



July 16, 1973

MEMORANDUM

IMMEDIATE ACTION

TO: All NPCA Members
NPCA Legislative Committee

Subject: S. 607 and H.R. 8920 - Federal Lead in Paint Legislation.

1. Background

This issue which has been in the forefront for so long is now rapidly reaching the point of final decision. Things will move quickly in the next few weeks. This memo is being put out now so that all will have the complete information at hand. The rapid sequence of events hereafter just may not permit the issuance of another detailed bulletin in a timely fashion.

2. Brief Status Recap

- a. S. 607, the Kennedy bill, passed the Senate on May 9, 1973.
- b. H.R. 8920, the House version was approved by the cognizant House committee, the Committee on Banking and Currency, on June 28, 1973.
- c. Next step is the vote in the House on H.R. 8920. (within next 2 weeks)
- d. Then, a Conference between the Senate and House to resolve differences.

Note: While it is too soon to be 100% accurate, attached is a list, Probable Conferees, from which the Conferees will most likely be chosen. It is made up of the members of the cognizant subcommittees - that's the usual procedure for conference appointments.

3. Points Of Interest

As the bills stand now and on the assumption that H.R. 8920 passes the House without amendment, the points of most concern are as follows:

1500
Reno (1900)
Avenue N W
Washington D C
20005

Telephone
202 462-6272

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	<u>S. 607</u>	<u>H.R. 8920</u>
<u>RESEARCH</u>	Requires research by HEW to determine safe lead level and report to Congress of results and recommendations by <u>Oct. 1, 1973.</u>	Same research program but report to Congress not due until <u>December 31, 1974.</u>
<u>LEAD STANDARD</u>	Prior to Dec. 31, 1973 - 0.5%. After Dec. 31, 1973 - 0.06%, except that if prior to then, the HEW research shows that another level (not to exceed 0.5%) is safe, then such other level goes into effect after Dec. 31, 1973.	0.5%
<u>PREEMPTION</u>	No provision	Would preempt any State or local laws which contain a requirement, prohibition or standard relating to lead content which differs from this law.

4. Action Recommended

The House bill, H.R. 8920, in its present form contains all the provisions on the Points Of Interest we have sought for many, many months and should have our enthusiastic support.

- a. NOW! Communicate with your member of the House of Representatives expressing support for House passage of H.R. 8920 in its present form. (NPCA will advise you of the House action.)
- b. After Passage By The House (assuming the bill is still intact). Communicate with your legislators, House and Senate, appearing on the Probable Conferees list. The objective of your communication should be to have the Senate conferees accept the House provisions on the three Points Of Interest and to urge the House conferees to stand firm on these provisions.

5. Approach - Some Thoughts

The NPCA Position Paper, "The Lead-In-Point Issues", forwarded earlier, contains our position and rationale.

Some basic points that should be emphasized:

- a. The existing, identified problem is the old paint on the walls of deteriorating housing.

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- b. For modern paints, our position has always been that we want the products of our industry to be safe today and in the future and we will accept and comply with whatever lead content standard is determined by sound, scientific research to be necessary from a safety standpoint.
- c. The current absence of research is being filled now by the several ongoing research programs - HEW, N.Y. City, and Industry sponsored.
- d. FDA did not confirm the 0.06% standard because of conflicting viewpoints on this and absence of empirical research data.
- e. The National Academy of Sciences at the request of FDA is currently evaluating all information to determine if there is any need to go below 0.5%. Two meetings have been held and a third scheduled for next month.
- f. There are differences of opinion as to what final standard is necessary, even within agencies of the Government. We consider the statement of FDA quoted in the Position Paper to be particularly significant on this point. It says, in part, "... we are unable to produce epidemiological evidence of lead poisoning even at 1% in dried paint films or documentary scientific evidence to support a finding that this level is enough to result in overt symptoms of lead poisoning."

