

UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION

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

DECLARATION OF ROBERT KAYE

I, Robert Kaye, pursuant to 28 U.S.C. § 1746, and based upon my personal knowledge and information made known to me in the course of my employment, hereby declare as follows relating to the above-captioned matter.

1. I am the Assistant Executive Director for Compliance and Field Operations at the U.S. Consumer Product Safety Commission (“CPSC” or “Commission”). I oversee the Division of Enforcement and Litigation and the Division of Regulatory Enforcement in the Office of Compliance and Field Operations. As such, I am the head of the department with control over CPSC’s Section 15 Defect Investigation Procedures Manual (April 2014) and the Regulatory Enforcement Division Standard Operating Procedure. I have the authority to assert government privileges over documents in the custody and control of CPSC’s Division of Enforcement and Litigation and CPSC’s Division of Regulatory Enforcement.

2. I submit this declaration to assert a formal claim of law enforcement privilege to prevent the disclosure of the following portions of CPSC’s Section 15 Defect Investigation Procedures Manual (April 2014) based on my personal consideration of this document:

- a. Section 15 Defect Investigation Procedures Manual, Sections 1–6, 9–11, and the Compliance Officer and Attorney Checklists for Section 15 Investigations

- b. Redacted Text, CPSC_AM0013528
- c. Redacted Text, CPSC_AM0013530
- d. Redacted Text, CPSC_AM0013533
- e. Redacted Text, CPSC_AM0013534
- f. Extracted Text, CPSC_AM0013537–38
- g. Extracted Text, CPSC_AM0013539
- h. Extracted Text, CPSC_AM0013540
- i. Extracted Text, CPSC_AM0013541
- j. Extracted Text, CPSC_AM0013542

3. I also submit this declaration to assert a formal claim of law enforcement privilege to prevent the disclosure of the following portions of the Regulatory Enforcement Division Standard Operating Procedure based on my personal consideration of this document:

- a. Regulatory Enforcement Division Standard Operating Procedure, Sections 1-2.6
- b. Redacted Text, CPSC_AM0015392
- c. Redacted Text, CPSC_AM0015394
- d. Redacted Text, CPSC_AM0015395
- e. Redacted Text, CPSC_AM0015398
- f. Redacted Text, CPSC_AM0015399
- g. Redacted Text, CPSC_AM0015400

4. The Commission is responsible for enforcing Section 15 of the Consumer Product Safety Act, 15 U.S.C § 2064. As part of the Commission’s enforcement obligations to prevent the distribution in commerce of items presenting a substantial product hazard and items in violation of mandatory standards, staff in the Division of Enforcement and Litigation and

Division of Regulatory Enforcement conduct investigations of potentially hazardous and violative products and build cases based upon a variety of investigative activities and guidelines.

5. The portions of the documents described in Paragraphs 2 and 3 above contain the investigatory techniques and CPSC's law-enforcement methods and priorities for compliance attorneys and officers in the Division of Enforcement and Litigation and Division of Regulatory Enforcement. These materials reveal the law enforcement investigatory techniques and procedures that lead to and drive a Section 15 investigation, including procedures for preliminary determinations of substantial products hazards, and the law enforcement investigatory techniques and procedures that guide investigations of mandatory standard violations. The materials described in Paragraphs 2 and 3 reveal specific factors CPSC staff uses to support or explain its law enforcement analysis and recommendations.

6. In my judgment, the effective functioning of the Division of Enforcement and Litigation and Division of Regulatory Enforcement requires that the aforementioned portions of the Section 15 Defect Investigation Procedures Manual and the Regulatory Enforcement Division Standard Operating Procedure be preserved. These materials are part of the staff's law enforcement investigatory process. The disclosure of this information would inhibit Commission staff's ability to conduct Section 15 investigations and investigations into mandatory standards violations, and companies under investigation could use the information within the manuals to change their behavior or take other steps to evade CPSC's enforcement efforts, which would thwart CPSC's mission to protect the public from substantial product hazards and unreasonable risks of injury from consumer products.

7. Considering the law enforcement techniques and procedures within these materials, and my personal judgment that their disclosure would be injurious to the discharge of

the responsibilities of the Division of Enforcement and Litigation and Division of Regulatory Enforcement – and, ultimately, to the public interest in effective and proper investigations of potentially hazardous consumer products – I assert a formal claim of law enforcement privilege with respect to the contents of the documents described in Paragraphs 2 and 3 above.

8. I declare under penalty of perjury that the foregoing statements are true and correct. Executed this 8th day of August, 2022, in Bethesda, MD.

Respectfully submitted,

Robert Kaye Digitally signed by Robert Kaye
Date: 2022.08.08 16:55:27
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August 8, 2022

CERTIFICATE OF SERVICE

I hereby certify that on August 8, 2022, a copy of the foregoing was served upon all parties and participants of record in these proceedings as follows:

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