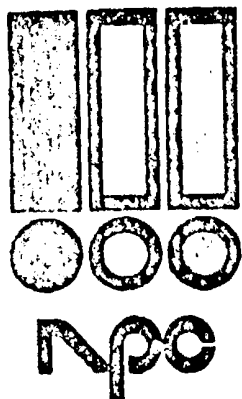


February 23, 1973



NOTICE TO ALL CLASS A MEMBERS

IMMEDIATE ACTION

Subject: New "Lead-Based Paint" Ordinance for City of Detroit

1. This Notice is promulgated to apprise all Class A members of three ordinances soon to be adopted by the City of Detroit. One of these ordinances is intended to eliminate existing lead-based paint hazards in Detroit dwellings. Another requires physicians to report lead poisoning cases. The third ordinance -- which establishes a lead standard of 0.5 percent, restricts the surfaces on which lead-based paints can be used and prescribes detailed labeling requirements -- requires IMMEDIATE ACTION on the part of those members manufacturing and/or marketing paints (both industrial and trade sales) in the City of Detroit.

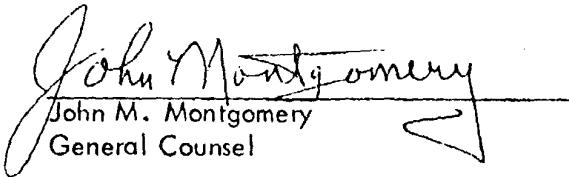
While these ordinances had been under development and consideration by city officials in Detroit for several months (see "L & L" Bulletin No. 5), hearings were scheduled on short notice by the Detroit Common Council, and were held on February 19 and 20, 1973. It is expected that the Detroit Common Council will adopt all three ordinances within the next few days, and they will become effective when signed by the Mayor.

The ordinance concerning sale and use of modern paints impacts directly on manufacturers, distributors and dealers of paint products and, it establishes an extremely short time frame for compliance. The prohibition on sale of certain lead-based paints and the requirement for labeling of others will be in full force and effect 30 days after the effective date of the ordinance. Therefore, manufacturers, distributors, and dealers marketing products in Detroit must begin immediately to bring their products in line with the requirements of this new law.

Although the basic requirements of this new lead-based paint ordinance for the City of Detroit appear to be quite severe, they are much more reasonable than initially proposed, as a result of the modifications obtained at the public hearing before the Detroit Common Council on February 19th and 20th. Due in large measure to the efforts of the Detroit Paint, Varnish and Lacquer Association, an NPCA representative was permitted to present the industry's case in detail at this hearing.

As a result of the effective presentation by industry, and, particularly, a showing of interest by affected members in the area, the permissible level for lead in paint was increased to 0.5% from the 0.06% proposed originally, the labeling requirements for trade sales products were brought in line with Federal requirements and more reasonable labeling for industrial products was obtained. Also, the changes permitted the continued use of lead-based paints on certain surfaces, such as appliances, that clearly present no hazard and the continued marketing of special-purpose coatings (such as automotive refinish and touch-up coatings and industrial maintenance coatings), so long as they are properly labeled.

The attachment has been prepared by Larry Thomas, NPCA Counsel -- who coordinated the industry's presentation and testified in behalf of the Association and its members -- to provide basic information in preparing for and meeting the requirements of the new ordinance. Any questions should be addressed to the Legal and Government Relations Division at NPCA Headquarters.


John M. Montgomery
General Counsel

JMM:rw
Attachment

GLD012383

ATTACHMENT

DETROIT ORDINANCE ON LEAD-BASED PAINTS

This Attachment has been prepared to provide to the membership the highlights of an ordinance (expected to become effective soon) in Detroit which will prohibit the use of "lead-based" paints on certain surfaces and require specific labeling for such paints marketed for other purposes.

A. WHAT PRODUCTS ARE PROHIBITED FROM SALE?

The ordinance defines "lead-based" paints as those exceeding 0.5 percent of the total weight of the contained solids or dry paint film. Thirty days after the ordinance is in effect, all such paints are banned from sale if intended or recommended on the label for use on areas held to be hazardous under the ordinance.

More specifically, these restricted areas are:

1. interior or exterior surfaces of a dwelling, dwelling unit, or child care facility.
2. toys, furniture, cooking, eating or drinking utensils, or other household items.

Also, the sale of lead-based paint as a general or all-purpose paint is prohibited.

The definitions of these surfaces and items are very broad, including all interior and exterior surfaces of homes or other places where persons reside, especially children. These include surfaces of nurseries, day care centers, or other facilities catering to the needs of children. Further, "household item" covers any item designed for use in and around a household, including fixtures which, in the ordinary course of use, would be exposed to and chewable by children. (Fortunately, the ordinance was modified to include the concept "exposed to and chewable by children" which now permits the factory application of lead-based paints on items such as major appliances, air conditioning units, etc.).

