



Specialized Technology Resources, Inc.

Consumer Product Safety Improvement Act

**OVERVIEW with focus on
Section 102 – General Conformity Certificates /
Mandatory Third Party Testing**

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Raising the world's expectation of product quality, safety and supply chain responsibility

Definitions

- **Children's Product** – consumer product designed or intended for children **12** years of age or younger
- **Children's Toy** – consumer product designed or intended by the manufacturer for a child **12** years of age or younger for use by the child when the child plays
- **Child Care Article** – consumer product designed or intended by the manufacturer to facilitate sleep or the feeding of children age 3 and younger, or to help such children with sucking or teething
- **Consumer Product** – any article, produced or distributed (i) for sale to a consumer for use or (ii) for the personal use, consumption or enjoyment of a consumer in or around a permanent or temporary household or residence, a school, in recreation, or otherwise

Important!!

- **Children's Product** – consumer product designed or intended for children 12 years of age or younger
- This includes (but is not limited to):
 - Clothing
 - Footwear
 - Bedding
 - Accessories (barrettes, purses, etc.)
 - Stationery items
 - **Juvenile products (cribs, highchairs, etc.)**
 - Backpacks
 - Drinkware and tableware
 - Sleeping bags

Considerations for Age Determination

- Statement by the manufacturer about the intended use of the product, including a label on the product if such statement is reasonable
- Whether the product is represented in its packaging, display, promotion, or advertising as appropriate for use by children 12 years of age or younger
- Whether the product is commonly recognized by consumers as being intended for use by a child 12 years of age or younger
- The Age Determination Guidelines issued by the Commission staff in September 2002, and any successor to such guidelines

Title I

Children's Product Safety



Children's Product Safety

101 - Children's products containing lead; lead paint rule

102 - Mandatory third party testing / Certificates

103 - Tracking labels for children's products

104 - Durable nursery products

105 - Labeling requirements for advertising toys and games

106 - Mandatory toy safety standards

107 - Study of preventable injuries and deaths

108 - Prohibition on specific phthalates

Consumer Product Safety Improvement Act

Timeline Summary

- **90 days (11/12/08)**
 - General conformity certificate
- **120 days (12/12/08)**
 - Internet labeling
- **180 days (2/10/09)**
 - Lead in substrates, 600 ppm
 - Catalogue labeling
 - ASTM F963-07 becomes mandatory
 - Ban on phthalates in certain children's toys/child care articles
- **1 year (8/14/09)**
 - Lead in substrates, 300 ppm
 - Lead in surface coatings, 90 ppm
 - Tracking Labels for children's products
 - Consumer Registration Forms for durable nursery products
- **3 years (8/14/11)**
 - Lead in substrates, 100 ppm (possible)

General Conformity Certificate

- Requirement included in Section 102, Mandatory Third Party Testing for Certain Children's Products
- **Product manufacturer as of November 12, 2008:**
 - All shipments must include a Certificate of Conformity
 - COC is applicable to all product subject to consumer product safety rule. This includes:
 - Federal Hazardous Substances Act
 - Flammable Fabrics Act
 - Consumer Product Safety Act
 - Certificates shall be furnished to each distributor or retailer of product

Important!!

- Not just a toy / children's product requirement
- Applies to product manufactured on or after 11/12/08
- Applies to both domestically produced as well as imported product
 - "...which is imported for consumption or warehouse, or distributed in commerce..."
- Even if product is exempt from testing under a standard but is subject to that standard, certificate is still required
 - Example: Fabric exempt from 16 CFR 1610 flame testing based on fabric weight is still subject to the standard and requires GCC

Federal Hazardous Substances Act (FHSA)

Regulations in Title 16 CFR Parts 1500 - 1513

- 1500 – Hazardous Substances / Toys and Other Articles Intended for Use by Children
- 1501 – Small Parts (Children < 3 years)
- 1505 – Electrically-Operated Toys and Other Electrically-Operated Articles Intended for Use by Children
- 1507 – Fireworks Devices
- 1508/1509 – Baby Cribs
- 1510 – Rattles
- 1511 – Pacifiers
- 1512 – Bicycles
- 1513 – Bunk Beds



Flammable Fabrics Act (FFA)

