

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71— DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9H, *Airspace Designations and Reporting Points*, dated September 1, 2000, and effective September 16, 2000, is to be amended as follows:

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Paragraph 6002 Class E airspace designated as surface areas.

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AAL AK E2 Bethel, AK [Revised]

Bethel Airport, AK
(Lat. 60°46'47" N., long. 161°50'17" W.)
Bethel VORTAC
(Lat. 60°47'05" N., long. 161°49'27" W.)

Within a 4.1-mile radius of the Bethel Airport, excluding that portion below 1,100 feet MSL between the 061° radial and the 081° radial from 2.9 miles northeast of the Bethel VORTAC. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

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Paragraph 6004 Class E airspace designated as an Extension to a Class D or Class E surface area.

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AAL AK E4 Bethel, AK [Revised]

Bethel Airport, AK
(Lat. 60°46'47" N., long. 161°50'17" W.)
Bethel VORTAC
(Lat. 60°47'05" N., long. 161°49'27" W.)

That airspace extending upward from the surface within 3 miles each side of the 022° radial from the Bethel VORTAC, extending from the 4.1-mile radius of the Bethel Airport to 8.2 miles northeast of the airport, excluding that portion below 1,100 feet MSL between the 061° radial and the 081° radial from 2.9 miles northeast of the Bethel VORTAC, within 3.4 miles each side of the Bethel VORTAC 006° radial, extending from the 4.1-mile radius of the Bethel Airport to 11 miles north of the Bethel VORTAC and within 3.5 miles each side of the Bethel VORTAC 213° radial extending from the 4.1-

mile radius of the Bethel Airport to 5 miles southwest of the airport.

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Issued in Anchorage, AK, on February 12, 2001.

Stephen P. Creamer,

*Assistant Manager, Air Traffic Division,
Alaskan Region.*

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CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1500

Candle Wicks Containing Lead and Candles with Such Wicks; Advance Notice of Proposed Rulemaking; Request for Comments and Information

AGENCY: Consumer Product Safety Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: In March of 2000, the Consumer Product Safety Commission (CPSC) collectively docketed under Petition No. HP 00–3 petitions submitted by several petitioners requesting that the Commission ban candle wicks containing lead and candles with such wicks. A candle wick containing lead is one with a metallic core that contains lead. Based on information in those petitions and subsequent investigations by CPSC staff, the Commission has reason to believe that certain candles with wicks containing lead may emit toxic levels of lead as a result of normal use, and thus may contribute to substantial illness.

This advance notice of proposed rulemaking (ANPR) initiates a rulemaking proceeding that could result in a rule banning certain candle wicks containing lead and candles with such wicks.¹ This proceeding is commenced under the Federal Hazardous Substances Act.

The Commission solicits written comments concerning the risks of illness associated with burning candles with wicks containing lead, the regulatory alternatives discussed in this notice, other possible ways to address

¹ Chairman Brown and Commissioner Moore voted to grant the petition and send the ANPR directly to the Office of the Federal Register for publication. Commissioner Gall voted to grant the petition and to submit the ANPR to the Office of Management and Budget prior to sending it to the Office of the Federal Register for publication. Separate statements of Chairman Brown, Commissioner Moore and Commissioner Gall concerning their votes are available from the CPSC Office of the Secretary.

these risks, and the economic impacts of the various regulatory alternatives. The Commission also invites interested persons to submit an existing standard, or a statement of intent to modify or develop a voluntary standard, to address the risk of illness described in this notice.

DATE: Written comments and submissions in response to this notice must be received by April 23, 2001.

ADDRESSES: Comments should be mailed, preferably in five copies, to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207–0001, or delivered to the Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East-West Highway, Bethesda, Maryland 20814; telephone (301) 504–0800. Comments also may be filed by telefacsimile to (301) 504–0127 or by e-mail to cpsc-os@cpsc.gov. Comments should be captioned “ANPR for Candle Wicks Containing Lead.”

