Frequently Asked Questions

U.S. Consumer Product Safety Improvement Act of 2008 (CPSIA)

UL's U.S. Consumer Product Safety Improvement Act of 2008 (CPSIA) list of Frequently Asked Questions (FAQ) represents actual questions received from UL clients, and the responses provided herein are based upon the best and most current information and Consumer Product Safety Commission (CPSC) guidance available.* These FAQs are provided to assist our clients in gaining a greater understanding of the complex provisions of this comprehensive law and to ease their ongoing efforts toward full compliance.

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SECTION 101 - LEAD

Q1: Will the CPSC enforce the <90ppm lead in paint requirement for general consumer products?
A1: The CPSIA amends the limit for wet paint, toys and children’s products, and furniture. The scope of the ban on lead-containing paint, as defined in 16 CFR 1303, does not change. UL does recommend compliance of all consumer products.

Q2: Would jewelry which is marketed to adults but which contains “child-like” graphics on it need to be tested?
A2: UL recommends that such jewelry meet the lead content requirement along with lead in accessible surface coatings. If not specifically intended for children, toy testing would not be required, although we recommend no sharp points or edges as received. Certain states also require lead compliance, even of adult jewelry and non-metal components and there is a new industry standard, ASTM F2923, to which compliance is recommended, although is not mandatory.

Q3: Is the CPSC’s Interim Enforcement Policy for Children’s Metal Jewelry Containing Lead (effective February 3, 2005) still in force in light of the enactment of the CPSIA?
A3: The interim policy for children’s metal jewelry was enforced until the CPSIA requirements for lead (600 ppm) became effective on February 10, 2009. On that date, the CPSIA requirements replaced the metal jewelry policy. As a result, the CPSC no longer considers total and extractable quantities. Enforcement is based solely on total lead. Note that on August 14, 2009, the limit was further reduced to 300 ppm, and was reduced again in 2011 to its current 100 ppm.

Q4: Would the hardware on children’s furniture, such as brass handles and knobs, need to comply with the lead limits being phased in under CPSIA?
A4: The lead rule is for all children’s products. The hardware on a child’s dresser would be an accessible component of a child’s product so it would be subject to the lead rule.

Q5: Since plastic sippy cups and related plastic food contact items for children are tested for extractables—which are an indication of whether there is lead in the substrate material—will the lead in substrate test still be required?
A5: Plastic sippy cups are considered children’s products and need to meet total lead in substrate material requirements, along with the applicable FDA extraction. These are two different tests looking for two different things. The FDA extractions for plastic under 21 CFR do not look specifically for lead but rather total amount of extractable chemicals.
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Q6: Are stickers exempt from lead in substrate requirements if they are considered arts and crafts items? What if they are simply stickers and not part of an art kit?

A6: Stickers are typically intended for children and would therefore be subject to the requirements under CPSIA. Children's arts and crafts kits are not exempt from this regulation. They are, however, exempt from ASTM F 963, the toy safety standard.

Q7: On a stuffed toy that is produced in one production lot, there are various painted decorations on separate panels of the stuffed toy that are unique to various retailers. Does the entire toy need to be tested in its finished form, with the unique paint colors used for each retailer included in that testing, or can the toy be tested once, and only the various paint colors be tested on the finished product?

A7: For certain tests, the finished product needs to be tested, rather than the components prior to assembly. However, once you have tested the first finished product, you should not need to test it again and again, and can refer to the previous testing. The unique paint colors can then be tested separately as part of a component testing program.

Q8: Do garment labels need to be tested to the lead requirements?

A8: The CPSIA requires lead content compliance of all accessible materials on children's products. This would include an accessible label. If the label is made of fabric, it would be exempt from lead testing. However, non-fabric labels do require testing. If identical labels (same manufacturer, identical materials) are used in more than one garment, we would not have to duplicate the testing as long as you have the traceability that the labels are identical.

Q9: Do sporting goods, camping equipment and craft materials need to meet the lead requirements?

A9: If intended for use by children, these products must meet the lead requirements. They are not considered “toys,” however, unless they are toy versions of the actual product. Therefore, a small plastic golf club is a toy, but a small golf club that is the same as an adult golf club except for its size, is a children's product but not a toy.

Q10: Do outdoor games, such as a croquet set, which are not marketed or advertised to children, require lead in substrates testing?

A10: The CPSC Age Determination Guidelines suggest that age 6+ is appropriate for croquet. Even though the product in question is not directly marketed to children, it could be deemed a children’s product under these guidelines and, therefore, should be tested accordingly.

Q11: Under the ruling that exempts wood from the total lead content testing requirement, does a wood product that is treated with mineral oil and beeswax, such that the materials are absorbed into the wood and are not surface coatings, require testing for total lead?

A11: No, the CPSC exemption for wood applies to both natural and treated wood. However, accessible surface coatings on wood do require testing for lead.
**Q12:** Do ordinary reading books made of paper need to be tested under the CPSIA requirements?

**A12:** “Ordinary books” refers to books that are intended to be read, are without inherent play value, are published on cardboard or paper, and are printed by conventional publishing methods. The printing ink is exempt from 16 CFR 1303 lead in paint. Children's books, that is, books that are intended primarily for use by children, are children's products and need to meet CPSIA requirements for children's products, including tracking labels. Paper, printing inks and CMYK inks are exempt from CPSIA lead testing requirements. The recent amendment to CPSIA, HR 2715, more fully exempts ordinary children's books from third-party testing although compliance is always required. The third-party testing exemption does not apply to books intended for children under three years of age, or books with inherent play value. Children's books would not be considered toys unless there is an added play feature to the book. Examples might be pop-up books, books containing paper dolls, and books for use in the bathtub. If a book is considered a toy, third-party testing for compliance with the ban on phthalates and with the ASTM F 963 standard is also required.

**Q13:** How does one determine whether a book is intended for use by children ages 12 and under?

**A13:** To make this determination, refer to the factors outlined in Section 235 of the CPSIA for children's products, including how and where the product is marketed, any age labeling, theme, or other representation. May also consult the CPSC's Age Determination Guidelines as published in 2002 for further guidance.

**Q14:** To what categories of products does the 90 ppm lead paint limit apply?

**A14:** The CPSIA Lead Paint Ban simply changed the limit from 0.06% to 0.009% (600 ppm to 90 ppm). The scope of 16 CFR 1303 did not change, and the new lower limit is not just for children's products (unlike lead content which is specific to children's products). The 90 ppm limit applies to all items under the scope of 16 CFR 1303, e.g. wet paint, toys and other articles intended for use by children, and furniture articles (with the specific exemptions). While UL recommends compliance to 16 CFR 1303 for all accessible paint used in any consumer product, we advise that it is mandatory only for these three categories.

**Q15:** During the stay of enforcement issued by the CPSC on January 30, 2009, do both adult and children's products need to be tested and certified for compliance to the lead in surface coatings requirements under 16 CFR 1303?

**A15:** All products under the scope of 16 CFR 1303, regardless of their date of manufacture, do need to comply with the current limit of 90 ppm, which became effective August 14, 2009. UL does recommend that all consumer products with surface coatings comply with these prescribed limits, although compliance is mandatory only for those products under the scope of 16 CFR 1303. Note that all stays of enforcement were lifted as of December 31, 2011.

**Q16:** If the trims and findings on garment A are shown to have no detectable lead after complete testing per 16 CFR 1303, and the identical trims and findings appear on garments B, C and D, can garments B, C and D forego testing by relying upon the test reports for the identical trims and findings from garment A? Garments A, B, C and D are all children's garments.

