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Recalls in Review: Crib Recalls

January 2020

It’s hard to miss news headlines lately noting CPSC actions involving infant reclined sleepers. In today’s installment of “Recalls in Review,” we look back at CPSC regulatory action involving a similar baby product – infant cribs.

Approximately 110 recalls of cribs have been conducted since 1978. As you can see in the chart above, CPSC recalls of cribs saw a dramatic increase in 2008 (12 recalls that year) and spiked in 2010 (20 recalls that year). The increase shows the lead-up to the implementation of improved federal safety standards (16 CFR 1219 and 16 CFR 1220) enacted in June 2011 which prohibited the manufacture and sale of drop-side rail cribs, among other added safety requirements. During 2008, the most common reason for the recall was a failure to meet minimum side-height requirements of 26 inches. During 2010, the majority of recalls were due to drop-side hardware that could break or fail, posing entrapment and fall hazards. Other reasons for recalls over the years have included loose or breaking slats and spindles, chipping paint, gaps between the sides and mattress, and faulty or inadequate mattress support causing the mattress to fall. There have been no recalls of cribs since 2015.

As for post-recall enforcement, there have been five civil penalties brought against crib manufacturers and retailers, with civil fines ranging from $175,000 to $1.3 million.
Recalls in Review: Stroller Recalls

February 2020

If you manufacture or sell strollers—or use a stroller to transport children under your care—headlines regarding CPSC litigation over the Britax BOB jogging stroller are likely fresh in your memory. In today’s installment of “Recalls in Review,” we look back at CPSC regulatory actions involving strollers.

The CPSC very actively regulates and monitors strollers – approximately 80 recalls of strollers have been conducted since 1977, with 64 of those recalls occurring since 2000. As you can see from the below chart, there is no focus on one key hazard or category, but all aspects of stroller safety are on the agency’s radar: wheels, brakes, handle bars, hinges, locking mechanisms, and seats.

The number of stroller recalls rose substantially between 2010 and 2013, leading up to a mandatory federal safety standard for strollers implemented in March 2014 (16 CFR 1227). The new standard attempted to address many of the common reasons for stroller recalls between 2010-2013, including: pinching and laceration of fingers by strollers’ hinge mechanisms, detaching wheels, defective brakes, and restraints that posed a strangulation hazard or could be undone, allowing a child to slip through the gap between the seat and the tray or grab bar.

Three civil penalties have been enforced against stroller manufacturers and retailers, ranging from $100,000 in to $1.3 million. The last civil penalty fine was levied in 2001.

![Stroller Recalls - 2000-Present](image1)

![Parts Involved in Stroller Recalls](image2)
Recalls in Review: Child-Resistant Packaging

June 2020

In 2020, the Commission significantly ramped up its monitoring of products for compliance with special packaging safety standards (16 CFR § 1700), resulting in a jump in recalls for failure to meet those standards. The CPSC has conducted at least 62 recalls for failure to meet the child-resistant packaging requirements since 2011—including 23 recalls in 2020 alone. There appears to be a recent enforcement focus on essential oils containing methyl salicylate.

![Number of PPPA Recalls: 2011-Present](chart)

A review of the recalls shows that the recalls tend to focus on products involving a few specific substances which trigger the child-resistant packaging requirements. Most of the recalls from 2020 involved products containing methyl salicylate, commonly used to treat muscular pain, while most recalls between 2017 and 2019 involved products containing lidocaine, commonly used as a numbing agent.

![Substance Triggering 16 CFR 1700 Requirements: 2011-Present](pie_chart)

All but one of the products recalled in 2020 that contain methyl salicylate are essential oils. The other products recalled this year contain iron, lidocaine, and sodium hydroxide. Twenty-two of the twenty-three recalls were conducted despite having no reported incidents involving consumers.
Recalls in Review: Recall Trends in 2020

July 2020

The Commission has conducted 145 total recalls in the first half of 2020. As is usually the case, the types of products recalled have varied widely, including ceiling fans, cleaning products, furniture, inclined sleepers, portable generators, pajamas, and strollers. But some product categories have appeared multiple times, including: Dressers and Drawer Chests, Essential Oils, and Recreational Vehicles such as ATVs, UTVs, and Golf Carts.

In 2020 so far, Dressers, Drawer Chests, and Essential Oils have seen an increase in number of recalls as compared to recent years. Recreational Vehicles have historically been highly regulated, however, and the rate of recalls conducted in 2020 is comparatively similar to past years.

Reviewing the recall announcements shows that risk of poisoning was the most common hazard addressed by recalls in the first half of the year. As mentioned in our previous post on child resistant packaging recalls, over 20 recalls have been conducted this year due to failure to meet the requirements of the Poison Prevention Packaging Act (PPPA) with a recent emphasis on essential oils containing methyl salicylate (wintergreen oil). This recent rise in recalls correlates with at least one consumer advocate helping the CPSC identify wintergreen oil products in violation of PPPA requirements by reporting at least 45 such products through saferproducts.gov.

The second most common hazard driving recalls this year has been a burn or fire hazard. Product types recalled due to a burn or fire risk include some recreational vehicles, home appliances, lamps, personal electronics, and apparel and mattresses. Consumers and retailers should continue to carefully monitor products that may pose these common types of risks.
A review of the data shows that children’s product recalls represent a smaller proportion (19%) of the total number of 2020 recalls as compared to recent years—24% in 2019, 20% in 2018, and 33% in 2017. The number of children’s product recalls did not rise proportionately with the total number of recalls in March, April, or July. Despite the numbers from the first half of the year, recalls for children’s products could certainly increase in the months ahead as back-to-school supplies and holiday toys begin to hit the market.
Recalls in Review: Bicycle and Bicycle Part Recalls

August 2020

Certain products, like toilet paper and disinfectant, flew off of store shelves when the country began responding to the current COVID-19 pandemic. In recent months, new and used bicycles have become one of the next “must have” items as people look for socially distant activities and alternative modes of transportation.

