

containers for metal-cored candlewicks and candles with such wicks that they produce or import. For this reason, the proposed rule contained "collection of information requirements," and would have been subject to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501–3520.

As noted above in section G., Response to Comments, the Commission has elected to delete these recordkeeping requirements from the final rule issued today. Accordingly, the rule as finalized is not subject to the PRA.

#### K. Regulatory Flexibility Act Certification

When an agency issues a final rule such as the ban on lead-cored candlewicks and candles with such wicks, the Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 601 *et seq.*, generally requires the agency to prepare a final regulatory flexibility analysis describing the impact of the rule on small businesses and other small entities. Section 605 of the RFA provides that an agency is not required to prepare a regulatory flexibility analysis if the head of an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The Commission's Directorate for Economic Analysis prepared a preliminary assessment of the impact of a rule to declare that metal-cored wicks containing more than 0.06 percent lead by weight in the metal and candles with such wicks are hazardous substances and to ban such wicks and candles. A copy of the preliminary analysis is available for inspection in the docket for this rulemaking. That assessment reported that the costs to consumers and candlewick and candle manufacturers were likely to be small.

After analyzing the comments received in response to the NPR, the CPSC staff has concluded that the incremental cost of the rules issued today is likely to be small. Accordingly, it is unlikely that the rules will have a substantial effect on a significant number of small businesses.

Based on the foregoing assessment, the Commission certifies that the rules issued today to declare that metal-cored wicks containing more than 0.06 percent lead by weight in the metal and candles with such wicks are hazardous substances and to ban such wicks and candles will not have a significant adverse impact on a substantial number of small businesses or other small entities.

#### L. Environmental Considerations

Pursuant to the National Environmental Policy Act, and in accordance with Council on Environmental Quality regulations and CPSC procedures for environmental review, the Commission has assessed the possible environmental effects associated with the hazardous substance declaration and ban for metal-cored candlewicks containing more than 0.06 percent lead by weight of the metal and candles with such wicks.

The Commission's regulations at 16 CFR 1021.5(c)(1) state that rules or safety standards to provide design or performance requirements for products normally have little or no potential for affecting the human environment. Assessment of the impact of the rules issued today indicates that they will have no significant effects on the environment. Thus, the Commission concludes that no environmental assessment or environmental impact statement is required in this proceeding.

#### M. Effective Date

The rule issued today provides an effective date 180 days after publication in the **Federal Register**. The time before that date may be used for depletion of any existing stocks of candlewick material and candles subject to the ban. The ban then applies to any metal-cored candlewick containing more than 0.06 percent lead by weight in the metal, and any candle with such a wick, that is manufactured or imported on or after that date.

#### N. Executive Order 12988

As provided for in Executive Order 12988 (February 5, 1996), the CPSC states the preemptive effect of these regulations as follows.

The FHSA provides that, generally, if the Commission issues a banning rule under section 2(q) of the FHSA to protect against a risk of illness or injury associated with a hazardous substance, "no State or political subdivision of a State may establish or continue in effect a requirement applicable to such substance and designed to protect against the same risk of illness or injury unless such requirement is identical to the requirement established under such regulations." 15 U.S.C. 1261n(b)(1)(B). Upon application to the Commission, a State or local standard (1) provides a higher degree of protection from the risk of injury or illness than the FHSA standard and (2) does not unduly burden interstate commerce. In addition, the Federal government, or a State or local

government, may establish and continue in effect a non-identical requirement that provides a higher degree of protection than the FHSA requirement for the hazardous substance for the Federal, State or local government's own use. 15 U.S.C. 1261n(b)(2).

Thus, with the exceptions noted above, the rule banning metal-cored candlewicks containing more than 0.06 percent lead by weight of the metal and candles with such wicks preempts non-identical state or local requirements applicable to such wicks and candles designed to protect against the same risk of injury.

#### O. Conclusion

For the reasons stated in this preamble, the Commission finds that metal-cored candlewicks containing more than 0.06 percent lead by weight in the metal and candles with such wicks are hazardous substances, that cautionary labeling required by the FHSA is not adequate for such wicks and candles, and that, due to the degree and nature of the hazard presented by these items, in order to protect the public health and safety it is necessary to keep them out of commerce.

#### List of Subjects in 16 CFR Part 1500

Consumer protection, Hazardous materials, Hazardous substances, Imports, Infants and children, Labeling, Law enforcement, Reporting and recordkeeping.

■ For the reasons stated in the preamble, the Commission amends title 16 of the Code of Federal Regulation to read as follows:

#### PART 1500—HAZARDOUS SUBSTANCES AND ARTICLES; ADMINISTRATION AND ENFORCEMENT REGULATIONS

■ 1. The authority for part 1500 continues to read as follows:

Authority: 15 U.S.C. 1261–1278.

■ 2. In § 1500.12, add a new paragraph (a)(2) to read as follows:

**§ 1500.12 Products declared to be hazardous substances under section 3(a) of the act.**

(a) \* \* \*

(2) Metal-cored candlewicks that have a lead content of more than 0.06 percent of the total weight of the metal core, and candles made with such wicks.

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■ 3. In § 1500.17, add new paragraphs (a)(13) and (b) to read as follows:

**§ 1500.17 Banned hazardous substances.**

(a) \* \* \*