



SAFER NANO SYMPOSIUM “LEGAL ASPECTS”

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- ENVIRONMENTAL PROTECTION
- WORKER SAFETY
- PRODUCT SAFETY



TOXIC SUBSTANCES CONTROL ACT (TSCA)

- Section 8 – Notify EPA of information that “reasonably supports the conclusion that a chemical substance presents a substantial risk of injury to human health or the environment.”
- Section 6 – EPA has the ability to regulate a chemical that presents an “unreasonable” risk of injury to health or the environment.
- Section 5 – Premanufacture notices – review of new chemicals before they enter commerce and notification to EPA.



TSCA (Cont.)

- Section 5 – Significant new use rule
 - Allows EPA to regulate new uses of chemicals through rulemaking.
- Section 4 – New data development
 - Authorizes EPA to require manufacturers or processors to develop new data to assess potential risks.



CLEAN AIR ACT

- NATIONAL AMBIENT AIR QUALITY STANDARDS
- HAZARDOUS AIR POLLUTANTS



CLEAN WATER ACT

- REGULATION AS TOXIC WATER POLLUTANTS



RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)

- Possible regulation as a hazardous waste
 - Characteristic wastes
 - Listed wastes



COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT (CERCLA OR SUPERFUND)

- Applies to “releases” of “hazardous substances” to the environment



OTHER ENVIRONMENTAL STATUTES

- Safe Drinking Water Act (SDWA).
- Federal Insecticide, Fungicide and Rodenticide Act (FIFRA).



OCCUPATIONAL SAFETY AND HEALTH ACT (OSHA)

- General duty clause
 - The place of employment must be free from recognized hazards that are causing or are likely to cause death or serious physical harm.



OCCUPATIONAL SAFETY AND HEALTH ACT (OSHA) (Cont.)

- OSHA Hazard Communication Standard.
- Prepare Material Safety Data Sheets (MSDS).
- For hazardous chemicals:
 - Physical hazard or health hazard.
 - Does not apply to articles.



NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH (NIOSH)

- Studying the toxicity and health risks associated with occupational nanoparticle exposure



CONSUMER PRODUCTS SAFETY ACT (CPSA) AND THE FEDERAL HAZARDOUS SUBSTANCES ACT (FHSA)

- Administered by the Consumer Product Safety Commission
- Under the CPSA:
 - Does the product contain a defect which could create:
 - A substantial product hazard
 - An unreasonable risk of serious injury or death



CPSA AND FHSA (Cont.)

- Under the FHSA:
 - Is the product toxic based on a review of toxicity data?
 - Does the product have the potential to cause substantial personal injury or illness as a result of reasonably foreseeable handling or use?



CPSA AND FHSA – UNDER THE FHSA (Cont.)

- If a product is determined to be hazardous
 - Labeling to address the product hazards and the safe use and handling of the product.
 - If labeling is inadequate to protect the public, the product can be banned.



TORT LAW

- NEGLIGENCE
- PRODUCTS LIABILITY (STRICT LIABILITY)
- WARRANTY



NEGLIGENCE

- Duty to the consumer
- Breach of that duty
 - Reasonable Manufacturer Standard
- Causation
 - Actual cause and proximate cause
- Harm



PRODUCTS LIABILITY (STRICT LIABILITY)

- Product was manufactured or sold by defendant
- Product was unreasonably dangerous at the time it was sold
- Causation (actual cause and proximate cause)
- Harm



THREE MAJOR KINDS OF PRODUCTS LIABILITY CLAIMS

- Defective Design
- Failure to Warn
- Defective Manufacture



WARRANTY

- Implied warranty that a product is safe for its intended use
- Causation (actual cause and proximate cause)
- Harm