



United States
CONSUMER PRODUCT SAFETY COMMISSION
 Washington, D.C. 20207

MEMORANDUM

DATE: July 18, 1997

TO : The Commission
 Sadye E. Dunn, Secretary

Through: Pamela Gilbert, Executive Director

FROM : Jeffrey S. Bromme, General Counsel
 Stephen Lemberg, Assistant General Counsel
 Allen F. Brauningner, Attorney, OGC

SUBJECT: 1998 Regulatory Plan

TIME CRITICAL JUL 25 1997
 BALLOT VOTE due: _____

Attached for your approval is a draft of the Commission's 1998 Regulatory Plan. President Clinton's Executive Order 12866, dated September 30, 1993, directs each agency of the Federal government, including independent regulatory agencies, to prepare a regulatory plan of the most important significant regulatory actions which the agency expects to issue during the coming fiscal year. The regulatory plans of the Federal agencies are published each year in the October edition of the Unified Agenda of Federal Regulatory and Deregulatory Activities.

The staff has prepared a draft of the Regulatory Plan for fiscal year 1998 in accordance with instructions from the Office of Management and Budget. The rulemaking activities selected for the 1998 Regulatory Plan are the projects concerning flammability of upholstered furniture and development of a proposed standard for multi-purpose lighters to make those products resistant to operation by young children. Work to issue a final standard for bicycle helmets is expected to be substantially completed by the end of this fiscal year. For that reason, the bicycle helmet standard is not included in the 1998 Regulatory Plan.

As required by instructions from OMB, the plan includes a statement of regulatory priorities and a description of each of

NOTE: This document has not been reviewed or accepted by the Commission.
 Initial pk Date 7/23/97

CPSA 6 (b)(1) Cleared
 No Mfrs/Prvtlbrs or Products Identified
 Excepted
 Firms Notified

the most important significant regulatory actions to be undertaken by the Commission during fiscal year 1998.

Please indicate your vote on the following options.

I Approve the draft Regulatory Plan without change.

Signature

Date

II Approve the draft Regulatory Plan with the following changes (please specify):

Signature

Date

III Do not approve the draft Regulatory Plan.

Signature

Date

IV Take other action (please specify): _____

Signature

Date

CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

Statement of Regulatory Priorities

The U.S. Consumer Product Safety Commission is charged with protecting the public from unreasonable risks of death and injury associated with consumer products. To achieve this goal, the Commission:

- Participates in the development or revision of voluntary product safety standards.
- Develops mandatory product safety standards or banning rules when other, less restrictive efforts are inadequate to address a safety hazard.
- Obtains repair, replacement, or refund of the purchase price for defective products that present a substantial product hazard.
- Develops information and education campaigns about the safety of consumer products.

When deciding which of these approaches to take in any specific case, the Commission gathers the best available data about the nature and extent of the hazard presented by the product. The Commission then analyzes this information to determine the best way to reduce the hazard in each case. The Commission's rules require the Commission to consider, among other factors, the following criteria when deciding the level of priority for any particular project:

- frequency and severity of injury;
- causality of injury;
- chronic illness and future injuries;
- cost and benefit of Commission action;
- unforeseen nature of the risk;

- vulnerability of the population at risk;
- probability of exposure to the hazard.

Additionally, if the Commission proposes a mandatory safety standard for a particular product, the Commission is generally required to make statutory cost-benefit findings and adopt the least burdensome requirements that adequately protect the public.

The Commission's statutory authority requires it to rely on voluntary standards rather than mandatory standards whenever a voluntary standard is likely to result in the elimination or adequate reduction of the risk of injury and it is likely that there will be substantial compliance with the voluntary standard. As a result, much of the Commission's work involves cooperative efforts with other participants in the voluntary standard-setting process rather than promulgating mandatory standards.

In fiscal year 1998, the Commission's significant rulemaking activities will involve development of options to address risks of fire associated with upholstered furniture; and development of a proposed standard for multi-purpose lighters to make those products resistant to operation by young children. These projects are described in detail below.

All of these rulemaking proceedings in the Commission's 1998 regulatory plan are related to protection of vulnerable populations. Upholstered furniture fires kill and injure children, the elderly, and families and individuals with lower incomes disproportionately to the representation of these persons in the population.

With regard to multi-purpose lighters, children younger than five years of age usually are incapable of dealing with a fire once it has started. Consequently, they and their families are at special risk of injury from fires started by children playing with multi-purpose lighters. Most fatalities from the fires resulting from children playing with multi-purpose lighters reported to the Commission were the children who started the fires.

The emphasis on these two rulemaking activities in the Commission's 1998 regulatory plan is consistent with the Commission's statutory mandate and its criteria for setting priorities. Additionally, the Commission's 1998 regulatory plan supports the President's goal to reduce costs of health care by preventing injuries to individuals who are among the most vulnerable to being injured in accidents associated with the use of consumer products.

TITLE: Flammability Standard for Upholstered Furniture

RIN: 3041-AB35 (PROPOSED)

PRIORITY: Economically Significant. Major status under 5 USC 801 is undetermined.

