

Consent order requiring a trade association and 25 manufacturers of certain plastics products, among other things to alert users of cellular (or foamed) plastics products to the serious hazards these products may present in case of fire; to cease using descriptive terms which could mislead users as to the performance of the products under actual fire conditions; and to establish a \$5 million public research program into the flammability of these products.

Complaint

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Appearances

For the Commission: *Miriam A. Bender, Eric M. Rubin and Edwin Dosek.*

For the respondents: *Keller & Heckman*, Washington, D.C., for the Society of the Plastics Industry, Inc. *Thomas D. Kent*, Morristown, N.J., for Allied Chemical Corporation. *William Simon & John Bodner*, Howery, Simon, Baker & Murchison, Washington, D.C. *Thomas C. Cochran & Barry Lipson*, Pittsburgh, Pa. for ARCO Polymers, Inc. *Thomas A. Dieterich, Shearman & Sterling*, New York, N.Y. *Robert E. Dunn*, Parsippany, N.J., for BASF Wyandotte Corporation. *Ronald J. Finch, Cravath, Swaine & Moore*, New York, N.Y. *Arnold M. Lerman & Jack B. Owens, Wilmer, Cutler & Pickering*, Washington, D.C. for Baychem Corporation. *M. D. Blackwell & Larry L. McMullen, Blackwell, Sanders, Matheny, Weary & Lombardi*, Kansas City, Mo. for Cook Paint and Varnish Co. *Harold F. Baker, Howery, Simon, Baker & Murchison*, Washington, D.C. for the Dow Chemical Company. *William E. Kirk, Wilmington, Del. John S. Koch and Daniel M. Gribbon*, Washington, D.C. for E. I. Dupont De Nemours & Co., Inc. *J. E. Fogarty, T. H. Parke & J. L. Tomaselli*, White Plains, N.Y. for the Flintkote Company. *Edward T. Russell*, Leominster, Mass. *Emery Morton & Alan Shaver*, Leominster, Mass. *William E. Willis, Sullivan & Cromwell*, New York, N.Y. for Foster Grant Company, Inc. *William E. Willis, Sullivan & Cromwell*, New York, N.Y. *Tress E. Pittenger, John H. Dalton & Dennis H. Markusson*, Akron, Ohio for The General Tire & Rubber Company. *O. Mario Favorito*, Cambridge, Mass. *Leo A. Larkin*, New York, N.Y. for W. R. Grace & Co. *A. W. Chambers*, Stamford, Conn. for Hooker Chemicals & Plastics Corp. *Robert D. Wilson*, Houston, Tex. for Jefferson Chemical Company, Inc. *Charles Burton, Battle, Fowler, Lidstone, Jaffin, Pierce & Kheel*, New York, N.Y. for Millmaster Onyx Corporation. *Edward T. Tate, Reed, Smith, Shaw & McClay*, Washington, D.C. for Mine Safety Appliances Company. *Harold F. Baker, Howery, Simon, Baker & Murchison*, Washington, D.C. for Monsanto Company. *William A. Sutton, Cravath, Swaine & Moore*, New York, N.Y. *Arnold M. Lerman & Jack B. Owens, Wilmer, Cutler & Pickering*, Washington, D.C. for Olin Corporation. *William A. Kreutz*, Toledo, Ohio for Owens-Corning Fiberglas Corporation. *Robert R. MacIver*, Pittsburgh, Pa. for PPG Industries, Inc. *George S. Flint*, New York, N.Y. for Tenneco Chemicals, Inc. *Justin J. Karl*, New York, N.Y. for Union Carbide Corporation. *Lawrence D. Lenihan, Arthur, Dry & Kalish*, New York, N.Y. for Uniroyal, Inc. *Stuart C. Gaul*, Pittsburgh, Pa. for United States Steel Corporation. *Henry P. Sailer, Covington & Burling*, Wash-

ington, D.C. *Lawrence W. Klute*, Kalamazoo, Mich. for The Upjohn Company. *H. Richard Penn, Bachner, Tally & Mantell*, New York, N.Y. *Robert D. Hughes*, New York, N.Y. for Witco Chemical Corporation.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that the parties named in the caption hereof, hereinafter more particularly described and designated as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent companies and members of the class are engaged in manufacturing, processing, fabricating, installing, offering for sale, selling or distributing certain plastics products or their chemical components, defined herein to include cellular polyurethane and all forms of polystyrene and its copolymers and chemical components of such products, which are specified in the design, purchased or used in the construction and furnishing of homes, buildings and other structures (hereinafter referred to as "Plastics Products").

PAR. 2. Respondent companies are as follows:

Respondent Allied Chemical Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York. The business address of its principal office and place of business is P. O. Box 1057R, Morristown, N.J.

Respondent BASF Wyandotte Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Michigan, with its principal office and place of business located at 100 Cherry Hill Road, Parsippany, N.J.

Respondent Baychem Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its principal office and place of business located at 425 Park Avenue, New York, N.Y.

Respondent Cook Paint and Varnish Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 1412 Knox Street, North Kansas City, Mo.

Respondent the Dow Chemical Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at Bennett Building, 2030 Dow Center, Midland, Mich.

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Respondent E. I. duPont de Nemours & Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 100 Market Street, Wilmington, Del.

Respondent the Flintkote Company, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Massachusetts, with its principal office and place of business located at 400 Westchester Avenue, White Plains, N.Y.

Respondent Foster Grant Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 289 No. Main Street, Leominster, Mass.

Respondent the General Tire & Rubber Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its principal office and place of business located at One General Street, Akron, Ohio.

Respondent W. R. Grace & Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Connecticut, with its principal office and place of business located at 62 Whittemore Avenue, Cambridge, Mass.

Respondent Hooker Chemical Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 1515 Summer Street, Stamford, Conn.

Respondent Jefferson Chemical Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 3336 Richmond Avenue, Houston, Tex.

Respondent Millmaster Onyx Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 99 Park Avenue, New York, N.Y.

Respondent Mine Safety Appliances Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its principal office and place of business located at 400 Penn Center Boulevard, Pittsburgh, Pa.

Respondent Monsanto Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 800 No. Lindbergh Blvd., St. Louis, Mo.

Respondent Olin Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Virginia,

with its principal office and place of business located at 120 Long Ridge Road, Stamford, Conn.

