

# Proposed Rules

Federal Register

Vol. 73, No. 194

Monday, October 6, 2008

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 35

[NRC-2008-0071]

RIN 3150-A126

### Medical Use of Byproduct Material—Amendments/Medical Event Definitions; Extension of Comment Period

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Proposed rule: Extension of comment period.

**SUMMARY:** On August 6, 2008 (73 FR 45635), the Nuclear Regulatory Commission (NRC) published for public comment a proposed rule that would amend its regulations in 10 CFR Part 35, “Medical Use of Byproduct Material” to change medical event definitions. The public comment period for this proposed rule was to have expired on October 20, 2008.

By letter dated September 16, 2008, the NRC’s Advisory Committee on the Medical Use of Isotopes (ACMUI) requested an extension to November 7, 2008. As explained in the letter, the fall meeting of the ACMUI is scheduled for October 27 and 28, 2008, and the subject matter in the proposed rule is on the agenda for discussion at this public meeting. ACMUI believes that it will be able to provide better comment on the proposed rule following this discussion. Due to the complex nature of the proposed medical rule and the high public interest of the medical community, the NRC has decided to extend the comment period until November 7, 2008.

**DATES:** The comment period has been extended and now expires on November 7, 2008. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

**ADDRESSES:** Please include the following number RIN 3150-A126 in the subject

line of your comments. Comments on rulemakings submitted in writing or in electronic form will be made available to the public in their entirety on the NRC’s Web site in the Agencywide Documents Access and Management System (ADAMS) and at <http://www.regulations.gov>. Personal information, such as your name, address, telephone number, e-mail address, etc., will not be removed from your submission. You may submit comments by any one of the following methods.

**Electronically:** Via the Federal eRulemaking Portal (Docket ID NRC-2008-0071) and follow instructions for submitting comments. Address questions about this docket to Carol Gallagher 301-415-5905; e-mail [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov).

**Mail comments to:** Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

**E-mail comments to:** [Rulemaking.Comments@nrc.gov](mailto:Rulemaking.Comments@nrc.gov). If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at 301-415-1966.

**Hand deliver comments to:** 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. Federal workdays. (Telephone 301-415-1966).

**Fax comments to:** Secretary, U.S. Nuclear Regulatory Commission at 301-415-1101.

You may submit comments on the information collections by the methods indicated in the Paperwork Reduction Act Statement.

Publicly available documents related to this rulemaking may be viewed electronically on the public computers located at the NRC’s Public Document Room (PDR), Room O-1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The PDR reproduction contractor will copy documents for a fee.

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC’s Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this site, the public can gain entry into ADAMS, which provides text and image files of NRC’s public documents. If you do not have access to ADAMS or if there are problems in accessing the documents

located in ADAMS, contact the PDR Reference staff at 1-800-397-4209, 301-415-4737 or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

**FOR FURTHER INFORMATION CONTACT:** Edward M. Lohr, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone 301-415-0253, e-mail, [Edward.Lohr@nrc.gov](mailto:Edward.Lohr@nrc.gov).

Dated at Rockville, Maryland, this 30th day of September 2008.

For the Nuclear Regulatory Commission.

**Annette Vietti-Cook,**

*Secretary of the Commission.*

[FR Doc. E8-23534 Filed 10-3-08; 8:45 am]

**BILLING CODE 7590-01-P**

## CONSUMER PRODUCT SAFETY COMMISSION

### 16 CFR Part 1500

### Labeling Requirement for Toy and Game Advertisements

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** Section 105 of the Consumer Product Safety Improvement Act of 2008, (“CPSIA”), directs the Commission to promulgate regulations to effectuate this section with respect to advertising for certain toys and games in catalogues and other printed materials not later than 90 days after enactment. The Commission invites public comment on this proposal.

**DATES:** Written comments concerning the advertisement requirements with respect to catalogues and other printed materials must be received by October 20, 2008. Written comments concerning the requirements with respect to Internet advertisements must be received by November 20, 2008.

**ADDRESSES:** Comments should be e-mailed to [cpssc-os@cpssc.gov](mailto:cpssc-os@cpssc.gov), and should be captioned “ADVERTISING REQUIREMENTS NPR.” Comments may also be mailed, preferably in five copies, to the Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East-West Highway, Bethesda, Maryland 20814, or delivered to the same address (telephone (301) 504-0800). Comments also may be filed by facsimile to (301) 504-0127.

