U.S. Consumer Product Safety Commission

Publicly Available Consumer Product Information Database

Final Rule

Mary Kelsey James, EXIT
Ming Zhu, EXIT
Melissa Hampshire, OGC

This presentation has not been reviewed or approved by the Commission and may not reflect its views

Agenda

Topic:

Publicly Available Consumer Product Safety Information Database
Final Rule

Wednesday, October 20, 2010
2:00 p.m. - 4:00 p.m.
Hearing Room 420
Open to the Public

Agenda:

1. Background (Mary James, EXIT)
2. Statutory Overview (Melissa Hampshire, OGC)
3. Database Implementation (Mary James, EXIT)
4. Proposed Changes to Final Rule (Mary James, EXIT)
5. Example Report Scenarios (Ming Zhu, EXIT)

Background

Background

- The Congress passed and President Bush signed the Consumer Product Safety Improvement Act of 2008 ("CPSIA," Pub. L. 110-314) in August 2008.

- CPSIA amended the Consumer Product Safety Act ("CPSA") to add a new section 6A.

- The Commission submitted the Database implementation plan to Congress in September 2009.

- Per statutory requirement, the Database must be established not later than March 2011 (18 months after submission of the Database implementation plan).

Background

- **CURRENT STATE.** Operational and administrative practices refined over several decades:
  - For several decades, the Commission has gathered and maintained a database of safety-related incidents, involving the use of consumer products, known as incident reports.
  - Such incident reports have been generated by consumer complaints, newspaper reports, death certificates, hospital emergency room reporting, and other investigative means. The Commission has Internet report forms on its current website for consumers, State Attorneys General and Health Departments, Fire, Police and Insurance Investigators, physicians and health care professionals and a telephone hotline to receive external reports.
  - We use this information today to conduct studies and investigations of death, injuries, diseases, other health impairments, and economic losses resulting from incidents involving consumer products and to conduct research on improving the safety of such products.
  - The Commission is required to give notice to manufacturers and private labelers, and an opportunity to comment prior to public disclosure.
  - The Commission provides public access to data through published reports and studies, and through FOIA requests.

Background

- **FUTURE STATE.** The principal challenge for the CPSC and manufacturers and private labelers in section 6A is the statutory, mandatory publishing timeline:
  - Within 5 business days of receipt, where practicable, the CPSC must transmit a report of harm (that meets the minimum requirements) to the identified manufacturer or private labeler.
  - Within 10 business days of transmission by CPSC, the identified manufacturer or private labeler must take action or the report of harm will be published.
  - Manufacturer or private labeler must decide whether to comment on the report of harm for the Database. They may also make a claim of confidential information or material inaccuracy.
  - Both the report of harm and manufacturer or private labeler comment (if any) are published at 10 business days after transmission by CPSC to manufacturer or private labeler.
  - Reports of harm are not subject to the disclosure requirements of section 6a and 6b.

Background

- The mandatory timeline for transmission of reports of harm to the manufacturer or private labeler and subsequent publication with comments requires changes to our technology and our processes. These changes are being addressed in the design of the technology and in our operational planning for implementation of a Final Rule.

- However, our business function in regard to incident reports remains the same - collecting and evaluating product safety incident data and notifying manufacturers and private labelers.

- The professional and expert staff at the CPSC has over 35 years of experience collecting, evaluating, and transmitting the type of product safety incident data described in the statute.

Background

- Because of changes in the way we will utilize technology and do business for reports of harm submitted under section 6A, there have been a variety of public misunderstandings that we would like to address:

Misunderstanding	CPSC Database
This is a blog site: • On a blog site, multiple third-parties may comment and publish about topics without review	<u>Not a blog site.</u> • Only the submitter and manufacturer may publish • Every report of harm and comment is reviewed for minimum requirements
This is product review site: • On a product review site, multiple third-parties may comment and publish their opinions about products without review	<u>Not a product review site.</u> • Only the submitter and manufacturer may publish • Every report of harm and comment is reviewed for minimum requirements

Background

Misunderstanding

Sections 6(a) and 6(b) of the CPSA apply to reports of harm in the Database.

The CPSC has the discretion to delay publishing reports of harm beyond the 10th business day after transmission to manufacturer or private labeler.

CPSC Database

New section 6A of CPSA specifically excludes reports of harm submitted to Database from notice requirements of section 6(a) and 6(b).

CPSC does not have discretion to modify the publishing timeline. Reports of harm that meet the minimum requirements are required by Congress to be published within 10 business days of CPSC's transmission to the manufacturer or private labeler.

Background

Misunderstanding

The CPSC can exclude reports of harm that solely describe a risk of harm versus an actual harm.

Section 15(b) reports and other mandatory or voluntary reporting programs established between a retailer, manufacturer, or private labeler and the Commission will be published in the database beginning in March 2011.

CPSC Database

Congress defined harm to include "risk of injury, illness or death." We do not have the discretion to limit to only actual harm.

No additional information beyond reports of harm, manufacturer comments, and recall notices will be disclosed in the Database in March 2011. The requirements of 6(a) and 6(b) are specifically retained by the statute for section 15(b) or voluntary reports received through a program established by the Commission, if the Commission ever were to determine that such reports were in the public interest to include in the Database.

Background

Misunderstanding	CPSC Database
The CPSC will publish confidential business information.	Manufacturers or private labelers have option to dispute information in report of harm before it is published.
The CPSC will publish materially inaccurate information.	Manufacturers or private labelers have option to dispute information in report of harm before it is published.
The CPSC will publish anonymous reports.	Anonymous reports do not meet the minimum requirements for publication (no contact information).
The CPSC will investigate every report of harm before publishing.	The CPSC will not investigate every report of harm, but it will review every report of harm.

Background

- The following types of information will not be published in the Database:

1. Reports that do not contain an identifiable consumer product
2. Reports that do not identify a manufacturer or private labeler
3. Reports that do not describe a harm or risk of harm
4. Name and contact information of submitter of report of harm
5. Victim's name and contact information
6. Photographs not in the public interest to publish
    a. Photos of persons (i.e. with personally identifiable faces)
    b. Photos of injuries (i.e. when gruesome or graphic)
    c. Photos that invade personal privacy (i.e. addresses)
7. Medical records without consent
8. Reports from persons under 18 years of age without consent of parent or guardian

Background

- What happens after Final Rule is issued:
  - Post-Final Rule (Winter):
    - Start outreach on business portal registration and features
      - Workshops with manufacturers and private labelers
      - Training webinars
    - Enable comments and other business portal features
    - Enable new incident report form
    - Enable new internal technology for processing incident reports
  - Public Database Launch (Spring):
    - Enable public Database publishing
    - Enable public Database search

Statutory Overview

Statutory Overview

- Section 6A(b)(1) describes the Contents of the Database:
  - Reports of harm, where harm is defined as injury, illness, or death **or** risk of injury, illness or death, relating to use of consumer products, and other products or substances regulated by the Commission;
  - Manufacturer comments regarding reports of harm;
  - Information the Commission derives from mandatory recall notice (section 15(c)) and any notice of a voluntary corrective action taken by a manufacturer about which the Commission notified the public; and
  - Consistent with sections 6(a) and (b) of the CPSA, any additional information the Commission determines is in the public interest.

Statutory Overview

- CPSA Section 6A(a)(1)
  - Requires the Commission to establish and maintain a database on safety of consumer products, and other products or substances regulated by the Commission that is
    - publicly available;
    - searchable; and
    - accessible through internet website of the Commission.
  - Section 6A(a)(3) requires the Database to be established not later than March 2011 (18 months after the date the Commission submitted implementation plan to Congress in September 2009).

Statutory Overview

- Statutory Requirement for Database Disclaimer:
  - Section 6A(b)(5) of the CPSA requires that the Commission shall provide clear and conspicuous notice to database users that the Commission does not guarantee the accuracy, completeness, or adequacy of the database contents.

Statutory Overview

- Statutory Submitters of Reports of Harm:
  - Section 6A(b)(1)(A) states that the Database shall include reports of harm relating to the use of consumer products, and other products or substances regulated by the Commission, that are received from -
    - consumers;
    - local, State, or Federal government agencies;
    - health care professionals;
    - child service providers; and
    - public safety entities.

Statutory Overview

- Section 6A(b)(2)(B) Statutory Minimum Requirements of Report of Harm:
  - Reports of harm cannot be included in the public database unless they contain the following minimum required information:
    - **Description of consumer product** (or other product or substance regulated by the Commission) concerned;
    - **Identity of manufacturer or private labeler** of consumer product (or other product or substance regulated by the Commission);
    - **Description of the harm** related to use of the consumer product (or other product or substance regulated by the Commission);
    - **Contact information** for the person submitting the report (not disclosed in Database);
    - **Verification by submitter** of truth and accuracy of information and
    - **Consent by submitter** to inclusion of such information in the public database.

Statutory Overview

- Statutory Timeline in Section 6A(c) for Transmitting and Publishing:
  - Section 6A(c)(1) states that the Commission shall transmit reports of harm that include minimum required information to manufacturer/private labeler “to the extent practicable” no later than 5th business day after Commission receipt of report.
  - Section 6A(c) (2) (A) provides that manufacturer/private labeler may submit a comment on information in a report of harm and section 6A(c) (2)(B) allows the manufacturer or private labeler to request that such comment be included in the public database.
  - Section 6A(c)(3)(A) provides that a report of harm must be made available in the public database no later than the 10th business day after date on which Commission transmits report to manufacturer/private labeler.

Statutory Overview

- Statutory Requirements on Availability of Contact Information:
  - Section 6A(b)(6) prohibits the Commission from disclosing the name and address of submitter of report of harm in the public database.
  - Section 6A(b)(6) states that the Commission can disclose such information to the manufacturer/private labeler of a consumer product with the express consent of the person submitting the information.
  - Section 6A(b)(6) states that consumer information provided to a manufacturer/private labeler may not be used or disseminated to any other party for any purpose other than verifying a report of harm.

Statutory Overview

- Confidential Information:
  - Section 6A(c)(1)(C)(i) states that manufacturer/private labeler may request confidential treatment of portions of a report of harm and request that such portions be designated as confidential and redacted from public view.
  - Section 6A(c)(1)(C)(ii) states that if Commission determines designated information is confidential business or trade secret information the Commission shall redact the designated information in the report before placing it in database.
  - Section 6A(c)(1)(C)(iii) states that if Commission determines the designated information is not confidential it must notify manufacturer and include the information in the public database.
  - Section 6A(c)(1)(C)(iii) states that manufacturer/private labeler may bring an action in U.S. District Court to seek removal of information from database.

Statutory Overview

- Materially Inaccurate Information (before publication)
  - Section 6A(c)(4)(A) states that if prior to making a report of harm or a manufacturer/private labeler comment available in the public database the Commission determines that the information in such report or comment is materially inaccurate, the Commission shall:
    - Decline to add the materially inaccurate information to the database;
    - Correct the materially inaccurate information in the report or comment and add it to the database; or
    - Add information to correct inaccurate information in the database.

- Materially Inaccurate Information (after publication):
  - Section 6A(c)(4)(B) states that if Commission determines, after investigation, that information previously made available in the database is materially inaccurate or duplicative of information in the database, the Commission shall, within 7 business days after such Commission determination:
    - Remove such information from the database;
    - Correct such information; or
    - Add information to correct inaccurate information in the database.

- Application of Certain Notice and Disclosure Requirements
  - Section 6A(f)(1) states that the provisions of sections 6(a) and (b) of the CPSA do not apply to reports of harm disclosed in the database.
  - Section 6A(f)(2) states that section 6(a) and (b) still applies to Information received by the Commission:
    - Under section 15(b); or
    - Under any other mandatory/voluntary reporting program established between a retailer, manufacturer or private labeler and the Commission.

Database Implementation

Database Implementation

- The Commission held a public hearing on the topic of Section 212 of CPSIA in November 2009
- Staff sponsored a two-day series of public workshops on various topics regarding the Database in January 2010
- Staff presented at multiple conferences
- Staff researched and met with staff of other government database websites
- Staff researched and developed the Proposed Rule, and presented before the Commission in April 2010
- The Commission issued a notice of proposed rulemaking (NPR) in 75 *Federal Register* 29156, dated May 24, 2010
- The Commission received public comments through July 23, 2010
- Staff analyzed public comments and proposed a Final Rule

Database Implementation

- Throughout the process, the staff considered and worked to address key challenges:

Challenge:
1. **Mandatory statutory timeline for transmitting and publishing** reports of harm and manufacturer/private labeler comments 2. **Completeness and integrity of the data** that will be collected and published under standard procedure 3. **Remedies for correcting inaccurate data**

Database Implementation

Challenge:	
Mandatory statutory timeline for transmitting and publishing	If the submitted report of harm identifies a manufacturer or private labeler: 1. Staff will determine if it is a known manufacturer (as we do today), then notify (transmit the report of harm to) the manufacturer 2. If the manufacturer is unfamiliar to staff, staff will research and identify the manufacturer (as we do today), then notify (transmit the report of harm to) the manufacturer 3. Once transmitted by CPSC, the manufacturer or private labeler then has 10 business days to submit a comment before the report of harm is published

Database Implementation

Challenge:	
Completeness and integrity of the data	Every submitted report of harm will be reviewed by CPSC staff to evaluate the minimum requirements for publication: 1. Description of the consumer product 2. Identity of the manufacturer or private labeler 3. Description of the harm 4. Incident date (or approximate date) 5. Category of submitter 6. Contact information of the submitter (never published in the Database) 7. Verification of submitter 8. Consent of submitter

If the report of harm misses any of these requirements, it will not be published in the Database.

Database Implementation

Challenge:	
<u>Remedies for correcting inaccurate data</u>	Once a manufacturer is notified (report of harm is transmitted), the manufacturer may take a number of actions through the Business Portal: 1. Make a comment in response to the report of harm, which may be published 2. Claim the report of harm contains confidential business information, triggering CPSC review of the claim 3. Claim the report of harm contains materially inaccurate information (i.e. that it is not the manufacturer or private labeler of the product), triggering CPSC review of the claim

Proposed Changes to Final Rule

Proposed Changes to Final Rule

- The comment period on the proposed rule closed on July 23, 2010:
  - Thirty-seven comments were received on or before the close of the 60-day comment period.
  - Thirty-three of the comments received were from trade associations and industry representatives; two comments received were from consumer interest groups; and two comments received were from individuals in the general public.
  - The comments received represent more than 100 separate issues related to the proposed rule and implementation of the Database.

Proposed Changes to Final Rule

- Primary changes to the Proposed Rule:

Changes #1, #2, and #3:	This set of changes removes the “Others” option from the category of submitters in the proposed rule and clarifies the definition of “Consumers” and “Public Safety Entity”
Changes #4, #5, #6, and #8:	This set of changes includes incident date and category of submitter as part of set of minimum requirements for publication, renumbers the items where they appear, includes them in the set of fields that a manufacturer may verify, and includes them such that a manufacturer may make a material inaccuracy claim
Changes #7, #9, and #10:	This set of changes modifies the definition of materially inaccurate in a report of harm, states that the requester bears the burden of proof, and clarifies when the Commission will publish reports of harm in claims of material inaccuracy

Proposed Changes to Final Rule

Changes #1, #2, and #3:	This set of changes removes the “Others” option from the category of submitters in the proposed rule and clarifies the definition of “Consumers” and “Public Safety Entity”
Comments:	In response to comments, staff recommends deleting the reference to “Others” given the breadth of the five statutory categories of submitter. Accordingly, the draft final rule does not contain the “Others” category.

Proposed Changes to Final Rule

Definition of Consumers:

Proposed Rule	Draft Final Rule
Section 1102.10(a)(1) defines "consumers" as including, but not limited to, users of consumer products, family members, relatives, parents, guardians, friends, and observers of the consumer products being used.	Section 1102.10(a)(1) defines "consumers" as including, but not limited to, users of consumer products, family members, relatives, parents, guardians, friends, attorneys, investigators, professional engineers, agents of a user of a consumer product, and observers of the consumer products being used.

Proposed Changes to Final Rule

Definition of Public Safety Entity:

Proposed Rule	Draft Final Rule
Section 1102.10(a)(5) defines "public safety entity" as including, but not limited to, police, fire, ambulance, emergency medical services, federal, state, and local law enforcement entities, and other public safety officials.	Section 1102.10(a)(5) defines "public safety entity" as including, but not limited to, police, fire, ambulance, emergency medical services, federal, state, and local law enforcement entities, and other public safety officials and professionals, including consumer advocates or individuals who work for nongovernmental organizations, consumer advocacy organizations, and trade associations, so long as they have a public safety purpose.

Proposed Changes to Final Rule

Changes #4, #5, #6, and #8:	This set of changes includes incident date and category of submitter as part of set of minimum requirements for publication, renumbers the items where they appear, includes them in the set of fields that a manufacturer may verify, and includes them such that a manufacturer may make a material inaccuracy claim
Comments:	In response to comments stating that the minimum information required to submit a report of harm for inclusion in the Database is not detailed enough, to understand the incident adequately, and to weed out duplicate reports, staff recommends adding two additional field requirements – Incident Date and Category of Submitter.

Proposed Changes to Final Rule

Changes #7, #9, and #10:	This set of changes modifies the definition of materially inaccurate in a report of harm, states that the requester bears the burden of proof, and clarifies when the Commission will publish reports of harm in claims of material inaccuracy
Comments:	In response to comments stating that the definition was too complicated, subjective, redundant, and ultimately impractical to enforce, the definition in the final rule retains and simplifies the subjective test in the definition. In response to comments we added a burden of proof requirement for materially inaccurate information, similar to how we request designation and support for confidential information claims. In response to comments we have revised the rule to delete any ambiguity on when we must publish reports of harm where claims of material inaccuracy have been made.

Proposed Changes to Final Rule

Definition of Materially Innacurate Information:

Proposed Rule	Draft Final Rule
Sections 1102.26(a)(1) and (a)(2) define “materially inaccurate” information in a report of harm and manufacturer comment to mean “information that is false or misleading in a significant and relevant way that creates or has the potential to create a substantially erroneous or substantially mistaken belief in a Database user about information in a report of harm including . . .”	Sections 1102.26(a)(1) and (a)(2) defines materially inaccurate information in a report of harm and manufacturer comment as “information that is false or misleading and relates to a matter which is so substantial and important as to affect a reasonable consumer’s decision making about the product including . . .”