The CPSC has regulated bicycles and their component parts since the 1970s. Just last month, the Commission published a Safety Alert regarding bicycle handle bars—warning consumers to inspect their bicycle handlebars for sharp, exposed metal ends, which can pose a serious impalement hazard. At least six impalement deaths and 2,000 emergency room visits between 2000 and 2019 are linked to bicycle handlebars, according to the alert. Plastic or rubber grips on the ends of bicycle handlebars can prevent those injuries and CPSC’s regulation requires handlebar ends to be capped or otherwise covered.

The CPSC has conducted 253 recalls of bicycles and bicycle parts since 2001.[1]

![Bicycle and Part Recalls Over Time: 2001-Present](image)

CPSC recalls are generally for a specific component part of a bicycle, not the vehicle as a whole, and dozens of different parts have been subject to CPSC-recalls over the years. The most common parts at issue include forks, handlebar components, frames, and braking system components. Together, these four categories account for 60% of the 253 total recalls that have occurred since 2001. Consumers and retailers should carefully monitor these bicycle parts to ensure proper functioning before use or sale.

Unsurprisingly, the recalls have been targeted towards preventing loss of control, falls, crashes, and injuries. Only four recalls have been conducted for a different reason—all four due to fire hazards posed by bicycle lights or the batteries in e-bikes and propulsion systems.
Although recalls of “general use” bicycles are common, recalls of children’s bicycles are not. Only thirteen recalls since 2001 have involved children’s bicycles (approximately 5%). The last recall of a children’s bicycle occurred in 2017 and most occurred prior to 2010.

The typical remedy for a bicycle-related recall is free replacement and installation of the part at issue, or entire bike, if necessary. Other common remedies include repair, refund, or store credit. In cases where the bicycle or part manufacturer has gone out of business, it has been left to the bicycle dealers to determine what remedy is available to consumers and the cost of that remedy.
Recalls in Review: Bicycle Helmets

August 2020

As bicycles become a go-to social distancing option for consumers, we turn our attention in this Recalls in Review segment to an associated (and also closely regulated) product—bicycle helmets. The CPSC mandates that all bicycle helmets manufactured or imported since March 17, 1995 meet the standard set forth in 16 CFR Part 1203.1(c). This mandatory standard covers bicycle helmets and multipurpose helmets that can be used when riding a bicycle. The standard does not cover helmets marketed for exclusive use in another designated activity, such as baseball or skateboarding. (16 CFR Part 1203.4(b)).

The Commission has conducted 26 bicycle helmet recalls, with the first occurring in 1995 and the latest just last week. CPSC attention to helmets remains fairly steady over time, with at least one recall most years, and no significant enforcement “spikes” at any point.

Seventy-seven percent of all bicycle helmet recalls were conducted due to a failure to meet the requirements of the federal safety standard, according to the CPSC.gov recall announcements. Most of the helmets failed to meet the impact requirements, though some recall announcements failed to specify why the helmets failed to meet the safety standard.

Fifteen percent of the bicycle helmet recalls involved alleged defects with the helmet’s chin strap. Two recalls were conducted because the chin strap buckle could release in an accident, one because the chin strap itself could fail, and another because the chin strap contained small plastic pieces and magnets that could come loose. For a helmet to provide protection during an impact, it must have a chin strap and buckle that will stay securely fastened.

Most bicycle helmet recalls were conducted despite no reported incidents involving the product (84%). Unsurprisingly, all but one of the recalls were aimed at preventing head injuries. The remaining recall was conducted to prevent choking and magnet ingestion hazards posed by small plastic pieces and magnets that could come loose from the chin strap.
In a prior Safety Alert, the Commission has urged consumers to examine helmets carefully and to look for a label stating that the helmet conforms with the CPSC standard. Although bicycle helmets cannot prevent concussions, CPSC compliant helmets can reduce the risk of head injuries during a fall. A bicycle helmet should have a snug but comfortable fit on the rider’s head. Neither twisting nor pulling should be able to remove the helmet or loosen the buckle on the chin strap.

Consumers should also keep themselves up to date on helmet recalls and follow instructions for replacement or refund when necessary. A replacement helmet, or consumer choice between replacement and refund, are the typical remedies offered by recalling firms. Less often, the remedy may be limited to a refund or store gift card.
Recalls in Review: Electric- and Gas-Powered Scooters

September 2020

Electric scooters have taken American cities by storm as micromobility companies expand to meet consumer demand for more convenient transportation options. As with bicycles, scooters have become a go-to option for consumers who are seeking socially distant activities and modes of transportation amid the COVID-19 pandemic.

The regulation landscape for powered scooters is still being charted. Although a federal safety standard which addresses electrical systems and lithium-ion batteries in personal e-mobility devices (ANSI/CAN/UL 2272) exists, there is no corresponding safety standard for regulating the overall operational, mechanical, or electrical safety aspects of powered scooters. Additional standards may be promulgated in the near future, however. The American Society for Testing and Materials (ASTM) Consumer Products Subcommittee on Powered Scooters and Skateboards (F15.58) has begun developing a proposed standard intended to minimize the common hazards associated with use of commercial electric-powered scooters by adults.

Given the lack of a mandatory federal safety standard for powered scooters, it is unsurprising that recalls of powered scooters were infrequent in the first two decades that the products were on the market. The Commission has conducted 34 total recalls of powered scooters. Only nine of the recalls occurred between 1996 and 2015. The small enforcement “spike” in 2005 corresponds with CPSC efforts to track emergency-room visits related to powered scooters. At least 10,015 emergency room-treated injuries occurring between July 2003 and June 2004 were related to powered scooters. Recalls increased dramatically as hoverboards (also referred to as “self-balancing” electric scooters) were introduced to the market. Fourteen recalls of powered scooters were conducted in 2016 alone, closely followed by another ten recalls in 2017.

Hoverboards are the most frequently recalled type of scooter with 21 hoverboard recalls to date. All of these recalls occurred in 2016 or 2017 and were related to the vehicle’s lithium-ion battery pack potentially overheating, posing a risk smoke, fire, or explosion. The CPSC Office of Compliance has previously stated that the Commission considers hoverboards that do not meet the applicable voluntary standards (UL 2272 and UN/DOT 38.3) to be defective products that may pose a substantial product hazard to consumers. All manufacturers, importers, distributors, and retailers of hoverboards (and other powered scooters) should review their product lines to ensure that their products comply with the voluntary standards.