Respondent Owens-Corning Fiberglas Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at Fiberglas Tower, Toledo, Ohio.

Respondent PPG Industries, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its principal office and place of business located at One Gateway Center, Pittsburgh, Pa.

Respondent Rohm & Haas Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at Independence Mall West, Philadelphia, Pa.

Respondent Sinclair-Koppers Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at Koppers Building, Pittsburgh, Pa.

Respondent Tenneco Chemicals, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 280 Park Avenue, New York, N.Y.

Respondent Union Carbide Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 270 Park Avenue, New York, N.Y.

Respondent United States Steel Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 600 Grant Street, Pittsburgh, Pa.

Respondent Uniroyal, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its principal office and place of business located at Naugatuck, Conn.

Respondent the Upjohn Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 7000 Portage Road, Kalamazoo, Mich.

Respondent Witco Chemical Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 277 Park Avenue, New York, N.Y.

PAR. 3. The several hundred companies listed in the Society of Plastics Industry, Inc., 1970-1971 Directory, under the heading: "SPI Company Members in the United States," which companies are identified therein as engaged in manufacturing, processing, fabricating, installing, offering for sale, selling or distributing Plastics Products as defined herein, share a community of interest and constitute a class for purposes of this proceeding. The number of such companies is so numerous that joinder of all members of the class as individually named party respondents is impractical. Each member of said class is adequately represented and can be defended in this proceeding by the named respondents, which are named individually as respondents and as representatives of the entire class.

PAR. 4. Respondent associations are as follows:

A. Respondent The Society of the Plastics Industry, Inc., (hereinafter "SPI"), is organized as a not-for-profit corporation and exists under and by virtue of the laws of the State of New York. Its principal office and place of business is located at 250 Park Avenue, New York, N.Y. Respondent SPI is a trade association organized in 1937 to promote the application and use of plastics. It has some 1,200 industry members composed in large part of firms which manufacture, process, and market plastics products or materials, chemical components thereof, or equipment used in such manufacturing or processing, including the several hundred firms of the class which perform such operations with respect to Plastics Products as defined herein. Respondent SPI has been and is now engaged through various operating units in a wide range of activities of mutual interest to its members, including, but not limited to providing a means for collective action on the part of member companies. For example, through members' collective action in conjunction with others, hundreds of codes and regulations of all kinds have been modified or rewritten by numerous regulatory bodies or officials, thus opening or expanding market opportunities for plastics. In addition, technical data, test methods and standards have been developed by a number of SPI operating units and standards have been proposed by such units for promulgation by respondent American Society for Testing and Materials and by other bodies concerned with standards. Certain respondent companies and other members of the class actively participate in the management and operation of respondent SPI and of the SPI Cellular Plastics Division, and are or have been active participants in presenting and implementing the views and interests of the entire class in the management and operation of such units.

B. Respondent American Society for Testing and Materials (hereinafter "ASTM"), is organized as a not-for-profit corporation and exists

under and by virtue of the laws of the State of Pennsylvania. Its principal office and place of business is located at 1916 Race Street, Philadelphia, Pa., and it was originally formed in 1898. It formulates and disseminates standards and test methods by which the physical properties and performance characteristics of a wide range of products (*e.g.*, metals, cement, glass, petroleum products, paper, woods, rubber, textiles, plastics and various chemicals) are, or may be determined, evaluated, predicted or described. Certain respondent companies and other members of the class are members of, or have representatives or employees who are members of or participate in respondent ASTM, and in the process by which certain of that organization's standards and test methods have been and are formulated and developed. In particular, said companies or their representatives or employees are now, or in the past have been, members of ASTM Committee D-20 on Plastics or ASTM Committee E-5 on Fire Tests of Materials in Construction, or both, and of various subcommittees or sections of such or other committees, and are now, or in the past have been, active participants in presenting and implementing the views and interests of the entire class in the management and operation of such units.

PAR. 5. In the course and conduct of their business each respondent company and other members of the class has caused, and now causes, its plastics products to be shipped and distributed from its place of business or other points of manufacture or storage located in various States of the United States to purchasers and users thereof located in various other States of the United States. Said respondents and other members of the class have promoted and induced the specification, purchase and use of plastics products in the construction and furnishing of homes, buildings and other structures by means of their membership and participation, whether directly or through representation by others, in the operation and management of respondent associations, through brochures and other sales promotional materials transmitted by means of the United States mails, through specification sheets and advertisements published in Sweet's Architectural Catalog File, or in other trade publications of general circulation, and by various other means. Accordingly, each of the respondent companies and other members of the class has maintained, and now maintains, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 6. In the course and conduct of their businesses, as aforesaid, each of the respondent companies and other members of the class, at all time referred to herein, has been in substantial competition in commerce with the other members of the class and with other corporations,

firms, and individuals, in the sale and distribution of plastics products as defined herein, and of other products specified in the design, purchased or used in the construction and furnishing of homes, buildings and other structures.

PAR. 7. In the course and conduct of its business and operations, respondent SPI, actively promotes and has actively promoted the marketing of plastics products by taking an active part in developing and disseminating test methods and standards and by publishing and distributing, by means of the United States mails, brochures, directories and other promotional literature and materials to induce the specification, purchase and use of plastics products throughout the United States. Such activity of respondent SPI has provided respondent companies and other members of the class with a means and instrumentality by which they have promoted and marketed their plastics products throughout the United States. Accordingly, the said practices, activities and interests of respondent SPI are in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 8. In the course and conduct of its business and operations, respondent ASTM has been and is now engaged in the offering for sale, sale and distribution of its various test methods, standards and materials, including those pertaining to the physical properties and performance characteristics of plastics products marketed by respondent companies and other members of the class. Such test methods, standards and materials are shipped or distributed by means of the United States mails and by other means from respondent ASTM's office in Philadelphia, Pa., to purchasers and users thereof located in various other States of the United States. Through and by means of the development and dissemination of the test methods, standards and materials, as aforesaid, respondent ASTM has provided respondent companies and other members of the class with a means and instrumentality by which they have promoted and marketed their plastics products throughout the United States. Accordingly, the said practices, activities and interests of respondent ASTM are in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 9. Respondents have cooperated and acted together in providing the means and instrumentalities and in carrying out or acquiescing in the acts and practices hereinafter set forth. The activities of respondent associations have been dominated or unduly influenced by respondent companies and other members of the class in providing said means and instrumentalities and in carrying out or acquiescing in the said acts and practices. As a consequence, the said activities of respondent asso-

ciations constitute commercial practices and the respondent associations have become infected with a commercial intent.

