Description of document:	Copies of each of the Consumer Product Safety Commission (CPSC) Directives: Series 0000 (General), Series 0310 (Delegations of Authority - Regulatory), Series 0600 (Management Programs), Series 1400 (Public Information), and Series 9000 (Compliance and Field Investigation), 1973-2016
Requested date:	2017
Released date:	10-October-2018
Posted date:	12-November-2018
Source of document:	U.S. Consumer Product Safety Commission 4330 East West Highway Bethesda, MD 20814 Fax: 301-504-0127 E-mail: cpsc-foia@cpsc.gov e-FOIA Public Access Link (PAL) [See instructions here]

U.S. CONSUMER PRODUCT SAFETY COMMISSION
4330 EAST WEST HIGHWAY
BETHESDA, MARYLAND 20814-4408

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October 10, 2018

RE: Freedom of Information Act Request #17-F-00198: An electronic/digital copy of each of the CPSC Directives: Series 0000 (General), Series 0310 (Delegations of Authority - Regulatory), Series 0600 (Management Programs), Series 1400 (Public Information), and Series 9000 (Compliance and Field Investigation).

Thank you for your Freedom of Information Act (FOIA) request seeking the above referenced information from the U.S. Consumer Product Safety Commission (Commission).

In response to your request, please find enclosed digital copies of each of the CPSC Directives: Series 0000 (General), Series 0310 (Delegations of Authority - Regulatory), Series 0600 (Management Programs), Series 1400 (Public Information), and Series 9000 (Compliance and Field Investigation).

I trust that this information fully satisfies your request. If you need any further assistance or would like to discuss any aspect of your request please do not hesitate to contact the analyst, Michael O. Jokoh at mjokoh@cpsc.gov, or one of the Commission's FOIA Public Liaisons, Deborah Acosta (dacosta@cpsc.gov) or Lynn Carter (lcarter@cpsc.gov), at 1-800-638-2772.

The records from the Commission files responsive to your request have been processed and copies are enclosed. Processing your request, including searching files and preparing this information cost the Commission $20.00. In this instance, we waived the charges. This completes the processing of your request.

Sincerely,

Michael O. Jokoh
FOIA Specialist
Office of the General Counsel
Division of the Secretariat

Enlcosures

UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION

DIRECTIVES SYSTEM

ORDER NO.
0000.1
November 19, 1973

GENERAL

STATEMENT OF POLICY

1. PURPOSE.

a. A major purpose of the Consumer Product Safety Commission is to protect the consumer against the unreasonable risks of injury associated with consumer products.

b. The following policies are aimed at achieving this purpose.

2. POLICY ON PRIORITIES.

The Commission will deal first with those products which pose the greatest risk of injury to the public. The Commission will set (and will periodically reevaluate) its priorities, taking into consideration the number of injuries associated with a particular product, the severity of those injuries, the consumer's likelihood of exposure to that product, and any other factors, which the Commission considers important.

3. POLICY ON REGULATION.

a. The Commission will formulate and implement that regulatory solution which best matches the magnitude and type of hazard associated with the product.

b. First, insofar as is practicable, the cause of a product hazard will be identified and evaluated. Subsequently, the Commission will choose the most appropriate regulatory tool or combination of tools -- e.g., seizures, bans, mandatory safety standards, encouragement of voluntary action, information and education -- available under the Acts it administers.

4. POLICY ON CLARITY OF SAFETY RULES.

When the Commission promulgates a safety rule, it will do so with as much clarity and precision as possible, in order that all interested persons might understand the specifics of the rule and the Commission's intent in promulgating the rule.

5. **POLICY ON ENFORCEMENT.** The Commission will enforce vigorously all the safety rules, regulations, and orders it promulgates as well as all those now in effect under the several Acts it administers. The Commission will use every appropriate remedy available under these Acts, **as necessary, to ensure compliance with its rules, regulations and orders.**

6. **POLICY ON PUBLIC INVOLVEMENT.**

   a. The Commission needs the interest and participation of the public in its work.

   b. Insofar as is practicable, Commission activities and deliberations will be open to the public and will afford any interested party the opportunity to participate and be heard. At the same time, the confidentiality of trade secrets and internal discussions will be maintained.

   c. The Commission believes that all manufacturers, importers, distributors, and retailers should be vitally concerned about the safety of the consumer products they make and sell. The Commission believes that all consumers should be vitally concerned about the safety of products they purchase and use. Through a constructive association of the Commission, industry, and the consuming public, the goal of significantly reducing the unreasonable risks of injury associated with consumer products can be achieved.

_____/s/_____ **11-19-73**
Richard O. Simpson **Date**
Chairman

UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION

DIRECTIVES SYSTEM

ORDER NO.
0000.2
October 9, 1996
Reviewed/Current 2/2006

GENERAL

ORGANIZATION & FUNCTIONS

1. **PURPOSE.** The purpose of this order is to incorporate into the CPSC Directives System the description of CPSC's organization and functions.

2. **CANCELLATION.** This order supersedes CPSC Order 0000.2 dated April 15, 1988.

3. **REFERENCE.** 16 CFR Part 1000 - Commission Organization and Functions.

4. **INCORPORATION OF 16 CFR 1000 INTO THE DIRECTIVES SYSTEM.** A description of the organization and functions of the Commission is periodically published in Title 16, Part 1000 of the Code of Federal Regulations (CFR). As 16 CFR 1000, or any portion, is updated and published in the Federal Register, any changes will be incorporated into Appendix A to this order.

/s/ **10/9/96**

Pamela Gilbert **Date**
Executive Director

UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION

DIRECTIVES SYSTEM **ORDER NO. 0000.5 April 21, 2004**

GENERAL

CPSC ORGANIZATIONAL SYMBOLS

1. **PURPOSE.** This Order establishes CPSC policy for the maintenance and use of standard organizational symbols.

2. **SCOPE.** All CPSC officially approved organizational components will be assigned standard organization symbols. This will apply to the Division level and higher and Field Offices. Branch levels may also be assigned.

3. **OFFICE RESPONSIBLE FOR THIS DIRECTIVE.** The Division of Financial Services (ADFS) within the Directorate for Administration (EXAD) is responsible for the directive.

4. **CANCELLATION.** This Order cancels Order 0000.5, CPSC Organizational Symbols dated May 15, 2001.

5. **POLICY.** Organizational symbols will be assigned by the Division of Financial Services (ADFS), and issued in the Management Information System Manual. Prior to the official establishment, consolidation, or other organizational changes, the Office of Human Resources Management (EXRM) will notify ADFS of the names of all organizational units involved. Individual CPSC offices proposing changes in organizational names or symbols must coordinate with EXRM and be assigned an official symbol by ADFS.

6. **STRUCTURE OF ORGANIZATIONAL SYMBOLS.** The following rules will be applied as a basis for structuring CPSC organization symbols.

   a. **Numeric Symbols.** All approved organization components will be assigned a four digit numeric symbol. The numeric symbol initially assigned to a Commissioner will not be changed during his/her tenure regardless of whether or not he/she may be designated as Chairman.

   b. **Alphabetic Symbols.**

      (1) **Chairman and Commissioners.** A basic symbol of four letters

will be assigned beginning with the letters 'CO' and followed by the initials of the first and last names of the Commissioner.

(2) **Offices and Directorates.** A basic symbol consisting of two to four letters will be used to identify each Office and Directorate. Offices and Directorates reporting directly to the Office of the Executive Director will begin with 'EX' plus the Office or Directorate identifier, which can be one or two letters (i.e. EXOB, Office of the Budget; EXC, Office of Compliance).

(3) **Divisions and Regional Offices.** These symbols will be made up of three or four alpha characters and will contain the related Office/Directorate symbol or identifier.

(a) **The Division.** The first two alpha characters will identify the Office or Directorate. The third and fourth alpha characters will identify the Division (i.e. GCGL, Division of General Law under the Office of the General Counsel; LSC, Division of Chemistry under the Directorate for Laboratory Sciences; ADFS, Division of Financial Services under the Directorate for Administration).

(b) **The Regional Office.** This symbol will begin with the letters 'FO' (Field Operations) followed by two additional alphas to identify the Regional Office location (i.e. FOER for Eastern Region).

(4) **Branches.**

(a) **Branches for Headquarter Division.** The Branch symbol will consist of five letters. The first four letters identify the appropriate Division. The last letter of the Branch symbol identifies the Branch (i.e. ISTSD, Desktop and User Services Branch under Division of Technology Services).

(b) **Field Office Branches.** The symbol for a Field Office Branch will consist of four letters. The first two letters will identify the Regional Office location. The last two letters identify the Branch name (i.e. ERCB, Compliance Branch under the Eastern Region).

/s/ 4-21-04

Patricia Semple **Date**
Executive Director

UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION

DIRECTIVES SYSTEM **ORDER NO. 0310.1**
July 13, 1980
Reviewed/Current 7/2006

DELEGATIONS OF AUTHORITY - REGULATORY

AUTHORITY TO CONDUCT CERTAIN HEARINGS

1. **PURPOSE.** The purpose of this Order is to delegate authority to conduct certain hearings pursuant to the mission of the Consumer Product Safety Commission.

2. **CANCELLATION.** This Order supercedes CPSC Order 0310.1, dated 11/20/78, Authority to Conduct Certain Hearings, which is hereby cancelled.

3. **REFERENCES.**

   a. Section 27(b)(9) of the Consumer Product Safety Act (15 U.S.C. 2076 (B)(9)) empowers the Commission to delegate any of its functions or powers other than the power to issue subpoenas under Section 27(b)(3), to any officer or employee of the Commission.

   b. Commission minute of September 5, 1974, "Delegation of Authority to Conduct Certain Informal Hearings Pursuant to the Federal Hazardous Substances Act and the Federal Food, Drug, and Cosmetic Act."

   c. The Federal Hazardous Substances Act, Sections 7 and 14(a) (15 U.S.C. 1266 and 1273(a)), and the Federal Food, Drug, and Cosmetic Act, Sections 305 and 801(a) (21 U.S.C. 335 and 381(a)), provide that the Commission is to afford affected persons the opportunity for an informal hearing upon sampling of certain imports and prior to the commencement of certain criminal proceedings.

4. **DELEGATION OF AUTHORITY.** Pursuant to 27(b)(9) of the Consumer Product Safety Act (15 U.S.C. 2076(b)(9)), the Commission hereby delegates to the Associate Executive Director for Compliance and Enforcement the authority to conduct hearings pursuant to:

   a. Section 7 of the Federal Hazardous Substances Act (15 U.S.C. 1266) involving the presentation of views by a person against whom criminal proceedings are being contemplated for violation of that act;

b. Section l4(a) of the Federal Hazardous Substances Act (15 U.S.C. 1273(a) involving the introduction of testimony by an owner or consignee of a hazardous substance being imported or offered for import into the United States;

c. Section 305 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 335) involving the presentation of views by a person against whom criminal proceedings are being contemplated for violation of that Act; and

d. Section 801(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(a)) involving the introduction of testimony by an owner or consignee of a food, drug, or cosmetic being imported or offered for import into the Unites States.

/s/

Susan B. King, Chairman

/s/

Stuart M. Statler, Vice Chairman

/s/

R. David Pittle, Commissioner

/s/

Edith Barksdale Sloan, Commissioner

/s/ **7/13/80**

Samuel Zagoria, Commissioner

UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION

DIRECTIVES SYSTEM **ORDER NO. 0310.10 November 20, 1978**

DELEGATIONS OF AUTHORITY - REGULATORY

AUTHORITY TO APPROVE INJUNCTION RECOMMENDATIONS UNDER THE ACTS ADMINISTERED BY THE COMMISSION AND TO INITIATE SUCH ACTIONS

1. **PURPOSE.** The purpose of this Order is to delegate authority to approve recommendations for injunctions under the acts administered by the Commission and to initiate such actions.

2. **SCOPE.** The provisions of this order apply to the Associate Executive Director for Compliance and Enforcement.

3. **REFERENCE.** Section 27(b)(9) of the Consumer Product Safety Act, as amended (15 U.S.C. 2076(b)(9)) empowers the Commission to delegate any of its functions or powers other than the power to issue subpoenas under Section 27(b)(3) to any officer or employee of the Commission.

4. **DELEGATION OF AUTHORITY.** Pursuant to Section 27(b)(9) of the Consumer Product Safety Act the Commission hereby delegates to the Associate Executive Director for Compliance and Enforcement authority (a) to approve recommendations for injunctions under the Consumer Product Safety Act, Flammable Fabrics Act, Federal Hazardous Substances Act, and Poison Prevention Packaging Act, (b) to refer such injunction actions to the Department of Justice and to U.S. Attorneys, and (c) to initiate injunction actions by the Commission's own attorneys where authorized by statute.

5. **REDELEGATION OF AUTHORITY.** This authority may be redelegated to members of the staff of the Directorate for Compliance and Enforcement.

6. **SUPERSESSION OF PREVIOUS AUTHORITY.** Previous delegations of this authority are superseded.

/s/

Susan B. King, Chairman

/s/

Edith Barksdale Sloan, Vice Chairman

/s/

Barbara Hackman Franklin, Commissioner

/s/ **11/20/78**

R. David Pittle, Commissioner

UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION

DIRECTIVES SYSTEM **ORDER NO. 0310.11 April 27, 1979**

DELEGATIONS OF AUTHORITY - REGULATORY

AUTHORITY TO APPROVE CIVIL PENALTY RECOMMENDATIONS UNDER THE CONSUMER PRODUCT SAFETY ACT, AND TO INITIATE SUCH ACTIONS

1. **PURPOSE.** The purpose of this Order is to delegate authority to approve recommendations for civil penalties under the Consumer Product Safety Act, and to initiate such actions.

2. **SCOPE.** The provisions of this order apply to the Associate Executive Director for Compliance and Enforcement.

3. **REFERENCES.**

   a. Section 27(b)(9) of the Consumer Product Safety Act, as amended (15 U.S.C. 2076(b)(9)) empowers the Commission to delegate any of its functions or powers other than the power to issue subpoenas under Section 27(b)(3) to any officer or employee of the Commission.

   b. Record of Commission Action, Meeting of December 14, 1978. Item: Case Authority Delegation.

4. **DELEGATION OF AUTHORITY.** Pursuant to Section 27(b)(9) of the Consumer Product Safety Act and pursuant to the above referenced Commission decision, the Commission hereby delegates to the Associate Executive Director for Compliance and Enforcement authority (a) to approve recommendations for civil penalties for violations of the Consumer Product Safety Act, (b) to negotiate informal settlements through such staff members as AEDCE may designate, (c) to issue an administrative complaint on behalf of the Commission, (d) to refer civil penalty collection actions against firms and/or individuals to the Department of Justice and to U.S. Attorneys, and (e) to initiate civil collection penalty actions by the Commission's own attorneys pursuant to Section 27(b)(7) of the Consumer Product Safety Act when appropriate.

Prior to pursuing such a civil penalty action, the Associate Executive Director for Compliance and Enforcement must provide a case summary memorandum to the Commission.

If no objections are raised by the Commission within five working days, the Associate Executive Director for Compliance and Enforcement may proceed.

5. **REDELEGATION OF AUTHORITY.** This authority may not be redelegated.

6. **EFFECTIVE DATE.** December 14, 1978.

/s/

Susan B. King, Chairman

/s/

Edith Barksdale Sloan, Vice Chairman

/s/

Barbara Hackman Franklin, Commissioner

/s/

R. David Pittle, Commissioner

/s/ **4-27-79**

Samuel Zagoria, Commissioner

UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION

DIRECTIVES SYSTEM **ORDER NO. 0310.12 July 16, 2010**

DELEGATION OF AUTHORITY – REGULATORY

AUTHORITY TO ISSUE A NEW ORDER REPLACING A PREVIOUS ORDER ISSUED BY THE COMMISSION THAT ACCREDITED A "FIREWALLED" LABORATORY

1. **PURPOSE.** The purpose of this Order is to delegate authority to issue a new order replacing a previous order issued by the Commission that accredited a laboratory as a "firewalled" third party conformity assessment body. This delegation relates solely to the need to change the legal name or address of the accredited laboratory. The revised order would not affect the underlying obligations specified in the initial order of the firewalled laboratory identified.

2. **SCOPE.** The provisions of this Order apply to the Assistant Executive Director of the Office of Hazard Identification and Reduction, the General Counsel, and the Secretary of the Commission.

3. **REFERENCE.**

   a. Section 27(b)(9) of the Consumer Product Safety Act (15 U.S.C. 2076(b)(9)) empowers the Commission to delegate any of its functions or powers, other than the power to issue subpoenas under Section 27(b)(3) of the CPSA (15 U.S.C. 2076(b)(3)), to any officer or employee of the Commission.

   b. Section 14(f)(2)(D) of the CPSA (15 U.S.C. 2063(f)(2)(D)) provides the Commission with the authority to accredit, by order, a conformity assessment body that is owned, managed, or controlled by a manufacturer or private labeler as a firewalled third party conformity assessment body.

4. **DELEGATION OF AUTHORITY.** Pursuant to Section 27(b)(9) of the Consumer Product Safety Act, the Commission delegates to the Assistant Executive Director of the Office of Hazard Identification and Reduction, with concurrence by the General Counsel, authority to issue a new order replacing a previous order issued by the Commission that accredited a laboratory as a "firewalled" third party conformity assessment body in the event of a change in the legal name or address of the accredited laboratory. Such a change in name or address must not affect the ownership, management, or control of the laboratory or otherwise. The new order

must be based upon information contained in copies of the firewalled third party conformity assessment body's Certificate of Accreditation and Scope Document. Pursuant to Order No. 0315.1, Delegation of Authority – General Administrative, Authority to Sign Commission Documents and Affix the Commission Seal, the Secretary of the Commission shall sign and forward for publication the new order for and on behalf of the Commission. This authority may not be redelegated.

Inez Moore Tenenbaum **Chairman**	7/16/10 **Date**
Thomas Hill Moore **Commissioner**	7/16/10 **Date**
Nancy A. Nord **Commissioner**	7/16/10 **Date**
Robert S. Adler **Commissioner**	7/16/10 **Date**
Anne Meagher Northup **Commissioner**	7/16/10 **Date**

UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION

DIRECTIVES SYSTEM **ORDER NO. 0310.13 October 1, 1981**

DELEGATIONS OF AUTHORITY - REGULATORY

AUTHORITY TO CLOSE IDENTIFICATION (D) FILES

1. **PURPOSE.** The purpose of this Order is to delegate authority to close ID files which involve potential substantial product hazards as defined by Section 15 of the Consumer Product Safety Act (CPSA).

2. **REFERENCES.**

   a. Section 27(b)(9) of the Consumer Product Safety Act (15 U.S.C. 2076(b)(9)) empowers the Commission to dele- gate any of its functions or powers other than the power to issue subpoenas under Section 27(b)(3) of the CPSA (15 U.S.C. 2076(b)(3)) to any officer or employee of the Com-mission.

   b. Section 15 of the CPSA (15 U.S.C. 2064) provides the Commission with the authority to identify and take action to protect the public from products which present substantial product hazards.

   c. The Directorate for Compliance and Administrative Litigation uses "Hazard Priority and Corrective Action Guidelines" to classify product hazards and determine appropriate corrective action.

3. **DELEGATION OF AUTHORITY.** Pursuant to Section 27(b)(9) of the Consumer Product Safety Act, the Commission hereby authorizes the Executive Director to close an Identification (ID) file (i.e., a file opened upon a preliminary staff determination that a product presents a substantial product hazard) at such time as he or she has determined that no further Commission resources should be expended to monitor a firm's corrective action plan or to attempt to require a firm to take additional corrective action. The Executive Director is also authorized to close an ID file if new information or further analysis indicates that the product does not present a substantial product hazard. This authority applies to ID files opened involving products classified in Hazard Priority Categories B, C and D as defined by the Directorate for Compliance and Administrative Litigation's "Hazard Priority and Corrective Action Guide-lines".

4. **REDELEGATION.** This authority may be redelegated to the Associate Executive Director **for Compliance and Administrative Litigation.**

5. **EFFECTIVE DATE.** October 1, 1981.

6. **SUPERSESSION AND EFFECTS ON OTHER ACTIONS.**

   a. This Order supersedes Order 0310.13, that was effective February 2, 1981.

   b. Actions taken by authorized persons under Order 0310.13 are hereby ratified.

/s/	10-1-81
Sadye E. Dunn, Secretary	**Date**

UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION

DIRECTIVES SYSTEM **ORDER NO. 0310.14 October 1, 1981**

DELEGATIONS OF AUTHORITY - REGULATORY

AUTHORITY TO ACCEPT CERTAIN VOLUNTARY CORRECTIVE ACTION PLANS

1. **PURPOSE.** The purpose of this Order is to delegate authority to accept certain voluntary Corrective Action Plans proposed by firms to recall or otherwise correct products in the chain of distribution and the possession of consumers.

2. **REFERENCES.**

   a. Section 27(b)(9) of the Consumer Product Safety Act (15 U.S.C. 2076(b)(9)) empowers the Commission to dele- gate any of its functions or powers other than the power to issue subpoenas under Section 27(b)(3) of the CPSA (15 U.S.C. 2076(b)(3)) to any officer or employee of the Com-mission.

   b. Section 15 of the CPSA (15 U.S.C. 2064) provides the Commission with the authority to take action to protect the public from products which are found to present substantial product hazards.

   c. The Directorate for Compliance and Administrative Litigation uses "Hazard Priority and Corrective Action Guidelines" to classify product hazards and determine appropriate corrective action.

3. **DELEGATION OF AUTHORITY.** Pursuant to Section 27(b)(9) of the Consumer Product Safety Act, the Commission hereby authorizes the Executive Director to accept voluntary corrective action plans proposed by firms to recall or otherwise correct products which the staff has preliminarily determined to present substantial product hazards in Categories B or C as defined in reference C above) and to accept all corrective action plans involving products which have been classified in Category D (as defined in Reference C above).

4. **REDELEGATION.** This authority may be redelegated to the Associate Executive Director for Compliance and Administrative Litigation.

5. **EFFECTIVE DATE.** October 1, 1981.

6. **SUPERSESSION AND EFFECTS ON OTHER ACTIONS.**

   a. This Order supersedes Order 0310.14, that was effective February 2, 1981.

   b. Actions taken by authorized persons under Order 0310.14 are hereby ratified.

/s/	10-1-81
Sadye E. Dunn, Secretary	**Date**

UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION

DIRECTIVES SYSTEM | **ORDER NO. 0310.15 September 18, 2011**

DELEGATION OF AUTHORITY – REGULATORY

AUTHORITY TO ISSUE SUBPOENAS TO FEDERAL, STATE, OR LOCAL GOVERNMENT AGENCIES

1. **PURPOSE.** The purpose of this Order is to delegate to the General Counsel of the Commission the authority to issue subpoenas to federal, state, or local government agencies to obtain evidence, as outlined in section 27(b)(3) of the Consumer Product Safety Act (CPSA), 15 U.S.C. § 2076(b)(3).

2. **SCOPE.** The provisions of this Order apply to the General Counsel.

3. **REFERENCE.**

   a. Section 27(b)(9) of the CPSA (15 U.S.C. 2076(b)(9)) empowers the Commission to delegate to the General Counsel the power to issue subpoenas to federal, state, or local government agencies for evidence described in Section 27(b)(3) of the CPSA (15 U.S.C. § 2076(b)(3)).

   b. Section 27(b)(3) of the CPSA (15 U.S.C. § 2076(3)) provides the Commission with the authority to require, by subpoena, the attendance and testimony of witnesses and the production of all documentary and physical evidence related to the execution of its duties.

4. **DELEGATION OF AUTHORITY.** Pursuant to Section 27(b)(9) of the CPSA, the Commission hereby delegates to the General Counsel, the authority to issue subpoenas to federal, state, or local government agencies for evidence described in section 27(b)(3) of the CPSA.

Inez Moore Tenenbaum
Chairman

September 15, 2011
Date

Thomas Hill Moore
Commissioner

9-15-11
Date

Nancy A. Nord
Commissioner

9-16-11
Date

Robert S. Adler
Commissioner

9-15-11
Date

Anne Meagher Northup
Commissioner

9-18-11
Date

UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION

DIRECTIVES SYSTEM | **ORDER NO. 0310.16**
June 20, 2012

DELEGATIONS OF AUTHORITY - REGULATORY

AUTHORITY TO THE DEPUTY DIRECTOR, SAFETY OPERATIONS TO ADOPT OR REJECT ICCVAM TEST RECOMMENDATIONS

1. **PURPOSE.** The purpose of this order is to delegate authority to evaluate and adopt or reject test recommendations received by the Commission from the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) under Section 4 of the ICCVAM Authorization Act of 2000 (42 U.S.C. 285*l*-4), and notify the ICCVAM in writing of the adoption or rejection of test recommendations.

2. **REFERENCE.** Section 27(b)(9) of the Consumer Product Safety Act (15 U.S.C. 2076(b)(9)) empowers the Commission to delegate any of its functions or powers, other than the power to issue subpoenas under Section 27(b)(3), to any officer or employee of the Commission.

3. **DELEGATION OF AUTHORITY**. Pursuant to Section 27(b)(9) of the Consumer Product Safety Act (15 U.S.C. 2076(b)(9)) the Commission hereby delegates to the Deputy Director, Safety Operations authority to evaluate and adopt or reject test recommendations received from ICCVAM, and provide written notification to the ICCVAM of such determinations.

4. **REDELEGATION OF AUTHORITY.** This authority may be redelegated.

_____/s/_____ ___6-20-12_____
Inez Tenenbaum **Date**
Chairman

_____/s/_____ ___6-20-12_____
Robert Adler **Date**
Vice Chairman

_____/s/_____ ____6-20-12_____

Nancy Nord **Date**
Commissioner

_____/s/_____ ___6-20-12_____

Anne Northup **Date**
Commissioner

UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION

DIRECTIVES SYSTEM **ORDER NO. 0310.2 November 20, 1978**

DELEGATIONS OF AUTHORITY - REGULATORY

AUTHORITY TO CONDUCT ENFORCEMENT ACTIVITIES AND TO REQUEST SAMPLES OF IMPORTED CONSUMER PRODUCTS

1. **PURPOSE.** The purpose of this Order is to delegate authority to conduct enforcement activities and to request samples of imported consumer products.

2. **CANCELLATION.** This Order supercedes CPSC Order 0310.2, dated 3/20/75, Authority to Conduct Enforcement Activities and to Request Samples of Imported Consumer Products, which is hereby cancelled.

3. **REFERENCES.**

   a. Section 27(b)(9) of the Consumer Product Safety Act, (15 U.S.C. 2076(b)(9)) empowers the Commission to delegate any of its functions or powers , other than the power to issue subpoenas under Section 27(b)(3), to any officer or employee of the Commission.

   b. The Acts administered by the Commission provide authority with respect to certain enforcement activities and with respect to sampling of imported consumers products.

4. **DELEGATION OF AUTHORITY TO CONDUCT ENFORCEMENT ACTIVITIES.**

   a. Pursuant to Section 27(b)(9) of the Consumer Product Safety Act (15 U.S.C. 2076(b)(9)), the Commission hereby authorizes duly designated officers and employees of the Commission:

      (1) To conduct examinations, routine and special inspections, analyses, tests and investigations; to have access to and to copy and verify appropriate books, papers and records; to obtain samples and exhibits; and to supervise compliance operations in accordance with the provisions of the Consumer Product Safety Act (15 U.S.C. 2051 et seq.), the Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.), the Poison Prevention Packaging Act

of 1970 (15 U.S.C. 1471, et seq.), the Flammable Fabrics Act (15 U.S.C. 1191 et seq.), the Refrigerator Safety Act (15 U.S.C. 1211 et seq.), and rules, regulations, orders, or standards issued pursuant to those acts.

(2) To administer such oaths and affirmations as may be required in connection with the functions listed in (1) above.

b. Such designation of regular Commission officers and employees shall be evidenced by the issuance of official credentials consisting of CPSC FORM 110A entitled "Identification Record" and CPSC FORM 110B entitled "Specification of General Authority".

c. Such designation of qualified officers or employees of any state or local agency who have been duly commissioned as officers of the Consumer Product Safety Commission pursuant to Section 29(a)(2) of the Consumer Product Safety Act (15 U.S.C. 2078(a)(2)) shall be evidenced by the issuance of official credentials consisting of CPSC FORM 110C entitled "Identification Record" and CPSC FORM 110D. The extent and limitations of each such commissioned officer's delegated authority will be specified on the CPSC FORM 110D.

5. DELEGATION OF AUTHORITY TO REQUEST SAMPLES OF IMPORTS.

a. The Commission hereby authorizes duly designated officers and employees of the Commission to request and obtain from the Secretary of Treasury samples of products imported or offered for import including:

(1) consumer products, pursuant to Section 17 of the Consumer Product Safety Act (15 U.S.C. 2066);

(2) fabric, related material, and products, pursuant to Section 9 of the Flammable Fabrics Act (15 U.S.C. 1198);

(3) foods, drugs, or cosmetics requiring the use of special packaging under the Poison Prevention Packaging Act of 1970, pursuant to Section 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381); and

(4) hazardous substances, pursuant to Section 14 of the Federal Hazardous Substances Act (15 U.S.C. 1273).

b. Such designation of regular Commission officers and employees shall be evidenced by the issuance of official credentials consisting of CPSC FORM 110-A entitled "Identification Record" and CPSC FORM 110-B entitled "Specification of General Authority".

c. Such designation of qualified officers or employees of any state or local agency who have been duly commissioned as officers of the Consumer Product Safety Commission pursuant to Section 29(a)(2) of the Consumer Product Safety Act (15 U.S.C. 2078(a)(2)), shall be evidenced by the issuance of official credentials consisting of CPSC FORM 110-C entitled "Identification Record" and CPSC FORM 110-D. The extent and limitations of each such commissioned officer's delegated authority will be specified on the CPSC FORM 110-D.

6. **REDELEGATION OF AUTHORITY.** This authority may not be redelegated.

/s/

Susan B. King, Chairman

/s/

Edith Barksdale Sloan, Vice Chairman

/s/

Barbara Hackman Franklin, Commissioner

/s/ **11/20/78**

R. David Pittle, Commissioner

UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION

DIRECTIVES SYSTEM

ORDER NO.
0310.3
November 20, 1978

DELEGATIONS OF AUTHORITY - REGULATORY

AUTHORITY TO THE ASSOCIATE EXECUTIVE DIRECTOR FOR COMPLIANCE AND ENFORCEMENT TO ISSUE NOTIFICATIONS OF NONCOMPLIANCE

Comment [PAF]: Page: 1
The majority of this document is to be typed using a specific outline number format that is set into the template. You will not need to type any outline numbers or letters if you have tabbed (or shift tab for reverse) to the correct outline level. The Outline format can also be activated by selecting specific text and then Outline 1 thru Outline 9 styles from the formatting toolbar. To activate this toolbar Right Click in the Gray menu area and select Formatting.

1. **PURPOSE.** The purpose of this Order is to delegate the authority to issue notifications of noncompliance.

2. **CANCELLATION.** This Order supercedes CPSC Order 0310.3, dated 8/15/75, Authority to the Executive Director and Director, Bureau of Compliance to Issue Notifications of Noncompliance, which is hereby cancelled.

3. **REFERENCE.** Section 27(b)(9) of the Consumer Product Safety Act (15 U.S.C. 2076 (b)(9)) empowers the Commission to delegate any of its functions or powers, other than the power to issue subpoenas under Section 27(b)(3), to any officer or employee of the Commission.

4. **DELEGATION OF AUTHORITY.** Pursuant to Section 27(b)(9) of the Consumer Product Safety Act (15 U.S.C. 2076(b) (9)) the Commission hereby delegates to the Associate Executive Director for Compliance and Enforcement authority to sign and issue notifications of noncompliance pursuant to Section 21 of the Consumer Product Safety Act (15 U.S.C. 2070).

5. **REDELEGATION OF AUTHORITY.** The authority may be redelegated.

(original signed by)

Susan B. King, Chairman

(original signed by)

Edith Barksdale Sloan, Vice Chairman

(original signed by)

Barbara Hackman Franklin, Commissioner

(original signed by) **11/20/78**

R. David Pittle, Commissioner

UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION

DIRECTIVES SYSTEM **ORDER NO. 0310.4 November 17, 1977**

DELEGATIONS OF AUTHORITY – REGULATORY

AUTHORITY TO THE ASSOCIATE EXECUTIVE DIRECTOR FOR COMPLIANCE AND ENFORCEMENT TO ACCEPT COMPLIANCE REPORTS UNDER THE FLAMMABLE FABRICS ACT

1. **PURPOSE.** The purpose of this Order is to delegate the authority to accept compliance reports under the Flammable Fabrics Act.

2. **REFERENCE.**

   a. Section 27(b)(9) of the Consumer Product Safety Act (P.L. 92-573, October 27, 1972 as amended).

   b. Ballot Vote Decision by the Commission on 5/24/77.

3. **DELEGATION.** The Commission hereby authorizes the Associate Executive Director for Compliance and Enforcement to accept Reports of Compliance with Orders to Cease and Desist issued under the Flammable Fabrics Act.

   (1) This authority is applicable only in those cases in which the report and follow-up investigation demonstrate either that respondents are in compliance with the Order to Cease and Desist and the Flammable Fabrics Act or that any violation of the Order or the Flammable Fabrics Act is of such minimal significance that the violation presents no safety hazard and the public interest would not be served by further expenditure of resources.

4. **REDELEGATION.** This authority may be redelegated. This delegation shall continue in effect until such time as it is rescinded by the Commission.

5. **EFFECTIVE DATE.** May 24, 1977.

/s/

S. JOHN BYINGTON, CHAIRMAN

/s/

R. David Pittle, Commissioner

/s/ 11/17/77

Barbara Franklin, Commissioner

UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION

DIRECTIVES SYSTEM **ORDER NO. 0310.5 July 13, 1980**

DELEGATIONS OF AUTHORITY - REGULATORY

AUTHORITY EITHER (1) TO "OPEN A CASE" AND RECOMMEND THE INITIATION OF LEGAL ACTION, OR (2) TO MAKE DECISIONS THAT VIOLATIVE INSPECTIONS AND/OR SAMPLES ARE TO BE CLASSIFIED AS "NO ACTION INDICATED" AND TO "NOT OPEN A CASE"

1. **PURPOSE.** The purpose of this Order is (1) to delegate authority to "Open a Case" and recommend the initiation of legal action, and (2) to delegate authority to classify certain violative inspections and/or samples as "No Action Indicated" and to "Not Open a Case".

2. **SCOPE.** The provisions of this order apply to the CPSC Regional Directors and the Associate Executive Director for Compliance and Enforcement.

3. **CANCELLATION.** This order supercedes Order 0310.5 dated 4/27/79, Delegation of Authority - Regulatory Authority (1)to "Open a Case" and Recommend the Initiation of Legal Action, or (2)to Make Decisions that Violative Inspections and/or Samples Are to be Classified as "No Action Indicated" and "Not Open a Case".

4. **REFERENCES.**

   a. Section 27(b)(9) of the Consumer Product Safety Act (15 U.S.C. 2076 (B)(9)) empowers the Commission to delegate any of its functions or powers other than the power to issue subpoenas under Section 27(b)(3), to any officer or employee of the Commission.

   b. Record of Commission Action, Meeting of June 15, 1978. Item: Federal Hazardous Substances Act, Poison Prevention Packaging Act and Flammable Fabrics Act Case Authority Delegation.

   c. Record of Commission Action, Meeting of December 14, 1978. Item: Case Authority Delegation.

5. **DEFINITIONS.** The following definitions apply to the terms used in this Order.

a. **Case.** A case is a matter in which further action is recommended against a product and/or person to restrain violations and/or secure compliance with the laws administered by CPSC. Such action may consist of seizures, injunctions, prosecutions, cease and desist orders, and civil penalties.

b. **Opening a Case.** A case is opened when the Field office makes the decision to recommend the initiation of one or more of the actions listed in Item 4a, "Case", above.

c. **In Compliance (INCOM).** In compliance is the classification given to inspections and/or samples for which no violation of CPSC administered acts or published rules, regulations, or standards is uncovered or detected.

d. **Violative (VIOL).** Violative is the classification given to inspections and/or samples for which noncompliance with CPSC administered acts or published rules, regulations, or standards is uncovered or detected.

e. **No Action Indicated (NAI).** No action indicated is the compliance classification given a violative inspection and/or sample when the Regional Director makes the decision to not open a case.

f. **Voluntary Corrective Action.** Voluntary corrective action is the action taken by a firm to bring about compliance of its violative products in a reasonable and/or timely manner following its own detection of the violation or after being notified by a representative of the Commission of the violation.

6. **DELEGATION OF AUTHORITY.** Pursuant to Section 27 (b) (9) of the Consumer Product Safety Act and pursuant to the Commission decision of December 14, 1978, referenced in this Order, the Commission hereby delegates as follows:

a. To the Directors of CPSC Regional Offices the following authority subject to such enforcement guidelines and operating procedures as the Associate Executive Directors for Compliance and Enforcement and for Field Operations jointly deem to be necessary.

(1) Authority to open a case and recommend the initiation of legal action to secure compliance with the required act, rule, regulation and/or standard.

(2) Authority to make the decision that a violative inspection and/or sample will be classified as "No Action Indicated", and to not open a case.

b. To the Associate Executive Director for Compliance and Enforcement, authority to approve or disapprove the recommendations of Directors of the CPSC Regional Offices for legal actions to secure compliance. This shall include the authority to close a case or take legal actions other than that recommended.

7. REDELEGATION OF AUTHORITY. This authority may not be redelegated.

8. EFFECTIVE DATE. July 13, 1980.

/s/

Susan B. King, Chairman

/s/

Stuart M. Statler, Vice Chairman

/s/

R. David Pittle, Commissioner

/s/

Edith Barksdale Sloan, Commissioner

/s/ **7/13/80**

Samuel Zagoria, Commissioner

UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION

DIRECTIVES SYSTEM **ORDER NO. 0310.7 April 27, 1979**

DELEGATIONS OF AUTHORITY - REGULATORY

AUTHORITY TO APPROVE RECOMMENDATIONS FOR CEASE AND DESIST ORDERS UNDER THE FLAMMABLE FABRICS ACT, AND TO INITIATE SUCH ACTIONS

1. **PURPOSE.** The purpose of this Order is to delegate authority to approve recommendations for cease and desist orders under the Flammable Fabrics Act, and to initiate such actions.

2. **SCOPE.** The provisions of this order apply to the Associate Executive Director for Compliance and Enforcement.

3. **CANCELLATION.** This order superseded Order 0310.7, dated November 20, 1978, Authority to Approve Recommendations for Cease and Desist Orders Under the Flammable Fabrics Act and to initiate such actions.

4. **REFERENCES.**

   a. Section 27(b)(9) of the Consumer Product Safety Act, as amended (15 U.S.C. 2076(b)(9)) empowers the Commission to delegate any of its functions or powers other than the power to issue subpoenas under Section 27(b)(3) to any officer or employee of the Commission.

   b. Record of Commission Action, Meeting of June 15, 1978. Item: Federal Hazardous Substances Act, Poison Prevention Packaging Act and Flammable Fabrics Act Case Authority Delegation.

   c. Record of Commission Action, Meeting of December 14, 1978. Item: Case Authority Delegation.

5. **DELEGATION OF AUTHORITY.** Pursuant to Section 27 (b)(9) of the Consumer Product Safety Act and pursuant to the above referenced Commission decision of December 14, 1978, the Commission hereby delegates to the Associate Executive Director for Compliance and Enforcement authority (a) to approve recommendations to obtain cease and desist orders under the Flammable Fabrics Act against firms and/or individuals, (b) to conduct consent negotiations

to seek such orders through such staff members as AEDCE may designate, and (c) to issue an administrative complaint on behalf of the Commission.

Prior to issuing a complaint, the Associate Executive Director for Compliance and Enforcement must provide a case summary memorandum to the Commission. If no objections are raised by the Commission within five working days, the Associate Executive Director for Compliance and Enforcement may proceed.

6. **REDELEGATION OF AUTHORITY.** This authority may not be redelegated.

7. **EFFECTIVE DATE.** December 14, 1978

/s/

Susan B. King, Chairman

/s/

Edith Barksdale Sloan, Vice Chairman

/s/

Barbara Hackman Franklin, Commissioner

/s/

R. David Pittle, Commissioner

/s/ **4/27/79**

Samuel Zagoria, Commissioner

UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION

DIRECTIVES SYSTEM **ORDER NO. 0310.8 April 27, 1979**

DELEGATIONS OF AUTHORITY - REGULATORY

AUTHORITY TO APPROVE RECOMMENDATIONS FOR CEASE AND DESIST ORDERS UNDER THE FLAMMABLE FABRICS ACT, AND TO INITIATE SUCH ACTIONS

1. **PURPOSE.** The purpose of this Order is to delegate authority to approve recommendations for civil penalties under the Flammable Fabrics Act, and to initiate such actions.

2. **SCOPE.** The provisions of this order apply to the Associate Executive Director for Compliance and Enforcement.

3. **REFERENCES.**

   a. Section 27(b)(9) of the Consumer Product Safety Act, as amended (15 U.S.C. 2076(b)(9)) empowers the Commission to delegate any of its functions or powers other than the power to issue subpoenas under Section 27(b)(3) to any officer or employee of the Commission.

   b. Record of Commission Action, Meeting of June 15, 1978. Item: Federal Hazardous Substances Act, Poison Prevention Packaging Act and Flammable Fabrics Act Case Authority Delegation.

4. **DELEGATION OF AUTHORITY.** Pursuant to Section 27(b)(9) of the Consumer Product Safety Act and pursuant to the above referenced Commission decision of June 15, 1978, the Commission hereby delegates to the Associate Executive Director for Compliance and Enforcement authority (a) to approve recommendations for civil penalties for violations of orders to cease and desist issued under the Flammable Fabrics Act, (b) to refer such civil penalty actions against firms and/or individuals to the Department of Justice and to U.S. Attorneys, (c) to initiate civil penalty actions by the Commission's own attorneys pursuant to Section 27(b)(7) of the Consumer Product Safety Act when appropriate, and (d) to negotiate informal settlements through staff attorneys prior to the referral of civil penalty actions to the Department of Justice and to U.S. Attorneys when it is deemed appropriate.

Prior to pursuing such civil penalty action, the Associate Executive Director for Compliance and Enforcement must provide a case summary memorandum to the Commission. If no objections are raised by the Commission within five working days, the Associate Executive Director for Compliance and Enforcement may proceed with this action.

5. **REDELEGATION OF AUTHORITY.** This authority may not be redelegated.

6. **EFFECTIVE DATE.** June 15, 1978

/s/

Susan B. King, Chairman

/s/

Edith Barksdale Sloan, Vice Chairman

/s/

Barbara Hackman Franklin, Commissioner

/s/ **4/27/79**

R. David Pittle, Commissioner

UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION

DIRECTIVES SYSTEM **ORDER NO. 0310.9 November 20, 1978**

DELEGATIONS OF AUTHORITY - REGULATORY

AUTHORITY TO APPROVE SEIZURE RECOMMENDATIONS UNDER THE ACTS ADMINISTERED BY THE COMMISSION AND TO INITIATE SUCH ACTIONS

1. **PURPOSE.** The purpose of this Order is to delegate authority to approve recommendations for seizures under the acts administered by the Commission and to initiate such actions.

2. **SCOPE**. The provisions of this order apply to the Associate Executive Director for Compliance and Enforcement.

3. **REFERENCE.** Section 27(b)(9) of the Consumer Product Safety Act, as amended (15 U.S.C. 2076(b)(9)) empowers the Commission to delegate any of its functions or powers other than the power to issue subpoenas under Section 27(b)(3) to any officer or employee of the Commission.

4. **DELEGATION OF AUTHORITY.** Pursuant to Section 27(b)(9) of the Consumer Product Safety Act the Commission hereby delegates to the Associate Executive Director for Compliance and Enforcement authority (a) to approve recommendations for seizures under the Consumer Product Safety Act, Flammable Fabrics Act, Federal Hazardous Substances Act, and Poison Prevention Packaging Act, (b) to refer such seizure actions to the Department of Justice and to U.S. Attorneys, and (c) to initiate seizure actions by the Commission's own attorneys where authorized by statute.

5. **REDELEGATION OF AUTHORITY.** This authority may be redelegated to members of the staff of the Directorate for Compliance and Enforcement.

6. **SUPERSESSION OF PREVIOUS AUTHORITY.** Previous delegations of this authority are superseded.

/s/

Susan B. King, Chairman

/s/

Edith Barksdale Sloan, Vice Chairman

/s/

Barbara Hackman Franklin, Commissioner

/s/ **11-20-78**

R. David Pittle, Commissioner

UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION

DIRECTIVES SYSTEM **ORDER NO. 0601.6 October 19, 1984**

MANAGEMENT PROGRAMS

PROCEDURES FOR SENDING BRIEFING PACKAGES TO THE COMMISSION

1. **PURPOSE.** This order establishes procedures for clearing materials before sending them to the Commission.

2. **CANCELLATION.** This Order cancels Notice 0601.6 dated May 22, 1992.

3. **SCOPE.** This directive applies to all employees preparing or forwarding briefing packages that require clearance and are being sent to the Commission.

4. **REFERENCE.** Commission Order 1450.2, Clearance Procedures for Providing Information to the Public.

5. **FORMS.**

   a. **CPSC FORM 120:** "CPSC Publication, Audio-Visual, Film, Speech and Report Clearance" (Appendix).

   b. **CPSC FORM 122:** "EXHR Publication, Audio-Visual, Film, Speech and Report Clearance" (Appendix)

6. **CLEARANCE PROCEDURES.** When sending materials to the Commission, staff shall follow these steps:

   a. Each package or other item will have a CPSC Form 120 attached for sign-off.

   b. Each Directorate and Office that has information included in the package for which it is responsible for ensuring technical accuracy shall receive a copy of CPSC Form 120 for concurrence.

      (1) If applicable, appropriate Directorates under the Office of Hazard Identification and Reduction (EXHR) shall receive a copy of CPSC Form 122 for concurrence of technical accuracy.

   c. After all applicable Directorates and Offices review and sign off on the package, copies of the CPSC Forms 120 and/or 122 signed by those Directorates and Offices will be forwarded with the package to the Office of the Executive

Director (EX) along with copies of any comments made by the Directorates and Offices.

d. Following review and signature, EX will forward the package to the Office of the General Counsel (GC).

e. After review and signature by GC, the package will be transmitted by its author(s) to the Commission through the Office of the Secretary.

/s/	**1/27/98**
Pamela Gilbert **Executive Director**	**Date**

Appendix: CPSC Forms 120 and 122

APPENDIX

CPSC FORMS 120 AND 122

CPSC PUBLICATION, AUDIO-VISUAL, FILM, SPEECH AND REPORT CLEARANCE

1. PROJECT TITLE	2. DUE DATE
3. PROJECT MANAGER *(Name, room number, telephone)*	
4. THE INTENDED AUDIENCE/PURPOSE IS:	
THE ATTACHED IS TECHNICAL INFORMATION AS DEFINED BELOW,* THAT AFTER BEING RECEIVED BY THE COMMISSION, WILL BE SENT TO THE NATIONAL TECHNICAL INFORMATION CENTER(NTIS) PER NOTICE 1400.1. _____ yes _____ no (initials of project manager) _____	
IMPORTANT The attached project material is not to be distributed to any person or organization outside the CPSC until the following offices (as appropriate) have authorized clearance (per CPSC Order 1450.2):	

5. CONCURRENCES

Office	Signature	Approve	Disapprove	Date	6(b)(6)*
Assistant Executive Director for Hazard Identification and Reduction***					
Assistant Executive Director for Compliance					
Assistant Executive for Information Services					
Associate Executive Director for Field Operations					
Director Office of Information and Public Affairs					
Director Office of the Budget					
Director Office of Planning and Evaluation					
Director Office of Human Resources Management					
Associate Executive Director for Administration					
Executive Director					
General Counsel					
Chairman					

CPSC Form 120 (Rev. 3/95

*All "unclassified" scientific, technical, and engineering information products resulting from federally-funded research development activities for dissemination to the private sector, academia, state and local governments, and federal agencies are to be transferred within 15 days of public availability to the NTIS. (see CPSC Notice 1400.1)

**You must initial the 6(b)(6) column which will indicate your clearance is in accordance with CPSC Order 1450.2 issued under 6(b)(6) of the CPSA concerning whether the information is accurate and not misleading.

***Signoff by this office represents clearance by the appropriate technical directorates within EXHR.

EXHR PUBLICATION, AUDIO-VISUAL, FILM, SPEECH AND REPORT CLEARANCE

1. PROJECT TITLE	2. DUE DATE
3. PROJECT DIRECTOR (Name, room number, telephone)	
4. THE INTENDED AUDIENCE/PURPOSE IS:	

IMPORTANT

The attached project material is not to be distributed to any person or organization outside the EXHR until the following offices have authorized clearance:

5. CONCURRENCES

Office	Signature	Approve	Disapprove	Date	6(b)(6)*
Associate Executive Director for Economic Analysis					
Associate Executive Director for Engineering					
Associate Executive Director for Health Sciences					
Associate Executive Director for Epidemiology					
Associate Executive Director for Laboratory Sciences					

CPSC Form 122

* You must initial the 6(b)(6) column which will indicate your clearance is in accordance with CPSC Directive 1450.2 issued under 6(b)(6) of the CPSC concerning whether the information is accurate and not misleading.

UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION

DIRECTIVES SYSTEM

ORDER NO.
0605.0
April 26, 1993
Reviewed/Current: 4/30/03

MANAGEMENT PROGRAMS

OPERATIONAL PROCEDURES FOR PETITIONS

1. **PURPOSE.** The purpose of this directive is to establish a procedure for the efficient and timely handling of petitions and possible petitions.

2. **POLICY.** It is the policy of the Commission that petitions and possible petitions will generally be processed according to these procedures.

3. **REFERENCES**.

   a. 16 CFR Part 1051 - Procedure for Petitioning for Rulemaking.

   b. Commission Notice 0601.6, Procedures for Sending Materials to the Commission.

4. **OPERATIONAL PROCEDURES FOR PETITIONS.** The Commission will take the following steps to address petitions and possible petitions. The Office of the General Counsel will decide whether a request should be docketed as a petition. The staff will prepare an initial brief assessment of the petition recommending that the Commission grant, deny, or defer action. The Commission may develop additional information or data for a later decision if more work is needed. A schematic of the operational procedures is attached.

   a. The Office of the Secretary receives the request for agency action and forwards it to the Office of the General Counsel (OGC).

   b. OGC responsibilities. OGC will decide if the request for agency action should be docketed as a petition within 30 days of receipt of the correspondence by OGC. If OGC requests additional information before deciding whether to docket the matter as a petition, an additional 30 days will be allowed from receipt of the additional information. OGC's determination should be based on the criteria stated in the Commission's petition regulations, 16 CFR Sections 1051.5 and 1051.6.[1]

   c. Staff briefing memorandum. The staff will prepare a briefing memorandum and forward it to the Commission within 180 days .2 The Executive Director has the authority to extend the 180 day period for good cause.

      (1) It is anticipated that information and analysis in this briefing memorandum

will generally be brief and will be based on existing or easily obtainable data. Staff should periodically consult the attorney working on the petition for further guidance on the level of information necessary. The information and analysis needed in a briefing memorandum may vary depending on the petition. More or less information than that outlined below may be appropriate. For example, petitions seeking technical revisions, limited exemptions, or minor amendments to rules, will often require less information.

(2) The staff briefing memorandum will provide the Commission with initial information concerning the petition so the Commission can make an initial assessment. The Commission's initial assessment could be to grant the petition, deny the petition, or defer action on the petition until the staff obtains additional information relevant to the petition.

(3) If more in-depth work by the staff is necessary to adequately assess the validity of the petition the additional work should be stated in the initial briefing memorandum. If the Commission chooses to pursue the additional work, it can reconsider the petition once the work is completed.

(4) Generally, and to the extent it can be obtained from existing or easily obtained data, the briefing memorandum should provide the following initial information to the Commission:

(a) **A preliminary sketch of the hazard information.** If feasible, the staff will estimate the annual number of injuries and deaths, discuss the population at risk, and summarize hazard patterns.

(b) **A brief discussion of market information.** Using readily available information from government, industry, or other such sources, the staff will provide data on sales, product use, the number and size of firms, and an estimate of product life and the number of products in use.

(c) **A preliminary estimate of the risk.** The staff will provide this estimate based on the hazard and market information.

(d) **A preliminary estimate of the Annual cost to society of the hazard.** Estimates of the annual societal cost includes estimates on injuries from the CPSC injury cost model and other sources, property damage, and an assumed value per statistical life.

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[1] When a petition is docketed, OGC will forward to the Commission a ballot vote sheet and a draft Federal Register Notice, providing a 60 day comment period. The Commission may, in its discretion, decide to publish the Federal Register Notice requesting comments.

[2] The 180 days will run from either: (1) the Commission's decision not to issue a Federal Register Notice soliciting public comments on the petition or (2) the close of the comment period if the Commission decides to issue a Federal Register Notice.

(e) **A discussion of any existing standards and activities.** The staff will summarize known existing domestic and international standards and activities that are intended to address the product or the hazard presented.

(f) **A discussion of past agency action on the issue.** The staff will summarize past petitions, compliance activities, information and education activities, and other Commission work on the issue.

(g) **Expert opinion from technical staff on whether the hazard can be addressed by the action requested by the petitioner and whether the action is feasible.** The technical staff will rely on the available information to render its opinion. The staff will not conduct injury surveys, exposure surveys, convene focus panels, or test the product in order to render an opinion.

(h) **In the case of a petition seeking an exemption from, an amendment to, or the repeal of an existing rule, the staff should provide available information and a brief analysis concerning the potential impact of the exemption, amendment, or repeal on injuries.**

(i) **A discussion of the pros and cons of granting the petition, denying the petition, and deferring action on the petition.** The staff will discuss each option and make a recommendation, based on the information and analysis outlined above. There will be a discussion of the resources required to implement a Commission decision to grant the petition.[3] There will be a discussion of what work is needed if the Commission defers action on the petition.[4]

(j) **Other readily available information that is relevant to the petition.**

/s/ **4-26-93**

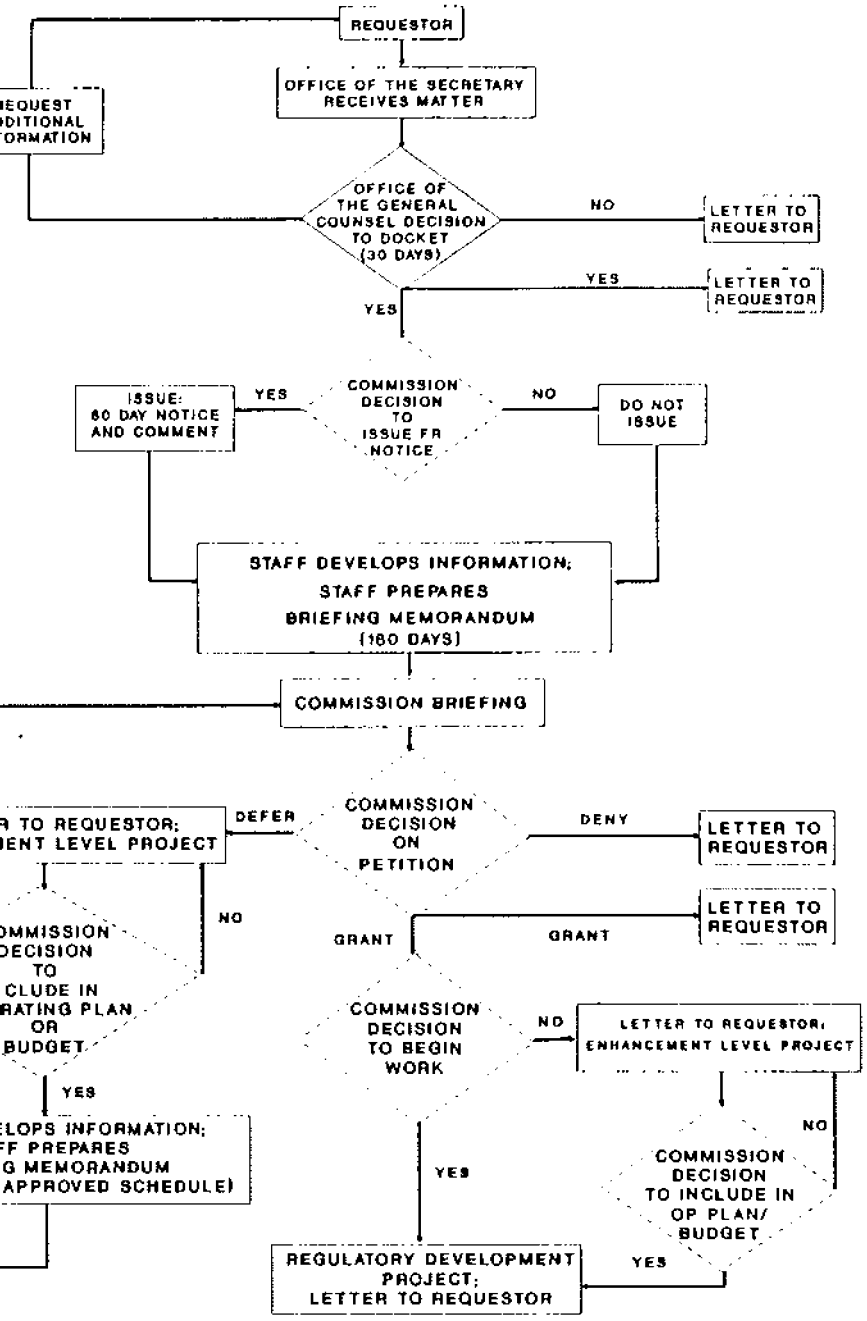
Jacqueline Jones-Smith **Date**
Chairman

Attachment: Schematic - Operational Procedures for Petitions

[3] If the Commission grants the petition, the staff will prepare a memorandum discussing when project work would begin, and what other operating plan work would not be done if the Commission decides to immediately begin the project. If the Commission grants the petition and decides not to modify the operating plan at the time, the staff will prepare an enhancement level project sheet for Commission consideration at the earliest opportunity: next mid-year review, operating plan or budget.

[4] Staff will prepare an enhancement level project sheet for this work for consideration in the next mid-year review, operating plan or budget, if the Commission defers action.

NAL PROCEDURES FOR PETITIONS



UNITED STATES

CONSUMER PRODUCT SAFETY COMMISSION

DIRECTIVES SYSTEM

ORDER NO.
0606.1
September 3, 2003

MANAGEMENT PROGRAMS

RISK-BASED ANALYSIS: INFORMATION TO BE CONSIDERED DURING DECISION MAKING

1. **PURPOSE.** To give the staff operational guidance on preparing information to be considered during decision making.

2. **SCOPE.** This guidance applies to activities to identify and/or analyze hazards or potential remedial strategies.

3. **OFFICE RESPONSIBLE FOR THIS DIRECTIVE.** Office of Planning and Evaluation is responsible for this Directive.

4. **CANCELLATION.** This Order cancels Order 0606.1N

5. **AUTHORITY: 16 C.F.R. §1009.8**

6. **POLICY.** Risk-based decision making means that the Commission and its staff will prioritize hazard reduction activities (including rulemaking, compliance and enforcement, and information and education activities) by: (1) the degree of risk presented to the public; (2) when appropriate, the susceptibility of the hazard to remedial action; and, (3) the costs associated with investigating the hazard and/or achieving appropriate remedial action. Such prioritization requires comparison of the relative merits of various activities. To accomplish this objective, decisions must be based on consideration of a uniform set of factors. The Commission believes that consideration of information relating to the factors listed below will assist in deciding whether to investigate hazards, continue such investigation or analysis, or initiate remedial actions.

   a. **APPLICATION.** Applying these factors in risk-based decision making is a two step process. The first, investigating and analyzing product hazards, provides the information needed to evaluate the second - whether remedial action is appropriate and, if so, what remedies are commensurate with the risk.

      (1) The Commission recognizes that the process is dynamic, and that decisions often must be made informally at the working level

within the agency on a day-to-day basis. For risk-based decision making to work, such decisions must be based on an objective review of the information available at the time, taking into account both the expertise of the staff and common sense.

(2) At the Commission level, to facilitate evaluation, written documents recommending action shall, to the extent practical, contain or be accompanied by a concise summary of available information relating to each relevant factor. The amount of information provided should be commensurate with the staff's evaluation of the severity and foreseeability of the potential hazard. The Commission recognizes that information will often be incomplete or unavailable. In such cases, the staff should provide its best judgment based on its expert opinion in lieu of developing the information.

b. **FACTORS.** The following types of questions are relevant to the analysis of potential risks of injury to the American public associated with products subject to the Commission's jurisdiction.

(1) Frequency and severity of injuries. How many injuries and deaths are associated with the product or the hazard? What are the trends in the data? What are the hazard patterns? Are there comparable hazards with similar products?

(2) Exposure to the risk. How many products are in use? What is the frequency of exposure to the risk of injury? What is the likelihood that such exposure will result in injury?

(3) Causality of injuries. What is the relationship between the consumer, the environment and the product?

(4) Foreseeability of the risk. How foreseeable is the sequence of events (interaction of the consumer, the product and the environment) that creates the risk of injury?

(5) Vulnerability of the population at risk. To what degree is the product associated with injuries to such populations as children, individuals with disabilities, and senior citizens? To what degree are these individuals able to appreciate the risk and take measures to protect themselves?

c. **RISK REDUCTION.** The following types of questions are relevant to determining what remedies, if any, are appropriate to address potential risks of injury to the public.

(1) History. What past Commission activities and staff initiatives are relevant to the hazard? What were the results of the activities and initiatives?

(2) Is the hazard amenable to Commission action? What options are feasible? What are the pros and cons of each option?

(3) Are the remedies or activities under consideration commensurate with the risk of injury? What is the potential for the remedies or activities to reduce the risk of injury?

(4) What are the potential costs (including costs to the agency) and benefits of CPSC action?

/s/	9-3-03
Hal Stratton	**Date**
Chairman	

Appendix 1

GUIDELINES FOR PREPARING CONGRESSIONAL LETTERS

1. Inside Address:

For Senators:

The Honorable [Full Name]
United States Senate
Washington, D.C. 20510

For Representatives:

The Honorable [Full Name]
House of Representatives
Washington, D.C. 20515

For Committee Chairman:

The Honorable [Full Name]
Chairman
Committee on Appropriations
United States Senate
Washington, D.C. 20510

For Subcommittee Chairman:

The Honorable [Full Name]
Chairman
Subcommittee on Veterans, HUD, and Independent Agencies
Committee on Appropriations
House of Representatives
Washington, D.C. 20515

When asked to reply to a Member's district office:

The Honorable [Full Name]
[Address]

2. Salutation:

For Senators:

Dear Senator [Last Name]:

For Representatives:

Dear Representative [Last Name]:

For Committee or Subcommittee Chairman:

Dear Mr. Chairman: / Dear Madam Chairwoman:

3. **First Paragraph:**
Generally, the first paragraph should reference the date of the Member's inquiry, the constituent's name (if any), and the subject of the inquiry.

For example:

Thank you for your letter of March 3, 2003, in behalf of Ms. Jane Maxwell, concerning the Consumer Product Safety Commission's ban on Urea-formaldehyde foam insulation.

or

In cases of a congressional referral from another agency:

The Food and Drug Administration has referred to us for further reply your correspondence of March 3, 2003, in behalf of Mr. Leonard Smith, concerning the labeling of paint.

or

For letters or buck slips addressed to the Chairman, but the response will be signed by the Director of CR:

Chairman Stratton has asked me to thank you for your letter of March 3, 2003, in behalf of Mrs. Betsy Dale, concerning future employment with the Consumer Product Safety Commission.

4. **Multi-signers:**

When a congressional inquiry is co-signed by 2 or more Members, a separate response is prepared for each signer.

For example:

Thank you for your letter of March 3, 2003, co-signed by Senator [Last Name], concerning ....

or

When a congressional is signed by three or more signers:

Thank you for your letter of March 3, 2003, and several of your colleagues, concerning ....

5. **Closing:**

Centered ---

Sincerely,

[Full Name]
Director of Congressional Relations

OR

Sincerely,

[Full Name]
Chairman

6. **Enclosures:**

All enclosures should be mentioned in the body of the letter. This will eliminate the need to specifically identify the enclosures at the bottom of the letter.

Enclosures should be included in the CR file package.

7. **Copies:**

CR will maintain a copy of the signed response, attached to the incoming congressional correspondence.

UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION

DIRECTIVES SYSTEM **ORDER NO. 0610.2**
October 25, 2001
Reviewed/Current: 4/30/03

MANAGEMENT PROGRAMS

COMMUNICATIONS WITH VOLUNTARY STANDARDS GROUPS AND ORGANIZATIONS

1. **PURPOSE.** This order provides guidance to Commission employees who communicate with voluntary standards bodies as defined in 16 CFR 1031.1(b).

2. **SCOPE.** This directive applies to all Commission employees who have written or oral communication with a representative or component of a voluntary standards body.

3. **RESPONSIBLE OFFICE FOR THIS DIRECTIVE.** Directorate for Hazard Identification and Reduction (EXHR).

4. **CANCELLATION.** This Order cancels Order 0610.2, dated October 1, 1989.

5. **AUTHORITY.**

   a. 16 CFR Part 1031, Commission Participation and Commission Employee Involvement in Voluntary Standards Activities; 54 Fed. Reg. 6646 (February 14, 1989).

   b. 16 CFR Part 1012, Meetings Policy - Meetings Between Agency Personnel and Outside Parties.

   c. Commission Order 1450.2, Clearance Procedures for Providing Information to the Public.

6. **POLICY.** It is Commission policy that communications between Commissioners, Commission staff and voluntary standards bodies' representatives be conducted in accordance with the regulations issued in 16 CFR Part 1031.

7. **PROCEDURES.** CPSC employees who communicate with voluntary standards bodies are required to read and understand these requirements prior to communicating with voluntary standards bodies. Specific communications criteria are codified at 16 CFR 1031.15 (see Appendix A). The guidance below will assist Commission employees in

complying with these regulations. Nothing stated below in any way modifies, amends, or otherwise changes the cited regulations.

a. **The voluntary standards coordinator (VSC).** The VSC is the Commission's principal contact person with voluntary standards bodies having multiple groups that develop or review voluntary standards for consumer products.

b. **The designated representative (DR).** The DR is the Commission employee who has been designated to become involved with a voluntary standards body developing a specific consumer product standard through membership, as set forth in 16 CFR 1031.12 or 16 CFR 1031.13. The DR serves as a non-voting adviser. The DR may, however, comment on items upon which a vote is taken. The DR will be selected by the Assistant Executive Director, Office of Hazard Identification and Reduction (AED/EXHR), upon the recommendation of the appropriate Associate Executive Director (AED).

c. **Other Commission employees.** Commission employees [who are listed in 16 CFR 1031.12(a)(4), (5), and (6)] may, on a case-by-case basis, communicate within the scope of their duties with voluntary standards bodies, provided that they have the specific advance approval of the AED/EXHR. In such cases, the DR and Project Manager will be kept informed.

d. **Delegation of communication authority.** Communication authority may be delegated by the DR and the VSC. Commission staff who have responsibilities delegated to them are subject to the same policies and procedures as the DR and the VSC.

e. **Conflicting positions between Commission staff members.** The Project Manager will attempt to resolve conflicting positions between staff members on voluntary standards activities. If this is not possible, he or she will have higher management resolve the conflict before a communication with a voluntary standards body is made.

f. **Written and oral communication.** The DR and the Project Manager will coordinate their efforts to maximize the written and oral contributions by Commission staff to the standards development process with voluntary standards bodies. The VSC will receive copies of all written communications and the records of oral communications.

