

Dated: September 30, 2009.

Lori Stewart,

Acting Director, Office of Transportation and Air Quality.

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ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPPT-2009-0665; FRL-8793-3]

Lead Dust Hazard Standards and Definition of Lead-Based Paint; TSCA Section 21 Petition; Notice of Receipt and Request for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that EPA has received a petition from the National Center for Healthy Housing, Alliance for Healthy Homes, Sierra Club, et al., (petitioners) on August 10, 2009, and requests comments on issues raised by the petition. The petition requests, under section 21 of the Toxic Substances Control Act (TSCA) or, in the alternative, under 5 U.S.C. 553(c), EPA to lower the regulatory lead dust standards and modify the regulatory definition of lead-based paint. EPA must either grant or deny a TSCA section 21 petition within 90 days of filing.

DATES: Comments must be received on or before October 21, 2009.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA-HQ-OPPT-2009-0655, by one of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- **Mail:** Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

- **Hand Delivery:** OPPT Document Control Office (DCO), EPA East Bldg., Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID Number EPA-HQ-OPPT-2009-0655. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564-8930. Such deliveries are only accepted during the DCO's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA-HQ-OPPT-2009-0655. EPA's policy is that all comments received will be included in

the docket without change and may be made available on-line at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at <http://www.regulations.gov>, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566-1744, and the telephone number for the OPPT Docket is (202) 566-0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

FOR FURTHER INFORMATION CONTACT: For general information contact: Colby Linter, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 554-1404; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: Christina Wadlington, National Program Chemicals Division (7404T), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 566-1859; e-mail address: wadlington.christina@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to you if you manufacture, process, distribute, or use lead-based paint. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. **Submitting CBI.** Do not submit this information to EPA through www.regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. **Tips for preparing your comments.** When submitting comments, remember to:

- i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. TSCA Section 21

A. What Is a TSCA Section 21 Petition?

Under TSCA section 21 (15 U.S.C. 2620), any person can petition EPA to initiate a rulemaking proceeding for the issuance, amendment, or repeal of a rule under TSCA section 4, 6, or 8 or an order under TSCA section 5(e) or 6(b)(2). A TSCA section 21 petition must set forth the facts that are claimed to establish the necessity for the action requested. EPA is required to grant or deny a TSCA section 21 petition within 90 days of its filing. If EPA grants the petition, the Agency must promptly commence an appropriate proceeding. If EPA denies the petition, the Agency must publish its reasons for the denial in the **Federal Register**. A petitioner may commence a civil action in a U.S. district court to compel initiation of the requested rulemaking proceeding within 60 days of either a denial, or if EPA fails to grant or deny a TSCA section 21 petition, the expiration of the 90-day period.

B. What Criteria Apply to a Decision on a TSCA Section 21 Petition?

The scope of a TSCA section 21 petition is limited to the issuance, amendment, or repeal of a rule under TSCA section 4, 6, or 8 or an order under TSCA section 5(e) or 6(b)(2). Section 21(b)(1) of TSCA requires that the petition “set forth the facts which it is claimed establish that it is necessary” to issue the rule or order requested. 15 U.S.C. 2620(b)(1). Thus, TSCA section 21 implicitly incorporates the statutory standards that apply to the requested actions. In addition, TSCA section 21 establishes standards a court must use

to decide whether to order EPA to initiate rulemaking in the event of a lawsuit filed by the petitioner after denial of a TSCA section 21 petition. 15 U.S.C. 2620(b)(4)(B). Accordingly, EPA will refer to the standards in TSCA section 21 and in the provisions under which actions have been requested to evaluate this petition.

III. Summary of TSCA Section 21 Petition Received

A. What Action was Requested?

On August 10, 2009, EPA received a petition from the National Center for Healthy Housing, Alliance for Healthy Homes, Sierra Club, et al., petitioning EPA to amend regulations promulgated under TSCA sections 401 and 403. Specifically, the petitioners are requesting that EPA:

“1. Lower dust lead hazard standards at 40 CFR 745.65(b), 40 CFR 745.227(e)(8)(viii), and 40 CFR 745.227(h)(3)(i) from 40 micrograms of lead per square foot of surface area ($\mu\text{g}/\text{ft}^2$) to 10 $\mu\text{g}/\text{ft}^2$ or less for floors and from 250 $\mu\text{g}/\text{ft}^2$ to 100 $\mu\text{g}/\text{ft}^2$ or less for window sills. 2. Modify the definition of lead-based paint in 40 CFR 745.103 and 745.223 for previously applied paint or other surface coatings in housing, child-occupied facilities, public building and commercial buildings to reduce the lead levels from 0.5 percent by weight (5,000 parts per million (ppm)) to 0.06 percent by weight (600 ppm) with a corresponding reduction in the 1.0 milligram per square centimeter standard.” (Ref. 1) Petition at 2.

