




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

MEMORANDUM

DATE : June 8, 2004
TO : ESFS
Through: Todd A. Stevenson, Secretary 
FROM : Martha Kosh
SUBJECT: "Petition CP04-1/HP 04-1, Petition for Fire Safety Standards for Candles and Candle Accessories"

ATTACHED ARE COMMENTS ON THE CH 04-4

<u>COMMENT</u>	<u>DATE</u>	<u>SIGNED BY</u>	<u>AFFILIATION</u>
CH04-4-1	5/05/04	Robert Higgins NCA President	National Candle Assoc. 1156 15 th St, NW Suite 900 Washington, DC 20005
CH04-4-2	6/02/04	John Biechman Vice President Government Affairs	National Fire Protection Association 499 South Capitol St., NW Suite 518 Washington, DC 20003
CH04-4-3	6/14/04	John DiFazio Asst General Counsel	jdifazio@cspa.org



National Candle Association

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Fax: (202) 223-9741 <http://www.candles.org>

*Candle
Pet. comment*

May 5, 2004

Office of the Secretary
Consumer Product Safety Commission
Washington, DC 20207

“Petition CP 04-1/HP 04-1, Petition for Fire Safety Standards for Candles and Candle Accessories”

The National Candle Association (NCA) submits the following comments in response to the U.S. Consumer Product Safety Commission (CPSC) request for comments on the petition from the National Association of State Fire Marshals (NASFM) requesting the CPSC to issue mandatory fire safety standards for candles and candle accessories (Petition No. CP 04-1/HP 04-1, 69 FR 18059, April 6, 2004).

The NCA is the major trade association for the U.S. candle industry. We are recognized as the North American technical experts on candle manufacturing and formulation. Our member's account for more than 90 percent of the candles manufactured in the United States. Our members include both manufacturers and suppliers.

Because of NCA's leadership in the industry, and its technical expertise in candle manufacturing, the CPSC in 1997 asked NCA to help form a candle products subcommittee under the Consumer Products Committee of the ASTM standards organization. Through the efforts of this ASTM F-15.45 subcommittee, the current voluntary consensus standards regarding candle fire safety have been developed and continue to be expanded. Both NCA and CPSC have actively participated in the subcommittee's consensus deliberations, with representatives from a variety of fire and safety organizations and other interested parties.

Section 7 of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2056, provides that the Commission may issue a mandatory standard only when it finds there is not a voluntary standard that adequately reduces the addressed risk of injury or death, or when substantial compliance with the voluntary standard is absent. NCA strongly believes that the voluntary consensus standards that have been and continue to be developed, for candle product fire safety under ASTM F-15.45, have been effective in reducing candle-fire risks, and that such standards will continue to help reduce the risk of such fires.

Further, we believe that the CPSC staff concurs with NCA in this matter, given the recommendation of the Office of Hazard Identification and Reduction and the concurrence of the Office of the General Counsel that CPSC's involvement in this issue has been so extensive that it is not necessary for the Commission to seek public comment on the NASFM petition.

Adequacy of Voluntary Industry Standards

In proposing that the Commission adopt a mandatory standard for candle fire safety, NASFM implies that the voluntary standards are inadequate. Because the voluntary standard's provisions are relatively new and the standard is being expanded, it is too early to make the judgment that the voluntary standard will not be effective. Our efforts and the efforts of all candle manufacturers to educate the marketplace is still underway.

NASFM also requests that four additional provisions be incorporated into the mandatory standard. Ongoing activities of the ASTM F-15.45 subcommittee are covering these requests. For all intents and purposes, the additional provisions requested by NASFM have already been addressed, either through revisions and inclusions to the PS 59-02 standard, which is currently being readied for balloting, or through the standards drafting procedure, or consensus of the subcommittee.

Specifically, end-of-useful-life requirements for freestanding, tea light and votive candles have been incorporated into the latest revision of PS 59-02; inclusion of tapers in this requirement is not technically possible or economically feasible at this time. Flammability performance requirements for candle accessories and candleholders are being drafted as a new standard by the F-15.45 subcommittee. Stability requirements for tapers and votives packaged with holders as ensembles are also included in the latest revisions of PS 59-02.

The NASFM request for a provision regarding the miscibility and flash points of gel candles addresses fire-safety concerns already achieved by the voluntary candle fire-safety standard. PS 59-02 addresses key fire-safety specifications that can in some way be controlled through manufacturing procedures – flame height, stability, end of useful life, and secondary ignition. These specifications apply to candles regardless of their fuel type – paraffin, soy, beeswax, gels, synthetic waxes, palm wax, etc., or blends of these fuels. In this sense, adding a gel candle-specific provision is redundant, and would inappropriately interject very narrow (and likely anti-competitive) formulation requirements into what is designed to be a universally applicable performance standard. Moreover, adding narrow formulation specifications for one particular type of candle wax would require adding parallel prescriptive specifications for all types and blends of candle waxes, a virtually impossible undertaking involving thousands of possible combinations.

