

Subpart A—General

§ 1030.101 Cross-references to employee ethical conduct standards and financial disclosure regulations.

Employees of the Consumer Product Safety Commission are subject to the Standards of Ethical Conduct, 5 CFR part 2635, which are applicable to all executive branch personnel; the CPSC regulations at 5 CFR part 8101, which supplement the executive branch standards; the Office of Personnel Management regulations on employee conduct at 5 CFR part 735; and the financial disclosure regulations at 5 CFR part 2634, which are applicable to all executive branch personnel. In addition, the Commissioners of the CPSC are subject to the statutory provisions of 15 U.S.C. 2053(c).

Subparts B–D [Reserved]

PART 1031—COMMISSION PARTICIPATION AND COMMISSION EMPLOYEE INVOLVEMENT IN VOLUNTARY STANDARDS ACTIVITIES

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AUTHORITY: 15 U.S.C. 2051–2083; 15 U.S.C. 1261–1276; 15 U.S.C. 1191–1204.

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Subpart A—General Policies

§ 1031.1 Purpose and scope.

(a) This part 1031 sets forth the Consumer Product Safety Commission’s guidelines and requirements on participating in the activities of voluntary standards bodies. Subpart A sets forth general policies on Commission involvement, and subpart B sets forth policies and guidelines on employee involvement in voluntary standards activities. Subpart C sets forth the criteria governing public review and comment on staff involvement in voluntary standards activities.

(b) For purposes of both subpart A and subpart B of this part 1031, voluntary standards bodies are private sector domestic or multinational organizations or groups, or combinations thereof, such as, but not limited to, all non-profit organizations, industry associations, professional and technical societies, institutes, and test laboratories, that are involved in the planning, development, establishment, revision, review or coordination of voluntary standards. Voluntary standards development bodies are voluntary standards bodies, or their sub-groups, that are devoted to developing or establishing voluntary standards.

§ 1031.2 Background.

(a) Congress enacted the Consumer Product Safety Act in 1972 to protect consumers against unreasonable risks of injury associated with consumer products. In order to achieve that goal, Congress established the Consumer Product Safety Commission as an independent regulatory agency and granted it broad authority to promulgate mandatory safety standards for consumer products as a necessary alternative to industry self regulation.

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(b) In 1981, the Congress amended the Consumer Product Safety Act, the Federal Hazardous Substances Act, and the Flammable Fabrics Act, to require the Commission to rely on voluntary standards rather than promulgate a mandatory standard when voluntary standards would eliminate or adequately reduce the risk of injury addressed and it is likely that there will be substantial compliance with the voluntary standards. (15 U.S.C. 2056(b), 15 U.S.C. 1262(g)(2), 15 U.S.C. 1193(h)(2)). The 1981 Amendments also require the Commission, after any notice or advance notice of proposed rulemaking, to provide technical and administrative assistance to persons or groups who propose to develop or modify an appropriate voluntary standard. (15 U.S.C. 2054(a)(3)). Additionally, the amendments encourage the Commission to provide technical and administrative assistance to groups developing product safety standards and test methods, taking into account Commission resources and priorities (15 U.S.C. 2054(a)(4)). Although the Commission is required to provide assistance to such groups, it may determine the level of assistance in accordance with the level of its own administrative and technical resources and in accordance with its assessment of the likelihood that the groups being assisted will successfully develop a voluntary standard that will preclude the need for a mandatory standard.

(c) In 1990, Congress passed the Consumer Product Safety Improvement Act (CPSIA), amending section 15(b) of the CPSA to require that manufacturers, distributors, and retailers notify the Commission about products that fail to comply with an applicable voluntary standard upon which the Commission has relied under section 9 of the CPSA. CPSIA also amended section 9(b)(2) of the CPSA to require that the CPSC afford interested persons the opportunity to comment regarding any voluntary standard prior to CPSC termination and reliance.

§ 1031.3 Consumer Product Safety Act amendments.

The Consumer Product Safety Act, as amended, contains several sections pertaining to the Commission's participa-

tion in the development and use of voluntary standards.

(a) Section 7(b) provides that the Commission shall rely on voluntary consumer product safety standards prescribing requirements described in subsection (a) whenever compliance with such voluntary standards would eliminate or adequately reduce the risk of injury addressed and it is likely that there will be substantial compliance with such voluntary standards. (15 U.S.C. 2056(b)).

(b) Section 5(a)(3) provides that the Commission shall, following publication of an advance notice of proposed rulemaking or a notice of proposed rulemaking for a product safety rule under any rulemaking authority administered by the Commission, assist public and private organizations or groups of manufacturers, administratively and technically, in the development of safety standards addressing the risk of injury identified in such notice. (15 U.S.C. 2054(a)(3)).

(c) Section 5(a)(4) provides that the Commission shall, to the extent practicable and appropriate (taking into account the resources and priorities of the Commission), assist public and private organizations or groups of manufacturers, administratively and technically, in the development of product safety standards and test methods. (15 U.S.C. 2054(a)(4)).

§ 1031.4 Effect of voluntary standards activities on Commission activities.

(a)(1) The Commission, in determining whether to begin proceedings to develop mandatory standards under the acts it administers, considers whether mandatory regulation is necessary or whether there is an existing voluntary standard that adequately addresses the problem and the extent to which that voluntary standard is complied with by the affected industry.

(2) The Commission acknowledges that there are situations in which adequate voluntary standards, in combination with appropriate certification programs, may be appropriate to support a conclusion that a mandatory standard is not necessary. The Commission may find that a mandatory standard is not necessary where compliance with an existing voluntary standard would