



**Statement of the National Association of State Fire Marshals
Hearing to Discuss Agenda, Priorities for FY 2012
U.S. Consumer Product Safety Commission
August 11, 2010**

Good morning, Chairman Tenenbaum, and Commissioners Adler, Moore, Nord, and Northup. Thank you for the opportunity to address the CPSC's agenda and priorities for fiscal year 2012.

My name is Bill Degnan, and I am State Fire Marshal of New Hampshire and Secretary-Treasurer of the National Association of State Fire Marshals (NASFM). I appeared before you at this hearing a year ago, and am honored to be back. As you know, NASFM's members are senior state-level fire protection officials whose responsibilities include fire safety code adoption and enforcement, fire and arson investigation, fire incident data reporting and analysis, public education and advising Governors and State Legislatures on fire protection issues and policy.

I want to take a moment to sincerely thank you, Madam Chairman, for addressing our membership at our annual conference in Chicago last month. Your energy and enthusiasm for a safer world matches our own, and we welcome your invitation to work together more closely to achieve our common goals. It is in that spirit of cooperation that I address you all on behalf of NASFM today.

At the risk of repeating ourselves, you will note that some of our suggestions echo those we have made in years past. Each year that we see a national need going unaddressed, it is with more urgency that we raise it in successive years. But first I would like to briefly address those areas for which we want to express our recognition and appreciation for work well done.

You have proven with the promulgation of the federal mattress flammability standard for open flame ignitions that you can address national fire concerns with effective performance based regulations, and that you can work with industry to educate and enforce those regulations fairly. You have proven with outreach efforts like firesafety.gov and your Neighborhood Safety Network that you can reach out to consumers, including those who are hard to reach and thus most at-risk, with effective safety messages on smoke alarms, electrical safety, gas container safety, and many other topics.

You have worked tirelessly to address the Commission's obligations under the Consumer Product Safety Improvement Act of 2008 (CPSIA). The volume and quality of

regulatory activity undertaken over the past two years is a tribute to you and your excellent staff. We trust that the additional resources that have been given to the Commission for CPSIA implementation have been used to the greatest advantage, and hope that the increased staff and funding can do “double duty” in service to other CPSC efforts that fall outside the scope of the CPSIA, including fire-related issues. We were gratified to see the resumption over the past year of the CPSC staff’s participation in many voluntary standard development activities that had been temporarily suspended after passage of the CPSIA. This is a key activity in which the expertise and sustained input of your staff is crucial to help shape safety standards on a range of products.

We acknowledge the huge amount of resources you and your partner agencies have put into the investigations of imported drywall over the past year and a half, to determine both health effects and fire risk from corrosion of metal components. We await the results of the research you have initiated on electrical and fire safety components. In the meantime, our members are on notice to inform your field investigators of any suspected fires related to problem drywall, and we understand that none have yet been confirmed.

We also want to point out the excellent relationships that State Fire Marshals have with your field staff across the country. These relationships have resulted in many product-related fire hazards’ being brought to the CPSC’s attention and resulting in positive action to recall or otherwise address the hazard in the product. I personally have had several positive encounters with the CPSC field staff over the years, and I pledge to you that NASFM and its members stand ready to continue our assistance with the identification of hazardous items to make our citizens and our living environment safer from fire.

**Draft Strategic Plan, 2011-2016:
The Key Is in the Implementation**

The Commission is engaged in revising its Strategic Plan, and a draft is out for public comment. We are happy to provide a public comment via the comment form on your website, as requested, but please allow me to take a minute to comment on the draft in this statement. The Commission’s previous strategic plan had two clearly stated product-related long-term strategic goals, one dealing with the reduction in product-related fire deaths and the other regarding accidental carbon monoxide poisoning. It stands to reason that a revised strategic plan should include additional goals, reflecting the full scope of hazards and products for which the CPSC is responsible. Our concern has been that fire-related goals not be diluted or overlooked in the process of revisiting the plan.

We note that the Goals and Objectives expressed in the draft strategic plan do not specifically mention any specific product safety issues, much less fire-related issues. The stated Goals and Objectives apparently are intended to provide a framework within which specific hazards can be addressed. The key will be in the execution of the plan to identify actions and performance measures to articulate a strong fire safety agenda, and whether that will occur remains to be seen. We assure you that we will be watching closely.

