

## Consumer Product Safety Commission

## § 1109.2

safety rule under the CPSA, or with any similar rule, ban, standard or regulation under any other act enforced by the CPSC.

(b) The label must be visible and legible, and consist of the following statement:

### MEETS CPSC SAFETY REQUIREMENTS

(c) A consumer product may bear the label if the manufacturer or private labeler has certified, pursuant to section 14 of the CPSA, that the consumer product complies with all applicable consumer product safety rules under the CPSA and with all rules, bans, standards, or regulations applicable to the product under any other act enforced by the Consumer Product Safety Commission.

(d) A manufacturer or private labeler may use a label in addition to the label described in paragraph (b) on the consumer product, as long as such label does not alter or mislead consumers as to the meaning of the label described in paragraph (b) of this section. A manufacturer or private labeler must not imply that the CPSC has tested, approved, or endorsed the product.

## **PART 1109—CONDITIONS AND REQUIREMENTS FOR RELYING ON COMPONENT PART TESTING OR CERTIFICATION, OR ANOTHER PARTY'S FINISHED PRODUCT TESTING OR CERTIFICATION, TO MEET TESTING AND CERTIFICATION REQUIREMENTS**

### **Subpart A—General Conditions and Requirements**

Sec.

- 1109.1 Scope.
- 1109.2 Purpose.
- 1109.3 Applicability.
- 1109.4 Definitions.
- 1109.5 Conditions, requirements, and effects generally.

### **Subpart B—Conditions and Requirements for Specific Consumer Products, Component Parts, and Chemicals**

- 1109.11 Component part testing for paint.
- 1109.12 Component part testing for lead content of children's products.

1109.13 Component part testing for phthalates in children's toys and child care articles.

### **Subpart C—Conditions and Requirements for Composite Testing**

1109.21 Composite Testing.

AUTHORITY: Secs. 3 and 102, Pub. L. 110-314, 122 Stat. 3016; 15 U.S.C. 2063.

SOURCE: 76 FR 69580, Nov. 8, 2011, unless otherwise noted.

### **Subpart A—General Conditions and Requirements**

#### **§ 1109.1 Scope.**

(a) This part applies to tests or certifications of the following when such testing or certification is used to support a certificate of compliance pursuant to section 14(a) of the Consumer Product Safety Act (CPSA) or to meet continued testing requirements pursuant to section 14(i) of the CPSA:

- (1) Component parts of consumer products; and
- (2) Finished products when conducted by a party that is not required to test or certify products pursuant to part 1110 of this chapter.

(b) Component part manufacturers and suppliers may certify or test their component parts, but are not required to do so. Also, parties that are not required to test finished products, or to issue finished product certificates pursuant to part 1110 of this chapter, may do so voluntarily.

(c) Subpart A establishes general requirements for component part testing and certification, and relying on component part testing or certification, or another party's finished product certification or testing, to support a certificate of compliance issued pursuant to section 14(a) of the Consumer Product Safety Act (CPSA) or to meet continued testing requirements pursuant to section 14(i) of the CPSA. Subpart B sets forth additional requirements for component part testing of chemical content. Subpart C describes the conditions and requirements for composite testing.

#### **§ 1109.2 Purpose.**

The purpose of this part is to set forth the conditions and requirements

### § 1109.3

under which passing component part test reports, certification of component parts of consumer products, or finished product testing or certification procured or issued by another party, can be used to meet, in whole or in part, the testing and certification requirements of sections 14(a) and 14(i) of the CPSA.

#### § 1109.3 Applicability.

The provisions of this part apply to all manufacturers and importers who are required to issue finished product certifications pursuant to section 14(a) of the CPSA and part 1110 of this chapter and to procure tests to ensure continued compliance pursuant to section 14(i) of the CPSA. This part also applies to manufacturers and suppliers of component parts or finished products who are not required to test or certify consumer products pursuant to part 1110 of this chapter, but who voluntarily choose to undertake testing or certification.

#### § 1109.4 Definitions.

The following definitions apply to this part:

(a) *Certifier* means a party that is either a finished product certifier or a component part certifier as defined in this section.

(b) *Component part* means any part of a consumer product, including a children's product that either must or may be tested separately from a finished consumer product to assess the consumer product's ability to comply with a specific rule, ban, standard, or regulation enforced by the CPSC. Within the same consumer product, the component parts to be tested and the tests to be conducted may vary, depending on the applicable regulations and required test methods, if any.

(c) *Component part certifier* means a party who, although not required to do so pursuant to part 1110 of this chapter, voluntarily certifies the following as complying with one or more rules, bans, standards, or regulations enforced by the CPSC, consistent with the content requirements for certifications in part 1110 of this chapter:

- (1) Component parts to be used in consumer products; or
- (2) Finished products.

