

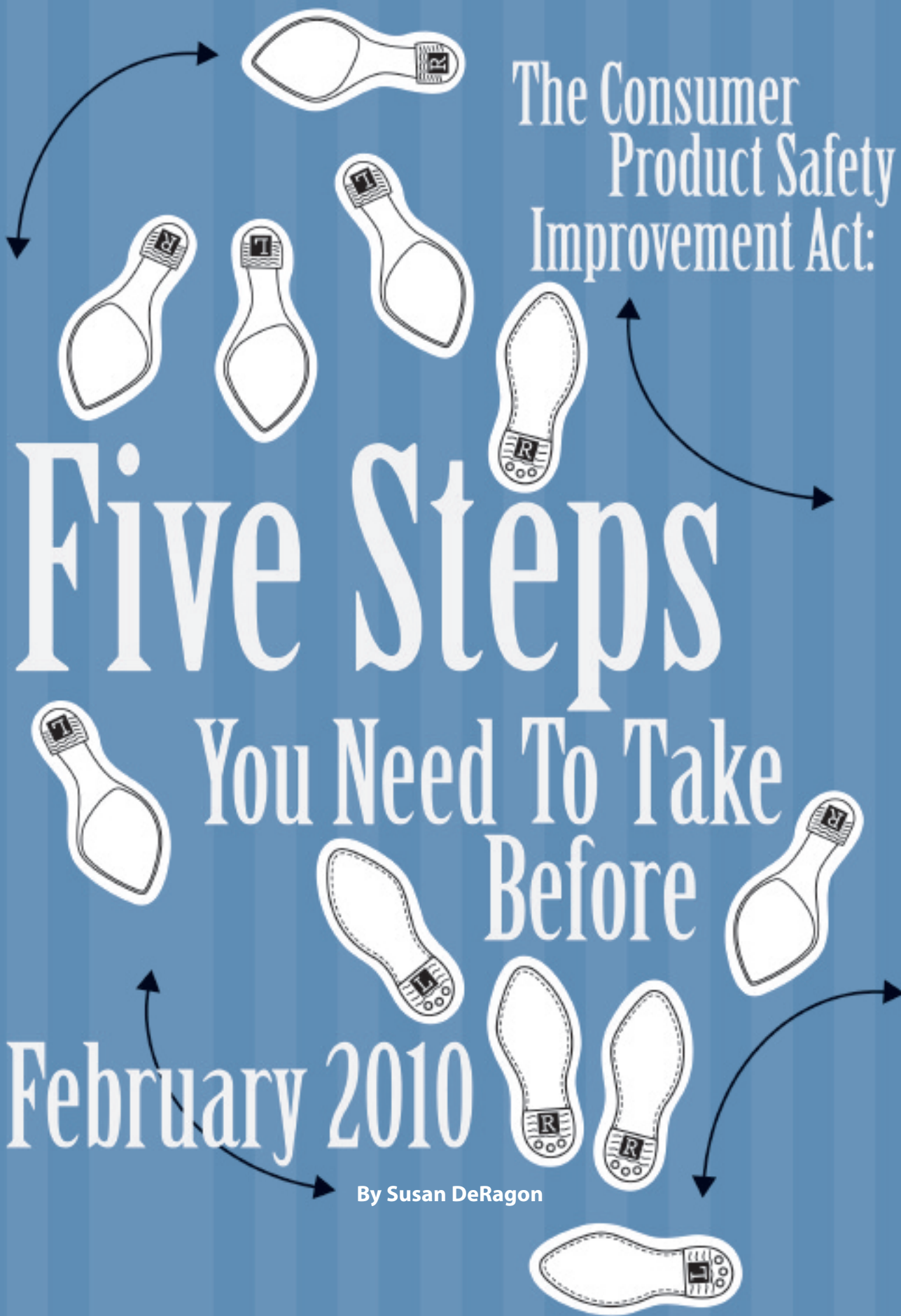
The Consumer
Product Safety
Improvement Act:

Five Steps

You Need To Take
Before

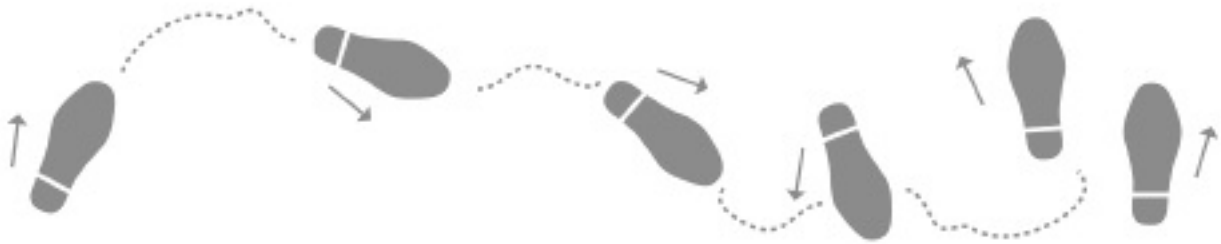
February 2010

By Susan DeRagon



THE CONSUMER PRODUCT SAFETY IMPROVEMENT ACT (CPSIA) is the most comprehensive overhaul of consumer product safety rules since the Consumer Product Safety Commission (CPSC) was established more than 30 years ago. Considered to be a victory for parents and consumers, the enactment of the CPSIA increased safety requirements and placed significant oversight on consumer products. To protect your company and your customers and the reputation of the promotional products industry itself, it is critical to understand and comply with appropriate regulations.

The CPSIA was enacted on August 14, 2008, with a phasing in of various requirements. While compliance to all children’s product safety rules is already required, mandatory third-party testing and certification is expected to go into effect on February 10, 2010. The third-party testing schedule (see below) indicates current as well as upcoming third-party testing requirements for various categories.



Schedule For Implementation Of CPSIA Product Safety And Testing Requirements

	CPSC Publishes Accreditation Procedure	Third-Party Testing Required
Lead Paint	September 2008	December 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 *

* Third-party testing delayed until February 10, 2010



In order to meet the February 10, 2010, requirements, there are five things a supplier or distributor needs to do now. These include:

1. Determine if your product is considered a children's product.

CPSIA defines a children's product as an item designed or intended primarily for use by children 12 years of age and younger. This is particularly difficult to determine in the promotional products industry because how and where the product is marketed—important factors in determining whether it is a children's product—are often unknown at the time an item is produced. It depends on who buys it, what logo is applied and how it's distributed. These are factors over which suppliers, and even distributors, may have little, if any, control.

The CPSIA includes four factors to consider in determining if an item is a children's product:

1. Is there a manufacturer's statement about the intended use of such product, including a label on such product if such statement is reasonable? This often comes in the form of an age grade or age label on the product or packaging.

2. Is the product represented in its packaging, display, promotion or advertising as appropriate for use by children 12 years of age or younger?
3. Is the product commonly recognized by consumers as being intended for use by a child 12 years of age or younger?
4. Is the product listed in the Age Determination Guidelines issued by the CPSC? (www.cpsc.gov/BUSINFO/adg.pdf).

While the CPSIA's four factors are a helpful starting point, promotional products still present a challenge. For example, even if an item is distributed at an adult tradeshow, if the item includes features that support its use primarily by children 12 years of age or younger, it may be prudent to treat the item as a children's product and comply with applicable requirements. Distributors and suppliers should consider the following additional factors to help determine if the item could be considered a children's product:

- Size and shape
- Materials used
- Number of parts
- Motor skills required
- Classic product
- Colors
- Cause and effect
- Sensory elements
- Level of realism/detail

PPAI has provided guidance on children's product factors, and consultation with an outside expert such as a testing laboratory may be appropriate for some items. For a list of testing labs, go to www.cpsc.gov.

2. Determine applicable regulations and standards for your product.

As a distributor or supplier, it is your responsibility to determine which regulations and standards apply to your product and to determine compliance with those requirements, whether through third-party laboratory testing or other means.

If an item is determined to be a children's product, there are specific test requirements including lead in paint, lead content in substrate materials, use and abuse testing and flammability. If the item is a toy, there are additional requirements, such as ASTM F963 compliance and phthalate restrictions.

