



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

This document has been electronically  
approved and signed.

**BALLOT VOTE SHEET**

**DATE:** June 13, 2012

**TO:** The Commission  
Todd A. Stevenson, Secretary

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

**FROM:** Hyun S. Kim, Acting Assistant General Counsel  
David M. DiMatteo, General Attorney

**SUBJECT:** Notice of Proposed Rulemaking: Revocation of Certain Requirements  
Pertaining to Caps Intended for Use with Toy Guns and Toy Guns Not Intended for Use with  
Caps

**Ballot Vote Due:** June 19, 2012

Attached for the Commission's consideration is a draft proposed rule that would revoke certain requirements under 16 CFR part 1500 pertaining to caps intended for use with toy guns and toy guns not intended for use with caps. The requirements to be revoked are obsolete and duplicative of requirements for toys caps contained in ASTM F 963-11.

Please indicate your vote on the following options:

- I. Approve publication of the draft proposed rule in the *Federal Register*, as drafted.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

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

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\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

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

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

IV. Take other action. (Please specify.)

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\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

Attachment: Draft Notice of Proposed Rulemaking “Revocation of Certain Requirements Pertaining to Caps Intended for Use with Toy Guns and Toy Guns Not Intended for Use with Caps”

Billing Code 6355-01-P

CONSUMER PRODUCT SAFETY COMMISSION

Revocation of Certain Requirements Pertaining to Caps Intended for Use with Toy Guns  
and Toy Guns Not Intended for Use with Caps

16 CFR Part 1500

[CPSC Docket No. CPSC-2012-INSERT NUMBER]

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Section 106 of the Consumer Product Safety Improvement Act of 2008 (“CPSIA”) considers the provisions of ASTM International Standard F 963, “Standard Consumer Safety Specifications for Toy Safety” (“ASTM F 963”), to be consumer product safety standards issued by the U.S. Consumer Product Safety Commission (“CPSC,” “Commission,” or “we”). Among other things, ASTM F 963 contains provisions regarding sound-producing toys. The ASTM F 963 provisions for sound-producing toys allow manufacturers to use more options with readily available test equipment for sound measurement to determine compliance than our existing regulations pertaining to caps intended for use with toy guns and toy guns not intended for use with caps, which were included in the regulations under the Federal Hazardous Substances Act (FHSA) that were transferred to the Commission’s jurisdiction in 1973. The test methodology also refers to obsolete equipment. Consequently, we are proposing to revoke our existing banning regulations pertaining to caps intended for use with toy guns and toy guns not intended for use with caps because they are obsolete and have been superseded by the requirements of ASTM F 963.

DATES: Comments must be received by [insert date 60 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: Comments, identified by Docket No. CPSC-2012-[INSERT NUMBER], may be submitted 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 <http://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, U.S. Consumer Product Safety Commission, Room 820, 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 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: Richard McCallion, Office of Hazard Identification and Reduction, Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850; telephone: (301) 987-2222; e-mail: [rmccallion@cpsc.gov](mailto:rmccallion@cpsc.gov).

SUPPLEMENTARY INFORMATION:

A. Revocation of Certain Regulations Pertaining to Toy Caps and Toy Guns Not Intended for Use with Caps

In September 1973, the FHSA and its implementing regulations, which included provisions pertaining to caps for use with toy guns and toy guns not intended for use with caps, were transferred from the U.S. Food and Drug Administration (FDA) to the CPSC. *See* 38 FR 27012 (September 27, 1973). One of the transferred regulations includes a ban on caps intended for use with toy guns and toy guns not intended for use with caps “if such caps when so used or such toy guns produce impulse-type sound at a peak pressure level at or above 138 decibels . . . .” *See* 16 CFR § 1500.18(a)(5).

Another transferred regulation, 16 CFR § 1500.86(a)(6), contains provisions for exemptions from the classification of a banned toy under 16 CFR § 1500.18(a)(5) for toy caps with a sound level from 138 decibels up to a maximum decibel level of 158.

Manufacturers participating in this decibel-reduction program are required to report their

intention to participate in the program, include a specific warning statement on the product packaging, and report quarterly on the progress regarding the production of caps with a maximum noise level of 138 decibels. This exemption is included in the revocation because there are no manufacturers participating in this program.

