

GUIDE TO NAVIGATING THE CONSUMER PRODUCT SAFETY IMPROVEMENT ACT



TESTING & CERTIFICATION

STANDARDS & SAFETY

**RESPONSIBILITIES
& OPPORTUNITIES**

**STATE REGULATIONS
& LEGISLATION**

APPLICATIONS & SOLUTIONS

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How To Use This Guide



Definitions

The first time a scientific or technical term is used, the term and its definition appear in the gray column on each page marked by .



Substrate:

The material or substance on which an enzyme acts.

Tables And Figures

Tables and figures reconstruct complex material into illustrative guides and at-a-glance references. Table or figure name will appear in the gray column on each page along with a brief description.

Table 1.5:

Tracking Labels
For Products With
Multiple Components

Product	Tracking Label Guidance
Pens	Main component is the barrel.
Puzzles	The board or box.
Wooden Blocks	It might be reasonable to assume that wooden blocks come with a storage container and tracking label.
Crayons	The tracking label is the box.
Lip Gloss	A reusable carrying case.

Links To More Information

Whenever a document or source available online is cited, a linked citation appears in the gray column on each page marked by .



FIND OUT MORE ONLINE

The CPSC provides Age Determination guidelines on its website.

Summary Resources

The summary of resources at the end of each part include guidance on the next steps to take based on the presented information and a list of all internet sources, which is useful for further research.

PART THREE RESOURCES

Next Steps:

1. Review PPAI's website for an updated list of Frequently Asked Questions and send it to our product safety experts.

Further Reading And Internet Sources:

- ASTM Standards: www.astm.org/Standard/index.shtml
- Consumer Product Safety Commission: www.cpsc.gov

PPAI Web Resources

Find more product safety information at [PPAI's website](http://www.ppai.org).

Topics and resources include:

- Consumer Product Safety Improvement Act (CPSIA)
- California Proposition 65
- Green Guides
- Frequently Asked Questions

Introduction



CPSIA TIMELINE

8/13/2008: President signs CPSIA into law

11/2008: Third-party testing required for lead in paint

2/15/2009: Third-party testing required for small parts

3/23/2009: Third-party testing required for lead in children's metal jewelry

8/14/2009: All children's products manufactured after this date require a tracking label

8/25/2010: Final interpretative rule: definition of "children's product" announced

11/19/2010: Third-party testing required for children's sleepwear

3/2011: CPSC launched its database for consumer complaints at www.safeproducts.org

8/14/2011: Limit for total lead in children's products lowered to 100 ppm

12/31/2011: Third-party testing required for total lead in children's products

12/31/2011: Third-party testing required for phthalates in children's toys and child-care articles

6/12/2012: Mandatory compliance for all children's toys

02/08/2013: Periodic testing required for certification of children's products

On August 13, 2008, the President signed into law the Consumer Product Safety Improvement Act of 2008 (CPSIA) as Public Law 110-314. This act made significant changes to consumer product safety laws and gave the Consumer Product Safety Commission (CPSC) significant new responsibilities for ensuring the safety of consumer products.

Since publishing the first version of the Guide to Navigating the Consumer Product Safety Improvement Act in January 2009, PPAI monitored and communicated with the CPSC as it published more specific testing guidelines and issued new rulings. We've heard from a lot of industry members on the usefulness and importance of the guide to their business. This version of the guide revises statutory information and improves upon the last edition's design and educational elements.

After reading this guide, you should be able to:

- Describe the standards and regulations of the CPSIA
- Distinguish between the responsibilities and opportunities of industry distributors and suppliers
- Apply CPSIA standards to your product lines and categories
- Analyze efforts by Congress and regulatory agencies to amend consumer product safety legislation and standards

PPAI will continue to develop relationships with and educate the CPSC and Congress and develop solutions to the industry's product safety challenges. As the CPSC issues more testing guidelines, identifies additional testing labs, issues new rulings and works with Congress to develop or expand its efforts, we will revise and improve upon this and the previous version of the guide.

CPSIA And The Industry

"We've seen toy after toy recalled in this country; 29 million toys were recalled in 2007 alone...The current system has been broken by years of neglect, an agency that hasn't told the truth about the problems and an administration that has turned its back on the problems."

- Senator Amy Klobuchar (D-MN)

"To my mind, recalls are a sign that the agency is doing its job. The recall is the main tool we have to police the marketplace. If we find something that is out in the marketplace in store shelves we do not hesitate to make sure that a recall occurs. That is one of our key tools."

- Commissioner Nancy Nord,
Consumer Product Safety Commission
C-SPAN's-NewsMakers, Dec. 19, 2008

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Notable 2007 Recalls

Jan.– U.S. Toy Co. Recalls More Children’s Butterfly Necklaces Due To Lead Poisoning

Feb.– Basix U.S.A. Recalls Children’s Hooded Sweatshirts And Windbreakers With Drawstrings Due To Strangulation Hazard

Mar.– Regent Products Corp. Recalls Stuffed Ball Toys Due To Lead Hazard

Apr.– Various Metal Key Chains Recalled By Dollar General For Lead Poisoning Hazard

May– Mervyns Recalls Children’s Capri Pants Due To Choking Hazard

Jun.– Children’s Jeweled Sandals Sold By Nordstrom Recalled Due To Choking Hazard

Jul.– CVS/pharmacy Announces Recall of Playskool Sippy Cups; Poses Choking Hazard

Aug.– Giftco Inc. Recalls Pine Cone Candle Sets Due To Fire Hazard

Sep.– RC2 Corp. Recalls Additional Thomas & Friends™ Wooden Railway Toys Due To Violation Of Lead Paint Standard

Oct.– Dunkin’ Donuts Recalls Glow Sticks Due To Choking And Strangulation Hazards

Figure i:
Recalled Cow Stress Relievers

2007: The Year Of The Recall

In what would later be dubbed “the year of the recall,” more than 472 products and 20 million toys were recalled in 2007. Consumers and members of Congress alike questioned the ability of the Consumer Product Safety Commission (CPSC) and the Food and Drug Administration (FDA) to keep up with a growing global market.

Consumer groups lobbied for the expansion of staff and funding of regulatory agencies and tougher standards and penalties for product manufacturers. The alarming rate of recalls in 2007 along with the strengthened voice of these consumer groups in the media and in Congress set the stage for sweeping reform of consumer product safety standards in the United States.

“The commission can either continue to decline in staff, resources and stature to the point where it is no longer an effective force in consumer protection, or with the support of Congress, it can regain the important place in American society that it was originally designed to have.”

- Commissioner Thomas Moore,
Consumer Product Safety Commission

On August 13, 2008, the President signed into law the Consumer Product Safety Improvement Act of 2008 (CPSIA) as Public Law 110-314. This act made significant changes to consumer product safety laws and gave the Consumer Product Safety Commission (CPSC) significant new responsibilities for ensuring the safety of consumer products.

The CPSIA established three new standards that have significant impact on the promotional products industry. The standards affect the amount of lead allowed in children’s products, phthalates and safety requirements for all children’s products. The CPSIA also made changes to a fourth existing standard, lead in paint and surface coatings.

Another new responsibility of industry suppliers and importers of record requires the issuance of “General Conformity Certificates” for any product that is subject to a federal consumer product safety rule, ban, standard or regulation under any act enforced by the CPSC, that the product meets or is in conformance with the federal consumer product safety rule, ban, standard or regulation.

The new requirements regarding children’s products gained the most attention in the promotional products industry, and after clarification from the CPSC, is still a challenge for industry members.

Determining Children’s Products

From September 1997 through September 1999, Gateway, Inc. gave stress cows to consumers with a computer purchase. In response to alerts from parents that small





FIND OUT MORE ONLINE

F963 and other standards on the ASTM's website.



FIND OUT MORE ONLINE

The CPSC provides the full text of the Consumer Product Safety Act on its website



Consumer Product:

See paragraph for full definition.



Children's Product:

A consumer product designed or intended primarily for use by children 12 years of age or younger.

children could tear or bite parts off of the cow, Gateway voluntarily recalled about one million stress cows and learned the hard way the cost of not considering the unintended use of a product.

Properly categorizing a consumer product is not always easy, and it is a challenge in the promotional products industry where the end use is not always known at the time of manufacture. Often times, promotional products which are intended for use by adults and are given out at tradeshow and in workplaces, end up in the hands of children. This does not mean that anything could be a children's product, but it does mean that a determination as to its appeal and foreseeable use by children needs to be considered when manufacturing or distributing a promotional product. While it is the responsibility of the manufacturer, importer or supplier to ensure compliance of a product, the end distributor also needs to ensure that the product complies with appropriate requirements and regulations.

The CPSIA has specific requirements for children's products and all children's products must comply with these. They include lead in paint, lead content in accessible substrate materials, mandatory third party testing, and a tracking label requirement. If the item is a toy, compliance to ASTM F963 is required, and there is a ban on phthalates.

What Is A Children's Product?

A general **consumer product** is defined in section 3(a)(5) of the Consumer Product Safety Act as

- “any article, or component part thereof, produced or distributed (i) for sale to a consumer for use in or around a permanent or temporary household or resident, a school, in recreation, or otherwise,
- 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.”

The definition includes items that are sold (i) and any item used by a consumer (ii), including promotional products.

A **children's product** is defined as a consumer product that is designed or intended *primarily* for use by children 12 years of age or younger. The word “primarily” may preclude some promotional products considered general use items including pens and other writing instruments. The CPSC's final rule on the definition of children's products clarifies “for use by children” to mean children will physically interact with the product. “Reasonable foreseeable use” mitigates some of the risk of failing to anticipate misuse of a product. The determination of children's products is based on the evaluation of features and the four criteria outlined in the CPSA that are weighted toward the obvious and intended usages, not the misuses.



Children's Toy:

A 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.



FIND OUT MORE ONLINE

The CPSC provides the final rule on the definition of children's products on its website.



FIND OUT MORE ONLINE

The CPSC provides Age Determination guidelines on its website.

A **children's toy** is defined in the CPSIA as a 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.

The CPSIA includes four factors to consider in determining if an item is a children's product:

1. A statement by a manufacturer about the intended use of such product, including a label on such product if such statement is reasonable. *This often comes in the form of an age grade or age label on the product or packaging.*
2. Whether the product is represented in its packaging, display, promotion or advertising as appropriate for use by children 12 years of age or younger.
3. Whether the product is commonly recognized by consumers as being intended for use by a child 12 years of age or younger.
4. The Age Determination Guidelines issued by the Commission staff.

Third party testing requirements only pertain to toys intended for use by children 12 years of age or younger. The standard ASTM F 963-11 applies to toys intended for use by children under 14 years of age, however the testing requirements involving third-party labs only pertain to toys intended primarily for children 12 years of age or younger.

Age Grading

Good age-grading practices can ensure that products are appropriate and safe for particular stages of a child's development. Age labeling is intended to provide guidance to the consumer when selecting toys or products for children. Age grading should determine the physical and mental ability needed in order to play with and understand the product. Potential choking or asphyxiation hazards that are associated with small parts should also be considered. Products must be safe for the intended user.

In addition to the CPSIA's four factors, a supplier should also consider other factors such as those listed here to help determine if the item could be considered a children's product. Even if distributed at an adult tradeshow, if the item includes features that supports its use primarily by children 12 years of age or younger, it would probably be prudent to treat the item as a children's product and comply with applicable requirements.

Table 1:
Factors To Determine
Children's Products

Product Consideration	Question
Size And Shape	Will the dimensions of the product give a child the ability to use it properly?
Materials Used	Soft plastic, foam, plush and wood are child friendly; metal, glass and ceramic are not
Number Of Parts	Consider physical and cognitive abilities
Motor Skills Required	Does it require fine or gross motor skills?
Classic Product	Does it maintain appeal over generations?
Colors	Bright, primary colors are more appealing to children
Cause And Effect	Product response—lights, sounds and movement are appealing to children
Sensory Elements	Does it appeal to all five senses?
Level Of Realism/Detail	Does it have cartoonish details? Does it have childlike qualities?
Licensing/Theme	Does it contain cartoon images?

Size And Shape: How large is the product? Can a child even hold and use the item properly? In the promotional products industry, a good example of where size and shape play an important factor is with drinking vessels. A drinking bottle or plastic cup that holds 12 ounces or less may be considered a children's product. The addition of easy-to-grip handles or other features add to the likelihood that the product would be used by children. Larger drinking vessels or drinking vessels made of glass, ceramic or metal would more likely be considered adult items.

Materials Used: Some materials are considered more suitable for children than others. Soft plastic, foam, plush and wood are more appropriate for young children than metal, glass or ceramic. A plush ball is more likely to be used by a child than a metal puzzle ball for a number of reasons including material.

Number Of Parts: An item with numerous small parts is typically geared to adults while fewer, larger parts could be used by children. Consider if children could grasp and use the components and if they would know what to do with it. A simple, easy-to-connect puzzle, for example, would be appropriate for a child whereas 3D wooden puzzles are more appropriate for adults, or older children, because there are multiple intricate pieces.

Motor Skills Required: Consider what level of fine and gross motor skills are needed to properly use the product. Fine motor skills pertain to the ability to control the hands and fingers, including hand/eye coordination. Gross motor skills apply to the large muscle coordination necessary for using a product. A three-piece pyramid made of large wooden blocks that are easy to grasp is more likely to be used by a child than the multiple piece magnetic sculpture. This does not mean that the three-piece wooden pyramid desktop item is a children's product but the factor of motor skills required skews it in that direction.

Classic Products: There are a number of classic products distributed as promotional products. Classic products are those that appeal to multiple generations. Adults may remember using them as kids, and if they used them as children, they are more likely to give them to their children. Despite the nature of the logo, wooden blocks and teddy bears would be considered classic children's products.

Color: Children are attracted to bright, contrasting colors. As children get older, they prefer more realistic colors. The silver train would be more appealing to an adult whereas the brightly colored train is more appealing to a child. This does not mean you can't use bright colors with your adult product. Color is simply another factor to consider.

Cause And Effect: It is important to consider the cause and effect: how a product responds to the user. While a Budweiser truck is intended as an adult collectible, it's freewheeling (meaning the child can push it), the doors open and the horn works. There is a significant amount of play value and child appeal with this item, so it would probably be prudent to make sure it complies with the requirements for a children's toy. On the other hand, a static metal car with a clock lacking any moving parts or sounds is more likely to be considered an adult item.

Sensory Elements: Material elements to consider include lights, sounds, texture, smell and taste. This factor can be a challenge for items such as stress balls. These hand-held items made of pliable material feel great to squeeze or to mouth if you're a young child. Other factors should be considered in determining whether a particular stress ball could be considered a children's product. Does the ball light up or make sounds? Lights and sounds can be appealing to a child.

Level Of Realism/Detail: Is the item cartoonish or does it have a realistic appearance? Cartoonish and real details pertain to the visual presentation of a product. The level of maturity, cognitive ability and motor skills are considered for the child/adult determination. One example of this is a car. A detailed replica of a Jaguar down to the metal hood ornament is clearly targeting a different audience than a free-wheeling wooden car in bright colors. The same consideration applies to tools, telephones and any number of promotional items.

Licensing/Theme: Television shows, movies, books and sports figures are some of the sources of licensed products. The appeal of licensed products varies depending on the source of theme of the license. This can be difficult for suppliers in the promotional products industry to determine as it is often not known what logo or theme will be used until someone places an order. This is why other factors like line, size, shape, materials and colors are important to consider.

Age Categories

From a regulatory and safety standpoint, there are four major age categories to consider.

Birth To Three Years Of Age

This is a critical age category as children at this age do not perceive dangers and cannot make informed decisions. They are teething and tend to place anything and everything in their mouths. Small parts are a major concern in this age group as they present a choking hazard to young children. Any product that could be considered suitable for children in this age group, such as plush or stuffed items, must not contain small parts and must not detach small parts as a result of use and abuse testing.

Three To Eight Years

Products intended for children between the ages of three to eight years may include small parts but, depending on the product, may need to include a smallparts warning statement identifying this hazard for younger children. If a product could be considered suitable for this age category based on the factors covered in this chapter, a small-parts warning statement should be included.

Eight To Twelve Years

While items intended for this older age group are exempt from certain regulations— not just the small parts regulation but also sharp point and sharp edge requirements— the CPSIA defines children’s products as items designed or intended primarily for children 12 years of age or younger. Items in this category as well as the younger categories must comply with the CPSIA requirements for children’s products.

Older Than Twelve

Over age twelve, the CPSIA requirements for children’s products do not apply. Interestingly, for toys, the ASTM standard goes up to 14 years so if product is a toy, there still may be some applicable toy safety requirements, which is why 14 years is listed here as well. Above this age, the items are essentially considered to be adult items.

In order to protect your company and your customers, not to mention the reputation of the promotional products industry itself, it is critical to understand and comply with appropriate regulations. In order to comply with the CPSIA’s regulations regarding children’s products, manufacturers and distributors should carefully consider whether or not their product is a general use or children’s consumer product.



**FIND OUT
MORE
ONLINE**

The CPSC provides
Age Determination
guidelines on its
website.