UNFUNDED MANDATES ACT: No

REINVENTING GOVERNMENT:

This rulemaking is not part of the Reinventing Government effort.

LEGAL AUTHORITY: 15 USC 1193 Flammable Fabrics Act

CFR CITATION: 16 CFR 1640

LEGAL DEADLINE: None

ABSTRACT :

On June 15, 1994, the Commission published an advance notice of proposed rulemaking (ANPRM) to begin a proceeding for development of a flammability standard to address risks of death, injury and property damage from fires associated with ignition of upholstered furniture by small open-flame sources such as matches, lighters, or candles. This ANPRM was issued after the Commission granted part of a petition requesting development of a mandatory flammability standard to address risks of injury from ignition of upholstered furniture by (1) small open-flame sources; (2) large open-flame sources; and (3) cigarettes. The Commission voted to deny that part of the petition requesting development of a mandatory standard to address hazards associated with ignition of upholstered furniture by large open-flame sources. The Commission also voted to defer a decision on that part of the petition requesting development of a standard to address cigarette ignition, and directed the staff to report to the Commission on the effectiveness of, and the extent of

industry compliance with, a voluntary program to reduce risks of ignition of upholstered furniture by cigarettes. The Commission staff is now conducting technical research to develop a draft standard to address ignition of upholstered furniture by small open-flame sources. In 1997, the staff is scheduled to brief the Commission on its findings and will present alternatives for future action by the Commission.

STATEMENT OF NEED:

In 1994, approximately 680 deaths, more than 1,780 injuries and \$240 million in property damage resulted from 14,300 residential fires in the United States in which upholstered furniture was the first item to ignite. This total includes fires ignited by small open-flame sources, large open-flame sources, and cigarettes.

The total societal cost attributable to upholstered furniture fires was approximately \$3.9 billion in 1994. A significant portion of that total -- \$1 billion -- was associated with upholstered furniture fires ignited by open-flame sources. Most of the losses from upholstered furniture fires ignited by open-flame sources involved fires started by small open-flame sources, such as matches, lighters, or candles. These fires are not addressed by any national standard or voluntary program.

SUMMARY OF THE LEGAL BASIS:

Section 4 of the Flammable Fabrics Act (FFA) (15 U.S.C. 1193) authorizes the Commission to issue a flammability standard or other regulation for a product of interior furnishing if the

Commission determines that such a standard is "needed to adequately protect the public against unreasonable risk of the occurrence of fire leading to death or personal injury, or significant property damage." No aspect of the Commission's regulatory proceeding is required by statute or court order.

The Commission's regulatory proceeding could result in several actions, one of which could be the development of a mandatory standard requiring that upholstered furniture sold in the United States meet mandatory labeling requirements, resist ignition, or meet other performance criteria under test conditions specified in the standard.

ALTERNATIVES:

The ANPRM stated that the Commission was considering the following alternatives:

1. The Commission could issue a mandatory flammability standard if the Commission finds that such a standard is needed to address an unreasonable risk of the occurrence of fire from ignition of upholstered furniture by small open-flame sources.

2. The Commission could issue mandatory requirements for labeling of upholstered furniture, in addition to, or as an alternative to, the requirements of a mandatory flammability standard.

3. The Commission could terminate the proceeding for development of a flammability standard and rely on a voluntary standard if a voluntary standard would adequately address the

risk of fire and substantial compliance with such a standard is likely to result.

ANTICIPATED COSTS AND BENEFITS:

The estimated annual cost of imposing a mandatory standard to address ignition of upholstered furniture by small open-flame sources will depend upon the test requirements imposed by the standard and the steps manufacturers take to meet those requirements. The average annual societal cost of fires involving upholstered furniture ignited by small open-flame sources since 1990 is more than \$600 million. For this reason, the potential benefits of a mandatory standard to address the risk of ignition of upholstered furniture by small open--flame sources could be significant, even if the standard did not prevent all such fires started by open-flame sources.

RISKS:

The estimated total cost to society of all residential fires associated with upholstered furniture was \$3.9 billion in 1994.

Societal costs associated with upholstered furniture fires are among the highest associated with any product subject to the Commission's authority. A voluntary or mandatory standard may have the potential to reduce these societal costs.

TIMETABLE :

ACTION	DATE	FR CITE
ANPRM.....	06/15/94	59 FR 30735
ANPRM Comment Period End.....	08/15/94	59 FR 30735
Staff Sends Briefing Package to Commission.....	09/00/97	
Commission Decision.....	00/00/00	

SMALL ENTITIES AFFECTED: Undetermined

GOVERNMENT LEVELS AFFECTED: Undetermined

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TITLE: Requirements for Child-Resistance of Multi-Purpose
Lighters

RIN: 3041-AB66 (PROPOSED)

PRIORITY: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

REINVENTING GOVERNMENT:

This rulemaking is not part of the Reinventing Government effort.

