Blasius Consulting LLC

Consumer Product Safety –
Is your Compliance Program Adequate?

Quality Certification Alliance

November 13, 2017 Webinar

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Views expressed in this presentation are those of Dennis Blasius and do not necessarily represent the views of the CPSC

Agenda

- **Who Is the CPSC?**
- What Does the CPSC Do to Ensure Unsafe Products Do Not Reach U.S. Consumers?
- Product Safety Requirements: Testing & Certification
- E-Commerce Sales to U.S. Consumers & Distributors
- Designing Safety into Your Products

Who is the U.S. Consumer Product Safety Commission?

CPSC is a federal government agency charged with protecting the public from unreasonable risks of injury or death associated with the use of the thousands of types of consumer products under the agency's jurisdiction.

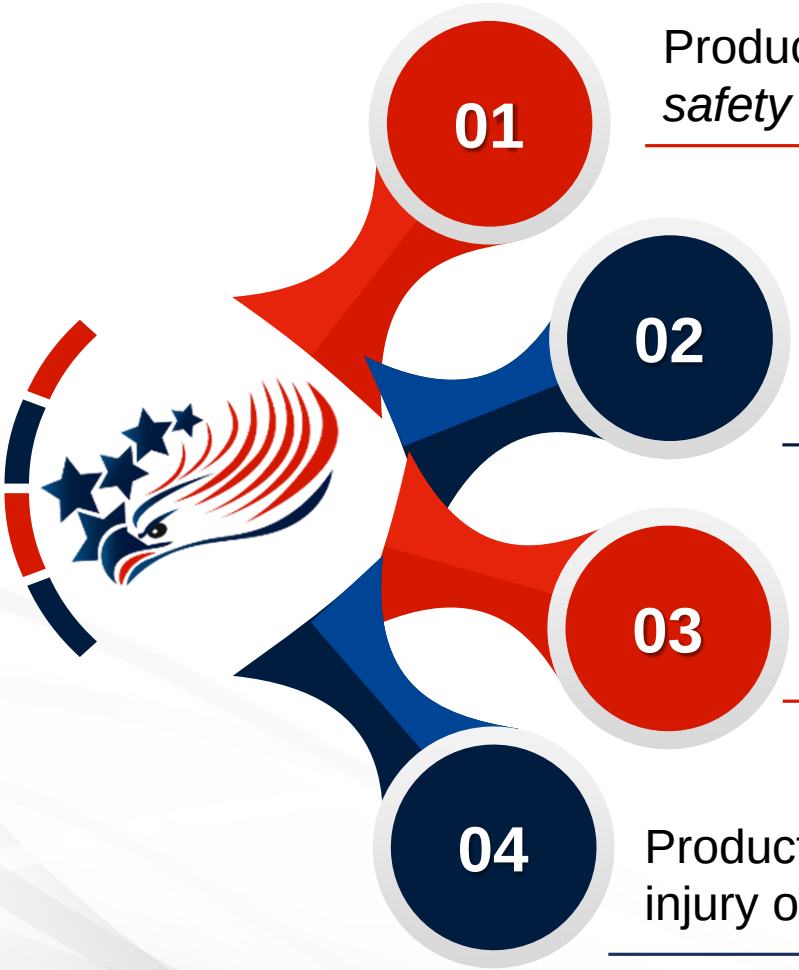
$1 Trillion

Deaths, injuries, and property damage from consumer product incidents cost the nation more than $1 trillion annually.

CPSC is committed to protecting consumers and families from products that pose a fire, electrical, chemical, or mechanical hazard.

CPSC's work to ensure the safety of consumer products - such as toys, cribs, power tools, cigarette lighters, and household chemicals - contributed to a decline in the rate of deaths and injuries associated with consumer products over the past 40 years.

What Is CPSC's Focus?



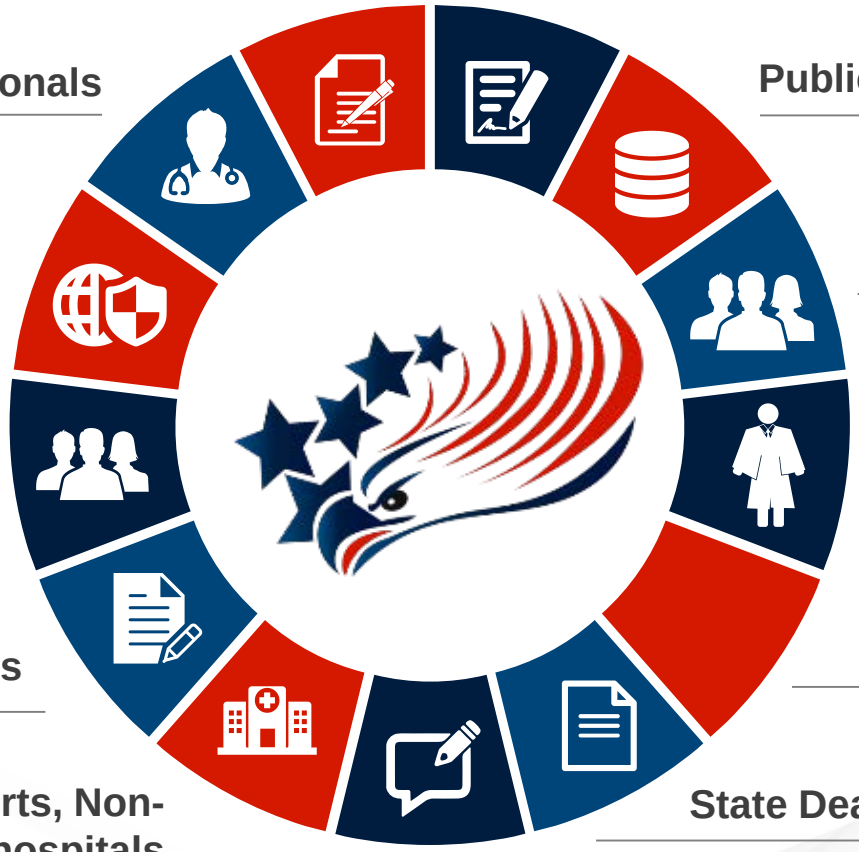
Products that fail to comply with a *mandatory safety standard or ban* under the Acts

Products that fail to comply with voluntary/ consensus standards relied upon by the Commission

Products containing a defect which could create a "substantial product hazard"

