Lighter Association Inc.

CPSC/OFC OF THE SECRETARY

1999 JAN -8 A 11: 50

January 7, 1999

CPSA 6 (b)(1) Cleared
No Mfrs/PrvtLblrs or
Products Identified
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Comments Processed.

Ms. Sadye E. Dunn
Office of the Secretary
Room 502D
U.S. Consumer Product Safety Commission
4330 East-West Highway
Bethesda, Maryland 20814-4408

Re: Multi-Purpose Lighter Rulemaking

Dear Sadye:

Enclosed please find the original and five (5) copies of the Summary of Comments of the Lighter Association, Inc. for Oral Hearing in regard to the proposed rule in the above-captioned rulemaking.

With all best regards.

Very truly yours,

David H. Baker
General Counsel

DHB:jkp
Enclosures

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1920 N Street, N.W., Suite 800 ■ Washington, D.C. 20036 ■ Tel (202) 973-2709 ■ Fax (202) 331-8330

CPSC/OFC OF THE SECRETARY
FREEDOM OF INFORMATION

1999 JAN -8 A 11: 51

BEFORE THE

U.S. CONSUMER PRODUCT SAFETY COMMISSION

PETITION CP 96-1

MULTI-PURPOSE LIGHTERS; NOTICE OF PROPOSED RULEMAKING;

REQUEST FOR COMMENTS

SUMMARY OF COMMENTS OF

LIGHTER ASSOCIATION, INC.

FOR ORAL HEARING

David H. Baker
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1920 N Street, N.W., Suite 800
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General Counsel
Lighter Association, Inc.

January 7, 1999

BEFORE THE

U.S. CONSUMER PRODUCT SAFETY COMMISSION

PETITION CP 96-1

MULTI-PURPOSE LIGHTERS; NOTICE OF PROPOSED RULEMAKING;

REQUEST FOR COMMENTS

SUMMARY OF COMMENTS OF

LIGHTER ASSOCIATION, INC.

FOR ORAL HEARING

I. IDENTITY OF COMMENTOR

II. POSITION OF COMMENTOR

A. General Support for Proposed Rule

B. Suggestions for Changes to Scope of Rule

1. Separate Utility and Micro-torch Lighters

2. Clear Exclusion of "Luxury" Lighters

3. Eliminate Exception for Lighters With More than 10 Ounces of Fuel

C. Opposition to Design Requirement

D. Opposition to New Definition of "Easily Overridden"

III. CONCLUSION

Respectfully submitted,

David H. Baker
General Counsel

January 7, 1999

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Carol Pollack-Nelson, Ph.D.
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(301) 340-2912 (phone & fax)

CPSA 6 (b)(1) Cleared
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Comments Processed.

January 11, 1999

Office of the Secretary
Room 502
US Consumer Product Safety Commission
4330 East-West Highway
Bethesda, MD 20814

Re: Oral Comment; NPR for Multi-Purpose Lighters

To Whom It May Concern:

I am grateful for the opportunity to present comments at the upcoming hearing on multi-purpose lighters. I plan to discuss human factor issues relating to utility lighters. My comments will address children's fire knowledge and attraction to fire and lighters; parental perceptions regarding the hazard and storage of lighters; supervision; and the appropriateness of a warning label as a hazard avoidance strategy for utility lighters.

Attached please find a copy of my comments in response to the Notice of Proposed Rulemaking (NPR) published in the Federal Register on September 30, 1998.

I thank you for considering my comments in your decision process.

Most sincerely,

Carol Pollack-Nel

Carol Pollack-Nelson, Ph.D.

Carol Pollack-Nelson, Ph.D.
Independent Safety Consulting
13713 Valley Drive
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(301) 340-2912 (phone & fax)

January 11, 1999

Office of the Secretary
Room 502
US Consumer Product Safety Commission
4330 East-West Highway
Bethesda, MD 20814

Re: Comments in response to NPR for Multi-Purpose Lighters

To Whom It May Concern:

I am writing in response to the Notice of Proposed Rulemaking (NPR) regarding multi-purpose lighters (63 Federal Register 52397, September 30, 1998). I wish to comment on human factor issues relating to utility lighters. I am a human factors psychologist, having worked in the field of consumer safety since 1982. From 1988 through 1993, I was employed by the CPSC in the Human Factors Division. Since 1994, I have been working independently as a human factors consultant.

Human Factors psychology is a discipline concerned with optimizing the interaction between people and objects in their environment. Product design must take into account consumers' anticipated behavior, knowledge, ability, motivations and perceptions. Understanding these human experiences is useful for determining the best way to address the hazard of child lighter fires.

My comments address children's fire knowledge and attraction to fire and lighters; parental perceptions regarding the hazard; storage of lighters; supervision; and the appropriateness of a warning label as a hazard avoidance strategy for utility lighters.