**FOR FURTHER INFORMATION CONTACT:**

Barbara E. Parisi, Project Manager, Office of General Counsel, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, Maryland; telephone (301) 504-7879 or e-mail: [bparisi@cpsc.gov](mailto:bparisi@cpsc.gov).

**SUPPLEMENTARY INFORMATION:****A. Background**

Section 24(a) of the Federal Hazardous Substances Act (FHSA) prescribes cautionary labeling requirements for toys or games that are intended for use by children from 3 to 6 years old and contain small parts. 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, Public Law 110-314, 122 Stat. 3016 (August 14, 2008), 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 (including catalogues, other printed materials, and Internet Web sites) must bear the same cautionary statement. Section 105 provides some guidelines on the format of the cautionary statement. Specifically, it must be prominently displayed in the primary language used in the advertisement, in conspicuous and legible type in contrast by typography, layout, or color with other material printed or displayed in the advertisement, and in a manner consistent with 16 CFR part 1500.

Section 105 of the CPSIA also allows the Commission to provide a grace period of no more than 180 days for catalogues and other printed material printed prior to the effective date. In addition, the Commission is directed to determine the applicability of the requirements to catalogues and other printed material distributed solely between businesses and not to individual consumers.

Section 105(2) of the CPSIA exempts the Commission from conducting a Regulatory Flexibility Act and Paperwork Reduction Act analysis for this rulemaking.

**B. Proposed Regulation**

Following is a brief description of the principal provisions of the Commission's proposed regulation.

The CPSIA directs that the cautionary statements required by section 105 of

the CPSIA be prominently displayed in a manner consistent with 16 CFR part 1500. The CPSIA also provides the Commission with the authority to promulgate a regulation concerning the size and placement of the required cautionary statements. The Commission believes that the requirements in 16 CFR 1500.121 are consistent with commonly accepted hazard-labeling guidelines and are appropriate as guidelines for the cautionary statements in the advertising, with a few modifications, as described below.

**1. Minimum Type Size for Advertisements in Catalogues and Other Printed Material.**

The minimum type-size requirements specified in 16 CFR 1500.121 are based on the area of the principal display panel of a hazardous substance. For purposes of labeling advertisements in catalogues or other printed materials, these type-size requirements would be determined based on the size of the advertisement for the specific toy or game to which it applies. For small advertisements—ones no more than 2 square inches—16 CFR 1500.121 would permit signal words and hazard statements with letter heights as small as  $\frac{3}{64}$  inch, or less than 5 points; the letter heights of other cautionary material in the label could be as small as  $\frac{1}{32}$  inch, or about 3 points.

The Commission has preliminarily determined, based on research, that such small or fine-print risk disclosures in product advertising would be ineffective because people are unlikely to read them. Based on research regarding the legibility and readability of text and numerals, the Commission has preliminarily determined that the proposed rule should refer to the minimum type sizes specified in 16 CFR 1500.121, but include the requirement that the sizes employed cannot be smaller than 0.08 inches, or about 5/64 inch.

ANSI 2535.6 (2006), the primary U.S. voluntary consensus standard on product safety information in product manuals, instructions, and other collateral materials, specifies that safety message text be no smaller than the majority of other non-safety text, other than headings, immediately surrounding it. The Commission agrees with this specification and has applied this general principle to the cautionary labeling of advertisements in catalogues or other printed materials by requiring cautionary statements to 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.

**2. Abbreviated Warnings for Catalogues and Other Printed Materials.**

The Commission recognizes that it may be difficult to include the full cautionary statements as spelled out in sections 24(a) and (b) of the FHSA next to each product in a catalogue or other printed material requiring a cautionary statement. ANSI Z535.6 (2006) allows for the use of section safety messages in product manuals, instructions, and other collateral materials. Although advertising and promotional materials are not included within the scope of ANSI Z535.6, this voluntary standard appears to be the most relevant to these materials. Section safety messages are those that apply to entire sections, subsections, or multiple paragraphs or procedures within a document, and typically appear at the beginning of the section to which they apply. One of the intended functions of section safety messages is to avoid the unnecessary repetition of safety information while allowing users to access the other information more easily and efficiently. If this concept were applied directly to advertisements in catalogues or other printed materials, a single version of a cautionary statement could be placed at the beginning of a page or section of advertised products that includes only toys and games that would require the same cautionary statements. This might be difficult to implement, however, in those cases in which a toy or game requires multiple cautionary statements. Additionally, research has shown that warnings generally should be located where consumers are likely to be looking when the information is needed, and a single relevant cautionary message at the beginning of a multi-page section could be missed easily. To address these concerns, the Commission proposes that shorthand, or abbreviated, versions of the required warnings be permitted in each product advertisement, provided that these are defined with the full warning at the bottom or top of each page—or extending across two facing pages if both pages contain products to which the warnings apply—of the catalogues. The bottom or top of each page or two-page spread must provide the definition, or full cautionary statement, for each abbreviated warning on that page. The proposed text of the rule contains the abbreviated statements appropriate for each cautionary statement.

