Lead Industries Association, Inc.
292 Madison Avenue • New York, N. Y. 10017 • Telephone: (212) 532-2373

Environmental Health Department

DATE: March 15, 1979

TO: All Members of the LIA Board of Directors
All Official Members of the Lead Industries Association, Inc.
All Members of the LIA Environmental Health Committee

FROM: Donald R. Lynam, Ph.D.

SUBJECT: Federal Register Notice of Judicial Stay of OSHA Lead Standard

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Enclosed is a copy of the official notice of the partial judicial stay of the OSHA lead standard which appeared in the Federal Register of March 13, 1979.

The notice lists the provisions of the standard which were included in the judicial stay.

Sincerely,

Donald R. Lynam

Donald R. Lynam, Ph.D.
Assistant Director, Environmental Health

lm
enclosure

LIA03477

N 3730

Mailed 3-19-79
via F.C./H.M.

Dated: March 9, 1979.

GRIFFIN B. BELL,
Attorney General.

PART 47—RIGHT TO FINANCIAL PRIVACY ACT

AUTHORITY: 5 U.S.C. 301; 28 U.S.C. 509, 510; section 1108 of the Right to Financial Privacy Act of 1978, 12 U.S.C. 3408.

§ 47.1 Definitions.

The terms used in this part shall have the same meaning as similar terms used in the Right to Financial Privacy Act of 1978. "Departmental unit" means any office, division, board, bureau, or other component of the Department of Justice which is authorized to conduct law enforcement inquiries. "Act" means the Right to Financial Privacy Act of 1978.

§ 47.2 Purpose.

The purpose of these regulations is to authorize Departmental units to request financial records from a financial institution pursuant to the formal written request procedure authorized by section 1108 of the Act, and to set forth the conditions under which such requests may be made.

§ 47.3 Authorization.

Departmental units are authorized to request financial records of any customer from a financial institution pursuant to a formal written request under the Act only if:

(a) no administrative summons or subpoena authority reasonably appears to be available to the Departmental unit to obtain financial records for the purpose for which the records are sought;

(b) there is reason to believe that the records sought are relevant to a legitimate law enforcement inquiry and will further that inquiry;

(c) the request is issued by a supervisory official of a rank designated by the head of the requesting Departmental unit. The officials so designated shall not delegate this authority to others;

(d) the request adheres to the requirements set forth in § 47.4; and

(e) the notice requirements set forth in section 1108(4) of the Act, or the requirements pertaining to delay of notice in section 1109 of the Act, are satisfied, except in situations (e.g., section 1113(g)) where no notice is required.

§ 47.4 Written request.

(a) The formal written request shall be in the form of a letter or memorandum to an appropriate official of the financial institution from which financial records are requested. The request shall be signed by the issuing official, and shall set forth that official's name, title, business address and business phone number. The request shall also contain the following:

(1) The identity of the customer or customers to whom the records pertain;

(2) A reasonable description of the records sought; and

(3) Such additional information as may be appropriate—e.g., the date on which the opportunity for the customer to challenge the formal written request will expire, the date on which the requesting Departmental unit expects to present a certificate of compliance with the applicable provisions of the Act, the name and title of the individual (if known) to whom disclosure is to be made.

(b) In cases where customer notice is delayed by court order, a copy of the court order shall be attached to the formal written request.

§ 47.5 Certification.

Prior to obtaining the requested records pursuant to a formal written request, an official of a rank designated by the head of the requesting Departmental unit shall certify in writing to the financial institution that the Departmental unit has complied with the applicable provisions of the Act.

[FR Doc. 79-7686 Filed 3-12-79; 8:45 am]

[4510-26-M]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Occupational Exposure to Lead; Notice of Partial Judicial Stay

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Notice of partial judicial stay of standard for occupational exposure to lead.

SUMMARY: Several provisions of OSHA's new standard for occupational exposure to lead (29 CFR 1910.1025) have been stayed by the U.S. Court of Appeals for the District of Columbia Circuit pending full judicial review of the standard. This notice lists the provisions which have been stayed. The remaining provisions are effective March 1, 1979. In addition, the prior standard on occupational exposure to lead in 29 CFR 1910.1000 will remain in effect until the complete new standard becomes effective.

DATE: The effective date of the standard is March 1, 1979, except as otherwise noted.

FOR FURTHER INFORMATION CONTACT:

Gail Brinkerhoff, U.S. Department of Labor, Room N3112, Washington, D.C. 20210, Telephone: (202) 523-8034.

