



**Statement of
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**Before the
Senate Committee on Commerce, Science,
and Transportation**

**Subcommittee on Consumer Protection, Product
Safety, and Insurance**

**“Oversight of the Consumer Product Safety
Commission: Product Safety in the Holiday
Season”**

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Good morning, Chairman Pryor, Ranking Member Wicker, and Members of the Subcommittee on Consumer Protection, Product Safety, and Insurance. I am pleased to be here today to provide an update to the Subcommittee on the specific actions the U.S. Consumer Product Safety Commission (CPSC) has taken over the past 18 months and the progress we have made to protect American children and families from both existing and emerging product safety hazards.

In August 2008, Congress passed the Consumer Product Safety Improvement Act of 2008 (CPSIA) by overwhelming bipartisan majorities. Passage of the CPSIA sent a strong message to both the Commission and the consumer product manufacturing community: the old, reactive approach to consumer product safety was not working. Instead, CPSIA directed the Commission to pursue a new proactive approach focused on keeping harmful products out of this country and – most importantly – out of the hands of infants and children.

Chairman Pryor, I know you and many other Members of this Subcommittee spent untold hours working on this landmark legislation. Since assuming the Chairmanship of the Commission in July 2009, I have worked diligently to implement the CPSIA and use that Act's new authorities in a manner that is both highly protective of consumers and fair to industry stakeholders. In addition, I have focused on changing the CPSC's internal business processes, so that the agency is more assertive and more capable of addressing safety challenges presented by thousands of types of consumer products imported from all over the world.

Here are some specific examples of these efforts:

CPSIA Implementation: In less than two years, the Commission has published more than 50 rules and interpretive policy statements implementing the CPSIA. These rules included the implementation of several significant provisions of the CPSIA, such as new durable infant and toddler product standards, new product registration cards that accompany many juvenile products, and implementation of new mandatory toy safety standards. As part of this process, the Commission has also issued several policy statements designed to provide additional information on CPSIA requirements to the regulated community, including small businesses.

New CPSC Strategic Plan: During my confirmation hearing last summer, I noted that one of my key goals for the Commission was to align its priorities to the challenges we face in the global economy. To address this, the CPSC launched a comprehensive strategic planning initiative earlier this year to update the Commission's outdated 2003 Strategic Plan. Out of this effort, we recently released the Commission's new 2011-2016 Strategic Plan, which lays out five key goals and also details programmatic objectives that will allow the CPSC to establish itself as the global leader in consumer product safety.

New Office of Education, Global Outreach and Small Business Ombudsman:

As Chairman, I have heard from many small businesses and crafters who have asked for additional outreach and support from the Commission as they work to produce safe products and comply with the requirements of the CPSIA. I take these concerns very seriously, and have made providing support and outreach to small business entities and other industry stakeholders a key priority.

On September 22, 2010, the Commission voted to create a new office to coordinate and provide outreach to various domestic and international stakeholders, including manufacturers, retailers, resellers, small businesses, and foreign governments. Within this office, we have a full-time Small Business Ombudsman who is dedicated to serving the nation's many smaller manufacturers in the area of product safety. In particular, special attention will be given to developing information tailored to small businesses and small batch manufacturers so that they can understand and comply with new standards.

Hazards in the Infant Sleep Environment: The overall safety of cribs and the infant and toddler sleep environment is a critical concern of the CPSC and a personal priority of mine. Parents across the country expect cribs to be a sanctuary for their children, regardless of price or size. Unfortunately, that is not always the case. In the past nine years, there have been at least 32 deaths attributed to drop-side crib failures. That, in and of itself, is a tragic number. However, the majority of crib deaths are still directly linked to the use of soft bedding in the crib.

To address this, I directed Commission staff to embark on a two-prong action strategy. The first prong was to recall old, dangerous drop-side cribs in the marketplace and promulgate new mandatory crib safety rules that will prohibit dangerous drop-side cribs from ever being sold again in the United States. I am pleased to say that the Commission is currently in the final process of reviewing a new mandatory crib safety rule, and it should be approved by the end of the year. This is a promise I have made to parents across the country.

The second prong of this initiative is education: teaching parents and caregivers how to keep the inside of cribs free from suffocation risks like stuffed animals, comforters, and pillows. In partnership with the American Academy of Pediatrics and a child advocacy group called Keeping Babies Safe, we have a wonderful new Safe Sleep video that we are working to have shown in maternity wards and pediatrician's offices around the country. This video is currently available on the CPSC's website, and I urge Members of the Subcommittee to view the video and see its powerful message.

Import Surveillance: Traditionally, the Commission has spent the bulk of its resources investigating harmful products in the marketplace. This will always form a substantial part of the CPSC's activities, but I believe the more effective approach is ensuring that harmful products never even enter the country.

To that end, I have taken a number of steps to add additional technological and human resources to the Commission's Import Surveillance Division. This Division works directly with the Department of Homeland Security (DHS) and Customs and Border Protection (CBP) to keep dangerous products out of the United States.

