



Staff Report to Congress
Pursuant to Title XX, Section 2001 of the Consolidated Appropriations Act,
2021 (Pub. L. No. 116-260)
Port Surveillance

June 25, 2021

Staff of the U.S. Consumer Product Safety Commission (CPSC)
4330 East West Highway, Bethesda, MD 20814

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

Table of Contents

Executive Summary.....	3
1. Background	5
2. Impact of COVID-19 on CPSC’s Import Surveillance	6
3. Agency’s Work to Protect Consumers During COVID-19	8
3.1 Onsite Presence at Ports During the Pandemic.....	10
3.2 Import Risk-Mitigation Plan	10
3.2.1 Review of High-Risk Importers.....	11
3.2.2 Internet Surveillance Blitz	12
3.2.3 Consumer Warnings.....	12
4. CPSC’s Experience in the Examination of De Minimis Shipments	15
5. Shipments Examined from High-Risk Countries for Safety and Intellectual Property Infringements	17
6. Resources Needed to Address Targeting and Screening of De Minimis Shipments.....	21
6.1 CPSC eCommerce Assessment Findings.....	21
6.2 Critical Staffing Needs.....	23
6.3 Improve Targeting Through New Data Sources and IT Systems.....	23
6.4 Adapting Metrics for eCommerce Enforcement.....	24
Acronym List	25

Executive Summary

The United States (U.S.) Consumer Product Safety Commission (CPSC) submits this Report to Congress pursuant to Title XX, Section 2001 of the Consolidated Appropriations Act, 2021 (Pub. L. No. 116-260), which requested the following:

- Identify the risks associated with the reduction in Commission port inspection activity during the COVID-19 pandemic;
- Identify the extent to which the reduction in port inspection activity is linked to inadequate Commission resources or due to shortages of trained Commission staff due to the COVID-19 pandemic;
- Identify the steps the Commission has taken and plans to take to mitigate those risks, such as recalls, inspections of product inventory, consumer warnings, and other appropriate measures;
- Examine a sampling of de minimis shipments at a sufficient and representative sample of all types of ports of entry where de minimis shipments are processed, including express consignment carrier facilities, international mail facilities, and air cargo facilities to assess the extent to which such shipments include violative consumer products;
- Examine a sampling of shipments coming from countries identified as high-risk for exporting violative consumer products to identify trends associated with the shipment of products containing both intellectual property rights infringements and consumer product safety violations;
- Detail plans and timelines to effectively address targeting and screening of de minimis shipments to prevent the entry of violative consumer products entering into the commerce of the United States taking into consideration projected growth in e-commerce;
- Establish metrics by which to evaluate the effectiveness of the Commission efforts to reduce the number of de minimis shipments containing violative consumer products from entering into the commerce of the United States; and
- Assess projected technology and resources, including staffing requirements necessary to implement such plans based on available and needed Commission resources.¹

CPSC's Office of Import Surveillance (EXIS), established in 2008, operates a risk-based surveillance program that protects the American public from the unreasonable risk of injury or death from imported consumer products. CPSC created EXIS and historically staffed the program to focus primarily on large, containerized shipments entering in the traditional import environment. EXIS has been successful at risk-assessing the large volumes of imported consumer products arriving at ports where staff are co-located with U.S. Customs and Border Protection (CBP) personnel, and interdicting those that do not comply with CPSC requirements before they reach store shelves and consumers' homes.

CPSC, like organizations worldwide, was significantly impacted by the coronavirus disease of 2019 (COVID-19) pandemic. When the number of infections in the United States began to rise dramatically, CPSC leadership prioritized the health and safety of its already limited agency staff, and continued to fulfill its mission safely to the greatest extent possible. Accordingly, from March 2020 to September 2020, the CPSC Acting Chairman directed that staff, including those located at U.S. ports, be instructed to perform all duties from their home worksite until their safety could be assured.

¹ Consolidated Appropriations Act, 2021 (Pub. L. No. 116-260), [BILLS-116hr133enr.pdf \(congress.gov\)](#)

Although remote work reduced the number of shipments CPSC staff examined, CPSC staff developed a number of alternative means to protect the public during this period, including continual risk assessment of imported shipments, remote enforcement procedures, internet surveillance, recalls, and outreach to industry and government partners.

Furthermore, data from the first 6 months of the pandemic indicate that there was a significant drop in trade (see Section 2 of this report), and a corresponding reduction in the number of products flowing through traditional ports, a likely factor in the reduction of the number of inspections conducted during this period. At the same time, data indicate that there was a significant increase in eCommerce activity involving de minimis shipments arriving at express courier and other similar facilities, where CPSC has never had a presence (although as noted in Section 6, the agency seeks to do so as expeditiously as possible). Thus, potentially violative products that might have entered the country in this manner resulted from a lack of an established CPSC presence at these facilities rather than from the remote status of CPSC personnel who were unavailable at traditional ports.

It should also be noted that a similar gap in resources exists at traditional ports. Of the roughly 327 ports nationwide, CPSC maintains a physical presence at 18 of those ports, staffed by 32 fulltime equivalents (FTEs). Thus, although CPSC's port inspection activity declined during the first 6 months of the pandemic, our overall lack of adequate resources for nationwide port coverage accounts for the small fraction of inspection activities we can undertake, even when fully staffed.

In addition to the need to increase staffing in the traditional and eCommerce port environments, CPSC must secure improved information technology (IT) and targeting capabilities to better risk assess shipments and to address the overlap between intellectual property (IP) infringements and safety violations. The funding recently appropriated to CPSC under the American Rescue Plan Act (ARPA) of 2021 has allowed the agency to begin meeting those needs. Specifically, the Commission has allocated ARPA funds to increase the number of traditional ports of entry where CPSC has a physical presence, as well as ports where large volumes of de minimis shipments arrive. It is an important first step toward addressing the risk posed by the influx of consumer products, especially those arriving by eCommerce.

1. Background

The U.S. CPSC is an independent federal regulatory agency charged with safeguarding the public from unreasonable risks of injury and death from consumer products through education, safety standards activities, regulation, and enforcement. The Consumer Product Safety Act of 1972 (CPSA) established the agency, defined “consumer products,” and set forth CPSC’s jurisdiction.² Since its inception, CPSC has worked to ensure the safety of consumer products, such as toys, cribs, power tools, and household chemicals, and the agency has contributed to the decline in death rates and injuries associated with consumer products for more than 40 years.³

The Consumer Product Safety Improvement Act (CPSIA), enacted in 2008, mandated, in Section 222, that CPSC develop a Risk Assessment Methodology to identify consumer product imports likely to violate the CPSA and other statutes enforced by CPSC. That same year, CPSC established the Office of Import Surveillance (EXIS), charged with ensuring the safety of products entering the country through our ports.

To enforce CPSC’s statutes and regulations, EXIS employs its resources in two primary ways: (1) co-location of EXIS staff alongside U.S. Customs and Border Protection (CBP) at ports of entry; and (2) participation in the CBP-led Commercial Targeting and Analysis Center (CTAC). EXIS port staff are stationed across the United States at some of the most commercially significant ports, and work with CBP personnel, targeting potentially noncompliant and hazardous imports, and interdicting shipments for examination.

EXIS port staff are specialists in their respective port operations, with knowledge regarding the most frequent types of importers, nuances of the modes of transportation at their location, most commonly imported commodities, and other port-specific complexities. EXIS port staff also use their expertise to support local targeting activities. In addition to this port-specific work, CBP implements nationwide targeting programs in its systems on CPSC’s behalf at CTAC to stop high-risk shipments for examination at the ports.