**3. Internet Warnings.**

Section 105 of the CPSIA stipulates that the Commission shall promulgate a final rule “with respect to catalogues and other printed material” by

November 12, 2008. The CPSIA does not mandate that the Commission promulgate a final rule with regard to requirements for Internet advertising. Nonetheless, the Commission has proposed requirements for Internet advertising, as detailed below and included in the proposed rule.

The comment period with respect to requirements for Internet advertising is longer than that for requirements for catalogues and other printed materials. Comments on Internet advertising requirements must be received by November 20, 2008. Regardless of whether and when the Commission issues a final rule on the Internet advertising requirements, the requirements for Internet advertisements as implemented by Section 105 of the CPSIA will go into effect on December 12, 2008. As with catalogues and other printed materials, most of the requirements specified in 16 CFR 1500.121 may be applied to the cautionary labeling of advertisements on Internet Web sites. The minimum type-size requirements specified in 16 CFR 1500.121, however, cannot be applied readily since they are based on the area of the principal display panel, and the analogous area for an Internet advertisement could be limited by the size of the consumer's Internet browser application window or by the computer monitor or display area which could vary considerably. The Commission proposes that the type size of the cautionary statements must be at least equal to the size of the largest text in the advertisement that describes the function, use, or characteristics of the toy or game advertised (for example, the product description).

Research has found that risk information that is placed below the page scroll of a Web site is unlikely to be seen. To reduce the likelihood of this occurring, the Commission is proposing that the required cautionary statement be located immediately before any other statements in the advertisement that describes the function, use, or characteristics of the toy or game being advertised. Further, the Commission preliminarily finds that the use of abbreviated warnings in place of full text warnings is neither necessary nor desirable for Internet advertisements.

4. Business to Business Catalogues. The CPSIA directs the Commission to determine the applicability of the advertising requirements to catalogues and other printed materials that are distributed solely among businesses. The Commission has analyzed the benefits and costs associated with having the advertising requirements

applicable to business to business catalogues.

Some retailers that specialize in products for young children might be wary of carrying products that contain small parts or balloons. These retailers might value being provided cautionary statements before they order the product from their suppliers. However, Section 105 of the CPSIA already requires manufacturers, importers and other suppliers to inform retailers of any cautionary statements that are required to be included in catalogues and other printed advertisements for the products they supply. Specifying just how this information must be supplied (e.g., through a catalogue), would reduce the flexibility of manufacturers and other suppliers in determining how best to supply the required information. If the requirements were not applied to catalogues distributed solely between businesses, the manufacturers and other suppliers would have the flexibility to develop less costly means of providing the information to their retailers. Moreover, because retailers typically do not provide young children with direct access to the products, it is likely that applying these requirements to catalogues distributed solely among businesses would prevent very few injuries, if any. This would reduce the value of applying the requirements to catalogues distributed solely to retailers and similar businesses relative to the value of including them in catalogues distributed to consumers. There would be some costs associated with applying the advertising requirements to business to business catalogues, including costs associated with changing the page layouts to include cautionary statements. It will require some time and effort by the publishers to determine how the cautionary statements can best be added to their catalogues and then to proof the copy once the changes are made.

If an exemption were included for business to business catalogues and cautionary statements were not included in catalogues that were distributed to organizations or establishments such as schools, day care centers, churches, and recreational facilities as a result of the exemption, the intent of section 105 of the CPSIA could be thwarted. This is because such organizations often act as "ultimate consumers," purchasing the toys and games for the use of children and not for resale. Thus, any exemption provided would need to distinguish between catalogues distributed solely between businesses and those intended for final distribution to ultimate consumers, which may include institutions such as

schools, day care centers, churches, and recreational facilities.

The Commission seeks further input on 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.

### C. Effective Date

Section 105 of the CPSIA provides that the requirements for Internet advertising shall take effect December 12, 2008. It provides that the requirements will apply to catalogues and other printed materials published or distributed on or after February 10, 2009. This includes catalogues that were printed prior to February 10, 2009 but not distributed until after February 10, 2009. The CPSIA authorizes the Commission to provide a grace period of not more than 180 days for catalogues and other printed material printed prior to February 10, 2009, during which time distribution of such catalogues and other printed materials shall not be considered a violation of the standard.

