

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of)	
AMAZON.COM, INC.)	
)	
)	CPSC DOCKET NO.: 21-2
)	
Respondent.)	

DECLARATION OF JOHN C. EUSTICE IN SUPPORT OF COMPLAINT COUNSEL’S
OPPOSITION TO AMAZON.COM, INC.’S MOTION TO COMPEL -

I, John C. Eustice, hereby declare:

1. I am an attorney in the Office of Compliance and Field Operations at the U.S. Consumer Product Safety Commission and am part of Complaint Counsel in the above-captioned matter.
2. I am over the age of 18, and I am competent to make this Declaration.
3. Attached as Exhibit A is a true and correct copy of Respondent Amazon’s First Set of Requests for Production of Documents and Things to Consumer Product Safety Commission, served on February 14, 2022.
4. Attached as Exhibit B is a true and correct copy of Complaint Counsel’s Objections and Responses to Respondent’s First Set of Requests for Production of Documents and Things to Consumer Product Safety Commission, served on March 21, 2022.
5. Attached as Exhibit C is a true and correct copy of Respondent Amazon’s Objections and Responses to Consumer Product Safety Commission's First Set of Requests for Production, served on March 21, 2022.
6. Attached as Exhibit D is a true and correct copy of an April 13, 2022 email from Sarah Wilson to Liana Wolf.

7. Attached as Exhibit E is a true and correct copy of a May 5, 2022 email from Sarah Wilson to John Eustice.
8. Attached as Exhibit F is a true and correct copy of a May 16, 2022 email from John Eustice to Sarah Wilson.
9. Attached as Exhibit G is a true and correct copy of a May 24, 2022 email from John Eustice to Sarah Wilson.
10. Attached as Exhibit H is a true and correct copy of the July 22, 2022 Joint Dispute Letter submitted to the Court.
11. Attached as Exhibit I is a true and correct copy of the current Recall Handbook, produced by Complaint Counsel as CPSC_AM0011464, and publicly available at <https://www.cpsc.gov/s3fs-public/CPSCRecallHandbookSeptember2021.pdf>.
12. Attached as Exhibit J is a true and correct copy of Complaint Counsel's Supplemental Objections and Responses to Respondent's Interrogatory No. 13 and Requests for Admission Nos. 11, 15 and 18.
13. Attached as Exhibit K is a true and correct copy of the portions of the CPSC Section 15 Defect Investigation Procedures Manual produced by Complaint Counsel as CPSC_AM0013521, filed in camera pursuant to the Protective Order.
14. Attached as Exhibit L is a true and correct copy of the CPSC Corrective Action Plan Template, produced by Complaint Counsel as CPSC_AM0012125, filed in camera pursuant to the Protective Order.
15. Attached as Exhibit M is a true and correct copy of the CPSC Office of Communications' Recall Release Content Instructions, produced by Complaint Counsel as CPSC_AM0011857, filed in camera pursuant to the Protective Order.

16. Attached as Exhibit N is a true and correct copy of the CPSC Office of Communications' Recall Alert Content Instructions, produced by Complaint Counsel as CPSC_AM0011854, filed in camera pursuant to the Protective Order.

17. Attached as Exhibit O is a true and correct copy of portions of the CPSC Regulatory Enforcement Division's Standard Operating Procedure, produced by Complaint Counsel as CPSC_AM00, filed in camera pursuant to the Protective Order.

18. Attached as Exhibit P is a true and correct copy of Complaint Counsel's Objections and Responses to Respondent's First Set of Interrogatories to Consumer Product Safety Commission.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 8, 2022

John C. Eustice

CERTIFICATE OF SERVICE

I hereby certify that on August 8, 2022, a copy of the foregoing was served upon all parties and participants of record in these proceedings as follows:

By email to the Secretary:

Alberta E. Mills
Secretary
U.S. Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814
Email: AMills@cpsc.gov

By email to the Presiding Officer:

Judge James E. Grimes
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549
alj@sec.gov

By email to Counsel for Respondent:

Sarah L. Wilson
Stephen P. Anthony
Thomas R. Brugato
Nicholas Griepsma
Rukesh A. Korde
Covington & Burling LLP
One CityCenter
850 Tenth Street, N.W.
Washington, DC 20001-4956
swilson@cov.com
santhony@cov.com

Complaint Counsel for
U.S. Consumer Product Safety Commission

Exhibit A

**UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION**

)	
In the Matter of AMAZON.COM, INC.,)	
Respondent.)	CPSC DOCKET NO.: 21-2
)	

**RESPONDENT’S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS
AND THINGS TO CONSUMER PRODUCT SAFETY COMMISSION**

Pursuant to the Presiding Officer’s Order of January 19, 2022 (Doc. No. 27), Respondent Amazon.com Inc. (“Amazon”) hereby requests that the Consumer Product Safety Commission (“CPSC”) respond to the following set of requests for the production of documents and things, and produce the following documents and things, within 30 days of service hereof (or as otherwise agreed to by the Parties or ordered by the Presiding Officer). Documents should be sent electronically, if possible, to the email addresses of the undersigned, or, if in physical form, should be delivered to the offices of Covington & Burling LLC, One CityCenter, 850 Tenth Street, NW, Washington, D.C. 20001-4956.

Pursuant to 16 C.F.R. § 1025.31(e), Amazon reserves the right to submit additional requests for production of documents or things pursuant to § 1025.31(b)(2), requests for admission pursuant to § 1025.31(b)(3), or interrogatories pursuant to § 1025.31(b)(1).

DEFINITIONS AND INSTRUCTIONS

- A. In the following requests:
 - 1. “YOU” or “YOUR” shall mean the CPSC and includes the staff and, where applicable, the Commissioners and Complaint Counsel. References to the “staff” and the “Commissioners” shall refer to the staff and Commissioners of the CPSC, respectively and shall

include, without limitation, Commissioners' personal staffs and the staffs of the Office of Compliance and Field Operations, the Office of Hazard Identification and Reduction, the Directorate for Engineering Sciences, the Directorate for Laboratory Sciences, and the Office of Communications.

2. “**DOCUMENT**” shall mean all written, printed, typed, graphic, and photographic matter of any kind or nature, and all mechanical or electronic audio and/or visual recordings or transcripts thereof, however produced or reproduced, and all entries in a computer or electronic database, including but not limited to: correspondence, telephone messages, voice mail, electronic mail, and all other computer files or data..

3. “**COMMUNICATION**” shall mean any correspondence, contact, discussion, e-mail, instant message, or any other kind of oral or written exchange or transmission of information (in the form of facts, ideas, inquiries, or otherwise) and any response thereto between two or more Persons or entities, including, without limitation, all telephone conversations, face-to-face meetings or conversations, internal or external discussions, or exchanges of any **DOCUMENT**.

4. “**PERSON**” shall mean any government agency, natural person, corporation, partnership, unincorporated association, joint venture, trust, estate, public or quasi-public entity, or any other legal entity.

5. “**IDENTIFY**” shall mean:

- a. When used in reference to an individual, shall mean to state his, her, or their full name, former names, present or last known home and business address and telephone numbers, and present or last known occupation, employer and job title or description; or if none of the information is known, then the name, present home

and business address and telephone numbers of all individuals who likely or may be able to provide all or part of the information.

- b. When used in reference to an organization of any kind, shall mean to state its full name, its state of incorporation (if applicable), the address of its principal place of business and its telephone numbers.
 - c. When used in reference to a **DOCUMENT**, shall mean to state the type of **DOCUMENT**, its date, the identity of its author(s) and its recipient(s), any title and/or serial number or file number appearing on the **DOCUMENT**, the identity of its present custodian, its present location and a brief description of its subject matter. If any such **DOCUMENT** was, but no longer is, in **YOUR** possession or control or in existence, state whether it (i) is missing or lost, (ii) has been destroyed, (iii) has been transferred to others, or (iv) has been otherwise disposed of. In lieu of identifying a **DOCUMENT**, a copy of the **DOCUMENT** can be produced.
6. “**COMPLAINT**” shall mean the Complaint that **YOU** filed against Amazon.com, Inc. in the above-captioned matter.
7. “**CPSA**” shall mean the Consumer Product Safety Act, as amended.
8. “**SUBJECT PRODUCT(S)**” shall mean the products referred to in Paragraphs 21, 30, and 39 of **YOUR COMPLAINT**, including (where relevant) the component parts of the same.
9. “**CHILDREN’S SLEEPWEAR GARMENTS**” means the products identified at Paragraph 21 of **YOUR COMPLAINT**.
10. “**CO DETECTORS**” means the products identified at Paragraph 30 of **YOUR COMPLAINT**, including any of their designs, warnings, labels, instructions, packaging, advertising, marketing, testing, certifications, or marks.

11. “**HAIR DRYERS**” means the products identified at Paragraph 39 of **YOUR COMPLAINT**.

12. “Including” shall mean including without limitation.

13. “And” and “Or” shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive.

B. These document production requests shall be deemed continuing to the extent permitted by 16 C.F.R. § 1025.31(f) so as to require prompt further responses if additional information or **DOCUMENTS** are obtained between the time the responses were served and the time of trial.

C. If any privilege is claimed with respect to any **DOCUMENT**, please state with respect to each such claim of privilege the identity of the item with respect to which the privilege is claimed with sufficient particularity to enable the matter to be brought before the Presiding Officer for a ruling on such a claim, and state the alleged ground of privilege and the complete factual basis for such a claim.

D. If it is claimed that the attorney-client privilege or any other privilege is applicable to any **DOCUMENT** sought by these discovery requests, specify the privilege claimed and the factual basis **YOU** contend supports the assertion of the privilege, and **IDENTIFY** the **DOCUMENT** as follows:

- a. State the date, nature, and subject matter of the **DOCUMENT**;
- b. **IDENTIFY** each author of the **DOCUMENT**;
- c. **IDENTIFY** each preparer of the **DOCUMENT**;
- d. **IDENTIFY** each **PERSON** who is an addressee or an intended recipient of the **DOCUMENT**;
- e. **IDENTIFY** each **PERSON** from whom the **DOCUMENT** was received;

- f. State the present location of the **DOCUMENT** and all copies;
 - g. **IDENTIFY** each **PERSON** who has or ever had possession, custody, or control of the **DOCUMENT** or any copy;
 - h. State the number of pages, attachments, appendices, and exhibits;
 - i. Provide all further information concerning the **DOCUMENT** and the circumstances upon which the claim of privilege is asserted;
 - j. Produce all non-privileged portions of the **DOCUMENT**.
- E. For any **COMMUNICATION** with respect to which a privilege is asserted, please state with respect to each such claim of privilege the identity of the item with respect to which the privilege is claimed with sufficient particularity to enable the matter to be brought before the Presiding Officer for a ruling on such a claim, and state the alleged ground of privilege and the complete factual basis for such a claim.
- F. Pursuant to 16 C.F.R. § 1025.31 and Fed. R. Civ. P. 26(e), Complaint Counsel are under a continuing duty to supplement its responses to these discovery requests without further request from Respondent. Where Complaint Counsel have responded to a discovery request with a response that was complete when made, Complaint Counsel is under a duty to supplement that response to include information later obtained.

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. All **DOCUMENTS** described in **YOUR** “List and Summary of Documentary Evidence” attached to the **COMPLAINT**.
2. All **DOCUMENTS** supporting, relating to, or controverting the allegations in the **COMPLAINT**.

3. All **DOCUMENTS** relating to **YOUR** decision to file the **COMPLAINT**, including but not limited to **DOCUMENTS** related to meetings and Staff materials and other materials relating to the Commission vote on or about July 14, 2021.

4. ALL **COMMUNICATIONS** with Commissioners regarding the **SUBJECT PRODUCTS** or third-party products handled through the Amazon's "Fulfillment By Amazon" service.

5. All **DOCUMENTS** that **YOU** intend to introduce in evidence at the hearing on this matter.

6. All **DOCUMENTS** referred to, or relied upon, in answering any Interrogatory or Request for Admission propounded to **YOU** by Amazon.

7. Any **DOCUMENT** provided to, or prepared by, for, or at the direction of, or which in any way was relied upon by, considered by, or formed the basis for the opinions of, any person whom **YOU** expect to call as an expert witness in this matter, including, without limitation, the (i) curriculum vitae, (ii) resume or other summary of the qualifications of such person, (iii) a list of all publications authored or co-authored by the witness, (iv) the amount of and basis for the compensation of the witness, and (v) a list of cases (described by name of case, jurisdiction, case number, and date of testimony) in which the witness has testified.

8. Any **DOCUMENT** provided to, or prepared by, for, or at the direction of, or which in any way was relied upon by, considered by, or formed the basis for the opinions of, any expert or consultant retained by or consulted by the CPSC whom **YOU** do not expect to call as an expert witness in this matter.

9. All voluntary operative standards on which the CPSC has relied, in whole or in part, with respect to any of the **SUBJECT PRODUCTS**.

10. All **DOCUMENTS** and **COMMUNICATIONS** relating to the **CHILDREN’S SLEEPWEAR GARMENTS**, including but not limited to **DOCUMENTS** and **COMMUNICATIONS** relating to, or reflecting, the evaluation, testing, analyses assessments, or inspections of the **CHILDREN’S SLEEPWEAR GARMENTS**; consumer reviews, Preliminary Determinations, Product Safety Assessments, or Epidemiological Investigation Reports (also known as In-Depth Investigation Reports, or IDI Reports), National Electronic Injury Surveillance System (“NEISS”) data, or SaferProducts.gov reports regarding the **CHILDREN’S SLEEPWEAR GARMENTS**; corrective actions regarding the **CHILDREN’S SLEEPWEAR GARMENTS**; or incidents, injuries or deaths involving a **CHILDREN’S SLEEPWEAR GARMENTS**.

11. All **DOCUMENTS** and **COMMUNICATIONS** relating to the **CO DETECTORS**, including but not limited to **DOCUMENTS** and **COMMUNICATIONS** relating to, or reflecting, the evaluation, testing, analyses assessments, or inspections of the **CO DETECTORS**; consumer reviews, Preliminary Determinations, Product Safety Assessments, or Epidemiological Investigation Reports (also known as In-Depth Investigation Reports, or IDI Reports), NEISS data, or SaferProducts.gov reports regarding the **CO DETECTORS**; corrective actions regarding the **CO DETECTORS**; or incidents, injuries or deaths involving a **CO DETECTORS**.

12. All **DOCUMENTS** and **COMMUNICATIONS** relating to the **HAIR DRYERS**, including but not limited to **DOCUMENTS** and **COMMUNICATIONS** relating to, or reflecting, the evaluation, testing, analyses assessments, or inspections of the **HAIR DRYERS**; consumer reviews, Preliminary Determinations, Product Safety Assessments, or Epidemiological Investigation Reports (also known as In-Depth Investigation Reports, or IDI Reports), NEISS data,

or SaferProducts.gov reports regarding the **HAIR DRYERS**; corrective actions regarding the **HAIR DRYERS**; or incidents, injuries or deaths involving a **HAIR DRYERS**.

13. All **DOCUMENTS** and **COMMUNICATIONS** that are part of, or relate to, CPSC File Nos. PI210013, PI210014, PI210016, PI210022, or CA210014; CPSC Sample Numbers 20-800-1345, 20-800-1726, 20-800-1727, or 20-800-1505; or any other file number or sample number relating to a **SUBJECT PRODUCT**.

14. All **COMMUNICATIONS** between **YOU** on the one hand, and any third-party seller or third-party manufacturer of a **SUBJECT PRODUCT** relating to such **SUBJECT PRODUCT**.

15. All **DOCUMENTS** consisting of, or containing, any standard, rule, policy, procedure, or guidance issued, considered, proposed, or adopted by **YOU** that explain, identify, or reflect **YOUR** current or previous position(s) on (i) the circumstances when a Commission order directing a company to provide notification or further notification of a recall to purchasers, consumers, or users of a product, or to the public, “is required in order to adequately protect the public” under 15 U.S.C. § 2064(c)(1); or (ii) the factors bearing on such determination.

16. All **DOCUMENTS** consisting of, or containing, any standard, rule, policy, procedure, or guidance issued, considered, proposed, or adopted by **YOU** that explain, identify, or reflect **YOUR** current or previous position(s) on (i) the circumstances when a Commission order directing a company to provide an remedy, or additional remedy, to purchasers, consumers, or users of a product is “in the public interest” within the meaning of 15 U.S.C. § 2064(d)(1); or (ii) the factors bearing on such determination.

17. All **DOCUMENTS** and **COMMUNICATIONS** relating to the proposed Recalls Pledge between the CPSC and Amazon relating to recalls of products sold by third-party sellers on Amazon.com.

18. All **DOCUMENTS** and **COMMUNICATIONS** relating to the proposed Memorandum of Understanding between the CPSC and Amazon relating to recalls of products sold by third-party sellers on Amazon.com.

19. All **DOCUMENTS** relating to **YOUR** position, policies, practices, or procedures pertaining to corrective actions or recalls conducted by distributors of consumer products.

20. All **DOCUMENTS** relating to **YOUR** position, policies, practices, or procedures pertaining to corrective actions or recalls conducted by manufacturers, importers, and retailers of consumer products domiciled or headquartered outside the United States.

21. All **DOCUMENTS** relating to **YOUR** position, policies, practices, or procedures pertaining to corrective actions or recalls conducted by manufacturers, importers, and retailers of consumer products domiciled or headquartered within the United States.

22. All **DOCUMENTS** relating to **YOUR** positions, policies, practices, or procedures pertaining to recall effectiveness, or the measurement, assessment, or evaluation of recall effectiveness.

23. All **DOCUMENTS** that consist of, or relate to, studies, analyses, or reports regarding direct recall notifications and indirect recall notifications, including without limitation any study regarding their effectiveness.

24. All **DOCUMENTS** relating to **YOUR** positions, policies, practices, or procedures pertaining to assessment, evaluation, or approval of proposed recall remedies or corrective actions,

including but not limited to repairs, replacements, refunds, returns, or disposal (including self-disposal) of recalled products.

25. All **DOCUMENTS** relating to **YOUR** position on, or practices, or procedures related to, when a “recall” should be issued as opposed to a “recall alert.”

26. All **DOCUMENTS** that state, explain, identify, or reflect **YOUR** positions, policies, practices, or procedures pertaining to the circumstances when a Commission order directing a company to provide a remedy, or additional remedy, to purchasers, consumers, or users of a product is “in the public interest” within the meaning of 15 U.S.C. § 2064(d)(1), including the factors bearing on such determination.

REQUEST FOR PRODUCTION OF THINGS

27. Produce, at a reasonable time and place for non-destructive examination and testing, any **SUBJECT PRODUCT(S)** which **YOU** have obtained, analyzed or tested, along with any original instructions, packaging, manuals, and related materials.

Dated: February 14, 2022

Respectfully submitted,



Sarah L. Wilson
Stephen P. Anthony
Thomas Brugato
Benjamin L. Cavataro
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CERTIFICATE OF SERVICE

I hereby certify that on February 14, 2022, a true and correct copy of the foregoing document was served to Complaint Counsel by email.

A handwritten signature in cursive script that reads "Sarah Wilson". The signature is written in black ink on a white background.

Sarah L. Wilson

Exhibit B

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of)

AMAZON.COM, INC.)

Respondent.)

CPSC DOCKET NO.: 21-2

**COMPLAINT COUNSEL’S OBJECTIONS AND RESPONSES
TO RESPONDENT’S FIRST SET OF REQUESTS FOR PRODUCTION OF
DOCUMENTS AND THINGS TO
CONSUMER PRODUCT SAFETY COMMISSION**

Pursuant to 16 C.F.R. § 1025.32, Complaint Counsel respectfully submits its objections and responses (“Responses”) to Respondent Amazon.com, Inc.’s (“Respondent’s”) First Set of Requests for Production of Documents and Things to Consumer Product Safety Commission (“Requests”).

PRELIMINARY STATEMENT

Discovery in this action is ongoing. The specific Responses set forth below are for the purposes of discovery only, and Complaint Counsel neither waives nor intends to waive, and expressly reserves, any and all objections it may have to the relevance, competence, materiality, admission, admissibility, or use at trial of any information, documents, or writings produced, identified, or referred to herein, or to the introduction of any evidence at trial relating to the subjects covered by such Responses.

These Responses are based solely upon information presently known and readily available to Complaint Counsel following a reasonable inquiry for responsive information, as described herein. Complaint Counsel will amend these Responses in accordance with 16 C.F.R.

§ 1025.31(f), as appropriate. Complaint Counsel expressly reserves the right to rely, at any time including trial, upon subsequently discovered information. Further, the specific Responses below are based upon Complaint Counsel's interpretation of the language used in the Requests, and Complaint Counsel reserves its right to amend or supplement further its responses in the event Respondent asserts an interpretation that differs from Complaint Counsel's interpretation.

By making these Responses, Complaint Counsel does not concede it is in possession of any information responsive to any particular Request or that any Response given is relevant to this action. Complaint Counsel's failure to object to a particular Request or willingness to provide responsive information pursuant to a Request is not, and shall not be construed, as an admission of the relevance, or admissibility into evidence, of any such information, nor does it constitute a representation that any such information in fact exists.

Upon request by Respondent, Complaint Counsel is willing to meet and confer regarding its Response to any of the Requests.

GENERAL OBJECTIONS

The following General Objections and statements shall be applicable to, and shall be included in, Complaint Counsel's response to each Request, whether or not mentioned expressly in any particular response. Complaint Counsel does not waive any of its General Objections by stating specific objections to any particular Request. Complaint Counsel's Responses are based solely on Complaint Counsel's current knowledge and belief.

1. Complaint Counsel objects to the Requests, including the Definitions and Instructions contained within them, to the extent they impose or seek to impose any requirement or discovery obligation greater than or different from those under the 16 C.F.R. Part 1025 and applicable orders of the Presiding Officer.

2. Complaint Counsel objects to the Requests to the extent they seek disclosure of information protected under the attorney-client privilege, work product doctrine, deliberative process privilege, or any other applicable privilege or immunity, including the privilege afforded information given to the staff of the Commission on a pledge of confidentiality and/or by other law or rule of procedure, including, but not limited to, the Consumer Product Safety Act, 15 U.S.C. § 2051 *et seq.*, the Privacy Act, 5 U.S.C. § 552a, and other applicable laws and regulations. Should any such disclosure by Complaint Counsel occur, it is inadvertent and shall not constitute a waiver of any privilege or immunity.

3. Complaint Counsel objects to the Requests to the extent they seek information not relevant to the subject matter involved in the proceedings, nor reasonably calculated to lead to the discovery of admissible evidence, including but not limited to, out-of-scope Requests that seek information about settlement negotiations between CPSC staff and representatives of Respondent (Request Nos. 17 and 18). Such out-of-scope Requests are not relevant to the Court's analysis of whether the Subject Products distributed by Respondent pose a substantial product hazard under Section 15 of the CPSA, 15 U.S.C. § 2064, or applicable regulations, including 16 C.F.R. Part 1115, and will serve only to delay the proceedings and obfuscate the issue at hand. Complaint Counsel is not waiving any objection as to the relevance of the information provided or the admissibility of that information at any trial, hearing, or other proceeding.

4. Complaint Counsel objects to the Requests to the extent they seek information not live and in dispute in the proceedings following the Court's January 19, 2022 Order on Motion to Dismiss and Motion for Summary Decision. The sole remaining issues in dispute and ripe for discovery concern whether the Subject Products present a substantial product hazard, what

actions Respondent has taken with respect to the Subject Products, and the remedies sought by Complaint Counsel to remediate the hazards posed by the Subject Products.

5. Complaint Counsel objects to the Requests to the extent they are misleading and/or improper.

6. Complaint Counsel objects to the Requests as premature to the extent they seek Complaint Counsel's contentions at this early stage of the proceeding.

7. Complaint Counsel objects to the Requests to the extent they seek information beyond what is available to Complaint Counsel at present from a reasonable search of its own files and from a reasonable inquiry of its present employees.

8. Complaint Counsel objects to the Requests and accompanying Definitions to the extent they are vague, ambiguous, overly broad, and/or unduly burdensome.

9. Complaint Counsel objects to the Requests to the extent they would require Complaint Counsel to conduct an unreasonable search for responsive information.

10. Complaint Counsel objects to each Request to the extent the discovery sought is unreasonably cumulative or duplicative, is publicly available, or is obtained by Respondent from some other source that is more convenient, less burdensome, or less expensive.

11. Complaint Counsel objects to each Request that seeks the production of "all" documents as unnecessarily broad and unduly burdensome. Complaint Counsel will make a reasonable production of responsive, non-privileged, non-immune documents relevant to a claim or defense, to the extent that they exist, are in Complaint Counsel's custody or control, and can be located after a reasonable search.

12. By identifying a document in response to any Requests, Complaint Counsel does not assert that the document is free from information that is privileged, subject to discovery, or

relevant. Nor does Complaint Counsel waive its right to withhold any portion of the document that is privileged, immune from discovery, or irrelevant.

13. Complaint Counsel objects to each Request to the extent it seeks the production of documents containing both discoverable and non-discoverable or objectionable material, and reserves the right to redact from documents and things any non-responsive or irrelevant matter, or matter for which Complaint Counsel may claim an applicable privilege or immunity.

14. No objection, limitation, or response (or lack thereof) made herein shall be an admission by Complaint Counsel as to (a) the truth of any of the statements made in the Requests, or (b) the existence or non-existence of documents or information responsive to the Requests.

Subject to and without waiving the foregoing objections, Complaint Counsel provides the following Responses:

COMPLAINT COUNSEL'S RESPONSES TO REQUESTS

1. All **DOCUMENTS** described in **YOUR** "List and Summary of Documentary Evidence" attached to the **COMPLAINT**.

RESPONSE TO REQUEST NO. 1:

Complaint Counsel objects to this Request to the extent it seeks documents duplicative of other Requests. Complaint Counsel further objects to this Request as it seeks documents that are protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege. Complaint Counsel objects to producing such materials and states that, although not required by 16 C.F.R. Part 1025, Complaint Counsel will produce an appropriate privilege log identifying documents withheld from production on the basis of privilege or other protection.

Subject to and without waiver of the foregoing general and specific objections, and following a reasonable search, Complaint Counsel has identified non-privileged documents of the type sought by this Request and will produce them to Respondent. The documents Complaint Counsel is producing in response to this Request are included among the production materials Complaint Counsel has already produced to Respondent and marked as CPSC_AM0000001 - CPSC_AM0009487. Complaint Counsel will supplement that production with additional documents.

2. All **DOCUMENTS** supporting, relating to, or controverting the allegations in the **COMPLAINT**.

RESPONSE TO REQUEST NO. 2:

Complaint Counsel objects to this Request to the extent it seeks documents duplicative of other Requests. Complaint Counsel objects to this Request as overly broad, vague, and ambiguous in its use of the phrase “All Documents.” Complaint Counsel further objects to this Request as it seeks documents that are protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege. Complaint Counsel objects to producing such materials and states that, although not required by 16 C.F.R. Part 1025, Complaint Counsel will produce an appropriate privilege log identifying documents withheld from production on the basis of privilege or other protection.

Complaint Counsel contends that the sole remaining issues in dispute and ripe for discovery concern whether the Subject Products present a substantial product hazard, what actions Respondent has taken with respect to the Subject Products, and the remedies sought by Complaint Counsel to remediate the hazards posed by the Subject Products. Complaint Counsel objects to producing any documents relating to other allegations in the Complaint.

Subject to and without waiver of the foregoing general and specific objections, and following a reasonable search, Complaint Counsel has identified non-privileged documents of the type sought by this Request and will produce them to Respondent.

3. All **DOCUMENTS** relating to **YOUR** decision to file the **COMPLAINT**, including but not limited to **DOCUMENTS** related to meetings and Staff materials and other materials relating to the Commission vote on or about July 14, 2021.

RESPONSE TO REQUEST NO. 3:

Complaint Counsel objects to this Request as irrelevant to any issue live and in dispute in the proceedings following the Court’s January 19, 2022 Order on Motion to Dismiss and Motion for Summary Decision. Complaint Counsel also objects to this Request as unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Communications or documents from any Commissioner (past or present) or their staff are not relevant to any claim or defense in this action because Commissioners and their staff have not made a substantial product hazard determination. The Initial Decision of a substantial product hazard is made by the Presiding Officer as required by 16 C.F.R. § 1025.51. In addition, Complaint Counsel objects to this Request as overly broad, vague, and ambiguous in its use of the phrase “All Documents” and “Documents relating to meetings and Staff materials and other materials.” Complaint Counsel also objects to this Request to the extent it seeks information protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege.

4. All **COMMUNICATIONS** with Commissioners regarding the **SUBJECT PRODUCTS** or third-party products handled through the Amazon’s “Fulfillment By Amazon” service.

RESPONSE TO REQUEST NO. 4:

Complaint Counsel objects to this Request as irrelevant to any issue live and in dispute in the proceedings following the Court’s January 19, 2022 Order on Motion to Dismiss and Motion for Summary Decision. Complaint Counsel also objects to this Request as unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Communications or documents from any Commissioner (past or present) or their staff are not relevant to any claim or defense in this action because Commissioners and their staff have not made a substantial product hazard determination. The Initial Decision of a substantial product hazard is made by the Presiding Officer as required by 16 C.F.R. § 1025.51.

In addition, Complaint Counsel objects to this Request as overly broad, vague, and ambiguous in its use of the phrase “All Communications.” Complaint Counsel also objects to this Request to the extent it seeks information protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege.

5. All **DOCUMENTS** that **YOU** intend to introduce in evidence at the hearing on this matter.

RESPONSE TO REQUEST NO. 5:

Complaint Counsel objects to this Request to the extent it seeks documents duplicative of other Requests. Complaint Counsel objects to this Request as premature to the extent it seeks Complaint Counsel’s contentions at this early stage of the proceeding, and Complaint Counsel reserves the right to supplement its response with additional information in accordance with 16 C.F.R. § 1025.31(f). In addition, Complaint Counsel objects to this Request to the extent that it seeks the identification of Documents in the possession of Respondent that have yet to be produced in these proceedings.

Subject to and without waiver of the foregoing general and specific objections, and following a reasonable search, Complaint Counsel has identified non-privileged documents of the type sought by this Request and will produce them to Respondent, including documents related to the testing conducted on the Subject Products.

6. All **DOCUMENTS** referred to, or relied upon, in answering any Request or Request for Admission propounded to **YOU** by Amazon.

RESPONSE TO REQUEST NO. 6:

Complaint Counsel objects to this Request to the extent it seeks documents duplicative of other Requests. Complaint Counsel further objects to this Request as it seeks documents that are protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege. Complaint Counsel objects to producing such materials and states that, although not required by 16 C.F.R. Part 1025, Complaint Counsel will produce an

appropriate privilege log identifying documents withheld from production on the basis of privilege or other protection.

Subject to and without waiver of the foregoing general and specific objections, and following a reasonable search, Complaint Counsel has identified non-privileged documents of the type sought by this Request and will produce them to Respondent.

7. Any **DOCUMENT** provided to, or prepared by, for, or at the direction of, or which in any way was relied upon by, considered by, or formed the basis for the opinions of, any person whom **YOU** expect to call as an expert witness in this matter, including, without limitation, the (i) curriculum vitae, (ii) resume or other summary of the qualifications of such person, (iii) a list of all publications authored or co-authored by the witness, (iv) the amount of and basis for the compensation of the witness, and (v) a list of cases (described by name of case, jurisdiction, case number, and date of testimony) in which the witness has testified.

RESPONSE TO REQUEST NO. 7:

Complaint Counsel objects to this Request to the extent it seeks documents duplicative of other Requests. Complaint Counsel further objects to this Request as it seeks documents that are protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege. Complaint Counsel objects to producing such materials and states that, although not required by 16 C.F.R. Part 1025, Complaint Counsel will produce an appropriate privilege log identifying documents withheld from production on the basis of privilege or other protection.

In addition, Complaint Counsel objects to this Request on the grounds it constitutes premature expert discovery. Complaint Counsel will identify the expert witnesses it expects to call at the hearing in this matter pursuant to the Court's schedule set forth at page 28 of its January 19, 2022 Order, and will amend these Responses in accordance with 16 C.F.R. § 1025.31(f), as appropriate.

8. Any **DOCUMENT** provided to, or prepared by, for, or at the direction of, or which in any way was relied upon by, considered by, or formed the basis for the opinions of, any expert or consultant retained by or consulted by the CPSC whom **YOU** do not expect to call as an expert witness in this matter.

RESPONSE TO REQUEST NO. 8:

Complaint Counsel objects to this Request to the extent it seeks documents duplicative of other Requests. Complaint Counsel further objects to this Request as it seeks documents that are protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege. In addition, Complaint Counsel objects to this Request to the extent it requires disclosure of documents or information protected by Federal Rule of Civil Procedure 26(b)(4)(D). Complaint Counsel objects to producing such materials and states that, although not required by 16 C.F.R. Part 1025, Complaint Counsel will produce an appropriate privilege log identifying documents withheld from production on the basis of privilege or other protection.

In addition, Complaint Counsel objects to this Request on the grounds it constitutes premature expert discovery. Complaint Counsel will identify the expert witnesses it expects to call at the hearing in this matter pursuant to the Court's schedule set forth at page 28 of its January 19, 2022 Order, and will amend these Responses in accordance with 16 C.F.R. § 1025.31(f), as appropriate.

9. All voluntary operative standards on which the CPSC has relied, in whole or in part, with respect to any of the **SUBJECT PRODUCTS**.

RESPONSE TO REQUEST NO. 9

Complaint Counsel objects to this Request to the extent it seeks documents duplicative of other Requests. Complaint Counsel further objects to this Request on the grounds that it is vague and ambiguous in its use of the phrase "voluntary operative standards." Subject to and without waiver of the foregoing general and specific objections, Complaint Counsel states that the parties have agreed to discuss a possible Stipulation that would moot Request No. 9. If the parties do not reach agreement on a Stipulation, Complaint Counsel will respond to Request No. 9 subject to their objections within a time frame agreed-upon by counsel.

10. All **DOCUMENTS** and **COMMUNICATIONS** relating to the **CHILDREN'S SLEEPWEAR GARMENTS**, including but not limited to **DOCUMENTS** and **COMMUNICATIONS** relating to, or reflecting, the evaluation, testing, analyses assessments, or inspections of the **CHILDREN'S SLEEPWEAR GARMENTS**; consumer reviews, Preliminary Determinations, Product Safety Assessments, or Epidemiological Investigation Reports (also known as In-Depth Investigation Reports, or IDI Reports), National Electronic Injury Surveillance System ("NEISS") data, or SaferProducts.gov reports regarding the **CHILDREN'S SLEEPWEAR GARMENTS**; corrective actions regarding the **CHILDREN'S SLEEPWEAR GARMENTS**; or incidents, injuries or deaths involving a **CHILDREN'S SLEEPWEAR GARMENTS**.

RESPONSE TO REQUEST NO. 10:

Complaint Counsel objects to this Request to the extent it seeks documents duplicative of other Requests. Complaint Counsel objects to this Request as overly broad, vague, and ambiguous in its use of the phrase "All Documents and Communications." Complaint Counsel further objects to this Request as it seeks documents that are protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege. Complaint Counsel objects to producing such materials and states that, although not required by 16 C.F.R. Part 1025, Complaint Counsel will produce an appropriate privilege log identifying documents withheld from production on the basis of privilege or other protection.

Subject to and without waiver of the foregoing general and specific objections, Complaint Counsel states that the parties have agreed to discuss a possible Stipulation that would moot Request No. 10. If the parties do not reach agreement on a Stipulation, Complaint Counsel will respond to Request No. 10 subject to their objections within a time frame agreed-upon by counsel.

11. All **DOCUMENTS** and **COMMUNICATIONS** relating to the **CO DETECTORS**, including but not limited to **DOCUMENTS** and **COMMUNICATIONS** relating to, or reflecting, the evaluation, testing, analyses assessments, or inspections of the **CO DETECTORS**; consumer reviews, Preliminary Determinations, Product Safety Assessments, or Epidemiological Investigation Reports (also known as In-Depth Investigation Reports, or IDI Reports), NEISS data, or SaferProducts.gov reports regarding the **CO DETECTORS**; corrective actions regarding the **CO DETECTORS**; or incidents, injuries or deaths involving a **CO DETECTORS**.

