



WINDOW COVERING
MANUFACTURERS
ASSOCIATION

September 13, 2013

Mr. Todd Stevenson
Secretary
U.S. Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814

RE: Comments on CPSC Docket No. CPSC-2013-0028 (Petition for Rulemaking to Eliminate Accessible Cords on Window Covering Products)

Dear Mr. Stevenson,

The Window Covering Manufacturers Association (WCMA) appreciates the opportunity to comment on Petition CP13-2 (the "Petition") filed before the Consumer Product Safety Commission (CPSC) requesting the initiation of a rulemaking to promulgate a mandatory standard to eliminate accessible cords on window covering products. WCMA requests that CPSC reject the Petition, rely on the stringent voluntary safety standards, continue its cooperative work with this industry in furtherance of the existing standard-setting process and support public education that will continue to promote technological innovation and reduce incidents.

We look forward to the ongoing dialogue regarding this petition. Should you have any questions or need for additional information please do not hesitate to contact me.

Regards,

A handwritten signature in black ink, appearing to read "Ralph Vasami", with a long horizontal flourish extending to the right.

Ralph Vasami
Executive Director

355 Lexington Avenue, 17th Floor
New York, NY 10017-6603
Phone: (212) 297-2122
Fax: (212) 370-9047

Window Covering Manufacturers Association

Response to Petition CP13-2

Docket No. CPSC-2013-0028

I. INTRODUCTION

The following comments constitute the response of the Window Coverings Manufacturers Association (WCMA) to petition CP13-2 filed before the Consumer Product Safety Commission (CPSC) requesting the initiation of a rulemaking to promulgate a mandatory standard to eliminate accessible cords on window covering products (the “Petition”). Since 1950, WCMA has represented manufacturers, fabricators, and assemblers of window coverings and, accordingly, our members represent a leading resource for policymakers developing industry standards, rating systems, and test procedures. WCMA is also the American National Standards Institute (ANSI)-accredited standard development organization for window coverings. ANSI accreditation signifies that the procedures used by WCMA in connection with the development of the current standards meet ANSI’s “essential requirements” for openness, balance, consensus, and due process.

As set forth in detail below, the Petition contains numerous inaccuracies, factual errors, erroneous accusations and policy recommendations unsupported by studies or data. Accordingly, the Petition falls far short of the statutory requirements for the issuance of a mandatory CPSC standard. CPSC should reject the Petition, rely on the stringent voluntary safety standards, continue its cooperative work with this industry in furtherance of the existing standard-setting process and support public education that will continue to promote technological innovation and reduce incidents.

II. OVERVIEW OF COMMENTS

Section 2058(i) of the Consumer Product Safety Act (CPSA) clearly identifies the basis for rejecting the Petition in this case. The statute provides that the CPSC should reject a petition if it determines that a voluntary standard is in existence at the time of the petition and “is likely to result in the elimination or adequate reduction of the risk of injury identified in the petition, and it is likely that there will be substantial compliance with the standard.”¹

The Petition clearly fails to meet the CPSA standard. In support of rejecting the Petition, WCMA wishes to emphasize the following important points:

- Since 1996, WCMA, under the requirements and approval of ANSI and in cooperation with CPSC, has developed voluntary industry safety standards. These standards are developed with the input and consideration of all stakeholders, including CPSC, and are

¹ See 15 U.S.C. § 2058(i)

adaptive to technological innovations. The most recent revision was completed in 2012 and implemented in 2013.²

- Contrary to the Petition's claims about the voluntary safety standard, the 2012 WCMA/ANSI safety standard is, in fact, the most stringent in the world and has been cited as a model for the revision of Canadian,³ European Union, and Australian safety standards. For example, updated Canadian window covering safety regulations will be adopted based on the WCMA/ANSI voluntary safety standard. The Canadian Standard Association's technical committee voted on August 22, 2013 to adopt the WCMA/ANSI voluntary safety standard as the basis for its new standard.
- Since the first safety standard was issued in 1996, there has been substantial compliance with the standard and, as CPSC's own data show, a significant reduction in the risk of fatalities to consumers. Moreover, the risk of injuries and fatalities will continue decreasing as older products are removed from consumer homes and are replaced by products that are in compliance with the voluntary safety standard.
- The majority of incident reports cited by petitioners are linked to the use of pre-standard products, and the "study" of fatalities and injuries presented in support of the petition contains numerous errors and inaccuracies. According to a report prepared by Heiden Associates, a leading product safety and economic consulting firm specializing in the application of microeconomic and statistical analysis to business and public policy issues, the petitioners' study improperly characterized or misclassified numerous products — which had the net effect of significantly skewing the conclusions reached in the Petition. Specifically, the Petitioners classify a substantial number of products as compliant that were either determined to be non-compliant by the CPSC/WCMA Working Group in its review of In-Depth Investigation reports or for which the investigation report lacked sufficient information to be able to determine if the product was compliant.⁴
- To reduce incidents related to pre-standard products, WCMA has worked in cooperation with CPSC on a three-pronged approach: 1) ongoing reviews and updates as necessary to the WCMA/ANSI safety standard; 2) increased public awareness of the risks associated with these products via the industry-supported and funded Window Covering Safety Council (WCSC) nationwide public education and information campaign; and, 3) the distribution of hundreds of thousands of free retrofit kits to retrofit older and recalled products.

² See 2012 WCMA/ANSI Standard for Window Coverings, available at <http://www.wcmanet.org/wcmastandard.html> .

³ Minutes from August 22, 2013 Canadian Standards Association (CSA) Technical Committee on Window Covering Products (TCS707).

⁴ See Heiden Report, attached hereto as **Appendix A**.

- As the Petition acknowledges, the industry currently offers a wide variety of safe cordless and corded products for consumers and more and more options are being introduced into the market. CPSC should allow for this innovation to continue rather than imposing a one-size-fits-all Federal mandate on U.S. consumers.