(1) **Written communication between the Commission and a voluntary standard body.** Prior to sending a written communication to a voluntary standards body or representative, the DR will provide the correspondence to the Project Manager for review and will obtain his/her concurrence on any significant programmatic matters. Concurrence will be indicated by the Project Manager's initials on a file copy of the proposed correspondence. Written comments on draft voluntary standards must be

approved by the appropriate AED and the AED/EXHR. Notice of concurrence or non-concurrence shall be provided to the DR as soon as reasonably possible, but not later than 5 days after receipt of the draft correspondence by the Project Manager assuming that no programmatic or technical matters arise requiring additional staff work or review. The Project Manager must assure that appropriate CPSC staff are informed and that clearance procedures under the statutes administered by the Commission are followed.

(2) **Oral communications between the Commission and a voluntary standards body.** Prior to discussions with a voluntary standards body or representative, the DR will submit his/her planned discussion to the Project Manager and will obtain his/her concurrence (or lack thereof) on significant programmatic matters within five days of such submission. The Project Manager must assure that appropriate Commission staff are informed and that clearance procedures are followed. Additional guidance on telephone conversations is set forth in 16 CFR 1012,7, "Telephone Conversations" (Appendix B).

g. **Requirements for Communications on significant matters.**

(1) **Commission employees who are not in positions listed in 16 CFR 1031.12(a)**, or who are not DRs or the VSC, may communicate on significant matters, within the scope of their duties, with voluntary standards bodies only with the specific prior approval of the DR, if there is one, or the Project Manager if there is not.

(2) **All communications of the DR or other Commission employees on significant matters** must clearly indicate that: the comments or views expressed are those of the Commission staff, the individual, or the directorate or office; these views or comments have not been reviewed or approved by the Commission; and they are not necessarily those of the Commission. In instances where a previous official Commission vote has been taken on the matter at hand, the vote will be noted in the communication. Draft copies of communications noting Commission votes will be provided to Commissioners and the VSC in advance of transmission for their information and possible comment. Final copies will be provided afterwards to the Commissioners, Office of the Secretary, and VSC.

h. **Requirements for communications on matters which are not significant.** Commission employees who are not in positions listed in 16 CFR 1031.12(a), or who are not DRs or the VSC, may within the scope of their duties communicate with voluntary standards bodies on matters which are not significant, but will promptly inform the DR and Project Manager of such communication.

/s/	10/25/01
Ann Brown	**Date**
Chairman	

Appendix A

TITLE 16--COMMERCIAL PRACTICES

CHAPTER II--CONSUMER PRODUCT SAFETY COMMISSION

PART 1031--COMMISSION PARTICIPATION AND COMMISSION EMPLOYEE INVOLVEMENT IN VOLUNTARY STANDARDS ACTIVITIES--Table of Contents

Subpart B--Employee Involvement

Sec. 1031.15 Communication criteria.

(a) Commission officials and employees, who are not in the positions listed in Sec. 1031.12(a), or who are not already authorized to communicate with a voluntary standards group or representative incidental to their approved membership in a voluntary standard organization or group or as part of their participation or monitoring of a voluntary standard, may:

(1) Communicate, within the scope of their duties, with a voluntary standard group, representative, or other committee member, on voluntary standards matters which are substantive in nature, i.e., matters that pertain to the formulation of the technical aspects of a specific voluntary standard or the course of conduct for developing the standard, only with the specific advance approval from the person or persons to whom they apply to obtain approval for participation or monitoring pursuant to Sec. 1031.13. The approval may indicate the duration of the approval and any other conditions.

(2) Communicate, within the scope of their duties, with a voluntary standard group, representative, or other committee member, concerning voluntary standards activities which are not substantive in nature.

(b) Commission employees may communicate with voluntary standards organizations only in accordance with Commission procedures.

(c) Commissioners can engage in substantive and non-substantive written communications with voluntary standards bodies or representatives, provided a disclaimer

in such communications indicates that any substantive views expressed are only their individual views and are not necessarily those of the Commission. Where a previous official Commission vote has been taken place, that vote should also be noted in any such communication. Copies of such communications shall thereafter be provided to the other Commissioners, the Office of the Secretary, and the Voluntary Standards Coordinator.

(d) The Voluntary Standards Coordinator shall be furnished a copy of each written communication of a substantive nature and a report of each oral communication of a substantive nature between a Commission official or employee and a voluntary standards organization or representative which pertains to a voluntary standards activity. The information shall be provided to the Voluntary Standards Coordinator as soon as practicable after the communication has taken place.

Appendix B

TITLE 16--COMMERCIAL PRACTICES

CHAPTER II--CONSUMER PRODUCT SAFETY COMMISSION

PART 1012--MEETINGS POLICY--MEETINGS BETWEEN AGENCY PERSONNEL AND OUTSIDE PARTIES--Table of Contents

Sec. 1012.7 Telephone conversations.

(a) Telephone conversations present special problems regarding Agency meetings. The Commission recognizes that persons outside the Agency have a legitimate right to receive information and to present their views regarding Agency activities. The Commission also recognizes that such persons may not have the financial means to travel to meet with Agency employees. However, because telephone conversations, by their very nature, are not susceptible to public attendance, or participation, Agency employees must take care to ensure that telephone conversations are not utilized to circumvent the provisions of this part.

(b) Two basic rules apply to telephone conversations:

(1) Any Agency employee holding a telephone conversation in which substantial interest matters are discussed with an outside party must prepare a telephone call summary of the conversation. The summary must meet the requirements of Sec. 1012.5(b), and must be submitted to the Office of the Secretary within twenty (20) calendar days of the conversation. The Office of the Secretary shall maintain file of telephone call summaries in chronological order which shall be available to the public to the extent permitted by law.

(2) All Agency employees must exercise sound judgment in discussing substantial interest matters during a telephone conversation. In the exercise of such discretion Agency employees should not hesitate to terminate a telephone conversation and insist that the matters being discussed be postponed until an Agency meeting with appropriate advance public notice may be scheduled, or, if the outside party is financially or otherwise unable to meet with the Agency employee, until the matter is presented to the Agency in writing.

UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION

DIRECTIVES SYSTEM **ORDER NO. 0610.3 July 5, 2006**

MANAGEMENT PROGRAMS

INTERNAL COMMUNICATIONS REGARDING VOLUNTARY STANDARDS ACTIVITIES

1. **PURPOSE.** This order provides guidance to Commission employees engaged in voluntary standards activities as defined in 16 CFR 1031.10, with particular respect to internal communication and documentation of such activities.

2. **SCOPE.** This directive applies to all Commission employees engaged directly or indirectly in voluntary standards activities, including the Voluntary Standards Coordinator and the Assistant Executive Director for Hazard Identification and Reduction.

3. **RESPONSIBLE OFFICE FOR THIS DIRECTIVE.** Office of the Executive Director (OEX).

4. **AUTHORITY.** 16 CFR Part 1031, Commission Participation and Commission Employee Involvement in Voluntary Standards Activities; 54 Fed. Reg. 6646.

6. **POLICY.** It is Commission policy that employees must obtain approval from their supervisor and the Office of the Executive Director prior to engaging in voluntary standards activities, and must report such activities in accordance with 16 CFR Part 1031.

7. **PROCEDURES.** CPSC employees engaged in voluntary standards activities are required to adhere to the reporting criteria codified at 16 CFR 1031.9(d). The guidance below will assist Commission employees in complying with the regulation. Nothing stated below in any way modifies, amends, or otherwise changes the cited regulations.

   a. **The voluntary standards coordinator (VSC).** The VSC is the Commission's principal contact person with voluntary standards bodies and is responsible for oversight of staff participation in voluntary standards activities.

   b. **The designated representative (DR).** The DR is the Commission

employee who has been designated to become involved with a voluntary standards body developing a specific consumer product standard through membership, as set forth in 16 C.F.R. §1031.12 or 16 C.F.R. §1031.13. The DR serves as a non-voting adviser to the standards-making body and comments on items upon which a vote is taken. The DR and the Project Manager will coordinate their efforts on written and oral contributions by Commission staff to the standards development process with voluntary standards bodies. The VSC will receive copies of all written communications and the records of oral communications.

c. **Other Commission employees.** Commission employees [who are listed in 16 C.F.R. §1031.12(a)(4), (5), and (6)] may, on a case-by-case basis, participate within the scope of their duties in voluntary standards activities, provided that they have the specific advance approval of the Commission. In such cases, the DR and Project Manager will be kept informed.

d. **Voluntary Standards Tracking and Access Report (V-STAR).** The Office of Hazard Identification and Reduction (EXHR) shall establish the V-STAR database to maintain current information regarding all voluntary standards activities in which Commission staff are engaged. The V-STAR database shall contain: a complete list of standards committees on which the Commission is involved, the name(s) of the employee(s) assigned to each activity, the objectives of the voluntary standard under development or other rationale for participation, the history and extent of CPSC activity (including a timeline of the activity and how the CPSC became involved), status of the standard (sufficient, in development, etc.), and, where appropriate, an estimated completion date. EXHR shall appoint a V-STAR Coordinator to obtain, as needed, all necessary information from staff participants to update and maintain the database.

/s/ 07/05/06

Hal Stratton **Date**
Chairman

UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION

DIRECTIVES SYSTEM

ORDER NO.
0610.4
July 18, 2016

MANAGEMENT PROGRAMS

STAFF INVOLVEMENT WITH VOLUNTARY STANDARDS GROUPS AND ORGANIZATIONS

1. **PURPOSE.** This order provides guidance regarding voting privileges and leadership positions for Commission employees who are involved with voluntary standards bodies as defined in 16 CFR §1031.1(b).

2. **SCOPE.** This directive applies to all Commission employees who participate or are involved in voluntary standards activities, including those who are assigned to be the designated representative ("DR") for the Commission assigned to a voluntary standard.

3. **RESPONSIBLE OFFICE FOR THIS DIRECTIVE.** Directorate for Hazard Identification and Reduction ("EXHR").

4. **AUTHORITY.** 16 CFR § 1031, Commission Participation and Commission Employee Involvement in Voluntary Standards Activities (as adopted in 81 Fed. Reg. 5369, February 2, 2016).

5. **POLICY.** It is Commission policy that involvement and communications between Commissioners, Commission staff and voluntary standards bodies' representatives be conducted in accordance with the regulations issued in 16 CFR § 1031. Specific involvement criteria are codified at 16 CFR §1031.11, 12 and 13. Specific communication criteria are set forth in Order 0610.2 and codified at 16 CFR §1031.15.

6. **PROCEDURES.** CPSC employees who are involved with voluntary standards bodies are required to read and understand these requirements before undertaking the applicable assignment related to participation or involvement in voluntary standards activities. The guidance below will assist Commission employees in complying with the regulations set forth in 16 CFR § 1031. Nothing stated below in any way modifies, amends, or otherwise changes the cited regulations, which shall supersede anything in this Directive to the contrary.

   a. **Related Directives.** CPSC employees shall refer to Directive 0610.2 "*COMMUNICATIONS WITH VOLUNTARY STANDARDS GROUPS AND ORGANIZATIONS*" and 0610.3 "*INTERNAL COMMUNICATIONS REGARDING*

VOLUNTARY STANDARDS ACTIVITES" for related procedures associated with voluntary standards communications.

b. Other Commission employees. It is Commission policy that voluntary standards involvement by Commission employees who are listed in 16 CFR §1031.12(a)(4), (5), and (6) be conducted in accordance with the regulations issued in 16 CFR §1031.12(b). For all such involvement, the DR, Project Manager ("PM") and Voluntary Standards Coordinator ("VSC") shall be kept informed.

c. Voting Privileges. In accordance with 16 CFR § 1031.12(b), CPSC officials and employees not covered by 16 CFR § 1031.12(a) may participate as voting members or accept leadership positions when authorized with prior approval of the Office of the Executive Director ("OEX"). Commission officials and employees who are authorized to participate as voting members in accordance with 16 CFR § 1031 are subject to all of the requirements of 16 CFR § 1031. Unless authorized, Commission employees who are members of voluntary standards organizations are designated as non-voting members of the voluntary standard group.

With prior authorization of OEX, the DR or other designated employee may obtain voting privileges on a particular voluntary standard. The voting permission is granted by OEX on a case-by-case basis unless otherwise specified. Appendix A contains detailed instructions and a Voluntary Standards (VS) Involvement form, to be filled out by the employee requesting authorization. The employee requesting voting privileges must provide a justification for the request. The employee justification should address all the points of concern or consideration that OEX will be using to evaluate the voting request.

When deciding whether to authorize an employee to vote, OEX will consider the concerns set forth in 16 CFR § 1031.9. In addition to these policy concerns, OEX will consider:

- the hazard being addressed by the voluntary standard
- the potential impact the voluntary standard would have on the safety of the product
- the anticipated impact on the voluntary standard being voted on, and
- any other relevant factors, including if staff anticipates any mandatory standard activities associated with the product hazards addressed by the voluntary standard.

When an authorized employee votes on a published ballot item(s), the employee shall also provide written comments with each vote, stating the rationale for the vote(s). All such comments shall undergo the 6b clearance and review process. Employees who are not authorized (or do not seek authorization) to vote may submit 6b cleared comments on ballot items with an abstention (non-vote).

The voting authorization is granted for one year. Authorization can be renewed for additional one year periods, when justified by the continued need for active involvement in the voluntary standard where voting furthers the goals of the Commission. Authorized employees are not obligated to vote on every ballot item associated with the voluntary standard, during the authorization period.

d. Leadership Positions. Commission employees other than those positions listed in 16 CFR §1031.12(a) who have received prior approval from OEX, are authorized to accept a voluntary standard organization leadership position, including (but not limited to) subcommittee chairman, task group/working group chairman, or recording secretary. Commission officials and employees who are authorized to accept leadership positions for voluntary standards development are subject to all of the requirements of 16 CFR § 1031.

Approval of leadership positions shall be granted on a case-by-case basis and, unless otherwise requested, shall run for one term (or the equivalent) in accordance with the policies and procedures of the applicable voluntary standards body.

The employee requesting to serve in a leadership position must provide a justification for the request. The employee justification should address all the points of concern or consideration that OEX will be using to evaluate the leadership position request. When deciding whether to allow an employee to hold a leadership position, OEX will consider the concerns set forth in 16 CFR § 1031.9. In addition to these policy concerns, OEX will consider:

- Commission priorities,
- available resources,
- the benefits expected from greater staff involvement in the voluntary standard activity
- the hazard being addressed by the voluntary standard
- the potential impact the voluntary standard could have on the safety of the product
- any other relevant factors, including if staff anticipates any mandatory standard activities associated with the product hazards addressed by the voluntary standard.

e. Involvement Process. Each Commission employee who is eligible to participate in voluntary standards development groups under 16 CFR §1031 shall submit a completed VS Involvement form (Appendix A) for approval for the following circumstances:

1) To vote on matters involving a particular voluntary standard.
2) To accept a leadership position in a voluntary standard development group.

The VS Involvement form shall be submitted to and approved by the appropriate Division Director and AED and then submitted to the AED/EXHR for approval, with a copy sent to the VSC. The AED/EXHR is responsible for obtaining approval or denial from OEX.

_____ 7/18/16_____

Patricia Adkins **Date**
Executive Director

Appendix A: Instructions and VS Involvement Form

Instructions for Completing *Voluntary Standards – Staff Involvement* Form (Appendix A to 0610.4)

These instructions pertain to staff involvement with UL or ASTM standards. For standards developed by other SDOs, please consult with the Voluntary Standards Coordinator (VSC) before filling out this form.

16 C.F.R 1031, as amended in 2016, allows for CPSC staff to vote and hold leadership positions on an optional basis, provided that such activities have the prior approval of OEX.

A) General Information

1) Enter the name of the staff who is requesting involvement and the date of the request (current date).
2) Enter the name of the Voluntary Standard that the staff is requesting involvement. If the standard is under development, enter the work item number, draft title, subcommittee or other identifying information.
3) This form is primarily for voting and leadership authorization. If the request is for something else, classify it as "other". Please first consult with the VSC if you have a classification of "other".

B) Request to Vote:

1) CPSC staff, who are members of ASTM or UL, automatically have a non-voting status. ASTM permits non-voting members to vote on non-administrative ballot items for standards included in the scope of the subcommittee that the member belongs. Therefore, requesting to vote on an ASTM standard does not require a change in voting status. UL requires its members to have a voting status, in order to cast a vote on any straw poll or ballot item under the jurisdiction of the Standard Technical Panel of which they belong. UL maintains balance among voters, thus a change in voting status has the potential to change the balance of voters. CPSC staff requesting to vote on UL standards are required to contact the STP chairman prior to completing this form, to inquire about changing the voting status and to ensure balance will be maintained.
2) This form is to request authorization to vote on ASTM or UL ballot items pertaining to a specified standard. The authorization does not obligate staff to vote on every ballot item pertaining to the standard. The authorization is approved for a one year time frame, and for longer requests, the form can be resubmitted for annual renewal. If your request is for another SDO or another voting situation, please consult with the VSC prior to completing this form.
3) If there is a relevant published ballot issued at the time the form is submitted, enter in the ballot due date. Otherwise, leave that field blank.
4) Attach your justification for the request to vote. This is not a justification for how staff wants to vote, only for the authorization to vote. Make sure the issues noted are addressed in your justification.

C) Request for Leadership Position:

1) Standard leadership positions are task group/working group chairman, subcommittee chairman, or recording secretary. Please consult with the VSC if you are requesting a position other than these three.
2) Enter the start date if applicable. Use today's date if it will be effective immediately upon approval. Leadership positions shall be held for a single term or the equivalent (i.e., for task or working groups, the equivalent could be the duration needed to address the issue the task/work group was created to address). Leadership positions shall be held in accordance with the policies and procedures of the applicable voluntary standards body. If the term is longer than 1 year or open ended, the form can be resubmitted for annual renewal.

3) Attach a justification for requesting a leadership role, keeping in mind that OEX will consider Commission priorities, available resources, the need for greater staff involvement in the voluntary standard activity, and any other relevant factors.

D) Request for Other Involvement:

1) Contact the Voluntary Standards Coordinator if you are requesting other involvement, prior to filling out this form.

E) Attachments:

1) Attach to this form (or include as a separate attachment) all justifications, and any relevant information such as a copy of the ballot item. This form is not intended to approve how staff votes, so a completed ballot item, or staff comments to the ballot should not be included as attachments.

Following completion of this form, email it and any attachments to your supervisor for approval, with a copy to the VSC.

A) General Information

Staff Requesting Involvement **Date of Request**

Voluntary Standard (*Voluntary Standard name and designation)*

Type of Involvement Requested:

Original Request ☐ **Renewal** ☐

B) Request to Vote **Yes** ☐ **No** ☐ *(if no skip to C)*

Voting approval is applicable for any/all ballot items for the VS entered above for a one year period of time. This form can renewed on an annual basis if needed.

Ballot Due Date (if applicable):

Attach to this form, your justification to vote. Address the following issues considered by OEX:

- the hazard being addressed by the voluntary standard
- the potential impact the voluntary standard would have on the safety of the product
- the anticipated impact on the voluntary standard being voted on, and
- any other relevant factors, including if staff anticipates any mandatory standard activities associated with the product hazards addressed by the voluntary standard.

C) Requesting a Leadership Position **Yes** ☐ **No** ☐ *(if no skip to D)*

Leadership Position Requested: Task Group/Working Group Chair

Position Start Date: (*Start date or today's date if effective immediately):*

Term Length *(if applicable):*

Attach to this form, your justification to hold a leadership position. Address the following issues considered by OEX:

- Commission priorities,
- available resources,
- the benefits expected from greater staff involvement in the voluntary standard activity
- the hazard being addressed by the voluntary standard
- the potential impact the voluntary standard could have on the safety of the product
- any other relevant factors, including if staff anticipates any mandatory standard activities associated with the product hazards addressed by the voluntary standard.

D) Request for Other Involvement **Yes** ☐ **No** ☐ *(if no skip to E)*

Other Request Information *(Enter information regarding what kind of involvement is being requested, and why):*

E) Attachments *(Provide a description of all attachments provided with this form):*

F) Approvals

Division Director/Supervisor ***Date***

AED ***Date***

AED/EXHR ***Date***

OEX ***Date***

Approval Comments:

UNITED STATES CONSUMER PRODUCT SAFETY COMMISSION

DIRECTIVES SYSTEM

ORDER

0611.1

September 3, 1991
Reviewed/Current: 4/30/03

(Electronic Duplicate)

MANAGEMENT PROGRAMS

CORRESPONDENCE

1. PURPOSE. This order contains guidelines for preparing Commission correspondence. This includes general correspondence, memoranda, controlled executive correspondence, and Congressional correspondence.

2. CANCELLATION. This order cancels Management Programs -Correspondence, Order 0611.1, dated February 1, 1989.

3. SCOPE. The provisions of this order apply to all staff in the Commission. Special emphasis is placed on the procedures and format of correspondence. Certain sections also contain guidance for writing letters and memoranda.

4. REFERENCES.

a. U.S. Government Correspondence Manual, General Services Administration.

b. U.S. Government Printing Office Style Manual, March 1984.

c. Directive 0000.5, CPSC Organization Symbols.

5. RESPONSIBILITY. Each Office Director will ensure that the provisions of this order are followed in the preparation of correspondence and will assign one employee to be responsible for seeing that all employees are informed of the existence of the Directive on Correspondence and trained in its use.

6. CONTENTS. This directive contains guidance for preparing both internal and external correspondence and Congressional correspondence. Each chapter includes examples of correspondence and copies of forms used to control or manage the correspondence.

Eric C. Peterson
Executive Director

TABLE OF CONTENTS

LIST OF FIGURES

CHAPTER 1

GENERAL CORRESPONDENCE

1. RESPONSIBILITY. Each Office is responsible for the preparation of correspondence, including:

a. Assigning one person to see that all office employees are informed of the existence of the Directive on Correspondence.

b. Providing training in the use of the manual.

c. Seeing that new employees are made aware of these procedures.

d. Following the guidelines provided in the Directive.

2. PROCEDURES.

a. General Letters.

(1) Prepare general letters by following the guidelines shown under 3. Format of Response.

(2) Use Figure 1 as a sample.

(3) Place the letter evenly on the page. Be sure that the margins of the letter are even, that it is centered, and that it is not placed too high or too low on the page.

b. Letters for Chairman's Signature.

(1) Prepare letters for the Chairman's signature using Figure 2 for guidance.

(2) Use Chairman's letterhead stationery.

(3) Assemble the package as shown under 2.e. below.

(4) Attach an Executive Correspondence Summary Sheet, Figure 3, on the front of the folder. This sheet can be copied, or Executive Director's office can provide a copy.

(5) Responses for the Chairman's signature are due in the Chairman's office within seven working days on receipt of the incoming letter.

(6) After controlled executive correspondence is signed by the Chairman, it will be returned to the originating office for dating and mailing. The originating office will provide copies to the Chairman's office, the Executive Director's Office (EX), Office of the Secretary (OS) and other offices as necessary.

c. Concurrences.

(1) Refer correspondence for concurrence ONLY when the subject matter goes beyond the authority of the action office. The need to be informed is not synonymous with the need to officially concur. DO NOT refer correspondence for concurrences to offices which merely need to be informed. Distributing information copies will meet this requirement.

(2) When concurrences are needed, officials will write their office symbol, surname, and the date in the appropriate space at the bottom of the correspondence/file.

d. Distribution of Copies.

(1) When an addressee of a letter is informed that an information copy is being sent to another person or agency, indicate this on the original letter by typing "cc:" flush with the left margin and then list each recipient to receive a copy. Make a copy for each recipient listed.

(2) Show the internal distribution of correspondence only on the copies to be retained within the CPSC. Do not list "blind carbon copies" on the original. Indicate blind copies by typing "bcc:" flush with the left margin, two lines below the last line of the signer's title or the enclosure or separate cover listing. If there is not enough room in this position, type "bcc:" in any appropriate place. Below "bcc:" list recipients of copies. Mark a copy for each recipient.

Example: bcc:
Signer (when letter is prepared for someone else's signature)
Official file (OS) Control No. 0000
G. Hamel (OEX)
S. Pollack (EPDS)

e. Assembly of Package. Assemble signature packages in a folder as follows:

(1) Front of the folder, attach Executive Summary Sheet. This applies to signature correspondence prepared for the Chairman and Commissioners.

(2) Right side of the folder:

(i) Original letter;
(ii) Courtesy copy (if any);
(iii) Enclosures (if any);
(iv) Envelope of proper size addressed to recipient; and
(v) Copies going out of CPSC, with addressed envelopes.

(3) Left side of the folder:

(a) Official file copy with copy of incoming correspondence attached.

(b) Other information copies.

3. FORMAT OF RESPONSE.

a. Figure 1. Figure 1 is an example of the letter format and provides instructions for preparation. Each circled number on Figure 1 corresponds to the paragraph in this section where that part of the format is discussed.

b. Stationery. Use agency letterhead for the first page of a letter and white bond (or white copy paper) for succeeding pages. Use Chairman's letterhead on all correspondence for Chairman's signature.

c. Margins.

(1) The left and right margins on the page should be approximately one inch, and the bottom margin should be approximately one inch or six typing lines.

(2) When a letter is more than one page, type on the succeeding page(s), flush with the left margin, as follows:

Mr. John J. Jones
Page 2

(3) Begin typing text of correspondence two lines below page number.

d. Date.

(1) When the date of signing is known, type it centered and two lines below the letterhead. Type the name of the month in full and the day and year in numerals. When typing the date, omit endings such as "st" and "th."

(2) Omit the date on a letter that will be signed in another office or that may not be signed the day it is typed. The office from which the letter is dispatched will add the date.

e. Inside Address.

(1) Type the inside address flush with the left margin, single spaced. Limit it to five lines if possible.

Example: Mr. John L. Doe
Chairman, National Association
of Merchandising Chains
5906 Weaver Place
Barnesboro, Pennsylvania 14714.

(2) Consult "Models of Address" for special addressees, such as, Congressional, clergy, judicial, etc.

f. Salutation. Type the salutation two lines below the inside address.

g. Attention Line. Do not use an Attention Line.

h. Body of Letter

(1) CPSC letter style is indented modified block with five-space paragraph indentation.

(2) Indent subparagraphs as shown in Figure 4. Indent each main paragraph five spaces; letter and number subparagraphs as shown in Figure 4.

(3) Do not begin a paragraph near the end of a page unless there is room for at least two lines on that page. Do not continue a paragraph on the following page unless at least two lines can be carried over to that page.

(4) Quoted information used in the body of a letter of more than 10 lines is indented five spaces from both the left and right margins.

(5) Single space the body of the letter; double space between paragraphs.

i. Complimentary Close. Two lines below the text, use "Sincerely" for the complimentary close on all letters. The one exception is letters to the President where "Respectfully" will be used. Space down four lines and begin the signature block on the fourth line. Space down five lines and begin the signature block on the fifth line for Chairman's signature.

j. Signature Block.

(1) Type the signer's name. On the next line flush with the name, type the signer's title. If more than one line is needed for the signer's title, begin succeeding lines flush with the name. The entire signature block should not run over four lines.

(2) To sign a letter or memorandum for another signator, sign your name and insert the word "for" before the typed name in the signature block.

k. Enclosures.

(1) Use the word "Enclosure(s)" for material sent with a letter. Identify enclosure(s) in the body of the letter. Type the word "Enclosure(s)" flush with the left margin and two lines below the last line of the signer's title.

(2) When material referred to in the text is to be sent under separate cover, type "Separate cover:" flush with the left margin, two lines below the signer's title or the enclosure notation, if you have one. List the material, whether or not identified in the text. Send a copy of the letter with the material sent under separate cover.

Example: Separate cover:
Form Letters Handbook
Home Safety Checklist - l0 copies

l. Envelopes for Mailing. Figure 5 provides guidance for preparation of envelopes for mailing. The Post Office has provided this information for expeditious and efficient mail handling. Some zip codes are nine digits; please assure correct zip code. For additional information, refer to the new Mail Management Directive and Handbook.

FIGURE 1. GENERAL LETTER

0611.1
September 3, 1991

August 15, 1991

Mr. John J. Jones
Manager
Smith Aluminum Company
1012 121st Street
New York, New York 10011

Dear Mr. Jones:

This is a sample of the format to be used for all letters going outside of the CPSC.

The format is typed with paragraphs indented five spaces. Center the date at the top of the page two lines below the letterhead. The complimentary close and signature block begin at the center of the page.

Use "Sincerely" for the complimentary close on all letters and space down four lines to begin the signature block. The one exception is a letter to the President; use "Respectfully" for the complimentary close.

Mention enclosures in the body of the letter. Type "enclosures" two lines below the signature block flush with the left margin.

If the letter is more than one page, staple only the file and information copies. The original is paper clipped together -- never stapled.

Sincerely,

(4 lines)

Anita Job
Director
Division of Personnel Management

Enclosures

cc:
John Daniels, CPSC

FIGURE 2. LETTER FOR CHAIRMAN'S SIGNATURE

0611.1
September 3, 1991

The Honorable James H. Brown
Secretary of Transportation
Washington, D.C. 20020

Dear Mr. Secretary:

Prepare letters for the Chairman's signature in the same format as general letters with the following exceptions:

1. Omit the date as on any letter prepared for someone else's signature.

2. Use "Sincerely" for the complimentary close on all letters except those addressed to the President, which should have "Respectfully."

3. Provide five lines between complimentary close and typed name.

4. Make the following copies: Courtesy, Chairman, Office of the Secretary (for Official File), originating office, and other information copies, as needed.

5. Assemble the letter in a folder as described in paragraph 2.e.

When it is requested that the incoming correspondence be returned, make copies and place with the appropriate file copies. Place the original with the outgoing correspondence.

Try to keep letters to one page. If the letter is more than one page, staple only the file and information copies. The original is never stapled.

Sincerely,

(Five lines)

(name)

Enclosure

FIGURE 3. EXECUTIVE SUMMARY SHEET

Recvd. C-1 _____

EXECUTIVE CORRESPONDENCE

_____ For Signature of Chairman

Due Date _____

_____ For Approval of Chairman

Originated By: _____

_____ For Information of Chairman

_____

_____ For Information of Commissioners Phone #

SYNOPSIS:

Incoming/Staff Initiated -- What the Letter or Memo Says:

Proposed Response/Proposed Action with Rationale:

Clearances					Action			
Org. Code					EX	GC	C-1	
Surname								

Date								

Chairman's Staff Comments:

FIGURE 4. SUBPARAGRAPHING

0611.1
September 3, 1991

Mr. John N. Brown
The River Towers
4076 Oak Street
Topeka, Kansas 67523

Dear Mr. Brown:

_____
_____
_____.

1. _____
_____.

2. _____
_____
_____.

a. _____
_____.

b. _____
_____.

(1) _____
_____.

(2) _____
_____.

Sincerely,

Thomas Q. Collins
Administrative Assistant

Here's how to address your mail for faster delivery

FIGURE 5. ENVELOPES

insert
U.S. POSTAL Service Form
-10-

CHAPTER 2

FREQUENT PROBLEMS

1. Opening Sentence.

a. Write the opening sentence as follows:

Thank you for your letter regarding (subject)
Thank you for your letter on behalf of (name)

b. Do not use phrases as follows:

Thank you for your letter concerning . . .
This is in response to . . .
In response to . . .
I have your letter . . .

c. Do not reiterate what was stated in the incoming letter in the first sentence.

d. Do not begin the opening sentence with the pronoun "I" when responding to a business letter.

e. Do not apologize, for example, I regret the delay in responding.

2. Avoid redundancies, such as:

enclosed herewith
end result
future plans
important essentials
new initiatives
personally reviewed
serious crisis
untimely death
great majority

3. Use the precise word or phrase. Some examples are:

criterion (singular) - criteria (plural)
subsequent means after, not before
different from, not different than
complement (required to complete or make whole)
compliment (expression of admiration)

4. These are some examples of correct and incorrect usage.

Correct	Incorrect
I hope	hopefully, I would hope
pleased	delighted, glad, happy
before	prior to
I appreciate	I would like to express my appreciation
more importantly	more important

5. Do not use these words or phrases.

maximize
prioritize
hereinafter
at the present time
as you know
as I am sure you know
as you are aware
needless to say

6. Do not split infinitives (placing an adverb between to and the verb).

7. Word Division

a. Words are divided only between syllables. Consult the dictionary.

(1) Do not divide:

a given name or surname
titles (Mr., Dr.) from the personal name
first initial and middle name
first name and middle initial
titles such as President, Secretary, Director, Commissioner, Chairman
initials from the surname, such as, J./P./Anderson
two letter prefixes or suffixes, such as, ed, bi, de, ex, un
figures, abbreviations, or dates
short words or one-syllable words
more than 3 or 4 words on a page
the last word in a paragraph
the last word on a page
the last word on 2 consecutive lines.

(2) Examples of unacceptable word divisions follow:

The amount of the loan was $186
thousand which has been approved.

We are pleased to submit our 1990-
1991 Annual Report.

We will be pleased to meet with you on June
7, 1991.

The meeting will be held in Room 556 at 4:30
p.m.

8. Use of Acronyms. Use the entire phrase when it is first referenced in a letter, follow with the acronym, then use only the acronym in following references. Do not use an acronym if the compound term is not repeated. For example:

The Consumer Product Safety Commission (CPSC) is studying the matter. CPSC will make a public announcement on June 1.

9. Capitalization.

a. Capitalize the names of countries, international organizations, and national, state, county, and city bodies, such as:

Great Britain
the Bush Administration (or the Administration)
the Cabinet
the Maryland Legislature
the Montgomery County Board of Education
the Commonwealth of Pennsylvania
The White House

b. Federal, Government and Nation. It is preferred that the terms Federal and Government and Federal Government (referring specifically to the U.S. Government) be capitalized. Capitalize the word Nation when referring to the United States.

c. State. Capitalize the word State when referring to a specific state such as the State of Connecticut or New York State. Do not capitalize state when using the word in general terms, such as Federal, state, and local governments.

d. Seasons. Lower case names of seasons, unless they are personified.

autumn
spring
summer
midwinter
the gentle touch of Spring

e. U.S. should be abbreviated as an adjective. United States should be spelled out as a noun.

10. **Use of Personal Pronouns.** Do not use personal pronouns for business correspondence.

11. **Verbs.** Do not use has, have, and had in conjunction with other verbs.

12. **Numerals.**

a. Spell out one through nine.

b. Use numbers for 10 and over (in most cases).

CHAPTER 3

MEMORANDA

1. RESPONSIBILITY. Each Office is responsible for the preparation of internal correspondence. This is done in the form of a CPSC memorandum.

2. FORMAT OF RESPONSE.

a. One Addressee. Figure 6 is a sample of an informal memorandum to one addressee with a "Through" line.

b. Several Addressees. Figure 7 is a sample of an informal memorandum where there are several addressees.

c. Decision Memorandum. Figure 8 is a sample of a decision memorandum for the Chairman.

d. Briefing Memorandum. Figure 9 is a sample of a memorandum being sent to the Commission for action. Four basic headings are used in preparing these memoranda.

FIGURE 6. INFORMAL MEMORANDUM NO. 1

UNITED STATES GOVERNMENT **U.S. CONSUMER PRODUCT**

SAFETY COMMISSION

MEMORANDUM **WASHINGTON, D.C. 20207**

TO : Mary L. Smith, Chief
Contracts Division, ADMS

Through: John Deere, Associate Executive Director
Directorate for Administration

FROM : David E. Jones, Assistant Executive Director
Office of Hazard Identification and Reduction

SUBJECT: Informal Memorandum Format

Use the memorandum format within CPSC. Use five-space paragraph indentions. Use titles and office symbols in both the "To" and "From" designations.

Provide a copy of the memorandum to each office or person listed on the "Through" line.

For a memorandum requiring action by a certain date, indicate the due date typed 2 lines below the date of the memorandum, as shown above.

Copies of internal memoranda are made for: Appropriate official file, the originating office, "Through" offices, and any information copies that may be required.

If there are attachments, list them in the body of the memorandum. Type the attachment notation four lines below the last line of text flush with the left margin.

Attachments

FIGURE 7. INFORMAL MEMORANDUM NO. 2

UNITED STATES GOVERNMENT **U.S. CONSUMER PRODUCT**

SAFETY COMMISSION

MEMORANDUM **WASHINGTON, D.C. 20207**

TO : Distribution
Through: (Name and title)

FROM : C.H. Cantwell, Director, ECCP

SUBJECT: Sample of Informal Memorandum with Several Addressees

This format may be used for all informal memoranda with several addressees.

Distribution:
R. A. Smith (GC)
J. L. Doe (EXPA)
J. J. Jones (OS)
W. O. Blackman (CR)
D.N. Mattis (CE)

0611.1
September 3, 1991

FIGURE 8. DECISION MEMORANDUM

UNITED STATES GOVERNMENT **U.S. CONSUMER PRODUCT**

SAFETY COMMISSION

MEMORANDUM **WASHINGTON, D.C. 20207**

TO : (Name)
Chairman

Through: (Name)
Executive Director

FROM : (Name)
(Office)

SUBJECT: Decision Memorandum for the Chairman

Use the decision paper format for material sent to the Executive Director or Chairman which requires agreement or a signature.

a. Include these items in the paper:

1. STATEMENT OF THE ISSUE

2. BACKGROUND

3. DISCUSSION

4. OPTIONS

5. RECOMMENDATIONS(S)

6. DECISION BLOCK

b. Limit the statements for each item to what is necessary to provide the information.

c. Put the decision block at the bottom of the decision paper, as follows:

APPROVE _____

DISAPPROVE _____

DISCUSS _____

FIGURE 9. BRIEFING MEMORANDUM

UNITED STATES GOVERNMENT **U.S. CONSUMER PRODUCT**

SAFETY COMMISSION

MEMORANDUM **WASHINGTON, D.C. 20207**

TO : The Commission

Through: (Name), Secretary
(Name), General Counsel
(Name), Executive Director
(Name), Assistant Executive Director
Office of Hazard Identification and Reduction
(Name), Associate Executive Director
Directorate for XXXXXXXXXXXXXX

FROM : (Name), Project Manager
Directorate for XXXXXXXXXXXXXX

SUBJECT: XXXXXXXXXXXXXXXX

1. BACKGROUND

2. DISCUSSION

3. OPTIONS

4. RECOMMENDATION

CHAPTER 4

CONTROLLED EXECUTIVE CORRESPONDENCE

1. RESPONSIBILITY.

a. The Office of the Secretary (OS) is responsible for the control of executive correspondence within the CPSC. This includes:

(1) Reviewing and controlling all executive correspondence.

(2) Determining that the appropriate Office/ Directorate receives the correspondence for response for either the Chairman's signature or a direct reply, or for whatever action may be necessary; assigning due dates; and tracking the correspondence to ensure timely completion.

b. Office Directors are responsible for the content of the responses and for completion within the required time frame.

2. PROCEDURES.

a. OS will attach a numbered control slip (CPSC Form 220), see Figure 10, to all correspondence routed from its office to the appropriate office for action. Correspondence is routed through EX to offices reporting to EX. The control slip contains the information needed to process the attached correspondence.

b. Prepare correspondence for the Chairman's signature on the Chairman's letterhead. Letters for the Chairman's signature will be cleared through EX and GC. After signoff, the Chairman's office will return signed correspondence to the originating office. This office will date, copy, and mail the material and provide copies to the Chairman's office, Executive Director (EX), Office of the Secretary (OS) and all other appropriate people. The reply must be received in the Chairman's Office within seven days of receipt in the office preparing the response.

c. Complete correspondence requiring a direct reply within 14 days of receipt. For offices reporting to EX, return the gold copy of the control slip to OS through EX, with the original

incoming correspondence and a copy of the response. If no written response is necessary or response was made by telephone, note this information in Block 14 of the control slip, and return the correspondence package to OS through EX.

d. Maintain correspondence sent to Offices/Directorates for informational purposes only in that office when no response to OS is necessary.

e. To extend a due date, send an acknowledgement letter to the respondent with a copy to OS, and ask OS to assign a new due date.

f. Controlled correspondence received by a designated Office/Directorate that should be answered by another Office/Directorate should be returned to OS, through EX (for offices reporting to EX), promptly in order that it can be forwarded to the proper office for response within the due date time period.

3. FORMAT OF RESPONSE. The General Correspondence procedures for Letters, Chapter 1, will be used as a guide to prepare responses.

FIGURE 10. NUMBERED CONTROL SLIP

Insert CPSC FORM 220 6/80

CONTROLLED CORRESPONDENCE

CHAPTER 5

CONGRESSIONAL CORRESPONDENCE

1. POLICY. It is the policy of the Commission that all Congressional correspondence will be answered within 72 hours (three working days).

2. RESPONSIBILITY.

a. The Office of Congressional Relations (CR) is responsible for coordinating correspondence between Congressional offices and the Commission, including staff-initiated congressionals.

b. All Directorates and Offices which receive a congressional letter of official business directly from a Senator, Representative, Congressional Committee, State Legislator, or Committee are responsible for immediately notifying CR and transmitting the correspondence.

c. If a Regional Center or Office receives a congressional letter of official business directly from a Senator or Representative, it is responsible for promptly notifying CR who will determine whether that letter should be handled in accordance with the provisions of this directive. CR will either

(1) request that the letter be forwarded to CR immediately or

(2) request that the letter be forwarded to CR together with a draft reply.

3. PROCEDURES.

a. CR will immediately send incoming congressional correspondence to the Office of the Executive Director (EX) for transmittal to the directorate or office which will prepare the reply (responding unit).

b. The reply will either be complete or interim.

c. A complete response will be drafted by the responding unit when all the material is available within the required time. If the response requires material from more than one unit, the responding unit will collect the material and incorporate it into the draft response.

(1) The responding unit will ensure that all the material in the draft response is technically accurate.

(2) The responding unit will send the double-spaced draft response to the EX for policy clearance.

(3) EX will send the draft response to the Office of the General Counsel (GC) for legal clearance.

(4) GC will provide legal clearance for the letter and send the draft to CR.

(5) CR will review and prepare the final copy of the response.

d. An interim response will be drafted by the responding unit if it decides that a complete response cannot be prepared within the required time.

(1) The interim response will contain an acknowledgement of receipt of the correspondence and an estimated time when the complete response will be available.

(2) The interim response will be sent to EX for concurrence.

(3) EX will send the interim response to CR for review and transmittal to the congressional office.

FIGURE 11:

MODELS OF ADDRESS

1. GENERAL

a. When it is desirable to use a salutation and closing, the models of address in this chapter are the conventional forms of address in general use. Use them as patterns for other addresses. They may be varied under certain circumstances. for example, Honorable may be replaced by a title such as General, Dr., or His Excellency, as appropriate. All Presidential appointees and Federal and State elective officials are addressed as Honorable. As a general rule, county and city officials, except mayors, are not addressed as Honorable. Persons once entitled to the title Governor, Judge, General, Honorable, His Excellency, or a similar distinctive title may retain the title throughout their lifetimes. Only titles for men are shown in the examples of salutations. When a woman occupies the position, the title Madam is substituted for Mr. before such formal terms as President, Vice President, Chairman, Secretary, Ambassador, and Minister. Use the title Senator for a female member of the Senate and "Ms." for a female member of the House of Representatives,Senator-elect, or Representative-elect,

b. Observe the following general rules when addressing communications to individuals by name and/or title.

(1) Use open punctuation in addresses (periods are left out).

(2)Spell out all titles in the address,except "Dr.," "Mr.," and "Ms." Don't use two titles with the same meaning with one name, for example, use "Dr. Paul White" or "Paul White, M.D.," but not "Dr. Paul White, M.D."

(3) Females will be addressed as Ms.

(4) If it is not known whether the addressee is a man or a woman, omit the title for example, use Leslie Doe.

(5) In some cases the person holding a Ph.D. degree prefers to be addressed as "Dr." (full name)," rather than as "The Reverend," "Dean," " Professor," etc.

2. MODELS OF ADDRESS

The following list shows the address element, salutation, and complimentary close, when used, for certain addresses.

ADDRESSEE	ADDRESS ON LETTER AND ENVELOPE	SALUTATION AND COMPLIMENTARY CLOSE
The President	The President The White House Washington, DC 20500	Dear Mr. President: Respectfully,
Wife of the President	Ms. (full name) The White House Washington, DC 20500	Dear Ms. (surname): Sincerely,
Assistant to the President	Honorable (full name) Assistant to the President The White House Washington, DC 20500	Dear Mr. (surname): Sincerely,
Former President	Honorable (full name) (local address) 00000	Dear President (surname): Sincerely,

ADDRESSEE	ADDRESS ON LETTER AND ENVELOPE	SALUTATION AND COMPLIMENTARY CLOSE
The Vice President	Formal: The Vice President United States Senate Washington, DC 20510 Informal: Honorable (full name) The Vice President of the United States Washington, DC 20501	Dear Mr. Vice President: Sincerely, Dear Mr. Vice President: Sincerely,
The Chief Justice	The Chief Justice of the United States The Supreme Court of the United States Washington, DC 20543	Dear Mr. Chief Justice: Sincerely,
Associate Justice	Mr. Justice (surname) The Supreme Court of the United States Washington, DC 20543	Dear Mr. Justice: Sincerely,
President of the Senate	Honorable (full name) President of the Senate Washington, DC 20510	Dear Mr. President: Sincerely,
United States Senator	Honorable (full name) United States Senate Washington, DC 20510 or Honorable (full name) United States Senator (local address) 00000	Dear Senator (surname): Sincerely,
United States Representative	Honorable (full name) House of Representatives Washington, DC 20515 or Honorable (full name) Member, United States House of Representatives (local address) 0000	Dear Mr. (surname): Sincerely,
Committee Chairman	Honorable (full name) Chairman, Committee on (name) United States Senate Washington, DC 20510 or Honorable (full name) Chairman, Committee on (name) House of Representatives Washington, DC 20515	Dear Mr. Chairman: Sincerely,
Subcommittee Chairman	Honorable (full name) Chairman, Subcommittee on (name) (name of parent Committee) United States Senate Washington, DC 20510 or Honorable (full name) Chairman, Subcommittee on (name) (name of parent Committee) House of Representatives Washington, DC 20515	Dear Senator (surname): Sincerely, Dear Madame: Sincerely,

ADDRESSEE	ADDRESS ON LETTER AND ENVELOPE	SALUTATION AND COMPLIMENTARY CLOSE
American Consul General or American Consul	(Full name) American Consul General (or American Consul) (City), (Country)	Dear Mr. (surname): Sincerely,
Foreign Ambassador in the United States	His Excellency (full name) Ambassador of (Country) (local address) 0000	Excellency: (formal) Dear Mr. Ambassador: (informal) Very truly yours, (formal) Sincerely, (informal)
United States Representative to the United Nations or Organization of American States	Honorable (full name) United States Representative to the United Nations (or Organization of American States) (local address) 00000	Sir: (formal) Dear Mr. Ambassador: (informal) Very truly yours, (formal) Sincerely,
Governor of State	Honorable (full name) Governor of (name of State) (City), (State) 00000	Dear Governor (surname): Sincerely,
Lieutenant Governor	Honorable (full name) Lieutenant Governor of (name of State) (City), (State) 00000	Dear Mr. (surname): Sincerely,
State Senator	Honorable (full name) (name of State) Senate (City), (State) 00000	Dear Mr. (surname): Sincerely,
State Representative, Assemblyman, or Delegate	Honorable (full name) (name of State) House of Representatives (or Assembly or House of Delegates)[1] (City), (State) 0000	Dear Ms. (surname): Sincerely,
Mayor	Honorable (full name) Mayor of (name of City) (City), (State) 00000	Dear Mayor (surname): Sincerely,
President of a Board of Commissioners	Honorable (full name) President, Board of Commissioners of (name of City) (City), (State) 0000	Dear Mr. (surname): Sincerely,
Protestant Clergy	The Right Reverend (full name) Bishop of (name) (local address) 00000 or The Very Reverend (full name) Dean of (Cathedral) (local address) 0000 or The Reverend (full name) Bishop of (name) (local address) 00000	Right Reverend Sir: (formal) Dear Bishop (surname): (informal) Sincerely, Very Reverend Sir: (formal) Dear Dean (surname): (informal) Sincerely, Reverend Sir: (formal) Dear Bishop (surname): (informal) Sincerely,

[1]In most States, the lower branch of the legislature is the House of Representatives. In some States, such as California, New York, New Jersey, Nevada, and Wisconsin, the lower house is known as the Assembly. In others, such as Maryland, Virginia, and West Virginia, it is known as the House of Delegates. Nebraska has a one-house legislature. Its members are classed as senators.

ADDRESSEE	ADDRESS ON LETTER AND ENVELOPE	SALUTATION AND COMPLIMENTARY CLOSE
Speaker of the House of Representatives	Honorable (full name) Speaker of the House of Representatives Washington, DC 20515	Dear Mr. Speaker: Sincerely,
Cabinet Members	Honorable (full name) Secretary of (name of Department) Washington, DC 00000 or Honorable (full name) Postmaster General Washington, DC 20260 or Honorable (full name) Attorney General Washington, DC 20530	Dear Mr. Secretary: Sincerely, Dear Mr. Postmaster General: Sincerely, Dear Mr. Attorney General: Sincerely,
Deputy Secretaries, Assistants, or Under Secretaries	Honorable (full name) Deputy Secretary of (name of Department) Washington, DC 0000 or Honorable (full name) Assistant Secretary of (name of Department) Washington, DC 0000 or Honorable (full name) Under Secretary of (name of Department) Washington, DC 00000	Dear Mr. (surname): Sincerely,
Heads of Independent Offices and Agencies	Honorable (full name) Comptroller General of the United States General Accounting Office Washington, DC 20548 or Honorable (full name) Chairman, (name of Commission) Washington, DC 0000 or Honorable (full name) Director, Office of Management and Budget Washington, DC 20503	Dear Mr. (surname): Sincerely, Dear Mr. Chairman: Sincerely, Dear Mr. (surname): Sincerely,
Librarian of Congress	Honorable (full name) Librarian of Congress Library of Congress Washington, DC 20540	Dear Ms. (surname): Sincerely,
Public Printer	Honorable (full name) Public Printer U.S. Government Printing Office Washington, DC 20401	Dear Mr. (surname): Sincerely,
American Ambassador	Honorable (full name) American Ambassador (City), (Country)	Sir: (formal) Dear Mr. Ambassador: (informal) Very truly yours, (formal) Sincerely, (informal)

ADDRESSEE	ADDRESS ON LETTER AND ENVELOPE	SALUTATION AND COMPLIMENTARY CLOSE

Protestant Clergy (Continued)	or The Reverend (full name) (Title), (name of Church) (local address) 00000	Dear Mr. (surname): Sincerely,
Catholic Clergy	His Eminence (given name) Cardinal (surname) Archbishop of (Diocese) (local address) 00000 or The Most Reverend (full name) Archbishop of (Diocese) (local address) 00000 or The Most Reverend (full name) Bishop of (City), (local address) 00000 The Right Reverend Monsignor (full name) (local address) 00000 or The Very Reverend Monsignor (full name) (local address) 00000 or The Reverend (full name) add initials or Order, if any) (local address) 00000 or Mother (name) (initials of Order, if used) Superior (name of Convent) (local address) 0000	Your Eminence: (formal) Dear Cardinal (surname): (informal) Sincerely, Your Excellency: (formal) Dear Archbishop (surname): (informal) Sincerely, Your Excellency: (formal) Dear Bishop (surname): (informal) Sincerely, Right Reverend Monsignor: (formal) Dear Monsignor (surname): (informal) Sincerely, Very Reverend Monsignor: (formal) Dear Monsignor (surname): (informal) Sincerely, Reverend Sir: (formal) Dear Father (surname): (informal) Sincerely, Dear Mother (name): Sincerely,
Jewish Clergy	Rabbi (full name) (local address) 00000	Dear Rabbi (surname) Sincerely,
Chaplains	Chaplain (full name) (rank, service designation) (post office address of organization and station) (local address) 00000	Dear Chaplain (surname): Sincerely,
President of a College or University (Doctor)	Dr. (full name) President, (name of institution) (local address) 00000	Dear Dr. (surname): Sincerely,
Dean of a School	Dean (full name) School of (name) (name of institution) (local address) 00000	Dear Dean (surname): Sincerely,
Professor	Professor (full name) Department of (name) (name of institution) (local address) 00000	Dear Professor (surname): Sincerely,

ADDRESSEE	ADDRESS ON LETTER AND ENVELOPE	SALUTATION AND COMPLIMENTARY CLOSE
Physician	(full name), M.D. (local address) 00000	Dear Dr. (surname): Sincerely,

Lawyer	Mr. (full name) Attorney at Law (local address) 00000	Dear Mr. (surname): Sincerely,
Widow	Ms. (wife's first name, last name) (local address) 00000	Dear Ms. (surname): Sincerely,
Two or More Men	Mr. (full name) and Mr. (full name)[2] (local address) 00000	Gentlemen: Sincerely,
Two or More Women	Ms. (full name) and Ms. (full name)[2] (local address) 00000	Gentlewomen: Sincerely,
One Woman and One Man	Ms. (full name) and Mr. (full name)[2] (local address) 00000	Dear (Ms. (surname) and Mr. (surname) Sincerely,
Service Personnel	(full grade, name, and abbreviation of service designation) (Retired is added, if applicable) (title and organization) (local address) 00000	Dear (grade) (surname): Sincerely,
Service Academy Members Army or Coast Guard	Cadet (full name) (service designation) (local address) 00000	Dear Cadet (surname): Sincerely,
Navy	Midshipman (full name) (service designation) (local address) 00000	Dear Midshipman (surname): Sincerely,
Air Force	Air Cadet (full name) (service designation) (local address) 00000	Dear Air Cadet (surname): Sincerely,

[2]A letter to two or more persons may be addressed as illustrated or to only one of them when the other is mentioned by name in the opening paragraph.

* Also acceptable (Full Name), Esq. Dear Mr./Ms.(surname) for Lawyer
(Law Office) Sincerely
(Local Address) 00000

UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION

DIRECTIVES SYSTEM **ORDER NO. 0620.1**
July 21, 2003

MANAGEMENT PROGRAM

PROTECTION OF HUMAN SUBJECTS IN RESEARCH

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The majority of this document is to be typed using a specific outline number format that is set into the template. You will not need to type any outline numbers or letters if you have tabbed (or shift tab for reverse) to the correct outline level. The Outline format can also be activated by selecting specific text and then Outline 1 thru Outline 9 styles from the formatting toolbar. To activate this toolbar Right Click in the Gray menu area and select Formatting.

1. **PURPOSE.** The purpose of this Order is to provide the basis, operating criteria, and procedures for the Commission's Human Subjects Committee.

2. **SCOPE.** The provisions of this Order apply to the Commission's Human Subjects Committee, the establishment of which was approved by the Chairman. It sets forth the conduct of the Committee: (1) when it is acting as the Commission Institutional Review Board (IRB) for the conduct by the Commission of research involving human subjects, (2) when it reviews and comments on a proposed test procedure that will be used by an outside institution contracting with, or otherwise supported by the Commission, and (3) when it reviews applications for certification by the IRB of an outside institution.

3. **REFERENCES.**

   a. The Federal Policy for the Protection of Human Subjects is set forth as a common rule in 16 CFR Part 1028 and was published in the Federal Register on June 18, 1991 (56 FR 28002 et seq.).

   b. Commission Order 0305.2, Delegation of Authority to the Human Subjects Committee to Protect Human Subjects Involved in Research.

4. **COMMITTEE MEMBERS.** The Human Subjects Committee will have five members. Four members will be Commission staff; one member will be from outside the Commission. The Committee Chairman and members will be appointed by the Commission Chairman. The Directorate for Health Sciences will provide secretarial support to the Committee.

5. **COMMITTEE FUNCTIONS.** The Human Subjects Committee will perform the following functions:

   a. **Research conducted by the Commission in-house.** Acting as IRB, the Committee will review each Commission in-house research project involving human subjects, taking into consideration the risks to such subjects, the adequacy of protection against these risks, the potential

benefits of the research to the subjects and others, and the importance of the knowledge gained or to be gained. As required by 16 CFR Part 1028.116, the Committee will also review and approve each proposed informed consent form to be used in each in-house research project to assure that the necessary information is given to each subject and that documentation of informed consent is obtained. On the basis of this evaluation, the Committee may approve or disapprove the proposed project, or work with the Project Managers and staff responsible for the project to develop one that it can approve.

b. Research conducted by outside institution.

(1) The Committee may impose conditions on the research procedures conducted for the Commission by an outside institution prior to or during the contracting phase of the project when, in the judgment of the Committee, such conditions are necessary for the protection of human subjects.

(2) In accordance with 16 CFR Part 1028.103, the Committee will evaluate each assurance submitted to the Commission by an outside institution to assure compliance with the Commission's requirements. On the basis of this evaluation, the Committee may approve or disapprove the assurance, or enter into negotiations with the outside institution to develop an assurance that can be approved.

c. Committee Documentation. The Committee will document its decisions and retain such records as prescribed by 16 CFR Part 1028.115 for a period of three years before disposition.

d. Other Functions. The Committee will perform such other functions as may be necessary to fully implement the Commission's regulations for the Protection of Human Subjects, 16 CFR Part 1028.

6. PROCEDURES.

a. Committee meetings will be called by the Chairman of the Committee, giving at least five working days notice of the time, date, place, and agenda of the meeting and, where possible, accompanied by copies of materials.

b. The Committee will strive for consensus, but in case this cannot be achieved, it may make its determination by majority vote of a quorum attending the meeting.

c. A quorum of the Committee membership is no less than three; provided that, if the Committee is meeting as an IRB to review in-house research on

human subjects, a quorum requires attendance by the non-Commission member.

d. If an appointed member of the Committee is unable to attend a meeting, the Committee Chairman may arrange for a person with similar experience and background to substitute for the absent member as required to fulfill the Committee's obligation. The substitute member will participate in the Committee's discussions and vote on matters to the same extent as an appointed member. If the substitute is for a Commission member, that substitute is to come from the same Directorate or Office as the appointed member and to be approved by his or her Associate Executive Director (AED) or Office Director. Substitution for a non-Commission member will be approved by the AED for Health Sciences.

e. Where proposed internal research by the Commission involving human subjects is deemed by the Chairman of the Committee to present no more than a "minimal risk", as defined in 16 CFR Part 1028.102(i), the Committee Chairman may alone decide to approve such research, either with or without an informed consent requirement. However, disapproval of such research requires action by the full Committee under the standard procedures set forth above.

f. On all other matters of procedure the Committee Chairman will consult with the Office of General Counsel.

7. Agency Developed Test Procedures/Protocols.

Whenever a Commission program or project requires the conduct of research involving human subjects, the Project Manager must submit an application for Committee approval. The application will contain the information required by 16 CFR Part 1028. If the procedure or protocol is to be used by an outside institution, the IRB of that institution is also responsible for reviewing the procedure or protocol and providing assurance to the Commission in accordance with 16 CFR Part 1028.103. The IRB of the institution must be approved by the Commission Human Subjects Committee.

/s/	**7/21/03**
Hal Stratton	**Date**
Chairman	

UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION

DIRECTIVES SYSTEM **ORDER NO. 0661.1**
July 15, 2002
Reviewed/Current: 4/30/03

MANAGEMENT PROGRAMS

POLICIES AND PROCEDURES FOR CPSC DIRECTIVES

1. **PURPOSE.** This Order establishes a directives system for the U.S. Consumer Product Safety Commission (CPSC), to provide all employees with information about CPSC operations.

2. **SCOPE.** This Order applies to all CPSC employees.

3. **OFFICE RESPONSIBLE FOR THIS DIRECTIVE.** The Directorate for Administration (EXAD) is responsible for this directive.

4. **CANCELLATION.** This Order cancels Order 0661.1, Directives System, dated August 6, 2001.

5. **AUTHORITY.** 5 U.S.C. 301, 302

6. **POLICY.**

   a. Internal agency communications will be issued as Orders when the material:

      (1) Establishes or changes Commission policy;

      (2) Establishes or changes Commission organizational structure;

      (3) Delegates authority, assigns responsibility or establishes procedures which have application beyond one Directorate, Office or Regional Center; or

      (4) Changes another Directive.

b. Communications within a Directorate, Office or Regional Center which set operating procedures only for that unit and which do not establish or affect Commission policy will not be issued as Orders or Notices in the directives system.

7. TYPES OF DIRECTIVES: Only two types of material will be issued in the Directives System:

a. Orders. Orders are issued as permanent policy or procedures and should cover one subject. Orders may be cancelled by memo or by another directive that supercedes the one being cancelled.

b. Notices. Notices are temporary policy or procedures and should cover one subject. Notices automatically expire 12 months after issuance unless renewed by the originating office. Notices may be cancelled earlier by memo or another directive that supercedes the notice being cancelled.

8. RESPONSIBILITIES.

a. The EXAD is responsible for managing and coordinating the directives system. The Associate Executive Director for Administration shall designate a staff member to serve as EXAD Directives Manager. The Directives Manager is responsible for assuring that the CPSC Management Directives System is kept up-to-date and accessible to all employees.

b. The EXAD Directives Manager shall:

(1) Coordinate a status review every two years, of all directives in the system, based on their effective date.

(2) Request Directorate/Office (D/O) Managers or designees responsible for specific directives to prepare, cancel **or** update a directive or to combine two or more directives;

(3) Establish, in consultation with responsible D/O Managers or designees, a schedule for the preparation of directive materials;

(4) Assist D/O Managers or designees in monitoring, revising and developing directives for review and clearance by appropriate organizations;

(5) Provide directives format guidance and editorial review;

(6) Maintain a current electronic index of directives on CPSCNET, including directive numbers and titles; and

(7) Maintain the official file for each Directive including the final version and original signed copies of the clearance sheet(s), comments of clearing offices and any other related documents.

b. D/O Managers or designees shall:

(1) Assure that their staff members comply with all directives;

(2) Initiate, prepare, revise, correct, cancel or combine directives for which they are responsible;

(3) Assure directives are written in plain language;

(4) Coordinate the review and clearance of directives with affected organizations and negotiate the incorporation of recommended changes;

(5) Include certification that directives under their authority are current or in the process of being updated, combined or cancelled in the yearly letter of assurance to the Executive Director;

(6) Respond to recurring directives status reviews initiated by the EXAD Directives Manager;

(7) Prepare a cancellation memo when a directive is cancelled and not replaced by a revision;

(8) Provide the original signed directive or cancellation memo to the EXAD Directives Manager for inclusion in the official directive files; and

(9) Review and signoff on other Directives as an affected organization.

9. PREPARATION: Each D/O Manager or designee shall:

a. Prepare directives and check contents to ensure completeness, accuracy and consistency with existing policies and procedures; and

b. Use this directive as a format model for layout, style and typeface (Times New Roman – Point 12). A format (Attachment A) can be found in "Word" by clicking on File, New, CPSC Forms or at http://cpscnet; click

on "About CPSC"; then click on "Directives & Policy" and scroll down and click on 0661.1a.

c. Request an order number from the EXAD Directives Manager for a new directive.

10. REVIEW, CLEARANCE AND APPROVAL.

a. **Originating Office.** The D/O Manager or designee shall:

(1) Use CPSC Form 107, "Directives Clearance, Distribution Record" (Attachment B), found in "Word" by clicking on File, New, CPSC Forms or at http://cpscnet; click on "About CPSC"; then click on "Directives & Policy" and scroll down and click on 0661.1b, to obtain affected organization reviews and clearances of changed or proposed directives. A memo should accompany CPSC Form 107 identifying reasons for changes or cancellations. These reviews and clearances should be concurrent and limited to affected organizations. An information copy should be sent to the Office of the General Counsel at this time. After obtaining review signatures and comments from affected organizations, the D/O Managers or designee shall coordinate the incorporation of recommended changes with the affected organization(s). Final acceptance signatures shall be obtained from any organization who initially checked "Do Not Concur (see comments)" on CPSC Form 107. This will enable them to review and accept incorporated changes.

(2) Submit the finished directive and supporting documentation to the EXAD Directives Manager. This includes:

(a) The original directive and CPSC Form(s) 107 (Attachment B) with original clearance signatures and comments (if any) from all clearing/affected organizations;

(b) A memo to the EXAD Directives Manager that identifies reasons for changes or cancellations;

(c) Related documents containing comments or non-concurrence; and

(d) A properly formatted, dated electronic copy of the cleared directive.

b. **Clearing/Affected Organizations.** Clearing organizations shall:

(1) Promptly review, provide comments (if any), and sign off on CPSC Form 107 (Attachment B) for proposed directives submitted to them; and

(2) Limit their review to those areas that affect them.

c. **Directorate for Administration (EXAD):** The EXAD Directives Manager shall:

(1) Submit the directive to the Office of the General Counsel for legal clearance after signatures have been obtained from clearing/affected offices and before submission to the Chairman or Executive Director for final signature;

(2) Make the approved directive available on the CPSC intranet and provide notification to all CPSC employees of its availability.

11. **EFFECTIVE DATE.** Directives and revised directives are effective on the date signed by the Chairman or Executive Director. That date will be entered on the first page of the Order or Notice.

12. **REVISED DIRECTIVES.** Each revision will be assigned the same order or notice number as its predecessor.

13. **CANCELLATION OF DIRECTIVES.** The D/O Managers or designees shall:

a. Prepare a cancellation memo detailing the justification for cancellation when a directive is to be cancelled and not replaced by a revision.

b. Obtain clearances, on CPSC Form 107 (Attachment B), from all clearing/affected organizations before forwarding the cancellation memo through the EXAD Directives Manager and Office of the General Counsel, to the Chairman or Executive Director, as appropriate, for final cancellation approval.

c. Provide the EXAD Directives Manager with the original signed memo and CPSC Form 107 (Attachment B) after final approval is obtained.

14. **AVAILABILITY.** All active directives are electronically available to CPSC employees on http://cpscnet; click on "About CPSC"; then click on "Directives & Policy."

/s/ **7/15/2002**

Thomas W. Murr, Jr. **Date**
Acting Executive Director

UNITED STATES

CONSUMER PRODUCT SAFETY COMMISSION

DIRECTIVES SYSTEM **ORDER NO.**
Enter Number
Sign-off Date

ENTER CHAPTER TITLE HERE (IN BOLD AND CAPS)

ENTER DIRECTIVE TITLE HERE (IN BOLD AND CAPS)

1. **PURPOSE.**
2. **SCOPE.**
3. **OFFICE RESPONSIBLE FOR THIS DIRECTIVE.**
4. **CANCELLATION.** (If none, enter None)
5. **AUTHORITY.**
6. **REFERENCE.** (if applicable)
7. **DEFINITIONS.** (if applicable)
8. **POLICY.**

   a. **Text heading, if any, should be typed in bold.** Following text should be in normal print and using Word's default format. Text should wrap as shown here.

      (1) Directives should be typed in "Times New Roman" font, size 12.

         (a)

            (i)

      (2) Paragraphs should all begin with an alpha or numerical bold character, no bullet points.

9. **RESPONSIBILITIES.**

_____ _____
Name **Date**
Title

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To be entered by Directives Manager after Sign-off process

Comment [PAF]: Page: 1
The majority of this document is to be typed using a specific outline number format that is set into the template. You will not need to type any outline numbers or letters if you have tabbed (or shift tab for reverse) to the correct outline level. The Outline format can also be activated by selecting specific text and then Outline 1 thru Outline 9 styles from the formatting toolbar. To activate this toolbar Right Click in the Gray menu area and select Formatting.

Comment [PAF]: To Import text from another document - Select text - select edit copy - place cursor on the first "P" in purpose and select edit paste special - then select unformatted text then OK. Then clean up the document and remove all manually typed numbers and letters. You can indent to the next level by pressing tab or outdent using shift tab. If you have problems, call Pat Fairall x 1369.

