

2.2 Example Identifying chemicals- related requirements for placing a toy on the US market



This document is part of the *International Chemicals Management Toolkit for the Toy Supply Chain* developed by the United Nations Environment Programme (UNEP) in collaboration with the Baltic Environmental Forum (BEF) within the framework of the Global Environment Facility (GEF) project ID: 9771 on Global Best Practices on Emerging Chemical Policy Issues of Concern under the Strategic Approach to International Chemicals Management (SAICM).

This example illustrates how to identify legal requirements according to the '[Guidance: How to find legislation on toys](#)'.

Note: this example might become outdated (as it was initially developed in December 2021). Do not rely on this section to check your compliance

Please check the newest legal requirements with the help of the [link list](#).

Which steps must Duck S.A. take?

Scenario: The South-East Asian-based company Duck S.A. manufactures rubber ducks for the Chinese market. They would like to export these rubber ducks to the USA in the future. Duck S.A. uses [the guidance and the flow-chart](#) to find out which legal requirements apply. When applying the flow-chart, they come to the following answers:

Are you a manufacturer / formulator / compounder of plastic raw materials / pellets for use in toys manufacturing?

- No, Duck S.A. does not manufacture the raw materials, but purchases them from several suppliers.

Do you produce a product for use in toys or a finished toy?

- Yes, Duck S.A. makes rubber ducks that are not further changed before they are sold to consumers.

Make a list of countries to which you export your product!

- United States of America.

Are your products identical (same material input, etc.) regardless of which country you export them to? **Or do you use different polymer compounds to produce a product for different regions, for example for the EU market and the Chinese market?**

- No, currently producing only for the Chinese market.

Duck S.A. needs to **check the legislations of all countries individually**. Therefore, they **identify relevant legislation** with the [link-list](#).

- 1) In the link-list they find the **website by the US government**, which was created for businesses wishing to sell toys to the US market. They read the website to **get an overview** of the legal requirements.
- 2) They open the **regulatory robot (guidance)** and start the process:
 - a) Select what kind of toy the rubber duck is → In this case a “Toys and Infant Activity Product”.
 - b) Define some characteristics of the product and about the company → the website composes a report for the rubber duck, which contains the requirements.
 - c) The report is not fully reliable as it doesn’t necessarily reflect the most current legal developments. They save the report to use it for the next steps.
- 3) They find that the **Consumer Product Safety Improvement Act (CPSIA)** and the **U.S. Toy Standard “ASTM F963”** are relevant for their case. They buy the ASTM F963 standard to proceed.

Read the definition of what is a toy and check if your product falls under the definition and/or is used for a toy (2.1.3)

Duck S.A. checks the definition of a toy under the **Consumer Product Safety Improvement Act**:
“The term ‘children’s toy’ means a consumer product designed or intended by the manufacturer for a child 12 years of age or younger for use by the child when the child plays.”
→ Yes, the rubber duck is intended for children under 12 years old, which means that the definition applies.

In addition, the CPSIA specifies that the **U.S. Toy Standard “ASTM F963”** must be complied with. This standard applies to “toys intended for use by children under 14 years of age” - [Standard Consumer Safety Specification for Toy Safety \(astm.org\)](#).

→ Yes, this standard is relevant.

Identify the chemicals-related requirements (2.1.4)

Duck S.A. identifies the chemicals-related requirements for their rubber duck by screening the **Consumer Product Safety Improvement Act** and with the help of the regulatory robot. They find the following relevant obligations:

- A. Lead Content Testing**
- B. Lead in Paint and Surface Coatings Testing**
- C. Phthalates in Children’s Toys and Certain Child Care Products**
- D. Finding a Laboratory, accepted by the Consumer Product Safety Commission (CPSC)**
- E. Children’s Product Certificate (CPC)**

F. U.S. Toy Standard: ASTM F963

(!) Note that there are additional requirements to toys which must also be met but are not discussed here, as they are not related to chemical safety.

Do you understand the obligations?

Duck S.A. checks [the guidance](#) to understand if they meet the obligations. Duck S.A. is unsure whether every section of the toy safety standard applies to their rubber duck (1). Likewise, they wonder if their toy must be tested to meet flammability requirements (2). They join the [US-Toy Association](#) to network among business peers and benefit from their experience in the toys industry.

During their contact with business peers, they [can clear up their questions](#).

(1) Not every section of the toy safety standard necessarily applies to the rubber duck. The toy safety standard is a comprehensive document that sets out regulations for many different types of toys. There is no one-size-fits-all approach for the toy standard. Different chapters of the toy standard will apply to different kinds of toys.

