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BERGEN RECORD - FRIDAY, AUGUST 5, 1977

Alert on two asbestos products

By Lena Sherrod

Consumer Writer

The director of the state Division of Consumer Affairs (DCA) is urging New Jersey consumers to join a nationwide campaign to discontinue use of, and safely dispose of, spackling compound and artificial ash and embers—products containing inhalable asbestos and suspected of causing cancer.

The federal Consumer Product Safety Commission (CPSC) is planning a ban on the products. However, state DCA Director Adam K. Levin notes that the ban will not become effective until sometime this fall.

"These products are extremely dangerous in that they have the possibility of causing cancer when inhaled, and inhalation occurs rather easily," Levin cautions.

Only about half of all wall-patching compounds contain asbestos, but the only way a consumer can determine if a specific compound has asbestos in it is to call the manufacturer. Levin calls this an undue hardship on the consumer, and he is asking manufacturers of such products to start listing ingredients as soon as possible.

According to the CPSC, a health risk

occurs when asbestos fibers become airborne and then are inhaled. Simply opening a window does not help because asbestos fibers remain in the air in a room, the commission says.

Dry or paste

Consumer patching compounds are sold as a ready-mixed paste or in dry form to be mixed with water. The compound is used to cover, seal, or mask cracks, joints, holes, and similar openings in the trim, walls, and ceilings of building interiors.

Inhalation occurs when the dried patching compound is sanded or scraped to smooth the patched area, or when the dry compound is mixed before using. The patching compound is considered safe only after the patch has been painted.

The artificial ash and embers are used in gas-burning and decorative fireplaces. At high temperatures the asbestos in these products produces a glow similar to that of real embers and ash.

Dangerous inhalation of these products can occur, says Levin, when they are sprinkled on the fireplace floor; when glue is used to attach the products to an artificial fireplace, and then

household air disturbs the ash.

"Though many people may not be using this product because of the hot weather, this division is concerned that many consumers may be using it for fires on cool evenings in their shore and country homes," Levin says.

Half million buyers

The CPSC estimates that in the past 10 years about 500,000 consumers have bought artificial fireplace ash. The agency advises all consumers with this product in their homes to remove it using the following procedure:

- Cover the nose and mouth with a dust face mask or a single-use respirator.
- Lightly spray the ash with a mixture of water and two or three drops of detergent. Do not pour water on the ash, and do not try to vacuum it, the agency warns.
- Use a small shovel or scoop and put the ash into double plastic bags. If the ash and embers are in a pan under the grate, put the entire pan into the bag.
- Put the scoop or shovel into the plastic bag.
- With wet paper towels or pieces of

cloth wipe the remaining ash and embers from the fireplace floor and surrounding area two times. Also wipe all fireplace tools and the artificial logs. Put the wiping materials in the plastic bag.

• Put the face mask or respirator into the plastic bag.

• Use a piece of string or a garbage-bag tie to close the inside plastic bag tightly. Do not try to get the air out of the bag. Then, use a piece of string or tie to close the outside bag.

• Immediately wash all clothing worn while cleaning. The clothing should be washed separately from other clothing or household articles. Do not shake clothing before washing. Take a bath or shower immediately following the cleanup.

• Attach a label to the bag and print in large letters: CAUTION: CONTAINS ASBESTOS, AVOID BREAKING OR PUNCTURING THE BAG.

• Do not burn or incinerate the bag or put it in a trash compactor. Call your local environmental services agency or sanitation or health department for instructions on disposal. These agencies are listed in the white pages of your telephone directory.

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the Federal Hazardous Substances Act because of the desirability of avoiding possibly lengthy, resource-consuming, and inefficient rulemaking proceedings under the Federal Hazardous Substances Act and because of the availability of civil penalties under the CPSA. The Commission also believes that the complexity and formality of the rulemaking proceedings under the FHSA, in contrast to rulemaking proceedings under the CPSA, may make it difficult for interested persons to participate. Therefore, emberizing material containing respirable free-form asbestos shall be regulated under the CPSA.