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Attachment B

DIRECTIVES CLEARANCE AND DISTRIBUTION RECORD

ORIGINATING OFFICE:	DIRECTORATE/OFFICE MANAGER/DESIGNEE: EXT:	DATE DUE:	DIRECTIVE NUMBER:
ACTION: ☐ New Directive ☐ Revised Directive ☐ Cancellation	DIRECTIVE TITLE:		

DIRECTIVES CLEARANCE

Clearing/ Affected Organization	Signature	Date	Concur No Comment	Concur Comments Attached	Do Not Concur (see Comments)	Final Acceptance

DIRECTORATE/OFFICE MANAGER OR DESIGNEE – All comments have either been incorporated into the directive or resolved with the commenting office(s).

_____ _____

Signature Date

FOR USE OF DIRECTIVES MANAGER

Org.	Signature	Approve	Disapprove	Date
OGC				
IG				
OEX				
Chairman				

DISTRIBUTION RECORD

Signed Original Received for Archive by Directives Manager	Date:
Electronic Copy Placed on CPSCNET	Date:

UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION

DIRECTIVES SYSTEM

ORDER NO.
0680.2
September 22, 1993
Revised 2/18/2011

MANAGEMENT PROGRAM

ACCEPTANCE OF GIFTS AND TRAVEL EXPENSES FROM NON-FEDERAL SOURCES

1. **PURPOSE.** This Order establishes the procedures for the Commission's acceptance of travel expenses from non-Federal sources for Commission personnel to attend meetings or similar functions relating to their official duties which take place away from their duty station. This Order also establishes the procedure for the Commission's acceptance of non-travel related gifts.

2. **OFFICE RESPONSIBLE FOR THIS DIRECTIVE.** The Office of the General Counsel is responsible for this directive.

3. **SCOPE.**

a. Part A of this Order applies to all Commission personnel whose travel expenses, or any part thereof, are paid to the Commission by a non-Federal source, so that employees may attend meetings or similar functions relating to their duties which take place away from their duty station. Part B of this Order applies to gifts, other than travel expenses, that may be accepted by the Commission in furtherance of its mission.

b. This Order does not authorize acceptance of gifts or payments for travel expenses by an employee in his or her personal capacity.

c. Subject to the restrictions outlined in Appendix D, this Order does not apply:

(1) When the gift may be personally accepted by an employee in accordance with the applicable Standards of Ethical Conduct set forth at 5 CFR Part 2635, Subpart B, Gifts from Outside Sources.

(2) When the travel related benefits are provided by a foreign government pursuant to the Foreign Gifts and Decorations Act 5 U.S.C. 7342.

(3) When the travel and training related expenses for the Commission

employee are incidental to training paid for by certain nonprofit organizations pursuant to 5 U.S.C. 4111.

(4) When payment is for travel to be performed for a partisan rather than an official purpose in the case of an employee who is exempt from the Hatch Act under 5 U.S.C. 7323 as revised .

4. CANCELLATION.

a. General Counsel memorandum to all Assistant/Associate Executor Directors (AED) and Office Directors (OD), dated June 10, 1991, entitled "Guidance on the Acceptance of Gifts of Travel, Lodging, Meals, and Conference Fees."

b. Office of Executive Director memorandum of March 3, 1990, and all previous memoranda on Acceptance of Travel Gifts.

5. REFERENCES.

a. 31 U.S.C. 1353, Acceptance of Travel and Related Expenses from Non-Federal Sources.

b. 41 CFR Part 304, Acceptance of Payment from a Non-Federal Source for Travel Expenses.

c. 41 CFR Part 301, Federal Travel Regulation.

d. 15 U.S.C. 2076(b)(6), Commission Authority to Accept Gifts and Uncompensated Services.

e. 15 U.S.C. 2086, Commission Prohibition on Industry-Sponsored Travel.

6. DEFINITIONS. For the purpose of this Order, the following definitions apply:

a. **Acceptance Official.** "Acceptance Official" is an official delegated authority to approve acceptance of gifts and travel expenses on behalf of the Commission. (See Section 6, Delegation of Authority.)

b. **Employee.** "Employee" means any official or employee of the Commission, including commissioners, and special government employees as defined in 18 U.S.C. 202.

c. **Meeting or similar function.** "Meeting or similar function" means a conference, seminar, speaking engagement, symposium, voluntary standard meeting, media event, training course, or similar event that takes place away from the employee's official station, and is sponsored or cosponsored by a non-Federal source. A meeting or

similar function need not be widely attended for purposes of this definition and includes, but is not limited to, the following:

(1) An event at which the employee will participate as a speaker or panel participant, including an event at which the employee will give an oral presentation focusing on his/her official duties or on the policies, programs, or operations of the agency.

(2) A conference, convention, seminar, symposium, or similar event when the primary purpose is to receive training, other than promotional vendor training, or to present or exchange substantive information concerning a subject of mutual interest to a number of parties.

(3) An event at which the employee will receive an award or honorary degree, that is in recognition of meritorious public service related to the employee's official duties, and which may be accepted by the employee consistent with the applicable standards of conduct regulation.

d. **Non-Federal source.** "Non-Federal source" means any person or entity other than the Government of the United States. The term includes any individual, private or commercial entity, nonprofit organization or association, or international or multinational organization (irrespective of whether an agency holds membership in the organization or association), or foreign, state, or local government (including the government of the District of Columbia).

e. **Payment.** "Payment" means funds paid to the Commission by a non-Federal source for employee travel, subsistence, and related expenses by check or similar instrument, or payment in kind.

f. **Payment in kind.** "Payment in kind" means goods, services, or other benefits provided to a Commission employee by a non- Federal source for travel, subsistence, and related expenses in lieu of funds paid by check or similar instrument to the Commission for the same purpose.

g. **Prohibited Source.** "Prohibited source" means any entity listed at Appendix D.

h. **Travel, subsistence, and related expenses.** "Travel, subsistence, and related expenses" means the same types of expenses payable under Chapter 301 of the Federal Travel Regulation, 41 CFR Part 301. Also encompassed in this definition are such expenses as conference or training fees (in whole or in part), as well as benefits which cannot be paid under the applicable travel regulation and which are provided in kind and made available by the sponsor(s) to all attendees incident to and for use at the meeting or similar function.

7. DELEGATION OF AUTHORITY.

a. Except as otherwise provided in paragraphs b. and c. of this section, the Executive Director is delegated authority to accept travel and payments for travel expenses and other non-travel gifts from non-Federal sources for CPSC employees (or authorize CPSC employees to receive such payments on the Commission's behalf) in accordance with the procedures set forth in this Order. Please note, however, that such payments may not be accepted from the entities listed in Appendix D. This authority may be exercised by the Deputy Executive Director in the absence of the Executive Director.

b. The Commissioners may accept payment for travel expenses and other non-travel gifts from non-Federal sources on behalf of themselves and their immediate staff members in accordance with the applicable procedures set forth in this Order. Please note, however, that such payments may not be accepted from the entities listed in Appendix D. The Commissioners shall obtain written legal approval from the General Counsel prior to such acceptances.

c. The Chairman may accept payment for travel expenses and other non-travel gifts from non-Federal sources which are offered to the Executive Director. Please note, however, that such payments may not be accepted from the entities listed in Appendix D. The Chairman shall obtain written legal approval from the General Counsel prior to such acceptances. This authority may be exercised by the Vice Chairman in the absence of the Chairman.

d. The General Counsel shall provide legal counsel to the Commissioners and employees on the prohibition on industry-sponsored travel and conflict of interest issues relating to the Commission acceptance of travel, travel expense payments or non-travel gifts and shall report travel expenses accepted under 31 U.S.C. 1353 to the Office of Government Ethics (OGE). This responsibility may be exercised by the Assistant General Counsel for General Law in the absence of the General Counsel.

e. The Director, Division of Financial Services (FMFS), is responsible for specifying agency reporting requirements of accepted travel expenses and for maintaining an agency record of such acceptances.

PART A - - ACCEPTANCE OF TRAVEL EXPENSES

8. POLICY ON ACCEPTANCE OF TRAVEL EXPENSES.

a. **Acceptance of travel and payment for employee travel.** All industry-sponsored travel is prohibited pursuant to 15 U.S.C. § 2086. Additionally, all prohibited source-sponsored travel is prohibited pursuant to this Order. However, as provided in this Order, the Commission may otherwise accept payment of travel expenses from a non-Federal source (or authorize an employee to receive such payment on its behalf) with

respect to attendance of the employee at a meeting or similar function which the employee has been authorized to attend in an official capacity on behalf of the Commission.

b. **Spousal Travel.** In certain circumstances, unless otherwise prohibited by Appendix D, the Commission will allow a non-Federal source to pay to the Commission the travel expenses of a spouse of an employee to accompany the employee on official duty to a meeting or similar event. In such case the conditions for accepting and reporting a gift of spousal travel shall be in accordance with Sections 304-3.14, 304-5.1, and 304-6.4 through 6.9 of Title 41 of the Code of Federal Regulations (CFR).

c. **Solicitation prohibited.** An employee shall not solicit payment for travel, subsistence, and related expenses from a prohibited source or a non-Federal source. However, after receipt of an invitation from a non-Federal source to attend a meeting or similar function, or in the course of discussions of an event to be sponsored jointly by the Commission and the non-Federal source, the employee may inform the non-Federal source of the Commission's authority to accept payment for employee travel expenses.

d. **Payment in excess of regulatory limitations.** When a non-Federal source makes payment for subsistence expenses or common carrier transportation expenses of an employee, acceptance of payment by the Commission and reimbursement to an employee are not subject to:

(1) The maximum per diem or actual subsistence expense rates prescribed in Chapter 301 of Title 41 of the CFR; or

(2) The transportation class of service limitations prescribed in Chapter 301 of Title 41 of the CFR.

e. **Reduced per diem rate in partial payment situation.** If the employee determines in advance of the travel that a payment offer covers some but not all of the per diem costs to be incurred by the employee, the Commission may authorize a reduced per diem rate in accordance with Section 304-6.2 of the Federal Travel Regulation to supplement the partial payment amount.

f. **Prohibition on receiving cash or check made to the employee.** In no event shall a Commission employee accept cash or a check made out to the employee personally from a non-Federal source for travel expenses. Payment by check should be made to the Commission which will then reimburse the employee for travel expenses.

9. CONDITIONS FOR ACCEPTANCE OF TRAVEL EXPENSES.

a. Unless otherwise prohibited by Appendix D, travel expenses for employee travel may be accepted from a non-Federal source when the Accepting Official determines in advance of the travel that the payment is:

(1) For travel for an employee to attend a meeting or related function relating to the employee's official duties and the travel is performed under an official travel authorization issued to the employee; and

(2) From a non-Federal source that is not disqualified under paragraph 9 of this Order on conflict-of-interest grounds.

b. Payments may be accepted from multiple sources under subparagraph a. of this paragraph.

c. If the payment is from a non-Federal source not subject to the Commission's jurisdiction, acceptance of payment from the non-Federal source under subparagraph a. of this section is limited to payment in kind and to the types of services the non-Federal source generally provides; e.g., air passenger transportation services provided by a commercial airline.

10. CONFLICT OF INTEREST ANALYSIS.

a. Payment of travel expenses from a non-Federal source shall not be accepted if the Accepting Official determines that acceptance under the circumstances would cause a reasonable person with knowledge of all the facts to question the integrity of Commission programs or operations. In making this determination the Accepting Official shall be guided by all relevant considerations including, but not limited to:

(1) The identity of the non-Federal source.

(2) The purpose of the meeting or similar function.

(3) The identity of other expected participants.

(4) The nature and sensitivity of any matter pending at the Commission affecting the interests of the non-Federal source.

(5) The significance of the employee's role in any such matter.

(6) The monetary value and character of the travel benefits offered by the non-Federal source.

b. The Accepting Official may find that while acceptance from the non-Federal source is permissible it is in the interest of the Commission to qualify acceptance of the offered payment by, e.g., authorizing attendance at only a portion of the event or limiting the type or character of benefits that may be accepted. It is never inappropriate and frequently prudent for the Accepting Official to decline a gift of travel offered to the Commission.

11. PROCEDURE FOR ACCEPTING TRAVEL EXPENSES.

a. The Assistant Executive Director (AED) or Office Director (OD) of an employee who receives a written or oral offer from a non-Federal source to pay an employee's travel expenses to attend a meeting or similar function will prepare a memorandum to the Executive Director, through the General Counsel, describing the offer including a recitation of how it meets the conditions of acceptance set forth in paragraph 8. The memorandum shall also include a justification for determining that acceptance will not cause a reasonable person to question the integrity of the Commission or its programs or operations. (See Appendix A for an example.)

b. Accompanying such memorandum shall be a copy of the offer and a proposed letter from the Executive Director to the non-Federal source accepting the payment. (See Appendix B for an example.)

c. The General Counsel shall review the memorandum and advise the Executive Director whether the payment for travel expenses by the non-Federal source may or may not be accepted.

d. Once the acceptance letter is signed by the Executive Director, the materials (memorandum, acceptance letter and, if applicable, the offer letter), shall be returned to the appropriate AED or OD who will:

(1) Mail or transmit the acceptance letter to the non-Federal donor.

(2) Prepare a travel authorization and make final arrangements for the employee's travel and the agency's acceptance of payment.

(3) Send a copy of the travel authorization and back-up materials to the Division of Financial Services (FMFS) for record keeping purposes. The travel authorization shall cite 31 U.S.C. 1353 and this Order as the authority for accepting travel expenses from a non-Federal source. A travel authorization is required for both "payments other than in kind" and "payments in kind". (See paragraph 11.)

e. If the employee has been offered payment for spousal travel and believes such acceptance is justified pursuant to 41 CFR 301-1 and 304 the proposal and justification for accepting the proposal should be included in the memorandum to the Executive Director.

f. If the Accepting Official is the Chairman or other Commissioner, he/she shall consider the conditions of acceptance set forth in Paragraph 8 of this Order and prepare a written determination for his/her file that acceptance will not cause a reasonable person to question the integrity of the Commission on its programs or operations. The Chairman or other Commissioner shall consult with the General Counsel for advice as to whether the offered payment of travel expenses should be accepted under the criteria set

forth in this Order and in consideration of all applicable laws and regulations.

12. PAYMENT GUIDELINES.

a. **Payment other than in kind.**

(1) Payments from a non-Federal source for an employee's travel expenses, other than payments in kind, shall be by check or similar instrument made payable to the " U.S. Consumer Product Safety Commission."

(2) Payment may be made by the donor to the Commission either in advance of the employee's travel or subsequent to the employee's travel (i.e., reimbursement) as the parties may agree upon. However, advance payment is preferred.

(3) Any check payment made to the Commission and received by a Commission employee shall be submitted to FMFS as soon as practicable after receipt for credit to the Commission's appropriation applicable to such expenses. In no case shall an employee accept or receive cash or a check made payable to the employee personally.

(4) Payment in excess of applicable limitations may be accepted in accordance with the provisions of 41 CFR 304-3.11 provided that the accommodation or other benefit furnished is comparable in value to that offered to, or purchased by, other similarly situated individuals attending the meeting or similar function. When the applicable limitation will be exceeded, payment by check or similar instrument should be required in advance of the travel.

b. **Payment in kind.** Payment in kind is the preferred method of payment. Payment in kind for employee travel, e.g., transportation tickets, furnished lodging, meals, etc., may be accepted in lieu of a check or similar instrument to the Commission. As a practical matter, payment in kind must be personally received by the employee. Payment in kind in excess of applicable limitations may be accepted in accordance with 41 CFR 304-3.11, provided that the accommodation or other benefit furnished is comparable in value to that offered to, or purchased by, other similarly situated individuals attending the meeting or similar function.

13. REIMBURSEMENT CLAIMS FOR OFFICIAL TRAVEL EXPENSES.

a. Within fifteen working days after travel, the employee who traveled shall submit a travel voucher to FMFS itemizing all travel expenses (whether paid for by the employee or furnished in kind by the donor) and a claim for those expenses the employee is entitled to be reimbursed. Generally, the employee shall be reimbursed an amount not to exceed applicable limitations. However, when the non-Federal source, in accordance with the provisions of 41 CFR 304-3.11, makes full payment in excess of applicable limitations for reimbursable subsistence expenses or common carrier transportation expenses incurred, reimbursement shall be the amount of the payment from the non-Federal source. Reimbursement for expenses in excess of regulatory limitations

shall not, in any case, exceed the amount of the expenses actually incurred. The employee shall show on the travel voucher the amount by which each claim exceeds the regulatory limitations. Any amount in excess of expenses actually incurred shall be returned to the non-Federal source.

b. The Commission may reimburse the employee for only the types of expenses defined in 41 CFR 301-2.2, i.e., per diem allowances, transportation expenses, or other miscellaneous travel expenses.

c. If the payment from a donor covers only a portion of the per diem expenses to be incurred by the employee (e.g., the donor pays $50.00 per night for lodging in a locality with an $85.00 per night maximum lodging allowance), the Commission may authorize a reduced per diem rate in accordance with 41 CFR Section 304-6.2 that is commensurate with the known subsistence expense levels.

d. If an accepted payment covers in full one or more types of expenses described in paragraph b. of this section (e.g., for lodging accommodations) but does not cover all of the travel expenses incurred, the agency shall reimburse the employee for those expenses that are not covered by the payment, not to exceed applicable limitations established in 41 CFR chapter 301.

e. All expenses incurred shall be charged to the employee's Directorate or Office pending reimbursement from the non-Federal source.

f. The AED or OD of the employee for whom payment was accepted from a non-Federal source shall be responsible for seeking reimbursement from that person or entity. Normally, letters requesting reimbursement should be forwarded to the non-Federal source within fifteen working days after travel. However, for travel performed in August and September, letters should be forwarded immediately after travel to the non-Federal source to ensure reimbursement before September 30. The non-Federal source should be advised to submit the check or other instrument made payable to CPSC to FMFS to credit the appropriate account. Questions regarding the request for reimbursement should be addressed to FMFS.

g. A copy of the letter requesting reimbursement shall be provided to the Director, FMFS, for FMFS records with the employee's travel voucher. The travel voucher will not be processed without the copy of the reimbursement letter.

14. EMPLOYEE POST TRAVEL REPORTING.

a. Within fifteen working days after traveling to a meeting or similar function paid for, in whole or in part, by a non-Federal source, the employee who traveled shall submit a copy of CPSC Form 349, Report of CPSC Travel Expenses Paid By non-Federal Sources, (Appendix C) to both FMFS and the Assistant General Counsel for General Law in the Office of General Counsel setting forth the following:

(1) The event title.

(2) The sponsor(s) of the event including, the name of the personal contact.

(3) The location of the event.

(4) The date(s) of the event.

(5) The nature of the event, including title.

(6) The name/position of the employee and the employee's travel dates in connection with the event.

(7) The name/travel dates of the accompanying spouse.

(8) The name of the non-Federal source from which payment was accepted in connection with the event.

(9) An itemization of the benefits accepted by the Commission in connection with the employee's attendance of the event, including for each benefit:

(a) A description of the benefit, except that benefit accepted as a part of a conference or training fee need not be reported separately;

(b) The method of payment (i.e., payment in kind or by check or similar instrument);

(c) The employee for whom payment was accepted;

(d) The non-Federal source that provided the benefits; and

(e) The amount of the payment.

(10) The total value of the payments accepted for the employee in connection with the event identified as follows:

(a) The total amount of advance or reimbursement payments provided by check or similar instrument; and

(b) The total value of payments provided in kind.

b. **Valuation of payments in kind.** In the case of conference, training, or similar fees waived or paid by a non-Federal source, the employee shall report the amount charged other participants. In the case of transportation or lodging furnished in

kind, the employee shall report the cost to the non-Federal source, or indicate the rate that would have been charged a similar non-Federal source for a similar benefit at the time the benefit was provided. In the case of lodging for which no commercial rate is available, report the maximum lodging rate prescribed in 41 CFR Chapter 301. In the case of meals or other benefits that are not provided incident to transportation, lodging, or a conference, training, or similar fee, report the cost to the non-Federal source or provide a reasonable approximation of their market value.

15. SEMIANNUAL REPORT OF TRAVEL PAYMENTS TO THE OFFICE OF GOVERNMENT ETHICS.

a. The General Counsel will report to OGE all travel expense payments in excess of $250.00 per event accepted by the Commission from a non-Federal source.

b. These reports will be prepared in accordance with 41 CFR 304-6.4 and shall be submitted twice each year, i.e., on or before May 31 for the period covering the previous October 1 to March 31, and November 30 for the period covering the previous April 1 to September 30.

c. FMFS will maintain records of all gift travel expense acceptances and, as needed, provide the General Counsel with the necessary information it has available to allow the General Counsel to prepare the semiannual reports.

PART B - ACCEPTANCE OF NON-TRAVEL GIFTS

16. AGENCY AUTHORITY TO ACCEPT GIFTS OTHER THAN TRAVEL EXPENSES.

a. The Commission has authority to accept gifts other than travel expenses, from outside sources pursuant to Section 27(b)(6) of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2076(b)(6). The primary use of this authority is set forth in the provisions of 16 C.F.R. §1118.2(a)(4), which allows the Commission (or a Commission employee or official on its behalf) to accept samples of items, materials, substances, products, containers, packages and packaging, and labels and labeling, or any component voluntarily provided to the Commission pursuant to its inquiry, inspection, investigation, enforcement, or compliance functions. Outside of the provisions of 16 C.F.R. §1118.2(a)(4), the Commission (or any employee or official on its behalf) will not accept non-travel gifts from the entities listed in Appendix D. In those cases where an entity is not listed in Appendix D and where *personal* acceptance of a gift is prohibited or doubtful under the Standards of Ethical Conduct, use of the agency's authority to accept gifts may be appropriate. However, it is never inappropriate and frequently prudent for the Commission or an employee to decline a gift.

b. For the purpose of this Part, the term "gift" or "non-travel gift" includes any object, gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. It includes services as well as gifts of training,

transportation, meals and waived fees whether provided in-kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred. It does not include travel expenses, as defined in Part A, or those items which are not considered gifts in the Standards of Ethical Conduct. See 5 CFR 2635.203(b)(1)-(9).

c. Before the Commission can accept a gift under its statutory authority, the Accepting Official, with guidance from the General Counsel and, if applicable, the appropriate AED or OD, must determine whether the acceptance will further the mission or interest of the agency, and that acceptance will not compromise the impartiality and integrity of the Commission or the employee, or otherwise create the appearance of a conflict of interest.

d. Generally, if a gift of a meal or waived fee is accepted by the Commission there is no requirement limiting the value of that gift to a "nominal" or "modest" amount, but the Commission should not accept a gift that is lavish or excessively expensive.

17. PROCEDURE FOR ACCEPTANCE OF NON-TRAVEL GIFTS.

a. The AED or OD of an employee receiving a gift offer which cannot be accepted personally under the Standards of Conduct may submit a memorandum to the Executive Director, through the General Counsel, recommending Commission acceptance of the gift. Please note, however, that no such gift may be accepted from an entity listed in Appendix D. The memorandum should be accompanied with an acceptance letter to the donor prepared for the Executive Director's signature. The memorandum should set forth:

(1) The particulars of the gift, e.g., a description of the gift, the date, place, nature of the event, and the name, address, and organization of the donor, as well as the name, title, and participation function of the Commission employee;

(2) An affirmative statement indicating that there is no known Commission regulatory authority over, or involvement with, the donor, including any actual or pending regulatory, enforcement, contracting, or business entity and that the donor is not an entity listed at Appendix D;

(3) How the acceptance of the gift is in accord with, and contributes to, the mission of the Commission;

(4) A statement giving the reasons why the donation will not compromise the integrity and impartiality of the employee or the Commission, nor create the appearance of a conflict of interest;

(5) The value or estimated value of the gift or waived fees;

(6) The necessary time frame for agency acceptance.

b. A sample letter of acceptance of a gift for the signature of the Executive Director is attached at Appendix B. More specific information regarding the event should be included in the acceptance letter, if appropriate.

c. The General Counsel will review the memorandum to the Executive Director to determine whether acceptance of the gift would violate a law, regulation, or this Order or create a real or apparent conflict of interest or some other impropriety, and communicate this determination to the Executive Director.

d. Upon receipt of the documents and a favorable determination from the General Counsel, the Executive Director will independently review the offer to assure that its acceptance is in the best interest of the Commission. If the Executive Director decides that it is, he/she will sign the acceptance letter and return the materials to the appropriate AED or OD for processing.

e. Subsequent to receipt of a non-travel related gift, the appropriate AED or OD shall submit a memorandum to both FMFS and the Assistant General Counsel for General Law describing the gift, its date of receipt, and its value or estimated value. The report shall be submitted within fifteen working days from the date of gift receipt, e.g., the date an employee attends a conference where the attendance fee has been waived or the date a gift of goods or services has been received.

f. Commissioners may accept non-travel gifts for themselves and their immediate staff members pursuant to the Commission's gift acceptance authority taking into consideration the factors described in paragraph a. above. Commissioners shall obtain written legal approval from the General Counsel prior to such acceptance. After an acceptance, the Commissioner who accepted the gift shall furnish a report to both FMFS and OGC in accordance with paragraph e. above.

_____/s/_____ ___2/18/2011_____
Kenneth R. Hinson Date
Executive Director

Appendix A: Example of memorandum to the Executive Director recommending Acceptance of a gift from a non-Federal source.

Appendix B: Example of letter from the Executive Director to the non-Federal source accepting payment.

Appendix C: CPSC Form 136, Report of CPSC Travel Expenses Paid by non-Federal Sources.

Appendix D: Guidance on non-federal sources from which the Commission

cannot accept travel expenses or non-travel-related gifts.

Appendix A

COMMISSION LETTERHEAD

Memorandum

TO: Mary Doe
Executive Director

THROUGH: Richard Roe
General Counsel

FROM: Susan Coe
Assistant Executive Director
Directorate for Engineering Sciences

SUBJECT: University of Generosity Gift Offer

The University of Generosity (UG) has invited Ms. Elizabeth Jones, of my staff, to attend the School of Engineering's Conference on Safe Products, to be held in Stort, Massachusetts, on November 1 and 2, 2015 (see attached letter). UG has offered to pay all her expenses to participate on matters within her area of technical expertise. Some issues to be discussed are noted in UG's letter.

I recommend that you accept UG's offer to pay the travel and subsistence expenses of Ms. Jones to participate in the conference pursuant to Government-wide authority for acceptance of travel expenses under 31 U.S.C. 1353. It is my opinion that acceptance of the travel expenses would not cause a reasonable person with knowledge of all relevant facts to question the integrity of CPSC programs or operations. This recommendation is based on the following facts:

1. The identity of the non-Federal source. The UG is a non-profit tax-exempt educational institution. Its purpose is education and research.

2. Not a Prohibited Source. There is no known Commission regulatory authority over, or involvement with, the donor, including any actual or pending regulatory, enforcement, contracting, or business entity and that the donor is not an entity listed at Appendix D of Commission Order No. 0680.2.

3. The purpose of the conference. The conference gives CPSC the opportunity to provide expert advice on technical and educational issues pertaining to consumer product safety to conference attendees.

4. The identity of other expected participants. The attendees at the conference will be other Federal employees (NIST, Department of Commerce), public

affairs specialists, members of UG, and other experts engaged in consumer protection education.

5. The nature and sensitivity of any matter pending before CPSC affecting the non-Federal source. There is none since CPSC does not regulate this educational institution.

6. The significance of the employee's role in such matter(s), if any. There is none since there are no regulatory actions pending involving UG.

7. The monetary value and character of the travel benefits offered by the non-Federal source. The monetary value of the travel expense (transportation, lodging, meals, and waiver of conference fees) is estimated to total $600.00.

8. The acceptance of payment supports CPSC's mission. Acceptance of the payment strongly supports CPSC's mission.

A letter of acceptance is attached for your signature.

OPTIONS

1. Accept UG offer to pay the travel expenses of Ms. Jones to participate in the Conference on Safe Products.

2. Do not accept UG offer to pay Ms. Jones expenses to participate in the Conference on Safe Products.

RECOMMENDATION

Accept UG offer to pay the travel expenses of Ms. Jones to participate in the Conference on Safe Products.

DECISION

APPROVE_____ _____

Mary Doe

DISAPPROVE_____

DISCUSS_____ Date:_____

Attachments

Appendix B

COMMISSION LETTERHEAD

DATE - AFTER SIGNATURE

Professor John Q. Donor
School of Engineering
University of Generosity
123 Buttermilk Lane
Stort, Massachusetts 02269

Dear Professor Donor:

On behalf of the U.S. Consumer Product Safety Commission, I am pleased to accept the offer of the University of Generosity to pay the travel expenses for Ms. Elizabeth Jones of our Engineering Laboratory to participate in your Conference on Safe Products on November 1 and 2, 2015, in Stort, Massachusetts.

We confirm, pursuant to 15 U.S.C. § 2086, that your organization is not seeking official action from, doing business with, or conducting activities regulated by, the U.S. Consumer Product Safety Commission nor are its interests substantially affected by the performance or nonperformance of the official duties of the Commissioner's or employee's of the Commission. **Please immediately inform me if this is not correct.**

I understand that the University will provide lodging to Ms. Jones on November 1, and that it will reimburse the Commission for her transportation and meal expenses upon receiving our statement of expenditures. Please let me know if this is not correct. I may be reached on (301) 504- 1234.

Sincerely,

Mary Doe
Executive Director

This report implements 31 U.S.C. 1353. It does not supersede other reports that may have to be filed when travel or travel expenses are accepted under other authority. For definitions and policies, see CPSC Order 0680.2.

1. Event (Identify meeting or similar function for which payment was accepted under 31 U.S.C. 1353.)

2. Sponsor of Event	3. Location of Event
(Name)_____ (Address)_____ (City, Zip)_____ (Contact Person)_____	

4. Date(s) of Event From:_____,19____ To:_____. 19____

5. Nature of Event

6. Employee Name,Govt Position/Office:	7. Accompanying Spouse (if applicable)Name:
Travel Dates: From:_____ To:_____	Travel Dates: From:_____ To:_____

8. Non-Federal Source of Payment (if other than Sponsor). (Identify the name, address and contact person of the non-Federal source from which payment was accepted under 31 U.S.C. 1353 for this employee in connection with this event.)

9. Nature of Payments (Itemize on back of form)

10.Total Amount of Payments(Indicate total amount of paments accepted under 31 U.S.C. 1353 for this employee and/or accompanying spouse in connection with this event.) Total of Payments to Agency: $_____

(By Reimbursement: $_____ By Payment in Kind $_____

Date of final Reimbursement_____(Mo., day, yr.)

11. Certification:The statements in this report are true, complete, and correct to the best of my knowledge and belief.	12.Signature of Employee: Name(type or print) Date(Mo., Day, Yr.)

CPSC FORM 349 (5/94)

Nature of Payments. For each payment accepted, describe the benefit and check under "S", if for spouse. When indicating dollar value or payment put under "R" for agency reimbursement or "K" for in-kind. To value benefits provided in-kind, report the amount charged other participants at the conference or meeting. For transportaion or lodging provided in-kind, report the cost to the donor or indicate the rate for a similar benefit in effect at time the benefit was provided. For meals and other benefits, use cost to the donor or approximate the market value of the benefit.

PAYMENT

(a) Description of Benefit	S	K In-Kind	R Reimbursement
Airfare or Railfare		$	S
		$	$
Other Transportation (Specify)		$	$
		$	$
Lodging		$	$
Meals		$	$
Other (specify)		$	$
		$	$

TOTAL

INSTRUCTIONS: This form must be completed by the CPSC traveler within 15 working days after completion of travel and submitted to the Office of Budget and to the Ethics Official in the Office of the General Counsel. See CPSC Order 0680.2 for additional information.

GUIDANCE ON NON-FEDERAL SOURCES FROM WHICH THE COMMISSION CANNOT ACCEPT TRAVEL EXPENSES OR NON-TRAVEL-RELATED GIFTS.

1. PURPOSE. This appendix provides guidance on non-federal sources from which the Commission (or a Commission employee or official on its behalf) cannot accept travel expenses or non-travel-related gifts. It is issued to implement the Prohibition on Industry-Sponsored Travel enacted in Section 206 of the Consumer Product Safety Improvement Act of 2008 (15 U.S.C. §2086) and to clarify current policy under Directive 0680.2.

This guidance does not otherwise affect Directive 0680.2, which remains in full force and effect. In particular, for any source not explicitly precluded by the listing below, the conflict of interest analysis required by paragraph 9 of the directive with respect to gift travel or by paragraph 16a(4) with respect to non-travel-related gifts must be performed. This guidance does not affect the provisions of 16 C.F.R. §1118.2(a)(4), which allow the Commission (or a Commission employee or official on its behalf) to accept samples of items, materials, substances, products, containers, packages and packaging, and labels and labeling, or any component voluntarily provided to the Commission pursuant to its inquiry, inspection, investigation, enforcement, or compliance functions. Additionally, this guidance does not affect the provisions of 5 C.F.R. § 2635, Subpart B, which allow employees to personally accept gifts from outside sources in certain circumstances.

2. GUIDANCE. For purposes of Directive 0680.2, *Acceptance of Gifts and Travel Expenses from Non-Federal Sources*, except as otherwise noted below, the Commission (or an employee or official on its behalf) shall not accept non-travel related gifts or travel, payment for travel, subsistence, or related expenses from:

- A person seeking official action from, doing business with, or conducting activities regulated by, the Commission.
- A person whose interests may be substantially affected by the performance or nonperformance of the Commissioner's or employee's official duties.
- A consumer product importer, manufacturer, distributor, retailer, or representative thereof.
- A consumer, public interest or other group, or a representative thereof, which seeks regulatory or other official action by the agency.
- In the case of a proposed gift to the agency, a professional, trade, or business association, or representative thereof, a substantial majority of whose members are regulated by, or do business with, the agency, unless the entity is an organization exempt from taxation pursuant to section 501(c)(3) of the Internal Revenue Code of 1986.

- A consensus standards organization involved with consumer product standards, or a representative thereof.

- An organization that accredits laboratories that perform testing or other evaluation of consumer products, or a representative thereof.

- A person or company, or a representative thereof, which has or is seeking a government contract or grant from the agency.

- A person or company, or representative thereof, involved in litigation with the Commission.

- A media representative seeking information from or an interview or ongoing working relationship with, an agency employee because of the employee's official position.

- An organization a majority of whose members are described in this section.

If you have any questions concerning the scope of entities addressed by this guidance, please contact the Assistant General Counsel for General Law.

UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION

DIRECTIVES SYSTEM

ORDER NO.
0680.3
January 12, 2009
Revised 1/18/11

ETHICS PROGRAM

PUBLIC AND CONFIDENTIAL FINANCIAL DISCLOSURE REPORTING

1. **PURPOSE.** This Order establishes the Commission's procedures for collecting, reviewing, evaluating and, where applicable, making publicly available financial disclosure reports of Commission employees, in compliance with the Ethics in Government Act, as amended, and the Office of Government Ethics regulations at 5 CFR part 2634.

2. **GENERAL.**

   a. Title I of the Ethics in Government Act of 1978 (Pub. L. 95-521, as amended; 5 U.S.C. App.) requires that senior federal officials disclose publicly their personal financial interests. Title I also authorizes the establishment of a confidential (nonpublic) financial disclosure system for other executive branch personnel in certain designated positions to enable internal agency conflict-of-interest review.

   b. Public and confidential financial disclosure serves to prevent conflicts of interest and identify potential conflicts by providing for a systematic review of the financial interests of both current and prospective officers and employees.

3. **OFFICE RESPONSIBLE FOR THIS DIRECTIVE.** The Office of the General Counsel is responsible for this directive.

4. **SCOPE.** This Order applies to Commission employees required to file public financial disclosure reports (Part A) and employees required to file confidential financial disclosure reports (Part B). The Order also applies to special government employees, as defined in 18 U.S.C. § 202(a), and advisory committee members who are required to file financial interest reports.

5. **CANCELLATION.** This Order supersedes Subpart F of the Commission's Employee Standards of Conduct, 16 CFR part 1030, which was revoked October 5, 1992 (Revocation published at 58 FR 12335, March 4, 1993).

6. REFERENCES.

a. Title I of the Ethics in Government Act of 1978, as amended.

b. Executive Order 12674 of April 12, 1989, as modified.

c. 5 CFR part 2634 - Executive Branch Financial Disclosure, Qualified Trusts, and Certificates of Divestiture.

d. 5 CFR part 2635 - Standards of Ethical Conduct for Employees of the Executive Branch.

e. 5 CFR part 2638 - Office of Government Ethics and Executive Agency Ethics Program Responsibilities.

7. AVOIDING CONFLICTS OF INTEREST.

a. An employee shall not hold or acquire a financial interest that conflicts substantially or appears to conflict substantially, with his or her government duties and responsibilities. The financial interests of a spouse or dependent child shall be considered as the financial interest of the employee. An employee having a substantial conflict of interest may be required by the Designated Agency Ethics Official (DAEO) to take remedial action pursuant to paragraph 12.

b. An employee is prohibited by criminal statute, 18 U.S.C. § 208(a), from participating personally and substantially in an official capacity in any particular matter in which, to his/her knowledge, he/she (or any person whose interests are imputed to him/her under the statute) has a financial interest, if the particular matter will have a direct and predictable effect on that interest.

c. An employee who has a financial interest (or has a financial interest imputed to him/her) may not participate in any matter relating to that interest unless the employee first fully discloses that information to the DAEO and receives a written waiver from the DAEO, in accordance with 18 U.S.C. § 208(b)(1), that the interest is not substantial enough to be deemed likely to affect the integrity of the services that the government may expect from such employee. This waiver requirement is applicable regardless of the amount of the financial interest. If a waiver cannot be given, the employee must disqualify himself/herself from participating in the particular matter.

d. The Standards of Ethical Conduct for Employees of the Executive Branch, Subpart D - Conflicting Financial Interests, provide additional guidance on conflicting financial interests.

8. REVIEWING OFFICIAL. The agency official primarily responsible for reviewing financial disclosure reports is the Designated Agency Ethics Official (DAEO). The

DAEO at the Consumer Product Safety Commission is the General Counsel. The primary duties and responsibilities of the DAEO are set forth in detail in 5 CFR part 2638.203, promulgated by the Office of Government Ethics. The DAEO may delegate the review process to the Alternate DAEO or Deputy Ethics Official.

9. REVIEW OF REPORTS.

a. The DAEO shall review each financial disclosure report to determine that each required item is completed, and that from the information contained in the report the filer is in compliance with applicable conflict of interest laws and regulations. If the DAEO determines that the report meets the requirements, the official shall so certify by signing and dating the form.

b. It is each filer's responsibility to completely and accurately disclose the required information on the report. The DAEO need not audit the report to ascertain whether the disclosures are factually correct. Disclosures shall be assumed accurate, unless there is a patent omission or ambiguity or the official has independent knowledge of matters outside the report.

c. If the DAEO believes that additional information is required, he or she shall request that it be submitted by a specified date to be made a part of the report. If the DAEO concludes from the additional information submitted, that the report fulfills the requirements set forth above, the DAEO shall sign and date the report.

d. If the DAEO concludes that information disclosed in the report may show a violation of applicable laws or regulations, the DAEO shall notify the filer of that conclusion and afford the filer a reasonable opportunity for an oral or written response.

10. CUSTODY OF FINANCIAL DISCLOSURE REPORTS. The DAEO is the final custodian of all financial disclosure reports filed by Commission officials and employees. Reports will be maintained in the Office of General Counsel.

11. ADVICE ON FINANCIAL DISCLOSURE AND CONFLICTS OF INTEREST. The DAEO serves as the agency's primary advisor on matters covered by the financial disclosure laws and regulations, and offers advice and guidance to employees, as needed, to assist them in complying with the requirements of the Ethics in Government Act, Executive Order on Ethical Conduct, and the financial disclosure regulations. The DAEO is assisted by the Alternate DAEO and Deputy Ethics Officials in providing advice and guidance to employees on ethics matters. The components of an Agency's Ethics Program are more fully set forth in 5 CFR part 2638.

12. REMEDIAL ACTION FOR CONFLICTS OF INTEREST. Where a public or confidential financial interest statement of an employee or special government employee indicates a real or potential conflict of interest with the employee's official duties, the DAEO shall notify the employee what remedial action is needed, and the date by which such action should be taken. Remedial action may include, as appropriate:

a. Divestiture;

b. Resignation from a position with a nonfederal business or other entity;

c. Obtaining a waiver under 18 U.S.C. § 208(b)(1) or (b)(3);

d. Recusal (disqualification); or

e. Reassignment.

13. DISCIPLINARY ACTION.

a. The Commission may take disciplinary action against any employee who knowingly fails to file a financial disclosure report or provides false information on a financial disclosure report. Disciplinary action may be in addition to any penalty prescribed by law.

b. Some types of disciplinary action that may be taken include:

(1) Oral admonishment;

(2) Written reprimand;

(3) Demotion;

(4) Suspension; or

(5) Removal from federal service.

PART A - PUBLIC FINANCIAL DISCLOSURE REPORTS

14. WHO MUST FILE.

a. The following Commission members and employees, whether permanent or serving in an acting capacity, are required to file public financial disclosure reports pursuant to the Ethics in Government Act, as amended, and 5 CFR part 2634:

(1) The Chairman;

(2) Each Commissioner;

(3) Each officer or employee, including a special government employee, who is in a position:

(a) classified as a position within the Senior Executive Service (SES);

(b) classified above the GS-15 grade of the General Schedule; or

(c) the rate of basic pay for which is fixed (other than under the General Schedule) at a rate equal to or greater than 120 percent of the minimum rate of basic pay for a GS-15 of the General Schedule;

(4) Each employee, regardless of grade or pay level, who is in a position that is excepted from the competitive service by reason of being of a confidential or policymaking character (Schedule C employees); and

(5) The Designated Agency Ethics Official.

b. Any officer or employee in a position described in subparagraph a, above, shall not be subject to the reporting requirement if he or she is not reasonably expected to perform the duties of that position for more than 60 days in any calendar year. However, if the incumbent of a position actually performs in the position for more than 60 days in a calendar year, the incumbent must file the public report within 15 calendar days after the 60th day.

c. Commission members and employees who file public financial disclosure reports under Part A need not file confidential reports under Part B of this Order.

15. EXCLUSIONS FROM FILING REQUIREMENTS

a. Any individual described in paragraph 14.a.(4), above, (i.e., relating to positions of a confidential or policymaking character) may be excluded from the public reporting requirement when the Director of the Office of Government Ethics determines, in his or her discretion, that such exclusion would not adversely affect the integrity of the government or the public's confidence in the integrity of the government. A request for exclusion shall be made by the official or employee to the Office of Government Ethics through the Commission's DAEO.

b. The Office of Government Ethics has determined that individuals in any Schedule C position classified at GS-15 of the General Schedule or below, who have no policymaking role with respect to agency programs, may be excluded from filing a public report pursuant to 5 CFR part 2634.203(b) and (c). However, such individuals may be required to file a confidential financial disclosure report pursuant to Part B of this Order.

16. FORM OF REPORT. Public financial disclosure reports must be filed on the current version of the form prescribed by the Office of Government Ethics (Form SF-278). All reports must be filed in accordance with this Order and the regulations promulgated by the

Office of Government Ethics. Copies of the current form are available from the DAEO and online at the Office of Government Ethics website, www.oge.gov, in the forms library.

17. TIME OF FILING.

a. Incumbents. Public filers who, during any calendar year, perform the duties of their positions for more than 60 days shall file a public financial disclosure report containing the information required on the report on or before May 15 of the succeeding year.

b. New entrants. Within 30 days of assuming a position covered by the public reporting requirement, the individual shall file a public financial disclosure report containing the information required on the report. However, no report is required if the individual has, within 30 days before assuming such position, left another position or office for which a public financial disclosure report was required to be filed, or has already filed such a report as a nominee or candidate for the position.

c. Termination of employment. On or before the 30th day after termination of employment from a public filer position, an individual shall file a public financial disclosure report containing the information required on the report. However, if within 30 days of such termination, the individual assumes employment in another position or office for which a public report is required to be filed, no termination report is required.

d. Extensions. The DAEO, for good cause shown, may grant to any public filer an extension of time for filing, which may not exceed 45 days. For good cause shown, the DAEO may grant an additional extension of time, which may not exceed 45 days. Filers must request the second 45-day extension in writing, stating the "good cause." Examples of good cause include:

- significant illness just prior to the due date, and
- long periods of official travel just prior to the due date.

The maximum total extension of time is 90 days. Pursuant to OGE regulations extensions of more than 90 days are not allowed, regardless of the circumstances.

e. Record of receipt. The DAEO shall note on any report or supplemental report the date on which it is received.

f. Late filing fee. Any individual who files a public report more than 30 days late is required by statute to pay a late filing fee of $200. The DAEO shall collect the fee and forward it to the U.S. Treasury for deposit as miscellaneous receipts. The DAEO may waive the late filing fee by determining that the delay in filing was caused by extraordinary circumstances that made the delay reasonably necessary.

18. **FAILURE TO REPORT/FILING FALSE REPORT.** The Attorney General may bring a civil or criminal action, or both, against any individual who knowingly and willfully falsifies or fails to file or report any information required to be reported on the public financial reporting form. In addition, the Commission may take appropriate disciplinary action in accordance with applicable law or regulation against any individual for failing to file a report, filing late, or for falsifying or failing to report required information. See paragraph 13.

19. **WHERE TO FILE.** Public financial disclosure reports, except those filed by the DAEO, must be filed with the DAEO for review and certification. The DAEO shall file his/her report with the Chairman for review and certification by the Chairman or his/her designee.

20. **REVIEW OF REPORTS.**

a. Within 60 days after receipt, the DAEO shall review each public financial disclosure report for completeness and accuracy, and confer with the filer if the report is incomplete, ambiguous, raises conflict of interest issues, or there is an inconsistency in the information within the report or with prior reports.

b. The DAEO shall review each public financial disclosure report to determine whether the filer may have a real or potential conflict of interest between the filer's financial interests and the filer's duties as a public employee. If the DAEO determines that there is no conflict of interest under applicable laws and regulations, he or she shall certify that opinion by signature and date on the cover page of the report. If the DAEO determines that there is a conflict of interest, he or she shall discuss the matter with the filer and seek resolution of the matter as may be appropriate.

c. The Chairman or his/her designee shall review and certify the report of the DAEO.

21. **QUALIFIED TRUSTS.** Individuals who wish to establish a qualified trust to avoid a conflict of interest should consult with the DAEO. Such qualified trusts must be established in accordance with the Ethics in Government Act, as amended, and OGE regulations set forth in 5 CFR part 2634, Subpart D - Qualified Trusts, and Subpart E - Revocation of Trust Certificates and Trustee Approvals.

22. **ETHICS AGREEMENTS.**

a. An ethics agreement is any oral or written promise by a reporting individual to undertake specific actions to alleviate a real or apparent conflict of interest such as (1) preparing a written agreement recusing (i.e., disqualifying) the individual from one or more particular matters or categories of official action; (2) divesting of a financial interest; (3) resigning from a position with a nonfederal business or other

entity; (4) obtaining a waiver from the DAEO to participate in a particular matter pursuant to 18 U.S.C. § 208(b)(1) or (b)(3); or (5) establishing a qualified trust under the Ethics in Government Act of 1978, as amended, and OGE regulations.

b. The DAEO shall assist filers drafting ethics agreements in accordance with the OGE regulations set forth at 5 CFR part 2634, Subpart H - Ethics Agreements.

c. Records of ethics agreements and evidence of any action taken to comply with such ethics agreements shall be maintained with the individual's financial disclosure reports.

23. CUSTODY AND ACCESS TO PUBLIC REPORTS.

a. The DAEO shall maintain custody of the public financial reports in the Office of the General Counsel.

b. Within 30 days after the DAEO receives a public financial disclosure report, a copy of the report shall be provided for inspection by, or furnished to, any person who makes written application utilizing OGE Form 201. The report shall be made available to the public for a period of six years after receipt. After the six year period, the report shall be destroyed unless needed in an ongoing investigation or as otherwise provided by statute or regulation.

c. If an individual has established a qualified trust, a copy of the qualified trust agreement, the list of assets initially placed in the trust, and all other publicly available documents relating to the trust shall be retained and made available to the public until the periods for retention of all other reports of the individual has lapsed.

d. The Division of Information Management (ITIM) shall retain a copy of each application for the inspection of, or copy of, a financial report. Each application shall also be made available to the public throughout the period during which the report itself is made available.

e. It is unlawful for any person to obtain or use a public financial disclosure report:

(1) For any unlawful purpose;

(2) For any commercial purpose, other than by news and communications media for dissemination to the general public;

(3) For determining or establishing the credit rating of any individual; or

(4) For use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

Any person who obtains or uses a report for any purpose prohibited by this section may be subject to a civil action brought by the Attorney General. This remedy shall be in addition to any other remedy available under statutory or common law.

PART B - CONFIDENTIAL FINANCIAL DISCLOSURE

24. CONFIDENTIALITY. Under section 107(a) of the Ethics in Government Act of 1978, as amended, reports filed pursuant to this Part are confidential and are exempt from disclosure under the Freedom of Information Act (FOIA), 5 U.S.C. §§ 552(b)(3)(A) and (B), (b)(4), and (b)(6). Neither the reports nor the information contained in them shall be publicly released except pursuant to an order issued by a federal court, or as otherwise provided under applicable provisions of the Privacy Act, 5 U.S.C. § 552a.

25. WHO MUST FILE.

a. Unless required to file a public financial disclosure report, each Commission employee whose duties require the employee to personally make decisions or exercise significant judgment in taking a government action, or where the duties of a position require the employee to file such a report to avoid a real or apparent conflict of interest, shall be required to file a confidential financial report. The DAEO, in consultation with the Executive Director, shall determine which positions shall be covered by the confidential reporting requirement.

b. Each Commission employee who is in a designated position, whether permanent or serving in an acting capacity, must file a confidential financial disclosure report. Those positions in which incumbents are required to file confidential financial disclosure reports are listed in the attachment, Employee Positions Subject to Confidential Financial Disclosure Reporting (Appendix A).

c. Any officer or employee in a position described in subparagraph a, above, shall not be subject to the reporting requirement if he or she is not reasonably expected to perform the duties of that position for more than 60 days in any calendar year. However, if the incumbent of a position actually performs in the position for more than 60 days in a calendar year, the incumbent must file the public report within 15 calendar days after the 60th day.

26. EXCLUSIONS FROM FILING REQUIREMENT.

a. An individual in a covered position may be excluded from the confidential reporting requirements when the DAEO, in consultation with the Executive Director and the individual's supervisor, determines that the individual is unlikely to be involved in a real or apparent conflict of interest, or because the level of supervision makes the submission of a confidential financial report unnecessary.

b. An employee may file a complaint with the DAEO that his/her position has been improperly included with those requiring confidential reporting. A decision by

the DAEO on the complaint shall be final.

c. Exclusions under this paragraph must be documented in writing and retained by the DAEO.

27. FORM OF REPORT.

a. Confidential financial disclosure reports must be filed on the current version of the form prescribed by the Office of Government Ethics (OGE Form 450). All reports must be filed in accordance with this Order and the regulations promulgated by the Office of Government Ethics. (See 5 CFR part 2634) Copies of the current form are available from the DAEO and online at the Office of Government Ethics website, www.oge.gov, in the forms library.

b. Optional Form 450-A may be used by incumbents in accordance with 5 CFR part 2634.905(b), if the employee can certify that he/she has no new interests and has not changed his/her position at the Commission since filing their previous report.

28. TIME OF FILING.

a. Incumbents. Incumbents of listed positions who have performed the duties of a listed position for more than 60 days during the reporting period (January 1 – December 31), including more than 60 days in an acting capacity, are required to file a confidential disclosure report on or before February 15 immediately following that period.

b. New entrants. New entrants (including those employees promoted to a listed position) must file a confidential disclosure report not later than 30 days after entering a listed position. The reporting period is the 12 months preceding the date the form is filed.

c. Termination reports are not required for confidential filers.

d. Special Government Employees. Special government employees, including those appointed to serve on an advisory committee, shall file the confidential financial report before any advice is rendered by the employee to the agency.

e. Filing extension. The DAEO may, for good cause shown, extend the time for filing for a period not more than 90 days.

29. FAILING TO REPORT/FILING FALSE INFORMATION. See paragraphs 13 and 18 of this Order for penalties and remedial action that apply if a reporting individual knowingly fails to file or falsifies information in a confidential financial disclosure report.

30. WHERE TO FILE. Each employee required to file a confidential financial disclosure

report shall either mail or submit his or her report directly to the DAEO in a sealed envelope or electronically complete and sign the form and email it to the Office of the General Counsel.

Inez M. Tenenbaum — January 18, 2011

Inez M. Tenenbaum
Chairman

Date

APPENDIX A: **Employee Positions Subject to Confidential Financial Disclosure Reporting**

APPENDIX A

EMPLOYEE POSITIONS SUBJECT TO CONFIDENTIAL FINANCIAL DISCLOSURE REPORTING

The following offices report directly to the Chairman of the Commission:

OFFICE OF EQUAL EMPLOYMENT OPPORTUNITY AND MINORITY ENTERPRISE (EO)

Required Filers: All positions grade GS-15

OFFICE OF THE EXECUTIVE DIRECTOR (EX)

Required Filers: All special assistants

OFFICE OF GENERAL COUNSEL (GC)

Required Filers: All attorneys in the Compliance Legal Division and the Enforcement and Information Division

The following offices report directly to the Executive Director of the Commission:

OFFICE OF COMPLIANCE AND FIELD OPERATIONS (EXC)

- (EXC, CFI, CDI, CRE, CRM)
- Import Surveillance (CIS)

Required Filers: All directors, supervisors, compliance officers, and investigators
All administrative officers GS-13 and above
All warranted contracting officers

OFFICE OF FINANCIAL MANAGEMENT, PLANNING AND EVALUATION (EXFM):

- Division of Planning, Budget and Evaluation (FMPB)
- Division of Procurement Services (FMPS)
- Division of Financial Services (FMFS)

Required Filers: All positions grade GS-15; all warranted contracting officers, and all contract specialists in the Division of Procurement Services

OFFICE OF HAZARD IDENTIFICATION AND REDUCTION (EXHR)

Required Filers: All positions except administrative personnel

- **DIRECTORATE FOR ECONOMIC ANALYSIS (EC)**

  Required Filers: All positions except administrative personnel

- **DIRECTORATE FOR EPIDEMIOLOGY (EP)**

  Required Filers: All positions except administrative personnel

- **DIRECTORATE FOR HEALTH SCIENCES (HS)**

  Required Filers: All positions except administrative personnel

- **DIRECTORATE FOR ENGINEERING SCIENCES (ES)**
  Required Filers: All positions except administrative personnel

- **DIRECTORATE FOR LABORATORY SCIENCES (LS)**
  Required Filers: All positions except administrative personnel

OFFICE OF HUMAN RESOURCES MANAGEMENT (EXRM)
Required Filers: All supervisors and the Security Officer

OFFICE OF INFORMATION AND PUBLIC AFFAIRS (EXPA)
Required Filers: Deputy Director

OFFICE OF INFORMATION AND TECHNOLOGY SERVICES (EXIT)
- Division of Information Management (ITIM)
- Division of Technology Services (ITTS)
- Division of Policy and Planning (ITPP)

Required Filers: All positions grade GS-14 and above
All warranted contracting officers

OFFICE OF INTERNATIONAL PROGRAMS & INTERGOVERNMENTAL AFFAIRS (EXIP)
Required Filers: Director
Regional Product Safety Officer

UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION

DIRECTIVES SYSTEM **ORDER NO. 0680.4 March 12, 2009**

ETHICS PLEDGE

ETHICS COMMITMENTS BY EXECUTIVE BRANCH PERSONNEL

1. **PURPOSE.** This Order establishes the Commission's procedures for the administration of the required Ethics Pledge for all full-time political appointees, as directed by Executive Order 13490, "Ethics Commitments by Executive Branch Personnel," signed on January 21, 2009.

2. **GENERAL.**

   a. Executive Order 13490, "Ethics Commitments by Executive Branch Personnel," requires every full-time, political appointee appointed on or after January 20, 2009 to sign an Ethics Pledge as a condition of employment in the United States Government. The Executive Order also authorizes the establishment of such rules or procedures as are necessary or appropriate to ensure that every appointee in the agency signs the pledge upon assuming the appointed office, and generally to ensure compliance with the order within the Commission.

   b. The Ethics Pledge serves to identify and prevent potential ethical conflicts through the establishment of a binding and enforceable agreement between the United States Government and designated prospective officers and employees of the Commission.

3. **OFFICE RESPONSIBLE FOR THIS DIRECTIVE.** The Office of General Counsel is responsible for this directive.

4. **SCOPE.** This Order applies to all full-time, non career appointees appointed on or after January 20, 2009. The definition of "appointee" includes individuals appointed by the President or Vice-President (Commissioners), as well as individuals appointed by the Commissioners (Schedule C, non career SES, etc.). NOTE: Special Government Employees (SGEs) are *not* considered to be full-time, non career appointees subject to the pledge requirement. Individuals serving in an agency as temporary advisors or counselors, pending Senate confirmation to a PAS position (a Presidential appointee whose position requires Senate confirmation), are considered SGEs unless and until they are confirmed.

5. **REFERENCES.**

   a. Executive Order 13490, "Ethics Commitments by Executive Branch Personnel," January 21, 2009.

   b. Office of Government Ethics Memorandum DO-09-003 -- "Executive Order; Ethics Pledge," January 22, 2009.

   c. Office of Government Ethics Memorandum Do-09-005 – "Signing the Ethics Pledge," February 10, 2009.

6. **WHO MUST SIGN.** Executive Order 13490 applies to all full-time, non career political appointees regardless of whether they are appointed by the President or Vice-President, an agency head, or otherwise. The following Commission members and employees, whether actually appointed or serving in an acting capacity, are required to sign an Ethics Pledge:

   a. The Chairman;

   b. Each Commissioner;

   c. Each appointee, regardless of grade or pay level, who is in a position that is excepted from the competitive service by reason of being of a confidential or policymaking character (Schedule C, non career SES, and other positions excepted under comparable criteria).

7. **SIGNING THE PLEDGE.** Individuals subject to the requirements of this Order must sign the Ethics Pledge Form as follows:

   a. In the case of individuals appointed by the President to a position requiring Senate confirmation (PAS), after Senate confirmation but before appointment;

   b. In the case of non-PAS appointees who have already been appointed, no later than 30 days after the date of their appointment; and

   c. In the case of non-PAS appointees who may be appointed in the future, at the time such person is appointed to a position covered by the Executive Order.

8. **CUSTODY OF ETHICS PLEDGE.** The Office of Human Resources is the final custodian of all Ethics Pledges filed by Commission officials and employees. All pledges signed by appointees, and all waiver certifications with respect thereto, shall be filed with the Office of Human Resources for permanent retention in the appointee's official personnel folder.

9. **OBLIGATIONS OF THE PLEDGE.** Commission appointees must commit to:

a. Not accept gifts or gratuities from registered lobbyists or lobbying organizations;

b. Recuse for two years from any particular matter involving specific parties in which a former employer or client is or represents a party, if the appointee served that employer or client during the two years prior to the appointment;

c. If the appointee was a registered lobbyist during the prior two years, then for two years after the date of appointment appointee will not:

(1) participate in any particular matter on which he or she lobbied within the two years before the date of appointment;

(2) participate in the specific issue area in which that particular matter falls; or

(3) seek or accept employment with an executive agency that he or she lobbied during the prior two years.

d. If the appointee is subject to the senior employee post-employment restrictions in 18 U.S.C. § 207(c), to abide by such restrictions for two years after termination of the appointment;

e. Upon leaving Government service, not to lobby any covered executive branch official or any non career SES appointee for as long as President Obama is in office;

f. Agree that any hiring or other employment decisions will be based on the candidate's qualifications, competence and experience;

g. Acknowledge that Executive Order 13490 which the appointee has read before signing the Ethics Pledge defines certain of the terms applicable to the obligations therein and sets forth the methods for enforcing them. Appointee expressly accepts the provisions of that Executive Order as a part of the Ethics Pledge and that those provisions are binding upon him or her. Appointee understands that the terms of the Ethics Pledge are in addition to any statutory or other legal restrictions applicable to him or her by virtue of Federal Government service.

10. WRITTEN ETHICS AGREEMENT. If the appointee served as a registered lobbyist within two years of the date of appointment, he or she must enter into a written ethics agreement with the Commission to address compliance with the restrictions set forth in paragraph 3 of the Ethics Pledge. The process of obtaining an ethics agreement is set forth in CPSC Order No. 0680.3 paragraph 21, with the additional requirement that any written ethics agreement addressing compliance with the restrictions on incoming lobbyists entered into pursuant to the Executive Order and paragraph 3 of the Ethics Pledge is subject to approval by the White House Counsel (or designee) prior to the appointee commencing work.

11. **WAIVER.** Executive Order 13490 provides a waiver mechanism for any of the restrictions contained in the Ethics Pledge. The waiver must come from the Director of the Office of Management and Budget (or designee), in consultation with the White House Counsel (or designee). The Designated Agency Ethics Official of each executive agency has been designated to exercise this waiver authority on behalf of the Director of OMB, in consultation with the White House Counsel.

The President's intention is that waivers be granted sparingly and that their scope be as limited as possible. All waivers must be in writing.

12. **ENFORCEMENT.** Executive Order 13490 provides for enforcement of the Ethics Pledge through civil action by the Attorney General. The Executive Order also provides for agency debarment proceedings against former appointees found to have violated the Ethics Pledge.

/s/ 3/12/2009

Nancy A. Nord **Date**
Acting Chairman

ATTACHMENT A: Executive Order 13490
ATTACHMENT B: Ethics Pledge

Presidential Documents

Executive Order 13490 of January 21, 2009

Ethics Commitments by Executive Branch Personnel

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, and sections 3301 and 7301 of title 5, United States Code, it is hereby ordered as follows:

Section 1. *Ethics Pledge.* Every appointee in every executive agency appointed on or after January 20, 2009, shall sign, and upon signing shall be contractually committed to, the following pledge upon becoming an appointee:

"As a condition, and in consideration, of my employment in the United States Government in a position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

"1. *Lobbyist Gift Ban.* I will not accept gifts from registered lobbyists or lobbying organizations for the duration of my service as an appointee.

"2. *Revolving Door Ban—All Appointees Entering Government.* I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.

"3. *Revolving Door Ban—Lobbyists Entering Government.* If I was a registered lobbyist within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 2, I will not for a period of 2 years after the date of my appointment:

(a) participate in any particular matter on which I lobbied within the 2 years before the date of my appointment;

(b) participate in the specific issue area in which that particular matter falls; or

(c) seek or accept employment with any executive agency that I lobbied within the 2 years before the date of my appointment.

"4. *Revolving Door Ban—Appointees Leaving Government.* If, upon my departure from the Government, I am covered by the post-employment restrictions on communicating with employees of my former executive agency set forth in section 207(c) of title 18, United States Code, I agree that I will abide by those restrictions for a period of 2 years following the end of my appointment.

"5. *Revolving Door Ban—Appointees Leaving Government to Lobby.* In addition to abiding by the limitations of paragraph 4, I also agree, upon leaving Government service, not to lobby any covered executive branch official or non-career Senior Executive Service appointee for the remainder of the Administration.

"6. *Employment Qualification Commitment.* I agree that any hiring or other employment decisions I make will be based on the candidate's qualifications, competence, and experience.

"7. *Assent to Enforcement.* I acknowledge that the Executive Order entitled 'Ethics Commitments by Executive Branch Personnel,' issued by the President on January 21, 2009, which I have read before signing this document, defines certain of the terms applicable to the foregoing obligations and sets forth

the methods for enforcing them. I expressly accept the provisions of that Executive Order as a part of this agreement and as binding on me. I understand that the terms of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Federal Government service."

Sec. 2. *Definitions.* As used herein and in the pledge set forth in section 1 of this order:

(a) "Executive agency" shall include each "executive agency" as defined by section 105 of title 5, United States Code, and shall include the Executive Office of the President; provided, however, that for purposes of this order "executive agency" shall include the United States Postal Service and Postal Regulatory Commission, but shall exclude the Government Accountability Office.

(b) "Appointee" shall include every full-time, non-career Presidential or Vice-Presidential appointee, non-career appointee in the Senior Executive Service (or other SES-type system), and appointee to a position that has been excepted from the competitive service by reason of being of a confidential or policymaking character (Schedule C and other positions excepted under comparable criteria) in an executive agency. It does not include any person appointed as a member of the Senior Foreign Service or solely as a uniformed service commissioned officer.

(c) "Gift"

(1) shall have the definition set forth in section 2635.203(b) of title 5, Code of Federal Regulations;

(2) shall include gifts that are solicited or accepted indirectly as defined at section 2635.203(f) of title 5, Code of Federal Regulations; and

(3) shall exclude those items excluded by sections 2635.204(b), (c), (e)(1) & (3) and (j)-(l) of title 5, Code of Federal Regulations.

(d) "Covered executive branch official" and "lobbyist" shall have the definitions set forth in section 1602 of title 2, United States Code.

(e) "Registered lobbyist or lobbying organization" shall mean a lobbyist or an organization filing a registration pursuant to section 1603(a) of title 2, United States Code, and in the case of an organization filing such a registration, "registered lobbyist" shall include each of the lobbyists identified therein.

(f) "Lobby" and "lobbied" shall mean to act or have acted as a registered lobbyist.

(g) "Particular matter" shall have the same meaning as set forth in section 207 of title 18, United States Code, and section 2635.402(b)(3) of title 5, Code of Federal Regulations.

(h) "Particular matter involving specific parties" shall have the same meaning as set forth in section 2641.201(h) of title 5, Code of Federal Regulations, except that it shall also include any meeting or other communication relating to the performance of one's official duties with a former employer or former client, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties.

(i) "Former employer" is any person for whom the appointee has within the 2 years prior to the date of his or her appointment served as an employee, officer, director, trustee, or general partner, except that "former employer" does not include any executive agency or other entity of the Federal Government, State or local government, the District of Columbia, Native American tribe, or any United States territory or possession.

(j) "Former client" is any person for whom the appointee served personally as agent, attorney, or consultant within the 2 years prior to the date of his or her appointment, but excluding instances where the service provided was limited to a speech or similar appearance. It does not include clients

of the appointee's former employer to whom the appointee did not personally provide services.

(k) "Directly and substantially related to my former employer or former clients" shall mean matters in which the appointee's former employer or a former client is a party or represents a party.

(l) "Participate" means to participate personally and substantially.

(m) "Post-employment restrictions" shall include the provisions and exceptions in section 207(c) of title 18, United States Code, and the implementing regulations.

(n) "Government official" means any employee of the executive branch.

(o) "Administration" means all terms of office of the incumbent President serving at the time of the appointment of an appointee covered by this order.

(p) "Pledge" means the ethics pledge set forth in section 1 of this order.

(q) All references to provisions of law and regulations shall refer to such provisions as in effect on January 20, 2009.

Sec. 3. *Waiver.* (a) The Director of the Office of Management and Budget, or his or her designee, in consultation with the Counsel to the President or his or her designee, may grant to any current or former appointee a written waiver of any restrictions contained in the pledge signed by such appointee if, and to the extent that, the Director of the Office of Management and Budget, or his or her designee, certifies in writing (i) that the literal application of the restriction is inconsistent with the purposes of the restriction, or (ii) that it is in the public interest to grant the waiver. A waiver shall take effect when the certification is signed by the Director of the Office of Management and Budget or his or her designee.

(b) The public interest shall include, but not be limited to, exigent circumstances relating to national security or to the economy. *De minimis* contact with an executive agency shall be cause for a waiver of the restrictions contained in paragraph 3 of the pledge.

