

§ 1500.17

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§ 1500.17 Banned hazardous substances.

(a) Under the authority of section 2(q)(1)(B) of the act, the Commission declares as banned hazardous substances the following articles because they possess such a degree or nature of hazard that adequate cautionary labeling cannot be written and the public health and safety can be served only by keeping such articles out of interstate commerce:

(1) Mixtures that are intended primarily for application to interior masonry walls, floors, etc., as a water repellent treatment and that are “extremely flammable” within the meaning of section 2(1) of the act (repeated in § 1500.3(b)(10)).

(2) Carbon tetrachloride and mixtures containing it (including carbon tetrachloride and mixtures containing it used in fire extinguishers), excluding unavoidable manufacturing residues of carbon tetrachloride in other chemicals that under reasonably foreseeable conditions of use do not result in an atmospheric concentration of carbon tetrachloride greater than 10 parts per million.

(3) Fireworks devices intended to produce audible effects (including but not limited to cherry bombs, M-80 salutes, silver salutes, and other large firecrackers, aerial bombs, and other fireworks designed to produce audible effects, and including kits and components intended to produce such fireworks) if the audible effect is produced by a charge of more than 2 grains of pyrotechnic composition; except that this provision shall not apply to such fireworks devices if all of the following conditions are met:

(i) Such fireworks devices are distributed to farmers, ranchers, or growers through a wildlife management program administered by the U.S. Department of the Interior (or by equivalent State or local government agencies); and

(ii) Such distribution is in response to a written application describing the wildlife management problem that requires use of such devices, is of a quantity no greater than required to control the problem described, and is where other means of control are unavailable or inadequate. (See also

§ 1500.14(b)(7); § 1500.17(a) (8) and (9); § 1500.83(a)(27); § 1500.85(a)(2); and part 1507).

(4) Liquid drain cleaners containing 10 percent or more by weight of sodium and/or potassium hydroxide; except that this subparagraph shall not apply to such liquid drain cleaners if packaged in accordance with a standard for special packaging of such articles promulgated under the Poison Prevention Packaging Act of 1970 (Pub. L. 91-601, 84 Stat. 1670-74 (15 U.S.C. 1471-76)).

(5) Products containing soluble cyanide salts, excluding unavoidable manufacturing residues of cyanide salts in other chemicals that under reasonable and foreseeable conditions of use will not result in a concentration of cyanide greater than 25 parts per million.

(6)(i) Any paint or other similar surface-coating material intended, or packaged in a form suitable, for use in or around the household that:

(A) Is shipped in interstate commerce after December 31, 1973, and contains lead compounds of which the lead content (calculated as the metal) is in excess of 0.06 percent of the total weight of the contained solids or dried paint film; or

(B) Is shipped in interstate commerce after December 31, 1972, and contains lead compounds of which the lead content (calculated as the metal) is in excess of 0.5 percent of the total weight of the contained solids or dried paint film.

(C) [Reserved]

(D) The provisions of paragraph (a)(6)(i) of this section do not apply to artists' paints and related materials.

(ii) Any toy or other article intended for use by children that:

(A) Is shipped in interstate commerce after December 31, 1973, and bears any paint or other similar surface-coating material containing lead compounds of which the lead content (calculated as the metal) is in excess of 0.06 percent of the total weight of the contained solids or dried paint film; or

(B) Is shipped in interstate commerce after December 31, 1972, and bears any paint or other similar surface-coating material containing lead compounds of which the lead content (calculated as the metal) is in excess of 0.5 percent of

the total weight of the contained solids or dried paint film.

(iii) Since the Commission has issued comprehensive regulations for lead-containing paint and certain consumer products bearing such paint at the 0.06 percent level under the Consumer Product Safety Act (see 16 CFR part 1303), paragraphs (i) and (ii) of §1500.17(a)(6) are revoked as to the subject products manufactured after February 27, 1978.

NOTE: The effective date of paragraphs (a)(6)(i)(A) and (a)(6)(ii)(A) was stayed by an order published in the FEDERAL REGISTER of August 10, 1972 (37 FR 16078).

(7) General-use garments containing asbestos (other than garments having a bona fide application for personal protection against thermal injury and so constructed that the asbestos fibers will not become airborne under reasonably foreseeable conditions of use).

