



**United States**

**CONSUMER PRODUCT SAFETY COMMISSION**

**Room 420, East West Towers**

**4330 East West Highway**

**Bethesda, Maryland**

**PUBLIC: HEARING ON AGENDA AND PRIORITIES  
FOR FISCAL YEAR 2000**

**THURSDAY, MAY 21, 1998  
2:00 P.M.**

**AGENDA**

**OPENING STATEMENT - Chairman Ann Brown**

**PRESENTATIONS**

**Thomas R. Brace  
President  
National Association of State Fire Marshals**

**Mary Ellen Fise  
General Counsel &  
Product Safety Director  
Consumer Federation of America**

**ADJOURNMENT**



# **Consumer Federation of America**

**STATEMENT TO THE  
CONSUMER PRODUCT SAFETY COMMISSION  
ON PRIORITY PROJECTS FOR FY 2000**

**submitted by:**

**MARY ELLEN R. FISE  
GENERAL COUNSEL &  
PRODUCT SAFETY DIRECTOR**

**CONSUMER FEDERATION OF AMERICA**

**May 21, 1998**

Consumer Federation of America (CFA) is pleased to have the opportunity to make recommendations for Consumer Product Safety Commission (CPSC) priority projects for Fiscal Year (FY) 2000. We also appreciate the opportunity to comment on important safety issues of concern to consumers today and in the next year-and-a-half as we approach the new century.

Before commenting on priorities and current issues, let me first congratulate you on CPSC's 25th Anniversary and commend, in particular, this Commission for making the agency the strongest it has ever been in CPSC history. This is an agency that works hard, in the most frugal manner, to protect American consumers and you do a terrific job (in almost all areas).

Since meeting with you last year, the **CPSC Strategic Plan** has been finalized and you have published the **1999 Annual Performance Plan**. These documents are exemplary and provide good direction and vision for the agency. However, CFA continues to be concerned that given current resources, the comprehensive risk reduction envisioned by the plan will prove difficult, if not impossible in some areas. We are pleased that the 1999 budget request sought at least an even level of Full Time Equivalents (FTEs), but believe additional FTEs are needed and deserved, given the ambitious hazard reduction goals established. As we have indicated in the past, your Strategic Plan should be used to make the case for additional dollars and staff, rather than justify even levels. We guess that there is much you'd like to do to protect consumers from unsafe products and that some very hard choices had to be made regarding what to include (and therefore fund). In some respects the list of issues you are not able to address is as an important

a document as your very persuasive Strategic Plan. We were pleased to see a glimpse of such a list in some of your FY 1999 budget documents.

CFA strongly supports the additional \$2.4 million budget request for **information technology**. When consumers are being killed or injured by unsafe products, the agency must be able to respond as quickly as **possible** to address the risks. The more time it takes for CPSC staff to do their jobs, the longer it takes to develop solutions that save lives. An integrated information system, upgraded equipment and software, and improved networking capabilities and storage capacity, are the tools needed to allow the CPSC staff to perform efficiently and achieve the **agency's mission**.

Turning; to product risks, I'd like to first ask for your commitment to enhance your efforts to address **all terrain vehicles (ATVs)**. Both now and in the future (including FY 2000) it is critically important that CPSC take steps to reduce the number of injuries and deaths associated with ATV use, particularly for children. The expiration of the ATV consent decree just weeks ago marks another milestone in a discouraging history of too little action to protect such a vulnerable population.

Approximately 80 children died and almost 24,000 children were treated in hospital emergency departments because of ATVs in 1996 alone. ATV crashes have killed more than 3,115 people and seriously injured more than one million others since 1982; about 40% of these victims have been children under 16.

We understand that your General Counsel and attorneys in his office have been negotiating for quite some time to assure that new provisions are agreed in order to address this

hazardous product. We very much appreciate his willingness to meet with the consumer groups to keep us up-to-date on developments. Despite these efforts, CFA's position (along with other consumer groups) on ATVs has not changed. As we have stated often in the past, we believe that the agency should ban the use of ATVs for children and recall ATVs sold for use by children, as well as codify the ban of three-wheel ATVs.

While we recognize that this Commission is unlikely to begin proceedings to effectuate these recommendations any time soon, we ask that you make some promises to American children. We ask that you promise to reevaluate thoroughly the effectiveness of any new information and education campaign sponsored by industry to address children's risks on ATVs within two years of commencement. We ask that you use your bully pulpit to deliver a clear unequivocal message to manufacturers, distributors, retailers and particularly parents that ATVs are not to be used by children. This is an issue that needs not only an industry information and education (I&E) campaign but a bona fide CPSC I&E campaign. When was the last time CPSC held a press conference on ATVs -- warning the public and particularly parents about the dangers of children riding ATVs?

