



U.S. CONSUMER PRODUCT SAFETY COMMISSION

WASHINGTON, D.C. 20207

Record of Commission Actions  
October 14, 1981

At the October 14, 1981, meeting of the U.S. Consumer Product Safety Commission, the Commission considered two matters: (1) Thermal Underwear Negative Labeling Rule and (2) Dual Purpose Closures. Chairman Nancy Harvey Steorts convened the meeting. Commissioners David Pittle, Edith Barksdale Sloan, Stuart M. Statler and Sam Zagoria were present.

Following the Chairman's reading into the record the recent ballot vote decisions (see attached), the Commission considered the agenda matters:

1. Thermal Underwear Labeling Rule

The Commission considered whether to propose a rule to require children's thermal underwear garments to be labeled with a statement that they do not comply with the children's sleepwear flammability standards and are not intended to be worn by children for sleeping. The purpose of a negative label would be to reduce the likelihood that consumers will confuse thermal underwear garments that do not meet the flammability standards for children's sleepwear, with children's sleepwear garments, which are required to be resistant to open-flame ignition. The Commission, in July 1980, granted a petition (FP 79-2) in which the Bates Nitewear Co. asked that the Commission require labeling on decorated thermal underwear that may be confused with children's sleepwear. At that time, the Commission directed the staff to prepare a negative labeling rule for all children's thermal underwear.

On July 15, 1981, the Commission had considered the draft proposed negative labeling rule prepared by the staff, and examples of labels used by manufacturers of children's thermal underwear. The Commission deferred at that time a decision on whether to propose a rule, and directed staff to explore with the concerned manufacturers the possibility of developing a voluntary label acceptable to both industry and the Commission. Subsequently, manufacturers of thermal underwear indicated to the Commission their view that the identification "thermal underwear" is sufficient and expressed disapproval of a negative label, whether mandatory or voluntary.

Discussion by the Commissioners at this meeting centered on the extent to which children's thermal underwear is being purchased for use as sleepwear, and, to that extent, the possible need for negative labeling or other point of sale information to assist consumers who may confuse the two garments; or, whether the issue of possible

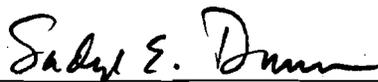
confusion can be adequately addressed through reliance on the Commission's children's sleepwear enforcement policy. (16 CFR 1615.64 and 1616.65).

Following discussion, the Commission decided by a vote of 3-2, with Chairman Steorts and Commissioners Pittle and Zagoria constituting the majority, to terminate the proceeding to propose a labeling rule for children's thermal underwear; (and thereby deny petition FP 79-2); and to rely on its enforcement policy to enforce the children's sleepwear flammability standards. Commissioners Sloan and Statler, while preferring a labeling rule, agreed that the Commission should reaffirm its children's sleepwear enforcement policy. The Commissioners expressed varying views, however, as to the substance of a formal statement of reaffirmation of the enforcement policy as it relates to the thermal underwear issue. Since this was not previously framed as a vote option in this matter, staff was directed to prepare a revised vote sheet for Commission consideration by ballot vote. The revised sheet would also address the option proposed by Chairman Steorts to undertake information and education efforts to inform consumers that thermal underwear does not meet the flammability standards for children's sleepwear.

## 2. Dual Purpose Closures

The Commission considered whether to propose to restrict or prohibit the use of dual-purpose packaging as child-resistant packaging under the Poison Prevention Packaging Act. Following substantial discussion, Commissioners Pittle and Sloan voted to initiate rule-making, while Commissioners Statler and Zagoria voted not to begin rulemaking at this time. Chairman Steorts abstained from voting because of her previous involvement as a consultant to members of the packaging industry. There being no majority on either course of action, no action will be taken.\* Each of the Commissioners filed a statement/opinion concerning his or her views on this matter.

For the Commission:



Sadye E. Dunn  
Secretary

## Attachments

- \* The staff was directed to prepare a Federal Register notice to announce the Commission's decision.