

JEWELRY CONSENT JUDGMENT REQUIREMENTS

This “plain English” overview summarizes the compliance requirements for jewelry that are currently included in the Consent Judgment entered in *People v. Burlington Coat Factory Warehouse*, Alameda Superior Court no. RG 04-162075 (and consolidated actions). It is provided for your convenience only, and the terms of the Consent Judgment control, to the extent that they differ from this document.

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➤ ***What products are covered?***

“Jewelry,” which means “(a) the following ornaments worn by a person: an anklet, arm cuff, bracelet, brooch, chain, crown, cuff link, decorated hair accessories, earring, necklace, pin, ring, and Body Piercing Jewelry, or (b) any bead, chain, link, pendant, or other component of such an ornament.” “Children’s Jewelry” has a special and limited definition.

➤ ***What requirements will apply to those products?***

There will be lead content requirements for a some components of jewelry (Attachment A shows the specific requirements). Other components will not have lead content requirements.

Special requirements apply to Body Piercing Jewelry and Children’s Jewelry, each of which have their own particular definitions. (See Attachments B and C.)

Any plated metal must comply with the “Best Management Practices for Plating Facilities” (Attachment D). All testing must comply with the approved protocols (Attachment E).

➤ ***When will the requirements become effective?***

Suppliers of Covered Products should use best commercial efforts to provide compliant products as soon as possible.

Children's jewelry shipped by vendors after April 1, 2007, or sold by retailers after September 1, 2007, must be compliant.

All other jewelry shipped by vendors after August 1, 2007, or sold by retailers after March 1, 2008, must be compliant.

➤ ***What happens when compliance is challenged?***

Compliance will be challenged by notice of violation (NOV), that will be served on companies participating in the Settlement. The NOV must contain information sufficient to allow identification of the product, and all test data obtained by the enforcing party. Product samples will be made available if requested. If the product vendor is also a party to the settlement, the vendor will be required to deal with the NOV.

If a company (and/or its vendor) decides not to contest the NOV, and notifies the enforcing party within 15 days, it will not pay any penalty, but will be required to take corrective action, in the form of removing the product from stores in California. If the company (and/or its vendor) takes between 16 and 30 days to reach that decision, it will pay a penalty of \$2500 for all products that are involved and were purchased by the same vendor (Note: this \$2500 penalty is waived in the first six months after the retail compliance date). This penalty may not exceed \$5000 for all violative products identified in any NOV's within a 30-day period.

If the company (and/or its vendor) elects to dispute an NOV, there is a 30-day period to meet and confer with the enforcing party over the allegations. If the company changes its mind and elects not to contest the allegation within those 30 days, it will pay a larger penalty of \$7500. This penalty may not exceed \$15,000 for all violative products identified in any NOV's within a 30-day period.

If the meet and confer does not resolve the issues, then the enforcing party is free to go to court and seek whatever penalties or other relief the court may provide under law. Those penalties could amount to \$2500 per unit sold that violates Prop 65, and additional penalties for violating the consent judgment.

➤ **Where Can I Obtain More Information?**

You can obtain further information on compliance, including a copy of the Consent Judgment, by contacting _____.

ATTACHMENT A (LEAD CONTENT STANDARDS)

CLASS 1 COMPONENTS (NO LEAD STANDARDS)

Stainless and surgical steels.

Karat gold.

Sterling silver.

Platinum, palladium, iridium, ruthenium, rhodium, or osmium (“platinum group metals”).

Natural and cultured pearls.

Glass, ceramic, and crystal decorative components (e.g., cat’s eye, cubic zirconia (sometimes called cubic zirconium, CZ), glass, rhinestones, cloisonne).

Any gemstone that is cut and polished for ornamental purposes except the following: aragonite, bayldonite, boleite, cerussite, crocoite, ekanite, linarite, mimetite, phosgenite, samarskite, vanadinite, and wulfenite.

Non-synthetic elastic, fabric, ribbon, rope, and string with no intentional lead and not otherwise listed as a Class 2 component.