FOR FURTHER INFORMATION CONTACT: Ms. Kristina Hatlelid, Ph.D., M.P.H., Directorate for Health Sciences, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0494, ext. 1389.

SUPPLEMENTARY INFORMATION:

A. Background/Product

On March 17, 2000, the CPSC collectively docketed as a petition under the Federal Hazardous Substances Act (FHSA) petitions received from Public Citizen and jointly from the National Apartment Association and the National Multi Housing Council, all of which requested that the Commission ban lead-containing candles and wicks sold for candle-making that contain lead (Petition No. HP 00–3). 65 FR 19742 (April 12, 2000).

A candlewick containing lead is a wick with a metallic core that contains lead. The metallic core may be primarily lead or may be primarily zinc or tin with a lesser lead content. Such metallic cores are used to provide structural rigidity to the wick to keep it straight during candle production and to provide an upright wick during burning.

Information obtained from the petitions and subsequent Commission staff investigations indicates that burning candles containing metallic-cored wicks with a lead content exceeding 0.06% by weight may result in potentially toxic levels of air emissions of lead.

B. The Risk of Illness

The scientific community recognizes a level of 10 micrograms of lead per deciliter of blood (10 µg/dL) as a

threshold level of concern with respect to lead poisoning in children. The most current national survey shows that nearly 1 million children have elevated blood lead levels (greater than 10 µg/dL). This figure represents approximately 4.4% of children under 6 years of age.

The adverse health effects of lead poisoning in children are well-documented and may have long-lasting or permanent consequences. These effects include neurological damage, delayed mental and physical development, attention and learning deficiencies, and hearing problems. Because lead accumulates in the body, even exposure to small amounts can contribute to the subsequent risk of adverse health effects.

Investigations by the CPSC laboratory staff and other laboratories indicate that lead-cored candles can emit up to 2,200 µg of lead per hour during candle burning. These investigations also indicate that the rate at which lead might be emitted from burning a particular candle cannot reliably be predicted based on the lead content of the wick in question. CPSC staff believes that, under some use conditions, these lead emissions present a risk to consumers through inhalation of airborne lead and through contact with lead deposited onto surfaces in the room.

C. Relevant Statutory Provisions

This proceeding is conducted pursuant to the Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1261 *et seq.* Section 2(f)(1)(A) of the FHSA defines "hazardous substance" to include any substance or mixture of substances which is toxic and may cause substantial illness as a proximate result of any customary or reasonably foreseeable handling or use. 15 U.S.C. 1261(f)(1)(A).

Under section 2(q)(1)(B) of the FHSA, if the Commission determines that, "notwithstanding such cautionary labeling as is or may be required under this Act for that substance, the degree or nature of the hazard involved in the presence or use of such [hazardous] substance in households is such that the objective of the protection of the public health and safety can be adequately served only by keeping such substance, when so intended or packaged, out of the channels of interstate commerce," then such substance is a "banned hazardous substance." 15 U.S.C. 1261(q)(1)(B).

Section 3(b) of the FHSA provides authority for the Commission to establish additional labeling requirements for hazardous substances

beyond those prescribed by section 2(p)(1) of the Act if necessary for protection of the public health and safety. 15 U.S.C. 1262(b). Once such additional requirements are established by regulation, a product intended, or packaged in a form suitable, for use in the household or by children that is not so labeled is a "misbranded" hazardous substance. *Id.*

Section 3(a) of the FHSA governs a Commission proceeding to declare a substance a "hazardous substance." 15 U.S.C. 1262(a). Sections 3(f) through 3(i), 15 U.S.C. 1262(f)–(i), govern a proceeding to promulgate a regulation declaring a hazardous substance to be a banned hazardous substance.

As provided in sections 3(a)(2) and 3(f), this proceeding is commenced by issuance of this ANPR. After considering any comments submitted in response to this ANPR, the Commission will decide whether to issue a proposed rule and a preliminary regulatory analysis in accordance with section 3(h) of the FHSA. If a proposed rule is issued, the Commission would then consider the comments received in response to the proposed rule in deciding whether to issue a final rule and a final regulatory analysis. 15 U.S.C. 1262(i).

