

[§24,121]

Scope and application.

~~Under~~ this Part 1303, the Consumer Product Safety Commission declares that paint and similar surface-coating materials for consumer use that contain lead or lead compounds and in which the lead content (calculated as lead metal) is in excess of 0.06 percent of the weight of the total nonvolatile content of the paint or the weight of the dried paint film (which paint and similar surface-coating materials are referred to hereafter as "lead-containing paint") are banned hazardous products under sections 8 and 9 of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2057, 2058. (See Parts 1145.1 and 1145.2 for the Commission's finding under section 30(d) of the Consumer Product Safety Act (CPSA) that it is in the public interest to regulate lead-containing paint and certain consumer products bearing such paint under the CPSA.) The following consumer products are also declared to be banned hazardous products:

(1) Toys and other articles intended for use by children that bear "lead-containing paint".

(2) Furniture articles for consumer use that bear "lead-containing paint".

(b) This ban applies to the products in the categories described in paragraph (a) of this section that are manufactured after February 27, 1978, and which are "consumer products" as that term is defined in section 3(a)(1) of the Consumer Product Safety Act. Accordingly, those of the products described above that are customarily produced or distributed for sale to or for use, consumption, or enjoyment of consumers in or around a household, in schools, in recreation, or otherwise are covered by the regulation. Paints and coatings for motor vehicles and boats are not included within the scope of the ban because they are outside the statutory definition of "consumer product". In addition to those products which are sold directly to consumers, the ban applies to products which are used or enjoyed by consumers after sale, such as paints used in residences, schools, hospitals, parks, ~~amusement~~ grounds, and public buildings or other areas where consumers will have direct access to the painted

surface.

(c) The Commission has issued the ban because it has found (1) that there is an unreasonable risk of lead poisoning in children associated with lead content of over 0.06 percent in paints and coatings to which children have access and (2) that no feasible consumer product safety standard under the CPSA would adequately protect the public from this risk.

[§24,122]

§ 1303.2 Definitions.

(a) The definitions in section 3 of the Consumer Product Safety Act (15 U.S.C. 2052) shall apply to this Part 1303.

(b) For purposes of this Part:

(1) "Paint and other similar surface-coating materials" means a solid, semi-solid, or other material, with or without a suspension of finely divided coloring matter, which changes to a solid film when a thin layer is applied to a metal, wood, stone, paper, leather, cloth, plastic, or other surface. This term does not include printing inks or those materials which actually become a part of the substrate, such as the pigment in a plastic article, or those materials which are actually bonded to the substrate, such as by electroplating or ceramic glazing.

(2) "Lead-containing paint" means paint or other similar surface coating materials containing lead or lead compounds and in which the lead content (calculated as lead metal) is in excess of 0.06 percent by weight of the total nonvolatile content of the paint or the weight of the dried paint film.

(3) "Toys and other articles intended for use by children" means those toys and other articles which are intended to be entrusted to or for use by children. This would not include all articles to which children might have access simply because they are present in a household.

(4) "Furniture article" means those movable articles, (i) used to support people or things; (ii) other functional or decorative furniture articles, including, but not limited to, products such as beds, bookcases, chairs, chests, tables, dressers, desks, pianos, console televisions, and sofas. The term "furniture article" does not include appliances, such

as ranges, refrigerators, dishwashers, clothes washers and dryers, air conditioners, humidifiers, and dehumidifiers; fixtures such as bathroom fixtures, built-in cabinets, chandeliers, windows, and doors; or household items such as window shades, venetian blinds, or wall hangings and draperies.

[§24,123]

Exemptions.

Categories of products listed in paragraph (b) of this section are exempt from the scope of the ban established by this Part 1303, provided:

(1) That these products bear on the main panel of their label, in addition to any labeling that may be otherwise required, the signal word "Warning" (unless some other signal word is required) and the following statement: "Contains Lead. Dried Film of This Paint May Be Harmful If Eaten or Chewed."

(2) That these products also bear on their label the following additional statement or its practical equivalent:

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

Do not apply on exterior surfaces of dwelling units, such as window sills, porches, stairs, or railings, to which children may be commonly exposed.

Keep out of reach of children.

If the statement required by the preceding paragraph (a) (2) (1) is placed on a label panel other than the main panel, the label statement required to be on the main panel by paragraph (a) (1) of this section shall contain the following additional statement: "See other cau-

tions on — (insert 'side' or 'back', as appropriate) panel."

(3) That the placement, conspicuousness, and contrast of the label statements required by this section (a) comply with the requirements of the Federal Hazardous Substances Act at 16 CFR 1500.121.

The following products are exempt from the scope of the ban established by this Part 1303, provided they comply with the requirements of paragraph (a) of this section:

(1) Agricultural and industrial equipment refinishing coatings.

(2) Industrial (and commercial) building and equipment maintenance coatings, including traffic and safety marking coatings.

(3) Graphic art coatings (i.e., products marketed solely for application on billboards, road signs, and similar uses and for identification marking in industrial buildings).

(4) Touchup coatings for agricultural equipment, lawn and garden equipment, and appliances.

(5) Catalyzed coatings marketed solely for use on radio-controlled model powered aircraft.

The following products are exempt from the scope of the ban established by Part 1303 (no cautionary labeling is required):

(1) Mirrors which are part of furniture articles to the extent that they bear lead-containing backing paint.

(2) Artists' paints and related materials.

[1]

(3) Metal furniture articles (but not metal children's furniture) bearing factory-applied (lead) coatings.

(Sec. 9(e), 26 Stat. 1216 (15 U.S.C. 3049(e)).)

[As amended, 43 F.R. 8515, March 2, 1978.]

[1] 43 F.R. 8514, 3-2-78.

SUMMARY: The Commission amends its banning regulation on furniture bearing lead-containing paint to exempt metal furniture articles (but not metal children's furniture) bearing

factory-applied coatings from the furniture banned by the regulation. The Commission is issuing this amendment because of data indicating that factory-applied coatings from metal furniture do not chip or chalk and are, therefore, inaccessible for ingestion by children. The National Paint and

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[1](continued)

Coatings Association petitioned the Commission to take this action.

DATE: The amendment is effective March 2, 1978.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

BACKGROUND

On January 12, 1978, the Commission published in the FEDERAL REGISTER (43 FR 1804) a proposed amendment to its final ban on lead-containing paint (defined as paint containing more than 0.06 percent lead by weight) and toys and furniture bearing such paint (42 FR 44192 (16 CFR Part 1303)). The proposed amendment would exempt metal furniture articles (but not metal children's furniture) bearing factory-applied coatings from the regulation banning furniture under Part 1303.

