

PART 9-8—TERMINATION OF CONTRACTS

Support 9-8.7—Clauses

5 Section 9-8.732 Termination article for lump-sum architect-engineer contracts is deleted and reserved.

§ 9-8.732 (Reserved)

PART 9-16—PROCUREMENT FORMS

Support 9-16.7—Forms for Negotiated Architect-Engineer Contracts

8. In § 9-16.701-36, Forms prescribed, revise subparagraph (4) of paragraph (b), Statement of architect-engineer services, under Title I—Preliminary Services and subparagraph (3) under Title II—Design Services, under paragraph (b) Statement of architect-engineer services, as follows:

§ 9-16.701-36 Forms prescribed.

(b) Statement of architect-engineer services.

Title I—Preliminary Services

(4) The drawings, plans, and outline specifications and documents shall be prepared in such form and furnished in such quantity as directed by the Commission.

Note: Specific quantities of the drawings, plans, outline specifications, and documents should be indicated here or elsewhere in the contract.

Title II—Design Services

(3) Prepare and revise, for the approval of the Commission, and furnish complete sets of contract bidding documents, including working drawings, details and specifications for construction, in such form and quantity and including such provisions as may be required by law or the directions of the Commission.

Note: Specific quantities of drawings and specifications should be indicated here or elsewhere in the contract.

7. In § 9-16.702-54, Form, conditions, and provisions, a new paragraph (21), Suspension of Work, is added as follows:

§ 9-16.702-54 Form, conditions, and provisions.

21. Suspension of work (FPM 1-7.004-4). Note: The use of this clause is optional.

(Sec. 101, Atomic Energy Act of 1954, as amended, 42 Stat. 4261, 42 U.S.C. 2014; sec. 204, of Federal Property and Administrative Services Act of 1949, as amended, 61 Stat. 808, 40 U.S.C. 497)

Effective date. These amendments are effective upon publication in the Federal Register (3-7-72).

Dated at Germantown, Md., this 1st day of March 1972.

For the U.S. Atomic Energy Commission.

ROBERT A. KOEHLER,
Acting Director,
Division of Contracts.

(FPM Doc. 72-0001 Filed 3-6-72; 8:40 am)

TITLE 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

SUBCHAPTER II—LEAD-BASED PAINT POISONING PREVENTION

PART 90—LEAD-BASED PAINT POISONING PREVENTION IN FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

On November 16, 1971, a notice of proposed rule making was published in the Federal Register (36 F.R. 31823) proposing the addition to Title 42 Code of Federal Regulations, of a new Subchapter II, entitled "Lead-Based Paint Poisoning Prevention," and a new Part 90, entitled "Lead-Based Paint Poisoning Prevention in Federal and Federally Assisted Construction."

Interested persons were invited to submit, within 60 days, written comments, suggestions or objections regarding the proposed regulations.

Written comments were received. The substance of these comments, and the Department's responses thereto, is summarized below.

1. Definition of "residential structure." The most frequently commented-upon item was the proposed definition of "residential structure" as set forth in § 90.2(f) of the rules. Generally, it was contended that the definition was ambiguous in that (a) it defined the term "structure" as meaning only the "portions" of buildings, which is inconsistent with the usage of that term in the fields of construction, engineering and architecture, and (b) it inadequately described those external surfaces upon which the use of lead-based paint is prohibited.

As a result of these comments, the definition of "structure" has been changed and a new term, "appliance surfaces," has been introduced and defined in the regulations. We think these changes, along with certain other conforming changes, resolve the issues raised.

2. Definition of lead-based paint. Several comments objected to the definition of lead-based paint set forth in § 90.2(c) of the rules. Such proposed a restriction to the allowable lead content to less than 1 percent.

The definition of "lead-based paint" is taken directly from Section 601-10 of the Lead-Based Paint Poisoning Prevention Act (42 Stat. 3007; 42 U.S.C. 4835-10), and thus is determined by amendments of that statute.

After consideration of all the comments and suggestions received, Part 90 as proposed is hereby adopted, subject to the following changes:

1. Section 90.1 is changed to read as set forth below.

2. Paragraph (f) of § 90.2 is changed and a new paragraph (g) is added to read as set forth below.

3. Section 90.3 is changed by adding "on appliance surfaces" after the word "paint".

4. Paragraph (a) of § 90.4 is changed by deleting the word "in" after "lead-based paint" and inserting in lieu thereof "on applicable surfaces of" and paragraph (b) changed by deleting the word "the" after "prohibiting" and inserting in lieu thereof "such".

5. Section 90.5 is changed by inserting "(a)" before "to assist" and by adding a new paragraph to read as set forth below.

Effective date. These regulations shall be effective upon publication in the Federal Register (3-7-72).

Dated: February 2, 1972.

Vernon E. Wilson,
Administrator, Health Services
and Medical Health Administration.

Approved: February 20, 1972.

ELBERT L. RICHARDSON,
Secretary.

- Sec. 90.1 Scope.
- 90.2 Definitions.
- 90.3 Prohibition of construction, prohibition against use of lead-based paint.
- 90.4 Federally assisted construction; prohibition against use of lead-based paint.
- 90.5 Reports to the Secretary.

Authority. The provisions of this Part are issued under sec. 401, 44 Stat. 1070; 42 U.S.C. 4301.

§ 90.1 Scope.

The regulations of this part are promulgated to implement section 401 of the Lead-Based Paint Poisoning Prevention Act, which directs the Secretary of Health, Education, and Welfare to take such steps and impose such conditions as may be necessary or appropriate to prohibit the use of lead-based paint in residential structures constructed or rehabilitated by the Federal Government or with Federal assistance in any form. The regulations are applicable to all Federal agencies.

§ 90.2 Definitions.

Any term not defined herein shall have the meaning given it by the Act.

(a) "Act" means the Lead-Based Paint Poisoning Prevention Act (Public Law 91-593, 86 Stat. 1978).

(b) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved may be delegated.

(c) "Federal agency" means the United States and all executive departments, independent establishments, administrative agencies and instrumentalities of the United States, including corporations in which all or substantially all of the stock is beneficially owned by the United States or by any of the foregoing departments, establishments, agencies and instrumentalities.

(d) "Agency head" means the principal official of a Federal agency and includes those persons duly authorized to act in his behalf.

THE 43—PUBLIC LANDS: INTERIOR

Chapter 1—Bureau of Land Management,
Department of the Interior

APPROPRIATE PUBLIC LAND ORDERS
(Public Land Order 5105)
(New Mexico 1912)

NEW MEXICO

Powersite Restoration No. 686; Powersite
Cancellation No. 280; Partial
Revocation of Waterpower Designa-
tion No. 1, New Mexico No. 1;
and Revocation of Powersite Res-
erve No. 574

By virtue of the authority contained in
section 24 of the Act of June 18, 1906, 34
Stat. 225, as amended, 16 U.S.C. section
551 (1906), and pursuant to the de-
termination of the Federal Power Commis-
sion in D-70-New Mexico, it is ordered
as follows:

1. The departmental order of August 7,
1912, creating Waterpower Designa-
tion No. 1, New Mexico No. 1, and the
Executive Order of February 2, 1917,
creating Powersite Reserve No. 574, are
hereby revoked insofar as they affect the
following described lands:

Section 70 and Section 80, San Miguel
and San Juan National Forests
and certain adjacent lands
T. 10 N., R. 10 E.,
Sec. 4, 10, 16, 22, 28, 34, 40, 46, 52, 58, 64, 70, 76, 82, 88, 94, 100, 106, 112, 118, 124, 130, 136, 142, 148, 154, 160, 166, 172, 178, 184, 190, 196, 202, 208, 214, 220, 226, 232, 238, 244, 250, 256, 262, 268, 274, 280, 286, 292, 298, 304, 310, 316, 322, 328, 334, 340, 346, 352, 358, 364, 370, 376, 382, 388, 394, 400, 406, 412, 418, 424, 430, 436, 442, 448, 454, 460, 466, 472, 478, 484, 490, 496, 502, 508, 514, 520, 526, 532, 538, 544, 550, 556, 562, 568, 574, 580, 586, 592, 598, 604, 610, 616, 622, 628, 634, 640, 646, 652, 658, 664, 670, 676, 682, 688, 694, 700, 706, 712, 718, 724, 730, 736, 742, 748, 754, 760, 766, 772, 778, 784, 790, 796, 802, 808, 814, 820, 826, 832, 838, 844, 850, 856, 862, 868, 874, 880, 886, 892, 898, 904, 910, 916, 922, 928, 934, 940, 946, 952, 958, 964, 970, 976, 982, 988, 994, 1000, 1006, 1012, 1018, 1024, 1030, 1036, 1042, 1048, 1054, 1060, 1066, 1072, 1078, 1084, 1090, 1096, 1102, 1108, 1114, 1120, 1126, 1132, 1138, 1144, 1150, 1156, 1162, 1168, 1174, 1180, 1186, 1192, 1198, 1204, 1210, 1216, 1222, 1228, 1234, 1240, 1246, 1252, 1258, 1264, 1270, 1276, 1282, 1288, 1294, 1300, 1306, 1312, 1318, 1324, 1330, 1336, 1342, 1348, 1354, 1360, 1366, 1372, 1378, 1384, 1390, 1396, 1402, 1408, 1414, 1420, 1426, 1432, 1438, 1444, 1450, 1456, 1462, 1468, 1474, 1480, 1486, 1492, 1498, 1504, 1510, 1516, 1522, 1528, 1534, 1540, 1546, 1552, 1558, 1564, 1570, 1576, 1582, 1588, 1594, 1600, 1606, 1612, 1618, 1624, 1630, 1636, 1642, 1648, 1654, 1660, 1666, 1672, 1678, 1684, 1690, 1696, 1702, 1708, 1714, 1720, 1726, 1732, 1738, 1744, 1750, 1756, 1762, 1768, 1774, 1780, 1786, 1792, 1798, 1804, 1810, 1816, 1822, 1828, 1834, 1840, 1846, 1852, 1858, 1864, 1870, 1876, 1882, 1888, 1894, 1900, 1906, 1912, 1918, 1924, 1930, 1936, 1942, 1948, 1954, 1960, 1966, 1972, 1978, 1984, 1990, 1996, 2002, 2008, 2014, 2020, 2026, 2032, 2038, 2044, 2050, 2056, 2062, 2068, 2074, 2080, 2086, 2092, 2098, 2104, 2110, 2116, 2122, 2128, 2134, 2140, 2146, 2152, 2158, 2164, 2170, 2176, 2182, 2188, 2194, 2200, 2206, 2212, 2218, 2224, 2230, 2236, 2242, 2248, 2254, 2260, 2266, 2272, 2278, 2284, 2290, 2296, 2302, 2308, 2314, 2320, 2326, 2332, 2338, 2344, 2350, 2356, 2362, 2368, 2374, 2380, 2386, 2392, 2398, 2404, 2410, 2416, 2422, 2428, 2434, 2440, 2446, 2452, 2458, 2464, 2470, 2476, 2482, 2488, 2494, 2500, 2506, 2512, 2518, 2524, 2530, 2536, 2542, 2548, 2554, 2560, 2566, 2572, 2578, 2584, 2590, 2596, 2602, 2608, 2614, 2620, 2626, 2632, 2638, 2644, 2650, 2656, 2662, 2668, 2674, 2680, 2686, 2692, 2698, 2704, 2710, 2716, 2722, 2728, 2734, 2740, 2746, 2752, 2758, 2764, 2770, 2776, 2782, 2788, 2794, 2800, 2806, 2812, 2818, 2824, 2830, 2836, 2842, 2848, 2854, 2860, 2866, 2872, 2878, 2884, 2890, 2896, 2902, 2908, 2914, 2920, 2926, 2932, 2938, 2944, 2950, 2956, 2962, 2968, 2974, 2980, 2986, 2992, 2998, 3004, 3010, 3016, 3022, 3028, 3034, 3040, 3046, 3052, 3058, 3064, 3070, 3076, 3082, 3088, 3094, 3100, 3106, 3112, 3118, 3124, 3130, 3136, 3142, 3148, 3154, 3160, 3166, 3172, 3178, 3184, 3190, 3196, 3202, 3208, 3214, 3220, 3226, 3232, 3238, 3244, 3250, 3256, 3262, 3268, 3274, 3280, 3286, 3292, 3298, 3304, 3310, 3316, 3322, 3328, 3334, 3340, 3346, 3352, 3358, 3364, 3370, 3376, 3382, 3388, 3394, 3400, 3406, 3412, 3418, 3424, 3430, 3436, 3442, 3448, 3454, 3460, 3466, 3472, 3478, 3484, 3490, 3496, 3502, 3508, 3514, 3520, 3526, 3532, 3538, 3544, 3550, 3556, 3562, 3568, 3574, 3580, 3586, 3592, 3598, 3604, 3610, 3616, 3622, 3628, 3634, 3640, 3646, 3652, 3658, 3664, 3670, 3676, 3682, 3688, 3694, 3700, 3706, 3712, 3718, 3724, 3730, 3736, 3742, 3748, 3754, 3760, 3766, 3772, 3778, 3784, 3790, 3796, 3802, 3808, 3814, 3820, 3826, 3832, 3838, 3844, 3850, 3856, 3862, 3868, 3874, 3880, 3886, 3892, 3898, 3904, 3910, 3916, 3922, 3928, 3934, 3940, 3946, 3952, 3958, 3964, 3970, 3976, 3982, 3988, 3994, 4000, 4006, 4012, 4018, 4024, 4030, 4036, 4042, 4048, 4054, 4060, 4066, 4072, 4078, 4084, 4090, 4096, 4102, 4108, 4114, 4120, 4126, 4132, 4138, 4144, 4150, 4156, 4162, 4168, 4174, 4180, 4186, 4192, 4198, 4204, 4210, 4216, 4222, 4228, 4234, 4240, 4246, 4252, 4258, 4264, 4270, 4276, 4282, 4288, 4294, 4300, 4306, 4312, 4318, 4324, 4330, 4336, 4342, 4348, 4354, 4360, 4366, 4372, 4378, 4384, 4390, 4396, 4402, 4408, 4414, 4420, 4426, 4432, 4438, 4444, 4450, 4456, 4462, 4468, 4474, 4480, 4486, 4492, 4498, 4504, 4510, 4516, 4522, 4528, 4534, 4540, 4546, 4552, 4558, 4564, 4570, 4576, 4582, 4588, 4594, 4600, 4606, 4612, 4618, 4624, 4630, 4636, 4642, 4648, 4654, 4660, 4666, 4672, 4678, 4684, 4690, 4696, 4702, 4708, 4714, 4720, 4726, 4732, 4738, 4744, 4750, 4756, 4762, 4768, 4774, 4780, 4786, 4792, 4798, 4804, 4810, 4816, 4822, 4828, 4834, 4840, 4846, 4852, 4858, 4864, 4870, 4876, 4882, 4888, 4894, 4900, 4906, 4912, 4918, 4924, 4930, 4936, 4942, 4948, 4954, 4960, 4966, 4972, 4978, 4984, 4990, 4996, 5002, 5008, 5014, 5020, 5026, 5032, 5038, 5044, 5050, 5056, 5062, 5068, 5074, 5080, 5086, 5092, 5098, 5104, 5110, 5116, 5122, 5128, 5134, 5140, 5146, 5152, 5158, 5164, 5170, 5176, 5182, 5188, 5194, 5200, 5206, 5212, 5218, 5224, 5230, 5236, 5242, 5248, 5254, 5260, 5266, 5272, 5278, 5284, 5290, 5296, 5302, 5308, 5314, 5320, 5326, 5332, 5338, 5344, 5350, 5356, 5362, 5368, 5374, 5380, 5386, 5392, 5398, 5404, 5410, 5416, 5422, 5428, 5434, 5440, 5446, 5452, 5458, 5464, 5470, 5476, 5482, 5488, 5494, 5500, 5506, 5512, 5518, 5524, 5530, 5536, 5542, 5548, 5554, 5560, 5566, 5572, 5578, 5584, 5590, 5596, 5602, 5608, 5614, 5620, 5626, 5632, 5638, 5644, 5650, 5656, 5662, 5668, 5674, 5680, 5686, 5692, 5698, 5704, 5710, 5716, 5722, 5728, 5734, 5740, 5746, 5752, 5758, 5764, 5770, 5776, 5782, 5788, 5794, 5800, 5806, 5812, 5818, 5824, 5830, 5836, 5842, 5848, 5854, 5860, 5866, 5872, 5878, 5884, 5890, 5896, 5902, 5908, 5914, 5920, 5926, 5932, 5938, 