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# ❖SPC&B Safety News❖

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A Newsletter for Clients of Sharretts, Paley, Carter & Blauvelt, P.C.

May 14, 2013

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## *CPSC Proposes Certificate of Compliance Changes*



The Consumer Product Safety Commission (CPSC) has proposed significant changes to the regulations on the certificates of compliance — General Conformity Certificate (GCC) and Children’s Product Certificate (CPC) — required to be submitted for imported and domestically-made consumer products. There are a number of issues left unresolved by this proposal and interested parties have until July 29 to submit questions and comments.

The Consumer Product Safety Improvement Act of 2008 (CPSIA) requires manufacturers and private labelers of children’s products subject to a children’s product safety rule to certify such products as compliant based on testing conducted by a third-party laboratory. The CPSIA also requires manufacturers and private labelers of regulated non-children’s products to certify compliance based on a test of each product or on a reasonable testing program.

The Commission is proposing to amend the regulations implementing these requirements to make the following changes.

Who must certify. Importers would continue to have the obligation to certify finished products manufactured outside the U.S. that are not delivered directly to U.S. consumers; *i.e.*, they cannot simply pass along a foreign manufacturer’s certificate. “Importer” would be defined as the importer of record; therefore, a validly licensed broker who serves as the importer of record for the imported products would be responsible for issuing the certificate of compliance in those circumstances.

The foreign manufacturer would be responsible for certifying product that are delivered directly to consumers in the U.S., such as products purchased through an Internet Web site, unless the product bears a private label.

Certificates only required for finished products. A CPC or a GCC would only be required for finished products – *i.e.*, products that are imported for consumption or warehousing or are distributed in commerce, including parts of such products that are packaged, sold or held for sale to or use by consumers – that are

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subject to a consumer product safety rule or similar rule, ban, standard or regulation under any law enforced by the CPSC. Component parts – *i.e.*, parts intended to be used in the manufacture or assembly of a finished product – would not be required to be accompanied by a CPC or GCC unless being sold directly to consumers.

Required information. Three additional pieces of information would have to be included in a certificate of compliance: date of initial certification, scope of products covered by the certificate (*e.g.*, through lot numbers or serial numbers) and the applicable product safety rules, and attestation that the covered products are compliant with the applicable rules. Existing information requirements would be clarified and expanded. Certificates would have to state whether they cover a finished product or a component part. Certifiers claiming a testing exclusion would have to include specified information on their certificates.

The CPSC also is considering requiring certificates to state not only the place of manufacture but to also identify the name of the manufacturer, including foreign manufacturers, but is seeking comments due to the potential for revealing confidential business information.

Electronic filing. Importers of regulated finished products manufactured outside the U.S. and imported for consumption or warehousing would have to file the GCC or CPC electronically with U.S. Customs and Border Protection at the time of filing of the entry (or the entry and entry summary if both are filed together).

The CPSC's ultimate goal would be to require the filing of certificates with CBP in the form of data elements so that certificate contents can be uploaded into a database for targeting purposes. However, such a requirement may require software upgrades by CBP, CPSC and stakeholders that must be completed in stages. Initially, if the CPSC requires electronic filing of certificates at the point of entry it would likely allow such filing in two ways: (1) inserting an electronic copy of the certificate with the entry, such as a PDF file of the document, or (2) uploading the 10 required data points on a certificate into CBP's designated system of record. The CPSC is also considering the option of filing electronic certificates at an earlier point in the import process, such as the time of manifest.

In the case of finished products manufactured outside the U.S. that are delivered directly to consumers in the U.S., the foreign manufacturer or the importer would have the option of filing the GCC or CPC electronically with the CBP as detailed above or making the certificate available for inspection by the CPSC on or before the date the finished product is distributed in commerce.

Recordkeeping. For all certificates of compliance, regardless of whether there are recordkeeping requirements in the underlying product safety standards, certifiers would have to maintain the certificate and supporting test records where required for at least five years.

If you would like more detailed information on the proposed certification changes or are interested in filing comments with the CPSC, please contact Gail Cumins at [gcumins@spcblaw.com](mailto:gcumins@spcblaw.com), Donna Shira at [dshira@spcblaw.com](mailto:dshira@spcblaw.com), or Alli Baron at [abaron@spcblaw.com](mailto:abaron@spcblaw.com), or call us at 212-425-0055.