



**Statement of
Inez Tenenbaum
Chairman
U.S. Consumer Product Safety Commission**

**Before the Subcommittee on Commerce, Trade,
and Consumer Protection**

**“The Consumer Product Safety Commission:
Current Issues and a Vision for the Future”**

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Good morning, Chairman Rush, Ranking Member Radanovich, and Members of the Subcommittee on Commerce, Trade, and Consumer Protection. I am pleased to be here today to inform you of the actions we are taking at the U.S. Consumer Product Safety Commission (CPSC) to protect the safety of children and consumers, as well as my vision for the future of this agency.

Let me begin by saying that I am deeply honored to have the privilege of serving as Chairman at such an important juncture in the Commission's history. I am also pleased to report to the Subcommittee that CPSC is an agency on the rise.

My desire to serve as Chairman was deeply influenced by my previous work as an elementary school teacher, a researcher dealing with consumer product safety issues in the South Carolina House of Representatives, and my service as South Carolina's State Superintendent of Education from 1999 to 2007.

In all of these positions, I focused on doing my utmost to protect the health and safety of children and families – and have made this approach a key focus of the CPSC's move to modernize and address new regulatory challenges.

It is no secret that the Consumer Product Safety Commission has faced numerous impediments in recent years. In 1981, the Commission had nearly 900 full-time employees. By 2008, that number had dropped to below 400. Similarly, years of budget cuts severely impacted the Commission's ability to modernize or, in some cases, even maintain its basic infrastructure.

Last year, this Subcommittee and the Congress as a whole recognized the need to reinvigorate the Consumer Product Safety Commission by passing the Consumer Product Safety Improvement Act of 2008 (CPSIA). Among other things, the CPSIA gave the Commission substantial new enforcement authority, authorized increased staffing, increased public disclosure of emerging product safety issues, and provided new mandatory standards for children's toys and juvenile products.

Mr. Chairman, I applaud your leadership and that of other members of this Subcommittee in crafting the CPSIA. The CPSIA recognizes many of the challenges this agency has faced over the years – and demands that we rebuild the Commission to adapt to an era of consumer products that come from all over the world, and the need to take proactive measures to protect consumers from new and emerging hazards.

In my first two months leading the CPSC, I have focused on three key goals: transparency and openness to those we serve; a renewed focus on education and advocacy to all American consumers; and fair, but firm enforcement of the product safety laws we oversee.

Today, I hope to provide a clear assessment of what the Commission has accomplished so far and my vision for the future.

Implementation of the CPSIA

My top priority since assuming the Chair of the Commission has been meeting the statutory deadlines for rules and reports required by the CPSIA. Through the hard work of CPSC staff, I am pleased to announce that 12 substantive rules and policy guidance documents have been released since I was sworn in on June 23, 2009, including the following items:

- Proposed Rule for Registration of Durable Infant and Toddler Products: On June 29, 2009, the Commission issued proposed rules for consumer registration of durable infant and toddler products, as required by the Danny Keysar Child Product Safety Notification Act, Section 104(b) of the CPSIA.
- Tracking Label Guidance: On July 20, 2009, the Commission issued policy guidance for the tracking label requirement contained in Section 103 of the CPSIA. The policy guidance announced the Commission's interpretation of key features of the tracking label provision, and explained how the Commission would approach enforcement.
- Mandatory Toy Standards: On July 21, 2009, the Commission issued a Notice of Consultation, pursuant to Section 106(b) of the CPSIA, to solicit input from all stakeholders on the effectiveness of the current mandatory toy standard (ASTM F963), and possible ways in which this standard could be improved to further reduce the risk of injuries from toys.
- Lead Inaccessibility Rule: On August 10, 2009, the Commission issued a final rule explaining under what circumstances children's products may contain parts that exceed the Congressionally-mandated lead limits, and describing when those internal lead parts are inaccessible to children.
- Audits for Third-Party Testing Labs: On August 13, 2009, the Commission issued a proposed rule specifying audit requirements for third-party testing labs pursuant to Section 102 of the CPSIA.
- Phthalates Testing Guidance: On August 17, 2009, the Commission issued testing guidance for children's toys and child care articles. This testing guidance only requires testing on component parts likely to contain phthalates, and not the entire article. Comments received on this guidance will also be integrated into a Notice of Proposed Rulemaking on the issue.
- Lead Testing Component Exemptions: On August 26, 2009, the Commission issued a final rule on lead level determinations that exempts certain component parts, including dyed and undyed textiles, polyester, cotton and papers, inks and inaccessible bindings in books from third-party testing requirements.

