



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

MINUTES OF COMMISSION MEETING

June 30, 1994  
4330 East West Highway  
Bethesda, Maryland

The June 30, 1994, meeting of the Consumer Product Safety Commission was convened in open session by Chairman Ann Brown. Commissioner Mary Sheila Gall and Commissioner Jacqueline Jones-Smith were present.

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

1. Multiple Tube Mine and Shell Fireworks Devices, Draft ANPR  
(Vote 6/24/94)

The Commission voted unanimously (3-0) to approve a revised draft advance notice of proposed rulemaking (ANPR) for publication in the Federal Register initiating a proceeding to address the risk of injury and death associated with multiple tube mine and shell fireworks devices. This document implements the Commission decision on June 22, 1994, to issue an ANPR in this matter.

2. Draft Notice Withdrawing ANPR for Crib Toy Proceeding  
(Vote 6/24/94)

The Commission voted 2-1 to approve a draft Federal Register notice to withdraw the advance notice of proposed rulemaking (ANPR) that initiated a proceeding for the development of requirements to address strangulation hazards to children associated with crib toys. The Commission had voted on October 26, 1993, to terminate that proceeding. Commissioner Gall and Commissioner Jones-Smith voted to approve the draft notice. Chairman Brown voted in dissent and filed a statement concerning the matter, copy attached.

3. Proposed Rules Implementing the Child Safety Protection Act  
(Vote 6/27/94)

The Commission voted unanimously (3-0) to authorize publication in the Federal Register of revised drafts of proposed rules that would implement the banning, labeling, and reporting requirements of the Child Safety Protection Act.

Agenda Item: Baby Walkers

The Commission considered options for Commission action to address risks of injury associated with baby walkers. The Commission was briefed by the staff on the options at the Commission Meeting on June 23, 1994. (Ref: staff briefing package dated June 9, 1994; supplemental package dated June 17, 1994.)

On motion of Chairman Brown, the Commission voted 2-1 to issue an advance notice of proposed rulemaking (ANPR) to address risks of injury associated with baby walkers, particularly babies falling down stairs in walkers. Chairman Brown and Commissioner Jones-Smith voted in favor; Commissioner Gall voted against.

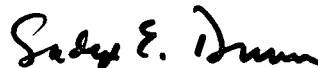
Also on motion of Chairman Brown, the Commission voted unanimously (3-0) to direct the staff to continue participating in the ASTM voluntary standards activity for baby walkers.

The Commissioners expressed concurrence that the staff should continue the incident data collection and analysis effort for baby walkers.

Chairman Brown, Commissioner Gall, and Commissioner Jones-Smith filed separate statements concerning the baby walker matter, copies of which are attached.

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

For the Commission:



Sadye E. Dunn  
Secretary

Attachments

UNITED STATES  
CONSUMER PRODUCT SAFETY COMMISSION  
WASHINGTON, D.C. 20207

The Chairman

Statement of Chairman Ann Brown  
Baby Walkers

June 30, 1994

I have voted today to issue an advance notice of proposed rulemaking on baby walkers. These products are associated with an estimated 23,000 hospital emergency room treated injuries annually to children 15 months of age and younger. 18,500 of these injuries occur when baby walkers fall down stairs, and nearly 1000 children are hospitalized each year from baby walker accidents. The rate of baby walker injuries increased significantly for the period 1984-1993. These mounting injuries are simply unacceptable, particularly given that the staff believes they can be reduced effectively through additional performance standards for baby walkers.

There is a terrible irony here. According to our staff, two-thirds of caregivers say they use walkers to keep their children safe. But baby walkers account for more injuries each year than any other juvenile product.

Babies should be able to have fun in walkers. And parents - - who often put children in walkers while they are occupied with other things -- should be able to have a few minutes of risk-free time without worrying about their child careening down stairs.

But traditional baby walkers with wheels move easily and quickly. Even when the most attentive parents take precautions by closing a door, or latching a gate, other children may open the door or unlock the gate, allowing a child to tumble down the stairs. Severe injuries occur even when parents are in the same room as the child in the walker. And, in fact, our staff has found thus far that half the caregivers were in the same room with the child in the walker when the accident occurred. The staff has therefore concluded that labels warning parents not to leave a child unattended or not to use a walker near stairs are inadequate.

In addition, parents who believe they are helping their children walk earlier or develop faster by using traditional baby walkers should not worry. Current studies indicate baby walkers do not enhance a babies ability to walk earlier.

Given the large number of injuries to babies caused by walkers falling down stairs, I have voted to begin a rulemaking proceeding to address the hazard. Although this issue was not scheduled to come before the Commission until next year, I asked that it be considered now -- we simply cannot wait for another 23,000 of our children to be injured before we begin to address this problem.

