



One Minute Memo[®]

Manufacturers and Retailers Beware: The Consumer Product Safety Commission and State Legislatures are Cracking Down on the use of Cadmium Legislation

The use of cadmium in consumer products is drawing heightened scrutiny at both the state and federal level. In a flurry of recent activity, a number of state legislatures have passed legislation restricting the use of cadmium in children's jewelry. On May 3, Illinois passed the Cadmium-Safe Kids Act which prohibits the manufacture or sale of children's jewelry containing more than 75 parts per million of cadmium after July 1, 2011. The bill awaits the governor's signature. On May 11, Connecticut passed legislation banning the manufacture or sale of children's jewelry containing more than 75 parts per million of cadmium after July 1, 2014. California, Florida, Massachusetts, Minnesota, Mississippi, New Jersey and New York are considering similar legislation. Federal legislation has been introduced which would define cadmium as a banned hazardous substance and prohibit its use in children's jewelry.

Product Recalls

On May 10, the Consumer Product Safety Commission ("CPSC") issued a recall of 19,000 charm bracelets containing high levels of cadmium. It was the third recall this year of children's jewelry containing cadmium. According to a CPSC spokesman, "More recalls are in the works."

Cadmium

Cadmium, which was once widely used as a pigment and for corrosion-resistant plating on steel, has declined in overall use because of environmental and health risks. Today, it is primarily used in nickel-cadmium batteries, cadmium telluride solar panels and as a substitute for lead (often in response to regulation of lead-containing products such as costume jewelry). In 1980, the EPA identified cadmium as a toxic hazardous waste and currently classifies it as a probable human carcinogen. In 1987, the State of California listed cadmium under Proposition 65 as a known carcinogen and in 1997 listed it as a chemical known to cause reproductive toxicity. It ranks seventh on the U.S. Centers for Disease Control and Prevention priority list of the most hazardous substances in the environment.

Conclusion

In addition to the legislative bans and CPSC investigations, it is expected that the heightened attention to cadmium and the resulting news reports may lead to additional California Proposition 65 actions, individual lawsuits and potential class actions. This heightened attention to consumer exposures may also result in increased OSHA enforcement activity for employee exposures.

For more information regarding the legislation, product recalls or California's Proposition 65, please contact the Seyfarth attorney with whom you work or any member of our [Product Liability & Complex Tort Group](#) or [Environmental, Safety & Toxics Torts Group](#) on our website.

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