If a toy was killing 80 children each year, I'm sure the agency would be quite vocal about informing the public, not to mention considering its regulatory options. If a household product intended for adult use-- such as a toaster or an iron was killing 80 children per year, I'm sure that the agency would be rallying the press and hastily planning Commission briefings to discuss options. Yet for more than 10 years -- year in and year out -- kids have been dying on ATVs at alarming rates and the agency has almost come to treat these as expected events or acceptable risks.

If nothing else the Commission has learned over the past ten years that some measures work better than others. We seek a promise that you will not wait another ten years to reevaluate your new game plan. We are not confident at all -- in fact, we are quite skeptical -- that the industry's "new" efforts to protect children are, in fact, going to reap significant, measurable results. We hope we are wrong. In any case, it is time to end the CPSC silence on this issue.

As you are aware, CFA has supported the promulgation of a mandatory standard to address **bunk bed** hazards for over a decade now. Thus, we were very pleased to support the recent publication of the Commission's Advance Notice of Proposed Rulemaking. From January 1990 through September 1997, there were 85 bunk bed-related deaths to children under the age of 15; with 54 of these deaths due to entrapment. There were an estimated 35,000 bunk bed-related injuries to children under age 15 treated in U.S. hospital emergency rooms in 1996. In addition, CPSC received reports of an additional 49 "near miss" entrapment incidents where a **child** was **entrapped** yet received no or minor injury because of some intervention. Compliance with the **voluntary** standard by industry has been inadequate. In the last three years alone CPSC has instituted 8 recalls involving 41 manufacturers and affecting approximately 531,000 bunk beds. Because: bunk beds have a useful life of 13-17 years and recall effectiveness has been low, CFA is very concerned about unsafe bunk beds currently in use. All in all, CPSC has a very convincing case for a mandatory rule. CFA urges continued prompt action to address this risk to children.

On the issue of **playground safety**, CFA believes that the revised CPSC voluntary guidelines for public play equipment represent a significant step forward in assuring safer playgrounds. CFA is currently working to harmonize as many provisions in our model law with the new CPSC Handbook. While there are areas we believe the document could be stronger, we believe that the overall direction you are taking in this field is on target.

CFA is also very pleased that the agency has committed to updating its very important study examining epidemiological data concerning playground injuries and deaths. This information is very much needed to shed light on why the playground related incidents have been so slow to decrease. We recommend that CPSC also expand this study to collect and analyze exposure type information so that we could learn, for example, the location and time of injury occurrence (e.g. are more children injured on school playground than on municipal playgrounds? do school playground injuries occur most during peak use or other times during the day, such as when the school playground is being used for an afterschool program?). CFA supports the collection of such data, whether it occurs as a stand alone project or as part of the an overall children's product exposure survey.

With respect to the **upholstered furniture** rulemaking, CFA supports promulgation of a substantiated rule to reduce fire injuries and deaths. We supported the Commission's vote to delay the agency's collection of additional data concerning the toxicity of fire retardants so that CPSC will be able to produce the most unassailable rule possible. We urge the agency to continue to commit needed resources to this very important effort.

Finally, CFA reiterates its position which we have articulated to you for many consecutive years regarding the importance of a strong **enforcement** program. The agency must be aggressive in seeking penalties for those companies who fail to report suspected hazards and should routinely publicize these penalties. Increasing the number of section 15 reports and the number of corrective actions also should be an ongoing priority.

# National Association of State Fire Marshals



[www.firemarshals.org](http://www.firemarshals.org)

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Statement of Thomas R Brace, President  
**National Association** of State Fire Marshals  
U.S. Consumer Product Safety Commission  
Agenda and Priorities **Hearing** for Fiscal Year 2000  
May 21, 1998

Chairman **Brown**, Commissioners Moore and Gall, my name is Thomas Brace.

I thank **you** for this opportunity to present the views of the National Association of Sate Fire Marshals on **the** Commission's priorities and agenda for **FY** 2000.

I will address the question of the Commission *agenda* in **a** moment.

Let me first address the Commission's *priority*, which appears to be clear.

Among children five and under, we see 13 deaths a year in this country **from** toy-related incidents, 63 a year from nursery products such as cribs, **high** chairs and strollers, 300 drownings in residential pools, and still about **two** a year **from** the drawstrings **on** jacket hoods.

But, according to your statistics and ours, 800 children in the United States under the age of five die each year in fires. That's two **each day**. **That's** twice the mortality rate of the general population, and that is largely because little **children** have the toughest time escaping most **fires**.

