

July 8, 2015

Chairman Elliot Kaye
U.S. Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814

Dear Chairman Kaye:

I write on behalf of EWG Action Fund to express our serious concern about the presence of asbestos in children's toys. EWG Action Fund is a 501(c)(4) organization whose mission is to protect health and the environment by educating the public and advocating on a wide range of environmental issues, including the ongoing hazards posed by asbestos, which is still legal, lethal, and found across the United States.

Earlier this year, EWG Action Fund commissioned the Scientific Analytical Institute in Greensboro, N.C., a laboratory accredited for detection of asbestos by the National Institute of Standards and Technology, to conduct a series of tests for asbestos in crayons and toy crime scene kits. Using transmission electron microscopy ("TEM"), the Scientific Analytical Institute found asbestos in four brands of crayons and in two toy crime scene kits. Samples that tested positive were retested by another government-certified laboratory for confirmation. I have enclosed EWG Action Fund's report, released today (July 8), for your reference.

CPSC has known for more than a decade that asbestos-contaminated talc may be present in crayons. The Commission called for industry to reformulate crayons almost fifteen years ago, in August of 2000.¹ Although many major retailers have removed talc from their products, EWG Action Fund's testing and report indicate that asbestos is still present in crayons manufactured abroad and imported into the United States. CPSC's request for voluntary action thus has not resolved the problem, and asbestos continues to contaminate children's crayons sold in the U.S. EWG Action Fund calls on CPSC to revisit its earlier findings and require the removal of talc that may be contaminated with asbestos from children's crayons.

Similarly, CPSC has known since 2007 of the presence of asbestos in toy crime scene kits but has declined to take action to regulate this carcinogen. In 2007, the Asbestos Disease Awareness Organization found asbestos in CSI: Crime Scene Investigation kits, which led to a class action lawsuit against CBS Broadcasting, Inc., and several major retailers.² Like the CSI kits, the kits tested by EWG Action Fund contain fingerprinting powder that the child brushes or blows into

¹ U.S. Consumer Product Safety Commission, *CPSC Staff Report on Asbestos Fibers in Children's Crayons* 8 (2000) [hereinafter CPSC, *Children's Crayons*].

² Public Justice, *Proposed Settlement with CBS and Toy Retailers to Give Refunds for "CSI" Toy Fingerprint Kits That May Contain Asbestos* (July 1, 2009), <http://www.asbestosdiseaseawareness.org/archives/303>.

the air when “dusting for fingerprints.” The powder, which in two instances was contaminated with asbestos, becomes airborne and is easily inhaled, placing children at significant risk.

CPSC is tasked with protecting the public from unreasonable risks of injury from consumer products,³ including regulating hazardous substances in children’s toys.⁴ It is well established, and CPSC itself recognizes, that the inhalation of asbestos fibers can lead to mesothelioma, lung cancer, and asbestosis,⁵ and that there is no safe level of asbestos exposure.⁶ Asbestos is a toxic substance that presents a significant exposure risk to children when contained in the fingerprinting powder of toy crime scene kits. It thus meets the definition of a “hazardous substance” under 15 U.S.C. § 1261, warranting CPSC regulation.

EWG Action Fund urges CPSC to investigate asbestos contamination in children’s products and take all necessary precautions to protect children from the dangers of asbestos exposure. EWG Action Fund respectfully requests the opportunity to meet with and brief the Commission about our findings in greater detail.

Sincerely,

A handwritten signature in cursive script that reads "Heather White".

Heather White
EWG Action Fund

³ 15 U.S.C. § 2051.

⁴ 15 U.S.C. §§ 1262(a), 1269(a).

⁵ CPSC, *Children’s Crayons*, *supra* note 1, at 7.

⁶ Occupational Safety & Health Admin., *Safety and Health Topics: Asbestos*, <https://www.osha.gov/SLTC/asbestos/> (last visited July 2, 2015).