



U.S. CONSUMER PRODUCT SAFETY COMMISSION

WASHINGTON, D.C. 20207
MINUTES OF COMMISSION MEETING

September 28, 1983

Third Floor Hearing Room
1111 - 18th Street, N.W.
Washington, D.C.

The September 28, 1983, meeting of the U.S. Consumer Product Safety Commission was convened in open session by Chairman Nancy Harvey Steorts. Commissioners Terrence Scanlon, Edith Barksdale Sloan, Stuart M. Statler and Sam Zagoria were present.

Ballot Vote Decisions. Chairman Steorts read into the record the following decisions made by ballot vote of the Commissioners.

1. Unvented Gas-Fired Space Heaters: Proposed Revocation

The Commission voted 3-2 to approve a revised draft Federal Register notice proposing revocation of the Commission's mandatory standard requiring oxygen depletion sensors on unvented gas-fired space heaters (16 CFR Part 1212). Chairman Steorts and Commissioner Sloan, who voted not to propose revocation, voted not to approve the draft Federal Register notice.

2. Revised Draft of Sixth Semi-Annual Regulatory Agenda

The Commission voted unanimously (5-0) to approve publication of the revised draft of the Sixth Semi-Annual Regulatory Agenda Notice in the Federal Register.

Before moving to the agenda, Commissioner Zagoria noted receipt of a letter dated September 23, 1983, from the Formaldehyde Institute requesting Commission reconsideration of its decision to convene a Chronic Hazard Advisory Panel on Formaldehyde. Commissioner Zagoria stated his support for placing this matter on the agenda in the future and indicated he wished to read a list of questions for the staff to address in that regard. Introduction of this matter at today's Commission meeting was ruled out of order and the Commission then moved to the following agenda matters.

Agenda Matters.

1. Toy Safety: Status Report

The staff briefed the Commission on the status of revisions to a voluntary standard for toy safety (PS 72-76) designed to ensure that hazards resulting from normal use and foreseeable abuse of toys are minimized or eliminated. The staff report also included status information on the FY 1983 National Safety Toy Campaign undertaken by CPSC in collaboration with the Toy Manufacturers of America.

2. Spas, Hot Tubs, and Wading Pools: Status Report

The staff briefed the Commission on its current efforts and future plans for addressing risks of injury and death to young children from drownings, body part entrapments, and hair entanglements associated with spas, hot tubs, and wading pools.

3. Policy on Election of Vice Chairman

The Commission considered the procedure it will follow to "annually elect a vice chairman to act in the absence or disability of the Chairman or in case of a vacancy in the Office of the Chairman," as provided in Section 4(d) of the Consumer Product Safety Act. Following discussion of options incorporating elements of seniority and/or minimum years of Commission experience as criteria, the Commission decided by a vote of 3-2, with Commissioners Sloan and Zagoria dissenting, to continue the current practice of rotating the vice chairmanship as follows:

The Commission will annually select a vice chairman on a rotating basis, starting with the most senior Commissioner and rotating to the most junior. In the event all sitting Commissioners have served as vice chairman, the rotation will start over again. When a new Commissioner is sworn in, that Commissioner will become vice chairman if all of the sitting Commissioners have previously served a term in that office.

4. Enforcement Matter (OS #4064)

Meeting then in closed session, the Commission considered issues relating to enforcement matter OS #4064, and provided direction to the staff.

There being no further business on the agenda, Chairman Steorts adjourned the meeting.

For the Commission:

Dated

October 24, 1983

Sadye E. Dunn
Sadye E. Dunn
Secretary



U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, D.C. 20207

STATEMENT BY COMMISSIONER SAM ZAGORIA
U. S. CONSUMER PRODUCT SAFETY COMMISSION

ON

POLICY ON ELECTION OF VICE-CHAIRMAN

A majority of the CPSC voted today to retain the present policy for designating a vice-chairman, a policy which usually means the newest Commissioner takes over the post.

Little attention has been given to the matter in the past, although we do know from experience that if there is a vacancy in the chairmanship, a Vice Chairman becomes the Acting Chairman, taking on all the authority of the Chairman, including being the principal spokesman for the entire Commission and chief administrator of its staff.

Is it wise to place the newest, least experienced member of the Commission in line to take over as Acting Chairman?

I think not. There are other ways to rotate the responsibility and I have outlined four methods. Other agencies have decided there are better ways to choose than what amounts to inexperience. Experience may not be the only quality needed in a leadership role, but it's not a bad one.

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September 28, 1983

Monday 9/17/83

federal register

Monday
October 17, 1983

Part XLI

Consumer Product Safety Commission

Semiannual Regulatory Flexibility and
Unified Agendas

CPSC

CONSUMER PRODUCT SAFETY
COMMISSION

16 CFR Ch. II

Regulatory Flexibility Act; Semiannual
Regulatory Flexibility and Unified
AgendasAGENCY: Consumer Product Safety
Commission.ACTION: Publication of regulatory
flexibility and unified agendas.

SUMMARY: The Regulatory Flexibility Act (RFA) requires each Federal agency to publish twice each year a regulatory flexibility agenda listing for a 12-month period rules expected to be proposed or promulgated which may have a significant economic impact on a substantial number of small entities. In this document the Commission publishes its sixth semiannual regulatory flexibility agenda.

Additionally, although not required to do so, the Commission has elected to comply voluntarily with those provisions of Executive Order 12291 which require executive agencies to publish an agenda of regulatory actions under development or review during the succeeding 12 months by the agency, and which further provide that such an agenda may be incorporated with an agency's regulatory flexibility agenda published in accordance with the RFA.

DATE: The Commission welcomes comments from small entities, including small businesses, small organizations, and small governmental units, upon each subject area of the agenda. Written comments concerning the agenda should be received in the Office of the Secretary by December 16, 1983.

ADDRESS: Comments on the regulatory flexibility agenda should be sent to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, (301) 492-6800, and should be titled "Regulatory Flexibility Agenda."

FOR FURTHER INFORMATION

CONTACT: For further information on the agenda in general, contact: Iris R. Liskey, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, (301) 492-6554. All inquiries from the press and broadcast media should be directed to Lou Brott, Office of Public Affairs, Consumer Product Safety Commission, Washington, D.C. 20207 (202) 634-7780. For further information regarding a particular item on the agenda, consult the individual listed in the column headed "Contact" for that particular item.

SUPPLEMENTARY INFORMATION:

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small businesses, small governmental organizations, and other small entities. Section 602 of the Act (5 U.S.C. 602) requires each agency to publish twice each year a regulatory flexibility agenda containing a brief description of any rule expected to be proposed or promulgated which may have a "significant economic impact" on a "substantial number" of small entities. The agency must also provide a summary of the objectives and legal basis for each agenda item and a schedule for acting on each item as well as the name and address of the agency official knowledgeable about the items listed. Further, agencies are required to provide notice of their agendas to small

entities and solicit their comments by direct notification or by inclusion in publications likely to be obtained by such entities.

In addition, President Reagan's Executive Order 12291 requires executive agencies to publish, twice each year, a regulatory agenda of proposed regulations under development or review and further states that such an agenda may be incorporated with an agenda published under the RFA. While the Commission, as an independent regulatory agency, is not required to follow Executive Order 12291, the Commission is complying voluntarily with those provisions concerning publication of a regulatory agenda.

The sixth semiannual regulatory flexibility agenda, published below, lists for a 12-month period anticipated regulatory activities under development or review. These include all such activities, not only those which may have a significant economic impact on a substantial number of small entities.

The agenda contains a brief description and summary of each regulatory activity, including the objectives and legal basis for each; an approximate schedule of target dates, subject to revision, for the development or completion of each activity; and the name and telephone number of a knowledgeable agency official concerning particular items on the agenda. All agency contacts have the same address: Consumer Product Safety Commission, Washington, D.C. 20207.

DATED: September 20, 1983.

Sadye E. Dunn,

Secretary

Consumer Product Safety Commission.

