



U.S. CONSUMER PRODUCT SAFETY COMMISSION
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STATEMENT OF ACTING CHAIRMAN NANCY NORD
ON THE STAY OF ENFORCEMENT ON TRACKING LABELS REQUEST FROM THE NATIONAL ASSOCIATION OF
MANUFACTURERS
May 13, 2009

One of the most important responsibilities and authorities of the CPSC is the ability to recall products found to be harmful to consumers. The effectiveness of these recalls is dependent on a number of factors such as information dissemination to the public and consumer awareness and willingness to respond. Equally important are the agency's efforts preceding public notification that involve identification of harmful products and intricate negotiations with product manufacturers or retailers. Tracking labels on consumer products, if properly executed, could facilitate agency efforts. This simple-sounding solution, however, belies the difficulty in requiring tracking labels "to the extent practicable," as defined in the law.

It is not clear that the application of the tracking label provisions across the board to all companies will improve recall effectiveness to such an extent as to justify the potential significant disruption and adverse impact on manufacturers, especially smaller companies. Because of this problem, I am voting today to grant the stay of enforcement requested in the petition from the NAM and other associations representing consumer product manufacturers.

The tracking label requirements of the Act have the potential to be especially burdensome given the long lead times many companies need to implement such requirements. Unfortunately, the law does not give us appropriate lead time nor does it give us flexibility to impose the requirements by product class and prioritize in an order based on importance. For example, with more regulatory flexibility, I would argue that we first turn our attention to high value products with long useful lives and a history of recall issues. Applying lessons learned, we could then determine how the tracking label requirement should be applied to additional products.

In January when we developed priorities for the second 6 month CPSIA implementation period, the staff was directed to develop tracking label guidance for Commission consideration by June. Given the complexity of the subject, this is an aggressive time table for completion of this work. The staff has been working diligently to accomplish the task on schedule. A request for information was put out earlier this spring. Over 130 comments were received and are now being analyzed. Because of the global implications of the issue, other countries were contacted about their plans for similar labels. The agency held a public forum yesterday to gain additional information. Throughout this process a number of things have become clear, including:

- there is a great deal of confusion over the meaning of the statutory provisions;
- there seems to be consensus that "one size does not fit all" with respect to tracking labels and that companies need to be able to develop labels that work for their individual products and situations, yet meet the needs of the agency to increase recall effectiveness;
- lead time is critical so that companies can absorb our guidance and make adjustments as appropriate; and
- a period of time is needed to educate those impacted about the new requirements.

The staff is working hard to complete a proposed tracking label guidance document for Commission consideration that will address the issues that have been raised and that will assure companies that they should reasonably exercise the judgment anticipated by the loose language of the statute. We also recognize that the initial guidance we give will not be the final word on this subject and that future iterations will be needed. Given all this, in my view it is unreasonable for enforcement of the tracking label provision to begin in August, 2009, and that a one year delay would result in more efficient implementation of the Act.