FILE NAME: Drywall Spackling Compounds (DWSC)

DATE: 1977 Aug 24

DOC#: DWSC067

DOCUMENT DESCRIPTION: Letter to the Consumer Product Safety Commission from Barry Castleman

CCHO-77-1 30

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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 Kelton 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.

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 Castleman

Barry I. Castleman