



Center for
Environmental Health

2201 Broadway, Suite 302
Oakland, CA 94612

T: 510.655.3900
F: 510.655.9100

ceh@ceh.org
www.ceh.org

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“Demonstration of CPSIA Success”
Testimony of Caroline Cox
Research Director, Center for Environmental Health

The U.S. Public Health Service states, “No safe blood lead level in children has been determined.” According to the U.S. Environmental Protection Agency, lead can affect children “at blood lead levels so low as to be essentially without a threshold.” The Centers for Disease Control and Prevention has concluded that “no level of lead in a child’s blood can be specified as safe.”

So it is discouraging to see proposed revisions that would significantly weaken a law that has worked so well to protect American children from unnecessary lead exposures.

For more than fifteen years, the Center for Environmental Health has worked to protect children and families from harmful chemical exposures. We work collaboratively with major corporations, helping them identify ways they can reduce their use of toxic chemicals, often resulting in economic savings while protecting public health. In some cases, we use litigation to reduce the use of and exposure to toxic chemicals. For example, in a landmark 1997 study, CEH investigated the use of lead-containing brass pipes in home water filtration systems. By 2000, we reached legal agreements with major producers of home water filters, ending the industry’s use of materials that were leaching lead into “filtered” water.

Use of a total content standard is more appropriate for lead limits than a limit based on presumed exposures. Total content standards are inexpensive, easily replicable, and not subject to interpretation. By contrast, exposure assessment testing is a subjective process open to interpretation and manipulation. Witness the case of lead-containing vinyl in children’s lunchboxes. When CEH found high lead levels in many vinyl children’s lunchboxes, the FDA initiated an investigation. FDA used the lead test data from CPSC’s testing of lunchboxes, and based on this testing FDA warned lunchbox makers about their use of lead-containing vinyl, concluding that “some migration of lead to food as a result of such use may reasonably be expected.” But CPSC interpreted their test data differently: explaining the agency’s inaction on lunchboxes, an agency spokesperson stated, “The food that you put in the lunch box may have an outer wrapping, a baggie, so there isn’t direct exposure.”

Because its lead standards are content based, under the CPSIA, producers, consumers, and regulators all know and understand the standards. Reverting to subjective standards now would be a setback for American families, who expect Congress to take the most protective approach when it comes to our children’s health.

Changing the law from a total lead content standard to a standard based on exposure would be detrimental to public health, regulatory and industry needs. Total content testing of materials used in children’s products is consistent and objective; screening devices for total content are available and inexpensive; total content

standards allow companies to specify materials to meet the standard. The latter is one of the most important characteristics of a total content standard: with today's complex supply chains, retailers, distributors, and manufacturers need an objective way to specify the quality of products or materials when they commit to a contract. Measuring lead content is the only efficient way for the complete supply chain to document compliance.

By contrast, exposure assessment is inconsistent and subjective; there is no way for companies to screen products for any of the typical exposure assessment tests, so testing costs will increase; and it is not possible to specify standards for components or materials.

CEH's experience before and since passage of the CPSIA demonstrates that the law has been highly successful in promoting safer products for American children. Prior to adoption of the law, CEH found high lead levels in dozens of children's products sold to millions of American families by Wal-Mart, Target, Kmart, and other major retailers. Examples of some of the lead-tainted children's products we found before advent of the law include:

- Imported candies;
- Diaper rash creams;
- Children's anti-diarrheal medicines;
- Baby bibs and lunchboxes;
- Toys; and
- Dozens of items of children's jewelry, including many with components containing 90% or more lead.

In each case, we were unable to point to any federal law to protect children from the lead hazards posed by these products, and thus we relied on California law to address the problems.

Since the lead limits under CPSIA went into effect, our experience shows a dramatic change in the marketplace for children's products. Between September 2009 and December 2010, we conducted what we believe is the largest independent monitoring of children's products for compliance with the CPSIA lead standards. We purchased and screened over 1200 children's products for lead. We bought the products in California primarily from major national retail chains. Because our charge (under a grant from the California attorney general) was to identify non-compliant products, we did not purchase products at random, but rather selected products that were similar to, or made from similar materials as ones identified in the past with lead problems. We purchased stuffed animals, toys, games, lunch boxes, backpacks, jewelry, toy sporting equipment, and other products.

Out of more than 1200 products tested, we found only 46 products that did not comply with CPSIA lead standards, based on independent tests by a CPSIA-certified laboratory. This suggests that at least 96% of children's products are compliant with the CPSIA lead standards. Because we intentionally purchased products that were made from materials known to have had lead problems in the past, our results suggest that overall compliance with CPSIA lead standards is likely even higher.

We also have data from 2007 and 2008, and have used it to demonstrate the downward trend in lead-tainted children's products since the law took effect. Our results show that lead hazards are less prevalent post-CPSIA than either before the law was passed or just prior to implementation of the law. Of the 100 products we tested in 2007, 9 (9%) had components whose lead content exceeded 600 parts per million (ppm), the level that became the first CPSIA standard. Of the 400 products we tested in 2008, 20 (5%) had components whose lead content exceeded 600 ppm. These results show that over the four-year interval, the prevalence of lead hazards in the children's products we tested was reduced by a factor of approximately three, suggesting a similar decrease in children's products in general. Given the immense size of the U.S. market for children's products, this is a major accomplishment.

Based on our experience with monitoring CPSIA compliance, we suggest that the following characteristics of the CPSIA lead standards helped make them successful:

- The lead standards are comprehensive. They cover virtually all children's products, virtually all retailers, suppliers, and manufacturers, and virtually all accessible parts of those products. We believe that this provided assurances to manufacturers that compliant products would find a market.
- The way that the numerical standards are expressed is straightforward. With the exception of paint (90 ppm standards), all materials must currently meet the same standard (300 ppm). In addition, the standards are expressed in terms of lead content, a characteristic that can be measured at any point in the chain of commerce. This made it possible for retailers, vendors, and manufacturers to specify lead content in contracts with their suppliers and to be able to determine if those specifications were being met.
- CPSIA lead standards apply to a meaningful definition of "children," up to age 12. Based on the most recent research, doctors and scientists now say that pregnant women and therefore young women who intend to become pregnant may be the most important subpopulation to protect from lead exposure. Since lead is a cumulative toxicant that is stored in the body for years, lead exposure of 12 year olds is a serious concern.

At this point I'd also like to speak briefly as a parent rather than as a researcher. Most parents have seen the strong attraction that their children have for toys and other items designed and used by older children. In order to protect young children we need to make sure that products designed for somewhat older children are made of safe materials.

- The lead standards, as written in CPSIA, apply to businesses of all sizes. We believe that the wide scope of the standards has been one of the important factors in making the law a success. However, we would support amendments that recognize the special needs of small businesses.

In conclusion, we respectfully recommend that this committee support the public health success that the CPSIA has been since 2008. Crucial support includes continued support for the lead content standards passed in 2008, as well as support for the definition of a child as a person 12 years old and younger.