



UNITED STATES  
CONSUMER PRODUCT SAFETY COMMISSION  
4330 EAST WEST HIGHWAY  
BETHESDA, MARYLAND 20814

## Memorandum

July 20, 2011

TO : The Commission

FROM : Todd A. Stevenson, Director  
Office of the Secretary

SUBJECT : Public Hearing on Commission Agenda and Priorities for FY 2013 –  
Wednesday, July 20, 2011 – Oral Presentations and Written Comments

Listed below are the three (3) individuals that gave oral presentations at the Wednesday, July 20<sup>th</sup> Public Hearing on Agenda and Priorities for FY 2013. Also listed below are the individuals that submitted written comments. Presentations and comments are attached.

### Presenters

Ami Gadhia

Policy Counsel

*Consumers Union*

*(Presenting on behalf of Consumers Union, Kids In Danger, Consumer Federation of America, and Public Citizen)*

Beth Scott

Regulatory Affairs Manager

*The American Association of University Women (AAUW)*

Stephen Lamar

Executive Vice President

*American Apparel and Footwear Association*

### Submitted Written Comments

Karen Deppa

Director of External Relations

*National Association of State Fire Marshals*

Jacob Cassady

Manager, Government Affairs

*American Cleaning Institute*

Ami Gadhia  
Consumers Union

**Stevenson, Todd**

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**From:** CPSC-OS,  
**Sent:** Friday, July 15, 2011 2:55 PM  
**To:** Stevenson, Todd  
**Subject:** FW: Agenda and Priorities FY 2013  
**Attachments:** CPSC Agenda and Priorities FY 2013.pdf

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**From:** Rusu, Ioana [<mailto:IRusu@consumer.org>]  
**Sent:** Friday, July 15, 2011 1:38 PM  
**To:** CPSC-OS,  
**Cc:** Bloom, Ellen; Gadhia, Ami; Rachel Weintraub; [nancy@kidsindanger.org](mailto:nancy@kidsindanger.org); Mays, Don; Christine Hines  
**Subject:** Agenda and Priorities FY 2013

To Whom It May Concern:

I am writing to request that Ami Gadhia, Policy Counsel for Consumers Union, be permitted to make an oral presentation at next week's hearing regarding the CPSC's Agenda and Priorities FY 2013. Ms. Gadhia will be presenting on behalf of Consumers Union, Consumer Federation of America, Kids In Danger, and Public Citizen. Ms. Gadhia's testimony is attached.

Please do not hesitate to contact me with any questions or concerns.

Regards,

**Ioana Rusu**  
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Regulatory Counsel  
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**Comments of Consumers Union of United States, Inc.  
to the U.S. Consumer Product Safety Commission on**

**“Agenda and Priorities FY 2013”**

**Presented by Ami Gadhia**

**On behalf of Consumers Union, Kids In Danger, Consumer Federation of America,  
and Public Citizen**

**July 20, 2011**

**Introduction**

Thank you for the opportunity to comment on CPSC’s agenda and priorities. My name is Ami Gadhia, Policy Counsel for Consumers Union, the non-profit publisher of *Consumer Reports*. I offer my comments today on behalf of Consumers Union, Kids In Danger, Consumer Federation of America, and Public Citizen.

I would like to make the following comments regarding CPSC’s agenda and priorities:

**CPSIA Implementation**

The implementation of the CPSIA remains a top priority for our groups, and we applaud the Commission for its commitment to this process. We appreciate the fact that this law requires the agency to carry out numerous rulemakings, which take up a significant portion of CPSC staff’s time and energy. The results of the staff’s work, however, have provided significant protections to consumers. For example, the crib standard, which went into effect on June 28, 2011, is currently the strongest standard in the world and will result in a new generation of safer cribs. We support CPSC’s efforts on this particular front, and appreciate the commitment the agency showed in getting this landmark standard implemented quickly.

We are also pleased that the Commission launched its new public database in March of this year. We applaud all the hard work the Commission staff has put into this new information tool. The database has already become a widely-used resource, according to a recent congressional analysis.<sup>1</sup> In addition, according to the analysis, as of July 2011, the site already has seen more than 305,000 visits, and over 1.8 million product searches. In addition, more than half of all site visits occurred in June 2011, indicating that the database is quickly gaining in popularity.

As part of CPSIA, CPSC is also developing mandatory standards for durable infant and toddler products based on the voluntary ASTM International standards. We urge CPSC to continue to work closely with the ASTM Juvenile Product Subcommittees in developing these standards. CPSC's increased role at ASTM has been instrumental in the tough new standards that are being developed.

Going forward, we encourage CPSC to continue focusing its efforts on the public database. The Commission should keep up to date with consumer postings and should use this valuable resource to track trends and identify emerging hazards. For example, numerous safety reports have been filed regarding kitchen appliance hazards. Reports submitted to the public database could help the CPSC discern emerging problems related to these particular consumer products. We encourage the agency to conduct follow-up investigations of such recurring consumer complaints.

There are a few areas of CPSIA implementation, however, which continue to cause significant concern. We urge CPSC to issue its component parts and "15-month rules," as well as to put its resources towards more timely lab accreditations for third-party testing. We anticipate that these rules and approvals will allow for quicker and easier compliance with the new mandatory standards adopted under CPSIA.

