



RETAIL INDUSTRY LEADERS ASSOCIATION

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April 24, 2024

Submitted via Electronic Filing

Alberta E. Mills
Office of the Secretary
U.S. Consumer Product Safety Commission
4330 East-West Highway
Bethesda, MD 20814

Re: Proposed Agenda and Priorities Fiscal Year (FY) 2025; 89 Fed. Reg. 22393 (April 1, 2024)

Dear Secretary Mills:

The Retail Industry Leaders Association (RILA) appreciates the opportunity to submit written comments on the U.S. Consumer Product Safety Commission's (CPSC or Commission) proposed agenda and budget priorities for Fiscal Year (FY) 2025. RILA and its members support the Commission's critical consumer safety mission and appreciate the CPSC's leadership on product safety matters, including consumer educational campaigns and stakeholder outreach.

By way of background, RILA is a trade association of the world's largest, most innovative, and recognizable retail companies and brands. We convene decision-makers, advocate for the retail industry, and promote operational excellence and innovation. Our aim is to elevate a dynamic retail industry by transforming the environment in which retailers operate.

RILA members include more than two hundred retailers, product manufacturers, and service suppliers, who together employ over 42 million Americans and account for \$2.7 trillion in annual sales and hundreds of thousands of stores, manufacturing facilities, and distribution centers domestically and abroad.

RILA's many retailer member communities include a very active Consumer Products Committee. The Committee routinely gathers 70+ members for monthly calls and an annual in-person meeting, to discuss top of mind issues in product safety, hear from subject matter experts and agency officials, and benchmark with their retail peers.

RILA and its members have a long history of collaborating with the CPSC to address consumer product safety issues. RILA members cooperate regularly in implementing product recalls, actively participate in the Commission's industry partnership programs, and promote CPSC's consumer awareness initiatives.

As the Commission finalizes its FY 2025 priorities, RILA wishes to renew and reemphasize a few of its previous recommendations to the Commission and raise additional recommendations, detailed below.

The Commission should:

- Increase outreach to importers to ensure sufficient time to implement necessary technological upgrades related to the e-filing program and refine e-filing requirements based on beta pilot learnings;
- Work collaboratively with the U.S. Customs and Border Protection (CBP) to consider common sense improvements to the *de minimis* shipment provision to protect American retailers and consumers;
- Improve communication and strengthen collaboration with retailers to improve overall recall efficiencies and effectiveness;
- Align new rule implementation with supply chain realities, including setting a minimum 180-day standard implementation timeline and ensuring all mandatory standards are clear as to scope of covered products;
- Formalize and expand the Retailer Reporting Program and expand upon the data systems' current limited capacity and capabilities;
- Prioritize improvement and modernization of CPSC maintained webtools and recall search functions;
- Streamline use of social media for recalls and conduct additional studies into the role of social media on recall effectiveness; and
- Post non-English translations for recall announcements alongside their English counterparts.

RILA is encouraged by recent engagements with Commission and looks to continue renewing its partnership with CPSC. The following input reflects some of the input shared in RILA's recent dialogue with the Commission. Each of these recommendations, and their connection to the Commission's priorities set forth in its FY25 budget request, is discussed in more detail below

I. Stopping Hazardous Products at our Borders

RILA fully supports the Commission's long-standing goal of stopping hazardous products at our borders and its prioritization in its FY25 Budget Request to enhance surveillance activities and integrate technology improvements. These enhancements, such as e-filing, will modernize and increase efficiencies with verifying imported products are compliant with US laws, including product safety standards. RILA is providing the following comments on ways the Commission can build a greater foundation for successful e-filing implementation, and considerations as it explores approaches to increase surveillance of *de minimis* shipments.

1. Refine e-Filing Requirements Based on Beta Pilot Findings

In its discussion of priorities around import surveillance, CPSC highlights its forthcoming e-filing program, which it expects to implement in FY2025. RILA remains supportive of the move to e-filing. As discussed in



2024 Comments on the on the Certificates of Compliance, Supplemental Notice of Proposed Rulemaking (SNPR)¹, however, the projected FY25 implementation timing raises concerns considering limitations with the ongoing beta pilot testing and the relatively small universe of importers and submissions thus far involved in that pilot.

