Statement of
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Good morning, Chairwoman Emerson, Ranking Member Serrano, and Members of the Subcommittee on Financial Services and General Government. I am pleased to be here today to discuss the U.S. Consumer Product Safety Commission's (CPSC) significant activities over the past year, as well as the Commission's fiscal year (FY) 2012 budget request.

Since my last appearance before the Subcommittee almost 12 months ago, I have focused on three key objectives at the Commission: fair and effective implementation of the Consumer Product Safety Improvement Act of 2008 (CPSIA); reinvigoration of the Commission's business processes; and expanding our program of early interdiction of dangerous products and prevention.

Fair and Effective Implementation of the CPSIA:

Children's Product Safety Provisions: In the last two years, Commission staff has worked diligently and successfully to implement almost all major provisions of the CPSIA, with particular emphasis on infant and children's safety provisions. As part of this process, the Commission has sought to implement certain sections of the law in a manner that recognizes and is responsive to the concerns expressed by some segments of the regulated community. One example of this is the Commission's recent decision to extend the current stay of enforcement for third-party testing and certification for lead substrate in children's products until December 31, 2011.

It is important to note, however, that the majority of CPSIA rules and requirements have been adopted unanimously by the Commission and widely accepted by industry, consumers groups, and families across the country. These provisions include:

- new durable infant and toddler product standards, so that we never again have to hear of an infant who drowned in a baby bath seat or a toddler who is paralyzed by a poorly designed baby walker that tumbles down a flight of stairs;

- product registration cards that now accompany many juvenile products, so parents who register can receive direct notification and respond to recalls; and

- the inclusion of tracking labels, to the extent practicable, on children's products so that parents can identify who made them—even long after the packaging is thrown away.

The Public Searchable Database: On March 11, 2011, we officially launched our new publicly available consumer product safety information database, which was mandated by section 212 of the CPSIA. This database, available online at www.SaferProducts.gov and through the Commission's homepage at

www.CPSC.gov, is a powerful source of information for consumers, allowing them to determine whether products they already own, or are considering purchasing, are associated with safety hazards or recalls. The SaferProducts.gov site also has an enhanced reporting tool, so that consumers can tell CPSC about a consumer product that caused harm or has the potential to cause harm. CPSC has used the launch of the database to encourage more reporting to CPSC. Increased reporting will help our agency respond faster to product dangers and will, for the first time, empower consumers with online access to vital safety information.

I recognize that the rollout of this database has caused concern among some in the manufacturing community. Several incorrect claims have been made about the database, including assertions that the database rules allow anonymous unverifiable reports and that manufacturers do not have adequate time to respond to reports containing "materially inaccurate" information. Let me respond to those claims upfront.

First, the database does not and will not include reports of harm submitted anonymously. Each submitter is required to provide eight pieces of information, including a description of the product; identity of the manufacturer, private labeler or importer; description of the harm; incident date or approximation; category of submitter; submitter's contact information; consent to include the report in the database; and a verification that the information provided in the report is "true and accurate" to the best of the submitter's "knowledge, information, and belief." Any reports filed that do not include the minimum required information—including the submitter's contact information—are not eligible for posting on SaferProducts.gov.

Second, the database rules were designed to provide manufacturers with the ability to challenge any potentially inaccurate information in a report and to post a comment about the consumer's report. For a qualifying report that contains the minimum required information, the Commission has five business days, where practicable, to send it to the manufacturer. For manufacturers registered with the Commission, the reports are sent by e-mail and are received almost immediately by the manufacturer. Once a report is sent to the manufacturer, it has 10 business days to provide, if it wishes, comments on the report, or to make claims of materially inaccurate or confidential information prior to the posting of the report. For those businesses registered with the Commission, they can provide comments or make claims through the SaferProducts.gov Business Portal.

If a manufacturer provides comment within the 10 business day period, the comment most likely will be posted with the incident report when the report first appears on the database. A manufacturer is also allowed to provide an unlimited number of additional comments on a report at any time. If a manufacturer submits a claim of materially inaccurate information, the Commission will endeavor to determine the claim before the report publishes. For example, if a business makes a claim of material inaccuracy stating that it has been incorrectly

identified as the manufacturer, the CPSC will quickly determine the merits of the claim and, if accepted, will remove the business's name from the report. Information identified by a company as confidential within the 10 business day period will never be posted publicly. Overall, I believe this strikes an appropriate balance between due process for manufacturers and consumers' right to know about potentially dangerous products that could cause harm or injury.

