

[Products Liability Law Daily Wrap Up, TOP STORY—HOUSEHOLD PRODUCTS—Zen Magnets succeeds in securing stay of enforcement of CPSC’s magnet set safety standard, \(Apr. 6, 2015\)](#)

Products Liability Law Daily Wrap Up

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By Pamela C. Maloney, J.D.

The Safety Standard for Magnet Sets promulgated by the Consumer Product Safety Commission on October 3, 2014, which was scheduled to go into effect on April 1, 2015, has been stayed by the U.S. Court of Appeals for the Tenth Circuit. The judges’ order did not specify a reason for granting the stay which was issued in response to a motion by Shihan Qu, the founder of Zen Magnets, who took the agency to court to fight the ban. CPSC has until April 14 to file its response to the stay order. The day after the stay was imposed, counsel for CPSC filed post-hearing arguments in this matter (*Zen Magnets, LLC v. Consumer Product Safety Commission*, April 1, 2015, Kelly, P.).

Magnet set safety standard. On October 3, 2014, CPSC published a [safety standard](#) establishing requirements for magnet sets and individual magnets that are marketed or intended for use with or as magnet sets. High-powered magnet sets are sets of small, powerful magnets marketed for general entertainment as construction toys, desk toys, sculpture sets, or stress relievers. Magnet sets include approximately 200 magnets, although some sets have up to 1,700 magnets. Magnets that are part of these sets are often referred to as “magnet balls” or “rare earth magnets.”

According to CPSC, these sets are especially hazardous to young children, who have mouthed and ingested these magnets. If multiple magnets are ingested, the magnets attract each other, pinching or trapping intestines or other digestive tissue between them, CPSC warned. Significant U.S. sales of magnet sets marketed for general entertainment began in 2009. CPSC received the first consumer incident report involving magnet sets in February 2010. The Commission determined that an estimated 2,900 ingestions of magnets from magnet sets were treated in emergency rooms between January 1, 2009, and December 31, 2013. In addition, according to CPSC reports, magnet sets were responsible for the death of a 19-month-old girl.

Under the new safety standard, an individual magnet from a magnet set must be either large enough so that it does not fit into a CPSC small parts cylinder or the power of the magnetic force must be lower than a specified measure. The Commission has reported that some hazardous magnet sets on the market had a magnetic force that was 37 times greater than what the new performance standard permits. Magnets manufactured or imported on or after the effective date of the new standard must meet the new performance standard. Once the safety standard becomes effective, the manufacture, importation, distribution or sale of high-powered magnet sets that are subject to the federal standard and do not comply will be illegal. The standard, in effects, bans the magnet sets manufactured by Zen Magnets, Ind.

CPSC post-hearing argument. On Friday, April 2, complaint counsel for CPSC filed a redacted version of its [post-hearing argument](#) in the agency’s enforcement action against Zen Magnets. CPSC instituted the proceeding in August 2012, seeking remedial action to protect the public from the substantial risk of injury created by Zen Magnets and Neoballs. According to the agency, a preponderance of the evidence demonstrated that these products presented a substantial product hazard. CPSC requested that Zen Magnets be ordered to implement a corrective action plan that included a stop sale, notice to the public, and a refund.

The case is [No. 14-9610](#) (No. CPSC 2012 0050)

Attorneys: David Curt Japha (Law Offices of David C. Japha, PC) for Zen Magnets, LLC. Andrew Clark, U.S. Department of Justice, for Consumer Product Safety Commission.

Companies: Zen Magnets, LLC

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