

CONSUMER PRODUCT SAFETY COMMISSION

Commissioner's Meeting May 17, 1973

1st Agenda CPSC

Minutes
Approved 5/24

AGENDA

ANNOUNCEMENTS

Time schedule for Regular Meetings of Commissioners-

Set meeting day and time for regular scheduled meetings.

Committee Membership-

Commissioners' recommendations for the membership of the Advisory Council, Advisory Committee for Flammable Fabrics, and the Poison Prevention Packaging Technical Advisory Committee.

Rotation of Incoming Documents-

Procedure for rotation of incoming offers, proposals, etc., for responsible action of Commissioners.

BRIEFING ON ISSUES

Introductory Remarks -

John Locke, Executive Director

A Summary of the Preemption Regulation Recently Issued Under the Federal Hazardous Substances Act (FHSA)-

Includes a description of the contents of the regulation and its effect at the State and local level.

Ed Finch, Director, Bureau of Compliance

American Home Products Requests an Extension of the Effective Date for PPPA Regulation on Sodium/Potassium Hydroxide-

The company, largest producer of oven cleaners, has attempted to find appropriate closures for its aerosols and paste applicators.

Bob Hehir, Director, Bureau of Biomedical Science

Proposed Amendments to the Flammability Standard for Mattresses-

The amendments deal with alternative sampling procedures to reduce the extreme hardship imposed on small manufacturers.

Jim Sharman, Director, Office of Standards Coordination and Appraisal

The Need for Test Method Improvements in the General Wearing Apparel Flammability Standard (The Skyhook Problem)-

The test method defines a specific procedure, one section of which is vague and results in variable results.

Jim Ryan, National Bureau of Standards

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AGENDA (continued)

A General Discussion of Sampling Plans and Their
Applicability to Flammable Fabrics-

Sampling is a key element to be considered in compliance
based on test procedures which require destruction of
the product.

Paul Gottfried, Consultant

Water Slides Have Caused a Number of Very Serious Injuries-

A review of the situation indicates at the minimum
the need to warn users of possible dangers.

Carl Blechschmidt, Office of Standards

Coordination and Appraisal

Standards Have Been Proposed for Full Sized Children's
Cribs and for Certain Features of Other Cribs-

Comments are due to be received by mid June --
a final standard for Commission action prepared
thereafter.

Elaine Besson, Office of Standards

Coordination and Appraisal

Standards for Home Playground Equipment Have Been Prepared-

Some small revision appears to be desirable before
Commission approval.

Carl Blechschmidt, Office of Standards

Coordination and Appraisal

Standards for Tricycles-

As presently conceived, such standards would all
but eliminate the traditional tricycle in favor of
"low boy" concepts which provide better stability.

John O'Connor, Bureau of Engineering Science

Consumer Product Safety Commission
Minutes of Meeting
May 17, 1973
Air Rights Building, Bethesda, Maryland

The first meeting of the Consumer Product Safety Commission was held on the above date at 1:30 PM.

Commissioners present:

Chairman Simpson
Commissioner Franklin
Commissioner Newman

The meeting was primarily a briefing meeting. Its purpose was to inform and advise as well as allow the Commissioners to discuss various activities and actions which had been initiated under previous agencies and which became the responsibility of the Commission upon its activation May 14, 1973.

The Commission, for the present, will schedule a meeting each Thursday at 1:30 PM.

A memorandum is to be given to each Commissioner describing the statutory requirements for membership on each of the three committees required by laws now under the jurisdiction of the Commission. The names, addresses, affiliation, length of term yet to serve on the committee, and the constituency represented by each was to be shown for the Flammable Fabrics Advisory Committee and the Poison Prevention Packaging Technical Advisory Committee. Nominations to be considered for either of these two committees or to the Product Safety Advisory Council by any of the Commissioners should then be given to the Secretary. The Secretary was requested to compile a list of three (3) candidates for each vacancy on the Advisory Council, the Flammable Fabrics Advisory Committee, and the Poison Prevention Packaging Technical Advisory Committee for the Commissioners' consideration.

The procedure for handling incoming documents was discussed. At the outset all Commissioners should be provided with copies of all incoming documents (regulations, proposals from offerers, etc.). The Secretary was asked to prepare a recommendation concerning the assignment to a Commissioner in rotation "action" items for initial review. The recommendation would set out the pros and cons to such a procedure.