Sec. 4. *Administration.* (a) The head of every executive agency shall, in consultation with the Director of the Office of Government Ethics, establish such rules or procedures (conforming as nearly as practicable to the agency's general ethics rules and procedures, including those relating to designated agency ethics officers) as are necessary or appropriate to ensure that every appointee in the agency signs the pledge upon assuming the appointed office or otherwise becoming an appointee; to ensure that compliance with paragraph 3 of the pledge is addressed in a written ethics agreement with each appointee to whom it applies, which agreement shall also be approved by the Counsel to the President or his or her designee prior to the appointee commencing work; to ensure that spousal employment issues and other conflicts not expressly addressed by the pledge are addressed in ethics agreements with appointees or, where no such agreements are required, through ethics counseling; and generally to ensure compliance with this order within the agency.

(b) With respect to the Executive Office of the President, the duties set forth in section 4(a) shall be the responsibility of the Counsel to the President or his or her designee.

(c) The Director of the Office of Government Ethics shall:

(1) ensure that the pledge and a copy of this order are made available for use by agencies in fulfilling their duties under section 4(a) above;

(2) in consultation with the Attorney General or the Counsel to the President or their designees, when appropriate, assist designated agency ethics officers in providing advice to current or former appointees regarding the application of the pledge; and

(3) in consultation with the Attorney General and the Counsel to the President or their designees, adopt such rules or procedures as are necessary or appropriate:

(i) to carry out the foregoing responsibilities;

(ii) to apply the lobbyist gift ban set forth in paragraph 1 of the pledge to all executive branch employees;

(iii) to authorize limited exceptions to the lobbyist gift ban for circumstances that do not implicate the purposes of the ban;

(iv) to make clear that no person shall have violated the lobbyist gift ban if the person properly disposes of a gift as provided by section 2635.205 of title 5, Code of Federal Regulations;

(v) to ensure that existing rules and procedures for Government employees engaged in negotiations for future employment with private businesses that are affected by their official actions do not affect the integrity of the Government's programs and operations;

(vi) to ensure, in consultation with the Director of the Office of Personnel Management, that the requirement set forth in paragraph 6 of the pledge is honored by every employee of the executive branch;

(4) in consultation with the Director of the Office of Management and Budget, report to the President on whether full compliance is being achieved with existing laws and regulations governing executive branch procurement lobbying disclosure and on steps the executive branch can take to expand to the fullest extent practicable disclosure of such executive branch procurement lobbying and of lobbying for presidential pardons, and to include in the report both immediate action the executive branch can take and, if necessary, recommendations for legislation; and

(5) provide an annual public report on the administration of the pledge and this order.

(d) The Director of the Office of Government Ethics shall, in consultation with the Attorney General, the Counsel to the President, and the Director of the Office of Personnel Management, or their designees, report to the President on steps the executive branch can take to expand to the fullest extent practicable the revolving door ban set forth in paragraph 5 of the pledge to all executive branch employees who are involved in the procurement process such that they may not for 2 years after leaving Government service lobby any Government official regarding a Government contract that was under their official responsibility in the last 2 years of their Government service; and to include in the report both immediate action the executive branch can take and, if necessary, recommendations for legislation.

(e) All pledges signed by appointees, and all waiver certifications with respect thereto, shall be filed with the head of the appointee's agency for permanent retention in the appointee's official personnel folder or equivalent folder.

Sec. 5. *Enforcement.* (a) The contractual, fiduciary, and ethical commitments in the pledge provided for herein are solely enforceable by the United States pursuant to this section by any legally available means, including debarment proceedings within any affected executive agency or judicial civil proceedings for declaratory, injunctive, or monetary relief.

(b) Any former appointee who is determined, after notice and hearing, by the duly designated authority within any agency, to have violated his or her pledge may be barred from lobbying any officer or employee of that agency for up to 5 years in addition to the time period covered by the pledge. The head of every executive agency shall, in consultation with the Director of the Office of Government Ethics, establish procedures to implement this subsection, which procedures shall include (but not be limited to) providing for factfinding and investigation of possible violations of this order and for referrals to the Attorney General for his or her consideration pursuant to subsection (c).

(c) The Attorney General or his or her designee is authorized:

(1) upon receiving information regarding the possible breach of any commitment in a signed pledge, to request any appropriate Federal investigative authority to conduct such investigations as may be appropriate; and

(2) upon determining that there is a reasonable basis to believe that a breach of a commitment has occurred or will occur or continue, if not enjoined, to commence a civil action against the former employee in any United States District Court with jurisdiction to consider the matter.

(d) In any such civil action, the Attorney General or his or her designee is authorized to request any and all relief authorized by law, including but not limited to:

(1) such temporary restraining orders and preliminary and permanent injunctions as may be appropriate to restrain future, recurring, or continuing conduct by the former employee in breach of the commitments in the pledge he or she signed; and

(2) establishment of a constructive trust for the benefit of the United States, requiring an accounting and payment to the United States Treasury of all money and other things of value received by, or payable to, the former employee arising out of any breach or attempted breach of the pledge signed by the former employee.

Sec. 6. *General Provisions.* (a) No prior Executive Orders are repealed by this order. To the extent that this order is inconsistent with any provision of any prior Executive Order, this order shall control.

(b) If any provision of this order or the application of such provision is held to be invalid, the remainder of this order and other dissimilar applications of such provision shall not be affected.

(c) Nothing in this order shall be construed to impair or otherwise affect:

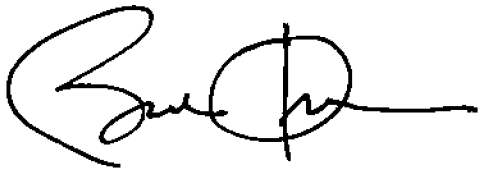
(1) authority granted by law to a department, agency, or the head thereof; or

(2) functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals.

(d) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(e) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(f) The definitions set forth in this order are solely applicable to the terms of this order, and are not otherwise intended to impair or affect existing law.



THE WHITE HOUSE,
January 21, 2009.

[FR Doc. E9–1719
Filed 1–23–09; 8:45 am]
Billing code 3195–W9–P

ETHICS PLEDGE

As a condition, and in consideration, of my employment in the United States Government in a position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

1. **Lobbyist Gift Ban**. I will not accept gifts from registered lobbyists or lobbying organizations for the duration of my service as an appointee.

2. **Revolving Door Ban: All Appointees Entering Government**. I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.

3. **Revolving Door Ban: Lobbyists Entering Government**. If I was a registered lobbyist within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 2, I will not for a period of 2 years after the date of my appointment:
(a) participate in any particular matter on which I lobbied within the 2 years before the date of my appointment;
(b) participate in the specific issue area in which that particular matter falls; or
(c) seek or accept employment with any executive agency that I lobbied within the 2 years before the date of my appointment.

4. **Revolving Door Ban: Appointees Leaving Government**. If, upon my departure from the Government, I am covered by the post employment restrictions on communicating with employees of my former executive agency set forth in section 207(c) of title 18, United States Code, I agree that I will abide by those restrictions for a period of 2 years following the end of my appointment.

5. **Revolving Door Ban: Appointees Leaving Government to Lobby**. In addition to abiding by the limitations of paragraph 4, I also agree, upon leaving Government service, not to lobby any covered executive branch official or non-career Senior Executive Service appointee for the remainder of the Administration.

6. **Employment Qualification Commitment**. I agree that any hiring or other employment decisions I make will be based on the candidate's qualifications, competence, and experience.

7. **Assent to Enforcement**. I acknowledge that the Executive Order entitled "Ethics Commitments by Executive Branch Personnel," issued by the President on January 21, 2009, which I have read before signing this document, defines certain of the terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive Order as a part of this agreement and as binding on me. I understand that the terms of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Federal Government service.

_____ _____, 20___

Signature Date

_____

Print or type your full name (Last, first, middle)

UNITED STATES

CONSUMER PRODUCT SAFETY COMMISSION

DIRECTIVES SYSTEM **ORDER NO. 0690.1 September 2, 2003**

MANAGEMENT PROGRAMS

POLICY AND PROCEDURES FOR CONDUCTING INTERNAL AUDITS

1. **PURPOSE.** The purpose of this directive is to set forth policy and procedures for carrying out and reporting on internal audits; for prompt and systematic follow-up of audit report recommendations; and for periodic reporting of the status of actions taken pursuant to audit reports.

2. **SCOPE.** The provisions of this directive apply to all audits and audit functions performed by or under the direction of the Office of the Inspector General.

3. **OFFICE RESPONSIBLE FOR THIS DIRECTIVE.** The Office of the Inspector General is responsible for this directive.

4. **CANCELLATION.** This Order cancels CPSC Order 0690.1, dated 1/11/84, Management Programs.

5. **REFERENCES.**

   a. "Inspector General Act of 1978", as amended

   b. 31 U.S.C. 3512--Executive Agency Accounting Systems

   c. 31 U.S.C. 3521--Audit by Agencies

   d. Executive Order 12301--Integrity and Efficiency in Federal Programs

   e. OMB Circular No. A-73, "Audit of Federal Operations and Programs"

   f. OMB Circular No. A-50, Audit Follow-up"

   g. OMB Circular No. A-123, "Internal Control Systems"

   h. GAO Standards for Audit of Governmental Organizations, Programs, Activities, and Functions

   i. GAO Policy and Procedures Manual for Guidance of Federal Agencies

   j. CPSC Audit Manual

   k. Accountability of Tax Dollars Act of 2002

   l. Chief Financial Officer's Act

6. DEFINITIONS.

a. The term "audit" as used in this directive means a systematic review or appraisal to determine and report on whether:

(1) Financial operations are properly conducted;

(2) Financial reports are presented fairly;

(3) Applicable laws and regulations have been complied with;

(4) Resources are managed and used in an economical and efficient manner; and/or

(5) Desired results and objectives are being achieved in an effective manner.

The above elements of an audit most commonly referred to as financial/compliance audits are items (1), (2), and (3); economy/efficiency audits item (4); and program audits item (5).

b. The term "audit standards" refers to those standards set forth in Reference 5(h).

7. BACKGROUND.

a. Public office carries with it the responsibility to apply resources efficiently, economically, and effectively to achieve the purposes for which the resources were furnished. Thus, public officials and employees are accountable both to the public and to other levels of government for the resources provided them to carry out government programs.

b. In order to meet the requirement for accountability, each government agency is required to establish an effective audit program to aid in determining whether information is reliable; resources have been safeguarded; funds have been expended in a manner consistent with related laws, regulations, and policies; resources have been managed economically and efficiently; and desired program results have been achieved.

8. POLICY.

a. It is the goal of the Consumer Product Safety Commission that, to the extent that resources allow, all principal operating and administrative programs and activities of the Commission shall be audited and reported on by the Office of the Inspector General at least once during each five-year period. Each audit report shall contain a statement of all findings developed during the audit, and shall include appropriate recommendations for correcting the causes of any deficiencies, and for otherwise strengthening the administration of the program or activity.

b. It is also the policy of the Commission that when an audit report has been released by the Chairman, the heads of audited organization units will

personally and vigorously follow up findings and recommendations resulting from internal audits of their organizations, programs, and activities.

9. RESPONSIBILITIES.

a. The Chairman is responsible for accepting or rejecting particular recommendations contained in audit reports, and for ordering appropriate implementation.

b. The Inspector General, is responsible for preparing an annual audit plan, developing and implementing the Commission's Internal Audit Program; planning and administering the Commission's internal audit policies; developing annual and long-range plans for the performance of internal audit services; and administering a follow-up system to ensure that Commission management responses to internal audit reports are implemented promptly and effectively. In addition, the Inspector General will assure that the Commission complies with applicable policies, procedures, and audit standards of the Office of Management and Budget, General Services Administration, and the Comptroller General of the United States; and review and provide reports to the Chairman on the efficiency, economy, and effectiveness of audited organization units.

c. The Executive Director, after an audit report has been transmitted by the Chairman, is responsible for reviewing those audit findings and recommendations of audited organizations under his or her control and for implementing corrective action.

d. The Associate Executive Directors and Office Directors are responsible for extending full cooperation to the Office of the Inspector General in implementing an effective audit program, for objectively reviewing and evaluating audit findings and recommendations and, in accordance with paragraph "10(a)" of this order, for taking timely action to correct the causes of reported deficiencies, and adopting other audit recommendations that are considered potentially beneficial.

e. In the event an audit is conducted by another agency or by a contractor on behalf of the Office of the Inspector General, Commission officials are expected to extend the same full cooperation as would be extended to the Office of the Inspector General.

f. If the head of the principal organization unit audited concludes that a recommended corrective action is not required, he or she is responsible for communicating promptly his or her conclusion that no action is required in accordance with paragraph 9.h.

10. PROCEDURES FOR INTERNAL AUDITS.

a. **Schedule.** To comply with the goal of a complete cycle of audits every five years, the Inspector General will prepare a schedule of internal audits for the ensuing fiscal year by September 1 of each year and submit it to the Chairman for review.

b. **Special Request.** Any head of a principal organization unit may request a special audit. The request shall be directed to the Inspector General, who will determine, depending on the priority of the request and the availability of manpower, whether the request will be granted.

c. **Entrance Conference.** At the entrance conference (a single pre-audit explanatory meeting), the head of the principal organization unit to be audited will be informed by the Office of the Inspector General as to the area planned for survey.

d. **Survey.** For activities and functions scheduled for an audit, the Office of the Inspector General will perform a survey of the area. The purposes of the survey are to review internal controls and procedures, obtain background information, identify potential findings, and to determine whether a full scope audit is required.

e. **Memorandum Report.** At the completion of any survey work, and before the Office of the Inspector General decides whether to perform an audit, any potential findings that have been identified in the survey will be discussed with the head of the principal organization unit audited to determine their relevance. If the Office of the Inspector General determines that no additional survey work or audit is necessary, a memorandum report will be prepared for the Chairman on the work already completed.

f. **Pre-audit Meeting.**

(1) Before an audit begins and after the survey has been completed, the Inspector General, will establish with the head of the principal organization unit the starting date of the audit and the proposed date for the pre-audit meeting to make necessary arrangements for the conduct of the audit.

(2) At the pre-audit meeting, the following topics will be covered: area or areas to be audited, scope and purpose of the audit, space and other facility arrangements, audit procedures (including informal discussions, closing conference, report draft, and written comments), submission of the final report, and the arrangements for follow-up of recommendations.

g. **Closing Conference.** At the conclusion of the audit, a closing conference among the Inspector General (or designee), the audit staff, and the audited organization unit officials will be held to discuss the auditor's tentative audit, findings and recommendations. The Office of the Inspector General will furnish a copy of the draft audit report to the appropriate officials of the organization audited for review and written comment.

h. **Audit Recommendations.** The head of the organization unit audited shall reply to all audit recommendations and findings in the draft report in the time frame agreed upon. The reply will contain:

(1) For each recommendation adopted on which further action is required, a brief description of the action planned and the estimated target date for completion.

(2) For each recommendation adopted on which no further action is required, a brief description of the action already taken and the reasons no further action is warranted.

(3) For each recommendation which the unit head believes should not be implemented, a statement of the specific reasons why the recommendation should not be implemented and a description of any alternative courses of action that have been taken or are being considered.

i. Disagreements between the Office of the Inspector General and Commission officials responsible for acting on audit findings and recommendations shall be noted in the audit report forwarded to the Chairman for resolution.

j. **Final Report.**

(1) The final report of each internal audit will be transmitted to the Chairman by the Inspector General, without undue delay after receipt of written comments.

(2) The final audit report will contain the auditor's findings, recommendations, and all other information required to comply with the GAO Audit Standards. (See Reference 5.h.) The final report will also incorporate all written comments, including opposing views, received from the responsible officials of the activity audited.

k. **Implementation.** Recommendations in final audit reports may be accepted or rejected by the Chairman. The Chairman shall then order implementation of accepted recommendations, as appropriate.

11. PROCEDURES FOR FOLLOW-UP ON FINAL REPORTS.

a. **Follow-Up System.** The Inspector General shall maintain a follow-up system that provides for a complete record of actions taken on audit findings. This system must include:

(1) Designation of officials responsible for audit follow-up in audited organization units;

(2) Maintenance of accurate records of all audit reports or accepted findings until final resolution;

(3) Written records of all actions taken to carry out accepted audit findings;

(4) Assurance that resolution actions are consistent with laws and regulations.

b. **Semiannual Report.** The Inspector General, shall review the status of and action on all accepted audit recommendations, in concert with the audited organization, and, through the office of the Chairman, forward these findings to the appropriate committees in the United States Congress. This report shall include the number of audits or findings resolved during the period.

12. INTERNAL AND ADMINISTRATIVE CONTROLS.

a. The Inspector General will, in conjunction with internal audits, review internal control documentation, systems, and compliance to determine whether the policies and standards established by OMB Circular A-123, Internal Control Systems, are being implemented properly. Reviews will also be made of the audit follow-up system in order to ensure management's follow-up of audit findings and recommendations. Additional reviews will be performed as necessary to provide sufficient agency coverage.

b. In implementation of the Accountability of Tax Dollars Act of 2002 and the Chief Financial Officers' Act, the Inspector General shall conduct and audit of the CPSC's financial statements after the end of each fiscal year. The Inspector General shall advise the Chairman of the results of the review.

13. THE EXECUTIVE COUNCIL ON INTEGRITY AND EFFICIENCY. The Inspector General shall attend meeting of the Executive Council on Integrity and Efficiency (ECIE) and, when appropriate, report to the Chairman on its activities. When appropriate, the Inspector General shall recommend to the Chairman agency actions to implement ECIE recommendations or directions.

/s/ **9-2-03**

Hal Stratton **Date**

Chairman

UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION

DIRECTIVES SYSTEM **ORDER NO. 0690.2**
July 7, 1998
Reviewed/Current: 4/30/03

MANAGEMENT PROGRAMS

MANAGEMENT ACCOUNTABILITY AND CONTROL

1. **PURPOSE.** This order implements Office of Management and Budget (OMB) Circular A-123, Management Accountability and Control, dated June 21, 1995. It establishes a CPSC Senior Management Council, sets forth CPSC policies and procedures on management accountability and control, assigns responsibility and sets forth annual reporting requirements.

2. **CANCELLATION.** This order cancels CPSC Order 0690.2, Establishment and Maintenance of Internal Control Systems, dated May 10, 1991.

3. **SCOPE.** This Order is applicable to all CPSC employees, programs, functions and activities, and all supporting administrative and financial functions.

4. **REFERENCES.**

   a. Federal Managers' Financial Integrity Act of 1982.

   b. Government Performance and Results Act of 1993.

   c. Accounting and Auditing Act of 1950, as amended.

   d. Inspector General Act of 1978, as amended.

   e. OMB Circular A-123 (revised), Management Accountability and Control.

   f. GAO Standards for Internal Controls in the Federal Government.

   g. OMB Circular A-127, Financial Management Systems.

   h. OMB Circular A-130 (revised), Management of Federal Information Resources, February 8, 1996.

5. **BACKGROUND.**

a. The proper stewardship of Federal resources is a fundamental responsibility of agency managers and staff. Federal employees must ensure that government resources are used efficiently and effectively to achieve intended program results. Resources must be used consistent with agency mission, in compliance with law and regulation, and with minimal potential for waste, fraud, and mismanagement.

b. To support results-oriented management, the Government Performance and Results Act requires agencies to develop strategic plans, set performance goals, and report annually on actual performance compared to goals. These plans and goals must be integrated into

(1) the budget process,

(2) the operational management of agencies and programs, and

(3) accountability reporting to the public on performance results, and on the integrity, efficiency, and effectiveness with which they are achieved.

c. The importance of management controls is addressed, both explicitly and implicitly, in many statutes and executive documents. The Federal Managers' Financial Integrity Act (Integrity Act) establishes specific requirements with regard to management controls. Controls must be established that reasonably ensure that:

(1) Obligations and costs comply with applicable law;

(2) Assets are safeguarded against waste, loss, unauthorized use or misappropriation; and

(3) Revenues and expenditures are properly recorded and accounted for.

d. Instead of considering controls as an isolated management tool, managers must integrate their efforts to meet the requirements of the Integrity Act with other efforts to improve effectiveness and accountability. Thus, management controls should be an integral part of the entire cycle of planning, budgeting, management, accounting, and auditing. They should support the effectiveness and the integrity of every step of the process and provide continual feedback to management.

6. DEFINITIONS.

a. **Management Controls.** The organization, policies and procedures used to reasonably ensure that:

(1) Programs achieve their intended results.

(2) Resources are used consistent with the Commission's mission.

(3) Programs and resources are protected from waste, fraud, and mismanagement.

(4) Laws, rules, and regulations are followed.

(5) Reliable and timely information is obtained, maintained, reported and used for decision making.

b. **Management Control Deficiency**. A non-conformance with or failure to comply with an established management control system of such significance that it should be reported to the next higher level of management. Each level of the command structure considers the relative importance of each deficiency in making a determination on whether it is of such significance that it should be reported to the next higher level.

c. **Material Weakness.** A deficiency that the Chairman determines is of such magnitude that it should be reported outside the agency (i.e., included in the annual Integrity Act report to the President and the Congress)

d. **Reasonable Assurance.** A satisfactory level of confidence in achieving program, administrative, and financial management objectives effectively and efficiently and safeguarding government resources under given considerations of costs, benefits, and risks. The emphasis is on the word "reasonable" since "absolute" assurance can never be given for any process.

7. **POLICY.**

a. All CPSC organizations and managers shall:

(1) Develop and implement appropriate, cost-effective management controls for results-oriented management of assigned programs and resources;

(2) Continuously evaluate the adequacy of management controls in programs and support operations and identify needed improvements;

(3) Systematically monitor and detect management control deficiencies;

(4) Disclose and report management control deficiencies to the next level of management; and

(5) Establish and follow procedures to track progress in correcting each deficiency.

b. All CPSC managers shall be responsible and accountable for:

(1) The quality and timeliness of program performance;

(2) Increasing effectiveness and efficiency;

(3) Controlling costs;

(4) Mitigating adverse aspects of agency operations; and

(5) Managing assigned programs with integrity and in compliance with the law.

8. **SENIOR MANAGEMENT COUNCIL.** The Senior Management Council (SMC) is responsible for assisting the Chairman and Executive Director in implementing the requirements of OMB Circular A-123.

a. The Council is responsible for:

(1) Developing a strategy for ensuring that appropriate action is taken throughout the year to meet the objectives of the Integrity Act;

(2) Evaluating the effectiveness of existing management controls and making recommendations for improvements without creating unnecessary processes;

(3) Issuing guidelines and a schedule for submission of required annual "letters of assurance" from agency managers;

(4) Assessing and monitoring reported deficiencies in management controls;

(5) Considering whether systemic problems exist that adversely affect management controls across organizational or program lines;

(6) Recommending any material weaknesses to be reported in the annual Integrity Act Report to the President and the Congress;

(7) Recommending appropriate action to correct reported management control deficiencies and material weaknesses;

(8) Ensuring the accountability and effectiveness of CPSC managers, programs and supporting operations by evaluating, recommending corrective action, and reporting on management accountability and related issues within the broader context of agency operations; and

(9) Issuing as appendices to this order a management accountability and control strategy, management control standards, reporting guidelines for annual "letters of assurance", and other appropriate information or

procedures.

b. The SMC membership consists of the following positions:

(1) Deputy Executive Director, Chairman;

(2) Assistant Executive Director for Information Services;

(3) Assistant Executive Director for Compliance;

(4) Assistant Executive Director for Hazard Identification and Reduction;

(5) Associate Executive Director for Field Operations;

(6) Associate Executive Director for Administration;

(7) Director, Office of Planning and Evaluation;

(8) Director, Office of the Budget;

(9) Director, Office of Human Resources Management; and

(10) Other senior officials as deemed appropriate by the Executive Director.

c. The following individuals shall serve in an advisory capacity and may be represented by designated staff :

(1) The General Counsel

(2) Inspector General

9. RESPONSIBILITIES.

a. **Chairman.** The Chairman, CPSC, is responsible for:

(1) establishing and maintaining systems of accounting and internal control according to Section 113 of the Accounting and Auditing Act of 1950, as amended.

(2) determining the final corrective action status of any CPSC material weakness.

(3) providing a statement by December 31 of each year to the President and Congress that:

(a) describes the overall adequacy and effectiveness of CPSC's

management and financial controls and provides the basis for the assessment of that condition;

(b) identifies any material weaknesses or financial non-conformances in the Commission's management or financial controls; and

(c) provides the plans and schedules for correcting identified weaknesses.

b. **Executive Director.** The Executive Director, with the assistance of the Senior Management Council, will:

(1) Develop policy and procedures for the CPSC Management Accountability and Control Program to include development of standards and guidelines for establishing, maintaining, evaluating and reviewing management controls;

(2) Provide oversight and guidance to CPSC organizations;

(3) Provide training and technical support;

(4) Monitor and track program progress; and

(5) Manage, direct, and evaluate FMFIA annual reporting.

c. The Office of Planning and Evaluation will provide administrative coordination and support to the SMC.

d. **Inspector General.** The Inspector General, in conjunction with independent reviews and audits will:

(1) Perform audits and reviews of management controls to determine whether they meet the principals and standards in this order.

(2) Provide advisory and technical assistance to accountable management control officials.

e. **General Counsel**. The General Counsel is responsible for:

(1) Providing legal advice and counsel concerning the Integrity Act compliance issues; and

(2) Providing legal advice to senior managers in their development of plans and milestones to correct a material weakness that may affect the Commission's ability to comply with law and regulations.

f. **Assistant and Associate Executive Directors and Office Directors** are responsible for:

(1) Determining, developing, implementing, assessing, and improving management and financial controls in their organization;

(2) Incorporating management and financial control responsibilities into the performance standards of subordinate managers and ensuring that individual performance in this area is reflected in annual appraisals;

(3) Requiring and ensuring timely action to correct deficiencies and weaknesses in, and otherwise improve, the organization's management and financial controls; and

(4) Annually reporting to their supervisor, via a "letter of assurance," on the management integrity of their organization's major programs, functions and activities.

g. **Division and Program Directors** are responsible for:

(1) Managing programs, functions or activities in compliance with applicable laws, rules and regulations;

(2) Developing and applying reasonable and cost-effective management controls to division/program operations;

(3) Periodically reviewing, evaluating, and measuring the effectiveness of their management controls in achieving planned program objectives;

(4) Identifying, correcting, monitoring, and reporting management control deficiencies and material weakness through appropriate management channels;

(5) Considering management control deficiencies and material weaknesses in setting priorities and allocating resources; and

(6) Annually reporting to their supervisor, via a "letter of assurance," on the management integrity of their organization's major programs, functions and activities.

h. **CPSC Employees.** Each CPSC employee is responsible for:

(1) Protecting and safeguarding agency property and resources;

(2) Reporting fraud, waste, and abuse to the Office of the Inspector General; and

(3) Abiding by their Oath of Office and the Standards of Ethical Conduct for Employees of the Executive Branch.

/s/	7/ 7/ 98
Ann Brown	**Date**
Chairman	

APPENDIX A: Management Accountability and Control Strategy
APPENDIX B: Internal Control Standards
APPENDIX C: Annual Letters of Assurance

APPENDIX A:

MANAGEMENT ACCOUNTABILITY AND CONTROL STRATEGY

1. IDENTIFYING MANAGEMENT CONTROL DEFICIENCIES

a. As Commission managers develop and execute plans for implementing or reengineering agency programs and operations, they should design management structures that help ensure accountability for results. As part of this process managers must take systematic and proactive measures to develop and implement appropriate, cost-effective management controls. Such controls should be consistent with the standards presented in Appendix B.

b. Management controls guarantee neither the success of agency programs, nor the absence of waste, fraud, and mismanagement, but they are a means of managing the risk associated with Federal programs and operations. To help ensure that controls are appropriate and cost-effective, managers should consider the extent and cost of controls relative to the importance and risk associated with a given program.

c. Management controls, in the broadest sense, include the plan of organization, methods and procedures adopted by management to ensure that its goals are met. Managment controls include processes for planning, organizing, directing, and controlling program operations. A subset of management controls are the internal controls used to assure that there is prevention or timely detection of unauthorized acquisition, use, or disposition of an organization's assets.

d. Agency managers are primarily responsible for continuously monitoring and improving the effectiveness of management controls associated with their programs.

e. Agency managers must provide adequate documentation to support their annual assessments as reflected in their annual Letter of Assurance. A variety of information sources may be utilized as a supplement to a manager's own judgment. Sources of information may include:

(1) Management knowledge gained from the daily operation of agency programs and systems;

(2) Management reviews conducted

(a) expressly for the purpose of assessing management controls, or

(b) for other purposes with an assessment of management controls as a by-product of the review;

(3) IG and GAO reports, including audits, inspections, reviews, investigations, outcome of GAO hotline complaints, or other products;

(4) Program evaluations and administrative function benchmarking studies, including efforts to identify "best practices" of other agencies;

(5) Audits of financial statements conducted pursuant to the Chief Financial Officers Act, as amended, including

(a) information revealed in preparing the financial statements,

(b) the auditor's reports on the financial statements, internal controls, and compliance with laws and regulations, and

(c) any other materials prepared relating to the statements;

(6) Reviews of financial systems which consider whether the requirements of OMB Circular No. A-127 are being met;

(7) Reviews of systems and applications conducted pursuant to the Computer Security Act of 1987 (40 U.S.C. 759 note) and OMB Circular No. A-130, "Management of Federal Information Resources;"

(8) Annual performance plans and annual reports pursuant to the Government Performance and Results Act;

(9) Reports and other information provided by the Congressional committees of jurisdiction; and

(10) Other reviews or reports relating to agency operations.

f. Use of a source of information should take into consideration whether the process included an evaluation of management controls. Agency management should avoid duplicating reviews which assess management control, and should coordinate their efforts with other evaluations to the extent practicable.

g. If a manager determines that there is insufficient information available upon which to base an assessment of management controls, then appropriate reviews should be conducted which will provide such a basis.

h. Agency managers should identify deficiencies in management controls from the above sources of information. A deficiency should be reported if it is or should be of interest to the next level of management.

i. Agency staff are encouraged to identify and report deficiencies through their chain of command, the Senior Management Council or the Inspector General. Failing to report a known deficiency could reflect adversely on the agency.

2. CORRECTING MANAGEMENT CONTROL DEFICIENCIES.

a. Agency managers are responsible for taking timely and effective action to correct deficiencies identified by the variety of sources discussed in Section 1. Correcting deficiencies is an integral part of management accountability and must be considered a priority.

b. The extent to which corrective actions are tracked should be commensurate with the severity of the deficiency.

(1) Material Weaknesses. Corrective action plans must be developed for all material weaknesses with progress being periodically assessed and reported through the Senior Management Council to the Executive Director and the Chairman. Progress will be tracked to ensure timely and effective results.

(2) Management Control Deficiencies. For deficiencies that are not included in the Integrity Act report, corrective action plans should be developed and reported to the Senior Management Council. Progress will be tracked to ensure timely and effective results.

c. A determination that a deficiency has been corrected should be made only when sufficient corrective actions have been taken and the desired results achieved. This determination should be in writing, and along with other appropriate documentation, reported to the Senior Management Council.

d. As managers consider IG and GAO audit reports in identifying and correcting management control deficiencies, they must be mindful of the statutory requirements for audit followup included in the IG Act, as amended. Under this law, management has a responsibility to complete action, in a timely manner, on audit recommendations on which agreement with the IG has been reached.

APPENDIX B:

INTERNAL CONTROL STANDARDS

1. INTERNAL CONTROL STANDARDS. Agency managers are to incorporate basic management controls in the strategies, goals, guidance and procedures that govern their operations. The General Accounting Office (GAO) issues "Standards for Internal Control in the Federal Government" which define the minimum level of quality acceptable for internal control and constitute the criteria against which internal control is to be evaluated. These internal control standards apply to all operations, both administrative and programmatic.

Internal control standards can be categorized into two groups. One group, Component Standards, comprises five standards that relate directly to the functioning and operation of the internal control. The second group, Evaluation and Reporting Standards, contains three standards which deal with evaluating the internal control, reporting on it, and responding to audit findings and recommendations. A summary of the standards for each group are presented below.

a. Component Standards. Component Standards consists of five interrelated standards which form an integrated process that can react to changing circumstances and conditions within the organization. These components are derived from the way agencies conduct their activities and are integrated within the management processes. The components of internal control are (1) the control environment, (2) risk assessment, (3) control activities, (4) information and communication, and (4) monitoring. Each of these components is essential to achieving the objectives of internal control.

1. Control Environment. Management and employees shall establish and maintain a control environment throughout the organization that sets a positive and supportive attitude toward internal control and control consciousness. A positive control environment is the foundation for all other standards of internal control, providing discipline and structure. The control environment is the setting which influences the quality of internal control. Several key factors influence internal control. These factors include the integrity, ethical values, and competence of the entity's people; management's philosophy and operating style; the way management assigns authority and responsibility, and organizes and develops its people; and the attention and direction provided by top management and oversight groups.

2. Risk Assessment. Internal control should provide for an assessment of the risks the agency faces from both external and internal sources. A precondition to risk assessment is establishment of objectives, linked at different levels and internally consistent. Risk assessment is the identification and analysis of relevant risks associated with achieving the objectives of the agency (for example, those program objectives and financial limitations set forth in the budget) and forming a basis for determining how risks should be managed. Because governmental, economic, industry, regulatory, and operating conditions continually change, mechanisms should be provided to identify and deal with any special risks associated with change.

3. Control Activities. Internal control activities are to be effective and efficient in accomplishing the agency's control objectives. Control activities are the policies, procedures, techniques, and mechanisms that enforce management's directives, such as, the process of adhering to management orders for budget development and execution. They help ensure that actions are taken to address risks. Control activities occur at all levels and in all functions of the entity. They include a wide range of diverse activities such as approvals, authorizations, verifications, reconciliations, performance reviews, maintenance of security, segregation of duties, and the creation and maintenance of related records (such as documentation) which provide evidence of execution of these activities as well as appropriate audit trails.

4. Information and Communications. For an entity to run and control its operations, it must have relevant, reliable information, both financial and nonfinancial, relating to external as well as internal events. That information must be recorded and communicated to management and others within the entity who need it and in a form and within a time frame that enables them to carry out their internal control and other responsibilities.

5. Monitoring. Internal control must be monitored. Monitoring is a process that assesses the quality of performance over time. This is to be accomplished through ongoing monitoring activities, separate evaluations, or a combination of the two. Ongoing monitoring occurs in the course of operations. It includes regular management and supervisory activities, and other actions personnel take in performing their duties. The scope and frequency of separate evaluations shall depend primarily on the assessment of risks and the effectiveness of ongoing monitoring procedures. Internal control deficiencies should be communicated to the individual responsible for the deficient function and also to at least one level of management above that individual. Serious matters should be reported to top management.

b. Evaluation and Reporting Standards. The second group of internal control standards consists of three standards which address the evaluation of the effectiveness of the agency internal control, reporting on internal control to parties external to the agency, and responding to audit findings and recommendations. These standards are summarized below:

1. Effectiveness of Internal Control.

(a) For internal control to be judged effective, management must have reasonable assurance that:

(1) the agency's operational objectives are being met,

(2) the published financial statements and reports-prepared for internal and external use (such as budget execution reports) are reliably prepared, and

(3) compliance with applicable laws and regulations is being achieved.

(b) The significance of all internal control deficiencies identified by management, employees, the Inspector General, auditors, or other sources must be evaluated individually and collectively by management in deciding their effect on the five components of internal control and the related impact on whether the objectives of internal control are being met. OMB Circular A-123, "Management Accountability and Control," provides guidance on assessing internal control deficiencies. Financial statement auditing standards provide additional guidance in assessing financial reporting weaknesses.

2. Reporting to External Parties. Management shall provide an annual public report on the effectiveness of its internal control. The FMFIA requires that the heads of executive agencies report annually to the President on internal control, identifying any material weaknesses and plans for correcting them. It also requires that agencies make these reports available to the public. OMB Circular A-123, provides guidance on how to satisfy FMFIA's reporting requirement.

3. Audit Resolution. Audit findings shall be promptly resolved. Managers are to (1) promptly evaluate findings, those showing deficiencies and others, and recommendations reported by auditors, (2) determine proper actions in response to audit findings and recommendations, and (3) complete, within established time frames, all actions that correct or otherwise resolve the matters brought to management's attention.

DETAILED GUIDANCE ON THE CONTROL ACTIVITIES STANDARD

The GAO internal control standard, Control Activities, is particularly relevant to CPSC managers and supervisors. The following is an abridged version of the standard for Control Activities derived from the "GAO Standards for Internal Control in the Federal Government:"

1. CONTROL ACTIVITIES. Internal control activities are the policies, procedures, techniques, and mechanisms that ensure that management's directives are being carried out to meet the agency's objectives. Control activities occur at all levels and in all functions of the entity. They include a wide range of diverse mechanisms and activities such as organizational plans, managerial approvals and authorizations, verifications, reconciliations, performance reviews, maintenance of security, restrictions on access to resources, segregation of duties, and documentation of transactions and events and of the internal control structure itself. Internal control activities involve two elements: policy on what should be done and procedures, techniques, and mechanisms to effect the policy. Policies should be in writing and should be implemented thoughtfully, conscientiously, and consistently. The procedures, techniques, and mechanisms to implement policy should continually provide a high degree of assurance that the internal control objectives are being achieved. To do so they must be effective and efficient. To be effective, control procedures, techniques, and mechanisms should fulfill their intended

purpose in actual application. They should provide the coverage they are supposed to provide and operate when and as intended.

a.. Types of Control Activities. Many different types of control activities have been described including preventive control, detective control, manual control, computer control, and management control. Control activities can also be classified by specific control objectives. The following are certain common categories of control activities. They are not all-inclusive of the control activities that a particular organization may require.

(1) Top Level Reviews. Managers should regularly review actual performance versus budgets, forecasts, and prior periods results. The Government Performance and Results Act of 1993 (GPRA) requires that agencies develop plans that cover a period of at least 5 years, annual performance plans, and report on the achievement of goals and objectives on an annual basis. (These performance reports start in March 2000.) GPRA requires that agencies develop performance targets and measures and report results. Major agency initiatives should be tracked for target achievement.

(2) Direct Functional or Activity Management. Managers must also review performance reports, analyze trends, and relate results to targets. Financial and program managers should review reports designed to compare performance to planned or expected results. Other control activities may include reconciliations of summary information to supporting detail.

(3) Information Processing. A variety of control activities may be used to check data accuracy, completeness, and the appropriate authorization of transactions. Data entered into systems should be subjected to edit checks and matched to approved control files. Transactions should be accounted for in numerical sequences. File totals should be compared with control accounts. Exceptions should be examined and acted upon. Access to information processing data, files, and programs must be controlled.

(4) Physical Control. Various types of assets such as equipment, inventories, securities, cash, and any other assets which may be vulnerable to risk of loss or unauthorized use should be physically secured and periodically counted and compared to amounts shown on control records.

(5) Performance Indicators. Control activities should be established to monitor performance indicators. This control could call for comparisons and assessments relating different sets of data to one another so that analyses of the relationships can be made and corrective actions, if necessary, can be taken. Investigation of unexpected results or unusual trends enables identification of circumstances where achievement of activity objectives is threatened. Analysis of performance indicators may serve operational and/or financial reporting control purposes.

(6) Segregation of Duties. Key duties and responsibilities should be segregated among different people to reduce the risk of error or fraud. This should include separating the responsibilities for authorizing transactions, processing and recording them,

reviewing the transactions, and handling the related assets. To reduce the risk of error, waste, or fraud or to reduce the risk of their going undetected, no one individual should control all key aspects of a transaction or event. Duties and responsibilities should be assigned systematically to a number of individuals to ensure effective checks and balances.

(7) Execution of Transactions and Events. Transactions and other significant events should be authorized and executed only by persons acting within the scope of their authority. These authorization control activities deal with management's decisions to exchange, transfer, use, or commit resources for specified purposes under specific conditions. It is the principal means of assuring that only valid transactions and other events are initiated or entered into. Authorization should be clearly communicated to managers and employees and should include the specific conditions and terms under which authorizations are to be made.

(8) Recording Transactions and Events. Transactions and other significant events should be promptly recorded and properly classified if pertinent information is to maintain its relevance and value to management in controlling operations and making decisions. This applies to (1) the entire process or life cycle of a transaction or event and includes the initiation and authorization, (2) all aspects of the transaction while in process, and (3) its final classification in summary records.

(9) Access Restrictions to and Accountability for Resources and Records. Access to resources and records should be limited to authorized individuals, and accountability for their custody and use should be assigned and maintained. Periodic comparison of resources with the recorded accountability should be made. The frequency of the comparison should be a function of the vulnerability of the asset. The basic concept behind restricting access to resources and records is to help reduce the risk of errors, fraud, misuse, or unauthorized alteration. Other factors affecting access to assets include the asset value, portability, and exchangeability.

(10) Documentation. Internal control and all transactions and other significant events should be clearly documented, and the documentation should be readily available for examination. Documentation of transactions or other significant events should be complete and accurate and should facilitate tracing the transaction or event and related information throughout its processing. The documentation, whether in paper or electronic form, should be useful to managers in controlling their operations, and to auditors or others involved in analyzing operations.

b. Integration with Risk Assessment. Along with assessing risks, managers must act to address those risks. The actions taken to address risks also serve to focus attention on control activities put in place to ensure that the actions are carried out properly and promptly.

c. Control Over Information Systems. Most information systems today are computerized requiring special controls. There are two broad groupings of information systems control - general control and application control. General control applies to all information systems - mainframe, minicomputer, and end-user environments. They also include those manual measures and procedures to help ensure the systems' continued proper operation.

Application control is designed to control the processing of transactions within the application software and include related manual procedures.

(1) General Control. These include control over data center operations, system software acquisition and maintenance, access security, and application system development and maintenance. Examples of control activities that agencies should use are:

(a) Data Center Operations Control - This includes job set up and scheduling, operations activities, backup and recovery procedures, and contingency and disaster planning.

(b) System Software Control - These include control over the acquisition, implementation, and maintenance of all system software including the operating system, database management systems, telecommunications, security software, and utility programs.

(c) Access Security Control - This kind of control protects the systems and network from inappropriate access and unauthorized use by hackers and other trespassers or inappropriate use by agency personnel. Specific control activities include frequent changes of dial-up numbers; use of dial-back access; restrictions on users to allow access only to systems functions that they need; "firewalls" (software and hardware) to restrict access to assets, computers, and networks; and frequent changes of passwords, deactivation of former employees passwords, and other techniques.

(d) Application System Development and Maintenance Control. This kind of control provides the structure for developing new systems and modifying existing systems. Included are documentation requirements; authorizations for undertaking projects; and reviews, testing, and approvals of development and modification activities before placing systems into operation. An alternative to in-house development is the procurement of commercial software, but control is necessary to ensure that selected software meets the user's needs, and that it is properly placed into operation.

2. Application Control. This control is designed to help ensure completeness, accuracy, authorization, and validity of all transactions during application processing. Control should also be installed at an application's interfaces with other systems to ensure that all inputs are received and are valid and outputs are correct and properly distributed. An example is computerized edit checks built into the system to review the format, existence, and reasonableness of data.

3. Relationship Between General and Application Control. General and application control over computer systems are interrelated. If the general control is inadequate, the application control is unlikely to function properly and could be overridden. The application control assumes that the general control will function properly and provide immediate feedback on errors, mismatches, incorrect format of data, and unauthorized data access. Therefore, general control supports the functioning of application control, and both are needed to ensure complete and accurate information processing.

4. Evolving Information Technology. The field of computer information processing is one of rapid technological change. Changes in technology will change the specific control activities that may be employed and how they are implemented, but the basic requirements of control will not have changed. As more powerful computers place more responsibility for data processing in the hands of the end users, the necessary controls (for example, routines within computer programs that validate data and the procedures performed by users to ensure accurate processing by the computer) should be identified and selected.

d. Entity-Specific Control Activities. Internal control activities will be required to follow guidance set by oversight bodies. However, within the requirements, flexibility exists to allow tailoring of internal control to fit organizational needs. The specific internal control activities used may be different due to a number of factors. These could include differences in objectives; managerial judgment; size and complexity of the organization; operational environment (including such items as exposure to certain risks and location and geographical dispersion); sensitivity and value of data; and requirements for system reliability, availability, and performance. All of these factors should be considered when designing the specific control activities needed to achieve objectives.

APPENDIX C

ANNUAL LETTERS OF ASSURANCE

1. The Annual Letters of Assurance required of CPSC managers under Section 9.e.(4) and 9.f.(6) of this order must certify that compliance with the management controls and standards of the organization or program, reasonably assure that:

a, Programs achieve their intended results;

b. Resources are used consistent with the agency mission;

c. Programs and resources are protected from waste, fraud, and mismanagement;

d. Laws and regulations are followed; and

e. Reliable and timely information is obtained, maintained, reported, and used for decision making.

2. If management control deficiencies or material weaknesses have been detected in the organization/program they must be identified and explained. The letter must discuss plans including milestones for bringing the deficiency or material weakness into compliance.

3. The letter should also report the status of bringing any previously reported deficiencies or weaknesses into compliance.

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[Revised as of February 1, 2006]
From the U.S. Government Printing Office via GPO Access
[**CITE**: **16CFR1000.1**]

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Authority: 5 U.S.C. 552(a).

§ 1000.1 The Commission.

(a) The Consumer Product Safety Commission is an independent regulatory agency formed on May 14, 1973, under the provisions of the Consumer Product Safety Act (Pub. L. 92-573, 86 Stat. 1207, as amended (15 U.S.C. 2051, *et seq.*)). The purposes of the Commission under the CPSA are:

(1) To protect the public against unreasonable risks of injury associated with consumer products;

(2) To assist consumers in evaluating the comparative safety of consumer products;

(3) To develop uniform safety standards for consumer products and to minimize conflicting State and local regulations; and

(4) To promote research and investigation into the causes and prevention of product-related deaths, illnesses, and injuries.

(b) The Commission is authorized to consist of five members appointed by the President, by and with the advice and consent of the Senate, for terms of seven years. However, the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, Public Law 102-389, limited funding to that for three Commissioners for fiscal year 1993 and thereafter.

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[Revised as of February 1, 2006]
From the U.S. Government Printing Office via GPO Access
[**CITE**: **16CFR1000.10**]

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§ 1000.10 The Chairman and Vice Chairman.

(a) The Chairman is the principal executive officer of the Commission and, subject to the general policies of the Commission and to such regulatory decisions, findings, and determinations as the Commission is by law authorized to make, he or she exercises all of the executive and administrative functions of the Commission.

(b) The Commission shall annually elect a Vice Chairman for a term beginning on June 1. The Vice Chairman shall serve until the election of his or her successor. The Vice Chairman acts in the absence or disability of the Chairman or in case of a vacancy in the Office of the Chairman

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[Revised as of February 1, 2006]
From the U.S. Government Printing Office via GPO Access
[**CITE**: **16CFR1000.11**]

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§ 1000.11 Delegation of functions.

Section 27(b)(9) of the Consumer Product Safety Act (15 U.S.C. 2076(b)(9)) authorizes the Commission to delegate any of its functions and powers, other than the power to issue subpoenas, to any officer or employee of the Commission. Delegations are documented in the Commission's Directives System.

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[Revised as of February 1, 2006]
From the U.S. Government Printing Office via GPO Access
[**CITE**: **16CFR1000.12**]

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§ 1000.12 Organizational structure.

The Consumer Product Safety Commission is composed of the principal units listed in this section.

(a) The following units report directly to the Chairman of the Commission:

(1) Office of the General Counsel;

(2) Office of Congressional Relations;

(3) Office of the Inspector General;

(4) Office of Equal Employment Opportunity and Minority Enterprise;

(5) Office of the Executive Director.

(b) The following units report directly to the Executive Director of the Commission:

(1) Office of Financial Management, Planning and Evaluation;

(2) Office of Hazard Identification and Reduction;

(3) Office of Information and Public Affairs;

(4) Office of Compliance and Field Operations;

(5) Office of Human Resources Management;

(6) Office of Information and Technology Services;

(7) Office of International Programs and Intergovernmental Affairs.

(c) The following units report directly to the Assistant Executive Director for Hazard Identification and Reduction:

(1) Directorate for Economic Analysis;

(2) Directorate for Epidemiology;

(3) Directorate for Health Sciences;

(4) Directorate for Engineering Sciences;

(5) Directorate for Laboratory Sciences.

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[Revised as of February 1, 2006]
From the U.S. Government Printing Office via GPO Access
[**CITE**: **16CFR1000.13**]

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§ 1000.13 Directives System.

The Commission maintains a Directives System which contains delegations of authority and descriptions of Commission programs, policies, and procedures. A complete set of directives is available for inspection in the public reading room at Commission headquarters.

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[**CITE**: **16CFR1000.14**]

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§ 1000.14 Office of the General Counsel.

The Office of the General Counsel provides advice and counsel to the Commissioners and organizational components of the Commission on matters of law arising from operations of the Commission. It prepares the legal analysis of Commission legislative proposals and comments on relevant legislative proposals originating elsewhere. The Office, in conjunction with the Department of Justice, is responsible for the conduct of all Federal court litigation to which the Commission is a party. The Office also advises the Commission on administrative litigation matters. The Office provides final legal review of and makes recommendations to the Commission on proposed product safety standards, rules, regulations, petition actions, and substantial hazard actions. It also provides legal review of certain procurement, personnel, and administrative actions and drafts documents for publication in the **Federal Register**.

[Code of Federal Regulations]
[Title 16, Volume 71, No. 021, Part 1000 to end]
[Revised as of February 1, 2006]
From the U.S. Government Printing Office via GPO Access
[**CITE**: **16CFR1000.15**]

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§ 1000.15 Office of Congressional Relations.

The Office of Congressional Relations is the principal contact with the committees and members of Congress and state legislative bodies. It performs liaison duties for the Commission, provides information and assistance to Congress on matters of Commission policy, and coordinates testimony and appearances by Commissioners and agency personnel before Congress.

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[Revised as of February 1, 2006]
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§ 1000.16 Office of the Inspector General.

The Office of the Inspector General is an independent office established under the provisions of the Inspector General Act of 1978, 5 U.S.C. Appendix, as amended. This Office independently initiates, conducts, supervises, and coordinates audits, operations reviews, and investigations of Commission programs, activities, and operations. The Office also makes recommendations to promote economy, efficiency, and effectiveness within the Commission's programs and operations. The Office receives and investigates complaints or information concerning possible violations of law, rules, or regulations, mismanagement, abuse of authority, and waste of funds. It reviews existing and proposed legislation concerning the economy, efficiency, and effectiveness of such legislation on Commission operations.

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[Title 16, Volume 71, No. 021, Part 1000 to end]
[Revised as of February 1, 2006]
From the U.S. Government Printing Office via GPO Access
[**CITE**: **16CFR1000.17**]

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§ 1000.17 Office of Equal Employment Opportunity and Minority Enterprise.

The Office of Equal Employment Opportunity and Minority Enterprise is responsible for assuring compliance with all laws and regulations relating to equal employment opportunity. The Office provides advice and assistance to the Chairman and Commission staff on all EEO related issues including the agency Small and Disadvantaged Business Utilization Program. The Office develops agency EEO program policies. The Office manages the discrimination complaint process, including the adjudication of discrimination complaints, and facilitates Affirmative Employment Program (AEP) planning for women, minorities, individuals with disabilities and disabled veterans. The Office plans and executes special emphasis programs and special programs with minority colleges, and EEO, diversity, prevention of sexual harassment and related training. The Office identifies trends, personnel policies and practices that have an impact on EEO and makes recommendations to the Chairman on the effectiveness and efficiency of EEO programs and methods to enhance equal opportunity.

[Code of Federal Regulations]
[Title 16, Volume 71, No. 021, Part 1000 to end]
[Revised as of February 1, 2006]
From the U.S. Government Printing Office via GPO Access
[**CITE**: **16CFR1000.18**]

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§ 1000.18 Office of Executive Director.

The Executive Director with the assistance of the Deputy Executive Director, under the broad direction of the Chairman and in accordance with Commission policy, acts as the chief operating manager of the agency, supporting the development of the agency's budget and operating plan before and after Commission approval, and managing the execution of those plans. The Executive Director has direct line authority over the following directorates and offices: the Office of Financial Management, Planning and Evaluation, the Office of Hazard Identification and Reduction, the Office of Information and Public Affairs, the Office of Compliance and Field Operations, the Office of Human Resources Management, the Office of Information and Technology Services, and the Office of International Programs and Intergovernmental Affairs.

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[Revised as of February 1, 2006]
From the U.S. Government Printing Office via GPO Access
[**CITE**: **16CFR1000.19**]

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§ 1000.19 Office of Financial Management, Planning and Evaluation.

The Office of Financial Management, Planning and Evaluation is responsible for developing the Commission's funds control system, long-range strategic plans, annual performance budgets and operating plans; analysis of major policy and operational issues; performing evaluations and management studies of Commission programs and activities; ensuring that Commission resources are procured and expended as planned and according to purchasing regulations; the review, control, and payment of Commission financial obligations; and, reporting on the use and performance of Commission resources. The Office recommends actions to the Executive Director to enhance the effectiveness of Commission programs and the management of budget, planning and evaluation, financial, and procurement activities. The Office serves as the staff support to the Commission Chief Financial Officer.

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From the U.S. Government Printing Office via GPO Access
[**CITE**: **16CFR1000.2**]

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§ 1000.2 Laws administered.

The Commission administers five acts:

(a) The Consumer Product Safety Act (Pub. L. 92-573, 86 Stat. 1207, as amended (15 U.S.C. 2051, *et seq.*)).

(b) The Flammable Fabrics Act (Pub. L. 90-189, 67 Stat. 111, as amended (15 U.S.C. 1191, *et seq.*)).

(c) The Federal Hazardous Substances Act (Pub. L. 86-613, 74 Stat. 380, as amended (15 U.S.C. 1261, *et seq.*)).

(d) The Poison Prevention Packaging Act of 1970 (Pub. L. 91-601, 84 Stat. 1670, as amended (15 U.S.C. 1471, *et seq.*)).

(e) The Refrigerator Safety Act of 1956 (Pub. L. 84-930, 70 Stat. 953, (15 U.S.C. 1211, *et seq.*)).

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From the U.S. Government Printing Office via GPO Access
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§ 1000.20 Office of Information and Public Affairs.

The Office of Information and Public Affairs, which is managed by the Director of the Office, is responsible for the development, implementation, and evaluation of a comprehensive national information and public affairs program designed to promote product safety. This includes responsibility for developing and maintaining relations with a wide range of national groups such as consumer organizations; business groups; trade associations; state and local government entities; labor organizations; medical, legal, scientific and other professional associations; and other Federal health, safety and consumer agencies. The Office also is responsible for implementing the Commission's media relations program nationwide. The Office serves as the Commission's spokesperson to the national print and broadcast media, develops and disseminates the Commission's news

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releases, and organizes Commission news conferences.

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From the U.S. Government Printing Office via GPO Access
[**CITE**: **16CFR1000.21**]

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§ 1000.21 Office of Compliance and Field Operations.

The Office of Compliance and Field Operations conducts compliance and administrative enforcement activities under all administered acts, provides advice and guidance on complying with all administered acts and reviews proposed standards and rules with respect to their enforceability. The Office's responsibilities also include identifying and addressing safety hazards in consumer products already in distribution, promoting industry compliance with existing safety rules, and conducting administrative litigation. It conducts field enforcement efforts, including providing program guidance, advice, and case guidance to field staff. It enforces the Consumer Product Safety Act reporting requirements. It reviews consumer complaints, conducts inspections and in-depth investigations, and analyzes available data to identify those consumer products containing defects posing a substantial risk of injury or which do not comply with existing safety requirements. The Office negotiates and monitors corrective action plans for products that are defective or fail to comply with specific regulations. It gathers information on product hazards that may be addressed through rulemaking or voluntary standards. The Office develops surveillance strategies and programs designed to assure compliance with Commission standards and regulations. The Office of Compliance and Field Operations also assists the Office of Information and Public Affairs in implementing consumer information activities nationwide, including wide-ranging public information and education programs designed to reduce consumer product injuries and deaths, and maintaining liaison with, and providing support to, other components of the Commission and appropriate State and local government offices.

[Code of Federal Regulations]
[Title 16, Volume 71, No. 021, Part 1000 to end]
[Revised as of February 1, 2006]
From the U.S. Government Printing Office via GPO Access
[**CITE: 16CFR1000.22**]

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§ 1000.22 Office of Human Resources Management.

The Office of Human Resources Management, which is managed by the Director of the Office, provides human resources management support to the Commission in the areas of recruitment and placement, position classification, training and executive development, employee and labor relations, employee benefits and retirement assistance, employee assistance programs, drug testing, leave administration, disciplinary and adverse actions, grievances and appeals, and performance management.

[Code of Federal Regulations]
[Title 16, Volume 71, No. 021, Part 1000 to end]
[Revised as of February 1, 2006]
From the U.S. Government Printing Office via GPO Access
[**CITE**: **16CFR1000.23**]

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§ 1000.23 Office of Information and Technology Services.

The Office of Information and Technology Services houses the Commission's Secretariat, which facilitates the preparation of the Commission's agenda; coordinates Commission business at official meetings; maintains the dockets and other materials for the Commission's public and non-public administrative and adjudicative meetings and hearings; prepares and publishes the Public Calendar; maintains the Commission's Injury Information Clearinghouse; issues Commission Orders; provides legal notice of Commission decisions through publication in the **Federal Register** ; processes all filings that the Commission receives in paper, electronic and alternative media formats; exercises joint responsibility with the Office of the General Counsel for interpretation and application of the Privacy Act, Freedom of Information Act, and the Government in the Sunshine Act; prepares reports required by these acts; and maintains and manages all official Commission records including those pertaining to continuing guarantees of compliance with applicable standards of flammability under the Flammable Fabrics Act filed with the Commission. The Secretary is the agency's Chief Freedom of Information Act Officer. The Office of Information and Technology Services is also responsible for the general policy and planning issues related to the dissemination of information by the Commission including, but not limited to, OMB Circular A-130, the Federal Information Security Management Act, the Government Paperwork Elimination Act, Section 508 of the Americans with Disabilities Act, and the E-Government Act under the President's Management Agenda; the design, implementation and support of the Commission's information technology system needs; maintaining and/or providing access to administrative applications for the Commission's business processes such as payroll, accounting, personnel, budget, information management and work tracking; administration of the network, telephone systems, and Help Desk. The Office of Information and Technology Services also is responsible for providing the Commission with printing, mail, and copy services, library services, logistical, real and personal property management services; and addressing safety and ergonomic issues in the work place.

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[Revised as of February 1, 2006]
From the U.S. Government Printing Office via GPO Access
[**CITE**: **16CFR1000.24**]

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§ 1000.24 Office of International Programs and Intergovernmental Affairs.

The Office of International Programs and Intergovernmental Affairs provides a comprehensive and coordinated effort in consumer product safety standards development and implementation at the international, Federal, State and local level. The office conducts activities and creates strategies aimed at ensuring greater import compliance with recognized American safety standards and exportation of **CPSC** regulatory policies, technologies and methodologies into other jurisdictions. The office also works to harmonize the use of standards worldwide.

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[Title 16, Volume 71, No. 021, Part 1000 to end]
[Revised as of February 1, 2006]
From the U.S. Government Printing Office via GPO Access
[**CITE**: **16CFR1000.25**]

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§ 1000.25 Office of Hazard Identification and Reduction.

The Office of Hazard Identification and Reduction, under the direction of the Assistant Executive Director for Hazard Identification and Reduction, is responsible for managing the Commission's Hazard Identification and Analysis Program and its Hazard Assessment and Reduction Program. The Office reports to the Executive Director, and has line authority over the Directorates for Epidemiology and Health Sciences, Economic Analysis, Engineering Sciences, and Laboratory Sciences. The Office develops strategies for and implements the agency's operating plans for these two hazard programs. This includes the collection and analysis of data to identify hazards and hazard patterns, the implementation of the Commission's safety standards development projects, the coordination of voluntary standards activities, and providing overall direction and evaluation of projects involving hazard analysis, data collection, emerging hazards, mandatory and voluntary standards, petitions, and labeling rules. The Office assures that relevant technical, environmental, economic, and social impacts of projects are comprehensively and objectively presented to the Commission for decision.

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[Revised as of February 1, 2006]
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[**CITE**: **16CFR1000.26**]

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§ 1000.26 Directorate for Epidemiology.

The Directorate for Epidemiology, managed by the Associate Executive Director for Epidemiology, is responsible for the collection and analysis of data on injuries and deaths associated with consumer products. The Directorate has two divisions: the Data Systems Division and the Hazard Analysis Division. The Data Systems Division operates the national data collection systems which provide the data that serve as the basis for the Commission's estimates of the numbers of deaths and injuries associated with

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consumer products. These data systems include the National Electronic Injury Surveillance System, a nationally representative sample of hospital emergency departments; a death certificate file, which contains data obtained from death certificates on deaths associated with consumer products; and the Injury and Potential Injury Incident file, which contains information on, among other things, incidents associated with consumer products, based on news clips, medical examiner reports, hotline reports, Internet complaints, and referrals. The Hazard Analysis Division conducts statistical analysis of these data and conducts epidemiologic studies to estimate the numbers of injuries and deaths associated with various consumer products and to examine factors associated with these injuries and deaths. In addition, staff in the Hazard Analysis Division design special studies, design and analyze data from experiments for testing of consumer products, and provide statistical expertise and advice to Commission staff in support of regulation development.

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[Revised as of February 1, 2006]
From the U.S. Government Printing Office via GPO Access
[**CITE**: **16CFR1000.27**]

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§ 1000.27 Directorate for Health Sciences.

The Directorate for Health Sciences is managed by the Associate Executive Director for Health Sciences and is responsible for reviewing and evaluating the human health effects and hazards related to consumer products and assessing exposure, uptake and metabolism, including information on population segments at risk. Directorate staff conducts health studies and research in the field of consumer product-related injuries. The Directorate performs risk assessments for chemical, physiological and physical hazards based on methods such as medical injury modeling, and on injury and incident data for mechanical, thermal, chemical and electrical hazards in consumer products. It provides the Commission's primary source of scientific expertise for implementation of the Poison Prevention Packaging Act and the Federal Hazardous Substances Act. The Directorate assists in the development and evaluation of product safety standards and test methods based on scientific and public health principles. It provides support to the Commission's regulatory development and enforcement activities. It manages hazard identification and analysis, and hazard assessment and reduction projects as assigned. The Directorate provides liaison with the National Toxicology Program, the Department of Health and Human Services (including the Food and Drug Administration, the Centers for Disease Control and Prevention, the National Institutes of Health), the Occupational Health and Safety Administration, the Environmental Protection Agency, other Federal agencies and programs, and other organizations concerned with reducing the risk to consumers from exposure to consumer product hazards.

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[Revised as of February 1, 2006]
From the U.S. Government Printing Office via GPO Access
[**CITE**: **16CFR1000.28**]

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§ 1000.28 Directorate for Economic Analysis.

The Directorate for Economic Analysis, which is managed by the Associate Executive Director for Economic Analysis, is responsible for providing the Commission with advice and information on economic and environmental matters and on the economic, social and environmental effects of Commission actions. It analyzes the potential effects of CPSC actions on consumers and on industries, including effects on competitive structure and commercial practices. The Directorate acquires, compiles, and maintains economic data on movements and trends in the general economy and on the production, distribution, and sales of consumer products and their components to assist in the analysis of CPSC priorities, policies, actions, and rules. It plans and carries out economic surveys of consumers and industries. It studies the costs of accidents and injuries. It evaluates the economic, societal, and environmental impact of product safety rules and standards. It performs regulatory analyses and studies of costs and benefits of CPSC actions as required by the Consumer Product Safety Act, The National Environmental Policy Act, the Regulatory Flexibility Act and other Acts, and by policies established by the Consumer Product Safety Commission. The Directorate manages hazard assessment and reduction projects as assigned.

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[Title 16, Volume 71, No. 021, Part 1000 to end]
[Revised as of February 1, 2006]
From the U.S. Government Printing Office via GPO Access
[**CITE**: **16CFR1000.29**]

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§ 1000.29 Directorate for Engineering Sciences.

The Directorate for Engineering Sciences, which is managed by the Associate Executive Director for Engineering Sciences, is responsible for developing technical policy for and implementing the Commission's engineering programs. The Directorate manages hazard assessment and reduction projects as assigned by the Office of Hazard Identification and Reduction; provides engineering technical support and product safety assessments for the Office of Compliance and Field Operations; provides engineering, scientific, and technical expertise to the Commission and Commission staff as requested; and provides engineering technical support to other Commission organizations, activities, and programs as needed. The Directorate develops and evaluates product safety standards, product safety tests and test methods, performance criteria, design specifications, and quality control standards for consumer products, based on engineering and scientific methods. It conducts engineering analysis and testing of the safety of consumer products, and evaluates and participates in the development of mandatory and voluntary standards for consumer products including engineering and human factors analyses in support of standards development and product compliance testing. The Directorate performs or monitors research for consumer products in a broad array of engineering disciplines including chemical, electrical, fire protection, human factors, and mechanical engineering. It conducts and coordinates engineering research, testing, and evaluation activities with other Federal agencies, private industry, and consumer interest groups. The Directorate conducts human factors studies and research of consumer product related injuries, including evaluations of labels, signs and symbols, instructions, and other measures intended to address the human component of injury prevention. The Directorate provides technical supervision and direction of engineering activities including tests and analyses conducted in the field.

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[Revised as of February 1, 2006]
From the U.S. Government Printing Office via GPO Access
[**CITE**: **16CFR1000.3**]

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§ 1000.3 Hotline.

(a) The Commission operates a toll-free telephone Hotline by which the public can communicate with the Commission. The number for use in all 50 states is 1-800-638-**CPSC** (1-800-638-2772).

(b) The Commission also operates a toll-free Hotline by which hearing or speech-impaired persons can communicate with the Commission by teletypewriter. The teletypewriter number for use in all states is 1-800-638-8270.

(c) The Commission also makes available to the public product recall information, its public calendar, and other information through its worldwide Web site at *http://www.**cpsc.**gov*. The public may also report product hazards or other information to the Commission at its e-mail address: *info@**cpsc.**gov*.

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§ 1000.30 Directorate for Laboratory Sciences.

The Directorate for Laboratory Sciences, which is managed by the Associate Executive Director for Laboratory Sciences, is responsible for conducting engineering analyses and testing of consumer products, supporting the development of voluntary and mandatory standards, and supporting the Agency's compliance activities through product safety assessments. A wide variety of products are tested and evaluated to determine the causes of failure and the hazards presented. Product safety tests involve mechanical, electrical, and combustion engineering, as well as thermal and chemical analyses. Test protocols are developed, test fixtures and setups are designed and fabricated, and tests are conducted following the requirements and guidance of voluntary and mandatory standards and/or using sound engineering and scientific judgment. The Laboratory participates with and supports other agency directorates on multi-disciplinary teams

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in the development of voluntary and mandatory standards. The Laboratory coordinates and cooperates with other Federal agencies, private industry, and consumer interest groups by sharing engineering and scientific research, test, and evaluation expertise. Additionally, Corrective Action Plans, proposed by manufacturers to correct a product defect, are tested and evaluated to assure that the proposed changes adequately resolve the problem. Regulated products, such as children's products, sleepwear, and bicycle helmets, are routinely tested and evaluated for compliance with the Consumer Product Safety Act, the Federal Hazardous Substances Act, the Flammable Fabrics Act, and the Poison Prevention Packaging Act. The Directorate is composed of the Mechanical Engineering Division, the Electrical Engineering Division (which includes flammable fabrics), and the Chemical Division. Overall, the directorate provides engineering, scientific, and other technical expertise to all entities within the Consumer Product Safety Commission.