B. What Support Do the Petitioners Offer?

The petitioners provide results of analysis derived from studies that have become available since the current dust lead standards were promulgated in 2001. Studies referenced by petitioners, include: Dixon et al. (2009) (Ref. 2), National Center for Healthy Housing (rev. 2006) (Ref. 3), Wilson (2008) (Ref. 4), and the Cincinnati Children’s Hospital Medical Center’s “HOME Study.”

Citing their analysis of data from the National Health and Nutrition Examination Survey (NHANES) from 1999–2004 (Refs. 2 and 4), the petitioners conclude that:

1. “4.6% of children with an average age of 33 months living in pre-1978 homes would have a blood lead level of 10 $\mu\text{g}/[\text{deciliter}]\text{dL}$ or greater when their floor dust lead loading was 12 $\mu\text{g}/\text{ft}^2$.”

2. “At a floor dust lead loading of 12 $\mu\text{g}/\text{ft}^2$, there is 95% confidence that no more than 7.9% of children would have a blood lead level of 10 $\mu\text{g}/\text{dL}$ or greater.”

3. “5.1% of children would have a blood lead level of 10 $\mu\text{g}/\text{dL}$ or greater when their window sill dust lead

loading was 100 $\mu\text{g}/\text{ft}^2$.” Based on this information the petitioners conclude that “[u]sing EPA’s criteria of protecting 95% of children from an elevated blood lead level (currently defined as 10 $\mu\text{g}/\text{dL}$ or greater), dust standards of 10 $\mu\text{g}/\text{ft}^2$ for floors and 100 $\mu\text{g}/\text{ft}^2$ for window sills should be adopted.” Petition at 3.

From their own “Study of HUD’s Risk Assessment Methodology in Three U.S. Communities” (Ref. 3), the petitioners assert “that children living in homes with floor dust lead levels under 20 $\mu\text{g}/\text{ft}^2$ had proportionally fewer elevated blood lead levels than children living in homes where the floor dust lead loading exceeded 20 $\mu\text{g}/\text{ft}^2$.” The petitioners further assert, based on on-going analysis of the “HOME Study,” that “lower dust standards are achievable.” Petition at 4.

The petitioners also contend that “the economic consequences of a rule based on the standards recommended in this petition will be less than EPA originally estimated when it adopted the current standards.” They provide that in the January 5, 2001 final rule (Ref. 5), EPA estimated that 22 million homes would have lead dust hazards based on a standard of 10 $\mu\text{g}/\text{ft}^2$, and assert that the their “review of the Six-Year Follow-Up Study and the HOME Study demonstrated that current lead hazard control practices are adequate to reduce dust lead below the levels recommended in the petition.” The petitioners also assert that the “NHANES data suggest that less than 15% of pre-1978 homes—9.8 million homes—would be classified as having a dust lead hazard.” Petition at 5.

When reviewing the regulatory definition of lead-based paint at 40 CFR 745.103 and 745.223, the petitioners note that EPA simply adopted that statutory standard: Lead-based paint means paint or other surface coatings that contain lead equal to or in excess of 1.0 mg/cm² or more than 0.5% by weight. Petitioners further note that HUD used the same definition in its Lead-Safe Housing Rule.

To support their request that EPA lower the lead level in the definition of lead-based paint, petitioners explain that “under the current standards, paint that contains less than 5,000 ppm of lead would not be considered lead-based paint. As a result, when a lead inspector or lead risk assessor documents levels of 4,500 ppm of lead in the paint, the buyer or tenant would be told that lead-based paint is not present. The buyer or tenant would be unaware of the potential dangers of disturbing the paint.” Petition at 6.

The petitioners estimate that “the economic consequences of this change

in the definition of lead-based paint would primarily impact those buildings that already have been tested for the presence of lead-based paint by a certified lead risk assessor or lead inspector and found to have levels of lead in the paint between 600 ppm and 5,000 ppm (and the equivalent in mg/cm²).” Petition at 7.

IV. EPA Seeks Public Comment

Under TSCA section 21, EPA must either grant or deny a petition within 90 days. EPA is providing this opportunity for the public to comment on, or provide any additional information relevant to, the issues identified in the petition. In order for the Agency to consider such comments within the 90-day petition review period, EPA must receive the comments on or before October 21, 2009 (see **ADDRESSES**).

