

Consumer Product Safety Commission

Pt. 1025

example, purely economic or health effects. For this reason, an EIS may include issues and facts that are thoroughly analyzed in other comprehensive CPSC documents such as hazard analyses, economic impact analyses, or analyses of impact on particular age groups among consumers. In such cases, the EIS shall not duplicate the other documents, but rather shall cite and summarize from them. A list of background documents and sources of data cited in the EIS shall appear at the end of every EIS.

PART 1025—RULES OF PRACTICE FOR ADJUDICATIVE PROCEEDINGS

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APPENDIX I TO PART 1025—SUGGESTED FORM OF FINAL PREHEARING ORDER

AUTHORITY: Consumer Product Safety Act (secs. 15, 20, 27 (15 U.S.C. 2064, 2069, 2076), the Flammable Fabrics Act (sec. 5, 15 U.S.C. 1194), the Federal Trade Commission Act (15 U.S.C. 45)), unless otherwise noted.

SOURCE: 45 FR 29215, May 1, 1980, unless otherwise noted.

Subpart A—Scope of Rules, Nature of Adjudicative Proceedings, Definitions

§ 1025.1 Scope of rules.

The rules in this part govern procedures in adjudicative proceedings relating to the provisions of section 15 (c), (d), and (f) and 17(b) of the Consumer Product Safety Act (15 U.S.C. 2064 (c), (d), (f); 2066(b)), section 15 of the Federal Hazardous Substances Act (15 U.S.C. 1274), and sections 3 and 8(b) of the Flammable Fabrics Act (15 U.S.C. 1192, 1197(b)), which are required by statute to be determined on the record after opportunity for a public hearing. These rules will also govern adjudicative proceedings for the assessment of civil penalties under section 20(a) of the Consumer Product Safety Act (15 U.S.C. 2068(a)), except in those instances where the matter of a civil penalty is presented to a United States District Court in conjunction with an action by the Commission for injunctive or other appropriate relief. These Rules may also be used for such other adjudicative proceedings as the Commission, by order, shall designate. A basic intent of the Commission in the development of these rules has been to promulgate a single set of procedural rules which can accommodate both simple matters and complex matters in adjudication. To accomplish this objective, broad discretion has been vested in the Presiding Officer who will hear a matter being adjudicated to allow him/her to alter time limitations and other procedural aspects of a case, as required by the complexity of the particular matter involved. A major concern of the Commission is that all matters in adjudication move forward in a timely manner, consistent with the Constitutional due process rights of all parties. It is anticipated that in any adjudicative proceedings for the assessment of civil penalties there will be less need for discovery since most factual matters will already be known by the parties. Therefore, the Presiding Officer should, whenever appropriate, expedite the proceedings by setting shorter time limitations than those time limitations generally applicable under these Rules. For example, the 150-day limitation for discovery, as

provided in § 1025.31(g), should be shortened, consistent with the extent of discovery reasonably necessary to prepare for the hearing.

[45 FR 29215, May 1, 1980, as amended at 47 FR 46846, Oct. 21, 1982]

§ 1025.2 Nature of adjudicative proceedings.

Adjudicative proceedings shall be conducted in accordance with Title 5, United States Code, sections 551 through 559, and these Rules. It is the policy of the Commission that adjudicative proceedings shall be conducted expeditiously and with due regard to the rights and interests of all persons affected and in locations chosen with due regard to the convenience of all parties. Therefore, the Presiding Officer and all parties shall make every effort at each stage of any proceedings to avoid unnecessary delay.

§ 1025.3 Definitions.

As used in this part:

(a) *Application* means an *ex parte* request by a party for an order that may be granted or denied without opportunity for response by any other party.

(b) *Commission* means the Consumer Product Safety Commission or a quorum thereof.

(c) *Commissioner* means a Commissioner of the Consumer Product Safety Commission.

(d) *Complaint Counsel* means counsel for the Commission's staff.

(e) *Motion* means a request by a party for a ruling or order that may be granted or denied only after opportunity for responses by all other parties.

(f) *Party* means any named person or any intervenor in any proceedings governed by these Rules.

(g) *Person* means any individual, partnership, corporation, unincorporated association, public or private organization, or a federal, state or municipal governmental entity.

(h) *Petition* means a written request, addressed to the Commission or the Presiding Officer, for some affirmative action.

(i) *Presiding Officer* means a person who conducts any adjudicative proceedings under this part, and may include an administrative law judge qualified under Title 5, United States