

Lead Exposure Warnings and Education and Training Programs Agreement between State Attorneys General and the National Paint and Coatings Association, Inc. ("Agreement")

I. The Agreement

The “State Attorneys General” and the National Paint and Coatings Association, Inc. (“NPCA”) have reached this Agreement in order to promote timely and meaningful notice to consumers of the potential risks of lead exposure that could arise out of surface preparation during remodeling, renovation or repainting where old lead-based paint is present. The State Attorneys General launched this initiative by contacting certain paint manufacturers concerning warnings related to lead exposure from surface preparation (“Lead Exposure Surface Preparation Warnings”). The State Attorneys General sought to assure that warnings were provided to all consumers, and placed a priority on treating paint manufacturers uniformly with respect to surface preparation warnings. Because NPCA shared those priorities and was positioned to facilitate a uniform nationwide surface preparation warning system, the State Attorneys General and NPCA have negotiated this Agreement concerning prospective labeling related to surface preparation warnings. Because this Agreement reflects a cooperative and prospective approach to addressing the risk of lead exposure from surface preparation, none of the parties waives any rights, claims, defenses, or arguments it may have, for itself and/or on behalf of any other party.

II. Definitions

For the purpose of this Agreement, the following terms shall be defined as:

- A. “Consumer Paints” shall mean paints available to the consumer, including professional contractors, at the retail level. Consumer Paints includes all architectural coatings intended for interior and exterior applications to residences, public and private buildings and similar structures, and excludes adhesives and coatings recommended by the manufacturer for shop applications; non-stationary structures (e.g., airplanes, ships, automobiles and railcars); water proofing sealers and other deck coatings; field marking and hobby craft coatings.
- B. The “Effective Date” of this Agreement shall be the date when NPCA and the State Attorneys General exchange executed copies of the Agreement.
- C. “State Attorneys General” shall refer to those State Attorneys General who are signatories to this Agreement.¹ To promote universal implementation

¹ The following States, territories or jurisdictions are signatories to this agreement: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Guam, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York,

and national uniformity, the State Attorneys General Workgroup will seek to obtain the signature of each member of the National Association of Attorneys General, prior to the Effective Date.

- D. “State Attorneys General Workgroup” shall refer to a subgroup of the State Attorneys General comprised of the Attorneys General of Massachusetts, New York, Connecticut, California, Maine, New Hampshire and Oregon.
- E. “Paint Manufacturers” shall refer to manufacturers of Consumer Paints which are also members of NPCA as listed on www.paint.org, a website maintained by NPCA.
- F. “Lead Exposure Surface Preparation Warning” shall mean a warning to consumers that surface preparation may result in lead exposure and which provides, as a part of the warning, instructions on how to reach the EPA’s National Lead Information Hotline.

III. Lead Exposure Warning Labels and Sticker Program

A. Lead Exposure Warning Labels

1. Consumer Paints that currently do not contain a “Lead Exposure Surface Preparation Warning”: For those Consumer Paints sold in nonaerosol containers above 16 oz. and aerosol containers above 24 oz. that currently do not contain a “Lead Exposure Surface Preparation Warning,” the manufacturers of such products shall ensure that, with respect to all such containers of Consumer Paints manufactured after December 31, 2003, the label statement in subparagraph 3 below is clear, conspicuous, and appears in close proximity to any surface preparation instructions.
2. Consumer Paints that currently contain a “Lead Exposure Surface Preparation Warning”: For those Consumer Paints sold in nonaerosol containers above 16 oz. and aerosol containers above 24 oz. that currently contain a “Lead Exposure Surface Preparation Warning,” the manufacturers of such products shall ensure that, with respect to all such containers of Consumer Paints manufactured after December 31, 2004, the label statement in subparagraph 3 below is clear, conspicuous, and appears in close proximity to any surface preparation instructions.