The amendment was proposed in response to a petition dated October 7, 1977 (CP 78-1), from the National Paint and Coatings Association (NPCA) seeking the exclusion of metal furniture (but not metal children's furniture) bearing factory-applied lead coatings from the provisions of Part 1303. In its petition NPCA contended that coatings applied to metal furniture at the factory do not present the hazard of lead poisoning in children resulting from the ingestion of available lead-paint chips that Part 1303 was designed to address. The petitioner stated that metal furniture coatings are inaccessible to children because of their resistance to chipping and peeling due to the hardness of the coatings and their strong adhesion to the metal substrate. NPCA submitted information and test data in support of its petition, and at a November 2, 1977, public meeting on the petition, NPCA demonstrated mechanical performance tests which measure the hardness, adhesion, and resistance to impact of metal furniture coatings.

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Based on the data submitted by NPCA and other information available to the Commission, the Commission granted the petition and proposed the amendment cited above. (42 FR 44192.) The grounds for the proposed amendment are set out in the proposal document and will only be summarized here.

Basically, the Commission noted that the mechanical stress performance tests conducted by NPCA at the November 2, 1977, public meeting strongly suggest that factory-applied metal furniture coatings are much harder than ordinary interior or exterior surface coatings applied to walls or woodwork, are resistant to chipping and cracking, and strongly adhere to the metal substrate to which they are applied. The Commission also considered the views of two medical experts, Dr. Julian Chisolm and Dr. J. W. Sayre, both of whom were proponents of the proposition to ban residential paint containing more than 0.06 percent lead, but who in letters to NPCA expressed their support for an exemption for metal furniture. (The letters are on file at the Commission's Office of the Secretary.) In addition, the Commission noted that a review of the scientific literature on lead poisoning did not yield a single reference to factory-applied metal furniture coatings as being responsible for elevated blood lead levels or lead poisoning of children. Finally, the Commission considered data on the economic effects of the elimination of lead from metal furniture coatings which indicated that certain deep tone colors may be difficult to obtain with non-lead pigments and that without lead, the price of metal furniture coatings would rise moderately, causing a small increase in the prices of some metal furniture.

RESPONSE TO COMMENTS

The Commission received twenty-two comments on the proposed amendment to exempt metal furniture (but not metal children's furniture) bearing factory-applied coatings from the lead-containing paint ban, Part 1303. The commenters included 11 concerned citizens, 7 manufacturers, 1 county agency, and 3 trade associations.

The comments from the concerned

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[1](continued)

citizens as well as the county agency requested that an exemption for metal furniture not be granted. Several of these commenters expressed the view that the risk of lead poisoning in children would be increased as a result of the exemption. Two of the commenters also stated that if any exemption for metal furniture articles was granted, a warning label on the exempted articles should be required.

The Commission notes that none of the commenters who expressed disapproval of the proposed exemption supplied any data to support their views. Based upon the data referenced above and discussed in the proposal document, the Commission believes that factory-applied coatings for metal furniture will not pose a significant hazard to young children because the hardness of the coatings, their adherence to the metal substrate, and their resistance to chipping appear to make it difficult for a child to obtain such coatings. Because the Commission does not believe there is a significant hazard from such furniture, it has not required any warning labels on metal furniture. The Commission emphasizes that it expects that reasonable manufacturing practices will result in metal furniture whose coatings are hard, durable, and tightly bound to the metal substrate. The Commission points out, however, that should it find instances where these factory-applied coatings containing lead chip, peel, chalk, or otherwise become easily available for removal and ingestion by children, it may consider individual regulatory action.

The comments from the manufacturers, which included 5 metal furniture manufacturers and 2 coatings manufacturers, uniformly supported the proposed exemption. One manufacturer noted that the paint on metal furniture is only a few mils in thickness and very hard and that it is difficult to remove even with the best of paint-removing devices. Another manufacturer stated that the pre-painting preparation of the metal substrate gives adhesion qualities which minimize any chipping and cracking possibilities. Several manufacturers emphasized that lead chromate pigments are

inexpensive when compared to substitute pigments.

A commenter representing an association of manufacturers, retailers, and wholesalers of office furniture also supported the proposed exemption, noting that the standards of application in the office metal furniture industry are high and that the same testing procedures demonstrated by NPCA at the public meeting are utilized.

A trade association representing toy manufacturers and another association representing the manufacturers of juvenile furniture requested that children's metal furniture be included within any final exemption for the same reasons that adult metal furniture had been included in the proposed exemption.

The Commission declines to broaden the scope of the proposal to include children's furniture. The Commission notes that since 1973 the coatings on toys and other articles intended for use by children, which includes furniture, have been subject to a lead limit of 0.5 percent (see 37 FR 5229, 16 CFR 1300.17(a)(6)(ii)).

Note.—Coatings on adult furniture will first become subject to a lead limit on February 28, 1978 (41 FR 44192, 16 CFR Part 1303).

The Commission sees no reason for abolishing lead-paint restrictions for children's furniture at this time when manufacturers of such articles have been conforming to a lead limit for the past several years which virtually eliminates the use of lead as a pigment. In declining to broaden the scope of the proposal, the Commission emphasizes that although the possibility of children's metal furniture chipping or flaking may be remote, the close proximity of children to their own furniture makes even this possibility an unnecessary risk. In this regard the Commission notes that Dr. Bayre in his letter to NPCA on CF 78-1, noted above, stated: "Neither have we found many children who gnaw much furniture besides their high-chairs and cribs." (Emphasis added.) (The letter is dated October 25, 1977 and is on file at the Commission's Office of the Secretary.) In addition, children often bang their furniture

[1](continued)

with other objects or into other objects, thereby increasing the chance that the coatings may chip. The Commission also points out that the National Academy of Sciences (NAS) in a report submitted to the Commission entitled "Recommendations for the Prevention of Lead Poisoning in Children" specifically recommended that the lead content of paints on children's articles, including toys and furniture, be severely restricted. (NAS Report, p. 10.)

ENVIRONMENTAL CONSIDERATIONS

The Commission has considered the potential environmental impacts of an exemption for metal furniture from a ban on lead-containing paint, toys, and furniture in the Final Environmental Impact Statement on Lead Content in Paint, dated May 2, 1977. (See, especially, pages I-B-15, II-A-6-9, III-6, and III-17 of the final statement.)

NOTE.—The availability of the final impact statement was announced by the Council on Environmental Quality in the *Federal Register* on June 10, 1977 (42 FR 29948). The potential environmental effects of the exclusion of metal furniture were also included in the draft statement on lead content in paint which was made available for public comment by announcement in the *Federal Register* on February 4, 1977. (42 FR 8879.)

