

Section 102 of the Consumer Product Safety Act of 2008



STAFF DRAFT PROPOSED RULE FOR
CERTIFICATION AND TESTING

April 15, 2010

These comments are those of the CPSC staff, have not been reviewed or approved by, and may not necessarily reflect the views of, the Commission .

Section 14(a)(1) of the CPSA

➤ GENERAL CONFORMITY CERTIFICATION

Section 14(a)(1) of the CPSA requires manufacturers of non-children's products subject to an applicable safety standard under the Acts enforced by the Commission to issue a certificate based on:

- A test of each product, or xx
- A reasonable testing program.

The manufacturer must specify each safety standard that is applicable to the product in its certification.

Section 14(a)(2) of the CPSA

➤ THIRD PARTY TESTING FOR CHILDREN'S PRODUCTS

Manufacturers of children's products must comply with certification requirements specific to children's products under section 14(a)(2) of the CPSA. Every manufacturer of a children's product that is subject to a children's product safety rule must:

- Submit sufficient samples of the children's product, or samples that are identical in all material respects to the product, to a CPSC-recognized third party conformity assessment body, to be tested for compliance with the applicable children's product safety rules, and
- Based on such testing, issue a certificate that certifies the children's product complies with the applicable children's product safety rules based on the assessment of a CPSC-recognized third party conformity assessment body accredited to conduct such tests.

xx

Section 14(d)(2)(A) of the CPSA

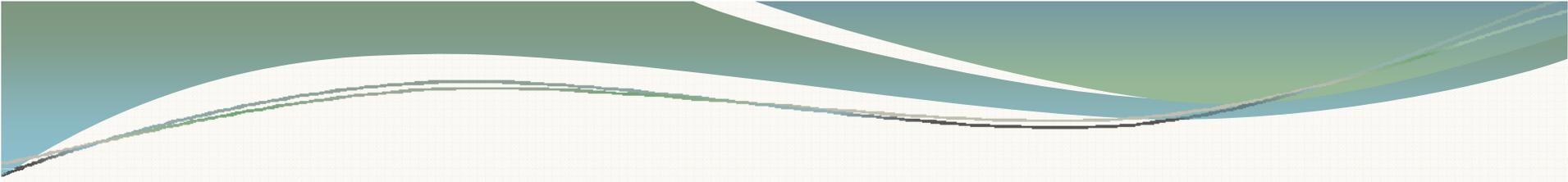
Section 14(d)(2)(A) of the CPSA requires the Commission, by regulation, to:

- Initiate a program by which a manufacturer or private labeler may label a consumer product as compliant with the certification requirements of section 14(a) of the CPSA.

Section 14(d)(2)(B) of the CPSA

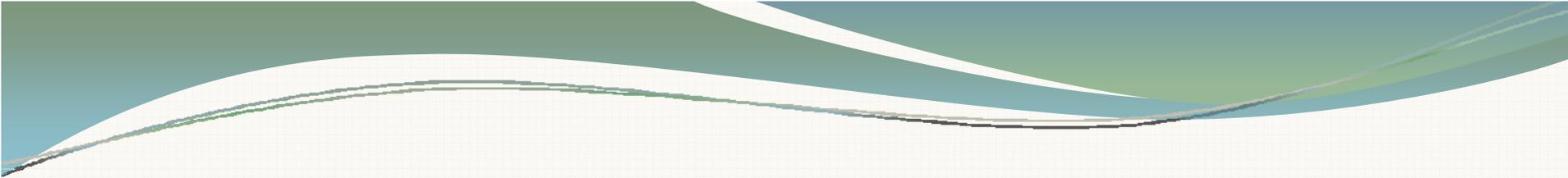
CPSIA requires the Commission, by regulation, to establish protocols and standards for:

- Ensuring that a children's product tested for compliance with an applicable children's product safety rule is subject to testing periodically and when there has been a material change in the product's design or manufacturing process, including the sourcing of component parts;
- The testing of random samples to ensure continued compliance;
- Verifying that a children's product tested by a conformity assessment body complies with the applicable children's product safety rules, and
- Safeguarding against the exercise of undue influence on a third party conformity assessment body by a manufacturer or private labeler.



Staff Draft Proposed Rule:

- Subpart A – General Provisions
- Subpart B – Reasonable Testing Program for Non-children’s Products
- Subpart C – Certification of Children’s Products
- Subpart D - Labeling



Subpart A – General Provisions

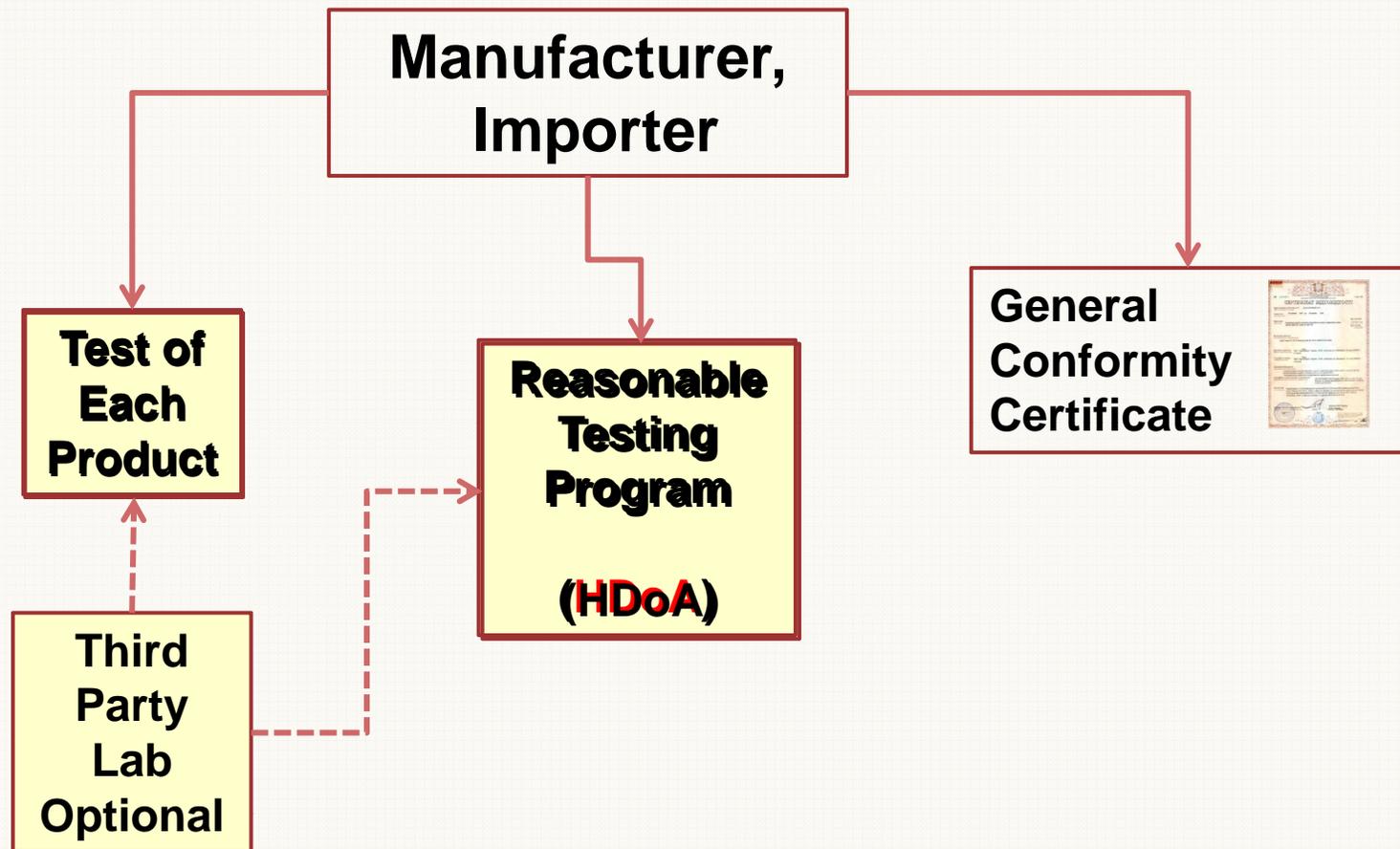
§1107.1 Purpose

§1107.2 Definitions

High Degree of Assurance: an evidence-based demonstration of consistent performance of a product regarding compliance based on knowledge of a product and its manufacture.

