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Softlines and Toys & Children's Products

Drawstrings in Children's Upper Outerwear Listed as Substantial Product Hazard by CPSC

The Consumer Product Safety Commission of the U.S (CPSC) has just published a rule adding Children's Upper Outerwear in Sizes 2T to 16 with drawstrings that do not comply with ASTM F1816-97 in its Substantial Product Hazard List (16 CFR 1120).

Under the new rule, children's upper outerwear in sizes 2T to 16 with one or more drawstrings that is subject to, but not in conformance with ASTM F1816-97, Standard Safety Specification for Drawstrings on Children's Upper Outerwear, will be considered a Substantial Product Hazard. Manufacturers of such products are required to report to the CPSC of such hazards and, to comply, replace, or refund the purchase price to consumers if the CPSC orders them to do so. Failure to report such hazards will result in civil penalties. The import of such products into the United States will also be rejected.

This rule will take effect on August 18, 2011, and does not imply any additional testing or certification requirements for these kinds of products.

Background information of the CPSC's Substantial Product Hazard list

When the Consumer Product Safety Improvement Act (CPSIA) first came out, it added a new subsection to the existing Consumer Product Safety Act (CPSA) authorizing the CPSC to determine, for a consumer product or class of consumer products, characteristics whose presence or absence would be considered a substantial product hazard.



Before establishing such a rule, the CPSC must determine that these characteristics are readily observable in the market. The CPSC must also determine if an applicable voluntary standard exists in the industry and whether it has been effectively reducing the risk of such hazard.

Upon issuance of such a rule, if a product does not comply with the product safety rule, it is considered a substantial product hazard. Manufacturers of such products are then required to report to the CPSC of such hazards and, to comply, replace, or refund the purchase

price to consumers if the CPSC orders them to do, failing which the manufacturers will face civil penalties.

For the methods the CPSC uses to determine the size of a children's upper outerwear, kindly refer to 16 CFR 1120.3 (b)(2), "Substantial Product Hazard List: Children's Upper Outerwear in Sizes 2T to 12 With Neck or Hood Drawstrings and Children's Upper Outerwear in Sizes 2T to 16 With Certain Waist or Bottom Drawstrings"¹. ■

¹ Download the full document from <http://www.gpo.gov/fdsys/pkg/FR-2011-07-19/pdf/2011-17961.pdf>

Toys & Children's Products

100ppm Lead Limit Comes into Force Under CPSIA in the U.S.

The CPSIA requires Lead Content limit for Children's Products to go down from 300ppm to 100ppm on August 14, 2011 if the CPSC finds it technologically feasible¹. In a CPSC meeting on July 13, the CPSC voted (3-2) that there is insufficient evidence to show children's products in the US cannot meet the 100ppm

¹ See the official CPSC Staff Briefing Package on Technological Feasibility of 100ppm Lead Content Limit in Children's Products at <http://www.cpsc.gov/library/foia/foia11/brief/lead100tech.pdf>

(parts per million) limit². Therefore, the 100ppm limit for Lead Content in Children's Products (for age 12 and under) will take effect on August 14, 2011 for manufacturers, importers, retailers and distributors of children's products as scheduled. On the other hand, Third Party Testing and Certification requirements for Lead

² Read CPSC's News on the vote at <http://www.cpsc.gov/cpscpub/prerel/prhtml11/111278.html?tab=news>

Content in Children's Metal and Non-Metal Products (except for Metal Jewelry) have been stayed until December 31, 2011. After that date, manufacturers or importers of children's metal and non-metal products must issue a Conformity Certificate for their products based on test results from CPSC-accredited Third Party Testing Laboratories. ■

Softlines and Toys & Children's Products

Australia Declares Interim Ban on Babies Dummies and Babies Dummy Chains

On July 14, 2011, Australia announced two interim bans for Babies Dummies¹ and Babies Dummy Chains² with decorations. These bans take effect immediately and will remain in effect for at least 60 days. The details of the bans are described in Table A.

Table A: Details on Interim Ban on Babies Dummies and Babies Dummy Chains

Products affected	<ol style="list-style-type: none"> 1. Babies' dummies (also known as "pacifiers" or "soothers") to which there are crystals, beads or other similar ornaments attached to the ring or handle or plug or shield. 2. Pins, ribbons, strings, cords, chains, twines, leathers, yarns, or any other similar article to which there are crystals, beads or other similar ornaments attached, which are designed to be attached to babies' dummies.
Hazards identified	Crystals, beads and other ornaments (also known as "bling") on these products can detach and become a small part, posing choking, inhalation or ingestion hazard to children.
Effective date	July 14, 2011

These two bans are the only two interim bans in Australia at the moment. An Interim Ban should be carried out nationally and can be extended for up to another 60 days. It may also be declared a permanent ban if later imposed by the Commonwealth Minister. ■

¹ Read the official statement on the interim ban on Babies Dummies with Decoration at <http://www.productsafety.gov.au/content/index.phtml/itemId/987950/fromItemid/971500>

² Read the official statement on the interim ban on Babies Dummies Chains with Decoration at <http://www.productsafety.gov.au/content/index.phtml/itemId/987958/fromItemid/971500>



Softlines, Hardlines and Toys & Children's Products

France Publishes its Interpretation of "0.1 % (w/w)" for SVHC in Articles

For article producers and importers, the obligations related to Substances of Very High Concern (SVHC) in the European Union are often complicated by the prolonged and contentious issue of the definition of "0.1% (w/w)". On 8 June 2011, France became the first of the seven dissenting countries¹ to publish its interpretation in the French Official Journal².

Articles which contain Candidate List SVHCs at a concentration of 0.1% (w/w) triggers the Communication, and possibly Notification, obligations. However, how the 0.1% (w/w) should be calculated has long been at dispute. The definition of "0.1% (w/w)" as interpreted by the European Commission applies to the article "as produced or imported", i.e. as a whole; in contrast, the dissenting countries interpret it as the concentration of an SVHC present in the individual components of an article, which are themselves considered as article and therefore should be calculated separately.

The French publication of its opinion aims to inform businesses of its enforcement position on this subject. By using a simple example of a belt composed of a leather strap and a buckle, France demonstrates the application of its interpretation, as well as how this will affect the Communication and Notification obligations.

Table B summarises the details of the belt example given in the French opinion. The date of inclusion of the SVHC on the Candidate List is 13 January 2010.

¹ The 7 dissenting countries are: Austria, Belgium, Denmark, France, Germany and Sweden within the EU, and Norway of the EEA (European Economic Area).

² See the official publication at <http://www.legifrance.gouv.fr/affichTexte.do;jsessionid=?cidTexte=JORFTEXT000024144346&dateTexte=&oldAction=rechJO&categorieLien=id>

Table B: The French belt example

Components	Leather Strap	Buckle	Whole Belt
SVHC Content (%)	0 % (w/w)	0.2 % (w/w)	0.05 % (w/w)
Tonnage	1.5 tonnes/year/importer		

Table C shows the comparison of the obligations between the different 0.1% (w/w) interpretations by the European Commission and France (whose interpretation also represents those of the six other dissenting countries). Under the French interpretation, the Communication obligation is triggered by the SVHC content in the buckle (> 0.1% w/w), and the Notification obligation is triggered by the SVHC content in the buckle as well as the tonnage (> 1 tonne/year/importer), and the deadline is 1 June 2011. Under the European Commission's interpretation, however, no Communication or Notification obligation applies because the belt as a whole does not contain any SVHC > 0.1% w/w. ■

Table C: Comparison of obligations

	France	European Commission
Communication Obligations	✓	✗
Notification Obligations	✓	✗

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