



Council for Responsible Nutrition

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October 31, 2008

Office of the Secretary
Consumer Product Safety Commission
4330 East West Highway, Room 502
Bethesda, MD 20814

Re – Request for 180-day extension of the certification requirements of the CPSIA as applied to food, drugs and cosmetics covered by the Poison Prevention Packaging Act

Dear Secretary of CPSC:

The Council for Responsible Nutrition (CRN)¹, a trade association representing the manufacturers and ingredient suppliers of dietary supplements, respectfully requests that the Consumer Product Safety Commission (CPSC) consider and grant a 180-day extension to the effective date of the Consumer Product Safety Improvement Act of 2008 (CPSIA)² with respect to the new general conformity certification requirement, section 102, specifically as it applies to food, drugs and cosmetics that would be affected due to their inclusion within the requirements of the Poison Prevention Packaging Act of 1970 (PPPA).

To be clear, CRN is *not* requesting any delay or waiver of the enforcement of the PPPA. CRN's members, as well as other members of these industries, have been subject to the PPPA for years, and will continue to assure that their affected products are marketed to consumers in child resistant packaging (CRP). Nothing in this request will, in any way, jeopardize the public health and safety; it will not change the substantive requirements of that law; nor, will it interfere with the intent of Congress to assure that households with children are protected from foods, drugs, or cosmetics that may pose a risk. Rather, CRN's request for an additional 180-days prior to enforcement of the CPSIA, as it applies to products covered under the PPPA, will assure that manufacturers and packagers of these products have sufficient time to thoroughly and accurately implement the new requirement – that they certify compliance to their customers – under the CPSIA.

As you know, dietary supplements that contain iron, like multivitamins, have for many years been subject to the PPPA's CRP requirement and the protocols developed by the CPSC for validating CRP components of that packaging³. And except for the provisions of the PPPA,

¹ Council for Responsible Nutrition is the leading trade association representing dietary supplement manufacturers and ingredient suppliers. CRN companies produce a large portion of the dietary supplements marketed in the United States and globally. Our member companies manufacture popular national brands as well as the store brands marketed by major supermarkets, drug store and discount chains. These products also include those marketed through natural food stores and mainstream direct selling companies. Our 65+ manufacturer and supplier members agree to adhere to voluntary guidelines for manufacturing, labeling and marketing and CRN's Code of Ethics.

² See P.L. 110-314

³ See 16 C.F.R. Part 1700.15

food, drugs and cosmetics have been largely excluded from the jurisdiction of the CPSC because their manufacturing, packaging and labeling are thoroughly regulated by the Food and Drug Administration (FDA). In fact, food, drugs and cosmetics are expressly excluded from the definition of “consumer products” in the CPSA⁴.

Even following enactment of the law in August of this year, it was not until after CPSC’s October 2nd public meeting on the general conformity certification that the industry became aware of the Commission’s interpretation of the CPSIA. At that meeting, CPSC announced its understanding that the application of the CPSIA to any product subject to “a consumer product safety rule under this Act or similar rule, ban, standard, or regulation under any other Act enforced by the Commission” would include packaging regulated under the PPPA. Until that announcement, the CPSIA was presumed to apply only to children’s consumer products in the CPSIA, or at least, only to “consumer products” generally under the jurisdiction of the CPSC.

CRN’s request for a 180-day extension of enforcement is motivated by the efforts of dietary supplement manufacturers to fully certify that their packaging meets the requirements of the PPPA. Manufacturers need adequate time to develop appropriate certification systems that provide relevant information and transmit and retain that information in a clear, meaningful and useful way. An extension to the November 12th deadline would help to avert a period of non-compliance by industry with the certification requirement that could result in substantial disruptions of commerce and trade and further result in the inability of manufacturers and importers to provide to consumers safe and beneficial products that are otherwise compliant with all aspects of the law (except for the certification itself) during that time.

We can convey to you with confidence that responsible industry members support your commitment to ensuring a safe and regulated environment for consumers. Our products are already provided to consumers in child resistant packaging and subject to stringent laws under the authority of the FDA. As such, we are not requesting an exemption from the CPSIA, but rather an additional 180-day in which to adopt our processes and systems to this new requirement, with no risk to consumers or disruption of supply chains during that time.

If you or your office has any further questions or concerns, please contact Mike Greene in my office at 202-204-7690 or MGreene@crnusa.org.

Thank you for your attention to this matter.

Sincerely,



Steve Mister
President and CEO

⁴ See 15 U.S.C. §2052(a)(5)(h)