

CONSUMER PRODUCT SAFETY COMMISSION

MINUTES OF EXECUTIVE SESSION

May 24, 1973

Air Rights Building, Bethesda, Maryland

Present: Chairman Simpson
Commissioner Franklin
Commissioner Kushner
Commissioner Newman

In the morning of May 24, 1973, the Consumer Product Safety Commission met in Executive Session to consider two items.

By a unanimous vote, it was decided to deny the petition of American Home Products Corporation, submitted in a letter dated May 8, 1973, requesting an extension of the effective date of the Child Protection Packaging Standards for Household Substances Containing Sodium and/or Potassium Hydroxide (21 CFR Section 295.2 et. seq., 37 F.R. 21633 (October 13, 1972)).

By a unanimous vote, the Commission decided to deny petitions and requests for an extension of the effective date of the Flammability Standard for Mattresses (DOC FF 4-72). Further, the Commission decided to amend the Flammability Standard for Mattresses (DOC FF 4-72) in accordance with the proposals made in the Department of Commerce Federal Register publication of April 24, 1973, (38 F.R. 10110) except that an additional requirement would be added. This additional requirement would be to allow the manufacture and sale of noncomplying mattresses for a period up to six months after the effective date so long as such mattresses were labeled in a manner clearly to advise the public that they did not conform to the standard and that the mattress would not resist ignition sources such as cigarettes. This label must be of sufficient size and lettered with a size and color printing such that it will be noticeable at the point of retail sale. Finally, the information required on the label should also be required on the invoices or other sales papers accompanying the mattress through commerce.

Samuel M. Hart

Approved on May 24, 1973

Samuel M. Hart, Secretary

- c. Policy on proprietary data inherited from the National Commission on Product Safety; the Federal Trade Commission; Health, Education and Welfare (Food and Drug Administration); and the National Bureau of Standards.

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Samuel M. Hart, Secretary

CONSUMER PRODUCT SAFETY COMMISSION

MINUTES OF COMMISSIONERS MEETING

May 24, 1973

DRAFT
Not approved by Commissioners

COMMISSIONERS PRESENT:

Chairman Simpson
Commissioner Franklin
Commissioner Kushner
Commissioner Newman

Chairman Simpson opened the meeting at 1:30p.m. with the following announcements:

1. A listing of Items of Interest will be provided by the Office of the Secretary at each meeting covering the period since the last meeting. This will include petitions, subpoenas, notices, etc. received or issued during that time period;
2. The Commissioners should be notified one or two weeks in advance of any meetings scheduled. This would include informal discussions with any group on a proposed regulation or standard as well as public appearances by representatives of the Commissioners;
3. The Acting Area Directors from the Field offices will be in Washington, D. C. on June 7-8, 1973, for CPSC orientation and briefing;
4. The minutes of the May 17, 1973, meeting and the May 24, 1973, executive session of the Commissioners were read, corrected, and approved. The May 24, 1973, Executive Session considered the petition of American Home Products Cooperation requesting an extension of the effective date of the Child Protection Packaging Standards for Household Substances containing sodium and/or potassium hydroxide and was denied by unanimous vote. Also, by unanimous vote petitions and requests for an extension of the effective date of the Flammability Standard for Mattresses were denied.

A brief discussion followed on the extension of the effective date and amendments to the Flammability Standard for Mattresses. A press release has been prepared for issuance and a Federal Register notice to include record-keeping requirements and label requirements is to be published by June 7, 1973.

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A staff briefing on the Children's Hazards Program covered (1) regulations which have been issued and are now in effect, (2) regulations which have been finalized but for which the effective date for implementation has not yet transpired, (3) regulations which have been published as a proposal but which have not yet been issued as a final order, and (4) regulations presently under consideration for publication as a proposed regulation.

Discussion indicated that an aggressive highly visible educational campaign with consumers, should be implemented earlier this year than was the case last Christmas. The Bureau of Information and Education has begun to plan for such a toy educational program. The suggestion was also made that the development of an ad hoc committee on toy education including consumers, media and toy manufactures be considered by the Bureau.

The compliance aspects of toy procedures currently being followed were identified as banning, voluntary compliance and no action indicated (NAI). About 5,000 toys have been examined with approximately 1400 determined to be a banned toy. When a toy is deemed a banned toy the manufacturer is advised of this fact by registered mail and urged to voluntarily recall the banned toy from the market place. If no recall is instituted samples will be obtained for seizure consideration. If the firm continues to distribute the banned toy after being advised of its status prosecution will be considered. When a toy is examined and found to contain a hazard which is not covered by regulation the manufacturer is advised of the hazard, the problem is explained, and they are requested to make voluntary corrections to eliminate the hazard.

Discussion revealed that approximately 5,000 new toys are marketed each year. With this large volume of different kinds of toys, generic standards for hazards may be indicated. Recent efforts have been directed to the development of generic standards for such things as sharp edges, punctures, aspirations, etc. One of the problems facing the Bureau of Compliance is the matter of imported toys. The Commissioners requested that a comparison be made of compliance activities for imports under the Hazardous Substances Act and the Consumer Product Safety Act. This comparison should include the use of a certificate to indicate compliance with applicable standards.

It was reported that the American Society for Testing and Materials, F8.13, Committee on Head Injuries, had met in Philadelphia, May 21, 1973. At this meeting a vote was to be taken on suggested technical requirements for a voluntary industry standard on test methods for helmets. The Commissioners requested staff to ascertain the outcome of the ballot and if the National Bureau of Standards voted against the proposed standard why. The Commissioners also requested that they be provided with the procedures used by ASTM, ANSI, and other voluntary groups for developing standards.

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The Commissioners were advised that Consumers Union had filed suit against the CPSC objecting to the provisions of the Electrically Operated Toy Regulation. These objections were directed to the regulation not requiring double insulation and the proposed surface temperatures being too high. General Counsel indicated that CPSC has forty (40) days to compile the information and file it for the record. The Commissioners requested that they each be provided a copy of the suit and the Consumers Union press release. They also requested that a detailed list of questions be developed, forwarded to Consumers Union over signature of the Chairman, and a copy along with the response be provided each Commissioner.

The matter of proprietary data inherited from the National Commission on Product Safety, the Federal Trade Commission, HEW (Food and Drug Administration), and the National Bureau of Standards was presented by the General Counsel. The Commissioners requested that a recommendation for handling the proprietary data be provided for their consideration.

The Commissioners considered a request for an extension of time within which to file appeal briefs in the matter of M.A. Dweck, FTC Docket #8893. This case has to do with the importation of scarfs and childrens sweat shirts. They granted an extension of time to and including June 12, 1973.

The subject of flammable fabric cases pending under FTC and being transferred to CPSC was discussed. The Commissioners ordered that the Administrative Law Judges assigned to the cases by FTC be appointed, respectively, to continue the cases on behalf of the CPSC.

The meeting adjourned at 4:35p.m.

Samuel M. Hart
Secretary