



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

MINUTES OF COMMISSION MEETING
July 27, 2011

Chairman Inez M. Tenenbaum convened the July 27, 2011, meeting of the U. S. Consumer Product Safety Commission at 10:00 a.m. in open session. Commissioners Thomas H. Moore, Nancy A. Nord, Robert S. Adler and Anne M. Northup were also in attendance. Chairman Tenenbaum made welcoming remarks.

Decisional Matter - Phthalates Notice of Requirements (Briefing packages dated June 29, 2011 OS No. 3744)

Chairman Tenenbaum summarized the issues for the decisional matter. The Commissioners discussed the matter and asked questions of the staff. The staff that responded to questions was Robert J. Howell, Director, Office of Hazard Identification and Reduction ("EXHR"), Lori E. Saltzman, M.S., Director, Division of Health Sciences, and Jonathan D. Midgett, Engineering Psychologist, Division of Human Factors. After the discussion, Chairman Tenenbaum offered as a motion that the Commission adopt an amendment in the nature of a substitute to the staff draft *Federal Register* notice entitled: "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 Phthalates in Children's Toys and Child Care Articles." Chairman Tenenbaum explained and summarized the amendments and called for any discussion. Commissioner Adler seconded the motion. After discussion, Chairman Tenenbaum called for a vote on the matter. The Commission voted unanimously (5-0) to adopt the substitute amendment to the staff draft.

Chairman Tenenbaum called for any other motions. Hearing none, Chairman Tenenbaum moved that the Commission approve publication of the document entitled: "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 Phthalates in Children's Toys and Child Care Articles," as amended in the *Federal Register*. Commissioner Adler seconded the motion. Chairman Tenenbaum called for any discussion. Hearing none, Chairman Tenenbaum called for the vote. The Commission voted unanimously (5-0) to approve for publication of the document in the *Federal Register*. The Commissioners commented on the matter.

Chairman Tenenbaum and Commissioners Adler and Moore issued a joint statement regarding the matter. Commissioners Nord and Northup issued separate statements regarding the matter. The statements are attached.

Decisional Matter – 100 ppm Lead Enforcement Statement

Chairman Tenenbaum introduced the matter. Commissioner Nord explained the lead enforcement statement and the process of preparing it with Commissioner Adler. After a discussion, Chairman Tenenbaum called for a motion. Commissioner Nord offered as a motion that the Commission approve a statement prepared by Commissioners Nord and Adler as a Commission Statement on Enforcement of 100 ppm Lead Standard. Commissioner Nord read the statement. Commissioner Adler seconded the motion. Chairman Tenenbaum called for any discussion. Commissioner Nord withdrew the title on the version she circulated to the Commissioners. After a discussion of the statement, Chairman Tenenbaum called the question. The Commission voted unanimously (5-0) to approve the statement. The Commission statement on enforcement of 100 ppm lead standard is attached.

Virginia Graeme Baker Pool and Spa Safety Act (“VGBPSSA”); Incorporation by Reference of ANSI Successor Standard (Briefing package dated July 20, 2011)

The Commission was briefed on the incorporation by reference of ANSI successor standard as required by Section 1404(b) of the VGBPSSA by Barbara Little, General Attorney, Office of General Counsel, Robert J. Howell, Director, EXHR, James C. Hyatt, Director, Division of Mechanical Engineering (“LSM”), and Mark G. Eilbert, Mechanical Engineer, LSM. After the prepared briefing, the staff responded to questions from the Commission. No decisions were made in this portion of the meeting.

Chairman Tenenbaum explained the meeting was going to move into executive session to discuss legal matters. The meeting moved to executive session at 11:30 a.m.

At 11:55 a.m. Chairman Tenenbaum reconvened the open session of the meeting.

The Commission asked questions of the staff about the successor standard VGBPSSA matter. There was a discussion about when the Commission should vote on the matter. Commissioner Northup moved that the Commission vote by ballot by Friday, July 29, 2011. Commissioner Adler seconded the motion. Chairman Tenenbaum called for a vote. The Commission voted unanimously (5-0) to vote on this matter by ballot by Friday, July 29, 2011.

There being no further business on the agenda, Chairman Tenenbaum adjourned the meeting at 12:00 p.m.

For the Commission:

A handwritten signature in black ink, appearing to read "Todd A. Stevenson". The signature is fluid and cursive, with a large initial "T" and "S".

Todd A. Stevenson
Secretary

Attachments: Joint Statements of Chairman Tenenbaum and Commissioner Adler and
Commissioner Moore
Statement of Commissioner Nord
Statement of Commissioner Northup
Commission Statement on Enforcement of 100 ppm Lead Standard



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August 5, 2011

**JOINT STATEMENT OF CHAIRMAN INEZ M. TENENBAUM, COMMISSIONER
ROBERT S. ADLER AND COMMISSIONER THOMAS H. MOORE ON THE
VOTE TO APPROVE THE NOTICE OF REQUIREMENTS FOR THE
PHTHALATES PROVISION OF THE CPSIA**

Last week, the Commission voted unanimously to establish the procedures for the accreditation of laboratories that will perform testing to ensure toys and child care articles do not violate the federally mandated phthalates bans. This is another key step forward in the quest to strengthen consumer confidence in the safety of our children's products.

Phthalates are chemicals used to make plastics and other materials more flexible. The Consumer Product Safety Improvement Act of 2008 (CPSIA) permanently banned the use of three phthalates in concentrations greater than 0.1 percent in children's toys and child care articles. The law also temporarily banned the use of three other phthalates in concentrations greater than 0.1 percent in child care articles and in children's toys that can be mouthed, sucked or chewed. Since February 2009, it has been unlawful to manufacture or import children's toys and child care articles violating the bans for these chemicals.

Guidance on Section 108

For the purposes of the phthalates ban, Congress defined "children's toy" in section 108 of the CPSIA as "a consumer product designed or intended by the manufacturer for a child 12 years of age or younger for use by the child when the child plays." Congress also defined "child care article" as "a consumer product designed or intended by the manufacturer to facilitate sleep or the feeding of children age 3 and younger, or to help such children with sucking or teething." In determining whether a children's toy or child care article is designed or intended for use by a child 12 years of age or younger or 3 years of age or younger, Congress specified that manufacturers should take the following four factors into consideration:

- (1) A statement by a manufacturer about the intended use of such product, including a label on such product if such statement is reasonable.
- (2) Whether the product is represented in its packaging, display, promotion, or advertising as appropriate for use by children of the ages specified.
- (3) Whether the product is commonly recognized by consumers as being intended for use by a child of the ages specified.

- (4) The Age Determination guidelines issued by the Commission staff in September 2002 and any successor to such guidelines.

In response to questions raised by some of our stakeholders regarding whether their products were toys or child care articles, the CPSC staff issued guidance¹ in February 2009 and also provided guidance on the agency's frequently asked questions² webpage. In addition, the Commission issued a Statement of Policy³ in August 2009 concerning plasticized component part testing.

February 2009 Staff Guidance: The notice of requirements specified that this staff guidance issued in February 2009 remains in effect, as a resource available for manufacturers seeking guidance regarding what constitutes a children's toy or child care article. This staff guidance emphasizes that whether a particular product falls within the ASTM F-963 toy standard (a mandatory standard) will be useful in directing a company in their determination as to whether that product is subject to the phthalates bans. We believe it is important to note that we do not interpret the staff guidance as limiting the scope of the section 108 definition of "children's toy" to only those items covered by the ASTM F-963 toy standard. The Commission may always enforce the phthalates content limits against any product that meets the definition of toy or child care article under section 108 of the CPSIA.

August 2009 Statement of Policy: In the notice of requirements the Commission reaffirmed our August 2009 Statement of Policy allowing for the use of plasticized component part testing for phthalates. Prior to this, the phthalates test method resulted in higher costs for manufacturers and diluted results for consumers because it required the entire product to be ground up and then tested. The newer approach, however, reduces phthalates testing costs while simultaneously providing a higher degree of protection for children. The Commission's reaffirmation of our plasticized component part testing policy benefits the regulated community and consumers alike and remains an important resource available as guidance to manufacturers.

August 2011 Notice of Requirements: Last week we provided clarification that because untreated/unfinished woods, metals, natural fibers, natural latex and mineral products are not expected to inherently contain phthalates, they do not need to be tested or certified (provided that they have neither been treated or adulterated with the addition of materials that could result in the addition of phthalates). We feel it is important to note that this action does not in any way expand the universe of materials and products that need to be tested or certified. To the contrary, this clarification shrinks that universe. The guidance contained in the Commission's August 2009 Statement of Policy for certain other materials, such as polyolefins, still remains in effect.

¹ <http://www.cpsc.gov/businfo/frnotices/fr09/draftphthalatesguidance.pdf>

² <http://www.cpsc.gov/about/cpsia/sect108.html#faqs>

³ <http://www.cpsc.gov/about/cpsia/componenttestingpolicy.pdf>

It has now been more than two years since the phthalates bans have gone into effect, and we believe much of the confusion expressed in the Spring of 2009 regarding whether a product is a toy or child care article has dissipated in large part due to the available staff guidance and extensive staff education and outreach. We believe the majority of manufacturers know if they are making a children's toy or child care article and that they are complying with the underlying statutory limits for the banned phthalates. Therefore for those manufacturers it should not be a difficult task to determine which products need to be third party tested for compliance because they are the exact same products that have had to be in compliance with the phthalates bans for the past two and a half years.

However, the Commission is cognizant that there still may be some who have questions regarding what constitutes a children's toy or child article or how to test for the banned phthalates. To that end, we invite questions and comments to be communicated to the staff contact person listed in the notice of requirements. CPSC staff will be updating our frequently asked questions webpage in the future to provide further guidance. In addition, the Commission seeks general comments in response to this notice of requirements and welcomes feedback from those in the regulated community.

The Stay

We have also worked diligently to provide time for relevant stakeholders to, as necessary, prepare for the testing and certification requirements related to the phthalates bans. Accordingly, the Commission unanimously agreed to support a stay of enforcement of third party testing and certification to show compliance with the phthalates bans until December 31, 2011. This date matches up with the expirations of the stays of enforcement for testing and certification of children's products to the lead content limit and children's products subject to the ASTM F-963 toy standard. We would like all consumers, as well as manufacturers of all sizes, to know that we have carefully balanced any legitimate timing and compliance concerns with our Congressional mandate to require the third party testing of children's toys and child care articles for banned phthalates. We must protect our children by ensuring only safe toys and child care articles are on the market.

Conclusion

Putting in place procedures that require meaningful, independent third-party testing for banned chemicals is a vital and necessary part of the process of providing parents and grandparents with greater peace of mind when standing in the store shopping for toys or child care articles. Three years ago, in response to a wave of unsafe and violative toys in the marketplace, such as small magnets that detached from toys, chemical contaminants in and on children's products, and detachable small parts that killed or seriously injured several children, Congress said enough was enough. By passing the CPSIA, Congress directed the Commission to implement third party testing requirements, including requirements to ensure toys and child care articles are free of banned phthalates. Since then, CPSC has been steadily improving the requirements for children's safety by, for instance, putting in place

lab accreditation requirements and having established testing requirements for lead paint, total lead content, the federal toy standard, and now phthalates as well. Last week, we fulfilled our statutory mandate to require companies to prove, through independent testing, that the products they make and sell meet the phthalates bans.



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STATEMENT OF COMMISSIONER NANCY NORD ON THE VOTE TO APPROVE THE NOTICE OF REQUIREMENTS FOR THE PHTHALATES PROVISION OF THE CPSIA

July 29, 2011

Today, the Consumer Product Safety Commission (CPSC) has issued a Notice of Requirements (NOR) to fully implement the portions of the Consumer Product Safety Improvement Act of 2008 (CPSIA) that ban the use of certain chemicals called phthalates in toys and children's products. I supported this move, and voted for the NOR. This completes another of the tasks the CPSIA gave us.

However, I was and remain dismayed by the secretive process we used to produce this NOR and the fog of confusion we have created as a result. I hope that, in the future, our other efforts will not be similarly damaged by non-transparent tactics.

Phthalates are chemicals manufacturers use in some kinds of plastic to make the plastic more pliable and flexible, to produce things like children's bath toys. In the CPSIA Congress banned the use of certain phthalates in toys and child care articles until after the agency considered the scientific findings of a Chronic Hazard Advisory Panel (CHAP), which is now working on this issue. The CPSIA phthalate provision we addressed on July 27 is a requirement for labs to be accredited to test products for the presence of the banned phthalates. Testing for phthalates will begin on January 1, 2012.

In February of 2009, as we began work on the phthalates provisions of the CPSIA, we put out general guidance on those provisions and what they meant for manufacturers and retailers. In that enforcement guidance, we included a series of questions, asking the community about such critical issues as what the definitions of "children's toy" and "child care article" should be for the phthalates policy. Definitions determine how broadly or narrowly a law or rule applies, so it was and is important that we get it right. Manufacturers need to know which products they are supposed to test for phthalates; CPSC staff needs to know for enforcement action.

We received much thoughtful input from industry, consumer groups, and others who responded to our call for comments. Our staff carefully read and considered all of those comments, and began including them in the briefing package for an interpretative rule, the device administrative agencies often use to clarify what their statutes and rules mean. This is how the process works best: we invite the community to participate, the community accepts that invitation, and we incorporate their input in a proper rulemaking process.

But that is not what we did. Literally the night before that interpretative rule proposal was to land on Commissioners' doorsteps back in 2009, the majority decided we would not consider it. No explanation for pulling the interpretative rule was given. The agency therefore provided no substantive answers to the questions we had posed to the community. The Commission wasted the efforts of everyone who had

participated in the process—industry, consumers, our own talented and dedicated staff—with this last minute action. I still am not sure why that effort was derailed. I am sure questions both we and the community had about the phthalates ban remained unanswered.

Fast forward to 2011. This week, the majority did it again. Our staff put together a package that contained the proposed NOR and all the considerations that went into drafting it. That proposal included some of the same clarifying information that was in the proposed rule that was pulled two years ago. It also included a list of materials that we thought so unlikely to contain phthalates that they might not need to be tested, a topic we discussed at a public hearing just a few weeks ago.

With an insouciance that is startling, this majority simply pulled this week's packet of information on clarifying definitions, just 48 hours before we could vote on it. This effectively denied the public definitional clarifications we had led them to believe we would provide to help them understand what needs to be tested.

A list of materials that were determined to be phthalate-free (and therefore not requiring testing) was developed, and this list was included in our vote: "wood, metal, natural fibers, natural latex and mineral products." This was a plus for clarity. However, I suspect that many will be surprised by the brevity of the list and will still have questions about testing for other materials.

More notable is the fact that, by pulling the staff material on what constitutes a toy or a child care product for the phthalates ban, we lost the opportunity to discuss that point fully, and the public lost the opportunity for much-needed clarification. Instead, beyond the short list of phthalate-free materials, the majority just referred the community to the guidance we put out in 2009, which, as you will recall, posed a series of questions. In other words, the majority decided to answer a series of current questions with a series of previous questions. (It would not surprise me if many of the affected stakeholders decide to contact our Ombudsman, or other Commissioner offices requesting answers.)

The majority suggested manufacturers were "quite clear" on what products did or did not fit within the definitions. Obviously, this is directly contrary to the stack of comments we got from manufacturers telling us their issues. The Commission has the responsibility to interpret this law and by doing so, further compliance. Instead, the majority effectively said: "We know what fits in the definitions. Hope you can read our minds before enforcement shows up at your door."

I voted for the phthalates NOR today because I have little objection to what it actually does. The CPSIA requires us to accredit labs so phthalate testing can take place, and we complied with that mandate. However, my support was reluctant and my objection was great because of what this NOR could have done and the tactics that caused it to fall short. The Majority, not once but twice, pulled information from the public and stopped the Commission from properly considering critical provisions of the CPSIA.

This is a regulatory embarrassment.



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STATEMENT OF COMMISSIONER ANNE M. NORTHUP ON THE APPROVAL OF NOTICES OF REQUIREMENTS FOR THIRD PARTY CONFORMITY ASSESSMENT BODIES TO TEST CHILDREN'S TOYS FOR COMPLIANCE WITH ASTM F-963 AND CHILDREN'S TOYS AND CHILD CARE ARTICLES FOR COMPLIANCE WITH THE PHTHALATES STANDARD

August 1, 2011

The Commission voted unanimously to publish "Notices of Requirements" (NORs) for third-party labs to test to the toy and phthalates standards of the Consumer Product Safety Improvement Act (CPSIA). The statute requires such notices for all children's product safety rules, most have passed unanimously, and the content and language of the approximately 16 NORs the Commission has published is largely repetitive. My approval of both NORs is an acknowledgement of this statutory requirement and nothing more.

I Do Not Endorse Third-Party Testing

I understand that the CPSIA requires manufacturers to third party test to the phthalates and toy standards. I also recognize the expertise of Commission staff to establish the requirements for labs to follow in performing tests to the standards. I therefore voted to approve the NORs. But as with the statute's other testing requirements, I believe the Commission could have exercised its discretion to reduce the burden where an assessment of the risk warranted doing so, and regret that the Commission Majority resisted my efforts to do so. In this case, as discussed below, I believe we are requiring manufacturers to test a broader class of products for phthalates than the risk of contamination warrants.

My votes in favor of the NORs reflect my obligation as a Commissioner to enforce the law as written; they should not be construed as an endorsement of the underlying requirement to third-party test to the toy and phthalates standards. I do not believe that the statute's non-risk-based, third-party testing requirements will improve compliance with the underlying standards or improve safety. They will instead layer on costly, unnecessary burdens for manufacturers that will be passed to consumers as higher prices for a narrower selection of products. Relief from the law's testing requirements is the number one request of small businesses, many of whom may be able to comply with the law's phthalates or toy standards but still cannot afford the mandatory third-party testing. These NORs are noteworthy because they will trigger the final two, largest testing and certification requirements on a broad number of children's product manufacturers. Once the stays on testing for lead content, phthalates and to F-963 are lifted, on December 31, 2011, the full weight of the CPSIA's costly mandates will be felt.

As I have often stated, including in testimony before Congress, the current tools available to manufacturers, as well as the Commission's own improved enforcement methods, obviate the need for complex and costly, third-party testing and certification requirements to ensure compliance. By requiring all manufacturers of children's products to send their products to be tested at third-party labs, regardless of risk, the law

disproportionately hurts companies with robust in-house testing programs, those with more creative and effective ways of ensuring compliance internally, as well as domestic American companies who have never had a violation. The CPSIA's micromanagement of a company's testing, certification and tracking of each and every component of a product is entirely unnecessary—and in fact, will be less helpful than the sophisticated internal controls manufacturers are currently using and continue to develop and perfect. Furthermore, a “bad actor” with a casual attitude toward safety standards compliance will be just as casual about maintaining accurate records to support CPSIA-mandated certifications.

There are entire industries that have had very few, if any, safety violations; yet, they are required to comply with onerous third-party testing, certification, tracking and labeling requirements that will not improve safety. For example, the American Apparel and Footwear Association wrote in its public comments on the Commission's Notice of Proposed Rulemaking on Component Parts:

As the CPSC continues to issue specific compliance requirements, manufacturers become increasingly wrapped up in ensuring compliance over ensuring product safety. All AAFA members have had long-standing quality control programs in place that have developed based on the product, production of the product and the manufacturer's unique circumstances. These programs are effective and do not need to be changed. To demonstrate, only .0084% of all apparel and footwear sold in the U.S. in 2008 were involved in a recall. Moreover, most apparel and footwear recalls have been drawstring violations – a compliance issue that results from lack of information not lack of testing.¹

Today, the Commission also has enforcement tools vastly improved over those available even a few years ago. I believe these are a more effective use of taxpayer dollars to ensure compliance with safety standards than is policing all children's product manufacturers for certifications to mandatory third-party tests. Since the advent of our agency's Import Surveillance Division in 2008, we have continued to increase the number of full-time CPSC investigators posted at key U.S. ports. We have also expanded cooperation with Customs and Border Patrol to maximize the number of products screened at all U.S. ports. Today, the Commission intercepts non-compliant toys through more extensive border control efforts, application of x-ray technology (currently used to identify heavy metals) and computer databases that flag previous offenders for greater scrutiny. The CPSIA also increased the incentive for compliance by authorizing the CPSC to confiscate and destroy at the border products that violate federal safety standards, to impose higher penalties of up to fifteen million dollars, and to more easily seek criminal penalties.

The NORs Should Have Followed the President's Executive Order No. 13579

I am disheartened that the Majority was unwilling to issue either NOR consistent with the President's Executive Order No. 13579. The President's E.O. exhorts independent agencies to promulgate rules only after providing a “meaningful” notice and comment period and considering “their costs and benefits (both quantitative and qualitative).” The Commission's failure to honor the President's request by acquiring more data regarding the impact of the law's testing and certification requirements on the economy represents a lost opportunity. Because the Majority appropriately agreed to stay until December 31, 2011, the requirement to third-party test to the toy and phthalates standards, there was ample time to solicit and consider comments from our stakeholders and to perform a cost/benefit analysis before finalizing the rule. Had it done so, the Commission could have

¹ American Apparel and Footwear Association. Request for Comments. Docket No. CPSC-2010-0037 & CPSC-2010-0038. August 3, 2010.

better assessed the impact of those testing and certification requirements. It could also have responded by amending the NOR, issuing an enforcement policy or engaging in rulemaking, before issuing a final rule.