### 16 CFR Ch. II (1–1–12 Edition)

(d) *CPSA* means the Consumer Product Safety Act.

(e) *CPSC* means the Consumer Product Safety Commission.

(f) *CPSIA* means the Consumer Product Safety Improvement Act of 2008.

(g) *Due care* means the degree of care that a prudent and competent person engaged in the same line of business or endeavor would exercise under similar circumstances. Due care does not permit willful ignorance.

(h) *Finished product certifier* means a party responsible for certifying compliance of a finished consumer product pursuant to part 1110 of this chapter with all applicable rules, bans, standards, and regulations enforced by the CPSC.

(i) *Identical in all material respects* means there is no difference with respect to compliance to the applicable rules, bans, standards, or regulations, between the samples to be tested for compliance and the component part or finished product distributed in commerce.

(j) *Paint* means any type of surface coating that is subject to part 1303 of this chapter or section 4.3.5.2 of ASTM F 963–08 (or any successor standard of section 4.3.5.2 of ASTM F 963–08 accepted by the Commission).

(k) *Testing party* means a party (including, but not limited to, domestic manufacturers, foreign manufacturers, importers, private labelers, or component part suppliers) who procures tests (either by conducting the tests themselves, when this is allowed, or by arranging for another party to conduct the tests), of a consumer product, or any component part thereof, for compliance, in whole or in part, with any applicable rule, ban, standard, or regulation enforced by the CPSC. Testing laboratories and third party conformity assessment bodies are not testing parties under this definition.

(l) *Third party conformity assessment body* means a testing laboratory whose accreditation has been accepted by the CPSC to conduct certification testing on children's products. Only third party conformity assessment bodies whose scope of accreditation includes the applicable required tests can be

used to test children's products for purposes of supporting certification pursuant to section 14(a) of the CPSA and testing to ensure continued compliance pursuant to section 14(i) of the CPSA.

(m) *Traceable* means the ability of a certifier to identify all testing parties of a component part of a consumer product or a finished product, including the name and address of each testing party and any party that conducted testing on the component part or finished product. Parties that conduct testing may include a manufacturer, a supplier, a testing laboratory, or a third party conformity assessment body. Traceability extends to the component part of the product that was tested for compliance, such that if a subassembly is tested, that subassembly must be traceable, not each component part of the subassembly, if those parts were not individually tested for other rules, bans, standards, or regulations.

**§ 1109.5 Conditions, requirements, and effects generally.**

(a) *Component part testing allowed.* Any party, including a component part manufacturer, a component part supplier, a component part certifier, or a finished product certifier, may procure component part testing as long as it complies with the requirements in this section and subparts B and C of this part. A finished product certifier may certify compliance of a consumer product with all applicable rules, bans, standards, and regulations as required by section 14(a) of the CPSA, and may ensure continued compliance of children's products pursuant to section 14(i) of the CPSA, based, in whole or in part, on passing component part test reports or certification of one or more component parts of a consumer product if the following requirements are met:

(1) Testing of the component part is required or sufficient to assess compliance, in whole or in part, of the consumer product with the applicable rule, ban, standard, or regulation. Any doubts about whether testing one or more component parts of a consumer product is sufficient to assess whether the finished product complies with applicable rules, bans, standards, and reg-

ulations should be resolved in favor of testing the finished product; and

(2) The component part tested is identical in all material respects to the component parts used in the finished consumer product. To be identical in all material respects to a component part for purposes of supporting a certification of a children's product, a sample need not necessarily be of the same size, shape, or finish condition as the component part of the finished product; rather, it may consist of any quantity that is sufficient for testing purposes and be in any form that has the same content as the component part of the finished product.

(b) *Test Result Integrity.* A certifier or testing party must exercise due care to ensure that while a component part or finished product is in its custody:

(1) Proper management and control of all raw materials, component parts, subassemblies, and finished products is established and maintained for any factor that could affect the finished product's compliance with all applicable rules;

(2) The manufacturing process does not add or result in a prohibited level of a chemical from any source, such as the material hopper, regrind equipment, or other equipment used in the assembly of the finished product; and

(3) No action or inaction subsequent to testing and before distribution in commerce has occurred that would affect compliance, including contamination or degradation.

(c) *Limitation.* A certifier must not use tests of a component part of a consumer product for any rule, ban, standard, or regulation that requires testing the finished product to assess compliance with that rule, ban, standard, or regulation.

(d) *Test method and sampling protocol.* Each certifier and testing party must exercise due care to ensure that when it procures a test for use in meeting the requirements of sections 14(a) or 14(i) of the CPSA:

(1) All testing is done using required test methods, if any;

(2) Required sampling protocols are followed, if any; and

(3) Testing and certification follows the applicable requirements in sections 14(a) and 14(i) of the CPSA, and part

## § 1109.5

## 16 CFR Ch. II (1–1–12 Edition)

1107 of this chapter or any more specific rules, bans, standards, or regulations, used to assess compliance of the component part or finished product.