Regulations in Title 16 CFR Parts 1602 – 1632

- 1610 – Clothing Textiles / Wearing Apparel
- 1611 – Vinyl Plastic Film
- 1615/1616 – Children’s Sleepwear
- 1630/1631 – Carpets and Rugs
- 1632 – Mattresses and Mattress Pads



Consumer Product Safety Act (CPSA)

Regulations in Title 16 CFR Parts 1101 – 1406

- 1201 – Architectural Glazing Materials
- 1202 – Matchbooks
- 1203 – Bicycle Helmets
- 1204 – Antennas
- 1205 – Lawnmowers
- 1207 – Swimming Pool Slides
- 1209 – Interim Standard for Cellulose Insulation
- 1210 – Cigarette Lighters



Consumer Product Safety Act (CPSA) - continued

Regulations in Title 16 CFR Parts 1101 – 1406

- 1211 – Garage Door Openers
- 1212 – Multi-purpose Lighters
- 1213 – Entrapment in Bunk Beds
- 1301 – Refuse Bins
- 1302 – Flammable Contact Adhesives
- **1303 – Lead-Containing Paint**
- 1304 – Consumer Patching Compounds
- 1305 – Artificial Emberizing Materials

Consumer Product Safety Act (CPSA) - continued

Regulations in Title 16 CFR Parts 1101 – 1406

- 1306 – Lawn Darts
- 1401 – Self-pressurized Consumer Products
- 1402 – CB Base Station/TV Antennas
- 1404 – Cellulose Insulation
- 1406 – Coal and Wood Burning Appliances



Other Acts Requiring GCC

- Poison Prevention Packaging Act
- Refrigerator Safety Act

Products requiring GCC in future:

- Durable Infant & Toddler Products
- ASTM F963 Toy Safety Standard
- Phthalates Ban
- ATV Standards
- Pool & Spa Safety Act
- Portable Gasoline Containers

General Conformity Certificate

- COC shall certify, based on test of each product or upon a reasonable testing program, that product complied with all applicable rules, bans, standards, or regulations.
- CPSC has provided Sample Certification document, instructions for completion, and FAQ.
 - <http://www.cpsc.gov/about/cpsia/faq/elecfaq.pdf>

Sample Certification of Conformity

- **CERTIFICATE OF COMPLIANCE**
- **IDENTIFICATION OF PRODUCT COVERED BY THIS CERTIFICATE**
- **CITATION TO EACH CPSC PRODUCT SAFETY REGULATION TO WHICH THE PRODUCT IS BEING CERTIFIED**
- **IDENTIFICATION OF THE IMPORTER OR DOMESTIC MANUFACTURER, AS APPLICABLE, CERTIFYING COMPLIANCE OF THE PRODUCT**
 - **NAME:**
 - **FULL MAILING ADDRESS:**
 - **TELEPHONE NUMBER:**
- **CONTACT INFORMATION FOR INDIVIDUAL MAINTAINING RECORDS OF TEST RESULTS**
 - **NAME:**
 - **EMAIL ADDRESS:**
 - **FULL MAILING ADDRESS:**
 - **TELEPHONE NUMBER:**
- **DATE AND PLACE OF MANUFACTURE**
 - **MONTH/YEAR:**
 - **CITY AND COUNTRY OR ADMINISTRATIVE REGION:**
- **DATE AND PLACE WHERE PRODUCT WAS TESTED FOR COMPLIANCE WITH THE REGULATION(S) CITED ABOVE**
 - **MONTH/YEAR:**
 - **CITY AND COUNTRY OR ADMINISTRATIVE REGION:**
- **IDENTIFICATION OF ANY THIRD-PARTY LABORATORY ON WHOSE TESTING THE CERTIFICATE DEPENDS**
 - **NAME:**
 - **FULL MAILING ADDRESS:**
 - **TELEPHONE NUMBER:**

General Conformity Certificate

- CPSC has confirmed that electronic certificates may be used.
- Each shipment must be “accompanied” by Certificate.
 - Acceptable if Certificate is identified by unique identifier and accessible via Internet or other electronic means at time of shipment.
- Certificate must be “furnished” by importer or domestic manufacture.

