

CPSC's Import Screening Program Podcast Transcript

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The slides used in this podcast are not a comprehensive statement of legal requirements or policy and should not be relied upon for that purpose. You should consult official versions of U.S. statutes and regulations, as well as published CPSC guidance when making decisions that could affect the safety and compliance of products entering U.S. commerce. Note that references are provided at the end of the presentation

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Hi, my name is Sylvia Chen, and I want to welcome you to this podcast presentation today

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As you heard, design of safe products at the outset is critical. CPSC is a United States federal government agency charged with protecting the public from unreasonable risks of injury or death associated with the use of consumer products under the agency's jurisdiction. We have developed this podcast series to not only inform on regulations, standards, and other safety requirements, but also to emphasize the importance of designing products with safety considerations in mind and best practices for enhancing safety in a variety of common consumer products.

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The series covers common consumer products and their requirements for keeping consumers safe. In this podcast series, you can expect to learn about the key hazards and risks of the product, important design and manufacturing considerations, regulations and standards that CPSC uses to ensure product safety, best practices you can employ, and what resources are available to assist you in understanding and implementing the requirements.

The podcasts include English and Chinese slide decks, and Chinese narration to make this important safety information as accessible as possible. Additionally, CPSC has established a dedicated email box where listeners can send in any questions at their convenience in English or Chinese. Our staff will monitor and respond to your questions.

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CPSC's import screening program works proactively to stop unsafe products at ports of entry. We have co-located investigators at ports of entry and work closely with U.S. Customs and Border Protection (CBP) to identify and examine imported shipments of consumer products.

This podcast will first discuss CPSC's import screening process and what happens if your goods are stopped, targeted, and screened by CPSC. Then, we'll discuss some statistics to provide context on what we see and do at the ports. Finally, we will view some videos demonstrating CPSC's screening process that we use at ports.

This podcast is designed for manufacturers, suppliers, and buyers who already have some familiarity with exporting to the United States and our customs procedures, and who not only want to understand how these procedures relate to CPSC's role at the port, but also understand its operations for screening for unsafe products.

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Let's get started. First, I'm going to give you a brief overview of how CPSC works at the ports and how that work may affect your shipments or purchases. Then, I will give you some information about steps you can take to ensure that your shipped products are compliant.

Let's review the importing process. First, cargo is loaded onto a container ship at a foreign port of landing. Manifests are filed, but at that point, entry forms have not been filed.

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The ship then travels to the United States and enters a Port of Unlading.

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As the ship is traveling to the United States and entering a port of lading, the entry information is filed, either before arrival or after arrival, by Customs House brokers with CPB. CPSC, Customs, and other government agencies share information through several different systems.

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Subsequently, that information is reviewed by Customs, CPSC, and the other government agencies. We review all documentation, including the manifest information and information on the entries, to decide whether an entry or shipment requires further examination.

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If we decide that an entry or shipment requires further examination, we place a hold on the item in the system. At that point, the importer is notified that an intensive exam or a full exam is required for the product.

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If CPSC chooses to examine the cargo, then that cargo goes to a Customs Exam Site (CES), where we conduct examinations. If we decide to not take any further action, the container is released, and it goes straight to the importer, or whoever the U.S. distributor is.

There can be many different actors in a supply chain from the time of ordering to eventual distribution. The optimal supply chain to ensure compliance with our regulations is one in which the buyer has direct contact with the manufacturer. For example, the buyer specifies to the manufacturer what materials, design, process, and labeling to use. The buyer should also make sure that the product complies with all CPSC regulations. They should also obtain, review, and approve third party lab tests from CPSC-accredited labs before the manufacturer order, or **at the very latest**, before it's loaded onto a container and sent to the United States. Best

practices and pitfalls were discussed in depth in Episode 13 of Buyers Training. For additional information, please refer to that episode.

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Today, I want to focus on CPSC's role at port. Often, we are asked: how are CPSC exams targeted at the port?

We have several methods of targeting.

The first tool we have is a national targeting platform, which is used by number of federal agencies to analyze and assess inbound shipments.

We also use a CPSC-specific targeting system. CPSC employees review data about all incoming shipments and, if needed, we will research the product, including a review of relevant websites.

We use several different methods to decide whether a product should be targeted as a possible hazard to consumers. Because we've been co-located with Customs for several years, our Customs colleagues are also aware of the types of shipments and products that are of interest to CPSC.

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Once a shipment is targeted and made available for examination, how are CPSC products screened?