**A16:** Provided that the surface coatings on the components of garments B, C and D are indeed identical to those of garment A, and provided there is traceability, no additional testing would be required. The interim enforcement policy on component testing adopted by the CPSC and made effective December 16, 2009, allows for component part testing. This has since been finalized and codified in 16 CFR 1109. Mandatory third-party testing for lead in surface coatings on children's products was required as of December 21, 2008. The stay of enforcement for third-party testing for lead content (substrates) was lifted on December 31, 2011 and all children's product manufactured as of January 1, 2012 requires third-party testing.
Q17: Regarding 16 CFR 1303, will an adult vase with a coating need to be tested for lead?
A17: 16 CFR 1303, the lead paint ban, states that the lead paint limits apply to paint and other similar surface-coating materials, toys and other articles intended for use by children that bear lead-containing paint, as well as furniture articles for consumer use that bear lead-containing paint. Furniture articles include, but are not limited to beds, bookcases, chairs, chests, tables, dressers, desks, pianos, console televisions, and sofas. An adult vase would neither be a children’s product nor a furniture article and would therefore not be subject to the lead paint ban.

Q18: Does the reference to “paint and other similar surface-coating materials” in 16 CFR 1303.1 refer to paint sold by itself, such as a bucket of paint, or does it refer to any paint on a product that is sold in the United States?
A18: The terms “paint and other similar surface-coating materials” refer generally to liquid or semi-liquid products that change to a solid film when you apply a thin coating to wood, stone, metal, cloth, plastic or a similar surface. These terms do not refer to printing inks which become part of the article itself or to materials such as ceramic glaze which become bonded to the surface of a product. Paints in their liquid state (such as a bucket of paint) “not paint that has already been applied to a product” are the subject of this provision. However, lead-containing paint and similar surface-coating materials as applied to a specific category of products “toys and other articles intended for use by children and furniture articles for consumer use” are also regulated under 16 CFR 1303.

Q19: How are T-shirts imprinted with a design affected by lead and phthalates requirements?
A19: The design would need to be tested for lead in surface coatings unless the design has become part of the substrate and is not scrapable. In that case, lead in substrate testing would be appropriate. The CPSC has exempted dyed and un-dyed textiles whose lead content is consistently below the lead limits, as long as they have not undergone any treatment which would impart lead and they are not ornamented in other ways. Because a T-shirt is neither a toy nor a child care article, it would not be subject to the phthalates requirements.

Q20: Does fabric covering a lead-containing component of a children’s product render that component inaccessible and exempt from the lead content limits?
A20: Yes, a component that is covered by fabric is considered inaccessible, as long as the fabric cover withstands the appropriate use and abuse tests, and as long as the product or part of the product in one dimension is not smaller than five centimeters (cm). If less than five cm, the internal component must comply with lead content limits as the component is considered mouthable or able to be swallowed.

Q21: If I had a toy (a stuffed bear, for example) with an inaccessible electronic component inside of it which may contain lead (a sound box, for example), how would I know if the toy complies with the lead content requirements?
A21: If the sound box is located within a part of the bear that is smaller than five cm and could therefore be mouthed, such as in the bear’s arm, the sound box would need to comply with the CPSIA lead limits. If the sound box is located in the middle of the bear’s body, and that fabric-covered part of the bear’s body is greater than five cm, then the sound box would not require lead compliance. Only fabric-covered components that are considered mouthable, that can be chewed on, sucked on or, potentially, swallowed, need to comply. Of course, the fabric covering any such component would be required to pass the appropriate use and abuse tests to ensure that the sound box could not be rendered accessible to a child. Note also that the CPSC has exempted certain electronic devices from the CPSIA lead limits—refer to 16 CFR 1500.88 for details.
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Q22: How is use and abuse testing applied for determining whether a component is inaccessible under the lead content limits?
A22: The use and abuse tests at 16 CFR 1500.50-1500.53 are used to evaluate the accessibility of component parts of a children’s product for the specific age group for which the product is intended. 16 CFR 1500.87(h) is revised to make clear that the test under 16 CFR 1500.87(g) applies to products intended for children ages 96 months through 12 years of age. Bite testing is not applied for the purpose of evaluating whether component parts are accessible for any ages.

Q23: We manufacture key chains made of plush material and which feature animal characters that have child appeal. Do these key chains need to be tested for total lead content, and do they need to have child safety tests under ASTM F 963 even though they are not really toys?
A23: Since the key chains do have child appeal and it is foreseeable that an adult might give such a key chain to a young child to keep the child entertained or perhaps to an older child up to age 12 for use with a house key, we recommend testing the key chains as a child’s product. Therefore, the key chains should meet the limits for lead, both in the substrate and in surface coatings. Tracking label requirements apply to children’s products as well, not just to toys, as do the mandatory third-party testing and certification requirements. Unless the key chains are marketed as toys, sold in toy stores, have play value or otherwise targeted to children as toys, compliance with ASTM F 963 would not be mandatory.

Q24: Would a fabric with silk-screened printing which cannot be scraped need to be tested for lead in surface coatings?
A24: Silk-screened printing is similar to printing ink which becomes a part of the item’s substrate. This type of printing is exempt from 16 CFR 1303. However, if used on a children's product, the printed fabric would require lead content compliance.

Q25: Are there any new CPSIA rulings which pertain to apparel?
A25: The CPSC’s Final Rule regarding lead content limits of certain materials or products essentially exempts most fabric from lead testing. It advises that dyed and un-dyed textiles are materials whose lead content is consistently below the lead limits. Printed fabrics and fabrics with other after-treatment applications would require lead content testing. Note that the textile exemption does not include leather, vinyl or PVC and also does not exempt apparel components such as buttons, zippers, snaps and other non-fabric attachments. While apparel textile materials may not require lead testing, all wearing apparel—children’s and adults— would still need to comply with the Flammable Fabrics Act regulations.

Q26: I understand that cosmetics, themselves, are under the jurisdiction of the FDA and are not subject to CPSIA requirements, but what about the containers that hold them? Would the container of a cosmetic product that is designed for children ages 12 and under “for example, a lip gloss or a lip balm that is marketed to a child” have to meet CPSIA limits for lead?
A26: Yes. While cosmetics, themselves, are not included in the definition of “consumer product” and are regulated by the FDA, the container which holds a cosmetic product does require CPSIA compliance if the item is primarily intended for children.
SECTION 101 - LEAD (continued)

Q27: How does one determine what would be considered a children’s product?
A27: A children’s product is defined in the CPSIA as a consumer product that is designed or intended primarily for use by children 12 years of age or younger. The CPSIA includes four factors to consider in determining if an item is a children’s product:
• A statement by the manufacturer about the intended use of such product, including a label on the product, such as age grade.
• Whether the product is represented in its packaging, display, promotion, or advertising as appropriate for use by children 12 years of age or younger. For example, is there a child shown on the box using the product? Is the item sold with toys or other children’s products?
• Whether the product is commonly recognized by consumers as being intended for use by a child 12 years of age or younger.

The CPSC Age Determination Guidelines which include a number of factors, such as size and shape of the product, materials used, number of parts, cognitive and motor skills necessary to properly use the product, and many others that help determine the age for which the item is most appropriate.

Taking these factors into consideration can help you make a decision on whether you have a children’s product or not. Remember that if a product is intended for adults or for general use by consumers of all ages, then it is not intended primarily for children and, therefore, would not be considered a children’s product.

