



United States
CONSUMER PRODUCT SAFETY COMMISSION
Bethesda, Maryland 20814

MEMORANDUM

DATE: October 21, 2008

TO : OGC

Through: Todd A. Stevenson, Secretary *TAS*

FROM : Martha A. Kosh, OS *MAK*

SUBJECT: Labeling Requirements for Toy and Game Advertisements,
Catalogs and Other Printed Materials

<u>COMMENT</u>	<u>DATE</u>	<u>SIGNED BY</u>	<u>AFFILIATION</u>
1	09/10/08	Terra Anders Director of Product Safety Testing & Research	Lakeshore Learning Materials <u>Tanders@lakeshorelearning.com</u>
2	09/25/08	Gary Jones Senior Vice President Product Integrity	Learning Curve Brands, Inc. 1111 W. 22 nd Street Oak Brook, IL 60523
3	09/29/08	S. Richardson Director, Manufacturing and Inventory	School Specialty Publishing 8720 Orion Place, 2 nd Fl Columbus, OH 43240
		Kelly Poggiali Director, Marketing	same as above
		Michelle Yeauger Director, Marketing	same as above
		Ron Peek General Manager	same as above
4	09/29/08	Michael Klein President Constructive Playthings	U.S. Toy Co., Inc. 13201 Arrington Rd. Grandview, MO 64030
5	09/30/08	Kim Myers Copy Director	Swiss Colony 1112 7 th Avenue Monroe, WI 53566

**Labeling Requirements for Toy and Game Advertisements,
Catalogs and Other Printed Materials**

6	10/02/08	Robin Harrison Catalog Production Mgr.	Chinaberry, Inc. robin@chinaberry.net
7	10/07/08	B. Korolevich	bethk@walther.com
8	10/08/08	no name	no-reply@erulemaking.net
9	10/08/08	no name	no-reply@erulemaking.net
10	10/08/08	J. Hochstadt	jessica.hochstadt@mail.com
11	10/09/08	Mary Kennedy	maryakennedt@gmail.com
12	10/10/08	M. Gidding Atty	Brown & Gidding, P.C. 3201 New Mexico Ave, NW Suite 242 Washington, DC 20016
13	10/13/08	Steve Slagle President & CEO	Promotional Products Association International 3125 Skyway Circle North Irving, TX 75038
14	10/14/08	Terry Clayton	Tiarco Arts & Crafts, LLC T2clayton@triarcoarts.com
15	10/14/08	Destiny Dowdy Director of Product Compliance	Raymond Geddes & Co., Inc. 7110 Belair Road Baltimore, MD 21206
16	10/14/08	Phil Niemeyer	Nasco International 901 Janesville Ave. Fort Atkinson, WI 53538
17	10/15/08	Douglas Kerr President	Perfect Products Company P.O. Box 531 Malvern, OH 44644
18	10/15/08	Terry Brizz EDM, President	Galaxy Balloons Inc. 11750 Berea Road Cleveland, OH 44111
19	10/15/08	Harry Palmer	Balloons Are Everywhere, Inc. 16474 Greeno Road Fairhope, AL 36532
20	10/15/08	Mo Beck Vice President Purchasing & Operations	Green Group Enterprises MoBeck@johngreenco.com

**Labeling Requirements for Toy and Game Advertisements,
Catalogs and Other Printed Materials**

21	10/15/08	L. Kuklinca Owner	Wood'n Goodies 720A E. Lambert Road La Habra, CA 90631
22	10/15/08	John Kersic CEO	Primary Concepts rosalind@primaryconcepts.com
23	10/15/08	Kevin Bendixen Vice President	Trend Enterprises, Inc. kbendixen@trendent.com
24	10/15/08	H.W. Roberts Vice President	Pioneer Balloon 5000 E. 29 th St, North Wichita, KS 67220
25	10/16/08	Dennis Goldman President	ETA/Cuisenaire 500 Greenview Court Vernon Hills, IL 60061
26	10/16/08	R. Woldenberg Chairman	Learning Resources, Inc. 380 N. Fairway Drive Vernon Hill, IL 60061
27	10/16/08	J. Tinker President, CEO	Maple City Rubber Co, Inc. P.O. Box 587 Jeff.Tinker@maplecityrubber.com
28	10/16/08	L. Ferrell L. Ferrell Partners	Continental Sales 2924 18 th Avenue Sacramento, CA 95820
29	10/16/08	Daniel Flynn Chairman	The Balloon Council 5000 E. 29 th Street, North Wichita, KS 67220
30	10/16/08	Mary A Amick Vice President Sales	Betallic, LLC 2326 Grissom Dr. St. Louis, MO 63146
31	10/17/08	Niki King President	Nikki's Balloons 505 Blue Ball Rd., Bldg 140A Elkton, MD 21921
32	10/17/08	N. MacPherson Director of Quality and Compliance	LEGO Systems, Inc. Enfield, CT 06082
33	10/17/08	C.A. McLean Exe Director	Consumer Electronics Retailers Coalition 317 Massachusetts Ave, NE Suite 200 Washington, DC 20002

**Labeling Requirements for Toy and Game Advertisements,
Catalogs and Other Printed Materials**

34	10/19/08	Jeff Novak Vice President	Quality Assurance Unique Industries, Inc. 4750 League Island Blvd. Philadelphia, PA 19112
35	10/20/08	Steve Casso Gen. Manager	Burton & Burton 325 Cleveland Road Bogart, GA 30622
36	10/20/08	Robert Waller President	Juvenile Products Manufacturers Association yreys@ahint.com
37	10/20/08	Jerry Moran Member of Congress	Congress of the US House of Representatives Washington, DC
		Todd Tiahart Member of Congress	same as above
38	10/20/08	Daniel Flynn (additional comments)	The Balloon Council danf@qualatex.com
39	10/20/08	J. Summersell President	Educators Resource 2575 Schillinger Rd, N Semmes, AL 36575
40	10/20/08	R. Woldenberg Chairman	Learning Resources Jstarkey@learningresources.com
41	10/20/08	Steve Pfister Sr. Vice President	National Retail Federation Liberty Place 325 7 th St, NW, Suite 1100 Washington, Dc 20004
42	10/20/08	S. Lester V.P on behalf of Retail Industry Leaders Assoc.	International Trade Andrew.Szente@retail-leaders.org
43	10/20/08	K. Smirlies Purchasing	SI Manufacturing 150 Pony Drive New Market, Ontario L3Y 7B6
44	10/20/08	Sheila Millar	Keller and Heckman LLP 1001 G St, NW Suite 500 West Washington, DC 20001
45	10/20/08	Jerry Cerasale Senior VP	Direct Marketing Association 1615 L St, NW, Suite 1100 Washington, DC 20036

**Labeling Requirements for Toy and Game Advertisements,
Catalogs and Other Printed Materials**

46	10/20/08	Members	Consumers Union Giddly@consumer.org
47	10/20/08	Fred Berns Gen Manager	Hammacher Schlemmer 9307 N. Milwaukee Ave. Niles, IL 60714
48	10/20/08	Lisa Guili VP Marketing	Learning Resources 380 N. Fairway Dr. Vernon Hills, IL 60061
49	10/20/08	M. Bougie Sr. Internet Marketing Mgr	Learning Resources mbougie@learningresources.com
50	10/21/08	Daniel Jaffe Executive VP	Association of National Advertisers Djaffe@ana.net
51	10/22/08	C. Keithley President	Toy Industry Association 1115 Broadway, Suite 400 New York, NY 10010
52	10/22/08 Ltr dated 10/20	R. Woldenberg	Learning Resources, Inc. 380 N. Fairway Dr. Vernon Hills, IL 60061
53	10/23/08 (restricted)	Terra Anders Director of	Lakeshore Learning Materials Tanders@lakeshorelearning.com
54	11/14/08 (restricted)	James Rice CEO	Creative Catalog Concepts 2745 Rebecca Lane Orange City, FL 32763

*Comment
Labeling/Advertising
reqs*

Stevenson, Todd

From: Terra Anders [TAnders@lakeshorelearning.com]
Sent: Wednesday, September 10, 2008 5:46 PM
To: CPSC-OS
Subject: Feedback Labeling Req on Advertising in catalogs per CPSIA
Importance: High
Attachments: labeling Req on Advertising in catalogs.doc

Good Afternoon - I have attached some feedback on the new CPSIA regulation about including safety warnings in catalogs and on websites.

This is an area that has a significant impact on our company's bottom line, so I felt compelled to at least have this information made available to you as you guide your decision about how to implement this new requirement.

If you have any questions, please feel free to call or email me at the numbers below.

Terra Anders

Director of Product Safety, Testing & Research
Lakeshore Learning Materials
(310) 537-8600 x2100
Tanders@lakeshorelearning.com

Sent
10/5

***Feedback on Labeling Requirement for Advertising Toys & Games
Proposed Rules for Publication in Federal Register 16CFR1500***

The size and placement of cautionary statements in catalogues and other written materials in light of the statutory requirement to post these statements in a manner consistent with part 1500 of title 16 of the Code of Federal Regulations.

CATALOG WARNINGS:

- 1) Shortened versions of the warnings: We feel that the proposed shortened versions of the catalog warnings are still far too large to fit on to a copy block and still leave sufficient room to describe the product. The triangle in front of the warning takes up so much space and if more than one warning is used, they cannot be placed on the same line. This creates a significant loss of valuable space for products description and function. If a product has more than one warning, these large warnings will require that we reduce the quantity of products shown on a page by one product.

The additional requirement that on the same page (top or bottom) we must also place the entire and full text of the warning will require at minimum the elimination of at least one more and more likely two products per page or per spread.

We strongly suggest the Commission reconsider this invasive proposal. Allowing an abbreviated form of the warning (without the large triangle) in front of the functional text only and permitting a key on the inside front cover of the catalog of the full warnings would be much more reasonable. This solution would allow full disclosure of the hazard to the consumer and still allow catalog companies to maintain their financial goals for each page of the catalog.

- 2) Some products have 2, 3 or more warnings on them. In many cases all but one product on the page have a small part, so listing the warning once for everything on the page is not possible on many cases. To list each of these warnings on the catalog page over and over again would so greatly impact the quantity of products sold on a page. Such a stringent requirement could easily mean the overall financial failure of the catalog.
- 3) Expanding the page count of a catalog to allow for these warnings and still include the right amount of products per catalog – would mean significantly more expenses in paper, design, printing costs and mailing costs. In this time of economic crisis, adding such a cost to our catalog would be prohibitive.
- 4) After laying out several pages/spreads based on these rules, we strongly feel that so much text and warnings would confuse consumer. When every item on a catalog spread had a warning of some kind – this looks alarming to customers and gives the inaccurate impression that all the products on that page had a safety concern. In fact, the warnings are in place on the product to advise the consumer upon purchase of each specific safety concern they should be aware of when using the product with young children. This feels misleading and will most likely drive customers away from purchasing perfectly safe products.

Suggestion: Allow a key in the inside front cover of the catalog, and eliminate the need for a full warning box on each page. This key would describe what the safety warnings are and where

***Feedback on Labeling Requirement for Advertising Toys & Games
Proposed Rules for Publication in Federal Register 16CFR1500***

they are found in the catalog. The key would show each safety warning in its entirety as required in the 16CFR1500. Text would be legible and format would be correct as specified.

If reference to the full text warning key is needed, this could be simply stated on the bottom of each individual page of the catalog in one line in contrasting color, font, size and/or style to the rest of the text on that page. This statement at the bottom of the page would indicate that more detailed safety warnings for the products can be found on the inside front cover of the catalog.

Here you would have the warnings standing out in the copy/description of each product, a direction as to where to look to find the safety key and the CPSC required formats of each warning all visible to the consumer. This technique would help keep the page easy to read, the warnings obvious and clear to the consumers and the quantity of product on the page in line with cost-effective requirements of the catalog.

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The impact of the advertising requirements on businesses.

If permitted to keep the warning realistic in size, design and format (**as suggested above**) they should not have a significant impact on business.

If forced to increase their visibility to full size and multiple full size warnings per product or page (as the proposed rulemaking indicates) – **this would have catastrophic results**. Catalog space and catalog product sales is all about dollars per square centimeter. The less you get on a page, the more each product has to work to pay for itself. Even one-half inch one way or the other can make a huge impact.

For this reason I strongly encourage the Commission to be more reasonable in their approach to the size and placement requirements of these warnings.

Terra Anders

Director of Product Safety, Testing and Research
Lakeshore Learning Materials
(310) 537-8600 x2100
Tanders@lakeshorelearning.com

Stevenson, Todd

From: Terra Anders [TAnders@lakeshorelearning.com]
Sent: Tuesday, October 14, 2008 6:48 PM
To: CPSC-OS
Subject: Feedback on Proposed Rulemaking to Federal Register on Warning Labels in Advertising
Attachments: labeling Req on Advertising in catalogs - second submission.pdf

Please see the attached feedback.

Terra Anders
Director of Product Safety, Testing & Research
Lakeshore Learning Materials
(310) 537-8600 x2100
Tanders@lakeshorelearning.com

Stevenson, Todd

From: Jones, Gary [GLJONES@rc2corp.com]
Sent: Thursday, September 25, 2008 5:14 PM
To: CPSC-OS
Cc: Michael J. Gidding; Stoelting, Curt; Henseler, Pete; Kilrea, Greg
Subject: Section 105 Advertising Requirements
Attachments: Comments on Labeling Requirement for Advertising Toys and Games-B.doc

Please see attached comments regarding the captioned topic.

Thanks,
Gary Jones
Sr. Vice President, Product Integrity
Learning Curve Brands, Inc
1111 W. 22nd Street
Oak Brook, IL 60523
630-573-7236

<<Comments on Labeling Requirement for Advertising Toys and Games-B.doc>>

Section 105 Advertising Requirements

- **Size and placement of cautionary statements in catalogues and other written materials-**
 - **Placement-** Many catalogues have numerous items on the same page so the warnings should be located in close proximity to the description or other verbiage such that it is readily apparent that the warning applies to the specific item.
 - **Size-** The requirements for size should be the same as 16CFR1500.121 (c) (6) “Accompanying literature containing directions for use.”
- **The impact of the advertising requirements on businesses-**
 - If business to business catalogues are required to have warning labels, there will be an initial impact due to the fact that 2009 catalogues are currently under development and will have to be modified.
- **How often catalogues or other written materials are published and how much lead time is required to prepare these materials for publication?**
 - Product catalogues for customers (retailers and distributors) are developed once or twice per year depending on needs. The lead time is typically around 4 months.
- **Whether and why a grace period may be needed for catalogues and other printed materials**
 - If business to business catalogues are required to contain warning statements, all of the catalogues that will be used in 2009 may be printed before the effective date. There is typically only one printing of the catalogues for the year. Ideally, a grace period of one full year may be needed to avoid the costs of re-printing 2009 catalogues.
- **Whether the advertising requirements for catalogues and other printed materials should also apply to materials distributed solely between businesses and not to ultimate consumers, and, if so, how the Commission can distinguish catalogues distributed solely between businesses from those intended for final distribution to the ultimate consumers, which may include institutions such as schools and day care centers-**
 - Catalogues and other printed materials distributed solely between businesses should not be subject to the warning labeling requirements. The intent of Section 105 of the CPSIA is to provide consumers who buy products online or through catalogues access to the same warnings that are available to consumers who shop in stores and can see the labels on the packages. Since business to business catalogues are not generally available to be used by consumers to order products, requirements to add warnings to them would serve no useful purpose and would create hardship and needless expense for the industry.

- **Other comments-**

- It appears that the requirements apply only to warning labels that are mandated by Federal law. With ASTM F 963 becoming Federal law, do the labeling requirements contained therein that are different than current Federal requirements now become part of the catalogue and internet labeling requirements?
- The Commission should clarify whether advertising leaflets and other materials sent directly to consumers will be classified as, “other written materials...” For those where the consumer will be required to make the purchase at a store, it would appear that the warnings would not be required.

Gary Jones
Sr. VP Product Integrity
Learning Curve Brands, Inc.
September 25, 2008

**Section 105 Advertising Requirements
Response to CPSC Request for Comments and Information
September 29, 2008**

Overall company information and catalogs published:

School Specialty Publishing publishes supplemental education materials for retail distribution through consumer and education retail channels, as well as directly to consumers through catalogs and its web site.

Consumer retail channels: Few of the items in this catalog require the labeling.

Education retail channels: Approximately 15% of the pages in this catalog, with as many as 10 items per page, will require the new labeling. This catalog presents our key challenge.

Direct to parent or teacher: These catalogs represent a selection of the items from the above catalogs, depending on the target market (either teachers or parents).

The size and placement of cautionary statements in catalogs in light of the statutory requirement to post these statements in a manner consistent with part 1500 of title 16 of the Code of Federal Regulation.

Our concerns center on balancing the need to inform consumers with the risk of having a "cluttered" catalog page that is overtaken by redundant safety notices, with potentially all of them being ignored due to the clutter. We are unclear as to the expectation of the size of the notices (is the size in relation to the name of the product on the page, etc.), yet a statement that is ¼" x ¼" on an 8 ½" x 11" page would not seem overwhelming. This size is consistent with the existing "Title 1" flag on many of our catalog pages.

The impact of the advertising requirements on businesses.

We must go through our records to ensure that we identify all catalog/internet items that require a choking hazard label. Then, we must work with our catalog company to add the label to the electronic catalog files, and to our web designer to add the labels there as well. We must re-schedule the press times with our printer. These actions could delay the release of our Education catalog by roughly one month, potentially reducing our sales and causing us to miss the annual catalog drop to the educational dealer customer base.

How often catalogues or other written materials are published and how much lead time is required to prepare these materials for publication.

The expense of printing a catalog is tied to the preparation and editing of the electronic files, the printing itself, as well as the costs to mail to our customers. The files can take as long as three months to prepare, and the print time is dependent upon the printer's press schedule, generally 6-10 weeks before release.

Consumer retail channels: We print the catalogs for our customers once per year, for release beginning in October. The October drop says to the trade market "these are the products we plan to maintain through the next calendar year." These are mailed out throughout the next calendar year.

Education retail channels: We print the catalogs for our customers once per year, for release beginning in December. The December drop says to the education market "these are the products we plan to maintain through the next calendar year." The majority are mailed out in December, and the rest throughout the next calendar year.

Direct to parent or teacher: We print 1 million small catalogs per year, to be distributed 3 to 4 times per year.

In addition, in 2009 we will print quarterly new product flyers that are released 5-6 months in advance, e.g., a new product flyer drops in August to support new products to be released January-March.

Whether and why a grace period may be needed for catalogues and other printed material.

At the time of enactment of the legislation, we had virtually completed our catalog preparations for 2009. As a result, we must delay the release of our catalogs in order to include the new labeling, even before the rules are finalized. Our catalogs will continue to be distributed after the potential 180 day grace period, so a more meaningful grace period would be to delay the requirement to apply to catalogs released on or after January 1, 2010.

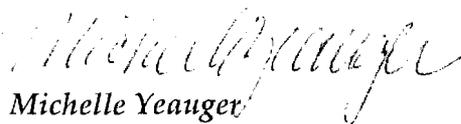
Whether the advertising requirements for catalogues and other printed materials should also apply to materials distributed solely between businesses and not to ultimate consumers, and , if so, how the Commission can distinguish catalogues distributed solely between businesses from those intended for final distribution to the ultimate

consumers, which may include institutions such as schools and day care centers.

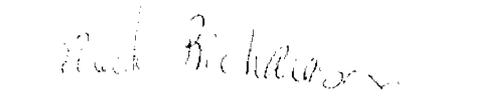
Our catalogs are distributed to schools, teachers, or retailers who oftentimes allow their customers (parents and teachers) to go through our catalogs. It is easier to maintain one set of catalog data that either includes or excludes the additional warning labels, rather than have two sets and risk sending the "retail" version to the direct to parent or teacher audience. For our business, this question is moot.

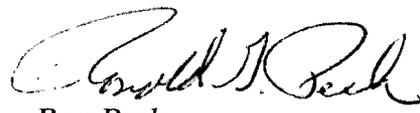
Respectfully submitted,

School Specialty Publishing


Michelle Yeauger
Director, Marketing


Kelly Poggiali
Director, Marketing


Sarah Richardson
Director, Manufacturing & Inventory


Ron Peek
General Manager

Stevenson, Todd

From: Richardson, Sarah [srichardson@schoolspecialty.com]
Sent: Monday, September 29, 2008 2:54 PM
To: CPSC-OS
Cc: Yeager, Michelle; Poggiali, Kelly; Josh Johanningmeier
Subject: Section 105 Advertising Requirements
Attachments: Section 105 Advertising Requirements.pdf

Please find our comments on the attachment.

<<Section 105 Advertising Requirements.pdf>>

Sarah Richardson

Director, Manufacturing & Inventory
School Specialty Publishing
614-880-6763
srichardson@schoolspecialty.com

Section 105
NPR



**CONSTRUCTIVE
PLAYTHINGS®**

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www.ustoy.com

September 29, 2008

Office of Secretary, CPSC
Room 502
4330 East-West Highway
Bethesda, MD 20814

RE: Section 105 Advertising Requirements
Public Comments

Dear Sirs,

I would like to comment on the requirement for cautionary statements in catalogues:

A) How often are catalogues printed?

Our main catalogs are printed once a year. We are primarily in the school supply business and our catalogs are timed with the school year July through June. Our current catalogs were designed in the spring. If we cannot distribute them after February 10th, we will have no catalogs from late winter to mid summer! In addition we will have to destroy thousands of catalogs that cannot be sent out. The cost to us in lost business would be devastating. While 95% of the catalogs are mailed upfront, there is always an amount that is retained for distribution during the life of the catalog.

Only a grace period for the catalogs all printed in late spring/early summer of 2008 will "save" us. For people like ourselves who print once a year, it is a question of timing of when the catalogs are printed and the date of the change in the law as well as the life of the catalog.

B) Lead time for catalogs

In a few days, we will start working on a quarterly sale flyer we send out in January that runs through spring. While the catalog will be mostly mailed in January, flyers are distributed on request for several months

during the life of the flyer. A two to three month lead time is not unusual. Factors that go into lead time are:

- 1) Printer availability; most of our catalogs and flyers are printed 3 to 4 weeks before the "in-house" date. A flyer mailed the first of January is usually printed the first part of December.
- 2) Art department schedule and production time required. A flyer can take a week but our large catalog of 208 pages takes almost two months.

In fact, right now with no real guidelines, we are trying to figure out size and placement of cautionary statements.

C) Size and placement

Depending on the page, there can be over a dozen items with "small parts" and/or balls and/or magnets. We will end up with a page of cautionary statements. In some places, there is no picture but line listings. I am not sure about how to handle that situation. Because of the lead times required, we need regulations issued as soon as possible on the size and placement. Guidelines issued November 12th are too late for flyers going out January 1st with a life of two or three months.

D) Impact of the advertising on business

In our parent/home catalog, we give guidance by listing an age for every product. Now almost all toys for children will have to carry the warnings, too. This will do several things:

- 1) Cut sales as it will make the catalog less attractive. While it may not seem important, visual looks do impact sales.
- 2) Frighten people away from toys as gifts and impact sales (the alternative gift could be an electronic item that is less safe than a toy).

E) Business vs. Home/Parent Catalog

While we have a school/institutional catalog that should qualify for a "Business" catalog, we do get parents who order from it:

- 1) home schoolers
- 2) teacher recommends a product
- 3) child uses it at school and the parent buys it for them
- 4) teachers who are parents buying an item for their own children or as gifts

In the school field, there is about a 1% or fewer parents ordering factor. While it is not common, it does occur. Is this enough to require the cautionary statements?

My personal recommendations would be:

- A) Allow a grace period for catalogs based on the normal publishing date and life of the catalog. In our case, this would be until our next annual catalog.

- B) Allow a grace period of at least 3 months from when your final regulations are published for a catalog to be printed with the new warnings.
- C) Allow a grace period for any catalog printed before 90 days after the final regulations and that specific catalog be allowed to be distributed for its normal historical life.
- D) The cautionary warnings be in the form of an icon. The icons should be displayed and defined at the start of the catalog. The icons could be 3/8" to 1/2" square. This would avoid clutter.

While we will adhere to any regulations issued, your consideration of the grace period and form of the warning being a single icon would be appreciated. Thank you for your consideration.

Sincerely,



Michael Klein
President
U.S. Toy Co., Inc./Constructive Playthings

MK/sg

*Advert
Toys Games*

Stevenson, Todd

From: Myers, Kim [Myers@sccompanies.com]
Sent: Tuesday, September 30, 2008 6:29 PM
To: CPSC-OS
Subject: Toy warnings feedback

- > 1. The size and placement of cautionary statements in catalogues and other written materials in light of the statutory requirement to post these statements in a manner consistent with part 1500 of title 16 of the Code of Federal Regulations.

THE IMPACT IN PRINT CATALOGS IS HUGE GIVEN THE LIMITED AMOUNT OF SELL SPACE FOR COPY AND IMAGE DUE TO PRODUCT DENSITY. WE CAN PRINT FULL WARNINGS ON WEB BUT DOING SO IN PRINT TAKES UP TOO MUCH SPACE. SUGGEST A BRIEF WARNING IN PRINT WITH VISIT OUR WEBSITE FOR MORE INFO.

- > 2. The impact of the advertising requirements on businesses.

THE POTENTIAL IMPACT ON BUSINESS IS CATALOGERS WILL LOSE MONEY ON SALES PER PAGE IF FULL WARNINGS ARE REQUIRED IN PRINT. LOST MONEY IN THIS ECONOMY PARTICULARLY CAN QUICKLY LEAD TO SMALLER CATALOGERS GOING OUT OF BUSINESS WITHIN THE INDUSTRY AS A WHOLE.

THANK YOU FOR YOUR CONSIDERATION,

--

Kim Myers
Copy Director
Swiss Colony
1112 7th Avenue
Monroe WI 53566-1364
608-324-4056



Go Green! Please consider the environment before printing this email and/or its attachments.

*Advent
Toys & Games***Stevenson, Todd**

From: Robin Harrison [robin@chinaberry.net]
Sent: Thursday, October 02, 2008 5:11 PM
To: CPSC-OS
Subject: grace period for label implementation

To Whom it May Concern,

I am writing today to share my comments with you regarding labeling requirements for toys and a possible grace period extended to print catalogs. We are a medium-size mail order catalog company and we offer toys and games in our catalog. Requiring us to put warning labels next to every product featured in the catalog will hurt us financially. Each square inch of catalog space is a valuable commodity for us, taken up with photographs and product annotations. Depending on how large the warnings will need to be and where they will need to be placed will mean we are able to offer less product, which in turn will make us less profitable. With the recent postage increases and constant paper price increases, mail order catalogs are having a very difficult time surviving. This would be yet another financial blow that we would have to absorb. If the actual requirement for labeling can be less specific on the size and placement it would make it more feasible to implement since we would not have to redo anything we've already started once the CPSC's rulemaking is made on Nov 12th. Or if the actual sizing, font, and placement will be dictated, then perhaps a grace period could be offered so that we could have this done, and accurately so, by our Summer catalog mailing in June 2009.

Each toy or game we offer comes with a label already on the packaging. Before our customers open the product, they can read what the hazards might be. We also put age ranges that each toy or game is appropriate for next to the product in the catalog. If we routinely start putting "choking hazard" or "not for children under 5 years of age" next to each and every product, people will stop reading it and it will not have the desired impact. We allow our customers to return merchandise and get their cash back for any products they are not happy with.

We would also need time to request and confirm that warning labels are appropriately included with toys. There are still many questions that remain to be answered before we know what to include. For example: Are we supposed to include what is printed on the toy packaging? What the vendor lets us know in response to inquiries? And what about European labeling-will their labeling be acceptable? All of these questions have yet to be answered which will, obviously, make it difficult to put these warnings in our spring catalog accurately. We can get this info on our web site more quickly but it would take much longer for a printed catalog. We are starting to make changes to our web site that will allow us to get all the labels on line. However, programming our changes and testing will take time. We do not want to implement any changes until January as this is our busy time of year and we don't want problems.

Since ASTM is becoming regulatory vs. voluntary, some companies may not yet have the magnet warnings which could result in mislabeling or lack of appropriate labels. This is especially important when considering catalog printing dates vs. effective dates of the law. We assume/believe manufacturer's are working towards accuracy and compliance with the law, however they may not be able to provide accurate and timely info by print dates for catalogs distributed after Feb.10, 2009. Our print catalogs that are distributed after Feb 10, 2009 will actually be produced and sent to the printer as of Dec. 1, 2008.

Thank you for your attention to our concerns and comments.
Robin Harrison
Catalog Production Manager
Chinaberry, Inc
714-734-8605

Stevenson, Todd

From: Beth Korolevich [bethk@walthers.com]
Sent: Tuesday, October 07, 2008 12:55 PM
To: CPSC-OS
Subject: "ADVERTISING REQUIREMENTS NPR."

I do not believe it is necessary to list cautionary statements in business to business advertising including printed ads, catalogs, direct mail correspondence etc.

The cautionary statements are meant to protect the consumer and are already located on each applicable product's packaging at the point of purchase.

Sent 105

Stevenson, Todd

From: no-reply@erulemaking.net
Sent: Wednesday, October 08, 2008 3:50 PM
To: CPSC-OS
Subject: Public Submission

Please Do Not Reply This Email.

Public Comments on Labeling Requirement for Toy and Game Advertisements:=====

Title: Labeling Requirement for Toy and Game Advertisements FR Document Number: E8-23543
Legacy Document ID:
RIN:
Publish Date: 10/06/2008 00:00:00
Submitter Info:

First Name:
Middle Name:
Last Name:
Category:
Mailing Address:
Mailing Address 2:
City:
Country: United States
State or Province:
Postal Code:
Email Address:
Phone Number:
Fax Number:
Organization Name:
Submitter's Representative:
Government Agency Type:
Government Agency: null

Comment Info: =====

General Comment:I think that this is an excellent idea. The abbreviated section of this rule will allow toy companies to group those toys which are appropriate for those under three away from those which are fine only for older children.

This is does not seem to be imposing an unnecessary burden on advertisers as consumers should have the right to know if the toy they will be purchasing is appropriate for their child before they buy it!!

Stevenson, Todd

Set 105

From: no-reply@erulemaking.net
Sent: Wednesday, October 08, 2008 10:09 PM
To: CPSC-OS
Subject: Public Submission

Please Do Not Reply This Email.

Public Comments on Labeling Requirement for Toy and Game Advertisements:=====

Title: Labeling Requirement for Toy and Game Advertisements FR Document Number: E8-23543
Legacy Document ID:
RIN:
Publish Date: 10/06/2008 00:00:00
Submitter Info:

First Name:
Middle Name:
Last Name:
Category:
Mailing Address:
Mailing Address 2:
City:
Country: United States
State or Province:
Postal Code:
Email Address:
Phone Number:
Fax Number:
Organization Name:
Submitter's Representative:
Government Agency Type:
Government Agency: null

Comment Info: =====

General Comment: "Advertising Requirements NPR"

Regarding the proposed rule change for labeling requirements for toys and game advertisements.

I agree that there needs to exist a minimum font size for catalogs and other printed material and I think that the labels should exist on each page of the catalog in which there exists a potentially hazardous toy. To place the warning labels at the beginning of the sections, seems to defeat the purpose of what the CPSC is trying to do which is allow the consumer/ purchaser access to appropriate warning labels and information. People by nature will often skim through catalogs and printed material quickly and therefore may pass over important information regarding safety warnings if they are not in bold print or directly associated with the article they intend to purchase. If these warnings are placed on each page, then the consumer has access to all available information and can therefore make an informed decision about whether or not to purchase this product. The use of the symbols can be effective, because it can indicate to consumers that this product may need closer evaluation prior to purchase.

I do not feel that there should be an exemption on business to business catalogs regarding the warnings. By creating separate systems, this may in fact increase in the long run the editing of such catalogs and may increase the risk of human errors as some warning labels may not be added in the correct area or may be omitted altogether. Many churches, day care centers and schools are in fact businesses, so how do you plan to distinguish those from other business that do not have direct contact with the consumer (children).

The goal of this rule is to make safer the toys that we give to children, whether the toy is being sold to a store or to a church or school through all catalogs should

require the same label. Each purchaser should have at their disposal all warning labels so that an informed decision about purchase can be made. Part of being a business owner is have a responsibility to your clients, and sometimes that requires more time and effort than most business are willing to make.

However, it just takes one mistake in the immediate future with labeling to impact a business long term.

We now require country of label origins on fresh products, but yet we want to make exceptions to the toys that we give out children to play with based on who the catalog is distributed to does not make sense.

Thank you for your consideration

Concerned Citizen

*Sent 10/5***Stevenson, Todd**

From: mary kennedy [maryakennedy@gmail.com]**Sent:** Thursday, October 09, 2008 1:06 PM**To:** CPSC-OS**Subject:** Advertising Requirements NPR

Dear Secretary:

I believe that the proposed labeling requirement for toy and game advertisements is an important step forward in the effort to increase safety standards. Given the current explosion of internet and catalog shopping, fewer people are able to actually see and/or handle the product before purchase and therefore are not able to see potential hazards and/or packaging labels warning of potential hazards. Requiring these warnings on the advertisements will help shoppers make a more informed, and often safer, decision when purchasing toys and games.

I feel that it is important to require these safety labels for catalogues and other printed materials distributed solely between businesses and not to ultimate consumers. The safety of a product for a given population is important information for everyone. Businesses who will be purchasing products to stock stores will benefit from this requirement – helping them make more informed decisions by keeping potential hazardous items off the shelves of stores who sell products for young children. Although it will cost these stores some money to put these labels in their catalogues, I feel that the benefit of these labels far outweighs the cost.

Sincerely,

Mary Kennedy

Set 105

Stevenson, Todd

From: Jessica Hochstadt [jessica.hochstadt@gmail.com]
Sent: Wednesday, October 08, 2008 10:58 PM
To: CPSC-OS
Subject: ADVERTISING REQUIREMENTS NPR

Attn: Todd A. Stevenson- Secretary, Consumer Product Safety Commission
16 CFR Part 1500
Re: Labeling Advertisements for Toy and Game Advertisements

October 8, 2008

Dear Mr. Stevenson,

I am writing to express my agreement with the proposed rule for labeling requirements for toy and game advertisements. I think that parents, child caretakers and educators alike will benefit from knowing what potential hazards lie in purchasing a toy or game before committing to the purchase. Furthermore, I think that toy and game manufacturers can prevent many inconvenient returns and potential lawsuits by alerting their customers before they make a purchase regarding any potential hazards. Furthermore, I am glad that research was done to determine where the label should be placed, specifically in internet advertisements. By requiring that manufacturers make the label visible, this avoids any potential loopholes that companies may have sought out to avoid labeling their products.

I could see how toy and game companies might be concerned with loss of sales if they place their warning labels visibly on advertisements. However, I do not think this policy will cut sales down by any significant amount as the warning labels are meant to inform individuals dealing with younger children; older children can still play with the game or toy. Also, if the warning label is that strong that it would make individuals reconsider purchasing said product, even for an older child, then perhaps manufacturers need to rethink the assembly of their product as it might be overly hazardous.

Although it may require a bit of extra funding to incorporate this new policy, I believe it is well worth the extra money. In fact, this should be called "preventative funding" as in using it, you are preventing further monetary losses due to lawsuits or settlements from families who have been hurt by one of your products.

Thank you for doing this research and making this effort to keep retailers honest with their advertising.

Sincerely,
Jessica

Section 105



2008 OCT 15 P 3:19

October 10, 2008

**VIA FACSIMILE AND
FIRST CLASS MAIL**

Office of the Secretary
Room 502
U.S. Consumer Product Safety Commission
4330 East West Highway
Bethesda, Maryland 20814

Comments on Advertising Requirements NPR

To Whom It May Concern:

Several of my clients are affected by the recently-enacted requirements that written and internet advertisements for certain children's products contain precautionary labeling statements mandated in the Child-Safety Protection Act (CSPA). On behalf of those clients, I submit these comments on the October 6, 2008 notice of proposed rulemaking titled "Labeling Requirements for Toys and Games Advertisements."

The CSPA requires that packages for marbles and small balls bear precautionary labeling warning that such items present choking hazards and are not appropriate for children under 3. Packages for toys and games intended for use by children between the ages of three and six require such labeling if the toys or games contain such items and/or small parts. Packages for balloons require warnings relate to the suffocation hazards that uninflated or broken balloons present for children less than eight years of age.

Section 105 of the Consumer Product Safety Improvement Act (CPSIA) extends the labeling requirements to advertising for products that require CSPA labeling - specifically written ads such as those in catalogs and internet advertisements which provide a means of direct purchase. Following language in section 2(p)(2) of the Federal Hazardous Substances Act (FHSA), the law requires that warnings in advertisements be prominently displayed in conspicuous and legible type in contrast by typography, layout, or color with other material printed or displayed in the advertisements and be displayed in a manner consistent with 16 C.F.R. § 1500. While the CPSIA requires the Commission to promulgate regulations to effectuate section 105, it does not

require the Commission to promulgate regulations concerning the type size and placement of the required precautionary statements in advertisements.

The following are comments on the proposed rule that I request you consider.

General - The guidelines the CPSC have proposed were developed under very short time constraints and without the benefit of full deliberation. Inasmuch as the law contains no requirement that the Commission address type size and placement issues, if the Commission decides to go forward with this proposal, the provisions relating to type size and placement should be regarded as providing a "safe harbor" for compliance with the law rather than as requirements to be met. Compliance with the statute in other ways should be permitted, as long as they result in a prominent and conspicuous display of precautionary information in a manner consistent with the requirements of the law. This is an especially important concept, since catalogs have a variety of layouts and functions with which the Commission may not be familiar and the one-size-fits-all approach of the proposed rule is neither an efficient nor practical method with which to address the conspicuity issue, if the Commission determines it necessary to address the issue at all at this time.

Minimum Type Size and Placement - The Commission's proposed regulation would establish type size and placement requirements for the required statements, in part relying on 16 C.F.R. § 1500.121, as well as requirements addressing abbreviated statements. 16 C.F.R. § 1500.121, however, is an interpretative rule that codifies the agency's prior interpretations and policies relating to precautionary labeling for hazardous chemical substances under the FHSA and that provides guidance on ways to achieve a prominent and conspicuous warning label. While well-intentioned, the proposed regulation misapprehends the provisions of that section as they might be applied to warnings in advertisements.

At the outset, 16 C.F.R. § 1500.121 includes a provision that addresses literature that contains instructions for use that accompanies a hazardous substance. 16 C.F.R. § 1500.19 contains a comparable provision for descriptive material that accompanies a product subject to CSPA labeling. Both provisions contemplate that precautionary labeling be located in reasonable proximity to any directions for use and be placed together within the same general area. They also provide that the type size of such labeling be reasonably related to the type size of other printed material in the literature, that the type size be in

conspicuous and legible type by typography, layout or color with such material, and that the signal word and statement of principal hazard be in capital letters.

I suggest that the provisions for precautionary labeling in advertisements are more analogous to those in accompanying literature than they are to provisions that require labels on packages. In fact, the proposed rule recognizes this when, as the partial basis for its type size recommendations, it references ANSI Z535.6 which coincidentally applies to product safety information in manuals, instructions, and other collateral materials.

If the Commission decides that it is appropriate to publish requirements for type size and placement of warnings in advertisements even though it is not required to do so, the interests of the public safety would appear to be better served by treating warnings in such advertisements in the same manner as those in accompanying and descriptive literature as specified for both general FHSA warnings and CSPA warnings. If the Commission were to adopt such a proposal, it would mean that CSPA warnings would still have to be prominent and conspicuous and, by analogy would still have to appear in proximity to the description of the product. However, this approach would preserve flexibility in designing individual advertisements and whole catalogs efficiently and in a way that effectively describes products and hazards.¹

Turning to type size, 16 C.F.R. § 1500.121 contains a chart that provides guidance for the type size of warning labels on packages of hazardous substances. The chart establishes type sizes for labeling based on packages with principal display areas of increasing size, e.g. 5-10 sq.", 10-15 sq."² Within each

¹ I note that the proposed regulation attempts in part to accomplish this same objective by specifying that CSPA labeling in advertisements be the larger of (if I am reading it correctly) the type sizes recommended for principal display panels in 16 C.F.R. § 1500.121 that are greater than five square inches in area but no smaller than .08," or the size of the largest text in the advertisement that describes the function, use, or characteristics of the toy or game (sic) being advertised. As a basis for the latter, the proposed rule cites ANSI Z535.6. However, the proposed rule notes that the ANSI standard only requires product safety message text be no smaller than the majority of other than non-safety text, other than headings, immediately surrounding it. The proposed rule does not explain the inconsistency between its provisions and those of the ANSI standard.

² As a note on type size, over the 30 years it has administered the FHSA, the Commission staff has recognized that prominence and conspicuousness can be achieved by a number or combination of techniques, including blocking or boxing warnings, color, and type style in addition to type size. Thus, for example, even though a required warning label may not appear

size range, the chart specifies a different type size for the signal word, statement of hazard, and other precautionary labeling. Thus, for a package with a principal display panel area of 5 to 10 sq." the chart recommends that the signal word be 3/32" in height; the statement of hazard, 1/16" in height, and other cautionary information, 1/16" in height.

The proposed rule would establish a minimum type size of .08 inches (about 5/64"). This type size is the same as that which 16 C.F.R. § 1500.121 and 1500.19 specify for other cautionary information on a one pint to one quart container with a principal display panel of 15-30 sq. inches. See 49 Fed. Reg. 50377. Assuming that the Commission intends to follow its customary practice in FHSA and CSPA labeling and the chart in 16 C.F.R. § 1500.121, the .08" specification also means that a CSPA warning in an advertisement would have to have a signal word "WARNING" at least about 1/8" in height, and the statement of hazard "CHOKING HAZARD" a minimum of 3/32" in height. Quite obviously, if for no other reason than economic ones, many individual advertisements, especially those in catalogues that include multiple entries, often have a surface area less than the 15-30 square inches or even 5 to 10 square inches, but still contain legible written information that permits buyers to make informed buying decisions. Given the limitations on size and space in many catalogs, the .08" requirement is simply overkill that would unnecessarily increase the size and bulk of catalogs with little commensurate safety benefit.

Rather than applying a specific type size requirement, I suggest again that the Commission follow its guidelines for accompanying literature and only require that the type size for warnings in advertisements be reasonably related to the type size of statements describing the advertised items, other than headings.

Abbreviated Warnings - Permitting the use of abbreviated cautionary statements is a good concept. However, catalog space is extremely limited. The statements proposed in the rule are still too lengthy and, in cases involving small catalogs with multiple items on each page, would still require an additional line of text in each affected advertisement, especially if the required type size is 8 points or greater. 16 C.F.R. § 1500.19 already contains examples of variations of abbreviated statements - "Δ SAFETY WARNING" and "Δ WARNING -- CHOKING HAZARD" (for balloons) - which provide adequate cues to prospective purchasers

in type equal in size to the minimum suggested in 16 C.F.R. § 1500.121, after reviewing the overall appearance of the label, the staff may nevertheless conclude that the other features of the precautionary statement make the statement prominent and conspicuous. Thus, type size is just one of many techniques that can assure or contribute to label prominence and conspicuity.

of the need to look further for safety information. Abbreviated warnings such as "Δ SMALL PART" or "Δ SMALL BALL" would provide comparable cues for purchasers.

In addition, limiting placement of the full warning statements to the tops or bottoms of catalog pages is unnecessarily restrictive. Providing a prominent cue by text or symbol along with an abbreviated warning that tells readers where the full precautionary statement is located should be adequate to alert the reader to review that statement, even if the full statement does not appear on the catalog page that contains the advertisement. Perhaps as a variation, the "Not for children under 3 yrs." could appear at the bottom of a page that contains an advertisement for a product that requires labeling, and the full precautionary statement elsewhere in the catalog.

Two page spreads may identify multiple products on each page, all of which require full warnings. If the Commission decides to continue to require full warnings on the catalog pages themselves, the full warning should not have to appear on each page or extend across two facing pages. It should be sufficient that the full warnings are located somewhere on the two pages.

Combined Label Statements - Because catalog space is scarce, the guidelines should permit the choking hazard warnings to be combined in any reasonable manner that conveys the hazard and the prohibition on purchase for children under 3 years to the consumer. The Commission has already recognized the effectiveness of such an approach in 16 C.F.R. § 1500.19 to address products that contain multiple products subject to CPSA warnings. The Commission should apply the same rationale in the proposed rule, and should also consider permitting a combined warning listing the hazards that different products advertised on a single or two page spread that contain marbles, small balls and small parts may present. The only difference between the labels for those three items is the nature of the item itself, and as long as consumers inspecting an advertisement can determine that an advertised product contains one or more of these types of items, a single warning will accomplish the objectives of the law while conserving space. I note that, even if a purchaser ignores the warning and purchases, for a child under three an item that requires labeling, the package of that item will still have an appropriate label warning the purchaser of the hazards.

Internet - To the extent that comments on the type size of warnings in catalogs apply to internet advertisements, those comments are incorporated by

Secretary
October 10, 2008
Page 6

reference. Requiring the warning on a web page to be "located immediately before any other statements in the advertisement that describe the function, use or characteristics of the toy or game" is simply unnecessary and overly burdensome. It should be sufficient that the warning is in close proximity to the advertisement. Again, this is consistent with the approach that the Commission has accepted for hazardous substances labeling in material that accompanies a hazardous substance and for descriptive material that accompanies products that requires CSPA labeling.

In addition, the CPSC should recognize that web technology can employ "pop ups" or "balloons." Accordingly, web advertisements should be permitted to have abbreviated warnings which, when clicked or the cursor moves across, pops up the full warning.

I appreciate the opportunity to comment on behalf of my clients. Please contact me if you need additional information.

Sincerely yours,

A handwritten signature in black ink that reads "Michael J. Gidding". The signature is written in a cursive style with a large initial "M".

Michael J. Gidding

Sheet 105
NPR**Stevenson, Todd**

From: John S Satagaj [email@jsatlaw.com]
Sent: Monday, October 13, 2008 7:02 PM
To: CPSC-OS
Cc: 'Steve Slagle'
Subject: ADVERTISING REQUIREMENTS NPR

On behalf of the Promotional Products Association International (PPAI) we wish to submit the following comments regarding applicability of the advertising requirements to catalogues and other printed materials that are distributed solely among businesses. We strongly urge the Consumer Product Safety Commission (Commission) to exemption such catalogues from the requirement.

PPAI—the promotional products industry's only international not-for-profit trade association—offers education, tradeshow, business products and services, mentoring, technology and legislative support to its more than 7,500 global members. Promotional products are more than a \$19.4 billion industry and include wearables, writing instruments, calendars, drinkware and many other items, usually imprinted with a company's name, logo or message. PPAI created and maintains the UPIC (Universal Promotional Identification Code), the industry's only free identification system and universal company database.

The industry consists of approximately 21,000 distributors and 3,500 suppliers. The distributor develops solutions to marketing challenges through the innovative use of promotional products and is a resource to corporate buyers, marketing professionals and others. A supplier manufactures, imports, converts, imprints or otherwise produces or processes promotional products offered for sale through distributors and the distributors' sales force known as promotional consultants.

Catalogues are the principal conduit for suppliers to present their products to distributors. The industry practice is for suppliers to provide their catalogues to their distribution partners, not to the end buyers of the industry's products. The industry is a business to business selling channel in the strictest sense, even to the extent that distributors of promotional products sell to other businesses, not to the consumer marketplace as is done in the retail marketplaces.

Catalogues are shared with distributors' business clients to assist in the selection, pricing discussions and sale of the products, but catalogues are not generally distributed to the ultimate recipient of the products. Rather, it is the job of the distributor to discuss the appropriate product selections with their clients, to ensure that the intended recipients of the products are known in advance, and to inform the clients of any information about the products that is required by law.

Within PPAI's membership alone suppliers produce an estimated 100 million catalogues annually, with millions more produced by companies in the industry who aren't represented in PPAI's membership. Requiring adjustments or changes to those catalogues, once printed, would be a costly and difficult proposition.

Catalogue preparation and production schedules in the promotional products industry make it difficult for the catalogue producers to include cautionary statements about products in 2009. The majority of the industry's suppliers print their catalogues before December for the coming year, with products selected, copying written, photographs taken and production completed by as early as September in any given year. Most industry suppliers produce one catalogue each year, typically with distribution to their business partners beginning in January. Very few print new catalogues during the year due to the costs associated with producing tens of thousands of catalogues each, and any new products introduced during the year are promoted separately with product sheets, web site promotions or introductions scheduled at industry trade shows.

Given the nature of the industry's practice in using catalogues as an information and selling tool in a business to business channel and the manner in which the catalogue annual production cycles limit the opportunities to make changes easily, PPAI believes the Commission should waive any requirement for including cautionary statements in printed catalogues and advertising when used in a business to business selling channel.

Thank you.

Sincerely,
Steve Slagle, President and CEO

PROMOTIONAL PRODUCTS ASSOCIATION INTERNATIONAL

Steve Slagle, CAE | President and CEO

3125 Skyway Circle North

Irving, Texas 75038

p 972.258.3090 | f 972.258.3016

www.ppai.org



• This is PPAI

*Sent
10/15*

Stevenson, Todd

From: Terry Clayton [t2clayton@triarcoarts.com]
Sent: Tuesday, October 14, 2008 12:07 PM
To: CPSC-OS
Cc: tholt@nwwea.org; rherriott@toyassociation.org
Subject: "ADVERTISING REQUIREMENTS NPR."

I am the Chief Operating Officer for Triarco Arts & Crafts, LLC.

We supply more than 15,000 products to the education, dental and giftware markets via our four annual catalogs and our one semiannual catalog supplement and the internet. Our websites are also eCatalogs which are digital replications of our published catalogs that are available to our customers on the web.

The information required in the proposed rules will take a significant amount of time to research to make sure that we have all of the information that is needed for our publications. Additionally, we prepare our catalogs 7 to 8 months in advance of the first publication being made available to our customers. The preparation of the catalog will take longer since the space needed for the changes will be significant, requiring additional staffing.

I urge you to reconsider your timeline as the 180 day grace period just isn't enough time to properly implement the required changes. We encourage you to give us at least a two year period to implement these changes.

If you would like additional information about our company and our publications, please visit our websites at:

www.triarcoarts.com
www.eTriarco.com
www.eGoodTimeAttractions.com
www.eBentonKirby.com

Thank you for your consideration.

Terry Clayton

Terry Clayton
Triarco Arts & Crafts

(763) 559-5590
(763) 559-2215 Company Fax
(763) 592-8658 Fax to Email

Triarco Arts & Crafts, LLC
Triarco Arts & Crafts
Good Time Attractions
Benton-Kirby

Please visit our eCatalog websites at:

www.eTriarco.com
www.eGoodTimeAttractions.com

www.eBentonKirby.com

Sent 10/14

Stevenson, Todd

From: Terry Clayton [t2clayton@triarcoarts.com]
Sent: Tuesday, October 14, 2008 11:03 AM
To: CPSC-OS
Subject: Triarco Arts & Crafts, LLC

The regulations do pose a problem for our business.

Our publications are focused into the Education market.

Our main publication is an annual publication and is currently "at press". The life cycle of the catalog is November 1, 2008 to October 31, 2009. The least amount of lead time to make changes to one of our catalogs is a minimum of 6 weeks but is preferably 3 months.

It could easily cost our company a million dollars to republish our catalogs before the life cycles have ended.

Terry Clayton

Terry Clayton
General Manager & COO
Triarco Arts & Crafts

(763) 559-5590
(763) 559-2215 Company Fax
(763) 592-8658 Fax to Email

Triarco Arts & Crafts, LLC
Triarco Arts & Crafts
Good Time Attractions
Benton-Kirby

Please visit our eCatalog websites at:

www.eTriarco.com

www.eGoodTimeAttractions.com

www.eBentonKirby.com

Set 107

Stevenson, Todd

From: Destiny Dowdy [ddowdy@Raymondgeddes.com]
Sent: Tuesday, October 14, 2008 10:45 AM
To: CPSC-OS
Subject: Section 105 Advertising Requirements
Attachments: catalogsample.JPG; Response to Comment request for Labeling Requirement for Advertising Toys and Games.doc

To Whom It May Concern:

I have attached to this email our response to your request for comments.

Please Note Address and Phone Number Change!

Destiny L. Dowdy
Director of Product Compliance
Raymond Geddes & Co., Inc.
7110 Belair Road
Baltimore, MD 21206
Office: 443-219-4907
Fax:443-219-4901
www.raymondgeddes.com



Response to Comment request for Labeling Requirement for Advertising Toys and Games

Company Background:

With more than 80 years in business, Raymond Geddes and Company, Inc., is still dedicated to providing inventive and affordable writing supplies. GEDDES is a 4th generation, family-owned school supply company proud to have served millions of customers over the years. Our US office staffs 28 employees and is located in Baltimore, Maryland. Our customer base is primarily schools, small businesses and larger retailers. We currently sell our products through catalogs, our website, trade shows and representative groups.

Responses:

1. Please see the attached sample of a catalog page with the warnings.
2. In general, the adding of additional images will require more page space be allocated to non-products and it will increase the total amount of catalog pages. Larger catalogs will increase advertising costs as well as postage, not to mention the environmental impact will be significant across the catalog industry as a whole.
3. In our business, we distribute a master catalog one a year in a mass mailing and offer monthly supplements. On average our master catalog is about 110 pages and the supplements range from 36-48 pages. For the master catalog, we begin preparing the catalog in May for a July publication and the catalog is ordered in mass quantities to fulfill all of our anticipated catalog needs for the year. For each monthly supplement, it takes about 30 days to prepare for publication.
4. Since our master catalog is printed to meet our projected needs for the upcoming school year, we have enough catalogs in stock until July 2009. If no grace period was given, roughly 50,000 catalogs or 5,750,000 pages would need to be reprinted. The financial cost of doing that would be significant to small business in a hard economic climate. Industry wide, the environmental impact would be vast.
5. If the goal of the legislation is to warn the ultimate consumer, through their method of purchase, then a business to business catalog should not be held to the standard. A business to business catalog is a link in the supply portion of the retail chain and generally does not sell to the end user. Since it is currently mandated that all packaging must bear the warning labels, this will give full disclosure to the end user and help them make more informed purchases. Disclosing this

information on a business catalog would not help inform the consumer but only buyers for retail outlets and other distributors.

A true business to business catalog will often sell in larger quantities and a wholesale volume to lower the cost, to enable a profit to be made by the retailer. In our catalog we offer the price and the suggested retail price in order for our customers to calculate the profitability of an item prior to purchase.

67607
Skateboard Stampers

- Assortment contains 6 different designs
- Front wheels come off to reveal roller stamper
- 3 1/4" long
- Wheels really roll
- 12 per Display

\$16.92 Display (1.41 ea)
Retail: 1.99

▲ WARNING:
CHOKING HAZARD—Small parts.
Not for children under 5 years.

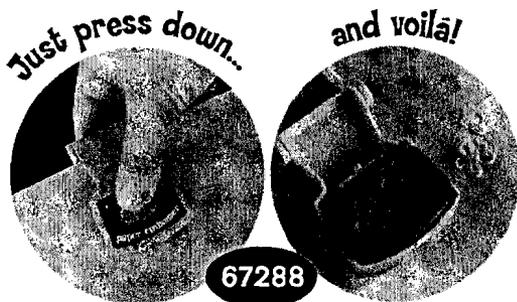
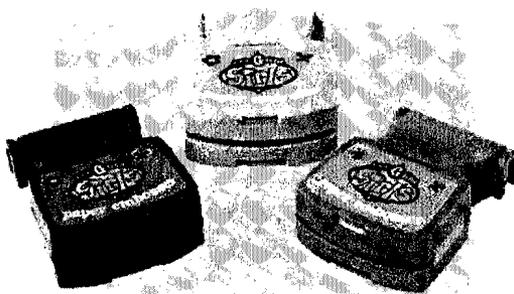


new! 67607

67288
G is for Girls Embosser

- Press paper between the two halves of the embosser to create a raised flower and butterfly image
- Approximately 2 1/2" long
- 12 per Bag

\$5.40 Bag (.45 ea)
Retail: .60

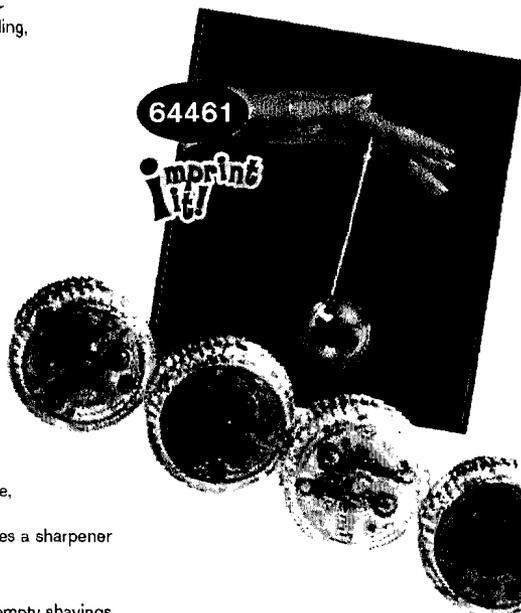


67288

64461
Light-Up Yo-Yo

- Learn all the right moves—and the light moves—with our smooth-gliding, easy-sliding, light-up yo-yo.
- 12 per Bag

\$8.88 Bag (.74 ea)
Retail: .99

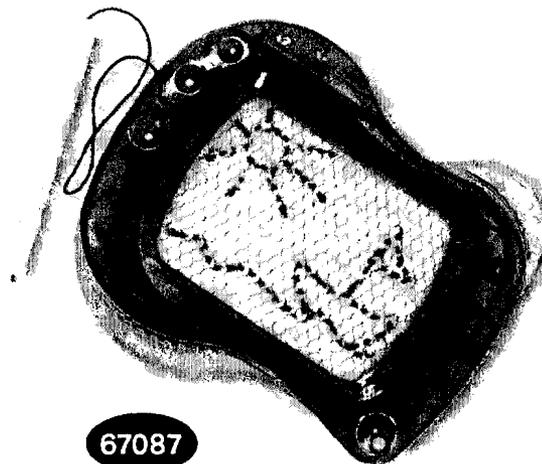


64461

67087
Doodler Mini Toy

- Use stylus to draw
- Lever on back wipes surface clean
- 12 per Bag

\$6.48 Bag (.54 ea)
Retail: .75



67087

67359
Yo-Yo Sharpener

- Assortment contains blue, green, red, and orange
- Functioning yo-yo features a sharpener on each side
- 2 1/2" diameter
- Twist outside and lift to empty shavings
- 12 per Box

\$8.88 Box (.74 ea)
Retail: .99

▲ WARNING:
SHARP POINTS—Some materials in this kit contain functional sharp points and should be used under adult supervision.

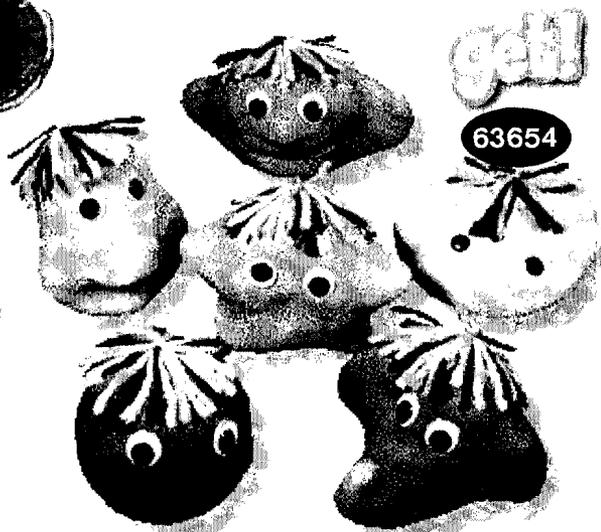


67359

63654
Putty Pal

- Approx. 3" in diameter
 - 24 per Display
- \$17.76 Display (.74 ea)**
Retail: .99

▲ WARNING:
CHOKING HAZARD—Small parts.
Not for children under 5 years.



63654

SW 10/5

Stevenson, Todd

From: Phil Niemeyer [niemeyer@enasco.com]
Sent: Tuesday, October 14, 2008 11:01 AM
To: CPSC-OS
Cc: Richter Steve; JOHNSON, DEAN
Subject: Advertising requirements NPR

I am President of Nasco International and Vice President of Aristotle a public corporation that owns 7 working companies in the Educational market. We supply 80,000 items to teachers, farmers and various markets via catalog and internet.

The proposed rules that I have read will take a great deal of time to work into our catalogs even if we had all of the information available to us at this time which we do not.

Almost of the catalogs are yearly issues with preparation for the catalog beginning 7 to 8 months before the issue of the document. The space needed for the information in catalogs will be significant as will the labor that will be needed to implement the regulations.

Some of the issues have the inside of the catalog printed at one time of the year and a different cover applied to offer the customer a spring and fall catalog. Many of our catalogs come out in early January.

I urge you to slow down the timing of the regulation so that it can be properly implemented over a 2 year period.

The 180 day grace period just does not allow us time to properly implement the required changes.

If you would like to review some of the company listings please see WWW.enasco.com , www.summitlearning.com , www.gscscientific.com , www.triarcoarts.com , www.hancrafts.com , www.spectrumed.com , www.amep.com . These are the web sites for the catalog offerings.

In addition our public company is Aristotle (ARTL) if you would like to find out more about us.

Thanks you for your consideration.

Phil Niemeyer
Nasco International
901 Janesville Ave.
Fort Atkinson. WI 53538
920-568-5585

6/5
10/5

Perfect Products Company

PO Box 531
265 Morges Road
Malvern, Ohio 44644
Website: www.e-LatexBalloons.com

Phone: 330-863-1466
Toll Free: 800-225-6059
Fax: 330-863-2988
Email: PerfectBalloons@aol.com

October 15, 2008

Ms. Barbara E. Parisi, Project Manager
Office of General Counsel
Consumer Product Safety Commission
4330 East-West Highway
Bethesda, Maryland 20814

Re: Notice of Proposed Rulemaking, 16 CFR Part 1500; *Labeling Requirements for Toy and Game Advertisements* (Docket No. CPSC-2008-0036)

Dear Ms. Parisi:

On behalf of Perfect Products Company, I am writing to submit comments in response to the above-referenced Notice of Proposed Rulemaking (NPR) published on page 580063 of the *Federal Register* of October 6, 2008. Pursuant to the NPR, the Consumer Product Safety Commission (CPSC) has requested comments regarding a proposal concerning advertising for certain toys and games in catalogues and other printed materials.

