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U.S. CONSUMER PRODUCT SAFETY COMMISSION REQUIREMENTS

An In Depth Review



Today's Agenda

- Overview of the Consumer Product Safety Commission
- Impact of Imports on Product Safety
- Mandatory Standards:
 - Clothing Flammability
 - Children's Sleepwear
 - CPSIA
- Voluntary Standards
 - Drawstrings on children's clothing
- Industry Responsibilities



U.S. Consumer Product Safety Commission (CPSC)

CPSC is an independent federal regulatory agency created to protect the public from unreasonable risks of injury associated with consumer products.

Commissioners are appointed by the president for multi-year terms with confirmation by the Senate.



What is a Consumer Product?

- Jurisdiction over thousands of different consumer products under the Consumer Product Safety Act
- Excludes some products covered by other federal agencies, such as:
 - Cars and related equipment (NHTSA)
 - Food, drugs, medical devices, cosmetics (FDA)
 - Firearms (BATF)
 - Airplanes (FAA)
 - Boats (Coast Guard)
 - Pesticides (EPA)



Four Types of Safety Concerns

- Products that fail to comply with a mandatory safety standard or ban under the Acts;
- Products that fail to comply with voluntary standards and the Commission staff has determined such failure to be a substantial product hazard, such as strangulation and entrapment hazards from drawstrings on children's upper outerwear;
- Product that contains a defect which could create a "substantial product hazard"; and,
- Product that creates an "unreasonable risk" of serious injury or death.



Action CPSC can take

- *Work with industry* to develop voluntary standards or issue mandatory safety standards
- Ban products where a standard is not feasible
- Work with industry on a voluntary recall or can require the mandatory recall of dangerous or violative products
- Seize products that violate mandatory standards
- Seek civil and criminal penalties for Section 15 and 37 reporting requirements
- Educate consumers regarding the safe use of products

