

IMPORTED PRODUCT SAFETY COMPLIANCE

Integrating new CPSIA Requirements into your Global Import and QA Strategy

April 22, 2009 • Marriott Washington • Washington, DC

Speakers Include



Cathy Saucedo

Director, Import Safety and
Interagency Requirements
Customs and Border Protection
U.S. Department of Homeland Security

Cheryl A. Falvey

General Counsel
U.S. Consumer Product Safety Commission



Marianne Rowden

American Association of Exporters
and Importers

Conference Co-Chairs



Leigh A. Schmid

Vice President, International Trade
& Customs Compliance
Limited Brands



Kenneth G. Weigel

Alston & Bird

Gain Critical Industry Insights

- ✓ Avon
- ✓ JCPenney
- ✓ Hasbro
- ✓ Newell Rubbermaid
- ✓ Limited Brands

Get the latest updates and practical insights on:

- Preventing **Certificate of Conformity** pitfalls that could delay the entry process
- Satisfying **testing** requirements while managing costs
- Addressing the impact of **retroactive** requirements on your existing inventory
- Ensuring **foreign third party compliance** to **minimize risks** in your **global supply chain**
- Investigating and resolving **suspected** or actual product safety **violations**
- Incorporating new product safety rules into your existing **import compliance program**

PLUS!

- How **CBP** and **CPSC** are cooperating to **enforce** the rules on the ground:
What shipments will be blocked, destroyed or exported
- Complying with the **Lacey Act**: How to minimize reporting burdens and enforcement risks

Exclusive Workshops • April 21, 2009

- A** A Deep Dive into the *Consumer Product Safety Improvement Act* Provisions, Rules and Standards
- B** Importing Food, Drugs and Devices:
Nuts and Bolts of FDA and Customs Compliance

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Does your Import Compliance Program Meet the Latest Consumer Product Safety Requirements?

Benefit from Practical Insights on How to Prevent Import Delays, Denied Shipments and Harsh Penalties!

The **Consumer Product Safety Improvement Act of 2008 (CPSIA)** is the most far-reaching U.S. consumer product safety law enacted in decades. The CPSIA and underlying rules impose **onerous, expensive** new restrictions on **importers, manufacturers, distributors, and retailers**. Coupled with expanded government monitoring and enforcement authority under the CPSIA, your organization now faces **unprecedented new legal and financial risks** – which means that **you and your team** must vigilantly monitor the effectiveness of your **import compliance program**.

The CPSIA contemplates civil **penalties** of **\$100,000** for each product safety **violation**, with a **maximum penalty of \$15 million** for a series of related violations. Moreover, the U.S. Consumer Product Safety Commission (CPSC) has suggested that, after an initial adjustment period, non-compliance could subject your **shipments** to **denial of entry** and possible **destruction of goods**. The Act also contemplates up to five years' **imprisonment** for a violation, as well as forfeiture of the affected goods. The CPSC and CBP are working together to apply and enforce the new rules.

While the CPSC has provided guidance on the application of some requirements, there is a lot of confusion about how the Act will impact products and companies. **Your organization must determine how to implement the CPSIA in practice, and continuously manage new enforcement and business risks**. Moreover, the CPSC is continuously **introducing new rules**, which means that you need to **stay up to speed** and manage the **real-life effects** of additional requirements.

At **American Conference Institute's National Forum on "Imported Product Safety Compliance"**, you will learn **how companies and their advisors have been approaching critical CPSIA compliance challenges** and risk management. **Government, industry** and private practice experts will provide you with **updates** and **best practices** for **implementing** the new requirements, **controlling costs** and ensuring an effective **import compliance program**.

Topics will include:

- **Certificate of conformity requirements:** Lessons learned on how to avoid critical errors
- How CPSC and CBP are working together to apply and **enforce** the new rules
- Meeting **testing** requirements (including **3rd party testing**) in a cost-effective manner
- Incorporating the new rules into your existing **import compliance program**
- Ensuring **foreign third party compliance: Minimizing risk** in your **global supply chain**
- Dealing with a **suspected** or actual product safety **violation**
- Complying with the **Lacey Act:** Managing reporting burdens and enforcement risks

Moreover, you will receive **reference materials prepared by our speakers** that will **serve as useful resources for you and your organization** after the conference.

This must-attend event will fill up quickly, so register now by calling **1-888-224-2480**; by faxing your registration form to **1-877-927-1563** or by registering online at **AmericanConference.com/importersafety**.