Faced with the same arguments and much of the same incident data as appears in the Petition, CPSC has to date declined to undertake a mandatory standard and has chosen to work cooperatively with industry to continually improve window covering safety. Specifically, CPSC has been an important partner in the development of the six iterations of the WCMA/ANSI voluntary safety standard. CPSC found no need to embark on mandatory rulemaking – as it always had the option to do – because of any perceived inadequacies in these standards. In that time, standards have continued to be strengthened and incidents have continued to drop significantly. CPSC should continue its history of cooperative work with the window coverings industry and reject the Petition. There is no need for CPSC to now depart from its prior participation in, and acceptance of, the voluntary safety standards for window coverings.

III. HISTORY OF THE VOLUNTARY CONSUMER PRODUCT SAFETY STANDARD

Since developing the first industry safety standard in 1996, the window covering industry has redesigned almost every window covering product in the market to address safety hazards — a track record that reflects its vested interest in the safety of the consumer. The WCMA/ANSI safety standard is now the most stringent in the world, with the latest revisions going even further in minimizing potential risk to young children.

i. History of Voluntary Standards and Education Efforts for Window Coverings

As the Petition accurately points out, there are three key integral aspects involved in lowering safety hazards: public education, corrective actions, and the voluntary standards development process. On all of these points, the window coverings industry has been fully engaged and cooperative with CPSC. Importantly, window coverings are not children's products, and, just like many other household products, their use, when exposure to young children is anticipated, requires parental education and awareness. For this reason, WCSC has worked to increase public awareness to the adult purchasers of window covering products about the importance of window covering safety in reducing incidents.

First and foremost, for over a decade, it has been both the WCSC's and WCMA's affirmative recommendation that parents consider the use of cordless products in children's bedrooms and other locations where there is a significant potential for child exposure. WCSC and WCMA convey this message using a wide range of information and education programs.

WCSC Consumer Education Program: WCSC reaches out to millions of consumers through the distribution of news and informational materials through the media and through partnerships with various public and private organizations. WCSC also co-sponsors, with CPSC, National Window Covering Safety Month each October to specifically concentrate the public's attention on safety issues. In 2012, Chairman Tenenbaum was featured in a safety video produced by

CPSC and WCSC about window cord safety as part of the awareness campaign. That video alone has generated more than 253,879,736 online impressions since it was posted.

But WCSC's safety messaging does not simply begin or end each October. It is a year-round effort in which WCSC undertakes a variety of innovative activities as part of its efforts to boost awareness. These programs range from window covering safety videos playing on NFL football stadium jumbotrons to "Twitter parties" that attract thousands of Twitter users. WCSC also publishes safety information in military newsletters and magazines to reach military families, and has contacted educational publications to reach teachers and parents. Many of these activities are also implemented in Spanish, including print publications, radio PSAs and working with Spanish-language mommy bloggers. The WCSC website includes frequently updated information on window cord safety as well as downloadable brochures, posters and safety alerts for printing.

The WCSC program in 2012 alone reached an estimated audience of 1.18 billion. This number was reached through efforts directed at television, radio, newspaper, consumer and trade magazines and the Web.

The breakdown in audience numbers is as follows:

- An estimated audience of 84,367,360 via television
- An estimated audience of 10,610,000 via radio
- An estimated audience of 53,386,955 via newspaper
- An estimated audience of 5,277,046 via trade and consumer magazines
- An estimated audience of 1,029,798,771 via Web⁵

Through research, WCMA recognized that 80 percent of reported fatalities involving window covering products occurred with older products which did not meet the current standards ("pre-standard products"). Accordingly, while standards are revised for new products, one of the industry's top priorities has been sponsorship of a nationwide educational campaign to educate the public about the risks associated with older models of corded window coverings. As part of this campaign, WCSC distributed over 400,000 free retrofit kits to consumers with pre-standard products, for those consumers who cannot afford new products or who are prohibited from installing products of their own.⁶ To facilitate this effort, WCSC maintains an 800 # hotline and website ordering format for consumers to order and receive free retrofit kits.

⁵Source: Kellen Communications

⁶ See Window Covering Safety Council, Order Form for Free Retrofit Kit, *available at* http://www.fulfillmentinnovations.com/v5fmsnet/ordent/OfferList.asp?XPath=*1&xgroup=1&NotMain=0&PmSess1=1350

WCMA Industry Education Efforts: WCMA educates manufacturers, distributors, workrooms, retailers and others involved in the distribution of window coverings in the United States on the safety standards. WCMA has held numerous webinars on the 2012 safety standard that have attracted thousands of industry stakeholders. WCMA also participates in industry trade shows and in the annual meetings of a number of national window covering organizations.

In new product lines, the industry has continuously enhanced window covering safety standards to address product performance, and has committed to continuous innovation and revising the safety standard to reflect this innovation. Examples of innovative products developed by industry in recent years include: cordless options for cellular, pleated, solar roller, and natural shades; single retractable cord options for solar and roller shades;⁷ the LiteRise, Vertiglide, and UltraGlide, operating systems;⁸ expansion of cordless products in custom faux wood blinds, real wood blinds, metal horizontal blinds, wand control standard for vertical products, and a national cordless offering for stock/cut-down in roller, vertical, cellular, faux and real wood blinds⁹ and many others. Our industry has also experienced substantially increased motorized product sales (which eliminate operating cords) as these products become less complex and are integrated into building automation systems; however, despite declining costs, these systems are still comparatively expensive and therefore limited in volume.

Innovation continues to drive safer window covering products and is the main reason that WCMA has revised the voluntary safety standard six times already and continues to evaluate the need to do so on an active basis in cooperation with CPSC and consumer groups. The industry's voluntary safety standards have consistently reflected changes in technology and our determination to constantly reexamine these standards to ensure that its products are on the leading edge of safety and quality. We are confident that the industry's record demonstrates that the voluntary standard-making process has been and will continue to be more than capable of addressing concerns related to the industry's products and that there is no need for the imposition of a mandatory standard.

ii. Development of 2012 WCMA/ANSI Safety standard

The WCMA safety standard was most recently revised in 2012 and manufacturing compliance with the new standard went into effect in June 2013. The revised safety standard was developed and approved in one year, an incredibly condensed timeline for the revision of any standard, at the urging of CPSC Chairman Inez Tenenbaum.

