



Time Critical Ballot Vote Sheet

TO: The Commission
Alberta E. Mills, Secretary

DATE: August 22, 2025

THROUGH: Brien Lorenze, Executive Director
Matthew A. Campbell, General Counsel

FROM: Melissa V. Hampshire, Assistant General Counsel, GCFL
Amy S. Colvin, Attorney, GCFL

SUBJECT: Termination of Rulemaking on 16 CFR Part 1101, "Information Disclosure Under Section 6(b) of the Consumer Product Safety Act"

TIME CRITICAL BALLOT VOTE DUE: Saturday August 23, 2025 by 5 p.m.

The Commission voted on August 20, 2025, to withdraw the rulemaking proceeding that began with the publication of a Notice of Proposed Rulemaking (NPR) on Information Disclosure Under Section 6(b) of the Consumer Product Safety Act. The Office of the General Counsel (OGC) is forwarding to the Commission a draft *Federal Register* notice terminating the rulemaking on 16 C.F.R. part 1101. The Commission issued a Notice of Proposed Rulemaking on February 26, 2014, 79 Fed. Reg. 10712, and a Supplemental Notice of Proposed Rulemaking on February 17, 2023, 88 Fed. Reg. 10432 (Supplemental NPR) on 16 C.F.R. part 1101, "Information Disclosure Under Section 6(b) of the Consumer Product Safety Act" (CPSA) (6(b) Regulation). The Commission has designated this as a time critical ballot vote pursuant to Section V. of the Commission's Decision Making Procedures.

Please indicate your vote on the following options:

- I. Approve publication of the attached *Federal Register* notice terminating the rulemaking and withdrawing the Notice of Proposed Rulemaking and Supplemental Notice of Proposed Rulemaking on "Information Disclosure Under Section 6(b) of the Consumer Product Safety Act," as drafted.

(Signature)

(Date)

II. Approve publication of the attached *Federal Register* notice terminating the rulemaking and withdrawing the Notice of Proposed Rulemaking and Supplemental Notice of Proposed Rulemaking on "Information Disclosure Under Section 6(b) of the Consumer Product Safety Act," with the specified changes.

(Signature)

(Date)

III. Do not approve publication of the attached *Federal Register* notice, terminating the rulemaking and withdrawing the Notice of Proposed Rulemaking and Supplemental Notice of Proposed Rulemaking on "Information Disclosure Under Section 6(b) of the Consumer Product Safety Act."

(Signature)

(Date)

IV. Take other action specified below.

(Signature)

(Date)

Attachment: Draft *Federal Register* notice terminating the rulemaking and withdrawing the Notice of Proposed Rulemaking and Supplemental Notice of Proposed Rulemaking on, "Information Disclosure Under Section 6(b) of the Consumer Product Safety Act"

Billing Code 6355-01-P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1101

[CPSC Docket No. CPSC-2014-0005]

Information Disclosure Under Section 6(b) of the Consumer Product Safety Act

AGENCY: Consumer Product Safety Commission.

ACTION: Termination of rulemaking.

SUMMARY: The U.S. Consumer Product Safety Commission (CPSC or Commission) is withdrawing its proposed rule to amend section 6(b) of the Consumer Product Safety Act, 16 CFR part 1101 (6(b) Regulation). On February 26, 2014, the Commission issued a notice of proposed rulemaking in this matter (79 FR 10712). On February 17, 2023, the Commission issued a supplemental notice of proposed rulemaking 88 FR 10432. The Commission has not taken any action on this rule since it was published in February 2023.¹

DATES: As of [DATE OF PUBLICATION IN THE FEDERAL REGISTER] the proposed rule issued on February 26, 2014 and the Supplemental Notice of Proposed Rulemaking issued on February 17, 2023, are withdrawn.

FOR FURTHER INFORMATION CONTACT: Amy Colvin, Attorney, Division of Federal Court Litigation, Office of the General Counsel, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: 301-504-7639; e-mail: acolvin@cpsc.gov.

SUPPLEMENTARY INFORMATION: The Commission is withdrawing the NPR and Supplemental NPR that proposed to amend the CPSC's regulation, Information Disclosure Under Section 6(b) of the Consumer Product Safety Act, codified at 16 CFR part 1101.

¹ The Commission voted [insert vote] to publish this notice.

