
❖SPC&B Safety News❖

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

April 27, 2010

CPSC, CBP Take First Steps to Increase CPSC's Role in Detentions Process and Import Safety Risk Assessments



Commissioner Alan Bersin of U.S. Customs and Border Protection (“CBP”) and Chairman Inez Tenenbaum of the U.S. Consumer Product Safety Commission (“CPSC”) signed a memorandum of understanding (“MOU”) yesterday regarding CBP’s Import Safety Commercial Targeting and Analysis Center (“CTAC”). As a result of the MOU, CPSC personnel will be permitted access to CBP commercial automated systems, allowing them to conduct import safety risk assessments and perform targeting work using CBP’s Automated Commercial System.

CPSC is also planning to begin issuing its own detention notices in May. Under current procedures, if CPSC wants to detain a shipment, it notifies CBP who then sends the importer the detention notice. All correspondence related to the shipment flows through CBP to CPSC. Under the new planned procedures, CBP will not have to serve as intermediary on the detentions. CPSC plans to issue the notice of detention directly to the importer; the notice will provide the recipients a full accounting of the reasons for detention and information on how to proceed, as opposed to the current CBP notices which just state that the product is being detained for CPSC purposes without identifying the potential violation. The move should address importers’ complaints that CBP has been stopping shipments for violations when, after CPSC investigates, are found to not be in violation. CPSC is also considering taking samples of detained merchandise and allowing the importer to pick up the rest of shipment while testing is taking place. In such a scenario, the importer would have to ensure that none of the merchandise enters into commerce until it has received approval to do so.

To further support their more active role in detentions, the CPSC has stationed compliance investigators at many of the larger ports of entry. The compliance investigator responsible for processing the detention will be identified on the notice and would be available to communicate with the importer or broker.

CBP will remain responsible for the physical holding of the property at the site of the detention and will process seizures, supervise destructions, and approve exportation of non-compliant products.

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CPSC will not go through the rulemaking process to design and implement the change, but instead will publish notice on its website along with Q&As designed to help the importing community understand the change. We will keep you apprised of new developments as they occur.

If you need assistance navigating this change or any of the CPSC regulations, including the Consumer Product Safety Improvement Act, please contact Donna Shira or Alli Baron at dshira@spcblaw.com and abaron@spcblaw.com respectively, or call us at (212) 425-0055.
