

**Staff Report to Congress Pursuant to Section 222  
of the Consumer Product Safety  
Improvement Act of 2008  
Risk Assessment Methodology**



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This report was prepared by CSPC staff and has not been reviewed or approved by, and may not necessarily reflect the views of, the Commission.

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## 1.0 Introduction

Section 222 of the Consumer Product Safety Improvement Act of 2008 (CPSIA) requires the U.S. Consumer Product Safety Commission (CPSC) to formulate a Risk Assessment Methodology (RAM) to identify products imported into the United States that are most likely to violate consumer product safety statutes and regulations enforced by the Commission. In developing the RAM, Congress requested that the Commission thoroughly analyze how to integrate this system with other systems utilized by the Department of Homeland Security’s Bureau of Customs and Border Protection (CBP), and recommend any statutory changes required to fully implement the RAM.

In its 2009 report, “Better Information and Planning Would Strengthen CPSC’s Oversight of Imported Products,” the Government Accountability Office (GAO) recommends that the CPSC strengthen its ability to target shipments of unsafe consumer products, update agreements for obtaining access to advance shipment data, and develop a long-term plan for ensuring the safety of consumer products entering the United States. Based on the 2008 CPSIA legislation, GAO’s 2009 study of import surveillance, and a detailed review of tactical and strategic opportunities by CPSC staff, the RAM will focus on the following areas:

- **Implementation** – The RAM will provide a means to evaluate products entering the United States based on a predetermined rule set designed to identify imports with the highest risk to consumers. Peer public safety agencies such as the Food and Drug Administration (FDA) and Food Safety and Inspection Services (FSIS) have had success with comparable implementations. Similar improvements in public safety are expected with CPSC RAM implementation.
- **Automation** – The RAM can either be a manual or automated process. Given CPSC’s low staffing levels, an automated process is essential to increasing public health and safety and managing limited personnel resources. Further, CPSC staff’s research shows that automated processes have proven highly effective at other government agencies.
- **Integration with CBP data** – An effective RAM will require consistent and on-going access to import data from CBP via system to system integration. The current model, which includes CPSC end-users manually using CBP applications or requesting ad hoc data extracts from CBP, will need to be improved to utilize standard, specified data interfaces.
- **Adaptation and Evolution** – The methodology and its associated business processes need to be flexible and adaptable. The methodology should be a framework that permits rules to be added and modified easily to accommodate new risk factors and changes in operations. In addition to incorporating these new inputs, the platform should also include performance measurements that can effectively monitor and direct change over time.

### 1.1 Objective of the RAM

The objective of the RAM is to integrate newly available import risk data into a coordinated risk-based decision making process. This will ensure that CPSC has the information and capabilities necessary to perform its mission more effectively. The RAM will provide for more efficient use of Commission staff and prioritization of activities in support of the strategic goals and objectives stated in the CPSC’s 2011 – 2016 Strategic Plan.

The RAM is expected to contribute to the achievement of the following goals in the CPSC’s strategic plan:

- **Decisive Response:** Use a risk-based methodology to prioritize the CPSC’s targeted response to addressable product hazards.
- **Commitment to Prevention:** Develop programs that provide incentives for manufacturers and importers to implement preventative actions that improve the safety of their products.
- **Leadership in Safety:** Take a leadership role in identifying and addressing the most pressing consumer product safety priorities and mobilizing action by our partners.

More specifically, the initial risk assessment activities will focus on import compliance. Methods, techniques, and tools developed in the RAM may expand over time beyond import compliance, however, to support a general risk-based approach to managing overall product safety.

