



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

MINUTES OF COMMISSION MEETING
October 21, 2009

Commissioner Nancy A. Nord convened the October 21, 2009, 9:00 a.m., meeting of the U. S. Consumer Product Safety Commission in open session. Commissioners Thomas H. Moore, Robert S. Adler and Anne M. Northup were present. Chairman Inez M. Tenenbaum was not present. Commissioner Nord made opening remarks and explained that because Chairman Tenenbaum was on travel in China attending the 3rd Biennial United States – China Consumer Product Safety Summit, the Commission decided that Commissioner Nord would chair the meeting.

Commissioner Nord explained that the Commission had voted to postpone the decision on the Learning Curve Brands Inc., request for exclusion of brass and mechanical components in replica and toy die-cast items under section 101(b)(1) of the Consumer Product Safety Improvement Act (“CPSIA”), until the next scheduled public meeting of the Commission on November 4, 2009.

Third Party Testing for Certain Children’s Products, Notice of Requirements for Accreditation of Third Party Conformity Assessment Bodies to Assess Conformity with the Limits on Total Lead in Children’s Products

The Commission had a discussion about issues on firewalled and proprietary laboratories. The staff members present to respond to inquiries were DeWane Ray, Deputy Director for the Office of Hazard Identification and Reduction (“EXHR”), Scott Heh, Special Assistant in EXHR, and Phillip Chao, Supervisory General Attorney, Office of General Counsel (“OGC”). On the motion of Commissioner Adler and seconded by Commissioner Northup, the Commission voted unanimously (5-0) (Chairman Tenenbaum voted by written ballot) to issue the *Federal Register* (“FR”) document with changes that would establish the accreditation requirements for third party conformity assessment bodies testing pursuant to the limits on total lead in children’s products in previously issued standard operating procedures.

Statement of Policy: Testing and Certification of Lead in Children’s Products

The Commission had a brief discussion about concerns with the draft Statement of Policy. The staff members present to respond to inquiries were Cheryl Falvey, General Counsel, and DeWane Ray, Deputy Director of EXHR. On the motion of Commissioner Adler and seconded by Commissioner Moore, the Commission voted unanimously (5-0) (Chairman

Tenenbaum voted by written ballot) to approve the draft Statement of Policy with changes that provides guidance on the testing and certification of children's products for compliance with the lead content limits under section 101(a) of the Consumer Product Safety Improvement Act and the issuance of the draft *FR* Notice of Availability.

Recreational Off-Highway Vehicles ("ROVs") Advance Notice of Proposed Rulemaking ("ANPR")

The Commission had a brief discussion about the voluntary standards activities involving ROVs. The staff members present to respond to inquiries were Barbara Little, General Attorney, OGC, and DeWane Ray, Deputy Director of EXHR. On the motion of Commissioner Adler and seconded by Commissioner Moore, the Commission voted (4-0-1) to approve the publication of the draft ANPR in the *FR* without change. The ANPR will address the safety of ROVs. Chairman Tenenbaum and Commissioners Moore, Nord and Adler voted to approve the draft ANPR. (Chairman Tenenbaum voted by written ballot.) Commissioner Northup abstained from the voting.

Chairman Tenenbaum issued the attached statement on the ANPR for ROVs.

There being no further business on the agenda, Commissioner Nord adjourned the meeting at 9:30 a.m.

For the Commission:



Todd A. Stevenson
Secretary to the Commission

Attachment



U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, DC 20207

**Statement from the Honorable Chairman Inez Tenenbaum
on ANPR for Recreational Off-Highway Vehicles (ROVs)**

October 21, 2009

The need for federal rulemaking on ROVs is the consequence of not having a voluntary standard that effectively safeguards consumers. I have reviewed numerous death and injury reports tied to ROVs and I believe CPSC can play a vital role in making them safer. While we work on new safety rules for ROVs, I urge all riders and passengers to strap on a helmet, use the seat belt, know the terrain, and never allow anyone under 16 to drive these vehicles.