Q28: The CPSC has exempted the paper components of ordinary books from lead testing. Does this exemption extend also to the paper components of such items as children’s notepads, daily calendars, and other printed paper that is part of children’s products?
A28: Yes. The CPSC’s Final Rule regarding lead content limits of certain materials or products exempts from lead testing paper and similar materials made from wood. The exempted materials include, but are not limited to, paperboard and linerboard and coatings on such materials which become part of the substrate, provided that no materials have been added that could result in the introduction of lead in the product. Note that while these materials are exempt from testing, they still must comply with the lead limits.

Q29: Has composite testing been officially authorized by final rule from the CPSC, or is it only draft guidance by CPSC staff?
A29: Composite testing for lead in paint is officially allowed per the April 2009 test method which includes parameters for composite testing. Composite testing for lead content and lead in substrate materials is allowed per the CPSC’s Interim Enforcement Policy, and similar parameters to the lead in paint compositing should be followed. The interim policy has been finalized and is published in 16 CFR 1109.21.
SECTION 101 - LEAD (continued)

Q30: Can XRF screening be used as part of a reasonable testing program?
A30: The CPSC conducted a study in which they evaluated standard XRF technology for measuring lead in paint. The results indicated that XRF is not a suitable test method for certifying compliance for lead in paint. They did, however, determine that XRF could be used for certifying compliance for lead content in plastic materials. Since then, HD XRF technology was developed, and the CPSC has confirmed that testing using HD XRF equipment, and in accordance with the test methods of ASTM F2853, can be used to certify lead in paint compliance.

Q31: Do the lead exemptions for fabric materials also apply to stuffed toys' fabric?
A31: Yes, the exemption of fabric from lead testing applies to the fabric used on stuffed toys as well. Remember that any paint or other after-treatment applications would still require testing, but the fabric itself is exempt from lead content.

Q32: Are embellishments, such as rhinestones and studs, considered “after-treatments” which would require testing in apparel and non-apparel items?
A32: Yes, embellishments, such as rhinestones and studs, are considered “after-treatments” and are not exempted materials. If used on children’s products, they do require lead content compliance.

Q33: Does the toxicity evaluation of art materials suffice for lead content compliance?
A33: The toxicological requirements for art materials fall under the Labeling of Hazardous Art Materials Act (LHAMA). It does NOT evaluate lead content of the material itself, and lead content testing is required.

SECTION 102 - MANDATORY THIRD-PARTY TESTING

Q1: What products require a General Certificate of Conformity?
A1: Any consumer product subject to a consumer product safety rule under CPSIA or subject to any other existing rule, ban, standard or regulation under any other act enforced by the CPSC will require a General Certificate of Conformity. This includes, but is not limited to, the Federal Hazardous Substances Act (FHSA), the Flammable Fabrics Act (FFA), and the Consumer Product Safety Act (CPSA). (For details about the phase-in schedule for certificate requirements, refer to the CPSC’s table which was released on December 18, 2009.)

Q2: Is the General Certificate of Conformity required only for imported products?
A2: No, both imported and domestic products are subject to the General Conformity Certification requirement.

Q3: Is a General Certificate of Conformity required for products shipped, imported, or manufactured as of November 12, 2008?
A3: The certificate is only required for products manufactured on or after November 12, 2008.

Q4: Who must issue the General Certificate of Conformity?
A4: In the case of imported product, the importer must issue the certificate. In the case of domestically produced product, the domestic manufacturer must issue the certificate. Neither foreign manufacturers nor private labelers (foreign and domestic) are required to issue the certificate nor do they need to be identified on the certificate. The importer and domestic manufacturer would furnish the certificate to distributors, retailers and the CPSC enforcement team upon request.
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SECTION 102 - MANDATORY THIRD-PARTY TESTING (continued)

Q5: Who is responsible for maintaining the test result records upon which the General Certificate of Conformity is based?
A5: The CPSIA does not specify who should maintain these records, but the law does state that the contact information for the individual responsible for maintaining the records be included on the certificate.

Q6: If I am shipping products through a United States port, but the products will only be stored temporarily at a bonded warehouse for later shipment to Mexico (i.e., they are simply “passing through the port”), are the products required to have a General Certificate of Conformity just to be warehoused here temporarily?
A6: Per CPSC, the key is how the goods are entered into the United States on the importer’s CBP form 3461 or 7501. If the entry type indicates that the goods are to be consumed in the United States, or warehoused in United States for later consumption in the U.S., a Certificate is required. It is essential that the importer work with their broker to ensure they are using the appropriate entry type on their CBP documentation.

Q7: Do ceramic ware and glassware fall solely under FDA regulations, or are there any applicable CPSC regulations which would mandate a Certificate of Conformity for them?
A7: Only ceramic ware and glassware intended for children 12 and under would require a Certificate of Conformity.

Q8: Do 100% cotton clothing items for babies under nine months of age require a Certificate of Conformity? Our products have no small parts or sharp edges, so would flammability be the only possible concern?
A8: Baby clothing, even for children up to six months of age, does require compliance to 16 CFR 1610, Standard for the Flammability of Clothing Textiles. While children’s sleepwear items for children less than nine months of age are exempt from testing according to 16 CFR 1615, they do still require compliance to the 16 CFR 1610 standard. Certain fiber contents and certain fabric weights are exempt from the 1610 flame test, but these items are still covered under the scope of 16 CFR 1610, which is part of the Flammable Fabrics Act. So whether or not actual flame testing is required, a Certificate of Conformity will still be required. Note that fabric is exempt from the lead testing requirements.

Q9: What is a “reasonable testing program” as it pertains to general conformity certification?
A9: General Conformity Certification (GCC) does not mandate third-party testing. It can be based on a test of each product or upon a reasonable testing program. The CPSC has stated in its guidance document on testing and certification (issued November 9, 2010) that a “reasonable test program” should contain, at a minimum, the following five essential elements:
(1) Product specifications that describe the consumer product and list the safety rules, standards, etc., with which the product must comply;
(2) Certification tests, which are performed on samples of the manufacturer’s consumer product to demonstrate that the product is capable of passing the tests prescribed by the standards;
(3) A production testing plan, which describes the tests that must be performed and at what intervals as long as the consumer product is being manufactured to provide reasonable assurance that the products as produced continue to meet all applicable safety rules;
(4) Remedial action plans, which must be employed whenever samples of the consumer product or results from any other tests used to assess compliance yield unacceptable or failing test results; and
(5) Documentation of the reasonable testing program and how it was implemented.

Note that Children’s Products require third-party testing and issuance of what is now called a Children’s Product Certificate (CPC). A reasonable testing program for a CPC includes mandated periodic testing.
Q10: We understand that the toy industry has a website to house the required conformity certificates. What can you tell us about that?
A10: The Toy Industry Association has established a website for the posting of certificates. However, this service is only for toys.

Q11: Can we place a URL on the shipping box or on the product itself which would direct the consumer to the certificate of conformity in place of using a paper certificate?
A11: A URL which provides access to the certificate can be used in place of a paper certificate. Remember, however, that it is not the consumer who needs access to the certificate, but rather United States Customs, the CPSC, retailers and distributors.

Q12: Is a GCC required for lead in surface coatings for adult furniture?
A12: Yes, a GCC is required for all paint used on adult furniture that is manufactured after February 10, 2010.

