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COATINGS

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Legal Action Taken Against 35 Firms

The Environmental Protection Agency has asked the Justice Department to take legal action under the Refuse Act against 35 industrial firms failing to apply for discharge permits

According to EPA Administrator William D Ruckelshaus more cases will be referred for court action as delinquent firms are identified

Calling this step an insurance policy Ruckelshaus explained that court action will ensure that industrial dischargers will not take lightly their responsibility to file under the permit program The permit program announced by President Richard Nixon in an executive order December 23 1970 required all industries discharging material into navigable waters to apply for discharge permits before July 1 1971 As of September 17 applications from 17,933 firms had been received

If the permit program is successful says Ruckelshaus EPA will have a more accurate index of industrial pollution This index would make it possible for the Agency to provide explicit guidance to industry on water treatment requirements he added

Hard Bound Edition of '71 Abstract Review Available

NPCA annually publishes a bound volume of the previous years issues of the *Abstract Review*, including the Author and Subject Index to the *Abstract Review*

A limited number of these hard bound volumes is available for $8.50 to member companies (or $17.00 to non-members) Please send your request for the *1971 Bound Volume of the Abstract Review* (formerly *The NPVLA Scientific Section Circulars*) to NPCA's Technical Division no later than February 18 1972

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Ordinances Pose Threat

LEAD CRISIS IN CHICAGO

The paint industry is challenging two ordinances presently before the Buildings and Zoning Committee of the Chicago City Council which, if enacted would have a devastating effect on the manufacture sale and use of paint in this city

The first ordinance would amend Section 78-17.2 of the Municipal Code of Chicago to prohibit within 10 days after its enactment the use of paints containing more than 0.5% lead by weight By January 1973 this same law would drop the allowable lead content to 0.03%

The second and related proposal would add a new section to Chapter 100 of the Chicago Code requiring extensive product labeling for lead-based and toxic heavy metal-based substances

Testifying before the Committee at a special hearing on January 27 John M Montgomery, NPCA General Counsel called for several modifications to the original city proposals

Terming the 0.03% standard an unrealistic and unwarranted action " Montgomery stressed that no scientific data presented to date shows that 1% lead in paints—much less 0.5% lead—is hazardous He emphasized that the old pre-World War II paints which often contained more than 50% white lead are the cause of today's lead poisoning problem

Montgomery contends that once these old paints are removed or adequately sealed off and so long as modern paints containing no more than 1% lead are applied to surfaces available to children the lead paint poisoning problem will cease to exist He also endorsed Section C of the first ordinance dealing with the detection and removal of old paint from old or poorly-maintained dwellings

Montgomery stressed the need to establish a safe content for lead, explaining that there is no conclusive scientific information showing the use of 0.5% or 1% lead in paints to be a hazard The paint industry would like to see this issue resolved he added Under the federal Lead-Based Paint Poisoning Prevention Act the U.S. Department of Health Education and Welfare has the authority to conduct the scientific research We have formally requested that this action be taken and have offered our full support and cooperation

Calling the 0.03% standard almost impossible to enforce Montgomery explained that much money and effort would be spent by the City of Chicago in trying to enforce an unreasonable lead limit that has in no instance been shown to be necessary for safety He suggested that the money be applied to correcting the identifiable problem of lead poisoning—the old lead based paints

Concerning the time allotted for implementation of the ordinance Montgomery thinks the ten-day period unfair and unreasonable It is not enough time for paint manufacturers dealers contractors etc to even be fully cognizant of the new requirements and it is certainly not enough time for orderly compliance He asked the Council to extend the implementation date to one year to give paint manufacturers time to reformulate and to relabel their products and retailers time to clear their inventories of paints no longer in compliance

On the related ordinance dealing with labeling Montgomery indicated that a pending Food and Drug Administration (FDA) decision would determine once and for all the requirements for labeling paint products He explained that a preemption clause exists under the Federal Hazardous Substances Act which could nullify the proposed labeling ordinance This clause stipulates that if federal laws already regulate labeling (in this case FDA's final decision on paint labeling) then state and local laws requiring additional or different labeling would be null and void

The pending FDA decision would declare paints and other surface coatings containing more than 0.5% lead by weight to be hazardous substances Under the Federal Hazardous Substances Act paints with more than 0.5% lead would be required to display precautionary labeling

Using this FDA proposal as a basis Montgomery suggested the most sensible approach to the lead-poisoning problem would be to adopt a uniform 0.5% standard We are not here to balance the interests of the paint industry against the safety and welfare of children he said however we view a 0.5% standard as a practical enforceable level that will adequately insure against any potential lead paint hazard to children

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Legislation: State Alert

Editor's Note:

36 of the 50 State legislatures will convene during 1972. Many of their legislative proposals will directly affect you.

We will be keeping you informed of significant pending bills. In so doing we seek to stimulate individual company action—through testimony or petition—on legislation proposed in that company's State.