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<sup>1</sup> Evaluation of the Consumer Product Safety Database, Report by Committee on Energy and Commerce, Democratic Staff (July 2011), available on the web at [http://democrats.energycommerce.house.gov/sites/default/files/documents/CPSCDatabaseReport\\_07.07.11.pdf](http://democrats.energycommerce.house.gov/sites/default/files/documents/CPSCDatabaseReport_07.07.11.pdf).

In addition, we urge CPSC to closely monitor imports of children's products. Many countries currently producing toys and other such products sold in the United States do not follow the same rigorous standards mandated by the CPSIA. The Commission must take a proactive role in limiting the entry of such dangerous products into the U.S. marketplace. While CPSC has begun to improve its presence at U.S. ports, we encourage the agency to establish a more extensive presence and to work with the private sector and foreign governments to ensure imported products meet U.S. safety standards.

### **Sleep Environment Safety**

We support CPSC's efforts to reduce injuries to children caused by nursery products such as cribs, play yards, and bassinets. The rulemakings implemented by the Commission represent a much-needed step in the right direction. In addition, we would urge CPSC to release their findings on the safety of crib bumper pads and make clear recommendations to parents about their safety. CPSC's and FDA's warning on sleep positioners served to drastically reduce the availability of these products, although a complete ban would be more protective of infant safety. We would like to see similar action on crib bumper pads, also associated with infant deaths. Other sleep environments, such as bedside sleepers, bassinets, and infant incline sleep products also need strong new mandatory standards to prevent dangerous designs from entering the marketplace and our homes.

In addition, as the new rules go into effect, CPSC must play a key role in market oversight to ensure that older unsafe products, including cribs with drop-sides, are removed from the second-hand market and child care facilities. Unsafe cribs are still being sold on sites such as Ebay and Craigslist. We encourage CPSC to continue its oversight efforts in order to ensure that such products are removed from the marketplace.

### **Recall Effectiveness**

Recall effectiveness remains an extremely important area of focus for the agency. The Commission has made a good start in promoting the new product registration card program for infant and toddler durable products. Most manufacturers are complying with this requirement, and many consumers are registering their products online. However,

better messaging is still needed to ensure that consumers understand the importance of registering products and actually participate in the registration process.

We also urge CPSC to develop better ways for consumers to receive recall information. The Commission must take a multi-faceted approach to this important issue. For example, the agency could encourage retailers and manufacturers to send information through text messages, not just mail and email. Many U.S. households currently do not have Internet access and rely wholly on mobile devices. In addition, retailers who offer consumers loyalty programs could use purchase records to determine which consumers should receive recall information. Some retailers already notify members and loyalty-card holders, and we urge CPSC to encourage other retailers to do the same.

On this particular front, we continue to appreciate CPSC's support of the School Safety Alert Program and its participation in the National School Safety Coalition. The coalition, comprised of government agencies, school-based organizations, parent-teacher organizations, and Consumers Union, pushes out a steady stream of product recall notices to parents of school-age children on the [ClickCheckandProtect.org](http://ClickCheckandProtect.org) web site, which is updated almost on a daily basis.

We encourage CPSC to consider adopting a team approach to address the recall effectiveness problem. Similar to the sleep environment team that has successfully brought quick responses to emerging hazards in baby sleep environments, CPSC should have a team dedicated to recall effectiveness that includes staff from all divisions and works directly with consumer groups, retailers, manufacturers and the media to improve recall effectiveness. In addition, we hope CPSC will be more transparent in revealing the effectiveness of individual product recalls. Such information could help stakeholders understand which methods are most effective in getting information to consumers, and which could be improved.

## **Other Areas of Concern**

### *Heavy Metals*

We are pleased that the Commission has made some progress in preventing the use of cadmium as a replacement for lead in children's products. We urge the agency to study the harms associated with other heavy metals that may be in consumer products. We urge the Commission to work diligently with ASTM International in the development of heavy metals standards for toys, children's metal jewelry, and other children's products.

### *Furniture Safety*

We continue to be extremely concerned about deaths and injuries suffered by young children as a result of furniture tip-overs. We believe that the current ASTM standard is flawed and will allow unstable furniture to be sold. We also urge the Commission to focus on injuries resulting from breaking glass tables. Nearly 20,000 serious injuries are suffered each year due to glass furniture,<sup>2</sup> and most injuries could potentially be prevented through the use of safety glass. CPSC currently has regulations for the safety of glass used in shower and storm doors, but no standards exist for glass furniture. We strongly urge CPSC to actively participate on ASTM furniture safety committees, so that the agency can push industry towards strong voluntary standards on this front.

### *Nanomaterials*

We continue to express concern with the rapid proliferation of products containing nanomaterials, due to a lack of sufficient understanding regarding their possible health effects. We support CPSC's study of nanomaterials in collaboration with other government agencies, and hope this information will lead to a better understanding of potential risks associated with nanotechnology.

