

Consumer Product Safety Commission

§ 1025.14

Code, section 3105, but shall not include a Commissioner.

(j) *Respondent* means any person against whom a complaint has been issued.

(k) *Secretary* means the Secretary of the Consumer Product Safety Commission.

(l) *Staff* means the staff of the Consumer Product Safety Commission.

Additional definitions relating to prohibited communications are in § 1025.68.

Subpart B—Pleadings, Form, Execution, Service of Documents

§ 1025.11 Commencement of proceedings.

(a) *Notice of institution of enforcement proceedings.* Any adjudicative proceedings under this part shall be commenced by the issuance of a complaint, authorized by the Commission, and signed by the Associate Executive Director for Compliance and Enforcement.

(b) *Form and content of complaint.* The complaint shall contain the following:

(1) A statement of the legal authority for instituting the proceedings, including the specific sections of statutes, rules and regulations involved in each allegation.

(2) Identification of each respondent or class of respondents.

(3) A clear and concise statement of the charges, sufficient to inform each respondent with reasonable definiteness of the factual basis or bases of the allegations of violation or hazard. A list and summary of documentary evidence supporting the charges shall be attached.

(4) A request for the relief which the staff believes is in the public interest.

(c) *Notice to the public.* Once issued, the complaint shall be submitted without delay to the FEDERAL REGISTER for publication.

§ 1025.12 Answer.

(a) *Time for filing.* A respondent shall have twenty (20) days after service of a complaint to file an answer.

(b) *Contents of answer.* The answer shall contain the following:

(1) A specific admission or denial of each allegation in the complaint. If a respondent is without knowledge or in-

formation sufficient to form a belief as to the truth of an allegation, the respondent shall so state. Such statement shall have the effect of a denial. Allegations that are not denied shall be deemed to have been admitted.

(2) A concise statement of the factual or legal defenses to each allegation of the complaint.

(c) *Default.* Failure of a respondent to file an answer within the time provided, unless extended, shall constitute a waiver of the right to appear and contest the allegations in the complaint, and the Presiding Officer may make such findings of fact and conclusions of law as are just and reasonable under the circumstances.

§ 1025.13 Amendments and supplemental pleadings.

The Presiding Officer may allow appropriate amendments and supplemental pleadings which do not unduly broaden the issues in the proceedings or cause undue delay.

§ 1025.14 Form and filing of documents.

(a) *Filing.* Except as otherwise provided in these Rules, all documents submitted to the Commission or the Presiding Officer shall be addressed to, and filed with, the Secretary. Documents may be filed in person or by mail and shall be deemed filed on the day of filing or mailing.

(b) *Caption.* Every document shall contain a caption setting forth the name of the action, the docket number, and the title of the document.

(c) *Copies.* An original and three (3) copies of all documents shall be filed. Each copy must be clear and legible.

(d) *Signature.* (1) The original of each document filed shall be signed by a representative of record for the party or participant; or in the case of parties or participants not represented, by the party or participant; or by a partner, officer or other appropriate official of any corporation, partnership, or unincorporated association, who files an appearance on behalf of the party or participant.

(2) By signing a document, the signer represents that the signer has read it and that to the best of the signer's knowledge, information and belief, the

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statements made in it are true and that it is not filed for purposes of delay.

(e) *Form.* (1) All documents shall be dated and shall contain the address and telephone number of the signer.

(2) Documents shall be on paper approximately 8½ × 11 inches in size. Print shall not be less than standard elite or 12 point type. Pages shall be fastened in the upper left corner or along the left margin.

(3) Documents that fail to comply with this section may be returned by the Secretary.

§ 1025.15 Time.

(a) *Computation.* In computing any period of time prescribed or allowed by these rules, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. As used in this rule, "legal holiday" includes New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, Christmas Day, and any other day declared as a holiday by the President or the Congress of the United States.

(b) *Additional time after service by mail.* Whenever a party is required or permitted to do an act within a prescribed period after service of a document and the document is served by mail, three (3) days shall be added to the prescribed period.

(c) *Extensions.* For good cause shown, the Presiding Officer may extend any time limit prescribed or allowed by these rules or by order of the Commission or the Presiding Officer, except for those sections governing the filing of interlocutory appeals and appeals from Initial Decisions and those sections expressly requiring Commission action. Except as otherwise provided by law, the Commission, for good cause shown,

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may extend any time limit prescribed by these rules or by order of the Commission or the Presiding Officer.

§ 1025.16 Service.

(a) *Mandatory service.* Every document filed with the Secretary shall be served upon all parties to any proceedings, i.e., Complaint Counsel, respondent(s), and party intervenors, as well as the Presiding Officer. Every document filed with the Secretary shall also be served upon each participant, if the Presiding Officer or the Commission so directs.

(b) *Service of complaint, ruling, petition for interlocutory appeal, order, decision, or subpoena.* A complaint, ruling, petition for interlocutory appeal, order, decision, or subpoena shall be served in one of the following ways:

(1) *By registered or certified mail.* A copy of the document shall be addressed to the person, partnership, corporation or unincorporated association to be served at his/her/its residence or principal office or place of business and sent by registered or certified mail; or

(2) *By delivery to an individual.* A copy of the document may be delivered to the person to be served; or to a member of the partnership to be served; or to the president, secretary, or other executive officer, or a director of the corporation or unincorporated association to be served; or to an agent authorized by appointment or by law to receive service; or

(3) *By delivery to an address.* If the document cannot be served in person or by mail as provided in paragraph (b)(1) or (b)(2) of this section, a copy of the document may be left at the principal office or place of business of the person, partnership, corporation, unincorporated association, or authorized agent with an officer or a managing or general agent; or it may be left with a person of suitable age and discretion residing therein, at the residence of the person or of a member of the partnership or of an executive officer, director, or agent of the corporation or unincorporated association to be served; or

(4) *By publication in the FEDERAL REGISTER.* A respondent that cannot be served by any of the methods already described in this section may be served