




United States
CONSUMER PRODUCT SAFETY COMMISSION
Washington, D.C. 20207

MEMORANDUM

DATE : March 30, 2004
TO : OPE
Through: Todd A. Stevenson, Secretary 
FROM : Martha Kosh
SUBJECT: Pilot Regulatory Review Project

ATTACHED ARE COMMENTS ON THE CH 04-3

<u>COMMENT</u>	<u>DATE</u>	<u>SIGNED BY</u>	<u>AFFILIATION</u>
CH04-3-1	2/10/04	Gary Bell Chairman	Saunder Woodworking Co. 502 Middle Street Archbold, OH 43502
CH04-3-2	3/29/04	Gary Klein Senior Vice	Toy Industry Assoc., Inc. 1707 L St, NW, Suite 725 Washington, DC 20036
CH04-3-3	3/29/04	William Guerry Christie Grymes Counsel to the Outdoor Power Institute	Collier Shannon Scott Washington Harbor, Suite 400 3050 K St, NW Washington, DC 20007

Reg Review Comment /

**ANSI Accredited Standards Committee Z-535
on Safety Signs and Colors**
2004 FEB Secretary: Jim Cigler
National Electrical Manufacturers Association
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February 10, 2004

"Pilot Regulatory Review Project"
Office of the Secretary
U.S. Consumer Product Safety Commission
Room 502
4330 East-West Highway
Bethesda, Md 20814

To those concerned:

The Commission's pilot program to review existing substantive regulations in light of their consistency with current program goals, market conditions, technology, and mandatory or voluntary standards is a prudent undertaking. Although specifically directed at the **"Safety Standard for Walk-Behind Power Lawnmowers"** (16 CFR 1205), our comment may also be applied to other regulations that come under review.

The walk-behind power lawnmower standard was promulgated in 1979. Paragraph 1205.6 requires the application of a "warning label" and also prescribes the size and appearance of that label (Figure 7). Since this label format was specified in December 1980, it is now inconsistent with current standards.

The ongoing need for such a label is not our issue. If it is ultimately determined that the use of such a label continues to be necessary, then our comment is that the "warning label" needs to be redesigned to meet the criteria specified in the ANSI Z-535.4 - 2002 Standard.

The ANSI Z-535.4 Standard addresses the design, application and placement of product safety signs and labels. This Standard was first published in 1991, and has subsequently been revised and updated with editions published in 1998 and

2002. In fact, non-voting liaison representatives from the Commission have attended and greatly contributed to the meetings of this Standards Committee.

We have developed the ANSI Z-535.4 Standard with the core principal that a consistent visual layout for product safety signs and labels helps facilitate the recognition and understanding of the potential hazards being addressed. We encourage you to adopt the provisions of this Standard, and use it to help "upgrade" regulations that were promulgated prior to the Standard's publication.

Thank you very much for your consideration. Please contact me if I can be of any assistance.

A handwritten signature in black ink that reads "Gary M. Bell". The signature is written in a cursive style with a large, looping "G" and "B".

Gary M. Bell
Chairman, ASC Z-535

cc: NEMA - Jim Cigler

GMB-008-04



Toy Industry Association, Inc

1707 L Street, N.W. Suite 725
Washington D.C. 20036

TO: OFFICE OF THE SECRETARY
CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, DC 20207

PILOT REGULATORY REVIEW PROJECT:

**INITIAL COMMENTS OF THE TOY INDUSTRY ASSOCIATION IN
RESPONSE TO THE CPSC NOTICE AT 69 FED.REG. 4095 (JANUARY 28,
2004)**

INTRODUCTION:

On January 28, 2004, the Consumer Products Safety Commission (CPSC) published in the Federal Register a notice announcing a pilot program designed to solicit comments on several regulations for the purpose of determining whether the regulations are relevant to CPSC program goals, can be streamlined and can be modified to minimize regulatory burdens. One of the regulations on which the CPSC seeks comment is 16 CFR Part 1505 - Requirements for Electrically Operated Toys and Other Electrically Operated Articles Intended for Use by Children.

