

**§ 1118.10**

furnish a copy of the decision to the appropriate staff member. The Commission's decision is a final decision. Motions for reconsideration will not be received.

**§ 1118.10 Remedies for failure to permit authorized investigations.**

In the event a person or firm fails to comply with any investigative process authorized by these rules, the Commission may seek appropriate action within its authority under the Consumer Product Safety Act (15 U.S.C. 2051, et seq.)

**§ 1118.11 Nonexclusive delegation of power.**

No provision contained herein delegating any of the Commission's powers shall be construed as limiting the authority of the Commission to exercise the same powers.

**Subpart B—Consent Order Agreements**

**§ 1118.20 Procedures for consent order agreements.**

(a) For the procedure to be followed regarding consent order agreements involving section 15 of the Act (15 U.S.C. 2064), refer to the Commission's regulations relating to substantial product hazards (16 CFR part 1115). For all other consent order agreements under the Consumer Product Safety Act, the provisions set forth below are applicable.

(b) The consent order agreement is a document executed by a person, or firm (consenting party) and a Commission staff representative which incorporates both a proposed complaint setting forth the staff's charges and a proposed order by which such charges are resolved. A consent order agreement shall contain the following provisions, as appropriate:

(1) An admission of all jurisdictional facts by the consenting parties;

(2) A waiver of any rights to an administrative or judicial hearing and of any other procedural steps including any rights to seek judicial review or otherwise challenge or contest the validity of the Commission's order;

(3) A statement that the agreement is in settlement of the staff's charges

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and does not constitute an admission by the consenting party that the law has been violated;

(4) A statement describing the alleged hazard, non-compliance or violation.

(5) A statement that the Commission's order is issued under the provisions of the Act (15 U.S.C. 2051, et seq.); and that a violation of such order may subject the consenting party to appropriate legal action.

(6) An acknowledgment that the consent order agreement only becomes effective upon its final acceptance by the Commission and its service upon the consenting party;

(7) An acknowledgment that the Commission may disclose terms of the consent order agreement to the public;

(8) A statement that the consenting party shall comply with the provisions of the agreement and order;

(9) A statement that the requirements of the order are in addition to and not to the exclusion of other remedies under the Act.

(c) At any time in the course of an investigation, the staff, with the approval of the Commission, may propose to the person or firm being investigated that any alleged violation be resolved by an agreement containing a consent order. Additionally, such a proposal may be made to the Commission staff by such person or firm.

(d) Upon receiving an executed agreement, the Commission may:

(1) Provisionally accept it;

(2) Reject it and issue the complaint (in which case the matter will be scheduled for hearing in accordance with the Commission's Rules of Practice for Adjudicative Proceedings, 16 CFR part 1025, June 21, 1977 or as amended) and/or

(3) Take such other action as it may deem appropriate.

(e) If the agreement is provisionally accepted, the Commission shall place the agreement on the public record and shall announce provisional acceptance of the agreement in the FEDERAL REGISTER. Any interested person may ask the Commission not to accept the agreement by filing a written request in the Office of the Secretary. Any request must be received in the Office of the Secretary no later than the close of

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business of the 15th calendar day following the date of announcement in the FEDERAL REGISTER.

(f) If no requests are received, the agreement shall be deemed finally accepted by the Commission on the 16th calendar day after the date of the announcement in the FEDERAL REGISTER. Notice of final acceptance will be given and the order issued within a reasonable time.

(g) If the Commission receives one or more requests that it not finally accept an agreement, it shall, within a reasonable time, either finally accept or reject the agreement after considering the requests. The Commission shall promptly issue and serve an order indicating its decision.

(1) If the agreement is accepted, the Commission shall issue the complaint and order. The order is a final order in disposition of the proceeding and is effective immediately upon its service on the consenting party under these rules. The consenting party shall thereafter be bound by and take immediate action in accordance with the final order.

(2) If the agreement is rejected, the order so notifying the consenting party shall constitute withdrawal of the Commission's provisional acceptance. The Commission may then issue its complaint, may order further investigation, or may take any action it considers appropriate.

(h) An agreement that has been finally accepted may be vacated or modified upon petition of any party or the Commission's own initiative. The petition shall state the proposed changes in the agreement and the reasons for granting the petition. The Commission may modify or vacate where (1) false statements were relied upon in accepting the agreement or (2) there are changed conditions of fact or law. In deciding whether to grant a petition, the Commission shall consider the public interest. A petitioner, or the Commission when acting on its own initiative, shall serve a copy of the petition or notice of reconsideration, respectively, on all parties. Parties affected by the petition or notice of reconsideration may file a response within 10 calendar days. No replies shall be accepted. The Commission shall decide the petition or notice of reconsideration

within a reasonable time and, by order, shall indicate its decision and its reasons.

### PART 1145—REGULATION OF PRODUCTS SUBJECT TO OTHER ACTS UNDER THE CONSUMER PRODUCT SAFETY ACT

Sec.

1145.1 Scope.

1145.2 Paint (and other similar surface-coating materials) containing lead; toys, children's articles, and articles of furniture bearing such paint (or similar surface-coating materials); risk of lead poisoning.

1145.3 Extremely flammable contact adhesives; risk of burns from explosive vapor ignition and flashback fire.

1145.4 Consumer patching compounds containing respirable free-form asbestos; risk of cancer associated with inhalation of asbestos fibers.

1145.5 Emberizing materials (embers and ash) containing respirable free-form asbestos; risk of cancer associated with inhalation of asbestos fibers.

1145.9-1145.15 [Reserved]

1145.16 Lighters that are intended for igniting smoking materials and that can be operated by children; risks of death or injury.

1145.17 Multi-purpose lighters that can be operated by children; risks of death or injury.

AUTHORITY: 15 U.S.C. 2079(d).

#### § 1145.1 Scope.

In this part 1145, the Commission establishes rules which provide that risks of injury associated with consumer products that could be eliminated or reduced to a sufficient extent by action under the Federal Hazardous Substances Act (FHSA) (15 U.S.C. 1261-1274), the Poison Prevention Packaging Act of 1970 (PPPA) (15 U.S.C. 1471-1476), or the Flammable Fabrics Act (FFA) (15 U.S.C. 1191-1204) will be regulated under the Consumer Product Safety Act (CPSA) (15 U.S.C. 2051-2081). Section 30(d) of the CPSA, as amended, provides that a risk of injury which is associated with a consumer product and which could be eliminated or reduced to a sufficient extent by action under the FHSA, PPPA, or the FFA may be regulated under this act only if the Commission by rule finds it is in