level of comfort that information containing trade secrets and other confidential commercial data to which GAO has access will be protected against improper disclosure.

I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, we have no further requests for time and yield back the balance of our time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. WAXMAN) that the House suspend the rules and pass the bill, H.R. 6388, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 4040, CONSUMER PRODUCT SAFETY IMPROVEMENT ACT OF 2008

Mr. WAXMAN submitted the following conference report on the bill (H.R. 4040) to establish consumer product safety standards and other safety requirements for children's products and to reauthorize and modernize the Consumer Product Safety Commission:

CONFERENCE REPORT (H. REPT. 110–787)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4040), to establish consumer product safety standards and other safety requirements for children's products and to reauthorize and modernize the Consumer Product Safety Commission, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Consumer Product Safety Improvement Act of 2008''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References.
Sec. 3. Authority to issue implementing regulations.

TITLE I—CHILDREN'S PRODUCT SAFETY

Sec. 101. Children's products containing lead; lead paint rule.
Sec. 102. Mandatory third party testing for certain children's products.
Sec. 103. Tracking labels for children's products.
Sec. 104. Standards and consumer registration of durable nursery products.
Sec. 105. Labeling requirement for advertising toys and games.
Sec. 106. Mandatory toy safety standards.
Sec. 107. Study of preventable injuries and deaths in minority children related to consumer products.
Sec. 108. Prohibition on sale of certain products containing specified phthalates.

TITLE II—CONSUMER PRODUCT SAFETY COMMISSION REFORM

Subtitle A—Administrative Improvements

Sec. 201. Reauthorization of the Commission.
Sec. 202. Full Commission requirement; interim quorum; personnel.
Sec. 203. Submission of copy of certain documents to Congress.
Sec. 204. Expedited rulemaking.
Sec. 205. Inspector general audits and reports.
Sec. 206. Industry-sponsored travel ban.
Sec. 207. Sharing of information with Federal, State, local, and foreign government agencies.
Sec. 208. Employee training exchanges.
Sec. 209. Annual reporting requirement.

Subtitle B—Enhanced Enforcement Authority

Sec. 211. Public disclosure of information.
Sec. 212. Establishment of a public consumer product safety database.
Sec. 213. Prohibition on stockpiling under other Commission-enforced statutes.
Sec. 214. Enhanced recall authority and corrective action plans.
Sec. 215. Inspection of firewalled conformity assessment bodies; identification of supply chain.
Sec. 216. Prohibited acts.
Sec. 217. Penalties.
Sec. 218. Enforcement by State attorneys general.
Sec. 219. Whistleblower protections.

Subtitle C—Specific Import-Export Provisions

Sec. 221. Export of recalled and non-conforming products.
Sec. 222. Import safety management and interagency cooperation.
Sec. 223. Substantial product hazard list and destruction of noncompliant imported products.
Sec. 224. Financial responsibility.
Sec. 225. Study and report on effectiveness of authorities relating to safety of imported consumer products.

Subtitle D—Miscellaneous Provisions and Conforming Amendments

Sec. 231. Preemption.
Sec. 232. All-terrain vehicle standard.
Sec. 233. Cost-benefit analysis under the Poison Prevention Packaging Act of 1970.
Sec. 234. Study on use of formaldehyde in manufacturing of textile and apparel articles.
Sec. 235. Technical and conforming changes.
Sec. 236. Expedited judicial review.
Sec. 237. Repeal.
Sec. 238. Pool and Spa Safety Act technical amendments.
Sec. 239. Effective dates and Severability.

SEC. 2. REFERENCES.

(a) DEFINED TERMS.—As used in this Act—

(1) the term ''appropriate Congressional committees'' means the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate; and

(2) the term ''Commission'' means the Consumer Product Safety Commission.

(b) CONSUMER PRODUCT SAFETY ACT.—Except as otherwise expressly provided, whenever in this Act an amendment is expressed as an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Consumer Product Safety Act (15 U.S.C. 2051 et seq.).

SEC. 3. AUTHORITY TO ISSUE IMPLEMENTING REGULATIONS.

The Commission may issue regulations, as necessary, to implement this Act and the amendments made by this Act.

TITLE I—CHILDREN'S PRODUCT SAFETY

SEC. 101. CHILDREN'S PRODUCTS CONTAINING LEAD; LEAD PAINT RULE.

(a) GENERAL LEAD BAN.—

(1) TREATMENT AS A BANNED HAZARDOUS SUBSTANCE.—Except as expressly provided in subsection (b) beginning on the dates provided in paragraph (2), any children's product (as defined in section 3(a)(16) of the Consumer Product Safety Act (15 U.S.C. 2052(a)(16))) that contains more lead than the limit established by paragraph (2) shall be treated as a banned hazardous substance under the Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.).

(2) LEAD LIMIT.—

(A) 600 PARTS PER MILLION.—Except as provided in subparagraphs (B), (C), (D), and (E), beginning 180 days after the date of enactment of this Act, the lead limit referred to in paragraph (1) is 600 parts per million total lead content by weight for any part of the product.

(B) 300 PARTS PER MILLION.—Except as provided by subparagraphs (C), (D), and (E), beginning on the date that is 1 year after the date of enactment of this Act, the lead limit referred to in paragraph (1) is 300 parts per million total lead content by weight for any part of the product.

(C) 100 PARTS PER MILLION.—Except as provided in subparagraphs (D) and (E), beginning on the date that is 3 years after the date of enactment of this Act, subparagraph (B) shall be applied by substituting ''100 parts per million'' for ''300 parts per million'' unless the Commission determines that a limit of 100 parts per million is not technologically feasible for a product or product category. The Commission may make such a determination only after notice and a hearing and after analyzing the public health protections associated with substantially reducing lead in children's products.

(D) ALTERNATE REDUCTION OF LIMIT.—If the Commission determines under subparagraph (C) that the 100 parts per million limit is not technologically feasible for a product or product category, the Commission shall, by regulation, establish an amount that is the lowest amount of lead, lower than 300 parts per million, the Commission determines to be technologically feasible to achieve for that product or product category. The amount of lead established by the Commission under the preceding sentence shall be substituted for the 300 parts per million limit under subparagraph (B) beginning on the date that is 3 years after the date of enactment of this Act.

(E) PERIODIC REVIEW AND FURTHER REDUCTIONS.—The Commission shall, based on the best available scientific and technical information, periodically review and revise downward the limit set forth in this subsection, no less frequently than every 5 years after promulgation of the limit under subparagraph (C) or (D) to require the lowest amount of lead that the Commission determines is technologically feasible to achieve. The amount of lead established by the Commission under the preceding sentence shall be substituted for the lead limit in effect immediately before such revision.

(b) EXCLUSION OF CERTAIN MATERIALS OR PRODUCTS AND INACCESSIBLE COMPONENT PARTS.—

(1) CERTAIN PRODUCTS OR MATERIALS.—The Commission may, by regulation, exclude a specific product or material from the prohibition in subsection (a) if the Commission, after notice and a hearing, determines on the basis of the best-available, objective, peer-reviewed, scientific evidence that lead in such product or material will neither—

(A) result in the absorption of any lead into the human body, taking into account

normal and reasonably foreseeable use and abuse of such product by a child, including swallowing, mouthing, breaking, or other children's activities, and the aging of the product; nor

(B) have any other adverse impact on public health or safety.

(2) EXCEPTION FOR INACCESSIBLE COMPONENT PARTS.—

(A) IN GENERAL.—The limits established under subsection (a) shall not apply to any component part of a children's product that is not accessible to a child through normal and reasonably foreseeable use and abuse of such product, as determined by the Commission. A component part is not accessible under this subparagraph if such component part is not physically exposed by reason of a sealed covering or casing and does not become physically exposed through reasonably foreseeable use and abuse of the product. Reasonably foreseeable use and abuse shall include swallowing, mouthing, breaking, or other children's activities, and the aging of the product.

(B) INACCESSIBILITY PROCEEDING.—Within 1 year after the date of enactment of this Act, the Commission shall promulgate a rule providing guidance with respect to what product components, or classes of components, will be considered to be inaccessible for purposes of subparagraph (A).

(C) APPLICATION PENDING CPSC GUIDANCE.—Until the Commission promulgates a rule pursuant to subparagraph (B), the determination of whether a product component is inaccessible to a child shall be made in accordance with the requirements laid out in subparagraph (A) for considering a component to be inaccessible to a child.

(3) CERTAIN BARRIERS DISQUALIFIED.—For purposes of this subsection, paint, coatings, or electroplating may not be considered to be a barrier that would render lead in the substrate inaccessible to a child, or to prevent absorption of any lead into the human body, through normal and reasonably foreseeable use and abuse of the product.

(4) CERTAIN ELECTRONIC DEVICES.—If the Commission determines that it is not technologically feasible for certain electronic devices, including devices containing batteries, to comply with subsection (a), the Commission, by regulation, shall—

(A) issue requirements to eliminate or minimize the potential for exposure to and accessibility of lead in such electronic devices, which may include requirements that such electronic devices be equipped with a child-resistant cover or casing that prevents exposure to and accessibility of the parts of the product containing lead; and

(B) establish a schedule by which such electronic devices shall be in full compliance with the limits in subsection (a), unless the Commission determines that full compliance will not be technologically feasible for such devices within a schedule set by the Commission.

(5) PERIODIC REVIEW.—The Commission shall, based on the best available scientific and technical information, periodically review and revise the regulations promulgated pursuant to this subsection no less frequently than every 5 years after the first promulgation of a regulation under this subsection to make them more stringent and to require the lowest amount of lead the Commission determines is technologically feasible to achieve.

(c) APPLICATION WITH ASTM F963.—To the extent that any regulation promulgated by the Commission under this section (or any section of the Consumer Product Safety Act or any other Act enforced by the Commission, as such Acts are affected by this section) is inconsistent with the ASTM F963 standard, such promulgated regulation shall supersede the ASTM F963 standard to the extent of the inconsistency.

(d) TECHNOLOGICAL FEASIBILITY DEFINED.—For purposes of this section, a limit shall be deemed technologically feasible with regard to a product or product category if—

(1) a product that complies with the limit is commercially available in the product category;

(2) technology to comply with the limit is commercially available to manufacturers or is otherwise available within the common meaning of the term;

(3) industrial strategies or devices have been developed that are capable or will be capable of achieving such a limit by the effective date of the limit and that companies, acting in good faith, are generally capable of adopting; or

(4) alternative practices, best practices, or other operational changes would allow the manufacturer to comply with the limit.

(e) PENDING RULEMAKING PROCEEDINGS TO HAVE NO EFFECT.—The pendency of a rulemaking proceeding to consider—

(1) a delay in the effective date of a limit or an alternate limit under this section related to technological feasibility,

(2) an exception for certain products or materials or inaccessibility guidance under subsection (b) of this section, or

(3) any other request for modification of or exemption from any regulation, rule, standard, or ban under this Act or any other Act enforced by the Commission,

shall not delay the effect of any provision or limit under this section nor shall it stay general enforcement of the requirements of this section.

(f) MORE STRINGENT LEAD PAINT BAN.—

(1) IN GENERAL.—Effective on the date that is 1 year after the date of enactment of this Act, the Commission shall modify section 1303.1 of its regulations (16 C.F.R. 1301.1) by substituting ''0.009 percent'' for ''0.06 percent'' in subsection (a) of that section.

(2) PERIODIC REVIEW AND REDUCTION.—The Commission shall, no less frequently than every 5 years after the date on which the Commission modifies the regulations pursuant to paragraph (1), review the limit for lead in paint set forth in section 1303.1 of title 16, Code of Federal Regulations (as revised by paragraph (1)), and shall by regulation revise downward the limit to require the lowest amount of lead that the Commission determines is technologically feasible to achieve.

(3) METHODS FOR SCREENING LEAD IN SMALL PAINTED AREAS.—In order to provide for effective and efficient enforcement of the limit set forth in section 1303.1 of title 16, Code of Federal Regulations, the Commission may rely on x-ray fluorescence technology or other alternative methods for measuring lead in paint or other surface coatings on products subject to such section where the total weight of such paint or surface coating is no greater than 10 milligrams or where such paint or surface coating covers no more than 1 square centimeter of the surface area of such products. Such alternative methods for measurement shall not permit more than 2 micrograms of lead in a total weight of 10 milligrams or less of paint or other surface coating or in a surface area of 1 square centimeter or less.

(4) ALTERNATIVE METHODS OF MEASURING LEAD IN PAINT GENERALLY.—

(A) STUDY.—Not later than 1 year after the date of enactment of this Act, the Commission shall complete a study to evaluate the effectiveness, precision, and reliability of x-ray fluorescence technology and other alternative methods for measuring lead in paint or other surface coatings when used on a children's product or furniture article in order to determine compliance with part 1303 of title 16, Code of Federal Regulations, as modified pursuant to this subsection.

(B) RULEMAKING.—If the Commission determines, based on the study in subparagraph (A), that x-ray fluorescence technology or other alternative methods for measuring lead in paint are as effective, precise, and reliable as the methodology used by the Commission for compliance determinations prior to the date of enactment of this Act, the Commission may promulgate regulations governing the use of such methods in determining the compliance of products with part 1303 of title 16, Code of Federal Regulations, as modified pursuant to this subsection. Any regulations promulgated by the Commission shall ensure that such alternative methods are no less effective, precise, and reliable than the methodology used by the Commission prior to the date of enactment of this Act.

(5) PERIODIC REVIEW.—The Commission shall, no less frequently than every 5 years after the Commission completes the study required by paragraph (4)(A), review and revise any methods for measurement utilized by the Commission pursuant to paragraph (3) or pursuant to any regulations promulgated under paragraph (4) to ensure that such methods are the most effective methods available to protect children's health. The Commission shall conduct an ongoing effort to study and encourage the further development of alternative methods for measuring lead in paint and other surface coating that can effectively, precisely, and reliably detect lead levels at or below the level set forth in part 1303 of title 16, Code of Federal Regulations, or any lower level established by regulation.

(6) NO EFFECT ON LEGAL LIMIT.—Nothing in paragraph (3), nor reliance by the Commission on any alternative method of measurement pursuant to such paragraph, nor any rule prescribed pursuant to paragraph (4), nor any method established pursuant to paragraph (5) shall be construed to alter the limit set forth in section 1303 of title 16, Code of Federal Regulations, as modified pursuant to this subsection, or provide any exemption from such limit.

(7) CONSTRUCTION.—Nothing in this subsection shall be construed to affect the authority of the Commission or any other person to use alternative methods for detecting lead as a screening method to determine whether further testing or action is needed.

(g) TREATMENT AS A REGULATION UNDER THE FHSA.—Any ban imposed by subsection (a) or rule promulgated under subsection (a) or (b) of this section, and section 1303.1 of title 16, Code of Federal Regulations (as modified pursuant to subsection (f)(1) or (2)), or any successor regulation, shall be considered a regulation of the Commission promulgated under or for the enforcement of section 2(q) of the Federal Hazardous Substances Act (15 U.S.C. 1261(q)).

SEC. 102. MANDATORY THIRD PARTY TESTING FOR CERTAIN CHILDREN'S PRODUCTS.

(a) MANDATORY AND THIRD PARTY TESTING.—

(1) GENERAL CONFORMITY CERTIFICATION.—

(A) AMENDMENT.—Paragraph (1) of section 14(a) (15 U.S.C. 2063(a)) is amended to read as follows:

''(1) GENERAL CONFORMITY CERTIFICATION.—Except as provided in paragraphs (2) and (3), every manufacturer of a product which is subject to a consumer product safety rule under this Act or similar rule, ban, standard, or regulation under any other Act enforced by the Commission and which is imported for consumption or warehousing or distributed in commerce (and the private labeler of such

product if such product bears a private label) shall issue a certificate which—

''(A) shall certify, based on a test of each product or upon a reasonable testing program, that such product complies with all rules, bans, standards, or regulations applicable to the product under this Act or any other Act enforced by the Commission; and

''(B) shall specify each such rule, ban, standard, or regulation applicable to the product.''.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect 90 days after the date of enactment of this Act.

(2) THIRD PARTY TESTING REQUIREMENT.—Section 14(2) (15 U.S.C. 2063(2)) is further amended by redesignating paragraph (2) as paragraph (4) and inserting after paragraph (1) the following:

''(2) THIRD PARTY TESTING REQUIREMENT.—Effective on the dates provided in paragraph (3), before importing for consumption or warehousing or distributing in commerce any children's product that is subject to a children's product safety rule, every manufacturer of such children's product (and the private labeler of such children's product if such children's product bears a private label) shall—

''(A) submit sufficient samples of the children's product, or samples that are identical in all material respects to the product, to a third party conformity assessment body accredited under paragraph (3) to be tested for compliance with such children's product safety rule; and

''(B) based on such testing, issue a certificate that certifies that such children's product complies with the children's product safety rule based on the assessment of a third party conformity assessment body accredited to conduct such tests.

A manufacturer or private labeler shall issue either a separate certificate for each children's product safety rule applicable to a product or a combined certificate that certifies compliance with all applicable children's product safety rules, in which case each such rule shall be specified.

''(3) SCHEDULE FOR IMPLEMENTATION OF THIRD PARTY TESTING.—

''(A) GENERAL APPLICATION.—Except as provided under subparagraph (F), the requirements of paragraph (2) shall apply to any children's product manufactured more than 90 days after the Commission has established and published notice of the requirements for accreditation of third party conformity assessment bodies to assess conformity with a children's product safety rule to which such children's product is subject.

''(B) TIME LINE FOR ACCREDITATION.—

''(i) LEAD PAINT.—Not later than 30 days after the date of enactment of the Consumer Product Safety Improvement Act of 2008, the Commission shall publish notice of the requirements for accreditation of third party conformity assessment bodies to assess conformity with part 1303 of title 16, Code of Federal Regulations.

''(ii) FULL-SIZE CRIBS; NON FULL-SIZE CRIBS; PACIFIERS.—Not later than 60 days after the date of enactment of the Consumer Product Safety Improvement Act of 2008, the Commission shall publish notice of the requirements for accreditation of third party conformity assessment bodies to assess conformity with parts 1508, 1509, and 1511 of such title.

''(iii) SMALL PARTS.—Not later than 90 days after the date of enactment of the Consumer Product Safety Improvement Act of 2008, the Commission shall publish notice of the requirements for accreditation of third party conformity assessment bodies to assess conformity with part 1501 of such title.

''(iv) CHILDREN'S METAL JEWELRY.—Not later than 120 days after the date of enactment of the Consumer Product Safety Improvement Act of 2008, the Commission shall publish notice of the requirements for accreditation of third party conformity assessment bodies to assess conformity with the requirements of section 101(a)(2) of such Act with respect to children's metal jewelry.

''(v) BABY BOUNCERS, WALKERS, AND JUMPERS.—Not later than 210 days after the date of enactment of the Consumer Product Safety Improvement Act of 2008, the Commission shall publish notice of the requirements for accreditation of third party conformity assessment bodies to assess conformity with parts 1500.18(a)(6) and 1500.86(a) of such title.

''(vi) ALL OTHER CHILDREN'S PRODUCT SAFETY RULES.—The Commission shall publish notice of the requirements for accreditation of third party conformity assessment bodies to assess conformity with other children's product safety rules at the earliest practicable date, but in no case later than 10 months after the date of enactment of the Consumer Product Safety Improvement Act of 2008, or, in the case of children's product safety rules established or revised 1 year or more after such date of enactment, not later than 90 days before such rules or revisions take effect.

''(C) ACCREDITATION.—Accreditation of third party conformity assessment bodies pursuant to the requirements established under subparagraph (B) may be conducted either by the Commission or by an independent accreditation organization designated by the Commission.

''(D) PERIODIC REVIEW.—The Commission shall periodically review and revise the accreditation requirements established under subparagraph (B) to ensure that the requirements assure the highest conformity assessment body quality that is feasible.

''(E) PUBLICATION OF ACCREDITED ENTITIES.—The Commission shall maintain on its Internet website an up-to-date list of entities that have been accredited to assess conformity with children's product safety rules in accordance with the requirements published by the Commission under this paragraph.

''(F) EXTENSION.—If the Commission determines that an insufficient number of third party conformity assessment bodies have been accredited to permit certification for a children's product safety rule under the accelerated schedule required by this paragraph, the Commission may extend the deadline for certification to such rule by not more than 60 days.

''(G) RULEMAKING.—Until the date that is 3 years after the Consumer Product Safety Improvement Act of 2008, Commission proceedings under this paragraph shall be exempt from the requirements of sections 553 and 601 through 612 of title 5, United States Code.''.

(3) CONFORMING AMENDMENTS.—Section 14(a)(4) (15 U.S.C. 2063(a)(4)), as redesignated by paragraph (2) of this subsection, is amended—

(A) by striking ''required by paragraph (1) of this subsection'' and inserting ''required under paragraph (1), (2), or (3)''; and

(B) by striking ''requirement under paragraph (1)'' and inserting ''requirement under paragraph (1), (2), or (3)''.

