



U.S. CONSUMER PRODUCT SAFETY COMMISSION

4330 EAST WEST HIGHWAY
BETHESDA, MARYLAND 20814-4408

Record of Commission Action
Commissioners Voting by Ballot*

Commissioners Voting: Acting Chairman Thomas H. Moore
 Commissioner Nancy A. Nord

ITEM:

Stay of Enforcement of Lead Content Limits for Bicycles and Related Products
(Briefing Package dated May 21, 2009, OS No. 5724)

DECISION:

The Commission voted unanimously (2-0) to issue the *Federal Register (FR)* notice as drafted. The *FR* notice announces a stay of enforcement of the lead content provisions of section 101(a) of the Consumer Product Safety Improvement Act of 2008, Public Law 110-314, for certain component parts and materials pertaining to bicycles, jogger strollers and bicycle trailers primarily intended for children 12 years and younger.

Acting Chairman Moore and Commissioner Nord issued the attached statements with their votes.

For the Commission:

A handwritten signature in black ink, appearing to read "Todd A. Stevenson".

Todd A. Stevenson
Secretary

* Ballot vote due June 3, 2009
(Received June 19 and 22, 2009)



UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION
4330 EAST WEST HIGHWAY
BETHESDA, MD 20814

STATEMENT OF THE HONORABLE THOMAS H. MOORE
ON THE NOTICE OF STAY OF ENFORCEMENT OF THE LEAD CONTENT LIMITS FOR
BICYCLES AND RELATED PRODUCTS
June 19, 2009

From its inception, the Consumer Product Safety Commission focused its attention on bicycles. The bicycle was one of the earliest products for which the Commission issued mandatory regulations. At the time, bicycles ranked number one on the Commission's product hazard index and the agency determined that many of the injuries children and adults were sustaining on bicycles were attributable to mechanical and structural problems. Anything that could potentially affect the structural or mechanical integrity of children's bicycles would still be an issue of the highest concern at the agency.

I have been watching for some time now what appears to be a growing number of bicycle recalls involving cracking frames, breaking handlebars and stems, and breaking forks. There have been almost 35 in the last 8 years. Because these were voluntary recalls, our staff was not called upon to analyze the causes of the failures. Thus we do not know if there was a common flaw in these cases. Many of these bicycles were higher end models, and, therefore, likely lighter weight bikes made from composite materials. It may be that the lower amount of lead in these products had nothing whatsoever to do with their failures, but it is worrisome enough for me not to proceed to a reduction of lead in certain components of children's bicycles until all the necessary testing is done to ensure that the substitutes for lead do not compromise the structural or mechanical integrity of these bicycles. Therefore I am voting to approve a two-year stay of enforcement to give the bicycle industry additional time to do the development and testing work that will be required to resolve this issue. As a result of the stay all bicycles currently on the market (whether new or used) can be sold or otherwise distributed, new bicycles can continue to be manufactured, and repairs to bicycles can proceed as usual.



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STATEMENT OF COMMISSIONER NANCY NORD
ON THE STAY OF ENFORCEMENT OF THE LEAD CONTENT LIMITS FOR BICYCLES
June 22, 2009

The Notice of Stay of Enforcement of the lead provisions of the Consumer Product Safety Improvement Act (CPSIA) with respect to children's bicycles is our latest effort to bring common sense to a law having unintended and adverse consequences on both consumers and product sellers. Although there is no evidence that riding bicycles presents a credible risk of lead poisoning, the inflexible nature of the CPSIA jeopardizes children's access to new and used bicycles.

From the standpoint of the consumer, enforcement of the law as written by the Congress would limit the availability and increase the costs of a product that is almost synonymous with childhood. But most importantly, because lead adds to the strength of the metal used and has other useful attributes, enforcement of the law could adversely impact the safety of children's bicycles, leading to more deaths and injuries. A stay of enforcement is our only option to protect children.

While the stay of enforcement will allow children's bicycles to continue to be sold over the next two years, the stay also contemplates that manufacturers develop plans to reengineer their products to remove the lead from the metal used in children's bicycles. In other words, we are requiring that manufacturers use scarce resources in challenging economic times to attempt to address a risk that children just do not encounter.

It is very troubling that the commission has had to resort to using stays of enforcement to avoid the unexpected, and, in some cases, the dangerous consequences that would result from enforcement of the CPSIA. Such a result does not increase consumer confidence and creates uncertainty in the marketplace. There are those who would add that, at some point, regular use of stays opens the agency up to legal challenge for not enforcing the law.

I have characterized such stays of enforcement as 'time out' for Congress and for the agency, together, to take deliberate steps to amend this law. Clearly the agency needs more flexibility to address real safety issues and should not be required to use its limited resources to regulate products that do not present safety risks to consumers. I hope Congress and the agency will profit from this 'time out' to make the CPSIA truly effective for the consumer.