Current and Projected Rulemakings

Se- quence Number	Title	RIN
1	*Consumer product safety standard for "chain saws and their component and replacement parts"	3041-AA00
2	*Upholstered furniture cigarette flammability standard	3041-AA01
3	Petition CP 82-6. Petition to initiate a mandatory standard to limit the formaldehyde that could be released from pressed wood products made with urea-formaldehyde resins	3041-AA03
4	Amendments to clothing textile standard apparel revision	3041-AA04
5	Flammability classification regulations	3041-AA05
6	Clothing textiles and vinyl plastic film flammability standards amendment	3041-AA06
7	Proposed replacement enforcement policy statements on applicability of the children's sleepwear standards	3041-AA10
8	Asbestos in selected consumer products	3041-AA11
9	Applications SH 82-1 through 39 and SH 83-1 through 5 requesting an exemption of state/local regulations from preemption by 16 CFR Part 1212	3041-AA12
10	*Hazardous substances labeling requirements	3041-AA15

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Current and Projected Rulemakings—Continued

Sequence Number	Title	RIN
11	Mattress flammability standard.....	3041-AA16
12	Hazardous dyes in consumer products.....	3041-AA17
13	Petition AP 83-1. Petition to require labeling of constrained-spring twist-on connectors with aluminum wire.....	3041-AA21
14	Requirements for the special packaging of household substances; advance notice of proposed rulemaking and notice of opportunity for oral presentations.....	3041-AA22
15	Petition AP 83-2. Petition to require a labeling rule for crimp type electrical connectors.....	3041-AA26
16	Petition CP 83-1. Petition to establish standards for recuperative gas furnaces to address corrosion of the furnace and its venting system.....	3041-AA27
17	Petition FP 83-1. Petition to require that all well cord manufactured for use in upholstered furniture must be heat conducting.....	3041-AA28
18	Child-resistant packaging requirement for over-the-counter drug products containing diphenhydramine.....	3041-AA29
19	Petition HP 83-1. Petition for an exemption from poison prevention packaging requirements for Premarin and Aygestin..	3041-AA30
20	Petition HP 83-2. Petition to halt the sale of and ban the use of potassium dichromate products in residential humidifiers.....	3041-AA31
21	Petition HP 82-1. Petition to declare volatile nitrites banned hazardous substances.....	3041-AA32

*Indicates priority regulation.

Existing Regulations Under Review

Sequence Number	Title	RIN
22	Rule review.....	3041-AA19
23	Rule review.....	3041-AA20
24	Safety standard requiring oxygen depletion safety shutoff systems (ODS) for unvented gas-fired space heaters; proposed revocation.....	3041-AA23
25	Rule review.....	3041-AA24
26	Rule review.....	3041-AA25
27	Self-pressurized consumer products containing chlorofluorocarbons - submission of performance and technical data to the Commission.....	3041-AA33
28	Exemption for unlabeled containers.....	3041-AA34
29	Exemption from classification as a banned toy or other banned article for use by children - caps (paper or plastic).....	3041-AA35

Completed Actions

Sequence Number	Title	RIN
30	*Coal and woodburning stoves labeling requirements - wood heating equipment.....	3041-AA02
31	Alternate apparel test method - enforcement and administrative rule.....	3041-AA07
32	Requirements to address strangulation risk presented by toy chests.....	3041-AA08
33	Petition AP 80-2. Petition to require labeling of electrical wiring devices.....	3041-AA14
34	Physician drugs samples policy statement.....	3041-AA18

*Indicates priority regulation.

CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

Current and Projected Rulemakings

1. CONSUMER PRODUCT SAFETY STANDARD FOR "CHAIN SAWS AND THEIR COMPONENT AND REPLACEMENT PARTS"

Priority: Major

Legal Authority: 15 USC 2058 (a) CPSA

CFR Citation: 16 CFR Chapter II

Abstract: Efforts in 1979 and 1980 to develop a voluntary chain saw standard were deemed unsuccessful. Subsequently, the Commission decided that a mandatory standard was needed to reduce kickback injuries and that it should be developed by the staff. On May 11, 1981, the Commission

published a notice of proceeding to develop a safety standard. Under amended statutory authority, the Commission issued an advance notice of proposed rulemaking in May, 1982, with a 60-day comment period. Commission staff has continued working with industry to develop a

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Current and Projected Rulemakings

voluntary standard which addresses chain saw kickback injuries. The staff has also performed a preliminary evaluation of a draft industry standard which addresses chain saw kickback injuries. During early FY 1984, the Commission plans to decide whether or not a mandatory standard will be necessary.

Timetable:

Action	Date	FR Cite
ANPRM	05/05/82	47 FR 19369
ANPRM Comment Period Begin	05/05/82	47 FR 19369
ANPRM Comment Period End	07/06/82	

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Carl W. Blechschmidt, Program Manager, Powered Equipment Hazards, Consumer Product Safety Commission, Office of Program Management, Washington, DC 20207, 301 492-6554

RIN: 3041-AA00

2. UPHOLSTERED FURNITURE CIGARETTE FLAMMABILITY STANDARD

Priority: Major

Legal Authority: 15 USC 1193; 15 USC 1194

CFR Citation: 16 CFR 1633

Abstract: In October, 1981, the Commission voted to defer mandatory regulatory action on upholstered furniture in order to work with manufacturers participating in the Voluntary Action Program of the Upholstered Furniture Action Council. This program may eliminate the need for a mandatory standard. Promising new materials and techniques for improving the cigarette ignition resistance of upholstered furniture are expected to be incorporated in commercial furniture after July, 1983. An evaluation of the cigarette ignition resistance of the new technology furniture will be carried out by the Commission staff and a report presented to the Commission during FY '84. At the same time, additional technological improvements will be sought.

Timetable:

Action	Date	FR Cite
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Next Action Undetermined

Small Entity: Yes

Affected Sectors: 25 FURNITURE AND FIXTURES

Agency Contact: James F. Hoebel, Program Manager, Fire and Thermal Burn, Consumer Product Safety Commission, Office of Program Management, Washington, DC 20207, 301 492-6554

RIN: 3041-AA01

3. PETITION CP 82-6. PETITION TO INITIATE A MANDATORY STANDARD TO LIMIT THE FORMALDEHYDE THAT COULD BE RELEASED FROM PRESSED WOOD PRODUCTS MADE WITH UREA-FORMALDEHYDE RESINS

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 2051 Consumer Product Safety Act; 15 USC 2058 Consumer Product Safety Act

CFR Citation: Not yet determined

Abstract: In correspondence received August 19, 1982, the Consumer Federation of America (CFA) petitioned the Commission to institute a mandatory product safety standard to limit the amount of formaldehyde that could be released from pressed wood products made with urea-formaldehyde resin. Work on this petition has been included within the Commission's ongoing priority project on pressed wood products. On January 12, 1983, the staff briefed the Commission regarding the status of this project. A staff briefing package on the status of this project and on all currently available information pertaining to the CFA petition will be forwarded to the Commission late in FY '83.

Timetable:

Action	Date	FR Cite
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Next Action Undetermined

Small Entity: Undetermined

Agency Contact: John Liskey, Program Manager, Consumer Product Safety

Commission, Office of Program Management, Washington, DC 20207, 301 492-6554

RIN: 3041-AA03

4. AMENDMENTS TO CLOTHING TEXTILE STANDARD APPAREL REVISION

Legal Authority: 15 USC 1194 FFA

CFR Citation: 16 CFR 1610.37; 16 CFR 1610.38

Abstract: On August 12, 1982, a notice was published soliciting comments on proposed amendments to regulations implementing the Standard for the Flammability of Clothing Textiles (16 CFR 1610). The notice proposes that persons or firms subject to the standard, a) be permitted to devise and implement reasonable and representative tests to support guaranties, b) be exempt from further testing requirements to support guaranties for fabrics made entirely from acrylic, modacrylic, nylon, olefin and polyester fibers, and c) the record retention period of tests supporting guaranties be reduced from three years to one year. These amendments would reduce industry's testing and recordkeeping costs while maintaining the level of protection the standard affords consumers.

Timetable:

Action	Date	FR Cite
Commission Decision on Final Amendment		
NPRM	08/12/82	47 FR 3006
NPRM Comment Period Begin	08/12/82	47 FR 3006
NPRM Comment Period End	10/12/82	

Small Entity: No

Agency Contact: James F. Hoebel, Program Manager, Fire and Thermal Burn, Consumer Product Safety Commission, Office of Program Management, Washington, D.C. 20207, 301 492-6554

RIN: 3041-AA04

5. FLAMMABILITY CLASSIFICATION REGULATIONS

Legal Authority: 15 USC 1261(i) FHSA; 15 USC 1269 (a) FHSA

CFR Citation: 16 CFR 1500.3(b)(10); 16 CFR 1500.3(c)(6); 16 CFR 1500.43

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Abstract: The Federal Hazardous Substances Act, as amended, authorizes the Commission to issue regulations to define the terms "extremely flammable," "flammable," and "combustible" for purposes of labeling household substances which may present a flammability hazard. The Commission is developing proposed regulations to change from an open-cup to a close-cup apparatus, and to specify an appropriate procedure for classifying flammability characteristics of household substances. If issued on a final basis, the proposed regulations would make the apparatus and procedures used by the Commission compatible with flammability tests used by other Federal agencies.