Additionally, a third transferred regulation, 16 CFR § 1500.47, provides the test method for determining the sound pressure level produced by toy caps and toy guns. The method specifies the use of certain equipment, such as a microphone, preamplifier, and two types of oscilloscopes with specific response and calibration ranges, and it also addresses the manner in which one would measure peak sound pressure levels.

Section 106 of the CPSIA considers the provisions of ASTM International Standard F 963, “Standard Consumer Safety Specification for Toy Safety,” to be consumer product safety standards issued by the Commission under section 9 of the Consumer Product Safety Act (“CPSA”). References to ASTM F 963 in this document refer to ASTM F 963-11, which became effective on June 12, 2012. Section 4.5 of ASTM F 963 establishes requirements for “sound-producing toys,” and section 8.19 of ASTM F 963 establishes “Tests for Toys Which Produce Noise.” In general, the ASTM F 963 requirements for sound-producing toys are at least equivalent to, and more reflective of potential damage to human hearing, than 16 CFR §§ 1500.18(a)(5) and 1500.47. For example, section 4.5.1.5 of ASTM F 963 states that the peak sound pressure level of impulsive sounds produced by a toy using percussion caps or other explosive action “shall not exceed 125” decibels at 50 centimeters, whereas, 16 CFR § 1500.18(a)(5) imposes a ban at or above 138 decibels at 25 centimeters. As another example, section 8.19.2.4 of ASTM F 963 uses a weighted scale based on human hearing

damage from the type of impulse noise being generated by the toy, whereas, 16 CFR § 1500.47 uses an unweighted scale for measuring pressure level generated by impulse-type sound.

Additionally, the ASTM F 963 test method involves the use of modern equipment (microphones meeting a particular specification), whereas, 16 CFR § 1500.47 specifies the use of a microphone, a preamplifier (if required), and an oscilloscope. The equipment specifications in 16 CFR § 1500.47 have never been updated.

Consequently, because section 106 of the CPSIA mandates the provisions of ASTM F 963 to be consumer product safety standards, and because we believe that the provisions of ASTM F 963, with respect to paper or plastic caps intended for use with toy guns, are at least equivalent to 16 CFR § 1500.18(a)(5), we propose to revoke 16 CFR § 1500.18(a)(5). Similarly, because ASTM F 963 establishes a test method for toys that produce sound, and because our existing regulation refers to obsolete or unnecessary test equipment, we propose to revoke 16 CFR § 1500.47. Finally, because we are proposing the revocation of 16 CFR § 1500.18(a)(5), we are also proposing the revocation of the exemptions from the requirements of 16 CFR § 1500.18(a)(5) contained in 16 CFR § 1500.86(a)(6).

#### B. Paperwork Reduction Act

This rule would not impose any information collection requirements. Accordingly, this rule is not subject to the Paperwork Reduction Act, 44 U.S.C. 3501–3520.

### C. Regulatory Flexibility Act

We have examined the impacts of the proposed rule under the Regulatory Flexibility Act (5 U.S.C. 601–612). The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because the proposed rule would revoke outdated regulatory requirements, the Commission certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities.

### D. Environmental Considerations

This rule falls within the scope of the Commission’s environmental review regulation at 16 CFR § 1021.5(c)(1), which provides a categorical exclusion from any requirement for the agency to prepare an environmental assessment or an environmental impact statement for rules that revoke product safety standards.

### E. Executive Order 12988

According to Executive Order 12988 (February 5, 1996), agencies must state in clear language the preemptive effect, if any, of new regulations. The preemptive effect of regulations such as this proposal is stated in section 18 of the FHSA. 15 U.S.C. 1261n.

### F. Effective Date

The Commission is proposing that the final rule revoking 16 CFR §§ 1500.18(a)(5), 1500.47, and 1500.86(a)(6) would become effective 30 days after publication of the final rule in the *Federal Register*.

List of Subjects in 16 CFR Part 1500

Consumer protection, Hazardous substances, Imports, Infants and children, Labeling, Law enforcement, Reporting and recordkeeping requirements, Toys.

For the reasons stated in the preamble, and under the authority of 15 U.S.C. 1261–1262 and 5 U.S.C. 553, the Consumer Product Safety Commission proposes to amend 16 CFR part 1500 as follows:

PART 1500--HAZARDOUS SUBSTANCES AND ARTICLES; ADMINISTRATION AND ENFORCEMENT REGULATIONS

1. The authority citation for 16 CFR part 1500 continues to read as follows:

Authority: 15 U.S.C. 1261–1278.

