



Consumer Federation of America

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Testimony of Courtney Griffin, Director of Consumer Product Safety
Consumer Federation of America

Before the

U.S. Consumer Product Safety Commission

Hearing on “Agenda and Priorities FY 2024 and 2025”

Chair Hoehn-Saric, Commissioners Boyle, Feldman, and Trumka: I am Courtney Griffin, testifying on behalf of Consumer Federation of America (CFA). CFA is a nonprofit association of more than 250 national, state, and local consumer groups founded in 1968 to advance the consumer interest through research, advocacy, and education.

The CPSC is an incredibly important independent agency. Its mission, to protect the public from unreasonable risk of injury or death associated with the use of consumer products, impacts every American, every day. CFA appreciates the opportunity to make recommendations to the CPSC on its agenda and priorities for the next fiscal year.

I. Product Safety Issues Recently Addressed

The CPSC’s recent work has focused on many critical safety issues that posed significant harm to consumers for far too long, including clothing storage unit stability, infant sleep products, magnets, adult bed rails, and window coverings. We applaud CPSC’s attention to these and other hazards and urge the CPSC to continue to protect the public with decisive, resolute action.

A. Furniture Tip-Overs

The CPSC recently adopted a mandatory standard for clothing storage units because of the tireless advocacy of parents who had suffered unimaginable loss and only after decades of delay. Though a rule has passed, however, the CPSC must remain diligent in its enforcement of this rule and use all of its tools to ensure compliance.

Despite this new rule, unstable furniture and TVs will remain in homes across the country. The CPSC must increase the scope and engagement of the Anchor It! program. The CPSC should work in partnership with stakeholders, including childcare providers and licensing agencies, family and child services, medical professionals, housing authorities, elder care providers, and retailers to

promote the program. The CPSC should engage parents and caregivers with informative social media posts at a regular cadence on platforms likely to reach the target audience. Finally, the CPSC should ensure that the anchor kits available to consumers are performing their function and not providing consumers with false confidence.

B. Infant Sleep Products

CFA supports the CPSC efforts in connection to infant sleep products, and we urge the CPSC to continue to monitor the marketplace and enforce this critical safety standard. The CPSC should work to improve its data collection efforts to ensure it is adequately surveilling infant sleep products. We also support increased CPSC educational efforts to prevent infant deaths.

II. Product Safety Issues Note Recently Addressed

A. Off-Highway Vehicles (OHVs)

CFA's OHV Safety Coalition has identified at least 120 OHV¹ fatalities this year.² We are continuing to collect data from 2022 but have identified at least 419 OHV fatalities.³ The percentage of these fatalities that are children is shocking.⁴ According to a CPSC analysis of OHV-related fatalities between 2016 to 2018, almost 300 fatalities were younger than 16 years of age.⁵ Forty-eight percent of the child fatalities were children younger than 12 years of age.⁶

According to a CFA report, an increasing number of OHVs have been pulled from the market due to safety concerns, from two in 2010 to 21 last year.⁷ There have been 172 OHV recalls from January 2010 to April 27, 2022.⁸ So far this year, there has already been eight OHV recalls.⁹ The brand with the most recalls, over triple that of the brand with the second most recalls, was Polaris.¹⁰

¹ OHVs include all-terrain vehicles (ATVs), recreational off-highway vehicles (ROVs), and utility task vehicles (UTVs).

² *Off-Highway Vehicle Safety and Fatality Data*, CONSUMER FEDERATION OF AMERICA <https://consumerfed.org/off-highway-vehicle-safety/> (last visited April 28, 2023).

³ *Id.*

⁴ See 2013-20223 fatality tracking spreadsheets linked at CONSUMER FEDERATION OF AMERICA, *supra* note 5.

⁵ John Topping, M.S., *2021 Report of Deaths and Injuries Involving Off-Highway Vehicles with More than Two Wheels*, U.S. CONSUMER PROD. SAFETY COMM'N (NOV. 2021), pg. 9.

⁶ *Id.*

⁷ *An Analysis of OHV Recalls: Increasing Number of OHVs Pulled from Market Due to Safety Concerns*, CONSUMER FEDERATION OF AMERICA https://consumerfed.org/analysis-ohv-recalls-increasing-number-ohvs-pulled-market-due-safety-concerns/#_ftn1 (last visited April 28, 2023).

⁸ *Id.*

⁹ See *Recalls*, U.S. CONSUMER PROD. SAFETY COMM'N, <https://www.cpsc.gov/Recalls> (last visited April 27, 2023).

¹⁰ CONSUMER FEDERATION OF AMERICA, *supra* note 9.

There are numerous reasons why OHVs have been recalled but the number one cause is fire hazards. Fire-related hazards accounted for approximately 40% of the recalls. Fire related hazards include issues such as fuel hoses leaking, exhaust pipes cracking, firewalls failing, melting of components, and other fuel related issues. Throttle issues account for approximately 13% of the recalls. Steering-related issues account for approximately 13% of the recalls. Taken together, the top three hazards represent nearly three-quarters of the hazards that led to recalls.

