PLAINTIFF'S EXHIBIT

CAP-1368

A/C Pipe
Producers Association

Internal Correspondence

TO: Public Affairs Committee
International Affairs Committee

FROM: J. F. Welch/ajb
J. F. Welch, Director, Public Affairs

DATE: July 2, 1981

SUBJECT: CPSC Regulations of Interest to A/C Pipe Industry

ACTION REQUIRED: Review for information

On June 30, 1981, the Regulatory Information Service Center published the Calendar of Federal Regulations which "provides a comprehensive overview of important regulations that agencies are developing and a summary of the analytical bases for them." The Calendar is an adjunct to the semi-annual Regulatory Agendas required under Executive Order 12291.

The following attachments summarize Comsumer Product Safety Commission (CPSC) regulations relevant to the A/C pipe industry:

Attachment 1:	Consumer Products Containing Asbestos
Issue:	The potential risks of asbestos fibers released into air by consumer products. Is A/C pipe a "consumer product" within the meaning of the Consumer Product Safety Act and the Federal Hazardous Substance Act?

If you have any questions, please do not hesitate to call.

JFW/ajb

Enclosure

cc: A. Kahn, Esq.
N. Rahn, Esq.
N. Battle
Special Counsel
Asbestos Institute
W. E. Smith, M.D.

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ATTACHMENT 1

Workgroup in determining the most effective statutes for possible controls on the use of benzidine dyes and benzidine congener dyes, and is investigating regulatory options.

The National Cancer Institute (NCI), National Institute of Occupational Safety and Health (NIOSH), the Stanford Research Institute, Consumer Product Safety Commission (CPSC), Occupational Safety and Health Administration (OSHA), and the Environmental Protection Agency (EPA), plan to meet periodically with the Dyes Environmental and Toxicology Organization (DETO) to perform a systematic study of dyes and to recommend dyes to the National Toxicology Program (NTP) for carcinogenicity testing.

Timetable

The Commissioners granted a petition and directed the staff to prepare a proposed ban. The proposed ban will be completed in fall 1981.

NPRM—Fall 1981.

Public Hearing—Fall 1981.

Public Comment Period—Fall 1981.

Commission Decision/Order—Fall 1981.

Regulatory Flexibility Analysis—Fall 1981.

Regulatory Impact Analysis—The Commission, as an independent agency, is not required to prepare a Regulatory Impact Analysis as defined under E.O. 12291. However, the Commission prepares essentially the same information in its rulemaking proceedings.

Available Documents

"CPSC Staff Briefing Packages" dated February 26, 1979 and September 24, 1980 are available from the Office of the Secretary, 1111 18th St., N.W., U.S. Consumer Product Safety Commission, Washington, DC 20207.

Agency Contact

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CPSC

Consumer Products Containing Asbestos

Legal Authority

Consumer Product Safety Act, 15 U.S.C. § 2051 *et seq.*; Federal Hazardous Substance Act, 15 U.S.C. § 1261 *et seq.*

Reason for Including This Entry

Asbestos is a known human carcinogen used in a variety of products. The Consumer Product Safety Commission (CPSC) believes this to be an issue of great interest to the public because of serious potential health hazards that may be involved when consumers are exposed to inhalable asbestos fibers.

Statement of Problem

The Consumer Product Safety Commission (CPSC) is concerned that the presence of asbestos in consumer products under certain conditions may present a risk of cancer and respiratory disease to consumers. CPSC could act to protect the public from exposure to asbestos fibers in consumer products by issuing a standard or ban concerning asbestos-containing products, requiring labeling of consumer products containing asbestos, encouraging some form of voluntary action by industry, or taking other action.

The CPSC staff has completed a review of the health effects of asbestos which causes the staff to believe that, under certain conditions, the presence of asbestos in consumer products may present a risk of cancer and respiratory disease. The health hazard occurs when asbestos fibers are released into the air and people inhale them. Inhaled asbestos fibers may become embedded in lung tissue and once embedded they may remain there indefinitely. Asbestos fibers that are released from consumer products can remain in household air for long periods of time and may subject household members to a continuous risk of fiber inhalation.

