

Exhibit I

Letter from Todd Stevenson, Secretary, Consumer Product Safety
Commission, to Aaron Colangelo, Natural Resources Defense Council
(Dec. 8, 2008)



U.S. CONSUMER PRODUCT SAFETY COMMISSION
4330 EAST WEST HIGHWAY
BETHESDA, MARYLAND 20814-4408

Todd A. Stevenson
Director • Office of the Secretary
Division of Information Management • Office of Information and Technology

Tel: 301-504-6836
Fax: 301-504-0127
Email: tstevenson@cpsc.gov

December 8, 2008

By Email and First Class Mail

Aaron Colangelo
Natural Resources Defense Council
1200 New York Ave., N.W. Suite 400
Washington, DC 20005

Dear Mr. Colangelo:

Your letter dated December 2, 2008 concerning the phthalates provision in the Consumer Product Safety Improvement Act, Public Law 110-314, section 108 (August 14, 2008), was referred to the Office of the Secretary for processing in accordance with the Commission's directive 0605.0, *Operational Procedures for Petitions* (copy enclosed). These procedures provide for a period of 30 days in which to determine if the correspondence is appropriate for docketing as a petition under the Commission's petition regulations, 16 CFR part 1051.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd Stevenson", is written over a horizontal line.

Todd Stevenson
Secretary
U.S. Consumer Product Safety Commission



UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION

DIRECTIVES SYSTEM

ORDER NO.

0605.0

April 26, 1993

Reviewed/Current: 4/30/03

MANAGEMENT PROGRAMS

OPERATIONAL PROCEDURES FOR PETITIONS

1. **PURPOSE.** The purpose of this directive is to establish a procedure for the efficient and timely handling of petitions and possible petitions.
2. **POLICY.** It is the policy of the Commission that petitions and possible petitions will generally be processed according to these procedures.
3. **REFERENCES.**
 - a. 16 CFR Part 1051 - Procedure for Petitioning for Rulemaking.
 - b. Commission Notice 0601.6, Procedures for Sending Materials to the Commission.
4. **OPERATIONAL PROCEDURES FOR PETITIONS.** The Commission will take the following steps to address petitions and possible petitions. The Office of the General Counsel will decide whether a request should be docketed as a petition. The staff will prepare an initial brief assessment of the petition recommending that the Commission grant, deny, or defer action. The Commission may develop additional information or data for a later decision if more work is needed. A schematic of the operational procedures is attached.
 - a. The Office of the Secretary receives the request for agency action and forwards it to the Office of the General Counsel (OGC).
 - b. OGC responsibilities. OGC will decide if the request for agency action should be docketed as a petition within 30 days of receipt of the correspondence by OGC. If OGC requests additional information before deciding whether to docket the matter as a petition, an additional 30 days will be allowed from receipt of the additional information. OGC's determination should be based on the criteria stated in the Commission's petition regulations, 16 CFR Sections 1051.5 and 1051.6.¹
 - c. Staff briefing memorandum. The staff will prepare a briefing memorandum and forward it to the Commission within 180 days .2 The Executive Director has the authority to extend the 180 day period for good cause.
 - (1) It is anticipated that information and analysis in this briefing memorandum

will generally be brief and will be based on existing or easily obtainable data. Staff should periodically consult the attorney working on the petition for further guidance on the level of information necessary. The information and analysis needed in a briefing memorandum may vary depending on the petition. More or less information than that outlined below may be appropriate. For example, petitions seeking technical revisions, limited exemptions, or minor amendments to rules, will often require less information.

- (2) The staff briefing memorandum will provide the Commission with initial information concerning the petition so the Commission can make an initial assessment. The Commission's initial assessment could be to grant the petition, deny the petition, or defer action on the petition until the staff obtains additional information relevant to the petition.
- (3) If more in-depth work by the staff is necessary to adequately assess the validity of the petition the additional work should be stated in the initial briefing memorandum. If the Commission chooses to pursue the additional work, it can reconsider the petition once the work is completed.
- (4) Generally, and to the extent it can be obtained from existing or easily obtained data, the briefing memorandum should provide the following initial information to the Commission:
 - (a) **A preliminary sketch of the hazard information.** If feasible, the staff will estimate the annual number of injuries and deaths, discuss the population at risk, and summarize hazard patterns.
 - (b) **A brief discussion of market information.** Using readily available information from government, industry, or other such sources, the staff will provide data on sales, product use, the number and size of firms, and an estimate of product life and the number of products in use.
 - (c) **A preliminary estimate of the risk.** The staff will provide this estimate based on the hazard and market information.
 - (d) **A preliminary estimate of the Annual cost to society of the hazard.** Estimates of the annual societal cost includes estimates on injuries from the CPSC injury cost model and other sources, property damage, and an assumed value per statistical life.

¹ When a petition is docketed, OGC will forward to the Commission a ballot vote sheet and a draft Federal Register Notice, providing a 60 day comment period. The Commission may, in its discretion, decide to publish the Federal Register Notice requesting comments.

² The 180 days will run from either: (1) the Commission's decision not to issue a Federal Register Notice soliciting public comments on the petition or (2) the close of the comment period if the Commission decides to issue a Federal Register Notice.

- (e) **A discussion of any existing standards and activities.** The staff will summarize known existing domestic and international standards and activities that are intended to address the product or the hazard presented.
- (f) **A discussion of past agency action on the issue.** The staff will summarize past petitions, compliance activities, information and education activities, and other Commission work on the issue.
- (g) **Expert opinion from technical staff on whether the hazard can be addressed by the action requested by the petitioner and whether the action is feasible.** The technical staff will rely on the available information to render its opinion. The staff will not conduct injury surveys, exposure surveys, convene focus panels, or test the product in order to render an opinion.
- (h) **In the case of a petition seeking an exemption from, an amendment to, or the repeal of an existing rule, the staff should provide available information and a brief analysis concerning the potential impact of the exemption, amendment, or repeal on injuries.**
- (i) **A discussion of the pros and cons of granting the petition, denying the petition, and deferring action on the petition.** The staff will discuss each option and make a recommendation, based on the information and analysis outlined above. There will be a discussion of the resources required to implement a Commission decision to grant the petition.³ There will be a discussion of what work is needed if the Commission defers action on the petition.⁴
- (j) **Other readily available information that is relevant to the petition.**

/s/

4-26-93

 Jacqueline Jones-Smith
 Chairman

 Date

Attachment: Schematic - Operational Procedures for Petitions

³ If the Commission grants the petition, the staff will prepare a memorandum discussing when project work would begin, and what other operating plan work would not be done if the Commission decides to immediately begin the project. If the Commission grants the petition and decides not to modify the operating plan at the time, the staff will prepare an enhancement level project sheet for Commission consideration at the earliest opportunity: next mid-year review, operating plan or budget.

⁴ Staff will prepare an enhancement level project sheet for this work for consideration in the next mid-year review, operating plan or budget, if the Commission defers action.

OPERATIONAL PROCEDURES FOR PETITIONS

