112TH CONGRESS
1ST SESSION

S. _____

To amend the Toxic Substances Control Act relating to lead-based paint renovation and remodeling activities.

IN THE SENATE OF THE UNITED STATES

Mr. INHOFE (for himself, Mr. VITTER, Mr. COBURN, Mr. GRASSLEY, Mr. BLUNT, and Mr. ENZI) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Toxic Substances Control Act relating to lead-based paint renovation and remodeling activities.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Lead Exposure Reduction Amendments Act of 2012''.

SEC. 2. DEFINITIONS.

Section 401 of the Toxic Substances Control Act (15 U.S.C. 2681) is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and indenting the clauses appropriately;

(B) in the first sentence, by striking ''The term'' and inserting the following:

''(A) IN GENERAL.—The term'';

(C) by striking ''Such term includes—'' and inserting the following:

''(B) INCLUSIONS.—The term 'abatement' includes—''; and

(D) by adding at the end the following:

''(C) EXCLUSIONS.—The term 'abatement' does not include any renovation, remodeling, landscaping, or other activity—

''(i) the primary purpose of which is to repair, restore, or remodel a structure or dwelling; and

''(ii) that incidentally results in a reduction or elimination of lead-based paint hazards.'';

(2) by redesignating paragraphs (4) through (12) and paragraphs (13) through (17) as paragraphs (5) through (13) and paragraphs (15) through (19), respectively;

(3) by inserting after paragraph (3) the following:

''(4) EMERGENCY RENOVATION.—The term 'emergency renovation' means a renovation, replacement, or repair activity that—

''(A) was not planned; and

''(B) results from a sudden, unexpected event that, if not immediately attended to—

''(i) presents a risk to the public health or safety; or

''(ii) threatens to cause significant damage to equipment or property.'';

(4) by striking paragraph (10) (as redesignated by paragraph (2)) and inserting the following:

''(10) LEAD-BASED PAINT.—The term 'lead-based paint' means paint or other surface coatings that contain lead—

''(A) in excess of—

''(i) 1.0 milligrams per centimeter squared; or

''(ii) 0.5 percent by weight; or

''(B) in the case of paint or other surface coatings on target housing, the lower level established by the Secretary of Housing and Urban Development under section 302(c) of the

Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 et seq.).'';

(5) by inserting after paragraph (13) (as redesignated by paragraph (2)) the following:

''(14) POST-ABATEMENT CLEARANCE TESTING.—The term 'post-abatement clearance testing' means a test that—

''(A) is carried out on the completion of any lead-based paint activity to ensure that—

''(i) the reduction is complete; and

''(ii) no lead-contaminated dust hazards remain in the dwelling unit or worksite; and

''(B) includes a visual assessment and the collection and analysis of environmental samples from the dwelling or worksite.''; and

(6) by adding at the end the following:

''(20) TEST KIT.—The term 'test kit' means a chemical test that has the ability to determine the presence of lead in a paint chip, paint powder, or painted surface at a level that is equal to or in excess of—

''(A) 1.0 milligrams per centimeter squared; or

''(B) 0.5 percent by weight.''.

SEC. 3. LEAD-BASED PAINT ACTIVITIES TRAINING AND CERTIFICATION.

Section 402(c) of the Toxic Substances Control Act (15 U.S.C. 2682(c)) is amended—

(1) by striking paragraph (2) and inserting the following

''(2) STUDY OF CERTIFICATION.—

''(A) IN GENERAL.—Prior to proposing any new regulation applicable to target housing or public or commercial buildings constructed before 1978, the Administrator shall conduct a study of the extent to which persons engaged in various types of renovation and remodeling activities in the target housing or public or commercial buildings constructed before 1978—

''(i) are exposed to lead in the conduct of those activities; or

''(ii) disturb lead and create a lead-based paint hazard on a regular or occasional basis.

