

**Substantial Product Hazards Posed by
Hand-held Hair Dryers Without Immersion Protection, and
Children's Upper Outerwear with Certain Drawstrings:
Staff Draft Proposed Rules
Section 15(j) of the Consumer Product Safety Act**



April 28, 2010

These comments are those of the CPSC staff, have not been reviewed or approved by, and may not necessarily reflect the views of, the Commission.



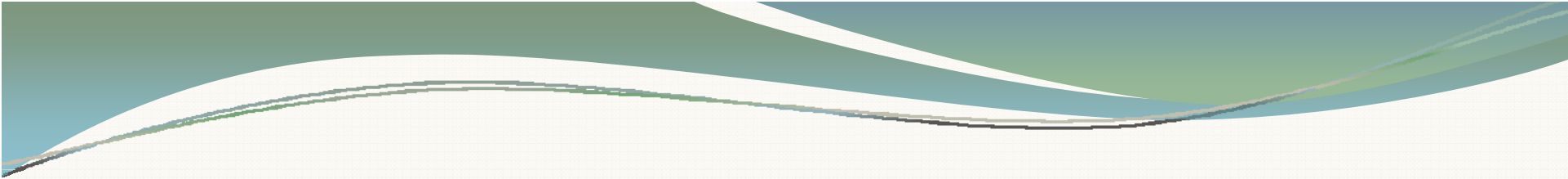
CPSA 15(j)

- CPSIA added new subsection 15(j).
- Allows Commission to create a Substantial Product Hazard List.
- Establish list through rulemaking.
- Consumer product or class of consumer products with characteristics whose presence or absence is a substantial product hazard under CPSA § 15(a)(2).



CPSA 15(j)

- Commission must determine:
 - Characteristics are readily observable;
 - Hazard has been addressed by voluntary standards;
 - Voluntary standards have been effective in reducing the risk of injury from the products; and
 - There is substantial compliance with the voluntary standards.



Effect of 15(j) List

- Not a consumer product safety standard.
- Subject to reporting requirements of section 15(b) of CPSA.
- Subject to corrective action under section 15(c) of CPSA.
- Shall be refused admission into U.S. under section 17(a) of CPSA.
- Does not trigger the requirement to test and certify under § 14(a) of the CPSA.
- Does not preempt state requirements.



“Substantial Compliance”

- Term is not defined in the CPSA or CPSIA.
- Term is used in another context in the CPSA.
- Under § 9 of the CPSA:
 - CPSC may **not** issue a consumer product safety rule where there is an applicable voluntary standard unless:
 - The voluntary standard is inadequate, or
 - It is **unlikely** there will be **substantial compliance** with it.



“Substantial Compliance”

See the findings regarding substantial compliance in the safety standard for bunk beds (appendices to 16 CFR parts 1213 and 1513).

- Compliance must adequately reduce the risk.
- Measured by the number of complying products, not the number of complying manufacturers.
- Not a single percentage that applies in all cases.
- Percentage is viewed in the context of the hazard.
- Other factors.



“Substantial Compliance”

Other factors referred to for bunk beds:

- Severity of the potential injury.
- Likelihood of the injury.
- Is a vulnerable population at risk?
- Is the risk during the intended use of the product?
- How many people will be exposed to the hazard?

Hand-Held Hair Dryers:

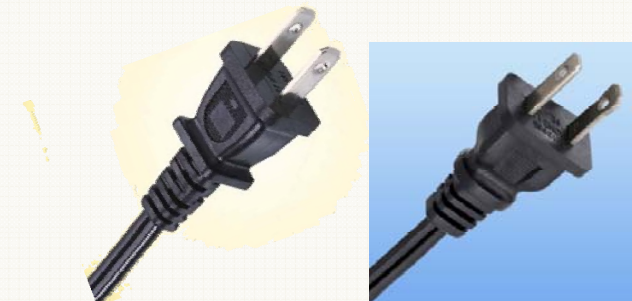
Components of a hand-held hair dryer

- Bulbous body
- Pistol-grip handle
- Control switches
- Cord-connected
- Immersion Protection