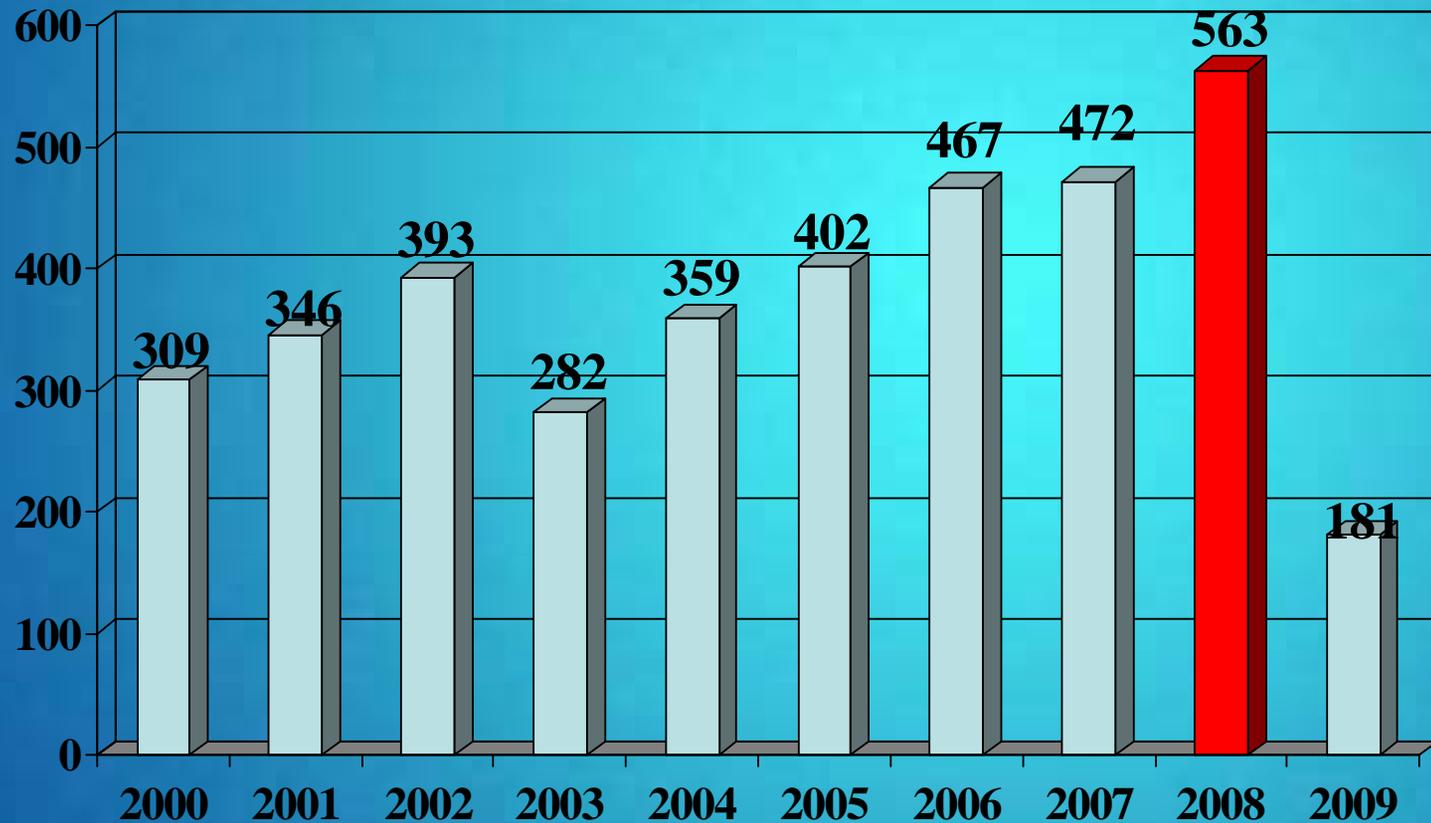


Violations / Prohibited Acts

- The Consumer Product Safety Act (CPSA), Flammable Fabrics Act (FFA) and the Federal Hazardous Substances Act (FHSA) make it unlawful to:
 - Manufacture, distribute or import any product that does not comply with a mandatory standard or ban under any act the Commission enforces;
 - Fail to report information as required by section 15(b) (CPSA);
 - Fail to certify; and
 - Fail to include tracking labels when appropriate.



