

**SECTION 102 OF THE CONSUMER PRODUCT SAFETY  
IMPROVEMENT ACT OF 2008 ("CPSIA")  
FREQUENTLY ASKED QUESTIONS**

This set of FAQs answers questions regarding the certification requirements of the CPSIA. It is divided into three sections. The first section addresses the requirement for general conformity certificates, the second section addresses the requirements for certificates based on third-party testing for children's products, and the third section addresses issues regarding the contents and provision of both types of certificates.

**Section 1. General Certificate of Conformity Requirements**

**Q. To what products does the general certificate of conformity requirement apply?**

A. The requirement to supply a general certificate of conformity applies to products manufactured on and after November 12, 2008 that are subject to a consumer product safety rule under the Consumer Product Safety Act or similar rule, ban, standard, or regulation under any other Act enforced by the Commission.

**Q. Does the requirement to have a general certificate of conformity include products manufactured domestically?**

A. Yes. The requirement applies to products that are domestically manufactured as well as imported products.

**Q. Is the general conformity certificate requirement limited to children's products?**

A. No. All products subject to a consumer product safety rule or one of the similar standards or rules must be certified.

**Q. If a product will be subject in the future to the requirements for certification based on third party testing, is it exempt from the general conformity certification?**

A. No. Children's products need to have a general conformity certificate even if down the road they will need to have a certificate based on third-party testing.

**Q. On what does my general conformity certification have to be based?**

A. The general conformity certification must be based on a test of each product or a reasonable testing program.

**Q. How is this different from the prior CPSA general conformity certificate requirement?**

A. Previously only those consumer products subject to a mandatory consumer product safety standard under the CPSA had to be certified. Under the new requirement, products manufactured on and after November 12, 2008, that are subject to any CPSA standards and bans or similar rules, standards, bans or regulations applicable to the product under any of the other Acts administered by the Commission must be certified.

**Q. How is the general certificate requirement different from the new requirements for third party testing of children's products?**

A. The testing to support a general certificate does not have to be performed by an accredited third party or proprietary laboratory. See the next set of FAQs for information specific to the third party testing requirements to support certification to the Commission's lead paint ban.

**Section 2: Certification of Children's Products Based on Third-Party Testing**

**Q. What Products need to be certified based on third-party testing?**

A. For children's products (as defined by the CPSIA), certification will soon have to be based on testing by an independent, third-party laboratory that is accredited under rules issued by the Commission. The CPSIA sets a schedule by which the Commission will accredit labs to do testing of products to meet its various rules applicable to children's products. The first of these is the lead paint ban.

**Q. Do all children's products need to be certified based on third-party testing?**

A. The requirement for third-party testing applies to every children's product that is *subject to* a "children's product safety rule." The term "children's product safety rule" is defined broadly to include any standard or ban under the CPSA or any "similar rule, regulation, standard or ban" under any other Act enforced by CPSC, including a rule declaring a consumer product to be a banned hazardous substance.

**Q. I find the requirements for third-party testing confusing. When do I need to certify children's products to what standards?**

A. Congress phased in the requirements for third-party testing of children's products over the first thirteen months of implementation. The law is very specific in requiring the Commission to accredit labs to test to certain of our rules and then testing will be required for products manufactured 90 days after the Commission designates the process

by which it will accredit the laboratories for testing. The first standard for which testing is required is the lead paint ban. The chart below shows the phase-in schedule:

	<b>CPSC Publishes Accreditation Procedure</b>	<b>Third-Party Testing Required</b>
Lead Paint	September 22, 2008	December 21, 2008
Cribs And Pacifiers	October 2008	January 2009
Small Parts	November 2008	February 2009
Metal Jewelry	December 2008	March 2009
Baby Bouncers, Walkers And Jumpers	March 2009	June 2009
300 ppm Lead Content	May 2009	August 2009
CPSC Children's Product Safety Rules	June 2009	September 2009

**Q. When must I start certifying that my products meet the lead paint ban?**

A. You must provide a general conformity certificate for products manufactured on and after November 12, 2008 that are subject to the lead paint ban, that is paint itself, products with surface coatings that are children's products (generally those designed or intended primarily for use by children 12 years old and younger) or that are furniture intended for use by consumers. That certification must be based on a test of each product or on a reasonable testing program.

**Q. When must I start certifying based on third party testing that my children's products meet the lead paint ban?**

A. For children's products (that is consumer products designed or intended primarily for use by children 12 years old or younger) subject to the ban manufactured on or after December 21, 2008 you must certify based on third party testing by a laboratory whose accreditation has been accepted by the CPSC. A listing of those laboratories can be found on the CPSC website.

**Q. To what products does the lead paint ban apply?**

A. The lead paint ban applies to products with surface coatings that are either (i) "children's products," a term which is defined in the Act to be products designed or intended primarily for use by children 12 years old and younger, or (ii) that are furniture intended for use by consumers. The lead paint ban also applies to paint sold in a can or similar container.

