

§ 1115.23

(e) *Orders issued under section 15 (c) and/or (d).* The failure to comply with an order issued under section 15 (c) and/or (d) of the CPSA is a prohibited act within the meaning of section 19(a)(5) of the CPSA (15 U.S.C. 2068(a)(5)).

(f) *Consequences of engaging in prohibited acts.* A knowing violation of section 19(a) of the CPSA subjects the violator to a civil penalty in accordance with section 20 of the CPSA (15 U.S.C. 2069). “Knowing,” as defined in section 20(c) of the CPSA (15 U.S.C. 2069(c)), means the having of actual knowledge or the presumed having of knowledge deemed to be possessed by a reasonable person who acts in the circumstances, including knowledge obtainable upon the exercise of due care to ascertain the truth of representations. A knowing and willful violation of section 19(a), after the violator has received notice of noncompliance, subjects the violator to criminal penalties in accordance with section 21 of the CPSA (15 U.S.C. 2070).

Subpart C—Guidelines and Requirements for Mandatory Recall Notices

SOURCE: 75 FR 3371, Jan. 21, 2010, unless otherwise noted.

§ 1115.23 Purpose.

(a) The Commission establishes these guidelines and requirements for recall notices as required by section 15(i) of the Consumer Product Safety Act, as amended (CPSA) (15 U.S.C. 2064(i)). The guidelines and requirements set forth the information to be included in a notice required by an order under sections 12, 15(c), or 15(d) of the CPSA (15 U.S.C. 2061, 2064(c), or 2064(d)). Unless otherwise ordered by the Commission under section 15(c) or (d) of the CPSA (15 U.S.C. 2064(c) or (d)), or by a United States district court under section 12 of the CPSA (15 U.S.C. 2061), the content information required in this subpart must be included in every such notice.

(b) The Commission establishes these guidelines and requirements to ensure that every recall notice effectively helps consumers and other persons to:

(1) Identify the specific product to which the recall notice pertains;

(2) Understand the product’s actual or potential hazards to which the recall notice pertains, and information relating to such hazards; and

(3) Understand all remedies available to consumers concerning the product to which the recall notice pertains.

§ 1115.24 Applicability.

This subpart applies to manufacturers (including importers), retailers, and distributors of consumer products as those terms are defined herein and in the CPSA.

§ 1115.25 Definitions.

In addition to the definitions given in section 3 of the CPSA (15 U.S.C. 2052), the following definitions apply:

(a) *Recall* means any one or more of the actions required by an order under sections 12, 15(c), or 15(d) of the CPSA (15 U.S.C. 2061, 2064(c), or 2064(d)).

(b) *Recall notice* means a notification required by an order under sections 12, 15(c), or 15(d) of the CPSA (15 U.S.C. 2061, 2064(c), or 2064(d)).

(c) *Direct recall notice* means a notification required by an order under sections 12, 15(c), or 15(d) of the CPSA (15 U.S.C. 2061, 2064(c), or 2064(d)), that is sent directly to specifically-identified consumers.

(d) *Firm* means a manufacturer (including an importer), retailer, or distributor as those terms are defined in the CPSA.

(e) *Other persons* means, but is not limited to, consumer safety advocacy organizations, public interest groups, trade associations, industry advocacy organizations, other State, local, and Federal government agencies, and the media.

§ 1115.26 Guidelines and policies.

(a) *General.* (1) A recall notice should provide sufficient information and motivation for consumers and other persons to identify the product and its actual or potential hazards, and to respond and take the stated action. A recall notice should clearly and concisely state the potential for injury or death.

(2) A recall notice should be written in language designed for, and readily understood by, the targeted consumers or other persons. The language should be simple and should avoid or minimize

the use of highly technical or legal terminology.

(3) A recall notice should be targeted and tailored to the specific product and circumstances. In determining the form and content of a recall notice, the manner in which the product was advertised and marketed should be considered.

(4) A direct recall notice is the most effective form of a recall notice.

(5) At least two of the recall notice forms listed in subsection (b) should be used.

(b) Form of recall notice—(1) Possible forms. A recall notice may be written, electronic, audio, visual, or in any other form ordered by the Commission in an order under section 15(c) or (d) of the CPSA (15 U.S.C. 2064(c) or (d)), or by a United States district court under section 12 of the CPSA (15 U.S.C. 2061). The forms of, and means for communicating, recall notices include, but are not limited to:

(i) Letter, Web site posting, electronic mail, RSS feed, or text message;

(ii) Computer, radio, television, or other electronic transmission or medium;

(iii) Video news release, press release, recall alert, Web stream, or other form of news release;

(iv) Newspaper, magazine, catalog, or other publication; and

(v) Advertisement, newsletter, and service bulletin.

(2) *Direct recall notice.* A direct recall notice should be used for each consumer for whom a firm has direct contact information, or when such information is obtainable, regardless of whether the information was collected for product registration, sales records, catalog orders, billing records, marketing purposes, warranty information, loyal purchaser clubs, or other such purposes. Direct contact information includes, but is not limited to, name and address, telephone number, and electronic mail address. Forms of direct recall notice include, but are not limited to, United States mail, electronic mail, and telephone calls. A direct recall notice should prominently show its importance over other consumer notices or mail by including “Safety Recall” or other appropriate terms in an electronic mail subject

line, and, in large bold red typeface, on the front of an envelope and in the body of a recall notice.

(3) *Web site recall notice.* A Web site recall notice should be on a Web site’s first entry point such as a home page, should be clear and prominent, and should be interactive by permitting consumers and other persons to obtain recall information and request a remedy directly on the Web site.

(c) *Languages.* Where the Commission for purposes of an order under section 15(c) or (d) of the CPSA (15 U.S.C. 2064(c) or (d)), or a United States district court for purposes of an order under section 12 of the CPSA (15 U.S.C. 2061), determines that it is necessary or appropriate to adequately inform and protect the public, a recall notice may be required to be in languages in addition to English. For example, it may be necessary or appropriate to require a recall notice be in a language in addition to English when a product label is in a language in addition to English, when a product is marketed in a language in addition to English, or when a product is marketed or available in a geographic location where English is not the predominant language.

§ 1115.27 Recall notice content requirements.

Except as provided in § 1115.29, every recall notice must include the information set forth below:

(a) *Terms.* A recall notice must include the word “recall” in the heading and text.

(b) *Date.* A recall notice must include its date of release, issuance, posting, or publication.

(c) *Description of product.* A recall notice must include a clear and concise statement of the information that will enable consumers and other persons to readily and accurately identify the specific product and distinguish it from similar products. The information must enable consumers to readily determine whether or not they have, or may be exposed to, the product. To the extent applicable to a product, descriptive information that must appear on a recall notice includes, but is not limited to:

(1) The product’s names, including informal and abbreviated names, by