Perfect Products Company is a leading manufacturer of balloons and related products. We support efforts to increase consumer awareness about the proper use of balloons so that they can be enjoyed safely by children and adults alike. We are also encouraged that cautionary statements on balloon products and enhanced retailer and consumer education efforts supported by the balloon industry have resulted in several years of extremely low rates of choking fatalities related to balloons, with fatalities dropping to 1 incident annually in 2004, 2005, and 2006. As a company and as an industry, we are committed to taking all reasonable steps to reduce this number to zero and sustaining this progress in the years to come.

Among the issues under consideration by the CPSC is whether to exempt new advertising requirements from catalogues and printed materials distributed solely between businesses. Perfect Products Company supports providing an exemption for these specialized kinds of catalogues from the new requirements for several key reasons. While business to business catalogues play a key role in balloon commerce, conveying crucial product information and other specifications from manufacturers to distributors to retailers, such catalogues do not allow for a direct means of purchase by consumers. As such, requiring the display of cautionary statements beside every product and at the top or

bottom of every page in very large manufacturer or distributor catalogues would be very unlikely to lead to any enhancements in consumer awareness or consumer safety.

Although the magnitude of benefits of including cautionary statements in business to business catalogues are uncertain, we are concerned that applying the proposed advertising requirements to business to business catalogues could have both real and intangible negative economic effects on balloon commerce. Requiring the display of cautionary statements beside products and the full text of cautionary statements at the top or bottom of every page that includes those products will force companies to incur substantial costs related to the re-formatting and lengthening of all catalogues, as well as the increased postage expenses related to shipping longer catalogues to customers. Further, the display of repetitive cautionary statements may also have a chilling effect on balloon commerce, with distributors or retailers less inclined to carry balloon products in general though cautionary statements are required only for latex balloons but not foil balloons.

The CPSC also seeks information and comments on how it can distinguish between catalogues distributed solely between businesses from those intended for final distribution to “ultimate consumers,” which may include institutions such as schools, churches, day care centers, and recreational facilities. In our experience with catalogue production and distribution, there does not appear to be any readily available way of discerning catalogues that would be sent to customers in general and those that would be sent to this specific group of entities. Based on our experience, we believe that schools, churches, day care centers, and recreational facilities almost certainly would order balloons through retailers rather than through manufacturers or distributors. However, if the CPSC wishes to increase the likelihood that this specific group of entities is aware of the cautionary statements on certain products, we believe that alternate methods of notification, such as alerting these specific entities to cautionary statements through notations next order forms or beside a table of contents, would better accomplish the CPSC’s objectives.

The CPSC has requested comments on how often catalogues or other written materials are published and the lead time involved, as well as the cost of publishing new catalogues to meet the new requirements without the proposed 180 day grace period. Typically in this industry, a general catalogue is produced and distributed every 1.5 to 2 years, though catalogues printed at one time are often distributed over an extended period of time in the following year or more with a lead time of 4-5 months. Supplemental catalogues are often published seasonally and may have somewhat shorter lead times.

While we would expect to incur considerable expenses to print and distribute a new catalogue in compliance of the proposed regulations, we support the CPSC’s 180 day grace period to the extent that a later effective date will give us additional time to prepare new materials and to gain additional useful life out of the catalogues already in circulation.

Thank you for the opportunity to share our comments on the proposed rule and we hope that CPSC will act in a way that properly balances the need to safeguard the consumer with the real economic impact that the proposed rules would have on our company and many others in our industry.

Sincerely,

Douglas S. Kerr Sr.

Douglas S. Kerr
President
Perfect Products Company
PO Box 531
Malvern, Ohio 44644

Email: PerfectBalloons@aol.com
Website: www.e-LatexBalloons.com
Telephone: 800-225-6059
Fax: 330-863-2988

Stevenson, Todd

From: Blnmakerr@aol.com
Sent: Wednesday, October 15, 2008 3:34 PM
To: CPSC-OS
Subject: Re: ADVERTISING REQUIREMENTS NPR
Attachments: CPSCcommentsonSection105.doc

Please see attached document file.....

BUY Indiana Jones and the Kingdom of the Crystal Skull on DVD today!

Set
105

October 15, 2008

Ms. Barbara E. Parisi, Project Manager
Office of General Counsel
Consumer Product Safety Commission
4330 East-West Highway
Bethesda, Maryland 20814

Re: Notice of Proposed Rulemaking, 16 CFR Part 1500; *Labeling Requirements for Toy and Game Advertisements* (Docket No. CPSC-2008-0036)

Dear Ms. Parisi:

On behalf of Galaxy Balloons inc., I am writing to submit comments in response to the above-referenced Notice of Proposed Rulemaking (NPR) published on page 580063 of the *Federal Register* of October 6, 2008. Pursuant to the NPR, the Consumer Product Safety Commission (CPSC) has requested comments regarding a proposal concerning advertising for certain toys and games in catalogues and other printed materials.

Galaxy Balloons Inc. is a leading printer of balloons and related products. We support efforts to increase consumer awareness about the proper use of balloons so that they can be enjoyed safely by children and adults alike. We are also encouraged that cautionary statements on balloon products and enhanced retailer and consumer education efforts supported by the balloon industry have resulted in several years of extremely low rates of choking fatalities related to balloons, with fatalities dropping to 1 incident annually in 2004, 2005, and 2006. As a company and as an industry, we are committed to taking all reasonable steps to reduce this number to zero and sustaining this progress in the years to come.

Among the issues under consideration by the CPSC is whether to exempt new advertising requirements from catalogues and printed materials distributed solely between businesses. Galaxy Balloons Inc. supports providing an exemption for these specialized kinds of catalogues from the new requirements for several key reasons. While business to business catalogues play a key role in balloon commerce, conveying crucial product information and other specifications from manufacturers to distributors to retailers, such catalogues do not allow for a direct means of purchase by consumers. As such, requiring the display of cautionary statements beside every product and at the top or bottom of every page in very large manufacturer or distributor catalogues would be very unlikely to lead to any enhancements in consumer awareness or consumer safety.

Although the magnitude of benefits of including cautionary statements in business to business catalogues are uncertain, we are concerned that applying the proposed advertising requirements to business to business catalogues could have both real and intangible negative economic effects on balloon commerce. Requiring the display of cautionary statements beside products and the full text of cautionary statements at the top or bottom of every page that includes those products will force companies to incur

substantial costs related to the re-formatting and lengthening of all catalogues, as well as the increased postage expenses related to shipping longer catalogues to customers. Further, the display of repetitive cautionary statements may also have a chilling effect on balloon commerce, with distributors or retailers less inclined to carry balloon products in general though cautionary statements are required only for latex balloons but not foil balloons.

The CPSC also seeks information and comments on how it can distinguish between catalogues distributed solely between businesses from those intended for final distribution to "ultimate consumers," which may include institutions such as schools, churches, day care centers, and recreational facilities. In our experience with catalogue production and distribution, there does not appear to be any readily available way of discerning catalogues that would be sent to customers in general and those that would be sent to this specific group of entities. Based on our experience, we believe that schools, churches, day care centers, and recreational facilities almost certainly would order balloons through retailers rather than through manufacturers or distributors. However, if the CPSC wishes to increase the likelihood that this specific group of entities is aware of the cautionary statements on certain products, we believe that alternate methods of notification, such as alerting these specific entities to cautionary statements through notations next order forms or beside a table of contents, would better accomplish the CPSC's objectives.

The CPSC has requested comments on how often catalogues or other written materials are published and the lead time involved, as well as the cost of publishing new catalogues to meet the new requirements without the proposed 180 day grace period. Typically in this industry, a general catalogue is produced and distributed every 1.5 to 2 years, though catalogues printed at one time are often distributed over an extended period of time in the following year or more with a lead time of 4-5 months. Supplemental catalogues are often published seasonally and may have somewhat shorter lead times.

While we would expect to incur considerable expenses \$60,000.00 to print and distribute a new catalogue in compliance of the proposed regulations, we support the CPSC's 180 day grace period to the extent that a later effective date will give us additional time to prepare new materials and to gain additional useful life out of the catalogues already in circulation.

Thank you for the opportunity to share our comments on the proposed rule and we hope that CPSC will act in a way that properly balances the need to safeguard the consumer with the real economic impact that the proposed rules would have on our company and many others in our industry.

Sincerely,

Terry Brizz
President

Galaxy Balloons Inc
11750 Berea Road
Cleveland, OH 44116
tbrizz@galaxyballoon.com
216-476-3360 X209

Stevenson, Todd

From: Terry Brizz [tbrizz@galaxyballoon.com]
Sent: Wednesday, October 15, 2008 3:21 PM
To: CPSC-OS
Subject: CPSC - balloon labeling
Attachments: Galaxy Balloons CPSC comments on Section 105.doc

Ms. Barbara E. Parisi,

Attached please find my comments about the proposed Rulemaking 16 CFR 1500: Labeling Requirements for Toy and Game Advertising.

Thank you,

Dr. Terry Brizz, EDM
President
Galaxy Balloons Inc.
11750 Berea Road
Cleveland, OH 44111
Phone: 1-800-678-8861 X209
Fax: 1-800-644-8861
Web site: www.galaxyballoon.com

See 105



Balloons Are Everywhere, Inc.
16474 Greeno Road
Fairhope AL 36532-5528
Phone (251) 210-2100

October 15, 2008

Ms. Barbara E. Parisi, Project Manager
Office of General Counsel
Consumer Product Safety Commission
4330 East-West Highway
Bethesda, Maryland 20814

Re: Notice of Proposed Rulemaking, 16 CFR Part 1500; *Labeling Requirements for Toy and Game Advertisements* (Docket No. CPSC-2008-0036)

Dear Ms. Parisi:

On behalf of Balloons Are Everywhere, Inc., I am writing to submit comments in response to the above-referenced Notice of Proposed Rulemaking (NPR) published on page 580063 of the *Federal Register* of October 6, 2008. Pursuant to the NPR, the Consumer Product Safety Commission (CPSC) has requested comments regarding a proposal concerning advertising for certain toys and games in catalogs and other printed materials.

Balloons Are Everywhere, Inc. is a leading distributor of balloons and related products with 65 employees. We support efforts to increase consumer awareness of the proper use of balloons so that they can be enjoyed safely by children and adults alike. We are also encouraged that cautionary statements on balloon products and enhanced retailer and consumer education efforts supported by the balloon industry have resulted in several years of extremely low rates of choking fatalities related to balloons, with fatalities dropping to 1 incident annually in 2004, 2005 and 2006. As a company and as an industry, we are committed to taking all reasonable steps to reduce this number to zero and sustaining this progress in the years to come.

Among the issues under consideration by the CPSC is whether to exempt new advertising requirements from catalogs and printed materials distributed solely between businesses. Balloons Are Everywhere, Inc. supports providing an exemption for wholesale catalogs from the new requirements for several key reasons. While business-to-business catalogs play a key role in balloon commerce, conveying crucial product information and other specifications from manufacturers to distributors to retailers, such catalogs are not the usual means of purchase by consumers. It should also be noted that balloons are sold by manufacturers and wholesale distributors in bulk quantities and un-inflated. Consumers typically buy not from catalogs, but in-person, from retailers who sell in small quantities, often one-at-a-time, and offer the services of inflating, arranging, decorating, etc.

The CPSC also seeks information and comments on how it can distinguish between catalogs distributed solely between businesses from those intended for final distribution to “ultimate consumers,” which may include institutions such as schools, churches, day care centers, and recreational facilities. Again, I respectfully suggest that catalogs are not the usual means of purchasing balloons by consumers. As a distributor, we don’t produce any catalogs intended for consumers. It should also be noted that, as a wholesale distributor, we sell balloons in minimum order quantities and in package sizes intended for resale by retailers. The minimum order quantities and package sizes in our catalogs are not intended for, and not suitable for typical consumer purchases.

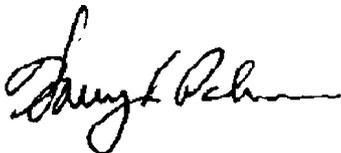
As such, requiring the display of cautionary statements beside every product and at the top or bottom of every page in manufacturer or distributor catalogs would be very unlikely to lead to any enhancements in consumer awareness or consumer safety

The CPSC has requested comments on how often catalogs or other written materials are published and the lead time involved, as well as the cost of publishing new catalogs to meet new requirements. Our general catalog requires a lead time of 4 to 6 months for layout and pre-press. It is printed and distributed every 1-1/2 to 2 years. General catalogs are printed at one time and distributed over the following 12 to 24 months. In addition to general catalogs, we publish four seasonal catalogs per year.

The printing cost of our 2009 “Wholesale Catalog” (just completed) was in excess of \$75,000.00. The supply of those catalogs is expected to last 18 to 24 months. We would incur considerable expense to print and distribute a new catalog in compliance with the proposed regulations, so we implore the CPSC to allow a grace period sufficient to prepare new materials and to use the catalogs already printed at great expense.

Thank you for the opportunity to share our comments on the proposed rule and we hope that CPSC will act in a way that properly balances the need to safeguard the consumer with the real economic impact that the proposed rules would have on our company and many others in our industry.

Sincerely,
Balloons Are Everywhere, Inc.

A handwritten signature in black ink, appearing to read "Harry F. Palmer". The signature is written in a cursive, flowing style.

Harry F. Palmer, President
e-mail: harry@balloons.com
Phone: 251 210-2101

Stevenson, Todd

From: Harry Palmer [harry@balloons.com]
Sent: Wednesday, October 15, 2008 4:34 PM
To: CPSC-OS
Subject: ADVERTISING REQUIREMENTS NPR
Attachments: CPSC comments on Section 105.pdf

Re: Notice of Proposed Rulemaking, 16 CFR Part 1500; *Labeling Requirements for Toy and Game Advertisements* (Docket No. CPSC-2008-0036)

Please accept our comments respectfully submitted in the attached document.

Thank you,

Harry F. Palmer
Balloons Are Everywhere, Inc.
16474 Greeno Road
Fairhope AL 36532-5528
Phone: 251 210-2101

*Sect 105***Stevenson, Todd**

From: Mo Beck [MoBeck@johnrgreenco.com]
Sent: Wednesday, October 15, 2008 4:51 PM
To: CPSC-OS
Cc: tholt@nssea.org; rherriott@toyassociation.org
Subject: ADVERTISING REQUIREMENTS NPR.

To whom it may concern,

We are a small family-owned company that has supplied educational materials to schools for over 50 years. The main method of going to market is via a 600+ page catalog. Our catalog contains 12,000 items and it takes nearly 9 months of preparation before the catalog is printed and distributed.

Asking us and other distributors like us to go in and add warning labels to each and every item is not only a huge investment in time but cost as well. In order for us to be legally covered, we would need every item revisited and reviewed. The end result would be that every item would take more time to research and more space to display-making the entire process more cost prohibitive. This would in essence cause manufacturers to raise prices and us to pass them along to schools.

Does the government really want to pass these additional costs on to public and private schools? Not only that, but teachers spend an average of \$400 of personal income for their students-why should they be penalized?

There has to be some way of a general, blanket coverage statement which can be noted in a printed piece. Any item with a potential risk could be flagged with a simple icon that refers them to the specifics elsewhere in the piece. And even that needs to be given a longer grace period. Many educational distributors produce 2 year catalogs-forcing them to throw them away would put many out of business. If they survive, they will have to recoup the loss-again via increased prices to schools and teachers.

Of course, everyone agrees that product safety is of utmost importance. But a knee jerk reaction to impose additional restrictions and government mandates, all within a relatively short time frame, will only exacerbate an already perilous economy.

On behalf of the entire educational community, please consider the options of blanket warning statements and definitely extending time frames for compliance.

Sincerely,

Mo Beck
Green Group Enterprises
V.P. Purchasing & Operations
859-655-8709-x3051

Sent 10/15

Stevenson, Todd

From: woodngoodies [woodngoodies@earthlink.net]
Sent: Wednesday, October 15, 2008 5:25 PM
To: CPSC-OS
Cc: RZucker@wswdc.com
Subject: Advertising requirement NPR

October X, 2008

Ms. Barbara E. Parisi, Project Manager

Office of General Counsel

Consumer Product Safety Commission

4330 East-West Highway

Bethesda, Maryland 20814

Re: Notice of Proposed Rulemaking, 16 CFR Part 1500; *Labeling Requirements for Toy and Game Advertisements* (Docket No. CPSC-2008-0036)

Dear Ms. Parisi:

On behalf of Wood'n Goodies, I am writing to submit comments in response to the above-referenced Notice of Proposed Rulemaking (NPR) published on page 580063 of the *Federal Register* of October 6, 2008. Pursuant to the NPR, the Consumer Product Safety Commission (CPSC) has requested comments regarding a proposal concerning advertising for certain toys and games in catalogues and other printed materials.

Wood'n Goodies is a leading distributor of balloons and related products. We support efforts to increase consumer awareness about the proper use of balloons so that they can be enjoyed safely by children and adults alike. We are also encouraged that cautionary statements on balloon products and enhanced retailer and consumer education efforts supported by the balloon industry have resulted in several years of extremely low rates of choking fatalities related to balloons, with fatalities dropping to 1 incident annually in 2004, 2005, and 2006. As a company and as an industry, we are committed to taking all reasonable steps to reduce this number to zero and sustaining this progress in the years to come.

Among the issues under consideration by the CPSC is whether to exempt new advertising requirements from catalogues and printed materials distributed solely between businesses. Wood'n Goodies supports providing an exemption for these specialized kinds of catalogues from the new requirements for several key reasons. While business to business catalogues play a key role in balloon commerce, conveying crucial product information and other specifications from manufacturers to distributors to retailers, such catalogues do not allow for a direct means of purchase by consumers. As such, requiring the display of cautionary statements beside every product and at the top or bottom of every page in very large manufacturer or distributor catalogues would be very unlikely to lead to any enhancements in consumer awareness or consumer safety.

Although the magnitude of benefits of including cautionary statements in business to business catalogues are uncertain, we are concerned that applying the proposed advertising requirements to business to business catalogues could have both real and intangible negative economic effects on balloon commerce. Requiring the display of cautionary statements beside products and the full text of cautionary statements at the top or bottom of every page that includes those products will force companies to incur substantial costs related to the re-formatting and lengthening of all catalogues, as well as the increased postage expenses related to shipping longer catalogues to customers. Further, the display of repetitive cautionary statements may also have a chilling effect on balloon commerce, with distributors or retailers less inclined to carry balloon products in general though cautionary statements are required only for latex balloons but not foil balloons.

10/16/2008

The CPSC also seeks information and comments on how it can distinguish between catalogues distributed solely between businesses from those intended for final distribution to "ultimate consumers," which may include institutions such as schools, churches, day care centers, and recreational facilities. In our experience with catalogue production and distribution, there does not appear to be any readily available way of discerning catalogues that would be sent to customers in general and those that would be sent to this specific group of entities. Based on our experience, we believe that schools, churches, day care centers, and recreational facilities almost certainly would order balloons through retailers rather than through manufacturers or distributors. However, if the CPSC wishes to increase the likelihood that this specific group of entities is aware of the cautionary statements on certain products, we believe that alternate methods of notification, such as alerting these specific entities to cautionary statements through notations next order forms or beside a table of contents, would better accomplish the CPSC's objectives.

The CPSC has requested comments on how often catalogues or other written materials are published and the lead time involved, as well as the cost of publishing new catalogues to meet the new requirements without the proposed 180 day grace period. Typically in this industry, a general catalogue is produced and distributed every 1.5 to 2 years, though catalogues printed at one time are often distributed over an extended period of time in the following year or more with a lead time of 4-5 months. Supplemental catalogues are often published seasonally and may have somewhat shorter lead times.

While we would expect to incur considerable expenses (\$30,000) to print and distribute a new catalogue in compliance of the proposed regulations, we support the CPSC's 180 day grace period to the extent that a later effective date will give us additional time to prepare new materials and to gain additional useful life out of the catalogues already in circulation.

Thank you for the opportunity to share our comments on the proposed rule and we hope that CPSC will act in a way that properly balances the need to safeguard the consumer with the real economic impact that the proposed rules would have on our company and many others in our industry.

Sincerely,

Linda Kuklinca

Owner

Wood'n Goodies

720A E. Lambert Road, La Habra, Ca. 90631

woodngoodies@earthlink.net

562-690-4289

Sec 105

Stevenson, Todd

From: Rosalind liams [rosalind@primaryconcepts.com]
Sent: Wednesday, October 15, 2008 5:48 PM
To: CPSC-OS
Cc: JTKersic@aol.com; 'Mare Brixie'
Subject: ADVERTISING REQUIREMENTS NPR

To Whom It May Concern:

I am writing in response to your request for comments on the catalog warnings in the new CPSIA 2008. It is my understanding that the law as currently written will require catalogers to place applicable safety messages on every product displayed in their catalogs, including educational curriculum as well as toy catalogs.

We are a small catalog company selling reading and math materials to Kindergarten through 3rd grade teachers in public schools, for use with their students. You can see us at www.primaryconcepts.com. We employ lots of relatively small objects to accomplish curriculum goals. Simple examples might be doing addition or subtraction with Teddy Bear Counters, using Scrabble-type letter tiles to make words, or telling stories using objects like miniature houses, trees, people, animals, etc. This sort of hands-on activity is highly motivational and proven to improve learning results. Putting a choking warning in the catalog on every product containing small parts is going to seriously affect sales of these products, not to mention the negative impact it will have on catalog aesthetics.

Educators have been using what are commonly called "manipulatives" for hands-on language and math activities for many years. I have worked with education companies selling manipulatives for 35 years and have never in all that time heard of a child choking on them. I would be curious to know what your records show in this regard; that is, children choking while using miniature objects in public schools to learn how to read and do math.

As the law requires, we put a choking hazard label on every small item we sell, as do all companies in the educational industry. We make it clear the items are not toys, and are not meant for children under the age of 3. The teacher sees every item before it is opened, and is there to supervise and assist with their use.

While I am sure the new law is well intended, it seems to me that miniature objects which are used not as toys, but clearly for educational purposes, under the watchful eye of professional teachers, present no reasonable threat to young students in school. There is simply no evidence, to my knowledge, to support this notion. The consequences of such a law, which basically would invite undue fear and worry for what has heretofore not been an issue, will clearly be to hurt educational companies such as ours, which I might add, struggle to survive even without such obstacles that this law would create.

I wonder if a compromise might be to have a general warning in the front of an educational catalog like ours, such as: "Many of the educational products in this catalog include small objects. They are not meant for children under three, or children who still put things in their mouths."

A further grace period would also help. Catalogers like us have already designed their 2009 catalogs. Complying with the new law will mean a mid-year redesign and reprinting. Because the warning would need to appear on nearly 50% of our products, this would reduce catalog space and mean the omission of some products that no longer fit.

I submit these remarks respectfully, knowing the law is intended to raise the safety level for children. I hope you will consider that within the guidelines above, relating to the use of manipulatives in public schools, labeling every such product within a catalog is unnecessary, and clearly will hurt educational companies trying to bring highly respected hands-on curriculum to schools.

Sincerely,

John Taylor Kersic
CEO
Primary Concepts
650-968-8192

SW
10/15

Stevenson, Todd

From: Kevin Bendixen [kbendixen@trendent.com]
Sent: Wednesday, October 15, 2008 6:02 PM
To: CPSC-OS
Subject: CPSIA - 2008 Section 105 comments
Attachments: CPSIA Section 105 - TREND enterprises, Inc. comments.doc

Hello,

Thank you for the opportunity to provide input and feedback on this section. Attached you will find the comments from TREND enterprises, Inc. regarding the major impact and implications we believe we, and others in the industry, may experience as a result of the current status of the recently passed Consumer Product Safety Improvement Act of 2008 – section 105.

Please feel free to contact me if you have any questions. Thank you.

Regards,

Kevin Bendixen
Vice President of Operations
TREND enterprises, Inc.

kbendixen@trendent.com

Office – 651.582.3586

Consumer Product Safety Improvement Act of 2008:

Potential Impacts and Implications

At the request of the Consumer Product Safety Commission (CPSC) and the National School Supply and Equipment Association (NSSEA), TREND enterprises, Inc., provides input on the following topics related to the Consumer Product Safety Act of 2008, Section 105– “Labeling Requirement for Advertising Toys and Games.”

Topic 1: Size and placement of cautionary statements in catalogs and other written materials.

TREND: Currently there are no specifications for adding such a cautionary statement to products and marketing materials. For planning purposes, the Company will need to know:

- ◆ Size and location on product package and contents
- ◆ What options exist for very small packages with little available space
- ◆ Size and location in catalog/ad copy and on web site
- ◆ Number of mentions required in catalogs, advertisements (one mention per product family vs. individual items)
- ◆ Number of mentions required on web site (product page, order form, and/or check out)

Further regarding the certification of the product:

- ◆ If a separate certification piece is required, this will increase production costs and add complexity due to handling and insertion into the package, either at manufacturer or reseller
- ◆ Could certificates be sent to dealers for distribution to consumers?

Topic 2: Impact of advertising requirements on businesses

TREND: Inclusion of cautionary statements on products, marketing materials, and the web site would require immediate and ongoing costs for:

- ◆ Project planning, product redesign, and file preparation
- ◆ New dies and plates
- ◆ Marketing and IT resources to complete web site updates
- ◆ Administration of external resources needed to accomplish these tasks

Additionally, the inclusion of cautionary statements in the catalog could affect the following:

- ◆ Smaller product images resulting in less visual impact
- ◆ Reduced descriptive copy resulting in minimized brand messaging
- ◆ Reduced desire to purchase by consumers viewing repeated cautionary statements
- ◆ Potential for increased page count at higher costs
- ◆ Potential for larger catalog with higher mailing costs
- ◆ Potential for decreased number of catalogs mailed to consumer due to overall cost increases

Topic 3: How often catalogs or other written materials are published and how much lead-time is required to prepare these materials for publication

TREND: The Company participates in a variety of catalog projects that have a wide range of deadlines.

- ◆ Most catalogs have a 3 to 4 month lead-time. Product testing and certification may not occur in time to meet the catalog schedule.
- ◆ Catalogs produced by our reseller partners are often annual projects while others do multiple mailings throughout the year. Many of these catalog projects would be set up and/or going to print before product testing and certification could occur.

Topic 4: Whether and why a grace period may be needed for catalogs and other printed materials

TREND: There is immediate potential for lost sales if the Company cannot meet reseller deadlines. Specifically:

- ◆ Missed deadlines for placement in retail space
- ◆ Missed deadlines for inclusion in catalogs.
- ◆ Missed opportunities for participation in promotional events

Questions about the product testing and certification process demonstrate the need for additional time.

- ◆ For products of the same material, can one product be tested to represent the entire group?
- ◆ For products of the same material, but different colors, do all colors need to be tested?
- ◆ What must be included in certification statements/labels, and what is the precise language?
- ◆ Will there be standard certification labeling (similar to UL)?
- ◆ Will labeling for lead and phthalates be similar to the choking warning for small parts, or something different?
- ◆ Catalogs now in process may be printed without product cautionary statements. Will they have to be discarded?

The management of existing inventory to meet labeling and certification requirements requires additional time and resources:

- ◆ To destroy old inventory and reprint would mean massive write offs, high scrap costs, and doubled replacement costs.
- ◆ To re-label existing inventory requires additional time and expense.
 - Damage to products can occur in the labeling process
 - There are limited resources at manufacturers and retailers to do labeling in a short timeframe
 - Extra hires may be needed to unpack boxes and apply labels to shrink-wrapped packages.
 - If labels must be on the packages, shrink-wrap must be removed, labels applied, and packages shrink-wrapped again.

Topic 5: Whether the advertising requirements for catalogs and other printed materials should also apply to materials

distributed solely between businesses and not to ultimate consumers.

TREND: Business-to-business communications are created on shorter deadlines than catalogs. However, inclusion of cautionary statements in these materials could have similar effects.

- ◆ Smaller product images resulting in less visual impact
- ◆ Reduced descriptive copy resulting in minimized brand messaging
- ◆ Some materials, such as full line catalogs, are sent to both resellers and consumers. If different versions of these materials were required, this would mean added expense.

TREND enterprises, Inc., appreciates the opportunity to respond to this request. For further comment, please contact Kevin Bendixen, Vice President of Operations, at 651-582-3586 or kbendixen@trendent.com.

Sent 105

PIONEER® BALLOON

October 15, 2008

Ms. Barbara E. Parisi, Project Manager
Office of General Counsel
Consumer Product Safety Commission
4330 East-West Highway
Bethesda, Maryland 20814



Re: Notice of Proposed Rulemaking, 16 CFR Part 1500; Labeling Requirements for Toy and Game Advertisements (Docket No. CPSC-2008-0036)

Worldwide
Headquarters

5000 E. 29th St. North
Wichita, Kansas
67220-2111

PHONE:
(316) 685-2266

FAX:
(316) 685-2409

Dear Ms. Parisi:

Pioneer Balloon Company respectfully submits the following comments in response to the above-referenced Notice of Proposed Rulemaking (NPR) published on page 580063 of the *Federal Register* of October 6, 2008. Pursuant to the NPR, the Consumer Product Safety Commission (CPSC) has solicited comments and information regarding its proposal concerning advertising for certain toys and games in catalogues and other printed materials.

About Pioneer Balloon Company

Pioneer Balloon Company (Pioneer) was established in 1917 and is the largest manufacturer of latex and foil balloons in the United States, serving both the domestic and international markets. Headquartered in Wichita, Kansas, Pioneer employs about 640 people in the United States and approximately 1200 around the world.

Pioneer works tirelessly to create and deliver the highest quality balloon products and provide unparalleled service to our customers, ensuring that balloons are enjoyed safely by people of all ages. Pioneer has an unparalleled track record of enhancing balloon safety. For example, in the early 1980's Pioneer put in place voluntary labels on all balloon packages warning of the potential choking hazard that can result from the unintended use of balloons or inappropriate access to balloons by infants or toddlers – well before warning labels were required. In 1994, Pioneer and The Balloon Council, a balloon industry trade group, worked with Congress and the CPSC to standardize the cautionary statements on packaging for all balloons. Beyond this work, Pioneer has also created special training programs to certify balloon distributors and retailers who adhere to codes of conduct, including the safe and appropriate use of latex balloons, which further enhance consumer awareness and safety.

Pioneer is pleased that our company and industry efforts – in concert with the leadership of the CPSC – have had a dramatic positive impact on reducing balloon-related incidents. While the loss of any child is tragic, according to CPSC data,

choking deaths related to balloons dropped dramatically from earlier rates to 1 incident each year in 2004, 2005, and 2006. Pioneer is committed to working with the CPSC and as an industry leader on all reasonable efforts to build on this progress and reduce this figure to zero in the years ahead.

While the CPSC is justifiably concerned about further reducing the hazards posed by certain toys and games, as the largest US manufacturer of balloons, Pioneer is uniquely positioned to offer insights on these efforts in the context of the entire balloon marketplace. Although all balloons are classified as toys, it is particularly important for the CPSC to understand that a very large percentage of balloons sold are used as decorative accessories in settings where children are unlikely to be present. In fact, we estimate that approximately 60 percent of the latex balloons we sell would not be used by or come in contact with children; for example, large quantities of our balloons are used in large-scale professional balloon decorations. Further, most balloon bouquets are sold to and used by adults.

Comments Regarding the Proposed Rule

Pioneer supports CPSC efforts to move forward with its proposed rules related to advertising of certain toys and games in a way that fairly balances the safety of consumers and the benefits of regulatory changes with the economic impact that such changes may have on the marketplace. The proposed regulations have profound implications for the business practices of a wide range of manufacturers, distributors and retailers, both in terms of costs of compliance and also potential for chilling effects on the market for some balloon items. Pioneer is especially eager to share our experiences and insights on how these new regulations would affect our company and the balloon industry overall and how they can be implemented most fairly.

Business to business catalogues and printed materials

As the leading manufacturer of latex and foil balloons, Pioneer does not sell any products directly to end consumers. We rely heavily on wholesale distributors who in turn sell our balloons to retailers who in turn sell balloons and balloon-related products to the consumers. In addition, some of our products are sold directly to retailers. Pioneer's business is intensively focused on the tens of thousands of catalogues and printed materials we produce and supply to distributors who purchase our products. As such, Pioneer is very concerned about the application of the new advertising requirements to business-to-business catalogues. In addition, we do trade advertising aimed at retailers of balloons.

Pioneer strongly urges CPSC not to apply the advertising requirements for catalogues and other printed materials to materials distributed solely between businesses and not to ultimate consumers. Applying the proposed requirements to these specific kinds of commercial communications is not advisable given the considerable costs associated with compliance compared with the very low likelihood that ultimate

consumers would be exposed to any required cautionary statements, thereby limiting the benefits of any new mandate.

Pioneer's support for exempting business-to-business catalogues is based on several factors. By their nature and in practice, business-to-business catalogues contain detailed product, marketing and technical information that are geared toward commercial entities such as distributors and retailers, not ultimate consumers. For example, Pioneer notes the definition of "direct means of purchase or order" provided in the proposed regulation as "any method that allows consumers to order the product without being in the physical presence of the product." Pioneer supports this definition, and would note that many of our business-to-business catalogues and printed materials do not include an order form, fax number, or other direct means of purchasing the products listed. Whenever we proffer a phone number or fax number, these means of purchase are available only to qualified wholesalers or retailers -- business, not consumers. For example, in our 125 page Qualatex brand "Everyday Catalogue 2008," ordering and pricing information is not provided. Rather, anyone seeking to order or even obtain pricing information on Pioneer products is directed to contact authorized distributors or retailers to order a product or to learn more. In the few catalogues we produce which have ordering information that allows retailers or distributors to contact us, we require that the account contacting us prove that they are a legitimate resale business before we will sell them any product. **Further, we feel the CPSC should clarify that the term "consumer" applies to the general public and does not apply to businesses.**

Pioneer requires a Taxpayer Identification Number (TIN) from any person or entity in order to obtain a catalogue, which virtually guarantees that businesses are the exclusive recipients of product information and not individual consumers. Finally, in addition to requiring a TIN to place an order or even request a catalogue, an ultimate consumer would not be permitted to place an order with us - or, in our experience, with our distributors - all such customers would be referred to retailers to place orders. In total, it would be extremely unlikely that consumers would benefit from applying the new requirements to business to business catalogues because consumers are extremely unlikely to be exposed to these materials or be empowered to make use of them to order or make purchases.

Pioneer also believes that applying the proposed labeling requirements to business to business catalogues and printed materials would have a considerable negative economic impact on the industry. First, applying these requirements would cause firms to incur a range of costs for revising layouts of catalogues as well as printing and mailing catalogues prior to the expiration of their usefulness. Second, we are concerned that applying these requirements will create an environment that is not conducive for distributors to purchase or carry balloon products generally if cautionary statements are required to be included next to every latex balloon product in catalogues. Realize that many of these business-to-business catalogs will include hundreds or even thousands of latex balloon items; and in many cases page after page has nothing but latex balloons items on them.

As the CPSC is aware and as it discusses in the NPR, the CPSIA requires manufacturers, distributors, private labelers, and other suppliers of products to fully disclose to retailers any and all applicable cautionary statements associated with those products. Pioneer agrees with the CPSC's preliminary evaluation that applying the proposed labeling requirements to business to business catalogues and printed materials unnecessarily limits the flexibility of companies to convey this important information in the most effective or most cost effective manner.

When deciding whether or not to apply the new labeling requirements, therefore, the CPSC should recognize that business-to-business catalogues and printed materials are not intended for nor are commonly used by consumers to learn about or order products. As such, exempting business to business catalogues from the proposed labeling requirements to these specific types of communications would be unlikely to compromise consumer safety but would help avoid certain negative economic effects associated with adopting the proposed changes.

Distinguishing between catalogues distributed solely between businesses from those intended for final distribution to ultimate consumers, which may include institutions such as schools, churches, day care centers, and recreational facilities

While the CPSIA itself raised no specific concerns about these specific classes of "ultimate consumers", Pioneer understands how the CPSC might be concerned that purchases made by these entities might be disproportionately intended for use by or around children. However, Pioneer respectfully submits that it would be highly unlikely that our catalogues were distributed to schools, churches, day care centers, and recreational facilities because - based on our long experience and expertise in the balloon marketplace - these entities would most often purchase balloons through retailers and not obtain them directly from manufacturers or distributors.

From our perspective as a company that uses catalogues intensively in our business, it does not appear feasible to discern specific distinctions between business to business catalogues furnished to this class of recipients as opposed to overall recipients. Pioneer publishes and distributes catalogues for use by distributors and retailers that may be used for one to two years covering a very broad range of products. While we produce and distribute additional supplemental catalogs within this period, they are generally seasonal, promotion-specific, or based on holidays (i.e., Valentine's Day or Christmas) and are not generated for specific classes of recipients.

Once again, it is important to note that business to business catalogues published by manufacturers or distributors would still not offer a direct means of purchase, as defined under the proposed rule, if schools, churches, day care centers or recreational facilities were to attempt to make an order through such channels. However, if the CPSC wishes to take additional steps to ensure that institutions such as schools, churches, day care centers, and recreational facilities are aware of the cautionary statements that apply to certain games and toys, a more effective approach to

ensuring that such information is furnished could be to require a statement on the ordering pages of various catalogues or printed materials as proposed by the Balloon Council. This statement would indicate:

“ATTENTION: Schools, churches, day care centers, and recreational facilities.
Be aware that certain toys and games pose choking hazards to babies, infants, or young children and are inappropriate for their use. Please inquire about any cautionary statements that may apply to your purchase before ordering products that may be intended for use by babies, infants, or young children.”

When making its determinations, Pioneer also believes that CPSC should consider the specialized certifications and training of employees that work at schools, day care centers, and recreational facilities, especially as they relate to the safe care of children. It is reasonable to believe that these professionals possess a greater awareness than the average consumer regarding the array of items that may pose choking hazards to children - whether they are specific foods such as grapes or products such as toys with small parts, marbles, or latex balloons - which would help them make intelligent decisions about the products they purchase and use in their facilities. In the case of products that pose these hazards, of course, there are specific warnings on the packaging of every item which would further reinforce to those working in schools, churches, day care centers and recreational facilities regarding products that are inappropriate for use by or around children.

Comments and Information on Other Elements of the Proposed Rulemaking

Pioneer would also offer the following comments and information on issues requested by the CPSC as part of the NPR.

Abbreviated cautionary statements, minimum type-size and placement requirements of the cautionary statements

Pioneer is concerned that the CPSC's proposal to require display of full cautionary statements at the top or bottom of every page or across a two page spread that displays a covered product with abbreviated cautionary statements displayed beside each covered product may not be the optimal method of raising consumer awareness about the hazards posed by certain toys and games. While the creation and use of abbreviated cautionary statements is preferable to requiring the full cautionary statement to be displayed next to each applicable product, the inclusion of full cautionary statements at the top or bottom of every page may be so repetitive as to lose meaning and relevance to the reader of the catalogue or printed materials.

Pioneer believes that the CPSC should consider alternatives to requiring the full cautionary statements to be listed at the top or bottom of every page. First, CPSC should consider requiring cautionary statements that may be applicable to products in a catalogue adjacent to the ordering information. We believe that consumers devote particular attention to the cautionary statements that apply to relevant

products and more intensely consider the appropriateness of that product for the intended recipient at the time of ordering and purchase. Alternately, relevant cautionary statements could be included beside the Table of Contents in a catalogue or printed materials to inform consumers that products in a particular section are subject to cautionary statements and may be inappropriate for children under a certain age. Either of these alternatives would be preferable and expected to be as effective at informing consumers when compared to the proposed requirements.

Impact of the proposals on minimum type-size and placement in catalogues and other printed materials on businesses.

The impact of the proposals on minimum type-size and placement in catalogues and other printed materials will be felt by Pioneer and other businesses in the balloon industry in two primary ways. First, unless business-to-business catalogs are exempted, Pioneer will need to produce longer catalogues to accommodate the display of a product, an abbreviated cautionary statement beside each covered product, and the full text of all applicable cautionary statements at the top or bottom of each page or two page spread that includes covered products. Because catalogue pages would be expected to remain the industry standard of 8.5 inches by 11 inches, more pages will be needed to display the same number of products given the space that is lost due to the new proposed cautionary statements. Longer catalogues will result in increased printing and postage costs for manufacturers, distributors, and retailers that could have a substantial impact in low-profit margin items or catalogues in particular. We estimate that this could result in a 25-33% increase in our printing and mailing costs.

Second, Pioneer is concerned that displaying the abbreviated cautionary statement beside each covered product and the full text of the cautionary statement at the top or bottom of every page will chill the market for those products overall, potentially prompting distributors to drop products from their catalogues rather sell products that require a cumbersome series of cautionary statements or repetitive cautionary statements throughout a catalogue section. If distributors drop entire classes of toys and games, including latex balloons, it could have an extremely negative economic impact on our company as well as on the \$1.1 billion balloon products industry overall.

We hope the CPSC considers our comments in the context they are made. Pioneer and the industry have worked to reduce the number of incidents associated with balloons. Once, again, efforts to increase consumer awareness of the hazards posed to children by balloons have had a dramatic positive impact on reducing balloon-related incidents. The fact that choking deaths in children related to balloons dropped to 1 incident each year in 2004, 2005, and 2006 according to CPSC data, and the relatively low likelihood that these products are purchased through catalogues or printed materials should be taken into consideration along with the potential negative economic impact on the balloon industry when making final determinations about the minimum size and placement of cautionary statements under the proposed rule.

How often catalogues or other written materials are published and how much lead time is required to prepare these materials for publication.

Pioneer publishes several general catalogues of all products by markets; in some markets these are produced once every year, in others the catalogue have serve for 1-2 years. These general catalogues are produced in very large print runs, with the catalogues from a single print run often distributed to existing and new customers over the course of the following 1 to 2 years following initial production. The lead time for preparing these general catalogues is between 4-5 months. Pioneer also produces supplemental catalogues, approximately once every 2 months, which focus on products appropriate for particular holidays or seasons. Our supplemental catalogues are shorter than the general catalogue and the lead time for production is typically shorter as well, 2-3 months rather than the usual 4-5 months.

The cost of publishing new catalogues to meet these requirements without the 180 day grace period.

If the rules are interpreted to include business-to-business catalogues, which do not have a direct means of consumer purchase, Pioneer will incur very substantial costs to publish new catalogues to meet the new advertising requirements without the proposed 180 day grace period. As noted above, our catalogues are intended to be used for as long as 2 years; without the 180 day grace period, we could be forced to perform an entire print run very shortly after a previous catalogue was produced. Further, the cost of doing two shorter print runs, once before the rules are finalized and once afterward, could double our total costs, based on the higher per piece costs of two smaller print runs in comparison to the lower per piece costs of a single larger print run. Pioneer spends approximately \$150,000/year on its general catalogues.

Pioneer supports the CPSC's proposed 180 day grace period as the maximum authorized under the CSPIA. While we have already printed catalogues or other printed materials intended for distribution after the proposed August 9, 2009 deadline, the 180 day grace period will provide some measure of relief from this expense - though we would also support any additional relief from the impact of this specific regulation.

Again, thank you for the opportunity to provide these comments. Pioneer Balloon Company looks forward to continuing to work closely with the CPSC as the proposed rule is finalized and implemented to ensure a safe and happy experience with balloons for all.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "H. Wayne Roberts", with a long horizontal flourish extending to the right.

H. Wayne Roberts
Vice President

Stevenson, Todd

From: wayner@pioneerballoon.com
Sent: Thursday, October 16, 2008 1:30 PM
To: CPSC-OS
Subject: ADVERTISING REQUIREMENTS NPR

Attachments: Adobe Portable Document.pdf



Pioneer Sec105
comments.pdf (1...

(See attached file: Pioneer Sec105 comments.pdf)



5/10/08

2008 OCT 20 P 2:14

October 16, 2008

Office of the Secretary
Consumer Product Safety Commission
Room 502
4330 East-West Highway
Bethesda, MD 20814

Re: Advertising Requirements NPR

To Whom It May Concern:

We are replying to the call for comments on the proposed advertising rules promulgated by the Consumer Product Safety Commission under Section 105 of the CPSIA, as published in the Federal Register on October 6, 2008 and which are due on October 20, 2008.

1. The size and placement of cautionary statements in catalogs and other written materials in light of the statutory requirement to post these statements in a manner consistent with part 1500 of title 16 of the Code of Federal Regulations; use of abbreviated warnings in catalogs.

The requirement to repeat caution labels throughout catalogs and brochures, page after page and spread after spread, will not only dilute the economic value and impact of catalog advertising to the considerable detriment of the U.S. educational and toy industries but will also desensitize consumers to the warnings themselves. This dilutive requirement will have the effect of defeating the purpose of improved consumer "right to know" warnings under the CPSIA since a disregarded warning is no better than an absent warning. Endless reproduction of the same warning will train consumers to ignore warnings rather than read them and absorb their content. Since many lawful products are required to carry warning labels, it can be anticipated that many educational products catalogs and toy catalogs will be chock-a-block with warnings, sometimes consuming a large percentage of page space on some spreads.

We believe a more effective rule consistent with the CPSIA is to require warning icons next to the product name, product image or product part number and price (*See Appendix A: Proposed Warning Icon Approach*). We believe the Commission is empowered to issue rules authorizing icons over the actual warning labels under Section 105(2) of the CPSIA (referring to 15 CFR 1278(24)(c)(1)(a)). The icon size should mirror the surrounding body copy font size (but not smaller than 0.08 inches in height) and incorporate the universally recognized yellow warning triangle with exclamation mark. Each icon should be numbered to correspond to different warnings, and such warnings must be featured in a table or legend in at least one place in the catalog. If educational products and toy manufacturers incorporate warnings on packaging which are not required under U.S. law, these warnings should also be required to be marked in catalogs using similar icons. A prominent tagline or message should appear not less frequently than on every other two-page spread in the catalog directing consumers to a warning label/warning icon legend within the catalog.

Icons efficiently convey the necessary information to consumers in shorthand, and thus make abbreviated warnings unnecessary. Abbreviated warnings, despite their brevity, will interfere with catalog presentations and will eventually have the same dilutive effect as warning labels. Icons will remain

useful to consumers even after multiple exposures because of their more subtle appearance. This rule will effectively deliver warning information to the consumer without causing damaging desensitization and dilution. Use of recognizable icons corresponding to an easily located table in the back of a catalog is a common technique utilized in many industries to convey vital information. Likewise, icons are universally accepted substitutes for warnings and are well-understood by consumers in this context, and thus stand for the actual warnings as specified in the Act. Notably, the appearance of warning labels on product packaging provides “last stop” warning to consumers, thus ensuring that every consumer will be appropriately advised of risks at the time of use of lawful products.

2. Impact of the advertising requirements on businesses

Incorporation of full-sized warnings in catalog copy greatly distorts the significance of the risk advised by the warning message. The warning designs were created for a different purpose, to warn consumers at the point of purchase of a physical product, not for incorporation in print advertising. The use of prominent warnings throughout a catalog may elevate consumer perception of the risk posed by lawful products and inevitably dampen demand for these useful and safe products.

The density of warnings in catalogs under the proposed rules will cause the physical space required by catalog listings to expand considerably. Our mock-ups of catalog pages applying the new rules show that two-page spreads can become three-page spreads regularly. (*See Appendix B: Original Catalog Pages and Appendix C: Sample Catalog Pages with Warnings for illustration of the before-and-after impact of the proposed rules, beginning on page 7 of the sample catalog spreads*). For instance, certain science kit products could potentially require as many as a dozen warnings, resulting in an overflow of product advertisements from their original placement onto additional pages. The cumulative effect of one catalog page having to become two, two pages becoming three, and so on would have an exceedingly negative impact on the company producing the catalog as well as the consumer using it. Both catalog pages and kit replacement part order forms would become difficult for customers to navigate due to the large number of warnings printed on them. This may render selling certain educational materials kits in catalogs impractical or uneconomic.

The reduced product density of catalog pages will cause companies to reduce product ranges and to reduce mailings. In fact, the proposed rules may cause companies to selectively drop products carrying warning labels, even though such products are both lawful and useful. In addition, lower product density on the catalog page will considerably reduce expected economic returns from catalog mailings thereby incentivizing companies to produce fewer mailings and smaller catalogs. This will certainly reduce revenues and profits for educational and toy catalogers, educational product and toy manufacturers, and catalog printers. This is too high a price to pay for “belts and suspenders” rules relating to warnings already present on product packaging.

3. How often catalogues or other written materials are published and how much lead time is required to prepare these materials for publication.

Educational products and toy manufacturers, distributors, and dealers publish marketing materials on a schedule beginning as long as nine months before printing. Many such catalogs “close” more than four months before printing. Some catalogs are published as infrequently as every two years while others are published multiple times per year. Catalogs are often printed in “gang runs” with multiple covers but identical bodies, with the intention to mail different versions of the same catalog over a lengthy period of time. Many other marketing materials—including sell sheets, brochures, samplers and price lists—are published throughout the year and require up to six months lead time.

4. Whether and why a grace period may be needed for catalogues and other printed material.

A grace period is necessary to account for the publishing cycle of catalogs. The long preparation lead time and long shelf life (prior to mailing) of printed catalogs makes imperative that final rules be promulgated long before the effective date of the rules.

We believe the cost and consequences to consumers of a full 180-day grace period would be negligible. As noted elsewhere in this letter, only lawfully produced products carry warnings, so this consumer "right to know" rule piggybacks on other rules already requiring warnings on packaging. A delay in implementing these rules fully will never put any consumers at risk as warnings are already provided at the point of use.

The cost to produce catalogs compliant with these rules for an effective date of February 10th is incalculable. Given that hundreds of companies, hundreds of thousands of catalog pages, and tens of millions of product advertisements would be affected, it is impossible to posit that compliance could be achieved by this large industry on such short notice. Most catalogs have to be printed by January 1 in the educational and toy markets. As a practical matter at this late date, it is no longer possible to change catalogs slated for printing in December in these industries. A requirement to be compliant by February 10, 2009 would be met with massive failures.

We strongly recommend that existing catalogs and brochures as of August 9, 2009 be "grandfathered" under the new rules. Most manufacturers have libraries of sell sheets, special purpose brochures, limited purpose or low circulation pamphlets that would be lost and never replaced if rendered illegal by the new rules. These brochures were produced lawfully at the time of printing and the loss of such materials under the new rules would amount to a taking under the Constitution. In addition, rules requiring that lawfully produced brochures be discarded will create considerable unnecessary waste. While such waste may be immaterial compared to national output of waste, it will nevertheless amount to very large volumes of wasted print material and thus degrade our environment. Finally, there is no justification to make the transition to the new rules so unnecessarily penal to marketers of educational products and toys since all warnings appear on packaging which may be examined before use.

5. Whether the advertising requirements for catalogues and other printed materials should also apply to materials distributed solely between businesses and not to ultimate consumers, and, if so, how the Commission can distinguish catalogues distributed solely between businesses from those intended for final distribution to the ultimate consumers, which may include institutions such as schools and day care centers.

We do not believe businesses require "right to know" protection in the same way as consumers. Thus, we feel these warnings should not be required in dealer and distributor catalogs. That being said, as a commercial matter, these warnings may have to be included in such publications simply to ease the process of conveying critical information by manufacturers to dealers and distributors for preparation of their catalogs. The marketplace will instruct manufacturers on the appropriate way to convey this information to their business customers.

We agree with the Commission that B2B catalogs are always aimed at resellers. Any recipient that uses the products in the conduct of its affairs, whether consumers, day care centers, schools, etc., are to be considered "consumers" or part of a B2C marketplace. Catalogs aimed at resellers should be considered B2B catalogs serving businesses.

Some catalogs distributed to businesses are identical to catalogs provided to consumers and some are different (and easily identified). There is no bright line rule to group catalogs definitively into B2C or B2B categories. Sometimes catalogs will provide clues in design, titling or copy. From a practical standpoint, it appears to be a factual question, which can be answered with inquiry or observation of use of the catalog.

6. Visible placement of warnings in online marketing

While we understand the need to place appropriate warnings where customers will see them, we think that placing warnings above product descriptions will alarm customers unnecessarily. Noting that warnings are only required on legally permissible products, we are very concerned that unnecessarily elevated prominence for warnings may sharply dampen demand in Internet venues. We believe that Congress did not intend to disrupt commerce with excessive warnings. Please note that online customers are accustomed to finding warnings and other more detailed product information in tabs below the main product copy. Thus, we recommend allowing the placement of warnings in such tabs.

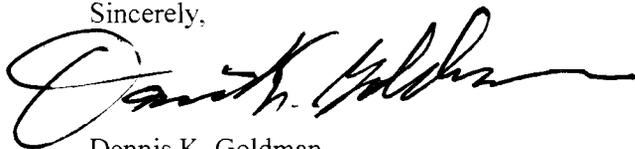
We also strongly urge that the Commission permit the use of warnings that pop up when a mouse tracks over an icon or with a mouse click. Again, in the ethos of the Internet, we believe consumers are well-familiar with this means of displaying information. Congress did not indicate that Web warnings are the principal way to reach consumers with this "right to know" information. The inclusion of such information on a Web advertisement, even if below the advertisement, serves the purpose intended by Congress without unnecessarily disrupting commerce.

7. Other Comments

We strongly recommend that the Commission take a measured approach to penalties for infractions of these rules. Some concept of materiality and "warnings" for minor violations should be made an explicit part of the implementing rules. The complexity and burden of preparing hundreds or thousands of catalog pages without a single error or omission under Section 105 will likely defeat many companies. Annual catalog production at some companies comprises tens of thousands of product advertisements, inviting the risk of human error despite best efforts and good intentions. Since these advertising rules simply amplify the impact of already established rules for warnings on products themselves, we believe the Commission can appropriately establish rules for administration of these rules which guide manufacturers and dealers to compliance and reserve harsher penalties for bad actors that demonstrate bad faith dealings or blatant disrespect for the law. We are concerned that technical violations or errors of omission will present enterprise risk for many educational products and toy companies unless enforcement rules are set appropriately.

Thank you for considering our views on this important subject.

Sincerely,



Dennis K. Goldman
President
ETA/Cuisenaire
Tel 847-968-5230
Fax 847-816-5066
E-mail: dgoldman@etacuisenaire.com



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T8P-55491 \$1,395.00



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△ W1, W7, W8, W12

T8P-55497 Electricity Kit \$159.95

T8P-55719 Electricity Refill Kit \$12.95

Light & Sound Unravel the mysteries of light and sound with hands-on activities that cover mirrors and reflection; prisms; visible and invisible light; telescopes; sound vibrations; sympathetic vibrations; sound waves; amplification of sound; and soundproofing. Kit includes Teacher's Guide, mirrors, magnifiers, tuning forks, color cellophane, Slinky®, prisms, and other materials needed to complete the activities. **△ W1, W8, W9**

T8P-55498 Light & Sound Kit \$229.00

T8P-55720 Light & Sound Refill Kit \$41.95

Matter & Energy Experiment with mass; density; buoyancy; states of matter; balance; inertia; force; Newton's laws; kinetic and potential energy; heat; and physical measurements. Kit includes Teacher's Guide, thermometers, spring scales, mirrors, clay, graduated cylinder, copper wire, and other materials needed to complete the activities.

△ W1, W8

T8P-55499 Matter & Energy Kit \$149.95

T8P-55723 Matter & Energy Refill Kit \$31.95

Simple Machines Explore the power of levers; wedges; inclined planes; pulleys; screws; and more to connect science with real-world applications. Kit includes Teacher's Guide, pulleys, spools, string, marbles, spring scales, and other materials needed to complete the activities. **△ W1, W6, W8, W12**

T8P-55500 Simple Machines Kit \$189.95

T8P-55724 Simple Machines Refill Kit \$12.95

Kits include plenty of
materials for 24 students
working in groups.

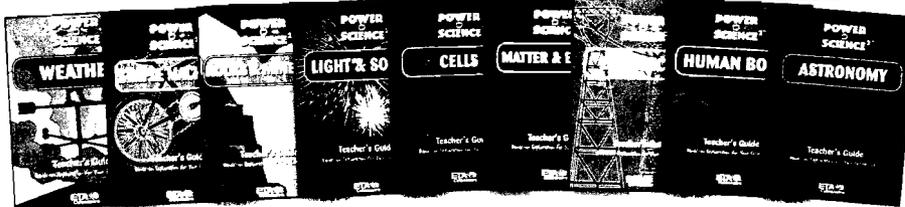


Power of Science² Simple Machines Kit shown here.

Power of Science² Teacher's Library

Each comprehensive Teacher's Guide features 88 pages of solid background support and fun, engaging, and purposeful hands-on activities for students. Library includes 1 each of the 9 Teacher's Guides from the Power of Science² Kits listed on pages 26 and 27.

T8P-49636 \$199.95



△ Product Safety see page 100.

SAFETY WARNINGS

Product Safety Information

Match the code above the following warning statements to the listing on each page where applicable.

At ETA/Cuisenaire, the customer is the cornerstone of our business, and the safety of you and your students is foremost on our minds. If any clarification is needed, please do not hesitate to call our customer service department toll-free at 800-445-5985.

Sincerely,
Your friends at
ETA/Cuisenaire.

W1 SMALL PARTS

⚠ WARNING:
CHOKING HAZARD--Small parts. Not for children under 3 yrs.

W2 BALLOON

⚠ WARNING:
CHOKING HAZARD--Children under 8 yrs. can choke or suffocate on uninflated or broken balloons. Adult supervision required. Keep uninflated balloons from children. Discard broken balloons at once.

W3 SMALL BALL

⚠ WARNING:
CHOKING HAZARD--This toy is a small ball. Not for children under 3 yrs.

W4 SMALL BALL

⚠ WARNING:
CHOKING HAZARD--Toy contains a small ball. Not for children under 3 yrs.

W5 MARBLE

⚠ WARNING:
CHOKING HAZARD--This toy is a marble. Not for children under 3 yrs.

W6 MARBLE

⚠ WARNING:
CHOKING HAZARD--Toy contains a marble. Not for children under 3 yrs.

W7 SMALL MAGNETS

⚠ 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.

W8 ADULT SUPERVISION

⚠ WARNING:
This set contains chemicals that may be harmful if misused. Read cautions on individual containers carefully. Not to be used by children except under adult supervision.

W9 SUFFOCATION

⚠ WARNING:
Keep this bag away from babies and children. Do not use in cribs, beds, carriages or playpens. The thin film may cling to nose and mouth and prevent breathing.

W10 ADULT ASSEMBLY

⚠ WARNING:
This product contains potentially hazardous small parts, sharp points, or sharp edges in its unassembled state. Adult assembly is required. Not for children under 3 years.

W11 SHARP EDGE

⚠ WARNING:
A sharp edge(s) exists. Not for children under 4 yrs.

W12 SHARP POINT

⚠ WARNING:
A sharp point(s) exists. Not for children under 4 yrs.

W13 SHARP EDGE AND/OR POINT

⚠ WARNING:
A sharp edge(s) or sharp point(s), or both exists. Not for children under 4 yrs.

W14 NOT LIFESAIVING DEVICE

⚠ WARNING:
This is not a lifesaving device. Do not leave child unattended while in use.

W15 ELECTRIC

⚠ CAUTION:
Electrically operated product. Not recommended for children under 4 yrs.

W16 REQUIRES BATTERIES

⚠ WARNING:
Battery operated toys. Do not mix old and new batteries. Do not mix alkaline, standard (carbon-zinc) or rechargeable (nickel-cadmium) batteries.

W17 NOT FOR SAFETY PROTECTION

⚠ WARNING:
Not a safety protective device.

W18 HARMFUL

⚠ WARNING:
May be harmful if swallowed.

Center Stage[®] SCIENCE

Grades 1-5

EXCLUSIVE!

Ready-to-Use Science Centers Promote Independent Learning!

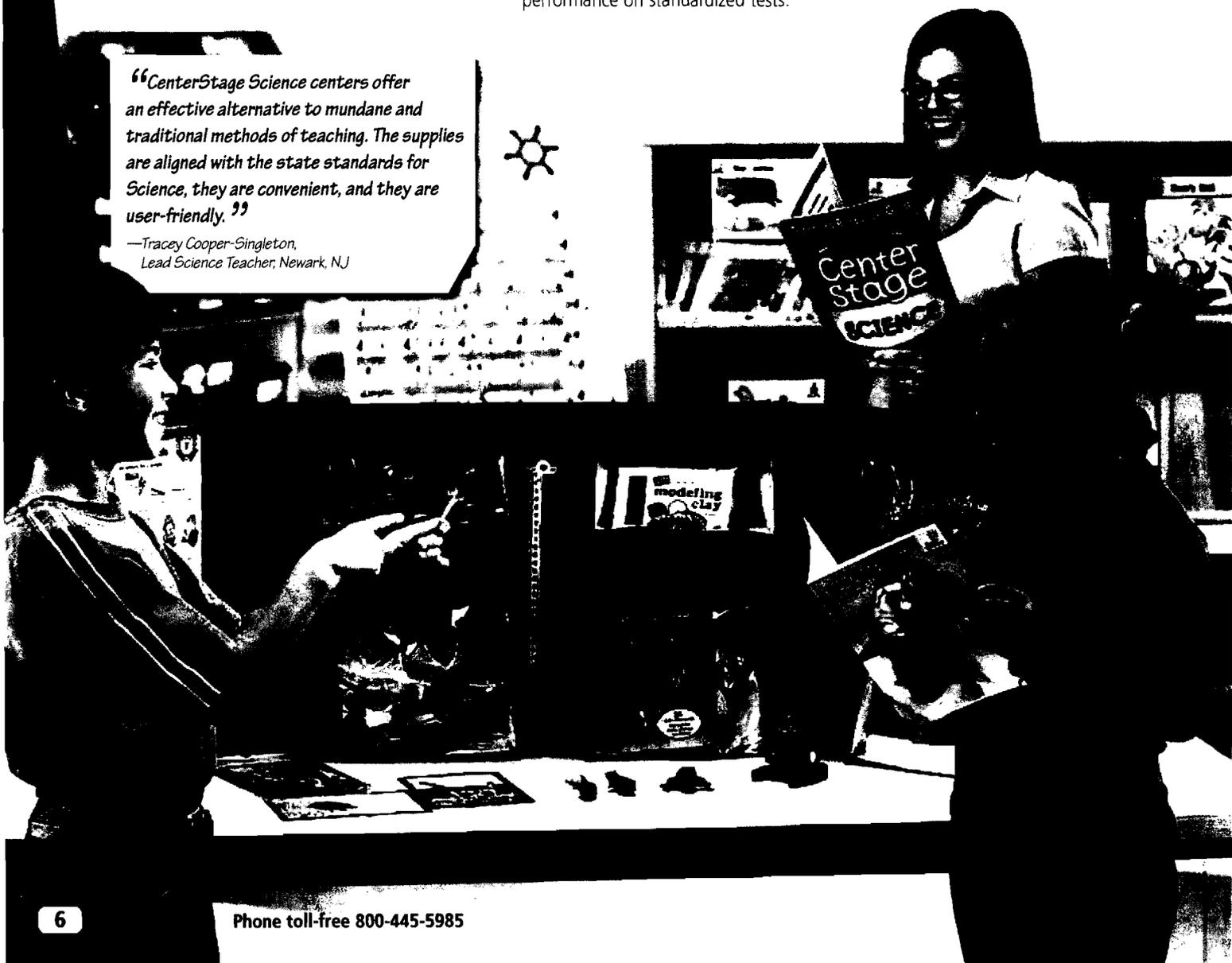
Create a complete center-based learning environment for life, earth, and physical science, and save hours of time preparing activities and searching for materials. Each self-contained center features—

- Eighteen ready-to-use explorations and experiments directly aligned to leading science textbooks and state curriculum standards
- All of the hands-on science materials required to perform the activities
- User-friendly support materials for teachers and classroom volunteers

CenterStage Science[®] experiments and activities encourage students to work collaboratively while building knowledge and skills essential to successful performance on standardized tests.