Example Report Scenarios

Scenario 1 – Report of Harm is Published in the Database

Scenario 1: The Report of Harm includes all fields required to satisfy the draft final rule.

Report of Harm is published in the Database.

1. Consumer submits Report of Harm

2. CPSC Specialist verifies eight required fields:

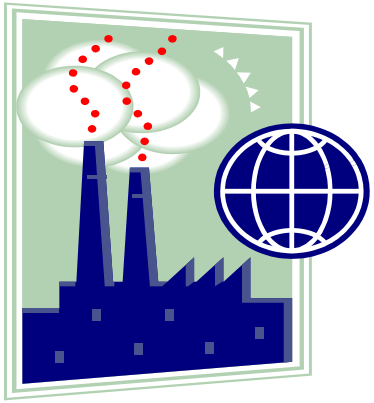
Rule Requirements

- ✔ Description of the consumer product
- ✔ Identity of the manufacturer or private labeler
- ✔ Description of the harm
- ✔ Incident date (or approximate date)
- ✔ Category of submitter
- ✔ Contact information of the submitter
- ✔ Verification of submitter
- ✔ Consent of submitter

Other Business Actions

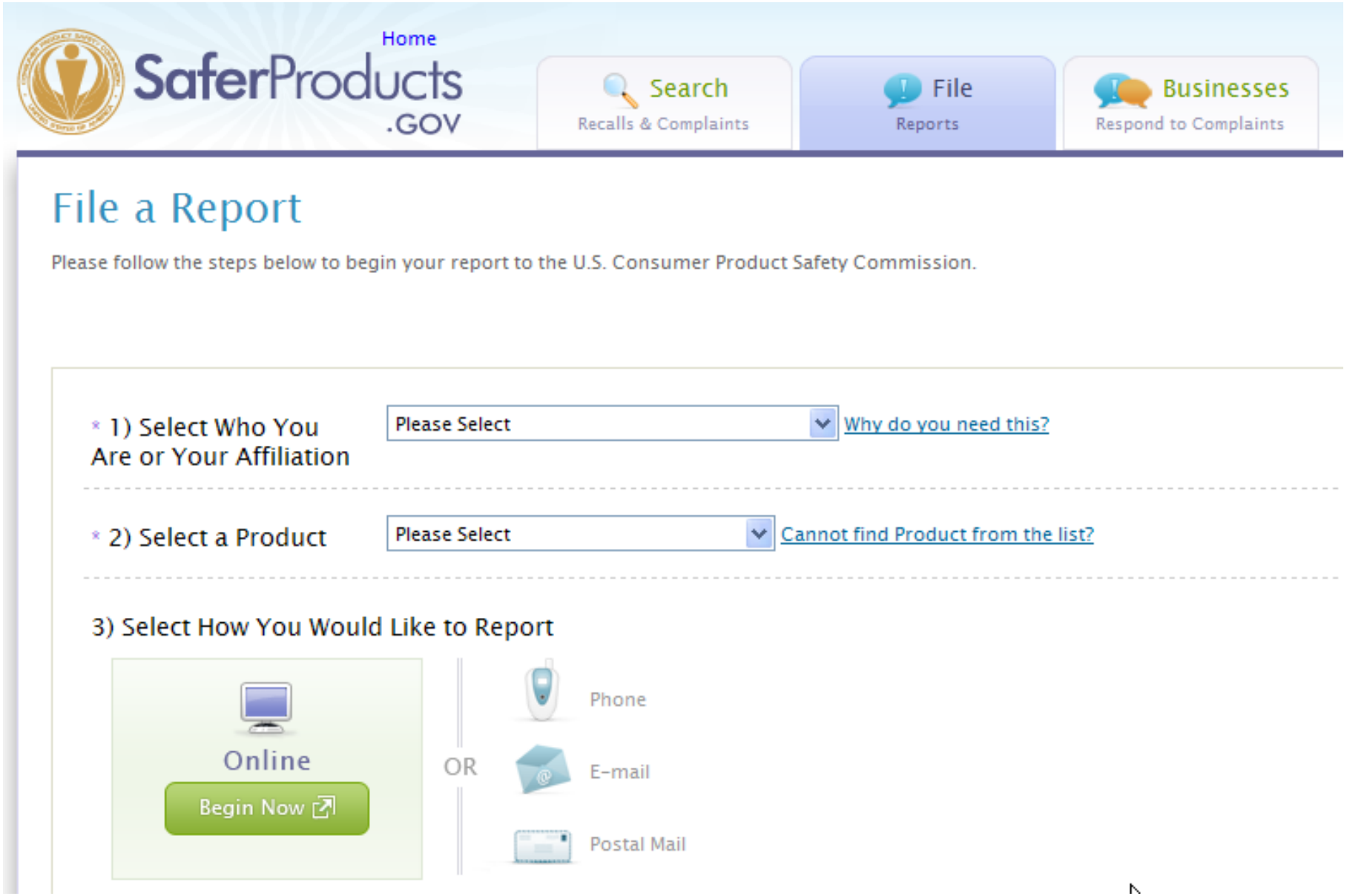
CPSC staff reviews and scrubs for PII and transmits to manufacturer.

3. Manufacturer registers and may submit Comment

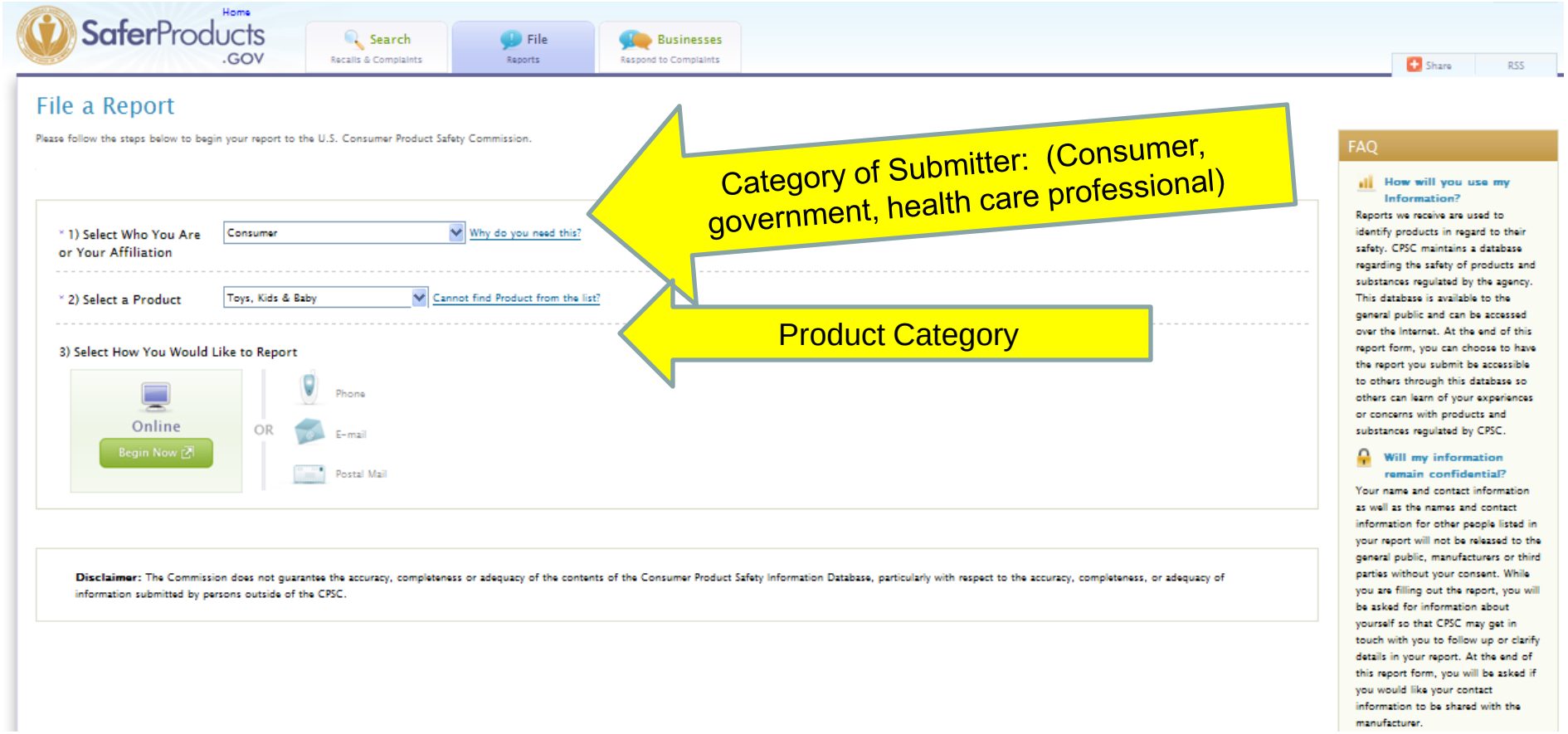


4. CPSC staff reviews any Comment and then publishes the Report of Harm and any Comment into the Database

Scenario 1, Step 1



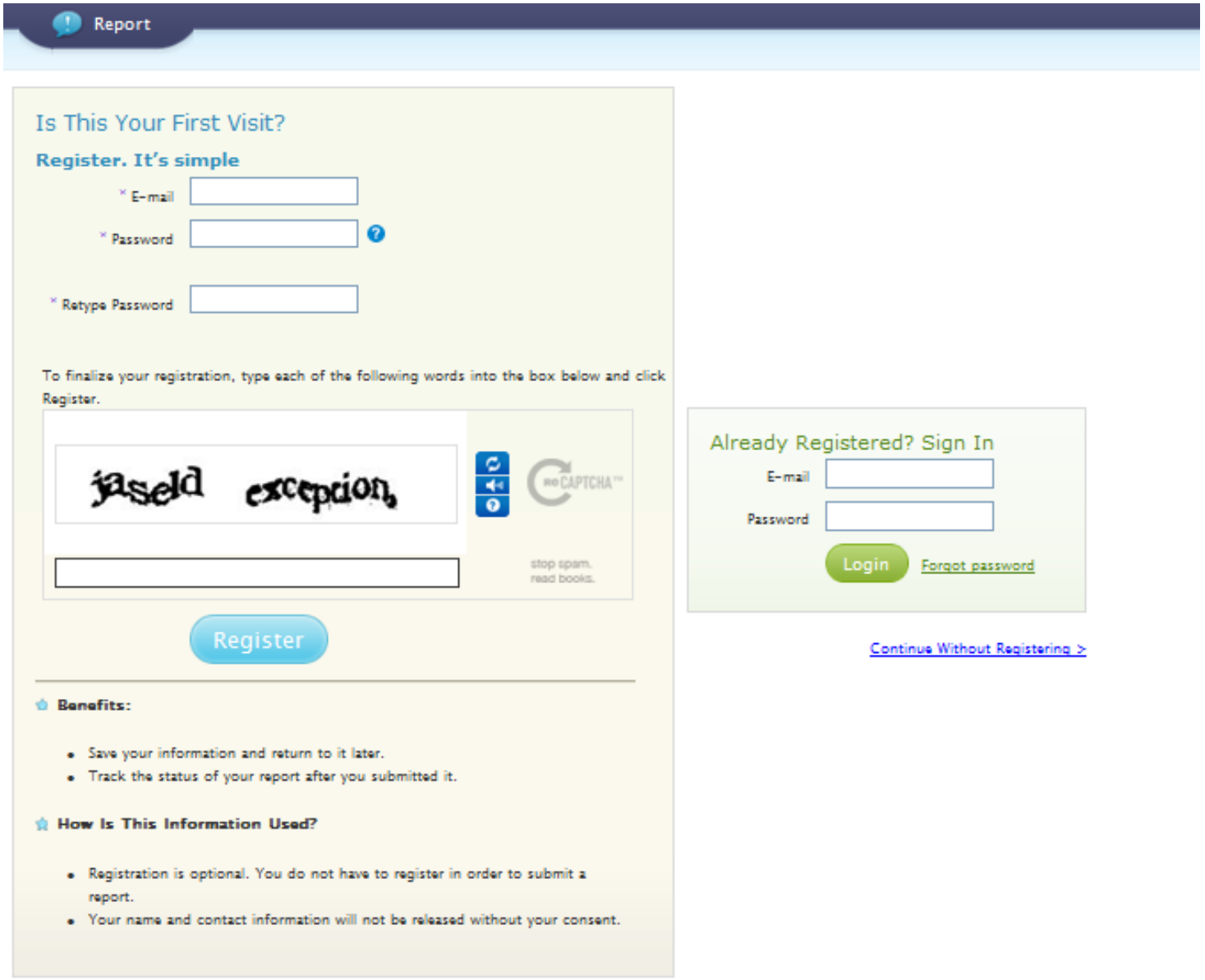
Scenario 1, Step 1



Category of Submitter: (Consumer, government, health care professional)