Consumer products are one source of exposure to asbestos fibers; there are also a number of environmental sources. Therefore, consumer products must be viewed as part of a cumulative burden of asbestos exposure.

Asbestos released from consumer products poses several problems in the household. First, young children and infants are exposed. Second, asbestos fibers that consumer products release into the living space can remain there over long periods of time and may be subject to repeated cycles of settling and resuspension. The presence of asbestos fibers can thus pose an ongoing inhalation risk in the household. Third, unlike the workplace, where engineering control systems and protective clothing are available to minimize worker's exposure to asbestos, the home provides household members with little or no protection from exposure to asbestos fibers released from consumer products.

In a Calender of Federal Regulations entry published November 24, 1980 (45 FR 77883) the Commission stated its concern about consumer exposure to asbestos fibers. This Calendar statement on asbestos described an ANPRM we issued in October 1979 (44 FR 60057). The purpose of the ANPRM was to inform the public of the Commission's concern and to announce the initiation of a Commission investigation of asbestos in consumer products. The Commission is considering comments and information received in response to the ANPRM in determining regulatory options we might pursue.

One example of CPSC action on products containing asbestos is hairdryers. As a result of information indicating that certain hairdryers released asbestos fibers during use, CPSC asked the National Institute for Occupational Safety and Health (NIOSH) of the Department of Health, Education, and Welfare (now the Departments of Education and Health and Human Services) to conduct tests. The results showed that some hairdryers released asbestos fibers into the air stream and directly on the user's head during ordinary use; thus, any fibers the hairdryers emitted could potentially be inhaled.

As a result of negotiation between the Commission's staff and firms which share approximately 50 percent of the consumer hairdryer market, the firms agreed to cease production and distribution of hairdryers containing asbestos and to offer consumers some form of repair, replacement, or refund for hairdryers they currently own.

We do not know exactly how many asbestos-containing products are available to the consumer. CPSC has initiated a program to test various products for asbestos fiber release and issued a General Order (December 22, 1980, 45 FR 84384) to manufacturers (including importers) of certain categories of consumer products to submit information on the use of asbestos in their products. CPSC staff will examine the information received in response to the order to help identify specific products containing asbestos, to determine how the asbestos is used in the products, and to analyze the use of possible substitute materials in a variety of applications. The CPSC staff review of this information will also aid in evaluating the impact of possible regulation on the cost, availability, and utility of the products.

The staff is concentrating its evaluation on certain types of products. We will focus initial action on products which show definite fiber release. We

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may make subsequent efforts to investigate other products which contain asbestos.

Alternatives Under Consideration

On the basis of health research and economic studies, the Commission may consider remedial options which would reduce risks to consumers from asbestos-containing consumer products from which asbestos fibers may be released.

In making its determination of whether or not to take action, the CPSC will consider detailed risk and economic findings. The CPSC will also take into account the function performed by the asbestos in the product, the cost to industry and consumers of the regulations and the availability of substitutes for the asbestos and the safety of such substitutes.

In cases in which we do not know the asbestos content and whether there is any fiber release, the staff will continue to test products for any asbestos fiber emission.

Summary of Benefits

Sectors Affected: The general public.

The primary benefit of asbestos regulations is to reduce consumer exposure to a known human carcinogen.

Asbestos fiber inhalation has been linked with lung cancer, asbestosis and mesothelioma (cancer of the pleura—the membranes surrounding the lung). These diseases can inflict pain and are often fatal. They may cause large financial burdens due to medical expenses that result. The CPSC believes that by reducing the release of asbestos from consumer products it will help alleviate some of these unfortunate consequences.

Summary of Costs

Sectors Affected: Asbestos mining industry; and all manufacturers, wholesale and retail traders, and users of products containing asbestos.