“CenterStage Science centers offer an effective alternative to mundane and traditional methods of teaching. The supplies are aligned with the state standards for Science, they are convenient, and they are user-friendly.”

—Tracey Cooper-Singleton,
Lead Science Teacher, Newark, NJ



Reinforce Science Instruction with Centers!

CenterStage® Science centers—

- Set up quickly and save preparation time—just choose an Activity Card, select the materials, demonstrate the activity, and students are ready to start working
- Can be used one center at a time by one or two students or simultaneously to create a complete center-based classroom
- Store easily in the compact floor rack included FREE with each Classroom Package (see below)



CenterStage Science Grade 3 Classroom Package shown here.

Easy-to-Use Resources Support All Teachers

- Classroom management suggestions
- Content background and information
- Correlations to national standards
- Blackline masters and much more!

CenterStage Centers are available for Math and Literacy too! See the **ETA/Cuisenaire® Math and Reading Catalogs** or visit www.etcuisenaire.com/centerstage for information.

CenterStage Science covers these NSE Standards-based topics and more:

Life Science

- Animal characteristics and classification
- Habitats
- Plant structures
- Life cycles
- Adaptations of plants and animals
- Human body systems
- Interactions in ecosystems

Earth Science

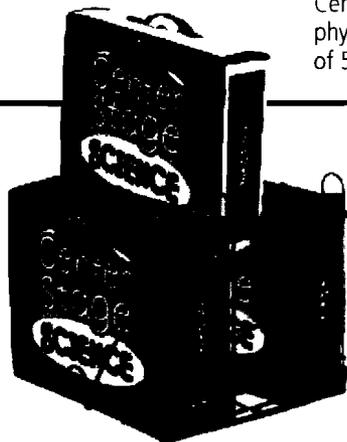
- Rocks, minerals, and fossils
- Dinosaurs
- Earth's changing surface
- Weather
- Water cycle
- Sun, Moon, and the seasons

Physical Science

- Electric circuits
- Simple machines
- Light
- Motion and forces
- Magnetism
- Sound
- Properties of matter
- Heat energy

Grade-Level Classroom Packages Offer the Best Value!

CenterStage Science Classroom Packages include 3 grade-level centers, one each for life, earth, and physical science, plus a FREE storage rack—a \$49.95 value! Each Classroom Package contains a total of 54 ready-to-use activities. See pages 10 and 11 for detailed topic information.



Grade 1
CenterStage Science
Classroom Package
T8P-52210 \$699.00

Grade 2
CenterStage Science
Classroom Package
T8P-52220 \$699.00

Grade 3
CenterStage Science
Classroom Package
T8P-52230 \$699.00

Grade 4
CenterStage Science
Classroom Package
T8P-52240 \$699.00

Grade 5
CenterStage Science
Classroom Package
T8P-52250 \$699.00

Find more products and order online at www.etcuisenaire.com

Center Stage SCIENCE

Save When You Buy a Grade-Level Classroom Package!

Classroom Packages include all three grade-level centers and a FREE storage rack, a \$49.95 value!

Grade 1 CenterStage Science Classroom Package

T8P-52210 **\$699.00**

Grade 2 CenterStage Science Classroom Package

T8P-52220 **\$699.00**

Grade 3 CenterStage Science Classroom Package

T8P-52230 **\$699.00**

Grade 4 CenterStage Science Classroom Package

T8P-52240 **\$699.00**

Grade 5 CenterStage Science Classroom Package

T8P-52250 **\$699.00**



BEST VALUE!

Grade 1 CenterStage Science Classroom Package

Includes all 3 centers listed below and a FREE convenient storage rack. **Extra-Value Savings— an \$824.85 Value!**

T8P-52210 **\$699.00**

Grade 1 CenterStage Science Life Science Center

Topics covered include: • Characteristics of mammals • Organs of the human body • The senses and how they work • Characteristics of organisms • Plant classification • Characteristics of seeds and plants • Animals and their babies • Plant life cycles • Bird life cycles • Animal camouflage • Animal food chains • Tooth structure and diet • And more!

T8P-52211 **\$274.95**

Grade 1 CenterStage Science Earth Science Center (shown above)

Topics covered include: • The water cycle • Classification of rocks • Properties of Earth materials • Recycling • Water usage and conservation • Characteristics of soils • Fossils and shells • Earth's orbit • Classification of objects in the sky • Seasons • Cloud shapes and movement • Causes of day and night • Effects of the sun • And more!

T8P-52212 **\$274.95**

Grade 1 CenterStage Science Physical Science Center

Topics covered include: • Physical properties of objects • Classification of objects • Density and mass • States of matter • Motion and position • How gears work • Sounds • How light travels • Primary and secondary colors • Static electricity • Magnetic attraction • Properties of magnets • Strength of magnets • And more!

T8P-52213 **\$274.95**



BEST VALUE!

Grade 2 CenterStage Science Classroom Package

Includes all 3 centers listed below and a FREE convenient storage rack. **Extra-Value Savings— an \$824.85 Value!**

T8P-52220 **\$699.00**

Grade 2 CenterStage Science Life Science Center (shown above)

Topics covered include: • Compare and contrast organisms • Characteristics of dinosaurs • Life cycle of a meal worm • Insect body parts • Differentiate between mammals, reptiles, and amphibians • Characteristics of leaves • Leaf classification • Functions of the eye • Inherited traits • Animal habitats • Animals' appearance and habits • And more!

T8P-52221 **\$274.95**

Grade 2 CenterStage Science Earth Science Center

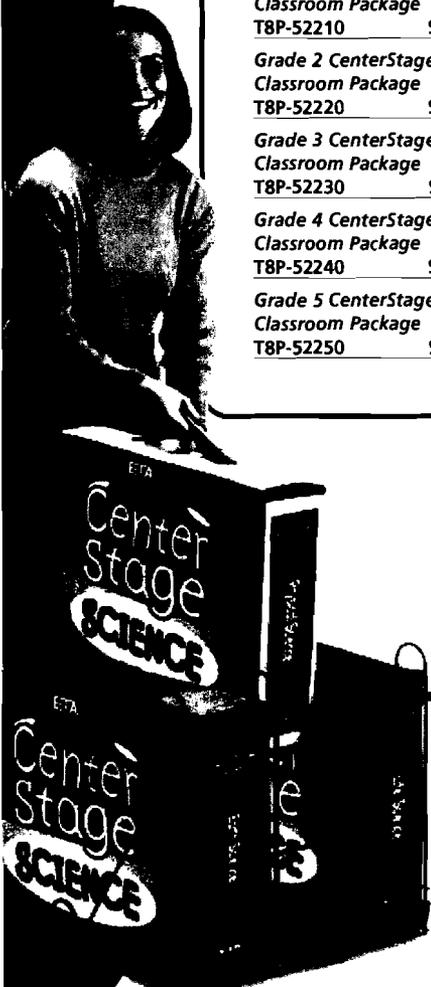
Topics covered include: • Classification of rocks • Properties of rocks • Weathering • Dinosaur tracks; fossil identification; fault lines • Volcanoes and volcanic rocks • Humidity • Effects of static electricity • The phases of the moon • Identify the planets in our solar system • And more!

T8P-52222 **\$274.95**

Grade 2 CenterStage Science Physical Science Center

Topics covered include: • Sorting and classification of objects • Determination of mass • Properties of liquids and solids • How levers work • Analyze a pendulum's swing • How ramps work • Gears and drive belts • Sound as vibration • Light reflection • How water magnifies • Electric circuits • Identify conductors and insulators • And more!

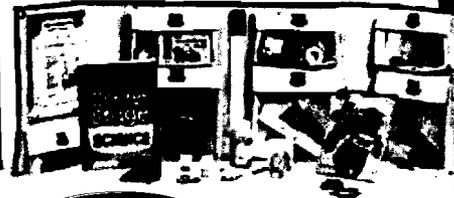
T8P-52223 **\$274.95**



**Grade 3
CenterStage®
Science Centers**

**Grade 4
CenterStage
Science Centers**

**Grade 5
CenterStage
Science Centers**



BEST VALUE!

Grade 3 CenterStage Science Classroom Package

Includes all 3 centers listed below and a FREE convenient storage rack.
**Extra-Value Savings—
an \$824.85 Value!**

T8P-52230 \$699.00

BEST VALUE!

Grade 4 CenterStage Science Classroom Package

Includes all 3 centers listed below and a FREE convenient storage rack.
**Extra-Value Savings—
an \$824.85 Value!**

T8P-52240 \$699.00

BEST VALUE!

Grade 5 CenterStage Science Classroom Package

Includes all 3 centers listed below and a FREE convenient storage rack.
**Extra-Value Savings—
an \$824.85 Value!**

T8P-52250 \$699.00

Grade 3 CenterStage Science Life Science Center

Topics covered include: • Insects' body parts and functions • Spiders and their webs • Earthworms and composting • Characteristics of organisms • Plant and animal adaptations to their environment • Characteristics of animals • Tree trunk analysis • How lungs function • Effects of exercise on heart and respiration rates • The digestive system • And more!
T8P-52231 \$274.95

Grade 4 CenterStage Science Life Science Center (shown above)

Topics covered include: • Animal adaptations • Plant adaptations • Life cycle of the ant • Seed dispersal methods • Structure and function of feathers • Life cycle of the frog • Structures and life cycles of plants • How an ant colony works • How a bird's beak is adapted to the food it eats • Inherited and acquired characteristics • And more!
T8P-52241 \$274.95

Grade 5 CenterStage Science Life Science Center

Topics covered include: • Plant and animal cells • How cells grow and divide • Parts of the circulatory system • Parts of the digestive system • Observe microscopic organisms • Extracting DNA • The structure of DNA and replication • Dominant and recessive genes • Compounds responsible for photosynthesis • And more!
T8P-52251 \$274.95

Grade 3 CenterStage Science Earth Science Center (shown above)

Topics covered include: • Mineral identification • Properties of minerals • Streak tests • Soil comparisons • Soil textures • Soil erosion • Characteristics of fossils • The solar system • Identify parts of a volcano • Causes of earthquakes • Types of clouds • Different forms of weather • And more!
T8P-52232 \$274.95

Grade 4 CenterStage Science Earth Science Center

Topics covered include: • Properties of minerals • Mineral hardness tests • Shapes and sizes of crystals • Compositions of sedimentary rocks • Composition of soil • How fossils form • Natural resources • How stars make a constellation • Volcano formation and eruption • Sun as a source of heat and light • Fault movements • And more!
T8P-52242 \$274.95

Grade 5 CenterStage Science Earth Science Center

Topics covered include: • The layers of Earth • Plate tectonics • Theory of continental drift • Earthquakes • The rock cycle • Soil profiles • The water cycle • Water as a solvent • Atmospheric gases • Ocean currents • A monsoon climate • Fossil records • The concept of parallax • Lunar and solar eclipses • Gravity • And more!
T8P-52252 \$274.95

Grade 3 CenterStage Science Physical Science Center

Topics covered include: • Mass as a physical property • Identify physical properties of objects • Identify states of matter • Study concepts related to strength in construction • How an inclined plane works • Explore series and parallel circuits • How shape affects an object • And more!
T8P-52233 \$274.95

Grade 4 CenterStage Science Physical Science Center

Topics covered include: • Classification of objects with a dichotomous key • Chemical changes • Air as matter • How pulleys work • Motion as a measure of force • Magnetic fields • How a pendulum works • Factors that determine pitch • Light reflection • Effects of refraction • Conductors of heat • How a battery produces power • And more!
T8P-52243 \$274.95

Grade 5 CenterStage Science Physical Science Center (shown above)

Topics covered include: • Density of objects • Properties of liquids • Separating mixtures • The buoyant force of water • Chemical properties of common substances • Molecular models • The Law of Conservation of Mass • Motors • The effects of inertia and friction • Forms of energy • Observe convection • Properties of color • Build a kaleidoscope • And more!
T8P-52253 \$274.95

Visit our website
www.etcuisenaire.com/centerstagescience
for detailed lists of center materials.

Foster Hands-On, Minds-On Inquiry with Activity-Based Modules!

- Nine classroom-size modules focus on standards-based science concepts appearing on state assessments.
- Each module contains 14 different explorations, plus teacher demonstrations and suggested extension activities that maximize limited instructional time.
- Core concepts and science content are clearly defined and presented in the grade-level appropriate depth.
- Multiple-grade coverage makes the program easy to implement in any science curriculum.
- User-friendly and engaging for both teachers and students.



Power of Science² Rocks and Minerals Kit

Each Power of Science² Kit includes—

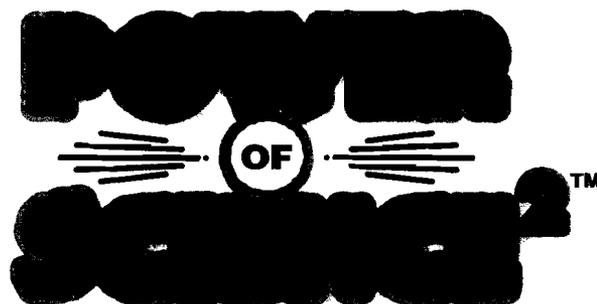
- Quality, ready-to-use materials, experiments, and extension activities
- Enough non-consumable materials for 24 students working in teams of 3 children
- User-friendly Teacher's Guides with background information, clearly scripted demonstrations, and extension activities

Power of Science² correlates to these NSE Standards-based topics:

- Earth science
- Life science
- Physical science
- Science as inquiry
- Unifying concepts and processes
- History and nature of science
- Science in personal and social perspectives



EXCLUSIVE!



Grades 4–6

“These kits have all the materials you need, and they correlate well with our state science objectives. The hands-on activities and experiments help students to see and feel the concept. It is a much better way to learn than just reading a textbook!”

—Nancy West,
Teacher & School Administrator,
Maryville, TN

Comprehensive Teacher's Guides Provide Step-By-Step Instructions for Hands-On Activities!

Each 88-page Teacher's Guide features—

- Correlations to NSE Standards
- 8 Teacher Demonstrations
- 16 reproducible Student Experiments with background information
- 16 Going Further extension activities
- Blackline masters, assessment approaches, a glossary, and a list of related children's literature

Materials list simplifies preparation.

Clear, concise instructions ensure foolproof demonstrations.

Engaging questions encourage class participation.

Power of Science² Astronomy Kit sample pages shown here.

Teacher Demonstration

Unit 6
Comets and Meteoroids: Classroom Comet

You Will Need

- water
- dry ice (about 5 lbs)
- ice chest
- sand or dirt
- emeryite
- apple juice
- large plastic mixing bowl
- plastic garbage bags (3)
- insulated work gloves
- hammer or rubber mallet
- large spoon
- plastic tub

What to Do

1. Cut open a garbage bag. Line the mixing bowl with it.
2. Add two spoonsful of sand or dirt, a splash of apple juice, a splash of emeryite, and four cups of water to the bowl. Mix well.
3. Put the dry ice into a second garbage bag. **Caution: Wear insulated gloves!**
4. Crush the dry ice into fine pieces. Add to the mixing bowl.
5. Stir the mixture until it is almost frozen.
6. Take the comet out of the bowl lying. Shape it as you would a sphere—real comets aren't flat!
7. Unwrap the comet when it is to hold its shape.
8. Put the comet on display in a safe place.

Questions to Ask

1. What exactly are comets? Why are they sometimes called "dirty snowballs"? (Comets are chunks of ice with dust particles embedded in them.)
2. Why are comets of interest to us? (Comets formed at the same time as the solar system and could tell us about what things were like at that time.)
3. What happens to a comet when it gets closer to the Sun? (It heats up and vaporizes, releasing dust and gas in the form of a long tail.)
4. How is this model comet like a real comet? (It contains the same ingredients as a real comet and sublimates like a comet when heated.)

Student Experiment

Unit 6
Comets and Meteoroids: Simulating Moon Craters

What happens when space rocks crash into the Moon?

You Will Need

- newspaper
- aluminum pan
- flour
- powdered cocoa mix
- small marble
- large marble
- meterstick
- craft stick

What to Do

1. Cover your work area with newspaper. Place the pan on the newspaper.
2. Fill the pan with flour about 5 cm deep. Gently tilt the pan from side to side to make the surface even.
3. Cover the flour with powdered cocoa. Sprinkle on just enough cocoa to cover the flour. This represents the Moon surface.
4. Measure 25 cm from the surface with a meterstick. Drop a small marble onto the surface from that height. Observe what happens.
5. Measure the depth and diameter of the crater and the length of any rays that form. To measure the crater's depth, first carefully remove the marble. Stand a craft stick on the bottom of the crater. Mark the top of the crater on the stick. Measure the marked area.
6. Draw a picture of the crater. Record your findings on the data chart.
7. Repeat steps 4-6 for heights of 50 cm and 1 m. Be sure to drop the marble on a different part of the surface each time so the craters don't overlap.
8. Smooth out the flour-cocoa surface. Add more cocoa to the top layer if needed.
9. Repeat steps 4-7 with the large marble.

What Did You Find?

Did changing the height of the marble affect the size and shape of the craters? Did changing the size of the marble affect the size and shape of the craters? How are the size, weight, and speed of a falling space object connected to crater size and shape?

Step-by-step directions allow students to complete the experiments on their own.

Analysis questions promote critical thinking.

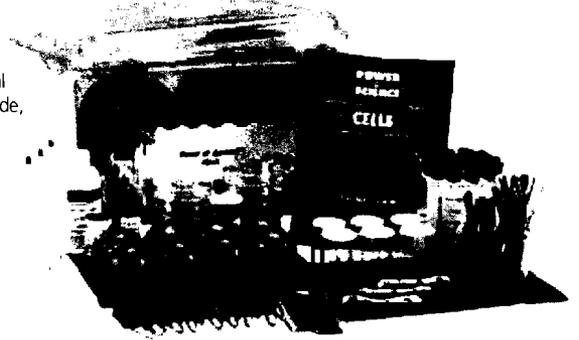
Power of Science²™ Life Science Kits

Cells Delve into the microscopic world of cells with hands-on activities that cover the origin of living cells; cell theory; cell structure and function; diffusion and osmosis; cells and energy; chemical compounds in living cells; cell growth and division; and cell organization. Kit includes Teacher's Guide, slide strips, cell blobs, forceps, magnifiers, and other materials needed to complete the activities.

T8P-55492 Cells Kit **\$199.95**
T8P-55709 Cells Refill Kit **\$84.95**

Human Body Explore the wonders of the human body with hands-on activities that cover the skeletal, muscular, circulatory, digestive, respiratory, and nervous systems; the senses; and health and hygiene. Kit includes Teacher's Guide, mirrors, thermometers, timers, and other materials needed to complete the activities.

T8P-55493 Human Body Kit **\$139.95**
T8P-55710 Human Body Refill Kit **\$49.95**



Power of Science² Cells Kit shown here.

Power of Science² Earth Science Kits

Astronomy Hands-on activities will help students understand Earth's rotation and orbit; the characteristics of the planets; stars; the Moon; eclipses; comets and meteoroids; time zones and telling time using shadows; and construction of a model rocket and time capsule. Kit includes Teacher's Guide, inflatable globe, sky dome, flashlight, compasses, and other materials needed to complete the activities.

T8P-55494 Astronomy Kit **\$139.95**
T8P-55713 Astronomy Refill Kit **\$23.95**

Rocks & Minerals Examine mineral formation; natural symmetry; crystals; weathering; fossils; and soil; and classify igneous, sedimentary, and metamorphic rocks. Kit includes Teacher's Guide, rock and mineral specimens, magnifiers, testing materials, and other materials needed to complete the activities.

T8P-55495 Rocks & Minerals Kit **\$229.95**
T8P-55714 Rocks & Minerals Refill Kit **\$74.95**

Weather Motivate students through real-world science that covers key weather concepts: observing weather; wind speed; clouds; air pressure; humidity; rain; weather map symbols; and predicting weather. Kit includes Teacher's Guide, thermometers, barometer, compass, hygrometer, cloud chart, and other materials needed to complete the activities.

T8P-55496 Weather Kit **\$139.95**
T8P-55716 Weather Refill Kit **\$15.95**



Power of Science² Astronomy Kit shown here.



Power of Science²™ Mobile Exploration Center Equips Every Classroom for Science!

Buy the Exploration Center and
receive three FREE Trolley Racks!

Power of Science² Exploration Center (Set of 9 Kits)

Roll science into the classroom with our Power of Science² Exploration Center! Includes the 9 kits listed on pages 26–27 and 3 free Trolley Racks (\$120.00 value) for a complete mobile science lab.

T8P-55491 \$1,395.00



Power of Science² refill kits are now
available—replenish the modules for
use year after year!

For complete list of refill kit materials,
visit www.etcuisenaire.com/pos

Power of Science² Physical Science Kits

Electricity Discover what electricity is and how it can be harnessed for use! Focus on current and static electricity; series and parallel electrical circuits; switches; fuses; and electromagnets. Kit includes Teacher's Guide, bulbs, sockets, batteries, magnets, and other materials needed to complete the activities.

T8P-55497 Electricity Kit **\$159.95**
T8P-55719 Electricity Refill Kit **\$12.95**

Light & Sound Unravel the mysteries of light and sound with hands-on activities that cover mirrors and reflection; prisms; visible and invisible light; telescopes; sound vibrations; sympathetic vibrations; sound waves; amplification of sound; and soundproofing. Kit includes Teacher's Guide, mirrors, magnifiers, tuning forks, color cellophane, Slinky®, prisms, and other materials needed to complete the activities.

T8P-55498 Light & Sound Kit **\$229.00**
T8P-55720 Light & Sound Refill Kit **\$41.95**

Matter & Energy Experiment with mass; density; buoyancy; states of matter; balance; inertia; force; Newton's laws; kinetic and potential energy; heat; and physical measurements. Kit includes Teacher's Guide, thermometers, spring scales, mirrors, clay, graduated cylinder, copper wire, and other materials needed to complete the activities.

T8P-55499 Matter & Energy Kit **\$149.95**
T8P-55723 Matter & Energy Refill Kit **\$31.95**

Simple Machines Explore the power of levers; wedges; inclined planes; pulleys; screws; and more to connect science with real-world applications. Kit includes Teacher's Guide, pulleys, spools, string, marbles, spring scales, and other materials needed to complete the activities.

T8P-55500 Simple Machines Kit **\$189.95**
T8P-55724 Simple Machines Refill Kit **\$12.95**

Kits include plenty of
materials for 24 students
working in groups.

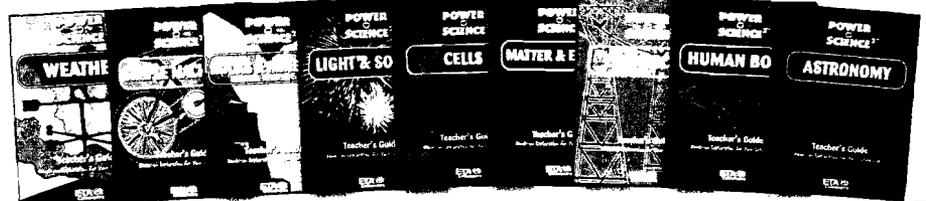


Power of Science² Simple Machines Kit shown here.

Power of Science² Teacher's Library

Each comprehensive Teacher's Guide features 88 pages of solid background support and fun, engaging, and purposeful hands-on activities for students. Library includes 1 each of the 9 Teacher's Guides from the Power of Science² Kits listed on pages 26 and 27.

T8P-49636 \$199.95



Find more products and order online at www.etcuisenaire.com

Elementary & Middle School Curriculum Modules™

Grades 2-9

Meet Science Standards with a Complete Inquiry-Based Curriculum!

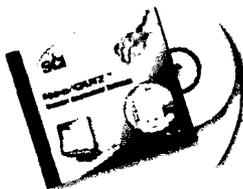
These hands-on science programs, developed and tested by experienced educators, can be easily implemented by both veteran and novice teachers with little or no formal science training.

Each of the 9 Elementary Science Curriculum Modules™ features—

- Up to 7 multi-part, inquiry-based investigations with real-world applications
- Reproducible student worksheets with directions, data collection tables, and interpretation/analysis questions
- Comprehensive Teacher's Resource Guide with background information, assessment strategies, and more
- Professional Development Video with tips on how to effectively integrate these programs into the curriculum
- Elementary Science Assessment CD-ROM with 2 complete tests and customized test creation software
- Plenty of materials for up to 32 students

Each of the 9 Middle School Science Curriculum Modules™ features—

- Up to 6 units with as many as 19 hands-on laboratory investigations, complete background information, analysis questions, and open-ended investigations designed to develop critical-thinking skills
- Easy set up with pre-mixed solutions requiring minimal preparation time
- Comprehensive Teacher's Resource Guides with planning tips, expected outcomes, and cross-curricular integration
- Neo/Quiz™ Assessment CD-ROM for creating, printing and saving customized student tests with multiple question formats
- Plenty of materials for up to 40 students



Each module includes a **FREE CD-ROM with Science Assessment Software!**



NEO SCI
Neo/Quiz™ Assessment Software

Background

Students will investigate the process of heredity and how students can use the dimensions of heredity to understand and predict the inheritance of traits. The goal is to understand the process of heredity and how it can be used to predict the inheritance of traits.

The primary goal of this unit is to help students understand the process of heredity and how it can be used to predict the inheritance of traits. The goal is to understand the process of heredity and how it can be used to predict the inheritance of traits.

Time Requirements

Pre-lab preparation and discussion 15 minutes
Activity 1 15 minutes
Activity 2 15 minutes
Activity 3 15 minutes
Analysis of Results and Discussion 15 minutes

Safety Information

This activity involves the use of sharp objects and may require the use of safety goggles. All students should wear safety goggles at all times during the activity. Students should be instructed on the proper use of safety goggles before the activity begins.

Pre-lab Setup

Students should be instructed on the proper use of safety goggles before the activity begins. Students should be instructed on the proper use of safety goggles before the activity begins.

Kit Materials List

6 Sets of the Following Components:

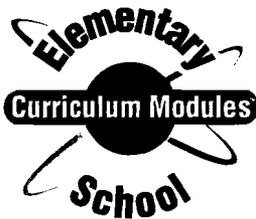
1. 1 gallon plastic jug (1/2 gallon)
1. 1/2 gallon plastic jug (1/2 gallon)

Pre-lab Discussion

This activity is designed to help students understand the process of heredity and how it can be used to predict the inheritance of traits. The goal is to understand the process of heredity and how it can be used to predict the inheritance of traits.

Teacher's Resource Guide features detailed objectives, explanations, and background information.

Middle School Curriculum Module Life Science: The Science of Heredity module shown above. See page 30 for more information.



Turn Elementary Students' Curiosity into Life, Earth, and Physical Science Learning!

- Comprehensive modules and carefully selected science topics prepare students for standardized testing.
- Each module includes a FREE copy of the Elementary Science Assessment Software on CD-ROM!

Physical Science Position and Motion of Objects activity shown here.

Elementary School Curriculum Modules—Earth Science

Properties of Earth Materials	Identify soil types, find out how soil affects plant growth, and discover how Earth provides us with essential resources. Includes materials kit and 38-page guide with 6 activities and extensions.	T8-49780	\$219.95
Objects in the Sky	Study the Sun, stars, Moon, and clouds and learn how these objects in the sky affect life on Earth. Includes materials kit and guide with 6 activities and extensions.	T8-49781	\$219.95
Changes in Earth and Sky	5 activities and extensions show how Earth is affected by its weather and the sources and effects of volcanic eruptions, earthquakes, and erosion. Includes guide and materials kit.	T8-49782	\$219.95
Earth Science Modules Set	Includes all 3 Earth Science Modules listed above.	T8-49783	\$649.95

Elementary School Curriculum Modules—Life Science

Characteristics of Organisms	Study the diversity of life forms, food webs, the physical structures of plants and animals, and how organisms are affected by the environment. Includes materials kit and 48-page guide with 7 activities and extensions.	T8-49784	\$219.95
Life Cycles of Organisms	Investigate animal habitats, learn how specific characteristics are inherited, and discover how plants and animals adapt to their environments. Includes materials kit and 38-page guide with 6 activities and extensions.	T8-49785	\$219.95
Organisms and Their Environments	Learn how animal behavior relates to and changes with the environment, about food chains and the effects of food availability, and the impact of humans on the environment. Includes materials kit and 44-page guide with 6 activities and extensions.	T8-49786	\$219.95
Life Science Modules Set	Includes all 3 Life Science Modules listed above.	T8-49787	\$649.95

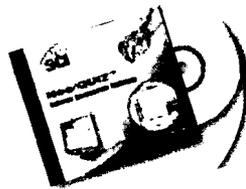
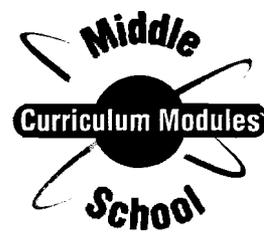
Elementary School Curriculum Modules—Physical Science

Properties of Objects and Materials	Classify objects by their material properties, and learn how substances interact and respond in their different states. Includes materials kit and guide with 5 activities and extensions.	T8-49788	\$219.95
Position and Movement of Objects	7 activities and extensions demonstrate the types of forces and their effects on an object, as well as how sound is created and what makes sound change in pitch and intensity. Includes guide and materials kit.	T8-49789	\$219.95
Light, Heat, Electricity, and Magnetism	By experimenting with a variety of materials, how to observe, measure, and control light, heat, electricity, and magnetism is explored. Includes materials kit and 39-page guide with 5 activities and extensions.	T8-49790	\$219.95
Physical Science Modules Set	Includes all 3 Physical Science Modules listed above.	T8-49791	\$649.95

Complete Elementary School Curriculum Modules Collection	All 9 modules combine to create a comprehensive, hands-on science curriculum for the elementary classroom.	T8-49792	\$1,899.00
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BEST VALUE!

Bench-Tested Lab Investigations Bring True Hands-On Science into the Middle School Classroom!



Each module includes a FREE Neo/Quiz™ Assessment CD-ROM for creating, printing, and saving customized student tests with multiple question formats and both practice and test modes.

Middle School Curriculum Modules™—Earth Science

Exploring the Earth's Crust	16 hands-on lab investigations lead students through the identification and classification of rocks and minerals, the formation of fossils, the rock cycle, the calculation of specific gravity, and more. Includes materials kit and 86-page guide.	T8-49547	\$274.95
Environmental Issues and Solutions	19 hands-on lab investigations link technology to solutions for problems such as water pollution, landfills, soil quality, and oil spills. Students learn how to measure pH, how microorganisms break down soil, how to prevent water pollution, and more. Includes materials kit and 154-page guide.	T8-49548	\$459.95
Earth Science Modules Set	Includes the 2 Earth Science Modules listed above.	T8-49747	\$695.95

Middle School Curriculum Modules™—Life Science

Scientific Problem Solving—A Look at the Scientific Method	Students learn the scientific method through measurement, problem solving, experimentation, and basic microscope activities in 21 hands-on lab investigations. Includes materials kit and 209-page guide.	T8-49545	\$379.95
Looking at Life—from Bacteria to Plants	Students learn about the diversity of life on Earth by constructing a miniature ecosystem, investigating pond life organisms, studying plant life cycles, graphing growth curves, and more in 15 hands-on lab investigations. Includes materials kit and 164-page guide.	T8-49546	\$329.95
Cell Structure and Cell Processes	11 hands-on lab investigations provide a thorough overview of cell structure, functions, and processes. Students create models of cells, investigate osmosis and diffusion, explore cell division, and more. Includes materials kit and 124-page guide.	T8-49544	\$434.95
The Science of Heredity	15 hands-on lab investigations lead students to model DNA and its replication, explore the role of chromosomes in reproduction, simulate mitosis and meiosis, investigate the impact of chance on genetics, and more. Includes materials kit and 144-page guide.	T8-49542	\$334.95
Human Biology and Health	Students gain an understanding of anatomy and physiology with 16 hands-on lab investigations. Students test their senses, conduct diagnostic tests on simulated blood and urine samples, create a model of the kidney, and more. Includes materials kit and 168-page guide.	T8-49543	\$334.95
Life Science Modules Set	Includes the 5 Life Science Modules listed above.	T8-49748	\$1,695.00

Middle School Curriculum Modules—Physical Science

Motion, Forces, and Energy	16 hands-on lab investigations lead students to explore Newton's laws of motion, measure motion, calculate velocity and acceleration, investigate gravity, and experiment with the flow of heat. Includes materials kit and 144-page guide.	T8-49549	\$464.95
Electricity, Magnetism, Sound, and Light	Students will learn how magnetic poles are defined, build a voltaic wet cell, observe the effects of static electricity, classify materials as conductors or insulators, investigate the Doppler effect, and more through 14 hands-on lab investigations. Includes materials kit and 184-page guide.	T8-49550	\$625.00
Physical Science Modules Set	Includes the 2 Physical Science Modules listed above.	T8-49749	\$999.00

Complete Middle School Curriculum Modules Collection	Includes the 9 Modules listed above.	T8-55626	\$3,299.00
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BEST VALUE!

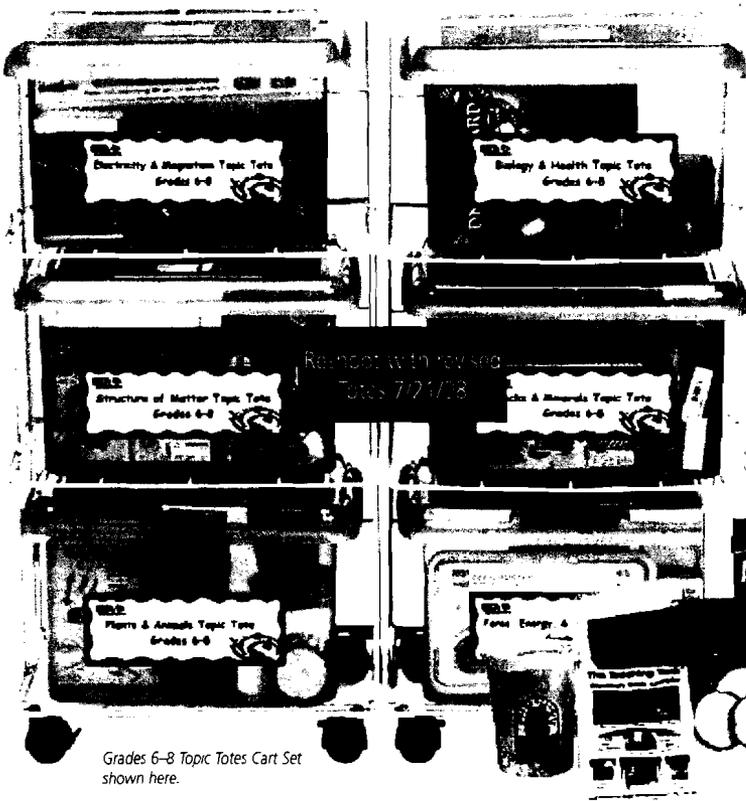
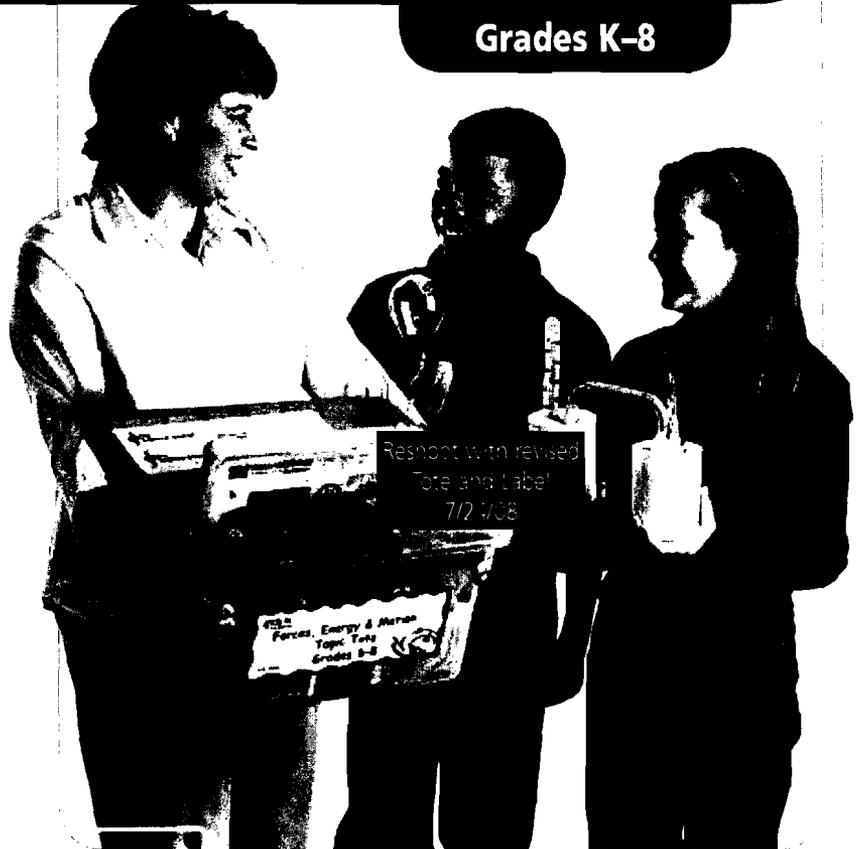
Topic Totes

Supplement Any Classroom Science Center or Afterschool Program!

Grades K-8

EXCLUSIVE!

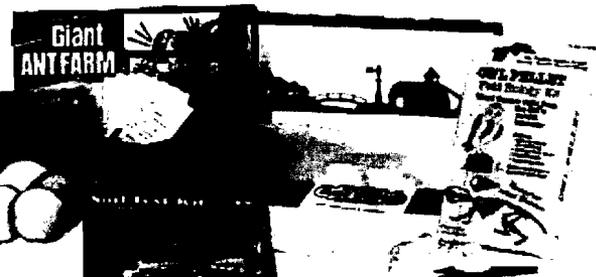
- Topic-specific, hands-on materials, teacher demonstrations, and classroom experiments are ready-to-use and require minimal preparation or science background.
- All components include complete instructions with activity suggestions.
- NSE Standards-based topics supplement any basal science curriculum and prepare students for standardized tests.
- Modular storage totes provide for easy classroom and resource center management.



Grades 6-8 Topic Totes Cart Set shown here.

FREE Trolley Carts with purchase of any Topic Totes Cart Set— a \$49.95 value each!

- Sturdy Trolley Carts are perfect for science resource centers and transporting Topic Totes among classrooms.



Grades 6-8 Plants & Animals Topic Tote shown here.

Grades K-2

Science Topic Totes Cart Set		Item #	Price
Grades K-2 Science Topic Totes Cart Set <i>Includes the 3 Topic Totes below.</i>	Introduce science to primary students with the developmentally appropriate materials in this Topic Totes Cart Set! This set contains the 3 Topic Totes listed below and 1 sturdy trolley cart for easy storage and portability. 	T8-55946	\$259.95
Topic Tote: Plants & Animals	Includes butterfly habitat, Sprout & Grow Window™ planter, 5 Senses game, 4 sets of animal game cards, and Clip-it-z™ Life Cycle Card Set.	T8-55943	\$89.95
Topic Tote: Earth & Space	Includes weather graph chart, demonstration thermometer, space card set, solar system floor puzzle, volcano kit, and an inflatable eclipse kit.	T8-55944	\$89.95
Topic Tote: Force, Motion & Energy	Includes stomp rockets, gears activity set, magnetism learning set, color paddles, and a Static Tube.	T8-55945	\$89.95

Grades 3-5

Science Topic Totes Cart Set		Item #	Price
Grades 3-5 Science Topic Totes Cart Set <i>Includes the 6 Topic Totes below.</i>	Promote science education in the elementary grades with this extensive Topics Totes Cart Set! The set contains the 6 Topic Totes described below and 2 sturdy trolley carts for easy storage and portability. 	T8-55949	\$639.95
Topic Tote: Animals	Includes Clip-it-z Food Web Card Set, TriSci™ Animal Classification Card Sets, ant farm, ant anatomy poster, animals video, frog model, and sea-monkey habitat.	T8-55950	\$109.95
Topic Tote: Plants	Includes tabletop greenhouse, garden planting kit, plant model, and tree identification kit, and flower model.	T8-55951	\$109.95
Topic Tote: Human Body & Health	Includes human body model, bones activity book, Healthy Hurdles game, stethoscopes, heart sounds CD, and activity guide.	T8-55952	\$109.95
Topic Tote: Weather & Space	Includes weather station, water cycle model, solar system stamp set, star theater, storm watch set, and constellations chart set.	T8-55953	\$109.95
Topic Tote: Matter & Energy	Includes Magna-Flakes Kit, Snap Circuits, Kitchen Science Kit, magnetism activity set, Explorabook activity guide, and magnetic demonstration set.	T8-55954	\$109.95
Topic Tote: Force & Motion	Includes pulley kit, How Things Work Kit, levers set, gears set, and motion activity guide.	T8-55955	\$109.95

Grades 6-8

Science Topic Totes Cart Set		Item #	Price
Grades 6-8 Science Topic Totes Cart Set <i>Includes the 6 Topic Totes below.</i>	Supplement science education in the middle grades with this comprehensive Topic Totes Cart Set! The set contains the 6 Topic Totes described below and 2 sturdy, trolley carts for easy storage and portability. 	T8-55962	\$729.95
Topic Tote: Plants & Animals	Includes soil test kit, potting soil, flower pots, seeds, ant farm, Crystal Soil™, Teaching Tank, owl pellet kit, and tree cookies.	T8-55956	\$124.95
Topic Tote: Biology & Health	Includes DNA Wizard kit, Drugs, Alcohol, and Tobacco Situation Card Set, human body activity kit, human torso model, and animal cell model.	T8-55957	\$124.95
Topic Tote: Rocks & Minerals	Includes volcano kit, mineral test kit, minerals collection, crystals kit, Clever Catch® Rocks Ball, and Clever Catch Minerals Ball.	T8-55958	\$124.95
Topic Tote: Structure of Matter	Includes Connecting Periodic Table Tiles, slime science kit, Spotlight on Science Cooking Up Science kit, molecular model set, and reference book.	T8-55959	\$124.95
Topic Tote: Electricity & Magnetism	Includes magnetic demonstration set, Two-Potato Clock, electrical circuits kit, and an electricity activity kit.	T8-55960	\$124.95
Topic Tote: Force, Energy & Motion	Includes Heat Transfer Kit, How Things Work Kit, solar energy kit, wheels and axles set, gyroscope, and motion activity guide.	T8-55961	\$124.95

Resource materials included with Science Topic Totes change periodically as the materials are updated. Visit www.etacuisenaire.com/tt to view the most recent listing of materials included in each Topic Tote.

Center Stage[®] SCIENCE

Grades 1-5

EXCLUSIVE!

Ready-to-Use Science Centers Promote Independent Learning!

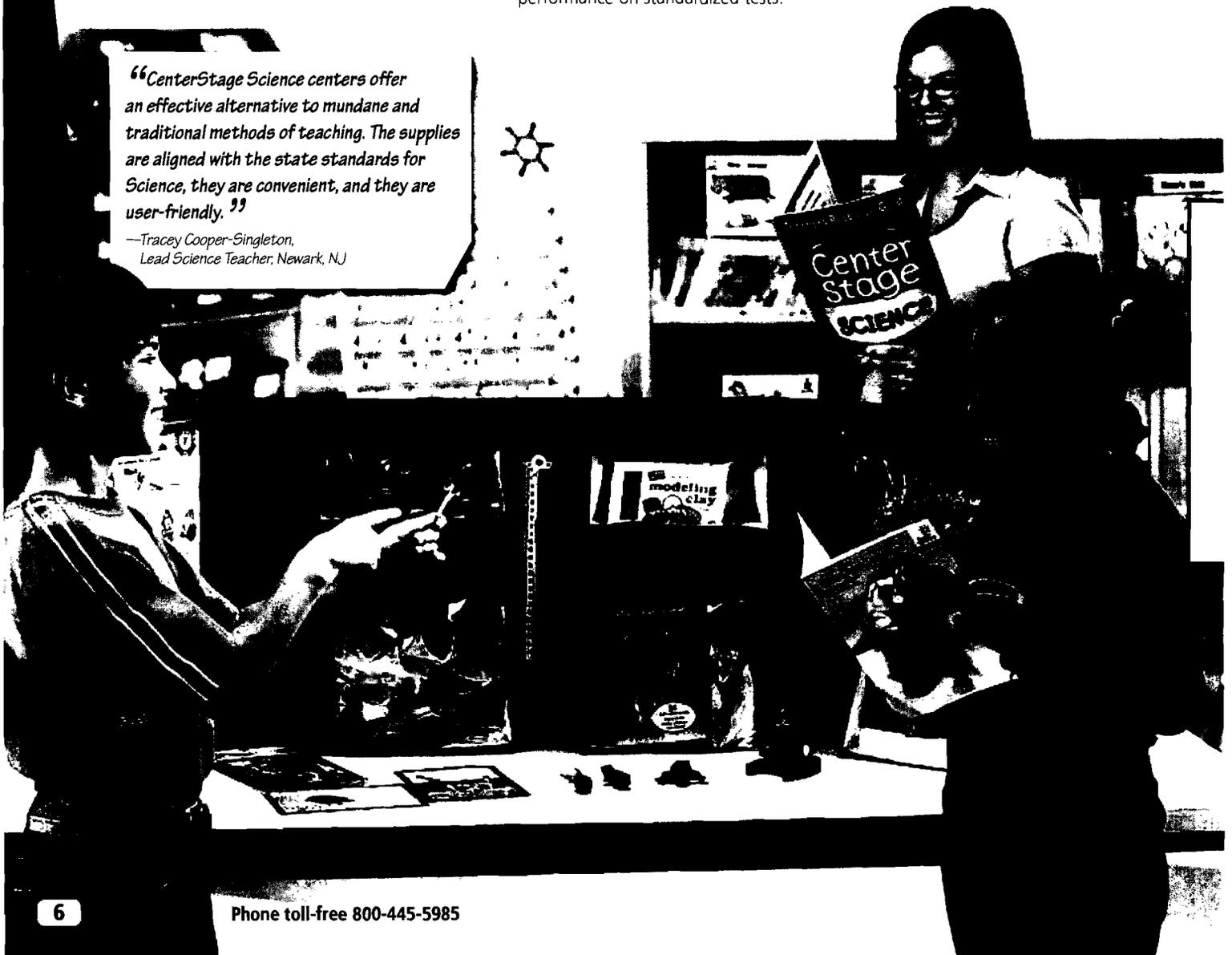
Create a complete center-based learning environment for life, earth, and physical science, and save hours of time preparing activities and searching for materials. Each self-contained center features—

- Eighteen ready-to-use explorations and experiments directly aligned to leading science textbooks and state curriculum standards
- All of the hands-on science materials required to perform the activities
- User-friendly support materials for teachers and classroom volunteers

CenterStage Science[®] experiments and activities encourage students to work collaboratively while building knowledge and skills essential to successful performance on standardized tests.

“CenterStage Science centers offer an effective alternative to mundane and traditional methods of teaching. The supplies are aligned with the state standards for Science, they are convenient, and they are user-friendly.”

—Tracey Cooper-Singleton,
Lead Science Teacher, Newark, NJ



Reinforce Science Instruction with Centers!

CenterStage® Science centers—

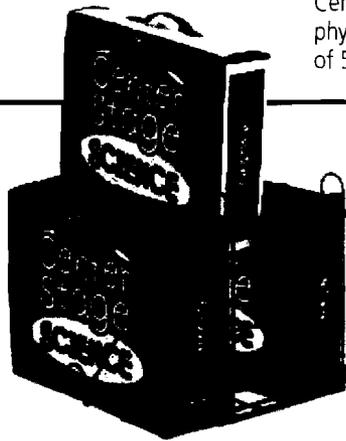
- Set up quickly and save preparation time—just choose an Activity Card, select the materials, demonstrate the activity, and students are ready to start working
- Can be used one center at a time by one or two students or simultaneously to create a complete center-based classroom
- Store easily in the compact floor rack included FREE with each Classroom Package (see below)



CenterStage Science Grade 3 Classroom Package shown here.

Grade-Level Classroom Packages Offer the Best Value!

CenterStage Science Classroom Packages include 3 grade-level centers, one each for life, earth, and physical science, plus a FREE storage rack—a \$49.95 value! Each Classroom Package contains a total of 54 ready-to-use activities. See pages 10 and 11 for detailed topic information.



Grade 1 CenterStage Science Classroom Package

⚠ SMALL PARTS. Not for < 3 yrs.: ⚠ MARBLE. Not for < 3 yrs.:
⚠ REQUIRES BATTERIES.
T8P-52210 \$699.00

Grade 2 CenterStage Science Classroom Package

⚠ SMALL PARTS. Not for < 3 yrs.: ⚠ SMALL MAGNETS. Not for < 8 yrs.: ⚠ REQUIRES BATTERIES.
T8P-52220 \$699.00

Grade 3 CenterStage Science Classroom Package

⚠ SMALL PARTS. Not for < 3 yrs.: ⚠ MARBLE. Not for < 3 yrs.:
⚠ REQUIRES BATTERIES.
T8P-52230 \$699.00

Grade 4 CenterStage Science Classroom Package

⚠ SMALL PARTS. Not for < 3 yrs.: ⚠ REQUIRES BATTERIES.:
⚠ HARMFUL.
T8P-52240 \$699.00

Grade 5 CenterStage Science Classroom Package

⚠ SMALL PARTS. Not for < 3 yrs.: ⚠ REQUIRES BATTERIES.:
⚠ HARMFUL.
T8P-52250 \$699.00

⚠ SMALL PARTS. Not for < 3 yrs.

⚠ WARNING:
CHOKING HAZARD--Small parts. Not for children under 3 yrs.

⚠ MARBLE. Not for < 3 yrs.

⚠ WARNING:
CHOKING HAZARD--This toy is a marble. Not for children under 3 yrs.

⚠ MARBLE. Not for < 3 yrs.

⚠ WARNING:
CHOKING HAZARD--Toy contains a marble. Not for children under 3 yrs.

⚠ SMALL MAGNETS. Not for < 8 yrs.

⚠ 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.

⚠ REQUIRES BATTERIES.

⚠ WARNING:
Battery operated toys. Do not mix old and new batteries. Do not mix alkaline, standard (carbon-zinc) or rechargeable (nickel-cadmium) batteries.

OVERFLOW FROM 2008 CATALOG PAGES 6–7

Easy-to-Use Resources Support All Teachers

- Classroom management suggestions
- Content background and information
- Correlations to national standards
- Blackline masters and much more!

CenterStage Centers are available for Math and Literacy too! See the ETA/Cuisenaire® Math and Reading Catalogs or visit www.eta-cuisenaire.com/centerstage for information.

CenterStage Science covers these NSE Standards-based topics and more:

Life Science

- Animal characteristics and classification
- Habitats
- Plant structures
- Life cycles
- Adaptations of plants and animals
- Human body systems
- Interactions in ecosystems

Earth Science

- Rocks, minerals, and fossils
- Dinosaurs
- Earth's changing surface
- Weather
- Water cycle
- Sun, Moon, and the seasons

Physical Science

- Electric circuits
- Simple machines
- Light
- Motion and forces
- Magnetism
- Sound
- Properties of matter
- Heat energy

Center Stage SCIENCE

**Save When
You Buy a Grade-
Level Classroom
Package!**

**Classroom Packages include
all three grade-level centers
and a FREE storage rack,
a \$49.95 value!**

**Grade 1 CenterStage Science
Classroom Package**

⚠ SMALL PARTS. Not for < 3 yrs.: ⚠ MARBLE. Not for < 3 yrs.: ⚠ REQUIRES BATTERIES.
T8P-52210 \$699.00

**Grade 2 CenterStage Science
Classroom Package**

⚠ SMALL PARTS. Not for < 3 yrs.: ⚠ SMALL MAGNETS. Not for < 8 yrs.: ⚠ REQUIRES BATTERIES.
T8P-52220 \$699.00

**Grade 3 CenterStage Science
Classroom Package**

⚠ SMALL PARTS. Not for < 3 yrs.: ⚠ MARBLE. Not for < 3 yrs.: ⚠ REQUIRES BATTERIES.
T8P-52230 \$699.00

**Grade 4 CenterStage Science
Classroom Package**

⚠ SMALL PARTS. Not for < 3 yrs.: ⚠ REQUIRES BATTERIES.: ⚠ HARMFUL.
T8P-52240 \$699.00

**Grade 5 CenterStage Science
Classroom Package**

⚠ SMALL PARTS. Not for < 3 yrs.: ⚠ REQUIRES BATTERIES.: ⚠ HARMFUL.
T8P-52250 \$699.00

Grade 1 CenterStage® Science Centers



BEST VALUE!

**Grade 1 CenterStage Science
Classroom Package**

Includes all 3 centers listed below and a FREE convenient storage rack.
⚠ SMALL PARTS. Not for < 3 yrs.:
⚠ MARBLE. Not for < 3 yrs.:
⚠ REQUIRES BATTERIES.
**Extra-Value Savings—
an \$824.85 Value!**

T8P-52210 \$699.00

Grade 1 CenterStage Science Life Science Center

Topics covered include: • Characteristics of mammals • Organs of the human body • The senses and how they work • Characteristics of organisms • Plant classification • Characteristics of seeds and plants • Animals and their babies • Plant life cycles • Bird life cycles • Animal camouflage • Animal food chains • Tooth structure and diet • And more! ⚠ SMALL PARTS. Not for < 3 yrs.: ⚠ REQUIRES BATTERIES.
T8P-52211 \$274.95

⚠ SMALL PARTS. Not for < 3 yrs.

⚠ WARNING:
CHOKING HAZARD--Small parts. Not for children under 3 yrs.

⚠ MARBLE. Not for < 3 yrs.

⚠ WARNING:
CHOKING HAZARD--Toy contains a marble. Not for children under 3 yrs.

⚠ REQUIRES BATTERIES.

⚠ WARNING:
Battery operated toys. Do not mix old and new batteries. Do not mix alkaline, standard (carbon-zinc) or rechargeable (nickel-cadmium) batteries.

Grade 2 CenterStage Science Centers



BEST VALUE!

**Grade 2 CenterStage Science
Classroom Package**

Includes all 3 centers listed below and a FREE convenient storage rack.
⚠ SMALL PARTS. Not for < 3 yrs.:
⚠ SMALL MAGNETS. Not for < 8 yrs.:
⚠ REQUIRES BATTERIES.
**Extra-Value Savings—
an \$824.85 Value!**

T8P-52220 \$699.00

Grade 2 CenterStage Science Life Science Center (shown above)

Topics covered include: • Compare and contrast organisms • Characteristics of dinosaurs • Life cycle of a meal worm • Insect body parts • Differentiate between mammals, reptiles, and amphibians • Characteristics of leaves • Leaf classification • Functions of the eye • Inherited traits • Animal habitats • Animals' appearance and habits • And more! ⚠ SMALL PARTS. Not for < 3 yrs.: ⚠ HARMFUL.
T8P-52221 \$274.95

⚠ MARBLE. Not for < 3 yrs.

⚠ WARNING:
CHOKING HAZARD--This toy is a marble. Not for children under 3 yrs.

⚠ SMALL MAGNETS. Not for < 8 yrs.

⚠ 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.

⚠ HARMFUL.

⚠ WARNING:
May be harmful if swallowed.

Grade 3 CenterStage® Science Centers



BEST VALUE!

Grade 3 CenterStage Science Classroom Package

Includes all 3 centers listed below and a FREE convenient storage rack.

- ⚠ SMALL PARTS. Not for < 3 yrs.:
- ⚠ MARBLE. Not for < 3 yrs.:
- ⚠ REQUIRES BATTERIES.

**Extra-Value Savings—
an \$824.85 Value!**

T8P-52230 \$699.00

Grade 4 CenterStage Science Centers



BEST VALUE!

Grade 4 CenterStage Science Classroom Package

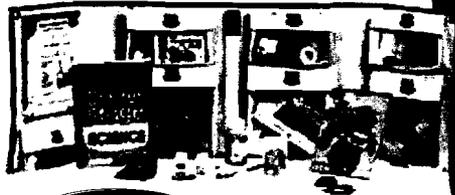
Includes all 3 centers listed below and a FREE convenient storage rack.

- ⚠ SMALL PARTS. Not for < 3 yrs.:
- ⚠ REQUIRES BATTERIES.:
- ⚠ HARMFUL.

**Extra-Value Savings—
an \$824.85 Value!**

T8P-52240 \$699.00

Grade 5 CenterStage Science Centers



BEST VALUE!

Grade 5 CenterStage Science Classroom Package

Includes all 3 centers listed below and a FREE convenient storage rack.

- ⚠ SMALL PARTS. Not for < 3 yrs.:
- ⚠ REQUIRES BATTERIES.:
- ⚠ HARMFUL.

**Extra-Value Savings—
an \$824.85 Value!**

T8P-52250 \$699.00

Grade 3 CenterStage Science Life Science Center

Topics covered include: • Insects' body parts and functions • Spiders and their webs • Earthworms and composting • Characteristics of organisms • Plant and animal adaptations to their environment • Characteristics of animals • Tree trunk analysis • How lungs function • Effects of exercise on heart and respiration rates • The digestive system • And more! ⚠ SMALL PARTS. Not for < 3 yrs.

T8P-52231 \$274.95

Grade 3 CenterStage Science Earth Science Center (shown above)

Topics covered include: • Mineral identification • Properties of minerals • Streak tests • Soil comparisons • Soil textures • Soil erosion • Characteristics of fossils • The solar system • Identify parts of a volcano • Causes of earthquakes • Types of clouds • Different forms of weather • And more! ⚠ SMALL PARTS. Not for < 3 yrs.

T8P-52232 \$274.95

⚠ SMALL PARTS. Not for < 3 yrs.

⚠ WARNING:
CHOKING HAZARD--Small parts. Not for children under 3 yrs.

⚠ HARMFUL.

⚠ WARNING:
May be harmful if swallowed.

Grade 4 CenterStage Science Life Science Center (shown above)

Topics covered include: • Animal adaptations • Plant adaptations • Life cycle of the ant • Seed dispersal methods • Structure and function of feathers • Life cycle of the frog • Structures and life cycles of plants • How an ant colony works • How a bird's beak is adapted to the food it eats • Inherited and acquired characteristics • And more! ⚠ SMALL PARTS. Not for < 3 yrs.:

⚠ HARMFUL.

T8P-52241 \$274.95

Grade 4 CenterStage Science Earth Science Center

Topics covered include: • Properties of minerals • Mineral hardness tests • Shapes and sizes of crystals • Compositions of sedimentary rocks • Composition of soil • How fossils form • Natural resources • How stars make a constellation • Volcano formation and eruption • Sun as a source of heat and light • Fault movements • And more! ⚠ SMALL PARTS. Not for < 3 yrs.:

⚠ REQUIRES BATTERIES.

T8P-52242 \$274.95

⚠ MARBLE. Not for < 3 yrs.

⚠ WARNING:
CHOKING HAZARD--This toy is a marble. Not for children under 3 yrs.

Grade 5 CenterStage Science Life Science Center

Topics covered include: • Plant and animal cells • How cells grow and divide • Parts of the circulatory system • Parts of the digestive system • Observe microscopic organisms • Extracting DNA • The structure of DNA and replication • Dominant and recessive genes • Compounds responsible for photosynthesis • And more! ⚠ SMALL PARTS. Not for < 3 yrs.

T8P-52251 \$274.95

Grade 5 CenterStage Science Earth Science Center

Topics covered include: • The layers of Earth • Plate tectonics • Theory of continental drift • Earthquakes • The rock cycle • Soil profiles • The water cycle • Water as a solvent • Atmospheric gases • Ocean currents • A monsoon climate • Fossil records • The concept of parallax • Lunar and solar eclipses • Gravity • And more! ⚠ SMALL PARTS. Not for < 3 yrs.:

⚠ REQUIRES BATTERIES.
T8P-52252 \$274.95

⚠ REQUIRES BATTERIES.

⚠ WARNING:
Battery operated toys. Do not mix old and new batteries. Do not mix alkaline, standard (carbon-zinc) or rechargeable (nickel-cadmium) batteries.

OVERFLOW FROM 2008 CATALOG PAGES 8-9

Visit our website
www.etcuisenaire.com/centerstagescience
 for detailed lists of center materials.

Grade 1 CenterStage Science

Earth Science Center (shown above)

Topics covered include: • The water cycle • Classification of rocks • Properties of Earth materials • Recycling • Water usage and conservation • Characteristics of soils • Fossils and shells • Earth's orbit • Classification of objects in the sky • Seasons • Cloud shapes and movement • Causes of day and night • Effects of the sun • And more! \triangle SMALL PARTS. Not for < 3 yrs.