Furthermore, I believe it is important to provide a reminder of just how powerful a resource this database will be for consumers. Rather than use my words, I would like to repeat the words of Lisa Olney, whose daughter died in a defective portable crib just after her first birthday in 2002. Ms. Olney posted the following on the *Kids in Danger* web blog:

> *On December 19, 2002, my daughter Elizabeth, just 13 months old, died in a poorly designed play yard. I live my life often looking back through "what ifs" and "should haves," but I've learned to give most of that up in order to save myself from being a horribly miserable individual. Instead, I realize the importance of focusing on efforts to protect our children so that no parent has to suffer what I have, along with too many other victims of unsafe children's products. The CPSC database is going to protect millions of children, because it provides a place to go when considering the choices parents make when purchasing products, especially those products intended to be beneficial to our children's safety.*

This database will prevent injuries and save lives. Congress recognized this when it added section 212 to the CPSIA, and I hope you will continue to support this very powerful, and potentially lifesaving, open source of consumer information.

A Reinvigorated Commission:

New CPSC Strategic Plan: Last year, the CPSC launched a comprehensive strategic planning initiative to update the Commission's outdated 2003 Strategic Plan. As a result of this effort, the Commission unanimously approved the agency's new 2011-2016 Strategic Plan, which lays out five key goals and also details programmatic objectives that will allow the CPSC to move closer to becoming the global leader in consumer product safety.

New Office of Education, Global Outreach, and Small Business Ombudsman: On September 22, 2010, the Commission voted to create a new office to coordinate and provide outreach to various domestic and international stakeholders, including manufacturers, retailers, resellers, small businesses, and foreign governments. Within this office, we have a full-time Small Business Ombudsman who is dedicated to serving the nation's many smaller businesses in the area of product safety. In particular, special attention will be given to developing "plain English" information tailored to small businesses and small

batch manufacturers so that they can understand and comply with new and existing safety standards.

New CPSC Website: As part of the Commission's overall Information Technology improvement project, the Commission also launched a new updated CPSC.gov home page last December, and currently is in the process of upgrading the entire website. As of now, the rest of the revised content on the new website is scheduled to go live in September.

These improvements will allow consumers to more easily search for safety information and view videos on keeping their families safe from product hazards. In addition, the new website will provide industry, and particularly small businesses, with increased access to resources on how to produce safe products that comply with applicable safety standards.

An Increased Commitment to Early Interdiction and Prevention:

Import Surveillance: Traditionally the Commission has spent the bulk of its resources investigating harmful products in the marketplace. This will always form a substantial part of the CPSC's activities, but I believe the more effective approach is ensuring that harmful products never even enter the country.
To that end, I have taken a number of steps to add additional technological resources and personnel to the Commission's Import Surveillance Division. This Division works directly with the Department of Homeland Security (DHS) and Customs and Border Protection (CBP) to keep dangerous products out of the United States.

On the technological side, the CPSC recently executed two interagency Memorandums of Understanding (MOUs) with CBP that allow us to access more "real time" importer information and target the most dangerous incoming shipments. The first of these MOUs, signed in April 2010, allows CPSC personnel to work at CBP's Commercial Targeting and Analysis Center (CTAC) in Washington, DC, and access real time manifest entry data collected by CBP. This, in turn, allows Import Surveillance Division personnel at the ports to target high-risk shipments prior to their entry into the domestic stream of commerce.

The second MOU, signed with CBP in August 2010, gives the CPSC access to information in the Treasury Enforcement Communications System (TECS). This will assist CPSC Import Surveillance staff at the ports by providing them with additional information to improve local targeting and interdiction of dangerous products.

The CPSC is also actively involved in supporting the Importer Self Assessment – Product Safety (ISA-PS) initiative that is currently being piloted by CBP. The ISA-PS is intended as a partnership among CBP, CPSC, and importers to ensure product safety compliance. It is based on a voluntary approach that provides

meaningful benefits to importers who demonstrate readiness to assume additional responsibility for managing and monitoring their own product safety compliance.

We have also taken steps to increase CPSC's physical presence at ports of entry. In FY 2008, the Import Surveillance Division had only five full-time employees (FTEs), and of those only three FTEs were actually stationed at ports of entry. Through FY 2010, we expanded staffing in the Division to 18 FTEs, with 14 FTEs actually stationed at ports of entry. I am very pleased to note that, as of March 28, 2011, the Division now has 25 FTEs, with 19 FTEs collocated at 15 different ports of entry.