Therefore, the Commission believes that there is no need for any further environmental review of this exemption.

CONCLUSION

In determining whether a specific risk of injury is "unreasonable" and therefore, properly the subject of a banning regulation, the Commission generally balances the probability that the risk will result in harm and the gravity of the harm against a rule's effect on the product's utility, cost, and availability to the consumer. (See H.R. Rep. No. 92-1153, 92d Cong., 2d Sess., 1972, p. 33.)

In this instance the Commission believes, based upon the data summarized above and after a review of the public comments, that the probability that factory-applied coatings on metal furniture will result in harm is remote

because the hardness of the coatings and their resistance to chipping makes it unlikely that the coatings will be removed and ingested by children. In addition, the Commission has indicated that should it find instances where factory-applied lead coatings for metal furniture chip, peel, chalk, or otherwise become easily available for removal and ingestion by children, it may consider individual regulatory action.

The Commission also notes, after a review of information on the economic effects of the elimination of lead pigments from these factory-applied coatings, that such elimination may have an adverse effect on the product's cost and utility.

The Commission finds that the available data does not indicate that metal furniture (exclusive of metal children's furniture) bearing factory-applied coatings presents an unreasonable risk of injury from lead poisoning in children. Therefore, the Commission concludes that a ban of such metal furniture is not reasonably necessary to eliminate a risk of injury associated with the painted furniture and has decided to issue the amendment as set forth below.

PROPOSAL

Section 9(e) of the Consumer Product Safety Act, 15 U.S.C. 2038(e), provides that when an amendment to a consumer product safety rule involves a material change the procedures in sections 7 and 9 apply. It is the Commission's view that the amendment issued below does not involve a material change to the lead-containing paint ban because it does not affect the basic purpose and provisions of the ban. Therefore, the provisions of section 7 and 9 (a)-(d) do not apply. The Commission believes that the informal rulemaking procedures of the Administrative Procedure Act (APA), 5 U.S.C. 553, do apply. The Commission has decided to make this amendment effective immediately March 2, 1978, so that it may be in effect before or at the same time as the lead-containing paint ban. In this regard the Commission notes that subsection (d) of §553 of the APA excepts substantive rules which grant or recognize an exemp-

[§24,124]

§ 1303.4 Banned hazardous products.

The following consumer products, manufactured after February 27, 1978, unless exempted by § 1303.3, are banned hazardous products (see the definitions in section 1303.2):

(a) Paint and other similar surface-coating materials which are "lead-containing paint."

(b) Toys and other articles intended

for use by children that bear "lead-containing paint."

(c) Furniture articles that bear "lead-containing paint."

[§24,125]

§ 1303.5 Findings.

(a) *The degree and nature of the risk of injury.* (1) The Commission finds that the risk of injury which this regulation

[1](continued)

tion from the 30-day delayed effective date requirement.

Accordingly, pursuant to provisions of the Consumer Product Safety Act (sec. 9(e), 86 Stat. 1216; 15 U.S.C. 2058(e)), and the Administrative Procedure Act, 5 U.S.C. §53, the Commission amends 16 CFR 1303.3(c) by

adding a new subparagraph (3) as follows:

* * * * *

Effective date: The amendment is effective March 2, 1978.

Dated: February 27, 1978.

SARAH E. DOWN,
Acting Secretary, Consumer
Product Safety Commission.

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is designed to eliminate or reduce lead poisoning in children. The adverse effects of this poisoning in children can cause a range of disorders such as hyperactivity, slowed learning ability, withdrawal, blindness, and even death. The final Environmental Impact Statement on Lead in Paint which is on file with the President's Council on Environmental Quality (and available for inspection in the Office of the Secretary) contains in Appendix A a detailed discussion of the health effects of lead in paint. These effects will only be summarized here.

(2) Lead is a cumulative toxic heavy metal which, in humans, exerts its effects on the renal, hematopoietic, and nervous systems. Newer concepts indicate that there are three stages to childhood lead poisoning. The adverse health effects in the first stage are not clinically present but metabolic changes can be observed. During the second stage or symptomatic stage such symptoms as loss of appetite, vomiting, apathy, drowsiness, and inability to coordinate voluntary muscle movements occur. The aftereffects of this stage include seizure disorders as well as various behavioral and functional disorders which are often included under the heading of minimal brain dysfunction. Studies suggest that this syndrome may include hyperactivity, impulsive behavior, prolonged reaction time, perceptual disorders and slowed learning ability. The adverse health effects of the third stage may be permanent and can include blindness, mental retardation, behavior disorders, and death.

(3) The Commission notes that children with pica are of special concern with regard to lead poisoning. Pica, the repetitive ingestion of nonfood substances, occurs in 50 percent of children between the ages of one and three, and studies indicate that at this age lead is absorbed more rapidly than lead is absorbed in adults. Pica for paint is believed to be episodic and can occur 2 to 3 times a week.

(4) The Commission also notes that there are no reports of injuries caused by lead paint poisoning in the Commission's National Electronic Injury Surveillance System (NEISS) data, which reflect hospital emergency room treatment. Lead paint poisonings result from a chronic hazard rather than from an acute hazard of the type generally treated in emergency rooms; and NEISS reporting, therefore, does not reflect this type of

chronic hazard or injuries.

(5) Former U.S. Surgeon-General Jesse L. Steinfeld, however, estimated in 1971 that 400,000 pre-school American children have elevated body lead burdens. The National Bureau of Standards in 1972 estimated that 600,000 young children have unduly high lead blood content.

(b) *Products subject to this ban.* (1) The products banned by this rule are listed in section 1303.4.

(2) The term "paint" comprises a variety of coating materials such as interior and exterior household paints, varnishes, lacquers, stains, enamels, primers, and similar coatings formulated for use on various surfaces. Based on 1976 data, the Commission estimates that over 400 million gallons of paint a year valued at approximately \$2.5 billion could potentially be subject to this rule.

(3) All products commonly known as toys and other articles intended for the use of children are subject to this rule. The categories of products within this classification are numerous and include items and equipment for play, amusement, education, physical fitness, and care of children. Retail sales in 1976 of products considered to be toys or other articles intended for use of children are estimated at around \$4 billion.