Timetable:

Action	Date	FR Cite
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Next Action Undetermined

Small Entity: No

Agency Contact: James F. Hoebel, Program Manager, Fire and Thermal Burn, Consumer Product Safety Commission, Office of Program Management, Washington, D.C. 20207, 301 492-8554

RIN: 3041-AA05

6. CLOTHING TEXTILES AND VINYL PLASTIC FILM FLAMMABILITY STANDARDS AMENDMENT

Legal Authority: 15 USC 1193 FFA; 15 USC 1194 FFA

CFR Citation: 16 CFR 1610; 16 CFR 1611

Abstract: Clarifying amendments were proposed in 1981 to resolve questions which have arisen about interpretation of the standards and their applicability to various products, including multilayer fabrics with an outer layer of film or coated fabric, such as those used for disposable diapers. On Feb. 24, 1982, the Commission published a final amendment to the regulation to exempt plastic film used as the outer layer of a disposable diaper from any requirement for separate testing if a full thickness of the assembled article passes the test in the applicable standard. A notice to extend the period for receipt of written comments on all remaining issues was published at the same time.

Timetable:

Action	Date	FR Cite
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NPRM	02/24/82	47 FR 01836
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NPRM Comment	02/24/82	47 FR 01836
Period Begin		

NPRM/Comment 05/25/82
Period End

Next Action Undetermined

Small Entity: No

Affected Sectors: 22 TEXTILE MILL PRODUCTS; 23 APPAREL AND OTHER FINISHED PRODUCTS MADE FROM FABRICS AND SIMILAR MATERIALS; 26 PAPER AND ALLIED PRODUCTS

Agency Contact: James F. Hoebel, Program Manager, Fire and Thermal Burn, Consumer Product Safety Commission, Office of Program Management, Washington, D.C. 20207, 301 492-8554

RIN: 3041-AA06

7. PROPOSED REPLACEMENT ENFORCEMENT POLICY STATEMENTS ON APPLICABILITY OF THE CHILDREN'S SLEEPWEAR STANDARDS

Legal Authority: 15 USC 1194 FFA

CFR Citation: 16 CFR 1615.64; 16 CFR 1616.65

Abstract: Dec. 11, 1981 a decision of U.S. Court of Appeals for the Fourth Circuit in National Knitwear Manufacturers Association v. CPSC, 688 F. 2d 81, set aside the Commission's statements of policy on the applicability of the children's sleepwear standards for procedural reasons. Since the enforcement policy statement serves a useful purpose both for industry and the agency, the Commission has published a proposal for a replacement enforcement policy statement. The Commission will consider comments received in response to the proposal and decide whether to issue the policy statements on a final basis.

Timetable:

Action	Date	FR Cite
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NPRM	02/24/83	
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NPRM Comment	02/25/83	
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Period Begin

NPRM Comment	04/22/83	
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Period End

Next Action Undetermined

Small Entity: No

Agency Contact: Elizabeth J. Gomilla, Compliance Officer, Consumer Product Safety Commission, Compliance & Administrative Litigation, Washington, DC 20207, 301 492-6400

RIN: 3041-AA10

8. ASBESTOS IN SELECTED CONSUMER PRODUCTS

Legal Authority: 15 USC 1261 et seq FHSA; 15 USC 2058 CPSC; 15 USC 2080(b) CPSC

CFR Citation: Not yet determined

Abstract: Hazard information shows that asbestos presents a risk of cancer and respiratory disease. On October 17, 1979 the Commission issued an Advanced Notice of Proposed Rulemaking on asbestos in consumer products. On March 4, 1982 the Commission decided to convene a Chronic Hazards Advisory Panel (CHAP) on Asbestos in Consumer Products. The CHAP began meeting in January 1983 and delivered its report in July 1983. Based on the findings of the Panel, the Commission will decide in first quarter FY 1984 what additional regulatory activity, including an ANPRM, may be appropriate.

Timetable:

Action	Date	FR Cite
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ANPRM	10/17/79	44 FR 60057
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Invite CHAP	04/22/82	47 FR 17323
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members suggestions

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Sandra Eberle, Project Manager, Consumer Product Safety Commission, Directorate for Health Sciences, Washington, DC 20207, 301 492-6957

RIN: 3041-AA11

9. APPLICATIONS SH 82-1 THROUGH 39 AND SH 83-1 THROUGH 5 REQUESTING AN EXEMPTION OF STATE/LOCAL REGULATIONS FROM PREEMPTION BY 16 CFR PART 1212

Legal Authority: 15 USC 2075(c) CPSC

CFR Citation: 16 CFR 1212

Abstract: Forty-four applications have been received from state and local government officials since February 22, 1982. These applications all request exemption from preemption by the CPSC standard for unvented gas space heaters (16 CFR Part 1212). If the Commission grants one or more of these petitions, it will initiate a rulemaking proceeding. On March 30, 1983, the staff briefed the Commission on various options which could be considered in reaching a final decision on these applications. On May 26, 1983, the Commission directed the staff to

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draft a notice to initiate a rulemaking proceeding to revoke 16 CFR Part 1212 and to defer action on the applications for exemption from preemption from various state and local governments until the Commission takes final action in the revocation proceeding. The Commission is scheduled to meet on September 22, 1983 to decide on publication of the draft Notice as a final document proposing revocation of 16 CFR Part 1212.

Timetable:

Action	Date	FR Cite
Approval of Federal Register Notice	09/22/83	

Small Entity: Undetermined

Government Levels Affected: Local, State, Federal

Agency Contact: John Liskey, Program Manager, Consumer Product Safety Commission, Office of Program Management, Washington, DC 20207, 301 492-6554

RIN: 3041-AA12

10. HAZARDOUS SUBSTANCES LABELING REQUIREMENTS

Priority: Major

Legal Authority: 15 USC 1269(a) FHSA

CFR Citation: 16 CFR 1500.121

Abstract: This rule, if issued on a final basis, would revise the Commission's regulations for the prominence, placement, and conspicuousness of cautionary statements required by the Federal Hazardous Substances Act to be placed on labels of hazardous substances intended or packaged in a form suitable for household use.

Timetable:

Action	Date	FR Cite
NPRM	12/13/78	43 FR 58195
NPRM Comment Period Begin	12/13/78	43 FR 58195
NPRM Comment Period End	02/02/79	
Final Action	04/00/84	

Small Entity: Yes

Agency Contact: Charles M. Jacobson, Compliance Officer, Consumer Product Safety Commission, Compliance & Administrative Litigation, Washington, DC 20207, 301 492-6400

RIN: 3041-AA15

11. MATTRESS FLAMMABILITY STANDARD

Legal Authority: 15 USC 1193 FFA; 15 USC 1194 FFA

CFR Citation: 16 CFR 1632

Abstract: An ANPRM has been published soliciting comments on possible amendments to the mattress flammability standard to modify and reduce the testing requirements and to clarify other provisions. These amendments are intended to reduce industry's testing and recordkeeping costs while maintaining the level of protection the standard affords consumers. As a result of comments received, additional data is being gathered relating to compliance with the standard.

Timetable:

Action	Date	FR Cite
ANPRM	06/10/82	47 FR 25159
ANPRM Comment Period Begin	06/10/82	47 FR 25159
ANPRM Comment Period End	08/09/82	
Commission Decision on Proposed Amendments	12/00/83	

Small Entity: Yes

Affected Sectors: 25 FURNITURE AND FIXTURES

Agency Contact: James F. Hoebel, Program Manager, Fire and Thermal Burn, Consumer Product Safety Commission, Office of Program Management, Washington, DC 20207, 301 492-6554

RIN: 3041-AA16

12. HAZARDOUS DYES IN CONSUMER PRODUCTS

Legal Authority: 15 USC 2051 et seq CPSA; 15 USC 1261 et seq FHSA

CFR Citation: Not yet determined

Abstract: Hazard information shows that benzidine congener dyes may present a carcinogenic hazard. The review and testing of potentially hazardous dyes and consumer exposure to these dyes began in FY 1983, and will continue in 1984. More than 20 dyes were studied in FY '83; an additional 10 to 15 will be analyzed in FY '84. Remedial action will be recommended when appropriate.