### *Window Coverings and Other Cord-Related Hazards*

The injuries from corded window coverings are sometimes fatal and often severe. Some

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<sup>2</sup> Donald L. Mays et al., "Glass Table-Related Injuries in Children," *Journal of Pediatric Emergency Care*, Vol. 25, Issue 3, pp. 145-149 (March 2009), available on the web at [http://journals.lww.com/pec-online/Abstract/2009/03000/Glass\\_Table\\_Related\\_Injuries\\_in\\_Children.3.aspx](http://journals.lww.com/pec-online/Abstract/2009/03000/Glass_Table_Related_Injuries_in_Children.3.aspx).

children suffer permanent and debilitating brain damage after getting entangled in blind cords. As a result, we applaud the Commission for its efforts to push industry towards developing a strong voluntary standard for window coverings. We appreciate the agency's commitment to this issue, and urge it to continue working towards the development of a new standard that eliminates – and not simply reduces – the risk of strangulation associated with all window coverings. Window coverings should have no cords with an accessible length of more than 7.25 inches in any configuration.

We also wish to point out that other household cords also pose strangulation hazards to children. We are pleased with CPSC's mandatory warnings on baby monitors, and hope the Commission will continue addressing these issues as they come up.

#### *ATVs and ROVs*

We are particularly concerned about the hazards associated with use of all-terrain and recreational off-highway vehicles. Each year, approximately 800 people die in accidents associated with ATVs and another 132,000 are injured, too many of which are children.<sup>3</sup> Although the number of incidents with ROVs is far smaller, the hazards are the same. We urge CPSC to move forward on the ATV rulemaking, mandating rigorous safety standards for these vehicles and requiring manufacturers and retailers to provide effective educational information to all purchasers.

#### *Drowning Prevention*

We encourage CPSC to continue their work on drowning prevention. We support the Virginia Graeme Baker Pool and Spa Safety Act, but we also urge CPSC to focus on inflatable swimming pools. Drownings caused by inflatable pools are just as much a safety concern as drownings caused by entrapment. We encourage CPSC to take a close look at inflatable swimming pools to determine if their safety can be enhanced.

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<sup>3</sup> U.S. Consumer Product Safety Commission, 2009 Annual Report of ATV-Related Deaths and Injuries; December 2010, available on the web at <http://www.cpsc.gov/library/foia/foia11/os/atv2009.pdf>.

### *Ladders*

Each year, there are more than 164,000 emergency room-treated injuries and scores of deaths in the U.S. that are caused by falls from ladders.<sup>4</sup> We believe that ladder safety standards are too weak and strengthening them is likely to reduce the injury rate. We encourage CPSC to make this a priority.

### *Cooking Fires*

CPSC once identified cooking fire prevention as a high priority. The staff worked diligently to develop “proof-of-concept” technology that could dramatically reduce hazardous cooking fires. That work was stopped amid industry opposition. With an average of 410 civilian deaths, 3,750 reported civilian injuries, and \$516 million in direct property damage associated with range fires,<sup>5</sup> we think CPSC should once again tackle this very preventable hazard.

### *Button-Cell Batteries*

We appreciate CPSC’s efforts to push industry towards creating a safer product design for button-cell batteries. Button-cell ingestion can result in devastating injuries to consumers and can even cause death. The batteries are ubiquitous in consumer products and manufacturers must ensure they are safely secured within the battery compartment so that they are not accidentally ingested. We encourage the agency to continue focusing on this significant health hazard.

### *Trampoline Safety*

Trampolines continue to be an area of concern, with about 100,000 trampoline-related injuries and even some fatalities being reported every year.<sup>6</sup> We encourage CPSC to dedicate resources towards addressing this hazard, with particular attention paid to the degradation of components due to weathering.

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<sup>4</sup> U.S. Consumer Product Safety Commission Product Safety Alert: CPSC Offers Safety Tips to Prevent Ladder Injuries, available on the web at <http://www.cpsc.gov/CPSCPUB/PUBS/ladder.html>.

<sup>5</sup> “Home Fires Involving Cooking Equipment,” National Fire Protection Association, November 2010, available on the web at <http://www.nfpa.org/assets/files/PDF/OS.Cooking.pdf>.

<sup>6</sup> U.S. Consumer Product Safety Commission, Trampoline- Related Deaths and Injuries, September 2000, available on the web at <http://www.cpsc.gov/library/tramp00.pdf>.

### *Bounce Houses and Other Inflatable Amusements*

Recent incidents have demonstrated that bounce houses and other such products can pose serious hazards to consumers. Some can deflate without notice, entrapping children or causing them to fall. Others can blow away and injure children. These incidents cause great concern. We urge the Commission to investigate this emerging hazard and to work with ASTM International in the development of voluntary standards for inflatable amusements that are intended for personal use by consumers.

### *Glass Fronts of Gas Vented Fireplaces*

We urge CPSC to initiate a rulemaking, as was requested in a recent petition, to require safeguards for glass fronts of gas vented fireplaces.<sup>7</sup> As laid out in the petition, the industry standard for gas vented fireplace heaters allows glass fronts to reach temperatures of 500 degrees Fahrenheit. These glass fronts are accessible to children and, according to CPSC's National Electronic Injury Surveillance System database (NEISS), more than 2,000 children ages 0–5 years suffered burn injuries on gas fireplaces in the period between 1999 and March 2009. We hope the agency will address this safety hazard.