## 1.2 Benefits of the RAM

The greatest benefit of full RAM implementation would be the ability to systematically analyze 100 percent of shipments within CPSC jurisdiction to ensure that adequate resources are dedicated to the highest risk shipments as indicated by targeting rules. CPSC staff estimates that the RAM, after full implementation, would produce an annual societal benefit of \$546 million to U.S. consumers and industry, including manufacturers, importers, and retailers. Three key benefits, which are described in greater detail in a subsequent section, are:

- **Saving Lives and Preventing Injuries** – It is anticipated that the implementation of the RAM would positively impact public safety by saving approximately 20 lives and preventing an estimated 20,600 to 23,000 injuries annually that occur as a direct result of violative imported consumer products.
- **Legitimate Trade Facilitation** – By identifying lower risk importers and manufacturers who supply consistently compliant products into U.S. commerce, the CPSC can allow them reduced review at importation, resulting in a reduction in associated port processing and a savings of costs and time.
- **Reduction in Recalls** – Through improved targeting, high risk cargo will be stopped at ports of entry. Thus, the RAM will better protect companies and industries from the cost and legal exposure of distributing and retailing products that are hazardous and may ultimately be subject to recall.

The projected benefits of implementing the RAM are estimated assuming full implementation. Full implementation is expected to take approximately four to seven years, depending on the speed of acquiring additional staff, adoption of new procedures, and development of new system capabilities at the CPSC. A complete Alternatives Analysis has been performed in accordance with Section 300 of the Office of Management and Budget's (OMB) Circular Number A-11. This analysis provides justification for the validity and cost effectiveness of the investment decision and is adjusted for implementation risk.

## 2.0 Current State of Import Enforcement

In February of 2008, the CPSC established an Import Surveillance Division (now the Office of Import Surveillance), which resulted in the agency co-locating CPSC personnel with CBP staff at selected ports of entry. Currently, 19 CPSC port investigators are stationed full-time at 15 of the largest U.S. ports, working side-by-side with CBP officers. These investigators work with their CBP counterparts locally to develop programs focused on targeting products and companies determined to be high risk. CPSC's import team is currently able to inspect approximately 7,000 products per year. From those inspections approximately 1,750 products are held. Since its inception, CPSC's Office of Import Surveillance has prevented more than 13 million units of non-compliant product from entering the country.

To place these numbers in context, there are approximately 327 U.S. ports of entry and more than 14 million entry lines imported into the U.S. each year. Based on Fiscal Year 2010 volumes, the current port staff were able to review only 0.05 percent of the import line entries under CPSC's jurisdiction. This very low number of inspections, limited by resource constraints, fails to provide sufficient coverage of either the 327 port locations or the enormous volume of imported consumer products. As CPSC staff plans for the future, it appears import inspection and enforcement pressures will continue to grow at a rapid pace:

The CPSC's work to monitor the universe of consumer products for safety hazards and dangerous defects requires an increasingly global focus. The value of U.S. imports under the CPSC's jurisdiction has skyrocketed in recent years, reaching about \$639 billion in 2008. The value of all U.S. imports of consumer products from China and Hong Kong more than quadrupled from 1997 to 2008, accounting for the largest component of the overall increase in imports. Moreover, four out of five consumer product recalls involve imported products, making imports a critical focus area for the CPSC. With over \$1.5 billion in container import shipments entering the U.S. each day—received by over 800,000 importers and entering through over 300 different ports—monitoring the quality of all imported consumer products is an extremely challenging task.

In addition to the increasing volume of imports, equally daunting is the complexity of global supply chains. One recent study<sup>1</sup> found that 10 leading European brands relied on 522 production locations in more than 30 cities, across 24 countries. Today, a single product can contain safety-critical components provided by between 10 and 100 different suppliers, making the task of promoting product safety at each stage of the supply chain increasingly difficult.<sup>2</sup>

The following charts illustrate the growth of imports over time and the level of product inspections initiated by CPSC staff.

