

# SAFE GUARDS

SGS CONSUMER TESTING SERVICES

HARDLINES

NO. 064/08 SEPTEMBER 2008 REVISED

## US President Signs Consumer Product Safety Law

On 14 August, 2008, President George W. Bush signed a landmark legislation, the 'Consumer Product Improvement Act of 2008', (HR 4040) into law. The act reauthorizes the Consumer Product Safety Commission (CPSC) for 2010-2014 and expands the Commission's role in ensuring the safety of consumer products, especially those designed for children.

The new law gives the CPSC additional resources by raising the level of funding for the commission to \$136 million by FY2014 and increases the commission's fulltime staff. The measure enhances commission administrative powers including its product recall authority, makes its rulemaking process more efficient, and requires manufacturers of children's products to place tracking information on all of their products. It requires more responsibility from manufacturers and retailers and includes various safeguards to ensure safety of consumer products from factory floor to the store shelves.

The new law mandates a phased-in ban on lead in children's products to ensure products are safe by requiring lead levels to be reduced to 100 ppm for substrates over 3 years and 90 ppm for surface coatings from August 14, 2009.



The phthalates DEHP, DBP and BBP are permanently banned but DINP, DIDP and DNOP are banned on an interim basis until a review by the Chronic Hazard Advisory Panel (CHAP). It adopts *ASTM F963-07e1 standard* as a mandatory consumer product safety rule and directs studies that may result in additional rules. Testing and safety certifications on products for children up to the age of 12 are mandatory and foreign manufacturers are required to adhere to US standards for toy safety. Manufacturers are also required to label products with traceability information so that recalled products can be tracked. Highlights of the signed bill are summarized in Table1.

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**Table 1: Schedule for Restricted Substances**

Substance	Scope / Requirement	Effective date
lead	<u>In children's products (exclusions exist for inaccessible components)</u> ≤ 600 ppm ≤ 300 ppm ≤ 100 ppm unless not technologically feasible	180 days after enactment 1 year after enactment 3 years after enactment
	<u>Paint in Consumer Products</u> ≤ 90 ppm (0.009 %) (Modify 16 CFR 1303.1) <u>Small Paint Areas</u> If total weight of paint ≤ 10 mg or covers ≤ 1 cm <sup>2</sup> of total product ≤ 2 µg (X-ray fluorescence or other method to be considered)	1 year after enactment
Phthalates	Toys for children up to 12 or childcare articles for children up to 3 <sup>1</sup> ≤ 0.1 % DEHP, DBP or BBP  <u>Interim prohibition</u> Toys for children up to 12 that can be placed in a child's mouth or childcare articles for children up to 3 ≤ 0.1 % DINP, DIDP or DNOP	180 days after enactment

Table 1

**Note**

**Toy that can be placed in the mouth means**

- if any part of the toy can actually be brought to the mouth and kept in the mouth by a child so that it can be sucked and chewed,
- if one dimension of toy or component is < 5 cm.

**Lead Exemption**

- Inaccessible component parts of product if such component part is not physically exposed through reasonable use and abuse of product [paints, coatings or electroplating may not be considered to be a barrier that would render lead in the substrate inaccessible].

**Electronic Devices**

- Electronic devices including devices containing batteries unless not technologically feasible. If it is not technologically feasible for these to comply, Commission shall issue:
  - requirements (eg such electronic devices may be required to be equipped with child-resistance cover or casing that prevents exposure to and accessibility of the parts of the product containing lead),
  - Establish schedule by which such electronic devices shall be in full compliance.

**Mandatory and Third Party Testing for Certain Children's Products**

- Every manufacturer shall certify that a product complies with all rules, bans, standards or regulations applicable to the product under this Act or other Act enforced by the Commission and specify each such rule, ban, standard or regulation applicable to the product,
- Before importing for consumption or warehousing or distribution in commerce any children's product, every manufacturer submits samples to be tested and issue a certificate that the product is in compliance.



<sup>1</sup> **Children's toy** is 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. **Child care article** is a consumer product designed or intended by the manufacturer to facilitate sleep or the feeding of children age 3 and younger, or to help such children with sucking or teething.

### Schedule for implementation of Third Party Testing

The Commission will publish notice of requirements for accreditation of third party conformity assessment bodies (publication of notice after enactment).

- Lead paint for 16 CFR 1303 (within 30 days),
- Full size cribs, non-full size cribs, pacifiers for parts 1508, 1509 and 1511 (within 60 days)
- Small parts for part 1501 (within 90 days),
- Children's metal jewellery (within 120 days),
- Baby bouncers, Walkers and Jumpers for parts 1500.18 (a) (6) and 1500.86 (a) (within 210 days),
- All other Children's Product Safety Rule (within 10 months).

### Accreditation of Third Party Conformity Assessment Bodies

Conducted either by Commission or independent accreditation organization designated by Commission.