As detailed in 2024 SNPR Comments, RILA wishes to highlight the following recommendations on how the Commission can improve the foundation for successful e-filing implementation.

RILA recommends that the Commission:

- (1) Increase outreach to importers to ensure there is sufficient time to implement necessary technological upgrades related to the e-filing program; and
- (2) Refine and streamline e-filing requirements based on beta pilot learnings

Given the scale of the technological impacts that will be necessary for all e-filers, RILA urges the Commission to allow for additional time for importers to meaningfully prepare for compliance. Significant system and technology process changes and updates are needed to comply with the proposed new requirements, including within an e-filing environment and the new CPSC Product Registry. Not only will retailers need to create databases which can deliver the required information to the CPSC, but they will also need to significantly update existing systems and processes for storing certificates. Additionally, benchmarking discussions across various stakeholder groups have suggested that many still lack awareness regarding e-filing's imminent implementation.

Additionally, among beta pilot participants, few if any have 'scaled-up' filings in a manner representative of what will be required when it goes into effect. For that reason, it remains unclear whether the importing community, CPSC and/or CBP are all adequately prepared to shift into run-state. RILA strongly recommends that the CPSC and CBP increase outreach and education with importers, seek additional pilot participants, and ensure that sufficient time is provided to all to implement necessary technological upgrades.

RILA recommends that the CPSC re-focus the e-filing requirements based on the learnings from the Beta pilot. The CPSC should share with importers what data elements collected during the beta pilot were used by the CPSC and for what purpose – either as intended and/or as realized through the pilot. The CPSC should also leverage the pilot learnings to refine the data collection to include only those elements that serve a demonstrable purpose, thereby reducing their volume, cost, and redundancies. This refinement will assist all parties in eliminating extraneous or unnecessary data elements so CPSC can focus on those that advance its specific and defined objectives, as well as eliminating unnecessary burdens for filing parties.

¹ See [RILA Comments re: Certificates of Compliance, Supplemental Notice of Proposed Rulemaking \(December 8, 2023\); Docket ID: CPSC-2013-0017-0114](#).



Additionally, to better align Children's Product Certificates (CPCs) and General Certificate of Conformity (GCC) requirements with e-filing data requirements, the CPSC should work to incorporate corresponding and clarifying language in the CPC/GCC requirements. For example, clearly requiring the inclusion of unique identifiers such as UPC, GTIN, manufacturer and model number, or other reference ID to clearly link a certificate to the product being referenced.

Furthermore, at least at the outset, RILA recommends that the CPSC streamline its focus to higher risk regulated product categories.² Additionally, e-filing requirements should be carefully tailored to only those products that are currently regulated.

2. Increase Surveillance of *De Minimis* Shipments

RILA is encouraged by the Commission's prioritization of expanding surveillance capabilities around *de minimis* shipments, in order to better protect American consumers and ensure the products they are receiving meet U.S. product safety regulations set out by the CPSC. RILA's members have robust compliance programs and work closely with trusted suppliers to ensure that products they sell adhere to all U.S. laws and regulations, including product safety standards. Unfortunately, current *de minimis* shipment rules allow foreign companies to avoid product safety regulations and circumvent U.S. custom laws by selling directly to American consumers and entering the U.S. under expedited procedures. This not only endangers American consumers but also creates a competitive disadvantage for U.S. companies who play by the rules.

RILA urges the Commission to work collaboratively with the U.S. Customs and Border Protection to consider common sense improvements³ to the *de minimis* shipments provision – section 321 of the Tariff Act of 1930 (19 U.S.C. 321) – to ensure that low-value shipments from large volume sellers are not beyond scrutiny at the border.