(b) ADDITIONAL REQUIREMENTS; DEFINITIONS.—Section 14 (15 U.S.C. 2063) is further amended by adding at the end the following:

''(d) ADDITIONAL REGULATIONS FOR THIRD PARTY TESTING.—

''(1) AUDIT.—Not later than 10 months after the date of enactment of the Consumer Product Safety Improvement Act of 2008, the Commission shall by regulation establish requirements for the periodic audit of third party conformity assessment bodies as a condition for the continuing accreditation of such conformity assessment bodies under subsection (a)(3)(C).

''(2) COMPLIANCE; CONTINUING TESTING.—Not later than 15 months after the date of enactment of the Consumer Product Safety Improvement Act of 2008, the Commission shall by regulation—

''(A) initiate a program by which a manufacturer or private labeler may label a consumer product as complying with the certification requirements of subsection (a); and

''(B) establish protocols and standards—

''(i) for ensuring that a children's product tested for compliance with an applicable children's product safety rule is subject to testing periodically and when there has been a material change in the product's design or manufacturing process, including the sourcing of component parts;

''(ii) for the testing of random samples to ensure continued compliance;

''(iii) for verifying that a children's product tested by a conformity assessment body complies with applicable children's product safety rules; and

''(iv) for safeguarding against the exercise of undue influence on a third party conformity assessment body by a manufacturer or private labeler.

''(e) WITHDRAWAL OF ACCREDITATION.—

''(1) IN GENERAL.—The Commission may withdraw its accreditation or its acceptance of the accreditation of a third party conformity assessment body accredited under this section if the Commission finds, after notice and investigation, that—

''(A) a manufacturer, private labeler, or governmental entity has exerted undue influence on such conformity assessment body or otherwise interfered with or compromised the integrity of the testing process with respect to the certification of a children's product under this section; or

''(B) such conformity assessment body failed to comply with an applicable protocol, standard, or requirement established by the Commission under subsection (d).

''(2) PROCEDURE.—In any proceeding to withdraw the accreditation of a conformity assessment body, the Commission—

''(A) shall consider the gravity of the conformity assessment body's action or failure to act, including—

''(i) whether the action or failure to act resulted in injury, death, or the risk of injury or death;

''(ii) whether the action or failure to act constitutes an isolated incident or represents a pattern or practice; and

''(iii) whether and when the conformity assessment body initiated remedial action; and

''(B) may—

''(i) withdraw its acceptance of the accreditation of the conformity assessment body on a permanent or temporary basis; and

''(ii) establish requirements for reaccreditation of the conformity assessment body.

''(3) FAILURE TO COOPERATE.—The Commission may suspend the accreditation of a conformity assessment body if it fails to cooperate with the Commission in an investigation under this section.

''(f) DEFINITIONS.—In this section:

''(1) CHILDREN'S PRODUCT SAFETY RULE.—The term 'children's product safety rule' means a consumer product safety rule under this Act or similar rule, regulation, standard, or ban under any other Act enforced by the Commission, including a rule declaring a consumer product to be a banned hazardous product or substance.

''(2) THIRD PARTY CONFORMITY ASSESSMENT BODY.—

''(A) IN GENERAL.—The term 'third party conformity assessment body' means a conformity assessment body that, except as provided in subparagraph (D), is not owned, managed, or controlled by the manufacturer or private labeler of a product assessed by such conformity assessment body.

''(B) GOVERNMENTAL PARTICIPATION.—Such term may include an entity that is owned or controlled in whole or in part by a government if—

''(i) to the extent practicable, manufacturers or private labelers located in any nation are permitted to choose conformity assessment bodies that are not owned or controlled by the government of that nation;

''(ii) the entity's testing results are not subject to undue influence by any other person, including another governmental entity;

''(iii) the entity is not accorded more favorable treatment than other third party conformity assessment bodies in the same nation who have been accredited under this section;

''(iv) the entity's testing results are accorded no greater weight by other governmental authorities than those of other third party conformity assessment bodies accredited under this section; and

''(v) the entity does not exercise undue influence over other governmental authorities on matters affecting its operations or on decisions by other governmental authorities controlling distribution of products based on outcomes of the entity's conformity assessments.

''(C) TESTING AND CERTIFICATION OF ART MATERIALS AND PRODUCTS.—A certifying organization (as defined in appendix A to section 1500.14(b)(8) of title 16, Code of Federal Regulations (or any successor regulation or ruling)) meets the requirements of subparagraph (A) with respect to the certification of art material and art products required under this section or by regulations prescribed under the Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.).

''(D) FIREWALLED CONFORMITY ASSESSMENT BODIES.—Upon request, the Commission may accredit a conformity assessment body that is owned, managed, or controlled by a manufacturer or private labeler as a third party conformity assessment body if the Commission by order finds that—

''(i) accreditation of the conformity assessment body would provide equal or greater consumer safety protection than the manufacturer's or private labeler's use of an independent third party conformity assessment body; and

''(ii) the conformity assessment body has established procedures to ensure that—

''(I) its test results are protected from undue influence by the manufacturer, private labeler or other interested party;

''(II) the Commission is notified immediately of any attempt by the manufacturer, private labeler or other interested party to hide or exert undue influence over test results; and

''(III) allegations of undue influence may be reported confidentially to the Commission.

''(g) REQUIREMENTS FOR CERTIFICATES.—

''(1) IDENTIFICATION OF ISSUER AND CONFORMITY ASSESSMENT BODY.—Every certificate required under this section shall identify the manufacturer or private labeler issuing the certificate and any third party conformity assessment body on whose testing the certificate depends. The certificate shall include, at a minimum, the date and place of manufacture, the date and place where the product was tested, each party's name, full mailing address, telephone number, and contact information for the individual responsible for maintaining records of test results.

''(2) ENGLISH LANGUAGE.—Every certificate required under this section shall be legible and all content required by this section shall be in the English language. A certificate may also contain the same content in any other language.

''(3) AVAILABILITY OF CERTIFICATES.—Every certificate required under this section shall accompany the applicable product or shipment of products covered by the same certificate and a copy of the certificate shall be furnished to each distributor or retailer of the product. Upon request, the manufacturer or private labeler issuing the certificate shall furnish a copy of the certificate to the Commission.

''(4) ELECTRONIC FILING OF CERTIFICATES FOR IMPORTED PRODUCTS.—In consultation with the Commissioner of Customs, the Commission may, by rule, provide for the electronic filing of certificates under this section up to 24 hours before arrival of an imported product. Upon request, the manufacturer or private labeler issuing the certificate shall furnish a copy to the Commission and to the Commissioner of Customs.

''(h) RULE OF CONSTRUCTION.—Compliance of any children's product with third party testing and certification or general conformity certification requirements under this section shall not be construed to exempt such children's product from any requirement that such product actually be in conformity with all applicable rules, regulation, standards, or ban under any Act enforced by the Commission.''.

(c) CPSC CONSIDERATION OF EXISTING REQUIREMENTS.—In establishing standards for accreditation of a third party conformity assessment body under section 14(a)(3) of the Consumer Product Safety Act, as added by subsection (a), the Commission may consider standards and protocols for accreditation of such conformity assessment bodies by independent accreditation organizations that are in effect on the date of enactment of this Act, but shall ensure that the protocols, standards, and requirements prescribed under such section 14(a)(3) incorporate, as the standard for accreditation, the most current scientific and technological standards and techniques available.

(d) CONFORMING AMENDMENTS.—Section 14(b) (15 U.S.C. 2063(b)) is amended—

(1) by striking ''consumer products which are subject to consumer product safety standards under this Act'' and inserting ''any product which is subject to a consumer product safety rule under this Act, or a similar rule, regulation, standard, or ban under any other Act enforced by the Commission,''; and

(2) by striking ''or testing programs.'' and inserting '', unless the Commission, by rule, requires testing by an independent third party for a particular rule, regulation, standard, or ban, or for a particular class of products.''.

SEC. 103. TRACKING LABELS FOR CHILDREN'S PRODUCTS.

(a) IN GENERAL.—Section 14(a) (15 U.S.C. 2063(a)), as amended by section 102 of this Act, is further amended by adding at the end the following:

''(5) Effective 1 year after the date of enactment of the Consumer Product Safety Improvement Act of 2008, the manufacturer of a children's product shall place permanent, distinguishing marks on the product and its packaging, to the extent practicable, that will enable—

''(A) the manufacturer to ascertain the location and date of production of the product, cohort information (including the batch, run number, or other identifying characteristic), and any other information determined by the manufacturer to facilitate ascertaining the specific source of the product by reference to those marks; and

''(B) the ultimate purchaser to ascertain the manufacturer or private labeler, location and date of production of the product, and cohort information (including the batch, run number, or other identifying characteristic).''.

(b) LABEL INFORMATION.—Section 14(c) (15 U.S.C. 2063(c)) is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4) and by inserting after paragraph (1) the following:

''(2) The cohort information (including the batch, run number, or other identifying characteristic) of the product.''.

(c) ADVERTISING, LABELING, AND PACKAGING REPRESENTATION.—Section 14 (15 U.S.C. 2063) is further amended by adding at the end the following:

''(d) REQUIREMENT FOR ADVERTISEMENTS.—No advertisement for a consumer product or label or packaging of such product may contain a reference to a consumer product safety rule or a voluntary consumer product safety standard unless such product conforms with the applicable safety requirements of such rule or standard.''.

SEC. 104. STANDARDS AND CONSUMER REGISTRATION OF DURABLE NURSERY PRODUCTS.

(a) SHORT TITLE.—This section may be cited as the ''Danny Keysar Child Product Safety Notification Act''.

(b) SAFETY STANDARDS.—

(1) IN GENERAL.—The Commission shall—

(A) in consultation with representatives of consumer groups, juvenile product manufacturers, and independent child product engineers and experts, examine and assess the effectiveness of any voluntary consumer product safety standards for durable infant or toddler products; and

(B) in accordance with section 553 of title 5, United States Code, promulgate consumer product safety standards that—

(i) are substantially the same as such voluntary standards; or

(ii) are more stringent than such voluntary standards, if the Commission determines that more stringent standards would further reduce the risk of injury associated with such products.

(2) TIMETABLE FOR RULEMAKING.—Not later than 1 year after the date of enactment of this Act, the Commission shall commence the rulemaking required under paragraph (1) and shall promulgate standards for no fewer than 2 categories of durable infant or toddler products every 6 months thereafter, beginning with the product categories that the Commission determines to be of highest priority, until the Commission has promulgated standards for all such product categories. Thereafter, the Commission shall periodically review and revise the standards set forth under this subsection to ensure that such standards provide the highest level of safety for such products that is feasible.

(3) JUDICIAL REVIEW.—Any person adversely affected by such standards may file a petition for review under the procedures set forth in section 11(g) of the Consumer Product Safety Act (15 U.S.C. 2060(g)), as added by section 236 of this Act.

(c) CRIBS.—

(1) IN GENERAL.—It shall be a violation of section 19(a)(1) of the Consumer Product Safety Act (15 U.S.C. 2068(a)(1)) for any person to which this subsection applies to manufacture, sell, contract to sell or resell, lease, sublet, offer, provide for use, or otherwise place in the stream of commerce a crib that is not in compliance with a standard promulgated under subsection (b).

(2) PERSONS TO WHICH SUBSECTION APPLIES.—This subsection applies to any person that—

(A) manufactures, distributes in commerce, or contracts to sell cribs;

(B) based on the person's occupation, holds itself out as having knowledge or skill peculiar to cribs, including child care facilities and family child care homes;

(C) is in the business of contracting to sell or resell, lease, sublet, or otherwise place cribs in the stream of commerce; or

(D) owns or operates a place of public accommodation affecting commerce (as defined in section 4 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2203) applied without regard to the phrase ''not owned by the Federal Government'').

(3) CRIB DEFINED.—In this subsection, the term ''crib'' includes—

(A) new and used cribs;

(B) full-sized or nonfull-sized cribs; and

(C) portable cribs and crib-pens.

(d) CONSUMER REGISTRATION REQUIREMENT.—

(1) RULEMAKING.—Notwithstanding any provision of chapter 6 of title 5, United States Code, or the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), not later than 1 year after the date of enactment of this Act, the Commission shall, pursuant to its authority under section 16(b) of the Consumer Product Safety Act (15 U.S.C. 2065(b)), promulgate a final consumer product safety rule to require each manufacturer of a durable infant or toddler product—

(A) to provide consumers with a postage-paid consumer registration form with each such product;

(B) to maintain a record of the names, addresses, e-mail addresses, and other contact information of consumers who register their ownership of such products with the manufacturer in order to improve the effectiveness of manufacturer campaigns to recall such products; and

(C) to permanently place the manufacturer name and contact information, model name and number, and the date of manufacture on each durable infant or toddler product.

(2) REQUIREMENTS FOR REGISTRATION FORM.—The registration form required to be provided to consumers under paragraph (1) shall—

(A) include spaces for a consumer to provide the consumer's name, address, telephone number, and e-mail address;

(B) include space sufficiently large to permit easy, legible recording of all desired information;

(C) be attached to the surface of each durable infant or toddler product so that, as a practical matter, the consumer must notice and handle the form after purchasing the product;

(D) include the manufacturer's name, model name and number for the product, and the date of manufacture;

(E) include a message explaining the purpose of the registration and designed to encourage consumers to complete the registration;

(F) include an option for consumers to register through the Internet; and

(G) include a statement that information provided by the consumer shall not be used for any purpose other than to facilitate a recall of or safety alert regarding that product.

In issuing regulations under this section, the Commission may prescribe the exact text and format of the required registration form.

(3) RECORD KEEPING AND NOTIFICATION REQUIREMENTS.—The rules required under this section shall require each manufacturer of a durable infant or toddler product to maintain a record of registrants for each product manufactured that includes all of the information provided by each consumer registered, and to use such information to notify such consumers in the event of a voluntary or involuntary recall of or safety alert regarding such product. Each manufacturer shall maintain such a record for a period of not less than 6 years after the date of manufacture of the product. Consumer information collected by a manufacturer under this Act may not be used by the manufacturer, nor disseminated by such manufacturer to any other party, for any purpose other than notification to such consumer in the event of a product recall or safety alert.

(4) STUDY.—The Commission shall conduct a study at such time as it considers appropriate on the effectiveness of the consumer registration forms required by this section in facilitating product recalls and whether such registration forms should be required for other children's products. Not later than 4 years after the date of enactment of this Act, the Commission shall report its findings to the appropriate Congressional committees.

(e) USE OF ALTERNATIVE RECALL NOTIFICATION TECHNOLOGY.—

(1) TECHNOLOGY ASSESSMENT AND REPORT.—The Commission shall—

(A) beginning 2 years after a rule is promulgated under subsection (d), regularly review recall notification technology and assess the effectiveness of such technology in facilitating recalls of durable infant or toddler products; and

(B) not later than 3 years after the date of enactment of this Act and periodically thereafter as the Commission considers appropriate, transmit a report on such assessments to the appropriate Congressional committees.

(2) DETERMINATION.—If, based on the assessment required by paragraph (1), the Commission determines by rule that a recall notification technology is likely to be as effective or more effective in facilitating recalls of durable infant or toddler products as the registration forms required by subsection (d), the Commission—

(A) shall submit to the appropriate Congressional committees a report on such determination; and

(B) shall permit a manufacturer of durable infant or toddler products to use such technology in lieu of such registration forms to facilitate recalls of durable infant or toddler products.

(f) DEFINITION OF DURABLE INFANT OR TODDLER PRODUCT.—As used in this section, the term ''durable infant or toddler product''—

(1) means a durable product intended for use, or that may be reasonably expected to be used, by children under the age of 5 years; and

(2) includes—

(A) full-size cribs and nonfull-size cribs;

(B) toddler beds;

(C) high chairs, booster chairs, and hook-on chairs;

(D) bath seats;

(E) gates and other enclosures for confining a child;

(F) play yards;

(G) stationary activity centers;

(H) infant carriers;

(I) strollers;

(J) walkers;

(K) swings; and

(L) bassinets and cradles.

SEC. 105. LABELING REQUIREMENT FOR ADVERTISING TOYS AND GAMES.

Section 24 of the Federal Hazardous Substances Act (15 U.S.C. 1278) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

''(c) ADVERTISING.—

''(1) REQUIREMENT.—

''(A) CAUTIONARY STATEMENT.—Any advertisement by a retailer, manufacturer, importer, distributor, or private labeler (including advertisements on Internet websites or in catalogues or other printed materials) that provides a direct means for the purchase or order of a product for which a cautionary statement is required under subsection (a) or (b) shall include the appropriate cautionary statement displayed on or immediately adjacent to that advertisement, as modified by regulations issued under paragraph (3).

''(B) APPLICATION TO RETAILERS.—

''(i) REQUIREMENT TO INFORM.—A manufacturer, importer, distributor, or private labeler that provides such a product to a retailer shall inform the retailer of any cautionary statement requirement applicable to the product.

''(ii) RETAILER'S REQUIREMENT TO INQUIRE.—A retailer is not in violation of subparagraph (A) if the retailer requested information from the manufacturer, importer, distributor, or private labeler as to whether the cautionary statement required by subparagraph (A) applies to the product that is the subject of the advertisement and the manufacturer, importer, distributor, or private labeler provided false information or did not provide such information.

''(C) DISPLAY.—The cautionary statement required by subparagraph (A) shall be prominently displayed—

''(i) in the primary language used in the advertisement;

''(ii) in conspicuous and legible type in contrast by typography, layout, or color with other material printed or displayed in such advertisement; and

''(iii) in a manner consistent with part 1500 of title 16, Code of Federal Regulations.

''(D) DEFINITIONS.—In this subsection:

''(i) The terms 'manufacturer', 'distributor', and 'private labeler' have the meaning given those terms in section 3 of the Consumer Product Safety Act (15 U.S.C. 2052).

''(ii) The term 'retailer' has the meaning given that term in section 3 of the Consumer Product Safety Act (15 U.S.C. 2052), but does not include an individual whose selling activity is intermittent and does not constitute a trade or business.

''(2) EFFECTIVE DATE.—The requirement in paragraph (1) shall take effect—

''(A) with respect to advertisements on Internet websites, 120 days after the date of enactment of the Consumer Product Safety Improvement Act of 2008; and

''(B) with respect to catalogues and other printed materials, 180 days after such date of enactment.

''(3) RULEMAKING.—Notwithstanding any provision of chapter 6 of title 5, United States Code, or the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Commission shall, not later than 90 days after the date of enactment of the Consumer Product Safety Improvement Act of 2008, promulgate regulations to effectuate this section with respect to catalogues and other printed material. The Commission may, under such regulations, provide a grace period of no more than 180 days for catalogues and other printed material printed prior to the effective date of paragraph (1) during which time distribution of such catalogues and other printed material shall not be considered a violation of such paragraph. The Commission may promulgate regulations concerning the size and placement of the cautionary statement required by paragraph (1) of this subsection as appropriate relative to the size and placement of the advertisements in such catalogues and other printed material. The Commission shall promulgate regulations that clarify the applicability of these requirements to catalogues and other printed material distributed solely between businesses and not to individual consumers.

''(4) ENFORCEMENT.—The requirements in paragraph (1) shall be treated as a consumer product safety standard promulgated under section 9 of the Consumer Product Safety Act (15 U.S.C. 2056). The publication or distribution of any advertisement that is not in compliance with paragraph (1) shall be treated as a prohibited act under section 19(a)(1) of such Act (15 U.S.C. 2068).''.

SEC. 106. MANDATORY TOY SAFETY STANDARDS.

(a) IN GENERAL.—Beginning 180 days after the date of enactment of this Act, the provisions of ASTM International Standard F963–07 Consumer Safety Specifications for Toy Safety (ASTM F963), as it exists on the date of enactment of this Act (except for section 4.2 and Annex 4 or any provision that restates or incorporates an existing mandatory standard or ban promulgated by the Commission or by statute) shall be considered to be consumer product safety standards issued by the Commission under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058).

(b) RULEMAKING FOR SPECIFIC TOYS, COMPONENTS AND RISKS.—

(1) EVALUATION.—Not later than 1 year after the date of enactment of this Act, the Commission, in consultation with representatives of consumer groups, juvenile product manufacturers, and independent child product engineers and experts, shall examine and assess the effectiveness of ASTM F963 or its successor standard (except for section 4.2 and Annex 4), as it relates to safety requirements, safety labeling requirements, and test methods related to—

(A) internal harm or injury hazards caused by the ingestion or inhalation of magnets in children's products;

(B) toxic substances;

(C) toys with spherical ends;

(D) hemispheric-shaped objects;

(E) cords, straps, and elastics; and

(F) battery-operated toys.

(2) RULEMAKING.—Within 1 year after the completion of the assessment required by paragraph (1), the Commission shall promulgate rules in accordance with section 553 of title 5, United States Code, that—

(A) take into account other children's product safety rules; and

(B) are more stringent than such standards, if the Commission determines that more stringent standards would further reduce the risk of injury of such toys.

(c) PERIODIC REVIEW.—The Commission shall periodically review and revise the rules set forth under this section to ensure that such rules provide the highest level of safety for such products that is feasible.

