

STATEMENT OF CHAIRMAN INEZ M. TENENBAUM
ON THE STATEMENT OF POLICY
REGARDING COMPONENT PART TESTING FOR PHTHALATES

In March of 2009, the Commission issued its testing method for measuring the concentration of phthalates in children's products. The March 2009 testing method called for testing the entire product to determine the phthalate concentration. With input from various stakeholders, the Commission continued to evaluate and contemplate the advantages and disadvantages of this method. In my view, the disadvantages appear to outweigh any advantages of the March 2009 test methodology. I believe the guidance policy and the revised CPSC testing method issued today will better protect children from potential risks associated with phthalate exposure in children's products and will provide clarity for manufacturers required to test these products. We are also inviting comments on this guidance policy, and we will consider those comments prior to proceeding to a notice of proposed rulemaking.

As the staff pointed out in its memorandum, testing the entire product as opposed to the plasticized parts could result in a less stringent and less health-protective regulation. Factoring the nonplasticized parts into the concentration calculation would likely dilute the overall phthalate measurement. For example, a high chair with a teething toy that exceeds the phthalates limit could actually pass the phthalates test when all the other non plasticized parts of the high chair are used in the concentration calculation. Testing plasticized components of the product achieves the legislative intent of the CPSIA.

The guidance set forth today is in the best interest of children and provides a more practical testing alternative for manufacturers. There may be concern among some stakeholders that the guidance issued today does not address inaccessible parts. Unlike the lead provision in the CPSIA, however, the phthalates provision does not contain an exclusion for inaccessible parts. To that end, the Commission welcomes submissions on accessible versus inaccessible component parts, statutory construction, potential migration issues, studies and other information that would be helpful to the Commission in drafting a proposed rule.