

**PART 1983—PROCEDURES FOR THE HANDLING OF RETALIATION COMPLAINTS UNDER SECTION 219 OF THE CONSUMER PRODUCT SAFETY IMPROVEMENT ACT OF 2008.**

**Subpart A—Complaints, Investigations, Findings and Preliminary Orders**

- Sec.  
 1983.100 Purpose and scope.  
 1983.101 Definitions.  
 1983.102 Obligations and prohibited acts.  
 1983.103 Filing of retaliation complaint.  
 1983.104 Investigation.  
 1983.105 Issuance of findings and preliminary orders.

**Subpart B—Litigation**

- 1983.106 Objections to the findings and the preliminary order and request for a hearing.  
 1983.107 Hearings.  
 1983.108 Role of Federal agencies.  
 1983.109 Decision and orders of the administrative law judge.  
 1983.110 Decision and orders of the Administrative Review Board.

**Subpart C—Miscellaneous Provisions**

- 1983.111 Withdrawal of complaints, objections, and findings; settlement.  
 1983.112 Judicial review.  
 1983.113 Judicial enforcement.  
 1983.114 District court jurisdiction of retaliation complaints.  
 1983.115 Special circumstances; waiver of rules.

AUTHORITY: 15 U.S.C. 2087; Secretary of Labor's Order No. 5-2007, 72 FR 31160 (June 5, 2007); Secretary of Labor's Order No. 1-2010 (Jan. 15, 2010), 75 FR 3924-01 (Jan. 25, 2010).

SOURCE: 75 FR 53538, Aug. 31, 2010, unless otherwise noted.

**Subpart A—Complaints, Investigations, Findings and Preliminary Orders**

**§ 1983.100 Purpose and scope.**

(a) This part implements procedures of the employee protection provision of the Consumer Product Safety Improvement Act (CPSIA), 15 U.S.C. 2087. CPSIA provides for employee protection from retaliation because the employee has engaged in protected activity pertaining to consumer product safety.

(b) This part establishes procedures under the CPSIA for the expeditious handling of retaliation complaints filed by employees, or by persons acting on their behalf. These rules, together with those codified at 29 CFR part 18, set forth the procedures for submission of complaints under CPSIA, investigations, issuance of findings and preliminary orders, objections to findings and orders, litigation before administrative law judges, post-hearing administrative review, and withdrawals and settlements.

**§ 1983.101 Definitions.**

(a) *Assistant Secretary* means the Assistant Secretary of Labor for Occupational Safety and Health or the person or persons to whom he or she delegates authority under CPSIA.

(b) *Business days* means days other than Saturdays, Sundays, and Federal holidays.

(c) *Commission* means the Consumer Product Safety Commission.

(d) *Complainant* means the employee who filed a CPSIA complaint or on whose behalf a complaint was filed.

(e) (1) *Consumer product* means any article, or component part thereof, produced or distributed for sale to a consumer for use in or around a permanent or temporary household or residence, a school, in recreation, or otherwise, or for the personal use, consumption or enjoyment of a consumer in or around a permanent or temporary household or residence, a school, in recreation, or otherwise (the term "consumer product" includes any mechanical device which carries or conveys passengers along, around, or over a fixed or restricted route or course or within a defined area for the purpose of giving its passengers amusement, which is customarily controlled or directed by an individual who is employed for that purpose and who is not a consumer with respect to such device, and which is not permanently fixed to a site, but does not include such a device that is permanently fixed to a site).

(2) The term *consumer product* does not include:

(i) Any article which is not customarily produced or distributed for sale to, or use or consumption by, or enjoyment of, a consumer;

§ 1983.102

29 CFR Ch. XVII (7–1–11 Edition)

- (ii) Tobacco and tobacco products;
  - (iii) Motor vehicles or motor vehicle equipment (as defined by 49 U.S.C. 30102(a)(6) and (7));
  - (iv) Pesticides (as defined by the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 *et seq.*));
  - (v) Any article or any component of any such article which, if sold by the manufacturer, producer, or importer, would be subject to the tax imposed by 26 U.S.C. 4181;
  - (vi) Aircraft, aircraft engines, propellers, or appliances (as defined in 49 U.S.C. 40102(a));
  - (vii) Boats which could be subjected to safety regulation under 46 U.S.C. chapter 43; vessels, and appurtenances to vessels (other than such boats), which could be subjected to safety regulation under title 52 of the Revised Statutes or other marine safety statutes administered by the department in which the Coast Guard is operating; and equipment (including associated equipment, as defined in 46 U.S.C. 2101(1)) to the extent that a risk of injury associated with the use of such equipment on boats or vessels could be eliminated or reduced by actions taken under any statute referred to in this definitional section;
  - (viii) Drugs, devices, or cosmetics (as such terms are defined in 21 U.S.C. 321(g), (h), and (i)); or
  - (ix) Food (the term “food” means all “food,” as defined in 21 U.S.C. 321(f), including poultry and poultry products (as defined in 21 U.S.C. 453(e) and (f)), meat, meat food products (as defined in 21 U.S.C. 601(j)), and eggs and egg products (as defined in 21 U.S.C. 1033)).
- (f) *CPSIA* means Section 219 of the Consumer Product Safety Improvement Act of 2008, Public Law 110–314, August 14, 2008, codified at 15 U.S.C. 2087.
- (g) *Distributor* means a person to whom a consumer product is delivered or sold for purposes of distribution in commerce, except that such term does not include a manufacturer or retailer of such product.
- (h) *Employee* means an individual presently or formerly working for, an individual applying to work for, or an individual whose employment could be affected by a manufacturer, private labeler, distributor, or retailer.

- (i) *Manufacturer* means any person who manufactures or imports a consumer product. A product is manufactured if it is manufactured, produced, or assembled.
- (j) *OSHA* means the Occupational Safety and Health Administration of the United States Department of Labor.
- (k) *Private labeler* means an owner of a brand or trademark on the label of a consumer product which bears a private label. A consumer product bears a private label if:
  - (i) The product (or its container) is labeled with the brand or trademark of a person other than a manufacturer of the product,
  - (ii) The person with whose brand or trademark the product (or container) is labeled has authorized or caused the product to be so labeled, and
  - (iii) The brand or trademark of a manufacturer of such product does not appear on such label.
- (l) *Retailer* means a person to whom a consumer product is delivered or sold for purposes of sale or distribution by such person to a consumer.
- (m) *Respondent* means the employer named in the complaint who is alleged to have violated the Act.
- (n) *Secretary* means the Secretary of Labor or person to whom authority under CPSIA has been delegated.
- (o) Any future statutory amendments that affect the definition of a term or terms listed in this section will apply in lieu of the definition stated herein.

**§ 1983.102 Obligations and prohibited acts.**

- (a) No manufacturer, private labeler, distributor, or retailer may discharge or otherwise retaliate against, including, but not limited to, intimidating, threatening, restraining, coercing, blacklisting or disciplining, any employee with respect to the employee’s compensation, terms, conditions, or privileges of employment because the employee, whether at the employee’s initiative or in the ordinary course of the employee’s duties (or any person acting pursuant to a request of the employee), engaged in any of the activities specified in paragraphs (b)(1) through (4) of this section.