

Consumer Product Safety Commission

§ 1021.7

(c) The following categories of CPSC actions normally have little or no potential for affecting the human environment; and therefore, neither an environmental assessment nor an environmental impact statement is required. (These categories are termed "categorical exclusions" in the NEPA regulations; see §§ 1507.3(b)(2) and 1508.4):

(1) Rules or safety standards to provide design or performance requirements for products, or revision, amendment, or revocation of such standards.

(2) Product certification or labeling rules.

(3) Rules requiring poison prevention packaging of products or exempting products from poison prevention packaging rules.

(4) Administrative proceedings to require individual manufacturers to give notice of and/or to correct, repair, replace, or refund the purchase price of banned or hazardous products. Other administrative adjudications which are primarily law enforcement proceedings.

(5) Recommendations or reports to Congress on proposed legislation to amend, delete or add procedural provisions to existing CPSC statutory authority.

(6) Decisions on petitions for rulemaking.

(7) Issuance of subpoenas, general orders, and special orders.

(d) In exceptional circumstances, actions within category in paragraph (c) of this section ("categorical exclusions") may produce effects on the human environment. Upon a determination by the Executive Director that a normally excluded proposed action may have such an effect, an environmental assessment and a finding of no significant impact or an environmental impact statement shall be prepared.

Subpart B—Procedures

§ 1021.6 Responsible official.

(a) The Executive Director of the CPSC shall have the responsibility to ensure that the Commission's policies and procedures set forth in this part are carried out. He or she shall have

the following specific powers and duties:

(1) To ensure that CPSC environmental review is conducted in accordance with the NEPA regulations as well as this part 1021.

(2) To evaluate the significance of effects of a CPSC action on the environment and to determine whether a finding of no significant impact or an EIS should be prepared.

(3) To determine when a categorical exclusion requires environmental review because of exceptional circumstances indicating that the otherwise excluded action may produce an environmental effect.

(4) To instruct CPSC staff to prepare supplements to either draft or final EIS's where there is new environmental information or when CPSC makes changes in a proposed action that are important to environmental issues.

(5) To ensure that environmental documents are before the Commission at all stages of review of proposed action.

(6) To make provisions for soliciting public comment on the anticipated effects on the environment of proposed CPSC actions and their reasonable alternatives at any stage of the environmental review process, whenever he or she decides that such comment will be helpful. The Executive Director, for example, shall have the power to require that provision for soliciting such comments, written or oral, be included in any announcement of a public hearing on proposed rulemaking or on the merits of a petition for rulemaking.

(7) To call upon all resources and expertise available to CPSC to ensure that environmental review is accomplished through an interdisciplinary effort.

(8) To delegate any of his or her powers and duties, other than paragraphs (a) (2) and (3) of this section, to any officer or employee of the CPSC.

§ 1021.7 Coordination of environmental review with CPSC procedures.

(a) The Commission shall consider all relevant environmental documents in evaluating proposals for Commission

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action. The preparation and completion of assessments and statements required by this part shall be scheduled to assure that available environmental information is before the Commission at all appropriate stages of development of CPSC actions along with technical and economic information otherwise required. The range of alternatives discussed in appropriate environmental documents shall be encompassed by the range of alternatives considered by the Commission for an action.

(b) An environmental assessment on a proposed rulemaking action requiring environmental review shall be available to the commission before the Commission votes on a proposed rule, and its alternatives. If the Executive Director determines that an EIS is needed, the draft EIS shall normally be before the Commission at the time it votes to publish a proposed rule. A final EIS shall be before the Commission when it considers final action on a proposed rule. Relevant environmental documents shall accompany the proposed rulemaking action throughout the Commission's decisionmaking process.

(c) Draft EISs or findings of no significant impact together with environmental assessments shall be made available to the public for comment at the time of publication in the FEDERAL REGISTER of CPSC proposals for regulatory action requiring environmental review or promptly thereafter. Pursuant to §1506.10 of the NEPA regulations, no decision on a proposed action shall be made by the Commission until the later of 90 days after the Environmental Protection Agency (EPA) has published a notice announcing receipt of the draft EIS or 30 days after EPA announces receipt of the final EIS. These time periods may run concurrently. In addition, with regard to rulemaking for the purpose of protecting the public health and safety, the Commission may waive the 30 day period and publish a decision on a final rule simultaneously with publication by EPA of the notice of availability.

(d) Whenever the Commission decides to solicit offers by an outside person or organization to develop a proposed consumer product safety standard in ac-

cordance with section 7 of the Consumer Product Safety Act (15 U.S.C. 2056) and the Executive Director has determined that environmental review is needed, the Executive Director shall recommend to the Commission whether the "offeror" should perform an environmental assessment during development of the proposed standard. In making this recommendation, the Executive Director shall take into account the resources of the "offeror", including the expertise and money available to it. If the Commission decides that the "offeror" should perform an assessment, the agreement between the Commission and the offeror shall so provide. CPSC, however, shall independently evaluate any assessment prepared and shall take responsibility for the scope and content of the assessment.

(e) CPSC adjudications are primarily law enforcement proceedings and therefore are not agency actions within the meaning of NEPA. (See §1508.18(8) of the NEPA regulations.) However, in CPSC formal rulemaking proceedings, all available environmental information, including any supplements to a draft or final EIS, shall be filed in the Office of the Secretary and shall be made part of the formal record of the proceeding.

§ 1021.8 Legislative proposals.

Draft EISs on legislative proposals which may significantly affect the environment shall be prepared as described in §1506.8 of the NEPA regulations. The draft EIS, where feasible, shall accompany the legislative proposal or report to Congress and shall be available in time for Congressional hearings and deliberations. The draft EIS shall be forwarded to the Environmental Protection Agency in accordance with §1506.9 of the NEPA regulations. Comments on the legislative statement and CPSC's responses shall be forwarded to the appropriate Congressional committees.

§ 1021.9 Public participation, notice, and comment.

(a) Information and comments are solicited from and provided to the public on anticipated environmental effects of CPSC actions as follows: