

[Billing Code 6355-01-P]
CONSUMER PRODUCT SAFETY COMMISSION

Notice of Availability of a Statement of Policy: Testing of Component Parts With Respect to Section 108 of the Consumer Product Safety Improvement Act

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of Availability.

SUMMARY: The Consumer Product Safety Commission ("Commission") is announcing the availability of a document titled, "Statement of Policy: Testing of Component Parts With Respect to Section 108 of the Consumer Product Safety Improvement Act" ("Statement of Policy"). Section 108 of the Consumer Product Safety Improvement Act of 2008 ("CPSIA") prohibits the sale of certain products containing specified phthalates. The Statement of Policy establishes the Commission's position with respect to testing products to determine whether they contain phthalates in excess of the statutory limits.

DATES: Submit written or electronic comments on the Statement of Policy by [insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: The Statement of Policy is available from the Commission's website at [INSERT CITE]. Copies also may be obtained from the Consumer Product Safety Commission,

Office of the Secretary, Room 502, 4330 East-West Highway,
Bethesda, Maryland 20814; 301-504-7923.

You may submit comments, identified by Docket No. CPSC-
2009-[insert docket number], by any of the following
methods:

Electronic Submissions

Submit electronic comments in the following way:

Federal eRulemaking Portal: <http://www.regulations.gov>.

Follow the instructions for submitting comments. To ensure
timely processing of comments, the Commission is no longer
accepting comments submitted by electronic mail (e-mail)
except through www.regulations.gov.

Written Submissions

Submit written submissions in the following way:

Mail/Hand delivery/Courier (for paper, disk, or CD-ROM
submissions), preferably in five copies, to: Office of the
Secretary, Consumer Product Safety Commission, Room 502,
4330 East West Highway, Bethesda, MD 20814; telephone (301)
504-7923.

Instructions: All submissions received must include the
agency name and docket number for this notice. All
comments received may be posted without change, including
any personal identifiers, contact information, or other
personal information provided, to

<http://www.regulations.gov>. Do not submit confidential business information, trade secret information, or other sensitive or protected information electronically. Such information should be submitted in writing.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Michael A. Babich, Ph.D.,
Consumer Product Safety Commission, 4330 East West Highway,
Bethesda, MD 20814; telephone (301) 504-7253;
mbabich@cpsc.gov.

SUPPLEMENTARY INFORMATION:

On August 14, 2008, the CPSIA (Public Law 110-314) was enacted. Section 108 of the CPSIA, titled "Prohibition on Sale of Certain Products Containing Specified Phthalates," permanently prohibits the sale of any "children's toy or child care article" containing more than 0.1 percent of three specified phthalates (Di-(2-ethylhexyl)phthalate (DEHP), dibutyl phthalate (DBP), and benzyl butyl phthalate (BBP)). Section 108 of the CPSIA also prohibits, on an interim basis, "toys that can be placed in a child's mouth" or "child care articles" containing more than 0.1 percent of three additional

phthalates (diisononyl phthalate (DINP), diisodecyl phthalate (DIDP), and di-n-octyl phthalate (DnOP)). These prohibitions became effective on February 10, 2009.

The terms "children's toy," "toy that can be placed in a child's mouth," and "child care article" are defined in section 108 of the CPSIA. For example, section 108 of the CPSIA defines a "children's toy" as a "consumer product designed or intended by the manufacturer for a child 12 years of age or younger for use by the child when the child plays." It is noteworthy that the definition uses the term "consumer product" because section 3(a)(5) of the Consumer Product Safety Act (CPSA) defines "consumer product," in relevant part, as "any article, or component part thereof, produced or distributed (i) for sale to a consumer for use in or around a permanent or temporary household or residence, a school, in recreation, or otherwise, or (ii) for the personal use, consumption or enjoyment of a consumer in or around a permanent or temporary household or residence, a school, in recreation, or otherwise..."

In the FEDERAL REGISTER of February 23, 2009 (74 FR 8058), the Commission published a notice of availability regarding a draft guidance discussing which children's products are subject section 108 of the CPSIA. The notice invited comment on various questions and also on the

Commission's test method for phthalates. The test method (Test Method: CPSC-CH-C1001-09.1, "Standard Operating Procedure for Determination of Phthalates," dated March 3, 2009) generated some controversy in that it suggested testing the entire product or testing components and then mathematically combining the results.

The Commission has reexamined the question of product testing and has prepared a document titled "Statement of Policy: Testing of Component Parts with Respect to Section 108 of the Consumer Product Safety Improvement Act." The Statement of Policy describes the Commission's position regarding component testing, and the Commission will issue a new test method in the near future. The Statement of Policy is available on the Commission's website at [INSERT CITE] and from the Commission's Office of the Secretary at the location listed in the ADDRESSES section of this notice.

The Commission invites comment on the Statement of Policy. Comments should be submitted by [insert date 30 days after date of publication in the FEDERAL REGISTER]. Information on how to submit comments can be found in the ADDRESSES section of this notice.

Dated: _____

Todd Stevenson, Secretary
Consumer Product Safety Commission