Timetable:

Action	Date	FR Cite
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Next Action Undetermined

Small Entity: Undetermined

Agency Contact: William Menza, Project Manager, Consumer Product Safety Commission, Directorate for Health Sciences, Washington, DC 20207, 301 492-6957

RIN: 3041-AA17

13. PETITION AP 83-1. PETITION TO REQUIRE LABELING OF CONSTRAINED-SPRING TWIST-ON CONNECTORS WITH ALUMINUM WIRE

Legal Authority: 15 USC 2076(e) CPSA

CFR Citation: Not yet determined

Abstract: In correspondence dated December 1, 1982, Dr. Jesse Aronstein petitioned the Commission to issue a regulation that would require the labeling of electrical wiring connectors of the constrained-spring twist-on type as to hazardous performance when connected to aluminum wiring. If the Commission grants the petition, it will begin a rulemaking proceeding to issue the rule requested by the petition.

Timetable:

Action	Date	FR Cite
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Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Carl W. Blechschmidt, Program Manager, Electrical Hazards, Consumer Product Safety Commission, Office of Program Management, Washington, D.C. 20207, 301 492-6554

RIN: 3041-AA21

14. REQUIREMENTS FOR THE SPECIAL PACKAGING OF HOUSEHOLD SUBSTANCES; ADVANCE NOTICE OF PROPOSED RULEMAKING AND NOTICE OF OPPORTUNITY FOR ORAL PRESENTATIONS

Legal Authority: PL 91-601; 15 USC 1472 PPPA

CFR Citation: 16 CFR 1700.20; 16 CFR 1700.29

Abstract: On January 19, 1983 the Commission published an Advanced Notice of Proposed Rulemaking soliciting comments on ways to amend the existing child resistant packaging requirements to improve the

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Current and Projected Rulemakings

effectiveness and efficiency of these requirements

Timetable:

Action	Date	FR Cite
ANPRM	01/19/83	48 FR 2389
ANPRM Comment	01/19/83	48 FR 2389
Period Begin		
ANPRM Comment	03/21/83	
Period End		

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Virginia White, Project Manager, Consumer Product Safety Commission, Directorate for Health Sciences, Washington, D.C. 20207, 301 492-6957

RIN: 3041-AA22

15. PETITION AP 83-2. PETITION TO REQUIRE A LABELING RULE FOR CRIMP TYPE ELECTRICAL CONNECTORS

Legal Authority: 15 USC 2076(e) CPSA; 5 USC 553(e) APA

CFR Citation: 00 CFR Not Yet Determined

Abstract: In correspondence dated May 1, 1983, Dr. Jesse Aronstein petitioned the Commission to issue a regulation that would require the labeling of electrical wiring connectors of the hand-tool crimp type delineating the applications for which the manufacturer considers the connectors to be suitable and would provide a warning regarding possible hazardous consequences if used in non-rated applications. If the Commission grants the petition, it will initiate a rulemaking proceeding to issue the rule requested by the petition.

Timetable:

Action	Date	FR Cite
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Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Carl W. Blechschmidt, Program Manager, Consumer Product Safety Commission, Office of Program Management, Washington, D.C. 20207, 301 492-6554

RIN: 3041-AA26

16. PETITION CP 83-1. PETITION TO ESTABLISH STANDARDS FOR RECUPERATIVE GAS FURNACES TO ADDRESS CORROSION OF THE FURNACE AND ITS VENTING SYSTEM

Legal Authority: 5 USC 553(e) APA; 15 USC 2056 CPSA; 15 USC 2058 CPSA

CFR Citation: 00 CFR Not Yet Determined

Abstract: In correspondence dated April 7, 1983, the City of Cincinnati (Ohio), Department of Buildings and Inspections petitioned the Commission to establish safety standards to address the risk of injury associated with combustion products, possibly including carbon monoxide entering the living space of homes where recuperative gas furnaces are installed. If the Commission grants the petition, it will begin a rulemaking proceeding to issue the standard requested by the petition.

Timetable:

Action	Date	FR Cite
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Next Action Undetermined

Small Entity: Undetermined

Agency Contact: John Liskey, Program Manager, Consumer Product Safety Commission, Office of Program Management, Washington, D.C. 20207, 301 492-6554

RIN: 3041-AA27

17. PETITION FP 83-1. PETITION TO REQUIRE THAT ALL WELT CORD MANUFACTURED FOR USE IN UPHOLSTERED FURNITURE MUST BE HEAT CONDUCTING

Legal Authority: 5 USC 553(e) APA; 15 USC 1193 FFA

CFR Citation: 00 CFR Not Yet Determined

Abstract: In correspondence dated June 15, 1983, the Citizens Committee for Fire Protection petitioned the Commission to issue a flammability standard to require that all welt cord manufactured for use in upholstered furniture must be heat conducting. If the Commission grants the petition, it will begin a rulemaking proceeding to issue the rule requested by the petition.

Timetable:

Action	Date	FR Cite
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Next Action Undetermined

Small Entity: Undetermined

Agency Contact: James Hoebel, Program Manager, Consumer Product Safety Commission, Office of Program Management, Washington, D.C. 20207, 301 492-6554

RIN: 3041-AA28

18. CHILD-RESISTANT PACKAGING REQUIREMENT FOR OVER-THE-COUNTER DRUG PRODUCTS CONTAINING DIPHENHYDRAMINE

Legal Authority: 15 USC 1471 PPPA

CFR Citation: 16 CFR 1700.14(a)

Abstract: An evaluation of medical and injury data concerning antihistamines indicates that diphenhydramine, an antihistamine which is sold over-the-counter, may cause serious illness or injury if accidentally ingested by young children. A regulation to require child-resistant packaging for over-the-counter drug products containing diphenhydramine will reduce the risk of accidental childhood ingestion of toxic amounts of this substance.

Timetable:

Action	Date	FR Cite
NPRM	07/11/83	48 FR 31664
NPRM Comment	07/11/83	48 FR 31664
Period Begin		
NPRM Comment	09/09/83	
Period End		
Commission Decision on Final Regulation	11/00/83	

Small Entity: No

Agency Contact: Virginia White, Senior Project Manager, Consumer Product Safety Commission, Directorate for Health Sciences, Washington, D.C. 20207, 301 492-6957

RIN: 3041-AA29

19. PETITION HP 83-1. PETITION FOR AN EXEMPTION FROM POISON PREVENTION PACKAGING REQUIREMENTS FOR PREMARIN AND AYGESTIN

Legal Authority: 15 USC 1474 PPPA

CFR Citation: 16 CFR 1702

Abstract: In correspondence dated May 20, 1983, Ayerst Laboratories petitioned the Commission for an exemption from poison prevention packaging

CPSC

Current and Projected Rulemakings

requirements for Premarin (conjugated estrogen tablets) and Aygestin (Norethindrone Acetate tablets). If the Commission grants the petition, it will begin a proceeding to issue an amendment to exempt Premarin and Aygestin from PPPA requirements.

Timetable:

Action	Date	FR Cite
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Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Virginia White, Senior Project Manager, Consumer Product Safety Commission, Directorate for Health Sciences, Washington, D.C. 20207, 301 492-6957

RIN: 3041-AA30

20. PETITION HP 83-2. PETITION TO HALT THE SALE OF AND BAN THE USE OF POTASSIUM DICHROMATE PRODUCTS IN RESIDENTIAL HUMIDIFIERS

Legal Authority: 15 USC 1261 FHSA

CFR Citation: 00 CFR Not Yet Determined

Abstract: In correspondence received April 28, 1983, from Public Citizen Health Group, the Commission was petitioned to initiate rulemaking to ban the use and sale of potassium dichromate products for use in residential humidifiers. If the Commission grants the petition, it will begin a rulemaking proceeding to issue the standard requested by the petition.

