



Center for
Environmental Health

528 61ST Street, Suite A
Oakland, CA 94609

T: 510.594.9864
F: 510.594.9863

ceh@cehca.org
www.cehca.org

Committee on Energy and Commerce
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“Protecting Children from Lead-Tainted Imports”
Summary Testimony of Michael Green
Executive Director, Center for Environmental Health

California’s Safe Drinking Water and Toxic Enforcement Act of 1986, known as Proposition 65, is a strong state consumer protection law. The Center for Environmental Health has been a public interest enforcer of Proposition 65 since 1996. Using this law, we achieve national and even international changes in production practices that set limits on lead and/or other chemicals in children’s products. We have reached industry-wide legal agreements that have eliminated threats to children’s health from arsenic-based preservatives used in the wood play structure industry and from lead in home water filters, diaper creams, children’s medicines, children’s jewelry, imported candies, children’s vinyl lunchboxes and vinyl baby bibs.

In our work on lead in children’s jewelry, we negotiated agreements with over one hundred jewelry suppliers and retailers, virtually the entire industry, to significantly reduce the amounts of lead used in children’s jewelry. The terms of the settlement formed the basis of California’s recent jewelry law. By contrast, CPSC’s approach has been to wait for industry to conduct voluntary case-by-case recalls that fail to create any significant changes in the production practices that allow lead-tainted jewelry to reach store shelves.

Even more disturbing, in our work to protect children from high lead levels in vinyl children’s lunchboxes and vinyl baby bibs, CPSC has misled the public and is actively antagonistic to strong health protections. According to the agency’s own internal documents, CPSC released public statements about their lunch box testing that were inaccurate and falsely reassuring about the safety of the product. We are troubled that these internal documents also show that the agency changed their testing procedures when initial tests found high lead levels in children’s lunch boxes, in an apparent attempt to manipulate science in order to minimize the lead threat to children.

We recommend:

As a supplement to our work on lead in jewelry, Congress should enact a comprehensive ban on lead in toys. We recommend following the model of the Toxics in Packaging Act already adopted by nineteen states.

Second, such legislation must hold distributors, retailers and manufacturers accountable for the safety of the products they sell, through mandatory pre-market testing and strong disincentives for violators.

Third, Congress should ensure that CPSC and other federal regulatory agencies are using testing and standards based on the most up-to-date science.

Finally, while we agree that Congress should ensure that CPSC is adequately resourced to manage the massive task of protecting children from hazardous products, we must also note that the current problems at CPSC are not primarily resource problems. Our experience suggests that often CPSC’s bias is to protect industry at the expense of the health of America’s children. The evidence from CPSC’s own internal documents, that the agency modified its testing procedures to reduce its estimates of lead exposure from children’s lunch boxes, demonstrates the extreme willingness of the current CPSC leadership to put industry’s convenience ahead of children’s health. This problem results not from a lack of resources or statutory authority, but from leadership decisions that have failed to make children’s health the first and most important priority.