Statement of
Inez Tenenbaum
Chairman
U.S. Consumer Product Safety Commission

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"Crib Safety: Assessing the Need for Better Oversight"

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Good morning, Chairman Stupak, Ranking Member Walden, and Members of the Subcommittee on Oversight and Investigations. I am pleased to be here today to discuss the actions we are taking at the U.S. Consumer Product Safety Commission (CPSC) to ensure the safety of cribs and promote a safe sleep environment for all children in the United States.

Let me begin by saying the overall safety of cribs is a critical concern of the CPSC – and a personal priority of mine. Parents across this country expect cribs to be a sanctuary for their children, regardless of that crib's price or size. I share this belief, and have made crib safety a cornerstone of my work as Chairman of the CPSC.

Since 2007, the Commission has taken action to recall almost 7 million cribs for various defects. Getting unsafe cribs off the market and out of homes has always been a key part of the CPSC's mission. But I strongly believe that we must do more – and have strong federal safety standards that prevent cribs with design flaws or safety defects from ever making it into our stream of commerce or into nurseries.

In my testimony today, I will provide the Subcommittee with a brief overview of the Commission's past efforts with regard to crib safety and the recent Stork Craft recall. More importantly, however, I will also outline my overall Safe Sleep Initiative to prevent deaths and injuries from crib design flaws and defects, and promote a safe sleeping environment for all babies.

Overview of CPSC Efforts to Prevent Crib Defects and Injuries

Since the inception of the agency in 1973, the CPSC has been deeply involved in issues of crib and infant sleeping environment safety. In November 1973, the Commission promulgated the first mandatory safety standards governing full-sized cribs. These standards included regulations governing rail height, spacing of crib components (slats, crib rods and corner posts), and the hardware used in the construction of the crib. These standards were updated in 1982 to impose requirements regarding the crib "cut-outs," or the parts of cribs where the various component parts fit together.

The CPSC has also worked diligently with other standards developing organizations, such as ASTM International, on voluntary crib standards. In 1988, CPSC participated in the ASTM subcommittee that adopted the F1169 standard for full-size cribs. CPSC staff was also actively involved with this subcommittee when it revised the F1169 standard to:

- Include a performance requirement addressing slat detachments in 1999;
- Integrate a requirement governing the design of crib corner posts in 2003;
- Update crib warnings and labeling in 2007; and
- Adopt a restriction of drop-side cribs and new slat strength requirements in November 2009, which was published on December 10, 2009.

Furthermore, the CPSC has worked for decades on education and outreach initiatives. CPSC has partnered over the years with the American Academy of Pediatrics, the National Institute of Child Health and Development, Gerber, the Juvenile Products Manufacturers Association (JPMA), The Danny Foundation, and the Black Entertainment Network (BET) on:

- The landmark Back-to-Sleep campaign aimed at preventing Sudden Infant Death Syndrome (SIDS) related deaths;

- An initiative encouraging parents to create a sleeping environment free of pillows and other soft bedding that could pose a suffocation risk to babies; and

- A special campaign aimed at educating African-American parents about how to keep babies safe in the crib.

These mandatory and voluntary standards, combined with substantial outreach efforts, have undoubtedly prevented numerous infant and child injuries.

However, one question that has arisen in some media reports is the issue of why the CPSC's mandatory crib standards have not been revised since 1982. The main answer is that the Commission had limited authority to do so under Section 9 of the Consumer Product Safety Act. Until that section was revised by the Consumer Product Safety Improvement Act of 2008 (CPSIA), the Commission was generally required to rely on any voluntary standard that was "likely to result in the elimination or adequate reduction of the risk or injury" and where it was "likely that there would be substantial compliance with that standard." This reliance on voluntary standards worked well in many areas, but also left some substantial gaps that voluntary standard developing organizations were either unwilling or unable to confront.

Due to the hard work of the full Committee and many other members in both Houses of Congress, this provision was modified in the CPSIA to give the Commission additional authority to promulgate rules, even when a standard is in existence. In addition, the CPSIA also included Section 104, the Danny Keysar Child Product Safety Notification Act, which directs the Commission to promulgate new standards for twelve groups of durable infant and toddler products – including full-size cribs and nonfull-size cribs. Section 104 gives the Commission regular rulemaking authority not just to adopt existing voluntary standards, but to adopt standards that are more stringent "if the Commission determines that more stringent standards would further reduce the risk of injury associated with such products."