INTRODUCTION RESOURCES

Next Steps:

1. Are any of your products represented in packaging, display, promotion or advertising as appropriate for use by children 12 years of age or younger? Review the definition of children's products and child-care articles and the testing requirements in Part One of this guide. Are your products compliant?
2. Implement good age-grading practices to ensure that products are appropriate and safe for particular stages of a child's development. Review the CPSC's Age Determination Guidelines on its website www.cpsc.gov under the Business tab.

Further Reading And Internet Sources:

- ASTM F963 Toy Safety Standard: www.astm.org/Standards/F963.htm
- CPSC Age Determination Guidelines: www.cpsc.gov/BUSINFO/adg.pdf
- PPAI's Comprehensive Product Safety Website: www.ppai.org/inside-ppai/product-safety/

CPSIA Standards And Regulations



After reading this chapter, you should be able to:

1.1 Lead

Describe the current bans on lead in paint and in substrate materials and the exceptions to these CPSIA provisions.

1.2 Phthalates

Describe the distinction between children's products and children's toys/childcare articles and describe the CPSC's ban on phthalates.

1.3 Toy Safety Standard

Explain the use of the ASTM F963 as an industry standard.

1.4 Testing And Certification

Distinguish General Conformity Certificates from Certificates of Compliance and explain the testing requirements for all consumer products covered by CPSC enforced regulations.

1.5 Tracking Labels

Describe the purpose, specifications and best practices of the CPSIA Tracking Label requirement.

1.6 Certification And Continued Testing For Children's Products

Explain the CPSC's periodic testing requirements for children's products.

1.7 State Regulations

Describe the consumer product safety laws currently in effect in the separate states.

1.8 Enforcement

Explain the authorities that enforce CPSIA regulations and penalties to the supply chain for non-compliance.



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Substrate:

The material or substance on which an enzyme acts.

Section 1.1: Lead

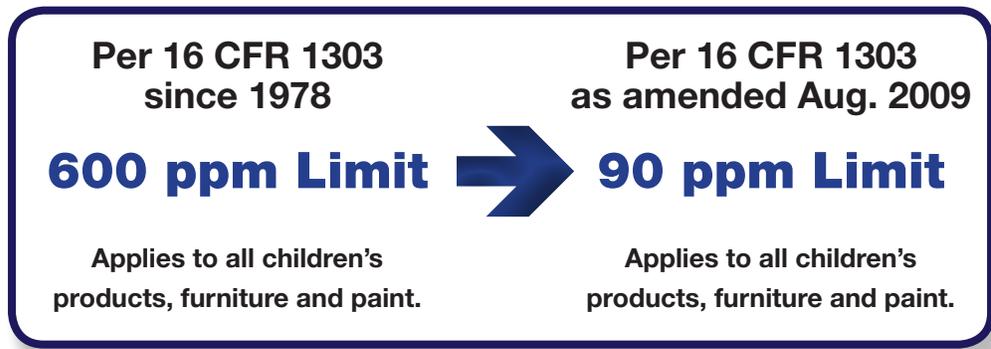
Because lead is a potent neurotoxin and can cause brain disorders as well as damage to the nervous system, the CPSC has regulated lead in paint and in similar surface coatings since the 1970's. The CPSIA introduced a lead content limit on accessible substrate materials of children's products in 2008. The CPSC recognizes the two categories of materials, **lead in paint** and **lead content in substrate materials**, and maintains separate regulations for each.

Lead In Paint

Throughout 40 years of regulation, there continue to be recalls of toys and other children's product due to excessive lead in paint. In August 2009, the lead in paint limit per the Code of Federal Regulations (CFR), chapter 16, section 1303 was dramatically reduced from 600 to 90 ppm. This may seem like a big drop in limits, but testing has consistently shown that paint is either loaded with lead or contains only minimal amounts.

Section 101 of the CPSIA regulates lead in children's products, items that include clothing, backpacks, toys, furniture, jewelry, electronics, tableware and other items.

Figure 1.1a:
Lead In Paint Ban



Composite Testing:

Testing more than one paint color on a product.

Third-party testing of lead in paint is mandatory for children's products, and has been since December of 2008. The CPSC did issue an updated test method for determining lead in paint in spring 2009, which includes an allowance for **composite testing**. These parameters include a requirement for equal amounts of each color paint, a limit on the number of different colors in an analysis, sensitivity of the laboratory equipment, and correction factors. Composite testing can save money and requires fewer samples to be destroyed.



XRF Technology:

A nondestructive examination tool that permits the characterization of most inorganic pigments through the identification of their elemental constituents.

The CPSC also conducted a study on the effectiveness of XRF testing and other alternative methods for measuring lead in paint. Some **XRF technology** is approved to test certain types of materials, such as homogenous or polymer plastics, in CPSC-accepted laboratories. Currently, XRF technology is NOT approved to test for lead content in products including, but not limited to, metals, ceramics, glass, and crystal. There is a specific XRF technology that is for use in testing to the separate lead-in-paint requirements.

The applicable test methods for the ban on total lead content are:

- Lead Content in Children’s Metal Jewelry, Standard Operating Procedure for Determining Total Lead (Pb) in Metal Children’s Products (including Children’s Metal Jewelry), Revision June 21, 2010
- Lead Content in Children’s Metal Products, Standard Operating Procedure for Determining Total Lead (Pb) in Metal Children’s Products, Revision June 21, 2010 (effective date when third party testing became required 12/31/2011); and
- Lead Content in Children’s Non-Metal Products, Standard Operating Procedure for Determining Total Lead (Pb) in Non-Metal Children’s Products, Revision June 21, 2010 (effective date when third party testing became required)

CPSC staff has developed new methods for measuring lead in metal and nonmetal products with expanded options for the use of X-ray Fluorescence (XRF). The Commission has proposed in a new Notices of Requirements (NORs) that could result in these two new CPSC methods being eligible for acceptance by CPSC for accredited labs for testing to support certifications of compliance. The new methods are “PSC staff believes these are reasonable test methods to employ immediately for purposes other than third-party testing for certification of compliance for children’s products.”

Lead Content In Substrate Materials

The CPSIA introduced a lead content limit on accessible substrate materials of children’s products. Prior to the CPSIA, only the surface coatings required lead compliance. As of February 10, 2009, the lead content limit was 600 ppm and did apply to existing inventory. On August 14, 2009, the limit lowered once again to 300 ppm. The CPSC has determined that it is technologically feasible to drop the limit to 100 ppm. This limit went into effect on August 14, 2011, and it is proactively applicable, meaning it only applies to children’s products manufactured after that date.

Figure 1.1b:
Lead In Substrate Ban



For products manufactured on or after December 31, 2011, third-party testing and certification are required.

Exceptions

In response to public comments and consideration, the CPSC has granted some relief on the lead content provision.

Accessibility: The lead limit only applies to *accessible substrate materials*. Barriers such as paint, coatings, or electroplating *do not* make the substrate inaccessible. A material is considered to be accessible if it can be touched using the existing accessibility probes from the sharp point and sharp edge regulations. Accessibility is evaluated both before and after standard use and abuse testing per the Federal Hazardous Substances Act, with the upper age extended to 12 years. Fabric coverings are considered barriers to physical contact provided they withstand the use and abuse testing, unless the item is small, less than five centimeters in one dimension. In this case, the fabric covered item is considered mouth-able or able to be swallowed, and the internal materials must comply with the lead content limit.

Electronic components: Certain electronic components may be exempted from the CPSIA lead content requirement when the component cannot be covered and made inaccessible, when there is a lack of technologically feasible substitutions, and when lead is required for proper function. In these cases, compliance to the European **RoHS directive** may be allowed.

Case-by-case Product Exclusion: There is a provision for exclusion of certain products or materials, if the Commission determines based on scientific evidence that lead in such product or material would not result in the absorption of any lead into the human body or have any other adverse impact on public health or safety. These exclusions are hard to come by. A recent request for exclusion came from the Fashion Jewelry Trade Association for exemption of crystal and glass beads, which was denied. Also denied was a request from the Writing Instrument Manufacturers Association (WIMA) for an exemption of certain pen components. The good news for the pen suppliers is that the CPSC did provide clarification on when a pen is considered a children's product as opposed to a general use item and the end result is that very few pens are considered children's products.

Material Exemptions: The CPSC has determined that certain materials and classes of materials do not exceed the lead content limits and, while compliance is required, testing these identified materials is not. These materials include precious and semi-precious gemstones, wood, paper and paperboard and their coatings that soak into the paper and cannot be scraped off, CMYK process printing inks, dyed and un-dyed textiles (excluding after-treatment applications such as screen prints, transfer, and decals as well as leather and vinyl), plant- or animal derived materials such as beeswax, seeds, bone, and feathers, surgical steel and precious metals.

Based on CPSC's Statement of Policy regarding Testing and Certification of Lead Content in Children's Products, lead testing is not required on products or components that are made entirely of exempt materials, and no testing is required to prove that an item is made



RoHS Directive:

The directive of the European Union that restricts the use of six hazardous materials in the manufacture of various types of electronic and electrical equipment.



**FIND OUT
MORE
ONLINE**

Find out more about the European RoHS directive online.



Children’s Toy:

A 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:

A consumer product designed or intended by the manufacturer to facilitate sleep or the feeding of children age three and younger, or to help such children with sucking or teething.

of an exempted material (for example, you don’t have to test a cotton shirt to prove that it is cotton). When products contain components made of both exempted and non-exempted materials, only the non-exempted materials need to be tested, but the entire finished product must be certified for compliance. A screen printed children’s t-shirt would require lead testing of the screen print only, not the shirt itself, but certificate of compliance would need to be issued for the finished product—the printed children’s shirt.

Composite Testing: The CPSC does allow composite testing for total lead content in substrates and phthalate content in materials. When submitting samples for composite testing of plastics or other materials, for compliance to the lead and phthalate content limits, the samples must contain each component part in known quantities.

XRF Technology: The CPSC study on XRF technology did find that there is specific XRF technology that is for use in testing to the separate lead-in-paint requirement.

Section 1.2: Phthalates

It is unlawful to manufacture for sale, offer for sale, distribute in commerce or import into the U.S. any children’s toy or child-care article that contains concentrations of more than 0.1 percent of di-(2-ethylhexyl) phthalate (DEHP), dibutyl phthalate (DBP) or benzyl butyl phthalate (BBP).

There are six regulated phthalates—the first three cannot be in any toy or childcare article in an amount exceeding 0.1 percent. The second three cannot be in any mouth-able toy or part of a toy or child-care article in amounts exceeding 0.1 percent. The second three phthalates are under an interim ban, while a Chronic Health Advisory Panel is convened and study done.

The phthalate ban applies only to **children’s toys** and **child-care articles**—it does not apply to all children’s products. Inaccessible component parts are exempt.

Table 1.2:
Phthalate Regulations

Regulated Phthalates	Regulated Products
DEHP, DBP, BBP not allowed in concentrations exceeding 0.1%	Any children’s toy or child-care article
DINP, DIDP, DnOP not allowed in concentrations exceeding 0.1% (interim prohibition)	Any children’s toy, or any part of the toy, that can be placed in a child’s mouth or child-care article

Third party testing and certification is required for the children’s toys and child care articles. A full description of the covered products is included in the CPSC’s FAQs. The effective enforcement date is January 1, 2012 and applies to products manufactured after December 31, 2011. Compliance with the underlying ban itself is currently required regardless of the date when testing and certification begins.

FIND OUT MORE ONLINE
The CPSC provides phthalate testing guidance on its website.

The new test method simplifies the testing process, eliminates the unnecessary testing of materials that simply would not contain phthalates, reduces the cost of testing, and harmonizes the CPSIA phthalates regulations with those enforced by the European Commission and by California.

Phthalates may be found in:

- Soft or flexible plastics, except polyolefins
- Soft or flexible rubber, except silicone rubber and natural latex
- Foam rubber or foam plastic such as PU foam
- Surface coatings, non-slip coatings, finishes, decals, printed designs
- Elastic materials on apparel, such as sleepwear
- Adhesives and sealants

Phthalates are not likely to be found in:

- Unfinished metal
- Natural wood, except coatings and adhesives added to wood
- Textiles, except printed decorations, waterproof coatings, elastic
- Mineral products such as sand, glass, crystal

Section 1.3: Toy Safety Standard

The **ASTM F963** toy safety standard has been an industry, fee-based consensus standard for many years, and most toy companies and retailers already require compliance. One advantage of being an industry standard is that the ASTM could be updated quickly, based on emerging hazards. Per the CPSIA, the ASTM F963 is a consumer product safety rule, and compliance is mandatory though the thirdparty testing and certification falls under the current stay of enforcement.

The ASTM F963 standard applies to toys up to age 14 years, not the 12 years the CPSIA uses in defining children’s products.

The -08 version of ASTM F963 was published in February 2009, about one week after the -07 version became mandatory, and CPSC adopted the -08 version effective August 17, 2009 with a few exceptions. The CPSC published an ASTM F963 testing manual in June 2010. Children’s toys manufactured after June 12, 2012 must comply with all mandatory sections of ASTM F963-11.



ASTM:

Founded in 1902, one of the oldest SDOs and now produces the largest number of nongovernmental, voluntary standards in the United States and many are used worldwide.

FIND OUT MORE ONLINE

Find ASTM F963 and other standards on the ASTM’s website.

Figure 1.3: ASTM Requirement Schedule



Section 1.4: Testing and Certification

Domestic manufacturers or importers must issue certification that any consumer product covered by CPSC-enforced regulations complies with all federal standards. Some CPSIA regulated products require proof of compliance with **General Conformity Certificates (GCC)** while others require proof of compliance with documented third-party testing in the form of a **Children’s Product Certificate (CPC)**.

The following table outlines the testing and certification requirements for categories of CPSC-regulated products.

Table 1.4:
Product Certification Requirements



General Conformity Certificate (GCC):

A declaration of a product’s conformity to federal safety rules, bans, standards or regulations based on a test of the product or a reasonable testing program.



Children’s Product Certificate (CPC):

A statement with testing results from a CPSC-recognized lab required by the CPSIA that the product meets or is in conformance with federal safety rules, bans, standards or regulations.

All Consumer Products Covered By CPSC-Enforced Regulations		
Children’s Products		Non-Children’s Products
Third-Party Testing And Proof With CPC Required For: <ul style="list-style-type: none"> • Lead In Paint • Cribs And Pacifiers • Testing For Small Parts • Lead In Children’s Metal Jewelry • Youth Bicycles And Helmets • Dive Sticks • Rattles • Bunk Beds • Electronically Operated Toys Or Articles • Clacker Balls • Lead In Content Of Substrate Material* • Phthalates* 	Stay Of Enforcement And Compliance With GCCs Required For: <ul style="list-style-type: none"> • Phthalates • Toys • Baby Bouncers, Walkers And Jumpers • Children’s Sleepwear • Caps And Toy Guns • Youth Swimming Pool Slides • Small Balls And Marbles • Durable Nursery Products 	Require Regulatory Compliance And Issuance Of GCCs: <ul style="list-style-type: none"> • Matches • Lighters • Adult Wearing Apparel • Furniture Other Products Listed At www.cpsc.gov
*Third-Party Testing Required For Products Manufactured After 12/31/2011		

With promotional products, it is possible to have two certificates for one product:

- One certificate for the “blank” that is being imported—issued by the importer or domestic manufacturer
- Another certificate for the “final” decorated product—issued by the domestic supplier



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ONLINE**

The CPSC
provides sample
GCC certificates on
its website.

General Conformity Certificates

General Conformity Certificates must be based on a test of the product or a “reasonable testing program” and do not need to be based on testing done by a third-party laboratory.

These certificates must include:

1. Product identification
2. Citation to each CPSC product safety regulation for which the product is certified
3. Identification of the importer or domestic manufacturer that is certifying compliance of the product: identification includes name, full mailing address and telephone number
4. Date and place where the product was manufactured
5. Contact information of the individual who maintains records of the test results: name, full mailing address, e-mail address and telephone number
6. Date and location of compliance testing: city, country and/or administrative region included
7. Identification of the third-party laboratory involved in the testing that resulted in certification: name, full mailing address and telephone number.

Hazard rules, bans and regulations for which a GCC is currently required include:

- Federal Hazardous Substance Act (FHSA) rules adopted by the CPSC
- Consumer Product Safety Act (CPSA)
- FHSA labeling rules adopted by the CPSC
- Flammable Fabrics Act
- Poison Prevention Packaging Act’s “special packaging” standards
- Refrigerator Safety Act rules for refrigerators

Creation, Distribution And Retention

General Conformity Certificates must be made available to the CPSC as soon as the product or shipment itself is available for inspection in the U.S. The name of the foreign manufacturer does not need to be noted on the certificate. Only the domestic manufacturer or the importer’s information must be listed.

A certificate must accompany each product or product shipment and be furnished to each distributor and retailer of the product. An electronic certificate can satisfy this requirement if the certificate includes a unique identifier and can be accessed via the internet or other electronic means. This electronic certificate or web address and its unique identifier must be created in advance and made available to the CPSC or to Customs authorities as soon as the product or shipment is available for inspection.

