

**U.S. Consumer Product Safety Commission
LOG OF MEETING**

8/15/06
EXCEPTED BY: PETITION
RULEMAKING ADMIN. PROC'DG
WITH PORTIONS REMOVED

SUBJECT: Pending revisions to 16 C.F.R. Part 1115, with respect to section 15 reporting requirements

DATE OF MEETING: June 28, 2006

LOG ENTRY SOURCE: Pamela L. Weller

DATE OF LOG ENTRY: July 21, 2006

LOCATION: Room 725, CPSC Headquarters

CPSC ATTENDEE(S): Pamela L. Weller, Michael Gougisha, Counselors to Commissioner Thomas H. Moore

NON-CPSC ATTENDEE(S): Wayne Morris, Association of Home Appliance Manufacturers and Charles Samuels of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C., counsel for AHAM

SUMMARY OF MEETING: Mr. Samuels stated that there was a need for guidance with regard to section 15 reporting obligations because there were a lot of vague terms in our statutes and after thirty years it seemed sensible to revise them based on experience. Ms. Weller commented that the goals of clarity and transparency were good ones but that she was not sure that the proposal actually provided either of those. Mr. Samuels said that it was a fair comment that the language of the proposal that was before the Commission was stark with little or

no explanation.

He said that industry had made the same proposals to Chairman Ann Brown, but no action had been taken on them. He said there was no interest in undermining the quality or quantity of section 15 reports; that the proposals were not "safe harbors" for industry but that people are entitled to JUST comply with the law.

Mr. Samuels said he thought it would be helpful to go through Commissioner Moore's statement on the Federal Register notice seeking comments on the proposal. As to the definition of "defect," he indicated that warnings and instructions were often relevant. Mr. Morris added that every case he has ever been involved in has involved one of the factors they were seeking to add to the defect definition.

Mr. Samuels said that he agreed with Commissioner Moore's point that sometimes the Commission has to protect consumers from risks that might be viewed as obvious and, with regard to children, even from the inattentiveness of their own parents. He said he also agreed with most of Commissioner Moore's points on the number of defective products in use.

With regard to voluntary standards Mr. Samuels said that since what is a substantial product hazard is not always clear, that the voluntary standard is a good place to start; while not a safe harbor, a manufacturer should be able to take some comfort in the fact that their product complies with a voluntary standard; he said we should clarify the situation in which the hazard does not relate to the voluntary standard and should say that if a product does not meet a voluntary standard then there probably is a substantial product hazard.

When asked if Commissioner Moore would be able to support the section 15 revisions if they were rewritten to take many of his concerns into account, Ms. Weller said that Commissioner Moore would have to see the redrafted language before any commitment could be made, but that it was possible.

When asked by Mr. Gougisha if AHAM agreed with the idea of making more voluntary standards mandatory to be able to stop nonconforming products at the docks, Mr. Samuels said no.

Ms. Weller thanked Mr. Samuels and Mr. Morris for coming in to express their views.