



UNITED STATES CONSUMER PRODUCT SAFETY COMMISSION

MINUTES OF COMMISSION MEETING

Decisional Matter: Final Rule: Safety Standard for Clothing Storage Units

(Briefing package dated September 28, 2022)

October 19, 2022

Chair Alex Hoehn-Saric convened the October 19, 2022, meeting of the U.S. Consumer Product Safety Commission in open session at 11:30 a.m. The meeting was held remotely. Commissioners Peter A. Feldman, Richard L. Trumka Jr., and Mary T. Boyle were in attendance. The Chair made welcoming remarks and summarized the agenda item for the meeting.

Chair Hoehn-Saric introduced the decisional matter pending before the Commission and introduced staff that was present to address questions from the Commission: Jason Levine, Executive Director; Alex Moscoso, Associated Executive Director, Directorate for Economic Analysis; Duane Boniface, Assistant Executive Director for Hazard Identification and Reduction; Austin Schlick, General Counsel; Dr. Kristen Talcott, Project Manager, Directorate for Engineering Sciences; and Meridith Kelsch, Attorney, Regulatory Affairs Division.

Chair Hoehn-Saric advised that each Commissioner would have five minutes to ask questions of staff, with multiple rounds as necessary, followed by consideration of amendments. Before the questioning session, the Chair stated that it was not appropriate to discuss legal advice given to the Commission by the Office of the General Counsel outside of Executive Session.

The Chair then called for questions and comments for staff. The Commissioners did not have any questions for staff. Chair Hoehn-Saric excused staff and commenced consideration of staff's draft final rule for clothing storage units, as well as any amendments to the draft final rule.

The Chair did not have any amendments and recognized Commissioner Feldman for an amendment, and stated that Commissioner Feldman could have three minutes to explain his amendment for the record. Commissioner Feldman introduced an amendment intended to address what he identified as significant changes from the original Notice of Proposed Rulemaking (NPR) to the draft final rule. His amendment would direct staff to issue a Supplemental Notice of Proposed Rulemaking (SNPR) that would seek additional public comments on the draft final rule. He further remarked that the SNPR would provide legal support in the event the rule is challenged in court and provide time for the outcome of the STURDY Act currently pending in

Congress. Commissioner Feldman referenced a joint letter¹ addressed to the U.S. Senate from various organizations, urging approval of the STURDY Act. (The letter concerning the STURDY Act has been associated with the docket of this proceeding.)

Chair Hoehn-Saric called for a second and seconded Commissioner Feldman's motion. Chair Hoehn-Saric recognized each Commissioner in order of seniority for questions, and the Commissioners discussed their respective positions and lack of support for the amendment. Chair Hoehn-Saric, Commissioners Trumka and Boyle each stated that staff adequately reviewed and addressed all comments received from industry and consumers in response to the NPR and that there was no valid reason to further delay the rule.

After the discussion and hearing no further questions, the Chair called for a vote on Commissioner Feldman's amendment. The Commission voted (3-1) to not adopt the amendment. Chair Hoehn-Saric, Commissioners Trumka and Boyle voted to not adopt the amendment. Commissioner Feldman voted to adopt the amendment (see attachments).

Chair Hoehn-Saric then called for any other amendments and, hearing none, moved for approval of staff's draft final rule for clothing storage units and publication of the same in the *Federal Register*. The Chair called for a second and Commissioner Feldman seconded the motion. The Commission voted (3-1) to approve staff's draft final rule for clothing storage units and publish the same in the *Federal Register*. Chair Hoehn-Saric, Commissioners Trumka and Boyle voted to approve the final rule as drafted. Commissioner Feldman voted to not approve the draft final rule.

Chair Hoehn-Saric stated that each Commissioner would have up to 10 minutes for closing remarks. The Chair provided his closing remarks and then recognized each Commissioner. Commissioners Feldman, Trumka and Boyle each gave closing remarks. In their closing remarks all Commissioners thanked staff for their diligent work on the development of this rule and acknowledged victims' family groups for their dedication in this endeavor.

There being no other business, Chair Hoehn-Saric adjourned the meeting at 11:52 a.m.