The CPSC recommends that each issuer maintain test records supporting certification for at least five years. The responsibility is on the manufacturer/importer to provide the GCC



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The CPSC
provides sample CPC
certificates on its
website.

to the promotional products distributor. If a distributor knowingly receives GCCs that are false, that distributor may be subject to penalties.

Children's Product Certificate

Children's Product Certificate (CPC) must be based on a test of the product or a "reasonable testing program" and must be based on testing done by a CPSC recognized third-party laboratory.

These certificates must include:

1. Product identification
2. Citation to each CPSC product safety regulation to which the product is being certified
3. Identification of the U.S. importer or domestic manufacturer certifying compliance of the product
4. Contact information for the individual maintaining records of test results
5. Date and place where the product was manufactured
6. Date and place where the product was tested for compliance with the regulation(s) cited above
7. Identification of any third-party laboratory on whose testing the certificate depends

The hazard rules, bans and regulations for which a CPC is currently required are the same as for the GCC. The guidance for creation, distribution and retention of the CPC is also the same as for the GCC.

Testing Frequency

A manufacturer must conduct periodic testing at least once a year per CFR 2012, to ensure products comply with the applicable children's product safety regulations. Exceptions are noted within the CFR 2012 regulations. This is covered in section 1.6 below. If the production volume is less than 10,000, then testing should be performed at the production of every 10,000 items. Additionally, whenever there is a material change to the item, testing should be performed. Material changes that could affect compliance include changes in product design, manufacturing process or sourcing of component parts.

Testing Laboratories

Only CPSC-approved laboratories can be used to fulfill the third-party testing and certification requirements. The CPSC published lists of approved laboratories for specific third-party testing and certification requirements.

Section 1.5: Tracking Labels

Tracking labels are required for all children's products manufactured as of **August 14, 2009**, regardless of whether they are domestic or imported products. The regulation does not affect product manufactured before this date. The scope of this provision reaches all children's products, including but not limited to children's wearables, writing instruments, calendars, drinkware and toys.



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Find a full list of
CPSC-approved
laboratories on its
website.

Enhance Recall Effectiveness

The purpose of the tracking label requirement is to enhance the recall effectiveness of children’s products. Tracking labels provide information to help the manufacturer track the distribution of a product and initiate an effective corrective action program.

The manufacturer must be able to track the production factory, the date of production and the exact production run, even after the packaging has been thrown away by the consumer.

Manufacturers should keep all this in mind when considering what information to include on a tracking label.

Specifications

The tracking label information must be permanent. Hangtags and adhesive labels are not acceptable as they can be removed.

“To The Extent Practicable”

Recognizing that it may be impractical or impossible for a permanent tracking label to be printed on small toys or other small products manufactured and shipped without individual packaging, Congress modified the tracking label requirement to include the phrase “to the extent practicable.”



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View PPAI’s Tracking
Labels.

Effective one year after the date of enactment of the Consumer Product Safety Improvement Act of 2008, the manufacturer of a children’s product shall place permanent, distinguishing marks on the product and its packaging, **to the extent practicable**, that will enable—

“(A) the manufacturer to ascertain the location and date of production of the product, cohort information (including the batch, run number, or other identifying characteristic), and any other information determined by the manufacturer to facilitate ascertaining the specific source of the product by reference to those marks;

AND

“(B) the ultimate purchaser to ascertain the manufacturer or private labeler, location and date of production of the product, and cohort information (including the batch, run number, or other identifying characteristic).”

Given that “to the extent practicable” is fairly vague guidance, UL and PPAI have assembled some examples.

Tracking labels on products are practicable for:

- Place mats
- Sun glasses
- Stuffed toys
- Drinkware (the label should be non-ink and non-leachable)
- Stress balls

Tracking labels on product are not practicable for:

- Most earrings as the surface area is too small to accommodate a label
- Socks as one is unable to mark them directly with a country of origin per an earlier regulatory decision with the Federal Care Labeling rules

The tracking information should appear on the packaging in these cases.

Multiple Components

For items that have multiple components, the tracking label must appear on the main component of the product.

Table 1.5:
Tracking Labels
For Products With
Multiple Components

Product	Tracking Label Guidance
Pens	Main component is the pen body.
Puzzles	The board or box could accommodate the tracking label.
Wooden Blocks	It might be reasonable to mark one side of one block. If the blocks come with a storage box or bag, these could accommodate the tracking label.
Crayons	The tracking label can be placed on the reusable box.
Lip Gloss	A reusable carrying pouch can accommodate the label.

Best Practices

- The producer can determine where product was made
- Location of production can be a factory code
- Date of product can be month and year
- Other 'cohort information' can be noted at the producer's discretion
- Tracking label information must be permanent and legible
- Labels can be printed, stamped, engraved, molded in or made permanent by other means

PPAI Tracking Label Solution

PPAI has created an online product tracking tool for suppliers that follows the CPSC requirements. This tool is available free of charge to UPIC subscribers. It consists of a search page for end users, a data entry page for suppliers, an administration page in UPIC for suppliers to manage all uploaded product information, and a back-end SQL database to house the data.

We encourage all supplier and distributor companies to contribute data even if they've developed their own tracking process. There are advantages to having a central database for this particular initiative. Time and money can be saved on the supplier side and there is a single information source that can be published for end users.

PPAI has created a short URL that can be imprinted on the product ([http://ps.ppa.org/\[your tracking label\]](http://ps.ppa.org/[your tracking label])). By appending a tracking code, it will provide a direct search result



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Register your tracking labels with PPAI's online tool.



Material Change:

Any change in the product's design, manufacturing process, or sourcing of component parts that a manufacturer knows, or should know, could affect the product's compliance with applicable rules.

for the end user. Data entry for tracking codes is very easy. You can key in one-off's, import batches with Excel or if you have IT resources available, you can develop automated processes to push data into the database using XML web services. In addition to the URL a company name must still be printed on the tracking label.

For company administrators, suppliers and distributors can log in to their UPIC accounts to manage their product uploads. That's also where you would flag a product for recall and enter any recall information.

This service is available to all supplier companies that are UPIC subscribers. UPIC is an industry directory containing more than 35,000 supplier and distributor companies. You can create a company profile with your product lines and other descriptive information. It has search services and credit services available and it's free to register. For more information, go to www.upic.org.

**Section 1.6:
Certification And Continued Testing For Children's Products**

The CPSC published its final rule for Testing and Labeling Pertaining to Product Certification on November 8, 2011. This rule became effective on February 8, 2013 and applies to products manufactured after that date.

The CPSIA requires that manufacturers, either the domestic manufacturer or importer of record, "certify, based on a test of each product that such product complies with all rules, bans, standards or regulations applicable to the product." The final rule establishes the protocols and standards for ensuring continued testing of children's products periodically and when there has been a **material change** in the product's design or manufacturing process. Elements of periodic testing requirements include:

1. Product specifications
2. Certification testing
3. Production testing
4. Recordkeeping or documentation

Product Specification

The product specification must include a description of the product in sufficient detail to identify the product and distinguish it from other products. This may include a color photograph of the product or an illustration, 3-D views, engineering drawings or exploded views, dimensions, model names or numbers, a detailed bill of materials that lists each component part separately, raw materials and raw material suppliers. This is much more detail than is normally included in a product specification. In addition, the product specification must include all safety rules, standards, regulations and bans that apply to the product.



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View PPAI's webinar
on Reasonable
Testing Programs.

Each manufacturing site must have its own product specification, so if more than one factory is producing the same item, they each must have their own product specification. It cannot be assumed that all manufacturing details are identical. The material and component suppliers may be different, for example. If there is a “material change” to the product that could affect compliance, an updated product specification must be developed. A material change could be a configuration change (arms on figure extended up rather than molded down by side), or it could be a new component supplier, a change in paint color or a new attachment process. These material changes could affect product compliance and require a new product specification. Changes such as different clothing size or different language voice boxes in a figure are not material changes that could affect product compliance; however these variations should be noted on the same product specification.

Certification Test

The certification test is the basis of the GCC. For certain products and tests, primarily children’s product tests, this testing must be done by a third-party, CPSC-recognized lab. For other products, this testing may be performed by the manufacturer if it is capable of performing the tests. In most cases, for regulatory compliance, it is recommended that certification tests be performed by CPSC-recognized third-party labs.

- The test samples must be identical to the finished product in all material respects.
- The samples must be randomly selected.
- Component testing can be performed but the components must be in finished form and exactly the same as they are on the finished product.
- Sample size is not specified in CPSC’s reasonable testing program but it states that the manufacturer must submit a sufficient number of samples for certification testing so as to provide a high degree of assurance in product compliance

As with the product specification, a material change in the product that could affect compliance requires new testing. It does not have to be full testing but rather could be based on the nature of the material change. For example, if a new color of paint or a new paint supplier is used, but everything else about the product remains the same, only that paint would require new testing.

The following table outlines the testing and certification requirements for categories of CPSC-regulated products.

Table 1.4:
Product Certification
Requirements

All Consumer Products Covered By CPSC-Enforced Regulations		
Children's Products	Non-Children's Products	
Third-Party Testing And Proof With CPC Required For: <ul style="list-style-type: none"> • Lead In Paint • Cribs And Pacifiers • Testing For Small Parts • Lead In Children's Metal Jewelry • Youth Bicycles And Helmets • Dive Sticks • Rattles • Bunk Beds • Electronically Operated Toys Or Articles • Clacker Balls • Lead In Content Of Substrate Material* • Phthalates* <p>*Third-Party Testing Required For Products Manufactured After 12/31/2011</p>	Stay Of Enforcement And Compliance With GCCs Required For: <ul style="list-style-type: none"> • Phthalates • Toys • Baby Bouncers, Walkers And Jumpers • Children's Sleepwear • Caps And Toy Guns • Youth Swimming Pool Slides • Small Balls And Marbles • Durable Nursery Products 	Require Regulatory Compliance And Issuance Of GCCs: <ul style="list-style-type: none"> • Matches • Lighters • Adult Wearing Apparel • Furniture <p>Other Products Listed At www.cpsc.gov</p>

Frequency Of Periodic Testing

A manufacturer must conduct periodic testing to ensure compliance with the applicable children's product safety rules *at least once a year*. If a manufacturer implements a production testing plan, the manufacturer must submit samples of its children's product to a third-party conformity assessment body for periodic testing to the applicable children's product safety rules *at least once every two years* assuming no material change has been made to the product.

This is the benefit of a production testing plan—it will allow you to conduct third-party testing less frequently.

If the manufacturer chooses not to implement a production testing plan, then periodic testing by a CPSC-recognized third-party lab must be performed. While the CPSC does

not mandate testing frequency for the periodic testing, the testing must be sufficient to provide a high degree of assurance of continued compliance. Factors to consider when determining appropriate sample size and/or testing frequency for the periodic tests include high variability in test results, results close to the compliance limits, consumer complaints, potential for serious injury or death resulting from noncompliance, quantity of production and similarity of a product to previously-certified product.

Figure 1.6:
Small Parts Gauge

Production Testing Plan

The production testing plan occurs after the certification testing and is intended to demonstrate continued compliance of the product. A one-time finished product test is not sufficient.

How does one ensure that all products, throughout the production process, comply? A production testing plan can include recurring testing, which is periodic testing throughout production.

The plan may include other process management techniques such as control charts, statistical process control programs, failure modes and effects analysis (FMEAs) or other methods designed to control production and identify variations in product. This can be as simple as a go/no-go gauge for small parts. A well-informed factory would have much of this included already as part of its own internal quality control plan.

The production testing does not necessarily require destructive testing or full regulatory testing. It must be as effective in detecting noncompliant product as the tests used for certification.

A production testing plan must include the following elements:

- A description of the production testing plan including a description of the process management techniques used, the tests to be conducted, or the measurements to be taken; the intervals at which the tests or measurements will be made; the number of samples tested; and the basis for determining that the combination of process management techniques and tests provide a high degree of assurance of compliance.
- At each manufacturing site, the manufacturer must have a production testing plan specific to each children's product manufactured at that site.
- The production testing interval selected for tests must ensure that, if the samples selected for production testing comply with an applicable children's product safety rule, there is a high degree of assurance that the untested products manufactured during that testing interval also will comply with the applicable children's product safety rule.



Recordkeeping

A manufacturer of a children's product subject to an applicable children's product safety rule must maintain the following records:

- A copy of the children's product certificate for each product
- Records of each third-party certification test
- Records of one of the following for periodic tests of a children's product:
 - A periodic test plan and periodic test results
 - A production testing plan, production test results and periodic test results
 - Testing results of tests conducted by an accredited third-party testing laboratory and periodic test results
- Records of descriptions of all material changes in product design, manufacturing process and sourcing of component parts and the certification test run and the test values
- Records of the undue influence procedures, including training materials and training records of all employees trained on these procedures



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Find a full list of CPSC-approved laboratories on its website.

Documentation should be maintained for five years and be available, either in hard copy or electronically, for inspection by the CPSC upon request. Records may be maintained in languages other than English if they can be provided to the CPSC immediately and accurately translated into English within 48 hours of a request by the CPSC.

With regards to certification of children's products, the certification tests must be performed by CPSC-recognized third-party testing laboratories. There have been various stays of enforcement so third-party testing is not mandatory yet for all children's product tests but compliance is.

Exception For Low-Volume Manufacturers

The CPSC has approved new exemptions for qualifying small-batch manufacturers on third-party testing of their products.

To be considered a small-batch manufacturer for a covered product by the CPSC, a manufacturer must report total gross revenues of \$1 million or less from the sale of all consumer products and manufacture no more than 7,500 units of the product in the previous calendar year.

The law requires all manufacturers, importers and private labelers of children's products to certify that the children's products comply with all applicable safety rules. While small-batch manufacturers are still required to third-party test for compliance in some safety regulations—such as lead-in-paint limits and the ban on small parts—testing for certain rules is waived for qualifying manufacturers registered with the CPSC.



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Review the online list of exempted standards for small-batch manufacturers.



**FIND OUT
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Register online with the CPSC as a small-batch manufacturer.

To be exempt, qualifying small-batch manufacturers **must register** with the CPSC. Registration is free and tutorials and directions are available online. Registered small-batch manufacturers must ensure that their children’s products comply with applicable safety rules.

Compliance Labeling

If all required testing and certification is performed beginning in February 2013, compliance to applicable testing rules can be indicated on the product with a label stating:

Meets CPSC Safety Requirements

There are no specific type size and font requirements. Manufacturers have the flexibility to implement a labeling system tailored to their product. The label must be visible and legible.

As opposed to the mandatory tracking label requirement discussed in section 1.5, this label is voluntary.

Periodic testing and production testing plans support what the Commission has long recommended—an established program that takes into account the entire manufacturing process, not just a final product test.

As with the product specifications, there must be a separate production testing plan for each manufacturing site—and of course, one for each unique product.

Section 1.7: State Regulations

At the time the CPSIA was enacted, there was proposed legislation in almost every state regarding lead in children’s products. Without the CPSIA, manufacturers would be required to comply with 50 different state requirements for lead. In this case, since the lead regulations are a federal regulation—whether the Consumer Product Safety Act, the Federal Hazardous Substances Act, the Flammable Fabrics Act, the Poison Prevention Packaging Act, or another federal regulation—most often the state or local law is preempted.

Preemption

The preemption clause specifically excludes California’s Proposition 65. In addition to Prop 65, there are a number of other state requirements that are not covered by any federal regulation.

Toxics in Packaging/Northeast Recycling Council (NERC)

The Coalition of Northeastern Governors (CONEG) developed the NERC in 1989 with the intent to reduce the amount of certain heavy metals used in packaging materials that end up in landfills. This environmental regulation is currently in effect in 19 states:

- | | | | | |
|---------------|-------------|------------|--------------|--------------|
| California | Connecticut | Florida | Georgia | Illinois |
| Iowa | Maine | Maryland | Minnesota | Mississippi |
| New Hampshire | New Jersey | New York | Pennsylvania | Rhode Island |
| Vermont | Virginia | Washington | Wisconsin | |



Pre-emption:

The judicial principle asserting the supremacy of federal over state legislation on the same subject.

The sum of the concentration levels of incidentally introduced lead, mercury, cadmium and hexavalent chromium present in any packaging component must not exceed 100ppm. Europe has a very similar packaging material requirement.

Packaging material includes all types of product containers such as:

- Shipping cartons
- Individual product packaging
- Components used on the shipping cartons and individual product packaging

Figures 1.7 a-c:
NERC Examples



Packaging includes the paper tray, the shrink wrap and the stickers of the diced pork package.



Packaging includes the metal can and paper wrapper (along with the master carton that these items came in).



Packaging includes plastic blister pack, paperboard backer with inks, the box and its printing as well as instruction sheets and warranty cards.

The law allows for self-certification by suppliers of packaging materials and requires these companies to produce a Certificate of Compliance (COC) upon request. Your packaging supplier should be able to provide this type of COC easily. If, however, one is not available, lab testing can be performed.

