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Agencies Increase Port Surveillance of Consumer Products

The U.S. Consumer Product Safety Commission (CPSC) is increasing its efforts to prevent consumer products that violate U.S. safety rules from entering the country. The agency recently announced enhanced efforts to screen imported products for safety violations. CPSC investigators are working jointly with U.S. Customs and Border Protection (CBP) agents at 15 major ports of entry to inspect goods and prevent the entry of products that fail to meet CPSC rules.

In the first quarter of fiscal year 2012, CPSC investigators prevented over 500,000 units of “violative and hazardous imported products from entering the country,” according to an April 5, 2012, CPSC news release. During the past fiscal year, the agency inspected more than 9,900 product shipments at ports nationwide and prevented almost 4.5 million units of such products from entering U.S. stores and homes.

Nineteen CPSC investigators are now coordinating with CBP port personnel. CPSC and CBP agents are screening consumer products at ports using, among other techniques, “use and abuse” testing and X-ray fluorescence analyzers. As a result, children’s products that violate federal lead limits, present a choking hazard, or include banned phthalates are being seized. The primary focus of the CPSC’s efforts is children’s products, but a significant percentage of products seized are general use products.

Background

The CPSC has been screening imported consumer goods for decades. Its port surveillance began when it was founded in 1973, and the emphasis on inspection of products at the U.S. borders has continually increased. In 2007, the CPSC began to place full-time investigators at key ports of entry, and it created its own Import Surveillance Division in 2008. In 2010, the CPSC and the CBP created the interagency Import Safety Commercial Targeting and Analysis Center (CTAC), located in Washington, DC, and overseen by the CBP.

CPSC personnel now have access to CBP commercial automated systems, which provide live data feeds for use in targeting specific shipments for port inspections. Two CPSC international trade specialists are designated to work with CBP personnel at CTAC to identify high-risk imports likely to violate safety standards. The CPSC can thus employ CBP’s extensive trade database to conduct import screening analysis and safety risk assessments of goods entering U.S. ports.

Detention

Using CBP data, CPSC investigators may now issue their own Notices of Detention for imported goods that appear to violate CPSC rules. The CPSC’s power to detain imported products is inherent under CPSC’s statutory authority to sample and inspect goods (15 U.S.C. § 2066, 15 U.S.C. § 1273). A typical notice describes the suspected violation, the statute governing the violation, and the contact information for the CPSC officer that issued the notice. A CPSC notice is issued to the importer with copies to the customs broker and CBP.

Suspected violators of CPSC safety rules must deal directly with CPSC, but the detained merchandise remains under CBP custody until the matter is resolved. The CBP may also issue its own detention notices for other, non-CPSC violations (e.g., intellectual property violations). A shipment can, therefore, be subject to both CBP and CPSC notices. If a shipment is detained by both CBP and CPSC for separate violations,

both the CPSC and the CBP send their own notices of detention. CBP detention is always resolved first. However, if the CBP seizes a product, CPSC detention ends and the CBP process takes precedence, although the CPSC may still issue a Letter of Advice to the importer regarding the CPSC violation. Alternatively, if the CBP determines there is no violation and releases the product from detention, the product is still not released to the importer until the CPSC detention is resolved.

Conclusion

The goal of enhanced CBP/CPSC port surveillance is to enforce consumer safety laws more effectively by focusing on the beginning of the chain of commerce rather than the end. The CPSC is determined to stop violative products at the border instead of relying on recalls, which are notoriously ineffective due to the difficulty in locating and retrieving products that have already been sold. With the CPSC's dedication of additional resources to the U.S. borders, importers of all products should take heed.

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