

# CPSC versus GPSD

Comparing Systems

# Scope of Regulations

- CPSC

“Consumer product” defined broadly but many products carved out of CPSC jurisdiction

- GPSD

Any product intended for consumers is covered. Includes items not covered by CPSC, such as automobiles

# Defining Safe Products

- CPSC

No definition of safe product.

- GPSD

Defines what a safe product is and creates an affirmative duty to ensure only safe products are sold

# Role of Member States

- CPSC

State laws may or may not be influential. Considerable significance given to jury determinations that a product caused serious injury or death

- GPSD

Product in conformity with specific rules of a member State is deemed safe. However, limited scope for national rules

# Post-Marketing Obligations

- CPSC

No specific duty

- GPSD

Manufacturers must sample products, keep track of complaints and investigate them

# Reporting Obligation

- CPSC

Obligation arises in four defined situations. Report may be required even when manufacturer believes product is safe.

- GPSD

Obligation arises whenever party knows or should know that product does not meet general definition of safe

# When Report Is Not Required

- CPSC

When company has actual knowledge that the Commission is adequately informed

- GPSD

Specific situations, including when manufacturer has been able to take immediate corrective action for all items concerned

# Number of Products

- CPSC

The number of products is a factor in deciding whether a substantial product hazard exists (but is not conclusive)

- GPSD

The number of products should not influence the decision to report

# Obligation of Retailers

- CPSC

Statutory obligation is the same. CPSC rules allow retailers to make simpler reports.

- GPSD

Obligation of retailers is secondary to that of manufacturers.

# Significance of Private Lawsuits

- CPSC

Section 37 requires manufacturers to report if they lose or settle three lawsuits involving the same product in a two-year period

- GPSD

Private lawsuits not addressed

# Who Gets Reports?

- CPSC

Reports all go to  
CPSC

- GPSD

Reports go to  
designated national  
authority

# Reporting Time Limits

- CPSC

Regulations presume that information reaches individual responsible for reporting within five days. Firm has ten days to investigate and report.

- GPSD

As soon as firm has “notifiable information”

# Follow-Up to Notification

- CPSC

Firm may choose [1] to implement remedy of repair, replacement or refund of purchase price; or [2] firm may await CPSC decision whether corrective action is necessary

- GPSD

Firm may take appropriate action, such as withdrawal from market, warning to consumers, or recall from consumers. Authorities monitor and intervene only if necessary.

# Sanctions

- CPSC

Civil penalties currently limited to \$7,000 per article, \$1,650,000 for series of related violations. Inflation adjustments will increase both amounts on 1/1/2005.

- GPSD

Member states obligated to establish penalties that are “proportionate and dissuasive.”

# Confidentiality

- CPSC

Information usually remains confidential until CPSC investigation is complete. Then info released unless trade secret

- GPSD

Risk information should be made available to the public unless trade secret or would hamper law enforcement investigation

