

CPSC Detention of Products at Import (updated June 30, 2010)
Frequently Asked Questions (FAQs)

Q: Why is CPSC going to issue Notices of Detention?

A: CPSC has the authority to determine the admissibility of consumer products and some hazardous substances offered for import. Accordingly, if it is necessary to detain a product in order to determine its admissibility into the United States, CPSC is best situated to control that process. Issuance of Notices of Detention by CPSC will eliminate CBP as the information conduit in the admissibility process and will allow the importer and/or his broker to deal directly with CPSC.

Q: When will CPSC staff begin issuing detention notices?

A: June 14th, 2010.

Q: What information will the Notice of Detention contain?

A: All information relevant to the detention will be included on the notice, including the reason for the detention, and the contact information for the CPSC Investigator responsible for processing the detention.

Q: Who will receive the Notice of Detention?

A: Notices of Detention will be sent to the importer of record and the Customs broker handling the transaction. CBP will receive copies of all Notices of Detention.

Q: Will CPSC take custody of the detained products?

A: No. Any products detained by CPSC will continue to be held in a bonded facility regulated by CBP.

Q: As the importer of the detained product or broker handling the transaction, may I present information to support the admissibility of the product?

A: Yes, the importer and/or broker are encouraged to submit any reasonable testing results or other evidence that would support the admissibility of the detained product. The Notice of Detention will allow 5 working days for the recipient to respond. Reasonable extensions of time to produce necessary evidence will be allowed under certain circumstances. CPSC is seeking to receive a quick response from the importer and/or broker in order to expedite resolution of the detention.

Q: If CPSC detains merchandise, will the remainder of the shipment that does not contain detained product be released?

A: CPSC only detains products described in the Notice of Detention. The importer and/or his broker should contact CBP if it wishes to obtain release of remaining products in the shipment.

Q: Will there be constructive detentions?

A: No. Products will not be constructively detained at the importer's premises.

Q: How long will detentions last?

A: CPSC will try to make admissibility decisions on products within 30 days of detention.

Q: Will CPSC allow merchandise to be conditionally released in lieu of detention?

A: Yes. There will be situations where CPSC will allow merchandise under examination to be moved to the importer's premises or other place agreeable to CPSC and CBP pending the results of the examination. Any such release will be a conditional release and must occur under CBP bond.

Q: If my product is conditionally released, how long will the conditional release period last?

A: CPSC will notify the importer of the length of the conditional release period on a case by case basis, although the typical timeframe will be 30 days. Individual circumstances concerning the type of product and the complexity of examination will be taken into account.

Q: Can I export or destroy the merchandise prior to CPSC making a decision as to admissibility?

A: CPSC may allow this on a case-by-case basis. Contact the CPSC Investigator processing the detention for further information if that is an outcome that you would choose.

Q: May I request a hearing under Administrative Procedure Act rules?

A: Unless the product is detained under the Federal Hazardous Substances Act, the Poison Prevention Packaging Act, or the Federal Food, Drug and Cosmetic Act, in lieu of submission of evidence to the CPSC officer, you may request a full hearing before an administrative law judge. If you choose this option, there will be considerable delay in the detention and the merchandise will continue to be held at your risk and expense.

Q: Are CPSC detentions subject to protest?

A: No. CPSC detention decisions are not made pursuant to 19 USC 1499 and are not subject to protest.

Q: If a shipment is detained by both CBP and CPSC under separate authorities, will an importer receive notices from both agencies?

A: Yes. CPSC and CBP will send separate notices of detention. However, the CBP detention will be resolved first. If CBP seizes the product under its authority, the CPSC detention will end. If CBP finds no violation and releases the product from its detention, the product will not be released to the importer until the CPSC detention is resolved.

Q: By what means does CPSC anticipate communicating a notice of detention?

A: Email is preferred, if available on the entry documents. Express mail or fax may also be used. We prefer not to send anything via regular mail.

Q: Will there be an ABI message that indicates to the broker that the entry is being held for CPSC exam?

A: Not at this time. This functionality will be incorporated in ACE as part of the cargo release process per the CBP Concept of Operations.