- Civil Penalties Interpretative Rule: On September 1, 2009, the Commission issued an interim final rule providing notice of the increase in civil fines pursuant to Section 115 of the CPSIA, and provided guidance on how the Commission will now negotiate civil penalties.
- Durable Nursery Goods Rulemaking: On September 3, 2009, the Commission issued proposed rules for infant walkers and bath seats pursuant to the Danny Keysar Child Product Safety Notification Act, Section 104(b) of the CPSIA. Both proposed rules strengthen the existing voluntary standards for those products. In February 2010, the Commission will issue proposed rules for bassinets and toddler beds.

In each of these rulemaking proceedings, I have directed Commission staff to work closely with all impacted stakeholders to ensure that the rules we implement remain true to the statutory intent of the CPSIA, while also minimizing undue burdens on small businesses and other stakeholders.

In the near future, the Commission will publish additional rules clarifying the third-party testing process and the testing of component parts. As we move forward, I assure the Subcommittee that we will continue to solicit feedback from all involved parties, and work to implement common-sense rules that are squarely focused on maximizing product safety and reducing administrative burdens.

Rebuilding the CPSC's Internal Business Processes

The Commission's information technology systems are truly the lifeblood of this agency. Sadly, these systems were neglected for far too long. The result is a patchwork of systems that make it very difficult for CPSC staff to "connect the dots" between different incidents, identify patterns of defects, and respond quickly to emerging hazards. This has led to a situation where the Commission is constantly in the position of reacting to events – rather than receiving new hazard information and proactively targeting harmful products before they flow into the stream of commerce.

Congress recognized the critical need for infrastructure modernization in the CPSIA, and directed the Commission to upgrade its infrastructure and create a product incident database that is easily searchable by the public. In response to that mandate, the agency is developing a single, integrated web-based environment, the Risk Management System (RMS), and an associated public database that will allow access to consumer product safety information.

Earlier today, the Commission submitted a plan to Congress detailing Phase I of the modernization initiative, which is implementation of the searchable product information database required by Section 212 of the CPSIA by March 11, 2011. As detailed in the report, the new web portal will be specifically designed to be easily accessible and usable by all Americans. Furthermore, the Commission plans a major public awareness

campaign as the database is rolled out to ensure that all Americans are aware of the database, and its utility in ensuring the safety of consumers.

However, this initial phase of the RMS is only one component of the Commission's overall effort to improve its infrastructure. CPSC continues to look at its business processes in order to identify improvements that will provide the agency with the tools necessary for identification of emerging hazards, such as using predictive data-mining technologies to analyze the increasing amount of information the agency receives, and identifying emerging hazards in real-time.

It is impossible to understate the absolutely essential nature of these improvements and their ability to transform the way this agency receives, reviews, and acts on new and emerging threats. By forming partnerships with industry and government entities to expand import surveillance and data exchanges, greater consumer involvement through user-friendly reporting and search tools, and the use of new advanced information-management technologies, CPSC can take the truly proactive approaches necessary to protect public health and safety.

Consumer Education

Notice of recalls and other hazards are only effective when all impacted consumers actually hear about them and respond to our alerts. Through network television appearances and newspaper interviews, I have worked to reach millions of families with information about dangerous cribs, bassinets, and window blinds. These are products that have killed young children, and we are working tirelessly to inform parents and caregivers about recalled products that need to be removed from homes or repaired to keep kids safe.

Last month, the Government Accountability Office (GAO) released a report noting that the Commission could do a better job of reaching out to poor and minority communities that often do not receive critical consumer product safety information.

