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

BALLOT VOTE

DATE: AUG 5 1998

TO : The Commission
Sadye E. Dunn, Secretary

FROM : Pamela Gilbert, Executive Director PG
Jeffrey S. Bromme, General Counsel
Stephen Lemberg, Assistant General Counsel SL

SUBJECT: 1999 Regulatory Plan

BALLOT VOTE due: AUG 12 1998

Executive Order 12866 directs each agency of the Federal government, including independent regulatory agencies, to prepare a Regulatory Plan. A draft of the 1999 Regulatory Plan, as recommended by the Office of Hazard Identification and Reduction, for approval by the Commission and transmittal to the Office of Management and Budget, is contained in the attached Federal Register notice. The 1999 Regulatory Plan includes a statement of the Commission's regulatory priorities, and covers the most important significant regulatory actions the agency reasonably expects to issue in proposed or final form in the upcoming fiscal year (1999).

The information in the attached draft is current through August 3, 1998. If the Commission approves publication of the attached draft, the draft will be revised to reflect any changes in the status of any activity described in the plan that occurs between August 3, 1998, and the closing date for submission of changes to OMB.

Please indicate your vote on the following options.

I Approve the draft Regulatory Plan without change.

Signature _____ Date _____

NOTE: This document has not been reviewed or accepted by the Commission.
Initial Rh Date 8/5/98

CPSA 6 (b)(1) Cleared 8/5/98
X No Mfrs/PrvtLblrs or

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

_____

_____

_____

_____ _____
Signature Date

III Do not approve the draft Regulatory Plan.

_____ _____
Signature Date

CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

Statement of Regulatory Priorities

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

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

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

- frequency and severity of injury;
- causality of injury;
- chronic illness and future injuries;
- costs and benefits of Commission action;
- unforeseen nature of the risk;
- vulnerability of the population at risk;

- probability of exposure to the hazard.

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

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

In fiscal year 1999, the Commission's significant rulemaking activities will involve development of options to address risks of fire associated with upholstered furniture, and development of a proposed standard for multi-purpose lighters to make those products resistant to operation by young children. These projects are described in detail below.

Both of the rulemaking proceedings in the Commission's 1999 regulatory plan are related to protection of vulnerable populations. Upholstered furniture fires kill and injure children, the elderly, and families and individuals with lower incomes disproportionately to the representation of these persons in the population.

With regard to multi-purpose lighters, children younger than

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

The emphasis on these two rulemaking activities in the Commission's 1999 regulatory plan is consistent with the Commission's statutory mandate and its criteria for setting priorities. Additionally, the Commission's 1999 regulatory plan supports the President's goal to reduce costs of health care by preventing injuries to individuals who are among the most vulnerable to being injured in accidents associated with the use of consumer products.

TITLE: Flammability Standard for Upholstered Furniture

RIN: 3041-AB35 (PROPOSED)

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

UNFUNDED MANDATES ACT: No

REINVENTING GOVERNMENT:

This rulemaking is not part of the Reinventing Government effort.

LEGAL AUTHORITY: 15 USC 1193 Flammable Fabrics Act

CFR CITATION: 16 CFR 1640

LEGAL DEADLINE: None

ABSTRACT:

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

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address cigarette ignition, and directed the staff to report to the Commission on the effectiveness of, and the extent of industry compliance with, a voluntary program to reduce risks of ignition of upholstered furniture by cigarettes. The Commission staff developed a draft standard to address ignition of upholstered furniture by small open-flame sources. In 1998, the Commission voted to defer action on small open-flame sources and gather additional information on the potential toxicity of flame-retardant chemicals that might be used to meet a standard. A public hearing on this subject was held on May 5-6, 1998. The staff is now analyzing data from the hearing and completing other technical studies. In 1999, the staff is scheduled to brief the Commission on its findings and will present alternatives for future action by the Commission.

STATEMENT OF NEED:

In 1995, approximately 670 deaths, more than 1,700 injuries and about $250 million in property damage resulted from 13,600 residential fires in the United States in which upholstered furniture was the first item to ignite. This total includes fires ignited by small open-flame sources, large open-flame sources, and cigarettes.

The total societal cost attributable to upholstered furniture fires was approximately $4.0 billion in 1995. A significant portion of that total -- $625 million -- was associated with upholstered furniture fires ignited by small open-flame sources, such as matches, lighters, or candles. These

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fires are not addressed by any national standard or voluntary program.

SUMMARY OF THE LEGAL BASIS:

Section 4 of the Flammable Fabrics Act (FFA) (15 U.S.C. 1193) authorizes the Commission to issue a flammability standard or other regulation for a product of interior furnishing if the Commission determines that such a standard is "needed to adequately protect the public against unreasonable risk of the occurrence of fire leading to death or personal injury, or significant property damage." No aspect of the Commission's regulatory proceeding is required by statute or court order.

