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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 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 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.

[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: