

Consumer Product Safety Commission

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the unreasonable risk of injury associated with walk-behind power lawn mowers and that promulgation of the rule is in the public interest.

[44 FR 10024, Feb. 15, 1979, as amended at 45 FR 86417, Dec. 31, 1980]

Subpart B—Certification

SOURCE: 44 FR 70386, Dec. 6, 1979, unless otherwise noted.

§ 1205.30 Purpose, scope, and application.

(a) *Purpose.* Section 14(a) of the Consumer Product Safety Act, 15 U.S.C. 2063(a), requires every manufacturer (including importer) and private labeler of a product which is subject to a consumer product safety standard to issue a certificate that the product conforms to the applicable standard, and to base that certificate either on a test of each product or on a "reasonable testing program." The purpose of this subpart B of part 1205 is to establish requirements that manufacturers and importers of walk-behind rotary power lawn mowers subject to the Safety Standard for Walk-Behind Power Lawn Mowers (16 CFR part 1205, subpart A), shall issue certificates of compliance in the form of specified labeling and shall keep records of the testing program on which the certificates are based.

(b) *Scope and application.* (1) The provisions of this rule apply to all rotary walk-behind power lawn mowers which are subject to the requirements of the Safety Standard for Walk-Behind Power Lawn Mowers. This rule does not apply to reel-type mowers, which are subject only to the labeling requirements of the standard.

(2) As authorized by section 14(a)(2) of the act, the Commission exempts manufacturers who manufacture or import only component parts, and private labelers, from the requirement to issue certificates. (Private labelers who are also importers must still certify.)

§ 1205.31 Effective date.

Any walk-behind rotary power mower manufactured after December 31, 1981, must meet the standard and must be certified as complying with

the standard in accordance with this rule.

§ 1205.32 Definitions.

In addition to the definitions set forth in section 3 of the act (15 U.S.C. 2052) and in § 1205.3 of the standard, the following definitions shall apply to this subpart B of part 1205:

(a) *Manufacturer* means any person or firm that manufactures or imports power lawn mowers subject to this standard, and includes those that assemble power lawn mowers from parts manufactured by other firms.

(b) *Manufactured* means the earliest point at which the mower is in the form in which it will be sold or offered for sale to the consumer or is in the form in which it will be shipped to a distributor or retailer. In these forms, a "manufactured" mower may still require partial assembly by the consumer or the lawn mower dealer.

(c) *Private labeler* means an owner of a brand or trademark which is used on a power lawn mower subject to the standard and which is not the brand or trademark of the manufacturer of the mower, provided the owner of the brand or trademark has caused or authorized the mower to be so labeled and the brand or trademark of the manufacturer of such mower does not appear on the label.

(d) *Production lot* means a quantity of mowers from which certain mowers are selected for testing prior to certifying the lot. All mowers in a lot must be essentially identical in those design, construction, and material features which relate to the ability of a mower to comply with the standard.

(e) *Reasonable testing program* means any test or series of tests which are identical or equivalent to, or more stringent than, the tests defined in the standard and which are performed on one or more mowers of the production lot for the purpose of determining whether there is reasonable assurance that the mowers in that lot comply with the requirements of the standard.

§ 1205.33 Certification testing.

(a) *General.* Manufacturers and importers shall either test each individual rotary walk-behind power lawn mower (or have it tested) or shall rely

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upon a reasonable testing program to demonstrate compliance with the requirements of the standard.

(b) *Reasonable testing program.* (1) A reasonable testing program for rotary walk-behind power mowers is one that provides reasonable assurance that the mowers comply with the standard. Manufacturers and importers may define their own reasonable testing programs. Such reasonable testing programs may, at the option of manufacturers and importers, be conducted by an independent third party qualified to perform such testing programs.

(2) To conduct a reasonable testing program, the mowers shall be divided into production lots. Sample mowers from each production lot shall be tested in accordance with the reasonable testing program so that there is a reasonable assurance that if the mowers selected for testing meet the standard, all mowers in the lot will meet the standard. Where there is a change in parts, suppliers of parts, or production methods that could affect the ability of the mower to comply with the requirements of the standard, the manufacturer should establish a new production lot for testing.

(3) The Commission will test for compliance with the standard by using the test procedures contained in the standard. However, a manufacturer's reasonable testing program may include either tests prescribed in the standard or any other reasonable test procedures. (For example, in the shield strength test (§1205.4), the manufacturer might choose to use a force higher than the 50 lb force specified in the standard.)

(4) If the reasonable testing program shows that a mower does not comply with one or more requirements of the standard, no mower in the production lot can be certified as complying until the noncomplying mowers in the lot have been identified and destroyed or altered by repair, redesign, or use of a different material or components to the extent necessary to make them conform to the standard. The sale or offering for sale of mowers that do not comply with the standard is a prohibited act and a violation of section 19(a)(1) of the CPSA, regardless of whether the mower has been validly certified.

