



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

MINUTES OF COMMISSION MEETING
February 15, 1995
4330 East West Highway
Bethesda, Maryland

The February 15, 1995, meeting of the Consumer Product Safety Commission was convened in open session by Chairman Ann Brown. Commissioner Mary Sheila Gall was present.

Agenda Matter:

Toy Banning, Labeling, and Reporting Requirements under the Child Safety Protection Act of 1994

The Commission considered final rules implementing the banning, labeling, and reporting requirements of the Child Safety Protection Act of 1994 (CSPA). Separate proposed rules pertaining to the requirements for (1) labeling and (2) reporting under the CSPA were published in the Federal Register on July 1, 1994. At the Commission meeting of February 8, 1995, the Commission was briefed by staff on issues raised in the comments on the proposed rules and on draft final regulations containing staff responses to the issues. (Ref: staff briefing packages dated February 2, 1995.)

Following the February 8 briefing, staff revised the draft Federal Register documents to reflect the resolution of certain concerns expressed by the Commissioners. In regard to labeling, the draft regulation was revised to establish an upper age limit, under 8 years of age, for the labeling of toys and games containing small balls and marbles. The draft reporting rule was revised to be issued as an interpretative rather than a substantive rule and, with regard to the time for filing a report, to confirm the proposal's 24-hour reporting requirement. The Federal Register notices also were revised to state that on one issue -- whether the labeling and reporting requirements apply to products that are exempt from the Commission's small parts regulation (16 CFR 1501.3) -- the Commissioners are divided and that issue will remain unresolved until such time as a majority of the Commission concurs on its resolution.

Minutes of Commission Meeting
February 15, 1995

At today's meeting, after noting revisions to the draft final rules, as stated above, and following discussion and comments by the Commissioners, the Commission voted unanimously (2-0) on motions of Chairman Brown to approve the revised Federal Register documents issuing the final rules for (1) labeling and (2) reporting under the Child Safety Protection Act of 1994.

Chairman Brown and Commissioner Gall filed separate statements concerning this matter, copies attached.

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

For the Commission:



Sadye E. Dunn
Secretary

Attachments

Statement of Chairman Ann Brown
Toy Labeling and Choking
February 15, 1995

I am pleased that the Commission today voted to issue final regulations implementing the labeling and choking reporting requirements of the Child Safety Protection Act (CSPA) passed by Congress in June 1994. As Congress has stated, the CSPA assists the Commission in carrying out its responsibility of protecting children by requiring labels that warn against choking hazards from toys, games, balls, balloons and marbles, banning balls having a diameter of less than 1.75 inches, and requiring firms to report certain choking incidents to the Commission. I welcomed enactment of the CSPA.

The Commission currently enforces its "small parts" safety standard that prohibits toys and other articles intended for use by children under the age of three years from having small parts. The reason for this prohibition is that children under three are most likely to suffocate or choke to death on small parts.

Before enactment of the CSPA, there were no federal requirements for labels on toys or games, marbles, balls or balloons warning about the danger of children under three years choking on products containing small parts marketed to children over three years. Many parents thought existing age recommendations on toys pertain to the developmental level of the child for whom the toy was intended. They did not recognize the potential choking hazard from toys intended for older children.

The CSPA and the toy labeling regulation approved by the Commission assure uniform, consistent, prominent and conspicuous warning labels on certain toys and games, marbles, balloons, and balls intended for children at least 3 but under 6 years. These warning labels will provide parents and others who purchase marbles, balls, balloons, and toys and games containing small parts for children 3 years and older, with information, at the point of purchase, that informs them of the risk of choking or suffocation that these products present to children under the age of three years. Indeed, between January 1980, and July 1991, nearly 200 children choked to death on balloons, marbles, small balls and other children's products. About 2/3 of these deaths involved children under three years. This provision will at minimal cost assist parents in reducing that tragic toll.

The Commission also approved a regulation implementing the new Congressionally mandated reporting provision for choking hazards. It provides that manufacturers, distributors, retailers, and importers of marbles, small balls, latex balloons, or other small parts must report choking incidents to the Commission.

This provision will keep the Commission better informed of choking hazards presented by children's products. Working with industry proactively to eliminate unreasonable risks is always a goal of this agency. Reports of choking incidents could provide the information we need to save lives in the future.

**STATEMENT OF COMMISSIONER MARY SHEILA GALL
ON
FINAL REGULATIONS UNDER THE CSPA**

FEBRUARY 15,1995

I have voted today to support promulgation of final regulations implementing the provisions of the Child Safety Protection Act. I am pleased that we were able to resolve virtually all of the disagreements that arose concerning the staff's original proposal so that this Congressionally mandates regulatory activity could be brought to completion.

The regulations now strike an appropriate balance between the need to inform consumers of potential choking hazards, the desire of the Commission to gain incident data, and the realities of industry operations and practices. This outcome was in large part the result of comments from a diversity of interests being incorporated into the final proposal. However, it was only after agreement was reached to modify the reporting requirements and to promulgate them as interpretive rather than substantive rules that I was able to support the regulations.

While no proposal of this magnitude is completely satisfactory, today's Commission action meets our obligation to the Congress and to the American public. Having exerted substantial effort to reach this point, it is my hope that the action that we have taken today will ultimately enhance the safety of our children.