



U.S. CONSUMER PRODUCT SAFETY COMMISSION
4330 EAST WEST HIGHWAY
BETHESDA, MARYLAND 20814-4408

MINUTES OF COMMISSION MEETING
June 29, 2011

Vice Chairman Robert S. Adler convened the June 29, 2011 meeting of the U. S. Consumer Product Safety Commission at 9:00 a.m. in open session. Commissioners Thomas H. Moore, Nancy A. Nord and Anne M. Northup were also in attendance. Chairman Inez M. Tenenbaum was not present.

Technological Feasibility of 100 ppm for Lead Content, Section 101(a) of the Consumer Product Safety Improvement Act ("CPSIA")

Vice Chairman Adler made opening remarks and a summary of the issue, then introduced the staff that will brief the Commission, Hyun S. Kim, General Attorney, Office of General Counsel, Kristina M. Hatelid, Ph.D., M.P.H., Toxicologist, Directorate for Health Sciences, Randy S. Butturini, Electrical Engineer, Office of Hazard Identification and Reduction, John W. Boja, Ph.D., Lead Compliance Officer, Office of Compliance and Field Operations, Deborah V. Aiken, Ph.D., Senior Staff Coordinator, Directorate for Economic Analysis, and Joel R. Recht, Director, Division of Chemistry, Directorate for Laboratory Sciences. Ms. Kim briefed the Commission on the requirements of Section 101(a) of the CPSIA, the history of the Commission activities on the issue and the issuance in the *Federal Register* ("FR") notice on the technological feasibility of the 100 ppm lead content limit in children's products. Dr. Hatelid briefed the Commission on the technical work and research by the staff on the 100 ppm issue and summarized the staff recommendations. After their briefing the staff responded to questions from the Commission. No decisions were made during this part of the meeting. (Ref: staff briefing packages dated June 22 and 29, 2011.) Commissioner Northup left the meeting at this time.

Substantial Product Hazard List: Children's Upper Outerwear in Sizes 2T to 12 with Neck or Hood Drawstrings and Children's Upper Outerwear in Sizes 2T to 16 with Certain Waist or Bottom Drawstrings, Final Rule under Section 15(j) of the Consumer Product Safety Act ("CPSA")

Vice Chairman Adler introduced the issue involving the issuance of a draft proposed rule that would specify that children's upper outerwear with certain neck or hood or waist or bottom drawstrings are a substantial hazard pursuant to section 15(j) of the CPSA. Vice Chairman Adler asked if there was any discussion of the proposed rule. Hearing no discussion, Vice Chairman Adler recognized Commissioner Nord to propose an amendment. Commissioner Nord moved and offered an amendment in the form of a substitute draft notice to clarify that the Commission considers ties to be part of the ASTM standard and within the definition of drawstring. Vice

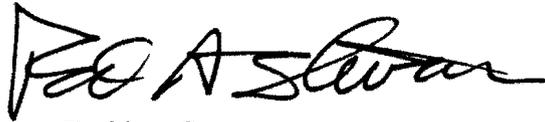
Chairman Adler seconded the motion and called for any discussion. Vice Chairman Adler made a supporting statement and called for the vote. The Commissioners voted unanimously (5-0) to adopt the substitute draft notice offered by Commissioner Nord. Chairman Tenenbaum and Commissioner Northup voted by written ballot filed with the Secretary.

Vice Chairman Adler called for any statements about the issue before them. Commissioner Nord and Vice Chairman Adler made statements. Vice Chairman Adler moved to approve the publication of the amended draft final rule under Section 15(j) of the CPSA specifying that children's upper outerwear garments in sized 2T to 16, with neck or hood drawstrings, and children's upper outerwear in sizes 2T to 16, with certain waist or bottom drawstrings to be substantial product hazards with the changes in the *FR* notice that Commission Nord offered. Commissioner Moore seconded the motion. Vice Chairman Adler called for the question. The Commissioners voted unanimously (5-0) to approve the publication of the draft notice in the *FR* with the changes offered by Commissioner Nord. Chairman Tenenbaum and Commissioner Northup voted by written ballot filed with the Secretary.

Chairman Tenenbaum and Commissioner Nord submitted the attached statements regarding the matter.

There being no further business on the agenda, Vice Chairman Adler adjourned the meeting at 11:25 a.m.

For the Commission:



Todd A. Stevenson
Secretary to the Commission

Attachments: Statement of Chairman Tenenbaum
Statement of Commissioner Nord



U.S. CONSUMER PRODUCT SAFETY COMMISSION
4330 EAST WEST HIGHWAY
BETHESDA, MD 20814

CHAIRMAN INEZ M. TENENBAUM

JUNE 29, 2011

**STATEMENT OF CHAIRMAN INEZ M. TENENBAUM ON THE COMMISSION
DECISION ON A FINAL RULE TO ESTABLISH CHILDREN'S UPPER
OUTERWEAR IN SIZES 2T TO 12 WITH NECK OR HOOD DRAWSTRINGS
AND CHILDREN'S UPPER OUTERWEAR IN SIZES 2T TO 16 WITH CERTAIN
WAIST OR BOTTOM DRAWSTRINGS AS SUBSTANTIAL PRODUCT HAZARDS**

Today the Commission voted to increase protections for children from the entrapment, strangulation, and dragging hazards presented by ties or drawstrings attached to children's sweatshirts, jackets, or other children's upper outerwear. The Commission has long educated makers of children's clothing of the risks presented by drawstrings either in the hood and neck area, or the waist of jackets and sweatshirts.

Between 1985 and April 2011, CPSC is aware of 56 reports of incidents where drawstrings in the neck or hood of upper outerwear became entangled, often on playground equipment. Tragically, 18 of these incidents resulted in fatalities. Between January 1985 and April 2011, drawstrings on the waist and bottom of these garments are associated with 28 reports of entanglement resulting in eight fatalities. Seven of eight of these fatalities resulted when the drawstring became caught in a bus, and the bus pulled away.

Section 223 of the Consumer Product Safety Improvement Act of 2008 ("CPSIA") added a subsection (j) to Section 15 of the Consumer Product Safety Improvement Act ("CPSA").¹ This section authorizes the Commission to issue rules establishing that defined characteristics of a consumer product that present a risk of injury will be deemed to be a substantial product hazard. The Commission, however, first must determine that the characteristics are readily observable and have been addressed by an applicable voluntary standard. The Commission also must find that the standard has been effective in reducing the risk of injury and that there has been substantial compliance with the standard.²

The adoption of the ASTM voluntary standard in 1997 disallowing the use of drawstrings, defined as "a non-retractable cord, ribbon, or tape of any material to pull together parts of upper outerwear to provide for closure" is credited with a decrease in the number of incidents associated with drawstrings. The standard applies to upper outerwear, defined as

¹ 15 U.S.C. § 2064(j).

² *Id.*

“clothing, such as jackets and sweatshirts, generally intended to be worn on the exterior of other garments.”

Commission staff has demonstrated properly that the characteristics of drawstrings at issue meet the criteria to establish them as substantial product hazards under CPSA section 15(j). Children’s upper outerwear in sizes 2T to 12 with neck or hood drawstrings and children’s upper outerwear in sizes 2T to 16 with certain waist or bottom drawstrings are readily observable and have been addressed by an applicable voluntary standard. In addition, CPSC staff has concluded that the standard has been effective in reducing the risk of injury and there has been substantial compliance with the standard.

Commission staff noted that trade associations representing garment manufacturers expressed confusion as whether ties on upper outerwear that do not “pass through a channel,” are covered by the ASTM voluntary standard. The commenters stated that the common industry understanding is that such ties do not fall under the ASTM voluntary standard. The definition for a drawstring under the ASTM voluntary standard includes “a non-retractable cord, ribbon, or tape of any material to pull together parts of upper outerwear to provide for closure.” The Commission long has understood that such ties are drawstrings. This interpretation is evidenced by our recall and other enforcement efforts. How the ASTM drawstring definition could be read not to include ties designed to aid in closing a garment defies common sense. More important, ties pose the same risks regardless of whether they pass through a channel. For this reason, I have joined my fellow Commissioners in supporting a clarification that the Commission interprets the ASTM standard to cover such ties. As such, the Commission appropriately has included ties within the rule approved today.

All serious injuries to children are tragic. There is something particularly senseless, however, when a child is killed or injured because a manufacturer or retailer has failed to exclude drawstrings from clothing for a child. To date, there have been far too many recalls involving this defect—more than 100 recalls in recent years involving millions of items of clothes. This rule strengthens CPSC’s authority to regulate drawstrings, and empowers our import staff and federal partners at Customs and Border Protection to quickly halt shipments of potentially hazardous children’s outerwear at the ports of entry. The conversion of these longstanding voluntary guidelines into a mandatory standard could not have come soon enough. It is time for the garment industry to achieve complete compliance with this simple requirement designed to keep our nation’s children safe in homes, on playgrounds, and at the bus stop.



U.S. CONSUMER PRODUCT SAFETY COMMISSION
4330 EAST WEST HIGHWAY
BETHESDA, MD 20814

STATEMENT OF COMMISSIONER NANCY NORD ON THE VOTE TO ADD TO THE
SUBSTANTIAL PRODUCT HAZARD LIST, CHILDREN'S UPPER OUTERWEAR IN
SIZES 2T TO 12 WITH NECK OR HOOD DRAWSTRINGS AND CHILDREN'S UPPER
OUTERWEAR IN SIZES 2T TO 16 WITH CERTAIN WAIST OR BOTTOM
DRAWSTRINGS

June 29, 2011

I am voting today in support of designating certain children's upper outerwear garments involving drawstrings as presenting substantial product hazards. This vote is important and has been a long time in coming.

It is important because the agency has received reports for years about entanglements and strangulations involving drawstrings. However, for the years for which reporting is considered complete, the data show a dramatic reduction in the annual average number of reported fatalities after the ASTM standard F 1816-97 was published in 1998. It should be noted, nonetheless, that we continued to receive incident reports.

This vote is a long time in coming because the agency should have moved sooner to make clear the agency's position. In 2006, the CPSC's Office of Compliance posted a letter on CPSC's website to the manufacturers, importers, and retailers of children's upper outerwear, citing the fatalities that had occurred and urging compliance with the industry standard. Yet from 2006 to 2010, we participated in 115 recalls of non-complying products with drawstrings. While traveling in Southeast Asia last year, I heard from manufacturers and testing labs the request for the agency to clarify through rulemaking exactly what the law is. In May 2010, we published a proposed rule that would deem these children's upper outerwear garments to be substantial product hazards. Since then I have continually urged my colleagues to finalize this rulemaking as quickly as possible so that manufacturers, importers and retailers were finally put on notice that we consider these products to be a substantial hazard.

Today's vote makes it clear: we have no tolerance for drawstrings endangering children on their upper outerwear.