Products that create an "unreasonable risk" of serious injury or death

Source Data



Trade Complaints

Hot Line reports

Medical Professionals

Public Database

Internet Surveillance

Civic Groups

Consumers

Attorneys

MECAP Reports

Retailers

Fire & police reports, Non-MECAP coroners, hospitals

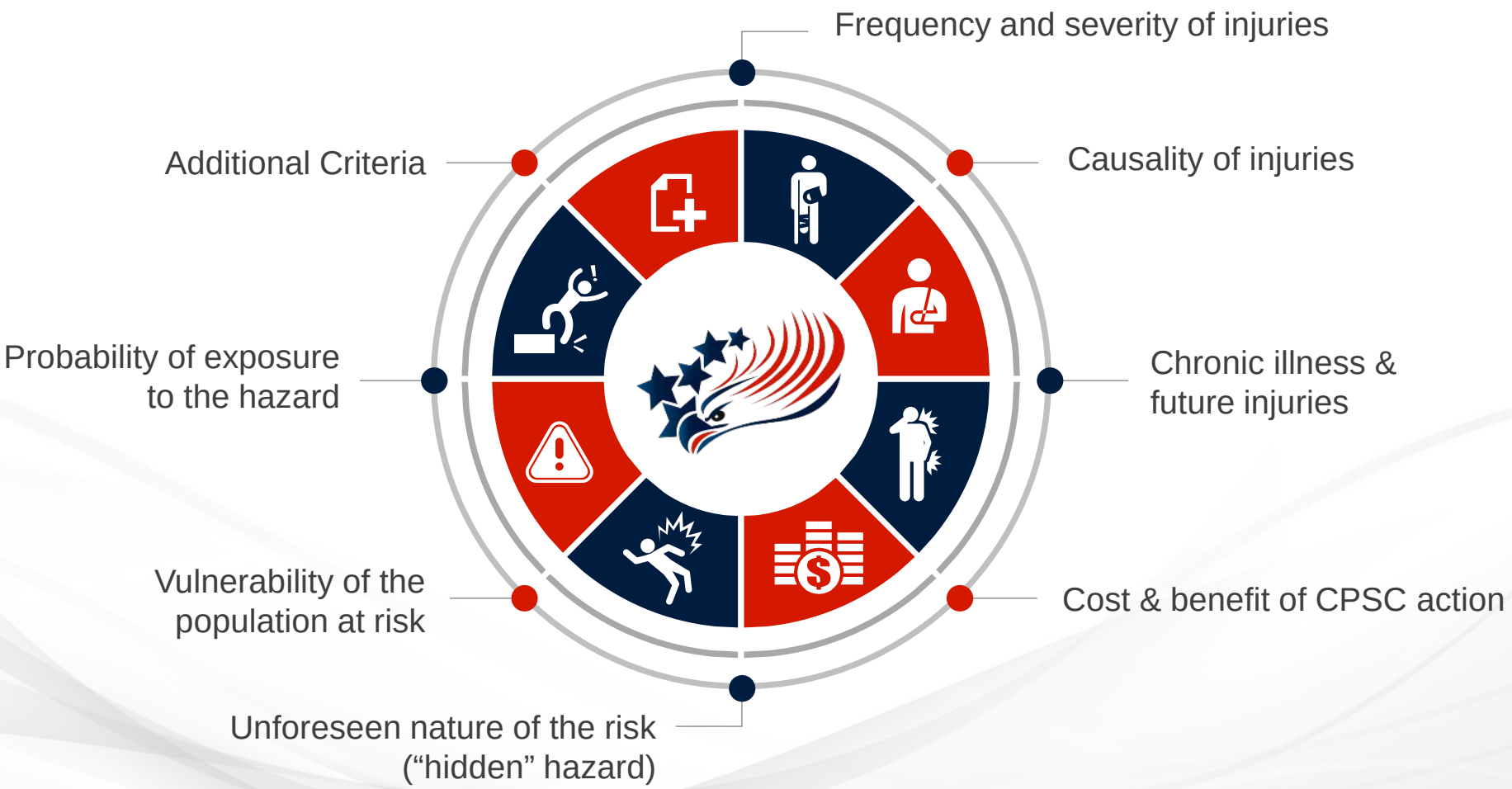
State Death Certificates

Newspapers, radio, television, Internet, trade blogs, etc.

Integrated Team Approach

CPSA 16 C.F.R. Section 1009.8 Criteria

Eight general criteria to be applied for establishing priorities:



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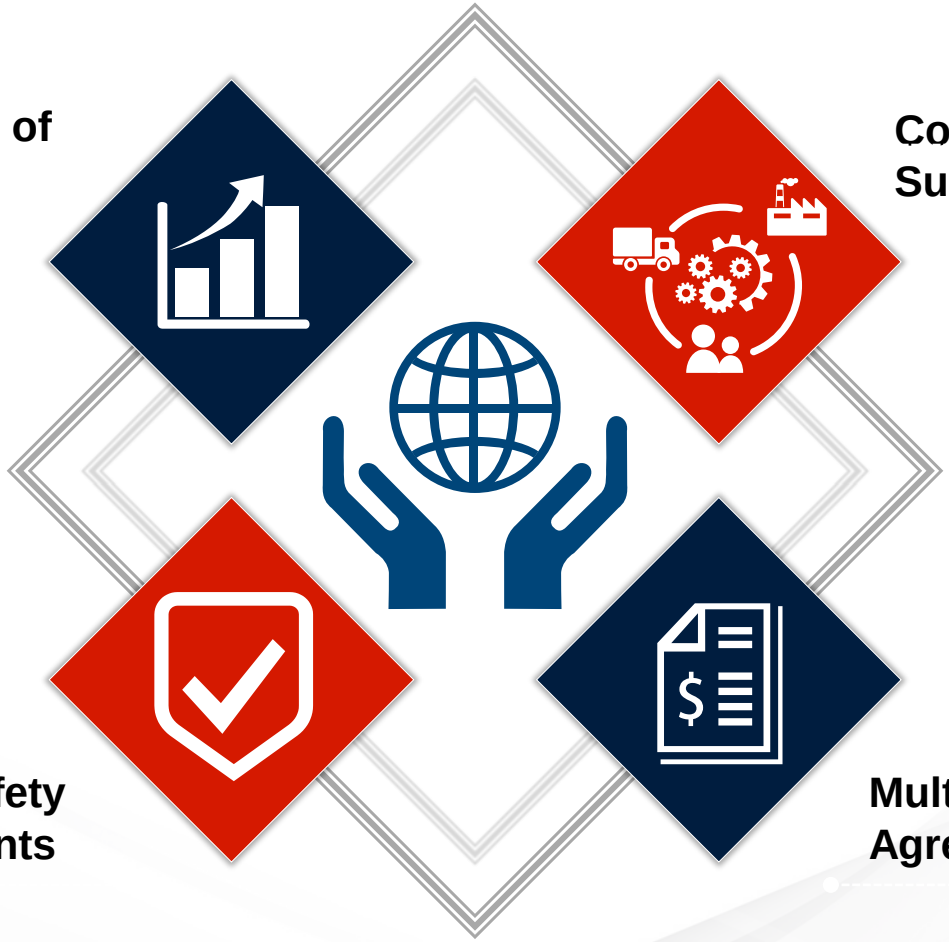
Global Challenges

