



U.S. Consumer Product Safety Commission



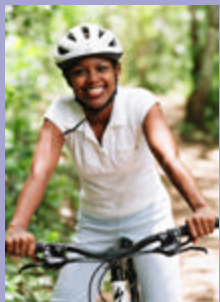
TESTIMONY OF THE HONORABLE NANCY A. NORD ACTING CHAIRMAN



SUBMITTED TO COMMITTEE ON ENERGY AND COMMERCE SUBCOMMITTEE ON COMMERCE, TRADE, AND CONSUMER PROTECTION



MAY 15, 2007



Saving Lives and Keeping Families Safe



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Mr. Chairman:

Thank you for inviting me to testify today on the critical issue of the safety of children's consumer products. As you know, the U.S. Consumer Product Safety Commission (CPSC or Commission) is tasked with the important mission of protecting the American public from unreasonable risks of injury and death associated with consumer products.

Mr. Chairman, I have been privileged to serve on the Commission since my confirmation just over two years ago and have served as Acting Chairman since last July. As you know, under the terms of our enabling statute, the Commission's quorum expired on January 15, 2007.

The President submitted his nominee for the chairmanship on March 5th and the Senate Committee on Commerce, Science and Transportation has scheduled a hearing on that nomination for May 24th. I bring this to the Committee's attention because we are eager to reconstitute the Commission as soon as possible since a quorum is necessary for the Commission to vote to take certain regulatory, enforcement and other actions.

The CPSC is a bipartisan and independent agency with a jurisdiction that reaches across an estimated 15,000 types of consumer products—products that are found in every room of our homes, in our backyards and garden sheds, at our children's playgrounds, and in virtually every other place where we live and visit during our daily routines.

Since its inception in 1973, the CPSC's work has contributed substantially to the decline in the rates of death and injury related to the use of consumer products. We estimate that overall, injuries and deaths associated with the use of products under our jurisdiction have declined by almost one-third since the agency's inception. This includes, for example, a 45 percent reduction in consumer product-related residential fire deaths; a 74 percent reduction in product-related electrocutions; and a 47 percent reduction in product-related carbon monoxide deaths.

While the Commission and the staff work very hard to reduce injuries to consumers of any age, we pay particular attention to products used by vulnerable groups, especially children. In this regard, I am pleased to report that the overall rates of both deaths and injuries related to children's consumer products has been in decline since 2001. Specifically, I would like to point out two CPSC success stories with respect to product-related injuries and deaths of children. Due substantially to the activities of the Commission, both independently and in conjunction with our stakeholders, crib-related deaths have declined by an astonishing 89 percent since 1973 and poisoning deaths from drugs and household chemicals by an equally impressive 82 percent since 1972.

In many ways, America's children are truly safer today when it comes to their interaction with consumer products. But we cannot and will not rest on our laurels. Specific product issues, like small magnets in toys, which have been recently highlighted by the media, indicate how great a challenge we continue to face. Every day, new children's products and

product lines are introduced that represent new designs, new materials, new technologies and new potential hazards, many of which we have never before seen or examined.

With a total nationwide staff of just over 400, and an annual budget of just over \$60 million, we simply cannot be at all places at all times. I mentioned that we have responsibility for about 15,000 types of consumer products. With a total Compliance staff of approximately 150, that means that roughly speaking, each Compliance professional is responsible for covering approximately 100 different product categories by collecting product information, investigating incidents, enforcing mandatory standards, conducting inspections, analyzing products, recalling unsafe products and monitoring the marketplace.

By sheer necessity we prioritize. Issues that were paramount yesterday may not be so tomorrow. And, as new product incident patterns emerge, they may displace earlier priorities. I emphasize the word “patterns” because that is integral to understanding how we conduct our activities at the CPSC. We simply do not have the resources to fully investigate and examine every one of the hundreds of thousands of annual product incidents of which we become aware. Our two primary subdivisions—the Office of Compliance and the Office of Hazard Identification and Reduction—look for trends or patterns among product incidents to anticipate and respond to emerging hazards. To do otherwise would disperse the agency’s finite resources in a thousand directions at once and dramatically reduce our overall effectiveness.

Having said all of this, I am extremely proud of the CPSC, its dedicated professionals, and the work we do. And, in the final analysis, I believe we carry out our mission of consumer protection and education extremely well.

