

wicks could be separated and tracked. While not providing alternative estimates of costs, the commenters indicated that the staff may have underestimated the costs of the labeling and record-keeping requirements.

*Response:* On the basis of comments received and the CPSC staff's further analysis of the complex manufacturing processes described by the commenters and the limited benefits expected, the final rule issued today does not require record-keeping and tracking.

*Comment:* One commenter, a U.S. wick manufacturer, suggested that tracking could be done in ways other than labeling shipping cartons with a lot number or other identifier. For example, if the wicks in specific lots, made with specific lots of metal-core material (e.g., zinc wire), could be visually distinguished from each other, manufacturers could track candlewick lots without changing current manufacturing processes. One way to distinguish wick lots would be to incorporate unique colors and patterns into the wick braid. Thus, inspecting the wicks in candles from a specified manufacturer would provide visual information about the wick lot. Multiple wick lots could be used at the same time in candle production, and multiple wick lots could end up in the same shipping carton, without losing the ability to obtain records for specific candles or track specific lots of metal-cored wicks. However, additional information provided by this commenter indicated that the use of color-coded tracer threads in the candlewick could result in increased costs associated with testing the performance of the new candlewicks before they could be used in candle production.

*Response:* The final rule issued today does not require the record-keeping and tracking proposed in the NPR.

### 3. Effective Date

*Comment:* One commenter stated that non-complying products should not benefit from an extended sell-through period.

*Response:* The Commission has no reason to believe that manufacturers, importers, or retailers have, or will, warehouse or stockpile candles made prior to the effective date that would not conform to the rule. Similarly, the Commission has no information that suggests that manufacturers, importers, or retailers will stockpile non-complying candlewicks for the purposes of producing candles between issuance of the final rule and the effective date. Moreover, non-complying candlewick inventory would not be usable after the effective date. The 180-day effective

date provides time for manufacturers, distributors, and importers to make any necessary changes to bring their products and shipping containers into compliance with the regulation.

### 4. Lead-Cored Candlewicks Are Superior for Some Uses

*Comment:* A commenter stated that candles with lead-cored wicks performed better than candles with other kinds of wicks in a specific application (camping lanterns), and suggested that an exemption be made to allow specific uses of lead-cored candlewicks in candles.

*Response:* Additional information provided by this commenter indicates that the candles in question do not actually contain lead-cored wicks.

### 5. All Metals Should Be Banned for Use in Candlewicks

*Comment:* One commenter, representing an information and advocacy group in Australia, suggested that all metal-cored wicks should be banned for use in candles to avoid any confusion about whether the metal contains unacceptable levels of lead.

*Response:* As discussed in the CPSC staff briefing memoranda, laboratory test data show that burning candles with metal-cored wicks with lead concentrations of 0.06 percent or less by weight does not result in detectable emissions of lead into the air. Therefore, there is no basis for declaring all metal-cored candlewicks and candles with such wicks to be hazardous substances.

## H. Alternatives to the Ban

### 1. No Action

If the Commission took no action, lead-cored candlewicks could continue to be sold in the U.S. In the mid-1970's the domestic candle industry stopped using lead in wicks, but lead-cored wicks reappeared on the domestic market some time thereafter. While the domestic industry states that it has now voluntarily eliminated lead in wicks, imports may continue to be a source of lead in the absence of a mandatory standard. Under a no action scenario, CPSC enforcement staff would be limited to taking action against lead-containing wicks under the FHSA on a case-by-case basis.

### 2. Voluntary Standards

In 1974, the Candle Manufacturers Association industry group submitted a statement informing the Commission of an agreement among candle manufacturers to convert to substitutes for lead-cored wicks in candles by the end of the third quarter 1974. They also agreed not to import candles with lead-

cored wicks. Further, the major domestic wick manufacturer at that time agreed to discontinue the production of lead-cored wicks.

Despite this agreement, some wick manufacturers resumed producing lead-cored wicks and some candle manufacturers resumed producing and importing candles with lead-cored wicks after 1974.

In May 2000, a task group for candlewicks was formed under the ASTM F15.45 Candle Products Subcommittee to develop a consensus standard to address the lead content of candlewicks. The task group stopped their standards development process in February 2001 in favor of supporting the CPSC mandatory rulemaking process.

During the public comment period on the ANPR, Voices of Safety International (VOSI) proffered a voluntary standard for lead in candlewicks. CPSC technical staff reviewed the standard and noted a number of difficulties. Although the standard stated that a maximum of 0.01 percent lead is required to protect consumer health, no technical or health basis for this level was provided. The CPSC staff maintains that the limit of 0.06 percent lead by weight in the metal is appropriate and supported by the laboratory analyses performed by CPSC staff and others.

The CPSC staff further states that the analytical methodology in the submitted standard is not capable of reliably determining either the presence or concentration of lead in metal-cored candlewicks. The CPSC staff concludes that the tensile strength of a metal alloy would not definitively identify zinc cored wicks with less than the maximum allowable lead content in the metal, but could falsely detect alloys not containing lead, causing them to fail the test and be needlessly prohibited from wick use. The staff states that the metal's lead content, not its physical attributes, is the important characteristic in protecting consumers' health.

The VOSI standard specifies different standards for domestic and imported products. A discriminatory approach to imports with no basis in fact would in all likelihood be a violation of the North American Free Trade Agreement (NAFTA), if not other U.S. treaty obligations.

The Commission believes that membership in standards organizations, such as ASTM, serves, in part, to transmit applicable standards to member firms. VOSI offered no information that its members include candle or wick manufacturers. Nor has it provided any evidence that there would be substantial compliance with the voluntary standard.