T8P-52212 **\$274.95**

Grade 1 CenterStage Science Physical Science Center

Topics covered include: • Physical properties of objects • Classification of objects • Density and mass • States of matter • Motion and position • How gears work • Sounds • How light travels • Primary and secondary colors • Static electricity • Magnetic attraction • Properties of magnets • Strength of magnets • And more! \triangle SMALL PARTS. Not for < 3 yrs.: \triangle MARBLE. Not for < 3 yrs.

T8P-52213 **\$274.95**

Grade 2 CenterStage Science Earth Science Center

Topics covered include: • Classification of rocks • Properties of rocks • Weathering • Dinosaur tracks; fossil identification; fault lines • Volcanoes and volcanic rocks • Humidity • Effects of static electricity • The phases of the moon • Identify the planets in our solar system • And more! \triangle SMALL PARTS. Not for < 3 yrs.

T8P-52222 **\$274.95**

Grade 2 CenterStage Science Physical Science Center

Topics covered include: • Sorting and classification of objects • Determination of mass • Properties of liquids and solids • How levers work • Analyze a pendulum's swing • How ramps work • Gears and drive belts • Sound as vibration • Light reflection • How water magnifies • Electric circuits • Identify conductors and insulators • And more! \triangle SMALL PARTS. Not for < 3 yrs.: \triangle SMALL MAGNETS. Not for < 8 yrs.: \triangle REQUIRES BATTERIES.

T8P-52223 **\$274.95**

Grade 3 CenterStage Science Physical Science Center

Topics covered include: • Mass as a physical property • Identify physical properties of objects • Identify states of matter • Study concepts related to strength in construction • How an inclined plane works • Explore series and parallel circuits • How shape affects an object • And more! \triangle SMALL PARTS. Not for < 3 yrs.: \triangle MARBLE. Not for < 3 yrs.: \triangle REQUIRES BATTERIES.

T8P-52233 **\$274.95**

Grade 4 CenterStage Science Physical Science Center

Topics covered include: • Classification of objects with a dichotomous key • Chemical changes • Air as matter • How pulleys work • Motion as a measure of force • Magnetic fields • How a pendulum works • Factors that determine pitch • Light reflection • Effects of refraction • Conductors of heat • How a battery produces power • And more! \triangle SMALL PARTS. Not for < 3 yrs.

T8P-52243 **\$274.95**

Grade 5 CenterStage Science Physical Science Center (shown above)

Topics covered include: • Density of objects • Properties of liquids • Separating mixtures • The buoyant force of water • Chemical properties of common substances • Molecular models • The Law of Conservation of Mass • Motors • The effects of inertia and friction • Forms of energy • Observe convection • Properties of color • Build a kaleidoscope • And more! \triangle SMALL PARTS. Not for < 3 yrs.

T8P-52253 **\$274.95**

\triangle SMALL PARTS. Not for < 3 yrs.

WARNING:
CHOKING HAZARD--Small parts. Not for children under 3 yrs.

\triangle MARBLE. Not for < 3 yrs.

WARNING:
CHOKING HAZARD--This toy is a marble. Not for children under 3 yrs.

\triangle MARBLE. Not for < 3 yrs.

WARNING:
CHOKING HAZARD--Toy contains a marble. Not for children under 3 yrs.

\triangle SMALL MAGNETS. Not for < 8 yrs.

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.

\triangle REQUIRES BATTERIES.

WARNING:
 Battery operated toys. Do not mix old and new batteries. Do not mix alkaline, standard (carbon-zinc) or rechargeable (nickel-cadmium) batteries.

Foster Hands-On, Minds-On Inquiry with Activity-Based Modules!

- Nine classroom-size modules focus on standards-based science concepts appearing on state assessments.
- Each module contains 14 different explorations, plus teacher demonstrations and suggested extension activities that maximize limited instructional time.
- Core concepts and science content are clearly defined and presented in the grade-level appropriate depth.
- Multiple-grade coverage makes the program easy to implement in any science curriculum.
- User-friendly and engaging for both teachers and students.



Power of Science² Rocks and Minerals Kit

Each Power of Science² Kit includes—

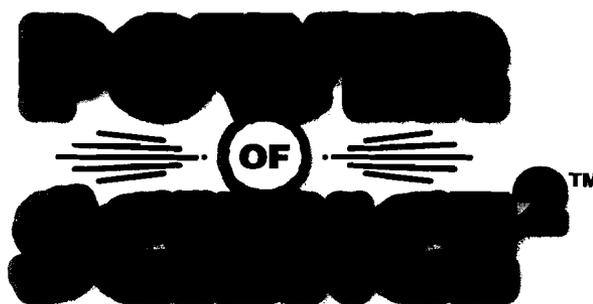
- Quality, ready-to-use materials, experiments, and extension activities
- Enough non-consumable materials for 24 students working in teams of 3 children
- User-friendly Teacher's Guides with background information, clearly scripted demonstrations, and extension activities

Power of Science² correlates to these NSE Standards-based topics:

- Earth science
- Life science
- Physical science
- Science as inquiry
- Unifying concepts and processes
- History and nature of science
- Science in personal and social perspectives



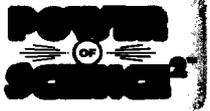
EXCLUSIVE!



Grades 4-6

“These kits have all the materials you need, and they correlate well with our state science objectives. The hands-on activities and experiments help students to see and feel the concept. It is a much better way to learn than just reading a textbook!”

*—Nancy West,
Teacher & School Administrator,
Maryville, TN*



Comprehensive Teacher's Guides Provide Step-By-Step Instructions for Hands-On Activities!

Each 88-page Teacher's Guide features—

- Correlations to NSE Standards
- 8 Teacher Demonstrations
- 16 reproducible Student Experiments with background information
- 16 Going Further extension activities
- Blackline masters, assessment approaches, a glossary, and a list of related children's literature

Materials list simplifies preparation.

Clear, concise instructions ensure foolproof demonstrations.

Engaging questions encourage class participation.

Power of Science² Astronomy Kit sample pages shown here.

Teacher Demonstration

Unit 6 **TEACHER DEMONSTRATION**

Comets and Meteoroids: Classroom Comet

You Will Need

- water
- dry ice (about 5 lbs)
- ice chest
- sand or dirt
- ammonia
- apple juice
- large plastic mixing bowl
- plastic garbage bags (2)
- insulated work gloves
- hammer or rubber mallet
- large spoon
- plastic tub

What to Do

1. Cut open a garbage bag. Line the mixing bowl with it.
2. Add two spoonfuls of sand or dirt, a splash of apple juice, a splash of ammonia, and four cups of water to the bowl. Mix well.
3. Put the dry ice into a second garbage bag. **Caution: Wear insulated gloves!**
4. Crush the dry ice into fine pieces. Add to the mixing bowl.
5. Stir the mixture until it is almost frozen.
6. Take the comet out of the bowl lining. Shape it as you would a sphere—real comets aren't all spheres.
7. Unwrap the comet when it is to be held in shape.
8. Put the comet on display in a plastic tub. Have students examine it.

Questions to Ask

1. What exactly are comets? Why are they sometimes called "dirty snowballs" (Comets are chunks of ice with dust particles embedded in them.)
2. Why are comets of interest to us? (Comets formed at the same time as the solar system and could tell us about what things were like at that time.)
3. What happens to a comet when it gets closer to the Sun? (It heats up and vaporizes, releasing dust and gas in the form of a long tail.)
4. How is this model comet like a real comet? (It contains the same ingredients as a real comet and sublimates like a comet when heated.)

Student Experiment

Unit 6 **STUDENT EXPERIMENT 1**

Comets and Meteoroids: Simulating Moon Craters

What happens when space rocks crash into the Moon?

You Will Need

- newspaper
- aluminum pan
- flour
- powdered cocoa mix
- small marble
- large marble
- meteorstick
- craft stick

What to Do

1. Cover your work area with newspaper. Place the pan on the newspaper.
2. Fill the pan with flour about 5 cm deep. Gently stir the pan from side to side to make the surface even.
3. Cover the flour with powdered cocoa. Sprinkle in just enough cocoa to cover up the flour. (This represents the Moon surface.)
4. Measure 25 cm from the surface with a meteorstick. Drop a small marble onto the surface from that height. Observe what happens.
5. Measure the depth and diameter of the crater and the length of any rays that form. To measure the crater's depth, first carefully remove the marble. Stand a craft stick on the bottom of the crater. Mark the top of the crater on the stick. Measure the marked area.
6. Draw a picture of the crater. Record your findings on the data chart.
7. Repeat steps 4–6 for heights of 50 cm and 1 m. Be sure to drop the marble on a different part of the surface each time so the craters don't overlap.
8. Smooth out the flour-cocoa surface. Add more cocoa to the top layer if needed.
9. Repeat steps 4–7 with the large marble.

What Did You Find?

Did changing the height of the marble affect the size and shape of the craters? Did changing the size of the marble affect the size and shape of the craters? How are the size, weight, and speed of a falling space object connected to crater size and shape?

Step-by-step directions allow students to complete the experiments on their own.

Analysis questions promote critical thinking.

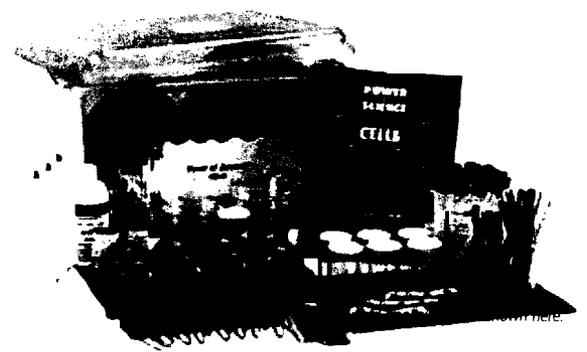
Power of Science²™ Life Science Kits

Cells Delve into the microscopic world of cells with hands-on activities that cover the origin of living cells; cell theory; cell structure and function; diffusion and osmosis; cells and energy; chemical compounds in living cells; cell growth and division; and cell organization. Kit includes Teacher's Guide, slide strips, cell blobs, forceps, magnifiers, and other materials needed to complete the activities. ⚠ SMALL PARTS. Not for < 3 yrs.: ⚠ BALLOON. Not for < 8 yrs.:

⚠ ADULT SUPERVISION.	
T8P-55492 Cells Kit	\$199.95
T8P-55709 Cells Refill Kit	\$84.95

Human Body Explore the wonders of the human body with hands-on activities that cover the skeletal, muscular, circulatory, digestive, respiratory, and nervous systems; the senses; and health and hygiene. Kit includes Teacher's Guide, mirrors, thermometers, timers, and other materials needed to complete the activities. ⚠ SMALL PARTS. Not for < 3 yrs.: ⚠ BALLOON. Not for < 8 yrs.: ⚠ ADULT SUPERVISION.

⚠ ADULT SUPERVISION.	
T8P-55493 Human Body Kit	\$139.95
T8P-55710 Human Body Refill Kit	\$49.95



⚠ SMALL PARTS. Not for < 3 yrs.

⚠ WARNING:
CHOKING HAZARD--Small parts. Not for children under 3 yrs.

⚠ ADULT SUPERVISION.

⚠ WARNING:
This set contains chemicals that may be harmful if misused. Read cautions on individual containers carefully. Not to be used by children except under adult supervision.

⚠ BALLOON. Not for < 8 yrs.

⚠ WARNING:
CHOKING HAZARD--Children under 8 yrs. can choke or suffocate on uninflated or broken balloons. Adult supervision required. Keep uninflated balloons from children. Discard broken balloons at once.

⚠ SMALL BALL. Not for < 3 yrs.

⚠ WARNING:
CHOKING HAZARD--Toy contains a small ball. Not for children under 3 yrs.



Power of Science²™ Mobile Exploration Center Equips Every Classroom for Science!

Buy the Exploration Center and receive three FREE Trolley Racks!

Power of Science² Exploration Center (Set of 9 Kits)

Roll science into the classroom with our Power of Science² Exploration Center! Includes the 9 kits listed on pages 26–27 and 3 free Trolley Racks (\$120.00 value) for a complete mobile science lab. ⚠ SMALL PARTS. Not for < 3 yrs.: ⚠ BALLOON. Not for < 8 yrs.: ⚠ SMALL BALL. Not for < 3 yrs.: ⚠ MARBLE. Not for < 3 yrs.: ⚠ SMALL MAGNETS. Not for < 8 yrs.: ⚠ ADULT SUPERVISION.: ⚠ SUFFOCATION.: ⚠ SHARP POINT. Not for < 4 yrs.

T8P-55491 \$1,395.00



Power of Science² refill kits are now available—replenish the modules for use year after year!

For complete list of refill kit materials, visit www.etcuisineaire.com/pos

Power of Science² Physical Science Kits

Electricity Discover what electricity is and how it can be harnessed for use! Focus on current and static electricity; series and parallel electrical circuits; switches; fuses; and electromagnets. Kit includes Teacher's Guide, bulbs, sockets, batteries, magnets, and other materials needed to complete the activities. ⚠ SMALL PARTS. Not for < 3 yrs.:

⚠ SMALL MAGNETS. Not for < 8 yrs.: ⚠ ADULT SUPERVISION.: ⚠ SHARP POINT. Not for < 4 yrs.

T8P-55497 Electricity Kit \$159.95

T8P-55719 Electricity Refill Kit \$12.95

Kits include plenty of materials for 24 students working in groups.

⚠ SMALL PARTS. Not for < 3 yrs.

⚠ WARNING:
CHOKING HAZARD--Small parts. Not for children under 3 yrs.

⚠ MARBLE. Not for < 3 yrs.

⚠ WARNING:
CHOKING HAZARD--Toy contains a marble. Not for children under 3 yrs.

⚠ SUFFOCATION.

⚠ WARNING:
Keep this bag away from babies and children. Do not use in cribs, beds, carriages or playpens. The thin film may cling to nose and mouth and prevent breathing.

⚠ BALLOON. Not for < 8 yrs.

⚠ WARNING:
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OVERFLOW FROM 2008 CATALOG PAGES 11-12

Power of Science² Earth Science Kits

Astronomy Hands-on activities will help students understand Earth's rotation and orbit; the characteristics of the planets; stars; the Moon; eclipses; comets and meteoroids; time zones and telling time using shadows; and construction of a model rocket and time capsule. Kit includes Teacher's Guide, inflatable globe, sky dome, flashlight, compasses, and other materials needed to complete the activities. ⚠️ SMALL PARTS. Not for < 3 yrs.: ⚠️ BALLOON. Not for < 8 yrs.: ⚠️ SMALL BALL. Not for < 3 yrs.:

T8P-55494 Astronomy Kit **\$139.95**
T8P-55713 Astronomy Refill Kit **\$23.95**

Rocks & Minerals Examine mineral formation; natural symmetry; crystals; weathering; fossils; and soil; and classify igneous, sedimentary, and metamorphic rocks. Kit includes Teacher's Guide, rock and mineral specimens, magnifiers, testing materials, and other materials needed to complete the activities. ⚠️ SMALL PARTS. Not for < 3 yrs.: ⚠️ ADULT SUPERVISION.

T8P-55495 Rocks & Minerals Kit **\$229.95**
T8P-55714 Rocks & Minerals Refill Kit **\$74.95**

Weather Motivate students through real-world science that covers key weather concepts: observing weather; wind speed; clouds; air pressure; humidity; rain; weather map symbols; and predicting weather. Kit includes Teacher's Guide, thermometers, barometer, compass, hygrometer, cloud chart, and other materials needed to complete the activities. ⚠️ SMALL PARTS. Not for < 3 yrs.: ⚠️ BALLOON. Not for < 8 yrs.:

T8P-55496 Weather Kit **\$139.95**
T8P-55716 Weather Refill Kit **\$15.95**

Light & Sound Unravel the mysteries of light and sound with hands-on activities that cover mirrors and reflection; prisms; visible and invisible light; telescopes; sound vibrations; sympathetic vibrations; sound waves; amplification of sound; and soundproofing. Kit includes Teacher's Guide, mirrors, magnifiers, tuning forks, color cellophane, Slinky®, prisms, and other materials needed to complete the activities. ⚠️ SMALL PARTS. Not for < 3 yrs.: ⚠️ ADULT SUPERVISION.: ⚠️ SUFFOCATION.

T8P-55498 Light & Sound Kit **\$229.00**
T8P-55720 Light & Sound Refill Kit **\$41.95**

Matter & Energy Experiment with mass; density; buoyancy; states of matter; balance; inertia; force; Newton's laws; kinetic and potential energy; heat; and physical measurements. Kit includes Teacher's Guide, thermometers, spring scales, mirrors, clay, graduated cylinder, copper wire, and other materials needed to complete the activities. ⚠️ SMALL PARTS. Not for < 3 yrs.: ⚠️ ADULT SUPERVISION.

T8P-55499 Matter & Energy Kit **\$149.95**
T8P-55723 Matter & Energy Refill Kit **\$31.95**

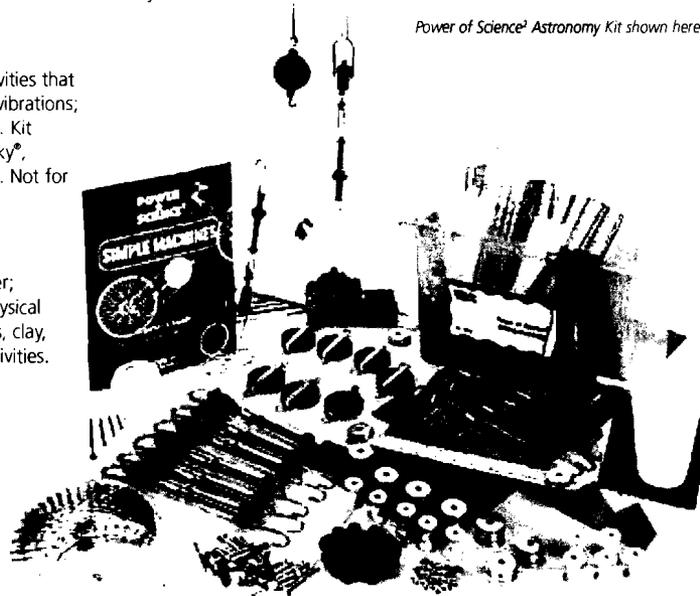
Simple Machines Explore the power of levers; wedges; inclined planes; pulleys; screws; and more to connect science with real-world applications. Kit includes Teacher's Guide, pulleys, spools, string, marbles, spring scales, and other materials needed to complete the activities.

⚠️ SMALL PARTS. Not for < 3 yrs.: ⚠️ MARBLE. Not for < 3 yrs.: ⚠️ ADULT SUPERVISION.: ⚠️ SHARP POINT. Not for < 4 yrs.

T8P-55500 Simple Machines Kit **\$189.95**
T8P-55724 Simple Machines Refill Kit **\$12.95**



Power of Science² Astronomy Kit shown here

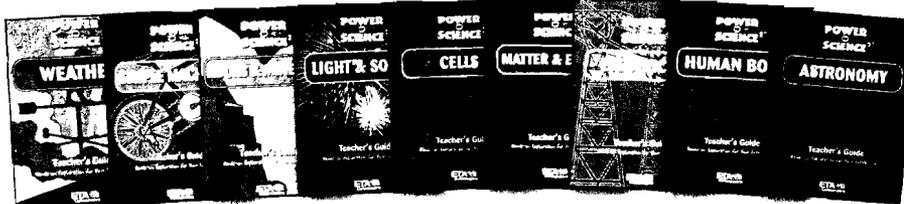


Power of Science² Simple Machines Kit shown here.

Power of Science² Teacher's Library

Each comprehensive Teacher's Guide features 88 pages of solid background support and fun, engaging, and purposeful hands-on activities for students. Library includes 1 each of the 9 Teacher's Guides from the Power of Science² Kits listed on pages 26 and 27.

T8P-49636 **\$199.95**



⚠️ SMALL PARTS. Not for < 3 yrs.

⚠️ WARNING:
CHOKING HAZARD--Small parts. Not for children under 3 yrs.

⚠️ MARBLE. Not for < 3 yrs.

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⚠️ SUFFOCATION.

⚠️ WARNING:
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Elementary & Middle School Curriculum Modules™

Grades 2-9

Meet Science Standards with a Complete Inquiry-Based Curriculum!

These hands-on science programs, developed and tested by experienced educators, can be easily implemented by both veteran and novice teachers with little or no formal science training.

Each of the 9 Elementary Science Curriculum Modules™ features—

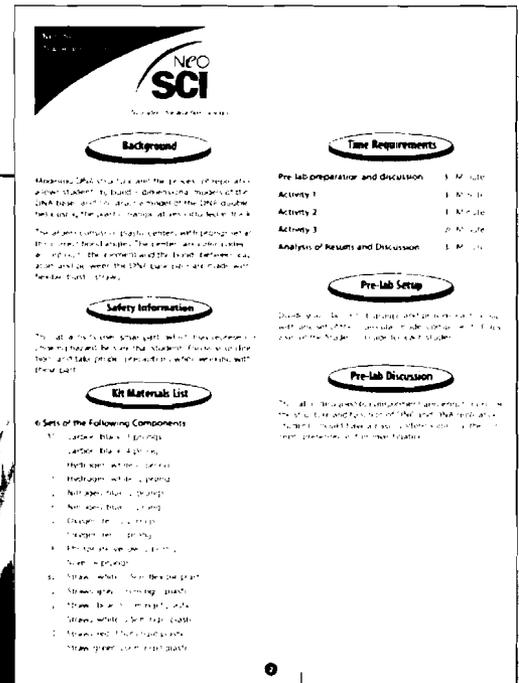
- Up to 7 multi-part, inquiry-based investigations with real-world applications
- Reproducible student worksheets with directions, data collection tables, and interpretation/analysis questions
- Comprehensive Teacher's Resource Guide with background information, assessment strategies, and more
- Professional Development Video with tips on how to effectively integrate these programs into the curriculum
- Elementary Science Assessment CD-ROM with 2 complete tests and customized test creation software
- Plenty of materials for up to 32 students

Each of the 9 Middle School Science Curriculum Modules™ features—

- Up to 6 units with as many as 19 hands-on laboratory investigations, complete background information, analysis questions, and open-ended investigations designed to develop critical-thinking skills
- Easy set up with pre-mixed solutions requiring minimal preparation time
- Comprehensive Teacher's Resource Guides with planning tips, expected outcomes, and cross-curricular integration
- Neo/Quiz™ Assessment CD-ROM for creating, printing and saving customized student tests with multiple question formats
- Plenty of materials for up to 40 students

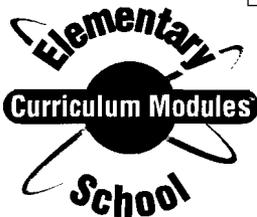


Each module includes a **FREE CD-ROM with Science Assessment Software!**



Teacher's Resource Guide features detailed objectives, explanations, and background information.

Middle School Curriculum Module Life Science: The Science of Heredity module shown above. See page 30 for more information.



Turn Elementary Students' Curiosity into Life, Earth, and Physical Science Learning!

- Comprehensive modules and carefully selected science topics prepare students for standardized testing.
- Each module includes a FREE copy of the Elementary Science Assessment Software on CD-ROM!

Physical Science Position and Motion of Objects activity shown here.

Elementary School Curriculum Modules—Earth Science

Properties of Earth Materials	Identify soil types, find out how soil affects plant growth, and discover how Earth provides us with essential resources. Includes materials kit and 38-page guide with 6 activities and extensions. ⚠ SMALL PARTS. Not for < 3 yrs.	T8-49780	\$219.95
Objects in the Sky	Study the Sun, stars, Moon, and clouds and learn how these objects in the sky affect life on Earth. Includes materials kit and guide with 6 activities and extensions. ⚠ SMALL PARTS. Not for < 3 yrs.	T8-49781	\$219.95
Changes in Earth and Sky	5 activities and extensions show how Earth is affected by its weather and the sources and effects of volcanic eruptions, earthquakes, and erosion. Includes guide and materials kit. ⚠ SMALL PARTS. Not for < 3 yrs.	T8-49782	\$219.95
Earth Science Modules Set	Includes all 3 Earth Science Modules listed above. ⚠ SMALL PARTS. Not for < 3 yrs.	T8-49783	\$649.95

Elementary School Curriculum Modules—Life Science

Characteristics of Organisms	Study the diversity of life forms, food webs, the physical structures of plants and animals, and how organisms are affected by the environment. Includes materials kit and 48-page guide with 7 activities and extensions. ⚠ SMALL PARTS. Not for < 3 yrs.	T8-49784	\$219.95
Life Cycles of Organisms	Investigate animal habitats, learn how specific characteristics are inherited, and discover how plants and animals adapt to their environments. Includes materials kit and 38-page guide with 6 activities and extensions. ⚠ SMALL PARTS. Not for < 3 yrs.	T8-49785	\$219.95
Organisms and Their Environments	Learn how animal behavior relates to and changes with the environment, about food chains and the effects of food availability, and the impact of humans on the environment. Includes materials kit and 44-page guide with 6 activities and extensions. ⚠ SMALL PARTS. Not for < 3 yrs.	T8-49786	\$219.95
Life Science Modules Set	Includes all 3 Life Science Modules listed above. ⚠ SMALL PARTS. Not for < 3 yrs.	T8-49787	\$649.95

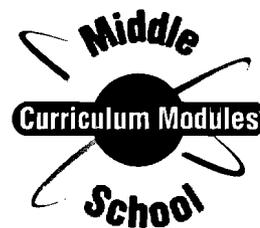
Elementary School Curriculum Modules—Physical Science

Properties of Objects and Materials	Classify objects by their material properties, and learn how substances interact and respond in their different states. Includes materials kit and guide with 5 activities and extensions. ⚠ SMALL PARTS. Not for < 3 yrs.	T8-49788	\$219.95
Position and Movement of Objects	7 activities and extensions demonstrate the types of forces and their effects on an object, as well as how sound is created and what makes sound change in pitch and intensity. Includes guide and materials kit. ⚠ SMALL PARTS. Not for < 3 yrs.	T8-49789	\$219.95

⚠ SMALL PARTS. Not for < 3 yrs

⚠ WARNING:
CHOKING HAZARD--Small parts. Not for children under 3 yrs.

Bench-Tested Lab Investigations Bring True Hands-On Science into the Middle School Classroom!



Each module includes a **FREE Neo/Quiz™ Assessment CD-ROM** for creating, printing, and saving customized student tests with multiple question formats and both practice and test modes.

Middle School Curriculum Modules™—Earth Science

Exploring the Earth's Crust	16 hands-on lab investigations lead students through the identification and classification of rocks and minerals, the formation of fossils, the rock cycle, the calculation of specific gravity, and more. Includes materials kit and 86-page guide. ⚠ SMALL PARTS. Not for < 3 yrs.	T8-49547	\$274.95
Environmental Issues and Solutions	19 hands-on lab investigations link technology to solutions for problems such as water pollution, landfills, soil quality, and oil spills. Students learn how to measure pH, how microorganisms break down soil, how to prevent water pollution, and more. Includes materials kit and 154-page guide. ⚠ SMALL PARTS. Not for < 3 yrs.	T8-49548	\$459.95
Earth Science Modules Set	Includes the 2 Earth Science Modules listed above. ⚠ SMALL PARTS. Not for < 3 yrs.	T8-49747	\$695.95

Middle School Curriculum Modules™—Life Science

Scientific Problem Solving—A Look at the Scientific Method	Students learn the scientific method through measurement, problem solving, experimentation, and basic microscope activities in 21 hands-on lab investigations. Includes materials kit and 209-page guide. ⚠ SMALL PARTS. Not for < 3 yrs.	T8-49545	\$379.95
Looking at Life—from Bacteria to Plants	Students learn about the diversity of life on Earth by constructing a miniature ecosystem, investigating pond life organisms, studying plant life cycles, graphing growth curves, and more in 15 hands-on lab investigations. Includes materials kit and 164-page guide. ⚠ SMALL PARTS. Not for < 3 yrs.: ⚠ ADULT SUPERVISION.	T8-49546	\$329.95
Cell Structure and Cell Processes	11 hands-on lab investigations provide a thorough overview of cell structure, functions, and processes. Students create models of cells, investigate osmosis and diffusion, explore cell division, and more. Includes materials kit and 124-page guide. ⚠ SMALL PARTS. Not for < 3 yrs.: ⚠ ADULT SUPERVISION.	T8-49544	\$434.95
The Science of Heredity	15 hands-on lab investigations lead students to model DNA and its replication, explore the role of chromosomes in reproduction, simulate mitosis and meiosis, investigate the impact of chance on genetics, and more. Includes materials kit and 144-page guide. ⚠ SMALL PARTS. Not for < 3 yrs.: ⚠ ADULT SUPERVISION.	T8-49542	\$334.95
Human Biology and Health	Students gain an understanding of anatomy and physiology with 16 hands-on lab investigations. Students test their senses, conduct diagnostic tests on simulated blood and urine samples, create a model of the kidney, and more. Includes materials kit and 168-page guide. ⚠ SMALL PARTS. Not for < 3 yrs.: ⚠ ADULT SUPERVISION.	T8-49543	\$334.95
Life Science Modules Set	Includes the 5 Life Science Modules listed above. ⚠ SMALL PARTS. Not for < 3 yrs.: ⚠ ADULT SUPERVISION.	T8-49748	\$1,695.00

⚠ SMALL PARTS. Not for < 3 yrs.

⚠ ADULT SUPERVISION.

⚠ WARNING:
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OVERFLOW FROM 2008 CATALOG PAGES 14-15

Light, Heat, Electricity, and Magnetism	By experimenting with a variety of materials, how to observe, measure, and control light, heat, electricity, and magnetism is explored. Includes materials kit and 39-page guide with 5 activities and extensions. ⚠ SMALL PARTS. Not for < 3 yrs.	T8-49790 \$219.95
Physical Science Modules Set	Includes all 3 Physical Science Modules listed above. ⚠ SMALL PARTS. Not for < 3 yrs.	T8-49792 \$1,899.00
Complete Elementary School Curriculum Modules Collection	All 9 modules combine to create a comprehensive, hands-on science curriculum for the elementary classroom. ⚠ SMALL PARTS. Not for < 3 yrs.	T8-49792 \$1,899.00

BEST VALUE!

Middle School Curriculum Modules—Physical Science		
Motion, Forces, and Energy	16 hands-on lab investigations lead students to explore Newton's laws of motion, measure motion, calculate velocity and acceleration, investigate gravity, and experiment with the flow of heat. Includes materials kit and 144-page guide. ⚠ SMALL PARTS. Not for < 3 yrs.	T8-49549 \$464.95
Electricity, Magnetism, Sound, and Light	Students will learn how magnetic poles are defined, build a voltaic wet cell, observe the effects of static electricity, classify materials as conductors or insulators, investigate the Doppler effect, and more through 14 hands-on lab investigations. Includes materials kit and 184-page guide. ⚠ SMALL PARTS. Not for < 3 yrs.	T8-49550 \$625.00
Physical Science Modules Set	Includes the 2 Physical Science Modules listed above. ⚠ SMALL PARTS. Not for < 3 yrs.	T8-49749 \$999.00
Complete Middle School Curriculum Modules Collection	Includes the 9 Modules listed above. ⚠ SMALL PARTS. Not for < 3 yrs.: ⚠ ADULT SUPERVISION.	T8-55626 \$3,299.00

BEST VALUE!

⚠ SMALL PARTS. Not for < 3 yrs.

⚠ ADULT SUPERVISION.

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This set contains chemicals that may be harmful if misused. Read cautions on individual containers carefully. Not to be used by children except under adult supervision.

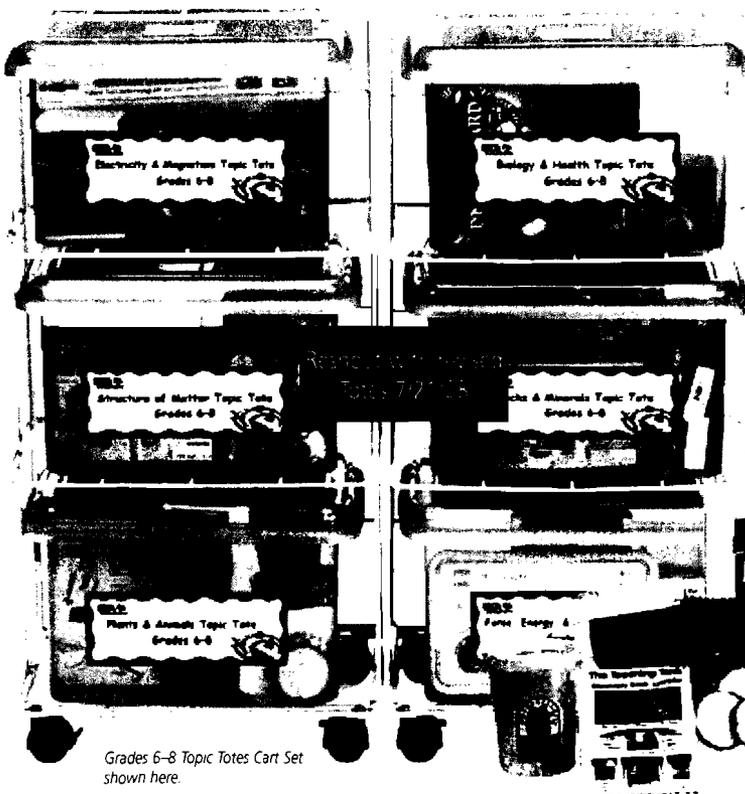
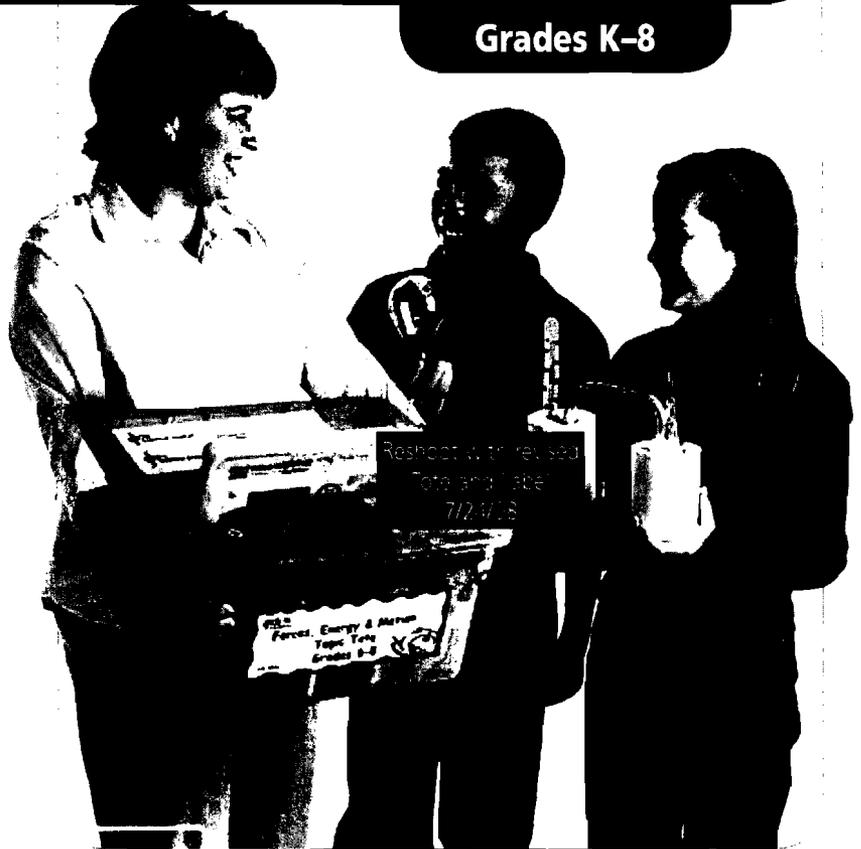
Topic Totes

Supplement Any Classroom Science Center or Afterschool Program!

Grades K-8

EXCLUSIVE!

- Topic-specific, hands-on materials, teacher demonstrations, and classroom experiments are ready-to-use and require minimal preparation or science background.
- All components include complete instructions with activity suggestions.
- NSE Standards-based topics supplement any basal science curriculum and prepare students for standardized tests.
- Modular storage totes provide for easy classroom and resource center management.



Grades 6-8 Topic Totes Cart Set shown here.

FREE Trolley Carts with purchase of any Topic Totes Cart Set— a \$49.95 value each!

- Sturdy Trolley Carts are perfect for science resource centers and transporting Topic Totes among classrooms.



Grades 6-8 Plants & Animals Topic Tote shown here.

Grades K-2

Science Topic Totes Cart Set		Item #	Price
Grades K-2 Science Topic Totes Cart Set <i>Includes the 3 Topic Totes below.</i>	Introduce science to primary students with the developmentally appropriate materials in this Topic Totes Cart Set! This set contains the 3 Topic Totes listed below and 1 sturdy trolley cart for easy storage and portability. ⚠ SMALL PARTS. Not for < 3 yrs.:	T8-55946	\$259.95
Topic Tote: Plants & Animals	Includes butterfly habitat, Sprout & Grow Window™ planter, 5 Senses game, 4 sets of animal game cards, and Clip-itiz™ Life Cycle Card Set. ⚠ SMALL PARTS. Not for < 3 yrs.: ⚠ ADULT SUPERVISION.	T8-55943	\$89.95
Topic Tote: Earth & Space	Includes weather graph chart, demonstration thermometer, space card set, solar system floor puzzle, volcano kit, and an inflatable eclipse kit. ⚠ ADULT SUPERVISION.: ⚠ NOT LIFESAVING DEVICE.	T8-55944	\$89.95
Topic Tote: Force, Motion & Energy	Includes stomp rockets, gears activity set, magnetism learning set, color paddles, and a Static Tube. ⚠ SMALL PARTS. Not for < 3 yrs.: ⚠ SMALL MAGNETS. Not for < 8 yrs.: ⚠ ADULT SUPERVISION.	T8-55945	\$89.95

Grades 3-5

Science Topic Totes Cart Set		Item #	Price
Grades 3-5 Science Topic Totes Cart Set <i>Includes the 6 Topic Totes below.</i>	Promote science education in the elementary grades with this extensive Topics Totes Cart Set! The set contains the 6 Topic Totes described below and 2 sturdy trolley carts for easy storage and portability. ⚠ SMALL PARTS. Not for < 3 yrs.: ⚠ SMALL BALL. Not for < 3 yrs.: ⚠ SMALL MAGNETS. Not for < 8 yrs.: ⚠ ADULT SUPERVISION.: ⚠ NOT LIFESAVING DEVICE.	T8-55949	\$639.95
Topic Tote: Animals	Includes Clip-itiz Food Web Card Set, TriSci™ Animal Classification Card Sets, ant farm, ant anatomy poster, animals video, frog model, and sea-monkey habitat. ⚠ SMALL PARTS. Not for < 3 yrs.:	T8-55950	\$109.95
Topic Tote: Plants	Includes tabletop greenhouse, garden planting kit, plant model, and tree identification kit, and flower model. ⚠ SMALL PARTS. Not for < 3 yrs.: ⚠ ADULT SUPERVISION.	T8-55951	\$109.95
Topic Tote: Human Body & Health	Includes human body model, bones activity book, Healthy Hurdles game, stethoscopes, heart sounds CD, and activity guide. ⚠ SMALL PARTS. Not for < 3 yrs.	T8-55952	\$109.95
Topic Tote: Weather & Space	Includes weather station, water cycle model, solar system stamp set, star theater, storm watch set, and constellations chart set. ⚠ SMALL PARTS. Not for < 3 yrs.	T8-55953	\$109.95
Topic Tote: Matter & Energy	Includes Magna-Flakes Kit, Snap Circuits, Kitchen Science Kit, magnetism activity set, Explorabook activity guide, and magnetic demonstration set. ⚠ SMALL PARTS. Not for < 3 yrs.: ⚠ SMALL BALL. Not for < 3 yrs.: ⚠ SMALL MAGNETS. Not for < 8 yrs.: ⚠ ADULT SUPERVISION.	T8-55954	\$109.95
Topic Tote: Force & Motion	Includes pulley kit, How Things Work Kit, levers set, gears set, and motion activity guide. ⚠ SMALL PARTS. Not for < 3 yrs.	T8-55955	\$109.95

Resource materials included with Science Topic Totes change periodically as the materials are updated. Visit www.etacuisenaire.com/tt to view the most recent listing of materials included in each Topic Tote.

⚠ SMALL PARTS. Not for < 3 yrs.

⚠ WARNING:
CHOKING HAZARD--Small parts. Not for children under 3 yrs.

⚠ SMALL BALL. Not for < 3 yrs.

⚠ WARNING:
CHOKING HAZARD--Toy contains a small ball. Not for children under 3 yrs.

⚠ SMALL MAGNETS. Not for < 8 yrs.

⚠ 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.

⚠ ADULT SUPERVISION.

⚠ WARNING:
 This set contains chemicals that may be harmful if misused. Read cautions on individual containers carefully. Not to be used by children except under adult supervision.

⚠ NOT LIFESAVING DEVICE.

⚠ WARNING:
 This is not a lifesaving device. Do not leave child unattended while in use.

OVERFLOW FROM 2008 CATALOG PAGES 16-17

Grades 6-8

Science Topic Totes Cart Set		Item #	Price
Grades 6-8 Science Topic Totes Cart Set <i>Includes the 6 Topic Totes below.</i>	Supplement science education in the middle grades with this comprehensive Topic Totes Cart Set! The set contains the 6 Topic Totes described below and 2 sturdy, trolley carts for easy storage and portability. ⚠ SMALL PARTS. Not for < 3 yrs.: ⚠ SMALL MAGNETS. Not for < 8 yrs.: ⚠ ADULT SUPERVISION.	BEST VALUE T8-55952	\$729.95
Topic Tote: Plants & Animals	Includes soil test kit, potting soil, flower pots, seeds, ant farm, Crystal Soil™, Teaching Tank, owl pellet kit, and tree cookies. ⚠ SMALL PARTS. Not for < 3 yrs.: ⚠ ADULT SUPERVISION.	T8-55956	\$124.95
Topic Tote: Biology & Health	Includes DNA Wizard kit, Drugs, Alcohol, and Tobacco Situation Card Set, human body activity kit, human torso model, and animal cell model. ⚠ SMALL PARTS. Not for < 3 yrs.: ⚠ ADULT SUPERVISION.	T8-55957	\$124.95
Topic Tote: Rocks & Minerals	Includes volcano kit, mineral test kit, minerals collection, crystals kit, Clever Catch® Rocks Ball, and Clever Catch Minerals Ball. ⚠ SMALL PARTS. Not for < 3 yrs.: ⚠ ADULT SUPERVISION.	T8-55958	\$124.95
Topic Tote: Structure of Matter	Includes Connecting Periodic Table Tiles, slime science kit, Spotlight on Science Cooking Up Science kit, molecular model set, and reference book. ⚠ SMALL PARTS. Not for < 3 yrs.: ⚠ ADULT SUPERVISION.	T8-55959	\$124.95
Topic Tote: Electricity & Magnetism	Includes magnetic demonstration set, Two-Potato Clock, electrical circuits kit, and an electricity activity kit. ⚠ SMALL PARTS. Not for < 3 yrs.: ⚠ ADULT SUPERVISION.	T8-55960	\$124.95
Topic Tote: Force, Energy & Motion	Includes Heat Transfer Kit, How Things Work Kit, solar energy kit, wheels and axles set, gyroscope, and motion activity guide. ⚠ SMALL PARTS. Not for < 3 yrs.: ⚠ SMALL MAGNETS. Not for < 8 yrs.	T8-55961	\$124.95

⚠ SMALL PARTS. Not for < 3 yrs.

⚠ SMALL MAGNETS. Not for < 8 yrs.

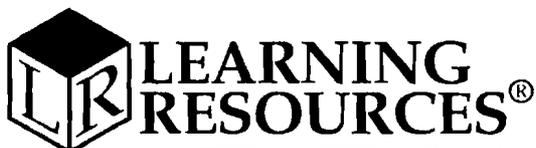
⚠ ADULT SUPERVISION.

⚠ **WARNING:**
 CHOKING HAZARD--Small parts. Not for children under 3 yrs.

⚠ **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.

⚠ **WARNING:**
 This set contains chemicals that may be harmful if misused. Read cautions on individual containers carefully. Not to be used by children except under adult supervision.

Section 105



October 16, 2008

Office of the Secretary
Consumer Product Safety Commission
Room 502
4330 East-West Highway
Bethesda, MD 20814

Re: Advertising Requirements NPR

To Whom It May Concern:

We are replying to the call for comments on the proposed advertising rules promulgated by the Consumer Product Safety Commission under Section 105 of the CPSIA, as published in the Federal Register on October 6, 2008 and which are due on October 20, 2008.

The size and placement of cautionary statements in catalogs and other written materials in light of the statutory requirement to post these statements in a manner consistent with part 1500 of title 16 of the Code of Federal Regulations; use of abbreviated warnings in catalogs.

The requirement to repeat caution labels throughout catalogs and brochures, page after page and spread after spread, will not only dilute the economic value and impact of catalog advertising to the considerable detriment of the U.S. toy and educational industries but will also desensitize consumers to the warnings themselves. This dilutive requirement will have the effect of defeating the purpose of improved consumer "right to know" warnings under the CPSIA since a disregarded warning is no better than an absent warning. Endless reproduction of the same warning will train consumers to ignore warnings rather than read them and absorb their content. Since many lawful toys are required to carry warning labels, it can be anticipated that many toy and educational catalogs will be chock-a-block with warnings, sometimes consuming a large percentage of page space on some spreads.

We believe a more effective rule consistent with the CPSIA is to require warning icons next to the product name, product image or product part number and price (see Appendix A). We believe the Commission is empowered to issue rules authorizing icons over the actual warning labels under Section 105(2) of the CPSIA (referring to 15 CFR 1278(24)(c)(1)(a)). The icon size should mirror the surrounding body copy font size (but not smaller than 0.08 inches in height) and incorporate the universally recognized yellow warning triangle with exclamation mark. Each icon should be numbered to correspond to different warnings, and such warnings must be featured in a table or legend in at least one place in the catalog. If toy manufacturers incorporate warnings on packaging which are not required under U.S. law, these warnings should also be required to be marked in catalogs using similar icons. A prominent tagline or message should appear not less frequently than on every other two-page spread in the catalog directing consumers to a warning label/warning icon legend within the catalog.

Icons efficiently convey the necessary information to consumers in shorthand, and thus make abbreviated warnings unnecessary. Abbreviated warnings, despite their brevity, will interfere with catalog presentations and will eventually have the same dilutive effect as warning labels. Icons will remain useful to consumers even after multiple exposures because of their more subtle appearance. This rule will effectively deliver warning information to the consumer without causing damaging desensitization and dilution. Use of recognizable icons corresponding to an easily located table in the back of a catalog is a common technique utilized in many industries to convey vital

information. Likewise, icons are universally accepted substitutes for warnings and are well-understood by consumers in this context, and thus stand for the actual warnings as specified in the Act. Notably, the appearance of warning labels on product packaging provides “last stop” warning to consumers, thus ensuring that every consumer will be appropriately advised of risks at the time of use of lawful products.

Impact of the advertising requirements on businesses.

Incorporation of full-sized warnings in catalog copy greatly distorts the significance of the risk advised by the warning message. The warning designs were created for a different purpose, to warn consumers at the point of purchase of a physical product, not for incorporation in print advertising. The use of prominent warnings throughout a catalog may elevate consumer perception of the risk posed by lawful products and inevitably dampen demand for these useful and safe products.

The density of warnings in catalogs under the proposed rules will cause the physical space required by catalog listings to expand considerably. Our mock-ups of catalog pages applying the new rules show that two-page spreads can become three-page spreads regularly (see Appendix B and C). For instance, certain science kit products could potentially require as many as a dozen warnings. Both catalog pages and kit replacement part order forms would become difficult for customers to navigate due to the large number of warnings printed on them. This may render selling certain kits in catalogs impractical or uneconomic.

The reduced product density of catalog pages will cause companies to reduce product ranges and to reduce mailings. In fact, the proposed rules may cause companies to selectively drop products carrying warning labels, even though such products are both lawful and useful. In addition, lower product density on the catalog page will considerably reduce expected economic returns from catalog mailings thereby incentivizing companies to produce fewer mailings and smaller catalogs. This will certainly reduce revenues and profits for toy and educational catalogers, toy manufacturers and catalog printers. This is too high a price to pay for “belts and suspenders” rules relating to warnings already present on product packaging.

How often catalogues or other written materials are published and how much lead time is required to prepare these materials for publication.

Toy and educational dealers publish marketing materials on a schedule beginning as long as nine months before printing. Many such catalogs “close” more than four months before printing. Some catalogs are published as infrequently as every two years while others are published multiple times per year. Catalogs are often printed in “gang runs” with multiple covers but identical bodies, with the intention to mail different versions of the same catalog over a lengthy period of time. Many other marketing materials—including sell sheets, brochures, samplers and price lists—are published throughout the year and require up to six months lead time.

Whether and why a grace period may be needed for catalogues and other printed material.

A grace period is necessary to account for the publishing cycle of catalogs. The long preparation lead time and long shelf life (prior to mailing) of printed catalogs makes imperative that final rules be promulgated long before the effective date of the rules.

We believe the cost and consequences to consumers of a full 180-day grace period would be negligible. As noted elsewhere in this letter, only lawfully produced products carry warnings, so this consumer “right to know” rule piggybacks on other rules already requiring warnings on packaging. A delay in implementing these rules fully will never put any consumers at risk as warnings are already provided at the point of use.

The cost to produce catalogs compliant with these rules for an effective date of February 10th is incalculable. Given that hundreds of companies, hundreds of thousands of catalog pages, and tens of millions of product advertisements would be affected, it is impossible to posit that compliance could be achieved by this large industry on such short notice. Most catalogs have to be printed by January 1 in the toy and educational markets. As a practical matter at this late date, it is no longer possible to change catalogs slated for printing in December in these industries. A requirement to be compliant by February 10, 2009 would be met with massive failures.

We strongly recommend that existing catalogs and brochures as of August 9, 2009 be “grandfathered” under the new rules. Most manufacturers have libraries of sell sheets, special purpose brochures, limited purpose or low circulation pamphlets that would be lost and never replaced if rendered illegal by the new rules. These brochures were produced lawfully at the time of printing and the loss of such materials under the new rules would amount to a taking under the Constitution. In addition, rules requiring that lawfully produced brochures be discarded will create considerable unnecessary waste. While such waste may be immaterial compared to national output of waste, it will nevertheless amount to very large volumes of wasted print material and thus degrade our environment. Finally, there is no justification to make the transition to the new rules so unnecessarily penal to marketers of toys and educational materials since all warnings appear on packaging which may be examined before use.

Whether the advertising requirements for catalogues and other printed materials should also apply to materials distributed solely between businesses and not to ultimate consumers, and, if so, how the Commission can distinguish catalogues distributed solely between businesses from those intended for final distribution to the ultimate consumers, which may include institutions such as schools and day care centers.

We do not believe businesses require “right to know” protection in the same way as consumers. Thus, we feel these warnings should not be required in dealer catalogs. That being said, as a commercial matter, these warnings may have to be included in dealer publications simply to ease the process of conveying critical information by manufacturers to dealers for preparation of their catalogs. The marketplace will instruct manufacturers on the appropriate way to convey this information to their business customers.

We agree with the Commission that B2B catalogs are always aimed at resellers. Any recipient that uses the products in the conduct of its affairs, whether consumers, day care centers, schools, etc., are to be considered “consumers” or part of a B2C marketplace. Catalogs aimed at resellers should be considered B2B catalogs serving businesses.

Some catalogs distributed to businesses are identical to catalogs provided to consumers and some are different (and easily identified). There is no bright line rule to group catalogs definitively into B2C or B2B categories. Sometimes catalogs will provide clues in design, titling or copy. From a practical standpoint, it appears to be a factual question, which can be answered with inquiry or observation of use of the catalog.

Visible placement of warnings in online marketing.

While we understand the need to place appropriate warnings where customers will see them, we think that placing warnings above product descriptions will alarm customers unnecessarily. Noting that warnings are only required on legally permissible products, we are very concerned that unnecessarily elevated prominence for warnings may sharply dampen demand in Internet venues. We believe that Congress did not intend to disrupt commerce with excessive warnings. Please note that online customers are accustomed to finding warnings and other more detailed product information in tabs below the main product copy. Thus, we recommend allowing the placement of warnings in such tabs.

Consumer Product Safety Commission
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Page 4

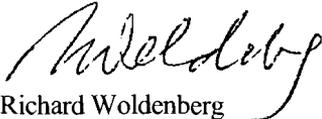
We also strongly urge that the Commission permit the use of warnings that pop up when a mouse tracks over an icon or with a mouse click. Again, in the ethos of the Internet, we believe consumers are well-familiar with this means of displaying information. Congress did not indicate that Web warnings are the principal way to reach consumers with this "right to know" information. The inclusion of such information on a Web advertisement, even if below the advertisement, serves the purpose intended by Congress without unnecessarily disrupting commerce.

Other Comments

We strongly recommend that the Commission take a measured approach to penalties for infractions of these rules. Some concept of materiality and "warnings" for minor violations should be made an explicit part of the implementing rules. The complexity and burden of preparing hundreds or thousands of catalog pages without a single error or omission under Section 105 will likely defeat many companies. Annual catalog production at some companies comprises tens of thousands of product advertisements, inviting the risk of human error despite best efforts and good intentions. Since these advertising rules simply amplify the impact of already established rules for warnings on products themselves, we believe the Commission can appropriately establish rules for administration of these rules which guide manufacturers and dealers to compliance and reserve harsher penalties for bad actors that demonstrate bad faith dealings or blatant disrespect for the law. We are concerned that technical violations or errors of omission will present enterprise risk for many toy and educational companies unless enforcement rules are set appropriately.

Thank you for considering our views on this important subject.

Sincerely,



Richard Woldenberg
Chairman
Learning Resources, Inc.
Tel 847-573-8420
Fax 847-281-1730
rwoldenberg@learningresources.com

Fill their world with wonder

Science toys invite kids to uncover the past, gaze into the future and explore the marvels of nature.

A. GEOSAFARI™ TYRANNOSAURUS REX DIG **△16**

A must-have for serious dino lovers! Kids excavate a complete skeleton from "fossilized" rock, then assemble it for display. Includes excavation tool, dust brush, wax adhesive and Activity Guide with complete instructions and dinosaur facts. Ages 7+

EI-5176 \$21.95

B



B. GEOSAFARI™ PROSPECTOR'S MYSTERY ROCK™ **△1**

Special clay rock invites kids to unearth a real emerald, 140-million-year-old dinosaur bone and fool's gold, plus 7 more fascinating specimens—the ultimate treasure hunt! Kids can also grow crystals, create fossil casts, perform identification experiments and more. Set includes everything you need, plus a step-by-step Activity Guide. Ages 8+

EI-5140 \$27.95

C



C. GEOVISION™ VEGA 600™ TELESCOPE **△1**

The precision optics of this lightweight telescope reward magnifications from 30x to 150x and rack and pinion focusing. Easy-to-use Adjustable tripod measures up to 50" H. Ages 8+

High-quality features include:

- All-glass optics
- 50 mm Objective lens
- 2 Eyepieces & finder scope
- 2x Image erector

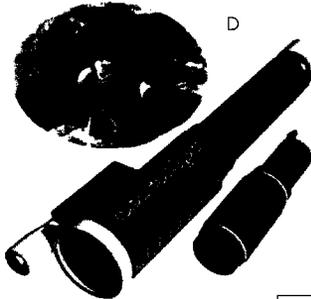
EI-5248 \$89.95

D. GEOSAFARI™ SEA-SCOPE™ **△1**

Give kids a close-up view of life on land and under water. Start with the 4x telescope for land-based viewing. Attach the water-resistant Sea-Scope™ to explore marine life. Use the flashlight attachment for dark or murky conditions. Built-in ruler allows young marine biologists to measure specimens on-site. Thermometer strip reads air or water temperature. Requires 2 AA batteries, not included. Ages 6+

EI-5252 \$27.95

D



Appendix A Proposed Warning Icon Solution from Learning Resources



E. QUANTUM™ BIG SCREEN MICROSCOPE **△1**

With its extra-large viewing screen, Quantum™ microscope allows kids to share a special view of nature with others. Screen shows details with clear, bright accuracy. Features 10x, 20x or 40x magnification. Includes a variety of accessories and Snap-Light™ tray. Requires 2 C batteries, not included, or AC Adapter, available separately. Ages 6+

LER 2900 Microscope \$67.95

LER 2901 AC Adapter \$14.95 **△7**

F. GEOVISION™ EYE SPY™ SCOPE SET **△1**

Perfect for outdoor exploring, sporting events, undercover work and more. Includes 5x monocular, 6x prismatic binoculars and 2-in-1 pocket scope. The compact monocular comes complete with handy wrist strap, easy-focus 16 mm lens and built-in tripod mount. Binoculars with protective case feature a prismatic reflection system for high-quality viewing. Pen-sized Pocket Scope serves double duty as an 8x telescope and a 30x microscope for on-the-go sleuthing. Ages 6+

EI-5247 \$26.95

G. ERUPTING VOLCANO MODEL **△1**

Get kids fired up about Earth science! Detailed cross-section reveals the inside of a volcano. Includes easy lava recipe using common household materials, 13" clear plastic tray for mess-free eruptions, removable tube for quick clean-up and fact-filled guide. Ages 6+

LER 2430 \$39.95



H. GEOSAFARI™ TALKING MICROSCOPE™ **△1**

The perfect first microscope! Kids view 12 prepared slides of common insects and turn the fact dial to learn about them. Easy-to-use interactive quiz game challenges memory skills. Features 5x magnifier and a light for easy viewing. Requires 3 C batteries, not included. Ages 5+

EI-8800 \$39.95

I. SCIENCE OF SPECIAL EFFECTS **△1 3 4 6**

A ghost submarine... a hole in the palm of your hand... a barrel rolling uphill. This kit helps kids understand the science behind optical illusions and special effects. 30 experiments let them explore balance, gravity and air pressure. Ages 7+

EI-3161 \$42.95

△ Product Safety see page 00.

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www.LearningResources.com
1.866.457.8697



Flip4Science

Proposed Warning Icon Solution from Learning Resources

Step-by-Step Scaffolded Inquiry Success
Directed Inquiry • Guided Inquiry • Full inquiry

Lesson 8 • Directed Inquiry Activity

Question: How does mass change crater depth?

Steps:

1. Set up goal in the box next to what you're looking for. Record your observations.
2. Observe with soil out of the Air Cannon.
3. Observe when soil is deposited in the flour container to which the soil particles of the flour.
4. Remove your soil, and observe the depth of each crater.

Teacher Student

1 Directed Inquiry

provides a structured model of the inquiry process. The teacher and materials direct students through the inquiry process.

About the Authors



Dr. Karen Ostlund, Ph.D.
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College of Natural Sciences
Office of Special Projects
University of Texas at Austin



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Professor of Earth Science
and Science Education
University of Northern Iowa (UNI)

2 Guided Inquiry

encourages students to think about variables and create a hypothesis. The teacher moves from director to facilitator.

How does speed affect crater depth?

is the ultimate goal of scaffolded inquiry. Students apply their skills and knowledge with minimal assistance from the teacher and materials.

Teacher Student

How are craters formed on the Moon?

Visit us online for sample lessons from each kit

Product Safety see page 00.

Build science literacy in centers & increase student achievement

Put today's best practice in teaching science to work in your science centers. Practice the scientific method in every lesson. Move your students through the 3 stages of inquiry and help them reach the ultimate goal of conducting independent inquiry. Use hands-on inquiry activities developed by nationally recognized science authors. Step-by-step support makes you an expert in the Scaffolded Inquiry method—no matter your level of experience in teaching science. For 2-4 students.

- Grades K-6
- Aligned with National Science Education Standards
- Prepares students for standardized science tests



GRADES K-2 KITS

Each kit includes:

- 16-Page double-sided Activity Center Book with photo-illustrated set-up instructions
- 72-Page Teacher's Guide with step-by-step lesson plans and blackline masters
- 5 Science Journals
- Manipulatives and supplies for each activity



- Plants & Animals**
- Parts of seeds
 - Parts of plants and animals
 - Needs of plants and animals
 - Characteristics of plants
 - Animal adaptations
 - Animal camouflage

JBN 0384 \$69.95
1



- Weather**
- Measuring temperature
 - Observing clouds
 - Measuring rainfall
 - Measuring wind
 - Exploring the water cycle
 - Changes in weather

JBN 0385 \$69.95
1



- Magnets**
- Exploring magnetism
 - Magnetic poles
 - Magnetic fields
 - Magnetic strength
 - Earth, a giant magnet
 - Everyday magnets

JBN 0386 \$69.95
1 5 6



- Sun, Earth, & Moon**
- What is in the sky?
 - The Sun & shadows
 - Night & day
 - Earth's tilt & revolution
 - Earth & Moon
 - Phases of the Moon

JBN 0387 \$69.95
1

3 New Kits
To meet new standards!

GRADES 3-6 KITS

Each kit includes:

- 16-Page double-sided Activity Center Book with photo-illustrated set-up instructions
- 72-Page Teacher's Guide with step-by-step lesson plans and blackline masters
- 5 Science Journals
- Manipulatives and supplies for each activity



- Rocks & Minerals**
- Identifying minerals
 - Properties of minerals
 - Rock classification
 - The rock cycle
 - Fossils and geology
 - Plate tectonics

JBN 0388 \$74.95
1



- Electricity**
- Static electricity
 - Current electricity
 - Circuits
 - Electromagnets
 - Energy conversion
 - Safety with electricity

JBN 0389 \$74.95
1



- Work & Simple Machines**
- Work and simple machines
 - Levers
 - Inclined planes
 - Pulleys
 - Gears
 - Compound machines

JBN 0390 \$74.95
1 5

LEARNING RESOURCES order anytime 1-888-489-9388 www.LearningResources.com

Proposed Warning Icon Legend

PRODUCT SAFETY INFORMATION

Lorem ipsum dolor sit amet, consectetur adipiscing elit, sed do eiusmod tempor incididunt ut labore et dolore magna aliqua. Excepteur sint occaecat cupidatat non proident, sunt in culpa.

1 Small Parts

 **WARNING:**
CHOKING HAZARD - Small parts.
Not for children under 3 years.

2 Latex Balloon

 **WARNING:**
CHOKING HAZARD - Children under 8 years can choke or suffocate on uninflated or broken balloons. Adult supervision required. Keep uninflated balloons from children. Discard broken balloons at once.