Immersion Protection is Readily Observable:

Appliance Leakage Circuit Interrupter (ALCI)
Ground Fault Circuit Interrupter (GFCI)
Immersion Detection Circuit Interrupter (IDCI)



Immersion Protection is Addressed by the Voluntary Standards:

Underwriters Laboratories

UL 859, *Household Personal Electric Grooming Appliances*

Section 5, Hair Dryer Immersion Protection

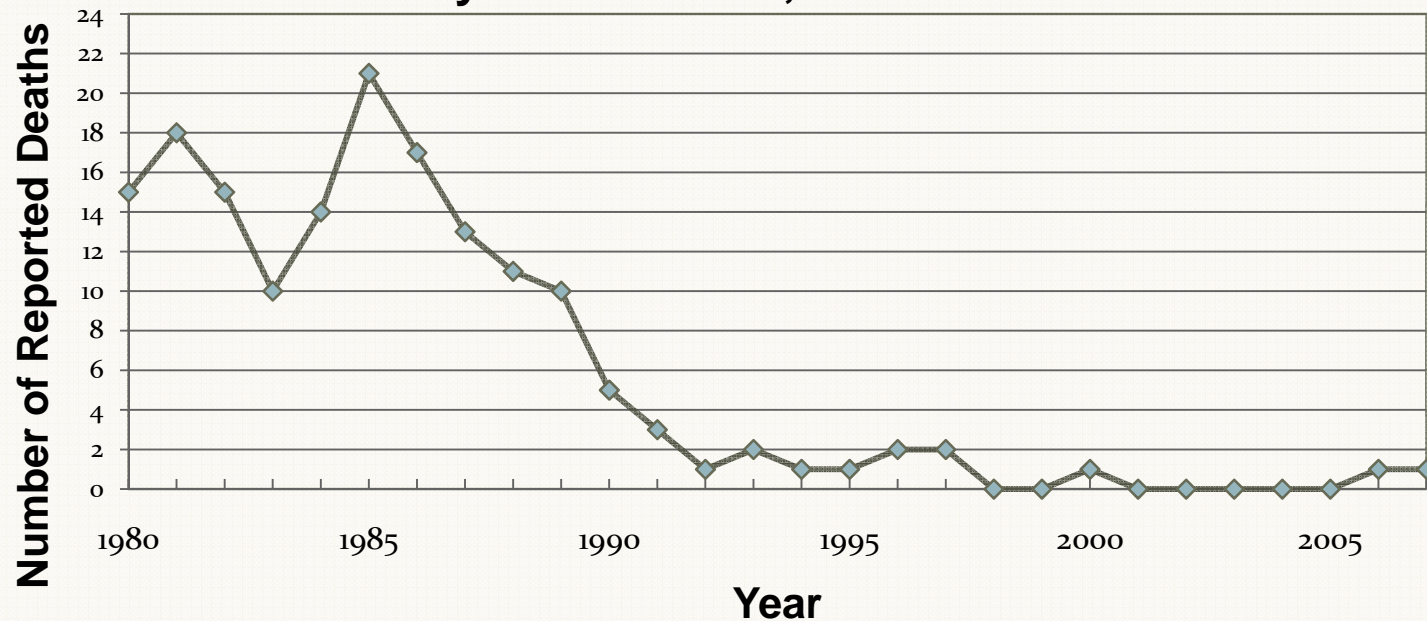
UL 1727, *Commercial Personal Electric Grooming Appliances*

Section 6, Hair Dryer Immersion Protection



Immersion Protection is Effective in Reducing the Risk of Injury:

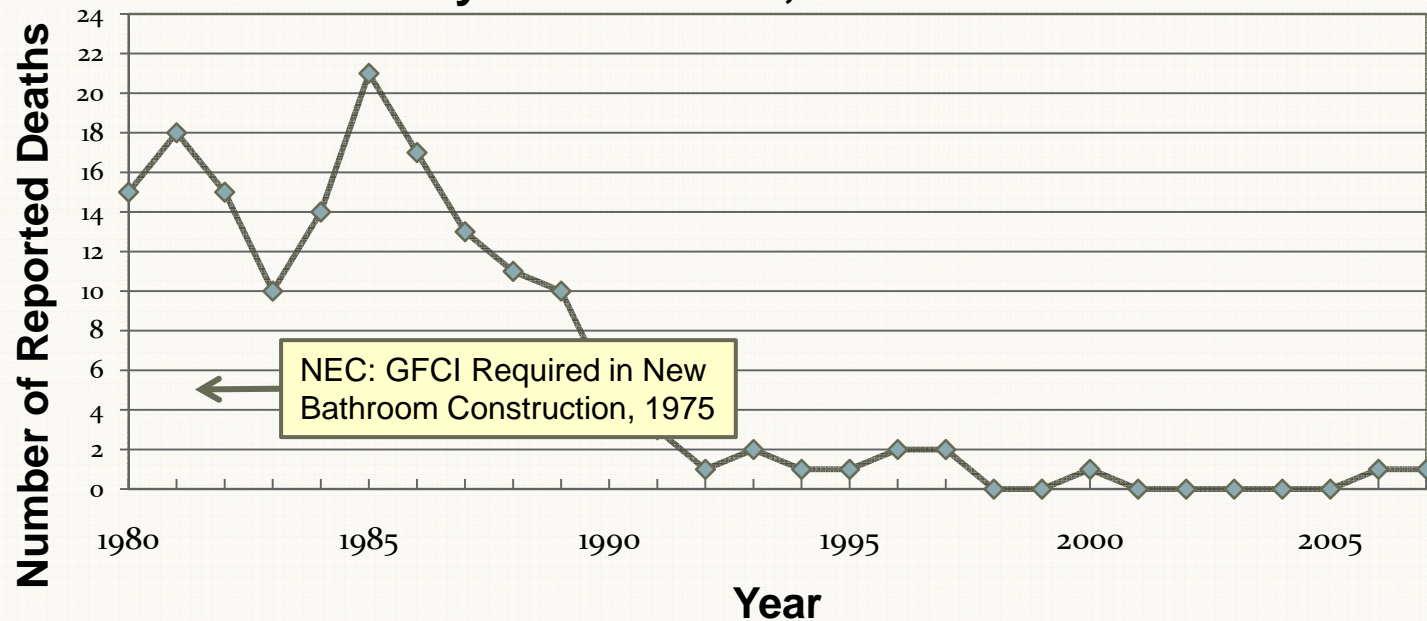
Reported Deaths by Year Associated with Hair Dryer Immersion, 1980-2007*



*Reporting is ongoing for 2006 and 2007.

