PROMOTIONAL PRODUCTS ASSOCIATION INTERNATIONAL

Guide To Managing Responsibility For Product Safety, Social And Environmental Standards In The Promotional Products Industry

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PROMOTIONAL PRODUCTS ASSOCIATION INTERNATIONAL

GUIDE TO MANAGING RESPONSIBILITY FOR PRODUCT SAFETY, SOCIAL AND ENVIRONMENTAL STANDARDS IN THE PROMOTIONAL PRODUCTS INDUSTRY

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INTRODUCTION

Promotional products end buyers ask distributors to ensure promotional products meet all required and voluntary product safety standards, that the production and imprinting (decorating of the product) meet acceptable international labor standards for working conditions, and that the product and production meet the environmental expectations of its customers. End buyers will describe these latter expectations.

In turn, distributors ask suppliers to provide assurances that the promotional product meets the requirements and expectations of the end buyer. What do you do? Where do you start?

It is a "hands-on" process that requires a great deal of information about products and processes that "average" distributors or suppliers may not think about collecting.

In some cases, federal or state law requires the collection of this information as proof of compliance with a specific standard. In many cases, it is a matter of meeting the end-buyer's expectations.

Before you meet these expectations, you can provide assurances about your commitment to a "Code of Product Responsibility Conduct." While the "Code of Product Responsibility Conduct" may be the first thing you hand to someone about what your company does to fulfill expectations, to get to the point of having a "Code of Product Responsibility Conduct," you first must understand and implement processes that will allow you to provide those assurances. So while the "Code of Product Responsibility Conduct" will be the first step, in this guide it is the last item we present. First, we take you through the elements of what constitutes a product responsibility process.

The process begins with product evaluation and design. What are the purposes for which the product will be used? What are potential mechanical, chemical and/or electrical hazards associated with it? Does the end buyer have environmental expectations about the product? Is the end buyer concerned about working conditions and other production practices?

The next phase is to identify standards for the specific product and tests to demonstrate those products meet the standards. In many cases, these are "voluntary" standards in the sense they are not required by a law, but they are generally considered acceptable when demonstrating a product will meet the end buyer's expectations. It is not possible to provide a list of standards and tests as each is so product specific. According to the National Institute of Standards and Technology (NIST), in the United States alone approximately 30,000 current voluntary standards have been developed by more than 400 organizations. These do not include a much greater number of procurement specifications (developed and used by Federal, State and local procurement authorities), as well as mandatory codes, rules and regulations containing standards developed and adopted at Federal, State and local levels. In addition, numerous foreign national, regional and international organizations produce standards of interest and importance to U.S. manufacturers and exporters. There are numerous international organizations that produce standards. The International Organization for Standardization (ISO) probably produces the largest number of International Standards, having issued approximately 6,000 standards. ISO's

work is carried out through some 2,300 technical bodies in which more than 20,000 worldwide experts participate annually in the development of ISO standards. In the U.S., the likely direct source for information regarding standards will be the American National Standards Institute.

To whom can you turn for advice on determining which standards and tests are applicable to measure compliance with those standards? In this guide, we will tell you how to find a testing laboratory and other resources.

What are considered to be minimum commitments to social standards such as working conditions are more certain. The International Labour Organization has adopted eight fundamental principles.

Environmentally friendly or "green" are still expectations that are very much in the eye of the beholder. Nevertheless, there are some resources for making sense of these expectations.

The next phase is production. The process becomes infinitely more complicated at this point. There are some comprehensive, but commonly identified, procedures for ensuring products meet safety standards. At the same time, concerns relating to social conditions such as working conditions are introduced into the equation.

While implementing policies that ensure product safety and acceptable working conditions are the substantive actions, it is the documentation of compliance that is what allows anyone in the product chain to provide the assurances up that chain, ultimately up to the end buyer. This documentation is the factory audit. In technical terms, it is conformity assessment.

While it is possible to self-audit, some laws require third party certification of compliance. In many cases, the compliance documentation is out-sourced as a matter of convenience or necessity.

The final stage in the process is the delivery of a promotional product that meets the end-buyer's expectations.

This guide will provide you with the tools to construct your own process for meeting the end buyer's expectations. We will provide you with information on where to go to help fill in the blanks that are unique to your situation, such as where to find a standard that relates to a specific product or how to find a third party testing laboratory.

We anticipate that as we all learn together how to meet this new value proposition of product responsibility, we will revise and improve upon this guide.

PRODUCT, PACKAGING AND DECORATING EVALUATION

An early stage of providing a product, packaging and decorating that is safe, appropriate and meets the social and environmental concerns of the end buyer is to conduct a formal evaluation of the design of the product, packaging and decorating method. While the process can be complex, some basic steps are common to any evaluation process.

- Identification of critical parts and discussion of potential manufacturing and decorating concerns
- Recommendations that assess the performance and functionality of the promotional product, packaging and decorating
- Identification of applicable mandatory regulations, industry standards and end-buyer test specifications to which the item, packaging and decorating will be subjected
- Identification of product, packaging and decorating related risks (e.g., electrical, mechanical, chemical, environmental, toxicity and flammability hazards). Key potential safety issues, human factors concerns and recommendations based on experience and available injury data relative to the type of product
- Identification of the recommended tests based on applicable mandatory regulations, industry standards and end-buyer test specifications to which the item, packaging or decorating will be subjected
- Evaluation of labeling requirements specific to the submitted item
- Identification of potential areas that may not comply with the applicable regulations, standards, and end-buyer specifications, with suggested modifications in order to achieve compliance
- Recommendation on material choice if there is a potential hazard that requires focus on a specific strength
- Age grade determination, if any, using appropriate age determination guidelines
- Evaluation of recall history, if any, of similar item

STANDARDS AND TESTING

The backbone of any product responsibility program is standards. At all points in the product responsibility process from product design and evaluation to production to delivery of promotional products to end buyers, it is likely one or more standards will be considered. And when a standard is involved, two questions almost always accompany it: How do I test a product or process to determine whether it conforms to the standard and who does the test? The first question, however, is exactly what is a standard?

STANDARDS

A standard is defined by the National Standards Policy Advisory Committee as:

> "A prescribed set of rules, conditions or requirements concerning definitions of terms; classification of components; specification of materials, performance, or operations; delineation of procedures; or measurement of quantity and quality in describing materials, products, systems, services, or practices."

NIST publishes the "ABCs of Standard-Related Activities in The United States" (http://ts.nist.gov/Standards/Conformity/stdpmr.cfm) from which portions of this chapter are excerpted. Voluntary does not refer to a standard being voluntary or mandatory in terms of compliance; it means it was developed in an open, transparent fashion in which all interested parties can participate; a voluntary standard can become mandatory if it is referenced in a code or if the market—end buyers or their customers—require it.

The important points are that, with some notable exceptions, conformity with specific standards applicable to any promotional product itself is rarely required by law. Conformity is either specifically required by the end buyer or based on the promotional product supplier's or distributor's assessment of the end buyer's and consumers' expectations. Second, with such a decentralized, voluntary standards development process, there is rarely "the standard" for a particular promotional product.

There are more than 30,000 procurement specifications (developed and used by Federal, State, and local procurement authorities), as well as mandatory codes, rules and regulations containing standards developed at every level of government.

In addition, many non-U.S. national, regional and international organizations produce standards of importance to U.S. manufacturers, importers and exporters. The International Organization for Standardization (ISO) (www.iso.org) in Geneva, Switzerland, produces the largest number of International Standards (more than 6,000) through the work of more than 2,300 technical bodies and more than 20,000 experts from all over the world participating annually in the development and updating of ISO standards.

Standards may be classified in different ways. ISO uses eight general classifications:

- A *basic standard* has a broad ranging effect in a particular field, such as a standard for metals that affects a range of products from cars to screws.

- *Terminology standards* define words permitting representatives of an industry to use a common, clearly understood language.
- *Testing standards* define the test methods to be used to assess the performance or other characteristics of a product.
- *Product standards* establish qualities or requirements for a product (or related group of products) to assure that it will serve its purpose effectively.
- *Process standards* specify requirements to be met by a process, such as a manufacturing line's operation, in order to function effectively.
- *Service standards*, such as for servicing or repairing a car, establish requirements to be met to achieve the designated purpose effectively.
- *Interface standards*, such as the point of connection between a telephone and a computer terminal, concern the compatibility of products.
- *Data requirements* provide necessary values for a product or service.

Standards can describe characteristics of the product and/or the methodology (e.g., test, inspection or other assessment methods) used to assess conformity of the product to a design or performance standard. The goal of standard writing is to produce a standard that is clearly and concisely written, readily understood, precise, technically credible, and contains only unambiguous requirements—the absence or presence of which can be objectively verified. Generally requirements in standards are stated in terms of shall or will, rather than may. In addition, standards for conformity assessment methods (e.g., test methods) must be capable of evaluating the conformity of a product to the specified requirements in a manner that produces test results that are within an acceptable accuracy range. The results should also be consistent with results produced by the same laboratory when it repeats the test using the same or a similar test method. The results should also be reproducible, i.e., capable of being duplicated by other testing bodies using the same or similar test methods.

A relevant distinction between standards is the manner by which they specify requirements. Performance standards describe how a product is supposed to function. Design standards define the characteristics of how a product is supposed to be built. In general, the standards community generally prefers performance standards to design standards. Although they are more difficult to develop and enforce, they tend to be less restrictive than design standards and therefore promote innovation.

The important point is there may be multiple standards that may apply to a promotional product, some for performance and some for design.

STANDARDS DEVELOPING ORGANIZATIONS (SDO)

In the United States, the 20 largest SDOs produce 90 percent of the standards. As of December 31, 2006, about 200 SDOs were accredited by ANSI and there were more than 10,000 American National Standards (ANS).

