Canada: Amended Rules for Surface Coating Materials

SOR/2022-122 affects toys and other products. July 2022

NEW BASIC REGULATIONS

On June 22nd, 2022, Canada published the Regulations Amending Certain Regulations Made Under the Canada Consumer Product Safety Act (Surface Coating Materials): SOR/2022-122.

The new regulations amend the Surface Coating Materials Regulations (SOR/2016-193) and four other regulations under the Canada Consumer Product Safety Act (CCPSA) that set requirements for applied coating materials: The Toys Regulations (SOR/2011-17), the Cribs, Cradles and Bassinets Regulations (SOR/2016-152), the Expansion Gates and Expandable Enclosures Regulations (SOR/2016-179) as well as the Playpens Regulations (SOR/2018-186).

SOR/2022-122 will (a) align and clarify the requirements across regulations under the CCPSA; (b) improve alignment with the United States, which will facilitate trade; and (c) reduce regulatory costs by simplifying testing and removing requirements that do not benefit human health.

The new requirements come into force on December 19th, 2022.

ESSENTIAL CHANGES

In the surface coating materials regulations, the definition of “surface coating material” was adapted and a new definition for “accessible part” was added. The other regulations mentioned above will refer to those new definitions. Additionally, the existing requirement for lead (≤ 90 mg/kg) was extended to further materials described as “a sticker, film or other similar material” and now also applies for all kind of furniture (not only for children). The requirement for mercury (≤ 10 mg/kg) was not changed.

In the Toys Regulations as well as in the Expansion Gates and Expandable Enclosures Regulations, the definitions for “good scientific practices” as well as “good laboratory practices” were amended.

Concerning chemical requirements, in the product specific regulations the specific Canadian test method for leachable elements was replaced by “a method that conforms to good laboratory practices”. Further, the ban of mercury was specified to “more than 10 mg/kg total mercury”.

REGULATORY IMPACT ANALYSIS STATEMENT

SOR/2022-122 includes a very detailed Annex called “Regulatory impact analysis statement” which is not part of the Regulations. This chapter gives background information on health and safety considerations, compliance burden considerations, cost-benefit analysis but also the rationale for the regulatory actions.

AMENDMENT OF THE SURFACE COATING MATERIALS REGULATIONS (SOR/2016-193)

The aim for amending the Surface Coating Materials Regulations was to include further materials and to exclude inaccessible parts of products.

Amended Part	Amended Content	Rationale for Adjustment
Definition for **„accessible part“** (Section 1)	Addition of new definition: ***accessible part*** means any part of a product that **may be touched, licked, mouthed or swallowed** during the reasonably foreseeable use of the product	Only those parts that are or can become accessible during the reasonably foreseeable use of a product pose a risk to human health, since this is where exposure to the harmful elements is possible. **Parts that remain inaccessible during reasonably foreseeable use of a consumer product, which includes foreseeable misuse, do not pose a risk of exposure** to these elements, so they are no longer required to meet the established limits.
Definition for “**surface coating materials**” (Section 1)	Change of the definition to **remove the condition of “drying“** and **replace the passus “but does not include material that becomes a part of the substrate**” with the condition that the material can be removed”: New definition: ***Surface coating material*** means a paint or other similar material, with or without pigment, that **forms a solid film** after it is applied to a surface and that **can be removed**”	Extension of the applicability to **cover also the following surface coating materials**: a) materials not similar to paint that do not dry to a solid film after they were applied to a surface **such as stickers or films**, b) materials that form or change to a solid film by a means other than drying, **such as powder coating materials that are applied electrostatically and cured under heat** Alignment with the definitions in ASTM F963 as well as 16 CFR Part 1303
Requirements for **Products with Applied Stickers, Films or Surface Coating Materials** (Section 6)	Addition of the following parts: • materials in scope are also stickers, films or other similar materials that can be removed • scope is limited to accessible parts • specification of the applicable test method as “a method that conforms to good laboratory practices” • scope has been extended to cover all kind of furniture (not only for children) New version: “**A sticker, film or other similar material that can be removed**, or a surface coating material**,** that is applied to an **accessible part** of the following products must not contain more than 90 mg/kg total lead **when it is tested in accordance with a method that conforms to good laboratory practices**: (a) **furniture**; (b) products for children; (c) pencils; and (d) artist brushes.”	The Surface Coating Materials Regulations did not specify a certain test method for measuring the total lead content of an applied surface coating material on a consumer product. **This may have compromised children’s health if unaccredited test methods that do not produce accurate, reliable and reproducible test results were used.** **The United States restricts the lead content of applied surface coating materials on all household furniture** while in Canada the restriction applied to children’s furniture only.

