



U.S. CONSUMER PRODUCT SAFETY COMMISSION

Oral Presentations

**Agenda and Priorities FY 2012
Public Hearing**

August 11, 2010

and

**Written Submissions
Agenda and Priorities FY 2012**



U.S. CONSUMER PRODUCT SAFETY COMMISSION
Bethesda, Maryland

**Public Hearing
Commission Agenda and Priorities
For Fiscal Year 2012**

**Wednesday, August 11, 2010
10:00 a.m.**

Oral Presentations

Ami Gadhia
Consumers Union, Kids in Danger and Consumer Federation of America

Christine Hines
Public Citizen

Bill Degnan
National Association of State Fire Marshals (NASFM)

A live webcast of this Meeting can be viewed at www.cpsc.gov/webcast

**Comments of Consumers Union of United States, Inc.
to the U.S. Consumer Product Safety Commission on**

“Agenda and Priorities FY 2012”

**Presented by Ami Gadhia
On behalf of Consumers Union, Kids In Danger and Consumer Federation of
America**

August 11, 2010

Introduction

Thank you for the opportunity to comment on CPSC’s agenda and priorities. My name is Ami Gadhia, Policy Counsel for Consumers Union, the non-profit publisher of *Consumer Reports*. I offer my comments today on behalf of Consumers Union, Kids In Danger and Consumer Federation of America.

I would like to make the following comments regarding CPSC’s agenda and priorities:

Sleep environment safety

We support CPSC’s efforts to reduce injuries to children caused by nursery products such as cribs, play yards, and bassinets. The rulemakings implemented by the Commission represent a much-needed step in the right direction. In addition, as the new rules go into effect, CPSC must play a key role in market oversight to ensure that older unsafe products, including cribs with drop-sides, are removed from the second-hand market and child care facilities. We strongly urge the CPSC to continue addressing emerging hazards associated with children’s products.

We would urge CPSC to extend their safe sleep efforts to include other sleep environment products such as crib tents, sleep positioners, and infant comforters and pillows. We are aware of deaths associated with each of these products, some of which have been recalled due to the hazard they pose to infants. In addition, we ask CPSC to reconsider their endorsement of the use of bumper pads in cribs, as evidenced by their depiction in the CPSC video, *Safe Sleep*. According to a 2007 study in the Journal of

Pediatrics¹, at least 27 deaths were attributed to bumpers from 1985 to 2005 and more recent deaths involving other products, such as the Nap Nanny, involved the use of bumper pads.

Recall Effectiveness

With new standards in place, new teams at the ports, and a new determination at CPSC to improve product safety, CPSC will now have the ability to focus more directly on the effectiveness of the recalls it does announce. According to CPSC's own records, the return rate of recalled products is abysmal. CPSC must make it a priority not only to recall dangerous products, but to actually get them out of consumers' homes.

CPSC has made a good start in promoting the new product registration card program for infant and toddler durable products. CPSC should also work with all manufacturers and retailers to implement similar programs, even without them being mandatory, to increase the likelihood that consumers will learn when a product they own is recalled.

We are also pleased that the CPSC has joined the National School Safety Coalition developed by Consumers Union to disseminate recall and safety alert information to parents of school age children. This coalition comprised of government agencies, parent-teacher groups, and school administration organizations has the potential to reach 50 million families each week, and is certain to enhance recall effectiveness.

We urge CPSC to consider a team approach in addressing the recall effectiveness problem. Similar to the sleep environment team that has successfully brought quick response to emerging hazards in baby sleep environments, CPSC should have a team dedicated to recall effectiveness that includes staff from all divisions and works directly with consumer groups, retailers, manufacturers and the media to improve recall effectiveness.

¹ Bradley T. Thach, George W. Rutherford, Kathleen Harris, "Deaths and Injuries Attributed to Infant Crib Bumper Pads," 28 July 2007, *The Journal of Pediatrics*, September 2007 (Vol. 151, Issue 3, Pages 271-274.e3).

Cadmium

We are aware that CPSC is currently in the process of developing a new standard for cadmium, and we strongly support that effort. However, we remain concerned that products containing dangerously high levels of cadmium are still being sold in stores nationwide. Even when clearly informed that their merchandise contained unacceptable levels of cadmium, some retailers have delayed removing those products from shelves for months at a time. CPSC must develop strong enforcement procedures for such hazardous products, so that they can be promptly removed from the marketplace.

Consumer product database

We strongly support CPSC's initiative to launch a new public database in March 2011. As the project moves forward, however, it is likely that the database will encounter some unforeseen problems. We would urge CPSC to remain open to feedback on how to resolve those potential issues that may arise, and to generally err on the side of transparency.

We are concerned, however, by CPSC's decision not to include their current database of consumer complaints in the public database – meaning that consumer reports of life-threatening flaws submitted between now and March will not be available to the public. A priority for the database team should be to address current complaints and move quickly to include them in the database. For example, complaints in FY 2011 (starting in October) should be included.

Component part testing standard

We support CPSC's rulemaking regarding testing standards for component parts of consumer products. We believe that such standards and requirement are helpful in addressing the concerns of small toy manufacturers. This rulemaking represents an acceptable compromise, and one that is unlikely to negatively affect consumer safety.

