

UNITED STATES OF AMERICA  
CONSUMER PRODUCT SAFETY COMMISSION

\_\_\_\_\_) )  
In the Matter of ) )  
 ) )  
AMAZON.COM, INC. ) )  
 ) ) CPSC DOCKET NO.: 21-2  
 ) )  
 ) )  
Respondent. ) )  
\_\_\_\_\_)

[PROPOSED] INITIAL ORDER

Upon consideration of Complaint Counsel’s Motion for Summary Decision and any Opposition, and argument relating thereto, I find that

1. The Subject Product children’s sleepwear garments present a substantial product hazard under Section 15(a)(1) of the Consumer Product Safety Act (“CPSA”), 15 U.S.C. § 2064(a)(1);
2. The Subject Product carbon monoxide detectors present a substantial product hazard under Section 15(a)(2) of the CPSA, 15 U.S.C. § 2064(a)(2); and
3. The Subject Product hair dryers present a substantial product hazard under Section 15(a)(2) and (j) of the CPSA, 15 U.S.C. § 2064(a) and (j);

and ORDER that Complaint Counsel’s Motion for Summary Decision is GRANTED.

In order to remedy Respondent Amazon.com, Inc.’s (“Amazon’s”) distribution of the Subject Products and in furtherance of the public interest, it is further ORDERED that Amazon do the following pursuant to the CPSA, 15 U.S.C. § 2064(c) and (d):

1. Immediately cease distribution of the Subject Products and notify all persons or entities that transport, store, distribute, or otherwise handle any Subject Product or

to which any Subject Product has been transported, sold, distributed, or otherwise handled, to immediately cease distribution of the Subject Products;

2. Immediately cease distribution of all products that are functionally equivalent to the Subject Products, by having only cosmetic differences from the Subject Products and/or presenting the same hazard, and use all available means to monitor Amazon.com to prevent the sale and distribution of such products;
3. Issue notification of the substantial product hazards presented by the Subject Products in accordance with 15 U.S.C. § 2064(i)(2) and the Guidelines and Requirements for Mandatory Recall Notices as set forth at 16 C.F.R. §§ 1115.23 - 1115.29, pursuant to the following process:
  - a. Within thirty (30) days of the issuance of this Order, Complaint Counsel shall submit to Amazon a draft joint press release and drafts for at least two rounds of email direct notifications of the hazards to known purchasers and owners of the Subject Products, with Amazon notifying Complaint Counsel of any objections to the draft joint press release and/or draft email direct notifications within ten (10) days of receipt of the drafts;
    - i. If there are no objections to the draft joint press release, the CPSC shall publish the joint press release on its website within forty (40) days of the issuance of this Order;
    - ii. If Complaint Counsel and Amazon cannot agree on the draft joint press release, Complaint Counsel and Amazon shall submit to the Presiding Officer, within fifty (50) days

of the issuance of this Order, a joint statement of the factual and legal issues regarding the draft joint press release that are in dispute for resolution;

- iii. If there are no objections to the draft email direct notifications, Amazon shall issue the first email notifications within forty (40) days of the issuance of this Order, and send the second notifications approximately two weeks after sending the first direct notices;
  - iv. If Complaint Counsel and Amazon cannot agree on the draft email direct notifications, Complaint Counsel and Amazon shall submit to me, within fifty (50) days of the issuance of this Order, a joint statement of the factual and legal issues regarding the draft direct notifications that are in dispute for resolution;
- b. Within thirty (30) days of the issuance of this Order, Amazon shall submit to Complaint Counsel a clear and conspicuous notice to be placed on Amazon's internet website and social media platforms (including, but not limited to, Amazon's official accounts on Facebook, Twitter, and Instagram), including the content specified in 15 U.S.C. § 2064(i)(2) and 16 C.F.R. § 1115.27, and a draft notice to potential second-hand retailers, thrift stores, and online re-sale websites identified by Complaint Counsel of the hazards posed by the Subject Products, including the proposed method of delivery to each

(i.e., email, U.S. Mail, etc.), with Complaint Counsel notifying Amazon of any objections to the draft notices within ten (10) days of receipt of the drafts;

- i. If there are no objections to the draft notices, Amazon shall issue the clear and conspicuous notice on Amazon's Internet website, including the creation of a dedicated web address for the notice, and through Amazon's official Facebook, Twitter, and Instagram accounts within forty (40) days of the issuance of this Order, and issue the same notice again on their social media platforms approximately two weeks after the first notice;
- ii. If there are no objections to the draft notice to potential second-hand retailers, thrift stores, and online re-sale websites identified by Complaint Counsel, Amazon shall issue those notices within forty (40) days of the issuance of this Order
- iii. If Complaint Counsel and Amazon cannot agree on the draft clear and conspicuous notice and/or the draft notice to potential second-hand retailers, thrift stores, and online re-sale websites identified by Complaint Counsel, Complaint Counsel and Amazon shall submit to me, within fifty (50) days of the issuance of this Order, a joint statement of the

factual and legal issues regarding the draft notices that are in dispute for resolution;