Natural decorative materials (e.g., amber, bone, coral, feathers, fur, horn, leather, shell, wood) if treated in a way that does not add lead.

Adhesives.

CLASS 2 AND 3 COMPONENTS (SPECIFIC LEAD STANDARDS)

COMPONENT	LEAD CONTENT LIMITS
Plated metal substrates	Metal alloys with less than 10 percent lead by weight (i.e., with a lead content equal to or less than “88 metal”) and after December 31, 2008, 6 percent lead by weight (i.e., with a lead content equal to or less than “92 metal”), that are electroplated with suitable under and finish coats and that are plated utilizing the Best Management Practices described in Attachment D.
Unplated metal not defined as Class 1 Components.	Not to exceed 1.5% lead.
Plastic/Rubber (e.g., acrylic, polystyrene, plastic beads/stones, polyvinyl chloride (PVC))	0.06%, (600 ppm) and after December 31, 2008, 0.02% (200 ppm)
Dyes, and Surface Coatings	0.06% (600 ppm)
All other Components (Class 3 Components)	0.06% (600 ppm)

ATTACHMENT B (CHILDREN'S JEWELRY)

Definition of Children's Jewelry):

The term "Children's Products" means Covered Products that are made for, marketed for use by, or marketed to, Children.

(a) *The term "Children" means a child aged 6 and younger.*

(b) *A Covered Product is made for, marketed for use by, or marketed to*

Children if it is either:

- (1) Represented in its packaging, display, or advertising, as appropriate for use by Children; or
- (2) Sold in conjunction with, attached to, or packaged together with other products that are packaged, displayed, or advertised as appropriate for use by Children; or
- (3) Sized for Children and not intended for use by adults
- (4) Sold in
 - (i) a vending machine; or
 - (ii) a retail store, catalogue, or online website, in which the Settling Defendant exclusively offers for sale products that are packaged, displayed, or advertised as appropriate for use by Children; or
 - (iii) those discrete portions of a retail store, catalogue, or online website, in which the Settling Defendant offers for sale products that are packaged, displayed, or advertised as appropriate for use by Children.

CHILDREN’S JEWELRY CLASS 1 COMPONENTS (NO LEAD STANDARDS)

Stainless and surgical steels.

Karat gold.

Sterling silver.

Platinum, palladium, iridium, ruthenium, rhodium, or osmium (“platinum group metals”)

Natural and cultured pearls.

Any gemstone that is cut and polished for ornamental purposes except the following: aragonite, bayldonite, boleite, cerussite, crocoite, ekanite, linarite, mimetite, phosgenite, samarskite, vanadinite, and wulfenite.

Non-synthetic elastic, fabric, ribbon, rope, and string with no intentional lead and not otherwise listed as a Class 2 component.

Natural decorative materials (e.g., amber, bone, coral, feathers, fur, horn, leather, shell, wood) if treated in a way that does not add lead.

Adhesives.

CHILDREN’S JEWELRY CLASS 2 AND 3 COMPONENTS

COMPONENT	LEAD CONTENT LIMITS
Metal (plated and unplated) used in Children’s Products	0.06% (600 ppm)
Plastic/Rubber (e.g., acrylic, polystyrene, plastic beads/stones, polyvinyl chloride (PVC))	0.06%, (600 ppm) and after December 31, 2008, 0.02% (200 ppm)
Dyes, and Surface Coatings	0.06% (600 ppm)
Glass, ceramic and crystal decorative components	No more than 1 gram total glass or decorative crystal components
All other Components (Class 3 Components)	0.06% (600 ppm)

ATTACHMENT C (BODY PIERCING JEWELRY)

FOR PRODUCTS PURCHASED AFTER SEPTEMBER 1, 2007

The term “Body Piercing Jewelry” means any part of a Covered Product that is manufactured or sold for placement in new piercings and/or mucous membranes, and does not include those parts of Covered Products not placed within new piercings and/or mucous membranes.