Identical in all Material Respects: no difference with respect to compliance to the applicable rules between the samples and the finished product.

Non-Children's Products



Subpart B - Reasonable Testing Program for Non-Children's Products

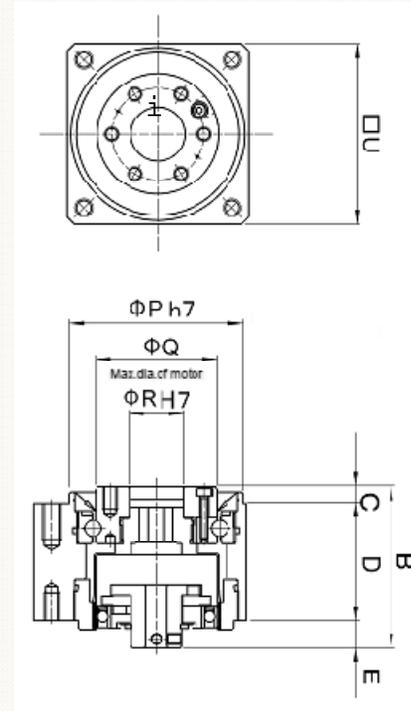
Goal: High Degree of Assurance (HDoA) that all manufactured products comply with rules,^m standards,ⁱ bans, and regulations.



1107.10 Reasonable Testing Program

Five Essential Elements:

1. Product Specifications ^m



1107.10 Reasonable Testing Program

Five Essential Elements:

1. Product Specifications ^m
2. Certification Testing
Samples to get an HDoA
Component Part Testing



1107.10 Reasonable Testing Program

Five Essential Elements:

1. Product Specifications
2. Certification Testing
3. Production Testing Plan
Continuing HDoA
Samples & Frequency
Component Part Testing



1107.10 Reasonable Testing Program

Five Essential Elements:

1. Product Specifications
2. Certification Testing
3. Production Testing Plan
4. Remedial Action Plan

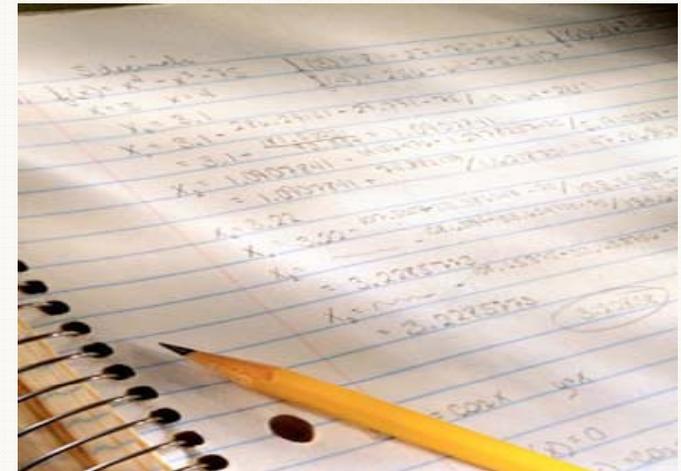


1107.10 Reasonable Testing Program

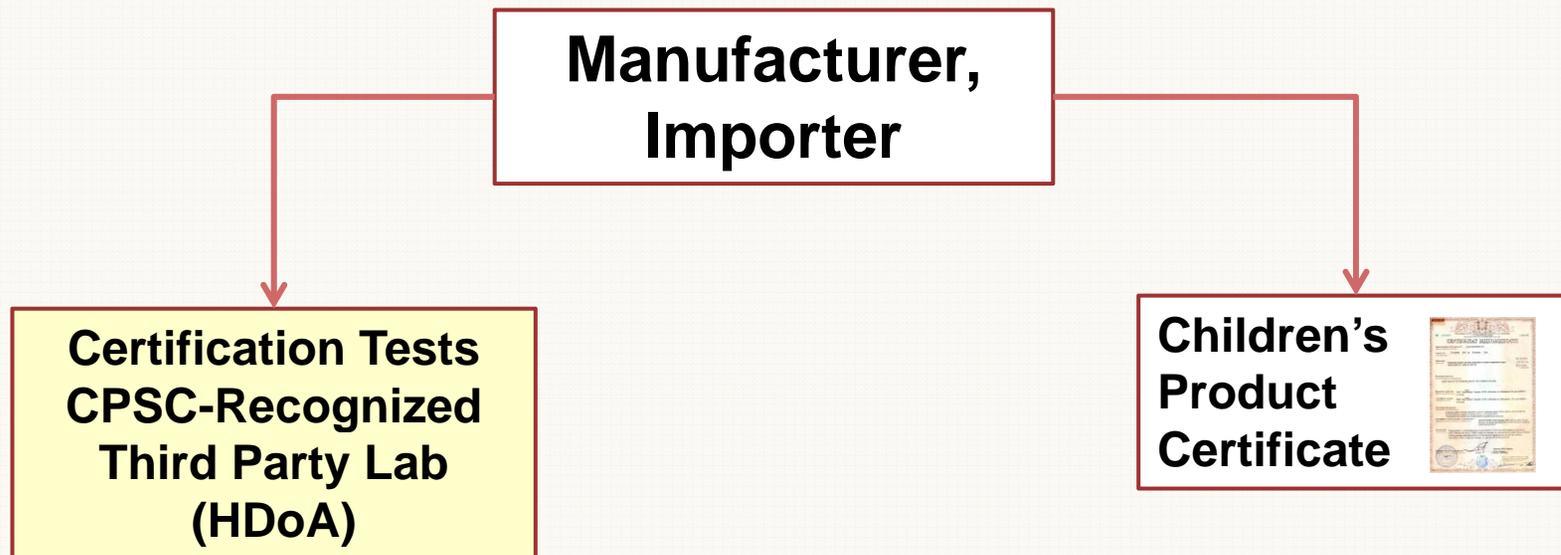
Five Essential Elements:

1. Product Specifications
2. Certification Testing
3. Production Testing Plan
4. Remedial Action Plan
5. Recordkeeping

Maintain records as long as product is distributed plus 3 years. Maintain test data 3 years.



