

SAFEGUARDS

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GERMANY MAY CONTINUE TO APPLY EXISTING LIMITS FOR CERTAIN HEAVY METALS IN TOYS

In May 2013, the General Court of the European Union (EU) published a press release stating that Germany may continue to apply its existing limit values for lead, barium, antimony, arsenic and mercury in toy materials until a final decision is made by the Court.

Under the German Second Equipment and Product Safety Act Ordinance (*Verordnung über die Sicherheit von Spielzeug – 2. GPSGV*), the maximum daily bioavailability values for antimony, arsenic, barium, lead and mercury are identical to those under the Toy Safety Directive 88/378/EEC¹. These bioavailability values are:

- a. 0.2 µg (antimony)
- b. 0.1 µg (arsenic)
- c. 25.0 µg (barium)
- d. 0.7 µg (lead)
- e. 0.5 µg (mercury)

The bioavailability values listed above a) to e) correlate to the migration values under the existing standard EN 71-3:1994 + A1:2000/AC:2002. The migration values for these elements a) to e) are more stringent than, in particular, the migration values for toy material Category III under the new Toy Safety Directive 2009/48/EC (TSD).

In 2011, Germany sought permission from the EU Commission to retain its existing provisions provided in German law for, amongst other substances, antimony, arsenic, barium, lead and mercury released from toy material beyond 20 July 2013; the date of entry into force for chemicals under the new Toy Safety Directive 2009/48/EC (TSD)².

In April 2012, we informed you that the EU Commission partially agreed to Germany's application to certain stricter chemical limits in toys³. Under Decision 2012/160/EC, measures for antimony, arsenic and mercury were not approved. The measures for barium and lead were approved until the date of entry into force of EU provisions setting new limits in toys or 21 July 2013, whichever comes first.

In May 2013, the General Court of the EU published a press release (No. 59/13) stating that Germany may continue to apply its existing limit values for lead, barium, antimony, arsenic and mercury in toy materials until a final decision by the court⁴. This in effect annulled Decision 2012/160/EC dated March 2012 where the EU Commission partially agreed to Germany's stricter chemical limits for heavy metals.

A major impact from the press release (No. 59/13) is that toy material Category III (scraped-off toy materials) in Germany will have to comply with the existing EN 71-3 values for lead, barium, antimony, arsenic and mercury rather than those laid down in TSD until a final decision has been reached by the Court.

Highlights of the migration limits for the 2 sets of EN 71-3 standards are summarised in Table 1. In Table 2 the categories I, II and III as defined in EN 71-3:2013 are explained.

TABLE 1.

SOLUBLE ELEMENT	MIGRATION LIMIT (MG/KG)				
	EN 71-3:2013			EN 71 PART 3:1994 + A1:2000/AC:2002	
	CATEGORY I (TABLE 2)	CATEGORY II (TABLE 2)	CATEGORY III (TABLE 2)	TOY MATERIAL OTHER THAN MODELLING CLAY	MODELLING CLAY
Antimony	45	11.3	560	60	60
Arsenic	3.8	0.9	47	25	25
Barium	1,500	375	18,750	1000	250
Lead	13.5	3.4	160	90	90
Mercury	7.5	1.9	94	60	25
Aluminium	5,625	1,406	70,000	---	---
Boron	1,200	300	15,000	---	---
Cadmium	1.3	0.3	17	75	50
Chromium (III)	37.5	9.4	460	60 (sum)	25 (sum)
Chromium (VI)	0.02	0.005	0.2		
Cobalt	10.5	2.6	130	---	---
Copper	622.5	156	7,700	---	---
Manganese	1,200	300	15,000	---	---
Nickel	75	18.8	930	---	---
Selenium	37.5	9.4	460	500	500
Strontium	4,500	1,125	56,000	---	---
Tin	15,000	3,750	180,000	---	---
Organic tin	0.9	0.2	12	---	---
Zinc	3,750	938	46,000	---	---

TABLE 2.

CATEGORY	DEFINITION	EXAMPLE OF TOY MATERIAL
I	Dry, brittle, powder like or pliable materials	<ul style="list-style-type: none"> Compressed paint tablets Materials intended to leave a trace or similar materials in solid form (e.g. cores of colouring pencils, chalk and crayons) Bouncy putty, magic sand, plastacine, plaster of Paris and magic sand
II	Liquid or sticky materials	<ul style="list-style-type: none"> Liquid paints, including finger paints, varnishes, lacquers, liquid ink in pens and similar materials in liquid form (eg slimes and bubble solution)
III	Scraped-off material	<ul style="list-style-type: none"> Coatings of paints, varnishes, printing inks and similar coatings Polymeric (plastic) and similar materials, including laminates Paper and paper board Natural or synthetic textiles Glass, ceramic or metallic materials Other materials such as bone, fibre board, foam, hard board, leather, natural sponge and wood



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References:

- [Second Ordinance to the Equipment and Product Safety Act \(Ordinance on the safety of toys\) \(2 GPSGV\) Directive 88/378/EEC](#)
- [Notification pursuant to Article 11, paragraph 4, 5 and 6 of the TFEU – Authorisation to maintain or introduce national measures being more stringent than provisions of an EU harmonisation measure](#)
- [Safeguards 57/12 "EU Commission partially agrees to Germany's stricter chemical limits in toys" Decision 2012/160/EC](#)
- [Press release \(No. 59/13\) from the General Court of the EU Order of the President of the Court](#)

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