



U.S. CONSUMER PRODUCT SAFETY COMMISSION
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COMMISSIONER NANCY A. NORD

**Statement on the Commission's
adoption of a fiscal year 2013 operating plan**

January 24, 2013

The Consumer Product Safety Commission has now adopted an operating plan for the balance of fiscal year 2013. I joined my colleagues in voting to adopt the plan because I believe that Commissioners must find common ground to ensure that we define our priorities, we pursue our mission, and we clearly state how we are using precious public resources. Not only is it wise for the Commission to inform the public and Congress of our plans, it is our legal obligation to do so.

I voted for this operating plan, but my vote was not without reservation. While there is much to like, I am concerned about the actions we chose not to take. Although the operating plan lays out an important agenda for new and continuing regulatory activity, it does not carry out our obligation to assure that our rules are operating as they should. As a regulatory agency, that obligation is to pursue our consumer safety mission in a way that imposes the lightest burden possible on those we seek to regulate. Taking the long view, consumers do not benefit from—and consumer safety is not advanced by—regulatory actions that needlessly result in higher costs, less competition, and fewer choices. In this plan, we had the opportunity to fulfill our regulatory obligation by allocating resources for both broad rule review and targeted burden reduction. We missed that opportunity.

Consumers and products evolve, so our rules necessarily should evolve too. It is not far-fetched to suggest that some rules may no longer be current or relevant. Instead of acknowledging that need, we opted not to make any real effort to update, remove, or even identify rules that need to be either reconsidered or overhauled.

Similarly, we chose not to adequately address the unnecessary burden our recently promulgated and convoluted testing and certification rules impose. Last year, at the direction of Congress and with public input, we compiled a list of actions we could take to reduce the burden of our testing rules while maintaining compliance. Rather than acting on this list, we yet again ask for public input on a small portion of that list, making clear that we will not take any action this year to address the unnecessary costs we have imposed by the rules we have promulgated. In other words, the Commission decided the best approach to lightening the load we have placed on the American economy—and the weight we will pile on as our testing rule comes into full effect in

February 2013—is to ask people to repeat what they have already said, to tell us what the problems are even though they have already told us and we already know.

Misalignment of international test methods and variability in test results are two burdens that cry out for relief. Our staff told us that identifying test methods in international standards that are equivalent to those we require in our rules would substantially reduce the burden of testing. I hope we will find the money to pursue this opportunity when we do our mid-fiscal-year spending adjustment this spring. Second, I believe that the public’s comments justify more agency attention to variability in the test results of CPSC-accredited third-party laboratories. I appreciate that my colleagues support my plan to host public meetings to develop information on lab variability, and I hope the next operating plan will demonstrate a commitment to act on that information.

To me, whether it is government or not, those who create a problem have an obligation to fix that problem. If a company threw a product into the marketplace and then walled itself off from any consideration of its flaws, we would rightly accuse that company of having insufficient regard for safety and hold it accountable for any harm that resulted. We owe it to the taxpayers to hold ourselves to no lower a standard.