Children's Products



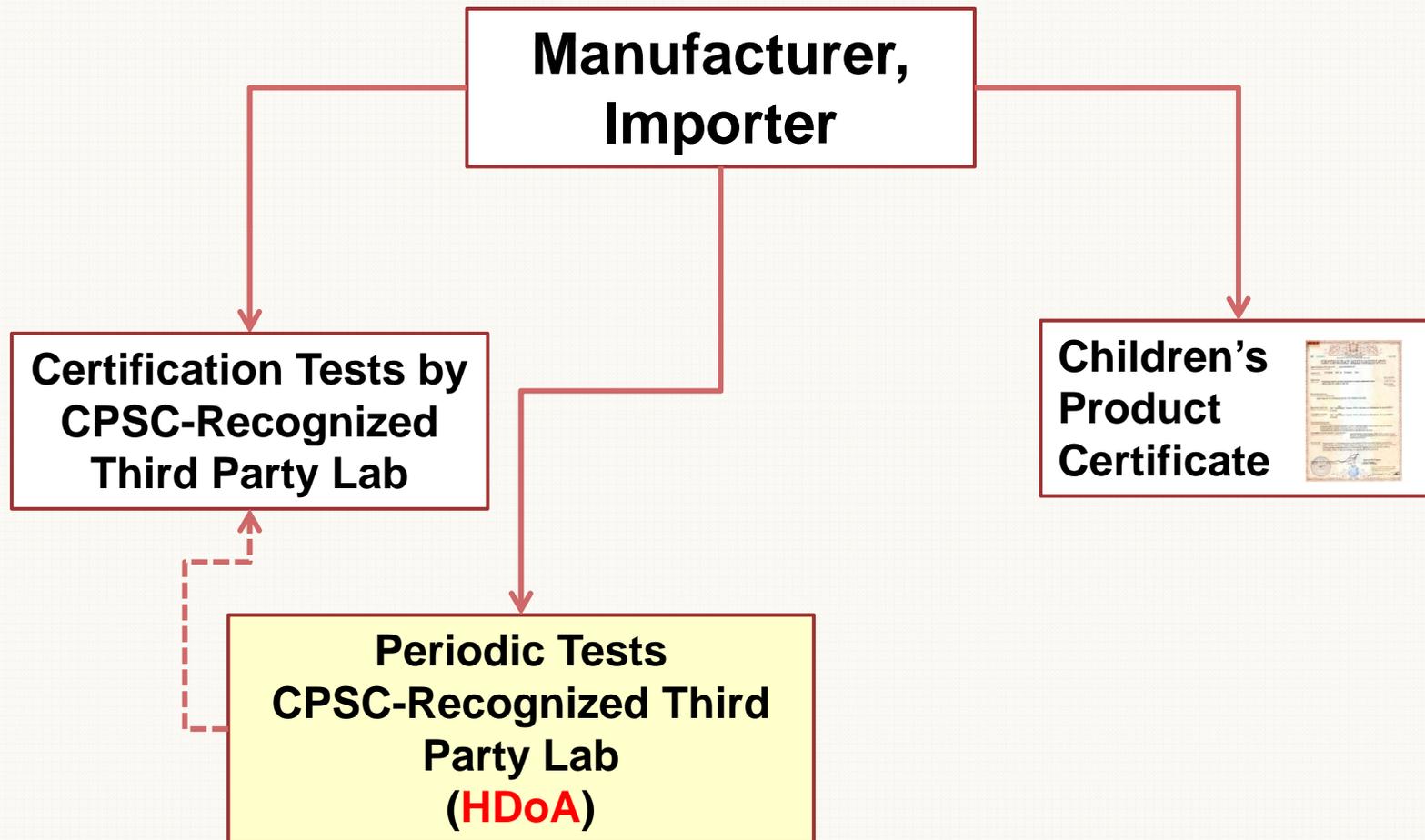
Subpart C – Certification of Children's Products