I am also voting to continue participating in the ASTM voluntary standards activity for walkers. The Canadian Juvenile Products Manufacturers Association, working with Canada's Consumer & Corporate Affairs, established voluntary standards in June 1989, for baby walkers that address the risk of walkers falling down stairs by restricting the ability of walkers to pass through doorways and gain access to stairs. If the U.S. baby walker industry develops an adequate voluntary standard that effectively addresses the risk of injury to babies associated with walkers, particularly walkers falling down stairs, then the Commission can terminate its rulemaking proceeding.

I commend those members of the industry who have made a variety of alternative products that appear to reduce the risk of falling down stairs. We depend on their creativity. They have a real area of opportunity here. Currently, however, most of the baby walker industry addresses the stair risk with labels which warn parents not to leave children unattended in their walkers or use them near stairs.

I preliminarily believe that baby walkers that can fall down stairs and thereby injure children present a mechanical hazard that can be regulated under the Federal Hazardous Substances Act (FHSA). 15 U.S.C. § 1261. The Commission may determine that a product presents a mechanical hazard under the FHSA if in normal use or from reasonably foreseeable damage or abuse, its design or manufacture presents, among other things, an unreasonable risk of personal injury or illness from moving parts, from a lack of controls to reduce or stop motion adequately, because of instability, or because of any other aspect of the article's design or manufacture. 15 U.S.C. 1261(s). Here, the injury data, in-depth investigations and human factors analysis supports the conclusion that the use that results in these injuries is "normal." In addition, the features which allow walkers to fall down stairs -- e.g., the absence of "controls" or other means to stop a walker's motion at the top of stairs -- make this a "mechanical" hazard under the statute. Finally, given that the staff believes there are practicable designs that could reduce the risk without undue cost, I preliminarily believe that this risk is unreasonable.

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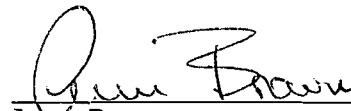
The Chairman

Statement of Chairman Ann Brown  
Withdrawal of Advance Notice of Proposed Rulemaking  
Strangulation Hazards Associated with Crib Toys

On October 26, 1993, the Commission voted to terminate a proceeding for the development of requirements to address strangulation hazards associated with crib toys. While I was not at the Commission at the time of that vote, the Commission is now voting on the *Federal Register* notice to implement that decision. I vote to not approve the draft notice.

Had I been at the Commission in October, I would not have voted to terminate the rulemaking proceeding. At a minimum, I would have voted to proceed through rulemaking to address string lengths on crib and playpen toys. In that case, based on anthropometric data, the staff recommended a string length of no more than 7 inches to prevent strings from wrapping around children's necks and becoming entangled. The voluntary standard allows string length of 12 inches.

Based on information currently available, I am concerned that a string length of 12 inches allowed on crib and playpen toys by the voluntary standard may be too long.

  
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Ann Brown

STATEMENT OF COMMISSIONER JACQUELINE JONES-SMITH  
ON A STAFF PROPOSAL TO INITIATE RULEMAKING  
FOR A HAZARD ASSOCIATED WITH BABY WALKERS

June 30, 1994

Today, I voted in favor of a Staff recommendation to publish an Advance Notice of Proposed Rulemaking ("ANPR") to address a hazard associated with baby walkers.

In 1993, the Commission denied a petition to ban baby walkers; but rather directed the staff to determine the feasibility of developing a standard to effectively reduce the risk associated with baby walkers. This has been performed and, as explained below, I am satisfied with the results.

Based upon the evidence before the Commission, there is sufficient reason to believe that baby walkers may present an unreasonable risk of injury due to a mechanical hazard and that a rule may be reasonably necessary to reduce this risk of injury. There is also evidence that remedial design modifications or a performance standard, that could substantially reduce injuries, may be technologically feasible.

Injuries associated with baby walkers account for the highest number of injuries of any juvenile product. In 1993, there were approximately 23,100 emergency room treated injuries of children aged 15 months and younger, related to baby walkers, of which about 80% involved falls down stairs. Clearly, this is a hazard that warrants close scrutiny by this Commission.

In order to regulate this product under the Federal Hazardous Substances Act (FHSA), the Commission must conclude that baby walkers present a "mechanical hazard", as defined by that statute. Here, unlike baby bath rings and seats, it is the "normal" and desired use of this product that presents an unreasonable risk -- regardless of adult supervision. This risk is inherent in the design of this product and its intended use. The hazard involves the ability of an infant to propel himself rapidly across a room -- even in the presence of an adult. My understanding is that there already exist products and prototypes that can inhibit, alter or stop such movement.

