



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

MINUTES OF COMMISSION MEETING  
November 30, 1995  
4330 East West Highway  
Bethesda, Maryland

The November 30, 1995, meeting of the U.S. Consumer Product Safety Commission was convened 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. Civil Penalty Settlement: J.B.I., Inc., Playground Equipment, CPSC Docket No. 96-1 (OS# 4392) (Ballot due 2/14/95)

(Note: This matter was decided by Chairman Brown and Commissioner Gall prior to Commissioner Moore taking office.) The Commission voted unanimously (2-0) to provisionally accept the settlement agreement and order containing a civil penalty in the amount of \$225,000. 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. All Terrain Vehicle (ATV) Dealer Monitoring Agreement (Ballot due 9/28/95)

The Commission voted unanimously (3-0) to approve new agreements to monitor and enforce dealer compliance with age requirements under the ATV Consent Decree.

3. Federal Register Notice to Clarify Statement of Enforcement Policy for Art Materials Concerning the Conformance Statement Required to Accompany Art Materials (Ballot due 9/29/95)

The Commission voted unanimously (3-0) to approve a Federal Register notice clarifying that the conformance statement for art materials is not considered to be "other cautionary labeling" as that term is defined under the Federal Hazardous Substances Act regulations.

Ballot Vote Decisions, continued

4. Memorandum of Understanding (MOU) with the National Center for Injury Prevention and Control (NCIPC) (Ballot due 10/3/95)

The Commission voted unanimously (3-0) to approve a Memorandum of Understanding to establish a commitment of cooperation between the Commission and the National Center for Injury Prevention and Control and to authorize the Chairman to sign the MOU on behalf of the Commission.

5. Final Rule to Exempt Iron Powders from Poison Prevention Packaging Act requirements for Dietary Supplements (Ballot due 10/3/95)

The Commission voted unanimously (3-0) to approve a Federal Register notice issuing a final rule to exempt iron-containing dietary supplement powders from special packaging requirements.

6. Public Hearing on Carbon Monoxide Detectors (Ballot due 10/11/95)

The Commission voted unanimously (3-0) to approve the staff recommendation for a public hearing to receive scientific, medical, and other technical information about carbon monoxide (CO) detectors and a voluntary standard for CO detectors, and to approve a Federal Register document giving notice of the public hearing on January 23 and January 24, 1996.

7. Safety Guidelines for Drawstrings on Children's Clothing (Ballot due 10/17/95)

The Commission voted unanimously (3-0) to approve issuing safety guidelines for drawstrings on children's clothing.

8. Options for Bunk Beds (Ballot due 10/18/95)

The Commission voted 2-1 to direct the staff to continue working with the ASTM F15.30 Bunk Bed Subcommittee for improvements in the voluntary standard and keep the Commission informed of the subcommittee's progress. Chairman Brown and Commissioner Moore voted in favor. Commissioner Gall voted to terminate the project. Chairman Brown, Commissioner Moore, and Commissioner Gall filed separate statements concerning the matter, copies attached.

Ballot Vote Decisions, continued

9. Revised Proposed Safety Standard for Bicycle Helmets (Ballot due 10/26/95)

The Commission voted 2-1 to approve a Federal Register notice issuing a revised proposed safety standard that would require bicycle helmets to meet impact-attenuation and other requirements. (Ref: proposed bicycle helmet standard published in the Federal Register of August 15, 1994.) Chairman Brown and Commissioner Moore voted to approve the notice as published. Commissioner Gall voted to approve the proposed rule with a change, which was not adopted by the Commission, to give companies more time to comply with agency requests for records.

10. Draft Federal Register Notice to Solicit Comments on New Petition HP 96-1, Requesting Modification of Fuse Burn Time Regulations for Fireworks Devices (Ballot due 10/30/95)

The Commission voted unanimously (3-0) not to publish a Federal Register notice for this petition.

11. Regulatory Reform Initiative: Revocation of Seven Rules Issued 1982-1984 to Transfer Regulation of Risks of Injury Associated with Certain Toys and Children's Articles from the Federal Hazardous Substances Act to the Consumer Product Safety Act (Ballot due 11/22/95)

The Commission voted unanimously (3-0) to approve a Federal Register notice revoking the seven transfer rules.

Agenda Matters.

1. Election of Vice Chairman

On motion of Commissioner Moore, seconded by Chairman Brown, Commissioner Mary Sheila Gall was elected by unanimous vote (3-0) to serve as Vice Chairman of the U. S. Consumer Product Safety Commission for a term ending May 31, 1996. Note was made that for most of the Commission's history the dates of the Vice Chairman's term of office extended from June 1 through May 31 of the following year and the Commission's action today returns to this practice.

Agenda Items, continued

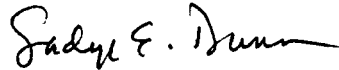
2. FY 1996 Operating Plan

The Commission was briefed by the staff on issues related to the Commission's Operating Plan for Fiscal Year 1996. The Commission had received from the Executive Director a proposed operating plan at an expected funding level of \$40 million, a reduction of \$4 million or 9 percent from the President's request and a reduction of \$2.5 million or 6 percent from the FY 1995 appropriation. (Ref. briefing package dated November 9, 1995.)

Following questions and discussion, the Commission voted unanimously (3-0) on motion of Chairman Brown to approve the FY 1996 Operating Plan proposal as presented by the staff in its briefing package of November 9, 1995.