The American Society for Testing and Materials (ASTM), founded in 1902, is one of the oldest SDOs and now produces the largest number of non-governmental, voluntary standards in the

United States and many are used worldwide. *It is the source for many of the product lines of interest to the promotional products industry.* Visit its website at http://www.astm.org.

The Underwriters Laboratories (UL) is one of the best-known of the SDOs involved with a wide range of products, from electrical appliances to batteries. UL was founded in 1894 and has operations around the world. Visit its website at http://www.ul.org.

Some trade associations develop standards, such as the Electronic Industries Association, which has been active in the areas of electrical and electronic products' and components' standards since 1926. Professional and technical organizations are also standards developers. The Institute for Electrical and Electronics Engineers (IEEE), founded in 1884, maintains more than 900 standards, with another 400 under development.

THE ROLE OF THE AMERICAN NATIONAL STANDARDS INSTITUTE

Contrary to popular perception, the American National Standards Institute (ANSI) is not a standards developing organization. Founded in 1918 as the American Standards Association, it is a private nonprofit organization that administers and coordinates U.S. voluntary standardization and conformity assessment activities. Its mission is to enhance U.S. global competitiveness and the American quality of life by promoting, facilitating and safeguarding the integrity of the voluntary standardization system. It is the organization that approves standards developed by SDOs described above, as "American National Standards." It is also the coordinator and manager of U.S. participation in the work of ISO and the International Electrotechnical Commission (IEC).

For a business in the promotional products industry interested in finding standards, ANSI is a recommended source. *It should be noted that most standards are actually proprietary documents. It is very difficult to find a free copy of a standard as most standards are available for purchase*. A useful site to search for standards and purchase them, if necessary, is ANSI's eStandards Store at http://www.ansi.org.

A frequently asked question is "How do I know what standards apply to a promotional product or the production process?" There is no easy answer or short cut. The SDOs and ANSI, have search engines (ANSI Search , ASTM Search and ISO Search), as does the Consumer Product Safety Commission (www.cpsc.gov), that can provide some assistance identifying standards, but given the myriad types of standards, it is difficult for someone not trained in the appropriate engineering and/or science disciplines to find them. The result is increasing reliance on the testing/certification providers described below to identify the standards and appropriate tests as part of their services.

In addition to the product standards, end buyers may have expectations or requirements for addressing societal standards or environmental standards as well as age-related requirements. We will address those standards and the SDOs in separate chapters.

TESTING TO ASSURE COMPLIANCE WITH STANDARDS

There are more than 100 private organizations and more than 60 Federal programs in the U.S. that test and certify products ranging from electrical cords to cell phones. Product certification is intended to confirm that the product conforms to one or more specified standards. It is a method to increase an end buyer's and consumers' confidence in a product and for furnishing product information. In this context, "certification" has a very narrow meaning. Later on, we discuss a much broader concept of certification.

There are several paths to achieve this conformity assurance:

- Manufacturer's self-declaration of conformity is when a manufacturer or supplier attests to the fact that his or her product meets one or more standards.
- Third-party certification is the term applied to the process by which an organization, independent of either the manufacturer or supplier, assesses the product's conformance to one or more standards. The manufacturer's overall quality control program may also be examined as part of the certification process. Third-party certification programs differ greatly and the degree of confidence in the resultant certification depends on the program's type and comprehensiveness.

The methods used in third-party testing/certification programs can be classified as follows:

- *Type-testing/initial inspection*, which assures that the manufacturer's design specifications can produce a product that conforms to a particular standard. Products from a production run are not inspected or tested and there is no information regarding whether products from a production run also consistently meet the specification.
- *Audit-testing*, in which test samples are selected at random from the marketplace.
- *Surveillance of the manufacturing process* assesses the manufacturer's production and control processes to ensure that the manufacturer's quality control procedures are adequate.
- *Field investigations* investigate alleged failures of products under use conditions to determine the cause of the failure and suggest corrective action.
- *Batch-testing* tests a sample of products from a production batch for conformance to the standard. It does not ensure that products made previously or subsequently in the production run also meet the standard.
- *100 percent testing*, as it implies, tests each individual product to determine if it meets the designated standard. If the testing procedures are adequate and performed by an accredited laboratory, it provides the highest possible level of assurance that the product conforms to a particular standard. It is also usually the most expensive method and can only be used, obviously, when the test has no adverse effect on the product.

Many testing/certification providers use two or more of these methods in their certification process. The choice of methods depends on the needs of the end buyer as well as the promotional product supplier and distributor and the nature of the product. The methods chosen can greatly affect both the cost of the program and the level of confidence that can be ascribed to it. ANSI and ISO have each developed criteria to evaluate certification programs. ANSI also accredits certification programs that meet its criteria.

HOW TO FIND A LABORATORY TO TEST YOUR PRODUCTS AND PROCESSES

To ensure end-buyer and consumer confidence, the advice and services of an independent accredited laboratory should be considered. Laboratory accreditation is a process for evaluating testing facilities and designating those laboratories judged competent to perform specific tests using standard test methods, where available. The National Voluntary Laboratory Accreditation Program (NVLAP) in the NIST and the American Association for Laboratory Accreditation (A2LA) are the two largest accreditation bodies in the U.S., although with the rapidly increasing demand for these services, new accreditation bodies have developed, such as Assured Calibration and Laboratory Accreditation Select Services (ACLASS), owned by ANSI and the American Society for Quality National Accreditation Board (ANAB).

Why is accreditation important? The rigorous, internationally recognized accreditation process assesses the competence of a laboratory to conduct testing, generally using standard test methods. The process can greatly enhance the quality of certification programs or the confidence of the party requesting testing because it requires evidence that the laboratory that achieves accreditation has competent personnel, adequate equipment and sufficient knowledge of the testing procedures for which accreditation is sought. In addition, several accreditation organizations are directly recognized by international and regional accreditation bodies around the world. The U.S. recognition body is the National Cooperation for Laboratory Accreditation (NACLA), (http://www.nacla.net).

There are several paths to finding an accredited laboratory to assist you in ensuring the safety and efficacy of a product:

- The American Council of Independent Laboratories (ACIL), founded in 1937, requires accreditation as a criterion for membership for all areas of testing a laboratory may conduct for which accreditation is required and the annual signing of the ACIL Code of Ethics. On its website, http://www.acil.org, it provides a useful ListServe service, by which a customer seeking laboratories to test a product or product line can e-mail a staff member, providing the details of the product to be tested or the test method required and the e-mail will be distributed to the ACIL membership and those who can assist you will contact you directly. Further information is available on the website by clicking ListServe on the ACIL home page.
- Most accreditation bodies provide a list of their accredited laboratories online.
- In addition, several of the larger SDOs, such as ASTM International, provide a search for a laboratory feature. It does not specify, however, whether the laboratories listed are accredited.

With the plethora of products, many requiring multiple tests or test methods for a variety of intended uses, it is recommended that you seek an accredited laboratory within the scope required. Accredited laboratories are required by the accreditation process to own a copy of the standards for which they can provide testing services and to ensure they are current (many standards undergo revisions, particularly in fast-moving industries, such as information technology and telecommunications).

The following list contains general criteria that may be used in evaluating laboratories:

- *Laboratory organization/independence (no conflict-of-interest)*. The laboratory should be a legal entity organized in a manner that permits satisfactory performance of all required functions. Also, the laboratory and its staff should be impartial or independent (free from any outside influence), which might bias the integrity and objectivity of the test performed.
- *Financial stability*. The laboratory should have sufficient resources to enable it to properly use and maintain the test equipment and facility, to satisfactorily perform all required functions, and to adequately indemnify itself against financial liabilities/penalties resulting from its operations.
- *Staff qualifications requirements*. Each staff member in the laboratory should have the education, training, knowledge and experience necessary to perform the tasks assigned and an appropriate level of supervision should be maintained. The training of each staff member should be kept current and documented.
- *Adequate quality system*. The laboratory should have a quality system appropriate to the type and amount of work performed. It should be suitably documented in a comprehensive, up-to-date quality manual that is readily available for consultation by staff.
- *Sampling requirements*. If a laboratory receives test materials in quantities larger than the amount required for the test, the laboratory should sample the material in such a manner as to ensure that the sample tested is representative of the entire quantity of material received, using appropriate sampling methods and/or techniques.
- *Sample control/integrity requirements*. The laboratory should have an effective system that ensures both the identity and integrity of the test samples. Maintaining the sample's integrity involves preventing it from being damaged during any stage of its collection, shipment, storage or handling.
- *Statistical methods requirements*. The statistical methods used to interpret or to provide additional information about test data should be appropriate and adequate for the type and level of testing undertaken.
- *Recordkeeping requirements*. A laboratory should maintain all test records, observations, calculations and derived data for all tests it performs for an appropriate time or as required by law.
- *Test report content/format requirements*. Test reports should include all information relevant to sample selection, test performance and test results. They should be in a format that is easy to read and understand and routinely audited and validated. Increasingly, laboratories are offering online testing scheduling (similar to monitoring the progress of an express delivery) and online delivery of final test data.
- *Available operational manuals/instructions*. The laboratory should have readily available instructions on the operation and maintenance of all materials and equipment, copies of the test methods and standards employed with any additional instructions needed on their application, sample selection and handling procedures, and any other relevant information necessary to ensure the quality of the work performed.
- *Participation in proficiency testing programs*. The laboratory should participate in proficiency testing programs (if they are available for the scope of the item being tested) to ensure the competence of its testing processes. Proficiency testing can provide the laboratory with valuable feedback on the competence of its testing processes.

