

**Civil Penalty Criteria**  
**Section 217(b)(2) of the Consumer Product Safety Improvement Act (“CPSIA”)**  
**Request for Comments and Information\***

The Commission staff invites comments on Section 217(b)(2) of the CPSIA, Public Law 110-314, for which the Commission is required to issue a final regulation no later than August 14, 2009 providing its interpretation of the factors to be considered in determining the amount of civil penalties described in the amended provisions of section 20(b) of the Consumer Product Safety Act (CPSA), section 5(c)(3) of the Federal Hazardous Substances Act (FHSA), and section 5(e)(2) of the Flammable Fabrics Act (FFA).

The penalty factors, as amended by the CPSIA, are:

<b>CPSA( 15 U.S.C. § 2069(b))</b>	<b>FHSA (15 U.S.C. § 1264 (c)(3))</b>	<b>FFA (15 U.S.C. § 1194 (e)(2))</b>
The nature, circumstances, extent, and gravity of the violation, including	The nature, circumstances, extent, and gravity of the violation, including	The nature, circumstances, extent, and gravity of the violations,
the nature of the product defect,	the nature of the substance,	
the severity of the risk of injury,	severity of the risk of injury,	the severity of the risk of injury,
the occurrence or absence of injury,	the occurrence or absence of injury,	the occurrence or absence of injury,
the number of defective products distributed,	the amount of substance distributed,	
the appropriateness of such penalty in relation to the size of the business of the person charged, including how to mitigate undue adverse economic impacts on small businesses,	the appropriateness of such penalty in relation to the size of the business of the person charged, including how to mitigate undue adverse economic impacts on small businesses,	the appropriateness of such penalty in relation to the size of the business of the person charged,
and such other factors as appropriate	and such other factors as appropriate	and such other factors as appropriate

The Commission staff is interested in comments and information regarding:

- Information the Commission should consider under each factor.
- Information about what other factors are appropriate to consider, including:
  - Previous record of compliance

- Timeliness of response
  - Safety and compliance monitoring
  - Cooperation and good faith
  - Economic gain from noncompliance
  - Product failure rate
- 
- Whether the Commission should develop a formula or matrix to weigh any or all of the various factors and the criteria it should use in any weighting formula or matrix.
  
  - Information the Commission should consider in determining how to mitigate the adverse economic impact of a particular penalty on small business.

Comments must be received by the Office of the Secretary not later than December 18, 2008. Comments may be filed by email to [civilpenaltyfactors@cpsc.gov](mailto:civilpenaltyfactors@cpsc.gov). Comments may also be filed by facsimile to (301) 504-0127 or by mail or delivery to the Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East West Highway, Bethesda, Maryland 20814. Comments should be captioned "Section 217(b)(2) Civil Penalty Criteria." The Commission plans to issue a notice of proposed rulemaking before issuing its final interpretation of the penalty factors. Interested persons will also have the opportunity to comment following publication of the notice of proposed rulemaking in the Federal Register.

*\* This document was prepared by the CPSC staff, has not been reviewed or approved by, and may not necessarily reflect the views of the Commission.*