

Consumer Product Safety Commission

Zone 2 openings, and updated requirements for Zone 3 testing consistency.

(3) The Commission determines that substantial compliance with the voluntary standard is unlikely. CPSC conducted two rounds of market compliance testing to ASTM F3186-17: the first round in 2018 and 2019, the second round in 2021. In both rounds, no APBRs met all requirements of ASTM F3186-17. All products failed at least one critical mechanical requirement, such as retention strap performance, structural integrity, and entrapment. All products failed the labeling, warning, and instructional requirements.

H. Reasonable Relationship of Benefits to Costs. (1) The benefits expected from the rule bear a reasonable relationship to its cost. The rule reduces the entrapment hazard and other hazards associated with APBRs, and thereby reduces the societal costs of the resulting injuries and deaths. The rule is expected to address the 92 percent of deaths caused by entrapment, resulting in potential societal benefits of \$298.11 million. Benefits additionally were assessed under three scenarios derived from this expected efficacy, estimating benefits at: 75 percent, 50 percent, and 25 percent of their potential value. Under these three scenarios, the estimated quantifiable annualized benefits of the rule are approximately \$200.24 million, \$133.49 million, and \$66.75 million, respectively. The costs associated with the rule's requirements to prevent the hazards associated with APBRs are expected to be approximately \$2.01 million per year. On a per product basis, the estimated benefits of the rule are approximately \$331.78, \$221.19, and \$110.59 per APBR when assessed at 75 percent, 50 percent, and 25 percent of their potential value, respectively, and the costs are approximately \$3.34 per APBR. All these amounts are in 2021 dollars using a discount rate of 3 percent.

(2) The requirements of the rule, with modifications, are expected to address 92 percent of deaths caused by entrapment. Even under the most conservative assumption that only 25 percent of the potential benefits are achieved, every \$1 in costs for the market to adopt the rule equates to approximately \$33.15 in benefits to society. The estimated annualized net benefits of the rule are approximately \$198.23 million, \$131.48 million, and \$64.74 million, at when benefits are assessed at 75 percent, 50 percent, and 25 percent of their potential value, respectively.

I. Least-Burdensome Requirement that Would Adequately Reduce the Risk of Injury. The Commission considered six alternatives to the rule including: take no regulatory action; continue to conduct recalls of APBRs instead of promulgating a rule; conduct an educational campaign without a rule; ban APBRs from the market entirely; require enhanced safety warnings without other re-

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quirements; and implement the rule with a longer effective date. Although most of these alternatives may be a less burdensome alternative to the rule, the Commission determines that none of the alternatives would adequately reduce the risk of deaths and injuries associated with APBRs that is addressed by the rule while still preserving the product's utility to consumers.

PART 1272—MARKING OF TOY, LOOK-ALIKE, AND IMITATION FIREARMS

Sec.

- 1272.1 Applicability.
- 1272.2 Prohibitions.
- 1272.3 Approved markings.
- 1272.4 Waiver.
- 1272.5 Preemption.

AUTHORITY: 15 U.S.C. 5001.

SOURCE: 88 FR 30228, May 11, 2023, unless otherwise noted.

§ 1272.1 Applicability.

This part applies to toy, look-alike, and imitation firearms (“devices”) having the appearance, shape, and/or configuration of a firearm and produced or manufactured and entered into commerce on or after May 5, 1989, including devices modelled on real firearms manufactured, designed, and produced since 1898. This part does not apply to:

(a) Non-firing collector replica antique firearms, which look authentic and may be a scale model but are not intended as toys modelled on real firearms designed, manufactured, and produced prior to 1898;

(b) Traditional B-B, paint-ball, or pellet-firing air guns that expel a projectile through the force of compressed air, compressed gas or mechanical spring action, or any combination thereof, as described in ASTM F589-85, Standard Consumer Safety Specification for Non-Powder Guns. ASTM F589-85, Standard Consumer Safety Specification for Non-Powder Guns, approved June 28, 1985, is incorporated by reference into this section with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. This material is available for inspection at the Consumer Product Safety Commission (CPSC) and at the

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National Archives and Records Administration (NARA). Contact CPSC at: Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, telephone (301) 504-7479, email cpsc-os@cpsc.gov. For information on the availability of this material at NARA, visit www.archives.gov/federal-register/cfr/ibr-locations.html or email fr.inspection@nara.gov. A read-only copy of the standard is available for viewing on the ASTM website at www.astm.org/READINGLIBRARY/. You may obtain a copy from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428-2959; telephone (610) 832-9585; www.astm.org.

(c) Decorative, ornamental, and miniature objects having the appearance, shape and/or configuration of a firearm, including those intended to be displayed on a desk or worn on bracelets, necklaces, key chains, and so on, provided that the objects measure no more than thirty-eight (38) millimeters in height by seventy (70) millimeters in length, the length measurement excluding any gun stock length measurement.

§ 1272.2 Prohibitions.

No person shall manufacture, enter into commerce, ship, transport, or receive any toy, look-alike, or imitation firearm ("device") covered by this part as set forth in § 1272.1 unless such device contains, or has affixed to it, one of the markings set forth in § 1272.3, or unless this prohibition has been waived by § 1272.4.

§ 1272.3 Approved markings.

The following markings are approved by the Consumer Product Safety Commission:

(a) A blaze orange (AMS STD 595A-17 color 12199) or orange color brighter than that specified by the AMS standard color number, solid plug permanently affixed to the muzzle end of the barrel as an integral part of the entire device and recessed no more than 6 millimeters from the muzzle end of the barrel.