Timetable:

Action	Date	FR Cite
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Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Virginia White, Senior Project Manager, Consumer Product Safety Commission, Directorate for Health Sciences, Washington, D.C. 20207, 301 492-6957

RIN: 3041-AA31

21. PETITION HP 82-1. PETITION TO DECLARE VOLATILE NITRITES BANNED HAZARDOUS SUBSTANCES

Legal Authority: 15 USC 1261 FHSA

CFR Citation: 00 CFR Not Yet Determined

Abstract: In correspondence received September 13, 1982, Dr. Ronald Wood, Univ. of Rochester Medical School, petitioned the Commission to declare room odorizers containing volatile nitrites (i.e., butyl nitrite and iso-butyl nitrite) banned hazardous substances under the Federal Hazardous Substances Act. If the Commission grants the petition, it will begin a rulemaking proceeding to issue the rule requested by the petition.

Timetable:

Action	Date	FR Cite
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Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Moira A. McNamara, Consumer Product Safety Commission, Directorate for Health Sciences, Washington, D.C. 20207, 301 492-6957

RIN: 3041-AA32

CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

Existing Regulations Under Review

22. RULE REVIEW

Legal Authority: 5 USC 610 Regulatory Flexibility Act; 5 USC 2051 et seq CPSA

CFR Citation: 16 CFR 1009; 16 CFR 1019; 16 CFR 1115; 16 CFR 1201; 16 CFR 1202; 16 CFR 1205; 16 CFR 1207; 16 CFR 1209; 16 CFR 1212; 16 CFR 1301; 16 CFR 1302; 16 CFR 1303; 16 CFR-1304; 16 CFR 1305; 16 CFR 1401; ...

Abstract: The Commission has published a Federal Register notice listing seventeen (17) rules and standards (issued under the Consumer Product Safety Act), soliciting comments on these rules which it will review pursuant to the requirements of the Regulatory Flexibility Act. Subsequently, the Commission will publish notice and solicit comments on rules and standards under the other Acts administered by the Commission. The Commission will review these rules to determine if they should be revoked,

amended or continued in effect without change.

Timetable:

Action	Date	FR Cite
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Notice to solicit 10/30/82

comments

Public Comment 12/20/82

Period Ends

End Review 00/00/00

Next Action Undetermined

Small Entity: Yes

Agency Contact: Allen Brauningger, Attorney, Consumer Product Safety Commission, Office of General Counsel, Washington, D.C. 20207, 301 492-6980

RIN: 3041-AA19

23. RULE REVIEW

Legal Authority: 5 USC 610 RFA; 15 USC 1193 FFA; 15 USC 1194 FFA; 15 USC 2079 CPSA

CFR Citation: 16 CFR 1602; 16 CFR 1604; 16 CFR 1605; 16 CFR 1607; 16 CFR 1608; 16 CFR 1610; 16 CFR 1611; 16 CFR 1615; 16 CFR 1616; 16 CFR 1630; 16 CFR 1631; 16 CFR 1632

Abstract: The Commission plans to publish a Federal Register Notice listing twelve (12) rules and standards issued under the Flammable Fabrics Act, and soliciting comments on those rules. The Commission will review these rules under provisions of the Regulatory Flexibility Act to determine if the rules should be revoked, amended, or continued in effect without changes.

Timetable:

Action	Date	FR Cite
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End Review 00/00/00

Next Action Undetermined

Small Entity: Yes

CPSC

Existing Regulations Under Review

Agency Contact: Allen Brauning, Attorney, Consumer Product Safety Commission, Office of General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207, 301 492-6980

RIN: 3041-AA20

24. SAFETY STANDARD REQUIRING OXYGEN DEPLETION SAFETY SHUTOFF SYSTEMS (ODS) FOR UNVENTED GAS-FIRED SPACE HEATERS; PROPOSED REVOCATION

Legal Authority: 15 USC 2058(h)

CFR Citation: 16 CFR 1212

Abstract: On May 28, 1983 the Commission directed the staff to initiate a rulemaking proceeding to revoke the safety standard for unvented gas-fired space heaters (16 CFR Part 1212). The Commission is proposing this revocation because it has preliminarily determined that the standard is not reasonably necessary to eliminate or reduce an unreasonable risk of injury by carbon monoxide poisoning associated with unvented gas-fired space heaters. A decision on 44 applications from local and state governments requesting exemption from preemption by the CPSC standard for unvented gas-fired space heaters has been deferred until the Commission takes final action in the revocation proceeding. A Commission meeting is scheduled for September 22, 1983 to decide on publication of a Federal Register Notice proposing revocation of 16 CFR Part 1212.

Timetable:

Action	Date	FR Cite
NPRM	10/00/83	

Small Entity: No

Agency Contact: John F. Liskey, Program Manager, Consumer Product Safety Commission, Office of Program Management, Washington, D.C. 20207, 301 492-6554

RIN: 3041-AA23

25. RULE REVIEW

Legal Authority: 5 USC 610 Regulatory Flexibility Act; 15 USC 1471 PPPA

CFR Citation: 16 CFR 1700; 16 CFR 1701; 16 CFR 1702; 16 CFR 1704

Abstract: The Commission plans to publish a Federal Register Notice listing four (4) rules and standards issued under the Poison Prevention Packaging Act, and soliciting comments on those

rules. The Commission will review these rules under the provisions of the Regulatory Flexibility Act to determine if the rules should be revoked, amended, or continued in effect without changes.

Timetable:

Action	Date	FR Cite
Notice to solicit comments	12/30/83	
Public Comment Period Ends	03/02/84	

Small Entity: Yes

Agency Contact: Allen Brauning, Attorney, Consumer Product Safety Commission, Office of General Counsel, Washington, D.C. 20207, 301 492-6980

RIN: 3041-AA24

26. RULE REVIEW

Legal Authority: 5 USC 610 Regulatory Flexibility Act; 15 USC 1261 FHSA

CFR Citation: 16 CFR 1500; 16 CFR 1501; 16 CFR 1505; 16 CFR 1507; 16 CFR 1508; 16 CFR 1509; 16 CFR 1510; 16 CFR 1511; 16 CFR 1512

Abstract: The Commission plans to publish a Federal Register Notice listing nine (9) rules and standards issued under the Federal Hazardous Substances Act, and soliciting comments on those rules. The Commission will review these rules under provisions of the Regulatory Flexibility Act to determine if the rules should be revoked, amended, or continued in effect without changes.

Timetable:

Action	Date	FR Cite
Notice to solicit comments	12/30/83	
Public Comment Period Ends	03/02/84	

Small Entity: Yes

Agency Contact: Allen Brauning, Attorney, Consumer Product Safety Commission, Office of General Counsel, Washington, D.C. 20207, 301 492-6980

RIN: 3041-AA25

27. SELF-PRESSURIZED CONSUMER PRODUCTS CONTAINING CHLOROFLUOROCARBONS -- SUBMISSION OF PERFORMANCE AND TECHNICAL DATA TO THE COMMISSION

Legal Authority: 15 USC 2076(e)

CFR Citation: 16 CFR 1401.4

Abstract: The existing regulation requires that performance and technical data be submitted to the Commission by manufacturers of self-pressurized consumer products containing chlorofluorocarbons. The Commission will be considering revocation of this requirement because the products affected are mostly banned by the Environmental Protection Agency. The alternative is to keep the requirement in effect. Any action will be based on as-yet-undetermined analyses of the various costs and benefits associated with the alternatives.

Timetable:

Action	Date	FR Cite
End Review	12/30/83	
NPRM	12/30/83	

Small Entity: Undetermined

Government Levels Affected: Federal

Agency Contact: Harleigh Ewell, Attorney-Advisor, Consumer Product Safety Commission, OGC, Washington, D.C. 20207, 301 492-6980

RIN: 3041-AA33

28. EXEMPTION FOR UNLABELED CONTAINERS

Legal Authority: 5 USC 553; 15 USC 1262

CFR Citation: 16 CFR 1500.84

Abstract: The Commission will be considering revocation of an exemption provision that covers the shipment of unlabeled containers from a packaging to a labeling firm. The exemption may be unnecessary because the Commission staff is not aware of any such shipments. In addition, such a shipment would not violate the provisions of the applicable statute, the Federal Hazardous Substances Act.

The alternative being considered is to leave the exemption in effect, but no costs or benefits are expected to be associated either with the revocation or with leaving the exemption in effect.