Because CPSC has many regulations covering thousands of different kinds of products under our jurisdiction, our inspectors need to have an understanding of the safety issues that can exist with many different products. Often, we don't know what we're going to examine when we get to a warehouse or know whose targeted container, with what products, are going to be at the CES when we arrive.

CBP will have a list of containers that are available on the floor, and they let us know which ones are flagged for CPSC.

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We have a lot of scientific equipment that we carry with us.

For example, we have an XRF analyzer, which tests for lead. It looks like a little ray gun. Then, we have a small parts cylinder that mimics a child's esophagus that we use to see if a product presents a choking hazard for a child under 3 years old.

If the environment at the warehouse doesn't allow us to screen products on the floor, we'll take a couple of units of that product back to our office and test those products there.

If we need further information on a product for our examination, we will try to contact the importer, and we may ask for documents. If we request a test report, it must be sent to us within 24 hours.

This is crucial because our decision whether to detain something often depends on whether the importer promptly sends those records. Test records help us determine whether the product is compliant with safety requirements. We may also reach out to our headquarters or other compliance officers for their opinion and information. We're doing a lot of research as we're screening to determine whether we're going to release, or detain, or conditionally release a product.

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If a product does fail screening, and we decide it needs to be evaluated by CPSC's laboratory, we'll collect samples from the shipment. The number of samples collected depends on what type of violation we suspect.

For example, if the product is a children's product that we believe contains an excessive amount of lead, we'll take nine units of that item from the shipment. We will issue a receipt to Customs saying we took nine samples out of this shipment, and we'll also send a receipt to the importer of record and/or the broker. CPSC will decide whether a shipment must be detained, or whether it can be released conditionally, depending on the nature of the violation we find. If we detain a shipment, we'll send a notification to the importer, to Customs, and possibly to the broker. If we conditionally release a shipment, then we'll send that same form to the various parties, specifying the conditions of the conditional release.

In addition to violations of regulatory standards such as lead content, the port screenings may identify product shipments that CPSC believes may have a "substantial product hazard" as defined under 15(a)(2) of the Consumer Product Safety Act (CPSA). Please refer to earlier episodes in the podcast series for a detailed explanation of substantial product hazards and the "15(j) rule", which are beyond the scope of this podcast.

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The difference between "detention" and "conditional release" is generally clear. Detention means a product, not the entire shipment, must remain held, intact, at a Customs-bonded facility until completion of CPSC's testing/evaluation. Therefore, if there are 10 different items in a shipment, and we're only interested in sampling one, then CPSC is only detaining that one item. The rest of that shipment, the other nine products, are not on hold for CPSC. As for the status of the other nine products in the shipment, the importer must talk to Customs for instructions, because CPSC is only detaining that one item.

When a product is detained, it must be held at the CES under Customs bond.

CPSC detention authority is 60 days. When we detain a product, we'll send the importer an email stating which product is going for testing, why we sampled it, and explain that our detention process could take up to 60 days. CPSC may extend the conditional release as determined by the agency in its discretion.

On the other hand, if the product fails because it is missing tracking labels or certificates, we may conditionally release the product instead of detaining it. In these cases, importers avoid

bonded warehouse storage fees. However, they do have to hold that product in its entirety, pending the completion of our testing process, for up to 60 days.

A quick note: we understand if something is detained, it costs the importer money and is a burden for all concerned. Therefore, we do not detain indiscriminately, and we only detain products if we truly believe it's necessary.

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After we collect samples, what happens to them? Where do they go? How long is the review process? These are some of the questions CPSC is often asked.

If we collect a children's product because we suspect that it has an excessive amount of lead, we send the product to several different offices. This is true for almost all samples.

We send the product to the Office of Compliance at our headquarters for review. Then, if it is applicable, we'll send the sample product to our Human Factors specialists for an age determination. This typically applies if we need to know if something is for a child under 3 years old or if it is a general use product versus a children's product.

We send products like art materials or mattresses to our laboratories for testing, as well. We always send one unit to our sample storage facility to be retained in case it is needed later.

The samples that we take from the shipment are not returned to the shipment, even if they pass. They're typically destroyed during testing, or they are destroyed later. In the meantime, we keep them in our sample storage facility.

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CPSC Compliance officers at our headquarters are responsible for making a determination about the product. They receive the test reports from our lab or other offices and then compile all the information and review the product, paperwork, and whatever else is required.

They determine whether the product is noncompliant, and then they contact the importer of record. Therefore, it is very important that we have the importer of record's U.S.-based contact information so we can get in touch with the responsible party to discuss the results and the next steps. If we cannot get in touch with the importer, the detention process is delayed.

