

# SAFEGUARDS

SGS CONSUMER TESTING SERVICES

HARDLINES

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## CPSIA UPDATE: DEFINITION OF CHILDREN'S PRODUCTS

On March 17, 2010, the Office of the General Counsel of the CPSC released, for Commission consideration, a draft Federal Register notice on a proposed interpretative rule: Interpretation of Children's Product<sup>1</sup>, which is intended to provide guidance on the factors that must be considered when determining what is a children's product.

At a scheduled meeting on March 31, all 5 commissioners voted to approve the draft 'with minor changes' for publication in the Federal Register. The 'minor' changes were mostly related to further defining the meaning of 'primary intended use' in the document. The official notification of this 5 – 0 vote is being posted on the CPSC website soon, along with the full text of the document with the changes. As soon as the document is published in the Federal Register there will be a minimum of 30 days for industry and public comment before the final rule is published.

Several CPSIA provisions use the term 'children's product' and it has been defined as "a consumer product designed or intended primarily for children 12 years of age or younger." For this term, several factors are required to be considered when making a determination as to whether a product is "designed or intended primarily for children 12 years of age or younger."

These factors include:

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

The proposed interpretative rule would create a new section 16CFR 1500.92, "Definition of Children's Product." The proposal discusses the statutory definition and accompanying factors to provide guidance on how manufacturers can evaluate consumer products to determine whether such products are children's products.

The new definitions as stated below are presented in the proposed interpretative rule.

**"Children's Product"**: a consumer product designed or intended primarily for children 12 years of age or younger. The term "designed or intended primarily" applies to those products designed and commonly recognized as intended for use by a population of consumers constituted by a significant proportion of children 12 years old or younger. Products intended for use by children 12 years or younger applies to those products children will physically interact with based on the reasonably foreseeable use and misuse of such products.

The logo for SGS, consisting of the letters 'SGS' in a bold, sans-serif font. A vertical orange line is positioned to the right of the 'S', and a horizontal orange line is positioned below the 'S' and 'G'.

**"General Use Product":** A consumer product that is not being marketed to or advertised as being primarily intended for use by children 12 years old or younger and that is used by a significant proportion of the population older than 12 years of age.

Finally, the proposed interpretive rule introduced significant discussion of the accompanying factors and provides specific examples for several product categories. The information is clearly designed to provide detailed guidance to manufacturers on how to evaluate their consumer products as they attempt to determine whether those products are children's products.

Following example may assist in the understanding of the above proposal.



SGS will follow up and keep subscribers informed about continuing developments and changes to the regulations for consumer products, as a complimentary service.

Throughout our global network of laboratories, SGS is capable of offering a wide range of physical/mechanical testing and consultation for restricted substances, as well as consultation on product design, risk assessment, certification and other mandated requirements. We are ready to provide you with the latest information on CPSIA updates. You can check our list of [CPSIA accredited laboratories](#) and visit our [CPSIA webpage](#). Please do not hesitate to contact us.

<sup>1</sup> Proposed Interpretative Rule: Interpretation of Children's Product, (DRAFT Federal Register notice), March 17, 2010 <http://www.cpsc.gov/library/foia/foia10/brief/childproducts.pdf>

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