The Toy Industry Association (TIA) is a New York based trade association representing over 400 member companies with sales at retail estimated at \$23 billion. Members include manufacturers, importers and distributors of toys, games, seasonal and hobby products. It is on behalf of its members that TIA submits these comments, which are based on our members' experience in complying with the regulations.

GENERAL COMMENTS:

These regulations were originally adopted in 1973 under the Federal Hazardous Substances Act (FHSA) and include a number of requirements

intended to reduce the risk of electrical, mechanical and thermal hazards. The regulation has often resulted in confusion among manufacturers of products. In apparent recognition of this fact, the CPSC staff recently issued a guidance letter exempting certain home inflatable products with blower motors from specific requirements of the standard.

It is intended that manufacturers be aware of the requirements of this regulation before they produce the product. The regulation tracks the requirement of the UL standard for electrical toys. All retailers require that electrical toys be UL compliant and certified.

Initially, we think the wording itself could be clearer, enforcement could be clearer, and the definition of applicable scope could be clearer. We think it needs to be modernized in both technical requirements, and ability to test. Because the regulation is so specific, and to a specific product type (toys), even subtle changes in the standard could have a large impact on the toy transformer, toy testing, and toy labeling requirements.

Basically the standard is difficult to understand because of poor layout and language, and is not easily complied with. With regard to labeling, the requirements are almost draconian. The scope is so broad, that many products fall into it, so otherwise compliant for adult products fall within its parameters. The scope is also not clear - especially regarding transformers.

SPECIFIC RECOMMENDED CHANGES:

16 CFR 1505.1. We suggest that the major operating and interacting conditions be enumerated so that the regulation clearly enumerates those additional products which would be exempt.

TIA believes that the exemption for video games should be extended to video games and "similar interacting systems". These new products would be similar to the current exempted products, and such additions would acknowledge the advancement of technology in toys over the last 30 years. There currently exist many products in the marketplace which function in an identical manner to video game control units. Since the regulation was developed an enormous range of toy products have been developed that interface with computers, televisions, audio equipment and display panels. These devices function in a similar fashion to the video consoles currently

exempt from regulation. Additionally new generations of step down transformers in use, contain components which are no longer accessible to children of any age. Designs which exposed switches and wiring carrying higher voltage currents (i.e. such as the old electric train sets) have been replaced by sealed units which step down current to safe levels and which can be readily handled and used without potential for unreasonable risks of injury. The standard needs to be updated to permit usage of such products. In considering such revisions we suggest that accessibility to hazardous components should be considered as the determining factor in determining risk. An accessibility probe as is currently described in 16 CFR 1500.48 and 49, can and should be used to determine accessibility of hazardous electrical components.

In our view, 16 CFR 1505.1(1) delineates that the regulation only applies to *“electrically operated toy or other electrically operated article intended for use by children.....which is intended to be powered by electrical current from nominal 120 (110-125v.) Branch circuits”* and specifically denotes that the definition of such toy or article *“does not include articles designed primarily for use by adults which may be used incidentally by children, or video games”* (emphasis supplied). CPSC staff should clarify that products that cannot be operated from branch circuitry and which are reasonably intended to be operated by an adult should be expressly considered outside the scope of the regulation. One example involves rechargeable batteries. Typically operation of the toy is independent of the branch circuitry connection and employs lower voltage power. Usually adults perform the charging of the battery, and the charger should be considered outside the scope of the regulation. In cases involving young children the labeling of such chargers (with the warning currently required under 16CFR 1505.3) under would create confusion and could be inconsistent with warnings in instructions that provide that the charging activity is not recommended for young children.