(d) CONSIDERATION OF REMAINING ASTM STANDARDS.—After promulgating the rules required by subsection (b), the Commission shall—

(1) in consultation with representatives of consumer groups, juvenile product manufacturers, and independent child product engineers and experts, examine and assess the effectiveness of ASTM F963 (and alternative health protective requirements to prevent or minimize flammability of children's products) or its successor standard, and shall assess the adequacy of such standards in protecting children from safety hazards; and

(2) in accordance with section 553 of title 5, United States Code, promulgate consumer product safety rules that—

(A) take into account other children's product safety rules; and

(B) are more stringent than such standards, if the Commission determines that more stringent standards would further reduce the risk of injury associated with such toys.

(e) PRIORITIZATION.—The Commission shall promulgate rules beginning with the product categories that the Commission determines to be of highest priority, until the Commission has promulgated standards for all such product categories.

(f) TREATMENT AS CONSUMER PRODUCT SAFETY STANDARDS.—Rules issued under this section shall be considered consumer product safety standards issued by the Commission under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058).

(g) REVISIONS.—If ASTM International (or its successor entity) proposes to revise ASTM F963–07, or a successor standard, it shall notify the Commission of the proposed revision. The Commission shall incorporate the revision or a section of the revision into the consumer product safety rule. The revised standard shall be considered to be a consumer product safety standard issued by the Consumer Product Safety Commission under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058), effective 180 days after the date on which ASTM International notifies the Commission of the revision unless, within 90 days after receiving that notice, the Commission notifies ASTM International that it has determined that the proposed revision does not improve the safety of the consumer product covered by the standard. If the Commission so notifies ASTM International with respect to a proposed revision of the standard, the existing standard shall continue to be considered to be a consumer product safety rule without regard to the proposed revision.

(h) RULEMAKING TO CONSIDER EXEMPTION FROM PREEMPTION.—

(1) EXEMPTION OF STATE LAW FROM PREEMPTION.—Upon application of a State or political subdivision of a State, the Commission shall, after notice and opportunity for oral presentation of views, consider a rulemaking to exempt from the provisions of section 26(a) of the Consumer Product Safety Act (under such conditions as it may impose in the rule) any proposed safety standard or regulation which is described in such application and which is designed to protect against a risk of injury associated with a children's product subject to the consumer product safety standards described in subsection (a) or any rule promulgated under this section. The Commission shall grant such an exemption if the State or political subdivision standard or regulation—

(A) provides a significantly higher degree of protection from such risk of injury than the consumer product safety standard or rule under this section; and

(B) does not unduly burden interstate commerce.

In determining the burden, if any, of a State or political subdivision standard or regulation on interstate commerce, the Commission shall consider and make appropriate (as determined by the Commission in its discretion) findings on the technological and economic feasibility of complying with such standard or or regulation, the cost of complying with such standard or regulation, the geographic distribution of the consumer product to which the standard or regulation would apply, the probability of other States or political subdivisions applying for an exemption under this subsection for a similar standard or regulation, and the need for a national, uniform standard under this Act for such consumer product.

(2) EFFECT OF STANDARDS ON ESTABLISHED STATE LAWS.—Nothing in this section or in section 26 of the Consumer Product Safety Act (15 U.S.C. 2075) shall prevent a State or political subdivision of a State from continuing in effect a safety requirement applicable to a toy or other children's product that is designed to deal with the same risk of injury as the consumer product safety standards established by this section and that is in effect on the day before the date of enactment of this Act, if such State or political subdivision has filed such requirement with the Commission within 90 days after the date of enactment of this Act, in such form and in such manner as the Commission may require.

(i) JUDICIAL REVIEW.—The issuance of any rule under this section is subject to judicial review as provided in section 11(g) of the Consumer Product Safety Act (15 U.S.C. 2060(g)), as added by section 236 of this Act.

SEC. 107. STUDY OF PREVENTABLE INJURIES AND DEATHS IN MINORITY CHILDREN RELATED TO CONSUMER PRODUCTS.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Comptroller General shall initiate a study, by the Government Accountability Office or by contract through an independent entity, to assess disparities in the risks and incidence of preventable injuries and deaths among children of minority populations, including Black, Hispanic, American Indian, Alaska Native, Native Hawaiian, and Asian/Pacific Islander children in the United States. The Comptroller General shall consult with the Commission as necessary.

(b) REQUIREMENTS.—The study shall examine the racial disparities of the rates of preventable injuries and deaths related to suffocation, poisonings, and drownings, including those associated with the use of cribs, mattresses and bedding materials, swimming pools and spas, and toys and other products intended for use by children.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall report the findings to the appropriate Congressional committees. The report shall include—

(1) the Comptroller General's findings on the incidence of preventable risks of injuries and deaths among children of minority populations and recommendations for minimizing such risks;

(2) recommendations for public outreach, awareness, and prevention campaigns specifically aimed at racial minority populations; and

(3) recommendations for education initiatives that may reduce statistical disparities.

SEC. 108. PROHIBITION ON SALE OF CERTAIN PRODUCTS CONTAINING SPECIFIED PHTHALATES.

(a) PROHIBITION ON THE SALE OF CERTAIN PRODUCTS CONTAINING PHTHALATES.—Beginning on the date that is 180 days after the date of enactment of this Act, it shall be unlawful for any person to manufacture for sale, offer for sale, distribute in commerce, or import into the United States any children's toy or child care article that contains concentrations of more than 0.1 percent of di-(2-ethylhexyl) phthalate (DEHP), dibutyl phthalate (DBP), or benzyl butyl phthalate (BBP).

(b) PROHIBITION ON THE SALE OF ADDITIONAL PRODUCTS CONTAINING CERTAIN PHTHALATES.—

(1) INTERIM PROHIBITION.—Beginning on the date that is 180 days after the date of enactment of this Act and until a final rule is promulgated under paragraph (3), it shall be unlawful for any person to manufacture for sale, offer for sale, distribute in commerce, or import into the United States any children's toy that can be placed in a child's mouth or child care article that contains concentrations of more than 0.1 percent of diisononyl phthalate (DINP), diisodecyl phthalate (DIDP), or di-n-octyl phthalate (DnOP).

(2) CHRONIC HAZARD ADVISORY PANEL.—

(A) APPOINTMENT.—Not earlier than 180 days after the date of enactment of this Act, the Commission shall begin the process of

appointing a Chronic Hazard Advisory Panel pursuant to the procedures of section 28 of the Consumer Product Safety Act (15 U.S.C. 2077) to study the effects on children's health of all phthalates and phthalate alternatives as used in children's toys and child care articles.

(B) EXAMINATION.—The panel shall, within 18 months after its appointment under subparagraph (A), complete an examination of the full range of phthalates that are used in products for children and shall—

(i) examine all of the potential health effects (including endocrine disrupting effects) of the full range of phthalates;

(ii) consider the potential health effects of each of these phthalates both in isolation and in combination with other phthalates;

(iii) examine the likely levels of children's, pregnant women's, and others' exposure to phthalates, based on a reasonable estimation of normal and foreseeable use and abuse of such products;

(iv) consider the cumulative effect of total exposure to phthalates, both from children's products and from other sources, such as personal care products;

(v) review all relevant data, including the most recent, best-available, peer-reviewed, scientific studies of these phthalates and phthalate alternatives that employ objective data collection practices or employ other objective methods;

(vi) consider the health effects of phthalates not only from ingestion but also as a result of dermal, hand-to-mouth, or other exposure;

(vii) consider the level at which there is a reasonable certainty of no harm to children, pregnant women, or other susceptible individuals and their offspring, considering the best available science, and using sufficient safety factors to account for uncertainties regarding exposure and susceptibility of children, pregnant women, and other potentially susceptible individuals; and

(viii) consider possible similar health effects of phthalate alternatives used in children's toys and child care articles.

The panel's examinations pursuant to this paragraph shall be conducted *de novo*. The findings and conclusions of any previous Chronic Hazard Advisory Panel on this issue and other studies conducted by the Commission shall be reviewed by the panel but shall not be considered determinative.

(C) REPORT.—Not later than 180 days after completing its examination, the panel appointed under subparagraph (A) shall report to the Commission the results of the examination conducted under this section and shall make recommendations to the Commission regarding any phthalates (or combinations of phthalates) in addition to those identified in subsection (a) or phthalate alternatives that the panel determines should be declared banned hazardous substances.

(3) PERMANENT PROHIBITION BY RULE.—Not later than 180 days after receiving the report of the panel under paragraph (2)(C), the Commission shall, pursuant to section 553 of title 5, United States Code, promulgate a final rule to—

(A) determine, based on such report, whether to continue in effect the prohibition under paragraph (1), in order to ensure a reasonable certainty of no harm to children, pregnant women, or other susceptible individuals with an adequate margin of safety; and

(B) evaluate the findings and recommendations of the Chronic Hazard Advisory Panel and declare any children's product containing any phthalates to be a banned hazardous product under section 8 of the Consumer Product Safety Act (15 U.S.C. 2057), as the Commission determines necessary to protect the health of children.

(c) TREATMENT OF VIOLATION.—A violation of subsection (a) or (b)(1) or any rule promulgated by the Commission under subsection (b)(3) shall be treated as a violation of section 19(a)(1) of the Consumer Product Safety Act (15 U.S.C. 2068(a)(1)).

(d) TREATMENT AS CONSUMER PRODUCT SAFETY STANDARDS; EFFECT ON STATE LAWS.—Subsections (a) and (b)(1) and any rule promulgated under subsection (b)(3) shall be considered consumer product safety standards under the Consumer Product Safety Act. Nothing in this section or the Consumer Product Safety Act (15 U.S.C. 2051 et seq.) shall be construed to preempt or otherwise affect any State requirement with respect to any phthalate alternative not specifically regulated in a consumer product safety standard under the Consumer Product Safety Act.

(e) DEFINITIONS.—

(1) DEFINED TERMS.—As used in this section:

(A) The term ''phthalate alternative'' means any common substitute to a phthalate, alternative material to a phthalate, or alternative plasticizer.

(B) The term ''children's toy'' means a consumer product designed or intended by the manufacturer for a child 12 years of age or younger for use by the child when the child plays.

(C) The term ''child care article'' means a consumer product designed or intended by the manufacturer to facilitate sleep or the feeding of children age 3 and younger, or to help such children with sucking or teething.

(D) The term ''consumer product'' has the meaning given such term in section 3(a)(1) of the Consumer Product Safety Act (15 U.S.C. 2052(a)(1)).

(2) DETERMINATION GUIDELINES.—

(A) AGE.—In determining whether products described in paragraph (1) are designed or intended for use by a child of the ages specified, the following factors shall be considered:

(i) A statement by a manufacturer about the intended use of such product, including a label on such product if such statement is reasonable.

(ii) Whether the product is represented in its packaging, display, promotion, or advertising as appropriate for use by children of the ages specified.

(iii) Whether the product is commonly recognized by consumers as being intended for use by a child of the ages specified.

(iv) The Age Determination guidelines issued by the Commission staff in September 2002 and any successor to such guidelines.

(B) TOY THAT CAN BE PLACED IN A CHILD'S MOUTH.— For purposes of this section a toy can be placed in a child's mouth if any part of the toy can actually be brought to the mouth and kept in the mouth by a child so that it can be sucked and chewed. If the children's product can only be licked, it is not regarded as able to be placed in the mouth. If a toy or part of a toy in one dimension is smaller than 5 centimeters, it can be placed in the mouth.

TITLE II—CONSUMER PRODUCT SAFETY COMMISSION REFORM

Subtitle A—Administrative Improvements

SEC. 201. REAUTHORIZATION OF THE COMMISSION.

(a) AUTHORIZATION OF APPROPRIATIONS.—Subsection (a) of section 32 (15 U.S.C. 2081) is amended to read as follows:

''(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to the Commission for the purpose of carrying out the provisions of this Act and any other provision of law the Commission is authorized or directed to carry out—

''(A) $118,200,000 for fiscal year 2010;

''(B) $115,640,000 for fiscal year 2011;

''(C) $123,994,000 for fiscal year 2012;

''(D) $131,783,000 for fiscal year 2013; and

''(E) $136,409,000 for fiscal year 2014.

''(2) TRAVEL ALLOWANCE.—From amounts appropriated pursuant to paragraph (1), there shall be made available $1,200,000 for fiscal year 2010, $1,248,000 for fiscal year 2011, $1,297,000 for fiscal year 2012, $1,350,000 for fiscal year 2013, and $1,403,000 for fiscal year 2014, for travel, subsistence, and related expenses incurred in furtherance of the official duties of Commissioners and employees with respect to attendance at meetings or similar functions, which shall be used by the Commission for such purposes in lieu of acceptance of payment or reimbursement for such expenses from any person—

''(A) seeking official action from, doing business with, or conducting activities regulated by, the Commission; or

''(B) whose interests may be substantially affected by the performance or nonperformance of the Commissioner's or employee's official duties.''.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Commission shall transmit to the appropriate Congressional committees a report of its plans to allocate the funding authorized by subsection (a). Such report shall include—

(1) the number of full-time investigators and other full-time equivalents the Commission intends to employ;

(2) efforts by the Commission to develop standards for training product safety inspectors and technical staff employed by the Commission;

(3) efforts and policies of the Commission to encourage Commission scientific staff to seek appropriate publishing opportunities in peer-reviewed journals and other media; and

(4) the efforts of the Commission to reach and educate retailers of second-hand products and informal sellers, such as thrift shops and yard sales, concerning consumer product safety rules and product recalls, especially those relating to durable nursery products, in order to prevent the resale of any products that have been recalled, including the development of educational materials for distribution not later than 1 year after the date of enactment of this Act.

(c) CONFORMING AMENDMENTS.—Section 32 (15 U.S.C. 2081) is further amended by striking subsection (b) and redesignating subsection (c) as subsection (b) and inserting after such subsection designation the following: ''LIMITATION.—''.

SEC. 202. FULL COMMISSION REQUIREMENT; INTERIM QUORUM; PERSONNEL.

(a) TEMPORARY QUORUM.—Notwithstanding section 4(d) of the Consumer Product Safety Act (15 U.S.C. 2053(d)), 2 members of the Commission, if they are not affiliated with the same political party, shall constitute a quorum for the transaction of business for the 1 year period beginning on the date of enactment of this Act.

(b) REPEAL OF QUORUM LIMITATION.—

(1) REPEAL.—Title III of Public Law 102–389 is amended by striking the first proviso in the item captioned ''CONSUMER PRODUCT SAFETY COMMISSION, SALARIES AND EXPENSES'' (15 U.S.C. 2053 note).

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect 1 year after the date of enactment of this Act.

(c) PERSONNEL.—

(1) PROFESSIONAL STAFF.—The Commission shall increase the number of full-time personnel employed by the Commission to at least 500 by October 1, 2013, subject to the availability of appropriations.

(2) PORTS OF ENTRY; OVERSEAS INSPECTORS.—As part of the 500 full-time employees required by paragraph (1), the Commission

shall hire personnel to be assigned to duty stations at United States ports of entry, or to inspect overseas manufacturing facilities, subject to the availability of appropriations.

SEC. 203. SUBMISSION OF COPY OF CERTAIN DOCUMENTS TO CONGRESS.

(a) IN GENERAL.—Notwithstanding any rule, regulation, or order to the contrary, the Commission shall comply with the requirements of section 27(k) of the Consumer Product Safety Act (15 U.S.C. 2076(k)) with respect to budget recommendations, legislative recommendations, testimony, and comments on legislation submitted by the Commission to the President or the Office of Management and Budget after the date of enactment of this Act.

(b) REINSTATEMENT OF REQUIREMENT.—Section 3003(d) of Public Law 104–66 (31 U.S.C. 1113 note) is amended—

(1) by striking ''or'' after the semicolon in paragraph (31);

(2) by redesignating paragraph (32) as (33); and

(3) by inserting after paragraph (31) the following:

''(32) section 27(k) of the Consumer Product Safety Act (15 U.S.C. 2076(k)); or''.

SEC. 204. EXPEDITED RULEMAKING.

(a) ANPR REQUIREMENT.—

(1) IN GENERAL.—Section 9 (15 U.S.C. 2058) is amended—

(A) by striking ''shall be commenced'' in subsection (a) and inserting ''may be commenced'';

(B) by striking ''in the notice'' in subsection (b) and inserting ''in a notice'';

(C) by striking ''unless, not less than 60 days after publication of the notice required in subsection (a), the'' in subsection (c) and inserting ''unless the'';

(D) by striking ''an advance notice of proposed rulemaking under subsection (a) relating to the product involved,'' in the third sentence of subsection (c) and inserting ''the notice,''; and

(E) by striking ''Register.'' in the matter following paragraph (4) of subsection (c) and inserting ''Register. Nothing in this subsection shall preclude any person from submitting an existing standard or portion of a standard as a proposed consumer product safety standard.''.

(2) CONFORMING AMENDMENT.—Section 5(a)(3) (15 U.S.C. 2054(a)(3)) is amended by striking ''an advance notice of proposed rulemaking or''.

(b) RULEMAKING UNDER FEDERAL HAZARDOUS SUBSTANCES ACT.—

(1) IN GENERAL.—Section 3(a) of the Federal Hazardous Substances Act (15 U.S.C. 1262(a)) is amended to read as follows:

''(a) RULEMAKING.—

''(1) IN GENERAL.—Whenever in the judgment of the Commission such action will promote the objectives of this Act by avoiding or resolving uncertainty as to its application, the Commission may by regulation declare to be a hazardous substance, for the purposes of this Act, any substance or mixture of substances, which it finds meets the requirements of section 2(f)(1)(A).

''(2) PROCEDURE.—Proceedings for the issuance, amendment, or repeal of regulations under this subsection and the admissibility of the record of such proceedings in other proceedings, shall be governed by the provisions of subsections (f) through (i) of this section.''.

(2) PROCEDURE.—Section 2(q)(2) of the Federal Hazardous Substances Act (15 U.S.C. 1261(q)(2)) is amended by striking ''Proceedings for the issuance, amendment, or repeal of regulations pursuant to clause (B) of subparagraph (1) of this paragraph shall be governed by the provisions of sections 701(e), (f), and (g) of the Federal Food, Drug, and Cosmetic Act: Provided, That if'' and inserting ''Proceedings for the issuance, amendment, or repeal of regulations pursuant to clause (B) of subparagraph (1) of this paragraph shall be governed by the provisions of subsections (f) through (i) of section 3 of this Act, except that if''.

(3) ANPR REQUIREMENT.—Section 3 of the Federal Hazardous Substances Act (15 U.S.C. 1262) is amended—

(A) by striking ''shall be commenced'' in subsection (f) and inserting ''may be commenced'';

(B) by striking ''in the notice'' in subsection (g)(1) and inserting ''in a notice'';

(C) by striking ''unless, not less than 60 days after publication of the notice required in subsection (f), the'' in subsection (h) and inserting ''unless the''; and

(D) by striking ''Committee on Commerce'' and all that follows through ''Representatives.'' in subsection (h), and inserting ''appropriate Congressional committees. Nothing in this subsection shall preclude any person from submitting an existing standard or portion of a standard as a proposed regulation.''

(4) OTHER CONFORMING AMENDMENTS.—The Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) is amended—

(A) by striking paragraphs (c) and (d) of section 2 and inserting the following:

''(c) The term 'Commission' means the Consumer Product Safety Commission.'';

(B) by striking ''Secretary'' each place it appears and inserting ''Commission'' except—

(i) in section 10(b) (15 U.S.C. 1269(b));

(ii) in section 14 (15 U.S.C. 1273); and

(iii) in section 21(a) (15 U.S.C. 1276(a));

(C) by striking ''Department'' each place it appears, except in sections 5(c)(6)(D)(i) and 14(b) (15 U.S.C. 1264(c)(6)(D)(i) and 1273(b)), and inserting ''Commission'';

(D) by striking ''he'' and ''his'' each place they appear in reference to the Secretary and inserting ''it'' and ''its'', respectively;

(E) by striking ''Secretary of Health, Education, and Welfare'' each place it appears in section 10(b) (15 U.S.C. 1269(b)) and inserting ''Commission'';

(F) by striking ''Secretary of Health, Education, and Welfare'' each place it appears in section 14 (15 U.S.C. 1273) and inserting ''Commission'';

(G) by striking ''Department of Health, Education, and Welfare'' in section 14(b) (15 U.S.C. 1273(b)) and inserting ''Commission'';

(H) by striking ''Consumer Product Safety Commission'' each place it appears and inserting ''Commission'';

(I) by striking ''(hereinafter in this section referred to as the 'Commission')'' in section 14(d) (15 U.S.C. 1273(d)) and section 20(a)(1) (15 U.S.C. 1275(a)(1)); and

(J) by striking paragraph (5) of section 18(b) (15 U.S.C. 1261 note).

(c) RULEMAKING UNDER FLAMMABLE FABRICS ACT.—

(1) IN GENERAL.—Section 4 of the Flammable Fabrics Act (15 U.S.C. 1193) is amended—

(A) by striking ''shall be commenced'' in subsection (g) and inserting ''may be commenced by a notice of proposed rulemaking or'';

(B) by striking ''unless, not less than 60 days after publication of the notice required in subsection (g), the'' in subsection (i) and inserting ''unless the''; and

(C) by striking ''Committee on Commerce'' and all that follows through ''Representatives.'' in subsection (i), and inserting ''appropriate Congressional committees. Nothing in this subsection shall preclude any person from submitting an existing standard or portion of a standard as a proposed regulation.''