(2) The US Congress did not include flammability and third-party testing requirements for toys. However, a child's toy is not permitted to contain a chemical of concern that can cause significant injury or illness during, or as a direct result of the use of a highly combustible or flammable solid.

Check and document your compliance

Duck S.A. checks and documents compliance for all relevant requirements.

A. Lead Content Testing

All accessible component parts of a children's product **must be tested to demonstrate compliance with the lead content limit of 100 parts per million (ppm)**. This requirement applies to substrate materials in children's products, such as metals and plastics. The duck's substrate (main material it consists of) are polymers and therefore need to be tested for lead at a third party, CPSC-accepted laboratory. According to the information in the [inventory](#), there is no lead in the input materials of the duck, so testing should show that there is no lead in the toy.

A CPSC-Accepted Testing Laboratories must be found, where a sample of the material can be sent to. There are also other lead content determinations and exemptions that don't apply to the rubber duck.

B. Lead in Paint and Surface Coatings Testing

The rubber duck has several coatings to give it colour, e.g. the black sunglasses and the blue shirt. For the USA market, paint and similar surface coating materials for consumer use must comply with a mandatory federal consumer product safety rule, the Ban of Lead-Containing Paint and Certain Consumer Products Bearing Lead-Containing Paint, [16 CFR part 1303](#). Toys **must not contain a concentration of lead greater than 90 parts per million (ppm)** in paint or any similar surface coatings.

These products must be tested at a CPSC-accepted laboratory that is accepted to test for lead in paint and surface coatings. According to the information in the [inventory](#), there is no

lead in the input materials of the coating, so testing should show that the toy complies with this requirement. Duck S.A. will choose a laboratory, to test the coating and the whole rubber duck on lead.

To receive the Children's Product Certificate (see further steps), the legal reference for lead limits must be included (= cited). The citation for lead in paint and other surface coatings is: [16 CFR part 1303](#).

C. Phthalates in Children's Toys and Certain Child Care Products

Children's toys, and child care products that facilitate sleeping, feeding, sucking, or teething in children age 3 and younger, must not contain any of eight phthalates specified in the 16 CFR 1307 in concentrations greater than 0.1% (for each phthalate individually) in plasticized component materials.

As the purpose of the rubber duck does not fall under the listed ones, Duck S.A. considers this requirement not applicable to the duck. Nevertheless, it assesses the chemicals inventory and checks that none of the phthalates is contained in the input materials.

D. Finding a CPSC-Accepted Laboratory

Duck S.A. finds a CPSC-accepted laboratory, for the different product tests by using the given link on the guidance website: www.cpsc.gov/labsearch. This laboratory may also be a good reference point to discuss any further issues on compliance of the rubber duck with the chemicals-related requirements on the US market later on.

Manufacturers and importers must ensure that their products are periodically tested in accordance with [16 CFR § 1107.21](#). The majority of children's products will require annual testing. Duck S.A. notes the issue of regular testing and [develops a routine to ensure this is implemented](#), e.g. by assigning a respective responsibility to the sales department.

E. Children's Product Certificate (CPC)

Each product must have a **children's product certificate** ("CPC"). It is a document that certifies compliance with applicable federal safety requirements. The CPCs must accompany each product or product shipment, be given to each distributor or retailer, and be made available to the CPSC or U.S. customs upon request. These requirements are satisfied by either providing an actual hard copy, or by providing the CPC electronically, e.g., through a dedicated website URL specified on your invoice. Duck S.A. uses the testing by the third party CPSC-accepted laboratory as the basis for the production of the CPC.

F. U.S. Toy Standard: ASTM F963

After checking the CPSIA, Duck S.A. checks the mandatory U.S. Toy Standard (16 CFR part 1250). It contains requirements on surface coatings, substrate materials and sound-making toys. This applies to the rubber duck, as it has colourful coatings, yellow plastic substrate and produces a sound when squeezed. The surface coatings and substrate material should meet

the requirements on the maximum lead content and the migration limit for eight soluble elements. Therefore, Duck S.A. checks if they comply with the ASTM F963 standard.

Stay up-to-date with legislation to ensure long term compliance

Duck S.A. [implements routines to ensure that changes in legislation are noted](#) in the company and compliance checking is based on up to date information. They assign an employee to become responsible for the management of legislative matters and implement a half-yearly process for checking potential new legislation. In addition, the manager signs up to several newsletters, to be informed about the newest developments on a regular basis. With these steps, Duck S.A. is preventing product recalls, legal issues and preventing safety issues for the health of children and the environment.