Even if an item is not a children's product, there are still likely to be some regulations that apply. For example:

- Apparel—Flammable Fabrics Act applies, as well as Care Labeling Regulations and Fiber Identification Act.
- Drinkware and other tableware—Food and Drug Administration (FDA) regulations for items in contact with food apply.
- Art materials—Toxicity requirements and Labeling of Hazardous Art Materials Act (LHAMA) apply.
- Electronics, including battery-operated items—Federal



Tracking Label Solution

PPAI has developed a tracking label database to house the basic information required for labels: the source of the product, manufacturing date and often batch or run number.

This tool is available free of charge to Universal Promotional Identification Code (UPIC) subscribers. It consists of a search page for end users, a data entry page for suppliers, an administration page in UPIC for suppliers to manage all uploaded product information and a back-end SQL database to house the data.

Rather than printing the information on a product, suppliers can instead print a URL address that points to the information in the database. This option may prove beneficial for suppliers of products with small imprintable areas, such as writing instruments.

Supplier companies are urged to contribute data even if they've developed their own tracking process. To access the database, go to www.ppai.org and click the Product Safety Page under Members/Business Management. To get a free UPIC, industry companies may register at www.upic.org.



Communications Commission (FCC) requirements may apply, and compliance to Underwriters Laboratories (UL) or similar electrical standards should be determined.

- Jewelry, including watches—Lead content restrictions may apply, and there is a Federal Trade Commission (FTC) guide for claims about precious metals, silver content and other jewelry claims.

The above list is not all-inclusive and consultation with your testing laboratory or other product safety expert is recommended to confirm applicable regulations for your particular product.

3. Confirm if any of the applicable regulations and standards are governed by the CPSC.

A Certificate of Compliance, also called General Conformity Certificate, is required for all products subject to a consumer product safety rule enforced by the CPSC. This requirement is part of the CPSIA and, as of February 10, 2010, will apply to all CPSC-regulated products.

The Certificate of Compliance must be based on testing of each product or a “reasonable testing program.” In addition, the certificate must specify the applicable rule, ban, standard or regulation. A reasonable testing program generally is considered to be at least annual testing, with further clarification expected from the CPSC before year end.

The certificate is the responsibility of the domestic manufacturer or the importer, which often is the promotional products supplier. CPSIA’s wording states that certificates must accompany all shipments, and a copy must be furnished to each distributor or retailer of the product. However, CPSC has confirmed that electronic certificates are acceptable and certificates are typically provided to the distributor, retailer or CPSC only upon request. There is an example of a certificate on the CPSC website at www.cpsc.gov.

4. Determine if your product requires third-party testing and find an approved testing lab.

Distributors and suppliers need to determine which products will require third-party testing and select a lab. With the new regulations only a couple months away, it is not too early to begin this selection process. There is a list of accredited laboratories on the CPSC website. These laboratories are globally located and testing is often performed at a laboratory in the country of manufacture. When making commitments to customers, it is important to take into account both the time for testing as well as the cost.

For products where third-party testing is not mandated, distributors or suppliers must consider how best to determine compliance. Options range from the simple but not always reliable confirmation from the factory that the product complies, a review of the factory test reports or other certificates of analysis, and the third-party testing by an accredited laboratory.

5. Confirm labeling requirements for your product.

If an item is a children’s product, the CPSIA requires a tracking label. The purpose of the tracking label requirement is to enhance recall effectiveness of children’s products. This requirement, which became effective on August 14, 2009, applies to all children’s products manufactured as of this date, regardless of whether they are domestic or imported products.

For promotional products, the tracking information should be included on the “blanks.” The tracking label must contain basic information, including the source of the product (or location of production), the date of manufacture, and possibly more detailed information on the manufacturing process such as batch or run number.

The tracking label information must be permanent. Hangtags and adhesive labels are not acceptable as they can be removed. The scope of this provision reaches all children’s products, including but not limited to children’s apparel, writing

Get To The Source

While at **The PPAI Expo, January 11-15** in Las Vegas, be sure to stop by the PPAI Action Central booth to view webinars on product safety and legal issues, meet one-on-one with Susan DeRagon (Wednesday and Thursday only) and get information on how to take action on current, critical legislative issues. When you stop by and learn about the issues, you’ll be entered in a drawing for an iTouch. The booth is open during show hours January 13-15. To make an appointment with DeRagon, e-mail Anne Lardner, Annel@ppai.org.



instruments, calendars, drinkware and toys. Determining if it is practicable to include the tracking label is a challenge in itself, and factors such as size, material and manufacturing techniques must be considered.

