



U.S. CONSUMER PRODUCT SAFETY COMMISSION

WASHINGTON, D.C. 20207

MINUTES OF COMMISSION MEETING

June 9, 1993

5401 Westbard Avenue  
Bethesda, Maryland

The June 9, 1993, meeting of the U.S. Consumer Product Safety Commission was convened in open session by Chairman Jacqueline Jones-Smith. Commissioners Carol G. Dawson and Mary Sheila Gall were present.

Agenda Matter

Cigarette Lighters: Final Rule

The Commission considered a final rule under the Consumer Product Safety Act to require disposable and certain novelty lighters to be child-resistant. At the Commission meeting of May 26, 1993, the Commission was briefed by the staff on a draft final rule, including an analysis of comments received on the notice of proposed rulemaking published August 17, 1992. (Ref: staff briefing package dated May 13, 1993.) In response to questions raised by the Commission at the briefing, the staff provided additional information by memorandum dated June 8, 1993.

Following introductory comments by Chairman Jones-Smith, the Commission voted unanimously (3-0) on motion of Chairman Jones-Smith to adopt and publish a final rule for child-resistant cigarette lighters as recommended by staff in its briefing package dated May 13, 1993.

Separate statements concerning the cigarette lighters matter were filed by Chairman Jones-Smith, Commissioner Dawson, and Commissioner Gall, copies attached.

There being no further business on the agenda, Chairman Jones-Smith adjourned the meeting.

For the Commission:

A handwritten signature in cursive script that reads "Sadye E. Dunn".

Sadye E. Dunn, Secretary

Attachments



U.S. CONSUMER PRODUCT SAFETY COMMISSION

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**STATEMENT OF CHAIRMAN JACQUELINE JONES-SMITH  
ON PROMULGATING A FINAL RULE WITH RESPECT TO  
CHILD RESISTANT CIGARETTE LIGHTERS**

June 9, 1993

Today I voted to adopt the staff recommendation to publish a Final Rule with respect to a consumer product safety standard mandating that certain "disposable" and "novelty" cigarette lighters be made child resistant. The Commission voted 3-0 to adopt this recommendation.

This rule is designed to reduce the serious hazard posed by small children playing with cigarette lighters. The gravity of this problem is evidenced by updated fire loss data which estimates that, for the three year period between 1988 and 1990, there was an estimated annual average of 5,600 residential fires started by children under the age of 5 who were playing with cigarette lighters. These fires resulted in about 150 deaths and 1,100 injuries a year, in addition to annual losses of nearly \$70 million in property damage.

The implementation of this rule is calculated to eliminate over two-thirds of these deaths and proportionately reduce serious injuries and property damage as well. These very tangible, and very sizable, societal benefits would be achieved at a relatively modest monetary cost to industry and the consumer.

In addition, in this day of national concern over rising health care costs, the prevention of accidental injury in the home presents one important way of controlling this expense. Significantly, this rule will not only reduce burn and fire-related injuries and deaths; but will also reduce the health care costs associated with these tragedies.

The Commission's consideration of this issue began when it voted, in December 1987, to grant a consumer's petition requiring that disposable butane lighters be made child resistant, and simultaneously, voted to publish an Advance Notice of Proposed Rulemaking soliciting public comments concerning this proposition.

This ANPR was published in the Federal Register on March 3, 1988. The scope of this rulemaking proposal, however, was broader than the original petition. It covered all cigarette lighters and recommended certain labeling requirements, as well as the adoption of a performance standard.

As a consequence of information subsequently obtained by the staff from the public and through pilot testing, the proposed rule was narrowed again to require a child resistant performance standard

only for certain "disposable" and "novelty" lighters. On July 29, 1992, the Commission voted to publish this revision as a Notice of Proposed Rulemaking. Subsequently, on October 21, 1992, the Commission held a public meeting to provide an opportunity for the public to comment on the substance of this NPR.

As a result of these and other public comments, the staff recommended a number of additional modifications, which were incorporated into the Final Rule which was adopted today. Most of these revisions are designed to improve certain aspects of the protocol testing procedures. Other changes, however, address the substantive content of this mandatory rule. Many of them are intended to lessen any burden that this rule might impose upon small businesses.

