

§ 1302.6

Although manufacturers of water-based neoprene contact adhesives claim that their products will dry in 30 minutes, for most of the country a drying time from one to four hours is probably more realistic. It is possible that the adhesive will never dry in some areas of the country with very high humidity. The time needed for the adhesive to adhere after joining (open time) will also vary with the humidity. Water-based acrylic contact adhesives are similar to neoprene type adhesives in terms of the effect of humidity on drying time. The neoprene and acrylic based adhesives are not completely satisfactory for binding some substances with non-porous surfaces, such as metals. In addition, the water in these adhesives might have an adverse effect on leather. Neoprene water-based adhesives may become unstable if frozen and thawed several times. This may occur during shipping or storage in some areas of the country during deaths associated with the extreme winter. To the extent that injuries and flammable contact adhesives are reduced or eliminated as a result of the ban, the utility of contact adhesives will be increased.

(3) *Probable effects of the ban upon the cost of contact adhesives.* For gallon containers, the Commission estimates that the contact adhesives available as substitutes for the extremely flammable type may cost in the range of \$1-\$6 more than the extremely flammable type. Although a gallon of extremely flammable contact adhesive may cost \$7.50-\$10.50, a gallon of flammable contact adhesive may cost from \$8-\$11, a gallon of nonflammable chlorinated base contact adhesive may cost from \$12-\$15, a gallon of water-based neoprene contact adhesive may cost from \$11-\$16, and a gallon of water-based acrylic contact adhesive may cost from \$10-\$15.

(4) *Probable effect of the ban on the availability of contact adhesives to meet the need of the public.* The Commission estimates that the ban will not have any effect on the availability or use of contact adhesives. Manufacturers are most likely to switch production to flammable petroleum-based and to 1,1,1-trichloroethane (1,1,1-TCE) based or water-based contact adhesives.

16 CFR Ch. II (1-1-11 Edition)

(d) *Alternatives.* (1) The Commission has considered other means of achieving the objective of this rule, such as labeling, but has found none that would achieve the objective of this ban, consistent with the public health and safety.

(2) The Commission believes that any adverse effects of the ban should be minimal and would be expected to be confined to some shift in distribution patterns to accommodate professional users, including methods of distinguishing between professional users and consumers.

(3) The Commission finds that competition should not be significantly affected by this rule.

(e) *Conclusion.* The Commission finds that this rule, including its effective date, is reasonably necessary to eliminate or reduce the unreasonable risk of injury of burns from explosive vapor ignition and flashback fire that is associated with the banned products described in §1302.3(b). The Commission also finds that issuance of the rule is in the public interest. The Commission also finds that no feasible consumer product safety standard under the act would adequately protect the public from the unreasonable risk of injury associated with the product.

§ 1302.6 Effective date.

This rule becomes effective January 18, 1978.

PART 1303—BAN OF LEAD-CONTAINING PAINT AND CERTAIN CONSUMER PRODUCTS BEARING LEAD-CONTAINING PAINT

Sec.

- 1303.1 Scope and application.
- 1303.2 Definitions.
- 1303.3 Exemptions.
- 1303.4 Banned hazardous products.
- 1303.5 Findings.

AUTHORITY: Secs. 8, 9, 86 Stat. 1215-1217, as amended 90 Stat. 506, 122 Stat. 3016, (15 U.S.C. 2057, 2058), Sec. 101, 122 Stat. 3016.

SOURCE: 42 FR 44199, Sept. 1, 1977, unless otherwise noted.

§ 1303.1 Scope and application.

(a) In this part 1303, the Consumer Product Safety Commission declares that paint and similar surface-coating

Consumer Product Safety Commission

§ 1303.2

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 (0.06 percent is reduced to 0.009 percent effective August 14, 2009 as mandated by Congress in section 101(f) of the Consumer Product Safety Improvement Act of 2008, Pub. L. 110-314) 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. 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, playgrounds, 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 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 that no feasible consumer product

safety standard under the CPSA would adequately protect the public from this risk. The 0.06 percent is reduced to 0.009 percent effective August 14, 2009 as mandated by Congress in section 101(f) of the Consumer Product Safety Improvement Act of 2008, Public Law 110-314.

(d) Any ban or rule promulgated under 16 CFR 1303.1 shall be considered a regulation of the Commission promulgated under or for the enforcement of section 2(q) of the Federal Hazardous Substances Act (15 U.S.C. 1261(q)).

[42 FR 44199, Sept. 1, 1977, as amended at 73 FR 77493, Dec. 19, 2008]

§ 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 fluid, semi-fluid, 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 (0.06 percent is reduced to 0.009 percent effective August 14, 2009) 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