(Sec. 30(d), Pub. L. 92-573, 86 Stat. 1231 as amended, 90 Stat. 510 (15 U.S.C. 2079(d)))

Interested persons are invited to submit, on or before August 29, 1977 written comments regarding this proposal. Written comments and any accompanying data or material should be submitted preferably in five copies, addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the Office of the Secretary, Third Floor, 1111 18th St. NW., Washington, D.C. during working hours Monday through Friday.

Dated: July 26, 1977.

SHELDON D. BUTTS,
Assistant Secretary, Consumer
Product Safety Commission.

[FR Doc 77-21813 Filed 7-26-77 8:45 a.m.]

[16 CFR Parts 1304 and 1305]

RESPIRABLE FREE-FORM ASBESTOS

Proposal To Ban Certain Patching Compounds and Artificial Emberizing Materials (Embers and Ash)

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed banning rules.

SUMMARY: In this document, the Commission proposes to ban two consumer products containing asbestos that can be inhaled (respirable, free-form asbestos): (1) consumer patching compounds used to join or repair interior walls and ceilings (mixing of the product before it is applied and sanding of the product after it is applied releases asbestos fibers that can be inhaled) and (2) artificial emberizing materials (embers and ash) made with respirable free-form asbestos for use in fireplaces to simulate live embers and ash. Based on information discussed in this notice, the Commission believes that certain types of cancer may result from inhaling asbestos fibers released during the use of these products.

Part A of the preamble to this document deals with the general characteristics of asbestos that are applicable to both products proposed to be banned. Part B deals with consumer patching compounds. Part C deals with artificial emberizing materials.

DATES: (1) For consumer patching compounds containing respirable free-

form asbestos, the proposed effective date is 30 days after publication of any final banning rule. Written comments on the proposal must be submitted by August 29, 1977. There will be an opportunity for interested persons to orally present data, views, or arguments on Monday, August 15, 1977 at 10 a.m., at the Commission hearing room, 3rd Floor, 1111 18th Street NW., Washington, D.C. Those wishing to make oral presentations should notify the Office of the Secretary by August 8, 1977.

(2) For artificial emberizing materials containing respirable free-form asbestos, the proposed effective date is the day of publication of any final banning rule. Written comments on the proposal must be submitted by August 29, 1977. There will be an opportunity for interested persons to orally present data, views, or arguments on Monday, August 15, 1977 at 10 a.m. Those wishing to make oral presentations should notify the Office of the Secretary by August 8, 1977.

ADDRESSES: Written comments should be submitted to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Persons wishing to make oral presentations should contact Richard A. Danca in the Office of the Secretary 202-634-7700. All material which the Commission has that is relevant to this proceeding, including any comments that may be received on this proposal, may be seen in, and copies may be obtained from the Office of the Secretary of the Commission, 3rd Floor, 1111 18th Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

John Liskey, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207 (301-492-6557).

SUPPLEMENTARY INFORMATION: The Commission has received the following three petitions requesting the banning of consumer patching compounds and artificial emberizing materials (embers and ash) containing respirable free-form asbestos:

HP 76-18: On July 15, 1976, the Natural Resources Defense Council (NRDC) and Consumers Union (CU) petitioned the Commission under the Federal Hazardous Substances Act (FHSA) to ban consumer patching compounds containing asbestos that are used for drywall taping, spackling and sealing of points. The petitioners believe that high quantities of asbestos fibers remain in the air after these products are sanded and the fibers substantially increase the risk of mesothelioma and lung cancer.

HP 77-9: On February 9, 1977, the Public Citizens Health Research Group (HRG) petitioned the Commission under the FHSA in part to declare that patching compounds made with tremolitic talc containing asbestos fibers (tremolite asbestos) are banned hazardous products and an imminent hazard to the public health.

HP 77-11: On April 15, 1977, a request from Ms. Rachel Scott, that the Commis-

sion had investigated as a consumer complaint, was joined by the Environmental Defense Fund (EDF). The Commission designated the requests a petition to ban artificial emberizing materials containing respirable free-form asbestos. This product is used on artificial logs and on fireplace doors beneath them to simulate live embers and ashes.

