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Senate Hears Testimony on Phthalate- BPA-Containing Children's Products

The Senate Commerce Subcommittee on Consumer Affairs held a hearing on May 14 that focused on phthalates and bisphenol-A (BPA) in consumer products generally and children's products in particular. Subcommittee chairman Mark Pryor (D-AR) said he had called the hearing to gather information in the wake of recent media reports on BPA and phthalates and then to "see where that leads us." However, it is clear some other Senate Democrats are anxious to pass restrictive legislation at the earliest opportunity.

Sen. Charles Schumer (D-NY) testified at the hearing as the chief sponsor of S. 2928, which would ban BPA in products for children age 7 and under. He said "the world took note" when NIH's National Toxicology Program (NTP) released its BPA study in April, with Canada taking action to ban BPA from baby bottles, Wal-Mart pulling BPA-containing children's products from the shelves in Canada, and Toys-R-Us announcing plans to do so in the United States beginning in January 2009. He also noted that California is currently considering BPA legislation.

FDA Associate Commissioner for Science Dr. Norris Alderson said his agency created a task force to undertake further study of BPA following the release of the NTP report. Meanwhile, he said FDA has no reason for concern at this time and he noted that governmental authorities in the European Union and Japan have found BPA to be safe. Nonetheless, he noted that FDA has publicly advised that consumers can turn to alternative products, specifically citing glass baby bottles.

CPSC Deputy Associate Executive Director for Health Sciences Dr. Marilyn Wind presented a detailed history of the CPSC's review of phthalates, including the agency's 3-0 vote in February 2003 to deny a petition to ban phthalates from children's products following the completion of a Chronic Hazard Advisory Panel study of DINP, the most commonly used phthalate. Wind called into question the 0.1 percent phthalate limit contained in the Senate version of the pending CPSC reauthorization legislation (H.R. 4040), saying this would be a contamination level.

On BPA, Wind noted that the recent NTP study concluded that diet is the main source of BPA and that those products are not regulated by the CPSC. However, she noted that it clearly made no sense to also ban other BPA-containing children's products -- such as protective helmets and goggles of likely interest to SGMA members -- where there could be no possible BPA-related health impact.

During questioning of the governmental witnesses, the FDA witness said on several occasions "there are uncertainties" regarding BPA. On the other hand, Wind held her ground on phthalates, noting that the CPSC had worked with EU officials as they developed their phthalate ban but "we did not understand how they came to the conclusion" that phthalates posed a problem, saying they simply "picked a number" on exposure that was "grossly overstated and was not supported by science."

In closing the hearing, Pryor gave no indication of plans for follow-up action by his committee.