§ 1500.18 [Amended]

2. Section 1500.18 is amended by removing and reserving paragraph (a)(5).

§ 1500.47 [Removed]

3. Section 1500.47 is removed entirely.

§ 1500.86 [Amended]

4. Section 1500.86 is amended by removing and reserving paragraph (a)(6).

Dated: \_\_\_\_\_.

DRAFT 6-13-12

Todd A. Stevenson,  
Secretary, U.S. Consumer Product Safety  
Commission.



## Staff Report on Toy Cap Requirements

June 2012

CPSC Hotline: 1-800-638-CPSC(2772) CPSC's Web Site: <http://www.cpsc.gov>

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# Staff Report



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

This document has been electronically  
approved and signed.

## Memorandum

Date: June 12, 2012

TO : The Commission  
Todd Stevenson, Secretary

THROUGH: Cheryl A. Falvey, General Counsel  
Kenneth R. Hinson, Executive Director  
Robert J. Howell, Deputy Executive Director for Safety Operations

FROM : DeWane Ray  
Assistant Executive Director  
Office of Hazard Identification and Reduction

Richard McCallion  
Mechanical, Recreational, and Sports Program Area Team Leader  
Office of Hazard Identification and Reduction

SUBJECT : Revocation of the Toy Cap Requirements in 16 CFR part 1500

### I. Introduction

Section 106(a) of the Consumer Product Safety Improvement Act of 2008 (CPSIA), mandates ASTM F 963, *Standard Consumer Safety Specifications for Toy Safety* (except for section 4.2 and Annex 4 or any provision that restates or incorporates an existing mandatory standard or ban promulgated by the Commission or by statute) to be a consumer product safety standard under section 9 of the Consumer Product Safety Act (CPSA). The current version of ASTM F 963 in effect is ASTM F 963-11, which has provisions that restate or incorporate existing CPSC regulations. For most provisions of ASTM F 963, where overlap occurs between the standard and CPSC regulations, requirements of ASTM F 963 either reference the existing federal regulation or restate the existing requirements. The only exception is in the case of toy caps and toy guns not intended for use with caps. Section 4.5, *Sound Producing Toys*, of ASTM F 963-11 provides requirements for sound producing toys with a specific requirement for sounds produced by a toy using percussion caps or other explosive action. These requirements vary from the requirements of the existing federal banning regulation, 16 CFR § 1500.18(a)(5), which was transferred from the U.S. Food and Drug Administration to the CPSC in September 1973, along with the related provisions that provide the testing methodology and exemptions in 16 CFR §§ 1500.47 and 1500.86(a)(6), respectively.

CPSC Hotline: 1-800-638-CPSC(2772) CPSC's Web Site: <http://www.cpsc.gov>

Toy caps and toy guns not intended for use with caps that produce a peak pressure level above 138 decibels measured at a distance of 25 centimeters present a mechanical hazard and are banned under section 2(q)(1)(A) of the Federal Hazardous Substances Act, FHSA, 15 U.S.C. § 1261(q)(1), and the implementing regulation, 16 CFR § 1500.18(a)(5), with certain exceptions. Under 16 CFR § 1500.86(a)(6), an exemption may be given for toy caps that produce peak sound levels of 138 to 158 decibels if the packaging material contains a warning regarding proper use, the person electing to distribute toy caps notifies the CPSC the peak sound levels are between 138 and 158 decibels, and the manufacturer participates in a program to develop toy caps that produce peak pressure levels below 138 decibels. Manufacturers participating in this program are required to provide a status report every three months to the CPSC on their progress.

In 16 CFR § 1500.47, a specific test procedure for determining the sound pressure produced by toy caps or toy guns not intended for use with caps is described. This procedure provides specifications for equipment necessary to perform the tests, including a microphone, preamplifier system, and storage-type oscilloscope or an oscilloscope with camera. Peak sound measurements are recorded in an anechoic chamber at a distance of 25 centimeters from the exploding toy cap (this is the maximum distance away from the sound source, if the source would ordinarily be closer to the ear, measurements can be made closer) at six orientations, 90 degrees apart from the orientation of the recording microphone. A total of 10 measurements are required in each location. The peak pressure level is determined for each location based on the average of the 10 measurements. The maximum average value shall be below 138 decibels, which is used to determine regulatory compliance.

