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CPSC UPDATE

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By: David J. Evan (devan@gdlsk.com)

**CPSC Extends Stay of Enforcement for Certain Products, Lifts Stay for Others;
Adopts Interim Enforcement Policy Allowing Component Testing**

1. **CPSC Extends Stay for Lead Content, Certain Adult Products, Certain Children's Products**

- a. **Lead Content** - On December 17, the Consumer Product Safety Commission ("CPSC") voted to extend the stay of enforcement on testing and certification related to lead content for one year to February 10, 2011. This stay pertains to lead content in the substrate of children's products (it does **not** affect the restrictions on lead paint in children's products).
- b. **Adult Products** - The stay has also been extended for adult clothing, bicycles, carpets and rugs and vinyl plastic film. Certifications will not be required until the CPSC issues further guidance and requirements.
- c. **Children's Products** - The following categories of children's products will remain covered by the stay of enforcement: Children's toys and child care articles subject to the phthalate ban, children's toys subject to the ASTM F963 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.¹

2. **Stay Will be Lifted for Other Types of Products/Rules**

On December 16, the CPSC voted to lift the stay of enforcement with regard to testing and certification requirements for various products:

¹ Accredited 3rd party testing and certifications will be required for these products 90 days after the CPSC publishes laboratory accreditation requirements for each category. Therefore, certifications and third party testing could potentially be required as early as May 2010 for any of these product types.

- a. The following children's products, if manufactured on or after February 10, 2010, will require certification based upon testing by a CPSC accredited third party testing lab: Bicycle helmets, bunk beds, infant rattles, and dive sticks.
- b. Certain adult products, if manufactured on or after February 10, 2010, will require a general certificate of conformity based upon a reasonable testing program (accredited 3rd party testing is not required). These products include: ATVs, bicycle helmets, adult bunk beds, mattresses, and paint and household furniture subject to the lead paint regulations.

3. CPSC Adopts Interim Enforcement Policy to Allow Component Part Testing for Lead Paint and Lead Content Limits

- a. With regard to children's products, a domestic manufacturer or importer may certify compliance with lead limits if, for each accessible component and each type of paint used on a product, it either obtains passing test results from a recognized third-party test laboratory or holds a certificate from another person based on passing test results from a recognized third-party test laboratory.
- b. For consumer products that are not children's products but are subject to lead paint limits (e.g., furniture items), certifications to the 90 ppm lead paint limit do not need to be based on testing by CPSC accredited labs.

Please feel free to contact this office with any questions.