- A*dequacy of facilities and equipment*. The laboratory should own or have access to all equipment required to perform all test methods it conducts. Also, the facility should require test methods to be conducted in a controlled environment to prevent any adverse effects on the test result's accuracy.
- *Equipment maintenance/repair/calibration requirements*. Equipment calibration, preventive maintenance and repair procedures and the choice of reference materials used for calibration should be appropriate for the nature and amount of work being performed. Equipment calibrations should be traceable to some ultimate or national reference standard. Complete records should be maintained on these procedures.
- *Adequate control over subcontractors*. The laboratory should have a system to ensure that testing and related work performed by any of its subcontractors is at an acceptable level of quality.
- *Appeals procedure*. The laboratory should have a mechanism to deal with technical questions, appeals, complaints and challenges, originating either from the customer or from interested regulatory or other parties.

A frequently asked question is "Can I test the products or processes myself?" Typically, the answer is "You can." As noted above, conformity with standards is not generally required as a matter of law. In some cases, end-buyers may require third party certification. If it is not a matter of law or specific end buyer requirement, the relevant questions are: Can I meet the end buyer's expectations with a conformity self-assessment or, the practical question, do I have the capacity to identify the standards and tests myself?

As we see later, third party testing/certification providers can provide other services necessary to conduct a product responsibility program.

Conformity Assessment:

- Concept review and safety consultation
- Formal design evaluation (if needed)
- Develop a Quality Assurance Plan (QAP)
- Facilitate the implementation of the processes and procedures outlined in the QAP
- Test product to meet end buyer's standards and local requirements and standards
- Preproduction testing
- Intervention testing
- Provide immediate update on testing result by issuing short report
- Provide final detailed reports
- Factory audit (if needed)
- Provide guidance and assistance on Corrective Action Plan (if failure occurs at preproduction and/or intervention)
- Sample collection for intervention testing
- Witness for sample destruction if required
- Provide product recall information, changes in regulatory information and scientific updates
- Provide injury data

Other services:

- Research testing
- Process validation
- Site inspection audit
- Online inspection during mass production at manufacturing facility
- Provide a service package and educate new vendors and manufacturers on end buyer's safety and quality expectations
- Perform factory orientations, including education to factory workers on safety processes, quality control, etc.

SOCIAL STANDARDS

Generally, when an end buyer indicates a preference for the purchase of a promotional product that meets social standards, the end buyer is referring to labor standards or working conditions under which a product is produced.

INTERNATIONAL LABOUR ORGANIZATION

The common touchstone for most social standards is the International Labour Organization (ILO) (www.ilo.org). The ILO is a "tripartite" United Nations agency that brings together representatives of governments, employers and workers to jointly shape policies and programs.

The ILO adopts either conventions, which are legally binding international treaties that may be ratified by member states, or recommendations, which serve as non-binding guidelines. Once a standard is adopted, member states are required under the ILO Constitution to submit them to their competent authority (e.g., Congress) for consideration. In the case of conventions, this means consideration for ratification.

For most business purposes, the eight conventions the ILO's governing body has identified as fundamental are the points of reference. The eight fundamental conventions include:

- *Freedom of Association and Protection of the Right to Organise Convention*, (No. 87) "Workers' and employers' organizations shall organize freely and not be liable to be dissolved or suspended by administrative authority, and they shall have the right to establish and join federations and confederations, which may in turn affiliate with international organizations of workers and employers."

- *Right to Organise and Collective Bargaining Convention*, (No. 98) "Workers shall enjoy adequate protection against acts of anti-union discrimination, including requirements that a worker not join a union or relinquish trade union membership for employment, or dismissal of a worker because of union membership or participation in union activities. Workers' and employers' organizations shall enjoy adequate protection against any acts of interference by each other, in particular the establishment of workers' organizations under the domination of employers or employers' organizations, or the support of workers' organizations by financial or other means, with the object of placing such organizations under the control of employers or employers' organizations. The convention also enshrines the right to collective bargaining."

- *Forced Labour Convention*, (No. 29) prohibits "all forms of forced or compulsory labour, which is defined as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily."

- *Abolition of Forced Labour Convention*, (No. 105) "prohibits forced or compulsory labour as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system; as a method of mobilizing and using labour for purposes of

economic development; as a means of labour discipline; as a punishment for having participated in strikes; and as a means of racial, social, national or religious discrimination"

- *Minimum Age Convention*, (No. 138) "sets the general minimum age for admission to employment or work at 15 years (13 for light work) and the minimum age for hazardous work at 18 (16 under certain strict conditions). It provides for the possibility of initially setting the general minimum age at 14 (12 for light work) where the economy and educational facilities are insufficiently developed."

- *Worst Forms of Child Labour Convention*, (No. 182) "defines as a 'child' a person under 18 years of age. It requires ratifying states to eliminate the worst forms of child labour, including all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; child prostitution and pornography; using children for illicit activities, in particular for the production and trafficking of drugs; and work which is likely to harm the health, safety or morals of children."

- *Equal Remuneration Convention*, (No. 100) "requires the application of the principle of equal remuneration for men and women workers for work of equal value. The term "remuneration" is broadly defined to include the ordinary, basic or minimum wage or salary and any additional emoluments payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker's employment."

- *Discrimination (Employment and Occupation) Convention*, (No. 111) "defines discrimination as any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation. It requires ratifying states to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in these fields."

A useful ILO publication that explains these conventions is "Rules of the Games," which can be downloaded from its website.

SOCIAL ACCOUNTABILITY INTERNATIONAL

The ILO conventions and recommendations have been taken a step further by the Social Accountability International (SAI) (www.sa-intl.org). SAI's mission is to promote human rights for workers around the world as a standards organization, ethical supply chain resource and programs developer.

SAI promotes workers' rights primarily through its voluntary SA8000 standard system. Based on the International Labor Organization (ILO) standards and U.N. Human Rights Conventions,

SA8000 is widely accepted as a viable and comprehensive international ethical workplace management system. The standard's elements are:

- *Child labor*: No workers under the age of 15; minimum lowered to 14 for countries operating under the ILO Convention 138 developing-country exception; remediation of any child found to be working
- *Forced labor*: No forced labor, including prison or debt bondage labor; no lodging of deposits or identity papers by employers or outside recruiters
- *Health and safety*: Provide a safe and healthy work environment; take steps to prevent injuries; regular health and safety worker training; system to detect threats to health and safety; access to bathrooms and potable water
- *Freedom of association and right to collective bargaining*: Respect the right to form and join trade unions and bargain collectively; where law prohibits these freedoms, facilitate parallel means of association and bargaining
- *Discrimination*: No discrimination based on race, caste, origin, religion, disability, gender, sexual orientation, union or political affiliation, or age; no sexual harassment
- *Discipline*: No corporal punishment, mental or physical coercion or verbal abuse
- *Working hours*: Comply with the applicable law but, in any event, no more than 48 hours per week with at least one day off for every seven day period; voluntary overtime paid at a premium rate and not to exceed 12 hours per week on a regular basis; overtime may be mandatory if part of a collective bargaining agreement
- *Compensation*: Wages paid for a standard work week must meet the legal and industry standards and be sufficient to meet the basic needs of workers and their families; no disciplinary deductions
- *Management systems*: Facilities seeking to gain and maintain certification must go beyond simple compliance to integrate the standard into their management systems and practices.

Businesses have two options for SA8000 implementation according to the SAI: certification to SA8000 and participation in the Corporate Involvement Program (CIP).

> "Certification to SA8000: Certification is the process by which facilities submit to an independent audit against the SA8000 Standard. If a facility meets the Standard, it will earn a certificate attesting to its social accountability policies, management and operations. Companies that operate production facilities can seek to have individual facilities certified to SA8000 through audits by one of the accredited certification bodies. SA8000 certification is conducted by organizations accredited and overseen by SAI's own auditors. Both certified and accredited organizations undergo semi-annual review and revisits."
>
> "SA8000 Corporate Involvement Program: Companies that focus on selling goods or combine production and selling can join the SA8000 Corporate Involvement Program. The CIP is a two-level program that helps companies evaluate SA8000, implement the SA8000 Standard, and report publicly on implementation progress. There are two levels of the CIP:

- SA8000 Explorer (CIP Level One): Evaluate SA8000 as an ethical sourcing tool via pilot audits.
- SA8000 Signatory (CIP Level Two): Implement SA8000 as a step-wise approach in some or all of the supply chain through certification and communicate implementation progress to stakeholders via SAI-verified public reporting."

A company could become SA 8000 Certified to provide additional assurances to others that promotional products are produced under widely accepted social conditions.

Assessment of compliance to the SA8000 Standard and the issuance of SA8000 certifications is available only through SAI-accredited, independent organizations. A facility wishing to seek certification to SA8000 must apply to an SAI-accredited auditing firm, known as a Certification Body. SAI recommends that facilities contact at least three of the SAI-accredited Certification Bodies to provide a bid for certification service. SAI does not set a specific amount for the cost of the certification process—the size, scope and location of the facility determines the number of days and auditors needed to conduct the audit at the facility, which affects the cost. In general, the costs typically range between $500-$1,500 per day, as determined by each individual Certification Body.

Some facilities may require some pre-audit work, which is separate from the cost of certification. The cost for this work would depend entirely on the state of readiness for implementation of the SA8000 Standard at the facility.

ENVIRONMENTAL STANDARDS

EYE OF THE BEHOLDER

When an end buyer asks for a green product, the end buyer is generally referring to a broad set of expectations that are environmentally-friendly or ecologically-friendly. Sometimes a green claim can relate to a specific quality of the product and packaging. "Made from recycled material" would be such a claim. Other specific green claims might be an energy-efficient production process that says the production is carbon-neutral or that the product is bio-based, that is, the product utilizes biological products or renewable, domestic, agricultural (e.g., plant, animal and marine), or forestry materials.

There is no specific standard that is likely to encompass an end-buyer's specific expectations. Indeed, a specific interest may actually contradict another ecologically friendly concept. For example, a desire to have a product made from recyclables may require a production process that has a significant carbon footprint.