PAR. 10. The Cellular Plastics Division of respondent SPI was established in Nov. 1954. Among its principal pursuits was the development of test methods to be used in determining, evaluating, predicting or describing the physical properties or performance characteristics of plastics products. One area for which test methods were developed by respondent SPI and its members was that of flammability. Working jointly and in concert with respondent ASTM, respondent SPI, through its Cellular Plastics Division and with certain respondent companies and other members of the class, was instrumental in the promulgation in 1959 of the flammability test standard designated as ASTM D-1692.

PAR. 11. Essentially, the ASTM D-1692 test, including subsequent revisions, is a small scale laboratory screening procedure which originally specified that plastics materials tested thereunder could be reported or classified by the descriptive terminology: "burning," "non-burning," or as "self-extinguishing" (as the case may be) under the test. Later revisions of the test, in 1967 and 1968, among other things, have eliminated the "non-burning" classification from the descriptive terminology. Following its promulgation, ASTM D-1692 and the descriptive terminology specified therein have been, and are now being widely utilized by respondent companies and other members of the class in the marketing of plastics products to determine, evaluate, predict or describe the burning characteristics thereof. Among and including, but not necessarily limited to the methods and forms of such use by respondent companies and other members of the class are specification sheets and promotional materials published and disseminated as aforesaid.

PAR. 12. In addition to ASTM D-1692, other small scale test methods and standards for surface flammability promulgated by respondent ASTM provide that Plastics Products tested by the method specified therein may be described as "non-burning," "self-extinguishing," or both, as the case may be. Included, but not necessarily limited to the test methods and standards providing for such descriptive terminology or expressions are those designated: ASTM D-568, 635, 757 and 1433. Other test methods and standards promulgated for surface flammability of plastics products, but which do not provide for the aforesaid descriptive terminology or expressions to be used, include but are not necessarily limited to the following: ASTM C-209, ASTM D-626, 1230, 1310 and 1361, ASTM E-108, 119, 162 and 286. The aforesaid test standards and the descriptive terminology and expressions when provided for therein have been and are now being widely utilized by many

respondent companies and other members of the class in the marketing of various plastics products in specification sheets and promotional materials published and disseminated as aforesaid.

PAR. 13. Prior to the expanded and widespread use of plastics products in building construction, the standard method for testing surface-burning characteristics of conventional or traditional building materials was ASTM E-84, which was promulgated by respondent ASTM in 1950. This test, also known as the "Steiner tunnel" test, has been and is now widely utilized and relied upon by code officials, architects, building contractors, fire and insurance officials and others in the specification, purchase or use of building materials. It has been and is now widely utilized in building codes throughout the United States for determining, evaluating, predicting or describing the burning characteristics of materials to be used in such structures. Materials tested under ASTM E-84 are evaluated as follows: Similarly-tested asbestos cement board and select grade red oak flooring are arbitrarily assigned flame spread ratings of 0 and 100, respectively. If the flame spread of the specimen being tested is equal to that of red oak, it is classified and may be described under the test as having a flame spread of 100; if twice as great, then 200. A flame spread of 25, for example, would mean that the flame spread of the specimen tested was only one quarter that of red oak and could be described as "25 flame spread." A flame spread of 25 or less under this test standard qualifies a construction material to be classified as "noncombustible" under a substantial number of building codes in effect in localities throughout the United States. Certain of the plastics products as defined herein have been so classified under this test. ASTM E-84 has been, and is now being, widely utilized by respondent companies and other members of the class in the marketing of plastics products to determine, evaluate, predict or describe the burning characteristics thereof. Among and including, but not necessarily limited to the methods and forms of such use are specification sheets and promotional materials published and disseminated as aforesaid.

PAR. 14. Commencing in the early 1960's and continuing particularly from 1967 through to the present, the increasing use of plastics products has been encouraged and fostered by the development, adoption or use of the several aforesaid ASTM standards and test methods through the joint or concerted action of respondent associations, respondent companies and other members of the class, and by the widespread dissemination and publication of specification sheets and sales promotional materials containing references to and reliance upon said standards and to such descriptive terminology or expressions as "self-extinguishing," "nonburning," "25 flame spread" or terms of similar import, in *Sweet's*

Architectural Catalog File and various other trade publications utilized and relied upon by specifiers, purchasers and users of such products.

PAR. 15. By and through their separate or collective publication, dissemination or use, or their acquiescence therein, of the aforesaid ASTM test standards and descriptive terminology in the marketing of plastics products, respondents, separately or collectively, have represented, directly or indirectly:

(a) That the aforesaid ASTM test standards are reliable and accurate methods for determining, evaluating, predicting or describing the burning characteristics of plastics products under actual fire conditions.

(b) That the aforesaid descriptive terminology and expressions, including but not limited to "non-burning," "self-extinguishing," "25 flame spread," or the like, reliably and accurately describe the burning characteristics of plastics products under actual fire conditions.

PAR. 16. In truth and in fact:

(a) The aforesaid ASTM test standards are neither reliable nor accurate tests for determining, evaluating, predicting or describing the burning characteristics of plastics products under actual fire conditions.

(b) The aforesaid descriptive terminology and expressions, including "non-burning," "self-extinguishing," "25 flame spread," and the like, neither reliably nor accurately describe the burning characteristics of plastics products under actual fire conditions.

Therefore, said statements, representations, acts and practices of respondents, separately or collectively, in using, or in acquiescing in the manner and form of use of the tests, standards, descriptive terminology and expressions, as aforesaid, have been and are, unfair, false, misleading and deceptive.

PAR. 17. More than one billion pounds of plastics products as defined herein were marketed in 1972 for use in construction and home furnishings, an increase of approximately 20 percent over 1971. Examples of such uses include insulation, furniture cushioning and bedding, panels and siding, cabinets, chairs, tables, pipes and lighting and plumbing fixtures. The construction and furnishings markets for such products have been growing steadily in recent years and further increases are projected for the future. Plastics products have been and are specified, purchased and used in such markets as alternatives to more conventional and traditional materials such as wood, glass, cotton and other products and materials.

