



**Statement of
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**Before the
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Subcommittee on Commerce, Manufacturing, and
Trade**

**“Oversight of the Consumer Product Safety
Commission”**

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Good morning, Chairman Bono Mack, Ranking Member Butterfield, and Members of the Subcommittee on Commerce, Manufacturing, and Trade. I am pleased to be here today to discuss the U.S. Consumer Product Safety Commission's (CPSC) operations and activities to keep consumers safe from dangerous and defective consumer products.

The past year has been yet another active and challenging one for the Commission and our professional staff—and I am pleased to report that once again we have risen to the challenge. The agency is in the strongest position to meet its mission than it has been in more than a decade. In the face of a flat budget, the CPSC's professional staff has worked tirelessly to implement the remaining provisions of the Consumer Product Safety Improvement Act of 2008 (CPSIA), as well as the clarifying amendments in Public Law 112-28. At the same time, the Commission has also continued to engage extensively with outside stakeholders in the consumer, manufacturing, and international communities to both educate and engage on new ways to improve our safety mission.

In the limited time I have today, I would like to focus on a few recent achievements, as well as briefly look ahead to where I believe we will be in 2013:

The Strongest Juvenile Product Standards in the World

In the years leading up to passage of the CPSIA, there were numerous instances of injuries and deaths of infants and small children in defective durable infant and toddler products. No parent should ever have to experience such a tragedy, especially if government can play a meaningful role in addressing these hazards. As a result of the leadership shown by Congresswoman Jan Schakowsky and many others in Congress, the final version of CPSIA contained section 104, which requires mandatory safety standards for most infant and toddler products.

When I assumed the Chairmanship of the Commission in the summer of 2009, there were no mandatory safety standards for any of these products. Since then, I have moved to implement this mandate as quickly as possible. In December 2010, the Commission passed the toughest crib safety standards in the world. Subsequently, we also passed mandatory safety standards for baby walkers, baby bath seats, bed rails, and toddler beds.

One of my proudest moments as Chairman came just a few weeks ago. As many of you know, section 104 is also called the "Danny Keysar Child Product Safety Notification Act" or "Danny's Law." In May 1998, Danny was placed in a previously recalled play yard at his child care center when it collapsed, trapping his neck in the "V" of its folded rails and suffocating him. Danny was only 16 months old.

On the morning of June 27, the Commission unanimously honored Danny's memory by passing new, mandatory play yard safety rules. That afternoon, I met with Danny's mother, Linda Ginzler, and we were able to personally let her know that after 14 years of her advocacy we finally had a new standard that would prevent the deadly rail collapse that took Danny's life—and the lives of nearly 20 other small children.

I accepted this position to help make a difference, and I believe we are. But, we are not done. Section 104 commands that we address other priority items, and Commission staff has now turned their attention to rules for bassinets, cradles, strollers, and infant carriers.

I recognize that we are in a period of some economic uncertainty and that some want a moratorium on any new federal regulations. I understand and appreciate these views, but I would also ask them to step into the shoes of Danny's mother—or other parents who have lost children in similar preventable tragedies. These regulations may add some small, additional costs to these products. But the cost of inaction is much higher and is not something I am willing to accept as Chairman.

Continued Commitment to Other Critical Safety Issues

In addition to the durable infant and toddler safety standards, the Commission also continues to make progress on several other key safety rules.

Last October, the Commission fulfilled the capstone of the CPSIA by implementing the requirement that all children's products on the market be subject to a periodic, independent assessment of their safety. Congress required this rule, and after much thoughtful deliberation and discussion, the Commission approved a very balanced approach to achieving the rule's purpose. We provided manufacturers with a great amount of flexibility and choice in terms of how they wish to comply, as long as, in the end, they have a high degree of assurance that their children's products are compliant.

We are currently awaiting our staff's report on potential ways to reduce third party testing costs consistent with ensuring compliance. I look forward to working with my fellow Commissioners on this issue to see if there are areas of consensus that can assure compliance and children's safety.

At the same time, however, I believe Congress got it exactly right both when passing CPSIA and then reaffirming the overall third party testing requirement in Public Law 112-28. Parents deserve to know the products their children use are being independently tested and are safe.

I have also accelerated efforts to finalize our upholstered furniture flammability rule. CPSC staff has proposed a rule that would address the risk of injury or death resulting from smoldering fires, often caused by cigarettes, without requiring the use of flame retardants. I was pleased to read that the Governor of California recently directed that state's Bureau of Home Furnishings to revisit state rules that effectively require the use of flame retardant in many household upholstered furniture items, and I know Commission staff is monitoring this work closely. I am hopeful that Commission staff will generate a rule that will bring safer, more fire resistant upholstered furniture into homes across the nation.

Additionally, the Commission recently initiated rulemakings to deal with two other critical safety issues. The first is table saw injuries. Every day, 11 people on average suffer amputations from power saws. Through this rulemaking, Commission staff will explore technological solutions that could help save consumers from these life altering injuries.

