



United States

**Consumer Product Safety Commission**

# **Art Materials at Import: How to Comply with CPSC Safety Requirements**

Presented by:

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*Disclaimer: This presentation was prepared by CPSC Staff  
and may not necessarily reflect the views of the Commission.*



# General Compliance

- Background
- LHAMA requirements
- What is an “art material”?
- Art material examples
- Children’s products
- General use products

# Background

- Labeling of Hazardous Art Materials Act (LHAMA)
- Codified at [16 CFR § 1500.14\(b\)\(8\)](#)
  - [www.ecfr.gov](http://www.ecfr.gov)
- [www.cpsc.gov/artmaterials](http://www.cpsc.gov/artmaterials)



# LHAMA requirements: Toxicology Review and Submission

- Art materials subject to the Act must be reviewed for chronic toxicity by a toxicologist
  - Per [16 CFR § 1500.14\(b\)\(8\)\(i\)\(C\)\(6\)](#), must be done at least every 5 years
- Toxicology review criteria must be submitted to CPSC's Division of Regulatory Enforcement [[16 CFR 1500.14\(b\)\(8\)\(ii\)\(C\)](#)]
  - Email toxicology review criteria to [RegulatedCMT@cpsc.gov](mailto:RegulatedCMT@cpsc.gov)
  - Must include a list of any art materials that require labeling
  - Submission of product formulation upon request



# LHAMA requirements: Conformance Statement

- After a toxicologist performs the chronic hazard review, the product must bear a conformance statement:
  - “Conforms to ASTM Practice D-4236”;
  - “Conforms to ASTM D-4236”; or
  - “Conforms to the health requirements of ASTM D-4236.”
- Conformance statement can be on: product, package, poster/display at point of sale, separate explanatory literature available on requirements at the point of purchase, response to a formal request for bid or proposal.
- Conformance statement required regardless of other labeling requirements



# LHAMA requirements: Cautionary Labeling (Chronic Hazards)

- If the toxicologist determines a chronic hazard exists, cautionary labeling is required per Federal Hazardous Substances Act (FHSA)
  - See Chronic Hazard Statements [[16 CFR 1500.14\(b\)\(8\)\(i\)\(F\)](#)]
  - See Precautionary Statements [[16 CFR 1500.14\(b\)\(8\)\(i\)\(G\)](#)]
- Children's products that contain a hazardous substance is a "banned hazardous substance" [[16 CFR § 1500.3\(b\)\(15\)\(i\)\(A\)](#)]



# How LHAMA labeling differs from FHSA Labeling

- Signal word “WARNING” if only chronic hazard determined
  - Defer to acute hazard signal word requirement when applicable
- Name, US address, US phone number of producer or repackager [[16 CFR 1500.14\(b\)\(8\)\(ii\)\(D\)](#)]
  - FHSA does not specify US address nor requires phone number
- Must provide information source in case of exposure:
  - 24-hr toll-free US phone number
  - “Contact a physician for more health information”; or
  - “Call your local poison control center for more health information”



# QUESTION: Do LHAMA requirements need to be cited on a Certificate of Compliance (CPC/GCC)?

- No. Compliance to LHAMA is not based on a reasonable testing program; therefore, certification to LHAMA per section 14 of the CPSA does not apply.
- Additional note: Cautionary labeling per FHSA is also not based on a reasonable testing program; therefore, cautionary labeling requirements under FHSA does not need a certificate.





# QUESTION: Does the conformance statement have a type size requirement?

- No. The conformance statement is not part of a cautionary label per FHSA; therefore, it is not subject to the type-size nor any other placement, prominence, or conspicuousness requirement under 16 CFR § 1500.121.



# What is “art material”?

- Art material or art material product – “any raw or processed material, or manufactured product, marketed or represented by the producer or repackager as intended for and suitable for **users** as defined herein.”
- Users – “artists or crafts people of any age who create, or recreate in a limited number, largely by hand, works which may or may not have practical use, but in which aesthetic considerations are paramount.”



# What is “art material”?

- Takeaway: a material that consumers use to create art
- Examples of art materials often include (depending on marketing and intended use):
  - modeling clay, chalk, colored pencils, crayons, paint and painting kits, watercolor discs, certain types of glues (including craft glue), markers.