Timetable:

Action	Date	FR Cite
NPRM Comment Period Begin	12/30/83	
NPRM Comment Period End	1/30/84	

Next Action Undetermined

Small Entity: No

Public Compliance Cost: Initial Cost: \$0; Yearly Recurring Cost: \$0

CPSC

Existing Regulations Under Review

Agency Contact: Charles Jacobson, Compliance Officer, Consumer Product Safety Commission, CARM, Washington, D.C. 20207, 301 492-6400

RIN: 3041-AA34

29. EXEMPTION FROM CLASSIFICATION AS A BANNED TOY OR OTHER BANNED ARTICLE FOR USE BY CHILDREN - CAPS (PAPER OR PLASTIC)

Legal Authority: 15 USC 1261(f)(1)(D); 15 USC 1262(e)(1); 15 USC 2079(a); 15 USC 1281(q)(1)(a); 15 USC 1281(s)

CFR Citation: 16 CFR 1500.18(a)(5); 16 CFR 1500.86(a)(6)

Abstract: For more than ten years a regulation has existed under the Federal Hazardous Substances Act that was an "interim" regulation. Caps producing sound levels in the range of 138-158 decibels have been banned, but are exempt from the ban if they are properly labeled and if firms producing them report to the Commission on programs to reduce the sound levels.

The Commission will be considering whether to revoke the exemption and thus ban the caps or to expand the exemption to allow their marketing without any restrictions. Any action will be based on as-yet-undetermined analyses of the various costs and

benefits associated with these two approaches or any other approaches that the Commission might pursue.

Timetable:

Action	Date	FR Cite
ANPRM	12/30/83	

Next Action Undetermined

Small Entity: No

Government Levels Affected: Local, State, Federal

Agency Contact: Wade Anderson, Compliance Officer, Consumer Product Safety Commission, CARM, Washington, D.C. 20207, 301 492-6400

RIN: 3041-AA35

CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

Completed Actions

COMPLETED RULEMAKINGS

30. COAL AND WOODBURNING STOVES LABELING REQUIREMENTS - WOOD HEATING EQUIPMENT

Priority: Agency Determination

CFR Citation: 16 CFR 1408

Completed:

Reason	Date	FR Cite
Final Action - the Commission issued the Rule with minor revisions	05/16/83	48 FR 21898
Final Action Effective	10/17/83	48 FR 21898

Small Entity: Not Applicable

Agency Contact: James F. Hoebel 301 492-6554

RIN: 3041-AA02

31. ALTERNATE APPAREL TEST METHOD - ENFORCEMENT AND ADMINISTRATIVE RULE

CFR Citation: 16 CFR 1610; 16 CFR 1615; 16 CFR 1618

Completed:

Reason	Date	FR Cite
Final Action	05/12/83	48 FR 21310
Final Action Effective	06/13/83	48 FR 21310

Small Entity: No

Agency Contact: James F. Hoebel 301 492-6554

RIN: 3041-AA07

32. REQUIREMENTS TO ADDRESS STRANGULATION RISK PRESENTED BY TOY CHESTS

CFR Citation: 16 CFR 1500; 16 CFR 1513

Completed:

Reason	Date	FR Cite
Terminate	08/17/83	

Small Entity: Yes

Agency Contact: John Liskey 301 492-6554

RIN: 3041-AA08

33. PETITION AP 80-2. PETITION TO REQUIRE LABELING OF ELECTRICAL WIRING DEVICES

CFR Citation: Not yet determined

Completed:

Reason	Date	FR Cite
Commission voted to deny Petition	03/09/83	

Small Entity: Not Applicable

Agency Contact: Douglas L. Noble 301 492-6554

RIN: 3041-AA14

34. PHYSICIAN DRUGS SAMPLES POLICY STATEMENT

CFR Citation: 16 CFR 1701.2

Completed:

Reason	Date	FR Cite
Withdrawn - Commission voted to withdraw Proposed Policy Statement.	06/02/83	

Small Entity: Undetermined

Agency Contact: Virginia White 301 492-6957

RIN: 3041-AA18

[FR Doc. 83-28065 Filed 10-14-83; 8:45 am]

BILLING CODE 6355-01-T

Proposed Rules

Federal Register

Vol. 48, No. 194

Wednesday, October 5, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1212

Safety Standard Requiring Oxygen Depletion Safety Shutoff Systems (ODS) for Unvented Gas-Fired Space Heaters; Proposed Revocation

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed revocation.

SUMMARY: The Consumer Product Safety Commission proposes to revoke the Safety Standard Requiring Oxygen Depletion Safety Shutoff Systems (ODS) for Unvented Gas-Fired Space Heaters. The Commission is proposing this revocation because it has preliminarily determined that the standard is not reasonably necessary to eliminate or reduce an unreasonable risk of injury by carbon monoxide poisoning associated with unvented gas-fired space heaters. This preliminary determination is based on information received by the Commission that the level of compliance with a voluntary standard requiring the use of an oxygen depletion sensor on unvented gas-fired space heaters is very high, and is likely to continue in the future, even if the standard is revoked. Therefore, the mandatory requirements of the consumer product safety standard may no longer be needed.

DATES: (1) Written comments concerning the proposed revocation should be submitted by December 5, 1983. Comments received after this date will be considered to the extent practicable. (2) The Commission will provide opportunity for oral presentation of data, views, and arguments concerning the proposed revocation on November 14, 1983 at 10 a.m. in the Commission's hearing room, third floor, 1111 18th Street, N.W., Washington, D.C. Persons desiring to make oral presentations should notify the Office of the secretary in writing by November 7, 1983. A copy or summary of the testimony must be

submitted to the Office of the Secretary by November 7, 1983.

ADDRESS: Comments on the proposed revocation and requests to make oral presentations should be sent to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Five typewritten copies of all comments are requested. Received comments and other material relating to the proposed revocation will be available for inspection and copying in the Commission's public reading room, eighth floor, 1111 18th Street N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: John Liskey, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207; telephone: (301) 492-6554.

SUPPLEMENTARY INFORMATION: In the Federal Register of September 17, 1980 (45 FR 81880), the Consumer Product Safety Commission issued the Safety Standard Requiring Oxygen Depletion Safety Shutoff Systems (ODS) for Unvented Gas-Fired Space Heaters (16 CFR Part 1212) to eliminate or reduce the unreasonable risk of injury from carbon monoxide poisoning associated with unvented gas-fired space heaters.⁽¹⁾ The standard became effective on December 31, 1981, and is applicable to all unvented gas-fired space heaters manufactured or imported on or after that date.⁽²⁾

The standard requires that all unvented gas-fired space heaters subject to its requirements must be equipped with an oxygen depletion safety shutoff system (ODS) capable of shutting off the gas supply to the heater when the oxygen in the surrounding atmosphere is reduced to a level below 18 percent. The standard prescribes a test to determine if an unvented gas-fired space heater complies with its requirements.

The standard also requires unvented gas-fired space heaters subject to its coverage to be labeled with a statement concerning safe operation, maintenance instructions, and information about symptoms of carbon monoxide poisoning. The statements required by

¹ Numbers in parentheses refer to documents listed in the Bibliography at the end of this notice. Requests for inspection of any of these documents should be made at the Commission's public reading room, eighth floor, 1111 18th St., N.W., Washington, D.C. or by calling the Office of the Secretary at (301) 492-6900.

the standard must be on a permanent label which is either an integral part of the heater or a plate marker affixed to the heater, and must be conspicuous and legible when the heater is in its installed position.

When the Commission issued the standard on a final basis, it also issued regulations which establish requirements applicable to manufacturers and importers issuing certificates of compliance with the standard. Section 14 of the Consumer Product Safety Act (CPSA, 15 U.S.C. 2063) requires manufacturers and importers of products which are subject to consumer product safety standards to certify that those products comply with the applicable standard, and to base the certification upon a test of each product or upon a reasonable testing program.

Petition for Revocation

On October 6, 1981, the Gas Appliance Manufacturers Association (GAMA) petitioned the Commission to revoke the Standard.⁽³⁾ In support of its request for revocation, GAMA asserted, among other things, that the latest revision of American National Standards Institute (ANSI) Standard Z21.11.2 requires all unvented gas space heaters produced after December 31, 1981, to be equipped with an ODS device in addition to complying with other safety-related provisions, including restrictions on carbon monoxide emissions and limits on surface temperatures of such heaters. The petition from GAMA also stated that if the Commission revoked its standard for unvented gas space heaters, a certification program conducted by the American Gas Association Laboratories would assure that all unvented gas space heaters produced after that date are equipped with ODS devices.