II. Vigorously Enforce Product Safety Laws

RILA recognizes there are times when evidence of product safety hazards will necessitate a recall. Retailers are vigilant in monitoring potential problems with the products they sell; regularly participate in the execution of recalls of national brand products they carry; and are proactive in initiating voluntary recalls for their owned brands. RILA's suggestions below seek to improve the overall communication and processes involved with the Commission's critical work to remove defective products from the marketplace through recalls and other corrective actions.

1. Improve Communication and Strengthen Collaboration with Retailers to Improve Overall Recall Process Efficiencies and Effectiveness.

² e.g., children's products, such as sleepwear and toys, and/or products presenting flammability issues.

³ It is worth noting that several bills have been introduced this Congress that, if passed, would make changes to the current *de minimis* rules.



Retailers share in the Commission's goal of warning consumers about product safety issues and implementing effective and efficient recalls. While RILA is supportive of this goal, we believe that the current systems in place do not ensure recall process efficiencies and effectiveness, as best they can. As relayed in March 2024 discussions with the Office of Compliance and Field Operations, RILA suggested ways to achieve greater process efficiencies, many of which would likely not require significant additional investment of staff time and CPSC resources. These recommendations are outlined below including, earlier and clearer communication with retailers, inclusion of universal product codes (UPCs) in recall announcements, leveraging existing tools consistently across recalling parties, and increased certainty and consistency with CAP negotiation processes. RILA looks forward to ongoing dialogue and partnership around these and other approaches to increasing efficiency and effectiveness around executing recalls.

A. Increase Advance Notice of Recalls and Unilateral Warnings

Clear communication in advance of recall announcements and unilateral warnings is essential to protecting consumers as early on as possible. Ensuring that retailers have timely information, allows them to not only remove the recalled products from sale/shelves as quickly as possible, but also ensures they are fully prepared to inform and assist consumers when recalls are publicly announced. Furthermore, the need for some amount of advance notice is heightened when a retailer is named directly in CPSC's public communication (e.g., press releases, social media etc.).

Historically, it was common practice for CPSC to contact retailers in advance of a recall or unilateral warning. In recent years, RILA members have indicated that this advance notice has declined significantly. One RILA member indicated it did not receive any notice in advance of approximately 70 percent of all announcements where it was named. These communication breakdowns in the execution of unilateral warnings and recall notifications hinder timely and more effective communication to consumers.

In a similar vein, CPSC should prioritize notifying retailers about announcements where they are named ahead of outreach to media outlets. Enhanced and earlier communication will allow retailers to swiftly mobilize internally to ensure any unsafe products are removed from selves and taken down from e-commerce sites.

One example in which advance notice would have improved the overall recall process is during the recent August 2023 unilateral warning on memory foam mattresses.⁴ In this case, the underlying company that produced the mattresses was no longer in business and unable to conduct a recall. This only escalates the need for CPSC to communicate with the retailers named in the unilateral warning. Advance notice would have also assisted retailers with getting a jump on any attendant regulatory and compliance requirements related to destruction and disposal.⁵

⁴ See generally, U.S. CPSC [Unilateral Warning on Cool Gel Ventilated Memory Foam Mattresses](#) (August 24, 2023).

⁵ For example, one retailer accepted returns, even though this was not the remedy. This required a lot of background work within the company to be able to execute.



B. Inclusion of Universal Product Codes (UPCs) in Recall Notices Facilitates More Efficient Recalls

When the Commission is issuing recall notices, it is critically important and extremely helpful to include the UPCs for the products named in the notice. Including UPCs in recall notices would help retailers avoid missing or misidentifying any recalled items. Additionally, notices that do not include UPCs can lead to confusion and a poor consumer experience if a consumer cannot tell if their product falls within the scope of the recall or not.⁶ The inclusion of UPCs would also assist retail store associates in accurately identifying if a customer's product is within the scope of the recall.

Inclusion of the UPCs in recall notices is also pivotal when the item being recalled may be an older product that retailers no longer carry and therefore no longer have the stock-keeping unit (SKUs) in their systems. Absent a UPC, for products that a retailer no longer carries, it takes additional time to re-setup the product within their system to process certain recall remedies or returns.

