

CPSC Recall Snapshot



A monthly review of consumer product recalls and civil penalties announced by the CPSC

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

There have been two significant updates on matters that we have reported on in recent months.

1) Expansive Compliance Program Required in 2nd Settlement for Untimely Reporting

As with the Kolcraft settlement we reported on last month, the newest settlement for untimely reporting of a substantial product hazard announced by the CPSC included not only a civil penalty, but the establishment of an expansive compliance program as well. Although the Kolcraft settlement involved a children's product, and the newly announced settlement with Williams-Sonoma involved a hammock intended for adults, the compliance programs that must be established under the settlement agreements are identical. Thus, regardless of whether a company is involved in children's products or housewares intended for adults (or presumably any other type of consumer product), the CPSC has signaled that it expects a company's compliance program to have the following elements:

1. written standards and policies,
2. a mechanism for confidential employee reporting of compliance related questions to a compliance officer or to other senior manager,
3. training on company compliance-related policies and procedures to all employees,
4. a senior manager responsible for compliance,
5. board oversight of compliance (if applicable), and
6. retention of all compliance-related records for at least five years.

2) CPSC Allowed to Add CEO In Suit to Force Mandatory Recall

In the February Snapshot, we reported that the CPSC had filed suit against several manufacturers of high-powered magnet sets seeking to have the products declared "substantial product hazards" so that it may to force a recall of the products. In February, the CPSC amended its complaint against Maxfield & Oberton to name the dissolved company's former CEO as a defendant, both "individually and in his capacity as CEO." Although the former CEO argued that he should not be added to the suit because he could not be held individually accountable for violations under the CPSA, the administrative law judge found that the allegations against the CEO were sufficient to add him to the suit. In support of his ruling, the judge noted that other courts had found that corporate officers could be held individually liable under other public health and safety laws.

We hope you find the *Snapshot* of last month's recalls a useful tool in keeping up-to-date on the activities of the CPSC. We also invite you to check out our [Products Liability Blog](#), which features important updates on CPSC and products liability issues.

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

Sincerely,

Jenifer Keenan, Esq.
Editor

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May 2013

Voluntary Recalls Announced by the CPSC in April 2013

NUMBER OF RECALLS BY PRODUCT CATEGORY

Child/Infant – 11
Tools/Hardware – 2

Housewares – 4
Apparel – 1

Sporting Goods – 3
Appliance – 1

Furniture – 2
Yard Equipment – 1

PRODUCT	PRODUCT CATEGORY	ALLEGED HAZARD	REPORTED INJURIES	NUMBER OF PRODUCTS
Clothing Set Press Release	Child/Infant	Entrapment Hazard	0	9,200
Footed Clothing Press Release	Child/Infant	Choking Hazard	0	218,000
Dungarees Press Release	Child/Infant	Choking Hazard	0	1,900
Farm and Safari Toy Press Release	Child/Infant	Choking Hazard	0	4,000
Infant Flatware Press Release	Child/Infant	Choking/Ingestion Hazard	0	4,000
Helicopter Toy Press Release	Child/Infant	Fire/Burn Hazard	0	9,400
Plush Doll Press Release	Child/Infant	Choking Hazard	0	2,500
Ride-on Toy Press Release	Child/Infant	Fall Hazard	0	8,900
Socks Press Release	Child/Infant	Choking Hazard	0	33,000
Socks Press Release	Child/Infant	Choking Hazard	0	5,000
Tricycle Press Release	Child/Infant	Crash/Fall Hazard	0	5,040
Cookware Press Release	Housewares	Laceration Hazard	6	148,700
Magnet Set Press Release	Housewares	Ingestion Hazard	0	60
Magnet Set Press Release	Housewares	Ingestion Hazard	0	539
Magnet Set Press Release	Housewares	Ingestion Hazard	0	3,000,000 (Since 2010)
Bicycle Press Release	Sporting Goods	Loss of Control Hazard	1	623 U.S. 53 Can.
Diving Hose Press Release	Sporting Goods	Drowning Hazard	0	200

PRODUCT	PRODUCT CATEGORY	ALLEGED HAZARD	REPORTED INJURIES	NUMBER OF PRODUCTS
Handgun Vault Press Release	Sporting Goods	Lock Malfunction	0	3,900 U.S. 100 Can.
Chandelier Press Release	Furniture	Electric Shock Hazard	0	2,100 U.S. 100 Can.
Floor Lamp Press Release	Furniture	Injury/Shock Hazard	0	900
Data Cable Press Release	Tools/Hardware	Fire Hazard	0	11,300
Propane Cylinder Press Release	Tools/Hardware	Fire Hazard	0	7,500
Heated Jacket Liner Press Release	Apparel	Burn Hazard	2	9,900
Freezer Press Release (Original recall in Nov. 2010)	Appliance	Fire Hazard	0	41,000 (67,500 in original)
Lawn Mower Press Release	Yard Equipment	Fire Hazard	0	2,100

The CPSC did not announce any civil penalties in April.

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 new consumer complaint database, www.SaferProducts.gov. For additional information or questions about recalls, the [SaferProducts.gov](http://www.SaferProducts.gov) database or other CPSC issues, please email jenifer.keenan@alston.com or visit the firm's website at <http://www.alston.com>.

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Editor

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