



**Toy Industry** Association, Inc.

# **CPSC Leadership Changes and Update on Trump Administration Developments**

Ed Desmond

EVP, External Affairs

2017 TOY FAIR in New York City | February 20, 2017

# Trump Administration Impact on Industry

- Current Status
  - Key unanswered questions: tax/trade/regulatory relief
  - Policy differences w/ Congress
  - Few detailed proposals provided this far
- Tax
  - Lower corporate rate (35% to 15-20%) offset by Border Adjustment Tax?
  - Tariff on Imports (e.g., 20% on Mexico)
- Trade
  - Pulled U.S. out of TPP; has pledged to renegotiate NAFTA
  - Preference is for bilateral deals; seeks fairness for U.S.
- Regulatory Environment
  - Lessen impact of regulations on business
  - Industry monitoring resources/staffing at key agencies: CPSC, EPA, USTR

# Congressional/Agency Impact on Industry

- Congressional Overview

- Republicans held control of House/Senate; negotiating with President
- Congressional Democrats largely united in opposition

- Agency Overview

- “regulatory freeze” in effect; CPSC as “independent agency” not following it
- New executive order anticipated targeting EPA

- Key Federal Issues

- Impact of “Hire American/Buy American” on tax and trade
- Implementation of TSCA at EPA
- Funding of federal agencies
- IP Protection, IoT, GoP, US role fighting TBT
- Leadership change at CPSC; agendas of new agency leaders

# Thank You

## Thank you for your attention

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# Status of Toy Safety Standard ASTM F963-16 What's Next?

Joan Lawrence  
TIA Sr VP, Standards & Regulatory Affairs  
and Chair, ASTM F15.22 Subcommittee on Toy Safety

# Status of ASTM F963-16

- **Effective date**
- **Product compliance**
- **Lab accreditation**

# Effective Date

- **Consumer Product Safety Improvement Act (CPSIA)  
Section 106 Regarding Revisions to the Toy Standard:**

**“...effective 180 days after the date on which ASTM International notifies the Commission of the revision unless...”**  
within 90 days after receiving that notice, the Commission notifies ASTM International that it has determined that the proposed revision does not improve the safety of the consumer product covered by the standard.”

- November 1, 2016 ASTM notified CPSC.

# Effective Date

- **Consumer Product Safety Improvement Act (CPSIA)  
Section 106 Regarding Revisions to the Toy Standard:**

“...effective 180 days after the date on which ASTM International notifies the Commission of the revision **unless, within 90 days after receiving that notice, the Commission notifies ASTM International that it has determined that the proposed revision does not improve the safety of the consumer product covered by the standard.**”

- Unanimous Commission approval: January 26



# Effective Date

- **Federal Register Notice February 2:**

“The rule is effective on April 30, 2017, unless we receive significant adverse comment by March 6, 2017. If we receive timely significant adverse comments, we will publish notification in the Federal Register, withdrawing this direct final rule before its effective date. The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of April 30, 2017.”

- Even if significant adverse comment → TIA understanding is that ASTM F963-16 still becomes mandatory on April 30, under CPSIA.

# Certification of Product and Lab Accreditation

- **Federal Register Notice February 2:**

“CPSC will accept testing to support product certifications for sections in ASTM F963-16 if the test laboratory is already CPSC-accepted to those same sections in ASTM F963-11.”

- Additional guidance for testing labs wishing to be accredited to test and certify products for ASTM F963-16 can be found in Federal Register Notice

# Effective Date

- **CPSC Opinion**

- **Prospective Application.**
- **Effective to product produced on or after April 30, 2017:**

# Thank You

## Thank you for your attention

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# U.S. Consumer Product Safety Commission



## Safety Seminar New York City Toy Fair 2017

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**Shelby Mathis**  
**Small Business Ombudsman**

Views expressed in this presentation are those of CPSC staff and do not necessarily represent the views of the Commission.



# Today's Agenda

- Tracking Information on Children's Products
  - Requirements
  - Frequently Asked Questions
- CPSC-Accepted Testing Laboratories
  - New Toy Standard (ASTM F963-16)
  - How to Find Accepted Laboratories
- CPSC Business Resources Available





# Tracking Information: Requirements

- Permanently affixed to children's product and its packaging - Section 103 of CPSIA
- Applies to children's products made on or after August 14, 2009
- No retroactive application
- CPSC has published an official Statement of Policy available on our website





# Tracking Information: Requirements

- Distinguishing marks must provide identifying information enabling the purchaser to ascertain:
  - Manufacturer or private labeler name
  - Location and date of production of the product
  - Detailed info on the manufacturing process, such as batch or run number
  - Any other info to ascertain source of product





# Tracking Information: FAQs

- Who must comply?
  - Manufacturers and importers.
- Must the tracking label be tested and certified?
  - No, but the tracking mark itself must comply with lead content requirements for children's products.
- Does an adhesive label on disposable packaging meet the "permanently affixed" requirement?
  - Maybe, if the adhesive label on the packaging is durable enough to reach the consumer.