In recent discussions with leadership at the Office of Compliance and Field Operations, RILA was encouraged to hear that the UPC recommendation was one that staff had previously heard and were working to implement. RILA looks forward to an update on this process change and encourages the Commission to implement it in FY25 or sooner if possible.

C. Reduce Redundancies and Increase Efficiencies for Corrective Action Plan Negotiations

The CPSC can also improve recall processes by reducing redundancies and increasing efficiency for corrective action plan (CAP) negotiation processes, particularly with known and established stakeholders. Known and established stakeholders, like RILA members, have a history of working collaboratively with the CPSC on recalls on a regular basis. In recent years, RILA members have found they are often asked the same boilerplate questions about their processes and capabilities for recalls. In some cases, they are starting at square one with the Commission at the outset of each recall – adding additional time and delays to announcing and executing the recall. The CPSC should find ways to document large stakeholder (e.g., firms, retailers) processes and capabilities in a way that reduces the redundancies in the regular process coordination with the Commission.

Furthermore, the CPSC can improve recall processes by increasing CAP template consistency. A common challenge that many RILA members have been grappling with is that CAP requirements are frequently inconsistent from one CAP to the next or differ greatly depending on the compliance officer. When there are new elements of a CAP that a retailer has not previously had to address, it understandably adds time to the overall process and in turn further delays announcing and executing the recall.

⁶ Additionally, naming an "exclusive" retailer/distributor is not always reliable or actionable information for a consumer in this in this age of marketplaces and secondary markets who may not have purchased the product directly from the named retailer/distributor.



While the CPSC will inevitably have changes to their processes or to the CAP expectations, one way the Commission can assist retailers and other stakeholders, is by publishing the CAP templates on the Commission's website (similar to other government agencies such as, the Department of Energy), so that retailers can learn about any changes in advance and increase their familiarity with changes ahead of a recall event.

RILA also recommends that Commission share any data, even if preliminary, on the efficacy of commonly required CAP measures (e.g., printed signage posted at retail stores) so retailers and other recalling partners can better understand the degree to which these activities are moving the needle on recall effectiveness.

RILA also remains ready to facilitate communication between the Commission and its members where appropriate. RILA invites and encourages Commission staff to reach out to RILA where appropriate to update the large retailer audience on universal changes to CAP requirements. Learning of across-the-board changes to CAPs in advance will allow retailers to align internal processes ahead of a recall leading to swifter and more effective execution.

2. Increase Alignment of New Rule Implementation with Supply Chain Realities, Improve Stakeholder Outreach and Education on New Requirements

RILA recognizes and appreciates the Commission's important work to promulgate mandatory safety standards. In many cases, the Commission incorporates and adopts the leading voluntary safety standard that RILA members are already following. However, in cases where the Commission finds it necessary to pursue a final standard that differs from an established voluntary safety standard, or is a newly established voluntary standard, it is imperative that that Commission incorporate realistic implementation timeframes in the final rule. Clarity around the scope of covered products in any final mandatory standards is also critical for industry transition. RILA offers the following comments as the Commission looks toward finalization of mandatory standards in the coming fiscal year and beyond.

A. Implementation Timelines for New Mandatory Standards Should be 180-Days at Minimum

The Commission's trend in recent years on proposing mandatory standards that take effect 30 to 60-days following the promulgation of its final standard is grossly inadequate and does not provide sufficient time for industry to respond to likely changes needed to re-design and test products, to ensure the redesign will meet the final standard's requirements. Historically, it has been customary practice by the Commission to provide at least 180-days for industry to implement any final mandatory standard. RILA's 2022 Comments on the Safety Standard for Clothing Storage Units (CSUs),⁷ described in detail the unique challenges retailers face, regardless of size, when attempting to conform to a short effective date. As the CPSC looks toward finalizing and issuing mandatory standards in FY25, RILA urges the

⁷ See [RILA Comments re: Safety Standard for Clothing Storage Units; 87 Fed. Reg. 6246 \(February 3, 2022\) Docket ID: CPSC-2017-0044-0111](#).