Negative Safety Impact of a Mandatory Standard

Ironically, NASFM's petition for a mandatory standard addressing candle product fire safety would likely impede the improvement of candle-fire safety technology and designs. The promulgation of a mandatory standard would serve to freeze in time any technical advances or innovations in candle product fire safety because of the relatively complex and lengthy procedures required to amend a mandatory standard under the Consumer Product Safety Act.

The value of voluntary industry consensus standards, as developed through recognized standards development bodies such as ASTM, ANSI, ISO, etc., is that they are continually improved through required revision and update procedures. This allows new technologies and innovations to be incorporated into applicable standards on a timely basis. Indeed, the evolving and progressive nature of voluntary consensus standards is what led to the most recent revision of PS 59-02 and its inclusion of the additional provisions contemplated by NASFM.

To issue a mandatory standard for the fire safety of candle products at this time would thwart the efforts of both industry and the CPSC to effectively and expediently address candle fire-safety issues with standards that include the best available technology. Over the past few years, the necessary “critical mass” of personnel and technical expertise has come together in the existing voluntary standards proceedings to allow for rapid expansion and continued refinement of the voluntary standards for candles. It would be premature to halt this synergistic activity until the results of these efforts are complete and have time to work on the market place.

Candle Industry in Compliance

NASFM alleges that the candle industry is not in compliance with the ASTM standards, and that it has made no effort to encourage compliance with the ASTM standards. These allegations are inaccurate and unfounded.

The NCA’s commitment to product excellence and the safe and proper use of candles is at the foundation of its aggressive efforts to establish and participate in the ASTM F-15.45 subcommittee. Members in good standing of the National Candle Association pledge to manufacture candles and candle products in accordance with recognized industry standards and practices. Since NCA members account for approximately 90 percent of the candles manufactured in the U.S., this alone constitutes more than substantial compliance by the industry with the ASTM standards.

Further, NCA takes its responsibility and leadership role in the candle industry very seriously. We have undertaken aggressive efforts to educate member and non-member candle manufacturers, suppliers and retailers—as well as large-scale user groups—regarding the ASTM standards and the importance of candle fire safety. Our retailer members, as well as major non-member retailers and mass purchasers, specify the ASTM standards in their procurement and supply contracts.

Consumer Education Is Key to Reducing Candle Fires

Candles are safe products when used correctly. It is consumer misuse and inattention to basic fire-safety precautions that leads to candle fires. When the ASTM F-15.45 subcommittee was first formed, the CPSC presented data from the National Fire Incident Reporting System indicating that 85 percent of all candle fires were due to consumers leaving lighted candles unattended, placing candles too close to combustibles, or placing them within the reach of children and pets. These findings prompted the subcommittee to first address the need to warn consumers of these dangers, resulting in the ASTM F2058 cautionary labeling standard.

However, no product safety standard—whether voluntary or mandatory—can significantly impact the majority of candle fires due to consumer inattention or carelessness. Only the education of consumers as to the proper burning of candles and observance of candle fire safety rules can have an impact in reducing these candle fires.

The NCA has worked tirelessly and aggressively to educate consumers on the paramount importance of fire safety precautions when using candles. We have created and promoted literature stressing the importance of candle fire safety. We disseminate this literature to consumers through our members, non-member industry groups, retailers, and through fire, safety and consumer organizations around the country. Our website is well recognized for its outstanding candle safety information, and the media regularly directs consumers to the site for important safety advice.

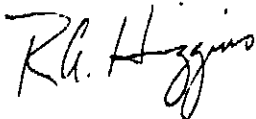
We have contacted national and regional fire groups, restaurant associations, hotel associations, retailers and others, providing them with information on the ASTM candle fire safety standards and encouraging them to join us in promoting candle fire safety. Currently we are working with fire and consumer groups to get our candle safety messages disseminated through the schools to students and their families.

To reach as many consumers as possible, NCA regularly issues press releases and feature stories on candle safety to radio, television, print and the electronic media. In addition, we produce and annually distribute to television stations around the country a holiday season Video News Release on the importance of fire safety when using candles.

As the voice of the U.S. candle industry, the NCA has been steadfast in its commitment to improving candle fire safety, not only through its active participation in the development of voluntary standards, and compliance with those standards, but in its ongoing consumer education and media outreach activities, its cooperative endeavors with fire and safety organizations, and its efforts to involve the entire U.S. candle industry and customers in a commitment to candle fire safety.