I am aware that, during this same time period, there were, additionally, approximately 22,000 stair falls not involving any product. This, naturally, raises the issue as to whether these incidents and injuries are, primarily, baby walker or stairs related. This is a question that cannot and need not be resolved at this time; but, will be addressed by Staff as part of this rulemaking.

The fact that babies fall down stairs, independent of any products or devices, in no way negates the risk inherent in the design of baby walkers. Baby walkers have wheels. They give babies mobility and the ability to move fast -- without being able to stop. In fact, I can think of no other baby product that has such potential for mobility, that does not require direct caregiver interaction -- such as with a stroller.

With respect to this caregiver supervision issue, I do not believe that inappropriate or negligent caregiver behaviors have any bearing with this product. The evidence demonstrates that 50% of the caregivers were present in the same room with the child at the time the walker went down the stairs. Indeed, in 43% of these incidents, they actually witnessed this taking place. Apparently, baby walkers can be moved so quickly and with such speed that the caregiver cannot respond in time to avert the danger.

The question as to whether parents "rely" upon the safety and sturdiness of these products, however, is neither relevant as a factual inquiry, nor germane as a matter of law. The fact that parents feel secure about placing children in these devices may be relevant to their wide spread use -- and may increase the amount of "exposure" children have to this product -- but it simply is not pertinent to the question of whether the Commission should issue an ANPR.

The FHSA requires that the Commission defer to an existing voluntary standard that is both effective in addressing the product hazard and with which industry is in substantial compliance. No such voluntary standard is in existence at this time. I want to note here that, under any circumstances, issuance of an ANPR for the purpose of inducing industry to adopt a voluntary standard is inappropriate and an abuse of process.

The only issue before the Commission at this point is whether a preliminary determination can be made that this product presents a mechanical hazard, posing an unreasonable risk of injury to users, for which the adoption of a mandatory standard may be reasonably necessary. I believe that baby walkers fall within this criteria, and for this reason alone, I have voted to publish an ANPR to address this hazard.



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WASHINGTON, D.C. 20207

STATEMENT OF COMMISSIONER MARY SHEILA GALL  
ON PROPOSED GOVERNMENT REGULATION OF BABY WALKERS  
JUNE 30, 1994

Today, I have voted against initiating formal rulemaking to require the development of performance standards for baby walkers. It is my belief that the record before the Commission, rather than compelling intervention by the Federal government, clearly forms the basis for the cooperative development of voluntary performance standards.

Last year, I offered the successful motion to direct the staff to conduct additional in-depth research relating to baby walkers. Although not yet completed, this work confirms that the problem here is not with the walker, but with the failure of those entrusted with caring for small children to exercise appropriate supervision, particularly where protecting stairs is concerned.

In 1993, there were an estimated 23,000 emergency room visits related to baby walkers. 80% of these, or about 18,500, involved falls down stairs or between levels. CPSC staff reports that only 60% of the time the stairs had a barrier, and in 90% of those instances, the barrier had been compromised. Further, the staff estimates that there were about 22,000 falls down stairs by same age babies who were not in walkers. Babies who fall down stairs-in or out of walkers-are victims of the same hazard--unprotected stairs. THE SIMPLE ACT OF CLOSING A DOOR OR INSTALLING AND USING A GATE COULD ELIMINATE OVER 40,000 ACCIDENTS PER YEAR. Baby walkers do not present a mechanical hazard.

Parents and caregivers overwhelmingly agree with this perspective. CPSC staff reports that 76% of those who experienced an accident place the child in the walker again, indicating that they do not view the product as the problem. With at least 3 million baby walkers sold annually (and another 25 million in the hands of consumers), millions of parents are able to utilize this highly valued juvenile product without incident.

Advocates of Federal intervention have argued that the threat of mandatory action is needed to force industry to work on voluntary standards. I disagree. The juvenile products industry has developed and met a variety of voluntary and mandatory standards relating to walkers, working cooperatively with the Commission in



an effort to produce safer products. This industry continues to work on design changes and now markets modified walkers so that an array of products are offered to consumers.

The Juvenile Products Manufacturers Association (JPMA), whose members have over 90% of the mass retail market for baby walkers, have a strong record in the development and implementation of standards, both voluntary and mandatory. Once a direction for a voluntary standard is established, I am confident that industry will actively pursue its development. Finally, not all consumers leave stairs unprotected or live in homes with stairs. The voluntary standards approach would allow them to purchase a product which meet their needs. These consumers may well find the more expensive modified walkers to be neither necessary nor desirable.

I believe that the Commission's decision to initiate formal rulemaking is unnecessary.