

National Paint, Varnish and Lacquer Association

I N C O R P O R A T E D

1900 RHODE ISLAND AVE. N.W. WASHINGTON D C 20005

PHONE 202-462-5572

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November 27, 1970

IMMEDIATE ACTION

TO ALL MEMBERS:

A situation of potentially disastrous consequence for the paint industry is developing around proposed legislation dealing with the elimination of lead-based paints. Your immediate action is needed in support of the proposals contained in this memorandum.

I am enclosing for your information and use the following:

- a) Copy of our most recent statement before the Senate Subcommittee on Health of the Senate Labor and Public Welfare Committee
- b) Copy of the pertinent legislation -- Senate Bill (S. 3216) and House Bill (H.R. 19172)
- c) A suggested letter for you to send to the members of the Senate Committee on Labor and Public Welfare and/or your Senators and Congressmen
- d) A suggested telegram to be used in lieu of (c) if you prefer.

I cannot stress too strongly the need for your action and personal assistance through Congressional associations you might have at this time. The situation is this --

The Lead-based Paint Elimination Act of 1970 (H.R. 19172), introduced by Rep. Barrett of Philadelphia, Pennsylvania has passed the House and is now before the Senate Labor and Public Welfare Subcommittee on Health. The Lead Paint Poisoning Prevention Act (S. 3216), sponsored by Senator Kennedy of Massachusetts, is also before this Subcommittee for consideration. As you will find in our enclosed testimony, these proposals are generally acceptable to the Association and our industry except for the fact that, as presently written, the Barrett Bill applies to "any building or structure". We have submitted suggested amendments to this which would limit its application only to exposed interior surfaces, thus preserving the essential use of lead-bearing paints for exterior applications such as maintenance coatings on structural steel and other critical corrosion control uses.

By definition, the proposed legislation would preserve the 1% lead as metal in total non-volatile which has been accepted by industry since the promulgation of ASA (now ANSI) Standard Z66.1.

S-W 001710

PROGRESS THROUGH COOPERATION

N 4184

Immediate concern is an indication by staff members of the Committee that a new draft in Committee, incorporating the essential provisions of the Kennedy and adding language which would extend coverage to exterior trade sales products used in residential dwellings. It is this anticipated action which must be discouraged at all

basic problem concerning lead poisoning from paints deals with old paint applied and now found chiefly in poorly-maintained or substandard dwellings in our major legislation, which addresses itself to future painting or modern-day products, com-target and simply places a burden on industry without meeting the needs of the Housing Officials.

do the following:

personally acquainted with a member of the Senate Committee on Labor and Welfare (Roster enclosed), personally call or write that Senator as soon as in accordance with our suggested letter.

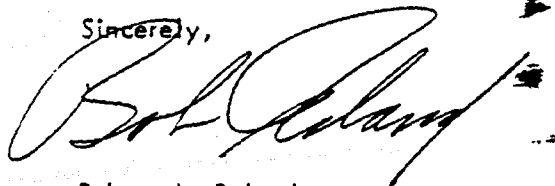
ve personal relations with any Representative or Senator, communicate with ce along the same lines, requesting that any legislation brought to the floor ss not include a general prohibition of lead-bearing paints for exterior ap- Exterior products containing more than 1% lead now are labeled by industry their use on interior surfaces. (The suggested letter and telegram should be d in your own style to avoid the obvious stereotyped letter campaign appear-

tions at all on this subject, please contact John Montgomery, Roy Brown or headquarters.

u provide a copy of your correspondence to us for our files.

d immediate response from industry will produce the necessary results.

