#254

U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, D.C. 20207

6(b) CLEARED: 3/15/84
No Mfrs Identified
X Exempted: Not CPSC Jurisd.
Mfrs Identified
Comments Processed

NOV 3 1977

Mr. Louis W. Jones
511 Verano Court
San Mateo, California 94402

Dear Mr. Jones:

Your petition dated September 19, 1977, in which you request labeling for battery-powered smoke detectors containing americium 241, has been referred to this office for a reply.

The Consumer Product Safety Act (15 U.S.C. 2051-2081) authorizes the Commission to issue labeling regulations for most types of consumer products (as that term is defined in section 3(a)(1) of the Act). However, section 31 of the Act provides that "[t]he Commission shall have no authority under this Act to regulate any risk of injury associated with a consumer product if such risk could be eliminated or reduced to a sufficient extent by actions taken under . . . the Atomic Energy Act of 1954 . . . ." Americium 241 is a "byproduct material" as defined in the Atomic Energy Act of 1954 and is therefore subject to regulation by the Nuclear Regulatory Commission under that Act. Accordingly, because of section 31 of the Consumer Product Safety Act, the Consumer Product Safety Commission has no authority under that Act to issue the regulation which you have requested.

Since americium 241 is a byproduct material, it is also excluded from the definition of "hazardous substance" and is not subject to regulation under the Federal Hazardous Substances Act. In addition, the Commission does not have the authority under any other act to issue a regulation of this type.

254

ADVISORY OPINION
#254

Since the Commission does not have the authority to issue the regulation you have requested, your correspondence has not been docketed as a petition and I have taken the liberty of forwarding your correspondence to the Nuclear Regulatory Commission, Washington, D.C. 20555, for whatever action they deem appropriate. (That Commission's regulations, at 10 CFR 32.26, presently permit licenses to manufacture, process, produce, import, or transfer such smoke detectors, and the possession of these products by consumers is authorized by 10 CFR 30.20.)

Please contact me if I can be of any further assistance.

Sincerely,

Stephen Lemberg

Stephen Lemberg
Assistant General Counsel
Office of the General Counsel

cc: Nuclear Regulatory Commission
Washington, D.C. 20555

October 13, 1977

In reply refer to #C77100140

Louis W. Jones
511 Verano Court
San Mateo, Calif. 94402

Re: Smoke Detectors

Dear Mr. Jones:

We wish to acknowledge receipt of your letter of September 19, petitioning the Commission to take immediate action to inform the public of the nature of the basic ingredient in battery-powered smoke detectors. Your letter has been called to the attention of the Office of the Secretary of the Commission responsible for petitions.

Since your complaint also involves areas which do not come within the jurisdiction of our Commission, we are referring it for you to the agency below for whatever action that office may be able to take in your behalf.

Referred to: Food & Drug Administration
Bureau of Radiological Health
5600 Fishers Lane
Rockville, Maryland 20857

Sincerely,

Abigail Fritz
Consumer Response and
Information Division

cc:
FDA · AFit
OS -
OFFICAL
CCR
694/AFritz/lhh

Lou Jones
511 VERANO COURT
SAN MATEO, CALIF. 94402

September 19, 1977

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U. S. Consumer Product Safety Commission
Washington
D. C. 20207

Gentlemen:

I hereby petition your agency to take immediate action to inform the general public as to the nature of the basic ingredient of the battery-powered smoke detectors that are now flooding the market.

The public should know these devices have been banned by the Japanese government; that they contain americium 241, a radioactive waste product with a half-life of 460 years; that some highly respected members of the scientific community believe americium to be even more of a risk than plutonium 239 because it is more readily taken up by animals and plants that are part of the human food chain.

The public should be told that the foil container, while surviving extensive tests, is not eternally indestructible; that it has melted in some hot fires.

The public should be told the probable effects if particles of americium should become imbedded in human tissue, as by inhalation or ingestion.

The public should be told there is a risk, but that, solely as a matter of opinion, the advantages outweigh the risks.

I am told that you have a legal obligation to respond to this request of mine within a definite period of time.

Respectfully,

Louis W. Jones

Louis W. Jones

P.S.
I resent the sneaky method used by government and industry to introduce radioactive poison (in any amount) into millions of American homes.