

CPSC Rules and Requirements

AAFA International Product Safety and
Environmental Compliance Conference

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Agenda

- CPSC Overview
- CPSIA
- Lead and other restricted substances requiring certification
 - Proposed Phthalate rule
- Tracking Labels
- Flammability
- Testing and Certification

Big Picture Overview of CPSC



- Founded in 1973
- Small federal agency: ~500 staff; budget of ~\$100 million.
- Safety of consumer products (home, recreation or school) that no other government agency has (everything other than workplace-only products; drugs/medical devices; guns; tobacco; on-road vehicles; etc.)
- Primary statutes (laws passed by congress):
 - **Consumer Product Safety Act (CPSA)**
 - **Federal Hazardous Substances Act (FHSA)** (children's)
 - **Flammable Fabrics Act (FFA)** (apparel; carpets/rugs; mattresses)
 - **Poison Prevention Packaging Act (PPPA);**
 - Misc. other (e.g., pool safety; note famous Consumer Product Safety Act only changed other statutes)

Big Picture Overview

Primary activities of CPSC:

- Develop and issue mandatory safety standards;
- Test products;
- Enforce mandatory standards (regulations);
- Negotiate voluntary recalls or pursue mandatory recalls;
- Investigate safety complaints/issues;
- Inspect imports;
- Issue information to public;
- Maintain Public Database (www.saferproducts.gov) and
- Pursue civil penalties (mostly for failure to report under Section 15(b) of CPSA)



Currently on CPSC Radar

- Current (FY '15) CPSC budget is \$125 mil
- Ports continue to be a priority
 - Expand RAM (risk assessment methodology) to all consumer products. Originally deployed as a pilot project developed to meet the requirements of the CPSIA of 2008.
 - ACE (Automated Commercial Environment) going live in Dec 2016, including CPSC
 - Electronic filing of certificates and Trusted Trader pilots to begin this year
 - CPSC being very strict on providing certificates
- In support of increased civil penalties and requiring internal compliance programs.
- 3rd party test burden reduction package
 - Spending \$1 mil this year specifically on this initiative
 - Expansion of “determinations list”
 - Exploring use of FTIR as screening method to avoid full phthalates testing

Consumer Product Safety Improvement Act (CPSIA)

- Largely in reaction to large Mattel recall, CPSC authorized a variety of new regulations and testing requirements for children's products (primarily intended for 12 yrs and under).
- CPSIA fundamentally changed how product safety is regulated in the United States establishing required testing protocols and limits on heavy metals like lead and cadmium.



Key CPSC Mandatory Standards (Children's Products) requiring Certification (Children's Product Certificate):

- **Lead Paint:** (90 ppm total) for children's products (primarily intended for 12 and under) and household furniture
- **Lead Substrate:** (100 ppm total) for all accessible components of children's products
- **Phthalates:** (1,000 ppm total for six specified) for all accessible toy components (third party testing required for "plasticized" materials)
- **Toy Standard:** (ASTM F963-11-also mandatory standard) sets total screen threshold and soluble limits for 8 heavy metals (Sb; As; Ba; Cd; Cr; Pb; Hg; Se)
- **Small Parts** (16 CFR Part 1500)



Key CPSC Mandatory Standards (Children's Products) requiring Certification (Children's Product Certificate):

- **Children's Sleepwear and Wearing Apparel** (flammability)
- **Durable Nursery Products** (various standards)
- **Arts and Crafts Materials** (Labeling of Hazardous Art Materials Act - LHAMA)
- **Tracking Labels**
- **Drawstrings***
- **Cadmium in Children's Jewelry**:** (ASTM F2923-11) limits "small parts" in plastics to 75 ppm; and metals to 200 μg ; "mouthable" parts to 18 μg



* **Drawstrings in Children's Outwear** (primarily hoodies) not officially a standard **but** has been deemed to be a "*per se* substantial product hazard" under 15(j) of CPSA

