



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

MINUTES OF COMMISSION MEETING
March 2, 1998
4330 East West Highway
Bethesda, Maryland

The March 2, 1998, meeting of the U. S. Consumer Product Safety Commission was convened in open session at 10:00 a.m. by Chairman Ann Brown. Commissioner Mary Sheila Gall and Commissioner Thomas H. Moore were present.

Agenda Items

1. Upholstered Furniture Flammability

The Commission considered options for Commission action to address the risk of fires caused by small open flame ignition of upholstered furniture. On December 18, 1997, the Commission staff briefed the Commission on a possible proposed standard addressing small open flame ignition of upholstered furniture and on the staff's evaluation of the cigarette ignition resistance of upholstered furniture. On both issues, the staff recommended that the Commission defer action at this time. (Ref: staff briefing package dated October 24, 1997.) In response to questions from Commissioners following the briefing, the staff also provided the Commission with additional information by memorandum dated January 30, 1998.

On motion of Chairman Brown, the Commission voted 2-1 to defer action on issuing a notice of proposed rulemaking addressing small open flame ignitions and to direct the staff to prepare a Federal Register notice announcing a public hearing to gather additional information on the toxicity of available fire-resistant treatments for upholstered furniture. Additionally, the Commission directed that staff report back to the Commission on the results of its investigation within five months from the date of this decision unless directed otherwise by the Commission. Chairman Brown and Commissioner Moore voted in favor; Commissioner Gall voted against the motion.

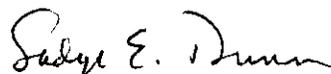
Separate statements regarding the upholstered furniture flammability matter were filed by Chairman Brown, Commissioner Moore, and Commissioner Gall, copies attached.

2. Proposed PPPA Rule Requiring Child-Resistant Packaging for Topical Minoxidil

The staff briefed the Commission on a proposed rule requiring child-resistant packaging under the Poison Prevention Packaging Act (PPPA) for minoxidil preparations containing more than 14 mg of minoxidil in a single package. (Ref: staff briefing package dated February 10, 1998.) The Commissioners asked questions of the staff and discussed the issues raised in the briefing material. No decisions were made at today's meeting.

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

For the Commission:



Sadye E. Dunn
Secretary

Attachments

**Statement of the Honorable Ann Brown
Decision Meeting on Upholstered Furniture
March 2, 1998**

Today, with my support, the Commission voted to defer action on issuing a notice of proposed rulemaking addressing small open flame ignitions, and decided to hold a public hearing to gather additional information on the toxicity of available fire-resistant treatments for upholstered furniture.

The staff is expected to report the results of its additional work on toxicity to the Commission within five months.

There is no doubt about the seriousness of this issue. Upholstered furniture fire losses are the leading cause of fire deaths among all products under the Commission's jurisdiction. Residential fires resulting from ignitions of upholstered furniture killed an estimated 670 people in 1995, and injured more than 1,700. Total societal costs were nearly \$4 billion.

Nevertheless, the impact of fire-retardant chemicals on human health and our environment is a very important issue to me. I want to be certain that we have adequately investigated the potential of these chemicals to cause adverse health effects before I decide whether to vote to mandate a standard that could result in their use.

I am confident that the information that we will gather by holding a public hearing, and its investigation into the toxicity of fire retardant materials, will give the Commission the information it requires to make an intelligent and informed decision.

It is important that we thoroughly investigate the toxicity of these materials so that we guard against any unintended consequences that could result from the use of FR chemicals.



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STATEMENT OF THOMAS H. MOORE
ON OPTIONS FOR UPHOLSTERED FURNITURE FLAMMABILITY
PROJECT

MARCH 2, 1998

I am voting today to defer the decision on whether there should be a notice of proposed rulemaking on small open flame ignition of upholstered furniture, to give the staff an opportunity to collect more information on the toxicity of flame retardant chemical treatments for upholstery fabrics, and on certain other topics. This vote in no way foreshadows my vote on the ultimate question of whether to go forward with a proposed rule.

With regard to the toxicity research which staff wants to do, I believe that the Commission has a duty to consumers to resolve any doubts which may exist in the scientific community or elsewhere, as to possible harmful effects. This research should be done regardless of whether this agency takes steps to further expand the use of FR chemical treatments in American homes.

Use of these chemicals should also be addressed in light of Executive Order 13045, which places a

responsibility on federal agencies to identify and assess environmental health and safety risks that may disproportionately affect children, including those related to the products we use or are exposed to. In addition to being potentially more susceptible to toxic substances, children are more likely to mouth and rub their faces on upholstery fabrics than adults and thus may have more exposure to any toxic substances in those fabrics. We do not want to reduce one hazard, only to increase another.