A MUST-ATTEND EVENT FOR:

- ✓ Vice Presidents, Directors, Managers and Specialists of :
 - Import Compliance
 - Customs Compliance
 - Global Trade
 - Supply Chain Management and Logistics
 - Product Safety
 - Product Liability
 - Quality Control and Assurance
 - Manufacturing
- ✓ General Counsel's Office
 - VPs, Legal Affairs and Operations
 - International Trade Counsel
 - Import Compliance
 - Customs Compliance
 - Product Safety
 - Product Liability
- ✓ Outside Counsel specializing in
 - International Trade Law
 - Import Regulation
 - Product Liability
 - Consumer Protection Law

IMPORTED PRODUCT SAFETY COMPLIANCE

Integrating new CPSIA Requirements into your Global Import and QA Strategy

Wednesday, April 22, 2009

7:30 Registration Begins and Continental Breakfast

8:45 Co-Chairs' Opening Remarks



Leigh A. Schmid
Vice President, International Trade & Customs Compliance
Limited Brands, Inc. (Columbus, OH)



Kenneth G. Weigel
Alston & Bird LLP
(Washington, DC)

9:00 How CPSC and CBP are Implementing and Enforcing the New Rules



Cathy Saucedo
Director, Import Safety and Interagency Requirements
Customs and Border Protection
U.S. Department of Homeland Security (Washington, DC)

Cheryl A. Falvey
General Counsel
U.S. Consumer Product Safety Commission



Marianne Rowden
General Counsel (Interim Executive)
American Association of Exporters and Importers
(Washington, DC)



Eric L. Stone - Lead Panelist & Moderator
K & L Gates (Washington, DC)
Former Director, Legal Division
Office of Compliance and Field Operations
U.S. Consumer Product Safety Commission

- The latest and upcoming CPSC rules: What's new, on the horizon and how fast the CPSC will act
- How CPSC is sharing information and enhancing coordination with CBP: Implementation of section 222 of the CPSIA (Inter-Agency Cooperation)
- How CBP is applying and enforcing CPSC rules on the ground: When shipments will be blocked and products destroyed or exported
- Managing the retroactivity of certain requirements: CPSC position on what to do with existing inventory of non-compliant goods
- How potential violations are investigated by CPSC and CBP: Which agency will enforce the new requirements and issue penalties
- Mitigating factors and how CPSC penalties will be assessed
- What can trigger the agencies' suspicion
- Current and anticipated Congressional activities on imported product safety

10:15 Networking Coffee Break

10:30 Certificate of Conformity "Do's and Don'ts": Preventing Import Documentation Pitfalls That Could Delay the Entry Process

David J. Evan
Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt LLP
(New York, NY)

- What CPSC and CBP expect and require in the certificate
- How companies are filing electronic certificates
- Avoiding delays of shipments at entry points: "Bulletproofing" your certificates
- Ensuring that the certificate is readily available to CBP upon request
- Who should/should not prepare the certificate
- What importers should do when relying on the manufacturer for the required information
- Reconciling the "confidentiality of the manufacturer" with the new requirements
- When and how to show CBP that a certificate is not required: What documentation is necessary, if any

11:15 Satisfying Testing Requirements while Managing Costs: How Far You Need to Go for Compliance



Dale L. Matschullat
Senior Vice President, General Counsel
and Corporate Secretary
Newell Rubbermaid Inc. (Atlanta, GA)

Richard Rosati
Director, Toys & Juvenile Products, Americas Region
Bureau Veritas Consumer Products Services Division (Buffalo, NY)



Peter L. Winik
Latham & Watkins LLP
(Washington, DC)

- How much testing is "reasonable": What CPSC expects from a "reasonable testing program"
- Third party testing of children's products: Deciding when to conduct component or complete product testing
- Mandatory testing: Scope and frequency of required testing
- Controlling costs: Avoiding excessive testing
- Identifying, selecting and retaining CROs and third-party testing laboratories
- Negotiating protocols for testing, including size, scope of samples, location of testing and frequency
- Relying on foreign suppliers to perform testing: Ensuring accurate testing and liability protection for inaccurate test reports
- Assessing test reports: What information to require of vendors, and how to ensure that testing procedures/results are being understood and followed
- Reconciling and addressing different test results from multiple testing laboratories

12:15 Networking Luncheon 

1:30 **Integrating New Product Safety Rules
into Your Existing Import Compliance Program**

Sandra Fallgatter
Manager of Private Brand Compliance
JCPenney (Plano, TX)



Barry O'Brien
Director of Global Trade and Customs
Hasbro, Inc. (East Providence, RI)



Kenneth G. Weigel – Lead Panelist & Moderator
Alston & Bird LLP (Washington, DC)

- Budgeting and allocating resources: Staffing, assigning roles and assessing/monitoring costs
- Developing internal standards: Revisiting product lines, inspection and review procedures to comply with new requirements
- Training employees to identify potential/actual violations, comply with new requirements and disclose product safety concerns
- Monitoring internal adherence to new requirements, and your company's compliance policies/procedures
- How often to conduct an internal audit of your compliance program, and how
- Meeting recordkeeping requirements

2:30 **Ensuring Foreign Third Party Compliance:
Reducing Risk in Your Global Supply Chain**

Gary Ross
Vice President, Non-Beauty Global Supply Chain
Avon Products Inc. (New York, NY)



Leigh A. Schmid
Vice President, International Trade & Customs Compliance
Limited Brands, Inc. (Columbus, OH)



John A. Hodges
Wiley Rein LLP (Washington, DC)