RESPONSE TO REQUEST NO. 11:

Complaint Counsel objects to this Request to the extent it seeks documents duplicative of other Requests. Complaint Counsel objects to this Request as overly broad, vague, and ambiguous in its use of the phrase “All Documents and Communications.” Complaint Counsel further objects to this Request as it seeks documents that are protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege. Complaint Counsel objects to producing such materials and states that, although not required by 16 C.F.R. Part 1025, Complaint Counsel will produce an appropriate privilege log identifying documents withheld from production on the basis of privilege or other protection.

Subject to and without waiver of the foregoing general and specific objections, Complaint Counsel states that the parties have agreed to discuss a possible Stipulation that would moot Request No. 11. If the parties do not reach agreement on a Stipulation, Complaint Counsel will respond to Request No. 11 subject to their objections within a time frame agreed-upon by counsel.

12. All **DOCUMENTS** and **COMMUNICATIONS** relating to the **HAIR DRYERS**, including but not limited to **DOCUMENTS** and **COMMUNICATIONS** relating to, or reflecting, the evaluation, testing, analyses assessments, or inspections of the **HAIR DRYERS**; consumer reviews, Preliminary Determinations, Product Safety Assessments, or Epidemiological Investigation Reports (also known as In-Depth Investigation Reports, or IDI Reports), NEISS data, or SaferProducts.gov reports regarding the **HAIR DRYERS**; corrective actions regarding the **HAIR DRYERS**; or incidents, injuries or deaths involving a **HAIR DRYERS**.

RESPONSE TO REQUEST NO. 12:

Complaint Counsel objects to this Request to the extent it seeks documents duplicative of other Requests. Complaint Counsel objects to this Request as overly broad, vague, and ambiguous in its use of the phrase “All Documents and Communications.” Complaint Counsel further objects to this Request as it seeks documents that are protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege. Complaint Counsel

objects to producing such materials and states that, although not required by 16 C.F.R. Part 1025, Complaint Counsel will produce an appropriate privilege log identifying documents withheld from production on the basis of privilege or other protection.

Subject to and without waiver of the foregoing general and specific objections, Complaint Counsel states that the parties have agreed to discuss a possible Stipulation that would moot Request No. 12. If the parties do not reach agreement on a Stipulation, Complaint Counsel will respond to Request No. 12 subject to their objections within a time frame agreed-upon by counsel.

13. All **DOCUMENTS** and **COMMUNICATIONS** that are part of, or relate to, CPSC File Nos. PI210013, PI210014, PI210016, PI210022, or CA210014; CPSC Sample Numbers 20- 800-1345, 20-800-1726, 20-800-1727, or 20-800-1505; or any other file number or sample number relating to a **SUBJECT PRODUCT**.

RESPONSE TO REQUEST NO. 13:

Complaint Counsel objects to this Request to the extent it seeks documents duplicative of other Requests. Complaint Counsel objects to this Request as overly broad, vague, and ambiguous in its use of the phrase “All Documents and Communications.” Complaint Counsel further objects to this Request as it seeks documents that are protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege. Complaint Counsel objects to producing such materials and states that, although not required by 16 C.F.R. Part 1025, Complaint Counsel will produce an appropriate privilege log identifying documents withheld from production on the basis of privilege or other protection.

Subject to and without waiver of the foregoing general and specific objections, Complaint Counsel states that the parties have agreed to discuss a possible Stipulation that would moot Request No. 13. If the parties do not reach agreement on a Stipulation, Complaint Counsel will respond to Request No. 13 subject to their objections within a time frame agreed-upon by counsel.

14. All **COMMUNICATIONS** between **YOU** on the one hand, and any third-party seller or third-party manufacturer of a **SUBJECT PRODUCT** relating to such **SUBJECT PRODUCT**.

RESPONSE TO REQUEST NO. 14:

Complaint Counsel objects to this Request as overly broad and unduly burdensome because it seeks documents which go well beyond the subject matter involved in this proceeding. The subject matter involved in these proceedings concerns whether the Subject Products distributed by Respondent create a substantial product hazard under Section 15 of the CPSA, 15 U.S.C. § 2064, and the remedies sought by Complaint Counsel. The Communications between CPSC staff and any third-party seller are irrelevant to the proceedings following the Court's January 19, 2022 Order on Motion to Dismiss and Motion for Summary Decision.

Complaint Counsel further objects to this Request to the extent it seeks documents duplicative of other Requests. Complaint Counsel also objects to this Request as overly broad, vague, and ambiguous in its use of the phrase "All Communications".

Subject to and without waiver of the foregoing general and specific objections, and following a reasonable search, Complaint Counsel states that the parties have agreed to discuss a possible Stipulation that would moot Request No. 14. If the parties do not reach agreement on a Stipulation, Complaint Counsel will respond to Request No. 14 subject to their objections within a time frame agreed-upon by counsel.

15. All **DOCUMENTS** consisting of, or containing, any standard, rule, policy, procedure, or guidance issued, considered, proposed, or adopted by **YOU** that explain, identify, or reflect **YOUR** current or previous position(s) on (i) the circumstances when a Commission order directing a company to provide notification or further notification of a recall to purchasers, consumers, or users of a product, or to the public, "is required in order to adequately protect the public" under 15 U.S.C. § 2064(c)(1); or (ii) the factors bearing on such determination.

RESPONSE TO REQUEST NO. 15:

Complaint Counsel objects to this Request as calling for a legal conclusion in seeking the circumstances or factors bearing on a determination of a remedy being "required in order to

adequately protect the public” within the meaning of 15 U.S.C. § 2064(d)(1). Complaint Counsel further objects to this Request as it seeks documents that are protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege. Complaint Counsel also objects to this Request as overly broad, vague, and ambiguous in its use of the phrase “All Documents and Communications.” Complaint Counsel also objects to this Request as overly broad and unduly burdensome because it seeks documents which go well beyond the subject matter involved in this proceeding. The subject matter involved in these proceedings concerns whether the Subject Products distributed by Respondent create a substantial product hazard under Section 15 of the CPSA, 15 U.S.C. § 2064, and the remedies sought by Complaint Counsel. Complaint Counsel objects to this Request and states that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Documents pertaining to the circumstances when a Commission order concerning other products was required in order to adequately protect the public is not relevant to the Court’s analysis in this matter under Section 15 of the CPSA, 15 U.S.C. § 2064, or applicable regulations, including 16 C.F.R. Part 1115. Removing any products that present a substantial product hazard from consumers’ households and the secondary market is in the public interest and will protect the public from injury.

16. All **DOCUMENTS** consisting of, or containing, any standard, rule, policy, procedure, or guidance issued, considered, proposed, or adopted by **YOU** that explain, identify, or reflect **YOUR** current or previous position(s) on (i) the circumstances when a Commission order directing a company to provide an remedy, or additional remedy, to purchasers, consumers, or users of a product is “in the public interest” within the meaning of 15 U.S.C. § 2064(d)(1); or (ii) the factors bearing on such determination.

RESPONSE TO REQUEST NO. 16:

Complaint Counsel objects to this Request as calling for a legal conclusion in seeking the circumstances or factors bearing on a determination of a remedy being “in the public interest” within the meaning of 15 U.S.C. § 2064(d)(1). Complaint Counsel further objects to this Request as it seeks

documents that are protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege. Complaint Counsel also objects to this Request as overly broad and unduly burdensome because it seeks documents which go well beyond the subject matter involved in this proceeding. The subject matter involved in these proceedings concerns whether the Subject Products distributed by Respondent create a substantial product hazard under Section 15 of the CPSA, 15 U.S.C. § 2064, and the remedies sought by Complaint Counsel. Complaint Counsel objects to this Request and states that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Documents pertaining to the circumstances when a Commission order concerning other recalls directed a company to provide a remedy are not relevant to the Court's analysis in this matter under Section 15 of the CPSA, 15 U.S.C. § 2064, or applicable regulations, including 16 C.F.R. Part 1115. Removing any products that present a substantial product hazard from consumers' households and the secondary market is in the public interest.

17. All **DOCUMENTS** and **COMMUNICATIONS** relating to the proposed Recalls Pledge between the CPSC and Amazon relating to recalls of products sold by third-party sellers on Amazon.com.

RESPONSE TO REQUEST NO. 17:

Complaint Counsel objects to this Request as irrelevant to any issue live and in dispute in the proceedings following the Court's January 19, 2022 Order on Motion to Dismiss and Motion for Summary Decision. In addition, Complaint Counsel objects to this Request as overly broad, vague, and ambiguous in its use of the phrase "All Documents and Communications." Complaint Counsel further objects to this Request as it seeks documents that are protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege.

18. All **DOCUMENTS** and **COMMUNICATIONS** relating to the proposed Memorandum of Understanding between the CPSC and Amazon relating to recalls of products sold by third-party sellers on Amazon.com.

RESPONSE TO REQUEST NO. 18:

Complaint Counsel objects to this Request as irrelevant to any issue live and in dispute in the proceedings following the Court's January 19, 2022 Order on Motion to Dismiss and Motion for Summary Decision. In addition, Complaint Counsel objects to this Request as overly broad, vague, and ambiguous in its use of the phrase "All Documents and Communications." Complaint Counsel further objects to this Request as it seeks documents that are protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege.

19. All **DOCUMENTS** relating to **YOUR** position, policies, practices, or procedures pertaining to corrective actions or recalls conducted by distributors of consumer products.

RESPONSE TO REQUEST NO. 19:

Complaint Counsel objects to this Request as overly broad and unduly burdensome because it seeks documents which go well beyond the subject matter involved in this proceeding. The subject matter involved in these proceedings concerns whether the Subject Products distributed by Respondent create a substantial product hazard under Section 15 of the CPSA, 15 U.S.C. § 2064, and the remedies sought by Complaint Counsel. Complaint Counsel objects to this Request and states that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Documents pertaining to other distributors are not relevant to the Court's analysis in this matter under Section 15 of the CPSA, 15 U.S.C. § 2064, or applicable regulations, including 16 C.F.R. Part 1115.

20. All **DOCUMENTS** relating to **YOUR** position, policies, practices, or procedures pertaining to corrective actions or recalls conducted by manufacturers, importers, and retailers of consumer products domiciled or headquartered outside the United States.

RESPONSE TO REQUEST NO. 20:

Complaint Counsel objects to this Request as overly broad and unduly burdensome because it seeks documents which go well beyond the subject matter involved in this proceeding. The subject matter involved in these proceedings concerns whether the Subject Products distributed by Respondent create a substantial product hazard under Section 15 of the CPSA, 15 U.S.C. § 2064, and the remedies sought by Complaint Counsel. Complaint Counsel objects to this Request and states that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Documents pertaining to other manufacturers, importers and retailers of consumer products are not relevant to the Court's analysis in this matter under Section 15 of the CPSA, 15 U.S.C. § 2064, or applicable regulations, including 16 C.F.R. Part 1115.

21. All **DOCUMENTS** relating to **YOUR** position, policies, practices, or procedures pertaining to corrective actions or recalls conducted by manufacturers, importers, and retailers of consumer products domiciled or headquartered within the United States.

RESPONSE TO REQUEST NO. 21:

Complaint Counsel objects to this Request as overly broad and unduly burdensome because it seeks documents which go well beyond the subject matter involved in this proceeding. The subject matter involved in these proceedings concerns whether the Subject Products distributed by Respondent create a substantial product hazard under Section 15 of the CPSA, 15 U.S.C. § 2064, and the remedies sought by Complaint Counsel. Complaint Counsel objects to this Request and states that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Documents pertaining to other manufacturers, importers and retailers of consumer products are not relevant to the Court's analysis in this matter under Section 15 of the CPSA, 15 U.S.C. § 2064, or applicable regulations, including 16 C.F.R. Part 1115.

22. All **DOCUMENTS** relating to **YOUR** positions, policies, practices, or procedures pertaining to recall effectiveness, or the measurement, assessment, or evaluation of recall effectiveness.

RESPONSE TO REQUEST NO. 22:

Complaint Counsel objects to this Request as overly broad and unduly burdensome because it seeks documents which go well beyond the subject matter involved in this proceeding. The subject matter involved in these proceedings concerns whether the Subject Products distributed by Respondent create a substantial product hazard under Section 15 of the CPSA, 15 U.S.C. § 2064, and the remedies sought by Complaint Counsel. Complaint Counsel objects to this Request and states that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Documents pertaining to recall effectiveness studies are not relevant to the Court's analysis in this matter under Section 15 of the CPSA, 15 U.S.C. § 2064, or applicable regulations, including 16 C.F.R. Part 1115.

23. All **DOCUMENTS** that consist of, or relate to, studies, analyses, or reports regarding direct recall notifications and indirect recall notifications, including without limitation any study regarding their effectiveness.

RESPONSE TO REQUEST NO. 23:

Complaint Counsel objects to this Request as overly broad and unduly burdensome because it seeks documents which go well beyond the subject matter involved in this proceeding. The subject matter involved in these proceedings concerns whether the Subject Products distributed by Respondent create a substantial product hazard under Section 15 of the CPSA, 15 U.S.C. § 2064, and the remedies sought by Complaint Counsel. Complaint Counsel objects to this Request and states that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Documents pertaining to studies on recall notifications are not relevant to the Court's analysis in this matter under Section 15 of the CPSA, 15 U.S.C. § 2064, or applicable regulations, including 16 C.F.R. Part 1115.

24. All **DOCUMENTS** relating to **YOUR** positions, policies, practices, or procedures pertaining to assessment, evaluation, or approval of proposed recall remedies or corrective actions, including but not limited to repairs, replacements, refunds, returns, or disposal (including self-disposal) of recalled products.

RESPONSE TO REQUEST NO. 24:

Complaint Counsel objects to this Request as overly broad and unduly burdensome because it seeks documents which go well beyond the subject matter involved in this proceeding. The subject matter involved in these proceedings concerns whether the Subject Products distributed by Respondent create a substantial product hazard under Section 15 of the CPSA, 15 U.S.C. § 2064, and the remedies sought by Complaint Counsel. Complaint Counsel objects to this Request and states that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Documents pertaining to CPSC's assessment, evaluation or approval of other proposed recall remedies or corrective action plans are not relevant to the Court's analysis in this matter under Section 15 of the CPSA, 15 U.S.C. § 2064, or applicable regulations, including 16 C.F.R. Part 1115.

25. All **DOCUMENTS** relating to **YOUR** position on, or practices, or procedures related to, when a "recall" should be issued as opposed to a "recall alert."

RESPONSE TO REQUEST NO. 25:

Complaint Counsel objects to this Request as overly broad and unduly burdensome because it seeks documents which go well beyond the subject matter involved in this proceeding. The subject matter involved in these proceedings concerns whether the Subject Products distributed by Respondent create a substantial product hazard under Section 15 of the CPSA, 15 U.S.C. § 2064, and the remedies sought by Complaint Counsel. Complaint Counsel objects to this Request and states that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Documents pertaining to whether a recall is published as a recall alert are not relevant to the Court's analysis in this matter

under Section 15 of the CPSA, 15 U.S.C. § 2064, or applicable regulations, including 16 C.F.R. Part 1115.

26. All **DOCUMENTS** that state, explain, identify, or reflect **YOUR** positions, policies, practices, or procedures pertaining to the circumstances when a Commission order directing a company to provide a remedy, or additional remedy, to purchasers, consumers, or users of a product is “in the public interest” within the meaning of 15 U.S.C. § 2064(d)(1), including the factors bearing on such determination.

RESPONSE TO REQUEST NO. 26:

Complaint Counsel objects to this Request as calling for a legal conclusion in seeking the factors bearing on a determination of a remedy being “in the public interest” within the meaning of 15 U.S.C. § 2064(d)(1). Complaint Counsel further objects to this Request as it seeks documents that are protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege. Complaint Counsel also objects to this Request as overly broad and unduly burdensome because it seeks documents which go well beyond the subject matter involved in this proceeding. The subject matter involved in these proceedings concerns whether the Subject Products distributed by Respondent create a substantial product hazard under Section 15 of the CPSA, 15 U.S.C. § 2064. Complaint Counsel objects to this Request and states that it seeks information that is neither relevant to the subject matter involved in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Documents pertaining to Commission orders directing other companies to provide remedies are not relevant to the Court’s analysis in this matter under Section 15 of the CPSA, 15 U.S.C. § 2064, or applicable regulations, including 16 C.F.R. Part 1115.

27. Produce, at a reasonable time and place for non-destructive examination and testing, any **SUBJECT PRODUCT(S)** which **YOU** have obtained, analyzed or tested, along with any original instructions, packaging, manuals, and related materials.

RESPONSE TO REQUEST NO. 27:

Complaint Counsel states that the parties have agreed to discuss a possible Stipulation that would moot Request No. 27. If the parties do not reach agreement on a Stipulation,

Complaint Counsel will meet and confer with Respondent's counsel and respond to Request No. 27 subject to their objections within a time frame agreed-upon by counsel.

Dated this 21st day of March, 2022

John C. Eustice

John C. Eustice, Senior Trial Attorney
Liana G.T. Wolf, Trial Attorney
Serena Anand, Trial Attorney

Division of Enforcement and Litigation
Office of Compliance and Field Operations
U.S. Consumer Product Safety Commission
Bethesda, MD 20814
Tel: (301) 504-7809

Complaint Counsel for
U.S. Consumer Product Safety Commission

CERTIFICATE OF SERVICE

I hereby certify that on March 21, 2022, a copy of the foregoing was served via email upon the following:

Sarah L. Wilson at swilson@cov.com
Stephen P. Anthony at santhony@cov.com
Thomas R. Brugato at tbrugato@cov.com
Benjamin L. Cavaturo at bcavaturo@cov.com

Counsel for Respondent Amazon.com, Inc.



Complaint Counsel for
U.S. Consumer Product Safety Commission

Exhibit C

**UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION**

In the Matter of AMAZON.COM, INC.,)	
)	
Respondent.)	CPSC DOCKET NO.: 21-2
)	
)	

**RESPONDENT’S OBJECTIONS AND RESPONSES TO CONSUMER PRODUCT
SAFETY COMMISSION’S FIRST SET OF REQUESTS FOR PRODUCTION**

Pursuant to 16 C.F.R. § 1025.33 and the Presiding Officer’s Order of January 19, 2022 (Doc. No. 27), Respondent Amazon.com Inc. (“Amazon”) hereby submits its objections and responses to the First Set of Requests for Production (“Requests”), dated February 14, 2022 and served by Complaint Counsel of the Consumer Product Safety Commission (“CPSC”). These responses are made solely for the purpose of this action. Pursuant to the agreement of the Parties, as memorialized in the March 18, 2022 email at 3:34 PM from John Eustice to Sarah Wilson, Amazon is not providing responses to Request Nos. 5, 8, 9, and 11 at this time.

GENERAL OBJECTIONS

Amazon asserts the following general objections (the “General Objections”) with respect to each and every request, instruction, and definition contained in the Requests. Amazon incorporates each of the following General Objections into each of its responses to each request, whether or not expressly referred to in such response. Any objections to specific discovery requests (the “Specific Objections”) are made in addition to the General Objections and not as a replacement for them.

1. These responses are made solely for the purpose of this proceeding. By responding to these Requests, Amazon does not waive any objections that it may have to admission into evidence of these responses on any applicable grounds.

2. Amazon objects to the Requests to the extent they are vague and ambiguous, overly broad, unduly burdensome, call for information that is neither relevant to any party's claim or defense nor proportional to the needs of the case, or are unreasonably cumulative or duplicative of other Requests.

3. Amazon objects to the definitions and instructions used in these Requests to the extent they purport to impose obligations or burdens on Amazon that go beyond those imposed by 16 C.F.R. § 1025.33, any orders entered by the Presiding Officer, and any agreements entered into by the Parties (collectively, "Discovery Rules"). Amazon will comply with the Discovery Rules, but assumes no further obligations in responding to these Requests.

4. Amazon objects to these Requests to the extent they seek information or documents protected from disclosure by the attorney-client privilege, work product doctrine, or any other applicable privilege or protection ("privileged information"). Any disclosure of privileged information is inadvertent, and pursuant to Section 7 of the Protective Order (Doc. No. 29), inadvertent disclosure of privileged information or documents in response to these Requests shall not be deemed a waiver of any privilege or right as to the privileged information inadvertently disclosed or any other information or documents relating to the subject matter of any inadvertently-disclosed privileged information.

5. Amazon objects to the extent the Requests seek information that Amazon is precluded from producing by domestic or foreign laws and regulations.

6. Amazon objects to these Requests to the extent they seek information that: (a) is in the possession, custody, or control of the CPSC or any of its employees or contractors; (b) is not in Amazon's possession, custody or control; (c) is equally or more readily available from sources other than Amazon; (d) is obtainable from other sources that are more convenient, less burdensome, or less expensive than requiring Amazon to provide the information; (e) is not reasonably accessible to Amazon; (f) is publicly available, or (g) seek documents or electronically stored information that cannot be located after a reasonably diligent search or are not reasonably accessible. With regard to any response Amazon provides, the response will be limited to relevant, responsive, and non-privileged information or documents in its possession, custody or control located after a reasonable search proportional to the needs of the case.

7. Amazon objects to these Requests, and to the definitions and instructions included in the Requests, to the extent they assume facts and events, include characterizations that are assumed to be accurate, or contain legal conclusions. By responding to these Requests, Amazon does not admit or concede that any assumed fact, event, characterization, or legal conclusion is correct or accurate, and Amazon reserves the right to contest all assumed facts, events, characterizations, and legal conclusions.

8. Amazon objects to these Requests, and to the definitions and instructions included in the Requests, to the extent they purport to require that Amazon identify and provide discovery with regard to "each," "all," "any" or similar all-encompassing wording on the grounds that such Requests are individually and collectively overly broad and unduly burdensome and seek discovery not relevant to the Parties' claims and defenses. To the extent the Complaint Counsel's Requests seek discovery that is not reasonably accessible because it cannot be retrieved or

produced without undue burden or cost, Amazon objects that Complaint Counsel's Requests are overly broad and unduly burdensome.

9. Amazon's responses are based upon information that has been collected and reviewed to date for the purpose of responding to these Requests. Amazon reserves the right to revise, correct, modify, amend or supplement these responses as discovery and this proceeding continues.

10. Amazon objects to the definitions of "You," "Your," "Respondent," and "Amazon" on the grounds that they are overly broad, vague, ambiguous, seek information and documents that are not in Amazon's possession, custody, or control, and purport to extend the Requests for information beyond the portion of Amazon's business related to the Subject Products and the Fulfillment by Amazon ("FBA") logistics service. For purposes of its responses, Amazon will define "You," "Your," "Respondent," and "Amazon" to mean Amazon entities and personnel associated with the Subject Products and will respond with regard to information and documents in its possession, custody or control.

11. Amazon objects to the definition of "Fulfilled by Amazon," "Fulfillment by Amazon," and "FBA" to the extent Complaint Counsel seeks to incorporate by reference its narrative description of the program and its services in Paragraphs 7 through 19 of the Complaint. Amazon contested Complaint Counsel's description of the FBA program in Paragraphs 7 through 19 of its Answer (Doc. No. 4), Paragraphs 1 through 33 of its Response to Complaint Counsel's Statement of Undisputed Material Facts (Doc. No. 16), and Paragraphs 1 through 10 of its Statement of Undisputed Material Facts (Doc. No. 16). For purposes of its responses, Amazon will define "Fulfillment by Amazon" and "FBA" pursuant to Paragraphs 7 through 19 of its Answer (Doc. No. 4), Paragraphs 1 through 33 of its Response to Complaint

Counsel's Statement of Undisputed Material Facts (Doc. No. 16), and Paragraphs 1 through 10 of its Statement of Undisputed Material Facts (Doc. No. 16).

12. Amazon objects to the definition of “Subject Products,” “HOYMN,” “IDGIRLS,” “Home Swee,” “Taiycyxgan,” “WJZXTEK,” “Zhenzhou Winsen Electronics Technology Company, LTD,” and “BQQZHZ” to the extent those terms refer to products “sold on amazon.com as FBA products” as vague and overbroad. Amazon contested Complaint Counsel’s description of how FBA products are sold in Paragraphs 7 through 19 of its Answer. In particular, Amazon objects to any assumption that Amazon, rather than the third-party sellers, was the selling entity for the Subject Products, except for approximately 28 units of CO detectors and approximately 4 units of hair dryers as previously explained in Paragraphs 1, 10, 14, 36, and 45 of its Answer.

13. Amazon objects to the definitions of “Person” and “Documents” to the extent they seek to impose obligations on Amazon beyond those imposed by the Discovery Rules and seek information or documents not in Amazon’s possession, custody, or control. Amazon will respond in accordance with the applicable Discovery Rules with regard to information and documents in its possession, custody, or control, and assumes no further obligation. Amazon further objects to the definition of “person” as overly burdensome to the extent it seeks information about individuals who are not employees, agents of Amazon.

14. Amazon objects to the definition of “Test” or “Testing” to the extent it calls for any “other assessment of the Subject Products” as vague, ambiguous, and unduly burdensome.

15. Amazon objects to Instruction Nos. 12 and 13 to the extent they seek to impose obligations beyond those required by the Discovery Rules, including discovery obligations involving production of documents subject to routine or automatic document deletion protocols.

Amazon will respond in accordance with the applicable Discovery Rules with regard to documents in its possession, custody or control, and assumes no further obligation.

16. Amazon objects to Instruction No. 16 to the extent that Complaint Counsel declines to make its own productions in such form and format.

17. Amazon objects to Instruction No. 17, setting the relevant time period “from the first date on which the third-party seller of the Subject Products engaged with Amazon to sell them on Amazon.com to the present.” Amazon objects to this time period as overly broad, unduly burdensome, and disproportionate to the needs of the case. In responding to these Interrogatories, Amazon will apply a relevant time period of April 2, 2016 through October 12, 2021. This time period begins 90 days before the first sale of any Subject Product and ends 90 days following the filing of the Complaint.

REQUESTS FOR PRODUCTION

REQUEST NO. 1:

All Documents in support of, relating to, and upon which you base the Answer, including each of the Answer’s admissions, denials, and affirmative or other defenses.

RESPONSE TO REQUEST NO. 1:

Amazon objects to this Request on the grounds set forth in its General Objections Nos. 1–17, which are incorporated by reference herein. The phrase “[a]ll documents in support of, relating to, and upon which you base,” is vague, ambiguous, and overly broad as used in this Request.

Subject to and without waiving its objections, Amazon responds that it has already produced certain documents in support of the Answer’s admissions, denials, and affirmative or other defenses in its first document production to the CPSC on February 14, 2022 (Bates No. Amazon-CPSC-FBA-00000001 through 00000336). *See, e.g.,* Amazon-CPSC-FBA-00000167

through 00000211 (Amazon contractual documents with third-party sellers); Amazon-CPSC-FBA-00000212 through 00000214 (sample direct product safety notifications, including instructions to immediately stop using, and dispose of, Subject Products, sent by Amazon to purchasers); Amazon-CPSC-FBA-00000215 through 00000216 (quarantine dates for Subject Products identified by Amazon Standard Identification Number (“ASIN”)); Amazon-CPSC-FBA-00000001 through 00000166, 00000217 through 00000336 (correspondence between CPSC and Amazon).

Amazon will conduct a reasonable search to collect and produce additional non-privileged documents responsive to this Request. Amazon also states that documents that have been, or will be, produced by Complaint Counsel may support or tend to support Amazon’s admissions, denials, or affirmative or other defenses made in its Answer.

REQUEST NO. 2:

All documents identified in answers to the Interrogatories and all Documents relating to your answers to the Interrogatories, in support of your answers, and used or relied upon in preparing your answers.

RESPONSE TO REQUEST NO. 2:

Amazon objects to this Request on the grounds set forth in its General Objections Nos. 1–17, which are incorporated by reference herein. The phrase “[a]ll documents ... relating to your answers ... in support of your answers ... or relied upon,” is vague, ambiguous, and overly broad as used in this Request.

Subject to and without waiving its objections, Amazon responds that it has already produced certain documents relied upon in preparing responses to Complaint Counsel’s Interrogatories in its first document production to Complaint Counsel on February 14, 2022 (Bates

No. Amazon-CPSC-FBA-00000001 through 00000336). *See, e.g.*, Amazon-CPSC-FBA-00000167 through 00000211 (Amazon contractual documents with third-party sellers); Amazon-CPSC-FBA-00000212 through 00000214 (sample of Amazon’s direct product safety notifications to purchasers); Amazon-CPSC-FBA-00000215 through 00000216 (quarantine dates for Subject Products identified by ASIN); Amazon-CPSC-FBA-00000001 through 00000166, 00000217 through 00000336 (correspondence between CPSC and Amazon). Amazon further states that publicly accessible information or documents produced by Complaint Counsel may be relied upon in preparing responses to Complaint Counsel’s First Set of Interrogatories.

Amazon will conduct a reasonable search to collect and produce additional relevant, non-privileged documents responsive to this Request.

REQUEST NO. 3:

All Documents supporting or tending to support your denial of any Request for Admission served on Respondent by Complaint Counsel.

RESPONSE TO REQUEST NO. 3:

Amazon objects to this Request on the grounds set forth in its General Objections Nos. 1–17, which are incorporated by reference herein. The phrase “[a]ll documents supporting or tending to support,” is vague, ambiguous, and overly broad as used in this Request.

Subject to and without waiving its objections, Amazon responds that it has already produced documents relied upon in preparing answers to the CPSC’s Requests for Admission in its first document production to the CPSC on February 14, 2022 (Bates No. Amazon-CPSC-FBA-00000001 through 00000336). *See, e.g.*, Amazon-CPSC-FBA-00000167 through 00000211 (Amazon contractual documents with third-party sellers); Amazon-CPSC-FBA-00000212 through 00000214 (sample of Amazon’s direct product safety notifications to purchasers, including

instructions to immediately stop using, and dispose of, Subject Products); Amazon-CPSC-FBA-00000215 through 00000216 (quarantine dates for Subject Products identified by ASIN); Amazon-CPSC-FBA-00000001 through 00000166, 00000217 through 00000336 (correspondence between CPSC and Amazon).

Amazon will conduct a reasonable search to collect and produce additional non-privileged documents responsive to this Request.

REQUEST NO. 4:

All Documents that you intend to introduce into evidence at any Hearing on this matter.

RESPONSE TO REQUEST NO. 4:

Amazon objects to this Request on the grounds set forth in its General Objections Nos. 1–17, which are incorporated by reference herein.

Subject to and without waiving its objections, Amazon responds that it will produce the documents it intends to introduce into evidence to the extent required by the Discovery Rules, and by the date specified in the Scheduling Order, but reserves all rights to introduce evidence (including impeachment evidence), seek judicial notice of facts, or otherwise introduce evidence as permitted by the Discovery Rules.

REQUEST NO. 5:

Communications regarding underlying agreements, product certification or compliance, or any problems, defects, hazards or safety concerns regarding the Subject Products between the Respondent and the Manufacturers or Sellers of the Subject Products. This Request includes, but is not limited to, Documents related to: a) Testing or certification to determine if the Subject Products meet or fail to meet any mandatory or voluntary standard; b) Testing to evaluate the safety of the Subject Products; c) Testing to assess how a consumer will interact with and operate

the Subject Products, including any human behavior analysis, whether by a Human Factors expert, or by any other expert or Person; and d) Testing to assess the effectiveness and/or sufficiency of the Subject Products' warnings, labels, and instructions. This includes Documents that describe or relate to any actions taken to ensure that the appropriate Testing was conducted or certifications filed for the Subject Products, including but not limited to Testing the children's sleepwear garments identified in the Complaint according to the Standards for the Flammability of Children's Sleepwear, Testing the carbon monoxide detectors identified in the Complaint according to UL 2034 or any other standard, and Testing the hair dryers identified in the Complaint for integral immersion protection.

RESPONSE TO REQUEST NO. 5:

Pursuant to the agreement of the Parties, as memorialized in the March 18, 2022 email at 3:34 PM from John Eustice to Sarah Wilson, Amazon is not providing a response to this Request at this time.

REQUEST NO. 6:

Documents relating to Respondent's attempts to remove the Subject Products from the stream of commerce, including: a) communications to consumers about the potential hazard(s) posed by the Subject Products; b) instructions to consumers to return the products to Amazon for destruction; c) instructions to consumers to destroy, and/or dispose of the products themselves; and d) any other means through which Respondent sought destruction of the Subject Products. [In responding to this Request, please provide one (1) representative sample of each iteration of an identical communication for each Subject Product, such as one copy of the notice sent to all consumers who purchased that Subject Product.]

RESPONSE TO REQUEST NO. 6:

Amazon objects to this Request on the grounds set forth in its General Objections Nos. 1–17, which are incorporated by reference herein. Amazon further objects to this Request to the extent it assumes that Amazon instructed consumers to return “products to Amazon for destruction.” Amazon further objects to this Request to the extent it refers to “each iteration of an identical communication,” which is vague and unreasonably cumulative. Amazon further objects to this Request to the extent it references the “stream of commerce,” which is vague and assumes a legal conclusion.

Subject to and without waiving its objections, Amazon responds that it has already produced documents responsive to this Request in its first document production to the CPSC on February 14, 2022 (Bates No. Amazon-CPSC-FBA-00000001 through 00000336). *See, e.g.*, Amazon-CPSC-FBA-00000212 through 00000214 (sample of Amazon’s direct product safety notifications to purchasers, instructing them to immediately stop using, and dispose of, Subject Products); Amazon-CPSC-FBA-00000215 through 00000216 (quarantine dates for Subject Products identified by ASIN); Amazon-CPSC-FBA-00000001 through 00000166, 00000217 through 00000336 (correspondence between CPSC and Amazon). Amazon further draws Complaint Counsel’s attention to CPSC_AM0000325 through 0000328 (letter from Amazon to CPSC confirming inventory destruction); CPSC_AM0000454 through 0000455 (same); and CPSC_AM0000449 (certificate of destruction).

Amazon will conduct a reasonable search to collect and produce additional non-privileged documents responsive to this Request.

REQUEST NO. 7:

Documents relating to the provision of customer service or support by Respondent for the Subject Products regarding issues with product function, defects, and/or safety issues, including but not limited to notifications sent to customers relating to the Subject Products and the processing of any customer returns for the Subject Products. [In responding to this Request, please provide one (1) representative sample of each iteration of an identical communication for each Subject Product, such as one copy of the notice sent to all consumers who purchased that Subject Product.]

RESPONSE TO REQUEST NO. 7:

Amazon objects to this Request on the grounds set forth in its General Objections Nos. 1–17, which are incorporated by reference herein. Amazon further objects to the phrase “provision of customer service or support” as vague, overly broad, unduly burdensome, and irrelevant to the claims and defenses at issue in this proceeding. Amazon further objects to this Request to the extent it vaguely refers to “defects, and/or safety issues” without defining “safety issue” or explaining how this phrase differs in meaning from the word “defect.” Amazon further objects to the request to the extent it encompasses “issues with product function [or] defects” and “any customer returns,” which are irrelevant to the claims and defenses at issue in this proceeding, including but not limited to communications involving customer complaints unrelated to the hazard and noncompliance allegations at issue in this proceeding.

Subject to and without waiving its objections, Amazon responds that it has already produced documents responsive to this Request in its first document production to the CPSC on February 14, 2022 (Bates No. Amazon-CPSC-FBA-00000001 through 00000336). *See, e.g.*, Amazon-CPSC-FBA-00000212 through 00000214 (sample of Amazon’s direct product safety notifications, including instructions to immediately stop using, and dispose of, Subject Products,

sent by Amazon to purchasers); Amazon-CPSC-FBA-00000215 through 00000216 (quarantine dates for Subject Products identified by ASIN); Amazon-CPSC-FBA-00000001 through 00000166, 00000217 through 00000336 (correspondence between CPSC and Amazon).

Amazon will conduct a reasonable search to collect and produce additional relevant, non-privileged documents responsive to this Request.

REQUEST NO. 8:

All Documents related to any inquiry, report, return, complaint or claim related to any incidents, non-fatal injuries or fatalities related to the Subject Products, received from any source, including, but not limited to, from consumers; through hospitals and physicians; through insurers; through any foreign, domestic, state or local government official or entity. This Request includes Documents given to you, as well as Documents you requested from the Person making the report. The request also includes all Documents you received from a third-party, such as medical reports or insurance claims; and all Documents generated by you, or generated by a third-party at your request, such as witness statements or evaluations and assessments of the return, claim, complaint, inquiry or report.