# What is not considered “art material”?

- General use products not intended to create art
  - Common wood pencils, single-colored pens/markers/chalk



# Commission Determination on Art Materials

- Tools, implements, furniture used in the creation of art
  - Brushes, chisels, easels, frames

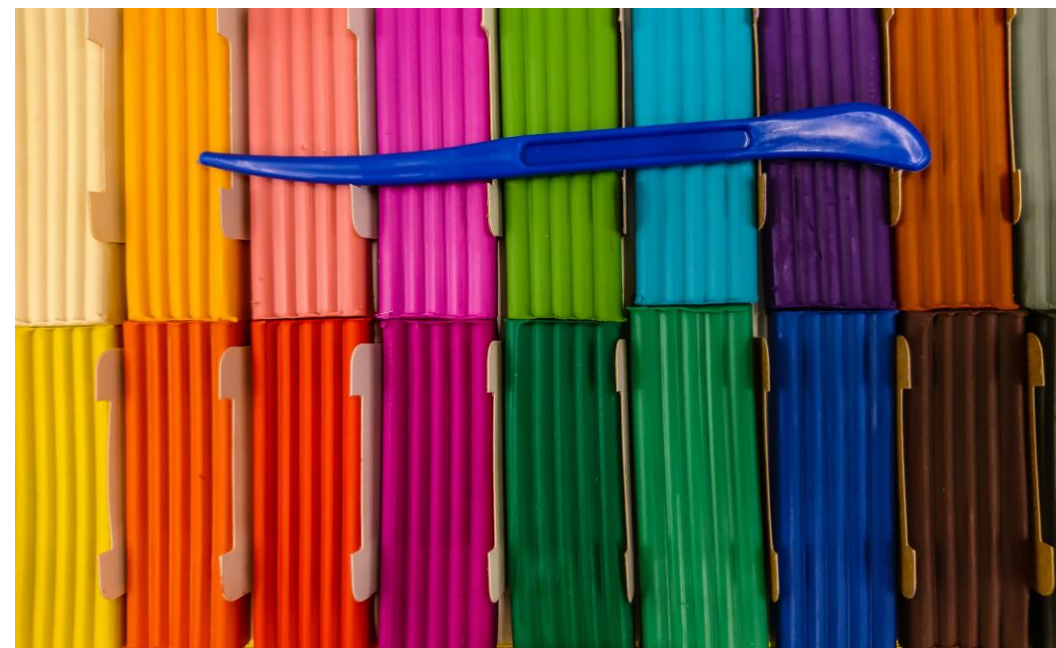


# Commission Determination on Art Materials

- Surface materials upon which art material is applied
  - Coloring book pages, canvas
- Miscellaneous materials
  - Paper, cloth, plastic, films, yarn, threads, rubber, sand, wood, stone, tile, masonry, metal



# Art material comparison





# QUESTION: Slime kits often come with glue. Is glue in a slime kit subject to LHAMA?

- No. Glue used in slime kits is not intended to create art (slime is not considered art).
- Polyvinyl acetate glue (aka PVA/craft/white glue) sold by itself is commonly recognized as intended for art; therefore, it would likely need to meet LHAMA requirements.
  - See second half of [16 CFR § 1500.14\(b\)\(8\)\(iv\)\(B\)](#)





# Additional requirements for children's products

- Children's products
  - Small parts (children under 3)
  - Lead in substrate
  - Lead in paint
  - Tracking label
  - Third-party testing
  - Children's Product Certificate
- Children's toys
  - ASTM F963
  - Phthalates
  - Choking hazard labeling



# Children's art material and CPC

Identification of the product covered by this certificate

Watercolor set w/ brush (Models 123, 234, 345)



# Children's art material and CPC

Citation to each CPSC children's product safety rule to which this product is being certified

15 U.S.C. § 1278a – Total lead content

16 CFR part 1303 – Paints and similar surface coatings

~~16 CFR § 1500.14(b)(8) – Art materials~~



# Children's art material and CPC

Identification of the importer or domestic manufacturer certifying compliance of the product

Paints and More, Inc.

123 Artist Circle

Nowhereland, AA 00000

(555) 555-5555



# Children's art material and CPC

Contact information for the individual maintaining records of test results

John Smith

Paints and More, Inc.

123 Artist Circle

Nowhereland, AA 00000

(555) 555-5555 x55

[j.smith@paintsandmoreinc.com](mailto:j.smith@paintsandmoreinc.com)



# Children's art material and CPC

Date and place where this product was  
manufactured

Jan 2022 to Jul 2022

Shenzhen, Guangdong, China



# Children's art material and CPC

Provide the date(s) and place when the product was tested for compliance with the consumer product safety rule(s) cited above

Jan 2022

Shenzhen, Guangdong, China

16 CFR § 1500.91(d)(4) – Determination regarding lead content for wood

16 CFR § 1500.91(d)(8) – Determination regarding lead content for fur



# Children's art material and CPC

Identify any third-party, CPSC-accepted laboratory on whose testing the certificate depends

Attestation of Global Compliance (Shenzhen) Std & Co., Ltd.  
2, 6/F., Building 2, Sanwei Chaxi Industrial Park, Sanwei  
Community, Hangcheng, Street, Bao'an District  
Shenzhen, Guangdong China 518049

0755-25234088

Jessie.liang@agc-cert.com





# General art material and GCC?

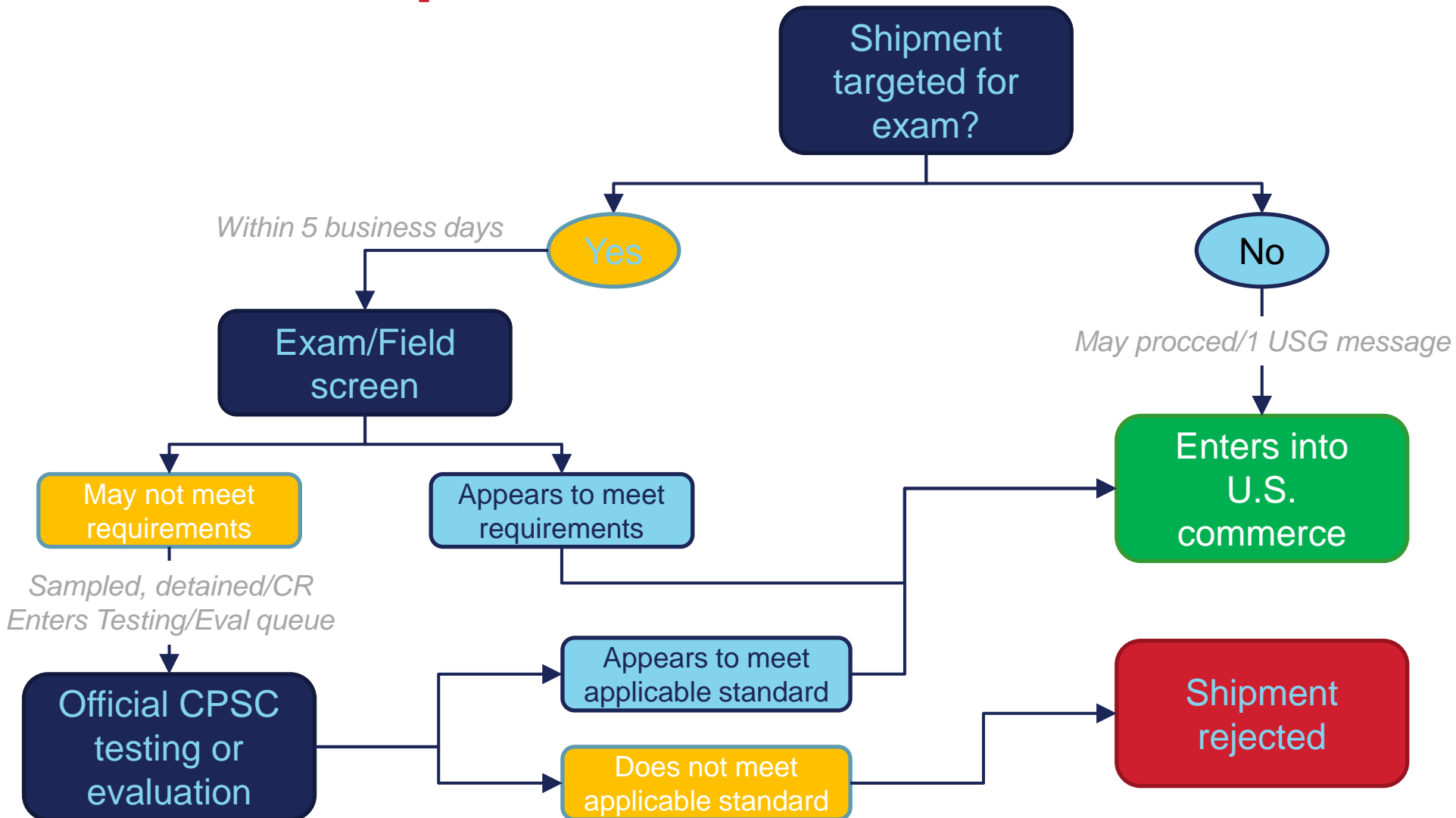
- Unlikely a GCC is required
- 16 CFR § 1303.3 lists exemptions from scope of the ban on lead in paint and similar surface coating
  - Artists' paints and related materials [16 CFR § 1303.3(c)(2)]



