

Mr. W. M. Tomc

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LEAD IN PAINTS

NPCA Bulletin No. 27 states that Consumer Product Safety Commission has determined that the 0.5 percent level of lead is "safe" and should continue to be permitted as the maximum lead content in household paint.

The same Commission had promulgated an amendment to FRSA regulations which extends the 0.5 percent standard until such time that new regulations, if required, might be established with respect to the maximum content of lead in paint.

In practice this means that the December 31, 1974 deadline of .06 maximum has been voided and that 0.5% lead is permissible until such time as new regulations if required could be established.

Our objective to meet the original .06% deadline of December 31, 1973 and subsequently extended to December, 1974 has been met. It now appears that the 0.5% level will become standard. Should we maintain the products at the .06% level we currently have or should we consider 0.5 level, recognizing that the latter level does improve drying characteristics and could result in lower costs?

W. M. Tomc

WMT:nl

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LEGAL & LEGISLATIVE BULLETIN

*Let's get the lead back in
and save money. Ben*

Temp



PAINT &
COATINGS
ASSOCIATION

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ROUTE TO:
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FLASH REPORT ON LEAD IN PAINT

Executive Synopsis

This Bulletin announces CPSC determination that 0.5 percent level of lead in paint is "safe" and should continue to be permitted as the maximum lead content in household paints!

In addition, this Bulletin reports an amendment to the FHSA Regulations (16 CFR 1500.17) which extends the 0.5 percent standard until such time that new regulations, if required, might be established with respect to the maximum content of lead in paint

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LEAD IN PAINT

The two actions reported below provide for the continuation of 0.5 percent as the maximum permissible lead level in the non-volatile portion of residential paint products.

1. The Federal Law

The Consumer Product Safety Commission (CPSC) announced on December 27, 1974 that Chairman Richard O. Simpson had submitted his report to Congress in compliance with the provisions of the Lead Based Paint Poisoning Prevention Act, as amended (P.L. 93-151). In his Report, dated December 23, 1974, Chairman Simpson made the requisite determination that 0.5 percent level of lead in paint is "safe" and should continue to be permitted as the maximum lead content in paint. This action prevents an automatic drop to a 0.06 percent maximum lead level on December 31, 1974, as provided for in P.L. 93-151.

Chairman Simpson stated in his report to the Congress that "absolute safety could be achieved only by banning all lead in paint." However, observing that the 1973 amendments had directed him to conduct appropriate research and to determine a "safe level" of lead for residential paint products, he announced his interpretation of "safe" in this context as "a level where we have a reasonable assurance, with expected exposures, of the absence of serious toxic effects."

In making his determination, Chairman Simpson relied on the results of studies carried out in conformance with the Congressional mandate that "appropriate research" be conducted. These studies, using juvenile baboons, were undertaken at the New York University Institute of Environmental Medicine and the Southwest Foundation for Research and Education. The Chairman stated that these investigations, and others cited in the full report, indicated that "there was no observable adverse biological effects at or below 0.5 percent lead level."

Commenting on these studies, in his Report to the Congress, Chairman Simpson stated his concurrence with the CPSC staff position that the experimental protocol and work performed at New York University and Southwest Foundation for Research and Education were adequate both in design and approach. Observing that these baboon studies support a continuing level of 0.5 percent lead in paint and that most scientists would agree that these tests utilized the most appropriate animal model, he added that the studies performed at Midwest Research Institute (funded by the industry) also supported this position although the rat is clearly a less appropriate animal to simulate the human response.

2. The Federal Regulations

In an earlier action, reported in the Federal Register on December 9, 1974 (39 F.R. 42902-03), the Consumer Product Safety Commission had promulgated an amendment to the FHSA Regulations (16 CFR 1500.17) which extended the 0.5 percent standard until such time that new regulations, if required, might be established with respect to the maximum content of lead in paint. (A copy of the amended regulation is appended to this Bulletin for information.)

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PART I



CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

PART 1500—HAZARDOUS SUBSTANCES AND ARTICLES; ADMINISTRATION AND ENFORCEMENT REGULATIONS

Certain Lead-Containing Paints and Other Similar Surface-Coating Materials as Banned Hazardous Substances; Extension of Regulations

The purpose of this documents is to amend, by extending the effective date, regulations under the Federal Hazardous Substances Act which ban the distribution of household paints and other similar surface-coating materials containing more than 0.5 percent of lead (as metal) and toys or other children's articles bearing such paint or coating.

In the Federal Register of March 11, 1972 (37 FR 5229), the Food and Drug Administration issued regulations declaring paints and similar surface-coating materials for use in or around the household, containing lead compounds of which the lead content (calculated as metal) is in excess of 0.5 percent of the total weight of the contained solids or the dried film, and toys or other articles intended for use by children bearing such paint or similar surface-coating materials, shipped in interstate commerce between December 31, 1972, and December 31, 1973, to be banned hazardous substances (21 CFR 151.9(a)(6)(i)(b) and (ii)(b)).

The FDA regulations also declared paints and other similar surface-coating materials for use in or around the household, containing lead compounds of which the lead content (calculated as metal) is in excess of 0.06 percent of the total weight of the contained solids or the dried film, and toys or other articles intended for use by children bearing such paint or other similar surface-coating materials, shipped in interstate commerce after December 31, 1973, to be banned hazardous substances (21 CFR 151.9(a)(6)(i)(a) and (ii)(a)).

On August 10, 1973 (37 FR 16078), FDA confirmed those portions of the regulations pertaining to the 0.5 percent lead level and stated that the portions pertaining to the 0.06 percent lead level would be the subject of a separate document to be published at a later date.

Effective May 14, 1973, functions under the Federal Hazardous Substances Act were transferred to the Consumer Product Safety Commission by section 90(a) of the Consumer Product Safety Act (Public Law 92-573, 86 Stat. 1321; 18 U.S.C. 2079(a)). Subsequently, on September 27, 1973 (38 FR 27913), the Consumer Product Safety Commission revised and transferred the regulations under the Federal Hazardous Substances Act (21 CFR Parts 191 and 191(b) became 16 CFR Parts 1500 and 1505). Accordingly, 21 CFR 151.9(a)(6) became 16 CFR 1500.17(a)(6).

Public Law 93-151 (87 Stat. 585), enacted November 9, 1973, amended the Lead Based Paint Poisoning Prevention Act (Public Law 91-695, 84 Stat. 2072; (42 U.S.C. 4801)). As amended, the Lead Based Paint Poisoning Prevention Act, among other things, under section 301 (b), directs that appropriate research be conducted on multiple layers of dried paint film containing the various lead compounds commonly used, to ascertain the safe level of lead in residential paint products. The Act requires a report be submitted to Congress no later than December 31, 1974, covering findings and recommendations as developed under such programs, including a statement of any new legislation that should be enacted or any changes in existing law that should be made to carry out such recommendations. After December 31, 1974, the term "lead based paint" under Public Law 93-151 will mean any paint containing more than 0.06 percent lead by weight (calculated as metal) unless there is a determination that another level of lead, not to exceed 0.5 percent is safe, then such other level shall be effective after December 31, 1974.

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