

December 21, 2009

## CPSC Extends Stay of Enforcement on Testing and Certification Requirements for Certain Children's Products

The Consumer Product Safety Commission announced last Friday that it will extend the stay of enforcement on the testing and certification of many regulated children's products required under the Consumer Product Safety Improvement Act, past the February 10, 2010 deadline it had set earlier this year.

One of the key provisions of the CPSIA is the lead content limit imposed on most children's products, currently set at 300 parts per million (ppm). As a result of the CPSC's action last week, independent third-party testing conducted by a CPSC-accredited laboratory and certification will be required for products manufactured after **February 10, 2011** to demonstrate their compliance with the lead content limit.

Other children's products affected by the stay of enforcement include: children's toys and child care articles with banned phthalates, children's toys subject to ASTM's F-963 toy safety standard, caps and toy guns, clacker balls, baby walkers, bath seats, other durable infant products, electrically-operated toys, youth all-terrain vehicles, youth mattresses, children's bicycles, carpets and rugs, vinyl plastic film and children's sleepwear. For these products, third-party testing and certification will not be required for the products until 90 days after the CPSC publishes the laboratory accreditation requirements for any individual category. (In the case of bicycles, although the CPSC has already published notice of the accreditation requirements for laboratories, the CPSC stated that it would stay enforcement as to testing of bicycles until May 17, 2010). The CPSC's stay of enforcement on testing and certification will not affect the substantive requirements already in effect for any CPSC-regulated products and all such products remain subject to any applicable rules and bans, such as the 300 ppm lead content limit for children's products.

The stay of enforcement will not be extended and will end on February 10, 2010, for children's bicycle helmets, bunk beds, infant rattles and dive sticks, and products in those categories manufactured after that date will be required to have certifications based on third-party testing.

---

### TROUTMAN SANDERS ADVISORY

#### CONTACT

Karen F. Lederer, Esq.  
212.704.6319  
[karen.lederer@troutmansanders.com](mailto:karen.lederer@troutmansanders.com)

Eric L. Unis, Esq.  
212.704.6482  
[eric.unis@troutmansanders.com](mailto:eric.unis@troutmansanders.com)

>> [Consumer Law / Trade Regulation Practice](#)  
>> [Troutman Sanders Web site](#)

---

**Sign up** to receive insight on other legal issues and practice areas from Troutman Sanders.

This Advisory may be forwarded to any contacts who may have an interest in its content.

Follow Troutman Sanders on [Twitter](#).

While not subject to third-party testing and certification, the CPSIA provides that manufacturers and importers of non-children's products must certify that those products comply with any specific CPSC-enforced regulations they are subject to by issuing general certificates of conformity (GCC) based on a reasonable testing program. GCC's will be required for the following non-children's products manufactured after February 10, 2010: architectural glazing materials, ATVs, adult bunk beds, candles with metal wicks, portable gas containers, lawn mowers, mattresses, unstable refuse bins, refrigerator door latches, swimming pool slides, products subject to regulations under the Poison Prevention Packaging Act (PPPA), and paint and household furniture subject to the lead paint regulation. The stay of enforcement, however, will remain in effect for adult bicycles (only until May 17, 2010), carpets and rugs, vinyl plastic film, and wearing apparel. GCCs are currently required for pool drain covers.

Last week, the CPSC also decided to adopt an interim enforcement policy allowing component part testing to demonstrate compliance with the lead paint and lead content limits, providing flexibility to manufacturers and importers of products subject to these limits. As is already the case, they can send samples of the entire children's product out for independent third-party testing. Under the new policy, in addition, for lead paint, they can demonstrate compliance through test reports from recognized independent third party testing labs stating that each paint used in the product complies with the 90 ppm limit. For lead content, they can demonstrate compliance through test reports from recognized independent third party testing labs stating that each accessible component part used in the product complies with the 300 ppm limit. As the CPSC recognized, most fasteners, such as buttons, zippers, and screws, sold by themselves are not considered children's products but must meet lead requirements if they are used on a children's product and, therefore, voluntary certification by suppliers of component parts would be beneficial to manufacturers who incorporate them into children's products.

*This is the eleventh 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](mailto:kristy.adams@troutmansanders.com).*

© Troutman Sanders LLP. ADVERTISING MATERIAL. These materials are intended to inform you of developments that may impact your business and are not to be considered legal advice or legal opinion, nor do they create a lawyer-client relationship. Information included about previous case results does not assure a similar future result.