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United States Senate

COMMITTEE ON
ENERGY AND NATURAL RESOURCES

WASHINGTON, DC 20510-6150

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July 29, 2014

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

Dear Chairman Kaye:

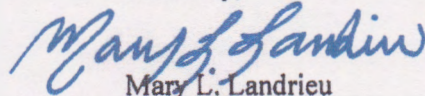
I am writing today about the implementation of requirements of the Consumer Product Safety Commission (CPSC) set forth in Section 108 of the Consumer Product Safety Improvement Act (CPSIA) of 2008 (P.L. 110-314), which addressed the safety of phthalates and phthalate alternatives in children's toys and childcare articles. Phthalates are manufactured in my home state of Louisiana, and hundreds of jobs are impacted by any adverse decision. I want to ensure the safety of all products intended for use by children and the science does not indicate this is a mutually exclusive endeavor.

First, the CPSIA is specific in requiring that the Chronic Hazard Advisory Panel (CHAP) report include recommendations on whether any individual phthalates or phthalate alternatives should be declared "banned hazardous substances." As the Commission evaluates the findings and recommendations of the CHAP, I ask that you consider whether the CHAP's evaluation and determination of the safety of individual phthalates and their alternatives was consistent with: (1) the legal requirements for "banned hazardous substances" under the Federal Hazardous Substances Act (FHSA); (2) the FHSA's implementing regulations; and (3) CPSC regulatory guidance. These regulations and guidance have benefited from public review and comment, and reflect the current consensus on how potentially hazardous substances should be evaluated and treated. The CPSIA does not direct the CHAP to determine whether the interim ban of Section 108(b)(2) should be continued – that responsibility is placed on the Commission.

Furthermore, the subsequent CPSC rulemaking process requires assessment of whether any children's product containing phthalates should be declared a "banned hazardous product" under the Consumer Product Safety Act (CPSA, 15 U.S.C. 2057). The Commission should consider the potential implications for consumer safety based on the performance of any reformulated product, as well as the safety of substituted alternative(s). This includes an assessment of the adequacy of existing research on the alternative substituted and a comparative analysis of the substitute's performance and safety in practice under reasonable foreseeable uses. I urge the Commission to consider the statutory and regulatory requirements of the FHSA and the CPSA when evaluating the CHAP report and deciding whether specific children's products should be banned hazardous products.

Finally, I look forward to reviewing the CHAP's recommendations on this subject, which was delivered to the CPSC on Friday, July 18th. I also look forward to receiving the Commission's assurances that it is aware of and will meticulously uphold the charge mandated in the CPSIA with regards to this important pending rulemaking at your agency.

Sincerely,



Mary L. Landrieu
Chair

CC:

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 Joe Mohorovic, Commissioner, U.S. Consumer Product Safety Commission