

**Practicability:**

The Committee expects the Commission to consider practicability in a manner consistent with *State Farm Mutual Insurance Co.* (463 U.S. 29 (1983)), and to take into account excessive or unreasonable costs in considering whether compliance is impracticable. Specifically, the Committee expects that in determining whether a product, material or component part has met the requirements of Section 2, the Commission will regard safety as the overriding consideration but will deem compliance impracticable where the cost of compliance is excessive. The Committee does not consider a mere increase in the cost of manufacture or production, in itself, to be excessive. The Committee does expect that the Commission will consider compliance to be impracticable where compliance would place the viability and continuation of a class of products or materials in jeopardy, such as youth All Terrain Vehicles or youth bicycles made with recycled steel.

**“No measurable adverse effect”:**

The Committee intends that the Commission, in implementing this provision, will follow a scientific protocol to determine whether, after foreseeable use and abuse, any lead in the product, component part, or material will produce a measurable adverse effect on public health or safety. The phrase “public health or safety” is not meant to encompass non-lead related safety concerns or environmental concerns such as product disposal.

In determining whether the lead in a product, material, or component part will have a measurable adverse effect on public health or safety, the Committee expects that the Commission will rely on the best available scientific methods at the time of analysis. Given that there is no current blood level at which the scientific community considers lead exposure to be “safe,” the Committee understands that a very small adverse effect may theoretically occur at any level of exposure. The Committee intends, however, for the Commission to deny requests for exception under this section as having a “measurable adverse effect” on health or safety only in the case of those adverse effects that the Commission determines to be empirically, as opposed to theoretically, measurable. At present, the Committee understands that there is scientific consensus to interpret the phrase “measurable adverse effect” from lead exposure to mean a measurable increase in blood lead levels. The Committee expects that the Commission will use this interpretation of the term “measurable adverse effect” as long as the best available scientific methods and analysis support that interpretation.