Product Category

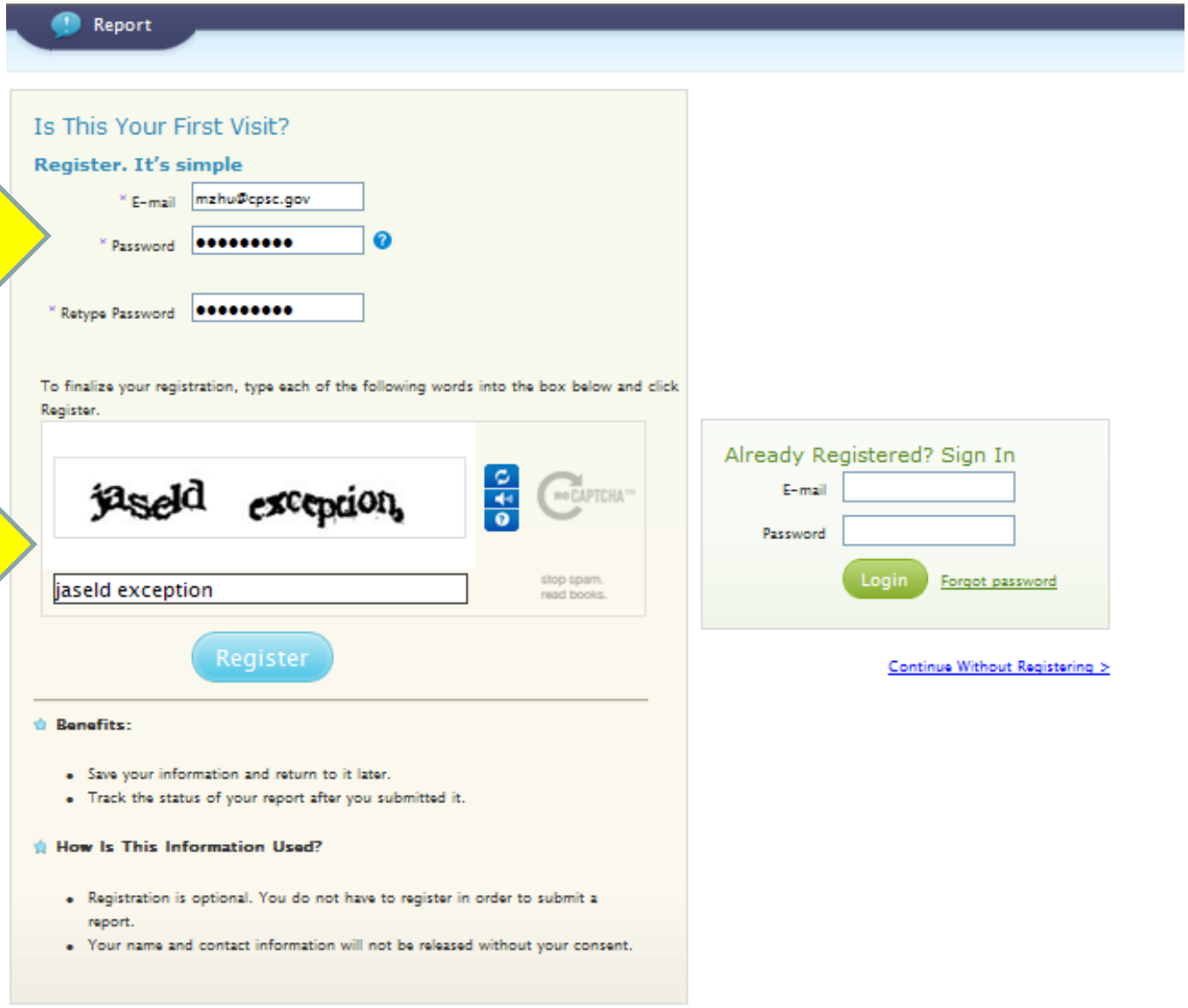
Scenario 1, Step 1



Scenario 1, Step 1

- Email address
- Password

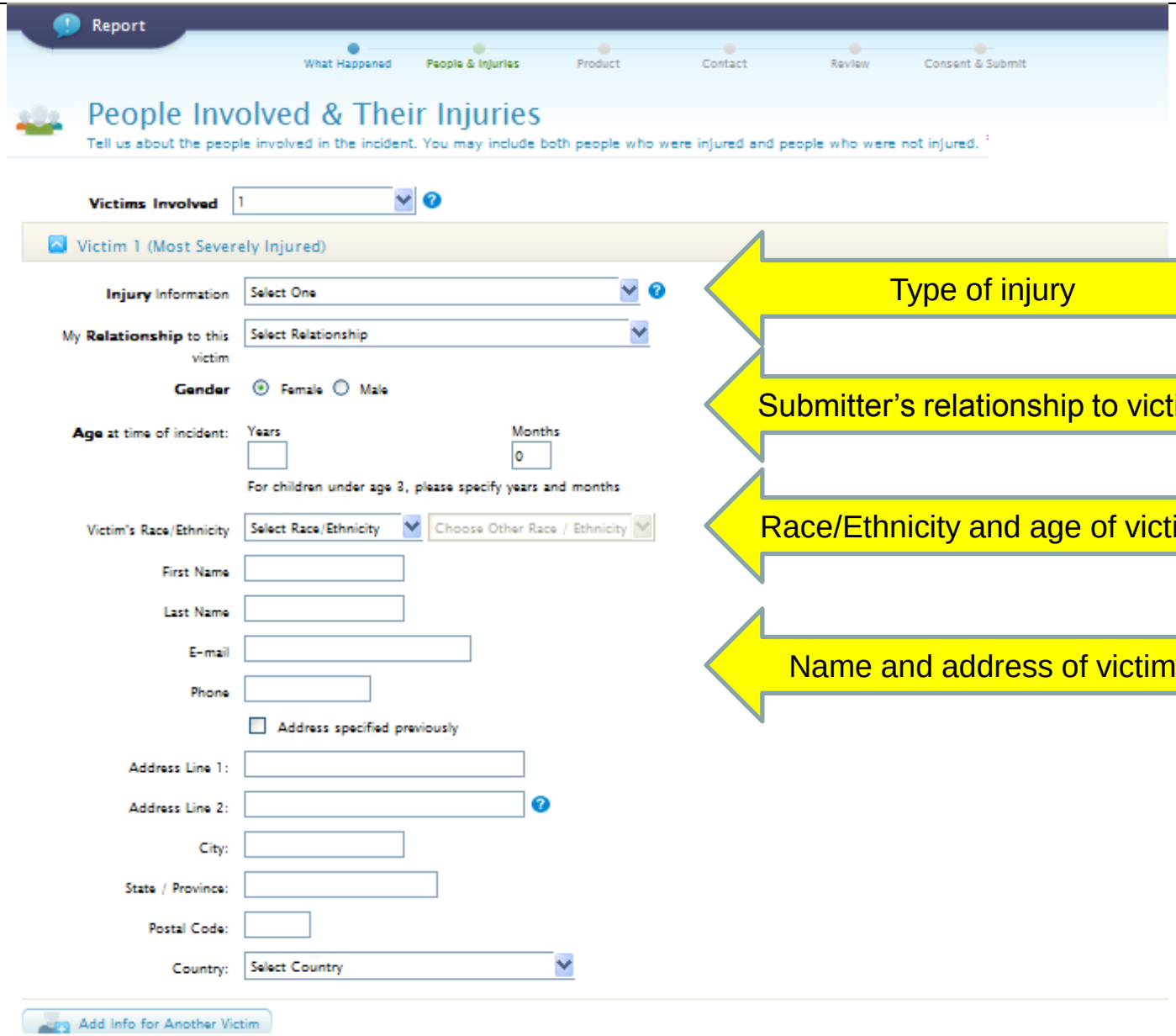
Captcha to enhance security



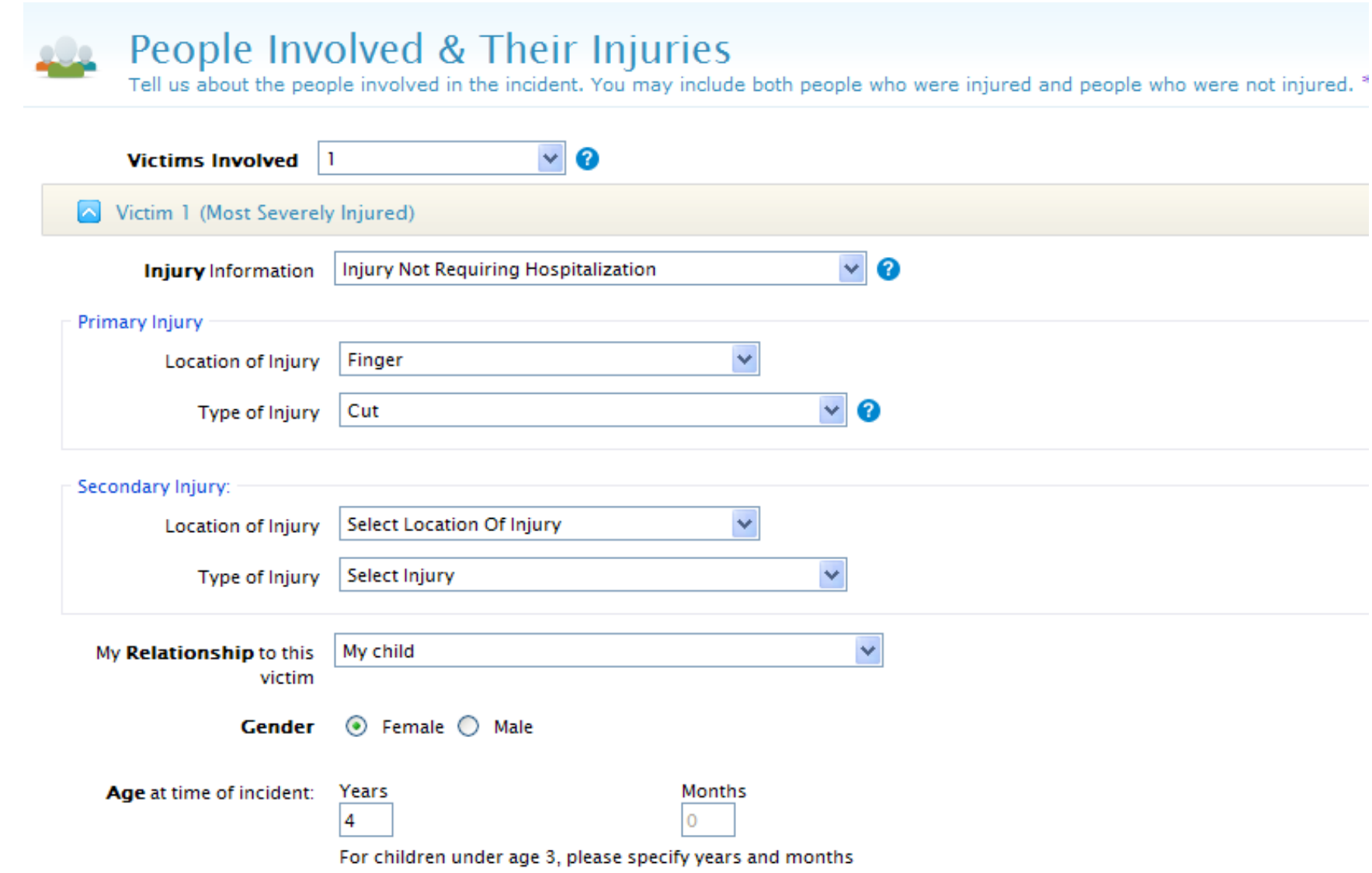
Scenario 1, Step 1

Scenario 1, Step 1

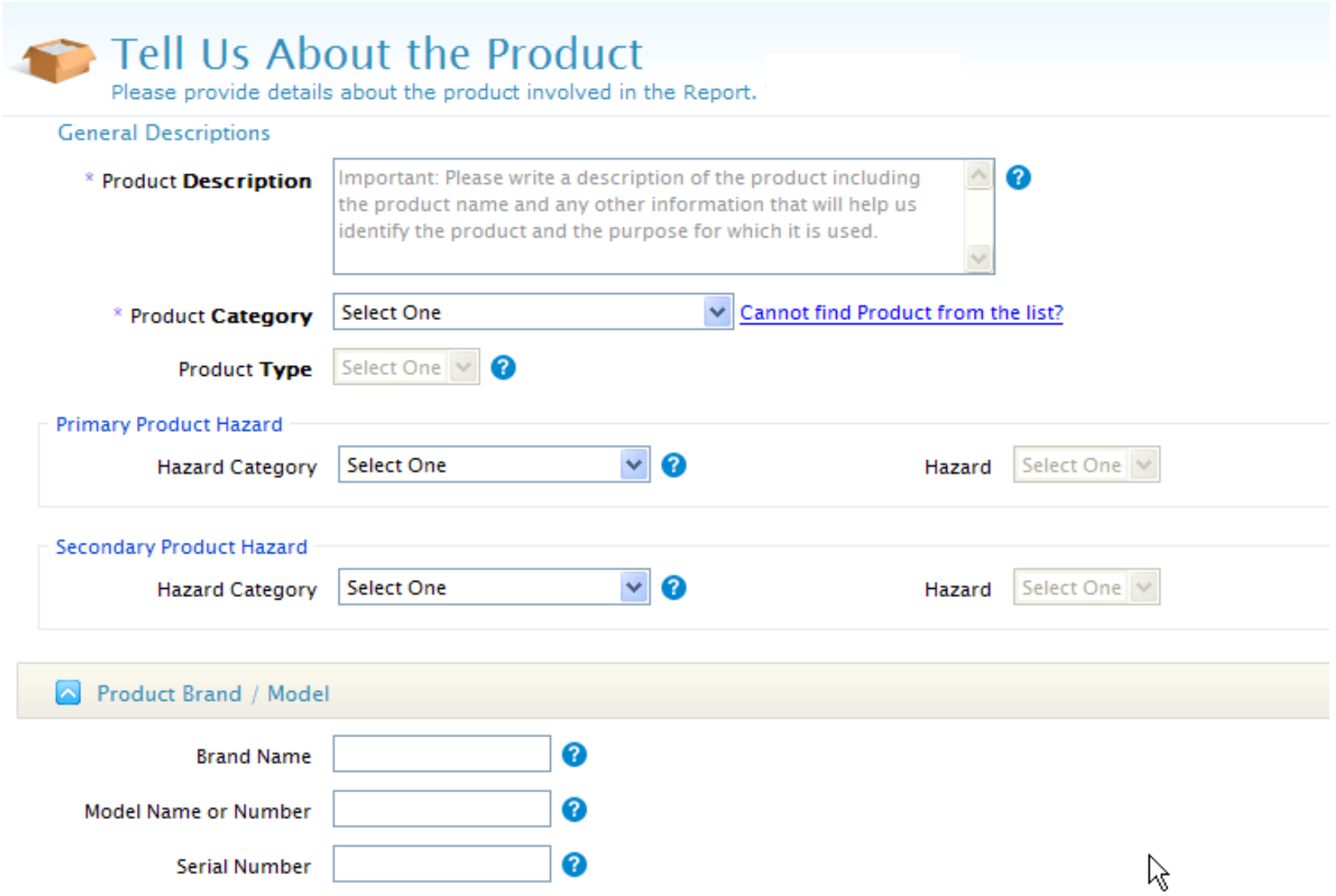
Scenario 1, Step 1



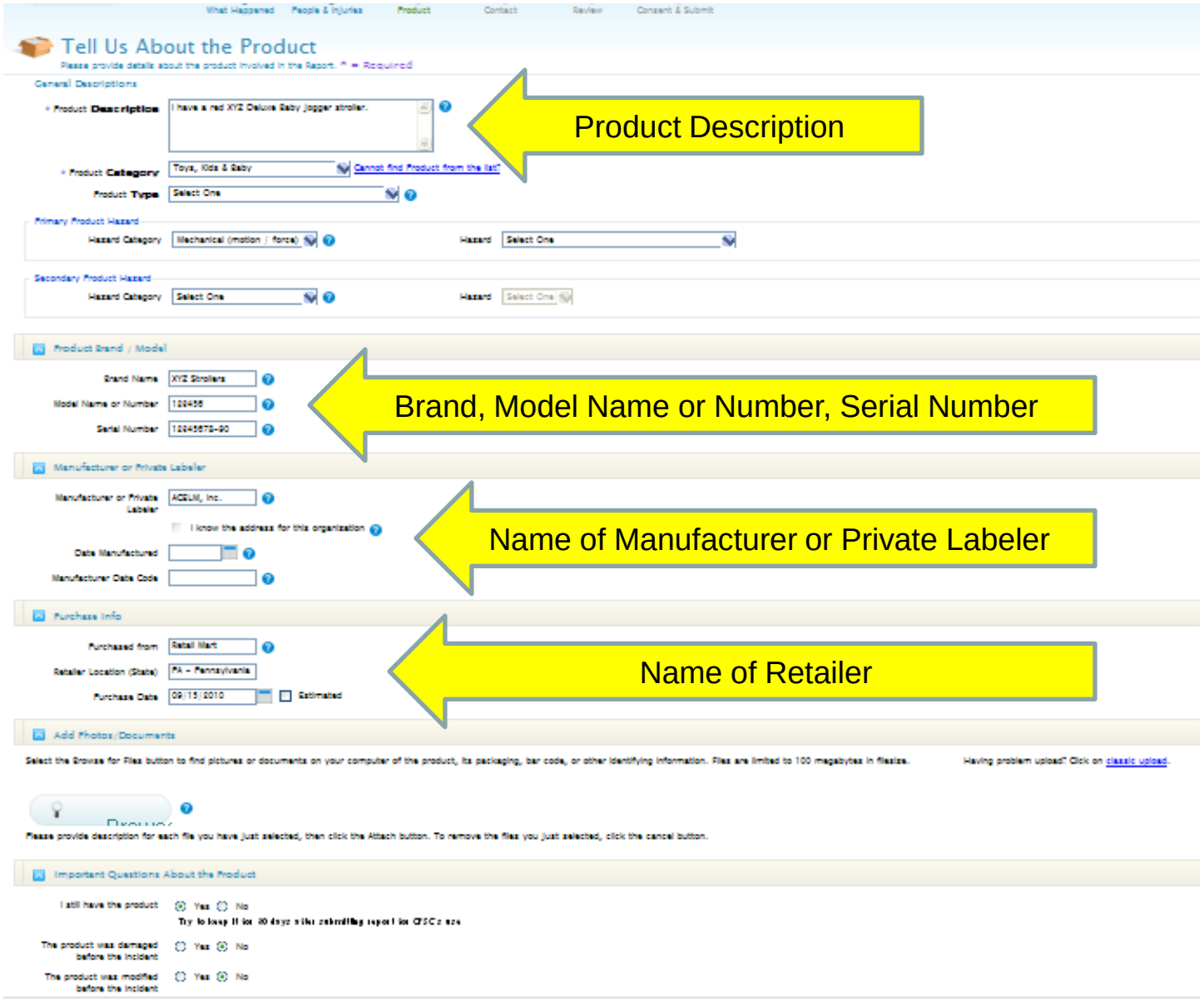
Scenario 1, Step 1



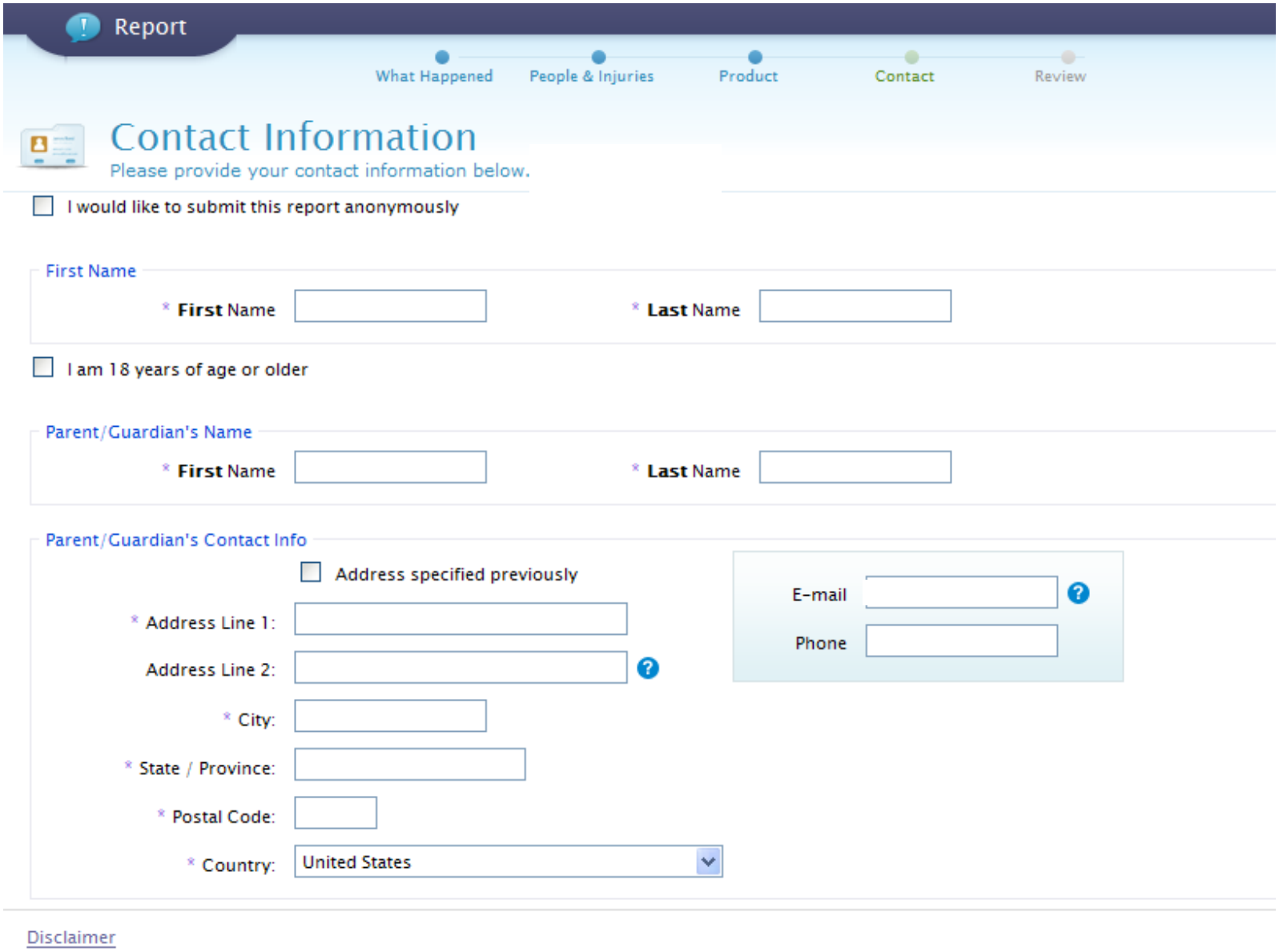
Scenario 1, Step 1



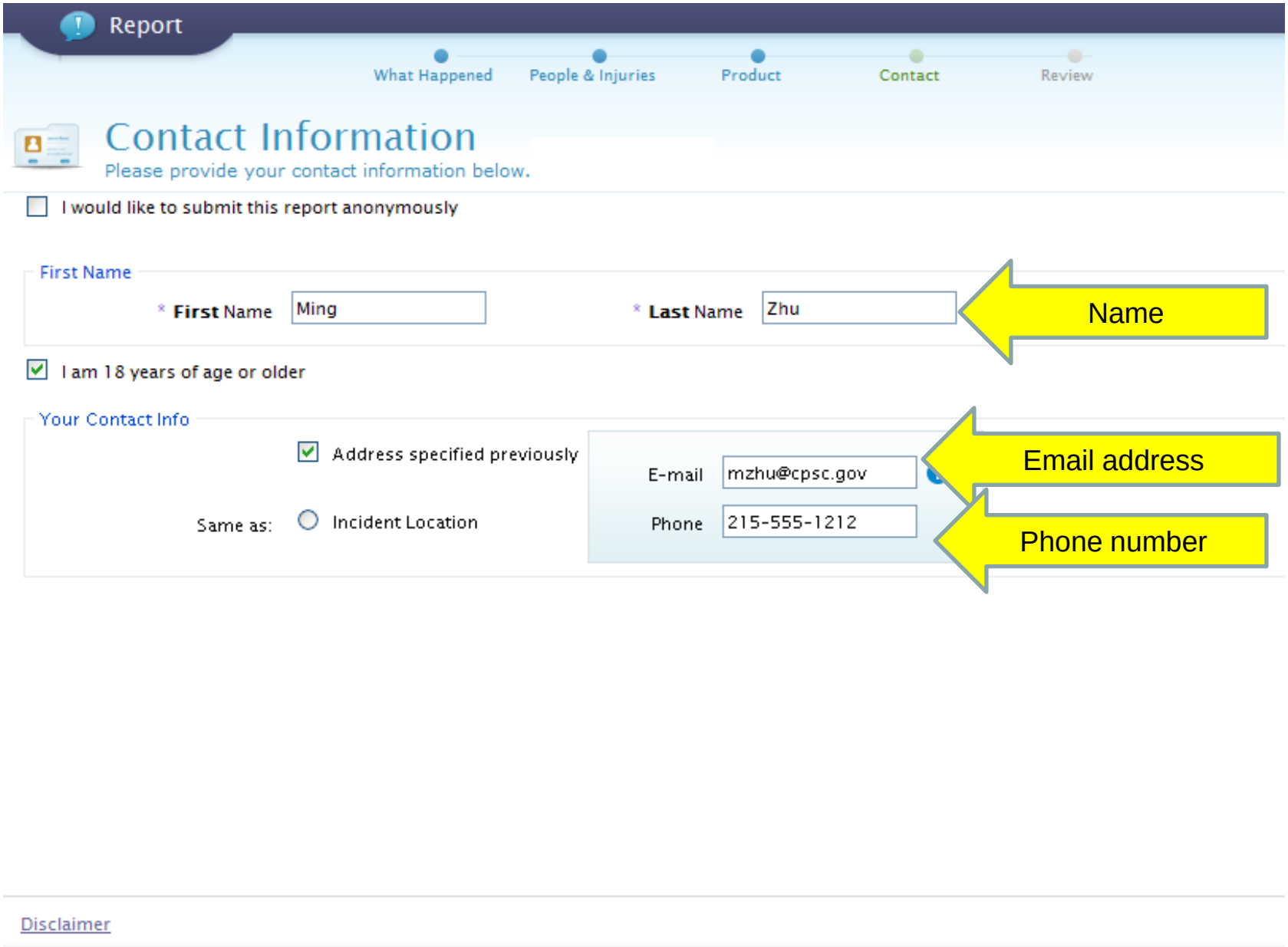
Scenario 1, Step 1



Scenario 1, Step 1



Scenario 1, Step 1



Scenario 1, Step 1

Review Your Report

Please review the information you have supplied to ensure it is "true" and accurate. Click "Edit" to make corrections.

Save A Copy

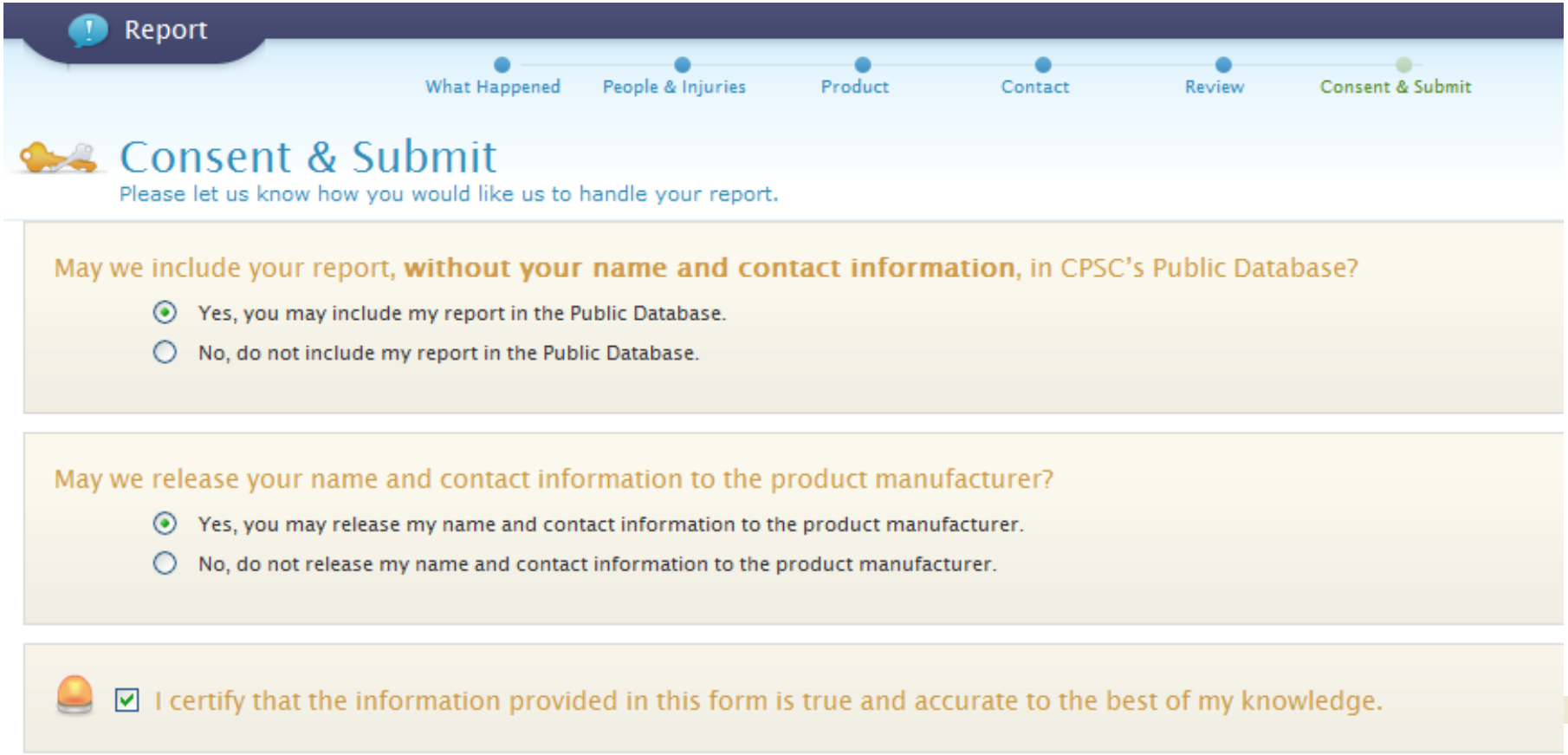
Incident Details

Incident ID:	20101019-77134-52
Incident Type Reporting:	an incident where a product acted in a dangerous or unsafe manner.