For example, the definition of "novelty" lighters is narrowed further, a reasonable effective date is incorporated, and the "anti-stockpiling" provisions allow small business to phase-in these standards more gradually; but without any adverse safety consequences.

In considering how to vote on this proposed Final Rule, the law requires that I make a series of findings. Specifically, under the Consumer Product Safety Act, it is necessary to determine whether the proposed standard is in fact:

- (a) "Reasonably necessary" to adequately reduce or eliminate the "unreasonable risk" of injury associated with children playing with these lighters;
- (b) The "least burdensome requirement which prevents or adequately reduces the risk of injury"
- (c) Not unduly burdensome upon small business.

I believe that the available facts adequately support the requisite findings. In order to support a finding that an "unreasonable risk" of death or injury exists, it was necessary for me to evaluate three related issues.

- o First, the Commission must look to the "severity of the risk". Death and serious physical impairment or disfigurement represent the highest degree of severity.
- o Secondly, the fact that there are about 5600 residential fires a year caused by children under 5 playing with lighters and that about 96% of all residential fires are caused by disposable lighters supports the "likelihood" that the "frequency" of incidents associated with this hazard will continue to be relatively high.
- o Thirdly, in looking to the economic "impact" such a rule would have upon manufacturers and consumers, staff estimates are that it would be modest. The estimated annual benefits of the rule are \$235 million, while the costs are about \$90 million -- a net annual benefit of about \$145 million. Indeed, industry generally supports this mandatory rule, and, at present, at least three of the largest manufacturers have already produced

lighters that would comply with the rule.

In making a determination as to whether the specific proposal is "reasonably necessary" to address the risk of injury, several additional factors must be weighed.

- o The potential that the rule may have for "reducing the severity or frequency" of death or injury appears to be dramatic. The staff estimates that about 2/3 of the 150 annual deaths would be prevented, as well as between 700 to 800 of the estimated 1100 annual injuries.

- o Finally, it is necessary to address the issue as to whether this particular standard is best calculated to deal with the associated risk of injury. Here, staff indicates that the revised test protocol for meeting the mandatory performance standard is technically feasible, statistically valid and reproducible.

During the staff briefing, on May 26th, I expressed some concern with respect to whether this rule might be unduly burdensome -- particularly to small business. I am now satisfied, as a consequence of the most recent revisions, that this rule is the least burdensome alternative available and that any possible impairment to small business has been minimized.

In addition to these findings, it is necessary for the Commission to determine whether there is an existing voluntary standard to which it can or must defer. In this case, industry abandoned the voluntary standard efforts initiated by the ASTM. Therefore this has become a moot issue.

In conclusion, I should note that this Commission has traveled a long and sometimes difficult road in the development of this standard. But it has been time and resources that have been well spent. For that effort, I want to compliment the staff on its perseverance in overcoming the many technical obstacles that confronted it over the course of this project.

In the final analysis, we have produced a standard that is more than legally sufficient and technically sound. This standard has the potential to save more lives than any standard issued by the Commission in its 20-year history. Significantly, in most instances it will be the lives of our children -- our most vulnerable population -- that will be spared.

Let me stress, however, that these new lighters will be child-resistant -- not child-proof! Parents and care givers should not be lulled into a false sense of security because of this safety innovation. Child-resistant lighters are merely a second line of defense. All lighters should be kept out of the reach of children.

This new, mandatory standard -- combined with vigilant parental supervision -- has the potential to virtually extinguish the devastating consequences of children playing with lighters. Thus, my

vote today was cast with a profound sense of satisfaction and accomplishment.



U.S. CONSUMER PRODUCT SAFETY COMMISSION

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Statement of  
Commissioner Carol G. Dawson  
on  
Final Rule for Child-Resistant Cigarette Lighters  
Petition PP-85-2

June 9, 1993

Today, the Commission decided to issue a Final Rule for Child-Resistant Cigarette Lighters. I supported this action, even though I have a strong preference for nongovernment, private sector approaches whenever possible.

In this case, after the Commission issued its Advance Notice of Proposed Rulemaking (ANPR) in 1988, such voluntary action was initiated by the Lighter Association, working through ASTM task group F15.02. But after two years of work, with Commission staff input, the Lighter Association withdrew from the ASTM effort and told the Commission it supported a government-mandated standard. Their action left the Commission no choice but to pursue rulemaking.

