

- **Consumer Product Safety Improvement Act**



**U.S. Consumer Product
Safety Commission**

- **Model Toxics in Packaging Legislation**



*The mission of the Toxics in Packaging Clearinghouse is...
to develop public policy actions which reduce the amount
and toxicity of packaging at the source, before it enters the
solid waste stream*

- **Proposition 65 Safe Drinking Water and
Toxic Enforcement Act of 1986**

OEHHA

Office of Environmental Health Hazard Assessment

Who needs to comply with CPSIA of 2008 regulation?

All manufacturers, retailers, importers and distributors of consumer products for children 12 and under regardless of their size, number of employees, or income must adhere to CPSC regulations unless their products fall under specific exemptions.



**U.S. Consumer Product
Safety Commission**

Regulations Update

- **August 14, 2009 - children's products may not contain more than 300 ppm of lead >> third party testing and certification required for products manufactured after that date**
- **August 14, 2011 - children's products may not contain more than 100 ppm of lead *if technologically feasible***
- **August 14, 2009 - lead-containing paint must be reduced to 90 ppm >> third party testing and certification required for products manufactured after that date**



**U.S. Consumer Product
Safety Commission**



Regulations Update cont.

- August 14, 2009 - CPSC released their Study on X-Ray Technology – to study effectiveness and alternative methods:

Polymers:

- With the appropriate test methods and standard reference materials (SRMs), **XRF is suitable in many cases for the determination of lead in polymers.**
- XRF produced good results on **homogeneous** plastic SRMs with certified concentrations as low as 13.6 parts per million (ppm).

Painted Films :

- XRF has the **potential to accurately measure lead content in painted films at the limits required but appropriate SRMs and standard analytical methods need to be developed before a complete evaluation or determination is possible.**
- Staff members from the **CPSC** are **working with NIST to develop appropriate SRMs** and with the ASTM International to develop appropriate standard test methods.



**U.S. Consumer Product
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Pending Changes

November 2009 – The Commission shall by regulation:

- **establish protocols and standards for testing of random samples.**
- **establish protocols and standards for safeguarding against the exercise of undue influence on a third party conformity assessment body by manufacturer.**
- **establish protocols and standards for verifying that a product tested by a conformity assessment body complies with children's product safety rule.**
- **establish protocols and standards for ensuring compliance with children's product safety rules when there has been a change in product's design etc.**
- **initiate a program by which a manufacturer or private labeler may label a consumer product as complying with the certification requirements.**



**U.S. Consumer Product
Safety Commission**

Compliance Required

Certification Required

• Pb in Paint 90ppm	Now	Now
• Total Pb Content 300ppm	Now	February 10, 2010
• Children's Metal Jewelry	Now	Now
• Certain Phthalates: limit of 0.1% (of total weight) in toys and child care articles	Now	February 10, 2010
• Cribs and Pacifiers	Now	Now
• Small Parts (under 3)	Now	Now
• Baby Bouncers, Walkers, jumpers	Now	February 10, 2010
• Mandatory Toy Standard (ASTM F963)	Now	February 10, 2010



**U.S. Consumer Product
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Exemptions

- **Wood**
- **Other natural materials including coral, amber, feathers, fur, and untreated leather**
- **Yarn, dyed or undyed**
- **Dyed or undyed textiles (cotton, wool, hemp, nylon, etc.), including children's fabric products, such as baby blankets, and non-metallic thread and trim**
- **Children's books printed after 1985 that are conventionally printed and intended to be read, as opposed to used for play**
- **Certain educational materials, such as chemistry sets**
- **Precious gemstones: diamond, ruby, sapphire or emeralds**
- **Semiprecious stones provided that the mineral or material is not based on lead and is not associated with any mineral based on lead**
- **Natural or cultured pearls**
- **Surgical steel**
- **Gold, of at least 10 karats**
- **Silver, at least 925/1000 pure**
- **Platinum, palladium, rhodium, osmium, iridium, and ruthenium**



**U.S. Consumer Product
Safety Commission**

Just when you think it's safe....