Sincerely,



Robert A. Roland
Executive Vice President

Chemical Coatings Manufacturer, your support and action on this matter

S-W 001711

SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE

<u>Democrats:</u>	<u>City and State</u>	<u>Telephone:</u> <u>(Area Code - 202)</u>
* Ralph W. YARBOROUGH Chairman	Austin, Texas	225-5922
Jennings RANDOLPH	Ekins, West Virginia	225-6472
* Harrison A. WILLIAMS, Jr.	Westfield, New Jersey	225-4744
Claiborne PELL	Newport, Rhode Island	225-4642
* Edward M. KENNEDY	Boston, Massachusetts	225-4543
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Walter F. MONDALE	Minneapolis, Minnesota	225-5641
* Thomas F. EAGLETON	St. Louis, Missouri	225-5721
* Alan CRANSTON	Los Angeles, California	225-3553
* Harold E. HUGHES	Ida Grove, Iowa	225-3744
 <u>Republicans:</u>		
* Jacob K. JAVITS	New York, New York	225-6542
* Winston L. PROUTY	Newport, Vermont	225-2051
* Peter H. DOMINICK	Englewood, Colorado	225-5852
* George L. MURPHY	Beverly Hills, California	225-3841
Richard S. SCHWEIKER	Worcester, Pennsylvania	225-4254
* William B. SAXBE	Mechanicsburg, Ohio	225-3353

* Indicates membership in Subcommittee on Health

Address: Honorable _____
United States Senate
Washington, D.C. 20510

Dear Senator:

S-W 001712

N 4184.01

STATEMENT
OF
JOHN M. MONTGOMERY
COUNSEL
NATIONAL PAINT, VARNISH AND LACQUER ASSOCIATION
BEFORE THE
SUBCOMMITTEE ON HEALTH
OF THE
SENATE LABOR AND PUBLIC WELFARE COMMITTEE
ON
LEAD PAINT POISONING PREVENTION ACT
(S. 3216)
AND
LEAD-BASED PAINT ELIMINATION ACT OF 1970
(H.R. 19172)

NOVEMBER 23, 1970

S-W 001713

N 4184.02

On behalf of the National Paint, Varnish and Lacquer Association and its more than one-thousand members throughout the country, I appreciate this opportunity to submit a statement to the Senate Labor and Public Welfare Subcommittee on Health, in connection with the two legislative proposals (S. 3216 and H.R. 19172), which you are considering today.

The National Paint, Varnish and Lacquer Association is a trade association representing the manufacturers of more than ninety (90) percent of the dollar volume of paints, varnishes, lacquers and allied products produced in the United States. In addition, the National Paint, Varnish and Lacquer Association is a spokesman for the major suppliers of raw materials from which the industry's products are made.

At the outset, it should be made clear that the National Paint, Varnish and Lacquer Association strongly supports the progressive legislative proposals of Senator Kennedy, Representative Barrett, and some forty-five other sponsors in both the Senate and House of Representatives for Federal financial assistance to States and their subdivisions for projects involving the detection and treatment of lead poisoning in children and for the rehabilitation of areas found to be seriously contaminated by old lead-based paints. We deem such Federal assistance to be vital -- to assist the several States and major cities which have been applying their limited resources to the lead-paint problem in varying degrees for a number of years and to permit the establishment of additional programs wherever needed.

As I will discuss in more detail later, the National Paint, Varnish and Lacquer Association and its members throughout the country for many years have maintained liaison with public health officials and other authorities in various States and local jurisdictions to provide technical data, participate in the development and promotion of educational programs and assist in any way possible in the growing

effort to reduce and eliminate the incidence of lead poisoning in children. Currently, as least five States and ten major cities, including the District of Columbia, have laws, regulations or ordinances concerning the sale and use of lead-bearing paints.

Today, two separate bills are being reviewed by your Subcommittee, but the objectives of each bill are essentially the same. I would like to emphasize that the industry I represent endorses these basic objectives, and this view has been so stated on numerous prior occasions. However, certain language that was added to H.R. 19172 -- after public hearings by the House Banking and Currency Subcommittee on Housing on the predecessor bill (H.R. 17260) -- constrains us to present additional facts relevant to your review of this legislation and to attempt to clarify certain erroneous matters and possible misconceptions on the subject which may exist.

