

FILE NAME: Drywall Spackling Compounds (DWSC)

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DOCUMENT DESCRIPTION: Letter to Consumer Product Safety Commission from Barry Castleman RE Proposed Ban on Asbestos-Containing Consumer Products

August 24, 1977

Ms. Sadye Dunne
Secretary, Consumer Product
Safety Commission
1111 18th Street, N.W.
Washington, D. C. 20207

Dear Ms. Dunne:

I am writing to comment further on the Commission's proposed ban on asbestos-containing consumer products (42 Fed. Reg. 38782, July 29, 1977). These remarks follow from my statements at the Commission's hearing of August 15, 1977, on asbestos and address three subjects: enforcement of the proposed ban; keeping the banned products from being dumped on the world market; and regulating other asbestos-containing consumer products.

At the August 15 hearing on the proposed rules, U.S. Gypsum announced that elimination of asbestos in its patching compounds had been achieved with little or no problem in either consumer acceptance or product cost and quality. The only industry representative to plead for approval of continued asbestos use in patching compounds was Mr. Rhodes of Union Carbide. He said at first that patching compounds had been a major market for Union Carbide's asbestos fiber, but later admitted in response to a Commission request for a customer list that Union Carbide had just lost its last customer who used asbestos in this product line. So it appears that the Commission has, by announcing its intention to ban these products, already achieved partial success: there may be no one left in the U.S. making drywall patching compounds with asbestos anymore.

There is, of course, still a major problem in intercepting goods that are in the consumer "pipeline." These products have an infinite potential shelf life and are often warehoused without systematic stock rotation; thus, it is possible for the goods to take years in transit from manufacturer to consumer. For example, the asbestos-containing U.S. Gypsum patching compound purchased in a

retail outlet and used by Mr. Rhodes in June, 1977, had been manufactured in 1974. U.S. Gypsum attorney Mike Melton told me of seeing a similar product in 1976 that had been manufactured by his company in 1967, as noted in a letter to the Commission from the Natural Resources Defense Council (April 27, 1977).

In order to enforce its ban, the Commission will need to make every effort to find out who has manufactured these products in the past; when manufacture was discontinued, what inventory is still "in the pipeline" to consumers, etc. (The records of companies selling asbestos fiber should prove useful here.) The Commission will also need this information to assure that the banned goods are not simply dumped on the world market. I urge the Commission to use its authority to keep banned asbestos-containing products out of international commerce to the extent possible. If it is not possible under current statutes to prevent the export of some of this material, the Commission should at least find out who intends to export it and where. The intended recipient government should then be told about the products and the reasons for banning them; and the export of the product to the recipient country should be delayed until approval is signified by the country. By taking the most restrictive posture regarding export of banned consumer products, the Commission will provide the best incentives to industry to manufacture safe products in the first place. In "Export Policy Briefing Paper," authored by Mr. Edward J. Heiden (to Mr. Richard E. Rapps, dated July 17, 1977), policy implications for three types of banned products are listed. For products "whose risk of injury and death are overwhelming" he suggests that the U.S. government bear total responsibility for keeping them out of world commerce, and ban exports.

There remain many other products containing asbestos that warrant action by the Commission. Some of these products are mentioned in the April 27, 1977 letter from NRDC. Other products, such as asbestos paper, are listed in the promotional brochure from the Grant Wilson Company of Chicago that I submitted at the August 15, 1977 hearing. The asbestos industry has never been cooperative in revealing unsafe uses of asbestos. However, the Commission might benefit by consulting the California Department of Health, which is registering all industrial users of asbestos under threat of \$500 fine for not registering by September 1, 1977. A recent news release on this (enclosed) estimates that 70,000 California employers use asbestos. The inventory of their asbestos uses should provide the Commission with a host of consumer products needing regulation.

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I will be interested in the Commission's future actions on asbestos, as well as CPSC follow-through on the bans proposed July 29, 1977. I hope the Commission will call on me if I can be of help in the future on asbestos.

Sincerely,

Barry I. Castleman

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NUMBER: 318-77
FOR RELEASE: IMMEDIATE

DATE: 8/16/77
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Starting this week, warning letters are being mailed to 70,000 California employers believed to be using asbestos, a proven cause of human cancer, alerting them to the September 1 deadline for reporting asbestos workplace use to the State.

Reporting is required by a State law which took effect this year in an effort to prevent job-related cancer.

"Asbestos is the most widely used of the 16 cancer-causing substances now regulated by the State in places of employment," said State Health Director Jerome A. Lackner, M.D. "Employers who fail to report asbestos use by September 1 risk a \$500 fine. While the fine is significant, so is the health hazard to workers of this cancer-causing substance which employers must ensure is safely used."

Dr. Lackner and Donald Vial, director of the State Department of Industrial Relations, both signed these employer alert letters because their departments jointly administer the program to protect California workers against job-related cancer.

"California is the first and only State to so thoroughly regulate the use of asbestos," said Vial, adding:

"Our Cal/OSHA inspectors will be closely watching for unreported and unsafe asbestos use during their routine, unannounced inspections of places of employment.

"Serious safety violations involving asbestos, and any of the other 15 cancer-causing substances under State regulation, can bring private sector employers \$1,000 fines and repeat violation fines of \$5,000. While public employers are exempt from the fines, they are obliged to report asbestos use and to follow safe working practices with asbestos and the other regulated substances."

(more)

Industry sources estimate 135,000 California workers yearly may be exposed to asbestos fibers on their jobs.

A mineral prized for its strength, versatility and fire-resistant qualities, asbestos has some 3,000 commercial uses, including in automotive brake linings and clutches, pipe manufacturing, shipbuilding, fireproofing and construction.

In addition to lung cancer, asbestos fibers are known to cause a rarer form of cancer called mesothelioma, and asbestosis, a lung-scarring disease which impairs lung function. Typically, these diseases are detected only years after prolonged, excessive exposure to asbestos fibers.

Occupations with significant potential exposure to asbestos include shipyard workers, asbestos and insulation workers, pipefitters, construction and demolition workers, and mechanics who work with auto, bus or truck brakes and clutches.

A mailing of about 40,000 letters is going to employers in a variety of industries, and also to utilities and public agencies which are believed on the basis of State industrial classification records to be asbestos users.

These employers must report asbestos use to the State Division of Industrial Safety, 455 Golden Gate Avenue, San Francisco, CA. 94102, giving type of use and the number of employees exposed.

A separate asbestos alert letter is being sent approximately 30,000 employers who operate brake repair shops, garages and auto dealerships, giving them information on the reporting requirement and the health hazards of working with asbestos-lined brakes and clutches. The brake shop letter explains that if the operators are yearly registrants with the State Bureau of Automotive Repair they are automatically registered with the State Division of Industrial Safety, fulfilling their reporting obligation under the new law.

Commented Director Vial:

"The reporting process is uncomplicated. It will provide California with the nation's first major statewide compilation of the many places of employment using asbestos and how many workers may be exposed to it. The registration list will give us a cost-effective data base to help us target inspections in areas of high exposure potential and, thus, better protect California workers against job-related cancer."