Furniture safety

We continue to be extremely concerned about deaths and injuries suffered by young children as a result of furniture tip-overs. We support the CPSC's work in

addressing this hazard. We also urge the Commission to focus on injuries resulting from breaking glass tables. At least 20,000 injuries are suffered each year due to glass furniture, and most injuries could potentially be prevented through the use of safety glass. The CPSC currently has regulations for the safety of glass used in shower and storm doors, but no standards exist for glass furniture.

Nanomaterials

We continue to express concern with the rapid proliferation of products containing nanomaterials due to a lack of sufficient understanding regarding their possible health effects. We support the CPSC's study of nanomaterials and hope this information will lead to a better understanding of potential risks associated with nanotechnology.

Window Coverings

According to CPSC, there have been 120 reported fatalities and 113 injuries caused by corded window coverings since 1999. Other studies have shown, however, that many incidents go unreported and in reality, a child dies every two weeks after strangling in the cords of window coverings. The injuries from corded window coverings are severe: some suffer permanent and debilitating brain damage.

Previous industry standards and educational campaigns have failed to fully address hazards caused by these products. Corded window coverings remain for sale and in people's homes. Every day, new blinds with dangerous cords are manufactured and installed in consumers' homes. Every blind that is produced today will remain in American homes for many years to come, perpetuating the hazard. This underscores the need to immediately develop a standard that applies to every window covering and eliminates the strangulation risk. The solution to this hazard is the development of a new standard that eliminates strangulation hazards on all window coverings. Window

covering should have no cords with an accessible length of more than 7.25 inches in any configuration.

ATVs and ROVs

We are particularly concerned about the hazards associated with use of all-terrain and recreational off-highway vehicles. Each year some 800 people die in accidents associated with ATVs and another 135,000 are injured, many of which are children. Although the number of incidents with ROV's is far smaller, the hazards are the same. We urge the CPSC to continue focusing on ways to reduce the injuries associated with these vehicles by mandating rigorous safety standards and requiring manufacturers and retailers to provide educational programs to all purchasers.

Drowning Prevention

We encourage the CPSC to continue their work on drowning prevention. Although we supported the VGB Pool and Spa Safety Act, the number of drownings caused by entrapment is small compared to drownings in inflatable swimming pools. We encourage the CPSC to take a close look at inflatable swimming pools to determine if their safety can be enhanced.

Ladders

Each year, about 150 deaths and 180,000 injuries are associated with ladders. We believe that ladder safety standards are too weak and strengthening them is likely to reduce the injury rate. We encourage the CPSC to make this a priority.

Cooking Fires

The CPSC once identified cooking fire prevention as a high priority. The staff worked diligently to develop “proof-of-concept” technology that could dramatically reduce hazardous cooking fires. That work was stopped amid industry opposition. With at least 125 deaths and 1,165 injuries each year associate with range fires, we think the CPSC should once again tackle this very preventable hazard.



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**STATEMENT OF CHRISTINE HINES
CONSUMER AND CIVIL JUSTICE COUNSEL
PUBLIC CITIZEN**

BEFORE THE U.S. CONSUMER PRODUCT SAFETY COMMISSION

**COMMISSION AGENDA AND PRIORITIES DURING FISCAL YEAR 2012,
BEGINNING OCT. 1, 2011**

PUBLIC HEARING ON AUGUST 11, 2010

Thank you to the Chairman and the Commissioners for inviting public comment on the Commission's Agenda and Priorities for fiscal year 2012, which begins next October. I am Christine Hines, Consumer and Civil Justice Counsel at Public Citizen. Public Citizen is a national non-profit organization with over 150,000 members and supporters. We advocate for consumer rights in the marketplace, and promote corporate and government accountability through advocacy, research, litigation, and public education.

I will use this opportunity to address the strategic components that the Commission identified in its Performance Budget to reduce risks associated with hazardous consumer products. In short, Public Citizen has five recommendations:

- (1) We urge the Commission to maintain, scrutinize, and improve the database as appropriate immediately after it launches.
- (2) We urge the Commission not to extend further the stay of enforcement of the testing and certification requirements.
- (3) We urge the Commission to support legislation requiring that companies importing goods into the United States maintain registered agents in the U.S. to receive service of process.
- (4) We urge the Commission to propose specific performance measures that the agency would use to fulfill its objective of reducing the time between learning of a product hazard and informing the public about it.
- (5) We urge the Commission not to allow conjecture about so-called "recall fatigue" distract it from its mission to vigilantly inform the public about dangerous consumer products.

Implementation of Rules

The beginning of fiscal year 2012 will mark the third year in which the Consumer Product Safety Improvement Act will be in effect. Public Citizen's first implementation priority is the publicly available Web-based product incident database, which the Commission has announced will be launched in March 2011. So far, we are pleased with the Commission's handling of the building of the database and its consistent effort to seek public input. The database launch will mark a significant shift in favor of empowering consumers to more efficiently report potential hazards and enable them to better research products before purchase.