The Commissioners were then briefed on the following issues by representatives of the appropriate Bureau or Office. A discussion followed the briefing on each issue.

1. Summary of Preemption Regulation Recently Issued Under the Federal Hazardous Substances Act.

No further action at this time.

2. American Home Products Request for an Extension of the Effective Date for PPPA Regulation on Aerosol and Paste Oven Cleaners Containing Sodium/Potassium Hydroxide.

American Home Products petitioned for an extension of the effective date to October 13, 1973. They have filed suit in the Courts for judicial review stating they would be adversely effected. They question the technical feasibility and practicability.

a. This matter is to be placed on the agenda for May 24 for a decision as to whether or not an extension as requested would be granted.

b. General Counsel is to contact 3rd Circuit Court and request that reply date be extended to May 28, 1973.

c. All relevant material and supporting background information is to be prepared and given to each Commissioner.

3. Proposed Amendments to the Flammability Standard for Mattresses.

Requests for delay in effective date, now June 7, and amendments to standard have been received.

a. This matter is to be placed on May 24, 1973, agenda for decision on extension of effective date.

b. Other amendments to standard to be considered by end of month (May 31).

c. All background information and material is to be prepared and furnished to each Commissioner.

d. A questionnaire is to be developed and a telephone survey conducted to determine how amendments and effective date will or will not affect manufacturers.

4. A general Discussion of Sampling Plans and Their Applicability to Flammable Fabrics.

The desire and need for development of a policy on sampling plans was expressed. A policy statement is to be prepared which would require as a part

of a standard the inclusion of a statistical pass/fail testing procedure-quality control methodology.

5. Water Slides.

a. An educational program should be developed and recommended for consideration by the Commission.

b. A document presenting the pros and cons of the two labels being considered is to be prepared for consideration by the Commission.

c. Consider a proposal to the University of Utah to do additional testing funded by CPSC. This testing to include effects due to the height of the slide above the surface of the water and angle of injection into the water. The present testing being done by the University for the manufacturer is to be completed in about three weeks.

6. Standards for Full Sized Children's Cribs.

It was requested that an educational campaign be developed on this matter that would reduce the injuries and deaths associated with "old" cribs still in the homes.

7. Playground Equipment.

The present proposal under consideration covers only home playground equipment. A recommendation giving the pros and cons of considering home and public playground separately was requested. A proposed regulation should be prepared for consideration. The Commissioners requested a copy of the proposal which was previously developed for home playground equipment be given them for advance study.

8. Standards for Tricycles.

The Commissioners requested that an estimate of the cost of injuries, and an estimate of the increased cost of the product to consumers be prepared.

A proposed standard should also be prepared for consideration.

General Discussion

The following guidelines were expressed by the Commissioners:

1. Advance backup to Commissioners should consist of, whenever possible:
 - a. Summary of cases.
 - b. If the number of cases which have been investigated is known such should be stated. State total number of known cases reported.
 - c. If number investigated is representative, say so. Otherwise, percent means nothing.
2. Minimum lead time for material to be in hands of Commissioners to be considered when a decision is involved is three days.
3. No recommendations will be stated on the briefing document. Give only all the alternatives and pros and cons. Recommendations may be made orally when presented at meeting.
4. It is desirable to make the finding, as required under Section 9 of CPSA, for any standards under any Act.
5. All briefing documents should indicate on the top of the page whether it is an "information" or "action" item. If an action item, the action by the Commission should be spelled out. The issue and sub issues, if appropriate, should be specifically laid out.
6. Identify author, date, contact person and phone number of responsible staff.
7. It is preferable to have some in-depth investigations to support all proposed regulations, whenever possible.
8. All appropriate backup and background material in support of a briefing paper should accompany that paper. Included as backup would be a copy of the proposed or final regulation.
9. An Environmental Impact Statement should be considered where appropriate for all proposed regulations.
10. Matches should be one of the first CPSC items considered.