In assessing the usability of any data or information that may be submitted, EPA plans to follow the guidelines in EPA’s “A Summary of General Assessment Factors for Evaluating the Quality of Scientific and Technical Information” (EPA 100B-03/001), referred to as the “Assessment Factors Document.” The “Assessment Factors Document” was published in the **Federal Register** issue of July 1, 2003 (Ref. 6).

V. References

1. National Center for Healthy Housing, Alliance for Healthy Homes and Sierra Club. Letter from Rebecca Morley, National Center for Healthy Housing; Patrick MacRoy, Alliance for Healthy Homes; and Tom Neltner, Sierra Club to Administrator Jackson, Environmental Protection Agency. Re: Citizen Petition to EPA Regarding the Paint and Dust Lead Standards. August 10, 2009.

2. Dixon, S.L.; Gaitens, J.M.; Jacobs, D.E., et al. (2009) Exposure of U.S. children to residential dust lead, 1999–2004: II: The contribution of lead-contaminated dust to children’s blood lead levels. *Environmental Health Perspectives*. 117(3): 468–474.

3. National Center for Healthy Housing (rev. 2006) Study of HUDs Risk Assessment Methodology in Three U.S. Communities: Final Report, Columbia, MD (accessed 5–13–2009: <http://www.nchh.org/LinkClick.aspx?fileticket=HZUenslvU/0=&tabid=217>).

4. Wilson, Jonathan. (2008) Should the EPA Lead Dust Standards be Lowered? (accessed 5–8–2009: http://www.healthyhomestraining.org/Research/Translational_Research_11-17_PbDust_Standard_r2.1.pdf).

5. EPA. Lead; Identification of Dangerous Levels of Lead; Final Rule. **Federal Register** (66 FR 1206, January 5, 2001) (FRL–6763–5). Available on-line at: <http://www.gpoaccess.gov/fr/index.html>.

6. EPA. A Summary of General Assessment Factors for Evaluating the Quality of Scientific and Technical Information; Notice. **Federal Register** (68 FR 39086, July 1, 2003) (FRL–7520–2). Available on-line at <http://www.epa.gov/osa/spc/assess.htm>.

List of Subjects

Environmental protection, Lead, Lead-based paint, Lead dust hazard standards.

Dated: September 29, 2009.

James Jones,

Acting Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. E9–23929 Filed 10–5–09; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[FRL–8966–1]

Environmental Laboratory Advisory Board (ELAB) Meeting Dates and Agenda

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency’s Environmental Laboratory Advisory Board (ELAB), as previously announced, will have teleconference meetings on October 21, 2009 at 1 p.m. ET; November 18, 2009 at 1 p.m. ET; December 16, 2009 at 1 p.m. ET; February 17, 2010 at 1 p.m. ET; and March 17, 2010 at 1 p.m. ET to discuss the ideas and views presented at the previous ELAB meetings, as well as new business. Items to be discussed by ELAB over these coming meetings include: (1) Expanding the number of laboratories seeking National Environmental Laboratory Accreditation Conference (NELAC) accreditation; (2) proficiency testing; (3) ELAB support to the Agency’s Forum on Environmental Measurements (FEM); (4) implementing the performance approach; and (5) follow-up on some of ELAB’s past recommendations and issues. In addition to these teleconferences, ELAB will be hosting their next face-to-face meeting on January 25, 2010 at the Hyatt Regency in Chicago, IL at 1:30 p.m. (CT).

Written comments on laboratory accreditation issues and/or

environmental monitoring issues are encouraged and should be sent to Ms. Lara P. Autry, DFO, U.S. EPA (E243–05), 109 T.W. Alexander Drive, Research Triangle Park, NC 27709, faxed to (919) 541–4261, or e-mailed to autry.lara@epa.gov. Members of the public are invited to listen to the teleconference calls, and time permitting, will be allowed to comment on issues discussed during this and previous ELAB meetings. Those persons interested in attending should call Lara P. Autry at (919) 541–5544 to obtain teleconference information. For information on access or services for individuals with disabilities, please contact Lara P. Autry at the number above. To request accommodation of a disability, please contact Lara P. Autry, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: September 28, 2009.

Kevin Teichman,

EPA Acting Science Advisor.

[FR Doc. E9–24060 Filed 10–5–09; 8:45 am]

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FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board’s Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 19, 2009.

A. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Earl E. Geiger*, Bloomington, Minnesota, acting in concert with the Geiger Family Group; to acquire voting shares of Heritage Bancshares Group, Inc., Willmar, Minnesota, and thereby indirectly acquire voting shares of