

napim Bulletin COPY

DATE: March 23, 1990 NUMBER: 90-24
TO: Official Representatives - Members & TAM's
FROM: NAPIM Health Committee

NEW JERSEY RIGHT-TO-KNOW LABELING

In NAPIM bulletin 90-10 of January 24, 1990 members were advised that the New Jersey Right-to-Know labeling requirements will go into effect on March 31, 1990. After that date all containers of chemicals or chemical mixtures must be labeled with the chemical name and Chemical Abstract Service (CAS) number of the five most predominant substances regardless of whether they are hazardous or non-hazardous. In addition, the chemical name and CAS number of any environmental hazardous substance present below the top five ingredients in concentrations of more than 1% (0.1% for carcinogens, mutagens and teratogens) must also be listed.

NAPIM'S REQUEST FOR RELIEF

In an attempt to gain some relief from the labeling requirements for printing inks and similar mixtures, NAPIM staff and representatives of five New Jersey ink manufacturers met with the New Jersey Department of Health staff administering the right-to-know program. NAPIM also filed other statements seeking relief including a detailed statement proposing a generic approach to the labeling required by the New Jersey rule.

NEW JERSEY RESPONSE

In response to NAPIM's request for relief, the New Jersey Department of Health has granted a partial generic approach, with several significant limitations. See attached letter of March 8, 1990.

- 1) Hazardous Ingredients - All substances that are listed on the New Jersey Right-to-Know Hazardous Substance List (approximately 2,500) and all substances that are considered hazardous under the OSHA Hazard Communication Standard must be listed on the container label together with their CAS numbers if they are among the top five ingredients in the printing ink mixture. In addition, any environmental hazardous substance below the top five must also be listed if it is present above 1% (or above 0.1% for carcinogens, mutagens and teratogens). No hazardous ingredient may be listed generically.

- 2) Non-Hazardous Ingredients - The State will allow the use of generic names for non-hazardous ingredients when the only alternative would be to use the phrase "contents partially unknown" on the label (see below). If the ink manufacturer knows the final top five ingredients, or can determine this without undue burden, he must list their specific chemical names and CAS numbers on the label. According to the State's letter, an "undue burden" would refer to a situation where more than a few raw materials were being combined and the ink manufacturer does not know the percentage composition of these materials.
- 3) Contents Partially Unknown - The New Jersey Rule itself permits the use of the phrase "contents unknown" where the ingredients are not known or "contents partially unknown" where some of the ingredients are not known to the formulator of the final mixture. In order to use this wording, a printing ink manufacturer must have made a good faith effort (through two contacts by letter and/or documented phone calls) to determine the content of the mixtures used as intermediates in the ink formulation and has been unsuccessful in obtaining the information.
- 4) Generic Labels - When the ink manufacturer does not know or cannot, without undue burden, determine the top five ingredients in the final product, he may then use the generic names for the non-hazardous ingredients proposed by NAPIM for pigments, resins, solvents, oils and additives.

GENERIC DESCRIPTORS

The state has authorized the use of descriptors proposed in NAPIM's letter of January 19, 1990. They are:

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| Pigments: | Carbon Black Titanium Dioxide Organic Pigments Inorganic Pigments |
| Resins: | Acrylic Copolymer Alkyd Cellulosic Hydrocarbon Modified Rosin Ester Polyamid Polyurethane Styrene Copolymer |
| Solvents & Oils: | Technical White Oil Hydrotreated Middle Distillates Hydrotreated Naphthenic Distillates Hydrotreated Paraffinic Distillates Vegetable Oil |

Additives: Plasticizer
 Wax
 Organic Amine
 Surfactant

The State will consider the use of additional descriptors. Members wishing to add descriptors should submit them to NAPIM. NAPIM will consolidate the suggested additions and submit them to the State Department of Health. They can then be used unless the Department informs NAPIM otherwise.

NEW JERSEY RIGHT-TO-KNOW HAZARDOUS SUBSTANCE LIST

As part of this rule, the State has published a list known as "The New Jersey Right-to-Know Hazardous Substance List" which contains more than 2,500 chemicals and chemical compounds. Some of the chemicals on this list are designated as environmental hazardous substances and, as noted above, these must be listed on the label if present in concentrations greater than 1% (0.1% for carcinogens, mutagens and teratogens). A number of commonly used liquid ink solvents, such as toluene, MIBK, ethanol and several others are identified on the State list as environmental hazardous substances.

