

## CPSC REGULATORY CHANGES

# Consumer Product Safety Improvement Act of 2008

By Robert Stein • November 6, 2008

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### **What are the changes that the CPSC has mandated?**

The CPSC has made changes to the requirements for certain regulated products. The most important change is that manufacturers and importers will need to certify that their U.S. imported goods are meeting all CPSC standards and regulations. Under the Consumer Product Safety Improvement Act of 2008 (CPSIA), all U.S. imported products manufactured after November 12, 2008 will need to be accompanied by a Certificate of Compliance (COC) issued by the manufacturer and the importer (although initially, the certificate will not be required to be presented at time of entry). Previously, importers were only responsible for ensuring that their products conformed to CPSC regulations, and were not required to provide a COC.

There is also a new requirement for importers who already test their products. The CPSC has mandated a new documentary requirement for the certification of third-party testing on such U.S. imports.

### **What needs to be on the Certificate of Conformity?**

- 1) Product description
- 2) List of each CPSC product safety regulation to which the product is being tested
- 3) Name of the manufacturer, importer, and private labeler
- 4) Contact information for the person maintaining records of test results
- 5) Date and place where product was manufactured
- 6) Date and place where product was tested
- 7) Name of the third-party testing lab\*

*\*It is essential that the lab be accredited for the specific test being administered.*

You can download a sample Certificate of Conformity (which includes instructions for completion and a brief FAQ) from the CPSC's website at: [www.cpsc.gov/about/cpsia/faq/elecfaq.pdf](http://www.cpsc.gov/about/cpsia/faq/elecfaq.pdf)

### **Who can test my goods for compliance?**

While some goods may be tested by importers (if they are CPSC accredited for such tests), section 102 of CPSIA imposes third party testing requirements for all consumer products "primarily intended for children 12 years of age or younger." The testing requirements will be rolled out as follows:

<b>Children's product certification for</b>	<b>Third Party Testing Required</b>
Lead paint	12/22/2008
Cribs (full and non-full size) & pacifiers	01/09
Small parts	02/09
Metal jewelry	03/09
Baby bouncers, walkers, and jumpers	06/09
300 ppm lead content	08/09
All other children's product safety rules	09/09

### **What should I be doing to ensure compliance?**

As an importer, you should already be aware of any CPSC requirements and regulations for your products. However, if you are unsure about which products are regulated, you can check the list of regulated products on the CPSC's website at [www.cpsc.gov/businfo/reg1.html](http://www.cpsc.gov/businfo/reg1.html) or you can call the CPSC 's Office of Compliance at (301) 504-7912.

If your products were not previously regulated, then it is unlikely that they will be subject to any new requirements. Nevertheless, if you are unsure about product regulation, it is highly recommended that you consult with a Customs attorney to fulfill the requirements of reasonable care.

You should also make sure to coordinate with your manufacturers on producing certificates, which can be issued jointly or individually.

### **Penalties**

Monetary penalties and criminal sanctions have been increased significantly under the new law.

Under CPSIA, civil penalties for violations of the Consumer Product Safety Act have been increased from \$5,000 to \$100,000. The cap on civil penalties has been increased from \$1.25 million to \$15 million. These increases also apply to violations of the Federal Hazardous Substances Act, as well as the Flammable Fabrics Act.

No later than August 14, 2009, the CPSC will issue final regulations providing its interpretation of the factors to be considered in assessing and enforcing penalties.

### **What should I be doing now?**

- 1) Make sure any goods subject to CPSC regulation are properly tested by an accredited lab.
- 2) Contact your manufacturers to see if they want to jointly certify conformance with all CPSC regulations. This is preferable to providing separate certificates.
- 3) Post your COC's electronically and provide links to them in your documentation. This method is acceptable to CPSC and U.S. Customs.
- 4) If any of your imported goods are regulated and have NOT been tested, you must cease importation immediately and have the goods tested and certified. Goods not meeting CPSC standards should not be sold or distributed in the United States.
- 5) Visit CPSC's website for more information:  
[www.cpsc.gov/about/cpsia/cpsia.html](http://www.cpsc.gov/about/cpsia/cpsia.html)
- 6) Contact Mohawk to speak to one of our on staff Customs Brokers for guidance.

Please feel free to direct your questions to Robert Stein, Director of Customs & Trade Compliance. He can be reached by email at [rstein@mohawkglobal.com](mailto:rstein@mohawkglobal.com) or by calling 315-455-3003.