16CFR 1505.3 (d) (2) Markings-Minimum lettering heights. The requirement for size of the lettering is inconsistent with Section 1500.121 of 16CFR 1500 and Section 5.11.1.3 of ASTM F963-03. For example: section 1505.3 requires the statement, "Caution-Electric Toy" to be twice the size as signal words for other products with comparable size display areas as required by 16CFR 1500.121 and ASTM F963-03.

The format as required by 1505.3 is also not consistent with current requirements in 16CFR 1500.121 and ASTM F963. To be consistent with the current format requirements of ASTM F 963 and 16CFR 1500.121, the warnings on packages for electrical products would state:

**“ [!] WARNING:
SHOCK HAZARD-Electrically Operated Toy (Product)
Not intended for children under __ years”**

The minimum size of the lettering and the space required for warnings create a challenge for manufacturers since they typically fill a high percentage of the available area on the display panel thus competing with other information being conveyed to the consumer. While there is no question that the larger warnings provide adequate information to the consumer at retail, there is no question that smaller letter size and fewer words would provide the same information and protection to consumers. If the requirements for small parts warnings as written in ASTM F 963 and 16 CFR 1500 are adequate, comparably sized and worded warnings should be adequate for electrical products intended for children.

16 CFR 1505.3(e). This section indicates that electrical products intended for children that contain a heating element must include an age recommendation of 8 years or older. The regulation is now some 30 years old and the usage pattern of children in relation to toys and other product usage has changed considerably. The regulation also does not take into account the accessibility of any heating element, for instance the heating element may not be accessible to the child.

Given these two examples of the restrictive requirement regarding an age recommendation we suggest the requirement be reviewed and lowered to 6 years of age.

16 CFR 1505.5(e). TIA recommends that CPSC clarify 16 CFR 1505.5(e) which “require(s) the power cord length be from 5 to 10 feet. Short cord length will encourage the use of extension cords. Therefore we (CPSC) will allow the use of longer cord than allowed in the regulation so long as the cords are protected by a GFCI.

The standard does not have a provision for exposing the electric motor to wet conditions that are encountered in outdoor situations. Also the standard

does not require the use of GFCI. There are no restrictions on the use of extension cords which can be hazardous if used outdoors. The clarifications provided in the recently issued *Guidelines to Manufacturers and Importers of Consumer or Home-use Inflatable Children's Toys*, recently issued in January 2004, need to be considered as part of revisions to the regulation.

There is considerable confusion on the matter of compliance with this standard if, for example, the electric fan uses a longer cord than the standard 10 feet and complies with UL 507 but does not have a GFCI and is marked with a warning to connect only the plug to a GFCI outlet.

According to a Certified Toy Testing Lab, attempting to interpret current CPSC guidelines, the interpretation was if one uses a longer cord it must have a GFCI plug. This is in contrast to UL's interpretation, where UL 507 allows two options:

- a) the use of GFCI on power cords
- OR
- b) no GFCI on power cord BUT must be marked with a warning to connect only the plug to a GFCI outlet

Our recommendation is similar to UL's position, which we urge the CPSC to adopt: specifically, if a fan with longer cord complies with UL 507, it complies with CPSC's provision with or without GFCI. In general higher voltage motors in UL compliant electrical products suitable for outdoor use should be permitted.

Risks from electrical products need to be considered in context of significant improvements in safety from dramatic changes in designs, materials and technological advancements in electrical circuitry that inherently reduces exposure to electrical hazards in consumer products.

Respectfully Submitted,

Gary Klein, Senior VP
Government, Legal and Regulatory Affairs
Toy Industry Association

Pilot Review

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March 29, 2004

VIA FACSIMILE AND ELECTRONIC MAIL

Mr. Todd A. Stevenson
Secretary
Office of the Secretary
Consumer Product Safety Commission
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Bethesda, Maryland 20814

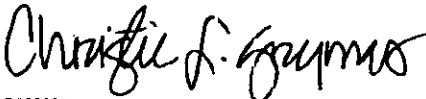
Re: Pilot Regulatory Review Project

Dear Mr. Stevenson:

On behalf of the Outdoor Power Equipment Institute ("OPEI"), we appreciate the opportunity to submit the enclosed comments in response to the Consumer Product Safety Commission's January 28, 2004, *Federal Register* notice. That notice requested comments in connection with the Commission's Pilot Program for Systematic Review of Commission Regulations.

