



# LEGAL ALERT

## CONSUMER PRODUCT SAFETY UPDATE

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## Request for Emergency Stay of Effective Date of CPSIA Section 101

Today, the CPSC posted a "Request for Emergency Stay of Effective Date of CPSIA Section 101(a)(2)" on its website. The Request is made on behalf of the Consumer Product Safety Commission coalition of the National Association of Manufacturers ("NAM CPSC Coalition"), and over 60 associations and coalitions. The Commission ballot votes regarding this emergency stay are due **February 9, 2009**. This is only one day before the February 10, 2009 effective date for Section 101 of the CPSIA.

The Request is for an immediate emergency rule staying the effective date of the limits on lead content in accessible parts and components in children's products under Section 101(a)(2) of the CPSIA. The length of the requested stay is 185 days, or until 90 days after final comprehensive rules and interpretative regulations implementing Section 101 are issued, if later. This requested stay would have no effect on the lead paint requirements or the phthalate limits of Section 108.

This Request is being made because "retaining the current February 10, 2009 effective date for the lead content limit in accessible components will create massive marketplace confusion and business disruption without any commensurate benefit to consumer safety." The Commission has yet to issue any final rules regarding specific exemptions and there are still no designated test procedures for lead content in most products.



**Bottom Line:** If this emergency stay is granted by the CPSC on February 9, 2009, manufacturers, importers, and retailers may still sell and retain inventory over the lead content limits prescribed in Section 101 after February 10, 2009. Product would not have to be destroyed on this date, but instead could potentially be kept and sold into August 2009. This stay would provide relief for many businesses.

Additionally, the hearing for the NRDC v. CPSC lawsuit regarding the retroactivity of the phthalate limits in Section 108 was on February 2, 2009. The judge took the matter under submission, and we have yet to hear any news on what the outcome of this case will be.