The CPSC was last reauthorized by Congress in 1990. Obviously, the marketplace has changed significantly since that time. Emerging and ever more complex technologies, like nanomaterials and high-energy and very compact batteries for consumer electronics, continue to challenge our technical expertise and resources. Products being sold via the Internet and other direct-to-consumer sales pose a growing challenge to our enforcement capabilities. And the explosion of imports of consumer products, now accounting for a full two-thirds of our product recalls, has created a number of issues with which we are currently grappling.

So while we are proud of the agency's many achievements over the years, there is still much work that needs to be done. Consumer safety is never a completed task but always an ongoing process of research, standards development, enforcement and public education. With that important concept in mind, I would like to discuss today the primary missions of the CPSC and how those are carried out. I will then briefly address the issue of imported consumer products.

Hazard Identification and Standards Development

The first of those missions is to identify existing and emerging product hazards and to address those hazards by developing mandatory safety standards when there are not adequate or adequately followed consensus (voluntary) product safety standards in place.

This initially requires collecting reliable data on product-related incidents and issues. It is often said that the CPSC is a data-driven agency, and that is quite true. Through our widely acclaimed and utilized National Electronic Injury Surveillance System, or NEISS system, which monitors the patients who come into 100 hospital emergency rooms nationwide, we develop statistical estimates of product related injuries. Last year the NEISS system developed reports on product-related injuries from over 360,000 emergency room visits.

CPSC staff also collects injury data from a number of other sources, including through company and consumer reports to our website, www.cpsc.gov, our consumer hotline, medical examiner and coroner reports, monitoring media outlets, and through various other means. Manufacturers and retailers are also required by federal law to report to the CPSC when they become aware of defects in their products that could cause or that have caused injury.

From these many sources of information and data, CPSC staff, guided by the priorities established by the Commission, determine what action, if any, is necessary to take. In general, this can take one or both forms: regulatory action and/or compliance action.

With regard to regulatory action, it must first be understood that, in the United States, there is a very well established system of voluntary – or what we prefer to call consensus – product safety standards. Under the guidance of respected groups like the American National Standards Institute, ASTM International, and Underwriters Laboratories, who work to bring

all stakeholders into the process, literally thousands of such standards have been written and are continuously being revised. With regard to children's products, CPSC staff over the last year participated in numerous consensus standards activities, including those covering many types of children's products, like toys generally—and magnets in toys in particular; baby gates; inflatable pools; playground equipment; and strollers, among others.

There exists a strong preference in our statutes for deference to such consensus standards over the promulgation of mandatory CPSC-drafted regulations. As a small agency, this consensus standards process allows the CPSC to leverage its resources and achieve much greater coverage over the consumer products that fall under our jurisdiction. However, in any case where a voluntary standard fails to adequately address a product hazard or where there is a lack of substantial compliance with an adequate standard, the Commission may issue mandatory product safety regulations. The CPSC is currently proceeding with rulemaking on hazards related to a number of children's products, including lead in children's jewelry, bed rails, and infant pillows. In fact, we currently have underway 14 different rulemakings, more than at any other time in our agency's history.

Compliance Activities

Another key mission of the CPSC is to remove unreasonably dangerous products from the stream of commerce. We accomplish this primarily through product recalls. Recalls occur for products that contain a defect that could pose a substantial product hazard or for products that violate CPSC-issued mandatory safety regulations. In fiscal year 2006, the CPSC

announced 466 recalls of defective products, representing over 120 million individual products, which was an all-time high by the agency.

There are also other corrective actions, short of a recall, that we can call upon a company to undertake, including modifying the product, issuing a consumer warning, or through other means. Thus, over the last year the CPSC has obtained recalls or other corrective actions for over 300 products directly involving a risk of injury to children.

While the agency has the authority to require a mandatory product recall, due to the lengthy and costly nature of the proceeding that we must undertake in order to issue such a recall, the reality is that the overwhelming majority of the recalls we oversee are voluntary on the part of the recalling firm, the details of which we negotiate with that firm, generally after significant exchange of information between the firm and the CPSC.

To avoid these very resource intensive and time-consuming proceedings, today approximately half of our recalls are initiated under our innovative “Fast Track” recall program. Under this program the subject firm agrees to initiate a recall within 20 days after being contacted by the CPSC, generally in exchange for lack of a formal finding by the agency that a product defect and substantial product hazard exist. This program has been extremely successful at getting unsafe products off the market in a faster timeframe that would simply not otherwise be possible if resort to litigation were the norm.

