

Legal Developments in CPSC Issues

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Overview

- ◆ Administrative/Legislative Developments
- ◆ Section 15 (b) Compliance Developments
- ◆ Litigation Developments

Legislative Developments-- 108th Congress

- ◆ CPSC Reauthorization Act of 2003 (passed by Senate)
- ◆ Product Safety Notification and Recall Effectiveness Act of 2003
- ◆ Juvenile Products Legislation
 - ❖ Infant Crib Safety Act
 - ❖ Infant and Toddler Durable Product Safety Act
 - ❖ Product Safety Notification ...Act

Legislative Developments (cont'd)

- ◆ Fire-related Legislation
 - ❖ American Home Fire Safety Act
 - ❖ Foam Fire Safety Act
- ◆ Amusement Rides
 - ❖ National Amusement Park Ride Safety Act of 2003
- ◆ Gun-related Legislation
- ◆ Arsenic-Treated Wood Prohibition Act

Administrative Developments

- ◆ Budget Developments
- ◆ Petitions/Rulemaking
- ◆ Recommendations for future regulatory process

Budget Developments

- ◆ CPSC requests slightly enhanced budget
 - ❖ +\$3M (\$59.7M to \$62.7M)
- ◆ Program allocation appears similar to prior years with slight increase toward fire deaths and drowning and slight reduction in children's hazards

Administrative Petitions/Rulemaking

- ◆ Use of public petitions has increased over the years
 - ❖ petitions numbers have increased
 - ❖ petitions have become more technically - oriented
 - ❖ continued use of petition process is likely as consumers demand more action from federal agencies concerning product safety

Administrative Petitions/Rulemaking

- ◆ Under Chairman Stratton CPSC appears to have expedited the petition/rulemaking process
- ◆ The petition/rulemaking process is a more open one in which CPSC incorporates and reaches out to all stakeholders
 - ❖ meaningful public hearings involving testimony by consumers and industry representatives
 - ❖ public hearings throughout country--e.g., ATV hearings in DC, W Va and New Mexico

Administrative Petitions/Rulemaking

- ◆ Key developments
 - ❖ 2/03 Denial of petition to label PVC-containing children's products
 - ❖ 3/03 Denial of petition to require registration cards for children's products
 - ❖ 3/03 Denial of petition to ban CCA-treated wood in playground equipment
 - ❖ 6/05 Public hearings on ban of sale of ATVs for children under 16

Administrative Petitions/Rulemaking

(cont'd)

- ❖ 7/03 Denial of petition for standards for bike handlebars
- ❖ 8/03 Denial of petition for standards for auxiliary snowmobile lighting systems
- ❖ 10/03 Denial of petition to ban bath seats; issuance of proposed rule to establish standards for bath seats
- ❖ 11/03 Staff recommendation to deny petition to establish natural latex rubber as strong sensitizer; public hearings (12/03) and comments (1/04)

Administrative Petitions/Rulemaking

(cont'd)

- ◆ New Petitions in 2003/2004
 - ❖ Revision of unit dose packaging standards under the PPPA
 - ❖ Labeling of weightlifting bench press equipment
 - ❖ Establishment of performance standards for table saws

Recommendations

- ◆ CPSC should consider greater use of rulemaking authority in place of enforcement actions
- ◆ Other consumer-driven agencies (FTC, FDA) have created successful regulatory schemes using rulemaking and guidelines
- ◆ Administrative process allows greater participation by stakeholders, more timely guidance by agency, consistency, and industry support

Recommendations

- ◆ FDA process in particular is useful model
 - ❖ good guidance practices adopted by FDA
 - ❖ regulated industry participates significantly in process
 - ❖ brings high level of certainty to regulation; can be completed relatively quickly
 - ❖ may reduce level of post-market enforcement or other action needed

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