



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

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 approved and signed.

BALLOT VOTE SHEET

Date: June 12, 2013

TO : The Commission
 Todd A. Stevenson, Secretary

THROUGH: Stephanie Tsacoumis, General Counsel
 Kenneth R. Hinson, Executive Director

FROM : Patricia M. Pollitzer, Assistant General Counsel
 Hyun S. Kim, Attorney

SUBJECT : Children's Products Containing Lead; Revocation of Procedures and
 Requirements for Exclusions from Lead Limits

BALLOT VOTE Due: June 18, 2013

Attached is a draft *Federal Register* notice revoking existing regulations under 16 C.F.R. § 1500.90, which set forth the procedures and requirements for exclusions from lead limits under section 101(b) of the Consumer Product Safety Improvement Act of 2008 (CPSIA) to reflect statutory changes mandated by Public Law 112-28.

A. 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: Children's Products Containing Lead; Revocation of Procedures and Requirements for Exclusions from Lead Limits

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1500

**Children's Products Containing Lead; Revocation of Procedures and Requirements
for Exclusions from Lead Limits**

AGENCY: Consumer Product Safety Commission.

ACTION: Final Rule

SUMMARY: The Consumer Product Safety Commission (CPSC or Commission) is issuing this rule to revoke its existing regulations pertaining to procedures and requirements for exclusions from lead limits under section 101(b) of the Consumer Product Safety Improvement Act of 2008 (CPSIA) to reflect statutory changes mandated by Public Law 112-28.

EFFECTIVE DATE: [insert date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Hyun Sun Kim, Office of the General Counsel, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; e-mail: hkim@cpsc.gov; telephone: 301-504-7632.

SUPPLEMENTARY INFORMATION:

Under section 101(a) of the CPSIA, consumer products designed or intended primarily for children 12 years old and younger that contain lead content in excess of 100 ppm are considered to be banned hazardous substances under the Federal Hazardous Substances Act (FHSA). The Commission previously published 16 CFR 1500.90 to

provide procedures and requirements for evaluating products or materials for possible exclusion from the lead limits under section 101(b)(1) of the CPSIA.

On August 12, 2011, Public Law 112-28 replaced section 101(b)(1) of the CPSIA in its entirety. Section 101(b)(1) of the CPSIA, as amended, now provides for a functional purpose exception from the lead content limits under certain circumstances and sets forth the procedures for granting an exception in the statute. 15 U.S.C. 1278(a)(b). Because the existing regulations at 16 CFR 1500.90 no longer reflect the current law, that section is revoked in its entirety. However, the Commission anticipates providing the public with a staff guidance on the applicable procedures for requesting an exemption, which will be made available on the CPSC website.

Although the Administrative Procedure Act (APA) generally requires notice and comment rulemaking, section 553 of the APA provides an exception when the agency, for good cause, finds that notice and public procedure are “impracticable, unnecessary, or contrary to the public interest.” In this circumstance, the Commission concludes that notice and comment is not necessary. The statutory provision upon which 16 CFR 1500.90 was based has been revised so that the basis for the regulation no longer exists. There is no action the Commission could take in response to comments that would change the underlying statutory provision.

List of Subjects in 16 CFR Part 1500

Consumer protection, Hazardous materials, Hazardous substances, Imports, Infants and children, Labeling, Law enforcement, and Toys.

For the reasons stated above in the preamble, the Commission amends title 16 of the Code of Federal Regulations as follows:

**PART 1500 - HAZARDOUS SUBSTANCES AND ARTICLES:
ADMINISTRATION AND ENFORCEMENT REGULATIONS**

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

Authority: 15 U.S.C. 1261–1278, 122 Stat. 3016, 125 Stat. 273.

2. § 1500.90 [Reserved].

Dated: _____

Todd A. Stevenson, Secretary
Consumer Product Safety Commission

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