In addition to monitoring compliance with safety standards by conducting field inspections of manufacturing facilities and distribution centers, CPSC staff also conduct surveillance in retail establishments and via the Internet to assure ourselves that recalls have been effective in getting defective products off retail shelves. Finally, because most of our recalls now involve imported products, we undertake both routine and targeted surveillance and sampling of imported products at U.S. ports of entry, working in conjunction with the Bureau of Customs and Border Protection.

Consumer Information and Education

CPSC's third main mission is to inform and educate the public about product hazards. Recalls and other important safety information is disseminated through all forms of media, including television, radio, print, and via the internet, to warn the public of specific product hazards and advise consumers on more general product use issues. Many of these campaigns are directed toward product risks posed to children's safety.

For example, last year the CPSC conducted public outreach campaigns on back-to-school safety and on the hazards of inflatable pools, among other issues. The 2006 Safe Swimming Campaign identified inflatable pools as an emerging hazard. This year's Safe Swimming Campaign focuses on the fact that a drowning death is a silent death that does not usually involve a child thrashing in the water or calling for help. This campaign emphasizes that multiple barriers and constant supervision are required when children are near pools. In 2006 the CPSC also conducted an information and education campaign on the dangers of

television and furniture tipovers to raise awareness of this risk and to give parents the information they need to address these risks.

Additionally, the agency maintains three websites that give consumers and others access to all manner of product safety information. Those sites are www.cpsc.gov, www.recalls.gov, and our newest website, www.atvsafety.gov, which is part of a significant information and education campaign now underway to advise consumers about a number of ATV safety issues. Visits to CPSC's websites have grown rapidly over the past few years from 200,000 in 1997 to over 20 million last year.

In an effort to communicate with hard to reach populations, the CPSC initiated the Neighborhood Safety Network (NSN) which is a grassroots outreach program that provides timely lifesaving information to 5,000 organizations and individuals who in turn share our safety message with hard-to-target consumers. These are often directed toward children's safety, such as the poster that we produced and distributed through the NSN warning of in-home drowning hazards.

CPSC's outreach efforts include making our safety information available in Spanish, including Spanish language links on our website. We also continue to actively seek the participation of Hispanic and Hispanic-serving community and other organizations to participate in the NSN. Finally, we routinely disseminate safety messages through Spanish language media outlets, such as Telemundo and Univision.

The increased use of our Web sites and e-mail alerts by consumers underscores the critical importance of CPSC's information technology (IT) infrastructure and systems. In addition to our data systems, such as the NEISS system that I described earlier, CPSC's IT tools allow us to extend our public outreach well beyond where it could go ten, or even as little as five years ago. As the numbers, types and sources of consumer products continue to grow at a time of limited resources for the federal government, the maintenance and modernization of CPSC's IT infrastructure is more important than ever.

Imported Consumer Products

I have mentioned the growing issue of product imports. The main issue in this regard is the fact that some overseas manufacturers, particularly those from the developing world, are either ignorant of existing consensus and CPSC mandatory standards or simply choose not to design and manufacture their products to those standards.

Many foreign firms fail to meet one or more of the many thousands of private, consensus safety standards that are intended to help ensure both quality and safety in virtually all consumer products. While a violation of a consensus standard does not, in itself, indicate that a product is unsafe, the growing number of imported products that do not meet voluntary standards has strained our resources and challenged us to find new ways to work to ensure the safety of products in the stream of commerce. To address the issues presented by imported products, the CPSC has negotiated memoranda of understanding with twelve foreign countries. These agreements generally call for close consultation on product safety issues.

This Friday I will be going to Beijing to meet with my Chinese counterparts to pave the way for the second U.S.-Sino Consumer Product Safety Summit that will be held here in Washington this Fall. In preparation for those discussions with the Chinese, we have established several bilateral working groups that are developing concrete strategies for addressing safety issues in several specific product categories where we have seen the biggest problems.

Mr. Chairman, it has been a privilege to serve as a Commissioner at the CPSC for the past two years and as its Acting Chairman for the past ten months. One of the great rewards over this time has been the opportunity to meet and work with the extremely talented professionals at the agency who are completely dedicated to the agency's core mission of public health and safety. They have brought their talents and skills to the public sector to be true public servants, and I am proud to take a moment to recognize their hard work and achievements in this regard.

Thank you again, Mr. Chairman, for holding this important hearing this morning. I look forward to responding to the members' questions.