

effects on competition or disruption or dislocation of manufacturing and other commercial practices consistent with the public health and safety. The adverse effects of the ban on patching compounds containing asbestos is reduced by limiting the ban to intentionally added asbestos. Other alternatives such as limiting the scope of the ban only to products purchased and used by consumers or to issuing a ban with a later effective date, were considered by the Commission. However, none was found that would cause less disruption or dislocation of manufacturing and other commercial practices, consistent with public health and safety.

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

Sec.

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AUTHORITY: Secs. 8, 9, 30(d), Pub. L. 92–573, as amended, Pub. L. 94–284; 86 Stat. 1215–17, as amended, 90 Stat. 506 (15 U.S.C. 2057, 2058).

SOURCE: 42 FR 63364, Dec. 15, 1977, unless otherwise noted.

§ 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 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 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 that are sold sepa-

rately 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 cancers such as 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 hydrated silicates, oxygen, hydrogen and other elements such as sodium, iron, magnesium and calcium in diverse combinations and are: Amosite, chrysotile, crocidolite, anthophyllite 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. Electric artificial logs and artificial ash beds used in electric fireplaces, which do not contain respirable free-form asbestos 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 cancer such as lung cancer and mesothelioma