D. Regulatory Alternatives

One or more of the following alternatives could be used to reduce the identified risks associated with candle wicks containing lead and candles with such wicks.

1. *Mandatory rule.* The Commission could issue a rule declaring certain candle wicks containing lead and candles with such wicks to be banned hazardous substances. This rule could define the banned products in terms of physical or performance characteristics, or both.

2. *Labeling rule.* The Commission could issue a special labeling rule for candle wicks containing lead and candles with such wicks requiring that they contain specified warnings and instructions.

3. *Voluntary standard.* If the industry developed, adopted, and substantially conformed to an adequate voluntary standard, the Commission could defer to the voluntary standard in lieu of issuing a mandatory rule.

E. Existing Standards

In 1974, the Candle Manufacturers Association trade group made a voluntary commitment to eliminate lead from candle wicks. However, analyses by CPSC and by Public Citizen of the lead content of recently-purchased metallic wick candles show that wicks

in some candles currently on the market continue to contain substantial amounts of lead.

In September 1999 the Australian Minister for Financial Services and Regulation banned the sale of candles with lead wicks in that country. In June 2000 the New Zealand Minister of Consumer Affairs banned the importation or sale of lead wick candles in that country. According to Commission staff, neither of these bans are based on a standard for maximum allowable lead level. The Commission is not aware of any other promulgated state, voluntary, foreign, international, or other standard dealing with the described risk of illness.

F. Economic Considerations

1. Candle sales

Retail sales of candles in the U.S. for 1999 are estimated to be \$2.3 billion, and are expected to rise to \$3.2 billion in 2001. U.S. imports of candles in 1999 amounted to about \$484 million, about half from the Far East, about one third from the Americas (mostly Canada and Mexico), and less than 10 percent from Europe and Great Britain.

2. Suppliers

Based on information gathered by CPSC staff, there are at least 200 and possibly over 350 commercial, institutional, and religious manufacturers of candles in the U.S. Most of these manufacturers are apparently small businesses.

There are only a few manufacturers of candle wicks in the U.S. The leading domestic firm indicates to CPSC staff that it supplies the majority of candle wicks to the U.S. candle industry.

3. Substitutes

CPSC staff believes that substitutes for lead wicks are readily available. Staff also believes that substituting non-lead materials for lead in wicks will not increase costs to candle manufacturers or consumers. Comments on both of these issues are specifically solicited.

G. Solicitation of Information and Comments

This ANPR is an initial step in a proceeding that could result in a mandatory rule for candle wicks containing lead and candles with such wicks to address the described risk of illness. All interested persons are invited to submit to the Commission their comments on any aspect of the alternatives discussed above. In particular, CPSC solicits the following additional information:

1. The types and numbers of candle wicks containing lead and candles with

such wicks produced for sale in the U.S. each year from 1990 to the present;

2. The names and addresses of manufacturers and distributors of candle wicks containing lead and candles with such wicks;

3. Comparisons of the utility obtained from candle wicks containing lead and candles with such wicks versus any available substitute products;

4. An explanation of substitutes for candle wicks containing lead and candles with such wicks that could reduce the described risk of illness;

5. Physical or performance characteristics of the wick and candle products that could or should not be used to define which products might be subject to a rule;

6. The costs to wick and candle manufacturers involved in either substituting materials for lead in metallic-cored wicks to remove the risk or removing candles with such wicks from the market;

7. The costs to wick manufacturers/importers/distributors of testing or other efforts to ensure that wicks are in compliance.

8. Other information on the potential costs and benefits of potential rules;

9. Information on any potentially significant environmental impacts of any of the regulatory alternatives identified in this ANPR, including a ban on candles and candle wicks containing more than 0.06% lead by weight;

10. Steps that have been taken by industry or others to reduce the risk of illness from the products;

11. The likelihood and nature of any significant economic impact of a rule on small entities;

12. The costs and benefits of mandating a banning, labeling, or instructions requirement.

Also, in accordance with section 3(f) of the FHSA, the Commission solicits:

1. Written comments with respect to the risk of illness identified by the Commission, the regulatory alternatives being considered, and other possible alternatives for addressing the risk.