Incident Description:	My child's finger was cut as I was closing her stroller.
Date of Incident	10/1/2010
Location of Incident:	Home/Apartment/Condominium - 1 Pine St., Philadelphia, Pennsylvania, 19101, United States

Victim Details

First Name:	
Last Name:	
Severity:	Injury Not Requiring Hospitalization
Primary Injury:	Finger - Cut
My Relationship to Victim:	My child
Gender:	Female
Age when incident occurred:	4 Years

Scenario 1, Step 1



Scenario 1, Step 1 - 2

Your Report has been successfully submitted.

Thank you for submitting your Report to U.S. Consumer Product Safety Commission (CPSC).

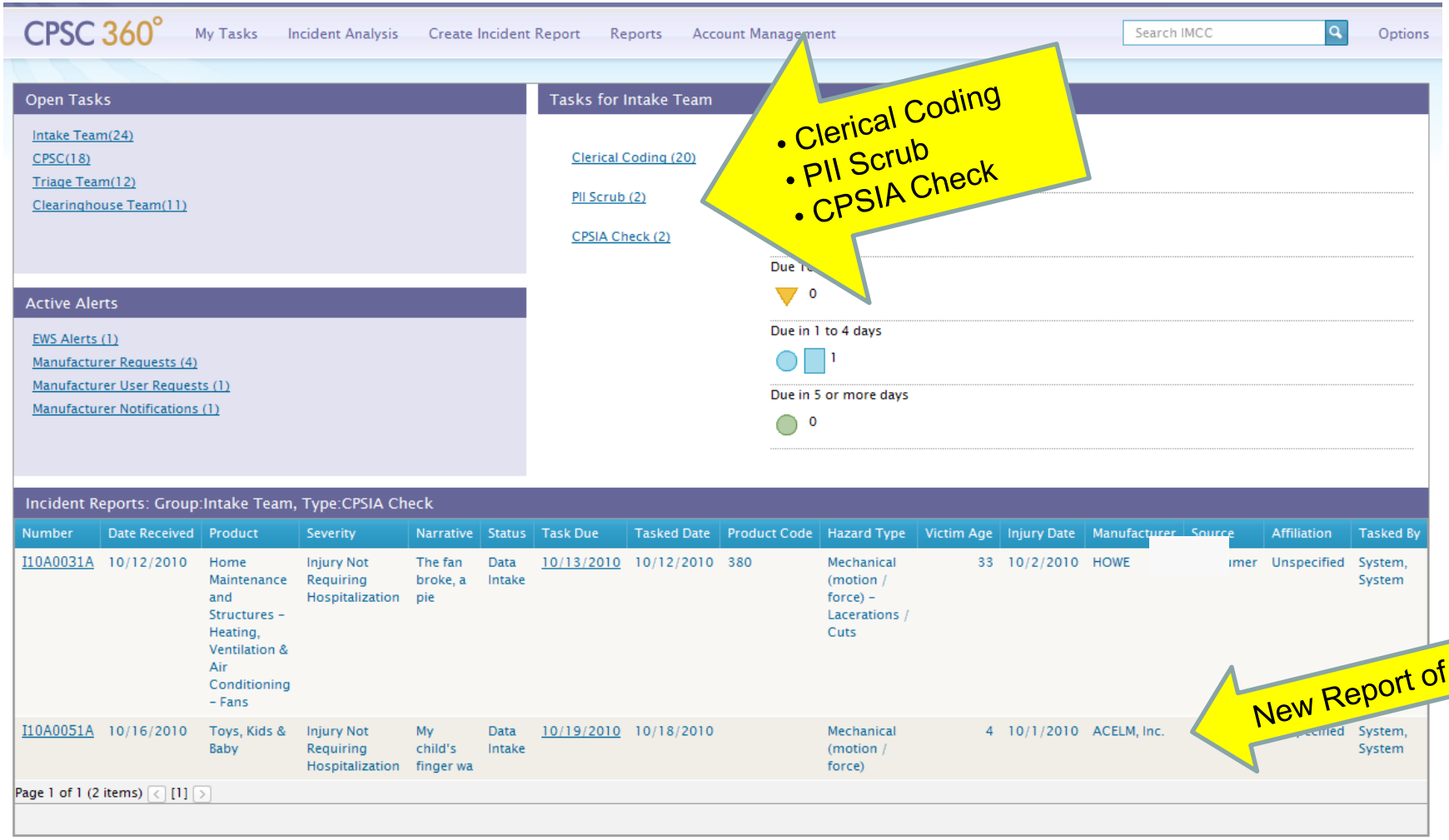
Your Report reference number is listed below. Please keep this Report number for your reference.

Important Information Regarding Your Report

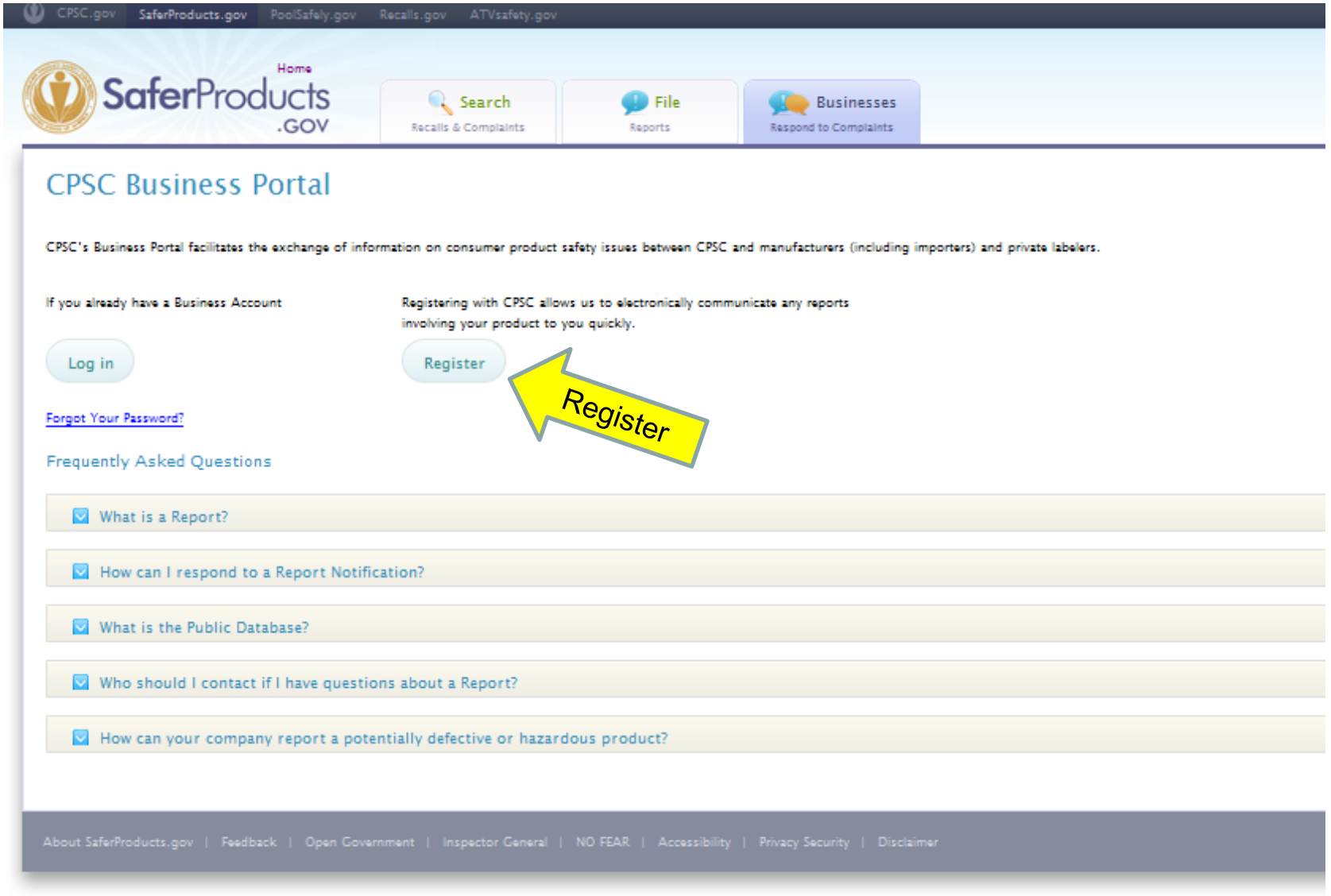
Report Number	Date Submitted	Report Status
20101019-77134-52	10/19/2010	Submitted and Certified

