

## Consumer Product Safety Commission

## § 1145.1

business of the 15th calendar day following the date of announcement in the FEDERAL REGISTER.

(f) If no requests are received, the agreement shall be deemed finally accepted by the Commission on the 16th calendar day after the date of the announcement in the FEDERAL REGISTER. Notice of final acceptance will be given and the order issued within a reasonable time.

(g) If the Commission receives one or more requests that it not finally accept an agreement, it shall, within a reasonable time, either finally accept or reject the agreement after considering the requests. The Commission shall promptly issue and serve an order indicating its decision.

(1) If the agreement is accepted, the Commission shall issue the complaint and order. The order is a final order in disposition of the proceeding and is effective immediately upon its service on the consenting party under these rules. The consenting party shall thereafter be bound by and take immediate action in accordance with the final order.

(2) If the agreement is rejected, the order so notifying the consenting party shall constitute withdrawal of the Commission's provisional acceptance. The Commission may then issue its complaint, may order further investigation, or may take any action it considers appropriate.

(h) An agreement that has been finally accepted may be vacated or modified upon petition of any party or the Commission's own initiative. The petition shall state the proposed changes in the agreement and the reasons for granting the petition. The Commission may modify or vacate where (1) false statements were relied upon in accepting the agreement or (2) there are changed conditions of fact or law. In deciding whether to grant a petition, the Commission shall consider the public interest. A petitioner, or the Commission when acting on its own initiative, shall serve a copy of the petition or notice of reconsideration, respectively, on all parties. Parties affected by the petition or notice of reconsideration may file a response within 10 calendar days. No replies shall be accepted. The Commission shall decide the petition or notice of reconsideration

within a reasonable time and, by order, shall indicate its decision and its reasons.

### PART 1145—REGULATION OF PRODUCTS SUBJECT TO OTHER ACTS UNDER THE CONSUMER PRODUCT SAFETY ACT

Sec.

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1145.3 Extremely flammable contact adhesives; risk of burns from explosive vapor ignition and flashback fire.

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1145.5 Emberizing materials (embers and ash) containing respirable free-form asbestos; risk of cancer associated with inhalation of asbestos fibers.

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1145.16 Lighters that are intended for igniting smoking materials and that can be operated by children; risks of death or injury.

1145.17 Multi-purpose lighters that can be operated by children; risks of death or injury.

AUTHORITY: 15 U.S.C. 2079(d).

#### § 1145.1 Scope.

In this part 1145, the Commission establishes rules which provide that risks of injury associated with consumer products that could be eliminated or reduced to a sufficient extent by action under the Federal Hazardous Substances Act (FHSA) (15 U.S.C. 1261-1274), the Poison Prevention Packaging Act of 1970 (PPPA) (15 U.S.C. 1471-1476), or the Flammable Fabrics Act (FFA) (15 U.S.C. 1191-1204) will be regulated under the Consumer Product Safety Act (CPSA) (15 U.S.C. 2051-2081). Section 30(d) of the CPSA, as amended, provides that a risk of injury which is associated with a consumer product and which could be eliminated or reduced to a sufficient extent by action under the FHSA, PPPA, or the FFA may be regulated under this act only if the Commission by rule finds it is in

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the public interest to regulate such risk of injury under this act.

[42 FR 44192, Sept. 1, 1977]

### **§ 1145.2 Paint (and other similar surface-coating materials) containing lead; toys, children's articles, and articles of furniture bearing such paint (or similar surface-coating materials); risk of lead poisoning.**

(a) The Commission finds that it is in the public interest to reduce the risk of lead poisoning to young children from the ingestion of paint and other similar surface-coating materials by action under the Consumer Product Safety Act rather than under the Federal Hazardous Substances Act because of the desirability of consolidating the public procedures related to such regulation with the proceeding to determine a safe level of lead under the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801—4846), as amended by the National Consumer Health Information and Health Promotion Act of 1976 (Pub. L. 94-317; 90 Stat. 705-706). Consolidation of these proceedings facilitates greater public participation and a more expeditious resolution of the issues.

(b) Paint and other similar surface-coating materials containing lead and toys, children's articles, and articles of furniture bearing such paint or other similar surface-coating materials that present a risk of lead poisoning to young children by ingestion shall therefore be regulated under the Consumer Product Safety Act. Such regulation shall include all directly related pending and future rulemaking, as well as all directly related pending and future action on petitions.

[42 FR 44192, Sept. 1, 1977]

### **§ 1145.3 Extremely flammable contact adhesives; risk of burns from explosive vapor ignition and flashback fire.**

(a) The Commission finds that it is in the public interest to regulate the risk of burns from explosive vapor ignition and flashback fire associated with certain extremely flammable contact adhesives under the Consumer Product Safety Act rather than under the Federal Hazardous Substances Act because of the desirability of avoiding possibly lengthy, resource consuming, and ineff-

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icient rulemaking proceedings under the Federal Hazardous Substances Act and because of the availability of civil penalties under the CPSA. The Commission also believes that the complexity and formality of the rulemaking proceedings under the FHSA, in contrast to rulemaking proceedings under the CPSA may make it difficult for interested persons to participate.

(b) Extremely flammable contact adhesives and other similar liquid or semi-liquid products in containers over one-half pint that present a risk of burns from explosive vapor ignition and flashback fire shall therefore be regulated under the Consumer Product Safety Act. Such regulation shall include all directly related pending and future rulemaking, as well as all directly related future action on petitions. However, such action shall not include labeling that may be required under the Federal Hazardous Substances Act to address flammability hazards associated with other adhesives not subject to the ban.

[42 FR 63731, Dec. 19, 1977]

### **§ 1145.4 Consumer patching compounds containing respirable free-form asbestos; risk of cancer associated with inhalation of asbestos fibers.**

(a) The Commission finds that it is in the public interest to regulate the risk of cancer associated with inhalation of asbestos fibers from consumer patching compounds containing respirable free-form asbestos under the Consumer Product Safety Act (CPSA) rather than under the Federal Hazardous Substances Act (FHSA) because of the desirability of avoiding possibly lengthy resource-consuming, inefficient rulemaking proceedings under the FHSA and because of the availability of civil penalties under the CPSA for knowing noncompliance.

(b) Therefore, consumer patching compounds containing respirable free-form asbestos are regulated under CPSA.

[42 FR 63354, Dec. 15, 1977]