



U.S. House of Representatives
Washington, DC 20515-0552

March 2, 2009

Acting Chairman Nancy Nord
Commissioner Thomas Moore
Consumer Product Safety Commission
4330 East – West Highway
Bethesda, MD 20814

Dear Chairman Nord and Commissioner Moore:

I am writing regarding the Consumer Product Safety Improvement Act (CPSIA) which was signed into law on August 14, 2008, after receiving broad support from both the House and Senate. As a father of three, I appreciate that this legislation was intended to improve the safety of our nation's consumers and I support the CPSIA's goal of protecting children from harmful substances. At the same time, however, I have significant concerns with the unintended consequences this legislation is having on my constituents.

As you know, Section 101 (a) of this legislation requires that all children's products meet new, stringent lead standards, the first of which took effect last month and the CPSC General Counsel has issued an opinion that these requirements apply to current inventories. While the CPSIA's lead content provisions provide a significant step in protecting children from products that present a lead risk, manufacturers and distributors have been actively seeking guidance from the CPSC regarding the requirements of the law and available exemptions. The existing lack of clarity currently impedes these industries from complying with the new law in a timely manner while, at the same time, incurring burdensome and unnecessary costs, including potentially devastating disruptions to their businesses.

One sector particularly affected by these standards is the off-highway vehicle industry. Under the CPSC's current interpretation of the CPSIA, engines, brakes, wheels, tires and suspension parts on these vehicles must be tested and meet the lead standard due to remote concerns over lead exposure to children six years or older. While the law provides for some exclusions for inaccessible components and also authorizes the CPSC to grant exemptions under certain conditions, to date the CPSC has not taken this action for products in the off-highway vehicle industry. The CPSC has released several proposals addressing potential exclusions and specifying procedures it might follow to process exclusion requests from manufacturers and distributors. These notices, however, came too late to provide the necessary guidance for compliance by the February 10th enforcement date.

As a result, huge inventories of products which present no health risk to children have been rendered illegal, requiring their removal from places of sale and the prohibition of future

sales. This has occurred simply because exemptions have yet to be clarified. Creating such severe economic hardship to this sector of our economy, especially during a time of already unprecedented economic conditions, was certainly not the intent of Congress.

My congressional district contains vast areas of public lands that host thousands of recreational off-highway vehicle users every year. This is a family recreation enjoyed by all ages and contributes significantly to the national, state and local economies. I strongly recommend the CPSC expedite consideration and grant the petition for temporary exclusions submitted by the snowmobile, ATV, and off-highway motorcycle industry that mirrors both the European Union standards and what was recently adopted by the CPSC for electronics. In doing so, I believe the CPSC would be engaging in a reasonable interpretation and implementation of the law.

Thank you in advance for your attention to this issue and I look forward to hearing from you regarding this important matter. If you have any questions, or require additional information on how this situation is adversely affecting my district, please do not hesitate to contact me directly.

With best wishes.

Sincerely,



Duncan Hunter
Member of Congress

DH/mrh