# Import Surveillance

- Port operations
  - At a Glance
  - Targeting
  - Two-way Messaging
  - Product Screening
  - Detention and Conditional Release Process
  - Sampling and Evaluation Process
- National Statistics for FY 2021
  - Detention Rates
  - Violation Rates
- eFiling

# CPSC Port Ops At a Glance



# Port Operations: How are CPSC exams targeted?



- Local targeting
  - Risk Assessment Methodology (RAM)
- National operation/program
  - Commercial Targeting and Analysis Center (CTAC)
- Referrals
  - U.S. Customs & Border Protection (CBP)



# Two-Way Messaging

- What is it?
  - A system that will allow CPSC to communicate directly with CBP and the trade via ACE within existing CBP automated communication pathways. This facilitates real-time communications among all trade entities.
- How does it work?
  - Filer will receive an “Under Review” message from ACE
  - If no examination is required, or if the allotted timeframe for review has expired, CBP and the Filer will receive a “May Proceed” message.
  - If an examination or further review is required, CBP and the Filer will receive an Intensive Exam Request or Hold Intact Notice.



# Two-Way Messaging

## Timetables

Mode of Transport	Entry is Filed 3 or more Business Days Before an Estimated Date of Arrival (EDA) from an Entity with a Compliant CPSC History.	Entry is Filed 3 or more Business Days Before the Actual Arrival.	Entry Filed Fewer than 3 Business Days Before the Actual Arrival OR The Entry has Additional Risk Factors.
Air and Truck	8 Business Hours after Entry is Filed.	5 Minutes after Actual Arrival event message received	8 Business Hours after the latter of Actual Arrival or CPSC receiving the Entry
Ocean	16 Business Hours after Entry is Filed.	5 Minutes after Actual Arrival event message received	16 Business Hours after the latter of Actual Arrival or CPSC's receiving the Entry
Other		Not Subject to CPSC 1USG	





# CPSC at the port: How are CPSC products screened?

Products are screened according to the applicable standard:

- Consumer Product Safety Act (CPSA)
- Consumer Product Safety Improvement Act (CPSIA)
- Federal Hazardous Substances Act (FHSA)
- Flammable Fabrics Act (FFA)
- Labeling of Hazardous Art Materials Act (LHAMA)
- Poison Prevention Packaging Act (PPPA)
- Various ASTM and ANSI standards (*i.e.*, US Toy Standard ASTM F963-17)



# Did you know?

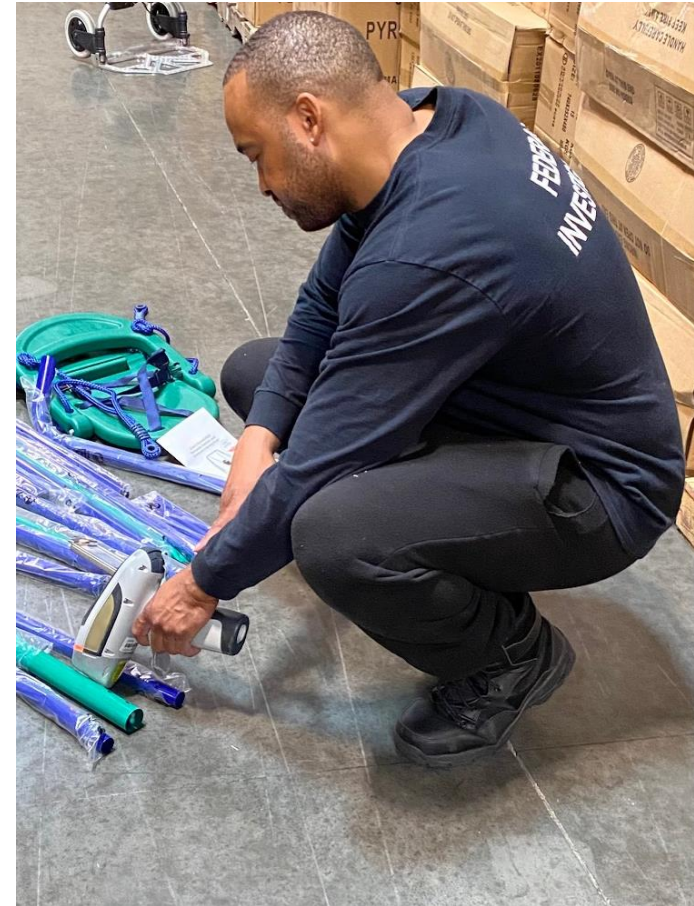
Some consumer products may be regulated under multiple Acts!