(2) OTHER CONFORMING AMENDMENTS.—The Flammable Fabrics Act (15 U.S.C. 1193) is amended—

(A) by striking paragraph (i) of section 2 (15 U.S.C. 1191(i)) and inserting the following:

''(i) The term 'Commission' means the Consumer Product Safety Commission.'';

(B) by striking ''Secretary of Commerce'' each place it appears and inserting ''Commission'';

(C) by striking ''Secretary'' each place it appears and inserting ''Commission'', except in sections 9 and 14 (15 U.S.C. 1198 and 1201);

(D) by striking ''he'' and ''his'' each place either such word appears in reference to the Secretary and inserting ''it'' and ''its'', respectively;

(E) by striking paragraph (5) of section 4(e) (15 U.S.C. 1193(e)) and redesignating paragraph (6) as paragraph (5);

(F) by striking ''Consumer Product Safety Commission (hereinafter in this section referred to as the 'Commission') in section 15 (15 U.S.C. 1202)'' and inserting ''Commission'';

(G) by amending subsection (d) of section 16 (15 U.S.C. 1203) to read as follows:

''(d) In this section, a reference to a flammability standard or other regulation for a fabric, related material, or product in effect under this Act includes a standard of flammability continued in effect by section 11 of the Act of December 14, 1967 (Public Law 90–189).''; and

(H) by striking ''Consumer Product Safety Commission'' in section 17 (15 U.S.C. 1204) and inserting ''Commission''.

SEC. 205. INSPECTOR GENERAL AUDITS AND REPORTS.

(a) IMPROVEMENTS BY THE COMMISSION.—The Inspector General of the Commission shall conduct reviews and audits to assess—

(1) the Commission's capital improvement efforts, including improvements and upgrades of the Commission's information technology architecture and systems and the development of the database of publicly available information on incidents involving injury or death required under section 6A of the Consumer Product Safety Act, as added by section 212 of this Act; and

(2) the adequacy of procedures for accrediting conformity assessment bodies as authorized by section 14(a)(3) of the Consumer Product Safety Act (15 U.S.C. 2063(a)(3)), as amended by this Act, and overseeing the third party testing required by such section.

(b) EMPLOYEE COMPLAINTS.—Within 1 year after the date of enactment of this Act, the Inspector General shall conduct a review of—

(1) complaints received by the Inspector General from employees of the Commission about failures of other employees to enforce the rules or regulations of the Consumer Product Safety Act or any other Act enforced by the Commission or otherwise carry out their responsibilities under such Acts if such alleged failures raise issues of conflicts of interest, ethical violations, or the absence of good faith; and

(2) actions taken by the Commission to address such failures and complaints, including an assessment of the timeliness and effectiveness of such actions.

(c) PUBLIC INTERNET WEBSITE LINKS.—Not later than 30 days after the date of enactment of this Act, the Commission shall establish and maintain—

(1) a direct link on the homepage of its Internet website to the Internet webpage of the Commission's Office of Inspector General; and

(2) a mechanism on the webpage of the Commission's Office of Inspector General by which individuals may anonymously report cases of waste, fraud, or abuse with respect to the Commission.

(d) REPORTS.—

(1) ACTIVITIES AND NEEDS OF INSPECTOR GENERAL.—Not later than 60 days after the date of enactment of this Act, the Inspector General of the Commission shall transmit a report to the appropriate Congressional committees on the activities of the Inspector General, any structural barriers which prevent the Inspector General from providing robust oversight of the activities of the Commission, and any additional authority or resources that would facilitate more effective oversight.

(2) REVIEWS OF IMPROVEMENTS AND EMPLOYEE COMPLAINTS.—Beginning for fiscal year 2010, the Inspector General of the Commission shall include in an annual report to the appropriate Congressional committees the Inspector General's findings, conclusions, and recommendations from the reviews and audits under subsections (a) and (b).

SEC. 206. INDUSTRY-SPONSORED TRAVEL BAN.

(a) IN GENERAL.—The Act (15 U.S.C. 1251 et seq.) is amended by adding at the end the following new section:

"SEC. 39. PROHIBITION ON INDUSTRY-SPONSORED TRAVEL.

''Notwithstanding section 1353 of title 31, United States Code, and section 27(b)(6) of this Act, no Commissioner or employee of the Commission shall accept travel, subsistence, or related expenses with respect to attendance by a Commissioner or employee at any meeting or similar function relating to official duties of a Commissioner or an employee, from a person—

''(1) seeking official action from, doing business with, or conducting activities regulated by, the Commission; or

''(2) whose interests may be substantially affected by the performance or nonperformance of the Commissioner's or employee's official duties.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1 (15 U.S.C. 2051 note) is amended by inserting at the end the following:

''Sec. 39. Prohibition on industry-sponsored travel.''.

SEC. 207. SHARING OF INFORMATION WITH FEDERAL, STATE, LOCAL, AND FOREIGN GOVERNMENT AGENCIES.

Section 29 (15 U.S.C. 2078) is amended by adding at the end the following:

''(f) SHARING OF INFORMATION WITH FEDERAL, STATE, LOCAL, AND FOREIGN GOVERNMENT AGENCIES.—

''(1) AGREEMENTS AND CONDITIONS.—Notwithstanding the requirements of subsections (a)(3) and (b) of section 6, relating to public disclosure of information, the Commission may make information obtained by the Commission available to any Federal, State, local, or foreign government agency upon the prior certification of an appropriate official of any such agency, either by a prior agreement or memorandum of understanding with the Commission or by other written certification, that such material will be maintained in confidence and will be used only for official law enforcement or consumer protection purposes, if—

''(A) the agency has set forth a bona fide legal basis for its authority to maintain the material in confidence;

''(B) the materials are to be used for purposes of investigating, or engaging in enforcement proceedings related to, possible violations of—

''(i) laws regulating the manufacture, importation, distribution, or sale of defective or unsafe consumer products, or other practices substantially similar to practices prohibited by any law administered by the Commission;

''(ii) a law administered by the Commission, if disclosure of the material would further a Commission investigation or enforcement proceeding; or

''(iii) with respect to a foreign law enforcement agency, with the approval of the Attorney General, other foreign criminal laws, if such foreign criminal laws are offenses defined in or covered by a criminal mutual legal assistance treaty in force between the government of the United States and the foreign law enforcement agency's government; and

''(C) in the case of a foreign government agency, such agency is not from a foreign state that the Secretary of State has determined, in accordance with section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), has repeatedly provided support for acts of international terrorism, unless and until such determination is rescinded pursuant to section 6(j)(4) of that Act (50 U.S.C. App. 2405(j)(4)).

''(2) ABROGATION OF AGREEMENTS.—The Commission may abrogate any agreement or memorandum of understanding with another agency if the Commission determines that the other agency has failed to maintain in confidence any information provided under such agreement or memorandum of understanding, or has used any such information for purposes other than those set forth in such agreement or memorandum of understanding.

''(3) ADDITIONAL RULES AGAINST DISCLOSURE.—Except as provided in paragraph (4), the Commission shall not be required to disclose under section 552 of title 5, United States Code, or any other provision of law—

''(A) any material obtained from a foreign government agency, if the foreign government agency has requested confidential treatment, or has precluded such disclosure under other use limitations, as a condition of providing the material;

''(B) any material reflecting a consumer complaint obtained from any other foreign source, if that foreign source supplying the material has requested confidential treatment as a condition of providing the material; or

''(C) any material reflecting a consumer complaint submitted to a Commission reporting mechanism sponsored in part by foreign government agencies.

''(4) LIMITATION.—Nothing in this subsection authorizes the Commission to withhold information from the Congress or prevent the Commission from complying with an order of a court of the United States in an action commenced by the United States or the Commission.

''(5) DEFINITION.—In this subsection, the term 'foreign government agency' means—

''(A) any agency or judicial authority of a foreign government, including a foreign state, a political subdivision of a foreign state, or a multinational organization constituted by and comprised of foreign states, that is vested with law enforcement or investigative authority in civil, criminal, or administrative matters; and

''(B) any multinational organization, to the extent that it is acting on behalf of an entity described in subparagraph (A).

''(g) NOTIFICATION TO STATE HEALTH DEPARTMENTS.—Whenever the Commission is notified of any voluntary corrective action taken by a manufacturer (or a retailer in the case of a retailer selling a product under its own label) in consultation with the Commission, or issues an order under section 15(c) or (d) with respect to any product, the Commission shall notify each State's health department (or other agency designated by the State) of such voluntary corrective action or order.''.

SEC. 208. EMPLOYEE TRAINING EXCHANGES.

(a) IN GENERAL.—The Commission may—

(1) retain or employ officers or employees of foreign government agencies on a temporary basis pursuant to section 4 of the Consumer Product Safety Act (15 U.S.C. 2053) or section 3101 or 3109 of title 5, United States Code; and

(2) detail officers or employees of the Commission to work on a temporary basis for appropriate foreign government agencies for the purpose of providing or receiving training.

(b) RECIPROCITY AND REIMBURSEMENT.—The Commission may execute the authority contained in subsection (a) with or without reimbursement in money or in kind, and with or without reciprocal arrangements by or on behalf of the foreign government agency involved. Any amounts received as reimbursement for expenses incurred by the Commission under this section shall be credited to the appropriations account from which such expenses were paid.

(c) STANDARDS OF CONDUCT.—An individual retained or employed under subsection (a)(1) shall be considered to be a Federal employee while so retained or employed, only for purposes of—

(1) injury compensation as provided in chapter 81 of title 5, United States Code, and tort claims liability under chapter 171 of title 28, United States Code;

(2) the Ethics in Government Act (5 U.S.C. App.) and the provisions of chapter 11 of title 18, United States Code; and

(3) any other statute or regulation governing the conduct of Federal employees.

SEC. 209. ANNUAL REPORTING REQUIREMENT.

(a) IN GENERAL.—Section 27(j) (15 U.S.C. 2076(j)) is amended—

(1) in the matter preceding paragraph (1), by striking ''The Commission'' and inserting ''Notwithstanding section 3003 of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1113 note), the Commission''; and

(2) by redesignating paragraphs (5) through (11) as paragraphs (7) through (13), respectively, and inserting after paragraph (4) the following:

''(5) the number and a summary of recall orders issued under section 12 or 15 during such year and a summary of voluntary corrective actions taken by manufacturers in consultation with the Commission of which the Commission has notified the public, and an assessment of such orders and actions;

''(6) beginning not later than 1 year after the date of enactment of the Consumer Product Safety Improvement Act of 2008—

''(A) progress reports and incident updates with respect to action plans implemented under section 15(d);

''(B) statistics with respect to injuries and deaths associated with products that the Commission determines present a substantial product hazard under section 15(c); and

''(C) the number and type of communication from consumers to the Commission with respect to each product with respect to which the Commission takes action under section 15(d);''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to reports submitted for fiscal year 2009 and thereafter.

Subtitle B—Enhanced Enforcement Authority

SEC. 211. PUBLIC DISCLOSURE OF INFORMATION.

Section 6 (15 U.S.C. 2055) is amended—

(1) by inserting ''A manufacturer or private labeler shall submit any such mark within 15 calendar days after the date on which it receives the Commission's offer.'' after ''paragraph (2).'' in subsection (a)(3);

(2) by striking ''30 days'' in subsection (b)(1) and inserting ''15 days'';

(3) by striking ''finds that the public'' in subsection (b)(1) and inserting ''publishes a finding that the public'';

(4) by striking ''notice and publishes such a finding in the Federal Register),'' in subsection (b)(1) and inserting ''notice),'';

(5) by striking ''10 days'' in subsection (b)(2) and inserting ''5 days'';

(6) by striking ''finds that the public'' in subsection (b)(2) and inserting ''publishes a finding that the public'';

(7) by striking ''notice and publishes such finding in the Federal Register.'' in subsection (b)(2) and inserting ''notice.'';

(8) in subsection (b)—

(A) by striking ''(3)'' and inserting ''(3)(A)''; and

(B) by adding at the end thereof the following:

''(B) If the Commission determines that the public health and safety requires expedited consideration of an action brought under subparagraph (A), the Commission may file a request with the District Court for such expedited consideration. If the Commission files such a request, the District Court shall—

''(i) assign the matter for hearing at the earliest possible date;

''(ii) give precedence to the matter, to the greatest extent practicable, over all other matters pending on the docket of the court at the time;

''(iii) expedite consideration of the matter to the greatest extent practicable; and

''(iv) grant or deny the requested injunction within 30 days after the date on which the Commission's request was filed with the court.'';

(9) by striking ''section 19 (related to prohibited acts);'' in subsection (b)(4) and inserting ''any consumer product safety rule or provision of this Act or similar rule or provision of any other Act enforced by the Commission;'';

(10) by striking ''or'' after the semicolon in subsection (b)(5)(B);

(11) by striking ''disclosure.'' in subsection (b)(5)(C) and inserting ''disclosure; or'';

(12) by inserting in subsection (b)(5) after subparagraph (C) the following:

''(D) the Commission publishes a finding that the public health and safety requires public disclosure with a lesser period of notice than is required under paragraph (1).''; and

(13) in the matter following subparagraph (D) of subsection (b)(5) (as added by paragraph (12) of this section), by striking ''section 19(a),'' and inserting ''any consumer product safety rule or provision under this Act or similar rule or provision of any other Act enforced by the Commission,''.

SEC. 212. ESTABLISHMENT OF A PUBLIC CONSUMER PRODUCT SAFETY DATABASE.

(a) IN GENERAL.—The Act is amended by inserting after section 6 (15 U.S.C. 2055) the following:

''SEC. 6A. PUBLICLY AVAILABLE CONSUMER PRODUCT SAFETY INFORMATION DATABASE.

''(a) DATABASE REQUIRED.—

''(1) IN GENERAL.—Subject to the availability of appropriations, the Commission shall, in accordance with the requirements of this section, establish and maintain a database on the safety of consumer products, and other products or substances regulated by the Commission, that is—

''(A) publicly available;

''(B) searchable; and

''(C) accessible through the Internet website of the Commission.

''(2) SUBMISSION OF DETAILED IMPLEMENTATION PLAN TO CONGRESS.—Not later than 180 days after the date of enactment of the Consumer Product Safety Improvement Act of 2008, the Commission shall transmit to the appropriate Congressional committees a detailed plan for establishing and maintaining the database required by paragraph (1), including plans for the operation, content, maintenance, and functionality of the database. The plan shall detail the integration of the database into the Commission's overall information technology improvement objectives and plans. The plan submitted under this subsection shall include a detailed implementation schedule for the database, and plans for a public awareness campaign to be conducted by the Commission to increase consumer awareness of the database.

''(3) DATE OF INITIAL AVAILABILITY.—Not later than 18 months after the date on which the Commission submits the plan required by paragraph (2), the Commission shall establish the database required by paragraph (1).

''(b) CONTENT AND ORGANIZATION.—

''(1) CONTENTS.—Except as provided in subsection (c)(4), the database shall include the following:

''(A) Reports of harm relating to the use of consumer products, and other products or substances regulated by the Commission, that are received by the Commission from—

''(i) consumers;

''(ii) local, State, or Federal government agencies;

''(iii) health care professionals;

''(iv) child service providers; and

''(v) public safety entities.

''(B) Information derived by the Commission from notice under section 15(c) or any notice to the public relating to a voluntary corrective action taken by a manufacturer, in consultation with the Commission, of which action the Commission has notified the public.

''(C) The comments received by the Commission under subsection (c)(2)(A) to the extent requested under subsection (c)(2)(B).

''(2) SUBMISSION OF INFORMATION.—In implementing the database, the Commission shall establish the following:

''(A) Electronic, telephonic, and paper-based means of submitting, for inclusion in the database, reports described in paragraph (1)(A) of this subsection.

''(B) A requirement that any report described in paragraph (1)(A) submitted for inclusion in such database include, at a minimum—

''(i) a description of the consumer product (or other product or substance regulated by the Commission) concerned;

''(ii) identification of the manufacturer or private labeler of the consumer product (or other product or substance regulated by the Commission);

''(iii) a description of the harm relating to the use of the consumer product (or other product or substance regulated by the Commission);

''(iv) contact information for the person submitting the report; and

''(v) a verification by the person submitting the information that the information submitted is true and accurate to the best of the person's knowledge and that the person consents that such information be included in the database.

''(3) ADDITIONAL INFORMATION.—In addition to the reports received under paragraph (1), the Commission shall include in the database, consistent with the requirements of section 6(a) and (b), any additional information it determines to be in the public interest.

''(4) ORGANIZATION OF DATABASE.—The Commission shall categorize the information available on the database in a manner consistent with the public interest and in such manner as it determines to facilitate easy use by consumers and shall ensure, to the extent practicable, that the database is sortable and accessible by—

''(A) the date on which information is submitted for inclusion in the database;

''(B) the name of the consumer product (or other product or substance regulated by the Commission);

''(C) the model name;

''(D) the manufacturer's or private labeler's name; and

''(E) such other elements as the Commission considers in the public interest.

''(5) NOTICE REQUIREMENTS.—The Commission shall provide clear and conspicuous notice to users of the database that the Commission does not guarantee the accuracy, completeness, or adequacy of the contents of the database.

''(6) AVAILABILITY OF CONTACT INFORMATION.—The Commission may not disclose, under this section, the name, address, or other contact information of any individual or entity that submits to the Commission a report described in paragraph (1)(A), except that the Commission may provide such information to the manufacturer or private labeler of the product with the express written consent of the person submitting the information. Consumer information provided to a manufacturer or private labeler under this section may not be used or disseminated to any other party for any purpose other than verifying a report submitted under paragraph (1)(A).

''(c) PROCEDURAL REQUIREMENTS.—

''(1) TRANSMISSION OF REPORTS TO MANUFACTURERS AND PRIVATE LABELERS.—Not later than 5 business days after the Commission receives a report described in subsection (b)(1)(A) which includes the information required by subsection (b)(2)(B), the Commission shall to the extent practicable transmit the report, subject to subsection (b)(6), to the manufacturer or private labeler identified in the report.

''(2) OPPORTUNITY TO COMMENT.—

''(A) IN GENERAL.—If the Commission transmits a report under paragraph (1) to a manufacturer or private labeler, the Commission shall provide such manufacturer or private labeler an opportunity to submit comments to the Commission on the information contained in such report.

''(B) REQUEST FOR INCLUSION IN DATABASE.—A manufacturer or private labeler may request the Commission to include its comments in the database.

''(C) CONFIDENTIAL MATTER.—

''(i) IN GENERAL.—If the Commission transmits a report received under paragraph (1) to a manufacturer or private labeler, the manufacturer or private labeler may review the report for confidential information and request that portions of the report identified as confidential be so designated.

''(ii) REDACTION.—If the Commission determines that the designated information contains, or relates to, a trade secret or other matter referred to in section 1905 of title 18, United States Code, or that is subject to section 552(b)(4) of title 5, United States Code, the Commission shall redact the designated information in the report before it is placed in the database.

''(iii) REVIEW.—If the Commission determines that the designated information is not confidential under clause (ii), the Commission shall notify the manufacturer or private labeler and include the information in the database. The manufacturer or private labeler may bring an action in the district court of the United States in the district in which the complainant resides, or has its principal place of business, or in the United States District Court for the District of Columbia, to seek removal of the information from the database.

''(3) PUBLICATION OF REPORTS AND COMMENTS.—

''(A) REPORTS.—Except as provided in paragraph (4)(A), if the Commission receives a report described in subsection (b)(1)(A), the Commission shall make the report available in the database not later than the 10th business day after the date on which the Commission transmits the report under paragraph (1) of this subsection.

''(B) COMMENTS.—Except as provided in paragraph (4)(A), if the Commission receives a comment under paragraph (2)(A) with respect to a report described in subsection (b)(1)(A) and a request with respect to such comment under paragraph (2)(B) of this subsection, the Commission shall make such comment available in the database at the same time as such report or as soon as practicable thereafter.

''(4) INACCURATE INFORMATION.—

''(A) INACCURATE INFORMATION IN REPORTS AND COMMENTS RECEIVED.—If, prior to making a report described in subsection (b)(1)(A) or a comment described in paragraph (2) of this subsection available in the database, the Commission determines that the information in such report or comment is materially inaccurate, the Commission shall—

''(i) decline to add the materially inaccurate information to the database;

''(ii) correct the materially inaccurate information in the report or comment and add the report or comment to the database; or

''(iii) add information to correct inaccurate information in the database.

''(B) INACCURATE INFORMATION IN DATABASE.—If the Commission determines, after investigation, that information previously made available in the database is materially inaccurate or duplicative of information in the database, the Commission shall, not later than 7 business days after such determination—

''(i) remove such information from the database;

''(ii) correct such information; or

''(iii) add information to correct inaccurate information in the database.

''(d) ANNUAL REPORT.—The Commission shall submit to the appropriate Congressional committees an annual report on the database, including—

''(1) the operation, content, maintenance, functionality, and cost of the database for the reporting year; and

''(2) the number of reports and comments for the year—

''(A) received by the Commission under this section;

''(B) posted on the database; and

''(C) corrected on or removed from the database.

