

DEFINITION OF A CHILDREN'S PRODUCT

CPSC Proposed Interpretative Rule

Hosted by **Insight Laboratories**

Presented by: Deirdre Bligh and Ali Roberts

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AGENDA

- ✓ Background
- ✓ Proposed Interpretative Rule
- ✓ Designed or Intended Primarily For Children
- ✓ Factors Considered
- ✓ Age Determination Guidelines
- ✓ Examples

Background

- ✓ CPSC currently defines a children's product as: "a consumer product designed or intended primarily for children 12 years of age or younger."

- ✓ CPSIA requirements that refer to "children's product":
 - ✓ Lead (Section 101 (a))
 - ✓ Third Party Testing (Section 102)
 - ✓ Tracking Labels (Section 103)

- ✓ When determining whether a product is "designed or intended primarily for children 12 years of age or younger"- the following factors must be taken into consideration:
 - ✓ Manufacturer's statement
 - ✓ Representation of product
 - ✓ How product is commonly recognized by consumers
 - ✓ Age Determination Guidelines

Proposed Interpretative Rule

- ✓ Would create new CFR 1500.92 (“Definition of Children’s Product”)
- ✓ Additional guidance will:
 - ✓ Offer a better understanding on how manufacturers can evaluate consumer products to determine if they are children’s products
 - ✓ Provide a better understanding of CPSC’s approach to evaluating children’s products

Designed or Intended “Primarily” For Children

- ✓ “Designed or Intended Primarily”
 - ✓ Interpreted to apply to products mainly for children 12 years old or younger
- ✓ “For Use”
 - ✓ Interpreted to mean children will physically interact with said products based on reasonably foreseeable use and misuse
- ✓ General Use Products
 - ✓ Not designed or intended primarily for use by children 12 years of age or younger
 - ✓ Mainly for consumers older than 12 years

Designed or Intended “Primarily” For Children (cont.)

- ✓ CPSC Example – Product Conversion
 - ✓ Most pens are not considered “children’s products” because mainly used by the general public
 - ✓ Conversion: when general use product (pen) is embellished with certain features that may appeal to children
 - ✓ Further review may be necessary to determine likelihood of physical interaction , including reasonably foreseeable use/misuse of product by child



Factors Considered

1. Manufacturer's Statement

- ✓ Is a statement about the product's intended use
- ✓ Can include a label on the product – if such label is reasonable
- ✓ Should reflect expected use patterns for the product
- ✓ Statement that product is not intended for children does not exclude it from being a children's product, if consumers would commonly use that product for children 12 or younger
 - ✓ Statement in and of itself is not a determining factor of the appropriate age of a potential user

Factors Considered (cont.)

2. Product Presentation

- ✓ Whether the product is represented in its packaging, display, promotion, or advertising as appropriate for use by children 12 years or younger
- ✓ Representations can be expressed or implied through:
 - ✓ Text
 - ✓ Illustrations/photographs showing consumers using the product
 - ✓ Advertising media (e.g. instructions, assembly manuals)
 - ✓ Physical Location

Factors Considered (cont.)

3. Commonly Recognized

- ✓ Determining whether the product is commonly recognized by consumers as being intended for use by a child 12 or younger
- ✓ Manufacturer should evaluate actual use and reasonably foreseeable uses/misuses of product to determine how it will be perceived and used by the consumer

Factors Considered (cont.)

Features and Characteristics of Children's Products

- ✓ Small sizes
- ✓ Exaggerated features that simplify product's use
- ✓ Safety features not found on similar products, which are intended for adults
- ✓ Colors commonly associated with childhood
- ✓ Decorative motifs commonly associated with childhood
- ✓ Features that do not enhance product's utility, but contribute to its attractiveness
- ✓ Play features that promote interactive imagination and exploration

Factors Considered (cont.)

Principal Perceived Uses

- ✓ What a product does, whether intended or unintended
- ✓ Principal uses take precedence over actions less likely to be performed with product
- ✓ Example: Broom
 - ✓ Principal Use = floor cleaning
 - ✓ Less Likely Actions = knight's lance, horse, magical flying vehicle
 - ✓ Determination: General Use Product

Cost Consideration

- ✓ CPSC has not identified a price point where a product achieves automatic adult status
 - ✓ Products for adults generally cost more

Factors Considered (cont.)

