



**Statement of the National Association of State Fire Marshals  
Hearing to Discuss Agenda, Priorities for FY 2011 and Current Strategic Plan  
U.S. Consumer Product Safety Commission  
August 25, 2009**

Good morning, Chairman Tenenbaum, and Commissioners Moore, Nord, Adler and Northup. Thank you for the opportunity to address the CPSC's agenda and priorities for fiscal year 2011 and the Commission's current strategic plan.

My name is J. William Degnan. I serve on the Executive Committee of the National Association of State Fire Marshals as Secretary-Treasurer and Board Liaison to our Science Advisory Committee. I have been State Fire Marshal of New Hampshire for 5 years, and I have been in the fire service for 34 years.

The members of NASFM are the senior fire officials in the states and the District of Columbia, and their chief deputies. NASFM's mission is to protect human life, property and the environment from fire and related hazards, as well as to provide resources to assist our members in doing their jobs more effectively and efficiently. The safety of consumer products from fire has been a particular priority of NASFM's over its 20-year history as an association.

As you know, a NASFM petition resulted in a pending CPSC rulemaking on upholstered furniture flammability standards, and we are awaiting action on our petition regarding candle fire safety standards. We have spoken in favor of other rulemaking proceedings, such as those on cigarette lighter mechanical safety standards and open flame ignition of bedclothes. We have keenly followed and weighed in on many other CPSC fire and combustion-related activities over the years in areas such as wearing apparel, smoke alarms, sprinklers, cigarette fire safety, mattress flammability and electrical hazards.

While it has been several years since we have testified at the CPSC's agenda and priorities hearing, the changes that have occurred over the past year at the Commission, particularly due to the passage of the Consumer Product Safety Improvement Act of 2008 (CPSIA), warrant some comment in regard to Commission priorities.

We understand that the U.S. Congress imposed the requirements of the CPSIA, which requires the Commission to develop and implement more than 40 new regulations. We understand that these regulations cover a broad range of activities and products, with a special emphasis on children's products. And we understand that the Commission has been consumed with meeting the requirements of the Act, diverting resources to address the additional mandates, and working very hard to meet deadlines. We also understand

that the Chinese drywall problem emerged over the past year, and that you have had to divert additional staff and resources to deal with that. We are truly impressed with the CPSC's management of these complex and multifaceted projects.

The requirements of the CPSIA have had and will continue to have a major impact on the CPSC's operations. It is commendable that improvements are being made to allow the Commission to deal with the modern world of imported products, and we are very encouraged that funding is now being provided to allow the CPSC to staff up to necessary levels to help ensure safety in American homes. However, the emphasis on implementing the CPSIA must not overwhelm and minimize the important work necessary to address fire and carbon monoxide hazards – which are your two strategic goals.

Unfortunately, we are beginning to see this diminishment and deferment in the CPSC's 2010 performance budget request, and we need to do everything in our power to prevent this from continuing in fiscal year 2011 and beyond.

Ever since the CPSC implemented the strategic planning process, it has had these two results-oriented hazard reduction strategic goals: 1) Reduce the death rate from fires, and 2) Reduce the death rate from consumer product-related carbon monoxide poisonings. We understand that in this coming year the Commission plans to revise the Strategic Plan to reflect changes brought about by the CPSIA. But as it is, fire and carbon monoxide hazards clearly are not getting the attention they deserve. As a result, the message being sent to the staff, to industry, to the fire community – and, most importantly, to consumers – is that the Commission's strategic plan is only a paper tiger.

According to the National Fire Protection Association, in 2007 structure fires killed 3,000 civilians and injured more than 15,000. Property damage amounted to \$10.6 billion. These are not trivial numbers, and unfortunately they have not been decreasing as steadily as we all would like. Late last year we saw an alarming spike in the number of multiple-fatality fires around the country from all types of causes. This suggests that we all need to redouble our efforts at prevention and fire safety education. We cannot let our guard down and say that our job is done.

Historically, fire-related hazards have averaged about 1/3 of the Commission's resources. In the latest budget request, however, fire-related hazards are less than 1/4 of your budget; 16 fewer staff are being requested for 2010 compared with 2007.

Carbon monoxide is the leading cause of accidental poisoning deaths in U.S., with more than 20,000 people hospitalized and nearly 500 killed each year, according to the Centers for Disease Control and Prevention. CDC reports that cases of carbon monoxide poisoning have been on the rise in recent years, climbing 36 percent between 2001 and 2006. As public safety officials, we are seeing an increase in these casualties corresponding with utility shutoffs related to economic hardships.

The CPSC's budget for carbon monoxide hazards appears to be holding fairly steady over the past couple of years, but that is because carbon monoxide projects took a big hit in 2008, when both staff and budget were cut by more than half from 2007 amounts.

Voluntary standards activities in which the CPSC has previously participated have also suffered greatly. In FY 2008, the staff participated in 75 projects. But the mid-year FY 2009 report on these activities shows only 31 projects. Among the fire- and combustion-related voluntary standards projects in which staff no longer appear to be participating are arc-fault circuit interrupters, carbon monoxide alarms, extension cords, fuel tanks, gasoline containers, ground-fault circuit interrupters, electric heaters, lighters, the National Electric Code, ranges, turkey fryers, and vented gas appliances. Commission staff's participation in these voluntary, industry-driven activities has provided crucial public interest input and expertise over the years that we are concerned may never be regained once it is lost.

