

# IMPORTED PRODUCT SAFETY COMPLIANCE

*Integrating new CPSIA Requirements into your Global Import and QA Strategy*

April 22, 2009 • Marriott Washington • Washington, DC

## Speakers Include



**Cathy Saucedo**  
Director, Import Safety and  
Interagency Requirements  
Customs and Border Protection  
U.S. Department of Homeland Security

**Cheryl A. Falvey**  
General Counsel  
U.S. Consumer Product Safety Commission



**Marianne Rowden**  
American Association of Exporters  
and Importers

## Conference Co-Chairs



**Leigh A. Schmid**  
Vice President, International Trade  
& Customs Compliance  
Limited Brands



**Kenneth G. Weigel**  
Alston & Bird

## Gain Critical Industry Insights

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- ✓ JCPenney
- ✓ Hasbro
- ✓ Newell Rubbermaid
- ✓ Limited Brands

## Get the latest updates and practical insights on:

- Preventing **Certificate of Conformity** pitfalls that could delay the entry process
- Satisfying **testing** requirements while managing costs
- Addressing the impact of **retroactive** requirements on your existing inventory
- Ensuring **foreign third party compliance** to **minimize risks** in your **global supply chain**
- Investigating and resolving **suspected** or actual product safety **violations**
- Incorporating new product safety rules into your existing **import compliance program**

## PLUS!

- How **CBP** and **CPSC** are cooperating to **enforce** the rules on the ground:  
**What shipments will be blocked, destroyed or exported**
- Complying with the **Lacey Act**: How to minimize reporting burdens and enforcement risks

## Exclusive Workshops • April 21, 2009

- A** A Deep Dive into the *Consumer Product Safety Improvement Act* Provisions, Rules and Standards
- B** Importing Food, Drugs and Devices:  
Nuts and Bolts of FDA and Customs Compliance



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# Does your Import Compliance Program Meet the Latest Consumer Product Safety Requirements?

## Benefit from Practical Insights on How to Prevent Import Delays, Denied Shipments and Harsh Penalties!

The **Consumer Product Safety Improvement Act of 2008 (CPSIA)** is the most far-reaching U.S. consumer product safety law enacted in decades. The CPSIA and underlying rules impose **onerous, expensive** new restrictions on **importers, manufacturers, distributors, and retailers**. Coupled with expanded government monitoring and enforcement authority under the CPSIA, your organization now faces **unprecedented new legal and financial risks** – which means that **you and your team** must vigilantly monitor the effectiveness of your **import compliance program**.

The CPSIA contemplates civil **penalties** of **\$100,000** for each product safety **violation**, with a **maximum penalty of \$15 million** for a series of related violations. Moreover, the U.S. Consumer Product Safety Commission (CPSC) has suggested that, after an initial adjustment period, non-compliance could subject your **shipments** to **denial of entry** and possible **destruction of goods**. The Act also contemplates up to five years' **imprisonment** for a violation, as well as forfeiture of the affected goods. The CPSC and CBP are working together to apply and enforce the new rules.

While the CPSC has provided guidance on the application of some requirements, there is a lot of confusion about how the Act will impact products and companies. **Your organization must determine how to implement the CPSIA in practice, and continuously manage new enforcement and business risks**. Moreover, the CPSC is continuously **introducing new rules**, which means that you need to **stay up to speed** and manage the **real-life effects** of additional requirements.

At **American Conference Institute's National Forum on "Imported Product Safety Compliance"**, you will learn **how companies and their advisors have been approaching critical CPSIA compliance challenges** and risk management. **Government, industry** and private practice experts will provide you with **updates** and **best practices** for **implementing** the new requirements, **controlling costs** and ensuring an effective **import compliance program**.

Topics will include:

- **Certificate of conformity requirements:** Lessons learned on how to avoid critical errors
- How CPSC and CBP are working together to apply and **enforce** the new rules
- Meeting **testing** requirements (including **3<sup>rd</sup> party testing**) in a cost-effective manner
- Incorporating the new rules into your existing **import compliance program**
- Ensuring **foreign third party compliance: Minimizing risk** in your **global supply chain**
- Dealing with a **suspected** or actual product safety **violation**
- Complying with the **Lacey Act:** Managing reporting burdens and enforcement risks

Moreover, you will receive **reference materials prepared by our speakers** that will **serve as useful resources for you and your organization** after the conference.

