

Congress of the United States

House of Representatives

Washington, DC 20515-3518

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COMMITTEE ON ENERGY
AND COMMERCE
SUBCOMMITTEES:
HEALTH
COMMUNICATIONS, TECHNOLOGY
AND THE INTERNET
COMMERCE, TRADE AND
CONSUMER PROTECTIONS
COMMITTEE ON VETERANS' AFFAIRS
SUBCOMMITTEE:
OVERSIGHT AND INVESTIGATIONS

The Honorable Inez Tenenbaum
Chairman
U.S. Consumer Product Safety Commission
4330 East-West Highway
Bethesda, MD 20814

Dear Chairman Tenenbaum,

I write out of concern for a recent voluntary recall of 12 million Shrek glasses conducted by McDonald's Corporation in cooperation with your agency, and also about the progress of a cadmium limit being developed by the Commission staff.

As you learned when you met with the Society of Glass and Ceramic Decorated Products on July 19th, the glass and ceramic manufacturing industry is important to our state's history and current job market. Three of the world's largest glass producers (Owens-Illinois, Libbey, Inc. and Anchor Hocking) are located in Ohio. Owens-Illinois and Hartstone Pottery both operate plants in Zanesville, employing many people in living wage jobs. Anchor Hocking is located in Lancaster, Ohio. Two major decorators of glassware are located in Ohio, and a new decorating facility is being located in Lancaster to serve Anchor Hocking and Owens-Illinois. This new firm will create 200 new jobs. Owens Illinois is putting a multi-million dollar expansion in Zanesville that will incorporate decorating and new product development. In fact, there are more member glass decorating companies in Ohio (20) than in any other state, and another 16 companies are located in neighboring Pennsylvania. Thousands of Ohio jobs are at stake here.

I am very much aware of the toxicity of soluble cadmium extracted from children's jewelry and understand the basis of CPSC's actions in recalling children's jewelry with high levels of extractable cadmium. However, it is important to distinguish between soluble cadmium, which can be highly toxic, and "vitrified" cadmium which becomes part of the glass, virtually insoluble and hence not bioavailable as I understand it. Most cadmium containing pigments are TCLP (Toxicity Characteristic Leaching Procedure) compliant; soluble cadmium is removed from the pigment during the production process. Because of this distinction, I am concerned about scientific and safety rationale for this recall since the Shrek glass products are fully compliant with all state and federal laws.

I understand the decoration on the Shrek glasses was produced with ceramic enamels and vitrified through a firing process so that it becomes part of the glass. My office is informed by FDA experts that glass and ceramic decorations are considered to be compliant if there is no leaching of cadmium above certain limits which are set by FDA.

There is no question that the Shrek recall has created a chilling effect on manufacturing and product enhancement, particularly in Ohio. It has created a regulatory climate that has made it difficult for a company considering the sale or distribution of a decorated compliant product that may, only a few weeks later, be recalled based on scant evidence of potential harm.

I would appreciate answers to the following questions:

- Which Federal or state standards, testing data, or incident base did the Commission staff use as a basis for the recall?
- We understand that the CPSC staff utilized a “wipe test” to determine the presence or absence of cadmium on the Shrek glasses. Could you please describe the testing protocol, and how the staff conducted the test?
- What is the current status of the staff development of a draft cadmium limit?
- Will the draft cadmium limit be based on soluble or extractable cadmium from children’s jewelry and cadmium pigments in enamels? Or will the limit be based on a contained cadmium level in these products?
- Why isn’t the CPSC developing the cadmium limit through the traditional rulemaking procedures subject to the Administrative Procedures Act?
- Will public and affected industries have the opportunity to comment on the cadmium limit?

Thank you in advance for your time and attention to this matter. As a Member of the Energy and Commerce Committee and the Commerce, Trade, and Consumer Protection Subcommittee, I look forward to continuing to work on this matter.

Sincerely,



ZACK SPACE
Member of Congress

Commissioner Nancy Nord
Commissioner Thomas H. Moore
Commissioner Robert Adler
Commissioner Anne Northup