5944, 5950, 5956, 5962, 5968, 5974, 5980, 5986, 5992, 5998, 6004, 6010, 6016, 6022, 6028, 6034, 6040, 6046, 6052, 6058, 6064, 6070, 6076, 6082, 6088, 6094, 6100, 6106, 6112, 6118, 6124, 6130, 6136, 6142, 6148, 6154, 6160, 6166, 6172, 6178, 6184, 6190, 6196, 6202, 6208, 6214, 6220, 6226, 6232, 6238, 6244, 6250, 6256, 6262, 6268, 6274, 6280, 6286, 6292, 6298, 6304, 6310, 6316, 6322, 6328, 6334, 6340, 6346, 6352, 6358, 6364, 6370, 6376, 6382, 6388, 6394, 6400, 6406, 6412, 6418, 6424, 6430, 6436, 6442, 6448, 6454, 6460, 6466, 6472, 6478, 6484, 6490, 6496, 6502, 6508, 6514, 6520, 6526, 6532, 6538, 6544, 6550, 6556, 6562, 6568, 6574, 6580, 6586, 6592, 6598, 6604, 6610, 6616, 6622, 6628, 6634, 6640, 6646, 6652, 6658, 6664, 6670, 6676, 6682, 6688, 6694, 6700, 6706, 6712, 6718, 6724, 6730, 6736, 6742, 6748, 6754, 6760, 6766, 6772, 6778, 6784, 6790, 6796, 6802, 6808, 6814, 6820, 6826, 6832, 6838, 6844, 6850, 6856, 6862, 6868, 6874, 6880, 6886, 6892, 6898, 6904, 6910, 6916, 6922, 6928, 6934, 6940, 6946, 6952, 6958, 6964, 6970, 6976, 6982, 6988, 6994, 7000, 7006, 7012, 7018, 7024, 7030, 7036, 7042, 7048, 7054, 7060, 7066, 7072, 7078, 7084, 7090, 7096, 7102, 7108, 7114, 7120, 7126, 7132, 7138, 7144, 7150, 7156, 7162, 7168, 7174, 7180, 7186, 7192, 7198, 7204, 7210, 7216, 7222, 7228, 7234, 7240, 7246, 7252, 7258, 7264, 7270, 7276, 7282, 7288, 7294, 7300, 7306, 7312, 7318, 7324, 7330, 7336, 7342, 7348, 7354, 7360, 7366, 7372, 7378, 7384, 7390, 7396, 7402, 7408, 7414, 7420, 7426, 7432, 7438, 7444, 7450, 7456, 7462, 7468, 7474, 7480, 7486, 7492, 7498, 7504, 7510, 7516, 7522, 7528, 7534, 7540, 7546, 7552, 7558, 7564, 7570, 7576, 7582, 7588, 7594, 7600, 7606, 7612, 7618, 7624, 7630, 7636, 7642, 7648, 7654, 7660, 7666, 7672, 7678, 7684, 7690, 7696, 7702, 7708, 7714, 7720, 7726, 7732, 7738, 7744, 7750, 7756, 7762, 7768, 7774, 7780, 7786, 7792, 7798, 7804, 7810, 7816, 7822, 7828, 7834, 7840, 7846, 7852, 7858, 7864, 7870, 7876, 7882, 7888, 7894, 7900, 7906, 7912, 7918, 7924, 7930, 7936, 7942, 7948, 7954, 7960, 7966, 7972, 7978, 7984, 7990, 7996, 8002, 8008, 8014, 8020, 8026, 8032, 8038, 8044, 8050, 8056, 8062, 8068, 8074, 8080, 8086, 8092, 8098, 8104, 8110, 8116, 8122, 8128, 8134, 8140, 8146, 8152, 8158, 8164, 8170, 8176, 8182, 8188, 8194, 8200, 8206, 8212, 8218, 8224, 8230, 8236, 8242, 8248, 8254, 8260, 8266, 8272, 8278, 8284, 8290, 8296, 8302, 8308, 8314, 8320, 8326, 8332, 8338, 8344, 8350, 8356, 8362, 8368, 8374, 8380, 8386, 8392, 8398, 8404, 8410, 8416, 8422, 8428, 8434, 8440, 8446, 8452, 8458, 8464, 8470, 8476, 8482, 8488, 8494, 8500, 8506, 8512, 8518, 8524, 8530, 8536, 8542, 8548, 8554, 8560, 8566, 8572, 8578, 8584, 8590, 8596, 8602, 8608, 8614, 8620, 8626, 8632, 8638, 8644, 8650, 8656, 8662, 8668, 8674, 8680, 8686, 8692, 8698, 8704, 8710, 8716, 8722, 8728, 8734, 8740, 8746, 8752, 8758, 8764, 8770, 8776, 8782, 8788, 8794, 8800, 8806, 8812, 8818, 8824, 8830, 8836, 8842, 8848, 8854, 8860, 8866, 8872, 8878, 8884, 8890, 8896, 8902, 8908, 8914, 8920, 8926, 8932, 8938, 8944, 8950, 8956, 8962, 8968, 8974, 8980, 8986, 8992, 8998, 9004, 9010, 9016, 9022, 9028, 9034, 9040, 9046, 9052, 9058, 9064, 9070, 9076, 9082, 9088, 9094, 9100, 9106, 9112, 9118, 9124, 9130, 9136, 9142, 9148, 9154, 9160, 9166, 9172, 9178, 9184, 9190, 9196, 9202, 9208, 9214, 9220, 9226, 9232, 9238, 9244, 9250, 9256, 9262, 9268, 9274, 9280, 9286, 9292, 9298, 9304, 9310, 9316, 9322, 9328, 9334, 9340, 9346, 9352, 9358, 9364, 9370, 9376, 9382, 9388, 9394, 9400, 9406, 9412, 9418, 9424, 9430, 9436, 9442, 9448, 9454, 9460, 9466, 9472, 9478, 9484, 9490, 9496, 9502, 9508, 9514, 9520, 9526, 9532, 9538, 9544, 9550, 9556, 9562, 9568, 9574, 9580, 9586, 9592, 9598, 9604, 9610, 9616, 9622, 9628, 9634, 9640, 9646, 9652, 9658, 9664, 9670, 9676, 9682, 9688, 9694, 9700, 9706, 9712, 9718, 9724, 9730, 9736, 9742, 9748, 9754, 9760, 9766, 9772, 9778, 9784, 9790, 9796, 9802, 9808, 9814, 9820, 9826, 9832, 9838, 9844, 9850, 9856, 9862, 9868, 9874, 9880, 9886, 9892, 9898, 9904, 9910, 9916, 9922, 9928, 9934, 9940, 9946, 9952, 9958, 9964, 9970, 9976, 9982, 9988, 9994, 10000, 10006, 10012, 10018, 10024, 10030, 10036, 10042, 10048, 10054, 10060, 10066, 10072, 10078, 10084, 10090, 10096, 10102, 10108, 10114, 10120, 10126, 10132, 10138, 10144, 10150, 10156, 10162, 10168, 10174, 10180, 10186, 10192, 10198, 10204, 10210, 10216, 10222, 10228, 10234, 10240, 10246, 10252, 10258, 10264, 10270, 10276, 10282, 10288, 10294, 10300, 10306, 10312, 10318, 10324, 10330, 10336, 10342, 10348, 10354, 10360, 10366, 10372, 10378, 10384, 10390, 10396, 10402, 10408, 10414, 10420, 10426, 10432, 10438, 10444, 10450, 10456, 10462, 10468, 10474, 10480, 10486, 10492, 10498, 10504, 10510, 10516, 10522, 10528, 10534, 10540, 10546, 10552, 10558, 10564, 10570, 10576, 10582, 10588, 10594, 10600, 10606, 10612, 10618, 10624, 10630, 10636, 10642, 10648, 10654, 10660, 10666, 10672, 10678, 10684, 10690, 10696, 10702, 10708, 10714, 10720, 10726, 10732, 10738, 10744, 10750, 10756, 10762, 10768, 10774, 10780, 10786, 10792, 10798, 10804, 10810, 10816, 10822, 10828, 10834, 10840, 10846, 10852, 10858, 10864, 10870, 10876, 10882, 10888, 10894, 10900, 10906, 10912, 10918, 10924, 10930, 10936, 10942, 10948, 10954, 10960, 10966, 10972, 10978, 10984, 10990, 10996, 11002, 11008, 11014, 11020, 11026, 11032, 11038, 11044, 11050, 11056, 11062, 11068, 11074, 11080, 11086, 11092, 11098, 11104, 11110, 11116, 11122, 11128, 11134, 11140, 11146, 11152, 11158, 11164, 11170, 11176, 11182, 11188, 11194, 11200, 11206, 11212, 11218, 11224, 11230, 11236, 11242, 11248, 11254, 11260, 11266, 11272, 11278, 11284, 11290, 11296, 11302, 11308, 11314, 11320, 11326, 11332, 11338, 11344, 11350, 11356, 11362, 11368, 11374, 11380, 11386, 11392, 11398, 11404, 11410, 11416, 11422, 11428, 11434, 11440, 11446, 11452, 11458, 11464, 11470, 11476, 11482, 11488, 11494, 11500, 11506, 11512, 11518, 11524, 11530, 11536, 11542, 11548, 11554, 11

