

Response to Written Questions Submitted by Honorable Jim Inhofe to Honorable Ann Marie Buerkle

*Question.* The Consumer Product Safety Commission (CPSC) set a major new precedent by voting to grant a petition to ban the use of an entire class of chemical – organohalogen flame retardants. At this time, the CPSC is planning to issue proposed guidance urging consumers and businesses to avoid the use of a broad range of flame retardant chemicals. The CPSC voted to take this action despite the fact that the agency’s own technical staff recommended against this and despite the fact the Commission has launched an extensive review process to further evaluate these products.

Furthermore, the CPSC voted to take this action despite the fact that the Commission has not fully considered the impact of this action on fire safety with hundreds if not thousands of products being impacted – some of which have been the subject of product recalls from the CPSC due to fire hazards. Furthermore, it is my understanding that this action runs counter and may be in conflict with the decisions and ongoing work by US EPA under the new Lautenberg Chemical Safety act which Congress overwhelmingly supported and was signed into law by President Obama just last year.

Can you please clarify this issue for us and what actions you are planning to take on this issue to avoid duplicating and conflicting with other government agencies and ensure the CPSC operates within its appropriate jurisdiction?

*Response.* On September 20, 2017, the Commission majority voted to grant Petition HP 15-1, Requesting Rulemaking on Certain Products Containing Organohalogen Flame Retardants and directed staff to convene a Chronic Hazard Advisory Panel (CHAP) to assess and issue a report on the risks to consumers’ health and safety from the use of additive, non-polymeric organohalogen flame retardants, as a class of chemicals in : (1) durable infant or toddler products, children’s toys, child care articles or other children’s products (other than children’s car seats); (2) upholstered furniture sold for use in residences; (3) mattresses and mattress pads; and (4) plastic casing surrounding electronics. The Commission majority also directed staff to publish in the Federal Register a Guidance Document on Hazardous Additive, Non-Polymeric Organohalogen Flame Retardants in Certain Consumer Products.

My preference would have been to vote to defer the petition until the Commission had the benefit of the CHAP’s analysis. I believe it made more sense to defer the petition and convene a CHAP than launch rulemaking in spite of the data gaps identified by our staff. If this approach had been approved, it would have allowed us to hear from the independent scientific experts before deciding whether we should overrule our own staff toxicologists and commit to the unprecedented regulation of a large and disparate class of chemicals.

I look forward to working with the Senate on this important issue.