

BNA Presents a One-Day Briefing on:

The **CONSUMER PRODUCT SAFETY IMPROVEMENT ACT** of **2008:**

The New World of Regulation and Enforcement

October 30, 2008

**L'Enfant Plaza Hotel
Washington, DC**

**"Incredibly complex...the agency will have to undertake about
40 new rulemakings to flesh out the provisions of the new law."**

*Nancy Nord, Acting Chairman
Consumer Product Safety Commission
September 4, 2008*

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The CONSUMER PRODUCT SAFETY IMPROVEMENT ACT of 2008: A New World of Regulation and Enforcement

Washington, DC, October 30, 2008

Living With New Consumer Product Safety Reforms

Following a year and a half of unprecedented numbers of consumer product recalls, Congress recently passed and the President signed into law the Consumer Product Safety Improvement Act of 2008.

This one-day conference, brought to you by BNA, the leading publisher in the field of product safety and liability, will highlight the wide-ranging ways in which the legislation will affect manufacturers, importers, and retailers of consumer products.

New Federal Standards, and the Role of the State Attorneys General

The program will outline:

- The rapid rollout of new federal standards on lead and phthalates (plasticizers)
- Mandatory third-party testing of children's products
- The adoption of new regulatory standards and mandatory rules
- The role of states in enforcing product safety
- Product specific provisions

Faculty Include CPSC Officials, Practitioners, and Representatives of Key Industries

Panelists include experienced CPSC practitioners and product liability defense lawyers, representatives of leading manufacturers and retailers responsible for product safety, as well as key officials from

the Consumer Product Safety Commission, including **Acting Chairman Nancy Nord** and **General Counsel Cheryl Falvey**.

This conference is different from other briefings you may have received or seminars you may have attended. The entire day of this intensive briefing is focused on practical tips from the faculty on how to incorporate new information and decisions into your strategies for product development, marketing, and crisis management.

Regulatory Priorities; Expanded and Expedited Access to Information

Some of the changes in the law, including some of the new safety standards and accreditation of safety laboratories, will begin to take effect even before the new Administration is in power. With so many developments occurring so rapidly, with regulations starting to come out of the CPSC by mid-November, the conference will incorporate the latest information at the time of the program, and the agenda will be revised to reflect additional developments.

Go to legaledge.bna.com for the latest agenda and faculty listings.

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PROGRAM HIGHLIGHTS

8:00 a.m. – 9:00 a.m.

Registration and Continental Breakfast

9:00 a.m. – 9:15 a.m.

Introduction and Program Overview

9:15 a.m. – 10:15 a.m.

New CPSC Enforcement Tools/ Prohibited Acts

- Enhanced recall authority
- Prohibition on selling a recalled product
- Enhanced civil penalties of up to \$15 million, civil penalty factors
- New criminal sanctions
- Categorical substantial product hazard determinations, destruction of violative imports
- Other import provisions (bonding; re-export; growing role of customs in enforcement)
- Other prohibited acts (stockpiling, etc.)

10:15 a.m. – 10:30 a.m.

Break

10:30 a.m. – 12:15 p.m.

New Regulatory Standards for “Children’s Products”

- Is an item a “children’s product” or a “toy” and is there a difference?
- When do new standards for lead paint, lead content, and phthalates go into effect; what are the limits, how will they be measured, which ones are mandatory by statute and which ones require a notice-and-comment rulemaking?
- Lead concentration limits: meaning of “part;” accessibility of parts; provisions for electronics
- Conversion of ASTM 963 Toy Safety Standard from voluntary to mandatory
- Recent changes to ASTM 963 and future rulemakings
- Third-party testing for children’s products
- Accreditation for third-party labs and linkage to certification requirements
- Were leading retailers and manufacturers already ahead of this curve (e.g., Toys-R-Us, Target and WalMart safety policies, Toy Industry Association voluntary certification, etc.)?
- Tracking labels
- Product specific provisions—ATVs, Durable Nursery Products

12:15 p.m. – 12:30 p.m.