Additionally, EXIS piloted a targeting system in 2011, called the International Trade Data System/Risk Assessment Methodology (RAM), to identify potentially noncompliant products being imported into the United States. In 2017, CPSC transitioned to the RAM 2.0 system, which provides analytic and performance reports to aid staff in modifying and refining risk assessment and targeting rules. The RAM electronically risk-scores 3 to 4 percent of imported shipments of consumer products under CPSC’s jurisdiction, with agency staff physically examining a smaller percentage. Given CPSC’s small size (fewer than 550 fulltime employees), and its vast jurisdiction (over 15,000 different categories of consumer products), the agency has the resources to examine only a tiny fraction of the estimated 130 million entry lines of consumer imports entering the country each year.⁴

² CPSC’s jurisdiction excludes food, drugs, tobacco, firearms, and most vehicles.

³ <https://www.cpsc.gov/About-CPSC>.

⁴ Because EXIS does not receive invoice-level information from CBP, it cannot report the number of distinct consumer products entering the United States annually.

2. Impact of COVID-19 on CPSC's Import Surveillance

Per CPSC's Fiscal Year (FY) 2021 Operating Plan,⁵ EXIS has 32 import staff stationed at select ports of entry that account for approximately 72 percent of consumer product import entry lines risk-scored in the RAM system.⁶ These employees are spread across 14 U.S. states and territories. Current staffing allows CPSC investigators to provide co-located coverage at approximately 6 percent of CBP's 327 ports of entry. Field investigators from CPSC's Office of Compliance and Field Operations (EXC) are able to provide part-time coverage at additional, non-co-located ports.

Despite the growth of U.S. imports, including eCommerce, CPSC's port presence has remained relatively constant over the past several years.⁷ To maximize overall port coverage, the majority of co-located ports are staffed by a single CPSC investigator. Given current staffing resources, CPSC cannot maintain a port presence 24 hours a day, seven days per week. In fact, given CPSC's small staff, the agency lacks coverage when an employee is unavailable, for example, due to illness or personal leave.

When the number of COVID-19 infections began to rise significantly in the United States in early March 2020, CPSC leadership prioritized the health and safety of its already limited agency staff, as it continued to fulfill its mission safely, to the greatest extent possible. On March 16, 2020, the Acting Chairman directed that CPSC staff, including those stationed at U.S. ports, be instructed to perform all duties from their home worksite.

Unlike some larger agencies, prior to 2020, CPSC did not maintain a supply of personal protective equipment (PPE) for its port staff. It is our understanding that other, larger agencies with a port presence had PPE readily available, and therefore, were able to provide protection for their staff at the ports. Despite vigorous efforts to procure appropriate PPE, CPSC struggled to obtain this equipment for some time. In spring and summer 2020, PPE was extremely scarce because it was prioritized for first responders and healthcare workers. Like many other agencies and private companies, CPSC had to compete to acquire a supply of PPE, and we were finally able to provide appropriate masks and gloves to our port staff in late August 2020, which allowed us to begin returning to the ports in early September 2020.

As set forth in the CPSC Operating Plan, EXIS set a goal of examining 32,000 consumer products in FY 2020,⁸ but ultimately, the agency examined 18,561 products that year.⁹ During the same period, however, the pandemic also had a significant impact on international trade, resulting in an overall decrease of imported consumer products flowing through traditional ports. RAM data shows that large commercial importations of consumer products dropped as much as 80 percent from March 2020 to August 2020 (see Figure 1).

⁵ [CPSC FY 2021 Operating Plan](#), November 2020.

⁶ To leverage CPSC's limited resources, staff prioritizes products for targeting, based on risk and addressability, rather than risk-assessing the thousands of HTS codes under the agency's broad jurisdiction. The subset of approximately 300 codes corresponds to those in EXIS's RAM targeting filter.

⁷ The American Rescue Plan Act, enacted on March 11, 2021, appropriated funds that will be used, in part, to add CPSC staff at ports of entry.

⁸ [CPSC FY 2020 Operating Plan](#), October 2019.

⁹ [CPSC FY 2020 Annual Performance Report](#), January 2021.

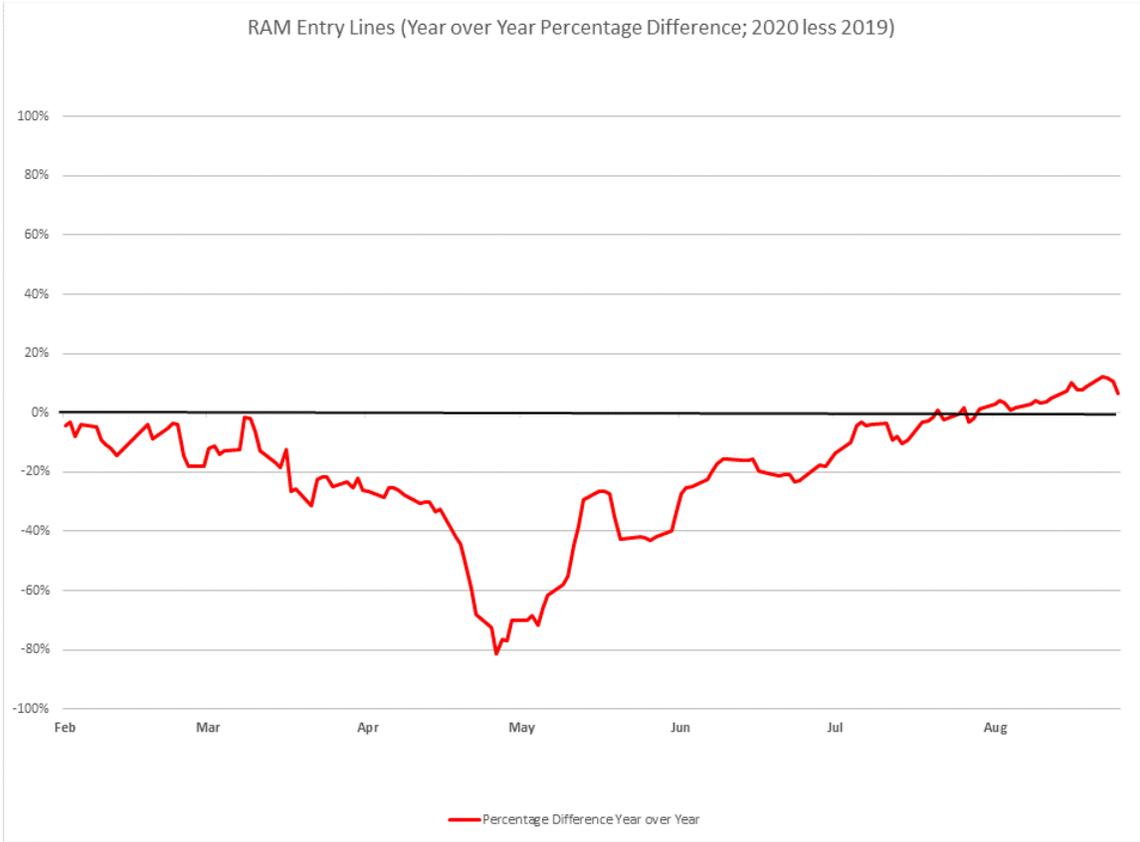


Figure 1: Percentage Difference in RAM Entry Lines Between 2019 and 2020

3. Agency's Work to Protect Consumers During COVID-19

The Consolidated Appropriations Act, 2021 (Pub. L. No. 116-260) directed CPSC to “identify the steps the Commission has taken and plans to take to mitigate [the risks associated with the reduction in Commission port inspection activity], such as recalls, inspections of product inventory, consumer warnings, and other appropriate measures.”