RESPONSE TO REQUEST NO. 8:

Pursuant to the agreement of the Parties, as memorialized in the March 18, 2022 email at 3:34 PM from John Eustice to Sarah Wilson, Amazon is not providing a response to this Request at this time.

REQUEST NO. 9:

All Documents and Communications relating to Respondent's contention in its Answer that the CPSC "has refused to provide, in response to requests from Amazon, all the relevant facts and information necessary to determine whether any Subject Product presents a 'substantial

product hazard’ under 15 U.S.C. § 2064(c)” *See* Answer at Paragraphs 1, 47, 60, 67, 68, 69, 72, and 74.

RESPONSE TO REQUEST NO. 9:

Pursuant to the agreement of the Parties, as memorialized in the March 18, 2022 email at 3:34 PM from John Eustice to Sarah Wilson, Amazon is not providing a response to this Request at this time.

REQUEST NO. 10:

Documents sufficient to show the function of Respondent’s Product Safety Team in relation to the Subject Products, including but not limited to any testing, evaluation, assessment or consideration of the issuance by Respondent of any refund, replacement, or other remedy for consumers related to the Subject Products.

RESPONSE TO REQUEST NO. 10:

Amazon objects to this Request on the grounds set forth in its General Objections Nos. 1–17, which are incorporated by reference herein. Amazon further objects to the use of the phrases “function,” “consideration,” and “other remedy,” as vague, ambiguous, overly broad, and irrelevant to the claims and defenses at issue in this proceeding, including but not limited to any potential documents or communications not limited to the specific hazards or defects alleged in this proceeding. Amazon further objects to this Request as overly broad to the extent it seeks documents relating to “any refund, replacement, or other remedy for consumers related to the Subject Products.” Amazon further objects to this Request as vague to the extent it does not differentiate between a “remedy for consumers” and other forms of remedy.

Subject to and without waiving its objections, Amazon responds that it has already produced documents responsive to this Request in its first document production to the CPSC on

February 14, 2022 (Bates No. Amazon-CPSC-FBA-00000001 through 00000336). *See, e.g.*, Amazon-CPSC-FBA-00000212 through 00000214 (sample of Amazon's direct product safety notifications, including instructions to immediately stop using, and dispose of, Subject Products, sent by Amazon to purchasers); Amazon-CPSC-FBA-00000215 through 00000216 (quarantine dates for Subject Products identified by ASIN).

Amazon will conduct a reasonable search to collect and produce any additional non-privileged documents responsive to this Request.

REQUEST NO. 11:

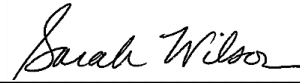
All non-privileged Documents and Communications relating to negotiations, lawsuits, and alternative dispute resolution proceedings involving the Subject Products.

RESPONSE TO REQUEST NO. 11:

Pursuant to the agreement of the Parties, as memorialized in the March 18, 2022 email at 3:34 PM from John Eustice to Sarah Wilson, Amazon is not providing a response to this Request at this time.

Dated: March 21, 2022

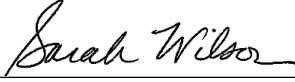
Respectfully submitted,



Sarah L. Wilson
Stephen P. Anthony
Thomas Brugato
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CERTIFICATE OF SERVICE

I hereby certify that on March 21, 2022, a true and correct copy of the foregoing document was served to Complaint Counsel by email.



Sarah L. Wilson

Exhibit D

From: [Wilson, Sarah](#)
To: [Wolf, Liana](#); [Eustice, John](#); [Anand, Serena](#)
Cc: [Anthony, Stephen](#); [Cavaturo, Benjamin](#); [Ramirez, Diane](#); [Griepsma, Nick](#); [Fletcher, Michael](#)
Subject: RE: CPSC v. Amazon: Revised Draft Stip and M/C on CPSC Discovery Responses
Date: Wednesday, April 13, 2022 6:17:15 PM

Liana:

We anticipate getting final approval on the draft stipulation this week, and will let you know if there are any additional changes as soon as possible. As discussed on our meet-and-confer call last week, we think it would be helpful for the parties to memorialize the specific hazard-related discovery requests that will be withdrawn as a result of the stipulation.

We also write in response to John's email of April 8, 2022, in follow-up to our meet-and-confer regarding the CPSC's objections to Amazon Requests for Admission Nos. 11, 15, 18–20; Requests for Production Nos. 3, 4, 15, 18–26; and Interrogatory Nos. 13 and 16.

In total, the CPSC's written responses and objections refuse to provide discovery for eighteen of Amazon's requests (over one quarter of Amazon's requests). Fourteen of Amazon's requests involve the CPSC's past remedial actions and practices: Requests for Admission Nos. 11, 15, 18–20; Requests for Production Nos. 15, 19–26; and Interrogatory No. 13.

CPSC's Policies, Guidance, Practices, and Past Actions are Highly Relevant

CPSC's written objections and April 8 email state that the CPSC intends to withhold discovery for the requests identified above based on an incorrect and under-inclusive framing of relevance in this matter. You state that “[a]ccording to [Amazon], these requests are relevant to the issue of remedy,” but “this litigation only relates to the specific remedies sought with respect to the three categories of Subject Products listed in the Complaint.” Your written objections similarly assert, with little or no elaboration, that Amazon's requests regarding CPSC's policies and practices relating to corrective actions and recalls are not relevant.

Contrary to your assertions, the requests for which the CPSC is currently declining to provide discovery are highly relevant for at least two reasons.

First, CPSC policies, practices, and guidance are relevant to whether the Commission order sought by Complaint Counsel is “required in order to adequately protect the public” (15 U.S.C. § 2064(c)) or “is in the public interest” (*id.* § 2064(d)). For example, the corrective actions and levels of recall effectiveness that the CPSC has accepted bear on these considerations in the instant case.

Second, the requests are relevant to Amazon's APA defenses. As you know, Judge Grimes declined to rule upon the APA issues at the pleading stage, and left the door open to resolving Amazon's APA arguments at a later stage (Doc. No. 27 at 14-18). A federal court or the Commission could also consider APA arguments.

As you know, under the APA, a decision or action by the Commission (or any other federal agency) will be held unlawful and set aside if it is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law,” “in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; unsupported by substantial evidence.” 5 U.S.C. § 706. The discovery sought is directly relevant to determining whether the

CPSC's actions (or the Commission order that it presently seeks) would constitute an abuse of discretion or would be arbitrary and capricious.

A “fundamental norm of administrative procedure requires an agency to treat like cases alike.” *Westar Energy, Inc. v. Fed. Energy Regul. Comm'n*, 473 F.3d 1239, 1241 (D.C. Cir. 2007); *Steger v. Def. Investigative Serv. Dep't of Def.*, 717 F.2d 1402, 1406 (D.C. Cir. 1983) (a federal agency “can be said to be at its most arbitrary” when it “treat[s] similar situations dissimilarly”). The validity of the Commission’s action therefore turns, at least in part, on whether it constitutes an unreasonable departure from the Commission’s past actions and practices. *See Am. Wild Horse Pres. Campaign v. Perdue*, 873 F.3d 914, 923 (D.C. Cir. 2017); *Lone Mountain Processing, Inc. v. Sec’y of Labor*, 709 F.3d 1161, 1164 (D.C. Cir. 2013). There are multiple ways in which the agency’s action here could depart from its policies and actions in other matters. Even if Amazon is ultimately deemed a “distributor” under the CPSA, for example, the CPSC's historic and comparative approach to remedies imposed on distributors—compared to other marketplace actors such as retailers and manufacturers—could constitute a significant departure. Alternatively, the specific remedies at issue in this litigation could differ from recall practices and policies applicable to any and all categories of marketplace actors, both domestic and international. The absence of concrete policies or guidance outlining the circumstances under which certain forms of recall notification or remedies are appropriate would also be relevant to Amazon's APA arguments.

Given the well-established relevance of past and comparative agency actions and practices, courts have consistently held that a respondent in an adjudication is entitled to a thorough and well-developed record necessary to evaluate the agency’s consistency over time. For that reason, an agency carries a “burden of production ... about its own practices.” *Canadian Com. Corp. v. Dep’t of Air Force*, 514 F.3d 37, 41 (D.C. Cir. 2008). Production of underlying material showing past actions and practices is required—courts “need not accept [the agency’s] conclusory statement of what its practice has been, or what it believes the law allows.” *Id.*; *see also J.O.P. v. U.S. Dep’t of Homeland Sec.*, 2020 WL 2932922, at *18 (D. Md. June 3, 2020) (holding that agency “must produce an administrative record” concerning “past practice” to enable arbitrary and capriciousness review).

Requests for Admission and Interrogatories

The April 8 email discusses proposals related to document collection and production, and thus appears limited in scope to Amazon's RFPs.

For the reasons stated above, the CPSC should also provide responses to Amazon’s Requests for Admission or Interrogatories at issue. Responding to the RFAs and to the interrogatories should be less burdensome to the CPSC than providing documents in response to the RFPs. Indeed, many of the RFAs at issue simply ask whether the CPSC has ever adopted particular standards or policies.

Requests for Production

The April 8 email claims that the Amazon requests at issue seek information that is already available on the CPSC's website:

- First, you indicate that public press releases contain all potentially relevant information concerning recalls. But public press releases do not include the actual corrective action plans negotiated the CPSC, which are the authoritative and most-accurate memorialization of past recalls. We presume that the CPSC possesses

aggregations or compilations of corrective action plan data that are responsive to the RFPs at issue, and those can be readily produced.

- Second, you state that the CPSC web page titled “Recall Guidance” contains the information that Amazon is seeking. None of the links on that page, however, contain material responsive to Amazon’s specific requests for policies, standards, or guidance regarding the agency’s historic and comparative approach to recalls involving distributors or the remedies sought in this action.

As we said during the meet and confer, Amazon is willing to consider narrowing its requests if the CPSC explains how it did (or did not) compile material that describes or relates to its past actions and practices. You committed to identify what, if any, responsive documents exist and provide an update to Amazon as to the CPSC’s findings. Rather than elaborate on the extent of responsive material in the CPSC’s possession, however, the April 8 email simply states that Complaint Counsel will collect material meeting **your own** criteria without providing **any** clarification of what responsive documents actually exist, the volume of such material, the timeframe for which material exists, and any purported burdens in collecting the material. For example:

- The April 8 email states that the CPSC would produce a “Recall Handbook and, to the extent they exist, other non-privileged policy manuals or instructive aids used by compliance officers in crafting recalls and corrective action plans” dating back five years.
 - Please explain whether your proposal would cover all non-privileged material encompassed by Amazon’s Requests for Production Nos. 15 and 16, or, alternatively, whether you are imposing a topical/substantive narrowing of the Requests in addition to a timeframe limitation.
- With regard to Requests involving recall effectiveness, you merely refer Amazon to the publicly available documents relating to the CPSC’s 2017 Recall Effectiveness Workshop. But your response is silent as to whether the CPSC possesses any other “positions, policies, practices, or procedures pertaining to recall effectiveness, or the measurement, assessment, or evaluation of recall effectiveness” or “studies, analyses, or reports regarding direct recall notifications and indirect recall notifications, including without limitation any study regarding their effectiveness.” *See* Amazon RFP Nos. 22 and 23.
 - Does any nonprivileged material responsive to Amazon RFP Nos. 22 and 23 exist aside from the “2017 Recall Effectiveness Workshop”? If “yes,” please describe such material so Amazon can consider the appropriateness of the CPSC’s position.
- You offer to produce documents going back two years related to “recalls in which the CPSC sought a remedy from the recalling entity involving a refund or other incentive provided to consumers to return or provide proof of destruction of the subject products(s).”
 - Please explain (a) the volume of material going back further than two years and (b) whether, under your proposal, the CPSC would withhold

other responsive categories of material such as policies, guidance, or manuals relating to the circumstances in which the CPSC would seek such a remedy.

Without sufficient information concerning the universe of responsive material, Amazon is not in a position to evaluate the sufficiency of the CPSC's positions.

By April 18, please either withdraw your self-imposed narrowing of Amazon's discovery requests or provide a description of the universe of responsive material in the CPSC's possession along with an explanation as to how any narrowing proposals will still result in Amazon receiving the information to which it is entitled.

CPSC Assertions of Privilege

Finally, we understand that you intend to stand on your attorney work product protection and deliberative process privilege objections in refusing to provide documents and information responsive to Amazon RFP Nos. 3, 4, and 18, and Amazon Interrogatory No. 16. As you are aware, Rule 26(b) governs the scope of discovery in this matter, *see* Dkt. No. 22, and requires that parties asserting privilege provide sufficient information to enable other parties to assess the claim. Fed. R. Civ. P. 26(b)(5). Accordingly, we request a privilege log describing the nature of the documents being withheld, and the asserted basis for withholding the documents so that we can assess the claim of privilege.

Regards,

Sarah

From: Wolf, Liana <LWolf@cpsc.gov>

Sent: Wednesday, April 13, 2022 11:46 AM

To: Eustice, John <JEustice@cpsc.gov>; Griepsma, Nick <NGriepsma@cov.com>; Anand, Serena <SAnand@cpsc.gov>

Cc: Wilson, Sarah <swilson@cov.com>; Anthony, Stephen <santhony@cov.com>; Cavataro, Benjamin <BCavataro@cov.com>; Ramirez, Diane <DRamirez@cov.com>; Fletcher, Michael <MFletcher@cov.com>

Subject: RE: CPSC v. Amazon: Revised Draft Stip and M/C on CPSC Discovery Responses

[EXTERNAL]

Good morning,

We hope this email finds you well.

We are reaching out regarding the stipulation you circulated on Friday, which we indicated we were willing to sign. Please let us know if you have your client's approval to sign the stipulation today.

Thank you,

Liana

Email secured by Check Point

Exhibit E

From: Wilson, Sarah
Sent: Thursday, May 5, 2022 4:24 PM
To: Eustice, John; Wolf, Liana; Wolf, Liana
Cc: Anthony, Stephen; Brugato, Thomas; Cavataro, Benjamin; Griepsma, Nick
Subject: In the Matter of Amazon.com, Inc. (CPSC Docket No. 21-2)
Attachments: DRAFT Proposed Order for Stipulation (In re Amazon) (Cov 5.5.22).docx

John,

We have received and reviewed your production of Friday, April 29. Amazon likewise produced additional material responsive to Complaint Counsel's RFPs on Tuesday, May 3. As stated in our last meet and confer, we will be producing further documents to you this month. This email follows up on multiple topics discussed at the Parties' April 26 meet and confer.

Proposed Order Regarding Stipulation

We have reviewed your draft order regarding the Stipulation. We are willing to agree to submission of the proposed order to Judge Grimes subject to the redline edits shown in the attached version. Please (1) confirm whether this is acceptable to Complaint Counsel; and (2) confirm whether you intend to submit to Judge Grimes. If so, please send for our review the draft cover email to Judge Grimes with the executed Stipulation and the proposed order. We would need to review and approve any such language before the proposed order is submitted.

Mooted Discovery Requests

At the meet and confer, we agreed to memorialize the Parties' understanding as to which discovery requests have been rendered moot on account of the Stipulation.

On March 18, you confirmed via email that the Parties are in agreement that the following CPSC discovery requests have been mooted by the Stipulation:

- CPSC Interrogatories Nos. 4, 5, 7, 8, 9, 11, 12
- CPSC RFP Nos. 5, 8, 9, 11
- CPSC RFA Nos. 13, 15, 17

We further noted in our meet and confer that to the extent CPSC RFP No. 10 references "testing," "evaluation," or "assessment" of the Subject Products, that portion of the request would be mooted.

On March 21, Amazon confirmed via email that the Parties are in agreement that the following Amazon discovery requests have been mooted by the Stipulation:

- Amazon Interrogatories Nos. 3, 4, 5, 7, 8 (partially, relating to paragraphs 58-61, 66-69 and 72-74 of the Complaint, but not to paragraphs 50-51), 10, 11, 12
- Amazon RFP No. 27

You originally asserted on March 17 that Amazon RFP Nos. 4, 9, 10, 11, 12, 13, and 14 were also rendered moot by the Stipulation, but clarified during our meet and confer on March 21 (and in a follow-up email later that day) that you would not withhold documents for Amazon RFP Nos. 9, 10, 11, 12, 13, and 14. You also clarified that the CPSC would oppose Amazon RFP No. 4 on relevance grounds.

Please confirm your understanding that the discovery requests listed in the above bullets (in addition to the above-referenced portion of CPSC RFP No. 10) have been rendered moot by the Stipulation, and that the Parties are not obligated to respond to those requests.

CPSC's Outstanding Productions

Thank you for the CPSC's April 29 production. At the meet and confer, you indicated that your production would provide material responsive to Amazon's requests involving past agency policies, guidance, practices, and actions. We note that the vast majority of the approximately 200 documents from your April 29 production consist of recall press releases posted on the CPSC website and other publically-available materials. The production did not contain information responsive to the core of Amazon's requests involving past agency actions and policies. Nor did it appear to contain material submitted to the GAO.

You indicated on the meet-and-confer that you are in the process of identifying the full universe of not-yet-produced documents in the CPSC's possession that were (a) responsive to Amazon's RFP Nos. 15, 19-26 and/or (b) submitted to the GAO in connection with GAO's November 2020 report GAO-21-56 or the underlying performance audit ("CPSC Materials Provided to GAO"). To be clear, Amazon believes that all CPSC Materials Provided to GAO would be responsive to one or more of Amazon's RFP Nos. 19 through 26.

We would like to determine as soon as possible whether we need to present any outstanding disputes to Judge Grimes. Accordingly, by Monday, May 9, please let us know your responses to the following questions:

1. On our last call, you indicated that you would look into our question related to the CPSC's Section 15 Defect Investigation Procedures Manual. Have you located identified this manual, or any similar content (including past versions of the manual)? If so, when will Complaint Counsel produce it?
2. Regarding the CPSC Materials Provided to GAO:
 - a. Has CPSC identified the full set of CPSC Materials Provided to GAO?
 - b. Of these materials, what does Complaint Counsel intend to produce to Amazon, and by what date(s)?
 - c. Of these materials, what does Complaint Counsel intend to withhold from Amazon, and on what basis?
3. Regarding other (non-GAO-related) materials responsive to RFP Nos. 15, 19-26 and not yet produced:
 - a. Has CPSC identified the full set of these materials?
 - b. Of these materials, what does Complaint Counsel intend to produce to Amazon, and by what date(s)?
 - c. Of these materials, what does Complaint Counsel intend to withhold from Amazon, and on what basis?
4. Is the CPSC standing on its self-imposed two-year and five-year limitations imposed on Amazon's requests involving past agency actions and policies? If so, please describe "the nature of the burden" that you contend exists with providing additional responsible documents. *Tequila Centinela, S.A. de C.V. v. Bacardi & Co. Ltd.*, 242 F.R.D. 1, 10 (D.D.C. 2007) (the withholding party must demonstrate "how the document is overly broad, burdensome, or oppressive, by submitting affidavits or offering evidence which reveals the nature of the burden") (quotation marks and citation omitted).

In order to reduce any burdens on CPSC, we are willing to narrow and clarify the scope of records that we are seeking with respect to RFP Nos. 15, 19-26:

- With respect to these requests, Amazon is not seeking records dating back to CPSC's creation in 1972. Rather, we are seeking responsive, non-privileged records dating back to **2009** (the enactment of the CPSIA).
- Amazon is not seeking material that is publicly available on CPSC.gov.

5. We understand that CPSC is standing on its relevance objections to Amazon RFA Nos. 19 and 20; RFP Nos. 3, 4, and 18; and Interrogatory No. 16. Please let us know if this is accurate.

Regards,

Sarah

Sarah Wilson

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COVINGTON

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Exhibit F

From: [Eustice, John](#)
To: [Wilson, Sarah](#); [Wolf, Liana](#); [Wolf, Liana](#)
Cc: [Anthony, Stephen](#); [Brugato, Thomas](#); [Cavataro, Benjamin](#); [Griepsma, Nick](#)
Subject: RE: In the Matter of Amazon.com, Inc. (CPSC Docket No. 21-2)
Date: Monday, May 16, 2022 10:40:00 AM
Attachments: [image003.png](#)

Sarah,

Thank you for your email. I am responding to the portion of your communication concerning our outstanding document production, specifically the questions you pose:

1. We have identified the Section 15 Defect Investigation Procedures Manual. In our review, we note that the entirety of the manual, which includes internal processes and procedures that are not at issue in this litigation, is not responsive to Amazon's discovery requests or relevant to any matter in dispute. Accordingly, we plan to produce the portions of the Manual that are both responsive and relevant.
2. We have identified the materials that the CPSC provided to GAO. We have reviewed the materials and, as we indicated in prior correspondence, we intend to produce materials that are responsive to Amazon's discovery requests and relevant to matters in dispute. Any documents that the CPSC provided to GAO that we do not produce are neither responsive nor relevant to this case, or they are documents we have already produced or intend to produce.
3. It is unclear what you mean when you ask whether the CPSC has identified the "full set" of materials responsive to Amazon's Requests for Production Nos. 15 and 19-26. We have engaged in multiple meet-and-confer negotiations, exchanged proposals for narrowing these overbroad requests, and the CPSC has engaged in a reasonable search for materials responsive to these requests.
4. We have explained, in detail, the legal and factual bases for our scope objections to Amazon's RFP Nos. 15 and 19-26. Most importantly, while we acknowledge that discovery is appropriate as to the specific remedies we seek in this matter for the Subject Products, that does not mean that discovery may be taken of every action in which the CPSC has ever asserted that a remedy is "required in order to adequately protect the public" or "is in the public interest." Even limiting these requests to a time period from 2009 to the present encompasses thousands of recalls and enforcement actions. Moreover, these are legal standards present in the agency's founding statute and they form the foundation of the agency's approach to recalls. They provide the framework for all of the CPSC's work, but each recall is unique and the agency is afforded discretion in the manner of enforcement. Generally, "discovery requests are not relevant simply because there is a possibility that the information may be relevant to the general subject matter of the action." *Cole's Wexford Hotel, Inc. v. Highmark Inc.*, 209 F. Supp. 3d 810, 812 (W.D. Pa. 2016). Amazon's requests seeking all documents and information relating to all enforcement actions of the CPSC tethered to its statutory

legal standards extends far beyond the boundaries of permissible discovery.

- a. Despite our meritorious objections, we have already produced documents and information relating to dozens of recalls in which the CPSC has directed or requested a company to condition the provision of refunds to purchasers on returns or proof of destruction of a hazardous product, and we have also identified recalls that the CPSC conducted with distributors. We view our production of these documents, and the time frames involved, as sufficient to meet our discovery obligations.
 - b. In addition, we have served a supplemental response to Amazon's Request for Admission No. 15, which relates to the CPSC sending Notices of Violation to manufacturers, importers, distributors, and/or retailers domiciled or headquartered outside of the United States. We do not view every investigation in which the CPSC involved an entity domiciled outside of the U.S. as appropriate for discovery in this case.
 - c. We accept your narrowing on the balance of Amazon's RFP Nos. 15 and 19-26, and we have searched for additional responsive materials relating to CPSC's positions, policies, practices or procedures on recall effectiveness, relevant recall remedies, and relevant corrective actions. We anticipate producing additional responsive, non-privileged documents in this category.
5. We have made our position on these discovery requests clear through our objections and responses, email communications, and meet-and-confer discussions. For the reasons we have stated, and supported by the law and facts we have cited, we stand on our objections to these discovery requests.

Should you have any additional questions, we are happy to meet-and-confer on these issues during this week.

Kind regards,

John

From: Wilson, Sarah <swilson@cov.com>

Sent: Thursday, May 5, 2022 4:24 PM

To: Eustice, John <JEustice@cpsc.gov>; Wolf, Liana <LWolf@cpsc.gov>; Wolf, Liana <LWolf@cpsc.gov>

Cc: Anthony, Stephen <santhony@cov.com>; Brugato, Thomas <tbrugato@cov.com>; Cavataro, Benjamin <BCavataro@cov.com>; Griepsma, Nick <NGriepsma@cov.com>

Subject: In the Matter of Amazon.com, Inc. (CPSC Docket No. 21-2)

John,

We have received and reviewed your production of Friday, April 29. Amazon likewise produced additional material responsive to Complaint Counsel's RFPs on Tuesday, May 3.

As stated in our last meet and confer, we will be producing further documents to you this month. This email follows up on multiple topics discussed at the Parties' April 26 meet and confer.

Proposed Order Regarding Stipulation

We have reviewed your draft order regarding the Stipulation. We are willing to agree to submission of the proposed order to Judge Grimes subject to the redline edits shown in the attached version. Please (1) confirm whether this is acceptable to Complaint Counsel; and (2) confirm whether you intend to submit to Judge Grimes. If so, please send for our review the draft cover email to Judge Grimes with the executed Stipulation and the proposed order. We would need to review and approve any such language before the proposed order is submitted.

Mooted Discovery Requests

At the meet and confer, we agreed to memorialize the Parties' understanding as to which discovery requests have been rendered moot on account of the Stipulation.

On March 18, you confirmed via email that the Parties are in agreement that the following CPSC discovery requests have been mooted by the Stipulation:

- CPSC Interrogatories Nos. 4, 5, 7, 8, 9, 11, 12
- CPSC RFP Nos. 5, 8, 9, 11
- CPSC RFA Nos. 13, 15, 17

We further noted in our meet and confer that to the extent CPSC RFP No. 10 references "testing," "evaluation," or "assessment" of the Subject Products, that portion of the request would be mooted.

On March 21, Amazon confirmed via email that the Parties are in agreement that the following Amazon discovery requests have been mooted by the Stipulation:

- Amazon Interrogatories Nos. 3, 4, 5, 7, 8 (partially, relating to paragraphs 58-61, 66-69 and 72-74 of the Complaint, but not to paragraphs 50-51), 10, 11, 12
- Amazon RFP No. 27

You originally asserted on March 17 that Amazon RFP Nos. 4, 9, 10, 11, 12, 13, and 14 were also rendered moot by the Stipulation, but clarified during our meet and confer on March 21 (and in a follow-up email later that day) that you would not withhold documents for Amazon RFP Nos. 9, 10, 11, 12, 13, and 14. You also clarified that the CPSC would oppose Amazon RFP No. 4 on relevance grounds.

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offering evidence which reveals the nature of the burden”) (quotation marks and citation omitted).

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- With respect to these requests, Amazon is not seeking records dating back to CPSC’s creation in 1972. Rather, we are seeking responsive, non-privileged records dating back to **2009** (the enactment of the CPSIA).
- Amazon is not seeking material that is publicly available on CPSC.gov.

5. We understand that CPSC is standing on its relevance objections to Amazon RFA Nos. 19 and 20; RFP Nos. 3, 4, and 18; and Interrogatory No. 16. Please let us know if this is accurate.

Regards,

Sarah

Sarah Wilson

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This message is from a law firm and may contain information that is confidential or legally privileged. If you are not the intended recipient, please immediately advise the sender by reply e-mail that this message has been inadvertently transmitted to you and delete this e-mail from your system. Thank you for your cooperation.

From: Eustice, John <JEustice@cpsc.gov>

Sent: Friday, April 29, 2022 5:23 PM

To: Wilson, Sarah <swilson@cov.com>; Anthony, Stephen <santhony@cov.com>; Cavataro, Benjamin <BCavataro@cov.com>; Ramirez, Diane <DRamirez@cov.com>; Fletcher, Michael <MFletcher@cov.com>; Griepsma, Nick <NGriepsma@cov.com>

Cc: Wolf, Liana <LWolf@cpsc.gov>; Anand, Serena <SANand@cpsc.gov>

Subject: In the Matter of Amazon.com, Inc. (CPSC Docket No. 21-2)

[EXTERNAL]

Sarah,

We are producing additional responsive, non-privileged documents today. You should be receiving a separate email from Watchdox with a link to the files and the password to access them. These documents are Bates labeled CPSC_AM0009558 to CPSC_AM0011584 and they include the following:

- The recalls listed in our Complaint Counsel's Supplemental Objections and Responses to Respondent's Interrogatory No. 13 and Requests for Admission Nos. 11, 15, and 18 (served April 25, 2022), including press releases relating to recalls conducted by distributors and recalls where refunds were conditioned on returns;
- Responses to CPSC 2018 RFI "Recall Effectiveness: Announcement of Request for Information Regarding the Use of Direct Notice and Targeted Notices during Recalls";
- Documents relating to the Recall Effectiveness Workshop held on July 25, 2017;
- Internal CPSC research on recall effectiveness and consumer behavior (including info obtained from NHTSA on recall effectiveness); and
- Additional publicly available information regarding Recalls, including the Recall Handbook, Recall Checklist and Information on Monthly Progress Reports.

As we discussed and as you agreed during our meet-and-confer on Tuesday, April 26, 2022, we will be producing additional documents next week.

Kind regards,

John C. Eustice
Senior Trial Counsel
Office of Compliance
Division of Enforcement and Litigation
U.S. Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814
JEustice@cpsc.gov



*****!!! Unless otherwise stated, any views or opinions expressed in this e-mail (and any attachments) are solely those of the author and do not necessarily represent those of the U.S. Consumer Product Safety Commission. Copies of product recall and product safety information can be sent to you automatically via Internet e-mail, as they are released by CPSC. To subscribe or unsubscribe to this service go to the following web page:
<http://www.cpsc.gov/en/Newsroom/Subscribe> *****!!!

Email secured by Check Point

Exhibit G

From: Eustice, John <JEustice@cpsc.gov>
Sent: Tuesday, May 24, 2022 4:16 PM
To: Wilson, Sarah; Wolf, Liana; Anand, Serena
Cc: Anthony, Stephen; Brugato, Thomas; Cavataro, Benjamin; Griepsma, Nick; Ramirez, Diane
Subject: RE: In the Matter of Amazon.com, Inc. (CPSC Docket No. 21-2)

[EXTERNAL]

Sarah,

Following up on my email to you on Friday, I respond to the rest of your May 19th email here.

As we indicated on Friday, we have conducted reasonable searches for relevant, responsive materials subject to our objections. Accordingly, we have searched for responsive documents relating to policies, procedures, and guidelines dating back to 2009. Though you claim that you do not want us to produce publicly available information, much of what you have requested exists in the public domain. Our agency is transparent in the manner that it operates, which is why resources such as the Recall Handbook and the public materials relating to the Recall Effectiveness Workshop are responsive to your requests. Ultimately, we do not intend to withhold from production any relevant, non-privileged documents responsive to your Request Nos. 15 and 19 through 26. If we withhold any documents based on a claim of privilege, we will provide a log of such documents.

As to the Section 15 Defect Investigation Procedures Manual, we identified it as a potentially responsive document prior to your mentioning it in a meet-and-confer. We do not agree with your analysis that 5 U.S.C. § 552(a)(2), a provision of the Freedom of Information Act, applies in the context of this litigation, but we note that it requires agencies to proactively disclose certain categories of nonexempt records or information to the public. As per 16 C.F.R. § 1015.2, the CPSC provides an electronic reading room where records required to be disclosed under 5 U.S.C. § 552(a)(2) are available (see <https://www.cpsc.gov/Newsroom/FOIA/Guide-to-Public-Information>). We have agreed to produce the portions of the Section 15 Manual that relate to recall remedies. The balance of the Manual is not relevant to any issue live and in dispute in this case.

Finally, we propose a meet-and-confer tomorrow afternoon, Wednesday, May 25, regarding a reasonable extension of discovery deadlines, discovery disputes, and Amazon's additional children's sleepwear messaging for 21 ASINs. We are available between 1:00 and 5:00 p.m. Please let us know what time works best for your team.

Thanks much.

Kind regards,

John

Exhibit H

The Honorable James E. Grimes
U.S. Securities and Exchange Commission
100 F Street NE, Mail Stop 2585
Washington, DC 20549
Via email to ALJ@sec.gov

July 22, 2022

Re: *In the Matter of Amazon.com, Inc.* (“Amazon”), CPSC Docket 21-2

Dear Judge Grimes:

We write pursuant to your October 19, 2021 Order setting forth a pre-motion resolution procedure (Doc. No. 13) for a discovery dispute ripe for resolution.

The Parties exchanged written discovery requests on February 14, 2022 and written objections and responses on March 21, 2022. Amazon’s Requests for Production (“RFPs”) Nos. 15, 19–26 involve the CPSC’s past actions, practices, policies, and guidance involving similar respondents, products, or requested relief. Amazon has limited the chronological scope of these requests to 2009 to the present.

Amazon’s Statement: To date, Complaint Counsel has withheld an unspecified number of documents responsive to Amazon’s RFPs. Such material includes portions of the CPSC Section 15 Product Defect Investigation Procedures Manual (“Manual”), internal operating procedures from the Office of Communications, corrective action plan materials relating to safety defect and non-compliance issues submitted to GAO, and other material known only to Complaint Counsel. As to the other responsive material withheld on purported relevance grounds, Complaint Counsel has declined to provide an exhaustive list of such documents to Amazon. Amazon’s position is that such material could reasonably lead to evidence related to the agency’s contention that its requested remedies are in the “public interest” under the Consumer Product Safety Act and the agency’s continuing obligation to ensure its decisions are not arbitrary or capricious under the Administrative Procedure Act. For its part, Amazon has confirmed to Complaint Counsel that it is not withholding responsive discovery on relevance grounds. Amazon therefore seeks an order compelling production of all non-privileged material, from 2009 to present, responsive to its discovery requests involving past CPSC actions, practices, policies, and guidance.

Complaint Counsel’s Statement: The scope of discovery in this case has been limited twice, once by the Court in its January 19, 2022 Order on Motion to Dismiss and Motion for Summary Decision, and again by the parties in executing the Stipulation resolving the substantial product hazard determinations in the case. Nonetheless, Complaint Counsel has conducted extensive searches for information responsive to Amazon’s RFP Nos. 15 and 19-26, and produced thousands of pages of documents. Complaint Counsel has also provided descriptions of non-responsive, irrelevant documents and explained the rationale for not producing them. As to the Manual referenced by Amazon, Complaint Counsel has produced all portions of the Manual that relate to remedies in corrective actions, but has not produced other portions that concern

CPSC processes that have no bearing on issues remaining in these proceedings. Complaint Counsel has fully met its discovery obligations.

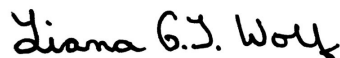
Since March 30, 2022, Respondent and Complaint Counsel have discussed the at-issue discovery requests multiple times by videoconference and email. Pursuant to your October 19, 2021 Order, we thus certify that we have sought in good faith to resolve the above-referenced disputes. Undersigned counsel is available on Tuesday, July 26 from 10:30 a.m. to 12:00 p.m. or Wednesday, July 27, from 10:00 a.m. to 12:00 p.m. for a conference to discuss the dispute, the relief requested by Amazon, and potential next steps. We are happy to coordinate alternative time windows if necessary.

Respectfully submitted,



Sarah L. Wilson
Stephen P. Anthony
Thomas Brugato
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Counsel for Respondent



John C. Eustice
Liana G.T. Wolf
Serena Anand
Division of Enforcement and Litigation
Office of Compliance and Field
Operations
U.S. Consumer Product Safety
Commission
Bethesda, MD 20814
(301) 504-7809

*Complaint Counsel for U.S. Consumer
Product Safety Commission*

CERTIFICATE OF SERVICE

I hereby certify that on July 22, 2022, a true and correct copy of the foregoing was served upon all parties and participants of record in these proceedings as follows:

- by email to the Presiding Officer at alj@sec.gov and to all counsel of record; and
- to Complaint Counsel by email at jeustice@cpsc.gov, lwolf@cpsc.gov, and sanand@cpsc.gov.

Nicholas Griepsma

Nicholas Griepsma

Exhibit I



PRODUCT SAFETY PLANNING, REPORTING, and RECALL HANDBOOK

See the [Regulated Products Handbook](#) or [Regulatory Robot](#) for guidance on specific regulations.

This handbook was prepared by the CPSC staff, and has not been reviewed or approved by, and may not necessarily reflect the views of, the Commission.