TO COMPLY WITH THIS BAN, any existing recommendations on the label to use lead-based paints on the surfaces considered to present a hazard under the ordinance must be stricken out or in some way removed from the product's label. This applies not only to goods currently being manufactured but also to goods on dealers' shelves, or existing inventories to be marketed in Detroit. In addition, all lead-based paints, including purely industrial products, must be labeled, as required by the ordinance, within 30 days after its effective date.

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B. WHAT PRODUCTS HAVE TO BE LABELED?

There are three different categories of products for which labeling is prescribed.

1. The first category is lead-based paints for sale to the Detroit general public that are on dealers' shelves, or in existing inventories, or are to be manufactured for sale to the general public within the City of Detroit, within 30 days after the ordinance becomes effective. The ordinance permits sticker labeling of these products. This stick-on label can be placed anywhere on the container. Either the specific precautionary language of the ordinance can be used on the label (which refers to "brain damage or death"), or, in the alternative, a label can be used that meets the requirements of the Federal Hazardous Substances Act.

The following label is deemed to meet the requirements of FHSA:

WARNING	(18 pt. caps)
CONTAINS LEAD	(12 pt. caps)
Dry film of this paint may be harmful if eaten or chewed. 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.	(12 pt. caps)
Do not apply on those exterior surfaces of dwelling units, such as window sills, porches, stairs, or railings, to which children may be commonly exposed.	(10 pt. type)
KEEP OUT OF REACH OF CHILDREN	(10 pt. caps)

Note. As a temporary measure, the Detroit ordinance permits a stick-on label with the above language to be placed anywhere on the container of lead-based paints in inventory or manufactured within 30 days after the effective date of the ordinance and intended to be marketed in the City of Detroit for sale to the general public.

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2. The next category of products are those lead-based paints, for sale to the general public, manufactured more than 30 days after the effective date of the ordinance. These products must bear labeling identical to the first category, but the following part of the statement must be on the principal display panel.

WARNING
CONTAINS LEAD
DRY FILM OF THIS PAINT MAY BE HARMFUL IF EATEN
OR CHEWED
See other cautions on (Side or Back) panel

(18 pt. caps)

(12 pt. caps)

(12 pt. caps)

(10 pt. type)

Also, as with the first category, the following statement must be on the container of these products. But, it need not appear on the principal display panel:

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 those 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

This labeling is identical to that which is recommended in the new Labeling Guide. It is believed to meet the requirements of the Federal Hazardous Substances Act. It is also, as noted, identical to the labeling required for the first category of products. The only difference is that part of the label must be on the principal display panel.

In our opinion, this label is more reasonable than the one prescribed in the Detroit ordinance. It is permissible to use this alternate label, and such use would promote uniformity.

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To meet the labeling requirement for this category of Detroit products, you may wish to place the entire sticker label on the principal display panel. This approach could be taken until you have an opportunity to incorporate these labeling requirements into your regular labeling process. Another approach would be to use two sticker labels, one for the principal display panel and one elsewhere on the label. Again this could be a temporary measure until you can obtain new regular labels conforming to the requirements of the ordinance.

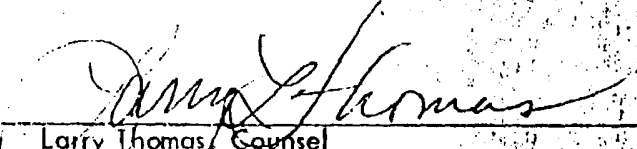
Finally, we are confident that those products already labeled to caution for lead content will meet the labeling requirements of the Detroit ordinance. Such products do not have to be relabeled, but -- the label cannot recommend use on surfaces considered to be hazardous by the Detroit ordinance, i.e., interior and exterior surfaces of dwellings, toys, furniture, etc.

3. The final category of products required to be labeled are lead-based paints for sale other than to the general public (industrial products). (It is my understanding that the Detroit ordinance requires a lead warning label for industrial products in containers up to and including 55 gallon drums.) The labeling required is consistent with that recommended in the new Labeling Guide. The language is as follows:

WARNING CONTAINS LEAD COMPOUND Do not apply to toys, furniture, or other surfaces which might be chewed by children. Wash hands thoroughly after using and before eating or smoking.
--

This language can be integrated with other statements of hazards and cautions which apply to the product. It can be placed anywhere on the container. There is no requirement for principal display panel labeling for industrial products. This labeling does, however, have to be on all industrial products to be sold within the City of Detroit 30 days after the effective date of the Detroit ordinance.

One final note -- 30 days after the effective date of the Detroit ordinance, lead-based primers (even if only for redwoods and cedars) or lead-based roof coatings cannot be marketed in Detroit for use on exteriors of dwellings or on other prohibited surfaces, even though these residential lead-based paints still are permitted to be shipped in interstate commerce under the FDA Lead Order.


Larry Thomas, Counsel

February 23, 1973

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