Throughout the pandemic, CPSC's work to protect the public continued through recalls, inspections of product inventory, consumer warnings, and other appropriate measures, including:

- CPSC protected the public by continuing to examine high-risk shipments. CPSC's RAM targeting system operated continuously during this time, risk-scoring shipments as they arrived, allowing staff to monitor high-risk shipments, importers, and foreign manufacturers, and to select shipments for examination and follow-up, in coordination with CBP and importers.
- CPSC developed new procedures to examine shipments. A week after the emergency telework period began, on March 24, 2020, EXIS implemented a remote enforcement procedure, allowing staff to leverage years of partnership and collaboration with CBP to conduct virtual exams at ports while working from their home office. Each local CPSC investigator(s) remained available for consultation and participation in virtual examinations. Subsequently, the remote enforcement procedure was expanded to include the ability for an importer to ship products to a CPSC investigator directly, allowing for additional screening and sampling. From the time the remote procedure was implemented through the second quarter (Q2) of FY 2021, EXIS investigators used this process to examine more than 1,200 shipments and 4,300 consumer products. More than a million units of noncompliant consumer products have been intercepted under the remote procedure, including products with significant chemical and mechanical violations, such as hairdryers without immersion protection, noncompliant bicycle helmets, lighters without a child-resistant mechanism, and lead in children's products.
- CPSC's Internet Surveillance Unit (ISU) continued to monitor consumer products offered for sale online, an increasingly important function, given the rise in eCommerce and online shopping in recent years.¹⁰ From the beginning of the emergency telework period through the end of Q2 FY 2021, the ISU reviewed more than 10,900 product listings found on eCommerce websites to evaluate compliance with product safety regulations. In addition, the ISU unit fulfilled hundreds of research requests in support of case development, and it collected 274 samples of products for analysis.
- The agency continued to effectively remove hazardous products from the marketplace and consumers' homes by working directly with firms to undertake recalls of noncompliant products. From the beginning of the emergency telework period through the end of Q2 FY 2021, EXC issued 254 recalls. Sixty-five of these involved regulated products of the type that would be intercepted at the ports, a 63 percent increase over the same period the previous year. In addition, staff obtained 199 corrective action plans from companies, and issued 1,382 Notices of Violation on regulated product samples. Examples of recalls include 914,000 Crock-Pot multi-

¹⁰ [CPSC eCommerce Assessment Report](#), November 2019.

cookers, 350,000 Ring video doorbells, as well as multiple recalls on unstable dressers, off-highway vehicles, and essential oils in noncompliant packaging.

- Reporting requirements also remained in effect throughout the pandemic. Under Section 15(b) of the CPSA, all manufacturers, importers, distributors and retailers (Firms) are required to immediately report information that reasonably supports the conclusion that a product: fails to comply with an applicable consumer product safety rule, regulation, standard or ban; contains a defect that could create a substantial product hazard or; creates an unreasonable risk of serious injury or death. Staff strongly encourages firms to file through CPSC's Section 15 portal or through the Section 15 mailbox. Staff evaluates the reports and follows up, as appropriate.
- EXIS investigators continued to conduct virtual Informed Compliance Inspections (ICIs) with firms throughout the pandemic. ICIs are voluntary inspections conducted with first-time violators to provide importers with the information and resources they need to import consumer products in compliance with CPSC regulations. In the first half of 2020, the agency conducted approximately double the number of ICIs, compared to the same timeframe as the previous year.¹¹
- EXC also continued to conduct In-Depth Inspections (IDIs) of firms during this period. IDIs were less affected than other activities because many of them could be conducted virtually. From the beginning of the emergency telework period, through the end of Q2 FY 2021, EXC completed more than 3,800 IDIs involving a wide variety of consumer products. One area that the agency has been focused on is furniture tip-overs; and in support of this priority, investigators conducted IDIs and collected several incident units that were involved in tip-over incidents.
- EXIS and EXC conducted a large number of virtual outreach events during the pandemic, connecting with other U.S. government agencies, such as CBP and the Food and Drug Administration (FDA), state and local authorities, as well as importers, manufacturers, local and national brokers associations, industry groups, and even international partners, to help ensure an understanding of, and compliance with, CPSC requirements and to provide updates on new processes. Some of the larger groups addressed during the pandemic included CBP's Commercial Customs Operations Advisory Committee, the National Attorneys General Training and Research Institute, the Retail Industry Leaders Association, the American Association of Exporters and Importers, and the National Customs Brokers and Forwarders Association of America.
- EXIS staff also submitted a briefing package to the Commission with a plan to create an eFiling program for imported consumer products, which the Commission unanimously approved on December 18, 2020.¹² The vision for eFiling is to require importers of certain regulated consumer products to electronically file (eFile) targeting/enforcement data (a subset of the data required on a certificate of compliance) at the time of importation. This is critical to the agency's ability to intercept noncompliant imported consumer products, and it will advance CPSC's

¹¹ In the first half of calendar year (CY) 2020, the agency assigned and completed 99 ICIs, compared to 54 in the first half of CY 2019.

¹² [CPSC Plan to Create an eFiling Program for Imported Consumer Products](#), September 2020.

mission to protect U.S. consumers. EXIS expects to begin the first step of the eFiling program in late FY 2021 with funds appropriated under the American Rescue Plan Act of 2021 (ARPA).¹³

3.1 Onsite Presence at Ports During the Pandemic

In early September 2020, CPSC port staff received PPE, and at that time, they were authorized to return to the ports. From the time staff returned, through the end of Q2 FY 2021, onsite port staff examined more than 3,100 shipments, screened more than 11,100 consumer products, and stopped more than 1 million units of violative products. For ports without onsite presence,¹⁴ staff continued to employ the remote enforcement procedure described earlier in this section. In addition, EXC field investigators provided onsite coverage at an additional 20 ports of entry.

Even after the agency procured PPE and staff returned to onsite work, it is important to note that several of CPSC co-located ports reported confirmed COVID-19 cases among CBP staff, and a number of EXIS port staff were infected with COVID-19 upon returning to onsite work. With such a small import team to begin with, this clearly had a significant impact on operations.¹⁵

The agency is committed to maximizing its onsite port surveillance work while it continues to prioritize employee safety. CPSC consulted with CBP and other relevant health authorities to ensure port investigators' safety. CPSC will maintain a physical presence at the ports, to the maximum extent feasible, including the mandatory use of PPE, encouraging employees to get vaccinated, and providing administrative leave for vaccinations. CPSC recognizes the importance of keeping its staff safe and healthy so they can continue fulfilling their important mission of protecting American consumers.

To that end, we designated CPSC port staff as priority 1b for vaccination status. In addition, agency executive staff sought to facilitate and accelerate this process for its port staff by contacting state governments and CBP directly, although those actions met with limited success. Acting Chairman Adler wrote to Congress and to CBP leadership to request assistance with vaccinating port staff, and we provided all port staff with a letter designating them priority 1b status so they could be prioritized when each state or local government authorized vaccinations.

3.2 Import Risk-Mitigation Plan

As part of its efforts to mitigate the risks associated with the reduction in port inspection activity during the first 6 months of the pandemic, CPSC developed an import risk-mitigation plan. The plan contains three key components: (1) a review of high-risk importers through inspections and follow-up enforcement actions, as necessary; (2) an Internet Surveillance Unit (ISU) blitz for products with the highest number of violations at import; and (3) focused communications to warn consumers of hazards associated with the highest number of violations at import.

¹³ [American Rescue Plan Act of 2021](#), March 2021.

¹⁴ Employees at these ports requested exemptions from onsite presence due to medical or childcare reasons.

¹⁵ [CPSC's FY 2021 Performance Budget Request](#) identified a need for 16 additional EXIS fulltime equivalent (FTE) employees to staff and support traditional ports of entry. An absence of EXIS staff at eCommerce hubs was also identified as a key gap in [CPSC's 2019 eCommerce Assessment](#).

3.2.1 Review of High-Risk Importers

EXIS analyzed risk-scored imported shipments arriving into U.S. ports of entry for the period mid-March 2020 through early September 2020, examining shipments containing regulated consumer products under CPSC jurisdiction. The analysis identified 56 companies with one or more shipments, imported during the target period, with a risk score in the highest category assigned by the RAM.