Samuel M. Hart, Secretary

CORRECTIONS & AMENDMENTS
APPROVED May 24, 1973

BRIEFING ON ISSUES

for

CONSUMER PRODUCT SAFETY COMMISSIONERS

May 17, 1973

Introductory Remarks

John Locke
Executive Director

1. A Summary of the Preemption Regulation Recently Issued Under the Federal Hazardous Substances Act (FHSA). Includes a description of the contents of the regulation and its effect at the State and local level. Ed Finch, Director, Bureau of Compliance
2. American Home Products Requests an Extension of the Effective Date for PPPA Regulation on Sodium/Potassium Hydroxide. The company, largest producer of oven cleaners, has attempted to find appropriate closures for its aerosols and paste applicators. They have filed for judicial review, but would drop if the extension was granted. Bob Hehir, Director, Bureau of Biomedical Science
3. Proposed Amendments to the Flammability Standard for Mattresses. The amendments deal with alternative sampling procedures to reduce the extreme hardship imposed on small manufacturers. However, the mattress standard will become effective without the amendments unless some extension to the June 7, 1973 effective date is granted. Jim Sharman, Director, Office of Standards Coordination and Appraisal
4. The Need for Test Method Improvements in the General Wearing Apparel Flammability Standard (The Skyhook Problem). The test method defines a specific procedure, one section of which is vague and results in variable results. An apparatus is available to eliminate the problem. Jim Ryan, National Bureau of Standards
5. A General Discussion of Sampling Plans and Their Applicability to Flammable Fabrics. Sampling is a key element to be considered in compliance based on test procedures which require destruction of the product. The general approach is described. Paul Gottfried, Consultant
6. Water Slides Have Caused a Number of Very Serious Injuries. A review of the situation indicates at the minimum the need to warn users of possible dangers. The development of standards and the possible declaration of an imminent hazard should also be considered. Carl Blechschmidt, Office of Standards Coordination and Appraisal

7. Standards Have Been Proposed for Full Sized Children's Cribs and for Certain Features of Other Cribs. Comments are due to be received by mid-June -- a final standard for Commission action prepared thereafter. An education campaign is needed for use of older cribs and additional standards are needed for other cribs.
Elaine Besson, Office of Standards Coordination and Appraisal
8. Standards for Home Playground Equipment Have Been Prepared. Some small revision appears to be desirable before Commission approval. Criteria appears to be different from criteria needed for public playground equipment.
Carl Blechschmidt, Office of Standards Coordination and Appraisal
9. Standards for Tricycles. As presently conceived, such standards would all but eliminate the traditional tricycle in favor of "low boy" concepts which provide better stability.
John O'Connor, Bureau of Engineering Science

Ed Finch

May 17, 1973

ISSUE - A Summary of FHSA Preemption Regulation -- Its Content and Effects

BACKGROUND - Because of the apparent conflict between certain existing State and local labeling requirements and the Federal preemption provision, section 18(b), of the FHSA, the BPS determined that a statement to clarify the scope of section 18(b) should be published in the FEDERAL REGISTER. At the insistence of FDA's General Counsel, however, an interpretative regulation regarding Federal preemption was promulgated. It became effective on May 4, 1973.

CURRENT STATUS - The regulation, § 191.4 of the FHSA Regulations, clarifies the interpretation of section 18(b) of the Act as follows:

- (1) Federal preemption applies to any State or local labeling requirement that is intended to serve as or be a part of, or is in the nature of, precautionary labeling. Precautionary labeling includes labeling information that is enumerated in paragraph (c) of § 191.4.
- (2) The class of products covered by Federal preemption applies not only to household substances and articles because they are hazardous substances within the meaning of the FHSA but also to household substances and articles where the alleged hazard is of a general character dealt with by the Federal act but is not of sufficient degree to require cautionary labeling as a hazardous substance under the act. Products with a hazard of a kind not dealt with by the FHSA are still subject to State and local labeling requirements. Otherwise, Federal preemption applies whether or not particular Federal labeling requirements and exemptions have been promulgated.
- (3) A State or locality has the opportunity to petition for the establishment of additional or different precautionary labeling to be utilized nationwide. The preemption regulation also allows a State or local ban on a household product. Any constitutional issues concerning a State or local ban will be resolved by the courts.

The FHSA does not provide for enforcing Federal preemption by the regulating agency. Enforcement of the preemption regulation against existing State or local labeling irregularities must be done by the manufacturers. All nonuniform labeling conflicts will be resolved by the courts.

It is foreseen that the numerous State and/or local laws requiring detergents to be labeled with all-ingredient statements, beyond that required by Federal law, will be preempted, as well as the New York City Fire Department's requirement that labels for certain aerosol products bear a local registration or identification number.

