

CPSC Fixing Non-Problems; Creating New Ones

The CPSC proposes requirements that may well make the voluntary recall process certainly less flexible and, most certainly, more adversarial.

WASHINGTON, D.C., December 11, 2013 /EINPresswire.com/ -- Via NancyNord.net

In an exercise that exemplifies a solution in search of a problem, the CPSC (Consumer Product Safety Commission) has proposed an interpretive rule that sets requirements for voluntary recalls. I have questioned the wisdom of this activity on several occasions. See:

1. <http://nancynord.net/2013/11/18/not-tweaking-but-twerking-2/>
2. <http://nancynord.net/2013/10/16/the-fast-track-to-unintended-consequences/>

I wanted to flag for readers an excellent analysis (http://www.crowell.com/Practices/Advertising-Product-Risk-Management/alerts-newsletters/CPSC-Approves-Publication-of-Proposed-Voluntary-Recall-Rule#.Uqi8k_RDvmd) of the proposal written by the CPSC's former general counsel, Cheryl Falvey. During her four year tenure at the CPSC, Ms. Falvey was a career employee, rather than a political appointee. She understood the need to represent the Commission, not Commissioners. She has laid out some of the practical concerns of the voluntary recall proposal in a very detailed and compelling manner.

With no evidence that the process is not now working, the Commission proposes requirements that may well make the voluntary recall process certainly less flexible and, most certainly, more adversarial. Such a result would erode the trust that has been build up over the past 30 years as the agency and product sellers have worked cooperatively to make the marketplace safer for consumers. Public comments on this proposal are due February 4, 2014.

-Nancy Nord

Nancy A. Nord was nominated by President George W. Bush to be a commissioner of the Consumer Product Safety Commission (CPSC) for a term that expires in October of 2012. The CPSC protects the public against unreasonable risks of injury and death associated with consumer products. She was confirmed by the Senate for that position on April 29, 2005 and was sworn into office on May 5, 2005. Ms. Nord also served as Acting Chairman of the CPSC from July 2006 until May 2009.

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