The first phase of the assessment involved sending a letter to each of the 56 companies by email, with delivery and read receipt, or by express courier, with tracking and signature required. The letter instructed the company to provide detailed shipment information, such as the invoice and packing list, as well as the required certificates of compliance for applicable products subject to mandatory CPSC requirements. CPSC used the availability of valid certificates of compliance as the basis for assessing the likelihood of compliance of in-scope consumer products in the shipment. CPSC chose this method based on a previous certificate study the agency conducted, which concluded that a shipment was five times more likely to contain violative products if no certificate was provided and three times more likely to contain violative products if the requested certificate was not provided within the 24-hour timeframe.¹⁶

Federal law requires manufacturers and importers to test many consumer products for compliance with applicable consumer product safety rules, or similar rules, bans, standards, or regulations under any statute enforced by CPSC. Based on passing test results, the manufacturer or importer must certify the consumer product as compliant with the applicable consumer product safety requirements in a written or electronic certificate. Certificates are required to include certain information, such as the date and place of manufacture, the date and place where the product was tested, each party's name, full mailing address, telephone number, and contact information for the individual responsible for maintaining records of test results. Certificates of compliance are required to accompany the applicable product or shipment of products covered by the certificate, and a copy must be provided to retailers, distributors, and, upon request, to CPSC.

Of the 56 subject firms, 32 timely submitted all the requested documentation to CPSC. In a subsequent review by CPSC staff, these documents established a high-level of confidence that CPSC requirements were met. These firms were designated a lower priority for further follow-up by CPSC.

Of the remaining 24 firms, staff confirmed that 2 were no longer in business. The final 22 firms were designated higher priority, requiring further follow-up by staff, due to their failure to respond, failure to provide all the requested documentation, or providing documents that indicated elevated risk of product noncompliance. CPSC investigators were then assigned onsite establishment inspections of those 22 companies.

The establishment inspections CPSC investigators conducted included identifying all U.S. and foreign offices, warehouses, and principle ownership or management; obtaining information on the firm's quality-control processes, including testing and certification of consumer products regulated by CPSC; identifying the distribution supply chain, including end customers; and onsite regulatory screening and analysis of product inventory, including collection of samples, if applicable, of suspected noncompliant products for testing by CPSC's laboratory and evaluation by EXC.

¹⁶ [eFiling Certificate of Compliance Study Assessment \(cpsc.gov\)](#), August 2018.

Several firms among those 22 designated high-priority were found to be represented in the United States solely by agents, Customs brokers, or freight forwarders, and they did not maintain their own physical presence in the United States, such as a company office or warehouse. Import activity for those firms was reviewed, and any firms confirmed to be actively importing were flagged by EXIS for enhanced targeting and examination.

At the writing of this report, all establishment inspections have been completed, and EXIS has evaluated the inspection results. Potential violations discovered as a result of the inspections have been submitted to EXC for enforcement action, which may include notices of violation, stop-sale orders, or consumer-level recalls, where appropriate.

3.2.2 Internet Surveillance Blitz

To address the risk of imported products being sold that may not have been inspected at import, the ISU staff conducted a targeted online surveillance to identify violative imported products based on the historic data on products with the highest number of violations at import. These products include toys and children products with lead (content/paint), durable nursery products, phthalates in toys and childcare articles, small parts, hairdryers without immersion protection, and children's sleepwear. These products were subsequently tested at CPSC's National Product Testing and Evaluation Center.

Of 75 products tested, 33 did not meet the associated requirements for that product. For violative products, EXC is taking enforcement actions, which may include Notices of Violation, stop-sale orders, or consumer-level recalls, where appropriate.

3.2.3 Consumer Warnings

CPSC's Office of Communications (OCM) is an integral part of the Agency's core mission to protect American consumers. To fulfill that mandate, OCM maintains a series of safety education efforts designed to inform consumers about some of the most common hazards from consumer products. In addition, OCM is responsible for communicating product recall information and, when necessary, crisis alerts to address imminent safety hazards. Accomplishing these dual missions—to inform consumers of hazards both proactively and reactively—requires a constant recalibration of communications efforts to reflect current data and emerging trends. OCM must also maintain and leverage relationships with outside constituencies—including media, industry stakeholders, and consumer groups—to ensure the widest possible dissemination of critical safety messages. During FY 2020, OCM responded to the unprecedented challenges of the COVID-19 pandemic by expanding consumer alerts to include the changed risk environment associated with more time spent at home, including new modes of behavior for recreation, exercise, and sports.

In the earliest days of the pandemic, OCM recognized the need to effectively reach the American public at a time when there was a barrage of warnings and safety messages about the pandemic itself—vital information that nonetheless crowded the landscape of risk communications. To address the increased potential for warning fatigue, OCM worked closely with Agency technical staff to craft carefully targeted safety messages. The new reality for consumers—having young children at home or having seniors more isolated, for example—meant that CPSC not only needed to communicate the risks and prescribed actions (i.e., how to avoid or mitigate the hazard), but also needed to reach consumers through channels they could and would routinely access while at home. The resulting campaign, "Safe at Home,"

provided an adaptive communications strategy that was comprehensive, accessible, and specifically tailored to different hazards, audiences, and media outlets.

Launched in March 2020, the Safe at Home campaign offered a series of checklists for consumers titled, *Stay Safe at Home During the COVID-19 Pandemic; CPSC Helps You Avoid Hidden Home Hazards*. The series, released periodically and leveraging different media outlets and external stakeholders, includes separate checklists for *in-home* safety with young children, older children, seniors, and related general use. As weather and circumstances evolved, OCM expanded the program to include *Stay Safe Outdoors During the COVID-19 Pandemic*, which provides safety instructions and separate checklists for *outdoor* recreation, yardwork, and home repairs.

CPSC Website and Online Strategy

Consumers rely on CPSC not only for safety education, but also, critically, for information on how to address unsafe or recalled products. One of OCM's core responsibilities is to educate consumers on what action to take pursuant to a recall and how to receive the appropriate remedy under a firm's corrective action plan. To ensure that consumers understood any possible limitations on recall remedies resulting from the pandemic, OCM created a pop-up message regarding recalls on the Agency's website homepage. That message—requiring an affirmative response before navigating to the rest of the site—served the dual function of informing affected consumers about the impact of the pandemic on specific recalls *and* notifying other site visitors that CPSC was continuing to monitor the recall challenges broadly.

OCM also created a COVID Safety Education page on CPSC's website containing all of the Agency's COVID-related safety information. A Safety Tips video was developed for media use and posted on YouTube. And safety checklists and posters were distributed to CPSC's listservs, which include targeted national media (560 outlets), daycare centers (34,500), state departments of health (74), state Attorneys General offices (115), and reseller organizations (9,421). Messaging was further amplified via Agency field staff who disseminated checklists, posters, and news releases among CPSC local networks.

Throughout the pandemic, OCM executed an integrated media relations strategy in English and Spanish, including paid social media ads, to reach a broader audience for the new Safe at Home campaign. By delivering safety information content suitable for reposting, linking, and further distribution, the Agency reached millions of consumers. In total, OCM's efforts resulted in more than 16.6 million impressions across Facebook, Instagram, and Twitter (4 million of which were impressions reaching Spanish speakers), including a 16 percent engagement rate on Twitter.