Rising Number of Regulations

Complex & Dynamic Supply Chains



Uneven Safety Requirements

Multiple Trade Agreements

Marketplace Surveillance

Retail

Program plan for regulated products, surveillance for defects and other risks

Internet

Check for conformity with regulations and for recalled products

Ports & Airports

› *Investigators at key ports of entry*
› *Analysts identify most likely at-risk products*

Marketplace Surveillance

Commercial Targeting and Analysis Center (CTAC)

FWS CPSC NOAA HSI NHTSA

CBP hosts 10 Federal Agencies at the CTAC

FDA PHMSA EPA APHIS FSIS

- *Partner agencies have signed a collective Memorandum of Understanding to share information and systems access.*
- *Other appropriate federal agencies may be added to CTAC in the future.*

ITDS / RAM Benefits

Port inspectors receive risk-scored entry data through CPSC systems for products of concern.

- *Policy*
- *Inherent Product Risk*
- *Supply Chain*
- *Violation History*
- *Recall History*

01

Allows for decisive action

02

Improve coordination with CBP on holds and exams

03

Improves coordination

Facilitates movement

04

CPSC National Product Testing & Evaluation Center Testing Areas

Toy Test Lab

Children's Products Lab

Pool & Spa Products Lab

Impact Lab (Bike Helmets)

General Product Test Lab

Outdoor Power Sports Lab

Electrical Products Test lab

Chemistry Lab

Combustion Products Test Lab

Modern Conference Space

Machine Shop

Flammability/Fire Test Lab

Exportation/Destruction/Seizure

Exportation/Destruction

- *Importer may ask to export or destroy at any time*
- *Exportation or destruction will occur under government supervision*

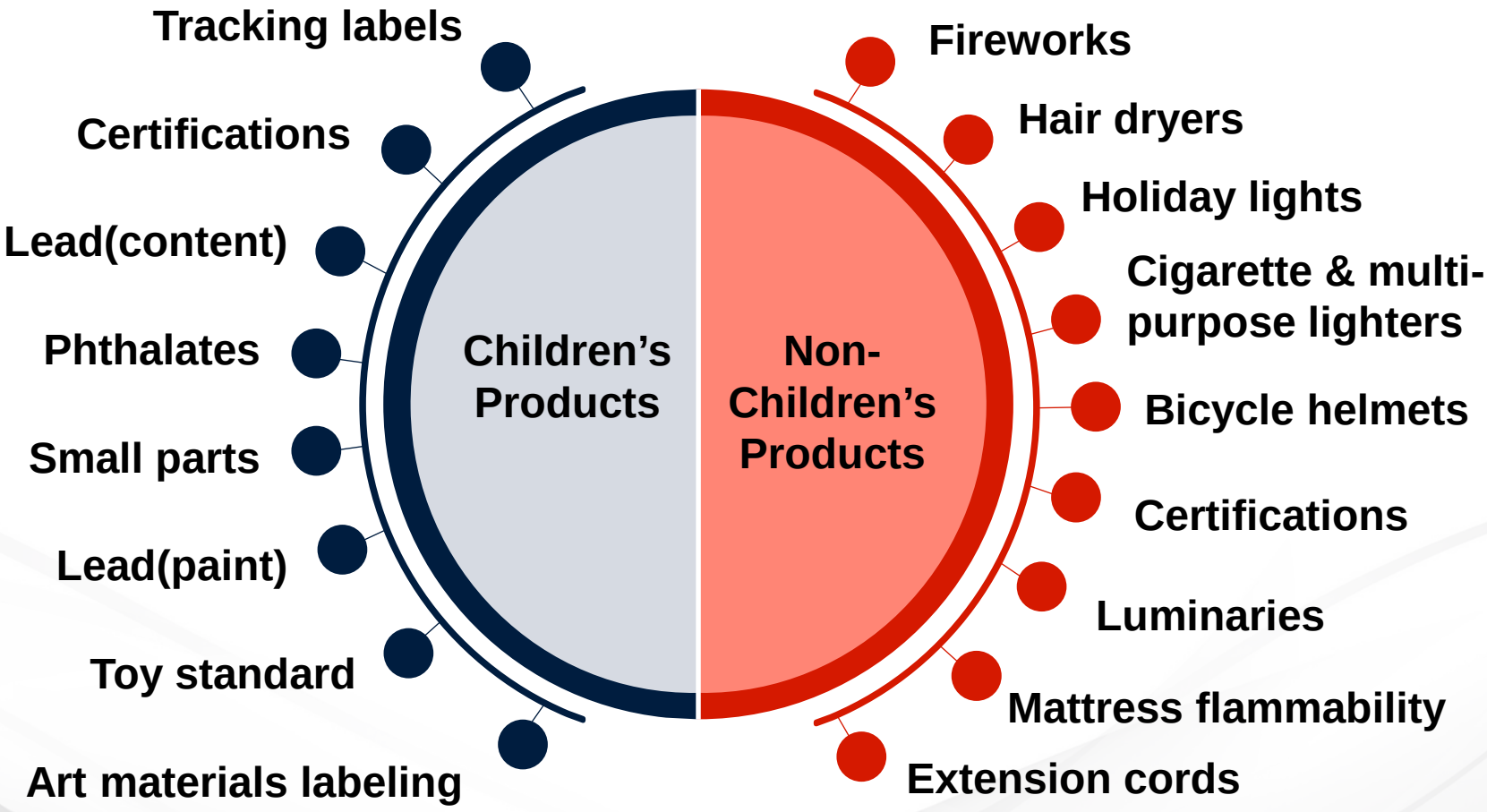
Seizure

- *CPSC can request CBP to seize the product*
- *Once seized, CBP takes over the process*
  - *Fines, Penalties and Forfeitures Office issues notice; CBP has authority to remit forfeiture upon terms and conditions deemed appropriate*

