



U.S. CONSUMER PRODUCT SAFETY COMMISSION
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STATEMENT OF COMMISSIONER NANCY NORD
ON THE VOTE TO APPROVE THIRD PARTY TESTING FOR VINYL PLASTIC FILM REQUIREMENTS
FOR ACCREDITATION OF THIRD PARTY CONFORMITY ASSESSMENT BODIES
July 12, 2010

The CPSIA requires that children's products subject to a "children's product safety rule" be tested for compliance by an independent third party testing laboratory. The agency is required to issue laboratory accreditation requirements and testing must be done for all covered products manufactured 90 days after these lab accreditation requirements are issued. I oppose issuing laboratory accreditation requirements for compliance with flammability rules relating to vinyl plastic film for the following reasons.

The vinyl film flammability regulation is a standard designed to provide minimum protection to individuals from highly flammable fabrics, in this case fabric coated with vinyl film to enhance durability and moisture resistance. Unlike, for example, the children's sleepwear standard, this is a minimum standard that applies with equal force to all such fabrics and apparel made with such fabrics. In this respect, it is akin to the general wearing apparel flammability standard.

It is an over-expansive reading of the CPSIA to say that a standard of general applicability becomes a "children's product safety rule" just because children may use products regulated under that general standard. Instead, I believe that the Congress wanted this agency to be directing its attention toward products which present special harms to children and which we have regulated through safety rules addressing these harms. Indeed, in the CPSIA, the Congress gave us a list of products that are subject to children's product safety rules. All are rules (issued under the Federal Hazardous Substances Act) addressing identified risks specific to children. Had Congress intended that third party testing apply to every children's product arguably covered by a rule of general applicability, then Congress would not have used the term "children's product safety rule."

In [my statement to the carpet and rug laboratory accreditation requirements](#), I discussed my concerns over the Commission's misguided and, I believe, incorrect decision to turn rules of general applicability into children's product safety rules. Therefore, I will not further repeat those concerns here.

In addition to believing that our action is legally questionable, I also believe that consideration of this matter is premature. The vinyl film rule is very similar to the general wearing apparel rule. Both should be considered at the same time. It makes no sense to proceed in a piecemeal manner since these rules are interrelated. It would make more sense to consider them together so that labs are not burdened with multiple applications, and manufacturers, and our accrediting staff, are not scrambling to keep up.

The vinyl film flammability regulations have been in place since the mid-1950's. Since the CPSC was established more than 35 years ago, there have been 4 recalls for alleged violations. One can take from this that the current safety system for testing vinyl film is working well. I question our focus and use of staff resources to mandate unnecessary third party testing. Regulating for its own sake is in no one's interest.