



U.S. CONSUMER PRODUCT SAFETY COMMISSION

WASHINGTON, D.C. 20207

Record of Commission Action
Commission Meeting of December 14, 1978

1111 - 18th Street N.W.
Washington, D.C.

Presiding: Chairman King

Present: Commissioner Franklin
Commissioner Pittle
Commissioner Sloan
Commissioner Zagoria

ITEM

Case Authority Delegations

(Briefing material transmitted by the Office of the
Secretary on December 7, 1978).

DECISION

The Commission approved the attached new delegations of authority to the Area Directors and the Associate Executive Director (AED) for Compliance and Enforcement to replace certain current delegations.

The Executive Director is directed to take appropriate action to reflect the new delegations in the Commission's Directive System.

VOTE

Concurring: Chairman King

Susan B. King

Commissioner Franklin

Barbara H. Franklin

Commissioner Pittle

R. David Pittle

Commissioner Sloan

Edith Bartdale Sloan

Commissioner Zagoria

Sam Zagoria

Submitted by the Office of the Secretary

DELEGATION OF AUTHORITY - REGULATORY

DELEGATION OF AUTHORITY EITHER (1) TO "OPEN A CASE" AND RECOMMEND THE INITIATION OF LEGAL ACTION, OR (2) TO MAKE DECISIONS THAT VIOLATIVE INSPECTIONS AND/OR SAMPLES ARE TO BE CLASSIFIED AS "NO ACTION INDICATED" AND TO "NOT OPEN A CASE"

1. PURPOSE. The purpose of this order is (1) to delegate authority to "Open a Case" and recommend the initiation of legal action, and (2) to delegate authority to classify certain violative inspections and/or samples as "No Action Indicated" and to "Not Open a Case".

2. SCOPE. The provisions of this order apply to the CPSC Area Directors.

3. REFERENCES.

a. Section 27(b)(9) of the Consumer Product Safety Act, (15 U.S.C. 2076(b)(9)) empowers the Commission to delegate any of its functions or powers other than the power to issue subpoenas under Section 27(b)(3) to any officer or employee of the Commission.

b. Record of Commission Action, Meeting of June 15, 1978. Item: Federal Hazardous Substances Act, Poison Prevention Packaging Act and Flammable Fabrics Act Case Authority Delegation.

c. Record of Commission Action, Meeting of . Item: Consumer Product Safety Act Case Authority Delegation.

4. DEFINITIONS. The following definitions apply to the terms used in this Order.

a. File. A file is the official folder(s) consisting of the records maintained by the area office on each firm which is subject to CPSC jurisdiction. The file contains copies of all of the following:

- (1) Establishment Inspection Reports.
- (2) Correspondence with the firm.
- (3) Records of legal actions proposed and/or taken.
- (4) Communications with or from Headquarters on that firm.
- (5) Consumer complaints which are identified as associated with a product of that firm.
- (6) In-depth investigations that identify a product as the product of that firm.
- (7) Copies of the collection reports of all samples collected of that firm's products.
- (8) Analytical worksheets and summaries.

b. Case. A case is a matter in which further action is recommended against a product and/or person to restrain violations and/or secure compliance with the laws administered by CPSC. Such action may consist of seizures, injunctions, prosecutions, cease and desist orders, and civil penalties.

c. Opening a Case. A case is opened when the area office makes the decision to recommend the initiation of one or more of the actions listed in Item 4b, "Case", above.

d. In Compliance (INCOM). In compliance is the classification given to inspections and/or samples for which no violation of CPSC administered acts or published rules, regulations, or standards is uncovered or detected.

e. Violative (VIOL). Violative is the classification given to inspections and/or samples for which noncompliance with CPSC administered acts or published rules, regulations, or standards is uncovered or detected.

f. No Action Indicated (NAI). No action indicated is the compliance classification given a violative inspection and/or sample when the Area Office Director makes the decision to not open a case.

g. Voluntary Corrective Action. Voluntary corrective action is the action taken by a firm to bring about compliance of its violative products in a reasonable and/or timely manner following its own detection of the violation or after being notified by a representative of the Commission of the violation.

