



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

MINUTES OF COMMISSION MEETING  
December 10, 1996  
4330 East West Highway  
Bethesda, Maryland

The December 10, 1996, meeting of the U. S. Consumer Product Safety Commission was convened at 10:00 a.m. in open session by Chairman Ann Brown. Commissioner Mary Sheila Gall and Commissioner Thomas H. Moore were present.

Ballot Vote Decisions. The following decisions made by ballot vote of the Commissioners were placed into the record.

1. Proposed Civil Penalty Settlement: Four Seasons General Merchandise, Inc., various products under the Federal Hazardous Substances Act, CPSC Docket No. 97-C0003 (OS# 5972) (Ballot due 10/24/96)

The Commission voted unanimously (3-0) to provisionally accept the Settlement Agreement and Order containing a civil penalty in the amount of \$110,000. Unless a commenter asks the Commission not to accept the Settlement Agreement and Order within 15 days after publication in the Federal Register, the Agreement and Order will be deemed finally accepted on the 16th day.

2. Request from the International Association of Arson Investigators (IAAI) to Use CPSC Logo (Ballot due 11/5/96)

The Commission voted unanimously (3-0) to approve the request from the International Association of Arson Investigators (IAAI) to use the Commission's logo at the head of a portion of the IAAI quarterly magazine that is devoted to CPSC matters.

3. Proposed PPPA Rule Requiring Child-Resistant Packaging for Ketoprofen (Ballot vote due 11/13/96)

The Commission voted unanimously (3-0) to approve a Federal Register notice that proposes a rule requiring child-resistant packaging under the Poison Prevention Packaging Act for the nonsteroidal anti-inflammatory drug ketoprofen.

Ballot Vote Decisions, continued

4. Supplemental Ethics Regulation (Ballot due 11/21/96)

The Commission voted unanimously (3-0) to approve a Federal Register notice that would issue supplemental regulations to the government-wide Standards of Ethical Conduct for Employees of the Executive Branch. The supplemental regulations retain the agency's requirement that employees obtain approval prior to engaging in outside employment or activities.

Agenda Items.

1. Crib Slats

The Commission considered options to address the hazard of crib slat disengagement whereby children are at risk of becoming entrapped between the remaining slats or falling out of the crib. On December 3, 1996, the Commission was briefed by the staff on actions the Commission might take. (Ref: staff briefing package dated November 19, 1996.) Options considered included (1) publish an advance notice of proposed rulemaking ("ANPR") to initiate a rulemaking proceeding under the authority of the Federal Hazardous Substances Act (FHSA) to develop mandatory performance standards to assure the structural integrity of crib slats and side panels; (2) continue to work with ASTM to enhance the structural integrity requirement of the voluntary standard; (3) pursue recalls or corrective actions of hazardous cribs on a case-by-case basis under section 15 of the FHSA, and (4) take no further action at this time.

Following questions and discussion by the Commission, the Commission voted 2-1 on motion of Chairman Brown to initiate a rulemaking proceeding to develop mandatory performance requirements addressing the hazards posed by crib slat disengagement on full-size and certain (non-mesh) non-full-size cribs by publishing in the Federal Register the advance notice of proposed rulemaking as drafted by the Office of the General Counsel and presented in the November 19, 1996, staff briefing package. Chairman Brown and Commissioner Moore voted in favor. Commissioner Gall voted in dissent.

Separate statements on the crib slat matter were filed by Chairman Brown, Commissioner Moore, and Commissioner Gall, copies attached.

2. Petition CP 96-1 on Multi-Purpose Lighters

The staff briefed the Commission on Petition CP 96-1, from Judy L. Carr, requesting the Commission to amend the safety standard for cigarette lighters to include multi-purpose lighters. (Ref: staff briefing package dated November 26, 1996.) No decisions were made at today's briefing.

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

For the Commission:



Sadye E. Dunn  
Secretary

Attachments

UNITED STATES  
CONSUMER PRODUCT SAFETY COMMISSION  
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The Chairman

**Statement by Chairman Ann Brown**  
**Vote to adopt Advance Notice of Proposed Rulemaking**  
**To Address Crib Slat Disengagements**  
**December 10, 1996**

Today, I voted to publish an Advance Notice of Proposed Rulemaking (ANPR) to begin the process of developing a mandatory performance standard to address the hazards posed by slats falling out of the side rails of full-size and certain (non-mesh) non-full-size cribs.

Between 1985 and 1996, the Commission received information about 138 incidents in which one or more crib slats disengaged from the crib railing, were loose, missing, or broken. These incidents involved cribs manufactured by at least 26 different companies. Twelve of these incidents resulted in the death of a child, and five involved injuries. The injuries and deaths occur when a child's body slips through the crib railing where slats are missing, broken, loose or disengaged and the child is caught by the head and strangles.

Since 1991, five manufacturers of cribs have voluntarily conducted a corrective action because of crib slat/spindle disengagement. Four of these corrective actions were conducted in 1995 and 1996.

The CPSC mandatory standards contain no performance requirements to address this hazard and the existing provisions in the voluntary standard appear to be inadequate to address the risk. Although the Commission staff has asked the crib industry to amend its voluntary standard to address the hazard of crib slat disengagement, the industry has declined to do so. Indeed, this industry generally has refused to recognize there is a problem with crib slat disengagement or the inadequacies of the existing voluntary standard to address the hazard. Even through this hazard persists in a disproportionate number of newer cribs, if the Commission were to adopt a more rigorous standard, the overall quality of cribs would be safer for longer periods of time.