The ISO has some standards (14000) for environmental management and strategies. They do not establish specific criteria but set forth principles to guide the process.

FEDERAL TRADE COMMISSION

In 1992, the Federal Trade Commission (FTC) (www.ftc.gov) issued its Environmental Guides, often referred to as the Green Guides, and revised them in 1998. Like other industry guides issued by the FTC, the Environmental Guides are administrative interpretations of laws administered by the Commission for the guidance of the public in conducting its affairs in conformity with legal requirements. Conduct that is inconsistent with the positions in the Environmental Guides may result in corrective action by the Commission if, after investigation, the Commission has reason to believe that the conduct violates prohibitions against unfair or deceptive acts or practices.

The Environmental Guides apply to all forms of marketing for products and services: advertisements, labels, package inserts, promotional materials, words, symbols, logos, product brand names and marketing through digital or electronic media, such as the internet or e-mail. They apply to any claim, express or implied, about the environmental attributes of a product, package or service in connection with the sale, offering for sale or marketing of the product, package or service for personal, family or household use, or for commercial, institutional or industrial use.

The guidelines can be found at http://www.ftc.gov/bcp/grnrule/guides980427.html

NON-GOVERNMENTAL ORGANIZATIONS

There are some organizations that have their own certification programs and some standards (e.g., Green Seal (www.greenseal.org)); however, most of those certifications apply only to narrow categories of products.

ENVIRONMENTAL PROTECTION AGENCY

The Environmental Protection Agency (EPA) (www.epa.gov/opptintr/epp/index.html) has identified some positive attributes it recommends other agencies consider when they buy products for governmental use. The presence of these attributes alone does not automatically make a product or service environmentally preferable. The EPA suggests looking for positive attributes such as:

- Recycled content
- Recyclability
- Product disassembly potential
- Durability
- Reusability
- Reconditioned or remanufactured
- Take-back
- Bio-based
- Energy efficiency
- Water efficiency
- Other attributes with positive environmental effects

ISO 14000 SERIES

One of the specific standards in the ISO 14000 series, IS0 Standard 14021, provides some definitions of specific environmental labels such as those attributes listed by the EPA.

A company could become certified as ISO 14001 compliant to provide additional assurances to end buyers that the company is committed to addressing environmental concerns. The ISO does not certify companies. In the U.S., a company would secure the services of a third-party certification body (CB), often for-profit companies. These CBs receive their accreditation from the ANSI-ASQ National Accreditation Board (ANAB). The ANAB offers these suggestions when selecting a CB:

- Accreditation by a reputable body
- Industry experience, background, and expertise
- Recommendations from your clients or customers
- References provided by the CB
- Scheduling issues and ability to meet your time frame
- All aspects of the CB fee schedule
- Your comfort level in establishing a long term relationship with a CB.

The ANAB has a directory of certifying bodies that can be found at www.anab.org.

A ISO 14001 series certified company would not use terms such as green, environmentally friendly, environmentally safe, earth friendly, or non-polluting on products as those terms are considered too vague under the standard.

CARBON FOOTPRINT

Currently, there is much discussion in the media about carbon footprint. Generally, a carbon footprint is a measurement of the amount of carbon dioxide (CO_2) emitted by an activity or over the product's lifecycle. The lifecycle assessment, commonly referred to as "cradle to grave," entails comprehensive examination of a product's environmental and economic aspects and tracks a product from the extraction of the various raw materials through the production and sale to use of the product, and, finally, its disposal. Transportation of the raw materials, the product and the waste is included and measured. ISO Environmental Standards 14041 and 14044 deal with lifecycle assessment.

Assurances can be provided to end buyers that all steps are being taken to reduce a product's carbon footprint. The alternative is to offset or mitigate the impact.

There are non-governmental organizations (nonprofits) and commercial enterprises that offer plans to allow you to offset the carbon footprint of your products. At this point there are no specific guidelines for how to offset a carbon footprint. The British government offers this advice to its citizens:

> "Renewable energy and energy efficiency projects can be good projects to support. First you need to calculate the emissions you have produced. Then you buy the equivalent amount in 'credits' from emission reduction projects that have saved carbon. These projects may be in another part of the world to where you created the emissions. However, it doesn't matter where greenhouse gases are emitted in the world – the effect on climate change is the same. You can find providers by searching on the internet. Providers vary in terms of what they offer and some are more comprehensive than others. Prices are set by the provider, depending on the way they calculate emissions and the different types of projects they support.
>
> "Some offset schemes may involve planting trees but it can take many years for the environmental benefits to be realized - and it is difficult to measure how much carbon is actually saved. Renewable energy and energy efficiency projects can be good projects to support as these can have immediate benefits to the environment. There are many different types of carbon offsetting projects. Some examples are:
>
> - providing people in Aceh, Indonesia, with newly developed solar cookers and heat retention containers for cooking, heating, sterilizing water, and preserving food
> - implementing energy efficiency measures at a resort-hotel in India
> - harnessing run of river (without dams) hydropower in Fiji
> - establishing the first wind energy plant in Cyprus
> - collecting methane to generate electricity from landfill sites in Durban, South Africa
> - generating electricity from the bagasse residue produced by a sugar mill in Ecuador

"When purchasing offsets you should look out for Certified Emissions Reductions (CERs) to ensure that they receive recognized and reputable credits. CERs are verified by the UN and meet the requirements of the Kyoto Protocol."

AGE GRADING

Age grading helps manufacturers, suppliers, importers and distributors determine the applicability of mandatory toy regulations to toys that are given as promotional products. While most promotional products are not intended for use by children, it is helpful to know where the lines are drawn.

Toys age-graded for children under three years of age are subject to the Consumer Product Safety Commission's (CPSC) small parts regulation, go to www.cpsc.gov/businfo/corrective.html and select Small Parts for Toys and Children's Products. Toys and games age-graded for children at least three years of age, but not older than six, that contain small parts are subject to labeling requirements and there are tests for identifying hazardous sharp edges and points in toys and children's products age-graded for children under eight years of age. Similarly, many of the requirements in industry voluntary standards apply to toys for children of specific age ranges.

Federal law also imposes specific warning label requirements for certain toys and games containing small parts intended for use by children over three years of age but not older than six years of age; for small balls and marbles intended for children three years of age or older; and for balloons. These requirements warn purchasers that these products are not suitable for children under three years of age because the products present choking risks or, with balloons, that children under eight can choke or suffocate on uninflated or broken balloons. The law also bans small balls for children under three years of age that pass through a circular hole with a diameter of 1.75 inches (44.4mm).

The CPSC has published a comprehensive discussion on the classification of toys by children's age categories. This document can help firms in age grading. The publication is titled, "Age Determination Guidelines: Relating Children's Ages to Toy Characteristics and Play Behavior." The guide can be found by going to www.cpsc.gov/businfo/corrective.html and selecting *Age Determination Guidelines - Relating Children's Ages to Toy Characteristics and Play Behavior* (pdf) under the Other Guidance subheader.

The industry standard, ASTM F963, "Standard Consumer Safety Specification on Toy Safety," includes information on age grading toys.

PRODUCTION AND CONFORMITY ASSESSMENT

PRODUCTION POLICIES AND PROCEDURES

If an end buyer asks for assurances that a product and the production process will meet its standards for quality, safety and societal concerns, how does a company know what policies and procedures it needs to implement? In the product design and evaluation phase, the standards for the product and production process will have been identified. Now what?

One way to develop the policies and procedures is to work backwards from the end result – conformity assurance. To get to that end result, the company will have to conduct a conformity assessment of the product and the production process. Whether a company engages an independent third party certifier or whether the company engages in an internal process, a checklist of questions is typically prepared to evaluate performance. By reviewing such a list of questions, you can develop a series of policies and actions your company needs to implement to assure the product and production meet the identified standards. At the end of this chapter we have an example of such a checklist. Obviously, it covers a wide range of issues and a company needs to decide what is appropriate for its products and processes. We have also included an example of a factory audit checklist just for social standards.

CONFORMITY ASSESSMENT AND ASSURANCE

Conformity assessment is defined by the ISO as "any activity concerned with determining directly or indirectly that relevant requirements are fulfilled." According to NIST, "conformity assessment procedures provide a means of ensuring that the products, services, or systems produced or operated have the required characteristics, and that these characteristics are consistent from product to product, service to service, or system to system." NIST publishes "The ABC's of the U.S. Conformity Assessment System" from which portions of this chapter are excerpted. (http://ts.nist.gov/Standards/Conformity/primer.cfm).

Conformity assessment includes sampling and testing, inspection, certification, and quality and environmental system assessment and registration. It also includes accreditation of the competence of those activities by a third party and recognition (usually by a government organization or non-governmental organization) of an accreditation provider's capability.

For the purposes of the promotional products industry, the conformity assessment of promotional products and processes is what we do to provide the proof that product and/or processes meet the expectations or requirements of end buyers.

TYPES OF CONFORMITY ASSESSMENT ACTIVITIES

Inspection is defined by ISO as "conformity evaluation by observation and judgment accompanied as appropriate by measurement, testing or gauging." Most other types of conformity assessment involve inspection to some degree. It would be unusual to test a product without first inspecting it to determine if it is intact or has undergone rough handling that might have damaged it and therefore affect the testing outcome. Similarly, it would be unusual to

assess a company's quality system without inspecting the elements of the facility that could impact the system's operations.