The Commission was also directed by Congress, in Title II of the Consumer Product Safety Improvement Act of 1990, to pursue proceedings to establish a government safety standard for cigarette lighters.

In determining the threshold for government intervention in the market, there are a number of important considerations. First, as in this case, is the severity of the problem. The sheer numbers of deaths, injuries, and structural fires related to lighter child-play are persuasive: an estimated annual average of 5,600 residential structure fires, 150 deaths and 1,095 injuries. These numbers indicate the presence of a serious national safety issue.

Second, as we have seen, industry can produce a child-resistant cigarette lighter. Thus, the technical feasibility test for standard-setting has been met.

Third, the hazard associated with cigarette lighters, to some degree, is a hidden hazard. Adults do understand that cigarette lighters can be dangerous if available to children.

What many do not realize is that very young children often have the ability to operate lighters. Children as young as two and three years old!

Finally, the rule's benefits to the consumer (an estimated \$205-270 million) far outweigh its costs (an estimated \$90 million). The Commission believes that this rule can prevent 80-105 of the estimated 150 annual deaths associated with children under five playing with lighters.

While I am supporting this rule for the reasons outlined above, I still believe the same safety objectives could have been achieved with a nongovernment voluntary, consensus standard. I continue to be disturbed by the industry's 1990 decision to abandon what was apparently a successful voluntary standard effort, for reasons unrelated to safety. Their willingness to turn to the government to develop a mandatory rule will cost manufacturers, consumers, and taxpayers in the long term, since CPSC enforcement activity is time-consuming and thus costly.

And, as the Commission's experience with Child-Resistant Closures for medications has taught us, once such a standard is in place, there is little market-driven incentive to research newer and better designs, thus stifling innovation.

For example, the Commission began consideration of a protocol revision for child-resistant closures to make them more "user-friendly" to older consumers over ten years ago. Today, that procedure is still incomplete. The Commission must operate within the legal constraints of its statutes and thus such revisions necessarily are burdensome and time-consuming. The lighter industry may learn that same lesson, should there be a need to revise the standard at some point in the future. For now, we all hope that implementation of this final rule will save children's lives.



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STATEMENT OF VICE CHAIRMAN  
MARY SHEILA GALL  
ON  
FINAL STANDARD FOR CHILD-RESISTANT LIGHTERS

June 9, 1993

Today I voted to issue a consumer product safety standard that would require disposable and novelty lighters to meet specified requirements for child-resistance. Each year, over 5600 residential structure fires, 150 deaths and nearly 1100 injuries result from children under the age of five playing with lighters. The staff estimates that adoption of this rule will save somewhere between 80 and 105 lives each year and will substantially reduce the risk associated with their use.

**THIS RULE REQUIRES MOST LIGHTERS TO BE CHILD RESISTANT -- NOT CHILD PROOF. PARENTS AND CAREGIVERS ARE STILL RESPONSIBLE FOR KEEPING CIGARETTE LIGHTERS AND OTHER DANGEROUS PRODUCTS OUT OF THE REACH OF SMALL CHILDREN.**

Disposable and novelty lighters and inexpensive refillable lighters, present an unreasonable risk to young children. The simple operation of the lighting mechanism combined with the presence of flammable fuel too often results in tragic consequences when made accessible to a small child. This is especially alarming since these items have a unique appeal to young children--they are often brightly colored, sometimes resemble a toy or cartoon character, and produce a bright flame.

The statistics are appalling. The risk of death is twice as high in a fire involving a child playing with a lighter as it is in residential structure



fires generally. The risk of death caused by a child under five playing with a lighter is more than three times that of a same-age child playing with matches. And the injuries are often devastating and life-altering.

Today's action will help protect small children from possible tragedy when they play with these cigarette lighters. Parents are again reminded these lighters are only child resistant -- not child proof. They still pose a very real danger to young children.

While there are instances when government action is necessary and appropriate, such as today, government cannot take the place of concerned and watchful parents. Parents are the first and most important defense against preventable child deaths and injuries.