



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

This document has been electronically
approved and signed.

DATE: September 20, 2017

BALLOT VOTE SHEET

TO: The Commission
Alberta E. Mills, Acting Secretary

THROUGH: Mary T. Boyle, General Counsel
Patricia H. Adkins, Executive Director

FROM: Patricia M. Pollitzer, Assistant General Counsel
Meridith L. Kelsch, Attorney, OGC

SUBJECT: Petition Requesting Rulemaking to Establish Safety Standards for Magnet Sets;
Request for Comments

BALLOT VOTE DUE Tuesday, September 26, 2017

Zen Magnets, LLC (petitioner), requests that the Commission initiate rulemaking under Sections 7 and 9 of the Consumer Product Safety Act (15 U.S.C. §§ 2056, 2058) to adopt a safety standard for high-powered magnet sets. The petitioner requests that the safety standard include physical safety standards regarding the size and strength of magnet sets, warning requirements, instructional requirements, age restrictions, and packaging requirements. The petitioner states that the requested requirements address the hazards associated with magnet sets if ingested, aspirated, or otherwise inserted into the body.

In accordance with the Commission Directive on Operational Procedures for Petitions (Directive No. 0605.0, April 26, 1993), the Office of the General Counsel has drafted the attached notice for publication in the *Federal Register*, inviting comments on the petition for a period of 60 days, should the Commission, in its discretion, decide to request comments on the petition.

Please indicate your vote on the following options:

- I. Approve publication of the attached document in the *Federal Register*, as drafted.

(Signature)

(Date)

CPSC Hotline: 1-800-638-CPSC(2772) ★ CPSC's Web Site: <http://www.cpsc.gov>

II. Approve publication of the attached document in the *Federal Register*, with changes.
(Please specify.)

(Signature)

(Date)

III. Do not approve publication of the attached document in the *Federal Register*.

(Signature)

(Date)

IV. Take other action. (Please specify.)

(Signature)

(Date)

Attachment: Draft *Federal Register* Notice regarding a Petition Requesting Rulemaking to Establish Safety Standards for High-Powered Magnet Sets; Request for Comments

Billing Code 6355-01-P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Chapter II

[Docket No. CPSC-XXXX-XXXX]

Petition Requesting Rulemaking on Magnet Sets

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: The Consumer Product Safety Commission (CPSC or Commission) has received a petition requesting that the Commission initiate rulemaking under the Consumer Product Safety Act (CPSA) to adopt a safety standard for high-powered magnet sets. The Commission invites written comments concerning the petition.

DATES: Submit comments by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit comments, identified by Docket No. CPSC-XXXX-XXXX, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: <http://www.regulations.gov>. Follow the instructions for submitting comments. The Commission does not accept comments submitted by electronic mail (e-mail), except through www.regulations.gov. The Commission encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Written Submissions: Submit written comments by mail/hand delivery/courier to: Office of the Secretary, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504-7923.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change to <http://www.regulations.gov>, including any personal identifiers, contact information, or other personal information provided. Do not submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If furnished at all, such information should be submitted by mail/hand delivery/courier.

Docket: For access to the docket to read background documents or comments received, go to: <http://www.regulations.gov>, insert docket number CPSC-XXXX-XXXX into the “Search” box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Rocky Hammond, Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: 301-504-6833; e-mail: RHammond@cpsc.gov.

SUPPLEMENTARY INFORMATION:

On August 17, 2017, Zen Magnets, LLC (petitioner) submitted a petition requesting that the Commission initiate rulemaking to adopt a safety standard for high-powered magnet sets under Sections 7 and 9 of the CPSA (15 U.S.C. 2056, 2058) to address the hazard associated with these products if ingested, aspirated, or otherwise inserted into the body.

The petitioner describes the product as small rare earth magnets of various shapes, sizes, and flux indices (*i.e.*, magnetic strength) that are commonly sold as sets designed to make sculptures, provide therapeutic benefits, or serve as educational or research tools. The petitioner states that there are magnet sets on the market that are approximately 5 millimeters in diameter

and have flux indices greater than $50 \text{ kG}^2\text{mm}^2$.² According to the petitioner, magnet sets are not designed, marketed, manufactured, or intended for use by children under the age of 14 years.

The petitioner asserts that high-powered magnet sets pose a risk of injury if misused in a way that results in ingesting, aspirating, or otherwise inserting more than one magnet into the body. The petitioner notes that one potential injury that can result from ingesting high-powered magnets is damage to gastrointestinal tissue.

The petitioner requests that CPSC promulgate a mandatory safety standard that includes the following:

- *Performance standards.* Require individual magnets and each magnet in a magnet set that fits entirely within the cylinder described in 16 C.F.R. 1501.4 (small parts cylinder) to have a flux index of $50 \text{ kG}^2\text{mm}^2$ or less if the product is designed, marketed, or manufactured for children under the age of 14 years. Establish standards for magnet set packaging, such as requiring packaging to be difficult for children to open and assist users in determining whether all magnets are returned to the package after use. According to the petitioner, these requirements would limit the magnetic strength of magnets so that they would not attach across internal tissue if ingested and would assist users in limiting children's access to the magnets.
- *Warning requirements.*¹ Require magnet sets to bear warnings that conform to specific form requirements, warn of the ingestion hazard, and indicate the product

¹ The petitioner also requests that the Commission require purchasers to acknowledge having read product warnings and assent to the risk of injury when purchasing magnet sets online. Under Section 7 of the CPSA, the Commission may issue only performance requirements and requirements for warnings or instructions. Therefore, the Commission lacks authority to require these additional provisions.

is not intended for children. Require warnings on product packaging, including in a location that requires a user to see the warning when opening the package.

- *Instructional requirements.* Require magnet sets to include instructions that indicate how to avoid using the magnet set in a way that can lead to ingesting, aspirating, or inserting the magnets into the body and how to return magnets to the packaging.
- *Age restrictions.*² Require warnings and instructions for magnet sets to include an age recommendation of 14 years or older.

The Commission seeks comments concerning this petition.

The petition is available at: <http://www.regulations.gov>, under Docket No. CPSC-XXXX-XXXX, Supporting and Related Materials. Alternatively, interested parties may obtain a copy of the petition by writing or calling the Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504-6833.

Dated:

Alberta E. Mills
Acting Secretary
Consumer Product Safety Commission

² The petitioner also requests the following age restriction requirements for magnet sets that do not conform to the requested physical safety standards: (1) prohibit the sale of magnet sets to users under 14 years old, and (2) require that only adults be permitted to buy magnet sets. Again, Section 7 of the CPSA authorizes the Commission to issue only performance requirements and warning requirements. Therefore, the Commission lacks authority to adopt these restrictions.