



UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION
4330 EAST WEST HIGHWAY
BETHESDA, MD 20814

Statement of Chair Alexander Hoehn-Saric on Vote to Issue a Final Rule on Safety Standard for Magnets

September 7, 2022

Today, the Commission voted unanimously to issue a final rule to establish a safety standard for magnets to protect consumers from horrific injuries and deaths caused by tiny, powerful magnets.

When ingested, these magnets can attract to one another, perforating body tissue, and cause acute and long-term health impacts or death. This rule would work to ensure that life-threatening magnets do not find their way into our homes and into the hands of children and teens who can swallow them unintentionally.

While protecting children and families against the hazard of magnet ingestion, this rule directly addresses the three concerns the U.S. Court of Appeals for the Tenth Circuit raised when it struck down the Commission's 2014 magnet sets rule (2014 Rule). See *Zen Magnets, LLC v. CPSC*, 841 F.3d 1141 (10th Cir. 2016).

First, the court faulted the Commission for using a short time frame for its injury analysis, and raised concerns about whether the Commission had made the case that a rule was essential to protect the public. In this rule, the Commission here used the most complete data available, including data for years before, during, and after the effective period of the 2014 Rule. The full data reveal that the estimated number of magnet ingestions treated in U.S. hospital emergency departments was lowest by far during the 2014-2016 period when the 2014 Rule was in effect. The number of children treated in emergency departments rose dramatically after the 2014 Rule was struck down. This data removes any doubt that a product safety rule addressing the magnet ingestion hazard is uniquely effective in reducing injuries and deaths.

Second, the 2016 court decision criticized the Commission for relying too heavily on incidents that only "possibly" involved subject magnets. For this rule, the Commission has developed detailed information on all known magnet ingestion incidents, including both those where the ingested magnets could be identified, and those where the magnets could not be identified. As discussed in the final regulatory analysis accompanying the new rule, the benefits from preventing magnet ingestion injuries far exceed the costs of the rule even when the incidents

involving unidentified magnets are entirely excluded. Many cases characterized as “unidentified” are, in fact, likely to involve subject magnet products, and considering these incidents makes the estimated benefits of the rule even greater.

Finally, the Tenth Circuit previously faulted CPSC for not addressing the utility of magnet sets for scientific and math education, and research. In this proceeding, the Commission specifically asked in the notice of proposed rulemaking how these types of uses should be treated. In response to comments and based on staff’s analysis of the magnet ingestion incident data, the rule’s definition of “subject magnet products” excludes products that are not designed, marketed, or intended to be used for entertainment, jewelry, mental stimulation, stress relief, or a combination of these purposes. In addition, products sold and/or distributed solely to school educators, researchers, professionals, and/or commercial or industrial users exclusively for educational, research, professional, commercial, and/or industrial purposes are outside the definition. These changes from the 2014 Rule’s definition ensure that, to the extent the record suggests valuable uses for high-power magnet products that have not been associated with ingestion incidents, those uses can continue.

Pediatricians and pediatric gastroenterologists who see first-hand the health impacts of these magnets have led the way in pushing for mandatory standards. Consumer advocacy organizations and members of Congress – particularly Representatives Cardenas and Schrier as well as Senator Blumenthal – have maintained attention on the dangers of these small and powerful magnets. I appreciate their dedication and efforts to stopping this killer of children.

I also thank my fellow Commissioners and CPSC staff for working to protect the public from the terrible health risks of dangerous magnet products and commit to vigorously enforcing the rule.