- Vetting business partners, agents and suppliers: Due diligence checklist
- Identifying warning signs at the due diligence phase: Assessing third party production processes, expertise, and what questions to ask
- When and how to re-negotiate agreements to reflect tightened product safety requirements
- Bulletproofing vendor agreements: Key terms and conditions
 - indemnities that you need to include
 - testing and certification provisions
 - representations and warranties regarding compliance
 - delineating roles and responsibilities for compliance
 - reviewing and revising insurance provisions related to coverage and recalls
- Getting senior management buy-in for compliance from vendors: Educating business partners and raising awareness
- Monitoring compliance across your global supply chain
- When and how to audit vendors: Conducting spot audits, assessing expertise, and protocols
- When to terminate a vendor agreement and types of recourse for third party violations

3:30 **Networking Coffee Break**

3:45 **What to Do If You Discover a Suspected
or Actual Product Safety Violation**



Robert J. Pisani
Pisani & Roll PPLC (Washington, DC)

- Ensuring appropriate response mechanisms to employee product safety concerns
- Investigating a suspected/actual product safety violation: Best practices
- Assessing the impact of a potential or actual violation on your business
- Implementing appropriate corrective action to comply with CPSC requirements
- Allocating responsibilities for the implementation of corrective action
- Re-adjusting your imported product safety compliance strategy after a violation

4:30 **Complying with the Lacey Act: Minimizing
Reporting Burdens and Enforcement Risks**



Jane L. Taeger
Director of Compliance
Samuel Shapiro & Company, Inc. (Baltimore, MD)



Matthew Nolan
Arent Fox LLP (Washington, DC)

- Update on phased-in enforcement of the import declaration requirement
- Which plants and plant products are captured by the Act
- Scope of exemptions and how to use them
- How Lacey Act requirements differ from consumer product safety rules
- Complying with the import declaration requirement
- Preparing an import declaration
- Filing requirements and deadlines
- Update on penalties for non-compliance

5:30 **Co-Chairs' Closing Remarks
and Conference Concludes**

Continuing Legal Education Credits



Accreditation will be sought in those jurisdictions requested by the registrants which have continuing education requirements. This course is identified as nontransitional for the purposes of CLE accreditation.

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ACI has a dedicated team which processes requests for state approval. Please note that event accreditation varies by state and ACI will make every effort to process your request.

Pre-Conference Workshops • Tuesday, April 21, 2009

A

9:00 a.m. – 12:30 p.m.

A Deep Dive into the Consumer Product Safety Improvement Act: What Every Customs and QA Executive Needs to Know about CPSIA Provisions, Rules and Standards



Sydney H. Mintzer
Mayer Brown LLP (Washington, DC)



Bridget E. Calhoun
Crowell & Moring LLP (Washington, DC)

- Mandates and jurisdiction of the Consumer Product Safety Commission and U.S. Customs and Border Protection
- Which products are captured by the new requirements under Act
- CPSIA underlying standards and rules: Industry and product-specific requirements and considerations, including:
 - toys and children's products
 - apparel
 - electronics
- How to determine if any rules and standards enforced by the CPSC apply to your products: Assessing whether a product is subject to a “rule, ban, standard, or regulation”
- Who is responsible for testing and certifying compliance under the CPSIA
- Testing requirements: “Reasonable testing program” vs. mandatory testing requirements
- What is an “accredited” testing facility
- Requirements for a certificate of conformity: Key elements
- How CBP determines whether a company is in compliance with the new product safety rules
- Monitoring internal compliance with import laws and regulations
- Complying with CPSC reporting requirements
- Who to contact at CPSC and CBP, and for what
- Practical impact of the new standards on your global supply chain and business

B

1:30 p.m. – 5:00 p.m.

Importing Food, Drugs and Devices: Nuts and Bolts of FDA and Customs Compliance



Benjamin L. England
Benjamin L. England & Associates, LLC (Columbia, MD)
Former Regulatory Counsel to the Associate Commissioner for Regulatory Affairs, U.S. Food and Drug Administration

- Mandates and jurisdiction of key agencies, including the FDA, CPSC, USDA and U.S. Customs and Border Protection
- How the agencies interact, work together, coordinate enforcement and manage overlapping jurisdiction
- How the FDA exercises its jurisdiction, and which laws and regulations the FDA enforces
 - rule making
 - product decisions
 - enforcement
 - informal mechanisms
- Definitions of food, drugs, devices and combination products
- How to determine if a product falls under FDA and/or CPSC jurisdiction: Conducting a product-specific analysis
- The entry process
 - pre-arrival/right to make entry
 - entry paperwork
 - arrival
 - clearance
 - post entry control, delivery and audit
- Labeling: Key regulatory requirements, information, and contents
- Scope and application of the “COOL” regulations
- Review process for labeling
- How U.S. Customs is applying FDA laws and regulations on the ground
- FDA domestic and overseas inspection authority, and how FDA conducts inspections: “For cause” vs. routine inspections
- Red flags that can trigger an FDA investigation
- What can trigger suspicion from federal agencies and how to manage multiple, ongoing investigations
- Recent FDA enforcement actions: Lessons learned



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Wendy Tyler
Group Leader & Business Development Executive
American Conference Institute

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