PAR. 18. The plastics products defined herein are organic materials and, as such, are combustible. Once ignited, they burn intensely and frequently produce some or all of the following fire hazards, which in many instances exceed the fire hazards associated with the burning of

products composed of more conventional and traditional materials such as wood, glass or cotton:

(a) Flame spread is more rapid, and the likelihood of the occurrence of "flashover" is increased. "Flashover" may be defined as that phenomenon which is manifested when a fire in one portion of a room or structure suddenly engulfs the entire room or structure so that most combustibles therein burn simultaneously and intensely.

(b) Extreme heat is more quickly generated than is the case with conventional cellulosic materials. Plastics products liberate significantly more BTU's per pound than conventional cellulosic materials such as wood or cotton. The rapid accumulation of heat in a room or structure can lead to an earlier "flashover" condition.

(c) Greater amounts of dense smoke are produced than accompany the burning of conventional cellulosic materials.

(d) Toxic or flammable gases or chemicals are released more quickly and there are more such gases released at various stages of the combustion process, than is the case with conventional cellulosic materials. Furthermore, in the absence of ignition or combustion, toxic or flammable gases or chemicals are released more quickly and there are more such gases released in the process of pyrolysis of plastics products (*i.e.*, chemical decomposition in the presence of sufficient heat) than is the case with conventional cellulosic materials.

(e) Polystyrene and its copolymers tend to melt or drip in the presence of fire, which can contribute materially to the spread of a blaze.

(f) Certain types of cellular polyurethane may self-ignite if improperly formulated or applied.

PAR. 19. Commencing in the mid 1960's and continuing particularly from 1967 through the present, the trade press has published accounts or articles concerning injury to persons and property as a result of fires in various structures in which plastics products were reportedly used in the construction or furnishing thereof. From time to time such reports, and similar statements of insurance, fire protection, or safety officials and other experts, have related or attributed the spread and intensity of such fires, often accompanied by dense or toxic smoke, to the presence of plastics products in the actual fire environment.

PAR. 20. The facts concerning the fire behavior characteristics of plastics products, as set forth in Paragraph Eighteen above, and the fact that in certain applications such products can present serious hazards to life and property, are material facts which, in many instances, have been and may be unknown to or not fully comprehended by specifiers, purchasers or users of such products. Among those who have been or may be ignorant or not fully cognizant of such material facts are many

architects, contractors, builders, wholesale and retail purchasers, and building code officials, in addition to owners, operators, users and occupants of homes, buildings and other structures.

PAR. 21. The manner and form of use by respondent companies and other members of the class of ASTM test standards and of the classifications, descriptive terminology and expressions specified therein in the marketing of plastic products, as alleged in Paragraphs Eleven through Thirteen hereof; the statements, representations, acts and practices of all respondents, separately or collectively, in using or in acquiescing in the manner and form of use of such tests, standards, descriptive terminology and expressions, which do not produce reliable or accurate data to determine, evaluate, predict or describe the burning characteristics of plastics products, as alleged in Paragraphs Fourteen through Sixteen hereof; and the fact that said plastics products, when used in the construction and furnishing of homes, buildings or other structures, and when present in the built environment, under actual fire conditions, can or may without the full knowledge or understanding of specifiers, users or purchasers thereof, present or increase the actual or potential risk of serious harm or damage from the hazards of fire to persons or property, as alleged in Paragraphs Eighteen through Twenty are all material facts which, from at least 1967 to the present were and are, or should have been, known to respondent associations and to the respondent companies and other members of the class, separately or collectively.

PAR. 22. Having separate or collective knowledge, whether actual or constructive, of the material facts as set forth in Paragraph Twenty-One hereof, it became the duty of all respondents, separately and collectively, to immediately formulate and implement adequate precautionary, remedial, and corrective action including, but not limited to, some or all of the following:

(a) To cease using, or permitting or acquiescing in the use of ASTM D-1692 and ASTM E-84, or any other small scale test standards, in the marketing of plastics products.

(b) To cease using, or permitting or acquiescing in the use of such descriptive terminology or expressions as: "non-burning," "self-extinguishing," "25 flame spread," or any other similar expressions, in the marketing of plastics products.

(c) To cease marketing, or permitting or acquiescing in the marketing of plastics products, without clearly warning specifiers, purchasers and users thereof concerning possible fire hazards, and adequately informing such persons concerning the requirements or conditions for their safe use.

(d) To undertake adequate and effective precautionary measures concerning existing stocks of plastics products or materials, whether in the hands of respondents or others; including but not necessarily limited to: Use of warning labels affixed thereto, and notices in contracts, in invoices, or set out in advertisements published and disseminated to the general public.

(e) To undertake appropriate measures to withdraw, rescind or nullify existing specification sheets and promotional materials containing references to the aforesaid ASTM standards and descriptive terminology, whether in the hands of respondents or others.

(f) To notify all previous purchasers, specifiers and users that said plastics products could constitute a serious fire hazard, and that neither the aforesaid ASTM test standards nor the aforesaid descriptive terminology, is accurate or reliable for determining, evaluating, predicting or describing the burning characteristics of such plastics products under actual fire conditions.

(g) To develop or to assist in developing suitable measures to correct or minimize existing fire hazards created or increased by the use of plastics products in existing homes, buildings, and other structures inhabited or used by members of the public.

PAR. 23. Respondents, whether separately or collectively, have failed in their aforesaid duty to formulate and implement adequate or effective precautionary, remedial or corrective action with respect to plastics products marketed as aforesaid. To the contrary, they continue to cooperate and act together in carrying out the acts and practices hereinabove set forth.

PAR. 24. By and through the use of the aforesaid acts and practices, respondents place in the hands of others the means and instrumentalities by and through which they may mislead and deceive the public in the manner and as to the things hereinabove alleged.

PAR. 25. The use by respondents, separately or collectively, whether directly, indirectly, or by permission or acquiescence, of the tests, standards, classifications and descriptive terminology, specifications sheets, promotional materials, statements, representations, acts and practices, their failure to disclose material facts and to undertake adequate and effective precautionary, remedial or corrective action, and their furnishing to others of the means and instrumentalities for deception as aforesaid, has had, and now has, the tendency and capacity to mislead and deceive specifiers, purchasers and users of plastics products, and has induced the specification, purchase and use of substantial quantities of such products.

