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# ❖SPC&B Safety News❖

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

July 2, 2013

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## *Cadmium and Other Heavy Metals Targeted by Individual States*



In recent months, there has been a high degree of activity on the state level regarding bans on certain harmful chemicals and substances in children's products. These new and potential bans continue the trend of legislating the use of chemicals and substances on a state level in the face of no applicable federal standards. (See *SPC&B Safety News* of June 5, 2013, regarding Minnesota's formaldehyde ban.)

New York recently approved legislation that will require children's jewelry to meet the requirements of American Society for Testing and Materials ("ASTM") Standard F 2923-11 – *Standard Specification for Consumer Product Safety for Children's Jewelry*.

ASTM F 2923-11 covers cadmium, lead, nickel, heavy metals in surface coatings, magnets, batteries, liquid-filled jewelry and breakaway necklaces. Among other things, the standard includes several restrictions on cadmium in children's jewelry, including a 75 ppm limit on soluble cadmium in paints and surface coatings based on the weight of the dried paint film. Furthermore, if the total cadmium content of a component part of children's jewelry does not exceed 300 ppm, no additional testing for cadmium migration is required. If the cadmium content of a component that is a small part (as defined in 16 CFR §1501.4) exceeds 300 ppm, then the part is subject to additional testing to determine the migration of cadmium using specified laboratory tests. The migration limit for parts subject to this test is 200 micrograms cadmium per component part.

The New York legislation is substantially the same as one enacted into law in Rhode Island in June 2012.

Massachusetts is currently considering legislation to prohibit the manufacture, sale, offer for sale and distribution of children's jewelry containing cadmium in any paint, surface coating or accessible substrate that exceeds 75 parts per million, as determined through solubility testing for heavy metals defined in American Society for Testing and Materials Standard F-963 – *Standard Consumer Safety Specification for Toy Safety*, and subsequent versions of this standard unless superseded by a federal standard applicable to children's jewelry.

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The Massachusetts bill would also ban the manufacture, sale, offer for sale and distribution of children's dishes containing cadmium in any paint, glaze, surface coating or accessible substrate that exceeds 0.25 micrograms per millimeter as determined through ASTM Standard C783-94 and subsequent versions of this standard, unless superseded by an applicable federal standard.

If the legislation is approved as currently drafted these prohibitions would enter into force on December 31, 2013.

If you have any concerns about your company's compliance with state and federal safety laws, please contact Gail Cumins at [gcumins@spcblaw.com](mailto:gcumins@spcblaw.com), Donna Shira at [dshira@spcblaw.com](mailto:dshira@spcblaw.com), or Alli Baron at [abaron@spcblaw.com](mailto:abaron@spcblaw.com), or call us at 212-425-0055, for more information.

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