''(e) GAO STUDY.—Within 2 years after the date on which the Commission establishes the database under this section, the Comptroller General shall submit a report to the appropriate Congressional committees containing—

''(1) an analysis of the general utility of the database, including—

''(A) an assessment of the extent of use of the database by consumers, including whether the database is accessed by a broad range of the public and whether consumers find the database to be useful; and

''(B) efforts by the Commission to inform the public about the database; and

''(2) recommendations for measures to increase use of the database by consumers and to ensure use by a broad range of the public.

''(f) APPLICATION OF CERTAIN NOTICE AND DISCLOSURE REQUIREMENTS.—

''(1) IN GENERAL.—The provisions of section 6(a) and (b) shall not apply to the disclosure under this section of a report described in subsection (b)(1)(A) of this section.

''(2) CONSTRUCTION.—Paragraph (1) shall not be construed to exempt from the requirements of section 6(a) and (b) information received by the Commission under—

''(A) section 15(b); or

''(B) any other mandatory or voluntary reporting program established between a retailer, manufacturer, or private labeler and the Commission.

''(g) HARM DEFINED.—In this section, the term 'harm' means—

''(1) injury, illness, or death; or

''(2) risk of injury, illness, or death, as determined by the Commission.''.

(b) UPGRADE OF COMMISSION INFORMATION TECHNOLOGY SYSTEMS.—The Commission shall expedite efforts to upgrade and improve the information technology systems in use by the Commission on the date of enactment of this Act.

(c) CLERICAL AMENDMENT.—The table of contents in section 1 (15 U.S.C. 2051 note), as amended by section 206, is amended by inserting after the item relating to section 6 the following new item:

''Sec. 6A. Publicly available consumer product safety information database.''.

SEC. 213. PROHIBITION ON STOCKPILING UNDER OTHER COMMISSION-ENFORCED STATUTES.

Section 9(g)(2) (15 U.S.C. 2058(g)(2)) is amended—

(1) by inserting ''or to which a rule under this Act or similar rule, regulation, standard, or ban under any other Act enforced by the Commission applies,'' after ''applies,''; and

(2) by striking ''consumer product safety rule'' the second, third, and fourth places it appears, and inserting ''rule, regulation, standard, or ban''.

SEC. 214. ENHANCED RECALL AUTHORITY AND CORRECTIVE ACTION PLANS.

(a) ENHANCED RECALL AUTHORITY.—Section 15 (15 U.S.C. 2064) is amended—

(1) in subsection (a)(1), by inserting ''under this Act or a similar rule, regulation, standard, or ban under any other Act enforced by the Commission'' after ''consumer product safety rule'';

(2) in subsection (b)—

(A) by striking ''consumer product distributed in commerce,'' and inserting ''consumer product, or other product or substance over which the Commission has jurisdiction under any other Act enforced by the Commission (other than motor vehicle equipment as defined in section 30102(a)(7) of title 49, United States Code), distributed in commerce,'';

(B) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(C) by inserting after paragraph (1) the following:

''(2) fails to comply with any other rule, regulation, standard, or ban under this Act or any other Act enforced by the Commission;''; and

(D) by adding at the end the following: ''A report provided under paragraph (2) may not be used as the basis for criminal prosecution of the reporting person under section 5 of the Federal Hazardous Substances Act (15 U.S.C. 1264), except for offenses which require a showing of intent to defraud or mislead.''.

(3) in subsection (c)—

(A) by inserting ''(1)'' after the subsection designation;

(B) by inserting ''or if the Commission, after notifying the manufacturer, determines a product to be an imminently hazardous consumer product and has filed an action under section 12,'' after ''from such substantial product hazard,'';

(C) by redesignating paragraphs (1) through (3) as subparagraphs (D) through (F), respectively;

(D) by inserting after ''the following actions:'' the following:

''(A) To cease distribution of the product.

''(B) To notify all persons that transport, store, distribute, or otherwise handle the product, or to which the product has been transported, sold, distributed, or otherwise handled, to cease immediately distribution of the product.

''(C) To notify appropriate State and local public health officials.'';

(E) by striking ''comply.'' in subparagraph (D), as redesignated, and inserting ''comply, including posting clear and conspicuous notice on its Internet website, providing notice to any third party Internet website on which such manufacturer, retailer, distributor, or licensor has placed the product for sale, and announcements in languages other than English and on radio and television where the Commission determines that a substantial number of consumers to whom the recall is directed may not be reached by other notice.''; and

(F) by adding at the end the following:

''(2) The Commission may require a notice described in paragraph (1) to be distributed in a language other than English if the Commission determines that doing so is necessary to adequately protect the public.

''(3) If a district court determines, in an action filed under section 12, that the product that is the subject of such action is not an imminently hazardous consumer product, the Commission shall rescind any order issued under this subsection with respect to such product.'';

(4) in subsection (f)—

(A) by striking ''An order'' and inserting ''(1) Except as provided in paragraph (2), an order''; and

(B) by inserting at the end the following:

''(2) The requirement for a hearing in paragraph (1) shall not apply to an order issued under subsection (c) or (d) relating to an imminently hazardous consumer product with regard to which the Commission has filed an action under section 12.''.

(b) CORRECTIVE ACTION PLANS.—Section 15(d) (15 U.S.C. 2064(d)) is amended—

(1) by inserting ''(1)'' after the subsection designation;

(2) by inserting ''to provide the notice required by subsection (c) and'' after ''such product'' the first place it appears;

(3) by striking ''whichever of the following actions the person to whom the order is directed elects:'' and inserting ''any one or more of the following actions it determines to be in the public interest:'';

(4) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C);

(5) in each of subparagraphs (A) and (B) (as so redesignated), by striking ''consumer product safety rule'' each place it appears and inserting ''rule, regulation, standard, or ban'';

(6) by striking ''more (A)'' in subparagraph (C), as redesignated, and inserting ''more (i)'';

(7) by striking ''or (B)'' in subparagraph (C), as redesignated, and inserting ''or (ii)'';

(8) by striking ''An order under this subsection may'' and inserting:

''(2) An order under this subsection shall'';

(9) by striking ''satisfactory to the Commission,'' and inserting ''for approval by the Commission,'';

(10) by striking ''paragraphs of this subsection under which such person has elected to act'' and inserting ''subparagraphs under which such person has been ordered to act'';

(11) by striking ''if the person to whom the order is directed elects to take the action described in paragraph (3)'' and insert ''if the Commission orders the action described in subparagraph (C)'';

(12) by striking ''If an order under this subsection is directed'' and all that follows

through ''has the election under this subsection'';

(13) by striking ''described in paragraph (3).'' and inserting ''described in paragraph (1)(C).''; and

(14) by adding at the end the following:

''(3)(A) If the Commission approves an action plan, it shall indicate its approval in writing.

''(B) If the Commission finds that an approved action plan is not effective or appropriate under the circumstances, or that the manufacturer, retailer, or distributor is not executing an approved action plan effectively, the Commission may, by order, amend, or require amendment of, the action plan. In determining whether an approved plan is effective or appropriate under the circumstances, the Commission shall consider whether a repair or replacement changes the intended functionality of the product.

''(C) If the Commission determines, after notice and opportunity for comment, that a manufacturer, retailer, or distributor has failed to comply substantially with its obligations under its action plan, the Commission may revoke its approval of the action plan. The manufacturer, retailer, or distributor to which the action plan applies may not distribute in commerce the product to which the action plan relates after receipt of notice of a revocation of the action plan.''.

(c) CONTENT OF NOTICE.—Section 15 (15 U.S.C. 2064) is further amended by adding at the end the following:

''(i) REQUIREMENTS FOR RECALL NOTICES.—

''(1) GUIDELINES.—Not later than 180 days after the date of enactment of the Consumer Product Safety Improvement Act of 2008, the Commission shall, by rule, establish guidelines setting forth a uniform class of information to be included in any notice required under an order under subsection (c) or (d) of this section or under section 12. Such guidelines shall include any information that the Commission determines would be helpful to consumers in—

''(A) identifying the specific product that is subject to such an order;

''(B) understanding the hazard that has been identified with such product (including information regarding incidents or injuries known to have occurred involving such product); and

''(C) understanding what remedy, if any, is available to a consumer who has purchased the product.

''(2) CONTENT.—Except to the extent that the Commission determines with respect to a particular product that one or more of the following items is unnecessary or inappropriate under the circumstances, the notice shall include the following:

''(A) description of the product, including—

''(i) the model number or stock keeping unit (SKU) number of the product;

''(ii) the names by which the product is commonly known; and

''(iii) a photograph of the product.

''(B) A description of the action being taken with respect to the product.

''(C) The number of units of the product with respect to which the action is being taken.

''(D) A description of the substantial product hazard and the reasons for the action.

''(E) An identification of the manufacturers and significant retailers of the product.

''(F) The dates between which the product was manufactured and sold.

''(G) The number and a description of any injuries or deaths associated with the product, the ages of any individuals injured or killed, and the dates on which the Commission received information about such injuries or deaths.

''(H) A description of—

''(i) any remedy available to a consumer;

''(ii) any action a consumer must take to obtain a remedy; and

''(iii) any information a consumer needs in order to obtain a remedy or information about a remedy, such as mailing addresses, telephone numbers, fax numbers, and email addresses.

''(I) Other information the Commission deems appropriate.''.

SEC. 215. INSPECTION OF FIREWALLED CONFORMITY ASSESSMENT BODIES; IDENTIFICATION OF SUPPLY CHAIN.

(a) INSPECTION OF FIREWALLED CONFORMITY ASSESSMENT BODY.—Section 16(a) (15 U.S.C. 2065(a)) is amended—

(1) by striking ''or (B)'' and inserting ''(B) any firewalled conformity assessment bodies accredited under section 14(f)(2)(D), or (C)'' in paragraph (1); and

(2) by inserting ''firewalled conformity assessment body,'' after ''factory,'' in paragraph (2).

(b) IDENTIFICATION OF MANUFACTURERS, IMPORTERS, RETAILERS, AND DISTRIBUTORS.—Section 16 (15 U.S.C. 2065) is further amended by adding at the end thereof the following:

''(c) IDENTIFICATION OF MANUFACTURERS, IMPORTERS, RETAILERS, AND DISTRIBUTORS.—Upon request by an officer or employee duly designated by the Commission—

''(1) every importer, retailer, or distributor of a consumer product (or other product or substance over which the Commission has jurisdiction under this or any other Act) shall identify the manufacturer of that product by name, address, or such other identifying information as the officer or employee may request, to the extent that such information is known or can be readily determined by the importer, retailer, or distributor; and

''(2) every manufacturer shall identify by name, address, or such other identifying information as the officer or employee may request—

''(A) each retailer or distributor to which the manufacturer directly supplied a given consumer product (or other product or substance over which the Commission has jurisdiction under this or any other Act);

''(B) each subcontractor involved in the production or fabrication of such product or substance; and

''(C) each subcontractor from which the manufacturer obtained a component thereof.''.

(c) CONFORMING AMENDMENTS.—Section 16 (15 U.S.C. 2065) is further amended—

(1) in subsection (a), by inserting ''INSPECTION.—'' after the subsection designation; and

(2) in subsection (b), by inserting ''RECORDKEEPING.—'' after the subsection designation.

SEC. 216. PROHIBITED ACTS.

(a) SALE OF RECALLED PRODUCTS.—Section 19(a) (15 U.S.C. 2068(a)) is amended—

(1) by striking paragraphs (1) and (2) and inserting the following:

''(1) sell, offer for sale, manufacture for sale, distribute in commerce, or import into the United States any consumer product, or other product or substance that is regulated under this Act or any other Act enforced by the Commission, that is not in conformity with an applicable consumer product safety rule under this Act, or any similar rule, regulation, standard, or ban under any other Act enforced by the Commission;

''(2) sell, offer for sale, manufacture for sale, distribute in commerce, or import into the United States any consumer product, or other product or substance that is—

''(B) subject to voluntary corrective action taken by the manufacturer, in consultation with the Commission, of which action the Commission has notified the public or if the seller, distributor, or manufacturer knew or should have known of such voluntary corrective action;

''(C) subject to an order issued under section 12 or 15 of this Act; or

''(D) a banned hazardous substance within the meaning of section 2(q)(1) of the Federal Hazardous Substances Act (15 U.S.C. 1261(q)(1));'';

(2) by amending paragraph (6) to read as follows:

''(6) fail to furnish a certificate required by this Act or any other Act enforced by the Commission, or to issue a false certificate if such person in the exercise of due care has reason to know that the certificate is false or misleading in any material respect; or to fail to comply with any requirement of section 14 (including the requirement for tracking labels) or any rule or regulation under such section;''.

(3) by striking ''or'' after the semicolon in paragraph (7);

(4) by striking ''and'' after the semicolon in paragraph (8);

(5) by striking ''insulation).'' in paragraph (9) and inserting ''insulation);''; and

(6) by striking the period at the end of paragraph (10) and inserting a semicolon; and

(7) by inserting at the end the following:

''(12) sell, offer for sale, distribute in commerce, or import into the United States any consumer product bearing a registered safety certification mark owned by an accredited conformity assessment body, which mark is known, or should have been known, by such person to be used in a manner unauthorized by the owner of that certification mark;

''(13) misrepresent to any officer or employee of the Commission the scope of consumer products subject to an action required under section 12 or 15, or to make a material misrepresentation to such an officer or employee in the course of an investigation under this Act or any other Act enforced by the Commission; or

''(14) exercise, or attempt to exercise, undue influence on a third party conformity assessment body (as defined in section 14(f)(2)) with respect to the testing, or reporting of the results of testing, of any product for compliance under this Act or any other Act enforced by the Commission.

''(15) export from the United States for purpose of sale any consumer product, or other product or substance regulated by the Commission (other than a consumer product or substance, the export of which is permitted by the Secretary of the Treasury pursuant to section 17(e)) that—

''(A) is subject to an order issued under section 12 or 15 of this Act or is a banned hazardous substance within the meaning of section 2(q)(1) of the Federal Hazardous Substances Act (15 U.S.C. 1261(q)(1)); or

''(B) is subject to a voluntary corrective action taken by the manufacturer, in consultation with the Commission, of which action the Commission has notified the public; or

''(16) violate an order of the Commission issued under section 18(c).''.

(b) CONFORMING AMENDMENT.—Section 17(a)(2) (15 U.S.C. 2066(a)(2)) is amended to read as follows:

''(2) is not accompanied by a certificate required by this Act or any other Act enforced by the Commission, or is accompanied by a false certificate, if the manufacturer in the exercise of due care has reason to know that the certificate is false or misleading in any material respect, or is not accompanied by any label or certificate (including tracking labels) required under section 14 or any rule or regulation under such section;''.

SEC. 217. PENALTIES.

(a) MAXIMUM CIVIL PENALTIES OF THE CONSUMER PRODUCT SAFETY COMMISSION.—

(1) CONSUMER PRODUCT SAFETY ACT.—Section 20(a)(1) (15 U.S.C. 2069(a)(1)) is amended—

(A) by striking ''$5,000'' and inserting ''$100,000'';

(B) by striking ''$1,250,000'' both places it appears and inserting ''$15,000,000''; and

(C) by striking ''December 1, 1994,'' in paragraph (3)(B) and inserting ''December 1, 2011,''.

(2) FEDERAL HAZARDOUS SUBSTANCES ACT.—Section 5(c)(1) of the Federal Hazardous Substances Act (15 U.S.C. 1264(c)(1)) is amended—

(A) by striking ''$5,000'' in paragraph (1) and inserting ''$100,000'';

(B) by striking ''$1,250,000'' both places it appears and inserting ''$15,000,000''; and

(C) by striking ''December 1, 1994,'' in paragraph (6)(B) and inserting ''December 1, 2011,''.

(3) FLAMMABLE FABRICS ACT.—Section 5(e)(1) of the Flammable Fabrics Act (15 U.S.C. 1194(e)(1)) is amended—

(A) by striking ''$5,000'' in paragraph (1) and inserting ''$100,000'';

(B) by striking ''$1,250,000'' and inserting ''$15,000,000''; and

(C) by striking ''December 1, 1994,'' in paragraph (6)(B) and inserting ''December 1, 2011,''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date that is the earlier of the date on which final regulations are issued under subsection (b)(2) or 1 year after the date of enactment of this Act.

(b) DETERMINATION OF PENALTIES BY THE CONSUMER PRODUCT SAFETY COMMISSION.—

(1) FACTORS TO BE CONSIDERED.—

(A) CONSUMER PRODUCT SAFETY ACT.—Section 20 (15 U.S.C. 2069) is amended—

(i) in subsection (b)—

(I) by inserting ''the nature, circumstances, extent, and gravity of the violation, including'' after ''shall consider'';

(II) by striking ''products distributed, and'' and inserting ''products distributed,'' ; and

(III) by inserting '', including how to mitigate undue adverse economic impacts on small businesses, and such other factors as appropriate'' before the period; and

(ii) in subsection (c)—

(I) by inserting '', including how to mitigate undue adverse economic impacts on small businesses, the nature, circumstances, extent, and gravity of the violation, including'' after ''person charged''; and

(II) by inserting '', and such other factors as appropriate'' after ''products distributed''.

(B) FEDERAL HAZARDOUS SUBSTANCES ACT.—Section 5(c) of the Federal Hazardous Substances Act (15 U.S.C. 1264(c)) is amended—

(i) in paragraph (3)—

(I) by inserting ''the nature, circumstances, extent, and gravity of the violation, including'' after ''shall consider'';

(II) by striking ''substance distributed, and'' and inserting ''substance distributed,''; and

(III) by inserting '', including how to mitigate undue adverse economic impacts on small businesses, and such other factors as appropriate'' before the period; and

(ii) in paragraph (4)—

(I) by inserting '', including how to mitigate undue adverse economic impacts on small businesses, the nature, circumstances, extent, and gravity of the violation, including'' after ''person charged''; and

(II) by inserting '', and such other factors as appropriate'' after ''substance distributed''.

(C) FLAMMABLE FABRICS ACT.—Section 5(e) of the Flammable Fabrics Act (15 U.S.C. 1194(e)) is amended—

(i) in paragraph (2)—

(I) by striking ''nature and number'' and inserting ''nature, circumstances, extent, and gravity'';

(II) by striking ''absence of injury, and'' and inserting ''absence of injury,''; and

(III) by inserting '', and such other factors as appropriate'' before the period; and

(ii) in paragraph (3)—

(I) by striking ''nature and number'' and inserting ''nature, circumstances, extent, and gravity'';

(II) by striking ''absence of injury, and'' and inserting ''absence of injury,''; and

(III) by inserting '', and such other factors as appropriate'' before the period.

(2) CIVIL PENALTY CRITERIA.—Not later than 1 year after the date of enactment of this Act, and in accordance with the procedures of section 553 of title 5, United States Code, the Commission shall issue a final regulation providing its interpretation of the penalty factors described in section 20(b) of the Consumer Product Safety Act (15 U.S.C. 2069(b)), section 5(c)(3) of the Federal Hazardous Substances Act (15 U.S.C. 1264(c)(3)), and section 5(e)(2) of the Flammable Fabrics Act (15 U.S.C. 1194(e)(2)), as amended by subsection (a).

(c) CRIMINAL PENALTIES.—

(1) IN GENERAL.—Section 21(a) (15 U.S.C. 2070(a)) is amended to read as follows:

''(a) Violation of section 19 of this Act is punishable by—

''(1) imprisonment for not more than 5 years for a knowing and willful violation of that section;

''(2) a fine determined under section 3571 of title 18, United States Code; or

''(3) both.''.

(2) DIRECTORS, OFFICERS, AND AGENTS.—Section 21(b) (15 U.S.C. 2070(b)) is amended by striking ''19, and who has knowledge of notice of noncompliance received by the corporation from the Commission,'' and inserting ''19''.

(3) UNDER THE FEDERAL HAZARDOUS SUBSTANCES ACT.—Section 5(a) of the Federal Hazardous Substances Act (15 U.S.C. 1264(a)) is amended by striking ''one year, or a fine of not more than $3,000, or both such imprisonment and fine.'' and inserting ''5 years, a fine determined under section 3571 of title 18, United States Code, or both.''.

(4) UNDER THE FLAMMABLE FABRICS ACT.—Section 7 of the Flammable Fabrics Act (15 U.S.C. 1196) is amended to read as follows:

''PENALTIES

''SEC. 7. Violation of section 3 or 8(b) of this Act, or failure to comply with section 15(c) of this Act, is punishable by—

''(1) imprisonment for not more than 5 years for a knowing and willful violation of that section;

''(2) a fine determined under section 3571 of title 18, United States Code; or

''(3) both.''.

(d) CRIMINAL PENALTIES TO INCLUDE ASSET FORFEITURE.—Section 21 (15 U.S.C. 2070) is amended by adding at the end thereof the following:

''(c)(1) In addition to the penalties provided by subsection (a), the penalty for a criminal violation of this Act or any other Act enforced by the Commission may include the forfeiture of assets associated with the violation.

''(2) In this subsection, the term 'criminal violation' means a violation of this Act or any other Act enforced by the Commission for which the violator is sentenced to pay a fine, be imprisoned, or both.''.

SEC. 218. ENFORCEMENT BY STATE ATTORNEYS GENERAL.

(a) IN GENERAL.—Section 24 (15 U.S.C. 2073) is amended—

(1) by striking ''private'' in the section heading and inserting ''additional'';

(2) by inserting ''(a) IN GENERAL.—'' before ''Any interested person''; and

(3) by adding at the end the following:

''(b) STATE ATTORNEY GENERAL ENFORCEMENT.—

''(1) RIGHT OF ACTION.—Except as provided in paragraph (5), the attorney general of a State, or other authorized State officer, alleging a violation of section 19(a)(1), (2), (5), (6), (7), (9), or (12) of this Act that affects or may affect such State or its residents may bring an action on behalf of the residents of the State in any United States district court for the district in which the defendant is found or transacts business to obtain appropriate injunctive relief.

''(2) INITIATION OF CIVIL ACTION.—

''(A) NOTICE TO COMMISSION REQUIRED IN ALL CASES.—A State shall provide written notice to the Commission regarding any civil action under paragraph (1). Except when proceeding under subparagraph (C), the State shall provide the notice at least 30 days before the date on which the State intends to initiate the civil action by filing a complaint.

''(B) FILING OF COMPLAINT.—A State may initiate the civil action by filing a complaint—

''(i) at any time after the date on which the 30-day period ends; or

''(ii) earlier than such date if the Commission consents to an earlier initiation of the civil action by the State.

''(C) ACTIONS INVOLVING SUBSTANTIAL PRODUCT HAZARD.—Notwithstanding subparagraph (B), a State may initiate a civil action under paragraph (1) by filing a complaint immediately after notifying the Commission of the State's determination that such immediate action is necessary to protect the residents of the State from a substantial product hazard (as defined in section 15(a)).

''(D) FORM OF NOTICE.—The written notice required by this paragraph may be provided by electronic mail, facsimile machine, or any other means of communication accepted by the Commission.

''(E) COPY OF COMPLAINT.—A State shall provide a copy of the complaint to the Commission upon filing the complaint or as soon as possible thereafter.

''(3) INTERVENTION BY THE COMMISSION.—The Commission may intervene in such civil action and upon intervening—

''(A) be heard on all matters arising in such civil action; and

''(B) file petitions for appeal of a decision in such civil action.

''(4) CONSTRUCTION.—Nothing in this section, section 5(d) of the Federal Hazardous Substances Act (15 U.S.C. 1264(d)), section 9 of the Poison Prevention Packaging Act of 1970, or section 5(a) of the Flammable Fabrics Act (15 U.S.C. 1194(d)) shall be construed—

''(A) to prevent the attorney general of a State, or other authorized State officer, from exercising the powers conferred on the attorney general, or other authorized State officer, by the laws of such State; or

''(B) to prohibit the attorney general of a State, or other authorized State officer, from proceeding in State or Federal court on the basis of an alleged violation of any civil or criminal statute of that State.

''(5) LIMITATION.—No separate suit shall be brought under this subsection (other than a suit alleging a violation of paragraph (1) or (2) of section 19(a)) if, at the time the suit is brought, the same alleged violation is the subject of a pending civil or criminal action by the United States under this Act.

''(6) RESTRICTIONS ON PRIVATE COUNSEL.—If private counsel is retained to assist in any civil action under paragraph (1), the private counsel retained to assist the State may not—

''(A) share with participants in other private civil actions that arise out of the same operative facts any information that is—

''(i) subject to attorney-client or work product privilege; and

''(ii) was obtained during discovery in the action under paragraph (1); or

''(B) use any information that is subject to attorney-client or work product privilege that was obtained while assisting the State in the action under paragraph (1) in any other private civil actions that arise out of the same operative facts.''.

(b) CONFORMING AMENDMENTS.—

(1) POISON PREVENTION PACKAGING ACT.—The Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.) is amended by adding at the end the following:

''SEC. 9. ENFORCEMENT BY STATE ATTORNEYS GENERAL.

''The attorney general of a State, or other authorized State officer, alleging a violation of a standard or rule promulgated under section 3 that affects or may affect such State or its residents, may bring an action on behalf of the residents of the State in any United States district court for the district in which the defendant is found or transacts business to obtain appropriate injunctive relief. The procedural requirements of section 24(b) of the Consumer Product Safety Act (15 U.S.C. 2073(b)) shall apply to any such action.''.

(2) CLERICAL AMENDMENT.—The table of contents in section 1 (15 U.S.C. 2051 note) is amended by striking the item relating to section 24 and inserting the following:

''Sec. 24. Additional enforcement of product safety rules and of section 15 orders.''.

SEC. 219. WHISTLEBLOWER PROTECTIONS.

(a) IN GENERAL.—The Act (15 U.S.C. 2051 et seq.), as amended by section 206 of this Act, is further amended by adding at the end the following:

''WHISTLEBLOWER PROTECTION

''SEC. 40. (a) No manufacturer, private labeler, distributor, or retailer, may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment because the employee, whether at the employee's initiative or in the ordinary course of the employee's duties (or any person acting pursuant to a request of the employee)—

''(1) provided, caused to be provided, or is about to provide or cause to be provided to the employer, the Federal Government, or the attorney general of a State information relating to any violation of, or any act or omission the employee reasonably believes to be a violation of any provision of this Act or any other Act enforced by the Commission, or any order, rule, regulation, standard, or ban under any such Acts;

''(2) testified or is about to testify in a proceeding concerning such violation;

''(3) assisted or participated or is about to assist or participate in such a proceeding; or

''(4) objected to, or refused to participate in, any activity, policy, practice, or assigned task that the employee (or other such person) reasonably believed to be in violation of any provision of this Act or any other Act enforced by the Commission, or any order, rule, regulation, standard, or ban under any such Acts.

''(b)(1) A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, not later than 180 days after the date on which such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor alleging such discharge or discrimination and identifying the person responsible for such act. Upon receipt of such a complaint, the Secretary shall notify, in writing, the person named in the complaint of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).

''(2)(A) Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the complainant and the person named in the complaint an opportunity to submit to the Secretary a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary shall initiate an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify, in writing, the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary's findings. If the Secretary concludes that there is reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall accompany the Secretary's findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of notification of findings under this paragraph, either the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Any such hearing shall be conducted expeditiously. If a hearing is not requested in such 30-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

''(B)(i) The Secretary shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

''(ii) Notwithstanding a finding by the Secretary that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

''(iii) The Secretary may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

''(iv) Relief may not be ordered under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

''(3)(A) Not later than 120 days after the date of conclusion of any hearing under paragraph (2), the Secretary shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary, the complainant, and the person alleged to have committed the violation.

''(B) If, in response to a complaint filed under paragraph (1), the Secretary determines that a violation of subsection (a) has occurred, the Secretary shall order the person who committed such violation—

''(i) to take affirmative action to abate the violation;

''(ii) to reinstate the complainant to his or her former position together with compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and

''(iii) to provide compensatory damages to the complainant.

If such an order is issued under this paragraph, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

''(C) If the Secretary finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary may award to the prevailing employer a reasonable attorneys' fee, not exceeding $1,000, to be paid by the complainant.

''(4) If the Secretary has not issued a final decision within 210 days after the filing of the complaint, or within 90 days after receiving a written determination, the complainant may bring an action at law or equity for *de novo* review in the appropriate district court of the United States with jurisdiction, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to such action, be tried by the court with a jury. The proceedings shall be governed by the same legal burdens of proof specified in paragraph (2)(B). The court shall have jurisdiction to grant all relief necessary to make the employee whole, including injunctive relief and compensatory damages, including—

''(A) reinstatement with the same seniority status that the employee would have had, but for the discharge or discrimination;

''(B) the amount of back pay, with interest; and

''(C) compensation for any special damages sustained as a result of the discharge or discrimination, including litigation costs, expert witness fees, and reasonable attorney's fees.

''(5)(A) Unless the complainant brings an action under paragraph (4), any person adversely affected or aggrieved by a final order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later than 60 days after the date of the issuance of the final order of the Secretary. Review shall conform to chapter 7 of title 5, United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

''(B) An order of the Secretary with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

''(6) Whenever any person has failed to comply with an order issued under paragraph (3), the Secretary may file a civil action in the United States district court for the district in which the violation was found to occur, or in the United States district court for the District of Columbia, to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief and compensatory damages.

''(7)(A) A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person to

whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

''(B) The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorneys' and expert witness fees) to any party whenever the court determines such award is appropriate.

''(c) Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

''(d) Subsection (a) shall not apply with respect to an employee of a manufacturer, private labeler, distributor, or retailer who, acting without direction from such manufacturer, private labeler, distributor, or retailer (or such person's agent), deliberately causes a violation of any requirement relating to any violation or alleged violation of any order, regulation, or consumer product safety standard under this Act or any other law enforced by the Commission.''.

(b) CONFORMING AMENDMENT.—The table of contents, as amended by section 206 of this Act, is further amended by inserting after the item relating to section 39 the following:

''Sec. 40. Whistleblower protection.''.

Subtitle C—Specific Import-Export Provisions

SEC. 221. EXPORT OF RECALLED AND NON-CONFORMING PRODUCTS.

(a) IN GENERAL.—Section 18 (15 U.S.C. 2067) is amended—

(1) in subsection (b), by striking ''any product—'' and all that follows through ''promulgated under section 9,'' and inserting ''any product which is not in conformity with an applicable consumer product safety rule in effect under this Act,''; and

(2) by adding at the end the following:

''(c) The Commission may prohibit a person from exporting from the United States for purpose of sale any consumer product that is not in conformity with an applicable consumer product safety rule under this Act, unless the importing country has notified the Commission that such country accepts the importation of such consumer product, provided that if the importing country has not so notified the Commission within 30 days after the Commission has provided notice to the importing country of the impending shipment, the Commission may take such action as appropriate within its authority with respect to the disposition of the product under the circumstances.

''(d) Nothing in this section shall apply to any consumer product, the export of which is permitted by the Secretary of the Treasury pursuant to section 17(e).''.

(b) CONFORMING AMENDMENTS TO FLAMMABLE FABRICS ACT.—Section 15 of the Flammable Fabrics Act (15 U.S.C. 1202) is amended by adding at the end the following:

''(d) Notwithstanding any other provision of this section, the Consumer Product Safety Commission may prohibit, by order, a person from exporting from the United States for purpose of sale any fabric or related material that the Commission determines is not in conformity with an applicable standard or rule under this Act, unless the importing country has notified the Commission that such country accepts the importation of such fabric or related material, provided that if the importing country has not so notified the Commission within 30 days after the Commission has provided notice to the importing country of the impending shipment, the Commission may take such action as is appropriate with respect to the disposition of the fabric or related material under the circumstances.

''(e) Nothing in this section shall apply to any fabric or related material, the export of which is permitted by the Secretary of the Treasury pursuant to section 17(e).''.

SEC. 222. IMPORT SAFETY MANAGEMENT AND INTERAGENCY COOPERATION.

(a) RISK ASSESSMENT METHODOLOGY.—Not later than 2 years after the date of enactment of this Act, the Commission shall develop a risk assessment methodology for the identification of shipments of consumer products that are—

(1) intended for import into the United States; and

(2) likely to include consumer products in violation of section 17(a) of the Consumer Product Safety Act (15 U.S.C. 2066(a)) or other import provisions enforced by the Commission.

(b) USE OF INTERNATIONAL TRADE DATA SYSTEM AND OTHER DATABASES.—In developing the methodology required under subsection (a), the Commission shall—

(1) provide for the use of the International Trade Data System, insofar as is practicable, established under section 411(d) of the Tariff Act of 1930 (19 U.S.C. 1411(d)) to evaluate and assess information about shipments of consumer products intended for import into the customs territory of the United States;

(2) incorporate the risk assessment methodology required under this section into its information technology modernization plan;

(3) examine, in consultation with U.S. Customs and Border Protection, how to share information collected and retained by the Commission, including information in the database required under section 6A of the Consumer Product Safety Act, for the purpose of identifying shipments of consumer products in violation of section 17(a) of such Act (15 U.S.C. 2066(a)) or other import provisions enforced by the Commission; and

(4) examine, in consultation with U.S. Customs and Border Protection, how to share information required by section 15(j) of the CPSA as added by section 223 of this Act for the purpose of identifying shipments of consumer products in violation of section 17(a) of the Consumer Product Safety Act (15 U.S.C. 2066(a)) or other import provisions enforced by the Commission.

(c) COOPERATION WITH U.S. CUSTOMS AND BORDER PROTECTION.—Not later than 1 year after the date of enactment of this Act, the Commission shall develop a plan for sharing information and coordinating with U.S. Customs and Border Protection that considers, at a minimum, the following:

(1) The number of full-time equivalent personnel employed by the Commission that should be stationed at U.S. ports of entry for the purpose of identifying shipments of consumer products that are in violation of section 17(a) of the Consumer Product Safety Act (15 U.S.C. 2066(a)) or other import provisions enforced by the Commission.

(2) The extent and nature of cooperation between the Commission and U.S. Customs and Border Protection personnel stationed at ports of entry in the identification of shipments of consumer product that are in violation of section 17(a) of the Consumer Product Safety Act (15 U.S.C. 2066(a)) or other import provisions enforced by the Commission under this Act or any other provision of law.

(3) The number of full-time equivalent personnel employed by the Commission that should be stationed at the National Targeting Center (or its equivalent) of U.S. Customs and Border Protection, including—

(A) the extent and nature of cooperation between Commission and U.S. Customs and Border Protection personnel stationed at the National Targeting Center (or its equivalent), as well as at United States ports of entry;

(B) the responsibilities of Commission personnel assigned to the National Targeting Center (or its equivalent) under subsection (b)(3); and

(C) whether the information available at the National Targeting Center (or its equivalent) would be useful to the Commission or U.S. Customs and Border Protection in identifying the consumer products described in subsection (a).

(4) The development of rule sets for the Automated Targeting System and expedited access for the Commission to the Automated Targeting System.

(5) The information and resources necessary for the development, updating, and effective implementation of the risk assessment methodology required in subsection (a).

(d) REPORT TO CONGRESS.—Not later than 180 days after completion of the risk assessment methodology required under this section, the Commission shall submit a report to the appropriate Congressional committees concerning, at a minimum, the following:

(1) The Commission's plan for implementing the risk assessment methodology required under this section.

(2) The changes made or necessary to be made to the Commission's memorandum of understanding with U.S. Customs and Border Protection.

(3) The status of—

(A) the development of the Automated Targeting System rule set required under subsection (c)(4) of this section;

(B) the Commission's access to the Automated Targeting System; and

(C) the effectiveness of the International Trade Data System in enhancing cooperation between the Commission and U.S. Customs and Border Protection for the purpose of identifying shipments of consumer products in violation of section 17(a) of the Consumer Product Safety Act (15 U.S.C. 2066(a)) or other import provisions enforced by the Commission;

(4) Whether the Commission requires additional statutory authority under the Consumer Product Safety Act, the Federal Hazardous Substances Act, the Flammable Fabrics Act, or the Poison Prevention Packaging Act of 1970 in order to implement the risk assessment methodology required under this section.

(5) The level of appropriations necessary to implement the risk assessment methodology required under this section.

SEC. 223. SUBSTANTIAL PRODUCT HAZARD LIST AND DESTRUCTION OF NONCOMPLIANT IMPORTED PRODUCTS.

(a) IDENTIFICATION OF SUBSTANTIAL HAZARDS.—Section 15 (15 U.S.C. 2064), as amended by section 214, is amended by adding at the end thereof the following:

''(j) SUBSTANTIAL PRODUCT HAZARD LIST.—

''(1) IN GENERAL.—The Commission may specify, by rule, for any consumer product or class of consumer products, characteristics whose existence or absence shall be deemed a substantial product hazard under subsection (a)(2), if the Commission determines that—

''(A) such characteristics are readily observable and have been addressed by voluntary standards; and

''(B) such standards have been effective in reducing the risk of injury from consumer products and that there is substantial compliance with such standards.

''(2) JUDICIAL REVIEW.—Not later than 60 days after promulgation of a rule under paragraph (1), any person adversely affected by such rule may file a petition for review under the procedures set forth in section 11 of this Act.''.

(b) DESTRUCTION OF NONCOMPLIANT IMPORTED PRODUCTS.—Section 17(e) (15 U.S.C. 2066(e)) is amended to read as follows:

''(e) Products refused admission into the customs territory of the United States shall be destroyed unless, upon application by the owner, consignee, or importer of record, the Secretary of the Treasury permits the export of the product in lieu of destruction. If the owner, consignee, or importer of record does not export the product within 90 days of approval to export, such product shall be destroyed.''.

(c) INSPECTION AND RECORDKEEPING REQUIREMENT.—The Act is further amended—

(1) by amending section 17(g) (15 U.S.C. 2066(g)) to read as follows:

''(g) Manufacturers of imported products shall be in compliance with all inspection and recordkeeping requirements under section 16 applicable to such products, and the Commission shall advise the Secretary of the Treasury of any manufacturer who is not in compliance with all inspection and recordkeeping requirements under section 16.''; and

(2) by adding at the end of section 16 (15 U.S.C. 2065) the following:

''(d) The Commission shall, by rule, condition the manufacturing for sale, offering for sale, distribution in commerce, or importation into the United States of any consumer product or other product on the manufacturer's compliance with the inspection and recordkeeping requirements of this Act and the Commission's rules with respect to such requirements.''.

SEC. 224. FINANCIAL RESPONSIBILITY.

(a) IN GENERAL.—The Act (15 U.S.C. 2051 et seq.), as amended by section 219, is further amended by adding at the end the following:

''SEC. 41. FINANCIAL RESPONSIBILITY.

''(a) IDENTIFICATION AND DETERMINATION OF BOND.—The Commission, in consultation with U.S. Customs and Border Protection and other relevant Federal agencies, shall identify any consumer product, or other product or substance that is regulated under this Act or any other Act enforced by the Commission, for which the cost of destruction would normally exceed bond amounts determined under sections 623 and 624 of the Tariff Act of 1930 (19 U.S.C. 1623, 1624) and shall recommend to U.S. Customs and Border Protection a bond amount sufficient to cover the cost of destruction of such products or substances.

''(b) STUDY OF REQUIRING ESCROW FOR RECALLS AND DESTRUCTION OF PRODUCTS.—

''(1) STUDY.—The Comptroller General shall conduct a study to determine the feasibility of requiring—

''(A) the posting of an escrow, proof of insurance, or security sufficient in amount to cover the cost of destruction of a domestically-produced product or substance regulated under this Act or any other Act enforced by the Commission; and

''(B) the posting of an escrow, proof of insurance, or security sufficient in amount to cover the cost of an effective recall of a product or substance, domestic or imported, regulated under this Act or any other Act enforced by the Commission.

''(2) REPORT.—Not later than 180 days after the date of enactment of the Consumer Product Safety Improvement Act of 2008, the Comptroller General shall transmit to the appropriate Congressional committees a report on the conclusions of the study required under paragraph (1), including an assessment of whether such an escrow requirement could be implemented and any recommendations for such implementation.''.

(b) CONFORMING AMENDMENTS.—The table of contents in section 1 (15 U.S.C. 2051 note), as amended by section 219, is amended by adding at the end the following:

''Sec. 41. Financial responsibility.''.

SEC. 225. STUDY AND REPORT ON EFFECTIVENESS OF AUTHORITIES RELATING TO SAFETY OF IMPORTED CONSUMER PRODUCTS.

Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall—

(1) conduct a study of the authorities and provisions of the Consumer Product Safety Act (15 U.S.C. 2051 et seq.) to assess the effectiveness of such authorities and provisions in preventing unsafe consumer products from entering the customs territory of the United States;

(2) review and provide recommendations with respect to plans to prevent unsafe consumer products from entering the customs territory of the United States; and

(3) submit to the appropriate Congressional committees a report on the findings of the Comptroller General with respect to paragraphs (1) and (2), including legislative recommendations related to, at a minimum—

(A) inspection of foreign manufacturing plants by the Commission; and

(B) requiring foreign manufacturers to consent to the jurisdiction of United States courts with respect to enforcement actions by the Commission.

Subtitle D—Miscellaneous Provisions and Conforming Amendments

SEC. 231. PREEMPTION.

(a) RULE WITH REGARD TO PREEMPTION.—The provisions of sections 25 and 26 of the Consumer Product Safety Act (15 U.S.C. 2074 and 2075, respectively), section 18 of the Federal Hazardous Substances Act (15 U.S.C. 1261 note), section 16 of the Flammable Fabrics Act (15 U.S.C. 1203), and section 7 of the Poison Packaging Prevention Act of 1970 (15 U.S.C. 1476) establishing the extent to which those Acts preempt, limit, or otherwise affect any other Federal, State, or local law, any rule, procedure, or regulation, or any cause of action under State or local law may not be expanded or contracted in scope, or limited, modified or extended in application, by any rule or regulation thereunder, or by reference in any preamble, statement of policy, executive branch statements, or other matter associated with the publication of any such rule or regulation. In accordance with the provisions of those Acts, the Commission may not construe any such Act as preempting any cause of action under State or local common law or State statutory law regarding damage claims.

