

Commission would not pursue intermediate treasurers.<sup>11</sup> See *Cal. Democratic Party v. FEC*, 13 F. Supp. 2d 1031, 1037 (E.D. Cal. 1998) (dismissing individual capacity claims against a former treasurer because “there is no allegation that [the treasurer] violated any personal obligation” and dismissing official capacity claims against him “since [he] is no longer treasurer \* \* \* and thus, is not the appropriate person against whom an official capacity suit can be maintained. \* \* \*”).<sup>12</sup>

## VII. Proposed Policy

In light of the considerations explained above, the Commission is considering exercising its discretion in enforcement matters by naming treasurers as follows:

1. In all enforcement actions where a political committee is a respondent, name as respondents the committee and its current treasurer “in (his or her) official capacity as treasurer.”

2. In enforcement actions where a treasurer has apparently breached a personal obligation owing by virtue of his or her responsibilities under the Act and regulations, or a prohibition that applies to individuals, name that treasurer as a respondent “in (his or her) personal capacity.”

The Commission invites comments on this policy that is under consideration. Comments may be submitted on any aspect of the policy being considered, including:

(A) If the Commission adopts the policy, are there certain circumstances that warrant flexibility in applying the policy?

<sup>11</sup> For example, while Treasurer A is the treasurer for Joe Smith for Congress, a violation occurs that subjects A to official and individual liability. Treasurer A would be named in both his official and personal capacities. After the enforcement action has begun, Treasurer A resigns and Treasurer B takes over. The Commission should pursue Treasurer A in his individual capacity, and Treasurer B in her official capacity. If Treasurer B resigns and is succeeded by Treasurer C prior to the conclusion of the enforcement matter, the Commission should then continue to pursue Treasurer A in his individual capacity and pursue Treasurer C in her official capacity. Treasurer B is no longer named in her official capacity.

<sup>12</sup> A deeper examination of the court file indicates that—despite the *California Democratic Party* court’s assertion to the contrary—the Commission never actually pled that the treasurer in this case was personally liable. Rather, the complaint references the treasurer “as treasurer” and the Commission’s response to the treasurer’s motion to dismiss indicates that the Commission was pursuing the treasurer “in his official capacity.” Compl., paragraphs 8, 58–59, Prayer paragraphs 1–5; Resp. to Def. Mot. to Dismiss, p. 21. However, the *California Democratic Party* court’s result underscores the need for the Commission to delineate more clearly the capacity in which it pursues treasurers.

(B) Whether, and to what extent, the Commission should consider a treasurer’s “best efforts” to comply with the law.

(C) Whether and how to apply the prospective policy in its Administrative Fines program.

Dated: January 23, 2004.

**Bradley A. Smith,**

*Chairman, Federal Election Commission.*

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## CONSUMER PRODUCT SAFETY COMMISSION

### 16 CFR Chapter II

#### Pilot Program for Systematic Review of Commission Regulations; Request for Comments and Information

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Notice of systematic review of current regulations.

**SUMMARY:** The Consumer Product Safety Commission (CPSC or Commission) is undertaking a pilot program to systematically review its current substantive regulations to ensure, to the maximum practical extent, consistency among them and with respect to accomplishing program goals. The pilot is currently expected to be completed by the end of calendar year 2004. Depending on the results of the pilot, the availability of personnel and fiscal resources, and other priorities for action, the Commission would then develop and implement an expanded systematic review process to address the remainder of its substantive regulations.

The primary purpose of the review is to assess the degree to which the regulations under review remain consistent with the Commission’s program policies. In addition, each regulation will be examined with respect to the extent that it is current and relevant to CPSC program goals. Attention will also be given to whether the regulations can be streamlined, if possible, to minimize regulatory burdens, especially on small entities. To the degree consistent with other Commission priorities and subject to the availability of personnel and fiscal resources, specific regulatory or other projects may be undertaken in response to the results of this review.

In the initial, pilot phase of this program the following four regulations will be evaluated: safety standard for walk-behind power mowers, 16 CFR part 1205; requirements for electrically operated toys and other electrically

operated articles intended for use by children, 16 CFR part 1505; standard for the flammability of vinyl plastic film, 16 CFR part 1611; and child-resistant packaging requirements for aspirin and methyl salicylate, 16 CFR 1700.14(a)(1) and 1700.14(a)(3), respectively.

The Commission solicits written comments from interested persons concerning the designated regulations’ currentness and consistency with Commission policies and goals, and suggestions for streamlining where appropriate. In so doing, commenters are requested to specifically address how their suggestions for change could be accomplished within the various statutory frameworks for Commission action under the Consumer Product Safety Act (CPSA), 15 U.S.C. 2051–2084, Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1261–1278, Flammable Fabrics Act (FFA), 15 U.S.C. 1191–1204; and Poison Prevention Packaging Act (PPPA), 15 U.S.C. 1471–1476.

**DATES:** Written comments and submissions in response to this notice must be received by March 29, 2004.

**ADDRESSES:** Comments and other submissions should be captioned “Pilot Regulatory Review Project” and mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, or delivered to that office, room 502, 4330 East-West Highway, Bethesda, Maryland 20814. Comments and other submissions may also be filed by facsimile to (301) 504–0127 or by e-mail to [cpsc-os@cpsc.gov](mailto:cpsc-os@cpsc.gov).

**FOR FURTHER INFORMATION CONTACT:** N.J. Scheers, PhD, Director, Office of Planning & Evaluation, U.S. Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–7670; e-mail [nscheers@cpsc.gov](mailto:nscheers@cpsc.gov).