Testing laboratories' data are used for (the following is just a partial list):

- Product design and research
- Quality control prior to acceptance of incoming materials/components, during production and prior to shipment/sale
- Insurance underwriting
- Meeting contractual agreements
- Satisfying government regulatory requirements
- Certification and labeling
- Buyer protection and information
- Product comparisons
- Environmental protection
- Product operation, maintenance and repair
- Legal proceedings
- Forensic work

As previously noted, the prudent action is to use an accredited testing laboratory/certifier. The ISO standard for laboratory accreditation requirements include:

- Having adequate resources and using only properly trained staff
- Having a good quality system (ISO/IEC 17025 incorporates by reference ISO 9000 management programs; no separate registration for ISOIEC 9000 is necessary)
- Using equipment that has been adequately maintained and calibrated
- Conducting tests under acceptable environmental conditions and using appropriate test methods; and
- Producing accurate, clear, unambiguous and objective test reports

Certification is the process of providing assurance that a product conforms to a standard or specification (product certification) or that a person is competent to perform a certain task (personnel certification). Some (but not all) certification programs mandate that accredited laboratories conduct any required testing, but there are laboratory accreditation programs that are not associated with a certification program. Certification and laboratory accreditation programs both use standards, but not all standards are intended for these. Because standards, testing, laboratory accreditation, and certification are linked, strengths or deficiencies in any one area can have significant consequences for other areas.

TYPES OF CERTIFICATION

There are three types of certification, reflecting different levels of testing:

- **First Party Certification,** or self-certification, is the process by which a manufacturer or supplier declares that the product meets one or more standards based on: (1) the manufacturer's confidence in the quality control system, or (2) the results of testing or inspection the manufacturer undertakes or authorizes others to undertake on his/her

behalf. The process is also known as supplier's declaration of conformity (SDOC). The manufacturer's capability, integrity and reputation determine the degree of confidence that can be placed in this type of certification, which is commonly used in Europe. (A familiar example of such a certification program in the United States is the identification of the weight of motor oils by the manufacturer of conformance to the Society of Automotive Engineers (SAE) standards. The SAE designations are placed on the motor oils by the manufacturer based on his/her own testing and quality control mechanisms. This is primarily a self-certification program, although SAE does audit manufacturers' self-certifications to ensure that SAE standards are not being misused.)

- **Second Party Certification** is also common in the United States. In this case, it is usually the buyer who requires and certifies that the products he/she wishes to purchase from suppliers meet one or more standards. These certifications are generally only available to and mandatory for those companies wishing to become suppliers to that buyer.

- **Third Party Certification** is a process by which the producer's claim of conformity is validated by a technically and otherwise competent third party (a body not controlled by or under the influence of the producer or buyer). The sponsor of the third party program (the certifier) may be responsible for collecting the required data, generating test results or conducting inspections, in addition to reviewing the results of these activities and making a final determination on the product's conformance or lack of conformance. The certifier may also delegate all or part of the data collection and review activities to another party or parties. The degree of confidence that can be placed in third party certification programs varies greatly depending on (1) the number and types of testing/inspection methods used within the program to ensure product conformance, (2) the adequacy of the manufacturer's quality control system, and (3) the competence of the body that conducts the testing and/or inspection and evaluates the test results. As noted above, accredited laboratories are favored for this process.

CERTIFICATES OR MARKS OF CONFORMITY (CERTIFICATION MARKS)

ISO defines a certificate of conformity as a "document issued under the rules of a certification system, providing confidence that a duly identified product, process, or service is in conformity with a specific standard or other normative document." The marks or accompanying information should indicate the identity of the certification body (and any other testing body if applicable) and any relationship that the body(s) may have to the manufacturer. It should also contain information on (1) the lot, batch or other production information to allow traceability to the production source and time of production (thereby allowing a partial recall of a product, rather than the recall of an entire product line); (2) the date when the certificate was issued; and (3) the officer of the company responsible for its issuance. Labeling included with the product should identify the supplier and contain information on the name, type of model number and all instructions necessary for the correct and safe use and maintenance.

Certification marks and certificates of conformity should be used to indicate that all essential characteristics of the product have been assessed. In cases where only one of several aspects of

the product have been evaluated, such as flammability or electrical safety, this information should be conveyed in some manner to the buyer, or the mark may mislead the buyer into placing more reliance on the certification than is justified. To the extent possible, the symbols used in connection with the certification mark should be capable of being interpreted without further definition.

SELF ASSESSMENT CHECKLIST (Factory Audit)

The following is an example of a factory audit checklist for the purposes of conformity assessment:

MANAGEMENT OF QUALITY PROCESS

- Does the company have a process for quality management?
- Is it used routinely?
- Does management support the policy?
- Do employees understand the process?
- Does the company have a quality manual, standard operating procedures, and work instructions for the quality program?
- Are the responsibilities for quality control clearly identified?
- Does the company conduct internal self-audits for quality programs such pest control, sanitation and foreign material controls?
- Are corrective actions appropriate?
- Does the company have a procedure for handling obsolete documents?
- Is training of quality control personnel conducted and documented?
- Does quality control management have direct access to top management?

MATERIALS

- Does the company have a written program for selecting raw material suppliers?
- Does the company maintain a list of raw material suppliers that have been approved?
- Is supplier compliance with company standards routinely monitored?
- Is there a process for stopping products if products are not within specification tolerances?
- Can raw materials be tracked through the production process and identified with specific finished product lots?
- Are finished product lots coded to identify product dates and other lot designations?
- Do shipping records adequately identify production lots with customers?
- Is there a recall and/or withdrawal program in place? Has the company ever tested the program?

SANITATION

- Is there a written sanitation program?
- Is there a cleaning schedule for the facility?
- Are there work instructions and procedures for cleaning and sanitizing tasks?
- Are authorized chemicals and cleaning tools documented?
- Are all cleaning materials and sanitizers approved for use by the appropriate local regulatory agency?
- Are labels available for all cleaning and sanitizing chemicals?
- Are MSDS (Material Safety Data Sheets) available in the local language for all cleaning and sanitizing chemicals?
- Is there a training program for sanitation personnel?
- Are training records of sanitation personnel documented and maintained?
- Are inspection of cleaning and sanitation conducted and documented?
- Are corrective actions documented?
- Are concentration requirements or instructions for dilution of all sanitizing and cleaning chemicals clearly defined and presented in the cleaning program?
- Are cleaning equipment and chemical storage areas away from production areas?
- Is the cleaning equipment properly maintained, cleaned and sanitized?
- To permit proper cleaning, are processing and packaging equipment well maintained and designed?
- What is the status of various areas of the facility? Are they clean, neat and organized? For example, warehouse, tooling, moulding; assembly; spraying, packing and shipping.
- Are toilets clean and maintained in good condition?
- Is soap and running water available outside each toilet?
- Are there disposable towels or hand dryers available?
- Is there a procedure for proper cleaning and sanitation before equipment is placed back into service following maintenance?
- Are procedures in place for the notification of production and sanitation personnel when maintenance work is complete?
- Are all repairs and equipment modifications made in an appropriate and complete manner?
- Are procedures in place for reconciling parts and tools after maintenance is performed?
- To protect product integrity and prevent possible product contamination, are the facility and equipment properly maintained?
- Are there adequate ventilation systems?

PEST CONTROL

- Does the factory have a pest control program?
- Internal or outsourced pest control service?
- How often are pest control audits conducted?
- Are service and audit records maintained?

- Are pest control personnel trained? If licensing is required, are they licensed?
- Are training records maintained?
- Are MSDS's for all pesticides available?
- Is pest control management of external areas, adequate and appropriate?
- Is pest control management of interior areas adequate and appropriate?
- Are records maintained for pest control services and devices?
- Is the facility adequately maintained to prevent pest entry?
- Are windows, vents and fans adequately sealed or screened with fine mesh to exclude pests?
- Are all entrances of production and finished goods storage areas properly closed?
- Are production and finished product areas free of obvious evidence of pests?
- Are yard areas free of conditions that may result in the contamination of materials?
- Is drainage around the facility adequate?
- Are water drainage covers fully protected by a metal screen?

INCOMING MATERIALS

- Are all incoming materials identified with date of receipt and assigned batch number?
- Is appropriate physical inventory management used (e.g., first-in, first-out) for all stored material products?
- Are there purchasing and receiving procedures to ensure that only approved materials are used in the facility?
- Are all critical materials accompanied by suppliers' assurances that all appropriate standards have been complied with before delivered?
- Are raw materials isolated from processing and finished product storage areas in storage areas of their own?
- Are containers that are used to contain raw materials properly maintained to prevent contamination of products or materials?
- Are there written cleaning procedures for paint mixing containers?
- Is transfer of raw materials that are dispensed into other containers performed in an adequately ventilated area?
- Are temporary containers properly labeled and identified?
- Are all personnel handling chemicals properly trained in dispensing, mixing and handling procedures?
- Are training records maintained?

PRODUCTION PRACTICES

Sharp Tools

- Is there a written sharp tool control policy?
- Are sharp tools restricted or controlled in the production area?
- Are the sharp tools tied on the bench table or sewing machine?
- Are all cutting blades of the one-piece design?

- Are there adequate posting and warnings of sharp tool control policy in the production and packaging areas?
- Are records kept of broken sharp tools and needles?
- Are records kept of the distribution and return of sharp tools and needles?
- Is the distribution of sharp tools controlled by a single person?
- Is there a written procedure for the investigation of missing sharp tools?
- Are follow-up corrective actions taken if a sharp tool, such as a broken needle, cannot be found after breakage?