Please contact us if you have any questions.

Sincerely,



William M. Guerry, Jr.

Christie L. Grymes

COUNSEL TO THE OUTDOOR POWER EQUIPMENT INSTITUTE

Enclosures

UNITED STATES OF AMERICA
BEFORE THE CONSUMER PRODUCT SAFETY COMMISSION

Pilot Regulatory Review Project

COMMENTS OF THE OUTDOOR POWER EQUIPMENT INSTITUTE

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The Outdoor Power Equipment Institute ("OPEI") submits these comments in response to the Consumer Product Safety Commission's ("CPSC" or "Commission") *Federal Register* notice dated January 28, 2004, regarding its Pilot Program for Systematic Review of Commission Regulations. Specifically, these comments address the evaluation of the Commission's safety standard for walk-behind power mowers, 16 C.F.R. part 1205 ("CPSC Standard").

I. Introduction

OPEI is a national trade association whose members manufacture lawn and garden products, including riding and walk-behind mowers, compact tractors, and utility vehicles. OPEI's membership currently includes most of the major manufacturers of walk-behind mowers, as demonstrated by the membership list attached as Exhibit A. OPEI and its members have worked closely with the CPSC and its staff to ensure that those products meet the highest standards for safety. OPEI is an ANSI-Accredited Standards Developer for various standards, including one that addresses both walk-behind and ride-on mowers and tractors.

II. Overview of Existing Standards

Two standards currently govern walk-behind mowers – the CPSC Standard and the ANSI B7.1-2003 Standard. Consistent with the Commission's goal of reducing the risk of injury, the CPSC Standard imposes product performance and labeling requirements to reduce the risk of bodily contact with the blades of walk-behind power lawn mowers with rotary blades. The CPSC Standard also requires certain labeling for reel-type mowers. Manufacturers must certify that covered products comply with the CPSC Standard. To facilitate that process, OPEI offers a certification process with an

authorized independent testing facility. Manufacturers may also self certify or obtain third-party certification.

The basic design of walk-behind mowers has not changed significantly since promulgation of the CPSC Standard. The CPSC Standard is generally current with respect to technology and market conditions. As described below, to the extent that the CPSC Standard does not address certain hazards or developing issues associated with a global market, the ANSI B71.1 Standard and the high levels of compliance sufficiently address those hazards and market conditions. OPEI believes that the CPSC Standard is also generally consistent with other CPSC regulations.

The ANSI B71.1-2003 Standard is a voluntary standard developed pursuant to ANSI's requirements for due process, consensus, and balanced interests. OPEI is the ANSI-Accredited Standards Developer for that standard, which has specific provisions governing walk-behind mowers. The ANSI B71.1-2003 Standard furthers the Commission's goals with a broader scope of requirements for consumer walk-behind mowers than the CPSC Standard and includes the CPSC Standard as an Annex. To avoid inconsistencies, however, the requirements of the CPSC Standard are not repeated in the ANSI B71.1-2003 Standard.

The ANSI B71.1-2003 Standard includes requirements for walk-behind mowers regarding the controls, shields and guards, servicing, electrical components, blade placement, thrown objects, and labeling. For example, compliance with the standard requires that the blades are enclosed and that protective guards cover areas that can reach high temperatures, discharge openings, and the rear of the mower. Certain parts must pass tests to ensure that objects that may be thrown from the mower's blade are blocked

and prevented from hitting the operator or a bystander. Insulated cables comprising wiring circuits and terminals and noninsulated electrical parts must be protected. The mower must bear a durable label of recommended safety practices that conforms to the format and color requirements of ANSI Z535.4 or ISO 11684.

