

CPSC Representatives Lay Out Active Agenda

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At the International Consumer Product Health and Safety Organization (ICPHSO) conference in D.C. last week, Chairman Elliot Kaye and other CPSC representatives raised eyebrows with an active agenda, which included proposed and recent changes to the civil penalty investigation and corrective action plan status quo. Specifically, the agenda includes:

- **Publication of DOJ Referrals** – The Chairman explained that he is exploring procedural avenues that would allow the CPSC to announce when it had referred a civil penalty case to the Department of Justice – a significant departure from the Commission’s current practice, as well as that of other government agencies.



- **Higher Civil Penalties** – Despite industry concerns about the increase in civil penalty amounts over the past year, the Chairman stated that he hopes to seek “double digit” (i.e., at least \$10 million) civil penalties when supported by the facts.
- **Commission Review of Certain Corrective Action Plans** – Commissioners Marietta Robinson and Ann Marie Buerkle discussed the Commission's [recent 4-1 vote](#) to require Commission review and approval of corrective action plans for products that were involved in any way in a death. It’s unclear, though, exactly how Commission review could expedite the CAP process, or whether the Commission would seek to deviate from the standard notice methods and language.

Additionally, representatives from the General Counsel’s Office, including General Counsel Stephanie Tsacumis, explained that, in Section 15(b) reporting, the emphasis should be on what the company knew and when they knew it. Arguments that the company subsequently determined that the product did not present a defect and should not have been reported, they noted, are not helpful.

As this agenda demonstrates, businesses can expect the CPSC to remain active – particularly when pursuing civil penalties – and should make sure that they have a dependable CPSC compliance program in place.