



# The American Companies

## "News Flash"

November 26, 2008

### Consumer Products Safety Improvement Act 2008: Staying Focused

On Monday, November 13, the Consumer Product Safety Commission issued important ('final') revisions to the rules of the Consumer Product Safety Improvement Act (CPSIA) 2008, originally released in August 2008. The central issue for the trade community in the August release of the CPSIA was a certificate of conformity requirement for products, manufactured on or after November 12, 2008, that are currently subject to any rule or regulation enforced by Consumer Product Safety. If your products are not subject to CPSC rules, you have no reason for concern. *This has been a major source of confusion in the importing community; this rule does not expand the safety-regulated universe, with the exception of certain standards for children's products* most notably, lead content levels and phthalate use in plastic child care products.

The November 13 final rule does not modify these children's safety standards, the need for accredited, third party testing, or the implementation schedules, established in the August release. There is still no mandate to file the certificate with Customs or the CPSC as part of the entry process or otherwise; but the certificates must be made available upon request to either agency, and to the distributors and retailers, as originally stated.

The Nov 13 final rule acknowledges the challenges to the government and the trade community to meet the requirements of the Act; the revisions are presented in that context: to streamline the certificate process and ensure a successful and timely implementation: a) the manufacturer or third party labeler is no longer required to produce a certificate; the name of the manufacturer is not even required on the certificate; b) Customs and CPSC will accept the *electronic availability* of the certificates in place of the original hard-copy availability, as long as the portal exists prior to the arrival of the goods; see pages 18-19 of the 'final rule' for more detail on electronic presentation of certificates; c) the informational content of the certificates have been simplified, see page 6: <http://www.cpsc.gov/businfo/cfr111008.pdf> **Examples of general certificates that incorporate all data elements required by the Nov 13 revisions:** See: [GCC format 1 2008](#); and [GCC format 2 2008](#)

Given the new responsibilities taken on by the CPSC by the enactment of the CPSIA, and their apparent lack of resources, the final rule emphasizes that the CPSC's priority and focus remains actual product safety, and conformity to the product-specific rules; the certificates are evidence of compliance but do not themselves constitute compliance. The importer or domestic manufacturer producing the certificate remains legally responsible for its accuracy and completeness, as well as the timeliness of its electronic availability. The final rule recommends that a record (copy) of the certificate be maintained for at least three years. Other key provisions from the original rule, not amended in the final rule, included a schedule of increased penalties for violators, enhanced enforcement powers for CPSC and the States Attorney General, new requirements for catalogue and internet advertising on children's toys and games, and permanent tracking labels on all children's products (effective August 2009). For the complete text of the final rule revisions see <http://www.cpsc.gov/businfo/cfr111008.pdf>. For a summary of the basic rules of the CPSIA, and the full texts of the legislation covered by the CPSC see <http://www.cpsc.gov/ABOUT/Cpsia/legislation.html>

Some safety standards and effective dates on children's products: a) Advertising: as of December 12, 2008, advertising for toys and games sold directly via the internet must carry the same cautionary labels as they may appear on the actual products. Catalogues printed prior to Feb 10, 2009 are not required to carry the cautionary labels; catalogues distributed after August 9, 2009, must carry the caution; b) Lead content: as of Feb 09, all accessible surface coatings and paint will contain no more than 600 ppm lead, to be reduced to 90 ppm by August 09; 2) over the next three years lead content of the accessible substrates of the product will be reduced to 600 ppm ( Feb 09), to 300 ppm (Aug 09) and to 100 ppm by Aug 2011, unless the CPSC concludes that it is not technologically possible / commercially feasible to attain this lower target. After Feb 09, children's products containing more than 600 ppm lead are banned in the U.S.; c) Durable nursery furniture: the CPSC is required to study existing safety standards for a wide range of children's 'confinement' products (cribs, toddler beds, strollers, walkers, swings, carriers, bassinets, etc) and to either make existing standards mandatory by August 2009, or to create new more stringent standards.

The American Companies recommends contacting globally-recognized, products-testing companies such as SGS [http://www.us.sgs.com/contact\\_us\\_us](http://www.us.sgs.com/contact_us_us) or Bureau Veritas [http://www.us.bureauveritas.com/wps/wcm/connect/bv\\_us/Local](http://www.us.bureauveritas.com/wps/wcm/connect/bv_us/Local) to research your company's CPSC responsibilities under Chapter 16 CFR with the best experts in that field. The American Companies continues to monitor developments in the implementation of the CPSIA and to distribute key information. Call Jim Carroll, Corporate Compliance Manager to discuss in more detail: direct phone 201-478-4682 or [jamesc@shipamerican.com](mailto:jamesc@shipamerican.com).

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