Return

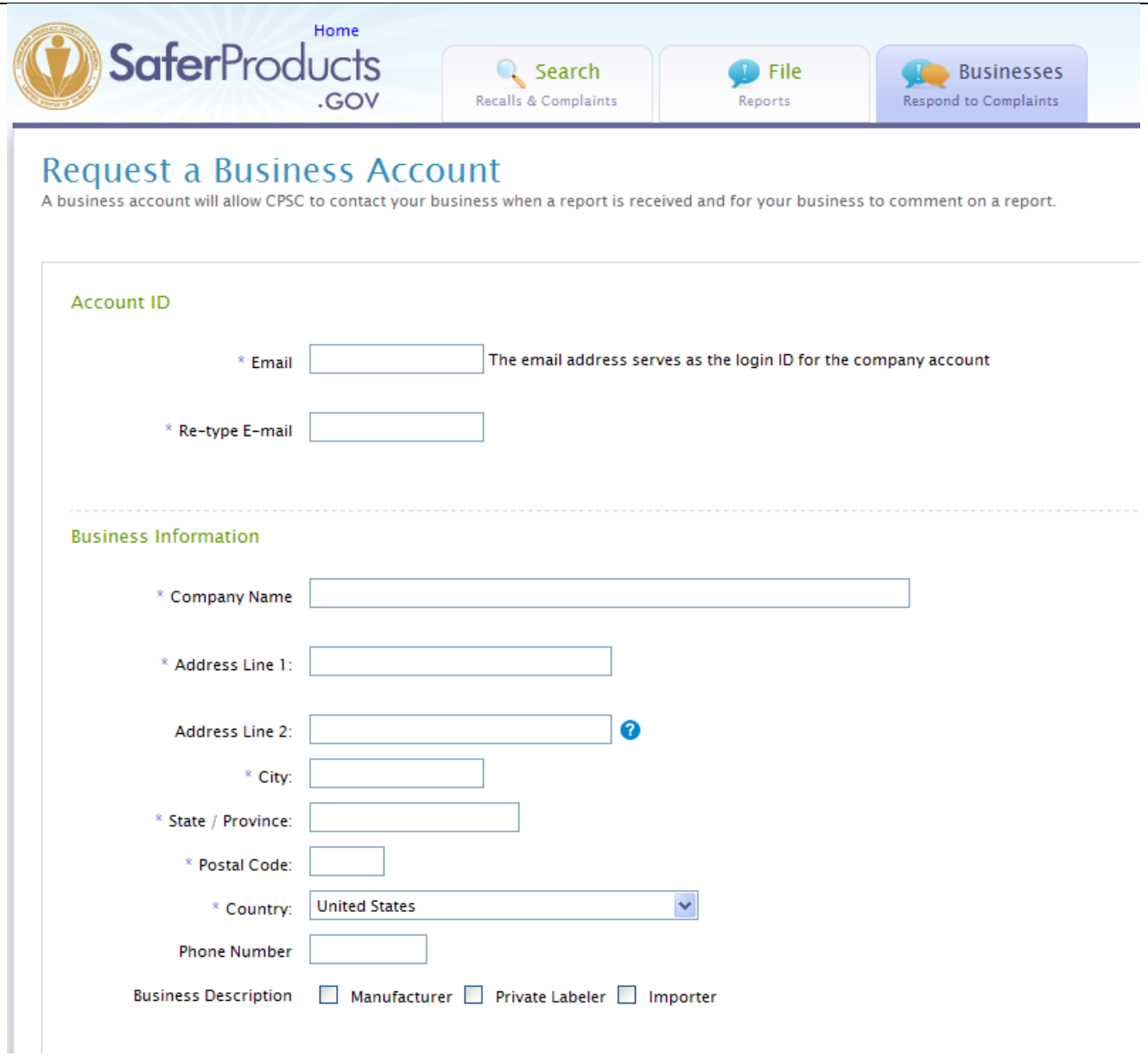
Scenario 1, Step 2



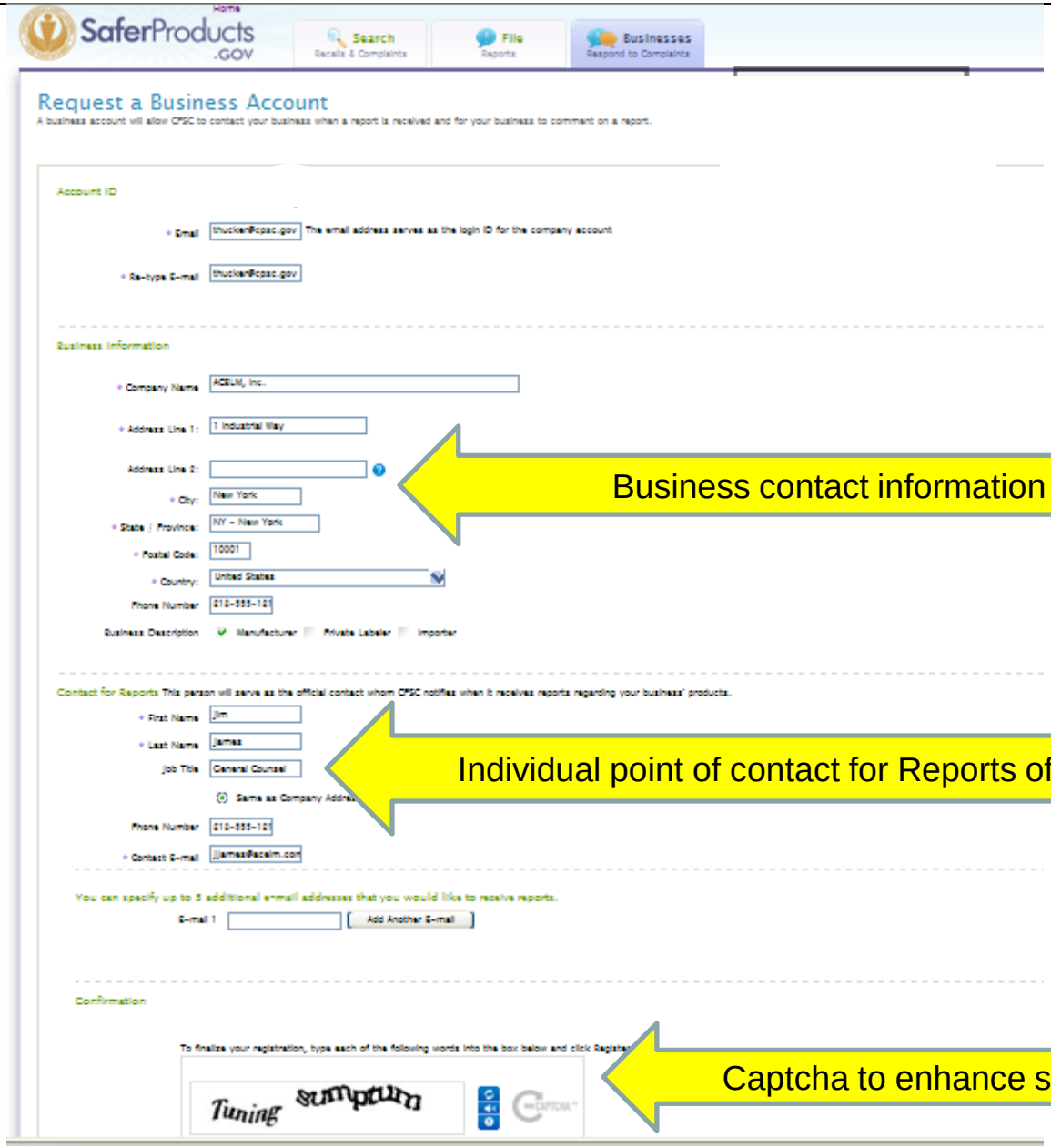
Scenario 1, Step 3



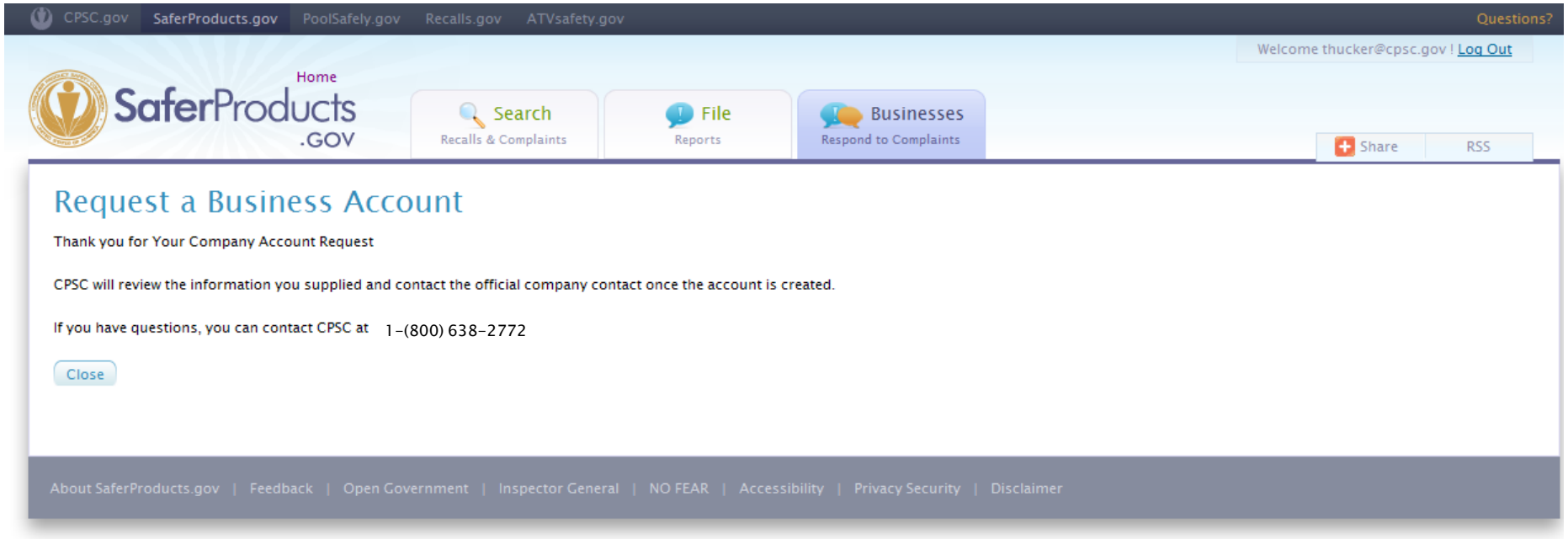
Scenario 1, Step 3



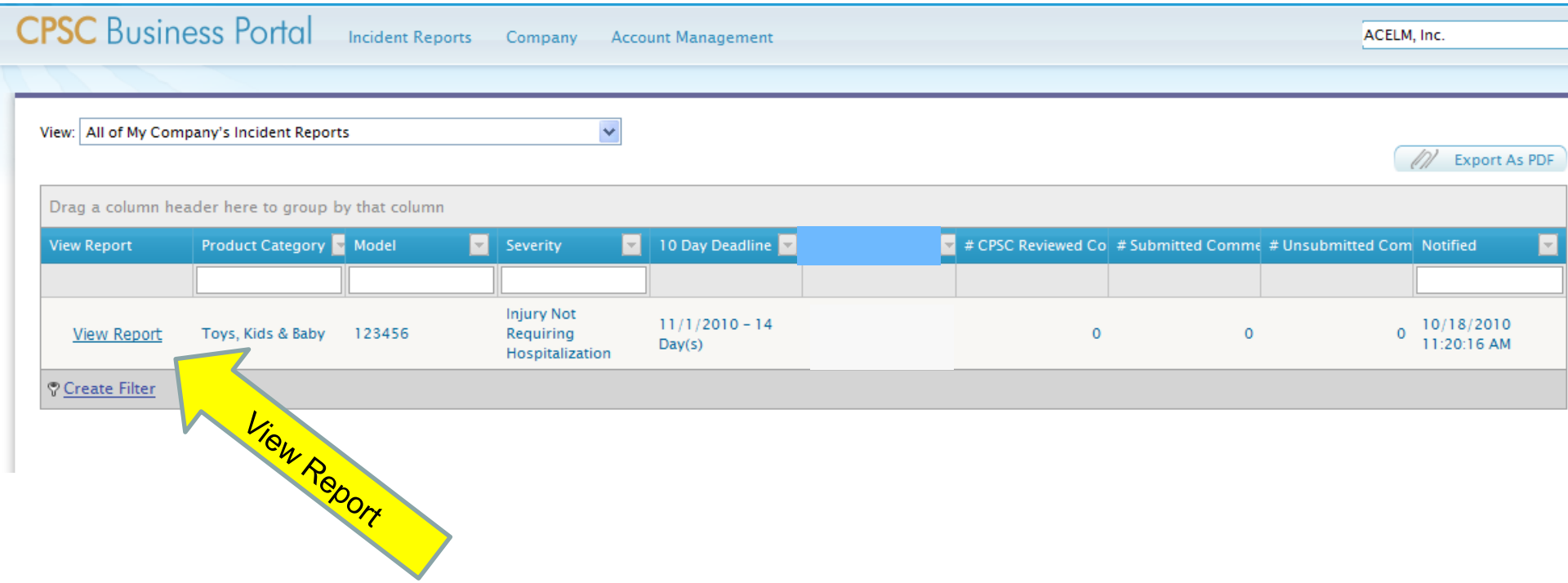
Scenario 1, Step 3



Scenario 1, Step 3



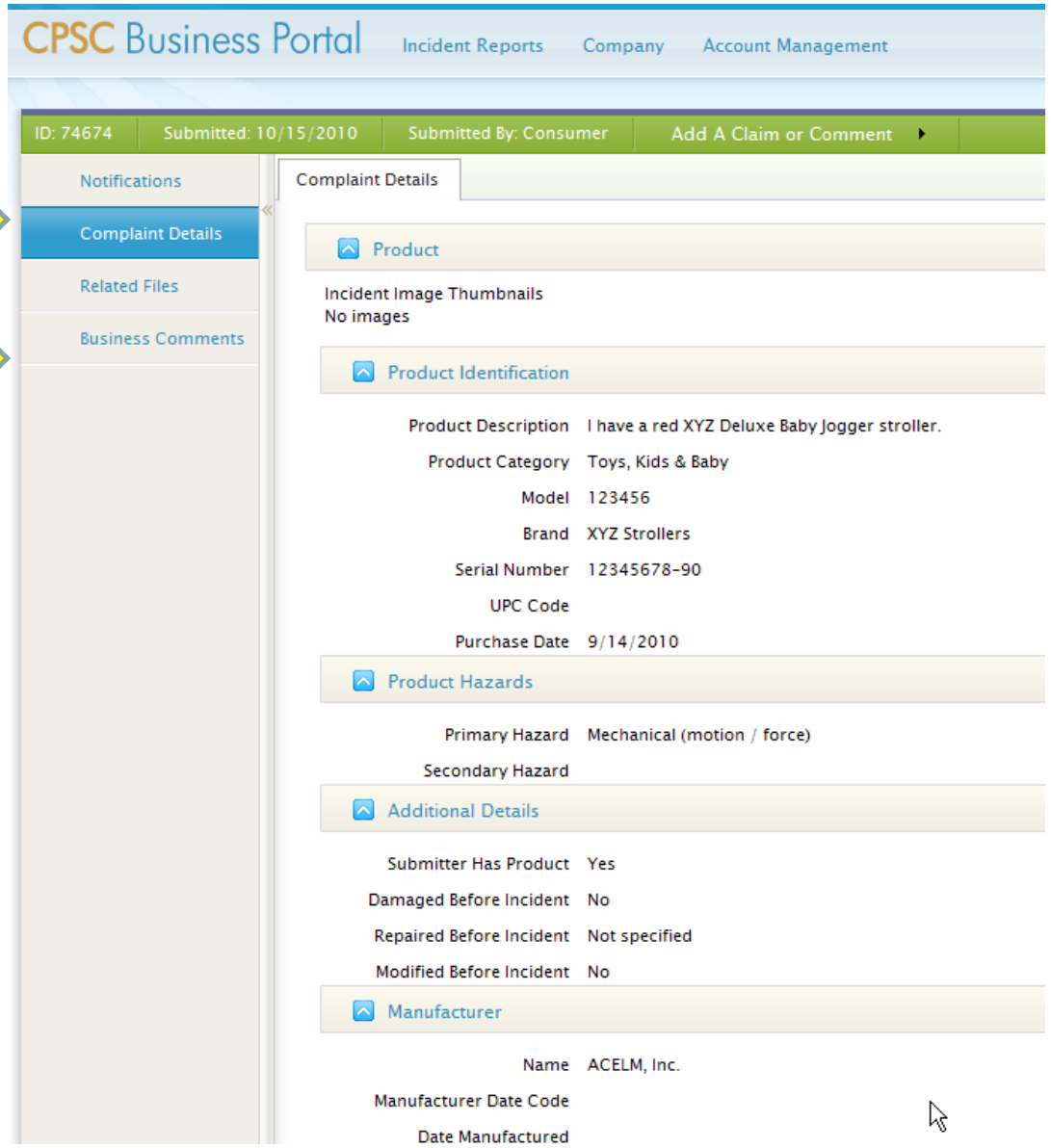
Scenario 1, Step 3



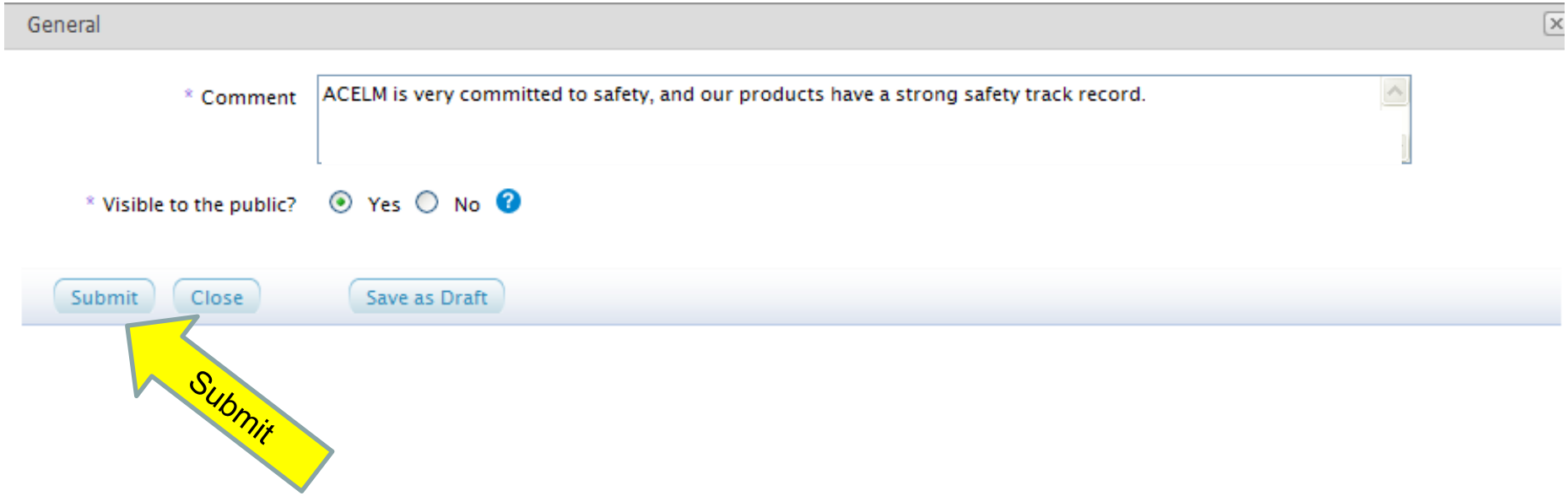
Scenario 1, Step 3

1. Review Report

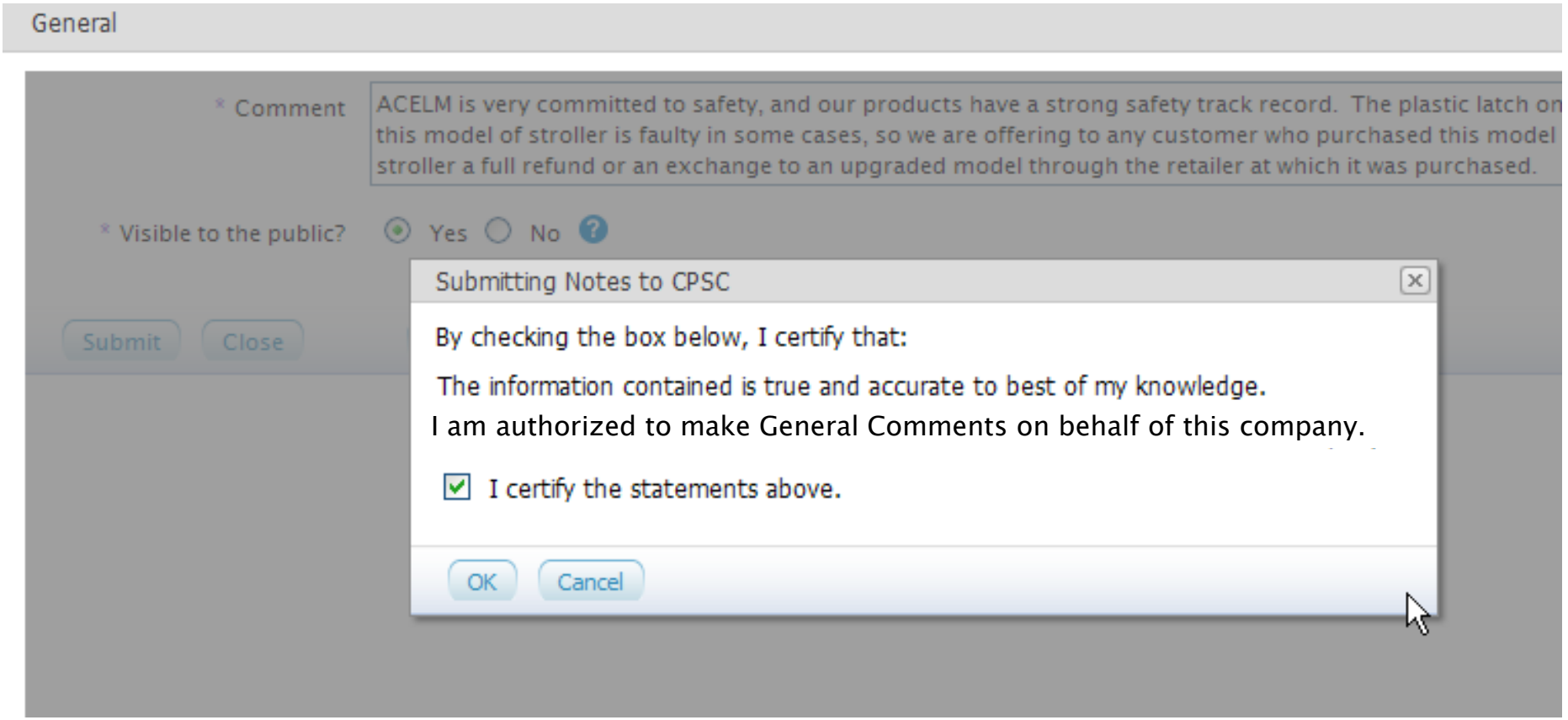
2. Add Comment



Scenario 1, Step 3



Scenario 1, Step 3



Scenario 2 – No Identifiable Consumer Product

Does not contain an identifiable consumer product.

