



UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION
4330 EAST WEST HIGHWAY
BETHESDA, MD 20814

This document has been electronically
approved and signed.

THIS MATTER IS SCHEDULED FOR A BALLOT VOTE.

Ballot Vote Due - July 14, 2011

Date: July 8, 2011

TO : The Commission
Todd A. Stevenson, Secretary

THROUGH: Kenneth R. Hinson, Executive Director

FROM : Cheryl A. Falvey, General Counsel
Philip L. Chao, Assistant General Counsel, RAD
Barbara E. Little, Regulatory Affairs Attorney

SUBJECT : Petition for Non-See-Through Containers for Torch Fuel and Lamp Oil
Ballot Vote Due - July 14, 2011

Correspondence from Betsy Bumpas ("Petitioner"), requests that the Commission initiate rulemaking to require that torch fuel and lamp oil be packaged in non-see-through containers. The Office of the General Counsel (OGC) has determined that this request should be docketed as a petition.

In accordance with the Commission Directive on Operational Procedures for Petitions (Order No. 0605.0, April 26, 1993), the OGC has drafted a notice for publication in the *Federal Register*, inviting comments on the petition for a period of 60 days. The draft notice is attached. EXHR recommends that the Commission issue the notice.

Please indicate your vote on the following options:

- I. Approve publication of the draft *Federal Register* notice, without change.

Signature

Date

II. Approve publication of the draft *Federal Register* notice, with changes (please specify changes):

Signature

Date

III. Do not approve publication of the draft *Federal Register* notice.

Signature

Date

IV. Take other action (please specify):

Signature

Date

[Billing Code 6355-01-P]

U.S. CONSUMER PRODUCT SAFETY COMMISSION

Petition Requesting Non-See-Through Packaging for Torch Fuel and Lamp Oil

AGENCY: U.S. Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: The U.S. Consumer Product Safety Commission (“Commission” or “we”) has received a petition (PP 11-1) requesting that the Commission initiate rulemaking to require special packaging for torch fuel and lamp oil to make it impossible to see the product when it is in the container. We invite written comments concerning the petition.

DATES: The Office of the Secretary must receive comments on the petition by [insert date 60 days after publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by Docket No. CPSC-2011-_____, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following way:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

To ensure timely processing of comments, the Commission is no longer accepting comments submitted by electronic mail (e-mail), except through www.regulations.gov.

Written Submissions

Submit written submissions in the following way:

Mail/Hand delivery/Courier (for paper, disk, or CD-ROM submissions), preferably in five copies, to: Office of the Secretary, U.S. Consumer Product Safety Commission, Room 502, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504-7923.

Instructions: All submissions received must include the agency name and petition number for this rulemaking. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to: <http://www.regulations.gov>. Do not submit confidential business information, trade secret information, or other sensitive or protected information electronically. Such information should be submitted in writing.

Docket: For access to the docket to read background documents or comments received, go to: <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Rockelle Hammond, Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504-6833.

SUPPLEMENTARY INFORMATION: The Commission has received a submission from John L. Branum, Attorney at Law, on behalf of Betsy Bumpas (“petitioner”), dated May 9, 2011, requesting that we initiate rulemaking to require torch fuel and lamp oil to be packaged in containers that are not see-through. We are docketing this request as a petition under the Poison Prevention Packaging Act (“PPPA”). 15 U.S.C. §§ 1471-1477.

The PPPA authorizes the Commission to issue requirements that certain household substances be sold in child-resistant containers. 15 U.S.C. §§ 1471-1477. Child-resistant packaging requirements currently apply to torch fuel and lamp oil.

(More specifically, the child-resistant packaging requirements apply to “kindling and/or illuminating preparations,” which includes “cigarette lighter fuel, charcoal lighter fuel, camping equipment fuel, torch fuel, and fuel for decorative and functional lanterns, which contain 10 percent or more by weight of petroleum distillates and have a viscosity of less than 100 Saybolt universal seconds at 100° Fahrenheit.” 16 CFR § 1700.14(7)). The PPPA does not authorize the Commission to prescribe specific packaging designs for household substances. 15 U.S.C. § 1472(d). However, in the case of a household substance for which special packaging, i.e., child-resistant packaging, is required, the Commission may prohibit the packaging of such substance in packages which it determines are unnecessarily attractive to children. *Id.* Therefore, in order to issue a rule requiring that torch fuel and lamp oil not be sold in see-through containers, the Commission would need to determine that the packaging is “unnecessarily attractive” to children.

Petitioner asserts that certain petroleum distillates, including torch fuel and lamp oil, as currently packaged, resemble juice. Petitioner notes that because young children enjoy the taste of juice and are accustomed to drinking it regularly, packaging petroleum distillates in clear plastic bottles causes needless danger, as children may mistake it for juice.

Petitioner states that “the New Jersey Poison Information and Education System stated in June 2008 that four people were hospitalized, one was critically ill, and one killed due to torch oil being mistaken for apple juice.” Petitioner also states that “from 2002 through 2009 the Annual Report of the American Association of Poison Control Centers’ National Data System has chronicled the exposure of many

young children to lamp oils, which includes torch fuels.” Petitioner’s son died after ingesting torch fuel from a clear plastic bottle.

While torch fuel and lamp oil are already subject to child-resistant packaging and labeling requirements under the Poison Prevention Packaging Act and the Federal Hazardous Substances Act, petitioner asserts that additional special packaging is necessary. Specifically, petitioner requests that the CPSC initiate rulemaking “that would require manufacturers of [torch fuel and lamp oils] to package the product in containers that make it impossible to see the product when in the container.” Petitioner notes that this could be accomplished “by packaging the fuel in a solid container or opaque plastic child-resistant container or a metal container.”

By this notice, we seek comments concerning this petition. Interested parties may obtain a copy of the petition by writing or calling the Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504-7923.

Copies of the petition are also available for inspection from 8:30 a.m. to 5:00 p.m., Monday through Friday, in the Commission’s Public Reading Room, Room 419, 4330 East West Highway, Bethesda, MD, or from our website at: www.cpsc.gov.

Dated: _____

Todd A. Stevenson, Secretary
U.S. Consumer Product Safety Commission