
◆SPC&B Safety News◆

A Newsletter for Clients of Sharretts, Paley, Carter & Blauvelt, P.C.

November 4, 2010

- I. Update on GCC Requirement on Flammability for Non-Children's Apparel***
- II. CPSC Commissioners Discuss Testing for Flammability of Children's Sleepwear***
- III. Korea Issues Draft Safety Criteria for Children's and Infants' Textile Products***



I. In December 2009, the CPSC stayed the requirement for a General Certificate of Conformity (GCC) certifying compliance with various rules and standards, including for flammability of clothing textiles, “until further notice.” On August 18, 2010, the agency published in the Federal Register a notice setting forth requirements for accreditation of third party testing facilities for testing children’s textile garments and fabrics under the Flammable Fabrics Act (FFA) and lifted the stay of the GCC requirement for all children’s textile garments and fabric manufactured on and after 90 days from that publication date, or November 16, 2010.

In recent discussions with CPSC compliance personnel, we were advised that the CPSC also intended the August 18 notice to lift the stay on the GCC requirement for non-children’s apparel. The CPSC acknowledges, however, that its notice was not clear on this subject, and that most of the apparel industry is unaware of the requirement for non-children’s apparel. Accordingly, the CPSC intends to post a notice with a definitive clarifying statement in the near future. Until this clarification is issued, importers can expect continued leniency in enforcement, but should immediately start requiring GCCs supported by evidence of reasonable testing. As part of their reasonable testing programs, non-children’s apparel importers already should at least be obtaining a guaranty, either from the fabric or garment supplier, that fabric satisfies the Flammable Fabrics Act requirements or that the fabric is exempt. Statements that the fabric is exempt should be supported by a statement setting forth the basis of the claim for exemption. Statements that the fabric satisfies the flammability requirements should be supported by test results.

II. Yesterday, the CPSC discussed but failed to vote on a draft notice to establish accreditation requirements for third-party testing for flammability of children’s sleepwear. Concerns were raised by two of the Commissioners about the laboratories’ capacity to accommodate testing for children’s sleepwear for flammability, so soon after the children’s clothing textile and children’s mattress flammability accreditation requirements had been posted. Nevertheless, manufacturers and importers should be preparing for action on this matter. The proposed notice, when published would require third party testing and certification 90 days after publication, although CPSC staff noted that the trade can request a 60-day extension if the number of

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testing labs that have qualified is insufficient.

Part of the reason for these concerns is that the testing requirements for the children's sleepwear flammability standards, other than for tight-fitting sleepwear which do not require testing, are quite onerous. There are testing requirements at three stages of production: 1) fabric testing; 2) prototype testing in which seams and trims are tested; and 3) finished product unit testing. The CPSC proposes to require third-party testing at all three of the stages. To meet the first stage testing requirement, sleepwear manufacturers/importers could purchase fabric already third-party tested and certified. However, the next two stages require actual garments to be tested.

We will continue to keep you apprised of further developments.

III. The government of South Korea recently published proposed revisions of its Safety and Quality Mark Criteria for Textile Products, which if passed would require the following for goods sold in Korea:

- For textile products for infant and family use, indicate date of fabrication, lot number, bar code or style number, in order to track any inappropriate substances such as formaldehyde found in such products.
- For textile products for infants and children, indicate the phrase "WARNING! IF SMALL PARTS ARE DETACHED, THEY COULD BE SWALLOWED" if parts are smaller than 31.7mm
- For textile products for infants, decorative small parts below 31.7mm must pass a "sticking strength" test (applying the power of 70N± 2N for 5 seconds and maintained for 10 seconds)

For more information on testing and labeling requirements for adult and children's products in the U.S. and abroad, please contact Gail Cumins at gcumins@spcblaw.com or Donna Shira at dshira@spcblaw.com, or call us at 212-425-0055.