It is a good idea for manufacturers and suppliers to keep in mind the purpose of tracking labels—enhanced recall effectiveness—when considering what information to include. Tracking labels should provide information to help the manufacturer target the problem and initiate an effective corrective action program. With the permanent tracking label regulation in effect, the manufacturer should be able to track the production factory, the date of production and, ideally, the exact production run, even after the consumer discards the packaging.

PPAI has developed an electronic system for maintaining the tracking label information with a URL code (ps.ppa.org) on the product and packaging itself. See box for additional details.

Other general labeling requirements include:

- Country of Origin per U.S. Customs regulations. This applies to overseas production only and has long been a federally mandated requirement.
- Producer markings. Name and address (city, state, zip code) is required on the product and/or packaging although there are certain exemptions to this requirement. The purpose of the requirement is to provide end users with company information to contact as needed. This is also part of the CPSIA tracking label provision.
- Net quantity on packaging.

Distributor To-Do Checklist

The above details are primarily the responsibility of suppliers or manufacturers. In general terms, distributors should focus on the following:

1. If the item is an indirect import, ask for test reports on the products you are purchasing.
2. If the item is a direct import, and it is your letter of credit, you are directly responsible for product compliance and are consid-


ered the manufacturer of record by the CPSC. You need to determine compliance with the above, and your supplier should be able to provide you with the necessary documentation.

3. If the item is a domestic purchase, whoever introduces the product into commerce is responsible, and you should obtain a report from your domestic supplier confirming compliance.
4. If the distributor makes any changes to the supplier's product, such as adding artwork or a logo, it is the distributor's responsibility to ensure compliance of the finished product. This may require additional testing, certification and tracking label markings.

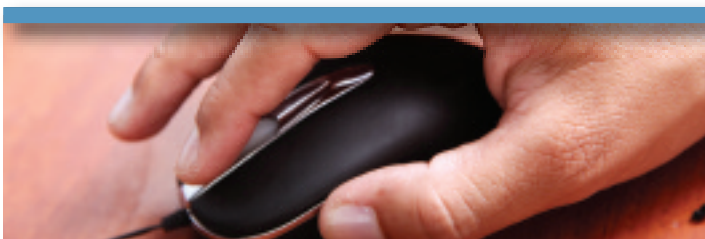
Other Important CPSIA Changes

In addition to the changes in product safety and testing requirements outlined above, the CPSIA includes numerous other changes affecting manufacturers, suppliers and distributors of consumer products. These include:

- Significantly increased civil penalties and criminal penalties—up to \$100,000 per violation and up to \$15 million cap (from previous \$1.25 million cap).
- Enforcement by the State Attorney General. It's not just the CPSC that can bring civil action for non-compliance.
- Voluntary certification mark for compliant products.
- Public consumer product safety database—consumers will be able to submit safety concerns.
- Identification of supply chain. Manufacturers or suppliers must be able to identify the factory, distributor and subcontractors involved with an item.
- Enhanced recall authority and corrective actions plans that must be approved by the CPSC.
- Risk assessment methodology for identification of shipments that are likely to contain products in violation.

The implementation of mandatory testing requirements for children's products on February 10, 2010, represents another major step forward towards the goal of not just product safety, but more importantly, consumer safety. Following the steps outlined above will help distributors and suppliers successfully navigate CPSIA's product safety and testing regulations, and maintain the highest standards of quality and safety for their promotional products. 

Susan DeRagon is associate director of Toys & Premiums at Enfield, Connecticut-based Specialized Technology Resources (STR), which provides testing, audit, accreditation and responsible sourcing services for the toy and consumer product industries. DeRagon is PPAI's product safety consultant and a contributing member of the Toy Industry Association's TSCP Technical Committee, the ASTM F15.22 subcommittee for toy safety, and the International Consumer Product Health and Safety Organization (ICPHSO). Contact her at 860-749-8371, ext. 291, Susan.DeRagon@STRQuality.com or www.STRQuality.com.



Help Is A Click Away

Is your head spinning from all this information? PPAI can help. Visit the Product Safety Page under Members/Business Management at www.ppai.org to find resources, links, publications, articles and FAQs to help you navigate through the product safety requirements.