



CONSUMER PRODUCT SAFETY COMMISSION

Guidance on Referrals for Potential Criminal Enforcement

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: This notice describes the CPSC’s plans to address guidance concerning criminal regulatory offenses under Executive Order 14294 on Fighting Overcriminalization in Federal Regulations.

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SUPPLEMENTARY INFORMATION: On May 9, 2025, the President issued Executive Order (“E.O.”) 14294, Fighting Overcriminalization in Federal Regulations. 90 FR 20363 (published May 14, 2025). Section 7 of E.O. 14294 provides that within 45 days of the order, and in consultation with the Attorney General, each agency should publish guidance in the *Federal Register* describing its plan to address criminal regulatory offenses.

The CPSC advises the public that by May 11, 2026, the CPSC, in consultation with the Attorney General, will provide to the Director of the Office of Management and Budget (“OMB”) a report containing: (1) a list of all of the agency’s criminal regulatory offenses¹ enforceable by the CPSC or the Department of Justice (“DOJ”); and (2) for each such criminal regulatory offense, the range of potential criminal penalties for a violation and the applicable mens rea standard² for the criminal regulatory offense. CPSC regulations are enforced through

¹ “Criminal regulatory offense” means a Federal regulation that is enforceable by a criminal penalty. E.O. 14294, sec. 3(b).

² “Mens rea” means the state of mind that by law must be proven to convict a particular defendant of a particular crime. E.O. 14294, sec. 3(c).

statutory provisions administered by the CPSC that provide for criminal penalties. CPSC regulations in and of themselves do not provide for criminal penalties without a violation of an underlying statutory provision that provides for criminal penalties. CPSC will list statutes, if any, that provide for criminal penalties, including those statutes that include strict liability offenses for regulatory violations enforced by CPSC found in the Code of Federal Regulations in 16 CFR subchapters B, C, D, E and F.

This notice also announces a general policy, subject to appropriate exceptions and to the extent consistent with law, that when the CPSC is deciding whether to refer alleged violations of criminal regulatory offenses to DOJ, officers and employees of the CPSC should consider, among other factors:

- the harm or risk of harm, pecuniary or otherwise, caused by the alleged offense;
- whether the statutory offense is a strict liability offense with no mens rea requirement;
- the potential gain to the putative defendant that could result from the offense;
- whether the putative defendant held specialized knowledge, expertise, or was licensed in an industry related to the rule or regulation at issue; and
- evidence, if any is available, of the putative defendant's general awareness of the unlawfulness of his conduct as well as his knowledge or lack thereof of the regulation at issue.

This general policy is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

Alberta E. Mills,
Secretary,
Consumer Product Safety Commission.

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