3 Small Balls

 **WARNING:**
CHOKING HAZARD - This toy is a small ball.
Not for children under 3 years.

4 Marbles

 **WARNING:**
CHOKING HAZARD - Toy contains a marble.
Not for children under 3 years.

5 Magnets

 **WARNING:**
MAGNETS—This product contains small magnets. Swallowed magnets can stick together across intestines causing serious infections and death. Seek immediate medical attention if magnets are swallowed or inhaled.

6 Sharp Points

 **WARNING:**
SHARP POINT HAZARD - This product contains a functional sharp point on the end of the plastic stick.

7 Cord

 **WARNING:**
Possible entanglement injury.
Keep toy out of baby's reach.

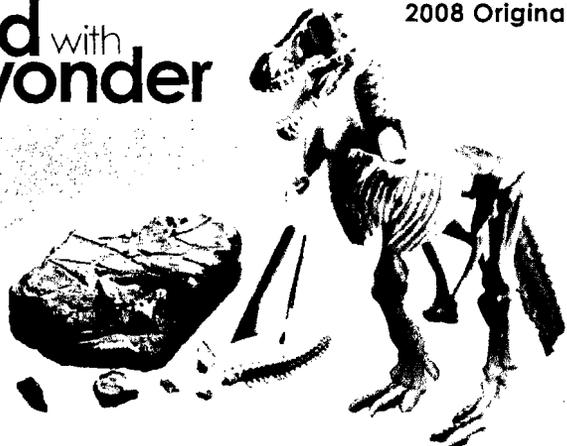
Appendix B
2008 Original Toy Catalog Spread

Fill their world with wonder

Science toys invite kids to uncover the past, gaze into the future and explore the marvels of nature.

A. GEOSAFARI™ TYRANNOSAURUS REX DIG

A must-have for serious dino lovers! Kids excavate a complete skeleton from "fossilized" rock, then assemble it for display. Includes excavation tool, dust brush, wax adhesive and Activity Guide with complete instructions and dinosaur facts. **Ages 7+**
EI-5176 \$21.95



B



B. GEOSAFARI™ PROSPECTOR'S MYSTERY ROCK™

Special clay rock invites kids to unearth a real emerald, 140-million-year-old dinosaur bone and fool's gold, plus 7 more fascinating specimens—the ultimate treasure hunt! Kids can also grow crystals, create fossil casts, perform identification experiments and more. Set includes everything you need, plus a step-by-step Activity Guide. **Ages 8+**
EI-5140 \$27.95

C. GEOVISION™ VEGA 600™ TELESCOPE

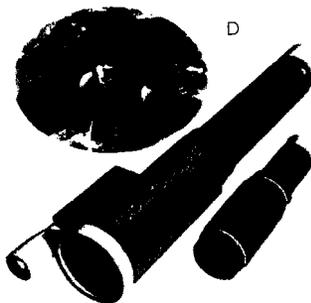
The precision optics of this lightweight telescope reward magnifications from 30x to 150x and rack and pinion focusing. Easy to use! Adjustable tripod measures up to 50"H. **Ages 8+**

- High-quality features include:
- All-glass optics
 - 50 mm. Objective lens
 - 2 Eyepieces & finder scope
 - 2X Image erector

EI-5248 \$89.95

D. GEOSAFARI™ SEA-SCOPE™

Give kids a close-up view of life on land and under water. Start with the 4x telescope for land-based viewing. Attach the water-resistant Sea-Scope™ to explore marine life. Use the flashlight attachment for dark or murky conditions. Built-in ruler allows young marine biologists to measure specimens on-site. Thermometer strip reads air or water temperature. Requires 2 AA batteries, not included. **Ages 6+**
EI-5252 \$27.95

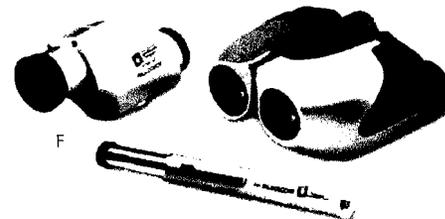


E. QUANTUM™ BIG SCREEN MICROSCOPE

With its extra-large viewing screen, Quantum™ microscope allows kids to share a special view of nature with others. Screen shows details with clear, bright accuracy. Features 10x, 20x or 40x magnification. Includes a variety of accessories and Snap-Tight™ tray. Requires 2 C batteries, not included, or AC Adapter, available separately. **Ages 6+**

LER 2900 Microscope \$67.95

LER 2901 AC Adapter \$14.95



G



F. GEOVISION™ EYE SPY™ SCOPE SET

Perfect for outdoor exploring, sporting events, under-cover work and more. Includes 5x monocular, 6x prismatic binoculars and 2-in-1 pocket scope. The compact monocular comes complete with handy wrist strap, easy-focus 16 mm lens and built-in tripod mount. Binoculars with protective case feature a prismatic reflection system for high-quality viewing. Pen-sized Pocket Scope serves double duty as an 8x telescope and a 30x microscope for on-the-go sleuthing. **Ages 6+**
EI-5247 \$26.95

G. ERUPTING VOLCANO MODEL

Get kids fired up about Earth science! Detailed cross-section reveals the inside of a volcano. Includes easy lava recipe using common household materials. 13" clear plastic tray for mess-free eruptions, removable tube for quick clean-up and fact-filled guide. **Ages 6+**

LER 2430 \$39.95



H. GEOSAFARI™ TALKING MICROSCOPE™

The perfect first microscope! Kids view 12 prepared slides of common insects and turn the fact dial to learn about them. Easy-to-use interactive quiz game challenges memory skills. Features 5x magnifier and a light for easy viewing. Requires 3 C batteries, not included. **Ages 5+**

EI-8800 \$39.95

I. SCIENCE OF SPECIAL EFFECTS

A ghost submarine... a hole in the palm of your hand... a barrel rolling uphill. This kit helps kids understand the science behind optical illusions and special effects. 30 experiments let them explore balance, gravity and air pressure. **Ages 7+**

EI-3161 \$42.95

Fill their world with wonder

Science toys invite kids to uncover the past, gaze into the future and explore the marvels of nature.

A. GEOSAFARI™ TYRANNOSAURUS REX DIG

A must-have for serious dino lovers! Kids excavate a complete skeleton from "fossilized" rock, then assemble it for display. Includes excavation tool, dust brush, wax adhesive and Activity Guide with complete instructions and dinosaur facts. **Ages 7+**

EI-5176 \$21.95

⚠SMALL PARTS. Not for < 3 yrs.

⚠SHARP POINT. Not for < 3 yrs.

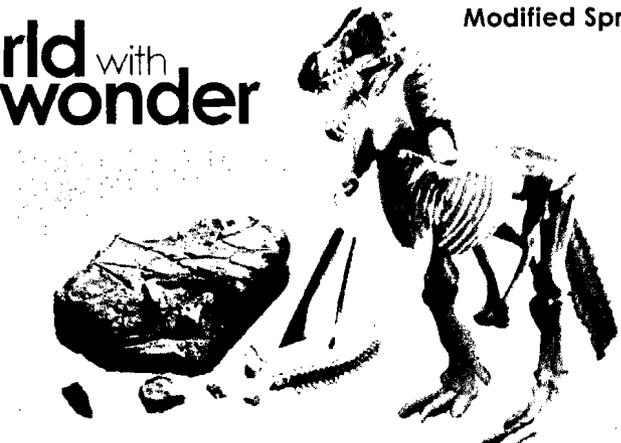


B. GEOSAFARI™ PROSPECTOR'S MYSTERY ROCK™

Special clay rock invites kids to unearth a real emerald, 140-million-year-old dinosaur bone and fool's gold, plus 7 more fascinating specimens—the ultimate treasure hunt! Kids can also grow crystals, create fossil casts, perform identification experiments and more. Set includes everything you need, plus a step-by-step Activity Guide. **Ages 8+**

EI-5140 \$27.95

⚠SMALL PARTS. Not for < 3 yrs.



C. GEOVISION™ VEGA 600™ TELESCOPE

The precision optics of this lightweight telescope reward magnifications from 30x to 150x and rack and pinion focusing. Easy to use! Adjustable tripod measures up to 50" H. **Ages 8+**

High-quality features include

- All-glass optics
- 50 mm. Objective lens
- 2 Eyepieces & finder scope
- 2x Image erector

EI-5248 \$89.95

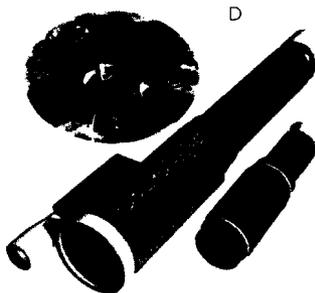
⚠SMALL PARTS. Not for < 3 yrs.

D. GEOSAFARI™ SEA-SCOPE™

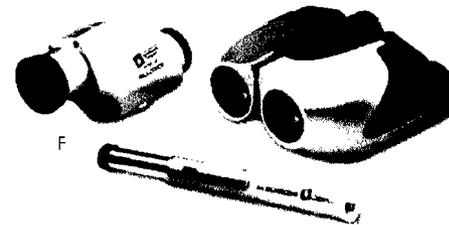
Give kids a close-up view of life on land and under water. Start with the 4x telescope for land-based viewing. Attach the water-resistant Sea-Scope™ to explore marine life. Use the flashlight attachment for dark or murky conditions. Built-in ruler allows young marine biologists to measure specimens on-site. Thermometer strip reads air or water temperature. Requires 2 AA batteries, not included. **Ages 6+**

EI-5252 \$27.95

⚠SMALL PARTS. Not for < 3 yrs.



Modified Spread Using Proposed CPSIA Implementing Rules



E. QUANTUM™ BIG SCREEN MICROSCOPE

With its extra-large viewing screen, Quantum™ microscope allows kids to share a special view of nature with others. Screen shows details with clear, bright accuracy. Features 10x, 20x or 40x magnification. Includes a variety of accessories and Snap-Tight™ tray. Requires 2 C batteries, not included, or AC Adapter, available separately. **Ages 6+**

LER 2900 Microscope \$67.95

⚠SMALL PARTS. Not for < 3 yrs.

LER 2901 AC Adapter \$14.95

⚠CORD. Not for < 3 yrs.

F. GEOVISION™ EYE SPY™ SCOPE SET

Perfect for outdoor exploring, sporting events, undercover work and more. Includes 5x monocular, 6x prismatic binoculars and 2-in-1 pocket scope. The compact monocular comes complete with handy wrist strap, easy-focus 16 mm lens and built-in tripod mount. Binoculars with protective case feature a prismatic reflection system for high-quality viewing. Pen-sized Pocket Scope serves double duty as an 8x telescope and a 30x microscope for on-the-go sleuthing. **Ages 6+**

EI-5247 \$26.95

⚠SMALL PARTS. Not for < 3 yrs.

G. ERUPTING VOLCANO MODEL

Get kids fired up about Earth science! Detailed cross-section reveals the inside of a volcano. Includes easy lava recipe using common household materials. 13" clear plastic tray for mess-free eruptions, removable tube for quick clean-up and fact-filled guide. **Ages 6+**

LER 2430 \$39.95

⚠SMALL PARTS. Not for < 3 yrs.



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The perfect first microscope! Kids view 12 prepared slides of common insects and turn the fact dial to learn about them. Easy-to-use interactive quiz game challenges memory skills. Features 5x magnifier and a light for easy viewing. Requires 3 C batteries, not included. **Ages 5+**

EI-8800 \$39.95

⚠SMALL PARTS. Not for < 3 yrs.

⚠SHARP POINT. Not for < 3 yrs.:

⚠WARNING:
SHARP POINT HAZARD - This product
has sharp functional points that can cut the
skin.

⚠CORD. Not for < 3 yrs.:

⚠WARNING:
Possible entanglement injury.
Keep toy out of baby's reach.

⚠SMALL PARTS. Not for < 3 yrs.:

⚠WARNING:
CHOKING HAZARD - Small parts
Not for children under 3 years

www.LearningResources.com

1.866.457.8697

Overflow Product Due to Spread Fit Issues when Proposed Rules Used



I. SCIENCE OF SPECIAL EFFECTS

A ghost submarine...a hole in the palm of your hand...a barrel rolling uphill. This kit helps kids understand the science behind optical illusions and special effects. 30 experiments let them explore balance, gravity and air pressure. **Ages 7+**

EI-3161 \$42.95

⚠ SMALL PARTS. Not for < 3 yrs.

⚠ BALL. Not for < 3 yrs.

⚠ MARBLE. Not for < 3 yrs.

⚠ SHARP POINT. Not for < 3 yrs.

⚠ SMALL PARTS. Not for < 3 yrs.:

⚠ WARNING:
CHOKING HAZARD - Small parts
Not for children under 3 years

⚠ BALL. Not for < 3 yrs.:

⚠ WARNING:
CHOKING HAZARD - This toy is a small ball.
Not for children under 3 years.

⚠ MARBLE. Not for < 3 yrs.:

⚠ WARNING:
CHOKING HAZARD - Toy contains a marble
Not for children under 3 years

⚠ SHARP POINT. Not for < 3 yrs.:

⚠ WARNING:
SHARP POINT HAZARD - This product
contains a ferrous sharp point on the end of the
candlestick



Flip4Science

Appendix C
2008 Original Teacher Catalog Spread

Step-by-Step Scaffolded Inquiry Success
Directed Inquiry • Guided Inquiry • Full inquiry

Build science literacy in centers
& increase student achievement

Materials

Lesson 2 • Directed Inquiry Activity

Question: How does mass change crater depth?

Hypothesis: _____

Steps:

1. Place the first ball in the well marked "1". The second ball "2" the third by "3" and the fourth by "4".
2. Observe with 50% eye in the floor.
3. Estimate when ball is dropped in the floor (designate which ball will be which of the four).
4. Remove each ball and observe the depth of each crater.

Teacher Student

1 Directed Inquiry

provides a structured model of the inquiry process. The teacher and materials direct students through the inquiry process.

About the Authors



Dr. Karen Ostlund, Ph.D.
Director of Wings and UTEACH
College of Natural Sciences
Office of Special Projects
University of Texas at Austin



Dr. Timothy Cooney, Ed.D.
Professor of Earth Science
and Science Education
University of Northern Iowa (UNI)

2 Guided Inquiry

encourages students to think about variables and create a hypothesis. The teacher moves from director to facilitator.



How does speed affect crater depth?



is the ultimate goal of scaffolded inquiry. Students apply their skills and knowledge with minimal assistance from the teacher and materials.



How are craters formed on the Moon?

Materials

Lesson 3 • Guided Inquiry Activity

Question: How does speed affect crater depth?

Hypothesis: If I roll balls _____ then I can create _____ craters.

Steps:

1. Choose one ball to use and write down your choice.
2. Choose four different heights for the drop heights.
3. Drop the ball from those four different heights.
4. Measure the width of each crater.
5. Repeat the width of each crater.
6. Repeat the width of each crater.
7. Repeat the width of each crater.

Teacher Student

Question: Create a question to answer.

Hypothesis: Formulate a hypothesis using "If...then".

Procedure: Write the steps for the procedure. Do the procedure three times to test the hypothesis.

Data Collection: Create a chart/graph/table/diagram for collecting data. Record your results.

Conclusion: Explain your results.

More Questions: Come up with other questions to create more hypotheses.

Visit us online for sample lessons from each kit

Put today's best practice in teaching science to work in your science centers. Practice the scientific method in every lesson. Move your students through the 3 stages of inquiry and help them reach the ultimate goal of conducting independent inquiry. Use hands-on inquiry activities developed by nationally recognized science authors. Step-by-step support makes you an expert in the Scaffolded Inquiry method—no matter your level of experience in teaching science. For 2-4 students.

- Grades K-6
- Aligned with National Science Education Standards
- Prepares students for standardized science tests



GRADES K-2 KITS

Each kit includes:

- 16-Page double-sided Activity Center Book with photo-illustrated set-up instructions
- 72-Page Teacher's Guide with step-by-step lesson plans and blackline masters
- 5 Science Journals
- Manipulatives and supplies for each activity

<p>Plants & Animals</p> <ul style="list-style-type: none"> • Parts of seeds • Parts of plants and animals • Needs of plants and animals • Characteristics of plants • Animal adaptations • Animal camouflage <p>JBN 0384 \$69.95</p>	<p>Weather</p> <ul style="list-style-type: none"> • Measuring temperature • Observing clouds • Measuring rainfall • Measuring wind • Exploring the water cycle • Changes in weather <p>JBN 0385 \$69.95</p>	<p>Magnets</p> <ul style="list-style-type: none"> • Exploring magnetism • Magnetic poles • Magnetic fields • Magnetic strength • Earth, a giant magnet • Everyday magnets <p>JBN 0386 \$69.95</p>	<p>Sun, Earth, & Moon</p> <ul style="list-style-type: none"> • What is in the sky? • The Sun & shadows • Night & day • Earth's tilt & revolution • Earth & Moon • Phases of the Moon <p>JBN 0387 \$69.95</p>
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3 New Kits To meet new standards!

GRADES 3-6 KITS

Each kit includes:

- 16-Page double-sided Activity Center Book with photo-illustrated set-up instructions
- 72-Page Teacher's Guide with step-by-step lesson plans and blackline masters
- 5 Science Journals
- Manipulatives and supplies for each activity

<p>Rocks & Minerals</p> <ul style="list-style-type: none"> • Identifying minerals • Properties of minerals • Rock formation • Rock types • Sedimentary rocks • Metamorphic rocks • The rock cycle <p>JBN 0616 \$74.95</p>	<p>Electricity</p> <ul style="list-style-type: none"> • Conductors • Insulators • Static electricity • Magnetism • Transformers and power lines • Electromagnets <p>JBN 0615 \$74.95</p>	<p>Work & Simple Machines</p> <ul style="list-style-type: none"> • Simple Machines • Wheel and Axle • Levers (inclined wheel & axle) • Pulleys • Wedges • Screws • Compound Machines <p>JBN 0617 \$74.95</p>
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Flip4Science

Modified Spread Using Proposed CPSIA Implementing Rules

Step-by-Step Scaffolded Inquiry Success
Directed Inquiry • Guided Inquiry • Full inquiry

Lesson 3 • Directed Inquiry Activity

Question: How does moon crater depth vary with crater diameter?

Steps:

1. Build a table with 10 columns and 2 rows. Label the columns "Crater Diameter" and "Crater Depth".
2. Observe when ball is dropped in the flour. Complete in which direction the ball is moving.
3. Remove each ball and observe the shape of each crater.
4. Repeat each trial 5 times.

Teacher Student

1 Directed Inquiry

provides a structured model of the inquiry process. The teacher and materials direct students through the inquiry process.

About the Authors



Dr. Karen Ostlund, Ph.D.
Director of Wings and UTEACH
College of Natural Sciences
Office of Special Projects
University of Texas at Austin



Dr. Timothy Cooney, Ed.D.
Professor of Earth Science
and Science Education
University of Northern Iowa (UNI)

2 Guided Inquiry

encourages students to think about variables and create a hypothesis. The teacher moves from director to facilitator.

Lesson 3 • Guided Inquiry Activity

Question: How does speed affect crater depth?

Hypothesis: If I drop the ball from a greater height, then I will create a deeper crater.

Steps:

1. Change one ball to use and drop it from your desk.
2. Choose four different heights. Use the same ball.
3. Drop the ball from each of the different heights.

Observe: Record the ball's height, the ball's direction, and the ball's depth in the flour.

Observe again: Repeat the ball's height, the ball's direction, and the ball's depth in the flour.

Observe a third time: Repeat the ball's height, the ball's direction, and the ball's depth in the flour.

Observe a fourth time: Repeat the ball's height, the ball's direction, and the ball's depth in the flour.

Make a claim: Make a claim about the results.

Teacher Student

Build science literacy in centers & increase student achievement

Put today's best practice in teaching science to work in your science centers. Practice the scientific method in every lesson. Move your students through the 3 stages of inquiry and help them reach the ultimate goal of conducting independent inquiry. Use hands-on inquiry activities developed by nationally recognized science authors. Step-by-step support makes you an expert in the Scaffolded Inquiry method—no matter your level of experience in teaching science. For 2-4 students.

- Grades K-6
- Aligned with National Science Education Standards
- Prepares students for standardized science tests



GRADES K-2 KITS

- Each kit includes:**
- 16-Page double-sided Activity Center Book with photo-illustrated set-up instructions
 - 72-Page Teacher's Guide with step-by-step lesson plans and blackline masters
 - 5 Science Journals
 - Manipulatives and supplies for each activity



- Plants & Animals**
- Parts of seeds
 - Parts of plants and animals
 - Needs of plants and animals
 - Characteristics of plants
 - Animal adaptations
 - Animal camouflage
- JEN 0384 \$69.95
▲SMALL PARTS. Not for < 3 yrs.



- Magnets**
- Exploring magnetism
 - Magnetic poles
 - Magnetic fields
 - Magnetic strength
 - Earth, a giant magnet
 - Everyday magnets
- JEN 0386 \$69.95
▲SMALL PARTS. Not for < 3 yrs.
▲SHARP POINT. Not for < 3 yrs.

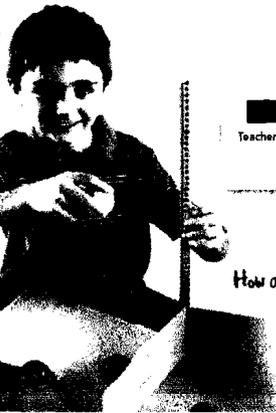


- Weather**
- Measuring temperature
 - Observing clouds
 - Measuring wind
 - Measuring rainfall
 - Measuring wind
 - Exploring the water cycle
 - Changes in weather
- JEN 0385 \$69.95
▲SMALL PARTS. Not for < 3 yrs.



- Sun, Earth & Moon**
- What is in the sky?
 - The Sun & shadows
 - Night & day
 - Earth's tilt & revolution
 - Earth & Moon
 - Phases of the Moon
- JEN 0387 \$69.95
▲SMALL PARTS. Not for < 3 yrs.

How does speed affect crater depth?



is the ultimate goal of scaffolded inquiry. Students apply their skills and knowledge with minimal assistance from the teacher and materials.

How are craters formed on the Moon?

Visit us online for sample lessons from each kit

▲SMALL PARTS. Not for < 3 yrs. :
▲WARNING:
CHOKING HAZARD - Small parts
Not for children under 3 years

▲MAGNET. Not for < 3 yrs. :
▲WARNING:
MAGNETS—This product contains small magnets.
Swallowed magnets can stick together across intestines
causing serious infections and death. Seek immediate
medical attention if magnets are swallowed or inhaled.

▲SHARP POINT. Not for < 3 yrs. :
▲WARNING:
SHARP POINT HAZARD - This product
contains a functional sharp point on the end of the
crescent stick.

LEARNING RESOURCES order anytime 1-888-489-9388 www.LearningResources.com

Due to large warnings, 3 products would need to move to a 3rd page with full kit selling copy

Build science literacy in centers & increase student achievement

Put today's best practice in teaching science to work in your science centers. Practice the scientific method in every lesson. Move your students through the 3 stages of inquiry and help them reach the ultimate goal of conducting independent inquiry. Use hands-on inquiry activities developed by nationally recognized science authors. Step-by-step support makes you an expert in the Scaffolded Inquiry method—no matter your level of experience in teaching science. For 2-4 students. • Grades K-6

- Aligned with National Science Education Standards
- Prepares students for standardized science tests

Science
Flip4Science



3 New Kits
To meet new standards!



GRADES 3-6 KITS

Each kit includes:

- 16-Page double-sided Activity Center Book with photo-illustrated set-up instructions
- 72-Page Teacher's Guide with step-by-step lesson plans and blackline masters
- 5 Science Journals
- Manipulatives and supplies for each activity



▲SMALL PARTS Not for < 3 yrs :

WARNING:
CHOKING HAZARD - Small parts.
Not for children under 3 years.

▲SHARP POINT Not for < 3 yrs :

WARNING:
SHARP POINT HAZARD - This product contains a functional sharp point on the end of the chenille stick.

LEARNING RESOURCES® order anytime **1-888-489-9388**
www.LearningResources.com



Stevenson, Todd

From: Jean Starkey [JStarkey@learningresources.com] on behalf of Rick Woldenberg [rwoldenberg@learningresources.com]

Sent: Thursday, October 16, 2008 1:27 PM

To: CPSC-OS

Cc: Rick Woldenberg; Lisa Guili

Subject: Advertising Requirements NPR

Attachments: Letter to CPSC.pdf; Appendix A.pdf; Appendix B.pdf; Appendix C.pdf

sect 105

Stevenson, Todd

From: Jeff Tinker [Jeff.Tinker@maplecityrubber.com]
Sent: Thursday, October 16, 2008 2:39 PM
To: CPSC-OS
Subject: Advertising requirements NPR

October 17, 2008

Ms. Barbara E. Parisi, Project Manager
Office of General Counsel
Consumer Product Safety Commission
4330 East-West Highway
Bethesda, Maryland 20814

Re: Notice of Proposed Rulemaking, 16 CFR Part 1500; Labeling Requirements for Toy and Game Advertisements (Docket No. CPSC-2008-0036)

Dear Ms. Parisi:

On behalf of Maple city Rubber Co., Inc., I am writing to submit comments in response to the above-referenced Notice of Proposed Rulemaking (NPR) published on page 580063 of the *Federal Register* of October 6, 2008. Pursuant to the NPR, the Consumer Product Safety Commission (CPSC) has requested comments regarding a proposal concerning advertising for certain toys and games in catalogues and other printed materials.

Maple City Rubber is a leading manufacture of balloons and related products. We support efforts to increase consumer awareness about the proper use of balloons so that they can be enjoyed safely by children and adults alike. We are also encouraged that cautionary statements on balloon products and enhanced retailer and consumer education efforts supported by the balloon industry have resulted in several years of extremely low rates of choking fatalities related to balloons, with fatalities dropping to 1 incident annually in 2004, 2005, and 2006. As a company and as an industry, we are committed to taking all reasonable steps to reduce this number to zero and sustaining this progress in the years to come.

Among the issues under consideration by the CPSC is whether to exempt new advertising requirements from catalogues and printed materials distributed solely between businesses. Maple City Rubber supports providing an exemption for these specialized kinds of catalogues from the new requirements for several key reasons. While business to business catalogues play a key role in balloon commerce, conveying crucial product information and other specifications from manufacturers to distributors to retailers, such catalogues do not allow for a direct means of purchase by consumers. As such, requiring the display of cautionary statements beside every product and at the top or bottom of every page in very large manufacturer or distributor catalogues would be very unlikely to lead to any enhancements in consumer awareness or consumer safety.

Although the magnitude of benefits of including cautionary statements in business to business catalogues are uncertain, we are concerned that applying the proposed advertising requirements to business to business catalogues could have both real and intangible negative economic effects on balloon commerce. Requiring the display of cautionary statements beside products and the full text of

cautionary statements at the top or bottom of every page that includes those products will force companies to incur substantial costs related to the re-formatting and lengthening of all catalogues, as well as the increased postage expenses related to shipping longer catalogues to customers. Further, the display of repetitive cautionary statements may also have a chilling effect on balloon commerce, with distributors or retailers less inclined to carry balloon products in general though cautionary statements are required only for latex balloons but not foil balloons.

The CPSC also seeks information and comments on how it can distinguish between catalogues distributed solely between businesses from those intended for final distribution to "ultimate consumers," which may include institutions such as schools, churches, day care centers, and recreational facilities. In our experience with catalogue production and distribution, there does not appear to be any readily available way of discerning catalogues that would be sent to customers in general and those that would be sent to this specific group of entities. Based on our experience, we believe that schools, churches, day care centers, and recreational facilities almost certainly would order balloons through retailers rather than through manufacturers or distributors. However, if the CPSC wishes to increase the likelihood that this specific group of entities is aware of the cautionary statements on certain products, we believe that alternate methods of notification, such as alerting these specific entities to cautionary statements through notations next order forms or beside a table of contents, would better accomplish the CPSC's objectives.

The CPSC has requested comments on how often catalogues or other written materials are published and the lead time involved, as well as the cost of publishing new catalogues to meet the new requirements without the proposed 180 day grace period. Typically in this industry, a general catalogue is produced and distributed every 1.5 to 2 years, though catalogues printed at one time are often distributed over an extended period of time in the following year or more with a lead time of 4-5 months. Supplemental catalogues are often published seasonally and may have somewhat shorter lead times.

While we would expect to incur considerable expenses, approximately \$40,000 to \$60,000 to print and distribute a new catalogue in compliance of the proposed regulations, we support the CPSC's 180 day grace period to the extent that a later effective date will give us additional time to prepare new materials and to gain additional useful life out of the catalogues already in circulation.

Thank you for the opportunity to share our comments on the proposed rule and we hope that CPSC will act in a way that properly balances the need to safeguard the consumer with the real economic impact that the proposed rules would have on our company and many others in our industry.

Sincerely,

Jeffrey M. Tinker
President, CEO
Maple City Rubber Co., Inc.
PO Box 587
jtinker@tuf-tex.net
(419) 668 8261

Set 105

Stevenson, Todd

From: Lorinda@ContinentalSales.net
Sent: Thursday, October 16, 2008 2:23 PM
To: CPSC-OS
Subject: ADVERTISING REQUIREMENTS NPR

October 16, 2008

Ms. Barbara E. Parisi, Project Manager
Office of General Counsel
Consumer Product Safety Commission
4330 East-West Highway
Bethesda, Maryland 20814

Re: Notice of Proposed Rulemaking, 16 CFR Part 1500; Labeling Requirements for Toy and Game Advertisements (Docket No. CPSC-2008-0036)

Dear Ms. Parisi:

On behalf of Continental Sales, I am writing to submit comments in response to the above-referenced Notice of Proposed Rulemaking (NPR) published on page 580063 of the *Federal Register* of October 6, 2008. Pursuant to the NPR, the Consumer Product Safety Commission (CPSC) has requested comments regarding a proposal concerning advertising for certain toys and games in catalogues and other printed materials.

Continental Sales is a leading distributor of balloons and related products. We support efforts to increase consumer awareness about the proper use of balloons so that they can be enjoyed safely by children and adults alike. We are also encouraged that cautionary statements on balloon products and enhanced retailer and consumer education efforts supported by the balloon industry have resulted in several years of extremely low rates of choking fatalities related to balloons, with fatalities dropping to 1 incident annually in 2004, 2005, and 2006. As a company and as an industry, we are committed to taking all reasonable steps to reduce this number to zero and sustaining this progress in the years to come.

Among the issues under consideration by the CPSC is whether to exempt new advertising requirements from catalogues and printed materials distributed solely between businesses. Continental Sales supports providing an exemption for these specialized kinds of catalogues from the new requirements for several key reasons. While business to business catalogues play a key role in balloon commerce, conveying crucial product information and other specifications from manufacturers to distributors to retailers, such catalogues do not allow for a direct means of purchase by consumers. As such, requiring the display of cautionary statements beside every product and at the top or bottom of every page in very large manufacturer or distributor catalogues would be very unlikely to lead to any enhancements in consumer awareness or consumer safety.

Although the magnitude of benefits of including cautionary statements in business to business catalogues are uncertain, we are concerned that applying the proposed advertising requirements to business to business catalogues could have both real and intangible negative economic effects on balloon commerce. Requiring the display of cautionary statements beside products and the full text of cautionary statements at the top or bottom of every page that includes those products will force companies to incur substantial costs related to the re-formatting and lengthening of all catalogues, as well as the increased postage expenses related to shipping longer catalogues to customers. Further, the display of repetitive cautionary statements may also have a chilling effect on balloon commerce, with distributors or retailers less inclined to carry balloon products in general though cautionary statements are required only for latex balloons but not foil balloons.

The CPSC also seeks information and comments on how it can distinguish between catalogues distributed solely between businesses from those intended for final distribution to "ultimate consumers," which may include institutions such as schools, churches, day care centers, and recreational facilities. In our experience with catalogue production and distribution, there does not appear to be any readily available way of discerning catalogues that would be sent to customers in general and those that would be sent to this specific group of entities. Based on our experience, we believe that schools, churches, day care centers, and recreational facilities almost certainly would order balloons through retailers rather than through manufacturers or distributors. However, if the CPSC wishes to increase the likelihood that this specific group of entities is aware of the cautionary statements on certain products, we believe that alternate methods of notification, such as alerting these specific entities to cautionary statements through notations next order forms or beside a table of contents, would better accomplish the CPSC's objectives. 87 of our 152 page everyday catalog would require labeling if a label is required on every page showing a latex balloon.

The CPSC has requested comments on how often catalogues or other written materials are published and the lead time involved, as well as the cost of publishing new catalogues to meet the new requirements without the proposed 180 day grace period. Typically in this industry, a general catalogue is produced and distributed every 1 to 2 years, though catalogues printed at one time are distributed until the next catalog is produced. Seasonal catalogues are produced and distributed up to 8 months before the holiday.

10/16/2008

While we would expect to incur considerable expenses to print and distribute a new catalogue in compliance of the proposed regulations, we support the CPSC's 180 day grace period to the extent that a later effective date will give us additional time to prepare new materials and to gain additional useful life out of the catalogues already in circulation.

Thank you for the opportunity to share our comments on the proposed rule and we hope that CPSC will act in a way that properly balances the need to safeguard the consumer with the real economic impact that the proposed rules would have on our company and many others in our industry.

Sincerely,

Lorinda & Lorna Ferrell
Partners
Continental Sales
2924 18th Ave
Sacramento, CA 95820
Lorinda@ContinentalSales.net
916-452-5076

505 105

Affirming America's Ongoing Love Affair With Balloons



Thursday, October 16, 2008

Ms. Barbara E. Parisi, Project Manager
Office of General Counsel
Consumer Product Safety Commission
4330 East-West Highway
Bethesda, Maryland 20814

EXECUTIVE COMMITTEE:
Dan Flynn
Pioneer Balloon Company
Chairman
Jim Plutt
Anagram International

Re: Notice of Proposed Rulemaking, 16 CFR Part 1500; Labeling Requirements for Toy and Game Advertisements (Docket No. CPSC-2008-0036)

PUBLIC AFFAIRS DIRECTOR
Dale J. Florio
Princeton House
160 West State Street
Trenton, NJ 08608
(800) 233-8887
Fax: (609) 989-7491

Dear Ms. Parisi:

The Balloon Council respectfully submits the following comments in response to the above-referenced Notice of Proposed Rulemaking (NPR) published on page 580063 of the *Federal Register* of October 6, 2008. Pursuant to the NPR, the Consumer Product Safety Commission (CPSC) has solicited comments and information regarding its proposal concerning advertising for certain toys and games in catalogues and other printed materials.

About The Balloon Council

The Balloon Council (TBC) is a trade and advocacy group representing the interests of manufacturers, distributors, and retailers of balloons, including latex balloons. Balloons (latex and metallic foil) are a \$1.1 billion industry in the United States retail sales. Overall, employment related to balloon commerce is estimated to be between 40,000-50,000 people in the United States.

TBC is committed to a vibrant balloon marketplace in which consumers can experience the many joys that balloons provide while ensuring that all reasonable efforts are taken to protect consumers from the potential hazards that can result from the unintended use of balloons or inappropriate unsupervised access to balloons by children under 8 years of age. While all balloons are classified as toys, it is important for the CPSC to recognize that a large percentage of balloons sold are used as decorative accessories in settings where children are unlikely to be present. In fact, an estimated 30-40 percent of balloons sold would be classified as non-child related products, for example, including professional balloon decorations and balloon bouquets.

TBC has a strong track record of working cooperatively to reduce any risks associated with balloons and to educate consumers as to the appropriate use of balloons. Our members include companies that put in place voluntary labels warning of the potential choking hazard that can result from the unintended use of balloons or inappropriate access to balloons by infants or toddlers before warning labels were required. In 1994, TBC worked with Congress and the CPSC to

standardize the cautionary statements on packaging for all balloons. In addition, TBC and individual manufacturers have worked to educate retailers and consumers about proper handling and safety with balloons, including creating certification programs and other standards of conduct.

Together, these efforts have had a dramatic positive impact on reducing balloon-related incidents. While the loss of any child is tragic, according to CPSC data, choking deaths related to balloons dropped to 1 incident each year in 2004, 2005, and 2006. With an estimated 3-5 billion latex balloons sold annually the rate of these tragic incidents is extremely low and the industry is committed to doing everything it can reasonably do to reduce that number to zero.

Comments Regarding the Proposed Rule

TBC believes that the proposed rule could further enhance consumer education to ensure the safe enjoyment of balloons, but that the proposed steps should be taken in ways that properly maximize both consumer safety and allow for a robust balloon industry.

In an effort to enhance consumer awareness about potential hazards posed by certain toys and games, including balloons, the proposed rule imposes new labeling requirements on print and Internet advertising. The proposed regulations have far-reaching impacts on the business practices of a wide range of manufacturers, distributors and retailers, both in terms of costs of compliance and also potential for chilling effects on the market for some balloon items. TBC is eager to share our insight and information on how these new regulations would affect the balloon industry and how they can be implemented most fairly.

Business to Business Catalogues and Printed Materials

Among the issues on which CPSC has requested further information and comments, TBC is particularly concerned about the application of the new requirements to business to business catalogues. TBC believes that our experience in the industry can be especially useful to CPSC as it makes determining in its final rulemaking. CPSC has requested comments and information on the following:

“Whether the advertising requirements for catalogues and other printed materials should also apply to materials distributed solely between businesses and not to ultimate consumers, and, if not, how the Commission can distinguish catalogues distributed solely between businesses from those intended for final distribution to ultimate consumers, which may include institutions such as schools, churches, day care centers, and recreational facilities.”

TBC affirms that an informed consumer is crucial to protecting against the potential risks associated with certain toy and games; however, TBC believes that the advertising requirements for catalogues and other printed materials should not

apply to materials distributed solely between businesses and not to “ultimate consumers.” TBC believes that applying the proposed requirements to these specific kinds of commercial communications is not advisable given the considerable costs associated with compliance compared with the very low likelihood that actual consumers would be exposed to any required cautionary statements, thereby limiting the benefits of any new mandate.

By their nature, business to business catalogues contain detailed product information, marketing and technical information that are geared toward commercial entities such as distributors and retailers and not consumers. Indeed, many of these business to business catalogues and printed materials do not include an order form or other direct means of purchasing the products listed. Rather, information is furnished on how to contact authorized distributors or retailers to order a product or to learn more. Consumers **cannot** purchase the products sold in the catalogue. TBC notes that under the proposed rule, “direct means of purchase or order” is defined as “any method that allows consumers to order the product without being in the physical presence of the product.” TBC supports this definition, but we believe that it should be clarified that the term “consumer” applies to the general public and does not apply to businesses.

As an example, some TBC member companies do not even allow their catalogues or printed materials to be sent unless the recipient furnishes a Taxpayer Identification Number (TIN), which virtually guarantees that businesses are the recipients of information provided and not individual consumers. In addition to requiring a TIN to place an order or even request a catalogue, manufacturers and distributors do not sell to consumers at large, and such orders would not be accepted if attempted.

To the extent that disclosure of information to retailers is crucial to informing consumers, as the CPSC discusses in the NPR, the CPSIA requires manufacturers, distributors, private labelers, and other suppliers of products to fully disclose to retailers any and all applicable cautionary statements associated with those products. TBC concurs with the CPSC’s evaluation that applying the proposed labeling requirements to business to business catalogues and printed materials limits the flexibility of companies to convey this important information most effectively or most cost effectively.

TBC also believes that applying the labeling requirements to business to business catalogues and printed materials would have a considerable negative economic impact on the industry. First, applying these requirements would cause firms to incur a range of costs for revising layouts of catalogues as well as printing and mailing catalogues prior to the expiration of their usefulness. Second, TBC is concerned that applying these requirements might also create an environment that is not conducive for distributors to purchase or carry balloon products generally if cautionary statements are required to be included in catalogues, notwithstanding the fact that cautionary statements are required only for some balloons (latex) but

not others (foil). A typical two-page spread in a balloon manufacturer's catalogue may contain 10-20 different balloon products that would require a warning statement next to each. As the warning applies to every product on the spread, requiring the multiple warnings seems excessive and will not increase awareness of the warning—in fact, it may numb the reader to the important message.

When deciding whether or not to apply the new labeling requirements, therefore, the CPSC should recognize that business to business catalogues and printed materials are not intended for nor are commonly used by consumers to learn about or order products. As such, applying the proposed labeling requirements to these specific types of communications would do very little to increase consumer education which is so crucial to reducing the choking risks associated with certain toys and games.

The CPSC also seeks information and comments on how it can distinguish between catalogues distributed solely between businesses from those intended for final distribution to ultimate consumers, which may include institutions such as schools, churches, day care centers, and recreational facilities in the event that the proposed labeling requirements are not applied to business to business catalogues and materials. While the CPSIA itself raised no specific concerns about these specific classes of “ultimate consumers”, TBC understands how purchases made by these entities might be disproportionately intended for use by or around children.

From the perspective of several TBC member companies that use catalogues intensively in their businesses, it does not appear feasible to discern specific distinctions between business to business catalogues furnished to this class of recipients as opposed to overall recipients. While practices can vary among the wide array of manufacturers and distributors, a general business practice in this industry is to publish and distribute a primary catalogue for all trade customers or potential customers that may be used for 1.5-2 years covering a very broad range of products. While additional supplemental catalogs are created and distributed within this 1.5-2 year period, they are generally seasonal or based on holidays (i.e., Valentine's Day or Christmas) and are not generated for specific classes of recipients.

Once again, it is important to note that business to business catalogues published by manufacturers or distributors would still not offer a direct means of purchase, as defined under the proposed rule, were schools, churches, day care centers or recreational facilities to attempt to make an order through such channels. While it is possible that a small number of distributors might market products to one of these classes of entities, based on decades of experience and practice within the balloon industry, the overwhelming majority of entities such as schools, churches, day care centers and recreational facilities would purchase balloon products through retailers. The retailer's consumer catalogue, of course, would have to include the warning text under the proposed rules.

If CPSC wishes to take additional steps to ensure that institutions such as schools, churches, day care centers, and recreational facilities are aware of the cautionary statements that apply to certain games and toys, a more effective approach to ensuring that such information is furnished could be to require a statement on the ordering pages of various catalogues or printed materials that specifically indicates:

“ATTENTION: Schools, churches, day care centers, and recreational facilities. Be aware that certain toys and games pose choking hazards to babies, infants, or young children and are inappropriate for their use. Please inquire about any cautionary statements that may apply to your purchase before ordering products that may be intended for use by babies, infants, or young children.”

Notwithstanding the technical difficulties that may arise in attempting to distinguish catalogues that are solely business to business from those that may include institutions such as schools, churches, day care centers and recreational facilities, TBC would reiterate that catalogues which do not provide a direct means of ordering but instead refer all entities, whether businesses or individuals, to distributors or retailers, should be exempt from the proposed requirements for labeling in advertisements outlined in the NPR.

TBC also believes it is worth considering that schools, day care centers, and recreational facilities employ people who possess a range of professional certifications and training in the care of young children. It may be reasonable to believe that these professionals possess a greater awareness than the average consumer regarding the array of items that may pose choking hazards to children – whether they are specific foods such as grapes or products such as toys with small parts, marbles, or latex balloons – which would help them make intelligent decisions about the products they purchase for use in their facilities. And in the case of products that pose these hazards, of course, there are specific warnings on the packaging of every item which would further reinforce the awareness of those working in schools, churches, day care centers and recreational facilities regarding what products are inappropriate for use by or around children.

TBC Comments and Information on Other Elements of the Proposed Rulemaking

TBC would also offer the following comments and information on issues requested by the CPSC as part of the NPR.

Abbreviated Cautionary Statements, Minimum Type-Size and Placement Requirements of the Cautionary Statements

TBC is concerned that the CPSC’s proposal to require display of full cautionary statements at the top or bottom of every page or across a two page spread that displays a covered product with abbreviated cautionary statements displayed

beside each covered product may not be the optimal method of raising consumer awareness about the hazards posed by certain toys and games. While the creation and use of abbreviated cautionary statements is preferable to requiring the full cautionary statement to be displayed next to each applicable product, the inclusion of full cautionary statements at the top or bottom of every page may be so repetitive as to lose meaning and relevance to the reader of the catalogue or printed materials. We feel this is particularly the case when the whole page contains covered products and only covered products.

TBC believes that the CPSC should consider alternatives to requiring the full cautionary statements to be listed at the top or bottom of every page. First, CPSC should consider requiring cautionary statements that may be applicable to products in a catalogue adjacent to the ordering information. TBC believes that consumers devote particular attention to the cautionary statements that apply to relevant products and more intensely consider the appropriateness of that product for the intended recipient at the time of ordering and purchase. Alternately, TBC believes that the relevant cautionary statements could be included beside the Table of Contents in a catalogue or printed materials to inform consumers that products in a particular section are subject to cautionary statements and may be inappropriate for children under a certain age. Either of these alternatives would be preferable and be just as effective at informing consumers when compared to the proposed requirements.

Impact of the Proposals on Minimum Type-Size and Placement in Catalogues and other Printed Materials on Businesses.

TBC believes that the impact of the proposals on minimum type-size and placement in catalogues and other printed materials will be felt by businesses in two primary ways. First, the length of catalogues will have to grow to accommodate the display of a product, an abbreviated cautionary statement beside each covered product, and the full text of all applicable cautionary statements at the top or bottom of each page or two page spread that includes covered products. Because catalogue pages would be expected to remain the industry standard of 8.5 inches by 11 inches, more pages will be needed to display the same number of products given the space that is lost due to the new proposed cautionary statements. Longer catalogues are expected to result in increased printing and postage costs for manufacturers, distributors, and retailers that could have a substantial impact in low-profit margin items or catalogues in particular. TBC is also submitting examples of pages in catalogues for balloon products as they are currently formatted and as they might be formatted under the proposed regulations with these comments for the CPSC's consideration.

Second, TBC believes that the requirement of displaying the abbreviated cautionary statement beside each covered product and the full text of the cautionary statement at the top or bottom of every page could chill the market for those products overall, potentially prompting distributors to drop products from their catalogues rather sell products that require a series of cautionary statements

or repetitive cautionary statements throughout a catalogue section. If distributors drop entire classes of toys and games, including latex balloons, it could have an extremely negative economic impact on manufacturers, distributors, and retailers.

Once, again, efforts to increase consumer awareness of the hazards posed to children by balloons have had a dramatic positive impact on reducing balloon-related incidents. The fact that choking deaths in children related to balloons dropped to 1 incident each year in 2004, 2005, and 2006 according to CPSC data, and the relatively low likelihood that these products are purchased through catalogues or printed materials should be taken into consideration along with the potential negative economic impact on the balloon industry when making final determinations about the minimum size and placement of cautionary statements under the proposed rule.

How Often Catalogues or other Written Materials are Published and How Much Lead Time is Required to Prepare these Materials for Publication.

Catalogues and other printed materials play a critical role in the business plans of many TBC member companies in the balloon industry. A typical company in the industry prepares a general catalogue of all products once every 1-2 years. The general catalogue is produced in very large print runs, with the catalogues from a single print run often distributed to existing and new customers over the course of the following 1.5 to 2 years following initial production. The lead time for preparing these general catalogues is between 4-5 months.

In addition to publishing general catalogues, it is also typical in the industry for a company to produce supplemental catalogues, approximately once every 2 months, which focus on products appropriate for particular holidays or seasons. The supplemental catalogues are shorter than the general catalogue and the lead time is typically shorter as well, 2-3 months rather than the usual 4-5 months.

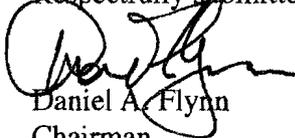
The Cost of Publishing New Catalogues to Meet these Requirements Without the 180 Day Grace Period.

TBC believes that its member companies will incur very substantial costs to publish new catalogues to meet the new advertising requirements without the proposed 180 day grace period. As noted above, TBC member companies produce catalogues that are used for as long as 2 years; without the 180 day grace period, some companies could be forced to perform an entire print run very shortly after the previous catalogue was produced. For example, if a company were to do a partial print run today and then a second print run after the proposed rule is finalized, the costs overall could double based on the higher per piece costs of two smaller print runs in comparison to the lower per piece costs of a single larger print run. It is also worth considering that the length of catalogs varies considerably between manufacturers and distributors. A manufacturer's general catalogue may run over a hundred pages, while a distributor's catalogue could run several hundred pages each, with 700 page catalogues typical of some of the largest distributors.

TBC supports the CPSC's proposed 180 day grace period as the maximum authorized under the CSPIA. While many companies have already printed catalogues or other printed materials intended for distribution after the proposed August 9, 2009 deadline, the 180 day grace period will provide some measure of relief from this expense, though TBC would also support any additional relief from the impact of this specific regulation.

Again, thank you for the opportunity to provide these comments. The Balloon Council looks forward to continuing to work in close coordination and in cooperation with the CPSC as the proposed rule is finalized and implemented.

Respectfully submitted,

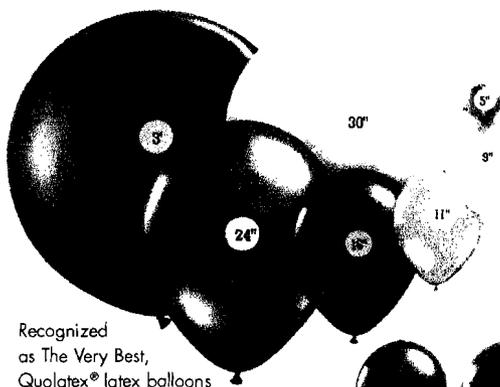


Daniel A. Flynn
Chairman

The Balloon Council
5000 E. 29th Street North
Wichita, Kansas 67220
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danf@qualatex.com



Solid-color Latex Balloons



Recognized as The Very Best, Qualatex® latex balloons are made in the USA and Canada from 100% natural, biodegradable latex with no added fillers. As further testament to Pioneer's commitment to quality, Qualatex balloons are produced in plants that have met ISO 9001/2000 standards. For details, see page 100. Qualatex balloons are also backed by a Satisfaction Guarantee—see page 100.

Jewel Colors

Jewel Magenta	Jewel Lime	Jewel Teal	Onyx Black	Quartz Purple
5" (100 ct.) PM #43000	PM #43000	PM #43000	PM #43000	PM #43000
9" (100 ct.) RQ #43000	N/A	RQ #43000	RQ #43000	RQ #43000
11" (100 ct.) QM #43000	QM #43000	QM #43000	QM #43000	QM #43000
11" (25 ct.) PE #43000	PE #43000	PE #43000	PE #43000	PE #43000
16" (50 ct.) QO #43000	QO #43000	QO #43000	QO #43000	QO #43000
18" (50 ct.) N/A	N/A	N/A	N/A	N/A
24" (25 ct.) N/A	N/A	N/A	BO #43000	BO #43000
3' Giant AS #43000	N/A	AS #43000	AS #43000	AS #43000

Standard Colors

Dark Blue	Green
5" (100 ct.) QB #43000	QB #43000
9" (100 ct.) QD #43000	QD #43000
11" (100 ct.) QE #43000	QE #43000
11" (25 ct.) PD #43000	PD #43000
16" (50 ct.) QG #43000	QG #43000
24" (25 ct.) TT #43000	TT #43000
3' Giant AJ #43000	AJ #43000

Standard Colors

Red	Yellow	Orange	Pink	Pale Blue	White
5" (100 ct.) QB #43000	QB #43000	QB #43000	QB #43000	QB #43000	QB #43000
9" (100 ct.) QD #43000	QD #43000	QD #43000	QD #43000	QD #43000	QD #43000
11" (100 ct.) QE #43000	QE #43000	QE #43000	QE #43000	QE #43000	QE #43000
11" (25 ct.) PD #43000	PD #43000	PD #43000	PD #43000	PD #43000	PD #43000
16" (50 ct.) QG #43000	QG #43000	QG #43000	QG #43000	QG #43000	QG #43000
24" (25 ct.) TT #43000	TT #43000	TT #43000	TT #43000	TT #43000	TT #43000
3' Giant AJ #43000	AJ #43000	AJ #43000	AJ #43000	AJ #43000	AJ #43000

Jewel Colors

Sapphire Blue	Emerald Green	Ruby Red	Citrine Yellow	Mandarin Orange	Sparkling Burgundy	Diamond Clear
5" (100 ct.) PM #43000	PM #43000	PM #43000	PM #43000	PM #43000	PM #43000	PM #43000
9" (100 ct.) RQ #43000	RQ #43000	RQ #43000	RQ #43000	RQ #43000	RQ #43000	RQ #43000
11" (100 ct.) QM #43000	QM #43000	QM #43000	QM #43000	QM #43000	QM #43000	QM #43000
11" (25 ct.) PE #43000	PE #43000	PE #43000	PE #43000	PE #43000	PE #43000	PE #43000
16" (50 ct.) QO #43000	QO #43000	QO #43000	QO #43000	QO #43000	QO #43000	QO #43000
18" (50 ct.) N/A	N/A	N/A	N/A	N/A	N/A	QP #43000
24" (25 ct.) BO #43000	BO #43000	BO #43000	BO #43000	BO #43000	BO #43000	BO #43000
3' Giant AS #43000	AS #43000	AS #43000	AS #43000	AS #43000	AS #43000	AS #43000



Chocolate Brown	Mocha Brown	Blush	Wintergreen	Tropical Teal	Goldenrod	Rose
5" (100 ct.) PM #43000	PM #43000	PM #43000	PM #43000	PM #43000	PM #43000	PM #43000
9" (100 ct.) N/A	N/A	N/A	RQ #43000	RQ #43000	RQ #43000	RQ #43000
11" (100 ct.) QM #43000	QM #43000	QM #43000	QM #43000	QM #43000	QM #43000	QM #43000
11" (25 ct.) PE #43000	PE #43000	PE #43000	PE #43000	PE #43000	PE #43000	PE #43000
16" (50 ct.) N/A	N/A	QO #43000	QO #43000	QO #43000	QO #43000	QO #43000
3' Giant N/A	N/A	AS #43000	AS #43000	AS #43000	AS #43000	AS #43000



Purple Violet	Spring Lilac	Ivory Silk	Lime Green	Periwinkle	Robin's Egg Blue	Gray
5" (100 ct.) PM #43000	PM #43000	PM #43000	PM #43000	PM #43000	PM #43000	PM #43000
9" (100 ct.) N/A	N/A	RQ #43000	RQ #43000	RQ #43000	RQ #43000	RQ #43000
11" (100 ct.) QM #43000	QM #43000	QM #43000	QM #43000	QM #43000	QM #43000	QM #43000
11" (25 ct.) PE #43000	PE #43000	PE #43000	PE #43000	PE #43000	PE #43000	PE #43000
16" (50 ct.) QO #43000	QO #43000	QO #43000	QO #43000	QO #43000	QO #43000	QO #43000
3' Giant AS #43000	AS #43000	AS #43000	AS #43000	AS #43000	AS #43000	AS #43000



Neon Colors

Neon Green	Neon Pink	Neon Orange	Neon Violet	Neon Magenta	Neon Blue
11" (100 ct.) QT #43000	QT #43000	QT #43000	QT #43000	QT #43000	QT #43000



Visit qualatex.com for the full selection of Qualatex consumer-packaged balloons.

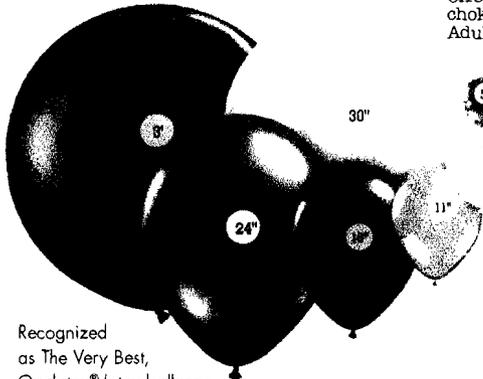


Latex

Solid-color Latex Balloons Qualatex



Solid-color Latex Balloons



Recognized as The Very Best, Qualatex® latex balloons are made in the USA and Canada from 100% natural, biodegradable latex with no added fillers. As further testament to Pioneer's commitment to quality, Qualatex balloons are produced in plants that have met ISO 9001/2000 standards. For details, see page 100. Qualatex balloons are also backed by a Satisfaction Guarantee —see page 100.

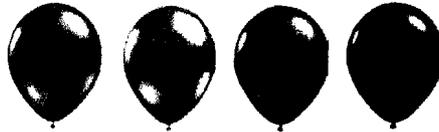
⚠ WARNING:
CHOKING HAZARD - Children under 8 yrs. can choke or suffocate on uninflated or broken balloons. Adult supervision required.

Keep uninflated balloons from children. Discard broken balloons at once.

Standard Colors

5" (100 ct.)	OB #43553	Dark Blue	QB #43561	Green
9" (100 ct.)	OD #43582	OB #43562	OD #43567	OD #43567
11" (100 ct.)	OE #43712	OE #43712	OE #43712	OE #43712
11" (25 ct.)	PD #39756	PD #39756	PD #39756	PD #39756
16" (50 ct.)	OG #43882	OG #43882	OG #43882	OG #43882
24" (25 ct.)	TT #45506	TT #45506	TT #45506	TT #45506
3" Giant	AJ #43985	AJ #43985	AJ #43985	AJ #43985

⚠ BALLOON. Not for < 8 yrs. ⚠ BALLOON. Not for < 8 yrs.



Jewel Colors

5" (100 ct.)	PM #99326	Jewel Magenta	PM #43564	Jewel Teal	PM #43548	Onyx Black
9" (100 ct.)	RQ #99327	RQ #99327	RQ #43690	RQ #43675	RQ #43675	RQ #43675
11" (100 ct.)	OM #99323	OM #78194	OM #43753	OM #43737	OM #43737	OM #43737
11" (25 ct.)	PE #99324	PE #78195	PE #43110	PE #39868	PE #39868	PE #39868
16" (50 ct.)	QO #99325	QO #99325	QO #43877	QO #43859	QO #43859	QO #43859
18" (50 ct.)	N/A	N/A	N/A	N/A	N/A	N/A
24" (25 ct.)	N/A	N/A	BO #45513	BO #45513	BO #45513	BO #45513
3" Giant	AS #99330	AS #99330	AS #43994	AS #43981	AS #43981	AS #43981

⚠ BALLOON. Not for < 8 yrs. ⚠ BALLOON. Not for < 8 yrs. ⚠ BALLOON. Not for < 8 yrs. ⚠ BALLOON. Not for < 8 yrs.



Jewel Colors

5" (100 ct.)	PM #43550	Sparkling Burgundy	PM #43552	Diamond Clear
9" (100 ct.)	RQ #43677	RQ #43677	RQ #43677	RQ #43677
11" (100 ct.)	OM #43739	OM #43739	OM #43741	OM #43741
11" (25 ct.)	PE #39830	PE #39830	PE #39877	PE #39877
16" (50 ct.)	QO #43859	QO #43859	QO #43861	QO #43861
18" (50 ct.)	N/A	N/A	OP #43934	OP #43934
24" (25 ct.)	N/A	N/A	BO #45520	BO #45520
3" Giant	AS #43982	AS #43982	AS #45084	AS #45084

⚠ BALLOON. Not for < 8 yrs. ⚠ BALLOON. Not for < 8 yrs.

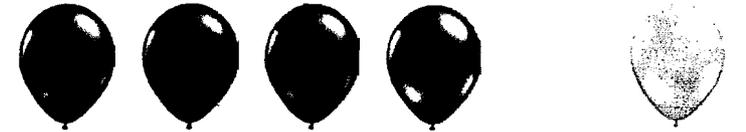
Solid-color Latex Balloons



Standard Colors

5" (100 ct.)	OB #43599	Red	OB #43570	Orange	OB #43575	Pink	OB #43571	Pale Blue	OB #43567	White
9" (100 ct.)	OD #43743	OD #43743	OD #43696	OD #43696	OD #43701	OD #43701	OD #43667	OD #43667	OD #43667	OD #43667
11" (100 ct.)	OE #43763	OE #43763	OE #43761	OE #43761	OE #43766	OE #43766	OE #43762	OE #43762	OE #43762	OE #43809
11" (25 ct.)	PD #43685	PD #43685	PD #39771	PD #39886						
16" (50 ct.)	OG #43897	OG #43897	OG #43876	OG #43876	OG #43883	OG #43883	OG #43879	OG #43879	OG #43879	OG #43904
24" (25 ct.)	TT #44507	TT #44507	TT #45508	TT #45508	TT #45504	TT #45504	TT #45511	TT #45511	TT #45511	TT #45512
3" Giant	AJ #44007	AJ #44007	AJ #44016	AJ #44016	AJ #44000	AJ #44000	AJ #44001	AJ #44001	AJ #44001	AJ #44014

⚠ BALLOON. Not for < 8 yrs. ⚠ BALLOON. Not for < 8 yrs.



Jewel Colors

5" (100 ct.)	PM #43598	Quartz Purple	PM #43602	Sapphire Blue	PM #43555	Emerald Green	PM #43601	Ruby Red	PM #43551	Citrine Yellow	PM #43569	Mandarin Orange
9" (100 ct.)	RQ #43702	RQ #43702	RQ #43706	RQ #43681	RQ #43681	RQ #43681	RQ #43705	RQ #43705	RQ #43678	RQ #43678	RQ #43695	RQ #43695
11" (100 ct.)	QM #43789	QM #43789	QM #43793	QM #43744	QM #43744	QM #43744	QM #43792	QM #43792	QM #43740	QM #43740	QM #43760	QM #43760
11" (25 ct.)	PE #39869	PE #39869	PE #39787	PE #39784	PE #39784	PE #39784	PE #39873	PE #39873	PE #39874	PE #39874	PE #39828	PE #39828
16" (50 ct.)	QO #43896	QO #43896	QO #43900	QO #43863	QO #43863	QO #43863	QO #43899	QO #43899	QO #43860	QO #43860	QO #43877	QO #43877
18" (50 ct.)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
24" (25 ct.)	BO #45514	BO #45514	BO #45515	BO #45516	BO #45516	BO #45516	BO #45517	BO #45517	BO #45518	BO #45518	BO #45519	BO #45519
3" Giant	AS #44006	AS #44006	AS #44010	AS #43955	AS #43955	AS #43955	AS #44009	AS #44009	AS #43983	AS #43983	AS #43999	AS #43999

⚠ BALLOON. Not for < 8 yrs. ⚠ BALLOON. Not for < 8 yrs.