### *Glass Bakeware*

We continue to receive numerous complaints from consumers regarding exploding glass bakeware. We urge the Commission to investigate this issue closely and address any safety concerns.

In conclusion, we applaud the Commission's efforts to address hazards associated with consumer products, and hope to work with the agency to help it fulfill its mission.

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<sup>7</sup> Petition Requesting Safeguards for Glass Fronts of Gas Vented Fireplaces, submitted by Carol Pollack-Nelson, Ph.D. to CPSC (May 2011), available on the web at <http://www.gpo.gov/fdsys/pkg/FR-2011-06-08/pdf/2011-14020.pdf>.

Beth Scott  
The American Association of University Women  
(AAUW)

**Stevenson, Todd**

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**From:** Scott, Beth [scottb@aauw.org]  
**Sent:** Friday, July 15, 2011 3:07 PM  
**To:** CPSC-OS,  
**Subject:** Agenda and Priorities FY 2013  
**Attachments:** AAUW Presentation to Consumer Product Safety Commission.pdf

The American Association of University Women (AAUW) would like to submit a request to make an oral presentation on "Agenda and Priorities FY 2013" at the July 20, 2011 meeting of the U.S. Consumer Product Safety Commission. Our written text is attached.

Regards,  
Beth

Beth Scott  
Regulatory Affairs Manager  
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July 15, 2011

Todd A. Stevenson  
Office of the Secretary  
U.S. Consumer Product Safety Commission  
4330 East West Highway  
Bethesda, Maryland 20814  
Email: [cpsc-os@cpsc.gov](mailto:cpsc-os@cpsc.gov)

Re: Request to include revised lead regulations for children's books in the Commission's agenda and priorities FY 2013.

Dear U.S. Consumer Product Safety Commission:

On behalf of the nearly 100,000 bipartisan members and donors of the American Association of University Women (AAUW), I am pleased to share AAUW's comments on the Commission Product Safety Commissions' agenda and priorities for fiscal year 2013. AAUW believes that the Consumer Product Safety Commission's FY 2013 agenda **should include the revision of the lead safety regulations to exempt children's books from burdensome and unnecessary restrictions.**

Since its founding in 1881, AAUW has been breaking down barriers for women and girls. For decades, many of AAUW's 1,000 branches have sold millions of new and used books to raise hundreds of thousands of dollars for college scholarships, civic grants, community outreach programs, and local education and library projects. AAUW believes that the commission overextended its authority when it imposed regulations requiring that every book published before 1986 intended for readers ages 12 and younger must be certified by commission-licensed labs that it meets lead restrictions before it can be sold.

Scientific testing has shown that finished ordinary books and their component materials contain levels of lead far below the law's requirements. Congress could not have intended to include such books under the new restrictions.

Additionally, the testing process is both costly and time-consuming, and imposes an illogical and unnecessary burden on many AAUW branches nationwide who are unable to pay for expensive testing for each and every children's book donated to them. These branches would either have to put in many more volunteer hours reviewing thousands of books for publication dates and target audiences, or decide to not accept or sell children's books at all. Either decision hurts the community by eroding the branch's ability to fund scholarships and grants, as well as put affordable books into the hands of children.

AAUW members from across the country have told us how these restrictions have hurt their charitable book sales. One member told us that *"We receive approximately 5,000 children's books each year as part of our book sale. We cannot possibly check the date of each book."*

Another member reported that *"The problem for me is that it is time consuming. I already spend many hours sorting and boxing books and this just adds another level of work. Plus there are many nice books that could be sold and enjoyed by another generation of children but instead must be tossed. It is quite a waste."*

Other members told us that they found it difficult to comply with the law's testing requirement. One member found that *"The cost is prohibitive to test a book. It would cost at least \$50 to test each different book that we would sell for 25 cents or a dollar."*

This was echoed by another member, who said that *"We cannot send any books for laboratory testing due to expense. This is a great reduction in sale profits for scholarships for women to return to college/university."*

AAUW supports the rigorous enforcement of all laws that protect our children from harm. The Consumer Product Safety Improvement Act has a noble goal of improving the safety of children's toys. However, AAUW urges the commission to revise its lead safety regulations to exempt children's books. These books have not been found to pose a threat to children's health or well-being, and these restrictions impose unnecessary burdens on charitable booksellers' ability to raise money to benefit their communities.

Thank you for the opportunity to speak on this important issue.

Sincerely,



Lisa M. Maatz  
Director, Public Policy and Government Relations

Stephen Lamar  
American Apparel and Footwear Association



**Agenda and Priorities for Fiscal Year 2013 Budget  
Written Testimony By  
Stephen Lamar  
Executive Vice President  
American Apparel & Footwear Association  
Submitted to the Consumer Product Safety Commission  
Hearing Date: July 20, 2011**

Commissioners, thank you for holding today's hearing and providing this forum for constructive dialogue.

On behalf of the American Apparel & Footwear Association (AAFA), I appreciate the opportunity to testify today regarding the Consumer Product Safety Commission's Priorities and Strategies for Fiscal Year 2013.