CPSC Letters of Advice

- Sent to firms with a regulatory violation
- Remedies vary:
  - Seizure most common, if it's a repeat offender and product cannot be reconditioned
  - Correct future production
  - Stop sale and correct future production
  - Distribution-level recall
  - Retail level-recall
  - Consumer-level recall
- Compliance inspections

Common Import Violations/Defects



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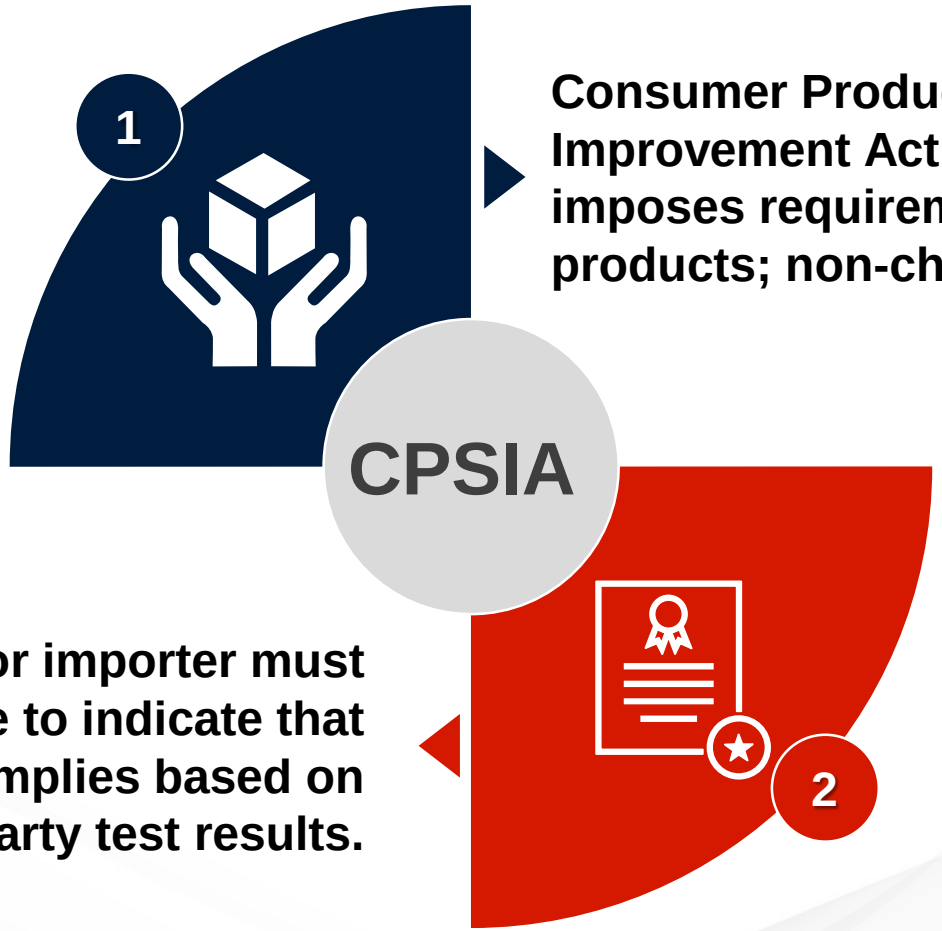
CPSIA Requirements

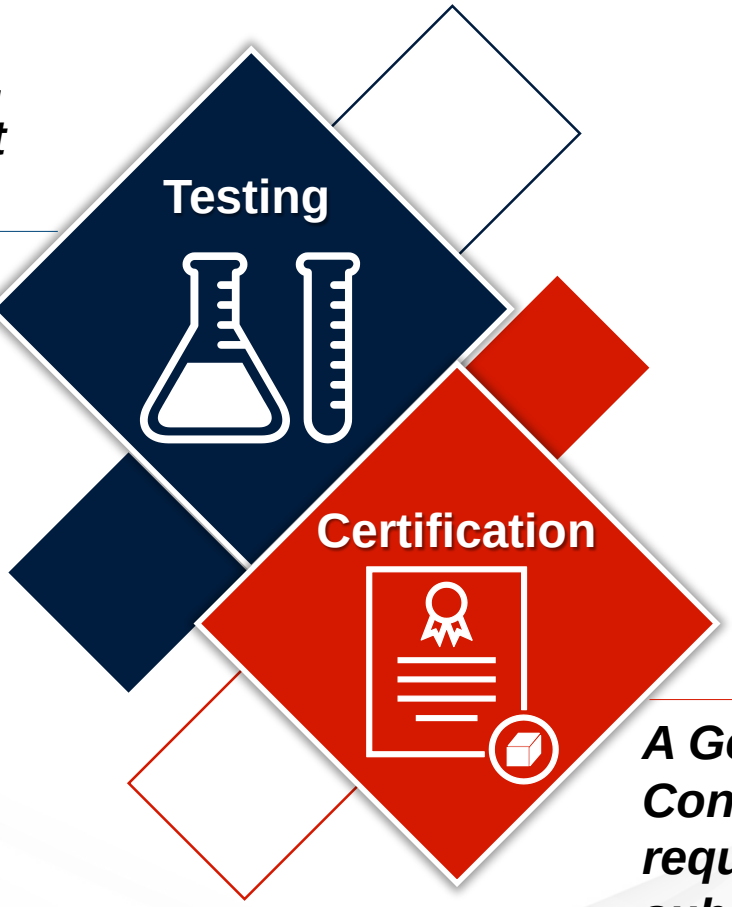


Consumer Product Safety Improvement Act of 2008 (CPSIA) - imposes requirements for consumer products; non-children's, & children's.

Manufacturer or importer must issue a certificate to indicate that the product complies based on third party test results.

CPSIA Requirements - General Use Products

Any laboratory can perform the testing for non-children's products. Third party testing is not required.