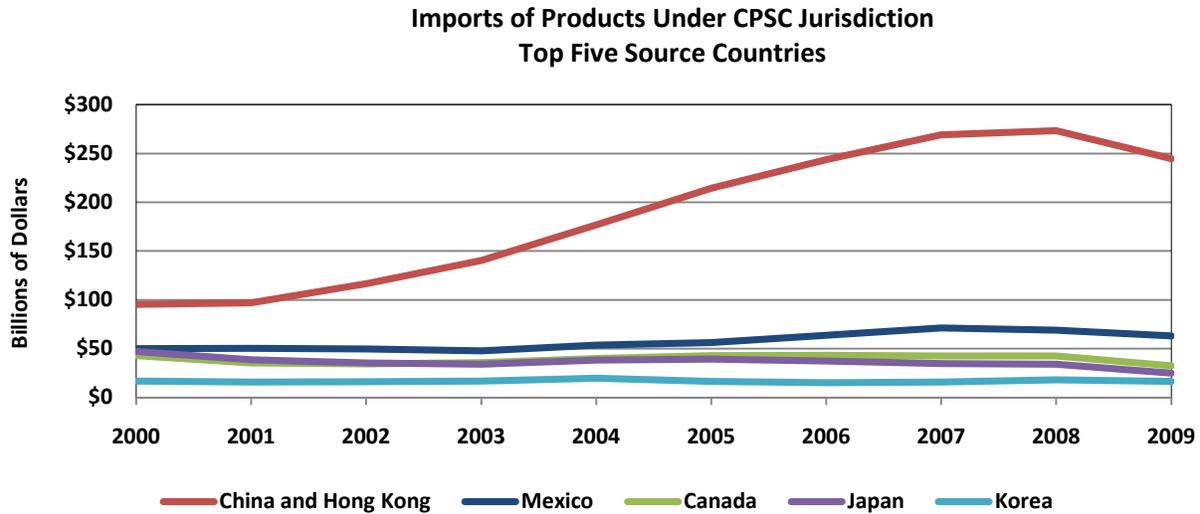


Figure 1: Imports From Selected Countries

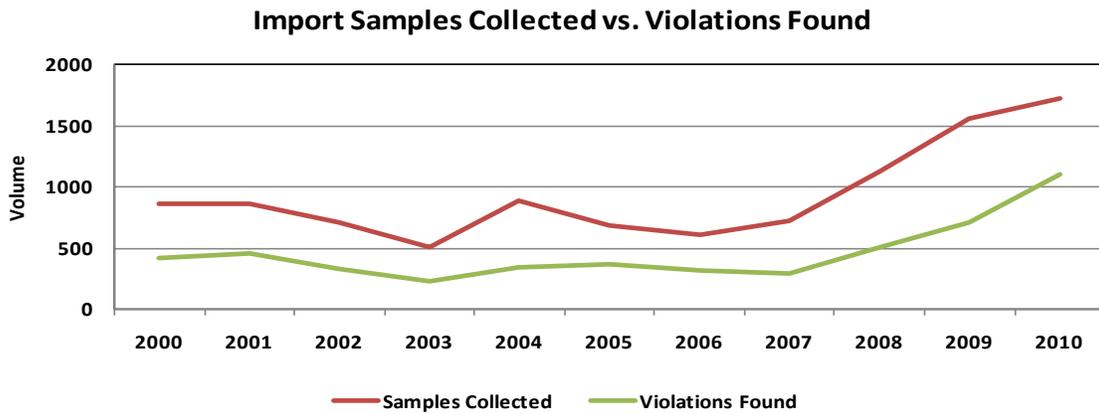


Figure 2: Import Samples Collected (as of June 10, 2011)

<sup>1</sup> Marcello Manca, Vice President & General Manager, UL Environment Inc. The European Product Safety System and the Supply Chain. Organization for Economic Cooperation and Development (OECD), Conference on Corporate Responsibility on July 15, 2009; page 9.

<sup>2</sup> Strategic Plan; 2011-2016 U.S. Consumer Product Safety Commission.

Despite these daunting challenges, the CPSC’s Office of Import Surveillance has made progress each year. The key priorities of import investigators are to detect non-compliant products, promote a self-managed behavioral deterrence on trade industry participants, and provide enough information to the Commission to assess and monitor import risk issues. Other CPSC personnel who support the Office of Import Surveillance include compliance officers, compliance attorneys, and laboratory staff. These groups are staffed to support the current level of inspections performed by the Office of Import Surveillance. Any increase in import inspections, which is greatly needed, will require corresponding increases in staff levels for these groups as well.