Voluntary Recalls by Fiscal Year

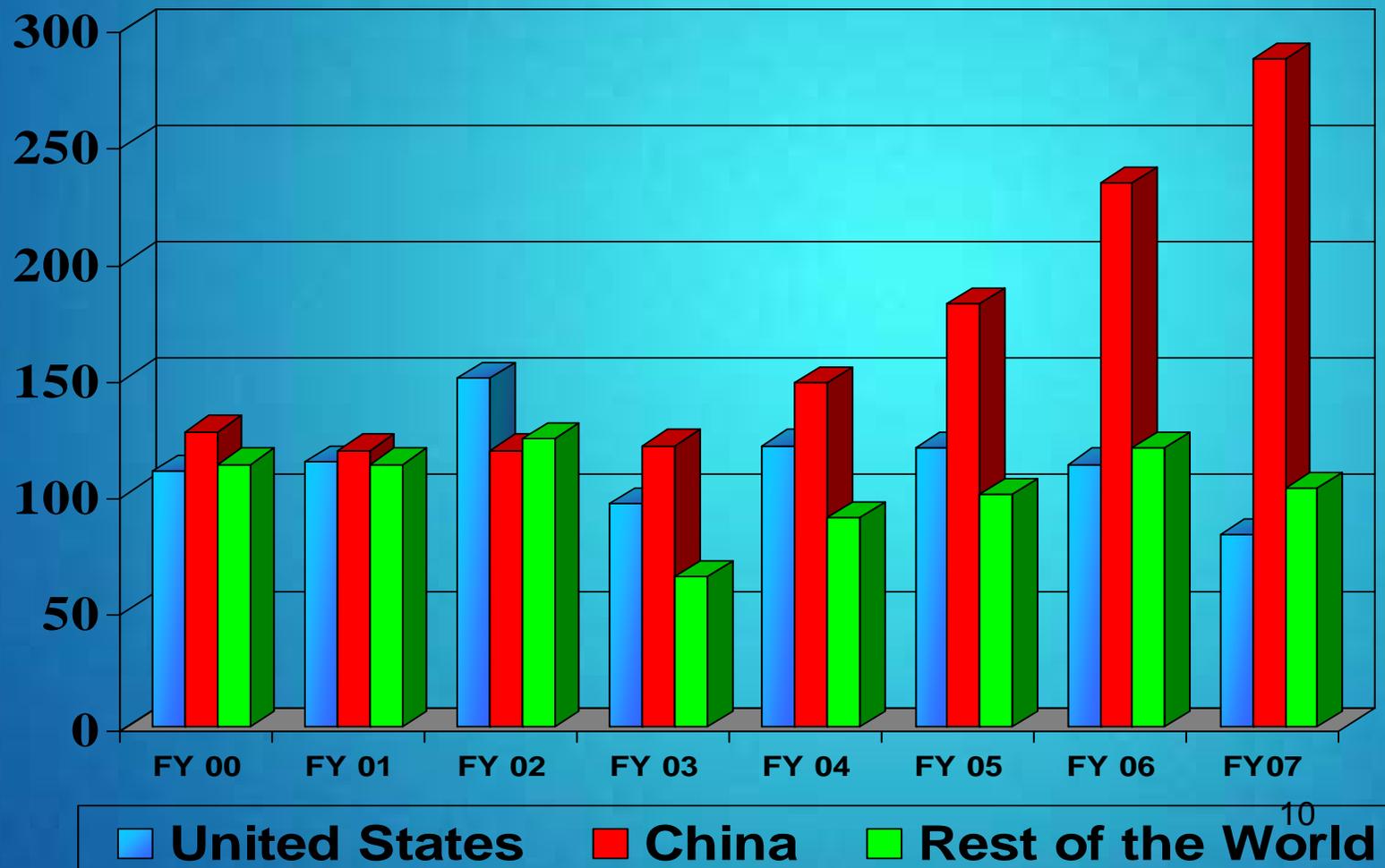


Updated (2/20/2009)



Latest update:
2/1/2008

Recalls by Product Country of Origin





ITDS/ACE



- In 2007, CPSC became a “*participating agency*” in the International Trade Data System Automated Commercial Environment (ACE)
- This tool gives qualified CPSC staff access to much better *information for targeting* unsafe consumer products
- ACE grows more sophisticated over time



Coordination with Customs

- Joint programs targeting unsafe consumer products by class
- Follow backwards and forwards on specific cases
- Joint audits of importers
- Importer Self Assessment (ISA) Product Safety pilot



Reconditioning

- If it appears that a consumer product can be modified so it would not need to be refused admission, the CPSC may permit the product to be delivered from customs custody under bond to give the owner or consignee that opportunity
- If it turns out the product cannot be modified or the owner/consignee is not acting satisfactorily, CPSC may direct Customs to demand redelivery



Destruction or Export

- Products refused admission *must be destroyed* unless, upon application by the owner, consignee or importer of record, Customs and Border Protection permits export in lieu of destruction
- If the product is not actually exported within 90 days of such approval, it must be destroyed



Mandatory Standards for Textiles

- 16 CFR §1610 – Standard for the Flammability of Clothing Textiles
- 16 CFR§ 1615 and 1616 – Standards for the Flammability of Children’s Sleepwear
- Requirements under the CPSIA
 - Certification and testing by 3rd party



Standard for the Flammability of Clothing Textiles

- 16 C.F.R. Part 1610 – commonly known as the General Wearing Apparel Standard
- Enacted in the 1950's to take the most dangerous flammable products out of the marketplace
- The standard applies to all adult and children's wearing apparel except children's sleepwear which must meet a more stringent standard



Future Requirements

- Certification by manufacturer or importer to meet requirements for all apparel (February 2010)

For Children's clothing:

- Certification based on testing performed by an accredited 3rd party laboratory recognized by the CPSC
- Lead content and surface coating limits must be met for textile products
 - For example, buttons, snaps, grommets, zippers, heat transfers and screen prints