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§ 1205.34 Recordkeeping requirements.

(a) *General.* Every person issuing certificates of compliance for walk-behind rotary power lawn mowers subject to the standard shall maintain written records which show that the certificates are based on a test of each mower or on a reasonable testing program. The records shall be maintained for a period of at least 3 years from the date of certification of each mower or each production lot. These records shall be available to any designated officer or employee of the Commission upon request in accordance with section 16(b) of the act (15 U.S.C. 2065(b)).

(b) *Content of records.* Records shall identify the mower tested and the production lot and describe the tests the mowers have been subjected to and the results of the tests.

(c) *Format for records.* The records required to be maintained by this section may be in any appropriate form or format that clearly provides the required information.

§ 1205.35 Product certification and labeling by manufacturers.

(a) *Form of permanent label of certification.* Manufacturers (including importers) shall issue certificates of compliance for walk-behind rotary power lawn mowers manufactured after the effective date of the mower standard in the form of a label which can reasonably be expected to remain on the mower during the period the mower is capable of being used. Such labeling shall be deemed to be a "certificate" of compliance as that term is used in section 14 of the act. (15 U.S.C. 2063.)

(b) *Contents of certification label.* The certification labels required by this section shall clearly and legibly contain the following information:

(1) The statement "Meets CPSC blade safety requirements."

(2) An identification of the production lot.

(3) The name of the person or firm issuing the certificate.

(4) The location where the product was principally assembled.

(5) The month and year the product was manufactured.

(c) *Coding.* Except for the requirements of paragraphs (b)(1) and (b)(3) of

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this section, all of the information required by §1205.35 may be in code, provided the person or firm issuing the certificate maintains a written record of the meaning of each symbol used in the code that will be made available to the distributor, retailer, consumer, and the Commission upon request. If a mower is manufactured for sale by a private labeler, and if the name of the private labeler is also on the certification label, the name of the manufacturer or importer issuing the certificate may also be in such a code.

(d) *Placement of label.* The label required by this section must be visible and legible to the ultimate purchaser of the lawn mower. For mowers manufactured before January 1, 1984, where the label is not visible to the consumer at the time of sale because of packaging or marketing practices, an additional label or notice, which may be temporary, stating "Meets CPSC blade safety requirements" shall also appear on the container, or, if the container is not so visible, the promotional material, used in connection with the sale of the mowers.

[44 FR 70386, Dec. 6, 1979, as amended at 49 FR 28241, July 11, 1984]

§ 1205.36 Product certification and labeling by importers.

(a) *General.* The importer of any rotary walk-behind power lawn mower subject to the standard must issue the certificate of compliance required by section 14(a) of the Act and §1205.35 of this regulation. If testing of each mower, or a reasonable testing program, meeting the requirements of this subpart B of part 1205 has been performed by or for the foreign manufacturer of the product, the importer may rely in good faith on such tests to support the certificate of compliance provided the importer is a resident of the United States or has a resident agent in the United States and the records of such tests required by §1205.34 of this part are maintained in the United States.

(b) *Responsibility of importer.* If the importer relies on tests by the foreign manufacturer to support the certificate of compliance, the importer bears the responsibility for examining the records supplied by the manufacturer

to determine that the records of such tests appear to comply with §1205.34 of this part.

PART 1207—SAFETY STANDARD FOR SWIMMING POOL SLIDES

Sec.

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AUTHORITY: Secs. 2, 7, 9, 14, 30, Pub. L. 92-573; 86 Stat. 1207, 1212, 1215, 1220, 1236; (15 U.S.C. 2051, 2056, 2058, 2063, 2079).

SOURCE: 41 FR 2751, Jan. 19, 1976, unless otherwise noted.

§ 1207.1 Scope, purpose, and findings.

(a) *Scope and purpose.* This part 1207 sets forth the consumer product safety standard issued by the Consumer Product Safety Commission for the manufacture and construction of slides for use in swimming pools. The requirements of this standard are designed to reduce or eliminate the unreasonable risks of death or injury associated with swimming pool slides. This standard also makes certain recommendations regarding the installation, maintenance, and intended use of swimming pool slides that supplement its mandatory requirements. This standard is applicable to all swimming pool slides manufactured after July 17, 1976. Paragraph (b) of this section sets forth the findings which the Commission is required to make by section 9(c) of the Consumer Product Safety Act (15 U.S.C. 2058(c)).

(b) *Findings.*¹ (1) The Commission finds that unreasonable risks of death

¹The Commission's findings apply to the swimming pool slide standard that it published on January 19, 1976 (42 FR 2751). On March 3, 1978 the U.S. Court of Appeals for the Fifth Circuit set aside portions of that standard (*Aqua Slide 'N' Drive Corporation v. CPSC*, 569 F.2d 831 (5th Cir. 1978)). On December 18, 1978, the Commission published revisions to the standard which reflect the

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