The petition from GAMA stated further that if the Commission revoked its standard, all questions about possible preemption of state and local requirements for unvented gas space heaters by the Commission's standard would be avoided.

By majority vote, the Commission denied the petition for revocation of the standard, Commissioner Zagoria voting to grant the petition. A letter advising GAMA of the Commission's denial of the petition stated that the Commission could not conclude from information

available at that time that the certification program conducted by the American Gas Association Laboratories would provide a level of protection to consumers equivalent to that afforded by the Commission's standard.(4) That letter added, however, that several Commissioners had indicated that they would be willing to reconsider revocation of the standard at some future date.(4)

The consumer product safety standard requiring ODS devices on unvented gas space heaters became effective on December 31, 1981, and is applicable to all unvented gas space heaters manufactured or imported on or after that date. As the effective date of the standard approached, several state and local governments expressed concern about preemption of their requirements for unvented gas space heaters by the Commission's standard.

Some of these jurisdictions have laws or ordinances to prohibit the use of unvented gas space heaters in any residence. Others prohibit their use for certain kinds of residences or institutions, such as nursing homes; or for use in certain areas of a residence, such as sleeping quarters. Still other jurisdictions impose additional requirements for unvented gas space heaters as well as specifying that such heaters must be equipped with ODS devices.(5, 6, 8)

Preemptive Effect of Standard

Section 26(a) of the CPSA (15 U.S.C. 2075(a)) provides:

Whenever a consumer product safety standard under this Act [the CPSA] is in effect and applies to a risk of injury associated with a consumer product, no State or political subdivision of a State shall have any authority to establish or to continue in effect any provision of a safety standard or regulation which prescribes any requirements as to the performance composition, contents, design, finish, construction, packaging or labeling of such product which are designed to deal with the same risk of injury associated with such consumer product, unless such requirements are identical to the requirements of the Federal standard.

The effect of section 26(a) of the CPSA is to render unenforceable any requirements of a state or local government which are applicable to a product subject to a consumer product safety standard and intended to address the same risk of injury as the consumer product safety standard, unless the state or local requirements are identical to those of the Federal standard:

Section 26(c) provides that a state or local government may apply to the Commission for exemption from preemption of its requirements for a

consumer product, and the Commission may "by rule" grant such applications if it finds that the state or local requirement:

- (1) Provides a significantly higher degree of protection from such risk of injury than the consumer product safety standard under this Act [the CPSA], and
- (2) Does not unduly burden interstate commerce.

From February 22, 1982 through May 18, 1982, the Commission received 23 applications from state and local governments requesting exemption from preemption by the standard for unvented gas space heaters of requirements issued by state and local governments for those products.(5, 6)

Although the Commission continued to receive additional applications for exemption from the preemptive effect of the standard on state and local requirements after May 18, 1982, the Commission staff decided to prepare a briefing package for the Commission to address the factual and legal issues raised by the first 23 applications. The applications received after May 18, 1982, were substantially similar to the first 23, and any decision regarding the first 23 would be dispositive of those received after May 18, 1982.(5)

Staff Analysis

The staff transmitted this briefing package to the Commission on January 19, 1983.(5) That briefing package discussed the various state and local requirements for unvented gas space heaters which are the subject of the 23 applications, and the risk or risks of injury which they are intended to address.

The briefing package contained information about the following topics: Deaths and injuries from carbon monoxide poisoning associated with unvented gas space heaters;(10)

The scope of the state and local requirements under consideration and the risk or risks they are intended to address;(9)

Economic information concerning production and marketing of unvented gas space heaters;(12) enforcement of requirements for unvented gas space heaters by state and local governments.(11)

The briefing package also listed options available to the Commission with regard to the 23 applications for exemption from the preemptive effect of the standard for unvented gas space heaters and outlined the type of information needed to support each option. The options presented in the briefing package included:

- (1) Advising certain applicants that their requirements are not preempted by

the Commission's standard because they are intended to deal with hazards in addition to the risk of carbon monoxide poisoning addressed by the Commission's standard;

- (2) Granting one or more of the applications;

- (3) Denying one or more of the applications;

- (4) Revoking the Commission's standard, thereby eliminating its preemptive effect on non-identical state and local requirements.(5)

The majority recommendation of the staff was initiation of a proceeding to revoke the Commission's standard. In support of this recommendation the briefing package listed the following factors:

- (1) ANSI Standard Z21.11.2 has been revised to require that unvented gas space heaters must be equipped with ODS devices.

- (2) The expectations that all unvented gas space heaters intended for residential use which are manufactured or imported during 1983 will be equipped with ODS devices, and that approximately 95 percent of those heaters will comply with all requirements of the ANSI standard.(5, 12)

The Commission discussed the staff briefing package at a meeting on March 30, 1983, but did not make any decision at that time on any of the 23 applications for exemption from preemption.

The staff prepared a supplemental package dated May 18, 1983, to transmit additional information relating to the 23 applications developed by the staff or received from interested parties.(18)

Commission Decision

The Commission considered the 23 applications for exemption from preemption by the Commission's standard for unvented gas space heaters a second time at its meeting on May 26, 1983. At that meeting, the Commission voted 3 to 2 to initiate a proceeding for the revocation of the Commission's standard.(20) ²

² Chairman Nancy Harvey Steorts and Commissioner Edith Barksdale Sloan voted against proposing to revoke the standard, and issued individual statements setting forth their reasons for voting against initiation of a proceeding to revoke the standard. Commissioners Sam Zagoria and Terrence M. Scanlon issued individual statements of their reasons for voting to initiate the revocation proceeding. All four individual statements are available for inspection in the Commission's public reading room, 8th Floor, 1111 18th Street, N.W., Washington, D.C., or by writing to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

The majority voted to propose revocation of the standard because ANSI Standard Z21.11.2 appears to be as effective as the Commission's standard to assure that unvented gas space heaters are equipped with ODS devices.(21) For that reason, the Commission's standard may no longer be needed to eliminate or reduce an unreasonable risk of injury from carbon monoxide poisoning associated with unvented gas space heaters.

The majority voting to propose revocation of the standard also voted to defer further consideration of the applications for exemption from preemption until the Commission takes final action in the revocation proceeding.(20) If a final rule to revoke the standard is issued, no further consideration of the applications will be required. Until such time as the Commission takes final action to revoke the standard, it remains in effect and preempts any non-identical state or local requirements for unvented gas space heaters which are intended to address risks of injury from carbon monoxide poisoning.

Impact on Small Entities

In accordance with section 605(b) of the Regulatory Flexibility Act (RFA, 5 U.S.C. 605(b)), the Commission hereby certifies that the proposal to revoke the consumer product safety standard for unvented gas space heaters will not, if issued on a final basis, have significant economic impact on a substantial number of small entities, including small businesses and small governmental jurisdictions. The reasons for this certification are set forth below.

Information available to the Commission indicates that as many as eleven firms may manufacture unvented gas space heaters, and that some of these firms may be "small businesses" as that term is used in the RFA. Four or five firms may import these appliances, and some of them may also be small businesses.

If the Commission takes final action to revoke the standard, manufacturers and importers of unvented gas space heaters, including small businesses, will no longer be subject to the performance and labeling requirements of the standard, and will no longer be required by section 14 of the CPSA (15 U.S.C. 2063) to certify compliance with the requirements of the standard. However, those firms will be subject to requirements of any state or local jurisdictions which prohibit or restrict the sale of unvented gas space heaters.

As stated above, the Commission has received information to the effect that all unvented gas space heaters

manufactured or imported for residential use in 1983 are expected to be equipped with ODS devices, whether or not the standard is revoked. Additionally, the Commission has information indicating that approximately 95 per cent of these heaters will comply with all requirements of ANSI Standard Z21.11.2(12)

Consequently, revocation of the standard is not expected to result in any significant reduction of costs related to production and certification of unvented gas space heaters by manufacturers or importers, including small businesses.

While issuance of a final rule to revoke the standard will not, by itself, impose any requirements on any manufacturer or importer of unvented gas space heaters, such an action will allow those states, counties, and cities which had enacted laws or ordinances imposing requirements on unvented gas space heaters before the effective date of the Commission's standard to resume enforcement of those requirements without any possibility of preemption by the Federal standard. Additionally, all states and local jurisdictions will be free to enact such requirements without consideration of preemption by a consumer product safety standard.