SUPPLEMENTARY INFORMATION: On November 13, 1978, the Occupational Safety and Health Administration (OSHA) promulgated a permanent standard for occupational exposure to lead. [29 CFR 1910.1025, 43 FR 52952-53014 (November 14, 1978), 43 FR 54354-54509 (November 21, 1978)]. The standard provided for an effective date of February 1, 1979, with delayed startup dates for some provisions. Certain corrections to the standard, including an administrative stay of one portion of the respirator table, were published in the FEDERAL REGISTER on January 26, 1979 (44 FR 5446).

Pursuant to section 6(f) of the Occupational Safety and Health Act, 29 U.S.C. 655(f), numerous petitions were filed in several U.S. Courts of Appeal challenging the validity of the standard. All petitions were transferred to the U.S. Court of Appeals for the District of Columbia Circuit (*United Steelworkers of America, AFL-CIO-CLC* v. *Marshall*, No. 78-2452 (3rd Circuit, January 10, 1979)) and consolidated.

Several of the petitioners then moved in the Court of Appeals for a stay of the lead standard pending disposition of their petitions for review. In the FEDERAL REGISTER notice of January 26, 1979, OSHA administratively stayed the lead standard until February 24, 1979, to facilitate the Court's consideration of the motions (44 FR 5446, January 26, 1979). The administrative stay was subsequently extended at the Court's request for the same reason. A decision on the motions to stay the lead standard was issued by the Court on March 1, 1979. (*United Steelworkers of America, AFL-CIO-CLC* v. *Marshall*, No. 79-1048 (D.C. Circuit, March 1, 1979)). The Court's order stayed certain provisions of the lead standard and denied the stay motions as to others. Following is a list of the paragraphs of the standard as they have been affected by the Court's order. As directed by the Court, the effective date of the standard as a whole was March 1, 1979, with limited exceptions noted below, subject to the delayed startup dates in paragraph (r).

PAR. 2. Section 31.3402(n)-1 is amended by adding two sentences immediately before example (1) to read as follows:

§ 31.3402(n)-1 Employees incurring no income tax liability.

* * * * *

If the employer has reason to believe that the withholding exemption certificate contains any incorrect statement, the district director should be so advised. See § 31.3402(f)(2)-1(e) for rules relating to invalid withholding exemption certificates.

* * * * *

This Treasury decision is necessary to correct immediately the subject provisions of the Employment Tax Regulations in order to avoid confusion and misunderstanding both by Internal Revenue Service personnel and by the public. For this reason, notice and public procedure on this matter are impracticable and contrary to the public interest. Therefore, this Treasury decision need not be issued with notice and public procedure under subsection (b) of section 553, Title 5 of the United States Code, or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: February 28, 1979.

DONALD C. LUBICK,
Assistant Secretary of the Treasury.

[FR Doc. 79-7474 Filed 3-12-79; 8:45 am]

[4410-01-M]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 822-79]

PART 47—RIGHT TO FINANCIAL PRIVACY ACT

Regulations Implementing the Right to Financial Privacy Act of 1978

AGENCY: Department of Justice.

ACTION: Final regulation.

SUMMARY: These regulations will authorize Department of Justice units to request financial records from a financial institution pursuant to the formal written request procedure established by section 1108 of the Right to Financial Privacy Act of 1978 ("Act"), 12 U.S.C. 3408, and will set forth the conditions under which such requests may be made.

EFFECTIVE DATE: March 10, 1979.

FOR FURTHER INFORMATION CONTACT:

Abbe D. Lowell, Special Assistant to the Deputy Attorney General, Department of Justice, Washington, D.C. 20530; 202-633-4238.

SUPPLEMENTARY INFORMATION: On February 2, 1979, the Department of Justice published in the FEDERAL REGISTER a proposed regulation authorizing Department of Justice units to request financial records from a financial institution pursuant to the formal written request procedure established by section 1108 of the Right to Financial Privacy Act of 1978, 12 U.S.C. 3408, and setting forth the conditions under which such requests may be made. 44 FR 6752-53. Following is a summary of the comments and recommendations received by the Department:

One comment noted that the legislative history of the Act stated that the regulations to be issued under section 1108 "should specify the level of employee permitted to make such requests and should state that the autherity may not be delegated." H.R. Rep. No. 1383, 95th Cong., 2d Sess. 52 (1978). The statement that the authority to make requests should not be delegated would not appear to amount to a requirement of law; in addition, the designation of supervisory officials by the head of each Departmental unit would clearly indicate that the authority may not be exercised by those not so designated. Nonetheless, a provision to this effect is being added to the regulations in order to comply as fully as possible with Congress' intent.

Another comment questioned whether section 1108 could itself be construed as authority to promulgate regulations. The requirement that regulations be promulgated would appear to contemplate clearly that authority existed to do so—if not by section 1108 itself, then by other statutes cited in the regulations.