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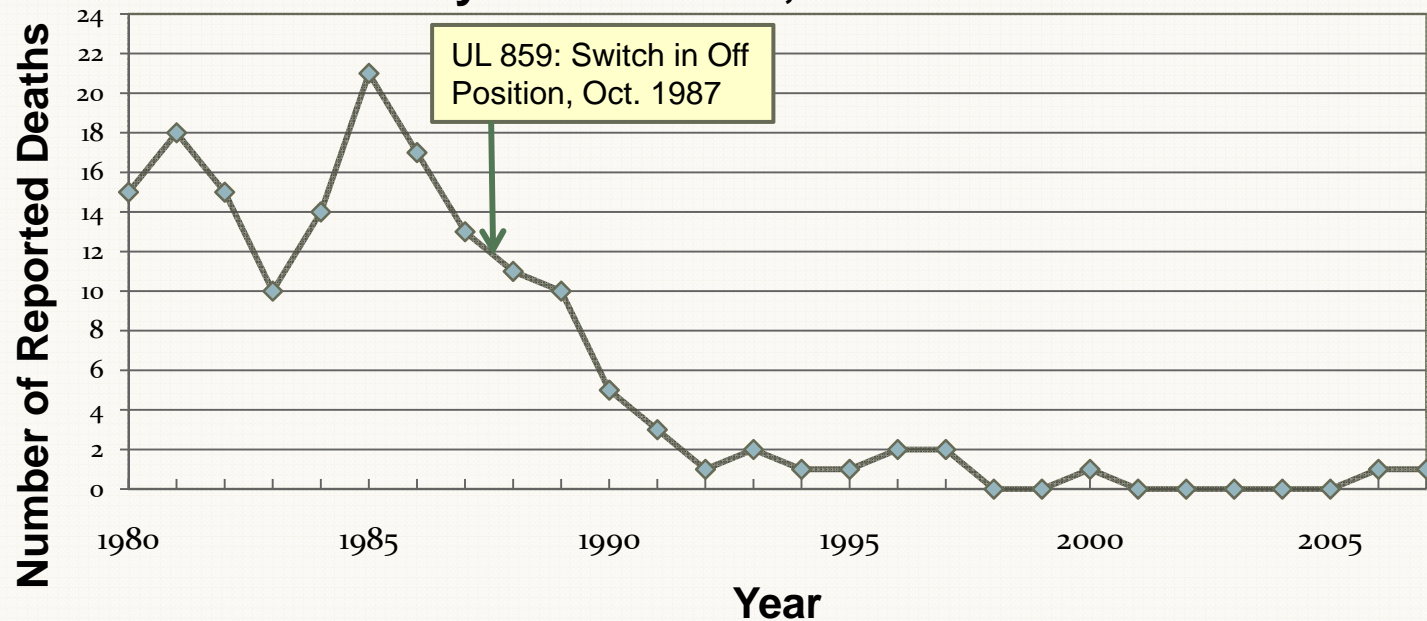
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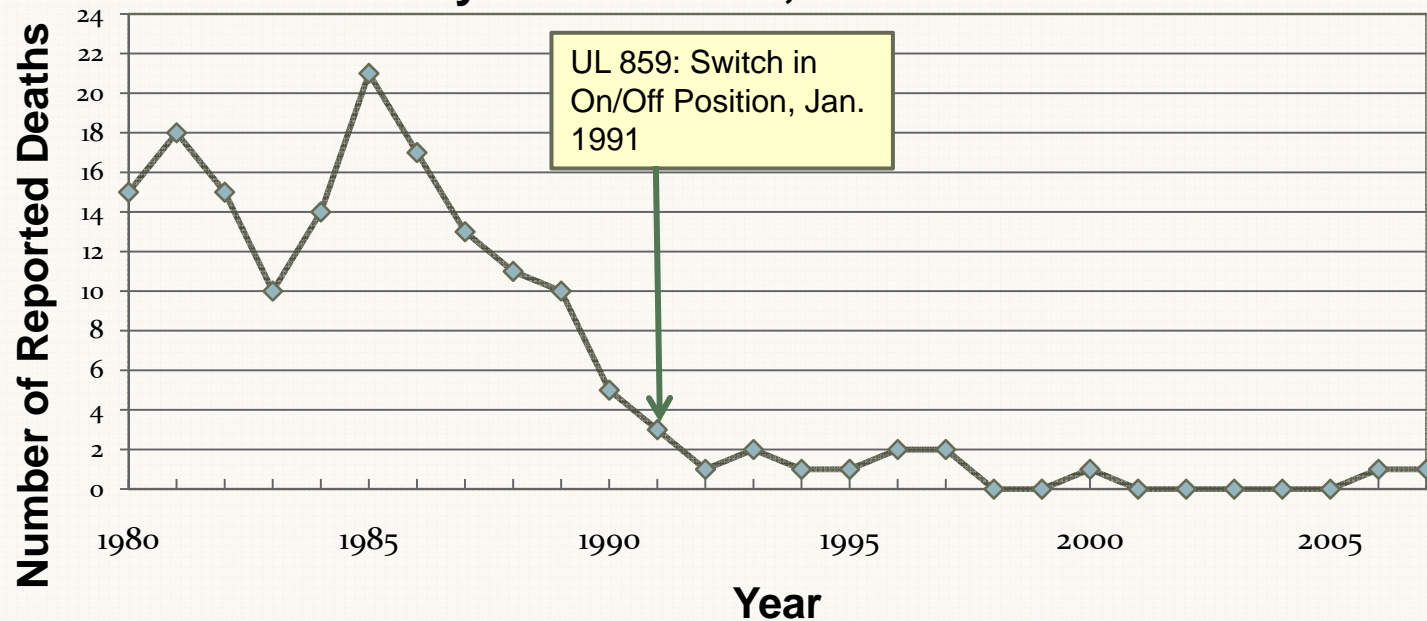