Mandatory Third Party Testing for Certain Children's Products (Sec. 102)

- Third party testing required for children's product
 - CPSC to establish standards for accreditation
 - CPSC to publish list of accredited bodies
 - CPSC may withdraw accreditation
- First party testing may be allowed if
 - Testing provides equal or greater consumer safety protection as third party testing
 - Test results are protected from undue influence
 - CPSC is notified of any attempts or allegation of undue influence

Mandatory Third Party Testing for Certain Children's Products (Sec. 102)

- ISO 17025 accreditation by ILAC recognized body has been confirmed as the lab requirement
- Schedule for accreditation:
- STR to submit applications for each section at appropriate times. Scope of ISO 17025 accreditation may be expanded for some areas.
- **STR is accredited lab per CPSIA requirements**

	CPSC PUBLISHES ACCREDITATION PROCEDURES	THIRD PARTY TESTING REQUIRED
Lead paint	9/2008	12/2008
Cribs and Pacifiers	10/2008	1/2009
Small parts	11/2008	2/2009
Metal Jewelry	12/2008	3/2009
Baby Bouncers, Walkers, and Jumpers	3/2009	6/2009
300 ppm Lead Content - Substrates	5/2009	8/2009
CPSC Children's Product Safety Rules	6/2009	9/2009

Certificates of Conformity

- Where Third Party Testing is Mandatory, certificates must include accredited laboratory information
 - General Conformity Certificate is essentially ‘self-declaration’
 - Certificates for children’s products based on mandatory third party testing must have the required testing as proof of conformity
 - Not included with COC but available upon request

TIA Website for Electronic Certificates of Conformity

- Official website for TSCP:
www.toycertification.org
- Will include database for publishing Certificates
 - According to CPSC staff, providing the website address and certificate number will satisfy requirements that a certificate “accompany” shipments or be “furnished” to distributors, retailers and the Commission.

Children's Products Containing Lead (Sec. 101)

- Substrate materials
 - 600 ppm limit – 180 days after enactment
(2/10/09)
 - 300 ppm limit – 1 year after enactment
(8/14/09)
- *After 3 years*
 - 100 ppm limit possible *if technologically feasible*

Children's Products Containing Lead (Sec. 101)

- Important Notes:
 - Exception for inaccessible components
 - APPLIES TO ACCESSIBLE MATERIALS ONLY
 - Certain barriers disqualified (paints, electroplating)
 - Applies to **ALL ACCESSIBLE** Substrate Materials – even fabric, Ron!

Lead in Substrate Testing

- Recommend testing Now to determine 2/10/09 compliance
 - Unless all product will be sold before 2/10/09
- CPSC specifically stated no composite testing allowed at 9/4/08 meeting
- CPSC holding Lead meeting on 11/06/08, and XRF meeting on 11/07/08. STR will attend both.

Lead in Substrate Challenge

- Product in Inventory
 - CPSC General Counsel memo of 9/12 states that all product Must be in compliance as of 2/10/09 – **cannot distribute non-compliant product.**
 - May be discussed further at 11/06/08 meeting

Mandatory Toy Safety Standards (Sec. 106)

- ASTM F963-07 becomes mandatory as of **2/10/09**
- Scope does not change – still applicable to Toys only
 - But use and abuse tests per 16 CFR 1500.50 apply to Toys and other articles intended for use by children
- ASTM F15.22 Committee continues to operate and update ASTM F963 standard as appropriate
- Subsequent revisions in all likelihood will be adopted by Commission as Federal rule

Prohibition on Sale of Certain Products containing Specified Phthalates (Sec. 108)

- Effective **2/10/09**
- For any children's toy or child care article
 - DEHP, DBP, BBP not allowed in concentrations exceeding 0.1%
- For any children's toy that can be placed in a child's mouth or child care article
 - DINP, DIDP, DnOP not allowed in concentrations exceeding 0.1%
 - Interim Prohibition



Phthalates (Sec. 108)

- Essentially mirrors European ban
 - Preempts California AB 1108
- Remember definition of children's toy and child care article:
 - **Children's Toy** – consumer product designed or intended by the manufacturer for a child 12 years of age or younger for use by the child when the child plays
 - **Child Care Article** - consumer product designed or intended by the manufacturer to facilitate sleep or the feeding of children age 3 and younger, or to help such children with sucking or teething

Phthalates (Sec. 108)