PAR. 26. The separate and collective acts and practices of respondents, their failure to discontinue false and deceptive representations, and their continued failure to disclose material facts and to undertake adequate and effective precautionary, remedial and corrective action to eliminate or minimize actual or potential risks of injury or damage to life and property, as herein alleged, were, are, and continue to be unconscionable acts or failures to act, and unfair and contrary to public policy, and were, are and continue to be all to the prejudice and injury of the public and of respondents' competitors, and constituted, and continue to constitute unfair methods of competition in commerce, and unfair or deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission, having initiated an investigation of certain acts and practices of the respondents* named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the complaint to issue herein, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, and having duly considered the comments filed thereafter pursuant to Section 2.34(b) of its rules now in further conformity with the procedure prescribed in Section 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

*The Commission determined that this Decision and Order should not apply to the American Society for Testing and Materials or to Rohm & Haas Company.

1. Respondent the Society of the Plastics Industry, Inc. is a not-for-profit corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 250 Park Avenue in the city of New York, State of New York.

Respondent Allied Chemical Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its office and principal place of business located at Columbia Road and Park Avenue, in the city of Morristown, State of New Jersey.

Respondent ARCO Polymers, Inc. (formerly known as Sinclair-Koppers Company) is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its office and principal place of business located at Koppers Building, in the city of Pittsburgh, State of Pennsylvania.

Respondent BASF Wyandotte Corporation, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Michigan, with its office and principal place of business located at 100 Cherry Hill Road, in the City of Parsippany, State of New Jersey.

Respondent Baychem Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its office and principal place of business located at 425 Park Avenue, in the City of New York, State of New York.

Respondent Cook Paint and Varnish Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 1412 Knox Street, in the city of North Kansas City, State of Missouri.

Respondent the Dow Chemical Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at Bennett Building, 2030 Dow Center, in the city of Midland, State of Michigan.

Respondent E. I. Du Pont de Nemours & Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 1007 Market Street, in the city of Wilmington, State of Delaware.

Respondent the Flintkote Company, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Massachusetts, with its office and principal place of business located at 400 Westchester Avenue, in the city of White Plains, State of New York.

Respondent Foster Grant Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 289 North Main Street, in the city of Leominster, State of Massachusetts.

Respondent the General Tire & Rubber Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its office and principal place of business located at 1 General Street, in the city of Akron, State of Ohio.

Respondent W. R. Grace & Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Connecticut, with its office and principal place of business located at 1114 Avenue of the Americas, in the city of New York, State of New York.

Respondent Hooker Chemicals & Plastics Corp. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 1515 Summer Street, in the city of Stamford, State of Connecticut.

Respondent Jefferson Chemical Company, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 3336 Richmond Avenue, in the city of Houston, State of Texas.

Respondent Millmaster Onyx Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 99 Park Avenue, in the city of New York, State of New York.

Respondent Mine Safety Appliances Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its office and principal place of business located at 400 Penn Center Boulevard, in the city of Pittsburgh, State of Pennsylvania.

Respondent Monsanto Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 800 North Lindbergh Boulevard, in St. Louis County, State of Missouri.

Respondent Olin Corporation, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Virginia, with its office and principal place of business located at 120 Long Ridge Road, in the city of Stamford, State of Connecticut.

Respondent Owens-Corning Fiberglas Corporation, is a corporation organized, existing and doing business under and by virtue of the laws

of the State of Delaware, with its office and principal place of business located at Fiberglas Tower, in the city of Toledo, State of Ohio.

Respondent PPG Industries, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its office and principal place of business located at One Gateway Center, in the city of Pittsburgh, State of Pennsylvania.

Respondent Tenneco Chemicals, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at Park 80 Plaza W-1, in the city of Saddle Brook, State of New Jersey.

Respondent Union Carbide Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 270 Park Avenue, in the city of New York, State of New York.

Respondent Uniroyal, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its office and principal place of business located at Oxford Management and Research Center, in the city of Middlebury, State of Connecticut.

Respondent United States Steel Corporation, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 600 Grant Street, in the city of Pittsburgh, State of Pennsylvania.

Respondent The Upjohn Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 7000 Portage Road, in the city of Kalamazoo, State of Michigan.

Respondent Witco Chemical Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 277 Park Avenue, in the city of New York, State of New York.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and this proceeding is in the public interest.

ORDER

I

It is ordered, That Allied Chemical Corporation, ARCO Polymers, Inc., BASF Wyandotte Corporation, Baychem Corporation, Cook Paint and Varnish Company, the Dow Chemical Company, E. I. Du Pont De Nemours & Company, the Flintkote Company, Inc., Foster Grant Co., Inc., the General Tire & Rubber Company, W. R. Grace & Company,

Hooker Chemicals & Plastics Corp., Jefferson Chemical Company, Inc., Millmaster Onyx Corporation, Mine Safety Appliances Company, Monsanto Company, Olin Corporation, Owens-Corning Fiberglas Corporation, PPG Industries, Inc., Tenneco Chemicals, Inc., Union Carbide Corporation, United States Steel Corporation, Uniroyal, Inc., the Upjohn Company, and Witco Chemical Corporation (hereinafter referred to as "Respondents"), and respondents' successors, assigns, officers, representatives, agents and employees, directly or through any corporation, subsidiary, division, or any other device, in connection with the advertising, offering for sale, selling or distributing in commerce within the United States, of Products as defined in Appendix A hereof, do forthwith:

(A) Cease and desist from using, publishing or disseminating, or encouraging others to use, publish or disseminate, directly or indirectly, orally or in writing, whether or not in conjunction with or with reference to any test or standards, such descriptive terminology or expressions as: "non-burning," "self-extinguishing," "non-combustible," or any other term, expression, product designation or trade name of substantially the same meaning except that such terminology or expressions may be used with respect to any Product hereafter developed which, is, in fact, non-combustible, non-burning, or self-extinguishing as the case may be, under actual fire conditions, and except that reference may be made to numerical flame spread ratings where (in the case of written reference) the following statement is included as prominently as, and in close conjunction to, such reference:

This numerical flame spread rating is not intended to reflect hazards presented by this or any other material under actual fire conditions

or where (in the event of oral reference) a disclosure that the numerical flame spread rating is not intended to reflect hazards under actual fire conditions is made in conjunction with such oral reference. Reference to tests or standards in which such terminology appears shall not in itself be considered as prohibited by this paragraph.