For the Commission:

Alberta Mills

Alberta E, Mills

- Attachments:
1. Amendment proposed by Commissioner Feldman (not adopted by the Commission)
 2. Statement by Chair Hoehn-Saric
 3. Statement by Commissioner Feldman
 4. Statement by Commissioner Trumka
 5. Statement by Commissioner Boyle

¹ September 21, 2022 letter from Parents Against Tip Overs (PAT), American Home Furnishings Alliance (AHFA), Kids In Danger (KID), Consumer Reports (CR), Consumer Federation of America (CFA), American Academy of Pediatrics (AAP), U. S. Chamber of Commerce, and IKEA.

COPF Clothing Storage Units Amendment

In the nature of a substitute –

1. Purpose: To provide supplemental public notice of significant changes to the proposed rule to cure logical outgrowth vulnerabilities and strengthen the final rule.
2. Background: Staff's September 28, 2022, briefing package reflects (*see* Staff Briefing Package Appendix D1) that the draft final rule before the Commission today includes significant changes from the Commission's Notice of Proposed Rulemaking to establish requirements regarding Clothing Storage Unit stability (87 FR 6246), including changes to:
 - (a) Scope and definitions;
 - (b) Test methods;
 - (c) Requirements for marking and labeling; and
 - (d) Requirements to provide performance and technical data by labeling (hang tag).
3. Supplemental Notice: Staff is directed to issue a Supplemental Notice of Proposed Rulemaking reflecting these revisions and seeking additional public comment on the Notice of Proposed Rulemaking for Clothing Storage Units.



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

Statement of Chair Alexander Hoehn-Saric on Vote to Issue a Final Rule on Safety Standard for Clothing Storage Units

October 19, 2022

Today, the Commission voted 3 to 1 to issue a final rule to establish a safety standard for clothing storage units (CSUs) to protect consumers, especially young children, from horrific injuries and deaths caused by unstable furniture.

Over the past twenty years, nearly 200 children have been killed, and many others injured, from dressers that fell on top of them. These tragedies have gone on for far too long. CPSC has been working to address this hazard by warning consumers about the dangers from tip-overs, encouraging that furniture be anchored to the wall, recalling unstable CSUs, participating in voluntary standards efforts, and developing this mandatory safety standard.

I started working on the issue of furniture tip-overs about 15 years ago as staffer on the Senate Commerce Committee. Despite the work and dedication of parents who lost their children, change has come far too slowly, which is why I am particularly pleased that the Commission is taking such a huge step forward today toward making furniture safer.

This rulemaking could not have done without the tremendous work of a team of CPSC staff who put together an extensive package that provides the basis for this rule. They deserve our recognition and our thanks.

I would also like to take a moment to express my deep appreciation for the dedication and efforts of members of Parents Against Tip-overs who have drawn from their personal tragedies and made it their mission to ensure others do not suffer their same loss and pain. Also, there are so many others in the consumer product safety community, including consumer advocates and Members of Congress, who have worked tirelessly to push for solutions to this hazard pattern.

Our efforts today are just the beginning – we will vigorously enforce this rule and continue our efforts to remind the public to anchor the furniture that they currently have in their homes.



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COMMISSIONER PETER A. FELDMAN

**STATEMENT OF COMMISSIONER PETER A. FELDMAN
EXPRESSING CONCERNS ABOUT LEGAL FOUNDATION OF
FINAL AGENCY ACTION ON CSU RULE**

OCTOBER 19, 2022

Today, the Commission issued a final rule to address the unreasonable risk of injury associated with clothing storage units (CSUs). While I am encouraged that the Commission has put in considerable effort to address CSU tip-overs, I voted no on the final rule because I believe this rule should have been put out for a Supplemental Notice of Proposed Rulemaking (SNPR) to strengthen it.

I have long-championed strong agency action to protect children, including offering an [amendment](#) to initiate this mandatory standard. We have done too much work and invested too many resources to push through a final rule that I believe has legal vulnerabilities. A rule that is stayed or overturned offers zero consumer protections.

Due to these concerns, today I offered an amendment that would have required an SNPR that could have been completed quickly. The draft final rule differed from what we put out for public comment, including changes to the scope and definition of the rule, test methods used to ensure compliance, CSU marking and labeling, and requirements to provide performance and technical data. I am concerned that the rule's implementation may result in even greater delays when it is challenged. I believe an SNPR would have strengthened our legal standing.

