

# LIVE CPSC WEBINAR

## LEAD CONTENT REQUIREMENTS UNDER CPSIA

DATE: DECEMBER 17, 2009

TIME: 10:00 am (Mexico City Time)

**DESCRIPTION:** CPSC conducted a live webinar in both English and Spanish on December 17 targeted at shoe manufacturers in Mexico. Dr. John Boja provided stakeholders a presentation on lead content requirements under the CPSIA that could apply to children's shoes. Below is the written version of the Q&A session presented at the webinar by Dr. Boja that will be sent via email to all participants.

### Q&A Session\*

#### QUESTION SET 1

1. Regarding the tracking label, in the specific case of manufacturing for private brands, they don't want to be included on the label the name of real manufacturer or even the place of manufacturing. What would be your advice in this case?

*Section 103 of the CPSIA provides that the tracking label must contain a permanent or distinguishing mark that will enable the ultimate purchaser to ascertain the **manufacturer or private labeler**, location and date of production of the product, and cohort information, (including the batch, run number, or other identifying characteristic).*

2. Again, regarding the tracking label, in most of the cases it is very expensive to include a batching number. This is because most batches are very small and the number of models is very high, and for marking a batching number it is necessary to acquire a dye for each one. What would you suggest to help us manage this situation?

*Section 103 of the CPSIA does not require manufacturers that do not use lot, batch, or run numbers to create such a system. Manufacturers should generally have in place a reasonable means*

*to ascertain detailed production information, including the means to distinguish between different factories. Small volume manufacturers and crafters may be unlikely to use batch or run numbers and the Commission does not interpret Section 103(a) to require them to create such a system. See Statement #9 of the Statement of Policy on Section 103 at:*

*<http://www.cpsc.gov/about/cpsia/sect103policy.pdf>*

3. How can we determine what constitutes “children’s shoe” if the range of sizes for children’s shoe is not clearly specified? For example, we would like to know which size is considered a shoe for a 12 year old.

*The law defines a children’s product as a consumer product primarily designed or intended for children aged 12 or younger. It is not defined by size. Several factors are considered in determining if a product is intended for children. These can include: the manufacturer’s stated intent, if it is reasonable, the advertising, promotion, and marketing of the product, whether the article is commonly recognized as being intended for children, and the age determination guidelines.*

4. Could CPSC evaluate the possibility of certifying the materials used in the process of making a shoe, instead of testing every batch and every style. This is because:
  - o Current shoe models that are being exported use the same kind of materials. The only difference is the particular design of each model.
  - o It is very expensive testing every style and every batch, especially considering the wide range of models and the very small size of batches (see pictures attached)

*On December 18, 2009, the Commission voted to adopt an interim enforcement policy allowing component part testing for lead content. Under this policy, domestic manufacturers and importers now have an option in certifying their products. For more detailed information, please see press release # 10-083 of December 18, 2009 at: <http://www.cpsc.gov/cpsc/pub/prerel/prhtml10/10083.html>*

5. If we relaunch a style, is it necessary to obtain a new certificate or can we use the previous one, even though the batch number has changed?

*Certification of a children's product is not based on the style of the product but on the product itself. If the product is manufactured using different components or component supplies indicating a material (significant) change then a new certificate is required.*

6. Could CPSC comment on this example to show the impact of this regulation on costs?
  - o 26.21 USD / every test
  - o 10 tests per model (an average)
  - o 6 models per order (an average) = 1800 USD in testing
  - o For this particular example 1800 USD means 50% of total shipment

*Without understanding the rationale for the 10 tests it is difficult to comment. The recent Testing Workshop held December 10<sup>th</sup> and 11<sup>th</sup> provided cost examples for both current and the proposed component testing (see: <http://www.cpsc.gov/about/cpsia/cpsiatestingcost.pdf>). Videos, presentations, and other relevant materials from the Workshop can be accessed at: <http://www.cpsc.gov/about/cpsia/cpsiatesting.html>*

## QUESTION SET 2

1. Which agency is responsible for enforcing, receiving and evaluating the certifications; will it be U.S. Customs at the time of filing import entries?