Import Surveillance personnel also have a very limited set of tools with which to do their job. They have access to two CPSC legacy systems to assist in sample and case management, XRF analyzers to detect lead levels, and gauges to measure toy sizes to determine small parts/choking hazards. Currently, there is no automated interface with a systematic approach to accessing CBP data; thus, CPSC port investigators must rely on CBP port personnel to provide access to any import information. The ability to access this information by CPSC personnel varies greatly from port to port, and is another challenge to the success of the CPSC’s import surveillance efforts.

### **3.0 Focus on Prevention**

Focusing on prevention is one of the CPSC’s primary strategies to prevent harm to consumers. Historically, the CPSC has focused on detecting problems through field inspections at domestic establishments. As a result of the dramatic and continuing increase in imports, the CPSC is now also pursuing a strategy of prevention through risk based monitoring at ports of entry. While field inspections remain an integral part of the CPSC’s approach to product safety, preventing harmful shipments from entering the U.S. stream of commerce is becoming an increasingly important aspect of the CPSC’s focus on prevention.

#### **3.1 Lives Saved and Injuries Prevented Due to Early Detection of Imported Violative Products**

With the full implementation of the RAM, CPSC staff anticipates that the number of deaths and injuries that occur as a direct result of violative imported consumer products will decrease. This will be achieved by leveraging CBP’s import data through information sharing agreements that will provide CPSC port investigators with enhanced information about the products being imported, including their point of origin and the identity of the manufacturers and importers.

Rather than relying on the current system of ad hoc inspections aided only by individual inspector experience, CBP data, along with improved processes and more personnel to inspect the highest risk shipments, will allow CPSC investigators to more effectively and efficiently identify, inspect, and stop violative products at the ports. Accounting for import product volume, potential addressability, and expected beneficial impact, CPSC staff estimates that full implementation of the RAM will result in a societal benefit of approximately 20 lives saved and 20,600 to 23,000 injuries prevented per year. This equates to an annual societal cost savings of \$541 million.

#### **3.2 Increase in Legitimate Trade Facilitation**

In addition to the identification of high risk imports, access to CBP data will allow CPSC staff to identify low risk imports. With this information, CPSC staff can spend fewer resources scrutinizing “good actors”, which in turn will lead to fewer costs and delays at import for these companies. The RAM, therefore, will provide incentives for frequent importers to abide by regulations and assist the CPSC in areas such as manifest and entry transparency, as this will limit the number of detentions and examinations to which they are subjected. Each shipment held costs industry an average of \$1,500 in port charges and unknown losses resulting from delays to market. The implementation of the RAM will aid port investigators in more accurately selecting the cargo to be inspected; thus, reducing holds on legitimate, compliant imports.

### **3.3 Reduction in Recalls**

The direct cost of a recall includes: lost inventory and reversed sales; costs associated with notifying customers; the cost of return shipping and disposal of the product; extra warehouse expenses; the cost of extra personnel required to conduct the recall; the cost to refund, repair, or replace the product and ship the replacement product back to the customer; administrative and potential litigation costs; and potential government fines. The average direct cost of a recall is estimated to be \$540,000.

Stopping violative products at the port, before they enter the U.S. market, is clearly preferable to a product recall for all parties involved. More effective targeting of higher risk cargo, importers, and manufacturers will improve protection of consumers from death and injury from hazardous products, and will reduce the cost and legal exposure to companies for distributing and retailing hazardous products. Through improved targeting of high-risk products at import, CPSC staff initially targets a five percent reduction in recalls of products subject to CPSC mandatory standards, saving American companies millions of dollars a year in direct and indirect costs associated with recalls.

