

## B. The Administrative Procedure Act (APA)

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) authorizes an agency to dispense with certain notice procedures for a rule when it finds "good cause" to do so. 5 U.S.C. 553(b)(3)(B). Specifically, under section 553(b)(3)(B), the requirement for notice and an opportunity to comment does not apply when the agency, for good cause, finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." This amendment corrects obvious typographical errors in the current versions of § 1512.18(o)(2)(iv) and does not change the criteria set forth therein. Accordingly, the Commission hereby finds that notice of, and public comment on, this technical correction are unnecessary.

Section 553(d)(3) of the APA authorizes an agency, "for good cause found and published with the rule," to dispense with the otherwise applicable requirement that a rule be published in the **Federal Register** at least 30 days before its effective date. The Commission hereby finds that a 30 day delay in the effective date is unnecessary because this technical amendment merely corrects obvious typographical errors in the current version of § 1512.18(o)(2)(iv).

## C. Other Rulemaking Requirements

Because this technical correction is being issued as a final rule not subject to notice and comment, it is not subject to the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*

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. Because this amendment is a technical correction that makes no change to the substantive requirements of the portion of the regulations being amended, the Commission concludes that no environmental assessment or environmental impact statement is required.

As provided for in Executive Order 12988 (February 5, 1996), the CPSC states the preemptive effect of this technical correction amendment 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 may be excepted from this preemptive effect if the 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, this technical correction amendment preempts non-identical state or local requirements designed to protect against the same risk of injury.

■ For the reasons stated in the preamble, the Commission amends part 1512 of Title 16 of the Code of Federal Regulations to read as follows:

## PART 1512—REQUIREMENTS FOR BICYCLES

■ 1. The authority for Part 1512 continues to read as follows:

**Authority:** Secs. 2(f)(1)(D), (q)(1)(A), (s), 3(e)(1), 74 Stat. 372, 374, 375, as amended, 80 Stat. 1304–05, 83 Stat. 187–89 (15 U.S.C. 1261, 1262); Pub. L. 107–319, 116 Stat. 2776.

■ 2. In §1512.18, revise the heading and first sentence of paragraph (o)(2)(iv) to read as follows:

### § 1512.18 Tests and test procedures.

\* \* \* \* \*

(o) \* \* \*

(2) \* \* \*

(iv) *Criteria.* The ratio A as defined in § 1512.18(o)(2)(iii) shall not be less than:

$$A = 4\cos^2\theta/[1+(\Phi/0.225)^{3/2}]$$

where A is ratio in meters,  $\theta$  is the entrance angle in degrees, and  $\Phi$  is the observation angle in degrees. \* \* \*

\* \* \* \* \*

Dated: August 28, 2003.

**Todd A. Stevenson, Secretary,**

*Consumer Product Safety Commission.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 70

[NE 190–1190a; FRL–7552–9]

### Approval and Promulgation of Implementation Plans and Operating Permits Program; State of Nebraska

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is announcing approval of revisions to the Nebraska State Implementation Plan (SIP) and Operating Permits Program. On September 5, 2002, the state updated its air program construction and operating permitting rules, its definitions rule, and emission inventory reporting rule. Approval of these revised rules will ensure consistency between the state and Federally-approved rules, and ensure Federal enforceability of the state's revised air program rules.

**DATES:** This direct final rule will be effective November 4, 2003, unless EPA receives adverse comments by October 6, 2003. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Comments may be submitted either by mail or electronically. Written comments should be submitted to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. Electronic comments should be sent either to Wayne Kaiser at [kaiser.wayne@epa.gov](mailto:kaiser.wayne@epa.gov) or to <http://www.regulations.gov>, which is an alternative method for submitting electronic comments to EPA. To submit comments, please follow the detailed instructions described in "What action is EPA taking" in the **SUPPLEMENTARY INFORMATION** section.

Copies of documents relative to this action are available for public inspection during normal business hours at the above-listed Region 7 location. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

**FOR FURTHER INFORMATION CONTACT:** Wayne Kaiser at (913) 551–7603 or by E-mail at [kaiser.wayne@epa.gov](mailto:kaiser.wayne@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This section provides additional