

Transcript of Product Safety and Compliance: Best Practices for Buyers Exporting Consumer Goods to the United States

(Presenter: Jane Schott)

Video Introduction

Hello. Thank you for watching this important training. It's my pleasure to welcome you.

My name is Richard O'Brien, and I'm the Director of the Office of International Programs of the U.S. Consumer Product Safety Commission.

CPSC is an independent regulatory agency with an extremely important mission. We are charged with preventing unreasonable risks of injury or death from the thousands of different kinds of consumer products in the U.S. market – products you are buying for export to the United States.

Improving the safety of consumer products, as well as increasing collaboration with all of our stakeholders, are key strategic goals of CPSC.

As buyers of products exported from (Vietnam) (China) to the United States, you are important stakeholders in product safety. Your discussions with vendors and manufacturers should always highlight safety considerations, reiterating the message that designing for safety is crucial to preventing consumer injuries.

CPSC staff develops trainings, often with other government partners, to better inform industry about product safety requirements. If you have an opportunity to attend one of these live events, I urge you to consider joining us. They will be announced on the CPSC web site.

I believe that by working together, we can reduce the number of hazardous products purchased for export, prevent injuries to consumers and reduce compliance issues for your clients or employer.

It's not always possible for buyers to join us for a live event. So, this training video was developed for you as purchasing professionals, to aid and inform you when making purchasing decisions about products made abroad. I encourage you to review the information and reach out to CPSC with any questions. Our team will be happy to provide more information or any clarification that might be needed.

I sincerely hope this training will meet your needs and expectations. Thanks for watching.

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Hello, my name is Jane Schott, and I am a Program Manager at CPSC.

In this presentation, I'm going to demystify product safety and compliance. In addition, I'm going to give you best practices and tips on how to buy safe, compliant consumer products.

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We hear sometimes from buyers who are just starting out, or new to a product line, that they want to purchase safe and compliant products. They want to do the right thing, but they don't know where to start. They may be unsure about what questions to ask, or they don't know what to look for and require of their vendors. They don't know what they don't know, and at times this can be overwhelming. That can be a difficult position to be in.

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We want to try to reduce the unknowns, and help you, the purchasing professional, understand at the very least key questions to ask and criteria, to make informed decisions. By doing so, hopefully we will give you resources that help to inform your decisions about how to purchase safe and compliant products for export to the United States.

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So, what are those questions that you should ask yourself during this process?

The first question is: "What type of business am I buying for?"

- This might sound like an obvious question, but it doesn't always have the most obvious answer. I'm going to go over some of the definitions from our primary statute, the Consumer Product Safety Act, to help you understand under what type of category your employer's or client's business falls.

Once we do that, we need to figure out what type of products you're buying.

- For example, is it a children's product? Is it a general use product? Is it a children's toy? You can't understand what requirements there are for a product until you understand how it's categorized at its base level.

Question number 3 is: "How do I identify the labeling, testing, and certification requirements for the product?"

- Many of CPSC's requirements fall broadly into labeling, testing, and certification requirements. In this presentation, I will discuss steps you can take to understand what those requirements mean for a product.

The next question is: "What is the difference between compliance, proven compliance, and safety?"

- I am going to talk a bit about why we should think about those concepts and why they matter when buying products.

Finally, the last topic I am going to discuss is: "How do I make sure the product is safe?"

- This is really the purpose of the presentation and should be the goal for everyone buying consumer products.

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Alright, let's start discussing the first question: "What type of business am I buying for?"

Is my client or employer an importer, private labeler, distributor, retailer, or something else? We are going to talk about how these terms are defined to help you understand how you fit in. When CPSC writes or says a "private labeler must do X to comply," what type of business is CPSC referring to? It's not necessarily the obvious answer.

The Consumer Product Safety Act (CPSA), the main law that governs the majority of CPSC's activities, includes manufacturers and importers in its definition of "Manufacturer."

This means that under the CPSA, a manufacturer is either an individual manufacturing domestically in the United States, or an importer of products that are manufactured outside of the United States.

Therefore, when CPSC says that a “manufacturer must do X, Y, or Z,” we are including importers in that discussion. Importers are legally considered manufacturers.

