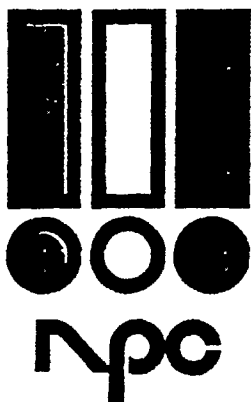


IMMEDIATE ACTION

**NATIONAL
PAINT &
COATINGS
ASSOCIATION**

August 30, 1977



Bondex International, Inc.
P.O. Box 88
Brunswick, OH 44212

PLAINTIFF'S EXHIBIT

BOND-517

Gentlemen:

Your company may have received a letter from S. John Byington, Chairman of the Consumer Product Safety Commission, dated August 12, 1977 in which he stated "the Consumer Product Safety Commission voted to propose a ban on the manufacture and sale of consumer patching compounds." A copy of the proposed banning notice, which was published in the Federal Register July 29, 1977, was enclosed.

During the past two weeks our Association has received a number of inquiries from member companies requesting clarification of the contents of Chairman Byington's letter and the accompanying Federal Register Notice which did propose a ban on "consumer patching compounds containing respirable free-form asbestos." Certain key definitions from the Federal Register Notice are repeated for emphasis in an attachment to this letter.

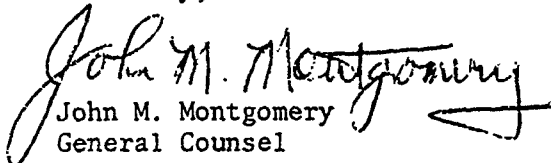
As proposed, the ban would apply to the manufacture, sale, offering for sale and distribution in commerce of consumer patching compounds "containing respirable free-form asbestos" thirty days after publication by the Commission of a final rule. However, with regard to the latter, the Commission has received comments requesting that the effective date be changed so that the ban would become effective upon publication of a final rule. Such an action would result in declaring all "consumer patching compounds containing respirable free-form asbestos" as banned hazardous substances on the date of publication of the final rule in the Federal Register. The latter would include products in commerce, at the point of manufacture, in distribution or at retail.

You should be aware that Section 19 of the Consumer Product Safety Act (CPSA) makes it unlawful for any person to "manufacture for sale, offer for sale, distribute in commerce or import into the United States any consumer product which has been declared a banned hazardous product by a rule under this Act." The effect of this section is to require that all such banned products be eliminated/removed from all channels of commerce.

Any person who knowingly violates Section 19 of CPSA shall be subject to a civil penalty not to exceed \$2,000 for each such violation. A violation of Section 19 shall constitute a separate offense with respect to each consumer product involved, except that the maximum civil penalty shall not exceed \$500,000 for any related series of violations.

We understand that issuance of the final banning rule is a "top priority" matter with the Commission. Therefore, if your company would be adversely affected as a result of a possible change, advancing the proposed effective date, or if you feel the proposed 30 day effective rule should be extended, or if you believe the "definitions" in the proposal should be clarified, you are urged to comment. While the official comment period closed on August 29th, your comments might be considered if filed immediately -- by telegram or other communication -- to: Secretary, Consumer Product Safety Commission, 1111 - 18th Street, N.W., Washington, D. C. 20207.

Sincerely,


John M. Montgomery
General Counsel

JMM:rw
Attachment

Proposed Rulemaking under Consumer Product Safety Act for
"Consumer Patching Compounds (and Artificial Emberizing Materials)
Containing Respirable Free-Form Asbestos"

(42 F.R. 38782-38791; July 29, 1977)

16 CFR Part 1304 -- BAN OF CONSUMER PATCHING COMPOUNDS CONTAINING
RESPIRABLE FREE-FORM ASBESTOS

Section 1304.1 covers "Scope and application" of the rule, and reads, in pertinent part, as follows:
".... 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) * * *."

Section 1304.3 contains proposed Definitions:

(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."

Section 1304.4 proposes to declare as banned hazardous substances ONLY those consumer patching compounds containing respirable free-form asbestos.

#