(b) A blaze orange (AMS STD 595A-17 color 12199) or orange color brighter than that specified by the AMS stand-

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ard color number, marking permanently affixed to the exterior surface of the barrel, covering the circumference of the barrel from the muzzle end for a depth of at least 6 millimeters.

(c) Construction of the device entirely of transparent or translucent materials which permits unmistakable observation of the device's complete contents.

(d) Coloration of the entire exterior surface of the device in white, bright red, bright orange, bright yellow, bright green, bright blue, bright pink, or bright purple, either singly or as the predominant color in combination with other colors in any pattern.

(e) SAE AMS STD 595A-17, Colors Used in Government Procurement, approved February 10, 2017, is incorporated by reference into this section with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. This material is available for inspection at the Consumer Product Safety Commission (CPSC) and at the National Archives and Records Administration (NARA). Contact CPSC at: Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, telephone (301) 504-7479, email cpsc-os@cpsc.gov. For information on the availability of this material at NARA, visit www.archives.gov/federal-register/cfr/ibr-locations.html or email fr.inspection@nara.gov. A read-only copy of the standard is available for viewing on the SAE website at <https://www.sae.org/standards/reading-room>. You may obtain a copy from SAE International, 400 Commonwealth Dr., Warrendale, PA 15096; telephone (888) 875-3976; www.sae.org.

§ 1272.4 Waiver.

The prohibitions set forth in § 1272.2 may be waived for any toy, look-alike, or imitation firearm that will be used only in the theatrical, movie, or television industry. A request for such a waiver should be made, in writing, by email to RegulatoryEnforcement@cpsc.gov and by physical mail to U.S. Consumer Product Safety Commission, Office of Compliance and Field Operations, Regulatory Enforcement Division, 7500 Lindbergh Dr., Unit-A, Gaithersburg,

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MD 20879-5413. The request must include a sworn affidavit which states that the toy, look-alike, or imitation firearm will be used only in the theatrical, movie, or television industry. A sample of the item must be included with the physically mailed request.

§ 1272.5 Preemption.

In accordance with section 4(g) of the Federal Energy Management Improvement Act of 1988 (15 U.S.C. 5001(g)), the provisions of section 4(a) of that Act and the provisions of this part supersede any provision of State or local laws or ordinances which provides for markings or identification inconsistent with the provisions of section 4 of that Act or the provisions of this part.

PART 1301—BAN OF UNSTABLE REFUSE BINS

Sec.
1301.1 Scope and application.
1301.2 Purpose.
1301.3 Findings.
1301.4 Definitions.
1301.5 Banning criteria.
1301.6 Test conditions.
1301.7 Test procedures.
1301.8 Effective date.

AUTHORITY: Secs. 8, 9, 86 Stat. 1215-1217, as amended, 90 Stat. 506; 15 U.S.C. 2057, 2058.

SOURCE: 42 FR 30300, June 13, 1977, unless otherwise noted.

§ 1301.1 Scope and application.

(a) In this part 1301 the Consumer Product Safety Commission (Commission) declares that certain unstable refuse bins are banned hazardous products under sections 8 and 9 of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2057 and 2058).

(b) This ban applies to those refuse bins of metal construction that are being distributed in commerce on or after the effective date of this rule, which do not meet the criteria of § 1301.5 and which are produced or distributed for sale to, or for the personal use, consumption or enjoyment of consumers, in or around a permanent or temporary household or residence, a school, in recreation or otherwise. The Commission has found that (1) these refuse bins are being, or will be distributed in commerce; (2) they present an

unreasonable risk of injury; and (3) no feasible consumer product safety standard under the CPSA would adequately protect the public from the unreasonable risk of injury associated with these products. The ban is applicable to those refuse bins having an internal volume one cubic yard or greater by actual measurement, which will tip over when subjected to either of the forces described in § 1301.7 and which are in commerce or being distributed in commerce on or after the effective date of the ban.

(c) When such refuse bins are the subject of rental or lease transactions between owners of refuse bins or between refuse collection agencies and persons who make such refuse bins available for use by the public, such transactions are considered to be distributions in commerce and therefore come within the scope of this ban. Refuse collection agencies or owners of refuse bins who rent or lease refuse bins to persons who make them available for use by consumers are considered to be distributors; the persons to whom refuse bins are rented or leased are not considered to be distributors.

(d) On or after the effective date of this rule it shall be unlawful to manufacture for sale, offer for sale, or distribute in commerce, the unstable refuse bins described in this rule.

(e) This rule, effective November 13, 1981, is partially revoked and therefore does not apply to front-loading, straight-sided refuse bins without trunnion bars having an internal volume capacity of 1, 1½, or 2 cubic yards, of the following external dimensions:

Internal volume	Length (inches)	Width (inches)	Height ¹		Weight (lbs)
			High side (inches)	Low side (inches)	
1 cubic yard ...	70-72	21-23	29-31	29-31	313-347
1½ cubic yards	70-72	29-31	33-36	29-32	346-382
2 cubic yards	70-72	32-35	39-43	31-36	409-453

¹ Does not include height of wheels.

(Sec. 9(h), Pub. L. 97-35, Pub. L. 92-573, 86 Stat. 1215, 15 U.S.C. 2058(h))

[42 FR 30300, June 13, 1977, as amended at 46 FR 55925, Nov. 13, 1981]