## **4.0 Port Coverage, Technology, and Process Improvements**

### **4.1 CPSC Staff Required to Support the RAM**

The process of defining the RAM gave CPSC staff the opportunity to consider not only how to improve targeting at the ports, but also how to provide greater coverage nationwide. The 19 investigators currently stationed at ports, with occasional support from CPSC field investigators, are able to inspect only approximately 7,000 products per year. CPSC port staff cover only 15 ports of entry (out of 327) where goods enter commerce. Based on Fiscal Year 2010 volumes, the current port staff were able to review only 0.05 percent of the import line entries under CPSC jurisdiction. Thus, in its current state, the CPSC is ill-equipped to make a significant impact on the importation of hazardous consumer products.

An increase in the number of port inspections would enable the CPSC to (1) improve its detection of non-compliant products, (2) provide a deterrent to those considering importing violative product, and (3) provide additional information to the Commission to assess and monitor import risk issues. However, any increase in CPSC port-based staffing will require associated staff increases in other CPSC offices, including compliance officers, compliance attorneys, and laboratory staff.

To accomplish full RAM implementation, CPSC staff recommends that the number of compliance investigators at the ports be increased by 100 over a seven year timeframe. This would result in a predicted net increase in personnel, including support staff, of approximately 334 full time employees over this same timeframe. These staff increases enable CPSC to post personnel at those ports responsible for processing the entry of 70 percent of the product under CPSC jurisdiction into the United States CPSC staff projects that product inspections would increase by 500 percent, from 7,000 to 42,000 inspections per year, and that the number of products sampled would increase from 1,750 to 10,500 per year. In addition, a small number of the new port investigators would be staffed to cover on a rotational basis other medium-volume ports where CPSC staff would still not be permanently co-located. This would protect against importers intentionally sending products to ports without co-located port investigators (called “port shopping”) and would provide additional coverage of special high-risk products that are imported at particular ports. For all other ports, the CPSC will continue to use its domestic field investigators.

The increase in port staff necessitates an increase in other staff by a 2-1 margin. As the number of samples increases by an estimated 8,750 per year, there is a need for additional laboratory, compliance, support, and management staff to handle the volume of work. These staff increases would provide for increased product testing, compliance review and actions, and general management oversight. The recommended cumulative increase in staffing by year is as follows:

Roles*/Years	FY2013	FY2014	FY2015	FY2016	FY2017	FY2018	FY2019
Compliance Investigators at the ports	20	35	50	65	80	90	100
Compliance Officers	4	7	10	13	16	18	20
Compliance Team Leads	2	4	6	8	10	11	13
Import Administrators	1	1	1	2	2	2	2
Laboratory Personnel and Other Support	40	70	100	130	159	179	199
<b>TOTAL</b>	<b>67</b>	<b>117</b>	<b>167</b>	<b>218</b>	<b>267</b>	<b>300</b>	<b>334</b>

**Table 1: CPSC Future Staffing Recommendations**

\* Explanation of roles can be found in Appendix A

## 4.2 Using and Refining State-of-the-Art Risk Management

The CPSC seeks to implement state-of-the-art technology and methods to align with CBP’s Automated Commercial Environment (ACE) modernization effort, which also intends to address risk at importation for other regulatory agencies. The CPSC is in the midst of a staged transition that moves the CPSC from a manual/telephonic based process established in 2007 to a information based, systematic technology that is on par with the tools and methods being utilized to support the single window concept and are considered best in class. To achieve this in the most efficient manner, the CPSC anticipates the need for a Commercial Off the Shelf (COTS) RAM solution as other alternatives appear to have higher implementation risk.

The technological implementation will support the nationwide application of modern risk management principles applied to consumer products. These principles require the use of:

- statistically and analytically based methods applied to shipments of tens of millions of consumer goods annually;
- forensic reporting on relevant risk factors; and
- timely, effective messaging to facilitate movement of shipments.