3. Consumer Paints Lead Exposure Surface Preparation Warning Statement (“Consumer Paints Lead Exposure Warning Statement”):

- a. Warning Statement: The following is the text of the Consumer Paints Lead Exposure Warning Statement:

WARNING! If you scrape, sand, or remove old paint, you may release lead dust. LEAD IS TOXIC. EXPOSURE TO LEAD DUST CAN CAUSE SERIOUS ILLNESS, SUCH AS BRAIN DAMAGE, ESPECIALLY IN CHILDREN. PREGNANT WOMEN SHOULD ALSO AVOID EXPOSURE. Wear a NIOSH-approved respirator to control lead exposure. Clean up carefully with a HEPA vacuum and a wet mop. Before you start, find out how to protect yourself and your family by contacting the National Lead Information Hotline at 1-800-424-LEAD or log on to www.epa.gov/lead.

- b. Alternative Warning Statement: NPCA shall promote the use of the warning statement set forth in section III.A.3.a by NPCA’s Paint Manufacturer members. If a Paint Manufacturer employs a warning statement to satisfy the requirements of this Agreement that varies from the precise language in section III.A.3.a, such warning statement must satisfy the following criteria:
- (i) Signal Word: The signal word "WARNING!" must be used to draw the reader’s attention to critical information offered in the balance of the statement.
 - (ii) Statement of Hazard: A statement of hazard must be included alerting consumers to the potential dangers of surface preparation of old paint, the potential for serious adverse health effects arising from lead exposure including brain damage; and an identification of the at-risk population including children and pregnant women.
 - (iii) Precautionary Statements: The “Alternative Warning Statement” must incorporate a precautionary statement that outlines steps to be used to provide worker and resident protection from potential dust lead hazards arising from renovation and remodeling activities and advise the use of NIOSH-approved respiratory protection and the need for proper containment and cleanup procedures (i.e., HEPA vacuums and wet mopping).

- (iv) Critical Information Sources: Critical information sources including the US EPA (the National Lead Information Hotline at 1-800-424-LEAD and/or the web site www.epa.gov/lead), must be included in the warning statement.
 - (v) Consistent Warning: Required criteria (i) through (iv) shall all appear in close proximity to one another; shall not be coupled with extraneous information that serves to dilute the overall warning; and shall present a clear and conspicuous warning to consumers concerning the risk of lead exposure from surface preparation that is, on the whole, as effective as the warning statement set forth in section III.A.3.a.
4. Small Containers: With respect to Consumer Paints sold in nonaerosol and aerosol containers not subject to section III.A.1 or A. 2 above, the manufacturers of such products shall ensure that, on all Consumer Paints manufactured after December 31, 2004, the abridged warning set forth in section III.B.3 or the warning statement set forth in section III.A.3.a. or b. appears in close proximity to any surface preparation instructions on all such containers of Consumer Paint.

B. Sticker Program:

- 1. Scope: In addition to the labeling requirements set forth in section III.A., “Stickers”, as defined in subparagraph 3 below, shall be required for all nonaerosol Consumer Paints sold in containers above 16 oz. and aerosol Consumer Paints sold in containers above 24 oz.
- 2. Effective Dates for Sticker Program: All Consumer Paints subject to section III. B. 1, manufactured on or after September 30, 2003 and prior to April 30, 2005, must bear a sticker, affixed to all such containers of Consumer Paints sold or offered for sale at retail.
- 3. Stickers: The following language shall appear either (1) on the lid or top of the paint container; or (2) on a separate printed sticker affixed to the lid or top of the container, or to the side of the container so long as the sticker is clear and conspicuous and does not cover other product warnings or use instructions:

WARNING! If you scrape, sand or remove old paint, you may release lead dust. LEAD IS TOXIC. Contact the National Lead Information Hotline at 1-800-424-LEAD or log on to www.epa.gov/lead.

- C. Alternative Warning Statement Sticker Program: A Paint Manufacturer may satisfy its obligations under both the label and sticker provisions contained in sections III A. and B. of this Agreement by placing a clear and conspicuous sticker bearing the Consumer Paints Lead Exposure Warning Statement, prescribed in sections III.A.3.a & b, on the lid of each Consumer Paint product. In order to qualify for this Alternative Warning Statement Sticker Program, such sticker must be placed on all Consumer Paints subject to section III.A.1 & 2 which are manufactured on or after September 30, 2003 and prior to April 30, 2005. After April 30, 2005, such sticker shall continue to be used indefinitely until such time as the Consumer Paints Lead Exposure Warning Statement, prescribed in section III.A.3.a & b, is incorporated on the product label.