The 2012 safety standard was developed under the requirements and approval of ANSI — the internationally-respected standards organization. ANSI coordinates the U.S. voluntary consensus standards system, provides a neutral forum and serves as a watchdog for standards development.

⁷ See Springs Window Fashion Cordless Cellular Shades, *available at* <http://www.baliblinds.com/Style.do?command=&productLineId=59>

⁸ See HunterDouglas Product Features and Options, *available at* <http://www.hunterdouglas.com/product-option.jsp?id=35>

⁹ See Levolor stock and CustomSizeNow™ cordless products, *available at* <http://www.levolor.com/products/blinds/customsizenow>

There are approximately 10,000 standards that carry the ANSI designation and WCMA is the ANSI-accredited standards developer for window covering products. As ANSI describes in its materials, the ANSI process “ensures that all interested and affected parties have an opportunity to participate in a standard’s development” and the “hallmarks” of an ANSI-approved standard include “a collaborative, balanced and consensus-based approval process.”¹⁰ ANSI’s approval verifies that a standard-setting process has met these criteria.

WCMA met or exceeded ANSI’s requirement to ensure that interested and affected parties had the opportunity to participate in the revision process. These actions included the creation of:

- A special technical committee membership category for those companies that would otherwise not be eligible. This resulted in over 40 additional companies participating in the development process.
- A special standard steering committee to allow for the participation of additional stakeholders, including: CPSC staff, representatives from consumer safety advocacy groups, the European Committee for Standardization (CEN) working group, and others. The steering committee meetings were held monthly and made open to the public.
- Six working groups to address major comments received during the development of the standard.

During the development process, WCMA considered all CPSC-provided incident reports to determine how best to reduce the risk of future incidents. Based upon this research, the main focus of the 2012 revision was to address the strangulation hazard to children associated with corded window coverings. As part of this effort, WCMA changed the safety standard from the existing approach of a *prescriptive* standard — *i.e.*, one that specifies the sole means of compliance with a performance standard—to a *performance*-based standard — *i.e.*, one that identifies an objective with the criteria stated for achieving the objective. In doing so, the 2012 performance standard allows innovation and gives the producer a variety of ways to achieve compliance.

As a result of the extensive process outlined above, including inputs from consumer advocates, the 2012 safety standard included the following changes:

- New requirements for durability and performance testing of the tension/hold down devices, including new requirements for anchoring, specific installation instructions and warnings.
- A new pathway to address innovations for controlling cord loops that do not use tension devices.

¹⁰ See Overview of the U.S. Standardization System, American National Standards Institute, *available at* http://www.ansi.org/about_ansi/introduction/introduction.aspx

- New requirements for products that rely on “wide lift bands” to raise and lower window coverings.
- A new requirement for a warning label on the outside of the retail package and merchandising materials for custom made corded window coverings to ensure that the consumer is made aware of this issue prior to a purchase.
- Newly expanded testing requirements for cord accessibility, hazardous loop testing, roll up style shade performance, and durability testing of all devices.

The predominant complaint made by the Petition about the 2012 safety standard is that it does not eliminate all corded window products. In her comments on the draft 2012 safety standard, Rachel Weintraub of the Consumer Federation of America wrote that the group opposes the revised standard because “This Proposed Revised Standard allows for separate operating cords, cord release devices, cord tension devices, and cord connectors.”¹¹ Indeed, it was the petitioners who, rather than engaging all stakeholders in a good-faith discussion about potential alternatives and solutions, came to the standard-setting process intent on banning all corded window blinds regardless of whether feasible and less costly alternatives exist.

Further evidencing their lack of sincerity in participating in a truly collaborative process, the consumer groups staged a media event during a steering committee meeting in September 2011 where they invited reporters to witness their scripted announcement that they were leaving the steering committee essentially because of the WCMA/ANSI steering committee’s refusal to ban all corded products. However, despite this type of activity, it is important to note that WCMA continued to include these consumer groups in the standards-development process and that some of these groups participated in the canvassing of the new standard and provided comments. Indeed, comments on the standard from consumer groups significantly contributed to the following concepts and principles being included in the 2012 WCMA/ANSI safety standard:

- A warning label on the outside of the retail package. The industry expanded this to include merchandising materials for custom made products not sold in a box;
- Durability tests and a pull out test from the wall;
- A pathway for new innovations to be tested for compliance as soon as they were introduced, so there would be no need for innovators to wait for a new revision to the standard; and,
- More robust product installation instructions.

IV. 2012 WCMA/ANSI SAFETY STANDARD IN RELATION TO GLOBAL STANDARDS

¹¹ Explanation of Negative Ballot to WCMA Letter Ballot on Proposed Revision of WCMA/ANSI A100.1 – 2007 Filed by Rachel Weintraub, Consumer Federation of America, February 9, 2012.

The Petition's introduction cites "global frustration" over window covering incidents that resulted in a June 15, 2010 trilateral letter from CPSC, Health Canada and the European Commission calling for swift action. Despite the Petition's implication, WCMA actively addressed these concerns in undertaking the 2012 revision to the voluntary safety standard. Moreover, the Petition's implication that the global community is proceeding with a mandatory ban on accessible cords is manifestly false. The European Union, Australian, and Canadian standards have not and are not moving in a direction of making all cords inaccessible. Indeed, with the WCMA/ANSI safety standard being implemented in 2013, the U.S. now has the most stringent safety standard for window coverings in the world, and the updated WCMA/ANSI voluntary safety standard was recently adopted by Health Canada as the basis for the new Canadian regulation on window coverings.¹² The only substantial change that the Canadian authorities will make to the WCMA/ANSI safety standard will be to require cord cleats as a safety device. Cord cleats are also a compliance pathway in other international jurisdictions and are allowed but not required in the U.S. safety standard because the CPSC is opposed to their use as a safety device.

V. THE STATUTORY STANDARD FOR A MANDATORY RULE HAS NOT BEEN MET

i. Compliance with the voluntary safety standard will result in adequate reduction of risk of injury.

