



# ALSTON & BIRD

## CPSC Recall Snapshot

A MONTHLY REVIEW OF CONSUMER PRODUCT RECALLS  
AND CIVIL PENALTIES ANNOUNCED BY THE CPSC

September 2017

Welcome to the September edition of the Alston & Bird *CPSC Recall Snapshot*.

Last month, the CPSC announced a nearly \$6 million civil penalty against a U.S. retailer for selling recalled products. According to the civil penalty settlement agreement, the company inadvertently sold approximately 2,800 recalled products during a four-year period. Over that same four-year period, the company sold millions of products. Many have questioned whether the small number of recalled products that slipped through the complex retail network merited such a significant penalty. In fact, Acting Chairman Ann Marie Buerkle voted against the civil penalty and voted in favor of reducing it to \$1 million.

In other news, the CPSC commissioners recently unanimously agreed to remove seven plastics from the requirement of independent third-party testing for compliance with the mandatory phthalates prohibitions on children's toys and child care articles. Specifically, the commission determined that children's toys and child care articles containing polypropylene (PP), polyethylene (PE), high-impact polystyrene (HIPS), acrylonitrile butadiene styrene (ABS), general-purpose polystyrene (GPPS), medium-impact polystyrene (MIPS), and super-high-impact polystyrene (SHIPS) with specified additives would comply with the CPSC's requirements with a high degree of assurance, and thus do not require third-party testing for prohibited phthalates.

Perhaps more interestingly, in a press release addressing this vote by the CPSC, Chairman Buerkle stated that she believes "this is one of the most significant burden reduction steps the CPSC has taken in recent years." She further explained that "reducing unnecessary regulatory burdens is a top priority for me, and I intend to do what I can to accelerate our efforts to reduce regulatory burdens wherever possible." In line with that priority she requested that "CPSC stakeholders ... bring opportunities for burden reduction to my attention. One way to do so is to submit written comments in response to the Commission's Request for Information on Potentially Reducing Regulatory Burdens Without Harming Consumers, 82 Fed. Reg. 27636 (June 16, 2017). The deadline for comments in that proceeding is September 30, 2017."

Click [here](#) to subscribe to the *Snapshot*. For additional information or questions about CPSC issues, please email me at: [jenifer.keenan@alston.com](mailto:jenifer.keenan@alston.com).

Sincerely,



[Jenifer Keenan, Esq.](#)  
Editor

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### Voluntary Recalls Announced by the CPSC in August 2017

#### NUMBER OF RECALLS BY PRODUCT CATEGORY

Child/Infant – 8  
Miscellaneous – 2

Housewares – 5  
Electronics – 1

Vehicle – 3  
Furniture – 1

Apparel – 2  
Sporting Goods – 1

PRODUCT	PRODUCT CATEGORY	ALLEGED HAZARD	REPORTED INJURIES	NUMBER OF PRODUCTS
Pajamas <a href="#">Press Release</a>	Child/Infant	Burn Hazard	0	500
Building Set <a href="#">Press Release</a>	Child/Infant	Choking Hazard	0	2,000
Robe <a href="#">Press Release</a>	Child/Infant	Burn Hazard	0	1,500
Dress <a href="#">Press Release</a>	Child/Infant	Choking Hazard	0	2,800
Baby Rattle <a href="#">Press Release</a>	Child/Infant	Choking Hazard	0	1,500 U.S. 190 Can.
Swimsuit <a href="#">Press Release</a>	Child/Infant	Choking Hazard	0	22,200
Stacking Toy <a href="#">Press Release</a>	Child/Infant	Choking Hazard	0	5,800 U.S. 200 Can.
Romper <a href="#">Press Release</a>	Child/Infant	Choking Hazard	0	6,500
Grill <a href="#">Press Release</a>	Housewares	Fire Hazard	0	2,000

PRODUCT	PRODUCT CATEGORY	ALLEGED HAZARD	REPORTED INJURIES	NUMBER OF PRODUCTS
Plug Head <a href="#">Press Release</a>	Housewares	Electric Shock Hazard	6 (Europe) 0 (U.S.)	6,900 U.S. 360 Can.
Soap <a href="#">Press Release</a>	Housewares	Bacteria Exposure Hazard	0	23,000
Hydrogen Peroxide <a href="#">Press Release</a>	Housewares	Fire/Burn Hazard	0	11,800 U.S. 3,500 Can.
Crawfish Kit <a href="#">Press Release</a>	Housewares	Fire Hazard	0	21,000 U.S. 17 Can.
Off-Highway Vehicle <a href="#">Press Release</a>	Vehicle	Crash Hazard	0	1,600
All-Terrain Vehicle <a href="#">Press Release</a>	Vehicle	Crash Hazard	2	2,800
All-Terrain Vehicle <a href="#">Press Release</a>	Vehicle	Fire Hazard	0	15,000
Boot <a href="#">Press Release</a>	Apparel	Benzidine Exposure Hazard	0	30,000 U.S. 900 Can.
Boot and Shoe <a href="#">Press Release</a>	Apparel	Injury Hazard	1	7,200
Vaporizer <a href="#">Press Release</a>	Miscellaneous	Fire Hazard	0	400
iPhone Case <a href="#">Press Release</a>	Miscellaneous	Skin Irritation/ Burn Hazard	19 (U.S.)	263,000 U.S. 11,400 Can. 400 Mex.
Cellphone Battery <a href="#">Press Release</a>	Electronics	Fire/Burn Hazard	0	10,200
Furniture <a href="#">Press Release</a>	Furniture	Injury/Laceration Hazard	4	9,400 U.S. 300 Can.
Mountaineering Boot <a href="#">Press Release</a>	Sporting Goods	Fall Hazard	0	3,900 U.S. 500 Can.

**Civil Penalties Announced by the CPSC in August 2017.**

PRODUCT	PRODUCT CATEGORY	BASIS FOR PENALTY	CIVIL PENALTY AMOUNT
Various Products <a href="#">Press Release</a>	Various	Knowing sale and distribution of recalled products from 33 separate voluntary corrective actions.  The knowing sale occurred between August 2012 and November 2016 and involved approximately 2,816 recalled products. The reported hazards of the recalled products included fire hazards, laceration hazards, and electrocution and shock hazards.	\$5.7 million

Alston & Bird helps companies navigate the CPSC's complex regulations—from testing, to labeling, to recalls—and everything in between. We also help companies monitor and respond to complaints submitted to the CPSC's consumer complaint database, [www.SaferProducts.gov](http://www.SaferProducts.gov). For additional information or questions about recalls, the SaferProducts.gov database or other CPSC issues, please email [jenifer.keenan@alston.com](mailto:jenifer.keenan@alston.com) or visit the firm's website at [www.alston.com](http://www.alston.com).

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