



THE ART & CREATIVE MATERIALS INSTITUTE, INC.

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Important Information About The U.S. Consumer Product Safety Improvement Act

On August 14, 2008, President Bush signed into law the Consumer Product Safety Improvement Act (CPSIA) which was created to establish consumer product safety standards and other safety requirements for children's products and to reauthorize and modernize the Consumer Product Safety Commission. The major components of this new law include lowering lead levels in children's products, permanent and interim bans on six phthalates in toys and childcare articles, required third party testing of children's products, and the required issuance of conformity and third party testing certificates with each product shipment. The law wraps in compliance to ASTM F 963, a toy safety standard which exempts art materials products unless they are themselves or produce a product primarily of play value. The law also reauthorizes the Consumer Product Safety Commission and increases their budget and enforcement authority.

The following are the parts of the CPSIA, as it became law, that would impact art material products:

- **General Conformity Certificate**

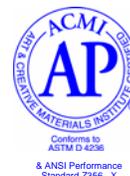
Effective 11/12/08,* every manufacturer of a consumer product that is regulated by a rule, standard, ban or act enforced by CPSC must issue a general certificate of compliance to all such regulations with each product shipment. This would include art materials subject to and not exempted from provisions of CPSA, FHSA (small parts, etc.), FFA, FHSA/LHAMA, PPPA. The certificate must be based on testing of each product or a reasonable testing program. CPSC can prescribe a reasonable testing program and third party testing for general conformity certification but have not done so. Guidelines on content and recipients of such certificates have been developed by CPSC.

The General Conformity Certificate must specify, in English, the following information:

- the product covered by the certificate
- citation to each CPSC product safety regulation to which the product is certified
- the manufacturer or private labeler issuing the certificate and any third party on whose testing the certificate depends, by name, address and phone number
- the date and place where the product was manufactured and date and place of testing
- contact information for person maintaining test records
- each applicable standard, ban, etc.
- may include other info or same info in other languages

Detailed information about the General Conformity Certificate can be found on CPSC's website at <http://www.cpsc.gov/about/cpsia/conformity.pdf>.

LOOK FOR THESE SEALS.....



- **Compliance Certificate for Third Party Testing**
Effective 12/21/08,* every manufacturer of toys, child care products, and all other consumer products meant for children 12 years or younger and subject to a children's product safety rule must issue a certificate of compliance with each product shipment. Certificates must be based on third party testing on a schedule that CPSC is required to develop as part of CPSIA. CPSC is currently requiring that the third party testing lab be accredited by ILAC to ISO 17025 and testing for lead in surface coatings (16 CFR 1303), the first regulation in the schedule, must be in the scope of their accreditation. Manufacturers must use a lab that is recognized by CPSC for this testing. (A listing of such labs has been posted on CPSC's website at <http://www.cpsc.gov/about/cpsia/accredited.html>). CPSC is seeking input on parts and inaccessibility. Detailed information on third party testing of children's products can be found on CPSC's website at <http://www.cpsc.gov/about/cpsia/childprodtest.pdf>.
- **Reduction of Total Lead Content in Children's Products**
CPSIA requires, over a three-year period, the reduction of total lead content in children's products as follows:
 - **Effective 2/10/09,*** total lead content must not exceed 600 ppm
 - **Effective 8/14/09,** total lead content must not exceed 300 ppm
 - **Effective 8/14/11,** total lead content must not exceed 100 ppm *or whatever level CPSC determines is technologically feasible*

The new lead limits for lead content and lead paint preempt state law. CPSC is expected to rule within one year what parts are exempted from the ban on total lead in children's products due to inaccessibility, which may require use and abuse testing. CPSC is seeking input on parts and inaccessibility.

** On January 30, 2009 CPSC issued a one-year stay of enforcement for the testing and certification requirements indicated above and thus will not enforce these parts of the CPSIA until 2/10/10. However, it is important to remember that manufacturers are still required to comply with the regulations by the original dates. This stay of enforcement also applies to the phthalates and ASTM F-963-07E01 certification and testing requirements below but neither of these sections of the CPSIA apply to art material products unless the art material itself is a toy or produces a toy.*

- **Reduction of Lead in Paint and Surface Coatings**
Effective 8/14/09, lead in paint and surface coatings must not exceed 90 ppm, with the exception of certain products including artists' paints and related materials which are exempted from this provision. Currently, lead in surface coatings must not exceed 600 ppm.