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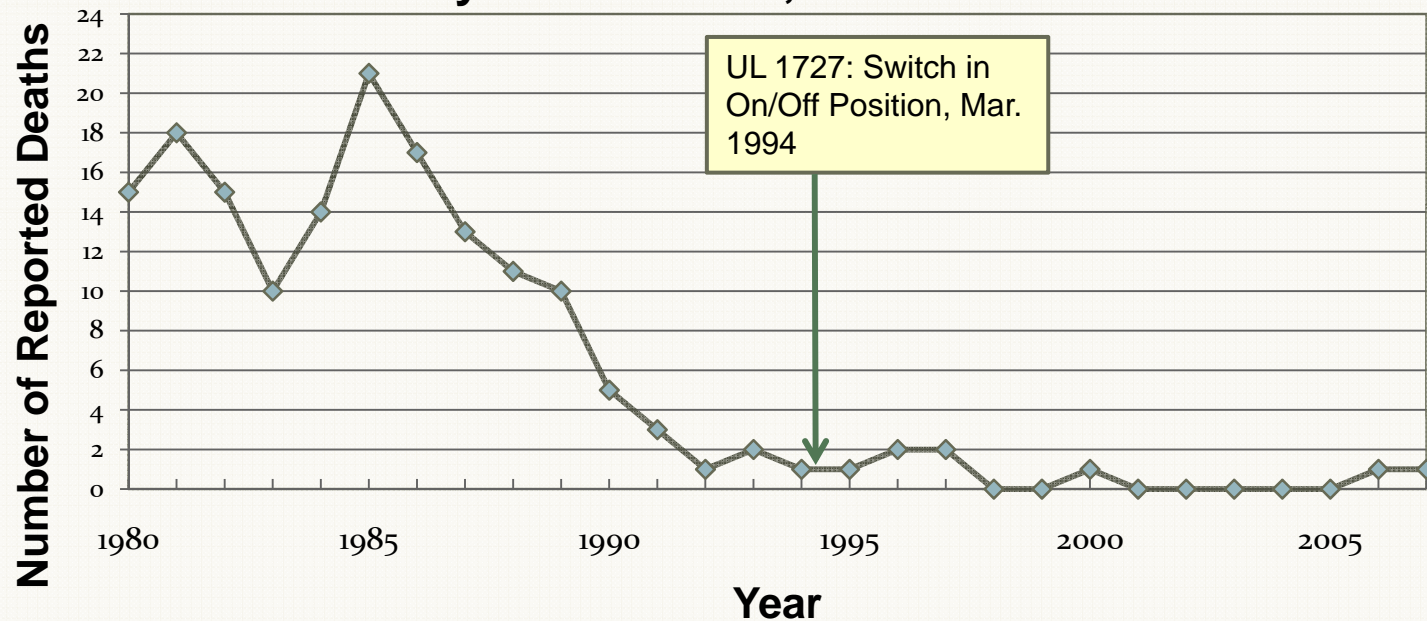
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There is Substantial Compliance with Immersion Protection:

Firms Listing Hand-Held Hair Dryers to the Voluntary Standards

Standard	UL-Listed	ETL-Listed	Total
UL 859 (Household)	16	42	58
UL 1727 (Commercial)	9	4	13

2007 Shipments: 24.3 Million Units

3 Largest Firms: 92%



Immersion Protection on Hand-Held Hair Dryers:

- ✓ Is readily observable.
- ✓ Is addressed by the voluntary standards.
- ✓ Is effective in reducing the risk of injury.
- ✓ Has substantial compliance in the marketplace.



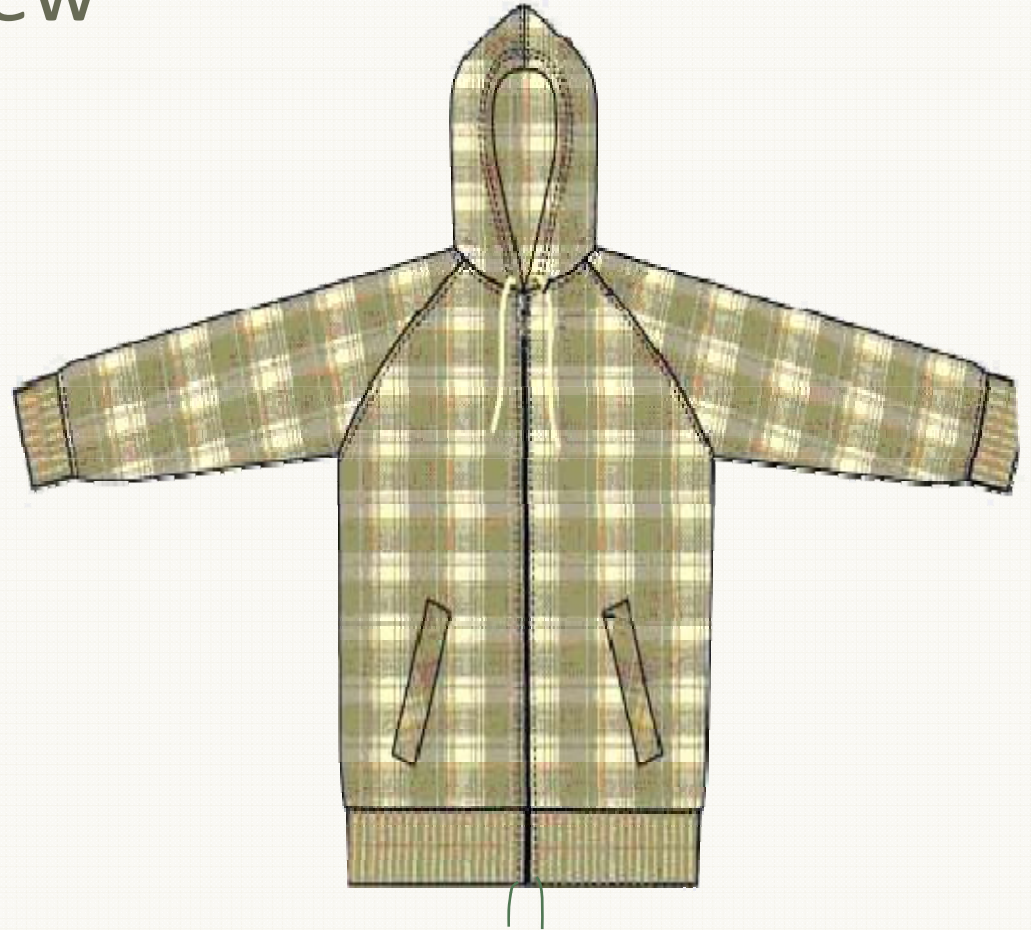
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Staff Recommendation