U.S. Consumer Product Safety Commission
Office of Compliance & Field Operations
4330 East West Highway
Bethesda, MD 20814
Hotline Telephone: (800) 638-2772
Fax: (301) 504-0359

Reporting:	Inquiries:
Section 15 Reports: Section15@cpsc.gov Section 37 Reports: Section37@cpsc.gov Section 102 Reports: Section102@cpsc.gov	General Inquiries: Compliance@cpsc.gov Small Business Inquiries: sbo@cpsc.gov

www.cpsc.gov

<http://www.saferproducts.gov/>

PRODUCT SAFETY PLANNING, REPORTING, & RECALL HANDBOOK

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PRODUCT SAFETY PLANNING, REPORTING, & RECALL HANDBOOK

Foreword

The U.S. Consumer Product Safety Commission's (CPSC's) Office of Compliance and Field Operations prepared this Recall Handbook to help you understand your obligations and responsibilities under the Consumer Product Safety Act ([CPSA](#)) and other statutes administered by the CPSC. The guidance in this Handbook applies to anyone who manufactures, imports, distributes, or retails consumer products.

No one likes to conduct a recall, but when a safety problem makes a product recall necessary to prevent injuries and save lives, it benefits everyone to move quickly and effectively.

CPSC constantly strives to improve not only the timeliness of recalls, but also the effectiveness of the recall programs we negotiate. The [Fast-Track Product Recall Program \("Fast-Track"\)](#) is designed especially for companies that are willing and able to move quickly with a voluntary recall. Fast-Track, described in detail in Section V of this Handbook, is intended to expedite the recall process by eliminating some of the steps in the traditional recall process, including a preliminary substantial product hazard determination.

If you are seeking information on a specific product regulation, you should begin with the CPSC's [Regulatory Robot](#). You can also consult our Business Education pages on the CPSC [website](#); or, if you are a small business, you can contact our Small Business Ombudsman's Office. Visit the SBO's [Contact Us](#) page, or call toll-free at: (888) 531-9070. If you are seeking guidance on how to address a regulatory violation, refer to the CPSC's [Regulated Products Handbook](#).

CPSC's Office of Compliance and Field Operations
Compliance@cpsc.gov

Note: This handbook does not replace the agency's authorizing statutes or interpretative regulations set out in 16 CFR parts 1115, 1116, and 1117. If there is any discrepancy, the statutes and regulations supersede this Handbook. This material is available on the CPSC's website at: <http://www.cpsc.gov>.

Background

The CPSC is an independent regulatory agency responsible for protecting the public from unreasonable risks of injury and death associated with consumer products. Established by Congress in the Consumer Product Safety Act ([CPSA](#)), 15 U.S.C. §§ 2051-2089, the CPSC has jurisdiction over approximately 15,000 different types of consumer products used in and around the home, in schools, in recreation, and otherwise.¹

This Recall Handbook provides information on the obligations and responsibilities applicable to anyone who manufactures, imports, distributes, retails, or otherwise sells consumer products. The Handbook has three purposes: (1) to explain the reporting requirements under sections 15(b) and 37 of the CPSA, 15 U.S.C. § 2064(b) and § 2084, and Section 102 of the Child Safety Protection Act, Pub. L. No. 103-267, 108 Stat. 722, 6/16/94; (2) to educate stakeholders about how to recognize potentially hazardous consumer products at an early stage; and (3) to assist firms in developing and implementing corrective action plans. The term "corrective action plan" (CAP) generally includes any type of remedial action taken by a company. A CAP, for example, could provide for the return of a product to the manufacturer

¹ The CPSC does not have jurisdiction over foods, drugs, cosmetics, medical devices, firearms and ammunition, boats, motor vehicles, aircraft, or tobacco. Specific questions about the agency's jurisdiction over particular products should be directed to CPSC's Office of the General Counsel.

or retailer for a cash refund or a replacement product; for the repair of a product; and/or for public notice of the hazard. A CAP may include multiple measures that are necessary to protect consumers. When a corrective action requires public announcement and a remedy offered to affected consumers, it is referred to as a “recall.”

This Handbook is not an all-inclusive reference source for developing a CAP. The goal of a CAP should be to remove or correct as many hazardous products as possible from the distribution chain and from consumers, and to do so in the most efficient manner. Reaching this goal often requires creative planning and technology. Companies developing specific CAPs to address unsafe or potentially unsafe products should work closely with CPSC to benefit from staff's expertise in designing and carrying out such plans. This results in greater protection for consumers from injury or death, as well as a more efficient and productive process for companies.

Plan Ahead: Compliance Programs and Designating Responsibility for Product Safety Issues

The first moments after a company becomes aware of a potential product safety issue are critical. However, it is essential to have a plan in place *beforehand*, a plan that details actions to take after obtaining information that a consumer product is noncompliant, contains a defect, or poses an unreasonable risk of serious injury or death.

Part of that plan should include a compliance program establishing policies and procedures for identifying and responding to consumer product safety issues as they arise. CPSC recommends that firms develop and implement a compliance program, because a compliance program will help the firm to be prepared if a product recall, or similar action, becomes necessary. A comprehensive compliance program should focus on the prevention of product safety problems and stress early detection, in addition to prompt reporting.

A. Establish a Compliance Program

A compliance program will help a firm protect consumers from potential hazards through various prevention and mitigation efforts. A compliance program should begin at the design and manufacturing stage, and carry through to a recall, establishing and ensuring implementation of policies and procedures that address prevention, investigation, and reporting procedures, crisis management, mock recalls, and standard reverse logistics protocols during product recalls.

A company with a comprehensive and proactive compliance program is best equipped to prevent product safety issues and is better prepared to handle those issues, if, and when, they arise.

For details see **Appendix A: “Developing a Compliance Program.”**

B. Designate Personnel Responsible for Product Safety Issues

Designating a company official/employee or team responsible for product safety is essential for a firm to ensure product safety and meet statutory reporting requirements. Ideally, this individual (or team) would have full authority to take the steps necessary (including reporting to the CPSC) to initiate and implement all recalls, with the approval and support of the company's chief executive officer, or other appropriate senior management official.

The individual or team responsible should have knowledge of the CPSC statutes, regulations, and guidance for reporting and implementing CAPs, and should be delegated the following authorities and responsibilities:

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- Authority to function as the central coordinator for receiving and processing all information regarding the safety of the company's products. Such information includes, but is not limited to: quality control records, engineering analyses, test results, consumer complaints, warranty returns or claims, lawsuits, and insurance claims.
- Responsibility for fully reviewing the company's product line to determine how each product will perform or fail under conditions of proper use and reasonably foreseeable misuse or abuse.
- Authority to involve appropriate staff and functional areas of the firm, and external resources, as appropriate, to implement a product recall, designate another to serve as the sole primary liaison with CPSC, and to designate a single person as the "Recall Coordinator,"² if a recall is warranted;
- Responsibility for making decisions to report and initiate a product recall, and for designating a central point of contact (e.g., recalls@xyzstores.com) for communications to and from manufacturers, importers, and distributors, which is updated regularly. An identified point person can ensure that important notices are sent to the correct department or person; and
- Accountability to the company's chief executive officer, or other appropriate senior official, with the responsibility to keep the CEO informed about reporting requirements and potential safety concerns that could lead to product recalls.

Through research and analysis, product safety engineers can identify the safety features that could be incorporated into products that present safety risks, to reduce the product's potential to cause injury.

C. Create a Product Identification System

Part of effective planning for a potential corrective action in the future includes the creation of a product identification system. Model designations and date-of-manufacture codes should be used on all products, whether they carry the company's name or brand, or are privately labeled for other companies. Manufacturer designations also should be on all products, if there are multiple manufacturers of the same model. If a product recall is necessary, this practice allows the company to identify easily all affected products, without undertaking a costly recall of the entire line. Similarly, once a specific product has been recalled and corrected, a new model number, or other means of identification used on new and/or corrected products, allows distributors, retailers, and consumers to distinguish products subject to the recall from the new items. Until a production change can be made to incorporate a new model number or date code, some companies have used labels or bar codes to differentiate from recalled products, products that have been inspected and corrected.

² If a CAP includes a recall, designating a Recall Coordinator is essential to effective implementation. The company's Recall Coordinator should be responsible for: (1) working directly with CPSC to gain approval of all aspects of the proposed CAP, including notices; (2) keeping the firm's senior management informed about pending product recalls; (3) involving the appropriate internal and external staff and resources to implement a product recall; and (4) submitting monthly progress reports to CPSC after the recall announcement.

I. Reporting Requirements.

A. Section 15 Reports

Section 15(b) of the CPSA establishes reporting requirements for manufacturers, importers, distributors, and retailers of consumer products, distributed in commerce, and over which the agency has jurisdiction.

In enacting Section 15(b), Congress intended to encourage widespread reporting of timely, accurate, and complete information that is necessary to protect public health and safety. In addition to assisting the CPSC in uncovering substantial product hazards, reporting incidents resulting in injury or death helps to identify risks of injury that could be addressed through voluntary or mandatory standards, or inform and educate. **It is important to recognize that a reporting obligation arises even if a firm cannot identify a defect and/or root cause. If the information reasonably supports the conclusion that a product could create an unreasonable risk of serious injury or death, a company must report.**

Although CPSC uses sources other than Section 15 reports to identify potentially hazardous products, reporting by companies under Section 15 can provide the most timely and effective source of information about such products. This is because companies often learn of potential product safety problems at an early stage. Accordingly, companies involved in the manufacture, importation, distribution, or sale of consumer products should develop a system for maintaining and reviewing information about their products that might suggest that their product has a defect or poses an unreasonable risk of serious injury or death. Such information includes, but is not limited to: consumer complaints, warranty returns, insurance claims or payments, product liability lawsuits, reports of production problems, product testing, or other critical analyses of products.

Reporting a product to the CPSC under Section 15 does not automatically mean that the agency will conclude that the product creates a substantial product hazard or determine that corrective action is necessary. CPSC staff will evaluate the report and work with the reporting company to determine whether corrective action is necessary. Many of the reports received require no corrective action because staff concludes that the reported product defect does not create a substantial product hazard.

1. What to Report

Manufacturers, importers, distributors, and retailers must notify the CPSC immediately if they obtain information that reasonably supports the conclusion that a product distributed in commerce: (1) fails to comply with an applicable consumer product safety rule or with a voluntary consumer product safety standard upon which the Commission has relied under Section 9³; (2) fails to comply with any other rule, regulation, standard or ban under the [CPSA](#) or any other Act enforced by the Commission, including: the [Flammable Fabrics Act](#), 15 U.S.C. § 1193-1204; the [Federal Hazardous Substances Act](#), 15 U.S.C. § 1261-1278; the [Children's Gasoline Burn Prevention Act](#), 110 Pub. Law No. 278 (July 17, 2008); the [Virginia Graeme Baker Pool and Spa Safety Act](#), 110 Pub. Law No. 140 (with amendments); the [Poison Prevention Packaging Act](#), 15 U.S.C. § 1471-1476; the [Refrigerator Safety Act](#), 15 U.S.C. § 1211-1214; the [Drywall Safety Act of 2012](#); the [Child Nicotine Poisoning Prevention Act of 2015](#); (3) contains a defect which could create a substantial product hazard; or (4) creates an unreasonable risk of serious injury or death. The Commission has issued

³ As of January 2018, there were two such standards that would require reporting if failure of the voluntary standard occurred—the voluntary standard for chain saws (ANSI B175.1), and the voluntary standard for unvented gas space heaters (ANSI Z21.11.2); See [Appendix to § 1115](#) for more information.

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an interpretive regulation at [16 CFR § 1115](#) that explains the reporting obligations. A more detailed discussion of what constitutes a defect or unreasonable risk for purposes of section 15 is contained in [section II](#), (page 11).

Although reporting companies should be prepared to provide the information described below, a report should not be delayed because some of this information is not yet available. The following information should be transmitted as a written initial report, [16 CFR § 1115.13\(c\)](#):

- Identification and description of the product;
- Name and address of the manufacturer and/or importer of the product, if known. If not known, the names and addresses of all known distributors and retailers of the product;
- Nature and extent of the possible defect, the failure to comply, or the risk;
- Nature and extent of injury or risk of injury associated with the product;
- Name and address of the person informing the Commission;
- If reasonably available, the other information specified in [16 CFR § 1115.13\(d\)](#) of the Commission's regulations; and
- A timetable for providing information not immediately available.

Retailers and distributors can satisfy their initial reporting obligations by reporting the information described above to the Office of Compliance and Field Operations through the [Section 15 mailbox](#).⁴ Alternatively, a retailer or distributor can send a written communication to the manufacturer or importer of a product, describing the failure to comply with an applicable regulation, a potential defect, or the risk of injury or death associated with the product; but they must also provide a copy of that communication to the Office of Compliance and Field Operations. A distributor or retailer may also satisfy a reporting obligation by forwarding reportable information received from another company to the Office of Compliance and Field Operations. Section 15(b) requires that a manufacturer, retailer, or distributor must immediately inform the CPSC of a failure to comply, a defect, or such a risk, unless it has actual knowledge that the CPSC has been adequately informed of such failure to comply, defect, or risk because, for example, the manufacturer provided the retailer or distributor a copy of the full report filed with staff. The Commission is “adequately informed” if staff has received the information requested under [16 CFR §1115.12](#) and/or [§1115.13](#), or if the staff has informed the company that staff is adequately informed.

CPSC staff may request additional information to ensure appropriate data are available to determine the level of hazard. In addition to the standard report elements in [16 CFR § 1115.13\(d\)](#), staff may request additional information including, but not limited to:

- Underlying documentation on related reported incidents, complaints, and warranty claims;
- The countries, other than the United States, to which the company distributed the products;
- Premarket and post-market test reports;
- Marketing, advertising, and promotional documents;
- Technical documentation on product design and manufacture, including change orders;
- UPC codes for all models involved;
- Incident and exemplar samples of the product;
- Documentation regarding any deaths reported involving this product, regardless of defect or hazard;
- Information on the foreign manufacturer or component manufacturer; and
- Other relevant information to assess the hazard.

⁴ Retailers and distributors must include all information required by a Section 15 report “insofar as it is known to the retailer or distributor.” 16 CFR §1115.13(b).

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2. When to Report

Section 15 requires companies to report "immediately." This means that a company must notify the CPSC within 24 hours of obtaining information described in section A.1 ("What to Report"). Guidelines for determining whether a product defect exists, whether a product creates an unreasonable risk of serious injury or death, and whether a report is necessary or appropriate, are provided in [16 CFR § 1115.4-15](#).

Companies frequently contact staff for input to determine if their situation creates a Section 15 reporting requirement. Compliance staff's consistent response is: "When in doubt, report."

A company must report to the CPSC within 24 hours of obtaining reportable information. The CPSC encourages companies to report potential substantial product hazards, even while their own investigations are continuing. However, if a company is uncertain about whether information is reportable, the company can take a reasonable time to investigate the matter. That investigation should not exceed 10 working days, unless the company can demonstrate that a longer time is reasonable under the circumstances. Absent such circumstances, the CPSC will presume that, at the end of 10 working days, the company has received and considered all information that would have been available to it, had a reasonable, expeditious, and diligent investigation been undertaken.

The CPSC considers a company to have obtained knowledge of product safety-related information when that information is received by an employee or official of the company, who may reasonably be expected to appreciate the significance of that information. Once that occurs, under ordinary circumstances, 5 working days is the maximum reasonable time for that information to reach the chief executive officer, or the official assigned responsibility for complying with the reporting requirements. If a firm has information that noncompliance or a defect in a consumer product caused, may have caused, contributed to, or could contribute to, a death or grievous bodily injury, the firm must report, unless it has investigated and determined that the information is not reportable. [16 CFR §1115.12\(d\)](#).

The CPSC evaluates whether a company complied with its statutory obligation to report a defect, unreasonable risk, or violation to the Commission. The CPSC can assess civil penalties against a firm for its knowing failure to file a timely report (a "timeliness case"), or notify the commission of other prohibited acts set out in Section 19 of the CPSA and other Acts administered by the Commission. If a violation is not only knowing, but also willful, criminal penalties can result.⁵ An evaluation of a timeliness case will be based, in part, on what the company actually knew about the hazard posed by the product, or what a reasonable person, acting under the circumstances, should have known about the hazard while exercising due care, including knowledge obtainable upon the exercise of due care to ascertain the truth of representations. Thus, a company is deemed to know what it would have known had it exercised due care in analyzing reports of injury or consumer complaints, or in evaluating warranty returns, reports of experts, in-house engineering analyses, or any other information.

3. Where to Report

A company should file its Section 15 report with the CPSC's Office of Compliance and Field Operations. The report should be filed electronically through the agency's website ([SaferProducts.gov](https://www.saferproducts.gov)). Alternatively, a company can file its report electronically by email (Section15@cpsc.gov), and include "Section 15" in the subject line. A company should assign the responsibility of reporting to someone with knowledge of the product and knowledge of the reporting requirements of Section 15. The designated individual should have the authority to report to CPSC or raise the issue quickly with an authorized firm representative.

⁵ See CPSA Section 20-21 (15 USC § 2069-2070), Federal Hazardous Substances Act Section 5 (15 USC § 1264), Flammable Fabrics Act Section 7 (15 USC § 1196), and [16 CFR § 1115.22](#).

3. Confidentiality of Reports

The CPSC often receives requests from the public for information reported under Section 15(b). In addition to the requirements of section 6(b)(1) (requiring advance notice and the opportunity for comment), Section 6(b)(5) of the CPSA, [15 U.S.C. § 2055\(b\)\(5\)](#), prohibits the release of such information about a consumer product, unless one of the following circumstances exist: in lieu of proceeding against such product under Section 15(c) or (d) the Commission has accepted in writing a remedial action plan ; a complaint has been issued under section 15(c) or (d) alleging that a product presents a substantial product hazard; the reporting company agrees to the public disclosure; or the Commission publishes a finding that public health and safety require public disclosure with less than 15 days' notice. There are additional considerations that may permit the release of information regarding a product that violates of a mandatory standard.

In addition, a company may claim that information it has submitted contains or relates to a trade secret or is commercial or financial information that is privileged or confidential. To do so, at the time the company submits the information, the company should mark the information "confidential," in accordance with Section 6(a)(3) of the CPSA, [15 U.S.C. § 2055\(a\)\(3\)](#).

If the CPSC receives a FOIA request for information submitted by a firm pursuant to Section 15(b), in responding to such a request the CPSC's Freedom of Information Office will give the company an additional opportunity to claim that the information should not be disclosed to the public because it contains confidential information. In cases where the Section 6(b)(5) prohibition against release does not apply, , CPSC staff will not treat information as exempt from disclosure to the public under Section 6(a) of the CPSA, 15 U.S.C. § 2055(a), and the Freedom of Information Act, absent a specific claim for confidential treatment.

B. Section 37 Reports

[Section 37](#) of the CPSA requires manufacturers of consumer products to report information about settled or adjudicated civil actions.⁶ Within 30 days of the third final settlement or court judgment, manufacturers must report if:

- a particular model of the product is the subject of at least three civil actions filed in federal or state court;
- each lawsuit alleges the involvement of that particular model in a death or in grievous bodily injury—mutilation or disfigurement, dismemberment or amputation, the loss of important bodily functions or debilitating internal disorder, injuries likely to require extended hospitalization, severe burns, severe electric shock, or other injuries of similar severity;
- during one of the 2-year periods specified in the law,⁷ each of the three actions results in either a final settlement involving the manufacturer or in a court judgment in favor of the plaintiff:

⁶ The Commission has issued a rule at [16 CFR § 1116](#), interpreting the requirements of Section 37. The Commission recommends that manufacturers considering whether they have Section 37 reporting obligations refer to that rule and the applicable regulations cited here.

⁷ The periods of time run from January 1 of year 1 to December 31 of the following year (year 2). The list set forth above is illustrative of periods going forward, and does not include prior 2-year periods for which reporting obligations apply.

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January 1, 2019 – December 31, 2020,
January 1, 2021 – December 31, 2022,
January 1, 2023 – December 31, 2024,
January 1, 2025 – December 31, 2026,
and continuing for each 2-year period; and

- The manufacturer is a party to, or is involved in the defense of, or has notice of, each action, before entry of the final order, and is involved in discharging any obligation owed to the plaintiff as a result of the settlement or judgment.

1. What to Report

A report under Section 37 must contain:

- The name and address of the manufacturer of the product.
- The model and model number or designation of the product.
- A statement as to whether the civil action alleged death or grievous bodily injury; and in the case of the latter, the nature of the injury. For reporting purposes, the plaintiff's allegations about the nature of the injury are sufficient to require a report, even if the manufacturer disagrees with the allegations.
- A statement about whether the civil action resulted in a final settlement or a judgment in favor of the plaintiff. However, a manufacturer need not provide the amount of a settlement.
- In the case of a judgment in favor of the plaintiff, the name and number of the civil action, and the court in which it was filed.

A manufacturer can also provide additional information, if it chooses. Such information might include a statement about whether the manufacturer intends to appeal an adverse judgment, a specific denial that the information it submits reasonably supports the conclusion that its product caused death or grievous bodily injury, and an explanation regarding why the manufacturer has not previously reported under Section 15.

2. When and Where to Report

A manufacturer must report within 30 days after a judgment or final settlement in the last of the three civil actions. The same is true of any additional lawsuits involving the same model that are settled or adjudicated in favor of the plaintiff during the same 2-year period.

Companies can file Section 37 reports electronically, by emailing them to: Section37@cpsc.gov, and should include "Section 37" in the subject line.

3. Confidentiality of Reports

Under section 6(e) of the CPSA, the CPSC and its employees may not publicly disclose information reported under Section 37, except that such information may be furnished to the reporting manufacturer, or Congress, under certain circumstances. By law, reporting under Section 37 is not an admission of the existence of an unreasonable risk of injury, a defect, a substantial product hazard, an imminent hazard, or any other liability under any statute or common law. Information voluntarily provided that is in addition to information required to be reported under Section 37 is governed by the confidentiality provisions regarding Section 15 reports (see above section A.3).

C. Section 102 Reports

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Section 102 of the [Child Safety Protection Act](#) requires that companies report certain choking incidents to the CPSC. Each manufacturer, distributor, retailer, and importer of a marble, a ball with a diameter of 1.75" or less ("small ball"), latex balloon or other small part, or a toy or game that contains such a marble, ball, balloon, or other small part, must report information that reasonably supports the conclusion that:

- 1) a child (regardless of age) choked on such a marble, small ball, balloon, or small part; and
- 2) due to the incident, the child died, suffered serious injury, ceased breathing for any length of time, or was treated by a medical professional.

1. What to Report

The company should report the name and address of the child who choked, and the person who notified the company of the incident; detailed identification of the product; a description of the incident and any resulting injuries or medical treatment; information about any changes made to the product involved, or changes to its labeling or warnings to address the risk of choking; and the details of any public notice, or other planned corrective action. Refer to [16 CFR § 1117](#) for more detailed information about this reporting requirement.

2. When and Where to Report

Section 102 reports must be filed within 24 hours of obtaining the information.

A company must file a Section 102 report with the Office of Compliance and Field Operations electronically by email to: Section102@cpsc.gov and include "Section 102" in the subject line.

3. Confidentiality of Reports

Section 102 reports receive the same confidentiality treatment as information submitted under Section 15 of the CPSA (see section A.3).

II. Identifying a Defect⁸

The Commission's reporting requirements provide information that assists the CPSC in evaluating whether some form of remedial action is appropriate. However, in the absence of a regulation that addresses a specific risk of injury, the product in question must create a substantial product hazard. That is, the product must contain a defect which creates a substantial risk of injury to the public to warrant remedial action. Next, the Handbook discusses the considerations for determining whether a product defect exists and, if so, whether the risk presented by that defect presents a substantial risk of injury.

A defect could result from:

- a manufacturing or production error;
- the design of, or the materials used in, the product
- a product's contents, construction, finish; or
- a product's, packaging, warnings, and/or instructions.⁹

⁸ The reporting requirement in the CPSA requires a firm to notify staff, if the information reasonably supports the conclusion that a product contains a defect that could create a substantial product hazard **or** creates an unreasonable risk of serious injury or death. CPSA Section 15(b). (Emphasis added).

⁹ See [16 CFR § 1115.4](#).

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In addition to these factors, we will also consider whether the risk of injury associated with a product is the type of risk which will render the product defective. To make that determination, CPSC staff considers the following factors, as appropriate, and as referenced in [16 CFR § 1115.4](#):

- 1) The utility of the product.
- 2) The nature of the risk of injury that the product presents.
- 3) The necessity of the product.
- 4) The population exposed to the product, and its risk of injury.
- 5) The obviousness of such risk
- 6) The adequacy of warnings and instructions to mitigate the risk
- 7) The role of consumer misuse of the product, and the foreseeability of such misuse
- 8) The Commission's experience and expertise
- 9) The case law interpreting federal and state public health and safety statutes
- 10) The case law in the area of products liability
- 11) Other information relevant to the determination.

We note, however, that not all products that present a risk of injury are defective. A typical kitchen knife is one example. A knife blade must be sharp for a consumer to cut or slice food. The knife's sharpness is not always a product defect, even though some consumers may cut themselves while using the knife. On the other hand, if the handle or blade of a particular knife is prone to breaking that may constitute a defect.

Because a product may be defective even when it is designed, manufactured, and marketed exactly as intended, a company in doubt about whether a defect exists should still report. However, even if the information available to a company does not reasonably support the conclusion that a defect exists, a company must still report if it has information indicating that the product creates an unreasonable risk of serious injury or death. See [15 U.S.C. §2064\(b\)\(4\)](#) and [16 CFR § 1115.6](#). Note that a product may be found to be defective even if it complies with a voluntary or mandatory standard. [16 CFR § 1115.8](#).

Appendix B of this Handbook depicts the processing flow of a standard defect investigation and the Fast-Track Program.

III. Evaluating Substantial Risk of Injury

When a company reports to the CPSC, the Office of Compliance and Field Operations will evaluate whether the product presents a substantial product hazard by considering whether the product contains a defect and whether any alleged defect creates a substantial risk of injury to the public. If staff concludes that the product in question creates a substantial product hazard, staff applies hazard priority standards to classify the severity of the problem.

Section 15(a)(2)¹⁰ lists criteria for determining when a product defect creates a substantial risk of injury. Any one of the following factors could indicate the existence of a substantial risk of injury:

- **Pattern of defect.** The defect may stem from the design, composition, content, construction, finish, or packaging of a product, or from warnings and/or instructions accompanying the product. The conditions under which the defect manifests must also be considered in determining whether the pattern creates a substantial risk of injury.

¹⁰ [15 U.S.C. §2064\(a\)\(2\)](#).

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- **Number of defective products distributed in commerce.** A single defective product could be the basis for a substantial product hazard determination if an injury is likely or could be serious. By contrast, defective products posing no risk of serious injury, and having little chance of causing even minor injury, ordinarily would not be considered to present a substantial risk of injury. The number of products remaining with consumers is also a relevant consideration.
- **Severity of risk.** A risk is considered severe if the injuries that have occurred, *or that could occur*, are serious or likely to occur.¹¹ The definition of a *serious injury* is set forth in 16 CFR 1115.5(c) and includes grievous bodily injuries or injuries requiring hospitalization, medical treatment, or missing work or school for more than one day. The *likelihood of an injury* is determined by considering the number of injuries that have occurred, *or that could occur*, the intended or reasonably foreseeable use or misuse of the product, and the population or group (*e.g.*, children, the elderly, or the disabled) exposed to the product.

A substantial product hazard also exists when failure to comply with an applicable consumer product safety rule creates a substantial risk of injury to the public.

IV. Hazard Classifications

The hazard priority system allows CPSC staff to rank defective products uniformly. If staff makes a preliminary determination¹² (PD) that a product creates a substantial product hazard, the hazard priority system also provides guidance on determining the appropriate corrective action.

Class A Hazards

A Class A hazard exists when a risk of death or grievous injury or illness is likely or very likely, or serious injury or illness is very likely.

Class A hazards warrant the highest level of attention. A company should take immediate, comprehensive, and expansive corrective action measures to identify and notify consumers, retailers, and distributors who have the defective product. In addition, the company must act expeditiously to remedy the defect through repair or replacement of the product, refunds, or other measures. A Class A hazard may require additional actions by the company to notify the public; and the associated corrective action plan requires approval by the Commission. In addition, CAPs for products associated with a death, even if unrelated, also require Commission approval.

Class B Hazards

A Class B hazard exists when a risk of death or grievous injury or illness is not likely to occur, but is possible, or when serious injury or illness is likely, or moderate injury or illness is very likely.

¹¹ Generally, a product could create a substantial hazard when consumers are exposed to a significant number of units, or if the possible injury is serious or is likely to occur. Because a company may not know the extent of public exposure, or appreciate the likelihood or severity of potential injury when a product defect first comes to its attention, it should report to the CPSC, even if it is in doubt about whether a substantial product hazard exists.

¹² The decision is preliminary because only the Commission, after a hearing, can make a formal determination that a product is defective and creates a substantial product hazard.

Class C Hazards

A Class C hazard exists when a risk of serious injury or illness is not likely, but is possible, or when moderate injury or illness is not necessarily likely, but is possible.

Regardless of whether a product defect is classified as a Class A, B, or C priority hazard, the common element is that each of these defects creates a substantial product hazard that requires corrective action to reduce that risk of injury.

The priority given to a specific product defect provides a guideline for determining the best way to communicate with owners and users of the defective product and to get them to respond appropriately. Although some companies have exemplary track records in communicating with consumers independently, it is still to a company's advantage to work with CPSC staff, using both the company's and CPSC's skills and resources to conduct an effective product recall.

V. Fast-Track Product Recall Program (No Preliminary Determination of Hazard)

A company that files a Section 15(b) report may wish to make use of an alternative procedure the Commission has established to expedite recalls.¹³ The program is called the "[Fast-Track Product Recall Program](#)." If a company reports a potential product defect, and otherwise meets requirements for timely recall of the product, staff will not make a preliminary determination that the product creates a substantial product hazard.

The Fast-Track Program allows staff and the company to work together on a CAP immediately, rather than spend the time and other resources necessary to investigate the reported defect to determine whether it rises to the level of a substantial product hazard.

To participate in this program, companies must:

- Stop sale¹⁴ of the product immediately;
- Request to participate in the program;
- Agree to publicly announce the recall;
- Provide all of the information required for a Full Report ([16 CFR § 1115.13\(d\)](#)); and
- Submit a proposed CAP that adequately addresses the reported issue, with sufficient time for CPSC staff to analyze any proposed repair, replacement, or refund offer and evaluate all notice material before the implementation (announcement) of the CAP.

Companies that are unable to move quickly may be removed from the program at the discretion of CPSC Compliance staff.

Appendix B of this Handbook depicts the processing flow of a standard substantial product hazard investigation and the Fast-Track Program.

¹³ This program is described in more detail in the *Federal Register* of July 24, 1997, 62 Fed. Reg. 39,827-39,828.

<http://www.gpo.gov/fdsys/pkg/FR-1997-07-24/pdf/97-19554.pdf>.

¹⁴ Term "stop sale" is intended to convey a message sent throughout the distribution chain (all distributors *and* retailers), instructing them to stop sale and quarantine products for a pending safety action.

VI. Corrective Action Plans (CAPs)

An effective CAP will mitigate the hazard to consumers and correct or prevent the problem in any future production or similar product. A common component of a CAP is a recall. A recall is the component of a CAP that provides for public notice and a remedy for consumers. Other components of a CAP might include any actions taken to mitigate the potential hazard, as well as changes to design, manufacturing, materials, quality control, warnings, marketing, discontinuing the product, and other actions.

Note: Any product that is associated with a death requires Commission approval of the CAP.

A. Preparing for a CAP

Rarely will any two recall programs be identical. Therefore, companies should be prepared to address issues that invariably arise, such as:

Product, Defect, Scope, and Remedy:

- Consider the defect or failure to comply that causes the product hazard.
- Consider what caused the product defect or failure to comply to occur in the first place.
- Identify the location of the potentially unsafe products, and determine how many are at each level of distribution.
- Notify appropriate regulatory bodies (including CPSC), about the defect or potential safety issue.
- Discontinue production and shipment of the products.
- Review and improve quality control or risk analysis procedures to prevent a similar occurrence in the future.

Company Readiness for a CAP:

- Notify retailers to stop selling the product, and ask them to help identify consumers who own the product.
- Review existing databases to identify potential product owners, *e.g.*, product registration and customer service records.
- Determine the cost to deploy manpower and/or fund an effort to provide replacement parts for defective products, or to exchange them for new products that do not have the problem.
- Develop a plan to ship replacement parts or new units to distributors participating in the product recall or otherwise repair units in their inventory.
- Develop a plan to quarantine and correct returned products. Consider how the product will be reworked, broken down for reclamation of critical components, or destroyed. Develop and implement procedures to ensure proper control and tracking of all defective materials returned in the recall and to ensure they do not reenter the stream of commerce.
- Prepare to monitor the product recall, and provide timely progress reports to the CPSC.

Public Notice:

- Companies should prepare, for CPSC approval, a comprehensive communications plan, including a media plan utilizing direct notice, for communicating the recall. Additional detail on the elements of this comprehensive plan are provided in the following pages. A satisfactory plan will include:
 - A draft news release for CPSC review that announces the recall.

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- A plan for other forms of public notice, including social and digital media. This plan will include, for example, outlets such as: news media, paid advertising, mobile notification, and outreach to affinity groups.
- Modifications of the company's website to aid in communicating the recall.
- Drafts of other notice documents, as appropriate, to reach all relevant consumers (*e.g.*, in-store notification/retail poster, print, radio, email, social media, other digital recall marketing).
- Arrange for a toll-free telephone hotline to be used for the recall. Plan for the hotline to handle the number of calls expected after the recall announcement.

The CPSC strongly recommends *a change in model number and UPC* for any new production or repaired products distributed in commerce following a product recall.

See our online guides: [Recall Planning](#), [Recall Checklist](#), and [Guidelines for Retailers and Logistics Providers](#) for more information.

B. Elements of a Recall

A company that undertakes a recall should develop a comprehensive plan that reaches the entire distribution chain and consumers who have the product. The company must design each communication to reach affected parties and consumers, motivate people to respond to the recall, and take the action requested by the company. The company should submit this communication plan (described above under Public Notice) to CPSC staff for approval as part of the CAP. CPSC staff is available to provide additional guidance throughout this process.

Once CPSC staff and a company agree on a remedy to correct a product defect, staff works with the company to fine-tune an effective plan for public notification and implementation of the recall. The information that should be included in a signed CAP is set forth at: [16 CFR § 1115.20\(a\)](#).

The objectives of a recall are:

- 1) To prevent injury or death from defective or violative products;
- 2) To locate all such products as quickly as possible;
- 3) To remove such products from the distribution chain and from the possession of consumers; and
- 4) To communicate to the public in a timely manner accurate and understandable information about the product defect or violation, the hazard, and the corrective action. Companies should design all informational materials to motivate retailers and the media to get the word out and to spur consumers to act on the recall.

In determining what forms of notice to use, the company should consider how the product was marketed, its user population, the estimated useful life of the product, and how the product is most likely to be maintained and repaired. For targeted notice campaigns, it is most effective to use the same platforms and market segmentation as the company used during sales efforts to announce the recall.

CPSC will consider the level of hazard presented by the recalled product when reviewing the proposed CAP, and may request additional or different actions, if appropriate.

Recall outreach should be comprehensive to get the word out to as many consumers as possible. The outreach often will include a variety of elements, such as emails, letters, advertisements, social media, and other technological means.

See our online list of [Recall Notification Types](#) for more information.

Communication with Distributors and Retailers

A company conducting a recall must take particular care to coordinate the notice portion of the recall to ensure that all participating parties, including traditional and online retailers, have sufficient advance notice to be able to carry out the agreed-upon actions. In the recalling company's stop-sale notice to retailers, it should include the reason for the stop-sale, the potential hazard, an estimated date for follow-up correspondence or recall announcement, and any information necessary to identify the product, including the product's UPC(s).

VII. Communicating Recall Information

Communication is a key element of a recall. The goal of recall communications, in almost every instance, is to both warn consumers of a hazard and encourage them to take action to reduce the risk. Because consumers are flooded with messages about products all the time, recall communications are particularly important. Messages must be noticeable enough to break through the clutter, and recognizable enough that consumers know to pay attention and respond effectively. To help companies strike this important balance and to ensure some standardization for consumers' ease-of-understanding, CPSC has developed best practices and expectations for how companies engaged in a recall should notify consumers.

