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**MEMORANDUM**

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**CPSC ISSUES GUIDANCE ON CERTIFICATES OF COMPLIANCE**

By: David J. Evan, Esq.

The Consumer Product Safety Commission ("CPSC") today issued a final rule, effective immediately, clarifying the requirement for compliance certificates<sup>1</sup>. In this notice the CPSC states that it expects every company "to make best efforts to comply promptly with the new general certificate requirements" but also acknowledges that there are many aspects of the new requirement which still must be clarified. Therefore, the requirements have been "streamlined" as noted below. The CPSC further states that "importers should be aware that after this initial period of adjustment, failure to abide by the certificate requirement will subject shipments to refusal of admission into the country and potential destruction".

1. **Only the Importer Must Issue Certificate** – The rule designates the importer as the sole entity that must issue the certificate with regard to imported products. Significantly, it appears that manufacturers and private labelers will not be subject to this requirement until further notice.
2. **Availability** – The certificate, in hard copy or electronic form, must be available to the CPSC no later than the time when the product or shipment is available for inspection in the U.S. The CPSC states that an electronic certificate that can be reasonably accessed by the CPSC as well as distributors and retailers satisfies the requirement of "furnishing" the certificate to these entities.<sup>2</sup>
  - a. The certificate must be in English and created prior to arrival into U.S. domestic commerce
  - b. An electronic certificate must have a means to verify the date of its creation or last modification.
3. **For Domestically Produced Products** - Only the domestic manufacturer must issue the certificate. The certificate must be made available to the CPSC upon request before the product or shipment is introduced into domestic commerce.

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<sup>1</sup> The CPSC now refers to General Conformity Certifications as "certificates of compliance".

<sup>2</sup> The CPSC cites a unique identifier that can be accessed via a world wide web URL or other electronic means, provided the URL, etc. are available to the CPSC immediately when the shipment is available for inspection in the U.S.

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4. **Revised Content of Certificate:** The rule now requires only the following information to be on the certificate:
- a. Identification of the product covered by the certificate;
  - b. Citation to each CPSC regulation to which the product is being certified;
  - c. Identification of the importer (or domestic manufacturer, as applicable) certifying compliance (including name of company, full mailing address, and phone number).
  - d. Contact information for individual maintaining the test results, including the person's name, email address, full mailing address, and phone number.
  - e. Date (at least month and year) and place (including city and country or administrative region) where the product was manufactured. If the same manufacturer operates more than one location in the same city, the street address of the factory in question should be provided.
  - f. Date and place (including city and country or administrative region) where the product was tested for compliance with the cited regulation.
  - g. Identification of any third-party lab on whose testing the certification depends, including name, full mailing address and phone number.

**Based on this new rule, it now appears that the name of the manufacturer is no longer required on the certificate.**

5. **Responsible Party** – The certifying entity (i.e., the importer or domestic manufacturer) remains legally responsible for the accuracy and completeness of the required certificate information and its availability in a timely fashion.
6. **Recordkeeping** - CPSC recommends that each issuer maintain test records supporting the certification for at least three years

The CPSC will consider at some later date whether this rule needs to be revised based on actual experience. Please contact us for additional details regarding these requirements.

**GENERAL CONFORMITY CERTIFICATE  
FOR  
CONSUMER PRODUCT SAFETY IMPROVEMENT ACT**

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**IMPORTER/DOMESTIC MANUFACTURER**

**PERSON MAINTAINING RECORDS**

Tel. No.:

E-mail:  
Tel. No.:

**Sample Description:**

Manufacturer:  
Place of Manufacture:

Style No(s):

Country of

Origin:

Date of Manufacture :

Reference No.:

Reasonable testing according to CPSIA

Date of Testing:

I (we) hereby certify that the product contained within this shipment complies with all applicable rules, bans, regulations and standards enforced by the CPSC.