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# IMPORTED PRODUCT SAFETY COMPLIANCE

Integrating new CPSIA Requirements into your Global Import and QA Strategy

## Wednesday, April 22, 2009

7:30 Registration Begins and Continental Breakfast

### 8:45 Co-Chairs' Opening Remarks



**Leigh A. Schmid**  
Vice President, International Trade & Customs Compliance  
Limited Brands, Inc. (Columbus, OH)



**Kenneth G. Weigel**  
Alston & Bird LLP  
(Washington, DC)

### 9:00 How CPSC and CBP are Implementing and Enforcing the New Rules



**Cathy Saucedo**  
Director, Import Safety and Interagency Requirements  
Customs and Border Protection  
U.S. Department of Homeland Security (Washington, DC)

**Cheryl A. Falvey**  
General Counsel  
U.S. Consumer Product Safety Commission



**Marianne Rowden**  
General Counsel (Interim Executive)  
American Association of Exporters and Importers  
(Washington, DC)



**Eric L. Stone - Lead Panelist & Moderator**  
K & L Gates (Washington, DC)  
Former Director, Legal Division  
Office of Compliance and Field Operations  
U.S. Consumer Product Safety Commission

- The latest and upcoming CPSC rules: What's new, on the horizon and how fast the CPSC will act
- How CPSC is sharing information and enhancing coordination with CBP: Implementation of section 222 of the CPSIA (Inter-Agency Cooperation)
- How CBP is applying and enforcing CPSC rules on the ground: When shipments will be blocked and products destroyed or exported
- Managing the retroactivity of certain requirements: CPSC position on what to do with existing inventory of non-compliant goods
- How potential violations are investigated by CPSC and CBP: Which agency will enforce the new requirements and issue penalties
- Mitigating factors and how CPSC penalties will be assessed
- What can trigger the agencies' suspicion
- Current and anticipated Congressional activities on imported product safety

10:15 Networking Coffee Break

### 10:30 Certificate of Conformity "Do's and Don'ts": Preventing Import Documentation Pitfalls That Could Delay the Entry Process

**David J. Evan**  
Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt LLP  
(New York, NY)

- What CPSC and CBP expect and require in the certificate
- How companies are filing electronic certificates
- Avoiding delays of shipments at entry points: "Bulletproofing" your certificates
- Ensuring that the certificate is readily available to CBP upon request
- Who should/should not prepare the certificate
- What importers should do when relying on the manufacturer for the required information
- Reconciling the "confidentiality of the manufacturer" with the new requirements
- When and how to show CBP that a certificate is not required: What documentation is necessary, if any

### 11:15 Satisfying Testing Requirements while Managing Costs: How Far You Need to Go for Compliance



**Dale L. Matschullat**  
Senior Vice President, General Counsel  
and Corporate Secretary  
Newell Rubbermaid Inc. (Atlanta, GA)

**Richard Rosati**  
Director, Toys & Juvenile Products, Americas Region  
Bureau Veritas Consumer Products Services Division (Buffalo, NY)



**Peter L. Winik**  
Latham & Watkins LLP  
(Washington, DC)

- How much testing is "reasonable": What CPSC expects from a "reasonable testing program"
- Third party testing of children's products: Deciding when to conduct component or complete product testing
- Mandatory testing: Scope and frequency of required testing
- Controlling costs: Avoiding excessive testing
- Identifying, selecting and retaining CROs and third-party testing laboratories
- Negotiating protocols for testing, including size, scope of samples, location of testing and frequency
- Relying on foreign suppliers to perform testing: Ensuring accurate testing and liability protection for inaccurate test reports
- Assessing test reports: What information to require of vendors, and how to ensure that testing procedures/results are being understood and followed
- Reconciling and addressing different test results from multiple testing laboratories

12:15 Networking Luncheon 

1:30 **Integrating New Product Safety Rules  
into Your Existing Import Compliance Program**

**Sandra Fallgatter**  
Manager of Private Brand Compliance  
JCPenney (Plano, TX)



**Barry O'Brien**  
Director of Global Trade and Customs  
Hasbro, Inc. (East Providence, RI)



**Kenneth G. Weigel – Lead Panelist & Moderator**  
Alston & Bird LLP (Washington, DC)

- Budgeting and allocating resources: Staffing, assigning roles and assessing/monitoring costs
- Developing internal standards: Revisiting product lines, inspection and review procedures to comply with new requirements
- Training employees to identify potential/actual violations, comply with new requirements and disclose product safety concerns
- Monitoring internal adherence to new requirements, and your company's compliance policies/procedures
- How often to conduct an internal audit of your compliance program, and how
- Meeting recordkeeping requirements

2:30 **Ensuring Foreign Third Party Compliance:  
Reducing Risk in Your Global Supply Chain**

**Gary Ross**  
Vice President, Non-Beauty Global Supply Chain  
Avon Products Inc. (New York, NY)



**Leigh A. Schmid**  
Vice President, International Trade & Customs Compliance  
Limited Brands, Inc. (Columbus, OH)



**John A. Hodges**  
Wiley Rein LLP (Washington, DC)

- Vetting business partners, agents and suppliers: Due diligence checklist
- Identifying warning signs at the due diligence phase: Assessing third party production processes, expertise, and what questions to ask
- When and how to re-negotiate agreements to reflect tightened product safety requirements
- Bulletproofing vendor agreements: Key terms and conditions
  - indemnities that you need to include
  - testing and certification provisions
  - representations and warranties regarding compliance
  - delineating roles and responsibilities for compliance
  - reviewing and revising insurance provisions related to coverage and recalls
- Getting senior management buy-in for compliance from vendors: Educating business partners and raising awareness
- Monitoring compliance across your global supply chain
- When and how to audit vendors: Conducting spot audits, assessing expertise, and protocols
- When to terminate a vendor agreement and types of recourse for third party violations

