

# United States Senate

WASHINGTON, DC 20510

July 8, 2015

Chairman Elliot F. Kaye  
U.S. Consumer Product Safety Commission  
4330 East West Highway, Suite 817  
Bethesda, MD 20814

Dear Chairman Kaye:

We are deeply concerned by the report<sup>i</sup> issued by the Environmental Working Group showing two independent laboratories found the presence of asbestos in children's products, specifically crayons and toy fingerprint analysis kits imported from China. We write to urge you to take appropriate measures to ensure children's products are safe from asbestos hazards.

Asbestos are fibrous minerals occurring in nature that have been used commercially in a wide variety of products, including building materials, automotive parts, art materials, household appliances, and more.<sup>ii</sup> While mining of asbestos in the United States stopped in 2002, asbestos and asbestos-containing materials continue to be imported<sup>iii</sup> and consumer products containing asbestos or asbestos-containing materials are present in homes, schools, offices, and elsewhere.<sup>iv</sup>

Asbestos was recognized as a hazardous air pollutant in 1971.<sup>v</sup> Asbestos becomes a health danger when fibers are inhaled or ingested. Exposure to asbestos can cause lung cancer, mesothelioma, and asbestosis.<sup>vi</sup> These diseases have long latency periods, and the negative health effects may continue even after the exposure to asbestos has stopped. The U.S. Surgeon General, Dr. Vivek H. Murthy, recently issued a statement warning Americans of the health dangers of exposure to asbestos.<sup>vii</sup>

The EWG Report describes an investigation in which four boxes of children's crayons and children's forensics and fingerprinting kits contained asbestos. The crayons were products made in China and purchased by EWG from two national retail brick-and-mortar stores, Party City and Dollar Tree. The crime scene kits were also made in China but purchased online through Amazon.com and ToysRUs.com. According to the EWG report, "The asbestos found in the tested products was most likely a contaminant of talc used as a binding agent in the crayons and in powder in the crime scene fingerprint kits."

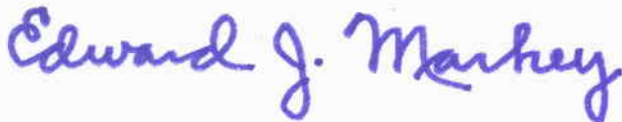
The presence of asbestos in crayons – 15 years after the problem was first investigated by the Consumer Product Safety Commission<sup>viii</sup> – serves as a serious reminder that asbestos can be found where we least expect it. The discovery of asbestos in popular children's crime lab kits also is not a first-time occurrence. In 2007 similar products sold as CSI: Crime Scene Investigation™ Fingerprint Analysis Kits were found to have asbestos, retailers voluntarily recalled the products,<sup>ix</sup> and the kits' manufacturer filed for Chapter 7 bankruptcy protection.<sup>x</sup> Customer comments on Amazon.com,<sup>xi</sup> for example, illustrate the confusion and indicate that even consumers aware of the problems in 2007 may have mistakenly assumed that the product, if offered for sale today, "[P]robably is safe by this point. They must've released a version without one of the deadliest forms of asbestos..."<sup>xii</sup> This most recent finding of asbestos should

serve as a wakeup call that we all need to do more to keep our children safe from toys and other products containing asbestos.

The dangers of children ingesting or inhaling asbestos dust – such as that found in these toys – are undeniable. This is at least the third time in the last 15 years that asbestos-contaminated talc was discovered in children’s products. Parents should not have to play “toy box roulette,” not knowing whether the products they buy for their children will seriously sicken or injure them. CPSC should ban talc from children’s products and issue a rule on asbestos modeled on the existing rules for lead or phthalates in toys.

We appreciate your prompt attention to this issue and want to work with you to ensure the CPSC has adequate tools and resources to keep American consumers safe from asbestos-containing products. Please provide us with the Commission’s plans on how it will intercept asbestos-containing children’s products before they put more American kids at risk.

