



# CPSIA Quick Facts

## Books and Printed Materials

### Introduction and Background:

The Consumer Product Safety Commission (CPSC) recently published guidance on *Children's Products Containing Lead; Determinations Regarding Lead Content Limits on Certain Materials or Products, Final Rule* (August 19, 2009, to be codified in 16 CFR 1500.91). This document identifies materials that do not typically require testing because they contain legal levels of lead. This rule modifies previous guidance about printed material and lead. Gone is the broad leeway for "post 1985" books. This summary provides the highlights.

### Tricky Issue: "Children's products"

Books, posters, workbooks, cards, and other printed materials that are **primarily** intended for children 12 and under are considered "children's products" and need to comply with the "total lead" requirements in section 101 of the CPSIA. In theory, materials that are intended for a much broader age range of users are **not** "primarily intended for a child 12 years of age or younger." That means that only items that are *mostly* for children 12 and under are the only things that are "children's products" under the express language of the statute. However, we have very little information on how the CPSC will interpret this provision when it considers items with graphics and other features that are *particularly attractive* to younger children even if the item is objectively intended for a broader age range. At a very practical level, firms may wish to err on the side of eliminating lead in such products to avoid potential battles with CPSC, retailers, U.S. Customs and Border Protection and others who might interpret the statutory language more broadly to encompass items they believe are attractive to younger children.

*A good general rule: if in doubt, get the lead out!*

### What still needs to be tested?

Unlike an earlier draft that said books printed after 1985 did not need testing, CPSC has refocused from books to individual *components*.

*Book components that do **not** need to be tested:*

- Books and printed materials made out of paper and similar materials made from wood or other cellulosic fiber, including, but not limited to paperboard, linerboard and medium, and coatings on such paper which become part of the substrate that are printed using the CMYK process.
- Fabrics and a few animal and vegetable derived materials.

*What book components **need** to be tested for total lead or lead paint:*

- Printing done with spot colors and other non-CMYK processes, paints and surface coatings, inks used in after-treatment applications, including screen prints, transfers, decals, or other prints. This will likely include material printed on plastics or other non-paper media.

- Accessible non-animal glues, plastic or metal binding materials including spiral binding and metal wire saddle stitch.
- Accessible components like foils, laminates, and other non-paper, non-fabric decorative elements.

## Questions and Answers:

*What factors determine if my printed material is a children's product?*

Congress defined the term "children's product" as "a consumer product designed or intended **primarily** for children 12 years of age or younger." [Emphasis added. See discussion of what primarily means above.] In the law, Congress provided that "[i]n determining whether a consumer product is primarily intended for a child 12 years of age or younger, the following factors shall be considered:

- (A) A statement by a manufacturer about the intended use of such product, including a label on such product if such statement is reasonable.
- (B) Whether the product is represented in its packaging, display, promotion, or advertising as appropriate for use by children 12 years of age or younger.
- (C) Whether the product is commonly recognized by consumers as being intended for use by a child 12 years of age or younger.
- (D) The Age Determination Guidelines issued by the Commission staff in September 2002, and any successor to such guidelines.

*I make teaching aids such as posters, teaching guides, and other items that are used by a teacher, but children do not typically touch them. Do I need to test these items for lead?*

The question raises two issues. First, are these "children's products?" If they are intended for use and handling by the teacher, but not the students, then, arguably, they are not. In that case, you would not need to reach the second set of questions about whether the item was made of paper and printed using the CMYK printing processes, had a paint or surface coating, etc. However, you should assume CPSC is likely to look at those teaching aids intended— or likely— to be handled by children under 12 as "children's products."

*Are there other CPSC or CPSIA Requirements that apply to books or printed material?*

Books and other printed matter that have play value, such as bathtub books, or books with electronic and other features may be considered "children's toys." As such, they need to comply with the phthalate requirements. Any paint or surface coatings are subject to the lead paint requirements of 16 CFR 1303 as amended by the CPSIA and may not contain more than 90 ppm lead. All regulated products will be subject to certification requirements, and all children's products to the tracking label requirement.

*Will CPSC change its views about any of these components?*

CPSC has invited submissions of information that might eliminate the need to test adhesives or other binding or printing materials. If there is good scientific support for exempting any additional components, CPSC is likely to do so.