

**§ 214.2 Special requirements for admission, extension, and maintenance of status.**

\* \* \* \* \*

(h) \* \* \*

(2) \* \* \*

(ii) *Multiple beneficiaries.* More than one beneficiary may be included in an H-2A, H-2B, or H-3 petition if the beneficiaries will be performing the same service, or receiving the same training, for the same period of time, and in the same location.

\* \* \* \* \*

(13) \* \* \*

(iv) *H-2B and H-3 limitation on admission.* An H-2B alien who has spent 3 years in the United States under section 101(a)(15)(H) and/or (L) of the Act; an H-3 alien participant in a special education program who has spent 18 months in the United States under section 101(a)(15)(H) and/or (L) of the Act; and an H-3 alien trainee who has spent 24 months in the United States under section 101(a)(15)(H) and/or (L) of the Act may not seek extension, change status, or be readmitted to the United States under section 101(a)(15)(H) and/or (L) of the Act unless the alien has resided and been physically present outside the United States for the immediate prior 6 months.

\* \* \* \* \*

Dated: November 1, 1995.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

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**CONSUMER PRODUCT SAFETY COMMISSION****16 CFR Part 1145****Regulation of Products Subject to Other Acts Under the Consumer Product Safety Act**

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule; revocation of rules.

**SUMMARY:** The Commission revokes seven rules transferring regulation of risks of injury from the Federal Hazardous Substances Act to the Consumer Product Safety Act. The Commission is revoking these rules because they are no longer needed.

**EFFECTIVE DATE:** December 4, 1995.**FOR FURTHER INFORMATION CONTACT:**

Allen F. Brauning, Attorney, Office of the General Counsel, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504-0980, extension 2216.

**SUPPLEMENTARY INFORMATION:** The Consumer Product Safety Act (CPSA) (15 U.S.C. 2051 *et seq.*) established the Consumer Product Safety Commission (the Commission) to protect the public from unreasonable risks of injury associated with consumer products. Section 3(a)(1) of the CPSA (15 U.S.C. 2052(a)(1)) defines the term "consumer product" to mean an article which is produced or distributed for sale to, or use by, consumers.

Section 30(a) of the CPSA (15 U.S.C. 2079(a)) transferred to the Commission the authority formerly exercised by the Secretary of Health, Education, and Welfare under the Federal Hazardous Substances Act (FHSA) (15 U.S.C. 1261 *et seq.*). Section 30(d) of the CPSA requires the Commission to regulate under the FHSA any risk of injury associated with a "consumer product" which can be eliminated or reduced to a sufficient extent by action under the FHSA, unless the Commission issues a rule to transfer regulation of that risk of injury to the CPSA.

**B. Regulation of Toys and Children's Articles**

Toys and other articles intended for use by children are "consumer products," as that term is defined by section 3(a)(1) of the CPSA, because they are articles which are produced for sale to consumers. Sections 2(f) and 3(e) of the FHSA (15 U.S.C. 1261(f), 1262(e)) authorize the Commission to issue rules to ban any "toy or other article intended for use by children" which presents a "mechanical hazard." The procedural steps required to issue a banning rule are set forth in sections 3(e) through (i) of the FHSA (15 U.S.C. 1262(e)-(i)).

**C. Corrective Action Under the FHSA**

Before 1984, the Commission's authority to order corrective action for toys and children's articles under section 15 of the FHSA (15 U.S.C. 1264) was limited to those items which violated an applicable banning rule.

Between 1981 and 1984, the Commission received reports of deaths and injuries associated with several types of toys and children's articles. These products included:

- Stuffed toys suspended from cords or strings which presented a risk of strangulation death or injury.
- Squeeze toys which presented a risk of suffocation death or injury.
- Mesh-sided playpens and mesh-sided portable cribs which presented a risk of asphyxia to children from airway blockage or chest compression.

- Expandable enclosures made from criss-crossed slats which presented a strangulation hazard to children.

- Baby cribs with hardware failures or omissions which presented risks of death or injury to children.

- Baby bassinets with legs that collapsed and presented risks of death or injury to infants.

All of these products were "toys or other articles intended for use by children" which presented a "mechanical hazard." However, none of these products was subject to a banning rule issued under provisions of the FHSA. The Commission estimated that issuance of a banning rule would take about two years for each product.

**D. Corrective Action Under the CPSA**

Then as now, provisions of section 15 of the CPSA (15 U.S.C. 2064) authorized the Commission to issue a corrective action order for any consumer product which contains a defect which creates a "substantial risk of injury to the public" whether or not the product is in violation of a consumer product safety rule or other regulation.

**E. Issuance of Transfer Rules**

After considering the risks of injury to children presented by the products described above and the provisions of the FHSA and the CPSA, the Commission decided to transfer regulation of those risks from the FHSA to the CPSA. Although the risks of injury might ultimately be eliminated or reduced to a sufficient extent by action under the FHSA, issuance of rules to ban the products under consideration would be required before the Commission could issue a corrective action under the FHSA. The Commission concluded that transfer of regulation of the risks of injury from the FHSA to the CPSA was necessary because corrective action, if appropriate, could be accomplished more efficiently and expeditiously under the CPSA than under the FHSA.

From 1982 through 1984, the Commission issued seven rules under provisions of section 30(d) of the CPSA to transfer regulation of risks of injury associated with toys and children's articles from the FHSA to the CPSA. Those rules are codified in title 16 of the Code of Federal Regulations as:

§ 1145.9 Certain stuffed toys; risk of strangulation injury (issued March 31, 1982, 47 FR 13516).

§ 1145.10 Certain squeeze toys; risk of strangulation injury and/or suffocation injury from lodging in the throat (issued March 15, 1984, 49 FR 9722).