Another comment was that the regulations are not specific enough as to the circumstances when the procedure may be used or as to the level of employee authorized to make a formal written request. In view of the many different sorts of investigations in which a formal written request might be helpful, it was thought inadvisable to attempt to specify each circumstance where the request would be authorized. In view of the different structures of the various Departmental units, and in light of the fact that changes in these structures are not infrequently made, it was thought best to vest the authority to designate officials to sign the formal written request in the head of each Departmental unit authorized to conduct law enforcement inquiries. If any financial institution questions the authority of any official to issue the formal written request, the official might then provide that financial institution with a copy of the designation authorizing him to do so.

Other comments related to the problems facing financial institutions in determining whether to respond to a formal written request—e.g., whether the financial institution must inquire whether the requesting agency had authority to investigate violations of law, whether it had administrative subpoena or summons authority, whether the request is authorized by regulations promulgated by the head of the department, whether there is reason to believe that the records sought are relevant to a legitimate law enforcement inquiry, whether the requesting official is acting beyond his authority, etc. These problems appear to be alleviated by section 1117(c) of the Act, 12 U.S.C. 3417(c), which provides that a financial institution disclosing financial records "in good-faith reliance upon a certificate by any Government authority shall not be liable to the customer for such disclosure." According to one of the sponsors of the Act, a financial institution is protected under this provision "if it receives a certificate of compliance with the act required by section 1103(b) that appears proper and legitimate on its face." H.R. Rep. No. 1383, 95th Cong., 2d Sess. 230 (1978) (additional views of Representative LaFalce). In any event, since these are matters which relate to the guidance of the financial institutions, they would appear to be outside the scope of regulations whose purpose is to authorize the use of the formal written request by government agencies.

Finally, another comment suggested that a provision be added requiring that each formal written request include a statement that financial institutions should consult counsel to determine whether compliance with a formal written request is permitted under applicable state and federal laws. It is not the responsibility of the Department of Justice to advise financial institutions as to the manner in which they are to perform their obligations under law.

By virtue of the authority vested in me by 5 U.S.C. 301, 28 U.S.C. 509, 510, and section 1108 of the Right to Financial Privacy Act of 1978, 12 U.S.C. 3408, a new part 47 is hereby added to title 28 of the Code of Federal Regulations as set forth below:

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§ 1910.1025 Lead.

Paragraph (a), *Scope and application*, is in effect;

Paragraph (b), *Definitions*, is in effect;

Paragraph (c), *Permissible exposure limit*, is in effect;

Paragraph (d), *Exposure monitoring*, is in effect;

Paragraph (e)(1), *Methods of compliance/Engineering and work practice controls*, is stayed;

Paragraph (e)(2), *Respiratory protection*, is in effect.

Paragraph (e)(3), *Compliance program*, is stayed, except that paragraph (e)(3)(ii)(F), relating to compliance plans for protective clothing, hygiene and housekeeping practices, is in effect;

Paragraph (e)(4), *Bypass of interim level* is stayed;

Paragraph (e)(5), *Mechanical ventilation* is stayed;

Paragraph (e)(6), *Administrative controls*, is stayed;

Paragraph (f), *Respiratory protection*, is in effect, except that paragraph (f)(2)(ii), relating to employee selection of powered, air-purifying respirators (PAPR), is modified so that PAPR's must be provided under that paragraph only when the physical characteristics of the employee are such that the respirators specified in Table II (paragraph (f)(2)(i)) are inadequate for the employee's protection. (Note that dust, fume, and mist air-purifying respirators are permitted to be used in addition to the respirators listed in Table II under the terms of the temporary administrative stay published at 44 FR 5446.);

Paragraph (g), *Protective work clothing and equipment*, is effective March 31, 1979, to provide employers time to implement its requirements and to apply for variances where warranted;

Paragraph (h), *Housekeeping*, is in effect, except that to the extent that employers must acquire vacuums to comply, the effective date is March 31, 1979. During this period, employers may apply for variances where warranted;

Paragraph (i), *Hygiene facilities and practices*, is in effect, except that it is stayed to the extent that it requires the construction of new facilities or substantial renovation of existing facilities;

Paragraph (j), *Medical surveillance*, is in effect, except for the requirements for ZPP determinations in paragraphs (j)(2) and (j)(3)(ii)(D)(3), and except for the requirements for the multiple physician review mechanism established in paragraph (j)(3)(iii) and referred to elsewhere in the standard;

Paragraph (k), *Medical removal protection*, is in effect;

Paragraph (l), *Employee information and training*, is in effect;

Paragraph (m), *Signs*, is stayed;

Paragraph (n), *Recordkeeping*, is in effect;

Paragraph (o), *Observation of monitoring*, is in effect;

Paragraph (p), *Effective date*, is modified to March 1, 1979;

Paragraph (q), *Appendices*, is in effect;

Paragraph (r), *Startup dates*, is in effect, except to the extent that it applies to provisions of the standard which have been stayed.