Commission to return to the practice of providing at least 180 days for implementation, that is tied to a manufacture/import date, in order to allow for more realistic supply chain transitions.

B. Ensure Final Mandatory Standards are Clear as to Scope of Covered Products and Increase Stakeholder Education on New Requirements

As the Commission works towards promulgating federal product safety standards, RILA urges the Commission to ensure that all final rules are clear as to what is in scope under the new standards. One example from a retailer where this was not the case was with the CSU mandatory standard.⁸ The retailer recounts a situation they originally faced wherein both the retailer and their third-party labs were unable to determine which of their products were in scope of the regulation, as the regulatory text and any related Commission guidance were unclear. This left both the retailer and third parties in an extremely precarious position, having to make individual interpretations of the rule.

To enhance clarity around final rules, RILA recommends that the Commission ensures that all mandatory standards provide retailers and other stakeholders with clear interpretations and minimize any ambiguity around what products are within scope of the standard.

III. Investigate New, Existing, and Hidden Hazards

RILA supports the Commission's priority to investigate new, existing, and hidden hazards. The Retailer Reporting Program (RRP) is a tool with great potential to assist the Commission in furthering this goal in the next fiscal year and beyond. RILA recommends continued investment and expansion of the RRP and highlights ways in which RILA and its members can partner to address current barriers to better leveraging the insights from RRP data.

1. Expand the Retailer Reporting Program (RRP), Increase Capacity for Data Collection and Analysis

Data collection and analysis are an integral part of the Commission's core mission and industries' daily operations. RILA encourages the Commission to renew its investment in building capacity within its Retailer Reporting Program (RRP). The CPSC should also reopen membership to allow additional retailers to participate in the program. By doing so, the Commission would be able to better utilize data gathered to help identify emerging product safety hazards and protect consumers.

Through the RRP, participants report specific product incident data elements to the CPSC. RILA members that currently participate in the program have been able to harvest insights to identify early issues and guide their decisions to request fast track recalls, and ensure manufacturers are informed about product issues. This ultimately better protects and benefits consumers.

⁸ Id.



Several RILA members have participated in the program since its inception and continue to find it valuable. Other members remain very interested in participating but have heard for several years that the Commission is in a holding pattern with accepting new entrants. RILA understands that the current barriers to accepting new entrants include system limitations to being able to manage, analyze, and make the best use of data collected to identify emerging product safety hazards and protect consumers. While RILA recognizes this challenge, we also see it as an opportunity for retailers and Commission staff to work collaboratively towards solutions that will allow the CPSC to accept new entrants to the program and enhance the program for current retail participants.⁹

RILA welcomes further dialogue on how it can best partner with the Commission to mitigate the current barriers to improving and expanding RRP. In FY25, this could include lending capacity in the form of RILA staff time and opportunities for Commission staff to join RILA's Consumer Products Committee calls and meetings as a forum for collaborative discussion. One immediate discussion area to further mine is whether there are options for a more uniform data format that will better align with current CPSC system capabilities and capacity. RILA members have expressed concerns about the limitations of being unable to submit using expanded data types in the RRP system. A uniform data format would allow for a better, more accurate use of submitted data within the program's current system capacity and capabilities.

IV. Accelerate Necessary Modernization of Mission-Critical Technology

RILA commends the Commission on their commitment to prioritize modernization of mission-critical technology. The reliability of relaying timely recall information to consumers plays a key role in reaching several of the Commission's priorities – to accelerate necessary modernization of mission-critical technology; communicate more effectively with consumers and meet them where they are; and to better serve historically excluded communities through more targeted communications and outreach.

