



we wear® product safety

October 31, 2014

Office of the Secretary
Consumer Product Safety Commission (CPSC)
Room 820
East West Highway Bethesda, Maryland 20814

RE: WORKSHOP ON ELECTRONIC FILING OF CERTIFICATES AS INCLUDED IN PROPOSED RULE ON CERTIFICATES OF COMPLIANCE [DOCKET NO. CPSC-2013-0017]

On behalf of the American Apparel & Footwear Association (AAFA), I am writing in response to the request for comments by the Consumer Product Safety Commission (CPSC) regarding 16 CFR 1110, [Docket No. CPSC – 2013-0017] regarding the proposed rule that would amend the existing regulation on certificates of compliance.

AAFA is the national trade association representing the apparel and footwear industry including its suppliers, manufacturers, retailers, and service providers. Our members produce and sell products that touch every American – clothing and shoes. Our industry accounts for more than four million U.S. employees and more than \$361 billion in retail sales each year.

We appreciate the Commission's decision to delay final rulemaking on the 1110 rule and conduct a public workshop in response to stakeholder concerns regarding the proposed rule. We believe the workshop demonstrated the industry's commitment to consumer product safety and its commitment to working with the CPSC on the furtherance of shared goals of risk reduction and hazard avoidance.

AAFA and its members believe the current certificate and import procedures are working well and further public safety without being an undue burden on apparel and footwear companies. AAFA believes that any changes proposed by the CPSC must clearly demonstrate a significant improvement in public safety to justify the additional costs and burdens that would be imposed on industry.

With this in mind, we offer the following comments regarding electronic filing of certificates of compliance:

AAFA is concerned by the CPSC's proposal to require electronic filing of certificates of compliance for regulated imported consumer products with U.S. Customs and Border Protection (CBP) at the time of filing the entry and entry summary.

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At a minimum, we believe this requirement contravenes the CPSIA, which calls for general certificates of compliance (GCCs) to be submitted “*upon request*,” suggesting that GCCs need not be submitted with each shipment. While the CPSIA does envision the possible development of a rule providing for advance electronic filing of GCCs, that provision also echoes the “*upon request*” language.

Further, this requirement is unworkable, inasmuch as CBP’s Automated Commercial Environment (ACE) functionality for cargo release is not yet fully developed, nor is the software even contemplated that would allow the GCC to be filed in the manner proposed by CPSC. It is worth noting that five years ago when it wrote the CPSIA, Congress declined to require advance electronic submission because of these same constraints. The proposed rule itself calls attention to this deficit by noting “...such a requirement may require software upgrades by CBP, CPSC, and stakeholders that must be completed in stages.”

The proposed amendment also seems to contravene President Barack Obama’s, February 19, 2014, Executive Order on “Streamlining the Export/ Import Process for America’s Businesses” which requires the U.S. government to complete the International Trade Data System (ITDS) by December 2016.

In addition, the new requirement will lead to confusion among product safety stakeholders. For example, will the certificates be required for the right to make entry of the imported products? Will the lack thereof permit CBP to deny entry of the products into the United States? Additionally, if the certificates will now be a component of the entry process for imported merchandise, will they be subject to CBP’s rules for entry documentation, record keeping, and penalties, which are separately regulated and enforced from CPSC’s rules? These are a few unresolved questions raised by this proposal. Stakeholders in the apparel and footwear industry would encourage the Commission to consider and address before proceeding.

Furthermore, the increase in entry documents will create significant new processing and resource demands on both the regulated community as well as the enforcement community. The surge of entry documents, almost entirely on products that are compliant with product safety rules, will add increasing costs to both companies and agencies. Processing times will increase, as CBP will have to rely upon manual release for a huge number of entries that are currently released electronically. The increase in backlogs could magnify across ports, especially during peak seasons.

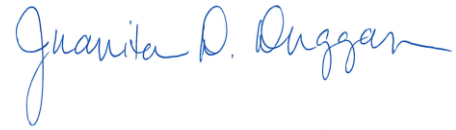
Finally, we suggest that CPSC consult closely with colleagues in CBP who are increasingly migrating to a “trusted trader” model through the Importer Self-Assessment (ISA) and the Customs Trade Partnership Against Terrorism (C-TPAT) programs. These models recognize that importers are on the front lines of import safety and are key partners in efforts to protect the homeland and manage risk. Moreover, CBP has rolled out new Centers for Excellence and Expertise (CEE) in a variety of consumer products, including apparel and footwear, to ensure smooth processing of entries and to coordinate with other government agencies (OGAs). We believe the proposed CPSC regulation works at cross purposes with these models.

Conclusion

Again, thank you for the opportunity to provide comments. As stated, AAFA believes the public workshop was a step in the right direction, and we are pleased to have the opportunity to work with the CPSC on this issue. However, the concerns that we and many others voiced regarding the proposed rule should give CPSC pause before proceeding to a final rule.

Thank you for your time and consideration in this matter. Please contact Danielle Iverson of my staff or at 703.797.9039 or by email at diverson@wewear.org if you have any questions or would like additional information.

Sincerely,

A handwritten signature in blue ink that reads "Juanita D. Duggan". The signature is written in a cursive style with a long, sweeping underline.

Juanita D. Duggan