Metal Detector

- Is there a metal detector?
- Is the metal detector working properly?
- Is the metal detector calibrated per preset time intervals?
- Is the metal detector calibrated per specification?
- Are there written calibration procedures for the metal detector?
- Are there calibration and maintenance records for the metal detector?
- If a finished product contains metal, is metal detection being conducted prior to insertion of the metal component as per requirement?
- Do workers understand of the operation of the metal detector?
- Are the calibration balls kept in a secure location that is only accessible by approved persons?
- Is the metal detector isolated from other machinery or production that might influence the detection capability of the metal detector?
- Is packed final product (without metal parts) passed through the calibrated metal detectors prior to master carton packing?
- Is the metal detector checked to verify calibration at start-up and after breaks to ensure its sensitivity and normal operation?
- Are calibration records kept?
- Can good product and nonconforming product after metal detection be traced?
- Are finished non-conforming products segregated and identified?
- Is nonconforming product kept in a secure container/area accessible only by approved persons?
- Are records maintained to indicate the status and disposition of finished non-conforming products (i.e., scrap)
- Is the area around the detector free of clutter and organized in a manner such that non-detected product cannot be mixed with detected product?

Light Sources

- Are light sources protected?
- Product zone areas and storage area
- Incoming raw materials warehouse
- Final product warehouse
- Moulding
- Spraying
- Assembly
- Packing

Glass Sources

Are glass sources protected?

- Product zone areas and storage areas
- Warehouse
- Assembly
- Packing

Is glass/hard plastic breakage handled according to a written policy?
Is cracked or broken glass/brittle plastic properly replaced immediately?

Miscellaneous

- Are cleaning chemicals, hazardous materials, pesticides and sanitizers properly stored and handled to prevent contamination of product and packaging materials?
- Is there an inspection program to address metal and other foreign material contamination?
- Are raw materials, work-in-progress or final products stored in sealed packaging or containers and properly covered to prevent contamination?
- Is there a barrier between all raw materials and in-process product and the production floor?
- Are incoming raw materials, work in-progress and finished product stored off the floors and 18 inches away from walls and ceiling?
- Is an 18-inch inspection perimeter maintained for incoming raw materials, work in-progress and finished product storage?
- Are there tabletop work surfaces with a durable and cleanable surface in assembly areas and pack out areas?
- Are finished products, work-in-progress, or packed products free from dust or other contamination?
- Is packed individual product passed through an ultraviolet [UV] channel prior to master carton packing?
- Are UV channels functioning properly and calibrated?
- Is finished product sufficiently aerated prior to over wrapping or master carton packing?

GOOD MANUFACTURING PRACTICES

- Does the company have an established good manufacturing practices (GMP) program?
- Are internal self-audits conducted and audit records documented?
- Are corrective action reports from GMP self-audit implemented?
- Are workers who are visibly sick, or have open wounds or sores, excluded from direct contact with raw materials, work-in-progress or final product?
- Are signs posted instructing workers to meet the GMP requirements?
- Are workers complying with the GMP policy in critical areas?

Elements of practices:

- Eating, drinking, spitting, smoking, gum chewing are restricted to designated areas and must be kept away from the product zone.
- Workers should wear a functioning hair net and protective coat in the production area.
- Personal belongings (i.e., watches, jewelry, earrings, rings, necklaces, drinking bottles) are prohibited from being brought into the production area.
- Pockets above the waist should be sewn.
- Unused tools (i.e, tools, rags, gloves excluding sharp tools) should be stored away from the production area.
- Workers with beards should wear beard restraints.
- No false eyelashes, false nails, strong perfumes or exposed nail polish.
- Workers must effectively clean their hands before entering the production area.

PRODUCTION

Start Up

- Are there start up procedures in place?
- Before production begins, are all the relevant information and tooling available?
- Are there procedures for set up and change over of manufacturing equipment at production line?
- Is production start up approved by appropriate management?

Control Plans

- Are quality control plans implemented by production personnel?
- Are all processes or procedures clearly defined?
- Are critical manufacturing process settings on equipment defined with upper and lower operating limits?
- Are process control records kept and complete?
- Are statistical process control techniques integrated for the critical processes and practiced by production personnel?
- Do personnel understand statistical control and appropriately respond to out of control circumstances or decision rules?
- Are there clear rules and corrective action that should be taken?
- Are records complete when a critical process measurement is found to be out of control?
- Are work instructions established for all key processes?
- Are critical operating parameters being monitored and records maintained?
- Are there working instructions for key processes (e.g., gluing)?
- Is there a training program for key processes?
- Are training records for those key processes maintained?

Testing Equipment

- Are there procedures for equipment maintenance?
- Are testing and key measurement equipment records maintained?
- Is the calibration of testing and key measurement equipment taking place as specified, including appropriate calibration tags on equipment? Is this verified?

Equipment Maintenance

- Are there procedures for equipment maintenance?
- Are they followed?
- Are there procedures for identifying maintenance needs and verifying if maintenance has been performed?

Plastic Production

- Are molding parameters and conditions recorded on a board hanging near the injection machine for auditing purposes?
- Is a signed sample/standard sample placed near the injection machine for cross-checking purposes?
- Is the cooling water changed at regular intervals (i.e., every half day) and are appropriate records kept?
- Is there a process in place to ensure that plastic materials meet requirements to prevent cross contamination?
- Are cartons/containers properly labeled?

Painting

- Do production samples match control samples for color?
- Do workers have a signed sample/standard sample in front of them for cross-checking purposes?
- Are containers used for mixing paint or ink thoroughly cleaned before use and well covered?
- Are approved chemicals used to clean spray masks?

Non-Conforming Products

- Are there established procedures for the identification, determination of quantity, segregation and disposition of non-conforming raw materials, packaging and finished products?
- Are non-conforming products segregated and identified?
- Are product hold records maintained?
- Are there verifiable established procedures to control the addition of re-work and ensure that the product conforms to safety specifications and product requirements?
- Are there records for the addition of re-work?
- Can batch records be reconciled with product dispositioned for re-work?

INSPECTION

- Are batch lot inspections on products performed?
- Are there internal final inspections on products before shipments perform?
- Are formal written inspection reports completed?
- Are the inspectors given written procedures to follow?
- Is the product sample size for final inspection adequate to meet standards?
- Are defects isolated and analyzed to improve quality?
- Do quality control personnel and engineers review production samples to verify safety and quality compliance?
- Is mechanical testing documented?
- Are acceptable inspection reports required before authorization of shipment of the products?
- Do inspection procedures and records allow for effective tracing?
- Is the retention time of records specified?
- Is relevant information kept on file?
- Are quality meetings held as necessary and corrective actions notices distributed to key personnel?
- Does the product comply with the applicable end-buyer specifications standards and the applicable standards of the countries where it will be distributed?
- Is 100 percent inspection on function with appropriate set up performed?

EXAMPLE OF A SOCIAL STANDARDS FACTORY AUDIT

The following is an example of a factory audit checklist for conformity with social standards:

1) Randomly select (X) number of employees. Review all applicable records regarding payment, such as payroll records, pay stubs and time cards.

Minimum Wage

- Are hourly and piece rate employees paid at least the applicable minimum wage rate?
- Do wage rates paid match those documented in employee's files?
- Are wages paid properly calculated and meet minimum wage standard?
- Are all applicable withholdings properly calculated and withheld?
- Are there any impermissible payroll deductions?
- What is the lowest wage paid to any employee?

Overtime

- Are applicable overtime wages properly calculated?
- Are overtime wages paid same as documented in files?

Benefits

- Are deductions or withholdings for benefits calculated properly?
- Are deductions or withholdings for benefits submitted to the proper government authority within the time required by applicable law?
- Are legally required allowances and benefits provided to employees?

Interview employees for whom records were selected. Verify above and:

- Is employee paid regularly?
- Is employee paid in cash?
- Is employee given pay stubs?
- Is employee required to perform work before or after hours?
- Is the employee given lunch or other breaks?

2) Randomly select (X) number of employees. Select separate groups for each topic. Interview employees and verify status of items below. Note any exceptions and explain.

Child Labor

- The age of employee per official documents
- Information on file regarding the individual's employment at facility
- Physical appearance

Forced Labor

- Is the relationship voluntary?
- Is the employee free to leave once his/her shift ends?
- Is the employee indebted to the company? For what?
- Is the employee bonded or indentured?
- Is the employee's freedom of movement restricted?

Harassment And Coercion

- Do supervisors threaten employees with violence?
- Do supervisors engage in verbal or psychological harassment or abuse?
- Do supervisors engage in sexual harassment or abuse?
- Do supervisors administer physical abuse?

Discrimination

Has employee been discriminated against on the basis of race, religion, age, nationality, social or ethnic, gender or disability regarding:

- Hiring
- Salary and benefits
- Advancement
- Job Assignment
- Discipline
- Termination
- Retirement

3) Conduct Health and Safety Observations

- Are exits clearly marked, unblocked and unlocked?
- Are aisles, exits and stairwells kept clear at all times?
- Is there acceptable clearance between workstations to allow movement in an emergency?
- Are fire escapes available in a multi-story facility?
- Is there an evacuation plan easily visible to employees?
- Is there first aid equipment near work areas?
- Are there fire extinguishers in appropriate locations?
- Are the fire extinguishers of a type appropriate for the fire risks?
- Are fire drills and evacuation drills conducted?
- Is personal protective equipment provided to workers?
- Are workers provided training on health and safety?
- Do employees have access to drinkable water?
- Are there clean and sanitary toilet areas?
- Is equipment properly safeguarded?

- Is equipment maintained to prevent fire or health hazards?
- Is ventilation adequate?
- Is lighting adequate?
- Is temperature adequate?
- Are hazardous chemicals and materials properly handled, stored and disposed?
- Are employees trained in such procedures?

4) Conduct environmental observations

Examine facility records for appropriate licenses, certificates, permits and insurance relating to health and safety.

Interview employees regarding their observations and knowledge of environmental compliance.

Observe facility for environmental problems.

5) Conduct general management review

Identify and document individuals responsible for payroll, employee relations, health and safety. Interview each regarding their responsibilities.

Are all applicable records up to date and secure?
Are there labor contracts with employees?
Are there any worker organizations or committees within the facility?
Does management understand our company's code of product responsibility conduct?

