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CPSC Says Get the Lead Out--With Some Exceptions

As of August 14, 2009, additional lead restrictions became effective under the Consumer Product Safety Improvement Act of 2008 ("CPSIA"), decreasing allowable lead limits in the United States to no more than 300 ppm lead^[1] in children's products^[2].

However -- importers, manufacturers, distributors and retailers take notice-- the Consumer Product Safety Commission ("the Commission") has excluded certain classes of materials and products from CPSIA lead testing and certification requirements upon a determination that such products *do not*, and by their nature *will not*, exceed the lead limits.

The Final Rule, published today, exempts the following materials from lead testing requirements:

- Precious gemstones (diamond, ruby, sapphire, emerald);
- Certain semiprecious gemstones, provided that the mineral or material is not based on lead or lead components and is not associated in nature with any material that is based on lead or lead compounds;
- Natural or cultured pearls;
- Wood;
- Paper and similar materials made from wood or other cellulosic fiber, including, but not limited to, paperboard, linerboard, and medium;
- Printing inks that use the CMYK process;
- Textiles (excluding after-treatment applications, e.g., screen prints, transfers, decals, or other prints) consisting of:
 - Natural fibers (dyed or undyed);
 - Manufactured fibers (dyed or undyed) including, but not limited to, rayon, azlon, lyocell, acetate, triacetate, rubber, polyester, olefin, nylon, acrylic, modacrylic, aramid, spandex;
- Other plant-derived and animal-derived materials.

Are your company's products absent from this list? Would exclusion from CPSIA lead limit restrictions, testing and enforcement be beneficial to your company? If so, please let us know if we can assist you in submitting an "Application for Determination or Exclusion" to the Commission.

Importers and manufacturers remember: Even when exempt from testing and certification requirements, as part of the U.S. stream of commerce, you must ensure that the materials and products have not been altered or modified in any way that could impart lead, such as with the addition of a surface coating.

^[1] The lead limit will go down to 100 ppm as of August 14, 2011, unless the Commission determines that it is not technologically feasible to have this lower limit. Children's products are generally subject to testing requirements and certification requirements under Section 102(a) of the CPSIA, to ensure that they meet these lead limits.

^[2] "Children's products" are products designed or intended primarily for children 12 years old or younger.

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