programs for
24 blood analysis laboratories described in section

1 409(a) of the Toxic Substances Control Act (as
2 added by section 108).

3 (b) ESTABLISHMENT OF BLOOD-LEAD LABORATORY
4 REFERENCE PROJECT.—Subpart 2 of part C of title IV
5 of the Public Health Service Act (42 U.S.C. 258b et seq.),
6 is amended by inserting after section 424 the following
7 new section:

8 **“SEC. 424A. BLOOD-LEAD LABORATORY REFERENCE**
9 **PROJECT.**

10 “The Secretary of Health and Human Services, act-
11 ing through the Director of the Centers for Disease Con-
12 trol, shall establish a blood-lead laboratory reference
13 project to assist States and local governments in establish-
14 ing, maintaining, improving, and ensuring the quality of
15 laboratory measurements performed for lead poisoning
16 prevention programs. The project shall include—

17 “(1) collaboration with manufacturers of ana-
18 lytical instruments to develop blood-lead measure-
19 ment devices that are accurate, portable, precise,
20 rugged, reliable, safe, and of reasonable cost;

21 “(2) the development of improved techniques
22 for safe, contamination-free blood sample collection;
23 and

24 “(3) assistance to State and local laboratories
25 in the form of reference materials, equipment, sup-

1 plies, training, consultation, and technology develop-
2 ment for quality assurance, capacity expansion, and
3 technology transfer.”.

4 **SEC. 202. UPDATE OF 1988 REPORT TO CONGRESS ON**
5 **CHILDHOOD LEAD POISONING.**

6 (a) IN GENERAL.—Not later than 2 years after the
7 date of enactment of this Act, and every 2 years thereafter
8 until the date that is 10 years after the date of enactment
9 of this Act, and as necessary thereafter, the Administrator
10 of the Agency for Toxic Substances and Disease Registry
11 shall submit to Congress a report that updates the report
12 submitted pursuant to section 118(f)(1) of the Superfund
13 Amendments and Reauthorization Act of 1986. Each up-
14 dated report shall include, at a minimum, revised esti-
15 mates of the prevalence of elevated lead levels among chil-
16 dren and adults in the population of the United States,
17 and estimates of the prevalence of adverse health out-
18 comes associated with lead exposure. The initial report
19 under this section shall include an assessment of the po-
20 tential contribution to elevated blood lead levels in children
21 from exposure to sources of lead in schools and day care
22 centers.

23 (b) FUNDING.—The costs of preparing and submit-
24 ting the updated reports referred to in subsection (a) shall
25 be paid from the Hazardous Substance Superfund estab-

1 lished under section 9507 of the Internal Revenue Code
2 of 1986.

3 **SEC. 203. ADDITIONAL CONFORMING AMENDMENTS.**

4 (a) AMENDMENT TO THE FAIR PACKAGING AND LA-
5 BELING ACT.—Section 11 of the Fair Packaging and La-
6 beling Act (15 U.S.C. 1460) is amended—

7 (1) in subsection (b), by striking “or” at the
8 end;

9 (2) in subsection (c), by striking the period at
10 the end and inserting “; or”; and

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

12 “(d) The Lead Exposure Reduction Act of 1994
13 and the amendments made by such Act.”.

14 (b) AMENDMENTS TO THE FEDERAL FOOD, DRUG
15 AND COSMETIC ACT.—

16 (1) TIME-BASED REQUIREMENTS.—Section 402
17 of the Federal Food, Drug, and Cosmetic Act (21
18 U.S.C. 342) is amended by adding at the end the
19 following:

20 “(f) For the third 1-year period after the date of en-
21 actment of the Lead Exposure Reduction Act of 1994 and
22 thereafter, if any package or packaging component (in-
23 cluding any solder or flux) used in packaging the food con-
24 tains any lead that has been intentionally introduced into
25 the package or component.

1 “(g) If the incidental presence of lead in any package
2 or packaging component (including any solder or flux)
3 used in packaging the food exceeds—

4 “(1) for the third 1-year period after the date
5 of enactment of the Lead Exposure Reduction Act
6 of 1994, 600 parts per million (0.06 percent);

7 “(2) for the fourth 1-year period after the date
8 of enactment of such Act, 250 parts per million
9 (0.025 percent); and

10 “(3) for the fifth 1-year period after the date
11 of enactment of such Act and thereafter, 100 parts
12 per million (0.01 percent).”.

13 (2) CERAMIC WARE; PROCESSED FOODS;
14 WINE.—Chapter IV of such Act (21 U.S.C. 341 et
15 seq.) is amended by adding at the end the following
16 new section:

17 **“SEC. 413. LEAD REGULATIONS.**

18 “(a) CERAMIC WARES.—Not later than 18 months
19 after the date of enactment of this section, the Secretary
20 shall promulgate regulations to establish such standards
21 and testing procedures with respect to lead in ceramic
22 wares as are necessary to make food that contacts the
23 ware not adulterated as containing an added substance
24 under section 402(a)(1).

