

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