



U.S. CONSUMER PRODUCT SAFETY COMMISSION
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CHAIRMAN INEZ M. TENENBAUM

**STATEMENT OF CHAIRMAN INEZ M. TENENBAUM ON THE PROPOSED RULES
FOR TESTING AND LABELING PERTAINING TO PRODUCT CERTIFICATION AND
COMPONENT PART TESTING**

May 5, 2010

Shortly after I became Chairman of the CPSC, it became readily apparent to me that the regulated community sought certainty and predictability as it related to their obligations under the Consumer Product Safety Improvement Act. Striving to respond to this need, I directed agency staff to engage and dialogue with our stakeholders and to begin an unprecedented pace of providing concrete answers through rulemaking, guidance, education, and outreach. The agency's staff has responded remarkably well. As a direct result of the staff's very hard work, our stakeholders constantly express their appreciation for what is now an agency that actively seeks stakeholder input and gives solid answers, providing certainty and predictability where much confusion previously existed.

Nothing is a better example of this commitment from both the Commission and its staff than the two consensus testing rules proposed by the Commission today. Our significant outreach efforts on these rules began last year with the decision to seek extensive stakeholder input prior to issuing a notice of proposed rulemaking. Agency staff spent several weeks preparing a guidance document on testing pertaining to product certification that was made publicly available last November. This guidance document and a Federal Register notice seeking input from stakeholders provided the background materials and topics for discussion at a widely attended public workshop last December. This two-day workshop was a resounding success, as it was attended by over 250 stakeholders and viewed online by hundreds more, received great reviews as an excellent approach to significant rulemakings, and provided our staff with stakeholder input directly relevant to the proposed rules promulgated today.

Following the workshop, the Commission formally adopted an interim enforcement policy allowing for component part testing for lead content and lead in paint. After the close of the comment period on both rules in January, agency staff dedicated many more hours to analyzing the extensive stakeholder input that the agency had received and developed two draft proposed rules for the Commission's consideration. I would like to express my deep gratitude to the staff for their incredibly diligent work on these two very important proposed rules and to our stakeholders for providing valuable input and informing our rulemaking in a very significant and meaningful way.

Component Testing

Upon arriving at the agency, many stakeholders told me that a rule related to component testing was long overdue. I asked our staff to begin researching this issue and to propose options for issuing such a rule. After much consideration, we decided that the best course of action was to seek stakeholder input on issues related to a component testing rule and to develop an interim enforcement policy on such testing before issuing a proposed rule. I was very pleased that my fellow Commissioners agreed with this approach and last December, demonstrating our commitment to common sense and a practical approach to the law, the Commission issued an interim enforcement policy related to component testing for lead content and lead in paint.

We now have taken what I consider to be an even greater step forward by formalizing a proposed rule related to component testing for lead content, lead and other toxic metals in surface coatings, and phthalates. As was evidenced during today's Commission meeting, the Commission is unanimous in its desire to see this rule provide significant relief from testing requirements for both small and large manufacturers while simultaneously moving safety upstream in the manufacturing process. By allowing testing to be performed by component part suppliers and designating component part certificates as certificates issued under section 14 of the CPSA, the Commission has provided great incentive for manufacturers to start utilizing component part testing. At the same time, the Commission has established safeguards such as requiring all component parts to be traceable to their original manufacturers and expressly requiring that manufacturers exercise due care when relying on component part testing certificates. I look forward to receiving comments from our stakeholders on whether we have provided common sense relief from testing requirements while still ensuring consumer safety through the establishment of proper safeguards.

Testing and Labeling Pertaining to Product Certification

The proposed testing and labeling rule outlines the basic principles for what constitutes a reasonable testing program for nonchildren's products and also establishes the testing requirements for manufacturers of children's products. I believe the requirements set out for children's and nonchildren's products within this proposed rule are a great step forward for the safety of regulated consumer products as a whole.

CPSC has encouraged domestic and foreign manufacturers to adopt best manufacturing practices for quite some time, and today we have issued a rule that sets out the basic elements of a reasonable testing program that reflects the foundation of testing programs that many manufacturers already have in place. It is my hope that the reasonable testing program requirements described in the proposed rule can be integrated into existing quality control and quality assurance programs to ensure high quality products with minimal production line disruption. I also am encouraged that manufacturers currently lacking these basic and flexible parameters for ensuring product safety may soon be required to have them in place. I look forward to receiving comments from our stakeholders that further refine our ability to outline the most basic requirements for a reasonable testing program while still maintaining sufficient flexibility for varying types of testing programs.

I know that some may believe agency staff should have left “reasonable testing program” entirely undefined or minimally defined to provide manufacturers with absolute and maximum flexibility. While I understand the reasoning behind this position, I fully support the rule proposed by our agency experts and endorse it as the truly responsible approach to ensuring product safety and also providing the regulated community with certainty and predictability when it comes to the Commission’s expectations for what constitutes a reasonable testing program.

Another great aspect of the proposed testing and labeling rule is that it provides extra incentive for manufacturers of children’s products to establish reasonable testing programs. If a children’s product manufacturer implements a reasonable testing program, then the manufacturer will only be required to conduct third party periodic testing at least once every other year. I was willing to endorse this approach because it encourages children’s product manufacturers to adopt reasonable testing programs that employ production testing techniques on the manufacturing floor while still requiring a certain level of independent third party testing. Staff crafted this creative approach for reducing testing costs for children’s product manufacturers after extensive consultation with the regulated community, and it is my hope that it results in most children’s product manufacturers adopting reasonable testing programs, as the proposed rule intends.

Continued Stakeholder Input & Agency Outreach

Although the agency has already engaged in extensive stakeholder outreach, it is very important that we continue to receive input from all stakeholders on the consensus rules proposed by the Commission today. I encourage all of our stakeholders to provide constructive feedback as we move towards completing these rules later this year. Agency staff and the Commission have already demonstrated a solid commitment to actively seeking and considering input from our stakeholders and will continue to do so moving forward with these and other rulemakings.