The first year of the database operation will be critical. In the months after its launch, the agency will likely need to make changes to fix glitches and improve ease of use by the public. We urge the Commission to remain vigilant regarding the database and make timely improvements after its launch to ensure that it is maximally useful to the public. We also hope the Commission will remain mindful of new product safety information that would be suitable for the database. We previously have urged the Commission to consider adding staff-generated research to the database. We hope it will act to make these determinations now, as well as after the database launches.

Compliance and Enforcement

In its 2011 budget request, the agency said that it will transition from developing to enforcing CPSIA rules. We agree with this position. First, we believe that the new testing and certification requirements of both non-children's and children's products under the CPSIA should be fully effective and enforceable within the next year.

The Commission has twice-imposed what it calls a "stay of enforcement" of the testing and certification provisions for general conformity certification for most consumer

products and third-party testing requirements for children's products. The most recent delay was imposed for a year and is due to expire February 10, 2011. We understand that the enforcement of the provisions was delayed to establish proper implementation procedures and guidance for these requirements.

The Commission has taken recent actions which we hope signal that the delay in enforcement will not be extended again. Most recently, the comment period expired last week for the CPSC's proposed rule that would establish requirements for a reasonable testing program; compliance and continuing testing for children's products; and labeling to show compliance with certification requirements for non-children's products. Consumers had always believed that the products they bought were required to be tested before they were sold on the market. Until the passage of the CPSIA, this was not the case. The proposed rule is a significant step towards enforcing these critical provisions of the CPSIA.

In addition, this year the Commission has finalized rules for civil penalty factors, recalls, and other corrective actions. We hope that the agency will vigorously exercise its new authorities to dramatically reduce the number of potentially harmful products on the market.

Safety of Imported Products

The Commission has begun a number of programs to monitor imported products, not least of which is the creation of the agency's Import Surveillance Division. Jeremy Baskin, an attorney with the Division testified at a House Committee hearing in June to address H.R. 4678 the Foreign Manufacturers Legal Accountability Act. This piece of legislation would direct the Commission, the Food and Drug Administration and the Environmental Protection Agency to require foreign manufacturers to establish a

registered agent in the United States to accept service of process for civil and regulatory actions.

Mr. Baskin noted in his written testimony that the lack of registered agents has hindered the agency's ability to obtain information on consumers' behalf, and that certain foreign industry groups have used their local lawyers to take advantage of the absence of a U.S. registered agent. He mentioned, as an example, the Chinese-imported drywall problem and the building industry group's observation that it is impossible to hold manufacturers accountable when they do not operate their businesses in the United States.

We agree that the requirement of a registered agent would empower the agency and consumers to hold foreign manufacturers accountable, especially given the fact that the majority of potentially harmful consumer products are imported. We also appreciate Chairman Tenenbaum's statement in the Commission's report to Congress earlier this year in which she supported service of process requirements for foreign manufacturers so that the agency can more easily pursue recalls. We urge the agency to continue to support this bill or any other effort to enhance its ability to identify and notify foreign manufacturers when the need arises.

Identifying hazards

The Commission's primary mission is to identify and prevent potential hazards. We have been critical in the past of the long lag time between the agency's learning of a hazard and its informing the public of that hazard, and we are pleased that the agency has identified reducing the lag time as an objective in its draft strategic plan. A well-functioning publicly available incident database will help close the gap by providing timely incident reports on the Web. To the extent that the agency considers other specific actions and

performance measures to fulfill its objective, we would be interested in reviewing and commenting on them.

Alerting the Public

Finally, the Commission has named alerting the public as one of its strategies to reduce the risks associated with hazardous consumer products. We are pleased that the agency uses a variety of methods to notify the public of potential harms including press releases and social media technology.

Last month, the Washington Post published an article claiming a phenomenon called “recall fatigue” – in which consumers receive too much information related to recalls, leading them to ignore messages to destroy or return products. The term is not new. In 2007, USA Today published a similar story on “recall fatigue” related to the numerous food recalls at the FDA.

The article is not supported by much evidence that consumers are ignoring the recall notices. In fact, it could very well be that consumers are not receiving sufficient notice for everyday consumer goods. The article states that car owners return 73 percent of recalled autos, and a Costco representative quoted in the article said that the vast majority of its customers return recalled products to the store. This suggests that fatigue is not the problem for consumers; it suggests that the lack of notice of recalls is the problem.

The first and most obvious antidote is prevention. The Commission can use its expanded authorities to prevent harmful products from entering the market in the first place. The CPSIA testing and certification provisions, for example, would reduce the likelihood that dangerous products would be present on store shelves. Second, the agency’s enhanced recall authorities under the CPSIA, including the guidelines and requirements for

recall notices that it issued in January promise to improve the communications between industry, the Commission, and the public to remove products from store shelves and consumers' homes.

Finally, federal agencies, including the Commission, have a duty to notify the public of potential harms. As the Commission plans its priorities for FY 2012, we encourage it to adhere to its mission and implement its plan to educate consumers. Urgent notices of potential harm from products and reminders on improving product safety will penetrate the public consciousness even in a 24-hour news cycle. After years of neglect, we are far from the day when the CPSC can be accused of providing the American people with too much information.

Thank you for your time.