CODE OF PRODUCT RESPONSIBILITY CONDUCT

EXPLANATION

The Code of Product Responsibility Conduct is the tangible presentation of what you are doing to meet the expectations of the end buyer for product safety, social and environmental assurances. It is a statement of principles. It is what a supplier would hand to a distributor and what a distributor would hand to an end buyer when an end buyer expresses those expectations. It is your commitment.

Many end buyers, particularly larger businesses, have already adopted their own Code of Product Responsibility Conduct. There is no specific law that requires a Code of Product Responsibility Conduct, but there is remarkable similarity among those that have been adopted. Many of them draw from working conditions standards that have been put forth by various international entities, government as well as non-governmental. We explained the working condition standards in a separate chapter.

Typically, the Codes include statements on environmental, safety and quality commitments.

Since a Code of Product Responsibility Conduct is not mandatory, each company can compose its own Code of Product Responsibility Conduct. We have provided a sample policy that includes many of the common characteristics of the existing codes. End buyers are increasingly accustomed to seeing certain items in a Code of Product Responsibility Conduct. For example, almost all of them have a statement on employees' right to association: "We respect the rights of employees to associate, or organize or join a union without fear of reprisal or interference. If employees are represented by a union recognized under law, we respect the right to bargain collectively."

Many employers are not unionized and often ask why they must acknowledge the right of workers to form or join a union. The statement reflects what is in United States law under the National Labor Relations Act. The Act outlines basic rights of employees as follows:

- To self-organization
- To form, join, or assist labor organizations
- To bargain collectively for wages and working conditions through representatives of their own choosing
- To engage in other protected concerted activities with or without a union, which are usually group activities (two or more employees acting together) attempting to improve working conditions, such as wages and benefits
- To refrain from any of these activities. (However, a union and employer may, in a State where such agreements are permitted, enter into a lawful union-security clause)

The statement in the Code of Product Responsibility Conduct does not obligate an employer to anything more than that which is already required under U.S. law. However, the statement is widely accepted as an international principle as explained in the chapter on social conditions and is commonly expected by end buyers. At the end of the day, it is up to you to decide what to include in your Code of Product Responsibility Conduct.

(COMPANY)'S COMMITMENT TO ETHICAL AND RESPONSIBLE CONDUCT

Our Company believes we must not only meet the expectations of our customers and consumers, we must exceed those expectations. To that end, we have adopted standards for the safety, quality and integrity of our products and processes and we are committed to respecting the rights of individuals and protecting the environment. We are dedicated to complying with all applicable laws and to conduct business in an ethical and responsible manner.

Product Safety

We will comply with all applicable laws and regulations regarding safety of products we sell. We will meet applicable recognized voluntary industry standards for our products and processes.

No Abuse Of Labor

We will not use any form of forced labor, including indentured, prison, bonded or slave labor. We will not use physical or verbal harassment or abuse to discipline employees.

No Child Labor

We will not use child labor. We will comply with all minimum age provisions of applicable laws and regulations.

Freedom Of Association

We respect the rights of employees to associate or organize, or join a union without fear of reprisal or interference. If employees are represented by a union recognized under law, we respect the right to bargain collectively.

No Discrimination

We will not discriminate in hiring and employment practices on the basis of age, nationality, race, religion, social or ethnic orientation, gender or disability.

Hours And Wages

We will comply with all applicable wage, work hours, benefits, and overtime laws and regulations.

If local industry standards are higher than applicable laws and regulations, we will meet the higher standards.

Workplace Conditions

We will provide a safe, healthy and secure workplace. We will abide by all applicable laws and regulations for safety and health. Proper sanitation, lighting, ventilation and fire safety protection will be provided.

Environment

We abide by all applicable environmental laws and regulations. We will manage our environmental footprint to minimize the adverse impact on the environment. We will manage our energy, water and waste systems for maximum efficiency and minimal adverse impact on the environment.

Absence Of Applicable Laws And Regulations

In the absence of law in a particular location relating to product safety, labor, employment, environment or working conditions, the spirit and intent of these policies shall be met.

Subcontractors And Sources

We require all businesses that support our business as subcontractors, manufacturers or sources of goods to comply with all of the same policies stated in our Commitment to Ethical and Responsible Conduct Policy. All subcontractors and suppliers are required to comply with all applicable and national laws.

We expect those businesses to develop and implement internal business procedures to ensure compliance with our policy. We routinely monitor and assess compliance.

FEDERAL REGULATION AND ENFORCEMENT

CONSUMER PRODUCT SAFETY COMMISSION

The U.S. Consumer Product Safety Commission (CPSC) (www.cpsc.gov) has jurisdiction over about 15,000 types of consumer products. The CPSC draws its authority from five statutes: the Consumer Product Safety Act (CPSA); the Federal Hazardous Substances Act (FHSA), the Flammable Fabrics Act (FFA), the Poison Prevention Packaging Act (PPPA) and the Refrigerator Safety Act (RSA). The CPSA and FHSA are the most frequently invoked authorities.

The CPSA, enacted in 1972, established the Commission, defines its basic authority, and provides that when the CPSC finds an unreasonable risk of injury associated with a consumer product it can develop a standard to reduce or eliminate the risk. The CPSA also provides the authority to ban a product if there is no feasible standard and it gives CPSC authority to pursue recalls for products that present a substantial product hazard.

The FHSA requires that certain hazardous household products (hazardous substances) bear cautionary labeling to alert consumers to the potential hazards that those products present and to inform them of the measures they need to take to protect themselves from those hazards. Any product that is toxic, corrosive, flammable or combustible, an irritant, a strong sensitizer, or that generates pressure through decomposition, heat, or other means requires labeling. If the product may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonable foreseeable handling or use, including reasonable foreseeable ingestion by children.

The FHSA gives the Commission authority to ban by regulation a hazardous substance if it determines that the product is so hazardous that the cautionary labeling required by the act is inadequate to protect the public. Any toy or other article that is intended for use by children and that contains a hazardous substance is also banned under the FHSA if a child can gain access to the substance. In addition, the Act gives the Commission authority to ban by regulation any toy, or other article intended for use by children that presents a mechanical, electrical or thermal hazard.

REPORTING

Under the CPSA, there are three principal reporting requirements. Any manufacturer, importer, distributor or retailer of consumer products must notify CPSC immediately if it could be concluded that one of its products:

- Has a defect that creates a substantial risk of injury to the public;
- Creates an unreasonable risk of serious injury or death; or
- Violates a consumer product safety standard or ban of the product.

A manufacturer must report to CPSC when any of its consumer products has been involved in three or more lawsuits in a two-year period. Each lawsuit must have alleged death or grievous bodily injury and resulted in a settlement or a court judgment in favor of the person who filed the suit. A manufacturer, distributor, retailer or importer of marbles, small balls, latex balloons, or toys or games that contain such items must report to CPSC any incidents of children choking on those items.

The National Electronic Injury Surveillance System (NEISS) monitors patients who come into 100 hospital emergency rooms nationwide. From it the CPSC develops statistical estimates of product-related injuries. Last year the NEISS system developed reports on product-related injuries from more than 360,000 emergency room visits.

ENFORCEMENT

In addition to acting on the reports required by the law, the CPSC enforces existing regulations and laws by conducting both domestic surveillance through inspections of the regulated industry and import surveillance at ports of entry and following up on injury reports, consumer complaints, trade complaints or other allegations or indications that a firm is manufacturing or distributing a consumer product not in compliance with the law.

Under the CPSA, any person who knowingly violates the CPSA is subject to a civil penalty not to exceed $8,000 for each violation. Under the FHSA, the Commission may seek a civil penalty of up to $8,000 per violation product, up to a maximum of $1.825 million for any related series of violations. There are criminal penalties and the CPSC can seek injunctive relief or seize products.

Where appropriate, based on the nature of the hazard and the likelihood of injury associated with the non-complying product, the CPSC staff will request that the firm recall the product from the marketplace, including consumers who already own the product. It may provide for the return of a product to the manufacturer or retailer for a cash refund or a replacement product; for the repair of a product, and/or for public notice of the hazard.

Once the CPSC staff determines a product violates a specific statute or regulation, CPSC staff generally notifies the responsible firm (the product manufacturer, importer, distributor or retailer). Notification to the responsible firm is usually in the form of an official letter, referred to as a Letter of Advice (LOA).

While the CPSC has the authority to require a mandatory product recall, due to the lengthy and costly nature of the proceeding that it must undertake in order to issue such a recall, the majority of the recalls are voluntary on the part of the recalling firm, the details of which the CPSC negotiates with that firm, generally after a significant exchange of information between the firm and the CPSC.

Approximately half of the recalls are initiated under a "Fast Track" recall program. Under this program the subject firm agrees to initiate a recall within 20 days after being contacted by the CPSC, generally in exchange for the lack of a formal finding by the CPSC that a product is defective and a substantial product hazard exists.

In fiscal year 2006, the CPSC announced 466 recalls of defective products, representing more than 120 million individual products. Other corrective actions, short of a recall, including modifying the product, issuing a consumer warning, or through other means were ordered for more than 300 products directly involving a risk of injury to children.

The CPSC publishes a comprehensive guide, entitled "Regulated Products Handbook." Go to http://www.cpsc.gov/businfo/corrective.html and click on "Regulated Products Handbook."

RECALL HANDBOOK

The CPSC also publishes a helpful handbook on "Recalls." (www.cpsc.gov/businfo/8002.html) The handbook is a useful tool for identifying potential problems and actions a company might want to take on a voluntary proactive basis when a potential problem has been identified.