Chairman Rush, I know this is a key priority of yours and I want to assure you that it is also a key priority of mine. To that end, I have directed Commission staff to expand our education and consumer outreach efforts to underserved Americans.

One example of this is the Commission's effort to communicate with populations that are sometimes difficult to reach through traditional media. We are planning a "Minority Outreach Day" to increase awareness of product safety in certain targeted markets. We also have a successful grassroots program called the Neighborhood Safety Networks that has 5600 members who are community leaders and who pass on vital safety information to their constituents. These members include tribal leaders, fire chiefs, health care workers, and child safety advocates. We plan to expand this program and target our materials to specific hard-to-reach populations that the Neighborhood Safety Network aims to serve.

Later this month, CPSC also plans to launch a social networking, social engagement program that will establish CPSC's presence on various new media sites, including Facebook, Twitter, and YouTube. This is an exciting new effort that once launched will reach a great number of consumers who may not know about us right now, but will know about us soon.

Increased Port Monitoring

From 1998 to 2007, the value of consumer products imported into the United States increased over 100 percent. During that time period, imports from China nearly quadrupled – and now constitute over 40 percent of all imported consumer goods.

Pursuant to Section 225 of the CPSIA, the GAO recently released a study that audited and analyzed the agency's efforts to police imports, and prevent the entry of unsafe products into the U.S. market. In the report, the GAO found that increased agency staffing at ports, combined with revised information sharing agreements with U.S. Customs and Border Protection (CBP) would allow the agency to better detect faulty products before they enter the country – not after they enter the stream of commerce.

I agree with these recommendations, and have directed Commission staff to update agreements with CBP to allow better information sharing. This information sharing would include use of CBP's Automated Targeting System (ATS), which contains advance manifest information for shipments entering the United States.

To access the ATS information, the Commission is in the process of hiring an employee that will be resident in CBP's Commercial Targeting Analysis Center (CTAC) when it becomes operational on October 1, 2009. This employee will be able to provide CPSC with real-time advance cargo manifest information, and allow other CPSC staff to make cargo risk assessments as shipments arrive, not after they leave port areas.

Foreign Outreach

Since assuming the Chair of the Commission, I have made a number of efforts to reach out to foreign governments and manufacturers to inform them of new Commission regulations, and to emphasize this agency's commitment to ensuring the safety of imported consumer products.

In late July and early August, I traveled to Asia to meet with industry and government leaders in Hong Kong and Vietnam to discuss the CPSC's new priorities. I also gave a keynote speech at the APEC Conference in Singapore, where I stressed the importance of foreign manufacturer compliance with the CPSIA, the importance of foreign economies building safety into their products, and the relationship between trade and safety.

The Commission is also continuing its efforts to strengthen and deepen our work with the Chinese government and Chinese manufacturers. On October 21-26, 2009, the 3rd Biennial United States – China Consumer Product Safety Summit between the CPSC and

its Chinese counterpart agency, the General Administration of Quality Supervision, Inspection, and Quarantine (AQSIQ) will be held in Wuxi, Jinhua, and Beijing, China.

The goal of the 2009 Summit is to bring dialogue between the two agencies to a new level, emphasizing the need for commitment to a more comprehensive approach to product safety. With input from U.S. and Chinese stakeholders, CPSC and AQSIQ will identify and discuss measures to ensure that U.S. importers and Chinese suppliers establish a systemic approach to preventing and detecting safety hazards in consumer products – from product design, through the manufacturing process, and to ultimate use of the product by the consumer.

In addition to overarching policy discussions, the Summit agenda will include topical discussions of product safety issues, with toys, lead in children's products, all terrain vehicles (ATVs), lighters, and fireworks representing specific product areas where we hope to make systemic advances.

In the coming months, we will continue our outreach efforts with representatives from other foreign governments to ensure that all manufacturers importing products into the United States are aware of the existing CPSC regulations, as well as new requirements that will soon be promulgated pursuant to the CPSIA. We will also be working closely with the U.S. Department of State, pursuant to new authorities under the CPSIA, to develop an information sharing agreement with foreign governments as we investigate mutual product safety concerns, and begin to pursue joint enforcement activities.