The Petition makes numerous claims about fatal and non-fatal injuries from incidents involving window coverings that are unsupported by data or any other evidence. As we have consistently stated, WCMA considers every death a tragedy and every incident a cause for investigation and consideration as to how the circumstances underlying the incident could have been prevented. The industry undertakes this process through the CPSC/WCMA Working Group where CPSC staff and industry officials review the In-Depth Incident (IDI) reports that are created and provided by CPSC. It is critical to understand that it is this review of the data that forms the foundation of the standard-setting process. Most importantly, this process is driven by the facts and data underlying the actual CPSC reports and not by unsupported assumptions, or private agendas about the nature of the incidents.

Petitioners append as Petition's Exhibit 1 a series of incident listings prepared by Safety Behavior Analysis, Inc. (SBAI). Petitioners claim that Exhibit 1 demonstrates that the current WCMA/ANSI voluntary safety standard would not have prevented 102 of the 292 window covering strangulation incidents that occurred from 1996 to 2012. However, an analysis of the SBAI report conducted by Heiden Associates, a firm with extensive experience in analyzing CPSC-collected data shows that the exhibit listings reflect a large number of errors and unsupported assumptions that collectively result in petitioners coming to a misleading and incorrect conclusion regarding the products involved in these 102 incidents.

¹² Minutes from August 22, 2013 Canadian Standards Association (CSA) Technical Committee on Window Covering Products (TCS707).

Heiden Associates reviewed the SBAI incident listings and concluded that the SBAI authors incorrectly inferred compliance for a substantial number of products that were either determined to be non-compliant by the CPSC/WCMA Working Group or for which the investigation report lacked sufficient information to be able to determine if the product was compliant. More specifically, the Heiden Associates' review showed that:

- In 32 of the 49 cases that were also included in the CPSC/WCMA review, SBAI determined that the product was compliant with the 2012 voluntary safety standard, leading petitioners to conclude that the 2012 safety standard would not have prevented the incident. However, the SBAI determination in each of these 32 cases is completely at odds with the CPSC/WCMA review, which identified these incidents as involving products that did not even comply with the earlier, less comprehensive 2002 safety standard or found that there was not sufficient information to determine whether or not the products were compliant with the 2012 safety standard. As explained above, IDI documentation provided by CPSC was the basis for the joint CPSC/WCMA review of incidents and CPSC staff members were actively involved in making these incident determinations.
- SBAI Exhibit 1 contains 8 IDIs for incidents occurring in 2011 or 2012. It also includes six IDIs for incidents occurring from 1996 through 2010 that were not reviewed by the CPSC/WCMA Working Group which calls into question the underlying facts of these cases and the products involved. Again, IDI documentation is the basis for the CPSC/WCMA incident reviews and incidents not contained in the CPSC database simply cannot be verified and evaluated.
- SBAI Exhibit 1 also purports to show a large number of incidents since the first voluntary safety standard was adopted in 1996. The statistics used, however, conflate injury and fatality reports and do not provide evidence of the underlying circumstances involved in each incident. The end-result is a misleading total of incidents. The incontrovertible truth is that, for a product installed in over 750 million openings in the U.S., window coverings have an extraordinarily low incident rate. Further, and contrary to the Petition's claim, a properly installed tension device has never been involved in a documented incident since the standards were introduced.

While we do not question whether SBAI conducted its analysis in good faith, it is perplexing — to say the least — that SBAI could draw such radically different conclusions than the industry and regulatory agency product experts who performed the CPSC/WCMA Working Group review. Overall, the Heiden Report shows that, while SBAI indicated that 33 percent of fatalities reviewed involved products that would have complied with the 2012 safety standard, the CPSC/WCMA Working Group determined that only 20 percent would have complied with the less comprehensive 2002 safety standard. With all due respect, SBAI's analysis is simply wrong on this point and their report contains no data or evidence to support their conclusions. Accordingly, SBAI's summary conclusions must be viewed with extreme skepticism, if not rejected outright.

In 2012, WCMA reviewed 154 fatality incident investigations involving window coverings. The incidents were analyzed in five year intervals for the analysis to smooth out year-to-year

fluctuations in the relatively small numbers of reported incidents. WCMA found that 57 incidents that occurred between the implementation of the first safety standard in 1996 and the first revision (1996 and 2000). Of these incidents, only three involved products that would have met the less stringent 2002 version of the voluntary safety standard. Of the 52 incidents reported that occurred between 2001 and 2005, 42 involved pre-standard products (81 percent) and of the 45 incidents reported that occurred between 2006 and 2010, 36 involved pre-standard products (80 percent).

A review of CPSC's own data shows that there has been a continuous decline in fatalities related to window covering incidents since introduction of the first safety standard in 1996. From 1990-95, prior to the introduction of the first window covering safety standard, there was an average of 16 fatalities per year; from 1996-2003, after the first safety standard was introduced, there was an average of 12 fatalities per year, as revisions were made to the standards from 2004-2010, there was an average of eight fatalities per year. Preliminary data show that there were seven fatalities in 2011 (the petitioners report six fatalities in 2011) and five fatalities in 2012. These totals show a notable drop since the first voluntary safety standard was adopted and a continued decline in fatalities as more products comply with the updated safety standards.

Once again, without diminishing the significance of every incident, in the context of a product that is installed in over 750 million openings throughout the country, and in comparison to other consumer products, window covering incidents occur at an extremely small rate and continue to drop every year. It is of no small relevance that the decline in fatalities over the past decade coincided with a substantial increase both in the number of window covering products in consumer homes and the growth in population. In short, CPSC's own data show that the voluntary safety standard is working and that fatalities related to window covering products have declined.

Ultimately, neither a mandatory nor a voluntary safety standard would have taken 100 percent of the pre-standard window coverings out of the marketplace and prevented most of the incidents. The reality is that, as with many products, consumer behavior (e.g. parental monitoring and adherence to safety protocols) is an important factor in many incidents. While the industry continues the three-pronged approach necessary to reduce the number of incidents to as few as possible, the standard set by the statute is "adequate reduction of the risk of injury" not zero incidents. To hold window coverings to a "zero incidents" standard would be both at odds with the statutory test and starkly inconsistent with the standard applied to numerous other consumer products (e.g. windows, swimming pools, etc.).