Nine children's product manufacturers, importers and sellers have agreed to pay \$530,000 in civil penalties for violating the federal lead paint ban, the [Consumer Product Safety Commission](#) announced .

These companies were responsible for 13 recalls of 6 million items in 2007 and 2008 including toys, children's metal jewelry, children's pens, metal water bottles, pencil pouches, sunglasses and children's Halloween pails and baskets.



**U.S. Consumer Product
Safety Commission**



Model Toxics in Packaging Legislation

Consumer products in packages cannot be sold if the ***total concentration*** of metals in the packaging exceeds ***100 ppm***.



• ***Intentionally introduced***



• ***Incidental Presence***



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Who needs to comply with this regulation?

Any company that **sells or distributes packaging, packaging components, or packaged products** is responsible for compliance with state toxics in packaging laws, regardless of where the regulated metals originated.

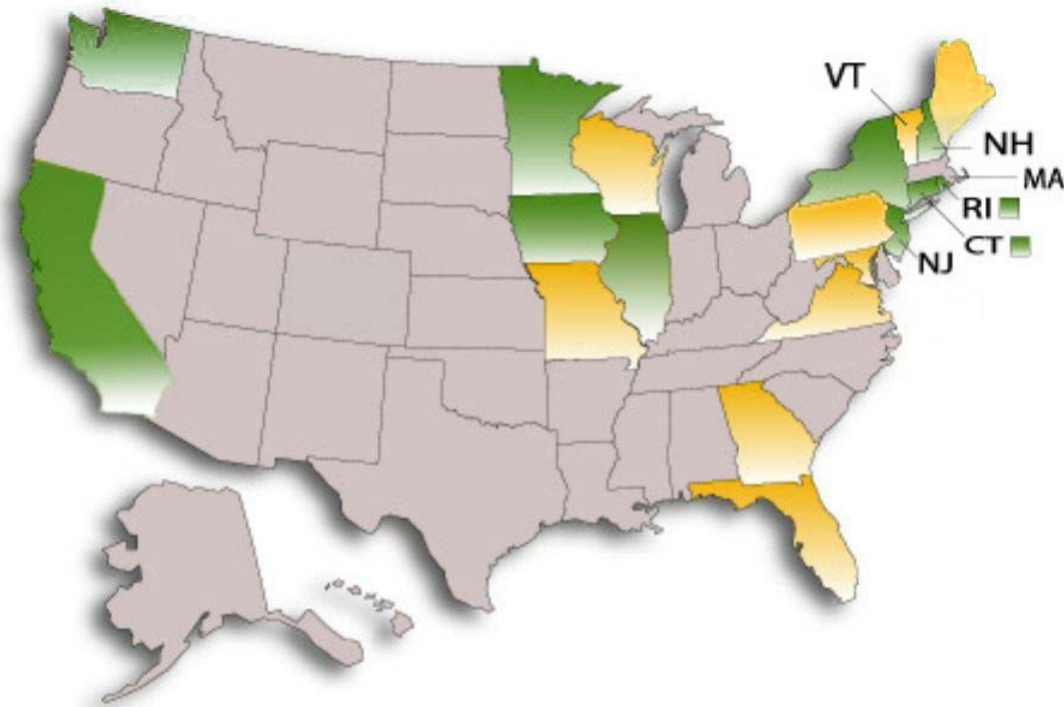





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States with Toxic in Packaging Laws

- *California
- *Connecticut
- Florida
- Georgia
- *Illinois
- *Iowa
- Maine
- Maryland
- *Minnesota
- Missouri
- *New Hampshire
- *New Jersey
- *New York
- Pennsylvania
- *Rhode Island
- Vermont
- Virginia
- *Washington
- Wisconsin

* TPOCH Members



-  TPCH Member States
-  Non-member states with legislation
-  States without legislation



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How can I comply?