Keep NPCA informed of whatever steps you take. We, in turn, can supply you with full copies of proposals listed below and suggest approaches to the legislation.

ARIZONA—H-2118 (Same as S-1047) LEAD-BASED PAINT: To prohibit the use of lead-based paint on toys.

S-1047—LEAD-BASED PAINT: Prohibits the manufacture and sale of toys coated with lead-based paint or composed in any part of dangerous or toxic materials; containers of paint with lead content of one percent or more of its total nonvolatile material would be required to carry a specified "harmful if swallowed" warning.

HAWAII—H.B. 1917—HAZARDOUS SUBSTANCES: Establishes requirements for labeling hazardous substances. A "little" Hazardous Substances Law patterned after the Federal Act empowers State officials to require labeling where Federal Act does not, and impose a ban on items deemed particularly hazardous.

MASSACHUSETTS—H—3813—HAZARDOUS SUBSTANCES: Establishes requirements for labeling hazardous substances. This is a "little" Hazardous Substances Act, patterned after the Federal ... to empower the State Commission ... of Public Health to require labe... when the Federal Act does not a... impose a ban on the sale of items ... deemed particularly hazardous.

MICHIGAN—S—1048—AEROSOL SPRAYS. To require aerosol spray cans for household use containing volatile hydrocarbons, to carry a warning label stating that "sniffing or direct inhaling may cause death." Violation is a misdemeanor.

MISSOURI—H—1087—LEAD POISONING. Bars the rental or sale of any dwelling, furniture, household appliance, fixture or toy having a lead bearing substance upon any surface. Lead bearing substance is defined as "any paint, plaster on the interior or other substance or material containing one percent or more of metallic lead based upon total nonvolatile content. Physicians suspecting lead poisoning in a patient must notify the state public health director.

PENNSYLVANIA—H—1874—PAINTS AND SAFETY. Prohibiting the use or manufacture of "hazardous paints" for the protection of workers and to promulgate and adopt rules and regulations. Hazardous paints are broadly defined as those "causing adverse effects to the user.

WISCONSIN—Assembly Bill 1300—WEIGHTS AND MEASURES: Requires conspicuous statement to be placed near commodities with varying weight declarations that will show the unit and price per unit of weight ... in determining the selling price. Wisconsin Department of Agriculture granted rule-making power to require non-liquid commodities sold by methods other than weight to include weight declarations or restrict sale by weight only. (Caulks and sealants might be affected adversely.)

Assembly Bill 1430—LEAD IN PAINTS: Prohibits use of lead-based paints on interior surfaces and regulates the sale and requires labeling of such products in accordance with regulations to be issued by the Wisconsin Department of Health and Social Services. Does not specify amount of lead content constituting lead-based paints.

New Tax Schedule

A new Federal tax withholding schedule designed to eliminate the substantial underwithholdings of some 1971 taxpayers was put into effect January 15.

The new schedule makes adjustments in the withholding rates so that single employees earning up to $25 000 a year can expect a full tax withholding. Married employees with a non employed spouse can expect a full tax withholding on salaries up to $31,000.

According to officials of the Internal Revenue Service (IRS), a new exemption certificate—FW-4—should be filed with every employer to adjust withholding figures. Under the new system a special withholding allowance is also available to single taxpayers and those married with an unemployed spouse.

Total Factory Shipments of Paint, Varnish & Lacquer, November 1971 and 11 months 1971

	Nov. 1971	Oct. 1971r	Nov. 1971 vs. Oct. 1971r	Nov 1970	Nov. 1971 vs. Nov. 1970	11 mos. 1971	11 mos. 1970	Percent Change
TOTAL SALES	$218 954 000	$228,845 000	−4.4%	$185 465 000	+18.7%	$2 855 582,000	$2 588 088 000	−3.7%
Trade Sales	111 464 000	119 838 000	−5.0%	99 432 000	+12.1%	1 475 878 000	1 408 174 000	+4.7%
Industrial Sales	106 490,000	107 267 000	−1.8%	85 433 000	+22.0%	1 179 704 000	1 180 881 000	−2.5%

Production of Paint, Varnish & Lacquer, November 1971 and 11 months 1971 (In Gallons)

	Nov 1971	Oct. 1971r	Nov 1971 vs. Oct. 1971r	Nov 1970	Nov 1971 vs Nov. 1970	11 mos 1971	11 mos. 1970	Percent Change
TOTAL PRODUCTION	69 071 000	73 600 000	−7.2%	57 518 000	+20.1%	813 705 000	771 380,000	−5.5%
Trade Sales	31 501 000	35 354 000	−10.9%	29 072 000	+8.4%	403 326 000	401 383 000	−3.5%
Industrial Sales	37 570,000	38 255,000	−1.8%	28 446 000	+32.1%	410 379 000	370,087,000	−10.9%

r-Revised

SOURCE U.S. Department of Commerce Bureau of the Census M28.

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