



United States
Consumer Product Safety Commission

Record of Commission Action
Commissioners Voting by Ballot*

Commissioners Voting: Chair Alexander Hoehn-Saric
 Commissioner Dana Baiocco
 Commissioner Peter A. Feldman
 Commissioner Richard Trumka Jr.

ITEM:

Federal Register Notice Seeking Public Comment: Prohibition of Children's Toys and Child Care Articles Containing Specified Phthalates
(Briefing package dated March 9, 2022, OS No. 0116)

DECISION:

The Commission voted unanimously (4-0) to approve publication of a *Federal Register* notice, as drafted, seeking public comment regarding the justification for the phthalates final rule and the staff's cost-benefit analysis for continuing the interim prohibition on DINP. In March 2021, a decision of the U.S. Court of Appeals for the Fifth Circuit left the phthalates final rule in effect but directed CPSC to address two procedural deficiencies the Court identified. *Tex. Ass'n. of Mfrs. v. CPSC*, 989 F.3d 368 (5th Cir. 2021). The court held, among other things, that the final rule had failed to: (1) provide adequate notice and comment regarding a change in primary justification from the proposed rule to the final rule; and (2) consider the costs and benefits of continuing the interim prohibition on DINP.

For the Commission:

Alberta E. Mills
Secretary

*Ballot Vote Due March 15, 2022

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Safety Commission**
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