Body Piercing Jewelry must be made only of the following materials

Surgical Implant Stainless Steel

Surgical Implant grades of Titanium

Niobium (Nb)

Solid 14 karat or higher white or yellow nickel-free gold

Solid platinum

A dense low porosity plastic such as Tygon or PTFE with no intentionally added

ATTACHMENT D (BEST MANAGEMENT PRACTICES FOR PLATING FACILITIES)

PRE-PLATING PROCEDURE

The pieces must be cleaned. Any polishing compound must be removed before plating by cleaning with aqueous cleaning solution or solvent and rinsed with water.

The pieces must be activated.

The pieces must be rinsed in clean water before plating.

PLATING BATH MAINTENANCE

The temperature of each plating bath must be controlled to the appropriate temperature in accordance with the recommendations of the equipment and plating chemical suppliers.

The nickel and nickel-substitute tanks must be agitated or aerated in accordance with the chemical suppliers' recommendations.

All baths must be filtered continuously during plating and filters changed at least than monthly.

pH must be measured each day of plating and adjusted within the chemical supplier's recommendations.

All plating employees must be trained on the use of the equipment in accordance with recommendation of equipment manufacturer and plating chemical suppliers.

The plating baths must be maintained in accordance with the plating chemical suppliers recommendations.

Plating tanks must be swept at least weekly.

Anodes must be inspected monthly in accordance with the anode supplier's recommendations.

Racks must be stripped at least annually.

The electrical equipment must be sized appropriately for each tank in accordance with equipment manufacturer's recommendations and calibrated annually.

PLATING PROCEDURES

Substantial pieces such as pendants, drops, and rings without prongs or other such feature shall be plated with at least 15 minutes combined plating with copper (copper strike and/or acid copper), nickel or nickel substitute, and/or finish coat. The pieces will also be rinsed between plating tanks. Finish decorative coatings include brass, bronze, copper, gold, gun metal, hematite, imitation rhodium, matt finish, palladium, platinum, rhodium, or silver. If desired,

plated pieces can be treated to produce other finishes such as matt, oxidized, or smut black finishes.

Mechanical, functional (e.g., lobster claws, spacers, mechanical closures, connectors), or fine pieces such as prongs and fine chains may be plated to cover the exposed surface consistent with good manufacturing practices for appearance and function. Components that articulate closely together such as snake chain and tight hinges or that need to be manipulated into position will be plated to prevent binding, stiffness, and cracking of plating.

ATTACHMENT E (TESTING PROTOCOLS)

The following test methods must be used and on the basis that (1) one or two samples exceed 300% of component specification limit, (2) three samples exceed 200% of a component specification limit, or (3) four or more samples exceed a component specification limit.

Laboratory sample preparation protocols specific for testing the lead content of jewelry components are not readily available. The Reference Methods for sample preparation shall be modified as noted in the following table for use with jewelry samples. The laboratory should make every effort to assure that samples removed from jewelry pieces are representative of the component to be tested, and are free of contamination from extraneous dirt and material not related to the jewelry component to be tested. All jewelry component samples shall be washed prior to testing using standard laboratory detergent, rinsed with laboratory reagent grade deionized water, and dried in a clean ambient environment. If components must be cut or scraped to obtain a sample, then metal snips, scissors, or other cutting tools used must be made of stainless steel and washed and rinsed before each use and between samples.

Except for glass, ceramic, and crystal in Children's Products, samples should be digested in containers that are known to be free of lead using acids that are not contaminated by lead. Analytical Reagent grade digestion acids and reagent grade deionized water are required. Method Blanks, consisting of all reagents used in sample preparation handled, digested and made to volume in the same exact manner and in the same container type as samples, shall be tested with each group of 20 or fewer samples tested. The results for the Method Blank shall be reported with each group of sample results, and shall be below the stated reporting limit for sample results to be considered valid.

