

U.S. Consumer Product Safety Commission (CPSC)

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U.S. Consumer Product Safety Commission (CPSC) Authorities

- **Consumer Product Safety Improvement Act (CPSIA)**
- Consumer Product Safety Act (CPSA)
 - Lighters
 - Toys
 - Children's products
- Federal Hazardous Substances Act (FHSA)
 - Fireworks
- Flammable Fabrics Act (FFA)
 - Sleepwear/mattresses
- Poison Prevention Packaging Act (PPPA)
- Refrigerator Safety Act (RSA)
- Virginia Graeme Baker Pool and Spa Safety Act
- Children's Gasoline Burn Prevention Act

CPSC – Consumer Product Safety Improvement Act (CPSIA)

- Prohibited Acts (15 USC 2068)
 - Import any product not in conformity with rule, standard or ban
 - Import any product subject to a voluntary corrective action taken by manufacturer, Commission has notified the public and manufacturer knew or should have known
 - Fail to furnish certificate or present false certificate of conformity
 - Unauthorized use of a safety mark
- Imported Products (15 USC 2066)
 - Product refused admission shall be destroyed unless ...
 - Upon application by importer, Secretary of the Treasury permits the export in lieu of destruction

CPSC – Import Procedures

- CPSC Sampling and Detentions
 - Specific statutory authority for sampling (15 USC 2066, 15 USC 1273)
 - Detained merchandise remains under CBP custody
- CPSC Will Issue Notices of Detention
 - Compliance Investigator or Field Investigator will issue
 - Notice will describe the suspected violation and the statute governing that suspected violation; CPSC officer contact information will be on the Notice
 - Notice issued to importer with copies to Customs broker and CBP
 - Deal directly with CPSC

CPSC – Import Procedures

- Detentions – Time Frames
 - Detention notices to be issued as soon as possible after sampling/examination
 - Recipient of Notice has 5 business days to provide information to help resolve the detention; extensions can be granted
 - Policy is to try to resolve detentions within 30 days
- Detentions of shipments under both CBP and CPSC authority
 - Detention notifications will be issued by both agencies
 - If CBP seizes that will resolve the CPSC detention but not final CPSC action (Letter of Advice could be issued)
 - If CBP resolves its detention in favor of the importer, it will not release the merchandise without resolution of the CPSC detention

CPSC – Import Procedures

- Conditional Release of Merchandise
 - CPSC can allow conditional release of merchandise under CBP bond pending results of examination and testing
 - Merchandise cannot be distributed while under conditional release
 - Case-by-case consideration
- Redelivery of Merchandise
 - Redelivery notice issued by CBP. Must be within 30 days after the end of the conditional release period
 - Redelivery could lead to seizure, destruction or exportation
 - Failure to redeliver results in assessment of liquidated damages against importer (bond principal) and surety

CPSC – Import Procedures

- Request for a Hearing
 - CPSA violations only
 - Importer/owner/consignee can seek a full hearing under the Administrative Procedures Act
 - Product will remain under Government custody at importer's expense during the pendency of the hearing

CPSC – Import Procedures

- Exportation/Destruction
 - Importer may ask to export or destroy at any time
 - Per agreement, exportation or destruction at importer's expense and must occur under Government supervision
- Seizure
 - CPSC can request CBP to seize the product under Tariff Act authority
 - If seized, then CBP takes over the process
 - Fines, Penalties and Forfeitures Office issues notices; CBP has authority to remit the forfeiture upon terms and conditions deemed appropriate
 - CPSC can suggest disposition but cannot compel it

CPSC – Import Procedures

- Assessment of liquidated damages
 - Three times the entered value of the shipment (cannot exceed bond amount)
 - CPSC does control the mitigation decision for liquidated damages claims (16 CFR 1500.271(b))
- Good source of information is CPSC website at www.cpsc.gov