

May 13, 1972

Hearing Clerk
Department of Health, Education and Welfare
Room 6 - 88
5600 Fishers Lane
Rockville, Maryland 20852

Re: Proposal to Amend Part 191, Chapter I, Title 21,
Code of the Federal Regulations

Dear Sir:

Petitioners, The Celanese Coatings Company, E. I. DuPont de Nemours Company, Glidden-Durkee Division of SCM Corporation, Inman Corporation, PPG Industries, Inc., and The Sherwin-Williams Company, hereby propose an amendment to Part 191, Chapter I, Title 21, Code of the Federal Regulations by adding a new paragraph (c) to Section 191.9(a)(6)(i).

The effect of the amendment would be to exempt from the operation of the regulation certain classes of paint or other similar surface-coating material which contain lead in excess of .06% of the total weight of the contained solids or dried paint film yet do not pose a health hazard to children.

Grounds upon which petitioners rely in support of this proposed amendment.

Lead is an essential component of certain coatings that are not intended for use in and around a household, however, many of these coatings are distributed and sold in packages that could be taken into a household.

Such products can be categorized broadly as:

Automotive refinish coatings
Industrial coatings and colorants
Marine coatings
Traffic marking coatings
Industrial maintenance coatings
Graphic Arts coatings

Lead in coatings in these categories is necessary for one or all of the following reasons:

1. As a corrosion (rust) inhibitor.
2. As a catalyst (drier) to dry the paint film.
3. As a pigment to achieve certain colors or color matches having adequate durability for the particular function for which intended.

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When used in industrial, industrial maintenance, and marine coatings designed for corrosion control, lead may be present in substantial amounts. As an example, it may be present in amounts as high as approximately 10% in red lead primer. Such coatings are primarily used on structural steel used on buildings, bridges, ships, industrial plants, and industrial products such as machines operated under corrosive conditions.

When used as a drier, lead may be present in amounts up to about 1%. While it is possible to eliminate lead as a drier in most household-type coatings, this is not possible with existing technology for industrial coatings where the type and speed of drying is highly critical. An example would be automotive refinishing enamel where very fast air drying is necessary to prevent dirt or dust from becoming imbedded into the film. Also, film formation must be such that gasoline spills will not mar the film.

When used as a color pigment, the lead content would be approximately in the range of 1 to 30% of the dried film. In certain colors, only lead-containing pigments will have the necessary hue to match original equipment colors while having resistance to weathering, heat, and other environmental conditions.

While the products in the categories listed are not intended to be used in the household, it is recognized that since they may be sold in small packages, the possibility of misuse does exist. However, the likelihood of this happening is very remote. These coatings are generally inappropriate for painting household surfaces such as walls and woodwork.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (Section 701 (e), (f), (g); 52 Stat. 1055-56 as amended by 70 Stat. 919 and 72 Stat. 348; 21 U.S.C. 371 (e), (f), (g)), petitioners propose that Part 191 be amended by adding new paragraph (e) to Section 191.3(a)(6)(i), as follows:

Section 191.9 Banned hazardous substances.

* * *

191.3(a)(6)(i)(e). This order shall not apply to:

paint or other similar surface-coating material intended for use as automotive refinish coatings, industrial coatings and colorants, marine coatings, traffic marking coatings, industrial maintenance coatings, graphic arts

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coatings, and other similar surface-coating materials not intended for use in or around the household, even if packaged in a form suitable for use in or around the household, provided:

1. that the container is clearly labeled as to its intended use, and
2. that the container bears on the principal display panel, in accordance with the requirements of Section 191.101(e) and in addition to the requirements of Section 191.101(e), the signal word "Warning" and the following statement "contains lead. Dried film of this paint may be harmful if eaten or chewed.", and
3. that the following cautionary statement (or its practical equivalent) be placed on the label in accordance with the requirements of Section 191.101(d), but need not be part of the warning statement on the principal display panel:

"Do not apply on toys and other children's articles, furniture, or surfaces of any dwelling or facility which may be occupied or used by children.

KEEP OUT OF REACH OF CHILDREN

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