

# Rachel's Environment & Health News

## #591 - Making the Polluter Pay

March 25, 1998

The Governing Council of the American Public Health Association (APHA) on November 12, 1997 unanimously adopted a policy statement urging lawsuits against the manufacturers of products that contain lead and against the lead manufacturers themselves.[\*] APHA is a professional society founded in 1872 representing all disciplines and specialties in public health.

APHA is urging lawsuits against manufacturers and users to raise funds to protect the nation's children from toxic lead. Under the influence of the lead corporations, the U.S. Congress has dragged its feet on lead abatement for 50 years (see REHW #294, #376), refusing to provide adequate funding to solve this problem, which continues to reduce the mental capacity of millions of American children. In keeping with the well-established principle that "the polluter shall pay," the APHA is urging that lawsuits be brought by governments, individuals, and others, seeking monetary compensation for the damages knowingly caused by the producers and users of lead.

Clearly, this is an important recommendation, coming, as it does, from the heart of the American public health establishment. Perhaps, by extension, in future years the APHA will urge lawsuits against the manufacturers and users of PCBs, chlorofluorocarbons (CFCs), mercury, cadmium and other persistent pollutants that are demonstrably poisoning the world's wildlife and human populations.

Here we present the APHA's policy statement verbatim:

9704: Responsibilities of the Lead Pigment Industry and Others to Support Efforts to Address the National Child Lead Poisoning Problem

The American Public Health Association,

Noting that the U.S. Department of Health and Human Services considers lead poisoning to be one of the most common and serious environmental diseases in young children in the U.S., completely preventable;[1] and

Noting that early and recent research has found neurodevelopmental delays in children at increasingly lower levels of lead exposure;[2-12] and

Recognizing that 4.4% of children aged 1-5 years have blood lead levels above 10 mcg/dl [micrograms of lead per deciliter of blood; a deciliter is a tenth of a liter and a microgram is a millionth of a gram];[13] and

Noting that children who live in poorly maintained, older housing are at disproportionate risk of being lead-poisoned;[1,13,14] and

Noting that the single most important source of lead poisoning in children in the U.S. is lead paint;[1,14] and

Noting that over 50 million housing units in the U.S. have lead paint; [15] and

Noting that the cost of abating the nation's residential lead paint hazards and treating the short-and long-term effects of lead poisoning is many billions of dollars,[15] and that there is no source to fund abatement efforts on a consistent, large-scale and long-term basis, which means that the public health problem will remain fundamentally unaddressed; and

Understanding that lead paint was recognized as a source of lead poisoning in young children as early as 1904;[16] and

Being aware that scores of articles on child lead paint poisoning were published in medical and scientific journals between 1904 and 1950; [17,18] and

Noting that the major lead paint and lead pigment manufacturers became well aware of the dangers of lead paint to children in the early 1900s, yet continued to sell lead paint well beyond 1950;[17] and

Understanding that lead pigment manufacturers, despite the knowledge of the hazards, continued campaigns to promote and increase the sale of lead-based paint and minimize the public and governmental knowledge of the hazards;[17,19] and

Recalling that the principle of "polluter pays" is well-established in cases of environmental damage and public health problems, some examples being: tobacco (taxes, state government law suits);[20-23] asbestos (governmental[24] and private law suits); Superfund (trust fund, governmental law suits);[25] Florida Everglades pollution from sugar production (state constitutional amendment requiring that the polluter pay);[26] and

Noting that over the 1920-1936 period alone, the lead pigment industry sold over \$455 million (in 1920-1936 dollars) worth of white lead pigment;[27,28] and

Noting that the largest manufacturers of lead pigment in this century, or their successors, are still in business as profitable companies (combined net assets in 1995 of approximately \$30 billion)[29,30] and have not been held financially accountable for the damage caused by their products; and

Recalling that there are precedents (such as the cases of asbestos,[24] cigarettes,[20-23] Superfund[25]) for governments suing polluting companies to recover damages; and that doing so in the case of lead paint poisoning could help increase public visibility of the issue; and that doing so may help discourage corporations from engaging in future irresponsible behavior that damages the environment or the public health; and

Recognizing that residential lead-based paint abatement has been found overall to be safe and effective in reducing children's exposure to lead,[31-34] despite some conflicting data;[35,36]

Noting that data are lacking on the optimal methods of lead paint abatement to maximize safety, efficacy and cost-effectiveness;

Recognizing that HUD-proposed standards and EPA guidance levels for lead in dust and soil do not adequately protect children from sub-clinical lead toxicity. In fact, these standards and guidance levels are 4-to 10-fold higher than levels estimated to be associated with 10% of children having a blood lead level in excess of 10 mcg/dl.[37] Further recognizing that other studies indicate that dust lead levels considerably lower than 100 mcg/dl [sic] on floors are inadequate to protect children from undue lead exposure;[38,39] therefore

1. Supports efforts to increase the resources devoted to lead abatement, reduction of lead hazards in housing, and community-based prevention and health education;
2. Supports efforts to raise such resources through a variety of means including litigation against manufacturers of products that contain lead (such as lead manufacturers), legislation, negotiation, and fees;
3. Urges the federal government to pass legislation establishing a tax on the production of lead to be used for a trust fund for removing lead paint hazards in low-income housing and for community-based prevention and risk reduction health education;
4. Reaffirms the recommendations provided by APHA policy statement #8909: Reducing Health Risks Related to Environmental Lead Exposure;
5. Urges the EPA to promulgate a health-based standard for house

dust and residential soil that are adequate to protect preschool children from unacceptable lead exposure;

6. Urges HUD to conduct a national survey of housing, incorporating sources of lead exposure and children's blood lead levels; and

7. Urges HUD, EPA and CDC to collaboratively fund or conduct research on the optimal methods of abatement to maximize safety, efficacy and cost-effectiveness.

--Peter Montague (National Writers Union, UAW Local 1981/AFL-CIO)

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[\*] "[Policy Statement] 9704," AMERICAN JOURNAL OF PUBLIC HEALTH Vol. 88, No. 3 (March 1998), pgs. 498-500.

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[21] Moore v. The American Tobacco Co. et al., CN 94-1429, Chancery Court of Jackson County, Mississippi.

[22] McGraw v. The American Tobacco Co. et al., 94-C-1707, Circuit Court of Kanawha County, West Virginia.

[23] The State of Florida, Lawton M. Chiles, Jr., Individually and as Governor of the State of Florida, Department of Business and Professional Regulation, and the Agency for Health Care Administration v. The American Tobacco Co., et al., CN95-1466, Fifteenth Judicial Circuit, Palm Beach County, Florida.

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Descriptor terms: lead; children; apha; american public health association; toxic heavy metals; resolutions; polluter pays principle; housing; paint; paint industry; lead industry; tobacco;