U.S. Consumer Product Safety Commission
Regulation of Lead in Children's Products

Kris Hatlelid, Ph.D., M.P.H.

Toxicologist, Directorate for Health Sciences

December 2009

These comments are those of the CPSC staff, have not been reviewed or approved by, and may not necessarily reflect the views of, the Commission.

Consumer Product Safety Improvement Act of 2008 (CPSIA)

- Public Law 110-314
- Section 101
  - Lead content of product components
  - Lead content of paint
- Summary and links to information:

http://www.cpsc.gov/about/cpsia/sect101.html

http://www.cpsc.gov/businfo/intl/newusreq_ch.html

CPSIA Section 101: Children's Products Containing Lead

- Limit for total lead content for any part of a children's product:
  - 300 parts per million (ppm): effective August 14, 2009
  - 100 ppm: effective August 14, 2011, unless not technologically feasible by Commission determination
- Periodic limit review and revision downward if technologically feasible

CPSIA: Children's Product Definition

- A children's product is defined as a consumer product designed or intended primarily for children 12 years of age or younger
- Factors to consider: manufacturer's statements about intended use; packaging, display, promotion, advertising; whether the product is commonly recognized as intended for children 12 years of age or younger; CPSC staff's Age Determination Guidelines

CPSIA Section 101(b): Exclusions from Lead Limits

- Certain materials or products
  - May be excluded if the Commission, after notice and hearing, finds that the lead will not result in any absorption, taking into account normal and reasonably foreseeable use and abuse by a child, nor have any other adverse impact on health or safety
  - Procedures final rule: effective March 11, 2009
    - Federal Register notice: 74 FR 10475
    - 16 CFR 1500.90

CPSIA Section 101(b) Exclusions
continued

- Inaccessible component parts
  - Parts are not accessible if not physically exposed and do not become exposed through reasonably foreseeable use and abuse
  - Paint, coatings, or electroplating may not be considered a barrier for making lead in the substrate inaccessible
  - Final rule: effective August 14, 2009
    - Federal Register notice: 74 FR 39535
    - 16 CFR 1500.87

CPSIA Section 101(b) Exclusions
continued

- Certain electronic devices
  - If Commission determines it is not technologically feasible to meet lead limits
  - Interim final rule: effective February 10, 2009
    - Federal Register notice: 74 FR 6990
    - 16 CFR 1500.88
    - Periodic review no less than every 5 years

CPSIA Section 101 Determinations

- Commission determinations regarding lead content for certain materials or products
- Materials determined to not contain lead in excess of the lead limits; no testing required
- Final rule: effective August 26, 2009
  - Federal Register notice: 74 FR 43031
  - 16 CFR 1500.91
- Procedures final rule: effective March 11, 2009
  - Federal Register notice: 74 FR 10475
  - 16 CFR 1500.89

CPSIA Section 101: Lead Paint Rule

- Amended regulations at 16 CFR Part 1303
- Reduced established lead limits for consumer paint and similar surface coatings from 0.06% to 0.009% lead
  - By weight of the total nonvolatile content of paint or the weight of the dried paint film
- Effective August 14, 2009

CPSIA: Lead Paint Rule
continued

- Applies to:
  - Paint and similar surface coatings intended for consumer use
  - Toys and other articles for use by children with lead-containing paint
  - Furniture for consumer use with lead-containing paint
- Periodic review and possible revision no less than every 5 years

CPSIA: Lead Paint Rule
continued

- Testing Methods
  - August 2009: Staff released a study of the effectiveness, precision, and reliability of X-ray fluorescence spectroscopy (XRF)
    - Paint standard reference materials and standardized test method are needed
    - XRF testing may be appropriate for measuring lead content of plastics
  - Periodic review of test methods no less than every 5 years

Testing Guidance and Policy

- Staff developed standard operating procedures for testing for lead content of metal, non-metal, paints and coatings
  - http://www.cpsc.gov/about/cpsia/sect101.html#test
- Commission "Statement of Policy: Testing and Certification of Lead Content in Children's Products"
  - Requirements and definitions
  - http://www.cpsc.gov/about/cpsia/leadpolicy.pdf
  - http://www.cpsc.gov/businfo/intl/leadpolicy_ch.pdf

Practical Considerations

- Understand possible sources of lead
  - Certain materials: paints, plastics, metal alloys
  - Recycled materials: unintended lead content
- Establish controls for supplies of materials and component parts to avoid unintended lead content
- Understand that test results indicating lead content close to the limit may indicate an uncontrolled source; possibility that some products might actually exceed the limit

Conclusions

- Understand the law and regulations
  - Lead content requirements apply to paint and to other materials
  - All toys and other children's products; all component parts of a product
    - Exclusions for certain products, component parts of products, and certain materials
    - Exclusion examples: inaccessible component parts; certain electronic devices
  - Testing and certification requirements