composition and labeling prescribed by § 27.155 for orange drink except that:

(a) The name of the beverage base consists of the following two phrases which shall appear together:

(1) The word "Powdered" or any appropriate descriptive word used in lieu of the word "Powdered" which shall be on a line immediately above the words "Orange Drink."

(2) The words "Containing percent Orange Juice" which shall have the blank filled in with the words "less than 2" or with the number 2 or a number which is a multiple of 2 higher than 2 but not higher than 8 or greater than the percentage of equivalent single strength orange juice in a beverage made by reconstituting the powdered base as directed on the label.

(b) Safe and suitable antifoaming agents, foaming agents, browner inhibitors, and drying agents may be added.

§ 27.156 Orange flavored drink: Identity; label statement of optional ingredients.

Orange flavored drink is the beverage that conforms to all of the requirements for composition and labeling prescribed by § 27.155 for orange juice drink except that:

(a) It contains less than 10 percent but more than 6 percent equivalent single strength orange juice calculated as set forth in § 27.155(d)(1)(3) of this chapter. This requirement is considered to have been met if the content of orange juice soluble solids (exclusive of soluble solids other than orange juice soluble solids) amounts to less than 1.56 percent but more than 0.9 percent by weight of the finished beverage.

(b) The orange juice soluble solids requirements for orange flavored drink may be contributed solely by one or more of the orange juice ingredients described in § 27.155(b) (1) through (13).

(c) The weight of the total soluble solids is not less than 10 percent by weight of the finished beverage.

(d) The name of the beverage consists of the following two phrases which shall appear together:

(1) The words "Orange Flavored Drink" which shall be printed on a single line.

(2) The words "Containing percent Orange Juice" which shall have the blank filled in with the words "less than 2" if the beverage contains less than 2 percent but more than 0.9 percent orange juice or with the number 2 or a number which is a multiple of 2 higher than 2 but not higher than 8 or greater than the percentage of equivalent single strength orange juice contained in the finished beverage.

§ 27.157 Concentrate for orange flavored drink: Identity; label statement of optional ingredients.

Concentrate for orange flavored drink is the beverage concentrate which, when diluted according to label directions, conforms to all of the requirements for composition and labeling prescribed by § 27.155 for orange flavored drink except that:

(a) The name of the concentrated beverage base consists of the following two phrases which shall appear together:

(1) The words "Concentrate for" which shall be on a single line immediately above the words "Orange Flavored Drink."

(2) The words "Containing percent Orange Juice" which shall have the blank filled in with the words "less than 2" or with the number 2 or a number which is a multiple of 2 higher than 2 but not higher than 8 or greater than the percentage of equivalent single strength orange juice in a beverage made by diluting the beverage concentrate or directed on the label.

(b) The dilution ratio of the beverage shall not be less than 3 plus 1. For the purpose of this section the "dilution ratio" is the whole number of volumes of water per volume of concentrate for orange flavored drink required to produce orange flavored drink conforming to the requirements for composition prescribed by § 27.155.

§ 27.158 Powdered orange flavored drink: Identity; label statement of optional ingredients.

Powdered orange flavored drink is the dehydrated beverage base which when reconstituted according to label directions conforms to all of the requirements for composition and labeling as prescribed by § 27.155 for orange flavored drink except that:

(a) The name of the beverage base consists of the following two phrases which shall appear together:

(1) The word "Powdered" or any appropriate descriptive word used in lieu of the word "Powdered" which shall be on a line immediately above the words "Orange Flavored Drink."

(2) The words "Containing percent Orange Juice" which shall have the blank filled in with the words "less than 2" or with the number 2 or a number which is a multiple of 2 higher than 2 but not higher than 8 or greater than the percentage of equivalent single strength orange juice in a beverage made by reconstituting the powdered base as directed on the label.

(b) Safe and suitable antifoaming agents, foaming agents, browner inhibitors, and drying agents may be added.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the Federal Register file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 544, 5600 Fishers Lane, Rockville, Md. 20855, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and such objections must be supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in six copies.

Effective date This order shall become effective 100 days after its date of publication in the Federal Register, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be given by publication in the Federal Register.

(Item 501, Vol. 82, Stat. 1000, 1001-10 as amended by 70 Stat. 510 and 72 Stat. 649, 21 U.S.C. 341, 371.)

Dated: March 7, 1972

James D. Grant
Deputy Commissioner
of Food and Drugs

(FR Doc 72-3706 Filed 3-10-72; 2:44 AM)

SUBCHAPTER D—HAZARDOUS SUBSTANCES PART 191—HAZARDOUS SUBSTANCES: DEFINITIONS AND PROCEDURAL AND INTERPRETATIVE REGULATIONS

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

In the matter of classifying certain lead-containing paints and other surface-coating materials as banned hazardous substances:

In the Federal Register of November 2, 1971 (36 F.R. 26055), the Commissioner of Food and Drugs published a notice proposing to declare, under section 3(a) of the Federal Hazardous Substances Act, paints and other surface-coating materials containing more than specified levels of lead and other named heavy metals to be hazardous substances (§ 191.3(a)(3)) and to be products requiring special labeling under section 3(b) of the act (§ 191.7(b)(7)). This is referred to below as the Commissioner's proposal.

In the same issue of the Federal Register (36 F.R. 26060), a notice was published on behalf of petitioners Joseph A. Page et al., which proposed that paint for household use containing more than minute traces of lead be classified as a banned hazardous substance pursuant to sections 3(a)(1)(B) and 3(a)(2) of the act. This is referred to below as the Page proposal.

Approximately 300 comments were received from consumers, consumer and public interest groups, the paint and chemical industries, trade associations, physicians, medical schools, professional societies, Federal, State, and local government agencies, and others. The principal comments are as follows:

The American Academy of Pediatrics, relying on published studies with lead and data respecting the maximum daily permissible intake of lead from all sources, recommended that paints containing more than 0.09 percent of lead be banned or intended for use on interior surfaces, toys, or other children's articles. The Academy agreed with the Commissioner that small amounts of lead in paints when considered in conjunction

with other sources of lead in the environment. Comments on this subject were also made in the lead survey that can reasonably be expected and that any unnecessary exposure should be eliminated or minimized. It also stated that the labeling of paint containers would have little effect in preventing lead poisoning and that paint containing 0.5 percent lead will not provide sufficient protection for children 1 to 3 years of age. The Academy stated that it is estimated that approximately 15 percent of these children receive lead paint in their homes and that abdominal X-rays obtained in the diagnostic evaluation of children suspected of having lead poisoning indicate that very large quantities of foreign substances such as paint, putty, and plaster may be ingested, often without the parent's awareness.

The Bureau of Community Environmental Management, Health Services and Mental Health Administration, Department of Health, Education, and Welfare, commented that mandatory labeling does not provide adequate protection, that the availability of lead in paint to children should be held to the lowest concentration possible with current technology and consistent with reasonable good manufacturing practices, and that the maximum concentration of lead in paint intended for use on interior surfaces readily available to children should not exceed 0.05 percent.

The Environmental Protection Agency submitted an in-house technical report which concluded that lead in paint in excess of 0.05 percent could constitute a danger to the health of children with lead. They stated that customary labeling would be inadequate to protect the public health and safety and recommended that lead-based paint be banned from interstate commerce.

The medical community generally approved the Page proposal and endorsed the recommendation of the American Academy of Pediatrics. Some physicians from medical centers located in large metropolitan areas submitted the results of their own clinical findings and studies which indicate the hazard posed by lead in paint. Other physicians cited studies which indicate that children can accumulate toxic levels of lead over an extended period of time from paints containing 0.5 percent or less lead. Two physicians cited cases of children with excessive body burdens of lead which they could attribute only to paint containing less than 1 percent lead. The medical community generally commented that the labeling proposed by the Commissioner would not provide adequate protection because subsequent occupants of dwellings would not know what paints were applied by previous residents and because labeling may be totally disregarded or misinterpreted.