AAFA is the national trade association representing the apparel and footwear industry including its suppliers, manufacturers, retailers and service providers. Our members produce and sell products that touch every American – clothing and shoes. Our industry accounts for more than one million U.S. employees and more than \$340 billion in sales at retail each year.

Product safety requires an “all hands on deck” approach, and we all have specific roles to play. At AAFA, we take our product safety obligations seriously and I'd like to provide some background on our efforts before offering specific recommendations for the Commission for FY 2013.

To achieve the goal of providing consumers with the safest products available, AAFA has established long standing and active relationships with the Commission and other product safety stakeholders. Through these alliances, we have educated the industry on the development and implementation of new product safety standards while at the same time informing the CPSC of the many concerns of the industry regarding product safety initiatives and activities.

By utilizing industry associations like AAFA to help, not only in educating industry on product safety obligations, but in the rulemaking process as well, the Commission can help achieve better compliance, improved product safety, and long term benefits for public health.

As a result, AAFA's educational activities on these issues have increased substantially due to our industry's need to adhere to new rules and regulations and receive the appropriate guidance and information on the necessary actions needed to comply and

improve product safety. Shortly after passage of the Consumer Product Safety Improvement Act (CPSIA), AAFA reconstituted its Childrenswear Division into a Product Safety Council (PSC) to deal specifically with product safety issues that relate directly to the apparel and footwear industry. Today the PSC is more than 400 members strong and growing. AAFA uses the PSC to distribute information, interpret regulations, share best practices, and keep members up-to-date on the ever changing product safety landscape.

To provide the information as broadly and as quickly as possible, we continue to hold educational events on a regular basis. Each year we hold at least two domestic and two international product safety seminars. In the coming year, to more fully engage our supply chain, we are doubling the number of international seminars we hold. AAFA has also held numerous Product Safety Council meetings, additional product safety workshops and seminars, conference calls, and webinars that target specific product safety issues. Many of these programs have featured the direct participation of several Commissioners and other Commission staff. Moreover, we have spoken at a variety of trade shows and other industry events on the issue of product safety. Finally, we maintain a regularly updated and freely available restricted substance list (RSL) to help companies and their factories undertake their chemical management obligations. The RSL is currently translated into Chinese, Vietnamese, and Spanish. We will publish our 9<sup>th</sup> release in September.

Our industry's commitment to consumer product safety is clear. In 2010, of all the apparel and footwear sold in the U.S., only 0.0027% (twenty seven ten thousandths of a percent) was recalled with over two-thirds of those being due to draw strings. Because one recall is one too many, we are committed to making this number even smaller.

In an effort to decrease the number of recalls and increase product safety for all parties AAFA recommends the Commission adopt the following top priorities

**First**, on the strongest possible terms, we encourage the Commission to make sure that the regulatory output related to the CPSIA does not add costly new burdens to the regulated community.

While we believe the CPSIA has played an important role in raising the profile of product safety, and reminding all stakeholders of their product safety obligations, it has also caused considerable economic damage, especially to small businesses, as companies have had to understand and implement costly and redundant regulations. Moreover, a number of these regulations and requirements have done little to improve the safety of products being offered in the marketplace. Finally, the Commission itself has been adversely affected as agency staff has been tied up trying to make sense of a complicated, confusing, and unsustainable one-size-fits-all regulatory framework. We fear that key product safety priorities have been overshadowed by the work mandated by the CPSIA.

In those areas where the Commission has the flexibility to mitigate costs or delay a regulation until a full cost/benefit analysis can be undertaken, it should do so. In those

areas where the Commission does not have the flexibility to diverge from a Congressional mandate – where truly its “hands are tied” – it should forcefully explain to Congress why a different mandate is needed. We hope that the Commission, on a bi-partisan basis, can work with Congress to ensure that the CPSIA is swiftly amended to make sure that it better addresses and mitigates against product safety risks.

In some cases, the Commission has used its authority to make decisions that have provided regulatory relief. The determination that there is no lead in textiles - although this came at great cost to prove what everybody already knew – is one such example. In other cases, unfortunately, the Commission has not provided the relief that it was authorized to provide. The recent refusal to determine that the 100ppm level was not technologically feasible - despite widespread evidence to the contrary, much of it produced by the Commission’s own staff – is only the most recent example.

Last week’s Executive Order (EO) from the President on mitigating the regulatory burdens imposed by independent agencies seems to offer a path forward. That EO asks independent agencies to “promote retrospective analysis of rules that may be outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned.” One can almost imagine that President Obama issued that EO – with its discussion of cost/benefit analyses and the way in which regulations should promote job creation – after learning of some of the regulations that have been triggered by the CPSIA. We look forward to commenting on the plan the Commission will issue in the coming months.