*Both the U.S. Customs and Border protection (CBP) and the U.S. CPSC will be ensuring that imported products are in compliance with CPSC regulations.*

2. Will the CPSC have personnel visiting retail stores and asking for the certifications? (in which case I need to train my sales staff)

*Certificates are to accompany the shipment and be provided to distributors and retailers, they are not required to be provided to consumers. Retail surveillance is part of the inspection authority of the CPSC.*

3. The products that are already in inventory before implementation will be grandfathered or excused?

*Products subject to the lead content requirements will be subject to the certification rules based on their date of manufacture, once the stay of enforcement is lifted for this requirement on February 10, 2011.*

*Children's products subject to the lead limits in paint and other surface coatings currently require certification. The certification rule became effective for products manufactured after December 17, 2008.*

4. New product arriving after February 2010, will have to include certification for entry at Customs and also in stores?

*Certification for paint and surface coatings is required now for any product entered into commerce in the United States.*

*The Commission voted on December 18, 2009 to extend the stay on certification and third party testing for children's products subject to lead content limits until February 10, 2011. Under this decision, products must still meet the 300 ppm lead limit now, but certification and third party testing to show compliance will be required for all children's products manufactured after February 10, 2011. A children's product is one that is primarily intended for children 12 and younger.*

***Unchanged** is the current independent third party testing and certification required for all children's products subject to the following consumer product safety rules:*

- ***The ban on lead in paint and other surface coatings***
- *The standards for full-size and non full-size cribs and pacifiers*
- *The ban on small parts*
- *The limits on lead content of metal components of children's jewelry (non children's products)*

*Please see Press Release# 10-083 for more information:  
<http://www.cpsc.gov/cpsc/pub/prerel/prhtml10/10083.html>*

5. This certification is by model and by color?

*Maybe – it depends on the materials used.*

6. Could manufacturers certify their collection by certifying their inputs (leathers, glues, accessories, dies....). Most use the same suppliers for soles, textiles and leathers.

*On December 18, 2009, the Commission voted to adopt an interim enforcement policy allowing component part testing for certification to lead paint and lead content requirements. Under this policy, domestic manufacturers and importers now have a choice in certifying their products. For more detailed information, please see press release # 10-083 of December 18, 2009 at: <http://www.cpsc.gov/cpscpub/prerel/prhtml10/10083.html>*

7. What is the useful life of a certification? Do they have to certify re-orders?

*Currently production lots require certification and when any material change or supplier change is made the product must be tested again.*

8. What are the requirements for product labels?

*Tracking labels are generally required on all children's products. They require the manufacturer or private labeler be identified along with the place of manufacture and date. (See question #2 from Question Set 1).*

9. Must all laboratories have certification with the CPSC beforehand, for all countries?

*Third party laboratory accreditation is currently required for laboratories in any location that are testing children's products for lead in paint, lead content in metal jewelry, small parts, etc. A list of accredited laboratories may be found at <http://www.cpsc.gov/cgi-bin/labapplist.aspx>. When certification is required for lead content, laboratories testing children's products for those requirements will also have to be accredited.*

10. Will certification for each model have a code by the CPSC that one can refer to for the future? (Also in case of reorder or any claims). Will the products actually be registered with the CPSC after certification? Will there be a process instituted for filing and

retrieving these registrations/certifications? Which agency/office will monitor certifications and provide support for importers?

CPSC does not assign codes and does not register products. The CPSC's Office of Compliance will enforce the certification requirements and tracking label rules.

11. What will be the responsibility of the retailer? In case of consumer claims and legal disputes regarding lead poisoning?

*It is the responsibility of the manufacturer, importer/distributor to ensure that all products entering into distribution for sale in the United States meet the requirements of any regulation under the authority of the CPSC.*

\*\*To submit additional questions and comments, please contact Roberta Telles at [rtelles@cpsc.gov](mailto:rtelles@cpsc.gov)\*\*