We also often include private labelers with this definition. The reason for this is because Section 14 of the CPSA includes private labelers as entities that are required to prove and certify compliance for their consumer products in either a General Certificate of Conformity or a Children’s Product Certificate.

Therefore, we have our first grouping of business types: manufactures in the United States, international importers, and private labelers. When CPSC talks about manufacturers doing X, Y, or Z, we’re really talking about domestic manufacturers, **international importers, and, in most cases, private labelers.**

In this podcast, we assume that you, as a buyer, have an employer or clients who fall into one or more of the categories just mentioned.

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Let’s talk about distributors and retailers now. Distributors and retailers sell products.

Distributors do not sell products to end consumers. Instead, they often sell products from importers to retailers and act as in-between entities.

Retailers, generally speaking, sell products to the end consumer who will use the product.

Although distributors sell products, they are not responsible for proving and certifying compliance for those products. They are, however, entitled to receive compliance-related information from manufacturers, importers, and private labelers, such as a Children’s Product Certificates or General Certificates of Conformity.

Ultimately, it is a manufacturer, importer, or private labeler’s job to prove and certify compliance for products, **but distributors are a part of the compliance process.**

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Finally, let’s talk about common carriers, contract carriers, third-party logistics providers, and freight forwarders. These entities are not manufacturers, distributors, retailers, importers, or private labelers. Instead, they receive and transport consumer products from one point to another.

- They're not part of this compliance process, except in the sense that they ship and forward products from one location to another.

In conclusion, there are three broad business type categories:

- Manufacturers, importers, and private labelers are the entities primarily responsible for certifying and proving compliance.
- Distributors and retailers are the businesses that sell products.
- And logistics providers, freight forwarders, and carriers are businesses that ship and carry products from one destination to another.

The definitions for these three business types can be found at 15 U.S.C. section 2052.

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So now that we've discussed different business types and how they might be categorized, for the rest of this presentation, we are going to focus primarily on the obligations of stakeholders, such as importers and private labelers. This will give you, the buyer, a better understanding of what questions you should be asking yourself and your vendor, so that you can be sure you are purchasing a safe and compliant product.

In the next few slides, we are going to talk about how you can categorize a product and whether the product falls into multiple categories.

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The first thing you need to do when categorizing a product is to identify whether it is a children's product or a general use product. This categorization of a children's product or a general use product will have the biggest impact on what types of requirements a product will have. Please visit: cpsc.gov/childrensproduct, for more information. The page is available in Chinese and Vietnamese.

The best way to think about how to distinguish between children's and general use products is to look at the definition of "children's product":

- A children's product is a consumer product designed or intended primarily for use by children 12 years of age or younger.
- This doesn't mean a consumer product designed or intended for use by **any** child 12 years of age or younger. It means it's **primarily** intended for that audience.
- It must be a product that has greater appeal to children under the age of 12 and less appeal to individuals over the age of 12.

There are a few criteria that can help you decide whether a product should be considered a children's product:

- The first thing to consider is the manufacturer's statement of intent for how their product should be used and whether that statement is reasonable.
 - For example, it would be unreasonable to say a pacifier is a generally used product for individuals 13 years or older.
- The next thing you should think about is how a product is represented in its advertising, promotion and display.
 - Is the product advertised as being appropriate for use by children 12 years of age or younger?
- Point C factors in consumers' perceptions. Is the product commonly recognized by consumers as being intended for use by a child 12 years of age or younger?
 - It is possible that a vendor (*e.g.*, manufacturer or importer) has a reasonable intent that consumers will use their product in a certain way or have it geared towards a specific audience. And all of the marketing could be consistent with that intent. However, if consumers view the product as being suitable for use in a different way, or with a different audience, that can change the determination of whether a product is considered a children's product.
 - Therefore, it is very important for the importer or retailer to track how consumers are using the product once it is sold. It is possible for manufacturers or vendors to think their product has one age grade and appropriate classification, but that classification

may turn out to be incorrect, based on how the product is commonly recognized for use by consumers.

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- The last tool we use for determining whether product is considered a children's product is CPSC's age determination guidelines.
 - CPSC updated this document in 2020, and it can be downloaded from our website.
 - This document goes over how children of different ages use and interact with products. This can help you determine what is the appropriate age grade for the product.

