

## *Retailer Reporting Update*

### **INTRODUCTION**

Wal-Mart has been developing a new Retailer Reporting Model with CPSC over the past year. This is a remarkable program in terms of the amount of essentially unfiltered data being submitted to the CPSC by the retailer every week in a spreadsheet containing over 40 categories of information. The program also entails guidelines for “automatic” and “cumulative” triggers, which distinguish incidents of primary interest to Office of Compliance staff. The threshold for these triggers is extremely low. Retailers who report under this program and with this level of information are given immunity from reporting violations.

The CPSC is contemplating a similar type of voluntary reporting program for manufacturers. The Executive Director of Compliance, John “Gib” Mullan, held a meeting at CPSC Headquarters on March 8 to discuss the new retailer reporting model and issues of concern to retailers, importers, distributors, and manufacturers. This is an excellent time to voice any concerns about the reporting model as an individual company, industry, or through trade association or CPSC counsel representation.

### **WHAT WAL-MART IS DOING**

Wal-Mart is sending CPSC detailed information on customer complaints and other incidents in a spreadsheet format once a week, and giving notice of each item to suppliers. In addition, they provide a “full report” or supplemental information

upon request, separately report on product withdrawals, and seek “Fast Track” treatment as considered appropriate. The Wal-Mart Product Safety Team searches 4,000–6,000 calls per day, but all sources of product safety information are added to the initial report spreadsheet.

Over the past twelve months, Wal-Mart has submitted over 3,000 incidents. As the staff became familiar with Wal-Mart incident information, it became clear that the information was valuable to CPSC. The staff focused on developing a two-tier approach: keep flow of incident information to CPSC, but flag some incidents for priority review by the Office of Compliance.

### **WHAT CPSC IS DOING**

The Office of Epidemiology inputs the data collected from Wal-Mart into a database, and they may launch In-Depth Investigation (IDI) and/or treats the data as a new source of hazard information. The Office of Compliance reviews information separately, focusing on triggered incidents. They also identify incidents for follow up, decide whether to seek the full report from the manufacturer or Wal-Mart, or decide whether to seek corrective action. To date, the Office of Epidemiology has assigned 38 IDI’s and the Office of Compliance has assigned nearly 200 IDI’s based on Wal-Mart submissions.

The Office of Compliance will not seek a civil penalty for failure to report any information actually given to CPSC staff

under this model. A retailer remains subject to civil penalties if it knowingly withholds any information or delays providing to CPSC.

### **BENEFITS OF THE VOLUNTARY REPORTING MODEL**

Wal-Mart's reporting model has developed a new major source of early warning information for CPSC. The benefits include: quicker identification of emerging hazards, better insight into the nature of information flowing to retailers, and an emphasis on hazards and corrective actions rather than civil penalties.

### **FOR MORE INFORMATION**

If you would like further guidance, please contact:

Kerrie L. Campbell  
202.342.8890  
KCampbell@Kelleydrye.com