



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

BALLOT VOTE SHEET

JUL 13 2010

Date:

TO : The Commission
 Todd A. Stevenson, Secretary

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

FROM : Philip Chao, Assistant General Counsel *PC*
 Hyun S. Kim, Attorney *HSK*

SUBJECT : Request for Comments and Information – Technological Feasibility of 100 ppm

BALLOT VOTE Due: JUL 20 2010

Attached is a draft *Federal Register* notice requesting comments and information on the technological feasibility of meeting the 100 parts per million (ppm) lead content limit for children’s products.

Please indicate your vote on the following options.

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

 (Signature)

 (Date)

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

 (Signature)

 (Date)

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

(Signature)

(Date)

IV. Take other action. (Please specify.)

(Signature)

(Date)

Attachment: Draft *Federal Register* notice requesting comments and information on the technological feasibility of the 100 ppm lead content limit for children's products.

[Billing Code 6355-01-P]

CONSUMER PRODUCT SAFETY COMMISSION

Children's Products Containing Lead; Technological Feasibility of 100 ppm for Lead Content; Request for Comments and Information

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: Section 101(a) of the Consumer Product Safety Improvement Act ("CPSIA") provides that, as of August 11, 2011, children's products may not contain more than 100 parts per million ("ppm") of lead, unless the Consumer Product Safety Commission ("CPSC" or "Commission"), determines that it is not technologically feasible, after notice and a hearing and after analyzing the public health protections associated with substantially reducing lead in children's products. The reduction can be for a product or product category. This notice requests comment and information on the technological feasibility of meeting the 100 ppm lead content limit for children's products.

DATES: Written comments and submissions in response to this notice must be received by **[insert date that is 30 days after publication]**.

ADDRESSES: You may submit comments, identified by Docket No. [], by any of the following methods:

Electronic Submissions

Submit electronic comments in the following way:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

To ensure timely processing of comments, the Commission is no longer accepting comments submitted by electronic mail (e-mail) except through www.regulations.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, 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 notice. All comments 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: Kristina Hatlelid, Ph.D., M.P.H., Directorate for Health Sciences, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814; e-mail khattlelid@cpsc.gov; telephone (301) 504-7254.

SUPPLEMENTARY INFORMATION:

Section 101(a) of the CPSIA (15 U.S.C. 1278a(a)) provides that, for products designed or intended primarily for children 12 years old and younger, the total lead content limit by weight in any part of a children's product is limited to 300 ppm as of

August 14, 2009, and 100 ppm of lead as of August 14, 2011, unless the Commission determines that it is not technologically feasible to have this lower limit for a product or product category. 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. If the Commission determines that the 100 ppm lead content limit is not technologically feasible for a product or product category, the Commission shall, by regulation, establish the lowest amount below 300 ppm that it determines is technologically feasible.

Unless granted a specific exclusion or determination under the Commission's regulations at 16 CFR 1500.87 through 1500.91, children's products, including the components parts of children's products, are subject to the lead limits and also to the testing and certification requirements of section 14(a)(2) of the Consumer Product Safety Act (CPSA). (15 U.S.C. 2063(a)(2)).

Through this notice, the Commission invites comment and seeks information concerning the technological feasibility of meeting the 100 ppm lead content limit for children's products that are not otherwise excluded from the lead limits. 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.

REQUEST FOR COMMENTS AND INFORMATION:

The Commission requests information on the technological feasibility for manufacturers to meet the 100 ppm lead content limit for specific children's products or product categories. The comments should address products or materials that currently comply with 300 ppm lead content limit which are required to meet the 100 ppm lead content limit effective August 14, 2011. Specifically, information is requested on the following:

1. For products and materials that currently meet the 100 ppm lead content limit, provide:

(i) information and test data regarding products or materials, including metals, plastics, glass, or recycled materials that are at or below the 100 ppm lead content limit (specify which materials were tested, the number of tests conducted for each material and, for each material, the percentage of tests that exceed 100 ppm, if any);

(ii) information and data on industrial strategies or devices, if any, that have enabled the manufacturer to comply with the 100 ppm lead content limit (specify the methodologies used for each material);

(iii) information and data on the impact, if any, the use of materials that are compliant with the 100 ppm lead content limit, has on the functional or safety requirements specified for the product or product category (specify which materials were used); and

2. For products and materials that currently do not meet the 100 ppm lead content limit, but do meet the 300 ppm lead content limit, provide:

(i) information and test data showing the lead content of such products or materials, including metals, plastics, glass, or recycled materials (specify which materials were tested, the number of tests conducted for each material and, for each material, the lead content of the material, and the percentage of tests that are at or below 100 ppm, if any);

(ii) information and data on whether such products or materials could be made compliant with the 100 ppm lead content limit through the use of different products or materials;

(iii) information and data on the strategies or devices, alternative practices, best practices, or other operational changes that may be used to enable the manufacturer to comply with the 100 ppm lead content limit;

(iv) information and data on the lowest lead content limit under 300 ppm that is technologically feasible for such products or materials; and

(v) the date(s) by which such products and materials could be expected to meet the 100 ppm lead content limits.

Dated: _____

Todd A. Stevenson, Secretary
Consumer Product Safety Commission

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