Neon Colors

11" (100 ct.)	QT #74572	Neon Green	QT #74573	Neon Pink	QT #74574	Neon Orange	QT #74576	Neon Violet	QT #74577	Neon Magenta	QT #74578	Neon Blue
		QT #74572		QT #74573		QT #74574		QT #74576		QT #74577		QT #74578

⚠ BALLOON. Not for < 8 yrs. ⚠ BALLOON. Not for < 8 yrs.

⚠ WARNING:
CHOKING HAZARD - Children under 8 yrs. can choke or suffocate on uninflated or broken balloons. Adult supervision required.
Keep uninflated balloons from children. Discard broken balloons at once.



Solid-color Latex Balloons

⚠ WARNING:

CHOKING HAZARD - Children under 8 yrs. can choke or suffocate on uninflated or broken balloons. Adult supervision required.

Keep uninflated balloons from children. Discard broken balloons at once.



Chocolate Brown
PM #68776
N/A
QM #68778
PE #99386
N/A
QD #99381
N/A

⚠ **BALLOON.**
Not for < 8 yrs.



Mocha Brown
PM #99377
N/A
QM #99379
PE #99380
QD #99381
N/A

⚠ **BALLOON.**
Not for < 8 yrs.



Blush
PM #99319
N/A
QM #82657
PE #23091
QD #22231
AS #82658

⚠ **BALLOON.**
Not for < 8 yrs.



Wintergreen
PM #43668
RQ #43713
QM #43883
PE #39777
QD #43965
AS #44011

⚠ **BALLOON.**
Not for < 8 yrs.



Tropical Teal
PM #43605
RQ #43708
QM #43799
PE #39706
QD #43902
AS #44012

⚠ **BALLOON.**
Not for < 8 yrs.



Goldenrod
PM #43959
RQ #43685
QM #43748
PE #43970
QD #43867
AS #43984

⚠ **BALLOON.**
Not for < 8 yrs.



Rose
PM #43600
RQ #43704
QM #43791
PE #39867
QD #43898
AS #44008

⚠ **BALLOON.**
Not for < 8 yrs.



Purple Violet
PM #82697
N/A
QM #82699
PE #82670
QD #82703

⚠ **BALLOON.**
Not for < 8 yrs.



Spring Lilac
PM #43565
RQ #43691
QM #43754
PE #39752
QD #43873
AS #43995

⚠ **BALLOON.**
Not for < 8 yrs.



Ivory Silk
PM #43562
RQ #43628
QM #43751
PE #39784
QD #43870
AS #43991

⚠ **BALLOON.**
Not for < 8 yrs.



Lime Green
PM #48954
N/A
QM #48955
PE #23309
QD #73145
AS #76395

⚠ **BALLOON.**
Not for < 8 yrs.



Periwinkle
PM #48956
N/A
QM #48957
PE #28222
QD #78223
N/A

⚠ **BALLOON.**
Not for < 8 yrs.



Robin's Egg Blue
PM #82683
N/A
QM #82685
PE #43859
QD #82687
AS #82688

⚠ **BALLOON.**
Not for < 8 yrs.



Gray
PM #69645
N/A
QM #13780
PE #43859
N/A
N/A

⚠ **BALLOON.**
Not for < 8 yrs.

Visit qualatex.com for the full selection of Qualatex consumer-packaged balloons.



⚠ WARNING:

CHOKING HAZARD - Children under 8 yrs. can choke or suffocate on uninflated or broken balloons. Adult supervision required.

Keep uninflated balloons from children. Discard broken balloons at once.

Solid-color Latex Balloons



Latex

Solid-color Latex Balloons Qualatex

Latex

Qualatex Solid-color Latex Balloons

Stevenson, Todd

From: Dan Flynn [danf@qualatex.com]
Sent: Thursday, October 16, 2008 2:48 PM
To: CPSC-OS
Cc: Rob Zucker
Subject: ADVERTISING REQUIREMENTS NPR
Attachments: TBC Sec105 comments Signed.pdf; ATT00001.htm; solid color original.pdf; ATT00002.htm; solidcolorwarningbold.pdf; ATT00003.htm; env-resp.gif; ATT00004.htm

Re: Notice of Proposed Rulemaking, 16 CFR Part 1500; *Labeling Requirements for Toy and Game Advertisements* (Docket No. CPSC-2008-0036)

I am respectfully submitting comments and examples for The Balloon Council, an association representing the balloon industry, in the attached documents.

Daniel A. Flynn
Chairman
The Balloon Council
316.688.8630

Sept 105

October 16, 2008

Ms. Barbara E. Parisi, Project Manager
Office of General Counsel
Consumer Product Safety Commission
4330 East-West Highway
Bethesda, Maryland 20814

Re: Notice of Proposed Rulemaking, 16 CFR Part 1500; *Labeling Requirements for Toy and Game Advertisements* (Docket No. CPSC-2008-0036)

Dear Ms. Parisi:

On behalf of Betallic, LLC., I am writing to submit comments in response to the above-referenced Notice of Proposed Rulemaking (NPR) published on page 580063 of the *Federal Register* of October 6, 2008. Pursuant to the NPR, the Consumer Product Safety Commission (CPSC) has requested comments regarding a proposal concerning advertising for certain toys and games in catalogues and other printed materials.

Betallic is a leading manufacturer of balloons and related products. We support efforts to increase consumer awareness about the proper use of balloons so that they can be enjoyed safely by children and adults alike. We are also encouraged that cautionary statements on balloon products and enhanced retailer and consumer education efforts supported by the balloon industry have resulted in several years of extremely low rates of choking fatalities related to balloons, with fatalities dropping to 1 incident annually in 2004, 2005, and 2006. As a company and as an industry, we are committed to taking all reasonable steps to reduce this number to zero and sustaining this progress in the years to come.

Among the issues under consideration by the CPSC is whether to exempt new advertising requirements from catalogues and printed materials distributed solely between businesses. Betallic supports providing an exemption for these specialized kinds of catalogues from the new requirements for several key reasons. While business to business catalogues play a key role in balloon commerce, conveying crucial product information and other specifications from manufacturers to distributors to retailers, such catalogues do not allow for a direct means of purchase by consumers. As such, requiring the display of cautionary statements beside every product and at the top or bottom of every page in very large manufacturer or distributor catalogues would be very unlikely to lead to any enhancements in consumer awareness or consumer safety.

Although the magnitude of benefits of including cautionary statements in business to business catalogues are uncertain, we are concerned that applying the proposed advertising requirements to business to business catalogues could have both real and intangible negative economic effects on balloon commerce. Requiring the display of cautionary statements beside products and the full text of cautionary statements at the top or bottom of every page that includes those products will force companies to incur substantial costs related to the re-formatting and lengthening of all catalogues, as well as

the increased postage expenses related to shipping longer catalogues to customers. Further, the display of repetitive cautionary statements may also have a chilling effect on balloon commerce, with distributors or retailers less inclined to carry balloon products in general though cautionary statements are required only for latex balloons but not foil balloons.

The CPSC also seeks information and comments on how it can distinguish between catalogues distributed solely between businesses from those intended for final distribution to “ultimate consumers,” which may include institutions such as schools, churches, day care centers, and recreational facilities. In our experience with catalogue production and distribution, there does not appear to be any readily available way of discerning catalogues that would be sent to customers in general and those that would be sent to this specific group of entities. Based on our experience, we believe that schools, churches, day care centers, and recreational facilities almost certainly would order balloons through retailers rather than through manufacturers or distributors. However, if the CPSC wishes to increase the likelihood that this specific group of entities is aware of the cautionary statements on certain products, we believe that alternate methods of notification, such alerting these specific entities to cautionary statements through notations next order forms or beside a table of contents, would better accomplish the CPSC’s objectives.

The CPSC has requested comments on how often catalogues or other written materials are published and the lead time involved, as well as the cost of publishing new catalogues to meet the new requirements without the proposed 180 day grace period. Typically in this industry, a general catalogue is produced and distributed every 1.5 to 2 years, though catalogues printed at one time are often distributed over an extended period of time in the following year or more with a lead time of 4-5 months. Supplemental catalogues are often published seasonally and may have somewhat shorter lead times. Our catalogs are published 8 to 10 months prior to a holiday and Everyday annually. Seasonal catalogs are circulated through the time of the current season and Everyday is intended to last for a 12 month period starting in January each year. Keep in mind however to make these dates the production of such a piece is completed 2 to 3 months prior to the date the catalog is needed. These catalogs are then used for sale of goods to wholesale distributors and retailers. They are not intended for consumers.

While we would expect to incur considerable expenses to print and distribute a new catalogue in compliance of the proposed regulations, we support the CPSC’s 180 day grace period to the extent that a later effective date will give us additional time to prepare new materials and to gain additional useful life out of the catalogues already in circulation.

Thank you for the opportunity to share our comments on the proposed rule and we hope that CPSC will act in a way that properly balances the need to safeguard the consumer with the real economic impact that the proposed rules would have on our company and many others in our industry.

Sincerely,

Mary Ann Amick
V.P. Sales
Betalllic, LLC.
2326 Grissom Dr.
St. Louis, MO 63146
maryann@betalllic.com
314-991-8800

Stevenson, Todd

From: Mary Ann Amick [maryann@betallic.com]
Sent: Friday, October 17, 2008 1:49 PM
To: CPSC-OS
Subject: ADVERTISING REQUIREMENTS NPR."
Attachments: Template for CPSC comments on Section 105.doc

Mary Ann Amick
Vice President of Sales
Betallic, LLC
2326 Grissom Dr.
St. Louis, MO 63146
1-877-991-8800 X114
1-314-471-4991 - Cell Phone

Sept 105

October 17, 2008

Ms. Barbara E. Parisi, Project Manager
Office of General Counsel
Consumer Product Safety Commission
4330 East-West Highway
Bethesda, Maryland 20814

Re: Notice of Proposed Rulemaking, 16 CFR Part 1500; Labeling Requirements for Toy and Game Advertisements (Docket No. CPSC-2008-0036)

Dear Ms. Parisi:

On behalf of Nikki's Balloons, I am writing to submit comments in response to the above-referenced Notice of Proposed Rulemaking (NPR) published on page 580063 of the *Federal Register* of October 6, 2008. Pursuant to the NPR, the Consumer Product Safety Commission (CPSC) has requested comments regarding a proposal concerning advertising for certain toys and games in catalogues and other printed materials.

Nikki's Balloons is a leading Distributor of balloons and related products. We support efforts to increase consumer awareness about the proper use of balloons so that they can be enjoyed safely by children and adults alike. We are also encouraged that cautionary statements on balloon products and enhanced retailer and consumer education efforts supported by the balloon industry have resulted in several years of extremely low rates of choking fatalities related to balloons, with fatalities dropping to 1 incident annually in 2004, 2005, and 2006. As a company and as an industry, we are committed to taking all reasonable steps to reduce this number to zero and sustaining this progress in the years to come.

Among the issues under consideration by the CPSC is whether to exempt new advertising requirements from catalogues and printed materials distributed solely between businesses. Nikki's Balloons supports providing an exemption for these specialized kinds of catalogues from the new requirements for several key reasons. While business to business catalogues play a key role in balloon commerce, conveying crucial product information and other specifications from manufacturers to distributors to retailers, such catalogues do not allow for a direct means of purchase by consumers. As such, requiring the display of cautionary statements beside every product and at the top or bottom of every page in very large manufacturer or distributor catalogues would be very unlikely to lead to any enhancements in consumer awareness or consumer safety.

Although the magnitude of benefits of including cautionary statements in business to business catalogues are uncertain, we are concerned that applying the proposed advertising requirements to business to business catalogues could have both real and intangible negative economic effects on balloon commerce. Requiring the display of cautionary statements beside products and the full text of cautionary statements at the top or bottom of every page that includes those products will force companies to incur

substantial costs related to the re-formatting and lengthening of all catalogues, as well as the increased postage expenses related to shipping longer catalogues to customers. Further, the display of repetitive cautionary statements may also have a chilling effect on balloon commerce, with distributors or retailers less inclined to carry balloon products in general though cautionary statements are required only for latex balloons but not foil balloons.

The CPSC also seeks information and comments on how it can distinguish between catalogues distributed solely between businesses from those intended for final distribution to “ultimate consumers,” which may include institutions such as schools, churches, day care centers, and recreational facilities. In our experience with catalogue production and distribution, there does not appear to be any readily available way of discerning catalogues that would be sent to customers in general and those that would be sent to this specific group of entities. Based on our experience, we believe that schools, churches, day care centers, and recreational facilities almost certainly would order balloons through retailers rather than through manufacturers or distributors. However, if the CPSC wishes to increase the likelihood that this specific group of entities is aware of the cautionary statements on certain products, we believe that alternate methods of notification, such as alerting these specific entities to cautionary statements through notations next order forms or beside a table of contents, would better accomplish the CPSC’s objectives.

The CPSC has requested comments on how often catalogues or other written materials are published and the lead time involved, as well as the cost of publishing new catalogues to meet the new requirements without the proposed 180 day grace period. Typically in this industry, a general catalogue is produced and distributed every 1.5 to 2 years, though catalogues printed at one time are often distributed over an extended period of time in the following year or more with a lead time of 4-5 months. Supplemental catalogues are often published seasonally and may have somewhat shorter lead times. Within our specific company, general catalogs are product annually. Supplemental seasonal catalogs are published approximately 4-5 times per year. Lead times generally vary from 2 weeks to 2 months, depending on the size of the catalog and the number of changes/edits required.

While we would expect to incur considerable expenses (an estimated \$8,500 to prepare and reprint the general catalog and the 2 closest seasonal catalogs) to print and distribute a new catalogue in compliance of the proposed regulations, we support the CPSC’s 180 day grace period to the extent that a later effective date will give us additional time to prepare new materials and to gain additional useful life out of the catalogues already in circulation.

Thank you for the opportunity to share our comments on the proposed rule and we hope that CPSC will act in a way that properly balances the need to safeguard the consumer with the real economic impact that the proposed rules would have on our company and many others in our industry.

Sincerely,

Nikki King

President

Nikki's Balloons

505 Blue Ball Rd., Bldg #140A, Elkton MD 21921

nikki@populargreetings.com

(410) 398-5337 x193

Stevenson, Todd

From: Joe Catlett [joe@nikkisballoons.com]
Sent: Friday, October 17, 2008 9:05 AM
To: CPSC-OS
Cc: nikki@populargreetings.com
Subject: ADVERTISING REQUIREMENTS NPR
Attachments: CPSC.doc

Please review our attached comments in reference to the above referenced subject

Thank you.



Cheryl A. Falvey, General Counsel
John Gibson Mullan, Director, Office of Compliance
U.S. Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814

Subject: Cautionary Statements in Catalogs and Other Printed Materials

Dear Ms. Falvey and Mr. Mullan,

LEGO Systems, Inc, ("LSI") is the distributor of high quality interlocking plastic construction toys in the United States. Through our LEGO Brand Retail subsidiary, we sell products directly to consumers through retail stores, on the Internet and through catalogs. Section 105 of the CPSIA requires that sellers of products covered under section 24 of the Federal Hazardous Substances Act include the appropriate cautionary statement related to those products in catalogs or other printed materials that provide a direct means for the purchase or order of the product. LSI hereby submits these comments to assist the Commission in the development of regulations that allow for the implementation of section 105 of the Act in a commercially reasonable fashion while providing for the protection of consumers envisioned by Congress.

SUMMARY: (Key inputs with detailed rationale below)

1. We agree with the Staff's recommendation that an abbreviated warning text positioned at each item, with the full warning text located elsewhere on the page would effectively provide the warning message to purchasers.
2. We disagree with the proposed abbreviated warning text and recommend the Commission accept abbreviations previously allowed in 16 CFR 1500.19 for items when there is limited space on the primary display panel.
3. We disagree with the recommendation for determining warning text sizes based on our literal interpretation of "the size of the largest product-specific text used in the advertisement other than the product name" and offer a similar, but more consistent sizing alternative.
4. We agree with the Staff's recommendation to allow an additional 180 day grace period for the implementation of the advertising requirements for catalog.

Background:

LSI has been selling products directly to consumers for over two decades. In the late 1990s, LSI began selling products on the Internet. Currently, 86% of LSI's direct-to-consumer sales (not including sales through retail outlets) are sold through the Internet. This percentage has been rapidly rising – from August 2007 to August 2008 the share of direct-to-consumer sales through the Internet increased by 8%.

In order to promote direct-to-consumer sales, LSI distributes catalogs several times a year. These catalogs provide information that would permit consumers to order products by mail or by telephone. Nonetheless, our sales analysis indicates that between 75 and 80% of direct sales made to consumers receiving catalogs are made over the Internet. For these individuals, any cautionary messages placed in catalogs would be redundant with the messages the individuals would encounter when ordering a product through the Internet.

Catalog pages are valuable. The costs of printing and mailing large number of catalogs requires that direct sellers use their catalog pages efficiently to communicate information necessary to allow a consumer to make an informed purchase decision. Pages are therefore usually dense with information, with little room to spare for redundant text. Balancing the need to provide consumer information is the need to avoid clutter in which important information can get lost.

LSI provides its recommendations for implementation of section 105 of the Act with the following principles in mind: regulations should not impose costs which do not materially add to awareness of consumers of the cautionary messages applicable to products; consumers should not be overwhelmed by multiple presentations of the same warning message that could result in warning fatigue so that consumers become immune to the impact of the cautionary message; and the placement and number of cautionary messages should not create such clutter that other information necessary for consumers to make purchasing decisions become lost.

Recommendations:

Recommendation Regarding Size and Placement of Cautionary Statement:

Section 105 of the Act requires that the cautionary statement appear "on or immediately adjacent to" an advertisement "that provides a direct means for the purchase or order of a product" to which the cautionary statement applies. We concur with the Staff's recommendation that the full text of the cautionary statement appear only once on a page that contains multiple advertisements. For example the full text of the statement could appear prominently at the top or bottom of the page, with an abbreviated warning appearing next to each product to which the cautionary statement applies.

However, we disagree with the recommendation of the Staff as to the wording of the abbreviated warning. Congress already addressed the issue of how to word an abbreviated warning in the context of small packaging on which a full text warning would overwhelm the package. See Federal Hazardous Substances Act, Sec. 24(c)(3), which provides that the words "SAFETY WARNING" should appear on the front panel of a small box, with an indicator directing the consumer to the full warning on another panel. In the case of a product containing balloons, the required abbreviated warning would be "Warning – Choking Hazard". We recommend that the Commission adopt the approach already approved by Congress and incorporated into the Commissions regulations and use the abbreviated warnings set for in the FHSA. When multiple warning messages might apply to products shown on a catalog page, the indicator (an asterisk or other symbol) would direct the consumer to the proper cautionary statement located elsewhere on the page. **(See Exhibit A)**

The Staff also makes a recommendation that the type size used in the cautionary statement and the abbreviated warning be the larger of 0.08 inches or "the size of the largest product-specific text used in the advertisement other than the product name." This proposal is likely to cause confusion and lead to incongruous results. For example, an advertisement for a toy boat might be accompanied by large text adjacent to a depiction of the product that says "Really Floats", or an ad might use large text to note that an item is "NEW". This text might be larger than the name used for the product. Under the staff's recommendation, as we interpret it, this large text describing a function of the product would become the minimum text size for the required cautionary statement. Inconsistently, a very similar advertisement on the next page, without the "call out" text, would have a much smaller warning text. **Exhibit B page 1** illustrates this result.

We recommend that the text size for the signal word of the cautionary statement, or abbreviated warning, be the larger of (i) .08 inches or (ii) the size of the largest text in

the advertisement that describes the function, use or characteristics of the toy being advertised which is not larger than the text size used in the name of the product. The text size for the remainder of the cautionary statement (other than the signal word) should be determined in accordance with 16 CFR 1500.121 based upon the size of the signal word text. Exhibit B page 2.

Grace period for Implementation of Requirements:

Congress specifically granted the Commission the ability to provide a grace period for implementation of the advertising requirements for catalogs and printed materials. It is interesting to note that no grace period was provided for Internet advertising. All internet advertising must comply with section 105 by December 11, 2008. As pointed out earlier, most catalog recipients actually make their purchases on-line, so any grace period granted for print advertising will still result in most catalog purchasers being exposed to the applicable cautionary statements well before the expiration of any grace period.

On average it takes LSI 3 weeks to prepare a catalog layout. From the time the layout is finalized, there is another period of 2 weeks before the catalog is printed and ready for distribution. From the time the printing is completed, it takes another 3 weeks for delivery of the finished catalog to the US Postal Service and ultimate delivery to our customers. At that point, the catalog will remain in circulation until the next catalog is ready for distribution, a period that can be as long as 13 weeks. Accordingly, for the LSI catalog business, we would require at least 21 weeks from the finalization of the regulations governing placement and size in order to implement the requirements of section 105. We recognize that we change catalogs more frequently than other companies in the direct-to-consumer sales industry, and a significantly longer grace period may be needed by other companies to come into compliance with section 105.

The Staff has recommended that the Commission grant a 180 day grace period for the implementation of the advertising requirements for catalogs, and we concur in this recommendation.

I hope that this submission is helpful to the Commission in its challenging task of developing regulations to fully but fairly implement section 105 without causing too much disruption to our economy. Please do not hesitate to contact me if I can clarify

any points raised in this comment or provide you with further information on how proposed rules might affect our business. We also would be willing to develop some additional mock ups if you would find those useful in your discussion with the Commissioners.

Sincerely,

Nancy MacPherson

Nancy MacPherson
Director of Quality and Compliance
LEGO Systems, Inc.
Enfield, CT 06082
1-860-763-6886
nancy.macpherson@lego.com

Exhibit A


U-6296
Con_Prod_Safety_

Exhibit B (3 pages)


U-6296
Con_Prod_Safety_

Page 1

Warnings sized as we interpret the Staff's size recommendations based on the size of the "Really Floats" descriptive text and the Staff's recommended warning abbreviations. We do not agree with this approach.

Page 2

LEGO recommendation to use abbreviated SAFETY WARNING icon, distinguish small part and small ball warnings via a call out, and size the full warning text based on largest text describing function, but not larger than the name of the article.

Page 3

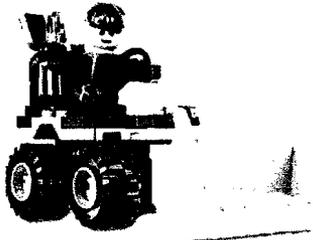
A 'typical' page that would have 2 items with small parts—a warning call out at each item's information section and the full warning prominent on the page sized to the product name in the information section.

Great Sets Under \$10!

Save \$4 when you buy any 5 items!

Save \$8 when you buy any 10 items!

Offer applies to items shown on pages 24-25 only.



Mini Digger

⚠ Safety Warning*

Ages 5+ 36 pieces. **EXCLUSIVE**

7246 Mini Digger \$3.99

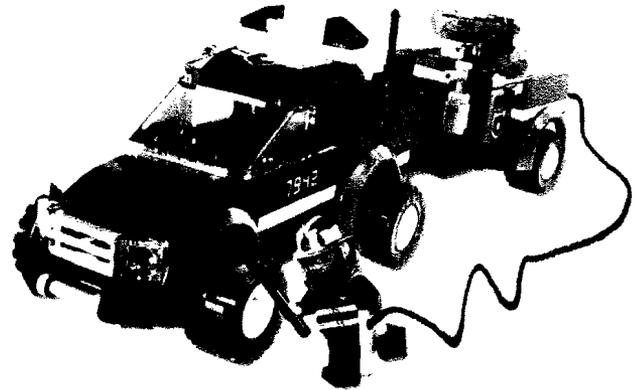


Airplane Mechanic

⚠ Safety Warning*

Ages 5-12 26 pieces. **EXCLUSIVE**

7901 Airplane Mechanic \$3.49



Off Road Fire Rescue

⚠ Safety Warning*

Ages 5-12 131 pieces.

7942 Off Road Fire Rescue \$9.99

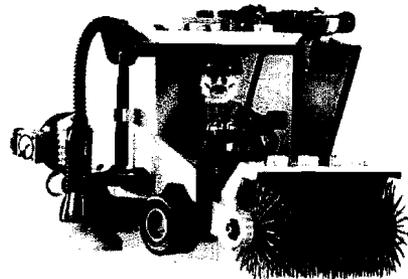


Police Car

⚠ Safety Warning*

Ages 5+ 59 pieces.

7236 Police Car \$5.99

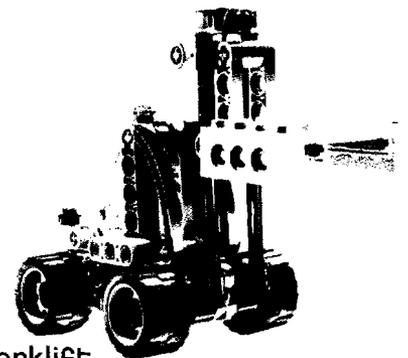


Street Sweeper

⚠ Safety Warning*

Ages 5+ 63 pieces.

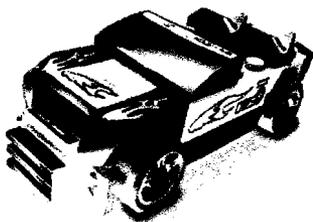
7242 Street Sweeper \$7.99



Mini Forklift

Ages 7-14 74 pieces

8290 Mini Forklift \$7.99



EZ-Roadster

Ages 6-12 45 pieces.

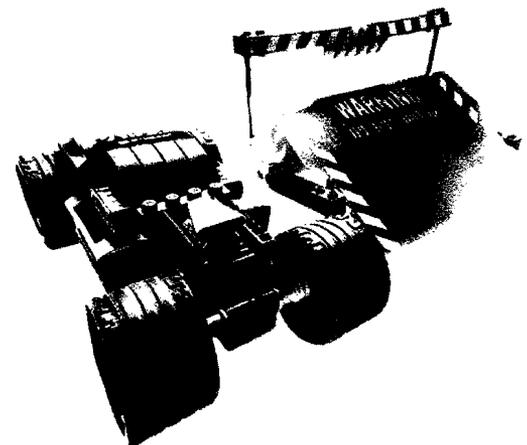
8148 EZ-Roadster \$4.99



ZX Turbo

Ages 6-12 55 pieces.

8150 ZX Turbo \$4.99



Desert Hopper

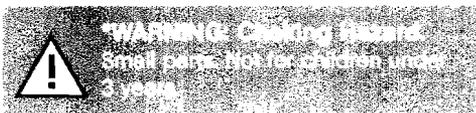
Ages 7-12 92 pieces.

8490 Desert Hopper \$9.99

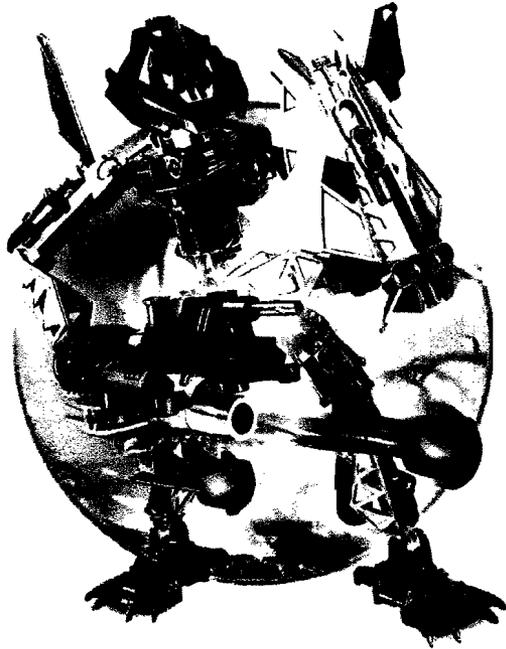
Ram Rod

Ages 7-12 72 pieces

8491 Ram Rod \$9.99



Better Building!



NEW! Toa Onua

Ages 7-16. 62 pieces.

Wise and strong, Toa Onua challenges the mysteries of Karda Nui with his jet rockets, Nynrah ghost blaster, multi-resistant shield, Mask of Strength and high-tech wings. But can the power of earth prevail in a swamp filled with deadly foes?

8690 Toa Onua \$12.99

*Toa Onua has
Nynrah ghost blaster
and shield!*



SHARP EDGES
AND POINTS

Fire Hovercraft
Ages 7-16. 272 pieces. **AWARD WINNER**

The Fire Hovercraft is packed with details and features just like the real thing! Wheels on the bottom allow it to move in any direction. Includes gas tanks, lead, fuel tank, 2 rubber minifigures with 40 pieces of gear.

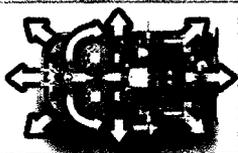
Item # 8690 \$12.99

Includes 3 Deck hoses

Rear fans and lift turbines really spin!

really floats!

SHARP EDGES AND POINTS. Not for < 3 years!



Hovercraft can move in any direction



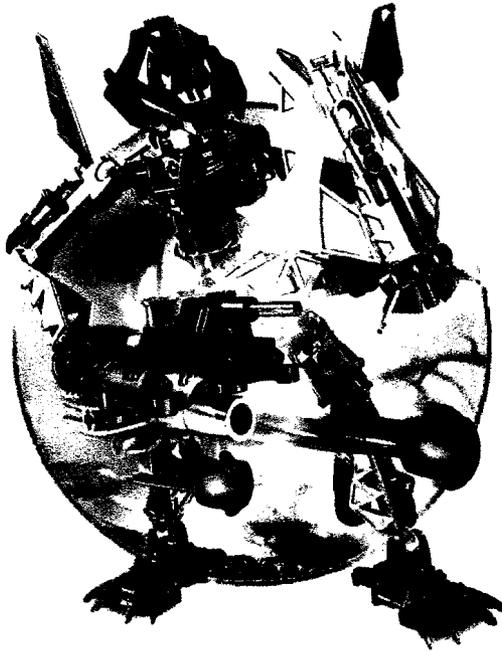
SHARP EDGES AND POINTS. Not for < 3 years!



SHARP EDGES AND POINTS. Not for < 3 years!

Better Building!

LEGO Favorites



NEW! Toa Onua

Ages 7-16 62 pieces

SAFETY WARNING†

Wise and strong Toa Onua challenges the mysteries of Karda Nui with his jet rockets Nynrah ghost blaster multi-resistant shield Mask of Strength and high-tech wings. But can the power of earth prevail in a swamp filled with deadly foes?

8690 Toa Onua \$12.99

*Toa Onua has
Nynrah ghost blaster
and shield!*

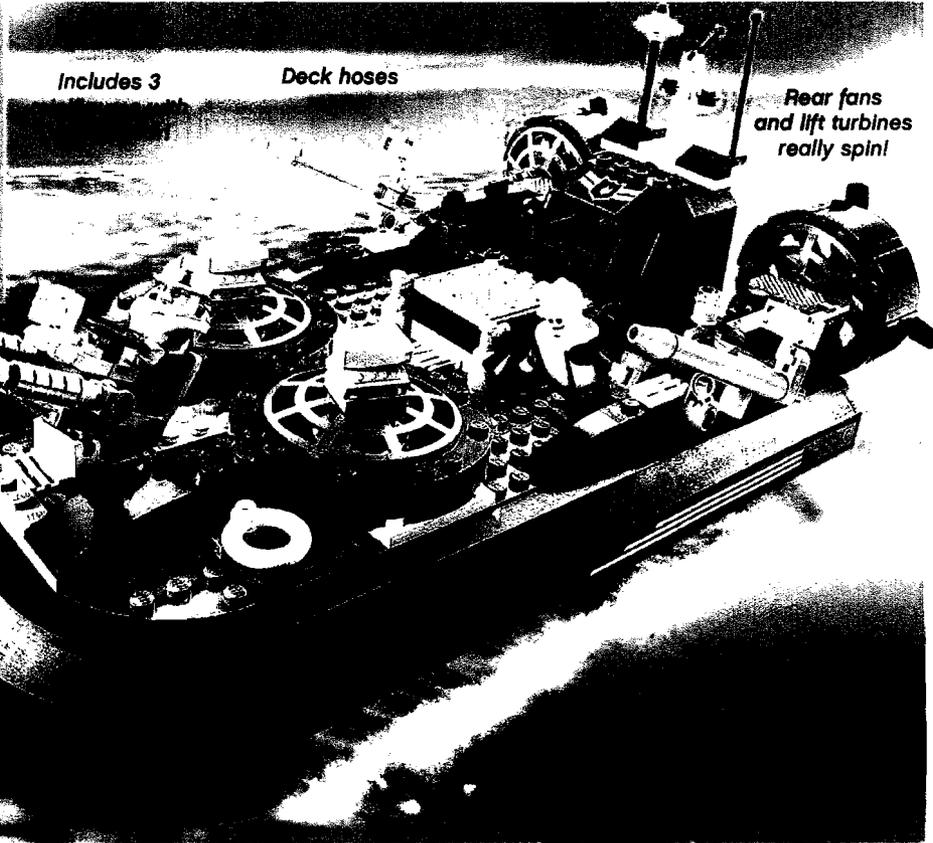
Top Hovercraft
Ages 7-16 73 pieces

AWARD WINNER

SAFETY WARNING†

The Top Hovercraft is packed with details and features for the real thing! Wheels on the bottom allow it to move in any direction for realistic play on dry land!

Top Hovercraft \$20.99

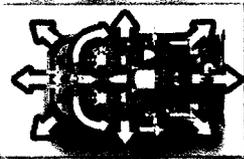


Includes 3

Deck hoses

*Rear fans
and lift turbines
really spin!*

really floats!



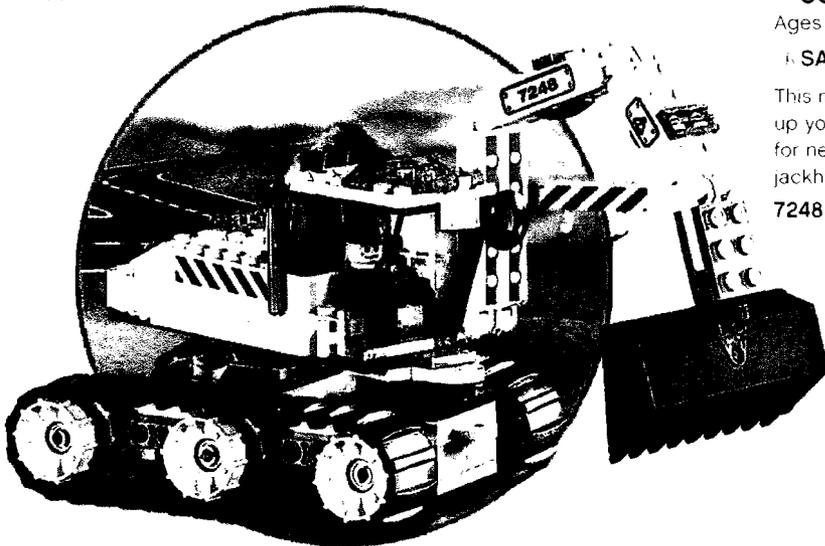
*Hovercraft can move
in any direction*



Better Building!

LEGO Favorites

Store tools
inside the
Digger!



Digger

Ages 5+ 127 pieces

SAFETY WARNING:

This mean machine is ready to scoop up your LEGO bricks and clear the way for new construction. Includes driver with jackhammer and other tools.

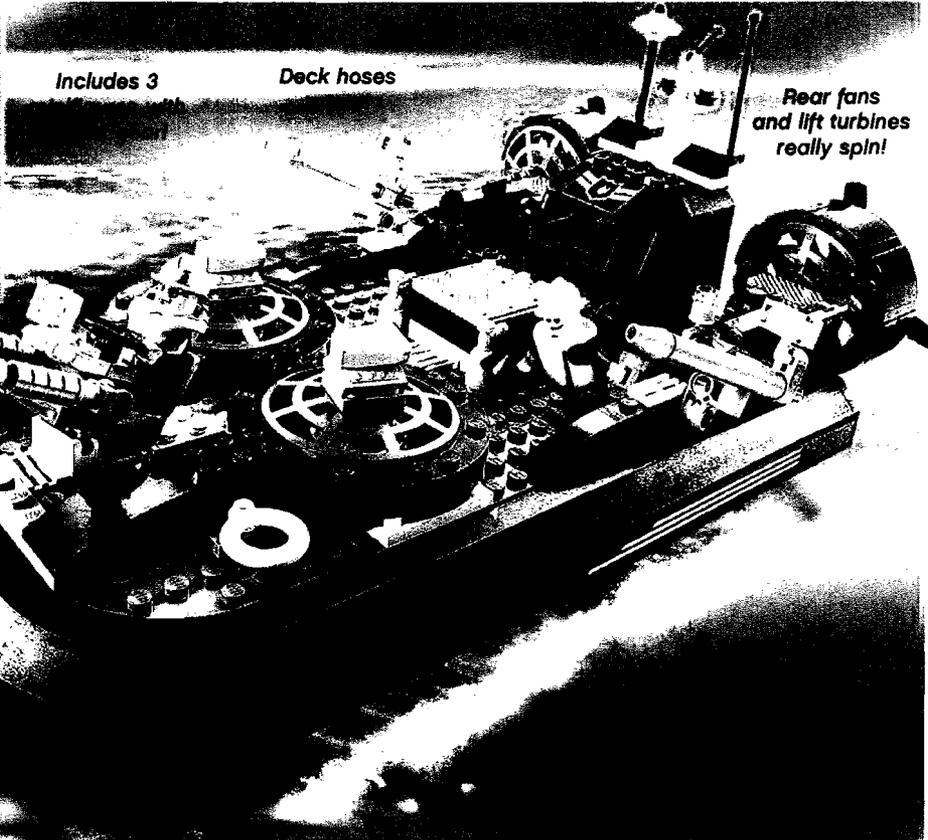
7248 Digger \$19.99

Raise & lower
the bucket!

Plus Hovercraft
Ages 5+ 274 pieces **AWARD WINNER**

SAFETY WARNING:
This Hovercraft is packed with details and features just like the real thing! Wheels on the bottom allow it to move in any direction for realistic play on dry land!

7249 Plus Hovercraft \$29.99

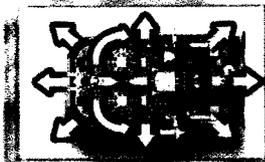


Includes 3

Deck hoses

Rear fans
and lift turbines
really spin!

really travel



Hovercraft can move
in any direction



Stevenson, Todd

From: Nancy MacPherson [nancy.macpherson@LEGO.com]
Sent: Friday, October 17, 2008 12:03 PM
To: CPSC-OS; Mullan, John; Falvey, Cheryl
Cc: Nancy MacPherson
Subject: ADVERTISING REQUIREMENTS NPR (LEGO)
Attachments: Catalog Warning CPSC comments.doc

On behalf of LEGO Systems, Inc. I am submitting our comments with respect to Sec 105 of the CPSIA regarding advertising requirements for catalogs and other printed material. Please feel free to contact me with any questions. I am planning to participate in Monday's phone conference on this subject.

Thank you.

Nancy

Nancy MacPherson
Director of Quality and Compliance
LEGO Systems, Inc.
Enfield, CT 06083

860-763-6886 | *mobile* 860-716-0518 | *fax* 860-763-2237 | nancy.macpherson@LEGO.com

Set 105

Consumer Electronics Retailers Coalition



Consumer Electronics Retailers Coalition - CPSC Comments on Catalog and Internet Advertising

October 17, 2008

Todd A. Stevenson
Secretary
Consumer Product Safety Commission
4330 East-West Highway
Room 502
Bethesda, Maryland 20814

RE: Section 105 Advertising Requirements:
Comments on Labeling Requirement for Toy and Game Advertisements

Dear Mr. Stevenson:

Please accept the following comments from the Consumer Electronics Retailers Coalition (CERC) in response to the Commissions September 23, 2008, Notice of Proposed Rulemaking; Labeling Requirement for Toy and Game Advertisements.

By way of background, the Consumer Electronics Retailers Coalition (CERC) is a public policy issue organization consisting of the major specialty retailers of consumer electronics products and retail associations. CERC members include Amazon.com, Best Buy, Circuit City, K-Mart, RadioShack, Sears, Target, Wal-Mart, and the leading retail industry trade associations – NRF, NARDA, and RILA.

Section 24(a) of the Federal Hazardous Substances Act (FHSA) prescribes cautionary labeling requirements for toys or games that contain small parts and are intended for use by children from 3 to 6 years old. The cautionary statement warns potential purchasers that these products are not for children under 3 years old due to choking hazards. Section 24(b) of the FHSA prescribes similar requirements for balloons, small balls, and marbles intended for children 3 years and older, or any toy or game which contains such a balloon, small ball, or marble.

Section 105 of the CPSIA amends section 24 of the FHSA to require that, when a product's packaging requires a cautionary statement, advertising for the product that provides a direct means for purchase or order of the product must bear the same cautionary statement.

The Act requires manufacturers, importers, distributors and private labelers to inform retailers if a product requires a label under Section 105. Being able to rely on the information provided by the manufacturers, importers, distributors and private labelers is a critically important provision in the statute. And, it is helpful that the Proposed Rule explicitly describes the cautionary statements required under Section 105 as those required under Section 24(a) of the Federal Hazardous Substances Act (FHSA) to warn potential purchasers that these products may contain to choking hazards.

CERC supports the goal of helping consumers make informed purchases and understands the need for consistency in the text and placement of the warnings. But, CERC also believes that flexibility is required when applying warnings originally designed for packaging to online and catalogue advertisements and asks for the Commission's guidance.

I. Economic Issues

A. **The Impact of the Advertising Requirements on Businesses is Significant.**

Although the NPRM doesn't seek input from retailers or other parties on the impact of the advertising requirements, CERC would like to respond to the CPSC's initial request for comments which did include such an inquiry. The impact of these provisions is significant on the retail business – the degree to which these provisions impact individual businesses will depend in part on the guidance provided by the CPSC in its regulations.

There are significant cost and logistical challenges attributable to the inclusion of the new cautionary statements in CERC members' print advertising (if so required) and on their websites. With regard to the former, CERC outlines below the challenges presented and respectfully requests that the CPSC to utilize its authority to provide flexibility, while maintaining the important public policy of informing the public of any hazards presented to small children by the sale of products with small parts, balloons, small balls or marbles, as defined by the FHSA, 15 U.S.C. § 1278 (2006). CERC also submits that the importance of the CPSC issuing the final regulations in a timely fashion cannot be overstated. Compliance with the Act and regulations under the tight timeframes created cannot occur without the clear communications of final regulations.

B. **The CPSC Should Offer a Grace Period for Catalogues and Other Printed Material; In addition, CPSC Should Consider whether Any Grace Period Might be Offered for the Internet.**

CERC members' lead time on printed materials for placement ranges from 90 to 120 days. For planning purposes, 120 days is not uncommon due to the layout design, approval process, printing and the extensive distribution to thousands of households. Likewise, the time required for making template changes to a web page can be up to 60 days. In addition, the cost to change a web page template design is in the tens of thousand dollars.¹ Many retailers, including CERC members, also "lock down" their websites during the holiday season, meaning

¹ It is important to note that there are differences between changing a website template and changing content on a website, with the former being more challenging. The CPSC staff's recommendations regarding location and condition of the warning suggest a website template change.

that as a rule, they do not make design or template changes to their websites in November and December to avoid any challenges that might disrupt consumer access during this busy retail period.

As noted in the NPRM, CPSIA specifically provides that the CPSC may grant a grace period of no more than 180 days with respect to catalogues and other printed materials. Labeling Requirement for Toy and Game Advertisements, 73 Fed. Reg. 58,063, 58,064 (proposed October 6, 2008) CERC supports the CPSC's recommendation for such a grace period. If the CPSC fails to issue the final rule by November 12th, as required by the statute, the implementation will present challenges with the typical lead times presented above. In addition, if the CPSC decides to apply the labeling requirements to business-to-business catalogues and print material (see discussion below), this grace period will be particularly important since the implementation of these requirements had not been contemplated by retailers or manufacturers.

Without a statutorily-stated grace period for the Internet, CERC also notes that the implementation of CPSIA's Internet advertising provisions is particularly challenging. In the NPRM, the CPSC suggests that the Commission may not issue final regulations on those provisions some time before the December 12, 2008 implementation date. In such event that the final regulations are not issued prior to December 12th, it is also essential that CPSC provide some form of grace period with regard to its enforcement of these provisions. In effect, due to the statutory deadline and the lack of final rule, retailers otherwise may otherwise find themselves faced with having to make costly changes to their websites *twice* – once to attempt compliance with the CPSIA by December 12th and again, once the final regulations are in place. As noted above, most retailers' websites are in lock down during this period, so the impact of making these changes within these timeframes should not be underestimated.

C. Applying the Advertising Requirements to Business-to-Business Catalogues would be beyond the Intent of CPSIA.

Both the NPRM and the initial CPSC Staff request for comment seek information regarding the applicability of the advertising requirements to business-to-business catalogues. The CPSC Staff request specifically asked "whether the advertising requirements for catalogues and other printed materials should also apply to materials distributed solely between businesses and not to ultimate consumers, and, if so, how the Commission can distinguish catalogues distributed solely between businesses from those intended for final distribution to the ultimate consumers, which may include institutions such as schools and day care centers." CPSC Staff Request for Comments and Information regarding Section 105 of the [CPSIA], September 4, 2008, <http://www.cpsc.gov/BUSINFO/advertrule.pdf>. If the Act's intent in Section 105 was to inform consumers regarding possibility that a toy or game might contain a small part prior to purchase, we believe the application of the advertising requirements to business-to-business materials is beyond this intent.

If the CPSC decides to require the inclusion of the cautionary statements in this context, it is essential that the CPSC narrowly define the types of materials to which these provisions would apply – i.e., the requirements should only apply to the extent that the materials relate to

the sale of product to consumers and then only for the purpose of ensuring consistent communications from manufacturers and distributors to retailers.² To the extent that a manufacturer, distributor or private labeler includes the cautionary statements in a catalogue or other printed material between it and a retailer, either voluntarily or if required by the CPSC, the CPSC should provide guidance that the inclusion of those statements are sufficient to satisfy the Notice to Inform provisions of section 105 of the Act. CPSIA, sec. 105(2), § 24, Pub. L. No. 110-314, 122 Stat. 3016 (August 14, 2008).

II. Advertising Size and Placement

A. **Catalogues and Other Printed Material.**

In its NPRM, the CPSC Staff makes recommendations pertaining to the size and placement of the cautionary statements. Prior to commenting on those recommendations, CERC takes this opportunity to seek clarification on whether the Act requires the inclusion of the cautionary statements in flyers. Many retailers, including CERC members, use flyers that are direct-mailed to consumers or included in newspapers. These flyers are primarily used for advertising purposes and not for direct purchase purposes, but sometimes they may offer a specific phone number or a website through which a product may be purchased.

The Act requires the cautionary statements on advertisements, which may be on websites, or in catalogues, or other printed materials, *only if* those advertisements provide a “*direct means for the purchase or order of a product.*” CPSIA § 105; FHSA § 249(c). CERC recommends that the CPSC’s regulations clarify that a flyer (or other free-standing insert) as described above is not required to include the cautionary statements under section 105. In the event that the CPSC disagrees, CERC recommends that the cautionary statement only be required if the flyer or free-standing insert directs the customer to a specific phone number for order. The addition of a website alone should not be considered a direct means for purchase. A customer directed to a website will have the benefit of seeing the cautionary statements on the site prior to purchase. Therefore, requiring cautionary statements on a flyer that includes a website would be duplicative and unnecessary. Finally, CERC does *not* believe inclusion of store locations, a general information phone number provides a “direct means” for purchase, but rather represents indirect messaging.

In the event that a flyer, catalogue, website, or other printed material is required to include the cautionary statement, CERC recommends that the CPSC provide flexibility in how those statements are displayed. The statute states that the cautionary statement be displayed in a manner consistent with part 1500 of title 16 of the Code of Federal Regulations and also states that the CPSC may implement regulations concerning size and placement of the cautionary statements “as appropriate relative to the size and placement of the advertisements in such catalogues and other printed material.” CPSIA § 105(1)-(2). It is consistent with current regulations and with statutory intent and legislative history for the CPSC to provide flexibility

² Materials that are distributed between businesses, or only within a single business, solely for business or marketing purposes between the two businesses, and not for the purpose of selling a product, should not be required to include the cautionary statements.

and alternatives in labeling with regard to advertising.³ Size and placement are critical issues since the creation of advertisements is a balance between managing visual clutter and communicating meaningful information to consumers. Space used in advertising is expensive due to the nature of distribution, appeal, and medium.

The NPRM recommends that the cautionary statements in catalogues and other printed materials “be the larger of (1) a certain minimum type size based on the size of the advertisement (but no smaller than 0.08 inches) or (2) the size of the largest text in the advertisement that describes the function, use, or characteristics of the toy or game being advertised, other than the product name.” Already, numerous required warnings and statements about battery requirements, age grading, and compatibility present spatial challenges in advertising.

CERC appreciates the CPSC Staff’s recommendation that abbreviated versions of the required warnings be permitted. In many cases, multiple products for which a cautionary statement is required appear on one advertising page. It would be unfeasible to require that a complete cautionary statement appear next to each product on all printed materials. The CPSC’s staff recommendation is consistent with the CPSC’s current flexibility on the labeling of small packaging and with the legislative history accompanying the CPSIA.⁴ This is also common advertising practice in other contexts. CERC believes, however, that retailers should have flexibility to determine the abbreviated version of the required warnings. For example, CERC believes the recommendation by the CPSC’s Human Factors Staff to use the less than and greater than symbols in referencing age applicability could lead to some confusion. CERC believes more than one option should be permitted. CERC recommends that retailers be able to use the equilateral triangle with such terms as “Warning: Small Parts”, “Warning: Balloon”, “Warning: Small Ball”, “Warning: Marble”, with the primary cautionary statement present at either the top or bottom of the advertising page.

As to text size, CERC interprets the CPSC’s recommendation to state that a cautionary statement, whether is full or abbreviated, located with the product in printed materials must comply with the larger of the two – minimum type size of the advertisement (no smaller than .08 inches) or the size of the largest text in the advertisement that describes the product. Since advertisements often use a range of text sizes for headings and product information the CPSC should make clear that the type size for the warnings should be no smaller than text describing the “function, use, or characteristics of the article being advertised.”

Additionally, CERC seeks guidance on what the permissible type size would be for a full cautionary statement that appears at the top or bottom of a printed material. Because the cautionary statement would not be appearing with a particular product in this instance, CERC

³ By example, the CPSC’s current regulations recognize the challenges presented by small packages and provide alternative size, placement and language options for small packages whereby the entire statement is not required to be included. *See* 16 C.F.R. 1500.19(f).

⁴ The House Energy and Commerce Committee Report states the Committee’s intention that the CPSC “consider the possibility of permitting a general warning to be printed at the top of as catalogue’s page (as opposed to specific warnings adjacent to individual product advertisements).” [Committee report cite.] CERC supports this statement, although it supports the CPSC’s recommendation that the location of the general warning may appear at the bottom or top of each of the pages.

believes it would be an appropriate interpretation to permit the statement to be the certain minimum type size based on the size of the advertisement page (but no smaller than .08 inches).

B. Internet Advertisements.

Placement

CERC supports the goal of warning customers about potential choking hazards and agrees with the suggestion by the Human Factor staff's September 22d memorandum that the "cautionary statements be located at the beginning of the advertisement's product-specific descriptive text." However, CERC believes it would not be appropriate to require the warnings to appear above the page scroll in every instance.

Where the scroll appears on the screen depends upon the resolution and size of the viewing screen, both factors over which internet retailers have no control. The sizes of viewing screens vary widely among desktop and laptop computers, and the page configuration will also depend on options selected by the individual user (such as display resolution, font size, and the size of the browser window.) The problem is particularly acute for mobile phones and other portable devices with Internet access, which typically have a very small display screen relative to other devices. Our members urge the Commission to accept the Human Factors Staff's recommendation and require the warning to "be located at the beginning of the advertisement's product-specific descriptive text," which will ensure that the cautionary statements are displayed in a location that consumers can easily access while giving retailers the flexibility to address the structure and design of individual websites.

Text size

The NPRM suggests that the minimum type size should be no smaller than .08 inches "or the size of the largest text in the advertisement that describes the function, use, or characteristics of the toy or game being advertised." Many websites use a range of text sizes and CERC urges the Commission to require the text size of the cautionary statement to be the same size as the text used to describe the functions and features of the product.

Product Lists

Additionally, CERC seeks guidance on whether the cautionary statements are required on each website location where a product and a means for purchase is displayed. For example, on some websites, the consumer is presented with a list of applicable products when a category search is performed. These lists are not the primary product advertisements and do not include product descriptions or information. Typically, a consumer seeking information will click on the item in order to access a full description of product information and specifications, but products may be added to the purchase "cart" from these lists. Because these are simply lists of product names it is technically unfeasible for most CERC members to include the required cautionary statements for each of the applicable products listed. Due to the burdens imposed and the fact that the warnings will be displayed in the actual product advertisement, CERC recommends that

the CPSC clarify that the cautionary statements are not required when a product appears on these product lists.

Combinations and Abbreviations

The CPSC Staff recommends against permitting abbreviated warnings on the Internet. CERC respectfully disagrees with the Staff's first recommendation and urges the Commission to permit abbreviated warnings on the Internet if necessary, so long as complete cautionary statements are included by links or otherwise. Flexibility is needed to ensure that retailers can implement the requirements in the unreasonably short timeframe for compliance.

Alternatively, to avoid the problems associated with over-warning, another approach would be to combine the warnings for small parts, small balls, and marbles into one warning: "WARNING. CHOKING HAZARD--This toy is or contains a small part, small ball, or marble. Not for children under 3 yrs." The warning for balloons, which cannot be readily combined with the warning for small parts, small balls and marbles as it applies to products for children under 8 years, would remain unchanged. Retailers would still request information from the manufacturer, importer, distributor or private labeler as to whether a cautionary statement is required, but would be free to display the combined alternative whenever one of the warnings related to small parts, small balls, or marbles applies. This would still ensure that consumers are warned about the products they are buying, while allowing retailers to streamline the compliance process under Section 105. This is particularly important because 16 CFR 1500.19(e) contemplates that applicable labeling statements may be combined on the product packaging. This could lead to a proliferation of slightly different warnings that would need to be displayable in Internet advertising. A CPSC-approved, consolidated warning for small parts, small balls and marbles would greatly simplify the task of compliance for retailers while still supplying consumers with the warning information relevant to their purchasing decision.

Conclusion:

CERC strongly believes in protecting the safety of our customers and children. To do that, retailers need clarity, certainty, reasonableness and sufficient time to implement any new notice requirements.

Respectfully,

Christopher A. McLean
Executive Director
Consumer Electronics Retailers Coalition
317 Massachusetts Avenue, NE
Suite 200
Washington, DC 20002
(Tel.) 202.292.4600

Stevenson, Todd

From: Glen Cooney [glen.cooney@e-copernicus.com]
Sent: Friday, October 17, 2008 6:01 PM
To: CPSC-OS
Subject: Section 105 Advertising Requirements - Comments on Labeling Requirements for Advertising Toys and Games
Attachments: CERC.CPSC.COMMENTS.10.17.08 (final) (4).doc

CPSC Staff:

Please accept the attached document on behalf of the Consumer Electronics Retailers Coalition (CERC).

The attached letter offers comments and information on **'Section 105 Advertising Requirements' - Labeling Requirements for Advertising Toys and Games**

Thank you,

Glen Cooney
e-Copernicus
317 Massachusetts Ave., NE, Suite 200
Washington, DC 20002
Office: 202.292.4600
Fax: 202.292.4605

Sent
10/5**Stevenson, Todd**

From: Jeff Novak [jnovak@favors.com]
Sent: Sunday, October 19, 2008 2:12 PM
To: CPSC-OS
Subject: ADVERTISING REQUIREMENTS NPR

Our company invests significant time and expense to ensure that products are properly tested, and warnings are properly included on the associated packaging. It is our belief that these obligations adequately provide consumers with the warnings they need. Our company would accept and implement the burdens of placing warnings in business-to-business catalogs. However, we believe that the benefits to consumers (if any) are far outweighed by the burdens. As such, we are not in favor of the business-to-business catalog warning requirement.

Ours is a business that does not sell to the end user/consumer. We sell primarily to retailers. Our annual, main catalog is over 400 pages; one page may contain images of 20 items or more. Some of those items may require a warning; some may not. If required to apply individual warnings for each product, we would be forced to make one of two choices: Increase the size of the catalog, or decrease the size of the images.

If we chose to keep the images the same size, the number of pages would increase. It is unclear (after the warnings were inserted) how many pages this would be – but every additional page is an increase in time and expense. If the images were reduced, this would affect the entire appearance of the catalog; and we believe the smaller images would not effectively present our goods to our direct customers.

Regardless of which choice we made, there are still other issues. We believe that adding the warnings as proposed creates undue complexity and increases time & cost, with zero benefit to the target audience. Currently it takes approximately five months to assemble the main catalog. If business-to-business catalog warnings become a requirement, then the time to assemble will be even greater. This matters because decisions as to what will be in our line for the following year need to be made timely; increasing lead time may make it impossible to produce an accurate catalog in time. We may be in a situation where the annual catalog does not accurately reflect what is in our actual line.

We think that the requirement to place warnings on business-to-business catalogs is unnecessary. However, the CPSC may insist on this; it has expressed that it is necessary to distinguish between 'pure' business-to-business catalogs, and those that are intended to be distributed to the ultimate consumers (which may include schools). If the CPSC is steadfast in its belief that something more is necessary, then consider a separate disclaimer on its own. To make the purpose of the catalog clear, a single disclaimer could be placed on the face of the catalog (e.g. "Not for retail use" or "Catalog not compliant with CPSIA of 2008 – Do not distribute to consumers for review or use").

If the CPSC mandates the business-to-business catalog warnings, then please advise the corporate community whether the warnings in the catalogs will satisfy the requirements of Section 105 (which requires a company to inform a retailer of any cautionary statement requirement applicable to the product).

Please consider the above at the meeting set for October 20, 2008. Thank you.

Very truly yours,
Jeff Novak
Vice President – Quality Assurance
Unique Industries Inc.
4750 league Island Blvd
Philadelphia PA 19112
215-336-4300 ext. 7711

S105

Stevenson, Todd

From: Michael Warring [mwarring@amep.com]
Sent: Sunday, October 19, 2008 11:49 PM
To: CPSC-OS
Subject: ADVERTISING REQUIREMENTS NPR

As the President of a small manufacturing company employing 75 people and providing more than 6,000 products to the educational 'hands on' or manipulatives market, I offer the following comments regarding the proposed rules in Section 105 of HR 4040:

- Initial review of the abbreviated versions, minimum type-size and placement requirements suggests to me that my business will be adding between 15% and 25% more copy to any product requiring a warning. I am not in a position at this time to know exactly what proportion of products we offer will require this additional copy, but I anticipate a 5% increase in copy overall. That's a 5% increase in paper cost and quantity, as well as additional postage.
- Catalog production and mailing costs represent 10% of our sales and marketing budget. Our typical catalog cycle begins in June of each year with final proofing completed by late October. We are not in a position to fulfill these requirements in the current cycle. Our catalog is mailed in late December/early January of each year and is expected to be in use until replaced 12 months later. Even if the 180 day extension is given, our catalog would have to be replaced in August of 2009, entailing a substantial investment for a limited life printing. Without the extension, I would have to postpone any catalog until we could fulfill all requirements. For all intents and purposes this would mean no catalog in 2009, as we would not be able to print and mail until June of 2009 and 75% of our revenues are realized by the end of August. We would miss the entire cycle.
- Our Product Development staff has looked this proposal and the underlying requirements over and determined that a complete review of all of our product line will be required to develop the database of products that meet one or more of the labeling requirements listed in 1500.20d1-4, several of which apply to product intended for use by anyone over a certain age with no age cap (OVER age 3 or OVER age 8 rather than BETWEEN ages 3 to 8). This will take considerable time.
- While a number of our catalogs are used B2B, the majority go to end users. Given the fixed costs of any catalog, there is no advantage for us to produce two catalogs, one for B2B distribution and one to consumers, as our overall costs would be substantially higher.

Given the above, I urge you to reconsider the timing of these requirements and allow for the fact that small businesses will need a fifteen to twenty four month period to fully comply with this legislation.

Our web site is at <http://www.amep.com/> if you would like to review the products that are offered in our catalog.

Thank you for any and all consideration you can give to offering a grace period of at least fifteen months.

Michael Warring
President
American Educational Products LLC
970.484.7445x232 phone
970.484.1198 fax
800.446.8767x232 phone
mwarring@amep.com

Sent
10/5

October 20, 2008

Ms. Barbara E. Parisi, Project Manager
Office of General Counsel
Consumer Product Safety Commission
4330 East-West Highway
Bethesda, Maryland 20814

Re: Notice of Proposed Rulemaking, 16 CFR Part 1500; *Labeling Requirements for Toy and Game Advertisements* (Docket No. CPSC-2008-0036)

Dear Ms. Parisi:

On behalf of burton + BURTON, I am writing to submit comments in response to the above-referenced Notice of Proposed Rulemaking (NPR) published on page 580063 of the *Federal Register* of October 6, 2008. Pursuant to the NPR, the Consumer Product Safety Commission (CPSC) has requested comments regarding a proposal concerning advertising for certain toys and games in catalogues and other printed materials.

burton + BURTON is a leading distributor of balloons and related products. We support efforts to increase consumer awareness about the proper use of balloons so that they can be enjoyed safely by children and adults alike. We are also encouraged that cautionary statements on balloon products and enhanced retailer and consumer education efforts supported by the balloon industry have resulted in several years of extremely low rates of choking fatalities related to balloons, with fatalities dropping to 1 incident annually in 2004, 2005, and 2006. As a company and as an industry, we are committed to taking all reasonable steps to reduce this number to zero and sustaining this progress in the years to come.

Among the issues under consideration by the CPSC is whether to exempt new advertising requirements from catalogues and printed materials distributed solely between businesses. burton + BURTON supports providing an exemption for these specialized kinds of catalogues from the new requirements for several key reasons. While business to business catalogues play a key role in balloon commerce, conveying crucial product information and other specifications from manufacturers to distributors to retailers, such catalogues do not allow for a direct means of purchase by consumers. As such, requiring the display of cautionary statements beside every product and at the top or bottom of every page in very large manufacturer or distributor catalogues would be very unlikely to lead to any enhancements in consumer awareness or consumer safety.