1 “(b) CRYSTAL WARES.—Not later than 30 months
2 after the date of enactment of this section, the Secretary
3 shall promulgate regulations to establish such standards
4 and testing procedures with respect to lead in crystal
5 wares as are necessary to make food that contacts the
6 ware not adulterated as containing an added substance
7 under section 402(a)(1).

8 “(c) PROCESSED FOODS.—Not later than 2 years
9 after the date of enactment of this section, the Secretary
10 shall promulgate regulations to reduce lead in processed
11 foods. The regulations shall determine the processed foods
12 and related manufacturing practices that are significant
13 sources of lead in the human diet and require the greatest
14 degree of reduction of lead in the foods that is achievable
15 in practice.

16 “(d) WINE.—Not later than 1 year after the date of
17 enactment of this section, the Secretary shall promulgate
18 regulations to establish such tolerance level and testing
19 procedures with respect to lead in wine as the Secretary
20 determines to be necessary to protect public health.”.

21 (3) PROHIBITION RELATING TO CERAMIC
22 WARE.—Section 301 of such Act (21 U.S.C. 331) is
23 amended by adding at the end the following:

24 “(u) Beginning on the date that is 180 days after
25 the date of promulgation of regulations under section

1 413(a), the introduction or delivery into interstate com-
2 merce of any ceramic ware that is not in compliance with
3 the regulations.

4 “(v) Beginning on the date that is 180 days after
5 the date of promulgation of regulations under section
6 413(b), the introduction or delivery into interstate com-
7 merce of any crystal ware that is not in compliance with
8 the regulations.

9 “(w) Beginning on the date that is 180 days after
10 the date of promulgation of regulations under section
11 413(c), the introduction, or delivery for introduction, into
12 commerce of any processed food, or other action, in viola-
13 tion of section 413(c).”.

14 **SEC. 204. NON-INTERFERENCE.**

15 Nothing in this Act shall interfere with the promulga-
16 tion of regulations required pursuant to the Residential
17 Lead-Based Paint Hazard Reduction Act of 1992 (106
18 Stat. 3897).

19 **SEC. 205. SENSE OF THE SENATE CONCERNING LEAD FISH-**
20 **ING SINKERS.**

21 (a) FINDINGS.—

22 (1) on March 9, 1994 the EPA promulgated a
23 rule to ban the manufacture and sale of lead, zinc,
24 and brass fishing sinkers,

1 (2) the proposed rule was developed in response
2 to a Toxic Substances Control Act petition request-
3 ing that EPA label, not ban, lead fishing sinkers,

4 (3) EPA states in the proposed rule, “In addi-
5 tion, an accurate number of waterbirds that could
6 receive a lethal dose of lead or zinc from fishing
7 sinkers, or the probability of consuming a lethal
8 dose, cannot be estimated,

9 (4) no one has studied the effectiveness of fish-
10 ing sinkers manufactured from lead-substitute mate-
11 rials which can cost eight to ten times as much and
12 have physical or chemical limitations,

13 (5) a ban on lead fishing sinkers would put
14 small fishing tackle manufacturers at a competitive
15 disadvantage to major fishing tackle manufacturers
16 who can afford to retool and produce fishing sinkers
17 with lead-substitute materials,

18 (6) a ban on home manufacturing of lead fish-
19 ing sinkers would affect up to 1,600,000 anglers
20 who make their own sinkers in basements and ga-
21 rages, and

22 (7) EPA has commented that a ban on lead
23 fishing sinkers could eventually be expanded to all
24 lead-containing fishing tackle, including lures.

1 (b) SENSE OF SENATE.—It is the sense of the Senate
2 that the Administrator should finalize no rule or regula-
3 tion which requires a nationwide prohibition of the manu-
4 facture, sale, or use of fishing sinkers, jigs, or lures con-
5 taining lead, brass, or zinc, until such time as the Admin-
6 istrator gives priority consideration to alternative means
7 of reducing the risk to waterfowl from lead fishing sinkers,
8 including labeling, public education, and State or regional
9 limits.

10 **TITLE III—AUTHORIZATION OF**
11 **APPROPRIATIONS**

12 **SEC. 301. AUTHORIZATION OF APPROPRIATIONS.**

13 There are authorized to be appropriated to carry out
14 this Act and the amendments made by this Act (other
15 than sections 407 and 408 of the Toxic Substances Con-
16 trol Act, as added by this Act)—

- 17 (1) \$25,000,000 for fiscal year 1995;
18 (2) \$24,000,000 for fiscal year 1996;
19 (3) \$24,000,000 for fiscal year 1997; and
20 (4) \$22,000,000 for fiscal year 1998.

Passed the Senate May 25 (legislative day, May 16),
1994.

Attest:

Secretary.

S 729 ES—2

S 729 ES—3

S 729 ES—4

S 729 ES—5

S 729 ES—6

S 729 ES—7

S 729 ES—8

S 729 ES—9

S 729 ES—10

S 729 ES—11

S 729 ES—12