(4) For the purposes of this rule, furniture articles are certain movable articles used to support people or things or other functional or decorative furniture articles such as couches, beds, tables, chairs, chests, and the like. Appliances and similar equipment, household fixtures, and certain other household items such as window shades, blinds, wall hangings, and the like are not included within the definition of furniture. The regulation applies to furniture for use in households, schools, in recreation, or otherwise. In 1972, the value of shipments of items of furniture such as those named above was as follows: wood household furniture \$2,716 million; metal household furniture \$859 million; wood television and radio cabinets \$293 million; and \$190 million for other household furniture made of plastic, reed and rattan. (Not included in the above are some \$2 billion worth of upholstered furniture and \$300 million in convertible sofas, chair beds and studio couches.)

(c) *Need of the public for the products and effects of the rule on their utility, cost, and availability.* (1) The public need for paints of various types and for furniture and other articles is substan-

tial and well established. The Commission finds that the need of the public for paint containing more than 0.06 percent lead or for the affected products that are coated with materials containing more than 0.06 percent lead is limited. The Commission has determined that there are products containing more than the 0.06 percent level of lead which meet a public need and for which substitutes are either not available or are not sufficiently effective and to which access by children to the coatings or the surfaces to which they are applied is unlikely. Accordingly, these products have been specifically exempted from the scope of the regulation in § 1303.3.

(2) The Commission finds that the effects of this rule on the cost, utility, and availability of paints and painted articles will be small. The Commission notes that over 95 percent of latex-based and nearly 70 percent of oil-based paints have lead levels at or below the level set by Part 1303.

(i) *Costs.* The Commission estimates that the added costs to the consumer for paints affected by this rule will not exceed 5 to 10 cents per gallon. Costs to consumers for furniture and for toys and other articles intended for the use of children are not expected to increase as the result of compliance with the regulation.

(ii) *Utility.* The Commission finds that for water-based or latex paints and coatings subject to this rule, reducing the amount of allowable lead to 0.06 percent will not have adverse effects on their utility. For certain solvent-thinned coatings, however, lead driers will have to be replaced by non-lead driers such as zirconium to comply with the 0.06 percent level (Driers are not used in latex paints). An impact on the paint industry may result because current non-lead driers may not dry satisfactorily in low temperatures or high humidity conditions, and so the painting industry in some areas at certain times of the year may suffer a reduction of effective painting time.

(iii) *Availability.* Substitutes at comparable prices are available for paints and for products banned by this rule. The Commission believes that the reduction of lead to a level of 0.06 percent will not affect the availability of water-based or latex paints. Sales of such coatings currently exceed sales of solvent-based coatings, and because of the drying problem mentioned above, the

trend toward increased use of water-based paints may be accelerated somewhat by the effects of the ban.

(d) *Alternatives.* (1) The Commission has considered other means of achieving the objective of this rule, but has found none that would cause less disruption or dislocation of manufacturing and other commercial practices, consistent with public health and safety.

(2) The Commission estimates that this ban may, because of testing costs and the necessity for improved housekeeping practices in the manufacture of paint and similar surface-coating materials to prevent lead contamination, have some relatively minor adverse effect on individual firms within some markets.

(3) The Commission, however, finds that competition will not be adversely affected by this rule. Although costs of reformulation and testing may be relatively higher for small manufacturers than large manufacturers, these costs are not so onerous as to lead to greater concentration in the industry. The period of time before the effective date is sufficient to minimize problems of compliance with the rule.

(4) The reduction of the permissible level of lead in paint will affect paint manufacturers, raw materials suppliers, professional and non-professional painters, and manufacturers of furniture and children's articles. For those producers of paint which are already subject to the regulations under the Federal Hazardous Substances Act (FHSA), the impact of this CPSA ban will involve only a change to non-lead driers since lead pigments are precluded from practical use under the 0.5 percent lead restriction now in effect under the FHSA (16 CFR 1500.17 (a)(6)). The manufacturers of some painted furniture who were not affected by the 0.5 percent limit under the FHSA may now be, if they use lead pigments or driers. Producers of children's articles who were subject to the 0.5 percent FHSA limit will have to ensure that the paint they use conforms to the 0.06 percent level.

(e) *Conclusion.* The Commission finds that this rule, including its effective date, is reasonably necessary to eliminate or reduce the unreasonable risk of lead poisoning of young children that is associated with the banned products which are described in § 1303.4 and that promulgation of the rule is in the public interest.

[16 CFR Part 1304 begins on page 18,583.]

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containers for such substances shall bear the following labeling:

(a) When substances are produced that meet the definition of highly toxic in §1500.3(c)(1), the signal word "Danger" and the statement of hazard "Poisonous gases formed when used to extinguish flame or on contact with heat" are required labeling.

(b) When substances are produced that meet the definition of toxic in §1500.3(c)(2), the signal word "Caution" or "Warning" and the statement of hazard "Dangerous gas formed when used to extinguish flame or on contact with heat" are required labeling.

(c) Regardless of whether paragraph (a) or (b) of this section applies, any substance or mixture of substances labeled for use as a fire extinguisher that, if applied to an electrical fire, would subject the user to the likelihood of electrical shock shall be conspicuously labeled "Caution: Do not use on electrical wires."

(d) The statements specified in paragraphs (a), (b), and (c) of this section shall be in addition to any other that may be required under the act. All such substances or mixtures of substances shall also bear the additional statements "Use in an enclosed place may be fatal" and "Do not enter area until well ventilated and all odor of chemical has disappeared."

[§26,117]

Banned hazardous substances.

Under the authority of section 2(q)(1)(B) of the act, the Commission declares as banned hazardous substances the following articles because they possess such a degree or nature of hazard that adequate cautionary labeling cannot be written and the public health and safety can be served only by keeping such articles out of interstate commerce:

(1) Mixtures that are intended primarily for application to interior masonry walls, floors, etc., as a water repellent treatment and that are "extremely flammable" within the meaning of section 2(1) of the act (repeated in §1500.3(b)(10)).

(2) Carbon tetrachloride and mixtures containing it (including carbon tetrachloride and mixtures containing it used in fire extinguishers), excluding unavoidable manufacturing residues of carbon tetrachloride in other chemicals that under reasonably foreseeable conditions of use do not result in an atmospheric concentration of carbon tetrachloride greater than 10 parts per million.

(3) Fireworks devices intended to produce audible effects (including but not limited to cherry bombs, M-80 salutes, silver salutes, and other large firecrackers, aerial bombs, and other fireworks designed to produce audible effects, and including kits and components intended to produce such fireworks) if the audible effect is produced by a charge of more than 2 grains of pyrotechnic composition; except that this provision shall not apply to such fireworks devices if all of the following conditions are met:

(i) Such fireworks devices are distributed to farmers, ranchers, or growers through a wildlife management program administered by the U.S. Department of the Interior (or by equivalent State or local government agencies); and

(ii) Such distribution is in response to a written application describing the wildlife management problem that requires use of such devices, is of a quantity no greater than required to control the problem described, and is where other means of control are unavailable or inadequate.