#### SUPPLEMENTARY INFORMATION:

##### A. The Pilot Review Program

The President’s Office of Management and Budget has designed the Program Assessment Rating Tool (PART) to provide a consistent approach to rating programs across the Federal government. A description of the PART process and associated program evaluation materials is available online at: [http://www.whitehouse.gov/omb/budintegration/part\\_assessing2004.html](http://www.whitehouse.gov/omb/budintegration/part_assessing2004.html).

Based on an evaluation of the Commission’s regulatory programs using the PART, the recommendation was made that CPSC develop a plan to systematically review its current regulations to ensure consistency among them in accomplishing program goals. The pilot review program launched with

this **Federal Register** notice is the initial step in implementing that recommendation.

## B. The Regulations Undergoing Review

A summary of each of the regulations being reviewed in the pilot phase of this program is provided below. The full text of the regulations may be accessed at: [http://www.access.gpo.gov/nara/cfr/waisidx\\_03/16cfrv2\\_03.html](http://www.access.gpo.gov/nara/cfr/waisidx_03/16cfrv2_03.html).

### 1. Walk-Behind Power Mowers

The safety standard for walk-behind power mowers appears at 16 CFR part 1205. It was promulgated in 1979. 44 FR 10024 (February 15, 1979). The standard prescribes safety requirements for certain walk-behind power lawnmowers, including labeling and performance requirements. The performance requirements apply to rotary mowers. The labeling requirements apply to both rotary and reel-type mowers. The standard is intended to reduce the risk of injury to consumers caused by contact, primarily of the foot and hand, with the rotating blade of the mower. The standard was issued under authority of the CPSA.

### 2. Electrically Operated Toys

The requirements for electrically operated toys and other electrically operated articles intended for use by children appear at 16 CFR part 1505. 38 FR 27032 (September 27, 1973). The regulation includes a number of requirements intended to reduce the risk of electrical, mechanical and/or thermal hazards. Part 1505 was promulgated under authority of the FHSA.

### 3. Standard for Flammability of Vinyl Plastic Film

The standard for flammability of vinyl plastic film appears at 16 CFR part 1611. It was codified at that location in 1975 under authority of the FFA. 40 FR 59894 (December 30, 1975). The standard was originally Commercial Standard 192-53, Flammability of General Purpose Vinyl Plastic Film, issued by the Department of Commerce, and later incorporated by Congress into the Flammable Fabrics Act of 1953. The standard establishes a minimum standard for the flammability of nonrigid, unsupported, vinyl plastic film including transparent, translucent, and opaque material, whether plain, embossed, molded or otherwise surface treated. Subpart A of part 1611 sets forth the standard. Subpart B contains the implementing regulations for the subpart A standard.

### 4. Salicylates

The Commission is reviewing two regulations that require child-resistant packaging for certain salicylate compounds. The first regulation, 16 CFR 1700.14(a)(1), requires child-resistant packaging for certain aspirin-containing oral drugs. The second, 16 CFR 1700.14(a)(3), requires child-resistant packaging for certain products containing methyl salicylate (oil of wintergreen). These regulations were promulgated under authority of the PPPA. The aspirin regulation was originally issued in 1972, 37 FR 3427 (February 16, 1972). The methyl salicylate regulation was also issued in 1972, 37 FR 6184 (March 25, 1972).

### C. Possible Future Program

The Commission expects that, subject to the availability of personnel and fiscal resources and the priority of other needs for Commission action, it would apply the results of the pilot program to developing and implementing a systematic review process for the remainder of its substantive regulations. This could involve review of 19 regulations under the CPSA, 42 rules under the FHSA, 7 rules under the FHSA, and 31 rules under the PPPA. The CPSC rule under the Refrigerator Safety Act could also be a candidate for review.

### D. Solicitation of Comments and Information

The Commission invites interested persons to submit comments on each of the regulations being reviewed in the pilot phase of this program. In particular, commenters are asked to address:

1. Whether the regulation is consistent with CPSC program goals.
2. Whether the regulation is consistent with other CPSC regulations.
3. Whether the regulation is current with respect to technology, economic, or market conditions, and other mandatory or voluntary standards.
4. Whether the regulation can be streamlined to minimize regulatory burdens, particularly any such burdens on small entities.

For each regulation being reviewed in this pilot program, please provide any specific recommendations for change(s), if viewed as necessary, a justification for the recommended change(s), and, with respect to each suggested change, a statement of the way in which the change can be accomplished within the statutory framework of the CPSA, FHSA, FFA, or PPPA, as applicable.

Comments and other submissions should be captioned "Pilot Regulatory

Review Project" and mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, or delivered to that office, room 502, 4330 East-West Highway, Bethesda, Maryland 20814. Comments and other submissions may also be filed by facsimile to (301) 504-0127 or by e-mail to [cpsc-os@cpsc.gov](mailto:cpsc-os@cpsc.gov).

All comments and other submissions must be received by March 29, 2004.

Dated: January 22, 2004.

**Todd A. Stevenson,**

*Secretary, Consumer Product Safety Commission.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

[FRL-7615-2]

### National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of intent to delete the Tyler Refrigeration Pit Superfund Site from the National Priorities List.

**SUMMARY:** The Environmental Protection Agency (EPA) Region III is issuing a notice of intent to delete the Tyler Refrigeration Pit Superfund Site (Site) located in Smyrna, Delaware, from the National Priorities List (NPL) and requests public comments on this notice of intent. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), is found at appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). EPA and the State of Delaware, through the Department of Natural Resources and Environmental Control (DNREC), have determined that all appropriate response actions under CERCLA, other than operation and maintenance and five-year reviews, have been completed. However, this deletion does not preclude future actions under CERCLA.

In the "Rules and Regulations" section of today's **Federal Register**, EPA is publishing a direct final notice of deletion of the Tyler Refrigeration Pit Site without prior notice of intent to delete because EPA views this as a noncontroversial deletion and anticipates no adverse comment. EPA