

U.S. Consumer Product Safety Improvement Act of 2008 (CPSIA) Key Messages for the Flexible Vinyl Industry

This brief communication is intended to clarify the new U.S. federal phthalate legislation, and to provide reassurance to companies that use DINP and DIDP that this should have only minor impact on their business.

On August 14, 2008, the President of the United States signed into law The Consumer Product Safety Improvement Act of 2008 (CPSIA).

- The CPSIA is a comprehensive bill designed to increase funding for the CPSC and strengthen their authority in response to the large number of lead-related recalls of imported toys in 2007. As a result of political versus scientific considerations, provisions prohibiting or restricting phthalates were tacked onto this bill by a few members of Congress.
- The phthalates provisions of the bill become effective 180 days after its enactment, or as of February 10, 2009.

DINP and DIDP have been safely used for over forty years with no evidence of actual harm to any infants, children or adults. Given this track record, we are disappointed that temporary restrictions have been placed on DINP and DIDP in the form of an interim prohibition on their use in child care articles and children's toys that can be placed in the mouth.

- **Numerous government and scientific evaluations have confirmed that DINP and DIDP are safe for use in all of their current applications:**
 - The European Union (EU) conducted 10 year risk assessments and concluded DINP and DIDP are safe as used (2006)
 - The U.S. Consumer Product Safety Commission concluded DINP is safe for use in vinyl toys after a thorough 4-year evaluation (2003; reaffirmed by CPSC in 2007 and 2008)
 - Centers for Disease Control biomonitoring data indicates exposures to DINP and DIDP are well below safe limits (2005)
 - National Toxicology Program's Center for Evaluation of Risks to Human Reproduction has "minimal concern" for DINP and DIDP (2003)

Nevertheless, several important principles have been preserved in the CPSIA. ExxonMobil was at the forefront of the debate with Congress that led to the preservation of these key principles.

1. **High molecular weight phthalates (DINP and DIDP) are clearly differentiated from low molecular weight phthalates** in how they are treated by this new legislation. This is because DINP and DIDP are supported by a stronger body of science than the low molecular weight phthalates (DEHP, DBP, BBP).

DINP and DIDP phthalates have only been temporarily restricted in child care articles for children age 3 and under and in toys for children age 12 and under **that can be placed in the mouth**. These restrictions only apply to a narrow range of products. This includes further definition within the legislation

- 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.
- The term "child care article" means a 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.
- "Toys that can be placed in the mouth" are those with any part that can be brought to the mouth and kept in the mouth by a child so that it can be sucked and chewed. If the toy or any part of the toy in one dimension is smaller than 5 centimeters, it can be placed in the mouth. If the toy can only be licked, it is not regarded as able to be placed in the mouth.

The LMW phthalates have been permanently banned in child care articles for children age three and under and in **all** toys for children age twelve and under.

Based on our experience, some examples of products that **should not be considered toys or childcare articles** or cannot be placed in the mouth and can only be licked include:

- Seating in automobiles, buses, boats, trucks, restaurant booths
- Playground equipment with all dimensions larger than 5 centimeters
- Permanently inflated playballs (e.g. 12" diameter "dodgeballs")
- Automotive seat covers, side panels, interior & exterior trim pieces
- Automotive convertible roofing and windows
- Vinyl flooring
- Roofing membranes
- Building wire jacketing and insulation
- Automotive underbody coating
- Carpet tile and backing
- Swimming pool liners
- Geomembranes
- Awnings
- Tarps
- Boat covers
- Notebooks
- Wall covering
- Boat bumpers
- Packaging for bedding and lines
- Shower curtains
- Table cloths
- Furniture upholstery
- T-shirt inks
- Potable water tubing
- Garden hoses
- Traffic cones
- Rain coats, boots and headgear

2. **The updated safety assessment of DINP and DIDP must be conducted by a Chronic Hazard Advisory Panel, or CHAP, and consider all of the science before any final rule-making.** The CHAP will include 7 scientists appointed by the National Academy of Sciences and they must conduct a thorough scientific assessment.

We fully expect an updated scientific assessment of DINP and DIDP will once again reaffirm that DINP and DIDP are safe for use in all current applications, including the use of DINP in children's mouthing toys.

3. **The new CPSIA standards for DINP and DIDP will preempt any state or local safety regulation that differs** in the way they address the same substances and the same risks.

This will prevent a patch-work of 50 different state regulations for use of DINP and DIDP in children's products that would have been impossible for industry to manage.

4. **The CPSIA also requires the CHAP panel to evaluate the alternatives to phthalates, something the CPSC has not done before.**

This could be highly problematic in some cases because many of the alternatives lack the basic toxicity and exposure data needed to fully assess their potential impact on human health and the environment.

In addition, the CPSIA standards do not prevent any state or local safety regulation on the phthalate alternatives.

ExxonMobil is committed to the Jayflex™ Plasticizer business for the long-term. We are confident that an updated scientific assessment by the CPSC will once again reaffirm that DINP and DIDP are safe for use in all current applications, including use of DINP in mouthing toys.

We hope that you find this information useful and that it reconfirms your confidence in the safe use of DINP and DIDP in a multitude of applications.