In that connection, we have some very specific suggestions for actions that the CPSC could take that would have true impacts on fires and fire-related deaths and injuries, and all are within the CPSC's authority and ability to accomplish.

Residential Fire Sprinklers:

Promote the Need, Dispel Myths, and Ensure Robust Performance Standards

Residential sprinkler requirements are one of the top priorities of our organization. Last fall, the requirement for fire sprinklers in one- and two-family residences survived a challenge from homebuilders to remain in the 2012 version of the International Residential Code, which influences building regulations across the country. A similar requirement exists in the National Fire Protection Association's Life Safety Code.® Challenges to adopting these codes will continue at the state and local levels but the trend toward more residential sprinkler systems being installed is here and it is undeniable. This creates two opportunities for the CPSC moving forward.

First, you can use your vast communications network, including www.firesafety.gov and the Neighborhood Safety Network, to help promote the benefits of residential sprinklers to consumers, and correct the misperceptions about sprinkler cost and performance that are spread by opponents to safety. Your ability to reach grass-roots consumers would help tremendously in our ability to ensure a "live-in firefighter" in every home. The CPSC can promote and supplement resources available from organizations such as the Residential Fire Safety Institute (www.firesafehome.org) and the Home Fire Sprinkler Coalition (www.homefiresprinkler.org) to add your tremendously influential voice to this life-saving cause.

Second, we urge CPSC to be actively involved in the regular review and updating of all applicable performance standards to ensure the reliability of residential fire sprinklers. You have access to a vast amount of in-house information and expertise on the reliability of present-day fire sprinklers. The residential application is fundamentally different from commercial applications for a number of reasons. Unlike sprinklers in commercial properties, sprinklers in residences are much less likely to be regularly inspected or tested in ways that history has shown are necessary to ensure reliability; fire officials simply do not have the same access to residences that they have to other occupancies that are controlled by code. In addition, the residential application is complicated by much more diverse use and exposure patterns, as well as reasonably anticipated misuse and abuse that makes the need for these products to work when called upon all the more crucial. The robustness of residential fire sprinkler performance standards is an area that the CPSC is well suited to address.

Cigarette Lighters:

Mandate Mechanical Safety Standards and Ban Novelty/Toylike Lighters

We have previously urged the Commission to act on a pending rulemaking to mandate the ASTM F400 voluntary Standard Consumer Safety Specification for Lighters as a federal regulation. Nine years ago, the Lighter Association petitioned CPSC to mandate the F400 standard. NASFM is on record as supporting the trade association's request.

The F400 standard is effective at assuring the structural integrity and the proper performance of lighters. There is no excuse for allowing cheap imports that do not comply into the United States, while responsible manufacturers take on the economic burden of complying. The F400 standard is effective, many responsible manufacturers comply with it, and it is already mandated by Canada and Mexico. However, many manufacturers of cheap imported lighters tend to view any voluntary standard as “optional.” The CPSC has had this petition for nine years, and we urge you to take this needed mandatory action to keep hazardous, poorly manufactured lighters out of the stream of commerce and out of the hands of consumers.

One of NASFM’s more recent campaigns has been to promote a ban on the sale of disposable novelty lighters shaped like toys, which are attractive to children and have resulted in tragic losses from fires that children have set with them. There is simply no excuse for selling a hazardous substance contained in toy-like containers that encourage children to seek them out and play with them. In the past year, 13 states have passed laws banning or otherwise restricting the sale of novelty lighters. Maine was the first, and the most recent was Illinois, which was signed by the governor on the first day of our annual conference last month. In the 111th Congress, the Protect Children from Dangerous Lighters Act, HR 2050 and S 723, would declare novelty lighters banned hazardous substances under the jurisdiction of the CPSC. NASFM supports all of these efforts. The National PTA just passed a resolution calling for novelty lighter bans as well, and we will be seeking more such endorsements. However, the state-by-state approach takes time, and the passage of federal legislation is always a long shot.

The CPSC has an opportunity to take true leadership on this issue, as it did with its child-resistant lighter regulations in the 1990s, and implement a national ban on the sale of novelty/toylike lighters that will decisively take these deadly products out of commerce and out of the hands of children – nationwide.