**Second**, we would hope the Commission can ensure that all regulations meet several criteria.

- A. **Regulations should take effect prospectively**, and only after there is clear and comprehensive regulatory guidance from the Commission to give industry time to learn, understand, and teach their supply chains about the rules. The retroactive application of regulations, particularly when they are not coupled with clear and comprehensive guidance, unfairly punishes businesses for making products in good faith, especially when they were made in compliance with a previous product safety standard. It is important to remember that most companies engineer product safety into their products during the design stage. Forcing companies to make *ad hoc* decisions to accommodate last minute rule changes is both bad policy and a costly way to bring about compliance. On this point, we note that a major new regulation – the 100ppm lead standard - is scheduled to take effect retroactively in just under a month. We urge the Commission to explore all possible discretion to make sure this does not occur.
- B. All product safety regulations should be designed to **mitigate and protect against specific risks** and be clearly supported by the **data and facts**. Understanding new safety regulations involves understanding how they will address the specific hazard. Without that, the standards seem arbitrary and that perception will undermine the standards’ effectiveness and acceptance. The footwear and apparel industry, for example, is chafing under new CPSIA lead rules that appear designed to address product safety concerns with toys. In another CPSIA-inspired example, we continue to question

why the flammable fabric act regulations needed to be amended to include third party testing requirements when they are not children's product safety standards and when there was already in place an accepted series of test procedures backed by a continuing guarantee system. We note further that these testing requirements had just been updated after an exhaustive regulatory review – a process that was not used for the new third party testing mandate. Most importantly, the CPSC has not provided any evidence that these new, arbitrary and costly regulations will provide any improvement in product safety or the safety of the public.

- C. All rules should be **well-defined**. For example, recently the Commission declared drawstrings to be a substantial product safety hazard – a move we applauded and encouraged. As we migrate from the voluntary standard, we now need to make sure that the requirements are well understood and defined so that ambiguity doesn't become an obstacle to compliance. In the few weeks since the Commission took action, we have been besieged with requests for the definition of a drawstring. This is not necessarily straightforward because the Commission action updated the previous definition to include ties. More importantly, several states are actively enforcing their own regulations with their own sets of drawstring definitions. We look forward to working with the Commission to develop and implement the most effective, transparent and efficient regulations possible while, at the same time, ensuring much needed national and international harmonization in this critical area.
- D. Regulations should be created through a **transparent and predictable process**. All stakeholders should have a chance to participate and comment. If one group appears shut out, the final results may not be credible and accepted by all. This in the long run leads to a product safety regime that is not sustainable.
- E. The Commission must make sure that existing standards, like children's sleepwear, are **properly and fairly enforced**. Well-developed product safety regulations are undermined when they are unevenly enforced. In the case of children's sleepwear, we have provided the Commission with information on non-compliant children's sleepwear that remains on the market and continues to be sold year after year. While we understand the Commission cannot publicly discuss enforcement actions, we believe it can explain why apparently non compliant products are still allowed to be sold. The presence of non-compliant products raises fundamental safety issues and creates unfair competitive advantages. We are pleased by the recent signs of enforcement and we encourage the Commission to fully investigate all reports of non-compliant sleepwear to ensure that this standard is properly followed throughout the entire industry. We would also like to offer ourselves as a resource and guide for modernizing and harmonizing the existing regulations, including sizing standards for tight-fitting children's sleepwear.

While we understand the scope of this hearing is on the FY 2013 agenda, we would hope that the Commission can be mindful of the particular challenges that the regulated community faces during the coming year, particularly as new CPSIA mandates continue to be rolled out. In particular, we trust you will remember that the regulated community is on the frontlines of the partnership to ensure that only safe products are designed,

produced, marketed, and sold. These companies are hungry for a product safety regulatory framework that is simple, logical, easy to understand, and based on risk.

On that last point, I need to stress that “risk” is a NOT four letter word. It is a proven and cost effective way of managing product safety – from a regulatory and compliance perspective. Even the Commission agrees. Late last year, you published a statement of regulatory objectives. After noting your main mission, the preamble of this document stated: “...*the Commission gathers and analyzes the best available data about the nature and extent of the risk presented by the product.*” I think we need to refocus our efforts around the best way to mitigate risks.

We share your goal of improving product safety and public health, particularly for our most vulnerable citizens. We are delighted to have the opportunity to work closely with the Commission. We are mindful of the many challenges related to the CPSIA and to the on-going work of the Commission. We believe there are many opportunities for further collaboration between AAFA and the Commission, and we look forward to working with you to create a stable, predictable, risk-based regulatory environment.

Thank you.

Written Comment

Karen Deppa

National Association of State Fire Marshals

**Stevenson, Todd**

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**From:** CPSC-OS,  
**Sent:** Friday, July 15, 2011 2:59 PM  
**To:** Stevenson, Todd  
**Subject:** FW: Agenda and Priorities FY 2013  
**Attachments:** NASFM Agenda and Priorities FY 2013 FINAL.pdf

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**From:** Karen Deppa [<mailto:kdeppa@firemarshals.org>]  
**Sent:** Friday, July 15, 2011 2:54 PM  
**To:** CPSC-OS,  
**Subject:** Agenda and Priorities FY 2013

Dear Mr. Stevenson,

Attached is a written statement from the National Association of State Fire Marshals that we are submitting on the CPSC's agenda and priorities for fiscal year 2013. We will not be presenting an oral statement this year, but would like confirmation that this statement has been received for the record.