(B) Individually establish and implement a program to identify previous purchasers from respondent of products, other than precursors from which such products are not directly foamed, since Jan. 1, 1968, and in conjunction with or through the Society of the Plastics Industry, Inc. (hereinafter referred to as "SPI") to supply each purchaser so identified with a notice in the form of Appendix B hereof within 120 days from the date this order becomes final.

(C) In conjunction with or through SPI, cause to be published in

each of the publications identified in Appendix C hereof a notice not less than one quarter of a page in size in the form of Appendix B or Appendix B-1 as shall be specified in Appendix C hereof.

(D) In conjunction with or through SPI, establish and implement a program to identify officials, governmental bodies and insurance underwriters and publishers of major building materials compendia concerned with fire safety codes and building codes embodying the tests or standards or terminology referred to in Appendix B and Paragraph (A) hereof, and to supply persons so identified within 120 days from the date this order becomes final with a notice in the form of Appendix B hereof.

(E) In conjunction with or through SPI, mail each member of the American Society for Testing and Materials a notice in the form of Appendix B hereof within sixty (60) days from the date this order becomes final.

(F) Collectively establish, implement and maintain a Research Program with the objectives of (a) determining the most effective manner for employing products and systems containing products to minimize hazards associated with fire in end-uses of products or such systems, (b) developing guidelines for the safe and effective use of products, and (c) developing tests or standards, including large-scale tests as well as methods by which the results of small scale tests can be correlated to provide an index of the behavior of products in various burning conditions, which will permit, to the extent feasible, accurate and reliable determination, evaluation, prediction, or description of the burning characteristics of products under actual fire conditions.

The Research Program shall be coordinated and managed by a Products Research Committee composed of nine persons of proved technical competence who are acceptable to the Federal Trade Commission and to respondents, four of whom shall at all times be representatives of the industry and none of the remainder of whom shall be representatives of a competing industry. Any vacancy on the committee shall be filled by the affirmative vote of not less than two-thirds of the remaining members of the committee; *Provided, however,* That any such vacancy occurring among the industry representatives shall be filled from a list of three nominees submitted by the Executive Committee of SPI. The Federal Trade Commission shall designate a chairman of the committee from among the members of the committee, who shall prepare agenda, preside at meetings, and sign vouchers and checks but who shall have no other responsibilities or authority greater than any other member of the committee. The committee shall keep complete and accurate

minutes of meetings, and records of all contracts, reports, test results and supporting data, and shall make such materials available to the Federal Trade Commission and to respondents on reasonable notice. The committee may implement the program by direct grants, contracts or such other means as it deems appropriate, and shall submit an annual report of program activities to the Federal Trade Commission and to respondents. All committee action, other than the filling of vacancies on the committee, shall be effected by a majority vote of the membership.

The Research Program shall have available \$5 million, not to exceed \$1.5 million in any year, in cash funds or, to the extent desired by the Products Research Committee, in manpower support or other value in kind (hereinafter all referred to as Program Funds) to be expended over a period of five years beginning on the date this order becomes final. There shall be a credit against the provision of program funds in an amount, not to exceed \$2.5 million equal to the value expended by or through SPI to support programs, including current programs, designed to accomplish an objective of the Research Program, *Provided*, That such credit shall not be allowed as to any program after a determination by the Products Research Committee that the program is not designed to accomplish, or is not accomplishing an objective of the Research Program. The Products Research Committee shall be supplied with the research contract, project proposal, and a detailed project description of each program as to which value expended by or through SPI is proposed as a credit against the provision of program funds, sufficient to show that each such program is in fact designed to accomplish an objective of the Research Program, and respondents in conjunction with or through SPI shall cause to be maintained and made available to the committee upon request, complete records concerning the operations and results of such programs. The committee shall annually review all continuing programs, including those for which credit has been extended, to determine their continued conformance with objectives of the Research Program. The balance of program funds shall be supplied by respondents, as required to meet program commitments, *Provided*, That respondents' obligation shall be *pro tanto* reduced by any supply of program funds by others, and shall be available for disbursement for the Research Program in such manner and for such programs as the Products Research Committee may direct. Respondents shall also provide such reasonable administrative support for the committee as is required for its operations, including meeting facilities, secretarial assistance, office supplies and

accounting and disbursements assistance, the cost of which shall not exceed \$25,000 per year. Nothing contained herein shall prevent the Products Research Committee from taking appropriate actions, including but not limited to the formation of a trust or non-profit corporation, for the carrying out of the objectives of this paragraph.

Program funds shall be made available based on a formula mutually agreed upon among respondents. Each respondent shall be, severally, obligated to provide only those funds specifically charged to it pursuant to said formula.

(G) Individually take all necessary and appropriate actions to inform present and future employees having managerial, sales, marketing, or research responsibility regarding products, other than precursors from which such products are not directly foamed, of the provisions of Paragraph (A) and Appendix B of this order and to enforce compliance therewith by such employees by:

- 1) furnishing each such present employee within thirty (30) days from the effective date of the order, and each such future employee within thirty (30) days of his assignment to managerial, sales, marketing, or research responsibility regarding products, with a copy of Paragraph (A) and Appendix B together with a written notice, over the signature of the respondent's chief executive officer, which promulgates the policy required in Paragraph (A); and which notifies each such person that the respondent will take appropriate disciplinary action, which shall, in the event of willful or repeated violations, consist of fine, suspension or dismissal, against any persons who engage in acts or practices prohibited by Paragraph (A);

- 2) requiring appropriate periodic written assurance from each such person that his business practices conform with the requirements of Paragraph (A).

(H) Individually submit to the Commission a report within sixty (60) days and one hundred twenty (120) days after the effective date of this order, setting forth the specific steps which the respondent has taken and intends to take during the period ending on the next anniversary of the effective date to implement the provisions of this order, and thereafter to file such a report annually beginning on the anniversary of the effective date, for a period of five (5) years, as well as such other reports relating to the subject matter of this order as the Commission may thereafter direct.