Recalls for traditional electric-powered scooters have been conducted for a wide variety of reasons, including: failure of the break caliper, improper wiring and wire insulation, and breakage of the weld that connects the handlebars to the scooter frame. Motor scooters, gas-powered scooter vehicles upon which a user sits, and water scooters have each been the subject of two recalls. The motor scooter recalls were conducted because the scooters would accelerate suddenly while in use. The
water scooter recalls were conducted because hydrogen gas could build up in the battery compartments and cause the battery cover and battery package to forcefully expel from the scooter.

Powered scooters, and hoverboards in particular, have become a popular choice for winter holiday gifts. Consumers should keep themselves up to date on powered scooter recalls as the holidays approach, and follow instructions for replacement or refund (and proper disposal methods) if necessary. Replacement, refund, and store credit are the typical remedies offered by recalling firms. Less often, the remedy may be limited to repair by a dealer or providing a repair kit to the consumer.
Recalls in Review: Lithium-ion Batteries

November 2020

If you have ever owned a laptop or hoverboard self-balancing scooter, you’ve likely seen numerous headlines about the lithium-ion batteries overheating, melting, or igniting. We recently wrote about ways in which companies can mitigate risks and execute recalls related to lithium ion batteries. In today’s installment of “Recall’s in Review,” we look back at CPSC regulatory actions involving lithium-ion batteries.

The batteries have become a highly regulated product over the last several years. The Commission has conducted at least 64 recalls involving lithium-ion batteries since 2006. The number of recalls rose substantially in 2016 and 2017, many of which were related to the rechargeable lithium-ion batteries inside hoverboards and laptop computers. The Commission took a more active role in warning consumers about the hazards posed by the batteries after two incidents of overheating lead to serious house fires in March and October of 2017.

Only one civil penalty relating to lithium-ion batteries has been issued by the Commission, in early 2012. The manufacturer was fined $425,000 for failure to timely report that certain lithium-ion battery packs could overheat.

Rechargeable lithium-ion batteries are used in a wide variety of products. Although a large proportion of the relevant recalls involve hoverboards and laptop computers, we have also seen recalls for the batteries included in: external battery packs and chargers, smart phones, cameras, flashlights, lanterns, powered furniture, heated clothing, car jump starters, and more. Consumers should check products with rechargeable batteries to determine the type of battery and keep an eye on any products with lithium-ion batteries.

Nearly all of the 64 recalls were conducted due to potential for the batteries to overheat, melt, or burst, posing fire and burn hazards to consumers. One recall cited a potential for fire without providing a reason, and one other recall provided that the risk of fire was caused by conductive foreign material being mixed into the battery cell during manufacturing.
Recall announcements vary as to whether they include instructions regarding how to dispose of the battery. Many indicate that the product (or battery) should be returned in exchange for a replacement product or refund. A handful indicate that the batteries should be disposed of according to state and local laws. The most common remedy offered by recalling firms is a replacement product or battery, followed by a refund or store credit. Less often, the remedy may be limited to a free repair.
Recalls in Review: IoT Products

December 2020

“Smart” homes and personal electronic devices are no longer a futuristic ideal. Millions of internet-connected phones, TVs, wearable fitness trackers, home security devices, home appliances, and digital assistants are in use in the United States today. The internet of things (“IoT”) is the use of network sensors in physical devices to allow for remote monitoring and control. These devices have made great strides in making our lives more convenient. But interconnectivity and data collection can also have serious security and privacy implications.

Despite the dramatic increase in the number of IoT products purchased by American consumers over the past few years, the law is slower in addressing any potential hazards posed by IoT technologies. However, we expect to see more IoT product-related regulations enacted at the federal level over the next few years. We recently wrote about the new Internet of Things Cybersecurity Improvement Act, which was signed into law on December 4, 2020. The legislation charges the National Institute of Standards & Technology (NIST) with drafting and finalizing security requirements for IoT devices.

In today’s installment of “Recalls in Review,” we look back at CPSC regulatory actions involving IoT products. The Commission has conducted approximately 22 recalls involving IoT products since 2014. Only one recall of an IoT product has been conducted to date in 2020, despite the increase in both the number of such products on the market and the amount of time consumers have spent at home in response to the COVID-19 pandemic.

A wide variety of “every day” consumer products have been adapted to enable connectivity. We have seen recalls for home safety and convenience devices, such as smoke alarms and thermostats, laptop computers, wireless speakers and headphones, smartphones and smart TVs, wireless activity trackers, and even a pressure cooker. We may see the number of IoT product recalls increase over the next several years as legislation and regulations governing the devices are enacted and more types of products are adapted to enable connectivity.
Fourteen of the IoT product recalls were conducted because the products posed fire or burn hazards to consumers, which is a common cause of recalls of electronic devices. Several of these recalls involved lithium-ion batteries that had the potential to overheat or melt. Consumers should continue to check products with rechargeable batteries to determine the type of battery and keep an eye on any products with lithium-ion batteries. Additionally, three recalls were conducted due to tip-over hazards and another two were conducted due to a risk of electric shock. A replacement product or part is the typical remedy offered by recalling firms. Less often, the remedy may be limited to a free repair or a refund.

*Based on data from CPSC.gov
Recalls in Review: Candles and Candle-Related Products

January 2021

As winter temperatures continue to drop and we’re all looking for a way to feel cozy, many Americans reach for candles as a way to bring some light into their homes during these dark months. We don’t need to detail why candles — hi, open flames and hot wax! — regularly attract the CPSC’s attention in their mission to keep consumers safe. In today’s installment of “Recalls in Review,” we look back at CPSC regulatory actions involving both candles and candle-related products.

The Commission has conducted at least 115 recalls of candles and candle-related products since 2001. The recall data available on the CPSC.gov website reveals a small enforcement “spike” that occurred between 2005 and 2008, followed by a fairly steady number of recalls nearly every year since 2008.

Three civil penalties relating to candles and candle-related products have been issued by the Commission, the most recent of which was in 2008. The civil penalty fines ranged from $100,000 to $500,000.