Children's Interaction with the Product

- ✓ In making an age determination, the foreseeable use or misuse of product by child must be evaluated
- ✓ Some products are meant to be used *in* a child's environment, but said products are not for use *by* a child
- ✓ Home furnishings or Decorations – primarily intended for use by adults
 - ✓ Diaper bags
 - ✓ Wipe warmers
 - ✓ Baby monitors



Age Determination Guidelines

- ✓ Final factor in determining whether a product is “designed or intended primarily for children 12 years of age or younger”
- ✓ Describes the capabilities and skills that children of various age groups can be reasonably expected to use while interacting with consumer products
 - ✓ Appeal of the product for different age groups
 - ✓ Capabilities of various age groups
- ✓ Can be downloaded on the CPSC website at this link:
<http://www.cpsc.gov/businfo/corrective.html>

Examples

FURNISHINGS AND FIXTURES

- ✓ General Use – intended for adult use in a child’s environment:
 - ✓ Humidifiers, air purifiers, fans
 - ✓ Clothing hooks and racks, window curtains, shelving units
 - ✓ Lamps, rocking chairs



- ✓ Children’s Products – intended to be used primarily by a child:
 - ✓ Changing tables, infant tubs, bath seats
 - ✓ Beds with cartoon themes, small bean bag chairs with childish decorations
 - ✓ Child-sized desks and chairs



Examples (cont.)

COLLECTIBLES



- ✓ General Use:
 - ✓ Intended solely for use by adults as display items
 - ✓ Themes are usually inappropriate for children 12 years or younger
 - ✓ High costs, limited production, and display features (e.g. hooks, pedestals)

- ✓ Children's Products:
 - ✓ Marketed to children
 - ✓ Features that promote use during play



Examples (cont.)

JEWELRY



✓ General Use:

- ✓ Size and dexterity requirements
- ✓ Marketing, advertising, packaging



✓ Children's Products:

- ✓ Size, cost, and appearance (textures, materials, colors, licensing)
- ✓ Sale at store containing mostly children's products, or in vending machines
- ✓ Use of childish themes (e.g. animals, vehicles)

Examples (cont.)

DVDs, Video Games and Computers

✓ General Use:

- ✓ CDs, DVDs, DVD players
- ✓ Children's movies, games, educational software for very young children (they do not have motor skills to operate media players)
- ✓ Video game console



✓ Children's Products:

- ✓ Movies, video games, music - specifically targeted to children 12 and younger
- ✓ Handheld video games - if only software available is intended for children 12 or younger
- ✓ Game controllers, keyboards, computer input devices – sized, decorated, or marketed for children 12 or younger

Examples (cont.)

SCIENCE EQUIPMENT

- ✓ General Use:
 - ✓ Microscopes, telescopes, other scientific equipment – not primarily intended for children
- ✓ Children's Products:
 - ✓ Toy versions of microscopes, telescopes, and other scientific equipment
 - ✓ Scientific equipment where marketing emphasizes product's simplicity for children

ART MATERIALS

- ✓ General Use:
 - ✓ Crafting kits and supplies not specifically marketed to children 12 or younger
- ✓ Children's Products:
 - ✓ Crayons, finger paints, modeling dough, other art materials – sized, decorated, or marketed to children 12 or younger
- ✓ Marketing and labeling of raw materials may often be given high priority in an age determination due to the appeal by such a vast audience



Examples (cont.)

SPORTING GOODS AND RECREATIONAL EQUIPMENT

✓ General Use:

- ✓ Regulation-sized sporting equipment
- ✓ Recreational equipment , not sized for children



✓ Children's Products:

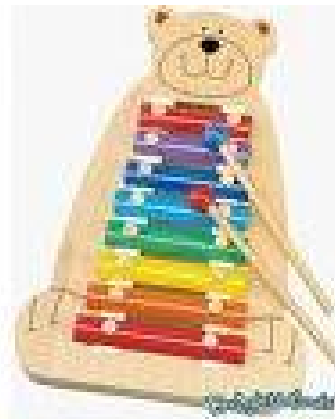
- ✓ Sporting goods, sized to fit children
- ✓ Recreational equipment, sized to fit children
- ✓ Wading pools for shallow water
- ✓ Aquatic products – with childish design, low-cost, for individual use



Examples (cont.)

MUSICAL INSTRUMENTS

- ✓ Instruments for children will be smaller in size and/or have childish themes



BOOKS

- ✓ Most often, children's books have themes, vocabularies, illustrations, and covers that appeal to the interests/capabilities of children 12 and younger
- ✓ Some children's books have wide appeal to the general public – such books would require further assessment

REQUEST FOR COMMENT AND EFFECTIVE DATE

- ✓ The proposed interpretative rule was published in the FEDERAL REGISTER on April 20, 2010

<http://www.cpsc.gov/businfo/frnotices/fr10/childproduct.pdf>

- ✓ Written comments can be submitted to the CPSC, and must be received by June 21, 2010
- ✓ Final rule would become effective upon publication of a final interpretative rule in the FEDERAL REGISTER

Thank you for attending!

For any questions or information regarding this webinar, please email info@insightlabs.com