Some of the questions a company might want to be prepared to answer if a potential problem arises include:

- What is the defect that causes the product hazard?
- What caused the product defect to occur in the first place?
- Where are the unsafe products? How many are there?
- Did the product fail to comply with government safety regulations? How?
- Was the government or the appropriate regulatory body informed about the defect or lack of compliance?
- Has the company discontinued production and shipment of these products to others in the distribution channel?
- Has the company notified those selling the product to stop selling the product and asked them to help identify consumers who own the product?
- Has the company started reviewing existing databases to identify potential product owners, e.g., product registration and customer service records?
- Has a press release been prepared announcing the recall? What other forms of public notice are needed?
- Has a toll-free telephone service been set up that will be able to handle the number of calls expected after the recall is announced?
- What is the company's estimate of the cost of the product recall campaign?
- Is the company prepared to deploy manpower and/or fund an effort to provide replacement parts for defective products or to exchange them for new products that do not have the problem?

- Has a plan been developed to ship replacement parts or new units to others in the distribution channel participating in the product recall, or otherwise repair units in their inventory?
- Is the company prepared to monitor the product recall and provide timely reports to the Commission on the progress of the recall?
- How is the company upgrading its quality control or risk analysis procedures to prevent a similar product recall in the future?

The CPSC also has a checklist of suggestions for undertaking a recall (go to: http://www.cpsc.gov/businfo/corrective.html and click on "Recall Check List").

PRODUCT LIABILITY LAW, CONTRACTS AND INSURANCE

LAW

"Product liability" is a broad term that encompasses many difference standards of responsibility for a product. For the most part, it is a matter of state law and state court-made law (common law). State law and state common law vary significantly from state to state. Generally, the claims are based on negligence, strict liability or a breach of warranty of fitness. Most often, product liability claims are based on a defective product, which could be a design defect or manufacturing defect or sometimes a marketing defect, in the latter case improper instructions or failures to warn.

While the goal is not to be defending against a product liability claim in a court, the more practical concerns are addressing the allocation of liability by contract and managing risk through insurance.

CONTRACTS

In the context of contractual obligations, defend, indemnify, hold harmless, waiver or release of liability are legal terms that are frequently linked to any discussion of product responsibility.

The first three terms, defend, indemnify and hold harmless, are frequently used in conversation interchangeably, but, in fact, they mean slightly different things. They are frequently found together in the same contract provision.

An agreement to defend, means one party to the agreement agrees to pay the fees the other party incurs for representation against claims and lawsuits. Some of the issues the come into dispute include: When does the obligation arise? What is a claim? Does the obligation include all litigation costs and experts? Who chooses the representation?

An agreement to indemnify means one party to the agreement agrees to pay for the other party's financial losses such as settlement costs, court awards and other specific expenses. Most of the issues in this situation relate to the financial losses.

An agreement to hold harmless means one party to the agreement agrees that the other party will be freed of any liability resulting from the sale or use of the products. In some respects, this is the most confusing of the three. The issue is whether the party agreeing to hold the other party harmless is relinquishing its own claims against the other party or agreeing to hold the other party harmless from the claims of others.

A typical simple example of a provision reads as follows: "X shall defend, indemnify and hold harmless Y from and against any and all demands, claims, actions, legal proceedings, damages, liability, costs and expenses of whatsoever kind and nature (including reasonable attorneys' fees) arising out of or related to sale or use of the promotional products."

A waiver or release of liability is the opposite side of the coin. One party gives up the right to pursue the protections afforded by the duty to defend, indemnification and hold harmless. Technically, the waiver is an agreement not to pursue a right, while the release is giving up the right, but they are essentially equivalents.

Typical simple examples of provisions read as follows:

"Y hereby releases X from any liability from demands, claims, actions, legal proceedings, damages, liability, costs and expenses of whatsoever kind and nature (including reasonable attorneys' fees) arising out of or related to sale or use of promotional products."

"Y hereby waives its right to any and all demands, claims, actions, legal proceedings, damages, liability, costs and expenses of whatsoever kind and nature (including reasonable attorneys' fees) arising out of or related to sale or use of the promotional products."

The waiver or release generally is limited to the two parties. For example, if the supplier wishes protection from end buyers, it would seek the indemnification, defend and hold harmless provision from a distributor, not a waiver or release.

Many agreements also have "warranties and representations" regarding a variety of concerns from intellectual property authorization to fitness for purpose. To reaffirm the obligation of a party as it relates to product responsibility, clauses could be added to the warranties and representations.

Typical simple examples of such provisions read as follows:

"X represents and warrants that products subject to this agreement comply with all applicable United States and States' laws currently in force."

"X represents and warrants that products subject to this agreement were produced in compliance with all applicable national and local labor and environmental laws."

Sometimes, warranties and representations include references to specific law or requirements:

"X represents and warrants that products subject to this agreement comply with all applicable United States and States' laws currently in force including but not limited to the Consumer Product Safety Act (CPSA) and the Federal Hazardous Substances Act (FHSA)."

"X represents and warrants that all products subject to this agreement were produced in facilities that meet standards of social accountability including: no form of forced labor including indentured, prison, bonded or slave labor; no use of physical or verbal harassment or abuse to discipline employees; no child labor; respect for the rights of employees to associate, or organize or join a union without fear of reprisal or interference; no discrimination in hiring and employment practices on the basis of age, nationality, race, religion, social or ethnic orientation, gender or disability; compliance with all applicable wage, work hours, benefits, and overtime

laws and regulations; provision of a safe, healthy and secure workplace; and provision of proper sanitation, lighting, ventilation and fire safety protection."

PRODUCT LIABILITY INSURANCE

Any party in the product delivery channel may want to obtain product liability insurance. Most businesses have a commercial general liability (CGL) policy. It may cover some aspects of a claim related to a product injury. A product liability policy is a separate policy or an additional endorsement on a CGL that specifically covers product-related claims.

It is important to know what is covered and what is not covered. In product liability insurance, does the policy cover you if there are violations of specific safety laws or specific risks (e.g. lead poisoning)? If it is excluded, you may need to ask for a rider for additional coverage.

Occurrence versus claims made. Some policies cover only situations in which the injury occurs and a claim is made while the policy is still in force.

Named insured, additional insured, or vendor endorsement are terms used to describe when other parties are added to an insurance policy. Typically, a distributor would be seeking to be added to a supplier's policy. One of the principal concerns with such actions is that policies typically have aggregate limits. So if there is a claim or claims, the amount the insurer will pay on behalf of any or all of the insured is limited to one overall amount; each of the insured is not covered up to the limit of the policy.

Insurance companies now offer product recall insurance that cover expenses related to product recalls. A key issue is what constitutes a product recall? Is it a voluntary or government-mandated recall? Whose expenses are covered? Just the insured or other parties as well? At the moment, product recall insurance is expensive.

IMPORTED PRODUCTS

While agreements can be enforced against foreign manufacturers and foreign manufacturers can be sued for product liability claims, for all practical purposes, end buyers want the assurance that there is someone in the United States who accepts responsibility for a product. No one wants to spend the extra time and resources on initiating litigation in another country and frequently the laws do not favor an out of country plaintiff.

Nevertheless, the importer of the products should still seek the contractual assurances from a foreign source that would be demanded of a United States-based supplier, including duty to defend, indemnification and hold harmless as well as warranties and representations.

The same is true about insurance. Does the foreign source have U.S. insurance? An agreement could require such insurance:

"X agrees to obtain and maintain in effect during the entire period of this agreement and for a period of (number) years after the termination thereof, a commercial general liability insurance

policy and a product liability policy with a limit of not least than ($ amount) for each occurrence, underwritten by a United States insurer."

If this cannot be secured, at least request a certificate of insurance from the foreign source's insurance company. This will provide you the details of their coverage.

Require the foreign source to accept the jurisdiction of U.S. courts if a claim involving its products is filed.

RESOURCES

UNDERSTANDING STANDARDS AND CONFORMITY ASSESSMENT

- The National Institute of Standards and Technology (NIST) http://ts.nist.gov/Standards/ssd.cfm
- ABCs of Standard-Related Activities in The United States http://ts.nist.gov/Standards/Conformity/stdpmr.cfm
- The ABCs of the U.S. Conformity Assessment System. http://ts.nist.gov/Standards/Conformity/primer.cfm

WHERE TO BUY STANDARDS

- The American National Standards Institute (ANSI) http://www.ansi.org

WHERE TO FIND A TESTING LABORATORY

- The American Council of Independent Laboratories (ACIL), http://www.acil.org

WHERE TO FIND INFORMATION ON SOCIAL STANDARDS

- The International Labour Organization (ILO) www.ilo.org
- The Social Accountability International (SAI) www.sa-intl.org

WHERE TO FIND INFORMATION ON ENVIRONMENTAL STANDARDS

- The Federal Trade Commission (FTC) www.ftc.gov issued its Environmental Guides http://www.ftc.gov/bcp/grnrule/guides980427.html
- The Environmental Protection Agency (EPA) http://www.epa.gov/opptintr/epp/index.html

WHERE TO FIND INFORMATION ON AGE GRADING

- "Age Determination Guidelines: Relating Children's Ages to Toy Characteristics and Play Behavior." The guide can be found by going to http://www.cpsc.gov/businfo/corrective.html and selecting "Age Determination Guidelines - Relating Children's Ages to Toy Characteristics and Play Behavior (pdf)" under the "Other Guidance" subheader.

WHERE TO FIND INFORMATION ON FEDERAL REGULATION OF CONSUMER PRODUCTS

- The U.S. Consumer Product Safety Commission (CPSC) www.cpsc.gov
- The CPSC publishes a comprehensive guide, entitled "Regulated Products Handbook." Go to http://www.cpsc.gov/businfo/corrective.html and click on "Regulated Products Handbook."
- The CPSC also publishes a helpful handbook on "Recalls." www.cpsc.gov/businfo/8002.html
- The CPSC also has a checklist of suggestions for undertaking a recall go to: http://www.cpsc.gov/businfo/corrective.html and click on "Recall Check List."

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