

Dist 8/19/03



UNITED STATES  
CONSUMER PRODUCT SAFETY COMMISSION  
WASHINGTON, DC 20207

CPSC/OFFICE OF  
THE SECRETARY

2003 AUG 18 P 2:30

**BALLOT VOTE SHEET**

**DATE:** AUG 18 2003

**TO:** The Commission  
Todd A. Stevenson, Secretary

**THRU:** Patricia Semple, Executive Director *PS*  
W. H. DuRoss, III, General Counsel *WHD*  
Stephen Lemberg, Assistant General Counsel for Regulatory Affairs *SL*

**FROM:** Lowell F. Martin, Attorney-Advisor, GCRA (ext. 7628) *L.F.M.*

**SUBJECT:** *Federal Register* notice amending CPSC bicycle regulations to correct reflectivity equation

**Ballot Vote Due:** AUG 25 2003

Attached is a draft *Federal Register* notice that would amend the Commission's bicycle regulations at 16 CFR part 1512 to correct the equation for reflectivity of tires & rims. The equation appears at 16 CFR 1512.18(o)(2)(iv) and has been in error since approximately 1978. A trade publication representative recently brought the error to the attention of the Office of the General Counsel. Because the change would correct a longstanding error and make no substantive change to the regulation, it would be effective on publication in the *Federal Register*.

Please indicate your vote on the following options.

- I. Issue the *Federal Register* notice as drafted.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

CPSC 3 (8/01) Circular  
8/18/03  
 No Mfrs/PrvtLblrs  
Products Identified

CPSC Hotline: 1-800-638-CPSC (2772) CPSC's Web Site: <http://www.cpsc.gov>

**NOTE:** This document has not been reviewed or accepted by the Commission.  
Initial rh Date 8/18/03

II. Issue the *Federal Register* notice with changes. (Please specify.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(Signature) (Date)

III. Do not issue the *Federal Register* notice.

\_\_\_\_\_  
(Signature) (Date)

IV. Take other action. (Please specify.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(Signature) (Date)

Attachment: Draft *Federal Register* notice

(DRAFT OF 8/13/03)

Billing Code 6355-01-P

**CONSUMER PRODUCT SAFETY COMMISSION**

16 CFR Part 1512

**Requirements for Bicycles-Tests and Test Procedures;  
Correction**

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Final Rule; correction.

**SUMMARY:** It has come to the attention of the Consumer Product Safety Commission (CPSC or Commission) recently that the equation defining the criteria for the reflective tire and rim test that appears in the current CPSC bicycle regulations has several typographical errors. Therefore, the Commission is issuing this immediately effective revision to the pertinent portion of the those regulations to correct the errors.

**DATE:** This rule is effective as of the date of its publication, that is [insert date of publication in the Federal Register].

**FOR FURTHER INFORMATION CONTACT:** Vincent Amodeo,  
Directorate for Engineering Sciences, Consumer Product

**(DRAFT OF 8/13/03)**

Safety Commission, Washington, D.C. 20207; telephone  
(301)504-7570; e-mail [vamodeo@cpsc.gov](mailto:vamodeo@cpsc.gov)

**SUPPLEMENTARY INFORMATION:**

**A. The Correction**

The Commission's bicycle regulations issued under authority of the Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1261-1278, appear at 16 CFR part 1512. The current version of the portion of those regulations establishing the criteria for testing reflective tires and rims contains several typographical errors. In particular, in §1512.18(o)(2)(iv), in the Ratio equation, the symbol "θ" for the entrance angle is missing and the symbol "φ" for the observation angle is incorrectly shown as a lower case "o". The correct equation reads as follows:

$$A = 4\text{Cos}^2\theta/[1+(\phi/0.225)^{3/2}]$$

The symbols θ and φ are also omitted in the sentence following the Ratio equation. Accordingly, the Commission is issuing this immediately effective amendment to §1512.18(o)(2)(iv) to correct these errors.

**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

**(DRAFT OF 8/13/03)**

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

**(DRAFT OF 8/13/03)**

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

(DRAFT OF 8/13/03)

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. Revise section 1512.18 to read as follows:

**§ 1512.18 Tests and Test Procedures.**

\* \* \* \* \*

(o) \* \* \*

(2) \* \* \*

(iv) *Criteria.* The ratio A as defined in

**(DRAFT OF 8/13/03)**

§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: \_\_\_\_\_

---

Todd A. Stevenson, Secretary  
Consumer Product Safety Commission