IV. Education, Training and Lead Exposure Prevention Programs

- A. In General: Through NPCA, Paint Manufacturers will provide resources for education and training programs on how to avoid the hazards of lead exposure arising from renovation, repainting and surface preparation activities, and also for lead exposure prevention programs, as described below.
- B. Point-of-Sale Information: Beginning September 30, 2003 and continuing through December 31, 2007, NPCA through its Paint Manufacturer members and other parties (e.g., contractor and retailer organizations) shall provide point-of-purchase written material, in both English and Spanish, in a manner that is reasonably designed to ensure that consumers of Consumer Paints receive such point-of-purchase information. NPCA will encourage its Paint Manufacturer members to continue providing such information after December 31, 2007 should it then appear that the continuation of the program would serve a useful purpose. Such point-of-purchase written material shall contain all of the elements of the information found in the U.S. EPA brochure entitled "Keep it Clean: The Homeowner Guide to Lead-Safe Painting & Home Improvement." This information may be offered in other languages as deemed appropriate.
- C. Training Programs:
1. The NPCA shall promote and conduct comprehensive training courses for contractors undertaking renovation, repainting or remodeling work where lead-based paint may be encountered (i.e., pre-1978 housing or structures), home inspection companies, code inspectors, maintenance workers, building supervisors, "do-it-yourself" homeowners and landlords, housing authorities, non-profit housing providers, community and social service organizations, and state and municipal agencies. The course

curriculum shall be approved by a federal agency, such as the U.S. Department of Housing and Urban Development (HUD), the U.S. Environmental Protection Agency (EPA), or the applicable state agency for use within the particular state where offered. The training courses will include, among other things, recognizing and controlling lead-based paint hazards; appropriate lead-safe work practices; proper cleanup (including use of HEPA-vacuum cleaners and wet mopping); testing procedures directed to identifying lead exposure risks (e.g., dust collection); and advice on the selection and use of personal protective equipment (including NIOSH-approved respirators). NPCA shall consult with the relevant agencies in each state where the courses are offered (e.g., the Department of Public Health, Department of Labor and/or Department of Housing) and will take into consideration that state's particular needs in planning a training program agenda for that state.

2. Beginning September 30, 2003 and continuing through December 31, 2007, the approved training courses will be offered, on an ongoing basis, in approximately 50 different cities and/or regions annually throughout the country. (See section IV.C.5.)
3. Costs associated with conducting the training courses such as meeting space and audio visual support, as well as the development and presentation of the program, including compensation for qualified expert trainers, travel costs, training materials and presentation aids, will be borne by NPCA.
4. No tuition payments will be required for registered attendees. Such attendees may include, without limitation, individuals who are, or individuals who are from:
 - a. Renovation and remodeling contractors, including painting contractors;
 - b. Home inspection companies and code inspectors;
 - c. Maintenance workers and building supervisors;
 - d. "Do-it-yourself" homeowners and landlords;
 - e. Housing authorities;
 - f. Non-profit housing providers;
 - g. Community and social service organizations; and
 - h. State and municipal agencies.