The second is liquid gel fuels and firepots. Last December, the Commission voted unanimously to publish an Advance Notice of Proposed Rulemaking, just months after nearly all bottles of pourable gel fuels used in firepots were recalled. The recall was prompted by at least 65 serious incidents that resulted in two deaths and at least 34 victims who had to be hospitalized due to second and third degree burns to the face, hands, and other parts of the body. The ANPR is examining whether it is possible to make pourable gel fuels safe for consumers to use.

I would also like to briefly address the issue of small rare earth magnets. While I am not able to comment on the matter publicly, I can say that recent action by the Commission to authorize legal action to protect children from serious hazards associated with the ingestion of rare earth magnets is consistent with the approach Congress sought when enacting CPSIA.

SaferProducts.gov—Transparency for Consumers

I am also very proud of the work by Commission staff to implement and maintain the publicly searchable database of product safety reports required by section 212 of the CPSIA—SaferProducts.gov. I realize the roll out of the database in March 2011 caused some concern in certain segments of the regulated community. After almost 17 months of operation, however, I think SaferProducts.gov has gained wide approval and acceptance.

As of July 27, 2012, almost 10,000 reports of harm had been collected in the database, and posted to the public portal on SaferProducts.gov. Approximately 97 percent of those reports were submitted by consumers. Many of these reports contain detailed information on the product involved; and, utilizing the procedure specified in the Public Law 112-28 amendments, approximately 88 percent of the reports eligible for posting now contain a nonblank value for the model or serial number, and 73 percent of eligible reports contain numeric content for the model or serial number. In addition, approximately 85 percent of the report submitters agreed to have their contact information shared with manufacturers.

Business interest in the database has also grown. As of July 27, 2012, 3,487 entities are registered for the SaferProducts.gov business portal. These registrations allow companies to receive fast, e-mail notification of consumer incident reports. The business portal also allows companies to file section 15 product incident reports and provides companies with the capability to submit retailer incident reports. The general public has also come to see

SaferProducts.gov as a resource with over two million visits to the database since its launch.

Overall, SaferProducts.gov is a model of open government and consumer empowerment, and I appreciate the hard work by many on this subcommittee to further improve SaferProducts.gov during the Public Law 112-28 debate.

Robust Surveillance of Imported Consumer Products

One of the best ways to ensure that dangerous consumer products never get into the hands of consumers, especially children, is to ensure that they never enter the U.S. stream of commerce in the first place. Congress recognized the importance of import surveillance in section 222 of the CPSIA, and as Chairman I have placed special emphasis in the past year on continued development of CPSC's Office of Import Surveillance (OIS).

This office works hand in hand with U.S. Customs and Border Protection (CBP) officers in major U.S. ports of entry to inspect and detain shipments that violate U.S. consumer product safety standards. As of July 25, the Commission has 20 full-time employees located in 15 U.S. ports of entry, along with approximately 30 other employees who support their mission through testing and analysis activities.

While this is a small group, they have demonstrated extremely impressive performance metrics for the American people. During fiscal year 2011, OIS staff screened nearly 10,000 products at the ports, collected almost 1,800 samples, and found over 1,100 violations of safety standards. As a result, CPSC staff was able to stop approximately 4.5 million units of violative or hazardous consumer products from entering the United States. Many of these products were toys that had lead above the statutory limits or small parts that could present a choking hazard for children younger than three years of age.

In the coming year, CPSC will continue to deepen its relationship with the U.S. Department of Homeland Security and CBP. In 2011, CPSC became the first agency to receive data for incoming shipments through the International Trade Data System's (ITDS) Interoperable Web Services program. This data allows CPSC staff to view port shipment information in near real time, and develop targeting rules to identify the highest risk shipments. In recent months, OIS staff has been working with the ITDS data and CPSC case data to come up with baselines of effectiveness for targeting.

In 2013, funding permitting, I am optimistic that CPSC will be able to take additional steps toward full implementation of the section 222(a) mandate through a pilot test of the operation of a fully integrated targeting system—often referred to as the Risk Assessment Methodology or “RAM.” This will allow CPSC staff to analyze a greater number of import shipments, identify those that are more likely to violate consumer safety laws, and ensure that our limited resources are dedicated to those shipments.

The benefits of a full roll out of the RAM are two-fold. First, the RAM will allow us to deploy limited resources toward suspect shipments and increase the correlation between samples collected and violations found. Second, it will have positive effects for “known” importers and members of the business community who would hopefully face fewer delays through better advance analysis of import data and risk metrics before products arrive at ports.

Constructive Collaborations to Address New and Emerging Issues

Another key area of achievement is the pursuit of public-private collaborations and consensus based solutions, whenever we can, to new and emerging product safety issues. While this is not always possible, I think we have made great strides in several areas.