The CPSC must investigate why the number of OHV recalls are increasing, carefully review the industry-wide incidents, evaluate the effectiveness of the standards, and work to prevent more tragedies and improve OHV safety. We also urge the CPSC to be a strong voice in opposing the operation of OHVs on roads, and to be a leader in educating consumers about the dangers of on-road OHV use. The CPSC could improve the reporting of OHV death data by including how many deaths occur on private versus public roads and should seek to reduce the significant time lags in releasing OHV death and injury data.

B. Laundry Packets

Highly concentrated single-load liquid laundry detergent packets pose a serious risk to children. As of March 31, 2023, poison centers have managed over 2,000 cases related to laundry detergent packet exposure in children 5 years and younger.¹¹ There were approximately 10,000 exposures in both 2021 and 2022.¹² In addition to young children, laundry packets present a risk to adults with dementia.¹³

Exposure incidents have not consistently decreased since the voluntary standard was published. We urge the CPSC to investigate why the number of ingestions of laundry packets remains so high every year. If the data indicate that the voluntary standard is not successfully addressing the hazard posed by laundry packets, we urge the CPSC to engage in the voluntary standard process to make the standard more effective and to move forward with an effective mandatory standard. For example, exposure can be prevented with child resistant packaging on individual packets, modifying the design and color to make the packets less attractive, addressing the composition so that consequences are less severe, and providing adequate warnings.

III. Consumer Product Safety Commission Authority and Enforcement

In addition to addressing specific product hazards, CFA urges the CPSC to use all available tools to share critical safety information, issue meaningful and effective recalls, and hold noncompliant entities accountable.

¹¹ *Laundry Detergent Packets*, AMERICA'S POISON CENTERS, <https://aapcc.org/track/laundry-detergent-packets> (last visited April 27, 2023).

¹² *See id.* America's Poison Centers is no longer providing exact numbers of exposures for each year.

¹³ Kimberly Janeway, *Liquid Laundry Detergent Pods Pose Lethal Risk for Adults with Dementia*, CONSUMER REPORTS (June 15, 2017), <https://www.consumerreports.org/laundry-cleaning/liquid-laundry-detergent-pods-pose-lethal-risk/>.

A. SaferProducts.gov and NEISS

CFA continues to applaud the creation of SaferProducts.gov and the National Electronic Injury Surveillance System (NEISS). SaferProducts.gov and NEISS have incredible potential; the databases can and should provide critical safety information. The CPSC must continue to expand the scope, reach, and awareness of these important databases.

- **Race and ethnicity data:** A fiscal year 2021 report noted gaps in CPSC’s incident data on race, i.e., many people fail to include this information in their reports to the agency.¹⁴ CFA urges the CPSC to continue to examine and rectify this issue because it impedes the agency from fully analyzing disparities in injuries and deaths.
- **Increase use:** Develop, implement, and publicly share a plan to increase awareness and use of the databases through a more consumer friendly interface as well as outreach and training.
- **Improve the ease of reporting.** Consider ways to increase information collected from key groups, such as medical providers and medical examiners, and improve the quality of data collected.
- **Analyze data and release reports:** The CPSC could use the data it collects to provide reports and social media information about specific emerging hazards.

B. Recall Effectiveness

Recall effectiveness is an ongoing concern, and dangerous products remain in many homes. More must be done. The CPSC should use its social media accounts in creative ways to provide direct notice to consumers and disseminate recall information. Further, the CPSC should work in partnership with key stakeholders, such as pediatricians or daycare facilities, to increase the likelihood that consumers will get critical safety information. The CPSC should require more robust initiatives on the part of companies to ensure adequate recall participation. Finally, the CPSC should make public the status of all recalls and inform the public about whether companies are meeting their obligations to consumers under recall agreements.

C. Section 6(b) of the Consumer Product Safety Act

Section 6(b) of the Consumer Product Safety Act restricts the flow of critical safety information to consumers. CFA applauds the CPSC’s recent effort to modernize and streamline the regulation. We look forward to a final rule.

In order to provide more transparency, the CPSC should prepare an annual report regarding its experience implementing the provisions of section 6(b) each year. Specifically, the report should track the time and resources spent in connection to section 6(b), as well as how section 6(b) is being used (i.e., how many times the section is involved to prevent the CPSC from disclosing information, the number of times section 6(b) litigation has occurred).

¹⁴ *CPSC’S Equity Action Plan*, U.S. CONSUMER PROD. SAFETY COMM’N (Jan. 20, 2022), pg. 6.

D. Civil and Criminal Penalties

Civil and criminal penalties serve an important deterrent effect to non-compliance with the laws enforced by the CPSC and we urge the CPSC to prioritize this important element of its enforcement responsibilities when the violations represent disregard for the CPSC's laws.

IV. Conclusion

The CPSC plays a critical role in ensuring that consumers are safe from product hazards. We urge the Commission to use all the tools Congress gave it to protect consumers from potentially hazardous consumer products. We urge the Commission to prioritize and address the issues we outlined today as soon as possible as many pose urgent hazards to consumers. CFA looks forward to working with the Commission to address these issues.