### Publication of Accredited Entities

List of accredited entities maintained in Website



### Additional Regulations for Third Party Testing (effective date after enactment)

- To establish requirements for periodic audit of third party testing bodies<sup>2</sup> (within 10 months),
- To establish protocols and standards for compliance and continuing testing for material change in a product's design or manufacturing process ( $\leq$  15 months).

### Testing and Certification of Art Materials and Products

A certifying organization as defined in Appendix A to section 1500.14 (b) (8) of title 16 CFR.

### Requirements for Certificates

- Identification of Issuer and Conformity Assessment Body,
- English Language content. A certificate may also contain the same content in any other language,
- Every certificate shall accompany the product or shipment of products and a copy shall be furnished to each distributor or retailer of the product,
- Up to 24 hours for electronic filing for imported products before arrival.

### Tracking Labels for Children's Products (effective date after enactment)

- Manufacturer of a children's product shall place permanent, distinguish marks on the product and its packaging (1 year) to enable the determination of name of the manufacturer, date and location of production and identifying production information,
- No advertisement for a consumer product or label or packaging of such product may contain a reference to a consumer product safety rule or a voluntary consumer product safety standard unless such product conforms with the applicable safety requirements of such rule or standard.

### Standards and Consumer Registration of Durable Nursery Products

- Manufacturers must provide registration cards for consumers to register durable nursery products.
- CPSC to promulgate mandatory safety standards for durable infant or toddler products. These are products that may be reasonably expected to be used by children under the age of 5 years including full- and non-full size cribs; toddler beds; high chairs booster chairs and hook-on chairs; bath seats; gates and other enclosures; play yards; stationary activity centers; infant carriers; strollers; walkers; swings and bassinets and cradles.

<sup>2</sup> Third party conformity assessment body is not owned, managed, or controlled by the manufacturer or private labeler of a product assessed by such conformity assessment body. Fire walled conformity assessment bodies may be accredited by the Commission subject to certain conditions

### Labeling Requirement for Advertising Toys and Games

Catalogs and online retailers that use any advertisement that also facilitates a direct means for the ordering of product must also provide at the point-of-purchase any and all applicable cautionary statements that are already required under the FHSA on or near the product. For example if a game has a small parts warning, this cautionary statement must be repeated in any advertising used in the catalog or online retail site.

### Mandatory Toy Safety Standards

- Provisions of ASTM F963 (exempt for section 4.2 and Annex A4) shall be considered to be consumer product safety standards issued by Commission (180 days after enactment).
- Rulemaking for specific toys, components and risks. Within 1 year, ASTM F963 will be examined and assessed for effectiveness in relation to safety requirements, safety labeling requirements, and test methods related to:
  - Internal harm or injury hazards caused by ingestion or inhalation of magnets in children's products,
  - Toxic substances,
  - Toys with spherical ends,
  - Hemispheric-shaped objects,
  - Cords, straps and elastics and
  - Battery-operated toys.

### Rulemaking to Consider Exemption from Pre-emption

- Exemption of State law from Preemption
  - Upon application of State or political sub-division of a State, the Commission shall grant an exemption if the State or political subdivision standard or regulation
  - Provides a higher degree of protection and does not unduly burden interstate commerce
- Effect of Standards on Established State Laws.
  - States may continue to use existing laws if filed such requirements with Commission within 90 days after enactment

### Study of Preventable Injuries and Deaths in Minority Children Related to Consumer Products

To examine racial disparities on the rate of preventable injuries and deaths related to suffocation, poisoning and drowning in toys and other products for children including cribs, mattresses and bedding materials, swimming pools and spas (≤ 90 days after enactment)

### Establishment of a Public Consumer Product Safety Database

- Commission to establish and maintain a database on the safety of consumer products, and other products or substances regulated by the Commission that is publicly available, searchable and accessible through the Internet website.
- The database shall contain reports of harm relating to the use of consumer products and other products or substances regulated.

### Prohibited Acts

- Sale of recalled products including:
  - Products subject to voluntary corrective action or contains a banned hazardous substance,
  - Product fails to furnish a certificate by this Act or any other Act enforced,
  - Misrepresentation of product.



- Civil and Criminal Penalties ( $\leq$  1 year after enactment):
  - Raises the cap on civil penalties to USD 15 million for non-compliance to provisions of the act. It also amends the criminal penalties permissible for violations to include asset forfeiture for knowing and wilful violations.