# Tracking Information: FAQs

- Must the product and packaging both be marked?
  - Yes, to the extent practicable, with few exceptions:
    - Product too small to mark
    - Product stored in box – mark the box and one integral part of product, but not individual pieces (*e.g.*, board game)
    - Product impossible to mark (*e.g.*, elastics, beads, jewelry)



# Tracking Information: FAQs

- Must the product and packaging both be marked?
  - Yes, to the extent practicable, with few exceptions:
    - Aesthetics of the product ruined by mark and cannot be placed in an inconspicuous location
    - Products sold in pairs, if both items integral to pair then only one needs to be marked (*e.g.* shoes)





# Tracking Information: FAQs

- What meets the “location of production” requirement?
  - City, state, and country of manufacture are sufficient (province and country could also be sufficient)
- Should an importer’s name appear on the tracking label instead of the manufacturer’s?
  - Yes, if the product is being manufactured outside the United States.





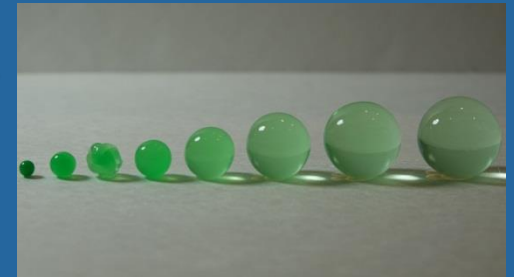
# CPSC-Accepted Testing Laboratories

- New Toy Standard, ASTM F963-16, effective April 30, 2017
- CPSC-Accepted Testing Laboratories to New Standard
  - CPSC will accept testing to ASTM F963-16 from labs already accepted for same section in ASTM F963-11
  - Labs conducting new testing must show “ASTM F963-16” in test reports and section numbers from the standard to which the product was evaluated



# CPSC-Accepted Testing Laboratories

- Testing Laboratories –New Sections in ASTM F963-16
  - Toy Chests (Section 4.41) – CPSC will accept testing from labs already accepted to ASTM F963-07ε1, Section 4.27 for Toy Chests
  - Expanding Materials (Section 4.40) – CPSC will accept testing from labs already accepted for ASTM F963-11, Sections 4.6 (Small Objects) and 4.24 (Squeeze Toys)





# CPSC-Accepted Testing Laboratories

- Timeline for Testing Report Acceptance
  - CPSC will accept ASTM F963-16 test results from CPSC-accepted ASTM F963-11 labs until February 4, 2019 (2 years from effective date of publication in *Federal Register*)
- Applications to new Toy Standard should be submitted to CPSC via:  
[www.cpsc.gov/cgibin/labregistry](http://www.cpsc.gov/cgibin/labregistry)



# CPSC-Accepted Testing Laboratories

- Can submit application for accreditation to new standard as of February 2, 2017



- Labs are accepted on a test-by-test basis, and must reapply with the CPSC when their accreditation is renewed (at least every 2 years.) (16 C.F.R. 1112.35(b)(1)).





# CPSC-Accepted Testing Laboratories

- Find a CPSC-accepted lab via our website:  
[www.cpsc.gov/labsearch](http://www.cpsc.gov/labsearch)
  - Can Narrow search by  
Region (by country)
  - Can Narrow search by Scope  
(or specific product testing needed)

# CPSC Business Resources

Shelby Mathis

Small Business Ombudsman

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Email: [smathis@cpsc.gov](mailto:smathis@cpsc.gov)



[@CPSCSmallBiz](https://twitter.com/CPSCSmallBiz)



Regulatory Robot

<https://business.cpsc.gov/robot>



Desktop Reference Guide

[www.cpsc.gov/desktopguide](http://www.cpsc.gov/desktopguide)

CPSC-Accepted Laboratories

Search Page:

[www.cpsc.gov/LabSearch](http://www.cpsc.gov/LabSearch)