§ 1145.11 Certain play yards (playpens) with mesh sides; risk of asphyxia from airway blockage or chest compression (issued July 27, 1983, 48 FR 34023).

§ 1145.12 Certain portable cribs with mesh sides; risk of asphyxia from airway blockage or chest compression (issued July 27, 1983, 48 FR 34023).

§ 1145.13 Certain expandable children's enclosures; risk of strangulation (issued March 5, 1984).

§ 1145.14 Baby cribs with certain hardware failures or omissions; risks of death or injury (issued April 10, 1984, 49 FR 14101).

§ 1145.15 Baby bassinets having legs that collapse; risks of death or injury (issued July 27, 1984, 49 FR 30171).

Thereafter, the Commission obtained voluntary corrective action plans from manufacturers of the products which were the subjects of the transfer rules.

#### F. Amendment of the FHSA

On October 17, 1984, the Toy Safety Act of 1984 (Pub. L. 98-491, 98 Stat. 2269) became law. This legislation is codified as section 15(c) of the FHSA (15 U.S.C. 1274(c)). It authorizes the Commission to order corrective action with regard to any toy or children's article which is not in violation of a banning rule but which nevertheless presents a "substantial risk of injury to children." With the addition of section 15(c) to the FHSA, the provisions of the FHSA and the CPSA authorizing the Commission to order corrective action are now substantially similar.

#### G. Revocation of Transfer Rules

Manufacturers of the products subject to the transfer rules described above have taken all actions required by the corrective action plans accepted by the Commission. If, in the future, the Commission learns of similar risks of injury presented by such toys and children's articles, section 15(c) of the FHSA authorizes the Commission to issue an order for corrective action without first issuing a banning rule. Consequently, the Commission is revoking the transfer regulations codified at 16 CFR 1145.9 through 1145.14 because they are no longer needed.

Generally, the Administrative Procedure Act (APA) (5 U.S.C. 553) requires agencies to publish a notice of proposed rulemaking before issuing or revoking a regulation. However, the APA provides at 5 U.S.C. 553(b)(A) that requirements for a notice of proposed rulemaking are not applicable to rules of agency procedure or practice. Because the rules being revoked are procedural

rules, notice of proposed rulemaking is not required.

The APA also requires at 5 U.S.C. 553(d) that a substantive rule must be published at least 30 days before its effective date. However, the rules being revoked are procedural rules which do not have any substantive effect. Because the rules at issue meet these criteria, this revocation shall become effective immediately.

#### H. Conclusion

Therefore, under the authority of section 553 of the Administrative Procedure Act and section 30(d) of the Consumer Product Safety Act, the Commission hereby amends title 16 of the Code of Federal Regulations, Chapter II, Subchapter B, Part 1145 to read as follows:

#### PART 1145—AMENDED

1. The authority for Part 1145 continues to read as follows:

Authority: Sec. 30(d), Pub. L. 92-573, 86 Stat. 1231 as amended 90 Stat. 510; 15 U.S.C. 2079(d).

#### §§ 1145.9 through 1145.15 [Removed and reserved]

2. Sections 1145.9, 1145.10, 1145.11, 1145.12, 1145.13, 1145.14, and 1145.15 are removed and reserved.

Dated: November 28, 1995.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[TD 8618]

RIN 1545-AM15

#### Definition of a Controlled Foreign Corporation, Foreign Base Company Income and Foreign Personal Holding Company Income of a Controlled Foreign Corporation; Correction

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Correction to final regulations.

**SUMMARY:** This document contains corrections to final regulations (TD 8618) which were published in the Federal Register, Thursday, September 7, 1995 (60 FR 46500), governing the definition of a controlled foreign corporation and the definitions of foreign base company income and

foreign personal holding company income of a controlled foreign corporation.

**EFFECTIVE DATE:** September 7, 1995.

**FOR FURTHER INFORMATION CONTACT:** Valerie Mark, (202) 622-3840 (not a toll-free call).

#### SUPPLEMENTARY INFORMATION:

##### Background

The final regulations that are the subject of these corrections amend the Income Tax Regulations (26 CFR Part 1) under sections 954(b), 954(c) and 957(a) of the Internal Revenue Code.

##### Need for Correction

As published, the final regulations (TD 8618) contain errors which may prove to be misleading and are in need of clarification.

##### Correction of Publication

Accordingly, the publication of the final regulations (TD 8618), which was the subject of FR Doc. 95-21838, is corrected as follows:

1. On page 46501, column 3, in the preamble under the paragraph heading "Section 1.954-1: Foreign Base Company Income", paragraph 1 in the column, the sixth line from the bottom of the paragraph, the language "904(f)(5). Commentators stated that" is corrected to read "904(f)(5). Commenters stated that".

2. On page 46503, column 2, in the preamble under the paragraph heading "Section 1.954-2: Foreign Personal Holding Company Income", the first full paragraph in the column, line 6, the language "transactions entered on or after March 7," is corrected to read "transactions entered into on or after March 7,".

3. On page 46505, column 2, in the preamble under the paragraph heading "Section 1.954-2: Foreign Personal Holding Company Income", the second full paragraph in the column, line 3, the language "1.952-2(e)(3)(iv) excludes from foreign" is corrected to read "1.954-2(e)(3)(iv) excludes from foreign".

#### § 1.954-0 [Corrected]

4. On page 46509, middle of column 1, § 1.954-0 (b), the entry for § 1.954-2(b)(3), "(3) Treatment of tax-exempt interest. [RESERVED.]" is corrected to read "(3) Treatment of tax-exempt interest. [RESERVED]".

#### § 1.954-1 [Corrected]

5. On page 46513, column 2, § 1.954-1(d)(7)(i), paragraph (ii) of Example 1, line 7, the language "subpart F under the rules of this paragraph" is corrected