(The parenthetical numbers listed below are citations to a list of documents consulted by the staff; the list appears below just before Conclusion and Proposal.)

The Commission has granted these petitions regarding asbestos, based on information discussed more fully below. The information consists, primarily, of data on exposure of industrial workers to respirable free-form asbestos (6) and also occasional exposures of families of workers and others in locations where free-form asbestos might be prevalent, as well as in other location (47, 31, 38). Information on exposure of the public to free-form asbestos contained in individual consumer products is limited. However, there is general scientific and medical agreement that there is no known threshold level below which it is safe for people to be exposed to respirable free-form asbestos (35). Therefore, based on the available information the Commission has decided to propose a ban of these two products. In addition, information on other consumer products that may contain respirable free-form asbestos will continue to be developed in order to determine whether further regulation is necessary.

The petitions, relevant scientific and technical information, and Commission conclusions are more fully described below.

Although the three petitions were filed under the Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1261, et seq., and it appears that the risks of injury from lung cancer and mesothelioma described by petitioners are regulatable under the FHSA, the Commission proposes to ban these products under the Consumer Product Safety Act (CPSA), 15 U.S.C. 2051, et seq. Section 30(d) of the CPSA, 15 U.S.C. 2064(d), as amended, provides that a risk of injury associated with a consumer product which can be eliminated or reduced to a sufficient extent by action under a transferred Act, such as the FHSA, may nevertheless be regulated under the CPSA if the Commission, by rule, determines that regulation under the CPSA is in the public interest. Also published in this issue of the FEDERAL REGISTER are proposed rules issued in accordance with section 30(d) of the CPSA stating the Commission's finding that it is in the public interest to ban the products described herein under the CPSA.

PART A. BACKGROUND

"Asbestos" is a general term for any of several varieties of mineral fibers composed of silica, oxygen, hydrogen, and other elements such as sodium, calcium, iron, or magnesium. The name is derived from the ancient Greek term for

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release or fiber in the general environment from all sources.

Proper disposal of present inventories is also expected to pose no significant problems since it would account for a minor portion of all asbestos disposal.

The potential environmental (i.e., health) effects of the use of substitutes is, however, an issue which merits further study by the Commission and other agencies. No conclusions about the safety of the known substitutes have yet been made. Although the Commission has no evidence that the known substitutes are hazardous, there appears to be some concern in the industry on this point. Laboratory testing may be desirable to verify this point.

The Commission requests comment on other environmental issues as well as those raised here.

EFFECTIVE DATE

The Commission has assessed the possible effects on the relevant industries of banning consumer patching compounds. Staff research indicates that asbestos-free products can probably be in distribution in about six months. The Commission also considered the possible increased hazard to consumers that might result from banning the distribution of patching compounds 30, 180, and 360 days after publication of a final banning rule. The possible increased hazard to consumers that could arise during these different time periods was considered in the context of the assessment that asbestos from patching compounds poses a significant household fiber exposure risk to consumers using or enjoying patching compounds in their homes, although it may not pose a significant environmental fiber exposure hazard. On this basis, the Commission proposes that the manufacture, sale, offering for sale, importation and distribution in commerce of consumer patching compounds be prohibited 30 days after publication by the Commission of a final banning rule. This prohibition would apply to products in inventory as well as to those manufactured after the effective date of the final regulation.

PART C. ARTIFICIAL EMBERIZING MATERIALS (ASH AND EMBERS) CONTAINING RESPIRABLE FREE FORM ASBESTOS

Artificial emberizing materials for fireplaces are generally packaged in "emberizing" kits. The emberizing material is placed under artificial logs in gas-burning fireplace systems or in artificial fireplaces for decorative purposes. The product is also glued to artificial logs, either at a factory, or by a consumer using an emberizing kit. When subjected to high temperatures, the asbestos in this product produces a glow like real embers and ash. Asbestos fibers are released when the emberizing material containing asbestos is sprinkled on the fireplace floor, when glue used by the consumer to attach the material to an artificial log melts at high temperatures, and when ordinary household air currents and downdrafts cause the asbestos in the simulated embers and ash to become

airborne. Not included in this ban are synthetic logs, generally manufactured of cellulosic products and wax, which actually are ignited and consumed by the flames.)