(b) It is hereby expressly declared that it is the intent of the Congress to supersede any and all laws of the States and political subdivisions thereof insofar as they may now or hereafter provide for the precautionary labeling of any substance or article intended or suitable for household use (except for those substances defined in sections 2(f) (2) and (3) of this Act) [subsec. (f) (2) and (3) of this section] which differs from the requirements or exemptions of this Act [chapter] or the regulations or interpretations promulgated pursuant thereto. Any law, regulation, or ordinance purporting to establish such a labeling requirement shall be null and void."

Legislative History: For legislative history and purpose of Pub.L. 89-758, see 1968 U. S. Code Cong. and Adm. News, p. 1968 U. S. Code Cong. and Adm. News, p. 1231. Pub.L. 91-601, 1970 U.S. Code Cong. and Adm. News, p. 5326.

Evidence 4
Hazardous substances 2
Local regulation 3
Protection of public 1

- 1. Protection of public**
Under this chapter protection of the public is the paramount consideration, and it is duty of Secretary of Health, Education and Welfare to do a complete job of protection and not to trust to luck that purchasers of cans theretofore sold to dealers will be aware enough to understand the previously approved but inadequately specific label. *Wilmington Chemical Corp. v. Celebrezze, D.C.Ill.1964, 229 F.Supp. 188.*
- 2. Hazardous substances**
Evidence of injuries sustained by children in course of unsupervised activity

Manufacturer, which knew that lawn darts could be and had frequently been used by children but which refused to label them as "Not a Toy for Use by Children" or to refrain from selling them in toy stores or toy departments could not, on record before court, be heard to deny that such darts were a "toy or other article intended for use by children," and Commissioner of Food and Drug Administration could properly classify such darts as a "banned hazardous substance"; yet Commissioner could, at same time, exempt them from classification as a "banned hazardous substance" if they carried a specified warning and were not sold in toy stores or store departments dealing predominantly in toys and other children's articles. Id.

Silver kings and cherry bomb fireworks, which are flammable, generate pressure through decomposition and heat and might cause substantial personal injury as a proximate result of any reasonably foreseeable handling or use, are "hazardous substances" within meaning of this section. U. S. v. Chalaire, D.C.La.1970, 316 F.Supp. 543.

Class B fireworks are not banned by this chapter from channels of interstate commerce leading to persons who use them for bona fide agricultural purposes, but they are banned from channels that lead to children while Class C fireworks are not banned at all. Id.

"Cracker balls", which were composed of small quantities of gunpowder and particles of sand or flint in paper maché coatings, and which when thrown against a hard surface or when struck exploded with loud noise were "hazardous substances" within this chapter, and therefore, the statutory prescribed label must be fixed to plastic envelope in which they were packaged, but it was not required that each cracker ball bear such label.

U.S. v. 7 Cases, Cracker Balls, D.C.Tex.
1968, 253 F.Supp. 771.

3. Local regulation
City ordinance which prohibited the presence of fireworks within the city and empowered peace officers to stop the transportation of and to detain fireworks found being transported illegally within the city was not in conflict with subsec-

(b) If the Secretary finds that (1) of this title are not adequate for the protection and safety in view of the character of the substance, he may require the manufacturer to provide additional information or additional labeling for the protection of the public health, if the substance is intended, or packaged in a container, for use by children, which fails to be a minimum standard.

(d) The Secretary may or pursuant to this chapter hazardous substance with requirements satisfying the by or pursuant to any other

(e) (1) A determination intended for use by children of a substantial hazard shall be made in accordance with the procedures prescribed by section 371 of Title 21, in which event such determination shall be subject to the procedures prescribed in section 371 of Title 21. If the Secretary determines that a determination is required under subsection (e).

(2) If, before or during this subsection, the Secret mechanical, or thermal hazard involved presents an immediate danger published in the Federal Register, such toy or other article substance for purposes of this subsection. If not yet initiated, proceeding shall be initiated.