Table 1: Amendments concerning the Surface Coating Materials Regulations.

AMENDMENT OF THE TOYS REGULATIONS (SOR/2011-17)

The aim for amending the Toys Regulations was to include further materials, to remove an outdated test method and to up set a limit for mercury.

Amended Part	Amended Content	Rationale for Adjustment
Definitions for "**good scientific practices**" and "**good laboratory practices**" (Section 1)	New definition for good scientific practices replacing the current one: "***good scientific practices*** means: (a) in the case of test data, conditions and procedures that are in accordance with or equivalent to those set out in the Organisation for Economic Co-operation and Development document entitled OECD Guidelines for the Testing of Chemicals, as amended from time to time; and (b) **in the case of laboratory practices, good laboratory practices**." Addition of the following definition: "***good laboratory practices*** means practices that are in accordance with the principles set out in the Organisation for Economic Co-operation and Development document entitled OECD Principles of Good Laboratory Practice, Number 1 of the OECD Series on Principles of Good Laboratory Practice and Compliance Monitoring, ENV/MC/CHEM(98)17, the English version of which is dated January 21st, 1998 and the French version of which is dated March 6th, 1998."	A reference to the OECD Principles of Good Laboratory Practice was already required in the previous Surface Coating Materials Regulations and it exists in other regulations under the CCPSA, such as the Children's Jewellery Regulations, the Glazed Ceramics and Glassware Regulations and the Phthalates Regulations. The approach to reference the OECD Principles of Good Laboratory Practice versus a specific method should **improve the reliability of test results, and will reduce the need for duplicate testing of a consumer product, which will reduce regulatory burden and facilitate international trade.**
Requirements for **Stickers, films and surface coating materials** (Section 23 (1))	Addition of the following parts: • materials in scope are also stickers, films or other similar materials that can be removed • defining test method as "**a method that conforms to good laboratory practices**" • **replacement of the special Canadian test method for leachable elements** (dissolve 5% hydrochloric acid after being stirred for 10 minutes at 20°C) • setting up a **limit value for mercury** New version "**A sticker, film or other similar material that can be removed**, or a surface coating material, that is applied to an **accessible part** of a toy must not contain, **when it is tested in accordance with a method that conforms to good laboratory practices**, (a) more than 90 mg/kg total lead; (b) any compound of antimony, arsenic, cadmium, selenium or barium if more than 1000 mg/kg of the compound **migrates from the material**; or (c) **more than 10 mg/kg total** mercury."	Deletion of the outdated hydrochloric acid test parameters specified for measuring the migration of any compound of antimony, arsenic, cadmium, selenium or barium. **Industry will now be able to test with a method they commonly use for this purpose for products destined for the United States, the European Union or other jurisdictions**, for example the methods set out in ASTM F963, Standard Consumer Safety Specification for Toy Safety; in EN 71-3, Safety of toys - Part 3: Migration of certain elements; and in ISO 8124-3, Safety of toys - Part 3: Migration of certain elements. Health Canada has noted the request that it consider reducing the migratable limit of certain harmful elements. Health Canada will continue to monitor evidence around the health effects of these elements, but does not have evidence that the existing limits do not adequately protect human health.

Table 2: Amendments concerning the Toys Regulations.

SUMMARY OF CHANGES RELEVANT FOR TOYS

- The requirements for surface coating materials have been extended to cover also
  - stickers, films or other similar materials that can be removed
  - materials that form or change to a solid film by a means other than drying, such as powder coating materials that are applied electrostatically and cured under heat
- The scope of the requirements for surface coating materials has been limited to accessible materials, defined as “part of a product that may be touched, licked, mouthed or swallowed”
- The test methods for total lead and mercury have been specified and the method for soluble elements has been revised by “method that conforms to good laboratory practices” to enable use of common methods e.g. acc. to ASTM F963 or EN 71-3
- The requirements for mercury compounds have been defined so that the material must not contain more than 10 mg/kg total mercury.

Further information on current legal changes can also be found on our homepage at www.tuv.com or www.tuv.com/regulations-and-standards/en/.

For further technical information, please contact:

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For additional information about safety of consumer products in Canada please see: Canada Consumer Product Safety Act (CCPSA) | TÜV Rheinland (tuv.com)