

language to read: "Eligible applicants are States (including U.S. Commonwealths and Territories) and Tribal Communities."

In addition, this notice clarifies the requirement to submit an abstract page and project description as part of the application, and removes reference to the submission of an "item 5" which does not exist in the text and was a typographical error. The Announcement of Federal Funding Opportunity (NWS-NWSPO-2008-2001322) for this program requires, as part of the application, an abstract and a project description. However, section IV.B of the FFO contained misleading language that erroneously implied that these two documents were not required to be submitted by the due date: "Failure to submit items 1, 4 and 5 by the application date will result in the application not being reviewed." This notice clarifies that the abstract and project description are required to be submitted by the application due date in order for the application to be considered for funding. Therefore, the text of the third sentence of Section IV.B. is revised to read: "Failure to submit items 1 through 4 by the application date will result in the application not being reviewed." The Announcement presently explains what the abstract page and project description should contain.

#### Limitation of Liability

In no event will NOAA or the Department of Commerce be responsible for proposal preparation costs if this program is cancelled because of other agency priorities. Publication of this announcement does not oblige NOAA to award any specific project or to obligate any available funds. Applicants are hereby given notice that funding for the Fiscal Year 2008 program is contingent upon the availability of Fiscal Year 2008 appropriations.

#### Universal Identifier

Applicants should be aware they are required to provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number during the application process. See the October 30, 2002, **Federal Register**, (67, FR 66177) for additional information. Organizations can receive a DUNS number at no cost by calling the dedicated toll-free DUNS Number request line at 1-866-705-5711 or via the Internet at <http://www.dunandbradstreet.com>.

#### National Environmental Policy Act (NEPA)

NOAA must analyze the potential environmental impacts, as required by the National Environmental Policy Act (NEPA), for applicant projects or proposals which are seeking NOAA federal funding opportunities. Detailed information on NOAA compliance with NEPA can be found at the following NOAA NEPA Web site: <http://www.nepa.noaa.gov/>, including our NOAA Administrative Order 216-6 for NEPA, [http://www.nepa.noaa.gov/NAO216\\_6\\_TOC.pdf](http://www.nepa.noaa.gov/NAO216_6_TOC.pdf), and the Council on Environmental Quality implementation regulations, [http://ceq.eh.doe.gov/nepa/regs/ceq/toc\\_ceq.htm](http://ceq.eh.doe.gov/nepa/regs/ceq/toc_ceq.htm). Consequently, as part of an applicant's package, and under their description of their program activities, applicants are required to provide detailed information on the activities to be conducted, locations, sites, species and habitat to be affected, possible construction activities, and any environmental concerns that may exist (e.g., the use and disposal of hazardous or toxic chemicals, introduction of non-indigenous species, impacts to endangered and threatened species, aquaculture projects, and impacts to coral reef systems). In addition to providing specific information that will serve as the basis for any required impact analyses, applicants may also be requested to assist NOAA in drafting of an environmental assessment, if NOAA determines an assessment is required. Applicants will also be required to cooperate with NOAA in identifying feasible measures to reduce or avoid any identified adverse environmental impacts of their proposal. The failure to do so shall be grounds for not selecting an application. In some cases if additional information is required after an application is selected, funds can be withheld by the Grants Officer under a special award condition requiring the recipient to submit additional environmental compliance information sufficient to enable NOAA to make an assessment on any impacts that a project may have on the environment.

The Department of Commerce Preaward Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of October 1, 2001 (66 FR 49917), as amended by the **Federal Register** notice published on October 30, 2002 (67 FR 66109), are applicable to this solicitation.

#### Paperwork Reduction Act

This document contains collection-of-information requirements subject to the

Paperwork Reduction Act (PRA). The requirement for an abstract and project description fall under the approval for Standard Form 424. The use of Standard Forms 424, 424A, 424B, SF-LLL, and CD-346 has been approved by the Office of Management and Budget (OMB) under the respective control numbers 0348-0043, 0348-0044, 0348-0040, 0348-0046, and 0605-0001. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

#### Executive Order 12866

This notice has been determined to be not significant for purposes of Executive Order 12866.