(3) (A) In the case of children which is determination 553 of Title 5, to pre-
ard, any person who will
may, at any time prior to
such determination is issued
United States Court of Appeals,
sides, or has his principal
determination. A copy of
by the clerk of the court to
him for that purpose. The
of the proceedings on which
provided in section 2112 of

May 17, 1973

ISSUE - American Home Products Requests an Extension to Effective Date for PPPA Regulation on Sodium/Potassium Hydroxide

BACKGROUND - Special packaging for household products containing sodium and/or potassium hydroxide was proposed March 9, 1972. Data received by the National Clearinghouse for Poison Control Centers indicate that in 1969, 28 exposures by children under 5 of Easy-Off Oven Cleaner in both aerosol and paste forms were reported. In 1970, 43 exposures were reported; in 1971, 52 exposures were reported; in 1972, 75 exposures were reported involving this product. On October 13, 1972, the regulation concerning sodium and/or potassium hydroxide was promulgated in the Federal Register with a dual effective date of April 11 and July 10, 1973. The latter effective date applied to aerosol and paste type oven cleaners. The 270 day effective date was in recognition of the lack of a large size closure which had been subjected to the complete protocol test for use with the pastes and various technical difficulties pointed out in adapting available closures for aerosols.

The firm filed for judicial review on December 12, 1972, stating that its Boyle-Midway Division would be adversely affected by the standards as proposed. The Company questioned the technical feasibility and practicability of safety closures for aerosol and paste oven cleaners.

On May 8, 1973, the Company requested an extension, detailing problems encountered in its efforts to get delivery from several manufacturers of effective packaging for its paste and spray oven cleaners, having acquiesced in the application of the regulation to these products. October 13, 1973, the date the Company specifies, is the maximum allowed by the law.

ALTERNATIVES - . That an extension be granted because:

- American Home Products Corp. is the largest producer of paste-type oven cleaners.
- The firm has tried to comply with the special packaging requirement.
- There is a relatively short time (3 months) involved in the extension.
- Packaging manufacturers have verbally indicated that they can meet delivery dates before October 13, but after July 10.
- This would obviate the need for the CPSC to get involved in a court test.

- . That an extension be denied because:
 - It has been reported that other aerosol packagers including one of the largest, Dow Chemical Co., have met their obligations under the Act.
 - That delivery of the packaging to the product manufacturer is not a consideration under the PPPA.

RECOMMENDATION - That the extension be granted.

Jim Sharman

May 17, 1973

ISSUE - Proposed Amendments to Flammability Standard for Mattresses
(DOC FF 4-72)

BACKGROUND - The Flammability Standard for Mattresses was published in the Federal Register June 7, 1972. Accident information indicates that approximately 80% of the injuries and deaths due to mattress fires resulted from cigarette ignition of the mattress. The Standard requires, therefore, that mattresses resist cigarette ignition as determined by subjecting mattresses to lighted cigarettes under controlled test conditions. The Standard includes sampling plans to insure that mattresses on the market are in compliance with the Standard. Prototype mattresses are tested to provide assurance that the mattress design is satisfactory. Subsequently, production mattresses are selected and tested periodically to provide assurance that a good design is not degraded by manufacturing errors.

In November and December 1972, petitions were submitted to the Department of Commerce requesting various amendments to the Standard on the basis of extreme hardship imposed by the Standard on small mattress manufacturers. Further investigation by the Department defined this burden as initial cash outlay for test facilities and prototype testing and confirmed that the burden should be reduced if this could be done without significantly affecting the protection afforded the consumer.

A notice of possible need to amend the standard was published February 8, 1973, and the notice of need and proposed amendments were published April 24, 1973. The proposed amendments redefine mattress prototype to reduce prototype testing, permit manufacturers to group together for prototype testing, and eliminate conditioning requirements for production testing (which eliminates the need for a special test facility).

In addition, comments were requested on a possible delay in the effective date of the Standard for a period up to 6 months. A number of small manufacturers have requested such a delay on the basis that they were not aware of the mattress flammability standard and, therefore, could not be prepared to comply with it by June 7. In addition, the cotton linters' interest (in excess of 50% of the mattresses contain cotton linters) have requested 6-12 months delay in the effective date of the Standard to permit them to complete development programs on flame-retardant processes for cotton linters.

Manufacturers, retailers, and component suppliers who are ready to comply with the Standard are opposed to any delay. They have already committed time and money to mattress design, prototype testing, test facilities, and new mattress components which they cannot recover except by raising the selling price of their mattresses. They believe competition from noncomplying mattresses will prevent this needed increase.

The mattress standard will become effective on June 7, 1973. We are now in the 30-day comment period following publication of the proposed amendments to this Standard, and comments received to date are all in favor of enacting the amendments. However, without positive action by the Commission, the Standard

Jim Sharman - Director, White House

will become effective without them. Consequently, action on the amendments must have high priority.