THE PROBLEM

It should be made clear at this juncture that the problem of lead poisoning being considered by the Committee at this time is caused by children ingesting flakes or chips of old lead-based paint, which still exists on poorly-maintained walls and ceilings, particularly in the slum neighborhoods. Both S. 3216 and H.R. 19172 deal directly with this problem, i.e., the development and implementation of programs to detect and treat the cases of lead poisoning which result from the flaking chips of old paint and crumbling plaster from the interior surfaces of dilapidated residential housing built prior to World War II. In addition, and of equal importance, these bills would provide Federal financial assistance in developing and carrying out programs for the prompt elimination of lead-based paints from the interior surfaces of this old residential housing.

It is true that, prior to World War I, many structures were painted with paints which contained large amounts of basic carbonate or sulfate of lead (white lead). This type of paint has not been used on interior surfaces for more than thirty (30) years. However, even though subsequent coats of paint on the interior surfaces were non-toxic, the paint chips or plaster from these deteriorating surfaces do contain some of the original toxic lead paint. This situation is most prevalent in slum housing where painting maintenance is minimal or even non-existent.

In such instances, children up to five years of age are known to eat these chips of old paint or crumbling plaster. This is recognized now as the principal cause of childhood lead poisoning. Seventy to ninety percent of children so poisoned have been found to have a history of "pica," a disorder stemming from a compulsion to eat non-food materials such as dirt, wood, paint chips or plaster. Such children generally are found living in old pre-World War II housing and are especially susceptible to lead poisoning, for the many coats of paint on the walls and woodwork frequently contain significant amounts of the old toxic paints containing white lead pigments.

This Statement does not presume to discuss the medical aspect of lead poisoning. Medical witnesses at earlier hearing on this subject and before this Subcommittees have discussed this matter accurately and in detail. The National Paint, Varnish and Lacquer Association, the American Lead Industry and the American Paint and Varnish Manufacturers Association have all done a great deal of work of these groups and, particularly, the dedicated efforts of public health workers and the volunteers who have worked tirelessly with them to eliminate lead poisoning from the environment.

TOXIC LEAD-BASED PAINTS NO LONGER USED ON INTERIOR SURFACES

As stated before, the paint industry ceased using white lead as a pigment in interior paints more than 30 years ago when other white pigments were developed. There was no purpose in using white lead pigments in paints intended for interior use since other white pigments were available.

pigments for this purpose now are available at lower cost. When the industry voluntarily stopped making products for interior use with white lead pigments, interior paints ceased to be a major cause of lead poisoning in properly-maintained dwellings; and, today, modern interior paints are safe coatings.

Some lead-bearing coatings still are used today -- in structural steel primers, where they have unique value as rust-inhibiting agents, and in other exterior coatings for special uses. It is our hope that these proper uses of certain products of our industry will not be denied to the construction industry and to the public by overly-restrictive language, such as now exists in H.R. 19172, and which fails to differentiate between those structures on which lead-bearing paints are useful today and the exposed interior surfaces which are, in fact, the ones requiring attention now and in the future.

LABELING OF CONTAINERS

At this point, it should be noted that those lead-bearing coatings still being used today to provide corrosion protection on steel surfaces and in other exterior coatings for special uses (as mentioned earlier) are labeled to caution against their use on toys, furniture, window sills or interior surfaces of rooms which may be used by children, even though not required under the Federal Hazardous Substances Act, which was developed by joint effort of government and industry representatives to provide protection for consumers by ensuring that adequate warnings as to toxic and other hazards would be placed on containers manufactured and sold for household use.

However, even prior to the enactment of the Federal Hazardous Substances (Labeling) Act in 1960, the paint industry had anticipated the need for warnings on hazardous products, and had been using such labeling -- voluntarily and without requirement of law -- for about ten years. To facilitate compliance with the letter and intent of this Act, a series of labels were prepared by the National Paint, Varnish and Lacquer Association. After review and approval by the Food and Drug

(the agency having statutory responsibility under the Act), the labels were recommended for use by the industry. These labels were found to be so complete and effective that FDA has used them extensively for training inspectors and as guidelines for enforcement of the law. Today, with effective administration of this Act by FDA and, with industry cooperation, detailed, proper and adequate labeling for products manufactured and sold for household use has become a way of life in this country.