Summary of 16 CFR § 1610

- The manufacture, manufacture for sale, importation into the United States, and the transportation in commerce of a dangerously flammable textile or product is considered an unfair or deceptive practice
- The Standard determines the relative flammability of textiles used in apparel and classifies them based on their burning characteristics into 3 classes; class 3 being dangerously flammable



General Overview of Part 1610: Results

- Class 1 – fabrics have no unusual burning characteristics and are acceptable for use in clothing
- Class 2 – intermediate flammability- use with caution
- Class 3 – fabrics are dangerously flammable and ***CANNOT*** be used in wearing apparel

16 CFR § 1610: Clothing Textiles



General Overview of Part 1610: Sample Classification

Summary of Sample Classifications

Classification	Plain Surface	Raised Fiber Surface
Class 1	Average burn time > 3.5 s	Average burn time > 7.0 s OR Average burn time is 0-7 s with no base burns (SFBB)
Class 2	N/A	Average burn time is 4-7 s with base burn (SFBB)
Class 3	Average burn time < 3.5 s	Average burn time < 4.0 s with base burn (SFBB)

16 CFR § 1610: Clothing Textiles



General Overview of Part 1610: Exemptions

1. Plain surface fabrics $\geq 88.2 \text{ g/m}^2$ (2.6 oz/yd²), regardless of fiber content
2. Plain and raised surface fabrics made of:
acrylic,
modacrylic,
nylon,
olefin,
polyester,
wool,
or any combination of these fibers, regardless of weight

16 CFR § 1610: Clothing Textiles



Overview of Part 1610: Common Non-Complying Textile Products

- Sheer 100% rayon skirts and scarves
- Sheer 100% silk scarves
- 100% rayon chenille sweaters
- Rayon/nylon chenille and long hair sweaters
- Polyester/cotton and 100% cotton fleece garments
- 100% cotton terry cloth robes



Children's Sleepwear

- The children's sleepwear standards (16 CFR 1615/1616) were developed in the early 1970's to address the ignition of children's sleepwear such as nightgowns, pajamas and robes.
- All fabrics and garments must self-extinguish when removed from a small, open-flame ignition source.
- The standards are designed to protect children from small open flame sources such as matches, fireplace embers and space heaters.
- The standards are not intended to protect children from large fires or fires started by flammable liquids such as gasoline



Sleepwear: 1996 Amendments

- Infant garments size 9 months and under exempt from the sleepwear standard.
- Tight fitting garments (defined by the Standard) are also exempt from testing to the sleepwear requirements.
- Although these items are exempt from testing requirements of the sleepwear standard, they must comply with the Clothing Textile Standard – 16 CFR § 1610.

16 CFR 1615/16: Children's Sleepwear



Bathrobes and Loungewear

- Bathrobes are covered by the sleepwear standard
- Loungewear is also covered by the sleepwear standards. See the “Loungewear Letter” on our website as well as an Update to the Letter



Tight Fitting Garments

- A mandatory labeling requirement was developed for tight-fitting garments in 2000.
- Permanent neck label that reads: “Wear snug-fitting, Not Flame resistant”
- A hangtag that gives point-of-purchase safety information (yellow tag) or a smaller version of the hang-tag can be used on pre-packaged garments



Tight-fitting Garment

- The measurement for chest, waist, seat, upper arm, thigh, wrist, and ankle cannot exceed the maximum dimension specified in the Standard for different sizes of garments
- Has no item of fabric, ornamentation or trim that extends more than 6 mm (1/4'') from the point of attachment to the outer surface of the garment
- Complies with 16 CFR part 1610
- Bears a hangtag illustrated below