Importantly, the industry was (as it has always been) responsive to the concerns that could reasonably be addressed and has developed a safety standard that, as of 2012, is the toughest safety standard in the world. As more pre-standard window coverings leave the market and are replaced with compliant products under the voluntary safety standard, the risk of incidents will continue to decrease significantly. The best way to bring about this change sooner is through consumer education, not through a mandatory standard that unfairly burdens industry and has a detrimental impact on the needs of numerous consumers.

ii. There Has Been and Will Continue to be Substantial Compliance with the Voluntary Safety Standard

Importantly, because the term “voluntary” is used, there exists a misperception that meeting the 2012 safety standard is not mandatory. This is a misconception, not just for the window covering standard, but across many consumer products. In fact, all companies that manufacture, distribute, or sell window coverings in the U.S. must, in practice, comply with the 2012 voluntary safety standard. “Voluntary” simply signifies that industry worked cooperatively with CPSC, safety experts, and others, under the auspices of ANSI to develop the standards.

As reflected in the CPSA that specifically favors voluntary standards, mandatory standards are rare and traditionally meant for industries that refuse to set safety standards using the voluntary process. In fact, CPSC must rely on voluntary standards in lieu of mandatory standards or product bans, in instances where voluntary standards are effective and there is substantial compliance. Since 1981, when Congress codified its preference for voluntary standards over mandatory standards in the laws that the CPSC administers, the voluntary standards process has proven to be an effective vehicle for achieving increased product safety. As CPSC Commissioner Bob Adler noted in his 2011 statement before the House Committee on Energy and Commerce Subcommittee on Oversight and Investigations, “Over the years, the CPSC has promulgated extremely few safety rules... a grand total of nine in thirty years—or about one every 3 ½ years—opting instead to work with the voluntary standards sector and to negotiate individual Corrective Action Plans for recall of specific hazardous products.”

The window coverings industry has consistently demonstrated a willingness to work with CPSC and revise voluntary standards to respond to safety concerns and for the past 25 years CPSC has accepted those standards as adequate and reasonable approaches to safety. Since developing the first industry safety standard, the window covering industry has been in substantial compliance with the standards and redesigned almost every window covering product in the market to address safety hazards. Tellingly, there is no statement in the Petition that contradicts this fact. The only claim made is simply that there continue to be incidents in the U.S. market and therefore the voluntary safety standard must not be working. The fact is that the incidents described overwhelmingly involve older products in the U.S. market that were manufactured and sold before the voluntary safety standard was put into place. While WCSC has undertaken extensive consumer education programs to try to lessen the risks associated with older products that have contributed to the decline in the number of fatalities, no mandatory standard would have addressed this issue nor do these incidents indicate a lack of substantial compliance. In short, the actions of the window covering industry are not reflective of the sort of benign neglect as to consumer safety that has prompted the CPSC to impose a mandatory standard in other instances.

Additionally, the Petition cites the fact that there have been 16 recalls for window coverings since 2007. Unfortunately, the use of this statistic by the petitioners to push for a mandatory standard is completely misleading and at odds with the underlying facts.

The window covering industry has had a long history of cooperation with CPSC. WCMA has continuously evaluated and used new incident data received from CPSC to drive revisions to the safety standard. The industry has always viewed the safety standard as a document subject to continual revision as new data and new innovations become known. The fact that the industry and individual manufacturers have come forth to implement voluntary corrective actions is a sign

that the industry is serious about substantial compliance with the standard. In fact, the message from WCMA to manufacturers of all sizes is that compliance with the standard is mandatory in order to sell window coverings in the U.S.

The 16 recalls cited by petitioners are not an indication of substantial non-compliance. The majority of these recalls involved Roman-style shades and were included in the industry-led voluntary recall to repair. Prior to 2007, there had been no incidents reported as a result of Roman style shades. When CPSC reported to WCMA that they had begun to see some incidents from contact with the inner or rear cords on Roman-style shades, the industry reviewed the data and proceeded to facilitate two provisional standards in an expedited manner that dealt specifically with the issues presented by CPSC. CPSC staff was part of the standard development committee and was in agreement with the additional requirements for Roman style shades. Those new requirements and test procedures have been carried over in the 2012 revision to the safety standard.

In some cases where a recall has been warranted, it was found that these situations involved small manufacturers who were not aware of the requirements or that these requirements applied to a company of its size. We submit that such instances occur in every manufacturing sector and are not, as the Petition would have one believe, evidence of any type of epidemic failure of compliance in the window covering industry warranting the imposition of a mandatory standard. That is why the public education and information program conducted by the WCSC is so essential. This program serves to educate consumers and industry stakeholders about the issues of cord safety, the requirements of the safety standard and that these requirements apply to all manufactures, retailers and installers of window covering products.

There has clearly been substantial compliance with the WCMA/ANSI voluntary safety standards and the petitioners have set forth no data or studies that call this fact into question.

VI. MANDATORY STANDARDS WILL NOT ELIMINATE ALL INCIDENTS RELATED TO WINDOW COVERINGS

The Petition's demand that CPSC ban all corded products is both unsupported by the underlying facts of reported incidents as well as the reality of technology and consumer behavior in the marketplace. First, as discussed above, there are more than 750 million window covering products already in consumer homes. A declining percentage of these products are pre-standard products and no standard will fully eliminate incidents related to them. Additionally, human behavior, accidents and misuse of even the most modernized of products make the elimination of all risk associated with these products an impossible standard to meet.

Second, as previously stated, there is no "one-size fits all" technological solution to corded window coverings. The Petition claims there is but such a conclusory claim is not based on any supportable data or demonstrations of consumer acceptance. A mandatory standard would eliminate safe products from the market that would not be easily replaced. For example, retractable cord systems that provide constant cord length during usage for increased safety would be barred under the Petition's request. The resulting standard would force manufacturers to provide products that are not currently available as the technology needed to manufacture them does not currently exist. When technology works only on a portion of the potential product

mix but eliminates other proven *safe* technologies, it cannot be accepted as a compliance path in the standard. Alternatively, the result of the Petition's request would be to eliminate about 50% of the industry's current and safe product offerings — a draconian result that would cripple an industry and which is clearly not warranted under the present facts.