Q13: Is there, or will there be, any enforcement at the level of United States Customs? In other words, will products lacking certificates of compliance actually be prevented from entering the country?
A13: Yes, products lacking the required certificates of conformity can be refused admission and may even be destroyed unless United States officials permit the export of the products in lieu of their destruction. The CPSIA states that noncompliant product that is not exported within 90 days of approval to export will be destroyed.

Q14: Our products are shipped to Canada and then are distributed via mail order throughout the United States and Canada. Do we need to supply the end consumer of our products with a certificate of conformity?
A14: No, a certificate of conformity is not required to be provided to the end consumer. The certificate must accompany each shipment of product into the United States and must be “furnished” only to distributors and retailers of that product, not to the individual customers or end users. If products were shipped from Canada to a distributor, retailer or warehouse in the United States, a certificate of conformity would be required to “accompany” the shipment.

Q15: Should a certificate of conformity be filled out on letterhead stationery?
A15: The CPSC has not instructed importers or domestic manufacturers to use letterhead for the certificate of conformity. The CPSC has stated that no signature is required on the certificate. It would make sense to identify the party issuing the certificate, although it is not mandatory.

Q16: Our baby clothing components are manufactured in China and then shipped to Australia where the products are assembled. Can we test the components in China before shipping them to Australia for assembly?
A16: Some tests, such as flammability and chemical tests can be done on the components. Some other tests such as small parts may require the finished product in order to confirm compliance.

Q17: Does every batch of every shipment need to be retested? We order from our supplier about four times per year. Do we need to do testing every time we order?
A17: Every batch of every shipment does not necessarily need to be retested, provided everything is identical to the previous shipment that was tested, and complied. If the same factory is used and that factory uses identical dyes and materials and you are confident that there have been no changes, retesting may not be required. Remember that you are certifying that your product is in compliance with all applicable regulations. The CPSC strongly encourages that annual testing, at a minimum, be performed. Testing should also be performed any time there are changes, such as the use of new materials or suppliers that could affect the compliance of the product.
SECTION 102 - MANDATORY THIRD-PARTY TESTING (continued)

Q18: Can a certificate of conformity cover more than one product?
A18: A certificate can cover more than one product as long as the information required on the certificate is the same for each product—same factory, same production period, same testing period, etc.

Q19: Do adult furniture items and paints, unless they are paints intended for children's products, require third-party testing?
A19: No, only children's products are required to undergo third-party testing. However, paint on adult furniture items and wet paint to be used on adult items must still comply with the ban on lead-containing paint.

Q20: Are hand-crafted, one-of-a-kind items, such as handmade children's clothing, required to be tested and certified under the CPSIA?
A20: In the case of hand-crafted products, the responsibility to have the product tested by a third-party laboratory and to issue a certificate of conformity for the product lies with the person who assembles the finished product and puts the product on the market. The testing requirements do put a burden on these small hand-crafting operations. The CPSC's policy on component testing and certification says that compliance based on certificates from raw materials suppliers such as “button suppliers, thread manufacturers, and fabric suppliers” is acceptable. Remember, however, that it is the finished product that must comply with the regulations, and it is the individual who is selling the product who must issue the certificate. There are some exceptions to third-party testing for small batch manufacturers.

Q21: In the garment industry, we may use the same zipper on several different garments. Do we need to test that same zipper on every style of garment?
A21: Under CPSIA, finished product testing is the ideal. However, component testing is acceptable, provided that, in this case, the zippers used in different styles are identical to the one tested.

Q22: Are zippers on children's clothing required to be tested and certified to the small parts, sharp points and sharp edges regulations?
A22: Zippers on children's clothing fall under the scope of 16 CFR 1500.48 (sharp points) and 16 CFR 1500.49 (sharp edges), but they do not fall under the scope of 16 CFR 1501 (small parts), because of the exemption in 1501.3 (d) for children's clothing and accessories, such as shoelace holders and buttons. Zippers would fall under this exemption. However, the CPSC continues to recall children's clothing due to small parts detachment. Therefore, we strongly advise against using this exemption, and we recommend that children's clothing for children under three years of age meet the small parts regulation, both before and after use and abuse testing. Your certificate of conformity should include all three of these regulations.

Q23: Are there any exceptions for “small batches” or “limited edition” toys or for products that are made of natural materials?
A23: CPSIA does not provide exceptions for “small batches” or “limited edition” toys. All toys need to be safe and compliant, whether there are five million toys produced or just 500. While the CPSC strongly encourages annual testing, for small-volume manufacturers the CPSC does allow for testing to occur every 10,000 units, unless a material change in the product has occurred. In addition, small batch manufacturers who qualify and identify themselves on the CPSC's Small Batch Manufacturers Registry may have some relief from third-party testing. While full compliance is mandatory, not all tests would be required to be third-party tested.

With regards to natural materials, there are lead testing exemptions. The CPSC has determined that certain natural materials do not typically exceed the lead content limits and, while compliance is required, testing of these identified materials is not. These natural materials include wood, precious gemstones (diamond, ruby, sapphire, and emerald) and certain semiprecious gemstones, natural fibers, such as cotton, silk, and wool, and other natural materials such as coral, amber, feathers, and fur.
SECTION 102 - MANDATORY THIRD-PARTY TESTING (continued)

Q24: Does a product need to be certified if all components in it have been certified already?
A24: Yes, because it is the finished product that must comply with CPSIA regulations. However, the results of testing the product’s individual components can be used to certify the product as long as the testing is done according to CPSC requirements, there is sufficient traceability, and there is no potential for contamination in the manufacturing process.

Q25: Which products require CPSIA compliance? If a board game is age-graded 14+ years, is it exempt from CPSIA compliance?
A25: Any product covered by a CPSC-enforced regulation requires CPSIA compliance. For some products, this could simply mean the Section 102 certificates. For children’s products, several other provisions apply. A board game age graded for 14+ years would not be a children’s product, by definition, under CPSIA and is therefore exempt.

Q26: If we reprint an item, such as a game board, using the same materials, do we need to test again for lead, phthalates, etc.?
A26: In the case of a reprint, if different batches or lots of material are used, testing should be performed again to confirm continued lead and other chemical compliance. If everything is identical e.g. materials, factory, equipment, production process, etc., retesting may not be required. The CPSC does, however, strongly encourage “periodic” testing, which it defines as at least once a year, for most products.

Q27: Does the CPSIA include specific requirements related to the frequency of testing, or is testing frequency still the decision of the importer?
A27: The CPSC strongly encourages “periodic” testing, which it defines as at least once a year, for most products including children’s products. If there is a valid production testing plan that provides a high degree of assurance in continued compliance of product, testing frequency may be extended to every two years. And, if the production testing plan includes validation testing by an ISO 17025 accredited laboratory, it may be possible to test every three years. Remember that compliance is always required and testing frequency and production testing plan must be valid. For smaller, low-volume manufacturers, the CPSC recommends testing every 10,000 units, unless a material change in the product has occurred. Also, certain retailers do mandate their own testing frequency.

Q28: We continue to get requests for General Certificates of Conformity for products that are not for children and/or do not fall under CPSC jurisdiction. How should we handle this?
A28: The CPSC has a list of regulations and products which fall under CPSC jurisdiction on their website at cpsc.gov, and you may want to refer the person(s) requesting the GCCs to that list. It may be possible that the person(s) requesting the GCCs are just looking for written confirmation of compliance to whatever requirements apply to that particular product, even if it is not covered by the CPSIA.