The CPSC estimates that some economic impact may occur on industry in those cases where a mandatory regulation concerning asbestos-containing products occurs. Currently, studies are being made to determine potential costs to industry in developing substitutes for asbestos in consumer products.

Related Regulations and Actions

Internal: In 1979, the Consumer Product Safety Commission issued an ANPRM. The purpose of the ANPRM was to inform the public of the Commission's concern and to announce the initiation of a Commission investigation of asbestos in consumer products. In April 1980, the Commission granted a petition to ban asbestos paper and in July of 1980, the Commission cosponsored with EPA a workshop on asbestos substitutes. The Commission issued a general order (45 FR 84384) in December 1980 seeking information on asbestos in certain products. The Commission has initiated a testing program for the purpose of testing certain products for asbestos fibers released under typical use conditions.

External: The Environmental Protection Agency (EPA) issued on January 26, 1981 (46 FR 8200) a proposal for comment on a life-cycle reporting and recordkeeping requirement on asbestos. In September 1980, EPA published a corrective action program for school buildings containing asbestos.

The Occupational Safety and Health Administration (OSHA), during spring 1980, published for comments a proposal for reducing occupational exposure to asbestos from 2 fibers per cubic centimeter to 100,000 fibers per cubic meter.

Active Government Collaboration

We have worked closely with the Environmental Protection Agency to ensure that our efforts to investigate and possibly regulate the use of asbestos will be coordinated, compatible, and nonduplicative. EPA simultaneously published an ANPRM in October 1979 which describes that Agency's systematic effort to gather information on groups of asbestos products, and to evaluate risk from these products based on the "life-cycle" concept. In the life-cycle analysis, the Agency examines cumulative risk from human exposure to asbestos from primary processing through end use and disposal. The CPSC's ANPRM describes an approach to the investigation of possible health risks that may be associated with the use of asbestos in a number of consumer products.

Through close cooperation in our regulatory endeavors, EPA and CPSC hope to achieve the following three objectives. The first is to reduce significantly, through complementary actions, unreasonable human health risk from exposure to asbestos. The second is to reduce potential reporting burdens on industry by coordinating information-gathering activities. Third, to avoid inconsistent or needlessly burdensome regulations, we will develop regulatory actions that may result from these investigations in close consultation with each other.

CPSC published, jointly with EPA, an ANPRM on consumer products containing asbestos in the Federal Register of October 17, 1979 (44 FR 60057). Comments on that ANPRM have been received and reviewed.

Timetable

Regulatory Impact Anaylsis—The Commission, as an independent agency, is not required to prepare a Regulatory Impact Analysis as defined under E.O. 12291. However, the Commission prepares essentially the same information on its own rulemaking proceedings.

Development of Future Regulatory Actions—To be determined.

Available Documents

CPSC—Consumer Products Containing Asbestos; Advance Notice of Proposed Rulemaking—44 FR 60057, October 17, 1979.

Briefing Package of Comments on Advance Notice of Proposed Rulemaking, September 1980, and briefing package on Petition to Ban Asbestos Paper, April 1980.

Asbestos: General Order for Submission of Information, December 22, 1980 (45 FR 84384).

Proceedings of the Workshop on Asbestos Substitutes, February 1981.

16 CFR Parts 1304 and 1305: Ban on asbestos-containing patching compounds and emberizing materials, January 1977.

Copies are available from the Office of the Secretary, 1111 18th St., N.W., U.S. Consumer Product Safety Commission, Washington, DC 20207.

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CPSC

Omnidirectional Citizens Band Base Station Antenna Standard (16 CFR Part 1402)

Legal Authority

Consumer Product Safety Act §§ 7 and 14, 15 U.S.C. §§ 2056 and 2063.

Reason for Including This Entry

This standard may impose a major increase in costs or prices for antenna manufacturers, distributors, retailers, and purchasers.

Statement of Problem

One hundred thousand omnidirectional Citizens Band (CB) base station antennas are sold annually in the United States. The Consumer

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