Innovation in the market is ultimately the best key to window covering safety, not the Petition's demand for requirements that would effectively lead to a ban on corded products, take safe products out of the market, raise costs for consumers, jeopardize the economic viability of U.S. window covering manufacturing companies and put the jobs of their employees at risk — all without delivering significant safety benefits to consumers.

In 2012, several manufacturers had the opportunity to provide CPSC Chairman Inez Tennenbaum with a first-hand look at both the challenges to replacing all corded products and the ongoing innovation that is bringing new technologies to the market. While the petitioners provide a variety of quotes made by the CPSC Chairman prior to these visits, they do not include her public comments following these visits after she learned of the inherent challenges and the industry's efforts to innovate and bring new technologies to market:

Consumers should know that they can walk into major box retailers and specialty stores today and find cordless options and blinds and shades with inaccessible cords. I believe that the innovators - many of whom I met last year - will chart the future of the industry. – Chairman Inez Tennenbaum, Keynote Address, Celebrating 20 years of ICPHSO

The 2012 revision to the voluntary safety standard will spur innovation and new technologies as it provides multiple options for achieving compliance without mandating a one-size-fits-all solution from Washington, D.C.

Completely banning cords also greatly underestimates consumer needs and behavior. For example, there are segments of the consumer, such as the handicapped or elderly, who may not find cordless systems practical or accessible. For these groups, a one-size-fits-all ban would mean a considerable burden as it is imperative to have cords at a reachable height in order for them to be functional in their living environments.

Taking corded window coverings that meet the WCMA/ANSI safety standard off store shelves could also have the unintended consequence of undermining consumer safety as it would cause consumers to hold onto their older products that do not meet current standards. In a consumer survey conducted at industry's expense in 2011, consumer responses confirmed that requirements that would effectively lead to a ban on corded products present the unintended consequence of prolonging the use of pull-cord blinds that do not meet the current safety standards within U.S. households.

- Nearly half of households (47 percent) would either delay replacing existing pull-cord blinds or buy new pull-cord blinds before the regulations went into effect.

- 40 percent of households with children would be discouraged from replacing current blinds or encouraged to purchase pull-cord blinds at an affordable price while they still can.

As this survey shows, a mandatory standard could actually be counterproductive to efforts to reduce future incidents. It is our view that the existing data on both incidents and the marketplace indicate that the current standard-setting process is the best way to produce innovation and workable options for all classes of consumers.

VII. RESPONSES TO OTHER FALSE ASSERTIONS IN THE PETITION

1. False Assertion in Petition: “Cordless window covering designs that eliminate pull cords are available and economically viable.”

While failing to meet the legal standard for a mandatory rule, the Petition also grossly oversimplifies the complexity of designing cordless alternatives for every window covering product. The fact is that there is no current universal fix for corded window coverings that would cover the wide variety of custom-made, made-to-measure and stock types of window coverings and the needs and desires of a wide variety of consumer groups, including elderly and disabled users, and allow consumers to purchase blinds or other window coverings at a cost comparable to current products. Cordless technology continues to evolve and is available in many popular styles, but cordless technology is not available in all product styles and sizes.

In support of its argument that consumers would not be impacted by a mandatory ban on cords, the Petition can only cite one example of one manufacturer who has developed a cord cover — Safe-T-Shade. The Petition boldly makes the claim that this product is affordable for industry and consumers and can accommodate any window size on the market. The petitioners do not rely on any studies or consumer or market data to support this claim. They rely solely on the manufacturer’s own self-serving website and press release. Despite the Petition’s attempt to conveniently gloss over it, the fact is that, after years of development, the Safe-T-Shade product still has not been brought to market in any meaningful scale, and, if and when they do become commercially viable, the products would apply only to a small portion of the window coverings in the market.

With zero supporting evidence or underlying data, and without providing any type of economic analysis, the Petition states that the manufacturer’s cost of alternative cordless technology is “only \$2.00 - \$3.00 more” than a similar corded product and that “the manufacturer’s cost for such cordless operating systems on a two-inch faux wood blind is in the \$7.00 - \$9.00.”

While as a trade association, WCMA does not engage in specific cost discussions with manufacturers, it is obvious that the petitioners’ assertion is simply a wild (and inaccurate) guess taken out of thin air. Their estimate completely ignores the millions, and perhaps billions, of dollars in research & development, additional labor costs, marketing, production, training of sales and installation personnel and many other factors required to develop, implement and introduce cordless products for every type of window covering product, and for all the shapes, weights, fabrics and sizes that American consumers demand. The result of a cordless mandate would likely add costs to these products that are higher than the price of the most popular stock

products that are sold at the retail level. As stated in these comments, consumer research shows that consumers will not accept this cost increase and the result will be keeping older, non-compliant window coverings in consumer homes for a longer period of time.

In summary, the petitioners have no basis for the cost estimates provided in the Petition, and provide no evidence, economic data or analysis in support of the cost estimate. This estimate therefore should be dismissed by CPSC as not credible.

2. False Assertion in Petition: Large window covering manufacturers have a vested interest in maintaining low industry standards.

One of the Petition's most outrageous claims is that "large window covering manufacturers who dominate the WCMA and ANSI safety standards writing process have a vested interest in maintaining low industry standards" because they fear competition. This is a completely false and baseless accusation that denigrates the hard work that representatives from the industry and all stakeholder groups have dedicated to developing the WCMA/ANSI safety standards – the most stringent standard in the world.

The window covering industry includes thousands of work rooms and small businesses who employ tens of thousands of Americans. And while there are some larger manufacturers in the market, the Petition's callous assertion that a manufacturer, whether large or small, acts without due regard to consumer safety is patently erroneous. Rather, the facts show that the industry and WCMA consist of a wide range of small and large businesses that are engaged in its activities and support its safety-related efforts. WCMA strictly adhered to the ANSI process which mandates an open and balanced process with public review opportunities. The year-long process required assembling a consensus body (the canvass group), submitting the draft standard to the canvass group for ballot and comment, addressing the comments received, re-balloting, a public review period and then finally achieving approval of the standard. ANSI's approval verifies that the WCMA standard-setting process has met these criteria.

