

Mr. J.W. MacKay  
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Whether the product presents an unreasonable risk of injury. In considering whether a product presents an unreasonable risk of injury, the Commission looks at the likelihood and severity of injury. Your petition claims that in the 1990's manufacturers created non-wood bats with greatly increased performance and that this increased performance poses an unreasonable risk of injury to pitchers. However, available incident data are not adequate to show increasing injuries to pitchers over the period of time that bat performance increased. Much of the data is not detailed enough to determine injuries to pitchers from batted balls. Overall, data reported through the National Injury Surveillance System ("NEISS") showed a significant decrease in injuries associated with baseball and softball during the 1990's. Data concerning deaths indicate that non-wood bats have been involved in deaths. Of 51 deaths due to ball impact from January 1991 to January 2001, 17 were identified as being due to impact with a batted ball. Of those 17, 8 were reported to have involved non-wood bats. But, deaths also occurred involving wood bats (2) and thrown balls (18 deaths). In many of the deaths the circumstances are not clear (in 16 cases it is not known whether the ball was thrown or batted, and in 7 of the cases involving batted-ball impact the type of bat is not known).

Data from other sources are also not clear or detailed enough to determine that an increase in injuries has occurred with an increase in bat performance. Injury reports from the National Collegiate Athletic Association ("NCAA") are not complete, but the data that do exist do not show a significant increase in injuries to pitchers during the 1990's. The Little League does not keep track of injuries as such, but rather of secondary medical insurance claims. This information may or may not reflect actual injuries. But, Little League reports those claims have actually decreased 76% from 1992 to 2000. Information included with the petition indicates that injuries can occur with balls batted from non-wood bats. But, this information is not a statistical sample, so one cannot draw conclusions about any trends in injuries during the years when bat performance apparently was increasing.

Thus, available incident data are not sufficient to indicate that non-wood bats may pose an unreasonable risk of injury.

In addition to incident data, the Commission also considered the question of a pitcher's reaction time being too short to avoid injury from a ball batted with a non-wood bat. The Commission considered studies by Dr. Richard Brandt and JJ Crisco. These studies indicate that some non-wood bats in some test conditions may produce speeds near a pitcher's limit to react. However, this does not translate directly to information on frequency and severity of injury with non-wood bats. The fact that, in theory, a ball batted off a non-wood bat may come at a speed near a pitcher's reaction time does not necessarily mean a pitcher will sustain injury. Factors other than reaction time may also determine whether a pitcher is injured.

As for severity of injury, being struck by any batted ball can produce serious injury. You have provided no information, nor is the Commission aware of any, indicating that injuries produced by balls batted with non-wood bats are more severe than those involving wood bats.

Whether a rule is reasonably necessary to address an unreasonable risk of injury. A key aspect be able to address