Again the need for the results of the research before registering an arbitrary standard is clear. (The research report date of December 31, 1974 in the House bill was adopted after Congressman Barrett, Chairman of the Housing Subcommittee, checked with HEW during the Subcommittee's "mark up" sessions to determine a realistic date. Therefore, any time requirement less than this, i.e., the Senate date of October 1, 1973, is unrealistic.

- g. The Federal preemption provision is highly controversial. We have urged it to avoid the severe burdens on commerce which result from differing State and local standards. The research will provide the answer as to what is safe and this should be adopted nationwide. Preemption will not strike down a whole group of laws as, to our knowledge, only Chicago has in effect a standard below 0.5%. No State has a lower standard currently in effect - only Kentucky has adopted at 0.06% standard and this does not go into effect until next year.

Preemption is not new and novel. Federal preemption clauses in varying degrees of scope have been incorporated in numerous

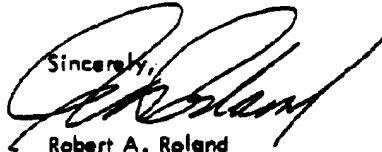
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Federal statutes, some of which are:

Federal Hazardous Substances Act; Poison Prevention Packaging Act; Fair Packaging and Labeling Act; Radiation Control for Health and Safety Act; Public Health Cigarette Smoking Act of 1969; Federal Environmental Pesticide Control Act of 1972; and Consumer Product Safety Act.

6. Final Thought

The end to this struggle is now in sight. NPCA is doing all it can to bring about a favorable result. Your active "grass roots" participation is still one of the most effective ways to get the message across. Please lend your support. We will keep you posted of all developments.

Sincerely,


Robert A. Roland
Executive Vice President

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PROBABLE CONFEREES

(All telephone numbers are area code (202), plus 225, plus extension shown.)

<u>SENATE</u>	<u>Phone</u>	<u>HOUSE</u>	<u>Phone</u>
<u>California</u>			
Alan Cranston (D.)	3553	Richard T. Hanna (D. 34th) John H. Rousselar (R. 24th)	2965 4206
<u>Colorado</u>			
Peter H. Dominick (R.)	5852		
<u>Georgia</u>			
		Ben B. Blackburn (R. 4th) Robert G. Stephens, Jr. (D. 10th)	4272 4101
<u>Iowa</u>			
Harold E. Hughes (D.)	3744		
<u>Maryland</u>			
J. Glenn Beall, Jr. (R.)	4524		
<u>Massachusetts</u>			
Edward M. Kennedy (D.)	4543	Mrs. Margaret M. Heckler (R. 10th)	4335
<u>Michigan</u>			
		Garry Brown (R. 3rd)	3011
<u>Minnesota</u>			
Walter Mondale (D.)	5641		
<u>Missouri</u>			
Thomas F. Eagleton (D.)	5721	Mrs. Leonor K. Sullivan (D. 3rd)	2671
<u>New Jersey</u>			
Harrison A. Williams (D.)	4744	William B. Widnell (R. 7th)	4465

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<u>SENATE</u>	<u>Phone</u>	<u>HOUSE</u>	<u>Phone</u>
	<u>New York</u>		
Jacob K. Javits (R.)	6542		
	<u>Ohio</u>		
Robert Taft, Jr. (R.)	2315	Thomas L. Ashley (D. 9th)	4146
		J. William Stanton (R. 11th)	5306
	<u>Pennsylvania</u>		
Richard S. Schweiker (R.)	4254	William A. Barrett (D. 1st)	4731
		William S. Moorhead (D. 14th)	2301
	<u>Rhode Island</u>		
Claiborne Pell (D.)	4642	Fernand St. Germain (D. 1st)	4911
	<u>Texas</u>		
		Henry B. Gonzalez (D. 20th)	3236
	<u>Wisconsin</u>		
Gaylord A. Nelson (D.)	5323	Henry S. Reuss (D. 5th)	3571

(Telegrams and letters can be addressed:

SENATE
Honorable _____
U. S. Senate
Washington, D. C. 20510

HOUSE
Honorable _____
House of Representatives
Washington, D. C. 20515)

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