3:30 **Networking Coffee Break**

3:45 **What to Do If You Discover a Suspected  
or Actual Product Safety Violation**



**Robert J. Pisani**  
Pisani & Roll PPLC (Washington, DC)

- Ensuring appropriate response mechanisms to employee product safety concerns
- Investigating a suspected/actual product safety violation: Best practices
- Assessing the impact of a potential or actual violation on your business
- Implementing appropriate corrective action to comply with CPSC requirements
- Allocating responsibilities for the implementation of corrective action
- Re-adjusting your imported product safety compliance strategy after a violation

4:30 **Complying with the Lacey Act: Minimizing  
Reporting Burdens and Enforcement Risks**



**Jane L. Taeger**  
Director of Compliance  
Samuel Shapiro & Company, Inc. (Baltimore, MD)



**Matthew Nolan**  
Arent Fox LLP (Washington, DC)

- Update on phased-in enforcement of the import declaration requirement
- Which plants and plant products are captured by the Act
- Scope of exemptions and how to use them
- How Lacey Act requirements differ from consumer product safety rules
- Complying with the import declaration requirement
- Preparing an import declaration
- Filing requirements and deadlines
- Update on penalties for non-compliance

5:30 **Co-Chairs' Closing Remarks  
and Conference Concludes**

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ACI has a dedicated team which processes requests for state approval. Please note that event accreditation varies by state and ACI will make every effort to process your request.

## Pre-Conference Workshops • Tuesday, April 21, 2009

A

9:00 a.m. – 12:30 p.m.

### A Deep Dive into the *Consumer Product Safety Improvement Act*: What Every Customs and QA Executive Needs to Know about CPSIA Provisions, Rules and Standards



**Sydney H. Mintzer**  
Mayer Brown LLP (Washington, DC)



**Bridget E. Calhoun**  
Crowell & Moring LLP (Washington, DC)

- Mandates and jurisdiction of the Consumer Product Safety Commission and U.S. Customs and Border Protection
- Which products are captured by the new requirements under Act
- CPSIA underlying standards and rules: Industry and product-specific requirements and considerations, including:
  - toys and children's products
  - apparel
  - electronics
- How to determine if any rules and standards enforced by the CPSC apply to your products: Assessing whether a product is subject to a “rule, ban, standard, or regulation”
- Who is responsible for testing and certifying compliance under the CPSIA
- Testing requirements: “Reasonable testing program” vs. mandatory testing requirements
- What is an “accredited” testing facility
- Requirements for a certificate of conformity: Key elements
- How CBP determines whether a company is in compliance with the new product safety rules
- Monitoring internal compliance with import laws and regulations
- Complying with CPSC reporting requirements
- Who to contact at CPSC and CBP, and for what
- Practical impact of the new standards on your global supply chain and business

B

1:30 p.m. – 5:00 p.m.

### Importing Food, Drugs and Devices: Nuts and Bolts of FDA and Customs Compliance



**Benjamin L. England**  
Benjamin L. England & Associates, LLC (Columbia, MD)  
Former Regulatory Counsel to the Associate Commissioner for Regulatory Affairs, U.S. Food and Drug Administration

- Mandates and jurisdiction of key agencies, including the FDA, CPSC, USDA and U.S. Customs and Border Protection
- How the agencies interact, work together, coordinate enforcement and manage overlapping jurisdiction
- How the FDA exercises its jurisdiction, and which laws and regulations the FDA enforces
  - rule making
  - product decisions
  - enforcement
  - informal mechanisms
- Definitions of food, drugs, devices and combination products
- How to determine if a product falls under FDA and/or CPSC jurisdiction: Conducting a product-specific analysis
- The entry process
  - pre-arrival/right to make entry
  - entry paperwork
  - arrival
  - clearance
  - post entry control, delivery and audit
- Labeling: Key regulatory requirements, information, and contents
- Scope and application of the “COOL” regulations
- Review process for labeling
- How U.S. Customs is applying FDA laws and regulations on the ground
- FDA domestic and overseas inspection authority, and how FDA conducts inspections: “For cause” vs. routine inspections
- Red flags that can trigger an FDA investigation
- What can trigger suspicion from federal agencies and how to manage multiple, ongoing investigations
- Recent FDA enforcement actions: Lessons learned



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**Wendy Tyler**  
Group Leader & Business Development Executive  
American Conference Institute

Tel: 212-352-3220 x242 | Fax: 212-220-4281 | [w.tyler@AmericanConference.com](mailto:w.tyler@AmericanConference.com)

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American Conference Institute's National Forum on

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