Community Publications

As the pandemic limited in-person interaction within neighborhood and affinity groups, CPSC's outreach efforts shifted to online platforms. OCM worked collaboratively with external stakeholder and community organizations—longtime partners on many safety education efforts—to be responsive to that shift. OCM provided shareable publications ("posters") that could be easily forwarded, linked, and published online. This focus ensured that community groups continued to have timely and relevant safety information available for distribution throughout their networks on a variety of consumer hazards, including:

- We Know You're Cleaning: Home Safety Tips During #Coronavirus

- Everyone! Home Safety Tips During #Coronavirus
- Seniors! Home Safety Tips During #Coronavirus
- Older Children at Home? Safety Tips During #Coronavirus
- Younger Children at Home? Safety Tips During #Coronavirus
- Home Safety Tips During #Coronavirus: Playing Outdoors
- Home Safety Tips During #Coronavirus: Yardwork
- Home Safety Tips During # Coronavirus: Outdoor Repairs

Continuing Communications Efforts

Throughout FY 2021, CPSC continues to communicate specific ways to identify and manage unsafe products that may have entered the country from overseas. For example, OCM leveraged significant attention during Bike Safety Month (May) with this year's campaign focus on bicycle helmets, a regulated product that is among the top violative products found at the ports.

In addition, OCM worked with EXIS to create a list of products most commonly identified by Agency investigators to be in violation of safety standards. OCM has used the list to develop a series of social media graphics that specifically detail how consumers can identify these unsafe products. Examples include: hair dryers without immersion protection devices, bicycle helmets without labels identifying them as meeting CPSC standards, toys without age guidelines, and extension cords without labels confirming certification by standards-setting organizations. All of these social media graphics include a call to action that encourages consumers to report these products to CPSC through SaferProducts.gov.

OCM's efforts to create new content for the Safe at Home campaign is ongoing, including specific checklists alerting consumers to particular products of concern, such as nursery products, toys, hair dryers, bike helmets, extension cords, children's sleepwear, art supplies, seasonal lighting, rugs, and fireworks. Looking ahead, OCM continues to distribute information through external stakeholders and the Neighborhood Safety Network of 8,000+ state organizations and advocacy groups for amplification of safety messages.

In sum, CPSC's communications team reached unprecedented numbers of consumers with comprehensive messages designed to warn about new and increased hazards in the home.

4. CPSC’s Experience in the Examination of De Minimis Shipments

The Consolidated Appropriations Act, 2021 (Pub. L. No. 116-260) directed CPSC to “examine a sampling of de minimis shipments at a sufficient and representative sample of all types of ports of entry where such shipments are processed, including express courier facilities, international mail facilities (IMFs), and air cargo facilities, to assess the extent to which such shipments include violative consumer products.”

CPSC created EXIS and historically staffed the program to focus primarily on large containerized shipments entering in the traditional import environment. Currently, EXIS has very limited ability to monitor de minimis shipments arriving at express courier facilities, and no staff are at IMFs.¹⁷ However, funding appropriated to CPSC under ARPA will allow EXIS to expand to ports of entry where large volumes of de minimis shipments arrive (see Section 6 of this report).

Due to staffing limitations and the timeframe available to submit this Report, CPSC was not able to conduct new research related to de minimis shipments. Instead, CPSC is reporting on analyses performed on historical data to address eCommerce shipments as part of its current enforcement efforts, as well as a recent joint Trade Special Operation (TSO) conducted with CBP. The limited results currently available indicate that CPSC can be successful at targeting and interdicting unsafe products in environments where de minimis shipments arrive. Although the volume of shipments is extremely high, the quantity of such products, per individual shipment, is low.

With respect to shipments by air, CPSC has ongoing operations at select airports in the United States, including a large East Coast airport. At that location, both general air cargo and express consignment shipments are examined. A large number of shipments, particularly those encountered at an express consignment facility, are de minimis. De minimis shipments examined by CPSC at this airport constitute the largest number of such shipments examined by CPSC staff of any currently co-located port. Of the 1,041 de minimis shipments examined at this airport from 2016 to 2020, approximately 20 percent were sampled for suspected regulatory violations, which is on par with results from CPSC’s most effective national targeting program. At all other ports of entry, a total of 1,170 de minimis exams were conducted from FY 2018 to FY 2020, with approximately 10 percent sampled for suspected regulatory violations. The reduction in sampling rate may be attributed to a difference between a permanent presence at a single facility, compared to sporadic special operations, which do not allow targeting to be refined over time.

From September 2019 through January 2020, CPSC conducted a series of special operations jointly with CBP at a major airport in the Midwest. The focus of the operations was the examination of de minimis shipments at an express courier facility. As time and resources have allowed, CPSC has also undertaken examination of de minimis express courier shipments arriving from Canada and Mexico via truck.

Additionally, in fall 2019, a joint CPSC/CBP TSO, “eCommerce Express,” was executed at one of the major express consignment courier hubs to supplement the findings of the CPSC eCommerce Assessment.¹⁸ The purpose was to inform the Commission’s long-term planning for import surveillance and safeguard consumers from high-risk consumer products arriving via eCommerce. Specifically, the operation identified and defined the product safety risk encountered in the express consignment environment,

¹⁷ The Trade Facilitation and Trade Enforcement Act of 2015 increased the de minimis threshold from \$200 to \$800. This legislation authorizes CBP to provide an administrative exemption to admit free-from-duty shipments of merchandise imported with an aggregate retail value of \$800 or less.

¹⁸ [CPSC eCommerce Assessment Report](#), November 2019.

explored staffing requirements needed to mitigate that risk, and developed and tested targeting methodologies to successfully intercept violative consumer products.

During the two-week operation, a total of 514 shipments were examined, with 66 of those detained for possible regulatory violations. An additional 176 shipments were determined to have administrative violations but were not detained because the additional resource requirements to do so would have impeded the primary focus of the operation. However, the sampling rate for the special operation, if it included the administrative violations, was 47 percent, far exceeding sampling rates typically experienced.

Suspected violations encountered and detained during the operation included drawstrings on children's upper outerwear, strong magnets, phthalates in children's toys and child care articles, lead in children's products, undersized wiring in holiday lighting, violations of the pacifier and rattle standards, violations of the Flammable Fabrics Act in general wearing apparel and children's sleepwear, and labeling violations for art materials and balloons.

One outcome of the TSO was identification of the need to streamline procedures to adapt to environments with high volumes of small shipments. Existing processes related to laboratory testing and compliance/admissibility determinations work well for traditional product sampling conducted at sea ports, but they do not serve the time-sensitive requirements in the express consignment courier environment very well. Currently, CPSC is developing and testing such streamlined procedures, which will increase the agency's efficiency in processing noncompliant products encountered at import.

5. Shipments Examined from High-Risk Countries for Safety and Intellectual Property Infringements

The Consolidated Appropriations Act, 2021 (Pub. L. No. 116-260) directed CPSC to “examine a sampling of shipments coming from countries identified as high-risk for exporting violative consumer products to identify trends associated with the shipment of products containing both intellectual property rights infringements and consumer product safety violations.”