We are glad to see provisions in your budget to implement the Children's Gasoline Burn Prevention Act, nanotechnology research related to flame retardants, and increased diligence in the safety of Chinese-made products and imports. As part of your ongoing efforts and in service to your current strategic plan, we would ask that the CPSC also address the following activities in its budget and in the deployment of experienced staff:

- **Complete the upholstered furniture flammability rulemaking.** Fires originating in upholstered furniture consistently have been responsible for more deaths than any other product under the jurisdiction of the CPSC. Since the CPSC inherited a "finding of need" calling for an upholstered furniture flammability standard from the Department of Commerce in 1973, more than 30,000 people have died in upholstered furniture fires in the U.S. The CPSC has had an active rulemaking on this issue since 1994, based on a petition submitted by NASFM. The CPSC issued a proposed rule in 2008, but NASFM is on record with our concern that the proposed rule is grossly inadequate. The CPSC's upholstered furniture regulation needs to address both smoldering and open flame ignition sources. It also needs to deal with both resistance to ignition of the covering material and resistance to flame spread via the filling materials. You have the opportunity to get this rulemaking back on track, revise the proposed rule to deal comprehensively with the problem, and stop adding to the death toll from fires involving this product.
- **Complete the rulemaking to require mandatory mechanical safety standards for lighters.** This rulemaking, pending since 2004, would make the current ASTM F400 voluntary Standard Consumer Safety Specification for Lighters a mandatory federal regulation. Voluntary safety standards are too often considered "optional," particularly by overseas manufacturers. This standard, which would apply to all lighters, would keep violative lighters out of commerce in the U.S., and would make our requirements consistent with those of our neighbors in Canada and Mexico. This action would complement the CPSC's excellent child-resistance requirement for all lighters.

- **Grant the petition to make ASTM voluntary fire safety standards for candle products into mandatory federal regulations.** Since NASFM's petition CP 04-1/HP 04-1 was submitted to the CPSC in 2004, ASTM has further improved its voluntary standards for candles and candle accessories. But according to the National Fire Protection Association, an estimated 15,600 home structure fires started by candles were reported to local fire departments in 2005. These fires resulted in an estimated 150 civilian deaths, 1,270 civilian injuries and an estimated direct property loss of \$539 million. Although home candle fires fell 8% from 2004 to 2005, more than twice as many were reported in 2005 as in 1990. Most of the problems with candles are found in imported products, on which voluntary standards frequently have little impact. Making the ASTM candle standards mandatory would give CPSC the authority to enforce the standards for both domestic and imported products through a variety of enforcement measures.
- **Strengthen the General Wearing Apparel Standard 16 CFR 1610.** Between 1997 and 2006, more than 4,300 serious burn injuries per year in the U.S. were associated with clothing; children between the ages of 5 and 14 had the highest average annual burn injury rate. There were 120 deaths per year in the U.S. associated with clothing burns between 1999 and 2004; the death rate for those over age 65 was six times the national average. The General Wearing Apparel Standard has regulated the flammability of clothing worn in the U.S. since 1953. Virtually unchanged in over 50 years, the standard offers little, if any, real protection to consumers. Newspaper and tissue paper easily pass the standard. Yet experience with the Children's Sleepwear Flammability Standards in effect since the 1970s suggests that safer garments can be manufactured that would prevent many clothing burn injuries and deaths.
- **Develop performance standards to ensure reliability of residential fire sprinklers.** Water-based fire sprinklers save millions of dollars in property loss and many lives, and a significant victory was achieved when a requirement for fire sprinklers in all new one- and two-family homes and townhouses was adopted into the 2009 International Residential Code last fall. But we still face many hurdles, including the uncertain reliability of sprinklers in residential applications. Once installed in new privately-owned residential construction, fire sprinklers are not likely to be inspected or tested consistent with the procedures that history has shown are needed to ensure reliability. A number of factors complicate the residential application compared to those in commercial and public buildings, including much more diverse use and exposure patterns, reasonably anticipated misuse and abuse, and the lack of access by authorities to impose inspection or testing schedules. The CPSC, with its wealth of experience in sprinkler testing, can contribute to the development of standards for residential sprinklers to ensure their reliability in these quite different environments. The time to develop standards for residential sprinklers is now, before the widespread application of current commercial-type sprinklers in private residences.
- **Other fire-related issues.** We would be remiss if we did not mention at least a few other issues – among many – that we believe require the CPSC's attention, including

the increasing problem of **home heating equipment fires**; diligent enforcement of the Commission's excellent **federal mattress flammability standard**; development of an **open flame standard for bedclothes**, particularly filled products such as pillows and comforters; and continued attention to the CPSC's own **Residential Fire Loss Estimates report**, which has not been updated since mid-2007.

Currently, most of the fire- and combustion-related project areas are being deferred or delayed in favor of CPSIA implementation. But unless a balance is regained with fire safety as a part of it, consumers will surely suffer.

Arguably, you could reply that the FY 2010 budget request reflects the priorities that Congress has given you. However, everyone who is burned or killed in a fire in the United States, and everyone who dies of accidental carbon monoxide poisoning, is represented by a Member of Congress. Many of the victims are those who are least able to help themselves – the very young and the very old. All of these individuals and their families deserve no less of your attention and no fewer of your resources than they have in the past – and arguably more. Please take advantage of your visibility on the national stage and ask for the resources to fulfill your *entire* mission in fiscal year 2011 and beyond.

We look forward to being your partner in this endeavor and in working with the newly appointed Chairman, all of the Commissioners and your excellent staff to achieve greater safety for consumers in fire and related hazards – in pursuit of the missions of both of our organizations.

Thank you.