# CPSC at the port: How are CPSC products screened?

Products are screened using tools, templates, and screening guides:

- XRF: X-ray fluorescence spectrometry analyzer
- FTIR: Fourier-transform infrared spectroscopy device
- Screening templates:
  - Small parts cylinder
  - Rattle template
  - Pacifier template
  - Small ball template
  - Toys with spherical ends template
  - Expanding materials template



# CPSC at the Port: When products fail screening

- Samples are collected for evaluation and testing as required
  - Physical samples – A receipt is issued to CBP and the Customs Broker/Importer of Record (IOR)
  - Documentary samples – Documents and photographs only; no units removed
- Shipment is detained or conditionally released
  - CPSC Form 352 – Notice of Sampling and Detention
  - CPSC Form 353 – Notice of Sampling and Conditional Release



# When Products Fail Screening

## Conditional Release

Product is held intact at IOR/Consignee premises or third-party location approved by CPSC/CBP

## Detention

Product held intact, at a CBP-bonded facility (typically CES) until completion of CPSC testing/evaluation



# Final Disposition

Should testing/evaluation determine that a product does not meet requirements, a Notice of Violation is issued by the Office of Compliance and Regulatory Enforcement directly to the Importer of Record. This Notice will detail one of three actions:

- Correct Future Production/Importations
- Recondition
- Seizure



# CPSC FY21 Nationwide Exam and Sample Data

	Number	Rate
Entry Lines Risk Scored in RAM	4,957,773	
Entries Screened/Examined	9,689	0.2%
Samples Collected	2,349	
Violations Found	2,017	85.9%
Samples Seized	1,071	45.6%
Samples Released for Reconditioning	222	9.5%
Samples Released with LOA/CFP	415	17.7%
Samples Released for Destruction/Export	66	2.8%
Average Evaluation Period	51 Days	



# CPSC FY21 Violations

Primary	Rate	Secondary	Rate
ATV	25%	Certificates	50%
Lead	19%	Tracking Labels	48%
Chemical	17%	Product Registration	2%
Mechanical	16%		
Electrical	7%		
Flammability	6%		
Phthalates	6%		
Other	2%		
Fireworks	2%		
Lighters	1%		

Note that entries may have more than one violation type.



# Best Practices and Recommendations

To avoid delays during your examination, here are some recommendations from CPSC Investigators across the country:

- Ensure that the submitted packing list has sufficient detail
- Including markings, labels, and/or FBA numbers on the packing list
- Provide a copy of your Certificate of Compliance with your entry documents or uploaded separately in DIS with the “cps” tag
- Include a point of contact for the importer of record



# eFiling Initiative

- What is it?
  - eFiling is a CPSC initiative to enable importers of regulated consumer products to file electronically certain data elements from a certificate of compliance, via a CBP Partner Government Agency (PGA) Message Set
  - December 18, 2020, the Commission approved staff's recommended plan to implement a permanent eFiling program at CPSC





# eFiling Initiative

## Why?

- eFiling will enhance CPSC's risk assessment, targeting, and enforcement ability to interdict noncompliant consumer products at the ports
- Risk scores will decrease for importers who electronically file valid data elements, resulting in fewer examinations of their cargo at the port.



# eFiling Initiative

## More information

- Arthur Laciak, eFiling Program Specialist
  - [eFilingPilot@cpsc.gov](mailto:eFilingPilot@cpsc.gov)
- [www.cpsc.gov/efiling](http://www.cpsc.gov/efiling)
- <https://cpsc.gov/Newsroom/Public-Calendar>



# Contact us!

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