

September 2, 2009

Consumer Law/Trade Regulation

Consumer Product Safety Improvement Act - 10th Update

Last week, the Consumer Product Safety Commission issued a final rule, immediately effective, containing its determinations that certain materials inherently do not exceed the lead content limits specified under section 101(a) of the Consumer Product Safety Improvement Act. As of August 14, 2009, the lead content limit for children's products is 300 parts per million. The CPSIA allows the CPSC to exempt certain materials and products from the requirements to test and certify children's products for compliance with the lead content limits. After reviewing several hundred comments and data submitted by various interested parties, the CPSC determined that the following materials are exempt under section 101(a), provided that these materials have neither been treated nor adulterated such that the addition of lead could result:

- (1) Precious gemstones: diamond, ruby, sapphire, emerald.
- (2) Semiprecious gemstones and other minerals, provided that the mineral or material is not based on lead or lead compounds and is not associated in nature with any mineral based on lead or lead compounds (excluding any mineral that is based on lead or lead compounds including, but not limited to, the following: aragonite, bayldonite, boleite, cerussite, crocoite, galena, linarite, mimetite, phosgenite, vanadinite, and wulfenite).
- (3) Natural or cultured pearls.
- (4) Wood.
- (5) Paper and similar materials made from wood or other cellulosic fiber, including, but not limited to, paperboard, linerboard and medium.
- (6) Printing inks that use the CMYK process (excluding spot colors, other inks that are not used in CMYK process, inks that do not become part of the substrate under 16 CFR part 1303, and inks used in after-treatment applications, including screen prints, transfers, decals, or other prints).
- (7) Textiles (excluding after-treatment applications, including screen prints, transfers, decals, or other prints) consisting of:
 - (a) Natural fibers (dyed or undyed) including, but not limited to,

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cotton, kapok, flax, linen, jute, ramie, hemp, kenaf, bamboo, coir, sisal, silk, wool (sheep), alpaca, llama, goat (mohair, cashmere), rabbit (angora), camel, horse, yak, vicuna, qiviut, guanaco;
(b) Manufactured fibers (dyed or undyed) including, but not limited to, rayon, azlon, lyocell, acetate, triacetate, rubber, polyester, olefin, nylon, acrylic, modacrylic, aramid, spandex.

(8) Other plant-derived and animal-derived materials including, but not limited to, animal glue, bee's wax, seeds, nut shells, flowers, bone, sea shell, coral, amber, feathers, fur, leather.

The rule further provides that the following metals and alloys do not exceed the lead content limits under section 101(a) of the CPSIA, provided that no lead or lead-containing metal is intentionally added but does not include the non-steel or non-precious metal components of a product, such as solder or base metals in electroplate, clad, or fill applications:

(1) Surgical steel and other stainless steel within the designations of Unified Numbering System, UNS S13800 - S66286, not including the stainless steel designated as 303Pb (UNS S30360).

(2) Precious metals: gold (at least 10 karat); sterling silver (at least 925/1000); platinum; palladium; rhodium; osmium; iridium; ruthenium; titanium.

The CPSC reiterated that it will not grant any determinations for paints or other surface-coating materials that are subject to the CPSC's lead paint ban.

This is the tenth in a series of Troutman Sanders CPSIA Advisories. If you missed any of the earlier Advisories, please contact Kristy Adams at kristy.adams@troutmansanders.com.

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