1. Prioritize Improvement of Digital Recall Notification Systems to Ensure Timely, Reliable, and Widely Accessible Safety Information Across All Platforms

RILA and other stakeholders share in the Commission's goal to remove unsafe products from the marketplace, issue recalls, and warn consumers about product safety issues. The CPSC's current notification systems are too often unreliable in terms of finding timely, accurate and complete information on the Commission's recall activities. RILA offers the below comments to encourage the Commission to prioritize improving and modernizing their CPSC maintained webtools and recall search functions, conducting additional research into the effectiveness of social media on recalls, and reaching a more diverse audience through timely non-English recall postings. By doing so, the Commission would be able to communicate safety information more effectively to consumers, as well as improve retailers' ability to efficiently manage recall activities.

⁹ See e.g., [RILA Comments re: Proposed Agenda and Priorities FY 2021 and 2022; 95 Fed. Reg. 18926 \(April 3, 2020\); Docket ID: CPSC-2020-0009-0009](#) - Discussion of RILA's recommendation that the Commission invest resources into expanding the RRP and leveraging data from retailers on consumer interactions with products to gain insight into emerging risks and defect trends.



A. CPSC Maintained Webtools and Recall Search Functions

RILA strongly encourages the CPSC to accelerate necessary modernization of mission-critical technology through improvement of CPSC maintained webtools and recall search functions. Currently, CPSC maintained webtools and recall search functions make searching for past recall events extremely difficult. Many retailers share the experience of being unable to return any useful or related recall information when utilizing the website's search functionalities. If retailers struggle to locate necessary information on the CPSC maintained webtools and recall search functions, it can only be assumed that consumers face substantially greater challenges when attempting to do the same.

Additionally, RILA recommends that the CPSC invest in improving recall notification systems to be able to share live alerts with retailers and consumers alike. Using the current system of Thursday recall releases, retailers are having to source out their own tools to try and catch information on recalls sooner. Currently, the most reliable method for finding information on newly recalled products is to do daily manual checks of the CPSC recall webpage. Alternatively, some retailers have utilized a paid third-party service (e.g., web-scraping tools) that monitors the site and alerts users to any changes made.

B. CPSC Website and Social Media Communication Channels

Historically, CPSC use of website and social media communications, such as RSS feeds, CVS downloads, X (Twitter), and Instagram to post recall information has been delayed by hours or even days. Such delays create gaps in communication channels and hinders timely consumer awareness about newly identified dangers associated with products.

RILA is supportive of the Commission's use of social media to expedite communication of recall information to consumers. However, recall information postings to social media should be posted in tandem with postings on the CPSC's main webpages. Furthermore, additional research needs to be conducted on the effectiveness of social media for consumer awareness on product safety recalls as there is not currently enough data to support the effectiveness. RILA encourages the Commission to share any preliminary data on the role of social media on recall effectiveness.

C. Non-English Translations

One area in which additional delays exist, is for non-English recall announcement postings. These postings have often been posted weeks after their English equivalent. This delays communicating recalls to a broader range of consumers. Working toward publishing non-English translations concurrently with English translations is aligned with the Commission's goal of promoting product safety equity and meeting consumers where they are.

To better protect a more diverse range of consumers across the country, RILA recommends that the CPSC strive to post non-English recall announcements at the same time as their English counterparts. This will ensure that more reliable, accurate, and timely information reaches a broader range of consumers.



Conclusion

In conclusion, RILA and its members support the Commission in their safety missions and dedication to protecting all consumers, by ensuring that all products sold meet or exceed all applicable safety requirements and standards. RILA values the existing partnership with the Commission and offers these comments to continue the collaborative effort and dialogue between RILA, our retailers, and the Commission going forward.

If you have any questions or need any additional information, please contact Luisa Lobo at luisa.lobos@rila.org / (202) 866-6811 and Susan Kirsch at susan.kirsch@rila.org / (202) 866-7477.

Sincerely,

A handwritten signature in black ink that reads "Luisa Lobo". The signature is stylized with a large, looping "L" and "O".

Luisa Lobo
Senior Manager, Legal & Regulatory Affairs
RILA

A handwritten signature in blue ink that reads "Susan Kirsch". The signature is written in a cursive, flowing style.

Susan Kirsch
Vice President, Regulatory Affairs
RILA