NERC, along with the Toxics in Packaging Clearinghouse, recently did a study on heavy metals in packaging and found that 16 percent of the tested packaging exceeded the 100 ppm limit. Non-compliant materials were mostly flexible PVC packages or the inks and colorants used in plastic shopping or mailing bags.

Illinois Lead Poisoning Prevention Act

The **Illinois Lead Poisoning Prevention Act** became effective on January 1, 2010, and like Prop 65, is essentially a labeling law. It applies a limit of 40 ppm lead in the surface coatings (the painted decoration) used on toys, children’s jewelry and child-care articles. It also regulates the lead levels of adult items. If the surface coating or substrate material of an adult item exceeds 600 ppm, the warning label is required.



Illinois Lead Poisoning Prevention Act:

Illinois labeling law that regulates the lead levels of children and adult items. A warning label is required.

Criteria is different for adult items, children's toys and jewelry. A warning statement is required for the following:

1. Toys containing paint if lead content in their surface coatings is >40 ppm and < or = 90 ppm;
2. Children's Jewelry if lead content in their surface coatings is >40 ppm and < or = 90 ppm or in their substrates is >40 ppm and < or = 100 ppm;
3. Child Care Articles if lead content in their surface coatings is >40 ppm and < or = 90 ppm or in their substrates is >40 ppm but < or = 100 ppm; and
4. Other Lead Bearing Substances (including Adult items) if lead content in their surface coatings or substrates is >600 ppm.

The warning statement looks like this and must appear on the product itself or the label of the product's immediate container:

**“WARNING: CONTAINS LEAD. MAY BE HARMFUL IF EATEN OR CHEWED.
MAY GENERATE DUST CONTAINING LEAD.”**

For most toys and children’s products, the Illinois law essentially—though not expressly—reduced the lead in paint limit from the 90 ppm required by CPSIA to 40 ppm as few parents would be willing to buy a children’s product that includes a lead warning. It also effectively reduced the 300 ppm lead content limit to 40 ppm for the substrate materials of children’s jewelry and child-care articles.

California’s Lead Containing Jewelry Law

California’s Lead Containing Jewelry Law restricts lead content in jewelry for all consumers. As stated earlier, this warning label requirement is not pre-empted by the CPSC. It includes in the definition of jewelry watches as well as detachable shoe and clothing ornaments and hair accessories. The law was enacted in 2006 as the result of a 2004 Proposition 65 consent judgment with a number of jewelry manufacturers, distributors and retailers.

The law classifies materials as Class 1, 2 or 3 and sets limits on the amount of allowable lead for each class.

Table 1.7a:
CA Lead Limits By
Material Class

Class	Material	Lead Limit
1	Stainless or surgical steel, gold, sterling silver, rhinestones, fabric, ribbon, string and natural materials such as bone, coral, feathers	None
2	Electroplated metal	6%
	Unplated metal	1.5%*
	Plastic or rubber	200 ppm (.02%)*
	Dyes or surface coatings	600 ppm
3	Anything that is not a class 1 or 2 material	600 ppm

*Note that this is less stringent than Illinois’ 40 ppm lead in children’s jewelry. It is also important to note that this requirement regulates adult and children’s jewelry whereas the CPSIA and Illinois limits are for children’s jewelry.



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Find ASTM F2923 and other standards on the ASTM's website.

Cadmium

At this time, there is no federal restriction on cadmium in substrate materials, just a limit on cadmium in surface coatings used in toys. The ASTM International issued new standards for regulating the cadmium content of children's jewelry products on November 9, 2011. ASTM F2923 applies to jewelry intended to be worn as an ornament and designed for or primarily intended for children under the age of 12. Although this ASTM standard is voluntary, retailers and consumers may require or expect compliance.

The ASTM F963-11 standard has specific soluble cadmium requirements for small metal parts. ASTM F2999-13 is the voluntary adult jewelry standard.

There are numerous state proposals to restrict cadmium, primarily in children's jewelry but also in other children's products. Certain retailers such as Wal-Mart have also implemented cadmium restrictions.

Rhode Island has passed legislation that makes ASTM F2923 mandatory in the state.

Minnesota has enacted a law that limits soluble cadmium content in surface coatings and substrate materials of children's jewelry, which they define as jewelry intended for children six years of age or younger. The limit is 75 ppm, which is the ASTM F963 limit for surface coatings in toys. The Minnesota law becomes effective January 1, 2011 for manufacturers and wholesalers, and March 1, 2011 for retailers. As of these dates, children's jewelry exceeding the 75 ppm limit cannot be sold or offered for sale.

Connecticut and Washington have also enacted laws restricting cadmium in children's jewelry for total amount of cadmium rather than soluble.

States continue to consider additional product safety requirements. You should always check with your state to make sure you have current information.

Some of the proposed legislation is specific to children's jewelry while others include all children's products. The ages of children's jewelry range from six to 13 years, and proposed limits can be soluble or total cadmium.

Antimony And Barium

Cadmium is not the only chemical for which there are proposed restrictions. There are federal proposals to restrict cadmium, antimony and barium with the Safe Kids' Jewelry Act and Children's Toxic Metals Act. New Jersey has a proposed law restricting cadmium, lead and mercury in all children's products. Other states such as Illinois and Maine are looking at more wide-reaching legislation that would generate lists of chemicals of high concern and then prohibit the sale of children's products with those chemicals. Chemical safety is an area of high concern and, lacking federal regulations, states will likely continue to propose their own legislation.

Mercury

The Mercury Containing Battery Management Act limits mercury in batteries to 25 mg/cell. Some state legislation further restricts mercury, particularly in batteries and battery-operated novelties. The limit is typically considered to be less than 5 mg/cell, which is expected to reduce the likelihood of mercury having been added intentionally.

- Federal Law: Mercury Containing Battery Management Act (25 mg/cell)
- Current State Laws for Mercury in Batteries and Novelties (< 5 mg/cell):
 - Products intended for personal or household enjoyment, including but not limited to toys, figurines, adornments, games, cards, ornaments, yard statues and figurines, candles, jewelry, holiday decorations and footwear and other items of apparel
 - States with current restrictions include California, Connecticut, Illinois, Maine, Michigan, New Hampshire, Ohio, Oregon and Texas

There is proposed legislation in certain states for further mercury restrictions. States continue to consider additional product safety requirements. You should always check with your state to make sure you have current information.

Bisphenol A

Bisphenol A, or BPA, is used primarily in polycarbonate material as well as epoxy resins and polysulfone materials. It has been used in baby bottles and water bottles for decades and is also used in coatings on the inside of almost all food and beverage cans.

The FDA states that their ongoing “safety review of scientific evidence” and currently available information supports the position that BPA is safe for the currently approved uses in food containers and packaging. Exposure levels are low in many packaging components as only small amounts of BPA may migrate from the packaging components to the actual food or beverage.

However, the FDA has banned the use of Polycarbonate in infant bottles and spill proof cups.

Minnesota, Connecticut, New York and Wisconsin have all enacted laws restricting BPA. Minnesota and New York laws went into effect on January 1, 2011 and prohibit the sale of children’s beverage containers that contain BPA, those intended for use by children under the age of three years. Connecticut’s law went into effect on October 1, 2011 and prohibits BPA in any reusable food or beverage container, not just infant items. Wisconsin has taken it a step further in not just banning BPA but is also requiring that products be labeled as “BPA free.”

State	BPA Restricted Products
Minnesota	Children’s beverage containers (<3 years)
New York	Children’s beverage containers (<3 years)
Connecticut	Any reusable food or beverage container
Wisconsin	Requires “BPA-free” label

Table 1.7b:
State BPA
Restrictions

There is proposed legislation in other states as well. While most focus on children's food and beverage containers, some such as New York and Maryland also mention child-care articles. New Jersey's proposed legislation even includes toys. Others, such as California and Vermont, expand the restriction to all food or beverage containers, not just those for children. Where limits are mentioned, it is typically 0.1 ppb.

- California: any drink/food containers
- Illinois: children's drink/food containers
- Vermont: any drink/food containers
- New Jersey: any drink/food containers and toys
- Maryland: drink/food containers, toys, child-care items
- Washington: children's drink/food containers



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Read PPAI's Prop 65 guidebook to learn more.

California Proposition 65

Last, but certainly not least, is California Proposition 65. This legislation is also known as the Safe Drinking Water and Toxic Enforcement Act of 1986, with the initial purpose to protect California citizens from chemicals known to cause cancer, birth defects or other reproductive harm. The list has grown to more than 800 chemicals and new chemicals continue to be added.

Prop 65 is essentially a labeling requirement—if your product contains a chemical on the list, a warning statement is required to alert consumers of its presence so that consumers can then make informed purchasing decisions.

Realistically, one cannot test for 800+ chemicals. Some companies simply label their product to avoid any lawsuits, and Californians have become quite used to seeing the warnings. Other companies perform select testing based in large part on settlements. It is recommended as a first step that you ask for confirmation from your manufacturer that none of the Prop 65 chemicals were intentionally added to your product. Then you can think about what, if any, testing should be performed. The most commonly performed product testing relates to lead, cadmium, and phthalates which, as we know, are regulated elsewhere, have validated test methods, and also seem to be involved in many of the Prop 65 settlements.

Most commonly performed testing includes:

- Any glass or ceramic tableware should be tested for lead and cadmium
- PVC coated materials (electrical cords, garden hoses, bicycle grips) should be tested for lead and phthalates
- Brass components should be tested for lead—there have been settlements on brass-handled cookware, brass hose accessories, and brass lantern lighting products as well as general brass components
- Children's products should be tested for phthalates, not just the toys and child-care articles that CPSIA covers

Figure 1.7d:

Prop 65 Warning Label



WARNING

This Product May Contain A Chemical Known To The State Of California To Cause Cancer Or Birth Defects Or Other Reproductive Harm.



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The State of California provides a full list of chemicals known to cause cancer or birth defects online.


**FIND OUT
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PPAI provides comprehensive product safety education on its website.

- Backpacks and handbags, particularly those made of PVC or neoprene, should be tested for lead content. Recent settlements have applied a 200 ppm lead limit.
- Lead settlements have also been issued for bibs, clothing made of PVC or neoprene, cosmetics, diaper bags, exercise mats, faux leather furniture and poker chips. If you do any testing at all, recommend checking for lead content on any product you plan to distribute in California.

PPAI's product safety website includes information about Prop 65, including frequently asked questions. Please remember that the information provided here is not legal advice but rather an overview of some of the legislation.

Section 1.8: Enforcement

Section 19 of the Consumer Product Safety Act (15 United States Code Section 2068) states:

“(a) It shall be unlawful for any person to—(1) sell, offer for sale, manufacture for sale, distribute in commerce, or import into the United States any consumer product, or other product or substance that is regulated under this Act or any other Act enforced by the Commission, that is not in conformity with an applicable consumer product safety rule under this Act, or any similar rule, regulation, standard, or ban under any other Act enforced by the Commission.”

Everyone in the sales channel, not just the manufacturer or importer, is responsible for a product that does not meet a standard (e.g. the lead content standard).

Penalties

The maximum civil penalties that the CPSC can assess are a maximum of \$100,000 for a violation and a maximum of \$15 million for a series of related violations.

Supply Chain Identification

Under the CPSIA, if the CPSC asks, every importer, retailer or distributor of a consumer product (or other product or substance over which the CPSC has jurisdiction under the CPSIA or any other act) must identify the manufacturer of that product by name, address or other identifying information to the extent that the information is known or can be readily determined by the importer, retailer or distributor.

Every manufacturer must identify by name, address or other identifying information each retailer or distributor to which the manufacturer directly supplied a given consumer product (or other product or substance over which the CPSC has jurisdiction under the CPSIA or any other Act), as well as each subcontractor involved in the production or fabrication of the product or substance and each subcontractor from which the manufacturer obtained a component thereof.

Recall And Corrective Actions

The CPSC has been given enhanced authority regarding recalls and corrective actions. Congress has specified what it wants included in recall notices.

State Attorneys General

State Attorneys General have been given new rights to initiate actions in federal courts.

Whistleblower Protections

No manufacturer, private labeler, distributor or retailer may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions or privileges of employment because the employee, whether at the employee's initiative or in the ordinary course of the employee's duties (or any person acting pursuant to a request of the employee):

- Provided, caused to be provided or is about to provide or cause to be provided to the employer, the federal government, or the attorney general of a state information relating to any violation of, or any act or omission the employee reasonably believes to be a violation of any provision of the CPSIA or any other Act enforced by the CPSC, or any order, rule, regulation, standard, or ban under any such Acts;
- Testified or is about to testify in a proceeding concerning such violation;
- Assisted or participated or is about to assist or participate in such a proceeding;
- Or objected to, or refused to participate in any activity, policy, practice or assigned task that the employee (or other such person) reasonably believed to be in violation of any provision of the CPSIA or any other Act enforced by the CPSC, or any order, rule, regulation, standard or ban under any such Acts.

There is an administrative process and a court appeals process.

Relief could include all relief necessary to make the employee whole, including:

- Injunctive relief and compensatory damages
- Reinstatement with the same seniority status that the employee would have had, but for the discharge or discrimination
- The amount of back pay, with interest
- Compensation for any special damages sustained as a result of the discharge or discrimination, including litigation costs, expert witness fees, and reasonable attorney's fees.

Pre-emption

The pre-emption issue is a complicated one and there remain various schools of thought regarding exactly what state laws might or might not be pre-empted based on what aspect of this new federal law is being discussed.

Lead content provisions are amendments to the FHSA. They should pre-empt state lead in children's product laws, but pre-emption is a complex issue and we would not be surprised if the courts will be asked to provide the definitive answer.

The CPSIA provides that the law known as Proposition 65 in California is specifically *not* pre-empted: "Nothing in this Act or the Federal Hazardous Substances Act shall be construed to preempt or otherwise affect any warning requirement relating to consumer products or substances that is established pursuant to state laws that was in effect on August 31, 2003."

PART ONE RESOURCES

Next Steps:

1. Apply the CPSIA standards to your product line. Review Part Two of this guide for product category guidance.
2. Check with your state to make sure you have current information on its product safety requirements.
3. Compare your product testing plan with the CPSC's reasonable testing program—is yours a program that takes into account the entire manufacturing process? You may be able to label your products with "Meets CPSC Safety Requirements."

Further Reading And Internet Sources:

- ASTM F963 Toy Safety Standard: www.astm.org/Standards/F963.htm
- California's Office of Environmental Health Hazard Assessment's List of Chemicals Known to Cause Cancer: oehha.ca.gov/prop65/prop65_list/Newlist.html
- CPSC Sample General Certificate of Conformity: www.cpsc.gov/en/Business--Manufacturing/Testing-Certification/General-Certificate-of-Conformity-GCC/
- CPSC Sample Children's Product Certificate: www.cpsc.gov/en/Business--Manufacturing/Testing-Certification/Childrens-Product-Certificate-CPC/
- CPSC List of Approved Testing Laboratories: www.cpsc.gov/cgi-bin/labsearch/
- European RoHS Directive: www.gov.uk/government/collections/national-measurement-office-enforcement-authority
- PPAI's Comprehensive Product Safety Website: www.ppai.org/inside-ppai/product-safety/
- PPAI's Tracking Label Business Solution: ps.ppai.org/RegisterLabels.aspx

Promotional Products Industry Applications And Solutions



After reading this chapter, you should be able to:

2.1 Supply Chain Responsibilities And Opportunities

Describe the safety compliance responsibilities of industry suppliers and distributors.

2.2 Promotional Product Guidance

Explain the regulatory standards for the following product categories:

- Apparel
- Toys
- Drinkware
- Electronics
- Jewelry
- Luggage
- Writing Instruments



PART TWO

This information is being furnished by PPAI for educational and informational purposes only. The Association makes no warranties or representations about specific dates, coverage or application. Consult with appropriate legal counsel about the specific application of the law to your business and products.

Section 2.1: Supply Chain Responsibilities And Opportunities

Supplier Top 10 To-Do List

The CPSIA was written by Congress, and it is up to the Consumer Product Safety Commission (CPSC) to interpret and enforce it. The CPSC is continually providing guidance documents, test methods, interpretations and policy updates on the CPSIA, and it is important to get informed and stay informed. You can sign up for automatic email notifications from the CPSC of new CPSIA information on the CPSC website, www.cpsc.gov. PPAI's product safety website includes a significant amount of product safety information.

It is illegal to place on the market or distribute into commerce any consumer product that is not in compliance with applicable regulations. Whether a supplier or distributor, you are placing a product on the market and therefore must be confident in the product's regulatory compliance. The General Certificate of Conformity (GCC) and Children's Product Certificate (CPC) responsibility lies with the importer of record or the domestic manufacturer. In some cases, the distributor may also be the importer of record and thus must issue the GCC and CPC.

It is your responsibility, as a supplier, to determine which regulations apply to your product and to ensure the product complies before putting it on the market or selling it to the distributor. If the distributor makes any changes to the product, such as adding artwork or logos, it is then their responsibility to ensure compliance of the finished product based on these changes. As the supplier, you should ensure compliance of the product that you provide to the distributor.