Wearing Apparel:

Toughen the 1953 Standard, and Do Not Overstate the Role of Accelerants

As we have shared with you previously, there is ample statistical data that show that consumers – especially those between the ages of 5 and 14 for clothing burn injuries and those over age 65 for clothing fire deaths – are not being adequately protected by the antiquated 1953 General Wearing Apparel Standard 16 CFR 1610. There is an ample and long chronology of scientific evidence and expert opinion that the standard, which allows newspaper and tissue paper to pass with flying colors, is grossly insufficient. There is also an established history that the CPSC’s own Children’s Sleepwear Flammability Standards have been very effective in proving that safer garments can be manufactured.

We are therefore puzzled and concerned by the historic resistance of the Commission to consider strengthening 16 CFR 1610 for all wearing apparel, and are particularly alarmed by the perception within the CPSC that any further regulation will have no benefit because of the observed involvement of flammable liquids in many of the burn incidents it has studied. We find it hard to accept the reality of this perception, and believe that it may be based on very limited research and incomplete analysis.

The CPSC is in a greater position than it has been in many years to be a proactive force in safety, rather than just reacting to petitions or edicts from Congress. In this context, you should consider the ability to strengthen a long-outdated and ineffective standard as “low-hanging fruit” that would have a tremendous impact on reducing painful deaths and injuries involving a product category that affects all consumers, without exception.

Candles:

Grant NASFM’s Petition for Mandatory Federal Regulations

Over the past year, NASFM has been working with the National Candle Association’s Safety Committee to help increase awareness of candle fire safety with the public, and to increase retailer awareness of and compliance with ASTM’s voluntary safety standards for candle performance, labeling, glass containers and candle accessories. In addition, the ASTM Candle Fire Safety Working Group continues to be active, with participation from the CPSC, in refining the existing standards and identifying and researching additional hazards. We commend the candle industry for its work on these standards.

The National Fire Protection Association recently published candle fire estimates for 2007. It appears that the number of estimated fires is declining, as are injuries and property damage. Deaths, however, are still hovering around 200 per year, with no meaningful trends in either direction.

NASFM believes that no substantial industry compliance will be achieved – and thus no meaningful impact on candle fire death data – until these thoughtfully developed voluntary ASTM standards are made mandatory. NASFM’s petition CP 04-1/HP 04-1 calling for that action was submitted to the CPSC in 2004, and six years later, we have yet to see action from the Commission. Granting this petition would provide the CPSC with the authority to enforce the standards for both domestic and imported products in a variety of ways, and it would give consumers greater confidence that the candles they purchase adhere to minimum safety standards.

Upholstered Furniture:

Pass a Comprehensive Rule and Heed Open-Flame Research by NIST and UL

Last but certainly not least: The CPSC is well aware of NASFM’s position that your proposed rule on upholstered furniture flammability is highly inadequate, because it focuses solely on smoldering ignition while ignoring open-flame sources, and because it does not adequately address the likelihood that if you fail to prevent ignition, the filling materials are not protected against flame spread. Your data analyses to accompany the proposed rule assert that smoldering ignitions represent 90% of the upholstered furniture fire problem, but we respectfully disagree with that conclusion.

We are aware that research has been initiated by both Underwriters Laboratories and the National Institute of Standards and Technology to look at approaches to open flame ignitions of upholstered furniture that are based on the successes achieved by the very successful open flame mattress standard promulgated by the CPSC, and the new technologies that have been developed in recent years to address mattress flammability.

These results could well supplement the work done to date by the CPSC. But the key will be you, Chairman and Commissioners: You must be willing to let go of preconceived conclusions about this issue and look with fresh eyes at the work being done by UL and NIST. It will still be up to you to take their results and incorporate them into a comprehensive, effective flammability regulation that will protect Americans from both smoldering and open flame fires involving upholstered furniture, which has long been the product involved in more fire deaths than any other product under your jurisdiction. We are counting on you for that leadership.

Action on these important consumer product fire safety issues will help demonstrate the CPSC's commitment to a strong fire safety agenda, and will help you to flesh out your new strategic plan. As always, we stand ready to work with the Commission on these and other fire-related product safety issues in pursuit of our shared mission to protect the public, and especially children and those who cannot protect themselves. Thank you.