§1107.20 General Requirements

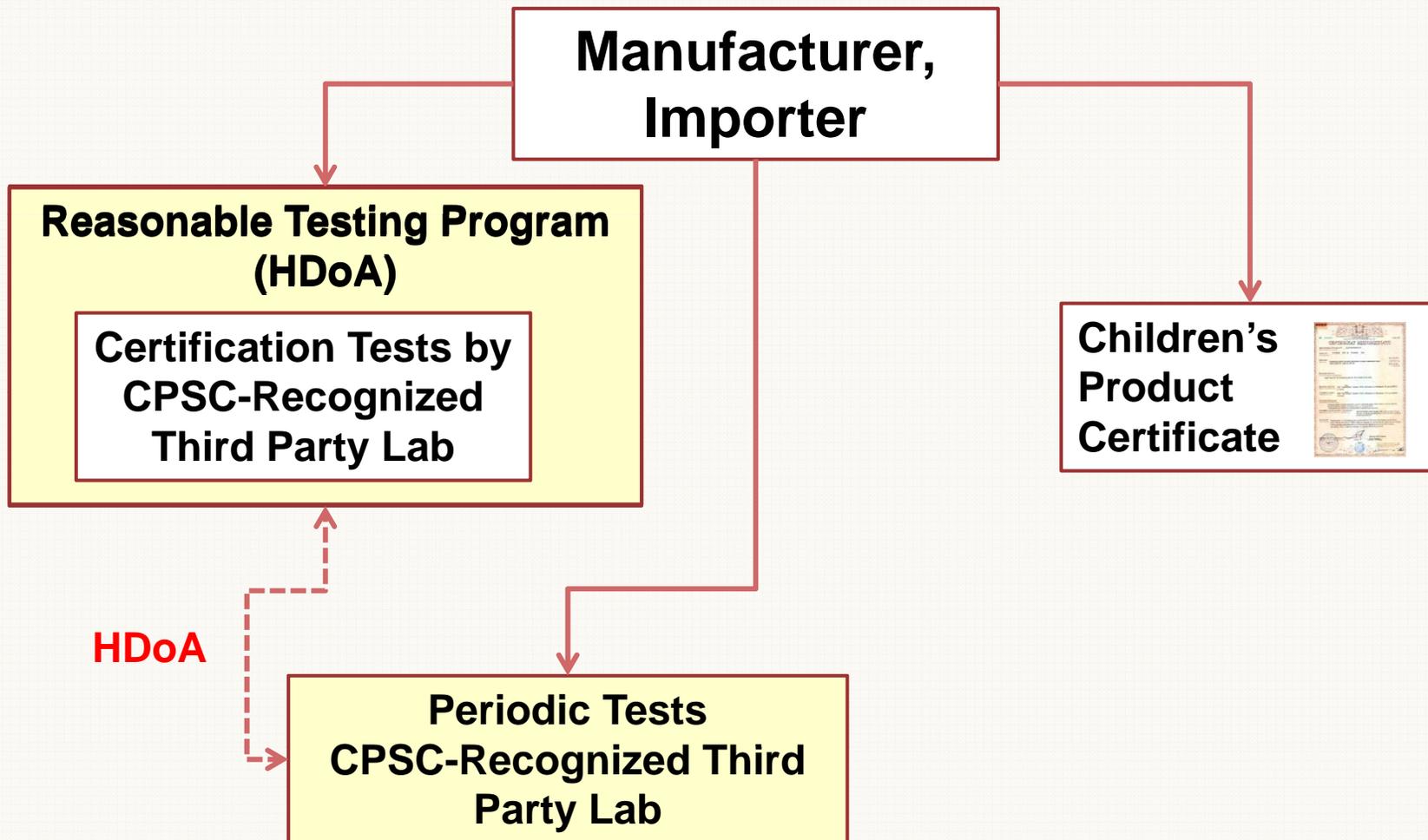
- Sufficient samples for an HDoA
- Component part testing possible
- All tests must pass

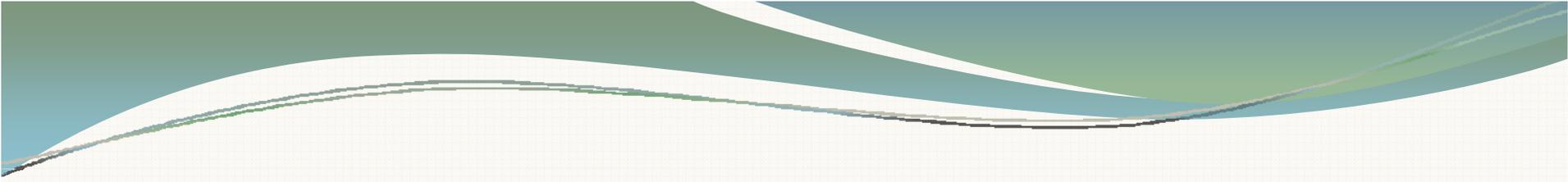


Children's Products



Children's Products





Subpart C – Certification of Children’s Products

§1107.21 Periodic Testing

- **Goal:** to ensure that current production is like the product that underwent certification testing.
 - With a Reasonable Testing Program, periodic testing interval may be longer
 - Without a Reasonable Testing Program, periodic testing interval may be shorter



Subpart C – Certification of Children’s Products

§1107.21 Periodic Testing

- **Goal:** to ensure that current production is like the product that underwent certification testing.
 - Minimum test period = 1/year with or without Reasonable Testing Program
 - No periodic tests until 10,000 units produced per product