Nearly all comments from consumers, consumer and public interest groups, and Government agencies (other than those discussed above) endorsed the Page proposal. Some stated that the Commissioner's proposal would not provide sufficient protection against interior use of

lead paint, while others suggested that lead paint for interior use be banned and that mandatory labeling be required for other lead paints. Comments from the public health departments for the State of Philadelphia and New York state that the labeling ordinance and regulations of their cities, which are similar to those in the Commissioner's proposal, have been inadequate to protect children. Both the American Public Health Association and the health departments for the State of New York and the county of Los Angeles support the recommendation of the American Academy of Pediatrics. Some comments suggested other maximum levels for lead in paint. For example, the Congressional Black Caucus recommended that all lead from household paints be banned; the National Resources Defense Council and the Department of Public Health of the city of Philadelphia recommended 0.05 percent as a maximum level for lead in paint.

Paint children manufacturers and their trade associations generally supported the Commissioner's proposal and opposed the Page proposal. With respect to the Commissioner's proposal, several comments requested clarification of the labeling statement and advised that to be understandable and useful to consumers, and called their products. With respect to the Page proposal, many comments stated that the language "minute traces of lead" is vague and ambiguous; that the data relied on by the petitioners and by the American Academy of Pediatrics is based on lead ingestion studies done with lead compounds other than the lead compounds used in paint and coatings; that scientific data or human experience has not proven that paints containing 1 percent lead are hazardous; that lead is used as a dryer and the combination of other compounds for lead may be hazardous; and that implementation would cause a severe economic hardship because it is not within the existing state-of-the-art of the paint industry to eliminate all lead from all paint. Several comments contended that the statutory procedure for banning has been ignored in the Page proposal in that only after labeling has been proven inadequate an consideration be given to banning. Other comments stated that warning labels are adequate protection because they prevent dissemination of paint products and serve the public interest by allowing useful, needed paint products to remain on the market. Some comments stated that lead is a necessary component of certain products (e.g., certain exterior primers, rust inhibitors, and automobile tanking paint).

A number of paint manufacturers and their trade associations commented that the inclusion of heavy metals other than lead in the Commissioner's proposal is inappropriate. They stated that the toxicity of different forms of these metals has not been established and a great deal of time and money would be wasted in testing to determine. Some manufacturers submitted data which they contend shows that certain heavy metal

compounds other than lead are not hazardous, while others stated that adequate test methods must be developed. Another manufacturer stated that certain of these heavy metals are necessary in the manufacture of fire-retardant coatings and warning colors. Only a few other comments were received that expressed an opinion concerning the Commissioner's proposal as it related to other heavy metals, and none of them were supported by scientific data.

The Commissioner, having considered the comments and other relevant material, concludes as follows:

Although paints and other surface-coating materials containing lead do not present an imminent hazard to the public health, they must be considered on the basis of cumulative toxicity over extended periods of time and in conjunction with other sources of lead in the environment. Based on the currently available scientific and medical data, regulatory action must be taken to minimize the health hazard to future generations.

The health hazard from lead will not be effectively eliminated by cautionary labeling requirements. The statute does not provide that such labeling must be tried and proven inadequate before a hazardous substance can be banned. Instead, section 2(q)(1)(B) explicitly provides for banning products from interstate commerce on the basis of a specific finding "notwithstanding such cautionary labeling as is or may be required." Cautionary labeling has not been proven effective in eliminating lead poisoning in many cities which presently have such requirements. In any event, the hazard persists long after the product has been separated from its labeling.

The prudent course of action is to reduce, as rapidly as possible, the amount of lead to which children are exposed. The Commissioner agrees that limiting the amount of lead in "minute traces," as set forth in the Page proposal, is not feasible because that phrase is vague and would not provide manufacturers with specific standards, and it could not be effectively enforced by the Food and Drug Administration. In addition, limiting regulatory action only to paint is inadequate to protect the public health and safety because other surface-coating materials containing lead are used in and around the household and are accessible to children.

The preponderance of medical opinion supports a regulation limiting the amount of lead in products intended for interior surfaces and for toys or other children's articles to 0.05 percent because that level will provide a margin of safety. However, such a regulation would not prevent the use of products containing higher amounts of lead on exterior surfaces. These surfaces are generally as accessible to children as interior surfaces, and, as the comments points out, children have been subjected to lead poisoning by ingesting products containing lead that were applied to exterior surfaces. In addition, if products containing lead are available for exterior use, they may be misused for interior surfaces.

The Commissioner recognizes that restrictions placed upon the use of lead may result in economic hardship and in the substitution of other compounds for use as driers. The statute makes no exception for economic hardship. Several compounds have been suggested as substitutes for lead. Each manufacturer, prior to marketing consumer products, must take steps to determine that any substitute for lead has been adequately tested for safety and shown to be safe. Any manufacturer should therefore provide a reasonable time to test substitutes for lead and establish their safety, and at the same time provide adequate protection to the public.

The National Paint and Coatings Association, which represents more than 600 companies, has notified the Commissioner that it anticipates its members can produce by January 1973 interior products not exceeding the 0.06 percent maximum lead level and can produce by January 1973 exterior products not exceeding the 0.06 percent maximum lead level. Some paint and chemical manufacturers have notified the Commissioner that they can reformulate their products to meet the 0.06 percent maximum lead level in a shorter time period. On February 16, 1972, a notice was published in the Federal Register (37 F.R. 5796) requesting that additional information from the industry be submitted by April 7, 1972. If, after considering this information, the Commissioner finds that lead can be eliminated from paints and other surface-coating materials more rapidly than the implementation date specified in the following order, an appropriate amendment will be made.

Therefore, the Commissioner finds that, notwithstanding such voluntary labeling as is or may be required under the Federal Hazardous Substances Act, the degree or nature of the hazard involved in the presence or use of lead in paints and other surface-coating materials in households is such that the objective of the protection of the public health and safety can be adequately served only by keeping such substances, when as intended or packaged, out of the channels of interstate commerce. Under section 2(a)(1) of the act, this will have the additional effect of banning such products from use on any toy or other article intended for use by children.

Since lead may be a necessary component of products intended for particular uses, as suggested by several comments, the Commissioner is prepared to consider further proposed amendments of the regulation. Pursuant to 21 CFR 101.201, petitions showing reasonable grounds will be published in the Federal Register. Consideration will also be given in late 1973 to petitions for extension of the implementation date upon a showing that the public health will not be jeopardized and that technological necessity requires additional time to meet the 0.06 percent maximum lead level.

At this time, further information is required before a final order can be promulgated regarding the use of surface

coatings. Manufacturers of paint and other surface-coating materials. Additional data on the use of these materials will be obtained in response to the Federal Register notice of February 16, 1972 (37 F.R. 5796), and these products will be considered at a later date.

Therefore, pursuant to provisions of the Federal Hazardous Substances Act, 21 CFR (1)(1)(A), (g); 74 Stat 372 as amended, 88 Stat. 1564-65, 15 U.S.C. 1261 (2)(3)(A), (c) and the Federal Food, Drug, and Cosmetic Act (see 701 (b), (2), (g); 65 Stat. 1088-89 as amended by 70 Stat. 618 and 72 Stat. 548; 21 U.S.C. 371 (c), (f), (g)), and under authority delegated to the Commissioner (31 CFR 2.120) It is ordered, That Part 101 be amended by adding a new subparagraph (b) to § 101.9(a), as follows:

§ 101.9 Banned hazardous substances.

(a) Under the authority of section 2(a)(1)(B) of the act, the Commissioner declares to be banned hazardous substances the following articles because they present such a degree of hazard that adequate extraordinary labeling cannot be written and the public health and safety can be served only by keeping such articles out of interstate commerce:

(b) (1) Any paint or other similar surface-coating material intended, or packaged in a form suitable, for use in or around the household that:

(a) Is shipped in interstate commerce after December 31, 1972, and contains lead compounds of which the lead content (calculated as the metal) is in excess of 0.06 percent of the total weight of the combined solids or dried paint film; or

(b) Is shipped in interstate commerce between December 31, 1972, and December 31, 1973, and contains lead compounds of which the lead content (calculated as the metal) is in excess of 0.5 percent of the total weight of the combined solids or dried paint film.