Break

12:30 p.m. – 2:00 p.m.

Luncheon with Keynote Speaker

Nancy Nord

Acting Chairman
Consumer Product Safety Commission
Bethesda, MD

2:00 p.m. – 2:15 p.m.

Break

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2:15 p.m. – 3:15 p.m.

Preemption and the States' role in Product Safety Enforcement

- State Attorneys General may independently enforce CPSC laws and regulations in federal court. Will they prefer enforcement using their own state statutes and courts?
- The new statute contains some preemption provisions (lead and phthalates), but states may obtain authority from the CPSC to impose regulatory standards stricter than the federal standards and are free to regulate risks not regulated by the CPSC
- What will happen to state regulations while new federal standards are phased in?
- Warning laws like California's Proposition 65 are not preempted, but is that savings clause limited or comprehensive?

3:15 p.m. – 3:30 p.m.

Break

3:30 p.m. – 4:15 p.m.

Access to Information

- Expanded and more publicly accessible CPSC databases
- Potential rule for product registration for infant products (e.g., cribs) to enhance consumer notification procedures
- Enhanced labeling and warning requirements

4:15 p.m. – 5:00 p.m.

Dealing with Imported Products

- Educating foreign product and component part suppliers regarding new obligations
- Special problems with quality assurance and quality control
- CPSC coordination with counterpart agencies in China and elsewhere

5:00 p.m. – 6:00 p.m.

Cocktail Reception

** A portion of each time block will be reserved for the speakers to answer your questions.*

Who Should Attend?

This program is specifically tailored for attorneys who advise:

- manufacturers
- importers
- retailers

on a wide range of consumer products, including toys and other children's products, household goods, all-terrain vehicles, pools and spas, and everything in between.



CHAIR

Arvin Maskin

Partner
Weil, Gotshal & Manges LLP
New York, NY

FROM THE GOVERNMENT

KEYNOTE SPEAKER:

Nancy Nord

Acting Chairman
Consumer Product Safety
Commission
Bethesda, MD

Cheryl Falvey

General Counsel
Consumer Product Safety Commission
Bethesda, MD

Elizabeth Ungar Natter

Assistant Attorney General
Office of Consumer Protection
Office of the Attorney General
State of Kentucky
Frankfort, KY

John "Gib" Mullan

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Peter L. Winik

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Washington, DC

LOCATION & HOTEL ACCOMMODATIONS:

L'ENFANT PLAZA HOTEL

480 L'Enfant Plaza, S.W.
Washington, DC 20024

For your convenience, BNA has reserved a block of rooms at the L'Enfant Plaza Hotel for the night of October 29. Room rate (if booked prior to October 6, 2008 and requesting BNA rate) is \$199.00. For reservations, please call (202) 484-1000.

CONFERENCE FEES & PAYMENT POLICY:

The registration fee of \$1,295 (special price of \$995 for BNA subscribers) includes the conference, continental breakfast, luncheon, cocktail reception, and course materials. Make checks payable to BNA. All payments must be received prior to the start of the conference.

CONFERENCE CANCELLATIONS & CHANGES:

Cancellations received by 9am ET, seven days prior to the conference, will be accepted, and a full refund will be made, less a \$95 administrative processing fee. Attendee substitutions for this conference may be made at any time. These substitutions are not transferable to other conferences. Seminars are held subject to enrollment. Date, venue, and program details are based on information available upon publication of the brochure, and may be subject to change. In the event of a conference cancellation, BNA will make a full refund of any registration fees paid but assumes no liability for non-refundable transportation costs, hotel accommodations, or additional costs incurred by registrants.

COURSE MATERIALS will be provided. Attendees will receive a certificate of attendance.

CLE:

BNA will apply for continuing legal education credits in any state where available. Contact Sara Cribari at scribari@bna.com for more information concerning approval.

SCHOLARSHIP/FINANCIAL HARDSHIP

POLICY: Full and partial scholarship programs are available. For information, contact Sara Cribari at scribari@bna.com.

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Expert Analysis

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