Q29: Would a new certificate of conformity be needed for a product each time it enters United States Customs?
A29: Each shipment must be accompanied by a certificate, meaning the certificate must be available upon request. This doesn’t mean that new testing is needed for each shipment, if production is ongoing and nothing has changed. But a certificate unique to each shipment must be available. The only thing that may change is the date of manufacture.

Q30: If retailer takes possession of a children’s product overseas, is the retailer then responsible for issuing the GCC?
A30: If the retailer takes possession of the product overseas and is then the importer of record, it is his responsibility to issue the GCC. Whoever is the official importer of product into the country is responsible for certification of product compliance.
SECTION 103 - TRACKING LABELS

Q1: When will the tracking labels requirement be effective, and is it applicable to products in inventory?
A1: The tracking label requirement became effective August 14, 2009, and is applicable only to children’s products manufactured on or after that date. It does not apply to products manufactured prior to that date.

Q2: Can a plush toy have a date code on the sewn-in label?
A2: The requirement for the tracking label is that it be permanent. The CPSC has therefore advised that hang tags and labels are not acceptable for tracking labels. A sewn-in label, however, would be fine, as long as it is not intended to be removed and is a permanent part of the toy, unless intentionally removed by the consumer.

Q3: With regard to the date code stamped on the actual product, how would you be able to accomplish this in the case of products with small components, such as model kits with many parts?
A3: For any children’s product with many parts, each part does not need to be marked. Only the major component (or largest piece) must include the tracking label information – to the extent practicable. Therefore, just one component in a model kit needs to include the traceability information. If even the largest component is too small to include the information, then it could be placed on the packaging only. While the CPSC has not clearly defined what is meant by “to the extent practicable,” it has developed helpful guidance about which products may or may not require a tracking label.

Q4: How does one include a date code on a larger model kit that consists of several components which were manufactured at different times?
A4: For larger kits, the required tracking label would be the date that the finished product was assembled. As with many products which are made up of different component parts, it’s the final assembly/manufacture date that is required. The CPSC recognizes that products may not always be started and completed in a single day. Therefore, the date of production could be a date range if the product is made over a period of time. Also, the factory identifier should be that final factory which assembled the finished product.

Q5: What is the current status of the tracking labels requirement?
A5: Tracking labels are required on all children’s products manufactured on or after August 14, 2009. The CPSC’s statement of policy regarding interpretation and enforcement of the tracking labels requirement, released on July 20, 2009, provides guidance about the purpose of the tracking labels requirement and about the format and content tracking labels.

Q6: How specific is the tracking labels requirement in terms of what the tracking label needs to look like?
A6: The statutory provision does not require a one-size-fits-all system, and the CPSC has stated that it will not impose any such uniform requirements at this time. The CPSC has further stated that it will not likely seek penalties if required information is inadvertently omitted, as long as manufacturers, in good faith, educate themselves on the requirement and consider ways to comply.

Q7: Do products sold in bulk vending machines require tracking labels?
A7: Individual products sold through bulk vending machines do not need to be marked, but the package or carton in which the items were shipped to the retailer should have a tracking label.
Q8: In the case of shoes, do both shoes in the pair need to have a tracking label?
A8: For items meant to be sold as sets or pairs and which function only as sets or pairs, only one item of the pair, or an integral part of the set, would need to be marked. A game with small pieces would be considered a set. In this case, the box and the game board should be marked, but the individual game pieces would not need to be. However, if the items in a pair or a set can be separated and sold separately, they would need to be individually marked.

Q9: Does the city and province of a factory location need to be specified on the tracking label?
A9: Factory code and date code, indicating month and year of manufacture, are all that are needed on the tracking label. City and province are not necessary, unless the factory code applies to more than one factory location within that city or province. Country of origin alone does not sufficiently identify the location of production. The information on the tracking label needs to be sufficient to determine which factory produced the product. Certificates of Conformity do require the city and province of a factory location; tracking labels do not.

Q10: We produced children’s stickers in one facility prior to August 14, 2009. After August 14, 2009, these stickers were sent to a second facility where a clear polybag over-wrap was applied. The over-wrap is intended to be thrown away after the product is opened. Does the over-wrap require a tracking label?
A10: Since the product, itself, was produced prior to August 14, 2009, a tracking label is not required.

Q11: Is there any final decision on how to label small items sold individually?
A11: There has not been a final decision on how to label small items sold individually. It gets back to the definition of “where practicable,” which has really been left to the reasonable judgment of the manufacturer. CPSC has advised that for toys sold in bulk, such as jacks or marbles, only the container or packaging needs the tracking label information. As a rule of thumb, if a product can be marked with country of origin—for example, if there is sufficient space for “Made in China”—an additional code could likely also be added. Remember, a code that would allow the manufacturer to ascertain when and where the product was made and the ultimate purchaser to ascertain the manufacturer or private labeler is all that is needed to fulfill the Section 103 requirements. There is no specific mandatory verbiage required.

Q12: Can you clarify the requirements for date codes? We've experienced instances where retailers want something that is at odds with our interpretation of the CPSC rules.
A12: As always, retailers may require their own markings depending on how they track products and monitor inventory. The requirements of CPSIA must be met, but a retailer may specify a date code format that they want on their product even though the CPSIA does not specify one.

Q13: What is acceptable for a tracking label if the toy consists of several parts, such as a polyethylene bowling set, and the tracking information is on one large part, as well as on the packaging, but is not on all of the other large parts?
A13: CPSC has advised that the tracking information needs to be on only one piece in a set, and it should be on the primary component if there is one. With a polyethylene bowling set, the tracking information could be on the ball but is not required to be on each pin. With a board game, the tracking label information could be on the game box and the game board but is not required to be on each game piece.

Q14: What can you tell me about industry ideas for tracking labels?
A14: There is a lot of information on the CPSC website relating to industry feedback on the tracking label provision, including public comments and a download of the public meeting that was held May 12, 2009. Various industry groups, such as the Promotional Products Association International (PPAI) and the American Apparel and Footwear Association (AAFA), also provide guidance to their industry members on how best to address this requirement. The Frequently Asked Questions on the CPSC website also provide some helpful information.
SECTION 103 - TRACKING LABELS (continued)

Q15: What about labeling requirements in cases where it is unsafe, impractical or infeasible for a manufacturer to label the product, such as individual drinking straws which are marketed to children?
A15: Straws are a good example of a product on which it is not practicable to include the tracking label information. In this case, the information could be included on the individual packaging, if the straws are wrapped. If the product is sold in bulk with no individual packaging, only the package or container in which the product was shipped would need to be marked.

Q16: For the tracking label, are we required to show the date of manufacture or is it enough that we can find this out from the code on the product?
A16: Date of manufacture must be ascertainable by the manufacturer and the ultimate purchaser from the tracking label information provided on the product. The actual date of production is not required to be shown as long as that information can be determined from the code.

SECTION 105 - LABELING REQUIREMENTS FOR ADVERTISING TOYS & GAMES

Q1: Are full statements required for warnings which appear on the Internet?
A1: Yes, Internet warnings should be full statements. Unlike catalogs, there is no space limitation on Internet sites.