[See also 1500.14(b)(7); 1500.17(a)(8) and (9); 1500.83(a)(27); 1500.85(a)(2); and Part 1507].

(4) Liquid drain cleaners containing 10 percent or more by weight of sodium and/or potassium hydroxide; except that this subparagraph shall not apply to such liquid drain cleaners if packaged in accordance with a standard for special packaging of such articles promulgated under the Poison Prevention Packaging Act of 1970 (Pub. L. 91-501, 84 Stat. 1670-74 (15 U.S.C. 1471-75)).

[The next page is 20,047-3.]

(5) Products containing soluble cyanide salts, excluding unavoidable manufacturing residues of cyanide salts in other chemicals that under reasonable and foreseeable conditions of use will not result in a concentration of cyanide greater than 25 parts per million.

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

→→→ *Caution: Reg. §1500.176(N)(A) has been stayed, 37 F.R. 16078, August 10, 1972—CCH*

(A) Is shipped in interstate commerce after December 31, 1973, 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

(B) 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 0.5 percent of the total weight of the contained solids or dried paint film.

(C) [Reserved]

(D) The provisions of paragraph (a) (6) (i) of this section do not apply to artists' paints and related materials.

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

→→→ *Caution: Reg. §1500.176(N)(A) has been stayed, 37 F.R. 16078, August 10, 1972—CCH*

(A) Is shipped in interstate commerce after 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 0.06 percent of the total weight of the contained solids or dried paint film; or

(B) 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 0.5 percent of the

total weight of the contained solids or dried paint film.

[2]

(iii) Since the Commission has issued comprehensive regulations for lead-containing paint and certain consumer products bearing such paint at the 0.06 percent level under the Consumer Product Safety Act (see 16 CFR Part 1303), subparagraphs (i) and (ii) of section 1500.17(a) (6) are revoked as to the subject products manufactured after February 27, 1978.

This revocation is conditional upon Part 1303 continuing in full force and effect.

(7) General-use garments containing asbestos (other than garments having a bona fide application for personal protection against thermal injury and so constructed that the asbestos fibers will not become airborne under reasonably foreseeable conditions of use).

[1]

(8) Firecrackers designed to produce audible effects, if the audible effect is produced by a charge of more than 50 milligrams (.772 grains) of pyrotechnic composition (not including firecrackers included as components of a rocket), aerial bombs, and devices that may be confused with candy or other foods, such as "dragon eggs," and "cracker balls" (also known as "ball-type caps"), and including kits and components intended to produce such fireworks except such devices which meet all of the following conditions:

(i) The fireworks devices are distributed to farmers, ranchers, or growers through a wildlife management program administered by the U.S. Department of Interior (or by equivalent State or local governmental agencies); and

(ii) Such distribution is in response to a written application describing the wildlife management problem that requires use of such devices, is of a quantity no greater than required to control the problem described, and is where other means of control is unavailable or inadequate.

[See also 1500.17(a)(3) and (9)].

(9) All fireworks devices, other than firecrackers, including kits and compo-

[1] See footnotes 1 and 2 at end of §27,550.

[2] See footnote at end of §26,117.

nents intended to produce such fireworks, not otherwise banned under the act, that do not comply with the applicable requirements of Part 1507 of this chapter, except fireworks devices which meet all the following conditions:

(i) The fireworks devices are distributed to farmers, ranchers, or growers through a wildlife management program administered by the U.S. Department of the Interior (or by equivalent State or local government agencies); and

(ii) Such distribution is in response to a written application describing the wildlife management problem that requires use of such devices, is of a quantity no greater than required to control the problem described, and is where other means of control is unavailable or inadequate.

[See also 1500.17(a)(3) and (8)].

[3]

(10) Self-pressurized products in-

tended or suitable for household use that contain vinyl chloride monomer, as an ingredient or in the propellant manufactured or imported on or after October 7, 1974.

[38 F.R. 4666, effective Mar. 22, 1973; 38 F.R. 27514, effective Dec. 3, 1973; 38 F.R. 35302, effective Dec. 27, 1973; 39 F.R. 17435, effective date of June 17, 1974 stayed by the filing of objections; amended 39 F.R. 30112, effective Oct. 7, 1974; 39 F.R. 42902, effective Dec. 9, 1974; 41 F.R. 22931, June 8, 1976; 42 F.R. 44201, effective Feb. 28, 1978; 43 F.R. 12308, March 24, 1978.]

[1] See footnotes 1 and 2 at end of ¶27,550.

[2] 42 F.R. 44201, 9-1-77.

SUMMARY: The Commission issues an amendment partially revoking a regulation under the Federal Hazardous Substances Act (FHSA) declaring certain lead-containing paint, and toys or other articles intended for use by children bearing such paint, to be banned hazardous substances. The amendment provides that the FHSA regulation will not be applicable to products manufactured after February 27, 1978, but will continue to apply to products manufactured on and prior to that date. This amendment is necessary because elsewhere in this issue of the Federal Register the Commission issues a new regulation under the Consumer Product Safety Act for certain lead-containing paint and toys and furniture bearing such paint manufactured after February 27, 1978.

EFFECTIVE DATE: The amendment issued below is effective February 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles M. Jacobson, Directorate for Compliance and Enforcement, Consumer Product Safety Commission,

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Washington, D.C. 20207, telephone 301-492-6400.

SUPPLEMENTARY INFORMATION:

On August 10, 1976, by publication of a notice in the Federal Register (41 FR 39637), the Commission proposed a rule under section 8 of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2057, declaring the following to be banned hazardous products: (1) Lead-containing paint and similar surface-coating materials containing more than a safe level of lead, (2) toys and other articles intended for use by children bearing lead-containing paint or other similar surface-coating materials containing more than a safe level of lead, and (3) articles of furniture bearing lead-containing paint or other similar surface-coating materials containing more than a safe level of lead. At the same time the Commission proposed to revoke the existing regulation (16 CFR 1500.17(a)(6)) under the Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1261-1274, relating to lead-containing paint and toys and other articles intended for use by children, bearing such paint, when the final CPSA banning regulation is issued.

