



TECHNICAL NOTICE

February 26, 2009 TN 09-005
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CONSUMER PRODUCT SAFETY COMMISSION

Tracking Labels for Children's Products Notice of Inquiry; Request for Comments and Information

CPSC has issued a Notice of Inquiry requesting comments regarding tracking labels for children's products. Section 103 of Consumer Product Safety Act (CPSIA) requires manufacturers of children's products to place permanent distinguishing marks on the product and packaging that provides certain identifying information effective August 14, 2009 [see MIC TN 08-033].

CPSC staff is interested in comments and information regarding:

1. The conditions and circumstances that should be considered in determining whether it is "practicable" to have tracking labels on children's products and the extent to which different factors apply to including labels on packaging.
2. How permitting manufacturers and private labelers to comply with labeling requirements with or without standardized nomenclature, appearance, and arrangement of information would affect:
 - a. Manufacturers' ability to ascertain the location and date of production of the product; and
 - b. Other business considerations relevant to tracking label policy.
3. How consumers' ability to identify recalled items would be affected by permitting manufacturers and private labelers to comply with labeling requirements with or without standardized nomenclature, appearance, and arrangement of information.
4. How, and to what extent, the tracking information should be presented with some information in English or other languages, or whether presentation should be without the use of language (*e.g.*, by alpha-numeric code with a reference key available to the public).
5. Whether there would be substantial benefit to consumers if products were to contain tracking information in electronically readable form (to include optical data and other forms requiring supplemental technology), and if so, in which cases this would be most beneficial and in which electronic form.
6. In cases where the product is privately labeled, by what means the manufacturer information should be made available by the seller to a consumer upon request, *e.g.*: Electronically via Internet, or toll-free number, or at point of sale.
7. The amount of lead time needed to comply with marking requirements if the format is prescribed.
8. Whether successful models for adequate tracking labels already exist another jurisdictions.

Comments must be submitted by April 27, 2009.

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**PRODUCT SAFETY
COMMISSION**

**Tracking Labels for Children's
Products Under Section 103 of the
Consumer Product Safety
Improvement Act; Notice of Inquiry;
Request for Comments and
Information**

AGENCY: Consumer Product Safety
Commission.

ACTION: Notice of inquiry.

SUMMARY: The Consumer Product Safety Improvement Act of 2008 requires that, effective August 14, 2009, the manufacturer of a children's product must place permanent distinguishing marks on the product and its packaging that provides certain identifying information. The United States Consumer Product Safety Commission ("Commission") is requesting comments and information about implementation of this program.

DATES: Written comments must be received by April 27, 2009.

ADDRESSES: Comments should be e-mailed to TrackingLabels@cpsc.gov. Comments also may be mailed, captioned "tracking labels," 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 (telephone (301) 504-7923). Comments may also be filed by facsimile to (301) 504-0127.

FOR FURTHER INFORMATION CONTACT: John "Gib" Mullan, Director, Office of Compliance and Field Operations, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504-7626.

SUPPLEMENTARY INFORMATION:

A. Statutory Tracking Label Requirement

The U.S. Consumer Product Safety Commission invites comments on implementation of section 103 of the CPSIA, Tracking Labels for Children's Products. Effective August 14, 2009, section 103 of the CPSIA requires, to the extent practicable, the placement of permanent, distinguishing marks on children's products and packaging to enable:

(A) The manufacturer to ascertain the location and date of production of the product, cohort information (including the batch, run number, or other identifying characteristic), and any other information determined by the manufacturer to facilitate ascertaining the specific source of the product by reference to those marks; and

(B) The ultimate purchaser to ascertain the manufacturer or private labeler, location and date of production of the product, and cohort information (including batch, run number, or other identifying characteristic).

Public Law 110-314, sec. 103(a), 122 Stat. 3016 (August 14, 2008). Under the CPSIA, a "children's product" is "a consumer product designed or intended primarily for children 12 years of age or younger." *Id.* sec. 235(a).

Section 103 of the CPSIA also amends section 14(c) of the Consumer Product Safety Act ("CPSA") (15 U.S.C. 2063(c)), which already authorizes the Commission to require, by rule, the use of traceability labels (including permanent labels) where practicable, on any consumer product. This section allows the Commission to require labels that may include these elements:

- Manufacturer or private labeler.
- Date and place of manufacture.
- Cohort information (including batch, run number, or other identifying characteristic) of the product.

This same section provides that, where traceability labels are required by rule under CPSA section 14(c) and a covered product is privately labeled, the product must carry a code mark permitting the seller to identify the manufacturer upon a purchaser's request.

The Commission is aware of the potential public interest in implementing a tracking label approach in close consultation with other national and regional jurisdictions. To the extent that a uniform approach can be developed, consumers may be better informed in the event of a recall. Manufacturers also may have greater certainty in identifying affected products and production management costs may be reduced, with possible pricing benefits to consumers. The Commission intends to draw from responses to this request for comments in its discussions on tracking label policy with other national and regional regulators.

B. Request for Comments

Given the spectrum of options available to CPSC to implement the tracking labeling requirement for children's products, the staff is interested in comments and information regarding:

1. The conditions and circumstances that should be considered in determining whether it is "practicable" to have tracking labels on children's products and the extent to which different factors apply to including labels on packaging.

2. How permitting manufacturers and private labelers to comply with labeling requirements with or without standardized nomenclature, appearance, and arrangement of information would affect:

a. Manufacturers' ability to ascertain the location and date of production of the product; and

b. Other business considerations relevant to tracking label policy.

3. How consumers' ability to identify recalled items would be affected by permitting manufacturers and private labelers to comply with labeling requirements with or without standardized nomenclature, appearance, and arrangement of information.

4. How, and to what extent, the tracking information should be presented with some information in English or other languages, or whether presentation should be without the use of language (e.g., by alpha-numeric code with a reference key available to the public).

5. Whether there would be a substantial benefit to consumers if

products were to contain tracking information in electronically readable form (to include optical data and other forms requiring supplemental technology), and if so, in which cases this would be most beneficial and in which electronic form.

6. In cases where the product is privately labeled, by what means the manufacturer information should be made available by the seller to a consumer upon request, e.g.: Electronically via Internet, or toll-free number, or at point of sale.

7. The amount of lead time needed to comply with marking requirements if the format is prescribed.

8. Whether successful models for adequate tracking labels already exist in other jurisdictions.

A study on possible product labeling protocols "Feasibility Study: Post-manufacturing Traceability System between the PRC and the EU, November 2008" may be found at the following Web site: http://www.euchinawto.org/index.php?option=com_content&task=view&id=258&Itemid=1 (referenced here with permission). The Commission does not necessarily endorse or support any views or conclusions in that study. However, the document provides useful background for discussion of traceability labeling policies.

The Commission understands that other jurisdictions plan to request comments on tracking label policy in the near future. On its Web site <http://www.cpsc.gov>, CPSC will provide links to Internet notices by other jurisdictions as staff becomes aware of them.

Dated: February 20, 2009.

Todd Stevenson,

Secretary, U.S. Consumer Product Safety Commission.

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