As such, the supplier carries the bulk of the responsibilities for compliance. The following list summarizes key steps and tactics; however, it is only a summary. It is very important that you take the time to carefully review Part One of this guide for detailed descriptions of the CPSIA standards and regulations.

1. Learn about the Consumer Product Safety Improvement Act
2. Determine which of your products are affected by CPSIA and by other regulatory requirements
3. Determine the tests that are required for your products
4. If it's a children's product, address the tracking label requirement
5. Plan for testing costs associated with compliance
6. Educate your employees to be sure they understand the regulatory requirements for your product
7. Establish a relationship with a qualified testing lab that can assist you with your testing needs
8. Share all of this information with your suppliers, from the raw material vendors on up, so they can give you the product you need
9. Make sure your international partners and factories are up to speed with federal consumer product safety requirements
10. Determine how you will keep track of all testing results

The distributor to whom you sell your product is typically more cognizant of the distribution method, marketing strategy and the logo and theme for each product. If possible, upon accepting an order, ask the distributor how your product will be used. Often times, promotional products that are intended for use by adults and are given out at tradeshow and in workplaces, end up in the hands of children. This does not mean that anything could be a children's product, but it does mean that a determination as to its appeal and foreseeable use by children needs to be considered when manufacturing or distributing a promotional product. Review Part One of this guide for more information on the federal standards for children's products.

Educating Your Employees

Educating employees can be done through a variety of means, including internal training, which can be provided by internal staff or outside experts. PPAI provides webinars that are typically free of charge to all members. There are various industry conferences which can keep employees up-to-date on regulatory requirements and industry standards, and you can sign up for e-mail alerts through the CPSC, PPAI, UL or others. As we mentioned previously, the regulations (or at least the interpretation of the regulations) do change and it is important to stay up to date on product safety requirements.

Finding A Testing Lab

Accredited laboratories are globally located and testing is often performed at a laboratory in the country of manufacture. When making commitments to your customers, it is important



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PPAI offers product safety webinars each month with archives kept on its website.

to take into account both the time for testing as well as the cost of testing. By establishing a relationship with a laboratory, rather than just price shopping each time a product requires testing, you can find price discounts based on volume of work, priority testing with regards to turnaround time and a partner with understanding of your entire product line and business model.

In addition to product testing, some labs offer additional services such as:

- Design hazard assessment, to determine potential design issues
- Factory audits, whether for manufacturing quality controls, social compliance or other reasons
- Raw materials qualification that is often performed prior to mass production to ensure that the materials to be used are in compliance before product is produced
- In-process inspections of product and manufacturing may be performed
- Laboratory inspectors can perform final random inspection of product. This is particularly useful if you don't have a China presence—it's a set of eyes and ears acting on your behalf.
- Labs may offer regulatory consulting to help you stay up to date on regulations

Vendor Education

In addition to educating your employees, you want to make sure that your factories and other suppliers are up to speed with regulatory requirements. You can share CPSIA information and advise suppliers of required regulatory requirements. Share the knowledge and be clear with your expectations. Determine what you will accept as proof of compliance, whether full test report or written certificate, and pass this on to your suppliers.

Consider sharing the information with your international partners. As with your suppliers, it is important to share CPSIA information and other U.S. regulatory requirements. Advise your international partners of the required U.S. product safety requirements for your product.

Be sure that they understand your expectations, and what you will require as proof of product compliance. As mentioned, for non-U.S. production a General Certificate of Conformity (GCC) or Children's Product Certificate (CPC) may be needed to import product into the U.S.

Test Results

Lastly, it is important to keep track of your product safety information. General Certificates of Conformity (GCC) and Children's Product Certificates (CPC) for each CPSC regulated product should be readily available, and you may wish to keep copies of actual test reports as back-up documentation. This is especially important if you are the one issuing the certificate. Information can be kept electronically, as long as it is readily available upon request. A web-based report posting system may be used, or you can keep hard copies of documentation.

Top 10 Questions Distributors Should Ask Suppliers

1. Is the item considered a children's product?
2. What are the regulatory requirements for this product?
3. Does the product comply with all applicable regulatory requirements?
4. How has compliance been determined?
5. Can I get copies of all test reports?
6. Can I get copies of GCC or CPC?
7. Were all products made at the same factory?
8. Were all products made from the same lot of materials?
9. If the item is a children's product, what does the tracking label mean?
10. Will the modifications I plan to make to the product affect the product's compliance?

1

Is the item considered a children's product?

The promotional products industry faces unique challenges when determining whether or not a promotional product is a children's product. Products are often intended for use by adults, given out at trade-shows and workplaces, but end up in the hands of children. How should you determine whether a product is a general consumer product or a children's product? Who bears the responsibility for determining if a product is a children's product?

A children's product is a consumer product designed or intended primarily for children 12 years of age or younger, according to the CPSIA. Consider these four factors when making that determination:

- A statement by a manufacturer about the intended use of such product, including a label on such product if such a 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

Even if a supplier does not consider an item to be a children's product, depending on how and where the product will be distributed and what the theme/appeal is of the item, the final product may be considered a children's product and testing may be required.

If the supplier has not treated the item as a children's product, you may need to ask the supplier to perform appropriate testing before you accept the product. If the supplier does not wish to do so, you may need to have the testing performed yourself or find another supplier.



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The CPSC provides
Age Determination
guidelines on its
website.

Review the following requirements for children's products in Part One of this guide:

- Lead in paint
- Lead content (accessible substrate materials)
- Tracking label provision
- Third-party testing
- ASTM F963-11 (if a toy)
- Phthalates ban (if a toy)

2

What are the regulatory requirements for this product?

As a distributor placing a product on the market, you need to be cognizant of the required safety standards and regulatory requirements of your product. You cannot place unsafe or non-compliant product on the market. Your supplier, as the product's manufacturer, should know the requirements and have produced a product that takes these requirements into consideration.

Products regulated by the CPSC are those that fall under the following acts:

- Flammable Fabric Act
- Federal Hazardous Substances Act
- Consumer Product Safety Act

Products regulated by the FDA include:

- Foods, except for most meat and poultry products, which are regulated by the U.S. Department of Agriculture
- Drinkware/Tableware (indirect food additives)
- Human and veterinary drugs
- Vaccines and other biological products
- Medical devices
- Cosmetics
- Dietary supplements
- Products that give off radiation
- Tobacco products

3

Does the product comply with all applicable regulatory requirements?

Just because a supplier can advise what requirements apply to the product does not necessarily mean that the product complies. Confirm with the supplier the full compliance of the product.

4

How has compliance been determined?

Was third-party testing performed? Who performed the testing? If the product was not third-party tested, what type of evaluation was performed to ensure product compliance? Does the item include the five essential elements of a reasonable testing program as outlined by the CPSC?

1. Product specification including applicable safety rules, standards, etc.
2. Certification tests that demonstrate compliance with the applicable safety rules, standards, etc.
 - a. Certificate should include specific material used on your product
 - b. Certificate should include mention of your particular product
 - c. Material safety data sheets (MSDS) are not acceptable for determining product compliance
3. Production testing plan
4. Documentation of your reasonable test program and how it is implemented

5

Can I get copies of all test results?

If the product was tested by a third-party, this item should not be difficult to fulfill. If compliance was otherwise evaluated, some type of documentation should be available that details the compliance steps.

6

Can I get copies of the GCC or CPC?

Remember, not all consumer products require testing, and there may be no regulatory requirements. CPCs may not be available when they are not needed. A GCC must be based on testing of each product or a “reasonable testing program.” The certificate must specify the applicable rule, ban, standard or regulation.

- For products manufactured outside of the United States, the Certificate must be issued by the importer of record.
- For products produced within the U.S., the Certificate must be issued by the U.S. manufacturer.

A typical GCC or CPC will include:

- Product identification
- Citation to each CPSC product safety regulation for which the product is certified
- Identification of the importer or domestic manufacturer that is certifying compliance of the product: identification includes name, full mailing address and telephone number
- Date and place where the product was manufactured
- Contact information of the individual who maintains records of the test results: name, full mailing address, e-mail address and telephone number
- Date and location of compliance testing: city, country and/or administrative region included
- Identification of the third-party laboratory involved in the testing that resulted in certification: name, full mailing address and telephone number.

7

Were all products made at the same factory?

If not, separate GCC and CPC's and testing documentation should be provided.

- **Different factory = Different product**
- Individual test reports required (if applicable)
- Individual GCC/CPC required (if applicable)

8

Were all products made from same lot of materials?

If not, depending on the material variation, additional testing related to the material may be appropriate. You need to know that the test report you were provided with truly reflects the product you are purchasing.

- Different lots require confirmation of compliance
 - Third-party testing
 - Raw material supplier declaration of compliance
 - Factory incoming materials inspection
- Provided documentation must reflect all of the product

9

If the item is a children's product, what does the tracking label mean?

This can also help you confirm that all items were made at the same factory and from the same lot of materials.

- Applies to all children's product manufactured as of August 14, 2009
- Requires permanent, distinguishing marks on the product (to the extent practicable) and packaging
 - Manufacturer or private labeler name
 - Location of production
 - Date of production
 - Other information (batch, run number, sources)

Learn more about the tracking label requirement in section 1.5 of this guide.

If you purchase a children's product, the supplier should have included tracking label information. Depending on changes made to the supplier's product, additional tracking label markings may be appropriate.

10

Will the modifications I plan to make to the product affect the product's compliance?

If you make modifications to the product that the supplier has provided, such as painted decoration/printing or addition of any components, additional testing may be required and additional tracking label information may be needed if it's a children's product. The supplier may have knowledge that certain types of modification could affect compliance or safety of the product, and as the person making changes to product, you need to address these issues directly as well.

Safety: The Smart Sell

By ensuring that your product is safe, you are protecting your customers and their valuable brand name. You show that you are their partner and that not only will you ensure that they have quality product, on time and within budget, but that it will be safe and they will not be the next company to have their name in the headlines for recalling millions of products found to be hazardous. At best, a recall is expensive and embarrassing. At worst, it can be fatal to a company. A recent example of this is in the food industry: The Peanut Corporation of America, a 22 year-old business with annual sales of \$25 million, went bankrupt after the salmonella outbreak and product recall.

As a salesperson, you can tell your customer or potential customer about the CPSIA and that your company is on top of product safety requirements. Don't wait until they ask about it, IF they ask you about it. Tell them up front—this can differentiate you from others who are trying to sell them the same type of product.

Section 2.2: Promotional Product Guidance

Apparel

There are three federal regulations that apply to apparel:

- The Flammable Fabrics Act
- The Fiber Identification Act
- Care Labeling Regulations

The Flammable Fabrics Act

The Flammable Fabrics Act is regulated by the CPSC. As such, products subject to this act require a certificate of compliance under the CPSIA. At this time, only four standards require third-party testing and certification:

- Lead in paint
- Cribs and pacifiers
- Small parts
- Children’s metal jewelry

The Fiber Identification Act and the Care Labeling Regulations fall under the jurisdiction of the Federal Trade Commission (FTC).

The Flammable Fabrics Act has been in effect since the 1950s and includes various flammability tests, including 16 CFR 1610, the Standard for the Flammability of Clothing Textiles and 16 CFR 1615 & 1616, Standards for the Flammability of Children’s Sleepwear.

For the 1610 flame test, a 2" x 6" piece of fabric is inserted into the frame, which is at a 45-degree angle, and a standardized flame is applied to the bottom of the test specimen. The time required for the flame to proceed up the fabric is recorded. This flammability test does not apply to hats, gloves, footwear and interlining fabrics.

Plain surface fabric, regardless of its fiber content, that weighs 2.6 ounces per square yard or more is exempt from the 16 CFR 1610 flammability testing. Many clothing items fall under this exemption, including medium to heavy-weight t-shirts.

Figure 2.2a:
1610 Flame Test



Another exemption is based on fiber content—all fabrics, regardless of weight, which are made entirely of the listed fibers, are exempt from the 1610 flame test:

Acrylic	Modacrylic	Nylon
Olefin	Polyester	Wool

It is important to note that just because a fabric is exempt from performing the flame test does not mean it is exempt from the Flammable Fabrics Act altogether, and all apparel will require a CPSIA certificate once the stay is lifted. Exempt clothing would still need certification to show that it complies with the applicable requirements of this regulation.

Based on the burn time, the fabric is organized into three classifications:

Table 2.2a:
Fabric Flammability
Classifications

Class 1	Class 2	Class 3
Normal Flammability	Intermediate Flammability	Rapid & Intense Burning
Plain Surface Fabrics= average burn time more than 3.5 seconds	Class 2 is not applicable to plain surface textile fabrics	Plain Surface Fabrics= average burn time less than 3.5 seconds
Raised Surface Fabrics= average burn time more than 7 seconds	Raised Surface Fabrics= average burn time between 4-7 seconds	Raised Surface Fabrics= average burn time less than 4 seconds

Class 1 flammability is the best, with the slowest time of flame spread—more than 3.5 seconds for plain surface fabrics and more than 7 seconds for raised surface fabrics. The quicker the burn rate, the more of a concern there is regarding the fabric. Class 1 flammability is required for general wearing apparel.

There are certain fabrics that are known to burn quickly and have been identified by the CPSC as potentially hazardous. Some of these fabrics have been involved in numerous fabric or garment recalls and include:

Plain Surface Fabrics

- Chiffon
- Cheesecloth
- Crepe de Chine
- Crinoline
- Gauze
- Lace
- Net
- Organdy
- Tulle

Raised Surface Fabrics

- Chenille
- Corduroy
- Flannel/Flannelette
- Fleece
- Imitation Furs
- Terrycloth
- Velour
- Velvet/Velveteen

Specific Recalls Include:

- Chenille Sweaters
- Chiffon Scarves
- Chiffon Skirts
- Fleece Garments
- Fleece Jackets
- Fleece Shirts
- Fleece Sweatshirts
- Sweaters
- Sweatshirts
- Terry Cloth Bathrobes
- Sweater with Feather Trim

Ask for a test report before accepting a product or test it yourself to confirm compliance to the Flammable Fabrics Act. If it is your letter of credit, you are responsible and are considered the manufacturer of record by the CPSC. While the liability may legally fall on someone else, if you are involved in importing or putting the product on the market, you will want to make sure it is compliant.

Children's Sleepwear

The flammability requirements under the FFA for children's sleepwear are more stringent than the standard flammability of clothing textiles. Testing is performed on both the fabric itself as well as the garment. Fabric testing is performed both in the original state and after 50 launderings—to ensure any applied flame retardant does not wash out. All seams must be prototype tested prior to production, and the longest seam is tested in the finished product. And there are very stringent testing and record-keeping requirements for children's sleepwear, including testing every 5,000 yards of material and 500 dozen garments produced. Reports must include all burnt specimen samples along with unburnt specimens and one complete untested garment.

Children's sleepwear includes both tight-fitting and regular-fitting sleepwear, and has been extended to loungewear such as those pictured here. Each of these garments has been recalled due to flammability non-compliance:



Figures 2.2b-c:
Recalled Garments

Fiber Identification Act

Under the Fiber Identification Act, all wearing apparel must include the correct fiber content, +/- 3 percent accuracy. For example, if an item is labeled 65 percent polyester and 35 percent cotton, the minimum amount of polyester is 62 percent, and the maximum is 68 percent. The minimum for cotton is 32 percent and maximum is 38 percent. There is a five percent rule in which fibers of less than five percent should be disclosed as "other fiber" rather than its generic name.

The only exceptions to this five percent rule are wool, which must be disclosed, and fibers that have a definite functional significance such as spandex for elasticity. The label could say "96 percent acetate, four percent spandex." Trim not exceeding 15 percent of the surface area does not need to be listed separately and the label could state "exclusive of decoration." If it exceeds 15 percent of the surface area, it must be labeled separately, such as "Body: 100 percent cotton" and "Decoration: 100 percent silk." Accurate representation of fiber content must be listed on each garment.

Care Labeling Regulations

All garments must include appropriate care labeling in accordance with 16 CFR Part 423. In order to determine appropriate care label instructions, there must be a reasonable basis for this information, including reliable evidence that the product was not harmed when cleaned reasonably often according to the instructions on the label or reliable evidence that

the product or a fair sample of the product was harmed when cleaned by methods warned against on the label, such as “do not dry clean.”

The reasonable basis for care label information often includes testing such as shrinkage and appearance after laundering, colorfastness to laundering, and colorfastness to chlorine and non-chlorine bleach. If your label states non-chlorine bleach only, you should have information that chlorine bleach will harm the fabric. You cannot use the lowest denominator and label everything as “hand wash only, line dry.” You must have a reasonable basis for the care label instructions. These tests are established by the AATCC, the American Association of Textile Chemists and Colorists.