The following rules, bans, standards and regulations apply for this product:

CPSC product Category	Test Description	Law/ Act	Federal Regulations Title16CFR Part No.
Wearing Apparel	Wearing Apparel Flammability	FFA	16 CFR 1610
Lead in Paint	Lead in Surface Coating	CPSA	16 CFR 1303

Note: CPSA – Consumer Product Safety Act  
 FHSA – Federal Hazardous Substances Act  
 PPPA – Poison Prevention Packaging Act  
 RSA – Refrigerator Safety Act  
 FFA – Flammable Fabrics Act

## SAMPLE GENERAL CERTIFICATION OF CONFORMITY

### CERTIFICATION OF COMPLIANCE

1. Identification of the product covered by this certificate:
  
2. Citation to each CPSC product safety regulation to which this product is being certified:
  
3. Identification of the U.S. importer or domestic manufacturer certifying compliance of the product:
  
4. Contact information for the individual maintaining records of test results:
  
5. Date and place where this product was manufactured:
  
6. Date and place where this product was tested for compliance with the regulation(s) cited above:
  
7. Identification of any third-party laboratory on whose testing the certificate depends:

*This form of certificate and instructions are staff interpretations and do not replace or supersede the statutory requirements of the new legislation. They were prepared by CPSC staff, have not been reviewed or approved by, and may not necessarily reflect the views of, the Commission. They may be subject to change based on Commission action.*

Instructions for completing the General Certification of  
Conformity

General Instructions. This sample shows the information that is required for an acceptable certification required by section 14(g) of the Consumer Product Safety Act, 15 U.S.C. § 2063(g).

The required information must be provided in English.

Item 1: Describe the product covered by this certification in enough detail to match the certificate to each product it covers and no others.

Item 2: The certificate must identify separately each rule, ban, standard or regulation under the Acts administered by the Commission that is applicable to the product.

Item 3: Provide the name, full mailing address, and telephone number of the importer or U.S. domestic manufacturer certifying the product.

Item 4: Provide the name, full mailing address, e-mail address and telephone number of the person maintaining test records in support of the certification.

Item 5: Provide the date(s) when the product was manufactured by at least month and year. For the place of manufacture provide at least the city and country or administrative region of the place where the product was finally manufactured or assembled. If the same manufacturer operates more than one location in the same city, provide the street address of the factory.

Item 6: Give the date of the tests or test report(s) on which certification is being based and the location(s) of the testing.

Item 7: If a third-party laboratory tested the product or conducted a testing program on which the certification is based, give the name, full mailing address and telephone number of the laboratory.

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**Q. Can electronic certificates be used to meet the requirements of Section 102 rather than paper?**

A. The Commission has issued a rule specifically allowing use of an electronic certificate provided the Commission has reasonable access to it, it contains all of the information required by section 102 of the CPSIA, and it complies with the other requirements of the rule. The rule is available on the CPSC World Wide Web site at <http://www.cpsc.gov/businfo/frnotices/fr09/certification.pdf>

**Q. Who must issue the certificate?**

A. Under the Commission's rule at <http://www.cpsc.gov/businfo/frnotices/fr09/certification.pdf> for products manufactured overseas, the certificate must be issued by the importer. For products produced domestically, the certificate must be issued by the U.S. manufacturer. Neither a foreign manufacturer nor a private labeler is required to issue a certificate. Neither need be identified on the certificate issued by the importer or domestic manufacturer.

**Q. Must each shipment be "accompanied" by a certificate?**

A. Yes, the law requires that each import (and domestic manufacturer) shipment be "accompanied" by the required certificate. The requirement applies to imports and products manufactured domestically. Under the rule issued by the Commission an electronic certificate is "accompanying" a shipment if the certificate is identified by a unique identifier and can be accessed via a World Wide Web URL or other electronic means, provided the URL or other electronic means and the unique identifier are created in advance and available with the shipment. Certificates can also be transmitted electronically to a broker with other customs entry documents before a shipment arrives so long as they are available to the Commission or Customs and Border Protection staff if the product or shipment is inspected.

**Q. Is the importer or U.S. manufacturer required to supply the certificate to its distributors and retailers?**

A. Yes. The importer or U.S. manufacturer is required to "furnish" the certificate to its distributors and retailers. The Commission's rule states that this requirement is satisfied if the importer or U.S. manufacturer provides its distributors and retailers a reasonable means to access the certificate.

**Q. Must the certifier sign the certificate?**

A. No. Issuing the certificate satisfies the new law. It does not have to be signed by the issuer.

**Q. On what does my certification have to be based?**

A. The general conformity certification must be based on a test of each product or a reasonable testing program.

**Q. Where must these certificates be filed?**

A. A certificate does not have to be filed with the government. As noted above, the certificate must "accompany" the product shipment, and be "furnished" to distributors and retailers, and be furnished to CPSC upon request.

*These FAQs are unofficial descriptions and interpretations of various features of CPSIA and do not replace or supersede the statutory requirements of the new legislation. These FAQs were prepared by CPSC staff, have not been reviewed or approved by, and may not necessarily reflect the views of, the Commission. Some FAQs may be subject to change based on Commission action.*