**Q. Who must certify compliance with the lead paint ban?**

A. As with the general certification requirement, the manufacturer, the importer, and the private labeler, if any, of the product unless the Commission adopts a rule exempting a party.

**Section 3: Certification Requirements Applicable to Both General Conformity Certificates and Certificates for Children's Products Based on Third-Party Testing**

**Q. What information must be on a certificate?**

A. The CPSIA sets out what information needs to be on the certificate. The certificate must state each requirement to which the product is subject, identify each party to the certificate, the third party conformity assessment body, if any, upon whose testing the certificate is based, and the date and place of manufacture and of third party testing. The certificate information must include each party's full name, full mailing address, telephone number, and contact information for the individual responsible for maintaining records of test results. The certificate must be in English and also may be in another language. A sample form certification can be found on our website.

**Q. Can electronic certificates be used to meet the requirements of Section 102 rather than paper?**

A. Yes, so long as the Commission staff can access the certificate electronically and it contains all of the information required by section 102 of the CPSIA, electronic certificates can be used to satisfy the CPSIA.

**Q. Must each product be "accompanied" by a certificate?**

A. The certificate may accompany either the product or a shipment of products covered by the same certificate. The requirement applies to imports and products manufactured domestically. An electronic certificate is "accompanying" a shipment if the certificate is identified by a unique identifier and can be accessed via a World Wide Web URL or other electronic means, provided the URL or other electronic means and the unique identifier are created in advance and available with the shipment.

**Q. Must I supply the certificate to my distributors and retailers?**

A. You are required to "furnish" the certificate to your distributors and retailers. This requirement is satisfied if you provide a means to access the electronic certificate that is available to your distributors and retailers.

**Q. Can a test lab certify for a manufacturer or importer?**

A. No. A test lab may put together all of the information for a certificate, but the manufacturer, importer and private labeler, as applicable, must certify.

**Q. Must the certifier(s) sign the certificate?**

A. No. Issuing the certificate satisfies the new law. It does not have to be signed by the issuer(s).

**Q. To what do I have to certify?**

A. That the product conforms to all CPSA standards and bans and similar rules, standards, bans or regulations applicable to the product under any of the other Acts administered by the Commission

**Q. Where must these certificates be filed?**

A. A certificate does not have to be filed with the government. As noted above, the certificate must "accompany" the product shipment, and be "furnished" to distributors and retailers, and be furnished to CPSC upon request.

## **Section 102: Mandatory Third Party Testing for Certain Children's Products**

### *General Certification of Conformity*

#### **Can electronic certificates be used to meet the requirements of Section 102 rather than paper?**

The Commission has issued a rule specifically allowing use of an electronic certificate provided the Commission has reasonable access to it, it contains all of the information required by section 102 of the CPSIA, and it complies with the other requirements of the rule. The rule is available on the CPSC World Wide Web site at <http://www.cpsc.gov/businfo/frnotices/fr09/certification.pdf>

#### **Who must issue the certificate?**

Under the Commission's rule at <http://www.cpsc.gov/businfo/frnotices/fr09/certification.pdf>, for products manufactured overseas, the certificate must be issued by the importer. For products produced inside the United States, the certificate must be issued by the U.S. manufacturer. Neither a foreign manufacturer nor a private labeler is required to issue a certificate. Neither need be identified on the certificate issued by the importer or domestic manufacturer.

#### **Must each shipment be "accompanied" by a certificate?**

Yes, the law requires that each import (and domestic manufacturer) shipment be "accompanied" by the required certificate. The requirement applies to imports and products manufactured domestically. Under the rule issued by the Commission an electronic certificate is "accompanying" a shipment if the certificate is identified by a unique identifier and can be accessed via a World Wide Web URL or other electronic means, provided the URL or other electronic means and the unique identifier are created in advance and available with the shipment. Certificates can also be transmitted electronically to a broker with other customs entry documents before a shipment arrives so long as they are available to the Commission or Customs and Border Protection staff if the product or shipment is inspected.

#### **Is the importer or U.S. manufacturer required to supply the certificate to its distributors and retailers?**

Yes. The importer or U.S. manufacturer is required to "furnish" the certificate to its distributors and retailers. The Commission's rule states that this requirement is satisfied if the importer or U.S. manufacturer provides its distributors and retailers a reasonable means to access the certificate.

#### **Must the certifier(s) sign the certificate?**

No. Issuing the certificate satisfies the new law. It does not have to be signed by the issuer(s).

#### **On what does my certification have to be based?**

The general conformity certification must be based on a test of each product or a reasonable testing program.

#### **Where must these certificates be filed?**

A certificate does not have to be filed with the government. As noted above, the certificate must "accompany" the product shipment, and be "furnished" to distributors and retailers, and be furnished to CPSC upon request.

