CPSIA Update

Consumer Product Safety Improvement Act of 2008

IEEE PSES San Diego Chapter
11-Feb-2014
Recalls by Product Origin

- United States
- China

Import Samples/Violations

- Import Samples
- Violations

Year: FY00, FY01, FY02, FY03, FY04, FY05, FY06, FY07, FY08, FY09, FY10

Values:
- FY00: 864, 422
- FY01: 881, 463
- FY02: 709, 325
- FY03: 514, 224
- FY04: 885, 342
- FY05: 685, 368
- FY06: 609, 317
- FY07: 723, 297
- FY08: 1,130, 509
- FY09: 1,559, 704
- FY10: 1,733, 1,020
<table>
<thead>
<tr>
<th>TYPE</th>
<th>NUMBER</th>
<th>PRIMARY HAZARD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Apparel &amp;</td>
<td>19</td>
<td>Choking (11); Strangulation (8)</td>
</tr>
<tr>
<td>Footwear</td>
<td>11</td>
<td>Choking (7); Strangulation (2); Burns (1); Laceration (1)</td>
</tr>
<tr>
<td>Toys</td>
<td>9</td>
<td>Suffocation (9)</td>
</tr>
<tr>
<td>Cribs</td>
<td>5</td>
<td>Strangulation (4); Laceration (1)</td>
</tr>
<tr>
<td>Strollers</td>
<td>21</td>
<td>Various</td>
</tr>
</tbody>
</table>
CPSIA Introduction

- The Consumer Product Safety Improvement Act (CPSIA)
- Provides CPSC with significant new regulatory & enforcement tools
  - Amends & enhances several CPSC statutes, including the Consumer Product Safety Act
  - Addresses lead, phthalates, toy safety, durable infant or toddler products, third-party testing & certification, tracking labels, imports, ATVs, civil & criminal penalties
  - SaferProducts.gov, a publicly-searchable database of reports of harm
  - Repealed a challenging agency funding limitation & increased the number of authorized CPSC commissioners from three to five
Legislation

- H. R. 4040
- Cited as the “Consumer Product Safety Improvement Act of 2008”
- To establish consumer product safety standards & other safety requirements for children’s products & to reauthorize & modernize the Consumer Product Safety Commission (CPSC)
CPSIA Summary I

- Signed by President Bush 14-Aug-2008
- Lead essentially eliminated from toys & children’s products
- Toxic phthalates banned from children’s products
- Mandates third-party (registered) testing of toys & other children’s products required before they are sold
CPSIA Summary II

- State Attorneys General have the necessary authority to enforce product safety laws
- CPSC has the authority to levy more significant civil penalties against violators of its safety regulations, to deter wrongdoing
- Whistleblowers will be granted important protections
- CPSC received substantial increases
  - ~530 employees funded 2010
  - Was 978 in 1980’s
  - Budget increased 50% from 2008
Public Database

- Publicly available consumer product safety information database
  - CPSIA defines database information plus provisions regarding:
    - Submitting reports of harm
    - Providing notice of reports of harm to manufacturers
    - Publishing reports of harm & manufacturer comments in the database
    - Dealing with confidential & materially inaccurate information
Question

What is a “consumer product”?

- Groceries?
- Car?
- Bicycle?
- VCR?
- Cold remedy?
- Beer?
- Garden hose?
- Basketball?
- Tent?
Consumer Product (defined)

- Any article, or component part thereof, produced or distributed:
  - For sale to a consumer for use in or around a permanent or temporary household or residence, a school, in recreation, or otherwise, or
  - For the personal use, consumption or enjoyment of a consumer in or around a permanent or temporary household or residence, a school, in recreation, or otherwise...
Excluded from CPSC

- Food & drugs (USDA & FDA)
- Motor vehicles & equipment (NHTSA)
- Aircraft (FAA)
- Boats (Coast Guard)
- Alcoholic beverages, tobacco, firearms & explosives (BATFE)
Durable Nursery Products

■ CPSC must create new safety standards
  • Full-size cribs & non-full-size cribs; toddler beds; high chairs, booster chairs, hook on chairs; bath seats; gates & other enclosure for confining a child; play yards; stationary activity centers; infant carriers; strollers; walkers; swings; & bassinets & cradles

■ Manufacturers to provide a postage prepaid registration card
  • To contact consumers with recall or other safety information
ATVs

- Four-wheel all terrain vehicles
  - ANSI/SVIA 09109-2007 becomes mandatory consumer product safety standard
  - Effective 11-May-2009
- Prohibits three-wheel ATVs from being imported into or distributed in the U.S.
  - Beginning 13-Sep-2008
  - Until there is a mandatory standard for three-wheeled ATVs
Question

- What is a “toy”?  
  - Barbie doll?  
  - Telescope?  
  - Woodworking set?  
  - Baseball bat?  
  - Flute?  
  - Crib?  
  - Marbles?
Toy (defined)

- Consumer product designed or intended by the manufacturer for a child 12 years of age or younger for use by the child when the child plays

- Does NOT include hobby, craft, art materials, sporting goods, camping & musical instruments
  - Toy versions of these actual products ARE considered toys
Age Grading Elements

- Whether the intended use of the product is for play, including a label on the product if such statement is reasonable
- Whether the product is represented in its packaging, display, promotion or advertising as appropriate for use by the ages specified
- Whether the product is commonly recognized by consumers as being intended for use by a child of the ages specified
- The Age Determination Guidelines issued by the CPSC staff
Conformity Certification