RECOMMENDATIONS - That the amendments be approved and the effective date of the Standard be delayed 3 months to facilitate this approval.

ISSUE - Need for Sampling Plans in Flammable Fabrics Standards

BACKGROUND - The Flammable Fabrics Act does not require testing; it requires that product comply with applicable standards developed in accordance with the Act. These standards have traditionally been enforced, based on compliance testing done by the Federal Trade Commission. A failure discovered by the FTC would result in an action against the manufacturer, causing him to cease production of that particular product and withdraw that product from the market. Failures were frequently undetected until large quantities of materials were in the hands of the distributors, retailers, and the consuming public. Demands for one hundred percent compliance in this "post-mortem mode" can cause severe hardship to manufacturers and protect the consumer only after the fact.

A more satisfactory way of protecting the consumer, and simultaneously switching the burden of testing from the enforcing agency to the manufacturers, is to require testing prior to marketing. Thus, defective products can be prevented from reaching the market. The consumer is protected better and the risks and costs of recall are decreased.

The fact that flammability testing is destructive makes sampling unavoidable since every item cannot be tested. Any sampling plan necessarily allows some defective product to reach the market but this "fraction defective" can be limited to very low levels. The objectives then are to devise sampling plans that achieve the desired balance between consumer protection on the one hand and costs, consumer freedom-of-choice, and industry capabilities on the other, bearing in mind that textile products are necessities and must remain available. Standards (and sampling plans) can and should be updated progressively as industry capabilities improve.

RECOMMENDATIONS - Set a policy which will incorporate sampling plans in all standards using destructive testing.

May 17, 1973

ISSUE - What Actions Should be Taken with Regard to Water Slide Injuries. Head first descent and water entry under certain conditions can result in sufficient velocity when reaching the bottom of the pool to inflict severe head and spinal injuries.

BACKGROUND - Researchers at the University of Michigan, Nova University, and the staff of Ralph Nader's organization almost simultaneously brought to our attention nine cases of disabling and permanent injuries involving water slides. With more than 200,000 of these slides in use we are probably dealing with a rare event. However, the cause may be related to inadequate water depth under installation.

The problem has been presented to the National Swimming Pool Institute, the industry trade association, and to the major manufacturer of pool slides. This manufacturer has indicated his willingness to immediately institute a cautionary labeling program and an experimental program with the University of Utah to establish safe recommended water depths.

CURRENT STATUS - We are in the process of reviewing the proposed cautionary labeling, monitoring the University of Utah's testing program (to be completed within three weeks), and discussing a joint industry, government program.

ALTERNATIVES -

- Imminent hazard declaration
- Proposed banning under HSA
- Proposed banning under CPSC
- Standards making procedures under CPSC
- Voluntary standard.

RECOMMENDATIONS -

- Establish recommendations for cautionary labeling.
- Continue educational program preparations.
- Monitor testing program.
- Analyze testing results and proceed under standards procedures of CPSC or proposed banning depending on technical data from the University of Utah's study.

May 17, 1973

ISSUE - Status of Standards for Cribs

HAZARD - Each year a number of infants are fatally injured in accidents relating to crib design or construction. The industry voluntary standard was both limited in scope of coverage and inadequate in its requirements.

Crib structure and design were identified in public hearings of the National Commission on Product Safety as presenting an unreasonable risk of injury or death to infants. Since 1970, copies of 133 death certificates, submitted voluntarily to the FDA from State public health departments, specifically relate the fatality to the crib structure. Injury reports submitted through the NEISS indicate that cribs are associated with more injuries than any other item of nursery or infant furniture. It is estimated that 50,000 children receive non-fatal injuries related to cribs.

BACKGROUND - Senator Charles H. Percy and interested consumer groups have been persistent in their effort to have FDA move more rapidly in setting mandatory standards for cribs.

In developing the technical requirements for the crib regulation, primary concern centered on setting a maximum allowable slat spacing, which would minimize the risk of a child's becoming trapped between the slats or slipping through the slats and becoming strangled. A special anthropometric study of infants was undertaken by the University of Michigan to determine an adequate slat spacing requirement. Information from a review of injury reports was utilized to set additional safety requirements to reduce the risk of punctures, lacerations, and other injuries associated with cribs.