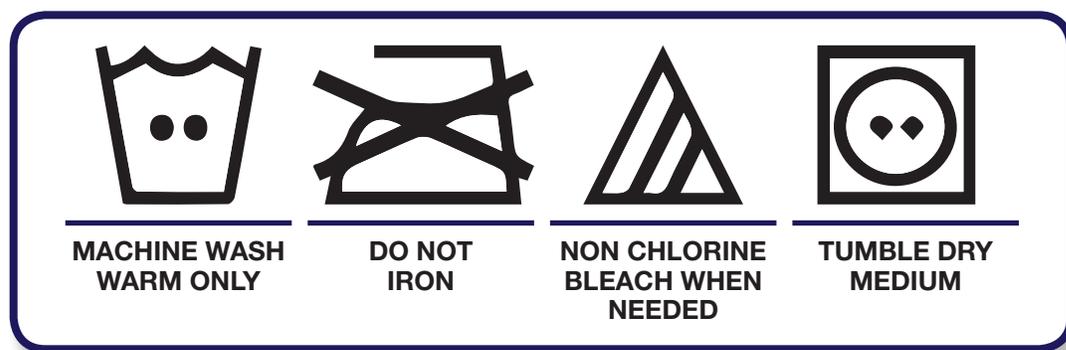
The care label must include:

- How to launder the garment and at what temperature
- If the product can be bleached and if there is a recommended type
- How to dry the garment and at what temperature
- If the item needs to be ironed and under what conditions

The five care labeling sets of symbols used in the world are American, European, Japanese, Canadian and Australian.

They all require symbols for washing, bleaching, drying, ironing and dry cleaning. Only the U.S. symbols can be used in the U.S.

Figure 2.2d:
U.S. Care Labeling
Symbols



Quality-Related Tests

In addition to all of these federal regulations, there are numerous performance and quality-related tests that are often performed on apparel as a quality control tool. These include:

- Seam strength which is the force required to rupture a garment’s seam
- Seam slippage which is the force required to cause a ¼” gap of a seam
- Bursting strength is performed on knits and is the force required to rupture the fabric
- Tensile strength is performed on wovens for the same determination

Fabric construction is another quality control measure that evaluates the number of interlaced yarns per inch in both directions. Fabric weight is often used as part of a

purchasing agreement, and is the actual weight of the fabric expressed as ounces per square yard or ounces per linear yard. Pilling resistance evaluates the resistance of the fabric to developing pill balls on the surface, and is directly related to the fiber content, fabric construction and end use of the item.

The American Association of Textile Chemists and Colorists (AATCC) provides numerous colorfastness tests, including:

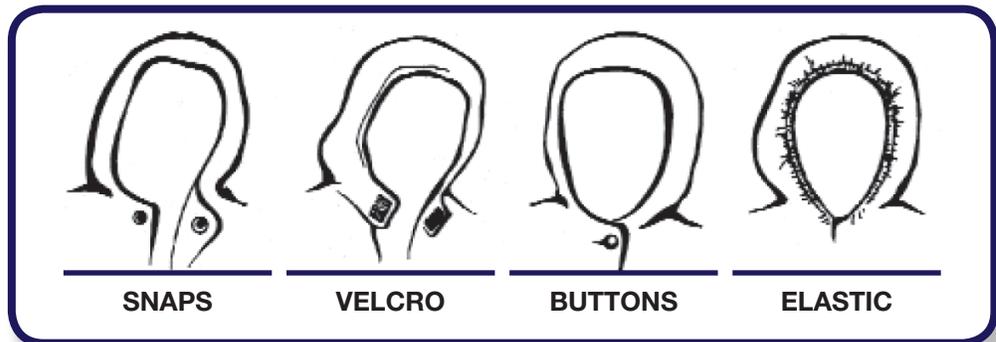
- Crocking, which is a rubbing test
- Light, which evaluates simulated sunlight degradation
- Colorfastness to perspiration, which evaluates the resistance of the colored fabric to simulated human perspiration degradation

While these tests are all quality-related tests and are not federally mandated, they may be required by some customers or recommended when considering a new supplier or responding to customer complaints.

Children’s Products: Drawstrings

Drawstrings on children’s garments should not, under any circumstances, be present. There are alternate methods, some of which you can see here.

Figure 2.2e:
Drawstring
Alternatives



Elimination of drawstrings in children’s clothing has been a federal guideline for several years, and there are various state laws restricting drawstrings as well.

If you feel the garment may be worn by a child, do not include a drawstring. Up to size 16 is considered a child’s size but even on adult items, consider whether a drawstring is really needed.

Children’s Products: Hard Attachments

A test for hard attachments, often called the trim performance, is usually a simple tension test on the non-fabric attachments and components of a garment, and there are more detailed tests for zippers. Attachments such as buttons, snaps and zipper tabs should not detach as they present choking hazards to children and indicate poor quality on adult items. There have been numerous recalls of children’s clothing due to trim detachment—even though children’s clothing is technically exempt from the small parts regulation.

Children's Products: Lead In Paint

Lead in paint testing is required only if the surface coating on a children's garment is accessible. In most cases, the screen printing or other decoration is not accessible and not able to be scraped off while certain types of coatings such as those 'puffy' paints are considered accessible and must comply with the lead in paint ban. Lead in content testing is not required at this time on fabric but is required on any hard attachments used on children's clothing.

Toys

A children's toy is defined in the CPSIA as a 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.

If a toy can be considered a children's product, the CPSIA standards and regulations described in Part One of this guide would apply.

It is unlawful to manufacture for sale, offer for sale, distribute in commerce or import into the U.S. any children's toy or child-care article that contains concentrations of more than 0.1 percent of di-(2-ethylhexyl) phthalate (DEHP), dibutyl phthalate (DBP) or benzyl butyl phthalate (BBP). You can learn more about phthalates in section 1.2 of this guide.

The **ASTM F963** toy safety standard also applies to this product category. It has been an industry consensus standard for many years, and most toy companies and retailers already require compliance. One advantage of being an industry standard is that the ASTM could be updated quickly, based on emerging hazards. Per the CPSIA, the ASTM F963 is a consumer product safety rule, and compliance is mandatory though the third-party testing and certification falls under the current stay of enforcement.

The ASTM F963 standard applies to toys up to age 14 years, not the 12 years the CPSIA uses in defining children's products.

The -08 version of ASTM F963 was published in February, about one week after the -07 version became mandatory, and CPSC adopted the -08 version effective August 17, 2009 with a few exceptions. The CPSC published an ASTM F963 testing manual in June 2010. Children's toys manufactured after June 12, 2012 must comply with all mandatory sections of the recently revised ASTM F963-11.



ASTM:

Founded in 1902, one of the oldest SDOs and now produces the largest number of nongovernmental, voluntary standards in the United States and many are used worldwide.



FIND OUT MORE ONLINE

Find ASTM F963 and other standards on the ASTM's website.

Figure 1.3: ASTM Requirement Schedule





FDA:

A federal agency in the Department of Health and Human Services established to regulate the release of new foods and healthrelated products.

Drinkware

Unlike many consumer products, most of the items in the drinkware category do **not** fall under the CPSIA. Most of the items in the houseware and drinkware category are covered not by the CPSC but rather by the **FDA, the Food and Drug Administration**. The FDA enforces the Food, Drug and Cosmetics Act and the requirements codified in Title 21 of the Code of Federal Regulations. The 21 CFR includes requirements and extraction tests for various materials in contact with food, with the primary purpose of ensuring that the food or drink inside the food containers does not become adulterated.

In addition, there are FDA guidelines for items such as ceramic drinking vessels and other ceramic items in contact with food.

Houseware and drinkware items that may be covered by the CPSIA, as well as by the FDA, are those considered to be children's products, those designed or intended primarily for children 12 years of age or younger. Reference the CPSIA's four factors in determining whether an item is considered to be a children's product in an earlier section of this guide.

In the houseware and drinkware category, children's products can include sippy cups, water bottles, melamine tableware sets and bike bottles to name just a few. With this product category, theme and size are important factors in determining whether the item may be considered a children's product. The use of plastic rather than breakable glass or ceramic is another factor to consider. If you are distributing small plastic drinking vessels or dishes, it is recommended to take a conservative approach and ensure that they meet the CPSIA requirements for children's products.

If the drinkware is considered a children's product, it requires compliance to the CPSIA and other CPSC regulations. Requirements include the use and abuse testing under the Federal Hazardous Substances Act—there must be no small parts if the item is intended for children under three years of age such as the sippy cup, and no sharp points or sharp edges.

The ban on lead-containing paint applies to accessible painted decorations on the product, and the lead content limit applies to the substrate material itself—it cannot contain more than 100 ppm. The tracking label requirement applies to all children's products manufactured as of August 14, 2009. The phthalate provision of CPSIA would apply only if the product is considered a child-care article, intended to facilitate feeding in children three years of age or younger—a sippy cup is a good example of a child-care drinking vessel subject to phthalate restrictions.

Other potential concerns related to children's drinkware and houseware include choking hazards due to small-part detachment, laceration hazards due to breakage and toxicity concerns related to hazardous liquid leaking such as in a sippy cup or high lead content in the painted decoration.

The pop-up drinking valve is a popular design on both children's and adult drink bottles, but

manufacturing must be done properly to ensure no detachment, especially since that piece is in the mouth.

There are also regulations affecting adult drinkware and housewares. The FDA requires that all food contact product be manufactured using only FDA-approved ingredients. This includes the colorants or ingredients generally recognized as safe. The product must also comply with the appropriate FDA extraction study— this is sometimes called food simulating solvents extraction. The FDA extractions assess the quantity of chemical that is leached out of the item under test, but does not qualify it. Ensuring that only approved ingredients are used is important. It is important to note that children’s drinkware and houseware must also meet the FDA requirements. Children’s products are dually regulated by the CPSC and the FDA.

Table 2.2b:
FDA Extraction
Requirements

FDA EXTRACTIONS	
Material	Requirements
Melamine (21 CFR 177.1460)	Extractives in water ≤ 0.5 mg/sq in
	Extractives in heptane ≤ 0.5 mg/sq in
Olefin copolymer (21 CFR 177.1520) (PP Co-polymer)	Density 0.85 – 1.00 g/cc
	Extractives in n-hexane ≤ 5.5%
	Solubility in xylene ≤ 30.0%
Paper and paperboard (21 CFR 176.170)	Extractives in water ≤ 0.5 mg/sq in
	Extractive in heptane ≤ 0.5 mg/sq in
Polyethylene (21 CFR 177.1520)	Density 0.85 – 1.00 g/cc
	Extractives in n-hexane ≤ 5.5%
	Solubility in xylene ≤ 11.3%
Polypropylene (21 CFR 177.1520) (Homopolymer)	Density 0.880 – 0.913 g/cc
	Melting point 160 - 180°C
	Extractives in n-hexane ≤ 6.4%
	Solubility in xylene ≤ 9.8%
Polystyrene (21 CFR 177.1640)	Residual styrene monomer ≤ 0.5%
Acrylic & Modified Acrylic Polymer (21 CFR 177.1010)	Extractives in n-heptane ≤ 0.3 mg/sq in
	Extractives in water ≤ 0.3 mg/sq in

For plastic materials, there are different extraction requirements depending on the material. Table 2.2b lists the most common plastics used in drinkware and houseware, and the applicable FDA regulation for each.

The chart lists the solvents used in the extraction and the total amount of allowable extractive from each of the solvents. The item under test is subjected to the solvent for a specified period of time and under specified conditions. The solvent is then tested to determine the quantity extracted. Paper cups and plates are tested in a similar manner to their plastic counterparts as paper and paperboard materials are also included in this table.



GRAS:

An acronym for the phrase “Generally Recognized As Safe.” Under Sections 201(s) and 409 of Federal Food, Drug and Cosmetic Act, any substance that is intentionally added to food is a food additive that is subject to premarket review and approval by FDA, unless the substance is generally recognized, among qualified experts, as having been adequately shown to be safe under the conditions of its intended use, or unless the use of the substance is otherwise excluded from the definition of a food additive.

Table 2.2c:
Lead And Cadmium Limits For Tableware

Note that PVC (polyvinyl chloride) is not regulated by the FDA. This means that there is no FDA extraction for PVC but the materials used must still be FDA approved or **Generally Recognized As Safe (GRAS)**.

Uncoated metal drinkware and tableware does not require FDA extraction testing. However, if there is a coating on the metal, such as a non-stick surface, it would be subjected to 21 CFR 175.300 for Resinous or Polymeric Coatings. The non-volatile residue must be ≤ 0.5 mg/square inch.

In evaluating this stainless steel travel mug, no extraction testing would be required on the mug itself, but the plastic lid would require FDA extraction testing and compliance as there is food contact. However, the plastic handle would not require FDA compliance as there is no food contact with that component. If metal drinkware or tableware is silver-plated, there is an FDA Guideline, 7117.05, that limits the allowable lead in the item—7 ppm for adult items, and 0.5 ppm for children’s product. If the material is a pewter alloy, it cannot contain more than 0.05 percent lead, per FDA Guideline 4-101.17.



Figure 2.2f:
Stainless Steel Travel Mug

Ceramics

Ceramic drinkware and tableware are also regulated by the FDA with regards to extractable lead and cadmium content. There are different acceptable limits for the various types of tableware, as indicated in Table 2.2c.

	FDA Action Levels		California Prop. 65*	
	Pb (ppm)	Cd (ppm)	Pb (ppm)	Cd (ppm)
Flatware	3.0	0.5	0.226	3.164
Small Hollowware (Capacity of <1.1 liter)	2.0	0.5	0.100	0.3.22
Large Hollowware (Capacity of 1.1 liter or more)	1.0	0.25	0.100	0.084
Cup, Mug	0.5	0.5	0.100	**
Pitcher	0.5	0.25	0.100	**
* Products that do not meet California Proposition 65 but are in compliance with FDA must carry a care and reasonable warning statement.				
** California Proposition 65 does not have definitions for cups, mugs and pitchers. See Small Hollowware or Large Hollowware for cadmium levels, depending on the capacity of the cup, mug or pitcher.				

All ceramic items intended for contact with food must comply with the FDA limits. Even if the ceramic item is intended for use by children, any painted decoration is typically glazed over and inaccessible and thus the lead in paint requirement may not apply.

State Requirements For Drinkware And Tableware

California has different limits for lead and cadmium in ceramic tableware—some more stringent and some less stringent than the FDA levels. Products must comply with FDA limits for lead and cadmium. To be sold in California, it must also meet the Prop 65 limits or include the appropriate Prop 65 warning statement.

In addition to California's lead and cadmium limits for ceramicware, there have been several Prop 65 settlements related to houseware and drinkware. Labeling is typically required if the limits noted below are not met:

- Ceramicware that is externally decorated is subjected to a ghost wipe test, with limit of 1 microgram/wipe for lead and 8 micrograms/wipe for cadmium
- Aluminum cookware has lead limit of 6 ppm or it must be labeled
- Beverage containers with colored artwork, made of glass, plastic, ceramic, resin, vacuum metalizing, dolomite, and/or metal have specific lead and cadmium limits
- Brass handled cookware must contain less than 300 ppm in the brass alloy
- Food use items such as glasses, pilsners, mugs, carafes, tumblers, bottles, condiment dispensers, bowls, cups, saucers, plates, trays, pitchers, punch bowls, serving utensils and serving platters require a full immersion test with lead and cadmium limits
- Water bottles and soft beverage containers made of PVC have a limit of 200 ppm lead in the interior and exterior lining, and 90 ppm in any exterior surface coating—same as CPSIA lead limit for surface coatings

Massachusetts has a Lead Prevention and Control regulation that requires total immersion of the decorated glassware or ceramic drinkware, with a lead limit of 2 ppm. The FDA test is performed on the interior only, so this is a more stringent test.

Lastly, there is a lead and cadmium requirement for decoration in the external lip and rim area of a drinking vessel. The lip and rim area is considered within 20 mm of the rim, such as in the ceramic cup pictured here.



The test method is an ASTM industry standard, C927, but is FDA enforced with action levels of 4 ppm for lead and 0.5 ppm for cadmium.

Bisphenol A, or BPA, is an up-and-coming chemical that several states, as well as the U.S. government, are proposing to regulate. BPA is found primarily in polycarbonate. At this point, only Minnesota has enacted a BPA law, and it is specific to children's bottles and cups. There are many other bans proposed, some of which expand the scope to all children's products or to all drinking vessels.

Review section 1.7 of this guide for information on state-regulated products.

Figure 2.2g:
Bowl, Cup And Plate

Non-Regulatory Considerations

There are potential hazards associated with adult drinkware and houseware, including leakage, breakage, drinking spout detachment, handle temperature, handle strength and lid fit. While these are not regulatory issues, they can cause injury and require a public recall.

There are various non-regulatory tests that are recommended to help ensure that a product is safe, durable, will perform as intended and can be considered a quality product. These tests include:

- **Microwave compatibility:** items are subjected to five cycles for five minutes at high temperature or based on product directions.
- **Dishwasher compatibility:** items may become deformed or cracked in the dishwasher and were no longer usable or simply had decoration that faded—an aesthetic issue. These items are typically subjected to 10 dishwasher cycles, unless they are labeled as not for use in dishwasher.
- **Heat retention:** a test to determine if product performs as intended by design.
- **Lid fit:** lids may detach, spilling hot liquid. Mugs will undergo a 45 degree and 90 degree test to assess lid fit.
- **Leakage:** test to ensure that the drinkware does not have a weak seal which could leak hot liquid.
- **Stain resistance:** a quality test that uses various substances such as tea, coffee, catsup, and mustard for one-hour periods.
- **Breakage:** glasses can be subjected to either a standard drop test or an impact test, dropping a weight on inner wall to assess the potential for this hazard.
- **Handle strength:** a handle strength test should carry up to 2 ½ times the liquid weight when filled or five pounds, for one hour.
- **Thermal shock:** this test is performed on glass or ceramic items to determine if they crack or fracture when subjected to heat followed by cold water immersion.

