

August 14, 2015

Office of the Secretary  
Consumer Product Safety Commission  
Room 502  
4330 East-West Highway  
Bethesda, Maryland 20814  
Via: [www.regulations.gov](http://www.regulations.gov)

**Comments of Kids In Danger, Consumer Federation of America, Consumers Union, and the National Center for Health Research to the U.S. Consumer Product Safety Commission on “Toys: Determination Regarding Heavy Elements Limits for Unfinished and Untreated Wood,” CPSC Docket No. CPSC-2011-0081**

**I. Introduction**

Kids In Danger (KID), Consumer Federation of America (CFA), Consumers Union (CU) and the National Center for Health Research (NCHR) submit the following comments to the U.S. Consumer Product Safety Commission (“CPSC” or “Commission”) in the above-referenced matter.<sup>1</sup>

The Consumer Product Safety Commission (CPSC) issued a rule on July 17, 2015 which exempted unfinished and untreated wood from the trunks of trees from heavy-metal testing requirements. We support CPSC’s reduction of required testing in this instance, as it was based on studies which showed trunk wood didn’t contain levels of antimony, arsenic, barium, cadmium, chromium, mercury and selenium above allowed limits.

We also support the CPSC staff’s recommendation not to provide the same exemption at this time for bamboo, beeswax, cotton, wool, linen and silk. We support the CPSC’s staff recommendation because scientific evidence has not been presented that indicates that those materials would consistently contain less than the allowed statutory levels of the seven metals.

**II. Background**

In 2008, the voluntary toy standard, ASTM F 963, was incorporated into the Consumer Product Safety Improvement Act and became mandatory. That federal toy standard requires that certain toys not contain more than the specified limits of eight heavy elements (antimony, arsenic, barium, cadmium, chromium, lead, mercury, and selenium) described in section 4.3.5 of the

---

<sup>1</sup> Part 1251 Toys Determinations Regarding Heavy Elements Limits for Certain Materials, Sec. 1251.1

standard. The law requires that children's products be tested at a CPSC-accepted laboratory to demonstrate compliance.

Further, Congress directed the CPSC<sup>2</sup> to find ways to reduce the testing requirements where possible without negatively impacting safety. The CPSC and external research found that unfinished and untreated wood from tree trunks does not contain heavy metal elements that would exceed the specified limits. Based on this scientific evidence, unfinished and untreated trunk wood in children's toys would not require testing at a CPSC-accepted laboratory to demonstrate compliance.

### **III. Discussion & Recommendations**

Our organizations support the CPSC's detailed research and study of the issue. We agree that untreated wood from trunks can be exempted from compliance testing for the heavy elements without any impact on safety. We also support their findings that not enough evidence has been provided to exempt the other materials under consideration at this time.

We join the CPSC in calling for those looking to exempt products from testing to provide the scientific research that definitively answers the question of whether these materials can contain any of the eight elements in amounts greater than the level in ASTM 963-11.

### **IV. Conclusion**

With great seriousness, the CPSC has responded to Congress' intent in Public Law 112-28<sup>3</sup> (August 12, 2011) (Pub. L. 112-28) which directed the CPSC to seek comment on "opportunities to reduce the cost of third party testing requirements consistent with assuring compliance with any applicable consumer product safety rule, ban, standard, or regulation." This determination will allow many products made by small toymakers to be exempted from the heavy element testing requirement and will reduce the costs associated with assuring safety for our children, while not compromising the safety of those products.

Respectfully submitted,

Nancy A. Cowles  
Executive Director  
**Kids In Danger**

William Wallace  
Policy Analyst  
**Consumers Union**

Rachel Weintraub  
Legislative Director and General Counsel  
**Consumer Federation of America**

Diana Zuckerman, Ph.D.  
President  
**National Center for Health Research**

---

<sup>2</sup> Pub. L. 112-28 (August 12, 2011)

<sup>3</sup> Pub. L. 112-28 (August 12, 2011)