**Statement of the National Association of State Fire Marshals
Hearing to Discuss Agenda, Priorities for FY 2012
U.S. Consumer Product Safety Commission
August 11, 2010**

Good morning, Chairman Tenenbaum, and Commissioners Adler, Moore, Nord, and Northup. Thank you for the opportunity to address the CPSC's agenda and priorities for fiscal year 2012.

My name is Bill Degnan, and I am State Fire Marshal of New Hampshire and Secretary-Treasurer of the National Association of State Fire Marshals (NASFM). I appeared before you at this hearing a year ago, and am honored to be back. As you know, NASFM's members are senior state-level fire protection officials whose responsibilities include fire safety code adoption and enforcement, fire and arson investigation, fire incident data reporting and analysis, public education and advising Governors and State Legislatures on fire protection issues and policy.

I want to take a moment to sincerely thank you, Madam Chairman, for addressing our membership at our annual conference in Chicago last month. Your energy and enthusiasm for a safer world matches our own, and we welcome your invitation to work together more closely to achieve our common goals. It is in that spirit of cooperation that I address you all on behalf of NASFM today.

At the risk of repeating ourselves, you will note that some of our suggestions echo those we have made in years past. Each year that we see a national need going unaddressed, it is with more urgency that we raise it in successive years. But first I would like to briefly address those areas for which we want to express our recognition and appreciation for work well done.

You have proven with the promulgation of the federal mattress flammability standard for open flame ignitions that you can address national fire concerns with effective performance based regulations, and that you can work with industry to educate and enforce those regulations fairly. You have proven with outreach efforts like firesafety.gov and your Neighborhood Safety Network that you can reach out to consumers, including those who are hard to reach and thus most at-risk, with effective safety messages on smoke alarms, electrical safety, gas container safety, and many other topics.

You have worked tirelessly to address the Commission's obligations under the Consumer Product Safety Improvement Act of 2008 (CPSIA). The volume and quality of

regulatory activity undertaken over the past two years is a tribute to you and your excellent staff. We trust that the additional resources that have been given to the Commission for CPSIA implementation have been used to the greatest advantage, and hope that the increased staff and funding can do “double duty” in service to other CPSC efforts that fall outside the scope of the CPSIA, including fire-related issues. We were gratified to see the resumption over the past year of the CPSC staff’s participation in many voluntary standard development activities that had been temporarily suspended after passage of the CPSIA. This is a key activity in which the expertise and sustained input of your staff is crucial to help shape safety standards on a range of products.

We acknowledge the huge amount of resources you and your partner agencies have put into the investigations of imported drywall over the past year and a half, to determine both health effects and fire risk from corrosion of metal components. We await the results of the research you have initiated on electrical and fire safety components. In the meantime, our members are on notice to inform your field investigators of any suspected fires related to problem drywall, and we understand that none have yet been confirmed.

We also want to point out the excellent relationships that State Fire Marshals have with your field staff across the country. These relationships have resulted in many product-related fire hazards’ being brought to the CPSC’s attention and resulting in positive action to recall or otherwise address the hazard in the product. I personally have had several positive encounters with the CPSC field staff over the years, and I pledge to you that NASFM and its members stand ready to continue our assistance with the identification of hazardous items to make our citizens and our living environment safer from fire.

**Draft Strategic Plan, 2011-2016:
The Key Is in the Implementation**

The Commission is engaged in revising its Strategic Plan, and a draft is out for public comment. We are happy to provide a public comment via the comment form on your website, as requested, but please allow me to take a minute to comment on the draft in this statement. The Commission’s previous strategic plan had two clearly stated product-related long-term strategic goals, one dealing with the reduction in product-related fire deaths and the other regarding accidental carbon monoxide poisoning. It stands to reason that a revised strategic plan should include additional goals, reflecting the full scope of hazards and products for which the CPSC is responsible. Our concern has been that fire-related goals not be diluted or overlooked in the process of revisiting the plan.

We note that the Goals and Objectives expressed in the draft strategic plan do not specifically mention any specific product safety issues, much less fire-related issues. The stated Goals and Objectives apparently are intended to provide a framework within which specific hazards can be addressed. The key will be in the execution of the plan to identify actions and performance measures to articulate a strong fire safety agenda, and whether that will occur remains to be seen. We assure you that we will be watching closely.

In that connection, we have some very specific suggestions for actions that the CPSC could take that would have true impacts on fires and fire-related deaths and injuries, and all are within the CPSC's authority and ability to accomplish.

Residential Fire Sprinklers:

Promote the Need, Dispel Myths, and Ensure Robust Performance Standards

Residential sprinkler requirements are one of the top priorities of our organization. Last fall, the requirement for fire sprinklers in one- and two-family residences survived a challenge from homebuilders to remain in the 2012 version of the International Residential Code, which influences building regulations across the country. A similar requirement exists in the National Fire Protection Association's Life Safety Code.® Challenges to adopting these codes will continue at the state and local levels but the trend toward more residential sprinkler systems being installed is here and it is undeniable. This creates two opportunities for the CPSC moving forward.

First, you can use your vast communications network, including www.firesafety.gov and the Neighborhood Safety Network, to help promote the benefits of residential sprinklers to consumers, and correct the misperceptions about sprinkler cost and performance that are spread by opponents to safety. Your ability to reach grass-roots consumers would help tremendously in our ability to ensure a "live-in firefighter" in every home. The CPSC can promote and supplement resources available from organizations such as the Residential Fire Safety Institute (www.firesafefhome.org) and the Home Fire Sprinkler Coalition (www.homefiresprinkler.org) to add your tremendously influential voice to this life-saving cause.