5. DELEGATION OF AUTHORITY. Pursuant to Section 27(b)(9) of the Consumer Product Safety Act and pursuant to the Commission decisions of June 15, 1978 and referenced in this Order, the Commission hereby delegates to the Directors of CPSC Area Offices the following authority subject to such enforcement guidelines and operating procedures as the Associate Executive Directors for Compliance and Enforcement and for Field Operations jointly deem to be necessary.

a. Authority to open a case and recommend the initiation of legal action to secure compliance with the required act, rule, regulation and/or standard.

b. Authority to make the decision that a violative inspection and/or sample will be classified as "No Action Indicated", and to not open a case.

6. REDELEGATION OF AUTHORITY. This authority may not be redelegated.

7. EFFECTIVE DATE. June 15, 1978 for actions under the Federal Hazardous Substances Act, Poison Prevention Packaging Act and Flammable Fabrics Act.
for action under the Consumer Product Safety Act.

Susan B. King, Chairman

Edith Barksdale Sloan, Vice
Chairman

Barbara Hackman Franklin,
Commissioner

R. David Pittle, Commissioner

Samuel Zagoria, Commissioner

DELEGATION OF AUTHORITY - REGULATORY

AUTHORITY TO APPROVE CRIMINAL PROSECUTION RECOMMENDATIONS
AND TO INITIATE SUCH ACTIONS

1. PURPOSE. The purpose of this order is to delegate authority to approve recommendations for criminal prosecutions, and to initiate such actions.

2. SCOPE. The provisions of this order apply to the Associate Executive Director for Compliance and Enforcement.

3. REFERENCES.

a. Section 27(b)(9) of the Consumer Product Safety Act, as amended (15 U.S.C. 2076(b)(9)) empowers the Commission to delegate any of its functions or powers other than the power to issue subpoenas under Section 27(b)(3) to any officer or employee of the Commission.

b. Record of Commission Action, Meeting of June 15, 1978. Item: Federal Hazardous Substances Act, Poison Prevention Packaging Act and Flammable Fabrics Act Case Authority Delegation.

c. Record of Commission Action, Meeting of . Item: Consumer Product Safety Act Case Authority Delegation.

4. DELEGATION OF AUTHORITY. Pursuant to Section 27(b)(9) of the Consumer Product Safety Act and pursuant to the above referenced Commission decisions of June 15, 1978, and the Commission hereby delegates to the Associate Executive Director for Compliance and Enforcement authority (a) to approve recommendations for criminal prosecutions, and (b) to refer such prosecution actions against firms and/or individuals to the Department of Justice and to U.S. Attorneys.

Prior to pursuing such a prosecution action, the Associate Executive Director for Compliance and Enforcement must provide a case summary memorandum to the Commission. If no objections are raised by the Commission within five working days, the Associate Executive Director for Compliance and Enforcement may proceed with the prosecution action.

5. REDELEGATION OF AUTHORITY. This authority may not be redelegated.

6. EFFECTIVE DATE. June 15, 1978 for cases under the Federal Hazardous Substances Act, Poison Prevention Packaging Act and Flammable Fabrics Act. for cases under the Consumer Product Safety Act.

Susan B. King, Chairman

Edith Barksdale Sloan, Vice
Chairman

Barbara Hackman Franklin,
Commissioner

R. David Pittle, Commissioner

Samuel Zagoria, Commissioner

DELEGATION OF AUTHORITY - REGULATORY

AUTHORITY TO APPROVE CIVIL PENALTY RECOMMENDATIONS UNDER
THE FLAMMABLE FABRICS ACT AND CONSUMER PRODUCT SAFETY ACT,
AND TO INITIATE SUCH ACTIONS

1. PURPOSE. The purpose of this order is to delegate authority to approve recommendations for civil penalties under the Flammable Fabrics Act and Consumer Product Safety Act, and to initiate such actions.