- Chronic Hazard Advisory Panel to study effects on children's health of all phthalates and phthalate alternatives
 - Interim ban on last 3 phthalates may become permanent
- **Not just applicable to PVC material**
 - Material not defined – at 10/2 CPSC meeting, they advised wooden rattle would be subject to phthalates ban
- **Not just applicable to Accessible materials**
 - No exemption for inaccessible materials
- Applies to children's jewelry Only if considered a toy
- No discussion to date on composite testing
- CPSC holding meeting on 12/04/08 on Phthalates

Phthalates (Sec. 108)

- Some companies are testing only ‘soft’ plastics and plasticized coatings
 - May use 90 Shore A hardness as upper limit for “soft” plastic
 - We must advise clients of what the law requires, and they can make a business decision on how to address the requirement

As of 8/14/09 – 1 year after enactment

- Lead Paint Rule (16 CFR 1303)
 - Down to 90 ppm limit (from current 600 ppm)
- Lead in substrates
 - Down to 300 ppm limit
 - Remember – may go down further on 8/15/11)
- Tracking Labels for children's products
- Consumer Registration Forms for durable nursery products

Lead Paint Rule (Sec. 101)

- Lead Paint Rule (16 CFR 1303)
 - 0.009 percent (90 ppm) limit
- Screening Lead in small painted areas
 - XRF may be used if no greater than 10 milligrams or no more than 1 square centimeter of surface area
 - STR does not support this method for lead in paint
- Alternative methods of measuring lead in paint to be studied



Lead Paint Rule (Sec. 101)

- Suggest that clients monitor current results to determine if compliant with upcoming limit
- Some companies using 90 ppm limit now
 - Starting in 2009, suggest using 90 ppm limit Unless all product will be sold prior to 8/14/09
- The scope of 16 CFR 1303 Does Not Change, just the limit:
 - Wet paint and similar surface-coating materials
 - Toys and other articles intended for use by children
 - Furniture articles for consumer use
 - Exemptions per 16 CFR 1303.3 still apply

Tracking Labels for Children's Products (Sec. 103)

- Permanent, distinguishing marks on product (to the extent practicable) and packaging manufactured as of **8/14/09**
 - Manufacturer or private labeler name
 - Location of production
 - Date of production
 - Other information (batch, run number, sources)



Tracking Labels for Children's Products (Sec. 103)

- Concern for manufacturers
 - What does “to the extent practicable” mean?
 - Need to change molds daily to include current date?
 - Month and year acceptable?
 - Manufacturers often do Not want to reveal factory name (their customers could then go direct!)
- Purpose is traceability
 - As long as manufacturer can identify dates of production and factory location, this is expected to be sufficient
- CPSC needs to better define requirements

Standards and Consumer Registration of Durable Nursery Products (Sec. 104)

- CPSC to evaluate current voluntary consumer product safety standards
- CPSC to promulgate consumer product safety standards that are either
 - substantially the same as the voluntary standards, or
 - more stringent than the voluntary standards
- Timetable – 2 categories every 6 months

Standards and Consumer Registration of Durable Nursery Products (Sec. 104)

- Consumer Registration Requirement
 - Must provide consumer with postage-paid consumer registration form for each product
 - Must maintain record of the registered consumers
 - Must permanently place the manufacturer name and contact information, model name and number, and date of manufacture on each product
 - Effective **8/14/09**

Title II - CPSC Reform

- Reauthorization of Commission
- Full Commission requirements, interim quorum
- Expedited rulemaking
- Sharing of information with other government agencies
- Employee training exchanges
- Public disclosure of information
- **Public consumer product safety database**
- Prohibition on stockpiling
- Enhanced recall authority and corrective action plans
- **Inspection of firewalled conformity assessment bodies**
- Prohibited acts
- Penalties
- Enforcement by State attorneys general
- Whistleblower protection
- Export of recalled and non-conforming products
- **Substantial product hazard list** and destruction of noncompliant imported products
- Study on effectiveness of authorities relating to safety of imported consumer products
- **Preemption**

Preemption (Sec. 231)

- **Important:**

- States of Washington, Maryland, Illinois and Maine will be withdrawing their State laws regarding Lead, Cadmium, and Phthalates once CPSIA requirements become effective.

Monitor the CPSC Website (www.cpsc.gov)

- Sign up for email alerts
- Ask a question
- Full legislation and brief summaries
- Memo about Retroactive Application to Inventory
- CPSC public meeting download
- Laboratory accreditation requirements

Questions?