### Whistle blower Protection

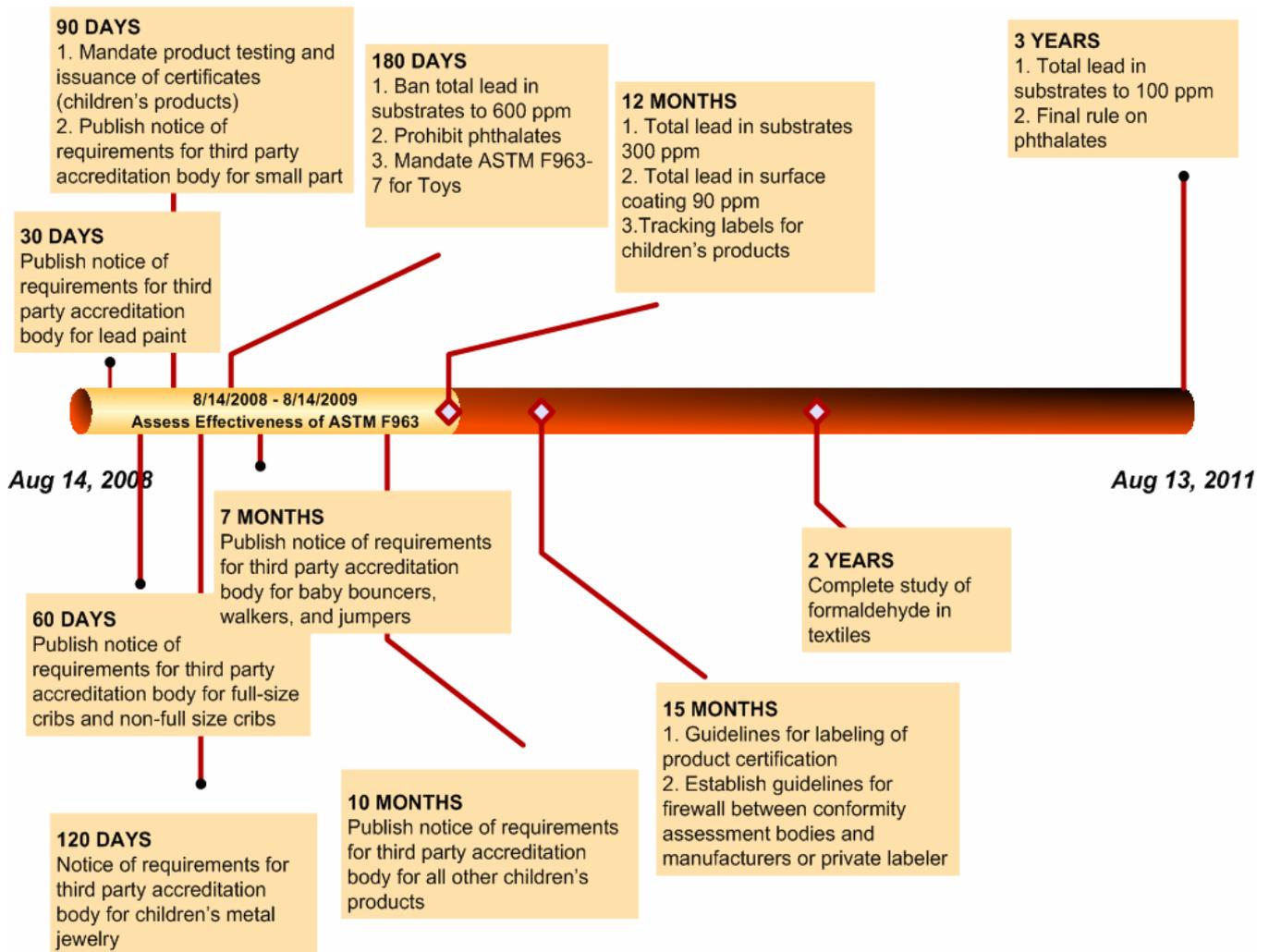
The provision of whistleblower protection for employees of manufacturers, private labelers, retailers and distributors to encourage the free flow of safety information to the CPSC and the public .

### Other Requirements

- Prohibition of exporting of recalled and non-conforming products unless importing country accepts such product,
- Import Safety Management and Inter-Agency Cooperation.
  - Use of international trade data system and other databases
- Substantial product hazard list and destruction of noncompliant imported products,
- Manufacturers of imported goods shall be in compliance with all inspection and recordkeeping requirements ,
- Mandatory requirements for Four Wheel All-Terrain Vehicles (ATV) (ANSI/ SVIA-1-2007)
  - Effective 160 days after publication in Federal Register
- Shall be in compliance with all inspection and recordkeeping requirements ,
- New 3-wheeled ATVs may not be imported into or distributed in commerce in the US until mandatory applicable consumer product safety is in effect,
- Categories youth ATVs,
- Formaldehyde (HCHO)
  - To conduct study in textiles and apparel ( $\leq$  2 years after enactment)



Throughout our global network of laboratories, we are able to provide a range of services, including analytical testing and consultancy for heavy metals and phthalates in a comprehensive range of toys and children's products for worldwide markets. Please do not hesitate to contact us for further information.



FOR ENQUIRIES:

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