U.S. Consumer Product Safety Commission (CPSC)

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U.S. Consumer Product Safety Commission (CPSC)

- Independent Federal Agency
- Headed by 5 Commissioners (1 Chair)
  - Chairman Inez Tenenbaum
  - Commissioners Nancy Nord, Anne Northup, Robert Adler and Thomas Moore
  - All appointed by the President and confirmed by the Senate
- Office of Compliance and Field Operations
  - Division of Import Surveillance (Feb 2008)
  - 14 Compliance investigators in the Division located at 11 ports
  - Will be adding 5 more

U.S. Consumer Product Safety Commission (CPSC)

- **Consumer Product Safety Improvement Act (CPSIA)**
- Consumer Product Safety Act (CPSA)
  - Lighters
- Federal Hazardous Substances Act (FHSA)
  - Fireworks
- Flammable Fabrics Act (FFA)
  - Sleepwear/mattresses
- Poison Prevention Packaging Act (PPPA)
- Refrigerator Safety Act (RSA)
- Virginia Graham Baker Pool and Spa Act
- Children’s Gasoline Burn Prevention Act

U.S. Consumer Product Safety Commission (CPSC)

- What is a consumer product?
- Any article or component part produced or distributed for sale to a consumer for use in or around a permanent or temporary household or residence, a school, in recreation or otherwise, for the personal use, consumption or enjoyment of a consumer

U.S. Consumer Product Safety Commission (CPSC)

- What is a NOT consumer product?
- Any article which is not customarily produced or distributed for sale to, or use or consumption by, or enjoyment of a consumer.
- Products specifically excluded from the definition of a consumer product includes automobiles, trucks and their parts, tobacco products, firearms and ammunition, pesticides, alcoholic beverages, aircraft, aircraft engines, boats, food, drugs, devices, and cosmetics.
- These products are regulated by other Federal agencies.

Consumer Product Safety Improvement Act (CPSIA)

- Lead paint limits
  - No more than 90 parts per million (ppm)
  - Applies to paint sold to consumers, household furniture bearing paint or other surface coating, and toys or other articles intended for children bearing paint or other surface coating
- Lead content limits
  - 300 ppm applies to all accessible components of children's products
  - Commission has approved higher limits for certain electronic parts
  - No other exclusions from lead limits
  - In August 2009, Commission issued guidance on determining whether a part is accessible

CPSC – CPSIA, Children's Products

- What is a children's product?
  - A consumer product designed or intended primarily for children 12 years of age or younger
  - Reasonable statements or markings by the manufacturer,
  - The product is represented as appropriate for children under 13 in its advertising and packaging,
  - The product is commonly recognized as intended for children under 13,
  - Meets CPSC age determination guidelines

CPSC – CPSIA, Importer Certification

- General Conformity Certification
  - Every product subject to a consumer product safety rule imported for consumption or warehousing
  - Certify based on a test of each product or reasonable testing program that the product complies with all rules enforced by the Commission
- Requirements for Certificates
  - Certificates shall accompany the applicable product
  - Certificates shall be furnished to each distributor or retailer of the product
  - Regulation published, November 18, 2008, Final Rule 73 FR 68328

CPSC –CPSIA, Third Party Testing

- Third Party Testing Certification
  - Children’s products must be certified based upon testing by a recognized third party testing lab (all recognized labs are listed on the CPSC website)
  - Before importing for consumption or warehousing
  - Applies to any children’s product subject to a children’s product safety rule
  - Lead Paint
  - Cribs and Pacifiers
  - Small parts
  - Children’s metal jewelry

CPSC –CPSIA, Tracking Labels

- Tracking labels
  - Required on children's products
  - Manufacturers and importers responsible
  - Requires permanent mark on product and packaging to extent practicable
  - Allow consumers to ascertain manufacturer, date of production and cohort information
  - Statement of policy; http://www.cpsc.gov/about/cpsia/sect103policy.pdf

CPSC - CPSIA, Substantial Product Hazards

- All Terrain Vehicles (ATV)
  - Unlawful to import any ATV without approved ATV action plan
  - ATV must comply with all provisions of standard
- Substantial Product Hazard List
  - Commission may specify by rule any class of consumer product as a substantial product hazard
  - Characteristics whose presence or absence are readily observable and have been addressed by voluntary standards
  - Standards have been effective in reducing risk of injury and there is substantial compliance
  - Hair dryers and children's clothing with drawstrings

CPSC – CPSIA, Prohibited Acts

- Prohibited Acts
  - Import any consumer product not in conformity with rule
  - Import any consumer product subject to a voluntary corrective action taken by manufacturer, Commission has notified the public and manufacturer knew or should have known
  - Fail to furnish certificate or present false certificate of conformity
  - Unauthorized use of a safety mark
- Imported Products
  - Product refused admission shall be destroyed, except
  - Upon application by importer, Secretary of the Treasury permits the export in lieu of destruction
  - Products in violation may be seized by Customs and Border Protection on behalf of CPSC

CPSC –CPSIA, Stays of Enforcement

- Stays of enforcement granted with regard to some products
- Stays extended until February 10, 2011 for many products
- Below requirements never stayed for third-party testing and certification of certain children's products subject to:
  - The ban on lead in paint and other surface coatings effective for products made after December 21, 2008;
  - The standards for full-size and non full-size cribs and pacifiers effective for products made after January 20, 2009;
  - The ban on small parts effective for products made after February 15, 2009; and
  - The limits on lead content of metal components of children's jewelry effective for products made after March 23, 2009.

CPSC –CPSIA, Stays of Enforcement

- Stays don't apply to:
  - Certification requirements applicable to ATV's manufactured after April 13, 2009.
  - Pre-CPSIA testing and certification requirements, including for: automatic residential garage door openers, bike helmets, candles with metal core wicks, lawnmowers, lighters, mattresses, and swimming pool slides; and
  - Pool drain cover requirements of the Virginia Graeme Baker Pool & Spa Safety Act.
- Stay lifted on February 10, 2010, for children's bicycle helmets, bunk beds, infant rattles, and dive sticks manufactured after that date. CPSC will enforce certification based on third party testing.

CPSC – Miscellaneous

- Civil penalties (15 USC 2069)
  - Not to exceed $100,000 per violation with a maximum of $15,000,000 for any related series of violations
  - Consider nature, circumstances, extent and gravity of violation
  - Appropriateness of penalty in relation to size of business (mitigate undue adverse economic harm)
  - Other factors as appropriate (severity of risk of injury, occurrence of injury, number of products or hazardous substances distributed)
- More information www.cpsc.gov
- http://www.cpsc.gov/webcast/etsy.pdf for a slideshow dedicated to the CPSIA provisions