Other countries such as Canada and Sweden have adopted more stringent safety standards that address the problem of crib slat disengagement. I believe we too must move forward to protect our children and prevent these unnecessary injuries and deaths.



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**STATEMENT OF COMMISSIONER THOMAS H. MOORE  
ON ISSUING AN ANPR TO ADDRESS CRIB SLAT DISENGAGEMENT HAZARDS**

Today I have voted to accept staff's recommendation to issue an ANPR which would initiate a rulemaking proceeding to develop mandatory performance requirements addressing the hazards posed by crib slat disengagement on full-size and certain non-full-size cribs.

Issuing the ANPR will begin a rulemaking proceeding that could result in amending the Commission's crib regulations to require a performance test for the structural integrity of crib slats. Currently, the Commission's mandatory standards contain no performance requirements to address this hazard, and there is evidence that the requirements included in the ASTM standard may be inadequate.

This ANPR can be useful as an information-gathering tool. It would inform the public that the Commission is considering regulating to address the particular hazard and would provide an opportunity for the interested public to comment on the risks of injury and death, the Commission's regulatory alternatives, and other possible means to address the risks.

The Commission's incident data provide a disturbing picture of 138 incidents, occurring from January 1985 to September 1996, in which crib slat disengagements were reported. Twelve of these incidents involved deaths, five others involved injuries. The clear majority of these incidents resulted in no injuries; in part, thanks to the increased awareness by parents that there is danger associated with loose and missing crib slats. However, when viewed from the perspective that with each one of these reported incidents there existed the potential for serious injury or death, and considering the acute vulnerability of the particular group at risk, the Commission cannot ignore its responsibility to engage in substantive action to address this problem.

The Crib Section of the voluntary standard subcommittee has been officially aware of the Commission's concern with this hazard since March of 1995. Following this notice, in an October, 1995, letter to the ASTM subcommittee, the Commission's staff indicated that the F1169 standard was not adequate to address crib slat disengagements and requested that the subcommittee consider

including a slat strength test in a Canadian crib standard to the ASTM standard. After consideration, the manufacturers indicated that they believed the problem was a result of poor quality control and that the problem would not always be detected by the slat strength test. However, it is apparent from the number of recalls involving several manufacturers that this is not an isolated problem.

The position of the manufacturers suggest that there exist a fundamental difference in the perception of the origin of the problem as well as the proper action that must be taken to remedy it. It should also be noted that after attempts to assess the adequacy of the quality assurance programs, the Commission staff still has not been provided sufficient information to evaluate the adequacy of these test. In the meantime, **certified** crib manufacturers have been involved in recalls of products for slat failures and since January 1996, there have been 15 reported crib slat disengagement incidents. Moreover, there is evidence that a significantly high number of incidents were not reported to the Commission.

In addition to protecting the public against unreasonable risks of injury associated with consumer products, this Commission has the responsibility "to promote **research and investigation** into the causes and **prevention** of product-related deaths, illnesses, and injuries." As I have indicated, the ANPR can be used as an information-gathering tool. As the ASTM subcommittee currently evaluates a Commission staff proposal for a revised test method, I think it will be very useful to receive comments from the interested public on any possible means to address the hazards. After reviewing the comments to the ANPR, the Commission can then decide whether to terminate the rulemaking or proceed to the next stage and publish a notice of proposed rulemaking.

Therefore, for all of the reasons indicated, I have voted to accept staff's recommendation to issue the ANPR.



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**STATEMENT OF THE HONORABLE  
MARY SHEILA GALL ON ANPR FOR CRIB SLATS**

December 10, 1996

I am concerned about the problem of crib slat disengagements. In-depth investigations based on consumer complaints have revealed too many instances in which crib slats came out of the rails of cribs that were only two to three years old. In some cases, the slats came out as consumers endeavored to assemble the cribs! The Commission staff has even found instances where cribs meeting the present ASTM voluntary standard suffered from crib slat disengagement in actual use. Crib slat disengagements pose a very real threat to infants, whose parents have a reasonable expectation that the crib will contain them safely for brief periods of time. For this reason I have supported the Section 15 recalls that the Commission staff has conducted of cribs with slat disengagement problems.

I am, however, voting against the proposal that the Commission publish an Advance Notice of Proposed Rulemaking (ANPR) to specify a standard for crib slat retention, because I believe that an ANPR is premature. The first proposal that the Commission staff made to the ASTM crib subcommittee (that the torque test required by Canada be added to the voluntary standard) was made by letter on October 20, 1995. Manufacturers conducted tests of this Canadian requirement in 1995 and early 1996 but concluded that it would not reliably detect unsatisfactory glue joints between crib slats and rails. The staff itself proposed a different test at an ASTM subcommittee meeting on September 26, 1996. Manufacturers committed to conducting tests of this staff proposal and those results will be discussed at the regular ASTM subcommittee meeting in February 1997, or possibly at a meeting in January.

In light of the fact that the present Commission staff proposal has been before the ASTM subcommittee for only about 2 and a half months, I believe that it is premature for the Commission to proceed to rulemaking without having given the ASTM subcommittee an opportunity to test the Commission staff proposal and discuss it at the next ASTM subcommittee meeting. The Commission often stresses its desire to work cooperatively with other participants in the voluntary standards setting process and working cooperatively means giving other participants adequate time to consider Commission staff proposals before we begin rulemaking proceedings. I do note, however, my concern with the problem of crib slat disengagement. Regulatory solutions may become an option in the future unless adequate progress can be made in modifying the present voluntary standard.