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Let's talk about some other categorizations now.

If you are buying a children's product, it is important to figure out whether CPSC would consider that product a toy. Toys are generally products primarily used for play value.

- An example of a children's product that would not be a toy is a baby blanket or a swaddle blanket.
 - Although a baby blanket may have some play value, it is not primarily intended for play. Therefore, baby blankets would not be considered a toy in most situations.
- On the other hand, a stuffed teddy bear would be considered a children's toy and a children's product because it is intended for use during play.

This distinction between children's products and children's toys is important because children's toys have to meet additional requirements beyond the requirements for children's products.

Here are some other categories of children's product that can have additional requirements:

- "Durable infant or toddler products" is a class of product that is specifically defined and has its own additional requirements beyond children's product requirement. Examples of durable infant or toddler products include cribs, bassinets, swing carriers, gates and enclosures.
- Child care articles are also a children's product that have their own requirements. Childcare articles are products primarily intended for use by children under the age of 3 to facilitate sleeping, eating, feeding, or teething.
- Other categories, such as art materials and hazardous substances, can influence the requirements that exist for the product.

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Once you have determined how the product is categorized, it is important to determine what labeling, testing, and certification requirements exist for the product.

To help you with this, CPSC developed an online tool called the Regulatory Robot. This app takes the user through a series of questions about their specific product. Then it provides customized guidance for the requirements likely applicable to that consumer product.

This is a great place to start if you are unsure of the product's categorization, or if you need help identifying the labeling, testing, and certification requirements for the product.

The robot can be reached at the link you see on this slide and is available in multiple languages, including Vietnamese and Chinese.

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Now that we have talked a bit about the Regulatory Robot, let's discuss labeling requirements.

It is important to note that a product may have a variety of different labeling requirements, depending on what type of product it is. Although the Regulatory Robot will identify these requirements for you, you can also look them up yourself.

This slide lists some of the most common CPSC labeling requirements with general information, including:

- Tracking labels
- Small parts labels
- Federal Hazards Substance Act labels

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Other common labeling requirements include:

- Art Material labels
- Children's toys labels
- Durable infant or toddler product labels

This list is not exhaustive.

Please visit our website at: "CPSC Labeling Requirements Overview" link on this screen for more information.

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Let's talk a bit about testing requirements now.

Once you have identified a product's classification (*e.g.*, the product is a stuffed teddy bear and you have determined that it is a children's product and toy), you must now identify its testing requirements.

We recommend you visit the site linked on this slide: [cpsc.gov/certify](https://www.cpsc.gov/certify), to get a better understanding of CPSC's various testing requirements. The page is available in multiple languages, including Vietnamese and Chinese, and has lots of useful information to help you learn about testing requirements.

If the product is a children's product, we also recommend visiting our laboratory search page at: [cpsc.gov/labsearch](https://www.cpsc.gov/labsearch), because most children's products must be tested at a CPSC-accepted laboratory.

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This [cpsc.gov/labsearch](https://www.cpsc.gov/labsearch) webpage has information on all CPSC-accepted laboratories around the world. It also has a function that allows you to filter your lab search by testing scope, country, and more, so you can get a list of labs specifically tailored to you and your needs.

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When looking for laboratories that test for general use products, in many scenarios, you can use CPSC's lab search page to find labs that are able to do testing for a specific type of product.

However, because CPSC's lab search page focuses on CPSC-accepted laboratories for children's products, there are some situations where you won't be able to use the search to identify a specific laboratory for the product if it is considered "general use" product.

This is because you do not need to use a CPSC-accepted laboratory if your client or employer is importing a general use consumer product to the United States. You can do testing for these products in-house if the testing is done correctly and documented well. You can also use an external facility that is not CPSC-accepted if that facility can fulfill the obligations of the standard.

Although not necessarily mandatory, we recommend that your vendors and clients have in place a reasonable testing program for general use products. This can remove some of the day-to-day thought process of testing and compliance duties to help ensure the product is safe. Please visit our webpage titled, "General Use Products: Certification and Testing," for more information.

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Let's discuss certification requirements now.

The first thing to note on certification requirements is all manufacturers of children's products need to produce a children's product certificate (or CPC) for their product.

