

## § 1019.7

the noncomplying goods reach the country of destination, the exporter must notify the Assistant Executive Director for Compliance within two working days after causing or learning of such change, and must state the reason for any such change. The Assistant Executive Director will promptly inform the exporter whether the 30-day advance notification period will be discontinued, and whether the exporter must take any other steps to comply with the advance notification requirement.

### § 1019.7 Commission notification of foreign governments.

After receiving notification from the exporter, or any changes in notification, the Assistant Executive Director for Compliance shall inform on a priority basis the appropriate government agency of the country to which the noncomplying goods are to be sent of the exportation and the basis on which the goods are banned or fail to comply with Commission standards, regulations, or statutes, and shall send all information supplied by the exporter in accordance with § 1019.4(d). The Assistant Executive Director shall also enclose any information supplied in accordance with § 1019.4(e), but he or she may also state that the Commission disagrees with or takes no position on its content, including its relevance or accuracy. The Assistant Executive Director shall take whatever other action is necessary to provide full information to foreign countries and shall also work with and inform the U.S. State Department and foreign embassies and international organizations, as appropriate. The Assistant Executive Director shall also seek acknowledgment of the notification from the foreign government. Foreign governments intending to prohibit entry of goods that are the subject of a notification from the Commission should initiate action to prevent such entry and should notify the exporter directly of that intent.

### § 1019.8 Confidentiality.

If the exporter believes any of the information submitted should be considered trade secret or confidential commercial or financial information, the exporter must request confidential

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treatment, in writing, at the time the information is submitted or must indicate that a request will be made within 10 working days. The Commission's regulations under the Freedom of Information Act, 16 CFR part 1015, govern confidential treatment of information submitted to the Commission.

### Subpart B—Statement of Policy and Interpretation Concerning Export of Noncomplying, Misbranded, or Banned Products

#### § 1019.31 Purpose and scope.

(a) This subpart B of this part 1019 states the policy of the Consumer Product Safety Commission and its interpretation of the Consumer Product Safety Act and the Federal Hazardous Substances Act with regard to exportation of products which have been sold, offered for sale, or distributed in commerce for use in the United States which:

(1) Fail to comply with an applicable consumer product safety standard or banning rule issued under provisions of the Consumer Product Safety Act (15 U.S.C. 2051 *et seq.*); or

(2) Are “misbranded hazardous substances” or “banned hazardous substances” as those terms are used in the Federal Hazardous Substances Act (15 U.S.C. 1261 *et seq.*).

(b) The policy expressed in this subpart B of part 1019 does not apply to any of the following products:

(1) Products which could be regulated only under provisions of the Consumer Product Safety Act but which are not subject to a consumer product safety standard or banning rule issued under that Act.

(2) Consumer products which are subject to and fail to comply with an applicable standard or banning rule issued under provisions of the Consumer Product Safety Act but which have never been distributed in commerce for use in the United States. See section 18(b) of the Consumer Product Safety Act 15, U.S.C. 2067(b), and subpart A of this part 1019 for requirements governing export of such products.)

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(3) Products which could be regulated under one or more sections of the Federal Hazardous Substances Act but which are neither “misbranded hazardous substances” nor “banned hazardous substances” as those terms are used in the Act.

(4) Products which are “misbranded hazardous substances” or “banned hazardous substances” as those terms are used in the Federal Hazardous Substances Act but which have never been sold or offered for sale in domestic commerce. (See sections 5(b) and 14(d) of the Federal Hazardous Substances Act (15 U.S.C. 1264(b) and 1273(d) and subpart A of this part 1019 for requirements governing export of such products.)

(5) Products for which the Commission has granted an exemption from an applicable standard, ban, or labeling requirement under the CPSA, FHSA, or FFA, in accordance with provisions of 16 CFR 1009.9. (These products remain subject to the notification requirements of subpart A of this part 1019.)

(6) Products which fail to comply with an applicable standard of flammability issued under provisions of the Flammable Fabrics Act (15 U.S.C. 1191 *et seq.*). The Commission’s policy regarding export of such products is set forth in the Commission’s Memorandum Decision and Order *In the Matter of Imperial Carpet Mills, Inc.*, CPSC Docket No. 80-2, July 7, 1983, and allows export without regard to whether the products have been distributed in domestic commerce. (See section 15 of the Flammable Fabrics Act, 15 U.S.C. 1202, and subpart A of this part 1019 for requirements governing export of such products.)

### § 1019.32 Statutory provisions.

(a) Section 18(a) of the Consumer Product Safety Act (15 U.S.C. 2057(a)) states:

This Act [the Consumer Product Safety Act] shall not apply to any consumer product if: (1) It can be shown that such product is manufactured, sold, or held for sale for export from the United States (or that such product was imported for export), unless (A) such consumer product is in fact distributed in commerce for use in the United States, or (B) the Commission determines that exportation of such product presents an unreasonable risk of injury to consumers within the

United States, and (2) such consumer product when distributed in commerce, or any container in which it is enclosed when so distributed, bears a stamp or label stating that such consumer product is intended for export; except that this Act shall apply to any consumer product manufactured for sale, offered for sale, or sold for shipment to any installation of the United States located outside of the United States.

(b) Section 4 of the Federal Hazardous Substances Act (15 U.S.C. 1263) states in part:

The following acts and the causing thereof are hereby prohibited: (a) The introduction or delivery for introduction into interstate commerce of any misbranded hazardous substance or banned hazardous substance. \* \* \*

(c) The receipt in interstate commerce of any misbranded hazardous substance or banned hazardous substance and the delivery or proffered delivery thereof for pay or otherwise.

(c) Section 5(b) of the Federal Hazardous Substances Act (15 U.S.C. 1264(b)) provides in part:

No person shall be subject to the penalties of this section \* \* \* (3) for having violated subsection (a) or (c) of section 4 with respect to any hazardous substance shipped or delivered for shipment for export to any foreign country, in a package marked for export on the outside of the shipping container and labeled in accordance with the specifications of the foreign purchaser and in accordance with the laws of the foreign country, but if such hazardous substance is sold or offered for sale in domestic commerce, or if the Consumer Product Safety Commission determines that exportation of such substance presents an unreasonable risk of injury to persons residing within the United States, this clause shall not apply.

### § 1019.33 Statement of policy and interpretation.

(a) In its enforcement of the Consumer Product Safety Act, the Commission interprets the provisions of that Act to prohibit the export of products which fail to comply with an applicable consumer product safety standard or banning rule issued under that Act if those products have at any time been distributed in commerce for use in the United States.

(b) In its enforcement of the Federal Hazardous Substances Act, the Commission interprets the provisions of the Act to prohibit the export of products which are misbranded substances or banned hazardous substances as those terms are used in that Act if those