- **Publish Notice of Proposed Rulemaking.**
- **Set an effective date of thirty days after publication of the final rule.**

Children's Upper Outerwear With Drawstrings Overview

- Legal considerations
- Statutory findings



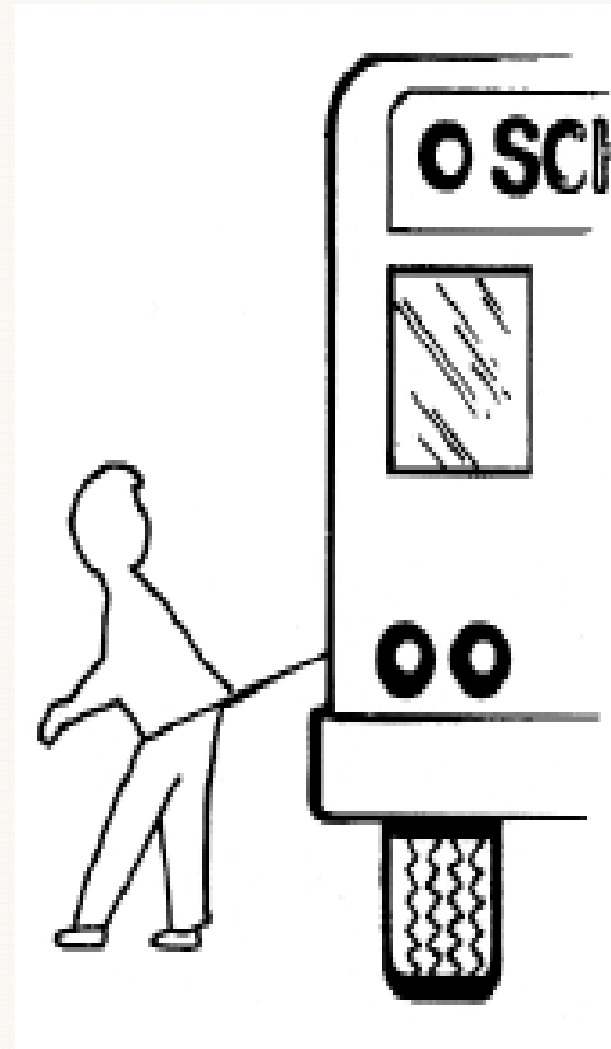


CPSA 15(j)

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 - Hazard has been addressed by voluntary standards,
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 - There is substantial compliance with the voluntary standards.

Hazard Patterns

Strangulation



Vehicle entanglement



Readily Observable Characteristics

- No drawstrings in the hood and neck area of children's upper outerwear sizes 2T to 12.
- Drawstrings at the waist and bottom of children's upper outerwear sizes 2T to 16 shall:
 - Not exceed 3 in. (75 mm) in length outside the drawstring channel when the garment is expanded to its fullest width,
 - Have no toggles, knots, or other attachments at the free ends, and
 - Be bartacked, if the drawstring is one continuous string.



Voluntary Standard Effectiveness

- For Neck or Hood Drawstrings:
 - About 75% reduction in fatalities
 - About 91% reduction in nonfatal incidents
- For Waist or Bottom Drawstrings:
 - About 100% reduction in fatalities
 - About 18% reduction in nonfatal incidents



Compliance with the Standard

- From 2006-2009:
 - About 2 million units recalled by CPSC
 - Sales may have exceeded 200 million units
- Compliance estimated in high 90% range



Size and Marketing Issues

- High variability in fashion sizing systems
- Letter sizing (Small, Medium, Large)
 - Large = size 12
 - Extra-large (XL) = size 16
- Size range (12-14 or M-L)
- No sizing



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