The Commission staff has determined that there can be relatively long lead times for developing and printing catalogues, and some publishers expect to distribute catalogues for as long as two years after printing. Thus, it is likely that there are catalogues in circulation now, or that have been printed, or will be printed over the next several weeks, that do not contain the cautionary statements, but that are intended for distribution after February 10, 2009. If the Commission did not provide for a grace period, the retailers, manufacturers, and importers who published the catalogues would have to stop distributing them on February 10, 2009. The catalogues still in stock would have to be discarded and replacement catalogues would have to be printed, a cost to the publishers both in terms of discarding of the catalogues and in the possible loss in sales if the business experienced delays in obtaining reprinted catalogues.

The cost of providing a grace period—that some consumers may purchase games or toys from catalogues that they would not have purchased had they seen the cautionary labeling—though difficult to quantify, is likely to be small. The same cautionary statements are required on the products' packaging, and a parent could return or keep the

product out of reach until the children are older if need be.

Even with a grace period of 180 days, all catalogues distributed after August 9, 2009, which includes all catalogues distributed in anticipation of the 2009 holiday shopping season, will have to contain the required cautionary statements.

Because of the significant lead time involved in printing catalogues and the relatively small cost of providing a grace period of 180 days, the Commission preliminarily finds that a grace period of 180 days is warranted.

#### D. Environmental Considerations

As a labeling rule, the proposed rule falls within the provisions of 16 CFR 1021.5(c) which designates categories of actions conducted by the Consumer Product Safety Commission that normally have little or no potential for affecting the human environment. It is true that, if no grace period were provided, the requirements in Section 105 of the CPSIA would apply to all catalogues or other printed materials distributed after February 10, 2009, so that materials printed prior to this date that did not have the cautionary statements could not be distributed and would have to be discarded. This would increase the volume of material entering the waste stream. However, the increase would be small relative to the total volume of materials that enter the waste stream each year. Providing a grace period would further reduce this impact. Based on this, the Commission preliminarily finds that neither an environmental assessment nor an environmental impact statement is required.

#### E. Request for Information and Comments

Interested persons are invited to submit comments regarding this proposal. The Commission specifically seeks comments on the following:

1. The abbreviated versions and the minimum type-size and placement requirements of the cautionary statements as proposed in this rule;
2. The impact of the proposals on minimum type-size and placement in catalogues and other printed materials on businesses;
3. How often catalogues or other written materials are published and how much lead time is required to prepare these materials for publication;
4. The cost of publishing new catalogues to meet these requirements without the 180 day grace period;
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 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.

Comments should be e-mailed to [cpssc-os@cpssc.gov](mailto:cpssc-os@cpssc.gov) and should be captioned "ADVERTISING REQUIREMENTS NPR." Comments may also be mailed, preferably in five copies, to the Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East-West Highway, Bethesda, MD 20814, or delivered to the same address (telephone (301) 504-0800). Comments also may be filed by telefacsimile to (301) 504-0127. All comments and submissions should be received no later than October 20, 2008.

#### List of Subjects in 16 CFR Part 1500

Consumer protection, labeling.

#### Conclusion

Under authority of section 3 and section 105 of the Consumer Product Safety Improvement Act, Public Law 110-314, 122 Stat. 3016 (August 14, 2008), the Commission proposes to amend Title 16, Chapter II, Subchapter C, Part 1500 as set forth below.

#### PART 1500—HAZARDOUS SUBSTANCES AND ARTICLES; ADMINISTRATION AND ENFORCEMENT REGULATIONS

1. The authority citation for part 1500 continues to read as follows:

**Authority:** 15 U.S.C. 1261-1278.

2. Section 1500.20 is added to read as follows:

##### § 1500.20 Labeling requirement for advertising toys and games.

(a) *Scope.* This section applies to advertisements (including catalogues, other printed materials, and Internet Web sites), which provide a direct means of purchase or order of products requiring cautionary labeling under sections 24(a) and (b) of the FHSA.

(b) *Effective Date.* The effective date of this standard with respect to catalogues and other printed materials is February 10, 2009. The Commission is providing a grace period of 180 days, or until August 9, 2009, during which catalogues and other printed materials printed prior to February 10, 2009 may be distributed. All catalogues and other printed materials distributed on or after August 9, 2009 must comply with the standard, regardless of when they were

printed. The effective date of this standard with respect to Internet Web sites is December 12, 2008.

