



**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.