Our analysis found various types of candle-related recalls: only half of the recalls involve concerns with the candles themselves, while the rest are caused by issues with the vessel or container into which a candle is poured, or problems presented by candle accessories such as candle holders or wax warmers.

Most often, candles are recalled due to the height of the candle’s flame. Problems can also be caused by decorative objects added to the candle wax during manufacturing as well as paint, glitter, or other surface coatings on the candle.

Twenty percent of the relevant recalls involve an issue with the container that the candle was poured into, such as a ceramic or glass bowl or a metal tin. Twenty-six percent of recalls involve separate holders into which candles can be placed. For example, taper candle holders were recalled just last month due to a concern that the holders could catch fire if they came into contact with a candle’s flame. Other recalled accessories include candle lighters, candle charms, and paper candle shades.
Unsurprisingly, nearly ninety percent of the relevant recalls address fire or burn hazards. The Commission recently published news releases in November and December of 2020 reminding consumers to never leave burning candles unattended. The other ten percent of recalls address laceration hazards. The laceration recalls all involve glass candle holders and candles in glass jars, which could crack, break, or shatter. Only one candle related recall since 2001 was conducted to address a hazard other than fire, burn, or laceration – that 2008 recall was of candle pendants and charms, which had been sold both separately and on candles, due to excessive levels of lead.

The most common remedy offered by recalling firms is a refund or store credit. Less often, the remedy may be limited to a replacement product or instructions regarding safe use of the product. However, four of the recalls provided no remedy for consumers. In those instances, the recalling firms simply urged consumers to dispose of the products.
Recalls in Review: Power Tools

February 2021

Extended time spent at home over the past year has encouraged many Americans to update, redecorate, and renovate their living spaces. As more people choose to “DIY” their home renovations in lieu of hiring professional services, we turn our attention in this Recalls in Review segment to CPSC regulatory actions involving power tools.

The CPSC has regulated power tools at a fairly consistent rate since the 1990s, conducting at least 93 recalls of power tools since 2001. The recall data reveals small enforcement “spikes” occurring in 2004, 2005, and 2009, followed by a fairly steady recall frequency until 2018.

The Commission has issued four civil penalties relating to power tools. Three of the penalties were imposed due to the firms’ failure to timely report to the CPSC after receiving information reasonably supporting the conclusion that their product contained a defect which could create a substantial risk of injury to the public, presented an unreasonable risk of serious injury or death, or violated a federal safety standard. The fines ranged from $100,000 to $800,000. The most recent civil penalty was for $5.7 million in 2017 for the sale of nearly three thousand units of previously recalled consumer products.

Numerous types of power tools have been recalled over the years. The most commonly recalled category of power tool are saws, including circular saws, table saws, chain saws, and miter saws. Nearly all of the saw recalls have been aimed at addressing a risk of laceration or injury. However, a few saws were recalled due to a risk of electric shock related to exposed or damaged wiring. Drills and drivers are the next most commonly recalled category of power tools, followed by air compressors, nailers, sanders, and grinders. Drill recalls typically address problems with the trigger switch, which can pose various injury, shock, and fire hazards.

The hazards addressed by power tool recalls are not surprising. Thirty percent of all power tool recalls address laceration hazards, twenty-eight percent address fire or burn hazards, and twenty-seven percent address "injury" hazards. The remaining fifteen percent of the recalls address shock or electrocution hazards. Perhaps more interesting, over one-third of all power tool recalls since 2001 were conducted despite having no reported incidents involving consumers.
Consumers should keep themselves up to date on power tool recalls and follow instructions for repair or replacement when necessary. The most common remedy for a power tool recall is free repair of the defective product (or component part). Less often, the remedy may be limited to receiving a replacement product (or component part), refund, store credit, or new instructions.
Recalls in Review: Exercise Equipment

March 2021

The demand for consumer exercise equipment soared over the past year as Americans sought out ways to stay in shape while spending more time at home. As more Americans create their own “home gyms” and purchase exercise equipment such as stationary bikes, treadmills, weights, and resistance bands, we will likely see an increase in the number of injuries typically associated with such products. According to CPSC Spokeswoman Patty Davis, treadmill injuries were already common before the start of the coronavirus pandemic: an estimated 22,500 treadmill-related injuries were treated at emergency rooms in the U.S. in 2019 alone.[1]

Like many other consumer products, the CPSC has regulated exercise equipment at a fairly consistent rate since the 1990s. At least 82 recalls of exercise equipment have been conducted since 2000, with only one slight enforcement “spike” occurring in 2006. Unlike the enforcement spikes we have observed for other products—such as hoverboards in 2016 and essential oils in 2020—the Commission’s recall efforts in 2006 targeted a wide variety of exercise equipment rather than a single product.

Just last month, the CPSC issued a civil penalty of $7.95 Million against Cybex International—which is the largest civil penalty related to exercise equipment to date. According to the settlement agreement, Cybex failed to timely report known defects or risks for two different products after receiving numerous consumer complaints. The CPSC has issued eleven total civil penalties related to exercise equipment. All of the penalties were issued due to the firms’ failure to timely report a known defect or risk to the CPSC. The fines for the remaining ten civil penalties involving exercise equipment are somewhat dated and ranged from $100,000 to $3,000,000.

Exercise equipment recalls have targeted a wide variety of equipment over the years. The most frequently recalled type of equipment is weights-based strength training equipment—ranging from large exercise towers to weightlifting bars to dumbbells. Other frequently recalled types of exercise equipment include mini- and full-sized trampolines, treadmills, elliptical and glider machines, resistance bands and tubes, and exercise or weight benches.

According to information provided by the CPSC recall announcements, approximately forty-one percent of exercise equipment recalls address a fall risk. And this makes sense—many exercise machines and towers are quite large and need to be able to support a user’s body weight without breaking, collapsing, or falling over. Similarly, approximately thirty-five percent of recalls address unspecified injury risks.

A smaller number of the recalls address a risk of laceration (10%), fire (6%), impact injuries (4%), and crushing or amputation (3%). The recalls addressing a risk of fire all involve electrically-powered cardio machines, such as treadmills, ellipticals, and a step climber. Only one recall of exercise equipment conducted since 2000 has addressed a violation of the lead paint standard.
Consumers who keep exercise equipment in their home—or who use such equipment in a gym setting—should stay up to date on product recalls and follow any applicable recall instructions to avoid potential injury. The most common remedy offered by recalling firms is a free replacement product (or relevant product component).

