

Statement of The Honorable Thomas H. Moore on the Ballot Vote to Issue an
ANPR on Fireworks Devices
June 30, 2006

While I am voting to go forward with this Advance Notice of Proposed Rulemaking (ANPR), I do want to express some concerns about it. First, this package is particularly thin in terms of content. It has little of the supporting information we would normally expect to see to proceed to an ANPR and I was given no briefing prior to receiving the ballot about the need for the Commission to take such a step.

Additionally, the lack of involvement of the Office of Hazard Identification and Reduction in this package is apparent. There is no memo justifying the ANPR apart from the legal memo from the General Counsel's office which is supposed to be passing judgment on the legal sufficiency of the proposal, not supplying the basis for it. This had the unfortunate and, I am sure, unintended effect of giving the public no notice that the Commission was contemplating action in this area, since the entire ballot was stamped "For Official Use Only." However, there is almost nothing in the legal memo that does not appear in the proposed Federal Register notice, so enforcement considerations should not have been a factor in keeping the public in the dark on this matter.

I have expressed concern on previous occasions about the Commission's actions being kept from public view until after a Commission vote. The Commission's deliberations are supposed to be done in public. This is why the Commission's guidelines specify that only purely routine matters should be done by ballot. We do not serve the public well when we take the first step in a possible rulemaking process in this manner. We need to be more mindful of our obligations to our stakeholders.

However, as I do consider ANPR's to be fact-finding tools and since there has been a significant upward trend in fireworks-related injuries since 1996, I will vote to gather more information in this area.