The National Paint, Varnish and Lacquer Association also has published a 634-page labeling guide for the industry. In addition to all the recommended labels, this book compiled pertinent laws and regulations affecting the paint industry. The original list of labels was extended in 1964 to include labels recommended for use with industrial products not covered by the Federal Hazardous Substances Act. These have served as a most satisfactory guide for the industry since that date and have enabled paint and coatings manufacturers to label and sell their products with due regard to the safety of users, whether or not required to be labeled by law.

The Food and Drug Administration, other government agencies having related responsibilities, industry officials and cognizant Congressional committees continually review the prescribed labels, in consonance with technological advances and human experience, to ensure that they continue to provide the requisite caution or warning for household products.

At the present time, the Labeling Committee of the National Paint, Varnish and Lacquer Association has an ad hoc group reviewing all current industry labels in order to update and improve these labels, and, particularly, to strengthen the caution statement relating to the use of lead-bearing paints.

NATIONAL STANDARD DEVELOPED IN 1955

Another related but separate problem on this subject -- discussed briefly during examination of witnesses testifying on H.R. 17260 before the House Banking and Currency Subcommittee on Housing -- has to do with the amount of lead pigment or lead additives which should be used in modern interior paints today. In this regard, the paint industry has operated since 1955 under a national standard which contains specifications to minimize hazards to children from residual surface coating materials.

This voluntary standard (ASA Standard Z66.1) was developed in 1955 -- under the sponsorship of the American Academy of Pediatrics -- to deal with the toxicity hazards which may be encountered through the ingestion of dried coatings on articles or surfaces accessible to children. The standard was reviewed and approved by the American Standards Association (ASA) Sectional Committee on Prevention or Control of Hazards to Children. This ASA Sectional Committee was comprised of about 24 representatives of industry, government agencies and medical groups, all prominent leaders in their respective fields. The standard was revised, with minor changes, and re-issued in 1964. In 1966 the ASA was reconstituted as the United States of America Standards Institute (USASI). The name of the organization was changed again in 1969, at which time it became known as the American National Standards Institute.

This voluntary standard (now referred to as an "ANSI" Standard) prescribes specifications for paint to assure safety from toxic hazards to children with respect to coatings on articles or surfaces accessible to children. This standard has been followed by the industry since its establishment in 1955, and has served since that time as a pattern for most statutes, regulations and ordinances dealing with this subject.

ANSI Standard Z66.1 - 1964 states, in pertinent part, as follows:

"A liquid coating material to be deemed suitable, from a health standpoint, for use on articles such as furniture, toys, etc., or for interior use in dwelling units where the dry film might be ingested by children:

(1) Shall not contain lead compounds of which the lead content (calculated as Pb) is in excess of one percent of the total weight of the contained solids (including pigments, film solids, and driers);"

Although several states and local jurisdictions had adopted the prescribed levels contained in the voluntary standard, the bill introduced earlier this year by Senator Schweiker (S. 3941) was the first legislative proposal at the federal level dealing with the subject. S. 3941 provided for the adoption of the allowable lead content level specified in Z66.1 - 1964; and, in addition, it provided for the assessment of civil penalties for violation thereof as well as for the failure of the landlord or owner of the property to take steps within a prescribed period to remove paint from the interior surfaces of dwellings when found to contain lead in excess of the prescribed limit.

Certain provisions of Senator Schweiker's bill (S. 3941) were incorporated in S. 4368 (the Housing and Urban Development Act of 1970), which was approved by the Senate on September 23, 1970. With only minor comment as to the definition of the term "lead-based paint" therein, the National Paint, Varnish and Lacquer Association supports fully these provisions (Section 1004) of S. 4368, including the proposal added to provide for a study regarding the health hazards of paints containing lead chromate or molybdate pigments as coloration. However, our principal concern is that the most important provision of Senator Schweiker's bill, that relating to the elimination of old lead-based paint, was not included in Section 1004.