CPSC staff conducted an analysis to determine the origin of imported shipments under CPSC’s jurisdiction processed through the RAM. In FY 2019 and FY 2020, more than 60 percent of RAM risk-scored shipments originated in China (see Figure 2).¹⁹

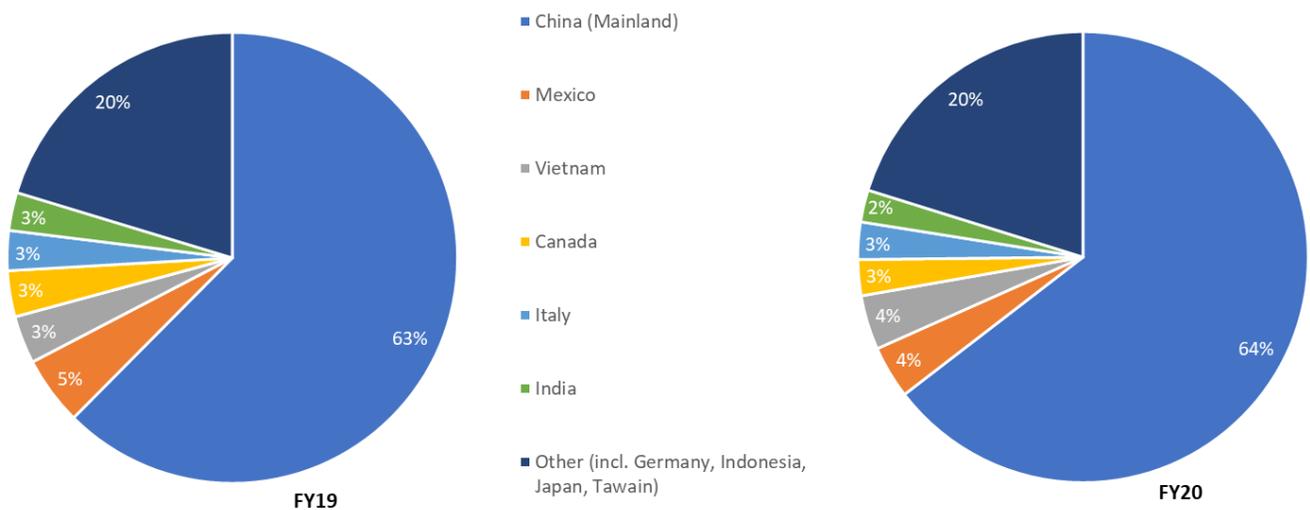


Figure 2: RAM-Scored Shipments by Country of Origin

This trend continues with shipments examined by port investigators. Approximately 80 percent of examined shipments each fiscal year originated in China (see Figure 3).²⁰ Shipments are targeted for a number of factors, including the risk associated with the product being imported and CPSC’s history with entities in the supply chain. No other country of origin accounted for more than 2 percent of examined shipments.

¹⁹ Country of origin is acquired from Entry data provided by CBP; however, a single entry may have entry lines with different country of origins. For this analysis, EXIS only considers the country of origin for the first entry line. This is not expected to have a significant effect on the percentages in the pie charts.

²⁰ Country of origin is only provided for shipments with formal entries, which is acquired from Entry data. De minimis shipments do not require Entry to be filed and are transacted through a Manifest. As a result, these pie graphs only analyze country of origin for shipments with formal entries. EXIS expects that de minimis shipments will have the same proportions for country of origin.

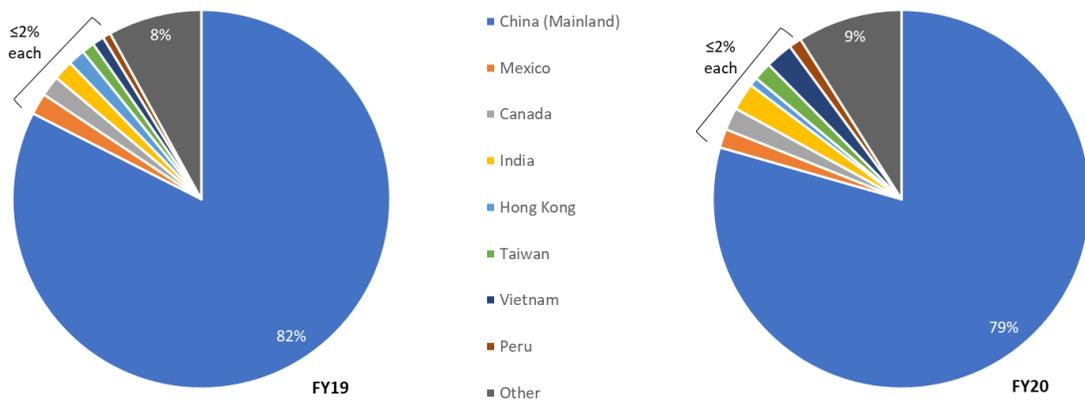


Figure 3: Examined Shipments by Country of Origin

When examined by product category,²¹ most risk-scored shipments, in each fiscal year, are categorized as toys at approximately 30 percent, followed by clothing and textiles at approximately 20 percent, and products identified on the substantial product hazard list under Section 15 (j) of the Consumer Product Safety Act (15 U.S.C § 2064 (j)) at approximately 15 percent (see Figure 4).²²

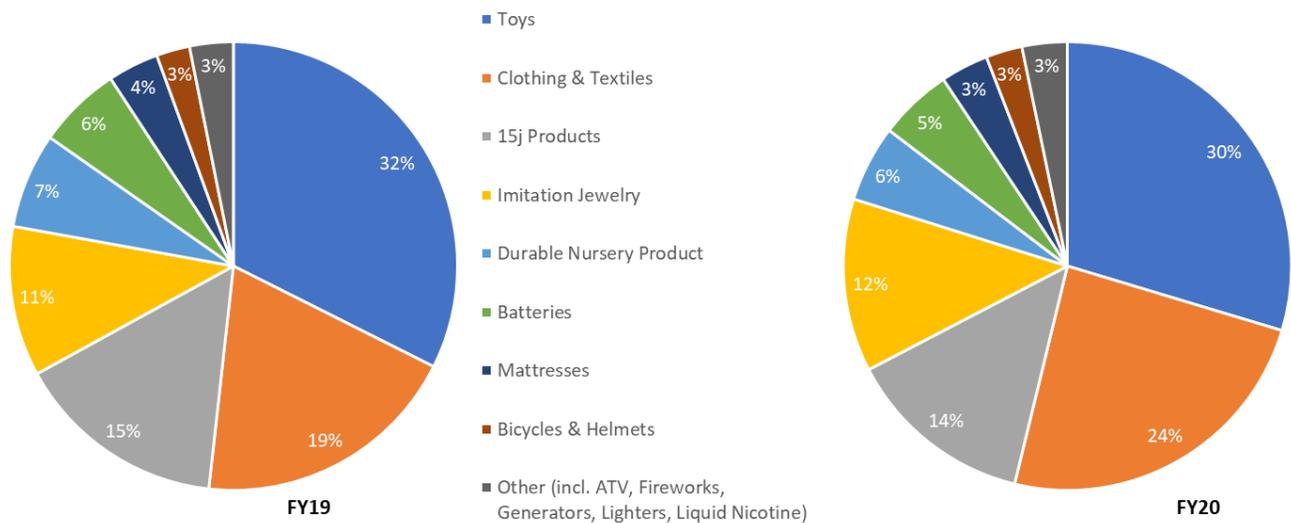


Figure 4: RAM-Scored Shipments by Product Category

²¹ Product category is determined by the Harmonized Tariff Schedule (HTS) Code, which is acquired from Entry data; however, a single entry may have entry lines with different HTS Codes. For this analysis, EXIS only considers the HTS code for the first entry line, which is not expected to have a significant effect on the percentages.

²² 15(j) products include hand-supported hairdryers without immersion protection, children’s upper outerwear with drawstrings, substandard seasonal and decorative lighting, and substandard extension cords.