**Toy Industry** Association, Inc.

# **Toxic Substance Control Act (TSCA) Reform: Implementation Phase**

**Autumn Moore**

**Manager of Standards and Regulatory Affairs**

2017 TOY FAIR in New York City | February 20, 2017

# New Aspects of the Reformed TSCA Law

- Reformed TSCA bill passed and signed into law June 22, 2016
- Imposes very strict deadlines on EPA for implementation
- Requires EPA to review new chemicals for safety
- Requires EPA do an “inventory reset” on chemicals currently in commerce
- Gives EPA new authority to review and regulate existing chemicals in commerce, including when present in consumer products (“articles”)
- Will eventually have preemptive effect on chemicals reviewed, but relief not for a few years

# Timeline for Implementation

- Within 6 months of enactment:
  - Designate the first 10 chemicals EPA will review (announced December 2016)
  - Draft Rule on process EPA will use to prioritize chemicals for review as high or low priority (comments due March 20)
  - Draft Rule on process used to conduct risk evaluations on chemicals prioritized as high priority (comments due March 20)
  - Draft Rule on “Inventory Reset” (comments due March 14)
- Within 1 year of enactment:
  - Finalize Prioritization and Risk Evaluation rules
  - Establish a Science Advisory Committee on Chemicals (SACC)

- Al Kaufman, TIA SVP for Technical Affairs on panel



## Timeline for Implementation (cont.)

- Within 3.5 years:
  - A minimum of 20 Risk Evaluations to be underway and 20 Low Priority designations made. Once a Risk Evaluation is completed, a new one needs to begin
- Chemical manufacturers may nominate chemicals to be reviewed by EPA
- Otherwise chemicals will be selected through process to prioritize them as high or low priority. Proposed four stages:
  - Pre-prioritization (an undefined period of time)
  - Initiation with a 90 day comment period starts the 9 month-1 year period EPA has to finish the designation
  - Proposed designation with a 90 day comment period
  - Final designation

# First Ten Chemicals for Risk Evaluation Identified

- 1,4 dioxane
- 1 bromopropane
- TCE
- Carbon tetrachloride
- HBCD
- Methylene chloride
- Pigment violet 29
- PERC
- N-methyl-2-pyrrolidine (NMP)
- Asbestos

EPA has opened public dockets for each one to receive information on conditions of use. Public meeting held February 14 for this purpose.

# Reformed TSCA and Preemption

- Once EPA defines the scope of review of a certain chemical deemed a high priority, there is a “preemption pause” period
- During Risk Evaluation process for high priority chemicals, states may not take any action on that chemical under review
- However, states can petition EPA to receive a waiver and continue to take action on that chemical during the preemption pause period
- Final determination made by EPA after Risk Evaluation is complete will have preemptive effect



# Things Reformed TSCA Will NOT Preempt

- TSCA reform does not preempt states from requiring reporting of chemicals
- TSCA reform does not preempt state programs that were on the books before August 1, 2015
- State laws that will remain in place (unless their restrictions conflict with a future EPA action on a specific chemical) include:
  - California's Green Chemistry program
  - California's Prop 65
  - Maine's Safer Chemicals in Children's Products
  - Minnesota's Toxic Free Kids Act
  - Oregon's Toxic Free Kids Act
  - Vermont's Chemicals of High Concern in Children's Products law
  - Washington State's Children's Safe Products Act

# Thank You

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# Regulatory

## ■ Maine

- **Toxic Chemicals in Products Law (aka “Kids Safe Products Act”)**
  - Ten chemicals as “Priority Chemicals”
    - Bisphenol A (BPA), Nonylphenol/Nonylphenol Ethoxylates (NP/NPE), Cadmium, Mercury, Arsenic and most recently certain phthalates (DEHP, DBP, BBP, and DEP) and formaldehyde.
  - Products containing priority chemicals above the PQL for “intentionally-added” chemicals and 100 ppm for “contaminants” must notify the Department of Environmental Protection (DEP) – “inaccessible components” are excluded.
  - DEP can impose use restrictions for priority chemicals
    - Action taken to prohibit BPA in children’s food and beverage containers sold in Maine
  - 2017 flame retardant petition

# Regulatory

## ■ Vermont

### — Act 188: Chemical Disclosure Program

- Reporting for all children's products on 66 chemicals began in 2016
- List of chemicals is the same as WA State CSPA
- "Inaccessible components" excluded
- SKU level reporting required
- No size or exposure tier reporting phase-in

### — Act 188: Potential Chemical/Product Bans

- Department of Health (DOH) may institute bans of chemicals in children's products following approval by an advisory working group
- DOH expected to propose two chemicals for restriction in 2017

# Regulatory

## ■ Oregon

### — “Toxics-Free Kids Act”: Reporting Program

- Reporting required for all children’s products on 66 chemicals by January 1, 2018.
- Small business exemption – under \$5M annual worldwide gross sales
- Reporting of any intentionally-added chemicals above PQL, or contaminants above 100ppm
- Reporting required for “inaccessible components”
- Reporting required for contaminants with a Manufacturing Control Program in place unless granted an exemption by the Oregon Health Authority

### — “Toxic Free Kids Act”: Removal/Substitution

- Manufacturers will be required to remove or substitute any chemicals they are reporting from certain classes of products beginning on January 1, 2022.

