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National Paint, Varnish and Lacquer Association

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

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December 8, 1971

TO ALL "A" MEMBERS

**PROPOSED REGULATIONS CONCERNING
LEAD IN PAINT**

Your attention is directed to the information contained in Legal Bulletin No. 77, dated November 5, 1971, and Memorandum Report No. 1, dated November 19, 1971, which was sent to all members of the Association. Both of these communications informed you of the latest developments by the Department of Health, Education and Welfare concerning proposed regulations dealing with lead in paints. Two specific proposals have been published in the Federal Register. The first was a proposed regulation -- published by the Food and Drug Administration on November 2, 1971 -- which would amend the Federal Hazardous Substances Act to declare that paint products are considered hazardous materials and, therefore, subject to the mandatory labeling requirements of that Act. The lead content standard adopted by this proposal is 0.5% lead by weight in the total non-volatile content of liquid paints. The Association, essentially supports the FDA proposal and the reduced lead standard which it recommends.

Interested parties were given 60 days within which to comment on this proposal. It has come to our attention that supporters of Rep. Ryan's proposal, which was published on that same date and which was also included in Legal Bulletin No. 77, have organized a campaign in support of his petition. You will recall this petition demands that lead in paint products be reduced to "trace" amounts and that paint products be declared banned hazardous substances which would prevent their introduction or movement in interstate commerce. Needless to say, this is an unreasonable and extremely detrimental proposal from our industry's as well as the consumer's standpoint.

The purpose of this communication is to urgently request that every member of the Association communicate their support of the FDA proposal to the Hearing Officer as indicated in Legal Bulletin No. 77. If you have mislaid your copy, you should write to:

Hearing Clerk
 Department of Health, Education & Welfare
 Room 4-88
 5600 Fishers Lane
 Rockville, Maryland 20852

PROGRESS THROUGH COOPERATION

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-It would also be appropriate in the same communication, or in a separate document, to indicate the unreasonable hardship which would be imposed on industry and the users of our products by the Ryan petition. Of course, you are also encouraged to incorporate any relevant comments you may have concerning other aspects of this proposed regulation that may deal with heavy metals, other than lead, which may affect the formulation of your products. The latter could be significant, and should not be overlooked.

The second proposed regulation, which was discussed in Memorandum Report No. 1, is a proposed rule-making, under Title IV of the Lead-Based Paint Poisoning Prevention Act (P.L. 91-695). This notice of rule-making only permitted 30 days for comment after date of publication, which was November 16, 1971. Therefore, you are urgently requested to submit your comments on this proposal immediately to:

Bureau of Community Environmental Management
Room 15-87
3400 Fishers Lane
Rockville, Maryland 20852

The primary concern with this proposal revolves around the definition of "residential structure", which relates the definition developed in P.L. 91-695; namely, "interior surfaces and those exterior surfaces readily accessible to children under seven years of age, of any house, apartment, or structure intended for human habitation ---".

The vagueness of the term "readily accessible to children" could be very troublesome for our industry. Comments from industry members should request a clarification of this language which appears in the Lead Based Paint Poisoning Prevention Act. Incidentally, similar language is employed on the label requirement of the FDA proposal above.

You will note that the notice of proposed rule-making includes the 1% rule which is spelled out in the Lead-Based Paint Poisoning Prevention Act. This probably would be reduced to the 0.5% level, to be consistent with the FDA proposed regulation, at a later date if the FDA regulation is adopted.

The Association staff will submit comments on all three of the above proposals, and these will include pertinent facts brought to our attention by individual members. However, I cannot stress too strongly the fact that comments from industry members are most important to FDA to assist that office in analyzing and evaluating the proposed regulations and rules. Statements urging adoption, requesting clarification of language, or requesting further consideration of certain materials included, should be communicated to the responsible agencies. I would also appreciate receiving copies of your communication at Association headquarters for our records and information.

Sincerely,



Robert A. Roland
Executive Vice President

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