CAUTION: The State regulations are something of a "moving target." For example, the State has published several different right-to-know hazardous substance lists over the last three years, the most recent being the 1990 version which is currently in effect. However, this list is temporarily out of print and will not be available before the March 31st effective date. Although the State Department of Health has stated that the 1990 list contains "very few" additional chemicals the additions could be significant. For example, organic copper compounds (e.g. Pigment Blue 15) were not previously listed, but will appear on the 1990 list. Although they are not identified as environmental hazardous substances their presence on the new list will mean that the State will not allow the use of the generic descriptor "organic pigment" for copper-bearing pigments.

IN-PLANT LABELING

By March 31, 1990 every container in a New Jersey facility must be labeled. Thereafter labels must be affixed to new containers before they are opened or within five working days of their arrival at the facility. Pipelines must be labeled at the incoming and discharge valves.

TRADE SECRECY

The New Jersey law contains a provision which allows manufacturers to apply for trade secrecy, providing such filing is made prior to March 31, 1990. (Although the rules are not clear, it seems reasonable to expect that trade secrecy may be filed for new

mixtures after this date.) The trade secrecy requirements set forth in NJAC 8:59 Subchapter 3 are rigorous and require proof that the substances included in the mixture for which trade secrecy is requested is unknown to competitors.

ADDITIONAL INFORMATION

It is suggested that members obtain from the New Jersey Department of Health copies of the following information:

- Right-to-Know Hazardous Substance List - 1990 Issue
- Worker and Community Right-to-Know Regulations; Title 8, Chapter 59, Subchapters 1 through 11.

This information may be obtained by contacting the Right-to-Know Program Hotline at 609-984-2202.

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State of New Jersey

DEPARTMENT OF HEALTH

JOHN FITCH PLAZA
CN 360, TRENTON, N.J. 08625

March 8, 1990

Mr. James E. Renson
Executive Director
National Association of Printing
Ink Manufacturers, Inc.
47 Halstead Avenue
Harrison, NY 10528

Dear Mr. Renson:

In response to our meeting on December 22, 1989 and your follow-up correspondence, the Department of Health agrees that it is better to list some indication of the ingredients of the non-hazardous substances in printing inks rather than saying "contents partially unknown" on the container label.

The Department recognizes that it would be a severe, if not impossible, burden on some manufacturers who must mix many mixtures of chemicals into a final ink, to determine the non-hazardous substances among the top five ingredients of the final product.

The labeling that will be allowed by the Department for inks will only apply to ingredients that are not recognized as hazardous by the New Jersey Department of Health or the Occupational Safety and Health Administration.

In other words, all specific substances that are listed as hazardous on the New Jersey Right to Know Hazardous Substance List (approximately 2,500), and all substances that meet the hazard criteria specified in the OSHA Hazard Communication Standard (number of chemicals is unlimited), must be listed on the labels of the final ink products, along with their Chemical Abstracts Service (CAS) numbers.

The example you provided in Exhibit F-3 is not an acceptable label under the above conditions. You propose to use the phrase "Organic pigment" for the non-hazardous pigment in this example; however, the MSDS for this chemical (Exhibit F-2) reveals that the organic pigment contains copper compounds. Since copper is considered to be a hazardous substance by both NJDOH and OSHA, the copper compounds in the organic pigment must be individually listed on the label, with their CAS numbers.

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The Department will allow the use of generic names for non-hazardous ingredients when the only alternative would be to use the phrase "contents partially unknown" on the label.

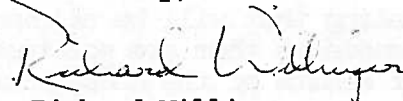
If the ink manufacturer knows the final top five ingredients (in which the non-hazardous substances would be found) or can determine it without undue burden, he must list the specific chemical names and CAS numbers on the label of all five ingredients. "Without undue burden" would refer to the situation where there are only a few raw materials being combined to form the final product and the manufacturer knows the percentage composition of these raw materials.

Thus, when the ink manufacturer does not know or cannot, without undue burden, determine the top five ingredients of the final product, he can use the generic names for the non-hazardous ingredients that are listed in your letter dated January 19, 1990, for pigments, resins, solvents and oils, and additives. If any generics other than these 19 are going to be used, the Department must be provided with a listing of their names. These additional generic names can be used unless the Department informs you otherwise.

In accordance with standard Right to Know labeling requirements, all environmental hazardous substances below the top five ingredients, along with their CAS numbers, must be included on the label. The top five ingredients and the environmental hazardous substances below the top five ingredients must be listed down to 1.0% of the mixture, except for carcinogens, mutagens and teratogens which must be listed down to 0.1%

If you have any questions, please call me at (609) 984-2202.

Sincerely,



Richard Willinger
Program Manager
Right to Know Program