



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

Record of Commission Actions
Commissioners Voting By Ballot
Placed in the Record at Open Commission Meeting
September 28, 1995

At the September 28, 1995, meeting of the U.S. Consumer Product Safety Commission, the staff briefed the Commission in open session on a revised proposed safety standard for bicycle helmets, which the staff recommends based on technical assessments of comments received on the notice of proposed rulemaking (NPR) published in the Federal Register on August 15, 1994. No decisions were made.

Chairman Ann Brown convened today's meeting. Commissioner Mary Sheila Gall was present. Commissioner Thomas H. Moore was not present.

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

1. CP- 94-1: Petition from Bernard A. Schwartz Requesting Development of Safety Standard for Portable Electric Heaters (Ballot due 7/28/95)

The Commission voted unanimously (3-0) to deny the petition. Commissioner Gall and Commissioner Moore each filed a statement concerning the matter, copies attached.

2. Labeling of Packages of Charcoal (Ballot due 7/28/95)

The Commission voted 2-1 to issue a proposed rule to change the labeling requirements for packages of charcoal and approved a Federal Register notice of proposal. Chairman Brown and Commissioner Moore voted to approve. Commissioner Gall voted not to approve. Chairman Brown, Commissioner Moore, and Commissioner Gall filed separate statements concerning the matter, copies attached.

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3. Toy Labeling and Reporting Requirements: Revisions to Final Rules (Ballot due 8/4/95)

The Commission voted on two Federal Register notices clarifying outstanding issues related to the labeling and reporting requirements of the Child Safety Protection Act ("CSPA") published by the Commission on February 27, 1995. (1) The Commission voted unanimously (3-0) to approve a document concerning the CSPA labeling requirements; and (2) The Commission voted 2-0-1 to approve a document concerning the CSPA reporting requirements, with Chairman Brown and Commissioner Moore voting to approve and Commissioner Gall abstaining from voting due to her dissent from the initial decision in this matter.

4. Announcement of Amnesty and Conditions Under Which the Staff Will Refrain from Making a Preliminary Hazard Determination ("No PD") (Ballot due 8/8/95)

The Commission voted unanimously (3-0) to approve a Federal Register notice announcing an amnesty and "No PD" program and scheduling a September 12, 1995 public meeting on the subject.

5. Federal Register Notice Requesting Comment on Petition HP 95-3 to Ban Sulfuric Acid Drain Cleaners for Household Use (Ballot due 8/8/95)

The Commission voted unanimously (3-0) not to publish Federal Register notice inviting written comments on Petition HP 95-3.

6. 1996 Regulatory Plan (Ballots filed 8/30/95)

The Commission voted unanimously (3-0) to approve the draft 1996 Regulatory Plan, with changes, for transmission to the Office of Management and Budget for subsequent publication.

7. Commission Approval to Cosponsor and Publish the Consumer Booklet: "What You Should Know About Using Paint Strippers" (Ballot due 8/31/95)

The Commission voted unanimously (3-0) to approve the cosponsorship with the Environmental Protection Agency and to publish the consumer booklet "What You Should Know About Using Paint Strippers."

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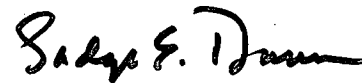
8. Semi-Annual Regulatory Agenda (Ballot due 9/15/95)

The Commission voted unanimously (3-0) to approve the draft regulatory agenda with changes.

9. Letter of Denial - Petition CP 94-1 Requesting Development of a Safety Standard for Portable Electric Heaters (OS# 4697) (Ballot due 9/19/95)

The Commission voted unanimously (3-0) to approve the draft letter of denial without change.

For the Commission:



Sadye E. Dunn
Secretary

Attachments (5)



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

Office of Commissioner Gall

**STATEMENT OF COMMISSIONER MARY SHEILA GALL
ON
PETITION FOR DEVELOPMENT OF A SAFETY STANDARD
FOR
PORTABLE ELECTRIC HEATERS**

July 28, 1995

I voted to deny Petition CP94-1 requesting development of a mandatory standard for portable electric heaters. The Commission has already addressed the hazards of portable electric heater fires, and the safety standard suggested in the petition will not improve portable electric heater safety.

The staff has reviewed the petitioner's proposed combustibility test, compared it to the new "band drape" test in the UL standard and found that it does not measure combustibility better than the present standard. The staff found that the UL "band drape" test is, in fact, more representative of real world conditions.

