

BETTER SAFE THAN SORRY

NEW IMPORT RULES YOU NEED TO KNOW

BY EDIE TOLCHIN

A rash of recalls and the specter of tainted child products from overseas have triggered new regulations to ensure consumer safety. Ignore these at your own peril.

Product safety recalls related to lead paint in toys, toxic chemicals in baby bottles and other health concerns prompted the Consumer Product Safety Commission to impose new certification and testing requirements for a host of imported products.

The new rules took effect late last year under the Consumer Product Safety Improvement Act (CPSIA). They cover a range of products, from children's toys to consumer fireworks.

For years I have been urging clients to adhere to independent testing under the Product Design Evaluation system. Now, it's the law.

I worked with an inventor who was about to place an order with a factory in China for a children's toy, and had just found out about this new law.

The inventor had no idea that the product would need testing – let alone a General Conformity Certificate (GCC) – to be able to import the product into the United States. She thought everything would be fine because similar products had been on the market for years.

We were able to advise the factory that we could not place the order until we addressed safety issues. We got the wheels rolling with the design evaluation, obtained the necessary information to have the certificate created with proper production testing and corrected the situation before all hell broke loose.

Another client had an invention already in production when we had to halt manufacturing. After the design evaluation, we had to modify the prototype, engage in product testing, change pricing and some of the components and issue a revised purchase order. Very

much a cascading chain reaction.

You get the picture. In some cases you must start from scratch, often creating production and launch delays of at least four to eight weeks, not to mention the additional charges for these extra steps.

The Consumer Product Safety Commission's Web site offers information to help with GCCs. The certificates must be based on third-party testing, with all fields in English.

The following also must be included: identity of importer, manufacturer (or private labeler), testing lab information, date/place of manufacturing and product testing. New, permanent tracking labels also are required for most children's products.

Without these certificates, your shipment of many consumer (and all children's) products cannot be imported or sold in the United States. The GCC must accompany your shipment and available for officials with Customs and Border Protection and the Consumer Product Safety Commission, if requested. Failure to obtain this certification, or filing of false certificate, can land you in a ton of trouble, including possible civil and criminal penalties. It also must be made available to distributors and retailers.

If certain imported products don't have a General Conformity Certificate, U.S. officials can destroy them upon arrival.

One good thing is that all of this red tape, though cumbersome, will help you obtain product liability insurance – something every new business owner manufacturing and selling consumer products should have. In this case you really will be better safe than sorry. ■

BOOKMARK THESE

www.cpsc.gov

Official site for the Consumer Product Safety Commission. Click on the green bar in the center of the homepage, "Information on the Consumer Product Safety Information Act (CPSIA)."

<http://cpsc.gov/about/cpsia/overview.html>

A direct link to an overview of the CPSIA.

<http://cpsc.gov/about/cpsia/accredited.html>

Make sure the independent safety/testing lab you use is accredited.

<http://www.cpsc.gov/cgi-bin/regs.aspx>

To review product safety standards.

<http://www.cpsc.gov/BUSINFO/reg.html>

Check the CPSC's list of regulated products here. Know that if your product is a new invention, odds are you won't find it on this list.

When in doubt... Contact a legal firm well-versed in this new regulation. I recommend Gonzalez, Rolon, Valdespino & Rodriguez, www.exportimportlaw.com/#SlideFrame_1 and Sandler, Travis & Rosenberg, P.A., www.strtrade.com/str_home.aspx.