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**Infants are virtually** immobile or contained in cribs or playpens. Those who might escape are easily **confused** and tightened, **often** hiding **from** fire fighters and **parents**. Many are simply too young to grasp the most basic survival skills such **as** "Stop, Drop and Roll" or calling 9-1-1 to report a fire.

**As** a matter of priority, we must do a better job of protecting children five years and younger — and, I might add, we must do a better job of protecting the physically challenged and the very oldest of our citizens, who also may **lack** the mobility to escape fires. To the extent that the protection of children is the Commission's **most** important mission, the Commission's highest priority should be fewer fires.

If you concur with our views of the Commission's priority, then we believe that your **FY2000 program — your** agenda — already is set and would be characterized in the following ways.

- First, your development of an **upholstered furniture** flammability standard will be complete, and enforcement of that standard will have begun. In the time between the Commission's May 5 hearing on fire retardants and today, **approximately** 30 People have died in upholstered furniture fires. In the 21 years since the California Bureau of Home Furnishings **first asked** the Commission to address this issue in 1977, as **many** as 25,000 individuals have died in fires involving upholstered **furniture** -- many of them children.

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The Commission cannot say that it is serious about **safety** of any kind if it has not begun to enforce this standard **by FY2000**.

- Second, your work on small open flame ignitions of mattresses will be **well** along. By **FY2000**, the Commission should have a far better understanding of the complex combustion relationships among bedclothes and mattresses. Unlike the situation with upholstered **furniture** — where industry has fought fire fighters at every turn — the mattress producers are a full partner in the pursuit of safety.
- Third, by **FY2000**, the Commission may well have the authority to regulate **the** ignition propensity of **cigarettes**. NASFM was the first fire service organization to endorse the recently introduced legislation giving you that authority. A great deal of work already has **been** done in this **area**, more is required. By **FY2000**, we **very** much hope this work is under **way**.

We believe that the combination of mattress, upholstered furniture and cigarette standards will bring our next **major** drop in fire deaths.

- **Fourth, we** would expect that by **FY2000**, the technical **staff's** work on range-top **technology** to reduce **cooking-related** fires will be concluded and a course of action recommended.

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When we first learned of this work, we wondered if it was possible to distinguish **between** a normal, range-top heat source and a fire about to erupt. Having **consulted** engineers **from** the appliance industry, **we** understand this may be more a matter of affordability than science. If **that** is so, we urge the Commission to move forward. If the appliance industry is as competitive as it **claims**, the costs of this technology **will** drop, and the safety benefits clearly would be substantial.

- **Fifth**, we also are **encouraged** by the technical **staff's** work with Underwriters Laboratories on electrical appliances;. Every electric appliance plugged into an outlet contains more than enough current to **ignite a fire** — it truly does not matter how well-engineered or manufactured the item is. It is our hope that **UL** will rewrite its standards to acknowledge this reality. If UL does not do so this year, we will petition the Commission to do so by rule. **Therefore**, either way, we would expect this matter to be under consideration in **FY2000**.
- Another item of interest to us is **sleepwear**. We all have seen dramatic evidence of what **happens** when children's pajamas are ignited. The **same** is **true** of adult sleepwear. For that matter, the same is **true** of much clothing. Therefore, the issue here is the relative flammability of textiles. I assure you that the National Association of State Fire **Marshals** is not a **front** for the Fig Leaf Institute, but we think it may be time to take **an** overall **look** at the flammability of fabrics used in clothing. The data focus on items first ignited and,

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therefore, may be **missing** the big picture. Whether **or** not clothing is **first** ignited, we need to know how many deaths and burn injuries are directly related to burning clothes. We do **not know**, but we would like the Commission to find out in FY2000.

- Finally, we recommend that the Commission take a much closer look at public education as **a means** of preventing fires. Fire fighters know that the three major causes of fire are men, women and children. You would be hard pressed to find a fire department without some public education effort. But we must do better.

We propose that the Commission form a panel consisting of **behavioral** and communications experts, fire department public educators and others interested in encouraging safety. The panel **would** be charged with **determining** what type and level of communication is required to influence behavior.

In a day when politicians spend millions of promotional dollars to attract votes and manufacturers spend hundreds of millions on commercials to sell products, it stands to reason that a few thousand pamphlets — even a million pamphlets — simply are not adequate.

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A panel, of experts can tell **us** how best to influence behavior. Armed with their advice, publicly and privately **funded** public education programs are likely to achieve fat more. If such a panel were to begin work now, we might have their recommendations by **FY2000**.

In past years we have ended our statement with a few thoughts about the organization and management of the agency. This **year**, I will make it brief:

We count four hammers — and no screwdrivers — on the wall outside of the Chairman's office. That's a **very** good sign. Thank you.