



UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION
4330 EAST WEST HIGHWAY
BETHESDA, MD 20814

This document has been electronically
approved and signed.

DATE: August 5, 2015

BALLOT VOTE SHEET

TO: The Commission
Todd A. Stevenson, Secretary

THROUGH: Stephanie Tsacoumis, General Counsel
Patricia H. Adkins, Executive Director

FROM: Patricia M. Pollitzer, Assistant General Counsel
Matthew T. Mercier, Attorney, OGC

SUBJECT: Petition Requesting Rulemaking on Products Containing Organohalogen Flame Retardants

BALLOT VOTE DUE August 11, 2015

Earthjustice and the Consumer Federation of America (“petitioners”) submitted a request that the U.S. Consumer Product Safety Commission (“Commission” or “CPSC”) initiate a rulemaking to declare several categories of products containing additive organohalogen flame retardants to be “banned hazardous substances” under the Federal Hazardous Substances Act (“FHSA”). Petitioners assert that all additive organohalogen flame retardants will migrate out of the specified products and persist in the indoor environment, leading to human exposure and adverse health impacts.

In accordance with the Commission’s Directive on Operational Procedures for Petitions (Directive No. 0605.0, April 26, 1993), the Office of the General Counsel has drafted a notice for publication in the *Federal Register*, inviting comments on the petition for a period of 60 days should the Commission, in its discretion, pursuant to Directive No. 0605.0, decide to request comment on the petition. The draft notice is attached.

Please indicate your vote on the following options:

I. Approve publication of the attached document, as drafted, in the *Federal Register*.

(Signature)

(Date)

II. Approve publication of the attached document in the *Federal Register*, with changes.
(Please specify.)

(Signature)

(Date)

III. Do not approve publication of the attached document in the *Federal Register*.

(Signature)

(Date)

IV. Take other action. (Please specify.)

(Signature)

(Date)

Attachment: Draft *Federal Register* Notice regarding Petition Requesting Rulemaking on Products Containing Organohalogen Flame Retardants.

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Billing Code 6355-01-P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC-2015-XXXX]

Petition Requesting Rulemaking on Products Containing Organohalogen Flame Retardants

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: The United States Consumer Product Safety Commission (“CPSC” or “Commission”) received a petition requesting that the Commission initiate rulemaking under the Federal Hazardous Substances Act (“FHSA”) to declare several categories of products containing additive organohalogen flame retardants to be “banned hazardous substances.” The Commission invites written comments concerning the petition.

DATES: The Office of the Secretary must receive comments on the petition by [insert date 60 days after publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by Docket No. CPSC-2015-XXXX, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: <http://www.regulations.gov>. Follow the instructions for submitting comments. The Commission does not accept comments submitted by electronic mail (e-mail), except through www.regulations.gov. The Commission encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Written Submissions: Submit written submissions by mail/hand delivery/courier to: Office of the Secretary, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504-7923.

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Instructions: All submissions received must include the agency name and docket number for this proposed rulemaking. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to: <http://www.regulations.gov>. Do not submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If furnished at all, such information should be submitted in writing.

Docket: For access to the docket to read background documents or comments received, go to: <http://www.regulations.gov>, and insert the docket number, CPSC-2015-XXXX, into the “Search” box, and follow the prompts. A copy of the petition is available at <http://www.regulations.gov> under Docket No. CPSC-2015-XXXX, Supporting and Related Materials.

FOR FURTHER INFORMATION CONTACT: Todd Stevenson, Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504-6833.

SUPPLEMENTARY INFORMATION: The Commission received a petition requesting that the Commission initiate rulemaking under the FHSA to declare several categories of products containing additive organohalogen flame retardants to be “banned hazardous substances.” Specifically, the request asks the Commission to declare that:

- any durable infant or toddler product, children’s toy, child care article, or other children’s product (other than children’s car seats) that contains additive organohalogen flame retardants, is a “banned hazardous substance”;

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- any article of upholstered furniture sold for use in residences and containing additive organohalogen flame retardants is a “hazardous substance” and a “banned hazardous substance”;
- any mattress or mattress pad with additive organohalogen flame retardants is a “hazardous substance” and a “banned hazardous substance”; and
- any electronic device with additive organohalogen flame retardants in its plastic casing is a “hazardous substance” and a “banned hazardous substance.”

The petition was filed by Earthjustice and the Consumer Federation of America, which are joined by American Academy of Pediatrics, American Medical Women’s Association, Consumers Union, Green Science Policy Institute, International Association of Fire Fighters, Kids in Danger, Philip Landrigan, M.D., M.P.H., League of United Latin American Citizens, Learning Disabilities Association of America, and Worksafe.

Petitioners assert that additive organohalogen flame retardants are used extensively in the consumer products categories that would be covered by their rulemaking request. Petitioners further assert that, based on the physico-chemical properties of additive organohalogen flame retardants, all such chemicals in this class will migrate out of consumer products and persist in the indoor environment. According to petitioners, because organohalogen flame retardants are, as a class, foreign to the human body and inherently toxic due to their physical, chemical, and biological properties, human exposure to these chemicals will result in adverse human health impacts. Finally, petitioners provide data and information regarding adverse human health impacts, which include reproductive impairment, neurological impacts, endocrine disruption and interference with thyroid hormone action, genotoxicity, cancer, and immune disorders.

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Petitioners assert that declaring the specified categories of products containing additive organohalogen flame retardants to be “banned hazardous substances” is necessary to adequately protect public health and safety. More specifically, petitioners assert that action short of a ban under the FHSA would not adequately protect the public health and safety because warning labeling cannot adequately prevent or control exposure to flame retardants that migrate from products into homes. Furthermore, petitioners argue that the ban must apply to the entire class of additive organohalogen flame retardants because banning only individual chemicals within that class would allow other inherently toxic chemicals within that class to be used.

By this notice, the Commission seeks comments concerning this petition. Interested parties may obtain a copy of the petition by writing or calling the Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504-7923. A copy of the petition is also available for viewing under “Supporting and Related Materials” in www.regulations.gov under this docket number, Docket No. CPSC-2015-XXXX.

Dated: _____

Todd A. Stevenson, Secretary
U.S. Consumer Product Safety Commission