



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

MINUTES OF COMMISSION MEETING
October 22, 1980

Third Floor Hearing Room
1111 - 18th Street, N.W.
Washington, D.C.

The October 22, 1980, meeting of the U.S. Consumer Product Safety Commission was convened in open session by Chairman Susan King. Commissioners R. David Pittle, Edith Sloan, Stuart Statler, Sam Zagoria were present.

Ballot Vote Decisions. The Chairman read into the record the following decisions made by ballot vote of the Commission since the last open meeting of the Commission.

1. Portable Kerosene Heaters: Notice of Denial

By a 4-0 vote the Commission approved a Federal Register document announcing its denial of a petition to ban portable kerosene heaters (Petition CP 80-2). Commissioner Sloan dissented from the Commission's decision to deny the petition and has filed an opinion.

2. Section 30(d) Rule for Stuffed Toy Animals Suspended from Cords

By unanimous vote (5-0) the Commission approved a Federal Register document proposing to regulate under the Consumer Product Safety Act, instead of under the Federal Hazardous Substances Act, stuffed toy animals suspended from cords, if it decides to regulate these toys. Section 30(d) of the Consumer Product Safety Act requires this action if the Commission decides to utilize the CPSA. Chairman King voted to make the section 30(d) rule prospective in addition to applying to products manufactured prior to the final date of the rule.

Agenda Matters. The Commission then considered the following decision matters.

1. Pacifier Petition, HP 80-1: A petition from Dr. Kenneth Feldman requesting an amendment to the pacifier safety regulation to prohibit grip rings on pacifiers.

Pacifier Petition, HP 80-1 (Cont'd)

The Commission voted 4-1 to deny the petition. *Commissioner Sloan voted to grant the petition. Staff was instructed to draft for Commission approval an appropriate denial letter to the petitioner.

2. Tap Water Scalds Petition, CP 78-15: A petition in which the Department of Lighting, City of Seattle, Washington, asks that the Commission require new residential water heaters to have a maximum thermostat setting of 130°F and to display warning labels describing the hazards of hot water and instructions for setting temperatures.

The Commission voted (5-0) to deny the petition as to mandatory maximum thermostat settings and as to labeling. The Commission asked the staff to (1) prepare a resource estimate for a rule on factory pre-set temperatures (2) continue discussions with industry and Underwriters Laboratories for a lower factory pre-set temperature for oil-fired and electric water heaters (3) explore further the issue of maximum setting for all water heaters and (4) look into jurisdictional issues concerning possible regulation of water temperature for apartments, nursing homes, schools, and so forth. Staff was instructed to prepare for Commission approval an appropriate Federal Register notice concerning the denial of the petition.

3. Fiscal Year 1981 Priorities: A discussion of priorities for Consumer Product Safety Commission action for fiscal year 1981.

The Commission provided guidance to the staff for the preparation of a Federal Register notice announcing CPSC's priority projects for FY 81. The priority list is to be divided into two parts. The first part will list those hazard-related projects designated for priority attention; the second part will list longer range commitments of the Commission to improve the Commission's regulatory processes.

The Commission tentatively approved the following hazard-related projects:

1. Aluminum Wiring
2. Coal- and Wood-Burning Stoves
3. Upholstered Furniture
4. Cribs
5. Plastic Flammability
6. Formaldehyde
7. Benzidine Dyes
8. Asbestos
9. Chain Saws
10. Household Wiring
11. Electric Blankets
12. Indoor Air Pollution/Tighter Thermal Envelopes

*Commissioner Sloan's Dissenting Opinion filed with the Office of the Secretary November 4, 1980.

Fiscal Year 1981 Priorities (Cont'd)

The Commission then tentatively approved the following programs to improve regulatory processes:

1. Section 15/Recalls
2. Voluntary Standards
3. Injury Data Needs
4. Regulatory Review

The staff was instructed to prepare a Federal Register notice listing and briefly describing the priority projects. That Federal Register document will be voted upon by the Commission and that vote will constitute the final action on this matter.

Commissioner Pittle indicated he intended to file a dissenting opinion on the Commission decision not to list CB Antennas as a priority project.

Commissioner Sloan was not present for the priority-setting discussion, but by memorandum dated October 24, 1980 requested that the Commission reconsider a process priority concerning outreach to minorities, low income consumers, the elderly and other special populations. That memorandum also indicated Commissioner Sloan's support of both the Electric Blanket and Voluntary Standards projects.

There being no further business on the open portion of the Agenda, the Commission went into closed session to be briefed by staff on issues related to an enforcement matter (OS# 863). After the briefing, Chairman King adjourned the meeting.

For the Commission:

November 6, 1980
(Date)

Sadye E. Dunn
Sadye E. Dunn
Secretary

Attachment: Sloan opinion on HP 80-1, Pesticides

REFERENCES: Minutes of October 22, 1980

Ballot Vote Decisions

1. Portable Kerosene Heaters: Notice of Denial
Briefing Package dated October 3, 1980
2. Section 30(d) Rule for Stuffed Toy Animals Suspended from Cords
Briefing Package dated September 26, 1980

Agenda Matters

1. Pacifier Petition, HP 80-1
Briefing Package dated October 2, 1980
2. Tap Water Scalds Petition, CP 78-15
Briefing Package dated October 9, 1980
3. Fiscal Year 1981 Priorities
Briefing Package undated



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DISSENTING OPINION OF
COMMISSIONER EDITH BARKSDALE SLOAN
RE: PETITION TO AMEND PACIFIER REGULATION
TO PROHIBIT GRIP RINGS

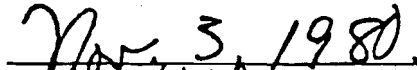
On October 22, 1980, the Consumer Product Safety Commission, voting 4-1, denied a petition seeking a ban on pacifier grip rings which permit the attachment of cords to the pacifiers. Such cords are tied around the infants' necks. I must dissent from that decision for the following reasons.

It is undisputed that the abuse of tying cords to pacifiers presents an unreasonable risk of personal injury from strangulation. Pacifiers with grip rings offer consumers a patent invitation to attach cords. Presently, pacifiers require two ventilation holes (16 CFR Part 1511.3(b)), so that the infant may breathe in the event the pacifier lodges in its throat. The Commission rightly fears that a ban of these grip rings could present a worse problem because parents might then attach cords to the ventilation holes and thereby cause the aforementioned cord strangulation hazard, in addition to renewing the pacifier strangulation hazard which the ventilation holes obviated.

My concern is that an average of 15 million pacifiers are used each year, and an average of three infants die from cord related pacifier strangulations each year. Despite package warnings, parents continue to attach cords to pacifier grip rings to prevent dropping and losing the pacifiers. While we cannot regulate the actions of parents, we can and should regulate the manufacture of consumer products so as to assure safety. It is irresponsible for this Commission to allow this strangulation hazard to continue because the risk of injury cannot be totally eliminated by any one action (if we ban the grip rings, parents might attach cords to ventilation holes), when the Commission has adequate measures at its disposal to narrow the scope of this risk of cord strangulation. The Commission could and should: (1) ban the grip rings; (2) alter the handle design; and (3) mandate more effective labeling.

These are remedial actions in the face of a clear hazard. The availability of ventilation holes for cord attachment does not present the clear invitation for attachment offered by the pacifier grip rings. This petition should have been granted, thereby reducing these infant strangulations. The Commission, by its inaction on the grip ring problem, guarantees further unnecessary infants' strangulations.


Edith Barksdale Sloan, Commissioner


(date)