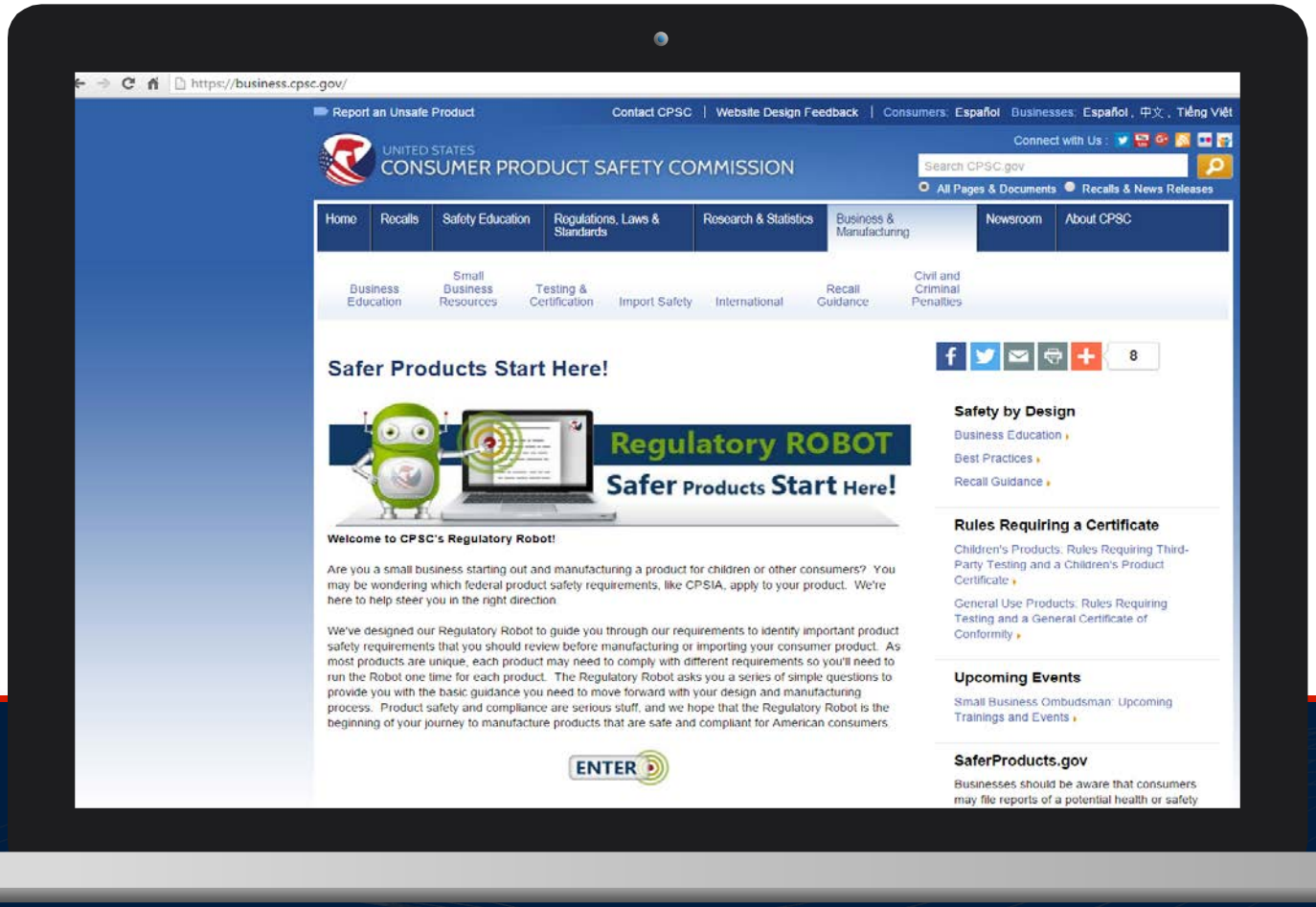


A General Certificate of Conformity (GCC) is required for all products subject to a rule, ban, standard, or regulation enforced by the CPSC.

CPSIA Requirements - Tracking Labels

Require manufacturers of children's products, to *the extent practicable*, *to place distinguishing marks on a product and its packaging* that would enable the purchaser to ascertain the *source, date, and cohort* (including the batch, run number, or other identifying characteristic) of production of the product by reference to those marks.

