



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

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 approved and signed.

BALLOT VOTE SHEET

Date: March 2, 2011

TO : The Commission
 Todd A. Stevenson, Secretary

THROUGH: Cheryl A. Falvey, General Counsel
 Kenneth R. Hinson, Executive Director

FROM : Philip L. Chao, Assistant General Counsel
 Hyun S. Kim, Attorney

SUBJECT : Reopening of the Hearing Record; Technological Feasibility of 100 ppm

BALLOT VOTE Due: March 3, 2011

Attached is a draft *Federal Register* notice reopening the hearing record of the hearing held on February 16, 2011, on the technological feasibility of meeting the 100 parts per million (ppm) lead content limit and associated public health considerations for children's products.

Please indicate your vote on the following options.

I. Approve publication of the draft notice in the *Federal Register*.

 (Signature)

 (Date)

II. Approve publication of the draft notice in the *Federal Register* with changes.
 (Please specify.)

 (Signature)

 (Date)

III. Do not approve publication of the draft notice in the *Federal Register*.

(Signature)

(Date)

IV. Take other action. (Please specify.)

(Signature)

(Date)

Attachment: Draft *Federal Register* Notice, Reopening of the Hearing Record.

U.S. CONSUMER PRODUCT SAFETY COMMISSION

Children's Products Containing Lead; Technological Feasibility of 100 ppm for Lead Content; Notice, Reopening of the Hearing Record

[Docket No. CPSC-2010-0080]

AGENCY: U.S. Consumer Product Safety Commission.

ACTION: Notice, Reopening of the Hearing Record.

SUMMARY: Section 101(a) of the Consumer Product Safety Improvement Act ("CPSIA") provides that, as of August 14, 2011, children's products may not contain more than 100 parts per million ("ppm") of lead unless the U.S. Consumer Product Safety Commission ("CPSC," "Commission," or "we") determines that such a limit is not technologically feasible. The Commission may make such a determination only after notice and a hearing and after analyzing the public health protections associated with substantially reducing lead in children's products. On February 16, 2011, the Commission conducted a public hearing to receive views from all interested parties about the technological feasibility of meeting the 100 ppm lead content limit for children's products and associated public health considerations. The Commission requested at the hearing that certain participants respond to additional questions in writing, as well as submit relevant studies and additional data referenced in oral presentations. Accordingly, through this notice, the Commission is reopening the hearing record until **[insert date 15 days after date of publication in the FEDERAL REGISTER]**.

ADDRESSES: Supplemental Materials identified by Docket No. CPSC-2010-0080 may be submitted by any of the following methods:

Electronic Submissions

Supplemental Materials may be submitted to the Office of the Secretary by email at cpsecos@cpsec.gov.

Written Submissions

Submit written submissions in the following way:

Mail/Hand delivery/Courier (for paper, disk, or CD-ROM submissions), preferably in five copies, to: Office of the Secretary, U.S. Consumer Product Safety Commission, Room 502, 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 rulemaking. All materials received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to <http://www.regulations.gov>. Do not submit confidential business information, trade secret information, or other sensitive or protected information electronically. Such information should be submitted in writing.

Docket: For access to the docket to read background documents or comments received, go to: <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Concerning submission of materials:

Rockelle Hammond, U.S. Consumer Product Safety Commission, Bethesda, MD 20814;

telephone: (301) 504-6833; email: cpsecos@cpsec.gov. For all other matters: Dominique

Williams, U.S. Consumer Product Safety Commission, Bethesda, MD 20814; telephone: (301)

504-7597; email: dwilliams@cpsec.gov.

SUPPLEMENTARY INFORMATION: Section 101(a)(2)(C) of the CPSIA (15 U.S.C. 1278a (a)(2)(C)) provides that, as of August 14, 2011, children's products may not contain more than

100 parts per million (ppm) of lead unless the Commission determines that such a limit is not technologically feasible. The Commission may make this determination only after notice and a hearing and after analyzing the public health protections associated with substantially reducing lead in children's products. Section 101(d) of the CPSIA (15 U.S.C. 1278a(d)) provides that a lead limit shall be deemed technologically feasible with regard to a product or product category if:

- (1) A product that complies with the limit is commercially available in the product category;
- (2) Technology to comply with the limit is commercially available to manufacturers or is otherwise available within the common meaning of the term;
- (3) Industrial strategies or devices have been developed that are capable or will be capable of achieving such a limit by the effective date of the limit and that companies, acting in good faith, are generally capable of adopting; or
- (4) Alternative practices, best practices, or other operational changes would allow the manufacturer to comply with the limit.

In the Federal Register of January 26, 2011 (76 FR 4641), we published a notice ("hearing notice") announcing that the Commission would hold a public hearing pursuant to section 101(a) of the CPSIA. The hearing notice stated that the Commission was seeking information on specific issues, such as whether any product or product category already complies with the 100 ppm limit and what factors or considerations we should evaluate in deciding whether a technology is "commercially available." The hearing notice listed the specific issues (76 FR at 4642).

We held the hearing on February 16, 2011. We heard presentations by and received comments from consumer groups, manufacturers, associations, and laboratories regarding the technological feasibility of meeting the 100 ppm lead content limit. At the hearing, the Commission requested that certain participants respond to additional questions in writing and submit relevant studies and additional data. Through this notice, we are announcing that we have placed the Commission's additional questions into the docket and will place any responses into the docket. The questions submitted and responses that are received will be made available on <http://www.regulations.gov> under Docket No. CPSC-2010-0080, Supporting and Related Material. The Commission will consider any additional material received during the reopening of the hearing record, in addition to information collected at the hearing, in the course of evaluating its response. The Commission is reopening the hearing record to add the Commission's questions to the docket and allow for responses to those questions, and so the hearing record will remain open until **[insert date 15 days after date of publication in the FEDERAL REGISTER]**.

Dated: _____

Todd A. Stevenson, Secretary
Consumer Product Safety Commission