§ 1031.5 Criteria for Commission involvement in voluntary standards activities.

The Commission will consider the extent to which the following criteria are met in considering Commission involvement in the development of voluntary safety standards for consumer products:

(a) The likelihood the voluntary standard will eliminate or adequately reduce the risk of injury addressed and that there will be substantial and timely compliance with the voluntary standard.

(b) The likelihood that the voluntary standard will be developed within a reasonable period of time.

(c) Exclusion, to the maximum extent possible, from the voluntary standard being developed, of requirements which will create anticompetitive effects or promote restraint of trade.

(d) Provisions for periodic and timely review of the standard, including review for anticompetitive effects, and revision or amendment as the need arises.

(e) Performance-oriented and not design-restrictive requirements, to the maximum practical extent, in any standard developed.

(f) Industry arrangements for achieving substantial and timely industry

rulemaking which shall, among other things, invite any person to submit to the Commission an existing standard or portion of an existing standard, or to submit a statement of intention to modify or develop, within a reasonable period of time, a voluntary standard to address the risk of injury.

(c) The Commission will consider those provisions of a voluntary standard that have been reviewed, evaluated, and deemed to be adequate in addressing the specified risks of injury when initiating a mandatory consumer product safety rule or regulation under the Consumer Product Safety Act, the Federal Hazardous Substances Act, or the Flammable Fabrics Act, as may be applicable. Comments will be requested in the advance notice of proposed rulemaking on the adequacy of such voluntary standard provisions.

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(b) The likelihood that the voluntary standard will be developed within a reasonable period of time.

(c) Exclusion, to the maximum extent possible, from the voluntary standard being developed, of requirements which will create anticompetitive effects or promote restraint of trade.

(d) Provisions for periodic and timely review of the standard, including review for anticompetitive effects, and revision or amendment as the need arises.

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Consumer Product Safety Commission § 1031.6

compliance with the voluntary standard once it is issued, and the means of ascertaining such compliance based on overall market share of product production.

(g) Provisions in the standard for marking products conforming to the standard so that future Commission investigation can indicate the involvement of such products in accidents and patterns of injury.

(h) Provisions for insuring that products identified as conforming to such standards will be subjected to a testing and certification (including self-certification) procedure, which will provide assurance that the products comply with the standard.

(i) The openness to all interested parties, and the establishment of procedures which will provide for meaningful participation in the development of such standards by representatives of producers, suppliers, distributors, retailers, consumers, small business, public interests and other individuals having knowledge or expertise in the areas under consideration, and procedures for affording other due process considerations.

§ 1031.6 Extent and form of Commission involvement in the development of voluntary standards.

(a) The extent of Commission involvement will be dependent upon the Commission’s interest in the particular standards development activity and the Commission’s priorities and resources.

(b) The Commission’s interest in a specific voluntary standards activity will be based in part on the frequency and severity of injuries associated with the product, the involvement of the product in accidents, the susceptibility of the hazard to correction through standards, and the overall resources and priorities of the Commission. Commission involvement in voluntary standards activities generally will be guided by the Commission’s operating plan and performance budget.

(c) Commission involvement in voluntary standards activities varies.

(1) The Commission staff may maintain an awareness of the voluntary standards development process through oral or written inquiries, receiving and reviewing minutes of meetings and copies of draft standards, or attending meetings for the purpose of observing and commenting during the standards development process in accordance with subpart B of this part. For example, Commission staff may respond to requests from voluntary standards organizations, standards development committees, trade associations and consumer organizations; by providing information concerning the risks of injury associated with particular products, National Electronic Injury Surveillance System (NEISS) data, death, injury, and incident data, summaries and analyses of in-depth investigation reports; discussing Commission goals and objectives with regard to voluntary standards and improved consumer product safety; responding to requests for information concerning Commission programs; and initiating contacts with voluntary standards organizations to discuss cooperative voluntary standards activities.

(2) Employee involvement may include membership as defined in §1031.10(a). Commission staff may regularly attend meetings of a standard development committee or group and take an active part in the discussions of the committee and in developing the standard, in accordance with subpart B of this part. The Commission may contribute to the deliberations of the committee by expending resources to provide technical assistance (e.g., research, engineering support, and information and education programs) and administrative assistance (e.g., travel costs, hosting meetings, and secretarial functions) in support of the development and implementation of those voluntary standards referenced in the Commission’s operating plan, performance budget, mid-year review, or other official Commission document. The Commission may also support voluntary standards activities as described in §1031.7. Employee involvement may include observation as described in §1031.10(c).

(d) Normally, the total amount of Commission support given to a voluntary standards activity shall be no greater than that of all non-Federal participants in that activity, except