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[Revised as of February 1, 2006]
From the U.S. Government Printing Office via GPO Access
[**CITE**: **16CFR1000.4**]

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§ 1000.4 Commission address.

The principal Offices of the Commission are at 4330 East West Highway, Bethesda, Maryland 20814. All written communications with the Commission, including those sent by U.S. Postal Service, private express and messenger should be addressed to the Consumer Product Safety Commission at that address, unless otherwise specifically directed.

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[**CITE**: **16CFR1000.5**]

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§ 1000.5 Petitions.

Any interested person may petition the Commission to issue, amend, or revoke a rule or regulation by submitting a written request to the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814. Petitions must comply with the Commission's procedure for petitioning for rulemaking at 16 CFR part 1051

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[**CITE**: **16CFR1000.6**]

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§ 1000.6 Commission decisions and records.

(a) Each decision of the Commission, acting in an official capacity as a collegial body, is recorded in Minutes of Commission meetings or as a separate Record of Commission Action. Copies of Minutes or of a Record of Commission Action may be obtained by e-mail (***cpsc***-*os@**cpsc.**gov*) or written request to the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814, or may be examined at Commission headquarters. Requests should identify the subject matter of the Commission action and the approximate date of the Commission action, if known.

(b) Other records in the custody of the Commission may be requested by e-mail (***cpsc***-*os@**cpsc.**gov*) or in writing from the Office of the Secretary pursuant to the Commission's Procedures for Disclosure or Production of Information under the Freedom of Information Act (16 CFR part 1015).

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From the U.S. Government Printing Office via GPO Access
[**CITE**: **16CFR1000.7**]

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§ 1000.7 Advisory opinions and interpretations of regulations.

(a) *Advisory opinions*. Upon written request, the General Counsel provides written advisory opinions interpreting the acts and administrative regulations (*e.g.*, Freedom of Information Act regulations) the Commission administers, provided the request contains sufficient specific factual information upon which to base an opinion. Advisory opinions represent the legal opinions of the General Counsel and may be changed or superseded by the Commission. Requests for advisory opinions should be sent to the General Counsel, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814. Previously issued advisory opinions are available on the **CPSC** Web site at *http://www.**cpsc**.gov/library/foia/advisory/advisory.html*. A copy of a particular previously issued advisory opinion or a copy of an index of such opinions may also be obtained by written request to the Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814.

(b) *Interpretations of regulations*. Upon written request, the Assistant Executive Director for Compliance will issue written interpretations of Commission regulations pertaining to the safety standards and the enforcement of those standards, provided the request contains sufficient specific factual information upon which to base an interpretation. Interpretations of regulations represent the interpretations of the staff and may be changed or superseded by the Commission. Requests for such interpretations should be sent to the Assistant Executive Director for Compliance, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814.

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[Revised as of February 1, 2006]
From the U.S. Government Printing Office via GPO Access
[**CITE**: **16CFR1000.8**]

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1000.8 Meetings and hearings; public notice.

(a) The Commission may meet and exercise all its powers in any place.

(b) Meetings of the Commission are held as ordered by the Commission and, unless otherwise ordered, are held at the principal office of the Commission at 4330 East West Highway, Bethesda, Maryland. Meetings of the Commission for the purpose of jointly conducting the formal business of the agency, including the rendering of official decisions, are generally announced in advance and open to the public, as provided by the Government in the Sunshine Act (5 U.S.C. 552b) and the Commission's Meetings Policy (16 CFR part 1012).

(c) The Commission may conduct any hearing or other inquiry necessary or appropriate to its functions anywhere in the United States. It will publish a notice of any proposed hearing in the **Federal Register** and will afford a reasonable opportunity for interested persons to present relevant testimony and data.

(d) Notices of Commission meetings, Commission hearings, and other Commission activities are published in a Public Calendar, as provided in the Commission's Meetings Policy (16 CFR part 1012). The Public Calendar is available on the Commission Web site at *http://www.**cpsc.**gov*.

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From the U.S. Government Printing Office via GPO Access
[**CITE**: **16CFR1000.9**]

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§ 1000.9 Quorum.

Three members of the Commission constitute a quorum for the transaction of business. If there are only three members serving on the Commission, two members constitute a quorum. If there are only two members serving on the Commission because of vacancies, two members constitute a quorum, but only for six months from the time the number of members was reduced to two. [**Note:** the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993, Pub. L. 102-389, limited funding to that for three Commissioners for fiscal year 1993 and thereafter.]

PROCEDURES FOR PROVIDING TECHNICAL DOCUMENTS TO THE NATIONAL TECHNICAL INFORMATION SERVICE, U.S. DEPARTMENT OF COMMERCE

1. PURPOSE. This Notice establishes procedures to identify appropriate technical documents for transfer to the National Technical Information Service (NTIS).

2. AUTHORITY. The American Technology Preeminence Act of 1991, 15 U.S.C. 3704b-2, requires the head of each Federal executive department or agency to transfer in a timely manner to the NTIS "unclassified" scientific, technical, and engineering information products which result from federally-funded research and development activities for dissemination to the private sector, academia, State and local governments, and Federal agencies.

3. SCOPE./APPLICABILITY. This Notice applies to the staff of the U.S. Consumer Product Safety Commission.

4. OBJECTIVES. To minimize any additional actions necessary for internal CPSC clearance actions in order to transfer information products to NTIS, and to ensure consistency with reference e.

5. REFERENCES.

a. Title 17, U.S.C. Section 105, "Copyrights."
b. 15 U.S.C. Section 2055 (b)(6), "Consumer Product Safety Act" Section 6(b)(6).
c. 16 CFR, Part 1030, "Employee Standards of Conduct."
d. CPSC Order 0760.1, "Security Regulations for Information Protection," April 30, 1992
e. CPSC Order 1450.2, "Clearance Procedures for Providing Information to the Public," June 12, 1992.

6. RESPONSIBILITY.

a. The Chairman of CPSC or the Chairman's designee is responsible for transferring an information product as described in paragraph 7.d., below, to NTIS within 15 days of the date the product is made available to the public.

b. The Assistant Executive for Information Services (AED/EXIS) is designated as the CPSC Liaison Officer with NTIS. The AED/EXIS (for purposes of the Directives system, also known as the Office of Primary Responsibility [OPR]) will:

1. Work with NTIS and oversee within CPSC the selection process of appropriate information products and summaries for transfer to NTIS.

2. Oversee the transfer by CPSC Offices and Directorates of CPSC information products within 15 days from the date of public availability;

3. Develop an interagency agreement with NTIS.

c. CPSC Office Directors, Assistant Executive Directors, and Associate Executive Directors, or their designees, whose organizations conduct research either directly or through a CPSC contractor, grantee (individual or organization), or in cooperation with another Federal agency, and which results in the development of an information product will:

1. Manage the review, approval, clearance, and transfer of appropriate information products from their organizations for public release;

2. Ensure the information products for transfer to NTIS follow guidelines
established by NTIS and as specified in this Notice.

3. Ensure coordination takes place between their Office or Directorate and the Office of Information and Public Affairs (EXPA) on the clearance of appropriate information products for public release.

4. Transfer approved information products to NTIS within 15 days of the
product's availability to the public.

5. Be available to answer questions from NTIS staff or provide additional
information on those products transferred to NTIS.

6. Appoint a liaison person to work with the AED/EXIS to implement this Notice.

d. CPSC Staff Offices will:

1. Perform a review of each information product to determine whether the information product is to be recommended for transmittal to NTIS; and obtain clearances and approvals as set forth in reference e and this Notice.

2. Prepare the information products for transfer to NTIS using guidelines established by NTIS and as specified in this Notice.

3. Use CPSC Form 120, "CPSC Publication, Audio/Visual, Film, Speech and Report Clearance." (Appendix A).

4. Indicate in Block 4 of CPSC Form 120 whether the information product being cleared for publication is intended to be sent to NTIS.

5. Ensure the information product is received in the Office of the Chairman and Commissioners' Offices ***prior*** to transmittal to NTIS.

6. Ensure that prior to transferring any **copyrighted** information product to NTIS:

a. A license has been reserved to the Federal Government.

b. NTIS is informed of the terms of the license.

c. Where necessary, assist NTIS in its efforts to acquire a license.

7. Once the information product is approved for publication, make preparation for transfer of the information product to NTIS, in accordance with guidance contained in this Notice and reference e.

7. PREPARATION OF INFORMATION PRODUCTS FOR TRANSFER TO NTIS.

a. **Transferring CPSC Information Products in Paper Copy.** Each paper copy of an information product transferred to NTIS will:

1. Be accompanied by appropriate bibliographic information on Standard Form (SF) 298, "Report Documentation Page" (Appendix B) in paper copy or electronic equivalent.

2. Be of high quality and legibility for reproduction by NTIS.

b. **Transferring CPSC Information Products in Electronic Form.** Whenever possible, information products should be transferred to NTIS in electronic form. Each software or data file product will:

1. Be submitted on a computer diskette, and be accompanied with a paper copy of the information product.

2. Have appropriate bibliographic information on the NTIS form entitled. "How to Submit a Diskette Product to the NTIS Federal Computer Products Center" (Appendix C), or

3. Have appropriate bibliographic information on the NTIS form entitled. "How to Submit Data or Software on a Magnetic Tape or Cartridge to NTIS." (Appendix D)

c. **Each audiovisual product will be accompanied by:**

1. The required bibliographic information using the NTIS form entitled. "Audiovisual Report Documentation Page." (Appendix E).

2. A master copy of the audiovisual plus any applicable documents.

d. **The following examples are what NTIS considers "information products."**

l. Technical reports, articles, papers, and books.

2. Regulations, standards, and specifications.

3. Charts, maps, and graphs.

4. Computer software.

5. Data collections, data files, and data compilation software.

6. Audio/video products.

7. Technology application assessments.

8. Training packages.

9. Other federally-owned and/or originated technologies.

e. **The following are examples of products not appropriate for transfer to NTIS:**

1. Documents containing proprietary information.

2. Documents classified as "For Official Use Only." (Refer to CPSC Order 0760.1) (reference d).

3. Documents associated with CPSC compliance and enforcement cases and related activities.

4. Documents or information products not cleared for publication under CPSC Order 1450.2 (reference e).

5. Information products that CPSC has widely distributed to consumers or other groups at no charge.

6. Information included in privately published journals.

f. **Any information product sent to NTIS shall** be accompanied by a statement indicating that CPSC staff are transmitting the information product with the understanding that NTIS will handle distribution of the information product to designated Federal
Depository Libraries.

8. EFFECTIVE DATE. This Notice will be in effect for one year from the date of signature. At that time, the Notice will be reviewed by the OPR for future applicability.

(Original Signed By)

Ann Brown
Chairman

12/19/94
Date

Attachments: 5 Appendices
Appendix A - CPSC Form 120, "CPSC Publication, Audio-Visual, Film, Speech and Clearance Report," (Rev. 11/91)
Appendix B-1 & B-2 - SF Form 298, "Report Documentation Page," (Rev. 2-89)
Appendix C-I & C-2 - NTIS Form, "How to Submit a Diskette Product to the NTIS Federal Computer Products Center."
Appendix D-I & D-2 - NTIS Form. "How to Submit Data or Software on a Magnetic Tape or Cartridge to NTIS."
Appendix E-I & E-2 - NTIS Form, "Audiovisual Report Documentation Page." (3/93).

CPSC PUBLICATION, AUDIO-VISUAL, FILM, SPEECH AND REPORT CLEARANCE

1. PROJECT TITLE	2. DUE DATE
2. .PROJECT DIRECTOR *(Name, room number , telephone)*	
4.THE INTENDED AUDIENCE IS:_____	

IMPORTANT

The attached project material is not to be distributed to any person or organization outside the CPSC until the following offices have authorized clearance:

5. CONCURRENCES					
Office	Signature	Approve	Disapprove	Date	6(b)(6)*
Associate Executive Director for Field Operations					
Assistant Executive Director for Compliance and Enforcement					
Director, Office of Information and Public Affairs					
Director, Office of the Budget					
Assistant Executive Director for Hazard Identification and Reduction**					
Associate Executive Director for Administration					
Director, Office of Planning and Evaluation					
Executive Director					
General Counsel					
Chairman					

cpsc Form 120 (Rev. 11/91

*You must initial the 6(b)(6) column which will indicate your clearance is in accordance with CPSC Directive 1450.2 issued under 6(b)(6) of the CPSA concerning whether the information is accurate and not misleading.

**Signoff by this office represents clearance by the appropriate technical directorates within EXHR.

APPENDIX A

REPORT DOCUMENTATION PAGE

Form Approved
OMB No. 0704-0188

1. AGENCY USE ONLY (Leave blank)	2. REPORT DATE	3. REPORT TYPE AND DATES COVERED
4. TITLE AND SUBTITLE		5. FUNDING NUMBERS
6. AUTHOR(S)		
7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES)		8. PERFORMING ORGANIZATION REPORT NUMBER
9. SPONSORING/MONITORING AGENCY NAMES(S) AND ADDRESS(ES)		10. SPONSORING/MONITORING AGENCY REPORT NUMBER
11. SUPPLEMENTARY NOTES		
12a. DISTRIBUTION/AVAILABILITY STATEMENT.		12b. DISTRIBUTION CODE
13. ABSTRACT *(Maximum 200 words)*		
14. SUBJECT TERMS		15. NUMBER OF PAGES 16. PRICE CODE
17. SECURITY CLASSIFICATION OF REPORT	18. SECURITY CLASSIFICATION OF THIS PAGE	19. SECURITY CLASSIFICATION OF ABSTRACT	20. LIMITATION OF ABSTRACT

Standard Form 298 (Rev. 2-89)

GENERAL INSTRUCTIONS FOR COMPLETING SF-298

The Report Documentation Page (RDP) is used in announcing and cataloging reports. It is important that this information be consistent with the rest of the report, particularly the cover and title page. Instructions for filling in each block of the form follow. It is important to ***stay within the lines*** to meet ***optical scanning requirements.***

Block 1. Agency Use Only *(Leave blank).*

Block 2. Report Date. Full publication date including day, month, and year, if available (e.g. 1 Jan 88). Must cite at least the year.

Block 3. Type of Report and Dates Covered. State whether report is interim, final, etc. If applicable, enter inclusive report dates (e.g. 10 Jun 87 - 30 Jun 88).

Block 4. Title and Subtitle. A title is taken from the part of the report that provides the most meaningful and complete information. When a report is prepared in more than one volume, repeat the primary title, add volume number, and include subtitle for the specific volume. On classified documents enter the title classification in parentheses.

Block 5. Funding Numbers. To include contract and grant numbers; may include program element number(s), project number(s), task number(s), and work unit number(s). Use the following labels:

C	- Contract	**PR**	- Project
G	- Grant	**TA**	- Task
PE	- Program Element	**WU**	- Work Unit

Block 6. Author(s). Name(s) of person(s) responsible for writing the report, performing the research, or credited with the content of the report. If editor or compiler, this should follow the name(s).

Block 7. Performing Organization Name(s) and Address(es). Self-explanatory.

Block 8. Performing Organization Report Number. Enter the unique alphanumeric report number(s) assigned by the organization performing the report.

Block 9. Sponsoring/Monitoring Agency Name(s) and Address(es). Self-explanatory.

Block 10. Sponsoring/Monitoring Agency Report Number. (If *known)*

Block 11. Supplementary Notes. Enter information not included elsewhere such as: Prepared in cooperation with...; Trans. of...; To be published in.... When a report is revised, include a statement whether the new report supersedes or supplements the older report.

Block 12a. Distribution/Availability Statement. Denotes public availability or limitations. Cite any availability to the public. Enter additional limitations or special markings in all capitals (e.g. NOFORN, REL, ITAR).

DOD - See DoDD 5230.24, "Distribution Statements on Technical Documents."

DOE - See authorities.

NASA - See Handbook NHB 2200.2.

NTIS - Leave blank.

Block 12b. Distribution Code.

DOD - Leave blank.

DOE - Enter DOE distribution categories from the Standard Distribution for Unclassified Scientific and Technical Reports.

NASA - Leave blank.

NTIS - Leave blank.

Block 13. Abstract. Include a brief (*Maximum 200 words*) factual summary of the most significant information contained in the report.

Block 14. Subject Terms. Keyword or phrases identifying major subjects in the report.

Block 15. Number of Pages. Enter the total number of pages.

Block 16. Price Code. Enter appropriate price code *(NTIS only).*

Blocks 17. -19. Security Classifications. Self-explanatory. Enter U.S. Security Classification in accordance with U.S. Security Regulations (i.e., UNCLASSIFIED). If form contains classified information, stamp classification on the top and bottom of the page.

Block 20. Limitation of Abstract. This block must be completed to assign a limitation to the abstract. Enter either UL (unlimited) or SAR (same as report). An entry in this block is necessary if the abstract is to be limited. If blank, the abstract is assumed to be unlimited.

How To Submit a Diskette Product to the NTIS Federal Computer Products Center

Please help us provide a clear and accurate description of your computer software or data. By filling out the information below, you will enable NTIS to inform our customers of your product's value to them. So often Government technology and information is overlooked simply because a clear and meaningful description is not available.

Send this information along with your computer product to:
U.S. Department of Commerce, National Technical Information Service (NTIS)
Federal Computer Products Center, 5285 Port Royal Road, Room 1303-S, Springfield, VA 22161
If you have questions about filling out this form call (703) 487-4808.

For a catalog of the services that NTIS can provide Government agencies, call NTIS at (703) 487-4650 and ask for a free catalog, #PR-870.

Product Name:

Acronym or Nickname:

Date of Coverage or Date Written:

Product Type: Data File
Software

This diskette is a Replacement
Update Supercession/New

NOTE: A replacement Product refers to a bad or defective diskette, an Update refers to a subscription product, and a Supercession refers to a totally new product, as well as a new version.

Submitting Agency:

Address:

Who else distributes this product?

Contact (for NTIS only)
Name:

Title:

Phone:

FAX:

Will your office help customers with technical questions? If so, please list a contact (for public)

Name:

Title:

Number of Diskettes:____

Size: 3/1/2 5 1/4

Operating System: _____
Language or Format: _____

Capacity: 360 K 1.2M
720K 1.4M
800K 1.44M
Other _____

Other Software or Hardware required (i.e. math coprocessor, VGA Monitor):

Phone: FAX:	

APPENDIX C-1

Detailed description of Product (you may attach a separate sheet).

Who would be interested in this product?

What are the benefits of this product?

Is the documentation on the diskette (i.e. read.me)?
Does the product require any additional documentation?

Is the information compressed? Yes No If yes, the file must be self extracting or the compression software must be included.

Additional Notes to NTIS:

SEE ALSO: PB93-170041

How To Submit Data or Software on a Magnetic Tape or Cartridge to NTIS

Please help us provide a clear and accurate description of your computer software or data. By filling out the information below, you will enable NTIS to inform our customers of your product's value to them. So often Government technology and information is overlooked simply because a clear and meaningful description is not available.

Send this information along with your computer product to:
U.S. Department of Commerce, National Technical Information Service (NTIS)
Federal Computer Products Center, 5285 Port Royal Road, Room 1303-S, Springfield, VA 22161
If you have questions about filling out this form call (703) 487-4808.

For a catalog of the services that NTIS can provide Government agencies, call NTIS at (703) 487-4650 and ask for a free catalog, #PR-870.

Product Name:

Acronym or Nickname:

Date of Coverage or Date Written:

Product Type: Data File Software

This tape/cartridge is a Replacement Update Supercession/New

NOTE: A replacement Product refers to a bad or defective diskette, an Update refers to a subscription product, and a Supercession refers to a totally new product, as well as a new version.

Submitting Agency:

Address:

Contact (for NTIS only)
Name:

Title:

Phone:

FAX:

Will your office help customers with technical questions? If so, please list a contact (for public)

Name:

Density: 1600 bpi 6250 bpi 3480 cartridge

Number of Reels/Cartridges:
Reel ID Numbers:

Record Length:

Blocking Factor:

Physical Records:

Byte Count:

Number of Files:

Operating System:

Language or Format:

Character Set: SAS EBCDIC ASCII

Other

Other Software or Hardware required (i.e. math coprocessor, VGA Monitor):

Title: Phone: FAX:	

APPENDIX D-1

Detailed description of Product (you may attach a separate sheet).
Who would be interested in this product?
What are the benefits of this product?
Does the product require any additional documentation?
Is the information compressed? Yes No If yes, the file must be self extracting or the compression software must be included.

Additional Notes to NTIS:

APPENDIX D-2

AUDIOVISUAL REPORT DOCUMENTATION PAGE

A Master Copy of the Audiovisual **MUST** be submitted

1. TITLE AND SUBTITLE
2. DATE COMPLETED
3. PERFORMING ORGANIZATION(S) NAME AND ADDRESS
4. SPONSORING ORGANIZATION(S) NAME AND Address
5. PLAYING TIME
6. PLAYBACK SPEED
7. NUMBER OF PHYSICAL UNITS
8. COLOR or BLACK E WHITE
9. SOUND
10. SIZE
11. ACCOMPANYING MATERIAL
12. SUPPLEMENTARY NOTES
13. POINT OF CONTACT AND TELEPHONE NUMBER
14. SUBJECT TERMS
15. ABSTRACT

1. **Title and Subtitle.** If an item contains more than one title and they can be sold separately, prepare a separate form for each one.

2. **Date.** Give the full date that the original production was completed. Include day, month and year when possible.

3. **Performing Organization(s) Name and Address.** Organization responsible for the production. Include any report number(s) assigned by the organization.

4. **Sponsoring/Monitoring Organization(s) Name and Address.** Organation that funds and/or keeps track of the production. Include any contract and/or grant number(s)assigned by the organization(s).

5. **Playing Time.** Give in minutes per physical unit.

6. **Playback Speed.** Indicate whether it is a standard playback or some other speed.

7. **Number of Physical Units. Example:** One video tape and one workbook.

8. **Color.** Indicate whether the tape is in color or black and white.

9. **Sound.** State whether it is mono or stereo.

10. **Size of Tape.** Example: 1/2 inch, 3/4 inch, European PAL.

11. **Accompanying Material.** Title of reports, scripts, manuals, etc. Indicate whether the accompanying material is essential to the utilization of the audiovisual product (e.g., Instruction Manual is essential to use of the product; slides provide additional information but are not essential to understanding of the product).

12. **Supplementary Notes.** If this audiovisual product supersedes another audiovisual product or supplements a report or audiovisual product, include that information here. Include other technical specifications not already supplied if use of the item is conditional upon this information. **Example:** Copyright has been cleared or, if the audiovisual is a video tape, indicate whether it is VHS, Beta Cam, Beta Dubbed.

13. **Point of Contact and Telephone Number.** Name and telephone number of person who can provide additional information about the material. Include area code.

14. **Subject Terms.** Key words or phrases identifying major subjects covered in the audiovisual.

15. **Abstract.** Include a brief (maximum 200 words) factual summary of the most-significant information contained in the audiovisual product.

UNITED STATES

CONSUMER PRODUCT SAFETY COMMISSION

DIRECTIVES SYSTEM

ORDER NO. 1435.1
Revised 9/25/2007

PRIVACY PROGRAM

POLICIES AND PROCEDURES PURSUANT TO THE PRIVACY ACT

1. PURPOSE. The Commission has a duty to provide notice to the public of personal information it maintains as necessary for the proper performance of agency functions. It also has a duty to ensure the accuracy and integrity of that information and protect it from unauthorized disclosure. This order reflects the Consumer Product Safety Commission's policies and sets forth procedures for public notification and protection of personal information as required by the Privacy Act of 1974, as amended (the "Act"). It augments the Commission's regulations set forth in 16 C.F.R. Part 1014, Policies and Procedures Implementing the Privacy Act of 1974.

2. SCOPE. This order applies to all employees of the Consumer Product Safety Commission, including contractor employees, who handle systems of records containing information about individuals or who plan to create or modify a hardcopy, machine readable, or computerized collection of data that contains the name, or other identifying particular assigned to an individual. It includes, but is not limited to, those systems of records, as published in the Federal Register, which are described in the Commission Systems of Records (Appendix I) and Government-Wide Systems of Records (Appendix II).

3. OFFICE RESPONSIBLE FOR THIS DIRECTIVE. The Office of Information and Technology Services.

4. CANCELLATION. This order cancels CPSC Order 1435.1, Policies and Procedures Pursuant to the Privacy Act, dated June 11, 1998.

5. AUTHORITY.

a. The Privacy Act of 1974, 5 U.S.C. § 552a (2004).

b. E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899 (codified in scattered sections of 44 U.S.C.).

c. Office of Management and Budget, Executive Office of the President, OMB Circular No. A-130, Management of Federal Information Resources, (Feb. 8, 1996), and Appendix I, Federal Agency Responsibilities for Maintaining Records about Individuals.

d. Office of Management and Budget, Executive Office of the President, OMB Mem. No. 03-22, OMB Guidance for Implementing the Privacy Provisions of the E-Government Act of 2002 (Sept. 26, 2003).

6. REFERENCES.

a. The Privacy Act of 1974, 5 U.S.C. § 552a (2004).

b. E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899 (codified in scattered sections of 44 U.S.C.).

c. Office of Management and Budget, Executive Office of the President, OMB Circular No. A-130, Management of Federal Information Resources, (Feb. 8, 1996), and Appendix I, Federal Agency Responsibilities for Maintaining Records about Individuals.

d. Office of Management and Budget, Executive Office of the President, OMB Mem. No. 03-22, OMB Guidance for Implementing the Privacy Provisions of the E-Government Act of 2002 (Sept. 26, 2003).

e. CPSC Policies and Procedures Implementing the Privacy Act of 1974, 16 C.F.R. § 1014 (2000).

f. CPSC Procedures for Disclosure or Production of Information under the Freedom of Information Act, 16 C.F.R. § 1015 (2006).

g. CPSC Notices of Systems of Records under the Privacy Act (Appendix I).

h. Government-wide Systems of Records under the Privacy Act (Appendix II).

i. CPSC Order 0305.3, Authority of the Executive Director to Serve as the Chief Information Officer for Information Resources Management.

j. CPSC Order 0760.1, Security Regulations for Information Protection.

k. CPSC Order 0750.1, Automated Information System Security Program.

7. DEFINITIONS. For purposes of this order:

a. **"Individual"** means a living citizen of the United States or an alien lawfully admitted for permanent residence. The parent or legal guardian of a minor also may act on behalf of a minor "individual."

b. **"Maintain"** includes the collection, use, storage and dissemination of information.

c. **"Record"** means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that

contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.

d. **"System Manager"** means the agency official responsible for the operation and maintenance of a system of records. Maintenance includes routine review of the system of records to ensure compliance with Federal Register Notice requirements.

e. **"System of records"** means a group of records under the control of the Commission from which personal information is retrieved by the name of an individual or some identifying number, symbol or other identifying particular assigned to the individual such as a finger or voice print or a photograph.

f. **"Statistical record"** means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual.

g. **"Routine use"** means a use specified in the Act or published by the Commission or other federal agency in the Federal Register.

8. COMMISSION POLICY.

It is Commission policy that:

a. The privacy of an individual is a personal and fundamental right that shall be respected and protected.

b. Personal information shall be collected, maintained, used, or disclosed to ensure that:

(1) It shall be relevant and necessary to accomplish a lawful agency purpose required to be accomplished by statute or Executive order;

(2) It shall be collected to the greatest extent practicable directly from the individual;

(3) The individual shall be informed as to why the information is being collected, the authority for collection, what uses will be made of it, whether disclosure is mandatory or voluntary, and the consequences of not providing that information;

(4) It shall be relevant, timely, complete, and accurate for its intended use; and

(5) Appropriate administrative, technical, and physical safeguards shall be established, based on the media (e.g., paper, electronic, etc.) involved, to ensure the security of the records and to prevent compromise or misuse during storage or transfer.

c. No record shall be maintained on how an individual exercises rights guaranteed by the First Amendment to the Constitution, except as follows:

(1) Specifically authorized by statute;

(2) Expressly authorized by the individual on whom the record is maintained; or

(3) When the record is pertinent to and within the scope of an authorized law enforcement activity.

d. Notices shall be published in the "Federal Register" and reports shall be submitted to the Congress and the Office of Management and Budget (OMB), in accordance with, and as required by, references (a), (b) and (c), as to the existence and character of any system of records being established or revised by the agency Components. Information shall not be collected, maintained, used, or disseminated until the required publication and review requirements, as set forth in references (a), (b) and (c), are satisfied.

e. Individuals shall be permitted, to the extent authorized by the Privacy Act to:

(1) Determine what records pertaining to them are contained in a system of records.

(2) Gain access to such records and obtain a copy of those records or a part thereof.

(3) Correct or amend such records once it has been determined that the records are not accurate, relevant, timely, or complete.

(4) Appeal a denial of access or a request for amendment.

g. Disclosure of records pertaining to an individual from a system of records shall be prohibited except with the consent of the individual or as otherwise authorized by the Privacy Act and this Order. When disclosures are made, the individual shall be permitted, to the extent authorized by the Privacy Act and this Order, to seek an accounting of such disclosures from the Commission.

h. Computer matching programs between the Commission and Federal, State, or local governmental agencies shall be conducted in accordance with the requirements of the Privacy Act and this Order.

i. Commission personnel and system managers shall conduct themselves consistent with established rules of conduct set forth in this Order so that personal information to be stored in a system of records only shall be collected, maintained,

used, and disseminated as is authorized by this Order and the Privacy Act.

9. RESPONSIBILITIES.

Position	Commission Official
Chief Information Officer	Assistant Executive Director Office of Information and Technology Services
Agency General Counsel	General Counsel
Agency Inspector General	Inspector General
Chief Information Security Officer	Information Technology Security Officer
Senior Agency Official for Privacy	Director, Division of Policy and Planning, Office of Information and Technology Services
Privacy Act Officer	Director, Division of Information Management, Office of Information and Technology Services
Privacy Advocate	Management Analyst, Division of Policy and Planning, Office of Information and Technology Services

a. The Senior Agency Official for Privacy (SAOP) shall:

(1) Provide policy guidance for, and coordinate and oversee administration of the Commission's Privacy Program to ensure compliance with policies and procedures in the Privacy Act and OMB circular No. A-130, "Management of Federal Information Resources" February 8, 1996.

(2) Update and maintain this Order and other guidance, to ensure timely and uniform implementation of the Commission's Privacy Program.

(3) Ensure that the Commission's Privacy Program is periodically reviewed by the Inspector General or other officials, who shall have specialized knowledge of the Commission's Privacy Program.

(4) Have oversight responsibility for implementation of the Commission's Privacy Program. Ensure that the policies, practices, and procedures of that Program are premised on the requirements of the Privacy Act.

(5) Evaluate the ramifications for privacy of legislative, regulatory and

other policy proposals, as well as testimony and comments under OMB Circular A-19.

(6) Assess the impact of technology on the privacy of personal information. To do so, the SAOP shall coordinate with the Chief Information Officer and the Chief Information Security Officer.

(7) Provide the following materials to the Inspector General as needed to comply with FISMA reporting requirements:

(i) Compilation of the agency's privacy and data protection policies and procedures.

(ii) Verification of intent to comply with agency policies and procedures.

(iii) Summary of agency's use of information in identifiable form in system of records.

(8) Submit the Privacy Management Report (Section D of the Federal Information Security Management (FISMA) Report) to the Chief Information Officer by September 1st of each year.

(9) Plan and conduct training, consistent with the requirements of the Privacy Act for all Commission employees and for those individuals having primary responsibility for implementing the Commission's Privacy Program.

(10) Oversee the day-to-day activities of the Commission's Privacy Program. To do so, the SAOP shall coordinate with the Privacy Act Officer.

(11) Provide advice and support to the Commission to ensure that all information requirements developed to collect or maintain personal data conform to the Commission's Privacy Program standards.

(12) Provide guidance and assistance to the Commission in the implementation and execution of its Privacy Program. To do so, the SAOP shall coordinate with the Privacy Act Officer.

(13) Serve as the principal Point of Contact (POC) for coordination of privacy and related matters with OMB and other Federal, State, and local governmental agencies.

b. The General Counsel of the Commission (OGC) shall:

(1) Provide advice and assistance on all legal matters arising out of, or incident to, the administration of the Commission's Privacy Program.

(2) Ensure proper legal review and publication of required Federal

Register notices in accordance with section 12 of this Order. Provide advance notification to OMB and the Congress when necessary.

c. The Privacy Act Officer (PAO) shall:

(1) Review proposed new, altered, and amended systems of records and prepare submission of required notices for publication in the Federal Register and, when required coordinate with OGC to provide advance notification to OMB and the Congress, consistent with the Privacy Act.

(2) Submit advance copies of these submissions to the SAOP.

(3) Submit Biennial Matching Activity Report, Report on New or Altered Systems of Records, and Report on New, Altered, or Renewal of Existing Matching Programs reports to OMB.

d. The Inspector General (IG) shall:

Review the Commission's Privacy Program in accordance with the Federal Information Security Management Act.

e. The Chief Information Officer (CIO) shall:

(1) Oversee and coordinate, consistent with the requirements of the Privacy Act and OMB circular A-130, "Management of Federal Information Resources" February 8, 1996, personal records contained in systems of records maintained by the Commission.

(2) Develop, coordinate, and maintain all Commission computer matching agreements, to include submission of required match notices for publication in the Federal Register and coordinate with OGC for advance notification to the OMB and the Congress of the proposed matches, consistent with the Privacy Act.

(3) Coordinate with the SAOP and the Chief Information Security Officer to assess the impact of technology on the privacy of personal information.

(4) Develop an agency directive to ensure compliance with applicable laws and the Commission's web privacy policies.

f. The Chief Information Security Officer (CISO) shall:

Ensure that appropriate procedures and safeguards shall be developed, implemented, and maintained to protect personal information when it is stored in an automated system of records or transferred by electronic or non-electronic means.

10. RULES OF CONDUCT FOR ALL EMPLOYEES.

a. Every employee who is involved in the design, development, operation, or maintenance of a system of records, who has access to a system of records, or plans to create or modify a system of records containing personal information about an individual, shall familiarize himself or herself with the requirements of the Act, implementing rules, regulations and Commission Orders, including this Order, and comply with applicable policies, regulations and procedures.

b. Commission personnel shall:

(1) Take such actions, as considered appropriate, to ensure that personal information contained in a system of records, to which they have access or are using incident to the conduct of official business, shall be protected so that the security and confidentiality of the information shall be preserved.

(2) Not disclose any personal information contained in any system of records, except as authorized by the Privacy Act. Personnel willfully making such a disclosure when knowing that disclosure is prohibited are subject to possible criminal penalties and/or administrative sanctions.

(3) Report any unauthorized disclosures of personal information from a system of records or the maintenance of any system of records that are not authorized by this order to the Commission PAO.

c. Commission System Managers for each system of records shall:

(1) Ensure that all personnel who either shall have access to the system of records or who shall develop or supervise procedures for handling records in the system of records shall be aware of their responsibilities for protecting personal information being collected and maintained under the Privacy Act.

(2) Prepare promptly any required new, amended, or altered system notices for the system of records and submit them through the PAO to the OGC for legal review and publication in the Federal Register.

(3) Not maintain any official files on individuals, which are retrieved by name or other personal identifier without first ensuring that a notice for the system of records shall have been published in the Federal Register. Any official who willfully maintains a system of records without meeting the publication requirements, as prescribed by the Privacy Act, is subject to possible criminal penalties and/or administrative sanctions.

11. REQUIREMENTS FOR THE COLLECTION AND MAINTENANCE OF PERSONAL INFORMATION. The Commission is required by the Act to:

a. Identify systems of records maintained by it which contain information about individuals and review the content of the systems to assure that only information which is necessary and relevant to a function which the agency is authorized to perform is maintained.

b. Collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits or privileges under Federal programs or pursuant to Federal employment.

c. Inform each individual whom it asks to supply information, on the form which it uses to collect the information or on a separate form that can be retained by the individual of:

(1) The authority (whether granted by statute, or by executive order of the President) which authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary.

(2) The principal purpose or purposes for which the information is intended to be used.

(3) The routine uses which may be made of the information, as published in the Federal Register.

(4) The effects on the individual, if any, of not providing all or any part of the requested information.

The organizational unit of the Commission responsible for originating a form which solicits personal information shall ensure that the content, as described above, is included with the form.

d. Maintain all records which are used by the Commission in making a determination about any individual with such accuracy, relevance, timeliness and completeness as is reasonably necessary to assure fairness to the individual.

e. Maintain information about individuals so as to ensure its security and integrity and to minimize the possibility of unauthorized disclosure which could result in substantial harm, embarrassment, inconvenience or unfairness to any individual.

f. Prepare and publish in the Federal Register a notice of the existence and character of each system of records and proposed systems in accordance with section 12 of this Order.

g. Make reasonable efforts to serve notice on an individual when any record

on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record.

12. PUBLICATION OF SYSTEMS OF RECORDS NOTICES IN THE FEDERAL REGISTER.

a. Required Federal Register Notices. The Commission must publish notices or agency rules in the Federal Register in the following circumstances:

(1) when preparing to adopt a new or altered system of records;

(2) when preparing to adopt a "routine use" for a system of records thereby permitting its disclosure to specified categories of users for the purposes intended without the prior written consent of the individual to whom the record pertains;

(3) when preparing to adopt an exemption from disclosure for a system of records; or

(4) when proposing to carry out a new or altered matching program. Consult section 22.a.8 of this Order concerning the notice requirements for minor versus major changes to a systems of records.

b. Advance Notice of the Establishment of a System of Records. Any system of records which is proposed to be established or modified must be the subject of a notice published in the Federal Register. At least 40 days prior to publication of information pertaining to the routine use of records, publish in the Federal Register notice of any new use or intended use of the information in the system, and provide an opportunity for interested persons to submit written data, views, or arguments to the agency.

c. Responsibility of Employees/Organizations to Notify the PAO of Plans to Create or Modify Records on Individuals and Prepare Required Information.

(1) Any employee/organization planning to create or modify a recordkeeping system that contains the names or other identifying information about an individual shall immediately notify the PAO and provide the information delineated below. The notification to the PAO should be made at least 90 calendar days prior to the proposed effective date of the system of records. This will provide adequate time for the PAO to review and submit the information to the OGC and the SAOP for review and to ensure compliance with the publication guidelines issued by the Office of the Federal Register.

(2) Required Information for Federal Register Notice:

(i) The name and location of the system;

(ii) The categories of individuals on whom records are maintained in the system;

(iii) The categories of records maintained in the system;

(iv) Each routine use of the records contained in the systems, including the categories of users and the purpose of such use;

(v) The policies and practices of the agency regarding storage, retrievability, access controls, retention, and disposal of the records;

(vi) The title and business address of the agency official who is responsible for the system of records;

(vii) The agency procedures whereby an individual can be notified upon request if the system of records contains a record pertaining to him/her;

(viii) The agency procedures whereby an individual can be notified at his/her request how he/she can gain access to any record pertaining to him/her contained in the system of records, and how he/she can contest its content; and

(ix) The categories of sources of records in the system.

d. Responsibilities of OGC to coordinate the preparation of Federal Register Notices. OGC shall promptly review the proposed system of records or modification, determine if the Act applies, and advise the employee/organization making the notification, accordingly. If appropriate, OGC shall promptly coordinate the preparation of a Federal Register notice, with cover letters for approval by the Commission. Upon Commission approval, OGC shall forward the documents to the Office of the Secretary for transmission to the Office of the Federal Register and to the PAO to prepare and submit any reports required by Section 13 of this Order.

13. REQUIRED PRIVACY ACT REPORTS.

Report	When Due	Responsible Official	Recipient
Biennial Matching Activity Report	June 20, 2006, 2008, 2010, etc.	PA Officer	Administrator of OIRA.

Report on New or Altered Systems of Records	When establishing a system of records or adding a new routine use, exemption, or otherwise significantly altering an existing system of records - - at least 40 days before the change to the system takes place.	PA Officer	Administrator of OIRA; The Chairman of Committee on Government Operations of the House of Representatives; and The Chairman of Committee on Governmental Affairs of the Senate.
Report on New, Altered, or Renewal of Existing Matching Programs	When establishing a new, altered, or renewal of existing matching programs - - at least 40 days before operating the program.	PA Officer	Administrator of OIRA; The Chairman of Committee on Government Operations of the House of Representatives; and The Chairman of Committee on Governmental Affairs of the Senate.
Privacy Management Report (Section D of the Federal Information Security Management (FISMA) Report).	September 1st of each year.	SAOP	Chief Information Officer, who will transmit the entire FISMA Report to the Director of OMB.

14. CONDITIONS FOR THE DISCLOSURE OR NONDISCLOSURE OF PERSONAL INFORMATION. While it is Commission policy to respond to requests for public access to information in an open and expeditious manner, it is essential that employees comply with laws and regulations that protect an individual's right to privacy and that personal information is not unlawfully disclosed.

a. Systems of Records Exempt from Disclosure.

(1) The Commission systems of records which have been exempted under Sections (j) or (k) of the Act through informal rulemaking include:

(i) Injury Investigation Files;

(ii) Inspector General Investigative Files; and

(iii) Enforcement and Investigation Files.

(2) Any subsequent exemptions will be published in the Federal Register and included at 16 C.F.R. § 1014.12.

b. Conditions for the Authorized Disclosure of Personal Information to the Individual. A disclosure may be either the transfer of a record or the granting of access to a record. The Commission shall not disclose any record which is contained in a system of records by any means of communication to any person or to another agency except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless the disclosure is pursuant to a request under section (b) of the Act. "By any means of communication" means any type of disclosure (e.g. oral disclosure, written disclosure, electronic or mechanical transfers between computers of the contents of a record). No written request is required from Commission employees who maintain such records or who have a need for the records in the performance of their duties.

(1) Any employee who receives a request for information contained in a Commission system of records shall forward the request to the PAO, who will review and process the request in accordance with Commission procedures as published in 16 C.F.R. § 1014. Upon a determination to disclose the requested information, the FOIA/PA Officer shall promptly forward the request to the system manager who will immediately allow access to the specified record.

(2) In the case of a request for access to information contained in a Government-wide system of records under the control of the Commission, the request shall be handled in accordance with the procedures of the publishing agency. (See section 23 Government-wide Systems of Records.)

c. Disclosure to Persons Other Than the Individual. Aside from disclosure of information to the individual to whom the record pertains (provided the information is not exempt from disclosure to the individual), information about individuals must not be disclosed except:

(1) To Commission personnel having a need for the record in the performance of their official duties;

(2) In accordance with one of the "routine uses" published in the Federal Register by the Commission; and

(3) In accordance with one of the specific uses listed in section (b) of the Act, as determined by the PAO in consultation with the SAOP and OGC.

d. Mailing Lists. Mailing lists containing an individual's name and address may not be sold or rented for commercial or solicitation purposes unless specifically authorized by law.

e. Matching Agreements. No record which is contained in a system of

records may be disclosed to a recipient agency for the purpose of a computerized comparison of records except pursuant to a written agreement between the Commission and the recipient agency in accordance with section (o) of the Act.

15. ACCOUNTING OF DISCLOSURES TO PERSONS OR AGENCIES OTHER THAN THE INDIVIDUAL.

a. Purpose of Accounting. The purposes of the accounting of disclosures are:

(1) To allow individuals to learn to whom records about themselves have been disclosed;

(2) To provide a basis for subsequently advising recipients of records of any corrected or disputed records; and

(3) To provide a method for review of Commission compliance with the conditions of disclosure.

b. Accounting Requirements and Exemptions. An accounting of each disclosure, including the date, nature and purpose of the disclosure, and the name and address of the person or agency to whom the information is disclosed is required in all cases, with the exception of disclosures:

(1) Made to employees within the Commission with a genuine need for the information in the performance of their duties;

(2) Required to be made pursuant to a request under the Freedom of Information Act.

c. Responsibility for Recording and Retaining the Accounting of Disclosures.

(1) The system manager shall be responsible for recording each disclosure subject to accounting.

(2) The accounting of disclosures shall be maintained for at least five years or the life of the record, whichever is longer, after the disclosure for which the accounting is made.

d. Request for Accounting. Upon request of the individual to whom the record pertains, the system manager shall make available to that individual all information in its accounting of disclosures. However, any accounting of disclosures made to another agency for civil or law enforcement purposes shall not be made available.

e. Notification of Previous Recipients of Disclosures. The system

manager shall inform any person or other agency about any correction or notation of dispute made on any record that has been disclosed in accordance with 16 C.F.R. § 1014.7(c).

16. CONTRACTS.

a. Legal Requirements. Whenever the Commission contracts for the operation of a system of records on behalf of the Commission, the Commission shall apply the requirements of the Act to the contractor and its employees.

Required Contract Language. Any contract to operate a system of records shall include language requiring the contractor and its employees to operate the system in accordance with the Act.

b. Operational Responsibilities.

(1) The Commission Contracting Officer shall be responsible for ensuring that the appropriate standard Privacy Act clauses are included in the solicitation and contract.

(2) The employee preparing the statement of work, in conjunction with the system manager shall include the information required by section 16.a above.

(3) The OGC in its review of each contract for the operation of a system of records shall ensure that the solicitation and resulting contract contain the required language commensurate with the operation of the system of records. If OGC determines that a Federal Register notice is required, OGC will coordinate with the requesting division to prepare the notice in accordance with section 12 of this Order.

17. RECORDKEEPING.

a. General Records Management Requirements. The Privacy Act is supplemented by records management policies and procedures mandated by law, records management standards established by the National Archives and Records Administration, and Commission records and information management directives designed to maintain the security and integrity of records and automated information systems.

b. Retention and Disposition. Commission systems of records shall be retained and disposed of in accordance with the General Records Schedules issued by the Archivist of the United States or, in the case of Commission program records, in accordance with the approved Commission Records Schedule for the particular system of records. Each Commission record which is accepted by a Federal Records Center for storage, processing, and servicing is considered to be maintained by the Commission.

c. Reporting Records. The PAO is responsible for collecting and maintaining necessary information and records required to meet OMB Circular A-130 reporting requirements.

18. SECURITY OF RECORDS. Section (e)(10) of the Act requires that each agency establish appropriate administrative, technical and physical safeguards to ensure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience or unfairness to any individual on whom information is maintained.

a. Security Responsibilities of Systems Managers. System managers are responsible for developing and implementing such protective measures as they deem suitable under the Act. They are responsible for assuring that each person who works directly with or has responsibilities relating to a system of records are instructed in their individual responsibilities under this Order.

(1) Administrative and Physical Safeguards. When implementing a new system of records, systems managers shall develop appropriate administrative and physical safeguards tailored to the requirements of each system of records. These safeguards must be specified in the required Federal Register Notice.

(2) Safeguards shall be periodically re-evaluated to ensure compliance with the Act and, if appropriate, revisions shall be published in the Federal Register.

b. Information Technology Safeguards.

(1) The use of computers and sophisticated information technology has greatly magnified the harm to individual privacy that can occur in the handling and processing of personal information. The Commission must provide adequate safeguards to prevent misuse of information in automated systems.

(2) Responsibilities of the Assistant Executive Director, Office of Information and Technology Services. The Assistant Executive Director, Office of Information and Technology Services, or his/her designee, shall provide technical assistance in ensuring the security of personal information in automated information systems. He/she shall refer to NIST Guidelines developed and issued pursuant to the Act to ensure the security of confidential or sensitive information of a personal nature in automated information systems. Additionally, he/she shall refer to all other applicable federal statues, regulations and Commission directives pertaining to information technology safeguards. Applicable Commission directives include:

0730.1 – Records Management Program
0750.1 – Automated Information Systems Security Program
0760.1 – Security Regulations for Information Protection
0780.0 – CPSC Software Management Policy

(3) Coordinate with the SAOP to assess the impact of technology on the privacy of personal information.

19. PRIVACY ACT TRAINING. All systems of records managers, employees, and contractors who regularly work with records containing personal information shall be instructed on the pertinent rules and requirements of the Act.

a. Training Responsibilities of the SAOP. The SAOP shall ensure that all employees and contractors, particularly systems managers and employees responsible for or who regularly work with records containing personal information will receive training in the appropriate requirements of the Act, OMB Circular A-130, 16 C.F.R. § 1014, and this Order. Training must adequately inform all employees of their responsibilities under this Order for handling or maintaining personal information and the criminal and civil sanctions enumerated under section 20.

b. Training Responsibilities of System Managers. Systems managers are responsible for on-the-job training of employees and assigned contractors in the specific requirements of a system of records related to their jobs.

20. CRIMINAL AND CIVIL SANCTIONS.

a. Criminal Penalties.

(1) For Knowing and Willful Disclosure. Any officer or employee of an agency, who by virtue of his/her employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than $5,000.

(2) For Not Meeting Notice Requirements. Any officer or employee of the Commission who willfully maintains a system of records without meeting the notice requirements set out in section 12 of this Order shall be guilty of a misdemeanor and subject to a fine of up to $5,000.

b. Civil Remedies.

Whenever the Commission--

(1) Makes a determination under subsection (d) (3) of the Act not to amend an individual's record in accordance with his request, or fails to make such review in conformity with that subsection;

(2) Refuses to comply with an individual request under subsection (d) (1) of the Act;

(3) Fails to maintain any record concerning any individual with such accuracy, relevance, timeliness, and completeness as is necessary to assure fairness in any determination relating to the qualifications, character, rights, or opportunities of, or benefits to the individual that may be made on the basis of such record, and consequently a determination is made which is adverse to the individual; or

(4) Fails to comply with any other provision of this section, or any rule promulgated thereunder, in such a way as to have an adverse effect on an individual, the individual may bring a civil action against the agency, and the district courts of the United States shall have jurisdiction in the matters under the provisions of this subsection.

21. RESPONSIBILITIES OF THE CHIEF INFORMATION OFFICER.

a. The Assistant Executive Director, Office of Information and Technology Services is the Commission's CIO. It is the responsibility of the CIO to carry out the Commission's information management and information technology activities.

b. Section 9.a.(4) of OMB Circular A-130, requires that the CIO shall monitor agency compliance with the policies, procedures, and guidance of the Circular including its Appendix I, Federal Agency Responsibilities for Maintaining Records About Individuals. Acting as an ombudsman, the CIO shall consider alleged instances of agency failure to comply with the Circular and recommend or take corrective action as appropriate. The CIO shall report annually, not later than February 1st of each year, to the Director, Office of Management and Budget, those instances of alleged failure to comply with the Circular and their resolution.

22. OPERATIONAL REVIEWS.

a. In order that the Chairman can report to the Director, OMB, the results of reviews and corrective actions taken, as required by Section 3.a. of Appendix I to OMB Circular A-130, the Office of Financial Management, Planning and Evaluation shall conduct the following operational reviews:

(1) Section (m) Contracts. Review biennially an appropriate sample of Commission contracts that provide for the maintenance of a system of records in order to ensure that the wording of each contract makes the provisions of the Act binding on the contractor and its employees.

(2) Recordkeeping Practices. Review biennially agency recordkeeping and disposal policies and practices in order to assure compliance with the Act, paying particular attention to the maintenance of automated records.

(3) Routine Use Disclosures. Review routine use disclosures of each

system of records every four years to ensure that the recipient's use of such records continues to be compatible with the purpose for which the disclosing agency collected the information.

(4) Exemption of Systems of Records. Review every four years each system of records for which the agency has promulgated exemption rules, as indicated in section 14.a.1 of this Order, to determine whether such exemption is still needed.

(5) Matching Programs. Review annually each ongoing matching program in which the agency has participated during the year, if any, in order to ensure that the requirements of the Act, the OMB guidance, and section 14.e. of this Order have been met.

(6) Privacy Act Training. Review biennially agency training practices in order to ensure that all agency personnel are familiar with the requirements of the Act, with 16 C.F.R. § 1014 and this Order, and with any special requirements of their specific jobs as required under section 19.

(7) Violations. Review biennially the actions of agency personnel that have resulted either in the agency being found civilly liable under Section (g) of the Act, or an employee being found criminally liable under the provisions of Section (i) of the Act, in order to determine the extent of the problem, and to find the most effective way to prevent recurrence of the problem. In conducting these reviews the annual report required by section 13 of this Order shall be considered.

(8) Systems of Records Notices. Review biennially each system of records notice to ensure that it accurately describes the system of records. Where minor changes are needed, e.g., the name of the system manager, ensure that an amended notice is published in the Federal Register. Agencies may choose to make one annual comprehensive publication consolidating such minor changes. This requirement is distinguished from and in addition to the requirement to report to OMB and Congress significant changes to systems of records and to publish those changes in the Federal Register (Consult section 12 of this Order).

23. GOVERNMENT-WIDE SYSTEMS OF RECORDS. Certain agencies publish systems of records containing records for which they have Government-wide responsibilities. These records may be located within and be under the control of the Commission, but they are being maintained and used under the authority of and in conformance with the rules mandated by the publishing agency. The Office of Personnel Management, for example, has published a number of Government-wide systems of records relating to the operation of the Government's personnel program. Though in the physical custody of the Commission, the publishing agency retains authority under its record management authority and under the Privacy Act to decide

appeals of initial agency determinations regarding access to and amendment of materials in these systems. Appendix II of this Order contains a listing of such Government-wide Systems of Records and includes procedures for an employee to request access to those non-exempt records about himself or herself that are under the control of and located at the Commission.

Patricia Semple Executive Director	Date

APPENDICES

APPENDIX I Notices of Commission Privacy Act Systems of Records

APPENDIX II Government-wide Privacy Act Systems of Records

Appendix 1 – Notices of CPSC Systems of Record

Privacy Act Notices As of May 29, 2008

CONSUMER PRODUCT SAFETY COMMISSION

Table of Contents

CPSC-1

System name:
CPSC-1, Injury Investigation Files

System location:
For computer records:
Consumer Product Safety Commission
Directorate for Epidemiology
4330 East West Highway
Bethesda, MD 20814

For paper records:
Consumer Product Safety Commission
National Injury Information Clearinghouse
4330 East West Highway

Bethesda, MD 20814

Categories of individuals covered by the system:
Victims of consumer product-related incidents or injuries on which specific epidemiological data is needed in order to analyze and correct product hazards.

Categories of records in the system:
These records contain demographic data on the person involved in an incident or injury, location of the incident, data on the incident, product and manufacturer identification, and a narrative description of the incident. They may also contain photographs and other documents relevant to the incident.

Authority for maintenance of the system:
15 U.S.C. 2054.

Purpose(s):
Records are used to support CPSC staff work in analyzing the incidence, severity, and causes of consumer product related injuries.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:
1. Records are used as a compilation of statistical and other information on product-related injuries to support CPSC staff work in analyzing the incidence and severity of product related injuries and to respond to Congressional inquiries and requests for information from private individuals and private and public organizations.
2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
3. Records may be provided to another Federal, State or local agency or authority engaged in activities relating to health, safety or consumer protection in accordance with Page 2.section 29(e) of the Consumer Product Safety Act.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:
Records are maintained as coded data and computer images on computer storage media. The original hard copy of investigation reports is maintained by the National Injury Information Clearinghouse, Office of Information Services, in file folders and as computer images. Hard copies are retired to the Washington National Records Center, Suitland, Maryland.

Retrievability:
Records are retrievable by a coded number that indicates the date of assignment of the investigation, the Commission unit requesting the report, and a sequential number assigned to the investigation. Records are also retrievable by product category.

Safeguards:
Confidentiality of the identity of the accident victim and attending physician are guaranteed by the Consumer Product Safety Act, section 25(c) (15 U.S.C. 2074(c)) and, therefore, names do not appear in the coded computer record and can not used for retrieval. Hard copies and computer images of investigation reports are redacted as necessary to remove identifying information before they are disclosed outside the Commission.

Retention and disposal:
Hard copy records are maintained for a period of up to 10 years on-site, subject to change in Commission policy. They are then sent to the Washington National Records Center in Suitland, Maryland and destroyed after 30 years. Computer records are maintained indefinitely.

System manager(s) and address:
Director, National Injury Information Clearinghouse
Office of Information Services
Consumer Product Safety Commission
Washington, DC 20207

.Notification procedure:
Freedom of Information/Privacy Act Officer
Office of the Secretary
Consumer Product Safety Commission
Washington, DC 20207

Record access procedures:
Same as notification.

Contesting record procedures:
Same as notification.

Record source categories:
Information is provided by victims and their families, witnesses, public safety and law enforcement agencies, and others having knowledge of circumstances of incidents or injuries.

CPSC-2

System name:
CPSC-2, Advisory Committee Records

System location:

Consumer Product Safety Commission
Directorate for Epidemiology
4330 East West Highway
Bethesda, MD 20814

Categories of individuals covered by the system:
Individuals seeking or nominated for or selected for membership on CPSC Advisory Committees.

Categories of records in the system:
Records of applicants contain an individual's name, address, personal history and qualifications, any correspondence with the individual and any Commission memoranda Page 4.relating to the selection of the individual. Records of members additionally contain information about the member's financial compensation and Commission documents relating to the individual's service as a member.

Authority for maintenance of the system:
15 U.S.C. 2077 and 15 U.S.C 1275.

Purpose(s):
These records are used to select candidates for filling vacancies on advisory committees and to administer the operation of the committees.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:
Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Disclosure to consumer reporting agencies:
Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:
Records are maintained in hard copy.

Retrievability: Records are indexed alphabetically by name of committee and then by name of applicant or member.

Safeguards: Records are maintained in file cabinets in a secured area.

Retention and disposal:
Applicants' and nominees' records are retained until new applications are solicited or committee is terminated and then destroyed. Members' records are retained for 2 years after termination of membership and then destroyed.

System manager(s) and address:
Committee Management Officer
Directorate for Epidemiology and Health Sciences
Consumer Product Safety Commission
Washington, DC 20207

Notification procedure:
Freedom of Information/Privacy Act Officer
Office of the Secretary
Consumer Product Safety Commission
Washington, DC 20207

Record access procedures:
Same as notification.

Contesting record procedures:
Same as notification.

Record source categories:
Information is provided by applicants, nominees for, and members of Advisory Committees and by Commission staff.

CPSC-3

System name:
CPSC-3, Claims

System location:
Consumer Product Safety Commission
Office of the General Counsel
4430 East West Highway
Bethesda, MD 20814

Categories of individuals covered by the system:
CPSC employees sustaining personal property damage or loss incident to service; CPSC employees involved in situations where personal injury or property damage to others results from wrongful or negligent act or omission of employee acting within scope of employment; claimants sustaining injury or property damage due to activities of CPSC or its employees.

Categories of records in the system:

These records contain claims for money damages, accident and investigative reports, and correspondence and other documents concerning claims or potential claims.

Authority for maintenance of the system:
31 U.S.C. 3721; 28 U.S.C. 1346(b), 2672.

Purpose(s):
(a) For processing claims and litigation under the Federal Tort Claims Act or the Military Personnel and Civilian Employee's Claims Act; (b) For preparation of reports.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:
1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. Information from a record in this system of records may be disclosed to a person or entity having a legal interest in the claim.
3. Information may be disclosed to Federal, state, or local law authorities, court authorities, administrative authorities, for use in connection with civil, criminal, administrative, and regulatory proceedings and actions relating to the claim.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:
Records are maintained in hard copy.

Retrievability:
Records are indexed alphabetically by name of individual claimant.

Safeguards:
Records are maintained in a file cabinet in a secured area. Access to such area is limited to those persons whose official duties require such access.

Retention and disposal:
Records are retained up to six years after case is closed. Disposal is by normal procedures.

System manager(s) and address:
General Counsel
Consumer Product Safety Commission
Washington, DC 20207

Notification procedure:
Freedom of Information/Privacy Act Officer
Office of the Secretary
Consumer Product Safety Commission

Washington, DC 20207

Record access procedures:
Same as notification.

Contesting record procedures:
Same as notification.

.Record source categories:
Information is provided by (1) the individual to whom the record pertains (2) CPSC and/or its employees (3) affidavits, statements, or testimony of witnesses (4) official documents relating to the claim (5) correspondence from organizations or persons involved.

CPSC-4

System name:
CPSC-4, Hotline Database

System location:
Consumer Product Safety Commission
Office of Information Systems
4330 East West Highway
Bethesda, MD 20814

Categories of individuals covered by the system:
Persons who contact the Consumer Product Safety Commission to report consumer product associated injuries, illnesses, deaths, incidents, or perceived hazards associated with consumer products, or request information about such matters; and other persons identified by the reporting persons as victims of consumer product associated incidents.

Categories of records in the system:
Information about accidents, injuries, illnesses, deaths, and suspected safety hazards associated with consumer products. The records contain free form narratives, and a variety of fields dedicated to specific data about different types of products or incidents. Records contain personal information such as the name, address, and telephone number of the person submitting the information and in some cases of the victim, if different.

Authority for maintenance of the system:
Section 5 of the Consumer Product Safety Act, 15 U.S.C. 2054.

Purpose(s):
To collect data on hazards, defects, injuries, illnesses, and deaths associated with consumer products; to respond to inquiries from the public; to record personal information to permit further interaction with persons submitting data or persons named

by those who submit data; to further public safety by helping determine the cause of injuries and deaths associated with consumer products.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:
1. Records are disclosed to contractor personnel who operate the Consumer Product Safety Commission's Hotline and who enter data into the database.
2. Copies of records are mailed to callers for their verification of the information provided.
3. Copies of records may be sent to sources of consumer products identified in the records (e.g., manufacturers, distributors, or retailers) and may be distributed to others, but any personal identifying information is deleted before such disclosure unless permission to disclose such personal identifying information has been explicitly granted in writing by the person in question.
4. Copies of records may be sent to other governmental agencies having apparent jurisdiction over the products or hazards disclosed in a record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:
Records are maintained by a computer database management system on a local and wide area network. Paper copies of individual computer records are made by the Hotline staff and are stored by month and by name of the person who contacted the Hotline. Other paper copies are made available to Commission staff but are not stored by name or other individual identifier.

Retrievability:
Records are retrievable by a variety of fields, including the name of the person who submitted the information.

Safeguards:
Access to the computer records requires the use of two passwords: one to access the agency's computer network and another to access the database. Access is limited to those with a particular need to know the information — selected Commission employees and the contractor employees who operate the Hotline.

Retention and disposal:
Computer records are maintained indefinitely. Paper records are kept for 10 years and then transferred to a Federal Records Center.

System manager(s) and address:
Hotline Project Officer
Communication Services Division
Office of Information Services
Consumer Product Safety Commission

Washington, DC 20207.

Notification procedure:
Freedom of Information/Privacy Act Officer
Office of the Secretary
Consumer Product Safety Commission
Washington, DC 20207.

Record access procedures:
Same as notification.

Contesting record procedures:
Same as notification.

Record source categories:
Information in these records is initially supplied by persons who contact the Commission. The Commission may solicit additional or verifying information from those persons or from other persons who were identified as victims.

CPSC-5

System name:
CPSC-5, Commissioners' Biographies

System location:
Consumer Product Safety Commission
Office of Information and Public Affairs
4330 East West Highway
Bethesda, MD 20814

Categories of individuals covered by the system:
CPSC Commissioners who have submitted biographical information.

Categories of records in the system:
This record contains a brief statement of information relating to educational and professional background and present position and responsibilities within the Commission.

Authority for maintenance of the system:
15 U.S.C. 2051-83.

Purpose(s):
This information is furnished to the public media, including the Internet, in connection with Commissioners' activities and Commissioners' participation in conferences, meetings and other functions.

Routine uses of records maintained in the system, including categories of users and

the purposes of such uses:
Disclosure may be made to anyone who makes a request.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:
Records are maintained in hard copy.

Retrievability:
Records are indexed alphabetically by name of the Commissioner.

Safeguards:
Records are maintained in secured areas.

Retention and disposal:
Records are maintained until the Commissioner leaves the agency. Disposal is by normal methods.

System manager(s) and address:
Director, Office of Information and Public Affairs
Consumer Product Safety Commission
Washington, DC 20207

Notification procedure:
Freedom of Information/Privacy Act Officer
Office of the Secretary
Consumer Product Safety Commission
Washington, DC 20207

Record access procedures:
Same as notification.

Contesting record procedures:
Same as notification.

Record source categories:
Information in this record is furnished by the employee to whom it pertains.

CPSC-6

System name:
CPSC-6, Office of the Inspector General Investigative Files

System location:
Office of the Inspector General
Consumer Product Safety Commission,

4330 East West Highway
Bethesda, MD 20814

Categories of individuals covered by the system:
Individuals who are or have been the subject of an Office of the Inspector General investigation relating to the programs and operations of the Commission including, but not limited to, current and former employees, contractor or subcontractor personnel, as well as other individuals whose actions affect the Commission, its programs, or its operations.

Categories of records in the system:
All records relevant to an Inspector General investigation including correspondence; internal staff memoranda; copies of subpoenas issued during the investigation; affidavits, statements from witnesses, transcripts of any testimony taken in the investigation and accompanying exhibits; documents and records obtained during the investigation; interview notes and working papers of the Office of the Inspector General's staff; opening reports, progress reports, and final reports containing findings and recommendations of appropriate action; and other investigatory information or data relating to alleged or suspected criminal, civil, or administrative violations or similar wrongdoing by subject individuals

.

Authority for maintenance of the system:
Inspector General Act of 1978, as amended, 5 U.S.C. App.

Purpose(s):
This system is maintained for the purposes of conducting and documenting investigations conducted by the Office of the Inspector General, or other investigative agencies assisting the Office of the Inspector General, regarding CPSC personnel, programs, and operations; documenting the outcome of Inspector General reviews of allegations and complaints received by the Office of the Inspector General concerning CPSC personnel, programs, and operations; aiding in the prosecution or imposition of criminal, civil, or administrative sanctions against subjects of Inspector General investigations; reporting the results of investigations to the Chairman of the Commission and CPSC managers for their use in operating and evaluating their programs; and compiling information necessary to fulfill any reporting requirements by the Inspector
Page 14.General Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:
Information in the system may be disclosed:
1. To an appropriate governmental agency, whether federal, state, or local, where there is an indication of a violation or a potential violation of law, regulation, or order, whether civil or criminal in nature, which that agency is charged with investigating or enforcing.
2. To federal, state, or local governmental authorities in order to obtain

information or records relevant to an Inspector General investigation.
3. To federal, state or local governmental authorities maintaining civil, criminal, or other relevant information, such as current licenses, to obtain information relevant to a Commission decision concerning the hiring or retention of an employee, the issuance of a security clearance, the award of a contract, or the issuance of a grant or other benefit.
4. To federal, state, or local governmental authorities in response to their request in connection with the hiring or retention of an employee, disciplinary or other administrative action concerning an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the award of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision in the matter.
5. To non-governmental parties where those parties may have information the Office of the Inspector General seeks to obtain in connection with an investigation.
6. To independent auditors or other private firms with which the Office of the Inspector General has contracted to carry out an independent audit or investigation, or to collate, aggregate, or otherwise refine data collected in the system of records. These contractors will be required to maintain Privacy Act safeguards with respect to such records.
7. To the Office of the General Counsel of the Commission, the Department of Justice, or other law enforcement authorities, for disclosure by such parties to extent relevant and necessary, when the defendant in litigation is:
a. the Commission, any component of the Commission, or any employee of the Commission acting in his or her official capacity;
b. the United States where the litigation, if successful, is likely to affect the operations of the Commission; or
c. any Commission employee sued in his or her individual capacity where the Department of Justice and/or the Office of the General Counsel of the Commission agree to represent such employee.
8. To a court or adjudicative body where the Commission is a party to the litigation or has an interest in such litigation, the records are relevant and necessary to the litigation, and disclosure of the records is compatible with the purpose for which the records were collected.
9. To a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual, but only to the extent the record would be legally accessible to that individual.
10. To other Commission employees in the course of employee disciplinary proceedings.
11. To the Department of the Treasury or debt collection agencies for the purpose of collecting delinquent debts owed to the Commission, as authorized by the Debt Collection Act, 31 U.S.C. 3718, and subject to applicable Privacy Act safeguards.
12. To the Office of Personnel Management, the Office of Government Ethics, the Merit Systems Protection Board, the Office of the Special Counsel, the Equal Employment Opportunity Commission, or the Federal Labor Relations Authority or its General Counsel, those records or portions thereof which are relevant and necessary to carrying out their authorized functions.
13. To any direct recipient of federal funds, such as a contractor, where

information in a record reflects serious inadequacies by the recipient's personnel and disclosure of the record is for purpose of permitting the recipient to take corrective action beneficial to the Government.
14. To a grand jury pursuant either to a federal or state grand jury subpoena, or to a prosecution request that such record be released for the purpose of its introduction to a grand jury, where the subpoena or request has been specifically approved by a court.

Disclosure to consumer reporting agencies:
Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:
Records are maintained in hard copy or on computer diskettes.

Retrievability:
The records are retrieved by the name of the subject of the investigation or by a unique control number assigned to each investigation.

Safeguards:
These records are available only to those persons whose official duties require such access. Paper records and computer diskettes are kept in limited access areas during duty hours and in safe-type file cabinets in locked offices at all other times. Highly sensitive records are created on a personal computer, stored on paper or diskettes, and then deleted from computer storage. Less sensitive records may be created and stored in password-protected computer files.

Retention and disposal:
The Investigative Files are kept indefinitely.

System manager(s) and address:
Inspector General
Office of the Inspector General
Consumer Product Safety Commission
Washington, DC 20207

Notification procedure:
Freedom of Information/Privacy Act Officer
Office of the Secretary
Consumer Product Safety Commission,
Washington, DC 20207

Record access procedures:

Same as notification.

Contesting record procedures:
Same as notification.

Record source categories:
Information is supplied by: individuals including, where practicable, those to whom the information relates; witnesses, corporations and other entities; records of individuals and of the Commission; records of other entities such as federal, foreign, state or local bodies and law enforcement agencies; documents; correspondence relating to litigation; transcripts of testimony; and miscellaneous other sources.

Systems exempted from certain provisions of the act:
All portions of this system of records which fall within 5 U.S.C. 552a(k)(2) (investigatory materials compiled for law enforcement purposes) and 5 U.S.C. 552a(k)(5) (investigatory materials solely compiled for suitability determinations) are exempt from 5 U.S.C. 552a(c)(3), (mandatory accounting of disclosures); 5 U.S.C. 552a(d), (access by individuals to records that pertain to them); 5 U.S.C. 552a(e)(1), (requirement to maintain only such information as is relevant and necessary to accomplish an authorized agency purpose); 5 U.S.C. 552a(e)(4)(G), (mandatory procedures to notify individuals of the existence of records pertaining to them); 5 U.S.C. 552a(e)(4)(H), (mandatory procedures to notify individuals how they can obtain access to and contest records pertaining to them); 5 U.S.C. 552a(e)(4)(I), (mandatory disclosure of record source categories); and the Commission's regulations in 16 CFR Part 1014 which implement these statutory provisions.

CPSC-7

System name:
CPSC-7, Enforcement and Investigation Files

System location:
Office of Compliance, and
Office of the General Counsel
Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814

Categories of individuals covered by the system:
Individuals who are the authors or recipients of, or mentioned in, documents received by, or generated by, the Consumer Product Safety Commission in preparation for, or the conduct of, potential or actual administrative or judicial enforcement actions, and individuals mentioned in such documents.

Categories of records in the system:
Memoranda, correspondence, test reports, injury reports, notes, and any other

documents relating to the preparation for, or conduct of, potential or actual administrative or judicial enforcement actions. The materials may contain personal information as well as purely legal and technical information.

Authority for maintenance of the system:
15 U.S.C. 1194, 1195, 1196, 1264, 1265, 2069, 2070.

Purpose(s):
These files are used by Commission attorneys, compliance officers, and supporting technical staff investigating product hazards and enforcing the Commission's statutory authority.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:
1. These records may be cited and quoted in the course of enforcement negotiations, and in pleadings filed with an adjudicative body and served on opposing counsel.
2. They may be disclosed to the Department of Justice in connection with the conduct of litigation.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:
Records are stored in file folders or computer files or both.

Retrievability:
Paper records may be filed by and retrievable by name of the document's author or addressee or by other indicia. Computer records are indexed by, and retrievable by the names and other indicia of authors and addressees, and may permit retrieval by names elsewhere in documents.

Safeguards:
Paper records are kept in secure areas. Computer records are protected by passwords available only to staff with a need to know.

Retention and disposal:
Records are kept indefinitely.

System manager(s) and address:
General Counsel; Director, Office of Compliance
Consumer Product Safety Commission
Washington, DC 20207

Notification procedure:
Freedom of Information/Privacy Act Officer
Consumer Product Safety Commission, Washington, DC 20207

Record access procedures:
Same as notification.

Contesting record procedures:
Same as notification.

Record source categories:
These records come from organizations and individuals under investigation; from Commission attorneys, compliance officers, investigators, and supporting technical staff; and from other sources of information relevant to an investigation or adjudication.

Systems exempted from certain provisions of the act:
All portions of this system of records which fall within 5 U.S.C. 552a(k)(2) (investigatory materials compiled for law enforcement purposes) are exempt from 5 U.S.C. 552a(c)(3), (mandatory accounting of disclosures); 5 U.S.C. 552a(d), (access by individuals to records that pertain to them); 5 U.S.C. 552a(e)(1), (requirement to maintain only such information as is relevant and necessary to accomplish an authorized agency purpose); 5 U.S.C. 552a(e)(4)(G), (mandatory procedures to notify individuals of the existence of records pertaining to them); 5 U.S.C. 552a(e)(4)(H), (mandatory procedures to notify individuals how they can obtain access to and contest records pertaining to them); and 5 U.S.C. 552a(e)(4)(I), (mandatory disclosure of record source categories); as well as the Commission's regulations in 16 CFR Part 1014 which implement these statutory provisions.

CPSC-8

System name:
Page 20.CPSC-8, Integrated Field System

System location:
Directorate for Field Operations
Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814

Categories of individuals covered by the system:
Employees and persons signing affidavits related to items acquired for testing or evidentiary purposes by the Commission.

Categories of records in the system:
These records contain data regarding inspections, accident investigations, recall effectiveness checks, and the collection and custody of product samples for testing or evidentiary purposes. These records contain task assignments made to field personnel, the names of the designated personnel and their supervisors, initial target completion dates, revised target completion dates, and actual completion dates.

Authority for maintenance of the system:
15 U.S.C. 2053, 2076(f).

Purpose(s):
The Directorate of Field Operations and the Office of Compliance use this system to manage their operations and document the results of their investigatory activities for potential enforcement action by the Commission. The system is accessed and used in the field by supervisors, investigators, and compliance officers, and at headquarters by compliance officers, attorneys, and managers. It is used to monitor staff workloads and may be used to evaluate staff performance. Statistical compilations from these records may be used in reports to Congress or the press.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:
None.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:
These records are stored in a computer database system. Users of the system may make printouts of selected portions of the records from time to time.

Retrievability:
Information may be retrieved by any field, including personal name or identifiers, by authorized headquarters and field staff.

Safeguards:
Access to the computer records requires two separate passwords, one for the network on which the database resides and one for the database itself. Paper records are kept in secure locations.

Retention and disposal:
Records are kept indefinitely.

System manager(s) and address:
Deputy Executive Director
Directorate for Field Operations
Consumer Product Safety Commission
Washington, DC 20207

Notification procedure:
Freedom of Information/Privacy Act Officer
Office of the Secretary
Consumer Product Safety Commission
Washington, DC 20207

Record access procedures:
Same as notification.

Contesting record procedures:
Same as notification.

Record source categories:
Information comes primarily from field staff and their supervisors.

CPSC-9

System name:
CPSC-9, General Counsel Tracking System

System location:
Office of the General Counsel
Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814

Categories of individuals covered by the system:
Attorneys working in the Office of the General Counsel.

Categories of records in the system:
Descriptions and dates of assignments; comments; starting and completion dates; due dates; names of attorneys to whom assignments are given; names of divisions within the Office of the General Counsel.

Authority for maintenance of the system:
44 U.S.C. 3101; 15 U.S.C. 2051 et seq.; 16 CFR 1000.14.

Purpose(s):
To manage the workflow in the Office of the General Counsel; to assure timely completion of assignments; to respond to queries from other units of the Consumer Product Safety Commission; to assist in evaluating attorney performance.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:
None.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records are maintained by a computer database management system. Hard copy printouts of selected groups of records are made from time to time.

Retrievability:
Records are retrievable by any field, including attorney name.

Safeguards:
Access to the records, and to fields within the records, is controlled by passwords. Records are accessible by all Office of the General Counsel staff, but not by others. Only supervisory staff may create records, assign or extend due dates, or enter completion dates.

Retention and disposal:
Old records are purged from time to time, based on need for computer storage space.

System manager(s) and address:
General Counsel
Consumer Product Safety Commission
Washington, DC 20207

Notification procedure:
Freedom of Information/Privacy Act Office
Office of the Secretary
Consumer Product Safety Commission,
Washington, DC 20207

.Record access procedures:
Same as notification.

Contesting record procedures:
Same as notification.

Record source categories:
Information in these records is supplied by the attorneys themselves and by supervisors.

CPSC-10

System name:
CPSC-10, Procurement Files

System location:
Division of Procurement Services
Consumer Product Safety Commission
4330 East West Highway

Bethesda, MD 20814

Categories of individuals covered by the system:
Individuals who sell goods or services to the Consumer Product Safety Commission.

Categories of records in the system:
Contracts, proposals, purchase orders, correspondence and other documents related to specific procurements from individuals. These records may include social security number, home address, home telephone number, and sometimes other personal data. Documents related to procurements from corporations, partnerships, or other such business entities are not included in this system of records.

Authority for maintenance of the system:
15 U.S.C. 2076.

Purpose(s):
These records support all facets of the Commission's procurement activities.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:
1. To the U.S. Department of Justice when related to litigation or anticipated litigation.
2. To the appropriate Federal, State, or local investigation or enforcement agency when there is an indication of a violation or potential violation of statute or regulation in connection with a procurement.
3. To a Congressional office in response to an inquiry made at the request of the individual who is the subject of the record.
4. To the General Accounting Office in the event of a procurement protest involving the individual.
5. To the General Services Administration Board of Contract Appeals in the event of a contract claim or dispute involving the individual.

Disclosure to consumer reporting agencies:
Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit

Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:
Records are stored in file folders. Extracts of these records, including social security number, address, and phone number, are also kept in a computer database.

Retrievability:

Records are retrieved from the computer database by personal name, contract number, and other fields. Paper records are retrieved by contract number, which may be retrieved by first searching for the personal name in the computer database.

Safeguards:
Paper records are stored in locked cabinets in a secure area. Computer records are accessible only through the use of two separate passwords, which are issued to those with a need to know.

Retention and disposal:
Computer records are kept indefinitely. Paper records are destroyed 6 years and 3 months after final payment.

System manager(s) and address:
Director, Division of Procurement Services
Consumer Product Safety Commission
Washington, DC 20207

Notification procedure:
Freedom of Information/Privacy Act Officer
Office of the Secretary
Consumer Product Safety Commission
Washington, DC 20207

Record access procedures:
Same as notification.

Contesting record procedures:
Same as notification.

Record source categories:
Personal information in these records is normally obtained from the person to whom the records pertains, but other information may be obtained from references or past performance reports.

CPSC-11

System name:
Page 27.CPSC-11, Physical Security Records

System location:
Directorate for Administration
Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814

Categories of individuals covered by the system:
Employees, contractors, and others who have received uniquely coded tokens (key

cards, key fobs, etc.) to gain access to various parts of Commission facilities.

Categories of records in the system:
Records which show the time a token has been used; the identity of the token and, therefore, of the person to whom it is assigned; the location at which it has been used; and the access privileges of the person to whom it is assigned.

Authority for maintenance of the system:
5 U.S.C. 301

Purpose(s):
These records may be used to investigate breaches of security, theft, vandalism, other property losses, criminal offenses, and employee misconduct.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:
These records may be disclosed:
1. To a law enforcement agency when the Commission becomes aware of an indication of a violation of civil or criminal law or regulation to which these records may be pertinent.
2. To the Department of Justice, a court or other tribunal (including an adjudicative or administrative body), or other third-party before such tribunal when the Commission determines that the use of these records by the entity is relevant and necessary to litigation involving the Commission or a Commission employee or former employee.
3. To an employee, an employee's attorney or other representative designated by the employee, when the Commission questions the employee's conduct based at least in part on information from this system of records.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:
These records are stored in a central computer managed by a security services contractor. Printouts are stored in locked file cabinets.

Retrievability:
These records can be retrieved by time period, location(s), the unique identifier of a person's token, or a combination of these.

Safeguards:
These records are kept in a secure computer facility and can be retrieved only by the Commission's Physical Security Manager or designee upon request of a senior Commission official or a law enforcement officer. Printouts are stored in locked file cabinets.

Retention and disposal:
These records are kept one year from the date of creation.

System manager(s) and address:
Physical Security Manager
Directorate for Administration
Consumer Product Safety Commission
Washington, DC 20207

Notification procedure:
Freedom of Information/Privacy Act Officer
Office of the Secretary
Consumer Product Safety Commission
Washington, DC 20207

.Record access procedures:
Same as notification.

Contesting record procedures:
Same as notification

Record source categories:
These records are automatically generated when a token is passed through or across an electronic reading device.

CPSC-12

System name:
CPSC-12, Employee Outside Activity Notices

System location:
Office of the General Counsel
Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814

Categories of individuals covered by the system:
Commission employees engaged in outside employment activities or outside activities such as consultative services, practice of law, or teaching.

Categories of records in the system:
This system of records contains information concerning the employee's position, nature of outside activity, relation of official duties to activity, and method of compensation for outside activity.

Authority for maintenance of the system:
Executive Order 12674; 5 CFR part 2635, subpart H; and 5 CFR part 8101.

Purpose(s):
Information in these records is used by the Ethics Counselor in making a determination as to whether an employee's outside activity constitutes a real or apparent conflict of interest with the employee's government duties and responsibilities.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:
Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:
Records are maintained on hard copy.

Retrievability:
Records are filed by employee name.

Safeguards:
Records are maintained in locked file cabinets.

Retention and disposal:
Records are maintained for four years after an employee terminates employment with agency. Disposal is by normal procedures.

System manager(s) and address:
Designated Agency Ethics Official (General Counsel)
Consumer Product Safety Commission
Washington, DC 20207

Notification procedure:
Freedom of Information/Privacy Act Officer
Office of the Secretary
Consumer Product Safety Commission
Washington, DC 20207

Record access procedures:
Same as notification.

Contesting record procedures:
Same as notification.

Record source categories:
The information in these records is furnished by the employees to whom it pertains.

CPSC-13

System name:
CPSC-13, Personnel Data System

System location:
Consumer Product Safety Commission
Director, Office of Human Resources Management and Director,
Division of Financial Services
4330 East West Highway
Bethesda, MD 20814
and the Headquarters unit or Regional Office to which an employee is assigned.
Regional Office addresses are listed at the end of Appendix I.

Categories of individuals covered by the system:
Employees and former employees of CPSC.

Categories of records in the system:
Records consist of payroll records, personnel security records, safety records, EEO records, and personnel records. In addition, the system contains data necessary to update the Central Personnel Data File at the Office of Personnel Management, to process personnel actions, to perform detailed accounting distributions, to automatically provide for such tasks as mailing checks and bonds, and to prepare and mail tax returns and reports. Records include, but are not limited to the following categories of records:
1. Employee identification and status data such as name, social security number, date of birth, sex, work schedule, type of appointment, education, veteran's preference, military service.
2. Relevant data such as service computation date for leave, date probationary period began, and date of performance rating.
3. Position and pay data such as pay plan, occupational series, grade, step, salary, merit pay, organization location.
4. Employment data such as position description, special employment program, and target occupational series and grade.
5. Payroll data such as time; attendance; leave; Federal, State, and local tax; allotments; savings bonds; and other pay allowances and deductions.
6. Personnel security data such as security clearance level and basis with dates.
7. Financial data pertaining to travel.
8. Information on debts owed to the government as a result of overpayment, refund owed, or a debt referred for collection by another agency.
9. Information, including address and social security number, on individual vendors to the Commission. This includes employees who receive reimbursements for expenses incurred.

Authority for maintenance of the system:
5 U.S.C. Part III, is the authority for the overall system. Specific authority for use

of Social Security numbers is contained in Executive Order 9397, 26 CFR 31.6011(b)(2), and 26 CFR 31.6109-1. The authority for the personnel security clearance and statistical records is contained in Executive Order 19450, April 27, 1953, as amended; Executive Order 12065, June 28, 1978; 31 U.S.C. 686; and 40 U.S.C. 318(a) through (d).

Purpose(s):
This system supports the day to day operating requirements associated with personnel oriented program areas from hiring employees and paying employees and vendors to calculating estimated retirement annuities. Payroll-related outputs include a comprehensive payroll; detailed accounting distribution of costs; leave data summary reports; an employee's statement of earnings, deductions and leave every payday for each employee; State, city, and local unemployment compensation reports; Federal, State, and local tax reports; W-2 wage and tax statements; and reports of withholdings and contributions. Personnel-related reports include automated personnel actions as well as organization rosters, retention registers, retirement calculations, reports of the Federal civilian employment, employee master record printouts, length of service lists, and listings of within-grade increases. These records are used to provide data for agency reports and internal workforce statistics and information regarding such matters as average grade, veteran and handicap employment, retention-standing, within-grade due dates, occupational groupings, geographic employment and others related to the operation of the personnel office.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:
Routine uses of records maintained in the system include:
1. Providing data to the Office of Personnel Management's Central Personnel Data File (CPDF).
2. Providing a copy of an employee's Department of the Treasury Form W-2, Wage and Tax Statement, to the State, city, or other local jurisdiction which is authorized to tax the employee's compensation. The record will be provided in accordance with a withholding agreement between the State, city, or other local jurisdiction and the Department of the Treasury pursuant to 5 U.S.C. 5516, 5517, and 5520.
3. Pursuant to a withholding agreement between a city and the Department of the Treasury (5 U.S.C. 5520), copies of executed tax withholding certificates shall be furnished the city in response to a written request from an appropriate city official to the Assistant Administrator for Plans, Programs, and Financial Management, General Services Administration (B), Washington, DC 20405.
4. To the extent necessary, records are available to Commission and outside government agencies to monitor and document grievance proceedings, EEO complaints, and adverse actions; and to provide reference to other agencies and persons for employees seeking employment elsewhere.
5. Some records or data elements in this system of records may also be in the Office of Personnel Management's government-wide system OPM/GOVT-1 and are subject to that system's routine uses.
6. To disclose, in response to a request for discovery or for appearance of a

witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.
7. The names, social security numbers, home addresses, dates of birth, quarterly earnings, employer identifying information, and State of hire of employees may be disclosed to the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services for the purpose of locating individuals to establish paternity, establishing and modifying orders of child support, identifying sources of income, and for other child support enforcement actions as required by the Personal Responsibility and Work Opportunity Reconciliation Act (Welfare Reform law, Pub. L. 104-193).

Disclosure to consumer reporting agencies:
Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:
Records are stored on paper in file folders and on computer magnetic media.

Retrievability:
Paper records are filed by name. Computer records are retrievable by any data element or combination of data elements.

Safeguards:
Paper records are stored in lockable metal cabinets or in secured rooms.
Password system protects access to the computerized records. Information is released only to authorized officials on a need-to know basis.

Retention and disposal: Payroll-related records are sent to storage two years after the end of the fiscal year to which they pertain. Personnel-related records are disposed of two years after termination of employment

System manager(s) and address:
For payroll-related records:
Director, Division of Financial Services
Consumer Product Safety Commission
Washington, DC 20207

For personnel-related records:
Director, Office of Human Resources Management
Consumer Product Safety Commission
Washington, DC 20207

Notification procedure:
Freedom of Information/Privacy Act Officer
Office of the Secretary
Consumer Product Safety Commission
Washington, DC 20207

Record access procedures:
Same as notification.

Contesting record procedures:
Same as notification.

Record source categories:
The individuals themselves, other employees, supervisors, other agencies' management officials, non-Federal sources such as private firms, and data from the systems of records OPM/GOVT-1 and EEOC/GOVT-1.

CPSC-14

System name:
CPSC-14, Corrective Actions and Sample Tracking System

System location:
Recalls and Compliance Division
Office of Compliance
Consumer Product Safety Commission,
4330 East West Highway
Bethesda, MD 20814

Categories of individuals covered by the system:
CPSC compliance officers and CPSC attorneys in the Office of Compliance; Regional Center compliance officers; contact persons for manufacturers, distributors, or retailers of potentially hazardous products.

Categories of records in the system:
There are two types of records in the system. The first type of record includes various kinds of abbreviated descriptive and status information about samples of consumer products collected as potential evidence of substantial product hazards. This kind of record identifies the compliance officer responsible for the sample, the name of the product, and the manufacturer of the product.
The second type of record includes management information about investigations opened to deal with potentially hazardous products, including the name and manufacturer, distributor, or retailer of the product, the compliance officer and attorney assigned to the case, the status and priority of the case, various dates which document the

progress of the case, and the corrective action taken.

Authority for maintenance of the system:
15 U.S.C. 2064; 16 CFR Parts 1115 and 1118.

Purpose(s):
15 U.S.C. 2064 authorizes the Consumer Product Safety Commission to order the manufacturer, distributor, or retailer of a consumer product to take corrective action whenever the Commission determines that the product creates a substantial risk of injury to the public. Where appropriate, the Commission may attempt to negotiate a voluntary agreement with a manufacturer, distributor, or retailer to take corrective action. The Commission's Recalls and Compliance Division uses this system of records to manage its substantial product hazard correction activities, from the receipt of information about a suspected product hazard, through the collection and evaluation of evidence, to ultimate resolution. It is also used to monitor staff workloads and evaluate staff performance.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:
None.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:
Records are maintained by a computer database management system. Hard copy printouts of all or selected groups of records are made from time to time.

Retrievability:
Records are retrievable by any field, including compliance officer and attorney name.

Safeguards:
Access to records and to fields within records, is controlled by passwords.
Records are accessible only by members of the Commission's Recalls and Compliance Division and Legal Division in the Office of Compliance and by Regional Center compliance officers. Only members of the Recalls and Compliance Division and a designated clerical person may enter data, other than a preliminary determination date and the file closing date, which can only be entered by supervisory personnel.

Retention and disposal:
Records are retained indefinitely.

System manager(s) and address:
Director, Recalls and Compliance Division
Office of Compliance
Consumer Product Safety Commission
Washington, DC 20207.

Notification procedure:
Freedom of Information/Privacy Act Officer
Office of the Secretary
Consumer Product Safety Commission
Washington, DC 20207.

Record access procedures:
Same as notification.

Contesting record procedures:
Same as notification.

Record source categories:
Information in these records is supplied by manufacturers, distributors, or retailers of consumer products, Commission compliance officers, Commission attorneys, and other Commission staff.

CPSC-15

System name:
CPSC-15, Employee Relations Files

System location:
Consumer Product Safety Commission
Office of Human Resources Management
4430 East West Highway
Bethesda, MD 20814

Categories of individuals covered by the system:
Current and former employees of the Consumer Product Safety Commission.

Categories of records in the system:
This system of records contains information or documents relating to: (1) disciplinary actions, complaints, grievances, potential adverse actions, and proposals, decisions, or determinations made by management relative to the foregoing;
The records consist of the notices to the individuals, records of resolutions of complaints, materials placed into the record to support the decision or determination, affidavits or statements.
(2) retirement records.

Authority for maintenance of the system:
5 U.S.C. 1302, 3301, 4308, 5115, 5338, 7151, 7301, 7701, 8347; Executive Orders 9830, 10987, 11222, 11478.

Purpose(s):
These records and information in the records may be used as a data source for management information for production of summary descriptive statistics and analytical

studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies; may also be utilized to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act or to locate specific individuals for personnel research or other personnel management functions.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. To respond to a request from a Member of Congress regarding the status of an appeal, complaint or grievance.
2. To provide information to the public on the decision of an appeal, complaint, or grievance required by the Freedom of Information Act.
3. To respond to a court subpoena and/or refer to a district court in connection with a civil suit.
4. To adjudicate or resolve an appeal, complaint, or grievance.
5. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether federal, state, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.
6. To request information from a federal, state or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, such as licenses, if necessary to obtain relevant information to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, or the issuance of a license, grant, or other benefit.
7. To provide information or disclose to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, or issuance of a license, grant or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision of that matter.
8. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
9. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

These records are maintained in file folders.

Retrievability:

These records are indexed by the names of the individuals on whom they are maintained .

Safeguards:

Records are located in a combination lock metal file cabinet and access is limited

to those persons whose official duties require such access.

Retention and disposal:
(1) For documents relating to disciplinary actions, complaints, grievances, and potential adverse actions, destroy 7 years after case is closed.
(2) For retirement records, transfer the records to the Office of Personnel Management after the employee retires, and retain copies for two years.

System manager(s) and address:
Chief, Labor and Employee Relations Branch
Office of Human Resources Management
Consumer Product Safety Commission
Washington, DC 20207

Notification procedure:
Freedom of Information/Privacy Act Officer
Office of the Secretary
Consumer Product Safety Commission
Washington, DC 20207

Record access procedures:
Same as notification.

Contesting record procedures:
Same as notification.

Record source categories:
Information in these records is furnished by: (1) Individual to whom the record pertains; (2) Agency officials; (3) Affidavits or statements from employee; (4) Testimonies of witnesses; (5) Official documents relating to appeal, grievance, or complaints; (6) Correspondence from specific organizations or persons.

CPSC-17

System name:
CPSC-17, Commissioned Officers Personal Data File

System location:
A complete record on every commissioned officer is maintained in the Regional Center to which the commissioned officer is assigned. Regional Center addresses are listed in Appendix I.

Categories of individuals covered by the system:
State employees commissioned as officers of CPSC.

Categories of records in the system:
The system contains documents related to the commissioning of the individual and personal data including name, social security number, date of birth, educational background, employment history, medical information, home address and phone number.

Authority for maintenance of the system:
Section 29(a)(2), Consumer Product Safety Act (15 U.S.C. 2078(a)(2)); E.O. 10450, sections 8(c), 9(a), 9(b); E.O. 10561.

Purpose(s):
1. Used by agency officials for purposes of review in connection with commissioning, and determination of qualifications for recommissioning of an individual.
2. To provide statistical reports to Congress, agencies and the public on characteristics of the Commissioned officer program.
3. As a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies; may also be utilized to respond to general requests for statistical information without personal identification of individuals. under the Freedom of Information Act or to locate specific individuals for personnel research or other personal management functions.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:
1. To provide information to a Federal or state agency, in response to its request, in connection with the hiring or retention of an employee, or other benefit by the requesting agency.
2. To request information from a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information if necessary to obtain information relevant to an agency decision concerning the commissioning or recommissioning of an individual.
3. Disclosure to a congressional office in response to an inquiry from the congressional office made at the request of the individual.

Disclosure to consumer reporting agencies:
Disclosures pursuant to 5 U.S.C. 552a(b)(12). Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:
Records are maintained in file folders.

Retrievability:
Records are indexed by state and by name.

Safeguards:
Records are located in lockable metal file cabinets or metal file cabinets in secured rooms with access limited to those whose official duties require access.

Retention and disposal:
The records are maintained and disposed of in accordance with Commission records management policies and procedures.

System manager(s) and address:
Regional Office Directors
Consumer Product Safety Commission
(Regional Office addresses are listed at the end of Appendix I)

Notification procedure:
Freedom of Information/Privacy Act Officer
Office of the Secretary
Consumer Product Safety Commission
Washington, DC 20207

Record access procedures:
Same as notification.

Contesting record procedures:
Same as notification.

Record source categories:
Information in these records comes either from the individual to whom it pertains or from agency officials, CPSC supervisors, or state officials.

CPSC-20

System name:
CPSC-20, Personnel Security File

System location:
Office of Human Resources Management
Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814

Categories of individuals covered by the system:
Employees of the Consumer Product Safety Commission, and applicants for employment with the Consumer Product Safety Commission.

Categories of records in the system:
Results of name checks, inquiries, and investigations furnished by the Office of Personnel Management to determine suitability for employment with, or continued employment by, the Consumer Product Safety Commission. Information in records may include date and place of birth, citizenship, marital status, military status, and social security status. These records contain investigative information regarding an individual's character, conduct, and behavior in the community where he or she lives or lived; arrests and convictions for any violations of law; information from present and former supervisors, co-workers, associates, educators; credit and National Agency checks; and other information developed from the above.

Authority for maintenance of the system:
Executive Order 10450; 5 U.S.C. 301.

Purpose(s):
The records in this system of records are used by the Director, Office of Human Resources and the Personnel Security Officer to determine whether the employment of an applicant, or retention of a current employee, is in the interest of the Commission and to determine whether to grant an employee access to non-public information or restricted areas.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:
1. To request from a federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information, data relevant to a Commission decision concerning the hiring or retention of an employee, the issuance of a security clearance to an employee, or other administrative action concerning an employee.
2. To the Office of Personnel Management in their role as an investigating agency, and in their role as the agency responsible for conducting a continuing assessment of agency compliance with federal personnel security and suitability program requirements.
3. To the Office of Personnel Management for use in other personnel matters.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:
Records are maintained in file folders.

Retrievability:
Records are indexed alphabetically by name.

Safeguards:
Records are maintained in a safe-type combination lock file cabinet in the custody of the Personnel Security Officer, Directorate for Administration. Access is limited to the Personnel Security Officer and the Director, Office of Human Resources Management.

Retention and disposal:
Records are maintained at the Consumer Product Safety Commission for at least two years from the date of any final decision placed in the record.

System manager(s) and address:
Chief, Labor and Employee Relations
Office of Human Resources
Consumer Product Safety Commission
Washington, DC 20207

Notification procedure:
Freedom of Information/Privacy Act Officer
Office of the Secretary,
Consumer Product Safety Commission
Washington, DC 20207.

Record access procedures:
Same as notification. The Freedom of Information/Privacy Act Officer will forward the request to the agency which conducted the investigation, which will make the final determination.

Contesting record procedures:
Same as access.

Record source categories:
Office of Personnel Management reports and reports from other federal agencies.

CPSC-23

System name:
CPSC-23, Equal Employment Opportunity (EEO) Disability/Accommodation Files

System location:
Office of Equal Employment Opportunity and Minority Enterprise
Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814

Categories of individuals covered by the system:
Individuals who initiate reasonable accommodation requests pursuant to Rehabilitation Act and Americans with Disabilities Act.

Categories of records in the system:

Correspondence and email requests for information submitted to the Commission regarding the request for reasonable accommodation, e.g., employee name, address, city, state, telephone number and other pertinent information related to their disability.

Authority for maintenance of the system:
Rehabilitation Act, 29 U.S.C. 794, and Americans with Disabilities Act, 42 U.S.C. 12101.

Purpose(s):
These records are used by Commission staff responding to a request for reasonable accommodation so that requests can be tracked, evaluated and responded to accurately and in a timely manner.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:
1. For the official use of those with a need to know. This may include the deciding official, the appellate authority, the Personnel Director, the Disability Program Manager, and the Office of the General Counsel.
2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
3. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:
Records will be maintained in hard copy in file folders or on computer disk/drive.

Retrievability:
Records will be indexed and retrieved by name.

Safeguards:
Records are maintained in locked files in a secured area and access is limited to those persons whose official duties require such access.

Retention and disposal:
Records are maintained for three years from date of final action and then destroyed.

System manager(s) and address:
Director, Office of Equal Employment Opportunity and Minority Enterprise, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.
Notification procedure:
Freedom of Information/Privacy Act Officer
Office of the Secretary

Consumer Product Safety Commission
Bethesda, MD 20814

Record access procedures:
Same as notification.

Contesting record procedures:
Same as notification.

Record source categories:
Information in these records is furnished by : (l) Individual to whom the record pertains; (2) Agency officials; (3) Affidavits or statements from employee; (4) Testimonies of witnesses; (5) Official documents relating to appeal, grievance, or complaints; (6) Correspondence from specific organizations or persons.

CPSC-24

System name:
CPSC-24, Respirator Program Medical Reports

System location:
Directorate for Administration
Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814

Categories of individuals covered by the system:
CPSC employees whose jobs may require them to wear respirators.

Categories of records in the system:
Medical reports indicating (a) approval or disapproval for an employee's use of respirators; (b) allowable level of exertion and any medical conditions relevant to the use of respirators; and (c) recommended interval until next medical evaluation.

Authority for maintenance of the system:
29 CFR 1910.134(b)(10).

Purpose(s):
These records are used to keep track of employees who are authorized to work in hazardous environments requiring the use of respirators and to schedule repeat medical examinations for those employees.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:
None.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of

records in the system:

Storage:
Records are maintained in hard copy.

Retrievability:
Records are retrieved by name of employee.

Safeguards:
Records are maintained in a combination lock safe-type filing cabinet.

Retention and disposal:
Records are maintained until termination of employment with CPSC.

System manager(s) and address:
Associate Executive Director for Administration
Consumer Product Safety Commission
Washington, DC 20207

Notification procedure:
Freedom of Information/Privacy Act Officer
Office of the Secretary
Consumer Product Safety Commission
Washington, DC 20207

Record access procedures:
Same as notification.

Contesting record procedures:
Same as notification.

Record source categories:
Information is provided by the medical facility performing the medical evaluations. The evaluation is based in part on information provided by the employee to the medical facility.

Regional Office Addresses

Central Regional Office, 230 S. Dearborn Street, Room 2944, Chicago, Illinois 60604-1601.

Eastern Regional Office, 201 Varick Street, New York, New York, 10014-4811.

Western Regional Office, 1301 Clay Street, Suite 610N, Oakland, California, 94617.

CPSC-25

System name:
CPSC-25, FOIA Express

System location:
Division of Information Management
Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814

Categories of individuals covered by the system:
Individuals who request information from the Consumer Product Safety Commission pursuant to the Freedom of Information Act or Privacy Act.

Categories of records in the system:
Correspondence and email requests for information submitted to the Commission which may contain personal information about individuals, e.g., name, address, city, state, telephone number, fax and email address and other pertinent information related to processing and responding to their FOIA and/or Privacy Act request.

Authority for maintenance of the system:
5 U.S.C. 552 and 5 U.S.C. 552a.

Purpose(s):
These records are used by Commission staff responding to the request for information so that requests can be tracked and responded to accurately and in a timely manner.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:
1. These records are used to record the requesting individual's address so a response can be forwarded.
2. These records are used to record the specific information that the individual is seeking so that the information we provide is responsive to the request.
3. Staff will search the records to determine which requests have been filled and which are still pending.
4. CPSC will use these records to prepare an annual report of FOIA activities at the end of each fiscal year and submit the report to the Attorney General, through the Department of Justice, Office of Information and Privacy.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records will be entered into a database tracking system and given a request number. All information will be stored electronically and paper requests will eventually be destroyed.

Retrievability:
Records will mainly be retrieved using the FOIA request number, however, records may also be retrieved by searching on a requester's last name, a company name or entry date and closed date.

Safeguards:
Computer records are protected by passwords available only to staff with a need to know.

Retention and disposal:
Records will be stored electronically for 2 to 6 years, contingent upon the National Archives Records Administration (NARA's General Records Schedule 14).

System manager(s) and address:
Todd A. Stevenson, Director, Division of Information Management, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.
Notification procedure:
Freedom of Information/Privacy Act Officer
Office of the Secretary
Consumer Product Safety Commission
Bethesda, MD 20814

Record access procedures:
Same as notification.

Contesting record procedures:
Same as notification.

Record source categories:
Personal information in these records is obtained from the individual requesting the information under FOIA or Privacy Act.

CPSC-26

System name:
CPSC-26, Learning Management System

System location:
Division of Information Management
Consumer Product Safety Commission
4330 East West Highway
Bethesda, MD 20814

Categories of individuals covered by the system:
CPSC employees.

Categories of records in the system:
Information concerning training courses that an employee takes during the year. The employee enters a training request by entering their social security number, date of birth, course title, vendor name, course location and other OPM specific data fields that pertain to the collection of training records.

Authority for maintenance of the system:
5 U.S.C. Chapter 41-Training; 5 CFR Part 410.

Purpose(s):
These records are used by Commission to respond to Office of Personnel Management's requirements that all federal agencies submit training reports on a monthly basis. The reports must include employee social security number and date of birth.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:
1. These recorddds are used by CPSC to record training information for all employees.
2. CPSC will use these records to submit monthly training reports to OPM.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:
Records will be entered into a database tracking system and stored electronically.

Retrievability:
Records will mainly be retrieved using the employee's last name.

Safeguards:
Computer records are protected by passwords available only to staff with a need to know.

Retention and disposal:
Training records will be stored electronically for five years.

System manager(s) and address:
Donna Simpson, Director, Office of Human Resources, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814.

Notification procedure:
Freedom of Information/Privacy Act Officer
Office of the Secretary
Consumer Product Safety Commission
Bethesda, MD 20814

Record access procedures:
Same as notification.

Contesting record procedures:
Same as notification.

Record source categories:
Personal information in these records is obtained from the individual requesting the training.

Appendix II - Government-Wide Systems of Records

Other Federal agencies maintain government-wide systems of records that may contain information about CPSC employees. Some of these records may be physically located at CPSC. These systems include:

1. Office of Personnel Management, OPM/GOVT-1, General Personnel Records (includes official personnel folders).

2. Office of Personnel Management, OPM/GOVT-2, Employee Performance File System Records.

3. Office of Personnel Management, OPM/GOVT-3, Records of Adverse Actions, Performance Based Reduction in Grade and Removal Actions, and Termination of Probationers.

4. Office of Personnel Management, OPM/GOVT-5, Recruiting, Examining, and Placement Records.

5. Office of Personnel Management, OPM/GOVT-6, Personnel Research and Test Validation Records.

6. Office of Personnel Management, OPM/GOVT-7, Applicant Race, Sex, National Origin, and Disability Status Records.

7. Office of Personnel Management, OPM/GOVT-9, File on Position Classification Appeals, Job Grading Appeals, and Retained Grade or Pay Appeals.

8. Office of Personnel Management, OPM/GOVT-10, Employee Medical File System Records.

9. Office of Government Ethics, OGE/GOVT-1, Executive Branch Public Financial Disclosure Reports and Other Ethics Program Records (includes financial interest disclosure forms of CPSC employees subject to the Ethics in Government Act).

10. Office of Government Ethics, OGE/GOVT-2, Confidential Statements of Employment and Financial Interests.

11. Office of Special Counsel, OSC/GOVT-1, Complaint, Litigation and Political Activity Files.

12. Federal Emergency Management Agency, FEMA/GOVT-1, Uniform Identification System for Federal Employees Performing Essential Duties During Emergencies.

13. Equal Employment Opportunity Commission, EEOC/GOVT-1, Equal

Employment Opportunity in the Federal Government Complaint and Appeal Records.

14. Merit System Protection Board, MSPB/GOVT-1, Appeal and Case Records.

15. General Services Administration, GSA/GOVT-3, Travel Charge Card

UNITED STATES

CONSUMER PRODUCT SAFETY COMMISSION

DIRECTIVES SYSTEM **ORDER NO. 1435.6 September 26, 2007**

PRIVACY PROGRAM

PRIVACY IMPACT ASSESSMENT POLICY

1. **PURPOSE.** The U.S. Consumer Product Safety Commission (CPSC) recognizes the importance of protecting the privacy of the public and employees, especially as it modernizes its data systems. Rapid advancements in computer technology make it possible to store and retrieve vast amounts of data of all kinds quickly and efficiently. These advancements have raised concerns about the impact of large computerized information systems on the privacy of individuals. Public concerns about highly integrated information systems operated by the government make it imperative to commit to a positive and aggressive approach to protecting individual privacy. The privacy principles set forth in this policy are based on the ethical and legal obligations of the CPSC to the public and it is the responsibility of all CPSC employees to recognize and treat their office as a public trust. The public has the right to expect that the information they provide will be safeguarded and used only in accordance with the law.

   The Privacy Impact Assessment (PIA) Policy has been instituted in order to ensure that the systems CPSC develops protect individuals' privacy. The PIA incorporates privacy into the development life cycle so that all system development initiatives can appropriately consider privacy issues from the earliest stages of design. Privacy issues must be addressed when systems are being developed, and privacy protections must be integrated into the development life cycle of these automated systems. This policy establishes the requirements for addressing privacy during the systems development process and defines the steps required to protect the privacy of individuals.

2. **SCOPE.** This order applies to all employees of the CPSC, including contractor employees who handle systems collecting, maintaining and disseminating personal information.

3. **OFFICE RESPONSIBLE FOR THIS DIRECTIVE.** The Office of Information and Technology Services

4. **CANCELLATION.** None

5. REFERENCE.

a. Privacy Act of 1974, as amended (5 U.S.C. 552a).

b. E-Government Act of 2002, Pub. L. No 107-347, 116 Stat. 2899 (codified in scattered sections of 44 U.S.C.).

c. Computer Security Act of 1987 (Public Law 100-235) which establishes minimum security practices for Federal computer systems.

d. Office of Management and Budget, Executive Office of the President, OMB Circular No. A-130, Management of Federal Information Resources, (November 28, 2000), and Appendix I Federal Agency Responsibilities for Maintaining Records about Individuals.

e. Freedom of Information Act, as Amended (5 U.S.C. 552).

f. Office of Management and Budget, Executive Office of the President OMB Memorandum No 03-22, OMB Guidance for Implementing the Privacy Provisions of the E-Government Act of 2002 (Sept. 26, 2003).

g. CPSC Order 0750.1, Automated Information System Security Program.

h. CPSC Order 1435.1 Policies and Procedures Pursuant to the Privacy Act.

6. DEFINITIONS.

a. **Accuracy:** within sufficient tolerance for error to assure the quality of the record in terms of its use in making a determination;

b. **Completeness:** all elements necessary for making a determination are present before such determination is made;

c. **Determination:** any decision affecting an individual which, in whole or in part, is based on information contained in the record and which is made by any person or agency;

d. **Disclosure:** the release of personally identifiable information to any person (other than the person to whom the information pertains), including any employee of the Agency and employees of other Federal agencies (unless that information is required for the employee to perform their job);

e. **Individual**: a citizen of the United States or an alien lawfully admitted for permanent residence;

f. **Maintain:** includes the collection, use, storage and dissemination of information;

g. **Necessary:** a threshold of need for an element of information greater than mere relevance and utility;

h. **Personally Identifiable Information:** information (i) that directly identifies an individual (e.g., name, address, social security number or other identifying number or code, telephone number, email address, etc.) or (ii) by which an agency intends to identify specific individuals in conjunction with other data elements, i.e., indirect identification. (These data elements may include a combination of gender, race, birth date, geographic indicator, and other descriptors which are linked or linkable to an individual);

i. **Privacy Impact Assessment:** a process for examining the risks and ramifications of using information technology to collect, maintain and disseminate information in identifiable form about individuals;

j. **Record:** any item, collection or grouping of information about an individual and identifiable to that individual that is maintained by an agency;

k. **Relevance:** limitation to only those elements of information which clearly bear on the determination(s) for which the records are intended;

l. **Routine Use:** with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected;

m. **System of Record:** a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

7. POLICY.

It is Commission policy that:

a. The privacy of an individual is a personal and fundamental right that shall be respected and protected.

b. Personal information shall be collected, maintained, used, or disclosed to ensure that:

(1) It shall be relevant and necessary to accomplish a lawful agency purpose required to be accomplished by statute or Executive order;

(2) It shall be collected to the greatest extent practicable directly from the individual;

(3) The individual shall be informed, in writing, as to why the information is being collected, the authority for collection, what uses will be made of it, whether disclosure is mandatory or voluntary, and the consequences of not providing that information;

(4) It shall be relevant, timely, complete, and accurate for its intended use; and

(5) Appropriate administrative, technical, and physical safeguards shall be established to ensure the security of the records and to prevent compromise or misuse during storage or transfer.

c. No record shall be maintained on how an individual exercises rights guaranteed by the First Amendment to the Constitution, except as follows:

(1) Specifically authorized by statute;

(2) Expressly authorized by the individual on whom the record is maintained; or

(3) When the record is pertinent to and within the scope of authorized law enforcement activity.

d. **PRIVACY AND SYSTEMS DEVELOPMENT:** The CPSC has instituted the Privacy Impact Assessment (PIA) in order to ensure that the systems the Agency develops protect individuals' privacy. The Agency's Senior Agency Official for Privacy (SAOP), in coordination with the Agency's Chief Information Officer (CIO), is responsible for ensuring compliance with the PIA process and policy. The PIA incorporates privacy into the development life cycle so that all system development initiatives can appropriately consider privacy issues from the earliest stages of design.

e. **PRIVACY IMPACT ASSESSMENT PROCESS:** The PIA is to be initiated in the early stages of the development of a system and completed as part of the required System Life Cycle (SLC) reviews. Privacy must be considered when requirements are being analyzed and decisions are being made about data usage and system design. This applies to all of the development methodologies and system life cycles used at CPSC.

(1) **Systems Requiring a PIA:** A PIA is required to be completed for new systems, systems under development or systems undergoing major modifications. The SAOP reserves the right to request that a PIA be completed on any system that may have privacy risks. More specifically:

(a) A PIA is required to be completed for new systems and systems under development or undergoing major modifications.

(b) Legacy systems, as they exist today, do not have to complete a PIA. However, if the automation or upgrading of these systems puts the data at risk, a PIA may be requested by the SAOP.

(c) A PIA is not required to be completed for currently operational systems. However, if privacy is a concern for a system, the SAOP can request that a PIA be completed. If a potential problem is identified concerning a currently operational system, the Agency will use best, or all reasonable, efforts to remedy the problem.

(2) **COMPLETING A PRIVACY IMPACT ASSESSMENT:** Appendix I includes a template for completing a PIA. It can be found at cpsc.net/IT Services/Privacy Information along with guidance for completing the form.

(3) All PIAs will be made public either through:

(a) A notice published in the "Federal Register" when the PIA is conducted for a System of Record or in conjunction with requirements mandated by the Paperwork Reduction Act, or;

(b) Posted on CPSC's public website, www.cpsc.gov

8. RESPONSIBILITIES.

Position	Commission Official
Chief Information Officer	Assistant Executive Director, Office of Information and Technology Services
Agency Inspector General	Inspector General
Chief Information Security Officer	Information Systems Security Officer, Division of Technology Services
Senior Agency Official for Privacy	Director, Division of Policy and Planning, Office of Information and Technology Services
Privacy Act Advocate	Reports Clearance Officer, Division of Policy and Planning Office of Information and Technology Services
Privacy Act Officer	Director, Division of Information Management, Office of Information and Technology Services
Reviewing Official for PIA's	Assistant Executive Director, Office of Information and Technology Services

a. The Senior Agency Official for Privacy shall:

(1) Provide policy guidance for, and coordinate and oversee administration of the Commission's Privacy Impact Assessment Policy to ensure compliance with policies and procedures in the E-Government Act of 2002 and OMB circular No. A-130, "Management of Federal Information Resources" November 28, 2000.

(2) Update and maintain this Order and other guidance, to ensure timely and uniform implementation of the Commission's Privacy Impact Assessment Program.

(3) Have oversight responsibility for implementation of the Commission's Privacy Impact Assessment Program. Ensure that the policies, practices, and procedures of that Program are premised on the requirements of the E-Government Act and the Privacy Act.

(4) Assess the impact of technology on the privacy of personal information. To do so, the Senior Agency Official for Privacy shall coordinate with the Chief Information Officer and the Chief Information Security Officer.

(5) Each January provide the following materials to the Inspector General:

- **(a)** Compilation of the agency's privacy and data protection policies and procedures.
- **(b)** Summary of the agency's use of personal information in identifiable form.
- **(c)** Verification of intent to comply with agency privacy policies and procedures.

(6) Submit the Privacy Management Report (Section D of the Federal Information Security Management (FISMA) Report) to the Chief Information Officer by September 1st of each year.

(7) Conduct training on the Privacy Impact Assessment Program for all Commission employees and for those individuals having primary responsibility for implementing the Commission's Privacy Program.

(8) Direct the day-to-day activities of the Commission's Privacy Impact Assessment Program.

(9) Provide advice and support to the Commission to ensure that all information requirements developed to collect or maintain personal information in identifiable form conform to the Commission's Privacy Impact Assessment Program.

(10) Determine when and if a Privacy Impact Assessment is needed. In so doing, coordinate with the Chief Information Officer, the Privacy Act Officer, the Privacy Advocate and the Chief Information Systems Security Officer.

(11) Ensure that required Privacy Impact Assessments are conducted. In so doing, coordinate with the appropriate office that requires the Privacy Impact Assessment.

(12) Serve as the principal Point of Contact (POC) for coordination of Privacy Impact Assessment related matters with OMB and other Federal, State, and local governmental agencies.

/s/ **9/26/2007**

Patricia Semple **Date**

Executive Director

Appendix I
Privacy Impact Assessment Template

Appendix I

U.S. Consumer Product Safety Commission PRIVACY IMPACT ASSESSMENT				
Name of Project:				
Office/Directorate:				
A. CONTACT INFORMATION				
Person completing PIA: (Name, title, organization and ext.)				
System Owner: (Name, title, organization and ext.)				
System Manager: (Name, title, organization and ext.)				
B. APPROVING OFFICIALS	**Signature**	**Approve**	**Disapprove**	**Date**
System Owner				
Privacy Advocate	Linda Glatz, ITPP			
Chief Information Security Officer	Patrick Manley, ITTS			
Senior Agency Official for Privacy **System of Record?** **_____Yes _____No**	Mary Kelsey, Director, ITPP			
Reviewing Official:	Patrick D. Weddle, AED, EXIT			
C. SYSTEM APPLICATION/GENERAL INFORMATION				
1. Does this system contain any personal information about individuals? (If there is **NO** information collected, maintained, or used that is identifiable to the individual, the remainder of PIA does not have to be completed.)				
2. Is this an electronic system?				

D. DATA IN THE SYSTEM	
1. **What categories of individuals are covered in the system?** (public, employees, contractors)	
2. **Generally describe what data/information will be collected in the system.**	
3. **Is the source of the information from the individual or is it taken from another source? If not directly from individual, then what other source?**	
4. **How will data be checked for completeness?**	
5. **Is the data current?** (What steps or procedures are taken to ensure the data is current and not out-of-date?)	
6. **Are the data elements described in detail and documented?** (If yes, what is the name and location of the document?)	
E. ATTRIBUTES OF THE DATA	
1. **Explain how the use of the data is both relevant and necessary to the purpose for which the system is being designed?**	
2. **For electronic systems, if the data is being consolidated, what controls are in place to protect the data from unauthorized access or use? Explain.**	
3. **How will the data be retrieved? Can it be retrieved by a personal identifier? If yes, explain and list the identifiers that will be used to retrieve information on the individual.**	
4. **What opportunities do individuals have to decline to provide information or to consent to particular uses of the information?**	

F. MAINTENANCE AND ADMINISTRATIVE CONTROLS	
1. What are the retention periods of data in this system?	
2. What are the procedures for disposition of the data at the end of the retention period? How long will the reports produced be kept? Where are the procedures documented?	
3. For electronic systems, will this system provide the capability to identify, locate, and monitor individuals? If yes, explain.	
4. For electronic systems only, what controls will be used to prevent unauthorized monitoring?	
5. Is this system currently identified as a CPSC system of records? If so, under which notice does the system operate?	
6. If the system is being modified, will the Privacy Act system of records notice require amendment or revision? Explain	
G. ACCESS TO DATA	
1. Who will have access to the data in the system? (e.g., contractors, managers, system administrators, developers, other).	
2. What controls are in place to prevent the misuse of data by those having access? (Please list processes and training materials.)	
3. Who is responsible for assuring proper use of the data?	
4. Are contractors involved with the design and development of the system and will they be involved with the maintenance of the system? Are contractors involved in the collection of the data? If yes, were Privacy Act contract clauses inserted in their contracts and other regulatory measures addressed?	
5. Do other systems share data or have access to the data in the system? If	

yes, explain. Who will be responsible for protecting the privacy rights of the public and employees affected by the interface?	
6. Will other agencies share data or have access to the data in this system? If yes, how will the data be used by the other agency?	
7. Will any of the personally identifiable information be accessed remotely or physically removed?	

UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION

DIRECTIVES SYSTEM **ORDER NO. 1440.1**
July 25, 2013

PUBLIC INFORMATION

SOCIAL MEDIA AND EMPLOYEE USE

1. **PURPOSE.** This Order establishes the U.S. Consumer Product Safety Commission (CPSC) guidance on the use of social media.

2. **SCOPE.** This Order applies to any CPSC employee, agent, representative, contractor, or other person who uses social media on behalf of the CPSC (CPSC employee). Appendix A of this Order provides guidance to CPSC employees using social media for personal use in a personal capacity.

3. **OFFICES RESPONSIBLE FOR THIS DIRECTIVE**. Office of Communications (OCM), Office of Information and Technology Services (EXIT), and Office of the Executive Director (OEX).

4. **CANCELLATION.** None.

5. **AUTHORITY.** Not applicable.

6. **REFERENCES.**

   a. E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899.

   b. Federal Information Security Management Act of 2002, 44 U.S.C. § 3541 *et seq.*

   c. The Hatch Act, 5 U.S.C. § 7321 *et seq.*

   d. Section 6(b) of the Consumer Product Safety Act, 15 U.S.C. § 2055(b).

   e. Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. Part 2635.

   f. Supplemental Standards of Ethical Conduct for Employees of the Consumer Product Safety Commission, 5 C.F.R. § 8101.103.

g. OMB Mem. M-10-23 (June 25, 2010), Guidance for Agency Use of Third Party Websites and Applications.

h. Memorandum from the Executive Office of the President to the heads of Executive Departments and Agencies and Independent Regulatory Agencies (April 7, 2010), Social Media, Web-Based Interactive Technologies, and the Paperwork Reduction Act.

i. NARA Bulletin 2011-02 (October 20, 2010), Guidance on Managing Records in Web 2.0/Social Media Platforms.

j. U.S. Office of Special Counsel (July 27, 2010), Frequently Asked Questions Regarding Social Media and the Hatch Act.

k. CIO Council (September 2009), Guidelines for Secure Use of Social Media by Federal Departments and Agencies.

l. CPSC Order 0730.1 (August 4, 2004), Records Management Program.

m. CPSC Order 1435.1 (September 25, 2007), Policies and Procedures Pursuant to the Privacy Act.

n. CPSC Order 1450.2 (January 16, 2003), Clearance Procedures for Providing Information to the Public.

o. Commission Policy on Linking to Nongovernment Websites, Appendix to CPSC Order 1450.2 (January 16, 2003), Clearance Procedures for Providing Information to the Public.

p. CPSC Web Document Posting Policy and Procedures.

7. DEFINITIONS.

a. "*Blog*" means a Web-based forum with regular entries of commentary, descriptions of events, or other materials (such as graphics, audio, or video).

b. "*Public Comments*" means, in connection with Social Media or a Social Media Site or Tool, any postings, communications, replies, responses, and any other messages provided by an individual, other than the Social Media Specialist or Social Media User, on or through a Social Media Site or Tool used by CPSC.

c. "*Social Media*" means Web- or digital-based tools that facilitate collaboration and information sharing, including Blogs, microblogging services, social networking sites, video and photo sharing sites, wikis, widgets, and other emerging technologies.

d. "*Social Media Site or Tool*" means a Blog, website, or other Social Media application, platform, or technology where CPSC has an account or other presence.

e. "*Social Media Specialist*" means a CPSC Office of Communications employee, designated and authorized by the Director of Communications and/or the Executive Director, as the individual(s) acting in an official capacity who: (1) implements CPSC's Social Media program on behalf of the agency, and (2) posts and manages information on or through approved Social Media Sites or Tools.

f. "*Social Media User*" means a CPSC employee authorized by the Executive Director and/or the Director of Communications to post information on behalf of the CPSC on or through approved Social Media Sites or Tools.

g. "*use*" means, in connection with Social Media or a Social Media Site or Tool, establishing, contributing to, posting on, participating on, communicating on, creating a presence on, registering, creating an account, or otherwise using such Social Media or Social Media Site or Tool.

8. GENERAL POLICY.

CPSC will use Social Media to further the agency's mission of protecting the public from unreasonable risks of injury or death associated with the use of consumer products, where appropriate. Information posted by CPSC on or through Social Media Sites or Tools shall relate to product safety, product recalls, agency safety campaigns, education, and other important issues related to the health and safety of consumers.

Prior to posting new information, the Social Media Specialist or Social Media User shall consult with other CPSC offices that reasonably may have an interest in the information to be posted to protect the accuracy and coordination of postings. For all postings relating to product recalls or compliance investigations, the Compliance Officer for the matter must be consulted and must concur with the information to be posted prior to posting.

CPSC's use of Social Media will comply with all applicable statutes and regulations, federal policies and guidelines, and CPSC policies, rules, and guidelines, including those outlined in the References provision at Section 6 of this Directive.[1] CPSC will use only Social Media Sites or Tools that have been approved for CPSC's use in accordance with this Directive. Such approval and CPSC use must be in accordance with: (i) approved Terms of Service (TOS) agreements; (ii) applicable legal and regulatory requirements, including records

[1] Recall notices posted on or through Social Media Sites or Tools will be subject to applicable statutes and regulations.

management, access for persons with disabilities, privacy and information security; and (iii) this Directive.

CPSC will not knowingly use any Social Media Site or Tool to collect personally identifiable information (PII).

9. GUIDELINES.

a. Roles and Responsibilities.

(1) The Executive Director, or the Executive Director's designee, in consultation with the Office of the General Counsel, the Office of Communications, and the Office of Information and Technology Services, must expressly approve:

(a) CPSC use of each Social Media Site or Tool; and

(b) the guidelines, rules, and conditions applicable to CPSC's use of the Social Media Site or Tool.

The Executive Director or the Executive Director's designee must authorize the use of Social Media on behalf of the CPSC by a Social Media Specialist or a Social Media User prior to its use, and specify the rules applicable to such person's use of Social Media on behalf of the CPSC.

At any time, the Executive Director or the Executive Director's designee may require the discontinuation of CPSC use of a Social Media Site or Tool.

(2) The Office of Communications, through the Social Media Specialist, applies the requirements of this Directive in implementing CPSC's Social Media program and in monitoring compliance with: (a) this Directive, and (b) the rules specified by the Executive Director or the Executive Director's designee applicable to such person's use of a Social Media Site or Tool.

(3) The Office of Education, Global Outreach, and Small Business Ombudsman, through its Social Media Users, is responsible for announcing CPSC initiatives, educational events, and other CPSC activities and informational resources through Social Media Sites or Tools, as appropriate.

(4) All Social Media Users are responsible for complying with: (a) this Directive, and (b) rules specified by the Executive Director or the Executive Director's designee applicable to such person's use of a Social Media Site or Tool.

(5) The Office of Information and Technology Services is responsible for the technical requirements of CPSC use of Social Media and for related privacy, security, information, and records management requirements.

b. **Federal-Compatible Terms of Service Agreements.** CPSC generally may use only Social Media Sites or Tools with TOS that have been negotiated and approved by the U.S. General Services Administration. For Social Media Sites or Tools that have not been approved by the U.S. General Services Administration, the Executive Director or the Executive Director's designee, in consultation with the Office of the General Counsel, the Office of Communications, and the Office of Information and Technology, must expressly approve the TOS.

c. **Information Posted or Communicated by CPSC.** Only a Social Media Specialist or a Social Media User may post or otherwise communicate information on or through a Social Media Site or Tool on behalf of the CPSC.

(1) Information that is posted or otherwise communicated through a Social Media Site or Tool by a Social Media Specialist or Social Media User shall comply with all applicable statutes and regulations, federal policies and guidelines, Terms of Service, and CPSC policies, rules, and guidelines, including those outlined in the References provision at Section 6 of this Directive and the rules specified by the Executive Director or the Executive Director's designee applicable to such person's use of a Social Media Site or Tool.

d. **Use of Social Media Is on Behalf of the CPSC.** Use of Social Media or a Social Media Site or Tool by a Social Media Specialist or a Social Media User under this Directive is on behalf of the CPSC; all related assets, accounts, rights, and privileges remain with the CPSC upon the separation or departure of the Social Media Specialist or the Social Media User from CPSC, or upon a change in such person's position, responsibilities, or title within the agency.

e. **Public Comments.** The Executive Director or the Executive Director's designee, in consultation with the Office of the General Counsel and the Office of Communications, must specifically authorize: (1) the use of a Social Media Site or Tool where public comments are visible, are accepted, or otherwise are available, before the CPSC uses such Social Media or Social Media Site or Tool; (2) the continued use of a Social Media Site or Tool where public comments at a future date are accepted, or become visible or otherwise are available; and (3) the exercise or selection on behalf of the CPSC of any option or setting with respect to CPSC's use of a Social Media Site or Tool that would result in public

comments appearing or becoming accepted, visible, or otherwise available. Use of Social Media Sites or Tools where public comments appear or are accepted, visible, or otherwise are available shall adhere to all applicable statutes and regulations, federal policies and guidelines, and CPSC policies, rules, and guidelines.

f. **Linking.** Nonfederal websites may be linked, "followed," or otherwise connected, in accordance with applicable CPSC policies, rules, and guidance.

g. **Employee Use of Social Media.** CPSC employees must comply with the requirements applicable to the use of Social Media in the employee's capacity as a CPSC employee or on CPSC time.

(1) Only a Social Media Specialist or Social Media User can post information through Social Media Sites or Tools.

(2) CPSC employees using Social Media for personal use on a personal capacity should adhere to the guidance provided in the document, "Social Media – Frequently Asked Questions About Personal Use." *See* Appendix A.

_____/s/_____ _7-25-13_____
Kenneth R. Hinson **Date**
Executive Director

Appendix A: Social Media – Frequently Asked Questions About Personal Use

Appendix A

Social Media – Frequently Asked Questions About Personal Use

The following questions and responses are intended to provide guidance to CPSC employees using social media for personal use in a personal capacity. The capitalized terms used in this guidance have the definitions given to them in Order No. 1440.1, "Social Media and Employee Use" (the Directive).

Please note that all statutes and regulations that generally apply to federal employees apply to Social Media activities, including, but not limited to, the Hatch Act (Political Activities) and the Standards of Ethical Conduct for Employees of the Executive Branch.

Can I blog, comment, or post information on the *OnSafety* Blog or any other CPSC-sponsored or third party site where CPSC maintains an official agency presence?

- Posting, Commenting, Blogging: Only the Social Media Specialist or Social Media Users may post information on behalf of the CPSC on the *OnSafety* blog, @OnSafety, YouTube.com/USCPSC, Flickr.com/USCPSC, and other platforms used in the future by the agency. You may suggest Social Media content to the Social Media Specialist, however.

- Following, Sharing: You may "share" Social Media content posted by the Social Media Specialist or Social Media User, and you may "follow" CPSC on the CPSC official *Twitter* account and other social media accounts.

Can I post a comment on my own *Facebook* page or other personal networking site about a matter posted on an official CPSC site or third party site where CPSC has an official Web page?

Yes, but your comments and discussions must be conducted strictly in accordance with applicable federal laws and ethical standards. For instance, you cannot:

- disclose nonpublic information;

- disclose information that has not been submitted for Section 6(b) clearance;

- endorse any product, service, or enterprise using your CPSC position, title, or authority; or

- identify yourself as a CPSC employee on Social Media without posting the following disclaimer: "*This work is not a product of the U.S. Government or the U.S. C.P.S.C. The author is not doing this work in any governmental capacity.*

The views expressed are those of the author only and do not necessarily represent those of the United States or the U.S. C.P.S.C."

Example: CPSC posts a press release announcing that various manufacturers initiated recalls to repair cribs because of entrapment, suffocation, and fall hazards. Sally, a CPSC engineer on the CPSC Crib Team, through her own *Facebook* page:

- may "share" this announcement with her friends and include the following statement: "Important Recall Announcement!"
- may not "share" this announcement and state: "Although the information we have is not conclusive as to whether these cribs actually pose a defect, you should check your cribs anyway," because Sally would be providing nonpublic information about an official investigation that has not received Section 6(b) clearance.

Do I need to provide a disclaimer on my personal networking site that the views expressed are my own and not those of the CPSC?

Yes, if you identify yourself as a CPSC employee on your *Facebook* page or elsewhere on Social Media and you blog or otherwise discuss on the sites topics that potentially pertain to CPSC subject matter, then you must post the following disclaimer: "*This work is not a product of the U.S. Government or the U.S. C.P.S.C. The author is not doing this work in any governmental capacity. The views expressed are those of the author only and do not necessarily represent those of the United States or the U.S. C.P.S.C.*"

Example: Bill is a CPSC employee and a technology enthusiast who posts reviews of the latest gadgets and news about the industry. His blog identifies him as a CPSC employee. On occasion, Bill posts his thoughts on breaking technology news that potentially pertains to CPSC subject matter, such as standards for batteries in consumer products. Bill's posts are based completely on publicly available sources; he is not divulging any nonpublic information; and Bill never blogs about issues that relate to cases or investigations on which he is personally working. Nevertheless, because the blog identifies him as a CPSC employee, Bill must provide a disclaimer that the views expressed on posts related to CPSC subject matter are his views alone and do not necessarily reflect those of the CPSC.

Do I need to be sensitive when I am talking about the CPSC and CPSC matters on my own *Facebook* page or other social media networking sites?

Yes. Accidentally disclosing nonpublic information or information that has not been submitted for Section 6(b) clearance and conveying endorsements (even implicitly) are

two significant risks when you use Social Media and could result in disciplinary action depending on the facts and circumstances.

Nonpublic Information. Even though you may be commenting on your own page, you are still a CPSC employee, and you cannot disclose any nonpublic information or non-cleared information. Information that cannot be disclosed includes information about:

- any compliance investigation;
- any enforcement matter;
- pending litigation;
- rulemaking;
- proprietary or confidential business information;
- nonpublic scientific results or analysis; and
- other nonpublic matters or information at or before the CPSC.

Endorsements. Endorsements by CPSC employees or others acting on behalf of the CPSC in the context of Social Media, even inadvertent, are strictly prohibited and can seriously undermine the credibility and mission of the CPSC. You must not use or permit the use of your CPSC position or title or any authority associated with your CPSC position or title to endorse any product, service, or enterprise (*i.e.*, company, trade association, advocacy group).

Disclaimer. If you identify yourself as a CPSC employee on Social Media (such as on a blog), you must post the following disclaimer: "*This work is not a product of the U.S. Government or the U.S. C.P.S.C. The author is not doing this work in any governmental capacity. The views expressed are those of the author only and do not necessarily represent those of the United States or the U.S. C.P.S.C.*"

Can I post or comment on Social Media with content that relates to the CPSC or CPSC matters?

Yes, you may post or comment in your personal capacity, but again, you must comply with applicable requirements, as addressed above and in the Directive.

> *Example*: A toy industry blog is discussing whether the small parts regulation applies to a particular product. Joy, a CPSC engineer and well-known expert on small parts and choking hazards, decides to post links to small parts regulations and guidance documents on the CPSC's website. Joy:
>
> - may post these links;

- may not post a comment stating her belief that the product is not subject to small parts testing.

Can I use Social Media to conduct official CPSC business?

No. You have a CPSC e-mail account to conduct any official CPSC business. Unless you have specific approval under the Directive to be a Social Media Specialist or Social Media User and manage an official account, or you receive explicit authorization in connection with other official matters, you may not use Social Media to conduct official agency business.

Can I join the *Facebook* page of a political candidate?

Yes, you may join the *Facebook* page of a political candidate in your personal capacity, but you must not do so during working hours, or while in a federal workspace, and you must adhere to applicable legal restrictions.

