

U.S. Consumer Product Safety Commission



A Working Model for Retailer Reporting Under Section 15

John Gibson Mullan
Director, Office of Compliance

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This information has not been reviewed by, and may not necessarily reflect the views of, the Commission.

Outline

- What Wal-Mart is doing
- What CPSC staff is doing
- Benefits of the approach

What Wal-Mart Is Doing

- Sends CPSC detailed information on customer complaints and other incidents in a spreadsheet format once a week
- Gives notice of each item to suppliers
- Provides “Full Report” or supplemental information on request
- Separately reports product withdrawals
- Seeks “Fast Track” treatment as it considers appropriate

Sources of Wal-Mart Incident Information

- Customer hotline (1-800 Wal-Mart)
- Input from stores
 - Merchandising hotline
 - Store Manager/District Manager hotline
 - Intranet
- Correspondence from consumers
- Product claims
- Lawsuit information
- CPSC Clearinghouse letters/FOI requests

Information Processing

- Wal-Mart Product Safety Team key-word searches 4,000-6,000 calls per day
- All sources of product safety information are added to initial report spreadsheet
- For each entry in the initial report spreadsheet, Team provides 48 separate columns of information
- Team classifies hazard and determines whether an incident is “triggered”

Information Being Submitted (1)

- Source of Information (customer, store)
- Claim number
- Date reported to Wal-Mart
- Customer info (name, address, phone)
- Store where sold
- Incident date
- Supplier info (name, address, phone)
- Product info (name, description, model #)

Information Being Submitted (2)

- Product location
- Purchase date
- Universal Product Code (UPC)
- Damages claimed per store report
- Product assertions from claimant
- Failed part
- Primary hazard (from CPSC table)
- Date tendered to supplier

Information Being Submitted (3)

- Injury (Y/N?)
- Medical treatment sought (Y/N?)
- Age/sex of injured
- Retail price
- Date Wal-Mart began selling product
- Quantity sold prior two years to date
- Quantity in Wal-Mart stores and warehouses

Information Being Submitted (4)

- Whether Wal-Mart is direct importer
- For direct imports, number of claims for same UPC and search period covered
- Action taken by Wal-Mart safety team
- Number of claims previously reported for same UPC and search period covered
- Whether triggered (CPSC table)
- Trigger type

Volume of Information Submitted

- Over last twelve months, Wal-Mart has submitted info on over 3,000 incidents
- Compare number of section 15 reports from retailers in FY 2002 = 24; 2003 = 20.
- Compare number of consumer complaints in FY 2004 on CPSC hotline = 3618; on internet = 6525

Staff Evaluation

- As staff became familiar with Wal-Mart incident information, became clear that it was valuable to CPSC, both Epidemiology and Compliance
- Staff focused on developing a two-tier approach: keep flow of incident info to CPSC, but flag some incidents for priority review by Compliance

Two-Tier Concept

- Basic tool is § 15 “trigger”
- Purpose of trigger is to distinguish incidents of primary interest to Compliance from all others
- Spreadsheet would show which incidents are triggered for Compliance attention

Types of Triggers

- Automatic triggers
 - Certain injuries regardless of hazard type
 - Certain hazards regardless of injury severity
- Cumulative triggers
 - Recurring hazard from “same product”
 - Multiple injuries from “same product”

Automatic Triggers (1)

Certain Injuries Regardless of Hazard Type

- “sought medical treatment”
- “missed more than a full day of work/school”
- “died”

Automatic Triggers (2)

Certain Hazards Regardless of Injury Severity:

- “electrocution/shock”
- “entrapment/strangulation” plus “child”
- “choking” plus “child”
- “drowning hazard” plus “child”

Cumulative Triggers (1)

- Recurring Hazard from “Same Product”
- Hazards defined by CPSC staff table
- “Same Product” based on UPC matches
- Currently triggered at three occurrences

Cumulative Triggers (2)

- Multiple injuries from “Same Product”
- “Same Product” based on UPC matches
- Currently triggered at five occurrences

CPSC Staff Hazard Table

- Structural failure/breaks/ruptures/leaks
- Fire, burn potential/electrical incident, failure
- Entrapment/caught in object/pinch/crush
- Unsafe operation/assembly/malfunction
- Unstable/tipping hazard
- Choking/suffocation potential
- Chemical exposure/poisoning/ skin irritation
- Sharp edge/point
- Unknown/Other

Product Withdrawals

- Wal-Mart notifies CPSC whenever it removes a product from store or warehouse for possible safety reason
- Withdrawals may be initiated by Wal-Mart or supplier

Other Reporting Issues (1)

- Product fails to comply with CPSC mandatory standard or ban
- Product fails to comply with safety-related product manufacturing specifications
- Product fails to comply with safety-related voluntary standard provisions or listing specs, such as:
 - Hair dryer lacking immersion protection
 - Baby walker lacking stair fall protection

Other Reporting Issues (2)

- Section 37 settlements and verdicts
- Section 102 choking incidents

When Is Information Submitted?

- Once a week for regular spreadsheet
- Within 24 hours for deaths (telephone and e-mail)
- Within 24 hours for product withdrawals (e-mail)

Notice to Suppliers

- Wal-Mart sends letter to supplier for each incident submitted to CPSC
- Letter will distinguish triggered incidents beginning March 2005

What CPSC Staff Is Doing

- Epidemiology inputs data in IPII database
 - May launch In-Depth Investigation (IDI)
 - Treats as new source of hazard information
- Office of Compliance reviews information separately, focusing on triggered incidents
 - Identifies incidents for follow up (some IDIs)
 - Decides whether to seek full report
 - From manufacturer
 - From Wal-Mart
 - Decides whether to seek corrective action

In Depth Investigations

- To date, Epidemiology has assigned 38 IDI's based on Wal-Mart submissions
- Compliance has assigned nearly 200 IDI's

Civil Penalties

- The Office of Compliance will not seek a civil penalty for failure to report any information actually given to CPSC staff under this model, whether triggered or not.
- A retailer remains subject to civil penalties for violation of section 15 if it knowingly withholds any information or delays providing to CPSC.

Trigger Statistics

- Between 10/02/04 and 1/28/05, Wal-Mart has reported 1,244 incidents
- Wal-Mart triggered 371 incidents
- Compliance review has identified 113 incidents involving 20 firms for follow up
- Compare: total number of section 15 reports in FY 2005 to 1/28/05 = 152

Benefits of the Reporting Model

- Major new source of early warning info
- Quicker identification of emerging hazards
- Better insight into nature of information flowing to retailers
- Emphasis on hazards and corrective actions rather than civil penalties

Next Steps

- Trial Period for Wal-Mart continues through FY 2005
- CPSC developing new systems for analysis of retailer reports
- CPSC welcomes other retailers to consider trial period
- March 8, 2005 Open Meeting at CPSC Headquarters will describe Retailer model and invite further input from manufacturers on section 15 reform