

Nine Things You Need to Know about the Consumer Product Safety Improvement Act

The intent of this fact sheet is to provide guidance to SGIA members as they implement the provisions of the Consumer Product Safety Information Act (CPSIA), as administered by the Consumer Product Safety Commission (CPSC). The information contained in this document should not be construed as legal advice. As new information becomes available, this fact sheet will be updated. Currently, the CPSC has issued four proposed rules. SGIA is in the process of developing and submitting comments on the relevant proposals.

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Overview

The stay of enforcement on the CPSC requirement — that all children’s products undergo a third-party test and be issued a certificate for total lead or phthalate content (as applicable) — expires on December 31, 2011.

In other words, the CPSIA becomes fully effective on January 1, 2012. As of this date, imagers are required to issue a General Certificate of Conformity (GCC), based on third-party testing from a [CPSC-recognized laboratory](#), to retailers and distributors, and, upon request, to the CPSC for children’s products imported or distributed in commerce on or after January 1, 2012.

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Third-Party Testing

CPSC approves testing laboratories for a variety of consumer safety standards. Third-party testing means that a product undergoes testing at a [CPSC-approved, accredited laboratory](#) to determine that the total lead content in children’s products meets the approved limit. All children’s products are required to undergo third-party testing.

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Children’s Products Defined

The CPSC has defined a “children’s product” to mean a consumer product designed or intended primarily for children 12 years of age or younger. In determining whether a consumer product is primarily intended for a child 12 years of age or younger, you need to consider the following factors:

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

The lead content limit applies to all children’s products.

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Phthalate Content Considerations

Congress has permanently prohibited three phthalates: DEHP, DBP and BBP (in concentration of more than 0.1 percent) in “children’s toys” or “child-care articles.” Three additional phthalates: DINP, DIDP and DnOP, have been prohibited pending further study.

A “children’s toy” means a product intended for a child 12 years of age or younger for use when playing, and a “child-care article” means a product that a child three years of age and younger would use for sleeping, feeding, sucking or teething.

Please note: Wearing apparel falls under the definition of a child-care article if it is intended to facilitate eating and sleeping.

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Exemptions

Under the legislation, which was passed and signed by President Obama in August 2011, there is an exemption for small batch manufacturers. To qualify as a small batch manufacturer, you must meet this two-part test:

1. **Income:** Total gross revenues from the prior calendar year (e.g., calendar year 2011 sales to qualify for calendar year 2012) from the sale of all consumer products is \$1 million or less.
2. **Covered Product:** No more than 7,500 units of the same product were manufactured in the previous calendar year (i.e., calendar year 2011 sales for calendar year 2012 qualification).

As a qualifying small batch manufacturer, you will need to register with the CPSC on an annual basis. You will still need to issue a certificate with all products, however, you will not need to conduct third-party testing for either lead or phthalate content. Additionally, your products must still meet both the lead and phthalate content limits.

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General Certificate of Conformity

A GCC is a document that certifies that the product complies with the CPSIA regulations, based on a test of each product or a reasonable testing program. The law requires that each import (and domestic manufacturer) shipment be “accompanied” by the required certificate. This certificate does not need to physically accompany the product — it will be deemed accessible if available via the internet.

Each certificate must include the following information:

- Identification of the product covered by the certificate
- Applicable CPSC rule or ban
- Identification of the manufacturer
- Identification of the person maintaining the testing information
- Date and place where the product was manufactured
- Date and place where the product was tested
- Identification of the third-party testing facility used

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Component-Part Testing

Component testing, as outlined by the CPSC, is voluntary and can be undertaken by either the component manufacturer or the manufacturer of the children’s product.

For those in the SGIA community producing children’s wearing apparel, the textile garment does not need to be tested as it has been exempted through regulation. Only the other components, such as ink, zippers, buttons, etc., must be tested for lead content. If the children’s product also could be classified as a child-care article, only those plasticized elements need to be tested, and a component testing program can also be initiated to satisfy the testing requirements.

There are documentation requirements associated with component-part testing, and all records must be kept for five years.

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Enforcement Penalties

The Commission has issued a final rule that outlines the civil penalties associated with noncompliance activities. As of August 14, 2009, the Commission has the ability to seek penalty amounts of up to \$100,000 for each violation. Maximum penalty amounts for a related series of violations have been increased from \$1.8 million to \$15 million.

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Next Steps

All products manufactured or distributed in commerce after December 31, 2011 must be accompanied by a GCC, which clearly states that the product complies with either the lead or phthalate content limit, as applicable.

Please note: Compliance with the lead and/or phthalate content limits must now be supported by third-party testing, and the GCC must contain identification of the third-party testing facility used. All documentation must be retained for five years.

Specialty Graphic Imaging Association (SGIA) Supporting the Leaders of the Digital & Screen Printing Community

“Specialty imaging” comprises digital imaging, screen printing and the many other imaging technologies SGIA members use, including those they’ll tap in the future. These are the imaging processes and technologies employed to create new products and to enhance existing products including point-of-purchase displays, signs, advertisements, garments, containers and vehicles.