CURRENT STATUS - A proposed regulation (191e Requirements for Baby Cribs) was published in the FEDERAL REGISTER on April 13, 1973. Under the procedures of the Hazardous Substances Act as amended, the proposed regulation will be open for comment for sixty (60) days from April 13, 1973. At that time, comments will be reviewed and a final rule will be published setting an effective date.

RECOMMENDATIONS - The present proposed regulation for baby cribs addresses itself primarily to "full-size" cribs. Critical areas, such as the slat spacing requirement, are applicable to all cribs. Additional technical requirements for portable and undersized cribs have been developed and are ready for consideration by the Commission.

Safety requirements for wood playpens and mesh playpens and crib/pens are in the early development stage.

An educational campaign alerting the consumer to the hazards associated with cribs and describing what can be done to improve the safety of older cribs should be undertaken to coincide with the effective date of the regulation.

Carl Blechschmidt

May 17, 1973

ISSUE - Promulgation of a Standard for Home Playground Equipment Separate from Public Playground Equipment

HAZARD - A staff analysis of playground equipment injuries was prepared March 22, 1972. This analysis revealed that playground equipment related to one million injuries each year.

BACKGROUND - The National Commission on Product Safety in its final report had identified playground equipment as one area of concern because of the number of injuries occurring. The home playground equipment manufacturers through their trade association (Association of Home Playground Equipment Manufacturers), contracted with U. S. Testing Company to develop a voluntary standard.

This development was monitored by the BPS and is presently being processed by the Department of Commerce under their voluntary product standards procedures. Concurrently, the BPS developed a set of technical requirements for consideration as regulations. These regulations have been prepared and are directed at the hazards identified in the Staff Injury Analysis. They do not include an extensive durability testing program as does the voluntary standard since this could not be identified as contributory based on the injury analysis.

CURRENT STATUS - The regulation had been submitted to FDA's Associate Commissioner of Compliance for processing but was returned to the Bureau because it did not include public playground equipment. The use cycle, design, installation, and maintenance of public playground equipment deserves separate considerations. Further review of the regulation in its current state reveals that we have overlooked a requirement for chain strength. The element spacing requirements, upon reexamination, may not be adequate.

ALTERNATIVES - 1. Proceed with regulations on home playground equipment as presently drafted.

2. Institute a review program with additional analysis of the element spacing requirements and revise the recommendations as necessary.

3. Institute 2., above, and include public playground equipment.

RECOMMENDATIONS - Review the present requirements, revise as necessary, and present new recommendations for home playground equipment. Continue with a separate set of recommendations for public playground equipment.

John O'Connor

May 17, 1973

ISSUE - Preparation of a Standard for Tricycles.

HAZARD - A staff analysis of tricycle accidents and injuries was prepared April 14, 1972. The analysis defines the problem as follows:

The National Commission on Product Safety (NCPS) estimated 100,000 tricycle injuries for 1968. This represents 0.5% of the total 20 million yearly injury estimate for 1968. The 1967 estimated deaths were 16 for this toy. However, this latter estimate includes other wheeled toys carrying children, both powered and unpowered, excluding bicycles.

An up-to-date estimate of injuries using NEISS is not available. However, of the 3,600 injuries in the last half of 1971, most were moderately severe, category 4 on a scale of 0 to 8. Tricycles represented 4.05 percent of all toy-related injuries (1,038) reported by this system.

BACKGROUND - The staff analysis further recommended that stability studies be conducted as a research base for a proposed standard. CALSPAN Corporation of Buffalo, New York conducted a study on the stability and handling characteristics of tricycle and minibikes in the fall of 1972.

Based on the CALSPAN study a draft of technical requirements for tricycle regulations has been prepared. The National Bureau of Standards has evaluated the test requirements as processed by the Bureau.

Although the tests were designed to define normal use, most of the test units failed to meet the criteria for stability.

CURRENT STATUS - The technical draft of the regulation has been examined by BPS Compliance Division and edited into Federal Register format for publication as a proposed standard by the Commission. This draft would probably eliminate most tricycles with which we are familiar.

ALTERNATIVES - The alternatives are to publish the proposed regulation or to invite the tricycle manufacturers to submit a voluntary standard to the Commission.

RECOMMENDATIONS - Submit the proposed regulation to the Commissioners for publication as soon as a new tabulation of data from NEISS is available.