The first is in the area of educating parents to ensure that infants have a “safe sleep” environment. As part of this, I have reached out to major retailers who sell sleep products like cribs and play yards to ask them to join me in educating parents that the safest way for their baby to sleep is alone, in a crib, on their back. So far, I have been pleased that several retailers have been enthusiastic about working with CPSC to get out the safe sleep message on their websites and in their brick and mortar stores, as well.

Retailers have suggested creative ideas including, but not limited to, displaying cribs absent of pillows and blankets in their stores, showing our safe sleep video on a continuous loop in their baby departments, adding safety information to their baby registry packets, and including safe sleep tips in the crib assembly instructions that come with new cribs. I believe this education effort, combined with the new, mandatory safety standards discussed earlier, will play a critical role in ensuring that all babies can sleep safely.

Accidental ingestion of coin and button cell batteries is another area on which we are keenly focused. We are seeing an alarming increase in the severity of the injuries associated with these batteries, which we all know have become commonplace in our homes. They are found in our remote controls, our key fobs, our watches, and many other household products. Children are swallowing them and the results can be devastating in as little as a few hours. Specifically, the larger, 20 millimeter (mm) sized batteries are posing the greatest harm. The 20 mm batteries are coin sized and likely to lodge in a child’s esophagus upon ingestion. At that point, time is of the essence, as the resulting chemical burn that occurs can—and has—led to severe injuries and death.

Along with our professional staff, we have had very productive meetings with the major battery manufacturers about a range of possible solutions, from design changes in the longer term to safer packaging and other steps in the shorter term. I am hopeful that these efforts, as well as many that are happening independently by industry, will yield tangible safety results in the near future.

The third example of this constructive, collaborative model is occurring in youth sports, particularly with the issue of head injuries in football. I am grateful for the increased

attention and awareness associated with this issue. The consequences of a brain injury can be severe and long lasting. I believe addressing its risks require a true team effort. Along those lines, I am very pleased that, after much hard work initiated by my office, a group effort led by the National Football League (NFL) is underway to provide economically disadvantaged youth football programs with new helmets and to conduct an education campaign intended to accelerate the much needed culture change in that sport.

While this program is in its infancy, I have great hopes that our bringing the NFL, the NFL Players Association, the National Collegiate Athletic Association (NCAA), helmet manufacturers, helmet reconditioners, the helmet standards body, and others together can serve as a model of effective, collaborative public-private problem solving.

Responsible Regulatory Review

Before I look ahead, I would also like to address the Commission's ongoing efforts to review our existing rules and regulations. As I noted earlier, I strongly believe that we needed new mandatory safety standards in several areas, such as infant and toddler products, and I am very pleased Congress, through the CPSIA, gave us the authority to act quickly in those areas. At the same time, however, I also recognize the need to responsibly review those rules and either modify or delete outdated rules when it is in the public interest.

In April 2012, the Commission's professional staff presented an extensive regulatory review package to the Commission. In this package, Commission staff formulated a plan that not only incorporated the elements drawn from the President's Executive Orders (EO) 13579 and 13563, but also set forth a defined method and schedule for identifying and reconsidering any Commission rules that are obsolete, unnecessary, unjustified, excessively burdensome, counterproductive, or ineffective, or that otherwise require modification without sacrificing the safety benefits of the rules. The plan also encourages public input and participation to find the right balance of priorities and resources. Furthermore, the plan incorporates the requirement in Public Law 112-28 that the Commission seek and consider comments on ways to reduce the cost of third party testing requirements.

Commissioners Nord and Northup have expressed concern over the scope of the staff proposed regulatory review plan, and have called for additional resources to be dedicated to the rule review process. I respect these views, but I am unwilling to put at risk efforts underway to achieve the mission of the agency, namely protecting consumers. The proposal by the Commission's professional staff is a very fulsome and appropriate review plan and notes that the diversion of additional staff resources to this project could delay some of the Commission's key safety activities. This is not acceptable to me, nor should it be acceptable to America's consumers, especially parents.

Even with the staffing improvements brought about through the enactment of CPSIA, the CPSC is still a small agency with finite resources. Then Acting Chairman Nord recognized these limitations in 2007 when she completely suspended the CPSC's

retrospective rule review process citing resource constraints. As Chairman, I am pleased that we have been able to reinvigorate this process—and stand by the balanced approach presented in the Commission staff’s proposed regulatory review package.

The Road Ahead: Continuing to Restore Confidence in the Safety of Consumer Products

At CPSC, we are carrying out a statutorily required proactive regulatory agenda, and consumers are safer because of this approach. While we have made great strides in a number of areas, I assure you, that we will continue to accelerate reasonable and rational safety efforts at every opportunity. In the coming months and years, I see a CPSC addressing hazards I have already mentioned, as well as moving to address emerging ones. With an increasing focus at the ports, with more meaningful standards coming online, and with even greater public-private efforts, I envision safer and safer products in the hands of consumers. They deserve no less.

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Chairman Bono Mack, thank you again for the opportunity to testify on the Commission’s ongoing efforts to keep American consumers safe from defective and hazardous consumer products.

I am happy to answer any questions you may have.