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Proposed Consumer Products Containing Lead (Contact with Mouth) Regulations and Proposed Order Amending Part II of Schedule I to the Hazardous Products Act (Consumer Products Containing Lead — Contact with Mouth)

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Submitted to Health Canada by Environmental Defence

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Re: Proposed Consumer Products Containing Lead (Contact with Mouth) Regulations and Proposed Order Amending Part II of Schedule I to the Hazardous Products Act (Consumer Products Containing Lead — Contact with Mouth) as per Canada Gazette Notice Part I Vol. 143, No. 25 — June 20, 2009

Proposed Regulations and Schedule I Hazardous Products Act Amendment

Environmental Defence applauds the federal government for its proposed *Consumer Products Containing Lead (Contact With Mouth) Regulations* and Order amending Part II Schedule I of the *Hazardous Products Act* with the addition of consumer products containing lead as defined in the aforementioned regulations.

Justification of Support

Environmental Defence believes that children are extremely vulnerable to the effect of toxic chemicals and thereby require substantial protection. This is certainly the case with lead, a known toxicant which can damage almost every organ and system in the human body, disrupt hormones, cause various developmental and behavioural effects, and may cause cancer. Given that lead can be toxic at low doses and accumulate in the body, it is clear why Canadians, and particularly children, would benefit from stronger lead regulation. This case becomes even stronger when it is considered that children are less able to remove lead from their bodies, and have an increased chance of exposure via chewing toys and crawling through lead-contaminated dust.

Given the above information, the proposed regulations setting a total lead limit of 90 mg/kg for products, other than kitchen utensils, whose normal pattern of use requires that they be brought to the user's mouth, and for products that would likely be brought into contact with the mouth of children under three years of age during learning or play are supported.

Next Steps

However, there is strong evidence, both scientific and legislative, suggesting that a more extensive risk management plan is needed. While Health Canada currently has regulatory limits for lead content in surface coatings (600 mg/kg total lead) for various products, and migratory

lead from glazed ceramics and glassware, children's jewellery, and kettles, there are still various products left unaddressed by existing and proposed regulations. In fact, Health Canada's Lead Risk Reduction Strategy for Consumer Products does not include addressing household furnishings (e.g., wallpaper) and products intended for use in public spaces (e.g., nails). Also, despite lead's presence on the Cosmetic Ingredient Hotlist, lipsticks identified as containing lead via Campaign for Safe Cosmetics testing in 2007 can still be found on Canadian shelves (e.g., Maybelline NY Moisture Extreme Midnight Red Lipstick). A new study by the US FDA found even higher lead levels than those detected by the Safe Campaign for Cosmetics.¹ Clearly, our laws are failing to do enough to protect children's health.

Other jurisdictions also have stricter, more comprehensive rules than Canada. For example, lead is prohibited for use in cosmetics in the EU,² and as a listed reproductive toxin, it cannot be used in goods for sale to the general public above strict concentrations.^{3,4} With some exceptions, the EU has also banned it from electrical and electronic devices.⁵ The US has effectively banned lead from all children's products, including the paint that covers these products, with an exemption for "certain materials or products and inaccessible component parts".⁶ Limits were slated to decrease to 100 ppm over the course of three years. International standards such as International Standards Organization (ISO) also endorse a limit of migratable lead content of toys for children under six, not just three, years of age to 90 mg/kg.

Recommendations

1. The Government of Canada should expand the current proposed regulations to grant the same protection to children under six years of age.
2. The government should, as proposed under the Lead Risk Reduction Strategy, regulate lead within children's equipment, furniture, and toys; eating and foodware products; and products likely to be melted or burned in enclosed spaces. These regulations should be in put into place without further delay.
3. The government should also follow the EU's lead and ban lead from within electronics and electronic devices. It is suggested that the government also formally evaluate the effectiveness of the Cosmetics Hotlist as an administrative tool under the *Food and Drugs Act*, and the Act itself given the presence of this CEPA "toxic" chemical within products in which it is supposed to be prohibited.
4. Until such time as lead is banned from electronics and electronic devices, cosmetics and other products, Canada should make the presence of lead known to the public via product labelling.

¹ The Campaign for Safe Cosmetics. FDA Study: Lead Levels in Lipstick Much Higher than Previously Reported. September 1, 2009. Retrieved from <http://safecosmetics.org/article.php?id=548> on September 1, 2009.

² Council Directive 76/768/EEC [1976] OJ 262/169-200

³ Directive 2005/90/EC [2006] OJ L33/4.2/28-81 <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:033:0028:0081:EN:PDF>

⁴ Council Directive on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and Preparations [1976] OJ 262/27.9/201-203

⁵ Directive 2002/95/EC of the European Parliament and of the Council of 27 January 2003 on the restriction of the use of certain hazardous substances in electrical and electronic equipment [2003] OJ L37/29-23

⁶ Ban of Lead-Containing Paint and Certain Consumer Products Bearing Lead-Containing Paint. *Code of Federal Regulations* Title 16, Pt. 1303.1, 1977 ed.