5. The training program will be offered in as many as 150 sessions each year and will be designed to accommodate the training of as many as 3,750-7,500 attendees annually. (It is expected, therefore, that after four years approximately 600 training sessions will have been conducted and as many as 15,000-30,000 people will have had an opportunity to receive the training.) The location of the training programs will be distributed in an equitable fashion among all fifty states, as appropriate.
- D. Discount Equipment Program: As part of the training program identified in section IV.C, NPCA will partner with national organizations representing manufacturers and distributors of safety equipment to educate training course attendees as well as ordinary consumers on the use of necessary and appropriate protective and clean-up equipment, including NIOSH-approved respirators and HEPA-vacuum cleaners. As part of this effort, NPCA will undertake to develop a program to provide substantial discounts (i.e., 25 percent or more), or sale or lease at cost (as feasible), for:
1. Rental and purchase of HEPA vacuum cleaners; and
 2. Purchase of NIOSH-approved respirators.
- E. Online Retailer Education Initiative: NPCA will also develop an online training program on lead-based paint hazards associated with renovation and remodeling activities for retail sales staff at stores owned by Paint Manufacturers as well as independent retailers of Paint Manufacturer products. The program will focus on critical information needs and reinforce the role of the product label in identifying proper action and resources for lead-safe work practices. The online availability of the program will be supplemented by distribution on diskette, CD-ROM, and print versions to identified retailer organizations.

V. Compliance Process

- A. Implementation (General): Notwithstanding the specified implementation dates and deadlines in sections III and IV of this Agreement, nothing herein shall preclude Paint Manufacturers from implementing this Agreement (for instance, by providing stickers, modifying warning labels, or providing point-of-purchase information) earlier than the dates set forth in sections III and IV. Further, NPCA shall promote and encourage expeditious implementation of this Agreement by its members, including providing, as appropriate, applicable information and offering reasonable assistance concerning implementation.

B. Labeling and Stickers: NPCA shall promote uniform and timely implementation of the Lead Exposure Warning Labels and Sticker Program described in section III, by doing the following, without limitation:

1. Within thirty (30) days of the Effective Date of this Agreement, NPCA shall provide each of its Paint Manufacturer members with written notice of the terms of this Agreement and encourage members' timely compliance with the Lead Exposure Warning Labels and Sticker Program herein;
2. With respect to new members who join NPCA after issuance of such written notice, and continuing for four (4) years from the Effective Date of this Agreement, NPCA shall provide written notice of the terms of this Agreement to such new members and encourage the new members' timely compliance with the applicable terms of the Lead Exposure Warning Labels and Sticker Program herein; and
3. For not less than four (4) years from the Effective Date of this Agreement, NPCA shall make available to its members, on its website and also upon request, the terms of this Agreement and the Lead Exposure Warning Labels and Education and Training Programs.

C. Annual Reporting Program

1. By October 31 of each year, beginning October 31, 2004 and continuing through October 31, 2008, NPCA, based on information collected from its members concerning compliance, shall report to the State Attorneys General Workgroup concerning its members' compliance with the applicable obligations under this Agreement by producing an annual report for the prior year. Said annual report shall 1) provide a list of the new Paint Manufacturers that joined NPCA within the previous year; 2) state a precise estimate of the amount of Consumer Paints in compliance with the labeling and sticker requirements in section III, which may be expressed as a percentage of the total of all Consumer Paints subject to section III, together with a description of the basis for that statement; and 3) provide with respect to each of the initiatives set forth in section IV, the following information: a) an estimate, to the extent feasible, of the amount of money spent on the initiative; b) a description of how that money was spent, with reasonable supporting documentation, including, as appropriate, examples of the information provided to consumers, and examples of the training or instruction provided; and c) an estimate of the number of persons reached through the initiative and on the feedback received.

2. The labeling and consumer education initiatives in this Agreement reflect information available to, and believed to be reliable by, the parties as of the Effective Date. The parties acknowledge that additional precautionary language or new information to consumers may be appropriate based upon information that becomes available after the Effective Date, or due to changes in applicable federal, state or local law. On an ongoing basis, the State Attorneys General Workgroup and NPCA shall promote the effectiveness of the programs encompassed by this Agreement. The State Attorneys General Workgroup will provide periodic feedback to NPCA, which NPCA will consider in its implementation of the Agreement.

- D. Compliance Monitoring. The State Attorneys General, including through the State Attorneys General Workgroup, intend to monitor compliance with the warning provisions of this Agreement and, in so doing, shall monitor the adequacy of the lead exposure surface preparation warnings provided by all manufacturers of Consumer Paints, without regard to status of NPCA membership.

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