(2) Any toy or other article intended for use by children that:

(a) Is shipped in interstate commerce after December 31, 1971, and bears any paint or other similar surface-coating material containing lead compounds of which the lead content (calculated as the metal) is in excess of 0.06 percent of the total weight of the combined solids or dried paint film; or

(b) Is shipped in interstate commerce between December 31, 1972, and December 31, 1973, and bears any paint or other similar surface-coating material containing lead compounds of which the lead content (calculated as the metal) is in excess of 0.5 percent of the total weight of the combined solids or dried paint film.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the Federal Register file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-21, 6000 Fishers Lane, Rockville, Maryland 20852, written objections

thereto. Objections shall show whether the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and such objections must be supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in six copies. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective 45 days after its date of publication in the Federal Register, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be given by publication in the Federal Register.

(2001, 3 (7)(1)(A), (g), 74 Stat 372 as amended, 88 Stat. 1564-65 15 U.S.C. 1261 (2)(3)(A), (c), 65 Stat. 1088-89 as amended by 70 Stat. 618 and 72 Stat. 548; 21 U.S.C. 371 (c), (f), (g))

Dated: March 8, 1972.

JAMES D. GRANT,
Deputy Commissioner
of Food and Drugs
(F.R. Doc. 72-5796 Filed 3-10-72 12 36 p.m.)

Title 26—INTERNAL REVENUE
(Title 26)

Chapter 1—Internal Revenue Service,
Department of the Treasury

SUBCHAPTER A—INCOME TAX

PART 1—INCOME TAX; TAXABLE
YEARS BEGINNING AFTER DECEMBER
31, 1953

Rehabilitation of Low-Income Housing

On August 4, 1970, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) to conform the regulations to the provisions of section 521(a) of the Tax Reform Act of 1969 (83 Stat. 651), relating to rehabilitation of low-income housing, was published in the Federal Register (34 F.R. 15466). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment as proposed is hereby adopted, subject to the changes which follow. Sections 1.107(b)-1 through 1.107(b)-4 are revised to read as set forth below.

(See 107(b), Internal Revenue Code of 1954 as amended, 26 U.S.C. 107, and 1958 Internal Revenue Code of 1954, 68A Stat. 517, 26 U.S.C. 1058)

(SRA) JENNIFER M. WALTERS,
Commissioner of Internal Revenue.

Approved: March 2, 1972.

FREDERICK W. HICKMAN,
Acting Assistant Secretary
of the Treasury.

RULES AND REGULATIONS

1279

composition and labeling prescribed by § 27.165 for orange drink except that:

(a) The name of the beverage must consist of the following two phrases which shall appear together:

(1) The words "Concentrate for orange juice" which shall be on a single line immediately above the words "Orange Flavored Drink."

(2) The words "Containing percent Orange Juice" which shall have the blank filled in with the number 10 or a number which is a multiple of 5 higher than 10 but not higher than 30 or greater than the percentage of equivalent single strength orange juice in a beverage made by reconstituting the powdered base as directed on the label.

(b) Safe and suitable antitackling agents, foaming agents, preservatives, stabilizers, and drying agents may be added.

§ 27.166 Orange Flavored drink; identity label statement of essential ingredients.

Orange flavored drink is the beverage that conforms to all of the requirements for composition and labeling prescribed by § 27.165 for orange juice drink except that:

(a) It contains less than 10 percent but more than 5 percent equivalent single strength orange juice calculated as set forth in § 27.165(d)(3) of this chapter. This requirement is considered to have been met if the content of orange juice soluble solids (exclusive of soluble solids other than orange juice soluble solids) amounts to less than 1.15 percent but more than 0.5 percent by weight of the finished beverage.

(b) The orange juice soluble solids requirements for orange flavored drink may be substituted solely by one or more of the orange juice ingredients described in § 27.165(b)(1) through (11).

(c) The weight of the total soluble solids is not less than 10 percent by weight of the finished beverage.

(d) The name of the beverage consists of the following two phrases which shall appear together:

(1) The words "Orange Flavored Drink" which shall be printed on a single line.

(2) The words "Containing percent Orange Juice" which shall have the blank filled in with the words "less than 2" if the beverage contains less than 5 percent but more than 0.5 percent orange juice or with the number 2 or a number which is a multiple of 5 higher than 5 but not higher than 30 or greater than the percentage of equivalent single strength orange juice contained in the finished beverage.

(3) Safe and suitable antitackling agents, foaming agents, preservatives, stabilizers, and drying agents may be added.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the Federal Register file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-001, 5600 Fishers Lane, Bethesda, MD 20814, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and each objection must be supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in my office.

§ 27.167 Concentrate for orange flavored drink; identity label statement of essential ingredients.

Concentrate for orange flavored drink is the beverage concentrate which, when diluted according to label directions, conforms to all of the requirements for composition and labeling prescribed by § 27.165 for orange flavored drink except that:

(a) The name of the concentrated beverage base consists of the following two phrases which shall appear together:

(1) The words "Concentrate for orange juice" which shall be on a single line immediately above the words "Orange Flavored Drink."

(2) The words "Containing percent Orange Juice" which shall have the blank filled in with the words "less than 2" or with the number 2 or a number which is a multiple of 5 higher than 2 but not higher than 5 or greater than the percentage of equivalent single strength orange juice in a beverage made by diluting the beverage concentrate as directed on the label.

(b) The dilution ratio of the beverage shall not be less than 2 plus 1. For the purpose of this section the "dilution ratio" is the whole number of volumes of water per volume of concentrate for orange flavored drink required to produce orange flavored drink conforming to the requirements for composition prescribed by § 27.165.

§ 27.168 Powdered orange flavored drink; identity label statement of essential ingredients.

Powdered orange flavored drink is the dehydrated beverage base which, when reconstituted according to label directions, conforms to all of the requirements for composition and labeling as prescribed by § 27.165 for orange flavored drink except that:

(a) The name of the beverage base consists of the following two phrases which shall appear together:

(1) The word "Powdered" or any appropriate descriptive word used in lieu of the word "Powdered" which shall be on a line immediately above the words "Orange Flavored Drink."

(2) The words "Containing percent Orange Juice" which shall have the blank filled in with the words "less than 2" or with the number 2 or a number which is a multiple of 5 higher than 2 but not higher than 5 or greater than the percentage of equivalent single strength orange juice in a beverage made by reconstituting the powdered base as directed on the label.

(3) Safe and suitable antitackling agents, foaming agents, preservatives, stabilizers, and drying agents may be added.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the Federal Register file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-001, 5600 Fishers Lane, Bethesda, MD 20814, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and each objection must be supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in my office.

§ 27.169 Concentrate for orange flavored drink; identity label statement of essential ingredients.

Concentrate for orange flavored drink is the beverage concentrate which, when diluted according to label directions, conforms to all of the requirements for composition and labeling prescribed by § 27.165 for orange flavored drink except that:

Effective date. This order shall become effective 180 days after the date of publication in the Federal Register except as to any provisions that may be waived by the filing of proper objections. Notice of the filing of objections or lack thereof will be given by publication in the Federal Register.

James O. Dwyer, Deputy Commissioner of Food and Drugs.

March 7, 1972

1972 Dec 12-1708 Filed 1-15-72 3 43 am

Subchapter S—Hazardous Substances; PART 101—HAZARDOUS SUBSTANCES; DEFINITIONS AND PROCEDURAL AND INTERPRETATIVE REGULATIONS

Classification of Certain Lead-Containing Paints and Other Similar Surface-Coating Materials as Sealed Hazardous Substances

In the matter of classifying certain lead-containing paints and other surface-coating materials as sealed hazardous substances.

In the Federal Register of November 2, 1971 (36 F.R. 20881), the Commissioner of Food and Drugs published a notice proposing to declare, under section 3(a) of the Federal Hazardous Substances Act, paints and other surface-coating materials containing more than specified levels of lead and other named heavy metals to be hazardous substances (191.5(a)(2)) and to be products requiring special labeling under section 3(b) of the act (191.5(b)(7)). This is referred to below as the Commissioner's proposal.

In the same issue of the Federal Register (36 F.R. 20881), a notice was published on behalf of petitioner Joseph A. Page et al., which proposed that paint for household use containing more than minute traces of lead be classified as a sealed hazardous substance pursuant to sections 3(a)(1)(B) and 3(a)(2) of the act. This is referred to below as the Page proposal.