As Chairman, I strongly support these additional authorities and have directed CPSC staff to make crib safety a key priority – starting with the immediate recall of cribs that have been shown to present a substantial risk of injury to children.

The Stork Craft Recall

One example of the Commission's efforts to remove potentially hazardous cribs from the marketplace is two recent recalls of Stork Craft drop-side cribs.

In early 2008, our Early Warning System (EWS) team brought concerns about Stork Craft cribs to the attention of our Office of Hazard Identification and Reduction and Office of Compliance and Field Operations. This led to a request to the company in August 2008 for information about potential problems with both the cribs' drop-sides and mattress support brackets. The investigation established a pattern of defect on the support brackets used on certain cribs. The metal brackets used were of insufficient strength, leading to cracking and posing a potential entrapment hazard. In January 2009, Stork Craft agreed to voluntarily recall over a half-million impacted cribs. CPSC was also investigating incidents regarding a potential drop-side issue with the cribs. These incidents, however, involved a large population of cribs, with different styles of drop-side hardware and different modes of drop-side failure.

After my arrival at the Commission, I requested weekly Commission briefings from the Office of Compliance on pending consumer product investigations. The subject of the September 24, 2009, briefing was nursery products, and included the Commission's investigation into drop-side cribs. During that briefing, I learned about the developing Compliance case regarding Stork Craft drop-side cribs, as well as the tragic June 2009 death in Louisiana that involved a Stork Craft drop-side crib. Following this briefing, I directed the staff to give immediate priority to the recall of Stork Craft cribs for this drop-side hazard. On November 23, 2009, the Commission and Stork Craft announced the largest crib action in CPSC history, involving the recall of approximately 2.1 million Stork Craft drop-side cribs.

Throughout this investigation, Stork Craft has maintained that there is no evidence of a pattern of defect and, in the end, voluntarily recalled the cribs without admitting that the cribs were defective.

My Safe Sleep Initiative

During my brief tenure as Chairman, I have reviewed past actions of the Commission in the crib safety area. The CPSC has a very talented staff that has worked diligently in this issue for many years, and their past efforts to ensure safe cribs and safe sleeping environments are to be commended.

At the same time, however, I also recognize that the Commission may not been as vigilant in this area as it could have been in recent years for a variety of reasons – including funding, inadequate statutory authorities, and competing priorities. I want to make it clear to the Subcommittee this morning that those days are over.

This morning, I am pleased to announce the Safe Sleep Initiative. This six-part action plan takes a holistic, multi-pronged approach to the issue of crib safety and focuses not

just on new crib safety rules, but also new methods of identifying existing hazards in the fastest way possible, increased monitoring of recall effectiveness, increased public outreach, and internal management reform.

1. Expedited Implementation of the Section 104 Crib Rulemaking

Section 104 of the CPSIA requires the Commission to promulgate product safety standards for two categories of infant and durable toddler products every six months "beginning with the product categories that the Commission determines to be of the highest priority." Among these twelve categories are full-size cribs and nonfull-size cribs.

All of the categories listed in Section 104 are important. In light of recent recalls, however, I believe crib regulations should take on a higher priority. Accordingly, I have directed CPSC staff to accelerate – to the maximum extent possible – the rulemaking for cribs under Section 104.

2. Expansion of the Early Warning System (EWS)

In November 2007, the CPSC implemented what was then a pilot program called the Early Warning System (EWS). This EWS is a multi-disciplinary team of CPSC staff consisting of compliance officers, attorneys and technical staff from CPSC's Engineering, Epidemiology, Human Factors and Health Sciences organizations that focuses solely on three product categories: cribs, bassinets and play yards.

This team was formed in an effort to catch serious risks of injury or death, patterns of defect, and regulatory violations as early as possible. The EWS team meets on a weekly basis and reviews all incoming bassinet, crib and play yard incidents reported to the agency. Incident reports specific to products evaluated by the EWS pilot team are drawn from the CPSC's epidemiological databases (EPIR) that reside on the CPSC network and are appended into the specific EWS database. As part of its review process, the EWS team electronically codes the failure mode of each product-related incident. By electronically capturing the technical coding for each incident, the EWS team is able to create a historic record that can support more expeditious identification of potential emerging hazards. During the weekly review, the EWS team also assigns in-depth investigations (IDIs) of incidents, reviews completed IDIs, evaluates collected product samples, and makes recommendations to the Office of Compliance on cases to open for possible recall.