''(B) COMPLETION.—The Administrator shall complete each study under subparagraph (A) and publish the results of that study not later than 1 year prior to proposing any new regulation applicable to a structure or dwelling described in subparagraph (A).'';

(2) in paragraph (3)—

(A) in the first sentence, by striking ''Within 4 years'' and inserting the following:

''(A) IN GENERAL.—Not later than 4 years'';

(B) in the second sentence, by striking ''In determining'' and inserting the following:

''(B) USE OF STUDY.—In determining'';

(C) in the third sentence, by striking ''If the Administrator'' and inserting the following:

''(C) DETERMINATION OF ADMINISTRATOR.—If the Administrator''; and

(D) by adding at the end the following:

''(D) EXEMPTION.—An emergency renovation shall be exempt from any regulation promulgated by the Administrator under this paragraph.

''(E) PROHIBITION ON POST-ABATEMENT CLEARANCE REQUIREMENT.—No regulation promulgated by the Administrator under this paragraph shall require post-abatement clearance testing.''; and

(3) by adding at the end the following:

''(4) TARGET HOUSING OWNERS.—

"(A) IN GENERAL.—Not later than 60 days after the date of enactment of this paragraph and subject to subparagraph (B), in promulgating any regulation relating to renovation or remodeling activities in target housing in which the owner resides, the Administrator shall include a provision that permits the owner to authorize the renovation or remodeling contractor to forego compliance with that regulation.

"(B) RESTRICTION.—The Administrator shall only permit an owner of target housing to forgo compliance with a regulation under this paragraph if—

"(i) no pregnant woman or child under the age of 6 resides in the target housing as of the date on which the renovation or remodeling commences; and

"(ii) the owner submits to the renovation or remodeling contractor written certification that—

"(I) the renovation or remodeling project is to be carried out at the target housing of the owner;

''(II) no pregnant woman or child under the age of 6 resides in the target housing as of the date on which the renovation or remodeling commences; and

''(III) the owner acknowledges that, in carrying out the project, the renovation or remodeling contractor will be exempt from employing the work practices required by a regulation promulgated under this subsection.

''(C) LIMITATION OF CONTRACTOR LIABILITY.—A contractor that receives written certification described in subparagraph (B)(ii) shall be exempt from liability resulting from any misrepresentation of the owner of the target housing.

''(5) TEST KITS.—

''(A) IN GENERAL.—In making a certification determination under this subsection, the Administrator shall allow contractors to use commercially available lead-based paint test kits that comply with the positive and negative re-

sponse criteria established by the Administrator.

"(B) TEST KIT APPROVAL.—

"(i) IN GENERAL.—The Administrator shall establish a process by which the Administrator shall identify and approve a test kit that—

"(I) meets the criteria described in subparagraph (A);

"(II) is inexpensively and commercially available;

"(III) does not require special training to use the test kit; and

"(IV) enables users to determine the presence of lead at the job site in accordance with the criteria described in subparagraph (A) without the need for off-site laboratory analysis.

"(ii) SUSPENSION OF REGULATIONS.—

"(I) IN GENERAL.—If the Administrator is unable to determine that 1 or more test kits under clause (i) exists, the Administrator shall suspend the implementation of any appli-

cable regulation under this subsection relating to renovation or remodeling, except for owners described in paragraph (4)(B), until the date on which the Administrator—

"(aa) identifies and approves 1 or more test kits under clause (i); and

"(bb) publishes in the Federal Register notice of that identification and approval.

"(II) DURATION.—The Administrator shall remove the suspension under this clause not earlier than 45 days after the date on which notification of the identification and approval of the test kit is published in the Federal Register in accordance with subclause (I)(bb).

"(III) APPLICABILITY.—This clause shall—

"(aa) only apply to regulations that permit an owner of target housing to authorize a renovation or remodeling con-

tractor to forego compliance with the regulation; and

''(bb) not affect any other regulation issued under this subsection.

''(6) APPLICABILITY OF CERTAIN PENALTIES.—Any regulation promulgated by the Administrator under this section requiring the submission of documentation to the Administrator shall provide—

''(A) an exemption from penalty for a person who—

''(i) is submitting the required documentation for the first time; and

''(ii) submits documentation that contains de minimus or typographical errors, as determined by the Administrator; and

''(B) a process by which a person described in subparagraph (A) may resubmit the required documentation.

''(7) ACCREDITATION OF RECERTIFICATION COURSES.—Subsection (a)(2)(D) shall not apply to any certified renovator recertification course that is accredited by the Environmental Protection Agency.''.