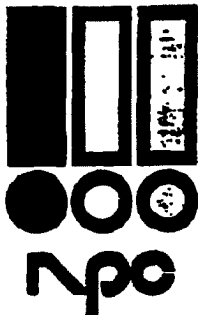


CONFIDENTIAL

February 15, 1973



Memorandum for Ad Hoc Committee and Other Interested Parties

Subject: Lead in Paint

Ref. (a) FDA Proposed Exemption of Certain Lead-Containing Paints and Other Similar Surface-Coating Materials (37 F.R. 25849)

1. As you all are aware, the comment period on reference (a) terminated on February 3rd. I am pleased to report that approximately one hundred comments were filed by industry in support of this proposal. Most of these were well written and, in my opinion, very helpful. However, I must report also that four adverse comments were filed prior to the deadline date -- by the Environmental Defense Fund, the Consumers Union, Bass Myerson (Commissioner, New York City Department of Consumer Affairs) and by Professor Page and Anthony Young. (Copy of the latter enclosed FYI.)

2. You also are aware that, in spite of all our efforts, Senator Kennedy introduced S. 607 on January 29th (providing for the .06% level effective after December 31, 1973) and moved it through his Subcommittee the next day without hearings. We're working on the full Committee (Senate Labor and Public Welfare), but chances of favorable amendment are remote. A number of similar bills have been introduced on the House side also but, most encouraging, we now have an industry bill (H.R. 3743 -- introduced by Rep. Lawrence Williams (Republican, 7th District of Pennsylvania) -- which reflects the amendments approved by the House Banking and Currency Committee last year and also provides for the research by HEW.

3. Similar proposals at the state and local level are mounting. While I have just received an encouraging report from Ed O'Toole that industry efforts may have succeeded in obtaining an amendment (from .06% to .5%) in an Illinois bill (S. 003), the Detroit City Council meets on February 19th on a proposed ordinance very similar to the one in Chicago, but also extended to include exterior household products. A bill (Assembly Bill 3139) -- introduced by William M. Steinfeldt in New York --

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would establish a .05% level in that state; another in Pennsylvania (House Bill 81) would impose a .06% standard on all paint products at the end of this year. We're working on these and others.

4. We now have finalized a "Model Ordinance" (reviewed and blessed, but not yet officially approved, by HEW and HUD) which is being made available to those cities (and states) known to be contemplating such action. It helped recently in Burlington, Iowa. Wanted you to know of its existence.

5. Obviously, the subject of lead in paint still is a major issue and, I understand continues to be of vital concern to most manufacturers. Also FDA action on .06 percent remains unresolved. After reviewing all these developments with Bob Ackerly, Outside Counsel on the lead issue, we conclude that it would be beneficial to have another meeting in Washington soon -- to review the general situation and discuss tactics, particularly with respect to the new issue (Environmental Impact Statement) raised by Page et al. Your comments on the above -- by telephone and/or letter -- are needed.

6. For your information, the Labeling Committee is scheduled to meet in Washington (at the Gramercy Inn) on March 14 and 15, 1973, commencing at 2:00 P.M. on Wednesday, March 14th. Since several addressees plan to be in Washington for that meeting, it has been suggested that this group (interested parties) might meet on the morning of March 14th. Let's keep that date open if it should be agreed that a meeting is in order and if we can afford to wait four weeks to hold such a meeting.

Sincerely,


John M. Montgomery
General Counsel

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