2. SCOPE. The provisions of this order apply to the Associate Executive Director for Compliance and Enforcement.

3. REFERENCES.

a. Section 27(b)(9) of the Consumer Product Safety Act, as amended (15 U.S.C. 2076(b)(9)) empowers the Commission to delegate any of its functions or powers other than the power to issue subpoenas under Section 27(b)(3) to any officer or employee of the Commission.

b. Record of Commission Action, Meeting of June 15, 1978. Item: Federal Hazardous Substances Act, Poison Prevention Packaging Act and Flammable Fabrics Act Case Authority Delegation.

c. Record of Commission Action, Meeting of . Item: Consumer Product Safety Act Case Authority Delegation.

4. DELEGATION OF AUTHORITY. Pursuant to Section 27(b)(9) of the Consumer Product Safety Act and pursuant to the above referenced Commission decisions of June 15, 1978 and , the Commission hereby delegates to the Associate Executive Director for Compliance and Enforcement authority (a) to approve recommendations for civil penalties for violations of the Flammable Fabrics Act and the Consumer Product Safety Act, (b) to refer such civil penalty actions against firms and/or individuals to the Department of Justice and to U.S. Attorneys, (c) to

initiate civil penalty actions by the Commission's own attorneys pursuant to Section 27(b)(7) of the Consumer Product Safety Act when appropriate, and (d) to negotiate informal settlements through staff attorneys prior to the referral of civil penalty actions to the Department of Justice and to U.S. Attorneys when it is deemed appropriate.

Prior to pursuing such a civil penalty action, the Associate Executive Director for Compliance and Enforcement must provide a case summary memorandum to the Commission. If no objections are raised by the Commission within five working days, the Associate Executive Director for Compliance and Enforcement may proceed with the action.

5. REDELEGATION OF AUTHORITY. This authority may not be redelegated.

6. EFFECTIVE DATE. June 15, 1978 for cases under the Federal Hazardous Substances Act, Poison Prevention Packaging Act and Flammable Fabrics Act. for cases under the Consumer Product Safety Act.

Susan B. King, Chairman

Edith Barksdale Sloan, Vice
Chairman

Barbara Hackman Franklin,
Commissioner

R. David Pittle, Commissioner

Samuel Zagoria, Commissioner

DELEGATION OF AUTHORITY - REGULATORY

AUTHORITY TO APPROVE RECOMMENDATIONS FOR CEASE AND DESIST
ORDERS UNDER THE FLAMMABLE FABRICS ACT AND TO INITIATE
SUCH ACTIONS

1. PURPOSE. The purpose of this order is to delegate authority to approve recommendations for cease and desist orders under the Flammable Fabrics Act, and to initiate such actions.

2. SCOPE. The provisions of this order apply to the Associate Executive Director for Compliance and Enforcement.

3. REFERENCES.

a. Section 27(b)(9) of the Consumer Product Safety Act, as amended (15 U.S.C. 2076(b)(9)) empowers the Commission to delegate any of its functions or powers other than the power to issue subpoenas under Section 27(b)(3) to any officer or employee of the Commission.

b. Record of Commission Action, Meeting of June 15, 1978. Item: Federal Hazardous Substances Act, Poison Prevention Packaging Act and Flammable Fabrics Act Case Authority Delegation.

4. DELEGATION OF AUTHORITY. Pursuant to Section 27(b)(9) of the Consumer Product Safety Act and pursuant to the above referenced Commission decision of June 15, 1978, the Commission hereby delegates to the Associate Executive Director for Compliance and Enforcement authority (a) to approve recommendations to obtain cease and desist orders under the Flammable Fabrics Act against firms and/or individuals, (b) to conduct consent negotiations through staff attorneys to seek such orders, and (c) to issue a complaint on behalf of the Commission.

Prior to issuing a complaint, the Associate Executive Director for Compliance and Enforcement must provide a case summary memorandum to the Commission. If no objections are raised by the Commission within five working days, the Associate Executive Director for Compliance and Enforcement may proceed with the action.

5. REDELEGATION OF AUTHORITY. The authority to conduct consent negotiations may be redelegated to Area Directors.

6. EFFECTIVE DATE. June 15, 1978.

Susan B. King, Chairman

Edith Barksdale Sloan, Vice
Chairman

Barbara Hackman Franklin,
Commissioner

R. David Pittle, Commissioner

Samuel Zagoria, Commissioner