Regulatory Robot Welcome



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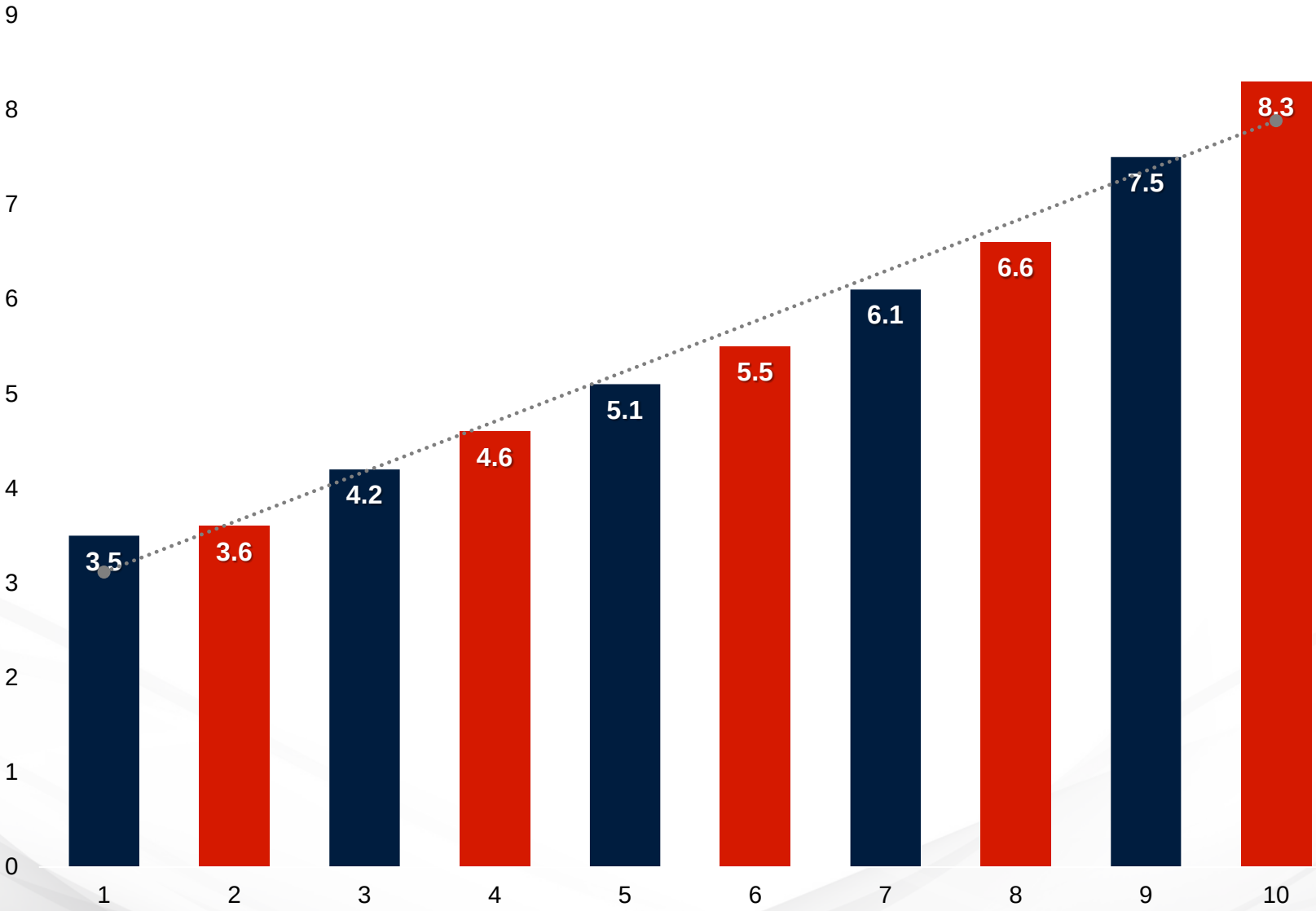
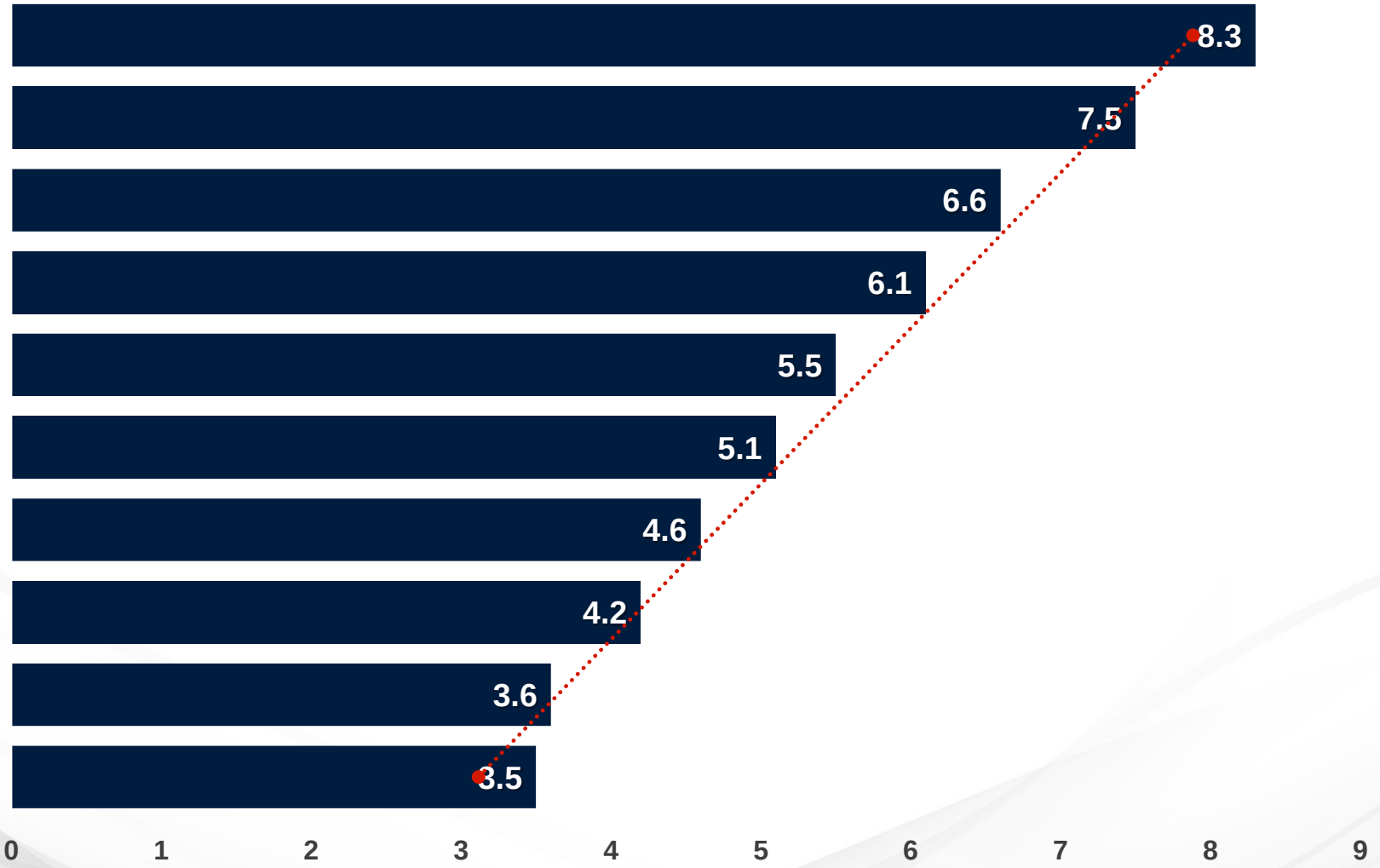
E-Commerce as a Percent of Retail Sales



Source: U.S. Census Bureau, Quarterly Retail E-Commerce Sales, Released February 17, 2017

E-Commerce as a Percent of Retail Sales



Source: U.S. Census Bureau, Quarterly Retail E-Commerce Sales, Released February 17, 2017

Common Internet-Related Activities

01 *Analyze consumer reviews to identify additional injury and death incidents.*

02 *Respond to trade complaints or consumer reports of potentially unsafe products being offered for sale.*

03 *Search for previously recalled or banned consumer products that are being offered for sale/re-sale*

04 *Identify new products as they are being introduced into the marketplace.*

05 *Purchase exemplar samples for testing.*

Identification & Removal of Hazardous Products

Identify
Identify Offers to Sell Consumer Products that have been Recalled or are Banned– Complaint Follow-Up or Keyword Searches