#### Executive Order 13132 (Federalism)

It has been determined that this notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

#### Administrative Procedure Act/Regulatory Flexibility Act

Prior notice and an opportunity for public comment are not required by the Administrative Procedure Act or any other law for rules concerning public property, loans, grants, benefits, and contracts (5 U.S.C. 553(a)(2)). Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. Therefore, a regulatory flexibility analysis has not been prepared.

Dated: April 28, 2008.

**David Murray,**

*Director, Management and Organization Division, NWS CFO.*

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#### CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 08-C0008]

#### Kohl's Department Stores, Inc., Provisional Acceptance of a Settlement Agreement and Order

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Notice.

**SUMMARY:** It is the policy of the Commission to publish settlements

which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of 16 CFR 1118.20(e). Published below is a provisionally accepted Settlement Agreement with Kohl's Department Stores, Inc., containing a civil penalty of \$35,000.00.

**DATES:** Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by May 16, 2008.

**ADDRESSES:** Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 08-C0008, Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Room 502, Bethesda, Maryland 20814-4408.

**FOR FURTHER INFORMATION CONTACT:** Seth B. Popkin, Trial Attorney, Legal Division, Office of Compliance and Field Operations, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814-4408; telephone (301) 504-7612.

**SUPPLEMENTARY INFORMATION:** The text of the Agreement and Order appears below.

Dated: April 23, 2008.

**Todd A. Stevenson,**  
*Secretary.*

### Settlement Agreement

1. In accordance with 16 CFR 1118.20, Kohl's Department Stores, Inc. ("Kohl's") and the staff ("Staff") of the United States Consumer Product Safety Commission ("Commission") enter into this Settlement Agreement ("Agreement"). The Agreement and the incorporated attached Order ("Order") settle the Staff's allegations set forth below.

### Parties

2. The Commission is an independent federal regulatory agency established pursuant to, and responsible for the enforcement of, the Consumer Product Safety Act, 15 U.S.C. 2051-2084 ("CPSA").

3. Kohl's is a corporation organized and existing under the laws of Delaware, with its principal offices located in Menomonee Falls, Wisconsin. At all times relevant hereto, Kohl's sold apparel, accessories, and other products.

### Staff Allegations

4. From August 3 to September 1, 2006, Kohl's held for sale and/or sold, at Kohl's stores and Kohls.com, 9,626 Candie's brand children's hoodie sweatshirts with drawstrings through

the hood, style number 38g041k ("Drawstring Sweatshirts").

5. Kohl's sold the Drawstring Sweatshirts to consumers.

6. The Drawstring Sweatshirts are "consumer product[s]," and, at all times relevant hereto, Kohl's was a "retailer" of those consumer products, which were "distributed in commerce," as those terms are defined in CPSA sections 3(a)(1), (6), (11), and (12), 15 U.S.C. 2052(a)(1), (6), (11), and (12).

7. In February 1996, the Staff issued the Guidelines for Drawstrings on Children's Upper Outerwear ("Guidelines") to help prevent children from strangling or entangling on neck and waist drawstrings. The Guidelines state that drawstrings can cause, and have caused, injuries and deaths when they catch on items such as playground equipment, bus doors, or cribs. In the Guidelines, the Staff recommends that there be no hood and neck drawstrings in children's upper outerwear sized 2T to 12.

8. In June 1997, ASTM adopted a voluntary standard, ASTM F1816-97, that incorporated the Guidelines. The Guidelines state that firms should be aware of the hazards and should be sure garments they sell conform to the voluntary standard.

9. On May 19, 2006, the Commission posted on its Web site a letter from the Commission's Director of the Office of Compliance to manufacturers, importers, and retailers of children's upper outerwear. The letter urges them to make certain that all children's upper outerwear sold in the United States complies with ASTM F1816-97. The letter states that the Staff considers children's upper outerwear with drawstrings at the hood or neck area to be defective and to present a substantial risk of injury to young children under Federal Hazardous Substances Act ("FHSA") section 15(c), 15 U.S.C. 1274(c). The letter also notes the CPSA's section 15(b) reporting requirements.

10. Kohl's reported to the Commission that there had been no incidents or injuries from the Drawstring Sweatshirts.

11. Kohl's distribution in commerce of the Drawstring Sweatshirts did not meet the Guidelines or ASTM F1816-97, failed to comport with the Staff's May 2006 defect notice, and posed a strangulation hazard to children.

12. On September 20, 2006, the Commission, in cooperation with Kohl's and the manufacturer, announced a recall of the Drawstring Sweatshirts, informing consumers that they should immediately remove the drawstrings to eliminate the hazard.

13. Kohl's had presumed and actual knowledge that the Drawstring Sweatshirts distributed in commerce posed a strangulation hazard and presented a substantial risk of injury to children under FHSA section 15(c)(1), 15 U.S.C. 1274(c)(1). Kohl's had obtained information that reasonably supported the conclusion that the Drawstring Sweatshirts contained a defect that could create a substantial product hazard or that they created an unreasonable risk of serious injury or death. CPSA sections 15(b)(2) and (3), 15 U.S.C. 2064(b)(2) and (3), required Kohl's to immediately inform the Commission of the defect and risk.

14. Kohl's knowingly failed to immediately inform the Commission about the Drawstring Sweatshirts as required by CPSA sections 15(b)(2) and (3), 15 U.S.C. 2064(b)(2) and (3), and as the term "knowingly" is defined in CPSA section 20(d), 15 U.S.C. 2069(d). This failure violated CPSA section 19(a)(4), 15 U.S.C. 2068(a)(4). Pursuant to CPSA section 20, 15 U.S.C. 2069, this failure subjected Kohl's to civil penalties.

### Kohl's Response

15. Kohl's denies the Staff's allegations above, including, but not limited to, the allegations that Kohl's failed to immediately inform the Commission about the Drawstring Sweatshirts as required by CPSA Sections 15(b)(2) and (3) or otherwise violated the CPSA or FHSA.

16. In order to supply products to Kohl's, vendors are required to represent and warrant to Kohl's that all merchandise delivered to Kohl's will comply with all existing laws, regulations, standards, orders, and rulings, including, but not limited to, the CPSA and the FHSA.

17. On August 31, 2006, an investigator with the Commission alerted Kohl's to the presence of the Drawstring Sweatshirts in Kohl's stores. Within 24 hours, Kohl's (i) had the Drawstring Sweatshirts pulled from the Kohls.com Web site, (ii) sent notice to all Kohl's stores to pull the Drawstring Sweatshirts, and (iii) took additional steps to prevent further sales of the Drawstring Sweatshirts.

18. On September 1, 2006, also within 24 hours of being notified of the Drawstring Sweatshirts by the investigator with the Commission, Kohl's filed a Section 15(b) Report with the Commission.

19. Kohl's, in cooperation with the manufacturer and the Commission, recalled approximately 4,400 units of the Drawstring Sweatshirts. The remaining 5,200 units represent units

that Kohl's immediately removed from Kohl's distribution channels. As part of the recall, Kohl's posted recall notices in all Kohl's stores and on the Kohls.com Web site. Kohl's also independently sent e-mail notifications to all known online purchasers based on the availability of "ship to" addresses.

#### Agreement of the Parties

20. Under the CPSA, the Commission has jurisdiction over this matter and over Kohl's.

21. The parties enter into the Agreement for settlement purposes only. The Agreement does not constitute an admission by Kohl's, or a determination by the Commission, that Kohl's has violated the CPSA.

22. In settlement of the Staff's allegations, Kohl's shall pay a civil penalty in the amount of thirty-five thousand dollars (\$35,000.00). The civil penalty shall be paid within twenty (20) calendar days of service of the Commission's final Order accepting the Agreement. The payment shall be by check payable to the order of the United States Treasury.

23. Upon provisional acceptance of the Agreement, the Agreement shall be placed on the public record and published in the **Federal Register** in accordance with the procedures set forth in 16 CFR 1118.20(e). In accordance with 16 CFR 1118.20(f), if the Commission does not receive any written request not to accept the Agreement within fifteen (15) calendar days, the Agreement shall be deemed finally accepted on the sixteenth (16th) calendar day after the date it is published in the **Federal Register**.

24. Upon the Commission's final acceptance of the Agreement and issuance of the final Order, Kohl's knowingly, voluntarily, and completely waives any rights it may have regarding the Staff's allegations to the following: (1) An administrative or judicial hearing; (2) judicial review or other challenge or contest of the validity of the Order or of the Commission's actions; (3) a determination by the Commission of whether Kohl's failed to comply with the CPSA and its underlying regulations; (4) a statement of findings of fact and conclusions of law; and (5) any claims under the Equal Access to Justice Act.

25. Upon issuance of, and Kohl's compliance with, the final Order, the Commission regards this matter as resolved and agrees not to bring a civil penalty action against Kohl's based upon the Staff's allegations contained herein regarding the Drawstring Sweatshirts.

26. The Commission may publicize the terms of the Agreement and the Order.

27. The Agreement and the Order shall apply to, and be binding upon, Kohl's and each of its successors and assigns.

28. The Commission issues the Order under the provisions of the CPSA, and violation of the Order may subject Kohl's to appropriate legal action.

29. The Agreement may be used in interpreting the Order. Understandings, agreements, representations, or interpretations apart from those contained in the Agreement and the Order may not be used to vary or contradict their terms. The Agreement shall not be waived, amended, modified, or otherwise altered without written agreement thereto executed by the party against whom such waiver, amendment, modification, or alteration is sought to be enforced.

30. If any provision of the Agreement and the Order is held to be illegal, invalid, or unenforceable under present or future laws effective during the terms of the Agreement and the Order, such provision shall be fully severable. The balance of the Agreement and the Order shall remain in full force and effect, unless the Commission and Kohl's agree that severing the provision materially affects the purpose of the Agreement and the Order.

31. Pursuant to section 6(d) of the Interim Delegation of Authority ordered by the Commission on February 1, 2008, the Commission delegated to the Assistant Executive Director for Compliance and Field Operations the authority to act, with the concurrence of the General Counsel, for the Commission under 16 CFR 1118.20 with respect to Staff allegations that any person or firm violated 15 U.S.C. 2068, where the total amount of the settlement involves no more than \$100,000.

Kohl's Department Stores, Inc.  
Dated: April 3, 2008.  
By: Richard Schepp,  
*Exec. Vice President, General Counsel, and Secretary.*

Kohl's Department Stores, Inc.  
N56 W 17000 Ridgewood Drive,  
Menomonee Falls, WI 53051.  
U.S. Consumer Product Safety Commission  
Staff  
J. Gibson Mullan,  
*Assistant Executive Director, Office of Compliance and Field Operations.*

Ronald U. Yelenik,  
*Acting Director, Legal Division, Office of Compliance and Field Operations.*

Dated: 4-16-08.  
By: Seth B. Popkin,  
*Trial Attorney, Legal Division, Office of Compliance and Field Operations.*

#### Order

Upon consideration of the Settlement Agreement entered into between Kohl's Department Stores, Inc. ("Kohl's") and the U.S. Consumer Product Safety Commission ("Commission") staff, and the Commission having jurisdiction over the subject matter and over Kohl's, and pursuant to the authority delegated in section 6(d) of the Interim Delegation of Authority ordered by the Commission on February 1, 2008, and it appearing that the Settlement Agreement and the Order are in the public interest, it is

*Ordered*, that the Settlement Agreement be, and hereby is, accepted; and it is

*Further ordered*, that Kohl's shall pay a civil penalty in the amount of thirty-five thousand dollars (\$35,000.00). The civil penalty shall be paid within twenty (20) calendar days of service of the Commission's final Order accepting the Agreement. The payment shall be made by check payable to the order of the United States Treasury. Upon the failure of Kohl's to make the foregoing payment when due, interest on the unpaid amount shall accrue and be paid by Kohl's at the federal legal rate of interest set forth at 28 U.S.C. 1961(a) and (b).

Provisionally accepted and provisional Order issued on the 22nd day of April, 2008.

By Order of the Commission.  
Todd A. Stevenson,  
*Secretary, U.S. Consumer Product Safety Commission.*

[FR Doc. E8-9274 Filed 4-30-08; 8:45 am]

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Revised Non-Foreign Overseas Per Diem Rates

**AGENCY:** DoD, Per Diem, Travel and Transportation Allowance Committee.

**ACTION:** Notice of Revised Non-Foreign Overseas Per Diem Rates.

**SUMMARY:** The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 258. This bulletin lists revisions in the per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the United States. AEA changes announced in Bulletin Number 194 remain in effect. Bulletin Number 258 is being published in the **Federal Register** to assure that