Overall, the EWS team does an excellent job of quickly identifying emerging nursery product hazards. Nevertheless, under current CPSC database and Information Technology (IT) infrastructure, identifying emerging hazards and patterns of defect is labor intensive and requires significant staff involvement to manually go through much of the information that is received. In some cases, staff manually receive reports within 48 hours and are able to initiate an investigation. In other cases, however, there can be a significant lag between the time reports are received and when they are entered into the

database. For example, in the case of incidents reported to CPSC staff via manufacturer reports, Medical Examiners and Coroners Alert Project (MECAP) reports, and news reports, there can be a lag of up to a month or longer before incoming data reports are available in EPIR and extracted for entry into the EWS database. This "data utilization lag" is currently too long. To address this, the Commission is currently taking two steps to improve the data flow.

First, the Commission is engaged in a major upgrade of its IT systems as part of its mandate under Section 212 of the CPSIA to create a product incident database that is easily searchable by the public. In response to that mandate, the agency is developing a single, integrated web-based environment, the Risk Management System (RMS) that will support the database and other associated data collection activities. Specifically, RMS will capture CPSC subject matter experts' assessments of the failure mode and severity associated with product incidents – and share those coded historic incidents with all other CPSC staff. This feature does not currently exist outside of the EWS program, and will greatly improve our information sharing abilities. In addition, this feature will also support advanced data-mining capacities that will analyze various information flows – including public product incident reports, Injury or Potential Injury Incidents (IPII), and information from the National Electronic Injury Surveillance System (NEISS) – and issue "red flags" for products that may present evidence of a new or emerging hazard.

Second, the Commission is working to enhance staffing in our Office of Compliance to recognize and react to the "red flags" generated by these new sources of information. With the new funding available in the Fiscal Year 2010 CPSC budget, we anticipate being able to hire new staff that will focus on priority areas – such as cribs. This, in turn, will allow us to more quickly initiate recalls and other corrective actions when hazards are identified.

3. Creation of a New Safe Sleep Environment Team

As I reviewed the great strides made to date by the EWS team, I also identified an opportunity to take that approach to the next level of responsiveness in the overall context of children's sleep environments. To that end, I have created a new "Safe Sleep Environment Team," which is a pilot project to bring the same EWS team of compliance officers, attorneys, epidemiologists, and other technical staff to work on issues related to the sleep environment. The compliance officers and attorneys involved will be exclusively dedicated to this new team.

As a dedicated, interdisciplinary team, I am confident that this will allow the CPSC to use the information harnessed by EWS and act faster and more efficiently not just with crib defects – but also for all defects related to a child's sleep environment. In addition, their work will be critically important in pointing out new ways to effectively utilize the increased amount of incident reports that will be generated by the RMS upgrade and the public database required by section 6A of the CPSIA.

4. Increased Monitoring of Recall Effectiveness and Corrective Action "Take-Rates" in Crib Recall Cases

Recalls are only effective if parents and caregivers avail themselves of the corrective action offered, and either return, replace, or fix the defective product in a manner that will ensure a baby's safety. Nowhere is this more important than crib recall cases, where a corrective action is critical to ensuring a safe sleeping environment.

The CPSC has already taken one critical action to address the effectiveness of crib recalls using the power Congress provided us in the CPSIA. In addition to the product safety standard requirements for durable infant and toddler products, Section 104 also mandated that registration cards be included with cribs and other durable infant products. On December 29, 2009, the Commission published a final rule requiring manufacturers of such products, which includes cribs, to establish and administer a registration program for their products.

Specifically, the rule requires that each manufacturer: 1) provide a postage-paid registration form with the product; 2) keep records of consumers who register their products; and 3) permanently place the manufacturer's name and contact information, model name, number, and date of manufacture on each product. The rule covers the twelve specific product categories identified in the CPSIA (full-size cribs and nonfull-size cribs; toddler beds; high chairs, booster chairs, and hook-on chairs; bath seats; gates and other enclosures for confining a child; play yards; stationary activity centers; infant carriers; strollers; walkers; swings; and bassinets and cradles), as well as six additional products the Commission specified in the rule (children's folding chairs, changing tables, infant bouncers, infant bath tubs, bed rails and infant slings). The rule will take effect for the first twelve products, including cribs, on June 28, 2010, and for the additional six products on December 29, 2010.