Second, we urge CPSC to be actively involved in the regular review and updating of all applicable performance standards to ensure the reliability of residential fire sprinklers. You have access to a vast amount of in-house information and expertise on the reliability of present-day fire sprinklers. The residential application is fundamentally different from commercial applications for a number of reasons. Unlike sprinklers in commercial properties, sprinklers in residences are much less likely to be regularly inspected or tested in ways that history has shown are necessary to ensure reliability; fire officials simply do not have the same access to residences that they have to other occupancies that are controlled by code. In addition, the residential application is complicated by much more diverse use and exposure patterns, as well as reasonably anticipated misuse and abuse that makes the need for these products to work when called upon all the more crucial. The robustness of residential fire sprinkler performance standards is an area that the CPSC is well suited to address.

Cigarette Lighters:

Mandate Mechanical Safety Standards and Ban Novelty/Toylike Lighters

We have previously urged the Commission to act on a pending rulemaking to mandate the ASTM F400 voluntary Standard Consumer Safety Specification for Lighters as a federal regulation. Nine years ago, the Lighter Association petitioned CPSC to mandate the F400 standard. NASFM is on record as supporting the trade association's request.

The F400 standard is effective at assuring the structural integrity and the proper performance of lighters. There is no excuse for allowing cheap imports that do not comply into the United States, while responsible manufacturers take on the economic burden of complying. The F400 standard is effective, many responsible manufacturers comply with it, and it is already mandated by Canada and Mexico. However, many manufacturers of cheap imported lighters tend to view any voluntary standard as “optional.” The CPSC has had this petition for nine years, and we urge you to take this needed mandatory action to keep hazardous, poorly manufactured lighters out of the stream of commerce and out of the hands of consumers.

One of NASFM’s more recent campaigns has been to promote a ban on the sale of disposable novelty lighters shaped like toys, which are attractive to children and have resulted in tragic losses from fires that children have set with them. There is simply no excuse for selling a hazardous substance contained in toy-like containers that encourage children to seek them out and play with them. In the past year, 13 states have passed laws banning or otherwise restricting the sale of novelty lighters. Maine was the first, and the most recent was Illinois, which was signed by the governor on the first day of our annual conference last month. In the 111th Congress, the Protect Children from Dangerous Lighters Act, HR 2050 and S 723, would declare novelty lighters banned hazardous substances under the jurisdiction of the CPSC. NASFM supports all of these efforts. The National PTA just passed a resolution calling for novelty lighter bans as well, and we will be seeking more such endorsements. However, the state-by-state approach takes time, and the passage of federal legislation is always a long shot.

The CPSC has an opportunity to take true leadership on this issue, as it did with its child-resistant lighter regulations in the 1990s, and implement a national ban on the sale of novelty/toylike lighters that will decisively take these deadly products out of commerce and out of the hands of children – nationwide.

Wearing Apparel:

Toughen the 1953 Standard, and Do Not Overstate the Role of Accelerants

As we have shared with you previously, there is ample statistical data that show that consumers – especially those between the ages of 5 and 14 for clothing burn injuries and those over age 65 for clothing fire deaths – are not being adequately protected by the antiquated 1953 General Wearing Apparel Standard 16 CFR 1610. There is an ample and long chronology of scientific evidence and expert opinion that the standard, which allows newspaper and tissue paper to pass with flying colors, is grossly insufficient. There is also an established history that the CPSC’s own Children’s Sleepwear Flammability Standards have been very effective in proving that safer garments can be manufactured.

We are therefore puzzled and concerned by the historic resistance of the Commission to consider strengthening 16 CFR 1610 for all wearing apparel, and are particularly alarmed by the perception within the CPSC that any further regulation will have no benefit because of the observed involvement of flammable liquids in many of the burn incidents it has studied. We find it hard to accept the reality of this perception, and believe that it may be based on very limited research and incomplete analysis.

The CPSC is in a greater position than it has been in many years to be a proactive force in safety, rather than just reacting to petitions or edicts from Congress. In this context, you should consider the ability to strengthen a long-outdated and ineffective standard as “low-hanging fruit” that would have a tremendous impact on reducing painful deaths and injuries involving a product category that affects all consumers, without exception.

Candles:

Grant NASFM’s Petition for Mandatory Federal Regulations

Over the past year, NASFM has been working with the National Candle Association’s Safety Committee to help increase awareness of candle fire safety with the public, and to increase retailer awareness of and compliance with ASTM’s voluntary safety standards for candle performance, labeling, glass containers and candle accessories. In addition, the ASTM Candle Fire Safety Working Group continues to be active, with participation from the CPSC, in refining the existing standards and identifying and researching additional hazards. We commend the candle industry for its work on these standards.

The National Fire Protection Association recently published candle fire estimates for 2007. It appears that the number of estimated fires is declining, as are injuries and property damage. Deaths, however, are still hovering around 200 per year, with no meaningful trends in either direction.