In addition, the standard for lead in 29 CFR 1910.1000 will remain in effect during the period of the stay and will continue to be enforced by OSHA. Section 1910.1000, Table Z-2, sets a permissible exposure limit of 0.2 milligrams of lead per cubic meter of air as an 8-hour, time-weighted average, which must be complied with by the use of feasible engineering or administrative controls (§ 1910.1000(e)).

Signed in Washington, D.C. on March 8, 1979.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 79-7626 Filed 3-12-79; 8:45 am]

[6560-01-M]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 1034-6]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Approval and Disapproval of Revisions of the Maryland State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces the Administrator's approval with certain exceptions of amendments to Maryland Regulations 10.03.36 through 10.03.41 inclusive, governing control of hydrocarbons and oxides of nitrogen. The amendments include definitions of organic solvents, changes of regulations governing control of oxides of nitrogen from fuel-burning equipment and nitric acid plants, control of hydrocarbon emissions from organic solvents, dry cleaning operations, and control of new sources of photochemically reactive organic material. This notice also announces the Administrator's disapproval of exemptions from regulations controlling emissions from organic solvents in the Metropolitan Baltimore Intrastate Air Quality Control Region (AQCR) and the Maryland portion of the National Capital Interstate AQCR.

EFFECTIVE DATES: April 12, 1979, for all approval actions, March 13, 1979 for all disapproval actions.

ADDRESSES: Copies of the amended regulations and associated support and comment material are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106, ATTN: Mr. Harold Frankford.

Maryland Bureau of Air Quality and Noise Control, 201 West Preston Street, Baltimore, Maryland 21201, ATTN: Mr. George P. Ferreri.

Public Information Reference Unit, Room 2922—EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. Harold Frankford, (215) 597-8392.

SUPPLEMENTARY INFORMATION:

I. BACKGROUND

The State of Maryland submitted amendments to Section .04 of Maryland Regulations 10.03.36 through 10.03.41 inclusive governing control of air pollution. The State requested that these amendments, submitted on April 24, 1974, December 11, 1974 and July 1, 1975, be reviewed and processed as revisions of the Maryland State Implementation Plan (SIP) for the attainment and maintenance of national ambient air quality standards. The amendments consist of the below-listed changes:

10.03.36-37, 40-41

.04G: *Nitrogen Oxides from New Fuel-Burning Equipment*—Minor wording changes.

.04H: *Nitrogen Oxides from Nitric Acid Plants*—Emission limitation for plants existing before 1972 are made more restrictive.

.04J: *Hydrocarbons from Other Than Fuel-Burning Equipment.*

.04J(1)a: Definition of "Organic material"—New section.

.04J(1)b: Definition of "True Vapor Pressure"—New section.

.04J(2): *Organic Material*—Control of organic material from storage tanks—New section.

10.03.38-39

.04G(1), (2): *Nitrogen Oxides from Fuel-Burning Equipment—New and existing*

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Fuel-Burning Equipment—Minor wording changes.

.04H: *Nitrogen Oxides from Nitric Acid Plants*—Emission limitation for plants existing before 1972 are made more restrictive.

.04J: *Hydrocarbons from Other Than Fuel-Burning Equipment.*

.04J(1): Definition of "Photochemically Reactive Organic Materials"—New section.

.04J(3)a: *Organic Solvents*—Minor wording changes.

.04J(3)d: Control of dry cleaning solvents—New section.

.04J(3)e: Exception to control of organic solvents—New section.

.06G (1), (2), (3): *Control and Prohibition of Sources of Photochemically Reactive Organic Materials*—These sections ban construction of all new sources that will discharge more than 550 lbs. per day of photochemically reactive organic solvents into atmosphere, limit existing sources of photochemically organic solvents to 550 lbs. per day, and provide exemptions for relocation of facilities; Section .04J(3)c of SIP regulation is deleted.

.06G (4), (5): These sections provide mechanical requirements for equipment handling photochemically reactive organic material.