EVALUATION OF THE RISK

Measurements are not available of the amounts of asbestos in the air from asbestos-containing emberizing materials in homes. However, it appears that the amount of airborne asbestos in such homes would increase when air currents in the home are created by downdrafts from a fireplace chimney or other activities that stir air in any room. Since emberizing materials may contain up to 50 percent asbestos, which if not permanently bound into artificial fireplace logs would be in respirable form, the risk associated with emberizing materials is considerable since it continues to exist 24 hours a day.

INDUSTRY RESOURCE CONSIDERATIONS

ASSESSMENT OF SUBSTITUTES

The elimination of asbestos from emberizing material may result in the use of substitutes which are similar to asbestos, or which impart similar qualities to the product. Virtually all of the manufacturers have developed asbestos-free emberizing material as of June, 1977. There are at least three substitutes for asbestos currently being used in artificial emberizing material: porous glass, vermiculite and a synthetic fiber with asbestos-like heat-resistant qualities.

It appears that the synthetic-fiber mixture is substantially more costly than the other mixtures, including those containing asbestos. The other two substitute mixtures may be somewhat more costly to produce, depending on local raw material availability, prevailing local prices, etc. The vermiculite-only embers may not be as effective in creating the desired "glowing" look, more of the material may be required to achieve the same degree of effect provided by the asbestos-containing mixture. It is doubtful that the price of emberizing kits will be significantly affected unless a large shift to the use of synthetic-fiber-containing material occurs.

ENVIRONMENTAL ISSUES

The Commission has assessed the environmental effects of this proposal as required by the National Environmental Policy Act. Its assessment is on file at the Office of the Secretary of the Commission and indicates, by negative declaration, that no significant effects on the environment are foreseen by the proposals issued below.

As noted in Part B, asbestos is a ubiquitous mineral fiber that has been used for many years in the U.S. in occupational settings and in building construction. This has led to low-level, but widespread, exposure of the public. Asbestos is found in the air, water, and land (in minute concentrations relative to those found in or near asbestos mines or processing facilities). The elimination of asbestos from emberizing kits is not expected to reduce free fiber emis-

sions significantly, either nationally or regionally (most of the manufacturers are located in California). A significant portion of household fiber release is accounted for by this product, however, in homes so equipped. The Commission will issue guidelines to minimize consumer exposure to floating fibers during a cleanup and disposal of embers. Significant effects are not expected from the ban itself other than increased safety in individual homes.

The potential environmental (i.e., health) effects of the use of substitutes is, however, an issue which merits further study by the Commission and other agencies. There is little information concerning the safety of the ember material substitutes. Further study is currently under way to collect information about these substitutes and to assess the potential health effects of their use. (Fibrous glass and the synthetic fiber are similar in shape and size to chrysotile, for example).

The Commission requests comment on other environmental issues as well as those raised here.

EFFECTIVE DATE

The Commission has assessed the possible effects on the relevant industries of banning artificial fireplace embers containing free asbestos. It appears that many manufacturers have ceased shipment of asbestos-containing merchandise. The Commission has also considered the possible increased hazard that might result from banning the distribution of this product, 30, 180, and 360 days after publication of a final banning rule. The continuing availability of respirable free-form asbestos to consumers during these differing time periods and the necessity for developing and transmitting to the public information on environmentally safe means of removing the product from consumers' homes was also reviewed. Based on these considerations, the Commission proposes that the manufacture, sale, offering for sale, importation and distribution in commerce of artificial fireplace emberizing material (embers and ash) containing respirable free-form asbestos be prohibited on the day of publication by the Commission of a final banning rule. This prohibition would apply to products in inventory as well as to those manufactured after the effective date of the final regulation.