The TPCH recommends that each company in the packaging supply chain develop a quality assurance system that addresses state restrictions on the use of heavy metals in packaging, or integrates these requirements into existing QA/QC programs.



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Due Diligence

- Incorporate toxics in packaging requirements into [packaging specifications](#).
- Discuss toxics in packaging requirements directly with suppliers.
- Require suppliers to submit a [Certificate of Compliance](#) with supporting documentation.
- Test the incoming feed stocks, packaging materials, and packaging components of all new suppliers (prior to issuing a purchasing contract) using x-ray fluorescence (XRF) analysis, ICP or AA from a testing Lab such as Chemserve..
- Institute an on-going program for monitoring or “spot-checking” incoming raw materials or packaging components to make sure that heavy metals are not subsequently introduced into your packaging materials and supplies.



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Exemptions & Revisions (Dec 2008)

Certain exemptions are incorporated into the model legislation. All packages and packaging components are subject to the model legislation except those which:

- **Were Manufactured Prior to Effective Date of State Law**
- **Are in Compliance with Federal Statute**
- **Recycled Materials – 200ppm maximum for total of 4 metals**
- **No Feasible Alternative**
- **Reused Materials – requires notification to State Agency
(exp. January 1, 2020)**
- **Controlled Distribution and Reuse – describe efforts to seek alternatives
(exp. January 1, 2020)**
- **Glass and ceramic packages with vitrified labels – ASTM C1606-04, TCLP of US EPA Test Method and publication SW-846.**



“TPCH and its member states support the use of XRF technology to screen packages and packaging materials for compliance with state requirements.”



Department of Toxic Substances Control

Restoring Communities. . . Protecting the Future



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Certification required?

Must supply documentation upon request from State



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Proposition 65

"The Safe Drinking Water and Toxic Enforcement Act of 1986."

The statute states that **“no person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state (California) to cause cancer or reproductive toxicity without first giving a clear and reasonable warning...”**

Proposition 65 also prohibits California businesses from **knowingly discharging significant amounts of listed chemicals into sources of drinking water.**

OEHHA

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Enforcement is carried out through civil law suits