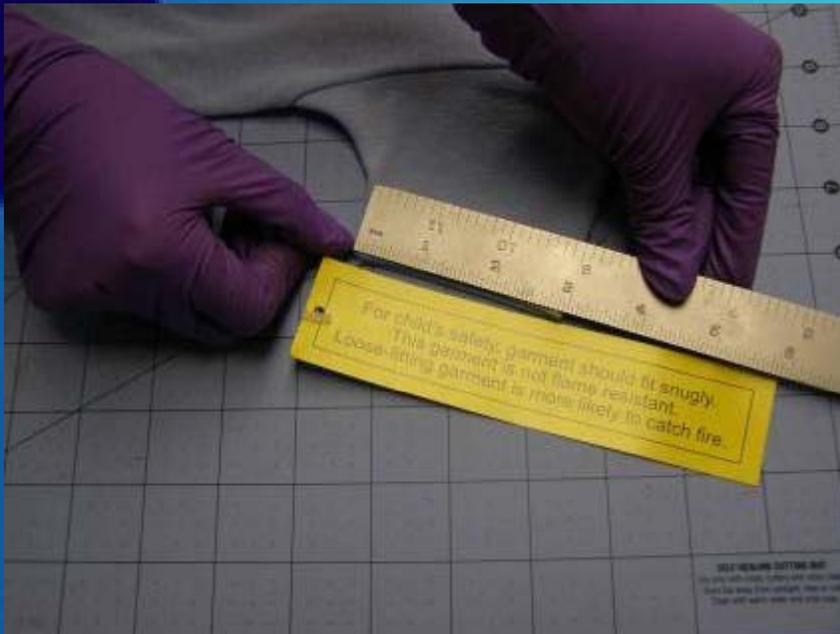


16 CFR 1615/16: Children's Sleepwear

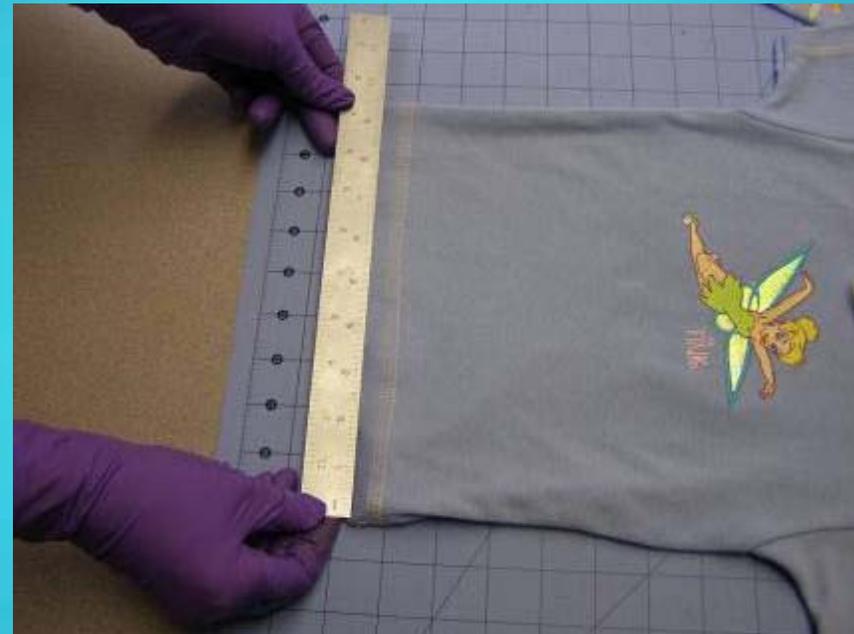


Tight-fitting Garment Measurement Illustration

(See the Standard for measurement details and requirements)



Wrist Measurement



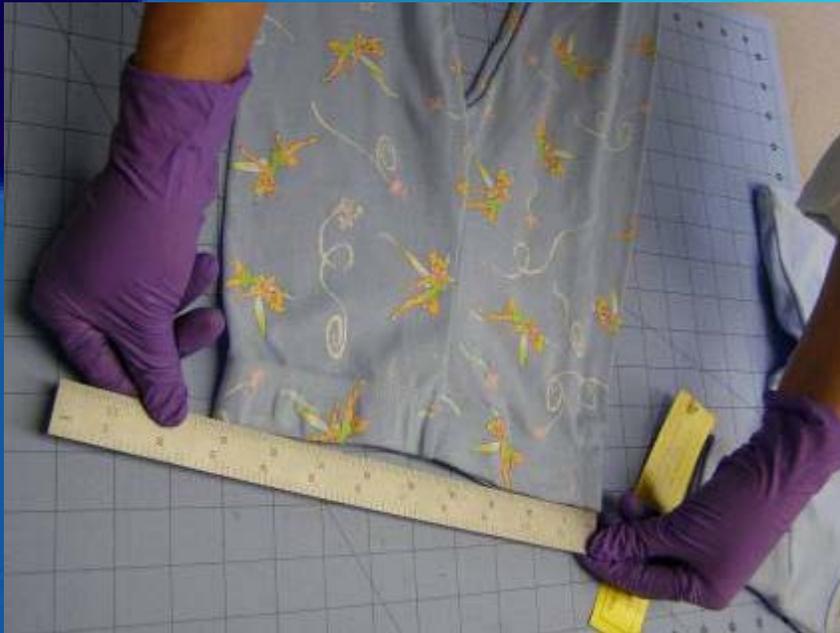
Waist Measurement

16 CFR 1615/16: Children's Sleepwear



Tight-fitting Garment Measurement Illustration

(See the Standard for measurement details and requirements)



Waist Measurement



Seat Measurement

16 CFR §1615/1616: Children's Sleepwear



Tight-fitting Garment Measurement Illustration

(See the Standard for measurement details and requirements)



Chest Measurement



Upper Arm Measurement

16 CFR § 1615/16: Children's Sleepwear



Standards Prohibiting Lead-Containing Paint in Children's Products

- Lead poisoning in children is associated with behavioral problems, learning disabilities, and growth retardation.
- 16 CFR §1303 protects consumers, especially children, from being poisoned from excessive lead in surface coatings on certain products. Includes surface coatings on toys or other articles intended for use by children, *including clothing accessories*.
- The ban covers paint or any other similar surface coating that contain more than 0.06% lead (lead containing paint)
 - The CPSIA reduces this level over time
 - Requires 3rd party testing and certification



New CPSIA lead content limits

- Section 101 limits the amount of lead content in all products for children 12 years of age and younger
 - 600ppm (February 10, 2009) to
 - 300ppm (August 14, 2009) to
 - 100ppm, if technologically feasible (August 14, 2011)
- Enforcement policy on lead content significant to the textile industry:



Enforcement Policy on Lead

- February 6, 2009 CPSC staff issued an enforcement policy on lead that is significant to the textile industry.
- Classification of dyed or un-dyed textiles and non-metallic thread and trim used in children's apparel and fabric products.



Other Common Problems Found on Children's Clothing

- Zipper pulls - Some zipper pulls and decorative snaps contain high levels of lead
- Decorative snaps
- Drawstrings - Drawstrings on children's clothing present a strangulation hazard (ASTM F1816-97, Standard Safety Specification for Drawstrings on Children's Upper Outwear)

CPSC continues to recall those products



New Requirements for Tracking Labels on Children's Products and Packaging

- Require manufacturers of children's products, "to the extent practicable," to place distinguishing marks on a product and its packaging that would enable the purchaser to ascertain the source, date, and cohort (including the batch, run number, or other identifying characteristic) of production of the product by reference to those marks.
- "Children's product" – Congress defined children's product to mean a product designed or intended primarily for children 12 years of age or younger.
- **Effective Date:** August 14, 2009



New Authority under CPSA Sec.15(j)

SUBSTANTIAL PRODUCT HAZARD LIST:

- (1) The Commission may specify by rule for any consumer product or class of consumer products, characteristics whose existence or absence shall be deemed a substantial product hazard if the Commission determine that (A) such characteristics are readily observable and addressed by voluntary standards; and (B) such standards have been effective in reducing the risk of injury from consumer products and that there is substantial compliance with such standards.
- (2) Judicial review. Not later than 60 days after promulgation of a rule under paragraph (1), any person adversely affected by such rule may file a petition for review under the procedures set forth in section 11 of this Act.



Drawstrings on Children's Clothing

- In 1996 CPSC issued guidelines later adopted by ASTM in 1997 (ASTM F1816-97)
- May 16, 2006 letter to industry
- Applies to upper outerwear: jackets, sweatshirts, tops
- Sizes 2T-12
- Also specific guidelines for waist/bottom strings for sizes 2T-16





The Role of Voluntary Standards When Reporting

- A product that does not comply with all applicable “voluntary” safety standards may be considered a “substantial product hazard” for that reason alone.
- CPSC staff regularly seeks corrective actions in cases involving products that fail to comply with voluntary standards.
- A product that complies with all applicable standards is not immune from recall



Section 15(b) Product Defect Reporting

- Section 15(b) of the Consumer Product Safety Act requires manufacturers, distributors, and retailers to report to CPSC “immediately” if they obtain information raising safety concerns about products they make or sell



Low Reporting Threshold for Product Defect Reports

- Report is required if a firm obtains information which “*reasonably supports* the conclusion” that product “contains a defect which *could* create a substantial product hazard”.
- The reporting requirement applies *more broadly* than the Commission’s authority to order corrective actions.



Penalties

- Any person who *knowingly* commits a violation is subject to a civil penalty of \$100,000 for each violation (new - Improvement Act of 2008)
- The maximum civil penalty for a related series of violations is capped at \$15,000,000
- Criminal penalties (including imprisonment) are also possible for *willful* violations



What to Monitor

- Returns from distribution chain
- Parts orders
- Consumer complaints, claims, lawsuits/FEEDBACK
- Life testing
- Quality assurance / Product improvement
- Material changes
- Retailer reports / Retailer feedback
- Incidents from CPSC Injury Clearinghouse



Reporting Do's and Don'ts

- **Do** evaluate product failures to determine what could have occurred in worst case
- **Don't** assume that an incident without injury means there's no problem
- **Don't** wait to finish exhaustive investigation before telling CPSC
- **Don't** assume that the problem will go away by itself



What Exactly is a Corrective Action?

- ***Corrective Action*** is a generic term, and can involve requirements to:
 - repair product
 - replace product
 - refund purchase price of product
 - All inclusive in the term “RECALL”





Corrective Actions ("Recalls")

- **If the Commission makes a “substantial product hazard” determination, it may order the manufacturer, distributor or retailer to notify the public of the problem and/or to take corrective action**
- **The Commission may order a manufacturer, distributor or retailer to repair, replace the product at no charge, or refund the purchase price (less an allowance for use)**



U.S. Consumer Product Safety Commission



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Information on the Consumer Product Safety Improvement Act (CPSIA)

[Recalls and Product Safety News](#)

Help keep your family safe by checking product recalls and safety news from CPSC.

[Report an Unsafe Product](#)

Report an incident with a product that caused an injury. Medical Professionals and Fire/Police Investigators: file MECAP, incident reports.

[Sign Up for Email Announcements \(Español\)](#)

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Recent Recalls

- [Bicycles \(Handlebar Stems\)](#)
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What's Hot

- [New! Find Regulatory Notices & Requests for Comments on regulations.gov](#)
- [CPSC Staff Roundtable: Cribs and Other Sleeping Environments for Infants](#)
- [February Issue of "The Safety Review," CPSC's e-newsletter \(pdf\)](#)
- [Draft Guidance For Phthalates Requirements: Public Input Sought \(Español\)](#)
- [CPSIA Guidance for Small Businesses, Resellers, Crafters, and Charities](#)
- [Standard Operating Procedure for Determination of Phthalates \(pdf\)](#)
- [Pool & Spa Safety Act Information](#)

[ATVSAFETY.GOV](#)

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Government Made Easy



Avoiding Product Recalls

- Know and Comply with Federal Standards
- Know and Comply with Voluntary Standards
- ***Control the supply chain***
- ***Test, Test, Test***
- Monitor Product Use
- Evaluate Complaints, Inquiries, Injuries, Customer Feedback
- Respond to Retailer/Importer Notifications
- Report Safety Issues



Refusal of Admission

- Under section 17(a), a consumer product must be refused admission if it:
 - fails to comply with an applicable consumer product safety rule (CPSA standard or ban)
 - is not accompanied by a required certificate or tracking label or is accompanied by a false certificate
 - is or has been determined to be imminently hazardous in a section 12 proceeding
 - has a defect that constitutes a substantial product hazard
 - was imported by a person not in compliance with inspection and recordkeeping requirements



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