PART D. UNREASONABLE RISK OF INJURY AND FEASIBILITY OF STANDARDS

The Commission finds that these products are being and will be distributed in commerce. The Commission has considered all the information currently available to it on the risks of injury concerning respirable free-form asbestos in the products discussed above including the frequency and severity of injuries and the nature of the risks associated with these products. The Commission preliminarily determines that the presence of respirable free-form asbestos in consumer patching compounds and in artificial emberizing materials (embers

50. Whitwell, P. and Rawcliffe, R. M.: Diffuse Malignant Pleural Mesothelioma and Asbestos Exposure. *Thorax* 26:6-22 (1971).

CONCLUSION AND PROPOSAL

Based on the foregoing information, the Commission proposes to declare that consumer patching compounds containing respirable, free-form asbestos and consumer patching compounds containing respirable free-form asbestos are banned hazardous products.

Accordingly, pursuant to provisions of the CPSA (sections 8, 9, 30(d), 86 Stat. 1215-17, 1231, as amended, 90 Stat. 506, 510; 15 U.S.C. 2057, 2058, 2079(d)), the Commission proposes that Title 16, Chapter II, be amended by adding to Subchapter B the following new Parts 1304 and 1305.

PART 1304—BAN OF CONSUMER PATCHING COMPOUNDS CONTAINING RESPIRABLE FREE-FORM ASBESTOS

Sec.

1304.1 Scope and application.

1304.2 Purpose.

1304.3 Definitions.

1304.4 Consumer patching compounds as banned hazard products.

1304.5 Effective date.

AUTHORITY: Secs. 8, 9, 30(d), Pub. L. 89-573, as amended, Pub. L. 94-284, 86 Stat. 1215-17, 1231 as amended, 90 Stat. 506, 510 (15 U.S.C. 2057, 2058, 2079(d)).

§ 1304.1 Scope and application.

(a) In this Part 1304 the Consumer Product Safety Commission declares that consumer patching compounds containing respirable free-form asbestos and designed for use in such a manner that the asbestos fibers can become airborne under reasonably foreseeable conditions of use are banned hazardous products under sections 8 and 9 of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2057 and 2058). This ban applies to patching compounds which are (1) used to cover, seal or mask cracks, joints, holes and similar openings in the trim, walls, ceilings, etc. of building interiors, which after drying are sanded to a smooth finish and (2) are produced and distributed for sale to or for the personal use, consumption or enjoyment of a consumer in or around a permanent or temporary household or residence, a school, in recreation or otherwise.

(b) The Commission has found that (1) these patching compounds are being or will be distributed in commerce; (2) that they present an unreasonable risk of injury; and (3) that no feasible consumer product safety standard under the CPSA would adequately protect the public from the unreasonable risk of injury associated with these products. The ban applies to patching compounds described in this Part which are in commerce or being distributed in commerce on or after the effective date of the ban.

§ 1304.2 Purpose.

The purpose of this rule is to ban consumer patching compounds containing respirable, free-form asbestos. These products present an unreasonable risk of injury due to inhalation of fibers which increase the risk of developing lung cancer

and mesothelioma, diseases which have been demonstrated to be caused by exposure to asbestos fibers.

§ 1304.3 Definitions.

(a) The definitions in section 3 of the Consumer Product Safety Act (15 U.S.C. 2052) apply to this Part 1304.

(b) "Asbestos" means a group of mineral fibers composed of silica, oxygen, hydrogen and other elements such as sodium, iron, magnesium and calcium in diverse combinations and includes the following minerals: amosite, chrysotile, crocidolite, anthrophyllite asbestos, actinolite asbestos, and tremolite asbestos.

(c) "Free-form asbestos" is that which is not bound, woven, or otherwise "locked-in" to a product by resins or other bonding agents, or those from which fibers can readily become airborne with any reasonably foreseeable use.