Putting more "cops on the beat" has already yielded substantial positive results. In FY 2010, we performed 6,953 screenings at ports, collected 1,776 samples for testing, and of those found 987 that violated CPSC standards. At the same time, we have also seen the number of recalls start to drop—from 563 in FY 2008 to 428 in FY 2010. Maintaining those positive trends is a key goal for the upcoming year.

The Safe Sleep Team: The overall safety of cribs and the infant and toddler sleep environment is a critical concern of the CPSC and a personal priority of mine. Parents across the country expect cribs to be a sanctuary for their children, regardless of price or size. Unfortunately, that is not always the case. In the past nine years, there have been at least 32 deaths attributed to drop-side crib failures. This number is tragic. The majority of crib deaths, however, are still directly linked to the use of soft bedding and pillows in the crib.

To address this, I directed Commission staff to embark on a two-prong strategy. The first prong was to recall old, dangerous drop-side cribs in the marketplace and promulgate new mandatory crib safety rules that will prohibit dangerous drop-side cribs from ever being sold again in the United States. I am pleased to report to the Members of this Subcommittee that the new mandatory crib safety rule was approved by the Commission in a unanimous vote on December 15, 2010.

The second prong of this initiative is education: teaching parents and caregivers how to keep the inside of cribs free from suffocation risks like stuffed animals, comforters, and pillows. In partnership with the American Academy of Pediatrics and a child advocacy group called Keeping Babies Safe, we have a wonderful new Safe Sleep video that is being shown in maternity wards and pediatricians' offices around the country. This video is currently available on the CPSC's website, and I urge Members of the Subcommittee to view the video and see its powerful message.

Rapid Response to New Hazards:

Toxic Metals in Children's Products: The Commission has increased its efforts to provide a rapid response to new and emerging hazards. One

example of this response is the CPSC's efforts to stop the use of toxic metals in children's products. Earlier this year, it came to our attention that some foreign manufacturers might be using cadmium or other toxic metals as a substitute for lead due to the Commission's lead limits for children's products.

I sent a strong message to Asian manufacturers and regulators that this was unacceptable and that we would not allow there to be an influx of products with cadmium like we saw a few years ago with lead. We have also asked several standards setting bodies – including the committee that oversees the ASTM F963 toy safety standard— to improve safety standards in this area. In addition, Commission staff is closely examining the use of other toxic metals in children's products, such as barium and antimony, and the CPSC will not hesitate to take further action in this area if necessary.

Problem Drywall: I have personally visited several homes and met with a number of homeowners impacted by problem drywall. I am keenly aware of the pain and frustration many families have faced in dealing with this issue, and the CPSC has devoted more resources—over $5 million in the past two years – to investigate this issue than for any other product investigation in the Commission's history. As a key strategy of the investigation, we have worked collaboratively with several other agencies, including the U.S. Department of Housing and Urban Development (HUD) to formulate guidance that potentially impacted homeowners can use to identify whether a home contains problem drywall and, if so, a remediation protocol for repairing the impacted dwelling.

On January 28, 2010, CPSC and HUD issued preliminary guidance on how to identify the presence of metal corrosion as well as other indicators of problem drywall in homes. This was followed on April 2, 2010, by preliminary remediation guidance, which detailed steps that homeowners could take to address potential safety hazards in homes with problem drywall. When the remediation protocol was released, CPSC and HUD staff noted that the protocols would be updated based on further scientific studies conducted by Sandia National Laboratories (Sandia) and the National Institute of Standards and Technology (NIST) to analyze the long-term impact of electrical component, electric wiring, and fire alarm exposure to the gases emitted by problem drywall.

On March 18, 2011, CPSC and HUD released a new remediation protocol based on an in-depth study at Sandia that simulated the long-term exposure of wiring and other electrical components to hydrogen sulfide gas, which is associated with problem drywall. In the study, Sandia staff simulated 40 years of corrosive conditions that could exist in problem

drywall homes, and did not observe any acute or long-term electrical safety events, such as smoking or fire.

The new guidance should prove helpful to many homeowners who wish to remediate their homes. In addition, I also hope that the guidance will continue to provide actionable criteria for other federal, state, and private entities considering possible financial relief for homeowners, as has been the case with earlier versions of the guidance.

CPSC's Proposed FY 2012 Budget:

The past three years have been a period of rebuilding for the Commission, after decades of reduced funding and staff reductions that decimated the agency's ability to carry out its critical public safety mission. In FY 1980, the Commission had almost 1,000 full-time employees and an inflation-adjusted budget of over $150 million. By 2007, the Commission had fallen to 385 full-time employees—and was barely able to carry out its core functions.