ASTM F 963-11, Section 4.5.1.5, states that the C-weighted<sup>1</sup> peak sound pressure level ( $L_{Cpeak}$ ) of impulsive sounds produced by toys using percussion caps or other explosive action shall not exceed 125 decibels. The test procedure broadly specifies an instrumentation system that meets class 1 or class 2 requirements of International Electrotechnical Commission (IEC) 61672-1 and IEC 61672-2. Measurements are taken at six positions, 90 degrees apart, and at a distance of 50 centimeters from the toy. Three measurements are required to be recorded at each test location. Any sound pressure level above 125 decibels is considered to not meet the requirements.

## II. Discussion

The requirements and test methods contained in ASTM F 963-11 allow alternative, modern test equipment to determine the maximum sound level produced by a toy cap. The testing methods at 16 CFR § 1500.47, the existing federal regulations covering toy caps and toy guns not intended for use with caps, requires a testing method and equipment that are outdated.

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<sup>1</sup> The C-weighted frequency weighting provides a scale to predict hearing damage to human hearing based on the decibel level and frequency of the impulse noise.

Laboratories testing to the ASTM F 963 requirements for sound producing toys are given the option to choose any sound measuring device or system that meets the current IEC standards. In the existing federal regulation, specific equipment is mandated (which may no longer be readily available). The equipment mandated in 16 CFR § 1500.47 was the accepted method for measuring sound at the time the regulation was promulgated; however, the more precise, accurate sound-measuring devices currently available do not meet the requirements of the existing regulation, and therefore, cannot be used to test for compliance. CPSC staff believes that the test methods used in ASTM F 963 allow for a broader array of sound-measuring devices that result in more accurate measurements by specifying internationally recognized IEC standards for sound measuring devices. IEC 61672-1, Electroacoustics – Sound level meters – Part 1: Specifications, provides specifications which allow a range of designs for sound level meters including analog or digital, self-contained, hand-held instruments with an attached microphone or comprised of separate components in one and may contain more enclosures capable of displaying a variety of acoustical signal levels. Additionally, sound level meters may include general-purpose computers, recorders, printers, and other devices that form a necessary part of the complete instrument. IEC 61672-2, Electroacoustics – Sound level meters – Part 2: Pattern evaluation tests, provides details of the tests necessary to verify conformance to all mandatory specifications given in IEC 61672-1 for conventional sound level meters, integrating-averaging sound level meters and integrating sound level meters.

Section 1500.18(a)(5) specifies a peak pressure based on an unweighted measurement. ASTM F 963 uses a C-weighted sound level measurement, which predicts more accurately the hazard to human hearing from an impulse noise. Additionally, the existing 16 CFR § 1500.47 uses an average of 10 sound level readings to determine compliance; this allows for an individual reading in excess of the maximum level. It is the staff's opinion that the number of tests required and averaging of the sound level readings to determine compliance was based on the variability of the manufacturing process and the accuracy of the measurement system that existed at the time the regulation was promulgated. In the ASTM F 963 test, three sound level measurements are recorded with any test above the maximum sound level reading resulting in noncompliance of the sample. Based on the more precise sound measuring equipment now available and better manufacturing processes, Staff believes the ASTM test is at least an equivalent method to 16 CFR § 1500.47 in the determination of compliance. The ASTM F 963 test method also reduces the total number of tests and time required to determine standard compliance of a sample.

Sound measurements are recorded at different distances from the test sample in 16 CFR § 1500.47 and ASTM F 963. ASTM F 963 requires noise levels to be recorded at 50 centimeters, as opposed to 25 centimeters in 16 CFR §1500.47. In ASTM F 963, the maximum noise level is 125 dB (approximately 131 dB at 25 centimeters), and in 16 CFR § 1500.18, the maximum level is 138 dB. Sound pressure levels drop as the distance away from the source increases, and the ASTM requirement accounts for the difference in the distance from the sample, with a small reduction in the maximum peak sound pressure level allowed.

Staff performed some sound measurement tests using a repeatable impulse noise to examine the differences in the ASTM and 16 CFR §1500.47 tests. The testing was performed using CPSC laboratories current B&K, Type 2250 meter. The equipment specified in 16 CFR §1500.47 was available but staff decided against using it during the evaluation based on it being

a more complicated process for measurements. CPSC staff believes the procedure in ASTM F 963 is simpler and also believes that it will reduce the possibility of inaccurate results. It requires fewer measurements at each point and allows for the use of more modern, automated equipment that can calculate peak sound pressures. This will increase the efficiency of testing.