#### **Will the CPSC review my products and determine for me: (a) whether new or previously existing regulations, standards or bans apply to my products; (b) whether I need a certificate of compliance; and (c) whether the product complies with all applicable laws?**

No. The CPSC has received hundreds of requests to evaluate specific individual products and specify what bans, standards, regulations, etc., apply to those products. The Commission does not "pre-approve" products for compliance with its standards, bans, regulations or rules. It is the responsibility of the manufacturer of the product, as a normal part of doing business, to know what legal requirements of the Commission or otherwise apply to its products. The CPSC Web site provides detailed information for businesses regarding the specific products and tables of regulated products for which CPSC has issued mandatory standards (<http://www.cpsc.gov/businfo/regsbypproduct.html>).

*Posted 12/04/2008.*

#### **My company manufactures and imports various beds, as well as night stands, dressers, chest of drawers and mirrors. What certificate and/or testing requirements under section 102 of the CPSIA do I have to follow?**

A general conformity certification is required by section 102(a)(1) of the CPSIA for any product that is subject to a consumer product safety rule issued under the Consumer Product Safety Act ("CPSA") or a

similar rule, standard, regulation or ban issued under the CPSA or under any other statute administered by the Commission. That section specifies that the certificate must be based on a "test of each product or a reasonable testing program" and must certify that the product complies with each applicable Commission rule (standard, regulation or ban). The certificate must accompany the product or shipment of products and a copy must be furnished to each distributor or retailer. If the Commission requests it, a copy of the certificate must be provided to the Commission. The certification requirement applies to products manufactured after November 12, 2008.

Section 102 also specifies the information that must be on the certificate. In particular, the certificate must list each rule, standard, regulation or ban that the product is subject to. The Commission has a standard for bunk beds at 16 CFR part 1513 (bunk beds intended for children) and part 1213 (bunk beds not intended for children), but no specific standards for the other products you mention. Be aware, however, that the Commission does have flammability standards for mattresses at 16 CFR parts 1632 and 1633 if you are importing or manufacturing mattresses as well as beds. Also, be aware that the Commission has a lead paint ban that prohibits paint and similar surface coatings that have lead content above 0.06 percent on furniture articles and children's products. See 16 CFR part 1303.

In addition to the general conformity certification requirement, section 102 also requires certification based on third-party testing for products that are primarily intended for children 12 years of age and younger and are subject to a Commission standard, rule, regulation or ban. Thus, if any of your products are primarily intended for children 12 years of age or younger, you will need to comply with the third-party testing requirements of section 102(a)(2). This requirement goes into effect 90 days after the Commission gives notice about the accreditation of testing bodies that test to the particular standard. The Commission published such notice for testing to the lead paint ban of 16 CFR part 1303 on September 22, 2008. Therefore, the third party testing requirement for lead paint will be in effect on December 22, 2008 for products manufactured on and after that date. Assuming these products may have some sort of surface coating, the lead paint ban is likely applicable.

*Posted 12/04/2008.*

#### ***Section 102 Certification and the Poison Prevention Packaging Act***

##### **Does the CPSC regulate children's drugs and do they need to be certified to the new CPSIA standards?**

CPSC does not regulate children's drugs and their accompanying dosing devices such as dosing cups or separate dosing droppers. These products are excluded from the definition of "consumer product" under the Consumer Product Safety Act. However, the CPSC regulates the child-resistant packaging for certain drugs as required by the Poison Prevention Packaging Act (PPPA). If any drug, for children or adults, is required by a CPSC regulation to be in child-resistant packaging, the importer or the domestic party that packages the children's drug must issue a certificate of conformity with the special packaging requirements of the PPPA.

*Posted 12/10/2008.*

##### **Does a dosing cup or similar device that accompanies a children's drug need a certificate of compliance?**

No. A dosing cup or similar device that accompanies a children's drug is not a "children's product" under the new CPSIA because it is not a consumer product. By definition these items are considered outside the scope of consumer products under the CPSA. However, a dosing dropper that can be used in lieu of a cap as a closure mechanism on a children's drug would be subject to the PPPA's special packaging requirements and require certification.

*Posted 12/10/2008.*

##### **Who must certify that a substance required to be in special packaging is properly packaged?**

The importer or the domestic party that packages a PPPA regulated substance in special packaging must issue the general conformity certificate. The child resistance and senior friendly testing data (also known as

protocol data) obtained in accordance with the procedures described under 16 C.F.R. 1700.20 may be used by the importer or domestic packager to support its certification. The packager can rely upon this data as the basis for the reasonable testing program. There is no expiration date on these tests and no requirement to retest so long as the tests adequately reflect the current packaging used. (Commission staff does not consider the European tests (ISO 8317, EN 14375, and EN862) to be the equivalent of the tests required by the CPSC regulations.)

*Posted 12/10/2008.*

**Do bulk drugs sold to pharmacies need certificates of conformity?**

No. Bulk drugs provided to pharmacies are not subject to the special packaging requirements of the PPPA and therefore no certificate is required.

*Posted 12/10/2008.*

**Do I have to certify my empty vials and caps?**

No. The empty container is not subject to the special packaging requirements of the PPPA and does not require certification.

*Posted 12/10/2008.*

**Do clinical trial drugs that go directly to the physician need a certification?**

No. Certifications are not required for direct delivery of a clinical trial drug to a physician.

*Posted 12/10/2008.*