Report is not published in the Database.

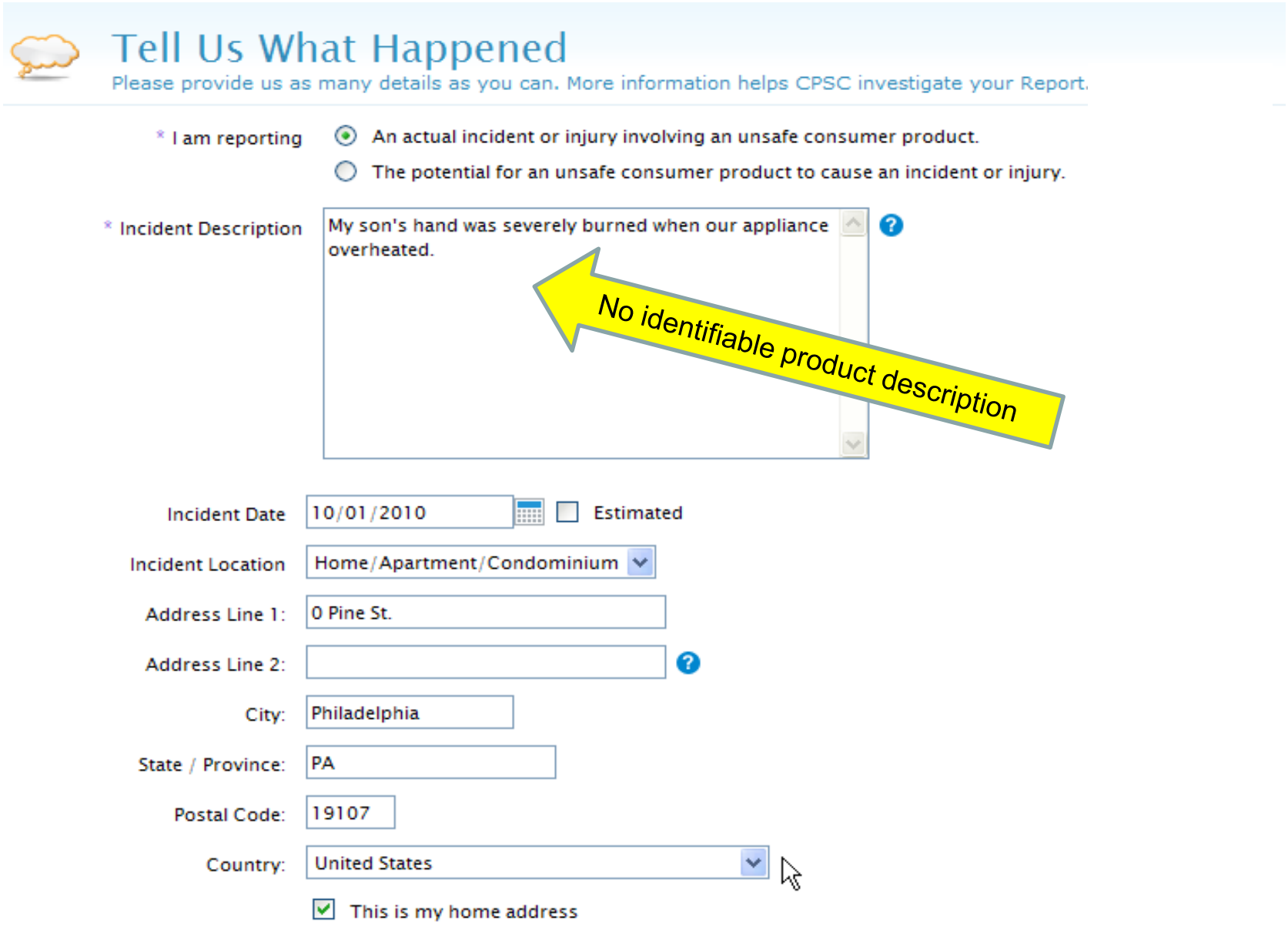
1. Consumer submits Report of Harm

2. CPSC Specialist reviews required fields:

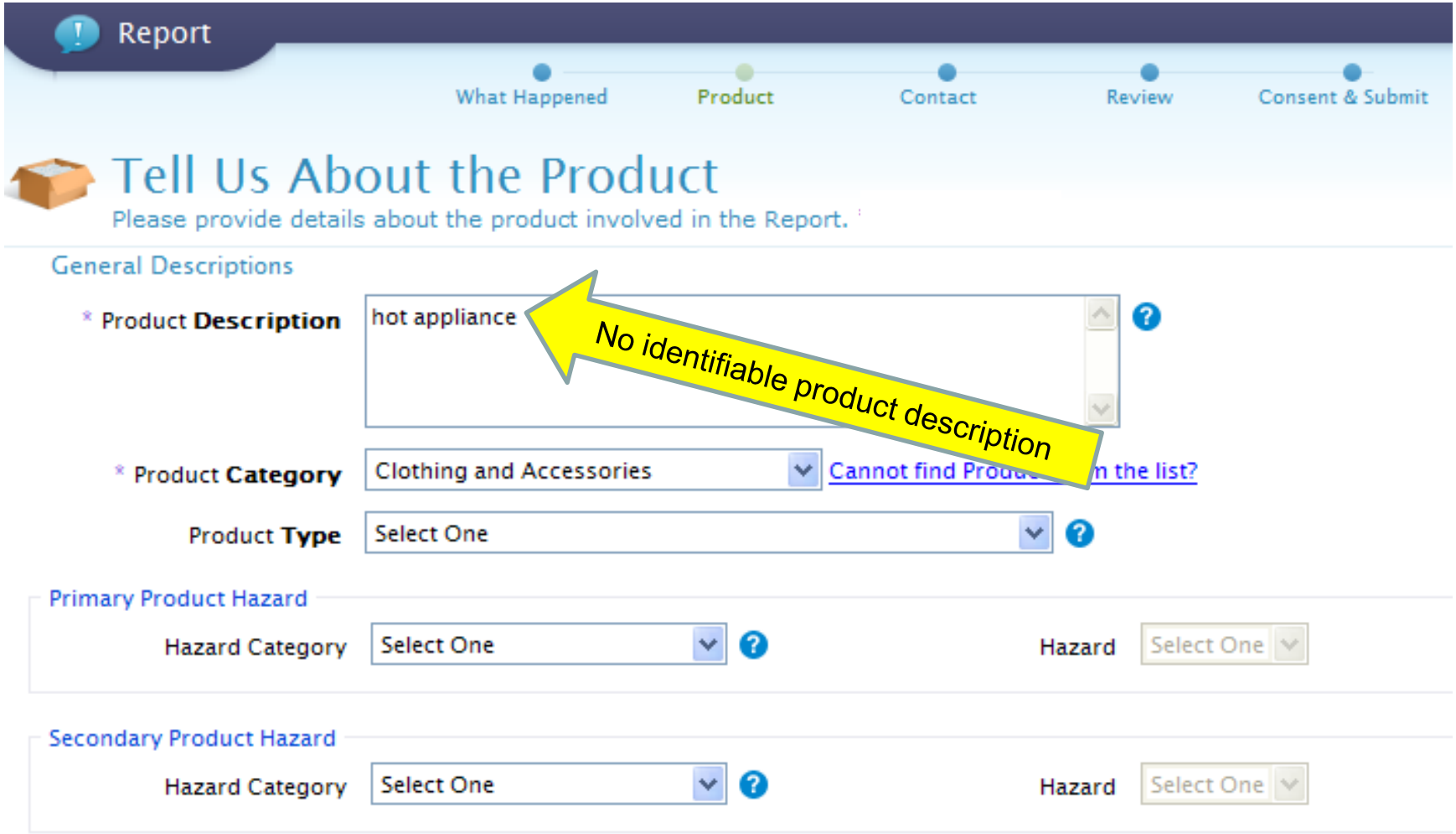
- ***X*** Description of the consumer product
- ✔ Identity of the manufacturer or private labeler
- ✔ Description of the harm
- ✔ Incident date (or approximate date)
- ✔ Category of submitter
- ✔ Contact information of the submitter
- ✔ Verification of submitter
- ✔ Consent of submitter

Report is not published in the Database.

Scenario 2 – No Identifiable Consumer Product



Scenario 2 – No Identifiable Consumer Product



Scenario 3 – No Identifiable Manufacturer

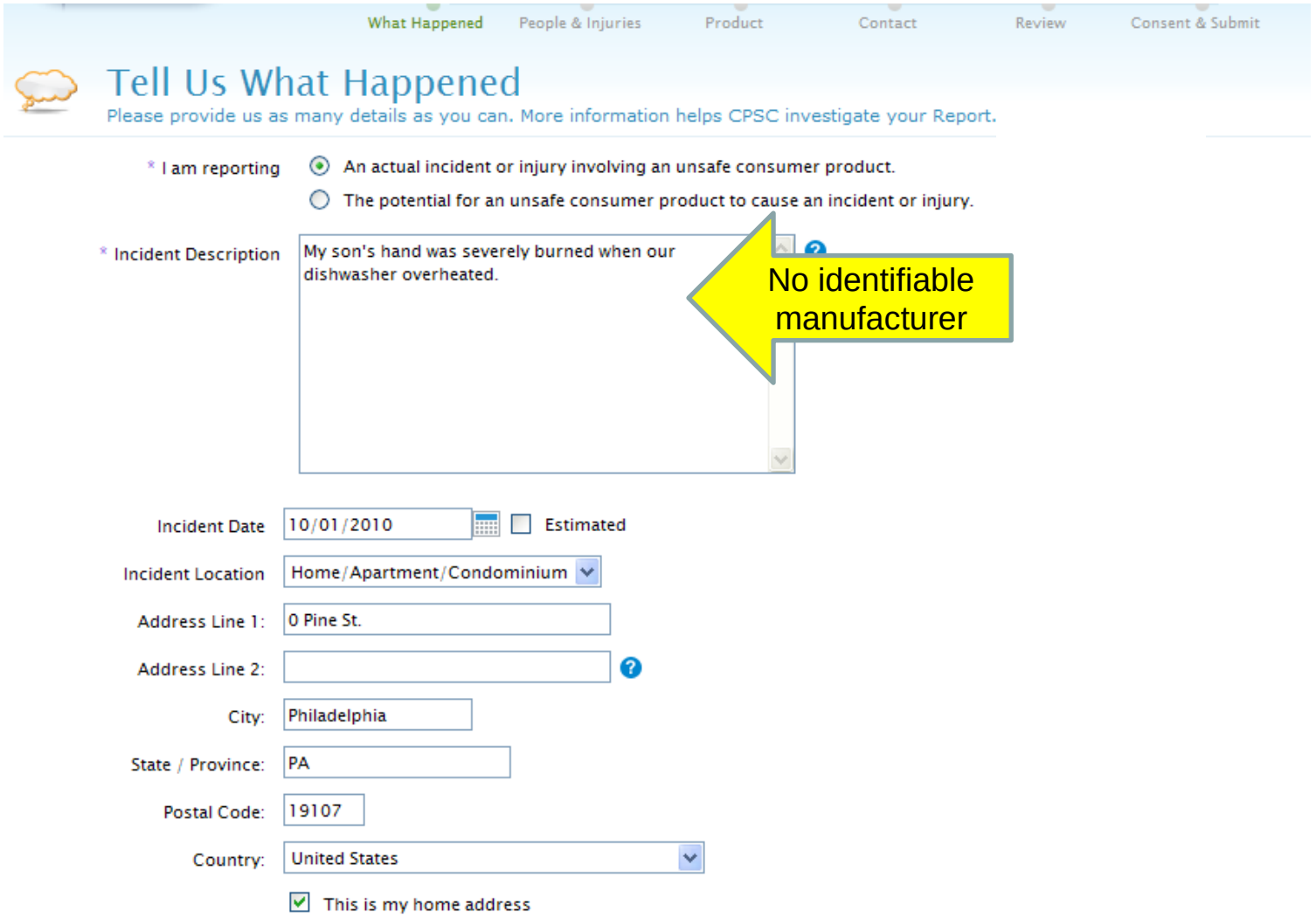
Does not identify a manufacturer or private labeler. **Report is not published in the Database.**

2. CPSC Specialist reviews required fields:

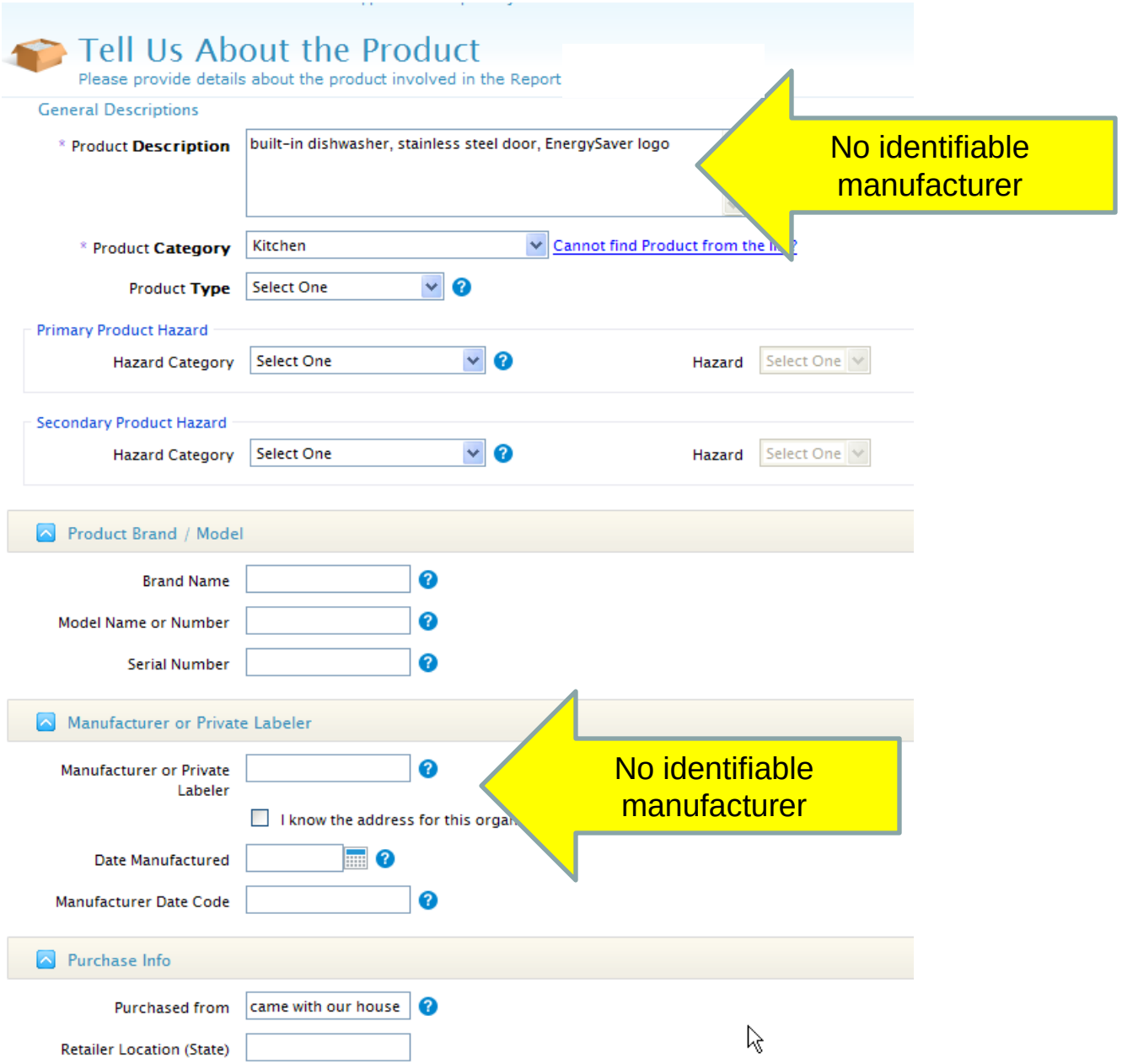
- ✔ Description of the consumer product
- ***X*** Identity of the manufacturer or private labeler
- ✔ Description of the harm
- ✔ Incident date (or approximate date)
- ✔ Category of submitter
- ✔ Contact information of the submitter
- ✔ Verification of submitter
- ✔ Consent of submitter

Report is not published in the Database.