The Hatch Act (5 U.S.C. §§ 7321 through 7326) limits federal employee political activities. For instance, applicable provisions restrict disclosure of CPSC employment status and commenting and posting on the candidate's page.

Additionally, the manner and extent to which an employee may participate in political activity depends, in part, on the employee's legal status. For example, Presidential appointees are less restricted than most employees. On the other hand, career SES members operate under more restrictions than most other employees. Always consult with the Office of the General Counsel for more information about the Hatch Act restrictions.

Can I check my *Facebook* page or personal email account on CPSC computer equipment when I'm at work?

CPSC's limited use policy for the Internet is posted online on CPSCnet. Employees are on notice that when personal accounts are checked using government computers at work, they lose their right to privacy for the accessed information. Employees with questions regarding this matter may review the CPSC's limited use policy at: http://cheryl/sites/wiki/it/Wiki%20Pages/Policy%20on%20Personal%20Use%20Of%20Office%20Equipment%20Other%20Than%20Telephones%20FAQ.aspx. Employees must never use their personal e-mail or social media accounts to conduct official agency business. Due to recordkeeping, litigation, and management purposes, official agency business communicated by e-mail must be communicated via your official agency e-mail address only.

* * *

If you have questions about use of Social Media, or about applicable requirements or restrictions, such as the Standards of Ethical Conduct for Employees of the Executive Branch, consult with appropriate staff in the Office of the General Counsel.

UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION

DIRECTIVES SYSTEM

ORDER NO.
1450.2
January 16, 2003
Reviewed/Current: 4/30/03

PUBLIC INFORMATION

CLEARANCE PROCEDURES FOR PROVIDING INFORMATION TO THE PUBLIC

1. PURPOSE.

a. To describe the clearance procedures to be used when initiating the public disclosure of information that reflects on the safety of consumer products. The procedures apply to any release of information initiated by the Commission, including information disseminated on the agency's web site, regardless of whether the information disclosed would enable the public to ascertain readily the identity of a manufacturer or private labeler. It applies to both oral and written disclosures. These procedures are intended to assure that written and oral information disseminated by the Commission, its staff, agents and representatives is in accord with the law and Commission policy.

b. To assure that information disclosed to the public is accurate.

2. SCOPE. This Order applies Commission-wide, to all employees, agents and representatives (including contractors), for use when initiating the public disclosure of information (including periodicals, publications, and audiovisuals) that reflects on the safety of consumer products.

3. OFFICE RESPONSIBLE FOR THIS DIRECTIVE. Office of Communications (OCM).

4. CANCELLATION. This cancels Order 1450.2, Clearance Procedures for Providing Information to the Public, dated September 5, 2001. This also cancels Order 1440.2, Controls for Producing Periodicals, Publications, and Audiovisuals (1982).

5. AUTHORITY.

a. Section 6(b)(6) of the Consumer Product Safety Act (15 U.S.C. 2055(b)(6)).

6. REFERENCE.

a. Order 0840.1, CPSC Printing Manual.

b. Title 17 U.S.C. Section 105, Copyright. United States Government Works

c. 5 CFR § 8101.103, Supplemental Standards of Ethical Conduct for Employees of the Consumer Product Safety Commission.

d. CPSC Information Quality Guidelines, http://www.cpsc.gov/library/infoguidelines.html

7. POLICY.

a. **MEANING OF CLEARANCE.** This directive requires that each Commission disclosure within the scope of this directive receive "clearance." Clearance means a careful review and written approval of the information to be disclosed by each Assistant or Associate Executive Director (AED) (or delegate) whose area of responsibility is involved in the disclosure in order to eliminate inaccurate or misleading statements. No information shall be disclosed until approved as set out in this directive. Specific forms of clearance review are:

(1) **Technical and Scientific.** Engineering Sciences, Economics, Epidemiology, Health Sciences, Laboratory Sciences. This clearance means that the statement, consistent with the Commission's Information Quality Guidelines, is supported by:

(a) data in Commission files or in currently applicable literature;

(b) articulated technical judgment that is both reduced to writing and based on consideration of all relevant factors; or

(c) a report prepared by a contractor to the Commission and such report has been subject to a review process by Commission staff.

(2) **Program.** Office of Hazard Identification and Reduction (EXHR); Office of Compliance (EXC); Office of Planning and Evaluation (EXPE); and Office of the General Counsel (OGC). This clearance means that the statement accurately reflects the status of programs and

projects, enforcement activities, litigation, and planning, where appropriate.

(3) **Editorial.** Office of Information and Public Affairs (EXPA). This clearance means that the statement retains style and coherence without changing technical, program, or legal meanings.

(4) **Policy Decision.** Office of the Executive Director (EX). This clearance means that where there may be conflicts among various viewpoints on a statement among the technical and program staffs, the Executive Director will decide among the different viewpoints on the basis of Commission policy.

(5) **Legal.** Office of the General Counsel (OGC). This clearance means that the statement is consistent with applicable laws and regulations, that any possibly inaccurate or misleading statements are eliminated and that any statements of Commission policy are accurate. Legal review occurs only after all other review is completed.

b. **CLEARANCE PROCESS.**

(1) **Routine Clearance.** The initiating unit is responsible for coordinating clearance procedures for the material which requires clearance.

(a) The initiating unit arranges for review by each Office or Directorate whose area of responsibility is involved with the subject matter of the disclosure, including the OGC. The initiating unit is required to provide a draft for clearance of any official agency document under this Directive to each Commissioner's office. The Commissioners or their staff will respond promptly with comments to any submitted draft document.

(b) The originator incorporates comments resulting from this preliminary review. Comments not incorporated must be reconciled with the commentor and a revised draft transmitted for final clearance and sign off on Form 120 (See Appendix). Form 120 may also be found under the MS Word application: Open MS Word, go to File, select New. A "New" dialogue box appears, select the CPSC Form Tab.

(c) When final technical, policy, and editorial clearances are obtained, the draft must be transmitted to the OGC for final legal review and clearance.

(d) The initiating unit will refer problems that may arise to the Executive Director for resolution.

(e) The Executive Director will refer special problems to the Commission.

(f) Commission documents to be printed through GPO will be referred to EXPA for processing by normal administrative channels and printing and proper financial accounting (see CPSC Order 0840.1).

(2) **Emergency Clearance.** In instances where externally imposed time limits or other extenuating circumstances make it difficult to complete normal clearance procedures before a deadline, emergency clearance can be received by obtaining the approval of the Office of the Executive Director (OEX) and the OGC directly. Immediately after written clearance by each of these offices, the originator will submit a copy of the published writing for appropriate full clearance procedure. No emergency CPSC publication, however, may be released without written clearance from OEX, EXPA and OGC. For press releases, emergency clearance can be received by obtaining the approval of EXPA, OEX, OGC and the Office of the Chairman.

c. **CLEARANCE FOR PRESS RELEASES.**

(1) **Headquarters Offices.** EXPA is the coordinating staff unit for clearance of all press releases originating in headquarters offices. After a draft press release has been approved by the originator's Office Director, AED or delegate, the originating headquarters staff will transmit the draft to EXPA for review and clearance. EXPA will arrange clearance in accordance with paragraph 7.a. or 7.b. of this directive. Drafts are provided to all Commissioners offices. Final clearance must be obtained from the Office of the Chairman. Approval for press releases involving life threatening (Class A) hazards must be obtained from the Commission.

(2) **Regional Offices.** EXPA is the coordinating staff unit for clearance of all press releases originating in Regional Offices. After a draft press release has been approved by the Regional Director (or delegate), the originating Regional Office will transmit the draft to EXPA for review and clearance. EXPA will arrange clearance in

accordance with paragraph 7.a. or 7.b. of this directive. Drafts are provided to all Commissioners offices. Final clearance must be obtained from the Office of the Chairman. Approval for press releases involving Class A hazards must be obtained from the Commission.

d. **CLEARANCE FOR MEDIA CONTACTS.** Under the Consumer Product Safety Act, Congress charges the Commission to provide product safety information to consumers in a manner that is consonant with the disclosure safeguards specified in section 6(b) of that Act. In furtherance of this responsibility, the Commission endeavors to keep the public advised of its activities in the belief that informed consumers can better protect themselves from unsafe consumer products. It is the policy of the Commission to promote free and open press relations. A critical aspect of achieving this goal is the Commission's day-to-day contact with the media. In this regard, meaningful local and national media contact must evolve from trust and respect earned through open, responsive, and ongoing contacts. Simply put, the sharing of product safety news and information with consumers depends on an effective, sound policy for handling contacts with the media. Toward this end, it is critical to define as a matter of official Commission policy, the respective roles of Field and Headquarters staff.

(1) **Field.** It shall be within the **discretion** of the Commission's regional directors or their designated staff to:

(a) Share product safety information -- such as press releases, fact sheets, project hazard updates, injury data, consumer alerts, and information and education material -- with the media in their regions.

(b) Respond immediately to all media inquiries with publicly available information with respect to specific hazard matters and ongoing agency activities. Inquiries that cannot be responded to immediately shall be researched and prompt response made within the same day when practical.

(c) Initiate meetings, briefings and tapings with newspaper editors, journalists, TV and radio producers, on-air reports, etc., to discuss upcoming CPSC programs and provide background information, visuals and story ideas for immediate and future use.

(d) Refer media inquiries relating to matters of potential national exposure of high-level Commission policymaking (e.g., agency budget, Congressional testimony, export policy, 6 (b) policy) to EXPA. If the Director of EXPA determines that any such matter requires notification to any Commissioner (including the Chairman), then the Director will notify all Commissioners immediately.

(2) **Headquarters.** Inquiries from the news media received by headquarters' staff (other than Commissioners' offices), must be referred to EXPA. EXPA will respond directly, or coordinate a response from the staff person (e.g., AED/OD, project manager, analyst, economist, attorney, etc.), who is most substantively knowledgeable about the matter raised. Except that the following persons may respond, directly in person or by phone, to any press inquiry they believe to be particularly within their special area of expertise: Executive Director, General Counsel, and for purposes of responding to scheduling inquiries only, the Commission Secretary. Upon so doing, they shall alert EXPA to facilitate such coordination as may be needed or appropriate. If the Director of EXPA determines that any such matter requires notification to any Commissioner (including the Chairman), then the Director shall notify all Commissioners immediately, through the appropriate channels.

(3) **All Commission Personnel.** Enforcement actions not yet announced or ongoing enforcement or compliance actions involving a specific company will not be disclosed under any circumstances.

e. **CLEARANCE FOR INFORMATION PRESENTED BY INDIVIDUALS**

(1) **Speeches.**

(a) If a staff member is to deliver a speech, the staff member will advise EXPA of the topic, date, and intended audience for the speech. This information must also be given to the speaker's AED/OD for planning purposes. The speech must be submitted to the speaker's AED/OD for clearance in accordance with paragraph 7 of this directive.

(b) Unless the Commission has approved the text of a particular speech or unless OGC determines that the nature of the speech is such that a disclaimer is not necessary, the staff member must incorporate a disclaimer to the effect that although the speaker is present in an official capacity, the

views expressed concerning Commission programs and policy are personal and do not necessarily reflect the views of the Commission. In addition, speeches must not be made on matters in litigation and must not name products or manufacturers or private labelers unless clearance has been provided, particularly by OGC.

(2) **Articles Signed by Individuals.** Articles for publication in outside journals must be submitted for routine clearance in accordance with paragraph 7 of this directive if (1) the article concerns the CPSC or matters related to CPSC activities and (2) the staff member-author's name and his/her CPSC employment are mentioned. Unless the Commission has approved the text of the article or unless the OGC determines that the nature of the article is such that a disclaimer is not necessary, a disclaimer must be included by the author and must state that the views expressed are not necessarily the views of the Commission.

(3) **Articles That Do Not Concern the CPSC.** These articles are not subject to this directive but are subject to the Commission's regulation on employee standards of conduct, 5 C.F.R. § 8101.103.

f. **REQUIREMENTS FOR NOTICES TO ACCOMPANY ALL STATEMENTS.**

(1) **Copyright and Publication.** Letters to publishers transmitting articles written by CPSC employees in the course of official duties must make the following points:

(a) The work and the article were prepared in the course of the author's official duties as an employee of CPSC.

(b) Title 17 U.S.C. Section 105 provides that there can be no copyright in a United States government publication; therefore, the author is unable to transfer to the publisher any copyright in the article.

(c) The cover letter should request that the following legend appear as a footnote in the article:

"This article was written by _____, (title), of the Consumer Product Safety Commission. Since it was written by Mr./Ms. in his/her official capacity, it is in the public domain and may be freely copied or reprinted."

(2) Disclaimers.

(a) Unless OGC determines that the nature of the speech is such that a disclaimer is not necessary, for all oral statements (such as speeches, media appearances, and news conferences), except as provided in paragraph 10.a., the speaker must include a disclaimer to advise that, although the views are those of the speaker in his/her official capacity, they are not necessarily the views of the Commission.

(b) Unless OGC determines that the nature of the publication is such that a disclaimer is not necessary and except as provided in paragraph 10.b., a disclaimer must be used in all outside publications in which an employee uses his or her official title or states an affiliation with the Commission. The disclaimer shall read as follows: "The opinion expressed by_____, an employee of the Consumer Product Safety Commission, does not necessarily represent the views of the Commission."

g. EXCLUSION FROM CLEARANCE PROCESS.

(1) Commissioners. Section 6(d)(2) of the CPSA provides that the provisions of Section 6(b) (which include section 6(b)(6)) shall apply whenever information is to be disclosed by the Commission or any member of the Commission. Therefore, Commissioners are urged to refer statements they and their staffs make to appropriate Offices/Directorates for technical, program and legal review.

(2) Office of Congressional Relations. Commission initiated statements and correspondence by the Office of Congressional Relations are excluded when addressed to duly authorized committees or subcommittees of the Congress or the Chairman (or ranking minority member) of a committee or subcommittee of Congress acting pursuant to committee business and having jurisdiction over the matter which is the subject of the information requested. Consultation with appropriate Offices/Directorates, including OGC, is customary.

(3) Office of the Secretary. The public calendar prepared weekly by the Office of the Secretary, Commission agendas, and records of Commission action are not subject to these procedures.

(4) Other Excluded Communications. Discussions at Commission meetings, correspondence responding to inquiries, and briefing packages placed in the public reading room are not subject to these

procedures. Briefing packages are subject to an extensive clearance procedure whereby each Directorate, the Executive Director, and OGC review the package before it is transmitted to the Commission. That review ensures that the information in the package is accurate and not misleading.

(5) **Statements Made Outside the Scope of Employment.** Writings, speeches, or publications made by staff members outside the scope of their employment (i.e., those which do not relate to Commission policies, objectives, or operations) are not subject to these clearance procedures. However, where the authors identify themselves as Commission employees, they will use the disclaimer statement provided in paragraph 11b.(2). (See 5 CFR § 8101.103 Supplemental Standards of Ethical Conduct for Employees of the Consumer Product Safety Commission for guidance on outside writing and similar activities and for accepting compensation for outside employment).

h. JOINT PROJECTS

(1) **Definition.** A joint project is any project where an outside group, with some degree of CPSC involvement, produces any audio, visual, internet, written or other material or program for the public. An outside group may be non-profit, a company, a trade association, another government agency, or any other entity. Joint projects with CPSC must be primarily geared toward the Commission's safety mission.

(2) **Clearance.** Any material, in any form, to be disseminated to the public must be 6(b) cleared in accordance with paragraph 7.

(3) **Approval of Concepts.** Joint project concepts should be approved by OEX in consultation with Commissioners Offices and OGC before they proceed to be developed. Outside groups/partners should understand that materials developed after concept approval would also require approval.

(4) **CPSC Name/Logo.** All individual materials to be disseminated as part of the project, including a showing of how the CPSC name and/or logo will be used, shall be approved by a majority of Commissioners. Approval may be obtained on a Form 120 (See Appendix), or by ballot vote (this will depend on nature and extent of Commission involvement).

(5) **CPSC Endorsement.** No material to be disseminated using the CPSC name and or logo should either expressly or by implication be seen as endorsing or approving a particular product or company producing or selling a consumer product. Thus, material produced with a company that manufactures or sells consumer products must be very carefully scrutinized.

(6) **Requests for Use of Commission Name/Logo.** This applies to requests that come in from outside for use of Commission name or logo on website or other material. Procedurally, requests should be sent to the Commission by memo through OEX and OGC containing a recommendation from the staff with a ballot vote. If a majority of the Commission does not approve, the request will be denied. The Commission will examine the request to ensure that the way in which its name or logo will be used is appropriate. There must be no endorsement or indication of approval of a consumer product or company producing or selling a consumer product, either expressly or by implication, in the way the CPSC name or logo will be used.

_____[s]_____ _____**1/16/03**_____
Patricia Semple **Date**
Executive Director

Appendix A – CPSC Form 120
Appendix B – Commission Policy On Linking To Nongovernment Websites

CPSC PUBLICATION, AUDIO-VISUAL, FILM, SPEECH AND REPORT CLEARANCE

1. PROJECT TITLE:	2. DUE DATE
3. .PROJECT DIRECTOR/MANAGER (name, room number , telephone):	
4.THE INTENDED AUDIENCE/PURPOSE IS:	

THE ATTACHED IS TECHNICAL INFORMATION AS DEFINED BELOW,* THAT AFTER BEING RECEIVED BY THE COMMISSION, WILL BE SENT TO THE NATIONAL TECHNICAL INFORMATION CENTER (NTIS) PER CPSC NOTICE 1401.
☐ yes ☒ no (initials of project manager)

IMPORTANT

The attached project material is not to be distributed to any person or organization outside the CPSC until the following offices (as appropriate) have authorized clearance (per CPSC Order 1450.2):

5. CONCURRENCES (Check box indicates appropriate units to review)

Office	Signature	Approve	Disapprove	Date	6(b)(6)**
☐ Assistant Executive Director Hazard Identification and Reduction***					
☐ Assistant Executive Director Compliance					
☐ Assistant Executive Director Information Services					
☐ Director Office of Information and Public Affairs					
☐ Director Office of Financial Management, Planning and Evaluation					
☐ Director Office of Human Resources Management					
☐ Director Office of International Programs and Intergovernmental Affairs					
☐ Executive Director					
☐ General Counsel					
☐ Chairman					

CPSC Form 120 (Rev. 1/06)

*All "unclassified" scientific, technical, and engineering information products resulting from federally-funded research development activities for dissemination to the private sector, academia, state and local governments, and federal agencies are to be transferred within 15 days of public availability to the NTIS. (see CPSC Notice 1400.1)

**You must initial the 6(b)(6) column which will indicate your clearance is in accordance with CPSC Directive 1450.2 issued under 6(b)(6) of the CPSA concerning whether the information is accurate and not misleading.

**Signoff by this office represents clearance by the appropriate technical directorates within EXHR.

GENERAL OPERATING PROCEDURES

ENFORCEMENT POLICY AND PROCEDURAL GUIDE

1. PURPOSE. The purpose of this directive is to establish an Enforcement Policy and Procedural Guide. The Guide is intended to contain the Consumer Product Safety Commission's current official delegations of authority, policy statements and procedural guidelines pertaining to regulatory enforcement activities performed by headquarters and field staff.

2. SCOPE. The Enforcement Policy and Procedural Guide is for the use of CPSC personnel engaged in regulatory and enforcement activities. The regulatory and enforcement guidance issued in the Guide is intended solely for use by CPSC staff and confers no right to, or benefit on, any private person or party. The Guide contains informal interpretations of the staff and is not binding upon the Commission. Although established through this Directives System order, the Guide is administratively independent of the CPSC Directives System and contains restricted material that should not be generally distributed throughout the agency nor released to the public.

3. REFERENCES.

a. CPSC Directives System Orders:

(1) 310 Series Orders: Delegations of Authority-Enforcement, delegate enforcement authority from the Commissioners to the Associate Executive Directors for Compliance and Administrative Litigation, the Associate Executive Director for Field Operations, the General Counsel and certain other CPSC officials.

(2) 9000 Series Orders: Orders contain policies and procedures applicable to the Commission's field staff.

b. Title 16, Code of Federal Regulations, Chapter II-Consumer Product Safety Commission (Part 1000 to End), contains rules and regulations issued by the Consumer Product Safety Commission.

c. Federal Information Resources Management Regulation (FIRMR), Section 201-45.105, requires each Federal agency to establish and maintain official directives systems.

4. OBJECTIVES.

a. To re-delegate certain authorities and assign responsibility related to regulatory and enforcement functions delegated from the Commissioners to the Associate Executive Director for Compliance and Administrative Litigation (AEDCA) or the General Counsel (GC).

b. To issue official policy and procedural instructions to headquarters and field employees engaged in regulatory and enforcement activities on a "need to know" basis and in a timely and organized manner.

c. To produce issuances that are written in easily understood language and that lend themselves to ready revision and amendment.

d. To classify issuances by subject chapter, code number, and date to facilitate access to both current and historic official information. (See APPENDIX A.)

5. TYPES OF ISSUANCES.

a. Guides. Issuances of a permanent nature containing official policy, delegations of authority and regulatory and enforcement procedures and instructions. They remain in force until specifically canceled or superseded.

b. Notices. Issuances of a temporary nature dealing essentially with general or informational matters. They contain short-term expiration dates or are canceled automatically at the end of one year.

c. Emergency. In an emergency situation, guidance may be issued by memorandum, telegram, electronic mail or other media. Such instructions will be canceled automatically at the end of 30 days unless they are incorporated into the official Enforcement Policy and Procedural Guide. Such issuances should reference the appropriate subject and code number classification and any related Guides and Notices.

6. OFFICE AUTOMATION SYSTEM. The Enforcement Policy and Procedural Guide will be maintained on the office automation system. Appropriate security measures will be followed to limit access to only authorized personnel. Standardized formats and prototypes will be maintained on the office automation system and utilized to facilitate the development, maintenance, reproduction distribution, indexing, and archiving of issuances.

7. RESPONSIBILITIES.

a. Associate Executive Director for Compliance and Administrative Litigation (AEDCA).

(1) The AEDCA is responsible for the content of each issuance within his/her area of assigned responsibility and delegated authority relating to compliance and administrative litigation functions. This includes the development and preparation of compliance and enforcement policies, procedures, and guidelines adequate to assure their uniform and equitable application throughout headquarters and the field. The AEDCA will coordinate, consult, and obtain clearances from appropriate Offices and/or Directorates given the subject matter. Any issuance containing interpretations of CPSC regulations or statements of enforcement policy or guidance must be cleared by the General Counsel. The AEDCA will provide the General Counsel with all pertinent and relative material on such interpretations, including all previous historical data. A significant difference of opinion between the AEDCA and the General Counsel on the proper interpretation of a regulation may be raised to the Commission for resolution.

(2) The AEDCA is responsible for physically maintaining the Enforcement Policy and Procedural Guide system to assure that field officials engaged in regulatory and enforcement activities of the Commission have sufficient knowledge and understanding of current policies, procedures and guidelines essential to the proper execution of their assigned duties. The AEDCA is responsible for:

(a) Maintaining the official signed copies of each issuance.

(b) Assigning appropriate subject classification numbers in sequence.

(c) Maintaining the official automated data base from which all issuances may be reproduced and distributed including Guides, Notices, Emergency Issuances, updated tables of contents for each chapter, indexes, and standardized prototypes.

(d) Generally following the Writing and Format Standards contained in APPENDIX B of CPSC Order 0661.1: Directive on Directives, and

(e) Maintaining an archive of outdated and superseded issuances for historical reference.

b. General Counsel (GC). The General Counsel is responsible for the content of each issuance within his/her assigned area of responsibility and delegated authority related to Federal court litigation. This includes the development and preparation of policies, procedures, and guidelines adequate to assure their uniform and equitable application throughout the field. The GC will coordinate, consult with, and obtain clearances from interested Offices and/or Directorates as appropriate for a given subject matter.

c. Associate Executive Director for Field Operations (AEDFO). The AEDFO has supervisory authority over all Commission field staff and shares with the AEDCA a responsibility for assuring that employees engaged in regulatory and enforcement activities have sufficient knowledge and understanding of current policies, procedures and guidelines essential to the proper execution of their assigned duties. The AEDFO is responsible for:

(1) Reviewing and approving issuances developed by the AEDCA or GC which establish procedures which must be followed by field personnel and, where appropriate, ensuring timely input from field personnel.

(2) Identifying subject matter areas to the AEDCA or GC where new or revised issuances are required in the field.

d. Enforcement Policy and Procedures Task Force.

(1) The Chairman, Internal Controls Committee(ICC), will convene an Enforcement Policy and Procedures Task Force to periodically review (at least annually) the Enforcement Policy and Procedural Guide to determine the adequacy of all issuances in terms of clarity, completeness, and up-to-date policy and procedural guidance as well as to ensure that Guidelines and Notices do not conflict with or duplicate each other.

(2) The AEDCA, AEDFO and GC will designate employees to serve on the Enforcement Policy and Procedures Task Force. The Task Force shall consist of these and other personnel designated by the Chairman, ICC. The Chairman, ICC, will appoint a Task Force Chairman and specify appropriate procedural and reporting requirements.

e. Compliance and Enforcement Personnel. Each office and employee designated as a holder of the Enforcement Policy and Procedural Guide will maintain complete files of all current issuances they receive. Directives issued in paper form will be filed in loose-leaf binders. Any supplemental issuances (e.g.

redelegations of authority or standard operating procedures unique to a Regional Center) issued by Regional Centers will

reference the appropriate guide. A copy of such supplemental issuances will be forwarded to the AEDFO, the AEDCA and GC, as appropriate to the subject matter. All officials involved in compliance and enforcement activities shall keep abreast of the content of current issuances.

8. APPROVAL AND SIGNATURES. Any redelegation of the authorities provided by the Commission to the AEDCA or GC will be signed and dated only by the AEDCA or GC, respectively. All new or revised Guides, Notices or Emergency Issuances establishing procedures which must be followed by the field offices must be dated, approved and signed jointly by the AEDFO and the AEDCA or GC, or both, as appropriate. All new or revised Guides, Notices or Emergency Issuances providing interpretations of Commission regulations pertaining to safety standards and the enforcement of those standards must be dated, approved and signed by the AEDCA.

Terrence Scanlon
Chairman

APPENDIX A

ENFORCEMENT POLICY AND PROCEDURAL GUIDE

Subject Classification Scheme

Chapter	Subject
i	CPSC Order 9010.10 Enforcement Policy and Procedural Guides Manual
1	Delegations of Authority
2	Compliance Procedures
3	General Enforcement
4	Memorandum of Understanding and Interagency Agreements
5	Federal Hazardous Substances Act (FHSA)
6	Poison Prevention Packaging Act (PPPA)
7	Flammable Fabrics Act (FFA)
8	Consumer Product Safety Act (CPSA)
9	Refrigerator Safety Act (RSA)
10	Section 15 CPSA, Substantial Product Hazards
11	Miscellaneous
12	State Enforcement Activities

APPENDIX B
GUIDE PROTOTYPE

CONSUMER PRODUCT SAFETY COMMISSION

ENFORCEMENT POLICY AND PROCEDURAL GUIDE

GUIDE

CHAPTER: -

The regulatory/enforcement guidance in this document is intended solely for use by CPSC staff and confers no right to, or benefit on, any private person or party. It contains informal interpretations of the staff and is not binding upon the Commission.

---

1. PURPOSE.

2. SCOPE.

3. CANCELLATION.

4. BACKGROUND.

a.

b.

5. RESPONSIBILITIES:

a.

(1)

(2)

6.

David Schmeltzer Date
Associate Executive Director
for Compliance and
Administrative Litigation

APPENDIX C
NOTICE PROTOTYPE

CONSUMER PRODUCT SAFETY COMMISSION

ENFORCEMENT POLICY AND PROCEDURAL GUIDE

NOTICE

CHAPTER: I

The regulatory/enforcement guidance in this document is intended solely for use by CPSC staff and confers no right to, or benefit on, any private person or party. It contains informal interpretations of the staff and is not binding upon the Commission.

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1. PURPOSE.

2. SCOPE.

3. CANCELLATION.

4. BACKGROUND.

a.

b.

5. RESPONSIBILITIES:

a.

(1)

(2)

6.

David Schmeltzer Date Al Roma Date

Associate Executive Director for Compliance and Administrative Litigation

Associate Executive Director for Field Operations

UNITED STATES CONSUMER PRODUCT SAFETY COMMISSION	DIRECTIVES SYSTEM	ORDER 9010.17 July 15, 1992

SHORT-TERM ISSUANCE SYSTEM

COMPLIANCE AND ENFORCEMENT SUPPORT ACTIVITIES

1. PURPOSE. This directive provides instructions for using the short-term issuance system (STI) of the Directorate for Compliance and Enforcement. The STI system is a mechanism through which headquarters units and field offices may request the use of field office staff to accomplish necessary field operations.

2. SCOPE. The manual is for use by all Commission headquarters and field personnel who use the STI system.

3. Commission staff who use the STI system should use this manual.

Eric C. Peterson
Executive Director

U.S. CONSUMER PRODUCT SAFETY COMMISSION

DIRECTIVES SYSTEM **ORDER NO. 9010.3 May 17, 2011**

COMPLIANCE AND FIELD INVESTIGATION

SAMPLE RETENTION POLICY

1. **PURPOSE.** The U.S. Consumer Product Safety Commission ("Commission") collects samples of products in pursuit of its mission to protect the public against unreasonable risks of injuries associated with consumer products. Ensuring the preservation of samples as evidence for possible enforcement actions investigated under the authority provided to the Commission by Congress is of the utmost importance to the Commission. This order establishes a protocol for sample retention for the Office of Compliance and Field Operations ("EXC") to protect against the untimely or unauthorized destruction of samples by agency personnel.

2. **SCOPE.** This order applies to all Commission employees. It affects all products, substances, and articles within the Commission's jurisdiction (including those that are regulated under the Consumer Product Safety Act or any other act enforced by the Commission) that come into the possession of the EXC or of any commissioned federal, state, or local agency designee acting on behalf of the EXC, and that are assigned a Commission sample number ("Samples").

3. **OFFICE RESPONSIBLE FOR THIS DIRECTIVE.** The EXC is responsible for this directive.

4. **CANCELLATION.** None

5. **REFERENCES.**

   a. Order 0315.4, Authority to Dispose of Consumer Product Samples and Other Items of Evidence, dated May 17, 2011.

b. Order 9010.36, Domestic Sample Collection, dated April 18, 1984, amended October 7, 1987.

c. Order 9010.37, Sample Accountability and Analysis Records, dated April 18, 1984.

6. AUTHORITY. Authority over Samples shall be found in the following:

a. Section 17(b) of the Consumer Product Safety Act ("CPSA") authorizes the Commission, through the Secretary of the Treasury, to obtain samples offered for import.

b. Section 27(f) of the CPSA authorizes the Commission to obtain/purchase samples from any manufacturer, distributor, or retailer of a consumer product.

c. Section 11(b) of the Federal Hazardous Substances Act ("FHSA") authorizes the Commission to obtain samples of materials, packages, and labeling.

d. Section 14(a) of the FHSA authorizes the Commission, through the Secretary of the Treasury, to obtain samples of hazardous substances imported or offered for import into the United States.

e. Section 5(d) of the Flammable Fabrics Act ("FFA") authorizes the Commission to inspect, analyze, and test fabrics and other related products. The Commission's authority to collect samples is implicit in the FFA.

f. Section 704(c) of the Federal Food, Drug, and Cosmetic Act authorizes the Commission to collect samples of packages and labeling subject to the Poison Prevention Packaging Act and requires the issuance of receipts for the samples collected.

7. COMMISSION POLICY. It is Commission policy that:

a. No Sample shall be destroyed if the Sample relates to a case that has been referred to the Office of the General Counsel ("OGC") for civil or criminal penalty review or for litigation unless the OGC, in writing, clears the Sample for destruction.

b. For a case that has not been referred to the OGC for penalty review or litigation and that involves Samples that violate a statute, rule, regulation, standard, or ban administered by the Commission ("regulated product Samples"), the EXC must keep each such Sample for five years from the date the Sample was collected. At the discretion of the Executive Director ("OEX"), the Sample can be retained for a longer period of time if it is the subject of significant media, congressional, or other interest.

c. For a case that has not been referred to the OGC for penalty review or litigation and that involves Samples other than regulated product Samples, the EXC must keep each such Sample for three years from the date the product was recalled, or for three years from

the date the case was closed if the product was not recalled, whichever period is longer. At the discretion of the OEX, the Sample can be retained for a longer period of time if the product is the subject of significant media, congressional, or other interest.

d. On a quarterly basis, the EXC must prepare a report ("retention report") listing all regulated product Samples that have been held in excess of five years from the date of collection and all Samples other than regulated product Samples that have been held in excess of three years from the date the product was recalled or, in the event there was no recall, the date the case was closed. The EXC must indicate all product Samples that should not be destroyed, noting the reason for retaining the Samples beyond the applicable three-year or five-year retention period.

e. On a quarterly basis, the EXC must provide the OEX and the OGC with the retention report. Within two weeks after receipt of the retention report, the OEX and the OGC will advise the EXC of those Samples that should not be destroyed, noting the reason for retaining the Samples beyond the applicable three-year or five-year retention period. If the retention report is received other than on a quarterly basis, the two-week review and notification procedure referenced above still applies. No Sample designated by the OEX or the OGC for retention shall be destroyed.

f. Notwithstanding the foregoing, and only with respect to Samples required by the foregoing to be retained, this order provides as follows:

   i. A Sample (including a Sample that is intact, entirely or partially consumed, or consisting entirely or partially of post-testing remnants), or any portion thereof, that poses or may pose to Commission employees or contractors a health or safety risk if retained after a certain period of time, need not be retained after that period. Where a Sample consists of a portion that poses or may pose such a risk and a portion that does not pose or potentially pose such a risk, this order permits the former to be destroyed and requires the latter to be retained. See subsection 7(f)(v) for associated documentation and record retention requirements.

   ii. Where a Commission employee identifies a Sample, or any portion thereof, as immediately posing, or as immediately having the potential to pose, to Commission employees or contractors a health or safety risk, the Sample, or portion thereof, may be destroyed at or shortly after the time of that identification. See subsection 7(f)(v) for associated documentation and record retention requirements.

   iii. Examples of conditions or circumstances that may give rise to the health or safety risk referenced in subsections 7(f)(i) and (ii) above include, but are not limited to, spoilage, rot, mold, decomposition, chemical degradation, and manufacturer-recommended expiration or disposal dates.

   iv. Examples of Samples, or portions thereof, that may not require retention for the reasons described in subsections 7(f)(i) and (ii), include, but are not limited to, the following: fireworks (function-tested, disassembled, or consumed); mattresses (the charred remnants extinguished with water need not be retained); and products

containing lead and phthalates (the solution resulting from testing need not be retained, but the balance of the Sample must be retained).

v. A Commission employee who identifies a Sample, or any portion thereof, that poses, or has the potential to pose, the health or safety risk referenced in subsections 7(f)(i) and (ii) above, and/or who directs or requests that a Sample be destroyed due to such risk, prior to or promptly after destruction, must document in the Commission's Sample tracking records and/or other appropriate records the risks and other facts associated with that Sample or portion that justify destruction, and must retain all testing and other records associated with the Sample or portion. The destruction of a Sample or portion thereof as authorized in section 7(f) may be undertaken without prior approval of the OEX or the OGC, unless the OEX or the OGC, in writing, requests to be notified prior to the destruction of a certain Sample.

8. EMPLOYEE RESPONSIBILITIES. Every employee who is involved in the collection, testing, maintenance, or destruction of a Sample must follow the requirements of this order, and comply with it as well as any other applicable policies, regulations, and procedures, including, but not limited to, the other directives addressing the collection of samples and related recordkeeping requirements in Order 0315.4, Authority to Dispose of Consumer Product Samples and Other Items of Evidence, dated May 17, 2011, Order 9010.36, Domestic Sample Collection, dated April 18, 1984, amended October 7, 1987, and Order 9010.37, Sample Accountability and Analysis Records, dated April 18, 1984.

_____/s/_____ **__5-17-2011_____**
Kenneth R. Hinson **Date**
Executive Director

INITITATING AND MONITORING CORRECTIVE ACTION PLANS

Compliance and Enforcement Support

1. PURPOSE. This order establishes the procedures to be used by Commission personnel when assisting and advising manufacturers or other firms as they initiate and conduct corrective action plans and when monitoring the progress of these corrective action plans. Corrective action plans are conducted to remove from the marketplace or correct consumer products which are in violation of specific Commission regulations, rules, standards or bans or which present a possible substantial product hazard or imminent hazard because of a defect. A corrective action plan may be conducted voluntarily or may be required by a binding Commission order.

2. SCOPE. The procedures in this order are for the use of field office personnel and personnel in the Directorate for Compliance and Enforcement who monitor corrective action plans.

3. REFERENCES.

a. Consumer Product Safety Act, 15 U.S.C. 2051

b. Flammable Fabrics Act, 15 U.S.C. 1191

c. Federal Hazardous Substances Act, 15 U.S.C. 1261

d. Poison Prevention Packaging Act of 1970, 15 U.S.C. 1471

e. Refrigerator Safety Act, 15 U.S.C. 1211

f. Rules and Regulations Under the Federal Hazardous Substances Act: Repurchase of Banned Hazardous Substances, 16 C.F.R. 1500.202 and 1500.203.

g. Rules and Regulations under the Consumer Product Safety Act, Interpretation, Policy and Procedure for Substantial Product Hazard Report, 16 C.F.R. 1115.

h. Amendments to the Consumer Product Safety Act, Federal Hazardous Substances Act and Flammable Fabrics Act for Export Reporting Requirements, PL 95-631.

i. Standard for the Surface Flammability of Carpets and Rugs: Statement of Enforcement Policy, 16 C.F.R. 1630.

j. Commission Order 9010.30, Inspections.

4. Commission employees who work with business establishments on corrective action plans should use this manual. Copies are available in the Directorate for Compliance and Enforcement.

Eric C. Peterson
Executive Director

CPSC

Order

9010.34

CORRECTIVE ACTION PLANS

June 4, 1984

DISTRIBUTION: Set 1 & 2

INITIATED BY: CACA

CPSC FORM 10

FOREWORD

1. PURPOSE. This order establishes the procedures to be used by Consumer Product Safety Commission (CPSC) personnel when assisting and advising manufacturers or other responsible firms as they initiate and conduct corrective action plans and when monitoring the progress of these corrective action plans. Corrective action plans are conducted to remove from the marketplace or correct consumer products which are in violation of specific CPSC regulations, rules, standards or bans or which present a possible substantial product hazard or imminent hazard because of a defect. A corrective action plan may be conducted voluntarily or may be required by a binding Commission order.

2. SCOPE. The procedures in this order are for the use of field office personnel and personnel in the Directorate for Compliance and Administrative Litigation who are involved in monitoring corrective action plans.

3. CANCELLATION. This order cancels Monitoring Product Corrective Programs, Order 9010.34, dated July 30, 1979.

4. EXPLANATION OF CHANGES.

a. Classification of Recalls. The three classifications for recalls have been changed to Class A, Class B and Class C.

b. Number of Effectiveness Checks. The number of effectiveness checks recommended for each recall classification has been modified.

c. Notice and Repair, Replacement, or Refund - FHSA Section 15. Changes have been made to reflect the Consumer Product Safety Amendments of 1981 changes to the FHSA Section 15 repurchase provisions.

d. Monthly Recall Report from Home Regional Office. Monthly reports are no longer required to be submitted to CARM for noncomplying product recalls.

5. REFERENCES. References for this directive include:

a. Consumer Product Safety Act (CPSA)
b. Flammable Fabrics Act (FFA)
c. Federal Hazardous Substances Act (FHSA)
d. Poison Prevention Packaging Act (PPPA)
e. Refrigerator Safety Act (RSA)

f. Rules and Regulations Under the Federal Hazardous Substances Act: Repurchase of Banned Hazardous Substances (16 CFR 1500.202 and 1500.203).
g. Rules and Regulations under the Consumer Product Safety Act, Interpretation, Policy and Procedure for Substantial Product Hazard Reports (16 CFR 1115).
h. Amendments of the Consumer Product Safety Act, Federal Hazardous Substances Act and Flammable Fabrics Act for Export Reporting Requirements (PL 95-631).
i. Standard for the Surface Flammability of Carpets and Rugs; Statement of Enforcement Policy (16 CFR 1630).
j. Order 9010.30, Inspections.

Edgar Morgan
Executive Director

TABLE OF CONTENTS

CHAPTER 1. INTRODUCTION

1. GENERAL. Industry is responsible for conducting recalls to remove from the market or correct consumer products which fail to comply with a regulation, rule, standard or ban promulgated under the Consumer Product Safety Act (CPSA), the Federal Hazardous Substances Act (FHSA), the Flammable Fabrics Act (FFA), the Poison Prevention Packaging Act (PPPA) or the Refrigerator Safety Act (RSA) and/or which present a substantial product hazard as determined under Section 15 of the CPSA, or an imminent hazard as determined under Section 12 of the CPSA. The Commission monitors these recalls to insure that the maximum possible number of products which are noncomplying or present a substantial product hazard or imminent hazard are corrected or removed from the market. Some recalls are undertaken voluntarily, and some are mandated by court or Commission order. The terms repair, replacement, repurchase and refund describe various types of recalls. These and other terms are defined in the following section.

2. DEFINITIONS.

a. Corrective Action Plan (CAP).

(1) A corrective action plan (CAP) is an outline or plan for the way in which a firm will carry out the recall of a noncomplying product or a product which presents a substantial hazard. The CAP may call for specific actions such as repair, replacement or repurchase of the product; refund of all or part of the purchase price; and notification to all affected parties (distributors, retailers, consumers) by way of point of purchase posters, press releases, direct notification, etc. The CAP may be voluntary or may come about as a result of a Commission or court order.

(2) Voluntary Corrective Action Plan. The Section 15 regulations (16 CFR 1115.20(a)) specify that the Commission may accept a non-binding, voluntary corrective action plan signed by the firm(s) responsible for recalling or correcting a product which presents a possible substantial product hazard.

(3) Commission orders or court orders (whether litigated or negotiated) issued under Section 12 or 15 of the CPSA and Section 15 of the FHSA may contain the elements of a CAP including requirements for the repair, replacement or repurchase of a product or refund of all or part of the purchase price. Orders may also call for

notification to the public, including issuance of press releases and direct notification to consumers. Violating an order may subject a firm to civil penalties or criminal penalties. An order may be in the form of a Consent Order Agreement. See example at CFR 1115.20(b).

b. Direct Accounts. Consignees who receive shipments of the recalled product direct from the recalling firm are direct accounts.

c. Effectiveness Check. An effectiveness check is a limited inspection or telephone call to confirm that a consignee or consumer has been notified of a recall and has taken appropriate action.

d. Home Regional Office. A home regional office is the CPSC regional office in whose geographic area the recalling firm (manufacturer, distributor, retailer, private labeler or importer) is located.

e. Identification Number. An identification (ID) number is a number assigned by the Corrective Actions Division of the Compliance and Administrative Litigation Directorate (CACA) to a file on a product which falls under either of the following two categories: the staff has preliminarily determined that a substantial product hazard exists or staff has preliminarily determined that a substantial product hazard does not exist; however, some lesser level of risk is present and the firm is voluntarily conducting a recall. Once a file is identified by an ID number there is no need to obtain a recall number (RN).

f. Noncomplying Product. A noncomplying product is a product which does not comply with a regulation, rule, standard or ban under the CPSA, FHSA, PPPA, FFA or RSA.

g. Recall. A recall is the removal from the market, removal from the possession of consumers and/or the modification of products which present a hazard to consumers or are otherwise in violation of the law. Recalls may involve refund of the purchase price, repair, replacement or repurchase as defined in paragraphs 2j, 2l, 2m and 2n.

h. Recall Number. A recall number (RN) is a number assigned by the recall coordinator, Division of Regulatory Management of the Compliance and Administrative Litigation Directorate (CARM) to a recall of a product which fails to comply with a regulation, rule, standard or ban promulgated under the Consumer Product Safety Act (CPSA), the Flammable Fabrics Act (FFA), the Federal Hazardous

Substances Act (FHSA), the Poison Prevention Packaging Act (PPPA) or the Refrigerator Safety Act (RSA). A single recall number is assigned to a recall involving one specific product but may include all package sizes, lots or other code numbers and all labels used by the firm originally initiating the program. If the recall is extended to a lower distribution level, the same recall number is used. If an extension of the recall is needed because the product has been relabeled, reprocessed or used in manufacturing another product, another recall number is issued.

i. Recalling Firm. A manufacturer, importer, distributor, private labeler or retailer that is conducting a recall is a recalling firm.

j. Refund. Refund is the return of the purchase price or a portion thereof of a non-complying or defective product. Section 15(d)(3) of the CPSA and Section 15(b)(3) of the FHSA provides for the deduction of a reasonable allowance for use if the product has been in the possession of a consumer for one year or more with certain limitations.

k. Regulated Product. A regulated product is a product subject to a specific regulation, rule, standard or ban promulgated under the CPSA, FHSA, FFA, PPPA or RSA.

l. Repair. Repair is the alteration of a product or its labeling to bring it into conformity with the requirements of an applicable consumer product safety rule or to eliminate a defect, especially as referred to in Section 15(d)(1) of the Consumer Product Safety Act and Section 15(b)(1) of the FHSA.

m. Replacement. Replacement is the substitution of a like or equivalent product, which complies with an applicable consumer product safety rule or which is free of the defect associated with the recalled product, for a noncomplying or hazardous product as referred to in Section 15(d)(2) of the CPSA and Section 15(b)(2) of the FHSA.

n. RP Number. A Report Number (RP) is a number assigned by CACA to each report of a possibly defective product and/or non-complying regulated product by a manufacturer (importer), distributor or retailer pursuant to Section 15(b) of the CPSA. CACA assigns an RP number to every report. The staff analyzes the report and makes a preliminary determination in the case of non-regulated products to seek corrective action under Section 15 of the CPSA if it appears a

substantial product hazard exists; to monitor, in a limited fashion, the corrective actions by a firm when less than a substantial product hazard exists and the firm is conducting a recall; or to not pursue the matter further. In the first two instances, an identification (ID) file is opened, and the assigned ID number supersedes the RP number. Reports involving regulated products are referred to the home regional office for follow-up.

o. Sub-Accounts. Consignees who receive shipments of the recalled product from a firm other than the recalling firm are sub-accounts.

3. STATUTORY AUTHORITY. The Commission's authority to require recalls varies with the act involved and the situation encountered. In situations where the Commission does not have explicit authority to require recall, firms may undertake such a program voluntarily when faced with the possibility of multiple seizures, severe civil or criminal penalties, injunction or adverse publicity. In situations where the Commission has the legal authority to require recall, the firm may agree to conduct a recall voluntarily before the Commission has to exercise its legal authority. Voluntary action by the firm is preferable because it generally results in earlier removal of hazardous products from the marketplace and, therefore, quicker protection of the consumer. When working with a firm on a voluntary recall, investigators should be aware of the possibility of stalling by the firm, as well as the legal powers and sanctions the Commission can exercise if satisfactory voluntary action is not forthcoming.

a. Section 15 of the CPSA.

(1) Commission or Court Orders. Once the Commission determines that a substantial product hazard exists following a hearing under Section 15, it may order a manufacturer, importer, distributor or retailer to give public notice of the defect and to mail notices to firms which have distributed the product and to individuals who have purchased the product (Section 15(c)). In addition, CPSC may order a firm to elect to repair a defect, replace the defective product or refund the purchase price of the involved product less a reasonable allowance for use under certain conditions (Section 15(d)). An order under Section 15 may be made only after the involved firm has been given an opportunity for an evidentiary hearing (Section 15(f)). It is a prohibited act under Section 19(a)(5) to fail to comply with an order issued under Section 15(c) or (d) of the CPSA. Once the Commission has initiated an administrative proceeding

pursuant to Section 15 against a firm for a product it believes presents a substantial product hazard and prior to the outcome of the Section 15(f) hearing, the Commission may apply to a U.S. District Court for a preliminary injunction to restrain distribution in commerce of such product (Section 15(g)).

(2) Voluntary Action. Commencement of proceedings towards an order is generally a last resort. The most effective means of identifying and correcting injury-producing product defects and noncomplying products is through cooperative efforts between industry and the Commission based on the CPSA Section 15 framework.

b. Section 12 of the CPSA. Section 12 of the CPSA is an alternative procedure which the Commission may follow when it becomes aware of a product hazard. If the Commission believes that a product presents an imminent and unreasonable risk of death, serious illness or severe personal injury, CPSC may file an action in a U.S. District Court which may result in seizure and condemnation of the involved product. In addition, the court may issue an order which requires a firm to notify purchasers of the product hazard and/or initiate a repair, replacement or refund action.

c. Federal Hazardous Substances Act.

(1) Banned Hazardous Substances. The Consumer Product Safety Amendments of 1981 deleted Section 15 of the Federal Hazardous Substances Act (FHSA) which required the automatic repurchase of banned hazardous substances. The repurchase requirements were replaced with provisions similar to those of Section 15 of the Consumer Product Safety Act (15 U.S.P. 2064). This new FHSA Section 15 authorized the Commission to order notification and correction of the hazard presented by a banned hazardous substance after affording all interested persons and groups opportunity for a hearing. The Commission may require a manufacturer, distributor, or retailer to repair or modify the product so that it is no longer banned; or to replace it with another product which is not banned; or to refund the purchase price of the product.

(2) Misbranded Hazardous Substances. Misbranded hazardous substances are not subject to the Notice and Repair, Replacement, or Refund provisions of Section 15 of the FHSA. CPSC recommends the recall of misbranded hazardous substances which present serious hazards. CPSC can motivate the recall of such products by seizing products or by initiating other legal steps for violations of the law.

In addition, firms are often moved to action by a desire to avoid bad publicity. Refer to guidelines and memos from CARM for guidance in determining whether or not to recommend recall of a misbranded hazardous substance.

d. Poison Prevention Packaging Act. Products in violation of the Poison Prevention Packaging Act are misbranded hazardous substances under the FHSA or misbranded foods or drugs under the Federal Food, Drug and Cosmetic Act. As such their recall status is the same as other misbranded hazardous substances. Refer to guidelines and memos from CARM for guidance in determining whether or not to recommend recall. Note that liquid drain cleaners which contain 10% or more by weight of sodium and/or potassium hydroxide and are not packaged in special packaging are banned hazardous substances per Regulation 16 CFR 1500.17(a)(4) issued under the FHSA. As such these products are subject to mandatory repurchase.

e. Flammable Fabrics Act.

(1) Authority to Require Recall. The Commission does not have the authority to require recall under the Flammable Fabrics Act. The Commission has authority under the CPSA to deal with hazards associated with flammable fabrics. If items subject to FFA standards fail to such an extent that they are judged to present a substantial product hazard the Commission may exercise its authority under Section 15 of the CPSA to order recall. Refer to guidelines and memos from CARM for guidance in determining whether or not to request that a firm voluntarily conduct a recall of a non-complying textile article.

f. Refrigerator Safety Act. The Refrigerator Safety Act has no provisions for mandatory recalls.

CHAPTER 2. DISCOVERING A NONCOMPLYING PRODUCT OR A SUBSTANTIAL PRODUCT HAZARD

4. GENERAL. The Commission can become aware of noncomplying products and product defects which could create a substantial product hazard in a number of different ways.

5. REPORTS TO THE COMMISSION UNDER SECTION 15(b).

a. Products Subject to the CPSA. Section 15(b) of the CPSA requires that every manufacturer (including importer), distributor and retailer of a consumer product distributed in commerce who obtains information which reasonably supports the conclusion that such product fails to comply with a CPSA standard or ban (this does not include a CPSA 27(e) rule) or contains a defect which could create a substantial product hazard shall immediately inform the Commission of such failure to comply or of such defect unless the firm has actual knowledge that the Commission has been adequately informed.

b. Products Subject to the FFA, FHSA, and PPPA. The Commission made a Section 30(d), CPSA, determination that manufacturers (importers), distributors and retailers of consumer products which are subject to regulations, rules, standards or bans under the FFA, FHSA and PPPA must comply with the reporting requirements of Section 15(b) by reporting any noncomplying product containing a defect which could create a substantial product hazard (See Appendix 1).

c. Section 15(b) Reports on Noncomplying Regulated Products.

(1) Delegation of Authority to Receive Reports. Regional Office Directors have been delegated the authority to receive Section 15(b) reports for products which fail to comply with an applicable consumer product safety rule under CPSA and products which fail to comply with a regulation, rule, standard or ban under FFA, FHSA or PPPA.

(2) Reports Received by CACA. If the firm submits a report on a regulated product to CACA, CACA refers the report to CARM. CARM will confirm the initial report in writing and forward the initial report (original) and a copy of the confirmation letter to the home regional office of the reporting firm and the home regional office of the manufacturer or importer, if different from the reporting firm.

(3) Reports Received by Regional Offices. When a regional office receives a report on a regulated product, it confirms the initial report in writing and sends copies of the initial report and the confirmation letter to CACA and CARM.

d. Section 15(b) Reports on Defective Products. Any Section 15(b) report of a product defect which could create a substantial product hazard and which is not addressed by a specific Commission regulation, rule, standard or ban must be made to CACA in order for a firm to fulfill its reporting obligations. If such a report is received by a regional office in writing, telecopy the report immediately to CACA. If a regional office receives such a report by telephone, obtain the name, address and telephone number of the individual making the report. Inform the party that reporting obligations have not been fulfilled until direct contact has been made with CACA (301-492-6608). Calls can be made to CACA Monday through Friday from 8:30 am to 5:00 p.m. EST. The regional office then contacts CACA with the information.

e. Failure to Report Under Section 15(b). Occasionally a regional office learns that a firm has discovered a noncomplying product and/or a possible substantial product hazard on its own but has failed to report to the Commission. In these situations the regional office gathers information on the noncomplying product or possible substantial product hazard and conducts a timeliness investigation. CACA is contacted about possible substantial product hazards. See paragraph 12h for details on timeliness investigations.

6. OTHER SOURCES OF DISCOVERY.

a. Sources. Other ways the Commission can discover noncomplying products or possible substantial product hazards are through: establishment inspections, consumer complaints, in-depth investigations, trade complaints, state and local consumer protection offices, product testing, insurance companies, attorneys handling product liability suits, independent testing laboratories, product servicing facilities and the communication media. Regional offices are responsible for evaluating data of this type for possible violations and substantial product hazards.

b. Noncomplying Products. If a noncomplying product is discovered as the result of a field compliance program, the regional office follows any specific instructions included in the program regarding development and monitoring of a recall. If a violation is

not clear cut, the regional office works with CARM to determine the existence of a violation. Once it is determined that a violation exists, the home regional office is responsible for notifying the manufacturer by a Letter of Advice of the violation and the need to conduct a recall. The home regional office must report the recall to the CARM recall coordinator to obtain a recall number.

c. Evaluating Possible Substantial Product Hazards. Refer to Order 9010.40, Substantial Hazards in Consumer Products, for guidance on evaluating initial information on product defects and developing a recommendation to CACA to open a substantial product hazard file.

CHAPTER 3. DEVELOPING THE RECALL

7. GENERAL. There are three types of recall situations which the Commission monitors. Regional office activities are similar in most ways for the three situations but differ in some respects. The types of recall situations are listed below, followed by discussions of the differences and similarities.

a. Voluntary recall of a product which does not comply with a regulation, rule, standard or ban under the CPSA, FFA, RSA, FHSA or PPPA, with the exception of banned hazardous substances under the FHSA.

b. Voluntary recall of a product which the Commission staff has preliminary determined presents a substantial product hazard.

c. Recall of a product under a Consent Order Agreement or a Commission or court order.

8. VOLUNTARY RECALL OF A NONCOMPLYING PRODUCT.

a. Decision that a Product Should Be Recalled. Not all noncomplying products warrant recall. Before the home regional office advises a firm to conduct a recall, guidelines on recall provided in field programs and with the case authority delegation should be consulted. Consult with CARM regarding situations for which guidelines are not available.

b. Notifying the Firm. If the home regional office has not sent a Letter of Advice notifying the firm of the violation and the need for recall, the investigator hand delivers the Letter of Advice during the initial recall inspection. Emphasize the necessity of recall in the interest of public health and safety.

c. Developing the Plan for Recall. The home regional office has the primary responsibility for working with the firm to develop a corrective action plan for a voluntary recall of a noncomplying product.

d. Refusal to Conduct a Recall. If the firm refuses to conduct a recall, seizure and injunction are alternatives to consider. If the product is a banned hazardous substance under the FHSA or is non-complying because of a defect which could create a substantial product hazard, a proceeding under either FHSA Section 15 or CPSA

Section 15 is another alternative to consider. Consult with CARM regarding these alternatives before discussing the possibility of such actions with the firm.

e. Timeliness Investigations for a Noncomplying Product. Conduct a timeliness investigation as described in paragraph 12h if either of the following situations of non-compliance exist:

(1) The product does not comply with a CPSA standard or ban (this does not include CPSA, Section 27(e) requirements).

(2) The product does not comply with a rule, regulation, standard or ban under the FHSA, PPPA or FFA, and noncompliance is due to a defect which could create a substantial hazard.

9. NOTICE AND REPAIR, REPLACEMENT, OR REFUND OF A BANNED HAZARDOUS SUBSTANCE.

a. Decision that a Product Should Be Recalled. If a minor technical violation causes a product to be a banned hazardous substance, consult guidelines for recall provided in field programs and for the case closing authority delegation or consult with CARM before requiring the firm to recall the product.

b. Notifying the Firm. If the home regional office has not sent a Letter of Advice notifying the firm of the violation and requesting voluntary corrective action as appropriate, the investigator hand delivers the Letter of Advice during the initial recall inspection. The investigator should avoid getting into a negotiating situation with the firm.

c. Developing the Plan for Recall. The home regional office has the primary responsibility for working with a firm to develop a corrective action plan.

d. Refusal to Conduct a Recall. If the firm refuses to conduct a recall, issuance of a complaint under FHSA Section 15 should be considered. Consult with CARM regarding alternatives before discussing the possibility of such actions with the firm.

e. Timeliness Investigation for a Banned Hazardous Substance. Conduct a timeliness investigation as described in paragraph 12h if the product is a banned hazardous substance because it contains a defect which could create substantial product hazard.

10. VOLUNTARY RECALL OF PRODUCT WHICH THE STAFF HAS PRELIMINARY DETERMINED PRESENTS A SUBSTANTIAL PRODUCT HAZARD.

a. Decision that a Product Should Be Recalled. CACA is responsible for making a preliminary determination that a product contains a defect which presents a substantial product hazard. CACA opens an ID file in the name of the manufacturer (importer) and, in some instances, large distributors or retail chains, component manufacturers or other firms deemed appropriate by CACA. The compliance officer in CACA informs the home regional office that an ID file has been opened by telephone and/or by sending a copy of the preliminary determination letter from CACA to the firm.

b. Notifying the Firm and Developing a Plan for Corrective Action. CACA has the primary responsibility for notifying the involved firm, explaining to the firm its legal obligations under Section 15 of the CPSA, and seeking and developing a voluntary corrective action plan from the firm. If agreeable to CACA, the home regional office may negotiate the CAP.

c. Timing of the Initial Inspection by the Home Regional Office.

(1) Under normal circumstances, the timing for conducting the initial inspection is as follows: After the ID file is opened, the subject firm is given 2-3 weeks to submit a voluntary CAP. Once CACA receives the CAP, it will review the plan, negotiate with the firm if necessary and arrive at a staff accepted CAP. The CACA compliance officer will then contact the home regional office to have the initial inspection conducted as soon as possible and will ensure that the home regional office receives all CAP materials. Since negotiation of CAP's with a firm is sometimes a sensitive issue, contact between the home regional office and the CACA compliance officer is necessary prior to the initial inspection.

(2) Circumstances may arise which will require the home regional office to conduct the initial inspection either earlier or later than under normal conditions. In such cases, CACA will contact the home regional office to discuss what action is to be taken.

d. Submission of Progress Reports. It is important that recalling firms begin reporting progress to the home office shortly after the recall is underway. Once the home office receives from CACA a copy of the CAP clearly evidencing a recall, the home regional

office contacts the firm to inform it of the need to report the progress of the CAP. This contact may be during the initial inspection. However, if the initial inspection cannot be conducted within a reasonable time frame or the home office has recently been to the firm, then sending a letter and the reporting format to the firm would be appropriate. Appendix 5 shows the format for a letter notifying the firm of need to submit periodic program reports. See Appendix 6 for the format for periodic progress reports. See paragraph 17b for discussion of periodic progress reports.

e. Timeliness Investigation. During the initial recall inspection, conduct a timeliness investigation as described in paragraph 12h.

11. RECALL UNDER A CONSENT ORDER AGREEMENT OR A COMMISSION OR COURT ORDER.

a. Noncomplying Products.

(1) Home Regional Office and Headquarters Responsibilities. If a recall involves a noncomplying product, the home regional office has the primary responsibility for assisting the recalling firm in developing the CAP and the recall notification according to any conditions specified in the order. CA staff is available to advise and assist the regional office in case of problems.

(2) Initial Recall Inspection. In some instances the recall may have been started and possibly completed by the time a consent order agreement is signed. If the home regional office is already monitoring an ongoing recall, continue monitoring according to instructions in this Order. If the regional office has not had previous or recent contacts with the firm, conduct an initial recall inspection following the instructions in paragraph 8 or 9.

(3) Timeliness. Conduct a timeliness investigation for a noncomplying product only if it fails to comply with a CPSC standard or ban (this does not apply to CPSA Section 27(e) requirements) or it fails to comply with a rule, standard or ban under the FHSA, PPPA, or FFA and the non-compliance is due to a defect which could create a substantial product hazard. Refer to paragraph 12h for a complete discussion of timeliness investigations.

b. Products Presenting a Substantial Product Hazard or Imminent Hazard.

(1) Home Regional Office and Headquarters Responsibilities. In cases where a product defect is preliminarily determined to present a substantial product hazard or an imminent hazard and the firm is unwilling to conduct an adequate voluntary CAP, the Commission may issue an administrative complaint or seek a judicial complaint against the firm. Such cases may be settled by the firm signing a consent order agreement, or the Commission or court may order the firm to undertake certain recall actions after an evidentiary hearing. In any of these situations, CA is primarily responsible for the development of the agreement with the firm similar to the procedures outlined in paragraph 10. The regional offices may be requested to assist by gathering evidence for the hearing and by notifying the public of hazards associated with the defective product during the litigation stages.

(2) Initial Recall Inspection. In some instances an initial recall inspection may have been conducted already. It may be necessary to verify information previously obtained, especially if some time has elapsed since the initial recall inspection was conducted. Review the recall notification, the press release if one is deemed necessary, plans for disposition of recalled products and future production changes to ensure that the firm is complying with the Order. Follow the instructions in paragraph 10.

(3) Timeliness Investigations. If a timeliness investigation has not been conducted, conduct an investigation for a product presenting a substantial or imminent hazard. Refer to paragraph 12h for a complete discussion of timeliness investigations.

12. INITIAL RECALL INSPECTION FOR ALL TYPES OF RECALLS.

a. General. Essentially the same information is obtained during an initial recall inspection for any of the four recall situations. The information to obtain is described below.

b. Routine Inspectional Data. Obtain routine inspectional data relating to the noncomplying or defective product in accordance with Order 9010.30, Inspections.

c. Information for the Initial Report of Recall.

(1) The information needed to write an Initial Report of Recall is listed below. Refer to Appendix 2 for the format for an Initial Report of Recall. Not all the information listed is applicable to every type of product or recall situation. Where appropriate, items may be omitted or answered with "non applicable".

(a) Reason for Recall. Describe the violation or the defect and the hazard.

(b) Type of Recall Program. State whether the recall is voluntary or mandatory and what act and section applies.

(c) Identifying Product Information. Provide the brand name, model and style designations, serial number, other identifying codes, color, size, price and any other applicable information that would be helpful in identifying the product.

(d) Corrective Action Plan. Describe how the recalling firm plans to conduct the recall including the date and type of notice and to whom it will be sent. Include a copy of notices or, if notices are long, summarize what distributors, retailers and/or consumer are instructed to do.

(e) Injuries, Deaths or Safety Related Complaints. Describe any such reports received by the recalling firm and/or by CPSC.

(f) Number of Products Involved. Give estimates or actual numbers, if available, for products at each level in the chain of distribution including the factory, warehouse, distributors, retailers and consumers.

(g) Dates of Production. Give dates and, if applicable, why production was limited to this period. Examples of why production might be limited to a certain period are: substitution of one component for another, temporary breakdown in quality control or discontinuing manufacture of the product.

(h) Dates of Distribution.

(i) Mode of Distribution. State the number and type of consignees and how the product is sold, e.g. mail order, or retail stores.

(j) Geographic Distribution. Specify States if distribution is not nationwide.

(k) Estimated Life of Product in Consumers' Hands. State how long product is expected to last.

(l) When and How the Firm Learned of the Problem.

(m) When and How CPSC Learned of the Problem.

(n) Samples. List numbers of any samples collected to document the violation or defect.

(o) Disposition of Products. Describe the firm's plan for disposition of returned products, if applicable.

(p) CPSC Plan for Monitoring. Describe.

(2) For recalls involving ID files, it is important for the regional office and the CACA compliance officer to communicate about elements of the CAP to ensure that the home regional office includes the most recent and accurate information in the initial Report of Recall.

(3) ID or RN Number. The initial Report of Recall and assignment of effectiveness checks are to be designated by either an ID number or RN number. Recalls of defective products presenting a substantial or imminent hazard are assigned an ID number by CACA. For recalls of regulated products, the home regional office obtains a recall number from the recall coordinator in CARM.

(4) Who Receives an Initial Report of Recall. Send an Initial Report of Recall to all regional offices if the recalled product was distributed nationwide or in several states. If the recall is local, e.g. a refuse bin retrofit program, it is not necessary to send the Initial Report to other regional offices. If there is a short term issuance (STI) for recall effectiveness checks, send a copy of the Initial Report to the Special Assistant for Field Operations (FO). A copy of the Initial Report should go to the CARM

recall coordinator if the recall involves a noncomplying product, or to the CACA compliance officer for the product area if the recall involves a substantial product hazard or imminent hazard.

(5) When to Send the Initial Report. The Initial Report is sent with the assignments of recall effectiveness checks unless combining the two would result in a significant delay in submitting the Initial Report. Regional offices need Initial Reports on nationwide recalls promptly in order to answer consumer inquiries. The Initial Report also provides background information useful to investigators in conducting recall effectiveness checks.

d. List of Consignees. For the purpose of assigning recall effectiveness checks, obtain a list of consignees who received the product being recalled. If the firm refuses to supply a list of consignees, there are several options to consider. Refer to past inspection reports for customer lists. If the product is widely marketed through specific types of retail outlets such as automotive supply stores or drug stores, request that these types of retail outlets be checked. If neither of these alternatives is feasible, consider using an inspection warrant, subpoena or special order to obtain the information. Consult with CACA or CARM regarding these alternatives.

e. Plan for Corrective Action.

(1) Noncomplying Products.

(a) Assist Recalling Firm. If assistance is needed, help the firm develop a plan for recalling or correcting the products or review the plan the firm has formulated. Work with the firm to establish a timetable for the corrective action plan. The plan should include corrections in production procedures and disposition of returned products if applicable.

(b) Export of Products Subject to Recall. If the firm intends to export returned products, inform them of the November 10, 1978 amendments to the CPSA, FHSA and FFA which require that the Commission be notified 30 days in advance of the intention to export non-complying goods to a foreign country. (See Appendix 3) Provide the firm with a copy of the amendments and advise them of the information required to be reported and the additional information we suggest be reported.