The CPSC strongly encourages companies to use all available communication channels to reach consumers, retailers, and distributors of recalled products and motivate them to respond. As new or innovative methods of notice and means of communication become available, CPSC staff encourages using these methods as well. As discussed above (A. Preparing for a CAP), companies will prepare a comprehensive recall communications plan—including a media plan—for notifying the public (the general public and/or a specific audience) about the recall. The recall communications plan, as part of the CAP, must be approved by CPSC staff.¹⁵ A satisfactory recall communication plan will include specific information on how a company intends to market its recall, including identifying specific media outlets and other targets.

The Word "Recall"

CPSC expects that companies will use the word "recall" to refer to any voluntary action taken pursuant to a CAP that involves removing, repairing, inspecting, discarding, updating, or otherwise altering for safety a product once it has been purchased by a consumer. Although details and circumstances of CAPs and products may differ, the consistent use of the term "recall" is currently the best way to ensure consumers' attention to a safety notice. Should the vocabulary of risk communication evolve to include other words that carry a similar impact, CPSC staff will consider them.

CPSC's headline for recall announcements will include the word "recall." That headline is standard and not negotiable as part of a CAP agreement. When submitting an initial draft release to staff, companies should take care to write in clear and easy-to-understand language, avoiding technical jargon and other information that may make it difficult for consumers to understand the message. CPSC staff will not approve news releases that downplay the hazard or that use language that would make a consumer less likely to participate in the recall. In general, risks and injuries should be described with clarity and not in a way that minimizes the hazard. CPSC staff can provide guidance and examples.

Companies should strive for high consumer participation, and they should draft news releases describing the recall in a manner that will motivate the consumer to take advantage of the remedy. For instance, if the subject product is associated with a risk of death, the word "death" should be used in the headline of the news release.

¹⁵ In the case of recalls where the product is associated with a death, the CAP and all accompanying documents are submitted to the Commission for a vote.

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Review of Recall Notices and Timing of Publication: CPSC staff must review and approve all notices to be disseminated. These notices will be discussed in detail in the following pages. Companies must provide staff, in advance, drafts of all notices or other communications to media, customers, and consumers. CPSC should be the first to issue the approved public communication messages; and then, the recalling company should follow, by issuing its own CPSC-approved communication messages.

Checklist of CAP Communications CPSC must approve:

- *Media Plan*
- *News release*
- *Digital/social media postings*
- *Recall webpage*
- *Notices to consumers, retailers, and distributors*
- *Video news release*
- *Scripts for recall customer service*

As indicated below, CPSC has requirements as well as guidance for recalling companies. Some specific types of recall announcements and suggestions for communicating recall information are detailed below.

A. Direct and Targeted Notice

Direct Notice

Direct notice is the most effective method of engaging consumers for recalls.

Direct notice is notice to consumers who are known to have the product. Contact information for direct notice can be obtained from registration cards, sales records, catalog orders, retailer loyalty programs, contracting for service, or other means. Direct notice can also involve working with distributors, dealers, sales representatives, retailers (traditional brick and mortar and online), service personnel, installers, and other persons who may have the ability to contact consumers directly. Even when a company is using direct notice, CPSC may require additional notices to ensure that all affected consumers are notified of the recall.

The content of a direct notice must be approved by CPSC staff, and should follow the requirements and recommendations outlined below. Companies must provide sufficient customer contact information for CPSC to verify later that consumers received the recall communication. (See also subsection C, Recall Alerts, and Section VIII, Monitoring Recalled Products, for more information.)

Companies who can provide direct notice may also have to provide notice to the general public or to specific targeted audiences.

Targeted Notice

In some recall situations, companies may not have individual contact information for all consumers who bought a particular product, but may have contact information for a larger group of customers.¹⁶ For example, Company A cannot identify every purchaser of its product, but it does maintain a loyalty card database of customers who receive

¹⁶ Companies should consult counsel concerning any privacy laws that could impact the use of information for targeted notice.

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periodic coupons or other marketing communications. Company A should discuss with CPSC using that targeted list of customers as part of a comprehensive recall strategy. In most instances, CPSC will urge companies to use their entire mailing list—even if the list cannot be narrowed to exact purchasers—on the theory that it is better to reach a wider audience of potentially impacted consumers. Any recall communications sent to consumers in this way must be approved by CPSC staff, and should follow the requirements and recommendations set out in the following pages.

Where targeted notice is by e-mail or postal mail, the notice should feature prominently, at the top of each e-mail, notice and/or cover letter, and on the front of any mailing envelope, the words: "Recall Notice," or "Safety Recall."

Examples of Targeted Notice:

- Loyalty customers of the brand, regardless of whether specific purchasing information is available;
- Regional targeted recall marketing, through local or regional media, for regions with higher sales;
- Notices in product catalogs, newsletters, and other marketing materials;
- Purchased lists or paid access to "Big Data" providers to generate leads;
- Posters on display at other locations where users are likely to visit, such as medical clinics, pediatricians' offices, child care centers, repair shops, equipment rental locations, and others;
- Notices to trade groups, utilities, and home/fire inspectors, as applicable;
- Notices to repair/parts shops;
- Service bulletins;
- Notices included with product replacement parts/accessories;
- Notices to child care centers;
- Notices to thrift stores and other secondhand retailers; and
- Engagement with bloggers or other relevant influencers to share information about relevant recalls.

See our online list of [Recall Notification Types](#) for more information.

See Section VIII, Monitoring Recalled Products for more information.

B. Recall News Releases

For a typical recall, CPSC issues a news release jointly with the company. Compliance staff, with the help of the CPSC's Office of Communications (OCM), works with the recalling company to draft the release. The agreed-upon language for the news release provides the foundation for preparing other notice documents.¹⁷ Companies should not independently issue news releases because they create confusion among the media and public, particularly if CPSC is also issuing a release on the same subject.

News releases from the CPSC can receive wide media attention and increase the response rate of consumers. OCM sends recall news releases to sources including, but not limited to, national wire services, major metropolitan daily newspapers, television and radio networks, periodicals, online news, and social media influencers. CPSC also sends recall news releases to its listserv of consumers and others who have signed up to receive direct notification of product recall news. In addition, CPSC posts recall news releases to its websites: www.cpsc.gov and www.SaferProducts.gov;

¹⁷ Although the news release provides a foundation, the CPSC is not bound to its exact language, as long as any additional messaging meets the statutory requirements of Section 6 of the CPSA. *See box, next page.*

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social media; and on CPSC’s recalls app. CPSC reserves the right to publicize a recall—consistent with the agency’s obligations under section 6(b)—to any outlet or in any format.

CPSC uses a template with a standardized format for most releases. This ensures that all critical information is easy to find for consumers, media, and other interested parties. CPSC staff will seek to maintain consistency between releases as appropriate. However, in recalls where a product has been associated with a death or in certain other circumstances, CPSC will often—at staff discretion—use a narrative format release, which must be approved as part of the CAP by majority vote of the Commission. Examples of news release templates are found in Appendix C.

The following page contains a checklist of all items that must appear in a recall news release.

Are there limits to what CPSC says—and where—after a recall is announced?

CPSC staff will work with companies to effectively communicate recalls within the legal requirements of Section 6(b). This includes working collaboratively to draft and refine the joint news release announcing the recall.

CPSC is committed to fulfilling its obligations under 6(b). In addition, the agency may use words and phrases that do not appear in the four corners of the negotiated press release, but are consistent and comply with 6(b)’s requirements of accuracy, fairness, and effectuating the purposes of the Acts the Commission administers.

CPSC may publicize a recall in any manner and at any time. For example, CPSC may grant interviews about the recall, issue social media, convene media calls or conferences, and work with publications to create accurate content about the recall. Decisions of where and how to communicate the recall are made exclusively by CPSC.

By law, CPSC is required to share requested information with certain members of Congress. When doing so, CPSC will communicate that the information being disclosed is confidential—but section 6(b) does not govern members of Congress. If information is inadvertently released despite the agency’s best efforts, the agency may respond to media requests for comment on that information, to the extent necessary to protect or inform the public consistent with the law.

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Checklist for Required Items in Recall News Release
(per [16 CFR § 1115.27](#))

	The term “recall” in the headline (16 CFR §1115.27(a)).
	The company’s legal and commonly known trade name, and the city and state and/or country of its headquarters.
	A statement indicating whether the recalling company is the manufacturer (or importer), distributor, or retailer of the product; if the company is not the manufacturer, the statement must specify the name of the manufacturer, and the city and county of its headquarters. In the case of a foreign manufacturer, the statement must specify the identity of the U.S. importer, and its city and state.
	A list of all significant retailers of the product using the commonly known trade name of the product. “Significant” is defined by 16 CFR § 1115.27 , and is determined in the sole discretion of CPSC staff.
	The number of product units affected by the recall (not just those in the hands of consumers), including the number of product units manufactured, imported and/or distributed, and in inventory.
	A description of the product, including product name, the intended consumer population (<i>i.e.</i> , infants, children, or adults), the product’s colors and sizes, model numbers, date codes, SKUs, and tracking labels, and their exact location on the product.
	High-resolution electronic or digital color photographs with clear and appropriate captions (minimum 1MB size) that clearly show identifying features of the product.
	A clear and concise description of the product’s actual or potential hazards that give rise to the recall, including product defect, and the type of hazard or risk (<i>i.e.</i> , laceration, entrapment, burn).
	The month and year that manufacture of the product began and ended, and when retail sales began and ended, for each make and model of the product.
	The approximate retail price or price range.
	A concise summary of all incidents associated with circumstances giving rise to the recall, including number of incidents, property damage due to incidents, injuries and deaths, including age of persons injured and killed.
	A clear description of the remedy available to the consumer, such as a refund, replacement, or repair. Although per 16 CFR § 1115.27(n) , a company may offer remedies including refunds, product repairs, product replacements, rebates, coupons, gifts, premiums, and other incentives, CPSC has determined that to avoid consumer confusion, such remedies should be referred to in the broad categories “refund,” “repair,” or “replacement.”
	Complete and simple instructions for how to participate in the recall.
	Contact information (telephone and email) for an appropriate recall hotline or customer service department. If at any point, the contact information or web URL of the company’s recall webpage changes from the recall news release, the company must notify CPSC staff immediately so the news release can be updated.

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Timing of the recall news release: CPSC will work with companies to ensure that all requirements are met and all preparations are completed before announcing the recall. CPSC may request a particular date or time with the company, and may indicate a strong preference to send out the recall news release as a standalone or as part of a package. Typically, that decision will depend, in part, on the nature of the hazard, the popularity of the product, and other factors that CPSC will discuss with the company.

Notification to other companies named in the recall news release: When it is necessary to identify more than one company or product brand name in a recall release (*i.e.*, private labelers, distributors, and retailers), recalling companies are expected to provide adequate notification to the other companies identified before the official release. This notification is intended to announce the recall and to alert the other companies that their names or brands will be used. The recalling company should notify the Compliance Officer or Compliance Attorney once all named companies are notified and specify whether there are any objections from them. If naming a manufacturer, the recalling company must state affirmatively that the company has notified the manufacturer with the final news release and provide information to Compliance staff confirming that the manufacturer has no objections to being named. If such adequate notification of an identified manufacturer has not occurred, the agency will take steps to initiate such notification prior to publication of the news release.

C. Recall Alerts

Recall alerts follow the same format as a recall news release, but to make use of a recall alert, a company must have direct notice capability for all, or nearly all, consumers to whom the firm has sold the product (e.g., by phone, email, U.S. mail, or other means). If direct notice can be used, staff will consider various factors in assessing what additional actions may be necessary. In some circumstances, direct notice may lessen the need for notice to the news media, while in other cases notification to the media will augment the direct notice. As appropriate, even with a recall alert, CPSC may undertake its own efforts to publicize the recall and effectuate the mission of the agency, as required by law.

D. Joint Releases with Canada and Mexico

For recalled products also sold in Canada and/or Mexico, the CPSC recommends reporting to the appropriate governing agency in those countries to coordinate Joint News Releases or Recall Alerts. Consistent with agency policies and practices, CPSC may also notify or coordinate with other governments.

E. Digital Recall Marketing

The last several decades have seen significant changes and advancements to the way companies reach consumers for marketing and advertising products. Those same developments should be reflected in the way companies communicate with consumers about recalls and other important safety issues. It is important for companies to use equally effective digital channels and strategies to market the product and to perform recall notification. Tactics that a firm used successfully to *sell* their products will also be an effective means to reach consumers with notice of a recall. General expectations are discussed below; CPSC communications staff is available to advise companies as CAPs are developed.

Company Website

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As a threshold matter, CPSC considers it a best practice for all firms to maintain a recall landing page on their primary website or U.S.-specific website so consumers can readily find information on multiple recalls at the same time. A recall landing page lists all of the company's recalls. Such a page should be easily navigable from the main page or from a relevant secondary page, such as a Customer Service page.

When engaged with CPSC on a recall, companies must post recall announcements to all current websites. This announcement should link to a dedicated recall webpage (not to the general listing of all firm recalls). CPSC staff can provide additional guidance if a company would like to use a standalone website (*e.g.*, ____recall.com) in addition to or instead of the company website.

CPSC staff must review and approve all notices to be disseminated in connection with a recall or recall alert, including recall website/webpage content.

Website notifications are subject to the same requirements as the news release. Companies are also required to:

- Clearly link recall announcements to the company website's first-entry point, such as the consumer home page (not the corporate/shareholder site). The dedicated recall webpage link should appear within the top 1/3 of the company's consumer home page.
- Include the words "recall" and "safety" in the link to the recall information.
- Include all available recall information in the news release.
- Allow consumers to request the remedy directly from the website.
- Convey any additional instructions that consumers need to receive the remedy in plain language and include photos or videos to explain the remedy process clearly.
- Reflect recalls from mergers and acquisitions, *i.e.*, if the company is purchased or merges with another company, existing recalls must be included on the website of the new company or the acquiring company's website with the original brand names.

The CPSC strongly encourages companies to maintain their recall webpage(s) indefinitely. After 120 days, or when the case is closed, companies may remove the dedicated recall webpage link from the top of the company's homepage. If the URL for the recall posting changes, firms must notify the CPSC immediately. Companies should check their recall link quarterly and ensure it is active. Any changes to the URL will be made on CPSC's recall webpage.

See our [Website Notification Guide](#) for more information.

Social Media

Companies are expected to use any and all social media and mobile platforms on which the company maintains a presence¹⁸ including, but not limited to, Facebook, Twitter, YouTube, and Instagram, to notify consumers of the recall. Companies are encouraged to use paid advertising on social media. A [Guide to Best Practices for Communicating Recalls on Social Media](#) can be found in Appendix D.

Requirements for social media notifications:

- Use the terms "recall" and "safety" in the social media messaging about the recall.
- Keep it concise (#Recall hashtag, product name, hazard, remedy).
- Link directly to the dedicated recall webpage from Facebook, Twitter, Instagram Story or other social media notification.

¹⁸ "Maintaining a presence" means that the company has a profile or account on a given platform, even if the company rarely uses that platform.

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- Use photos to increase priority on social media feeds and recall views.
- Use videos to give even greater priority on the various platforms, where possible.
- Make the recall a featured post, if possible.
- Use direct messaging to answer recall questions from consumers.

F. Video News Release (VNR)

CPSC encourages firms to produce video news releases for recalls. The video news release complements the written recall news release and gives media footage of the product to help tell the story.

G. National News Conference

CPSC may urge companies to join the agency in a national news conference to announce the recall. Whether to hold a national news conference depends on the recalled product's prominence, number of units, and the hazard. CPSC may request a company's participation in a news conference, or a company can initiate those discussions with the assigned Compliance Officer or Compliance Attorney. CPSC reserves the right to publicize recalls in any manner, consistent with Section 6(b), without company participation.

H. Retail Notifications/Posters

In certain circumstances, retail posters, or an appropriate alternative, can be an effective means of providing continuing notice of recalls to consumers at the locations where they shop, at the points of purchase, or at other locations where consumers will see them.

Guidelines for designing posters and counter cards:

- Keep them BRIEF and eye-catching; in general, a poster requires far fewer words than a news release.
- Describe the hazard, and tell consumers what to do.
- Use color to make the poster stand out.
- Use a print font, size, and color that provide a strong contrast to the background color of the poster.
- Include the terms "safety" and "recall" in the heading.
- Use a good-quality line drawing or photograph of the product, with call-outs identifying product information, such as model numbers and date codes.
- Include the company's toll-free recall telephone number in large-size type at the bottom of the poster.
- Include the phrase, "Post until [date at least 120 days from recall announcement]."
- Consider using posters with tear-off sheets that provide information on the recall for consumers to take home.
- Use a QR code or other mobile scanning code to allow consumers to act on the recall immediately.
- Use retailer's app to disseminate recall information or add reminders.
- Place posters at retail entrances, checkout counters, and at the location where regular or repeat purchase of the item is expected.

Before announcing a recall, the recalling company should contact the companies and individuals responsible for the locations where it wants to display recall posters and obtain permission to post from each company and responsible party. The company should explain the reason for the recall and the contribution to public safety that the posters provide. The company should also:

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- Advise retailers and other companies to place the posters in several conspicuous locations in their stores or offices, where customers will see them, e.g., the area where the product was originally displayed for sale, store entrances, waiting rooms in pediatric clinics, and service counters at repair shops. It is not advisable to place recall notices in a separate area specifically designated for customer service because consumers may not visit these areas, unless they have a problem to address.
- Provide sufficient numbers of posters for retailers or others to display in more than one place in each store or location, and provide contact information for ordering additional posters.

See our online guide, "[Create a Recall Poster](#)," for more information. Other alternatives may be acceptable, such as the use of electronic retail "posters" projected on large screens.

I. Company Contact Information: Toll-Free Numbers/URL/Email

A company conducting a recall must provide an email address, a toll-free telephone number (800/888/877/866), and a website URL ("a response system") for consumers to respond to the recall announcement. Generally, this contact information should be dedicated solely to the recall. Historically, CPSC staff has found that most systems set up to handle typical customer relations, or to receive product orders or requests for repairs or accessories, are unable to also respond effectively to callers about recall announcements, particularly during the first few weeks after the initial announcement of the recall.

When establishing a response system to handle a recall, companies should assume a large consumer response, especially during the first several days/weeks. It is easier to scale-back the response system than it is to add more capacity once a recall is announced. If a response system is not effectively equipped, CPSC may contact a company for additional action to comply with its corrective action plan.

Whether an automated system or live operators are used to answer calls, companies should prepare scripts and instructions for responding to questions. Live operators or taped messages should begin by identifying the company and product, and explaining the reason for the recall. Most consumers who hear about a recall by radio, television, or word of mouth will not remember all the information they hear initially. Again, at its beginning, the message should reinforce the need for listeners to act, particularly if the message is lengthy. CPSC staff must approve all scripts before the recall is announced. All automated systems should provide a number for consumers to contact the company for special problems, e.g., problems completing repairs or installing parts.

Reducing Call Volume: Required provision of a website and e-mail for consumers to register to participate in the recall will help reduce call volume and make the call volume more manageable. Companies should also consider offering a call-back service to return calls within 24-48 hours.

See our online guide, "[Hotline Questions and Answers](#)," for additional information.

VIII. Monitoring Recalled Products

Every recall conducted in coordination with staff is monitored by both the recalling company and the CPSC. Among the reasons that recalling companies need to understand and prepare for this monitoring is that the Consumer Product Safety Improvement Act (CPSIA) makes it unlawful for any person to sell, offer for sale, manufacture for sale, distribute in commerce, or import into the United States any consumer product or substance that is subject to a voluntary corrective action taken by the manufacturer, in consultation with the CPSC (CPSA Section 19(a)(2)(B)-(C), 15 U.S.C. section 2068(a)(B)-(C). For more information, see section IX, Keeping Recalled Products Out of Commerce.

CPSC monitors product recalls by:

- Reviewing monthly progress reports submitted by companies to the Office of Compliance and Field Operations using the Monthly Progress Reporting portal. Submitting the information electronically using the required form found on the [Monthly Progress Report System](#)¹⁹ allows CPSC to assess the effectiveness of the company's recall by evaluating the number of products remedied, the number of consumers notified of the recall, and any post-recall announcement incidents and injuries.
- Inspecting companies post-recall to verify and monitor implementation of the corrective actions undertaken.
- Assigning visits by CPSC field staff and state investigators to consumers to confirm receipt of recall notification and to ensure that recalled products are quarantined and no longer being sold.
- Visiting the firm to follow-up on a company's corrective action.
- Verifying disposal or destruction of recalled products. Requests to verify should be submitted in writing, and in advance of scheduling the disposal, to: recalledproductdisposal@cpsc.gov, so that a CPSC investigator can witness disposal, or arrange other means of verifying destruction.
- Assessing a company's request to cease monitoring. When a company determines that the CAP has been implemented to the best of its ability, and that as many products as possible have been removed from the marketplace, the company may submit an updated progress report and request that the CPSC cease monitoring the recall. Staff will review the effectiveness of the CAP, including the numbers and types of notifications made to consumers, the number of products returned and/or corrected, any post-recall incidents/injuries or deaths involving the recalled product, life expectancy of the product, and any other relevant factors, and advise the company whether monitoring may cease.

CPSC staff reserves the right to seek broader corrective action if the plan does not prove effective. Even after active monitoring has ceased, the company should continue to implement the recall plan until as many products as possible have been removed from the marketplace. The company's toll-free number should be maintained, as well as notice of the recall, on its website so consumers can continue to reach the company if they discover a recalled product. *If the company changes or discontinues its toll-free recall number or Web posting, the company must immediately notify the Office of Compliance and Field Operations, and provide a new recall contact number or URL.* If there are changes to the implementation of the CAP, the company should also immediately contact staff. The CPSC maintains the agreed-upon news release announcing the recall on the CPSC's website. Any change in the company's phone number or modification of the obligations under the CAP must be posted on the existing news release.

¹⁹ CPSC will publish information about a firm's progress on its website absent an objection from the firm.

IX. Keeping Recalled Products Out of Commerce

Removing hazardous consumer products from the marketplace is just one part of a CAP. Companies must also take steps to ensure that adequate measures are in place to prevent consumer products that are subject to a voluntary corrective action or recall (recalled products) from entering or re-entering the stream of commerce, after a recall is announced. Failure to do so violates the CPSA and can result in civil or criminal penalties. CPSA sections 20 and 21.

The CPSA provides:

It shall be unlawful for any person to sell, offer for sale, manufacture for sale, distribute in commerce, or import into the United States any consumer product, or other product or substance that is subject to voluntary corrective action taken by the manufacturer, in consultation with the Commission, of which action the Commission has notified the public, or if the seller, distributor, or manufacturer knew or should have known of such voluntary corrective action. [CPSA 19\(a\)\(2\)\(B\)](#).

Companies are better equipped to prevent recalled products from entering the stream of commerce—and avoid penalties under the CPSA—if they have a comprehensive compliance program that contains mechanisms for identifying, quarantining, and removing recalled products from inventory. Recalled products enter commerce for a variety of reasons, all of which are preventable.

CPSC has found that recalled products typically enter the market because of poor communication throughout the supply chain and because compliance programs are not comprehensive, are out of date, or are not consistently followed. Companies can avoid these problems by:

1. Proactively Establishing a Recall Execution Plan

Some companies do not grasp the need for a recall execution plan until they are conducting a recall. It is a best practice to have a comprehensive recall execution plan in place before it is needed. This allows companies and their employees to identify, quarantine, and remove recalled products from all potential streams of commerce quickly and efficiently. The plan should include written policies and procedures that clearly identify the steps to be taken during and after a recall, and that explain the roles of each employee in the process.

2. Ensuring Adequate Communication

Recalled products are often found to have entered commerce due to gaps in communication to all affected entities during the recall process. Effective communication during a recall should include, but not be limited to:

- Early notice and frequent contact among the recalling company and suppliers, distributors and retailers to identify recalled products, and anticipate their quarantine and removal from inventory. This communication should include all subsidiaries, divisions, and third-party logistic providers, and it should be updated regularly to reflect changes in the supply chain;
- Regular management and employee training on what is a recalled product, how should recalled products be quarantined and/or removed from inventory so that the disposition of the recalled products can be accomplished smoothly—whether it is repair/replacement/destruction, per the CAP; and how to establish clear written parameters and expectations with reverse logistics/salvage/liquidation/destruction companies to ensure that recalled products do not reenter the stream of commerce.

3. Implementing Critical Inventory Controls

There are critical high-tech and low-tech inventory controls that can help prevent recalled products from entering or re-entering commerce. Companies should ensure that their Recall Execution Plan includes:

PRODUCT SAFETY PLANNING, REPORTING, & RECALL HANDBOOK

- A robust electronic records system that informs manufacturers of the quantity of recalled products in inventory, in transit, and with retailers;
- Computer systems that communicate with each other, or are integrated;
- Procedures that allow stock keeping units (SKUs) for recalled products to be blocked permanently to prevent employees from overriding SKU blocks;
- Processes/SOPs to prevent quarantined and returned recalled products from being restocked;
- Designated physical space to store quarantined recalled products;
- A system to physically mark recalled products to identify them as such and store them in a quarantined area with clear notification that resale of the quarantined recalled product is illegal; and
- Communication to ensure that all employees know that donating recalled products is illegal.

Developing a Recall Execution Plan

Any entity that manufactures, imports, distributes, or sells consumer products should maintain a recall execution plan in the event of a product recall. This plan will help predetermine the steps to take to ensure recalled products are not in commerce.

Before a Recall:

- Send a stop-sale notice to all entities in the chain of commerce (e.g. importers, retailers, and distributors), notifying them of the pending recall. Companies should give notice to affected entities well in advance of the public announcement of the recall.
- Perform an audit or test current systems and processes (see section below).
- Review electronic inventory systems to ensure that the systems communicate.
- Identify improvements that would assist in tracking and appropriately blocking SKUs of recalled products. Assign a permanent location for quarantined recalled products. Ideally, access to the area is limited and signs are posted indicating the reason for quarantine. If a recalled product is to be re-worked or repaired, establish a marking and inventory system to distinguish easily recalled product from repaired product. Maintain a log for units moving in or out of quarantine.
- Provide refresher training to employees or develop recall-response training for employees. The training should set expectations, roles, responsibilities, obligations, and timelines for completing the company's recall execution plan. Training should emphasize that selling recalled products is illegal.
- Ensure that recalled products cannot enter any potential post-recall distribution channels, such as donation programs, third party reverse logistics providers, salvage sales, warehouse systems, and Internet sales.
- Assign one employee the responsibility of ensuring that all steps of the recall execution plan are being implemented before and after the recall announcement.
- Run regular (daily is best) reports of any changes to current SKU blocks, any sales of recalled SKUs, and inventory reports for each of the recalled SKUs, and plan what steps to take if there is an implementation issue.

After Issuance or Notice of a Stop-Sale and/or a Pending Recall, Manufacturers, Distributors and Retailers Should Work Together to:

- Remove recalled products from stores, on shelves, on display, in inventory, and at return desks. Physically mark the product as "recalled and illegal to sell, distribute, or donate," and place the items into quarantine.
- Identify any recalled products in transit, including recalled products marked for salvage or liquidation, and make arrangements for recalled products to be placed in quarantine. Make sure that all warehouse and transit facilities have procedures in place to stop the unauthorized shipment of recalled products, as well as procedures for how to handle recalled products.

PRODUCT SAFETY PLANNING, REPORTING, & RECALL HANDBOOK

- Report the number of recalled products in quarantine and in transit to the recalling company, and follow the disposal procedures set forth in the recalling company's corrective action plan.
- Block SKUs from registers. If scanned, the recalled product should not be available for sale. Optimally, you should notify cashiers with a message that the product is recalled and that it is illegal to sell. A generic "do not sell" message does not inform the cashier of the reason the product cannot be sold. The cashier should not have the ability to override the SKU lockout. Assign a new SKU for the repaired or similar new product in the future.
- Block online sales of the recalled product. Remove listing, if appropriate.
- Emphasize in employee training that recalled products should not be sold, and returned recalled products should be moved to the quarantine area. Ensure that the return desk knows not to put recalled products back on the shelves.
- Address any questions or feedback received from the distribution chain, and request that a company make sure that all recalled products have been removed from shelves and quarantined.

When the Recall Is Announced:

- Verify that the recalled product is off shelves, in quarantine, and labeled appropriately.
- Confirm the number of units in transit and the company's arrangements to move the recalled products to quarantine upon arrival.
- Physically segregate and/or mark recalled products: "Recalled: It is a violation of Federal Law to sell this item," or use similar wording.
- Work with the recalling company on a plan to return or destroy recalled products via methods approved by the CPSC.
- Train/retrain employees, as needed, on how to handle recalled product returns. Ensure knowledge of all recall announcements, by registering to the CPSC recall announcement listserv (<https://www.cpsc.gov/Newsroom/Subscribe>).

How to Handle Return or Destruction of Recalled Products:

- Communicate with the manufacturer to determine if the recalled product is to be returned or destroyed (destruction can occur only when approved by the CPSC, and CPSC may want to witness the destruction).
- For off-site destruction – Set clear written instructions for the third-party vendor. Communicate what is being sent, and indicate that the recalled products should not be comingled with other products, or sent to salvage. Clearly mark all boxes and pallets containing recalled products. Request a certification of destruction upon completion.
- For on-site destruction (at retailer or distributor) - If approved by CPSC, and instructed by the recalling company, obtain a report certifying the destruction. An affidavit is preferred but, at a minimum, a signed statement, including the date, stating which recalled products were destroyed, the number of recalled products destroyed, and the name of the employee who performed the destruction, signed by the employee who performed the destruction and a witness. Inventory systems should be updated to reflect the destruction.
- If the recalled products are being returned to the recalling company, clearly mark all boxes and pallets containing recalled products.

Perform an Audit to Test the Recall Execution Plan:

- Perform an audit to test the effectiveness of a stop-sale and/or Recall Execution Plan at your facilities using a test SKU.

PRODUCT SAFETY PLANNING, REPORTING, & RECALL HANDBOOK

- Test communication systems between facilities by simulating a recall announcement to each facility, and ask each facility to verify receipt and follow-up instructions.
- Check to ensure the quarantine area is being used appropriately or is available at each location, and confirm that returned Recalled Products make it to the appropriate location in quarantine.
- Train employees at all facilities (including but not limited to retail locations) about what to do when they receive a return of a Recalled Product.
- Confirm that computer systems are functioning as designed, and confirm that access to the appropriate information to identify current stock, lock out Recalled Products, and identify Recalled Products as quarantined.
- Run a report to identify all sales, donations, sales or transfers for salvage, Internet sales, and outlet store sales. Ensure that information can be accessed and that sales can be determined. Identify shortfalls or areas for improvement, and update the compliance program accordingly.

If Recalled Products Have Entered Commerce:

- Report to the CPSC immediately through the firm's assigned Compliance Officer or Compliance Attorney and section15@cpsc.gov.
- Reinforce the stop-sale notification and reverse logistics process to ensure they are properly in place.
- Change the reverse logistics program to address any shortcomings that allowed the Recalled Products to return to the market. Depending on the circumstances, understand that re-announcing the recall may be necessary.

X. Records Maintenance

The goal of any product recall is to retrieve, repair, or replace products already in consumers' hands, as well as those in the distribution chain. Maintaining accurate records about the design, production, distribution, and marketing of each product for the duration of its expected life is essential for a company to conduct an effective, economical product recall. Generally, the following records are important to identify product defects and conduct recalls:

- 1) **Records of complaints, warranty returns, insurance claims, and lawsuits.** These types of information often highlight or provide early notice of safety problems that may become widespread in the future.
- 2) **Production records.** Accurate data should be kept on all production runs—the lot numbers and product codes associated with each run, the volume of units manufactured, component parts or substitutes used, and other pertinent information that will help the company identify quickly defective products or components.
- 3) **Distribution records.** Data should be maintained about the location of each product by product line, production run, quantity shipped or sold, dates of delivery, and destinations.
- 4) **Quality control records.** Documenting the results of quality control testing and evaluation associated with each production run often helps companies identify possible flaws in the design or production of the product. It also aids the company in charting and more precisely defining the scope of a CAP.
- 5) **Product registration cards.** Product registration cards for purchasers of products to fill out and return are an effective tool to identify owners of recalled products. The easier it is for consumers to fill out and return these cards, the greater the likelihood the cards will be returned to the manufacturer. For example, some companies provide pre-addressed, postage-paid registration cards with pre-printed product identification information, *e.g.*, model number, style number, special features, on the card. Providing an incentive can also increase the return rate. Incentives can be coupons towards the purchase of other products sold by the company, free accessory

products, or entry into a periodic drawing for a product give away. The information from the cards should be maintained in a readily retrievable database for use if a recall becomes necessary.

XI. Conclusion

Proactive planning, reporting in a timely manner, taking effective steps to mitigate the hazard, appropriate announcement and dissemination of recall materials, and vigilant efforts to keep recalled products out of commerce are all essential to an effective corrective action. We hope that this guide provides useful information to help companies implement effective recalls.

For additional information on recall guidance, visit the CPSC's website at: www.cpsc.gov (click on "Menu" and then "Recall Guidance"). If you have additional comments or questions, please contact the Office of Compliance and Field Operations at: compliance@cpsc.gov.

Appendix A: Developing a Compliance Program

A compliance program should cover the life of a consumer product, from the design and manufacturing stage, through sales and distribution, and to a recall, if necessary. A compliance program may include policies and processes for addressing prevention of safety issues, crisis management, investigation and reporting procedures, mock recalls, and standard reverse logistics protocols during product recalls.

Every company should design a program based on its own structure, communicate that program to all employees, and assess the program regularly, to see if and how it can be improved or updated to reflect changes in the company's supply, distribution, and sales chains.

Why do you need a program?

There are many reasons to implement a compliance program:

- *Consumer protection:* By having the information available to identify and respond quickly to product safety issues, a compliance program helps prevent injury to your customers.
- *Product improvement:* A compliance program promotes robust design and testing of products during development and in the manufacturing/assembly process.
- *Early detection and correction of problems:* Compliance programs promote early detection of potentially unsafe product designs, manufacturing processes, and unsafe use conditions.
- *Efficiency in reporting and compliance:* Facilitates efficient and effective implementation of CPSC reporting obligations and CAPs, including recalls and reverse logistics.
- *Avoidance of civil penalties:* When seeking civil penalties, CPSC considers, among other factors, whether the company had a:
 - Reasonable and effective program or system for collecting and analyzing information related to safety issues, and
 - History of noncompliance.

How do you start a Compliance Program?

As a starting point, companies should emphasize the three “Cs” of a Compliance Program: Culture, Communication, and Continuous Improvement.

1. **Culture.** Establishing a culture of safety at a company requires a proactive approach that implements training and testing at the early stages of product development, and carries through the life of the product from manufacture, through distribution, and to any possible recall.
2. **Communication:** Ensure that safety expectations are effectively disseminated throughout the company, from entry level employee to top management. Develop a protocol for collecting information that could impact product safety and for elevating it to company individuals with authority to file reports to the CPSC.
3. **Continuous Improvement:** A compliance program should be dynamic; once established, it should be informed by experience. Identified shortcomings are an opportunity to improve the program.

PRODUCT SAFETY PLANNING, REPORTING, & RECALL HANDBOOK

One approach to developing a compliance program may look like this:

1. Identify who in senior management is responsible for product safety issues at the company.
2. Research and create written policies and procedures to respond to product safety issues.
 - a. Identify and centralize data for availability and review by the product safety team.
 - b. Establish regular data reviews, and as appropriate, specific incident reviews.
 - c. Establish or refine supplier qualifications and audits.
 - d. Incorporate CPSC reporting requirements and recall execution plans into policies.
 - e. Establish a protocol for specific follow-up action.
3. Establish a records-retention policy: CPSC staff recommends retaining records for at least 5 years.
4. Train staff regularly.
5. Routinely reevaluate and update compliance policies and training.

What Information Should a Compliance Program Capture and Analyze?

There are various sources of information that firm's should capture and analyze as part of a compliance program. In collecting information, think globally: If the product is sold outside the United States, information about its use, experience, performance, design, or manufacture should be considered. 16 CFR §1115.12.