I. Children's Fire Knowledge

Although many children are taught not to touch lighters, they are typically not instructed in how to safely use such items or what to do if a fire breaks out. Children's knowledge of fire - what burns, how quickly different materials burn, and how to put fires out - is typically inadequate and based only on observations of successful lighter use.

Research on hazard perception finds that past benign experiences contribute to one's lack of appreciation for a hazard. In many households, children see lighters being used for constructive purposes, without ever observing an unintentional fire.

As a result, many children lack a true understanding of fire and its potentially hazardous effects. In Kafry's (1980) study of "normal" K, 2nd & 4th grade boys, she observed a failure to understand what materials can burn and the failure to comprehend how to correctly respond to various fire situations. Dittmar (1991) reports that many children - even those as old as 11, 12, or 13 years of age, may erroneously believe that they can control a fire they start by patting it. Kolko & Kazdin (1989) studied 343 children, ages 6-13 years and found that many had a limited knowledge of combustible items or fire safety/emergency responses. Thus, if older children lack such knowledge, then clearly children under 5 are unknowing and ill-equipped to handle the lighter that attracts them.

II. The Attraction of Fire & Lighters to Children; Their Ability to Use Lighters

Despite the fact that parents teach their children not to touch lighters, fires continue to be started by children as young as two years of age. As stated in a memo from the Human Factors division, fire is warm, bright, and exciting (Carolyn Meiers, September 19, 1996). It is also taboo. Thus, children are instructed to stay away from that to which they are naturally drawn. However, the behavior of children, described in incident reports, clearly shows a determination to acquire "out of reach" lighters.

Compounding the appeal of fire is the appeal of the product which creates the fire. As has been reported in a number of incidents, many children involved in lighter fires believe the lighter to be a type of toy gun or clicking device. Key features such as the trigger, trigger guard, nozzle or barrel, and clicking sound are similar to those commonly found on children's toy guns. Typical behaviors for young children include the use of toy guns, and imitation of adult behaviors in symbolic play (e.g., pretending to light a grill).

As the incidents illustrate, children as young as two years of age are capable of using utility lighters. Two reasons why utility lighters are particularly easy for young children to operate are:

(1) Lighters require the same skills to operate as some common toys, including toy guns. The ON/OFF switch found on some lighters is similar to the ON/OFF switch found on some battery-operated

toys, including some battery-operated "shooting" devices. The trigger on some utility lighters is functionally the same and no more difficult to depress than the trigger on some toy guns. Thus, toys in a child's environment train them to use such lighters.

(2) Children as young as two years of age are capable of learning by imitation. Children are particularly interested in imitating someone they love and admire, such as a parent, grandparent, or babysitter. Children who have repeated opportunities to observe someone using a lighter are able to imitate the actions necessary to switch it on and produce a fire.

III. Adult Perception of Hazard and Storage Behavior

Adults, knowing the purpose of a lighter, may see it only as a functional product. Thus, parents and children may look at the same item and perceive it very differently; children perceiving it as a toy gun or clicker; parents seeing it only as a utility lighter. Whether parents attempt to store utility lighters out of the reach of children may depend on their perceptions of the hazard:

* Some parents will perceive a utility lighter as very dangerous and store out it "out of reach," as instructed on the lighter. They might do so regardless of such an instruction, as these parents are very conscious of the fire hazard and/or their child's attraction to the lighter. However, such parents may not anticipate that their children would attempt to gain access to the "out of reach" lighter by climbing on chairs and other objects. This is particularly the case if no previous interest in the lighter has been expressed.

* Other parents will leave the lighter in more accessible locations, not recognizing the fire hazard. Rather, they may perceive the lighter as safer to leave around children than other incendiary materials such as matches. This perception and the behavior it promotes is likely to stem not only from their failure to appreciate the attraction of lighters and fire to children, but also from the lighter's appearance. Once the flame is extinguished, the lighter itself offers a benign facade to the adult. Unlike other hazardous products, such as a knife or matches, the visual reminder of the danger is gone when the lighter is not being used.

Parent's lack of appreciation for the hazards associated with utility lighters may be exacerbated by the presence of an ON/OFF switch. When the switch is in the OFF position, it is likely that parents will perceive it as "inoperable" which we know it is not.

Such perceptions and behaviors were recently confirmed in a discussion I had with an old friend. This friend and her husband

represent what I would ordinarily consider to be very cautious - almost overprotective parents. Neither smoke, but they do own a utility lighter. According to the mother, she stores the lighter on the fireplace mantle. I asked her if she was concerned that any of her three children, ages 2 1/2, 5, and 8 would try to get the lighter. She explained to me that she had told the 8-year-old never to touch the lighter unless with her or her husband. It never occurred to her that her son might choose to explore the lighter on his own.

