

§ 1303.2

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 or things; (ii) other functional or decorative furniture articles, including, but not limited to, products such as beds, bookcases, chairs, chests, tables, dress-

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ers, 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.

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

§ 1303.3 Exemptions.

(a) The categories of products listed in paragraph (b) of this section are exempted 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)(i) 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.

(ii) If the statement required by the preceding paragraph (a)(2)(i) 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 cautions 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.

(b) 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:

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(1) Agricultural and industrial equipment refinish 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.

(c) 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.

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

[42 FR 44199, Sept. 1, 1977, as amended at 43 FR 8515, Mar. 2, 1978]

§ 1303.4 Banned hazardous products.

The following consumer products, manufactured after February 27, 1978, unless exempted by § 1303.3, are banned hazardous products (see definitions in § 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."

§ 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 is designed to eliminate or reduce is 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 after effects 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.