These tests are not all-inclusive but give you an idea of the types of tests that can be performed, based on reported injuries and the intended use of your drinkware or houseware items.

Please remember that this document addresses U.S. regulations only. There are additional or different requirements for drinkware and houseware in other countries, and a sampling of these requirements is listed here:

- Canada lists acceptable polymers for use in food packaging applications. If not on the list, a letter of no objection must be obtained from the Canadian Bureau of Chemical Safety in order to distribute the product.
- Europe uses additional solvents to test acceptability of product for food contact, including olive oil and ethanol which the US extractions do not use. Europe also regulates formaldehyde in food contact items.
- Japan and Taiwan both have specific tests for polyethylene, polypropylene, polystyrene, and nylon materials. Japan also regulates lead and cadmium in glass and ceramics.
- Australia also regulates lead and cadmium in ceramic tableware and cookware.

If you are intending to distribute product outside of the U.S., please check with your lab partner on the regulatory requirements. Just because a product meets U.S. regulations does not necessarily mean it will comply with the requirements outside of the U.S.

Electronics

Electronics can cover a wide variety of promotional items, from simple batteryoperated calculators and flashlights, to more complex digital cameras and plug-in lamps. From a federal regulatory standpoint, there are FCC requirements for radio-controlled items and digital products such as calculators and computers. For the most part, the FCC requirement is simply for labeling but it is surprising the wide range of products that fall under the FCC. There is also a federal restriction on mercury in batteries. While not federal requirements, there are UL (Underwriter Laboratories) standards for various types of electrical products. The UL standards and their related CSA or ETL standards are not mandatory regulations but are so widely recognized that they may as well be.

If the item is considered a children's product, certain electronic components may be exempted from the CPSIA lead content requirement when the component cannot be covered and made inaccessible, when there is a lack of technologically feasible substitutions, and when lead is required for proper function. In these cases, compliance to the European RoHS directive may be allowed.

Jewelry

For adult jewelry, and from a federal standpoint, the only regulation is an FTC guide for claims about precious metals, silver content and other jewelry claims. For children's jewelry, the lead content requirement of the CPSIA applies. There are also numerous state jewelry regulations that restrict lead in both adult and children's jewelry. These regulations apply to both metal and non-metal components. California, Illinois and Vermont all have restrictions on jewelry.



**FIND OUT
MORE
ONLINE**

Find out more
about the
European RoHS
directive online.

There are numerous state proposals to restrict cadmium, primarily in children’s jewelry but also in other children’s products. Certain retailers such as Wal-Mart have also implemented cadmium restrictions. The ASTM International issued new standards for regulating the cadmium content of children’s jewelry products on November 9, 2011. ASTM F2923 applies to jewelry intended for children under the age of 12. Although this standard is voluntary, retailers and consumers may require or expect compliance.

The ASTM F963-11 standard has specific soluble cadmium requirements for small metal parts. ASTM F2999-13 is the voluntary adult jewelry standard.

Rhode Island has passed legislation that makes ASTM F2923 mandatory in the state.

Minnesota has enacted a law that limits soluble cadmium content in surface coatings and substrate materials of children’s jewelry, which they define as jewelry intended for children six years of age or younger. The limit is 75 ppm, which is the ASTM F963 limit for surface coatings in toys. As of March 1, 2011, children’s jewelry exceeding the 75 ppm limit can no longer be sold or offered for sale.

Connecticut and Washington have also passed laws restricting cadmium in children’s jewelry for total amount of cadmium rather than soluble. Some of the proposed legislation is specific to children’s jewelry while others include all children’s products. The ages of children’s jewelry range from six to 13 years, and proposed limits can be soluble or total cadmium.

California’s Lead Containing Jewelry Law restricts lead content in jewelry for all consumers. This warning label requirement is not pre-empted by the CPSC. It includes in the definition of jewelry watches as well as detachable shoe and clothing ornaments, and hair accessories. The law was enacted in 2006 as the result of a 2004 Proposition 65 consent judgment with a number of jewelry manufacturers, distributors and retailers.

The law classifies materials as Class 1, 2 or 3 and sets limits on the amount of allowable lead for each class.

Table 1.7a:
CA Lead Limits By
Material Class

Class	Material	Lead Limit
1	Stainless or surgical steel, gold, sterling silver, rhinestones, fabric, ribbon, string and natural materials such as bone, coral, feathers	None
2	Electroplated metal	6%
	Unplated metal	1.5%*
	Plastic or rubber	200 ppm (.02%)*
	Dyes or surface coatings	600 ppm
3	Anything that is not a class 1 or 2 material	600 ppm

*Note that this is less stringent than Illinois’ 40 ppm lead in children’s jewelry. It is also important to note that this requirement regulates adult and children’s jewelry whereas the CPSIA and Illinois limits are for children’s jewelry.

Luggage

There are no federal regulatory requirements regarding luggage unless the item is intended to hold food, in which case, applicable FDA requirements would apply. If the item is a children’s product, it would require CPSIA lead compliance and possibly other children’s product safety requirements. For adult bags, there are no federal requirements.

Writing Instruments

The writing instrument category can include a variety of products from fine fountain pens to everyday use pens, standard pencils, colored pencils and crayons.

The Consumer Product Safety Improvement Act, CPSIA, includes wide-reaching lead content limits for all children’s products—children’s products being anything designed or intended primarily for children 12 years of age or younger, using the CPSC’s four factors. Based on these factors, it was expected that back-to-school pens, pencils and other writing instruments would be considered children’s products intended for use by children, marketed to children, labeled as being for children going back to school. There was major concern about the pen points containing lead.

The **Writing Instrument Manufacturers Association (WIMA)** and PPAI requested the Consumer Product Safety Commission exclude pen point components from the lead content requirement. According to WIMA, there is no alternative metal that can be used for pen points that would not contain lead: brass tips contain 2.5-5 percent lead, stainless steel or nickel silver tips contain 0.1-2 percent lead. The CPSIA lead limit is 0.1 percent. The CPSC did not grant the requested exclusion. At the time of request, the CPSIA lead limit was 0.3 percent. It is now 0.1 percent.

However, the CPSC’s general counsel did clarify when a pen is a children’s product and when it is not. In the vast majority of cases, a pen is not considered a children’s product and thus does not require lead content compliance. Even a pen with cartoon characters or that is colorful, decorated or embellished, may not be a children’s product—the thought is that in many cases an adult would be just as likely to use the pen as a child. Our testing lab partners sent the following pictures to the CPSC general counsel to confirm their understanding, and they confirmed that the first set of pens are not children’s products, even when distributed with a back-to-school kit for elementary school children. The second set of pens could be considered children’s products.



Pen Set One

Pen Set Two

In addition to CPSIA, there are also mandatory federal requirements for various writing instruments, as well as industry standards, quality recommendations and potential concerns.

FIND OUT MORE ONLINE

Find the CPSC's Four Factors on its website or in the Introduction of this guide.

WIMA:

The association of writing instrument manufacturers that promotes the overall interest of the writing instrument industry in the United States, Canada and Mexico.

Figure 2.2h: Writing Instrument Examples



LHAMA:

Public law that requires that all art materials be reviewed to determine the potential for causing a chronic hazard.

Aside from crayons and colored pencils that are considered art materials, writing instruments are not regulated by the Federal government. Art materials are included in the Federal Hazardous Substances Act and must comply with the **Labeling of Hazardous Art Materials Act**, or LHAMA.

The definition of art materials does not include common wood pencils or single colored pens and markers. Evaluation of art materials must be performed by a board certified toxicologist based on the formulation of the art material, and any required hazard and precautionary statements based on potential chronic health hazards must be included on the product and its packaging. A statement such as Conforms to ASTM D-4236 is required depending on who performed the evaluation.

Extractable lead content in crayons and other children’s art materials is also regulated, with a limit of 100 ppm, in accordance with CPSC’s 1994 guidance document. There is also a United States Department of Agriculture (USDA) regulation based on revisions made to the Lacey Act that may affect wooden pencils. The act is designed, in part, to curb illegal logging and sourcing of plant products, and it covers a broad range of plant products including wooden items such as pencils. This is a declaration requirement, not a testing or labeling one. When importing products covered under the Lacey Act, an import declaration must be filed which includes (1) scientific names of all plant species; (2) country of harvest; (3) quantity (including unit of measure); and (4) value of imported plants or plant products.

There are numerous tests that may be performed on writing instruments from a quality and performance standpoint. These tests include:

- Starting characteristics: does writing start clean without any blotching?
- Line continuity: does it write smoothly without discontinuity?
- Resistance to transfer: ink should not transfer onto blotting paper
- Drying time: the maximum time for ink to dry should not exceed 30 seconds
- Write-out distance: the distance relative to the size and type of the pen and its useful life (this is primarily for comparison purposes)

The following are not regulatory requirements but can help assess the quality of the pen. For pencils, there are similar quality tests:

- Ease of application—pencil should have easy laydown
- Breakage strength of the pencil tip, measured at angle of use
- Line continuity is effectively the same as for the pen
- Transfer resistance assesses whether the pencil penetrates to the underlying surface
- Color intensity is a visual inspection

The primary industry standard for writing instruments is an ANSI standard for crayons, ANSI Z356.1. The stated purpose of the standard is to establish nationally recognized size, packaging and quality requirements for crayons. The standard includes size classifications, diameters and breaking strength of crayons as well as color uniformity and removability from nonporous surfaces.



FIND OUT MORE ONLINE
Find the ANSI Z356.1 and other standards at ANSI’s webstore.

In addition, WIMA has three voluntary certification programs intended to benefit its members and consumers by ensuring safe and non-toxic products. The Pencil Certification program ensures that only pencils manufactured from materials that are free from toxins and do not cause harmful effects if chewed receive the seal of approval, and it includes a review of cores, slats, ferrules, erasers and lacquers. The Eraser Certification program covers all erasers which are sold separately from pencils and again, ensures that all products which carry the seal meet all standards with regards to chronic health hazards. The Ink Certification program takes into account the requirements of LHAMA and ASTM D4236 which are specific to art materials and specifically exempt single color pens. Because of various state laws that require that schools purchase only items that comply with LHAMA and ASTM D4236, this ink certification program was developed.

If a writing instrument is considered a children's product, it must meet federal children's product safety requirements. The Federal Hazardous Substances Act includes various use and abuse tests as well as flammability and toxicity. Note that writing materials are specifically exempted from the small parts regulation, 16 CFR 1501. The ban on lead-containing paint would apply to any accessible surface coatings on the writing instruments, and the CPSIA lead content limit would also apply. If there is play value to the pen or pencil, as with these lightup musical pens or the sand art pens, toy safety requirements under ASTM F963 would apply as well as CPSIA's ban on phthalates.

While the ban on lead containing paint applies to toys and other articles intended for use by children, there have been recalls of adult pens due to lead in the painted decoration.

It is strongly recommended to comply with the lead in paint ban per 16 CFR 1303, of 90 ppm. Any liquid used with the pens should be non-toxic, regardless of whether it is considered an art material or not. There have also been recalls due to mechanical hazards, such as with Colorblock Gel Pens that contained an extra spring where the end caps could shoot off with great force.



There should not be any accessible sharp points or sharp edges. The pictured pencils with pencil sharpeners were recalled due to accessible sharp edges on the sharpeners.

While writing instruments are exempt from the small parts regulation, from a behavioral standpoint, we know that adults and children alike put pens in their mouth. If the product encourages mouthing as with this pacifier pencil, it can present a choking hazard and should not have small-part detachments.

There is a British standard, BS 7272, which addresses the risk of asphyxiation of both pen caps as well as end closures. While it is strictly a British standard, it has been widely adopted, and there are many pen caps that include protrusions or openings to allow for air flow.

Figure 2.2i:
Recalled Pencils With
Pencil Sharpeners



**FIND OUT
MORE
ONLINE**

Access British
standard 7272 and
other standards at
www.bsigroup.com

PART TWO RESOURCES

Next Steps:

1. Examine your products' supply chain—are you asking all the right questions?
2. Do you manufacture apparel, toys, drinkware, electronics, jewelry, luggage or writing instruments?
Apply the regulations from Part Two to your product lines.

Further Reading And Internet Sources:

- ANSI Standard Z356.1: webstore.ansi.org/RecordDetail.aspx?sku=ANSI+Z356.5-1998
- British Standard BS 7272: <http://shop.bsigroup.com/ProductDetail/?pid=000000000030170003>
- Consumer Product Safety Commission: www.cpsc.gov
- CPSC Age Determination Guidelines: www.cpsc.gov/BUSINFO/adg.pdf
- CPSC ASTM F963 testing manual: www.cpsc.gov/businfo/testtoys.pdf
- CPSIA Four Factors: www.cpsc.gov/en/Business--Manufacturing/Business-Education/childrens-products/FAQs-Childrens-Products/
- European RoHS Directive:
www.gov.uk/government/collections/national-measurement-office-enforcement-authority
- PPAI's Comprehensive Product Safety Website: www.ppai.org/inside-ppai/product-safety/

Frequently Asked Questions



After reading this chapter, you should be able to:

Answer your colleagues' and your questions regarding:

- Children's Products and the Consumer Product Safety Commission
- Supplier and Distributor Responsibilities
- Product Certification and Testing
- Toy Testing Standards
- Cadmium, Phthalates and Other Chemical Standards
- Items Covered by Non-CPSC Regulations



PART THREE

This information is being furnished by PPAI for educational and informational purposes only. The Association makes no warranties or representations about specific dates, coverage or application. Consult with appropriate legal counsel about the specific application of the law to your business and products.

What is the difference between the CPSC and the CPSIA?

CPSC: The U.S. Consumer Product Safety Commission is the government agency charged with protecting the public from unreasonable risks of serious injury or death from thousands of types of consumer products under the agency's jurisdiction. www.cpsc.gov

CPSIA: The CPSIA—the Consumer Product Safety Improvement Act—is a law that was enacted in August 2008. The stated purpose of this bill is to “establish consumer product safety standards and other safety requirements for children’s products and to reauthorize and modernize the Consumer Product Safety Commission.”



**FIND OUT
MORE
ONLINE**

Access a full list of regulated items on the CPSC's website.

What is a children's product?

The CPSIA defines a children’s product as designed and intended primarily for a child age 12 years and under. Recent clarifications stress not just the word “primarily” but also “for use” with children. Manufacturers should refer to CPSIA's Four Pillars and 10 Questions and PPAI's webinar on this topic.

What non-children's products fall under CPSIA oversight?

Products regulated by the CPSC include adult apparel, matchbooks, lighters and more. Third-party testing for these non-children’s products may not be mandatory, but compliance with the applicable safety standards is mandatory. Currently, compliance and general certifications of conformity are required for many of these regulated items. The general conformity certification must be based on a test of each product or a reasonable testing program.

If a distributor or supplier knows that a child may use a product though the product is intended for adults, should testing be performed?

If any part of the supply chain recognizes the potential use of a product by children under the age of 12 years, children’s product testing should be performed. One should consider the children’s product definition and additional CPSC guidance to confirm if the item would be classified as a children’s product, but the supply chain should be open about expected uses of a product as well.

What are supplier responsibilities?

The supplier must ensure compliance of the “blank” with the applicable standards. The supplier needs at least a reasonable testing program for non-children’s blanks if they are subject to a standard and third-party testing if the blank is a children’s product. The decorator must ensure compliance of the products used to decorate the product, and of the finished product if any changes were made that could affect the previous compliance of the blank. Both parties are required to provide tracking labels if it is a children’s product.

What are distributor responsibilities?

The distributor is not responsible for manufacturing or compliance, but he or she certainly doesn't want to put non-compliant products on the market. The distributor should be asking for compliance certification and documentation from the supplier.

If a distributor believes a product's targeted audience is children under the age of 12 years, and the supplier believes instead that the product is for general use and will not test the product to CPSIA children's product requirements, how can the distributor persuade the supplier to have the testing done?

When a distributor knows that a product is intended for use by children under the age of 12 and the supplier has not and will not perform testing, it is not entirely clear how the legal liabilities will fall but the law is based on the premise that a noncompliant product cannot be placed on the market. The distributor should consider doing business with another supplier or having the products tested on its own.

Can a distributor be protected from liability if the end buyer signs a statement or waiver that the product will not be used by children under 12 years of age?

PPAI or individual testing labs cannot comment on the legal protection of such an arrangement; this would be the responsibility of a company's legal counsel.

How can I ensure that imported products that are clearly children's products follow CPSIA guidelines?

CPSIA requires that the importer certify compliance of a children's product. So assuming the supplier is the importer and the item is a children's product, it is a federal regulation that a certificate of compliance is provided with the product. You have the option of refusing to represent suppliers if they cannot provide the required certificate. It is important that only compliant products be placed on the market.

