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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
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September 27, 2016

The Honorable Elliot F. Kaye
Chairman
U.S. Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814

Dear Chairman Kaye:

I am writing to follow-up on my June 2, 2015, letter regarding the Commission's rulemaking on phthalates and phthalate alternatives. I appreciate that that you directed the Commission's scientific staff to analyze the most current biomonitoring data sets and making that analysis publicly available for review and comment as part of the rulemaking process. I believe this level of transparency is essential to ensure that all scientific work on this complex subject is thoughtfully considered.

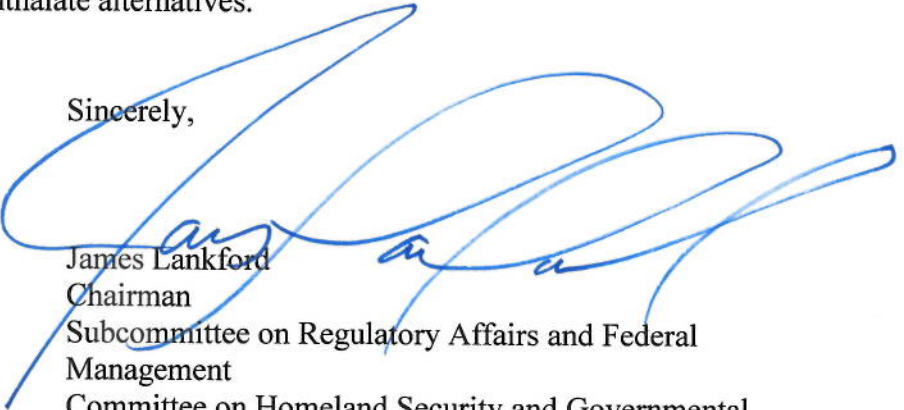
As the Commission completes its final rule, any decision must consider declining phthalate risk due to a ban on certain phthalates which took effect following the Consumer Product Safety Improvement Act of 2008. Rulemakings conducted by federal regulatory agencies must consider actual and tangible risks and not those that have already been eliminated by prior regulatory action.

The agency should also rely on widely established scientific standards of review as it relates to risk assessment. For example, the Chronic Hazard Advisory Panel's report relied on the median or 95th percentile of exposure in its own evaluation of individual phthalate risk. The CPSC should not rely on outlier exposure data to drive its conclusions for risk determination and banning when considering the final rule.

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Thoughtful consideration of the most up-to-date scientific data, review of actual and tangible risks, and adherence to federal scientific standards of review and evaluation are critical elements of effective federal rulemakings. I appreciate your consideration of my views as you finalize the rulemaking on phthalates and phthalate alternatives.

Sincerely,



James Lankford
Chairman
Subcommittee on Regulatory Affairs and Federal
Management
Committee on Homeland Security and Governmental
Affairs

Cc:
The Honorable Jerry Moran
Chairman
Subcommittee on Consumer Protection, Product Safety, Insurance & Data Security
Committee on Commerce, Science & Transportation

The Honorable John Boozman
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Subcommittee on Financial Services & General Government
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The Honorable Robert Adler, Commissioner, U.S. Consumer Product Safety Commission
The Honorable Marietta Robinson, Commissioner, U.S. Consumer Product Safety Commission
The Honorable Ann Marie Buerkle, Commissioner, U.S. Consumer Product Safety Commission
The Honorable Joseph Mohorovic, Commissioner, U.S. Consumer Product Safety Commission