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CONSUMER PRODUCT SAFETY LAW

NEWSLETTER OF THE ADVERTISING, MARKETING & MEDIA PRACTICE GROUP OF MANATT, PHELPS & PHILLIPS, LLP

Take Heed Of Important Revisions To Voluntary Toy Safety Standard: New Warning Label For Toys Containing Magnets And New Test Method For Yo-Yo Elastic Tether Balls

Some toy manufacturers may look back at 2007 with bittersweet memories – a year in which toy sales rose despite the spate of high-profile toy recalls. Among the numerous toy safety issues last year, the Consumer Product Safety Commission (“CPSC”) investigated child injuries from magnet parts for toys and from yo-yo elastic tether balls. The CPSC recalled more than 8 million toys that contained unsecured magnets, to prevent harmful or deadly ingestion of magnets, and determined that yo-yo elastic tether balls posed a possible risk of strangulation. Subsequently last spring, the ASTM International Committee F15.22 on Consumer Products published new requirements and revised the Standard Consumer Safety Specification for Toy Safety ASTM F963-07, superseding the previous ASTM F963-03. The voluntary standard contains new requirements on magnets for toys and for yo-yo elastic tether balls. These revisions were published in May 2007. The Toy Industry Association has recommended to manufacturers that all toys produced after January 1, 2008, comply with the new standard.

Magnets in Toys (Clause 4.39)

A new requirement was added to address hazardous magnets for toys intended for children between 3 and 8 years of age. Toys containing loose, hazardous magnetic components will be required to contain safety labeling on their packaging and in the instructions. A hazardous magnetic component is defined as any part of a toy that contains an attached or imbedded magnet that has a flux index greater than 50 and has the following dimensions:

- A cylinder with a length of not more than 32 mm and a diameter of not more than 11 mm;
- A disk with a diameter of not more than 26 mm and a thickness of not more than 5 mm;

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- A sphere with a diameter of not more than 22 mm; or
- Any solid that will fit entirely within the volume or envelope of any of the above defined shapes.

Toys containing hazardous magnets must be labeled with the following warning:

WARNING: This product contains (a) small magnet(s). Swallowed magnets can stick together across intestines causing serious infections and death. Seek immediate medical attention if magnet(s) are swallowed or inhaled. Also, toys containing hazardous magnetic components must not allow the magnet to liberate or detach during customary use-and-abuse testing. See ASTM F963-07 Sections 8.5 through 8.20.

This standard is not applicable to magnets used in motors, speakers, electrical components and similar devices where the magnetic properties are not part of the play pattern for the toy.

Yo-Yo Elastic Tether Toys (Clause 4.38)

A new requirement and test methodology was added to address potential strangulation hazards of yo-yo elastic tether ball toys (aka yo-yo water balls). The new requirement applies to yo-yo elastic tether toys intended for children over the age of 3 years. The new requirement provides that yo-yo elastic tether balls with an end mass greater than 0.02 kg (0.04 lb) must have a cord length less than 50 cm (20 inches) measured when rotating at 80 RPM in a horizontal plane, thus limiting the maximum elongation of the yo-yo cord.

The new requirement also provides a test method in which the length of the tether is measured when it is fully extended while the yo-yo elastic tether toy is held by the handle and rotated on a horizontal plane to achieve constant rotational speed at 80 RPM. See ASTM F963-07 Section 8.24. The tether length does not include the mass at the end or the loop by which the cord is held.

This standard does not apply to paddle balls.

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