2. Any existing standard or portion of a standard which could be issued as a proposed regulation.

3. A statement of intention to modify or develop a voluntary standard to address the risk of illness discussed in this notice, along with a description of a plan (including a schedule) to do so.

Comments should be mailed, preferably in five copies, to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207-0001, or delivered to the Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East-West Highway, Bethesda, Maryland 20814;

telephone (301) 504-0800. Comments also may be filed by telefacsimile to (301) 504-0127 or by e-mail to *cpssc-os@cpssc.gov*. Comments should be captioned "ANPR for Candle Wicks Containing Lead." All comments and submissions should be received no later than April 23, 2001.

Dated: February 13, 2001.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

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DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Parts 655 and 656

RIN 1215-AB09

Labor Condition Applications and Requirements for Employers Using Nonimmigrants on H-1B Visas in Specialty Occupations and as Fashion Models; Labor Certification Process for Permanent Employment of Aliens in the United States

AGENCY: Employment and Training Administration, Labor, in concurrence with the Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Extension of comment period.

SUMMARY: This document extends the period for filing comments regarding the Interim Final Rule ("IFR") published on December 20, 2000 (65 FR 80110), which implemented the American Competitiveness and Workforce Improvement Act of 1998 ("ACWIA") and clarified existing Departmental rules relating to the temporary employment in the United States of nonimmigrants under H-1B visas.

DATES: Comments must be received on or before April 23, 2001.

ADDRESSES: Submit written comments concerning Part 655 to Deputy Administrator, Wage and Hour Division, ATTN: Immigration Team, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, NW., Washington, DC 20210. Commenters who wish to receive notification of receipt of comments are requested to include a self-addressed, stamped post card. Comments may also be transmitted by facsimile ("FAX") machine to (202) 693-1432. This is not a toll-free number.

Submit written comments concerning Part 656 to the Assistant Secretary for Employment and Training, ATTN:

Division of Foreign Labor Certifications, U.S. Employment Service, Employment and Training Administration, Department of Labor, Room C-4318, 200 Constitution Avenue, NW., Washington, DC 20210. Commenters who wish to receive notification of receipt of comments are requested to include a self-addressed, stamped post card. Comments may also be transmitted by facsimile ("FAX") machine to (202) 693-2769. This is not a toll-free number.

FOR FURTHER INFORMATION CONTACT:

Michael Ginley, Director, Office of Enforcement Policy, Wage and Hour Division, Employment Standards Administration, Department of Labor, Room S-3510, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: (202) 693-0745 (this is not a toll-free number).

Dale M. Ziegler, Chief, Division of Foreign Labor Certifications, U.S. Employment Service, Employment and Training Administration, Department of Labor, Room C-4318, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: (202) 693-2942 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

On December 20, 2000, the Department published an Interim Final Rule (65 FR 80110) ("IFR"), following a Notice of Proposed Rulemaking which was published on January 5, 1999 (64 FR 628) ("NPRM"). The IFR revised the Department's regulations relating to the employment of H-1B nonimmigrants as necessitated by the enactment of the American Competitiveness and Workforce Improvement Act of 1998 ("ACWIA"). The IFR also revised certain provisions of the regulations which had been published for comment as a Proposed Rule on October 31, 1995 as well as in the NPRM of January 5, 1999. The IFR sought comments on all provisions of the regulatory revisions, as well as on other matters which were proposed for the first time in the IFR. Interested parties were requested to submit written comments on or before February 20, 2001.

Because of the continuing interest in the revisions and new proposals made in the IFR, the Department believes that it is desirable to extend the comment period for all interested parties. Therefore, the comment period for the IFR is extended through April 23, 2001.