LEGAL AUTHORITY: 15 USC 2051 Consumer Product Safety Act

CFR CITATION: 16 CFR 00

LEGAL DEADLINE: None

ABSTRACT :

On January 16, 1997, the Commission published an advance notice of proposed rulemaking (ANPRM) to begin a proceeding which may result in a mandatory consumer product safety rule requiring multi-purpose lighters to resist operation by children" The Commission began this proceeding after granting a petition from Judy L. Carr. A mandatory product safety rule for multi-purpose lighters could take the form of an amendment of the Safety Standard for Cigarette Lighters (16 CFR Part 1210) to bring multi-purpose lighters within its scope, or could be issued as a separate safety standard for multi-purpose lighters. The cigarette lighter standard requires lighters subject to its provisions to have a child-resistant mechanism to prevent operation by most children younger than five years of age. At this time, that standard applies to disposable and novelty lighters used to ignite cigarettes, cigars, and pipes, but not to multi-purpose lighters used primarily to ignite fuel for fireplaces or charcoal or gas-fueled grills.

The staff is preparing a briefing package for consideration by the Commission when deciding whether to continue this proceeding by publication of a notice of proposed rulemaking (NPRM). That briefing package will include a discussion of comments received in response to the ANPRM; the staff's analysis of issues raised by those comments; and other information developed by the staff. The staff is scheduled to transmit a briefing package to the Commission in February 1998.

STATEMENT OF NEED:

When the safety standard for cigarette lighters was issued in 1993, multi-purpose lighters were excluded from its requirements because the Commission lacked information to establish that multi-purpose lighters were associated with an unreasonable risk of injury from fires set by children playing with such lighters. However, since issuance of the cigarette lighter standard, the Commission staff has obtained information about 53 incidents occurring between January 1988 through October 1996 in which children younger than five years of age started fires using multi-purpose lighters. These fires resulted in 10 deaths and 24 injuries.

Children younger than five years of age usually are incapable of dealing with a fire once it has started. Consequently, they and their families are at special risk of injury from fires started by child-play. Almost all of the fatalities in the fires resulting from children playing with multi-purpose lighters were the children who started the fires.

At least three of the 24 persons injured in fires started by children with multi-purpose lighters were hospitalized for treatment. One 15-month-old infant was treated for second and third degree burns over 80 percent of his body after his three-year-old brother used a multi-purpose lighter to ignite the playpen in which the infant was sleeping.

Fires started by young children playing with multi-purpose lighters are not addressed by any voluntary standard or other voluntary program.

SUMMARY OF THE LEGAL BASIS:

Sections 7 and 9 of the Consumer Product Safety Act (CPSA) authorize the Commission to issue a consumer product safety standard to eliminate or reduce an unreasonable risk of injury associated with a consumer product. No aspect of this proceeding is required by statute or court order.

ALTERNATIVES:

This proceeding could result in the establishment of requirements for multi-purpose lighters to reduce risks of death and injury associated with fires ignited by multi-purpose lighters operated by young children. The ANPRM discussed the following alternatives:

1. Establishment of a mandatory standard with performance requirements for multi-purpose lighters to reduce risks of death and injury from fires ignited by multi-purpose lighters operated by young children;

2. Establishment of mandatory labeling requirements to warn of the risks of death and injury associated with fires ignited by multi-purpose lighters operated by young children, either instead of, or in addition to, a mandatory standard with performance requirements.

3. Development of a voluntary standard containing performance, labeling, or other requirements to address risks of death and injury associated with fires ignited by multi-purpose lighters operated by young children.

ANTICIPATED COSTS AND BENEFITS:

The estimated cost to society in 1995 of fires started by children playing with multi-purpose lighters was approximately \$10.3 million. The staff is developing additional data needed to estimate the potential benefits of a mandatory standard to require multi-purpose lighters to be child-resistant. The Commission staff plans to test multi-purpose lighters (currently on the market using the protocol in the Safety Standard for Cigarette Lighters. The results of this testing will (establish the extent to which those lighters are child-resistant. This information is needed to estimate the potential benefits of any standard.

The estimated costs of a mandatory standard for multi-purpose lighters will depend on the requirements imposed by the standard and the steps manufacturers take to meet those requirements.

RISKS:

The Commission has information indicating that from January 1988 through October 1996, children younger than five years of age started about 53 fires using multi-purpose lighters. These fires resulted in 10 deaths and 24 injuries. Based on information about fires started in 1995 by children playing with multi-purpose lighters, the Commission staff estimates that the total cost to society of those fires was about \$10.3 million.

The estimated societal costs of fires resulting from children playing with multi-purpose lighters during 19136 and 1997 is expected to be greater because of an apparent increase in the number of incidents. This increase may be related, in part, to the increased sales of multi-purpose lighters, which is expected to continue. A voluntary or mandatory standard for multi-purpose lighters may have the potential to reduce these societal costs.

TIMETABLE:

ACTION	DATE	FR CITE
ANPRM.....	01/16/97	62 FR 2327
ANPRM Comment Period End.....	03/17/97	62 FR 2327
Staff Briefing Package on NPRM.....	02/00/98	

SMALL ENTITIES AFFECTED: Undetermined

GOVERNMENT LEVELS AFFECTED: Undetermined

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