A properly chosen and designed toolset will provide the foundational components that will be used to manage national risk at importation in the least intrusive and most effective manner for many years to come. The recommended cumulative increase in Information Technology and Support costs by year is as follows:

	FY2013	FY2014	FY2015	FY2016	FY2017	FY2018	FY2019	Total
<b>IT Implementation and Support Costs</b>	\$ 9.1	\$ 9.6	\$ 6.8	\$ 5.8	\$ 3.5	\$ 2.7	\$ 2.5	\$ 39.9

**Table 2: RAM IT Costs per year (\$ Millions)**

In the fall of 2011, the CPSC is hoping to test a Limited Proof of Concept (“LPOC”) application. The goals for the LPOC are to provide easy access to the risk scores and analysis details of entry lines and enable Import Surveillance Investigators to review entry lines and transition them through the workflow. It is also intended to provide a single, shared view of entry line data and analysis and workflow transitions, and provide basic metrics and reports concerning workloads and entry line actions.

### **4.3 Process Improvement**

CPSC and CBP staff must revise existing processes and develop new ones to ensure effective use of the RAM technology. These new and revised processes encompass Entry Line Evaluation, Entry Line Targeting, Request and Establishment of CBP Holds, Sample Collection, Sample Analysis, and Compliance Evaluation and Enforcement. Effective case management and consistent data management will be imperative to the success of the RAM. It is anticipated that CPSC and CBP staff will begin the development and adoption of these processes and data management improvements in fiscal years 2011 and 2012 as part of the RAM project.

### **5.0 Opportunities for Fiscal Year 2012**

CPSC staff intends to continue planning for and prototyping the RAM throughout fiscal year 2012 in anticipation of a full production rollout. Key RAM activities planned for fiscal year 2012 include:

- Continue execution and evaluation of the Limited Proof of Concept;
- Analyze results and update rules and scoring criteria based on the Limited Proof of Concept;
- Produce detailed requirements;
- Develop Request for Proposal and hardware acquisition requirements;
- Perform rigorous data analysis and develop data management plan; and
- Produce plan, documents, and materials necessary for full production rollout, subject to appropriation of funds.

### **6.0 Proposed Statutory Amendments**

In support of the RAM and pursuant to section 222 of the CPSIA, CPSC staff is also providing a package of proposed statutory amendments at Appendix B that would strengthen Commission enforcement authority at the ports. These proposed changes implement risk assessment methodologies, correct inconsistencies among current statutory authorities, and provide for necessary operational changes.

### **7.0 Conclusion**

In order to fully implement the Risk Assessment Methodology (RAM) as mandated by Congress, support and funding are needed for two key initiatives. First, funding is needed to increase staffing at the CPSC to levels sufficient to optimize use of the data produced by the RAM to stop dangerous goods before they enter the country. As outlined herein, the CPSC would progressively increase staffing by 334 personnel over a seven year timeframe (Fiscal Years 2013-2019) for a total estimated increase in staff costs of \$250 million.

Second, funding is needed for the technology piece of the RAM system in order to purchase and implement a Commercial Off the Shelf (COTS) risk targeting system (determined by CPSC staff to be the best approach among three alternatives). Technology costs to implement the RAM over a seven year timeframe (Fiscal Years 2013-2019) are estimated to be \$40 million.

CPSC staff estimates that implementation of the RAM will provide a total annual societal benefit to U.S. consumers and industry of \$546 million. More importantly, CPSC staff estimates that the RAM will save approximately 20 lives and prevent more than 20,000 injuries each year.

## Appendix A: Key Terms and Acronyms

<b><u>TERM</u></b>	<b><u>DEFINITION</u></b>
ACE	Automated Commercial Environment
CBP	Customs and Border Protection
COTS	Commercial Off the Shelf (software)
CPSA	Consumer Product Safety Act
CPSC	Consumer Product Safety Commission
CPSIA	Consumer Product Safety Improvement Act
GAO	Government Accountability Office
OMB	Office of Management and Budget
RAM	Risk Assessment Methodology

### **CPSC roles and definitions**

Port Investigators – Investigators that are co-located at certain ports of entry to work full time with CBP staff. These investigators target shipments, conduct examinations, and sample potentially violative or hazardous products for further testing. Compliance Investigators also conduct inspections of importers and work with legal staff to identify candidates for potential civil and criminal prosecution.

