On August 12, 2011, President Obama signed into law the House of Representatives Bill 2715 (H.R. 2715). The bill’s passage was the culmination of two plus years of effort by the Printing Industries of America and a coalition of other key printing groups before the Consumer Product Safety Commission (CPSC) and in the halls of Congress. Considerable resources were dedicated to providing testing data, explaining print manufacturing processes, and urging lawmakers to take action to undo or reduce the unintended consequence of the original law passed in 2008, and the effort was successful.

The bill provides much-needed flexibility and discretion to the CPSC to implement this law, and most important, it excludes all paper-based printed materials and most children’s books from onerous third-party testing and certification requirements now in place for any and all products marketed to children twelve years of age or younger. While all children’s manufactured products received a measure of general relief from the Consumer Product Safety Improvement Act (CPSIA), “ordinary books and ordinary paper-based printed materials” (see legislative definition in the sidebar) was only one of two product categories to gain an exclusion from many parts of the regulations. Youth all-terrain vehicles/bicycles composed the other category.

Background
The original CPSIA became law in 2008 as a reaction to a spate of incidents of lead-tainted children’s products that were imported and being sold to consumers. The law set limits on lead and phthalates (chemicals that make plastics soft) allowable in children’s products and required third-party testing, labeling and tracking systems, and safety certifications. While the original CPSIA was widely supported, its scope was so broad that it enjoined every possible children’s product that was either imported or manufactured domestically. The list of covered products included such things as furniture, textiles, bicycles, musical instruments, hair barrettes, and, unfortunately, printed products such as books, flash cards, maps, magazines, and more in addition to the original culprit of toys.

Many unintended consequences—in addition to general market confusion—occurred as the Consumer Product Safety Commission tried to implement the law which caused the CPSC to issue two one-year stays of the testing and certification requirements. Manufacturers and even the CPSC called upon Congress to amend CPSIA to provide the Commission more discretion to apply the regulations and to determine exempt products. CPSC also singled out particular product categories—including books—that were likely unintentionally regulated and could be excluded from the law. In heeding the call for more practical application of CPSIA, Congress passed HR 2715.

Key Provisions of HR 2715 for Books and Other Printed Matter
Once the president signed into law HR 2715 in August 2011 amending the original CPSIA passed in August 2008, the printing and publishing industry gained immediate relief from the third-party testing and thus the certification requirements. The printed products excluded by HR 2715 include all “ordinary paper-based printed materials” and almost all “ordinary books” that are “bound and finished in a conventional manner” created for children. Books that were not included in the exemption are those “designed and intended” for children three years old or younger or those books having “play value.” These books must be tested by an accredited third-party testing laboratory and certified by the manufacturer or importer as not exceeding the limit for lead or phthalates.

There are two important aspects of the CPSIA that HR 2715 left unchanged. They are the actual lead and phthalate limits and the requirements for tracking labels. HR 2715 did not change the requirements as they apply to books and printed matter, which means the limits for lead and phthalates must still be met, and
tracking labels are required to be placed on all children’s products. Nevertheless, HR 2715 does represent a significant change in the requirements.

In understanding the implications of HR 2715, it is important to look at how “ordinary books” and “ordinary paper-based printed materials” are defined. This is because the exemptions from testing, while covering thousands of products, do not exempt all books. In addition to the books for children three years of age or younger and those with “play value,” books that are not made from paper or paper board or any products that would accompany a book—such as balls that would be packaged with a book on juggling—require testing.

**HR 2715 Key Provision**

Exclusion From Third-Party Testing. Certain Printed Materials

**In General.** The third-party testing requirements established under subsection (a) shall not apply to ordinary books or ordinary paper-based printed materials. The definitions follow:

(I) Ordinary Book. The term ‘ordinary book’ means a book printed on paper or cardboard, printed with inks or toners, and bound and finished using a conventional method, and that is intended to be read or has educational value. Such term does not include books with inherent play value, books designed or intended for a child 3 years of age or younger, and does not include any toy or other article that is not a book that is sold or packaged with an ordinary book.

(II) Ordinary Paper-Based Printed Materials. The term ‘ordinary paper-based printed materials’ means materials printed on paper or cardboard, such as magazines, posters, greeting cards, and similar products, that are printed with inks or toners and bound and finished using a conventional method.

(III) Exclusions. Such terms do not include books or printed materials that contain components that are printed on material other than paper or cardboard or contain non-paper-based components such as metal or plastic parts or accessories that are not part of the binding and finishing materials used in a conventional method.

**Current Status and Recommendations**

In addition to the changes brought by HR 2715, CPSC has provided exemptions from testing and certification for certain component materials. Additionally, two testing rules addressing component testing and product testing have been issued in final form. Since the stay on all testing and certification has been lifted, all other products must now be third-party tested and certified prior to being distributed in commerce. A complete list of accredited testing labs can be found at http://www.cpsc.gov/cgi-bin/labsearch.