The NCA objects to NASFM's petition for a mandatory candle product fire safety standard. There is no evidence to suggest that the CPSC should reject its mandate to rely on voluntary industry standards, and instead promulgate a mandatory one. The continued involvement of the industry in the development of voluntary candle product fire safety standards remains in the best interest of both the U.S. consumer and the candle industry.

Sincerely,

A handwritten signature in black ink that reads "R.A. Higgins". The signature is written in a cursive, slightly slanted style.

Robert A. Higgins
NCA President

cc: NCA Board of Directors

Stevenson, Todd A.

Carroll Pet Comment

From: John DiFazio [jdifazio@cspa.org]
Sent: Monday, June 14, 2004 12:04 PM
To: Stevenson, Todd A.
Subject: Petition CP 04-1/HP 04-1, Petition for Fire Safety Standards for Candles and Candle Accessories; 69 FR 18059, April 6, 2004

To the Secretary:

Please accept these comments which we presumed had been emailed on June 7 but did not go through due to email difficulties.

June 7, 2004

Office of the Secretary
Consumer Product Safety Commission
Washington, DC 20207

Re: Petition CP 04-1/HP 04-1, Petition for Fire Safety Standards for Candles and Candle Accessories; 69 FR 18059, April 6, 2004

To the Commission:

The Consumer Specialty Products Association (CSPA), whose 237 members include most of the major candle manufacturers and marketers in the United States, submits the following comments in response to the U.S. Consumer Product Safety Commission (CPSC) request for comments on the petition from the National Association of State Fire Marshals (NASFM) requesting the CPSC to issue mandatory fire safety standards for candles and candle accessories.

Section 7 of the Consumer Product Safety Act (CPSA) provides that the Commission may issue a mandatory standard only when it finds there is not a voluntary standard that adequately reduces the addressed risk of injury or death or when substantial compliance with the voluntary standard is absent. CSPA is confident that the voluntary consensus standards that have been and continue to be developed for candle-fire safety under ASTM F-15.45 reduce candle-fire risks and consequently will demonstrate a reduction in such fires. NASFM presents no basis in its implication that the ASTM voluntary standards are inadequate. Because the voluntary standards were published only last year and will be finalized by the end of this year, it is too early to make the judgment that these standards will not be effective.

Further, CSPA concurs with the recommendation of the Office of Hazard Identification and Reduction and the Office of the General Counsel, as indicated in the briefing package, that CPSC's involvement in the ASTM process has been sufficient to obviate the need for the Commission to seek public comment on the NASFM petition.

NASFM also requests that four additional provisions be incorporated into a mandatory standard, apparently disregarding the ongoing activities of the ASTM F-15.45 subcommittee addressing these other areas.

To the contrary, NASFM's petition for a mandatory standard itself most likely would impede the improvement of candle fire safety. The promulgation of a mandatory standard would serve to halt any innovations in candle product fire safety because of the relatively complex and lengthy procedures required to amend a mandatory standard under the CPSA. The value of voluntary industry consensus standards, as developed through recognized standards development bodies such as ASTM, is that they continue to be improved through required revision and update procedures. This allows innovations to be incorporated into applicable standards on a timely basis.

NASFM alleges without basis that the candle industry is not in compliance with the ASTM

standards and that it has made no effort to encourage compliance with the ASTM standards. At its Mid-Year Meeting last month, all CSPA member companies that manufacture and/or market candles asserted that they are in compliance with the current ASTM standards and agreed to formalize a pledge to continue prompt compliance with any relevant future standards. Many of these companies are participants in CSPA's Product Careism initiative that further commits them to conformance with appropriate industry standards.

Further, CSPA has met with NASFM representatives on several occasions in an attempt to build a fruitful relationship with that organization. They have engaged in dialogue with our members at our Mid-Year and Annual Meetings over the past two years and we have dedicated Association funds to support their attendance at future meetings. Former NASFM President Don Bliss sits on the Board of Trustees of a public foundation -- the Alliance for Consumer Education -- founded by and affiliated with CSPA. We have attached a letter sent to NASFM in January of this year in reply to a request for an Association response to a draft of their petition, detailing our extensive efforts to work cooperatively with NASFM. Both NASFM's current president and the chairman of its Consumer Product Fire Safety Task Force were invited to attend our Mid-Year Meeting this year, but they were unable to due to previous commitments.

Therefore, for the reasons cited above, CSPA asks that CPSC deny this petition.

