



## U.S. CONSUMER PRODUCT SAFETY COMMISSION

4330 EAST WEST HIGHWAY  
BETHESDA, MARYLAND 20814-4408

### Record of Commission Action Commissioners Voting by Ballot\*

Commissioners Voting:      Chairman Inez M. Tenenbaum  
   Commissioner Thomas H. Moore  
   Commissioner Nancy A. Nord  
   Commissioner Anne M. Northup  
   Commissioner Robert S. Adler

### ITEM:

Fall 2011 Regulatory Agenda  
(Briefing package dated August 23, 2011, OS No. 3613)

### DECISION:

The Commission voted (3-2) to approve the draft Regulatory Agenda to be published in a *Federal Register* notice. Chairman Tenenbaum and Commissioners Moore and Adler voted to approve without changes. Commissioners Nord and Northup voted to approve with changes that were not adopted. The amendment would have changed the timetable for the testing and certification rule so that instead of the final rule briefing package, it would be a briefing package for re-proposing the testing and certification rule coming to the Commission in September and voted in October. The notice lists those rules which are expected to be proposed or issued during the next twelve months (for Fiscal Year 2012) and which may have a significant economic impact on a substantial number of small entities, including small businesses. The upholstered furniture rulemaking and the testing and certification rule have been designated as significant regulatory actions under consideration by the Commission. The format is specified by the Office of Management and Budget for inclusion in the Unified Agenda of Federal Regulatory and Deregulatory Actions. The publishing of the regulatory agenda is required by Section 602 of the Regulatory Flexibility Act, 5 U.S.C. § 602, and Executive Order 112866.

Commissioner Nord issued the attached statement regarding the matter.

For the Commission:

Todd A. Stevenson  
Secretary

\* Ballot vote due September 1, 2011



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## STATEMENT OF COMMISSIONER NANCY NORD ON THE VOTE FOR THE FALL 2011 REGULATORY AGENDA AND PLAN

September 6, 2011

The CPSC Fall 2011 Regulatory Agenda calls for the staff to prepare a briefing package on a final rule for the periodic testing requirements mandated by § 14(d) of the Consumer Product Safety Improvement Act (CPSIA), with a vote on the final rule to occur early this fall. I offered an amendment to direct the staff to prepare a re-proposal package instead, so that we could consider the public's comments about the economic impact of our periodic testing requirements and how to minimize those impacts. My proposal put forth a timeline so that this work would be done without undue delay. Unfortunately, a majority of my colleagues rejected my amendment. I am not sure why.

The majority is determined to push a final rule through the Commission without any economic analysis. But an economic analysis is absolutely warranted by this rule. We all understand that it will impose significant costs, but because we have not quantified them we do not know how big those costs will be or how to minimize them. The President just called on government agencies to review the costs and benefits of regulations, so that the agencies could tailor their regulations and reduce their burden on the American economy. Congress likewise directed the Commission to get the public's input on testing costs only weeks ago, in H.R. 2715. And in conversations with staff, I learned that they support re-proposing the periodic testing rule, given Congress's direction in H.R. 2715.

But the majority is preparing a final rule that lacks the supporting data and analysis that such a major rule merits. When issued, it will be only the third major rule the Commission has approved in nearly 40 years. It's imperative that we get this right, especially in today's economic straits. Getting this wrong will mean lost jobs and reduced economic growth with questionable safety gains. It is unfortunate that this is where the majority is headed.