(b) PRESERVATION OF CERTAIN STATE LAW.—Nothing in this Act or the Federal Hazardous Substances Act shall be construed to preempt or otherwise affect any warning requirement relating to consumer products or substances that is established pursuant to State law that was in effect on August 31, 2003.

SEC. 232. ALL-TERRAIN VEHICLE STANDARD.

(a) IN GENERAL.—The Act (15 U.S.C. 2051 et seq.), as amended by section 224, is further amended by adding at the end thereof the following:

''SEC. 42. ALL-TERRAIN VEHICLES.

''(a) IN GENERAL.—

''(1) MANDATORY STANDARD.—Notwithstanding any other provision of law, within 90 days after the date of enactment of the Consumer Product Safety Improvement Act of 2008, the Commission shall publish in the Federal Register as a mandatory consumer product safety standard the American National Standard for Four Wheel All-Terrain Vehicles Equipment Configuration, and Performance Requirements developed by the Specialty Vehicle Institute of America (American National Standard ANSI/SVIA–1–2007). The standard shall take effect 150 days after it is published.

''(2) COMPLIANCE WITH STANDARD.—After the standard takes effect, it shall be unlawful for any manufacturer or distributor to import into or distribute in commerce in the United States any new assembled or unassembled all-terrain vehicle unless—

''(A) the all-terrain vehicle complies with each applicable provision of the standard;

''(B) the ATV is subject to an ATV action plan filed with the Commission before the date of enactment of the Act, or subsequently filed with and approved by the Commission, and bears a label certifying such compliance and identifying the manufacturer, importer or private labeler and the ATV action plan to which it is subject; and

''(C) the manufacturer or distributor is in compliance with all provisions of the applicable ATV action plan.

''(3) VIOLATION.—The failure to comply with any requirement of paragraph (2) shall be deemed to be a failure to comply with a consumer product safety standard under this Act and subject to all of the penalties and remedies available under this Act.

''(4) COMPLIANT MODELS WITH ADDITIONAL FEATURES.—Paragraph (2) shall not be construed to prohibit the distribution in commerce of new all-terrain vehicles that comply with the requirements of that paragraph but also incorporate characteristics or components that are not covered by those requirements. Any such characteristics or components shall be subject to the requirements of section 15 of this Act.

''(b) MODIFICATION OF STANDARD.—

''(1) ANSI REVISIONS.—If the American National Standard ANSI/SVIA–1–2007 is revised through the applicable consensus standards development process after the date on which the product safety standard for all-terrain vehicles is published in the Federal Register, the American National Standards Institute shall notify the Commission of the revision.

''(2) COMMISSION ACTION.—Within 120 days after it receives notice of such a revision by the American National Standards Institute, the Commission shall issue a notice of proposed rulemaking in accordance with section 553 of title 5, United States Code, to amend the product safety standard for all-terrain vehicles to include any such revision that the Commission determines is reasonably related to the safe performance of all-terrain vehicles, and notify the Institute of any provision it has determined not to be so related. The Commission shall promulgate an amendment to the standard for all-terrain vehicles within 180 days after the date on which the notice of proposed rulemaking for the amendment is published in the Federal Register.

''(3) UNREASONABLE RISK OF INJURY.—Notwithstanding any other provision of this Act, the Commission may, pursuant to sections 7 and 9 of this Act, amend the product safety standard for all-terrain vehicles to include any additional provision that the Commission determines is reasonably necessary to reduce an unreasonable risk of injury associated with the performance of all-terrain vehicles.

''(4) CERTAIN PROVISIONS NOT APPLICABLE.—Sections 7 and 9 of this Act shall not apply to promulgation of any amendment of the product safety standard under paragraph (2). Judicial review of any amendment of the standard under paragraph (2) shall be in accordance with chapter 7 of title 5, United States Code.

''(c) REQUIREMENTS FOR 3-WHEELED ALL-TERRAIN VEHICLES.—Until a mandatory consumer product safety standard applicable to 3-wheeled all-terrain vehicles promulgated pursuant to this Act is in effect, new 3-wheeled all-terrain vehicles may not be imported into or distributed in commerce in the United States. Any violation of this subsection shall be considered to be a violation

of section 19(a)(1) of this Act and may also be enforced under section 17 of this Act.

''(d) FURTHER PROCEEDINGS.—

''(1) DEADLINE.—The Commission shall issue a final rule in its proceeding entitled 'Standards for All Terrain Vehicles and Ban of Three-wheeled All Terrain Vehicles'.

''(2) CATEGORIES OF YOUTH ATVS.—In the final rule, the Commission, in consultation with the National Highway Traffic Safety Administration, may provide for a multiple factor method of categorization that, at a minimum, takes into account—

''(A) the weight of the ATV;

''(B) the maximum speed of the ATV;

''(C) the velocity at which an ATV of a given weight is traveling at the maximum speed of the ATV;

''(D) the age of children for whose operation the ATV is designed or who may reasonably be expected to operate the ATV; and

''(E) the average weight of children for whose operation the ATV is designed or who may reasonably be expected to operate the ATV.

''(3) ADDITIONAL SAFETY STANDARDS.—In the final rule, the Commission, in consultation with the National Highway Traffic Safety Administration, shall review the standard published under subsection (a)(1) and establish additional safety standards for all-terrain vehicles to the extent necessary to protect the public health and safety. As part of its review, the Commission shall consider, at a minimum, establishing or strengthening standards on—

''(A) suspension;

''(B) brake performance;

''(C) speed governors;

''(D) warning labels;

''(E) marketing; and

''(F) dynamic stability.

''(e) DEFINITIONS.—In this section:

''(1) ALL-TERRAIN VEHICLE OR ATV.—The term 'all-terrain vehicle' or 'ATV' means—

''(A) any motorized, off-highway vehicle designed to travel on 3 or 4 wheels, having a seat designed to be straddled by the operator and handlebars for steering control; but

''(B) does not include a prototype of a motorized, off-highway, all-terrain vehicle or other motorized, off-highway, all-terrain vehicle that is intended exclusively for research and development purposes unless the vehicle is offered for sale.

''(2) ATV ACTION PLAN.—The term 'ATV action plan' means a written plan or letter of undertaking that describes actions the manufacturer or distributor agrees to take to promote ATV safety, including rider training, dissemination of safety information, age recommendations, other policies governing marketing and sale of the ATVs, the monitoring of such sales, and other safety related measures, and that is substantially similar to the plans described under the heading 'The Undertakings of the Companies in the Commission Notice' published in the Federal Register on September 9, 1998 (63 FR 48199–48204).''.

(b) GAO STUDY.—The Comptroller General shall conduct a study of the utility, recreational, and other benefits of all-terrain vehicles to which section 42 of the Consumer Product Safety Act (15 U.S.C. 2085) applies, and the costs associated with all-terrain vehicle-related accidents and injuries.

(c) CONFORMING AMENDMENT.—The table of contents of this Act is further amended by inserting after the item relating to section 42 the following:

''Sec. 42. All-terrain vehicles.''.

SEC. 233. COST-BENEFIT ANALYSIS UNDER THE POISON PREVENTION PACKAGING ACT OF 1970.

Section 3 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1472) is amended by adding at the end thereof the following:

''(e) Nothing in this Act shall be construed to require the Consumer Product Safety Commission, in establishing a standard under this section, to prepare a comparison of the costs that would be incurred in complying with such standard with the benefits of such standard.''.

SEC. 234. STUDY ON USE OF FORMALDEHYDE IN MANUFACTURING OF TEXTILE AND APPAREL ARTICLES.

Not later than 2 years after the date of enactment of this Act, the Comptroller General, in consultation with the Commission, shall conduct a study on the use of formaldehyde in the manufacture of textile and apparel articles, or in any component of such articles, to identify any risks to consumers caused by the use of formaldehyde in the manufacturing of such articles, or components of such articles.

SEC. 235. TECHNICAL AND CONFORMING CHANGES.

(a) DEFINITIONS.—Section 3(a) (15 U.S.C. 2052) is amended by adding at the end the following:

''(15) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate Congressional committees' means the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

''(16) CHILDREN'S PRODUCT.—The term 'children's product' means a consumer product designed or intended primarily for children 12 years of age or younger. In determining whether a consumer product is primarily intended for a child 12 years of age or younger, the following factors shall be considered:

''(A) A statement by a manufacturer about the intended use of such product, including a label on such product if such statement is reasonable.

''(B) Whether the product is represented in its packaging, display, promotion, or advertising as appropriate for use by children 12 years of age or younger.

''(C) Whether the product is commonly recognized by consumers as being intended for use by a child 12 years of age or younger.

''(D) The Age Determination Guidelines issued by the Commission staff in September 2002, and any successor to such guidelines.

''(17) THIRD-PARTY LOGISTICS PROVIDER.—The term 'third-party logistics provider' means a person who solely receives, holds, or otherwise transports a consumer product in the ordinary course of business but who does not take title to the product.''.

(b) MISCELLANEOUS.—Section 3 (15 U.S.C. 2052) is amended—

(1) by striking ''(a) for purposes of this Act:'' and inserting ''(a) IN GENERAL.—In this Act:'';

(2) by indenting each paragraph and subparagraph of subsection (a) 2 em spaces;

(3) by inserting a heading, in a form consistent with the form of the heading of this subsection consisting of the term defined by such paragraph, after the designation of each paragraph of subsection (a);

(4) by reordering such paragraphs and the additional paragraphs added by paragraph (1) of this subsection in alphabetical order based on the headings of such paragraphs and renumbering such paragraphs as so reordered; and

(5) by inserting ''common carriers, contract carriers, and freight forwarders'' after ''(b)'' in subsection (b).

(c) CONFORMING AMENDMENTS.—

(1) Section 3(b) (15 U.S.C. 2052(b) is amended by inserting ''third-party logistics provider,'' after ''contract carrier,''.

(2) Section 6(e)(4) (15 U.S.C. 2055(e)(4)) is amended by striking ''the Committee on Commerce, Science, and Transportation of the Senate or the Committee on Energy and Commerce of the House of Representatives or any subcommittee of such committee,'' and insert ''either of the appropriate Congressional committees or any subcommittee thereof,''.

(3) Sections 9(a), 9(c), and 35(c)(2)(D)(iii) (15 U.S.C. 2058(a), (c), and 2082(c)(2)(D)(iii), and 2082(e)(1), respectively) are each amended by striking ''the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives'' each place it appears and inserting ''the appropriate Congressional committees''.

(4) Section 32(b)(1) (15 U.S.C. 2050(b)(1)) is amended by striking ''the Committee on Energy and Commerce of the House of Representatives, and by the Committee on Commerce, Science, and Transportation of the Senate.'' and inserting ''the appropriate Congressional committees.''.

(5) Section 35(e)(1) (15 U.S.C. 2082(e)(1)) is amended by striking ''the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives'' and insert ''the appropriate Congressional committees''.

(6) Sections 17(h)(3), 28(j)(10)(F), and 28(k)(1) and (2) (15 U.S.C. 2066(h)(3), 2077(j)(10)(F), and 2077(k)(1) and (2), respectively) are each amended by striking ''the Congress'' and inserting ''the appropriate Congressional committees''.

(7) Section 29(e) (15 U.S.C. 2078(e)) is amended by striking ''The Commission'' and inserting ''Notwithstanding section 6(a)(3), the Commission''.

SEC. 236. EXPEDITED JUDICIAL REVIEW.

(a) IN GENERAL.—Section 11 (15 U.S.C. 2060) is amended by adding at the end thereof the following:

''(g) EXPEDITED JUDICIAL REVIEW.—

''(1) APPLICATION.—This subsection applies, in lieu of the preceding subsections of this section, to judicial review of—

''(A) any consumer product safety rule promulgated by the Commission pursuant to section 15(j) (relating to identification of substantial hazards);

''(B) any consumer product safety standard promulgated by the Commission pursuant to section 42 (relating to all-terrain vehicles);

''(C) any standard promulgated by the Commission under section 104 of the Consumer Product Safety Improvement Act of 2008 (relating to durable infant and toddler products); and

''(D) any consumer product safety standard promulgated by the Commission under section 106 of the Consumer Product Safety Improvement Act of 2008 (relating to mandatory toy safety standards).

''(2) IN GENERAL.—Not later than 60 days after the promulgation, by the Commission, of a rule or standard to which this subsection applies, any person adversely affected by such rule or standard may file a petition with the United States Court of Appeals for the District of Columbia Circuit for judicial review of such rule. Copies of the petition shall be forthwith transmitted by the clerk of the court to the Commission or other officer designated by it for that purpose and to the Attorney General. The record of the proceedings on which the Commission based its rule shall be filed in the court as provided for in section 2112 of title 28, United States Code.

''(3) REVIEW.—Upon the filing of the petition under paragraph (2) of this subsection, the court shall have jurisdiction to review the rule in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief, including interim relief, as provided in such chapter.

''(4) CONCLUSIVENESS OF JUDGMENT.—The judgment of the court affirming or setting

aside, in whole or in part, any final rule under this section shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

''(5) FURTHER REVIEW.—A rule or standard with respect to which this subsection applies shall not be subject to judicial review in proceedings under section 17 (relating to imported products) or in civil or criminal proceedings for enforcement.''.

(b) PENDING ACTIONS UNAFFECTED.—The amendment made by subsection (a) shall not apply to any petition filed before the date of enactment of this Act for judicial review of any action by the Consumer Product Safety Commission.

SEC. 237. REPEAL.

Section 30 (15 U.S.C. 2079) is amended by striking subsection (d).

SEC. 238. POOL AND SPA SAFETY ACT TECHNICAL AMENDMENTS.

Title XIV of the Energy Independence and Security Act of 2007 (Public Law 110–140) is amended—

(1) in section 1403 by adding at the end the following:

''(8) STATE.—The term 'State' has the meaning given such term in section 3(10) of the Consumer Product Safety Act (15 U.S.C. 2052(10)), and includes the Northern Mariana Islands.''.

(2) in section 1404 by adding at the end of subsection (b) the following: ''If a successor standard is proposed, the American Society of Mechanical Engineers shall notify the Commission of the proposed revision. If the Commission determines that the proposed revision is in the public interest, it shall incorporate the revision into the standard after providing 30 days notice to the public.''; and

(3) by adding at the end the following:

''SEC. 1409. APPLICABILITY.

''This Act is applicable to the United States and its territories, including American Samoa, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, and the United States Virgin Islands.''.

SEC. 239. EFFECTIVE DATES AND SEVERABILITY.

(a) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise specifically provided in this Act, this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

(2) CERTAIN DELAYED EFFECTIVE DATES.—The amendments made by sections 103(c) and 214(a)(2) shall take effect on the date that is 60 days after the date of enactment of this Act. Subsection (c) of section 42 of the Consumer Product Safety Act, as added by section 232 of this Act, and the amendments made by sections 216 and 223(b) shall take effect on the date that is 30 days after the date of enactment of this Act.

(b) SEVERABILITY.—If any provision of this Act or the amendments made by this Act, or the application of such provision to any person or circumstance, is held invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision to other persons not similarly situated or to other circumstances, shall not be affected by such invalidation.

And the Senate agree to the same.

JOHN D. DINGELL,
HENRY A. WAXMAN,
BOBBY L. RUSH,
DIANA DEGETTE,
JAN SCHAKOWSKY,
JOE BARTON,
ED WHITFIELD,
CLIFF STEARNS,
Managers on the Part of the House.

DANIEL K. INOUYE,
BARBARA BOXER,
MARK PRYOR,
AMY KLOBUCHAR,
TED STEVENS,
KAY BAILEY HUTCHISON,
JOHN E. SUNUNU,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill H.R. 4040, to establish consumer product safety standards and other safety requirements for children's products and to reauthorize and modernize the Consumer Product Safety Commission, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

1. SHORT TITLE

House bill

Section 1: ''Consumer Product Safety Modernization Act''.

Senate amendment

Section 1: ''CPSC Reform Act''.

Conference substitute

Section 1: ''Consumer Product Safety Improvement Act of 2008''.

2. REFERENCES

House bill

Section 2: Defines ''Commission'' as meaning the Consumer Product Safety Commission (Commission), provides that amendments in the Act are to the Consumer Product Safety Act (CPSA) except as otherwise provided, and defines ''rule'' as meaning a rule, standard, ban, or order under any Act enforced by the Commission.

Senate amendment

Section 2: Provides that amendments in the Act are to the CPSA except as otherwise provided.

Conference substitute

Section 2: Adds definition of ''appropriate Congressional committees'' as meaning the House of Representatives Committee on Energy and Commerce and the Senate Committee on Commerce, Science, and Transportation. Deletes definition of ''rule''.

3. AUTHORITY TO USE IMPLEMENTING REGULATIONS

House bill

Section 3: Authorizes Commission to issue implementing regulations for the Act and amendments made by the Act.

Senate amendment

No provision.

Conference substitute

Section 3: House provision.

4. PRODUCT SAFETY IMPROVEMENTS AND COMMISSION REFORM

TITLE I—CHILDREN'S PRODUCT SAFETY

Section 101. Children's Products Containing Lead; Lead Paint Rule.

The Conferees agreed to modified language that is similar to the provisions in the House bill and the Senate amendment. The Conference Report ultimately requires that the Commission lower the permissible lead level in children's products to the lowest amount that is technologically feasible. This section provides a definition of technologically feasible, and includes a provision identifying alternative practices, best practices, or other operational changes that would allow a manufacturer to comply with the lead limit. The intent of this alternative and best practices provision is to require manufacturers to use better methods of producing a product that can be achieved without the need for major technological advances, such as taking steps to better clean equipment or the factory, or to make changes in operation, maintenance, or other practices that can reduce or eliminate lead in the product. The Conference Report also establishes a more stringent lead paint limit.

The Conferees acknowledge that several Federal agencies are charged with protecting children from lead. Historically, lead in public water systems has been governed by the Environmental Protection Agency under the Safe Drinking Water Act and its Lead and Copper Rule. The Conferees do not wish to alter that authority. A child may be exposed to lead through drinking fountains and faucets designed or intended primarily for use by children, such as for use in schools and daycare facilities. In any action under this Conference Report and the CPSA to address the specific issue of lead in drinking fountains and faucets that are designed or intended primarily for use by children, such as in schools and daycare facilities, the Conferees wish that both agencies work collaboratively to protect the health of our children from the dangers posed by lead exposure.

Section 102. Mandatory Third Party Testing for Certain Children's Products.

The Conferees agreed to modified language that is similar to the provisions in the House bill and the Senate amendment, requiring third party testing of certain children's products. The Conferees intend that the accreditation structure for governmental participation will apply equally to all entities, be they domestic, non-domestic, joint ventures, or entities controlled in whole by a government. It is not the intention of the Conferees that the subsection restrict equal participation of entities which are not controlled in whole by a government.

Section 103. Tracking Labels for Children's Products.

The Conferees agreed to modified language that is similar to the provisions in the House bill and the Senate amendment. The Conference Report would require manufacturers of children's products to place distinguishing marks on a product and its packaging, to the extent practicable, that would enable the purchaser to ascertain the source, date, and cohort (including the batch, run number, or other identifying characteristic) of production of the product by reference to those marks. To the extent that small toys and other small products are manufactured and shipped without individual packaging, the Conferees recognize that it may not be practical for a label to be printed on each item. The packaging of the bulk shipment of those items, however, would be required to be labeled so that retailers and vendors would be able to easily identify products that are recalled.

Section 104. Standards and Consumer Registration of Durable Nursery Products.

The Conferees agreed to modified language that is similar to the provisions in the House bill and the Senate amendment. The Conference Report requires the Commission to promulgate rules to ensure the highest level of safety for durable infant and toddler products. The Conference Report also establishes

new requirements for registration forms for these products and requires the Commission to review and assess the effectiveness of alternative recall notification technologies.

Section 105. Labeling Requirement for Advertising Toys and Games.

The Conferees agreed to modified language that is similar to language in the House bill and the Senate amendment, requiring a cautionary statement to be displayed with certain advertisements.

Section 106. Mandatory Toy Safety Standards.

The Conferees agreed to modified language that would make the American Society for Testing and Materials (ASTM) International standard F963-07, as it exists on the date of enactment of this Conference Report (except for section 4.2 and Annex 4 or any provision that restates or incorporates an existing mandatory standard or ban promulgated by the Commission or by statute), an interim consumer product safety standard pending evaluation by the Commission. The Commission shall establish the mandatory standards by rule after the relevant components of the rule are evaluated.

In conducting the evaluation required under this section, the Conferees direct the Commission to conduct a study of injuries and deaths related to toy guns and current safety standards applicable to toy guns, and consider the adoption of a consumer product safety rule providing for more distinctive marking of toy guns to distinguish them from actual firearms.

The Conference Report requires the Commission to promulgate rules to ensure the highest level of safety for toys. The Conferees direct the Commission to designate as quickly as possible the form and manner for States to notify the Commission of any existing State laws or regulations relating to safety requirements for toys.

Section 107. Study of Preventable Injuries and Deaths in Minority Children Related to Consumer Products.

The Conferees agreed to modified language that is similar to provisions in the House bill and the Senate amendment. The Conference Report requires the Government Accountability Office (GAO) to assess and report on the racial disparities of the rates of preventable injuries and deaths related to suffocation, poisonings, and drowning among children.