Compliance Officers – Headquarters staff responsible for making a final determination on the admissibility of products under CPSC jurisdiction. Compliance Officers negotiate recalls and correspond with companies regarding products that have been stopped at import.

Compliance Team Leads – Staff that oversee and coordinate the work of Compliance Officers.

Import Administrators – Staff that provides administrative support to both Compliance Investigators at the ports and staff at Headquarters.

Laboratory Personnel and Other Support – This includes technical staff that test and evaluate products collected at import as well as Human Factors staff that study all aspects of human interaction associated with a particular product.

## Appendix B: Statutory Authority

### Introduction

Section 222(a) of the Consumer Product Safety Improvement Act of 2008 (CPSIA) directed the Commission to develop a risk assessment methodology (RAM) for the identification of shipments of consumer products that are: (1) intended for import into the United States; and (2) likely to include consumer products in violation of section 17(a) of the Consumer Product Safety Act (15 U.S.C. 2066(a)) or other import provisions enforced by the Commission.

CPSIA section 222(d) provided that not later than 180 days after completion of the RAM, the Commission shall submit a report to the appropriate Congressional committees identifying, among other things, whether the Commission requires additional statutory authority under the Consumer Product Safety Act, the Federal Hazardous Substances Act, the Flammable Fabrics Act, or the Poison Prevention Packaging Act of 1970 in order to implement the RAM.

CPSC staff offers a set of statutory changes and improvements that will strengthen Commission enforcement authority at the border. Overall, these proposed changes will effectively implement risk assessment methodologies, correct inconsistencies among current statutory authorities, and provide for necessary operational changes.

### Key Proposed Statutory Changes to the Consumer Product Safety Act CPSA Section 17 and the Federal Hazardous Substances Act FHSA Section 14

These changes are critical and would allow the CPSC's Office of Import Surveillance to operate in a more consistent manner with CBP to enforce U.S. laws.

- 1. Importers of Record, Owners, and Consignees** – Section 17 of the CPSA and section 14 of the FHSA should be amended to be internally consistent with regard to describing obligations and rights of importers of record, owners, and consignees of imported products.
- 2. Customs Territory of the United States versus United States** – The provisions of FHSA section 14 refer to jurisdiction over products imported or offered for importation into the United States. The provisions of CPSA section 17 refer to products imported or offered for importation into the customs territory of the United States as defined by General Note 2 of the Harmonized Tariff Schedules. General Note 2 defines the term “customs territory of the United States as including only the States, the District of Columbia and Puerto Rico.”  
  
Contrast this with the CPSC definition of the United States that appears at CPSA section 3(a) (17) which refers to section 3(a) (15) that defines the term “State” as including a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, Wake Island, Midway Island, Kingman Reef, Johnston Island, the Canal Zone, American Samoa, or the Trust Territory of the Pacific Islands. Adopting this change would extend the jurisdiction of the CPSA to the named territories and bring the CPSA and the FHSA into harmony.
- 3. Prohibited Acts** – Section 17(a) of the CPSA should be amended so that language describing the reasons for refusal of admission of products is consistent with language in Section 19 of the CPSA concerning prohibited acts. Under current authority it is possible to have a product that is the subject of a prohibited act not be the subject of a refusal of admission. This anomaly should be corrected.
- 4. Authority to Obtain Samples at Import** - Section 17 of the CPSA and section 14 of the FHSA should be amended to authorize CPSC officers to draw samples of products with the approval of the Secretary of the Treasury from shipments imported or offered for import. This will make it easier to implement legal policy with regard to

sampling. CBP can then appoint CPSC officers to draw samples, easing demands on CBP resources and limiting chain of custody issues.