16 CFR §1500.86(a)(6) allows an additional exemption for toy caps with a sound level from 138 decibels up to a maximum decibel level of 158. Manufacturers participating in this decibel-reduction program are required to report their intention to participate in the program, include a specific warning statement on the product packaging, and report quarterly on the progress regarding the production of caps with a maximum noise level of 138 decibels. This exemption will be included in the revocation because there are no manufacturers participating in this program.

In accordance with the FHSA and the Regulatory Flexibility Act of 1980 (RFA), the CPSC is required to provide information on the potential benefits and potential costs, and also address the potential economic effects of a proposed rule on small businesses and other small entities. Additionally, the Paperwork Reduction Act (PRA) requires the agency to evaluate the impacts on firms, and the National Environmental Policy Act (NEPA) requires consideration of the potential environmental effects of a proposed rule. A staff analysis has been conducted on all of these requirements and may be found at Tab A.

### **III. Recommendations**

Section 1500.18(a)(5) states: “This paragraph is an interim regulation pending further investigation to determine whether prevention of damage to the hearing of children requires revision hereof.” After conducting an evaluation of the existing toy cap regulations and the requirements of ASTM F 963, CPSC staff has concluded that revocation of the existing toy cap regulations would not reduce the safety of toy caps, but it would eliminate an outdated and duplicative requirement. ASTM F 963 allows manufacturers more options with readily available test equipment for sound measurement to determine compliance. Therefore, CPSC staff recommends that the Commission revoke 16 CFR § 1500.18(a)(5), along with the related provisions that provide the testing methodology and exemptions in 16 CFR §§ 1500.47 and 1500.86(a)(6) because they are obsolete and are superseded by the requirements of ASTM F 963.

**TAB A: Preliminary Regulatory Analysis: Revocation of Certain Requirements Pertaining to Caps Intended for Use with Toy Guns**

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UNITED STATES  
CONSUMER PRODUCT SAFETY COMMISSION  
BETHESDA, MD 20814

Memorandum

Date: June 12, 2012

TO : Richard McCallion, LSM

THROUGH : Gregory B. Rodgers, Ph.D., Associate Executive Director,  
Directorate for Economic Analysis  
Deborah V. Aiken, Ph.D., Senior Staff Coordinator,  
Directorate for Economic Analysis

FROM : Charles L. Smith, Directorate for Economic Analysis

SUBJECT : Preliminary Regulatory Analysis: Revocation of Certain Requirements  
Pertaining to Caps Intended for Use with Toy Guns, 16 CFR §§1500.18(a)(5)  
and 1500.47

## Background

The Consumer Product Safety Commission (“CPSC” or “Commission”) is considering revocation of certain requirements related to caps intended for use with toy guns issued under Part 1500 (*Hazardous Substances and Articles; Administration and Enforcement Regulations*) of the Federal Hazardous Substances Act (“FHSA”). This action is being considered because Section 106 of the Consumer Product Safety Improvement Act of 2008 (“CPSIA”) made mandatory the provisions of ASTM International Standard F 963, “Standard Consumer Safety Specifications for Toy Safety” (“ASTM F963”). ASTM F963 contains provisions for sound-producing toys (in Section 4.5) that are at least equivalent to the existing regulations pertaining to caps intended for use with toy guns issued under the FHSA. ASTM F963 (section 4.5.1.5) states that the peak sound pressure level of impulsive sounds produced by a toy using percussion caps or other explosive action “shall not exceed 125” decibels, whereas 16 CFR §1500.18(a)(5) imposes a ban at or above 138 decibels (approximately 131 dB at 25 centimeters).

Current CPSC regulations also provide for exemptions of caps and other products from classification as a banned toy or other banned article for use by children, provided that certain requirements are met. For caps, the relevant provision is 16 CFR §1500.86(a)(6) and requires, among other things, that any person who wishes to distribute toy caps that produce peak sound pressure levels of between 138 and 158 decibels when tested in accordance with 16 CFR §1500.47, promptly notify the CPSC of their intent and submit progress reports related to a program to develop caps that produce a sound pressure level of not more than 138 decibels. No manufacturer has provided notifications or progress reports to the CPSC under 16 CFR §1500.86(a)(6) for several years.