Q2: How can I confirm the requirements for printed manufacturer labels/child warnings? If an item might be considered a toy or a non-toy children's product, or something else, I'm not clear if the product's labeling must contain exact wording or convey a clear intent.
A2: Any labeling on the product must be correct and appropriate. Age grade could be confirmed by the test laboratory testing the product. The inclusion of the small parts/small ball/marble or balloon warnings is mandatory when appropriate – and you can refer to 16 CFR 1500.19 for details about when it is necessary and the specific type size, format and location for these warnings. U.S. Customs has requirements for Country of Origin markings for any imported product. Essentially, any mandatory labeling should be confirmed with the applicable regulation for appropriate text, size and location, and other details. In cases when labeling is included for marketing or other non-regulatory purposes, the labeling is not mandatory and would not need to comply with any requirements for wording, size, location, etc.

SECTION 106 - MANDATORY TOY SAFETY STANDARDS

Q1: When did ASTM F 963-08 become effective under CPSIA?
A1: On February 17, 2009, ASTM notified the CPSC that the revised standard was published. The CPSC had 90 days to respond and approve the changes. On May 13, 2009, the CPSC voted to accept all of the proposed revisions in ASTM F963-08, except the revision that would have omitted section 4.27, which addresses toy chests, from the standard. The revisions in ASTM F963-08 which were accepted by the CPSC became mandatory consumer product safety standards on August 17, 2009, for products manufactured after that date. Until then, ASTM F 963-07 was mandatory under CPSIA, excluding the Flammability requirements. And on June 12, 2012, ASTM F963-11 is become mandatory, with Flammability and Toy Chest exceptions mentioned above. Third-party testing for ASTM F963 is also mandatory.

Q2: Is children's clothing exempt from the ASTM F 963 standard?
A2: ASTM F 963 is a standard that applies only to toys. Therefore, children's clothing does not fall under the scope of this standard.
SECTION 106 - MANDATORY TOY SAFETY STANDARDS (continued)

Q3: Would an animal-shaped bath sponge be considered a toy and require toy testing under ASTM F 963?
A3: Such products which are specifically marketed as and are clearly known as bath sponges are intended for cleansing purposes during a child’s bath. The small parts regulation, 16 CFR 1501, specifically exempts “grooming, feeding and hygiene products, such as diaper pins and clips, barrettes, toothbrushes, drinking glasses, dishes and eating utensils.” Sponges could fall under this exemption. They’re not considered toys, but they are children’s products and would need to meet the applicable requirements for children’s products. The sponges therefore would not fall under the scope of ASTM F 963, but they would fall under the scope of the Federal Hazardous Substances Act, which includes torque and tension testing.

Q4: Now that ASTM F 963 is mandatory, will applicants for testing still be able to request specific sections of the standard or will all applicable sections have to be tested?
A4: The CPSC has adopted ASTM F963 in full, with two exceptions – Flammability and the removal of Toy Chest requirements from the standard. Products must comply in full with all applicable sections of ASTM F963. All components in a toy must not be flammable solids and should be tested to confirm that they do not burn quickly, exceeding the burn rate of 0.1 inch per second per FHSA. ASTM F963 does include some material exemptions for paper and strings.

Q5: Is there a clear, defining rule to distinguish a toy from a collectible that is marketed to children?
A5: There is no clear, defining rule, but similar factors to those considered in determining if one has a children’s product should be used to determine if the product is a collectible or a toy. One should consider the features of the product – for example, is it a car with moving components, doors that open and close, and wheels that roll? Such a car might offer play value. The same car that is permanently attached to a base, however, would not offer play value. Price point and distribution methods are other factors considered in determining if a product is a toy or a collectible. For a product that has play value, even if it is distributed as an adult collectible, compliance to applicable toy safety regulations is recommended.

Q6: Does ASTM F 963-08 apply retroactively to products manufactured or on retailers’ shelves prior to August 17, 2009?
A6: The ASTM F963-08 revision was published in February 2009 and, as an industry consensus standard, it was effective on the date it was published. It is not retroactive, however. As a consumer product safety rule, the revision became mandatory on August 17, 2009. Again, it is not retroactive—although your retailer may have required compliance starting from when it was published in February.

Q7: Is flammability testing under 16 CFR 1500.44 required for non-wearable children’s products?
A7: Interestingly, when the CPSC adopted ASTM F 963, the toy safety standard, as a mandatory consumer product safety rule, they specifically did not adopt the flammability requirement. So compliance to the flammability requirement in ASTM F 963 is not mandatory. However, the Federal Hazardous Substances Act includes flammability requirements, and, if a product does not comply with the burn rate of 0.1”/second, it is considered a flammable solid and, if it may be used near open flame, must be labeled accordingly. So product needs to be tested to determine if labeling is required. And no one wants to distribute a children’s product that is labeled as being flammable so essentially flammability is required, even if not technically mandatory.

SECTION 108 - PHTHALATES

Q1: Are socks required to undergo testing for lead and phthalates?
A1: Phthalates testing is not applicable to socks. Testing for phthalates is required only for children’s toys and child care articles. Lead testing would only apply to non-fabric ornamentation, if any, on children’s socks. The CPSC’s Final Rule regarding lead content limits of certain materials or products exempts dyed and un-dyed textiles from testing for the lead content requirement.
**SECTION 108 - PHTHALATES**

**Q2:** Is wearing apparel subject to the phthalates limits under Section 108?

**A2:** The phthalates requirement applies only to toys and child care articles. Children’s wearing apparel generally is not considered a toy because it is not intended to be played with by a child. Therefore, it would not be subject to the phthalates limits. In general, costumes used for theatrical productions and for Halloween are considered wearing apparel and therefore would also not be covered by the definition of children’s toy under Section 108. However, dress or play costumes sold as part of a toy set and intended to be worn during play could be considered a toy under Section 108. In addition, sleepwear and bibs for children three years of age and younger would be considered child care articles as defined under Section 108 and would therefore be subject to the phthalates limits. Such items are designed or intended to facilitate sleep and could possibly contain phthalates. Children’s rain wear made of vinyl or other plastic or plastic-like material would not be subject to the phthalates limits, as it is not considered a toy or a child care article. Adult wearing apparel, by definition, is also not subject to the phthalates limits under CPSIA.

**Q3:** Does the ban on phthalates apply to books?

**A3:** Ordinary books intended or designed primarily for children 12 or younger are reading materials and not toys. Therefore, the ban on specific phthalates under Section 108 of the CPSIA does not apply to such books, as the ban applies only to children’s toys and child care articles. “Ordinary books” refers to books that are intended to be read, are without inherent play value, are published on cardboard or paper, and are printed by conventional publishing methods. However, books that have some inherent play value or have toy-like features constitute toys and would therefore be subject to the ban on phthalates. Examples of books with play value are: pop-up books, books for use in the bathtub and books that can be cut into paper dolls. An ordinary book sold with an accompanying toy might not need to be tested for phthalates, but the toy, itself, would need to meet the appropriate phthalates limits.

**Q4:** How do I know if a toy can be “placed in a child’s mouth,” making it subject to the interim prohibition on phthalates?

**A4:** A toy can be placed in a child’s mouth if any part of the toy can actually be brought to the mouth and kept in the mouth by a child so that it can be sucked and chewed. If it can only be licked, it is not regarded as able to be placed in the mouth. If a toy or any part of that toy in one dimension is smaller than 5 centimeters, it can be placed in the mouth.

**Q5:** What method do I need to use to test for phthalates?

**A5:** CPSC’s Test Method: CPSC-CH-C1001-09.3 - Standard Operating Procedure for Determination of Phthalates, published on April, 1, 2010, should be used for testing of phthalates.