Scenario 3 – No Identifiable Manufacturer



Step 3 – No Identifiable Manufacturer



Scenario 4 – No Identifiable Description of Harm

Does not describe a harm or risk of harm.

Report is not published in the Database.

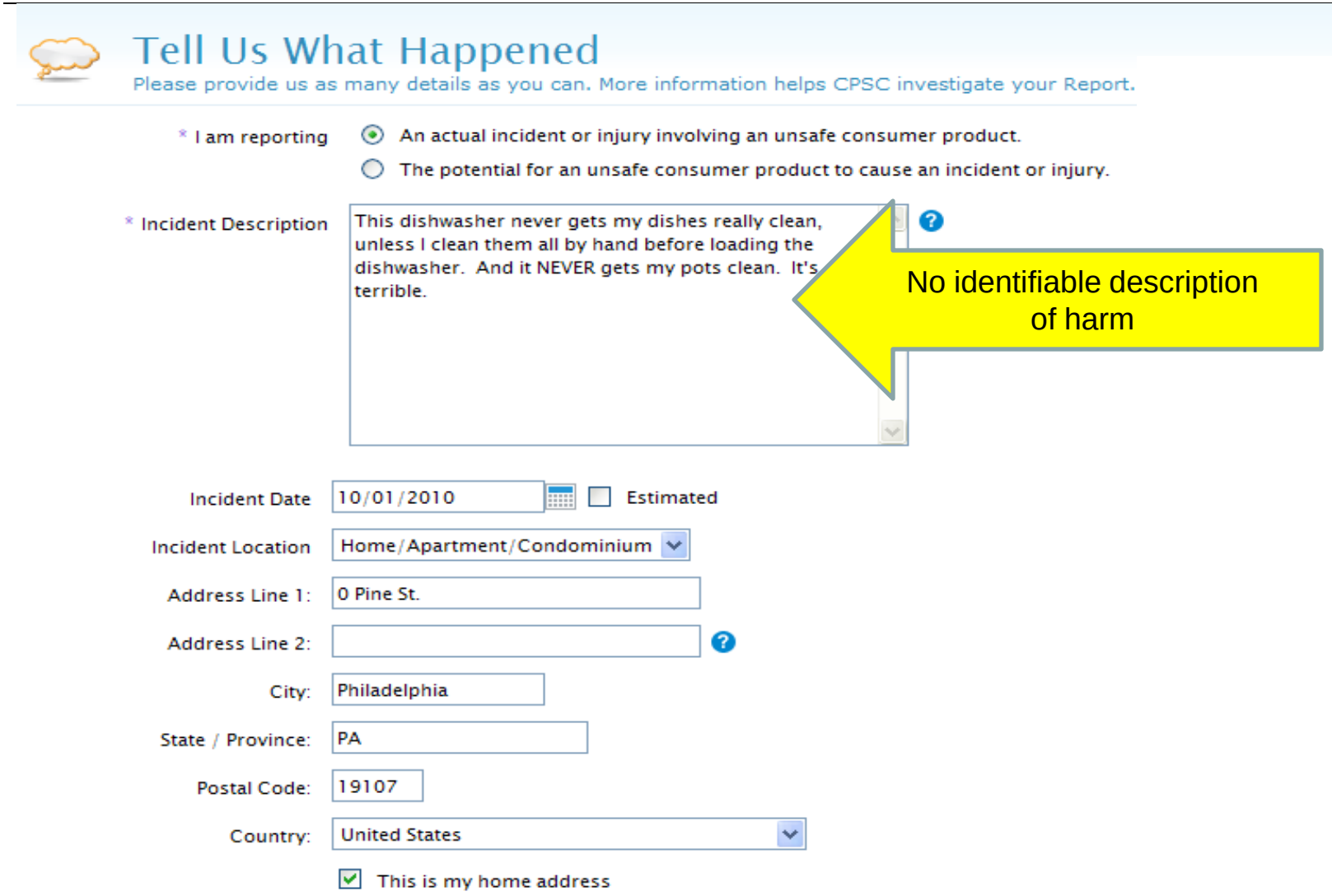
1. Consumer submits Report of Harm

2. CPSC Specialist reviews required fields:

- ✔ Description of the consumer product
- ✔ Identity of the manufacturer or private labeler
- ***X*** Description of the harm
- ✔ Incident date (or approximate date)
- ✔ Category of submitter
- ✔ Contact information of the submitter
- ✔ Verification of submitter
- ✔ Consent of submitter

Report is not published in the Database.

Scenario 4 – No Identifiable Description of Harm



Scenario 5 – No Identifiable Submitter

Does not identify the submitter of the Report of Harm.

Not published in the Database.

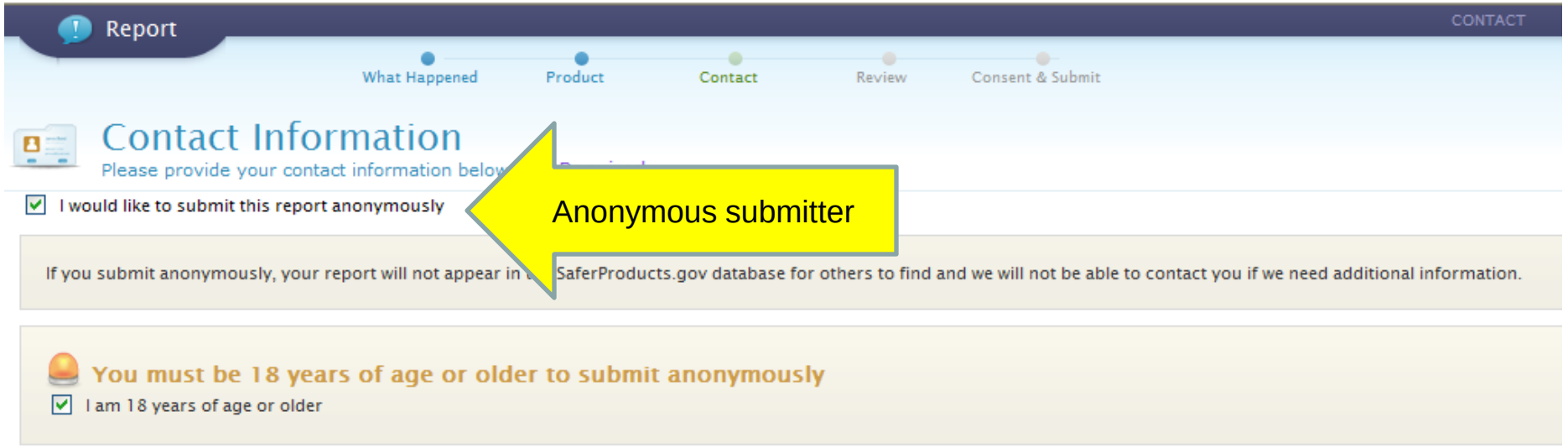
1. Consumer submits Report of Harm

2. CPSC Specialist reviews required fields:

- ✔ Description of the consumer product
- ✔ Identity of the manufacturer or private labeler
- ✔ Description of the harm
- ✔ Incident date (or approximate date)
- ✔ Category of submitter
- ***X*** Contact information of the submitter
- ✔ Verification of submitter
- ✔ Consent of submitter

Report is not published in the Database.

Scenario 5 – No Identifiable Submitter



Scenario 6 – Claim of Confidential Information

The Consumer is a former employee who claims the manufacturer used lower quality material. The Manufacturer makes a claim of confidential information. CPSC makes a determination. Confidential information is redacted before publication.

1. Consumer submits Report of Harm

Rule Requirements

2. CPSC Specialist reviews required fields:

- Description of the consumer product
- Identity of the manufacturer or private labeler
- Description of the harm
- Incident date (or approximate date)
- Category of submitter
- Contact information of the submitter
- Verification of submitter
- Consent of submitter

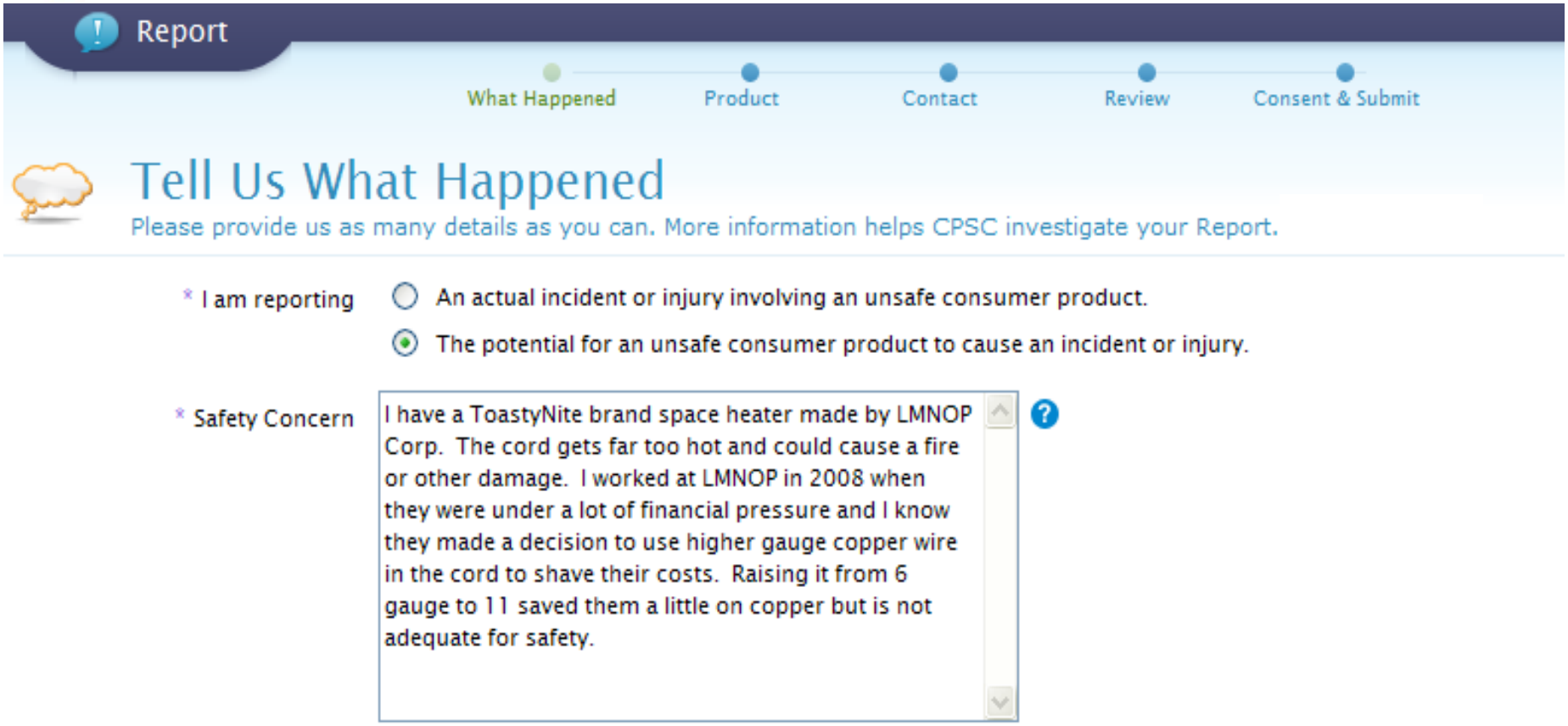
Other Business Actions

CPSC staff reviews and scrubs for PII and transmits to manufacturer.

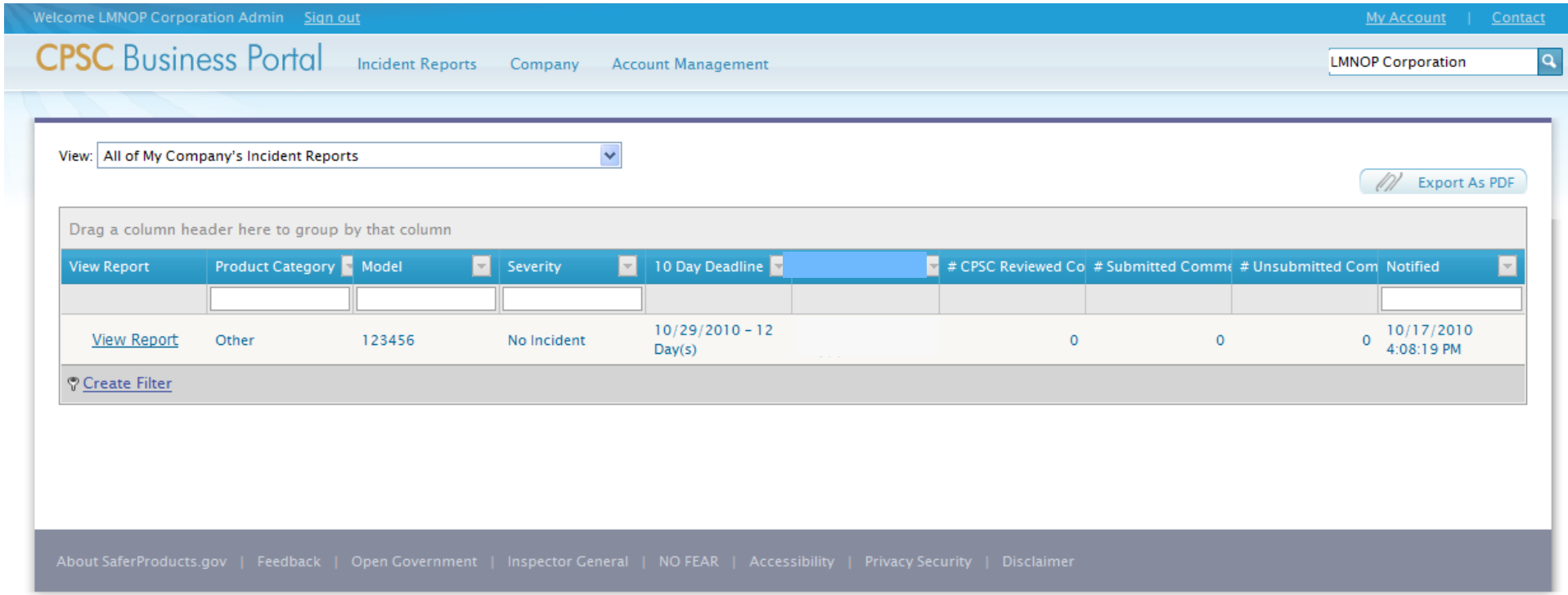
3. Manufacturer registers and claims Confidential Information.

4. CPSC staff determines claim of Confidential Information. Confidential information is redacted before Report of Harm is published. Manufacturer's claim of confidential information is not published, but any other Comment made may be published.

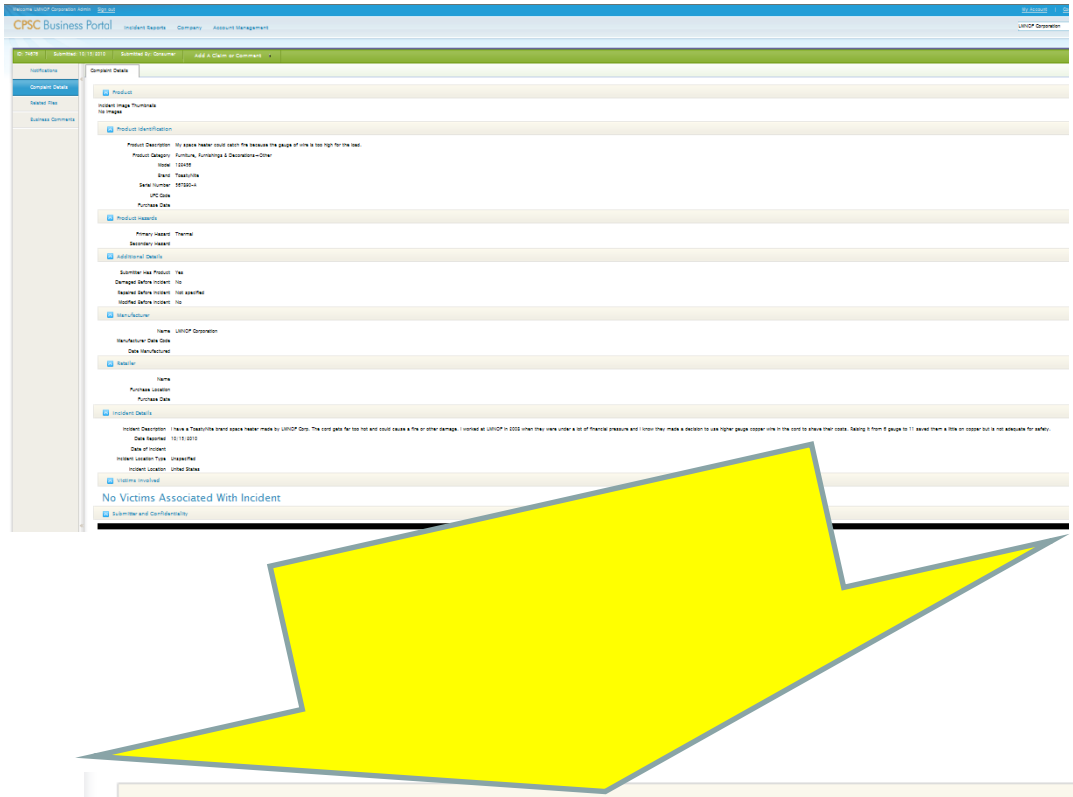
Scenario 6 – Claim of Confidential Information