(8) Firecrackers designed to produce audible effects, if the audible effect is produced by a charge of more than 50 milligrams (.772 grains) of pyrotechnic composition (not including firecrackers included as components of a rocket), aerial bombs, and devices that may be confused with candy or other foods, such as "dragon eggs," and "cracker balls" (also known as "ball-type caps"), and including kits and components intended to produce such fireworks except such devices which meet all of the following conditions:

(i) The fireworks devices are distributed to farmers, ranchers, or growers through a wildlife management program administered by the U.S. Department of Interior (or by equivalent State or local governmental agencies); and

(ii) Such distribution is in response to a written application describing the wildlife management problem that requires use of such devices, is of a quantity no greater than required to control the problem described, and is where other means of control is unavailable or inadequate. (See also §1500.17(a) (3) and (9)).

(9) All fireworks devices, other than firecrackers, including kits and components intended to produce such fireworks, not otherwise banned under the act, that do not comply with the applicable requirements of part 1507 of this

chapter, except fireworks devices which meet all the following conditions:

(i) The fireworks devices are distributed to farmers, ranchers, or growers through a wildlife management program administered by the U.S. Department of the Interior (or by equivalent State or local government agencies); and

(ii) Such distribution is in response to a written application describing the wildlife management problem that requires use of such devices, is of a quantity no greater than required to control the problem described, and is where other means of control is unavailable or inadequate. (See also §1500.17(a) (3) and (8)).

(10) Self-pressurized products intended or suitable for household use that contain vinyl chloride monomer as an ingredient or in the propellant manufactured or imported on or after October 7, 1974. (See also §1500.17(a) (3) and (8)).

(11)(i) Reloadable tube aerial shell fireworks devices that use shells larger than 1.75 inches in outer diameter and that are imported on or after October 8, 1991.

(ii) *Findings.* (A) *General.* In order to issue a rule under section 2(q)(1) of the Federal Hazardous Substances Act ("FHSA"), 15 U.S.C. 1261(q)(1), classifying a substance or article as a banned hazardous substance, the FHSA requires the Commission to make certain findings and to include these findings in the regulation. These findings are discussed below.

(B) *Voluntary standard.* Although a voluntary standard relating to the risk of injury associated with reloadable tube aerial shells has been adopted, it has not been implemented. Thus, the Commission is not required to make findings covering the likelihood that the voluntary standard would result in elimination or adequate reduction of the risk of injury or that there would be substantial compliance with the voluntary standard.

(C) *Relationship of benefits to costs.* The Commission estimates that the removal of large reloadable shells from the market is likely to virtually eliminate the number of associated injuries, with only a slight offsetting increase in

the number of injuries due to the use of substitute Class C fireworks products available to consumers. The estimated net benefits range from essentially zero to close to \$1 million annually. The annual costs of a ban are estimated to be very low. Included are potential costs to foreign manufacturers and U.S. importers from sales losses, production changes, and inventory retrofitting, and slightly reduced market choices for consumers who purchase aerial display fireworks. Costs to each of these sectors are estimated to be slight, and are reduced to the extent that alternative products are perceived as adequate substitutes for large reloadable shells. Thus, the Commission finds that the benefits expected from the regulation bear a reasonable relationship to its costs.

(D) *Least burdensome requirement.* The Commission considered several alternatives to the ban. These included: Design or performance criteria; additional or alternative labeling; inclusion of some reloadable shells 1.75 inches or smaller in the ban; and no action in reliance on the voluntary standard. The Commission determined that a ban of reloadable shells larger than 1.75 inches in outer diameter is the least burdensome alternative that would prevent or adequately reduce the risk of injury.

(I) Regarding design or performance criteria, the Commission considered requirements similar to those stated in the voluntary standard of the American Fireworks Standards Laboratory (“AFSL”). However, such criteria may increase the cost of the product and would not address all factors involved in the incidents. Further, concerns exist about the feasibility of criteria and quality control.

(2) Regarding additional or alternative labeling, the users’ perception and experience concerning the amount of time available to get away may lead them to disregard an inconsistent warning. There are no data to suggest that a significant number, if any, incidents would be avoided if large reloadable shells carried more detailed labels or instructions than they currently do. It cannot be concluded that potential benefits would be greater than zero.

(3) The Commission considered including reloadable shells that are 1.75 inches or less in outer diameter and have the “equivalent explosive power” of larger shells. A kinetic energy level of 70 joules was considered to evaluate explosive power. However, any potential benefits are uncertain since the Commission concluded that a clear relation between kinetic energy and injury potential could not be established. Also, costs could be slightly higher.

(4) The Commission also considered imposing no mandatory requirements on large reloadable shells and relying instead on the AFSL voluntary standard. However, it is uncertain whether any net benefits to consumers would result from this alternative, since the level of injury reduction could be near zero if, as is probable, some firms chose not to conform with some or all of the AFSL standard.