**Q6:** How do I determine if a child care article is subject to the phthalates limits?

**A6:** The statutory definition of child care article includes only sleeping, feeding, sucking or teething. Thus, products associated with other aspects of child care, such as bathing and diapering, are not subject to the phthalates limits. On February 12, 2009, the CPSC published draft guidance with respect to phthalates and child care articles, and this guidance makes the distinction between primary and secondary products. A primary product is one that has direct contact with the child. It may have direct mouth contact, such as a teether or a pacifier, or it may not have direct mouth contact, such as a bib, a blanket, a high chair, a crib teething rail, etc. These are all considered primary products and are subject to the regulation. A secondary product is one that might be used by the parent but which has no direct contact with the child, such as a bottle warmer, bottle cleaning products, a breast pump or a highchair floor mat. These products are not subject to the regulation. So-called multiple function products, such as bouncers, swings and strollers may or may not be subject to the regulation, depending on whether they are marketed or advertised as facilitating sleep. The CPSC has also provided guidance on materials that may contain phthalates and thus should be tested, and those materials unlikely to contain phthalates.
SECTION 108 - PHTHALATES (continued)

Q7: Would baby lotions or creams, such as sun block, be subject to the phthalates limits?
A7: Such products are not considered “child care articles,” which, by definition, involve only the facilitation of sleep, feeding, sucking or teething, so they would not be subject to the phthalates limits.

Q8: Do art materials have to be tested for phthalates?
A8: Art materials are not considered toys and are therefore exempt from the phthalates limits, unless the product itself or the finished product which is created from the use of those materials is primarily of play value. Art materials are subject to LHAMA requirements.

Q9: Do pellets used in plush toys need to be tested for phthalates? In other words, do inaccessible parts require testing?
A9: The CPSIA Amendment, HR 2715, excludes inaccessible components from phthalate testing. Accessibility may be determined in the same way it is for lead content testing, using standard use and abuse tests. Note that fabric is not considered to make a material inaccessible, however, and so the internal pellets may still require phthalate testing. Certain materials, however, have been identified by the CPSC as likely not to contain phthalates and may not require testing.

Q10: Are there any materials that are exempt from phthalates testing?
A10: The CPSC said in its Statement of Policy regarding testing of component parts for phthalates (August 7, 2009) that the following materials do not normally contain phthalates and, therefore, might not require testing or certification: unfinished metal; natural wood; textiles made from natural fibers, such as cotton or wool; textiles made from common synthetic fibers, such as polyester, acrylic and nylon; polyethylene and polypropylene (polyolefins); silicone rubber and natural latex; and mineral products, such as play sand, glass and crystal. However, if these materials are treated with coatings, adhesives, printed decorations, elastic materials or any other surface treatments, an exemption would not apply.

Q11: Are there any products or product categories that are exempt from phthalates testing?
A11: The CPSC has provided draft guidance regarding some product categories which are exempt from the phthalates provisions. Among those are the following: bottle warmers, bottle cleaning products, breast pumps, nursing shields/pads, high chair floor mats, rainwear, footwear, life vests, personal flotation devices, ordinary books, regulation-size athletic equipment (even if designed or sized for use by children), sporting goods, camping goods, athletic equipment, musical instruments, art materials, model kits, hobby items, bicycles, slingshots, sharp-pointed darts, playground equipment, non-powder guns, kites, powered models of aircraft, rockets, boats and land vehicles, decorative room accessories, jewelry, cosmetics and packaging that is intended to be discarded. It is important to note that toy versions of the above products are subject to the phthalates provisions.

Q12: Are children’s toothbrushes subject to the CPSIA phthalates limits?
A12: No, they are not. Toothbrushes are considered medical devices, not consumer products, and are therefore outside of the scope of CPSIA.

Q13: Are children’s bedding products (sheets, blankets, etc.) considered child care articles requiring phthalates testing?
A13: Yes, bedding products for children ages three and younger are considered child care articles, as they are designed or intended by the manufacturer to facilitate sleep. Crib mattresses and pajamas would also fall in this category. Textiles are a material identified by the CPSC that would not normally contain phthalates, though, and therefore might not require testing – but compliance is still required.
Q14: Are there any issues to be concerned about with EVA foam products?
A14: There are two things which come to mind. One is phthalates. EVA is ethylene vinyl acetate, a material which should be tested for phthalates. The other issue is that foam, in general, may detach small parts which can present a choking hazard to children under the age of three.

Q15: In light of the CPSC’s latest published test method, how will UL determine which components will not need third-party testing for phthalates?
A15: UL will follow the latest CPSC testing direction. Section C of the CPSC’s Statement of Policy regarding testing of component parts for phthalates (August 7, 2009) includes guidance on how to identify component parts that may require phthalates testing. It provides examples of materials that may contain phthalates—UL will test these materials—and also lists materials that do not normally contain phthalates and, therefore, might not require testing—UL would not normally test these materials unless directed to do so by a client. The CPSC policy is in line with what we believe is a realistic and common-sense approach to phthalates compliance.

Q16: Do the phthalates limits apply to silk-screened printing on a stuffed animal’s clothing?
A16: Yes. While fabric itself is exempt from phthalates testing, paints including silk-screened printing are not, and they must be tested for compliance.

Q17: Is component testing allowed for phthalates?
A17: Yes, component testing is allowed for phthalates.

MISCELLANEOUS

Q1: Does packaging, including polybags and the bands that wrap around socks, require CPSIA compliance?
A1: The CPSIA does not apply to packaging, unless the packaging is intended for re-use. Polybags and bands wrapped around socks are discarded once the package is opened, so these do not fall under the scope of CPSIA. However, such packaging is subject to the Model Toxics in Packaging Legislation which limits the amounts of four heavy metals (lead, mercury, and cadmium and hexavalent chromium) in packaging. UL laboratories have the analytical expertise to test products to ensure that their packaging complies with these requirements.

Q2: Is flammability testing required for socks?
A2: The 16 CFR 1610 flammability regulation applies to all fabrics used in wearing apparel for both children and adults. Socks are typically exempt from flammability testing by reason of their fiber content or weight (if plain surface). Some lightweight socks, pantyhose or knee-highs, etc., would require flame testing.

Q3: Some tote bags and backpacks are clearly marketed to children and others clearly are not. Some people purchase backpacks for children that are not made or intended specifically for children but are used by them for school. Would these be considered children’s products? How do you draw the line in terms of what is a children’s product for these types of items?
A3: If intended for use by children, tote bags and backpacks need to meet CPSIA requirements. Adult backpacks that children may use are not subject to CPSIA requirements. How and where an item is marketed—location in a store, graphics, advertising, whether a child is shown using the item in an advertisement or on a label, etc.—all need to be considered in making the determination of whether the product is intended for a child.

Q4: Are the United States Virgin Islands and Puerto Rico subject to CPSIA regulations?
A4: Yes, the United States Virgin Islands and Puerto Rico are protected by the laws of the Consumer Product Safety Commission and are therefore subject to CPSIA regulations.
FREQUENTLY ASKED QUESTIONS

MISCELLANEOUS (continued)

Q5: Do children's products which are not toys need to be tested and labeled for small parts?
A5: No, 16 CFR 1500.19 applies only to toys and games.

Q6: I understand that several pieces of federal legislation have been introduced in the months following enactment of the CPSIA and that these proposals are aimed at amending various aspects of the CPSIA. What is the status of these proposals?
A6: HR 2715 is the legislation that passed and has been enacted. It provides a common sense approach to CPSIA compliance and testing. UL is carefully monitoring the status of additional proposals, and we will report any significant developments that occur through our Monitor newsletter and News Alerts.

