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November 19, 1971

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MEMORANDUM REPORT NO. 1 -- LEGAL, LEGISLATIVE & REGULATORY MATTERS

EXECUTIVE SYNOPSIS

This Memorandum Report advises of the latest development re lead-based paint -- the proposed regulation to implement Title IV of P. L. 91-695 (attached). It also advises of a new lead law in Massachusetts, a new Federal Standard which requires use of the Material Safety Data Sheet and the status of the revision to the Association's Recommended Precautionary Labeling pamphlet.

ACTION REQUIRED BY YOU: Comments and views on the proposed regulation are solicited.

OPERATIONS AFFECTED IN YOUR COMPANY: Paints and coatings manufactured and sold in Massachusetts must be brought into compliance with the new law by January 1973. Material Safety Data Sheet must be provided with all future sales to Federal agencies. *20.5% 1/2-*

ACTION TAKEN BY ASSN.: Special Task Force continues work on proposed submission to U. S. Department of Labor requesting simplification of MSDS for our industry.

CONTACT AT ASSN.: Office of Legal and Government Relations

This special Memorandum Report is the first of a new series which will be published periodically to apprise the membership of legislative issues and regulatory matters of direct and significant interest to the industry and to report on other developments under the purview of the Association's Office of Legal and Government Relations. It supplements the Legal Bulletins which will continue to be promulgated on specific issues when significant developments warrant.

1. Implementing Regulation for Federal Lead Law Issued by HEW

Attached for information is a copy of the proposed regulation (Federal Register, November 16, 1971) to implement Title IV of the Lead-Based Paint Poisoning Prevention Act (P.L. 91-695). As explained in NPVLA Legal Bulletin No. 77 (at page 5), this regulation relates to the use of "lead-based" paints in any residential structure constructed or rehabilitated by any Federal Agency directly or under any

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Federally-assisted program. It should be noted that "lead-based" paints are defined in the proposed regulation, as in P.L. 91-695, at the 1% level.

Although this proposed regulation also addresses the use of modern paints, it is separate and apart

from the proposed regulation issued earlier by FDA and published in the Federal Register on November 2, 1971. (See attachment A to Legal Bulletin No. 77.) Comments on this latest proposal also are invited, but -- must be submitted within 30 days of publication in the Federal Register to be considered.

Although this proposed regulation also addresses the use of modern paints, it is separate and apart from the proposed regulation issued earlier by FDA and published in the Federal Register on November 2, 1971. (See attachment A to Legal Bulletin No. 77.) Comments on this latest proposal also are invited, but -- must be submitted within 30 days of publication in the Federal Register to be considered.

Members are urged to comment on both proposed regulations as well as on the "Ryan" petition (see attachment B to Legal Bulletin No. 77).

2. Recommended Labeling Pamphlet

With the publication of these two proposed regulations relating to the use of lead-based paint, the Association's Labeling Committee now is taking the final step in revising and updating the Recommended Labeling Pamphlet. This revision will incorporate the new "lead" label outlined (at p. 3) in Legal Bulletin No. 77.

Immediately upon completion of this project, the revised recommended labels will be submitted to FDA for review and approval. Hopefully, the new Labeling Pamphlet will be available for distribution in January 1972.

3. Massachusetts Enacts 0.5% Lead Law

Governor Sargent has signed into law an Act that bans the use of lead-based paints containing more than one-half of one percentum lead by weight (calculated as lead metal) in the total non-volatile content. This Massachusetts law -- described as "an Act providing for a comprehensive program of lead paint poisoning prevention and control" -- is slated to take effect January 1, 1973.

The new law prohibits the application of such lead-based paints to "any toy, furniture, cooking, drinking, or eating utensil, or interior or exterior surface of any dwelling." Moreover, it makes unlawful the sale, transfer, or possession of any of the above-mentioned items to which such lead-based paints have been applied. Certain industrial uses for such lead-based paints may be permitted (by variance) if it is established that it is non-residential, not sold to the general public, and will not be exposed to children under six years. Maximum fines range as high as \$500 for each violation and can result in three to six months imprisonment on a finding of wilfulness.

Residential structures receive particular attention in the Act. Whenever a child under six years resides therein or the residence is sold, and a child under six years will be in residence, certain lead-based paint removal procedures must be followed. Generally, these require removal, whether or not flaking or peeling is occurring, below the four-foot level on all exterior and interior surfaces "that may be readily chewed by children."

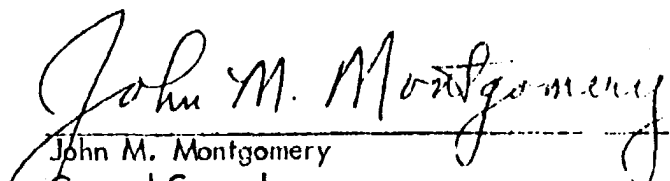
4. New Federal Standard Covering Procurement of Hazardous Industrial Chemicals And Materials

Notice was published in the Federal Register of November 17, 1971 (at page 21899) that Federal Standard No. 313 had become effective and that "limitations for lead in paint."

The stated purpose of this new Standard is to provide uniform symbols for interior and intermediate packages and shipping containers for hazardous material shipped to and by Government activities, and to provide for submission of Material Safety Data Sheets by contractors and manufacturers to designated Government activities. The Standard incorporates two existing industry standards by reference.

The first industry standard is the NFPA Fire Protection Guide on Hazardous Materials which includes NFPA Standards Nos. 325A, 325M, 49, 491M and 704M. It is available from the National Fire Protection Association, 60 Batterymarch St., Boston, Mass. 02110. The second industry standard is the MCA Guide to Precautionary Labeling of Hazardous Chemicals Manual L-1. It is available from the Manufacturing Chemists Association, Inc., 1825 Connecticut Ave., N.W. Washington, D.C. 20009.

Federal Standard No. 313 supersedes Interim Federal Standard No. 00281 of February 15, 1968, and includes requirements previously published in Military Standard MIL-STD-1341A of August 18, 1969. The Standard is available on request from the Naval Publications and Forms Center, 5801 Tabor Ave., Philadelphia, Pa. 19120. Single copies are also available without charge at the Business Service Centers at the General Services Administration Regional Offices in Boston, New York, Washington, D.C., Atlanta, Chicago, Kansas City, Mo., Fort Worth, San Francisco, Los Angeles, and Seattle, Wash.


John M. Montgomery
General Counsel

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