Research
Research Website Ownership &/ or Individual Seller

Caution
Request Voluntary Removal Of Sales Offer

Escalate
Request Website Management Removal of Sales Offer

Inspection
Inspection of Website Company/ Inventory

Legal Referral
Consider Possible Legal Action to Compel Compliance

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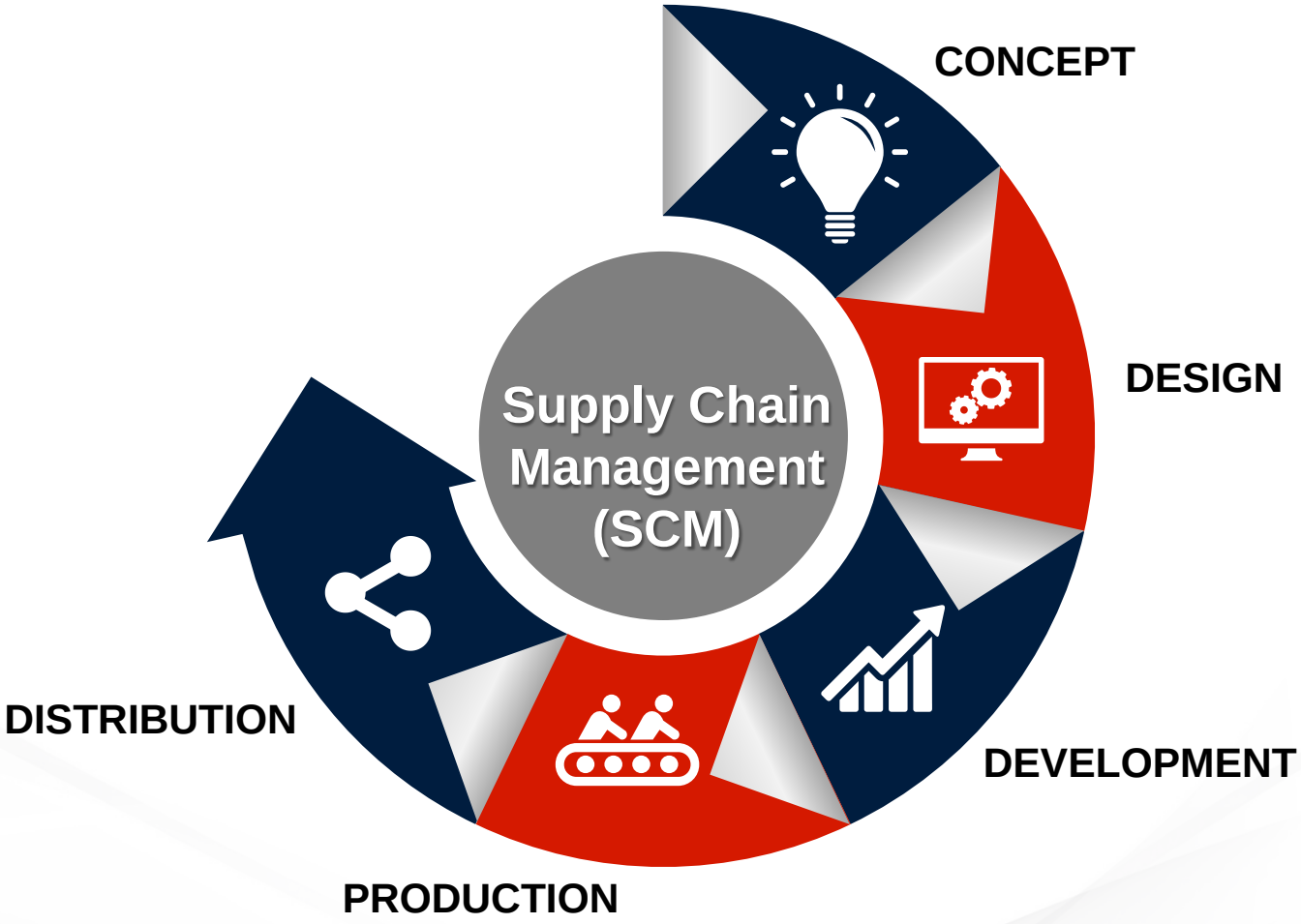
Design for the Supply Chain



Supply Chain Management is a process of obtaining information about the product throughout the entire product life cycle.

Establish a Compliance Program

Institute internal controls and procedures to capture appropriate data

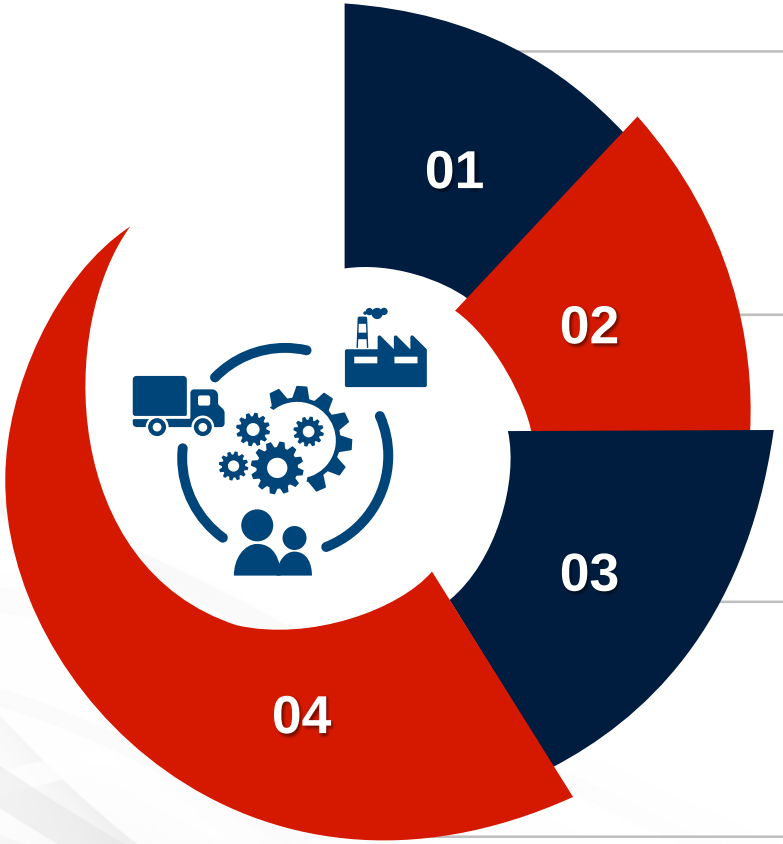
- *Returns from distribution chain*
- *Parts orders*
- *Consumer complaints, claims, lawsuits, online product reviews*
- *Retailer reports/feedback*
- *Incidents reported to/posted on SaferProducts.gov*

