

GEORGETOWN UNIVERSITY LAW CENTER
WASHINGTON, D. C. 20001

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3 February 1973

Hearing Clerk
Department of Health, Education and Welfare
Room 6-08
5600 Fishers Lane
Rockville, Md. 20852

Proposed Exemption of Certain
Lead-Containing Paints and Other
Similar Surface-Coating Materials,
37 F.R. 25849, December 5, 1972

Dear Doctor Edwards:

In a letter dated January 4, 1973, the undersigned requested that the National Paint and Coating Association provide the Food and Drug Administration with certain information regarding the classes of paint sought to be exempted by the proposed regulation. This request was made in order that the FDA might be able to make an informed decision on the petition. In a telephone conversation on 2 February 1973, a representative of the Association advised that no decision on our request has been made.

This letter constitutes a formal request that the stay of December 5, 1972, be lifted and that the rule making proceed in accordance with the law. It is further requested that the Commissioner advise the National Paint and Coating Association that active consideration of their petition cannot proceed until the Association submits an Environmental Impact Statement as required by the National Environmental Policy Act. We ask that these two requests be replied to within thirty days.

The only suspension power in the Federal Hazardous Substances Act is directed at the protection of the public health. Had the Congress wanted the Commissioner to be able to suspend a regulation when the economic health of an industry is imperiled, quite frankly, Congress would have so provided.

EPA makes environmental protection a part of the mandate of every federal agency and department. No environmental impact statement was submitted as part of the stay of 5 December 1972, and none has been submitted in order to make the rule permanent. This is a case where the legislative purposes of the Congress have been lost in the vast hallways of the federal bureaucracy.

We trust that we will receive a reply to the requests found in thirteenth paragraph of this letter within thirty days.

Sincerely yours,

Joseph A. Page
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Anthony L. Young

0007-SWP-036423