



U.S. CONSUMER PRODUCT SAFETY COMMISSION
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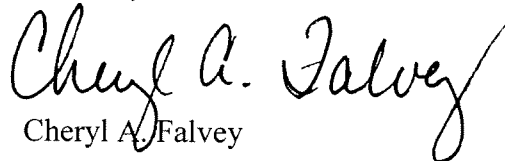
Mr. Kevin M. Burke
President and CEO
American Apparel & Footwear Association
1601 North Kent Street
Suite 1200
Arlington, VA 22209

Dear Mr. Burke:

I write in response to your letter of October 14, 2008. You are correct that I have discussed in several of our public meetings the definitions of children's toys that were provided under section 108 of the Consumer Product Safety Improvement Act ("CPSIA"). The slides I used at the most recent presentation (and which are publicly available on our website) are attached to this letter and contain the different definitions of toys subject to the interim and permanent bans on phthalates in section 108. While those definitions are worded broadly, I have stated that my interpretation is that shoes are not toys because they are not intended to be played with by a child. This is reflected on the last slide where we indicate that a shoe intended for a child would be a children's product for purposes of the lead provisions of the CPSIA but not a toy within the meaning of section 108's limits on phthalates unless it has some play value, *e.g.*, a shoe made for a doll.

The views expressed in this letter are my own and have not been reviewed or approved by the Commission. They are based on the best available information at the time they were written. They may be superseded at any time by the General Counsel, by the Commission, or by operation of law.

Sincerely,


Cheryl A. Falvey

Phthalates Definitions and Testing

Permanently Banned Phthalates

- **Children's Toy** – 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
- **Child Care Article** – consumer product designed or intended by the manufacturer to facilitate sleep or the feeding of children age 3 and younger, or to help such children with sucking or teething

Phthalates Definitions and Testing

Interim Ban

- “. . . any children’s toy that can be placed in a child’s mouth or child care article . . . ”
- “For purposes of this section a toy can be placed in a child’s mouth if any part of the toy can be brought to the mouth and kept in the mouth by a child so that it can be sucked or chewed. If the children’s product can only be licked, it is not regarded as able to be placed in the mouth. If a toy or a part of a toy in one dimension is smaller than 5 centimeters, it can be placed in the mouth.”

This presentation has not been reviewed or approved by the Commission and may not reflect its views.

Children's Product vs. Children's Toy for Phthalates Certification

	Children's Product	Children's Toy
Decorative Room Accessories	Yes	No, unless item has play value
Shoes	Yes	No, unless item has play value
Children's Jewelry	Yes	Maybe
Sporting Goods	Yes	Maybe

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