These sources include:

- Engineering, quality control, or production data
- Information about safety-related production or design changes
- Product liability lawsuits and/or claims for personal injury and damage
- Information from an independent testing laboratory
- Incident complaints from consumers or consumer groups
- Information received from the CPSC (360 reports) or other governmental agencies
- Requests to return a product or for replacement or credit
- Warranty claims
- Product repairs or returns
- Premarket and production testing
- Compliance with applicable mandatory and voluntary safety standards.

16 CFR § 1115.12 and 16 CFR § 1119.4.

Other information that should be captured in a compliance program (and which impose reporting obligations) include the items set forth in Section I A-C, *infra* (pages 6 – 11):

What should the product safety team do with the information it collects?

A safety team should assess the information to determine whether the information requires a report to the CPSC under CPSA Section 15(b). A company is required to report immediately (within 24 hours) when it obtains information which reasonably supports the conclusion that a consumer product:

- Fails to comply with an applicable consumer product safety rule or a voluntary standard which is relied on under **Section 9** (of the CPSA),

PRODUCT SAFETY PLANNING, REPORTING, & RECALL HANDBOOK

- Fails to comply with any other **rule, regulation, standard or ban under the CPSA** or other acts enforced by the CPSC,²⁰
- Contains a **defect** which could create a **substantial product hazard**, or
- Creates an **unreasonable risk of serious injury or death**.

The Safety Team should assess:

Is there a defect?

A company should collect all available information and analyze it to determine whether the information reasonably suggests the existence of a defect ([16 CFR § 1115.4](#)). See [Sections II](#) infra.

Does the defect create a substantial risk of injury?

The safety committee should assess whether the defect or noncompliance creates a substantial risk of injury to the public. Refer to [Section III](#) infra (pages 12 to 13), for direction on how to conduct that assessment.

If you don't find a defect, are you done?

No, you still need to evaluate whether the information reasonably supports the conclusion that the product creates an unreasonable risk of serious injury²¹ or death. If an unreasonable risk of serious injury or death is possible, you should report. *Do not wait for a serious injury or death to occur before reporting.* [16 CFR §1115.6](#).

What Information Should You Consider When Assessing an Unreasonable Risk?

- Reports from experts;
- Test reports;
- Product liability lawsuits or claims;
- Consumer or customer complaints;
- Quality control data;
- Scientific or epidemiological studies;
- Reports of injury;
- Information from other companies or governmental entities;
- Other relevant information;
- Judgment: “The CPSC will attach considerable significance if a company learns that a court or jury has determined that one of its products has caused a serious injury or death and a reasonable person could conclude . . . that the product creates an unreasonable risk of serious injury or death.” [16 CFR §1115.6](#).

²⁰ A firm should always monitor to ensure compliance with standards. If you obtain information that your product violates a mandatory standard, you should immediately report. However, even if your product complies with a mandatory standard, you may still need to report, if the information reasonably suggests that the product contains a defect.

²¹ A “serious injury” is defined as:

- A grievous bodily injury [16 CFR §1115.12\(d\)](#);
- Injury necessitating hospitalization requiring actual medical or surgical treatment;
- Fractures, lacerations requiring sutures, concussions, injuries to the eye/ ear/internal organs requiring medical treatment, and injuries necessitating absence from school or work of more than one day. [16 CFR §1115.6\(c\)](#).

Refining and Improving your Compliance Program²²

Step 1: Establish a culture of safety as the foundation

- a. Provide regular, recurring training on how to respond to product safety issues.
- b. Practice, audit, and improve your systems and processes to respond to product safety issues.

Step 2: Create written standards and policies

- a. Tailor the program to your company's specific needs.
- b. Increase staff awareness and training on these policies.
- c. Ensure that other relevant parties in the distribution chain (suppliers, distributors) are aware of the program and understand its requirements regarding their roles.
- d. Improve and refine your policies over time.
- e. Create a recall execution plan (see CPSC guidance, and ISO 10377, 10393, 19600, and 31000).

Step 3: Ensure Supplier qualifications and audits

- a. Make safety a priority at the design stage (See CPSC's "[Handbook for Manufacturing Safer Consumer Products](#)").
- b. Conduct adequate and relevant premarket and production testing to ensure products meet or exceed safety requirements of relevant mandatory and voluntary safety standards.
- c. Exercise due care when relying on a supplier, by taking affirmative steps, such as:
 - i. including contractual provisions requiring compliance with specifications and quality programs;
 - ii. visiting manufacturing locations;
 - iii. spot-checking products for ongoing compliance with safety requirements.
- d. Conduct regular audits to confirm compliance within your company and among your suppliers.

Step 4: Establish an information-collection protocol

- a. Establish systematic procedures for collecting the information to be reviewed and evaluated for potential safety issues.
- b. Consider multiple sources of information.
- c. Types of incident information/samples to collect:
 - i. date of report;
 - ii. consumer contact information (name, address, email, and phone);
 - iii. product name, make, model, serial number, date code, and any other identifying information on the product or packaging;
 - iv. incident details, such as date of incident, surrounding circumstances, whether an injury was sustained, and if so, if medical attention was sought; and
 - v. incident samples, if available.

Step 5: Create a central database

- a. Establish a central database to track information:
 - i. Set up a system to capture all incidents, and route potential safety-related incidents to the compliance team.
 - ii. Make sure your databases speak to one another.
 - iii. Ensure that employees are trained to recognize safety-related issues so they are prepared to elevate these issues to management as soon as they see them.

²² This section is based on information provided during the 2018 Compliance Seminar and the presentation, "10 Steps to an Effective Compliance Program."

PRODUCT SAFETY PLANNING, REPORTING, & RECALL HANDBOOK

- iv. Have a system in place to analyze regularly what is contained in the database to ensure that issues are identified and addressed as soon as possible.

Step 6: Create a system for employee reporting

- a. Make employees comfortable in reporting safety issues; create a confidential path for sensitive issues.
- b. Ensure that information gets to the right people in your organization, based on its structure and roles and responsibilities.

Step 7: Prioritize senior management responsibility for compliance

- a. It is essential to maintain a culture that emphasizes and values product safety, compliance with CPSC safety requirements and voluntary standards, and a comprehensive quality assurance program.
- b. Oversight of compliance by the company's responsible official will facilitate prompt disclosure to senior management of any deficiencies and foster consistent decision making.
- c. Develop a mechanism for elevating product safety reports to senior management.

Step 8: Incorporate CPSC reporting requirements

- a. Understand your legal responsibility to **report** information to the CPSC about the product, if it:
 - i. fails to comply with a CPSC rule, regulation, standard or ban;
 - ii. contains a defect which could create a substantial product hazard;
 - iii. creates an unreasonable risk of serious injury or death.
- b. Keep up with the CPSC's new and updated regulations through e-mail notification: www.cpsc.gov/email.

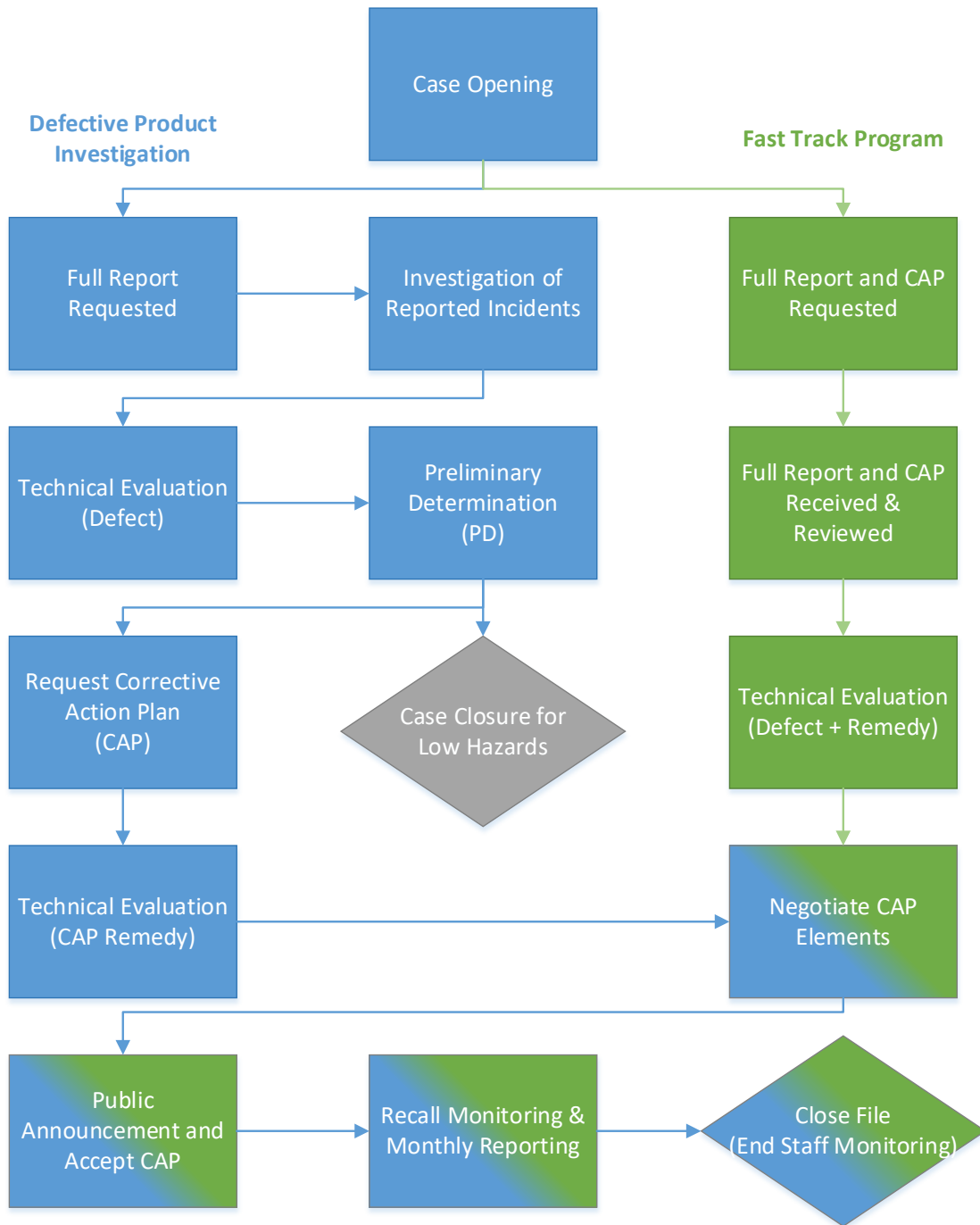
Step 9: Include reverse logistics in the recall execution plan

- a. Develop a standard recall execution and reverse logistics plan.
- b. Understand the system(s) of product distribution and the potential challenges in executing a recall, and develop an implementation plan accordingly.
- c. Regularly review the plan for effectiveness. Common reverse logistics mistakes include:
 - i. SKUs are reused;
 - ii. Computer systems do not communicate with each other;
 - iii. No single individual is identified as the point person for the recall;
 - iv. Inventory reports for recalled SKUs are not regularly conducted;
 - v. Sales reports for recalled SKUs are not regularly conducted; and
 - vi. Register prompts were unclear.

Step 10: Maintain Records

- a. Establish a records retention system:
 - i. CPSC staff recommends keeping all compliance-related records for at least 5 years.
 - ii. If you are upgrading systems, make sure you can access legacy data.
- b. Retention of documents can help identify actions to ensure future safety and compliance.
- c. In the event of a product recall, documentation helps CPSC understand the efforts you made to provide safe consumer goods, what went wrong, and how it has been corrected.

Appendix B: Substantial Product Hazard Investigations and Fast-Track Processes



Note: This chart reflects a typical process flow in defective product investigations handled by Compliance Enforcement and Litigation, and Fast Track Program recalls. These processes may be adapted to the circumstances of a case, as necessary, to respond to specific product safety issues.

Appendix C: News Release Templates

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Recall News Release Template



U.S. Consumer Product Safety Commission – Recall

Release Date: MONTH DAY, YEAR

Release Number: FY-DRAFT

FIRM NAME Recalls GENERIC PRODUCT NAME Due to XXX Hazard(s)

Recall Summary

Name of Product:

Hazard:

Remedy: Refund/Repair/Replace

Consumers should immediately stop using the recalled XXX, and contact the firm for a full refund/free repair/free replacement.

Consumer Contact: FIRM toll-free at XXX-XXX-XXXX from X a.m. to X p.m. ET/CT/PT Monday through Friday, or online at www.XXX.com, and click on XXX at the bottom of the page for more information.

Recall Details

Units: About X

Description:

Incidents/Injuries:

Sold at: XXX stores nationwide and online at XXXX from MONTH YEAR through MONTH YEAR for about \$XX.

Importer:

Distributor:

Manufacturer:

Manufactured in:

Photos

About the U.S. CPSC

The U.S. Consumer Product Safety Commission (CPSC) is charged with protecting the public from unreasonable risks of injury or death associated with the use of thousands of types of consumer products. Deaths, injuries, and property damage from consumer product incidents cost the nation more than \$1 trillion annually. CPSC's work to ensure the safety of consumer products has contributed to a decline in the rate of injuries associated with consumer products for nearly 50 years.

Federal law bars any person from selling products subject to a publicly announced voluntary recall by a manufacturer or a mandatory recall ordered by the Commission.

For lifesaving information:

- Visit CPSC.gov.
- Sign up to receive our [e-mail alerts](#).
- Follow us on [Facebook](#), Instagram [@USCPSC](#) and Twitter [@USCPSC](#).
- Report a dangerous product or a product-related injury on www.SaferProducts.gov.
- Call CPSC's Hotline at 800-638-2772 (TTY 301-595-7054).
- Contact a [media specialist](#).

Recall News Release with Health Canada Template



U.S. Consumer Product Safety Commission – Recall with Health Canada

Release Date: MONTH DAY, YEAR

Release Number: FY-DRAFT

FIRM NAME Recalls GENERIC PRODUCT NAME Due to XXX Hazard(s)

Recall Summary

Name of Product:

Hazard:

Remedy: Refund/Repair/Replace

Consumers should immediately stop using the recalled XXX, and contact the firm for a full refund/free repair/free replacement.

Consumer Contact: FIRM toll-free at XXX-XXX-XXXX from X a.m. to X p.m. ET/CT/PT Monday through Friday, or online at www.XXX.com, and click on XXX at the bottom of the page for more information.

Recall Details

Units: About XX (In addition, X in Canada)

Description:

Incidents/Injuries:

Sold at: XXX stores nationwide and online at XXXX from MONTH YEAR through MONTH YEAR for about \$XX.

Importer:

Manufacturer:

Manufactured in:

Note: Health Canada's news release is available at:

Photos

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- Contact a [media specialist](#).

Fast-Track Recall Template



U.S. Consumer Product Safety Commission – Fast-Track Recall

Release Date: MONTH DAY, YEAR

Release Number: FY-DRAFT

FIRM NAME Recalls GENERIC PRODUCT NAME Due to XXX Hazard(s)

Recall Summary

Name of Product:

Hazard:

Remedy: Refund/Repair/Replace

Consumers should immediately stop using the recalled XXX, and contact the firm for a full refund/free repair/free replacement.

Consumer Contact: FIRM toll-free at XXX-XXX-XXXX from X a.m. to X p.m. ET/CT/PT Monday through Friday, or online at www.XXX.com, and click on XXX at the bottom of the page for more information.

Recall Details

Units: About XX

Description:

Incidents/Injuries:

Sold at: XXX stores nationwide and online at XXXX from MONTH YEAR through MONTH YEAR for about \$XX.

Importer:

Distributor:

Manufacturer:

Manufactured in:

Photos



This recall was conducted voluntarily by the company under CPSC’s Fast-Track Recall process. Fast-Track recalls are initiated by firms that commit to work with CPSC to quickly announce the recall and remedy to protect consumers.

About the U.S. CPSC

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- Report a dangerous product or a product-related injury on www.SaferProducts.gov.
- Call CPSC’s Hotline at 800-638-2772 (TTY 301-595-7054).
- Contact a [media specialist](#).

Fast-Track Recall with Health Canada and/or Profeco



U.S. Consumer Product Safety Commission – Fast-Track Recall with Health Canada and/or Profeco

Release Date: MONTH DAY, YEAR

Release Number: FY-DRAFT

FIRM NAME Recalls GENERIC PRODUCT NAME Due to XXX Hazard(s) (Recall Alert)

Recall Summary

Name of Product:

Hazard:

Remedy: Refund/Repair/Replace

Consumers should immediately stop using the recalled XXX, and contact the firm for a full refund/free repair/free replacement. The firm is contacting all known purchasers directly.

Consumer Contact: FIRM toll-free at XXX-XXX-XXXX from X a.m. to X p.m. ET/CT/PT Monday through Friday, or online at www.XXX.com, and click on XXX at the bottom of the page for more information.

Recall Details

Units: About XXX (in addition, about XXX were sold in Canada, and about XXX were sold in Mexico)

Description: This recall involves . . .

Incidents/Injuries:

Sold at: XXX stores nationwide and online at XXXX from MONTH YEAR through MONTH YEAR for about \$XX.

Importer:

Distributor:

Manufacturer:

Manufactured in:

Note: Health Canada's news release is available at:

Profeco's news release is available at:

Photos



This recall was conducted voluntarily by the company under CPSC's Fast-Track Recall process. Fast-Track recalls are initiated by firms that commit to work with CPSC to quickly announce the recall and remedy to protect consumers.

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The U.S. Consumer Product Safety Commission (CPSC) is charged with protecting the public from unreasonable risks of injury or death associated with the use of thousands of types of consumer products. Deaths, injuries, and property damage from consumer product incidents cost the nation more than \$1 trillion annually. CPSC's work to ensure the safety of consumer products has contributed to a decline in the rate of injuries associated with consumer products for nearly 50 years.

Federal law bars any person from selling products subject to a publicly announced voluntary recall by a manufacturer or a mandatory recall ordered by the Commission.

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- Call CPSC's Hotline at 800-638-2772 (TTY 301-595-7054).
- Contact a [media specialist](#).

Recall Alert Template



U.S. Consumer Product Safety Commission – Recall Alert

Release Date: MONTH DAY, YEAR

Release Number: FY-DRAFT

FIRM NAME Recalls GENERIC PRODUCT NAME Due to XXX Hazard(s) (Recall Alert)

Recall Summary

Name of Product:

Hazard:

Remedy: Refund/Repair/Replace

Consumers should immediately stop using the recalled XXX, and contact the firm for a full refund/free repair/free replacement. The firm is contacting all known purchasers directly.

Consumer Contact: FIRM toll-free at XXX-XXX-XXXX from X a.m. to X p.m. ET/CT/PT Monday through Friday, or online at www.XXX.com, and click on XXX at the bottom of the page for more information.

Recall Details

Units: About X

Description:

Incidents/Injuries:

Sold at: XXX stores nationwide and online at XXXX from MONTH YEAR through MONTH YEAR for about \$XX.

Importer:

Distributor:

Manufacturer:

Manufactured in:

Photos

About the U.S. CPSC

The U.S. Consumer Product Safety Commission (CPSC) is charged with protecting the public from unreasonable risks of injury or death associated with the use of thousands of types of consumer products. Deaths, injuries, and property damage from consumer product incidents cost the nation more than \$1 trillion annually. CPSC's work to ensure the safety of consumer products has contributed to a decline in the rate of injuries associated with consumer products for nearly 50 years.

Federal law bars any person from selling products subject to a publicly announced voluntary recall by a manufacturer or a mandatory recall ordered by the Commission.

For lifesaving information:

- Visit CPSC.gov.
- Sign up to receive our [e-mail alerts](#).
- Follow us on [Facebook](#), Instagram [@USCPSC](#) and Twitter [@USCPSC](#).
- Report a dangerous product or a product-related injury on www.SaferProducts.gov.
- Call CPSC's Hotline at 800-638-2772 (TTY 301-595-7054).
- Contact a [media specialist](#).

Fast-Track Recall Alert Template



U.S. Consumer Product Safety Commission – Fast-Track Recall Alert

Release Date: MONTH DAY, YEAR

Release Number: FY-DRAFT

FIRM NAME Recalls GENERIC PRODUCT NAME Due to XXX Hazard(s) (Recall Alert)

Recall Summary

Name of Product:

Hazard:

Remedy: Refund/Repair/Replace

Consumers should immediately stop using the recalled XXX and contact the firm for a full refund/free repair/free replacement. The firm is contacting all known purchasers directly.

Consumer Contact: FIRM toll-free at XXX-XXX-XXXX from X a.m. to X p.m. ET/CT/PT Monday through Friday, or online at www.XXX.com and click on XXX at the bottom of the page for more information.

Recall Details

Units: About XX

Description:

Incidents/Injuries:

Sold at: XXX stores nationwide and online at XXXX from MONTH YEAR through MONTH YEAR for about \$XX.

Importer:

Distributor:

Manufacturer:

Manufactured in:

Photos



This recall was conducted voluntarily by the company under CPSC’s Fast-Track Recall process. Fast-Track recalls are initiated by firms that commit to work with CPSC to quickly announce the recall and remedy to protect consumers.

About the U.S. CPSC

The U.S. Consumer Product Safety Commission (CPSC) is charged with protecting the public from unreasonable risks of injury or death associated with the use of thousands of types of consumer products. Deaths, injuries, and property damage from consumer product incidents cost the nation more than \$1 trillion annually. CPSC’s work to ensure the safety of consumer products has contributed to a decline in the rate of injuries associated with consumer products for nearly 50 years.

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- Call CPSC’s Hotline at 800-638-2772 (TTY 301-595-7054).
- Contact a [media specialist](#).

Fast-Track Recall Alert with Health Canada Template



U.S. Consumer Product Safety Commission – Fast-Track Recall Alert with Health Canada and/or Profeco

Release Date: MONTH DAY, YEAR

Release Number: FY-DRAFT

FIRM NAME Recalls GENERIC PRODUCT NAME Due to XXX Hazard(s) (Recall Alert)

Recall Summary

Name of Product:

Hazard:

Remedy: Refund/Repair/Replace

Consumers should immediately stop using the recalled XXX, and contact the firm for a full refund/free repair/free replacement. The firm is contacting all known purchasers directly.

Consumer Contact: FIRM toll-free at XXX-XXX-XXXX from X a.m. to X p.m. ET/CT/PT Monday through Friday, or online at www.XXX.com, and click on XXX at the bottom of the page for more information.

Recall Details

Units: About XXX (in addition, about XXX were sold in Canada and about XXX were sold in Mexico)

Description: This recall involves . . .

Incidents/Injuries:

Sold at: XXX stores nationwide and online at XXXX from MONTH YEAR through MONTH YEAR for about \$XX.

Importer:

Distributor:

Manufacturer:

Manufactured in:

Note: Health Canada's news release is available at:

Profeco's news release is available at:

Photos



This recall was conducted voluntarily by the company under CPSC's Fast-Track Recall process. Fast-Track recalls are initiated by firms who commit to work with CPSC to quickly announce the recall and remedy to protect consumers.

About the U.S. CPSC

The U.S. Consumer Product Safety Commission (CPSC) is charged with protecting the public from unreasonable risks of injury or death associated with the use of thousands of types of consumer products. Deaths, injuries, and property damage from consumer product incidents cost the nation more than \$1 trillion annually. CPSC's work to ensure the safety of consumer products has contributed to a decline in the rate of injuries associated with consumer products for nearly 50 years.

Federal law bars any person from selling products subject to a publicly announced voluntary recall by a manufacturer or a mandatory recall ordered by the Commission.

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- Sign up to receive our [e-mail alerts](#).
- Follow us on [Facebook](#), Instagram [@USCPSC](#) and Twitter [@USCPSC](#).
- Report a dangerous product or a product-related injury on www.SaferProducts.gov.
- Call CPSC's Hotline at 800-638-2772 (TTY 301-595-7054).
- Contact a [media specialist](#).

Appendix D: Best Practices for Communicating Recall Information on Social Media

Use of Organic vs. Paid Ads on Social Media

- Organic ads: posts get shared by users (free).
- Paid ads show up as a result of targeting the demographic that likely purchased the product (user demographic, interests, geographic location). The costs for engaging in social media advertising are typically much less than comparable radio, television, or print advertising.
 - Facebook allows segmentation targeting by gender, relationship status, age location, interests, and more.
 - LinkedIn allows segmentation targeting by industry, company size, function, seniority, location, and language preference.
 - Twitter allows segmenting based on language, gender, follower, device, behavior, tailored audiences, keyword, and geographic location.
 - Snapchat ads – Select from pre-defined audiences, age, location, device type, and advanced demographics like household income and parental status.

Recalling companies should have their staff or a PR agency monitor activity to respond to questions and comments.

See CPSC's "[Social Media Guide for Recalling Companies](#)" for more information.

Other Digital Marketing Opportunities for Recalls

CPSC also encourages the use of common digital marketing techniques to improve dissemination of recall notices. These include paid search engine, display, and online video advertising.

- Search engine advertising and display ads will appear on Web searches before or beside the organic search results. These charges are typically assessed using a “cost-per-click” system.
- Display ads, such as banners, images, and videos, are the advertisements built into websites. Display ads allow:
 - “Retargeting” by reconnecting a recent visitor with your message;
 - Targeting by website placement (selecting the websites on which you place your ads);
 - Targeting by interests, using categories and labeling as in-market or affinity audiences. In-market users make a buying decision, and affinity users are more akin to enthusiasts.
 - Contextual targeting using keywords to identify relevant websites to show your ads.
- Online video advertising captures a different demographic of users
 - Develop video through YouTube or Vimeo, or place video ad at the beginning of others’ video(s).
 - Video production essentials:
 - Camera, mobile device, laptop, among other devices
 - Microphones to capture sound
 - Additional lighting, as appropriate, to make visible or highlight the content
 - General video ad development process
 - Make decision on release schedule/date.
 - Draw storyboard showing scenes with content.
 - Decide on, and secure, location and props.
 - Engage with professional video crews, as appropriate, or desired.
 - Shoot and edit videos.
 - Post/release content.

Exhibit J

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of)	
)	
AMAZON.COM, INC.)	
)	
)	CPSC DOCKET NO.: 21-2
)	
Respondent.)	

**COMPLAINT COUNSEL’S SUPPLEMENTAL OBJECTIONS AND RESPONSES
TO RESPONDENT’S INTERROGATORY NO. 13 AND
REQUESTS FOR ADMISSION NOS. 11, 15, AND 18**

Pursuant to 16 C.F.R. §§ 1025.31(f), 1025.32, and 1025.34, Complaint Counsel respectfully submits its supplemental objections and responses (“Responses”) to Respondent Amazon.com, Inc.’s (“Respondent’s”) Interrogatory No. 13 and Requests for Admission Nos. 11, 15, and 18 (“Requests”). Complaint Counsel incorporates herein the Preliminary Statements and General Objections served with the Objections and Responses to Respondent’s First Set of Interrogatories and First Set of Requests for Admission.

COMPLAINT COUNSEL’S SUPPLEMENTAL RESPONSES

INTERROGATORY NO. 13. IDENTIFY any prior recall, corrective action plan, enforcement action, or other notice or matter in which **YOU** directed or requested a subject firm to withhold the provision of refunds to purchasers or consumers; condition the provision of a refund to purchasers or consumers on the recalled product being returned to the subject firm; or withhold or condition the provision of instructions to purchasers or consumers on how to safely dispose of a recalled product.

MARCH 21, 2022 RESPONSE TO INTERROGATORY NO. 13:

Complaint Counsel objects to this Interrogatory as irrelevant to any issue live and in dispute in the proceedings following the Court’s January 19, 2022 Order on Motion to Dismiss and Motion for Summary Decision. Complaint Counsel also objects to this Interrogatory as overly broad, vague, and ambiguous in its use of the phrase “any prior recall, corrective action plan, enforcement action, or other notice or matter.” In addition, Complaint Counsel objects to this Interrogatory as overly broad in its lack of time limitation.

Subject to and without waiver of the foregoing general and specific objections, Complaint Counsel states that the CPSC's actions in prior recalls, corrective action plans, or enforcement actions are not relevant to this matter or to any issue live and in dispute in the proceedings.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 13:

Subject to and without waiver of the foregoing general and specific objections, Complaint Counsel states that, in the last two years (from January 2020 to April 2022), the CPSC has directed or requested a company to incentivize consumers to return or provide proof of destruction of a recalled product in at least the following matters:

- 22-736 - <https://www.cpsc.gov/Recalls/2022/Boxine-U-S-Recalls-tonies-Blocks-Due-to-Magnet-Ingestion-Hazard-Sold-Exclusively-at-tonies-com-Recall-A-lert>
- 22-107 - <https://www.cpsc.gov/Recalls/2022/Segway-Recalls-Ninebot-Childrens-Bicycle-Helmets-Due-to-Risk-of-Head-Injury>
- 22-734 - <https://www.cpsc.gov/Recalls/2022/ToolGuards-Portable-Water-Immersion-Heaters-Recalled-Due-to-Shock-Electrocution-and-Fire-Hazards-Imported-by-FXswede-AB-Sold-Exclusively-at-Amazoncom-Recall-A-lert>
- 22-101 - <https://www.cpsc.gov/Recalls/2022/HD-Premier-Recalls-DigitDots-Magnetic-Balls-Due-to-Ingestion-Hazard>
- 22-733 - <https://www.cpsc.gov/Recalls/2022/Acme-United-Corporation-Recalls-PhysiciansCare-Brand-Over-the-Counter-Drugs-Due-to-Failure-to-Meet-Child-Resistant-Packaging-Requirement-Risk-of-Poisoning-Recall-A-lert>
- 22-099 - <https://www.cpsc.gov/Recalls/2022/Reckitt-Recalls-More-than-Three-Million-Bottles-of-Airborne-Gummies-Due-to-Injury-Hazard>
- 22-089 - <https://www.cpsc.gov/Recalls/2022/Fitbit-Recalls-Ionic-Smartwatches-Due%20to-Burn-Hazard-One-Million-Sold-in-the-U-S>
- 22-731 - <https://www.cpsc.gov/Recalls/2022/Kelly-Wynne-Recalls-Childrens-Handbags-Due-to-Violation-of-Federal-Lead-Content-Ban-Recall-A-lert>
- 22-086 - <https://www.cpsc.gov/Recalls/2022/TJX-Recalls-Menorahs-Due-to-Fire-Hazard-Sold-at-Marshalls-HomeGoods-and-Homesense-Stores>
- 22-730 - <https://www.cpsc.gov/Recalls/2022/Lovevery-Recalls-Drinking-Cup-With-Handle-in-The-Inspector-Play-Kit-Due-to-Choking-Hazard-Recall-A-lert>
- 22-725 - <https://www.cpsc.gov/Recalls/2022/BrushX-Hot-Air-Brushes-Recalled-Due-to-Electrocution-or-Shock-Hazard-Imported-by-Ecom-Brands-Recall-A-lert>
- 22-728 - <https://www.cpsc.gov/Recalls/2022/H-M-Recalls-Childrens-Sleepwear-Sets-Due-to-Violation-of-Federal-Flammability-Standards-and-Burn-Hazard-Recall-A-lert>
- 22-085 - <https://www.cpsc.gov/Recalls/2022/Ancedote-Candles-Recalls-Double-Wick-Autumn-Candles-Due-to-Fire-and-Laceration-Hazards-Sold-Exclusively-at-Anthropologie>

- 22-084 - <https://www.cpsc.gov/Recalls/2022/In-Things-Recalls-Scarves-Due-to-Violation-of-Federal-Flammability-Standard-and-Burn-Hazard-Sold-Exclusively-at-Saksoff5th-com>
- 22-080 - <https://www.cpsc.gov/Recalls/2022/Esme-Recalls-Childrens-Sleepwear-Due-to-Violation-of-Federal-Flammability-Standards-and-Burn-Hazard>
- 22-723 - <https://www.cpsc.gov/Recalls/2022/Shop-LC-Recalls-Electric-Space-Heaters-Due-to-Fire-and-Burn-Hazards-Recall-Alert>
- 22-073 - <https://www.cpsc.gov/Recalls/2022/Stack-Em-Up-Books-Recalls-Childrens-Stackable-Toys-Due-to-Violation-of-the-Federal-Lead-Paint-Ban-and-Lead-Poisoning-Hazard>
- 22-075 - <https://www.cpsc.gov/Recalls/2022/Harbor-Freight-Tools-Recalls-Seats-Due-to-Fall-Hazard>
- 22-074 - <https://www.cpsc.gov/Recalls/2022/Stance-Recalls-Kids-Crew-Socks-Due-to-Choking-Hazard>
- 22-071 - <https://www.cpsc.gov/Recalls/2022/Childrens-Nightgowns-Recalled-by-AllMeInGeld-Due-to-Violation-of-Federal-Flammability-Standards-and-Burn-Hazard-Sold-Exclusively-on-Amazon-com>
- 22-076 - <https://www.cpsc.gov/Recalls/2022/Escalade-Sports-Recalls-Tennis-Tables-Due-to-Fall-and-Injury-Hazards-Sold-Exclusively-at-Target>
- 22-719 - <https://www.cpsc.gov/Recalls/2022/BFG-North-Carolina-Recalls-Chest-of-Drawers-Due-to-Tip-Over-and-Entrapment-Hazards-Sold-Exclusively-at-Rooms-To-Go-Recall-Alert>
- 22-067 - <https://www.cpsc.gov/Recalls/2022/Games-Workshop-Recalls-Koyo-Bounce-The-Squig-Plush-Toys-Due-to-Choking-Hazard>
- 22-066 - <https://www.cpsc.gov/Recalls/2022/Childrens-Robes-Recalled-Due-to-Violation-of-Federal-Flammability-Standards-and-Burn-Hazard-Imported-by-BAOPTAIL-Sold-Exclusively-on-Amazon-com>
- 22-061 - <https://www.cpsc.gov/Recalls/2022/Family-Dollar-Recalls-Beach-Loungers-Due-to-Injury-Hazard>
- 22-059 - <https://www.cpsc.gov/Recalls/2022/DeWALT-Recalls-18-inch-Corded-Chain-Saws-Due-to-Injury-Hazard>
- 22-057 - <https://www.cpsc.gov/Recalls/2022/Childrens-Nightgowns-Recalled-by-AOSKERA-Due-to-Violation-of-Federal-Flammability-Standards-and-Burn-Hazard>
- 22-055 - <https://www.cpsc.gov/Recalls/2022/Childrens-Sleepwear-Garments-Recalled-by-Childrensalon-Due-to-Violation-of-Federal-Flammability-Standards-and-Burn-Hazard>
- 22-054 - <https://www.cpsc.gov/Recalls/2022/Mushie-and-Co-Recalls-FRIGG-Silicone-Pacifiers-Due-to-Choking-Hazard>
- 22-053 - <https://www.cpsc.gov/Recalls/2022/Childrens-Robes-Recalled-by-HulovoX-Due-to-Violation-of-Federal-Flammability-Standards-and-Burn-Hazard>
- 22-715 - <https://www.cpsc.gov/Recalls/2022/Colony-Brands-Recalls-Childrens-Wood-Wagons-Due-to-Violation-of-Federal-Lead-Paint-Ban-and-Lead-Poisoning-Hazard-Recall-Alert>