The SNPR serves another purpose. Recently, the Senate [passed](#) the Stop Tip-Overs of Unstable, Risky Dressers on Youth (STRUDY) Act to address these furniture tip-over issues. The short time needed to complete the SNPR would provide an opportunity to see if the STURDY Act would become law. This would avoid any confusion between a statute and a CPSC regulation.

Many of the advocates, from whom I have heard for years, [tell me](#) the Senate-passed STURDY Act is a consensus bill enjoying support of both industry and advocacy groups alike. The fact that the STURDY Act passed unanimously is no small feat and reflects the considerable work from all parties involved.

Although I am disappointed this rule was not put out for an SNPR, as some of the advocates have stated, there are now two potential solutions to protect consumers from tip-over dangers.

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COMMISSIONER RICH TRUMKA JR.

**CPSC'S FINAL RULE ON DRESSER STABILITY
FIXES HAZARD THAT INDUSTRY IGNORED FOR DECADES**

October 19, 2022

CPSC's rule takes one more hidden hazard out of American homes: unstable dressers that tip over and kill or injure children. The furniture industry has known since at least 1998 that unstable dressers have been tipping over and harming children at alarming and unacceptable rates, yet it has refused to fix the problem. Today's final rule remedies industry's failure.

Over many years, CPSC urged industry to fix the problem itself—the agency shared safety data and called on industry to adopt improvements through voluntary standards. Those efforts failed. Following exhaustive research and testing, our staff proposed a binding safety standard in July 2021. That standard is substantially identical to our final rule other than minor, logical changes to address commenters' concerns and reduce the burdens of compliance. Even during the rulemaking process, industry continued to pursue every avenue to delay our rule or weaken the result. It failed.

Today is a victory for parents, children, and advocates who have long sought strong safety standards to prevent lethal tip-overs. When our rule takes effect, new dressers will be required to meet robust stability requirements. And companies will be required to share safety information with the public in a clear and concise format. I look forward to the safer furniture options that will be available to American families. In fact, I will be among the first in line to buy a safe new dresser when they become available to protect my kids from tip-overs.



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COMMISSIONER MARY T. BOYLE

**Commissioner Mary T. Boyle Statement on Today's Vote to
Approve the Clothing Storage Unit Final Rule**

October 19, 2022

The Commission voted today for a strong safety standard that will protect children and the elderly from deadly furniture tip overs. Consumers should be able to trust the stability of furniture in their homes, and for too long, industry failed to respond to known hazards, leaving unsuspecting families to suffer the consequences.

Over 200 heartbreaking deaths, along with countless injuries, have occurred when unstable dressers and other clothing storage furniture have fallen on young children and others, causing head trauma, chest compression, and other devastating harm. I am deeply grateful to the many families who have responded to these unspeakable tragedies by standing up for change. Their tireless advocacy over many years has been a significant force in what has become a widely recognized national issue, and I believe that the Commission's action today achieves our shared goal of averting preventable injury and death.

The impact of this rule on two distinct vulnerable populations is hard to overstate: not only does it protect toddlers and young children, who are particularly at risk from devastating injuries and death caused by tip-overs, but it also protects seniors, who, the data show, also suffer significant injuries and death as a result of tip-overs. The very ordinariness of CSUs—familiar

products that consumers do not expect to be dangerous— and the continued threat they have posed is what demanded this action today.

Based on careful analysis of both injury data and the mechanics of CSUs, this rule requires manufacturers to step up: their products must now pass rigorous testing, meet stability requirements, and provide stability ratings directly to consumers. The final rule goes further than existing voluntary standards and accounts for real world interactions and scenarios—for example, children climbing on filled drawers in a dresser on a carpeted surface—that can ultimately lead to fatal tip overs. What is more, CPSC staff carefully reviewed public comments and made revisions to the proposed rule to account for industry and consumer concerns. These changes provide additional clarity about testing standards and provide additional time for compliance with the new rule.

Today, we are making a difference in the lives of our most vulnerable consumers. Although I recognize the importance of working with voluntary standards bodies, when those efforts are not adequate or timely, we must impose mandatory requirements. It is time for furniture manufacturers, along with standards-making bodies, to embrace the meaningful action required to make these clothing storage units safer. What we do at CPSC makes a difference and the use of our regulatory authority today will make a difference.