Thank you,  
Karen Deppa  
NASFM

Karen F. Deppa  
Director of External Relations  
National Association of State Fire Marshals  
[www.firemarshals.org](http://www.firemarshals.org)  
Green Buildings and Fire Safety - Bridging the Gap  
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**Statement of the National Association of State Fire Marshals  
Agenda and Priorities for FY 2013  
U.S. Consumer Product Safety Commission  
July 15, 2011**

This document represents the written statement of the National Association of State Fire Marshals (NASFM), which is being submitted for the record to the U.S. Consumer Product Safety Commission concerning its agenda and priorities for fiscal year 2013. We do not plan to make an oral presentation this year, but appreciate your taking our suggestions into account.

As you know, NASFM's members are the senior state fire officials in the United States. Our primary mission is to protect life, property and the environment from fire and other hazards. We appreciate the opportunity to call areas of concern to your attention for potential regulatory action.

In this statement, we highlight three major areas of focus for consideration in the FY 2013 budget. This is not to imply that issues we have raised in previous Agenda and Priorities statements pertaining to prior fiscal years are not still active concerns; however, in the interest of not repeating ourselves, this statement will highlight three additional concerns to put on the Commission's radar screen.

**1. Re-evaluate the Commission's data and process for investigating incidents involving the use of so-called "consumer" fireworks.**

In the CPSC report, "Fireworks-Related Deaths, Emergency Department-Treated Injuries, and Enforcement Activities During 2010" (June 2011), the CPSC reports that fireworks were involved in an estimated 8,600 injuries treated in hospital emergency departments. An estimated 6,300 of these injuries (or 73 percent of the total fireworks-related injuries) were treated in U.S. hospital emergency departments during the 1-month special study period between June 18, 2010 and July 18, 2010. The injury data in the past 10 years has been consistent.

Firecrackers, rockets and reloadable shells account for more than one-quarter of the total injuries. These are explosive devices that often do not behave predictably. Reloadable mortar tubes are not tested for "over use," yet we suspect that this is a significant reason that they malfunction. Your own data clearly identify a class of consumer products that should be removed from the market except for use by qualified and trained professionals. Other consumer products would not be allowed to remain on

the market if they were involved in such a high percentage of injuries. Why are these devices still allowed to be sold to consumers to maim them and in some cases to kill them? At what point does the CPSC determine that the rate of these injuries is not OK, and initiate a process of removing these products from the consumer marketplace?

NASFM belongs to the Alliance to Stop Consumer Fireworks, a group of health and safety organizations, coordinated by the National Fire Protection Association, that urges the public to avoid the use of consumer fireworks and, instead, to enjoy displays of fireworks conducted by trained professionals. NASFM does not believe that any consumer fireworks can truly be used safely. Please review the Commission's process for initiating action against the most dangerous of these products so that they can be removed from the consumer market in a timely manner.

**2. Initiate a ban on firepots and the fuel gel sold for use with them.**

Firepots are a relatively new product, available only in the past few years. They consist of a glazed ceramic container with a stainless steel reservoir into which an alcohol-based fuel gel is poured and ignited. The product is marketed for indoor and outdoor use.

The pourable gel fuel can ignite unexpectedly and splatter onto people and objects nearby when it is poured into a firepot that is still burning, because the consumer does not see the flame or is not aware that the firepot is still ignited. The fuel gel cannot be put out by a "stop, drop, and roll" maneuver. Attempts to smother the fire in the way that consumers are taught from the time they were children merely serve to spread the fuel gel to a greater surface while it continues to burn. Horrific injuries have resulted.

Following a series of articles by reporter David Halbfinger of the *New York Times* in June, the Commission investigated and announced a voluntary recall of one brand of pourable gel fuel due to fire and burn hazards. We appreciated that action, and the fact that you called attention to the dangers of the products during your annual fireworks safety media event on the National Mall. However, the firepot product and other brands of pourable fuel gel remain on the market. These products will continue to cause injuries and perhaps even deaths as a new way to make fire that serves no purpose other than decorative, that has no safety standards for either container or fuel, and that can spread fire in unpredictable and dangerous ways, causing severe harm to consumers. At what point do the number of incidents reach a level or a severity that the CPSC will determine, in its mission to "protect the public from unreasonable risks of injury or death" that these two categories of products do not belong on the market?

**3. Review and overhaul regulations 16 CFR 1210 and 1212, maintaining the effectiveness of the standards but not requiring young children to test surrogate lighters.**

The child-resistant requirements for cigarette and utility lighters can truly be considered one of the CPSC's success stories. During the three-year period of 1997-

99, shortly after the child resistancy standard for cigarette lighters took effect, child play fire deaths from such lighters decreased 58% as compared to similar data from 1985-87. While we would not wish to hinder the effectiveness of the regulations in any way, we would ask that the Commission explore the development of a child-resistancy test that would not require children to actually test surrogate lighters.

As fire safety officials, we spend a great deal of time telling young children not to play with lighters, to not even touch lighters, and to tell a grown-up when they see a lighter. We cannot in good conscience encourage parents to allow their children between the ages of 42 and 51 months (the audience for which the child-resistancy test is designed) to participate in this testing. Your own literature (CPSC Document #5021, "Child-Resistant Lighters Protect Young Children") states that "At these ages [i.e., ages 3 and 4], children are curious about fire but don't understand the danger." Our concern is that children under age 5 may well have difficulty understanding that "this time" with a surrogate lighter on a test panel run by an authority figure is different from any other time that they may encounter a lighter. Moreover, "practicing" with a surrogate lighter may instill in them not only more curiosity about real lighters, but also the ability to overcome the child-resistancy feature in real lighters that they may encounter afterward.

