U.S. CONSUMER PRODUCT SAFETY COMMISSION
4330 EAST WEST HIGHWAY
BETHESDA, MARYLAND 20814-4408

Record of Commission Action
Commissioners Voting by Ballot*

Commissioners Voting: Acting Chairman Nancy A. Nord
Commissioner Thomas H. Moore

ITEM:

Requirements for Consumer Registration of Durable Infant or Toddler Products; Notice of Proposed Rulemaking
(Briefing package dated May 20, 2009, OS No. 3904)

DECISION:

The Commission voted unanimously (2-0) to approve the *Federal Register* as drafted that issues a notice of proposed rulemaking proposing a rule under section 104(d) of the Consumer Product Safety Improvement Act. Section 104(d) directs the Commission to issue a rule requiring manufacturers of durable infant or toddler products to provide consumers with registration forms with each such product, keep records of consumers' contact information and permanently mark their products with identifying information.

Acting Chairman Moore issued the attached statement with his vote.

For the Commission:

Todd A. Stevenson
Secretary

* Ballot vote due May 28, 2009
(Received June 12, 2009)

UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION
4330 EAST WEST HIGHWAY
BETHESDA, MD 20814

STATEMENT OF THE HONORABLE THOMAS H. MOORE ON THE VOTE ON THE NOTICE OF PROPOSED RULEMAKING ON REQUIREMENTS FOR CONSUMER REGISTRATION OF DURABLE INFANT OR TODDLER PRODUCTS

June 12, 2009

The Commission has looked at improving recall effectiveness on and off for decades. In 2003, a majority of the Commission voted to deny a petition from the Consumer Federation of America (CFA), which had asked the Commission to require postage-paid product registration cards on certain consumer products intended for children. The purpose was to facilitate direct notice of product recalls from the manufacturer to the product owner. I voted to grant the petition. I saw it as an opportunity for the Commission to formally explore the entire issue of recall effectiveness, including the use of product registration cards, and to finally define what we consider to be an effective recall—a critical first step in measuring our success in this area. At the time I feared that if the recall effectiveness issue was kept at the informal project level it would be overwhelmed by projects having more formal standing. That is what happened. The Commission staff did do some fine work in this area after the denial of the CFA petition, but that did not lead to any Commission action.

The Congress acted to fill the void by requiring product registration cards on durable infant and toddler products. This is a good product category on which to use registration cards. While many consumers ignore recalls about products intended for their own use, few will ignore a direct recall notice from the manufacturer about a product their infants and toddlers use, often on a daily basis. The statute also gives us the flexibility to expand the registration card program to other children's products.

The proposed rule does not follow our staff recommendations in every respect. For example, our staff recommended that on-line registration allow consumers to easily notify manufacturers of any change of address. The proposed rule makes this optional. Studies have shown that adults in their child bearing/rearing years tend to move fairly frequently. While the latest Census data shows a decline in annual moves, partly due to the downturn in the economy, still 27% of adults 20 to 24 years of age moved between 2007 and 2008; 25% of adults 25 to 29 years of age moved during that same time period and 13% of adults 30 to 44 years of age moved. Thus after three years, most of the registered addresses for a durable infant or toddler product will likely no longer be accurate. This problem has long been recognized in the recall notification area and addressing it in on-line registration would increase the likelihood that the consumer who owns and still uses the product would receive the recall notice. Therefore I would like comments about whether the Commission should require that on-line registration facilitate easy change of the consumers' addresses.

The staff had also proposed that the internet registration web page not contain links to sweepstakes or other items unrelated to filling in the recall registration information, which might

distract the consumer from that process. Staff felt that such a prohibition was consistent with the limited purpose for which the Congress had directed product registration. This restriction was not included in this proposal, but I would hope that we would receive comments on this issue as well.

The proposed rule seeks comments on whether there should be a definitive list of children's products that are considered "durable infant and toddler products." New types of products come onto the market every year and there is reason to believe there will be new products in the durable infant and toddler area. The notice provides guidance on determining what a durable product is and most manufacturers know whether their products are made to survive very short-term use by one child or whether they are meant to be more lasting than that. Comments on common factors that might be considered in determining durability in infant and toddler products would be welcomed.

The proposal also asks for comments on the interplay of the tracking label requirement of section 103 and the provision in section 104 that requires certain information to be placed on durable infant and toddler products. I see these two requirements as having distinctly different purposes. The Commission has not yet decided what it might ultimately deem acceptable for a tracking label, but it could be a code that on its face provides no information to the consumer in the event the consumer needs to contact the manufacturer directly. Thus there could be a need for that type of information on the product in addition to a tracking code.

Finally, while the staff proposed specifying certain uniform requirements for the information that is required to be on the products themselves (such as a minimum font size), this is not included in this proposed rule. I welcome comments on whether uniformity in the presentation of this information should be required or whether allowing flexibility, given the different sizes of the products involved, should be allowed.

I know this is an exciting moment for many who have long sought to require product registration cards for children's products. It will also be a valuable learning experience for the Commission in recall effectiveness.