The ANSI B71.1-2003 Standard is reviewed and, when appropriate, modified at least every five years. Since its original publication in 1960, it has been revised twelve times in response to the identification of hazards and developments in technology. Importantly, as manufacturers offer products in the global marketplace, this regular review facilitates consistency and international harmonization. Entities that participate in the development and review of the ANSI B71.1-2003 Standard also participate in international standards development activities.

III. Compliance With Existing Standards

To the best of OPEI's knowledge, its members fully comply with the CPSC Standard and the ANSI B71.1-2003 Standard and recognize the safety benefits associated with compliance. National Electronic Injury Surveillance System ("NEISS") data and the CPSC's corresponding hazard analysis indicate a reduction in the number of consumer injuries since implementation of the CPSC Standard. OPEI members have used the NEISS data to identify and address hazard patterns and modify the ANSI B71.1 standard accordingly.

To the extent that any review of the CPSC Standard is necessary or appropriate, the Commission should consider the design and content of the specific warning label required under 16 C.F.R. § 1205.6. The specific warning depicts a blade making hand contact with the words "DANGER" and "KEEP HANDS and FEET AWAY." The

specific design of the warning is unique to this regulation and differs significantly from other warnings that address the same or a similar hazard. *See, e.g.*, ANSI Z535.4; ISO 11684. Some revision to provide flexibility to this specific provision would ease the burden on manufacturers to comply with various U.S. and international labeling requirements.

EXHIBIT A

2004 ROSTER OF MEMBERS

Ace Products Inc.
ACS
American Honda Motor Co., Inc.
 Power Equipment Division
Ariens Company
Auburn Consolidated Industries, Inc.
Bemis Manufacturing Company
Black & Decker (U.S.) Inc.
Blitz U.S.A., Inc.
Blount, Inc.
Briggs & Stratton Corporation
Brinly-Hardy Company, Inc.
Bush Hog Corporation
Capro, Inc.
Carlisle Tire & Wheel Company
Carlton Company
Club Car
Dana Corporation
Deere & Company
Delta Systems, Inc.
Dixon Industries, Inc.
DSM Engineering Plastics
Duramatic Products
East Penn Manufacturing Co., Inc.
Echo Incorporated
Electrolux Home Products
Empire Plow Company, Inc.
Excel Industries, Inc.
Exmark Manufacturing Co., Inc.
Fluoro-Seal, Ltd.
Hoffco, Inc.
Homelite Consumer Products, Inc.
Husqvarna Forest & Garden
Hydro-Gear
Jacobsen, a Textron Company
Kawasaki Motors Corp., U.S.A.
Kelch Corporation
Kohler Company
Kubota Tractor Corporation
Mahle, Inc.
Makita USA Inc.
Metal Powder Products Co.
Milliken and Company
Milsco Manufacturing Company
Minuteman Parker
MTD Products Inc.
Murray, Inc.
N.E.W. Customer Service Companies, Inc.
New Hampshire Industries
Polaris Industries, Inc.
RedMax/Komatsu Zenoah America, Inc.
R.E. Phelon Company, Inc.
Robin America, Inc.
Sauer-Danfoss
Scag Power Equipment, Inc.
Sheffield Financial Corp.
Shindaiwa Inc.
Simplicity Manufacturing, Inc.
Solo Incorporated
Southern Mills, Inc.
Southland Mower Corporation
Spectrum Corporation
Stihl Incorporated
Tanaka Power Equipment
Tecumseh Products Company
Engine & Transmission Group
The Toro Company
Transamerica Distribution Finance
 Corporation
Tuff Torq Corporation
U.S.A. Zama Inc.
Walbro Engine Management
Walker Manufacturing Company
Wamer Electric Inc.
Wescon Products Company
Whirltronics, Inc.
Yamaha Motor Corporation, U.S.A.