If we determine that a product is non-compliant, it is either seized, conditionally released for reconditioning, or it is released with a notice to correct future production. This notice is a warning that says a violation occurred, but it was minimal, and you need to make sure that you correct the issue in future production.

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In these cases, the importer of record's compliance history may be taken into consideration. For example, if an importer is unknown to us and someone in the supply and production chain makes an error the importer may receive this notice. However, if the importer is a frequent

violator, who has been counseled several times on the violations, we may not allow the importer to conditionally release the product or correct the issue in future production.

Once the importer is contacted, documents are issued by the compliance officer. The officer will issue a request for action form for Customs that asks them to either seize or release the product.

Next, the importer of record gets the notice of violation. This is a document that provides the specifics of the violation, information on the product's detainment process, and whatever additional actions the importer and the compliance officer agreed to.

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Let's now talk about what happens if a seizure determination is made.

If a determination is made that the goods must be seized, we notify Customs. At that point, we are no longer involved, and Customs takes authority to begin the official seizure process. We don't have any more **information at that point**, and we have no control over the seizure process. An importer would need to contact Customs for information regarding the seizure.

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Let's talk about what happens if a product is released for reconditioning.

For reconditioning, CPSC expects the importer of record to recondition the product within a specified period, provide proof that the process is complete, and submit an updated third-party test report and certificate.

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CPSC notifies Customs to inform them that the reconditioning process is complete, the product is now in compliance with CPSC regulations, and that the product can be distributed into the commerce. **If the importer does not recondition the product to standards, CPSC may request the product either be destroyed by the importer of record or redelivered to Customs for seizure.**

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Data for our fiscal year 2021 shows that mechanical failures in children's products such as choking and pinching hazards and excessive lead in children's products are the most common violations we find.

I also want to mention that entries on this chart typically have more than one violation. You'll see certificate and tracking label violations on almost all the other primary violations.

You can greatly help reduce these hazards by ensuring that all the consumer products you deal with for export to the United States adhere to all the CPSC safety requirements and that testing is completed correctly.

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Here is a graph that shows CPSC seizures by commodity. Toys, clothing, and footwear are the largest groups of products that are seized.

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Now, we are going to give a few tips to manufacturers, suppliers, and buyers for reviewing test reports when they receive them:

- The first thing you should check when you receive a test report is to make sure it is less than one year old.
- You should also make sure that the lab that did the testing is accepted by CPSC.
 - CPSC's website has a convenient way to conduct a CPSC lab search.
- Once you find your laboratory on CPSC's lab search:
 - Click on the lab and see which tests it is accredited for. Then make sure the product that tested matches the product being shipped. Many times, we see test reports for an item that does not match exactly the product being inspected at the U.S. port.
- Make sure that the product tested is the actual product that you order. Frequently, the test report is for a similar item, but not the exact item. Or the item tested via third-party lab does not include the part that failed CPSC testing.

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Make sure that every component part of the product is tested for the applicable standards. Let's take a hypothetical example that is also not uncommon. A plastic duck that we sample may pass our lead testing but fails CPSC testing for phthalates. Why? Upon review of the third party lab test report, we find the plastic was tested for lead, but not for phthalates. Therefore, it is very important for you to understand which CPSC requirements are applicable to your product and then make sure those items are tested.

Finally, for children's products that are intended for use by a child under 3 years old, the laboratory must conduct all additional required testing for products in this category. Pay attention to the "Applicant Specified Age" section on the test report. Often, we'll see a test report that says a product's specified age is 3+ but the product is intended for a child under the age of three. Incorrect age statements will not remove the need for further testing, so it is essential to ensure the age grading is accurate and that the additional testing for children under 3 years old is accomplished.

If you would like to learn more about age determinations, please check out CPSC's Age Determination Guidelines linked on the screen in red.

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And now, I would like to continue to the second part of this podcast. In this section, we will watch a demonstration video from CPSC's Compliance Investigator, Marcy Van Winkle, who works in Seattle, WA.

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We hope you enjoyed this podcast. If you have any questions on the presentation, please do not hesitate to submit your questions in English or Chinese to the mailbox mentioned earlier, CPSCinChina@cpsc.gov (show on screen). This mailbox is routinely monitored.

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We also wish to remind viewers that CPSC has many technical documents and resources available in Chinese. The conclusion of this presentation provides many links to resources viewers may find useful.

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We encourage viewers to be sure to check out CPSC's regulatory robot, available in English, Chinese, and several other languages. The regulatory robot is an automated tool that can greatly facilitate identifying safety requirements for a large number of products. Many companies have found this tool to be extremely helpful.