

**Consumer Product Safety Testing:
Will Your Product be Labeled as “Hazardous”?
By
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Product safety issues have been the topic of much debate in the United States for more than 50 years. Most of these issues deal with the presence of lead or another toxic compound and the resultant toxicity in common consumer goods. The strong correlation between ingested or inhaled lead compounds and neurological damage, delayed mental and physical development, learning disabilities, and other problems in humans is well documented.

Today, more than ever, the issue of toxicity in consumer goods is at the forefront of both public and corporate debate. Several factors have contributed to the rise in prominence of this issue: the outsourcing of the manufacture of inexpensive goods, the sometimes indiscriminant recycling practices of other countries that add lead to an otherwise innocuous mixture or component, and the extensive media coverage surrounding the issue. In response to the heightened awareness, a number of legislative and regulatory initiatives have been put forth. These new requirements and restrictions may negatively affect businesses that are not prepared or that do not fully understand the regulations. For example, toy maker Mattel, Inc. and its Fisher-Price subsidiary recently agreed to pay a \$2.3 million civil penalty for allegedly importing and selling toys with excessive levels of lead.

In response to the issues above, the Consumer Product Safety Improvement Act (CPSIA) of 2008 (Public Law 110-314, August 14, 2008) was enacted. The federal

limits for all hazardous materials, including lead, are primarily set by the Federal Hazardous Substances Act (FHSA). Under the FHSA, an article containing lead is a “hazardous substance” if it contains sufficient lead to cause substantial illness, or if it is a toy or other article intended for use by children, with surface materials of primary concern. In addition, low-lead requirements are mandated by other documents such as 16 CFR 1202 (Ban on Lead Paint), ASTM F-963 (Toy Standard Limits), and ASTM F-1563 (Lead in Children’s Vinyl Products; in process).

The above acts and limits were set in place by the Consumer Product Safety Commission (CPSC) for both materials and coatings that may contain lead. The commission has, by regulation, banned paint and other similar surface coatings that contain more than 0.06% lead by weight. Toys and other articles intended for use by children that may include lead-containing paint are also banned. In more recent years, the commission also identified a number of other products, some intended for use around the household or in recreation that presented a risk of lead poisoning from sources other than paint. These products include vinyl blinds, crayons, figurines, children’s jewelry, and many more.

The CPSC urges manufacturers to eliminate lead in consumer products to avoid future incidents of consumer contamination. To help avoid the possibility of CPSC enforcement and penalties, a manufacturer that believes lead is necessary in a given consumer product should have the appropriate analysis performed before distributing the product to determine whether the consumer exposure to the amount of lead present will cause the product to be labeled as a “hazardous substance.”

The assurance of a lead-free product can only be verified through laboratory

testing and screening processes performed by an accredited organization such as an independent, commercial testing laboratory. This testing requires sophisticated analytical equipment and a high level of expertise and experience in this specific form of evaluation. Bowser-Morner's Analytical Testing Division in Dayton, Ohio has performed this exact analysis on a wide variety of basic materials and integrated system components for many years, long before the CPSC introduced the current regulations to the market place.

In January of 2009 the CPSC granted a one year stay of testing and certification requirements on new total lead content limits (600 ppm), phthalates limits for certain products (1000 ppm), and mandatory toy standards, among other things. Manufacturers and importers – large and small – of children's products will not need to test or certify to these new requirements, but will need to meet the lead (Pb) and phthalates limits, mandatory toy standards and other requirements. The basic requirements for limitations on lead content will still be enforced as of February, 2009 while the initial screening by an accredited agency may not be mandated until February, 2010. The stay of enforcement on testing and certification does not address thrift and second hand stores and small retailers because they are not required to test and certify products under the CPSIA. The products they sell, including those in inventory on February 10, 2009, must not contain more than 600 ppm lead in any accessible part. The CPSC is aware that it is difficult to know whether a product meets the lead standard without testing and has issued guidance for these companies

In closing, we would be very happy to discuss this topic, including the application of Consumer Product Safety Commission requirements to your product(s) with you and

to help you create a cost-effective screening plan of your raw materials and product(s) to evaluate your company's compliance with the CPSC requirements. Should you wish to discuss your projects, please call either Mike Liberty (Vice President of Analytical Services, Dayton) at 937-236-8805, ext. 256; or Steve Kosztya (Regional Representative and Business Development, Cleveland) at 330-909-3112.