

**STATEMENT OF THE HONORABLE NANCY A. NORD, VICE CHAIRMAN, U.S.
CONSUMER PRODUCT SAFETY COMMISSION ON DRAFT FEDERAL REGISTER
NOTICE ISSUING A FINAL INTERPRETATIVE RULE AND RESPONDING TO
PUBLIC COMMENT ON PROPOSED
REVISIONS TO SECTION 15
July 13, 2006**

I am today voting in favor of issuing a final interpretive rule regarding the factors that may be used by the Consumer Product Safety Commission (CPSC) in determining when a report must be submitted under Section 15(b) of the Consumer Product Safety Act (CPSA). This interpretive rule is intended to give manufacturers, retailers and others covered by this law greater clarity as to what factors may be considered when determining when a Section 15(b) report must be submitted to the CPSC.

Section 15(b) does not require and was not intended by Congress to require that companies report to the CPSC every product defect associated with a consumer product. It requires reporting to the CPSC those defects that could rise to the level of a “substantial product hazard” or those that “create an unreasonable risk of serious injury or death.” While the Commission has sought to explain through a previous interpretive rule those factors that the Office of Compliance will review in making these determinations, 28 years have passed since that initial guidance and several among the regulated community have expressed to the Commission during that time that they lack an adequate understanding of the factors that the Office of Compliance considers in determining both when a consumer product “defect” exists and when such a defect triggers the reporting requirement.

Thus, the additional factors set forth today represent a good faith attempt both to provide additional guidance in this regard and to explain the criteria that the Office of Compliance in fact considers in making such determinations. While some have questioned whether setting forth these additional factors may create one or more “safe harbors” for those otherwise required to report under Section 15(b), I would simply point out that any of these factors, as well as those previously issued through interpretive rule, could mitigate either for or against a reporting requirement. Indeed, the final version of the interpretive rule has been modified in response to several comments received on the proposed rule to ensure that these additional criteria do not create or appear to create any new exception or “loophole” to the Section 15(b) reporting requirement.

I believe that Section 15(b) of the CPSA is critical to our mission to protect the public from products that create unreasonable risks of injury and I fully support the vigorous enforcement of this and the other provisions of our governing statutes. However, effective and fair enforcement starts with imparting to the regulated community a reasonable understanding of what the law requires of them. That is the intent of this interpretive rule and that is what I will work to ensure that it accomplishes.