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August 3, 2010

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

Re: Component Part Testing of Consumer Products (Docket No. CPSC-2010-0037)

Dear Secretary Stevenson:

The Retail Leaders Industry Association (RILA) appreciates the opportunity to comment on the Proposed Rule (16 CFR Part 1109) regarding “Conditions and Requirements for Testing Component Parts of Consumer Products.” The members of RILA also want to thank commission staff for the meeting of June 1st, where the proposed rule was discussed.

By way of background, RILA promotes consumer choice and economic freedom through public policy and industry operational excellence. Our members include the largest and fastest growing companies in the retail industry--retailers, product manufacturers, and service suppliers--which together account for more than \$1.5 trillion in annual sales. RILA members provide millions of jobs and operate more than 100,000 stores, manufacturing facilities and distribution centers domestically and abroad.

RILA members are committed to placing the highest priority on the safety and quality of the products they sell to their customers. RILA has joined with the British Retail Consortium (BRC) in developing and supporting the *Global Standard for Consumer Products Issue 3*. The Global Standard for Consumer Products sets out requirements for factories to adhere to in order to consistently produce safe, legal consumer products to the quality required by the retailers.

COMPONENT TESTING AND CERTIFICATION OF FINISHED PRODUCT

1. In §1109.5 (h) (3), the Proposed Rule states that any certification of a finished product based on component testing must: (ii) “Certify that no action subsequent to component part testing, for example, in the process of final assembly of the consumer product, changed or degraded the consumer product such that it adversely affected the product’s ability to comply with all applicable rules, bans, standards, and regulations.”

This language seemingly requires the US importer to do precisely what it cannot do in any *specific* case, i.e., “certify” that *every* tested component part for each and every product is what actually was used in the finished product. It is beyond the importer’s ability to reach back into the supplier’s and sub-

suppliers manufacturing and transport processes to detect whether there was a substitution or a material change in a component. To do so would require chain of custody verification procedures at each step in the pipeline, which the Proposed Rules do not impose. The most that importers can do is establish audit or control processes that provide a reasonable assurance.

We request that CPSC replace the above text in subsection (h)(3) with the following language: “Due care was taken to ensure that no action subsequent to component part testing, for example, in the process of final assembly of the consumer product, changed or degraded the consumer product such that it adversely affected the product’s ability to comply with all applicable rules, bans, standards, and regulations.”

This then becomes consistent with the existing language in subsection (a)(2) which states “A certifier must exercise due care to ensure that no change in component parts after testing and before distribution in commerce has occurred that would affect compliance”

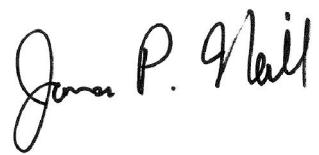
RELIANCE ON OTHER TYPES OF CERTIFICATIONS

In the introduction to the proposed rule in 65 CFR 1109, the staff invites comments on whether or not a final product certifier should be able to rely on other types of certifications from other interested parties other than component part certifiers. We suggest that 65 CFR 1109 allow finished product certifiers, who exercise due care, be permitted to rely on product certifications provided by other appropriate interested parties. We believe that such reliance will result in no significant impact on the safety level of the final product. For example:

- 1) For logistics purposes, multiple importers will import identical product. In many cases these are nationally branded items simply imported separately by multiple retailers for convenience. Without the ability to reference another “master” certificate, each importer/retailer would needlessly have to follow the process to independently generate its own certificate.
- 2) Occasionally two certified products are bundled together for retail sale as a single sellable unit. As with the previous example, a retailer/importer would needlessly have to follow the process to certify the bundled product unless the retailer/importer were permitted to rely upon the certificates for each of the two bundled products.
- 3) Certifications of raw materials may extend to end products generated by many suppliers. The final product certifier should be able to rely on certifications from raw materials suppliers for some aspects of compliance, where processing of the materials does not affect the attribute being certified.

Thank you for allowing RILA the opportunity to comment on this important rule. If you would like to discuss further, I can be reached at 703-600-2022 or jim.neill@rila.org.

Sincerely,

A handwritten signature in black ink that reads "James P. Neill". The signature is fluid and cursive, with "James" on the first line and "P." and "Neill" stacked on the second line.

Jim Neill
Vice President, Product Safety