- CPSIA increases the range of products that require testing & certification
  - Certification must be based on a test of the product or a “reasonable testing program”
  - General certification requirement is sometimes called a “supplier’s declaration of conformity”
Toy Testing

- Third-party **toy** testing is mandatory
  - Every manufacturer (including an importer) or private labeler of a children’s product must have its product tested by an accredited independent testing lab
  - Effective 12-Nov-2008
  - ASTM F963 now applies
    - Previously voluntary
General Conformity Certificates

- General conformity certificates (GCC) +
- Certificates for children’s products based on third-party testing
  - Must be in English
  - May be in another language
- Must include information on
  - Identity of the manufacturer or private labeler of the product
  - Testing laboratory
  - Date & place of manufacturing & testing the product
- Products without the required certificate cannot be imported or distributed in commerce in the United States
- Must accompany the product, or product shipment & must be available to CPSC & Customs & Border Protection upon request
Laboratory Accreditation

- Laboratories must be accredited to 16 CFR 1303
  - Lead paint
  - Cribs
  - Small parts
  - Etc.

- CPSC maintains website with entities that have been accredited to assess conformity with children's product safety rules
About Lead

- Toxic if ingested & can cause adverse health effects
- In general populations, lead may be present in hazardous concentrations in food, water & air
- Sources include paint, urban dust & folk remedies
- Lead poisoning is the leading environmentally induced illness in children
- At greatest risk: children under the age of six because they are undergoing rapid neurological & physical development
Total Lead Contents

- **Amount of lead in children’s products** were phased-in over the course of three years.
- Products designed or intended primarily for children 12 & younger cannot contain more than **100 ppm** of lead.
  - Effective: 14-Aug-2011
  - Paint, coatings or electroplating may not be considered a barrier.
  - FYI: RoHS lead limit is 1000-ppm.
- Children’s products may be exempted or excused from lead limits if a component part containing lead is inaccessible.
  - Final Rule issued August 2009.
Coatings (Lead Paint)

- Consumer product lead paint & similar surface-coating materials must be reduced from 600 ppm to 90 ppm
  - Effective 14-Aug-2009
Phthalates

‘tha-,lāts\n
Used in many common consumer products
• To soften plastics in children’s toys
• Sealants & adhesives in nail polish
• Perfumes & air fresheners

Known to interfere with production of male hormone, testosterone

Associated with (male) reproductive abnormalities

Also been associated with allergic symptoms & asthma
Phthalates

- Unlawful to sell, distribute, or import any children's toy or child care article that contains concentrations of more than 0.1% of:
  - Di-(2-ethylhexyl) phthalate (DEHP)
  - Dibutyl phthalate (DBP)
  - Benzyl butyl phthalate (BBP)
- Effective 10-Feb-2009
If Placed in Mouth

- Unlawful: Any children's toy that can be placed in a child's mouth or child care article that contains concentrations of more than 0.1% of:
  - Diisononyl phthalate (DINP)
  - Diisodecyl phthalate (DIDP)
  - Di-n-octyl phthalate (DnOP)

- Effective 10-Feb-2009

- If any dimension < 5-cm, it fits in mouth
Replaced Phthalates

- Manufacturers must use the least toxic alternatives when replacing phthalates
  - Must not use carcinogens or reproductive toxicants that cause birth defects or developmental harm as defined by the U.S. Environmental Protection Agency or the California Safe Drinking Water Act
Stay of Enforcement Expired

- CPSC decision 8-Feb-2011
- Stay of enforcement pertaining to total lead content in children's products (except for metal components of children's metal jewelry) & certain related products, until December 31, 2011 (EXPIRED)
Labeling

- Manufacturers must have a tracking label or other distinguishing permanent mark on any consumer product primarily intended for children twelve & younger
  - Effective 14-Aug-2009
  - Includes source of the product, the date of manufacture & more detailed information on the manufacturing process such as a batch or run number
Labeling in Advertising

- Packaging for certain toys & games intended for use by children is required to contain a label, or cautionary statement, regarding choking hazards
  - Effective 10-Feb-2009
  - Advertising for these products which provide a direct means of purchase or order of the product must contain an appropriate cautionary statement
  - Manufacturers, importers, distributors, or private labelers, of such products must inform retailers if a cautionary statement is required
CPSIA Supply Chain ID

- Expands the inspection & recordkeeping requirements on importers, retailers & distributors of consumer products by requiring the identification of the manufacturer of a product by name & address
- Requires manufacturers to keep records of each retailer or distributor that has been given a consumer product & the subcontractors used in the manufacture of the product

  - Effective 14-Aug-2008
Preemption of State Laws

- Does not preempt California Proposition 65
- New lead limits for lead paint, lead content & new provisions on phthalates preempt state law
- Mandating the voluntary toy standard ASTM F963 as a mandatory consumer product safety standard is also preemptive
  - Congress has provided a mechanism to grandfather in certain existing state laws on toy safety
Whistleblowers

- Whistleblower protections
  - Employees of manufacturers, private labelers, distributors, or retailers of consumer products
  - Covered employees are protected from discharge or any other form of retaliation resulting from the employee’s safety action
Quick Review

- Introduced CPSIA
- Recalls reviewed
- Legislation defined
- Certifications & accreditations
- Lead & phthalates limits
- Labeling & tracking
Wrap Up

- Questions
- Answers
- Discussion
- Thank you!