



U.S. CONSUMER PRODUCT SAFETY COMMISSION
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STATEMENT OF COMMISSIONER NANCY NORD ON THE VOTE FOR PETITION HP 10-2; REQUEST FOR REGULATIONS ON CADMIUM

September 8, 2011

The vote before us concerns a petition to regulate cadmium in both children's jewelry and toy jewelry. The staff thoughtfully recommended that we postpone a decision on the petition for six months, allowing a voluntary standard development process at ASTM International, Inc., to finish and a voluntary standard to be adopted and implemented. I voted to follow our staff's recommendation. I was dismayed that a majority on the Commission overrode the staff and directed them to begin drafting a Notice of Proposed Rulemaking if a voluntary standard for cadmium in children's jewelry and toy jewelry is not completed within three months of the date that our vote is published in the Federal Register. Further, if a voluntary standard is adopted, the staff is directed to complete an assessment of its adequacy within nine months.

The majority's action may seem moot, because the voluntary standard for cadmium is nearly complete. Indeed, it would not be surprising if the voluntary standard were published before the Commission's vote even appears in the Federal Register. Because our staff has been participating in that collaborative process, we can expect that the voluntary standard will reflect our staff's concerns.

My major concern about this action is that the majority is signaling its willingness to short-circuit the voluntary standard development process. Why participate in that process if the Commission circumvents the process before the participants complete their work? Promises of collaboration ring hollow when the majority proceeds by imposing unrealistic deadlines. Our good faith participation in the process will be open to question. Further, the loss of trust that accompanies these sorts of arbitrary actions curtails our effectiveness in working with standards that we *must* defer to (i.e., when the voluntary standards (1) adequately reduce or eliminate risks of harm and (2) are likely to be substantially complied with).

Finally, the majority has not given either the Commission or the staff any indication of where it expects to take resources from for some alternative cadmium rulemaking process. Given our limited resources—and the damage this does to our relationships with the voluntary standards community—this action is poorly considered. The majority's decision may play well with certain special interests, but it undercuts the agency's ability to work constructively to increase safety in the most effective manner.