No evidence is presented in the Petition to support the false claim that manufacturers are undermining safety to avoid competition and to "maintain premium pricing." This accusation is libelous and demonstrates the lack of substance and credibility of the Petition. As amply demonstrated above, and as the CPSC Chairman has seen first-hand, leading members of the industry have been focused on innovation and have placed numerous new products on the market in an effort to improve safety. Protecting customers is not simply the industry's responsibility, it is also good business.

3. False Assertion in Petition: "Some manufacturers have taken advantage of weaknesses in the standard to actually increase the number and types of long, accessible cords on newer window coverings thereby making blinds more hazardous than ever."

Once again, the Petition makes an absurd accusation unsupported by any evidence or underlying data. Indeed, as amply discussed above, all products have to meet the 2012 safety standard and it is incredible to suggest that industry has spent tens of millions of dollars and gone to such lengths in public education, innovation, and the product-setting process only to promote the

manufacturing of products that would not meet the standard and would endanger consumers. As mentioned, the 2012 safety standard is a performance standard which promoted innovation and allows multiple pathways to compliance. CPSC officials participated in every aspect of this process and the Petition should not be allowed to undermine these extensive efforts with baseless accusations.

VIII. CONCLUSION

The Petition falls far short of the standard set by CPSA to establish a mandatory standard and granting the Petition would be wholly inconsistent with CPSC's prior practices in utilizing its statutory authority. The statute makes clear that petitions for mandatory standards may be denied where there is a voluntary standard in place and CPSC determines that "the voluntary standard is likely to result in the elimination or adequate reduction of the risk of injury identified in the petition, and it is likely that there will be substantial compliance with the standard." Furthermore, the Petition has manifestly failed to put forth any new data or facts showing that the 2012 WCMA/ANSI safety standard does not adequately reduce the risk of injuries from window coverings or that there is unlikely to be substantial compliance with this standard. Indeed, since the first safety standard was introduced in 1996, the data has shown that the consensus-driven standard-setting process is the most efficient and cost-effective way to address changing technology and safety concerns. This is the way CPSC has always operated under its statutory authority and we urge it to continue to do so in this case and deny this Petition.

Appendix A

September 13, 2013

To: Window Coverings Manufacturers Association

From: Edward J. Heiden
Steve McGonegal

Re: Preliminary Results from Review of Window Covering Cord Petition Exhibit 1

Per your request, we have reviewed Exhibit 1 of the joint consumer group petition, which lists various categories of window covering cord strangulation incidents. Exhibit 1 was prepared by Shelley Deppa of Safety Behavior Analysis, Inc.. (SBAI). The SBAI analysis concludes that the current ANSI/WCMA voluntary standard (A100.1, last revised in 2012) would not have prevented 102 of 292 window covering cord strangulation incidents that occurred from 1996 through 2012.¹

In this memo we present results from our preliminary review of SBAI Exhibit 1 and compare the characteristics of the fatality incidents included in the Exhibit listings with those included in the CPSC/WCMA Working Group review of IDIs for fatal incidents that occurred from 1996 through 2010. Highlights of our review thus far are as follows:

- The SBAI Exhibit 1 counts (and those in the body of the petition) include both fatalities and injury incidents. The petition counts 186 fatalities during the 17-year period, and 65 of the 102 cases included in SBAI Exhibit 1 involved fatalities. The other 106 incidents in the petition counts and the remaining 37 incidents included in the SBAI Exhibit 1 listings involved injury and no injury cases.
- In 32 of the 49 cases included in both the SBAI and CPSC/WCMA reviews, SBAI determined that the product was compliant with the 2012 voluntary standard, while CPSC/WCMA either identified it as a product that did not comply with the earlier, less comprehensive 2002 standard or found that there was not sufficient information to determine whether or not the product was compliant.

¹ SBAI Exhibit 1 includes 7 incidents (4 fatalities, 2 injuries, and 1 no injury case) that SBAI determined were “caused or partially caused by the failure of the manufacturer to comply with voluntary standard.” It is not clear why these cases were included in SBAI Exhibit 1, but we have included them in our preliminary review to simplify the comparison with the Working Group review results. SBAI Exhibit 1 also includes two IDIs (010723CCC2641 and 090921CCC1076) under each of two separate listings; one IDI with no match in the CPSC accident investigations database; three incidents for which the only information is from the CPSC Injury and Potential Injury Incidents (IPII) database; one incident for which no information appears to be available from any CPSC hazard database (the Shelton, WA incident); and one incident for which SBAI concedes lacks adequate information to determine if it should have been included in the listing. We have also included these cases in our preliminary analysis as well to facilitate comparisons with the Working Group results.

- SBAI Exhibit 1 contains 6 IDIs for incidents occurring from 1996 through 2010 that were not reviewed by the Working Group. **The CPSC investigation reports need to be obtained and each needs to be reviewed to determine the reason why the incident was not included in the review database.**
- SBAI Exhibit 1 also contains 8 IDIs for incidents occurring in 2011 or 2012. **These eight IDIs should be obtained and reviewed by the Working Group, if this has not been done already.**

In addition, the annual incident counts provided in the petition include references to 22 IDI numbers for which no record of a completed investigation is available from the CPSC accident investigations database. Without additional information, it is impossible to determine if these incidents are correctly included in the incident counts and to confirm that they do not represent duplicate reports for cases that have been included in the incident counts under different reference numbers.

Review Methodology

We matched each of the 102 cases in SBAI Exhibit 1 to the file of 154 in-depth investigations (IDIs) of fatal incidents that occurred from 1996 through 2010. The CPSC/WCMA Working Group review of these IDIs included:

- Identification of the cord operating system of the window covering.
- Determination of whether the product was compliant with the 2002 version of the ANSI A100.1 standard.

In contrast, SBAI Exhibit 1 purports to identify incidents involving window covering cords that were compliant with the latest version of the voluntary standard.