On the technological side, the CPSC recently executed two interagency Memorandums of Understanding (MOUs) with CBP that allow us to access additional "real time" importer information, and target the most dangerous incoming shipments. The first of these MOUs, signed in April, allows CPSC personnel to work at CBP's Commercial Targeting and Analysis Center (CTAC) in Washington, DC, and access manifest entry data collected by CBP. This, in turn, allows Import Surveillance Division personnel at the ports to target high-risk shipments prior to their entry into the domestic stream of commerce.

The second MOU, signed with CBP this past August, gives the CPSC access to information in the Treasury Enforcement Communications System (TECS). This will assist CPSC Import Surveillance staff at the ports by providing them with additional information to improve local targeting and interdiction of dangerous products.

The CPSC is also actively involved in supporting the Importer Self Assessment – Product Safety (ISA-PS) initiative that is currently being piloted by CBP. The ISA-PS is intended as a partnership between CBP, CPSC, and importers to ensure product safety compliance. It is based on a voluntary approach that provides meaningful benefits for importers who demonstrate readiness to assume additional responsibility for managing and monitoring their own product safety compliance.

We have also taken steps to increase CPSC's physical presence at ports of entry. In fiscal year (FY) 2008, the Import Surveillance Division only had five full-time employees (FTEs), and of those only three FTEs were actually stationed at ports of entry. During FY 2010, we expanded staffing in the Division to 18 FTEs, with 14 FTEs actually stationed at ports of entry. I am very pleased to announce that, as of November 11, 2010, the Division now has 25 FTEs, with 19 FTEs collocated at 15 different ports of entry. Subject to appropriations, we hope to put CPSC staff at even more ports of entry in the future.

Putting more "cops on the beat" has already yielded substantial positive results. In FY 2010, we performed 6,953 screenings at ports, collected 1,776 samples for testing, and of those found 987 that violated CPSC standards. At the same time, we have also seen the number of recalls start to drop – from 563 in FY 2008 to 428 in FY 2010. Maintaining those positive trends is a key goal for the upcoming year.

Pool and Spa Safety: Earlier this year, the CPSC kicked off its “Pool Safely” education campaign as part of a national effort to reduce child drownings and entrapments in pools and spas. As part of this campaign, we partnered with families who lost their children in pool and spa accidents and Members of Congress at events in Florida, Texas, Minnesota, and Washington, DC to spread the word that simple safety steps can save lives in and around the water. We also unveiled a new website, PoolSafely.gov, as well as new public service announcements to provide the public with information aimed at preventing child drownings and entrapments, as well as educating public pool and spa operators about the requirements of the Virginia Graeme Baker Pool and Spa Safety Act (Pool and Spa Safety Act). During this past year alone, there were more than 100 million views of broadcast and print materials related to the Pool Safely campaign.

In addition to education and outreach, we have also conducted an extensive series of inspections to verify compliance with the Pool and Spa Safety Act. In 2010, the CPSC entered into contracts with local health departments in a number of states, including Florida, Missouri, Kentucky, and Washington, to conduct public pool inspections. Under these contracts, 2,440 pools, spas, wading pools, and water activities at 1,557 sites were inspected. I am pleased to announce that the compliance rate observed was approximately 89 percent, which is higher than the rate observed last year. It also demonstrates that the Commission’s outreach, education, and enforcement efforts are having a meaningful effect in the overall effort to prevent pool and spa deaths and injuries.

Contaminated Drywall Investigation: The Commission is aggressively continuing its efforts to provide relief to homeowners impacted by contaminated drywall. Since becoming Chairman, I have personally visited impacted homes in Florida and Virginia and know the frustration that these homeowners are facing.

To deal with this issue, the Commission has conducted the most extensive investigation in its history. As a result of the science produced by this investigation, the Commission, working in conjunction with the Department of Housing and Urban Development, released impacted home identification guidelines in January as well as interim remediation guidance this April. These guidelines have allowed some of the impacted homeowners to start repairing their homes and rebuilding their lives.

To assist in those efforts, the Commission worked with the Internal Revenue Service on a recent Revenue Ruling declaring that contaminated drywall is eligible for a casualty loss. The CPSC’s scientific data was also used as part of a recent partial settlement agreement in the Drywall Multi-District Litigation (MDL) in New Orleans, Louisiana. Under the terms of the partial settlement, a demonstration remediation program has been established that will remediate problem drywall for up to 300 homes in Alabama, Florida, Louisiana, and Mississippi that contain drywall produced solely by Knauf Plasterboard Tianjin.

At the same time, however, I know that these initiatives will not help all of the impacted homeowners. For that to happen, we need the foreign manufacturers involved to come to the table and do the right thing to assist homeowners. On October 26, I personally discussed this issue with Zhu Shuping, Minister of China's General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ) during the Second Triennial United States – European Union – China Product Safety Summit in Shanghai, and remain optimistic that Chinese manufacturers will come to the table to resolve this matter. I also appreciate the efforts of several Members of this Subcommittee, including Senators Nelson, Warner, Wicker, and Vitter, to provide assistance on this issue.

Rapid Response to New and Emerging Hazards: The Commission has increased its efforts to provide a rapid response to new and emerging hazards. One example of this response is the CPSC's efforts to stop the use of toxic metals in children's products. Earlier this year, it came to our attention that some foreign manufacturers might be using cadmium or other toxic metals as an effort to get around the lead limits for children's products. I sent a strong message to Asian manufacturers and regulators that this was unacceptable and that we would not allow there to be an influx of products with cadmium like we saw a few years ago with lead. The Chinese government sent out a directive a few weeks later on cadmium that used language similar to mine. It appears that we have stayed ahead of this issue.

Despite this early success, however, the Commission will remain vigilant in this area. In response to the possible threat, the CPSC has taken aggressive action to police the market for children's products that may contain harmful levels of cadmium. In addition, Commission staff recently released a guidance document providing Acceptable Daily Intake (ADI) limits for cadmium. We also sent this document to several standards setting bodies – including the committee that oversees the ASTM F963 toy safety standard – with instructions to take action on this issue. In the coming year, we will also look at the use of other toxic metals such as barium and antimony, and the CPSC will not hesitate to take further action in this area if voluntary efforts prove insufficient.

The year 2010 has been extremely busy for the Commission, but we are not done with our work. As we enter the heart of the holiday shopping season this year, we will remain vigilant to identify hazardous products in the marketplace. In December, we also hope to roll out the first part of our new and improved CPSC.gov home page, which will make it easier than ever for consumers to find information on product recalls and common sense tips to keep their families safe.

In March 2011, we will also unveil our new publicly available database on the safety of consumer products, which was mandated by section 212 of the CPSIA. This database will provide a powerful source of information for consumers, allowing them to quickly determine whether products they already own, or are considering purchasing, are

associated with safety hazards or recalls. It will also allow consumers to play a critical role in safety by empowering them to report potential product hazards directly into the database.

I recognize that the rollout of this database has caused concern among some in the manufacturing community who believe that it will present “unfiltered” information that will be harmful to the business community. I want to assure this Subcommittee that CPSC staff has worked tirelessly to address these concerns and to ensure that the database is fair to all stakeholders while also fulfilling the intentions of Congress.

First, the database will not include reports of harm submitted anonymously. Any reports filed must include contact information for the CPSC’s internal use. Second, the CPSC will give the product manufacturer 10 business days to respond to a report of harm, to provide comment on the report, and to let the Commission know if the submission contains confidential or materially inaccurate information. The rule also requires the Commission to remove or correct information in the database it has determined to be materially inaccurate within seven business days. Manufacturers also have the right to comment on the reports and to have those comments as part of the publicly accessible record.

At the same time, however, I think it is important to provide a reminder of just how critical a resource this database will be for consumers. Rather than use my words, I would like to repeat the words of Lisa Olney, whose daughter died in a defective portable crib just after her first birthday in 2002. Ms. Olney posted the following on the *Kids in Danger* web blog:

On December 19, 2002, my daughter Elizabeth, just 13 months old, died in a poorly designed play yard. I live my life often looking back through “what ifs” and “should haves,” but I’ve learned to give most of that up in order to save myself from being a horribly miserable individual. Instead, I realize the importance of focusing on efforts to protect our children so that no parent has to suffer what I have, along with too many other victims of unsafe children’s products. The CPSC database is going to protect millions of children, because it provides a place to go when considering the choices parents make when purchasing products, especially those products intended to be beneficial to our children’s safety.

This database will prevent injuries and save lives. Congress recognized this when it added section 212 to the CPSIA, and I look forward to seeing this important tool implemented next March.

Finally, I realize that a lot of the issues I just discussed are fairly technical and involve internal Commission operations. In the end, I know the true measure of success is how each of these items will help the young mother or father find safe, reliable consumer products as they are out shopping this holiday season for a crib, high chair, or toys.

Here's what the CPSC promises them:

- the toys they buy are now covered by mandatory safety standards;
- children's products are now required to be tested for lead by an independent, third-party laboratory;
- the infant bath seats and baby walkers they buy are now covered by mandatory safety standards;
- most durable and infant toddler products, such as cribs, strollers, and play yards, now have postage paid registration cards that consumers can fill out and return so they can be automatically notified of any future recall involving these products;
- all children's products, to the extent practicable, now have tracking labels that make it easier for parents to determine if a product is subject to a recall – even long after the packaging is thrown away; and
- our inspectors will be hard at work in the ports and at retailers, looking for hazards like high levels of lead paint on toys or small parts that can break off and pose a choking hazard.

Mr. Chairman, thank you again for allowing me to provide this testimony today. I now look forward to answering any questions you or other Members of the Subcommittee may have.