- 22-042 - <https://www.cpsc.gov/Recalls/2022/Scott-Fetzer-Consumer-Brands-Recalls-American-Angler-Electric-Fillet-Knives-Due-to-Laceration-Hazard>
- 22-034 - <https://www.cpsc.gov/Recalls/2022/Big-Game-Treestands-Recalls-2021-The-Captain-Hang-on-Treestands-Due-to-Fall-and-Injury-Hazards>
- 22-038 - <https://www.cpsc.gov/Recalls/2022/Pearl-River-Propane-Hoses-Sold-with-Flame-King-Torches-and-Accessories-Recalled-Due-to-Fire-Hazard>
- 22-713 - <https://www.cpsc.gov/Recalls/2022/Karmas-Far-Recalls-Infant-Bath-Seats-Due-to-Drowning-Hazard-Recall-Alert>
- 22-712 - <https://www.cpsc.gov/Recalls/2022/Northern-Lights-Recalls-A-laura-Two-Tone%20Jar-Candles-Due-to-Laceration-and-Fire-Hazards-Sold-Exclusively-at-Costco-Recall-Alert>
- 22-033 - <https://www.cpsc.gov/Recalls/2022/Hong-Kong-China-Electric-Appliance-Manufacture-Company-Recalls-Ceiling-Fans-Due-to-Impact-Injury-Hazard>
- 22-027 - <https://www.cpsc.gov/Recalls/2022/Mark-of-Fifth-Avenue-Childrens-Robes-Recalled-Due-to-Violation-of-Federal-Flammability-Standard-and-Burn-Hazard>
- 22-023 - <https://www.cpsc.gov/Recalls/2022/E-filiate-Recalls-DEWALT-Wireless-Earphones-Due-to-Burn-and-Fire-Hazards>
- 22-710 - <https://www.cpsc.gov/Recalls/2022/Hanna-Andersson-Recalls-Baby-Ruffle-Rompers-Due-to-Choking-Hazard>
- 22-709 - <https://www.cpsc.gov/Recalls/2022/Hanna-Andersson-Recalls-Baby-Long-Sleeve-Wiggle-Sets-Due-to-Choking-Hazard>
- 22-707 - <https://www.cpsc.gov/Recalls/2022/RH-Recalls-Outdoor-Torches-Due-to-Fire-Hazard-Recall-Alert>
- 22-017 - <https://www.cpsc.gov/Recalls/2022/Hart-Consumer-Products-Recalls-Nailers-Due-to-Injury-Hazard-Sold-Exclusively-at-Walmart>
- 22-013 - <https://www.cpsc.gov/Recalls/2022/ABUS-Recalls-Youth-Helmets-Due-to-Risk-of-Head-Injury>
- 22-007 - <https://www.cpsc.gov/Recalls/2022/Walmart-Recalls-Better-Homes-and-Gardens-Essential-Oil-Infused-Aromatherapy-Room-Spray-with-Gemstones-Due-to-Rare-and-Dangerous-Bacteria-Bacteria-Identified-in-this-Outbreak-Linked-to-Two-Deaths>
- 22-012 - <https://www.cpsc.gov/Recalls/2022/Meridian-Furniture-Recalls-Ottomans-Due-to-Laceration-Hazard>
- 22-009 - <https://www.cpsc.gov/Recalls/2022/myCharge-Recalls-Powerbanks-Due-to-Fire-and-Burn-Hazards>
- 22-004 - <https://www.cpsc.gov/Recalls/2022/Hobby-Lobby-Recalls-White-Wood-Stools-Due-to-Fall-and-Injury-Hazards>
- 21-203 - <https://www.cpsc.gov/Recalls/2021/Venom-Motorsports-Recalls-Youth-Model-All-Terrain-Vehicles-ATVs-Due-to-Crash-Hazard-and-Violation-of-Federal-Safety-Standard-Sold-Exclusively-on-VenomMotorsports-com>
- 21-201 - <https://www.cpsc.gov/Recalls/2021/Kohls-Recalls-SONOMA-Goods-For-Life-Branded-Ultimate-Oversized-Antigravity-Chairs-Due-to-Fall-Hazard>

- 21-202 - <https://www.cpsc.gov/Recalls/2021/Macys-Recalls-Martha-Stewart-Collection-Oil-Vinegar-Cruets-Due-to-Laceration-Hazard>
- 21-780 - <https://www.cpsc.gov/Recalls/2021/Shower-Benches-Recalled-Due-to-Fall-Hazard-Made-by-Ivena-and-Sold-Exclusively-at-Costco-Recall-Alert>
- 21-194 - <https://www.cpsc.gov/Recalls/2021/Juratoys-Recalls-Childrens-Shaving-Toys-Due-to-Violation-of-Federal-Phthalate-Ban>
- 21-193 - <https://www.cpsc.gov/Recalls/2021/SKE-Outdoors-Recalls-Kids-Bike-Helmets-Due-to-Risk-of-Head-Injury>
- 21-192 - <https://www.cpsc.gov/Recalls/2021/PetSmart-Recalls-Top-Paw-Double-Diner-Dog-Bowls-Due-to-Laceration-Hazard>
- 21-189 - <https://www.cpsc.gov/Recalls/2021/Razor-USA-Recalls-GLW-Battery-Packs-Sold-with-Hovertrax-2-0-Self-Balancing-Hoverboards-Due-to-Fire-Hazard>
- 21-185 - <https://www.cpsc.gov/Recalls/2021/Primark-Recalls-Scent-Stamper-Pens-Due-to-Elevated-Levels-of-Benzyl-Alcohol-Risk-of-Skin-Irritation>
- 21-184 - <https://www.cpsc.gov/Recalls/2021/TJX-Recalls-Counter-Stools-Due-to-Fall-and-Injury-Hazards-Sold-at-HomeGoods-and-Homesense-Stores>
- 21-772 - <https://www.cpsc.gov/Recalls/2021/Area-Rugs-Recalled-Due-to-Violation-of-Federal-Flammability-Standard-and-Fire-Hazard-Imported-by-Pacapet-Sold-Exclusively-on-Amazon-com-Recall-Alert>
- 21-176 - <https://www.cpsc.gov/Recalls/2021/Sling-Loungers-Sold-at-Dollar-General-Recalled-Due-to-Amputation-Laceration-and-Pinching-Hazard-Manufactured-by-Shanghai-Worth-Garden-Products>
- 21-769 - <https://www.cpsc.gov/Recalls/2021/Childrens-Sleepwear-Recalled-Due-to-Violation-of-Federal-Flammability-Standard-and-Burn-Hazard-Sold-Exclusively-by-Zoetop-Business-Co-Ltd-at-www-SHEIN-com-Recall-Alert>
- 21-172 - <https://www.cpsc.gov/Recalls/2021/Birkenstock-USA-Recalls-Kids-Mogami-Sandals-Due-to-Choking-Hazard>
- 21-764 - <https://www.cpsc.gov/Recalls/2021/BeI-Furniture-Recalls-Barrington-5-Drawer-Chests-Due-to-Tip-Over-and-Entrapment-Hazards-Sold-Exclusively-at-BeI-Furniture-Recall-Alert>
- 21-168 - <https://www.cpsc.gov/Recalls/2021/Harbor-Freight-Tools-Recalls-One-Stop-Gardens-15-000-and-30-000-BTU-Tank-Top-Propane-Heaters-Due-to-Burn-Hazard>
- 21-763 - <https://www.cpsc.gov/Recalls/2021/Real-Flame-Recalls-Arroyo-and-Hideaway-Wood-Burning-Fire-Pits-Due-to-Fire-Hazard-Sold-Exclusively-at-Crate-and-Barrel-Recall-Alert>
- 21-163 - <https://www.cpsc.gov/Recalls/2021/Academy-Sports-Outdoors-Recalls-Ozone-500-Girls-and-Boys-Elevate-24-Inch-Bicycles-Due-to-Fall-and-Injury-Hazards>
- 21-160 - <https://www.cpsc.gov/Recalls/2021/One-Twenty-Clothing-Company-Recalls-Sovereign-Athletic-Childrens-Robes-Due-to-Violation-of-Federal-Flammability-Standard-and-Burn-Hazard>

- 21-157 - <https://www.cpsc.gov/Recalls/2021/Childrens-Nightgowns-Sold-Exclusively-on-Amazon-com-Recalled-Due-to-Violation-of-Federal-Flammability-Standard-and-Burn-Hazard-Manufactured-by-Booph>
- 21-141 - <https://www.cpsc.gov/Recalls/2021/Target-Recalls-Shower-Stools-Due-to-Fall-Hazard-Sold-Exclusively-at-Target>
- 21-140 - <https://www.cpsc.gov/Recalls/2021/JCPenney-Recalls-Girls-Puffer-Jackets-Due-to-Entanglement-Hazard>
- 21-118 - <https://www.cpsc.gov/Recalls/2021/UST-Recalls-Bottles-of-LifeSeasons-Blood-Nourish-R-Due-to-Failure-to-Meet-Child-Resistant-Packaging-Requirement-Risk-of-Poisoning>
- 21-737 - <https://www.cpsc.gov/Recalls/2021/YYBA-Recalls-Wellmate-Lidocaine-Numbing-Cream-Due-to-Failure-to-Meet-Child-Resistant-Packaging-Requirement-Risk-of-Poisoning-Recall-Alert>
- 21-115 - <https://www.cpsc.gov/Recalls/2021/Metal-Ware-Recalls-NESCO-Coffee-Bean-Roasters-Due-to-Fire-Hazard>
- 21-114 - <https://www.cpsc.gov/Recalls/2021/BRAV-USA-Recalls-Youth-Jackets-with-Drawstrings-Due-to-Strangulation-and-Entrapment-Hazards>
- 21-111 - <https://www.cpsc.gov/Recalls/2021/Target-Recalls-Cat-Jack-Baby-Rompers-Due-to-Choking-Hazard>
- 21-110 - <https://www.cpsc.gov/Recalls/2021/Audio-Technica-Recalls-Charging-Cases-Sold-with-Wireless-Headphones-Due-to-Fire-Hazard>
- 21-109 - <https://www.cpsc.gov/Recalls/2021/Battat-Recalls-Infant-Teethers-Due-to-Choking-Hazard-Sold-Exclusively-at-Target>
- 21-731 - <https://www.cpsc.gov/Recalls/2021/Inyo-Pool-Products-Recalls-PureLine-Pool-Pump-Motors-Due-to-Fire-Hazard-Sold-Exclusively-on-inyopools-com-Recall-Alert>
- 21-087 - <https://www.cpsc.gov/Recalls/2021/Urban-Outfitters-Recalls-Margo-Taper-Candle-Holders-Due-to-Fire-Hazard>
- 21-079 - <https://www.cpsc.gov/Recalls/2021/National-Presto-Recalls-Smokers-Due-to-Electric-Shock-Hazard>
- 21-082 - <https://www.cpsc.gov/Recalls/2021/Primark-Recalls-Nose-Piercing-and-Body-Bars-Due-to-High-Levels-of-Nickel-Risk-of-Skin-Irritation>
- 21-062 - <https://www.cpsc.gov/Recalls/2021/target-recalls-infant-toddler-girls-one-piece-rashguard-swimsuits-due-to-choking-hazard>
- 21-061 - <https://www.cpsc.gov/Recalls/2021/Target-Recalls-Infant-Rompers-Due-to-Choking-Hazard>
- 21-058 - <https://www.cpsc.gov/Recalls/2021/Urban-Outfitters-Recalls-Taper-Candle-Holders-Due-to-Fire-Hazard>
- 21-057 - <https://www.cpsc.gov/Recalls/2021/GSK-Consumer-Health-Recalls-Five-Excedrin-Brands-Due-to-Failure-to-Meet-Child-Resistant-Packaging-Requirement-Risk-of-Poisoning>
- 21-714 - <https://www.cpsc.gov/Recalls/2021/Homfa-Cabinets-Recalled-Due-to-Tip-Over-and-Entrapment-Hazards-Made-by-Shenzhen-Luosige-Trading-Co-Recall-Alert>

- 21-712 - <https://www.cpsc.gov/Recalls/2021/Scentsy-Recalls-Electrical-Oil-Warmers-Due-to-Fire-Hazard-Recall-Alert>
- 21-044 - <https://www.cpsc.gov/Recalls/2021/Fiskars-Brands-Recalls-16-Foot-Pole-Saw-Pruners-Due-to-Laceration-Hazard>
- 21-048 - <https://www.cpsc.gov/Recalls/2021/Washington-Shoe-Company-Recalls-Western-Chief-Toddler-Boots-Due-to-Choking-Hazard-Sold-Exclusively-at-Target>
- 21-038 - <https://www.cpsc.gov/Recalls/2021/Lidl-US-Recalls-Powerfix-Steel-Shelving-Units-Due-To-Tip-Over-and-Entrapment-Hazards>
- 21-033 - <https://www.cpsc.gov/Recalls/2021/Eco-Baby-Spoons-and-Forks-Eco-Feeding-Spoons-and-Eco-Placemat-Feeding-Sets-Recalled-Due-to-Choking-Hazard-Made-by-Herobility>
- 21-024 - <https://www.cpsc.gov/Recalls/2021/Kohls-Recalls-Three-Wick-SONOMA-Goods-For-Life-Branded-Candles-Due-to-Fire-and-Burn-Hazards>
- 21-020 - <https://www.cpsc.gov/Recalls/2021/YETI-Recalls-Rambler-Travel-Mugs-with-Stronghold-Lid-Due-to-Injury-and-Burn-Hazards>
- 21-021 - <https://www.cpsc.gov/Recalls/2021/Target-Recalls-Toddler-Boots-Due-to-Choking-Hazard>
- 21-019 - <https://www.cpsc.gov/Recalls/2021/Walker-Edison-Recalls-Chests-Due-to-Tip-Over-and-Entrapment-Hazards>
- 21-015 - <https://www.cpsc.gov/Recalls/2021/Porter-World-Trade-Recalls-Ron-Jon-Surf-Shop-Sippy-Cup-Due-to-Violations-of-Federal-Lead-Content-and-Phthalates-Bans>
- 21-012 - <https://www.cpsc.gov/Recalls/2021/Bed-Bath-and-Beyond-Recalls-SALT-Lounge-Chairs-Due-to-Fall-Hazard>
- 21-703 - <https://www.cpsc.gov/Recalls/2021/Sales-BSD-Recalls-Homerygardens-Extension-Cord-Splitters-Due-to-Fire-Hazard-Recall-Alert>
- 20-172 - <https://www.cpsc.gov/Recalls/2021/Birkenstock-USA-Recalls-Kids-Mogami-Sandals-Due-to-Choking-Hazard>
- 20-168 - <https://www.cpsc.gov/Recalls/2020/Hasbro-Recalls-Super-Soaker-XP-20-and-XP-30-Water-Blasters-Due-to-Violation-of-Federal-Lead-Content-Ban-Sold-Exclusively-at-Target>
- 20-160 - <https://www.cpsc.gov/Recalls/2020/WD-40-Company-Recalls-X-14-Mildew-Stain-Remover-Due-to-Risk-of-Skin-Irritation>
- 20-146 - <https://www.cpsc.gov/Recalls/2020/Lidl-US-Recalls-Silvercrest-Bread-Makers-Due-to-Electric-Shock-Hazard>
- 20-133 - <https://www.cpsc.gov/Recalls/2020/DICKS-Sporting-Goods-Recalls-Safety-Ropes-Due-to-Fall-and-Injury-Hazards>
- 20-127 - <https://www.cpsc.gov/Recalls/2020/Primark-Recalls-Kitten-Heel-Court-Shoes-Due-to-High-Levels-of-Chromium-Risk-of-Skin-Irritation>
- 20-747 - <https://www.cpsc.gov/Recalls/2020/Herman-Miller-and-Design-Within-Reach-Recall-Dressers-and-Cabinets-Due-to-Tip-Over-and-Entrapment-Hazards-Remedy-May-Be-Delayed-Due-to-COVID-19-Restrictions-Keep-Product-Away-from-Children-Recall-Alert>

- 20-120 - <https://www.cpsc.gov/Recalls/2020/Hodedah-Recalls-HI4DR-4-Drawer-Chests-Due-to-Tip-Over-and-Entrapment-Hazards-Remedies-May-Be-Delayed-Due-to-COVID-19-Restrictions-Keep-Product-Away-from-Children>
- 20-741 - <https://www.cpsc.gov/Recalls/2020/Sobeauty-Recalls-Mag-Cube-Magnetic-Ball-Sets-Due-to-Risk-of-Ingestion-by-Children-That-Could-Cause-Serious-and-Permanent-Intestinal-Injuries-or-Death-Recall-Alert>
- 20-119 - <https://www.cpsc.gov/Recalls/2020/Noah-Clothing-Recalls-Mens-Reverse-Fleece-Hoodies-Due-to-Violation-of-Federal-Flammability-Standard-Burn-Hazard>
- 20-106 - <https://www.cpsc.gov/Recalls/2020/Joybird-Recalls-Dressers-Due-to-Tip-Over-and-Entrapment-Hazards>
- 20-098 - <https://www.cpsc.gov/Recalls/2020/Childrens-Tool-Kits-Recalled-by-Grizzly-Industrial-Due-to-Violation-of-Federal-Lead-Content-Ban-and-Toy-Safety-Requirements>
- 20-095 - <https://www.cpsc.gov/Recalls/2020/Hawthorne-Hydroponics-Recalls-Growers-Edge-Vaporizers-Due-To-Burn-Shock-and-Fire-Hazard>
- 20-085 - <https://www.cpsc.gov/Recalls/2020/IKEA-Recalls-KULLEN-3-Drawer-Chests-Due-to-Tip-Over-and-Entrapment-Hazards-Consumers-Urged-to-Anchor-Chests-or-Return-for-Refund>
- 20-078 - <https://www.cpsc.gov/Recalls/2020/Safavieh-Recalls-Chests-of-Drawers-Due-to-Tip-Over-and-Entrapment-Hazards>
- 20-079 - <https://www.cpsc.gov/Recalls/2020/Home-Depot-Recalls-4-Drawer-Whitewash-Chests-Due-to-Tip-Over-and-Entrapment-Hazards>
- 20-050 - <https://www.cpsc.gov/Recalls/2020/Boston-Warehouse-Trading-Corp-Recalls-Holiday-Travel-Mugs-Due-to-Fire-Hazard-Sold-Exclusively-at-Meijer-Stores>

REQUEST NO. 11. Admit that **YOU** have never prohibited or precluded a subject firm (as defined by 16 C.F.R. § 1115.3) from offering an unconditional refund of a consumer product’s purchase price to purchasers.

MARCH 21, 2022 RESPONSE TO REQUEST NO. 11:

Complaint Counsel objects to this Request as overly broad, vague, and ambiguous in its use of the phrase “**YOU** have never prohibited or precluded a subject firm . . . from offering an unconditional refund of a consumer’s purchase price to purchasers.” Complaint Counsel further objects to this Request as irrelevant to any issue live and in dispute in the proceedings following the Court’s January 19, 2022 Order on Motion to Dismiss and Motion for Summary Decision.

Complaint Counsel stands on its objections in response to Request No. 11.

SUPPLEMENTAL RESPONSE TO REQUEST NO. 11:

Subject to and without waiver of the foregoing general and specific objections, Complaint Counsel denies this Request. As evidenced by the matters cited in the supplemental

response to Interrogatory No. 13, as well as consent agreements entered into with companies (see, e.g., the https://www.cpsc.gov/s3fs-public/pdfs/lawsuit_ConsentAgreementOrder050914.pdf, https://www.cpsc.gov/s3fs-public/pdfs/recall/lawsuits/abc/lawsuit_ConsentAgreementandOrder072814-19801.pdf), the CPSC routinely insists that companies make return or destruction of a hazardous product a precondition for the issuance of a refund.

REQUEST NO. 15. Admit that YOU can send, and have sent, hazard determinations and Notices of Violations to manufacturers, importers, distributors, and[or] retailers domiciled or headquartered outside the United States.

MARCH 21, 2022 RESPONSE TO REQUEST NO. 15:

Complaint Counsel objects to this Request as overly broad, vague, and ambiguous in its use of the phrase “hazard determinations.” Complaint Counsel further objects to this Request as irrelevant to any issue live and in dispute in the proceedings following the Court’s January 19, 2022 Order on Motion to Dismiss and Motion for Summary Decision.

Complaint Counsel stands on its objections in response to Request No. 15.

SUPPLEMENTAL RESPONSE TO REQUEST NO. 15:

Subject to and without waiver of the foregoing general and specific objections, Complaint Counsel admits this Request.

REQUEST NO. 18. Admit that YOU have never negotiated a Corrective Action Plan with, or jointly announced a recall with, a distributor.

MARCH 21, 2022 RESPONSE TO REQUEST NO. 18:

Complaint Counsel objects to this Request as irrelevant to any issue live and in dispute in the proceedings following the Court’s January 19, 2022 Order on Motion to Dismiss and Motion for Summary Decision. In addition, Complaint Counsel objects to this Request as overly broad, vague, and ambiguous in its use of the term “negotiated.”

Complaint Counsel stands on its objections in response to Request No. 18.

SUPPLEMENTAL RESPONSE TO REQUEST NO. 18:

Subject to and without waiver of the foregoing general and specific objections, Complaint Counsel denies this Request. The following is a non-exhaustive list of jointly announced recalls with distributors that were issued in the last 5 years (January 2017 to April 2022):

- 22-103 - <https://www.cpsc.gov/Recalls/2022/B-toys-Walk-n-Learn-Wooden-Activity-Toddler-Walkers-Recalled-Due-to-Choking-Hazard-Distributed-by-Maison-Battat>
- 22-721 - <https://www.cpsc.gov/Recalls/2022/BRP-Recalls-All-Terrain-Vehicles-ATVs-Due-to-Crash-Hazard-Recall-Alert>
- 22-069 - <https://www.cpsc.gov/Recalls/2022/D&D-Technologies-Recalls-SureClose-READYFIT-180-Hinge-Closer-Sets-Due-to-Injury-and-Drowning-Hazards>
- 22-034 - <https://www.cpsc.gov/Recalls/2022/Big-Game-Treestands-Recalls-2021-The-Captain-Hang-on-Treestands-Due-to-Fall-and-Injury-Hazards>
- 22-033 - <https://www.cpsc.gov/Recalls/2022/Hong-Kong-China-Electric-Appliance-Manufacture-Company-Recalls-Ceiling-Fans-Due-to-Impact-Injury-Hazard>
- 21-124 - <https://www.cpsc.gov/Recalls/2021/Scott-Fetzer-Consumer-Brands-Recalls-Multi-Use-Water-Pumps-Due-to-Fire-and-Shock-Hazards>
- 21-737 - <https://www.cpsc.gov/Recalls/2021/YYBA-Recalls-Wellmate-Lidocaine-Numbing-Cream-Due-to-Failure-to-Meet-Child-Resistant-Packaging-Requirement-Risk-of-Poisoning-Recall-Alert>
- 21-105 - <https://www.cpsc.gov/Recalls/2021/One-Million-Greenworks-and-Powerworks-Pressure-Washer-Spray-Guns-Recalled-Due-to-Impact-Injury-Hazard-Distributed-by-Hongkong-Sun-Rise-Trading>
- 21-059 - <https://www.cpsc.gov/Recalls/2021/King-of-Fans-Recalls-Hampton-Bay-Mara-Ceiling-Fans-Due-to-Injury-Hazard-Sold-Exclusively-at-Home-Depot>
- 21-037 - <https://www.cpsc.gov/Recalls/2021/Towleys-Recalls-3-in-1-Qi-Wireless-Chargers-Power-Banks-and-Travel-Chargers-Due-to-Fire-Hazard>
- 21-703 - <https://www.cpsc.gov/Recalls/2021/Sales-BSD-Recalls-Homerygardens-Extension-Cord-Splitters-Due-to-Fire-Hazard-Recall-Alert>
- 20-192 - <https://www.cpsc.gov/Recalls/2020/Kobalt-Cordless-Electric-Pole-Saws-Sold-Exclusively-at-Lowes-Stores-Recalled-Due-to-Laceration-Hazard-Distributed-by-Hongkong-Sun-Rise-Trading>
- 20-191 - <https://www.cpsc.gov/Recalls/2020/Kobalt-Cordless-Electric-Chainsaws-Sold-Exclusively-at-Lowes-Stores-Recalled-Due-to-Laceration-Hazard-Distributed-by-Hongkong-Sun-Rise-Trading>
- 20-167 - <https://www.cpsc.gov/Recalls/2020/Lithonia-Lighting-Recalls-to-Repair-CFMK-Surface-Mount-Brackets-Used-with-CPANL-LEDs-Due-to-Impact-Hazard>

- 20-737 - <https://www.cpsc.gov/Recalls/2020/Naturo-Sciences-Recalls-Eiji-Essentials-Wintergreen-Oil-Due-to-Failure-to-Meet-Child-Resistant-Packaging-Requirement-Risk-of-Poisoning-Recall-Alert>
- 20-736 - <https://www.cpsc.gov/Recalls/2020/Natural-Health-Partners-Recalls-Dr-Mercola-Wintergreen-Essential-Oils-Due-to-Failure-to-Meet-Child-Resistant-Packaging-Requirement-Risk-of-Poisoning-Recall-Alert>
- 20-719 - <https://www.cpsc.gov/Recalls/2020/Whalen-Recalls-Bayside-Furnishings-9-Piece-Dining-Sets-Due-to-Fall-Hazard-Sold-Exclusively-at-Costco-Recall-Alert>
- 20-024 - <https://www.cpsc.gov/Recalls/2020/United-National-Closeout-Stores-Recalls-Isometric-Exercise-Devices-Due-to-Projectile-Hazard-Devices-Sold-at-Burlington-Stores-After-2014-Recall>
- 19-202 - <https://www.cpsc.gov/Recalls/2019/MW-Company-Recalls-MOMO-Quick-Release-Steering-Wheel-Adapters-Due-to-Crash-Hazard-Risk-of-Serious-Injury-and-Death>
- 19-183 - <https://www.cpsc.gov/Recalls/2019/Southwire-Recalls-Electrical-Outlet-Boxes-Due-to-Fire-Hazard>
- 19-180 - <https://www.cpsc.gov/Recalls/2019/Seattle-Manufacturing-Corporation-Recalls-Ice-Axes-Due-to-Serious-Injury-and-Fall-Hazards>
- 19-119 - <https://www.cpsc.gov/Recalls/2019/Havertys-Recalls-Entertainment-Hutches-Due-to-Injury-Hazard>
- 19-096 - <https://www.cpsc.gov/Recalls/2019/Spector--Co-Recalls-Power-Bank-Chargers-Due-to-Fire-Hazard>
- 19-093 - <https://www.cpsc.gov/Recalls/2019/Amerex-Group-Recalls-Infant-Fur-Jackets-Due-to-Choking-Hazard>
- 19-046 - <https://www.cpsc.gov/Recalls/2019/dormakaba-USA-Recalls-Stanley-Commercial-Hardware-Locksets-Due-to-Risk-of-Entrapment-in-an-Emergency>
- 19-007 - <https://www.cpsc.gov/Recalls/2019/Briggs--Stratton-Recalls-Portable-Generator-Fuel-Tank-Replacement-Caps-Due-to-Fire-Hazard>
- 18-225 - <https://www.cpsc.gov/Recalls/2018/Weeplay-Kids-Recalls-Childrens-Coveralls-Due-to-Choking-Hazard>
- 18-143 - <https://www.cpsc.gov/Recalls/2018/Wild-Wolf-Recalls-Petit-Collage-Childrens-Toy-Xylophones-Due-to-Choking-Hazard>
- 18-137 - <https://www.cpsc.gov/Recalls/2018/Spirit-Halloween-Recalls-Nickelodeon-PAW-PATROL-Marshall-Hat-with-Flashlight-Due-to-Fire-and-Burn-Hazards>
- 18-121 - <https://www.cpsc.gov/Recalls/2018/Helvetia-Sports-Recalls-SwissStop-Bicycle-Disc-Brake-Pads-Due-to-Fall-Hazard>
- 18-090 - <https://www.cpsc.gov/Recalls/2018/Cordless-Electric-Chainsaws-Recalled-Due-to-Injury-Hazard-Distributed-by-Hongkong-Sun-Rise-Trading>
- 18-703 - <https://www.cpsc.gov/Recalls/2018/Goal-Zero-Recalls-Solar-Powered-Charging-Stations-Due-to-Impact-Hazard-Recall-Alert>
- 17-762 - <https://www.cpsc.gov/Recalls/2017/FedEx-Supply-Chain-Recalls-Cellphone-Batteries-Recall-Alert>

- 17-198 - <https://www.cpsc.gov/Recalls/2017/Freds-Recalls-Charcoal-Grills>
- 17-184 - <https://www.cpsc.gov/Recalls/2017/lumicentro-internacional-with-home-depot-recalls-crystal-chandeliers>
- 17-121 - <https://www.cpsc.gov/Recalls/2017/Glass-Dressing-Shaker-Bottles>
- 17-066 - <https://www.cpsc.gov/Recalls/2017/Dunkin-Donuts-Recalls-Glass-Tumblers>

I, John C. Eustice, declare under penalty of perjury that the foregoing Supplemental Response to Respondent's Interrogatory No. 13 is true and correct to the best of my knowledge, information and belief.

Executed on April 25, 2022.



John C. Eustice
Division of Enforcement and Litigation
Office of Compliance and Field Operations
U.S. Consumer Product Safety Commission

Dated this 25th day of April, 2022

John C. Eustice

John C. Eustice, Senior Trial Attorney
Liana G.T. Wolf, Trial Attorney
Serena Anand, Trial Attorney

Division of Enforcement and Litigation
Office of Compliance and Field Operations
U.S. Consumer Product Safety Commission
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Tel: (301) 504-7809

Complaint Counsel for
U.S. Consumer Product Safety Commission

CERTIFICATE OF SERVICE

I hereby certify that on April 25, 2022, a copy of the foregoing was served via email upon the following:

Sarah L. Wilson at swilson@cov.com
Stephen P. Anthony at santhony@cov.com
Thomas R. Brugato at tbrugato@cov.com
Benjamin L. Cavataro at bcavataro@cov.com

Counsel for Respondent Amazon.com, Inc.

John C. Eustice

Complaint Counsel for
U.S. Consumer Product Safety Commission

Exhibit K
Filed in Camera Pursuant
to Protective Order

Exhibit L
Filed in Camera Pursuant
to Protective Order

Exhibit M
Filed in Camera Pursuant
to Protective Order

Exhibit N
Filed in Camera Pursuant
to Protective Order

Exhibit O
Filed in Camera Pursuant to
Protective Order

Exhibit P

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of)

AMAZON.COM, INC.)

Respondent.)

CPSC DOCKET NO.: 21-2

**COMPLAINT COUNSEL’S OBJECTIONS AND RESPONSES
TO RESPONDENT’S FIRST SET OF INTERROGATORIES TO
CONSUMER PRODUCT SAFETY COMMISSION**

Pursuant to 16 C.F.R. § 1025.32, Complaint Counsel respectfully submits its objections and responses (“Responses”) to Respondent Amazon.com, Inc.’s (“Respondent’s”) First Set of Interrogatories to Consumer Product Safety Commission (“Interrogatories”).

PRELIMINARY STATEMENT

Discovery in this action is ongoing. The specific Responses set forth below are for the purposes of discovery only, and Complaint Counsel neither waives nor intends to waive, and expressly reserves, any and all objections it may have to the relevance, competence, materiality, admission, admissibility, or use at trial of any information, documents, or writings produced, identified, or referred to herein, or to the introduction of any evidence at trial relating to the subjects covered by such Responses.

These Responses are based solely upon information presently known and readily available to Complaint Counsel following a reasonable inquiry for responsive information, as described herein. Complaint Counsel will amend these Responses in accordance with 16 C.F.R. § 1025.31(f), as appropriate. Complaint Counsel expressly reserves the right to rely, at any time including trial, upon subsequently discovered information. Further, the specific Responses

below are based upon Complaint Counsel's interpretation of the language used in the Interrogatories, and Complaint Counsel reserves its right to amend or supplement further its responses in the event Respondent asserts an interpretation that differs from Complaint Counsel's interpretation.

By making these Responses, Complaint Counsel does not concede it is in possession of any information responsive to any particular Interrogatory or that any Response given is relevant to this action. Complaint Counsel's failure to object to a particular Interrogatory or willingness to provide responsive information pursuant to an Interrogatory is not, and shall not be construed, as an admission of the relevance, or admissibility into evidence, of any such information, nor does it constitute a representation that any such information in fact exists.

Upon request by Respondent, Complaint Counsel is willing to meet and confer regarding its Response to any of the Interrogatories.

GENERAL OBJECTIONS

The following General Objections and statements shall be applicable to, and shall be included in, Complaint Counsel's response to each Interrogatory, whether or not mentioned expressly in any particular response. Complaint Counsel does not waive any of its General Objections by stating specific objections to any particular Interrogatory. Complaint Counsel's Responses are based solely on Complaint Counsel's current knowledge and belief.

1. Complaint Counsel objects to the Interrogatories, including the Definitions and Instructions contained within them, to the extent they impose or seek to impose any requirement or discovery obligation greater than or different from those under the 16 C.F.R. Part 1025 and applicable orders of the Presiding Officer.

2. Complaint Counsel objects to the Interrogatories to the extent they seek disclosure of information protected under the attorney-client privilege, work product doctrine, deliberative process privilege, or any other applicable privilege or immunity, including the privilege afforded information given to the staff of the Commission on a pledge of confidentiality and/or by other law or rule of procedure, including, but not limited to, the Consumer Product Safety Act, 15 U.S.C. § 2051 *et seq.*, the Privacy Act, 5 U.S.C. § 552a, and other applicable laws and regulations. Should any such disclosure by Complaint Counsel occur, it is inadvertent and shall not constitute a waiver of any privilege or immunity.

3. Complaint Counsel objects to the Interrogatories to the extent they seek information not relevant to the subject matter involved in the proceedings, nor reasonably calculated to lead to the discovery of admissible evidence, including but not limited to, out-of-scope Interrogatories that seek information about settlement negotiations between CPSC staff and representatives of Respondent (Interrogatory Nos. 16 and 17). Such out-of-scope Interrogatories are not relevant to the Court's analysis of whether the Subject Products distributed by Respondent pose a substantial product hazard under Section 15 of the CPSA, 15 U.S.C. § 2064, or applicable regulations, including 16 C.F.R. Part 1115, and will serve only to delay the proceedings and obfuscate the issue at hand. Complaint Counsel is not waiving any objection as to the relevance of the information provided or the admissibility of that information at any trial, hearing, or other proceeding.

4. Complaint Counsel objects to the Interrogatories to the extent they seek information not live and in dispute in the proceedings following the Court's January 19, 2022 Order on Motion to Dismiss and Motion for Summary Decision. The sole remaining issues in dispute and ripe for discovery concern whether the Subject Products present a substantial product

hazard, what actions Respondent has taken with respect to the Subject Products, and the remedies sought by Complaint Counsel to remediate the hazards posed by the Subject Products.

5. Complaint Counsel objects to the Interrogatories to the extent they are misleading and/or improper.

6. Complaint Counsel objects to the Interrogatories as premature to the extent they seek Complaint Counsel's contentions at this early stage of the proceeding.

7. Complaint Counsel objects to the Interrogatories to the extent they seek information beyond what is available to Complaint Counsel at present from a reasonable search of its own files and from a reasonable inquiry of its present employees.

8. Complaint Counsel objects to the Interrogatories and accompanying Definitions to the extent they are vague, ambiguous, overly broad, and/or unduly burdensome.

9. Complaint Counsel objects to the Interrogatories to the extent they would require Complaint Counsel to conduct an unreasonable search for responsive information.

10. By identifying a document in response to an Interrogatory, Complaint Counsel does not assert that the document is free from information that is privileged, subject to discovery, or relevant. Nor does Complaint Counsel waive its right to withhold any portion of the document that is privileged, immune from discovery, or irrelevant.

11. No objection, limitation, or response (or lack thereof) made herein shall be an admission by Complaint Counsel as to (a) the truth of any of the statements made in the Interrogatories, or (b) the existence or non-existence of documents or information responsive to the Interrogatories.

Subject to and without waiving the foregoing objections, Complaint Counsel provides the following Responses:

COMPLAINT COUNSEL'S RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 1. IDENTIFY each **PERSON** with knowledge of **YOUR** efforts to respond to these Interrogatories or to the Requests for Production of Documents or Requests for Admission served by Amazon. For each **PERSON** identified, indicate the time period of their involvement in **YOUR** investigation, negotiation, and lawsuit against Amazon, and **DESCRIBE** each **PERSON**'s responsibility, role, and contribution to **YOUR** investigation, negotiation, and lawsuit.