Disclose required information to regulators

Update and review controls & procedures

Provide employees with compliance training, and the mechanism to report issues

Supply Chain Management



Monitor the entire chain

Catch problems early in the process to minimize costly delays at the ports

Retailers asking for greater visibility into manufacturer's supply chains

Traceability is key! Know your suppliers

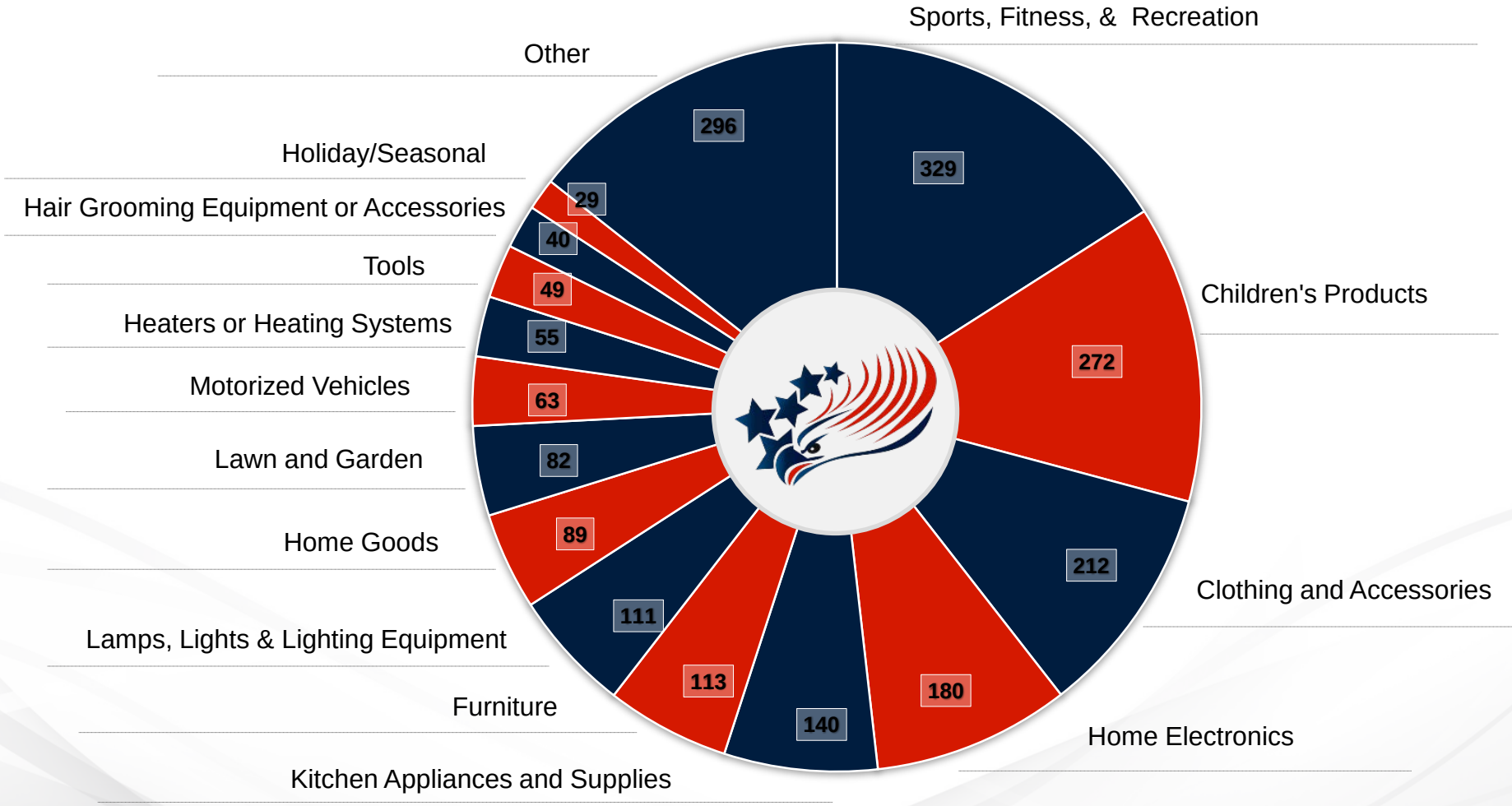
Identify Product Hazards

Know the Hazards Associated with your Product

- Strangulation
- Entrapment
- Positional Asphyxia
- Fall/Head Injury
- Choking/Ingestion/Aspiration
- Drowning
- Shock/Electrocution
- Fire/Burn
- Amputation
- Laceration
- Fracture
- Eye Injury
- Impalement
- Fall

Life Threatening/ Serious Injury

Recalls by Category (FY12-FY16)



Safety Culture

Reporting Under Section 15

The manufacturer, importer, distributor, or retailer is required to report immediately upon obtaining information which reasonably supports the conclusion that a product:

- *Fails to meet a rule, regulation, standard, or ban under the CPSA or any other statute enforced by the CPSC;*
- *Contains a defect which could create a substantial product hazard to consumers; or*
- *Creates an unreasonable risk of serious injury or death*

Corrective Action

[3] 15 U.S.C. § 2064(d).

Penalties

Any person who *knowingly* commits a violation is subject to a civil penalty. The CPSIA increased the civil penalty caps from $8,000 to $100,000 per individual violation, and from $1,825,000 to $15,000,000 for aggregate violations.

Criminal penalties (including felony conviction and imprisonment for up to 5 years) are also possible for *known and willful* violations

Consumer Product Safety Consulting Services

If you have questions, Dennis Blasius can help with your Consumer Product Safety Compliance Consulting needs.

- Is your internal compliance program adequate?
- Do you know what is reportable to the CPSC under Section 15(b)?
- Are you wondering if the information you have rises to the level of a substantial product hazard, triggering immediate reporting requirements?
- Have you ever wished that you could anticipate CPSC's response?

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Thank You!

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