CPSC Meeting Log: Express Association of America

CPSC Attendees	Commissioner Mary Boyle Eva Caldera
Date of Meeting	October 15, 2024
Date of Log Creation	October 16, 2024
Log Creator	Jacob Murray

ATTENDEES	AFFILIATION
Alan Majchrzak	DHL
Benny Fields	DHL
Alex Laytin	FedEx
Carlos Serrano	UPS
Ralph Carter	FedEx
Amgad Shehata	UPS
Michael Mullen	EAA
Matt Lavoie	DHL
Observers	**AFFILIATION**
N/A	

MEETING NOTES:

Participants from EAA presented the materials in the attached documents.

October 14, 2024

EXPRESS INDUSTRY COMMENTS ON
THE PROPOSED CPSC RULE ON CERTIFICATE OF CONFORMITY

- The express industry has a long history of close cooperation with the Consumer Product Safety Commission (CPSC) and strongly supports the Commission's mission to interdict products that pose a health and safety threat to the American people.
- Express Association of America (EAA) members DHL, FedEx and UPS consistently provide high quality, comprehensive information on all shipments entering the country through express channels that allows CPSC, in cooperation with U.S. Customs and Border Protection (CBP), to conduct accurate risk assessments and segment out products required for other partner government agencies' (PGA) review.
- For several years, CPSC has been developing a rule to automate reporting of the agency's Certificate of Conformity, which provides information on a manufacturer's process for testing products regulated by the CPSC and having their safety validated by a qualified laboratory. Currently, the Certificate, a paper form, only needs to be provided to CPSC upon request for shipments the agency wishes to examine.
- EAA members have conducted several meetings with CPSC to discuss the implications of this rule and the issues involved in implementing it in the express environment of high volume, low value shipments. Several concerns were raised in these discussions, including:
    - CPSC has proposed that the importer would be responsible for reporting the Certificate of Conformity information, but in the e-commerce environment identifying the party with the requisite knowledge to certify the data is difficult.
    - Neither an express delivery operator nor an individual consumer, the consignee, have the information required for the Certificate.
    - While the manufacturer or seller of an e-commerce product may have the knowledge to provide the Certificate information, that party will likely be a foreign entity that only can be identified by the emarketplace with which the seller has a relationship for distribution of the goods to a consumer. Therefore, we feel the emarketplace should have the primary responsibility to ensure the certificate of compliance information is reported for e-commerce shipments. In the Decision and Order issued in July this year, CPSC found that an emarketplace was the distributor of products regulated by the agency and responsible for the recall of defective products.
- The Beta Pilot CPSC conducted this year did not include testing the real-world application of the rule to e-commerce direct-to-consumer shipments handled by the express industry, as well as by brokers, other logistics providers, and the U.S. Postal Service. Over four million of these shipments enter the United States daily for delivery to U.S. businesses and citizens.
- We understand CPSC has identified over 2500 product classifications (harmonized tariff system (HTS) numbers) for which the automated certificate information *may* be required. The number of these products CPSC intends to collect Certificates for is a significantly smaller percentage of that total. Nevertheless, as understood today, CPSC would require that an entry be filed for any de minimis shipment covered by one of the 2500 HTS codes, only so the importer can disclaim it. This process would negatively impact express operators that clear de minimis shipments off the manifest

and add unnecessary costs throughout the supply chain, including for importers and consumers. Because of the unique capabilities express operators have at flagging shipments within their networks, we would like to work with CPSC to identify an alternative solution to needing to file unnecessary entries.

- Specifically for disclaimed products, the filing of a manifest could be treated inherently as a disclaim. This could occur after all shipments on the manifest known to be regulated by CPSC have been segmented out and had entries filed on them.
  or
- The Commission could identify specific commodities for which it does not need Certificates.
  or
- CPSC could consider mirroring other PGAs that have different methods for managing large directories of regulated commodities without having to resort to entry filings for low value shipments, such as:
  - The Food and Drug Administration identifies those low-risk commodities it does not need to subject to further scrutiny and allows clearance off the manifest; and
  - Animal and Plant Health Inspection Service's category-by-category implementation of the new Lacey Act declaration requirements was phased in over many years.