Unlike many other consumer products, exercise equipment can be particularly bulky and difficult to transport in the event of a recall. Accordingly, recalling firms frequently elect to send consumers a repair kit to fix their equipment at home, provide free “on site” repair of the equipment, or simply provide consumers with new instructions and warnings regarding how the product should be operated. Less often, the remedy may be limited to refund or store credit.

Recalls in Review: Lead-Related Recalls

April 2021

As people increasingly turn to online shopping over traditional brick-and-mortar stores, consumers, safety advocacy groups, and regulators alike have begun to pay more attention to the authenticity and safety of products. One particular concern is the presence of lead in consumer products, which is toxic if ingested and can cause adverse health issues.

The Consumer Product Safety Commission has regulated lead in consumer products since the 1970s. However, the Commission’s ability to regulate lead in children’s products was strengthened in 2008 with the enactment of the Consumer Product Safety Improvement Act (“CPSIA”). CPSIA Section 101 limits lead content in accessible component parts of children’s products (15 U.S.C. § 1278a). Section 101 and CPSC regulations (16 CFR Part 1303) also govern the use of lead in paints and other surface coatings on all children’s products and certain furniture products. Movable pieces of furniture that contain surface coatings—such as beds, bookcases, and chairs—are covered by the regulation.

The CPSC very actively regulates and monitors products for violations of the federal safety standards regarding lead. Nearly four hundred lead-related recalls have been conducted, with 317 of those recalls occurring since 2001. As you can see from the below chart, the Commission paid great attention to excessive levels of lead in consumer products from 2006 to 2010. The steep increase in lead-related recalls resulted in the enactment of the CPSIA in 2008.

Shockingly, the issue of lead in children’s products persists despite aggressive Commission action and strong congressional mandates. In just the first two months of 2021, the CPSC issued 16 notices of violation for excess lead in children’s products. Most of those actions involved publication of the product at issue as well as an immediate stop sale and agreement to correct future production but did not involve a consumer level recall.

Although not nearly as drastic as the last “enforcement spike,” the Commission may be turning its focus towards lead in consumer products once again. Nine lead-related recalls were conducted in 2020, which is up from only one such recall in 2019, six in 2018, and four in 2017. This increase occurred despite a sharp reduction in the overall number of toys recalled in fiscal year 2020—discussed in a November 2020 CPSC News Release.

Lead-related recalls have targeted a wide variety of products over the years. Unsurprisingly, the most commonly recalls product types include toys (37%) and children’s jewelry (25%). Other more frequently recalled product types include furniture, clothing, sports equipment, and art supplies.

According to information provided by the CPSC recall announcements, seventy percent of the recalls address violations of standard for lead in paint and surface coatings and thirty percent address violations of the standard for total lead content. In addition to addressing lead paint violations, one 2006 recall also addresses a laceration hazard and a 2014 recall addresses choking and injury hazards.
The public can monitor children’s product recalls on CPSC.gov or SaferProducts.gov for violations of the federal lead standards. According to the CPSC recall announcements, the vast majority of products (97%) are recalled despite having no reported incidents involving consumers. Of the ten recalls that had reported incidents involving consumers, six involved reports of elevated blood-lead levels in children, two involved reports of lead poisoning, and two involved reports of the product breaking.
Recalls in Review: Mattress Recalls

May 2021

As more communities lift pandemic-based restrictions on travel and social gathering sizes, Americans will increasingly begin moving homes and renovating furnished rental and guest rooms—which often includes replacing older mattresses. Historically, mattresses were highly flammable and contributed significantly to house fires, leading Congress to address the safety concern through its enactment of the Flammable Fabrics Act (FFA) in the 1970s.

Through the FFA, the Consumer Product Safety Commission has authority to regulate mattresses and mattress pads, including setting a federal flammability standard (16 C.F.R. § 1632), which was promulgated in 1973 to require ignition resistance of mattresses and mattress pads to smoldering cigarettes. The standard applies to mattresses—including traditional mattresses of all sizes, crib mattresses, futons, mattresses in sleeper sofas and campers, and water bed and air mattresses containing upholstery materials—and mattress pads and covers. The federal Standard for the Flammability (Open-Flame) of Mattress Sets (16 C.F.R. § 1633), which became effective in 2007, was designed to increase the time that consumers have to discover and escape bed fires by limiting the size of the fire generated by a mattress set. Mattresses must meet the performance, labeling, and record keeping requirements of both standards as applicable before the products can be entered into commerce in the United States.

Crib and children’s mattresses and mattress pads are subject to several additional substantive requirements, such as lead content limits under the Federal Hazardous Substances Act and the lead limits in surface coatings and phthalate content limits under the Consumer Product Safety Act (“CPSA”). Crib and children’s mattresses and mattress pads must also be tested for compliance by a CPSC-accepted third-party laboratory, be supported by a Children’s Product Certificate, and bear a children’s product tracking label. Additionally, all mattresses that contain previously used stuffing are required to bear a tag or label indicating that all or part of the stuffing is previously used, under the Textile Fiber Products Identification Act. Individual states may also impose additional labeling requirements.

A review of recall history indicates that the CPSC did not really begin wielding its enforcement authority regarding mattresses until the mid-1990s. Since that time, approximately 40 recalls of mattress and mattress-related products have been conducted, with thirty-eight of those recalls occurring in the last fifteen years alone. Enforcement has generally increased since 2005 and peaked in 2015 with seven total recalls occurring that year.

Mattress-related recalls have targeted several different types of mattresses and mattress pads. The most commonly recalled product types are “traditional” mattresses (including spring, foam, and unspecified mattresses, 47%), crib mattresses (20%), and folding foam-based mattresses (12%). Other recalled product types include the mattresses and cushions from sofa beds, foldable mattresses within ottoman beds, a mattress pad, a mattress cover, and an air mattress.
According the information provided by the CPSC recall announcements, approximately eighty-two percent of mattress-related recalls address the risk of fire posed by failure to meet one of the flammability standards for mattresses. Forty-seven percent of the recalls address violations of the federal Open Flame Standard. Thus, the increase in recall activity after 2007 was largely driven by the promulgation of the Open Flame Standard. The other thirty-five percent of the recalls address violations of the federal safety Standard for the Flammability of Mattresses and Mattress Pads.

