



Australian
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Commission

Product safety bulletin March 2009

Toy and nursery update

New mandatory standards

The ACCC is keen to alert suppliers to requirements of two new mandatory standards:

- Children's portable folding cots, effective from 1 March 2009.
- Lead in children's toys, effective from 1 January 2010. Requirements of the current ban will continue until 31 December 2009.

The ACCC has reviewed the mandatory standard for aquatic toys and flotation devices. As a result, two new mandatory standards are planned. These will cover flotation and aquatic toys and swimming and flotation aids.

For further information, visit www.accc.gov.au or call the ACCC Infocentre on 1300 302 502.

Children's portable folding cots

The new mandatory standard is based on Australian/New Zealand standard AS/NZS 2195-1999, *Folding cots—safety requirements*, published by Standards Australia.

Under the new mandatory standard a portable folding cot is:

- an enclosure used for sleeping which can be folded when not in use
- a playpen that has a floor.

Excluded products:

- playpens without a floor.

Requirements

From 1 March 2009, all suppliers must ensure that portable folding cots comply with the construction, performance and marking requirements of AS/NZS 2195:1999, with variations and additions made by Consumer Protection Notice No. 4 of 2008.

To minimise hazards that create a risk of suffocation and falls, suppliers must ensure that all portable folding cots comply with specifications in the standard that cover:

- cot construction and design
- warning labels and safety information
- performance requirements that should be assessed by a testing laboratory.

Lead in children's toys

Under the mandatory standard, children's toys are products that are supplied new and are designed or clearly intended for use in play by children.

Excluded products:

- sporting goods
- camping goods
- bicycles
- home and public playground equipment
- trampolines
- electronic games
- models powered by combustion or steam engines
- fashion jewellery for children.

Requirements

From 1 January 2010, suppliers must ensure that:

- All children's toys comply with Australian Standard AS8124.3-2003, *Safety of toys part 3—migration of certain elements*, with variations.
- All finger paints for children comply with clause 4.4 of Australian Standard AS 8124.7-2003, *Safety of toys part 7—requirements and test methods*.

Current ban

The existing ban on lead in children's toys will be extended and remain in force until this new mandatory standard takes effect.

Labelling of foam toys for children 36 months and under

The ACCC has received several inquiries about labelling requirements for foam toys. We hope that this explanation will assist suppliers in determining when they need to use the choking hazard warning label.

The mandatory standard for toys for children 36 months and under references AS/NZS ISO 8124.1:2002 *Safety of toys part 1*, with variations. Age grading of toys provides important information to consumers wishing to select toys suitable for their children's age and development.

Requirements

Toys that are manufactured, designed, or marketed for children up to and including 36 months of age must comply with the requirements of the Trade Practices mandatory standard for toys for children up to and including 36 months. It includes toys for children that cross a range of ages, such as 2 to 4 years (24–48 months).

However, an exemption to this requirement is made (at paragraph (n) of the Consumer Notice schedule) for toys made of closed cell polyethylene, ethylene vinyl acetate (EVA) or like material – provided they are legibly and conspicuously labelled with the word **'WARNING'** in red upper-case letters at least 5 millimetres high on a white background adjacent to the words **'NOT SUITABLE FOR CHILDREN UNDER 3 YEARS AS FOAM PIECES MAY BREAK OFF AND CAUSE A CHOKING HAZARD'** in red upper-case letters at least 2.5 millimetres high on a white background.

The exemption is not intended to preclude the sale of closed cell foam toys for children up to and including 36 months. There is evidence that some closed cell foam toys for children up to and including 36 months are able to pass the tests for small parts in the standard.

Information available to the ACCC indicates that it has erroneously become industry practice to insist that the label specified at paragraph (n) accompany the supply of *all* toys with closed cell foam, including those aimed exclusively at ages well under 36 months.

The ACCC's view is that:

- Where closed cell foam toys suitable for children up to and including 36 months **PASS** the mandatory standard for toys, they may be supplied **WITHOUT** the warning label specified at paragraph (n).

- Where closed cell foam toys are intended for ages both below and above 36 months, the exemption under paragraph (n) is available if necessary.
- Where closed cell foam toys are manufactured, designed or marketed exclusively for children aged up to and including 36 months, a label warning that that the toy is 'not suitable for children under 3 years' is confusing to consumers. In these circumstances if a toy does not pass the necessary tests, rather than apply a misleading label it should not be sold.

Inquiries

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ACCC website

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Other product safety bulletins

Lead in children's toys

Mandatory standard for caravan jacks

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Important notice

The information in this fact sheet is for general guidance only. It reflects the ACCC's views on what is required to comply with certain provisions of the Act. It does not constitute legal advice and should not be relied on as a statement of the law relating to the Act. You should obtain legal advice if there is doubt about whether any conduct may breach the Act.

Other federal or state-based laws may impose additional requirements or responsibilities on your businesses when dealing with other businesses or consumers, beyond the requirements of the *Trade Practices Act 1974*.

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