Subpart C – Certification of Children’s Products

§1107.22 Testing of Random Samples

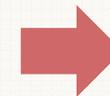
- Testing of random samples is part of periodic testing
 - Each product produced since the last periodic test has an equal chance of selection
 - Simple random sampling



Subpart C – Certification of Children’s Products

§1107.23 Material Changes

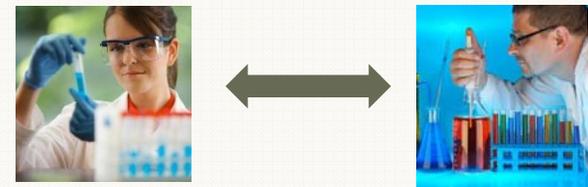
- Change that could affect compliance
 - Change could be in product design, manufacturing process, or sourcing of component parts
 - Re-certification required after a material change
 - Component part testing or testing limited to the material change

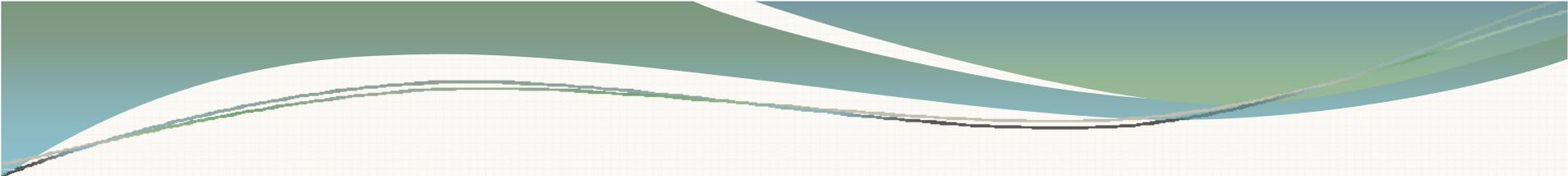


Subpart C – Certification of Children’s Products

§1107.24 Verification

- Verify one third party conformity assessment body’s tests with tests performed at an alternate conformity assessment body
 - Alternate conformity assessment body verifies previous body’s results
 - Any failing result initiates an investigation by the manufacturer
 - If investigation concludes one body has an error, manufacturer notifies CPSC

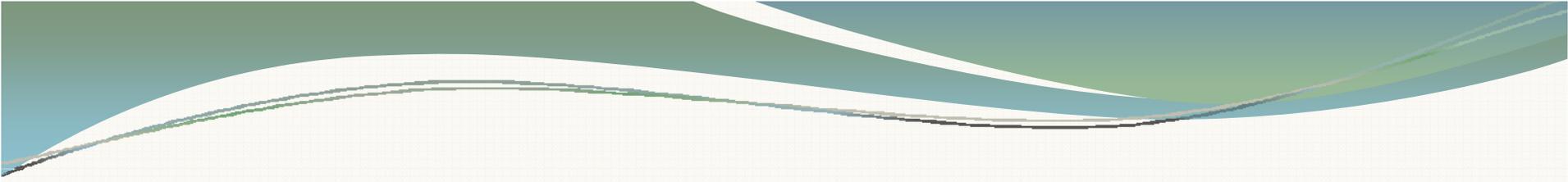




Subpart C – Certification of Children’s Products

§1107.25 Undue Influence on a Third Party Conformity Assessment Body

- Manufacturer must establish procedures to safeguard against the exercise of undue influence
 - Written policies that undue influence is unacceptable
 - Annual training for appropriate staff
 - The Commission is notified of any attempt to exert undue influence over test results
 - Allegations of undue influence may be reported confidentially



Subpart C – Certification of Children’s Products

§1107.26 Remedial Action

Any test failure during certification, periodic, material change, or verification testing