Fifteen percent of the mattress-related recalls address entrapment risks to infants or young children. Three recalls involved improperly sized crib mattresses, one involved a crib mattress that could be compressed and pushed through the bars of a crib, and one involved the possibility that a child could become trapped between an air mattress within a tent and the fabric sides of the tent.

The most common remedies offered by recalling firms is a free mattress cover or liner intended to bring the mattress in compliance with the mandatory standards (40% of the recalls) or a replacement mattress or cushion (22.5% of the recalls). Less often, the remedies may be limited to refund, store credit, or other types of repairs intended to bring existing mattresses into compliance with the mandatory standards.

Despite the general increase in mattress-related recalls over the last two decades, the CPSC has not issued any civil penalties involving mattress products since 2000. Before that time, the CPSC had issued three total civil penalties related to mattresses—all for futon mattresses that allegedly violated the Federal Safety Standard for the Flammability of Mattresses and Mattress Pads. The manufacturers also allegedly failed to conduct proper flammability tests on their futons or maintain
records demonstrating that the required testing had been conducted. The fines for the civil penalties (imposed before the statutory penalty cap was increased) ranged from $7,500 to $60,000.
Recalls in Review: Pacifier and Accessory Recalls

June 2021

Although members of the House and Senate don’t agree on everything lately, they have come together in efforts to ensure safety of products intended for use by infants and small children. In today’s installment of “Recalls in Review,” we look back at CPSC regulatory actions involving Pacifiers and Pacifier Accessories.

A pacifier rule was first proposed by the Food and Drug Administration in 1972 before the Federal Hazardous Substances Act was transferred to the CPSC. The CPSC has regulated pacifiers and pacifier accessories regularly since 1976, when the Commission proposed a substantially revised regulation after investigations by CPSC staff revealed at least eight infant deaths associated with pacifiers. Pacifiers must now comply with the Federal Safety Standard for Pacifiers, 16 CFR Part 1511, and the U.S. Toy Standard, ASTM F963-17. And although pacifier clips do not fall under the definition of “pacifiers” in the safety standard, they must still meet separate children’s product safety requirements, such as the Small Parts regulation (16 CFR Part 1501). Additionally, pacifiers may not be sold with any ribbon, string, cord, or similar attachment.

At least sixty-six pacifier-related products have occurred to date, with thirty-two of the recalls occurring since 2001. Enforcement has been roughly consistent over the years; the largest number of recalls in any single year totaled six recalls in 2009.

Pacifier-related recalls have targeted pacifiers (80% of all pacifier-related recalls), pacifier clips (9%), paired pacifiers and clips (2%), pacifier holders (6%), and other children’s products that incorporate pacifier clips (3%).

According to information provided by the CPSC recall announcements, the approximately eighty-two percent of pacifier-related recalls address the risk of an infant choking on the pacifier. Pacifier-related recalls have also been conducted to address strangulation hazards (8%), suffocation hazards (6%), excessive levels of lead, excessive levels of nitrosamines, and injury posed by safety pins.

The most common remedy offered by recalling firms is a refund of the purchase price (68% of the recalls). Less often, the remedies offered may include replacement with a compliant product (20% of the recalls), choice between a refund or replacement product, or mere instructions to discard the noncompliant product.
Despite the consistent regulation of pacifiers since the 1970s, the only civil penalty that has been issued involving pacifiers occurred in 1998. The pacifiers at issue could allegedly crack, permitting the nipple to detach from the shield, which posed a choking hazard to children. The recalling firm agreed to pay a penalty of $150,000 to settle allegations that it obtained information sufficient to conclude that the pacifiers contained a defect that could create a substantial product hazard but failed to report the defect to the CPSC as required by the Consumer Product Safety Act.

The CPSC has also issued at least twenty-eight notice of violations ("NOV") to manufacturers and retailers relating to pacifiers since 2013. The vast majority of the notices cite violations of the Federal Safety Standard for Pacifiers, although some cite tracking label violations, children’s product certificate violations, small parts violations, and violations of the federal limits on lead in children’s products. The most frequently requested corrective action is a stop sale (68%), followed by correct future production (29%), and consumer level recall (3%).
Recalls in Review: Recall Trends in 2021

July 2021

As we launch into the third quarter of 2021, we have taken a look back to identify and highlight trends from the CPSC’s recalls through the first half of the year. The Commission has conducted 134 total recalls so far this year—about ten fewer recalls than in the first half of 2020. The types of products recalled vary widely, including ATVs and UTVs, bicycles, kitchen appliances and cooking utensils, exercise equipment, toys, essential oils, portable generators, charging cords, and heavy machinery, among many others.

Some product categories have appeared on a repeat basis this year, including: furniture, recreational vehicles, such as ATVs, UTVs, and motor bikes, and children’s clothing. The Commission has recalled furniture and recreational vehicles at a fairly consistent rate since January. The rate of recalls for recreational vehicles, which have historically been highly regulated, is on par with 2020 and past years as well. However, the recalls of children’s clothing began much later in the year. That upswing is largely attributable to recalls of children’s jackets and sleepwear.

Risk of fire or burn is the most common hazard addressed by the recalls from the first half of the year. Approximately 31% of the recalls address fire or burn risks, which is a 12% increase compared to the first half of 2020. Product types recalled due to a fire or burn risk include propane heaters, personal electronics, children’s sleepwear, recreational vehicles, kitchen appliances and eating utensils, other home appliances, a mattress, and candle-related products. The majority of these products were not recalled until after incidents involving the product were reported to either the recalling firm or the CPSC. Accordingly, consumers should carefully monitor the products in their homes that may pose fire or burn risks.