Approximately 200 comments were received from consumers, consumer and public interest groups, the paint and chemical industries, trade associations, physicians, medical schools, professional societies, Federal, State, and local government agencies, and others. The principal comments are as follows:

The American Academy of Pediatrics relying on published studies with lead and data respecting the maximum daily permissible intake of lead from all sources, recommended that paints containing more than 0.05 percent of lead be banned if intended for use on interior surfaces, toys, or other children's articles. The Academy agreed with the Commissioner that small amounts of lead in paints when considered in conjunction

0007-SWP-036476

0007-SWP-000117801

with other sources of lead in the environment constitute a substantial addition to the body burden that can reasonably be avoided and that any unnecessary exposure should be eliminated or minimized. It also stated that the labeling of paint containers would have little effect on preventing lead poisoning and that paint containing 0.5 percent lead will not provide sufficient protection for children 1 to 3 years of age. The Academy stated that it is estimated that approximately 55 percent of these children receive at least one medical examination and that abdominal X-rays obtained in the diagnostic evaluation of children suspected of having lead poisoning indicate that very large quantities of foreign substances such as paint, putty, and plaster may be ingested, often without the parent's awareness.

The Bureau of Community Environmental Management, Health Services and Mental Health Administration, Department of Health, Education, and Welfare, commented that cautionary labeling does not provide adequate protection, that the availability of lead in paint to children should be held to the lowest concentration possible with current technology and consistent with reasonably good manufacturing practices, and that the maximum concentration of lead in paint intended for use on interior surfaces readily available to children should not exceed 0.05 percent.

The Environmental Protection Agency submitted an in-house technical report which concluded that lead in paint is one of 0.05 percent could constitute a danger to the health of children with even. They stated that cautionary labeling would be inadequate to protect the public health and safety and recommended that lead-based paint be banned from interstate commerce.

The medical community generally endorsed the Page proposal and supported the recommendation of the American Academy of Pediatrics. Some physicians from medical centers located in large metropolitan areas submitted the results of their own clinical findings and studies which indicate the hazard posed by lead in paint. Other physicians cited studies which indicate that children can accumulate toxic levels of lead over an extended period of time from paints containing 0.5 percent of lead. Two physicians cited cases of children with severe body burdens of lead which they could attribute only to paint containing less than 1 percent lead. The medical community generally commented that the labeling proposed by the Commissioner would not provide adequate protection because subsequent occupants of dwellings would not know what paints were banned by previous residents and because labeling may be totally disregarded or misinterpreted.

Nearly all comments from consumers, consumer and public interest groups, and Government agencies (other than those discussed above) endorsed the Page proposal. Some stated that the Commissioner's proposal would not provide sufficient protection against the use of

lead paints, while others suggested that lead paints for interior use be banned and that cautionary labeling be required for other lead paints. Comments from the public health departments for the cities of Philadelphia and New York state that the labeling ordinances and regulations of their cities, which are similar to those in the Commissioner's proposal, have been inadequate to protect children. Both the American Public Health Association and the health departments for the State of New York and the County of Los Angeles support the recommendation of the American Academy of Pediatrics. Some comments suggested other maximum levels for lead in paint. For example, the Congressional Steel Caucus recommended that all lead from household paints be banned, the Natural Resources Defense Council and the Department of Public Health of the City of Philadelphia recommended 0.05 percent as a maximum level for lead in paint.

Paint chemical manufacturers and their trade associations generally supported the Commissioner's proposal and opposed the Page proposal. With respect to the Commissioner's proposal, several comments requested clarification of the labeling statement and sufficient time to reformulate and relabel their products. With respect to the Page proposal, many comments stated that the language "minute traces of lead" is vague and non-specific, that the data relied on by the pediatric and by the American Academy of Pediatrics is based on lead ingestion studies done with lead compounds, since the lead compounds used in paint are not readily absorbed into the body and human experience has not proven that paints containing 1 percent lead are hazardous; that lead is used as a dryer and the substitution of other compounds for lead may be hazardous; and that implementation would cause a severe economic hardship because it is not within the existing state-of-the-art of the paint industry to eliminate all lead from all paint. Several comments commented that the mandatory procedure for banning has been ignored in the Page proposal in that only after labeling has been proven inadequate can consideration be given to banning. Other comments stated that warning labels are adequate protection because they prevent misapplication of paint products and serve the public interest by allowing useful, needed paint products to remain on the market. Some comments stated that lead is a necessary component of certain products (e.g., certain exterior primers, rust inhibitors, and automobile touch-up paint).

A number of paint manufacturers and their trade associations commented that the inclusion of heavy metals other than lead in the Commissioner's proposal is inappropriate. They stated that the toxicity of different forms of these metals has not been established and that action be deferred pending further scientific investigation. Some manufacturers submitted data which they contended shows that certain heavy metal

compounds other than lead are not hazardous, while others stated that adequate test methods need to be developed. As other manufacturers stated that certain heavy metals are necessary in the manufacture of fire-retardant coatings and warning colors. Only a few other comments were received that supported the Commissioner's proposal as it related to other heavy metals, and none of these were supported by scientific data.

The Commissioner, having considered the comments and other relevant material, concluded as follows:

Although paints and other surface-coating materials containing lead do not present an inherent hazard to the public health, they must be considered on the basis of cumulative toxicity over extended periods of time and in conjunction with other sources of lead in the environment. Based on the currently available scientific and medical data, regulatory action must be taken to minimize the health hazard to future generations.

The health hazard from lead will not be effectively eliminated by cautionary labeling requirements. The statute does not provide that such labeling must be used and proven inadequate before a hazardous substance can be banned. Indeed, section 319(1)(2) explicitly provides for banning products from interstate commerce on the basis of a possible finding "notwithstanding such cautionary labeling as to or may be required." Cautionary labeling has not been proven effective in eliminating lead poisoning in many cities which presently have such requirements. In any event, the hazard persists long after the product has been separated from its labeling.

The prudent course of action is to reduce, as rapidly as possible, the amount of lead to which children are exposed. The Commissioner agrees that limiting the amount of lead to "minute traces" as set forth in the Page proposal is not feasible because that phrase is vague and would not provide manufacturers with specific standards, and it could not be effectively enforced by the Food and Drug Administration. In addition, limiting regulatory action only to paint is inadequate to protect the public health and safety because other surface-coating materials containing lead are used in and around the household and are accessible to children.

The provisions of medical toxicology support a regulation limiting the amount of lead in products intended for interior surfaces and for toys or other children's articles to 0.05 percent because that level will provide a margin of safety. However, such a regulation would not prevent the use of products containing higher amounts of lead on exterior surfaces. These surfaces are inherently inaccessible to children as interior surfaces, and, as the comments points out, children have been subjected to lead poisoning by ingesting products containing lead that were applied to exterior surfaces. In addition, if products containing lead are available for exterior use, they may be misused for interior surfaces.

0007-SWP-036477

The Commissioner recognizes that restrictions placed upon the use of lead may result in economic hardship and is the substitution of other compounds for use as driers. The statute makes no exception for economic hardship. Several compounds have been suggested as substitutes for lead. Each manufacturer, prior to marketing consumer products, must take steps to determine that any substitute for lead has been adequately tested for safety and shown to be safe. Any banning order should therefore provide a reasonable time to test substitutes for lead and establish their safety and at the same time provide adequate protection to the public.

The National Paint and Coatings Association, which represents more than 900 companies has notified the Commissioner that it anticipates its members can produce by January 1973 interior products not exceeding the 0.06 percent maximum lead level and can produce by January 1973 exterior products not exceeding the 0.06 percent maximum lead level. Some paint and chemical manufacturers have notified the Commissioner that they can reformulate their products to meet the 0.06 percent maximum lead level in a shorter time period. On February 15, 1972, a notice was published in the Federal Register (37 F.R. 3789) requesting that additional information from the industry be submitted by April 7, 1972. In order to expedite this information, the Commissioner finds that lead can be eliminated from paints and other surface-coating materials more rapidly than the implementation date specified in the following order, an appropriate amendment will be made.

Therefore, the Commissioner finds that notwithstanding such causatory labeling as is or may be required under the Federal Hazardous Substances Act, the degree or nature of the hazard involved in the presence or use of lead in paints and other surface-coating materials in households is such that the objective of the protection of the public health and safety can be adequately served only by keeping such materials, when so intended or packaged, out of the channels of interstate commerce. Under section 3(a)(1) of the act, this will have the additional effect of banning such products from use on any toy or other article intended for use by children.

Since lead may be a necessary component of products intended for particular uses, as suggested by several comments, the Commissioner is prepared to specify certain proposed amendments of the Regulations. Pursuant to 21 CFR 181.501, petitions showing reasonable grounds will be published in the Federal Register. Consideration will also be given in late 1973 to petitions for extension of the implementation date upon a showing that the public health will not be jeopardized and that technological advances require additional time to meet the 0.06 percent maximum lead level.