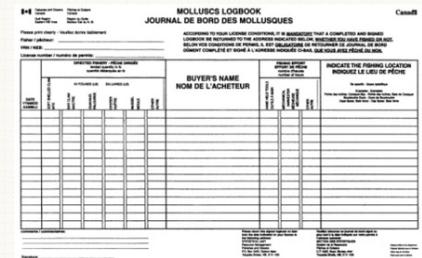
- Can include changes in design, manufacturing process, or component part sourcing
- Existing production may be reworked, or scrapped
- Third party conformity assessment tests required to re-certify the product
- New Product Specification is required if remedial action results in a material change

Subpart C – Certification of Children’s Products

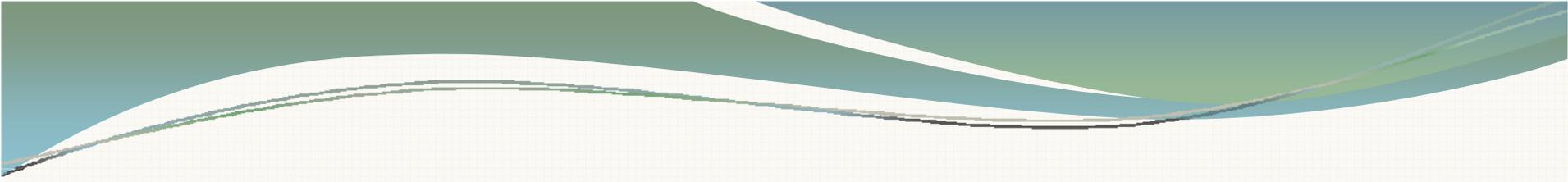
§1107.27 Recordkeeping

A manufacturer of a children’s product subject to an applicable children’s product rule must maintain the following records:

- Copy of the certificate
- Certification tests that were run and test results
- Periodic test plan and test results
- Material changes, re-certification tests and test results



The image shows a form titled "MOLLUSCS LOGBOOK" and "JOURNAL DE BORD DES MOLLUSQUES". It is a detailed record-keeping form for mollusc harvesting. The form includes sections for "BUYER'S NAME / NOM DE L'ACHETEUR", "INDICATE THE HARVEST LOCATION / INDIQUEZ LE LIEU DE PÊCHE", and a large table for recording harvest data. The table has columns for "Date", "Species", "Quantity", and "Remarks". The form also includes instructions in both English and French regarding the use of the logbook.

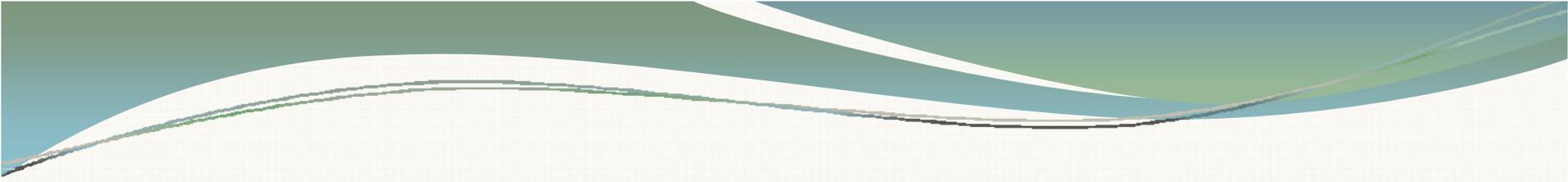


Subpart C – Certification of Children’s Products

§1107.27 Recordkeeping

A manufacturer of a children’s product subject to an applicable children’s product rule must maintain the following records:

- Verification of third party conformity assessment body test results
- Undue influence procedures and training records
- Remedial action results, including rules affected , actions taken, and test results
- Maintain records as long as product is distributed plus 3 years. Maintain test data 3 years



Subpart D – Labeling

§1107.40

Allow a manufacturer to voluntarily label a product indicating compliance with consumer product safety rule, standard, ban or regulation.

Proposed label text:

Meets CPSC Safety Requirements



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

Staff Recommendation

- **Publish Notice of Proposed Rulemaking.**
- **Set an effective date of six months after publication of the final rule, non-retroactively**

Thank You