This trend translates to shipments examined by port investigators. The majority of shipments examined in each fiscal year are categorized as toys, followed by clothing, textiles and 15j products at no more than 13 percent (see Figure 5).²³

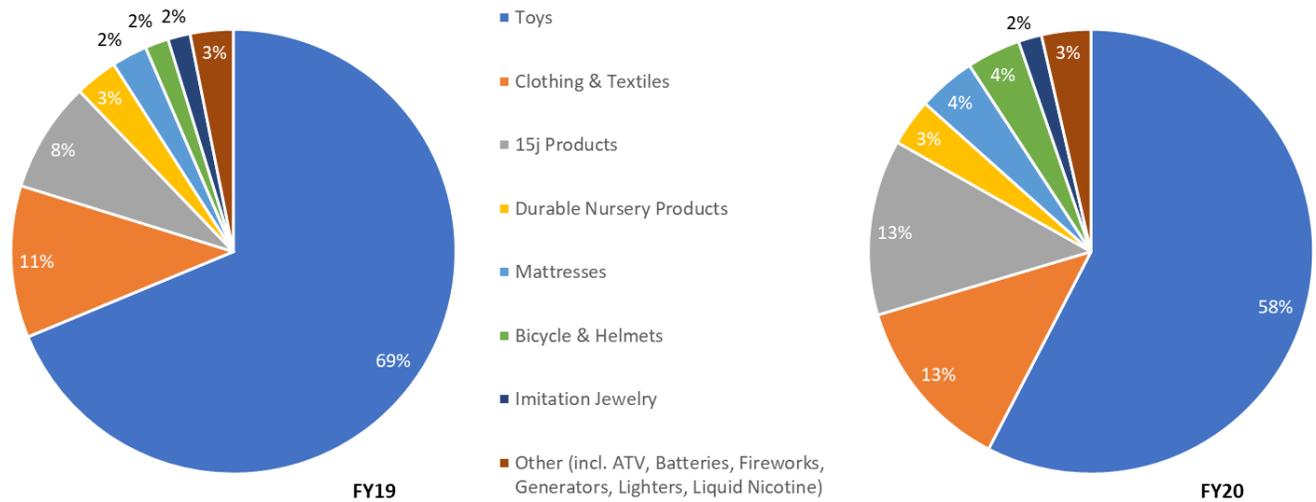


Figure 5: Examined Shipments by Product Category

During CPSC’s eCommerce Assessment,²⁴ industry stakeholders expressed concern about intellectual property rights (IPR) violations, and the overlap with consumer product safety. IPR violators are unlikely to subject their products to the same level of testing and supply chain due diligence as the brand owner, putting consumers at risk of purchasing unsafe, illegitimate products.

U.S. Customs and Border Protection (CBP) has authority to enforce IPR at import. As counterfeits are also known to have consumer product violations, CPSC’s national risk assessment programs conducted at CTAC consider a company’s history of IPR violations when targeting for possible health and safety violations. Most IPR seizures by CBP occur at ports where CPSC currently lacks staffing and data. According to CBP’s FY 2019 IPR Seizure Statistics, 90 percent of all IPR seizures occurred in the express and mail environments, and a majority of those shipments fell under the \$800 de minimis threshold.²⁵ Based on EXIS’s assessment of the product categories listed in CBP’s report, up to 63 percent of all counterfeit products seized by CBP in FY 2019 potentially fall under CPSC’s jurisdiction.

EXIS believes there is overlap of products containing consumer product safety violations and IPR infringements. Based on an analysis of data by CPSC staff, at least 11 percent of shipments interdicted

²³ Product category is determined by the HTS Code. HTS is only provided for shipments with formal entries, which is acquired from Entry data. De minimis shipments do not require Entry to be filed and are transacted through a Manifest. As a result, these pie graphs only analyze HTS codes with formal entries. EXIS expects that de minimis shipments will have the same proportions for product category.

²⁴ [CPSC eCommerce Assessment Report](#), November 2019.

²⁵ [FY 2019 IPR Seizure Statistics Report](#), CBP, September 2020.

through CPSC targeting at CTAC were found to contain IPR violations. CPSC believes the overlap actually could be higher, and plans to enhance procedures with CBP to examine shipments that have been intercepted for IPR infringements to determine if consumer product safety violations also exist. CPSC is also coordinating with CBP to acquire IPR seizure data to incorporate into the RAM system to add to the risk assessment process.

6. Resources Needed to Address Targeting and Screening of De Minimis Shipments

The Consolidated Appropriations Act, 2021 (Pub. L. No. 116-260) directed CPSC to “detail plans and timelines to effectively address targeting and screening of de minimis shipments to prevent the entry of violative consumer products entering into the commerce of the United States taking into consideration projected growth in e-commerce; establish metrics by which to evaluate the effectiveness of the Commission efforts to reduce the number of de minimis shipments containing violative consumer products from entering into the commerce of the United States; and assess projected technology and resources, including staffing requirements necessary to implement such plans on available and needed Commission resources.”

In January 2020, EXIS released CPSC’s eCommerce Assessment²⁶ that documented how the rise of eCommerce has contributed to a dramatic increase of imported low-value, direct-to-buyer shipments of consumer products. Completed in late 2019, the Assessment found that the requirements for de minimis importations make it easier for shipments to enter the United States without meeting federal consumer product safety standards.

The same month, an Executive Order²⁷ was issued, which called for:

- The placement of greater legal responsibility on express couriers who transport unlawful eCommerce shipments;
- Collaboration with the U.S. Postal Service (USPS) to prevent the importation of unlawful eCommerce goods into the United States through mail; and
- Heightened regulatory measures for IPR violations in eCommerce shipments.

Additionally, the U.S. Department of Homeland Security (DHS) published a report²⁸ on the increased facilitation of counterfeit and pirated eCommerce products, which affects U.S. consumer confidence in safety and quality. It is clear that the rise of eCommerce has emerged as a policy issue that requires attention from the U.S. government, foreign governments, and the private sector.

This policy issue is even more urgent due to consumers’ increased reliance on eCommerce and direct-to-consumer shipments during the COVID-19 pandemic. CBP recently reported that, from FY 2019 to FY 2020, the air and truck environments experienced a 219 and a 123 percent increase, respectively, in *de minimis* shipment volume.²⁹ This will only result in a greater risk of potentially hazardous consumer products entering the United States.

6.1 CPSC eCommerce Assessment Findings

CPSC’s eCommerce Assessment addressed the agency’s current capabilities to interdict potentially noncompliant and hazardous eCommerce shipments; offered insight into EXIS’s current staffing,

²⁶ [CPSC eCommerce Assessment Report](#), November 2019.

²⁷ Executive Order 13904, [Ensuring Safe & Lawful ECommerce for US Consumers, Businesses, Government Supply Chains, and Intellectual Property Rights](#), January 2020

²⁸ [Combating Trafficking in Counterfeit and Pirated Goods](#), DHS, January 2020

²⁹ [CBP Trade and Travel Report](#), February 2021

operations, and targeting; and provided an overview of the agency’s legal authority to support eCommerce enforcement. Notably, the Assessment identified that CPSC’s presence at ports of entry has remained relatively constant since FY 2015, despite the tremendous growth of U.S. eCommerce imports (see Figure 6).³⁰ This has limited CPSC’s ability to expand its port presence to new facilities, such as express courier hubs, airports, and IMFs, while the international trade industry has evolved as a result of the rapid rise in eCommerce.

The increase from \$200 to \$800 in the de minimis value exemption from duties for importations allows more shipments to enter the United States with minimal required data. This less specific, manifest-level bill of lading information is the only requirement for Customs clearance for low-value shipments. Currently, EXIS’s targeting of high-risk cargo is based on more detailed Entry data that is generally filed by a customs broker on behalf of an importer of record.³¹ However, the U.S. government does not require a traditional Entry filing for de minimis importations. Consequently, CPSC and other U.S. government agencies are challenged when attempting to risk-assess and interdict the significant volume of incoming de minimis shipments.

The Assessment estimated that, with its current staffing and risk assessment capabilities, CPSC will be unable to target more than 50 percent of incoming shipments under its jurisdiction, approximately \$400 billion worth of products, by CY 2023.

To mitigate this risk, the Assessment recommended that CPSC explore opportunities to incorporate manifest data, which is required of all shipments, regardless of value, into the agency’s risk-targeting system. Additionally, in September 2019, CBP initiated a pilot, Entry Type 86 (ET86), allowing trade to file voluntarily an Entry for de minimis shipments.³² Staff will continue to monitor progress of the pilot and evaluate any future benefits of ET86 targeting, recognizing that the value of ET86 data may be mitigated by the fact that its submission is currently voluntary.