Very truly yours,

/s/John DiFazio
Assistant General Counsel
Air Care Division Staff Executive
202-833-7303

Attachment

Via Facsimile: 202-393-1296

January 9, 2004

Bert Polk
Senior Policy Advisor
National Association of State Fire Marshals
c/o 1319 F Street NW #301
Washington, DC 20004

Re: Your Letter of December 12, 2003

Dear Bert:

Thank you for the information in your letter and the opportunity to comment on the draft petition. As I noted in an email to you, apparently it was delayed in the mail as I did not receive it until the afternoon of December 23 as we were about to break for the holidays.

As a preface, I would like to reiterate our Candle Committee's position statement on candle fire safety, previously noted in our letter to Don Bliss last July. "The CSPA Candle Committee is committed to promoting and advancing candle fire safety. To that end, the Committee will:

- o Support the collection of scientific and reliable fire incident data, especially relating to causative information;
 - o Participate actively with ASTM in the continued development of standards addressing candle fire safety;
 - o Build and sustain relationships as appropriate with other organizations that are committed to candle fire safety;
 - o Educate consumers about potential fire dangers related to candle misuse;
- and,
- o Develop a plan to educate and encourage candle makers/importers to

utilize the provisional voluntary ASTM standards, as well as work with retailers to encourage purchase of candles meeting the standards."

To further those goals, members of our Candle Committee met with you and other NASFM representatives here on July 30 and developed a plan to establish an executive committee tasked with recruiting appropriate participants. That same afternoon I emailed NASFM the names of our two selections for the executive committee. A few days later, CSPA President Chris Cathcart received a letter from Pete Sparber noting that his firm's "services will not be required" because "NASFM and CSPA are well on the way towards achieving this partnership."

Unfortunately we never heard back from NASFM on its two choices for the executive committee. I received no response to my email to you and Don on September 8 inquiring as to the status and asking to get together again no later than the CSPA annual meeting in Florida December 7 to 11. In reply to my subsequent email to you and Don on October 6, you advised that you would update us after the NASFM board meeting November 1. On November 5 your email to me raised questions about funding, to which I replied that our Candle Committee had obtained key-issues funding to support your participation in our joint efforts in 2004 and that CSPA would underwrite your attendance at our December meeting in Florida. We anticipated a fruitful discussion with you in Florida until your call to me just before the meeting raised the likelihood of a conflict the day of the Candle Committee meeting, at which time I offered any other day during our Florida convention to meet with you. It is regrettable that your latest letter suggests that "it was difficult to justify the trip for what would have been a one-hour meeting." How much more productive it would have been to present to us in person on December 9 or 10 the points and concerns raised in your letter mailed on December 12.

I note these communications to demonstrate that our Candle Committee continues to support the aforementioned goals and has taken action in that regard, in contrast to some of the statements in your draft petition to the CPSC. Having said that, we still prefer to work with you, not merely in parallel and not in opposition. As I recommended in my email to you on December 23, "I am enthused about a public education effort" and "ask that you involve the Alliance for Consumer Education (ACE) at the earliest possible opportunity" instead of after the fact.

Specifically regarding the draft petition, our initial reaction is the same as to the legislation -- we see no need for it at this time, as it is premature and may be counterproductive. We take issue with some of its points, especially our members' efforts to comply with the ASTM provisional specifications. CSPA continues to encourage our companies' compliance and to the best of our knowledge they are doing so already. It certainly is inaccurate and unfair to assert that "the candle industry has had every opportunity to organize and operate a legitimate voluntary fire safety program, but has not moved forward with such a program." Our members have made great progress in ASTM Candle Fire Safety Task Group based on the information currently available and will persist in those efforts. We welcome Walter Smittle's participation, which our members sought for more than a year, and would not object to your consulting him or the Task Group chairman, Jim Becker, about the process and progress of the ASTM subcommittee. We still see a need for the "collection of scientific and reliable fire incident data, especially relating to causative information," on which we are still hoping to work with NASFM and other relevant parties. Such cooperation is critical to avoid any question about the legitimacy of data, communication, or motive. Until those data are collected and corroborated, any attempt to mandate and thus freeze the standards may be counterproductive. Finally, we note a fundamental contradiction in the petition: the point properly made that virtually all candle fires are the result of consumer inattention and ignorance and thus "very few candle fires are intentional" versus the requirement in the authorizing statute that a petition be granted when a product compromises safety "when used as intended."

To conclude, CSPA and our Candle Committee thank you for the opportunity to respond and we remain committed to working with you to improve candle fire safety. We would welcome the chance to meet with you again at your earliest opportunity to proceed with our joint plans to further the goals articulated above. We have shared your letter and this response with the National Candle Association. Due to the short deadline you provided we will not be able to coordinate our responses. We presume the NCA will reply separately and directly to you.

Very truly yours,

John E. DiFazio Jr.
Assistant General Counsel