

110TH CONGRESS  
2D SESSION

# S. 3495

To protect pregnant women and children from dangerous lead exposures.

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 16, 2008

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

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## A BILL

To protect pregnant women and children from dangerous  
lead exposures.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protect Pregnant  
5 Women and Children from Dangerous Lead Exposures  
6 Act of 2008”.

7 **SEC. 2. FINDINGS.**

8 Congress finds that—

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

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

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

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

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

13 (B) can cause adverse behavioral impacts.

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (B) by not later than April 28, 1995, to  
20 conduct and publish a study on the extent to  
21 which persons engaged in various types of ren-  
22 ovation and remodeling activities in target  
23 housing, public buildings constructed before  
24 1978, and commercial buildings are exposed to  
25 lead in the conduct of the activities, or disturb

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

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

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

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

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

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

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

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

16 (B) concluded that—

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

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

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

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

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

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

4 (A) cleaning practices that—

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

8 (ii) are based on the goal of meeting  
9 the lead dust loading values of 40  
10 micrograms per square foot for floors and  
11 250 micrograms per square foot for win-  
12 dow sills, which those scientific advisors  
13 have called “obsolete” based on studies  
14 demonstrating that the values may be in-  
15 adequately protective of children’s health;  
16 and

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

21 (18) the revised lead-based paint renovation, re-  
22 pair, and painting rule of the Environmental Protec-  
23 tion Agency fails—

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

1           (B) to adequately protect the health of  
2           pregnant women and children from lead poi-  
3           soning; and

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

8 **SEC. 3. DEFINITIONS.**

9       In this Act:

10           (1) ADMINISTRATOR.—The term “Adminis-  
11           trator” means the Administrator of the Environ-  
12           mental Protection Agency.

13           (2) BEST AVAILABLE SCIENCE.—The term  
14           “best available science” includes, with respect the  
15           establishment of standards for the protection of indi-  
16           viduals from exposure to lead, studies on the health  
17           effects of lead completed since the Environmental  
18           Protection Agency last updated the lead-based paint  
19           hazard standard under section 403 of the Toxic  
20           Substances Control Act (15 U.S.C. 2683), including  
21           especially recent epidemiological studies, dem-  
22           onstrating that lead levels below 10 micrograms per  
23           deciliter of blood pose a threat to children’s health.

1 **SEC. 4. PROTECTION OF PREGNANT WOMEN AND CHILD-**  
2 **DREN.**

3 (a) BEST AVAILABLE SCIENCE.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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