Except for glass, ceramic, and crystal in Children's Products, all jewelry components samples shall be prepared for testing in accordance with USEPA Method 3050B or 3051 with the following additional notes and exceptions:

COMPONENT	NOTES AND EXCEPTIONS
Metals plated with suitable undercoats and finish coats	Digestion using hot concentrated nitric acid with optional hydrochloric acid and optional hydrogen peroxide. Sample size should be 0.050 g to 1 g. Digested samples may require dilution prior to analysis. Digestion and analysis should achieve a reported detection limit no greater than 0.1% for samples. Any necessary dilutions shall be made to assure that measurements are made within the calibrated range of the analytical instrument.
Unplated metal and metal substrates not defined as Class 1 Components.	Digestion using hot concentrated nitric acid with optional hydrochloric acid and optional hydrogen peroxide. Sample size should be 0.050 g to 1 g. Digested samples may require dilution prior to analysis. Digestion and analysis should achieve a reported detection limit no greater than 0.01% for samples. Any necessary dilutions shall be made to assure that measurements are made within the calibrated range of the analytical instrument.
Polyvinyl chloride (PVC)	Digestion using hot concentrated nitric acid with optional hydrochloric acid and optional hydrogen peroxide. Sample size should be a minimum of 0.05 g

	<p>if using microwave digestion or 0.5 if using hot plate digestion, and should be chopped or comminuted prior to digestion. Digested samples may require dilution prior to analysis. Digestion and analysis should achieve a reported detection limit no greater than 0.001% (10 ppm) for samples. Any necessary dilutions shall be made to assure that measurements are made within the calibrated range of the analytical instrument.</p>
<p>Non-PVC Plastic/Rubber (e.g., acrylic, polystyrene, plastic beads/stones).</p>	<p>Digestion using hot concentrated nitric acid with optional hydrochloric acid and optional hydrogen peroxide. Sample size should be a minimum of 0.05 g if using microwave digestion or 0.5 if using hot plate digestion and should be chopped or comminuted prior to digestion. Plastic beads or stones should be crushed prior to digestion. Digested samples may require dilution prior to analysis. Digestion and analysis should achieve a reported detection limit no greater than 0.001% (10 ppm) for samples. Any necessary dilutions shall be made to assure that measurements are made within the calibrated range of the analytical instrument.</p>
<p><u>Coatings on Glass and Plastic Pearls.</u></p>	<p>The coating of glass or plastic beads should be scraped onto a surface free of dust, such as a clean weighing paper or pan, using a clean stainless steel razor blade or other clean sharp instrument that will not contaminate the sample with lead. The razor blade or sharp instrument should be rinsed with deionized water, wiped to remove particulate matter, rinsed again, and dried between samples. Weigh the scrapings. A minimum of 50 mg of scraped coating should be used for analysis. If less than 50 mg of scraped coating is obtained from an individual pearl, then multiple pearls from that sample must be scraped and composited to obtain a sufficient sample amount. The number of pearls used to make the composite must be noted. Avoid inclusion of the substrate pearl material in the scrapings. Digest the scrapings according to USEPA Method 3050B or 3051 or equivalent procedure for hot acid digestion in preparation for trace lead analysis. Dilute the digestate in the minimum volume practical for analysis. Analyze the digested sample according to specification of Exhibit D (approved, validated methodology for inductively-coupled plasma mass spectrometry). A reporting limit of 0.001% (10 ppm) in the coating must be obtained for the analysis. The sample result must be reported within the calibrated range of the instrument. If the initial test of the sample is above the highest calibration standard, then the sample must be diluted and re-analyzed within the calibrated range of the instrument.</p>
<p>Dyes, paints, coatings, varnish</p>	<p>Digestion using hot concentrated nitric acid with optional hydrochloric acid and optional hydrogen peroxide. Sample size should be a minimum of 0.050 g, and should be chopped or comminuted prior to digestion.</p> <p>Digested samples may require dilution prior to analysis. Digestion and analysis should achieve a reported detection limit no greater than 0.001% (10 ppm) for samples. Any necessary dilutions shall be made to assure that measurements are made within the calibrated range of the analytical instrument.</p>
<p>Glass, ceramic, and crystal used in Children's Product</p>	<p>The components should be free of any extraneous material such as adhesive before they are weighed. The scale used to weigh these components should be calibrated using NIST certified (S-class) weights of 1 and 2 grams immediately before the components are weighed. The calibration should be accurate to within 0.01 gram.</p>