As a result of the increased resources provided by Congress over the past three years, we have been able to rebuild. Full-time staff now stands at approximately 550. As noted above, these resources have allowed us to staff several ports of entry and increase cooperation with CBP to keep dangerous products out of the country. They will allow us to increase staff at our new laboratory facility, scheduled to open in May, to test potentially dangerous products that could injure or kill consumers, including infants and young children. And they will allow us to stay on top of emerging hazards, like problem drywall and toxic metals in toys.

The increased funding also allows us to conduct outreach directly to consumers. It ensures that we can get the message out to families after a hurricane or ice storm that the use of a portable generator in a home can result in carbon monoxide poisoning and tragedy. It also allows us to reach out to new mothers—so that they do not place their newborns into an unsafe sleep environment that could result in tragedy.

I am highly cognizant of the desire for fiscal constraint that has been expressed by the Administration, the Congress, and the American people. Yet, I believe the CPSC is a great return on investment to the taxpaying public. In allocating funds, we have attempted to maximize existing resources to the greatest extent possible. There are, however, several areas of critical need that the Commission must address in FY 2012.

The proposed FY 2012 budget requests $122 million – a slight increase from the $118.2 million funding level the Commission is currently operating under, and the $118.6 million request for FY 2011. If enacted, this level would allow the agency to hire an additional 34 FTEs to fill areas of critical need. In addition, it will allow us to shift resources from expenses associated with IT modernization and CPSIA rulemaking to increased investigation and enforcement activities.

Some highlights of these proposed changes include:

IT Modernization Cost Savings: Section 212 of the CPSIA contained two major components: 1) modernization of the Commission's IT systems; and 2) implementation of the searchable consumer product safety information database. Over the past two years, much of the IT spending has focused on infrastructure and staff to support the overall IT modernization. By the end of FY 2011, the bulk of the capital upgrade will be complete, and the Commission's needs shift mainly to maintenance costs.

Accordingly, the FY 2012 budget request includes a decrease of $3.104 million for costs associated with IT capital and development. This decrease is partially offset by an increase of $1.44 million to hire four new FTEs and three contractors to maintain the new IT systems. This results in a net decrease in this area from the FY 2011 proposal of $1.64 million.

Increased Incident Review and Investigation: In recent years, the CPSC has experienced a substantial increase in the number of product incident reports filed by consumers. In 2003, for instance, the Commission received slightly more than 22,000 reports. By 2009, that number had jumped to almost 50,000. At the same time, however, the number of investigations conducted as a percent of total reports received dropped from approximately 20 percent in 2003 to less than 10 percent in 2009.

This is a trend that we must reverse. To address this challenge, the FY 2012 budget proposes an increase of approximately $3.08 million to hire four new FTEs and four contractors to assist with data intake activities, 14 new FTEs to assist with rapid incident review, and six new FTEs to investigate the increasing number of incident reports received. Without this new staff, the agency will see a further reduction in the percentage of incident reports investigated – and this will reduce our ability to respond to emerging hazards.

IT Capital Replacement Funds: Currently, CPSC allocates approximately $1 million each year for capital replacement of equipment and software. However, recent growth in agency personnel and increased reliance on technology has increased the agency's requirements in this area. Accordingly, the FY 2012 budget requests an additional $500,000 (for a total with baseline funding of $1.5 million) for capital IT replacement.

Office of Education, Global Outreach, and Small Business Ombudsman: As detailed earlier in my testimony, the Commission recently voted to create an Office of Education, Global Outreach, and Small Business Ombudsman. Most of the staff in the office will come from existing FTEs transferred from other offices. However, the FY 2012 budget proposes an additional $400,000 to support the addition of two FTEs: a director to develop the office and a senior small business

ombudsman dedicated to assisting small business entities in the area of consumer product safety.

Financial Management, Oversight and IG Support: The FY 2012 budget requests $665,000 for three FTEs (an accountant, a budget analyst, and a senior internal controls officer) to support enhanced financial management oversight and support. The budget also requests $204,000 for the Inspector General's office to hire an independent legal counsel, consistent with the Inspector General Reform Act.

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Madame Chairwoman, thank you again for the opportunity to testify on the proposed FY 2012 budget for the U.S. Consumer Product Safety Commission.

I look forward to working with you and other members of the Subcommittee on the budget request, and would be happy to now answer any questions you may have.