However, not all requirements for children's products need to be certified in a children's product certificate. To find the specific list of requirements that must be listed on a CPC, please visit our website at: cpsc.gov/cpc.

This page will give you specific lists of what requirements need to be certified as compliant in a CPC, and of those, which must be tested by a third-party laboratory.

It is important to note that some requirements do not need third party testing and certification. For example, tracking label requirements do not need to be tested or certified at a third-party laboratory. Therefore, they do not need to appear in your children's product certificate.

The webpage linked on this slide will give you useful information about CPSC requirements.

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Now, let's talk a bit about General Certificates of Conformity or GCCs.

Manufacturers and importers of specific general use products (*i.e.*, non-children's products) for which consumer product safety rules apply, must certify, in a written General Certificate of Conformity, based on testing or a reasonable testing program, that their products comply with those applicable rules.

However, not all general use products require GCCs. To find out whether a general use product needs a GCC, please visit our website at: cpsc.gov/gcc.

There, you will find a link to a complete list of products that require a GCC. Here are just some examples of products that require GCCs (*e.g.*, bicycle helmets, power mowers, bunk beds), but the list shown here is not exhaustive.

If a general use product is not on the list located at [cpsc.gov/gcc](https://www.cpsc.gov/gcc), then it does not require a GCC. Also, not every general use product with mandatory requirements under CPSC's jurisdiction needs a CPS or GCC either.

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Next, let's discuss the differences between compliance, proving compliance, and safety. Over the next few slides, we will talk about the difference between these concepts and why it's important for you, the buyer, to understand these differences.

- This is so you can ensure that you have a high degree of compliance and safety for the product while avoiding unnecessary testing that does not add any new safety value to the product.
- It is important to note that some requirements mandate third party testing to prove compliance, but not all. Sometimes a product only has to comply with the requirement, not prove compliance through third party testing.
- And sometimes, products can be fully compliant, but still have safety defects that could lead to a situation where the company must take corrective action or conduct a recall in close coordination with CPSC.

Therefore, it is important to think beyond just making a compliant product and to think about how to make sure the product you're buying is as safe as possible.

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To understand fully the difference between compliance, proving compliance, and safety, it is important to understand these terms' definitions:

- Compliance means that a product meets an applicable CPSC requirement.
- Proving compliance means that the manufacturer, importer, or private labeler demonstrates, through testing or other means, that the product or component part meets applicable CPSC requirements.
- Safety refers to thinking beyond just complying, or proving compliance, to further minimize the potential risk of harm to consumers from a product.

Let's go over an example to help illustrate the differences between these terms:

- You are a buyer of baby onesies. The onesie you want to purchase has a screen-printed image on the front, and it has painted snaps.
 - Possible requirements for this product could include:
 - Clothing flammability (depending on what type of fabric the onesie is made out of)
 - Lead testing for the onesie's snaps
 - Lead testing for the paint on the onesie's snaps
 - Lead testing for the screen-printed image (depending on how it's used and whether it's creating a surface coating or absorbing into the textile surface)
 - Once you have confirmed that the product fulfills these requirements, you have shown that you are following CPSC requirements and proving compliance with CPSC requirements.
- However, just because a product can be proven to be compliant, it doesn't mean that the product is completely safe.

- For example, while the vendor (*e.g.*, manufacturer or importer) does not need to test your onesie's snaps or the product as a whole for small parts hazards because of an exemption in 16 CFR 1501.3, that doesn't mean a small parts hazard is not a concern for onesies with snaps
- There is a possibility, and situations have occurred in the past, where snaps have come loose from onesies and created a choking hazard.
- Therefore, when thinking about a safe product, it is essential to move beyond just its regulatory requirements and think about the safety of the product as a whole.
 - This is where the idea of a product's safety moves beyond compliance and proving compliance.
 - There's no issue from a compliance standpoint with not getting a onesie tested for small part hazards, but you might want to conduct extra testing to make sure those snaps are securely fastened and that they do not come loose and become a choking hazard.

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Our last topic is about best practices for safety and steps to make sure the product you are purchasing is a safe product.