** **ASTM F2923-11** not mandatory but recognized by CPSC

Tracking Labels

- Required for children's products under CPSIA section 103
- Must include:
 - Manufacturer's name
 - Date of manufacture
 - Country and Province of manufacture
 - Lot/batch #
- In effect and being lightly enforced.
 - More than 200 recalls in 2014



CPSC proposed Phthalate rule

- Section 108(a) of CPSIA currently:
 - Prohibits three phthalates: DEHP, DBP, and BBP at concentrations in excess of 0.1 percent in children's toys and child care articles
 - Prohibits on an interim basis DINP, DIDP, and DnOP at concentrations in excess of 0.1 percent in children's toys that can be placed in a child's mouth and in child care articles
- Proposed rule:
 - Remove interim ban on DIDP and DnOP
 - Makes DINP ban permanent, adds several additional phthalates (DIBP, DPENP, DHEXP, and DCHP), and expands relevant scope to include all children's toys, not just mouthable
- Status
 - Multiple comments with regard to the proposed rule
 - Unanimous vote by the commissioners (in early March 2015) to extend comment period

Key CPSC Standards for Apparel

- 16 CFR 1610 – Standard for the Flammability of Clothing Textiles
 - Provides methods of testing
 - Establishes 3 classes of flammability
 - Sets Requirements for clothing textiles and apparel
 - Warns against the use of unsuitable textiles
- 16 CFR 1615/1616 – Standards for the Flammability of Children’s Sleepwear
- Drawstrings (ASTM F1816-97)
 - Drawstring: A non-retractable cord, ribbon, or tape of any material to pull together parts of upper outerwear to provide for closure.
 - NO Drawstrings on Children’s Hoodies!!



Flammability Regulation

- Children's sleepwear & non-sleepwear flammability regulation requirement:

Product	Requirements		
	16 CFR 1615 / 1616	16 CFR 1610	Tight fitting Specs
Children's Sleepwear			
Loose fitting	*		
Tight fitting		*	*
Innerwear, Long Underwear, Daywear		*	

Flammability: Petition for amendment of 16 CFR 1610

- April 8, 2015: CPSC issued a notice of petition for rulemaking.
- Petitioner, International Association of Users of Artificial and Synthetic Filament Yarns and Natural Silk, petitioned for CPSC to make changes to the requirements for preparation of silk for flammability testing.
- The amendment would require that silk and all clothing textiles be conditioned before flammability testing per ASTM D1776-04.
- Amendment is open for comment and comments are due June 8, 2015

CPSC Requirements: Testing and Certification

- **CPSC certification required ONLY of Importers of Record (IOR) OR US Manufacturer---Others MAY also certify, but only IOR or US Manufacturer REQUIRED to certify!**
- Certification required for (almost) all CPSC mandatory safety standards (notable exceptions: Tracking Labels; LHAMA—art and craft materials; PPPA; FHSA labelling of toxic household cleaners; and fabrics and “exempt” apparel)
- Third party testing and certification by importers /domestic (US) manufacturers for all children’s products subject to mandatory CPSC standards
- IORs/DMs must use CPSC-listed labs (listed to specific standards/elements of standards) and those labs must use CPSC-approved test methods



General Certificate of Compliance

Certificate Number: C143208448
Revision Number: 1
Issue Date: Dec-29-2012

IMPORTER OR DOMESTIC MANUFACTURER		Individual Maintaining Records:
Quality Importers Inc. P.O. Box 708 Hermiston Oregon 97138 United States 1-312-123-3456		Steve Adams 1100 N St Chicago Illinois 60603 United States steve.adams@nowhere.com 1-312-123-3456

PRODUCT INFORMATION	
Item #: 0000123	Product Name: Pen

MANUFACTURER	
Date of Manufacture:	Intertek
Place of Manufacture:	Oak Brook, IL USA

TESTING					
Laboratory Name:	Intertek				
Full Mailing Address:	P.O. Box 708 Hermiston Oregon 97138 United States				
Telephone:	1-312-655-1122				
Testing Desk:					
Date of Testing:	12/29/2012	Testing Location:	Intertek	Test Report Number:	THF12345
	10:49:20 PM				

Quality Importers Inc hereby certifies that the product above complies with the following applicable rules, laws, regulations and standards under the jurisdiction of the CPSC.