Another 13% of the recalls address violations of the Poison Prevention Packaging Act (PPPA) and other poisoning risks, which represents a 10% decrease compared to the first half of 2020. The product types recalled due to violations of the PPPA include chemical products, such as those that include sodium and potassium hydroxide, prescription drugs, supplements, and essential oils. The number of essential oil recalls conducted this year (4 recalls) has decreased dramatically in comparison to the first half of 2020 (20 recalls). As mentioned in our previous post on Recall Trends in 2020, the then-recent rise in essential oil recalls correlated with at least one consumer advocate helping the CPSC to identify products in violation of PPPA requirements by reporting such products through saferproducts.gov. Essential oils are a great example of how quickly CPSC enforcement trends can change alongside changes in consumer concerns and market trends.
Children’s product recalls have steadily increased as the year progresses, even when the total number of products recalled dipped in both March and June. Children’s product recalls represent a larger proportion (23%) of the total number of 2021 recalls as compared to 2020 (19%), but are roughly proportionate to other recent years—24% in 2019, 20% in 2018, and 33% in 2017. Over two-thirds of the children’s products recalled this year were subject to recall despite having no reported incidents involving the product, which is not uncommon for recalls that address violations of federal lead standards, the PPPA, and the Federal Hazardous Substances Act (which governs the flammability of clothing, among other hazards). Consumers and industry members should continue to carefully monitor CPSC.gov or saferproducts.gov for children’s product recalls as we enter the back-to-school and holiday shopping seasons.
Recalls in Review: Children’s Sleepwear

August 2021

As children head back to the classroom this Fall, the CPSC issued a news release reminding parents to “Think Safety First” as kids return to schools. Recognizing that many back-to-school shopping carts also include new clothes and pajamas, we look back at CPSC regulatory actions involving Children’s Sleepwear in this month’s installment of “Recalls in Review.”

The Consumer Product Safety Commission has regulated the flammability of children’s sleepwear since at least the 1970s. In addition to other safety standards imposed on children’s products, children’s sleepwear is governed by Federal Safety Standards for the Flammability of Children’s Sleepwear based on sizing of the garments (16 CFR Part 1615 and 16 CFR Part 1616). The regulations apply to any product of wearing apparel, such as nightgowns, pajamas, or similar or related items, such as robes, that is intended to be worn primarily for sleeping or activities related to sleeping. Specific items—including diapers, underwear, and certain infant tight-fitting garments—are exempted from the definition of children’s sleepwear.

The CPSC began monitoring the safety of children’s sleepwear more closely in 2011. At least 82 recalls of children’s sleepwear have been conducted since 2001, with 77 of those recalls occurring after 2010. Only a handful of related recalls were conducted prior to 2001. However, at least 11 civil penalties relating to children’s sleepwear were issued between 1980 and 2001, with somewhat dated fines ranging from $3,500 to $850,000.

Children’s sleepwear-related recalls have targeted several different types of sleepwear, including traditional pajama sets and separates, bathrobes, nightgowns, loungewear, and infant sleep sacks. The most commonly recalled type is traditional pajamas, although robes account for the next highest category with seventeen percent of all children’s sleepwear recalls.

According to the information provided by the CPSC recall announcements, ninety-eight percent of the recalls since 2001 address the risk of burn posed when the garments fail to meet the federal safety standards for the flammability of children’s sleepwear. However, a May 2021 recall of an infant sleep sack addressed a risk of suffocation—the size of the neck opening was too large for the intended age group, which could allow an infant’s head to slip into and be covered by the sleep sack. One other recall of children’s footed pajamas in January 2011 addressed a choking hazard. The metal snaps that attached a hood to the pajamas could come off and be swallowed by young children.

The Commission is notably proactive in monitoring the safety of children’s sleepwear. Although the CPSC is often alerted to product issues through consumer complaints and incident reports, nearly all children’s sleepwear recalls are conducted despite having no reported incidents involving the product. Only one of the recalls since 2001—a June 2012 recall of children’s lounge pants and boxers—noted an incident involving the product, which caught fire.
The most common remedy offered by recalling firms is a refund of the purchase price (85% of the recalls). Less often, the remedies offered may include a choice between refund or replacement of the product, or only a replacement product. More than half of the recalls since 2001 (57%) instruct consumers to return the product to the recalling firm in order to receive their refund or replacement item. Consumers can monitor recalls of children’s sleepwear on CPSC.gov or Safer Products.gov for violations of the federal flammability standards.
Recalls in Review: Magnet-Related Recalls

October 2021

As businesses brace for anticipated supply chain delays in the coming months, many stores are already offering impressive deals to early holiday shoppers. Recognizing that numerous popular products contain magnets, we turn our attention to CPSC regulatory actions involving magnets in this month’s installment of “Recalls in Review.”

At least 58 recalls involving magnets have been conducted since 1998, with 56 of those recalls occurring after 2005. The CPSC began monitoring magnets, magnet sets, and products containing magnets very closely in 2007, recalling eleven products amid reports that children were swallowing magnets and experiencing severe internal injuries. Similar recalls continued into 2008 and were accompanied by an increase in recalls of magnets for violations of the federal lead paint standard.

Unlike many other consumer products, no mandatory federal safety standard exists specifically to regulate magnets or magnet sets. The CPSC attempted to promulgate a mandatory federal safety standard to address high-powered magnets and published the regulation on October 3, 2014. Under the rule, magnets intended for use as part of a magnet set and that fit the CPSC’s definition of a “small part” could not have a flux index above the specified level. However, the rule was ultimately vacated by a federal court and removed from the Code of Federal Regulations. Still, the CPSC continues to monitor and recall high-powered magnets. The CPSC first sued Zen Magnets LLC in 2012 over their high-powered “Zen Magnets Rare Earth Magnet Balls” to force a recall of the products after discussions with the company failed to result in a voluntary recall plan. The Zen Magnets recall was finally announced in August 2021.