The determination of a safe level of lead in paint was made by the Commis-

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[2](continued)

sion in accordance with a separate proceeding under the Lead-Based Paint Poisoning Prevention Act (LBPPA) (42 U.S.C. 4801 et. seq.), as amended (Pub. L. 94-317). In the *Federal Register* of February 16, 1977 (42 FR 9404), the Commission announced its decision that available scientific information is insufficient to establish that a level of lead in paint above 0.06 percent but not over 0.5 percent is safe. A final CPSC rule incorporating this determination and implementing the proposed ban appears elsewhere in this part of the *Federal Register* (see FR Doc. 77-25472, *supra*).

The Commission is amending 16 CFR 1500.17(a)(6), which was issued under the FHSIA, to prevent an unnecessary duplication of regulations now that final CPSC lead-in-paint rules are being issued at 16 CFR Part 1303. The Commission has decided not to revoke 16 CFR 1500.17(a)(6) entirely as proposed, so that products manufactured before the effective date of the CPSC ban will still be subject to a lead limit. Currently, 16 CFR 1500.17(a)(6) declares as banned hazardous substances any paint or other similar surface-coating material that contains lead compounds in which the lead content (calculated as lead metal) is in excess of 0.5 percent of the total weight of the contained solids or dried paint film. Section 1500.17(a)(6) also declares as banned hazardous substances any toy or other article intended for use by children that bears such paint or coating material.

Section 1500.17(a)(6) also contains certain provisions (subdivisions (i)(A) and (ii)(A)) that were stayed as a result of objections filed pursuant to section 701(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371(e)). The stayed provisions would have lowered the 0.5 percent permitted level of lead to 0.06 percent. Thus, only the 0.5 percent level prescribed by § 1500.17(a)(6) is in effect. (See *Federal Register* documents of August 10, 1972 (37 FR 16076), December 31, 1973 (38 FR 35302), and December 9, 1974 (39 FR 42902).)

The CPSC banning regulation appearing elsewhere in this part of the *Federal*

Register (see FR Doc. 77-25472) includes the exemption for artists' paint presently contained in § 1500.17(a)(6). The CPSC regulation also disposes of all outstanding exemption proposals and petitions to amend § 1500.17(a)(6).

The Commission points out that the sole purpose of this amendment is to prevent an unnecessary duplication of regulations. Therefore, the amendment to partially revoke 16 CFR 1500.17(a)(6) is conditional upon Part 1303 continuing in full force and effect. If, at any time, any requirement of Part 1303 relating to products within the scope of 16 CFR 1500.17(a)(6) is stayed, revoked, or set aside by judicial or other action, the amendment partially revoking 16 CFR 1500.17(a)(6) is withdrawn, and a *Federal Register* notice will be issued reinstating the appropriate portions of 16 CFR 1500.17(a)(6).

AMENDMENT

Accordingly, pursuant to provisions of the Federal Hazardous Substances Act (sec. 2 (f)(1)(A), (q), 74 Stat. 372, 374, as amended by 80 Stat. 1304-1305; (15 U.S.C. 1261 (f)(1)(A), (q)) and the Federal Food, Drug and Cosmetic Act (section 701 (e), (f), (g), 52 Stat. 1055, 1056, as amended 70 Stat. 919, 72 Stat. 948; (21 U.S.C. 371 (e)(f)(g))) and under authority vested in the Commission by the Consumer Product Safety Act (sec. 30(a), 86 Stat. 1231; 15 U.S.C. 2079 (a)), the Commission amends 16 CFR Part 1500.17(a)(6) by adding a new subparagraph (iii) as follows:

* * * * *

Effective date: The amendment is effective February 28, 1978.

Dated: August 26, 1977.

RICHARD E. RAPPS,
Secretary, Consumer
Product Safety Commission.

Consumer Product Safety Guide

16 CFR 1500.17 §26,117

[3] 43 F.R. 12306, 3-24-78.

SUMMARY: The Commission reissues a regulation classifying any household substance in a self-pressurized container containing vinyl chloride monomer as a "banned hazardous substance" under the Federal Hazardous Substances Act. The Commission believes that there is ample scientific evidence to establish the carcinogenicity of vinyl chloride monomer by inhalation and to demonstrate that human exposure to vinyl chloride monomer can result in a rare form of liver cancer. The Commission is relaxing this regulation on a prospective basis, as of the date of the original ban (October 7, 1974), because that original retroactive ban was set aside for failure to hold a hearing on objections to the retroactive effect of the regulation and because retroactive application of the regulation is no longer necessary.

DATES: The effective date of the rule is June 22, 1978. The rule is applicable to products which are manufactured or imported on or after October 7, 1974. Any written objections must be received by April 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles M. Jacobson, Consumer Product Safety Commission, Directorate for Compliance and Enforcement, Division of Regulatory Management, Washington, D.C. 20207, 301-492-6400.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On August 21, 1974 the Commission published in the *FEDERAL REGISTER*, 39 FR 30112, a final regulation pursuant to section 2(q)(1)(B) of the Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1261 (q)(1)(B), declaring any self-pressurized products intended or suitable for household use that contain vinyl chloride monomer as an ingredient or in the propellant to be "banned hazardous substances" (the proposed regulation was published in the *FEDERAL REGISTER* on May 23, 1974 (39 FR 18115)). The Commission took that action because of scientific studies linking the death of industrial workers from a rare form of liver cancer to vinyl chloride exposure and because of certain animal studies sur-

ther indicating the carcinogenicity of vinyl chloride monomer. In that same document the Commission declined to exercise any discretion, which it might have had under the FHSA, to make its banning order prospective only, thus requiring repurchase of products already distributed under the provisions of section 15 of the FHSA (15 U.S.C. 1274). That document also provided, as is required for the issuance of regulations pursuant to section 2(q)(1)(B) of the FHSA, that the procedures for rulemaking under section 701(e) of the Federal Food, Drug and Cosmetic Act would govern and that adversely affected persons could file objections and requests for a public hearing within 30 days of the publication of the Commission's order.

Four statements containing objections and requests for a public hearing were received by the Commission. The objections filed focused primarily on the fact that the ban applied to products already in the hands of consumers and suppliers and required that such products be repurchased by the manufacturer. The Commission's action insofar as it prohibited the future sale of self-pressurized household products containing vinyl chloride monomer was not objected to.

In a decision published in the *FEDERAL REGISTER* on October 11, 1974 (39 FR 36576), the Commission found that none of the objections received warranted a stay of the effective date of the order or the holding of a public hearing. The Commission noted that none of the objections contained a reference to or an offer to present factual information which might lead the Commission to a conclusion contrary to that reached by it.