Applicable Requirements:

- 16 CFR 1503 - Toxic lead content in particle/surface coating
- 16 CFR 1500.64 - Flammability of books
- 16 CFR 1500.49 - Sharp Points
- 16 CFR 1500.49 - Sharp Edges
- ASTM F963 - Toy Safety Standard

Testing and Certification

Testing and Certification Rule (**16 CFR 1107**) for children's products made after Feb 8, 2013:

- Certification Testing
 - Sufficient sample selection for 3rd party certification testing
 - Samples must be identical in all material respects to finished product
 - Single sample failure requires some investigation/response
- As of Feb 2013 Periodic (third party) OR Production (first party) testing is required
 - Minimum is once/year during production
 - If manufacturer has a production testing plan (PTP) in place to ensure a “high degree of assurance” of compliance, 3rd party testing can be done every two years instead of annually
 - Production runs of less than 1 year will typically require a PTP

Expanded use of XRF: 1112 Rule

- CPSC Expansion of the “1112 Rule” took place in Feb 2013 and expanded approval of both traditional XRF and HDXRF for **lead** compliance testing of homogenous substrate materials (with the following additional conditions):
 - Multiple measurements (3) on different locations to ensure spatial homogeneity
 - If the relative st dev of 3 or more XRF measurements of a sample component part exceeds 30%, analysis using “wet chemistry” must be done
 - If any of the XRF measurements (**including the 95% uncertainty**) includes the range with 30% above or below the CPSIA limit, analysis using “wet chemistry” must be done
- XRF that is not HD must, in addition to the above conditions, perform daily and substrate-specific calibration if using for certification
- These methods would be acceptable as part of a reasonable PTP

Testing and Certification

- Material change tracking – If any change to design, manufacturing process, or suppliers, recertification required
- Undue influence policies/training. Required personnel – importer of record or even overseas factory. *Folks that interact w/ labs
- Component part testing rule (16 CFR 1109): generally allows testing/certification of raw materials or physical components AND finished products if “due care” is demonstrated and if record keeping requirements are met
- All listed items must be documented and retained for 5 years
- Commercial IT solutions are available to help (e.g. iComply)

2013 CPSC Port Import Enforcement Data

- 14,000 incoming imports “screened” via RAM (out of ~800,000)
- 600 shipments found to be violative, almost 90% of which were children’s products:
 - **Lead** – 225 (**paint 14**; content 211) (41%)
 - Phthalates – 114 (20%)
 - **Tracking labels** – 62 (11%)
 - Art materials – 49 (8%)
 - **Small parts** – 39 (7%)
 - **Certification** – 21 (3%)
 - Durable nursery products – 21 (3%)
 - Mislabeled (mostly small parts) toys – 15 (2%)
 - Mislabeled balloons (no warning label) – 8 (1%)
 - Battery-operated toys (F-963) – 5 (1%)



Red Flags for Port Inspectors

- Importer/supplier has previous violations
- Importer/supplier subject of ongoing investigation
- Apparent IP violations
- Unmanifested/uninvoiced merchandise
- Incomplete/missing invoices
- **Late entry docs from import brokers**
- **No CERTIFICATE upon request** (next requests may be for 1107/1109 docs)—currently just issuing LOAs
- Non-CPSC listed lab on certificate
- Components listed from flagged (and often unapproved) suppliers
- Evidence of port shopping



NOTE: Violations (Letters of Advice—LOAs—now posted at:

<http://www.cpsc.gov/en/Recalls/Violations/>

Tips for Complying with CPSC Requirements

- Prioritize products (children's products higher compliance risk than non-children's)
- Prioritize Standards (lead and small parts greater risk than flammability)
- 1110 Rule is being lightly enforced (Letters of Advice—LOAs being issued and publicly posted)
- So far, 1107/1109 Rules NOT being enforced (but that could change)
- Make sure all import entry documents and supporting documents (including GCC/CPC) are correctly prepared



Thank You

For additional information

www.xos.com/hdxrf