	A	B	C	D	E	F	G	H	I	J
	Plaintiff	No. of Settlements	Total Settlements	Injunctive Relief Included	Civil Penalty	% of Total	Attorney Fees & Costs	% of Total	Other	% of Total
1										
2										
3										
4										
5	AMERICAN ENVIRONMENTAL SAFETY INST.	4	\$215,500.00	4	\$0.00	0.00%	\$103,440.00	48.00%	\$112,060.00	52.00%
6	AS YOU SOW	6	\$820,000.00	6	\$81,500.00	9.94%	\$192,782.00	23.51%	\$545,718.00	66.55%
7	BRIMER, RUSSELL	12	\$325,909.96	12	\$46,100.00	14.15%	\$279,809.96	85.85%	\$0.00	0.00%
8	CENTER FOR SELF-IMPROVEMENT & COMMUNITY DEVELOP.	1	\$0.00	1	\$0.00	0.00%	\$0.00	0.00%	\$0.00	0.00%
9	CENTER FOR ENVIRONMENTAL HEALTH	37	\$4,692,650.00	37	\$119,800.00	2.55%	\$3,117,900.00	66.44%	\$1,456,950.00	31.05%
10	CALIFORNIA WOMEN'S LAW CENTER; KATHERINE BUCKLAND	2	\$5,250.00	2	\$0.00	0.00%	\$1,912.50	36.43%	\$3,337.50	63.57%
11	CONSUMER ADVOCACY GROUP, INC	31	\$1,003,250.00	31	\$0.00	0.00%	\$972,750.00	96.96%	\$30,500.00	3.04%
12	CONSUMER DEFENSE GROUP ACTION	2	\$274,000.00	2	\$0.00	0.00%	\$274,000.00	100.00%	\$0.00	0.00%
13	DIPIRRO, MICHAEL	6	\$445,000.00	6	\$137,000.00	30.79%	\$308,000.00	69.21%	\$0.00	0.00%
14	HELD, ANTHONY, Ph.D.	31	\$1,173,250.00	31	\$272,100.00	23.19%	\$901,150.00	76.81%	\$0.00	0.00%
15	LEEMAN, WHITNEY R., Ph.D.	10	\$366,244.48	10	\$98,500.00	26.89%	\$267,744.48	73.11%	\$0.00	0.00%
16	MATEEL ENVIRONMENTAL JUSTICE FOUNDATION	39	\$1,775,300.00	39	\$95,450.00	5.38%	\$1,060,000.00	59.71%	\$619,850.00	34.92%
17	SOWINSKI, RICHARD, DC	1	\$10,000.00	1	\$0.00	0.00%	\$10,000.00	100.00%	\$0.00	0.00%
18	TE'O, JAIME	4	\$97,750.00	4	\$10,000.00	10.23%	\$87,750.00	89.77%	\$0.00	0.00%
19	ENVIRONMENTAL LAW FOUNDATION/COMMUNITIES FOR A BETTER ENVIRONMENT/OUR CHILDREN'S EARTH FOUNDATION	1	\$6,600,000.00	1	\$0.00	0.00%	\$6,600,000.00	100.00%	\$0.00	0.00%
20	Subtotal	187	\$17,804,104.44	187	\$860,450.00	4.83%	\$14,177,238.94	79.63%	\$2,768,415.50	15.55%
21										
22	OFFICE OF THE ATTORNEY GENERAL	10	\$2,867,500.00	10	\$1,973,750.00	68.83%	\$0.00	0.00%	\$893,750.00	31.17%
23	OFFICE OF THE ATTORNEY GENERAL/ L.A.CITY ATTORNEY	2	\$3,865,726.00	2	\$1,798,500.00	46.52%	\$430,726.00	11.14%	\$1,636,500.00	42.33%
24										
25	Grand Total	199	\$24,537,330.44	199	\$4,632,700.00	18.88%	\$14,607,964.94	59.53%	\$5,298,665.50	21.59%

OEHHA

Office of Environmental Health Hazard Assessment

Who needs to comply with this regulation?

The term “person in the course of doing business” excludes

- **Any person employing fewer than 10 employees in his or her business**
- **Any city, county, or district or any department or agency thereof, or the state or any department or agency thereof, or the federal government or any department or agency thereof**
- **Any entity in its operation of a public water system as defined in Section 4010.1.”**

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How Can I comply?

Provide warnings about Proposition 65 listed chemicals:

- products purchased
- in homes or workplaces
- released into the environment

State of California
PROP 65
This product may contain one or more
substances or chemicals known to the
state of California to cause birth defects
and other reproductive harm.

Safe Harbor Levels:

- **No Significant Risk Levels (NSRLs) Adopted in Regulation for Carcinogens**
- **Maximum Allowable Dose Levels (MADLs) Adopted in Regulation for Chemicals Causing Reproductive Toxicity**

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Consent Judgments:

DEHP

Children's Watches

$\leq 1,000$ ppm

Otherwise warning requirement:

WARNING: This product contains DEHP, a phthalate chemical known to the of California to cause birth defects and other reproductive harm.

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Consent Judgments:

Pb	Rainwear	Fabric of product	≤ 30 ppm
		Non-fabric components	≤ 200 ppm
		(i.e. zippers, drawstrings, snaps, or buttons)	

PVC Clothing < 30ppm total Pb

PVC Coated Cords < 300ppm total Pb

PVC Coated cords for Baby Monitors < 200ppm soluble Pb

PVC Coated tools, hand weights < 200ppm total Pb

Electrical Tape < 30ppm total Pb

OEHHA

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There is no certification.

<http://www.oehha.org/>

Changes?

**Exposures to Listed Chemicals
in Foods**

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