Although the magnitude of benefits of including cautionary statements in business to business catalogues are uncertain, we are concerned that applying the proposed advertising requirements to business to business catalogues could have both real and intangible negative economic effects on balloon commerce. Requiring the display of cautionary statements beside products and the full text of cautionary statements at the top or bottom of every page that includes those products will force companies to incur

substantial costs related to the re-formatting and lengthening of all catalogues, as well as the increased postage expenses related to shipping longer catalogues to customers. Further, the display of repetitive cautionary statements may also have a chilling effect on balloon commerce, with distributors or retailers less inclined to carry balloon products in general though cautionary statements are required only for latex balloons but not foil balloons.

The CPSC also seeks information and comments on how it can distinguish between catalogues distributed solely between businesses from those intended for final distribution to "ultimate consumers," which may include institutions such as schools, churches, day care centers, and recreational facilities. In our experience with catalogue production and distribution, there does not appear to be any readily available way of discerning catalogues that would be sent to customers in general and those that would be sent to this specific group of entities. Based on our experience, we believe that schools, churches, day care centers, and recreational facilities almost certainly would order balloons through retailers rather than through manufacturers or distributors. However, if the CPSC wishes to increase the likelihood that this specific group of entities is aware of the cautionary statements on certain products, we believe that alternate methods of notification, such as alerting these specific entities to cautionary statements through notations next order forms or beside a table of contents, would better accomplish the CPSC's objectives.

The CPSC has requested comments on how often catalogues or other written materials are published and the lead time involved, as well as the cost of publishing new catalogues to meet the new requirements without the proposed 180 day grace period. Typically in this industry, a general catalogue is produced and distributed every 1.5 to 2 years, though catalogues printed at one time are often distributed over an extended period of time in the following year or more with a lead time of 4-5 months. Supplemental catalogues are often published seasonally and may have somewhat shorter lead times. We produce and distribute 4 seasonal catalogs per year (Valentine's Day, Spring, Fall and Holiday). Additionally, we produce and distribute a Monthly Specials catalog.

While we would expect to incur considerable expenses (\$350,000 - \$400,000) to print and distribute a new catalogue in compliance of the proposed regulations, we support the CPSC's 180 day grace period to the extent that a later effective date will give us additional time to prepare new materials and to gain additional useful life out of the catalogues already in circulation.

Thank you for the opportunity to share our comments on the proposed rule and we hope that CPSC will act in a way that properly balances the need to safeguard the consumer with the real economic impact that the proposed rules would have on our company and many others in our industry.

Sincerely,



Steve Casso
General Manager
burton + BURTON
325 Cleveland Road
Bogart, GA 30622
scasso@burtonandburton.com
706-548-1588

Stevenson, Todd

From: Steve Casso [scasso@burtonandburton.com]
Sent: Monday, October 20, 2008 8:42 AM
To: CPSC-OS
Subject: ADVERTISING REQUIREMENTS NPR

Attachments: Comments on Section 105.doc



Comments on
section 105.doc (3..

Steve Casso
General Manager
burton + BURTON
scasso@burtonandburton.com
706-548-1588

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Sec 105

October 20, 2008

Office of the Secretary
Consumer Product Safety Commission
Room 502
4330 East-West Highway
Bethesda, MD 20814



**RE: JPMA COMMENTS: CPSC ADVERTISING REQUIREMENTS NPR
Federal Register: October 6, 2008 [Volume 73, Number 194 Page 58063-58070]**

The Juvenile Products Manufacturers Association is a national trade organization of more than 300 companies in the United States, Canada, and Mexico. JPMA exists to advance the interests, growth, and well-being of North American prenatal to preschool product manufacturers, importers, and distributors marketing under their own brands to consumers. It does so through advocacy, public relations, information sharing, product performance certification, and business development assistance conducted with appreciation for the needs of parents, children, and retailers.

Section 105 of the Consumer Product Safety Improvement Act of 2008 (“CPSIA”) requires all internet and print point of sale advertising with a direct opportunity for simultaneous purchase of certain toy products to carry certain cautionary language. We understand that this section of the CPSIA only applies to FHSA’s Section 24 choking hazard warning and not to other warnings that may be required by other Acts or regulations administered by the CPSC. We encourage the CPSC staff to offer flexible general guidance on the placement and use of required warnings on small parts in advertisements only where there is a direct purchase opportunity for consumers. CPSC should be mindful that catalogues have a variety of layouts and functions and that a flexible approach to use of warnings is required.

We believe regulations need to be clear that business to business Web sites, catalogues and other printed communications are excluded from the scope of this requirement, and that such materials do not generally involve direct purchase opportunities by “consumers.” In addition “free” premiums offered with food products, or coupons and cards that consumers can mail under promotional programs are already subject to CPSC’s Premium Guidance Document and should be expressly excluded from coverage under this regulation.

We ask the Commission to be mindful of the challenges and abilities of different advertising channels and allow flexibility in placement and conspicuousness. For instance a click through to a consumer Web site, a pop-up or in consumer catalogues referencing a “Warning Page” should be expressly permitted. This is consistent with the manner in which technical and safety information is already provided. We also note and agree that the CPSC should act by regulation to extend the grace period for catalogues published prior to February 10, 2009 to permit distribution and use for an additional 180 days to August 9, 2009. This could help reduce the tremendous financial impact to our customers that publish, print, and circulate catalogues that

require lengthy lead times and generally are used in circulation to consumers for longer periods of time.

We appreciate the opportunity to provide the following comment on the use of cautionary statements, as applicable under FHSA Section 24:

Choke Hazard Warning Type Size

The recommended minimum eight point type for the cautionary statement is larger than the labeling CPSC regulations under 16 CFR 1500.121 requires for packaging. This also implies that the corresponding Warning symbol and designation would be required to be even larger than the descriptive print. The catalogue and Web site warnings should not have to be greater than that required by 1500.121 for packaging. There is no relation between product packaging labeling location and size and catalogue depictions and descriptions. The type size should be relative to the size of the descriptive language used in the advertisement that permits consumers with a direct purchase opportunity for consumers. There is no reasonable way to correlate type size in relation to primary package display panels with product depictions in catalogues or in other advertisements.

Consolidated/Abbreviated Warnings

Permitting abbreviated cautionary statements should be encouraged. However, the language proposed is too lengthy and confusing. Consolidated warnings, reduced to a couple of selections should be developed. In addition, pictograms should be permitted. Catalog space is limited and costly to publish, so Choke Hazard Warning and age designation "Not for < 3 yrs" should be encouraged and placed at the bottom of a page (including a double page layout) in any event, so inclusion of that language in the abbreviated warning is redundant. The full warning should not have to be on each page. It should be sufficient that the full warnings are somewhere within the two pages.

Warning Keys Should Be Permitted

CPSC guidelines should permit the small parts warnings to be combined in any reasonable manner that conveys the warning to the consumers. Symbols referring to a common "Warning" page (similar to sizing and material charting pages) should be encouraged and permitted. Compliance with the statute in other manners should be permitted. While Section 105 of the CPSIA provides that cautionary statements should be "displayed on or immediately adjacent to [the] advertisement," it does not define exactly what constitutes an advertisement. In this sense the entire catalogue or circular can be considered the advertisement and similarly the boxed advertisement in a newspaper page that has a mail in form for purchase can also be considered one. There is nothing that restricts the use of reference formats or symbols. Indeed the language indicates that such

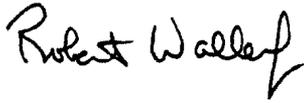
requirements can “modified by regulations issued” by CPSC pursuant to authority granted in succeeding paragraphs.

Internet

Requiring the warning on Web pages to be “located immediately before any other statements in the advertisement that describe the function, use or characteristics of the toy or game” is not realistic and doesn’t adequately recognize that current Web technology can employ “pop ups” or “balloons” or “fast links” to dedicated “Warning” sections. Accordingly, any rule should be flexible enough to allow for employment of current and future technologies.

Thank you for the opportunity provided to furnish these comments. Any additional information required can be obtained by contacting the undersigned.

Respectfully submitted,



Robert Waller, Jr., CAE
President
(856) 642-4402

Stevenson, Todd

From: Yarissa Reyes [yreyes@ahint.com]
Sent: Monday, October 20, 2008 2:03 PM
To: CPSC-OS
Subject: ADVERTISING REQUIREMENTS NPR
Importance: High
Attachments: CPSIA Section 105 Comments-Advertising Requirements NPR.pdf

To Whom It May Concern:

On behalf of the Juvenile Products Manufacturers Association, attached please find comments on the CPSC advertising requirements.

Sincerely,

Robert Waller, Jr., CAE
President
Juvenile Products Manufacturers Association
(856) 642-4402
www.jpma.org

10/21

JERRY MORAN
FIRST DISTRICT
KANSAS

COMMITTEE ON
AGRICULTURE

RANKING MEMBER

SUBCOMMITTEE ON GENERAL FARM
COMMODITIES AND RISK MANAGEMENT

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE

COMMITTEE ON
VETERANS' AFFAIRS

SIGN UP FOR EMAIL UPDATES:
WWW.JERRYMORAN.HOUSE.GOV

Congress of the United States
House of Representatives
Washington, DC

October 20, 2008

2202 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-1601
(202) 225-2715
FAX (202) 225-5124

DISTRICT OFFICES
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HAYS, KS 67601-0249
(785) 628-6401
FAX (785) 628-3791

ONE NORTH MAIN
SUITE 825
P.O. BOX 1126
HUTCHINSON, KS 67504-1126
(620) 665-6138
FAX (620) 665-6360

119 WEST IRON
SUITE 603
P.O. BOX 766
SALINA, KS 67402-0766
(785) 309-0572
FAX (785) 827-6957

The Honorable Nancy A. Nord
Acting Chairman
Consumer Product Safety Commission
4330 East West Highway
Bethesda, Maryland 20814

Re: Notice of Proposed Rulemaking, 16 CFR Part 1500; Labeling Requirements for Toy and Game Advertisements (Docket No. CPSC-2008-0036)

Dear Chairman, Nord:

We respectfully submit the following comments in response to the Notice of Proposed Rulemaking (NPR) published on page 580063 of the *Federal Register* on October 6, 2008 concerning advertising requirements for certain toys and games in catalogues and other printed materials.

The CPSC is considering whether to apply advertising requirements to materials distributed solely between businesses, such as catalogues, as part of implementation of the Consumer Product Safety Improvement Act (CPSIA). We believe that the CPSC should exempt business to business catalogues from the new advertising requirements due to concerns that the new requirements would place a considerable burden on industry, particularly the balloon manufacturing industry – while providing only potential, limited benefits to consumers.

We understand that business to business catalogues and printed materials are almost exclusively used by manufacturers and distributors to market and sell products to other businesses such as retailers. Further, business to business catalogues are not geared toward the consumer and do not offer the consumer an opportunity to make purchases. Rather, in the balloon industry and in many others, manufacturers and distributors depend on retailers to sell their products to the public – manufacturers and distributors do not deal with the public consumer.

Applying the proposed advertising requirements to business to business catalogues would result in extensive costs to businesses that rely heavily on catalogues. Businesses would incur additional expenses associated with revising layouts for all catalogues that include items requiring cautionary statements, resulting in longer catalogues and increased costs for printing and mailing these materials. Further, the new requirements could have a chilling effect on balloon-related commerce if distributors or retailers decide not to sell items covered by the new requirements to avoid their own costs of compliance. Mindful of these considerable costs, we also support the 180 day grace period proposed by the CPSC to ease the transition costs related to the new requirements for those parties affected by the new rule.

Because the potential benefit of applying the new requirements to business to business catalogues appears limited but the costs of compliance would be considerable, we urge the CPSC to exempt business to business catalogues from the new advertising requirements when it finalizes the proposed rule in the coming weeks.

Thank you for the opportunity to comment on this important matter and we look forward to your response.

Sincerely,

Jerry Moran

Jerry Moran
Member of Congress

Todd Tiahrt

Todd Tiahrt
Member of Congress

JM:ar

Stevenson, Todd

From: Richard, Alex [alex.richard@mail.house.gov]
Sent: Monday, October 20, 2008 1:36 PM
To: CPSC-OS
Subject: ADVERTISING REQUIREMENTS NPR
Attachments: CPSC re toy advertisement.pdf

<<CPSC re toy advertisement.pdf>>

Alex M. Richard

Legislative Director

Congressman Jerry Moran (KS-01)

202.225.2715



EXECUTIVE COMMITTEE:
Dan Flynn
Pioneer Balloon Company
Chairman
Jim Plutt
Anagram International

PUBLIC AFFAIRS DIRECTOR
Dale J. Florio
Princeton House
160 West State Street
Trenton, NJ 08608
(800) 233-8887
Fax: (609) 989-7491

October 20, 2008

Ms. Barbara E. Parisi, Project Manager
Office of General Counsel
Consumer Product Safety Commission
4330 East-West Highway
Bethesda, Maryland 20814

4-20-08
Affirming America's Ongoing Love Affair With Balloons

Re: Notice of Proposed Rulemaking, 16 CFR Part 1500; Labeling Requirements for Toy and Game Advertisements (Docket No. CPSC-2008-0036)

Dear Ms. Parisi:

The Balloon Council respectfully submits the following additional comments in response to the above-referenced Notice of Proposed Rulemaking (NPR) published on page 580063 of the *Federal Register* of October 6, 2008. Pursuant to the NPR, the Consumer Product Safety Commission (CPSC) has solicited comments and information regarding its proposal concerning advertising for certain toys and games in catalogues and other printed materials.

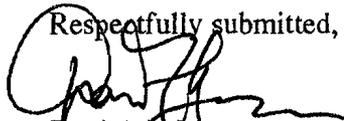
This morning, The Balloon Council (TBC) participated in the conference call held by the CPSC which provided members of the CPSC's legal, economic analysis, and engineering psychology teams an opportunity to respond to questions and provide additional insights on the ongoing work CPSC is conducting in advance of issuing its final rulemaking in November. We appreciate the additional forum provided by CPSC as it gathers comments and information on the NPR.

As CPSC continues its work on the final rulemaking, we would welcome additional clarification on the definition of "direct means of purchase or order" so that it is clear that this means orders by the general public (consumers) and that those by businesses in transaction between manufacturer and distributors or distributors and retailers would not be covered. Businesses sometimes offer telephone numbers or order sheets that other businesses may use to make orders, though orders from the general public (consumers) would never be accepted. Based upon comments made by staff today, we believe this is the intention of the language, and we believe that additional clarification would ensure the highest levels of proper compliance with any final rulemaking.

Statements made by CPSC participants lead us to believe that CPSC understands this distinction and that the CPSC is very much focused on ensuring that parents or caregivers who furnish items to children are the focus of their efforts. However, it would be additionally helpful if this implicit understanding were made explicit or clarified in the final rulemaking.

Once again, on behalf of TBC, thank you for the opportunity to participate in the rulemaking process.

Respectfully submitted,


Daniel A. Flynn

Stevenson, Todd

From: Dan Flynn [danf@qualatex.com]
Sent: Monday, October 20, 2008 12:34 PM
To: CPSC-OS; New Reauthorization Legislation (CPSC)
Cc: Rob Zucker
Subject: ADVERTISING REQUIREMENTS NPR
Attachments: TBC Additional Sec105 comments.pdf; ATT00001.htm

Re: Notice of Proposed Rulemaking, 16 CFR Part 1500; *Labeling Requirements for Toy and Game Advertisements* (Docket No. CPSC-2008-0036)

After today's phone conference call, I am respectfully submitting the attached additional comment.

Daniel A. Flynn
Chairman
The Balloon Council
316.688.8630

10/20/08

Stevenson, Todd

From: Jack Summersell [jack.summersell@edresource.com]
Sent: Monday, October 20, 2008 12:46 PM
To: CPSC-OS
Subject: Comments to Section 105

Comments:

1. It is very important that the advertising from business to business be exempt from these new requirements. My firm publishes and distributes a 280 page "price list" at a cost of nearly \$60k annually. The piece clearly provides a direct means to purchase. However, the book goes only to our existing customers who are resellers (retailers). It does not go into the hands of consumers. The book is nothing more than a line listing of item number, description and wholesale price. There is no artwork, color or graphics – all text. There would be great expense to add these warnings. However, there would be almost no value in adding these warnings in our price list as the reader is a reseller. The commission has raised the question about pseudo-businesses such as schools or other institutions. The clear cut distinction should be based on whether the reader of the advertising/catalog, etc is a reseller or a consumer. A school, for example, is a consumer. Whereas a retail store is a reseller.
2. The conference call this morning was very informative. Thanks.

Question:

3. As a wholesale distributor, our company does not produce goods. And we do not sell goods to consumers. We buy from manufacturers and then sell to resellers (typically a retail store). As a side note, most of these retailers buy most of their product directly from the manufacturer. They only buy from us when they can't meet the manufacturer's minimums. There are a few who depend on us as their only supplier. What are the obligations of my type of company as pertains to Section 105?

Thanks,

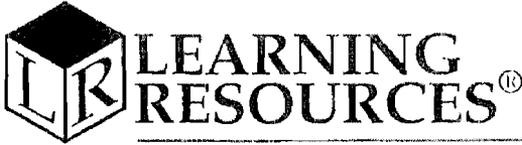
Jack Summersell
President
Educators Resource

T 800-868-2368 x337 | F 251-645-5704
jack.summersell@edresource.com
www.ERdealer.com



2575 Schillinger Rd N · Semmes, AL 36575

Set 10/2



October 20, 2008

Office of the Secretary
Consumer Product Safety Commission
Room 502
4330 East-West Highway
Bethesda, MD 20814

Re: Advertising Requirements NPR

To Whom It May Concern:

We are replying to the call for comments, which are due on October 20, 2008, on the proposed advertising rules promulgated by the Consumer Product Safety Commission under Section 105 of the CPSIA, as published in the Federal Register on October 6, 2008. This letter supplements our October 16 comment letter and contains our analysis of the economic impact of the proposed rules.

Economic Impact Analysis of the Proposed Advertising Rules:

Based upon conservative revenue and cost estimates developed from industry data, we conclude that the proposed advertising rules will significantly reduce toy and school supply industry profits, either through sharp revenue reduction or dramatic increases in catalog and mailing costs. We believe that scenarios involving increased costs will ALSO result in lowered revenues, thereby inflicting a double whammy on the industry.

Under the proposed rules, catalog marketers will face a "Hobson's Choice" dilemma of the following unpleasant options:

- Reduce catalog product listings to make room for warnings (hold expenses steady), with a rule-induced Darwinian product selection process [**Estimated revenue loss: 6-10%**];
- Lengthen catalogs to preserve existing product listings but reduce the number of catalogs mailed to keep printing and postage costs level (hold expenses steady) [**Estimated revenue loss: 16.7%**];
- Discontinue catalog mailings entirely and rely entirely on the Internet for sales, thereby sharply lowering revenues, printing and mailing costs and imperiling printers who rely on catalog revenues [**Estimated revenue loss: 60%+**]; or
- Bear extra printing and postage costs to mail longer and heavier catalogs [**Estimated cost increase: 16.7%, estimated reduced revenue: 5%**].

The new advertising rules change the game for catalog marketers. It can be anticipated that all companies will respond rationally to the incentives implicit in the new rules. The financial impact of these incentives will be dramatic, based on the foregoing:

- Based on estimated annual revenue of \$3.8 billion for the toy catalog industry [*Toy Challenges and Opportunities: 2007 A Year in Review* (New York: Toy Industry Association, Inc.), 23], toy industry cost increases could exceed \$23 million and revenue losses could top \$106 million
- Based on estimated annual revenue of \$6 billion for the educational catalog industry [overall market size, Supplemental Products Market: Size, Growth & Trends. July 1, 2007. <http://www.simbainformation.com>. Accessed Oct. 13, 2008], educational industry cost increases could exceed \$64 million and revenue losses could exceed \$294 million

Total cost increases from the toy and educational markets ALONE conservatively could exceed \$87 million and associated revenue losses could exceed \$400 million. We have not attempted to extend this analysis beyond these two industries, but please note that the economic impact will affect many parts of the economy beyond the toy and education markets. The shriveled state of these industries and the implicit sacrifice in economic vitality must be understood in light of the fact that safety warning labels are already present on product packaging. All warnings are seen by consumers before they use the product; we therefore believe this lost revenue and lost profit is in vain and is not worth the price tag.

Notably, the proposed rules will likely degrade the ability of many small and medium-sized business enterprises ("SMEs") to compete. The financial impact of the rules is affected by scale; therefore, the effect will be more pronounced in smaller catalog runs. It is difficult to model this impact on such a broad swath of the economy. We believe the rules will adversely affect the incentive on SMEs to innovate, hire new employees, expand operations and invest in new ventures. Notably, many SMEs are already struggling because of the current economic slowdown.

Finally, the proposed rules will also have an unintended, negative impact on children, who are the end-users of the products regulated under the proposed rules. Many essential educational products for children aged six months to 12 years old are governed by toy safety regulations, so the proposed advertising rules directly apply to this category. A reduced incentive for manufacturers to develop educational products and for distributors to market such materials will result in reduced educational product diversity, which may threaten children's engagement in learning. The proposed advertising rules could impair the vitality of this small but critical niche market in the United States and harm our schools. Again, it is difficult to model the economic impact of duller schools and less engaged children, but we are certain that the costs to our society will be substantial.

The CPSC must develop alternative advertising rules that avoid the adverse financial impact of the proposed rules but nevertheless protects consumers' right to know as intended by the CPSIA. Please see our comment letter dated October 16, 2008, for our detailed proposal for such new rules.

Thank you for considering our views on this important subject.

Sincerely,



Richard Woldenberg
Chairman
Learning Resources, Inc.
Phone: (847) 573-8420
Fax: (847) 281-1730
rwoldenberg@learningresources.com

Stevenson, Todd

From: Jean Starkey [JStarkey@learningresources.com] on behalf of Rick Woldenberg [rwoldenberg@learningresources.com]
Sent: Monday, October 20, 2008 2:05 PM
To: CPSC-OS; New Reauthorization Legislation (CPSC)
Cc: Lisa Guili; Rick Woldenberg; Etienne Veber
Subject: Advertising Requirements NPR
Attachments: Economic Impact Analysis.pdf

The attached letter supplements our October 16 comment letter and contains our analysis of the economic impact of the proposed rules.



2/10/09

October 20, 2009

Todd A. Stevenson
Secretary
Consumer Product Safety Commission
4330 East-West Highway
Room 502
Bethesda, MD 20814

RE: Comments on Labeling Requirement for Toy and Game Advertisements

Dear Mr. Stevenson:

The following comments are submitted on behalf of the National Retail Federation (NRF) in response to the Notice of Proposed Rulemaking (NPRM) published in the October 6, 2008, *Federal Register* seeking comments on the new Labeling Requirement for Toy and Game Advertisements. While NRF supports the Consumer Product Safety Improvement Act (CPSIA) as signed into law, we are concerned with how the law may be implemented by the Consumer Product Safety Commission (CPSC). We encourage the CPSC to allow flexibility in the implementation of the advertising requirements as well as other requirements of the CPSIA.

By way of background, the NRF is the world's largest retail trade association, with membership that comprises all retail formats and channels of distribution including department, specialty, discount, catalog, Internet, independent stores, chain restaurants, drug stores and grocery stores as well as the industry's key trading partners of retail goods and services. NRF represents an industry with more than 1.6 million U.S. retail companies, more than 25 million employees - about one in five American workers - and 2007 sales of \$4.5 trillion. As the industry umbrella group, NRF also represents more than 100 state, national and international retail associations.

Overview

As required by Section 105 of the CPSIA, the CPSC must promulgate regulations to require that when a product's packaging requires a cautionary statement, advertising for the product that provides a direct means for purchase or order of the product (including catalogues, other printed materials, and Internet Web sites) must bear the same cautionary statement. The CPSC must be flexible in its approach when promulgating regulations. The CPSC should not propose a one size fits all approach as not all catalogues are the same, nor are all Internet sites the same.

Liberty Place
325 7th Street NW, Suite 1100
Washington, DC 20004
800.NRF.HOW2 (800.673.4692)
202.783.7971 fax 202.737.2849
www.nrf.com

As pointed out in the NPRM, these cautionary statements only apply to the choking hazard warning of the Federal Hazardous Substance Act (FHSA). The requirement should not apply to other warnings that may be required by other regulations or Acts that are administered by the CPSC. However, we do not believe that Section 105 would preclude advertisers from offering other safety warnings, statements or information in Internet, catalogue or other advertising in a form and format in the sole discretion of the advertiser.

While the NPRM specifically mentions catalogues and Internet advertisements, we do not believe that the Section 105 labeling requirements should or were meant to apply to television advertisements, internet commercials, free-standing inserts (FSIs) or similar advertisements. In addition, we also do not believe that the advertising requirements apply to “free” premiums offered with food products, or coupons and cards that consumers can mail in (i.e. with proof of purchase, payment for shipping and handling, sometimes for a fee).

In addition, the Section 105 advertising requirements should not apply to business-to-business catalogues, internet or other advertising when those materials are aimed at liquidation programs. One NRF member, who has a liquidation program to sell surplus or returned merchandise to liquidators, noted that the total number of toys and games sold business-to-business through its liquidation efforts represents less than 42,000 units. This compares to nearly 8 million units of all merchandise (toys and non-toys) it processes for sale to liquidators. Since toys and games represent a small percentage of what the retailer sells to these liquidators, those items are combined with other categories of merchandise sold to the liquidators. There is currently no systemic way this retailer has to identify at the lot level those toys and games with choking hazards (due to merchandise being combined) and so the retailer would have to develop a systemic method to capture these lots if indeed the regulations were to apply to business-to-business advertising. This would create significant and expensive systems issues for the retailer, at an estimated cost of at least \$250,000.

Grace Period

NRF strongly supports the CPSC’s preliminary decision to allow for the 180 day grace period for the advertising requirement for catalogues. As the CPSC correctly points out in the NPRM, the cost of publishing new catalogs to meet the requirements without a 180 day grace period would be cost prohibitive and unduly burdensome on retailers. One NRF member asked its printer about the costs to reprint, ship and mail current catalogues with the new cautionary statements. The printer’s cost estimates ranged from \$2,632,350 to \$3,679,329, depending on which catalogues and number needing to be reprinted.

Catalogue Advertisements

Because catalogue space is limited, the guidelines should permit the small parts warnings to be combined in any reasonable manner that conveys the warning to the consumer. The CPSC should allow for more flexibility in how the cautionary statements need to be placed in catalogue advertising, as there are various effective ways to inform the consumer about the choking hazard and to do so in a more aesthetic, customer-

friendly way than as proposed in the NPRM. Exhibit 1 shows how a catalogue page might look if cautionary statements had to be included for each item in the description of each item, even if an abbreviation was used. The copy in Exhibit 1 takes up a great deal of space even with the approved abbreviations. Exhibit 2 shows the cautionary statement added to the product picture within the advertisement. In that instance, the art has to be reduced and the page becomes more cluttered. Exhibit 3 shows an alternative to Exhibits 1 and 2, which is more aesthetic and customer-friendly. Exhibit 3 shows an abbreviated warning next to the product picture and the full warning is incorporated into the normal footline font which takes up much less space on the advertisement page. The retailer would still use the icon of the triangle and exclamation point to capture the customer's attention, but the actual text warning would be at the bottom of the page. We fully believe that Exhibit 3 should be approved as a compliant way to implement the new requirements.

Internet Advertisements

The CPSC should confirm that in Internet ads, required information can be provided through click-throughs, using language such as "SMALL PARTS" or "SAFETY INFORMATION," and that a website will comply with the requirements of Section 105 if an appropriate warning statement is provided prior to checkout. In this environment, the most important consideration is developing means of providing the information to consumers who select the item for purchase. Pop-up windows and other techniques are useful ways to provide information on choking hazards as well as other safety information. The CPSC should also consider the ability to use a well-recognized symbol that could be used in all ads, and then educate the public on what it means. At least online, that could link to the full warning.

Exhibit 4 and Exhibit 5 show what an Internet advertisement would look like with the new cautionary statement requirement. As with the print advertisements above, both of these advertisements are extremely cluttered and are not customer friendly. However, Exhibit 6 and Exhibit 7 are proposed alternatives that provide the required cautionary statements within the details area of the advertisement that provides the product description. We believe that these should work as proposed alternatives for the requirement for cautionary statements on Internet advertisements. These alternatives provide the consumer with clear and concise information about the small parts and potential choking hazard of the product.

Conclusion

NRF welcomes the opportunity to share our thoughts on the cautionary statement advertising requirements of Section 105 of the CPSIA. We want to make sure that consumers have the right information to make informed decisions when purchasing their products. As stated above, we believe the CPSC should allow for flexibility with regard to the advertising requirements. This will allow the retailer to properly advertise the cautionary statement without significantly burdening either catalogue or Internet advertisements while still providing the consumer with the required information.

We appreciate the opportunity to provide input on this important issue. If you have any questions, please contact Jonathan Gold (goldj@nrf.com), NRF's Vice President, Supply Chain and Customs Policy in the NRF office.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Pfister". The signature is fluid and cursive, with the first name "Steve" written in a larger, more prominent script than the last name "Pfister".

Steve Pfister
Senior Vice President
Government Relations

Exhibit 3

A battle command post 60-pc playset
save \$10
39.99

Small Parts

B 71-pc playset with 4 action figures
save \$20
19.99

Small Parts

F 60-pc playset with boats
save \$10
14.99

Small Parts

Radio-controlled aircraft carrier
save \$30
99.99

- Carrier is 3 feet long
- Working elevator and ramp to transfer and launch jets
- Rotating tower and radar
- Light up beacons on 4 runways
- Realistic sound effects
- Works in water and on land

C military dress-up
save \$10
14.99

Small Parts

G Hummel 21-pc playset with 12 action figures
save \$20
39.99

Small Parts

D bazooka with two headsets
save \$5
24.99

E remote control commando tanks
save \$50
49.99

- Lights and sound
- 2 laser tanks and controls
- 360° turns
- Recall action

I walkie talkie set
save \$10
14.99

J 124-pc military playset with 12 action figures
save \$10
39.99

Small Parts

SAVE \$10
A. NEW! BATTLE COMMAND POST 60 PC PLAYSET
This is the most realistic battle command post ever. It's a large, detailed structure with a ramp, stairs, and a lot of accessories. It's perfect for your child's military play. **Now \$39.99**

SAVE \$20
B. NEW! 71-PC MILITARY PLAYSET WITH 4 ACTION FIGURES
This is a great playset for your child's military play. It includes 71 pieces and 4 action figures. **Now \$19.99**

SAVE \$5
D. BAZOOKA WITH TWO HEADSETS
This is a great playset for your child's military play. It includes a bazooka and two headsets. **Now \$24.99**

SAVE \$10
C. NEW! MILITARY DRESS-UP
This is a great playset for your child's military play. It includes a military uniform and accessories. **Now \$14.99**

SAVE \$5
D. BAZOOKA WITH TWO HEADSETS
This is a great playset for your child's military play. It includes a bazooka and two headsets. **Now \$24.99**

SAVE \$50
E. NEW! REMOTE CONTROL COMMANDO TANKS
This is a great playset for your child's military play. It includes two remote control tanks and accessories. **Now \$49.99**

SAVE \$10
F. NEW! 60-PC PLAYSET WITH BOATS
This is a great playset for your child's military play. It includes 60 pieces and accessories. **Now \$14.99**

SAVE \$20
G. 21 ACTION FIGURE WITH HUMMEL
This is a great playset for your child's military play. It includes 21 action figures and accessories. **Now \$39.99**

SAVE \$30
H. RADIO-CONTROLLED AIRCRAFT CARRIER
This is a great playset for your child's military play. It includes a radio-controlled aircraft carrier and accessories. **Now \$99.99**

SAVE \$10
I. WALKIE TALKIE SET
This is a great playset for your child's military play. It includes a walkie talkie set and accessories. **Now \$14.99**

SAVE \$10
J. DELUXE 124-PC MILITARY PLAYSET WITH 12 ACTION FIGURES
This is a great playset for your child's military play. It includes 124 pieces and 12 action figures. **Now \$39.99**

© 1999 Hasbro, Inc.
www.hasbro.com

Exhibit 4

some great
BRAND

Share this page
Sign in | My account

Home > [Kids](#) > [Shape Sorting Cube](#)

SEARCH

Home > [Kids](#) > [Shape Sorting Cube](#)

[Home](#) > [Kids](#) > [Shape Sorting Cube](#)

⚠ WARNING: CHOKING HAZARD - Children under 8 yrs. can choke or suffocate on uninflated or broken balloons. Adult supervision required. Keep uninflated balloons from child's reach. Discard broken balloons at once.

Shape Sorting Cube \$14.99

Give shape to your child's imagination - this colorful block set challenges them to match each block with the corresponding slot. Ages 8 and up.

details shipping & returns

- Imported
- 12 blocks; box: 5.5" x 5.5" x 5.5"
- This item cannot be returned to stores.
- Web ID: 244748

Overall Rating ★★★★★ 4 out of 5

2 of 2 (100%) customers would recommend this product to a friend.

[Read all reviews](#) | [Write a review](#)

Write a review for a chance to WIN a \$1000 GIFT CARD! [View details](#)

[Image gallery](#) [Zoom in](#)

color qty

Multi

In Stock: usually ships within 3 business days

\$14.99

ADD TO BAG

[Add to Wish List](#) [Email To A Friend](#) [Compare To Best Sellers](#)

Exhibit 5

some great
BRAND

Home Decor & Furniture | Kids | Toys | Books | Games | Puzzles | Crafts | Party Supplies | School Supplies | Office Supplies | Pet Supplies | Health & Beauty | Food & Drink | Garden & Outdoor | Automotive | Travel | Electronics | Sports & Recreation | Pet Supplies | Health & Beauty | Food & Drink | Garden & Outdoor | Automotive | Travel | Electronics | Sports & Recreation

SEARCH

[Home](#) > [Kids](#) > Shape Sorting Cube

⚠ WARNING: CHOKING HAZARD - Small Parts.
Not for children under 3 yrs.

Shape Sorting Cube \$14.99

Give shape to your child's imagination - this colorful block set challenges them to match each block with the corresponding slot.

details shipping & returns

- Imported
- 12 blocks, box: 5.5" x 5.5" x 5.5"
- This item cannot be returned to stores.
- Web ID: 244748

Overall Rating ★★★★★ 4 out of 5

2 of 2 (100%) customers would recommend this product to a friend.

[Read all reviews](#) | [Write a review](#)

Write a review for a chance to

WIN a \$1000 GIFT CARD! [See Details](#)

color

qty

Multi

In Stock: usually ships within 3 business days

\$14.99

ADD TO BAG

[Add to Wish List](#) | [Email To A Friend](#) | [Compare To Best Sellers](#)

Target usage Zippin

Exhibit 6

some great
BRAND

Home & Living | Kids | Toys | Books | Games | Puzzles | Crafts | Journals

SEARCH:

[Home & Living](#) | [Kids](#) > Shape Sorting Cube

Shipping Info
Sign In | Create Account

kids | [Age 3-5](#) | [Age 6-8](#) | [Age 9-12](#) | [Toddler](#) | [Baby](#) | [Books](#) | [Games](#) | [Puzzles](#) | [Crafts](#) | [Journals](#)

Home & Living | Toys | Books | Games | Puzzles | Crafts | Journals

Shape Sorting Cube **\$14.99**

Give shape to your child's imagination - this colorful block set challenges them to match each block with the corresponding slot. Ages 3 and up

details shipping & returns

- [WARNING: SMALL PARTS. Not for children under 3 years.](#)
- Imported
- 12 blocks; box: 5.5" x 5.5" x 5.5"
- This item cannot be returned to stores.
- Web ID: 244748

Overall Rating ★★★★★ 4 out of 5

2 of 2 (100%) customers would recommend this product to a friend

[Read all reviews](#) | [Write a review](#)

Write a review for a chance to
WIN a \$1000 GIFT CARD! see details

color

qty

Multi

In Stock: usually ships within 3 business days

\$14.99

ADD TO BAG

[Add to Wish List](#) | [Email To A Friend](#) | [Compare To Best Sellers](#)

we suggest:

Exhibit 7

some great
BRAND

Home & Living | Kids | Toys & Games | Educational Toys | Learning Toys

SEARCH

[Home & Living](#) | [Kids](#) > Shape Sorting Cube

kids | [toys & games](#) | [educational toys](#) | [learning toys](#) | [shape sorters](#) | [shape sorters](#) | [shape sorters](#)

[HOME](#) | [KIDS](#) | [TOYS & GAMES](#) | [LEARNING TOYS](#) | [SHAPE SORTERS](#)

Shape Sorting Cube \$14.99

Give shape to your child's imagination - this colorful block set challenges them to match each block with the corresponding slot. Ages 3 and up.

details shipping & returns

- [SMALL PARTS! Not for 3 Yrs. Click here for more information.](#)
- Imported
- 12 blocks; box: 5.5" x 5.5" x 5.5"
- This item cannot be returned to stores.
- Web ID: 244748

Overall Rating ★★★★★ 4 out of 5

2 of 2 (100%) customers would recommend this product to a friend

[Read all reviews](#) | [Write a review](#)

Write a review for a chance to **WIN a \$1000 GIFT CARD!** see details

color

qty

Multi



In Stock: usually ships within 3 business days

\$14.99

ADD TO BAG

[Add to Wish List](#) | [Email To A Friend](#) | [Compare To Best Sellers](#)

we suggest:

Stevenson, Todd

From: Gold, Jon [GoldJ@NRF.com]
Sent: Monday, October 20, 2008 4:33 PM
To: CPSC-OS
Subject: ADVERTISING REQUIREMENTS NPR
Attachments: NRF Final Comments on Section 105 Advertising Requirements NPRM 102008.pdf

Attached please find comments from the National Retail Federation in regards to the Notice of Proposed Rulemaking for the Labeling Requirement for Toy and Game Advertisements. If you have any questions or are unable to open the file, please let me know. In addition, if you are unable to read Exhibits 1-3, please let me know and we will send in each one separately. Thank you.

Jonathan Gold

<<NRF Final Comments on Section 105 Advertising Requirements NPRM 102008.pdf>>

Jonathan E. Gold
Vice President, Supply Chain and Customs Policy
National Retail Federation
325 7th Street, NW Suite 1100
Washington, DC 20004
Direct: (202) 626-8193 Fax: (866) 235-1938
www.nrf.com

Stevenson, Todd

From: Andrew Szente [Andrew.Szente@retail-leaders.org]
Sent: Monday, October 20, 2008 5:07 PM
To: CPSC-OS
Subject: ADVERTISING REQUIREMENTS NPRM
Attachments: image001.png; FINAL RILA Letter to CPSC re Ad Warnings 102008.pdf; Oct 15 Exhibit 1.pdf; Oct 15 Exhibit 2.pdf; Oct 15 Exhibit 3.pdf

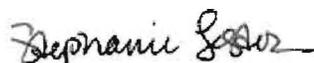
Dear Secretary:

Please accept the following comments from the Retail Industry Leaders Association (RILA) on behalf of its members in response to the Consumer Product Safety Commission's ("Commission") September 23, 2008, Notice of Proposed Rulemaking; Labeling Requirement for Toy and Game Advertisements.

By way of background, RILA promotes consumer choice and economic freedom through public policy and industry operational excellence. Our members include the largest and fastest growing companies in the retail industry--retailers, product manufacturers, and service suppliers--which together account for more than \$1.5 trillion in annual sales. RILA members provide millions of jobs and operate more than 100,000 stores, manufacturing facilities and distribution centers domestically and abroad.

RILA members place the highest priority on ensuring the safety of their customers and the products they sell, and RILA appreciates this opportunity to comment on the Commission's Notice of Proposed Rulemaking; Labeling Requirement for Toy and Game Advertisements. Should you have any questions about the comments as submitted, please don't hesitate to contact me by phone at (703) 600-2046 or by email at stephanie.lester@rila.org.

Sincerely,



Stephanie Lester
Vice President, International Trade



1700 N. Moore Street, Suite 2250, Arlington, VA 22209
Phone: 703-841-2300 Fax: 703-841-1184
Email: info@retail-leaders.org www.retail-leaders.org

October 20, 2008

Office of the Secretary
U.S. Consumer Product Safety Commission
Room 502
4330 East West Highway
Bethesda, MD

Re: Labeling Requirement for Toy and Game Advertisements

Dear Secretary:

Please accept the following comments from the Retail Industry Leaders Association (RILA) on behalf of its members in response to the Consumer Product Safety Commission's ("Commission") September 23, 2008, Notice of Proposed Rulemaking; Labeling Requirement for Toy and Game Advertisements.

By way of background, RILA promotes consumer choice and economic freedom through public policy and industry operational excellence. Our members include the largest and fastest growing companies in the retail industry--retailers, product manufacturers, and service suppliers--which together account for more than \$1.5 trillion in annual sales. RILA members provide millions of jobs and operate more than 100,000 stores, manufacturing facilities and distribution centers domestically and abroad.

Section 24(a) of the Federal Hazardous Substances Act (FHSA) prescribes cautionary labeling requirements for toys or games that contain small parts and are intended for use by children from 3 to 6 years old. The cautionary statement warns potential purchasers that these products are not for children under 3 years old due to choking hazards. Section 24(b) of the FHSA prescribes similar requirements for balloons, small balls, and marbles intended for children 3 years and older, or any toy or game which contains such a balloon, small ball, or marble.

Section 105 of the Consumer Product Safety Improvement Act of 2008 ("CPSIA") amends section 24 of the FHSA to require that, when a product's packaging requires a cautionary statement, advertising for the product that provides a direct means for purchase or order of the product must bear the same cautionary statement.

Print Advertisements

Circulars Not a Means for Direct Purchase – The Act requires cautionary statements on advertisements, which may be on websites, in catalogues, or other printed materials, only if those advertisements provide a “direct means for the purchase or order of a product.” CPSIA § 105;

FHSA § 249(c). RILA recommends that the cautionary statement only be required if the flyer or free-standing insert specifically directs the customer to a specific phone number for order or if the flyer includes an order form. The addition of a website alone should not be considered a direct means for purchase. A customer directed to a website will see the cautionary statements on the website prior to purchase. Therefore, requiring cautionary statements on a flyer that includes a website would be duplicative and unnecessary. Finally, RILA does not believe inclusion of store locations, or a general information phone number to find store locations, provides a “direct means” for purchase, but rather represents indirect messaging.

Furthermore, RILA respectfully requests the Commission to clarify that the requirement for cautionary labeling only applies to FHSA’s Section 24 choking hazard warning and not to other warnings that may be required by other Acts or regulations administered by the Commission.

Grace Period Should be Granted – RILA believes the Commission should grant the 180 day grace period afforded by the CPSIA in order to allow retailers sufficient time to comply with the new advertising provisions. According to one retailer, the estimated cost to reprint, ship and mail new catalogues if a grace period is not granted ranges from \$2.6 million to \$3.7 million, depending on which catalogues need to be reprinted and the number of new catalogues ordered.

Business-to-Business Advertising Should be Exempted – The advertising requirements should not apply to catalogues, internet or other advertising that targets business-to-business sales. Besides the business-to-business catalogues that the Commission referenced in its October 20th public conference call, another example of this business-to-business market includes retailers’ liquidation programs that sell surplus or returned merchandise to “jobbers.” A jobber is a liquidator or salvage buyer to which retailers sell surplus/returned merchandise. As an example, for one retailer, the number of toys and games sold business-to-business through its liquidation efforts represents less than one half of one percent of the total amount of merchandise (toys and non-toys) it processes for sale to jobbers. Since toys and games represent a *de minimis* percentage of the total inventory the retailer sells to jobbers, and those items are combined with other categories of merchandise to be sold as a single lot, there is no systemic way to identify at the lot level those toys and games with choking hazards (due to merchandise being combined). To develop a systemic method to identify the relevant products within these lots would create a significant and expensive burden for the retailer. Because of such challenges, one retailer estimates their cost would be at least \$250,000 if the regulations were to apply to business-to-business advertising. Meanwhile, the business that ultimately sells the product to the consumer would also need to ensure the appropriate warnings are posted, making the business-to-business requirement redundant.

Complexities of Advertising Require Flexibility – Space restrictions and other complexities in print advertising should be recognized by the Commission. The Commission should provide flexibility in how it requires the cautionary statements to be placed in the advertising, given there are various effective ways to inform the consumer about the choking hazard in a manner that would be more user-friendly, yet equally informative, than the way proposed by the Commission. Exhibit 1 shows how a catalogue page might look if cautionary statements had to be included for each item in copy, even if an abbreviation was used. Note that the copy takes up much more space under Exhibit 1. Exhibit 2 shows the cautionary statement added to art. In this

instance, the artwork has to be reduced and as a result, the page is more cluttered. Exhibit 3 shows an alternative to Exhibit 1 and Exhibit 2, which is more user-friendly yet equally informative. Exhibit 3 shows an abbreviated warning next to the artwork and the full warning is incorporated into the normal footline font, which takes up much less space. The retailer would still use the icon of the triangle and exclamation point to capture the customer's attention. We suggest Exhibit 3 as a method the Commission should approve as being compliant with the new requirements.

In addition, since multiple full warnings may be required on any given 2 page spread, the full warning should not have to be "on each page – or extending across two facing pages." It should be sufficient that the full warnings are located somewhere on the two pages or prominently displayed elsewhere in the catalogue such as inside the front cover or adjacent to ordering information, as discussed on the Commission's October 20th public conference call.

Internet Advertisements

The goal of the legislation is to warn the purchaser before they make the purchase. This warning can be achieved in a wide variety of ways. Our members understand the need for consistency of the warning and its placement, but flexibility is critical when applying warnings designed specifically for packaging to this new communication media, especially to the ever-evolving internet, where innovative technology can employ "pop ups" or "balloons," or other alternatives that have not yet been created.

Combined Warning – The law requires internet retailers to place an appropriate warning on the webpage where a product requiring the warning is displayed for sale. The law also requires a manufacturer, importer, distributor, or private labeler to inform retailers of any cautionary statements that are required for a particular product. If multiple warnings are required for the same product, RILA suggests that retailers have the flexibility to provide a simplified set of warnings. Specifically, our members propose as one acceptable methodology the ability to combine warnings for small parts, small balls, and marbles into one warning: "WARNING. CHOKING HAZARD--This toy is or contains a small part, small ball, or marble. Not for children under 3 yrs." Together with the warning for balloons (which cannot be readily combined with the warning for small parts, small balls and marbles as it applies to products for children under 8 years), this would bring the total number of possible warnings for internet postings down to two. Internet retailers can play an important role to depict the warning in a streamlined manner, thus avoiding the problem of over-labeling.

We also respectfully request the Commission to allow the use of abbreviated cautionary statements. In some instances, fully listing the cautionary statement would make the warning too lengthy and in many cases it would have to wrap to the next line, especially if the type size is 8 points or greater. In such instances, the statements would be confusing to the consumer, so the Commission could require that abbreviated statements be used to display the triangle icon or, at most, the word marble, small ball, etc. The "Not for children under 3 yrs." language will be at the bottom of the page in any event, so inclusion of that language in the abbreviated warning is redundant.

Warning Placement – The warning should not be required to appear above the scroll. Where the scroll appears on the screen depends upon the resolution and size of the viewing screen, both factors over which internet retailers have no control. In their memorandum of September 22, the Commission’s Human Factors Staff recommends “that the required cautionary statement be located at the beginning of the advertisement’s product-specific descriptive text.” RILA respectfully disagrees with this conclusion and views it as being too restrictive. If the Commission’s Human Factors Staff recommendation was accepted, it would disallow the use of warnings in close proximity to the descriptive text and would exclude the use of “pop ups” or “balloons” as innovative ways to inform the consumer. Similarly, RILA urges the Commission to recognize that Section 105 of the CPSIA would be met if an appropriate warning statement is provided for the product prior to checkout versus at each display of the product. The Commission should allow for the greatest amount of flexibility with respect to warning placements, recognizing that different formats are used within the industry and internet technology is constantly evolving.

Font Size – RILA is concerned that the recommended minimum 8 point type for the cautionary statement is larger than the minimum type-size requirements specified in 16 CFR 1500.121 for packaging. Catalogue and internet warnings should not have to be greater than that required by 16 CFR 1500.121 for packaging and should also be relative to the size of the advertisement.

If the Commission does not look favorably on this suggestion, we would urge the Commission to require the warnings to be posted in font the larger of 0.08 inches or the same size as the font used to describe the functions and features of the product, but not the size of the name of the product or the headings in the features and functions sections. Further, if the cautionary statement must be no less than 8 point type, this suggests that the signal word and hazard statement must be substantially greater. The warning will dwarf all other printed material in the advertisement, and in our opinion, would not be what Congress intended.

Conclusion

RILA members place the highest priority on ensuring the safety of their customers and the products they sell, and RILA appreciates this opportunity to comment on the Commission’s Notice of Proposed Rulemaking; Labeling Requirement for Toy and Game Advertisements. Should you have any questions about the comments as submitted, please don’t hesitate to contact me by phone at (703) 600-2046 or by email at stephanie.lester@rila.org.

Sincerely,



Stephanie Lester
Vice President, International Trade



A
battle command post
60-pc. playset
save \$10
39⁹⁹



B
71-pc. playset with
4 action figures
save \$20
19⁹⁹



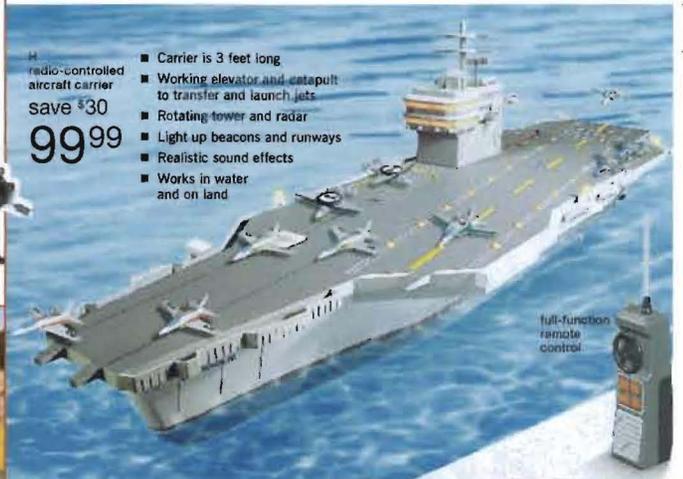
F
60-pc. playset
with boats
save \$10
14⁹⁹



C
military
dress-up
save \$10
14⁹⁹



G
Humvee 21-pc.
playset with
12" action figure
save \$20
39⁹⁹



H
radio-controlled
aircraft carrier
save \$30
99⁹⁹

- Carrier is 3 feet long
- Working elevator and catapult to transfer and launch jets
- Rotating tower and radar
- Light up beacons and runways
- Realistic sound effects
- Works in water and on land

full-function remote control



D
bazooka with
headset
save \$5
24⁹⁹



E
remote-control
commando tanks
save \$50
49⁹⁹

- Lights and sound
- 2 laser tanks and controls
- 360° turns
- Recoil action



I
walkie talkie set
save \$10
14⁹⁹



J
124-pc. military
playset with 12
action figures
save \$10
39⁹⁹

SAVE \$10
A. NEW! BATTLE COMMAND POST 60-PC. PLAYSET
Includes 7 poseable 3 1/2" action figures, helicopter, weapons, ATV cart bike and much more. Plastic. Ages 3 and up. **SMALL PARTS** - Not for < 3 yrs. Catalog/Online only. X 655-1321 org. 49.99, now 39.99.

SAVE \$20
B. NEW! 71-PC. MILITARY PLAYSET WITH 4 ACTION FIGURES
Each 12" action figure is fully poseable with articulated joints. Includes authentic uniforms, weapons and more. Plastic. Ages 3 and up. **SMALL PARTS** - Not for < 3 yrs. Catalog/Online only. X 655-0385 org. 29.99, now 19.99.

SAVE \$10
C. NEW! MILITARY DRESS UP
Includes jacket, pants, flak jacket and helmet. Polyester clothing, plastic helmet. Clothing is available. Ages 3 and up, size 3X. Catalog/Online only. X 650-0468 org. 24.99, now 14.99.

SAVE \$5
D. BAZOOKA WITH TWO HEADSET WALKIE TALKIES
Headband extends from 23-29". Realistic noises. Walkie-talkies have a 250-300 range. Uses 7 "AAA" batteries.* Plastic. Ages 5 and up. Catalog/Online only. X 655-0385 org. 29.99, now 24.99.

SAVE \$50
E. NEW! REMOTE-CONTROL COMMANDO TANKS
Realistic tanks interact with each other through flashing light and sound effects. Tanks recoil after each shot. Tanks move in all directions and can turn 360°. turret moves 180°. Includes two tanks and two wireless remote controls. Uses 14 "AAA" batteries.* Plastic. Ages 5 and up. Catalog/Online only. X 655-1286 org. 99.99, now 49.99.

SAVE \$10
F. NEW! 60-PC. NAVY SEAL PLAYSET WITH BOATS
Includes 6 fully-poseable 3 1/2" action figures, scouting boat, patrol boat, weapons, tools, scales gear and more. Plastic. Ages 3 and up. **SMALL PARTS** - Not for < 3 yrs. Catalog/Online only. X 655-1322 org. 24.99, now 14.99.

SAVE \$20
G. 12" ACTION FIGURE WITH HUMVEE*
21-pc. set includes fully-poseable 12" action figure and Humvee with opening doors and rolling wheels. Plastic. Ages 3 and up. **SMALL PARTS** - Not for < 3 yrs. Catalog/Online only. X 655-0773 org. 59.99, now 39.99.

SAVE \$10
H. RADIO-CONTROLLED AIRCRAFT CARRIER
Works in water and on land. Features speaker with voice transmitter, 10 lighted jets and numerous sound effects. Realistic lights and sounds. Full function remote control. 36x11x13". Uses one "9V" and four "C" batteries.* Plastic. Ages 8 and up. Catalog/Online only. X 655-0926 org. 129.99, now 99.99.

SAVE \$10
I. WALKIE TALKIE SET
Includes base station and two walkie-talkies - up to 3 users can communicate at the same time. Features 6 translators for expert transmission up to 250 feet. Includes 3 "9V" batteries. Plastic. Ages 5 and up. Catalog/Internet only. X 655-1066 org. 24.99, now 14.99.

SAVE \$10
J. DELUXE 124-PC. MILITARY PLAYSET WITH 12 ACTION FIGURES
Includes 12 poseable 3 1/2" action figures, lockout tower, helicopter, weapons, 6 vehicles and much more. Plastic. Ages 3 and up. **SMALL PARTS** - Not for < 3 yrs. Catalog/Online only. X 655-0775 org. 49.99, now 39.99.

*Batteries not included, visit us page 150.

WARNING
CHOKING HAZARD - Small parts. Not for children under 3 yrs.

Exhibit 1



A
battle
command post
60-pc. playset
save \$10
39⁹⁹

SMALL PARTS.
Not for children < 3 yrs.



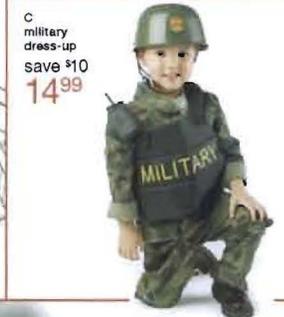
B
71-pc. playset with
4 action figures
save \$20
19⁹⁹

SMALL PARTS.
Not for children < 3 yrs.



F
60-pc. playset
with boats
save \$10
14⁹⁹

SMALL PARTS.
Not for children < 3 yrs.

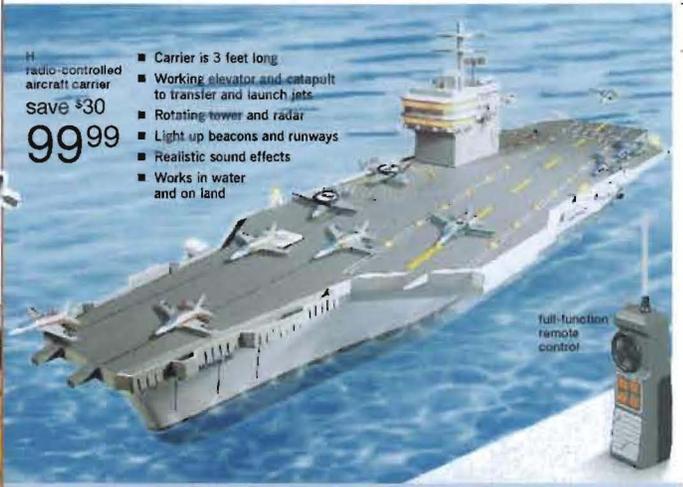


C
military
dress-up
save \$10
14⁹⁹



G
Humvee 21-pc.
playset with
12" action figure
save \$20
39⁹⁹

SMALL PARTS.



H
radio-controlled
aircraft carrier
save \$30
99⁹⁹

- Carrier is 3 feet long
- Working elevator and catapult to transfer and launch jets
- Rotating tower and radar
- Light up beacons and runways
- Realistic sound effects
- Works in water and on land

full-function
remote
control



D
bazooka
with headset
save \$5
24⁹⁹



E
remote-control
commando tanks
save \$50
49⁹⁹

- Lights and sound
- 2 laser tanks and controls
- 360° turns
- Recoil action



I
walkie talkie set
save \$10
14⁹⁹



J
124-pc. military
playset with 12
action figures
save \$10
39⁹⁹

SMALL PARTS.
Not for children < 3 yrs.

SAVE \$10
A. NEW! BATTLE COMMAND POST 60-PC. PLAYSET
Includes 7 poseable 3 1/2" action figures, helicopter, weapons, ATV dirt bike and much more. Plastic. Ages 3 and up. Catalog/Online only. X 655-1323. org. \$9.99; now 39.99

SAVE \$20
B. NEW! 71-PC. MILITARY PLAYSET WITH 4 ACTION FIGURES
Each 12" action figure is fully poseable with articulated joints. Includes authentic uniforms, weapons and more. Plastic. Ages 3 and up. Catalog/Online only. X 655-1323. org. \$9.99; now 19.99

SAVE \$10
C. NEW! MILITARY DRESS UP
Includes jacket, pants, flak jacket and helmet. Polyester clothing, plastic helmet. Clothing is washable. Ages 3 and up, size 3X. Catalog/Online only. X 655-0468. org. \$4.99; now 14.99

SAVE \$5
D. BAZOOKA WITH TWO HEADSET WALKIE TALKIES
Headband extends from 23"-29". Realistic sounds. Walkie-talkies have a 250-300 range. Uses 7 "AA" batteries. Plastic. Ages 3 and up. Catalog/Online only. X 655-0325. org. \$9.99; now 24.99

SAVE \$50
E. NEW! REMOTE-CONTROL COMMANDO TANKS
Realistic tanks interact with each other through beeping light and sound effects. Tanks recoil after each shot. Tanks move in all directions and can turn 360°. Barrel moves 180°. Includes two tanks and two wireless remote controls. Uses 14 "AA" batteries. Plastic. Ages 5 and up. Catalog/Online only. X 655-1286. org. \$9.99; now 49.99

SAVE \$10
F. NEW! 60-PC. NAVY SEAL PLAYSET WITH BOATS
Includes 6 fully poseable 3 1/2" action figures, scuba boat, patrol boat, weapons, tools, scuba gear and more. Plastic. Ages 3 and up. Catalog/Online only. X 655-1322. org. \$4.99; now 14.99

SAVE \$20
G. 12" ACTION FIGURE WITH HUMVEE®
21-pc. set includes fully poseable 12" action figure and Humvee with opening doors and rolling wheels. Plastic. Ages 3 and up. Catalog/Online only. X 653-0773. org. \$9.99; now 39.99

SAVE \$30
H. RADIO-CONTROLLED AIRCRAFT CARRIER
Works in water and on land! Features speaker with loud transmitter, 10 fighter jets and numerous sound effects. Realistic lights and sounds. Full-function remote control. 360° rotation. Uses one "9V" and four "C" batteries. Plastic. Ages 8 and up. Catalog/Online only. X 655-0906. org. \$29.99; now 99.99

SAVE \$10
I. WALKIE TALKIE SET
Includes base station and two walkie talkies - up to 3 users can communicate at the same time. Feature 6 transmitters for superb transmission up to 250 feet. Includes 3 "9V" batteries. Plastic. Ages 3 and up. Catalog/Online only. X 655-1060. org. \$4.99; now 14.99

SAVE \$10
J. DELUXE 124-PC. MILITARY PLAYSET WITH 12 ACTION FIGURES
Includes 12 poseable 3 1/2" action figures, lock-out tower, helicopter, weapons, 6 vehicles and more. Plastic. Ages 3 and up. Catalog/Online only. X 655-0775. org. \$9.99; now 39.99

*Batteries not included. Visit our page 150.

WARNING:
CHOKING HAZARD - Small parts
Not for children under 3 yrs.

Exhibit 2



A
battle
command post
60-pc. playset
save \$10
39⁹⁹

△ Small Parts



B
71-pc. playset with
4 action figures
save \$20
19⁹⁹
△ Small Parts



C
military
dress-up
save \$10
14⁹⁹

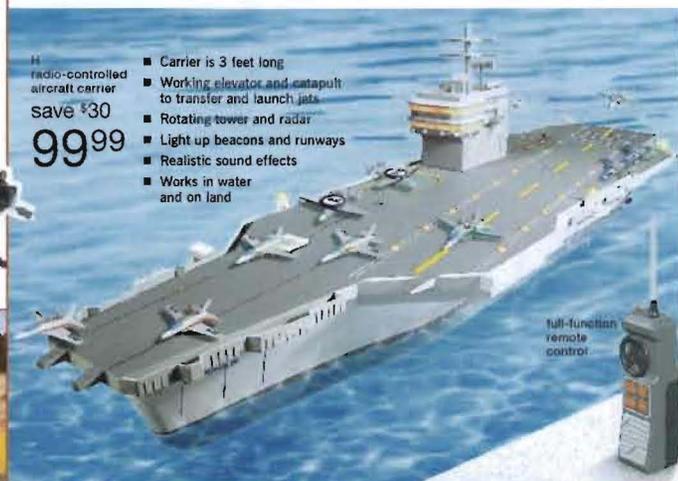


F
60-pc. playset
with boats
save \$10
14⁹⁹
△ Small Parts



G
Humvee 21-pc.
playset with
12" action figure
save \$20
39⁹⁹

△ Small parts



H
radio-controlled
aircraft carrier
save \$30
99⁹⁹

- Carrier is 3 feet long
- Working elevator and catapult to transfer and launch jets
- Rotating tower and radar
- Light up beacons and runways
- Realistic sound effects
- Works in water and on land

full-function
remote
control



D
bazooka
with headset
save \$5
24⁹⁹



E
remote-control
commando tanks
save \$50
49⁹⁹
■ Lights and sound
■ 2 laser tanks and controls
■ 360° turns
■ Recoil action



I
walkie talkie set
save \$10
14⁹⁹



J
124-pc. military
playset with 12
action figures
save \$10
39⁹⁹
△ Small Parts

SAVE \$10
A. NEW! BATTLE COMMAND POST 60-PC. PLAYSET

Includes 7 poseable 11" action figures, helicopter, weapons, ATV dirt bike and much more. Plastic. Ages 3 and up. Catalog/Online only. X 655-1323. org. 49.99, now 39.99

SAVE \$20
B. NEW! 71-PC. MILITARY PLAYSET WITH 4 ACTION FIGURES

Each 12" action figure is fully poseable with articulated joints. Includes authentic uniforms, weapons and more. Plastic. Ages 3 and up. Catalog/Online only.