As a result of extensive analysis and testing conducted by CPSC in 1985 and 1986, twenty-one recommendations for improvements or additions to the Underwriters Laboratories, Inc. voluntary standard were made in 1987. Almost all the recommendations were accepted by UL and a new revised standard was adopted in 1989 with all new requirements being in effect by April 30, 1991. These standards addressed the real hazard posed by portable electric heaters; malfunctions in the heaters themselves, rather than the theoretical hazard that the petition seeks to address: the possibility that a portable electric heater will ignite combustibles in normal operation.

The staff believed then and now that the voluntary standards should significantly reduce portable electric heater fires. However, sufficient time has not elapsed since the effective date of the changes to the standard to see the impact on reducing fires in our data.

There is no data or information at this time to warrant any further efforts by the Commission. The Commission will, of course, monitor all trends in fire incidents involving consumer products and if problems are identified the appropriate actions will be considered at that time.



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

STATEMENT OF COMMISSIONER THOMAS HILL MOORE
ON
PETITION REQUESTING DEVELOPMENT OF SAFETY STANDARD
FOR PORTABLE ELECTRIC HEATERS

July 28, 1995

I concur with the statement of Commissioner Mary Sheila Gall. Her statement cogently and accurately states my own reasons for also voting today to deny the petition seeking new safety standards for portable electric heaters. As Commissioner Gall has noted, we have no reason at this time to believe the 1991 changes in the voluntary standards adopted by Underwriters Laboratories have not adequately addressed the problem of ignition of nearby combustible materials. Until and unless we have such data, it would be inappropriate for the CPSC to proceed on such a petition.



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

The Chairman
Ann Brown

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STATEMENT OF CHAIRMAN ANN BROWN
CHARCOAL LABELING
August 1, 1995

I voted to publish in the FEDERAL REGISTER for public comment a proposal to change the labeling currently required to appear on bags of charcoal. In my view, the current labeling requirements for this product, issued in 1971 by the Food and Drug Administration, are inadequate to notify the public of the hazard of carbon monoxide poisoning associated with burning charcoal indoors. The currently required label inaccurately suggests that charcoal can be burned safely if ventilation is provided. Even if charcoal is being burned in areas where there is some ventilation, this does not assure that carbon monoxide will be reduced to safe levels.

A review of reports of 103 incidents from 1986 to 1994 reveals that 111 victims died from exposure to carbon monoxide fumes and that more than one-half of the incidents (65) involved a charcoal barbecue grill or hibachi. Over one-half of the victims belonged to ethnic minorities, with over half of those being of Hispanic origin. Many of these victims may not be able to read English. Obviously, the existing label is not working.

I am not under any illusion that a warning label alone, regardless of how good, will eliminate all deaths. But if an improved warning label is only one (1) percent effective, benefits would exceed the costs of a new label. It is the Government's responsibility to assure that the charcoal warning label accurately portrays the hazard of using charcoal indoors. Consumers also have a responsibility to act reasonably to prevent carbon monoxide deaths. But to do so, they need accurate information. A warning label can provide such information. Finally, industry, as the third leg of the safety triangle, also must do its part to educate consumers about the hazard of burning charcoal indoors. I urge industry to make all consumers aware of the danger of using charcoal indoors through an appropriate education campaign.

The label being proposed by the Commission includes a pictogram that warns of the hazard of burning charcoal indoors. The pictogram is the result of efforts by the staff and industry

to communicate the hazard presented by carbon monoxide. I believe the pictogram communicates that charcoal should not be burned indoors. Thus, the pictogram should assist persons who are unable to read the English text of the warning label. I note that the label proposed incorporates a number of features recommended by members of industry with whom the staff has been working very closely.

The Commission's responsibility is to reduce injuries and deaths in a cost beneficial manner. I believe the data support going forward with a proposed rule to change the labeling requirements for bags of charcoal, evaluating the comments received on the proposal, and then making a decision on whether to issue a final rule.