Scenario 6 -- Claim of Confidential Information



Scenario 6 – Claim of Confidential Information

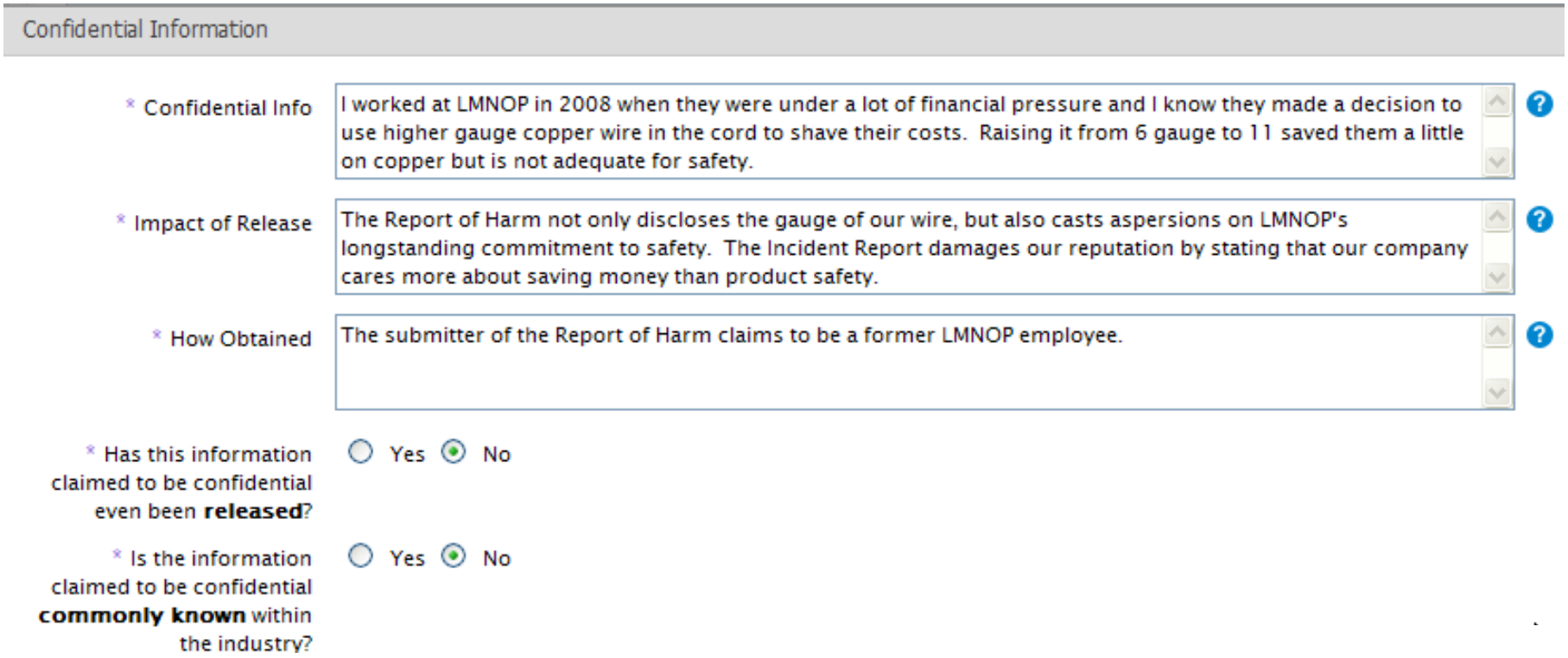


Incident Details

Incident Description	I have a ToastyNite brand space heater made by LMNOP Corp. The cord gets far too hot and could cause a fire or other damage. I worked at LMNOP in 2008 when they were under a lot of financial pressure and I know they made a decision to use higher gauge copper wire in the cord to shave their costs. Raising it from 6 gauge to 11 saved them a little on copper but is not adequate for safety.
Date Reported	10/15/2010
Date of Incident	10/15/2010
Incident Location Type	Unspecified
Incident Location	United States

Victims Involved

Scenario 6 – Claim of Confidential Information



Scenario 7 – Claim of Materially Inaccurate Information

The Consumer misidentifies the Manufacturer. The Manufacturer makes a claim of material inaccuracy. If CPSC makes a determination on the Material Inaccuracy before publication, it will resolve the claim before publication. If a determination, after investigation, is made after publication, the claim must be resolved within seven business days of the determination.

1. Consumer submits Report of Harm

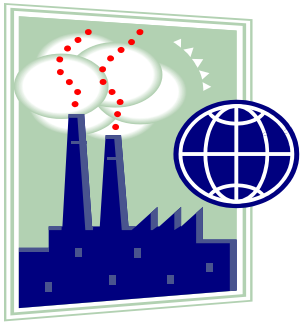
Other Business Rule Requirements Actions

2. CPSC Specialist reviews required fields:

- Description of the consumer product
- Identity of the manufacturer or private labeler
- Description of the harm
- Incident date (or approximate date)
- Category of submitter
- Contact information of the submitter
- Verification of submitter
- Consent of submitter

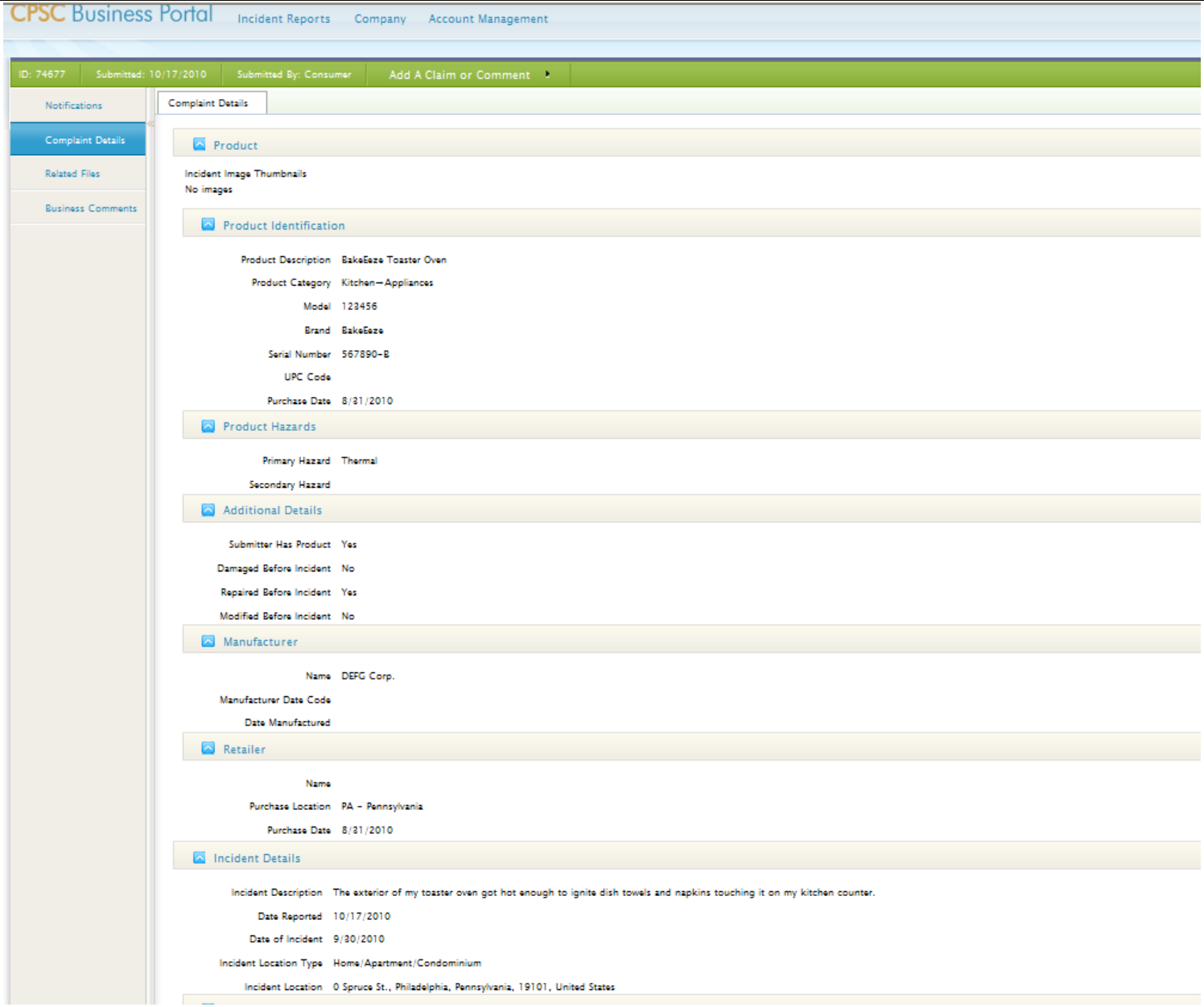
CPSC staff reviews and scrubs for PII and transmits to manufacturer.

3. Manufacturer registers and claims Material Inaccuracy.

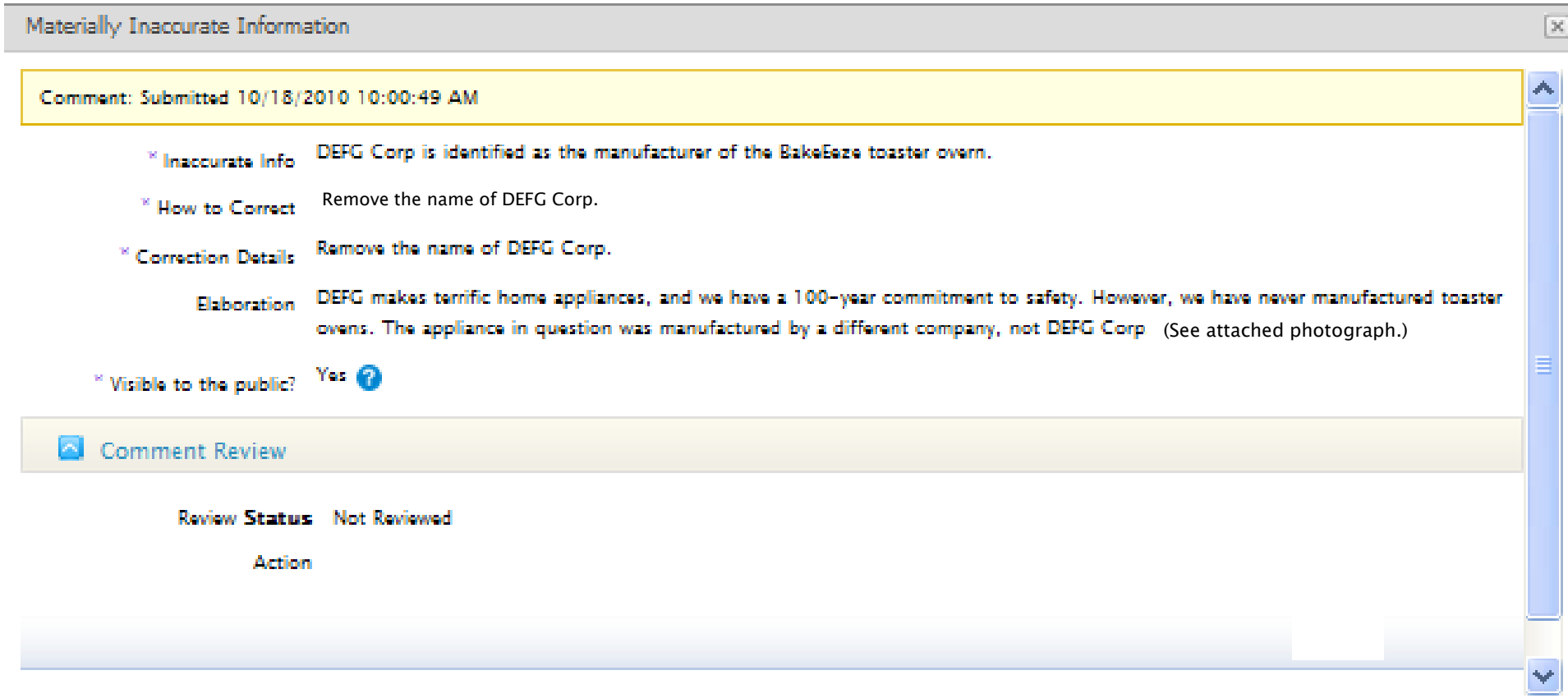


4. If CPSC staff determines claim of Material Inaccuracy before publication, it will be resolved before the Report of Harm is published. If CPSC staff determines a claim of Material Inaccuracy after publication, it must be resolved in the Database within 7 business days of the determination. Manufacturer claims of Materially Inaccurate Information are not published, but any other Comment made may be published.

Scenario 7 – Claim of Materially Inaccurate Information



Scenario 7 – Claim of Materially Inaccurate Information



Appendix

Proposed Changes to Final Rule

Change #1:

Proposed Rule	Draft Final Rule
Section 1102.10(a)(1) defines "consumers" as including, but not limited to, users of consumer products, family members, relatives, parents, guardians, friends, and observers of the consumer products being used.	Section 1102.10(a)(1) defines "consumers" as including, but not limited to, users of consumer products, family members, relatives, parents, guardians, friends, attorneys, investigators, professional engineers, agents of a user of a consumer product, and observers of the consumer products being used. Details on this change may be found in Staff's Responses to Comments 8 through 17.

Proposed Changes to Final Rule

Change #2:

Proposed Rule	Draft Final Rule
Section 1102.10(a)(5) defines "public safety entity" as including, but not limited to, police, fire, ambulance, emergency medical services, federal, state, and local law enforcement entities, and other public safety officials.	Section 1102.10(a)(5) defines "public safety entity" as including, but not limited to, police, fire, ambulance, emergency medical services, federal, state, and local law enforcement entities, and other public safety officials and professionals, including consumer advocates or individuals who work for nongovernmental organizations, consumer advocacy organizations, and trade associations, so long as they have a public safety purpose. Details on this change may be found in the staff's discussion of the proposed definition at section 1102.10(d)(5) and in Staff's Responses to Comments 8 through 17.

Proposed Changes to Final Rule

Change #3:

Proposed Rule	Draft Final Rule
Section 1102.10(a)(6) defines an "Others" category of submitter.	Section 1102.10(a)(6), regarding "Others," has been deleted, given the breadth of the entities listed in the other five statutory categories. A discussion of this change may be found in Staff's Responses to Comments 8 through 17.

Proposed Changes to Final Rule

Change #4:

Proposed Rule	Draft Final Rule
Section 1102.10(d) contains the minimum requirements for publication of a report of harm in the Database: (1) Description of the consumer product; (2) Identity of the manufacturer or private labeler; (3) Description of the harm; (4) Contact information; (5) Verification; and (6) Consent.	Section 1102.10(d) includes two additional minimum requirements for publication: (1) Incident date, or an approximation, and (2) Category of submitter. Accordingly, 1102.10(d) is renumbered and modified as follows: (4) Incident date. The date, or an approximate date, on which the incident occurred. (5) Category of submitter. Indicates which category the submitter is in (*i.e.*, consumers, government agencies, *etc*.) from §1102.10(a). A discussion of these changes may be found in Staff's Responses to Comments 21, 30, and 40.

Proposed Changes to Final Rule

Change #5:

Proposed Rule	Draft Final Rule
Section 1102.10(d)(5) requires a submitter of a report of harm to affirmatively verify that he or she has reviewed the report of harm and that the information contained therein is true and accurate to the best of the submitter's knowledge, information, and belief. Verification procedures for each method of submission will be specified. As part of verifying the report, submitters of reports of harm must indicate which category they are in (consumer, government agency, health care professional etc.) Although this information will not be published in the Database, it is required information for the report of harm.	Section 1102.10(d)(5) is renumbered to 1102.10(d)(7) to accommodate the addition of Incident date and Category of submitter. The last two sentences regarding the category of submitter have been deleted because the category of submitter is now a minimum requirement for publication at 1102.10(d)(5). A discussion of this change may be found in Staff's Responses to Comments 40 and 41.

Proposed Changes to Final Rule

Change #6:

Proposed Rule	Draft Final Rule
Section 1102.20(b) sets forth limitations on a manufacturer's use of submitter contact information. The proposed rule did not contain Incident date or Category of submitter as information that a manufacturer or private labeler could verify with the submitter of the report of harm.	Section 1102.20(b) includes Incident date and Category of submitter as additional fields that a manufacturer may verify on a report of harm. This change results from the addition of these fields as minimum requirements in section 1102.10(d). Details of this change may be found in the discussion of proposed section 1102.20(b).

Proposed Changes to Final Rule

Change #7:

Proposed Rule	Draft Final Rule
Sections 1102.26(a)(1) and (a)(2) define "materially inaccurate" information in a report of harm and manufacturer comment to mean "information that is false or misleading in a significant and relevant way that creates or has the potential to create a substantially erroneous or substantially mistaken belief in a Database user about information in a report of harm including . . ."	Sections 1102.26(a)(1) and (a)(2) re-define materially inaccurate information in a report of harm and manufacturer comment as "information that is false or misleading and relates to a matter which is so substantial and important as to affect a reasonable consumer's decision making about the product including . . ." A discussion of this change may be found in Staff's Responses to Comments 75 through 78.

Proposed Changes to Final Rule

Change #8:

Proposed Rule	Draft Final Rule
Section 1102.26(a)(1) sets forth the Database fields that a manufacturer or private labeler may claim contain a material inaccuracy based on the three substantive minimum requirements for publication of a report of harm: (1) Description of the consumer product, (2) Identity of the manufacturer or private labeler, and (3) Description of the harm.	Section 1102.26(a)(1) include the two additional required fields, such that a manufacturer or private labeler now may make a material inaccuracy claim with regard to the Incident date, or approximation, and the Category of submitter. Details of this change may be found in a discussion of proposed section 1102.26(a)(1).

Proposed Changes to Final Rule

Change #9:

Proposed Rule	Draft Final Rule
Section 1102.26(b) sets forth the information required to make a claim of material inaccuracy in a report of harm or a manufacturer comment. The requirement did not state that the requester bears the burden of proof.	Section 1102.26(b) states, similar to the requirement in § 1102.24(b) for confidential information claims, that the requester bears the burden of proof. Additional details regarding this change may be found in Staff's Responses to Comments number 80.

Proposed Changes to Final Rule

Change #10:

Proposed Rule	Draft Final Rule
Section 1102.26(d) sets forth the timing for submission of a claim regarding materially inaccurate information and states that if a request for determination of materially inaccurate information is submitted prior to publication in the Database, the Commission may withhold a report of harm from publication in the Database until it makes a determination. It also states that absent such a determination, the Commission would generally publish reports of harm on the tenth business day after transmitting a report of harm.	Proposed section 1102.26(d) states that if a request for determination of materially inaccurate information is submitted prior to publication in the Database, the Commission cannot withhold a report of harm from publication in the Database until it makes a determination. Absent a determination, the Commission will publish reports of harm on the tenth business day after transmitting a report of harm. Details of this change may be found in the staff's discussion of proposed section 1102.26(d) and Staff's Responses to Comments number 84.