Section 108. Prohibition on Sale of Certain Products Containing Specified Phthalates.

The Conferees agreed to a modified version of the Senate amendment's prohibition on specific phthalates in certain children's products.

TITLE II—CONSUMER PRODUCT SAFETY COMMISSION REFORM

SUBTITLE A—ADMINISTRATIVE IMPROVEMENTS

Section 201. Reauthorization of the Commission.

The Conferees agreed to modified language that would reauthorize the Commission for five years beginning in fiscal year 2010 and provided a specific travel allowance for the Commission.

The Conferees recognize nanotechnology as a new technology utilized in the manufacture of consumer products and its nature as an emerging technology. The Conferees expect the Commission to review such utilization and the safety of its application in consumer products consistent with the Commission's mission.

As part of the general authorizations for fiscal years 2010 through 2014, the Conferees authorized $25,000,000 to establish and maintain the database required by section 212 of the Conference Report and to upgrade and integrate the Commission's information technology systems.

Section 202. Full Commission Requirement; Interim Quorum; Personnel.

The Conferees agreed to modified language that is similar to provisions in the House bill and the Senate amendment. The Conference Report reinstates a five-member Commission after one year, and establishes a two-member quorum for one year after the date of enactment.

Section 203. Submission of Copy of Certain Documents to Congress.

The Conferees agreed to the identical provisions in the House bill and the Senate amendment.

Section 204. Expedited Rulemaking.

The Conferees agreed to modified language that is similar to provisions in the House bill and the Senate amendment. The Conference Report provides the Commission the authority to forgo an Advanced Notice of Proposed Rulemaking.

Section 205. Inspector General Audits and Reports.

The Conferees agreed to modified language that is similar to provisions in the House bill and the Senate amendment. The Conference Report instructs the Inspector General of the Commission to conduct reviews and audits to assess the Commission's capital improvement efforts and the adequacy of procedures for accrediting conformity assessment bodies as required by this Conference Report. The Conference Report also requires that the Commission establish and maintain on the homepage of its Internet website a direct link to the Internet webpage of the Commission's Office of Inspector General.

The Conferees direct the Commission to take steps to inform all employees that they are free to make anonymous complaints through the Inspector General's webpage about waste, fraud and mismanagement within the Commission. The Inspector General should investigate any complaints about the failure of Commission employees to enforce in good faith the rules and regulations of the CPSA or any other Act enforced by the Commission or otherwise carry out their responsibilities under such Acts, including efforts to alter or suppress relevant data, subvert enforcement measures, and succumb to undue influence.

Section 206. Industry-Sponsored Travel Ban.

The House bill and the Senate amendment contained similar provisions. The Senate receded to the House bill with minor modifications.

Section 207. Sharing of Information with Federal, State, Local and Foreign Government Agencies.

The Conferees agreed to modified language that is nearly identical to the provisions in the House bill and the Senate amendment.

Section 208. Employee Training Exchanges.

The Conferees agreed to language that provides the Commission the authority to retain or employ officers or employees of foreign government agencies on a temporary basis or to detail employees of the Commission to work on a temporary basis for appropriate foreign government agencies.

Section 209. Annual Reporting Requirement.

The Conferees agreed to modified language that is nearly identical to the provisions in the House bill and the Senate amendment.

SUBTITLE B—ENHANCED ENFORCEMENT AUTHORITY

Section 211. Public Disclosure of Information.

The House receded to the Senate amendment, which included language that would modify sections 6(a) and 6(b) of the CPSA. The Conference Report includes amendments to the CPSA allowing the Commission, when a manufacturer goes to court under section 6(b)(3) attempting to stop the release of information, to file a request with the Federal District Court for expedited consideration of the matter. While the Conferees expect quick action on these matters to protect public health and safety, they recognize that the prosecution of other matters before the court, such as Class A and Class B felonies, is also extremely important to the public welfare. It is the Conferees' view that the expedited consideration of section 6(b)(3) cases should not delay action on these other important issues.

Section 212. Establishment of a Public Consumer Product Safety Database.

The Conferees agreed to modified language that requires the Commission to establish a publicly available searchable database on the safety of consumer products and other products or substances regulated by the Commission within two years of the date of enactment. The Conferees intend that the Commission prevent duplicative reports from being added to the publicly available database. If multiple reports that describe the same incident are submitted to the database, the Commission should, to the extent practicable, remove unnecessary reports and preserve the most relevant report in the database. However, the Conferees recognize that it is possible that multiple reports regarding the same incident could provide different relevant details and that information from those reports could be helpful to the public and should, therefore, remain in the database. The Conferees also direct the GAO to study the general utility of the database and provide recommendations for measures to increase use of the database.

Section 213. Prohibition on Stockpiling Under Other Commission-Enforced Statutes.

The Conferees agreed to the identical provisions in the House bill and the Senate amendment.

Section 214. Enhanced Recall Authority and Corrective Action Plans.

The Conference Report amends the notification requirements under section 15(b) of the CPSA to promote the timely, accurate, and complete disclosure to the Commission of information that is necessary to protect public health and safety. The Conferees recognize that innovation in the design of consumer products has led to the development of products that can be used in both motor vehicles and the home. For example, some children's car safety seats can be used in a car but also in a frame so that they can be used as strollers or in the home. The Conferees do not intend in the parenthetical language used in section 15(b) to exempt those products from the reporting requirements to the extent that they have defects arising from uses outside a motor vehicle.

To the list of reports required from manufacturers, retailers, and distributors, this section adds the broad requirement to report information that a product fails to comply with any other rule, standard, ban, or order under this Act, or any other Act enforced by the Commission. It also adds a sentence indicating that a report under this new paragraph may not be used as the basis for criminal prosecution of the reporting person under section 5 of the Federal Hazardous Substances Act (FHSA), except for offenses which require a showing of intent to defraud or mislead. With consideration of the increased criminal penalties in the Conference Report, the Conferees took this narrow, limited action in order to avoid an unjust result under a possible construction of section 5 that provides for strict liability for criminal enforcement without regard to any applicable requirement of knowledge, intent, or

willfulness in such situations. The Conferees do not intend for the limited use immunity provided by this section to be used to shelter bad actors from the consequences of their acts but rather to ensure that there are no unintended impediments to the flow of information to the Commission.

The Conferees also agreed to modified language that is similar to provisions in the House bill and the Senate amendment. The Conference Report provides the Commission greater recall authority and creates requirements for recall notices in order to better inform the public of potential product harms.

Section 215. Inspection of Firewalled Conformity Assessment Bodies; Identification of Supply Chain.

The Senate receded to the House bill on language that provides authority to the Commission to inspect firewalled conformity assessment bodies certified as third party conformity assessment bodies. The Conferees also agreed to modified language that is similar to the House bill and the Senate amendment.

Section 216. Prohibited Acts.

The Conferees agreed to modified language that is similar to the provisions in the House bill and the Senate amendment, incorporating into the Prohibited Acts section of the CPSA violations created by this Conference Report. In amending section 19(a) of the CPSA, the restriction on exporting a consumer product subject to a voluntary corrective action is not meant to include products that have been reconditioned or repaired in accordance with the Commission-approved corrective action for such products that are compliant.

Section 217. Penalties.

The Conferees agreed to modified language that increases the civil penalty cap for each violation of a prohibited act under the CPSA, the FHSA, or the Flammable Fabrics Act (FFA) from $8,000 to $100,000, and the maximum civil penalty cap for a related series of violations under each Act from $1,825,000 to $15,000,000. Within one year of the date of enactment of this Conference Report, the Commission is required to issue a final regulation providing its interpretation of factors to be taken into account by the Commission when determining the amount of any civil penalty.

The Conferees agreed to language that is similar to provisions in the House bill and the Senate amendment, which would authorize the Commission to seek asset forfeiture as a penalty for a criminal violation of this Conference Report. The House receded to Senate language that would increase maximum criminal penalties and remove the knowledge of notice of noncompliance requirements for directors, officers, and agents under section 21(b) of the CPSA.

Section 218. Enforcement by State Attorneys General.

The Conferees agreed to modified language that is similar to the provisions in the House bill and the Senate amendment. The Conferees agreed to include amendments to the CPSA and the Poison Prevention Packaging Act (PPPA) to enhance the ability of the attorney general of a State, or other authorized State officer, alleging specified violations under those Acts that affect or may affect the State or its residents, to obtain appropriate injunctive relief. To ensure the efficient operation of enforcement efforts along with the consistent interpretation and application of Commission regulations, the Conferees expect cooperation and consultation to occur between the attorneys general and the Commission in the normal course of business in implementing and carrying out this authority.

This section requires a State attorney general to notify the Commission prior to filing any action and provide the Commission a maximum of 30 days to respond to or assist with an action. The Conferees recognize that certain circumstances require immediate action to protect the public from a substantial product hazard. The Conferees have provided a limited exception that would allow the States to proceed upon notification to the Commission when a substantial product hazard may result from the use of a product. The Conferees believe current and future technologies, such as electronic mail and facsimile, should provide a State attorney general the ability to notify the Commission immediately prior to initiating such enforcement actions.

With regard to the limitation in section 218(b)(5), the Conferees intend to preserve the injunctive authority of State attorneys general to remove dangerous products from the stream of commerce when the Commission is engaged in protracted litigation with defendants. The purpose of this limited exception is to facilitate efficient enforcement of section 19, not impede it. As such, the Conferees do not intend by the parenthetical language to allow unlimited lawsuits against the same defendant in various jurisdictions across the country. Multiple lawsuits involving the same facts and same defendants could delay the prosecution of injunction suits filed by the Commission adding pretrial procedural issues, such as consolidation or transfer. Moreover, the Conferees do not intend for such suits to interfere with the Commission's choice of venue.

Section 219. Whistleblower Protections.

The House receded to the Senate amendment with modifications. The Conference Report includes whistleblower protections for employees of manufacturers, private labelers, retailers, and distributors with respect ot alleged violations of any CPSC-enforced product safety requirements.

SUBTITLE C—SPECIFIC IMPORT-EXPORT PROVISIONS

Section 221. Export of Recalled and Non-conforming Products.

The Conferees agreed to modified language that is similar to provisions in the House bill and the Senate amendment.

Section 222. Import Safety Management and Interagency Cooperation.

The House receded to the Senate amendment with modifications. The Conferees agreed to language that would require the Commission, in consultation with the United States Customs and Border Protections (CBP), to develop a risk assessment methodology for the identification of shipments that are likely to include consumer products that violate section 17(a) of the CPSA. The Conferees also agreed to require the Commission to utilize the International Trade Data System (ITDS) insofar as practicable (i.e., as soon as ITDS is operational) to evaluate and assess information about shipments of consumer products intended for import into the customs territory of the United States when developing the risk assessment methodology pursuant to this section. The Conference Report also requires the Commission to develop a plan for sharing information and enhancing coordination with CBP.

Section 223. Substantial Product Hazard List and Destruction of Noncompliant Imported Products.

The House receded to the Senate amendment with modifications. The Conferees agreed to modified language that would authorize the Commission, by rule, to specify characteristics of a consumer product or class of consumer products whose existence or absence would be deemed to constitute a substantial product hazard. The Conferees also agreed that products refused admission into the customs territory of the United States would be required to be destroyed, unless the Secretary of the Treasury permits the export of the product in lieu of destruction. The Conferees agreed to amend the CPSA to condition the distribution of consumer goods in commerce upon manufacturers' compliance with Commission record-keeping and inspection requirements.

Section 224. Financial Responsibility.

The House receded to the Senate amendment with modifications. The Conferees agreed to modified language regarding identification and determination of a bond amount sufficient to cover the cost of destruction of any consumer product or substance regulated under the CPSA or any other Act enforced by the Commission. The Conferees direct the GAO to conduct a study to determine the feasibility of requiring the posting of an escrow, proof of insurance, or security sufficient in amount to cover the cost of destruction of a domestically-produced product or substance regulated by any Act enforced by the Commission. The GAO is also directed to study the feasibility of posting an escrow, proof of insurance, or security sufficient in amount to cover the effective recall of a domestically-produced or imported product or substance regulated by any Act enforced by the Commission.

Section 225. Study and Report on Effectiveness of Authorities Relating to Safety of Imported Consumer Products.

The House bill and the Senate amendment included language to assess the effectiveness of the Commission's authority in preventing unsafe products from entering the United States. The House receded to the Senate amendment with minor modifications.

SUBTITLE D—MISCELLANEOUS PROVISIONS AND CONFORMING AMENDMENTS

Section 231. Preemption.

The Conferees agreed to language that combines provisions from the House bill and the Senate amendment with modifications. The Conference Report contains a provision reiterating the intentions of sections 25 and 26 of the CPSA, section 18 of the FHSA, section 16 of the FFA, and section 7 of the PPPA. The Conferees recognized that the Commission frequently explains the scope of Commission rules and standards and that this is appropriate in order to give guidance to the States and the State attorneys general. Furthermore, it is not the intention of the Conferees to supersede the otherwise lawful and appropriate preemption of State laws and regulations. As section 26(a) of the CPSA makes clear, ''whenever a consumer product safety standard under this Act is in effect and applies to a risk of injury associated with a consumer product, no State or political subdivision of a State shall have any authority either to establish or to continue in effect any provision of a safety standard or regulation which prescribes any requirements as to the performance, composition, contents, design, finish, construction, packaging, or labeling of such product which are designed to deal with the same risk of injury associated with such consumer product, unless such requirements are identical to the requirements of the Federal standard.'' Given this language, States may not prescribe additional safety standards that go further than Commission regulations when it has been determined that State regulations are preempted, except as provided in sections 18(b)(2)-(4) of the FHSA, sections 26(b) and (c) of the CPSA, sections 16(b) and (c) of the FFA, and sections 7(b) and (c) of the PPPA of 1970. The Conferees also agreed to the preservation of certain State laws.

The Conferees included language intended to clarify that the requirements under the Conference Report and the FHSA shall not be construed to preempt or affect State warning requirements under State laws, such as California's Proposition 65, that were enacted prior to August 31, 2003.

Section 232. All-Terrain Vehicles.

The House receded to the Senate amendment with modifications.

Section 233. Cost-Benefit Analysis Under the Poison Packaging Prevention Act of 1970.

The House receded to the Senate amendment with a technical modification.

Section 234. Study on Use of Formaldehyde in Manufacturing of Textile and Apparel Articles.

The House receded to the Senate amendment with a modification that the GAO shall conduct the study instead of the Commission.

Section 235. Technical and Conforming Changes.

The Conferees agreed to conforming changes throughout the CPSA.

The Senate receded to the House bill and agreed to include the House position that a children's product means a consumer product designed or intended primarily for children 12 years of age or younger.

Section 236. Expedited Judicial Review.

The Conferees agreed to language that would streamline the judicial review of rules promulgated under certain Acts enforced by the Commission.

Section 237. Repeal.

The Conferees agreed to the identical provisions in the House bill and the Senate amendment to repeal section 30(d) of the CPSA.

Section 238. Pool and Spa Safety Act Technical Amendments.

The Conferees agreed to technical amendments to the Virginia Graeme Baker Pool and Spa Safety Act (15 U.S.C. 8001 et seq.).

Section 239. Effective Dates and Severability.

The Conferees agreed to language regarding the effective date of the Conference Report and the effective dates of the amendments to all the Acts under the Commission's jurisdiction as established by the Conference Report. The Conferees also agreed to language with regard to the severability of the Conference Report.

5. SPECIAL ISSUES

The Senate amendment contained several single-product issues that Senate Members believed important for the Commission to address. The House bill contained no title relating to single-product issues because the House Members believed consumers were better served by keeping the House bill focused on the task of reforming the Commission. Many of these issues were raised by Members of the House Committee on Energy and Commerce in colloquies or discussions of amendments that were offered and withdrawn.

While the Conference Report addresses certain single-product issues, other single-product issues from the Senate amendment were not included. Nevertheless, the Conferees believe certain single-product issues require heightened regulatory scrutiny and greater attention.

The Conferees believe the Commission must take additional action to reduce the number of preventable deaths and serious injuries resulting from accidental carbon monoxide poisoning. To that end, the Conferees direct the Commission to expeditiously issue a final rule in its proceeding entitled ''Portable Generators'' for which the Commission issued an Advance Notice of Proposed Rulemaking on December 12, 2006 (71 Fed. Reg. 74472). The Conferees also direct the Commission to review the effectiveness of its labeling requirements for charcoal briquettes (16 CFR 150014(b)(6)) given the events that occurred during the windstorm that struck the Pacific Northwest beginning on December 14, 2006; identify any specific challenges faced by non-English speaking populations with use of the current standards; and make recommendations, if warranted, for improving the labels on bags of charcoal briquettes.

The Conferees support carbon monoxide devices being installed in all residential dwelling units and support the efforts of individual States that have enacted legislation requiring the installation of carbon monoxide devices in homes and other dwelling places. The Conferees believe the Commission should consider the adoption of the American National Standards Institute/Underwriters Laboratories standards ANSI/UL 2034 and ANSI/US 2075 for carbon monoxide devices sold in the United States. The Conferees also direct the Commission to conduct a public awareness campaign to educate consumers about carbon monoxide poisoning and the importance of residential carbon monoxide alarms including recommendations for the effective use and maintenance of carbon monoxide alarms.

The Conferees direct the Commission to conduct a public awareness campaign to educate consumers about the importance of residential smoke alarms and improved smoke detector technology, including the difference between ionization type and photoelectric type alarms. The campaign should include recommendations for effective use and maintenance of smoke alarms.

The Conferees direct the Commission to issue a final rule in its proceeding entitled, ''Safety Standard for Cigarette Lighters'' for which the Commission issued an Advance Notice of Proposed Rulemaking on April 11, 2005 (70 Fed Reg 18339).

The Conferees believe that the Commission must take strong action to reduce the number of preventable fatal traumatic brain injuries resulting from inadequate equestrian helmets. The Conferees direct the Commission to consider establishing a mandatory consumer product safety rule for equestrian helmets that is consistent with current voluntary standards, such as the ASTM standard designated as F 1163 and the Snell Memorial Foundation standard designated as E2001, to the extent such standards would increase safety.

The Conferees believe that the Commission must take action to prevent deaths and serious injuries resulting from garage door entrapment. To that end, the Conferees direct the Commission, in consultation with interested parties consistent with Commission practices, to expeditiously review, revise, and consider the adoption of standards as necessary to ensure the safety and effectiveness of both inherent and external secondary entrapment protection devices that cause the garage door to reverse, including contact and non-contact sensors.

The Conferees believe the Commission should take appropriate action with respect to lead included in any ceramic product within its jurisdiction.

The Conferees direct the Commission to examine its current authority with respect to toys intended for use by household pets, especially those that could become children's play things. If the Commission determines that it has the appropriate authority to regulate such products, the Conferees direct the Commission to consider the adoption of limits regarding the use of lead and lead paint in household pet toys.

The Conferees are aware of tipping dangers presented by furniture, ovens, other large appliances, and television sets that have resulted in serious injuries. In order to help stem preventable accidents and injuries, the Conferees direct the Commission to examine these matters, and, where appropriate, to require stabilizing mechanisms such as braces and clear and conspicuous warning labels, and to make available on its Internet website recommendations on tip-over prevention.

The Conferees intend for the Commission to give priority to the timely and effective implementation of this Conference Report. Nonetheless, the Conferees request that these special issues be given consideration. The Commission's House and Senate authorizing committees intend to review the status of these issues at appropriate intervals to make sure that they are addressed with reasonable diligence.

JOHN D. DINGELL,
HENRY A. WAXMAN,
BOBBY L. RUSH,
DIANA DEGETTE,
JAN SCHAKOWSKY,
JOE BARTON,
ED WHITFIELD,
CLIFF STEARNS,
Managers on the Part of the House.

DANIEL K. INOUYE,
BARBARA BOXER,
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AMY KLOBUCHAR,
TED STEVENS,
KAY BAILEY HUTCHISON,
JOHN E. SUNUNU,
Managers on the Part of the Senate.

REDUCING INFORMATION CONTROL DESIGNATIONS ACT

Mr. DAVIS of Illinois. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6576) to require the Archivist of the United States to promulgate regulations regarding the use of information control designations, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 6576

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Reducing Information Control Designations Act''.

SEC. 2. PURPOSE.

The purpose of this Act is to increase Governmentwide information sharing and the availability of information to the public by standardizing and limiting the use of information control designations.

SEC. 3. REGULATIONS RELATING TO INFORMATION CONTROL DESIGNATIONS WITHIN THE FEDERAL GOVERNMENT.

(a) REQUIREMENT TO REDUCE AND MINIMIZE INFORMATION CONTROL DESIGNATIONS.—Each Federal agency shall reduce and minimize its use of information control designations on information that is not classified.

(b) ARCHIVIST RESPONSIBILITIES.—

(1) REGULATIONS.—The Archivist of the United States shall promulgate regulations regarding the use of information control designations.

(2) REQUIREMENTS.—The regulations under this subsection shall address, at a minimum, the following:

(A) Standards for utilizing the information control designations in a manner that is narrowly tailored to maximize public access to information.