(12)(i) *Large multiple-tube devices.* Multiple-tube mine and shell fireworks devices that first enter commerce or are imported on or after March 26, 1997, that have any tube measuring 1.5 inches (3.8 cm) or more in inner diameter, and that have a minimum tip angle less than 60 degrees when tested in accordance with the procedure of §1507.12 of this part.

(ii) *Findings—(A) General.* In order to issue a rule under the section 2(q)(1) of the FHSA, 15 U.S.C. 1261(q)(1), classifying a substance or article as a banned hazardous substance, the FHSA requires the Commission to make certain findings and to include these in the regulation. These findings are discussed in paragraphs (a)(12)(ii) (B) through (D) of this section.

(B) *Voluntary standard.* (1) One alternative to the tip-angle requirement that the Commission considered is to take no mandatory action, and to depend on a voluntary standard. The American Fireworks Safety Laboratory (AFSL) has a standard for mines and shells intended to address the potential tip-over hazard associated with multiple-tube fireworks devices. AFSL’s Voluntary Standard for Mines and Shells—Single or Multiple Shot requires that large multiple-tube devices not tip over (except as the result of the last shot) when shot on a 2-inch thick

medium-density foam pad. The Commission cannot conclude that AFSL's existing voluntary standard adequately reduces the risk of injury from large devices that tip over while functioning. The Commission's tests using polyurethane foam did not find sufficient agreement between performance on foam and on grass. No other data are available to show that this dynamic test is reliable.

(2) In addition, even if the AFSL standard is effective, the Commission does not believe that compliance with the standard will be adequate. AFSL reports that it has been testing in accordance with its standard since January 1994. However, the results of CPSC's compliance testing indicate that multiple-tube devices still tip over while functioning. In fiscal year 1994, all 24 imported devices the Commission tested, and 1 of 8 domestic devices, tipped over while functioning. In fiscal year 1995, 22 of 27 imported devices and 1 of 5 domestic devices tipped over during Commission testing. The Commission finds that there is unlikely to be substantial compliance with the voluntary standard applicable to multiple-tube devices.

(C) *Relationship of benefits to costs.* The Commission estimates that the 60-degree tip-angle standard will eliminate the unreasonable tip-over risk posed by these devices. This will provide benefits of saving one life about every 3 years, and preventing an unknown number of nonfatal injuries. The annual cost of modifying affected devices is estimated to be between \$1.5 million and \$2.7 million. The Commission finds that the benefits from the regulation bear a reasonable relationship to its costs.

(D) *Least burdensome requirement.* The Commission considered the following alternatives: a ban of all multiple-tube devices with inner tube diameters 1.5 inches or greater; a dynamic performance standard; additional labeling requirements; and relying on the voluntary standard. Although a ban of all large multiple-tube devices would address the risk of injury, it would be more burdensome than the tip-angle standard. The Commission was unable to develop a satisfactory dynamic standard that would reduce the risk of

injury. Neither additional labeling requirements nor reliance on the voluntary standard would adequately reduce the risk of injury. Thus, the Commission finds that a standard requiring large multiple-tube devices to have a minimum tip angle greater than 60 degrees is the least burdensome requirement that would prevent or adequately reduce the risk of injury.

(13)(i) *Candles made with metal-cored wicks.* Candles manufactured or imported on or after October 15, 2003, made with metal-cored candlewicks, unless:

(A) The metal core of each candlewick has a lead content (calculated as the metal) of not more than 0.06 percent of the total weight of the metal core; and

(B) Each outer container or wrapper in which candles subject to paragraph (a)(13)(i)(A) of this section are shipped, including each outer container or wrapper in which such candles are distributed to a retail outlet, is labeled "Conforms to 16 CFR 1500.17(a)(13)." For purposes of this paragraph (B), the term "outer container or wrapper" does not include the immediate container in which candle(s) is/are intended to be displayed at retail or during use in the home, unless that container or wrapper is also the only container or wrapper in which the candle(s) is/are shipped to a retailer.

(ii) *Metal-cored candlewicks.* Metal-cored candlewicks manufactured or imported on or after October 15, 2003, unless:

(A) The metal core of each candlewick has a lead content (calculated as the metal) of not more than 0.06 percent of the total weight of the metal core; and

(B) Each outer container or wrapper in which candlewicks subject to paragraph (a)(13)(ii)(A) of this section is shipped, including each outer container or wrapper of a shipment distributed to a retail outlet, is labeled "Conforms to 16 CFR 1500.17(a)(13)." For purposes of this paragraph (B), the term "outer container or wrapper" does not include the immediate container in which candlewick(s) is/are intended to be displayed or sold at retail, unless that container or wrapper is also the only container or wrapper in which the

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candlewick(s) is/are shipped to a retailer.