Section 8.19 of ASTM F963, “Tests for Toys Which Produce Noise,” also specifies the use of modern equipment, instead of the obsolete equipment specified in the preexisting requirements set forth in 16 CFR §1500.47. Section 8.19.2.4 of ASTM F 963 also specifies the use of weighted scales that represent more accurately the potential damage to human hearing for

\* This analysis was prepared by CPSC staff, and has not been reviewed or approved by, and may not necessarily reflect the views of, the Commission.

the type of noise being measured, compared to the unweighted scales specified by 16 CFR §1500.47.

These circumstances have led the Commission to consider revocation of its existing regulations pertaining to caps intended for use with toy guns in 16 CFR §1500.18(a)(5) and the provisions related to the test method for determining the sound pressure level produced by toy caps in 16 CFR §1500.47 and exemption provisions under 16 CFR §1500.86(a)(6).

### **Requirements that must be met under the FHSA and other governing laws**

The FHSA requires that the Commission provide a preliminary regulatory analysis of a proposed rule, including a proposal to revoke regulations promulgated under the FHSA, during development of the notice of proposed rulemaking. The preliminary regulatory analysis for the proposed rule must contain “a preliminary description of the potential benefits and potential costs of the proposed regulation. . . .” Additionally, under the Regulatory Flexibility Act of 1980 (RFA), the Commission is required to address the potential economic effects of a proposed rule on small businesses and other small entities. If information collections are required by a rule, the Paperwork Reduction Act requires the agency to evaluate the impacts on firms, including making an estimate, to the extent practicable, of the burden of the collection. Also, under the National Environmental Policy Act (NEPA), the Commission is required to consider the potential environmental effects of a proposed rule.

### **Potential Benefits and Costs**

Because the Commission is considering revoking the FHSA rules for toy caps, the potential costs of revocation would be any increase in the number or severity of injuries that would result. Since requirements related to permissible sound levels of caps for use with toy guns under the now-mandatory provisions of ASTM F963 are at least equivalent to the rules under the FHSA, the revocation of duplicative FHSA provisions is not expected to increase the number or severity of injuries related to the decibel levels of caps fired in toy guns.

The potential benefits of the revocation, in contrast, would be reductions in costs of producing the product, by eliminating unneeded regulations. Revocation is expected to provide needed clarification that will facilitate testing and certification of conforming products. Similarly, the revocation of 16 CFR §§1500.18(a)(5), 1500.47, and 1500.86(a)(6) is not expected to increase costs to manufacturers and importers of caps. Any changes in costs are expected to be cost savings for manufacturers and importers of caps who might otherwise incur unnecessary costs of compliance with the requirements that have been supplanted by the provisions of ASTM F963 related to sound-producing toys. Thus, while revocation will not result in any costs (*i.e.*, increase in the number or severity of injuries), it may result in some benefits in terms of reduced testing costs.

### **Regulatory Flexibility Act**

The RFA requires that the Commission consider whether a proposed regulatory activity, including the revocation of a product safety rule, would have a significant economic effect on a substantial number of small entities, including small businesses and small government entities. Based on available information, there would be little or no effect on small businesses, since the

revocation will not result in product modifications in order to comply, and will not result in additional testing or recordkeeping burdens. If anything, the revocation will likely result in cost savings to small businesses by enabling them to avoid costs related to compliance with the existing requirements issued under the FHSA. Therefore, the Commission could conclude that revoking the requirements pertaining to caps intended for use with toy guns and toy guns not intended for use with caps at 16 CFR §1500.18(a)(5) and the related testing requirements at 16 CFR §1500.47 is not expected to have a significant economic effect on a substantial number of small entities.

### **Paperwork Reduction Act**

The revocation of FHSA requirements related to caps intended for use in toy guns would not impose any information collection requirements. Therefore, this rule is not subject to the Paperwork Reduction Act, 44 U.S.C. 3501-3520.

### **National Environmental Policy Act**

Revocation of the rule related to caps intended to be used with toy guns falls within the scope of the Commission's environmental review regulation at 16 CFR §1021.5(c)(1), which provides a categorical exclusion from any requirement for the agency to prepare an environmental assessment or environmental impact statement for rules that revoke product safety standards.