The CPSC General Counsel has determined that inventory in stock and on store shelves are included in the ban in the case of lead in paints and coatings and total lead in children's products because these items are banned! Sales from inventory or store shelves are banned for paints and coatings with lead over 90 ppm as of August 14, 2009 and for children's products with lead over 600 ppm as of February 10, 2009.
- **Ban on Sale of Certain Products Containing Specified Phthalates**
Effective 2/10/09, the CPSIA requires that no toy or child care product meant for children 12 years or younger contain three phthalates that are permanently banned (DEHP, DBP and BBP) or three phthalates that are banned until a Chronic Hazard Advisory Panel (CHAP) is held, which may lift this interim ban (DINP, DIDP, DnOP). **Art materials are exempt from this section of the CPSIA as they are not considered toys or child care products.**
- **Compliance to the toy standard ASTM F-963-07E01**
Effective 2/10/09, all manufacturers of toys and child care articles must comply to the toy standard ASTM F-963-07E01 which became a regulation except for the flammability section; CPSC is to examine if more stringent requirements are needed. A toy is defined in ASTM F 963 as a product used by a child as a plaything. **CPSC currently plans to exempt products that F 963 exempts, i.e., art materials, sporting goods, musical instruments, unless obviously meant for play by children.**

- **Tracking labels for children's products**

Effective August 13, 2009, manufacturers of consumer products meant for children will be required to mark these products and packaging with tracking labels that contain information to identify the source of the product for the consumer. The content is not yet finalized but may contain the source, date produced, batch or run number, etc. CPSC inferred at its seminar on tracking label requirements that the tracking label could be a code or number linked to the manufacturer's phone number or website to provide the required information. CPSC also indicated that a specific code would not be mandated in the future unless a global code was developed.

- **Advertising rules on websites, in catalogs or other printed materials**

Manufacturers of toys and games will be required to include in any advertising, including on websites and in catalogs or other printed material, of a product bearing cautionary statements the cautionary statement prominently displayed within 120 days of enactment (12/10/08) on websites and within 180 days (2/10/09) in catalogs and other printed materials. **Art materials are exempt from this section of the CPSIA as long as they are not considered toys.**

- **Determining the impact this law may have for products you manufacture that are not art materials**

CPSC has a section of its website (<http://www.cpsc.gov/businfo>) that is an excellent source of information for manufacturers. One source of information is a list of products and ingredients that are regulated by CPSC and the laws, regulations, etc. that apply to each product. There are also references to exemptions, if any, afforded each product type. In addition to art materials, you will find other products such as adhesives, labels, lacquers, marking devices, mineral spirits, paper, toys, turpentine products, varnish, and writing instruments, to mention just a few. This will help you to determine to which regulations your non-art-material products must comply and therefore must be included in your conformity certificates. Simply click on <http://www.cpsc.gov/businfo/reg1.html> to go directly to the Table of Regulated Products. Go to the CPSC website <http://www.cpsc.gov>, and click on the "Business" tab for other important information, such as

- Regulations and General Commission Information by Statute/Act (Information on CPSC's laws) <http://www.cpsc.gov/businfo/acts.html>
- Industry Guidance (Recall programs, handbooks, testing manuals and laboratories, and more) <http://www.cpsc.gov/businfo/corrective.html>
- Frequently Asked Questions for Manufacturers, Importers, Distributors and Retailers <http://www.cpsc.gov/businfo/faq.html>

Subsequent to the passage of the law, CPSC has held several seminars to educate stakeholders, has issued numerous requests for comments and official rulemaking, and has made a tremendous amount of information available on its website, including the final rule (issued 11Nov08 and effective 12Nov08) amending some of the requirements for the general certificates of compliance that are required to accompany products manufactured on or after 12Nov08.

In the Final Rule on Certificates of Compliance (<http://www.cpsc.gov/businfo/frnotices/fr09/certification.pdf> and <http://www.cpsc.gov/cpscpub/prerel/prhtml09/09042.html>), CPSC explained the difficulties facing the Agency and companies attempting to comply with the certification regulations in such a short time. They reduced the number of companies required to issue certificates from the original requirement of **all** manufacturers, importers and private labelers of a product and designated the following as the responsible parties:

- For imported products, only the importer must issue a certificate, not the foreign manufacturer.
- For domestic products, only the domestic manufacturer must issue a certificate, not the private labeler.
- For private label products, only the importer or domestic manufacturer must issue a certificate, not the foreign manufacturer or the private labeler. However, a private labeler may issue a certificate of conformity if the company so desires.

- The definition of private labeler in the CPSIA is the company who owns the brand name or trademark on the product, not the company who manufactures a product in another company's brand name.

The rule confirms that certificates which are required to be furnished to retailers and distributors with each shipment can be made available on websites or by other electronic means, as well as to Customs as required and to CPSC upon request. However, the website address and a unique identifier to link the product in the shipment to the website information must be on the shipment or shipping documents. The information must be available on the website before import or domestic shipment takes place and must have the date of creation or modification of the certificate with the website information. The CPSIA law itself required paper certificates with each shipment so this is an improvement for most companies.

Finally, CPSC has indicated that enforcement efforts will be focused on compliance to the agency's safety rules and regulations, rather than on the certificates or their form. However, companies should avail themselves of this opportunity to quickly develop systems and procedures now to comply with the requirements for Certificates of Conformity because the incoming Chairman of the Agency may require a review and revocation of this enforcement policy statement.

6-12-09