Sincerely,



Edward J. Markey  
United States Senator



Richard Durbin  
United States Senator

<sup>i</sup> Bill Walker and Sonya Lunder. “EWG Action Fund Tests Find Asbestos in Kids’ Crayons, Crime Scene Kits: Even trace exposures to lethal asbestos fibers can cause cancer, other diseases.” July 8, 2015. Available at <http://www.asbestosnation.org/facts/tests-find-asbestos-in-kids-crayons-crime-scene-kits/>

<sup>ii</sup> *E.g.*, Environmental Protection Agency, Learn about Asbestos, <http://www2.epa.gov/asbestos/learn-about-asbestos#asbestos>

<sup>iii</sup> Robert L. Virta. USGS 2013 Minerals Survey: Asbestos. October 2014. Available at <http://minerals.usgs.gov/minerals/pubs/commodity/asbestos/myb1-2013-asbes.pdf>

<sup>iv</sup> See, *e.g.*, Environmental Protection Agency. Where Can I find Asbestos? <http://www2.epa.gov/asbestos/learn-about-asbestos#find> and Agency for Toxic Substances & Disease Registry. Types of Asbestos Exposure [http://www.atsdr.cdc.gov/asbestos/asbestos/types\\_of\\_exposure/](http://www.atsdr.cdc.gov/asbestos/asbestos/types_of_exposure/)

<sup>v</sup> 36 FR 3031 (Mar 31, 1971)

<sup>vi</sup> *E.g.*, National Cancer Institute, Asbestos Exposure and Cancer Risk, <http://www.cancer.gov/about-cancer/causes-prevention/risk/substances/asbestos/asbestos-fact-sheet>

<sup>vii</sup> Statement by the U.S. Surgeon General Dr. Vivek H. Murthy on National Asbestos Awareness Week 2015. Apr. 2, 2015. Available at <http://www.surgeongeneral.gov/news/2015/03/pr20150402.html>

<sup>viii</sup> U.S. Consumer Product Safety Commission. CPSC Staff Report on Asbestos Fibers in Children’s Crayons. August 2000 Available at <http://www.cpsc.gov/pagefiles/108033/crayons.pdf> and CPSC Releases Test Results on

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Crayons, Industry to Reformulate. June 13, 2000. Available at <http://www.cpsc.gov/en/newsroom/news-releases/2000/cpsc-releases-test-results-on-crayons/>

<sup>ix</sup> Environmental Working Group. Major U.S. Retailers to Pull Asbestos Tainted Toy from Shelves. December 21, 2007. <http://www.ewg.org/news/news-releases/2007/12/21/major-us-retailers-pull-asbestos-tainted-toy-shelves>

<sup>x</sup> See, e.g., AP. Fingerprint Toy Kit May Contain Asbestos. CBS News. December 22, 2007. <http://www.cbsnews.com/news/fingerprint-toy-kit-may-contain-asbestos/>; Public Justice Foundation. Proposed Settlement with CBS and Toy Retailers to Give Refunds for 'CSI' Toy Fingerprint Kits That May Contain Asbestos. July 1, 2009. <http://publicjustice.net/content/proposed-settlement-cbs-and-toy-retailers-give-refunds-csi-toy-fingerprint-kits-may-contain->

<sup>xi</sup> See comments at [http://www.amazon.com/CSI-Scene-Investigation-Fingerprint-Analysis/forum/Fx2W4W6QGX2HHU0/-/1/ref=cm\\_cd\\_al\\_af\\_ql?encoding=UTF8&asin=B00187Y528](http://www.amazon.com/CSI-Scene-Investigation-Fingerprint-Analysis/forum/Fx2W4W6QGX2HHU0/-/1/ref=cm_cd_al_af_ql?encoding=UTF8&asin=B00187Y528) (“Hmmm as far as I know it is [safe]. My 6 year old has played with it and hasn’t had any issues”; “...can you certify this is asbestos free?”)

<sup>xii</sup> Comment posted September 6, 2014 [http://www.amazon.com/CSI-Fingerprint-Examination-Kit-recalled-/forum/Fx2W4W6QGX2HHU0/Tx2A1X162NDUQ5N/1/ref=cm\\_cd\\_ql\\_tlc\\_al?encoding=UTF8&asin=B00187Y528](http://www.amazon.com/CSI-Fingerprint-Examination-Kit-recalled-/forum/Fx2W4W6QGX2HHU0/Tx2A1X162NDUQ5N/1/ref=cm_cd_ql_tlc_al?encoding=UTF8&asin=B00187Y528)