ELIMINATION OF THE HAZARD

Once again, the matter of principal concern to this Subcommittee at this time is the removal or elimination of the old lead-based paint from the dilapidated pre-World War II housing. And, we repeat that we consider Federal financial assistance to be vital, for the problem today is of such

magnitude that most States and local jurisdictions do not have sufficient resources to do the job alone. Unless some financial assistance is provided, many landlords simply will abandon their property, thereby further contributing to the existing housing crisis among low-income families.

No inexpensive method yet has been developed for removing old paint from walls. Removing the old paint by burning or by steam cleaning at best is marginal, and, even with such relatively simple procedures, is quite expensive in view of the high labor costs. Furthermore, many of the walls in this old housing are not structurally sound enough to permit a paint-removal operation. At the present time, the simplest and most direct approach seems to be a complete resurfacing through either fiberglass bonding or drywall and subsequent repainting with modern interior paints.

DETECTION OF LEAD ON INTERIOR SURFACES

Of equal, perhaps even greater, importance is the development of testing programs and equipment to detect the presence of lead-bearing paints on the interior surfaces of the residential housing. Chemical analysis of samples taken from these surfaces is possible but may be too slow to be practical. Also, the large and expensive test equipment now available or under development may not be practical due to its bulk and delicate handling requirements.

Urgently needed was a small portable instrument that could be moved easily from room to room and from building to building to indicate on the spot the presence of lead. The National Paint, Varnish and Lacquer Association, working with the Atomic Energy Commission and instrument manufacturers, has succeeded in developing such equipment. Another value of a program of this type is the community-relations aspect wherein the residents may observe and understand that something is being done by their local government for their safety and health.

SUMMARY

The principal cause of lead poisoning in children results from the ingestion of chips of paint or crumbling plaster from the deteriorating surfaces of interior walls and ceilings on which lead-based paints were used more than 30 years ago. The rehabilitation of this substandard housing to remove or eliminate the hazard of the old lead-based paint requires priority attention in order to prevent further lead poisoning.

Federal financial assistance, as proposed by the two bills before your Subcommittee (S. 3216 and H. R. 19172), would permit the development of effective programs to eliminate the causes of lead-based paint poisoning. In addition, funding of research projects would accelerate current programs to develop means for testing interior surfaces of substandard housing for the presence of lead, and would determine optimum measures for rehabilitating these dilapidated structures.

The National Paint, Varnish and Lacquer Association has given priority attention to these matters, and will continue to work closely with public health officials and other representatives of government agencies -- at the Federal, State and local levels -- to assist in solving the problems related to lead poisoning at the earliest possible time.

Modern interior paints do not contain white lead pigments and are safe coatings. Exterior paints -- in which lead pigments are used today for corrosion protection of steel and for other special purposes -- are voluntarily labeled to caution against use on toys, furniture, window sills or interior surfaces of rooms which may be used by children.

ACTION REQUESTED

Again, I want to stress that the National Paint, Varnish and Lacquer Association and its members throughout the country support fully the objectives of the legislative proposals (S. 3216 and H.R. 19172) before the Subcommittee on Health of the Senate Labor and Public Welfare Committee. However, in order to ensure that an effective law responsive to the public need is enacted, it is requested that both bills be modified, as necessary, so that the language therein cannot be misinterpreted to prohibit the proper use of lead-bearing paints and coatings where they have unique value as rust-inhibiting agents on steel surfaces and for special uses on other exterior surfaces.

In accomplishing the above and in identifying the specific structures to which the "lead-based paint elimination problem" should be addressed today and in the future (the exposed interior surfaces of existing residential housing units), it is further requested that H.R. 19172 be amended so that the prohibition addressed in Section 4 thereof shall apply only to dwellings to which the provisions of title VIII of the Act of April 11, 1968 (Public Law 90-284), relating to fair housing, are applicable on or after January 1, 1969. This will provide for more effective enforcement and for uniformity with other proposed federal legislation on the subject.

To assist in obtaining the above-requested amendments, deemed most important to our industry, the National Paint, Varnish and Lacquer Association has provided copies of S. 3216 and H.R. 19172 to your Subcommittee staff, outlining the requested changes. We urge you to give these proposed amendments your serious consideration.