(I) Individually notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries

engaged in the manufacture or distribution of products in the United States, or any other change in the corporation which may affect compliance obligations arising out of the order.

II

It is further ordered, That the Society of the Plastics Industry, Inc. (hereinafter referred to as "Respondent" or "SPI") and respondent's successors, assigns, officers, representatives, agents and employees, directly or through any corporation, subsidiary, division, or any other device, in connection with the promotion or in commerce within the United States, of products as defined in Appendix A hereof, do forthwith:

(A) Cease and desist from using, publishing or disseminating, or encouraging others to use, publish or disseminate, directly or indirectly, orally or in writing, whether or not in conjunction with or with reference to any test or standards, such descriptive terminology or expressions as: "non-burning," "self-extinguishing," "non-combustible," or any other term, expression, product designation or trade name of substantially the same meaning except that such terminology or expressions may be used with respect to any product hereafter developed which is, in fact, non-combustible, non-burning, or self-extinguishing as the case may be, under actual fire conditions, and except that reference may be made to numerical flame spread ratings where (in the case of written reference) the following statement is included as prominently as, and in close conjunction to, such reference:

This numerical flame spread rating is not intended to reflect hazards presented by this or any other material under actual fire conditions

or where (in the event of oral reference) a disclosure that the numerical flame spread rating is not intended to reflect hazards under actual fire conditions is made in conjunction with such oral reference. Reference to tests or standards in which such terminology appears shall not in itself be considered as prohibited by this paragraph.

(B) In conjunction with or on behalf of Allied Chemical Corporation, ARCO Polymers, BASF Wyandotte Corporation, Baychem Corporation, Cook Paint and Varnish Company, the Dow Chemical Company, E. I. du Pont De Nemours & Company, the Flintkote Company, Foster Grant Co., Inc., W. R. Grace & Company, Hooker Chemicals & Plastics Corp., Jefferson Chemical Company, Inc., Millmaster Onyx Corporation, Mine Safety Appliance Company, Monsanto Company, Olin Corporation, Owens-Corning Fiberglas Corporation, PPG Industries, Inc., Tenneco Chemicals, Inc., Union Carbide Corporation, United States

Steel Corporation, Uniroyal, Inc., the Upjohn Company, and Witco Chemical Corporation (hereinafter referred to as "other Respondents") supply each purchaser identified by other respondents pursuant to their consent order with the Federal Trade Commission in File No. 732 3040, with a notice in the form of Appendix B hereof within 120 days from the date this order becomes final.

(C) In conjunction with or on behalf of other respondents, cause to be published in each of the publications identified in Appendix C hereof a notice not less than one quarter of a page in size in the form of Appendix B or Appendix B-1 as shall be specified in Appendix C hereof.

(D) In conjunction with or on behalf of other respondents, establish and implement a program to identify officials, governmental bodies and insurance underwriters and publishers of major building materials compendia concerned with fire safety codes and building codes embodying the tests or standards or terminology referred to in Appendix B and Paragraph (A) hereof, and to supply persons so identified within 120 days from the date this order becomes final with a notice in the form of Appendix B hereof.

(E) In conjunction with or on behalf of other respondents, mail each member of the American Society for Testing and Materials a notice in the form of Appendix B hereof within sixty (60) days from the date this order becomes final.

(F) Take all steps necessary and appropriate to implement and maintain the Research Program established by other respondents pursuant to Paragraph (F) of their consent order with the Federal Trade Commission in File No. 732 3040 including (1) the submission by the Executive Committee of SPI to the Products Research Committee a list of three nominees of persons of proved technical competence to fill any vacancies occurring among the industry representatives to the Products Research Committee; (2) the submission of the research contract, research proposal, and a detailed project description of each program as to which the value expended by or through SPI is proposed as a credit against the provision of program funds sufficient to show that each such program is, in fact, designed to accomplish the objectives of (a) determining the most effective manner for employing products and systems containing products to minimize hazards associated with fire in end-uses of products or such systems, (b) developing guidelines for the safe and effective use of products and (c) developing tests or standards, including large-scale tests as well as methods by which the results of small scale tests can be correlated to provide an index of the behavior of products in various burning conditions, which will permit, to the extent feasible, accurate and reliable determination, evaluation, prediction, or description of the burning characteristics of products under actual fire condi-

tions; and (3) the maintenance of complete records concerning the operations and results of programs for which such a credit is given which shall be available to the Products Research Committee upon request.

(G) Take all necessary and appropriate actions to inform present and future employees having administrative, managerial, promotional or technical responsibility regarding products, of the provisions of Paragraph (A) and Appendix B of this order and to enforce compliance therewith by such employees by:

- 1) furnishing each such present employee within thirty (30) days from the effective date of the order, and each such future employee within thirty (30) days of his assignment to administrative, managerial, promotional, or technical responsibility regarding products, with a copy of Paragraph (A) and Appendix B together with a written notice, over the signature of respondent's chief executive officer, which promulgates the policy required in Paragraph (A); and which notifies each such person that the respondent will take appropriate disciplinary action, which shall, in the event of willful or repeated violations, consist of fine, suspension or dismissal, against any persons who engage in acts or practices prohibited by Paragraph (A);

- 2) requiring appropriate periodic written assurance from each such person that his business practices conform with the requirements of Paragraph (A).

(H) Submit to the Commission a report within sixty (60) days and one hundred twenty (120) days after the effective date of this order, setting forth the specific steps which the respondent has taken and intends to take during the period ending on the next anniversary of the effective date to implement the provisions of this order, and thereafter to file such a report annually beginning on the anniversary of the effective date, for a period of five (5) years, as well as such other reports relating to the subject matter of this order as the Commission may thereafter direct.

(I) Notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries engaged in the manufacture or distribution of products in the United States, or any other change in the corporation which may affect compliance obligations arising out of the order.

APPENDIX A

For purposes of this Order, Products shall mean cellular or foamed plastic material (as

hereinafter defined) which is used in the construction of homes, buildings and similar structures, or Furniture (as hereinafter defined) in such structures, but not including flooring or flooring underlay or interior or exterior trim (as hereinafter defined), or carpet underlay or synthetic grass underlay.