(e) *Timing.* Subject to any more specific rule, ban, standard, or regulation, component part testing may occur before final assembly of a consumer product, provided that nothing in the final assembly of the consumer product can cause the component part or the final consumer product to become non-compliant.

(f) *Traceability.* A certifier must not rely on component part or finished product testing procured by a testing party or another certifier unless such component parts or finished products are traceable.

(g) *Documentation by certifiers and testing parties.* Each certifier and testing party must provide the following documentation, either in hard copy or electronically, to a certifier relying on such documentation as a basis for issuing a certificate:

(1) Identification of the component part or the finished product tested;

(2) Identification of a lot or batch number, or other information sufficient to identify the component parts or finished products to which the testing applies;

(3) Identification of the applicable rules, bans, standards, and regulations for which each component part or finished product was tested;

(4) Identification of the testing method(s) and sampling protocol(s) used;

(5) The date or date range when the component part or finished product was tested;

(6) Test reports that provide the results of each test on a component part or finished product, and the test values, if any;

(7) Identification of the party that conducted each test (including testing conducted by a manufacturer, testing laboratory, or third party conformity assessment body), and an attestation by the party conducting the testing that all testing of a component part or finished product by that party was performed in compliance with applicable provisions of section 14 of the CPSA, part 1107 of this chapter, or any more specific rules, bans, standards, or regulations;

(8) Component part certificate(s) or finished product certificate(s), if any;

(9) Records to support traceability as defined in § 1109.4(m); and

(10) An attestation by each certifier and testing party that while the component part or finished product was in its custody, it exercised due care to ensure compliance with the requirements set forth in subparagraph (b) of this section.

(h) *Effect of voluntary certification.* (1) The Commission will consider any certificate issued by a component part certifier in accordance with this part to be a certificate issued in accordance with section 14(a) of the CPSA. All certificates must contain all of the information required by part 1110 of this chapter.

(2) Any party who elects to certify compliance of a component part or a finished product with applicable rules, standards, bans, or regulations, must assume all responsibilities of a manufacturer under sections 14(a) and 14(i) of the CPSA and part 1107 of this chapter with respect to that component part or finished product's compliance to the applicable rules, standards, bans, or regulations.

(i) *Certification by finished product certifiers.* (1) A finished product certifier must exercise due care in order to rely, in whole or in part, on one or more of the following as a basis for issuing a finished product certificate:

(i) Finished product certificate(s) issued by another party;

(ii) Finished product test report(s) provided by another party;

(iii) Component part certificate(s); or

(iv) Component part test report(s).

(2) If a finished product certifier fails to exercise due care in its reliance on another party's certifications or test reports, then the Commission will not consider the finished product certifier to hold a certificate issued in accordance with section 14(a) of the CPSA. Exercising due care in this context means taking the steps that a prudent and competent person in the same line of business would take to conduct a reasonable review of another party's certification or test reports, and to address any concern over their validity, before relying on such documents to issue a finished product certificate.

Due care does not permit willful ignorance. Such steps may vary according to the circumstances.

(3) A finished product certifier must not rely on another party's certifications or test reports unless the finished product certifier receives the documentation under paragraph (g) of this section from the certifier or testing party. The finished product certifier may receive such documentation either in hard copy or electronically, or access the documentation through an Internet Web site. The Commission may consider a finished product certifier who does not obtain such documentation before certifying a consumer product to have failed to exercise due care.

(j) *Recordkeeping requirements.* Each certifier or testing party must maintain the documentation required in paragraph (g) of this section for five years, and must make such documentation available for inspection by the CPSC upon request, either in hard copy or electronically, such as through an Internet Web site. Records may be maintained in languages other than English if they can be:

(1) Provided immediately by the certifier or testing party to the CPSC; and

(2) Translated accurately into English by the certifier or testing party within 48 hours of a request by the CPSC or any longer period negotiated with CPSC staff.

### **Subpart B—Conditions and Requirements for Specific Consumer Products, Component Parts, and Chemicals**

#### **§ 1109.11 Component part testing for paint.**

(a) *Generally.* The Commission will permit certification of a consumer product, or a component part of a consumer product, as being in compliance with the lead paint limit of part 1303 of this chapter or the content limits for paint on toys of section 4.3.5.2 of ASTM F 963-08 or any successor standard of section 4.3.5.2 of ASTM F 963-08 accepted by the Commission if, for each paint used on the product, the requirements in § 1109.5 and paragraph (b) of this section are met.