When I asked about her younger children, whom she readily describes as rambunctious, she indicated that that is why the lighter is on top of the mantle. I asked her if she was worried that the children might push a chair over to reach it. She candidly responded that she had not considered that, but that indeed her kids do push chairs over to reach objects, as they have seen her do (she is just over 5 feet tall). However, she also mentioned that she always stores the lighter in the OFF position. I asked her what that meant to her. She responded that it means that if her kids would try to use the lighter, the flame wouldn't go on. When I asked her if she thought her children could operate the ON/OFF switch, she answered that she hadn't really thought about it.

This very honest discussion with a friend echoed the behaviors reported in countless IDIs. Even well-meaning parents leave "out of reach" lighters where their children can reach them.

IV. Supervision

It has been argued by one manufacturer that lighter fires are the result of "grossly negligent supervision". What constitutes appropriate supervision depends on a number of factors. One of the most important of these is the age of the child. While many parents feel it is necessary to closely supervise the movements of toddler-age children who are just beginning to explore the world around them, the perceived need for constant visual monitoring of children decreases gradually, as the child grows older.

This was substantiated in a study by Garling and Garling (1993) which examined mothers' supervision and perceptions of young children's risk of unintentional injury in the home. In this study 150 mothers of children ages 1, 2, and 3 years of age, were asked to rate the perceived injury risk to their child if the parent were in a different room from the child. Parents rated the perceived risk for four different rooms in the home - bathroom, kitchen, living room, and the child's bedroom, on a 9-point continuous scale. A rating of 1 indicated "no risk"; 9 indicated very, very high risk. Three intermediate points were defined as "not very high risk (3); "rather high risk" (5); and "very high risk" (7).

Averaging ratings across the four rooms, the perceived risk for 1 and 2 year-olds was slightly above 4; ratings averaged across the four rooms for 3-year-olds were slightly above 3 ("not very high risk"). The room perceived to be the least risky when the parent was not in the same room was the child's bedroom (a location for many child lighter fires). In sum, it is interesting to note, that parents' perceptions of risk for their children when in another room are not very high.

When asked what injuries they anticipated, about half (54.5%) were concerned about a fall. The next greatest concern, voiced only by 10% of respondents, was burn, followed closely by "hurting oneself on something", and pulling something down. The frequencies in each category tended to decrease with age.

Perceived risk, while overall rather low, was shown to decrease once the child moves from 2 to 3 years. This study reflects reality. We do not supervise our children with continuous eye contact as they grow older, more independent, and more predictable.

The incidents involving utility lighters demonstrate the normal and expected range of parent behavior when it comes to supervision. Generally, parents or guardians were in the home and available to their child. In some cases, fires were started while the parents were still sleeping in the early morning hours. How many of us have experienced awakening to a child who has climbed out of his crib, scaled a safety gate, and gotten into some kind of trouble. Although proper supervision did not prevent fires from occurring, it did lead to an immediate response in many cases, such as containing or extinguishing the fire.

The point here is that accidents happen, even when children are appropriately supervised.

V. Education & Information; Better Warnings

The lighter industry has suggested that clear labels and an educational campaign are the answer to the lighter incidents. The decision as to whether to use a warning label as a hazard avoidance strategy must consider the following factors:

(1) feasibility of a design fix;
(2) the likelihood that a warning label will be read and followed;
(3) severity of the consequences of not following the label.

In the case of lighters, it appears that a design fix is both technologically and financially feasible. A cornerstone of human factors philosophy is that hazards should be "designed out" of a product or guarded against through shielding devices. Only if these physical manipulations are not possible, should a warning

label be used.

In order to be effective, a label must: (1) be noticed at the time of the critical behavior, (2) be easy to read and understand by the target audience, and (3) be credible and compelling enough to prompt appropriate action at the designated time. Obstacles to achieving these goals include both label design and individual experience with the product.

For most people, lighters appear easy to use and most likely have been used in the past without problems. Most understand that fire from lighters are dangerous and do not expect other hazards. As a result of their familiarity and low perceived hazard level, consumers are not likely to notice a warning label, particularly if it is not conspicuously designed. Furthermore, at the time of using the lighter, most consumers would be in a "task-oriented" mode rather than an "information-seeking" mode. They are not likely to be looking for safety information on a product for which the hazards are already known to them.

Even if one were to notice such a label, compliance is not likely for several reasons. First, the instruction to "keep and store away from children" is ambiguous and may be interpreted differently by different people. Second, it is misleading. Many parents had left their lighters "away from children" only to find that their children later gained access to the lighter.