(iii) *Findings*—(A) *General*. To issue a rule under section 2(q)(1) of the FHSA, 15 U.S.C. 1261(q)(1), classifying a substance or article as a banned hazardous substance, the Commission must make certain findings and include them in the regulation. These findings are discussed in paragraphs (a)(13)(iii)(B) through (D) of this section.

(B) *Voluntary Standard*. One alternative to the ban that the Commission considered is to take no mandatory action, and to depend on a voluntary standard. One organization has a standard for candlewicks intended to address the potential for substantial illness posed by such wicks and candles with such wicks. The Commission has found that the standard is technically unsound and that substantial compliance with it is unlikely. Furthermore, there is no evidence that the standard has been adopted and implemented by candlewick or candle manufacturers.

(C) *Relationship of Benefits to Costs*. The Commission estimates that the ban will reduce the potential for exposure to lead and resulting lead poisoning because there is no “safe” level of lead in the blood. The annual cost to the candle/wick industry of the ban is estimated by the Commission to be in the range of \$100,000 to \$300,000. On a percentage basis these costs represent only 0.005 to 0.015 percent of the overall value of candle shipments in 2000, which was approximately \$2 billion. Accordingly, the Commission finds that the benefits from the regulation bear a reasonable relationship to its costs.

(D) *Least burdensome requirement*. The Commission considered the following alternatives: no action; labeling all metal-cored candles with wicks containing more than 0.06 percent lead by weight of the metal; recordkeeping for shipments of wicks containing 0.06 percent or less lead by weight of the metal and of candles with such wicks; and relying on the voluntary standard. Neither no action, nor labeling, nor reliance on the voluntary standard would adequately reduce the risk of illness. Recordkeeping for shipments of wicks and of candles was not the least burdensome requirement that would pre-

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vent or adequately reduce the risk of illness. Therefore the Commission finds that a ban on candlewicks containing more than 0.06 percent lead by weight of the metal and candles with such wicks is the least burdensome requirement that would prevent or adequately reduce the risk of illness.

(b) [Reserved]

(Secs. 2(f)(1), (A), (B), (g), (q)(1)(B), 3(a), 74 Stat. 372, 374, as amended 80 Stat. 1304–05, 83 Stat. 187–189, 90 Stat. 503 (15 U.S.C. 1261, 1262); sec. 701 (e), (f), (g), 52 Stat. 1055–56, as amended 70 Stat. 919, 72 Stat. 948 (21 U.S.C. 371 (e), (f), (g)), sec. 30(a), 86 Stat. 1231 (15 U.S.C. 2079(a)))

[38 FR 27012, Sept. 27, 1973, as amended at 38 FR 27514, Oct. 4, 1973; 38 FR 31520, Nov. 15, 1973; 39 FR 30114, Aug. 21, 1974; 39 FR 42903, Dec. 9, 1974; 41 FR 22935, June 8, 1976; 42 FR 44202, Sept. 1, 1977; 43 FR 12310, Mar. 24, 1978; 48 FR 16, Jan. 3, 1983; 56 FR 37837, Aug. 9, 1991; 61 FR 13095, Mar. 26, 1996; 61 FR 18245, Apr. 25, 1996; 68 FR 19147, Apr. 18, 2003]

§ 1500.18 Banned toys and other banned articles intended for use by children.

(a) *Toys and other articles presenting mechanical hazards*. Under the authority of sections 2(f)(1)(D) and 24 of the act and pursuant to the provisions of section 3(e) of the act, the Commission has determined that the following types of toys or other articles intended for use by children present a mechanical hazard within the meaning of section 2(s) of the act because in normal use, or when subjected to reasonably foreseeable damage or abuse, the design or manufacture presents an unreasonable risk of personal injury or illness:

(1) Any toy rattle containing, either internally or externally, rigid wires, sharp protrusions, or loose small objects that have the potential for causing lacerations, puncture wound injury, aspiration, ingestion, or other injury. (But see § 1500.86(a)(1)).

(2) Any toy having noisemaking components or attachments capable of being dislodged by the operating features of the toy or capable of being deliberately removed by a child, which toy has the potential for causing laceration, puncture wound injury, aspiration, ingestion, or other injury.

(3) Any doll, stuffed animal, or other similar toy having internal or external