(c) *Definitions.* For the purposes of this section, the following definitions shall apply.

(1) *Ball* means a spherical, ovoid, or ellipsoidal object that is designed or intended to be thrown, hit, kicked, rolled, dropped, or bounced. The term "ball" includes any spherical, ovoid, or ellipsoidal object that is attached to a toy or article by means of a string, elastic cord, or similar tether. The term "ball" also includes a multi-sided object formed by connecting planes into a generally spherical, ovoid, or ellipsoidal shape that is designated or intended to be used as a ball, and any novelty item of a generally spherical, ovoid, or ellipsoidal shape that is designated or intended to be used as a ball. The term "ball" does not include dice, or balls permanently enclosed inside pinball machines, mazes, or similar other containers. A ball is permanently enclosed if, when tested in accordance with 16 CFR 1500.53, it is not removed from the outer container.

(2) *Small ball* means a ball that, under the influence of its own weight, passes in any orientation, entirely through a circular hole with a diameter of 1.75 inches (44.4 mm) in a rigid template ¼ inches (6 mm) thick. In testing to evaluate compliance with this regulation, the diameter of opening in the Commission's test template shall be no greater than 1.75 inches (44.4 mm).

(3) *Latex balloon* means a toy or decorative item consisting of a latex bag that is designed to be inflated by air or gas. The term does not include inflatable children's toys that are used in aquatic activities such as rafts, water wings, swim rings, or other similar items.

(4) *Marble* means a ball made of hard material, such as glass, agate, marble, or plastic, that is used in various children's games, generally as a playing piece or marker. The term "marble" does not include a marble permanently enclosed in a toy or game. A marble is permanently enclosed if, when tested in accordance with 16 CFR 1500.53, it is not removed from the toy or game.

(5) *Small part* means any object which, when tested in accordance with the procedures contained in 16 CFR 1501.4(a) and 1501.4(b)(1), fits entirely within the cylinder shown in Figure 1 appended to 16 CFR part 1501. The use and abuse testing provisions of 16 CFR 1500.51 through 1500.53 and 1501.4(b)(2) do not apply to this definition.

(6) *Direct means of purchase or order* means any method of purchase that

allows consumers to order the product without being in the physical presence of the product. Advertising that provides a direct means of purchase or order of a product would include catalogues or other printed advertising material that contain order blanks, telephone numbers or fax numbers for placing orders, and Internet Web sites that enable consumers to purchase a

product online or through the use of a telephone number or fax number provided on the Internet Web site.

(d) *Advertising requirements.* Any toy or game that requires a cautionary statement about the choking hazard associated with small parts, balloons, small balls, or marbles must bear that cautionary statement in the product's advertising if the advertising provides a

direct means for the consumer to purchase or order the product.

(1) The advertising for any article that is a toy or game intended for use by children who are at least three years old but less than six years of age shall bear or contain the following cautionary statement if the toy or game includes a small part:

FIGURE 1

**WARNING:**

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

(2) The advertising for any latex balloon, or toy or game that contains a

latex balloon, shall bear the following cautionary statement:

FIGURE 2

**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.**

(3)(i) The advertising for any small ball intended for children three years of

age or older shall bear the following cautionary statement:

FIGURE 3

**WARNING:**

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

(ii) The advertising for any toy or game intended for children who are at

least three years old but less than eight years of age that contains a small ball

shall bear the following cautionary statement:

FIGURE 4

**WARNING:**

**CHOKING HAZARD--Toy contains a small ball.  
Not for children under 3 yrs.**

(4)(i) The advertising for any marble or older shall bear the following  
intended for children three years of age cautionary statement:

FIGURE 5

**WARNING:**

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

(ii) The advertising for any toy or years of age that contains a marble shall  
game intended for children who are at bear the following cautionary statement:  
least three years old but less than eight

FIGURE 6

**WARNING:**

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

(e) Abbreviated warnings for catalogues and other printed materials. Abbreviated versions of the required cautionary statements are permitted in each individual product advertisement, provided that these abbreviated cautionary statements are defined with

full cautionary statements at the bottom or top of each catalogue page (or extending across the bottom or top of two facing catalogue pages if both pages contain products available for purchase).