NASFM believes that no substantial industry compliance will be achieved – and thus no meaningful impact on candle fire death data – until these thoughtfully developed voluntary ASTM standards are made mandatory. NASFM’s petition CP 04-1/HP 04-1 calling for that action was submitted to the CPSC in 2004, and six years later, we have yet to see action from the Commission. Granting this petition would provide the CPSC with the authority to enforce the standards for both domestic and imported products in a variety of ways, and it would give consumers greater confidence that the candles they purchase adhere to minimum safety standards.

Upholstered Furniture:

Pass a Comprehensive Rule and Heed Open-Flame Research by NIST and UL

Last but certainly not least: The CPSC is well aware of NASFM’s position that your proposed rule on upholstered furniture flammability is highly inadequate, because it focuses solely on smoldering ignition while ignoring open-flame sources, and because it does not adequately address the likelihood that if you fail to prevent ignition, the filling materials are not protected against flame spread. Your data analyses to accompany the proposed rule assert that smoldering ignitions represent 90% of the upholstered furniture fire problem, but we respectfully disagree with that conclusion.

We are aware that research is has been initiated by Underwriters Laboratories and the National Institute of Standards and Technology to look at approaches to open flame ignitions of upholstered furniture that are based on the successes achieved by the very successful open flame mattress standard promulgated by the CPSC, and the new technologies that have been developed in recent years to address mattress flammability.

These results could well supplement the work done to date by the CPSC. But the key will be you, Chairman and Commissioners: You must be willing to let go of preconceived conclusions about this issue and look with fresh eyes at the work being done by UL and NIST. It will still be up to you to take their results and incorporate them into a comprehensive, effective flammability regulation that will protect Americans from both smoldering and open flame fires involving upholstered furniture, which has long been the product involved in more fire deaths than any other product under your jurisdiction. We are counting on you for that leadership.

Action on these important consumer product fire safety issues will help demonstrate the CPSC's commitment to a strong fire safety agenda, and will help you to flesh out your new strategic plan. As always, we stand ready to work with the Commission on these and other fire-related product safety issues in pursuit of our shared mission to protect the public, and especially children and those who cannot protect themselves. Thank you.

Written Comments
Agenda and Priorities Fiscal Year 2012
attached from the following:

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August 4, 2010

Office of the Secretary
Consumer Product Safety Commission
Sent via e-mail to cpsc-os@cpsc.gov
Re: Agenda and Priorities FY 2012

To the Consumer Product Safety Commission members:

On behalf of the more than one million volunteer firefighters and emergency medical services (EMS) responders in the United States, I'm very pleased to have an opportunity to provide input on issues that are important to our members that I hope the Commission will focus on in FY 2012. Volunteer responders provide critical fire protection and emergency medical services in more than 20,000 communities across the country. Collectively, we sacrifice millions of hours of time each year training and responding to calls in order to protect the lives and property of our friends, family and neighbors.

Ben Franklin, the father of the American fire service, said, "An ounce of prevention is worth a pound of cure". My experiences as Chief of the La Farge (WI) Fire Department and Chairman of the National Volunteer Fire Council (NVFC) have convinced me of the truth of that statement. To the extent that we are able to reduce our exposure to conditions and products known to exacerbate the fire problem, we can limit the occurrence of fire and fire-related incidents, which lead to civilian and emergency responder deaths and injuries, not to mention billions of dollars worth of property losses annually.

According to the National Fire Protection Association (NFPA), the presence of automatic fire sprinkler systems reduces fire damage by approximately 97 percent while the death rate in sprinklered homes is 83 percent lower than in unsprinkled homes. In rural areas, where emergency responders often have to travel long distances leading to slower response times, fire sprinklers are often the only option for extinguishing and/or containing a fire. I believe that the Commission's goal of protecting the public from unreasonable risks of serious injury or death would be greatly furthered through the promotion of the installation of automatic fire sprinkler systems in new and existing construction.

I would also encourage the Commission to consider helping to eliminate novelty lighters and the dangers that they create. Under present statute (16 C.F.R. Part 1210), novelty lighters are defined as "lighters that have features that make them attractive to children under five," including "lighters with features entertaining to children, such as visual effects like flashing lights or sound effects like musical notes."

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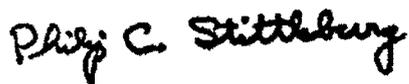
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202.887.4809
202.887.5291 fax

By statute, novelty lighters are subject to the safety standard that requires that at least 85 percent of children in a test group must be unable to operate the lighter. That standard is commendable and has saved lives. However, children cannot discriminate a toy from a fire tool designed to look like a toy. There are lighters on the market today that resemble matchbox cars, animals and game pieces. I urge the Commission to consider prohibiting the importation, sale and distribution of novelty lighters in the United States.

I appreciate being given an opportunity to make recommendations to the Commission as you consider what issues to take up in the near future. I would be more than happy to answer any questions that you have regarding the input that I have provided on behalf of the nation's volunteer emergency services responders.

Sincerely,

A handwritten signature in black ink that reads "Philip C. Stittleburg". The signature is written in a cursive style with a large, prominent "P" and "S".

