



The Fashion Jewelry & Accessories Trade Association

25 Sea Grass Way, Wickford, RI 02852
Phone (401) 667-0520 Fax (401) 267-9096

www.fjata.org

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Sarah Sheffield
Project Officer
Risk Management Bureau
Consumer Product Safety Directorate
Healthy Environments and Consumer Safety Branch
Health Canada
Address Locator 4908B
269 Laurier Avenue West
Ottawa, Ontario
K1A 0K9
sarah.sheffield@hc-sc.gc.ca

RE: Proposed Regulations Concerning Lead in Consumer Products

Dear Ms. Sheffield:

On behalf of the members of the Fashion Jewelry and Accessories Trade Association (FJATA, or the Association), we appreciate this opportunity to submit comments in response to the proposed *Regulations Concerning Lead in Consumer Products* (Proposed Regulations).¹ FJATA is the voice of the jewelry and accessories industries in the United States, whose customers include Canadian companies and consumers. The Association is simultaneously submitting comments in Health Canada's consultation on its proposed *Children's Jewellery Regulations*,² which the Association incorporates by reference here, because they emphasize the need to adopt regulations on the basis of the best scientific evidence available, and to tailor regulations to

¹ Proposed *Regulations Concerning Lead in Consumer Products*, *Canada Gazette* (Part I), Vol. 150, No. 49, 3,907 (Dec. 3, 2016).

² Proposed *Children's Jewellery Regulations*, *Canada Gazette* (Part I), Vol. 150, No. 49, 3,887 (Dec. 3, 2016).

appropriately address sales and use patterns of the population the regulations are intended to protect, particularly with respect to age.

In this set of proposed regulations, Health Canada proposes to adopt lower limits for lead in substrate materials used in certain products for children 14 and younger than those established in the U.S. We share Health Canada's goal to ensure that the products made for children are safe for them

The lead substrate limits adopted under the Consumer Product Safety Improvement Act of 2008 (CPSIA)³, which have also been incorporated into the mandatory U.S. toy safety standard, ASTM F963–16, *Standard Consumer Safety Specification for Toy Safety*, have been shown to protect the health of children. The limit represents a more-than-adequate response to safeguard against the potential hazards associated with children's exposure to lead through mouthing or accidental ingestion. Health Canada acknowledges in the proposal: "A 10 mg/kg difference in lead limits *would have no demonstrable impact on health.*" This is because the 100 mg/kg limit precludes the intentional addition of lead. Sound regulatory policy demands that Health Canada provide adequate scientific justification for adopting a lower limit.

The primary objection Health Canada appears to raise for adopting a 90 ppm limit versus a 100 ppm limit for lead in substrate is to promote "internal consistency" between limits applicable to paint and surface coatings and limits applicable to substrate materials. Companies and testing laboratories routinely test children's products for compliance with applicable U.S. surface coating limits of 90 ppm and applicable substrate limits of 100 ppm. There is no indication whatsoever that this has resulted in confusion or difficulty in compliance in the U.S. market. Additionally, the basis for imposing a lower limit on paints and surface coatings lies in the experience associated with paints and surface coatings. Paints and surface coatings, which can have the tendency to flake off, are easily mouthable and lead has the unfortunate tendency to give the flakes a sweet flavor, encouraging young children who engage in mouthing behavior to consume more of flakes that they encounter. The thinness of the flakes also allows easy them to dissolve more easily than substrate materials, increasing the bioavailability of lead. These properties of paints and surface coatings simply do not apply to plastic and metal substrates, one reason that different limits are followed in the U.S.

As with its earlier comments on the proposed jewelry standard, FJATA also urges Health Canada to reconsider application of these limits to products intended for children up to age 14. As an expert in jewelry and accessories, FJATA knows that clothing and accessories for teens vary quite a bit from products for children. In fact, many teens now

³ Pub. L. 110–314, 122 Stat. 3,016 (Aug. 14, 2008).

wear adult-sized clothing. “Children” include ages 12 and younger under the CPSIA. There is no data suggesting that 13 and 14 year old teens are suffering adverse effects due to exposure to lead in the U.S. Older children do not exhibit the same type of mouthing and accidental ingestion behavior exhibited by very young children that put them at higher risk for exposure to lead.

FJATA is pleased to note that Health Canada proposes to permit lead to be present in amounts in excess of the recommended total content limit under circumstances, if the product also meets a migration standard when tested in accordance with good laboratory practices. However, the proposal could avoid confusion by also establishing a list of materials that are unlikely to contain lead (such as fabrics, wood, etc.). Such a list appears in rules issued by the U.S. Consumer Product Safety Commission (CPSC). Such a list is useful to establish that no testing is required for such materials to assure that they meet lead limits.

FJATA urges Health Canada to modify the proposed 90 ppm lead substrate limits to align with the U.S. limit of 100 ppm, identify specific materials that are not known to contain lead or will not result in migration of bioavailable lead, and modify the proposed rule to align the age of a “child” with the U.S. definition of 12 and younger.

Sincerely,



Brent Cleaveland
Executive Director

cc: Sheila A. Millar
Keller and Heckman LLP
1001 G Street, N.W.
Suite 500 West
Washington, D.C. 20001