

Manufacture Safe Products with a Loss Liability Prevention Program

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Introduction:

Ensuring the safety of your products begins at the time each item is conceptualized and continues through manufacturing and sales. The degree of risk associated with your product must be acceptable not only to management, but also to customers and regulators. Otherwise, the cost of defending potential lawsuits could easily eat up any profit you hope to make.



A thorough safety analysis can help you determine whether or not to market a product. Implementing a Loss Liability Prevention Program, including product hazard-review procedures, may go a long way in reducing potential injuries and lawsuits. The below tips can help you develop and evaluate a solid program.

Use the Team Approach

Establish your Loss Liability Prevention Program by appointing a design team comprising individuals who will identify and implement necessary corrections throughout review, prototype fabrication and testing, production and inspection, shipping, and marketing. The team may decide to delay product development until more safety data is gathered and reviewed by engineering.

Your design team starts with top management and should also represent engineering, purchasing, manufacturing, quality control, marketing, legal, insurance, service, and even the consumer. Its duties include:

- Recommending changes or improvements
- Developing policies
- Setting goals or objectives for product loss control
- Ensuring adequate flow of information on such matters as standards and design test results
- Monitoring the proper application of quality control
- Providing information to the service department

Have the design team address the following questions:

- Is your safety policy widely known within your organization?
- Does the safety policy specify who employees should contact in case a safety-related problem develops?
- Does the safety policy come from high within your organization, preferably from the executive level?
- Do you have a product safety manager or coordinator? What are this person's responsibilities and to whom does he/she report?
- Does an arrangement exist for keeping senior management advised of safety-related product deficiencies?
- Is documentation standardized and rigorous to guard against court challenges and employee turnover? It should include manuals on standard company definitions, drafting, workmanship and tolerances
- Are test procedures in line with industry practice and do they reflect real exposures that will be faced by the product? Are they carefully written in step-by-step manuals?

- Are internal design changes properly distributed, discussed, documented and indexed for reference?
- Who is responsible for informing the Consumer Product Safety Commission of safety-related defects?
- Do you have a formal method to resolve safety-related disagreements within your organization?
- Do you have a formal procedure to periodically review the effectiveness of your safety program?
- Can you identify costs to address safety (i.e., extra design time) and the direct costs of producing unsafe products (e.g., higher liability insurance rates, time spent testifying in court)?

Conduct a product hazard review

Hazard analysis begins during the design process. Look at the loss history and litigation record for similar items already in the marketplace to give your team insights into design criteria for your planned product.

Review the basic performance requirements for the environment where your product will be used, such as:

- Temperature
- Moisture
- Ultraviolet exposure
- Exposure to fungus
- Flammability
- Chemicals
- Electrical resistance
- Arc resistance
- Light transmission
- Stability or permanency
- Physical properties
- Load requirements
- Color
- Heat insulation
- Resistance to scratching (mar resistance)
- Any special requirements (e.g., self-lubrication, hinging property, spring properties, time of exposure)

Identify the tolerances expected in your product's performance. For example, do the shrinkage characteristics of the contemplated material appear small enough that tolerances can be anticipated with a reasonable degree of accuracy? Consider the nature of the load to which the product will be exposed. Does it include impact, creep, deflection, stresses, bending, gliding, etc.? Follow industry group and regulatory requirements (e.g. Underwriters' Laboratories, Food & Drug Administration, military, etc.).

Know the Risks

"Failure to warn" is a frequent claim in product liability cases. Therefore, evaluate the user's expectations of the inherent dangers that will remain once your product enters the market. Is the general public's familiarity with its performance characteristics enough to avoid risks, or should the product have clear warnings?

Identify obvious hazards to users, such as sharp edges, moving parts, and electrical energy that could cause serious bodily injury or property damage. Explore the possibility of a safer, more suitable substitute if the dangers cannot be fixed right away.

Your goal should be to eliminate what's unsafe about your product without impairing its usefulness or making it too expensive.

Evaluating Your Products Liability Loss Prevention Program

Sometimes when manufacturers evaluate the quality of their products, they only think of the design and production phases. While design and production are extremely important, the quality assurance process should also include the following departments or functions:

- Sales and marketing
- Customer service
- Record keeping
- Shipping/receiving
- Legal
- Advertising

Use the following checklist to help evaluate your product throughout the key areas of your Liability Loss Prevention Program:

Engineering and Product Design

- Has the product been designed to meet or exceed current industry standards?
- Have potential failure scenarios been identified?
- What are the potential consequences of failure, and how can they be minimized?
- Do labels and warnings comply with standards?
- Have packaging and shipping requirements been established to minimize the potential for damage?

Technical Writing/Legal

- Have appropriate instructional and maintenance manuals been developed?
- Has the legal department or counsel reviewed warnings, labels, instructions and manuals?

Manufacturing

Has a Quality Control program been established to manage:

- Raw materials
- Any components manufactured by others
- The end product

Record Keeping

- Are records maintained for at least the expected life of the product?
- Are duplicate copies of product records maintained off site, or are they otherwise protected from possible theft, fire, and other damage?
- Do product records include design tests/evaluations and sales records?

Sales and Marketing

- Has the legal department or counsel reviewed all warranties and promotional literature?
- Has the marketing and sales staff received adequate training to demonstrate and promote safe use of the product?

Feedback and Actions Taken

Has a formalized system been established to gather, monitor and track:

- Customer complaints and suggestions
- Product failures
- Warranty repair and service trends