- c. Within thirty (30) days of the issuance of this Order and prior to the issuance of the joint press release, Amazon shall establish a toll-free telephone number, a website URL, and an email address (“recall response system”) for consumers to respond to the recall announcement, and shall submit to Complaint Counsel a draft script and sample “Q&As,” with Complaint Counsel notifying Amazon of any objections to the draft script and sample “Q&As” within ten (10) days of receipt of the drafts;
  - i. The toll-free telephone number and the website shall include information about the hazards posed by the Subject Products and the remedy described in Paragraph 4.a. or 4.a.i. below;
  - ii. If there are no objections to the draft script and sample “Q&As,” Amazon shall activate the toll-free telephone number, website, and email address referenced above forty (40) days of the issuance of this Order, maintaining them for a minimum of 10 years;
  - iii. If Complaint Counsel and Amazon cannot agree on the draft script and sample “Q&As,” Complaint Counsel and Amazon shall submit to me, within fifty (50) days of the issuance of this Order, a joint statement of the factual and

legal issues regarding the draft script and sample “Q&As,”  
that are in dispute for resolution;

4. Within thirty (30) days of the issuance of this Order, Amazon shall submit to Complaint Counsel an Action Plan that details how Amazon intends to remove the Subject Products from commerce, with Complaint Counsel notifying Amazon of any objections to the Action Plan within ten (10) days of receipt of the proposed Action Plan. The Action Plan must detail how Amazon shall:
  - a. Issue full refunds to purchasers and owners of the Subject Products conditioned upon those purchasers and owners returning the Subject Products to Amazon or providing to Amazon proof of their destruction (at no expense to consumers);
    - i. Alternatively, issue a Subject Product replacement, identified by Amazon in the Action Plan submitted to Complaint Counsel and approved by Complaint Counsel for safe use, to original purchasers of the Subject Products conditioned upon those purchasers and owners returning the Subject Products to Amazon or providing to Amazon proof of their destruction (at no expense to consumers);
  - b. Quarantine, retrieve, and destroy the Subject Products possessed by Amazon and returned by consumers, which shall include the manner in which Amazon will use its supply chain to ensure that the Subject Products do not re-enter commerce;

- c. Adhere to the Action Plan for recovery and destruction of the Subject Products and ensure that any third-party entities are correctly carrying out the plan;
- d. Submit to Complaint Counsel, in the form of a certificate or declaration of an individual with personal knowledge, proof of destruction of any remaining Subject Products possessed by Amazon and of all returned Subject Products;
- e. Submit via the electronic Monthly Progress Report system (<https://apps.saferproducts.gov>), once per month, within 5 business days of the first of each month, starting on the first month following approval by Complaint Counsel of the Action Plan referenced in Paragraph 4 above, separate Monthly Progress Reports for each of the three types of Subject Products detailing the implementation of the requirements of the Action Plan and this Order, including, but not limited to, the following:
  - i. The information referenced in Paragraphs 4.a. and 4.b. above;
  - ii. The number of Subject Products in the possession of manufacturers, distributors, retailers, and consumers;
  - iii. The number of Subject Products possessed by Amazon that were destroyed during the reporting dates, along with proof of destruction in the form of a certificate or declaration of an individual with personal knowledge;

- iv. The number of incidents, injuries, and deaths reported to Amazon during the reporting dates that are related to the Subject Products;
  - v. The number of consumers notified about the Subject Products during the reporting dates;
  - vi. The number of consumers who contacted Amazon about the Subject Products during the reporting dates;
  - vii. The number of website hits that Amazon received on its dedicated website for the recall of the Subject Products during the reporting dates;
  - viii. The number of times Amazon posted the recall notice on its social media platforms during the reporting dates; and
  - ix. Whether Amazon located any additional units of the Subject Products for sale on other platforms, including, but not limited to, online re-sale, auction, and wholesale websites;
- f. If there are no objections to the proposed Action Plan, Amazon shall implement the Plan forty (40) days after issuance of this Order;
- i. If Complaint Counsel and Amazon cannot agree on the proposed Action Plan, Complaint Counsel and Amazon shall submit to me, within fifty (50) days of the issuance of this Order, a joint statement of the factual and legal issues



regarding the proposed Action Plan that are in dispute for resolution;

5. Upon request from Complaint Counsel, Amazon shall make available to Complaint Counsel the names and contact information for 50 purchasers of each of the three types of Subject Products, chosen randomly, so that Complaint Counsel can monitor compliance with the Order;
6. Maintain all records of Amazon's actions taken to comply with the Order for a period of five (5) years after the service of the Order, and supply such records to Complaint Counsel upon request so that Complaint Counsel can monitor compliance with the Order.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Hon. Carol Fox Foelak  
Administrative Law Judge

CERTIFICATE OF SERVICE

I hereby certify that on September 23, 2022, a copy of the foregoing was served upon all parties and participants of record in these proceedings as follows:

*By email to the Secretary:*

Alberta E. Mills  
Secretary  
U.S. Consumer Product Safety Commission  
4330 East West Highway  
Bethesda, MD 20814  
Email: [AMills@cpsc.gov](mailto:AMills@cpsc.gov)

*By email to the Presiding Officer:*

Judge Carol Fox Foelak  
U.S. Securities and Exchange Commission  
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*By email to Counsel for Respondent:*

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*John C. Eustice*

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Complaint Counsel for  
U.S. Consumer Product Safety Commission