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

ALTERNATIVES:

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

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

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

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alternative to, the requirements of a mandatory flammability standard;

3. The Commission could terminate the proceeding for development of a flammability standard and rely on a voluntary standard if a voluntary standard would adequately address the risk of fire and substantial compliance with such a standard is likely to result; and

4. The Commission could terminate the proceeding and withdraw the ANPRM.

ANTICIPATED COSTS AND BENEFITS:

The estimated annual cost of imposing a mandatory standard to address ignition of upholstered furniture by small open-flame sources will depend upon the test requirements imposed by the standard and the steps manufacturers take to meet those requirements. The average annual societal cost of fires involving upholstered furniture ignited by small open-flame sources since 1990 is more than $600 million. A small open-flame standard could also reduce cigarette ignited fire losses, the societal cost of which was over $2 billion in 1995. For this reason, the potential benefits of a mandatory standard to address the risk of ignition of upholstered furniture by small open-flame sources could be significant, even if the standard did not prevent all such fires started by open-flame sources.

RISKS:

The estimated total cost to society of all residential fires associated with upholstered furniture was $4.0 billion in 1995.

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

TIMETABLE:

ACTION	DATE	FR CITE
ANPRM	06/15/94	59 FR 30735
ANPRM Comment Period End	08/15/94	59 FR 30735
Commission Decision	00/00/99	

SMALL ENTITIES AFFECTED: Undetermined

GOVERNMENT LEVELS AFFECTED: Undetermined

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

RIN: 3041-AB66 (PROPOSED)

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

REINVENTING GOVERNMENT: This rulemaking is not part of the Reinventing Government effort.

LEGAL AUTHORITY: 15 USC 2051 Consumer Product Safety Act

CFR CITATION: 16 CFR 00

LEGAL DEADLINE: None

ABSTRACT:

On January 16, 1997, the Commission published an advance notice of proposed rulemaking (ANPRM) to begin a proceeding which may result in a mandatory consumer product safety rule requiring multi-purpose lighters to resist operation by children. The Commission began this proceeding after granting a petition.

A mandatory product safety rule for multi-purpose lighters would require these lighters to have a child-resistant mechanism to prevent operation by most children younger than five years of age. The standard would include lighters marketed for a wide range of general household uses, such as igniting fuel for fireplaces, charcoal or gas fueled grills, and camping equipment.

The staff forwarded a briefing package to the Commission in July 1998. The briefing package recommended publication of a notice of proposed rulemaking (NPRM) for a rule that would require multi-purpose lighters, also called utility lighters, to be child-resistant.

STATEMENT OF NEED:

When the Commission issued the safety standard for cigarette lighters (16 CFR Part 1210) in 1993, multi-purpose lighters were excluded from its requirements because the Commission lacked information to establish that multi-purpose lighters were associated with an unreasonable risk of injury from fires set by children playing with such lighters. However, since issuance of the cigarette lighter standard, the Commission staff has obtained information about 158 incidents occurring from January 1988 through April 1998 in which children younger than five years of age started fires using multi-purpose lighters. These fires resulted in 23 deaths and 58 injuries.

Children younger than five years of age usually are incapable of dealing with a fire once it has started. Consequently, they and their families are at special risk of injury from fires started by child-play. About half all of the fatalities in the fires resulting from children playing with multi-purpose lighters were the children who started the fires. About 25 percent of the 58 persons injured in fires started by children with multi-purpose lighters were hospitalized for treatment. One 15-month-old infant was treated for second and third degree burns over 80 percent of his body after his three-year-old brother used a multi-purpose lighter to ignite the playpen in which the infant was sleeping.

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

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voluntary program.

SUMMARY OF THE LEGAL BASIS:

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

ALTERNATIVES:

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

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

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

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

4. The Commission could terminate the proceeding and withdraw the ANPRM.

ANTICIPATED COSTS AND BENEFITS:

Based on available fire incident and sales information, the estimated cost to society of fires started by children playing with multi-purpose lighters is about $36 million a year. This estimate includes the costs associated with loss of life, medical treatment, lost income, pain and suffering, and property damage. A safety standard for multi-purpose lighters with a required child-resistance of 85 percent would provide estimated gross benefits of about $27 million a year. Costs of compliance are expected to result in increased consumer expenditures of around $16 million per year, resulting in net benefits around $11 million annually. This annual net benefit will increase if, as expected, sales of multi-purpose lighters increase.

RISKS:

The Commission has information indicating that from January 1988 through April 1998, children younger than five years of age started at least 158 fires using multi-purpose lighters. These fires resulted in 23 deaths and 58 injuries. Based on available fire incident and sales information, the Commission staff estimates that the total cost to society of these fires is about $36 million a year.

TIMETABLE:

ACTION	DATE	FR CITE
ANPRM	01/16/97	62 FR 2327

ANPRM Comment Period End.....03/17/97 62 FR 2327

Staff Briefing Package on
NPRM.....07/15/98

Commission Decision on NPRM.....00/00/98

SMALL ENTITIES AFFECTED: Undetermined

GOVERNMENT LEVELS AFFECTED: Undetermined

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