Philip C. Stittleburg
Chairman

Stevenson, Todd

From: Dave Finger [DFinger@nvfc.org]
Sent: Tuesday, August 03, 2010 4:40 PM
To: CPSC-OS
Subject: Agenda and Priorities FY 2012
Attachments: CPSC Comment.pdf

Dave Finger, Director of Government Relations
National Volunteer Fire Council
7852 Walker Drive, Suite 450
Greenbelt, MD 20770
202 887-5700, ext. 12
202 887-5291 Fax
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www.nvfc.org

Find us on [Twitter](#) and [Facebook](#).

The NVFC is helping first responders to Put It Out. Access tools and resources to help you and your department quit smoking and stay quit at www.healthy-firefighter.org/putitout.

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**Written Comments of Kids In Danger
to the U.S. Consumer Product Safety Commission on**

“Agenda and Priorities FY 2012”

August 11, 2010

Introduction

These comments are on behalf of Kids In Danger and submitted by Nancy Cowles, Executive Director. KID is a nonprofit organization dedicated to protecting children by improving children’s product safety. Our mission is to promote the development of safer children’s products, advocate for children and educate parents and caregivers about dangerous products. We were founded in 1998 by the parents of Danny Keysar who died in a recalled portable crib at his Chicago child care home. Our work is to honor the memory of Danny and all victims of unsafe children’s products. We have included more general comments in the oral testimony submitted by Ami Gadhia of Consumers Union.

Sleep environment safety

The implementation of the Consumer Product Safety Improvement Act, especially Section 104, the Danny Keysar Child Product Safety Notification Act, goes a long way to improve children’s product safety and we commend CPSC Commissioners and staff for their tireless work in developing new standards, including the recently published draft standards on full-size and non-full-size cribs. These rigorous performance standards and testing methods, along with the requirement for third party testing, will go far to assure consumers of the safety of new cribs.

A priority in the coming year should be rigorous enforcement of the standards and testing as well as public outreach to consumers, child care facilities, retailers and others about the need to use only safe cribs that meet current standards. CPSC should also work with consumer organizations, foundations, hospitals and more to creatively supply safe sleeping environments for all families, including low-income ones. We look forward to being a partner with CPSC in these efforts.

KID urges CPSC to extend their safe sleep efforts to include other sleep

environment products such as sleep positioners, crib tents and other products sold to parents worried about the sleep of their babies. We are aware of several deaths in sleep positioners and other involving other infant bedding. At the same time, manufacturers and retailers show no sign of slowing the sale of these unnecessary and dangerous products. CPSC has taken the step of including warnings about sleep positioners and crib tents in their materials and we applaud those efforts. In addition, we ask CPSC to reconsider their endorsement of the use of bumper pads in cribs, as evidenced by their depiction in the CPSC video, *Safe Sleep*. According to a 2007 study in the Journal of Pediatrics¹, at least 27 deaths were attributed to bumpers from 1985 to 2005 and more recent deaths involving other products, such as the Nap Nanny, involved the use of bumper pads. We are also aware of a recent death in Texas of a baby that involved bumper pads.

Recall Effectiveness

With new standards in place, new teams at the ports, and a new determination at CPSC to improve product safety, CPSC will now have the ability to focus more directly on the effectiveness of the recalls it does announce. According to CPSC's own records, the return rate of recalled products is abysmal. CPSC must make it a priority not only to recall dangerous products, but to actually get them out of consumers' homes.

CPSC has made a good start in promoting the new product registration card program for infant and toddler durable products. CPSC should also work with all manufacturers and retailers to implement similar programs, even without them being mandatory, to increase the likelihood that consumers will learn when a product they own is recalled.

In trying to assess recall effectiveness, we at KID have been dismayed by the sorry state of record keeping on this topic at CPSC. Monthly reports that are supposedly required are never filed or missing vital information. Other times, the response to our FOIA has been simply that the file is lost. If CPSC is ever to improve recall

¹ Bradley T. Thach, George W. Rutherford, Kathleen Harris, "Deaths and Injuries Attributed to Infant Crib Bumper Pads," 28 July 2007, The Journal of Pediatrics, September 2007 (Vol. 151, Issue 3, Pages 271-274.e3).

effectiveness, they must first develop accurate and reliable records to measure return rates.

We urge CPSC to consider a team approach to solving this problem, similar to the team addressing sleep environments. Each department should participate in reviewing data and together developing new ideas to increase recall effectiveness. KID would suggest the following:

- Consideration of required paid advertising to reach targeted consumers – the manufacturers know how to reach consumers when they are selling products, they should use those same methods to retrieve dangerous products.
- Work with retailers to develop better ways to reach purchasers of products. The information is there; we just need creative ways to access and use it to deliver this vital safety information.
- Consider requiring more than a simple repair kit or replacement. CPSC should require incentives for consumers to participate in recalls such as additional products, gift cards or larger refunds.
- In sleep environment recalls, CPSC should work with manufacturers to require more rapid response to recalls. Waiting 2-6 weeks for a repair kit does not encourage participation. In addition, perhaps in these cases, especially if there has been a death, manufacturers should have to offer refunds or replacement products rather than a repair kit.

KID applauds all the progress of CPSC in the past year and look forward to working with you in the coming year as you implement these priority plans.

