



CPSC Offers Bad Tidings of Holiday Season Regulations

Hannah Yang
November 24, 2014

Federal consumer safety regulators may make the holiday season less festive for homeowners this year, as a wave of new product safety rules take effect.

Taking effect in December, rules issued by the Consumer Product Safety Commission (CPSC) will ban the sale of some types of decorative holiday lights, in hopes of reducing holidays lights' lethality.

The new regulations, proposed in October, aim to classify “seasonal and decorative lighting products” with wire gauges smaller than 0.8 millimeters as “substantial product hazards,” citing a fatality rate of just over one death per year associated with holiday lighting as justification.

To compare, actuarial risk estimates suggest that near-Earth-objects (NEOs) colliding with the planet are—on a long-term average—about 3.43 times more likely to kill an individual than Christmas lights.

Decorations such as “lighted decorative outfits, such as stars, wreathes, candles without shades, light sculptures, blow-molded plastic figures, and animated figures” are included in the new ban, which is to be applied to any “product painted in colors to suggest a holiday theme or a snow covering, a figure in a holiday costume, or any decoration associated with a holiday or particular season of the year.”

Scrooged by Regulations

According to the U.S. Department of Homeland Security’s Customs and Border Patrol (CBP), the rules would dry up nearly \$500 million in economic activity, distributed across 550 companies located in China, Hong Kong, Taiwan, and the United States.

The CPSC's filing notes that less than one percent of holiday lights affected by the rule have been determined to contain defects, as "voluntary conformance" with industry standards is nearly universal.

Walter Olson, a senior fellow at the Cato Institute's Center for Constitutional Studies, criticized the new rules against cheery Christmas lights, explaining "the CPSC—like other agencies—has an interest in justifying its own existence."

"Part of the politics of the CPSC is that, after decades, rule-making kind of became an embarrassment for advocates at the agency," Olson said. "Critics were saying 'look at you, you don't have any rule-making, you're not an independent agency, we should throw you back into the Department of Commerce.' You see, back then, they could have recalls but no rule-making."

"They've become somewhat truculent from all the criticism," he said, adding that CPSC actions and regulations often seem to be intended to send a message of "see how much you laugh when we send our lawyers after you."

"It's interesting that the great majority of lights sold would be compliant with the rule they're proposing—which raises a number of questions," Olson said. "As we know from other CPSC regulations, it can be quite expensive to comply with a CPSC rule, even if your product is not in violation."

Solutions in Search of a Problem

Although the CPSC was granted the authority to protect "the public from unreasonable risks of injury or death associated with the use of the thousands of types of consumer products," academic studies suggest that decades of regulations and rules have had little effect on reducing the incidence of accidents.

Publishing his research in the University of Chicago Law School's *Journal of Law and Economics*, Duke University Professor of Economics W. Kip Viscusi reviewed over 10 years of home accident data and CPSC regulations, concluding that "clearcut evidence of a significant beneficial effect on product safety from CPSC actions" did not exist within available data.

However, Viscusi did allow that the CPSC's actions and existence may correlate with safer consumer product, but noted that—if this was the case—the beneficial effect was "too small to estimate reliably."

Viscusi's study also discovered that, in some cases, empirical evidence suggested a causal link between CPSC regulations and an increase in some accident rates among consumers.

In 1975, the CPSC issued new product standards for carpets, in hopes of reducing the risk of carpet fire accidents. Contrary to common assumptions, however, more fire accidents involving carpets occurred after the institution of the new rules.

Perverse Effects

After eliminating other hypotheses for the increased incidence rates, Viscusi explained “a more disturbing possibility,” where “the nature of the carpet materials now in use may pose greater risks” than the materials banned by the CPSC.

Instead of allowing the free market to self-regulate as new products and technologies are developed, Olsen said CPSC interventions tend to suppress innovation, as “regulations aren’t updated at all.”

“They [the CPSC] assume to know how people make Christmas lights,” he said. “You have this rule sitting there on the books, and then technology changes—someone comes up with better ways of developing holiday lights, which does not involve current technology and may not comply with the rules. They assume to know how people make holiday lights.”