I believe, as the President has indicated through his Executive Order, that full comment periods are essential to ensure that an agency considers all options available to it in order to promulgate the clearest, most efficient, and least burdensome rules. And to be meaningful, such consideration must be given before the rule is finalized. The alternative of asking for comments in a final rule seems insincere. Since I have been a Commissioner, I have learned the most valuable insights from the comments received; because, industry and the general public living with regulations are the only “boots on the ground” that truly know how regulations will impact them.

Some emphasize the “voluntary” nature of the President’s request, in order to justify the failure to provide an opportunity for public comment. This argument is emblematic of the obstacles this agency faces to rational rulemaking: it presupposes a Commission so wedded to its preconceived positions that it is willfully blind to potentially contrary public input.

Manufacturers Need Guidance Beyond the Statutory Language, In Order to Comply with the Phthalates Standards

The Majority, in arguing against the value of a notice and comment period, claims that the law is clear with regard to the statutory phthalates standard, including the definitions of toy and child care article applicable to it. They therefore assert that the manufacturing community should not be confused concerning what is included in the NOR. This is an odd assertion given the evidence that the Commission itself has been unable or unwilling to provide greater clarification to industry than the ambiguous guidance offered in February and August 2009. Indeed, as discussed at Wednesday’s briefing, Commission staff last summer prepared an Interpretive Rule on the definition of toy and child care article that was pulled from consideration by the Commission at the last minute, and a public enforcement policy recently under discussion was also shelved. These facts suggest that even the Commission wrestled with these issues and could have benefitted from additional input from the regulated community.

In particular, notice and comment rulemaking would have assisted the Commission to determine whether the list of materials exempted from testing and certification to the phthalates standard (Phthalates NOR at pg. 9) should be expanded. That list is a subset of a longer list of materials that were described in the Commission’s August 2009 guidance document as “[e]xamples of materials that do not normally contain phthalates and, therefore, might not require testing or certification.” Materials included in the longer guidance list but excluded from the NOR exemption include textiles made from common synthetic fibers, polyethylene and polypropylene (polyolefins), and silicone rubber. I am concerned that manufacturers who acted in reliance on this previous (and still-standing) August 2009 guidance by introducing polyethylene and polypropylene into their products to save testing costs will now need to reengineer their products yet again.

The 30-Day Comment Period Provided By the NORs Is Insufficient

The inclusion in the Toy Standard and phthalates NORs of a 30-day period for outside groups to comment *after the vote approving the NORs*, is no substitute for the sort of notice and comment

rulemaking contemplated by the President's E.O. The latter approach would have allowed the public to comment before the rule was final and ***required the Commission to consider, and adequately respond to, any comments it received.*** Instead, we are following the same approach we have used for approximately nine other NOR rules. In most of those cases, the 30-day post-issuance comment period served no purpose. The Commission has neither responded to all of the comments received, nor published responses to any of them. With regard to phthalates, in particular, we have already received hundreds of pages of comments in response to guidance documents on at least three different occasions since 2009; yet, we have not responded to most of them. Indeed, the Commission received multiple comments explaining that the February and August 2009 guidance lacked clarity and was unhelpful as a means of determining which materials and products must be tested for phthalates. Yet in today's vote, we have simply incorporated by reference into the NORs this same unhelpful guidance.

COMMISSION STATEMENT ON ENFORCEMENT OF 100 PPM LEAD STANDARD

- The Consumer Product Safety Commission is cognizant of the claims that some manufacturers have made regarding their difficulty in consistently meeting the 100 ppm requirements because of the inherent variability in testing methods and the variability in materials they use in the manufacturing process.
- The Commission always attempts to apply good judgment, common sense and fair and reasonable approaches when it enforces its regulations. The Commission staff will always consider documented claims made by manufacturers regarding their difficulty in consistently meeting the 100 ppm lead content requirements.