

CLIENT ALERT

CPSC Votes To Extend Stay of Certification and Third Party Testing Requirements For Total Lead Content In Certain Products, Including Children's Products

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On February 1, 2011, the Consumer Product Safety Commission ("CPSC") voted 4-1 to extend an existing stay of enforcement of third party testing and certification requirements for total lead content in various consumer products, as set forth in Section 102 of the Consumer Safety Improvement Act of 2008 ("CPSIA"). The CPSC's vote, which will extend the stay of enforcement until December 31, 2011, applies to (1) children's products; (2) certain components in motorized youth recreational vehicles; and (3) bicycles, jogger strollers, and bicycle trailers. These stays were originally set to expire on February 10, 2011; May 12, 2011; and July 1, 2011, respectively.

The CPSC expressly noted that this extension does not apply to –

- *Children's Metal Jewelry*: Children's metal jewelry has been subject to the CPSIA's lead testing and certification standards since March 2009.
- *Other Children's Product Safety Rules*: The existing stays of enforcement of testing and certification requirements for other children's product safety rules, such as the phthalate and ASTM F-963 standards, "will continue until the respective notice of requirements for laboratory accreditation are published."

Commissioner Robert Adler voted against extending the stay. In a written statement, he explained that the stay should not be extended, in part, because "consumers still do not have the assurance that the children's products they buy have been reasonably tested, or tested at all, to determine they meet the federal lead standards required in the CPSIA." Commissioner Adler also noted, however, that he recognizes the burden that CPSIA compliance imposes on manufacturers, particularly small businesses. CPSC Chairman Inez Tenenbaum and Commissioner Northrup also filed statements relating to this vote.

Consistent with the previous stays of enforcement of testing and certification requirements, the products at issue must still comply with applicable lead content standards. To access Crowell & Moring's summary of the December 2009 Stay of Enforcement, including a discussion of the relevant statutory provisions and prior stays of enforcement of certification and testing, click [here](#).

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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