

Consumer Product Safety Commission

§ 1025.31

that does not dispose of all issues shall include a statement of those material facts about which there is no substantial controversy and of those material facts that are actually and in good faith controverted. The Summary Order shall direct such further proceedings as are appropriate.

§ 1025.26 Settlements.

(a) *Availability.* Any party shall have the opportunity to submit an offer of settlement to the Presiding Officer.

(b) *Form.* Offers of settlement shall be filed *in camera* and the form of a consent agreement and order, shall be signed by the respondent or respondent's representative, and may be signed by any other party. Each offer of settlement shall be accompanied by a motion to transmit the proposed agreement and order to the Commission. The motion shall outline the substantive provisions of the agreement and state reasons why it should be accepted by the Commission.

(c) *Contents.* The proposed consent agreement and order which constitute the offer of settlement shall contain the following:

(1) An admission of all jurisdictional facts;

(2) An express waiver of further procedural steps and of all rights to seek judicial review or otherwise to contest the validity of the Commission order;

(3) Provisions that the allegations of the complaint are resolved by the consent agreement and order;

(4) A description of the alleged hazard, noncompliance, or violation;

(5) If appropriate, a listing of the acts or practices from which the respondent shall refrain; and

(6) If appropriate, a detailed statement of the corrective action(s) which the respondent shall undertake. In proceedings arising under Section 15 of the Consumer Product Safety Act, 15 U.S.C. 2064, this statement shall contain all the elements of a "Corrective Action Plan," as outlined in the Commission's Interpretation, Policy, and Procedure for Substantial Product Hazards, 16 CFR part 1115.

(d) *Transmittal.* The Presiding Officer may transmit to the Commission for decision all offers of settlement and accompanying memoranda that meet the

requirements enumerated in paragraph (c) of this section. The Presiding Officer shall consider whether an offer of settlement is clearly frivolous, duplicative of offers previously made and rejected by the Commission or contrary to establish Commission policy. The Presiding Officer may, but need not, recommend acceptance of offers. Any party may object to the transmittal to the Commission of a proposed consent agreement by filing a response opposing the motion.

(e) *Stay of proceedings.* When an offer of settlement has been agreed to by all parties and has been transmitted to the Commission, the proceedings shall be stayed until the Commission has ruled on the offer. When an offer of settlement has been made and transmitted to the Commission but has not been agreed to by all parties, the proceedings shall not be stayed pending Commission decision on the offer, unless otherwise ordered by the Presiding Officer or the Commission.

(f) *Commission ruling.* The Commission shall rule upon all transmitted offers of settlement. If the Commission accepts the offer, the Commission shall issue an appropriate order, which shall become effective upon issuance.

(g) *Commission rejection.* If the Commission rejects an offer of settlement, the Secretary, in writing, shall give notice of the Commission's decision to the parties and the Presiding Officer. If the proceedings have been stayed, the Presiding Officer shall promptly issue an order notifying the parties of the resumption of the proceedings, including any modifications to the schedule resulting from the stay of the proceedings.

(h) *Effect of rejected offer.* Neither rejected offers of settlement, nor the fact of the proposal of offers of settlement are admissible in evidence.

Subpart D—Discovery, Compulsory Process

§ 1025.31 General provisions governing discovery.

(a) *Applicability.* The discovery rules established in this subpart are applicable to the discovery of information among the parties in any proceedings.