The State of Maryland provided proof that public hearings for the above-mentioned regulations were held in accordance with the requirements of 40 CFR 51.4. All of the above-listed amendments were proposed by EPA as revisions of the Maryland State Implementation Plan. The actions taken by EPA and the State of Maryland are summarized in the following chart:

Date of submittal by Maryland to EPA	Date of public hearings held by Maryland	Location of public hearings	Date of notice of proposed rulemaking (FR citation)	Expiration date of public comment period
Apr. 24, 1974	Sept. 5, 1973	Baltimore	Mar. 27, 1975 (40 FR 13521)	Apr. 28, 1975.
	Sept. 6, 1973	Silver Spring		
Dec. 11, 1974	Aug. 6, 1974	Takoma Park	Jan. 30, 1975 (40 FR 4447)	Mar. 3, 1975.
	Aug. 7, 1974	Baltimore	Mar. 27, 1975 (40 FR 13521)	Apr. 28, 1975.
			Nov. 19, 1975 (40 FR 53596)	Dec. 19, 1975.
July 1, 1975	May 21, 1975	Baltimore	Oct. 6, 1975 (40 FR 46117)	Nov. 5, 1975.
	May 25, 1975	Cambridge		
	May 26, 1975	Cumberland		

II. Public Comments Received/EPA Response

During the combined public comment periods, comments opposing aspects of the proposed regulation were submitted by the Baltimore Gas and Electric Company, the Maryland State Chamber of Commerce, and representatives of the Bethlehem Steel Corporation and the Crown Central Petroleum Corporation. The comments essentially state opposition to the emissions "freeze" of 550 pounds per day of photochemically reactive organic compounds in the Metropolitan Baltimore Intrastate AQCR (Section 10.03.38.06G) as well as to the definition of "photochemically reactive organic materials" (Section 10.03.38.04J(1)). The basic objections to the regulations concern the necessity of imposing a "pounds per day" emission limitation applicable to all stationary sources of hydrocarbons, rather than source-specific emission limitations. The limitations which the commentors would prefer are those that would be achievable if major sources of reactive hydrocarbon emissions applied best available control technology. A secondary concern was the effect of an "emission freeze" on industrial growth in the Metropolitan Baltimore Interstate AQCR. The State of Maryland submitted comments supporting the hydrocarbon emissions "freeze".

With respect to these public comments received on Maryland Regulations 10.03.38.06G (1)–(3) and 10.03.39.06G(1)–(3), the Administrator has determined that the Metropolitan Baltimore Intrastate and the Maryland portion of the National Capital Interstate AQCR are nonattainment areas with respect to photochemical oxidants (43 FR 8962, 43 FR 40502). Therefore, the Administrator feels justified in approving regulations which would limit the amount of photochemically reactive organic materials, since such material causes formation of photochemical oxidants. In addition, these "freeze" regulations are more stringent than the Agency's new source regulations governing emissions offsets because they preclude the use of offsets for new major sources of photochemically reactive organic materials wishing to locate in the Metropolitan Baltimore Intrastate and Maryland portions of the National Capital Interstate AQCR's.

III. EPA's Evaluation

With the exception of Section 10.03.38.04J(3)e of Maryland Regulations governing the Metropolitan Baltimore Intrastate AQCR and Section 10.03.39.04J(3)e of Maryland Regulations governing the Maryland portion of the National Capital Interstate AQCR, and which are discussed below, the above-listed amendments meet the criteria of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of Implementation Plans.

Section .04J of Maryland Regulations 10.03.38 and 10.03.39 pertains to control of hydrocarbon emissions from sources other than fuel burning equipment. Although EPA has issued guidance (July 8, 1977, 42 FR 35314) stating that volatile organic compounds (VOC) contribute more significantly to formation of photochemical oxidants than originally believed, the guidance allows previous amendments submitted by States to be evaluated as "interim" SIP control strategies.

Section .04J(3)d of Regulations 10.03.38 and 10.03.39 which controls photochemically reactive organic solvents from dry cleaning operations is also approvable as a revision of the Maryland SIP. However, the State's definition of "photochemically reactive organic solvent" does not include trichloroethylene, an organic solvent included in the definition of "photochemically reactive organic solvent" that appears in the federally promulgated dry cleaning solvents regulations (40 CFR Sections 52.1088 and 52.1107). Therefore, the federal regulations will remain in effect to govern situations where tricholorethylene is used as a dry cleaning solvent.

The amendments to Section .04J(3)e, which provide exceptions from the organic solvents regulations, were added with the intent that solvent-emitting sources would be encouraged to substitute volatile organic compounds with water-based and high solids content coatings. However, the provisions of Section .04J(3)e(2)(b) of Regulations 10.03.38 and 10.03.39 could be interpreted to mean that even if such water-based/high solids content coatings are used and the remaining volatile content consists of a volatile organic compound defined as "photochemically reactive", then that por-

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