(b) *Requirement.* For each paint used on the product:

(1) Unless using the test method ASTM F 2853-10 to test for lead in paint, all testing must be performed on dry paint that is scraped off of a substrate for testing. The substrate used need not be of the same material as the material used in the finished product or have the same shape or other characteristics as the part of the finished product to which the paint will be applied; and

(2) The tested paint is identical in all material respects to that used in production of the consumer product. The paint samples to be tested must have the same composition as the paint used on the finished product. However, a larger quantity of the paint may be tested than is used on the consumer product in order to generate a sufficient sample size. The paint may be supplied to the testing laboratory for testing either in liquid form or in the form of a dried film of the paint on any suitable substrate.

#### **§ 1109.12 Component part testing for lead content of children's products.**

A certifier may rely on component part testing of each accessible component part of a children's product for lead content, where such component part testing is performed by a third party conformity assessment body, provided that the requirements in § 1109.5 are met, and the determination of which, if any, parts are inaccessible pursuant to section 101(b)(2) of the Consumer Product Safety Improvement Act of 2008 (CPSIA) and part 1500.87 of this chapter is based on an evaluation of the finished product.

#### **§ 1109.13 Component part testing for phthalates in children's toys and child care articles.**

A certifier may rely on component part testing of appropriate component parts of a children's toy or child care article for phthalate content provided that the requirements in § 1109.5 are met.

§ 1109.21

**Subpart C—Conditions and Requirements for Composite Testing**

**§ 1109.21 Composite testing.**

(a) *Paint.* In testing paint for compliance with chemical content limits, certifiers and testing parties may procure tests conducted on a combination of different paint samples so long as test procedures are followed to ensure that no failure to comply with the lead limits will go undetected (see paragraph (c) of this section). A certificate may be based on testing each component part of the paint according to the requirements of § 1109.11 and certifying that each component part in the mixture individually complies with the lead in paint limit or other paint limit. Testing and certification of composite paints must also comply with §§ 1109.5 and 1109.11.

(b) *Component parts.* A certifier or testing party may procure tests conducted on a combination of component parts for compliance with chemical content limits so long as test procedures are followed to ensure that no failure to comply with the content limits will go undetected (see paragraph (c) of this section). Testing and certification of composite component parts for lead content must also comply with §§ 1109.5 and 1109.12. Testing and certification of composite component parts for phthalate content must also comply with §§ 1109.5 and 1109.13.

(c) *How to evaluate composite testing.* When using composite testing, only the total amount or percentage of the target chemical is determined, not how much was in each individual paint or component part. Therefore, to determine that each paint or component part is within the applicable limit, the entire amount of the target chemical in the composite is attributed to each paint or component part. If this method yields an amount of the target chemical that exceeds the limit applicable to any paint or component part in the composite sample, additional testing would be required to determine which of the paints or component parts, if any, fail to meet the applicable limit.

16 CFR Ch. II (1–1–12 Edition)

**PART 1110—CERTIFICATES OF COMPLIANCE**

Sec.

1110.1 Purpose and scope.

1110.3 Definitions.

1110.5 Acceptable certificates.

1110.7 Who must certify and provide a certificate.

1110.9 Form of certificate.

1110.11 Content of certificate.

1110.13 Availability of electronic certificate.

1110.15 Legal responsibility for certificate information.

AUTHORITY: Pub. L. No. 110-314, § 3, 122 Stat. 3016, 3017 (2008); 15 U.S.C. 14.

SOURCE: 73 FR 68331, Nov. 18, 2008, unless otherwise noted.

**§ 1110.1 Purpose and scope.**

(a) This part 1110:

(1) Limits the entities required to provide certificates in accordance with section 14(a) of the Consumer Product Safety Act, as amended (CPSA), 15 U.S.C. 2063(a), to importers and U.S. domestic manufacturers;

(2) Specifies the content, form, and availability requirements of the CPSA that must be met for a certificate to satisfy the certificate requirements of section 14(a); and

(3) Specifies means by which an electronic certificate shall meet those requirements.

(b) This part 1110 does not address issues related to type or frequency of testing necessary to satisfy the certification requirements of CPSA section 14(a). It does not address issues related to CPSA section 14(g)(4) concerning advance filing of electronic certificates of compliance with the Commission and/or the Commissioner of Customs.

**§ 1110.3 Definitions.**

The following definitions apply for purposes of this part 1110.

(a) *Electronic certificate* means, for purposes of this part 1110, a set of information available in, and accessible by, electronic means that sets forth the information required by CPSA section 14(a) and section 14(g) and that meets the availability requirements of CPSA section 14(g)(3).

(b) Unless otherwise stated, the definitions of section 3 of the CPSA and additional definitions in the Consumer