



U.S. CONSUMER PRODUCT SAFETY COMMISSION
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November 14, 2008

Mr. Michael A. Brown
Brown & Gidding, P.C.
3201 New Mexico Avenue, N.W. Suite 242
Washington, D.C. 20016

Dear Mr. Brown:

I have received your request for reconsideration of the advisory opinion on whether the limits in Consumer Product Safety Improvement Act (the "Act") on the amount of lead permissible in children's products apply to unsold inventory when those limits take effect in February of 2009. The Commission is aware of the potentially significant economic impact that the new Act could have on any remaining inventory next February. However, Congress stated that children's products that did not meet the new lead limits would be treated as "a banned hazardous substance" under the Federal Hazardous Substances Act as of February 10, 2009, and made it unlawful "to sell, offer for sale, manufacture for sale, distribute in commerce, or import into the United States" any banned hazardous substance. The language Congress wrote does not permit me the flexibility to take into consideration the policy issues that have been raised by you and your client as to the potential consequences of requiring products to meet the new stricter lead limits by that date. For the reasons provided in the September 12, 2008 advisory opinion, which will not be readdressed here, your request for reconsideration is denied.¹ If you believe that your client will be unable to bring its products into compliance with the statutory requirements, I suggest that you consider petitioning the Commission for relief.

Sincerely,

/s/

Cheryl A. Falvey

¹ Advisory opinions represent the legal opinions of the General Counsel and may be changed or superseded by the Commission.