- To begin to address the concerns enumerated above, EAA strongly recommends that a long implementation period of informed compliance be included in the new rule to allow the testing of its application in high-volume environments, which testing has not been conducted to date. This period should extend at least one year or longer.
- EAA fully supports the rationale for the new rule on automation of the Certificate of Conformity. With sufficient time to work with CPSC and find solutions to the numerous challenges to implementing the rule in high-volume, low-value shipment environments, we are confident that approaches can be found that are operationally feasible and also meet the CPSC's mission requirements.

CSMS# 17-000388 - Update to Food and Drug Administration Related Low Value Shipments

U.S. Customs and Border Protection sent this bulletin at 07/03/2017 02:17 PM EDT

You are subscribed to Automated Broker Interface for U.S. Customs and Border Protection. This information has recently been updated, and is now available.

CSMS# 17-000388 - Update to Food and Drug Administration Related Low Value Shipments

07/03/2017 02:07 PM EDT

Automated Broker Interface

The US Food & Drug Administration (FDA or the Agency) is updating previously issued information to clarify FDA expectations for the submission of shipments qualifying under Section 321 of the Tariff Act of 1930 containing FDA-regulated articles; i.e. those valued at $800 or less ("Section 321" or "de minimis" shipments).

On December 15, 1994, FDA identified five categories of regulated products which could be released by CBP without notification to FDA for the purposes of determining entry admissibility, if they were valued at or below the then de minimis level of $200 (see CSMS #94-001260, "FDA LOW VALUE SHIPMENTS").

On March 9, 2016, CBP informed stakeholders of the de minimis value increase from $200 to $800 in CSMS #16-000181 (effective March, 10, 2016). This program change was implemented based on Section 321 validations.

Although the de minimis value has changed, FDA has not previously updated CSMS #94-001260. FDA revised the Regulatory Procedures Manual (RPM) Chapter 9, section 1 (https://www.fda.gov/downloads/ICECI/ComplianceManuals/RegulatoryProceduresManual/UCM074300.pdf) to reflect the new de minimis value of $800; however, based on conversations with stakeholders, FDA reporting requirements for de minimis shipments were unclear given FDA's legacy CSMS messages on such low value shipments.

By virtue of this message, FDA is providing notification that CSMS #94-001260 applies to the same five product categories valued at or below the current de minimis level: for those same five product categories, a release may be issued without notification to FDA for the purposes of determining entry admissibility under section 801(a) of the Federal Food, Drug & Cosmetic Act (the Act), if the shipment is valued at or below the current de minimis level (currently $800). Those five product categories are:

•Cosmetics;

•Dinnerware (including eating and/or cooking utensils);

•Radiation emitting, non-medical devices (e.g. microwaves, televisions, CD players, etc.);

•Biological samples for laboratory testing; and,

•Food, excluding ackees, puffer fish, raw clams, raw oysters, raw mussels, and foods packed in air tight containers intended to be stored at room temperature.

Also by virtue of this message, FDA is providing notification that CSMS #95-000090 (issued January 27, 1995) is rescinded. FDA rescinds CSMS #95-000090 because the instructions therein for electronic declarations are no longer applicable due to implementation of ACE.

The 801(m) prior notice requirements must continue to be met on all food and feed shipments regardless of value or quantity. Unless otherwise exempt from the prior notice requirements for one of the indicated reasons under 21 CFR 1.277(b)(https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfcfr/CFRSearch.cfm?fr=1.277, there are no exemptions based on a de minimis value or quantity of food.

FDA will continue to work on an updated low value strategy outlining which FDA-regulated products require notification to the Agency for determination of admissibility, regardless of the value of the shipment upon entry.

FDA is issuing this ABI message as part of our continued outreach efforts to assist the importing community in realizing the benefits of the Automated Commercial Environment (ACE); please make this information available to importers of record, consignees, manufacturers, shippers and other stakeholders that may be affected by the Agency's import program.

Questions related to the FDA reporting requirements for de minimis shipments may be submitted to FDA's Division of Import Operations at (301) 796-0356 or FDAImportsInquiry@fda.hhs.gov.

Additional References regarding TFTEA and relevant 19 CFR section:

TFTEA-Increase in the De Minimis Value Exemption:
https://www.cbp.gov/document/fact-sheets/tftea-increase-de-minimis-value-exemption

19 CFR Section 10.151: http://www.ecfr.gov/cgi-bin/text-idx?SID=5b95595ce7f08b949577e28c599334ed&mc=true&node=se19.1.10_1151&rgn=div8

Related CSMS No. 94-001260, 16-000181 , 95-000090