RESPONSE TO INTERROGATORY NO. 1:

Complaint Counsel objects to this Interrogatory as overly broad, vague, and ambiguous in its use of the phrase "each Person with knowledge of [Complaint Counsel's] efforts to respond to [Respondent's First Set of Interrogatories to Consumer Product Safety Commission ("Interrogatories"); Respondent's First Set of Requests for Production of Documents and Things to Consumer Product Safety Commission ("Requests for Production"); and Respondent's First Set of Requests for Admission to the Consumer Product Safety Commission ("Requests for Admission") (collectively, the "Discovery")." Complaint Counsel interprets this phrase to mean individuals who located, identified, or provided documents or information potentially responsive to the Discovery. Complaint Counsel further objects to this Interrogatory as unduly burdensome, vague and ambiguous in its use of the phrase "the time period of their involvement." Complaint Counsel states that CPSC staff has not kept records of "the time period" of the above-mentioned staff members' "involvement" in this matter and requiring Complaint Counsel to do so retrospectively is unduly burdensome. Complaint Counsel also objects to this Interrogatory on the grounds it seeks information protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege, by requesting that Complaint Counsel describe each "Person's responsibility, role and contribution" in responding to the Discovery. In addition, Complaint Counsel objects to this Interrogatory on the grounds it constitutes premature expert discovery. Complaint Counsel will identify the expert

witnesses it expects to call at the hearing in this matter pursuant to the Court's schedule set forth at page 28 of its January 19, 2022 Order, and will amend these Responses in accordance with 16 C.F.R. § 1025.31(f), as appropriate. Complaint Counsel reserves the right to identify any of the persons listed below as expert witnesses. Complaint Counsel also objects to this Interrogatory insofar as it seeks discovery of information relating to any pre-Complaint "negotiation" sessions between CPSC staff and Amazon representatives, as such information is irrelevant to the current proceedings.

Subject to and without waiver of the foregoing general and specific objections, Complaint Counsel states that undersigned Complaint Counsel prepared the Discovery responses.

Further responding, Complaint Counsel states that a reasonable search of appropriate CPSC electronic databases was conducted to locate potentially responsive documents and information. In addition, the following staff of the U.S. Consumer Product Safety Commission ("CPSC") and other individuals were involved in the following manner and performed the following functions, as described below:

Provided documents and information potentially responsive to the Discovery: Arthur Lee, Electrical Engineer, CPSC; Andrew Trotta, Director, Electrical Engineering Division, CPSC; Joseph Williams, Senior Compliance Officer, CPSC; Carolyn Carlin, Compliance Officer, CPSC; Benjamin Burgoon, Former Employee, Compliance Officer, CPSC; Renee Morelli-Linen, Internet Investigative Analyst, CPSC; Benjamin Mordecai, Mechanical Engineer, CPSC; Emily Maling, Textile Technologist, CPSC.

Identified potentially responsive documents and information: Mark Brown, Product Safety Investigator, CPSC; Patrick George, Product Safety Investigator, CPSC; Ann Reyes,

Product Safety Investigator, CPSC; Mary Pigott, Product Safety Investigator, CPSC; Shana Toole, Product Safety Investigator, CPSC; Donna King, Senior Product Safety Investigator, CPSC; Edward Fabiano, Product Safety Investigator, CPSC; Colleen Richardson, Product Safety Investigator, CPSC; Mary Notsch, Product Safety Investigator, CPSC; Travis Neeley, Safety Inspector, CPSC; Ian Nunn, Product Safety Investigator, CPSC; Johnnie Lewis, Senior Product Safety Investigator, CPSC; Meghan Ryan, Product Safety Investigator, CPSC; Mark Bucksath, Product Safety Investigator, CPSC; Glenn Dunlap, Senior Product Safety Investigator, CPSC; Nikki Wright, Product Safety Investigator, CPSC; Maryanne McGerty-Sieber, Product Safety Investigator, CPSC; Milton Sanchez, Product Safety Investigator, CPSC; Jason Twitchell, Product Safety Investigator, CPSC; Jay Hammond, Product Safety Investigator, CPSC; James Butscher Product Safety Investigator, CPSC; Robert McNenamin, Product Safety Investigator, CPSC; Elizabeth Phillips, Product Safety Investigator, CPSC; Stephanie Yoha, Product Safety Investigator, CPSC; David Eckstein, Product Safety Investigator, CPSC; Marc Bernstein, Product Safety Investigator, CPSC; Lisa Coupel, Product Safety Investigator, CPSC; Ellen Estes, Senior Product Safety Investigator, CPSC; Ellen Estes, Senior Product Safety Investigator, CPSC; Michael Nelson, Supervisory Mechanical Engineer, CPSC; Jalen LaRubbio, Former Employee, Legal Intern, CPSC; Diana Farsai, Product Safety Investigator, CPSC; Michelle Mach, Internet Surveillance Investigator, CPSC; Michael Mulvaney, Product Safety Investigator, CPSC; Rebecca Barnhart, Product Safety Investigator, CPSC; Kenneth Knopf, Product Safety Investigator, CPSC; Kevin Peter, Product Safety Investigator, CPSC; Justin McDonough, Deputy Director, Field Operations, CPSC; James Adam Williams, Supervisory Product Safety Investigator, CPSC; Dean LaRue, Product Safety Assessment Program Manager, CPSC; David Mayberry, Product Safety Investigator, CPSC; Weiyang Tao, Textile Technologist, CPSC; Lisa

Scott, Senior Fire Protection Engineer, CPSC; Allyson Tenney, Division Director, LSE, CPSC; Yolanda Tiano, Product Safety Investigator, CPSC; Paige Witzen, Textile Technologist, CPSC; Tara Woodward, Product Safety Investigator, CPSC; Scott Putz, Supervisory Product Safety Investigator, CPSC.

Participated in electronic document collection and production of documents: Rajinder Rajput, CPSC Litigation Support Coordinator (Contractor); Edward Cambria, CPSC Litigation Support Coordinator (Contractor); Michael Edwards, CPSC Litigation Support Coordinator (Contractor); Grace Elman, CPSC Paralegal Specialist, Office of Compliance and Field Operations, Division of Enforcement and Litigation.

INTERROGATORY NO. 2. IDENTIFY each PERSON who has knowledge of the facts, circumstances and events that are related to the allegations and relief requested in the COMPLAINT, or who otherwise has knowledge relevant to the issues in this case, and DESCRIBE the relevant information possessed by each PERSON.

RESPONSE TO INTERROGATORY NO. 2:

Complaint Counsel objects to this Interrogatory as overly broad, vague, and ambiguous in its use of the phrase “each Person with knowledge of the facts, circumstances and events that are related to the allegations and relief requested in the Complaint.” Complaint Counsel interprets this phrase to mean individuals who have relevant information relating to live, discoverable issues ripe for discovery in these proceedings. Complaint Counsel also objects to this Interrogatory to the extent that it seeks information protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege, in requesting that Complaint Counsel describe “the relevant information possessed by each Person.”

Subject to and without waiver of the foregoing general and specific objections, Complaint Counsel states that the information sought by this Interrogatory is contained within, or

can be derived from, the various documents produced by Complaint Counsel in this matter.

Further responding, Complaint Counsel states that the following current or former members of CPSC staff possess relevant information relating to live, discoverable issues:

- a) Arthur Lee, Electrical Engineer: Possesses information relating to the testing of the Hair Dryers identified in the Complaint.
- b) Andrew Trotta, Director, Electrical Engineering Division: Possesses information relating to the testing of the Hair Dryers identified in the Complaint.
- c) Joseph Williams, Senior Compliance Officer: Possesses information relating to the investigation of the Hair Dryers and the Carbon Monoxide Detectors identified in the Complaint.
- d) Carolyn Carlin, Compliance Officer: Possesses information relating to the investigation of the Children's Sleepwear Garments identified in the Complaint.
- e) Benjamin Burgoon, Former Employee, Compliance Officer: Possesses information relating to the investigation of the Carbon Monoxide Detectors identified in the Complaint.
- f) Mark Brown, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- g) Patrick George, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- h) Ann Reyes, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- i) Mary Pigott, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.

- j) Shana Toole, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- k) Donna King, Senior Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- l) Edward Fabiano, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- m) Colleen Richardson, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- n) Mary Notsch, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- o) Travis Neeley, Safety Inspector,; Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- p) Ian Nunn, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- q) Johnnie Lewis, Senior Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- r) Meghan, Ryan, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- s) Mark Bucksath, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- t) Glenn Dunlap, Senior Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.

- u) Nikki Wright, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- v) Maryanne McGerty-Sieber, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- w) Milton Sanchez, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- x) Jason Twitchell, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- y) Jay Hammond, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- z) James Butscher Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- aa) Robert McNenamin, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- bb) Elizabeth Phillips, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- cc) Stephanie Yoha, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- dd) David Eckstein, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- ee) Marc Bernstein, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.

- ff) Lisa Coupel, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- gg) Ellen Estes, Senior Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- hh) Michelle Mach, Internet Surveillance Investigator: Possesses information relating to the procurement of the Carbon Monoxide Detectors and Children's Sleepwear Garments identified in the Complaint.
- ii) Renee Morelli-Linen, Internet Investigative Analyst: Possesses information relating to the procurement of the Carbon Monoxide Detectors and Children's Sleepwear Garments identified in the Complaint.
- jj) Benjamin Mordecai, Mechanical Engineer: Possesses information relating to the testing of the Carbon Monoxide Detectors identified in the Complaint.
- kk) Michael Nelson, Supervisory Mechanical Engineer: Possesses information relating to the testing of the Carbon Monoxide Detectors identified in the Complaint.
- ll) Jalen LaRubbio, Former Employee, Legal Intern: Possesses information relating to the investigation of the Carbon Monoxide Detectors identified in the Complaint.
- mm) Diana Farsai, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- nn) Michael Mulvaney, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- oo) Rebecca Barnhart, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.

- pp) Kenneth Knopf, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- qq) Kevin Peter, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- rr) Justin McDonough, Deputy Director, Field Operations: Possesses information relating to the procurement of the Subject Products identified in the Complaint.
- ss) James Adam Williams, Supervisory Product Safety Investigator: Possesses information relating to the procurement of the Subject Products identified in the Complaint.
- tt) Dean LaRue, Product Safety Assessment Program Manager: Possesses information relating to the testing of the Subject Products.
- uu) Emily Maling, Textile Technologist: Possesses information relating to the testing of the Children's Sleepwear Garments identified in the Complaint.
- vv) David Mayberry, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- ww) Weiyang Tao, Textile Technologist: Possesses information relating to the testing of the Children's Sleepwear Garments identified in the Complaint.
- xx) Allyson Tenney, Division Director, LSE: Possesses information relating to the testing of the Children's Sleepwear Garments identified in the Complaint.
- yy) Lisa Scott, Senior Fire Protection Engineer: Possesses information relating to the testing of the Children's Sleepwear Garments identified in the Complaint.
- zz) Yolanda Tiano, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.

- aaa) Paige Witzen, Textile Technologist: Possesses information relating to the testing of the Children's Sleepwear Garments identified in the Complaint.
- bbb) Tara Woodward, Product Safety Investigator: Possesses information relating to the procurement of the Hair Dryers identified in the Complaint.
- ccc) Scott Putz, Supervisory Product Safety Investigator: Possesses information relating to the procurement of the Subject Products identified in the Complaint.

INTERROGATORY NO. 3. For each **CHILDREN'S SLEEPWEAR GARMENT** that **YOU** allege to be defective, hazardous, or noncompliant with a mandatory or voluntary safety standard in its design, testing, creation, manufacture, assembly, sale, distribution, packaging, use, instructions, warnings, or otherwise), **DESCRIBE** all the bases for such allegation, including in **YOUR** description the safety standard which **YOU** allege applies, and each section of the standard the **CHILDREN'S SLEEPWEAR GARMENT** fails to comply; each instance in which **YOU** allege the **CHILDREN'S SLEEPWEAR GARMENT** failed or fails to comply; each change to the **CHILDREN'S SLEEPWEAR GARMENT** that **YOU** allege is required so that the **CHILDREN'S SLEEPWEAR GARMENT** would comply with any such mandatory or voluntary standard; and, if **YOU** allege that any **CHILDREN'S SLEEPWEAR GARMENT** is defective, an **IDENTIFICATION** of all these bases of such defect determination or allegation.

RESPONSE TO INTERROGATORY NO. 3:

Complaint Counsel objects to this Interrogatory as overly broad, vague, and ambiguous in its use of the phrases "all the bases for such allegations" and "each change to the Children's Sleepwear Garment that You allege is required." Complaint Counsel interprets these phrases to mean the results of the testing CPSC staff conducted on the Children's Sleepwear Garments identified in the Complaint. In addition, Complaint Counsel objects to this Interrogatory to the extent it seeks information relating to a required "change" to the Children's Sleepwear Garments, as the requirements are readily available and set forth in the Flammable Fabrics Act ("FFA"), 15 U.S.C. §§ 1191-1204 and 16 C.F.R. Parts 1615 and 1616. Complaint Counsel also objects to this Interrogatory to the extent that it seeks information protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege.

Complaint Counsel reserves the right to supplement its response with additional information in accordance with 16 C.F.R. § 1025.31(f).

Subject to and without waiver of the foregoing general and specific objections, Complaint Counsel states that the parties have agreed to discuss a possible Stipulation that would moot Interrogatory No. 3. If the parties do not reach agreement on a Stipulation, Complaint Counsel will provide a response to Interrogatory No. 3 subject to their objections within a time frame agreed-upon by counsel.

INTERROGATORY NO. 4. For each **CO DETECTOR** that **YOU** allege to be defective, hazardous, or noncompliant with a mandatory or voluntary safety standard (whether in its design, testing, creation, manufacture, assembly, sale, distribution, packaging, use, instructions, warnings, or otherwise), **DESCRIBE** all the bases for such allegation, including in **YOUR** description: the safety standard which **YOU** allege applies, and each section of the standard with which **YOU** allege the **CO DETECTOR** fails to comply; each instance in which **YOU** allege the **CO DETECTOR** failed or fails to comply; each change to the **CO DETECTOR** that **YOU** allege is required so that the **CO DETECTOR** would comply with any such mandatory or voluntary standard; and, if **YOU** allege that any **CO DETECTOR** is defective, an **IDENTIFICATION** of all these bases of such defect determination or allegation.

RESPONSE TO INTERROGATORY NO. 4:

Complaint Counsel objects to this Interrogatory as overly broad, vague, and ambiguous in its use of the phrases “all the bases for such allegations” and “each change to the CO Detector that You allege is required.” Complaint Counsel interprets these phrases to mean the results of the testing CPSC staff conducted on the Carbon Monoxide Detectors identified in the Complaint. In addition, Complaint Counsel objects to this Interrogatory to the extent it seeks information relating to a required “change” to the Carbon Monoxide Detectors, as the relevant standard is readily available and set forth in Underwriters Laboratories (“UL”) 2034, Section 41. Complaint Counsel also objects to this Interrogatory to the extent that it seeks information protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or

deliberative process privilege. Complaint Counsel reserves the right to supplement its response with additional information in accordance with 16 C.F.R. § 1025.31(f).

Subject to and without waiver of the foregoing general and specific objections, Complaint Counsel states that the parties have agreed to discuss a possible Stipulation that would moot Interrogatory No. 4. If the parties do not reach agreement on a Stipulation, Complaint Counsel will provide a response to Interrogatory No. 4 subject to their objections within a time frame agreed-upon by counsel.

INTERROGATORY NO. 5. For each **HAIR DRYER** that **YOU** allege to be defective, hazardous, or noncompliant with mandatory or voluntary safety standard (whether in its design, testing, creation, manufacture, assembly, sale, distribution, packaging, use, instructions, warnings, or otherwise), **DESCRIBE** all the bases for such allegation, including in **YOUR** description: the safety standard which **YOU** allege applies, and each section of the standard with which **YOU** allege the **HAIR DRYER** fails to comply; each instance in which **YOU** allege the **HAIR DRYER** failed or fails to comply; each change to the **HAIR DRYER** that **YOU** allege is required so that the **HAIR DRYER** would comply with any such mandatory or voluntary standard; and, if **YOU** allege that any **HAIR DRYER** is defective, an **IDENTIFICATION** of all these bases of such defect determination or allegation.

RESPONSE TO INTERROGATORY NO. 5:

Complaint Counsel objects to this Interrogatory as overly broad, vague, and ambiguous in its use of the phrases “all the bases for such allegations” and “each change to the Hair Dryer that You allege is required.” Complaint Counsel interprets these phrases to mean the results of the testing CPSC staff conducted on the Hair Dryers identified in the Complaint. In addition, Complaint Counsel objects to this Interrogatory to the extent it seeks information relating to a required “change” to the Hair Dryers, as the relevant standards are readily available and set forth in the sections of the Underwriters Laboratories identified below. Complaint Counsel also objects to this Interrogatory to the extent that it seeks information protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process

privilege. Complaint Counsel reserves the right to supplement its response with additional information in accordance with 16 C.F.R. § 1025.31(f).

Subject to and without waiver of the foregoing general and specific objections, Complaint Counsel states that the parties have agreed to discuss a possible Stipulation that would moot Interrogatory No. 5. If the parties do not reach agreement on a Stipulation, Complaint Counsel will provide a response to Interrogatory No. 5 subject to their objections within a time frame agreed-upon by counsel.

INTERROGATORY NO. 6. DESCRIBE all the bases for **YOUR** allegations in paragraphs 50–51 (relating to the sufficiency of the actions already taken by Amazon with respect to the **SUBJECT PRODUCTS**) of the **COMPLAINT**.

RESPONSE TO INTERROGATORY NO. 6:

Complaint Counsel objects to this Interrogatory as premature to the extent it seeks Complaint Counsel’s contentions at this early stage of the proceeding, and Complaint Counsel reserves the right to supplement its response with additional information in accordance with 16 C.F.R. § 1025.31(f). Complaint Counsel also objects to this Interrogatory to the extent it seeks information protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege.

Subject to and without waiver of the foregoing general and specific objections, Complaint Counsel states that Amazon’s limited, voluntary actions with respect to the Subject Products do not adequately protect the public from the substantial products hazards created by the Subject Products and do not subject Amazon to CPSC oversight or to agency enforceability. Amazon is free to stop its actions at any time, allowing the Subject Products (or functionally identical hazardous products) to be posted on its online marketplace, sold, and fulfilled through Amazon’s Fulfillment by Amazon (“FBA”) program. Furthermore, to adequately protect the public, a mandatory order is required to empower the CPSC to, among other things, give public

notice of each Subject Product's specific defect or failure to comply and obtain information from Amazon regarding how Amazon and consumers are returning and destroying the hazardous Subject Products.

Complaint Counsel admits that Amazon has taken several actions relating to the Subject Products, including removing the Amazon Standard Identification Numbers ("ASINs") for the Subject Products. Amazon also unilaterally, and without CPSC involvement or input concerning the content of the notices or its other actions, notified consumers who purchased the Subject Products that they could present a hazard. In addition, Amazon provided an Amazon gift card credited to their account but did not condition the gift card on the return of the defective or violative product.

Complaint Counsel seeks additional remedial actions from Amazon, including an order requiring Amazon to cease any distribution of the Subject Products including the permanent and verifiable removal of the ASINs and any other listings of the Subject Products and functionally identical products; to issue CPSC-approved direct notice(s) to all consumers who purchased the Subject Products, which includes a particularized description of the hazard presented by each Subject Product, encourages the return of the Subject Products, and notes the action is in conjunction with the CPSC; to issue a CPSC-approved press release, as well as any other public notice documents or postings required by CPSC staff that inform consumers of the hazard posed by the Subject Products and encourage the return or destruction of the Subject Products; and to facilitate the return and destruction of the Subject Products, at no cost to consumers, under Section 15(d)(1) of the CPSA, 15 U.S.C. § 2064(d)(1), to adequately protect the public from the substantial product hazards posed the Subject Products. Complaint Counsel also requests an order requiring Amazon to destroy products in its inventory (including providing proof of such

destruction) and to provide monthly progress reports to reflect the products remaining in Amazon's inventory, returned by consumers, and destroyed and to provide monthly reports identifying all functionally equivalent products removed from amazon.com by ASIN, the number distributed prior to removal, and the platform through which the products were sold. The CPSC reserves the right to request an order directing Amazon to take other and further actions as the Commission deems necessary to protect public health and safety. The CPSC is empowered to seek an order of this kind because it would constitute remedial actions that protect the public. *See* 15 U.S.C. § 2064(c), (d).

Recalled products that are not returned or destroyed can remain in homes or available for sale and continue to pose hazards. Absent proof that hazardous products are destroyed, the threat to the safety of consumers remains and will not be remediated as required by law so long as Amazon's actions are limited, wholly voluntary, and not designed to remove the Subject Products from homes and the secondary market.

INTERROGATORY NO. 7. DESCRIBE all the bases for **YOUR** allegations in paragraphs 58–61 (relating to **CHILDREN'S SLEEPWEAR GARMENTS**), 66–69 (relating to **CO DETECTORS**), and 72–74 (relating to **HAIR DRYERS**) of the **COMPLAINT**.

RESPONSE TO INTERROGATORY NO. 7:

Complaint Counsel objects to this Interrogatory as premature to the extent it seeks Complaint Counsel's contentions at this early stage of the proceeding, and Complaint Counsel reserves the right to supplement its response with additional information in accordance with 16 C.F.R. § 1025.31(f). Complaint Counsel also objects to this Interrogatory to the extent it seeks information protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege. Complaint Counsel reserves the right to supplement its response with additional information in accordance with 16 C.F.R. § 1025.31(f).

Subject to and without waiver of the foregoing general and specific objections, Complaint Counsel states that the parties have agreed to discuss a possible Stipulation that would moot Interrogatory No. 7. If the parties do not reach agreement on a Stipulation, Complaint Counsel will provide a response to Interrogatory No. 7 subject to their objections within a time frame agreed-upon by counsel.

INTERROGATORY NO. 8. IDENTIFY all DOCUMENTS on which YOU rely, in part or in whole, in support of the allegations YOU make in paragraphs 50–51, 58–61, 66–69, and 72–74 of the COMPLAINT.

RESPONSE TO INTERROGATORY NO. 8:

Complaint Counsel objects to this Interrogatory as premature to the extent it seeks Complaint Counsel's contentions at this early stage of the proceeding, and Complaint Counsel reserves the right to supplement its response with additional information in accordance with 16 C.F.R. § 1025.31(f). In addition, Complaint Counsel objects to this Interrogatory to the extent that it seeks the identification of Documents in the possession of Respondent that have yet to be produced in these proceedings. Complaint Counsel also objects to this Interrogatory to the extent it seeks information protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege. Complaint Counsel reserves the right to supplement its response with additional information in accordance with 16 C.F.R. § 1025.31(f).

Subject to and without waiver of the foregoing general and specific objections, Complaint Counsel states that the parties have agreed to discuss a possible Stipulation that would moot the majority of Interrogatory No. 8. If the parties do not reach agreement on a Stipulation, Complaint Counsel will provide a response to Interrogatory No. 8 subject to their objections within a time frame agreed-upon by counsel. As to the portion of Interrogatory No. 8 that

references Paragraphs 50-51 of the Complaint, Complaint Counsel identifies the following documents: CPSC_AM0000001-324, CPSC_AM0000325-9487.

INTERROGATORY NO. 9. IDENTIFY all PERSONS involved in YOUR determination regarding the sufficiency of the actions that Amazon took, prior to the filing of the COMPLAINT, relating to the SUBJECT PRODUCTS.

RESPONSE TO INTERROGATORY NO. 9:

Complaint Counsel objects to this Interrogatory as overly broad, vague, and ambiguous in its use of the phrase “all Persons involved in Your determination regarding the sufficiency of the actions that Amazon took.” Complaint Counsel further objects to this Interrogatory as irrelevant to any issue live and in dispute in the proceedings following the Court’s January 19, 2022 Order on Motion to Dismiss and Motion for Summary Decision. In addition, Complaint Counsel objects to this Interrogatory to the extent that it seeks information protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege.

Subject to and without waiver of the foregoing general and specific objections, Complaint Counsel states that information responsive to this Interrogatory is contained within, or can be derived from, the various documents produced by Complaint Counsel in this matter. Further responding, Complaint Counsel states that the following members of CPSC staff may possess information responsive to this Interrogatory, insofar as this Interrogatory seeks information relating to the investigations of the Subject Products:

- a) Joseph Williams, Senior Compliance Officer: Possesses information relating to the investigation of the Hair Dryers identified in the Complaint.
- b) Carolyn Carlin, Compliance Officer: Possesses information relating to the investigation of the Children’s Sleepwear Garments identified in the Complaint.

- c) Jalen LaRubbio, Former Employee, Legal Intern: Possesses information relating to the investigation of the Carbon Monoxide Detectors identified in the Complaint.
- d) Benjamin Burgoon, Former Employee, Compliance Officer: Possesses information relating to the investigation of the Carbon Monoxide Detectors identified in the Complaint.

INTERROGATORY NO. 10. IDENTIFY all **PERSONS** involved in any analysis or testing **YOU** performed, or performed on **YOUR** behalf, or upon which **YOU** rely or have relied, concerning, involving or in any way relating to any alleged defect or alleged hazard relating to any **SUBJECT PRODUCT**, or any alleged noncompliance of any **SUBJECT PRODUCT** with a mandatory or voluntary safety standard.

RESPONSE TO INTERROGATORY NO. 10:

Complaint Counsel objects to this Interrogatory as overly broad, vague, and ambiguous in its use of the phrase “all Persons involved in any analysis or testing You performed, or performed on Your behalf, or upon which You rely or have relied, concerning, involving or in any way relating to any alleged defect or alleged hazard relating to any Subject Product.” Complaint Counsel interprets this phrase to mean individuals who have relevant information relating to the testing of the Subject Products. Complaint Counsel also objects to this Interrogatory to the extent that it seeks information protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege. Complaint Counsel reserves the right to supplement its response with additional information in accordance with 16 C.F.R. § 1025.31(f).

Subject to and without waiver of the foregoing general and specific objections, Complaint Counsel states that the parties have agreed to discuss a possible Stipulation that would moot Interrogatory No. 10. If the parties do not reach agreement on a Stipulation, Complaint Counsel will provide a response to Interrogatory No. 10 subject to their objections within a time frame agreed-upon by counsel.

INTERROGATORY NO. 11. DESCRIBE YOUR acquisition of any **SUBJECT PRODUCTS**. In **YOUR DESCRIPTION, IDENTIFY** the **PERSON** making the acquisition, the **PERSON** from whom the **SUBJECT PRODUCTS** were acquired, the date of the acquisition, and (if purchased) the price of the **SUBJECT PRODUCTS**.

RESPONSE TO INTERROGATORY NO. 11:

Complaint Counsel objects to this Interrogatory as overly broad, vague, and ambiguous in its use of the phrase “Describe Your acquisition of any Subject Products.” Complaint Counsel interprets this phrase to mean how CPSC staff obtained samples of the Subject Products. Complaint Counsel also objects to this Interrogatory to the extent that it seeks information protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege. Complaint Counsel reserves the right to supplement its response with additional information in accordance with 16 C.F.R. § 1025.31(f).

Subject to and without waiver of the foregoing general and specific objections, Complaint Counsel states that the parties have agreed to discuss a possible Stipulation that would moot Interrogatory No. 11. If the parties do not reach agreement on a Stipulation, Complaint Counsel will provide a response to Interrogatory No. 11 subject to their objections within a time frame agreed-upon by counsel.

INTERROGATORY NO. 12. IDENTIFY any reports **YOU** received of any complaints, incidents, injuries, or deaths allegedly related to the **SUBJECT PRODUCTS**.

RESPONSE TO INTERROGATORY NO. 12:

Complaint Counsel objects to this Interrogatory as overly broad, vague, and ambiguous in its use of the undefined term “reports.” Complaint Counsel also objects to this Interrogatory to the extent that it seeks information protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege. Complaint Counsel reserves the right to supplement its response with additional information in accordance with 16 C.F.R. § 1025.31(f).

Subject to and without waiver of the foregoing general and specific objections, Complaint Counsel states that the parties have agreed to discuss a possible Stipulation that would moot Interrogatory No. 12. If the parties do not reach agreement on a Stipulation, Complaint Counsel will provide a response to Interrogatory No. 12 subject to their objections within a time frame agreed-upon by counsel.

INTERROGATORY NO. 13. IDENTIFY any prior recall, corrective action plan, enforcement action, or other notice or matter in which **YOU** directed or requested a subject firm to withhold the provision of refunds to purchasers or consumers; condition the provision of a refund to purchasers or consumers on the recalled product being returned to the subject firm; or withhold or condition the provision of instructions to purchasers or consumers on how to safely dispose of a recalled product.

RESPONSE TO INTERROGATORY NO. 13:

Complaint Counsel objects to this Interrogatory as irrelevant to any issue live and in dispute in the proceedings following the Court's January 19, 2022 Order on Motion to Dismiss and Motion for Summary Decision. Complaint Counsel also objects to this Interrogatory as overly broad, vague, and ambiguous in its use of the phrase "any prior recall, corrective action plan, enforcement action, or other notice or matter." In addition, Complaint Counsel objects to this Interrogatory as overly broad in its lack of time limitation.

Subject to and without waiver of the foregoing general and specific objections, Complaint Counsel states that the CPSC's actions in prior recalls, corrective action plans, or enforcement actions are not relevant to this matter or to any issue live and in dispute in the proceedings.

INTERROGATORY NO. 14. DESCRIBE fully and completely the remedy or remedies you seek with respect to the **SUBJECT PRODUCTS**, beyond the actions already taken by Amazon, and explain why each remedy or remedies would be "in the public interest" within the meaning of 15 U.S.C. § 2064(d)(1).

RESPONSE TO INTERROGATORY NO. 14:

Complaint Counsel objects to this Interrogatory as premature to the extent it seeks Complaint Counsel's "complete[]" contentions relating to remedy at this early stage of the proceeding, and Complaint Counsel reserves the right to supplement its response with additional information in accordance with 16 C.F.R. § 1025.31(f). In addition, Complaint Counsel objects to this Interrogatory to the extent that it seeks information that may depend upon information and documents currently in the possession of Respondent that have yet to be produced in these proceedings. Complaint Counsel also objects to this Interrogatory to the extent it seeks information protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege.

Subject to and without waiver of the foregoing general and specific objections, Complaint Counsel states that the remedies sought in these proceedings include a mandatory order stating that:

1. the Subject Products are substantial product hazards under Sections 15(a)(1), 15(a)(2), and 15(j) of the CPSA, 15 U.S.C. §§ 2064(a)(1), (a)(2), and (j);
 - a. This determination would be in the public interest, as it definitively establishes the hazards posed by the Subject Products.
2. Respondent must ensure that the ASINs relating to the Subject Products remain removed from Amazon's online marketplace, including ASINs for functionally identical products;
 - a. This order would be in the public interest, as it ensures that neither the Subject Products nor functionally identical products are sold through Amazon's online marketplace.

3. Respondent must issue a CPSC-approved direct notice to all consumers who purchased the Subject Products which includes a CPSC approved description of the hazard presented by each Subject Product, and which is different from the notice initially sent by Respondent in that it sufficiently identifies the hazard and encourages consumers to return or destroy the product, with or without an incentive provided to do so;
 - a. This order would be in the public interest, as it clarifies the hazard presented and promotes the removal of the hazardous Subject Products from homes and the stream of commerce.
4. The issuance of a press release, as well as any other public notice documents or postings required by CPSC staff that inform consumers of the specific hazards posed by the Subject Products.
 - a. This order would be in the public interest, as it both clarifies the hazards presented and promotes awareness of the hazardous products.
5. Respondent must facilitate the return and destruction of the Subject Products, at no cost to consumers, under Section 15(d)(1) of the CPSA, 15 U.S.C. § 2064(d)(1);
 - a. This order would again be in the public interest, as it promotes the removal of the hazardous Subject Products from homes and the stream of commerce.
6. Respondent must destroy the Subject Products that are returned to Amazon by consumers or that remain in Amazon's inventory, with proof of such destruction

via a certificate of destruction or other acceptable documentation provided to CPSC staff;

- a. This order would be in the public interest, as it ensures that no inventory of the Subject Products remains to re-enter the stream of commerce.
7. Respondent must provide monthly progress reports to reflect, among other things, the number of Subject Products located in Amazon's inventory, returned by consumers, and destroyed;
 - a. This order would promote the public's interest in tracking the return and destruction of the hazardous Subject Products.
 8. Respondent must provide monthly progress reports identifying all functionally equivalent products removed by Respondent from its online marketplace, including the ASIN, the number distributed prior to removal, and the platform through which the products were sold;
 - a. This order would be in the public interest, as it would facilitate the identification and removal of products posing identical hazards.
 9. Respondent is prohibited from distributing in commerce the Subject Products, including any functionally identical products. *See* CPSA Section 15(d)(2), 15 U.S.C. § 2064(d)(2);
 - a. This order would be in the public's interest, as it subjects Respondent to penalties if Respondent distributes the hazardous Subject Products or functionally identical products.

In addition, the CPSC reserves the right to request an order directing Amazon to take other and further actions as the Commission deems necessary to protect public health and safety.

INTERROGATORY NO. 15. If you contend that the Commission has the authority to enjoin, ban, prevent, prohibit, or constrain a subject firm from offering a refund of the purchase price of a recalled product, **IDENTIFY** all the bases for such contention.

RESPONSE TO INTERROGATORY NO. 15:

Complaint Counsel objects to this Interrogatory as irrelevant to any issue live and in dispute in the proceedings following the Court's January 19, 2022 Order on Motion to Dismiss and Motion for Summary Decision. In addition, Complaint Counsel objects to this Interrogatory as based on a misreading of the remedies it seeks from Respondent in these proceedings as set forth in the Complaint and in Complaint Counsel's response to Interrogatory No. 14. Complaint Counsel also objects to this Interrogatory as calling for a legal conclusion in seeking "the authority" of the Commission to take an action. Complaint Counsel further objects to this Interrogatory to the extent it seeks information protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege.

INTERROGATORY NO. 16. DESCRIBE YOUR consideration, evaluation, or assessment of, and response to, Amazon's proposed Recalls Pledge relating to recalls of products sold by third-party sellers on Amazon.com. In **YOUR DESCRIPTION**, **IDENTIFY** all **PERSONS** involved in such consideration, evaluation, assessment, or response.

RESPONSE TO INTERROGATORY NO. 16:

Complaint Counsel objects to this Interrogatory as irrelevant to any issue live and in dispute in the proceedings following the Court's January 19, 2022 Order on Motion to Dismiss and Motion for Summary Decision. In addition, Complaint Counsel objects to this Interrogatory as overly broad, vague, and ambiguous in its use of the phrase "consideration, evaluation, or assessment of, and response to, Amazon's proposed Recalls Pledge." Complaint Counsel also objects to this Interrogatory to the extent it seeks information protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege.

INTERROGATORY NO. 17. DESCRIBE YOUR consideration, evaluation, or assessment of, and response to, Amazon’s proposed Memorandum of Understanding relating to recalls of products sold by third-party sellers on Amazon.com. In **YOUR DESCRIPTION, IDENTIFY** all **PERSONS** involved in such consideration, evaluation, assessment, or response.

RESPONSE TO INTERROGATORY NO. 17:

Complaint Counsel objects to this Interrogatory as irrelevant to any issue live and in dispute in the proceedings following the Court’s January 19, 2022 Order on Motion to Dismiss and Motion for Summary Decision. In addition, Complaint Counsel objects to this Interrogatory as overly broad, vague, and ambiguous in its use of the phrase “consideration, evaluation, or assessment of, and response to, Amazon’s proposed Memorandum of Understanding.”

Complaint Counsel also objects to this Interrogatory to the extent it seeks information protected by privilege or other protection, including the attorney-client privilege, work product doctrine, or deliberative process privilege.

I, John C. Eustice, declare under penalty of perjury that the foregoing Responses to Respondent's First Set of Interrogatories to Consumer Product Safety Commission are true and correct to the best of my knowledge, information and belief.

Executed on March 21, 2022.



John C. Eustice
Division of Enforcement and Litigation
Office of Compliance and Field Operations
U.S. Consumer Product Safety Commission

For the Objections:

Dated this 21st day of March, 2022

John C. Eustice

John C. Eustice, Senior Trial Attorney
Liana G.T. Wolf, Trial Attorney
Serena Anand, Trial Attorney

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U.S. Consumer Product Safety Commission

CERTIFICATE OF SERVICE

I hereby certify that on March 21, 2022, a copy of the foregoing was served via email upon the following:

Sarah L. Wilson at swilson@cov.com
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Complaint Counsel for
U.S. Consumer Product Safety Commission