

under the Commission's regulations at 16 CFR 1500.50 and 16 CFR 1500.53 (excluding the bite test of §1500.53(c)) intended for children aged 37–96 months will be used to evaluate accessibility of lead-containing component parts of a children's product as a result of normal and reasonably foreseeable use and abuse of the product.

(i) A children's product that is or contains a lead-containing part which is enclosed, encased, or covered by fabric and passes the appropriate use and abuse tests on such covers, is inaccessible to a child unless the product or part of the product in one dimension is smaller than 5 centimeters.

(j) The intentional disassembly or destruction of products by children older than age 8 years by means or knowledge not generally available to younger children, including use of tools, will not be considered in evaluating products for accessibility of lead-containing components.

[74 FR 39540, Aug. 7, 2009]

§ 1500.88 Exemptions from lead limits under section 101 of the Consumer Product Safety Improvement Act for certain electronic devices.

(a) The Consumer Product Safety Improvement Act (CPSIA) provides for specific lead limits in children's products. Section 101(a) of the CPSIA provides that by February 10, 2009, products designed or intended primarily for children 12 and younger may not contain more than 600 ppm of lead. After August 14, 2009, products designed or intended primarily for children 12 and younger cannot contain more than 300 ppm of lead. On August 14, 2011, the limit may be further reduced to 100 ppm, unless the Commission determines that it is not technologically feasible to have this lower limit. Paint, coatings or electroplating may not be considered a barrier that would make the lead content of a product inaccessible to a child.

(b) Section 101(b)(4) of the CPSIA provides that if the Commission determines that it is not technologically feasible for certain electronic devices to comply with the lead limits, the Commission must issue requirements by regulation to eliminate or minimize the potential for exposure to and acces-

sibility of lead in such electronic devices and establish a compliance schedule unless the Commission determines that full compliance is not technologically feasible.

(c) Certain lead-containing component parts in children's electronic devices unable to meet the lead limits set forth in paragraph (a) of this section due to technological infeasibility are granted the exemptions that follow in paragraph (d) of this section, provided that use of lead is necessary for the proper functioning of the component part and it is not technologically feasible for the component part to meet the lead content limits set forth in paragraph (a) of this section.

(d) Exemptions for lead as used in certain component parts in children's electronic devices include:

(1) Lead blended into the glass of cathode ray tubes, electronic components and fluorescent tubes.

(2) Lead used as an alloying element in steel. The maximum amount of lead shall be less than 0.35% by weight (3500 ppm).

(3) Lead used in the manufacture of aluminum. The maximum amount of lead shall be less than 0.4% by weight (4,000 ppm).

(4) Lead used in copper-based alloys. The maximum amount of lead shall be less than 4% by weight (40,000 ppm).

(5) Lead used in lead-bronze bearing shells and bushings.

(6) Lead used in compliant pin connector systems.

(7) Lead used in optical and filter glass.

(8) Lead oxide in plasma display panels (PDP) and surface conduction electron emitter displays (SED) used in structural elements; notably in the front and rear glass dielectric layer, the bus electrode, the black stripe, the address electrode, the barrier ribs, the seal frit and frit ring as well as in print pastes.

(9) Lead oxide in the glass envelope of Black Light Blue (BLB) lamps.

(e) Components of electronic devices that are removable or replaceable such as battery packs and light bulbs that are inaccessible when the product is assembled in functional form or are otherwise granted an exemption are not

subject to the lead limits in paragraph (a) of this section.

(f) Commission staff is directed to re-evaluate and report to the Commission on the technological feasibility of compliance with the lead limits in paragraph (a) of this section for children's electronic devices, including the technological feasibility of making accessible component parts inaccessible, and the status of the exemptions, no less than every five years after publication of a final rule in the FEDERAL REGISTER on children's electronic devices.

[74 FR 6993, Feb. 12, 2009]

§ 1500.89 Procedures and requirements for determinations regarding lead content of materials or products under section 101(a) of the Consumer Product Safety Improvement Act.

(a) The Consumer Product Safety Improvement Act provides for specific lead limits in children's products. Section 101(a) of the CPSIA provides that by February 10, 2009, products designed or intended primarily for children 12 years of age or younger may not contain more than 600 ppm of lead. After August 14, 2009, products designed or intended primarily for children 12 years of age or younger cannot contain more than 300 ppm of lead. On August 14, 2011, the limit will be further reduced to 100 ppm, unless the Commission determines that this lower limit is not technologically feasible. Paint, coatings or electroplating may not be considered a barrier that would make the lead content of a product inaccessible to a child or prevent the absorption of any lead in the human body through normal and reasonably foreseeable use and abuse of the product.

(b) The Commission may, either on its own initiative or upon the request of any interested person, make a determination that a material or product does not contain leads levels that exceed 600 ppm, 300 ppm, or 100 ppm, as applicable.

(c) A determination by the Commission under paragraph (b) of this section that a material or product does not contain lead levels that exceed 600 ppm, 300 ppm, or 100 ppm, as applicable does not relieve the material or product from complying with the applicable

lead limit as provided under paragraph (a) of this section.

(d) To request a determination under paragraph (b) of this section, the request must:

(1) Be e-mailed to *cpssc-os@cpssc.gov*, and titled "Section 101 Request for Lead Content Determination." Requests may also be mailed, preferably in five copies, to the Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East West Highway, Bethesda, Maryland 20814, or delivered to the same address.

(2) Be written in the English language.

(3) Contain the name and address, and e-mail address or telephone number, of the requestor.

(4) Provide documentation including:

(i) A detailed description of the product or material and how it is used by a child;

(ii) Representative data on the lead content of parts of the product or materials used in the production of a product;

(iii) All relevant data or information on manufacturing processes through which lead may be introduced into the material or product;

(iv) An assessment of the likelihood or lack thereof that the manufacturing processes will result in lead contamination of a material or product that ordinarily does not contain lead;

(v) All relevant data or information on the facilities used to manufacture the material or product, and any other materials used in the product;

(vi) An assessment of the likelihood or lack thereof that the use of leaded materials in a facility will result in lead contamination of a material or product that ordinarily does not contain lead;

(vii) Any other information relevant to the potential for lead content of the product or material to exceed the statutory lead limit specified in the request, that is 600 ppm, 300 ppm, or 100 ppm, as applicable;

(viii) Detailed information on the relied upon test methods for measuring lead content of products or materials including the type of equipment used or any other techniques employed and a statement as to why the data is representative of the lead content of such products or materials generally; and

(ix) Any data or information that is unfavorable to the request that is reasonably available to the requestor.

(e) Where a submission fails to meet all of the requirements of paragraph (d) of this section, the Office of the Secretary shall notify the person submitting it, describe the deficiency, and explain that the request may be resubmitted when the deficiency is corrected.