We understand that parents are reluctant to allow their children to participate in these test panels, and we see this as a good thing, even though we are aware that it makes compliance more difficult for industry.

We believe it is time for the CPSC to review its child-resistancy requirement and explore mechanical ways to test lighters that would result in the same level of compliance for the child-resistant mechanisms, but that does not require actual involvement by the very children we are jointly trying to protect.

Thank you for allowing NASFM once again to place important safety issues before you for potential regulatory action. Action on these issues, and on those we have raised previously, would be evidence that the CPSC takes its mission of protecting consumers seriously.

Written Comment  
Jacob Cassady  
American Cleaning Institute

## Hammond, Rocky

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**From:** CPSC-OS,  
**Sent:** Wednesday, July 20, 2011 8:19 AM  
**To:** Falvey, Cheryl; Chao, Phillip; Howell, Robert; Tenenbaum, Inez; Elder, Jacqueline; Hampshire, Melissa; Hammond, Rocky; Adler, Robert; Avitabile, Gregg; Duncan, Janell; Fellin, Mark; Fong-Swamidoss, Jana; Gougisha, Michael; Gugino, Paul; Hinson, Kenneth; Howsare, Matt; Kaye, Elliot; Lee, Dorothy; Levine, Jason; Mallory, Meredith; Martyak, Joseph; McCardell, Ophelia; Moore, Autumn; Moore, Thomas; Nord, Nancy; Northup, Anne; Stevenson, Todd; Taylor, Linda; Weller, Pamela  
**Subject:** FW: ACI Comments  
**Attachments:** ACI Comments FY2013 Agenda and Priorities.pdf

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**From:** Jacob Cassady [mailto:jcassady@cleaninginstitute.org]  
**Sent:** Tuesday, July 19, 2011 5:41 PM  
**To:** CPSC-OS,  
**Subject:** ACI Comments

Attached are ACI's comments for the July 20, 2011 hearing on the CPSC's FY2013 Agenda and Priorities.

Thank you for your consideration.

Sincerely,  
Jacob



american cleaning institute®  
find better ways

Jacob Cassady • Manager, Government Affairs •

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<http://www.cleaninginstitute.org>

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**VIA ELECTRONIC MAIL SUBMISSION**

July 20, 2011

The Honorable Inez Tenenbaum  
U.S. Consumer Product Safety Commission  
4330 East West Highway  
Bethesda, MD 20814

**RE: Consumer Product Safety Commission's Agenda and Priorities for Fiscal Year 2013**

Dear Chairman Tenenbaum:

The American Cleaning Institute® (ACI, formerly The Soap and Detergent Association, SDA) represents the \$30 billion U.S. cleaning products market and includes the formulators of soaps, detergents, and general cleaning products used in household, commercial, industrial and institutional settings; companies that supply ingredients and finished packaging for these products; and oleochemical producers.

As the Commission determines its agenda and priorities for Fiscal Year 2013, management and oversight of the Publicly Available Consumer Product Safety Information Database should take precedence.

Section 212 of the Consumer Product Safety Improvement Act required not just the establishment of the Database but also its maintenance. According to CPSC's 2012 Performance Budget Request, which was submitted to Congress in February of 2011, "currently, staff is able to investigate only a small percentage of reported incidents, and the number of incidents investigated, as a percentage of total reported incidents, has declined steadily since 2003."

The factual accuracy and veracity of claims made to the Database are two fundamental elements underpinning the credibility of the incident database. These two elements are crucial to avoid false or misleading reports or even incident reports based on mere rumor. The accuracy and completeness of factual circumstances are very important to submitted incident reports, and are essential to any attempt to demonstrate incident patterns.

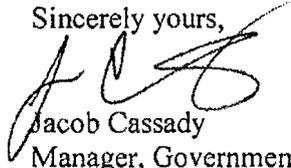
It is critical that materially inaccurate information in consumer incident reports are removed if certain information misidentifies the product in question. Examples include listing an incorrect product, manufacturer or private labeler, model, or brand; any information that is not directly related to the incident, such as unsubstantiated opinion statements about the product's design or general safety; and reports of an injury or hazard caused by something other than the product identified in the report.

Chairman Tenenbaum  
U.S. Consumer Product Safety Commission  
Page 2

Human review of submissions is an essential component to this. Commission staff review of all submissions to the Database should be a top priority for FY2013. This will reassure consumers and industry alike that the necessary information is provided for informed purchasing decisions.

ACI appreciates the opportunity to comment on the Consumer Product Safety Commission's agenda and priorities for fiscal year 2013. Should you or your staff require further assistance please contact me at (202) 662-2514 or at [jcassady@cleaninginstitute.org](mailto:jcassady@cleaninginstitute.org).

Sincerely yours,



Jacob Cassady  
Manager, Government Affairs