The 16 fatality cases with no CPSC/WCMA review match, the 35 injury cases, and the 2 no injury cases included in SBAI Exhibit 1 were then matched against window covering cases (CPSC product code 0638) in three CPSC hazard monitoring databases. All but four of these cases could be located in the IDI or reported incidents (IPII) databases.

Review Results

Preliminary results of this review are summarized in Table 1 and discussed below.

**Table 1
SBAI Window Covering Incidents on CPSC Hazard Databases**

Included in 2006-2010 CPSC/WCMA review	49
Compliant with 2002 standard	17
Insufficient information*	15
Noncompliant with 2002 standard	17
Other fatality cases	16
Not included in CPSC/WCMA	6
IDI entered 2011 or 2012	8
IDI number not in CPSC database	1
Not in any CPSC database	1
SBAI severe Injury cases	5
IDI located on CPSC database	5
SBAI injury cases	30
IDI located on CPSC database**	26
IPII located on CPSC database	3
IDI not located on CPSC database	1
No injury cases	2
IDI located on CPSC database	1
IDI not located on CPSC database	1
Total cases in SBAI Exhibit 1	102

*Includes one SBAI "possible but unverified" incident.

**Twice-cited IDI counted as a single incident.

The most important results from this review are as follows:

- Of the 65 fatality cases in SBAI Exhibit 1, 49 were reviewed by the Working Group:
 - The Working Group determined that 17 of the SBAI Exhibit 1 incidents involved products that did **not** meet the 2002 voluntary standards. SBAI does not explain how it determined that the products involved in these cases were compliant with the 2012 voluntary standard.²
 - Another 15 of the SBAI Exhibit 1 incidents involved IDIs that the Working Group determined did not contain sufficient information to identify the operating system for the window covering. Without this information it is not possible to determine whether the product was compliant with the applicable provisions in

² The 2012 standard is more comprehensive than the 2002 standard, so it is unlikely that a product could comply with the current standard but not be compliant with the earlier version.

the 2002 or 2012 standard. SBAI does not explain how it determined that the products involved in these cases were compliant with the current voluntary standards.

- Finally, 17 of the SBAI Exhibit 1 incidents involving products that the Working Group determined were compliant with the applicable ANSI standard.
- There were 16 additional fatality incidents in SBAI Exhibit 1 that were not included in the Working Group review of IDIs for incidents occurring from 1996 through 2010:
 - Six (6) of these incidents occurred during the time frame included in the Working Group review.
 - Eight (8) incidents involved investigations that were entered in the CPSC IDI database in 2011 or 2012.
 - The remaining two (2) incidents could not be located on any of the CPSC hazard monitoring databases.
- There were 5 severe injury cases, 30 other injury cases, and 2 no injury cases included in SBAI Exhibit 1. None of these cases has been reviewed by the Working Group, which has been tasked with reviewing incidents that resulted in fatalities.

Characteristics of Fatality Cases in CPSC/WCMA and SBAI Listings

A comparison of the CPSC/WCMA Working Group and SBAI Exhibit fatality incidents that occurred between 1996 and 2010 is provided in Table 2.

**Table 2
1996-2010 Fatality Incidents Included in CPSC/WCMA and SBAI Reviews**

	CPSC/WCMA	SBAI Exhibit 1	% of CPSC/WCMA Cases
Operating system known	130	43	33%
Compliant with 2002 standard	23	17	74%
Insufficient information	17	9	53%
Noncompliant with 2002 standard	90	17	19%
Operating system unknown	24	6	25%
Insufficient information	24	6	25%
Other fatality cases on SBAI Exhibit 1	0	8	
Not included in CPSC/WCMA review		6	
Incident report not located		2	
Other fatalities included in petition counts		118	
Total cases	154	175	
Percent involving compliant products	20%	33%	

Note: the 2011 and 2012 incidents in SBAI Exhibit 1 were not included in this comparison.

Interestingly, 6 of the 23 fatality cases involving products that the Working Group determined were compliant with the 2002 ANSI standard were not included in SBAI Exhibit 1. However, SBAI Exhibit 1 includes as incidents involving compliant products:

- More than half of the IDIs that identified the operating system of the product but did not have sufficient information to determine whether the product would have been compliant with the standard.
- About 20 percent of the cases that the Working Group determined would not have been compliant with the 2002 standard.
- A slightly higher percentage of the cases for which the IDI lacked sufficient information to be able to identify the operating system of the product.

Overall, SBAI Exhibit 1 indicates that 33 percent of fatalities reviewed involved products that would have complied with the 2012 standard, while the Working Group determined that only 20 percent would have complied with the less comprehensive 2002 standard. The SBAI analysis appears to have inferred compliance for a substantial number of products that were either determined to be non-compliant by the Working Group or for which the investigation report lacked sufficient information to be able to determine if the product was compliant.

IDI Numbers Cited in the Petition Annual Incident Counts

The annual incident counts provided in the petition include references to 22 IDI numbers for which no record of a completed investigation is available from the CPSC accident investigations database. These IDI numbers are shown in Table 3.

**Table 3
SBAI-Listed Investigations Not Included
on CPSC Investigations Summary Database**

IDI Number	Year of Incident	IDI Number	Year of Incident
960326CBB5070	1996	090416CCC2545	2009
970814CCC2375	1996	091106CCC3071	2009
980105CCN0116	1997	091210CCC3160	2009
980508HCC2533	1997	100111CCC3235	2009
00225CBB2293	2000	100324CWE2012	2009
020719CEP9009	2002	100324CWE2013	2009
070213CCC3243	2006	100125CWE1054	2010
070221CCC3260	2007	100304CCC1300	2010
070914CCC1818	2004	100413CCC3564	2010
100106CCC3229	2008	101207CCC3281	2010
090227CCC3369	2009	101214CCC1191	2010

Source: CPSC IDI Database copy furnished to Heiden Associates, March 2013.

It is possible that these investigations were assigned but never completed. In any event, the petition should indicate the source of the information that was used to assign the investigation number, including the relevant CPSC document numbers, and acknowledge that no IDI was completed. Without this information, it is impossible to determine if these incidents are correctly included in the incident counts and to confirm that they do not represent duplicate reports for cases that have been included in the incident counts under different reference numbers.