Third, the instruction to keep and store away from children faces a serious credibility problem as it may appear to contradict the lighter's design. The presence of an ineffective ON/OFF switch undermines the believability of this statement. Parents are likely to think that if they use the ON/OFF switch that they do not have to keep it "away."

Fourth, research has shown that if the cost of compliance (in terms of time or inconvenience) is too burdensome, people will not comply. The decision of where to store a lighter is likely to be a compromise between an "out of reach" location and one that is convenient to the appliance which needs lighting. Therefore, unless the OFF switch is child-resistant, it is likely that children will continue to operate lighters obtained from compromised locations.

In sum, the warning label on utility lighters is not likely to be noticed, adequately understood, or compelling enough to evoke compliance. Even pairing a label with an information and education campaign is not likely to significantly reduce these fires as such campaigns rely upon target consumers viewing the information at the time it is aired, and that is not always possible. Furthermore, an information & education campaign must remain in circulation as long as the product contains the hazard, as there is a continually growing number of "novice" consumers who encounter the product who

are unaware of the hazard.

The third consideration in determining the appropriateness of a warning versus design fix is the severity of the consequences of a child's gaining access to a lighter. A look at the pictures of childrens' small burned bodies will answer questions regarding the severity of consequences. We should not be required to individually experience tragedy before accepting its devastation.

Concluding Remarks

Children deserve our strongest protection. They deserve a design fix. Because parents don't fully understand the attraction of the product. Because children don't fully understand how to handle fire. Because people are human and they forget - to store "out of reach" or to keep the switch OFF. Because "out of reach" does not mean inaccessible. Because OFF switches can be moved easily to the ON position by small hands. And finally, because warning labels cannot affect behavior nearly as well as can a technical design change.

I thank you for your consideration of my comments and commend the Commission staff on their thorough investigation of this hazard.

Carol Pollack-Nelson
January 11, 1999

Author: <DonCooke@aol.com> at INTERNET-MAIL
Date: 1/11/99 2:44 PM
Priority: Normal
TO: cpsc-os@ntmail.cpsc.gov at internet-mail
BCC: Todd A. Stevenson at CPSC-HQ1
Subject: January 20, 1999 hearing on Multi Purpose Lighters
---------- Message Contents ----------
January 11, 1999

Sent via E-mail: cpsc-os@cpsc.gov

CPSA 6 (b)(1) Cleared
No Mfrs/PrvtLbrs or
Products Identified
Exempted by
Omitted,
Contains Name ied.

Ms. Rocky Hammond
Consumer Product Safety Commission

RE: The Estate of Mary Anita Brock vs. Scripto
In The United States District Court
CIV-98-710L
CLIENT CODE: BROCM

Dear Ms. Hammond:

I plan to appear before the Consumer Product Safety Commission on January 20, 1999, and will explain the growing concern of the safety hazzard of the Aim n Flame lighters due to the number of fires which have been started by children of tender years.

Unfortunately, these fires are not all that unusual. In addition to our case which is pending before the United State District Court, there is also a case pending before the Court in Cleveland County wherein a child under the age of five years of age started a fire while playing with this lighter.

In Oklahoma City, Oklahoma, on January 16, 1998, a two-year old boy, Christopher Ragsdale, came into possession of an all purpose Butane Lighter marketed by SCRIPTO as the "Aim n Flame" ("LIGHTER"). Christopher began playing with the LIGHTER whereupon he ignited combustible material in the home causing a fire. That as a result of that fire, Christopher Ragsdale was killed within a matter of a few minutes and Mary Sutton Brock, his mother, died approximately two (2) days later on the 18th day of January, 1998, as a result of smoke inhalation caused by the referenced fire. Suzi Kaye Sutton, age four, was severely injured in the fire and remained in a comatose state and hospitalized at Children's Hospital in Oklahoma City, Oklahoma, until her partial recovery and release on January 22, 1998.

The above litigation is pending before the United States District Court for the Western District of Oklahoma in Oklahoma City, Oklahoma, in cause No. CIV-98-710-L.

In Norman, Oklahoma, on December 26, 1996, a three-year old boy, Jessie Clifft, was left alone and unsupervised and came into possession of a LIGHTER. While playing with said LIGHTER, he ignited a Christmas tree in the living room of the home of Julie Clifft and Mark Marquette. As a result of the resultant fire, Amber Renee Landry, a thirteen year old guest in the home, died of smoke inhalation on December 27, 1996.

- This litigation is pending before the District Court of Cleveland County,

State of Oklahoma, cause No. CJ97-755L

- These two local cases are unfortunately not isolated incidents. This LIGHTER

in its present state, has been described by Oklahoma City's Fire Marshall as "more dangerous than a pointed loaded weapon".

If there is anything further that you need, please let me know.

Sincerely,

DON COOKE

DC/mp
26:Brocm.cl.cpsc.wpd

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