

Text of Proposal on Lead in Paint Currently Under Consideration by U.S. Department Of Health, Education and Welfare

(Published in Federal Register)

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
FOOD AND DRUG ADMINISTRATION

[21 CFR PART 101]

HAZARDOUS SUBSTANCES

Proposal To Declare Certain Heavy Metal-Containing Paints and Other Surface-Coatings To Be Hazardous Substances that Require Special Labeling for Child Protection.

The heavy metals antimony, arsenic, cadmium, lead, mercury, selenium, and soluble barium may be toxic when ingested, even in small amounts. Because children may chew on interior and certain exterior residential surfaces and on toys and other children's articles, the Commissioner of Food and Drugs concludes that paints and other surface-coating materials are hazardous substances requiring special labeling warning against their use on such surfaces if they contain more of these heavy metals than is essential under good manufacturing practices, or if they contain more than 0.5 per cent lead; or a total of 0.05 per cent of the other heavy metals listed above on a dried weight basis, except for soluble barium which shall constitute no more than one per cent of the total barium present. The special labeling to be required shall include on the main panel a cautionary signal word "WARNING," a statement of the hazard "CONTAINS . . ." (the blank being filled in with the name (s) of the applicable heavy metals) and instructions to read carefully the cautionary information placed on other panel (s) where located. Existing technology will permit industry to produce household paints containing no more of these heavy metals than is specified above. As new technology becomes available, the acceptable levels may be further reduced in accordance with good manufacturing practices.

Although paints containing small amounts of lead in excess of the proposed levels may not be toxic in themselves, when considered in conjunction with other sources of lead in the environment they constitute a substantial addition to the body burden that can reasonably be avoided through the application of available technology. The Commissioner has concluded that the scope of the Federal Hazardous Substances Act fully encompasses the question of cumulative toxicity.

The American National Standards Institute, in its voluntary standard Z66.1, has specified a maximum limit since 1955 of one per cent lead in paint intended for use on children's toys, furniture, or interior surfaces. A one per cent lead level was also adopted by Congress in the Lead-Based Paint Poisoning Prevention Act (Public Law 91-695; 84 Stat. 2078), which is administered by the Bureau of Community Environmental Management, Health Services and Mental Health Administration. That Act prohibits the use of paint with a lead content above one per cent in residential structures constructed or rehabilitated by the Federal Government or with Federal assistance. As an additional margin of safety the

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Commissioner proposes to reduce the exposure to lead found acceptable by Congress by establishing special labeling requirements for all household paints containing more than 0.5 per cent lead.

Consideration has been given to the question of whether paints containing lead above the level specified herein should be banned from interstate commerce, or required to bear special labeling warning of the hazard involved and giving instructions for safe use. While there are numerous reports of serious injury and even death resulting from the ingestion of the dried film of old formulations of paints containing high levels of lead, the Commissioner is unaware of any similar reports as a result of ingestion of paints containing one per cent lead or less. The Commissioner has therefore concluded that cautionary labeling will be adequate to protect the public health and safety from any potential hazards associated with the use of such paints.

Accordingly, under section 3(a) of the Federal Hazardous Substances Act, the Commissioner proposes that paints and other surface-coating materials be declared to be hazardous substances (as defined in section 2(f)(1)(A) of the Act) that require special labeling as specified herein if such paints and other surface-coating materials contain, on a dried weight basis, more than 0.5 per cent lead; or a total of more than 0.05 per cent antimony, arsenic, cadmium, mercury, or selenium; or soluble barium in excess of one per cent of the total barium present. Finalization of the regulations proposed herein, in conjunction with section 2(q)(1)(A) of the Federal Hazardous Substances Act, will have the additional effect of automatically banning any toy or other article intended for use by children which is produced after the effective date of these regulations and which bears such paint or other surface-coating material.

Therefore, pursuant to provisions of the Federal Hazardous Substances Act (secs. 2(f)(1)(B), 2(q)(1)(A), 3(a), and 3(b), 74 Stat. 372, 374-375 as amended 80 Stat. 1304; 15 U.S.C. 1261, 1262), and the Federal Food, Drug, and Cosmetic Act (sec. 701, 52 Stat. 1055-56 as amended; 21 U.S.C. 371), and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that a new subparagraph be added to § 191.5(a) and that a new subparagraph be added to § 191.7(b), as follows:

§ 191.5 Products declared to be hazardous substances under section 3(a) of the act.

(a) The Commissioner finds that the following articles are hazardous substances within the meaning of the act because they are capable of causing substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use:

* * * * *

(2) Paint and other surface-coating materials, produced or shipped in interstate commerce after the effective date of this regulation, containing any of the heavy metals specified below at a level exceeding that which is essential under good manufacturing practices or in any event containing amounts of such heavy metals as follows:

(i) Lead compounds of which the lead content (calculated as the metal) is in excess of 0.5 per cent of the total weight of the contained solids or dried paint film; or

(ii) Antimony, arsenic, cadmium, mercury, and selenium of which the metal content individually or in total (calculated as the metal) exceeds 0.05 per cent of the total weight of the contained solids or dried paint film; or

(iii) Barium compounds of which the water soluble barium (calculated as

the metal) exceeds 1 per cent of the total barium present.

§ 191.7 Products requiring special labeling under section 3(b) of the act.

(b) The Commissioner finds that the substances present special hazards and that the labeling required by section 2(p)(1) of the act is not adequate for the protection of the public health. Under section 3(b) of the act the following specific label statements are deemed necessary to supplement the labeling required by section 2(p)(1) of the act:

(7) Paint and other surface-coating materials declared to be hazardous under § 191.5(a)(2) shall bear on the main panel of their label, in addition to the requirements of § 191.101(a), the statement "CONTAINS _____", the blank being filled in with the name of each heavy metal present in the amount specified in § 191.5(a)(2). Such paint and other surface-coating materials shall also bear on their labeling the signal word "Warning", and the following additional statement or its practical equivalent:

"CONTAINS _____"

Dried film of this paint may be harmful if eaten or chewed.

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 those exterior surfaces of dwelling units, such as windowsills, porches, stairs, or railings, to which children may be commonly exposed.

"KEEP OUT OF THE REACH OF CHILDREN"

the blank being filled in with the name of each heavy metal present in the amount specified in § 191.5(a)(2).

Interested persons may, within 60 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: _____

(Signed) _____

Bristol Products Buys Wiessner Operation

Orchard Park, N.Y., Nov. 2— Acquisition of the can closer business of the F. H. Wiessner Company, Burlington, Vt., has been announced by the Bristol Products Company. Included in the purchase is U.S. Patent No. 2,811,125, Can Closing Machine.

Distributed nationally for the last 17 years by mail and sales agents serving adhesive, paint, resin and chemical specialty manufacturers, the tools are designed for closing friction-top cans.

U.S. Gypsum Names Sales Training Head

Chicago, Nov. 2— John C. Bopp has been named sales training director of United States Gypsum Company, according to J. J. McLaughlin, director of Corporate Marketing Services.

Formerly advertising development manager, Mr. Bopp joined U.S.G. in 1963 as market programs manager.

He is a member of the American Marketing Association. A 1950 graduate of Loyola University, he holds a bachelor's degree in commerce.

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