As used herein, the term cellular or foamed plastic material shall mean (a) in the case of material used in the construction of homes, buildings and similar structures, a heterogeneous system comprised of at least two phases, one of which is a continuous polymeric organic material, and a second of which is deliberately introduced for the purpose of distributing a gas in voids throughout the material, thus achieving a reduction in mass density to less than 95% of the density of the unfoamed polymeric organic material, and in the case of material used in Furniture such a heterogeneous system with a density less than 20 pounds per cubic foot, and (b) both foamed and unfoamed polymeric or monomeric precursors (pre-polymer, if used) unless sold for use in other materials, but not including plasticizers, fillers and extenders, catalysts, blowing agents, colorants, stabilizers, lubricants, surfactants, pigments, reaction control agents, processing aids, and flame retardants.

As used herein, the term Furniture shall mean articles used to equip the interior of a structure, which are moveable, but shall exclude articles which are regulated or become regulated with respect to fire hazards under federal statutes or regulations.

As used herein, interior trim shall mean Products with a density of 20 pounds per cubic foot or greater used around openings or on walls or ceilings, including casings, baseboards, chair-rails, and moldings applied for decoration which do not exceed ten percent of the aggregate wall and ceiling areas of any room or space; exterior trim shall mean Products with a density of 20 pounds per cubic foot or greater used around openings, and on exterior walls and roofs, including casings, moldings and shutters, which do not exceed ten percent of the aggregate space on any wall or roof; and flooring and flooring underlay shall mean Products with a density of 20 pounds per cubic foot or greater used in flooring or flooring underlay.

APPENDIX B

Important Notice Regarding The Flammability of Cellular Plastics Used in Building Construction, and Low Density Cellular Plastics Used in Furniture

The flammability characteristics of cellular plastics used in building construction, and low density cellular plastics used in furniture are tested under numerous test methods and standards. Included among these are ASTM D-568, 635, 757, 1433, 1692, E-84, 162 and 286; UL 94 and 723; and NFPA 255. The Federal Trade Commission considers that these standards are not accurate indicators of the performance of the tested materials under actual fire conditions, and that they are only valid as a measurement of the performance of such materials under specific, controlled test conditions. The terminology associated with the above tests or standards, such as "non-burning", "self-extinguishing", "non-combustible" or "25 (or any other) flame spread" is not intended to reflect hazards presented by such products under actual fire conditions. Moreover, some hazards associated with numerical flame spread ratings for such products derived from test methods and standards may be significantly greater than those which would be expected of other products with the same numerical rating.

The Commission considers that under actual fire conditions, such products, if allowed to remain exposed or unprotected, will under some circumstances produce rapid flame spread, quick flashover, toxic or flammable gases, dense smoke and intense and immediate heat and may present a serious fire hazard. The manufacturer of the particular product or The Society of the Plastics Industry, Inc., should be consulted for instructions for use to minimize the risks that may be involved in the use of these products.

THE SOCIETY OF THE PLASTICS INDUSTRY, INC., et al.

Decision and Order

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The Federal Trade Commission, Washington, D. C. 20580 requests that any representation that is inconsistent with the terms of this Notice be brought to its attention. This Notice is distributed by The Society of the Plastics Industry, Inc., 250 Park Avenue, New York, New York 10017.

APPENDIX B-1

(To Be Used In Lieu of Appendix B As Regards Consumer Journals)

Important Notice Concerning Certain Cellular Plastics Products
The Federal Trade Commission believes that certain cellular plastic products may present serious hazards in case of fire. If improperly used or allowed to remain exposed or unprotected, these products may burn rapidly in a fire and produce dense smoke and toxic gas. Some of these products are polyurethane foam, polystyrene foam, polyvinyl chloride foam, ABS foam, cellulose acetate foam, epoxy foam, phenolic foam, polyethylene foam, polypropylene foam, urea foam, ionomer foam, silicone foam, and foamed latex. These products are sometimes used in building construction, particularly as insulation, and flexible foamed plastics of this type are sometimes used in furniture.

The Federal Trade Commission believes that terms such as "non-burning", "self-extinguishing" or "non-combustible" do not accurately reflect the hazards that may be presented by such products since in fires such products are not self-extinguishing and will burn rapidly if not properly protected.

You may have purchased these products from a building supply store or from a contractor or applicator, or they may have been installed in the original construction of your home. If you are uncertain how to minimize risks that may result from the improper use of these products you should consult The Society of the Plastics Industry, Inc., or the manufacturer.

This Notice is distributed by The Society of the Plastics Industry, Inc., 250 Park Avenue, New York, New York.

APPENDIX C

The notice set forth in Appendix B shall be published once in each of the following journals. The schedule for such publication shall be made in the first journal within each given category not more than ninety (90) days from the effective date of this Order, in the second journal within the given category the following month and in each subsequent journal during each successive month until such time as the notice has been carried once in each journal.

Architecture Journals

Journals
Architectural Digest
Progressive Architecture
Architectural Record

Building and Construction Journals

Building Products Guide
Engineering News Record
Professional Builder
House & Home
NAHB Journal of Homebuilding

Fire Protection Journals

Fire Command
Fire Chief Magazine
Fire Engineering

Furnishings Journals

Home Furnishings Daily

FEDERAL TRADE COMMISSION DECISIONS

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Complaint

Journals

Heating Plumbing & Air Conditioning D E Journal

Journals

ASHRAE Journal

Insurance Journals

Best's Review

National Underwriter

Interior Decoration

Family Handyman
Interiors

Plastics Journals

Modern Plastics
Plastic World
Plastics Design & Processing
Plastics Technology

The notice set forth in Appendix B-1 shall be published in each of the following journals not more than ninety (90) days from the effective date of this Order:

Consumer Journals:

Better Homes & Gardens
House and Garden
Time
Popular Mechanics

Farm Journals:

Farm Journal
American Farmer

IN THE MATTER OF

JAYMOR BUILDERS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
FEDERAL TRADE COMMISSION AND TRUTH IN LENDING ACTS

Docket C-2597. Complaint, Nov. 11, 1974—Decision, Nov. 11, 1974

Consent order requiring a Union, N. J., home improvement firm, among other things to cease making false statements concerning its guarantees and violating the Truth in Lending Act by failing to disclose to consumers, in connection with the extension of consumer credit, such information as required by Regulation Z.