X 655-1321. org. 39.99, now 19.99

SAVE \$10
C. NEW! MILITARY DRESS UP

Includes jacket, pants, tank jacket and helmet. Polyester clothing, plastic helmet. Clothing is washable. Ages 3 and up, size 3X. Catalog/Online only. X 655-0468. org. 24.99, now 14.99

SAVE \$5
D. BAZOOKA WITH TWO HEADSET WALKIE TALKIES

Headset extends from 23"-29" L. Realistic sounds. Walkie-talkies have a 250'-300' range. Uses 2 "AA" batteries. Plastic. Ages 5 and up. Catalog/Online only. X 655-6385. org. 29.99, now 24.99

SAVE \$50
E. NEW! REMOTE-CONTROL COMMANDO TANKS

Realistic tanks interact with each other through bursting light and sound effects. Tanks recoil after each shot. Tanks move in all directions and can turn 360°. turret moves 180°. Includes two tanks and two wireless remote controls. Uses 14 "AA" batteries. Plastic. Ages 5 and up. Catalog/Online only. X 655-1286. org. 99.99, now 49.99

SAVE \$10
F. NEW! 60-PC. NAVY SEAL PLAYSET WITH BOATS

Includes 6 fully poseable 31/2" action figures, scouting boat, patrol boat, weapons, tools, vest, gear and more. Plastic. Ages 3 and up. Catalog/Online only. X 655-1322. org. 24.99, now 14.99

SAVE \$20
G. 12" ACTION FIGURE WITH HUMVEE*

21-pc. set includes fully poseable 12" action figure and Humvee with covering doors and rolling wheels. Plastic. Ages 3 and up. Catalog/Online only. X 655-0773. org. 59.99, now 39.99

SAVE \$30
H. RADIO-CONTROLLED AIRCRAFT CARRIER

Works in water and on land! Features speaker with voice transmitter, 10 fighter jets and numerous sound effects. Realistic lights and sounds. Full-function remote control. 360° rotation. Uses one "9V" and four "C" batteries. Plastic. Ages 8 and up. Catalog/Online only. X 655-0906. org. 129.99, now 99.99

SAVE \$10
I. WALKIE TALKIE SET

Includes base station and two walkie talkies - up to 3 users can communicate at the same time. Features 6 translation for speech transmission up to 250 feet. Includes 3 "9V" batteries. Plastic. Ages 5 and up. Catalog/Online only. X 655-1066. org. 24.99, now 14.99

SAVE \$10
J. DELUXE 124-PC. MILITARY PLAYSET WITH 12 ACTION FIGURES

Includes 12 poseable 11/2" action figures, lookout tower, helicopter, weapons, 6 vehicles. Plastic. Ages 3 and up. Catalog/Online only. X 655-0775. org. 49.99, now 39.99

*Batteries not included. See org. page 150.

△ WARNING: CHOKING HAZARD

Small parts. Not for children under 3 yrs.

Exhibit 3

X J K C M 1.80 10 00 0 141

Set 10/15

BEFORE THE U.S. CONSUMER PRODUCT SAFETY COMMISSION

**REGARDING 73 FR 58063 – LABELING REQUIREMENTS FOR TOY AND GAME
ADVERTISEMENTS**

COMMENTS OF GANZ, U.S.A, LLC

**Robin E. Harvey
Baker & Hostetler, LLP
312 Walnut Street, Suite 3200
Cincinnati, Ohio 45202-4074
(513) 929-3409
rharvey@bakerlaw.com**

Counsel for Ganz U.S.A., LLC

October 20, 2008

I. INTRODUCTION

Pursuant to Federal Register Notice published on October 6, 2008, the Consumer Product Safety Commission (“Commission” or “CPSC”) sought comments on proposed rules regarding expansion of the small parts warnings requirements for toys and games to advertisements, including in catalogues and on websites. Specifically, the Commission has inquired about “whether advertising requirements for catalogues and other printed materials should also apply to materials distributed solely between businesses and not to ultimate consumers, and if not, how the Commission can distinguish catalogues distributed solely between businesses from those intended for final distribution to ultimate consumers, which may include institutions such as schools and day care centers”. *73 FR 58063*. Ganz U.S.A., LLC (“Ganz”) has reviewed the Notice of Proposed Rulemaking (“NPR”) and files these comments in response.

II. IDENTITY OF THE COMMENTOR

Ganz sells gift and homeware items throughout the United States through its own dedicated sales force. Its product line includes toys. Ganz creates catalogues of its products for the exclusive use of its sales representatives. Ganz’s catalogues are not distributed to its retail customers and are not available to consumers. Ganz salespeople use the catalogues only to consult with their qualified retail customers when they are ordering products and do not leave them with retailers for reference. Ganz only sells its products to businesses that will resell the products to consumers. It does not sell to institutions such as schools, day care centers, churches or recreational facilities. As a result, end consumers would not have the opportunity

to view or place orders from a Ganz catalogue nor would any Ganz customer itself be an end user of a Ganz product.

III. POSITION OF THE COMMENTOR

Ganz wishes to specifically address the Commission's request for comments regarding publication of the small parts warning in business to business catalogues which are currently exempt from this requirement. The Commission has expressed concern in allowing the business to business catalogue exemption to extend to catalogues distributed to establishments such as schools, day care centers, churches, and recreational facilities as those types of entities can often be the "end consumer."

Ganz believes that a true business to business sales publication that is never circulated to an "end consumer" does exist and should continue to be exempt from the consumer catalogue small parts warning publication requirements. Language describing the exempt catalogue or publication could state "catalogues and other printed materials utilized solely for the purpose of permitting a business customer to view and order products for resale only and that are not catalogues or printed material retained by the business customer or viewed by the general public in any way are exempt from the small parts warning publication requirements."

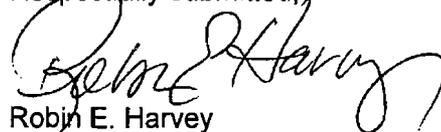
Such an exemption to the small parts publication requirements should be maintained because the cost of including the required warnings in the catalogues outweighs any potential benefit. Warning language placed in a catalogue that is only consulted by a business customer when ordering products would not further the goal of preventing injuries to children. The law already requires that the warning be placed on the products themselves and at point of sale when the purchase is from a consumer catalogue or internet site, which certainly remains the most effective way of reaching the end consumer. The addition of a small parts warning in a catalogue that the end consumer will never see, will never be qualified to make purchases from

nor encounter the products for sale through the catalogue due to a purchase by an institutional buyer does nothing to add to the methods for warning about small parts and choking hazards already in place.

IV. CONCLUSION

Ganz is submitting its comment in support of preserving the business to business exception from the small parts warning requirements now applicable to advertisements including catalogues and websites in order to assure the Commission that such business to business publications are in use currently and need protection from this costly regulation that will not achieve the important purpose of informing an end consumer to be aware of small parts in a toy. As a primary tool utilized by Ganz in the sale of its products through its sales force, the purely business to business sales catalogue is tremendously important and should not be burdened unnecessarily. Ganz supports the Commission's consideration and continued support for the exemption for purely business to business catalogues and other printed material such as its own described above from the small parts warning advertising requirements for toys and games.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robin E. Harvey". The signature is written in a cursive style with a large, looping initial "R".

Robin E. Harvey
Counsel for Ganz U.S.A. LLC

Stevenson, Todd

From: DeSalvo, Joan [JDeSalvo@bakerlaw.com]
Sent: Monday, October 20, 2008 5:33 PM
To: CPSC-OS
Attachments: Letter to CPSC re filing.pdf; Comments of Ganz USA.pdf

We would like to replace the e-mail previously sent at 4:30 p.m. this afternoon with the attached (sent by Janice Robb on behalf of Robin Harvey). Thank you.

| [Web site](#) |

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Joan DeSalvo
Legal Secretary
jdesalvo@bakerlaw.com

Baker & Hostetler LLP
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October 20, 2008

VIA E-MAIL CPSC-OS@CPSC.GOV

Robin E. Harvey
direct dial: 513.929.3409
rharvey@bakerlaw.com

Office of the Secretary,
Consumer Product Safety Commission
Room 502
4330 East-West Highway
Bethesda, Maryland 20814

*Re: Advertising Requirements NPR
Comments of Ganz, U.S.A., LLC Regarding 73 FR 58063 – Labeling
Requirements for Toy and Game Advertisements*

Dear CPSC Secretary:

Attached you will find the Comments of Ganz, U.S.A., LLC Regarding 73 FR 58063 – Labeling Requirements for Toy and Game Advertisements for filing. Please do not hesitate to contact me with any questions.

Sincerely,



Robin E. Harvey

REH/jmr

Enclosure

502069632.1

Scott 10/21

Stevenson, Todd

From: Kelly Smirlies [KSmirlies@spectrumed.com]
Sent: Monday, October 20, 2008 4:54 PM
To: CPSC-OS
Subject: 16 CFR Part 1500

Good Afternoon,

We are a manufacturing/distribution division of a US company who sell primarily to distributors in the US market. We have been reading available information concerning these changes. I was able to listen in on the Conference call this morning and heard many good ideas. There is a suggested distinction mentions for businesses who only advertise and sell to businesses that they do not need to have these warnings as they are not selling to the ultimate consumer. When will this decision be confirmed?

Right now the date that internet advertising would need to change is December 12, 2008; the date for catalogues and all other printed advertising is February 10, 2009. A suggested grace period of 180 days would extend the printed advertising grace period to August 9, 2009. I liked the idea that an abbreviated warning would be displayed beside the affected product and believe that a glossary would be appropriate that the beginning of the catalog perhaps where ordering information is located. This would help ensure that customers would see the detailed warnings. We are in the process of putting our catalogues together for next year; we print once each year at the end of the year for release in the New Year. We are anxious to know whether these requirements will apply to businesses selling to businesses. Our customers will end up having to include these warnings and will no doubt look to us for this information. Aside from listing all products that require these warnings, are we required to supply warning labels for advertising or will these be the industry standard that appears in the Federal Hazardous Substances Act?

Our website is quite simple showing photos of products that are available, but you can not order online. There is contact information provided for businesses to set up accounts, place orders or receive catalogues. Would this website be required to provide the cautionary warnings? This deadline is very soon and we are concerned that there is not enough time to make this transition.

Are warning labels required for products that are intended for children over the age of 8 years old? This was not mentioned?

There seems to be many details that still need to be finalized; with deadlines fast approaching, when can final decisions be expected to be available?

I thank you for offering the web seminars and conference calls to help us to understand these new important requirements and look forward to learning more.

Thanks and best regards,

Kelly Smirlies
Purchasing
SI Manufacturing
150 Pony Drive
Newmarket, Ontario
L3Y 7B6
Direct Line# 905-954-4922
www.si-manufacturing.com

1001 G Street, N.W.
Suite 500 West
Washington, D.C. 20001
tel. 202.434.4100
fax 202.434.4646

Writer's Direct Access
Sheila A. Millar
(202) 434-4143
millar@khlaw.com

October 20, 2008

Via E-mail

Office of Secretary
Consumer Product Safety Commission
Room 502
4330 East-West Highway
Bethesda, MD 20814

Re: **ADVERTISING REQUIREMENTS NPR**

To The Office Of Secretary:

The CPSC has issued a Notice of Proposed Rulemaking (NPRM) entitled *Labeling Requirement for Toy and Game Advertisements*, 73 Fed. Reg. 58,063 (October 6, 2008). On behalf of the Fashion Jewelry Trade Association, LLC ("FJTA"), whose members include many of the leading producers and distributors of fashion jewelry, we submit the following comments in response to the advertising NPRM.

BACKGROUND

Under Section 24(a) of the Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1278(a), toys or games intended for use by children between 3 and 6 years of age which contain small parts must bear a label warning purchasers that these product are not intended for children under 3 because of potential choking hazards from the small parts. Similar requirements apply to balloons, small balls and marbles intended for children 3 years and older pursuant to Section 24(b) of the FHSA, 15 U.S.C. 1278(b). Through Section 105 of the Consumer Product Safety Improvement Act of 2008 (CPSIA), Pub. L. 110-314, 122 Stat. 3016 (August 14, 2008), Congress amended section 24 of the FHSA to require that any means of advertisement, including on the Internet and catalogues, that provide a direct means of ordering or purchasing a product subject to cautionary labeling under FHSA Sections 24(a) or (b) – namely, a toy or game - also include the appropriate cautionary statements.

Section 105 also directs the Consumer Product Safety Commission's ("CPSC" or "Commission") to promulgate regulations implementing the advertising requirements.

COMMENTS

There has been some confusion within regulated community about the scope and applicability of the advertising requirements. We appreciate the clarification in the proposed rule that the advertising requirements apply only to *toys or games* subject to FHSA Section 24's choking

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Office of Secretary
Consumer Product Safety Commission
October 20, 2008
Page 2

hazard warning and not to other children's products or to other warnings that may be required by other sections of the FHSA or other Acts or regulations administered by the CPSC, including other warnings that will now be mandated after the ASTM toy safety standard is adopted. Only Internet or catalogue advertisements for "toy jewelry" – products not produced by FJTA members – would therefore be subject to this requirement in connection with their advertising. However, the Commission's proposal raises some important general policy issues that FJTA believes merit clarification, as noted below.

- While FJTA members should not be directly affected by the Commission's proposal as they do not make or sell toys or games, Section 105 involves advertising, an area which normally falls within the jurisdiction of agencies such as the Federal Trade Commission (FTC), which has long experience in addressing ways to offer mandatory disclosures in a clear and conspicuous fashion. We believe that it is important for the Commission to provide businesses with flexibility in placement and conspicuousness consistent with general advertising standards. This is critical to facilitating compliance with the requirements of Section 105 across an array of businesses and communication types. Advertisers use and consumers interact differently with different media. We believe that the operative point for the Commission to consider here is that the intent of Section 105 is to assure that disclosures are provided before a consumer using a medium that provides a direct means of sale completes the sale. Thus, we urge the Commission to assess print versus Internet advertising and tailor requirements to each medium. In addition, the Commission's proposal would mandate redundant warnings, cluttering ad layouts in a way that offers limited advantages to consumers. With printed catalogues, we believe that the Commission can view the catalogue itself to constitute the "advertisement" and allow short form warnings with each ad for an item so long as the relevant full statement appears in one place in the catalogue (e.g., at the beginning, the end, on the ordering page, etc.).
- To the extent that suppliers and retailers may be required to include other warnings in packaging and labels, or choose to offer other safety warnings, the Commission also should make clear that nothing in Section 105 precludes the ability of the advertiser to offer such other warnings, statements or information in Internet, catalogue or other advertising in a form and format at the sole discretion of the advertiser, but they are not required to do so.
- Legislative language that would have imposed an obligation to include the choking hazard warning on *all* advertising for toys or games was eliminated in favor of a narrower requirement applicable to Internet and catalogue advertising only. The CPSC should confirm that television advertisements, free-standing inserts (FSIs) and similar advertisements are excluded from the Section 105 requirements.

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Office of Secretary
Consumer Product Safety Commission
October 20, 2008
Page 3

- We agree with the Commission's proposal to allow use of shorthand statements, but believe that the proposal remains unduly cumbersome. A short, conspicuous statement like "SMALL PARTS" or "SAFETY INFORMATION" in connection with print ads should suffice. These terms alone, using all capitals, bold print, and/or contrasting color, are adequate to put parents on notice that the item they may be considering buying contains a small part. This is a term that parents do understand. Further, the proposal is unduly restrictive in mandating the full warning statement on each page or across each two-page spread. The full warning(s) could be provided in a general introduction, where ordering information is provided, or elsewhere in a print catalogue *where it is reasonably likely to be viewed by the consumer before placing the actual order*. The proposal seems overly burdensome and will potentially expand the length, weight and cost of sending catalogues, inconsistent with the Paperwork Reduction Act mandates. Undue repetition of warnings is also likely to dilute their impact.
- The Internet is a unique medium that allows consumers to obtain information in a manner that is quite different from how they interface with print media. The CPSC should expressly allow the small parts disclosure to be presented in Internet ads through click-throughs, pop-up windows or other means, using language such as "SMALL PARTS" or "SAFETY INFORMATION," as suggested above, as the link. We urge the Commission to reconsider the requirement that the full warning must appear on each advertised toy or game online. The Commission has authority to interpret this requirement to mandate that the abbreviated "SMALL PARTS" disclosure suffices so long as the full choking hazard warning is offered *prior to online checkout*. Indeed, as the most important consideration is developing means of providing the information to consumers who select the item for purchase, pop-up windows and other techniques are useful and may be more effective methods of providing information on choking hazards (as well as other optional safety information that the seller may choose to include) where it is most directly relevant to the consumer.
- While Section 105 references consistency with FHSA hazard warning requirements at 16 C.F.R. Part 1500, the requirements of Part 1500 relate to warnings on packages of products, not advertising. By specifying that warning statements must be "consistent" with this section, we believe that Congress intended this to simply be a useful reference point for the Commission to follow. Disclosure practice in advertising is well-established. We urge the CPSC to offer general guidance that statements about small parts must be in the primary language of the ad in conspicuous and legible type contrasted by typography, layout or color with other material printed or displayed on a page or in connection with an ad, and explicitly authorize the use of short statements like "SMALL PARTS" in individual ads, backed by the full choking hazard warning located in an area likely to be viewed by the consumer prior to direct purchase. In the case of

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Office of Secretary
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online stores, offering the warning prior to checkout should be deemed to meet the requirements of the Act. Use of bold and/or all capitals of a statement such as "SMALL PARTS" or "SAFETY INFORMATION" should be deemed to comply.

- Some small businesses may print catalogues only once a year. The economic burden of prematurely discarding catalogues could be especially problematic for those companies and we urge the CPSC to allow the maximum grace period possible for previously printed catalogues and advertising.
- Congress directed the Commission to clarify the applicability of the advertising requirements to "catalogues and other printed material distributed solely between businesses and not to individual consumers." As Section 105 is intended to ensure that *consumers* purchasing items for their own use are alerted to the possibility that a toy or game may contain a small part prior to purchase, business to business advertising via the Internet, catalogues and other printed communications should be excluded from this requirement. Businesses that purchase products subject to the required choking hazard labeling are not among the category of consumers who require a warning and the burden of the mandated advertising disclosures is not warranted.

FJTA appreciate this opportunity to submit comments on the advertising NPR and look forward to working with the Commission on other CPSIA rulemakings.

Sincerely,



Sheila A. Millar

cc: Barbara Parisi
Michael Gale

Stevenson, Todd

From: Vaughn, Aileen D. [vaughn@khlaw.com]
Sent: Monday, October 20, 2008 5:01 PM
To: CPSC-OS
Cc: Parisi, Barbara; FJTA@aol.com
Subject: FW: Advertising Requirements NPR
Attachments: 2008_10_20 Advertising Requirements NPR Comments.pdf

Please see attached comments of the Fashion Jewelry Trade Association in the above reference matter. If you have any questions please contact Sheila Millar at (202) 434-4143.
Thank you - Aileen

Aileen Vaughn
Professional Assistant
tel: 202.434.4206 | fax 202.434.4646 | vaughn@khlaw.com
1001 G Street, N.W., Suite 500 West | Washington, D.C. 20001

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October 20, 2008

Via electronic filing: cpsc-os@cpsc.gov

Mr. Todd A. Stevenson, Secretary
Office of the Secretary
Consumer Product Safety Commission, Room 502
4330 East-West Highway
Bethesda, MD 20814

Re: **ADVERTISING REQUIREMENTS NPR**

Dear Secretary Stevenson:

The Direct Marketing Association (“DMA”) appreciates the opportunity to provide comments on the Consumer Product Safety Commission’s (“Commission”) proposed labeling requirements for toy and game advertisements. We also intend to file specific comments related to Internet advertising by the deadline of November 20, 2008.

The DMA (www.the-dma.org) is the leading global trade association of businesses and nonprofit organizations using and supporting multichannel direct marketing tools and techniques. DMA advocates industry standards for responsible marketing, promotes relevance as the key to reaching consumers with desirable offers, and provides cutting-edge research, education, and networking opportunities to improve results throughout the end-to-end direct marketing process. Founded in 1917, DMA today represents more than 3,600 companies from dozens of vertical industries in the U.S. and 50 other nations, including a majority of the Fortune 100 companies, as well as nonprofit organizations. Included are cataloguers, financial services, book and magazine publishers, retail stores, industrial manufacturers, Internet-based businesses, and a host of other segments, as well as the service industries that support them.

We understand that balancing product safety concerns with the physical limitations imposed by advertising space makes this rulemaking effort a difficult challenge. As cataloguers, marketers, and retailers, both on- and offline, our members appreciate the benefit in communicating every relevant aspect of a product, including a product’s safety message, price, features, uses, and availability. However, the amount of information and how it is displayed is often determined by the physical aspects of the advertisement. From our experience, effective messaging must be clear and concise. DMA is concerned that advertisements could become cluttered and ineffective because of rules that would require multiple disclosures in a single advertisement. As described below, DMA recommends the use of defined alert symbols to address the size restraints of advertisements. The DMA

also wants to ensure there is a realistic compliance timetable that accounts for increased compliance costs and the impact on small businesses, which make up a significant portion of the industry. Set forth below we provide the following comments:

- The rules should permit the use of abbreviated and symbol-based warnings in advertisements in catalogues and other printed materials.
- Manufacturers and retailers should be provided flexibility in the manner warnings are communicated to consumers.
- The Commission should provide an 18-month grace period for cataloguers to comply with the new regulations.
- Catalogues and other printed materials that are distributed among businesses should be exempt from the advertising labeling requirements.

The rules should permit the use of abbreviated and symbol-based warnings in advertisements in catalogues and other printed materials.

The Commission has proposed permitting the use of abbreviated versions of the required cautionary statements provided the shorthand warning is defined at the bottom or top of each catalogue page or extends across two facing catalogue pages if both pages contain products available for purchase.¹ DMA supports using abbreviated warnings in advertisements. The physical limitations of the advertisement often make it necessary to use shorthand cautionary statements. The use of defined abbreviated warnings in this manner, balances the need for providing appropriate product warnings with the need to communicate other relevant product information.

DMA recommends that the Commission require catalogues to provide a definition key or legend in a clear and conspicuous manner in a single designated location, such as the second page or back of each catalogue or other printed material. Designing a catalogue is a time intensive process. Each addition of a piece of information has a ripple effect throughout the catalogue. Adding a key or legend at the top or bottom of each page bumps content from one page to the next increasing production hours, the number of catalogue pages, and overall production costs. Requiring a single key or legend achieves the goal of providing meaningful notice, but also reduces the cost of compliance. In addition, the Commission should not impose minimum type-size or other requirements on the legend. Businesses need flexibility in providing warnings.

We suggest that the Commission, in consultation with industry, adopt in addition to abbreviated warnings, other specific safety symbols that are recognized to represent certain product safety concerns. We have attached representative symbols for your consideration, which are currently used in Europe for labeling purposes. A symbol requires little space and in many ways can convey a more meaningful and conspicuous message than words. In our experience as marketers, symbols can be more conspicuous and effective than lengthy or detailed messages. In addition, images are often universally understood (e.g. the skull

¹ 73 Fed. Reg. 58063, 58068 (October 6, 2008), *proposed rule* 15. C.F.R. 1500.20(e).

and crossbones representing toxic) regardless of a consumer's native language. Permitting the use of symbols to represent cautionary statements would achieve the purpose of the proposed rules, providing meaningful and conspicuous product safety messages to consumers, while addressing the space limitations associated with advertisements. This would be particularly useful in circumstances where multiple disclosures for a product would be required by law. In addition, similar to abbreviated warnings, a symbol could also be accompanied by written definitions in a clear and conspicuous key or legend in a designated area of the catalogue.

Manufacturers and retailers should be provided flexibility in the manner warnings are communicated to consumers.

The Commission's proposed rules provide specific guidance with respect to the content, size, and other labeling requirements.² Specifically, the Commission has proposed to require that cautionary statements be provided in a type-size reasonably related to other text in the advertisement provided the text is no smaller than a certain minimum type-size.³ The Commission should not impose a type-size requirement and resist suggestions to impose requirements that are more explicit. Manufacturers, suppliers, and retailers require some flexibility in the manner in which warnings are communicated to consumers. Provided a warning statement includes the statutorily required disclosure, businesses should retain the ability to display cautionary statements in a manner consistent with the nature of the advertisement. We believe the appropriate type-size and advertisement location should be determined by the size of the advertisement. This approach would address the need for providing clear and conspicuous product warnings without displacing other relevant information. We urge the Commission to maintain this balance.

The Commission should provide an 18-month grace period for cataloguers to comply with the new regulations.

The statutory deadline for compliance with the advertising labeling requirements for catalogues and other printed materials is February 10, 2009.⁴ The Commission has proposed providing a grace period of 180 days for compliance.⁵ DMA agrees that a grace period is necessary for compliance with respect to catalogues and other printed materials, but we recommend an 18 month grace period. There is a great cost and lengthy production cycle associated with creating and publishing catalogues. Production cycles generally start a full year before delivery, have a one-year shelf life, and can cost millions to produce. Cataloguers and retailers have invested large amounts of resources and have already produced printed materials far beyond the February 10th and August 9th deadline.

In addition, while we will comment in more detail separately on the proposed Internet regulations, we recommend that the Commission, in its order related to catalogues and other printed materials, also extend the Internet compliance timeframe. A compliance

² See 73 Fed. Reg. at 58063.

³ 73 Fed. Reg. at 58064 and *proposed rule* 15. C.F.R. 1500.20(f).

⁴ 73 Fed. Reg. at 58066, *proposed rule* 15 C.F.R 1500.20(b).

⁵ *Id.*

deadline of December 12, 2008 is not operationally practical, particularly for small businesses.⁶ Each web site operated by a retailer is an online marketplace that brings together multiple vendors; in some cases three thousand to fifteen thousand manufacturers and suppliers. The industry-wide effort required to reach out to each vendor to gather the required information and then to translate that information to web pages will take more time than the less than two months presently provided. We urge the Commission to provide a one year grace period for compliance with the Internet related regulations.

Catalogues and other printed materials that are distributed among businesses should be exempt from the advertising labeling requirements.

The Commission requested comment on the applicability of the advertising labeling requirements to business-to-business catalogues.⁷ DMA supports exempting from the advertising labeling requirements, catalogues and other printed materials that are distributed solely among businesses. Because consumers do not have access to business-to-business catalogues or use such catalogues to make purchases, applying the advertising labeling requirements to such catalogues would, as the Commission indicated, “prevent very few injuries, if any.”⁸ In addition, federal law already requires, importers, distributors, and private labelers to provide cautionary statements to retailers.⁹ Prescribing how such information is communicated between businesses would increase costs and reduce a business’s ability to convey warnings efficiently. Catalogues that are distributed to the ultimate consumer, however, should provide appropriate warnings.

* * *

Thank you for the opportunity to submit these comments. We look forward to continuing to work closely with the Commission on these important issues. Please do not hesitate to contact me with any questions at 202/861-2423.

Sincerely,

Jerry Cerasale
Senior Vice President, Government Affairs
1615 L Street, NW Suite 1100
Washington, DC 20036

Cc: Stuart Ingis, Venable LLP
Michael Signorelli, Venable LLP

⁶ 73 Fed. Reg. at 58066, *proposed rule*, 15 C.F.R 1500.20(b).

⁷ 73 Fed. Reg. at 58066.

⁸ 73 Fed. Reg. at 58065.

⁹ Consumer Product Safety Improvement Act of 2008, Public Law No: 110-314, 122 Stat. 3016 (codified as amended 15 U.S.C. 1278 (c)(1)(B)).

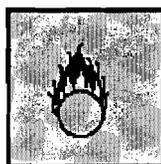
ATTACHMENT

European Community Hazard Symbols

Hazard Symbols



Explosive



Oxidising agent



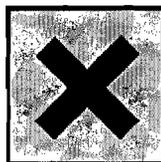
Extremely or Highly
Flammable



Toxic or Very Toxic



Corrosive



Harmful or Irritant



Dangerous For The
Environment



Not Use For by
Children Under 3
Years Old.

Stevenson, Todd

From: Signorelli, Michael A. [MASignorelli@Venable.com]
Sent: Monday, October 20, 2008 5:19 PM
To: CPSC-OS
Cc: Ingis, Stuart
Subject: DMA Comments Regarding Advertising Requirements NPR
Attachments: DC1DOCS1-#308975-v1-DMA_Comments_re_Advertising_Requirements_NPR.PDF

The comments of the Direct Marketing Association are attached.

If you have any questions regarding this transmission, please contact me at 202-344-8050.

Best Regards,
Mike Signorelli

Michael A. Signorelli, Esq. | Venable LLP
t 202.344.8050 | f 202.344.8300
575 7th Street, NW, Washington, DC 20004

MASignorelli@Venable.com | www.Venable.com

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Set 105

*** Consumers Union * Consumer Federation of America *
* Keeping Babies Safe * Kids In Danger *
* National Research Center for Women & Families *
* Public Citizen's Congress Watch *
* U.S. Public Interest Research Group ***

October 20, 2008

Office of the Secretary
U.S. Consumer Product Safety Commission
Room 502
4330 East-West Highway
Bethesda, Maryland 20814
Via: cpsc-os@cpsc.gov
Facsimile: (301) 504-0127

Comments of Consumers Union of U.S. Inc., Consumer Federation of America, Keeping Babies Safe, Kids In Danger, National Research Center for Women & Families, Public Citizen's Congress Watch, and U.S. Public Interest Research Group to the U.S. Consumer Product Safety Commission on 16 CFR Part 1500, "Labeling Requirement for Toy and Game Advertisements," Notice of Proposed Rulemaking

Introduction

Consumers Union (CU), publisher of *Consumer Reports*®, joined by Consumer Federation of America, Keeping Babies Safe, Kids In Danger, Public Citizen's Congress Watch, National Research Center for Women & Families, and U.S. Public Interest Research Group submits the following comments to the U.S. Consumer Product Safety Commission ("CPSC" or "Commission") in the above-referenced Notice of Proposed Rulemaking ("NPR") on "Labeling Requirement for Toy and Game Advertisements."¹ The CPSC has published this NPR seeking comments and information on the implementation of section 105 of the Consumer Product Safety Improvement Act of 2008 ("CPSIA"), which amends the Federal Hazardous Substances Act.

¹ "Labeling Requirement for Toy and Game Advertisements," 73 Fed. Reg. 194, at 58063 (October 6, 2008).

Background

We strongly support the measures included in section 105 of the CPSIA to better protect children from the hazards addressed by section 24 of the Federal Hazardous Substances Act (“FHSA”). Section 24 of the FHSA proscribes cautionary labeling requirements for the packaging of: (a) toys or games that are intended for use by children from 3 to 6 years old and contain small parts; and (b) balloons, small balls and marbles intended for use by children 3 years and older, or any toy or game that contains such a balloon, small ball, or marble. Importantly, section 105 of the CPSIA extends this mandate by requiring advertising (that contains a direct means for purchase or order) of such products to include the same cautionary statement as required on the toy or game packaging (“cautionary statement”). This closes a large legal loophole. Currently, when toys are purchased through the Internet or a catalogue, critical safety information that impacts the purchasing decision is not made available to the purchaser, despite the fact that it is required on the toy packaging itself. In this NPR, the CPSC also seeks comment on whether the proposed rule should exempt business-to-business catalogues.

Recommendation

For the following reasons, we strongly urge the Commission to require **all** catalogues and printed materials, including those distributed solely between businesses, to contain the cautionary statement:

- This would ensure that the precautionary warnings are provided at the point of sale even where a catalogue house is unsure or unaware that the recipient is an “ultimate consumer,” such as a school or a daycare center.
- Bulk purchases may be made for other ultimate consumers such as dentists or physicians offices, carnivals or fairs, indoor playgrounds, for inclusion in party favor bags, or as premiums in fast food restaurants.
- Many retailers consider warning label information obtained at the time of ordering to determine where they will place the product within the store.

Including the cautionary statement would enable retailers to plan appropriate shelf placement of the product before it arrives at the store.

Conclusion

For the foregoing reasons, we strongly urge the Commission not to exempt business-to-business catalogues from the requirements of section 105 of the CPSIA. We are concerned that such a broad exemption could undermine the goal of section 105 of the CPSIA to ensure that critical safety information currently required to be on product packaging be conveyed at the point of purchase. Instead, where the product packaging requires a warning under section 24 of the FHSA, we urge the Commission to require all catalogues and printed materials (providing a direct means of purchasing such a product) to carry a cautionary statement.

Respectfully submitted,

Janell Mayo Duncan
Senior Counsel
Consumers Union

Donald L. Mays
Senior Director,
Product Safety &
Technical Public Policy
Consumers Union

Rachel Weintraub
Director of Product Safety &
and Senior Counsel
Consumer Federation
of America

Nancy A. Cowles
Executive Director
Kids In Danger

Ed Mierzwinski
Consumer Program
Director
U.S. Public Interest
Research Group

David Arkush
Director
Public Citizen's
Congress Watch

Jack Walsh
Executive Director
Keeping Babies Safe

Diana Zuckerman, Ph.D
President
National Research Center
for Women & Families

Stevenson, Todd

From: Giddings-Jonas, Lynette [GiddLy@consumer.org]
Sent: Monday, October 20, 2008 5:22 PM
To: CPSC-OS
Cc: Duncan, Janell; Gadhia, Ami; Mays, Don
Subject: CPSC Comments
Attachments: CPSIA - Comments on Catalogue Caution Final.pdf

Hello Everyone:

Attached are the Comments in PDF Version to be filed today with CPSC. The comments will also be faxed to CPSC.

Lynette

**

This e-mail message is intended only for the designated recipient(s) named above. The information contained in this e-mail and any attachments may be confidential or legally privileged. If you are not the intended recipient, you may not review, retain, copy, redistribute or use this e-mail or any attachment for any purpose, or disclose all or any part of its contents. If you have received this e-mail in error, please immediately notify the sender by reply e-mail and permanently delete this e-mail and any attachments from your computer system.

Se
10/20/08

Hammacher Schlemmer
Offering the Best, the Only and the Unexpected since 1848

October 20, 2008

Mr. Todd A. Stevenson, Secretary
Consumer Product Safety Commission

Re: **ADVERTISING REQUIREMENTS NPR**

Dear Secretary Stevenson:

Hammacher Schlemmer is America's longest running catalog and is proud to be celebrating its 160th anniversary this year. We are direct-marketers, with catalog and Internet-based sales comprising over 95% of our total revenue. As such, it is with significant concern that we respond to the proposed advertising requirements.

Catalog productivity is measured with "square inch analysis." With exorbitant paper and postage costs, catalog real-estate is already extremely expensive -- every square inch must be productive. Excessively-sized warnings will seriously impact catalog performance by consuming space that would normally go to product presentation. In addition, the scale of these warnings will create a disproportionate fear reaction in consumers, further depressing sales. While it is important that consumers be provided with the appropriate information for them to make smart buying decisions, the sudden and voluminous appearance of these large-scale warnings, which would be required to appear well over one hundred times in every Hammacher Schlemmer catalog, will generate a severe consumer reaction and have a devastating impact on our business. Indeed, we expect a 6-12 month "shock to the system" as consumers become exposed to and react to the new labeling. The first catalogs in which consumers see these new warnings will suffer materially until consumers realize this is a new standard, and not unique to any one cataloger.

We urge the Commission to consider a phased approach, whereby icons are initially used, keyed to a legend with is prominently displayed along with a catalog's typical iconography -- which catalog consumers are already very familiar with. After 12 to 18 months experience, the Commission could then evaluate scaling up the requirements as deemed appropriate to balance the effectiveness of the program with its negative economic impacts.

We have over 3,000 active SKUs, from nearly as many vendors, deployed on a proprietary Internet commerce system. Within the time frame specified, it would be challenging enough to simply gather the requisite information from all of the relevant

vendors. More so, however, it is technically infeasible for us to be able to deploy the changes online by December 12th. Not only would the effort and expense be significant, the risk to our business of making fundamental changes to our system during our peak time is unacceptable. We achieve 50% of our annual sales in November and December. Attempting to deploy these changes, and risking system errors during this time period to do so, is simply untenable.

In these incredibly challenging economic times, we feel the negative impacts of deploying the proposal as specified would far outweigh the benefits of enhanced consumer communication. We appreciate your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Fred H. Berns". The signature is fluid and cursive, with a long horizontal stroke at the end.

Fred H. Berns

General Manager

fberns@hammacher.com

847/581-8914

Stevenson, Todd

From: Fred Berns [FredB@hammacher.com]
Sent: Monday, October 20, 2008 6:25 PM
To: CPSC-OS
Subject: ADVERTISING REQUIREMENTS NPR
Attachments: CPSC Adv Req NPR.doc

Please see the enclosed memo concerning the proposed advertisement requirements.

Thank you,

Fred H. Berns
General Manager
Hammacher Schlemmer

V 847/581-8914
F 847/581-8625
E fberns@hammacher.com



October 20, 2008

Office of the Secretary
Consumer Product Safety Commission
Room 502
4330 East-West Highway
Bethesda, MD 20814

Re: Advertising Requirements NPR

To Whom It May Concern:

Per today's Open Conference Call To Discuss New Labeling Requirements for Toy and Game Advertising, I would like to reiterate our request regarding samplers and brochures printed before February 10, 2009.

The currently proposed rules would require us to destroy all non-compliant samplers and brochures printed before February 10, 2009. The proposed grace period would allow us to distribute these non-compliant samplers and brochures only through August 8, 2009. As my company suggested in our comment letter of October 16, 2008, I respectfully ask that we instead be permitted to distribute such materials until their stock is depleted.

When deciding whether to allow these samplers and brochures to be grandfathered in, please keep in mind the following:

- At this time, we have numerous samplers and brochures in stock that were printed in 2008 and intended for distribution in 2009 and beyond. Destroying these materials and recreating new ones that reflect the proposed rules would be extremely costly.
- The environmental impact of destroying such a volume of printed materials would greatly outweigh any possible safety benefit of this action, especially given that all products currently feature safety warnings on their packaging.

Thank you for your consideration, and for taking time today to discuss the many open issues surrounding the new labeling requirements.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lisa Gulli'.

Lisa Gulli
Vice President, Marketing

Sent 10/25

Stevenson, Todd

From: Michelle Bougie [mbougie@learningresources.com]
Sent: Monday, October 20, 2008 11:54 PM
To: New Reauthorization Legislation (CPSC)
Cc: CPSC-OS
Subject: Advertising Requirements NPR
Attachments: site_examples.pdf

October 20, 2008

Office of the Secretary
Consumer Product Safety Commission
Room 502
4330 East-West Highway 100
Bethesda, MD 20814

To Whom It May Concern:

I am replying to the call for comments, due today, on the proposed advertising rules promulgated by the Consumer Product Safety Commission under Section 105 of the CPSIA, as published in the Federal Register on October 6, 2008. My comments are also pursuant to a request for online safety warning placement recommendations in this morning's call about New Labeling Requirements for Toy and Game Advertising.

I propose that safety information be placed in a clearly labeled tab or organizational segment within the product page, appearing below the fold and well under the product name, description, pricing and Add to Cart button. An abbreviated warning should appear in the tab, and consumers could mouse over this to view complete warning details.

This recommendation is consistent with our site, LearningResources.com, and similar to the approach of major online retailers eToys.com and DisneyShopping.com. Online shoppers are therefore accustomed to finding safety information in tabs and segmented areas. Were online retailers to move this information above the fold, push the Add to Cart button lower on the page and alter the organizational structure consumers expect, they would face an estimated 10–15% loss in revenue due to consumers abandoning their product selection in confusion.

The CPSC has proposed adding a pop-up to the page with safety information; however, this will restrict retailers from advertising products via paid search placement in Google, Yahoo and other search engines that do not allow paid placements leading to landing pages with pop-ups that appear on entry to the page.

I urge the CPSC to consider the diminished online experience and potential lost revenue that will result from the proposed rules. Please see the attached examples related to my recommendations.

Thank you for considering my views on this important subject.

Sincerely,

Michelle M. Bougie
Sr. Internet Marketing Manager
Learning Resources, Inc.
Phone: (847) 990-3378

10/21/2008

Fax: (847) 281-1730
mbougie@learningresources.com

Set 1.5

October 21, 2008

Mr. Todd A. Stevenson
Secretary
Consumer Product Safety Commission
4330 East-West Highway, Room 502
Bethesda, MD 20814

Re: Advertising Requirements NPRM

Dear Mr. Stevenson:

The Association of National Advertisers (ANA) hereby submits our views on the important advertising issues raised in the Notice of Proposed Rulemaking pursuant to Section 105 of the Consumer Product Safety Improvement Act of 2008. These comments are relevant to both the print and Internet sections of the NPRM, although we may supplement our comments later regarding Internet advertising.

ANA leads the marketing community by providing its members insights, collaboration and advocacy. ANA's membership includes 340 companies with 9000 brands that collectively spend over \$100 billion in marketing communications and advertising in the United States annually. The ANA strives to communicate marketing best practices, lead industry initiatives, influence industry practices, manage industry affairs and advance, promote and protect all advertisers and marketers.

ANA believes that protecting children from choking or other hazards is extremely important and deserves the careful attention of consumers. There are, however, longstanding U.S. Supreme Court precedents that govern the Commission's proposed rules. Any restrictions on advertising must be "narrowly tailored" and "no more extensive than necessary to meet the government's asserted interest." *Central Hudson Gas & Elec. v. Public Serv. Comm'n*, 447 U.S. 557 (1980). Additionally, in *Thompson v. Western States Medical Center* (535 U.S. 357 (2002)), Justice Sandra Day O'Connor, writing for the majority of the Court, stated "If the First Amendment means anything, it means that regulating speech must be a last - not first - resort."

Thus, any requirements that mandate specific text in advertising, including specific type sizes and cautionary statements, must be narrowly tailored to meet the government's intended goal, and go no further. In ANA's view, the Commission's rules should not spell out specific type size requirements. Catalogues can vary greatly in form and format and a one-size-fits-all approach with specific type-size required is not workable.

In addition, depending on the products featured, there may be a requirement for multiple warnings for multiple products on a single page. We appreciate the flexibility in the proposed rule for abbreviated or shorthand versions of the warning in each ad. However, since catalogue space is limited, we urge the Commission to not require the full cautionary statement to be included on the top or bottom of each page. In our view, the only requirements should be that the warnings be clear and conspicuous, in the primary language of the ad, and in any reasonable format that conveys the information to the consumer.

The Commission notes that its proposed rules correspond to voluntary standards for product safety information, specifically ANSI 2535.6. It is important to note, however, that these standards are voluntary and thus do not have to meet the First Amendment's strong standards for limitations on commercial speech.

As required by Section 105 of the Act, the NPRM proposes rules which would require that safety information be no smaller than the majority of other non-safety text that surrounds it. However, federal regulation (16 CFR 1500) allows warning text on hazardous material products to be much smaller than the type size standard proposed by the Commission. It is also important to note that these rules concern safety warnings on packaging, not advertising. If the Commission adopted the final rule, it would mean that ads would carry larger warnings than products themselves. This approach is both counterintuitive and counterproductive.

ANA instead urges the Commission to follow the requirements of Section 105 as passed by Congress and merely provide general guidance for warning requirements in advertising that assure the information is clear and conspicuous. We also urge the Commission to clarify that these rules do not preclude

advertisers from offering other safety warnings or information in advertising.

Thank you for your consideration of our views.

Sincerely,

Daniel L. Jaffe
Executive Vice President
Government Relations

Stevenson, Todd

From: Jaffe, Dan [DJaffe@ana.net]
Sent: Monday, October 20, 2008 3:29 PM
To: CPSC-OS
Subject: Advertising Requirements NPR
Importance: High
Attachments: CPSC Comments 10.08.doc

Attached, you will find the Association of National Advertisers comments on the above captioned issue. We very much appreciate your attention to this matter, and if you have any questions please feel free to contact me at 202.296.2359 or at djaffe@ana.net. Thank you very much.

Best,
Dan Jaffe



Toy Industry Association, Inc.

October 22, 2008

Cheryl Falvey, General Counsel
Office of the General Counsel
U.S. Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814

Gib Mullan, Assistant Executive Director
Office of Compliance and Field Operations

**Comments on CPSIA Section 105 requirements
for Catalogues and Other Printed Materials**

The Toy Industry Association, Inc (“TIA”) commends the U.S. Consumer Product Safety Commission (“Commission” or “CPSC”) and the entire CPSC staff on the significant progress made thus far in implementing the Consumer Product Safety Improvement Act (“CPSIA”).

In response to the Commission’s request, TIA, on behalf of its approximately 500 member companies, hereby offer comments on the portion of the October 6, 2008 CPSC Notice of Proposed Rule Marking on Section 105 Labeling Requirement for Toy and Game Advertisements (“Proposed Rules”) relating to catalogues and other printed materials. TIA separately will submit comments on the Internet advertising portion of the Proposed Rules before the November 20 deadline.

A. SUMMARY.

Section 24(a) and (b) of the FHSA require package warnings for: (a) certain toys and games containing small parts that are intended for use by children three to six years old; and (b) balloons, small balls, marbles, and toys or games containing those articles that are intended for children age three and up. Pursuant to Section 105 of the CPSIA, catalogues and other printed materials that provide a direct means for consumers to purchase or order these products must also contain the same cautionary statement(s).

The Proposed Rules would require that the cautionary statements in catalogues and other printed materials be the larger of: “(1) a certain minimum type size based on the size of the advertisement (but no smaller than 0.08 inches), or (2) the size of the largest text in the advertisement that describes the function, use, or characteristics of the toy or game being advertised.” Provided that the full warnings are used at the bottom or top of each page of the catalogue or other printed materials, the Proposed Rules would allow the use of abbreviated warnings elsewhere on the page.

The Proposed Rules also solicit comments and information on a number of Section 105 implementation issues, including the difficulty in complying with the new requirements for

catalogues and differentiation between different types of business-to-business (“b-to-b”) catalogues.

B. COMMENTS.

1. 180 Day Grace Period.

Consistent with the CPSC staff recommendation, TIA formally requests that the 180 day extension of time for applicability of Section 105 be granted with respect to catalogues and other printed materials. As noted by staff, the extensive period of time necessary to prepare, print and distribute catalogues and other printed materials makes it virtually impossible for most producers of these materials to meet the February 12, 2009 deadline that would otherwise be imposed. In addition, the environmental impact (*i.e.*, destroying millions of non-compliant catalogues) and the financial cost (*i.e.*, printing new catalogues) of complying with Section 105 increase exponentially if the extension is not granted.

2. Scope.

(a) *“Direct Means” for Purchase.*

While TIA believes that the language of Section 105 seeking to cover any advertisement that provides a “direct means for the purchase or order of a product” is reasonably clear, the Proposed Rules give the Commission the opportunity to eliminate any perceived ambiguity on what is, in fact, covered by this provision. The Proposed Rules the CPSC develops now, under very short time constraints, should be regarded as a safe harbor. With respect to catalogues and other printed materials, then, TIA suggests that “direct means for the purchase or order” be construed to apply to only those materials where there is an order form or other, actual means of purchase with no additional actions or “step” being taken by the consumer or firm in question. Specifically, “800” numbers or other communications that require additional steps (in addition to calling the number) to purchase a product or to otherwise receive a toy or game should be expressly excluded from this definition. Certainly, phone numbers that are for the primary purpose of providing information about products or for other “customer service” purposes should be explicitly excluded from the Proposed Rules, even if such phone numbers can additionally be utilized to purchase a product, *e.g.*, through connection to another office or person able to facilitate purchase.

(b) *Exclusions from Section 105.*

(i) B-to-B catalogues. As directed by Section 105, the Commission is to make a clear distinction between product catalogues distributed between businesses and those distributed to and intended for “individual consumers.” While TIA understands the desire of the Commission to segregate from that clear statutory distinction these catalogues distributed to schools and other non-individuals, such a distinction is not necessary nor warranted and will likely cause significant, additional burdens and confusion as to the scope of these new mandates as attempting to classify catalogues as “school or nursery” or along similar lines may not be easy to do as a number of catalogues and other printed materials may have products intended for a range of institutional customers (TIA is also aware of at least one comment from an educational products supplier that indicates that application to the catalogues and other written materials that company produces will

have a very significant economic impact on that company and on that segment of the children's product industry overall). Thus, TIA urges a complete exclusion from Section 105 for b-to-b catalogues and other printed materials (as well as b-to-b Web sites). In the alternative, TIA urges inclusion of only those ostensibly b-to-b catalogues and other printed materials where the Commission is specifically aware of the purposeful distribution by the supplier of those catalogues to individual consumers, not including individual who purchase products for individuals outside of their families.

(ii) Advertising circulars. Every year millions of advertising circulars are provided to consumers through a number of vehicles (e.g., in-store circulars, free-standing inserts, newspaper circulars, coupons). The circulars contain images of products with essential descriptive details and often prices, but do not provide a direct means of purchase by consumers. The customer must go to the store to purchase one of the items in the circular, where the required warning is available on the product itself, in accordance with federal law. Since the consumer cannot purchase an item in the circular without seeing the choking hazard warning on the product itself or in an ancillary referenced catalogue or Internet website, the warning should not be required in such advertising circulars and thus such circulars should be completely excluded from Section 105.

(iii) Other. Any other product communication that does not offer an actual, direct means of "purchase or order" should also be explicitly excluded from application of the requirements of Section 105. So, for example, the Commission should clarify that sweepstakes, contests and other similar marketing devices are not covered by Section 105 since such tools do not provide a "direct means for the purchase or order of a product." Premium toy or game offers accompanying food or other products that consumers can mail-in (i.e., with proof of purchase, payment for shipping and handling, etc.) should also be excluded since such products themselves are already subject to the "CPSC Toy Premium Guidance Policy," dated February 27, 2004, and TIA believes were not contemplated or intended to be covered by the requirements of Section 105. Thus, the phrase "purchase or order" under Section 105, TIA believes, was intended to alert and inform consumers interested in purchasing toys and games and was not intended to cover printed materials (even those that may have a direct means of obtaining a covered toy or game) where the covered product is **incidental** to another transaction.

3. Warnings.

(a) *General*

Given the long lead time necessary to prepare catalogues, the wide variety of layouts and functions, and the different demands and short-term pressures confronting industry, even the CPSC staff proposed 180-day extension of time for implementation of a catalogue warning requirement does not permit a one-size-fits-all approach. TIA therefore urges the Commission to embrace a more flexible approach for implementing Section 105, either by issuing a final rule that only requires "reasonable compliance" with the requirements of that section or, in the alternative, by giving companies the latitude to choose from a broader menu of reasonable alternatives. In addition, it must be made explicit in the final rule that the warning label requirements of that rule are a floor and not a ceiling, i.e., firms are free to go beyond those requirements. In short, the Commission should craft its final rule (if any) with regard to catalogues and written materials in a manner that allows maximum flexibility and creativity for firms to place warning labels that, while

they meet the basic statutory criteria, also do so in a way that is the most helpful for consumers while still allowing for the conveyance of other important product information and in order to keep pace with printed advertising as it evolves over time. Thus, more prescriptive rules on font sizes, etc., will lead not only to a stifling of this creativity but will also necessarily result in greater compliance burdens on the agency.

(b) *Abbreviated warnings.*

TIA requests that the Commission permit companies to use abbreviated warnings or signal references throughout catalogues and other printed materials, provided that the full warning is placed on only the *order* page or a separate *warnings* page. This is comparable to designated materials pages or sizing chart pages customarily used in printed catalogues for a wide variety of consumer products. This approach calls consumers' attention to the warning prior to purchase, avoids inundating readers with safety information that may desensitize consumers to the importance of the warning, and alleviates design and implementation issues. In addition, TIA suggests that, for two-page catalogue spreads that depict small parts-containing products on both pages, the final rule should allow use of such signal references with a single full warning on only one of the two pages. Excessive warning banners could have the unintended effect of significantly increasing the size and cost of publication, while at the same time overwhelming consumers with safety information, thereby diluting their likelihood that consumers will read and comprehend those safety messages, as recognized by both the Proposed Rule and by 16 CFR part 1500.

TIA also notes that the Commission's proposed abbreviated warnings may wrap to the next line of the product information because of page constraints. In that event, and due to the general clutter that such multiple abbreviated warnings may cause, they are concerned that consumers may be confused. To address this, TIA recommends:

(i) that multiple icons be allowed, without warning words but with a "key" or guide to such icons in a place in the catalogue or other applicable printed material that is referenced on each page or one of two facing pages, most likely in proximity to the full printed text of the warnings;

(ii) the Commission should alternatively allow the use of shorthand statements, such as "SMALL PARTS," "MARBLE," "BALLOON," or "SMALL BALL; and

(iii) that the multiple icons or shorthand/signal words referenced above be allowed to be placed on a single line of text in proximity to the advertisement, consistent with the other elements of this comment document.

(c) *Size.*

The Proposed Rules and existing regulations governing the point size of warnings in other contexts recognize that the appropriate point size of the warnings importantly depends upon the context in which they appear. TIA believes that warning point size in catalogues and other printed materials should be only be required to be "**reasonably related**" to the point size of the product description. Thus, there should be no minimum point type or ratio established for the type size bearing the warning in relation to the product description or other product information. However, if the Commission should determine necessary, the words "WARNING," "CHOKING HAZARD" and possibly other, related signal words could be required to be of a minimum point type and/or

ratio to the product description language, but in any case should not be required to be larger than the point type size of the product description or, in the absence of a description, no larger than comparable product descriptive fonts for other products listed on the same page or page spread.

This suggestion:

(i) ensures that the consumer will see the warning because the seller will want to make the product description large enough for the consumer to read;

(ii) takes into account the constraints of the printed material by making the warning size reasonably related to advertisement size; and

(iii) recognizes the fact that the catalogue warnings should not have to be greater than for packaging under 16 C.F.R. §1500.121.

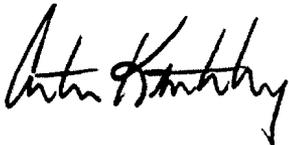
The sizing rationale contained in such regulation relates to relative sizing in relation to the primary display panel of individual product packaging. This does not easily translate to the depicted size of the product packaging as pictured in catalogues, which often contain multiple pictures on a single page.

4. Notification to Retailers.

Section 105 of the CPSIA also requires manufacturers, importers, distributors and private labelers to “inform the retailer of any cautionary statement applicable to the [covered] product.” TIA believes that the Commission should explicitly allow for compliance with this requirement through the mechanism of general certification under Section 102(a) of the CPSIA, which by November 12, 2008 will require that products covered by mandatory CPSC safety standards (presumably including warning label standards) must certify that those products in fact meet those standards and that certification “accompany” the product to retailers (including, in TIA’s view, through electronic means). Thus, rather than require any separate notification to retailers under Section 105, specifying that compliance can be satisfied through the certification process makes eminent sense from the standpoint of fulfilling the intent of Section 105 and with regard to cost of compliance and ease of enforcement of this requirement.

Thank you for offering us an opportunity to comment on the Proposed Rule. We respectfully reserve the right to provide additional comments. Should you need any further input or clarification, please do not hesitate to contact Rob Herriott with TIA, at rherriott@toyassociation.org or 646-520-4843.

Sincerely,



Carter Keithley
President
Toy Industry Association, Inc.

Stevenson, Todd

From: Herriott, Rob [rherriott@toyassociation.org]
Sent: Wednesday, October 22, 2008 4:50 PM
To: CPSC-OS; Wolfson, Scott; Falvey, Cheryl; Parisi, Barbara; Smith, Timothy; Mullan, John
Subject: RE: TIA comments on Section 105
Attachments: TIA Comments on Section 105 of CPSIA 2.pdf

As is typical of these efforts, there is always someone who comes in with a last minute change. I hope you will accept this updated version with some further edits and clarifications.

I apologize for any confusion or inconvenience.

Thank you again for all you are doing to implement the CPSIA.

Rob Herriott
Director of International Relations
and Regulatory Affairs
Toy Industry Association
1115 Broadway, Suite 400
New York, NY 10010
646-520-4843
rherriott@toy-tia.org

From: Herriott, Rob
Sent: Wednesday, October 22, 2008 4:21 PM
To: cpsc-os@cpsc.gov; swolfson@cpsc.gov; cfalvey@cpsc.gov; bparisi@cpsc.gov; tsmith@cpsc.gov; jmullan@cpsc.gov
Subject: TIA comments on Section 105

Please accept the attached document as the Toy Industry Association's comments concerning the requirements of Section 105 of the CPSIA as they pertain to catalogues and other printed materials. We appreciate your consideration.

If you have any questions or comments, please do not hesitate to contact me.

Rob Herriott
Director of International Relations
and Regulatory Affairs
Toy Industry Association
1115 Broadway, Suite 400
New York, NY 10010
646-520-4843
rherriott@toy-tia.org

The attached letter supplements our October 16 comment letter and contains our analysis of the economic impact of the proposed rules.

See 105

October 20, 2008

Office of the Secretary
Consumer Product Safety Commission
Room 502
4330 East-West Highway
Bethesda, MD 20814

2008 OCT 23 PM 1:49

Re: Advertising Requirements NPR

To Whom It May Concern:

We are replying to the call for comments, which are due on October 20, 2008, on the proposed advertising rules promulgated by the Consumer Product Safety Commission under Section 105 of the CPSIA, as published in the Federal Register on October 6, 2008. This letter supplements our October 16 comment letter and contains our analysis of the economic impact of the proposed rules.

Economic Impact Analysis of the Proposed Advertising Rules:

Based upon conservative revenue and cost estimates developed from industry data, we conclude that the proposed advertising rules will significantly reduce toy and school supply industry profits, either through sharp revenue reduction or dramatic increases in catalog and mailing costs. We believe that scenarios involving increased costs will ALSO result in lowered revenues, thereby inflicting a double whammy on the industry.

Under the proposed rules, catalog marketers will face a "Hobson's Choice" dilemma of the following unpleasant options:

- Reduce catalog product listings to make room for warnings (hold expenses steady), with a rule-induced Darwinian product selection process [**Estimated revenue loss: 6-10%**];
- Lengthen catalogs to preserve existing product listings but reduce the number of catalogs mailed to keep printing and postage costs level (hold expenses steady) [**Estimated revenue loss: 16.7%**];
- Discontinue catalog mailings entirely and rely entirely on the Internet for sales, thereby sharply lowering revenues, printing and mailing costs and imperiling printers who rely on catalog revenues [**Estimated revenue loss: 60%+**]; or
- Bear extra printing and postage costs to mail longer and heavier catalogs [**Estimated cost increase: 16.7%, estimated reduced revenue: 5%**].

The new advertising rules change the game for catalog marketers. It can be anticipated that all companies will respond rationally to the incentives implicit in the new rules. The financial impact of these incentives will be dramatic, based on the foregoing:

- Based on estimated annual revenue of \$3.8 billion for the toy catalog industry [*Toy Challenges and Opportunities: 2007 A Year in Review* (New York: Toy Industry Association, Inc.), 23], toy industry cost increases could exceed \$23 million and revenue losses could top \$106 million
- Based on estimated annual revenue of \$6 billion for the educational catalog industry [overall market size, Supplemental Products Market: Size, Growth & Trends. July 1, 2007. <http://www.simbainformation.com>. Accessed Oct. 13, 2008], educational industry cost increases could exceed \$64 million and revenue losses could exceed \$294 million

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October 20, 2008
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Total cost increases from the toy and educational markets ALONE conservatively could exceed \$87 million and associated revenue losses could exceed \$400 million. We have not attempted to extend this analysis beyond these two industries, but please note that the economic impact will affect many parts of the economy beyond the toy and education markets. The shriveled state of these industries and the implicit sacrifice in economic vitality must be understood in light of the fact that safety warning labels are already present on product packaging. All warnings are seen by consumers before they use the product; we therefore believe this lost revenue and lost profit is in vain and is not worth the price tag.

Notably, the proposed rules will likely degrade the ability of many small and medium-sized business enterprises ("SMEs") to compete. The financial impact of the rules is affected by scale; therefore, the effect will be more pronounced in smaller catalog runs. It is difficult to model this impact on such a broad swath of the economy. We believe the rules will adversely affect the incentive on SMEs to innovate, hire new employees, expand operations and invest in new ventures. Notably, many SMEs are already struggling because of the current economic slowdown.

Finally, the proposed rules will also have an unintended, negative impact on children, who are the end-users of the products regulated under the proposed rules. Many essential educational products for children aged six months to 12 years old are governed by toy safety regulations, so the proposed advertising rules directly apply to this category. A reduced incentive for manufacturers to develop educational products and for distributors to market such materials will result in reduced educational product diversity, which may threaten children's engagement in learning. The proposed advertising rules could impair the vitality of this small but critical niche market in the United States and harm our schools. Again, it is difficult to model the economic impact of duller schools and less engaged children, but we are certain that the costs to our society will be substantial.

The CPSC must develop alternative advertising rules that avoid the adverse financial impact of the proposed rules but nevertheless protects consumers' right to know as intended by the CPSIA. Please see our comment letter dated October 16, 2008, for our detailed proposal for such new rules.

Thank you for considering our views on this important subject.

Sincerely,



Richard Woldenberg
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rwoldenberg@learningresources.com