All this year, further information is requested where a final order can be promulgated regarding the use of certain

elements, other than lead, in paint and other surface-coating materials. Additional data on the use of these materials will be obtained in response to the Preliminary Notice of February 19, 1972 (37 F.R. 3789), and these products will be considered at a later date.

Therefore, pursuant to provisions of the Federal Hazardous Substances Act (secs. 3 (1)(1)(A), (1)(1)(B); 74 Stat. 372, as amended 80 Stat. 1346-65; 18 U.S.C. 1261 (1)(1)(A), (1)(1)(B)) and the Federal Food, Drug, and Cosmetic Act (sec. 701 (a), (1); 52 Stat. 1033-34 as amended by 70 Stat. 319 and 72 Stat. 948 21 U.S.C. 371 (a), (1), (2), (3)), and under authority delegated to the Commissioner (21 CFR 2.100) it is ordered, That Part 181 be amended by adding a new subparagraph (d) to § 181.501, as follows:

§ 181.501 Banned hazardous substances.

(a) Under the authority of section 210(1)(1)(B) of the act, the Commissioner declares as banned hazardous substances the following articles because they contain such a degree of hazard that adequate consumer labeling cannot be written and the public health and safety can be served only by keeping such articles out of interstate commerce:

(1) Any paint or other similar surface-coating material intended, or packaged in a form suitable, for use in or around the household that:

(i) Is shipped in interstate commerce after December 31, 1972, and contains lead compounds of which the lead content (calculated as the metal) is in excess of 0.06 percent of the total weight of the contained solids or dried paint film; or

(ii) Is shipped in interstate commerce between December 31, 1972, and December 31, 1973, and contains lead compounds of which the lead content (calculated as the metal) is in excess of 0.5 percent of the total weight of the contained solids or dried paint film.

(2) Any toy or other article intended for use by children that:

(a) Is shipped in interstate commerce after December 31, 1972, and bears any paint or other similar surface-coating material containing lead compounds of which the lead content (calculated as the metal) is in excess of 0.06 percent of the total weight of the contained solids or dried paint film; or

(b) Is shipped in interstate commerce between December 31, 1972, and December 31, 1973, and bears any paint or other similar surface-coating material containing lead compounds of which the lead content (calculated as the metal) is in excess of 0.5 percent of the total weight of the contained solids or dried paint film.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the Federal Register file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 9-25, 5600 Fishers Lane, Rockville, Maryland 20853, written objections

therein. Objections shall show wherein the person filing will be adversely affected by the order and shall be filed with the Hearing Clerk, Department of Health, Education, and Welfare, Room 9-25, 5600 Fishers Lane, Rockville, Maryland 20853, on or before the date specified in the order. Objections must be accompanied by a memorandum or brief in support thereof. All documents shall be filed in six copies. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective 45 days after its date of publication in the Federal Register, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be given by publication in the Federal Register.

(Sec. 3 (1)(1)(A), (1)(1)(B); 74 Stat. 372, as amended 80 Stat. 1346-65; 18 U.S.C. 1261(1)(1)(A), (1)(1)(B); 52 Stat. 1033-34 as amended by 70 Stat. 319 and 72 Stat. 948 21 U.S.C. 371 (a), (1), (2), (3))

Dated: March 3, 1972.

JAMES D. GALT,
Deputy Commissioner
of Food and Drugs.

(FR Doc 72-3790 Filed 3-10-72; 12 30 p.m.)

Title 26—INTERNAL REVENUE

(26. 1972)

Chapter I—Internal Revenue Service,
Department of the Treasury

SUBCHAPTER A—INCOME TAX

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1963

Rehabilitation of Low-Income Housing

On August 4, 1970 notice of proposed rule making with respect to the amendments of the Income Tax Regulations (26 CFR Part 1) to conform the regulations to the provisions of section 321(a) of the Tax Reform Act of 1969 (92 Stat. 631), relating to rehabilitation of low-income housing, was published in the Federal Register (35 F.R. 12406). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendments are proposed in hereby adopted, subject to the changes which follow. Sections 1.1071-1 through 1.1071-4 are revised to read as set forth below.

(Sec. 1071(a), Internal Revenue Code of 1954, 68 Stat. 551; 26 U.S.C. 107; and 7001, Internal Revenue Code of 1954, 68 Stat. 557, 26 U.S.C. 7001)

(26a) JENNIFER M. WALTER,
Commissioner of Internal Revenue.

Approved: March 3, 1972.

FRANKLIN W. REEDMAN,
Acting Assistant Secretary
of the Treasury.

City of Detroit

OFFICE OF THE CITY CLERK

George C. Edwards
City Clerk

ACME CUMULATIVE INDEX	
PROD. PLAN	TECH. C. INDEX
PERSONNEL	ENV. CONTROL
ORDER ENTRY	STOCK INDEX
MAY 15 1972	
SUP. VARIATION	NO. INDEX
SUP. SHIPPING	PROD. NO.
PLANT INDEX	OTHER E. CAUGHN

April 19, 1972

RE: PROPOSED ORDINANCE TO REGULATE
THE SALE AND USE OF LEAD PAINT

PCG

NOTICE OF PUBLIC HEARING

MAY 18 1972

The Common Council of the City of Detroit will
hold a public hearing in the Committee Room, 13th
Floor of the City-County Building, on

THURSDAY, MAY 18, 1972.

AT 10:45 A. M.

on a proposed ordinance to amend Chapter 28 of the
Code of the City of Detroit, to regulate the sale
and use of lead paint. (Introduced April 18, 1972.)

All interested persons are invited to be present
and be heard as to their views.

George C. Edwards
George C. Edwards;
City Clerk

CNN:rmp

Mr. Michael M. Glusac
Corporation Counsel

Dr. Regine Aronow
Children's Hospital
3901 Beaubien
Detroit, Mich.

Dr. William Clexton, Commissioner
Department of Health

Mr. Robert L. Read
Mich. Legal Services Assist. Program
Wayne State University Law School
Detroit, Michigan

0007-SWP-036479

0007-SWP-000117804

OF CHILDREN. (2) WHEN THE DIRECTION OF THE TRAFFIC OF CHILDREN IS NOT KNOWN, THE FOLLOWING FACTS SHOULD BE TAKEN INTO CONSIDERATION: (A) WHETHER IN LIQUID STATE OR IN A SOLID STATE, (B) WHETHER IN LIQUID STATE OR IN A SOLID STATE, (C) WHETHER IN LIQUID STATE OR IN A SOLID STATE, (D) WHETHER IN LIQUID STATE OR IN A SOLID STATE, (E) WHETHER IN LIQUID STATE OR IN A SOLID STATE, (F) WHETHER IN LIQUID STATE OR IN A SOLID STATE, (G) WHETHER IN LIQUID STATE OR IN A SOLID STATE, (H) WHETHER IN LIQUID STATE OR IN A SOLID STATE, (I) WHETHER IN LIQUID STATE OR IN A SOLID STATE, (J) WHETHER IN LIQUID STATE OR IN A SOLID STATE, (K) WHETHER IN LIQUID STATE OR IN A SOLID STATE, (L) WHETHER IN LIQUID STATE OR IN A SOLID STATE, (M) WHETHER IN LIQUID STATE OR IN A SOLID STATE, (N) WHETHER IN LIQUID STATE OR IN A SOLID STATE, (O) WHETHER IN LIQUID STATE OR IN A SOLID STATE, (P) WHETHER IN LIQUID STATE OR IN A SOLID STATE, (Q) WHETHER IN LIQUID STATE OR IN A SOLID STATE, (R) WHETHER IN LIQUID STATE OR IN A SOLID STATE, (S) WHETHER IN LIQUID STATE OR IN A SOLID STATE, (T) WHETHER IN LIQUID STATE OR IN A SOLID STATE, (U) WHETHER IN LIQUID STATE OR IN A SOLID STATE, (V) WHETHER IN LIQUID STATE OR IN A SOLID STATE, (W) WHETHER IN LIQUID STATE OR IN A SOLID STATE, (X) WHETHER IN LIQUID STATE OR IN A SOLID STATE, (Y) WHETHER IN LIQUID STATE OR IN A SOLID STATE, (Z) WHETHER IN LIQUID STATE OR IN A SOLID STATE.

1. The first part of the document is a list of names and dates, which appears to be a record of some kind. The names are written in a cursive script, and the dates are in a more formal, printed style. The list is organized into two columns, with names on the left and dates on the right.

0007-SWP-000117805