**5. Detention Authority** - Amend the CPSA and FHSA to provide for specific detention authority for CPSC. CBP has detention authority under section 499 of the Tariff Act (codified at 19 USC 1499), but that authority (and the procedures to be followed with regard to notices, protests of detentions, and judicial action) do not apply to detained products whose admissibility is determined by a Government agency other than CBP. This amendment will make clear that CPSC has detention authority and that administrative challenges to that detention occur under CPSC, not CBP, law. This proposed change would authorize CPSC to hold merchandise in the manner afforded to other government agencies. (For example, per 21 U.S.C. 381(m)(2)(B)(i), FDA is authorized to hold imported food products at the port of entry if prior notice of arrival of that product is not given.)

**6. Administrative Procedure Act (APA) Hearing** – Section 17(b) of the CPSA allows an importer, owner, or consignee of detained merchandise to demand a full hearing under APA rules. The provisions of section 14 of the FHSA allow the owner or consignee to immediately introduce testimony to resolve a possible violation. APA hearings are lengthy and considerable product storage costs will be incurred during the pendency of the proceeding. This level of formal administrative review is otherwise unknown in the importation process. The provisions of the CPSA should be brought into conformity with the FHSA's more streamlined approach with regard to administrative review of decisions concerning the admissibility of consumer products.

**7. Exportation of Merchandise Back to Non-Contiguous Country after Refusal at Import** - Section 17 of the CPSA and section 14 of the FHSA should be amended to authorize the Secretary of the Treasury to promulgate regulations to afford the Government the discretion to limit exportation of product refused under section 17 or section 14 either to non-contiguous countries or the country of the product's origin. This change will limit the possibility of attempted re-importation of refused product (i.e., port shopping.)

**8. Marking Product Refused at Import to Ensure Against Re-importation** – A new statutory provision should be added both to the CPSA and FHSA to authorize the Commission to require any consumer product that has been refused, to bear the statement: "UNITED STATES: REFUSED ENTRY". The mark must be clear and conspicuous and must be affixed by the importer, owner or consignee of the product. This proposed amendment is consistent with the provisions of the Federal Food, Drug and Cosmetic Act, particularly 21 U.S.C. 381(n).

**9. Refused Merchandise, Exportation or Destruction** – Section 17 of the CPSA and section 14 of the FHSA are not consistent on the issue of disposition of product after it has been refused admission. Section 17 provides that products shall be destroyed unless, upon application by the owner, consignee, or importer of record, the Secretary of the Treasury permits the export of the product in lieu of destruction. If the product is not exported within 90 days of approval to export, such product shall be destroyed. Section 14 of the FHSA states that the Secretary of the Treasury shall cause destruction of any hazardous substance refused admission unless such hazardous substance is exported, under regulations prescribed by the Secretary of the Treasury, within 90 days of notice of such refusal or such additional time as may be permitted pursuant to such regulations. The acts that initiate commencement of the obligation to export refused merchandise (and thereby triggering the 90-day time period to do so) are not consistent – application for export (CPSA) versus issuance of the notice of refusal (FHSA.) The two statutes need to be brought into confluence, preferably using the Government-initiated date of issuance of the notice of refusal.

**10. Seizures of Product Not Properly Reconditioned** – Section 17 of the CPSA should be amended to allow for seizure of product that has not been reconditioned under any authority that allows seizure, not just under a CPSA authority that requires filing a judicial seizure action. Current CPSA authority is cumbersome as it does not allow seizure in anticipation of more efficient administrative forfeiture proceedings.

## **Key Proposed Statutory Change to CPSA Section 29 and FHSA Section 11**

This proposed change is critical in that it empowers CPSC to commission officers of other federal agencies to assist in carrying out CPSC investigations and inspections.

**11. Commissioning of Other Federal Officers** – Section 29 of the CPSA and section 11 of the FHSA should be amended to empower CPSC to commission employees of other federal agencies to assist in agency investigations and inspections, which will allow for greater enforcement efficiency.

### **Draft Language for Key Proposed Statutory Changes**

Draft language for key proposed statutory changes is available upon request.