(1) If abbreviated cautionary statements are used in each individual product advertisement, the following cautionary statements shall be used:

(i) For any article that would require the cautionary statement specified in 16 CFR 1500.20(d)(1):

FIGURE 7

**⚠ SMALL PARTS. Not for < 3 yrs.**

(ii) For any article that would require the cautionary statement specified in 16 CFR 1500.20(d)(2):

FIGURE 8

**⚠ BALLOON. Not for < 8 yrs.**

(iii) For any article that would require the cautionary statement specified in 16 CFR 1500.20(d)(3)(i) or (ii):

FIGURE 9

**⚠ SMALL BALL. Not for < 3 yrs.**

(iv) For any article that would require the cautionary statement specified in 16 CFR 1500.20(d)(4)(i) or (ii):

FIGURE 10

**⚠ MARBLE. Not for < 3 yrs.**

(2) If abbreviated cautionary statements are used in each individual product advertisement, the following definitions shall appear at the bottom or top of each catalogue page (or extending

across the bottom or top of two facing catalogue pages if both pages contain products available for purchase) that includes the abbreviated cautionary statement:

(i) For any article that would require the cautionary statement specified in 16 CFR 1500.20(d)(1):

FIGURE 11

**⚠ SMALL PARTS. Not for < 3 yrs.:**

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

(ii) For any article that would require the cautionary statement specified in 16 CFR 1500.20(d)(2):

FIGURE 12

**⚠ 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.**

(iii) For any article that would require the cautionary statement specified in 16 CFR 1500.20(d)(3)(i) or (ii):

FIGURE 13

**▲ SMALL BALL. Not for < 3 yrs.:**

**▲ WARNING:**  
**CHOKING HAZARD--This toy is or contains a small ball. Not for children under 3 yrs.**

(iv) For any article that would require the cautionary statement specified in 16 CFR 1500.20(d)(4)(i) or (ii):

FIGURE 14

**▲ MARBLE. Not for < 3 yrs.:**

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

(f) Prominence and conspicuousness of labeling statements. The requirements of 16 CFR 1500.121 relating to the prominence and conspicuousness of precautionary labeling statements for hazardous substances shall apply to any labeling statement required under 16 CFR 1500.20(d) and (e), with the following clarifications and modifications.

(1) Catalogues and other printed materials.

(i) All labeling statements shall be printed in type that is not smaller than 0.08 inches.

(ii) All labeling statements shall be printed in type that is not smaller than the largest of any other statements or text, other than the product or article name, in the individual and adjacent product advertisements.

(2) Internet Web sites.

(i) All labeling statements shall be printed in type that is not smaller than the largest of any other statements or text, other than the product or article name, in the advertisement.

(ii) All labeling statements shall be located immediately before any other statements or text in the advertisement that describes the function, use, or characteristics of the article being advertised (for example, the product description).

(3) Safety Alert Symbol. Any safety alert symbol required by this section

shall be an equilateral triangle. The height of the safety alert symbol shall be equal to or exceed the height of the letters of the signal word "WARNING". The height of the exclamation point inside the triangle shall be at least half the height of the triangle, and the exclamation point shall be centered vertically in the triangle. The safety alert symbol shall be separated from the signal word by a distance no larger than the space occupied by the first letter of the signal word. In all other respects, the safety alert symbol shall conform generally to the provisions of 16 CFR 1500.121 relating to signal words.

**Note:** The following appendix will not appear in the Code of Federal Regulations:

#### List of Relevant Documents

1. Memorandum from Robert Franklin, Directorate for Economic Analysis, to Barbara E. Parisi, Attorney, Office of General Counsel, "Economic Issues Associated with Section 105 of the Consumer Product Safety Improvements Act of 2008 (Concerning the inclusion of Cautionary Labeling for Toys and Games in Catalogs and Other Printed Materials)," September 16, 2008.

2. Memorandum from Timothy P. Smith, Engineering Psychologist, Division of Human Factors, Directorate for Engineering Sciences, to Barbara

Parisi, Regulatory Affairs Attorney, Office of the General Counsel, "Size and Placement of Cautionary Statements Specified in Section 105, Labeling Requirement for Advertising Toys and Games, of the Consumer Product Safety Improvement Act of 2008," September 15, 2008.

Dated: September 30, 2008.

**Todd A. Stevenson,**  
*Secretary, Consumer Product Safety Commission.*

[FR Doc. E8-23543 Filed 10-3-08; 8:45 am]

BILLING CODE 6355-01-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[USCG-2008-0995]

RIN 1625-AA09

#### Drawbridge Operation Regulations; Intracoastal Waterway (ICW) Beach Thorofare, Atlantic City, NJ

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to change the drawbridge operation regulations of the Route 30 Bridge, at