The name of the required certification was revised with the product testing rule and is now identified as a Children’s Product Certification (CPC). CPSC has a CPC template that can be found at http://www.cpsc.gov/about/cpsia/faq/elecertfaq.pdf.

Below is a summary of the current requirements and recommended actions:

➤ Any “ordinary book” or “ordinary paper-based printed materials” printed on paper or cardboard with inks or toners and bound and finished using a conventional method produced for a child twelve years old or younger must meet the lead and tracking label requirements of the CPSIA.

➤ Ordinary books and “ordinary paper-based printed materials” for children from three to twelve years old are exempt from third-party testing and certification requirements.

➤ Books designed and intended for children three years old or younger must be tested by a third-party testing lab before being shipped. A certificate of compliance must be prepared and accompany the shipment.

➤ Books designed for children that have “play value” must be tested for lead by a third-party testing lab before being shipped. A certificate of compliance must be prepared and accompany the shipment.

➤ Books and “ordinary paper-based printed materials” printed on something other than paper or cardboard must be tested for lead and/or phthalates (for plasticized parts only) by a third-party testing lab before being shipped. A certificate of compliance must be prepared and accompany the shipment.

➤ Any products that would accompany an “ordinary book” or “ordinary paper-based printed materials” must be tested for lead and/or phthalates (for plasticized parts only) by a third-party testing lab before being shipped. A certificate of compliance must be prepared and accompany the shipment.
As of December 13, 2011, the CPSC is now allowing component testing to be performed in lieu of whole product testing. If a book or “ordinary paper-based printed materials” contain a mix of exempt and nonexempt components, then only the nonexempt components need to be tested. The CPSC is allowing customers to rely upon tests performed by vendors as long as the tests were conducted at an accredited third-party laboratory. When testing is required, letters, Material Safety Data Sheets, and other declarations or assurances by vendors are not acceptable. Only third-party testing results are acceptable, as this is the only acceptable approach for issuing a compliance certificate.

➤ Books and “ordinary paper-based printed materials” manufactured using only components that have been exempt from the CPSIA are not required to be tested or certified regardless of the intended age level of the child. The exempt components are paper, process inks, coatings (varnish, water-based, or UV-cured), thread used for book binding, animal-based adhesives or adhesives, and other binding materials that are not accessible. Components not exempt are spot or PMS inks, saddle-stitch wire, non-animal-based adhesives that are accessible, metal and plastic coil used for binding, foils used for foil stamping, and laminates.

➤ It is anticipated your customers may still want some assurances the product you produced will meet the requirements of the CPSIA. Language to this effect can be included in your contractual reps and warranties with a letter or modifying the Certificate of Compliance to fulfill that purpose.

➤ Your customer should provide you with the information as to whether a book is one with play value and what age level the book is designed to address. However, if this information is not provided, the salesperson and/or customer service representative needs to contact the customer and clarify its intent and purpose as well as age level.

➤ Even though testing is not required for ordinary books or “ordinary paper-based printed materials” children four to twelve years, the manufacturer is required to produce a product that meets the requirements of the CPSIA. Therefore, companies are expected to verify the materials and process they use in manufacturing books and other printed matter meet the limits. The systems, procedures, or internal testing used to ensure these results is at your discretion. If an incident occurs where it is proven or suspected a product would exceed a limit, such as lead, you must be able to provide documentation as to how you have implemented a program to ensure compliance. It is highly recommended that declarations from vendors and records of products that show which materials were used in the production of the product be obtained and maintained. One way this can be done is to indicate on the “job jacket” that a specific product is a children’s product, as this will serve to alert all of the production personnel about the type of product being produced and that records should be maintained.

Summary and Conclusion
The passage of CPSIA has clearly changed the approach that printing companies have to take to produce books and other printed matter for children. Printing operations that produce children’s products need to either set up a formal third-party testing program or reach out to vendors to obtain their testing results for the individual components. An internal tracking system needs to be established to ensure compliance with the new requirements.

Printing Industries of America has been very successful in obtaining both legislative and regulatory relief for its members. In addition, it is part of a working group with representatives from the Book Manufacturers’ Institute and the American Association of Publishers who have been working together to review the changes and submit comments to the CPSC on their proposed rules and lobbying Congress for changes. The working group continues to have discussions when needed and when questions arise regarding how the requirements apply to books and other printed matter. At this point, the general consensus is that additional clarification from the CPSC is not warranted. However, based on past experiences, once full implementation of the new rules, testing requirements, and HR 2715 occurs, additional contact with the CPSC may be required.