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STATEMENT OF COMMISSIONER THOMAS H. MOORE
ON CHARCOAL LABELING REQUIREMENTS

July 28, 1995

I voted to approve the proposed Federal Register notice to change the labeling requirements for packages of charcoal, because the current label provides misleading information that implies that charcoal can be safely burned indoors with ventilation. I think that it is reasonable to conclude from the data, that the ventilation warning, on its own, does not convey to the general public that when burning charcoal inside, "special arrangements" must be made to exhaust the fumes to the outside. On the contrary, it is clear that the ventilation warning has unfortunately been interpreted to mean simply providing a source for the introduction of air into the area where indoor use is occurring; a window slightly opened, an outside door left ajar. Incident data indicates that this flawed conclusion has led to injuries and deaths.

Additionally, the proposed label uses a pictogram to warn persons unable to read the warning label about the hazards of indoor charcoal burning. Communicating the hazards presented by an odorless, colorless killer provides an enormous challenge to the staff and I think that the pictogram, which resulted from a collaborative efforts with industry, at a minimum, delivers the message that charcoal should not be burned in certain confined areas. My conclusion about the pictogram message is supported by the fact that tested under the most stringent of criteria, the pictogram obtained a 74% correct response with no critical confusion.

Although the ANSI Z535.3 test method recommends that a pictogram selected obtain 85% correct responses with 5% critical confusion, I think it is reasonable to conclude that a test group less restrictive would clearly have responded correctly at a higher percentage. After all, the test group included 50% individual who did not speak English and the other 50% were below median income. The ANSI test is merely reflective of the general population and more likely to include middle and upper income participants.

Unquestionably, revisions to the current label are needed. Misleading information about ventilation must be removed. I think that considerably more life-saving clarity in the message of the nature of the risk of death or injury from carbon monoxide poisoning associated with indoor burning of charcoal is achieved with the proposed new label. Additionally while certainties of the effectiveness of the recommended label in reducing charcoal-related injuries and death cannot be asserted, we do know that benefits to society from the new label would exceed cost at only 1% effectiveness.

Moreover, I would support all additional reasonable efforts to reach non-readers and other vulnerable segments of our society, which are disproportionately represented in current injury and death statistics, with a clearer message of the exact nature of the risk - the risk of death and injury by carbon monoxide poisoning from indoor charcoal burning.

Therefore, I voted to proceed with rulemaking in this case.



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Office of Commissioner Gall

STATEMENT OF THE HONORABLE MARY SHEILA GALL
ON CHARCOAL LABELING REQUIREMENTS

July 27, 1995

I voted not to approve the proposed Federal Register notice to change the labeling requirements for packages of charcoal, because the data do not show that the proposed label will inform people about the risks of indoor charcoal burning demonstrably better than the present label. The label presently required to be put on charcoal bags is quite explicit: it contains a signal word and warns that toxic fumes from the charcoal can cause death. Anyone who takes the time to read the present label can be under no illusion that charcoal should not be burned indoors unless special arrangements are made to exhaust the fumes to the outside, and that death can result if this warning is ignored.

The proposed warning label represents a commendable effort to convey the hazards of burning charcoal indoors more vividly to persons who read the warning label, and to convey the hazards of indoor charcoal burning to anyone who cannot read the warning label. Those who cannot read English or other written languages may burn charcoal indoors either for cooking or to use as a heat source. I am not persuaded that the new label will achieve either goal.

While the language in the new warning label may be more vivid ("can kill you" in place of "can cause death") and does mention carbon monoxide explicitly, there is no evidence that persons who would burn charcoal indoors after reading the present warning label would not burn charcoal indoors after reading the proposed label. Without such evidence, I cannot find that the cost of converting to the new label is justified.

The proposed label seeks to warn persons unable to read the label about the hazards of indoor charcoal burning through the use of a pictogram. While the use of a pictogram is an accepted way of seeking to communicate, this particular pictogram did not meet the standards set by the American National Standards Institute for pictogram effectiveness and, in my view, does not deliver the message that the hazard being warned against is carbon monoxide rather than fire. While I do not fault the staff for settling on this pictogram as the "best available," I do not believe that this Commission should be requiring the use of pictograms that do not meet recognized standards of effectiveness.

If the label change was costless, I might go along with the change on the grounds that it is arguably better, or at least no worse, than the present label. There will, however, be significant cost to industry, both in changing the warning label and in printing the more complicated new label. Since the costs of the labeling change are real, and the benefits largely speculative, I cannot conclude that the benefits justify the costs of this proposed regulation. Accordingly, I voted not to proceed with rulemaking in this case.