Stevenson, Todd

From: Nancy A. Cowles [nancy@kidsindanger.org]
Sent: Wednesday, August 04, 2010 1:44 PM
To: CPSC-OS
Subject: Agenda and Priorities FY 2012
Attachments: KID comments on CPSC priorities..doc

Attached and pasted below – written comments.

**Written Comments of Kids In Danger
to the U.S. Consumer Product Safety Commission on**

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Nancy A. Cowles
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Kids In Danger is a nonprofit organization dedicated to protecting children by improving children's product safety. Learn more at www.KidsInDanger.org. Read what's new at our [KID Blog](#).

Raise money for Kids In Danger by searching the Internet or shopping online with GoodSearch - www.goodsearch.com - powered by Yahoo!



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^[1] Bradley T. Thach, George W. Rutherford, Kathleen Harris, "Deaths and Injuries Attributed to Infant Crib Bumper Pads," 28 July 2007, *The Journal of Pediatrics*, September 2007 (Vol. 151, Issue 3, Pages 271-274.e3).



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Received CPSC

2010 AUG -4 A 11: 05

Office of the Secretary
FOI

July 30, 2010

Mr. Todd A. Stevenson
Office of the Secretary
U.S. Consumer Product Safety Commission
4330 East West Highway
Bethesda, Maryland 20814

Re: CPSC Agenda and Priorities FY 2012
Via email: cpsc-os@cpsc.gov

The International Code Council (ICC) commends the Consumer Product Safety Commission (CPSC) for its outstanding work to ensure the safety, health and well being of the American consumer. The guidance of the CPSC Board and dedication of the CPSC staff has had a tremendous positive effect on product safety and undoubtedly saved many lives and prevented untold injuries.

The ICC is also an advocate for safety in the built environment. ICC is a membership association dedicated to building safety, fire prevention, energy conservation and sustainability. The ICC develops the codes used to construct residential and commercial buildings. Most U.S. cities, counties and states that adopt codes, choose the International Codes developed by the ICC. The International Codes (*I-Codes*) are developed through a consensus process utilizing building and fire safety experts from across the U.S. It is the mission of the ICC to provide the highest quality codes, standards, products, and services for all concerned with the safety and performance of the built environment.

There are two areas of public safety concern that the ICC would like to focus upon in our comments regarding the CPSC agenda for the next year. The first concern is prevention of entrapment in swimming pools and spas; addressed in the *Virginia Graeme Baker Pool and Spa Safety Act* and also in the 2009 edition of the International Residential Code (IRC) and International Building Code (IBC). CPSC could utilize its website and other resources to improve public awareness of the dangers associated with entrapment in filtration systems of pools and spas and advocate in support of consistent application and enforcement of the provisions in the *Virginia Graeme Baker Pool and Spa Safety Act* and the *I-Codes*. The CPSC could increase its public education and outreach to code enforcement officials and community leaders to ensure the known safety provisions contained in the *Virginia Graeme Baker Pool and Spa Safety Act* and the *I-Codes* are enforced consistently across all jurisdictions, large and small, to prevent these tragic accidents.

The other recommendation concerns prevention of the approximately three-thousand annual deaths and over ten-thousand civilian injuries caused by home fires. We commend the CPSC for its advocacy and public education programs supporting smoke alarms in all homes. The wide spread use of smoke alarms has made a significant contribution in reducing civilian fire deaths since smoke alarms were first required in the model codes utilized over thirty years ago. Since smoke alarms were first introduced, there have

been changes in home furnishings, construction materials, floor, ceiling and roof assemblies, availability of firefighting resources and human behavior; all contributing factors to the three-thousand annual fire deaths. New technology and innovation in materials has also led to the requirements in both the ICC and NFPA model codes that all new residential buildings be required to have sprinklers installed.

There is an opportunity for the CPSC to join the USFA and conduct an effective public education campaign on the fire sprinkler requirements contained in the 2009 IRC. Informing the American public by supporting the model code development process, assist in disseminating factual information about how these systems save lives and prevent injury, and advocate for the adoption of the most recent model residential building codes. There is a great deal of information supporting residential fire sprinklers from the USFA and NIST, but that information is not reaching the American consumer and that is why CPSC education and outreach explaining how residential fire sprinklers prevent home fire death and injury should be made part of its FY 2012 Agenda. Most residential fires result from the misuse or failure of various consumer products in the home, such as ranges, toaster ovens, space heaters, irons, clothes dryers, and other common household products. While the Commission may be unable to prevent the failure or misuse of such products, residential sprinklers will prevent those failures from causing death to household occupants. Educating the public on the benefits of sprinklers is only the first step. In order for these benefits to be fully realized, jurisdictions should adopt the most recent edition of the model residential construction code.

Several cities have required sprinklers in all homes since the mid- 1980's. We encourage CPSC staff to examine the experience of Scottsdale, Arizona in particular, to see the dramatic decline in fire deaths (to zero in sprinklered homes), and the reduction in the cost of installed systems. ICC appreciates the opportunity to provide these comments and we remain willing to work with and support the CPSC on safety issues involving the built environment.

Thank you for taking ICC's recommendations into consideration.

Sincerely,



Sara C. Yerkes

Senior Vice President, Government Relations