A review of the recall history shows that numerous categories of products involving magnets have been recalled over the years. Approximately one-third of the recalls have been for children’s toys, including magnetic puzzles and tic-tac-toe games, magnetic dart boards, and dolls and action figures that come with magnetic accessories. Toys typically become a concern when small magnets within the toy fall out and are able to be swallowed by children playing with the toys. Approximately 28% of the recalls have been for actual magnets, including individual magnets and magnet sets, followed by 14% for magnetic building kits. The remaining magnet-related recalls have targeted various other products, such as children’s school supplies, children’s clothing, a kid’s bike helmet, science kits, dry erase boards, a travel mug with a magnetic lid, a flashlight in a personal safety kit, and a pool gate.
According to information provided by the CPSC recall announcements, over two-thirds of the recalls address the harms posed when children and teenagers ingest small magnets. When multiple magnets are swallowed, the magnets can link together inside a person’s intestines and clamp onto body issues, resulting in intestinal obstructions, perforations, sepsis, and even death. Swallowing individual or multiple magnets can also pose choking hazards for young children. As discussed above, magnets from science kits and those sold for use in science classes, were also frequently recalled in 2007 and 2008 due to excessive levels of lead in the paint coating the magnets.

A few recalls have also been conducted because the magnet in the product posed other risks of injury. For example, a recall of a travel mug with a magnetic lid was conducted last year because the magnetic slider on the lid could eject, posing burn hazards to consumers. Flashlights from personal safety kits were recalled in 2006. According to the recall announcement, the magnet in the flashlight could be powerful enough to disrupt a heart patient’s implantable cardiac defibrillator.

Nearly half of the recalls were conducted despite there being no reported incidents involving the recalled product. None of the products recalled due to a violation of the federal safety standard for lead in paint were had reported incidents or injuries. The CPSC first recalled a product to address the risks associated with swallowing magnets despite there being no reported incidents involving the product in December 2007, after at least five other products were recalled amid reports of serious injuries and hospitalizations.

The most common remedy offered by recalling firms is a replacement product or product part (57% of the recalls). Less often, the remedy may be limited to refund (38% of recalls), repair, or merely instructions to discard the product. Over half of the recall announcements request that consumers return the product to the recalling firm—particularly for recalls that addressed risks associated with children swallowing the magnets. The announcements for recalls addressing violations of the
federal safety standard for lead, product failure, and injuries unrelated to ingestion of a magnet (i.e. risk of laceration or choking on non-magnet parts) do not ask consumers to return the recalled product). Consumers should carefully check products purchased during the upcoming holiday shopping season to ensure that children cannot get ahold of any magnets that may be inside the products, and monitor CPSC.gov or SaferProducts.gov for related recalls.
Recalls in Review: Recreational and Utility Vehicles

November 2021

With the winter holiday season approaching, many families are looking forward to hard-earned vacations and fun activities with their loved ones. And many will be looking to ride, rent, or purchase recreational vehicles for some fun—from all-terrain vehicles (“ATVs”) and golf cars to off-road motorcycles and snowmobiles. Thus, as we head into the winter season, we turn our attention to Consumer Product Safety Commission (“CPSC”) regulatory actions involving recreational and utility vehicles for this month’s installment of “Recalls in Review.”

ATVs, recreational off-highway vehicles (“ROVs”), and utility terrain vehicles (“UTVs”) are highly regulated by the CPSC. ATVs are required to comply with federal safety 16 CFR Part 1420, which incorporates by reference the American National Standard for Four-Wheel All-Terrain Vehicles (ASNI/SVIA 1-2017). Under the federal safety standard, manufacturers, importers, and/or distributors must file an ATV action plan with the CPSC before they can legally import or distribute any new assembled or unassembled ATVs into commerce in the United States. The CPSC publishes extensive guidance regarding ATV and ROV safety, as well as reports on deaths and injuries involving off-highway vehicles, and some guidance on snowmobiles. Voluntary industry safety standards exist for snowmobiles (SAE J 1222-2012; SAE J 1038-2020) and golf cars (ANSI/OPEI Z130.1-2020)—two other products that are also common subjects of CPSC recalls.

At least 214 recalls of recreational and utility vehicles have been conducted by the CPSC since January 2011. Although the number of recalls per year has generally increased over time, a significant number of recalls were also conducted prior to 2011. The CPSC has also issued at least four civil penalties relating to recreational and/or utility vehicles.

ROVs have been the most commonly recalled type of vehicle by the CPSC since 2011, followed by utility-terrain vehicles (21%) and ATVs (16%). The recalls have also targeted off-road closed course/competition motorcycles (11%), snowmobiles (11%), golf cars (9%), a few “minibikes”, an off-road fun-kart, and an amphibious vehicle.

The CPSC’s June 2021 guidance on ATV and ROV safety states that children are at higher risk on these vehicles, particularly when children drive adult-sized vehicles or when more than one passenger rides on a vehicle built for a single rider. The CPSC reports that children under the age of 16 account for the third-highest percentage of off-road vehicle related deaths by age group. Notably, nearly all of recreational and utility vehicles recalls since January 2011 are for general (or adult) use vehicles. Only five recalls of recreational vehicles designed for youth riders have been conducted since 2011.
According to information provided by the CPSC recall announcements, forty-five percent of the recalls since 2011 address issues with the products that pose a crash hazard. The issues that pose a crash hazard vary widely across the recalls, including problems with: the steering system or loss of steering function, the brake assemblies or parking break, the throttle, clutch, suspension arms, shock absorbers, wheels, software or electrical systems, and more.

Another forty-one percent of the recalls address fire and burn risks. These hazards typically relate to oil/fuel leaks created by problems with the fuel tanks, fuel line/hose, other components of the fuel pump system, turbocharger, exhaust header pipe, other components of the exhaust system, muffler, and heat shields. Two of the recalls for youth vehicles, both in 2015, addressed issues with the fuel system components that could lead to leaks (Youth ATV, Youth ROV).

The remaining three recalls of Youth ATVs were all conducted because the vehicles failed to comply with the requirements of the mandatory federal safety standard for ATVs, including maximum speed limitations. The announcement for the one of the Youth ATV recalls from September 2021 also called out that the youth ATVs were imported and distributed without a CPSC-approved ATV action plan.

Unlike many off-the-shelf consumer products, recreational and utility vehicles are larger, complex pieces of machinery. Accordingly, the remedy offered by nearly all of the recalling firms is a free repair of the defect at issue, rather than a refund or replacement product. Consumers who are interested in riding, renting, or purchasing a new or used recreational or utility vehicle should monitor relevant recalls on CPSC.gov or SaferProducts.gov.