The first thing you want to do is assess whether the vendor and importer makes safety a priority at the design stage. This means you, as a purchasing professional, should encourage them to think about the safety of the product and its compliance requirements from the very beginning. This can be done by:

- Identifying potential hazards and risks associated with the product,
- Considering foreseeable consumer use and misuse of the product to try to eliminate or mitigate risks and hazards associated with use and misuse in the final version, and
- Eliminating, guarding against, and warning users of any risks discovered.

We also recommend that you inquire whether your vendor and importer are aware of, and consult the resources on CPSC's website for guidance and best practices. You should also ensure that products you purchase meet or exceed the requirements in all applicable industry consensus standards

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When buying the safest possible product, it is also important to build safety into your supply chains. This means you should:

- Provide product specifications that include detailed safety and compliance requirements to your suppliers;
- Use suppliers and vendors who have a comprehensive quality assurance program, which includes the use of compliant materials and quality testing of finished goods;
- Exercise due care in relying on your supplier by taking affirmative steps, such as:
 - including contractual provisions requiring compliance with specifications and quality programs,
 - visiting manufacturing locations, and
 - spot-checking products for ongoing compliance with safety requirements.

Once again, when building safety into the supply chain, CPSC's Regulatory Robot is a great resource and is available in many languages, including Chinese and Vietnamese.

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It is also important for purchasing professionals to know and be aware of the regulatory environment. There are a variety of steps you can take to become knowledgeable in this area, such as:

- Reviewing and monitoring consumer feedback to assess the safety of products you intend to purchase;
- Monitoring incident reports, complaints, and recalls of products like those you are buying, through e-mail notification, SaferProducts.gov, and Recalls.gov;
- Keeping up with CPSC's new and updated regulations through e-mail notification, such as the Small Business Ombudsman Updates. Please go to: cpsc.gov/email to sign up for these email lists.

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When developing best practices for safety, it is very important to be prepared and think about worst-case scenarios for a client or employer, such as a product recall.

Ask your vendor or supplier to use lot or batch controls to identify products and their components.

- Although all children's products have a tracking label requirement, we recommend manufacturers of general use products use batch controls as well.
- This is useful because, if there's a problem with a product, you can identify it more quickly, and thus, react faster to fix the problem. You can also minimize the affected number of products to focus narrowly on the batch of products or components experiencing the issue.

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Also, be sure to document all major decisions and actions for proper due diligence.

This includes doing things like:

- Asking if your supplier or vendor complies with CPSC's requirements and industry standards,
- Asking about their quality assurance program, and
- Asking to see your supplier or vendor's documentation.

If there is a product recall, documentation helps CPSC understand what efforts were made to ensure the products were safe. Your client or employer will benefit from knowing what went wrong and how it has been corrected. Documentation can also help identify actions to ensure future safety and compliance. This can help avoid additional recalls or other expensive remediation actions. Documentation of this type is value added that you can provide as a professional buyer.

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The most important thing you can do for best safety practices is to challenge yourself to find only the safest possible consumer products.

This means doing things like:

- Going above and beyond the mandatory and industry consensus standards to make sure that a product is designed as safely as possible, and

- Seeking an outside perspective to assist you in appraising the safety and possible consumer uses (and misuses) of a product.

It is also important to note that the safety culture can be contagious. Strive to project that your purchasing criteria for suppliers include a culture that emphasizes and values product safety, compliance with CPSC safety requirements and voluntary standards, and a comprehensive quality assurance program. Safety considerations should have a prominent place in any buying decisions.

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To sum up, in an undesirable supply chain for consumer products imported into the United States, the buyer:

- Orders merchandise without direct contact with manufacturers;
- Often purchases small quantities of products from multiple sources, as opposed to one manufacturer;
- Does not control materials, design, process, labeling or adherence to CPSC regulations;
- Exercises minimal influence, by merely requesting that products have a passing test report;
- Accepts any test report provided, regardless of its relevancy to the actual product or CPSC requirements.

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However, in an optimal supply chain for products imported into the United States, the buyer:

- Orders products directly from manufacturers; specifies materials, design, process, labeling and adherence to all CPSC regulations and other applicable standards such as industry consensus safety standards;
- Obtains and approves passing third party testing records, from a CPSC-accredited lab, prior to placing the purchase order;
- Ensures that the supplier completes order exactly as requested.

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Thank you for viewing this presentation.