As a result of the Commission's rulings on the objections, a petition for review of the vinyl chloride ban as it pertained to goods introduced into interstate commerce prior to the effective date of the ban was filed in the United States Court of Appeals for the Ninth Circuit on October 2, 1974. (*Pactra Industries, Inc. v. Consumer Product Safety Commission*, Nos. 74-2802; 74-3168). That court, in an opinion filed on May 2, 1977, set aside the vinyl chloride ban on the basis that a public hearing on the objections should have been held.

That Court of Appeals on December 13, 1974 had granted a stay of that portion of the vinyl chloride ban which required repur-

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[3] (continued)

chase and disposal of all household products in the channels of commerce containing vinyl chloride monomer because the Court found that the Commission has failed to comply with the requirements of the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 et seq. Subsequently, the Commission conducted an extensive environmental review of the ban and concluded that the repurchase requirement would not have a significant adverse effect on the human environment and that an environmental impact statement was not necessary. The Court vacated the stay and the ban remained in effect until May 2, 1977.

In an effort to determine the appropriate regulatory response to the *Pacific* decision, the Commission staff undertook a field survey to determine the extent of vinyl chloride-containing aerosols in the marketplace. That survey revealed that no new such products containing vinyl chloride had been manufactured since 1974 and that, with the exception of three relatively small lots being held, virtually no products containing vinyl chloride remained in the marketplace. The Commission contacted the 3 firms holding the products and asked that they voluntarily destroy their existing inventories. The firms subsequently reported that the inventories had either been destroyed or removed from Commission jurisdiction.

Because the information available to the Commission indicates that vinyl chloride-containing aerosols are no longer being manufactured or held and because the Commission continues to believe that such products, if produced, would present a risk of serious illness or injury, the Commission has decided to reissue its banning regulation on a prospective basis only, as of the date of the original ban (October 7, 1974). Such action will insure that no self-pressurized household substances containing vinyl chloride monomer are manufactured in the future.

Grounds for the Ban

Vinyl chloride is a colorless, flammable gas under normal conditions of temperature and pressure, but is generally handled as a liquid under pressure. Among the synonyms and trade names for vinyl chloride are chloroethylene, monochloroethene, ethylene monochloride, vinyl chloride monomer, VC and VCM.

Vinyl chloride monomer is not known to occur in nature. The substance has been produced commercially in the United States since at least 1928. In 1971, at least 97 percent of the vinyl chloride monomer consumed in the U.S. was for the production of vinyl chloride homopolymer and copolymer resins. The remainder was used in a variety of ways, such as the production of methyl chloroform, as an additive to specialty coatings, and as a component of propellant mixtures for certain aerosol products.

Vinyl chloride has been shown to be carcinogenic by inhalation in animal bioassays. In addition, a causal relationship has been demonstrated between exposure through inhalation of workers to vinyl chloride monomer during the polymerization process and the onset of angiosarcoma of the liver, a very rare form of liver cancer. The animal and human data demonstrating the carcinogenicity of vinyl chloride was reference in the Commission's 1974 proposed and final vinyl chloride banning regulations (39 FR 18115; 39 FR 30112) and is summarized and updated below.

1. ANIMAL DATA

In 1974 Professor Cesare Maltoni of the Instituto di Oncologia, Bologna, Italy, reported on a series of experiments on the effect of exposure through inhalation on rats, mice, and hamsters to vinyl chloride monomer at concentrations of 10,000, 6,000, 2,500, 500, 250, and 50 ppm for varying periods of time. Preliminary results of this study included the observation of angiosarcomas of the liver in both rats and mice exposed to vinyl chloride at concentrations as low as 250 parts per million. In addition, malignant tumors were induced at several other sites in both species. (Maltoni, C and G. La femine, "Carcinogenicity bioassays on vinyl chloride. I. Research plan and early results." *Environm. Res.*, 7:387 (1974)).

Preliminary studies have suggested that vinyl chloride monomer causes subcutaneous (occurring beneath the skin) angiosarcomas in the offspring of rats exposed to vinyl chloride during pregnancy. (IARC Monographs on the Evaluation of Carcinogenic Risk of Chemicals to Man, 7:291 (1974).)

In addition, vinyl chloride monomer animal studies are currently being per-

[3] (continued)

formed at Edgewood Arsenal for CPSC (1975-1978) under an interagency agreement. The results of those studies are expected in the second quarter of 1978.

2. HUMAN DATA

In early 1974, the B.F. Goodrich Chemical Company reported to the National Institute for Occupational Safety and Health (NIOSH) that since 1971, three of its employees, who had an average exposure of approximately 19 years to vinyl chloride monomer at unknown concentrations, had died from angiosarcoma of the liver.

At about the same time reports of 10 other similar deaths among men employed at various vinyl chloride monomer polymerizations plants appeared in the literature. In two of the reported cases, angiosarcomas were present in tissues other than the liver. (Heath, C.W., Jr., Falk, H. and J.L. Creech, Jr. "Characteristics of cases of angiosarcoma of the liver among vinyl chloride workers in the United States", *Ann N.Y. Acad. Sci.* (1974)).

At the time of its 1974 ban, previously cited herein, the Commission was aware of 24 confirmed cases of angiosarcoma among the 10,000 to 20,000 persons exposed to vinyl chloride in the course of their employment. As of August 1977, NIOSH reported a total of 63 cases of liver angiosarcoma among workers directly involved in the polymerization of VCM. Twenty-five of the cases developed among workers in the U.S., with the other 38 cases observed in workers from 11 other countries. (Table 1, Reported Cases of Angiosarcoma of the Liver Among Vinyl Chloride Polymerization Workers, submitted by NIOSH (August, 1977)). As angiosarcoma of the liver is extremely rare in the general population, there is agreement among scientists that this observation of 63 cases in vinyl chloride monomer workers is evidence of a causal relationship.

3. ACTIONS BY OTHER AGENCIES

In addition to the animal and human data demonstrating the carcinogenicity of vinyl chloride monomer, the Commission notes that actions taken by other agencies further support this ban. For example, on October 4, 1974, the Occupational Safety and Health Administration published a final standard (an emergency tempo-

rory standard and a proposed standard had been published earlier) setting an occupational exposure limit for vinyl chloride of 1 ppm averaged over any 8 hour period and a ceiling of 5 ppm averaged over any period not exceeding 15 minutes (39 FR 35890). On August 26, 1974 the Food and Drug Administration (FDA) published final rules applicable to the use of vinyl chloride monomer as an ingredient of self-preserved drug and cosmetic products. The use of vinyl chloride in self-preserved cosmetic products was banned, and an approved new drug application as a condition to marketing was required for all self-preserved drug products containing the substance (39 FR 30830). On April 26, 1974, the Environmental Protection Agency published an emergency suspension order and a notice to cancel the registration of all pesticide spray products containing vinyl chloride that are used in the home, in food handling establishments, in hospitals, or in enclosed areas (39 FR 14753). This notice stated that under some conditions of use of aerosol products in households, the concentration of propellant in the air could be as high as 400 parts per million immediately after spraying. The registration of a number of pesticides was subsequently cancelled under this order (see 40 FR 3494).