(d) "Patching compounds" are mixtures of talc, pigments, clays, casein, ground marble, mica or other similar materials and a binding material such as asbestos which are sold in a dry form ready to be mixed with water, or such combinations in ready-mix paste form.

(e) "Consumer patching compounds" are those that are customarily produced or distributed for sale to or for the personal use, consumption or enjoyment of consumers in or around a permanent or temporary household or residence, a school, in recreation or otherwise. The Commission considers that patching compounds for application in these consumer environments are either distributed for sale to consumers or are for the personal use or enjoyment of consumers.

§ 1304.4 Consumer patching compounds as banned hazardous products.

On the basis that airborne asbestos fibers present the hazards of lung cancer and mesothelioma to the public, consumer patching compounds containing respirable free-form asbestos are banned hazardous products.

§ 1304.5 Effective date.

Thirty days after publication of final rule.

PART 1305—BAN OF ARTIFICIAL EMBERIZING MATERIALS (ASH AND EMBERS) CONTAINING RESPIRABLE FREE-FORM ASBESTOS

Sec.

1305.1 Scope and application.

1305.2 Purpose.

1305.3 Definitions.

1305.4 Artificial fireplace ash and embers as banned hazardous products.

1305.5 Effective date.

AUTHORITY: Secs. 8, 9, 30(d), Pub. L. 89-573, as amended, Pub. L. 94-284; 86 Stat. 1215-17, 1231 as amended, 90 Stat. 506, 510 (15 U.S.C. 2057, 2058, 2079(d)).

§ 1305.1 Scope and application.

In this Part 1305 the Consumer Product Safety Commission declares that artificial emberizing materials (ash and embers) containing respirable free-form asbestos generally packaged in an emberizing kit for use in fireplaces, and

designed for use in such a manner the asbestos fibers can become airborne under reasonably foreseeable conditions of use are banned hazardous products under sections 8 and 9 of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2057 and 2058). This ban applies to artificial emberizing materials available in separate kits or with artificial fireplace logs for use in fireplaces and sprinkled or coated by consumers on the artificial logs to simulate live embers and ashes and give a glowing appearance when subjected to high temperatures. Bags of material containing asbestos and sold separately to be sprinkled on and under artificial logs to simulate burning and glowing ashes also come within the scope of this ban.

§ 1305.2 Purpose.

The purpose of this rule is to ban artificial emberizing materials containing respirable free-form asbestos. These products present an unreasonable risk of injury due to inhalation of fibers which increase the risk of developing lung cancer and mesothelioma, diseases which have been demonstrated to be caused by exposure to asbestos fibers.

§ 1305.3 Definitions.

(a) The definitions in section 3 of the Consumer Product Safety Act (15 U.S.C. 2052) apply to this Part 1305.

(b) "Asbestos" means a group of mineral fibers composed of silica, oxygen, hydrogen and other elements such as sodium, iron, magnesium and calcium in diverse combinations and includes the following minerals: amosite, chrysotile, crocidolite, anthrophyllite asbestos, actinolite asbestos, and tremolite asbestos.

(c) "Free-form asbestos" is that which is not bound, woven, or otherwise "locked-in" to a product by resins or other bonding agents, or those from which fibers can readily become airborne with any reasonably foreseeable use.

(d) "Emberizing materials" means an asbestos-containing material generally packed in an "emberizing" kit to be placed under artificial logs in gas-burning fireplace systems or in artificial fireplaces for decorative purposes. The product is also glued to artificial logs, either at a factory or by a consumer using an emberizing kit. Synthetic logs manufactured of cellulosic products which are consumed by flames are not included in this definition.

§ 1305.4 Artificial fireplace ash and embers as banned hazardous products.

On the basis that airborne asbestos fibers present the hazards of lung cancer and mesothelioma to the public, artificial fireplace ash and embers containing respirable free-form asbestos are banned hazardous products.

§ 1305.5 Effective date.

Date of publication of final rule.

Regarding proposed Parts 1304 and 1305 interested persons are invited to

EXAMPLE

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