As part of its efforts to address consumer safety risks associated with eCommerce and de minimis shipments, EXIS is focused on the critical operational needs of staffing and targeting, and has worked with its field staff and other CPSC stakeholders to identify reasonable and realistic scenarios aligned with the agency’s strategic goals.

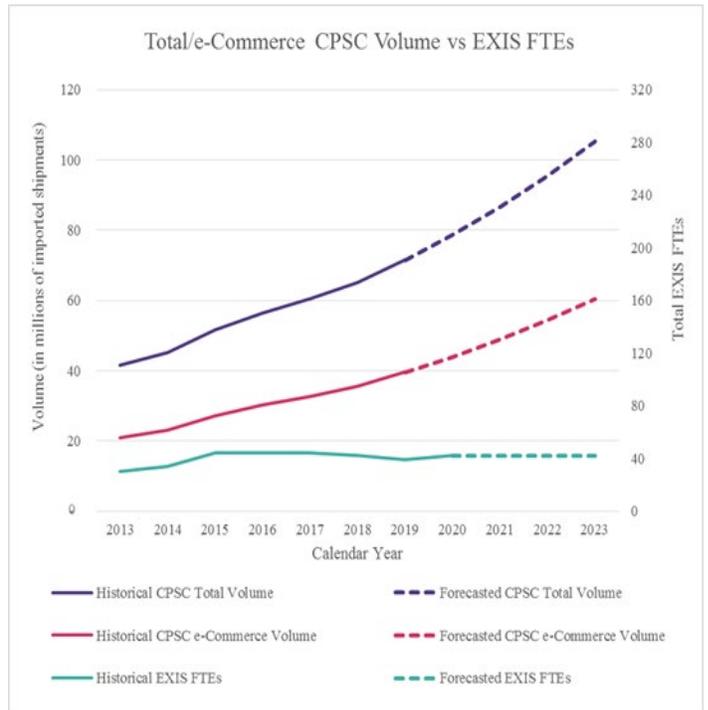


Figure 6: Total/eCommerce CPSC Volume vs EXIS FTEs

³⁰ Note that Figure 6 was created as part of an FY 2020 EXIS analysis of eCommerce growth and staffing needs; therefore, it does not include staffing increases as a result of ARPA for FY21 and beyond.

³¹ Entry filing refers to the process of collecting data from the trade industry that enables CBP to assess duties, collect statistics, and determine whether other legal requirements are met.

³² CBP Section 321 Programs: <https://www.cbp.gov/trade/trade-enforcement/tftea/Section-321-programs>.

6.2 Critical Staffing Needs

EXIS's most pressing need is to expand its footprint into the modes of transportation most used in eCommerce: express courier hubs, major airports, and IMFs – ports of entry with high volumes of de minimis shipments (hereafter referred to as “eCommerce ports”). CPSC cannot accomplish its mission of interdicting potentially hazardous eCommerce shipments without a presence at these facilities.

In response to the rise of eCommerce shipments, CPSC identified, organized and prioritized eCommerce ports for additional staff allocation across the immediate, short, and medium term. EXIS will focus staffing first at express courier hubs, then major airports, followed by IMFs. Industry continuously evolves to meet consumers' needs, so EXIS may need to adapt its staffing plan over time, and is monitoring how new entrants to the eCommerce market affect future staffing decisions.

When fully implemented, CPSC, in line with the Commission-approved plan related to ARPA funding, will increase staffing by an estimated 55 FTEs to support import surveillance.³³ This total includes investigators at both eCommerce and traditional ports; associated targeting, analytical, and supervisory staff; as well as laboratory, compliance, and operational support staff.

The recent ARPA funding will cover EXIS's immediate and short-term staffing needs at express courier hubs and major airports. Long-term funding for this staffing remains a concern, however, given the time-limited nature of the ARPA funds, so CPSC is seeking additional funding through its FY 2022 budget request. In addition, we note that CPSC does not have experience operating in IMFs, and plans to develop pilot operations to help develop procedures and staffing in this environment. The staffing levels needed in this environment will be determined after the pilot operations are conducted.

6.3 Improve Targeting Through New Data Sources and IT Systems

Improving its targeting capabilities will be critical in EXIS's efforts to address the exponential growth of eCommerce shipments. EXIS estimates that it will be unable to target more than 50 percent of shipments, by volume, under CPSC's jurisdiction by CY 2023, unless additional resources are dedicated to eCommerce enforcement.

As EXIS expands to eCommerce ports, it will test various risk-assessment practices specific to that environment to target shipments effectively for new staff to examine. After developing experience in targeting de minimis shipments, EXIS and EXIT will develop budget requests to support needed system improvements.

In addition to modernizing and updating IT systems, EXIS will seek to acquire and leverage IPR seizure data and other available data from CBP and incorporate this information into the RAM to build a more comprehensive risk-assessment process. EXIS could interdict more potentially noncompliant and



Increases at critical ports of entry to interdict potentially noncompliant and hazardous consumer products before they enter the United States.



Modernizing CPSC's targeting systems and integrating new data sources into CPSC's risk-assessment process

³³ [Proposed FY 2021 Spending Plan of the ARPA Funds](#), April 2021.

hazardous eCommerce shipments if it could identify sellers and/or manufacturers with a history of IPR violations, or other high-risk tendencies.

6.4 Adapting Metrics for eCommerce Enforcement

Goal 2 of CPSC's Strategic Plan focuses on preventing hazardous products from reaching consumers. EXIS is the lead office for Strategic Objective 2.3, "Increase capability to identify and stop imported hazardous consumer products."³⁴

Under the agency's FY 2021 Operating Plan,³⁵ EXIS is responsible for three Key Performance Measures (KMs) directly related to port surveillance activities at traditional ports of entry:

- 80 percent of consumer product imports, identified as high-risk, examined at import;
- 99 percent of import shipments processed through the RAM that are cleared within 1 business day; and
- 32,000 import examinations completed.

EXIS plans to adapt these KMs to include the de minimis environment; however, specific metrics must be determined after conducting baseline analyses, with adjustments made after additional investigators have been added at ports of entry. In addition, as new data sets are successfully integrated into the RAM, EXIS will have a greater understanding of de minimis *shipments* entering the country and will be in a better position to establish specific performance measures related to de minimis enforcement.

³⁴ [CPSC Strategic Plan 2018-2022](#), 2018.

³⁵ [CPSC 2021 Operating Plan](#), November 2020.

Acronym List

Acronym	Term
ARPA	American Rescue Plan Act of 2021
CBP	U.S. Customs and Border Protection
COVID-19	Coronavirus Disease 2019
CPSA	Consumer Product Safety Act
CPSC	U.S. Consumer Product Safety Commission
CPSIA	Consumer Product Safety Improvement Act
CTAC	CBP's Commercial Targeting and Analysis Center
CY	Calendar Year
DHS	U.S. Department of Homeland Security
ET86	Entry Type 86
EXC	CPSC's Office of Compliance and Field Operations
EXHR	CPSC's Office of Hazard Identification and Reduction
EXIS	CPSC's Office of Import Surveillance
EXIT	CPSC's Office of Information Technology
EXRM	CPSC's Office of Human Resources Management
FDA	U.S. Food and Drug Administration
FTE	Fulltime Equivalent
FY	Fiscal Year
HTS	Harmonized Tariff Schedule
ICI	Informed Compliance Inspection
IDI	In-Depth Investigation
IMF	International Mail Facility
IPR	Intellectual Property Rights
ISU	CPSC's Internet Surveillance Unit
IT	Information Technology
KM	Key Performance Measure
NSN	Neighborhood Safety Network
OCM	CPSC's Office of Communications
PPE	Personal Protective Equipment
Q2	Second Quarter (of Fiscal Year)
RAM	Risk Assessment Methodology
TSO	Trade Special Operation
U.S.	United States
USPS	United States Postal Service