I. Background

A. Statutory Authority

Section 6(b) of the CPSA governs the Commission's disclosure of certain information to the public. In general, section 6(b)(1) requires, "prior to its public disclosure of any information obtained under this Act, or to be disclosed to the public in connection therewith," that the Commission, "to the extent practicable," provide manufacturers or private labelers with advance notice and opportunity to comment on the proposed disclosure, if the manner in which such consumer product is designated or described in such information "permit[s] the public to ascertain readily the identity of such manufacturer or private labeler." 15 U.S.C. 2055(b)(1). The CPSA defines "manufacturer" to include an importer. 15 U.S.C. 2052(a)(11). Section 6(b)(1) also requires the Commission, prior to such public disclosure, to "take reasonable steps to assure" that the information CPSC intends to disclose "is accurate, and that such disclosure is fair in the circumstances and reasonably related to effectuating the purposes of this Act." *Id.* In 1980, the U.S. Supreme Court ruled that CPSC's disclosures under the Freedom of Information Act (FOIA) are among the public releases covered by the section 6(b)(1) restrictions. *CPSC v. GTE Sylvania, Inc.*, 447 U.S. 102 (1980).

The Consumer Product Safety Improvement Act of 2008 (CPSIA), Public Law No. 110-314, 122 Stat. 3016, enacted on August 14, 2008, amended section 6 of the CPSA. The amendments shortened, from 30 days to 15 days the time for public disclosure of information (after complying with the provisions of section 6(b)). In addition, the amendments eliminated the requirement that the Commission publish a *Federal Register* notice when the Commission publishes a finding that the public health and safety requires a lesser period of notice. CPSIA also broadened the statutory exceptions to section 6(b). For example, the amendments excluded

from the requirements of section 6(b)(1)-(3) a public disclosure of information about any consumer product which the Commission has reasonable cause to believe is in violation of any consumer product safety rule or provision of the CPSA, or similar rule or provision of any other act enforced by the Commission.

B. History of the 6(b) Regulation

On December 29, 1983, the Commission published a final rule interpreting section 6(b) of the CPSA. 48 FR 57406; *see* 49 FR 8428 (Mar. 7, 1984) (technical correction). The 6(b) Regulation, 16 CFR part 1101, describes the Commission's procedures for providing manufacturers and private labelers advance notice and "a reasonable opportunity to submit comments" to the Commission on proposed disclosures of certain information. In addition, the 6(b) Regulation explains the "reasonable steps" the Commission will take pursuant to section 6(b) to assure, prior to public disclosure of covered information, that the information "is accurate, and that such disclosure is fair in the circumstances and reasonably related to effectuating the purposes of this Act." In 2008, the Commission amended the 6(b) Regulation to reflect the CPSIA amendments. 73 FR 72334 (Nov. 28, 2008).

On February 26, 2014, the Commission published the 2014 NPR. *Information Disclosure Under Section 6(b) of the Consumer Product Safety Act*, 79 FR 10712 (Feb. 26, 2014). *See* Fiscal Year 2013 Midyear Review and Operating Plan Adjustments, available at <https://www.cpsc.gov>. The Commission received 24 comments on the 2014 NPR. Seven consumer groups supported the proposed revisions to modernize the regulation and make it more consistent with the statute and industry practice. However, these commenters were concerned that section 6(b)'s obstacles to transparency and the immediate release of crucial product safety information remain. The other commenters, comprising trade associations and one firm,

objected to various proposals contained in the 2014 NPR. In general, these commenters asserted that the proposed revisions would result in the disclosure of inaccurate or misleading information. Moreover, according to these commenters, some of the proposed changes could chill cooperation between the Commission and industry.

In 2023, the Commission published a supplemental notice of proposed rulemaking that provided additional responses to the 2014 NPR and proposed additional changes to the 6(b) regulation. *Information Disclosure Under Section 6(b) of the Consumer Product Safety Act*, 88 FR 10432 (February 17, 2023). The Commission received more than 100 comments from individuals (approximately 85), consumer groups (approximately 9), and industry (approximately 11). Some comments were form letters that sought repeal of section 6(b), others thought the proposed changes did not go far enough, while still others advocated for reinsertion of text proposed to be removed.

No further action was taken by the Commission after the SNPR was published. The Commission has developed additional tools and processes to provide vital safety information to the public about consumer product hazards while at the same time meeting the requirements under section 6(b) to take the reasonable steps required to assure that any public disclosure of manufacturer/private labeler specific information is accurate, fair and reasonably related to effectuating the purposes of the CPSA. The Commission does not view section 6(b) or the rule as a bar to public disclosure of such information about product specific issues. Because the Commission has not acted on this proposed rule since 2023, the Commission is terminating this proceeding. In the future, the Commission may consider revision to the 6(b) rule as time, technological changes and resources may warrant.

Dated _____

Alberta E. Mills,
Secretary, Consumer Product Safety Commission

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