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

For the Commission:



Sadye E. Dunn  
Secretary

Attachments: Commissioners' Statements on Bunk Beds



U.S. CONSUMER PRODUCT SAFETY COMMISSION  
WASHINGTON, D.C. 20207-0010

The Chairman  
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**Statement of Chairman Ann Brown  
Voluntary Standard for Bunk Beds  
October 19, 1995**

I voted today to direct the staff to continue working with ASTM to improve the voluntary standard on bunk beds and to keep the Commission informed of the progress. Based on the willingness of the industry over the past few months to work cooperatively with the staff to revise the voluntary standard, I am confident that industry and the staff can continue working together to improve the standard and minimize the hazards associated with bunk beds. For that reason, I believe working with industry to improve the voluntary standard is a viable and more cost-effective alternative to a rulemaking proceeding at this time. However, if progress on the voluntary standard is not satisfactory and expeditious, particularly with regard to entrapment in the lower bunk, I will not hesitate to recommend to my fellow Commissioners that the Commission consider its regulatory options.

The hazards associated with bunk beds have proven to be deadly. Between January 1, 1990 and December 31, 1994, there were 45 reports of bunk bed-related deaths involving children under 14 years of age. Twenty nine of these deaths were the result of entrapment on the upper or lower bunk.

In March 1995, the staff presented the Commission with various options to address the hazards associated with bunk beds, especially entrapment in the lower bunk. The decision meeting was deferred until further efforts could be made to determine whether working with industry through ASTM to improve the voluntary standard was possible or whether a rulemaking proceeding was necessary.

We have now seen considerable progress by the industry to consider seriously the staff's recommendations to improve the standard. In September 1995, the ASTM subcommittee voted to accept two of the three revisions the staff proposed. The subcommittee voted to include mattress size provisions on the warning label and to add manufacturer, distributor or seller identification on the product. The subcommittee was receptive to the staff's third proposed and most important revision -- to

address the entrapment hazard associated with the lower bunk. The staff is working closely with ASTM to address this hazard.

While I highly commend the industry for working cooperatively with the staff, I urge the ASTM subcommittee to proceed expeditiously to adopt a provision this year addressing the lower bunk entrapment hazard. We know that lower bunk entrapment presents a risk of serious injury or death. Therefore, before one more fatality occurs, we should act to minimize the potential for this tragic and preventable risk of injury as soon as possible.

In addition, I encourage the American Furniture Manufacturers Association (AFMA) to move quickly to implement a sound third party certification program that includes both testing and certification in accordance with the voluntary standard. In 1988, the AFMA committed to implement a third party certification program upon the publication of a voluntary standard. The standard was published in 1992 but no third party certification program has been forthcoming from AFMA. I believe a certification program is an integral part of a successful voluntary standard. Such a program ensures that manufacturers produce bunk beds in conformance with the voluntary standard and gives confidence to parents that their children are sleeping safely.



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STATEMENT OF COMMISSIONER THOMAS HILL MOORE  
ON OPTIONS FOR BUNK BEDS

OCTOBER 18, 1995

I have voted today not to direct the staff to draft an advance notice of proposed rulemaking addressing entrapment incidents associated with bunk beds, but rather to have the staff continue to work with the ASTM subcommittee on this issue.

Current information on the extent of entrapments in the lower bunk is limited and somewhat ambiguous. However, industry has responded to our concerns and has recently shown an interest in looking more closely at this issue. The manufacturers are to be commended and encouraged to proceed with their deliberations in this area. I, therefore, believe it would be fruitful for CPSC staff to continue to participate in the ASTM subcommittee meetings. With this vote I take no position on whether it may ultimately be appropriate to issue an advanced notice of proposed rulemaking on lower bunk bed entrapment incidents in the event the subcommittee decides not to propose changes to the standard to address this matter.

**STATEMENT OF THE HONORABLE  
MARY SHEILA GALL ON VOTE TO TERMINATE  
BUNK BED PROJECT**

October 17, 1995

I voted to terminate the Commission's project on entrapments in lower berths of bunk beds because the data which I reviewed show clearly that there is no need for Commission action. Members of this Commission often state that it is a "data-driven" agency. I agree with this characterization and the data available to us demonstrate that the hazard of entrapment in the lower berths of bunk beds is not frequent enough to warrant further Commission attention to it.

The data collected by staff indicate that there were approximately seven to nine million bunk beds in use during each year over the five year period 1990-1994. During this period there were two fatalities that may have involved entrapments in the headboards or footboards of lower berths of commercially-made bunk beds intended for consumer use. (In fact, one incident involved an old institutional bed that was manufactured prior to the adoption of any of the current voluntary standards.) These incidents resulted in a rate of approximately one fatal lower-berth entrapment for every twenty million bunk beds in use during this period. Further Commission staff involvement with the project, carrying, as it would, the implied threat of regulatory action, is unnecessary and inappropriate to eliminate such infrequent occurrences.

ASTM has decided to proceed with further voluntary standards to address entrapments in the lower berths of bunk beds. If staff from the Commission can be helpful in responding to questions from the pertinent ASTM subcommittee they should do so. But further Commission action that seeks to "prod" ASTM to act is inappropriate in light of the exceedingly negligible entrapment risk posed by the lower berths of bunk beds.