Can we require that manufacturers comply with CPSIA?

Your choice is whether to do business with a manufacturer, and its decision is whether it wants your business. If its products are covered by a federal safety standard, compliance with CPSIA is required by law and significant fines are associated with non-compliance. These fines were significantly increased with the passage of the Consumer Product Safety Improvement Act of 2008.

My customer wants proof of compliance with consumer product safety standards, but the product is not regulated and my supplier will not have the testing performed. As a distributor, how can I give my customer proof of compliance without having to do testing?

When a consumer product does not require compliance to any current rule or standard, the distributor should communicate this to the customer. If the customer continues to ask for some proof of compliance, the distributor could have the product tested for something that is currently required for children's products, for example lead. The cost of this test is relatively low and the customer and consumer could be reassured about the safety of the product if they knew it did not pose a lead exposure risk. The distributor should consider this solution only after educating the customer about consumer product safety standards. If testing is performed and a general conformity certificate produced, the customer could question the section of the certificate that lists the applicable safety regulations, which for the unregulated product would be left blank or "N/A."

Is there a website where we can send in a product's description and receive a list of applicable regulations and required tests?

As far as we know, there is no website like this in place. Services such as this are provided by testing labs. The CPSC website also lists regulated products on its website at www.cpsc.gov, under the Business tab.

How do I find a laboratory to send products intended for use by children for testing?

Go to the CPSC's list of accredited testing laboratories to find a testing lab.

Can a product be tested overseas?

Yes. It is best to have the product tested in the country of manufacture—you will know the test results before shipping and testing costs tend to be lowest. There are many CPSC-accredited testing laboratories overseas.

What is the approximate cost of product testing?

It's hard to estimate costs when there is so much variability in the products, however, a standard children's product needs to comply with the tests noted below. Note that these standard prices are per analysis and, in particular, the lead content is performed on all accessible substrate materials unless they are exempted. The testing costs are based on laboratory location—testing is significantly less expensive in Asia than in the U.S. Toys require additional testing for phthalates and for full heavy metals in surface coatings (not just total lead).

Figure 3.1:
Testing Costs At A Glance

COST COMPARISONS AT A GLANCE		
Test	Method	List Price
Total Lead: Surface Coatings	CPSC-CH-E1003-09.1 16 CFR 1303	\$87 US / \$28 Asia
Lead Content On Substrate	CPSC-CH-E1001-08.3 CPSC-CH-E1002-08.3 16 CFR 1500.87-91	\$75 US / \$28 Asia
Physical And Mechanical	ASTM F963-11 16 CFR	\$143 US / \$62 Asia
Flammability Of Solids	ASTM F963-11 16 CFR	\$65 US / \$28 Asia



FIND OUT MORE ONLINE

Review the online list of exempted standards for small-batch manufacturers.



FIND OUT MORE ONLINE

Find ASTM standards on the ASTM website www.astm.org under the Standards tab.

What are the recommendations as to frequency of testing?

Frequency of testing is described in the CPSC's reasonable testing program. UL and PPAI recommend that a product regulated by the CPSIA be tested at least annually. Additionally, testing should be performed whenever there is a material change to the item. If the production volume is less than 7,500 units and the manufacturer reports less than \$1 million in total gross revenues, then the manufacturer may be exempt from some third-party testing.

Where do you access the ASTM standards?

The ASTM standards are available for purchase online.

What is the average price for an ASTM standard?

Find out by linking from the online FAQ at www.ppai.org under Inside PPAI.

What are the benefits of component testing?

Component testing can reduce redundant testing. For example, if the identical button is used on five styles of children's sweaters, the button can be tested once as a component rather than tested with each of the five styles of sweaters. Component testing can also identify test failures early on by testing a component before it is applied to the finished product and tested at that stage. Component testing may offer a marketing advantage to many component suppliers who promote the sale of pre-certified CPSIA-compliant products. With component testing, though, it is critical that there be good traceability to the finished product and that the manufacturing process does not contaminate the component.

If a product is used solely by an adult, but components of the product are used by or for children, would that product need to be tested?

Yes. If a diaper bag, for example, includes components that are used by children, phthalate, FDA or CPSIA regulations could apply.

Can the test results of an item's individual components represent the compliance of the whole item (i.e., an art set)?

Yes, if all of the individual, accessible parts of a product are tested, those test results can stand-in for a test of the entire product. Note that a certificate must be issued for the finished product based on the component testing.

Do we need to test the entire product or component parts of a product? For example, would I need to test a removable elastic band of a product?

If it is a children's product or toy, the entire product must meet all applicable requirements. The elastic band would be treated as a component part and would need to be tested.

Is batch testing ever an acceptable way to meet CPSIA standards?

If you have a means in place to track the product and you know that the manufacturing process remained the same throughout different orders (same factory, same equipment, same lot and same inks) then batch testing could be acceptable. You wouldn't have to test each order as long as you are confident that the manufacturing and materials are the same for each order.

What are the testing requirements for toys?

Mechanical safety testing (use and abuse), with specific criteria dependent on appropriate or labeled age of product. This testing applies to toys and other articles intended for use by children.

- Lead content (applicable to toys and children's products)—accessible substrate materials only.
- Total lead in surface coatings.
- Heavy metals in surface coatings—this test is specific to toys per ASTM F963.
- Phthalate content of surface coatings and high-risk substrate materials. This test is specific to toys per CPSIA.
- Tracking label required for all children's products per CPSIA.

Do inks exist in commerce that meet the new lead in paint requirements?

Yes. There are inks already in commerce that meet the 90 ppm limit.

Is it even possible to measure for 90 ppm lead?

Yes, with wet chemistry (as opposed to XRF) it is possible to test for very low levels of lead.

Where can we find guidance on age-grading?

You can find the CPSC's guidance at www.cpsc.gov/businfo/adg.pdf.

***Are there any regulations regarding the use of cadmium?
Does the CPSIA require testing for cadmium?***

New regulations regarding cadmium are expected to be enacted very soon. Some states have already passed laws regarding the use of cadmium, primarily in children's jewelry. If a product is not covered by a current regulation but an end buyer insists on tests for cadmium, a supplier or distributor could test the product according to the European standard, which limits total cadmium to 100 ppm.

Where do I go to find a list of U.S. chemicals to compare with test results from China?

The FDA maintains a list of Generally Recognized As Safe (GRAS) ingredients and a list of color additives. You can find these lists on the [FDA's website](#).

What types of products typically contain phthalates?

Polyvinyl chloride (PVC), soft plastics and coatings on soft plastics are some examples of materials that could contain phthalates.

Are there guidelines regarding melamine?

No, not just for melamine. There is, however, an FDA extraction for food contact items made of melamine-formaldehyde resin.

Is there a Federal mandated level for chromium?

Chromium levels are not regulated by the Federal government. The ASTM F963 standard includes chromium as a regulated heavy metals in surface coatings of toys, though, and CPSIA made ASTM F963 mandatory.

***What is the age grade for testing a product for choking hazards?
Do the small parts regulations apply to removable parts or attachments?***

Choking hazard risks are covered by 16 CFR 1501, the small parts regulation for products intended for use by children under three years of age. An item is considered a small part if it fits completely within the small parts cylinder, which has a diameter of 1.25 inches. These regulations apply to products "as received" and after applicable use and abuse testing.

***What tests are required for phthalates?
What products require those tests?***

The CPSIA limits the types of phthalates permitted for use in toys and child-care articles. A toy is defined as a product intended for use by a child 12 years of age or younger for use when the child plays. A child-care article is a product that a child three years of age or younger would use when sleeping, feeding, sucking or teething. The CPSC has provided some guidance on the definition of child-care articles. Third-party testing for phthalates in toys and child-care articles is required for products manufactured after December 31, 2011.

***What tests are required for small parts?
What products require those tests?***

Any toy or other article intended for use by children under three years of age that presents a choking, aspiration or ingestion hazard because of small parts is a banned hazardous substance. The CPSC lists examples of toys or articles intended for use by children under three and exemptions to the rule on its site along with size requirements and test procedure on its website www.cpsc.gov.

***What tests are required for sharp points and sharp edges?
What products require those tests?***

The 16 CFR 1500.48,.49 regulates testing for sharp edges and sharp points of toys and other articles intended for use by children under eight years of age.

***What tests are required for mechanical hazards?
What products require those tests?***

Mechanical safety testing (use and abuse) applies to toys and other articles intended for use by children. ASTM F963 includes additional mechanical hazards tests for specific toys.

***What tests are required for lead in substrate materials?
What products require those tests?***

The CPSIA requires that products designed or intended primarily for children 12 years old and younger cannot contain more than 100 parts per million of lead in any accessible part. This limit is retroactively applicable, meaning it will apply to children's products already produced. More information about the testing can be found on the CPSC site www.cpsc.gov. Note that there are some material exemptions.

***What tests are required for lead in paint?
What products require those tests?***

The CPSIA provided that lead content in paint and similar surface-coating materials must be reduced from 600 ppm to 90 ppm. Find more information regarding testing to the lead in paint standard, 16 CFR 1303, on the CPSC site www.cpsc.gov, under the CPSIA tab.

What is the name of the regulation regarding tension in toys?

Also known as Use and Abuse Testing, 16 CFR Ch. 11 §1500.53 regulates the testing of tension in toys. Find a copy of the regulation on PPAI's online FAQ's at www.ppai.org under Inside PPAI.

PART THREE RESOURCES***Next Steps:***

1. Review PPAI's website for an updated list of Frequently Asked Questions and send in your own to our product safety experts.

Further Reading And Internet Sources:

- ASTM Standards: www.astm.org/Standard/index.shtml
- Consumer Product Safety Commission: www.cpsc.gov
- CPSC Regulated Products:
www.cpsc.gov/en/Regulations-Laws--Standards/Regulations-Mandatory-Standards-Bans/
- PPAI's Comprehensive Product Safety Website: www.ppai.org/inside-ppai/product-safety/

A Look Forward



The Consumer Product Safety Improvement Act of 2008 changed the way the promotional products industry goes to market. It is no longer enough to know and trust your supply chain. You must now be prepared to prove compliance through third-party testing, establishment of reasonable testing programs and tracking labels. These compliance standards are not simple, clear-cut or inexpensive, but they are required by law.

Standards will evolve as the Consumer Product Safety Commission continues to write regulations supporting the CPSIA and publish additional statements that clarify aspects of the law. PPAI will monitor all of these actions closely and provide guidance, education and interpretation of their impact on the promotional products industry.

However, monitoring and interpreting regulations is only half the battle. PPAI will continue to represent the interests of the promotional products industry directly to the CPSC—stressing the unique challenges faced by this industry, requesting relief from the more onerous aspects of the law, and developing effective channels for clarifying specific elements of the law. In addition, PPAI is in direct communication with Members of Congress in Washington, D.C. to seek legislative relief from these regulations.

Our challenges will not stop with the CPSIA. The global marketplace of the future will be increasingly regulated. Already, there are a number of international product safety laws and trends emanating from Europe, Canada and Japan, to name only a few. As with the CPSIA, these regulations will evolve over time and their influence will be felt both in the international marketplace, and domestically as these regulations are evaluated and adopted on both a state and Federal level.

The challenges ahead are daunting, but PPAI is fully committed to serving as your partner to ensure you have the latest product safety information, the most robust resources and the strongest industry partners to help you navigate these product safety challenges.

Please contact the PPAI public affairs department with any inquiries at ppailaw@ppai.org. We are here to help you succeed.

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SUMMARY OF LEARNING RESOURCES

Next Steps:

1. Are any of your products represented in packaging, display, promotion or advertising as appropriate for use by children 12 years of age or younger? Review the definition of children's products and child-care articles and the testing requirements in Part One of this guide. Are your products compliant?
2. Implement good age-grading practices to ensure that products are appropriate and safe for particular stages of a child's development. Review the CPSC's Age Determination Guidelines on its website www.cpsc.gov under the Business tab.
3. Apply the CPSIA standards to your product line. Review Part Two of this guide for product category guidance.
4. Check with your state to make sure you have current information on its product safety requirements.
5. Compare your product testing plan with the CPSC's reasonable testing program—is yours a program that takes into account the entire manufacturing process? You may be able to label your products with “Meets CPSC Safety Requirements.”
6. Examine your products' supply chain—are you asking all the right questions?
7. Do you manufacture apparel, toys, drinkware, electronics, jewelry, luggage or writing instruments? Apply the regulations from Part Two to your product lines.
8. Review PPAI's website for an updated list of Frequently Asked Questions and send in your own to our product safety experts.

Further Reading And Internet Sources:

- ANSI Standard Z356.1: webstore.ansi.org/RecordDetail.aspx?sku=ANSI+Z356.5-1998
- ASTM F963 Toy Safety Standard: www.astm.org/Standards/F963.htm
- British Standard BS 7272: <http://shop.bsigroup.com/ProductDetail/?pid=00000000030170003>
- California's Office of Environmental Health Hazard Assessment's List of Chemicals Known to Cause Cancer: oehha.ca.gov/prop65/prop65_list/Newlist.html
- Consumer Product Safety Commission: www.cpsc.gov
- CPSC Age Determination Guidelines: www.cpsc.gov/BUSINFO/adg.pdf
- CPSC ASTM F963 testing manual: www.cpsc.gov/businfo/testtoys.pdf
- CPSC Regulated Products: www.cpsc.gov/en/Regulations-Laws--Standards/Regulations-Mandatory-Standards-Bans/
- CPSC List of Approved Testing Laboratories: www.cpsc.gov/cgi-bin/labsearch/
- CPSIA Four Factors: www.cpsc.gov/en/Business--Manufacturing/Business-Education/childrens-products/FAQs-Childrens-Products/
- CPSC Sample General Certificate of Conformity: www.cpsc.gov/en/Business--Manufacturing/Testing-Certification/General-Certificate-of-Conformity-GCC/
- CPSC Sample Children's Product Certificate: www.cpsc.gov/en/Business--Manufacturing/Testing-Certification/Childrens-Product-Certificate-CPC/
- European RoHS Directive: www.gov.uk/government/collections/national-measurement-office-enforcement-authority
- PPAI's Comprehensive Product Safety Website: www.ppai.org/inside-ppai/product-safety/
- PPAI's Tracking Label Business Solution: ps.ppa.org/RegisterLabels.aspx

Glossary



American Society for Testing and Materials (ASTM): Founded in 1902, one of the oldest SDOs and now produces the largest number of non-governmental, voluntary standards in the United States and many are used worldwide. It is the source of many of the product lines of interest to the promotional products industry.

Children's Product Certificate (CPC): A statement with testing results from a CPSC-recognized lab required by the CPSIA that the product meets or is in conformance with federal safety rules, bans, standards or regulations.

Child-care Article: A consumer product designed or intended by the manufacturer to facilitate sleep or the feeding of children age three and younger, or to help such children with sucking or teething.

Children's Product: A consumer product that is designed or intended for use by children 12 years of age or younger.

Children's Toy: A 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.

Composite Testing: Testing more than one paint color on a product.

Consumer Product: Any article, or component part thereof, produced or distributed for sale to a consumer for use in or around a permanent or temporary household or residence, a school, in recreation, or otherwise, or 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.

Federal Hazardous Substances Act: Public law that requires that certain hazardous household products ("hazardous substances") bear cautionary labeling to alert consumers to the potential hazards that those products present and to inform them of the measures they need to protect themselves from those hazards.

Food and Drug Administration (FDA): A federal agency in the Department of Health and Human Services established to regulate the release of new foods and health-related products.

General Conformity Certificate (GCC): A declaration of a product's conformity to federal safety rules, bans, standards or regulations based on a test of the product or a reasonable testing program.

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Generally Recognized As Safe (GRAS): Under sections 201(s) and 409 of Federal Food and Cosmetic Act, any substance that is intentionally added to food is a food additive that is subject to premarket review and approval by FDA, unless the substance is generally recognized, among qualified experts, as having been adequately shown to be safe under the conditions of its intended use, or unless the use of the substance is otherwise excluded from the definition of a food additive.

Illinois Lead Poisoning Prevention Act: Illinois labeling law that regulates the lead levels of children and adult items. If the surface coating or substrate material of an adult item exceeds 600 ppm, the warning label is required. Children's products that exceed 40ppm lead in the surface coating or substrate require a warning label.

Labeling of Hazardous Art Materials Act (LHAMA): Public law that requires that all art materials be reviewed to determine the potential for causing a chronic hazard.

Phthalates: A family of compounds used primarily to increase the flexibility and durability of plastics.

Pre-emption: The judicial principle asserting the supremacy of federal over state legislation on the same subject.

RoHS Directive: The directive of the European Union that restricts the use of six hazardous materials in the manufacture of various types of electronic and electrical equipment.

Substrate: The material or substance on which an enzyme acts.

Writing Instrument Manufacturers Association (WIMA): The association of writing instrument manufacturers that promotes the overall interest of the writing instrument industry in the United States, Canada and Mexico.

XRF Technology: A nondestructive examination tool that permits the characterization of most inorganic pigments through the identification of their elemental constituents.