

CLIENT ALERT

Why You Should Comment on the CPSC Certificate of Compliance Filings at Entry

October 17, 2014

On September 18th, the Consumer Product Safety Commission (CPSC) held a public workshop on its proposed rule on Certificates of Compliance (certificates). The proposed rule, first published on May 13, 2013, requires certificates for regulated imported consumer products to be electronically filed with U.S. Customs & Border Protection (CBP) at the time of entry. The proposed changes to the certificates were summarized in a May 15th [Crowell news alert](#).

The workshop focused on logistical, operational and administrative concerns raised by importers and other stakeholders with requiring the certificates at the time of entry for each and every shipment. Currently, certificates are required to "accompany" the shipment either physically with the goods *or* be electronically available and provided to the CPSC upon request. By altering the requirement such that the certificate must be provided with the goods results in exponential duplicative submissions and slowing down the administrative entry process. In consideration of the numerous comments received by the CPSC, several CPSC staff members introduced the idea of a pilot program with CBP and importers to better understand the technical and logistical challenges the proposed rule in its current state would impose. Staff members indicated that the parameters of the pilot program were currently in development.

As importers know, certificates and other government entry documents can only be uploaded as pdfs in the Automated Commercial Environment (ACE). As several stakeholders noted during the workshop, a single entry could contain several regulated products and each product could have several individual item numbers or multiple production batches, with each item number and/or production batch requiring a separate certificate. The resulting impact could be a single entry requiring hundreds of certificates so that even the simple task of uploading the pdfs of each certificate would create substantial delays and increase costs. Other issues raised by stakeholders included: requiring the certificates as a "condition" of entry under 19 U.S.C. §1509(a)(1)(A); requiring certificates to be submitted by the importer of record, regardless of the importer of record's relationship with the goods or sales transaction; and the proposed penalties associated with the provision or nonprovision of the certificates.

Interested parties can and should submit written comments through October 31, 2014, docket number [CPSC-2013-0017](#).

Recent Happenings in APRM October 2014

- [When Internet Connectivity Features Fail – is the Product Unsafe, or Just Not "Smart"?](#)
- [The European Commission Issues a "Myth-Busting" Factsheet to Address the Concerns That Have Emerged After the EU Court of Justice's Ruling On Search Engines and the "Right to Be Forgotten"](#)
- [Think of the Children: Guidelines for Advertising Food and Alcohol](#)
- [Proposition 65 – Warning Regulation Update](#)
- [Why You Should Comment on the CPSC Certificate of Compliance Filings at Entry](#)
- [California Enacts Tough New Privacy Protections](#)
- [FDA Publishes Cyber Guidance for Medical Devices](#)
- [To Label Or Not To Label? Companies May Have No Choice](#)

Crowell & Moring attorneys have handled numerous cases in this regard.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

John B. Brew

Partner – Washington, D.C.

Phone: +1.202.624.2720

Email: jbrew@crowell.com