I strongly believe that these new registration and marking requirements will improve the effectiveness of future recalls involving cribs and other infant and toddler durable products. At the same time, however, I am also very concerned about recalled cribs that remain in the stream of commerce. In particular, I am concerned about the low response rates associated with numerous recalls of cribs made by Simplicity, which is now bankrupt and out of business. Millions of their cribs were sold over the past decade, and millions of them have a deadly defect. To date, eleven babies have become entrapped and died in the various crib models – and there are still far too many parents who have not responded to the recall announcements. As a result, I ordered another major education effort last November to stop consumers from using Simplicity cribs with drop-sides.

In addition to outreach, we must also ensure that consumers with recalled cribs and other durable nursery products take advantage of corrective actions offered by manufacturers. To this end, I have directed CPSC staff to increase monitoring of corrective action plans. Specifically, I have asked staff look at the take-rates of repair kits offered by

manufacturers in several recent recalls, how fast those kits are being shipped, and the quality of materials in the repair kits.

We are also examining the effectiveness of repair and retrofit kits that are currently offered to most consumers in crib and other durable infant and toddler product recalls. During the April 2009 Roundtable on Cribs and Infant Sleep Environments, several parties – including the Illinois Attorney General's Office – suggested that we require manufacturers or importers to offer either a refund or store credit when cribs are recalled. It is an idea that is worthy of full Commission consideration. Such a requirement would certainly incentivize many consumers to discard and replace defective cribs – and might have a significant impact on removing defective cribs from homes and secondary markets. At the same time, however, the Commission must also be cognizant of the financial situation of manufacturers involved and the fact that this type of remedy might push them into financial distress or bankruptcy – and foreclose the possibility of any corrective action.

5. Additional Media Outreach and Education to Foster Safe Sleep Environments

In the days after the Stork Craft recall, the Commission engaged in a very aggressive media outreach mission in announcing the Stork Craft recall. The day after the recall was announced, I appeared on all three of the major network morning shows to discuss the recall, and emphasized the need for impacted parents to take action to move their children to another safe sleep environment until they obtained the repair kit to fix their cribs.

In addition, the agency sent out a video news release (VNR) that was shown on numerous local television outlets and has received more than 200 million views to date. Information was also distributed utilizing all the social networking resources of CPSC 2.0 – including Twitter, our blog, and YouTube. CPSC also targeted the minority and traditionally underserved communities through the Neighborhood Safety Network (NSN).

Overall, we believe that the media outreach conducted with this recall was among the most comprehensive ever conducted by this agency. However, I believe we can still do more to ensure that every consumer impacted by a recall is "touched" in some form by the CPSC or the manufacturer of the recalled product.

Therefore, I have directed CPSC staff to look at further efforts to reach the public in cases of crib and durable infant and toddler product recalls. As noted above, the registration card rule is a very positive step forward – but we have to ensure that this information is maximized in the case of a recall. Similarly, I also want the Commission to examine new opportunities with other technologies. Currently, consumers can sign up for e-mail alerts for all new recalls. I would like to expand on these efforts, and work on other notification technologies – such as those to mobile devices – to further expand the Commission's reach to younger and more mobile consumers.

As part of my Safe Sleep Initiative, we will also implement a targeted program aimed at increasing awareness of hazards associated with cribs, as well as best safe sleep practices for babies. This outreach initiative will use various tools, including multi-media (print, radio, television and social media), grassroots (community-based events), and partnerships with crib advocacy groups (including Keeping Babies Safe, Safe Kids USA, and the National Safety Council).

6. Internal Management Review and Reform

Finally, I would like to touch briefly on the issue of internal management reform. In a time of increasingly tight Federal budget constraints, it is critical for all agencies to maximize their resources and always strive to identify new efficiencies. The CPSC is no exception. Over the past two years, the agency has been rewarded with substantial funding increases to beef up staffing and enforcement efforts. My goal is to ensure that these resources are utilized to their fullest extent.

To that end, the CPSC recently engaged Booz Allen Hamilton to complete a top-to-bottom review of the CPSC, and help us complete a new agency Strategic Plan. They will look at all aspects of the agency's current management practices and organizational structure. In particular, I have requested that they review our current practices in the Office of Compliance and recall area – and recommend areas where we can improve our responsiveness to removing hazardous products from the marketplace and consumers' homes.

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Chairman Stupak and Ranking Member Walden, thank you again for giving me the opportunity to update the Subcommittee on the critical issue of crib and sleep environment safety.

I now look forward to answering your questions.