Chinese Drywall Investigation

CPSC continues to vigorously pursue its investigation of imported drywall that has been linked to corrosion of metal components and possible health impacts by homeowners in a number of states. We are fully committed to finding answers and solutions for all the homeowners who are impacted by this serious situation – and the agency is pouring a record amount of money and manpower toward the goal of helping affected families.

As of September 4, 2009, the Commission had received 1192 incident reports relating to drywall in 24 states and the District of Columbia. The majority of these reports continue to be from Florida, Louisiana and Virginia.

In order to provide a comprehensive response to this issue, the Commission has formed an internal drywall task force that works with other federal and state agencies, including the Environmental Protection Agency (EPA), the Centers for Disease Control (CDC), the Department of Housing and Urban Development (HUD), Immigration and Customs Enforcement (ICE), and several state health departments.

In the last month, the CPSC drywall task force has:

- Made an investigative visit to China to meet with government and industry officials, and collected information and samples relevant to the Chinese drywall manufacturing process;
- Conducted principal air sampling field work in 50 homes to determine the air emissions in homes with suspect drywall;
- Sent over 100 letters to drywall importers, distributors, and builders to determine how much drywall may be at issue and in what homes it may have been used;
- Contacted over 500 consumers to request that they update the information provided in initial drywall incident reports; and
- Coordinated a rapid response to allegations of radioactive phosphogypsum in Chinese drywall. Upon learning of the allegations, we commissioned a study with our state and federal partners, validated the science with an interagency technical committee, and publicized results that the samples tested did not pose a radiological hazard.

Later this fall, the federal drywall task force plans to release initial indoor air sampling test results, drywall elemental analysis results, chamber study results, and a preliminary health assessment – and will continue to diligently work on efforts to reach further conclusions on the exact source of contamination in the affected homes. The Commission is also studying the remediation activities of certain builders in an effort to assist its federal and state partners in developing a remediation protocol for impacted homes. Further detail on the federal testing efforts and associated activities is available in our September Drywall Investigation Status Report.

I understand the personal hardship that this issue has caused impacted homeowners, and want to reassure members of the Subcommittee that effective and efficient completion of this investigation is a key priority for the CPSC and our federal and state partners.

Pool and Spa Safety

In 2007, Congress passed the Virginia Graeme Baker Pool and Spa Safety Act in response to a series of horrible child injuries and fatalities involving drain entrapments and drownings in pools and spas. CPSC has worked with the Baker family and Taylor family and is pouring its heart and energy into effectively implementing and enforcing this safety law – this is our way of honoring the children who have died or been seriously injured in pools and spas.

Ensuring compliance with this law is a critical priority for me. In the last several months, CPSC has ramped up its outreach and education efforts to ensure that public swimming pool and spa operators are compliant with the law. In July, I conducted an

extensive interview with NBC's *Today Show* to re-state the need for compliance, and warn public pool operators that they should close their facility if they are not in compliance with the law. In addition, CPSC investigators have inspected over 1200 pools and spas in 38 states as part of a recently launched enforcement initiative.

The good news is that CPSC's public outreach and education efforts seem to be having a positive impact in this area. Recent inspections show that most public pools and spas have installed or have plans to install the new, compliant drains covers and safety equipment in the near future. Let me state again, contrary to some reports, there are many more public pools and spas that have been made safer because of this important law.

As we approach the end of the summer swimming season, CPSC will continue to work with state Attorneys General, state health departments, and consumer groups to ensure that public pools are in compliance with this important law – and will not hesitate to take action against those that are not.

Chairman Rush and Ranking Member Radanovich, thank you again for allowing me the opportunity to update the Subcommittee on my vision for the future of the Consumer Product Safety Commission. I believe that CPSC Stands For Safety, especially the safety of children.

With your support, I intend to continue the transformation of this agency from what some have described as a "teething tiger" to the world's leading lion of consumer protection.

I now look forward to answering your questions.