

Billing Code 6355-01-P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1119

Civil Penalty Factors; Withdrawal of Proposed Rule

AGENCY: Consumer Product Safety Commission.

ACTION: Withdrawal of proposed rule.

SUMMARY: In the FEDERAL REGISTER of July 12, 2006, the Consumer Product Safety Commission ("CPSC" or "Commission") issued a proposed rule that would identify and explain related factors, other than those specified by statute, which the Commission may consider in evaluating the appropriateness and amount of a civil penalty under the Consumer Product Safety Act ("CPSA"). The Consumer Product Safety Improvement Act of 2008 ("CPSIA"), Public Law 110-314, 122 Stat. 3016, supersedes the proposed rule by amending the CPSA, the Federal Hazardous Substances Act ("FHSA"), and the Flammable Fabrics Act ("FFA") to require the Commission to consider additional factors and to issue a rule providing its interpretation of all statutory factors pertaining to civil penalties. Consequently, the Commission is withdrawing the July 12, 2006 proposed rule.

DATES: The proposed rule is withdrawn as of [insert date of publication in the FEDERAL REGISTER].

/

FOR FURTHER INFORMATION CONTACT: Melissa V. Hampshire,
Office of the General Counsel, Consumer Product Safety
Commission, 4330 East West Highway, Bethesda, Maryland
20814; telephone (301) 504-7631, e-mail
mhampshire@cpsc.gov.

SUPPLEMENTARY INFORMATION:

In the FEDERAL REGISTER of July 12, 2006 (71 FR 39248), the CPSC proposed to amend its regulations to add a new part, 16 CFR 1119, titled "Civil Penalty Factors." The proposed rule would describe the factors the Commission may consider in determining the appropriateness and amount of a civil penalty for violations of section 19(a) of the CPSA, which includes the failure to furnish information required by section 15(b) of the CPSA.

The proposal was intended to provide further clarity and transparency in how the CPSC determines civil penalty amounts. The Commission believed that the proposed rule would result in a better understanding by the public of the Commission's approach to determining the appropriateness and amount of a civil penalty.

The Commission received four comments in response to the proposed rule. The CPSIA was subsequently enacted, and section 217 of the CPSIA revised certain sections of the CPSA, the FHSA, and the Flammable Fabrics Act. In general,

section 217 of the CPSIA increased the maximum civil penalty amounts, described new factors for the CPSC to consider when determining civil penalty amounts, and instructed the CPSC to issue a final rule to interpret the "penalty factors described in section 20(b) of the [CPSA] section 5(c)(3) of the [FHSA] and section 5(e)(2) of the [FFA] as amended by subsection(a) [of the CPSIA]."

Section 217 of the CPSIA, therefore, effectively superseded the July 12, 2006 proposed rule by adding new factors for consideration and directing the Commission to issue a final rule providing its interpretation all the factors in section 20(b) of CPSA, section 5(c)(3) of the FHSA, and section 5(e)(2) of the FFA. Consequently, the Commission, through this notice, is withdrawing the July 12, 2006 proposal.

Elsewhere in this issue of the FEDERAL REGISTER, the Commission is issuing a new interim final rule to interpret the penalty factors pursuant to section 217 of the CPSIA.

Dated: _____

August 19, 2009



Alberta E. Mills
Acting Secretary, Consumer
Product Safety Commission.