# Regulatory

- **New York Counties – Chemical bans in children’s products**
  - **Albany**
    - Effective July 2016
    - Settlement and rule change
  - **Westchester**
    - Effective May 2016
    - Halted Enforcement
  - **Suffolk**
    - Effective July 2016
    - Pending litigation
    - Stay of Enforcement: products need only be compliant with Federal law to be sold in Suffolk County until a settlement or a ruling in the court case

# Priority State Legislation Impacting Toys

# Legislative

## ■ Chemical Regulation

- Expansion of existing programs
- New broad chemical management programs
- Flame retardant bans

## — Toy Guns

- State Marking and Barrel Restrictions

## — Batteries

- Consumer product manufacturers responsible for primary and/or rechargeable battery stewardship

## — Extended Producer Responsibility

- Packing recycling and restrictions



# Thank You

## Thank you for your attention

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## International Update

Al Kaufman, Sr. VP, Technical Affairs

2017 TOY FAIR in New York City | February 20, 2017

## Additional/Tightened Requirements

- Polynuclear Aromatic Hydrocarbons limits: 0.5 ppm each in mouth or skin contact items (effective December 27, 2015):
  - (1) Benzo[a]pyrene (BaP) (CAS No 50-32-8)
  - (2) Benzo[e]pyrene (BeP) (CAS No 192-97-2)
  - (3) Benzo[a]anthracene (BaA) (CAS No 56-55-3)
  - (4) Chrysene (CHR) (CAS No 218-01-9)
  - (5) Benzo[b]fluoranthene (BbFA) (CAS No 205-99-2)
  - (6) Benzo[j]fluoranthene (BjFA) (CAS No 205-82-3)
  - (7) Benzo[k]fluoranthene (BkFA) (CAS No 207-08-9)
  - (8) Dibenzo[a,h]anthracene (DBAhA) (CAS No 53-70-3)

# European Union

## Additional/Tightened Requirements (cont)

- Formamide limits: 200ppm content; if higher, then 28-day emission limit of  $20\mu\text{g}/\text{m}^3$  – effective May 24, 2017
- Content limits on BIT (preservative in aqueous products): 5ppm – effective May 24, 2017
- Content limits on MI (0.25ppm), CMI (0.75ppm), and mixture of the two (1.0ppm)-preservatives in aqueous products - effective November 24, 2017
- *Proposed* reduction of BPA migration limit from 0.1ppm to 0.04ppm-effective Q2 2018

## Additional/Tightened Requirements (cont)

- *Proposed* reduced lead migration limits (ppm):

<b>Category I (Dry, brittle, powder like or pliable)</b>	<b>Category II (Liquid or sticky)</b>	<b>Category II (Scraped- off)</b>	<b>Effective Date</b>
<b>13.5</b>	<b>3.4</b>	<b>160</b>	<b>July 2013</b>
<b>2.0</b>	<b>0.5</b>	<b>23</b>	<b>Q3 2018</b>

# Indonesia

## Ministry of Industry Regulation (SNI)

- Requires testing at LSPro or affiliate labs (all Indonesian)
- Requires testing of every import shipment (domestic production every six months)
- Requires affixing SNI mark to product
- Standard similar to ISO 8124 (plus phthalates, formaldehyde, azo dyes)
- Successful workshop held with MOI in Jakarta Fall 2016
- Regulation reportedly under revision
- MOI developing toy industry roadmap

## Multiple Ordinances by INMETRO (regulator)

- Ordinance 512 establishes product registration requirements, notably “family registration”
- Ordinance 563 establishes toy certification requirements
- Issues include:
  - No single location for product requirements
  - Products must be registered prior to importation/after testing
  - Multiple deviations from NM 300 Mercosur standard
  - Onerous administrative burden/CBI concerns
  - TIA has met with INMETRO and submitted written comments

# GCC Countries

## **GSO has issued both standards and registration/marketing requirements**

- Product standard requirements essentially mirror EU TSD
- “G” Mark must be affixed, with registration#
- Testing by accredited lab
- Difficulty in getting clear information-registration by product, stickers vs. printing, type-acceptance, affixing of QR code, etc.
- Non-aligned enforcement among GCC members
- TIA continues to engage in order to clarify requirements



# Thank You

## Thank you for your attention

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