Q7: What are the standards for promotional give-away items that are for promotional use only—items that will be produced one time only and not on an ongoing basis and which are not for resale?
A7: Promotional items are not excluded from CPSIA requirements. Any promotional children's products would be subject to the lead in surface coatings and lead in substrates requirements under CPSIA, along with tracking label requirements. If they are toys, they would also be subject to ASTM F 963 as well as to the phthalates limits. If they are child-care articles, those, too, would be subject to the appropriate phthalates limits. With promotional items, it is important to make a determination of who the product is intended for. If it is intended for a child 12 years of age or younger, it will certainly fall under the scope of CPSIA.

Q8: When you indicated that children's toys are only items that children use during play, does that mean that piggy banks and bookmarks are not considered children's toys?
A8: Although piggy banks and bookmarks are not considered toys, they would be considered children's products, if they are intended primarily for the use of children 12 years or age or younger. In this case, they would be subject to the lead in surface coatings and lead in substrates requirements under CPSIA as well as the tracking label requirement. It is certainly possible that a piggy bank could be considered a toy if it has play value or appeal, such as one with moving parts or sounds, but, in general, an ordinary piggy bank would not be considered a toy.

Q9: What can suppliers do with existing noncompliant products?
A9: The CPSC may prohibit a person from exporting noncompliant products to another country unless the importing country has notified the Commission that it will accept those products. With respect to disposal or destruction of such products, because jurisdictions have differing requirements, the CPSC generally advises that manufacturers and retailers check with their local governments regarding the disposal of hazardous substances. When destruction has been requested through a corrective action, the CPSC requests that it be allowed to witness the destruction or that it receive an affidavit and photographs of the destroyed items.

Q10: Which tests are required for toys, gifts, textiles and consumer electronics?
A10: There are many different tests and standards that apply to various categories of products. There isn't really one list that can provide all the information, as testing done on toys is much different from that which is done on textiles or furniture. Not only does the testing vary for different categories of products, but it may vary based on the intended use of the product and on the age of the person for which the product is intended. As you can imagine, a list containing all of this information would be of considerable length. When a specific product is given to UL for testing, we call upon our experts in that category to determine the appropriate testing.
Q11: How can I be assured that UL is accredited by the CPSC to do child safety testing on our products?
A11: The CPSC lists accredited laboratories on its website. You will see several of UL's locations represented here. The CPSC does not issue accreditation documents or certificates to the individual labs. It simply provides this list of approved laboratories.

Q12: What about the packaging we use? Is that under the scope of CPSIA?
A12: Packaging that is intended to be discarded is not covered by the CPSIA. There is state legislation which addresses requirements for heavy metals in packaging. If the packaging is not intended to be discarded and is considered part of the product, such as a storage bag for children's blocks, it needs to comply with the CPSIA requirements.

Q13: Do the CPSIA requirements apply to school publishing products that are sold directly to schools or school systems?
A13: The definition of consumer product includes items that are intended to be used in or around a school, and children's products are, by definition, consumer products intended for children 12 years of age or younger. Therefore, these products would fall under the scope of the CPSIA and would need to comply with its requirements.

Q14: How does the CPSIA apply to manufacturers using certified organic components, for example, fabric?
A14: The law does not differentiate between certified organic components and other materials. The organic components would require compliance just as their non-organic counterparts would. They would also be entitled to the same exclusions, lead and phthalates, for example, for fabric.

Q15: How does the new law apply to small domestic manufacturers of handmade items? Have there been any exceptions made for small producers?
A15: Small batch manufacturers may register on CPSC's Small Batch Manufacturer Registry. While there are no exceptions for compliance, there are some exceptions to third-party testing. And the CPSC has said that for smaller, low-volume manufacturers, testing done every 10,000 units rather than on an annual basis is allowed. The CPSC does have a guide for small businesses, resellers, crafters, and charities which states that even someone working from home, making clothes and toys for children, must conform to the CPSIA.

Q16: How do you foresee the new changes in the law affecting research as a whole and, specifically, marketing research?
A16: There are some provisions in the Act that require studies or research to be performed. Section 107 requires a study of preventable injuries and deaths in minority children related to consumer products, Section 225 requires a study on the effectiveness of authorities relating to safety of imported consumer products, and Section 234 requires a study on the use of formaldehyde in manufacturing of textile and apparel articles. There is also the formation of the Chronic Hazard Advisory Panel (CHAP) to examine the health effects of phthalates. Marketing research may actually benefit from the CPSIA in that the Act provides for more transparency. The consumer registration requirements for Durable Nursery Products, the Tracking Labels provision, the Public Disclosure of Information and establishment of a publicly available consumer product safety information database will all provide information that may not have been readily available in the past. There is a requirement for identification of the supply chain (upon CPSC request), and the recall notices themselves require more detailed information such as name of significant retailers of the product, number of injuries and deaths caused by the product, the ages of the persons injured or killed, and the dates when the Commission received such information about the injuries or deaths.
Q17: Have there been any changes to product hazard reporting requirements, and how will the new Consumer Product Safety Database be operated?

A17: These topics are covered in Title II of the CPSIA. Section 214 of the CPSIA provides the CPSC with enhanced recall authority and requires an automatic report for failures to comply with a rule under ANY of the Federal Acts. It also gives CPSC the authority to mandate the Corrective Action Plan for mandatory recalls, and adds two new requirements for inclusion in the recall notice, the names of significant retailers of the product, and details on injuries and deaths caused by the product. CPSC has also announced new Section 15 reporting features. You can now get an acknowledgement and exact copy of a Section 15 report you file with the CPSC’s Office of Compliance through its web-based portal. This provides you with an official record that the report has been received by CPSC staff. The online reporting form has also been modified to allow the entry of multiple manufacturers and component part manufacturers. With regards to the Public Consumer Product Safety Database, Section 212 of the CPSIA, this launched in March 2011. Essentially consumers can file reports about products that other people could see before purchasing a new item. Manufacturers should register at www.SaferProducts.gov, and the CPSC sends any complaint or concern to the manufacturer within five business days of its receipt, and that the manufacturer has 10 business days to respond. Manufacturers can request that confidential information not be included in the public database and can also request that their comments be included. It is also possible to remove or modify a product safety complaint or concern even after it has been posted.

Q18: How can I learn more about the new requirements for CPSIA?

A18: To receive free email alerts about the CPSIA, you can add your name to the CPSC’s CPSIA subscription list. By signing up for this service, each time a new CPSIA entry is posted to the CPSC website, an automatic email notification is sent directly to you. In addition, UL regularly issues News Alerts about the new CPSIA entries in easy-to-understand language, and we continue to update this ever-growing list of Frequently Asked Questions about CPSIA.

- CPSC Home Page
- CPSC’s CPSIA Web Page
- CPSC’s CPSIA Frequently Asked Questions

Registered with the CPSC as an accredited laboratory for third-party testing, UL can assist our clients with the testing and certification requirements under the CPSIA. We offer analytical expertise in lead and phthalate content testing, and our hazard prevention program for toys includes comprehensive design evaluation, safety testing, audit, and inspection, as well as responsible sourcing services.

For more information on all the ways you can rely on UL to help you effectively implement quality and testing programs for toys and children’s products, contact the ToyTeam@ul.com or visit ul.com/consumer-products.