Nevertheless, the Commission does not anticipate that elimination of the preemptive effect of the standard on non-identical state and local requirements applicable to unvented gas space heaters will have a significant economic impact on manufacturers or importers of those products.

While some states and localities prohibit the use of unvented gas space heaters in any residence, not all state and local requirements take the form of a total ban of such heaters. As noted above, some jurisdictions prohibit the use of unvented gas space heaters only in specified areas of a residence, or in certain types of residential buildings. Other impose additional requirements as well as specifying an ODS device. Because almost all of the unvented gas space heaters manufactured or imported in 1983 are expected to comply with all requirements of ANSI Standard Z21.11.2, additional requirements for such heaters in state or local laws are not expected to be a major bar to sales in those jurisdictions.

The Commission has considered information about sales of unvented gas space heaters for the years 1977 through 1981, and estimates of sales for the 1982-83 heating season and for future years supplied by manufacturers. This information indicates that more unvented gas space heaters were sold in 1982 than in 1981, and that the trend of increasing sales is expected to continue

in 1983 and into the near-term future (12, 18). After consideration of all available economic information, the Commission concludes that the trend of increasing sales of unvented gas space heaters will probably continue, whether or not the consumer product safety standard is revoked.

The Commission has also considered the economic impact which would result from revocation of the standard on those distributors and retailers of gas appliances which may be small businesses. Information available to the Commission indicates that most distributors and retailers of gas appliances generally have not stocked or sold unvented gas space heaters since December 31, 1981, in those jurisdictions which had banned their use in residences prior to the effective date of the Commission's standard. For those distributors and retailers that have stocked or sold unvented gas space heaters in jurisdictions which had previously banned their use, those products are believed to have accounted for only a small portion of their total sales of all gas-fired appliances. In all other jurisdictions, distribution and sale of unvented gas space heaters would not be significantly affected by revocation of the Commission's standard.

Some of the cities and countries which have requirements applicable to unvented gas space heaters, including some of those which have filed applications for exemption from preemption, are "small governmental jurisdictions" as that term is used in the RFA because they have populations of less than 50,000.

The Commission anticipates that a final rule to revoke the standard for unvented gas space heaters, thereby eliminating all questions about possible preemption of state and local requirements applicable to those heaters, could have the following economic consequences for small jurisdictions:

1. Because uncertainty about the preemptive effect of the standard, if any, on local requirements would be eliminated, costs of litigation brought by or against some small jurisdictions to resolve that issue would be avoided.
2. Those jurisdictions which had refrained from enforcement of their requirements for unvented gas space heaters after the effective date of the Commission's standard because they believed their requirements to be preempted would incur additional costs if the Commission's standard were revoked and they resumed enforcement of their requirements.

However, the Commission does not believe that, in either case, the cost savings from litigation avoided or the added costs incurred by resuming enforcement of local requirements would be "significant" in its effect on the total resources of any of these small jurisdictions.

Conclusion

In order to revoke a consumer product safety standard, section 9(h) of the CPSA (15 U.S.C. 2058(h)) requires the Commission to make an affirmative finding that the standard is not "reasonably necessary to eliminate or reduce an unreasonable risk of injury."

After considering information about provisions of ANSI Standard Z21.11.2 which specify that unvented gas space heaters manufactured after December 31, 1981 must be equipped with ODS devices and meet other safety-related requirements; the high degree of compliance with the requirements of the ANSI standard by unvented gas space heaters manufactured or imported for residential use in 1983; and the likelihood that almost all unvented gas space heaters will continue to be equipped with ODS devices regardless of the existence of the Safety Standard Requiring Oxygen Depletion Safety Shutoff Systems (ODS) for Unvented Gas-Fired Space Heaters (16 CFR Part 1212); the Commission has preliminarily determined that the requirements of that standard are not "reasonably necessary" to eliminate or reduce an unreasonable risk of injury from carbon monoxide poisoning associated with unvented gas space heaters.

Additionally, the Commission observes that if it takes final action at the conclusion of this proceeding to revoke the standard, unvented gas space heaters will continue to be "consumer products" subject to the Commission's jurisdiction under the CPSA. Section 15 of the CPSA (15 U.S.C. 2064) authorizes the Commission to require manufacturers, importers, distributors, and retailers of consumer products which present a "substantial product hazard" to give notification to the public and to take corrective action with regard to such a hazard, whether or not the products are subject to a consumer product safety standard.

If the Commission were to revoke the standard, and if at some time thereafter unvented gas space heaters without ODS devices or other means to prevent production of levels of carbon monoxide which could result in death or injury from carbon monoxide poisoning were manufactured or sold in the United States, the possibility exists that the Commission could initiate a proceeding

under provisions of section 15 of the CPSA to determine whether such heaters present a "substantial product hazard," and if so, whether notification to the public or corrective action, or both, were required to protect the public from that hazard.

Environmental Considerations

The Commission's environmental review procedures state at 16 CFR 1021.5(c)(1) that issuance, amendment, or revocation of a consumer product safety standard normally has little or no potential for affecting the human environment. For this reason, provisions of 16 CFR 1021.5(c)(1) do not require an environmental assessment nor an environmental impact statement for this proposed revocation. The Commission does not foresee any special or unusual circumstances surrounding this proposed revocation which could necessitate an environmental review. Consequently, preparation of a draft environmental impact statement is not required.

Effective Date

Section 9(h) of the CPSA (15 U.S.C. 2058(h)) provides that a rule amending or revoking a consumer product safety standard will specify the effective date, which shall not exceed 180 days from the date of publication by the Commission of the final rule, unless the Commission finds, for good cause, that a later effective date is in the public interest.

The Administrative Procedure Act (5 U.S.C. 553(d)), provides that a rule which relieves a restriction or grants an exemption may take effect immediately. It is the Commission's view that a rule to revoke the consumer product safety standard for unvented gas space heaters could be issued on a final basis to take effect immediately.

The Commission recognizes that revocation of any existing standard has the potential to create some market disruption while production and marketing plans and other business activities are adjusted to meet new circumstances resulting from the revocation. Although several manufacturers of unvented gas space heaters have advised the Commission that they have relied on the standard and its preemptive effect on non-identical state and local requirements in making business decisions, the Commission believes that revocation of the standard for unvented gas space heaters is unlikely to result in any substantial degree of market disruption. As stated above, conformance to the ANSI standard within the unvented gas space heater industry is at a high level.

Additionally, as noted in the discussion of impact on small entities, the Commission does not foresee any significant effect on sales of unvented gas space heaters resulting from a final decision in this proceeding, whether that decision is to revoke the standard or to leave it in place.

Nevertheless, establishment of a delayed effective date is one means of lessening potential market disruption by giving all affected parties opportunity to make appropriate adjustments before the revocation becomes effective. At the same time, the possibility also exists that a delayed effective date might prolong uncertainty about enforceability of state or local requirements for unvented gas space heaters, or have other adverse effects.

The Commission has no information which gives strong support to either a delayed or an immediate effective date if the proposed revocation is issued on a final basis. The Commission therefore specifically solicits comments and information on this question. If any interested person believes a delayed effective date would be appropriate, the Commission would appreciate specific suggestions concerning the length of the delay.

Accordingly, the Commission gives notice that the effective date of any final rule revoking the standard for unvented gas space heaters may range from the date of publication to 180 days following publication of the final rule. The decision as to the effective date will be based on the Commission's evaluation of the comments and information received in response to this notice and other available information concerning the potential effects of various effective dates.

List of Subjects in 16 CFR Part 1212

Carbon monoxide, Consumer protection, Heaters, Household appliances, Labeling, Reporting and recordkeeping requirements.

Proposal

In accordance with section 9(h) of the Consumer Product Safety Act, as amended by the Consumer Product Safety Amendments of 1981 (Pub. L. 92-573, as amended by Pub. L. 97-35, 15 U.S.C. 2058(h)) and the Administrative Procedure Act (5 U.S.C. 553), the Commission proposes to revoke the Standard Requiring Oxygen Depletion Safety Shutoff Systems (ODS) for Unvented Gas-Fired Space Heaters (16 CFR Part 1212) by making the following change to Title 16 of the Code of Federal Regulations: