

CPSC COALITION



July 1, 2009

VIA ELECTRONIC MAIL

Office of the Secretary
U.S. Consumer Product Safety Commission
4330 East-West Highway, Room 502
Bethesda, MD 20814-4408

Re: Request for Reconsideration of Emergency Stay of Enforcement (CPSIA §103)

Dear Mr. Stevenson:

On March 24, 2009, the National Association of Manufacturers (NAM) CPSC Coalition submitted a request for an emergency stay of enforcement of Section 103 of the Consumer Product Safety Improvement Act (CPSIA) which requires a new tracking label for children's products made on or after August 14, 2009. On May 13, 2009 the Consumer Product Safety Commission (Commission) was unable to reach a decision on our request for a stay because it only held a temporary quorum of two members. With the confirmation of a new Chairwoman, the deadline even closer, the lack of guidance from the Commission and a permanent quorum, we ask that the Commission come to a decision on the matter by reconsidering our request. We are asking the Commission today to immediately vote to stay enforcement of the provision for a full year, until August 14, 2010.

The Section 103 tracking labels provision is a novel manufacturing requirement in the United States and has raised legitimate questions about implementation, feasibility and the breadth of application. The lack of guidance or implementing rules has created an unconscionable dilemma for industry. Taking action now will provide the Commission, industry, and other product safety stakeholders time to work together to develop an orderly approach to this new requirement, maximizing the prospects for a tracking label system to be both useful and cost-effective for all stakeholders and minimizing the possibility of yet another economic crisis.

We believe the time between now and August 14, 2010 can best be spent working to develop and publish clear and understandable rules on how this requirement will be

implemented and enforced. The new rules can also clarify other critical industry concerns to provide the certainty necessary to facilitate trade and investment. The period from August 14, 2009 until August 14, 2010 can also be spent educating the various industry supply chains on implementing this new requirement. By the time full enforcement starts – on August 14, 2010 – the Commission, the business community, and consumers will have a common understanding of how this new provision is intended to work.

Delaying the enforcement of the tracking label provisions would provide all product safety stakeholders the time to develop and implement this provision without any adverse impact on product safety or public health. In fact, such a delay would enable the Commission to strengthen the product safety system by ensuring a smooth and orderly implementation of this provision. The Commission recognized the importance of such orderly transitions when on January 30, 2009 it unanimously stayed the testing and certification requirements under Section 102 of the CPSIA for 1 year. There is a strong correlation between the technological tracking capabilities being developed by industry to meet the requirements for product certification and the development of systems which can correlate this data into tracking labels as well.

A properly defined tracking label requirement can play an important role in facilitating recalls and creating greater transparency to help companies track product safety efforts. Our hope is that the Commission can use the next 12 months to create a pathway for compliance for the business community. Requestors hereby respectfully request that the Commission with its quorum re-established, on an emergency basis, use the discretion afforded it to issue an immediately effective stay of enforcement for twelve months from August 14, 2009 of the requirements for tracking labels in Section 103 of the CPSIA.

Sincerely,

The NAM CPSC Coalition

Enclosure: Coalition Request of March 24, 2009.