EFFECTIVE DATE AND APPLICABILITY

The banning regulation set forth below applies to all self-preserved household products containing vinyl chloride monomer as an ingredient or in the propellant manufactured or imported on or after October 7, 1974, the effective date of the Commission's original banning order. The regulation will, therefore, permit existing stock manufactured or imported before that date to be sold. Since the information available to the Commission indicates that such products are no longer being manufactured or held, the Commission believes that the primary effect of this regulation will be to insure that vinyl chloride monomer will not be used as an ingredient or as a propellant in household products in the future.

The regulation is effective June 22, 1978, except as to any provision that may be stayed by the filing of proper objections. Any written objections must be filed by April 24, 1978. The Commission will consider all objections prior to the effective date of this

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[3](continued)

ban; and as an alternative to staying the ban as a result of the objections and holding a hearing, the Commission may revise its final order.

ENVIRONMENTAL CONSIDERATIONS

Pursuant to section 1021.5 of the Commission's proposed and interim procedures implementing the National Environmental Policy Act (NEPA) (16 CFR 1021), the Executive Director of the Commission has determined that this ban is not a major action, that its impact on the environment will be negligible, and that no environmental review is necessary. The Executive Director's determination, a copy of which is on file at the Office of the Secretary, concluded that the ban would have no environmental effect because no product which would be affected by the ban is currently being produced or held in inventory. Therefore, since no vinyl chloride aerosols are currently in the channels of commerce, the environmental issue of disposal of repurchased products which was present at the time of the initial ban is now moot. (At that time the Commission had concluded that disposal of concentrations of vinyl chloride aerosols could be accomplished without significant environmental danger. (40 FR 41170).)

CONCLUSION

Section 2(f)(1)(A) Federal Hazardous Substances Act defines "hazardous substance" as "any substance or mixture of substances which is toxic . . . if such substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children." Section 2(g) of the act states that the term "toxic" includes any substance or mixture of substances which has the capacity to produce personal injury or illness to man through ingestion, inhalation, or absorption through any body surface. Provisions of section 2(q)(1)(B) authorize the Commission to issue regulations to classify a "hazardous substance" which is packaged or suitable for use in households as a "banned hazardous substance" if the Commission determines that notwithstanding any cautionary labeling

which may be required under the FHSA, the degree or nature of the hazard involved in the presence or use of the substance in households is such that the public health and safety can be adequately served only by keeping that substance out of the channels of interstate commerce.

After careful consideration of all available information as discussed above, the Commission has decided to affirm its earlier determination (see 39 FR 30112) that self-pressurized household products containing vinyl chloride monomer are toxic hazardous substances within the meaning of sections 2 (f) and (g) of the FHSA because vinyl chloride monomer, when inhaled, has the capacity to produce substantial illness, specifically cancer. The Commission believes that ample evidence in the form of scientific studies and chemical reports is available to establish the carcinogenicity of vinyl chloride monomer by inhalation and to demonstrate that human exposure to the substance can result in angiosarcoma of the liver. As indicated above, it has been reported that vinyl chloride monomer may be present in the air in concentrations as great as 400 parts per million after household use of self-pressurized containers with vinyl chloride in the propellant. Tumors have been induced in mice after exposure to VCM in concentrations as low as 250 parts per million.

Because no safe level of human exposure to vinyl chloride monomer has been established, the Commission further has decided to affirm its earlier finding that adequate cautionary labeling cannot be written under the FHSA for self-pressurized household products containing vinyl chloride monomer. The Commission concludes that the degree and nature of the hazard presented by the use of self-pressurized household products containing VCM is such that the public health and safety can be adequately served only by keeping such products out of the channels of interstate commerce. Therefore, on the effective date of the regulation promulgated below, all self-pressurized household products containing VCM manufactured or imported on or after October 7, 1974 become banned hazardous substances.

Accordingly, pursuant to provisions of the Federal Hazardous Substances Act (secs. 2(f)(1), (A), (B), (g), (q)(1)(B), 3(a), 74 Stat. 372, 374, as amended 80 Stat. 130-06, 81 Stat. 187-

[3](continued)

189, 90 Stat. 503; 15 U.S.C. 1261, 1262) and the Federal Food, Drug and Cosmetic Act (sec. 701 (e), (f), (g), 52 Stat. 1055-58, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 371 (e), (f), (g)), and under authority vested in the Consumer Product Safety Commission by the Consumer Product Safety Act (sec. 30(a), 86 Stat. 1231; 15 U.S.C. 2079(a)), 16 CFR 1500.17 is amended by deleting the existing paragraph (a)(10) and by adding a new paragraph (a)(10), as follows (unchanged, the introductory text of paragraph (a) is included below for context):

* * * * *

Any person who will be adversely affected by the foregoing order may at any time on or before April 24, 1978, file with the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C. 20207, written objections thereto, preferably in five copies. 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. Objections should raise material issues that are not frivolous

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or inconsequential. If a hearing is requested, the objections must state the issues for the hearing. Objections may be accompanied by a memorandum or brief in support thereof. Received objections may be seen in the above office during working hours Monday through Friday.

Effective date: The regulation promulgated above shall become effective June 22, 1978, except as to any provision that may be stayed by the filing of proper objections. As indicated above, as an alternative to staying the ban as a result of any objections and holding a hearing, the Commission may revise its final order. Notice of the filing of objections or the lack thereof or any amending of the final order will be given by publication in the *Federal Register*.

(Secs. 2(f)(1), (A), (B), (c), (d)(1)(B), 3(a), 74 Stat. 372, 374, as amended 80 Stat. 1304-05, 83 Stat. 157-159, 90 Stat. 503 (15 U.S.C. 2161, 1262); sec. 701 (e), (f), (g), 52 Stat. 1055-58, as amended 70 Stat. 919, 72 Stat. 948 (21 U.S.C. 371 (e), (f), (g)); sec. 30(a), 86 Stat. 1231 (15 U.S.C. 2079(a)))

Dated: March 17, 1978.

SADY E. DOWNS,
Acting Secretary, Consumer
Product Safety Commission.

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