In their response to my supplemental questions, staff has listed a number of issues related to small open flame ignition resistance versus cigarette ignition resistance, which will also be addressed during the deferral period. And staff indicated at the briefing that the durability of FR treatments would be studied during this period. There is a great deal to do in a short amount of time. I want to reiterate what I said at the briefing, five months is not a magic number for me--I want to see the review done properly, not quickly.

In the public forum on the toxicity issues, I encourage staff to reach out to as many segments of the community as possible to obtain the widest participation. We want American consumers to have an active role in any decision which could have a significant impact on their home life and health.



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March 2, 1998

**STATEMENT OF THE HONORABLE MARY SHEILA GALL
ON OPTIONS FOR UPHOLSTERED FURNITURE
FLAMMABILITY PROJECT**

Today, I voted to terminate the rulemaking on small open flame-ignited upholstered furniture and to withdraw the advance notice of proposed rulemaking (ANPR). In 1994 I voted against publishing an ANPR on small open flame ignition and also against an ANPR on cigarette ignition.

In the briefing package discussing options, the staff described both its progress over the past three years toward developing a draft standard to address the risk of upholstered furniture fires caused by small open flame ignition, and its evaluation of the hazard posed by cigarette ignition of upholstered furniture.

After a thorough evaluation of these briefing materials, I conclude that the testing protocol developed by the staff for a small open flame standard does not simulate adequately the circumstances associated with upholstered furniture fires. The incident data utilized by the staff to support the draft standard for small open flame ignition is not statistically representative of all small open-flame ignition incidents. However, these incidents probably would not be addressed by the draft protocol. The draft protocol applies flame to fabric for twenty seconds. The majority of incidents resulted from young children left unattended for extended periods of time. The length of flame exposure to the furniture surfaces is unknown. Other ignitions were caused by older unsupervised children with a history of playing with fire. Some fires were purposely set. In the ignition incidents attributed to candles, there were extended exposures of the flame to the furniture for more than two minutes, and some exposures ranged to several hours. Very little of the data collected over the past three years indicates that childplay with fire and accidental ignitions by candles, matches and lighters can be addressed by a twenty second ignition-resistance exposure requirement to small open flames. (Since human factors staff assert that a young child will not play with matches for more than thirty seconds, this may be the one area that is addressable by the draft standard.)

I question whether resistance to twenty seconds of flame application, as required by the draft protocol, will result in any meaningful reduction in small open flame upholstered furniture fires in the world outside of the laboratory.

I also question whether imposing a small open flame ignition standard on upholstered furniture would materially reduce the number of cigarette ignitions. Data have shown that the voluntary industry program for cigarette ignition (UFAC) has a high compliance rate. The program has resulted in a significant decrease in numbers of injuries and deaths since 1980. Interim test results show that fabrics that are resistant to small open flame are not always resistant to cigarette ignition.

I believe that the benefits from imposing a small open flame ignition standard on upholstered furniture are overestimated. The economic data specifying and measuring costs are similarly questionable. There are three costs in particular that I feel were underestimated, and would significantly increase the burden to industry to comply with the proposed standard:

1. The briefing package estimated cost to industry for applying coatings to fabrics by comparing manufacturing practices in the U.K., where a large number of textile companies have the appropriate equipment for treating fabrics. By contrast, in the United States, according to a representative of the American Textile Manufacturers Institute (speaking during a recent meeting at the Commission to address mattress and bedding fires), few textile companies have made the investment necessary to have facilities for applying coatings to fabrics. All known American textile manufacturers are small businesses.

2. A fire-testing professional from TriData Corporation stated (at that same meeting) that it is well known that soiled fabrics do increase flammability. Staff referred to a tobacco industry-sponsored study which revealed no significant differences in cigarette ignition propensity between soiled and unsoiled fabrics, but did not do testing to evaluate the effects of age or soil on ignition propensity. The cost of developing a process to maintain the flammability resistance of fabrics in use over the long life of upholstered furniture is not included in the current cost estimates and is likely to be substantial.

3. In order to keep industry costs within reason for a small open flame test protocol, staff narrowed the test to apply on to the seating area and dust cover. Nearly a third, however, of the ignition incidents referred to in the

package started on the backs and sides of upholstered furniture. I question how practical and reasonable such a limited requirement would be in reducing small open flame ignitions.

The record presented to the Commission at its December 1997 briefing provides little evidence to alter the views that I expressed in 1994. Since I do not believe that the record has been made to support continuation of rulemaking in this area, it is not a productive use of the Commission's limited resources to continue developing a mandatory rule. I do not, therefore, support the staff's recommendation to conduct a hearing and additional fact-finding on the subject of the toxicological properties of fire-retardant chemicals or other substances that might be applied to fabrics to meet the flammability requirement. Fires and fire losses are a serious problem in this country. I support continued investigation into ways to prevent them. Unfortunately this proposal is not workable.