(2) Defective Products. The firm will have provided CACA with a copy of its corrective action plan. However the investigator should review the firm's plan for corrective action and obtain copies of any notices available. Obtaining this information serves as a double check of the information the firm has provided to CACA and is necessary since discrepancies in firms' recall programs have appeared in the past. Avoid getting into a negotiating situation with the firm regarding the corrective action. Advise the firm to contact the CACA compliance officer with any questions regarding the corrective action plan.

f. Recall Notification.

(1) Review of Content. Review the recall notification for adequacy using the guidelines which follow. If the recall involves a noncomplying product and the notification is not adequate, inform the firm of the problem. If the recall involves a substantial product hazard, CACA will review the recall notification, so the CACA compliance officer should be alerted to any inadequacies in the notification.

(a) Identification of the Product. Does the notification identify clearly the product by giving size, model, style, serial, code and/or lot numbers and any other pertinent descriptive information?

(b) Explanation of Hazard. Is the reason for recall and the hazard involved explained concisely?

(c) Action to be Taken. Are actions the recipient should take to correct the problem or return the product explained?

(d) Customer Notification. Where appropriate have direct accounts been instructed to notify customers who received the product about the recall?

(e) Contacting the Recalling Firm. Is a means provided for the recipient of the notification to report to the recalling firm whether it has any of the product, e.g., by sending a postage-paid, self-addressed postcard or by allowing the recipient to place a collect call to the recalling firm?

(f) No Disguise of Hazard. There should be no attempts to disguise the true reasons for the recall or minimize the associated hazard in the recall notification.

(2) Flagging the Recall Notification Letter and Envelope. Inform the firm that the notification envelope should be "flagged" with the statement "IMPORTANT PRODUCT HAZARD NOTIFICATION". This will alert the recipient that the letter is not promotional material and should be opened immediately. Appendix 4 shows an example of this method of flagging the envelope.

(3) Method of Notification. Certified mail, return receipt requested, or telegram are the preferred methods of notifying consignees and consumers of a recall especially when the product presents a hazard of death or permanently disabling injury and the product is fairly expensive. Such methods provide the recalling firm with a record of who has received notification. For some recalls, particularly those presenting a lesser hazard, notification by first class mail may be adequate. Telephone notification may be used, particularly when speed is essential, but is should be followed by written notification.

(4) Press Release. If the product being recalled has reached consumers, a press release may be necessary to achieve notification. If the recall involves a possible substantial product hazard, CACA reviews the content of the press release. If the recall involves a noncomplying product, the home regional office and CARM review the content. Consider the following points when reviewing the press release.

(a) Is the product clearly identified?
(b) Is the hazard explained and not minimized?
(c) Is the action the consumer should take explained completely?
(e) Is the geographic distribution stated?
(f) Are any injuries associated with the product described?

g. Periodic Progress Reports.

(1) Recalling Firm's Responsibility. If the firm has not already been informed by letter (See Appendix 5) of the need to submit periodic progress reports to the home regional office, inform them during the initial inspection. The format for progress reports may be

tailored to the type of product and situation, using the example in Appendix 6 as the discretion of the home regional office.

(2) Records of Returned or Corrected Products. Inform the firm of the need to keep records of the number of products returned or corrected and the effectiveness of the notification program including a record of the number of notifications attempted, completed and not completed. This information is needed for the Final Report in order to evaluate the success of the recall as described in paragraph 25.

h. Timeliness Investigation.

(1) General.

(a) Reporting Requirements. As explained in paragraph 5, pursuant to Section 15(b) of the CPSA, manufacturers, distributors and retailers of consumer products distributed in commerce have an obligation to immediately inform the Commission of products which fail to comply with an applicable CPSA standard, or ban (this does not include CPSA 27(e) requirements); product defects which could create a substantial product hazard; and products which do not comply with a specific regulation under the FFA, FHSA or PPPA and contain a defect which could create a substantial product hazard; unless the firm has actual knowledge that the Commission is adequately informed of such defect or noncompliance. The purpose of a timeliness investigation is to determine what knowledge the firm possessed concerning the problem, defect, or violation and when it acquired this knowledge. This information is used to evaluate whether or not the firm reported to the Commission in a timely manner. Failure to furnish the information required by Section 15(b) is a prohibited act and may result in civil and/or criminal penalties under Section 20 and 21 of the CPSA.

(b) Type of Information to be Reported. The Section 15 regulations (16 CFR 1115) promulgated and published in the Federal Register on August 7, 1978, explain in detail the reporting requirements for firms and the types of information which must be reported. Review ¶1115.12 (Appendix 1) before conducting the timeliness investigation.

(c) Document Facts and Dates. In conducting a timeliness investigation, document all facts, together with dates, which indicate knowledge of a defect or non-compliance on the part of the subject firm.

(d) Chronology of Events. While gathering routine inspectional data, determine specifically the chronology of events which led the firm to report to the Commission, and document these events. If the Commission discovered the problem first and then alerted the firm to it, probe to find out what, if any, information the firm had which should have led the firm to report to the Commission under Section 15.

(e) Avoid Implication of Threat. Care must be taken to avoid the implication of a threat to initiate civil or criminal penalties, but facts indicating prior knowledge of the non-compliance/defect and the hazard it presents must be documented.

(2) Sources of Information. Reliance on good investigational techniques to probe and explore questionable areas is critical in conducting a timeliness investigation. The following is a list of possible sources of information which can be used as appropriate in gathering evidence which may or may not support the existence of a timeliness violation: Wherever possible, obtain actual, unpurged copies of documents.

(a) Knowledge of Reporting Requirements. Did the firm have knowledge of reporting requirements under Section 15 of the CPSA?

(b) Injuries and Complaints. Did the firm receive any safety-related complaints/injury reports from consumers or its distribution network involving the suspect product? Obtain actual copies.

(c) Product liability Claims. Did the firm receive any product liability insurance claims or correspondence from an attorney containing a product liability claim associated with the suspect product? Determine the dates the firm learned of them. Obtain actual copies.

(d) Firm's Actions Prior to Reporting. What actions did the firm take prior to reporting to the Commission or prior to Commission contact with the firm such as conducting a limited recall; supplying repair parts; ordering stop sale or stop shipments; or destroying suspect product stock? If any of these or similar actions were taken, determine why. Obtain the dates and records to document the action.

(e) Engineering Changes. Were there engineering changes or redesign of the suspect product line? Determine why it was done and the dates.

(f) Termination of Suspect Product or Component. Was there termination of the suspect product line or the use of a suspect component?

(g) Service Department and Return Records. Are there service department records or returns from distribution network which indicate problems in the suspect product?

(h) Test Results. Was testing performed or contracted by the firm because it suspected a problem? What were the results of the testing?

(i) Independent Test Lab Results. Were unsatisfactory notices or reports received from an independent testing facility such as Underwriters Laboratories?

(j) Memoranda on Suspect Product. Are there intra-company memoranda or records directing stop production, rework of suspect products, return of suspect products from distribution points and destruction of suspect product?

(k) Memoranda on Safety Problems. Are there intra-company memoranda indicating a safety problem associated with a suspect product (for example, quality control, service or engineering records or memos expressing employees' opinions)?

(l) Memoranda of Meetings. Are there intra-company memoranda of meetings held to discuss problems with the suspect product (for example, product safety committee meeting minutes)?

(m) Death or Injury Investigations. Were there investigations of deaths or grievous bodily injuries associated with suspect product? Determine the date the firm learned of the causal relationship of death/grievous bodily injury to the suspect product and the chronology of the firm's investigation.

(n) Information from Government Agency. Was information received from governmental agency indicating existence of noncompliance or defect?

(3) Refusal to Supply Information. If the firm refuses to supply any records, memoranda or other information believed necessary in order to determine if the firm complied with the reporting requirements of section 15(b), CPSA, consider the use of inspectional warrants, subpoenas or special orders to obtain the information. Consult with CACA or CARM regarding these alternatives.

(4) Timeliness Violations. The regional office may make a recommendation that a timeliness violation exists. The decision to seek timeliness penalties will be made by CA after reviewing the facts of the regional office investigation.

CHAPTER 4: MONITORING RECALLS

13. GENERAL. Once the recalling firm has started a recall, the Commission monitors its progress to ensure that hazardous products are being removed from the marketplace or corrected. The home regional office and other regional offices are responsible for monitoring. Headquarters units have little involvement in this phase of recalls unless a problem becomes evident, and legal sanctions are considered. Monitoring procedures are essentially identical for noncomplying products and products presenting substantial hazards. The main functions in monitoring recalls are: assigning effectiveness inspections, conducting effectiveness inspections, ensuring that production changes are made to correct the hazardous or noncomplying product, following-up on problems and possible violations, maintaining contact with the recalling firm through periodic reports submitted by the firm and, if necessary, telephone calls and inspections, and witnessing the destruction or correction of recalled products.

14. CLASSIFICATION OF RECALLS.

a. Purpose. Recalls are classified as Class A, B or C for the purposes of indicating the number of effectiveness checks to be conducted. Class A is intensive monitoring, Class B is intermediate monitoring and Class C is limited monitoring. Put the recall classification on the initial Report of Recall and any STI's issued separately from the Initial Report.

b. Definitions of Classifications.

(1) Class A. This class provides for intensive monitoring and a rapid turnaround in conducting the effectiveness checks.

(a) ID Files. Class A will be used for imminent or substantial hazards where circumstances warrant a high degree of effectiveness checks. Normally CACA will determine the need for Class A assignment for ID files and will notify the home regional office.

(b) Noncomplying Products. For recalls of noncomplying products which present a significant hazard and warrant intensive monitoring, the home area office consults with CARM before assigning a Class A classification.

(2) Class B. This classification involves an intermediate level of monitoring. The majority of recalls involving substantial

product hazards and noncomplying products will fall into this category.

(3) Class C. This class involves limited monitoring.

(4) Class D. This class will be assigned by CACA to recalls of products which present a risk of injury but the risk is not substantial and the firm is voluntarily doing a recall. CACA will designate this Class D as follows: ID 83/D for file and letter writing purposes. For the computer this designation is ID8330000. The Class D designation means CACA does not believe the risk of injury warrants compelling a recall from the firm and CACA does not plan to negotiate the CAP with the company. If no CAP were offered, no further action would be pursued.

(b) Noncomplying Products. The Class D classification can be assigned to recalls involving noncomplying products where the risk of injury appears to be low.

(5) Changing Classifications. If during monitoring, information is discovered which indicates that the hazard associated with a product is more severe than originally thought, the recall classification may be changed to reflect a higher priority for monitoring.

15. ASSIGNING EFFECTIVE CHECKS.

a. General. The home regional office selects representative consignees to be checked from a list of consignees or direct accounts obtained from the recalling firm. The following factors are considered in making assignments.

b. Number and Types of Effectiveness Checks by Classification.

(1) Class A. Intensive monitoring is imperative for Class A recalls. CACA or CARM and the home regional office will determine the appropriate number and types of effectiveness checks and any other special assignments necessary.

(2) Class B. Assign 10 to 20 effectiveness checks of direct accounts using a combination of personal visits and telephone calls. If there are fewer than 10 direct accounts check all of them. Check one sub-account for each direct account by a combination of both personal visits and telephone calls. If problems are detected during telephone checks of direct accounts or sub-accounts, follow-up with

personal visits. If the CAP involves direct notification of consumers, contact two to five consumers by telephone.

(3) Class C. Assign 10 to 20 effectiveness checks of direct accounts using telephone calls. If there are fewer than 10 direct accounts check all of them. Check one sub-account for every other direct account by telephone calls. If the CAP involves direct notification of consumers, contact two to five consumers by telephone.

(4) Class D.

(a) ID Files. For Class D ID files, the recalling firms will be instructed to report the progress of the recall directly to CACA. No monitoring action is required by the regional office unless CACA determines, during the monitoring process, that an inspection of the firm and/or effectiveness checks are warranted. If the regional office has information which warrants the inspection of a firm involved in a Class D recall, it should bring such information to the attention of CACA and recommend an inspection. In both cases, an assignment to the appropriate area office will be made by an STI assignment from CACA.

(b) Noncomplying Products. For noncomplying products, an initial inspection is conducted at the discretion of the home office. Assign 0 to 10 effectiveness checks of direct accounts to be conducted by telephone. Check one sub-account for each direct account by telephone.

c. Size of Consignees Checks. Effectiveness checks are dispersed among large and small distributors/consignees.

d. Geographic Area. Effectiveness checks are dispersed over different geographic areas. Although telephone inquiries may be used to check consignees located outside normal travel areas, schedule some limited inspection of such consignees by using state people who are under contract to perform effectiveness inspections or by performing effectiveness inspections during road trips scheduled for other purposes.

e. Levels in the Chain of Distribution. Effectiveness checks are conducted at every level of the distribution chain. Check consumers when the corrective action plan provides for direct notification of consumers.

f. Regional Office Resource Problems. If effectiveness inspections assigned would result in the inefficient utilization of resources, the regional office affected should consider using state contract personnel for these assignments or contact the home regional office to negotiate a different assignment or an extention of the deadline.

g. Monitoring by the States. Monitoring by the states may be substituted one to one for monitoring by CPSC investigators. State contract personnel will perform effectiveness checks by conducting limited inspections only.

16. CONDUCTING EFFECTIVENESS CHECKS.

a. When. For both substantial product hazards and noncomplying products, effectiveness checks begin when the timetable of the CAP indicates that distributors, retailers and/or consumers have received notification from the recalling firm. If effectiveness checks are to be delayed until a certain date, the home regional office indicates this on the assignments to other regional offices.

b. Limited Inspections. When an effectiveness check of a business firm is conducted by personal visit, it is considered a limited inspection, and a notice of inspection is issued. During limited inspections attempt to witness or verify any correction or destruction of products taking place at the firm.

c. Telephone Checks. During a telephone effectiveness check of a business firm, if the person interviewed is uncooperative about answering questions or indicates that the firm is not carrying out its responsibilities in regard to the recall, follow-up with a limited inspection.

d. Information to Obtain From Firms. During effectiveness checks of business firms, the investigator determines the following information:

(1) Was the recall notification received? When?
(2) What was the method of notification? Dated?
(3) How much of the product was received; on hand at notification; returned from subconsignees; corrected; returned to the manufacturer or destroyed; and on hand at inspection?
(4) How was the product corrected or disposed of? Did

the investigator witness or verify the correction or destruction?
(5) Were instructions in the notification followed? If not, why not?
(6) Is sub-recall involved? If so, obtain the names and addresses of two subconsignees/consumers.
(7) Has the firm received any safety-related consumer complaints or reports of injury associated with this product.

e. Information to Obtain From Consumers. During consumer effectiveness checks, the investigator determines the following information:

(1) Was the recall notification received? When?
(2) What was the method of notification? The Date?
(3) How much of the product was received: on hand at notification; corrected, returned or destroyed; and on hand at inspection?
(4) Were instructions in the notification followed? If not, why not?

f. Reporting Results of Effectiveness Checks. Report the information obtained during each effectiveness check on a Summary Report of Effectiveness Check. The format for this report appears in Appendix 7. Send Summary Reports of Effectiveness Checks to the home regional office as effectiveness checks are completed.

17. CONTINUING CONTACT WITH THE RECALLING FIRM.

a. Purpose. The home regional office maintains contact with the recalling firm while the recall is being conducted for the purposes of:

(1) Identifying problems with the recall which result in hazardous products not being removed from the market as quickly as possible.

(2) Ensuring that changes are made in future production to prevent a recurrence of the noncomplying or defective product.

(3) Witnessing or verifying that products have been corrected or destroyed.

b. Periodic Progress Reports to Home Regional Office. As discussed in paragraph 12g the recalling firm submits periodic reports on the progress of the recall to the home regional office according to a schedule agreed on during the initial recall inspection or by letter to the firm. Progress reports from the recalling firm will indicate a slow down in returns, correction or destruction of products. Consider other factors in determining whether such a slow-down indicates a problem with the recall program. For instance, a slow-down in returns along with a high rate of non-notification indicates a problem. A slow-down in returns with a high rate of successful notification may indicate that the firm has recovered about as much of the product as it can expect to recover.

c. Correction for Future Production.

(1) What is the Correction. Noncomplying and/or defective products may have been the result of ignorance of a regulation, inadequate quality control, a defective component, a faulty design, or other factors. Determine what steps the firm has taken to ensure that similar defects or noncomplying products will not occur during future production.

(2) Verify Correction for Future Production. Verify that production changes have been made by examining memos, orders, production records or other company records which indicate production changes.

d. Disposition or Correction of Returned Products.

(1) Purpose. An effective recall can be rendered ineffective if noncomplying or defective products re-enter the marketplace because they were not adequately segregated from other products before being disposed of or corrected. Careful segregation of noncomplying or defective products is necessary at every level of distribution. Disposal or correction of products may occur at every level or at only one level of the distribution chain.

(2) Verifying Correction or Destruction. Witness the correction or destruction of products if possible. If correction or destruction takes place at several different locations or several different times, witness one or two actions, and consider having state people witness some other actions. If the action is to take place at

a location outside the regular travel area, consider having state people witness the action.

18. EXPORT OF PRODUCTS SUBJECT TO RECALL.

a. Noncomplying Products. If the recalling firm plans to export noncomplying products subject to recall, determine if the firm has notified the Commission in accordance with the requirements contained in the November 10, 1978, amendments of the CPSA, FHSA, and FFA. If not, inform the firm of the requirement that the Commission be notified of the intent to export a noncomplying product no less than 30 days before the date of exportation. Notification should be sent to the Associate executive Director for Compliance and Administrative Litigation and should include the anticipated date of shipment and the country and port of destination and the quantity of the product being exported (See Appendix 3).

b. Substantial Product Hazards. Although the November 10, 1978, amendments to the CPSA, FHSA, and FFA do not specifically apply to defective products believed to present a substantial product hazard, CACA is using the amendments as guidelines. Generally, the disposition of defective goods is agreed upon in the CAP negotiated by CACA. However, in some instances, actual disposition of the defective goods is not decided by a recalling firm until the CAP is underway. If the recalling firm plans to export defective products, determine the approximate date for export, the precise location of goods to be shipped, the port through which the goods are to be exported and the full name and address of the purchaser and consignee. Immediately forward this information to CACA by telex or telephone.

19. REGIONAL OFFICE FOLLOW-UP ON PROBLEMS.

a. Types of Possible Problems. Examples of problems are consignees not being notified of the recall, products not being returned to or corrected by the recalling firm or consignees not carrying out other elements of the CAP or acting unreasonably slowly.

b. Problems Involving Consignees.

(1) No Notification of Consignee. If a consignee has not been notified of the recall, the investigator informs the consignee of the nature of the product defect or violation, explains the consignee's responsibilities, and encourages the consignee to carry out these responsibilities. Inform the home regional office of

the non-notification. The home regional office encourages the recalling firm to renotify the consignee(s). The home regional office should keep the other regional offices informed of additional recall actions so reinspection of the consignee(s) can be done by personal visit, whenever possible.

(2) Consignee Not Carrying out Recall. If a consignee has been notified of the recall and refuses or fails to return or correct the product, notify consignees or consumers, carry out the elements of the corrective action plan, or continues to sell the product; the investigator reiterates the consignee's responsibilities. The investigator emphasizes the hazard associated with the product defect or violation and encourages the consignee to carry out his responsibilities. In the case of consent order agreements, Commission orders or court orders, the investigator informs the firm of the possibility of legal actions against the firm and the possibility of injunctive action in the case of failure to repurchase banned hazardous substances. Penalties for continued sale of a noncomplying product vary with the act involved.

(3) Consignee's Response. The consignee's response is forwarded to the home regional office monitoring the recall. If the consignee refuses to abide by the terms of recall, the home regional office encourages the recalling firm to try to get the consignee to cooperate voluntarily. If reinspection indicates the consignee is still not carrying out the recall, the home regional office should contact CACA or CARM to discuss further action.

c. Problems Involving the Recalling Firm.

(1) Notify Home Regional Office. If other regional offices discover information and evidence of problems or violations originating with the recalling firm, report this information promptly to the home regional office.

(2) Recalling Firm's Response. Whether the home regional office or another regional office discovers the problem or violation originating with the recalling firm, as a first step the home regional office immediately attempts to encourage the firm to voluntarily correct the problem or come into compliance. If the firm is unwilling to cooperate, the next step is to develop a case.

(3) Noncomplying Products. If a large number of noncomplying products are in one location, and the recall is not being carried out adequately, seizure is an appropriate alternative to consider. If the violation is continuing and the hazard presented by the product is severe, injunction is an appropriate alternative to consider. Consult CARM and refer to existing orders for guidance on seizures, injunctions, and developing cases against recalling firms or consignees.

(4) Substantial Product Hazards. Consult CACA if it becomes apparent that a firm is not abiding by the terms of the voluntary CAP to the extent that it causes a significant continued exposure of consumers to the hazard. If it appears that the voluntary recall agreement is not being adequately implemented, inform CACA promptly so that a decision can be made regarding taking further action against the firm. Determination of a significant continued exposure will be made on a case-by-case basis. The following guidelines are used in making that determination and notifying CACA.

(a) Has the timetable been deviated from to the extent that the firm is substantially behind schedule without explanation?

(b) Has public notification and direct notification to consignees been made in a timely manner?

(c) Is the technical fix being applied exactly as approved?

(d) Have production changes been implemented as called for in the CAP?

(e) Were sales completely halted as called for in the CAP?

(f) Is the return rate satisfactory?

(g) Is the disposition of returned products satisfactory?

(h) Has the firm submitted reports and provided necessary information requested by the home regional office?

(5) Consent Order Agreements, Commission Orders or Court Orders. If the home regional office discovers that a consent order agreement, Commission order or court order is not being implemented according to the provisions in the order, notify CACA or CARM immediately.

20. RECALLS AND THE AUTOMATIC DATA PROCESSING SYSTEM.

a. PDEF Data Base. The PDEF Data Base of the Automatic Data Processing (ADP) System will contain information on each ID file and recall of noncomplying products. CACA codes ID matters for entry in the ADP system after the file is opened. CARM codes recalls of noncomplying products for entry in the ADP System after the home regional office submits the Initial Reports of Recall to CARM.

b. Number Format.

(1) Each recall is assigned an identifying code consisting of two letters and six numbers. This identifying code is used in the PDEF Data Base as well in all memos, reports and records pertaining to that recall.

(2) ID830102 is an example of a code for the recall of a product which presents a substantial hazard "ID" is used only for Section 15 and Section 12, CPSA, matters. "83" means the ID file was opened during Fiscal Year 1983. "0102" means this is the 102nd ID file opened during FY 83. If the third numeric digit is a "3" rather than "0", it means the ID file is Class D monitoring.

(3) RP830103 is an example of a code for logging reports made pursuant to Section 15(b). If an RP file becomes an ID file, the RP number is noted in PDEF Data Base under the corresponding ID number. All RP files are coded into the PREP Data Base which is a restricted data base.

(4) RN830089 is an example of a code for the recall of a noncomplying product. "RN" is used only for noncomplying products. "83" means the recall was reported to CARM during FY 83. "0089" means this recall is the 89th recall reported to CARM during FY 83.

CHAPTER 5: EVALUATION AND CLOSING THE RECALL

21. GENERAL.

a. When to Evaluate for Close-Out.

(1) Corrective Action Plan Completed. When the home regional office determines that the recalling firm has completed all the activities called for in the CAP and when few or no products are being returned or corrected, the home regional office evaluates the recall and considers recommending closing the recall.

(2) Final Report From Recalling Firm. For ID files involving substantial hazards, the home regional office may request that the recalling firm submit a final report summarizing the actions carried out under the CAP. However, a final report from the firm is not necessary in order to recommend to CACA that a file be closed.

b. Factors to Evaluate. In order to evaluate the effectiveness of the recall and gather information for the Final Recall Report, the home regional office examines the summary reports on effectiveness inspections and reinspects the firm to verify that notifications were sent to customers; the number of products that were returned, corrected, or disposed of; that corrections have been made for future production; and any other pertinent information.

22. EFFECTIVENESS OF THE FIRM'S NOTIFICATION PROGRAM. Consider the following factors in evaluating the notification program recall.

a. Were most of the consignees and/or consumers contacted through recall effectiveness checks notified of the recall?

b. Did consignees/consumers understand the notice? Was the notice clear and to the point in explaining the nature of the problem, identifying the products involved, and telling the consignee/customer what to do with the products?

c. How soon did the recalling firm notify consignees/customers after learning of the problem?

d. Are there any recent consumer complaints indicating that the problem has not been corrected?

23. RATE OF RETURN OR CORRECTION OF PRODUCTS.

a. There is no single measure for evaluating the reasonableness of the rate of return or correction a firm achieves through a recall. What constitutes a reasonable rate of return or correction depends on the type of product as well as a number of other factors. The Office of Strategic Planning (OSP) conducted a study of recalls of products presenting substantial hazards and found that the following factors influence the rate of return/correction*:

(1) Product price.
(2) Product life.
(3) Number of units.
(4) Time in distribution.
(5) Percentage of units in consumers' hands when the recall begins.
(6) Recall action (repair, replacement, refund).
(7) Level of direct consumer notification.

b. The following factors, in combination, should contribute to achieving a high rate of correction or recall.

(1) The product price is high.
(2) The useful product life is long.
(3) The number of units involved is small.
(4) The products were recently distributed in commerce.
(5) The percent of units in consumers hands is low.
(6) Direct notification of consumers is possible, and the level of notification is high.
(7) The correction is done in a consumers' house, so the consumer does not have to take or send the product somewhere for correction or refund.

*Recall Effectiveness Study, Loren Lange, Office of Strategic Planning, CPSC, May 1978.

24. CRITERIA FOR CLOSING ID FILE WHEN THE RECALL OR CORRECTIVE ACTION IS COMPLETED.

a. Criteria for Closing ID files. The following criteria for closing ID files should be used when the firm's Corrective Action has been completed:

(1) Raw" return rate (i.e., percentage of products returned

or corrected out of total number distributed).
(2) Adjusted return rate (i.e., percentage of products returned or corrected out of number estimated to still be in existence).
(3) Hazard Priority Classification.
(4) Incidents or Injuries since CAP was initiated.
(5) Evidence that hazard message was communicated even though products were not returned.
(6) Evidence that products were corrected without being reported.
(7) Type of product:
a. Price
b. Durability
c. Ease of identifying brand or manufacturer
(8) Dates of Distribution.
(9) Whether majority of products were with consumers or in chain of distribution and returns from each level.
(10) Results of effectiveness checks.
(11) Available means for communicating recall message.
(12) Lack of any other realistic steps which a firm could take.
(13) Firm out of business.

b. Percent of Products Returned or Corrected. If the "raw" return rate figures indicate 100% (or nearly 100%) of the products returned or corrected (criterion #1) then no other rationale for closing the file is needed. If all of the products have not been corrected, examine the other factors to assure that the firm has retrieved the maximum number of hazardous products feasible under the circumstances.

c. Example of Criteria Use. Assume that 100,000 units of a hazardous toy were distributed and that only 25,000 were recovered during the corrective action. This would give a raw return rate of 25%. However also assume that:

(1) The Economics staff estimated that 50,000 remained in existence, therefore the "adjusted" return rate is 50% (Criterion #2).
(2) The Hazard Priority Classification is Class C (Criterion #3).
(3) No further reports of injuries after the recall had been announced are received (Criterion #4).

(4) Because the toy is rather inexpensive, it is believed that many parents simply discarded it rather than bother to return it to the store (Criterion #6).
(5) All of the effectiveness checks showed that the retailers and distributors had been notified of the recall and had cooperated (Criterion #10).
(6) Applying the criteria to facts of this recall conclude that no further resources should be expended on this recall and close it.

25. EVALUATION AND FINAL RECALL REPORT.

a. Problems. Identifying and addressing problems with the recall are discussed earlier in paragraph 19. Ideally, problems which could cause the recall to be ineffective are identified and resolved during the monitoring state.

(1) Noncomplying Products. If the home regional office determines during the final evaluation that the recall has not been effective due to widespread inadequate notification, encourage the firm to renotify consignees/consumers, issue additional publicity or take other measures to improve the effectiveness of the recall. If the firm refuses to take further action, consult with CARM.

(2) Products Presenting Substantial Hazards. If the home regional office determines during the final evaluation that the recall has not been effective due to widespread inadequate notification, inform CACA. CACA will determine what further corrective action measures are needed, if any, and will negotiate with the firm.

b. Closing the Recall. When evaluation indicates that the recall has been effective, the firm has carried out the CAP adequately and product returns have dropped to a few or none, the home regional office prepares and submits a Final Recall Report recommending that the recall be closed. The information needed for the Final Report and Evaluation of Recall is described below. Not all information requested is applicable to every type of recall situation particularly if the recall is limited. If an item is not applicable omit it or answer with"not applicable". Refer to Appendix 9 for the format for a Final Report.

(1) Recall/Corrective Action Plan. What was the firm's actual recall/corrective action plan? If the CAP conducted was identical to the one described in the Initial Report, this question

may be answered with "See Initial Report". If there were deviations from the original plan, describe the actual plan.

(2) Dates Program Started and Ended.

(3) Evaluation of Notification Program.

(a) What was the firm's method of notification and how effective was it? Find out from the recalling firm how many notifications were sent to distributors, retailers and consumers. If a method such as certified mail was used, find out how many notifications were received.

(b) What were the results of distributor/retailer effectiveness checks? How many inspections and telephone checks were conducted? Report the number of firms notified and in full compliance, notified but taking insufficient action, and not notified.

(c) What were the results of consumer effectiveness checks? How many effectiveness checks were conducted? Report the number of consumers notified and taking sufficient action, notified but taking insufficient action, and not notified.

(4) Number of Products Returned/Corrected. Report the number of products subject to recall, returned or corrected and the percent effective. If possible, break down number of products by warehouse, factory, distributor, retailer and consumer levels.

(5) Disposition of Returned Products. Were returned products reworked, destroyed or exported? Was the disposition verified?

(6) Action Taken To Prevent Recurrence of the Product Defect/Violation. What was the action and was it verified? Were there changes in product design, manufacturing processes, etc.?

(7) Samples Collected. Report sample numbers.

(8) Legal Actions Initiated. Describe.

(9) Safety related complaints, injuries and deaths. Describe.

(10) Remarks. Include any comments from consumers on the way the recall was conducted.

(11) Recommendation and Rationale for Termination or Further Action.

c. Where to Send Final Reports.

Final reports on noncomplying products go to CARM and final reports on products presenting substantial hazards go to CACA. If either CARM or CACA disagrees with the recommendation to close the recall, the appropriate division will discuss the problems with the regional office.

SUBSTANTIAL PRODUCT HAZARD REPORTS: POLICIES AND PROCEDURES REGARDING SUBSTANTIAL PRODUCT HAZARDS (16 CFR 1115)

Subpart A—General Interpretation

Sec.

Subpart B—Remedial Actions and Sanctions.

AUTHORITY: Secs. 12, 15, 16, 17(a), 19, 20, 21, 22, 24, 27, 30 of Pub. L. 92-573, as amended by Pub. L. 94-284; 86 Stat. 1218, 1221-1227, 1231, as amended, 90 Stat. 508-510 (15 U.S.C. 2061, 2064, 2065, 2066(a), 2068, 2069, 2070, 2071, 2073, 2078, 2079), unless otherwise noted.

Subpart A—General Interpretation

§ 1115.1 Purpose.

The purpose of this part 1115 is to set forth the Consumer Product Safety Commission's (Commission's) interpretation of the reporting requirements imposed on manufacturers

(including importers), distributors, and retailers by section 15(b) of the Consumer Product Safety Act, as amended (CPSA) (15 U.S.C. 2064(b)) and to indicate the actions and sanctions which the Commission may require or impose to protect the public from substantial product hazards, as that term is defined in section 15(a) of the CPSA.

§ 1115.2 Scope and finding.

(a) Section 15(a) of the CPSA (15 U.S.C. 2064(a)) defines "substantial product hazard" as either (1) a failure to comply with an applicable consumer product safety rule, which failure creates a substantial risk of injury to the public, or (2) a product defect which (because of the pattern of defect, the number of defective products distributed in commerce, the severity of the risk, or otherwise) creates a substantial risk of injury to the public.

(b) Section 15(b) of the CPSA requires every manufacturer (including an importer), distributor, or retailer of a consumer product distributed in commerce who obtains information which reasonably supports the conclusion that the product either fails to comply with an applicable consumer product safety rule or contains a defect which could create a substantial product hazard immediately to inform the Commission, unless the manufacturer (including an importer), distributor, or retailer has actual knowledge that the Commission has been adequately informed. This provision indicates that a broad spectrum of safety-related information should be reported under section 15(b) of the CPSA.

(c) Sections 15(c) and 15(d) of the CPSA (15 U.S.C. 2064 (c) and (d)) empower the Commission to order a manufacturer (including an importer), distributor, or retailer of a consumer product distributed in commerce that presents a substantial product hazard to give various forms of notice to the public of the defect or the failure to comply and/or to order the subject firm to elect either to repair, to replace, or to refund the purchase price of such product. However, information which should be reported under section 15(b) of the CPSA does not automatically indicate the presence of a substantial product hazard since what must be reported are failures to comply with consumer product safety rules and defects that could create a substantial product hazard. (See § 1115.12.)

(d) The provisions of this part 1115 deal with all consumer products (including imports) subject to regulation under the Consumer Product Safety Act, as amended (15 U.S.C. 2051-2081) (CPSA), and the Refrigerator Safety Act (15 U.S.C. 1211-1214) (RSA). In addition, the Commission has found that risks of injury to the public from consumer products subject to regulation under the Flammable Fabrics Act (15 U.S.C. 1191-1204) (FFA), the Federal Hazardous Substances Act (15 U.S.C. 1261-1274) (FHSA), and the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471-1476) (PPPA) cannot be eliminated or reduced to a sufficient extent in a timely fashion under those acts. Therefore, pursuant to section 30(d) of the CPSA (15 U.S.C. 2079(d)), manufacturers (including importers), distributors, and retailers of consumer products which are subject to regulation under provisions of the FFA, FHSA, and PPPA must comply with the reporting requirements of section 15(b).

§ 1115.3 Definitions.

In addition to the definitions given in section 3 of the CPSA (15 U.S.C. 2052), the following definitions apply:

(a) "Adequately informed" under section 15(b) of the CPSA means that the Commission staff has received the information requested under §§ 1115.12 and/or 1115.13 of this part insofar as it is reasonably available and applicable or that the staff has informed the subject firm that the staff is adequately informed.

(b) "Commission meeting" means the joint deliberations of at least a majority of the Commission where such deliberations determine or result in the conduct or disposition of official Commission business. This term is synonymous with "Commission meeting" as defined in the Commission's regulation issued under the Government in the Sunshine Act, 16 CFR 1012.

(c) "Noncompliance" means the failure of a consumer product to comply with an applicable consumer product safety rule issued under the CPSA.

(d) A "person" means a corporation, company, association, firm, partnership, society, joint stock company, or individual.

(e) "Staff" means the staff of the Consumer Product Safety Commission unless otherwise stated.

(f) "Subject firm" means any manufacturer (including an importer), distributor, or retailer of a consumer product.

§ 1115.4 Defect.

Section 15(b)(2) of the CPSA requires every manufacturer (including an importer), distributor, and retailer of a consumer product who obtains information which reasonably supports the conclusion that the product contains a defect which could create a substantial product hazard to inform the Commission of such defect. Thus, whether the information available reasonably suggests a defect is the first determination which a subject firm must make in deciding whether it has obtained information which must be reported to the Commission. In determining whether it has obtained information which reasonably supports the conclusion that its consumer product contains a defect, a subject firm may be guided by the criteria the Commission and staff use in determining whether a defect exists. At a minimum, defect includes the dictionary or commonly accepted meaning of the word. Thus, a defect is a fault, flaw, or irregularity that causes weakness, failure, or inadequacy in form or function. A defect, for example, may be the result of a manufacturing or production error; that is, the consumer product as manufactured is not in the form intended by, or fails to perform in accordance with, its design. In addition, the design of and the materials used in a consumer product may also result in a defect. Thus, a product may contain a defect even if the product is manufactured exactly in accordance with its design and specifications, if the design presents a risk of injury to the public. A design defect may also be present if the risk of injury occurs as a result of the operation or use of the product or the failure of the product to operate as intended. A defect can also occur in a product's contents, construction, finish, packaging, warnings, and/or instructions. With respect to instructions, a consumer product may contain a defect if the instructions for assembly or use could allow the product, otherwise safely designed and manufactured, to present a risk of injury. To assist subject firms in understanding the concept of defect as used in the CPSA, the following examples are offered:

(a) An electric appliance presents a shock hazard because, through a manufacturing error, its casing can be electrically charged by full-line voltage. This product contains a defect as a result of manufacturing or production error.

(b) Shoes labeled and marketed for long-distance running are so designed that they might cause or contribute to the causing of muscle or tendon injury if used for long-distance running. The shoes are defective due to the labeling and marketing.

(c) A kite made of electrically conductive material presents a risk of electrocution if it is long enough to become entangled in power lines and be within reach from the ground. The electrically conductive material contributes both to the beauty of the kite and the hazard it presents. The kite contains a design defect.

(d) A power tool is not accompanied by adequate instructions and safety warnings. Reasonably foreseeable consumer use or misuse, based in part on

the lack of adequate instructions and safety warnings, could result in injury. Although there are no reports of injury, the product contains a defect because of the inadequate warnings and instructions.

(e) An exhaust fan for home garages is advertised as activating when carbon monoxide fumes reach a dangerous level but does not exhaust when fumes have reached the dangerous level. Although the cause of the failure to exhaust is not known, the exhaust fan is defective because users rely on the fan to remove the fumes and the fan does not do so.

However, not all products which present a risk of injury are defective. For example, a knife has a sharp blade and is capable of seriously injuring someone. This very sharpness, however, is necessary if the knife is to function adequately. The knife does not contain a defect insofar as the sharpness of its blade is concerned, despite its potential for causing injury, because the risk of injury is outweighed by the usefulness of the product which is made possible by the same aspect which presents the risk of injury. In determining whether the risk of injury associated with a product is the type of risk which will render the product defective, the Commission and staff will consider, as appropriate: The utility of the product involved; the nature of the risk of injury which the product presents; the necessity for the product; the population exposed to the product and its risk of injury; the Commission's own experience and expertise; the case law interpreting Federal and State public health and safety statutes; the case law in the area of products liability; and other factors relevant to the determination. If the information available to a subject firm does not reasonably support the conclusion that a defect exists, the subject firm need not report. However, if the information does reasonably support the conclusion that a defect exists, the subject firm must then consider whether that defect could create a substantial product hazard. (See § 1115.12(f) for factors to be assessed in determining whether a substantial product hazard could exist.) If the subject firm determines that the defect could create a substantial product hazard, the subject firm must report to the Commission. Most defects could present a substantial product hazard if the public is exposed to significant numbers of defective products or if the possible injury is serious or is likely to occur. Since the extent of public exposure and/or the likelihood or seriousness of injury are ordinarily not known at the time a defect first manifests itself, subject firms are urged to report if in doubt as to whether a defect could present a substantial product hazard. On a case-by-case basis the Commission and the staff will determine whether a defect within the meaning of section 15 of the CPSA does, in fact, exist and whether that defect presents a substantial product hazard. Since a consumer product may be defective even if it is designed, manufactured, and marketed exactly as intended by a subject firm, subject firms should report if in doubt as to whether a defect exists. Defect, as discussed in this section and as used by the Commission and staff, pertains only to interpreting and enforcing the Consumer Product Safety Act. The criteria and discussion in this section are not intended to apply to any other area of the law.

§§ 1115.5–1115.9 [Reserved]

§ 1115.10 Persons who must report and where to report.

(a) Every manufacturer (including importer), distributor, or retailer of a consumer product that has been distributed in commerce who obtains information that such consumer product contains a defect which could create a substantial risk of injury to the public shall immediately notify the Product Defect Correction Division, Consumer Product Safety Commission, Washington, D.C. 20207 (telephone: 301–492–6608), or such other persons as may be designated. Manufacturers (including importers), distributors, and retailers of consumer products subject to regulation by the Commission under provisions of the FFA, FHSA, PPPA, as well as consumer products subject to regulation under the CPSA and RSA, must comply with this requirement.

(b) Every manufacturer (including importer), distributor, or retailer of a consumer product that has been distributed in commerce who obtains information that such consumer product fails to comply with an applicable consumer product safety standard or ban issued under the CPSA shall immediately notify the Commission's Product Defect Correction Division or such other persons as may be designated. A subject firm need not report a failure to comply with a standard or regulation issued under the provisions of the RSA, FFA, FHSA, or PPPA unless it can be reasonably concluded that the failure to comply results in a defect which could create a substantial product hazard. (See § 1115.10(a).)

(c) A distributor or retailer of a consumer product (who is neither a manufacturer nor an importer of that product) is subject to the reporting requirements of section 15(b) of the CPSA but may satisfy them by following the procedure detailed in § 1115.13(b).

(d) A manufacturer (including an importer), distributor, or retailer need not inform the Commission under section 15(b) of the CPSA if that person has actual knowledge that the Commission has been adequately informed of the defect or failure to comply. (See section 15(b) of the CPSA.)

§ 1115.11 Imputed knowledge.

(a) In evaluating whether or when a subject firm should have reported, the Commission will deem a subject firm to have obtained reportable information when the information has been received by an official or employee who may reasonably be expected to be capable of appreciating the significance of the information. (See § 1115.14(b).)

(b) In evaluating whether or when a subject firm should have reported, the Commission will deem a subject firm to know what a reasonable person acting in the circumstances in which the firm finds itself would know. Thus, the subject firm shall be deemed to know what it would have known if it had exercised due care to ascertain the truth of complaints or other representations. This includes the knowledge a firm would have if it conducted a reasonably expeditious investigation in order to evaluate the reportability of a death or grievous bodily injury or other information. (See § 1115.14.)

§ 1115.12 Information which should be reported; evaluating substantial product hazard.

(a) *General.* Subject firms should not delay reporting in order to determine to a certainty the existence of a noncompliance or a defect and the substantiality of a possible hazard. The obligation to report arises upon receipt of information from which one could reasonably conclude the existence of a noncompliance or of a defect which could create a substantial product hazard. Thus an obligation to report may arise when a subject firm receives the first information regarding a potential hazard or noncompliance. (See § 1115.14(c).) A subject firm in its report to the Commission need not admit or may specifically deny that the information it submits reasonably supports the conclusion that its consumer product is noncomplying or contains a defect which could create a substantial product hazard within the meaning of section 15(b) of the CPSA. After receiving the report, the staff will preliminarily determine whether the noncompliance or defect presents a substantial product hazard. This determination can be based on information supplied by a subject firm or from any other source. If the matter is adjudicated, the Commission will ultimately make the decision as to

substantial product hazard or will seek to have a court make the decision as to imminent product hazard.

(b) *Failure to comply.* Information indicating that a consumer product fails to comply with an applicable consumer product safety standard or ban issued under the CPSA must be reported.

(c) *Death or grievous bodily injury.* Information indicating that a noncompliance or a defect in a consumer product has caused, may have caused, or contributed to the causing, or could cause or contribute to the causing of a death or grievous bodily injury (e.g., mutilation, amputation/dismemberment, disfigurement, loss of important bodily functions, debilitating internal disorders, severe burns, severe electrical shocks, and injuries likely to require extended hospitalization) must be reported, unless the subject firm has investigated and determined that the information is not reportable.

(d) *Other information indicating a defect or noncompliance.* Even if there are no reports of a potential for or an actual death or grievous bodily injury, other information may indicate a reportable defect or noncompliance. In evaluating whether or when a subject firm should have reported, the Commission will deem a subject firm to know what a reasonable and prudent manufacturer (including an importer), distributor, or retailer would know. (See § 1115.11.)

(e) *Information which should be studied and evaluated.* The following are examples of information which a subject firm should study and evaluate in order to determine whether it is obligated to report under section 15(b) of the CPSA:

(1) Information about engineering, quality control, or production data suggesting the existence of a noncompliance or of a defect which could create a substantial product hazard.

(2) Information about safety-related production or design change(s) suggesting the existence of a noncompliance or of a defect which could create a substantial product hazard.

(3) Product liability suit(s) suggesting the existence of a noncompliance or of a defect which could create a substantial product hazard.

(4) Information from an independent testing laboratory suggesting the existence of a noncompliance or of a defect which could create a substantial product hazard.

(5) Complaint(s) from a consumer or consumer group indicating the existence of a noncompliance or of a defect which could create a substantial product hazard.

(6) Information received from the Commission or another governmental agency indicating the existence of a noncompliance or of a defect which could create a substantial product hazard.

(7) Information received from other firms, including requests to return a product or for replacement or credit, indicating the existence of a noncompliance or of a defect which could create a substantial product hazard. This includes both requests made by distributors and retailers to the manufacturer and requests from the manufacturer that products be returned.

(f) *Evaluating substantial risk of injury.* Information which should be or has been reported under section 15(b) of the CPSA does not automatically indicate the presence of a substantial product hazard. On a case-by-case basis the Commission and the staff will determine whether a defect or noncompliance exists and whether it results in a substantial risk of injury to the public. In deciding whether to report, subject firms may be guided by the following criteria the staff and the Commission use in determining whether a substantial product hazard exists:

(1) *Hazard created by defect.* Section 15(a)(2) of the CPSA lists factors to be considered in determining whether a defect creates a substantial risk of injury. These factors are set forth in the disjunctive. Therefore, the existence of any one of the factors could create a substantial product hazard. The Commission and the staff will consider some or all of the following factors, as appropriate, in determining the substantiality of a hazard created by a product defect:

(i) *Pattern of defect.* The Commission and the staff will consider whether the defect arises from the design, composition, contents, construction, finish, packaging, warnings, or instructions of the product or from some other cause and will consider the conditions under which the defect manifests itself.

(ii) *Number of defective products distributed in commerce.* Even one defective product can present a substantial risk of injury and provide a basis for a substantial product hazard determination under section 15 of the CPSA if the injury which might occur is serious and/or if the injury is likely to occur. However, a few defective products with no potential for causing serious injury and little likelihood of injuring even in a minor way will not ordinarily provide a proper basis for a substantial product hazard determination.

(iii) *Severity of the risk.* A risk is severe if the injury which might occur is serious and/or if the injury is likely to occur. In considering the likelihood of any injury the Commission and the staff will consider the number of injuries reported to have occurred, the intended or reasonably foreseeable use or misuse of the product, and the population group exposed to the product (e.g., children, elderly, handicapped).

(iv) *Other considerations.* The Commission and the staff will consider all other relevant factors.

(2) *Hazard presented by noncompliance.* Section 15(a)(1) of the CPSA states that a substantial product hazard exists when a failure to comply with an applicable consumer product safety rule creates a substantial risk of injury to the public. Therefore, the Commission and staff will consider whether the noncompliance is likely to result in injury when determining whether the noncompliance creates a substantial product hazard. As appropriate, the Commission and staff may consider some or all of the factors set forth in § 1115.12(f)(1) in reaching the substantial product hazard determination.

§ 1115.13 Content and form of reports; delegations of authority.

(a) *Written reports.* The chief executive officer of the subject firm should sign any written reports to the Commission under section 15(b) of the CPSA unless this responsibility has been delegated by filing a written delegation of authority with the Commission's Product Defect Correction Division. Delegations of authority filed with the Commission under section 1115.9 of the previous regulations interpreting section 15 of the CPSA will remain in effect until revoked by the chief executive officer of the subject firm. The delegation may be in the following form:

DELEGATION OF AUTHORITY

(Name of company) _____.

I _____ hereby certify that I am Chief Executive Officer of the above-named company and that as such I am authorized to sign documents and to certify on behalf of said company the accuracy and completeness of information in such documents.

Pursuant to the power vested in me, I hereby delegate all or, to the extent indicated below, a portion of that authority to the person listed below.

This delegation is effective until revoked in writing. Authority delegated to:

(Name) _____

(Address) _____

(Title) _____

Extent of authority: _____

_____

_____

Signed:

(Name) _____

(Address) _____

(Title) _____

(b) *Distributors and retailers.* A distributor or retailer of a possibly defective or noncomplying consumer product (who is neither a manufacturer nor an importer of that product) satisfies the initial reporting requirements either by telephoning or writing the

Product Defect Correction Division, Consumer Product Safety Commission, Washington, D.C. 20207; by sending a letter describing the defective or noncomplying product to the manufacturer (or importer) of the product and sending a copy of the letter to the Commission's Product Defect Correction Division; or by forwarding to the Commission's Product Defect Correction Division reportable information received from another firm. A distributor or retailer who receives reportable information from a manufacturer (or importer) shall report to the Commission unless the manufacturer (or importer) informs the distributor or retailer that a report has been made to the Commission. A report under this subsection should contain the information detailed in § 1115.13(c) insofar as it is known to the distributor or retailer. Unless further information is requested by the staff, this action will constitute a sufficient report insofar as the distributor or retailer is concerned.

(c) *Initial report.* Immediately after a subject firm has obtained information which reasonably supports the conclusion that a product fails to comply with an applicable consumer product safety rule or contains a defect which could create a substantial risk of injury to the public, the subject firm should provide the Product Defect Correction Division, Consumer Product Safety Commission, Washington, D.C. 20207 (telephone: 301–492–6608), with an initial report containing the information listed below. This initial report may be made by any means; but if it is not in writing, it should be confirmed in writing within 48 hours of the initial report. (See § 1115.14 for time computations.) The initial report should contain, insofar as is reasonably available and/or applicable:

(1) An identification and description of the product.

(2) The name and address of the manufacturer (or importer) or, if the manufacturer or importer is not known, the names and addresses of all known distributors and retailers of the product.

(3) The nature and extent of the possible defect or the failure to comply with an applicable consumer product safety rule.

(4) The nature and extent of the injury or risk of injury associated with the product.

(5) The name and address of the person informing the Commission.

(6) To the extent such information is then reasonably available, the data specified in § 1115.13(d).

(d) *Full report.* Subject firms which file initial reports are required to file full reports in accordance with this subsection. Retailers and distributors may satisfy their reporting obligations in accordance with 1115.13(b). At any time after an initial report, the staff may modify the requirements detailed in this section with respect to any subject firm. If the staff preliminarily determines that there is no substantial product hazard, it may inform the firm that its reporting obligation has been fulfilled. However, a subject firm would be required to report if it later became aware of new information indicating a reportable defect or noncompliance, whether the new information related to the same or another consumer product. Unless modified by staff action, the following information, to the extent that it is reasonably available and/or applicable, constitutes a "full report," must be submitted to the staff, and must be supplemented or corrected as new or different information becomes known:

(1) The name, address, and title of the person submitting the "full report" to the Commission.

(2) The name and address of the manufacturer (or importer) of the product and the addresses of the manufacturing plants for that product.

(3) An identification and description of the product(s). Give retail prices, model numbers, serial numbers, and date codes. Describe any identifying marks and their location on the product. Provide a picture or a sample of the product.

(4) A description of the nature of the defect or failure to comply with an applicable consumer product safety rule. If technical drawings, test results, schematics, diagrams, blueprints, or other graphic depictions are available, attach copies.

(5) The nature of the injury or the possible injury associated with the product defect or failure to comply with an applicable consumer product safety rule.

(6) The manner in which and the date when the information about the defect or noncompliance (e.g., complaints, reported injuries, quality control testing) was obtained. If any complaints related to the safety of the product or any allegations or reports of injuries associated with the product have been received, copies of such complaints or reports (or a summary thereof) shall be attached. Give a chronological account of facts or events leading to the report under section 15(b) of the CPSA, beginning with receipt of the first information which ultimately led to the report. Also included may be an analysis of these facts or events.

(7) The total number of products and units involved.

(8) The dates when products and units were manufactured, imported, distributed, and sold at retail.

(9) The number of products and units in each of the following: in the possession of the manufacturer or importer, in the possession of private labelers, in the possession of distributors, in the possession of retailers, and in the possession of consumers.

(10) An explanation of any changes (e.g., designs, adjustments, additional parts, quality control, testing) that have been or will be effected to correct the defect or failure to comply and of the steps that have been or will be taken to prevent similar occurrences in the future together with the timetable for implementing such changes and steps.

(11) Information that has been or will be given to purchasers, including consumers, about the defect or noncompliance with a description of how this information has been or will be communicated. This shall include copies or drafts of any letters, press releases, warning labels, or other written information that has been or will be given to purchasers, including consumers.

(12) The details of and schedule for any contemplated refund, replacement, or repair actions, including plans for disposing of returned products (e.g., repair, destroy, return to foreign manufacturer).

(13) A detailed explanation and description of the marketing and distribution of the product from the manufacturer (including importer) to the consumer (e.g., use of sales representatives, independent contractors, and/or jobbers; installation of the product, if any, and by whom).

(14) Upon request, the names and addresses of all distributors, retailers, and purchasers, including consumers.

(15) Such further information necessary or appropriate to the functions of the Commission as is requested by the staff.

§ 1115.14 Time computations.

(a) *General.* Weekends and holidays are excluded from the computation of the time periods in this part.

(b) *Imputing knowledge.* In evaluating whether or when a firm should have reported, the Commission shall impute to the subject firm knowledge of product safety related information received by an official or employee of a subject firm capable of appreciating the significance of the information. Under ordinary circumstances, 5 days should be the maximum reasonable time for information to reach the Chief Executive Officer or the official or employee responsible for complying with the reporting requirements of section 15(b) of the CPSA. The Commission will impute knowledge possessed by the Chief Executive Officer or by the official or employee responsible for complying with the reporting requirements of section 15(b) of the

CPSA simultaneously to the subject firm.

(c) *Time when obligation to report arises.* The obligation to report under section 15(b) of CPSA may arise upon receipt by a subject firm of the first information regarding a noncompliance or a potential hazard presented by a product defect. Information giving rise to a reporting obligation may include, but is not limited to, complaints, injury reports, quality control and engineering data. A subject firm should not await complete or accurate risk estimates before reporting under section 15(b) of CPSA. However, if information is not clearly reportable, a subject firm may spend a reasonable time for investigation and evaluation. (See § 1115.14(d).)

(d) *Time for investigation and evaluation.* A subject firm may conduct a reasonably expeditious investigation in order to evaluate the reportability of a death or grievous bodily injury or other information. This investigation and evaluation should not exceed 10 days unless a firm can demonstrate that a longer period is reasonable. The Commission will deem that, at the end of 10 days, a subject firm has received and considered all information which would have been available to it had a reasonable, expeditious, and diligent investigation been undertaken.

(e) *Time to report.* Immediately, that is, within 24 hours, after a subject firm has obtained information which reasonably supports the conclusion that its consumer product fails to comply with an applicable consumer product safety rule or contains a defect which could create a substantial risk of injury to the public, the firm should report. (See § 1115.13.) If a firm elects to conduct an investigation in order to evaluate the existence of reportable information, the 24-hour period begins when the subject firm has information which reasonably supports the conclusion that its consumer product fails to comply with an applicable consumer product safety rule or contains a defect which could create a substantial product hazard. Thus, a firm could report to the Commission before the conclusion of a reasonably expeditious investigation and evaluation if the reportable information becomes known during the course of the investigation. In lieu of conducting an investigation, the firm may report the information immediately.

§ 1115.15 Confidentiality and disclosure of data.

(a) *General.* The Commission does not routinely make reports available to the public until the staff has made a preliminary hazard determination. Copies of reports will not be available to the public in the Commission's public reading room, and information contained in reports will not ordinarily be disclosed to the public in the absence of a formal request.

(b) *Freedom of Information Act.* Any person who submits information to the Commission who believes that any portion of the information is entitled to exemption from public disclosure under the provisions of the Freedom of Information Act, as amended (15 U.S.C. 552(b)), of the CPSA, as amended, or of another Federal statute must accompany the submission with a written request that the information be considered exempt from disclosure or indicate that a written request will be submitted within 10 working days of the submission. The request shall (1) identify the portions of the information for which exemption is claimed, which may include the identity of the reporting firm and the fact that it is making a report, and (2) state the facts and reasons which support the claimed exemption. After the staff has made its preliminary hazard determination, and regardless of whether or not the staff preliminarily determines that a product presents a substantial product hazard, the Commission will no longer honor requests for exempt status for the identity of the reporting firm, the identity of the consumer product, and the nature of the reported alleged defect or noncompliance. This information, together with the staff's preliminary hazard determination, will be made available to the public in the Commission's public reading room. Information for which exempt status is claimed (such as alleged trade secrets, confidential commercial or financial information, or information the disclosure of which would constitute an unwarranted invasion of personal privacy) shall not be released to the public except in accordance with the applicable statute or the Commission's Freedom of Information Act regulations (16 CFR 1015).

(c) *Section 6(b) of the CPSA.* The Commission believes that the first two sentences in section 6(b)(1) of the CPSA (15 U.S.C. 2055(b)(1)) apply to affirmative dissemination of information by the Commission (such as press releases or fact sheets distributed to the public) from which the public may ascertain readily the identity of the product's manufacturer and/or private labeler. Manufacturers and private labelers will ordinarily be given 30 days' notice before the Commission makes such affirmative disseminations. However, this 30-day notice will not apply if the Commission finds that a lesser notice period is required in the interest of public health and safety.

§§ 1115.16–1115.19 [Reserved]

Subpart B—Remedial Actions and Sanctions

§ 1115.20 Voluntary remedial actions.

As appropriate, the Commission will attempt to protect the public from substantial product hazards by seeking one or more of the following voluntary remedies:

(a) *Corrective action plans.* A corrective action plan is a document, signed by a subject firm, which sets forth the remedial action which the firm will voluntarily undertake to protect the public, but which has no legally binding effect. The Commission reserves the right to seek broader corrective action if it becomes aware of new facts or if the corrective action plan does not sufficiently protect the public.

(1) Corrective action plans shall include, as appropriate:

(i) A statement of the nature of the alleged hazard associated with the product, including the nature of the alleged defect or noncompliance and type(s) of injury or potential injury presented.

(ii) A detailed statement of the means to be employed to notify the public of the alleged product hazard (e.g., letter, press release, advertising), including an identification of the classes of persons who will receive such notice and a copy or copies of the notice or notices to be used.

(iii) A specification of model number and/or other appropriate descriptions of the product.

(iv) Any necessary instructions regarding use or handling of the product pending correction.

(v) An explanation of the specific cause of the alleged substantial product hazard, if known.

(vi) A statement of the corrective action which will be or has been taken to eliminate the alleged substantial product hazard. The firm should indicate whether it is repairing or replacing the product or refunding its purchase price. If products are to be returned to a subject firm, the corrective action plan should indicate their disposition (e.g., reworked, destroyed, returned to foreign manufacturer). Samples of replacement products and relevant drawings and test data for repairs or replacements should be available.

(vii) A statement of the steps that will be, or have been, taken to reasonably prevent recurrence of the alleged substantial product hazard in the future.

(viii) A statement of the action which will be undertaken to correct product units in the distribution chain, including a timetable and specific information about the number and location of such units.

(ix) The signatures of representatives of the subject firm.

(x) An acknowledgment by the subject firm that the Commission may monitor the corrective action and that the firm will furnish necessary information, including customer lists.

(xi) An agreement that the Commission may publicize the terms of the plan to the extent necessary to inform the public of the nature and extent of the alleged substantial product hazard and of the actions being undertaken to correct the alleged hazard presented.

(xii) Additional points of agreement, as appropriate.

(xiii) If desired by the subject firm, the following statement or its equivalent: "The submission of this corrective action plan does not constitute an admission by (the subject firm) that either reportable information or a substantial product hazard exists."

(xiv) An acknowledgment that the corrective action plan becomes effective only upon its final acceptance by the Commission.

(2) In determining whether to recommend to the Commission acceptance of a corrective action plan, the staff shall consider favorably both the promptness of the subject firm's reporting and any remedial actions taken by the subject firm in the interest of public safety. The staff also shall consider, insofar as possible, prior involvement by the subject firm in corrective action plans and Commission orders if such involvement bears on the likelihood that the firm will comply fully with the terms of the corrective action plan.

(3) Upon receipt of a corrective action plan and staff recommendation, the Commission may: (i) approve the plan; (ii) reject the plan and issue a complaint (in which case an administrative and/or judicial proceeding will be commenced); or (iii) take any other action necessary to insure that the plan is adequate.

(4) When time permits and where practicable in the interest of protecting the public, a summary of the plan shall be published in the Commission's Public Calendar. Those portions of the plan that are not restricted will be made available to the public in the Commission's public reading room as much in advance of the Commission meeting as practicable. Any interested person wishing to comment on the plan must file a Notice of Intent to Comment at least forty-eight (48) hours prior to the commencement of the Commission meeting during which the plan will be discussed. If no notices of intent are received, the Commission may take final action on the plan. If such notice is received within the time limits detailed above, the plan will, if practicable, be docketed for the following week's agenda. All comments must be in writing, and final written comments must be submitted at least forty-eight (48) hours before that session.

(b) *Consent Order Agreements Under Section 15 of CPSA.* The consent order agreement (agreement) is a document executed by a subject firm (Consenting Party) and a Commission staff representative which incorporates both a proposed complaint setting forth the staff's charges and a proposed order by which such charges are resolved.

(1) Consent order agreements shall include, as appropriate:

(i) An admission of all jurisdictional facts by the Consenting Party.

(ii) A waiver of any rights to an administrative or judicial hearing and of any other procedural steps, including any rights to seek judicial review or otherwise challenge or contest the validity of the Commission's Order.

(iii) A statement that the agreement is in settlement of the staff's charges.

(iv) A statement that the Commission's Order is issued under section 15 of the CPSA (15 U.S.C. 2064) and that a violation is a prohibited act within the meaning of section 19(a)(5) of the CPSA (15 U.S.C. 2068(a)(5)) and may subject a violator to civil and/or criminal penalties under sections 20 and 21 of the CPSA (15 U.S.C. 2069 and 2070).

(v) An acknowledgment that the Commission reserves its right to seek sanctions for any violations of the reporting obligations of section 15(b) of CPSA (15 U.S.C. 2064(b)) and its right to take other appropriate legal action.

(vi) An acknowledgment that the agreement becomes effective only upon its final acceptance by the Commission and its service upon the Consenting Party.

(vii) An acknowledgment that the Commission may disclose terms of the consent order agreement to the public.

(viii) A listing of the acts or practices from which the Consenting Party will refrain.

(ix) A statement that the Consenting Party shall perform certain acts and practices pursuant to the agreement.

(x) An acknowledgment that any interested person may bring an action pursuant to section 24 of the CPSA (15 U.S.C. 2073) in any U.S. district court for the district in which the Consenting Party is found or transacts business to enforce the order and to obtain appropriate injunctive relief.

(xi) A description of the alleged substantial product hazard.

(xii) If desired by the Consenting Party, the following statement or its equivalent: "The signing of this consent order agreement does not constitute an admission by (the Consenting Party) that either reportable information or a substantial product hazard exists."

(xiii) The elements of a corrective action plan as set forth in § 1115.20(a).

(2) At any time in the course of investigation, the staff may propose a subject firm which is being investigated that some or all of the allegations be resolved by a consent order agreement. Additionally, such a proposal may be made to the staff by a subject firm.

(3) Upon receiving an executed agreement, the Commission may: (i) provisionally accept it; (ii) reject it and issue a complaint (in which case an administrative and/or judicial proceeding will be commenced); or (iii) take such other action as it may deem appropriate.

(4) If the consent order agreement is provisionally accepted, the Commission shall place the agreement on the public record and shall announce provisional acceptance of the agreement in the Commission's public calendar and in the FEDERAL REGISTER. Any interested person may request the Commission not to accept the agreement by filing a written request in the Office of the Secretary. Such written request must be received in the Office of the Secretary no later than the close of business of the fifteenth (15th) calendar day following the date of announcement in the FEDERAL REGISTER.

(5) If the Commission does not receive any requests not to accept the agreement within the time period specified above, the consent order agreement shall be deemed finally accepted by the Commission on the twentieth (20th) calendar day after the date of announcement in the FEDERAL REGISTER, unless the Commission determines otherwise. However, if the Commission does receive a request not to accept the consent order agreement, then it will consider such request and vote on the acceptability of such agreement or the desirability of further action. After the consent order agreement is finally accepted, the Commission may then issue its complaint and order in such form as the circumstances may require. The order is a final order in disposition of the proceeding and is effective immediately upon its service upon the Consenting Party pursuant to the Commission's Rules of Practice for Adjudicative Proceedings (16 CFR 1025). The Consenting Party shall thereafter be bound by and take immediate action in accordance with such final order.

(6) If the Commission does not accept the consent order agreement on a final basis, it shall so notify the Consenting Party. Such notification constitutes withdrawal of the Commission's provisional acceptance unless the Commission orders otherwise. The Commission then may: (i) Issue a complaint, in which case an administrative

and/or judicial proceeding will be commenced; (ii) order further investigation; or (iii) take such other action as it may deem appropriate.

§ 1115.21 Compulsory remedial actions.

As appropriate, the Commission will attempt to protect the public from hazards presented by consumer products by seeking one or more of the following:

(a) *Adjudicated Commission Order.* An adjudicated Commission Order under section 15 (c) or (d) of the CPSA may be issued after parties and interested persons have had an opportunity for a hearing in accordance with section 554 of title 5, United States Code, and with section 15(f) of the CPSA. This hearing is governed by the Commission's Rules of Practice for Adjudicative Proceedings (16 CFR 1025).

(b) *Injunctive relief.* The Commission may apply to a U.S. district court in accordance with the provisions of section 15(g) of the CPSA for a preliminary injunction to restrain the distribution in commerce of a product it has reason to believe presents a substantial product hazard. The Commission may seek enforcement of its orders issued under sections 15 (c) and (d) of the CPSA in accordance with provisions of sections 22 and 27(b)(7) of the CPSA (15 U.S.C. 2071 and 2076(b)(7)).

(c) *Judicial determination of imminent hazard.* The Commission may file a complaint in a U.S. district court in accordance with the provisions of section 12 of the CPSA (15 U.S.C. 2061).

(d) *Orders of the Secretary of the Treasury.* The Commission staff may inform the Secretary of the Treasury that a consumer product offered for importation into the customs territory of the United States fails to comply with an applicable consumer product safety rule and/or has a product defect which constitutes a substantial product hazard. The Commission may request the Secretary of the Treasury under section 17 of the CPSA (15 U.S.C. 2066) to refuse admission to any such consumer product.

§ 1115.22 Prohibited acts and sanctions.

(a) *Statements generally.* Whoever knowingly and willfully falsifies, or conceals a material fact in a report under the CPSA and rules thereunder, is subject to criminal penalties under 18 U.S.C. 1001.

(b) *Timeliness and adequacy of reporting.* A failure to inform the Commission immediately and adequately, as required by section 15(b) of the CPSA, is a prohibited act within section 19(a)(4) of the CPSA (15 U.S.C. 2068(a)(4)).

(c) *Failure to make reports.* The failure or refusal to make reports or provide information as required under the CPSA is a prohibited act within the meaning of section 19(a)(3) of the CPSA (15 U.S.C. 2068(a)(3)).

(d) *Noncomplying products.* The manufacture for sale, offering for sale, distribution in commerce, and/or importation into the United States of a consumer product which is not in conformity with an applicable consumer product safety rule under CPSA is a prohibited act within the meaning of sections 19 (a)(1) and (a)(2) of the CPSA (15 U.S.C. 2068 (a)(1) and (a)(2)).

(e) *Orders issued under section 15 (c) and/or (d).* The failure to comply with an order issued under section 15 (c) and/or (d) of the CPSA is a prohibited act within the meaning of section 19(a)(5) of the CPSA (15 U.S.C. 2068(a)(5)).

(f) *Consequences of engaging in prohibited acts.* A knowing violation of section 19(a) of the CPSA subjects the violator to a civil penalty in accordance with section 20 of the CPSA (15 U.S.C. 2069). "Knowing," as defined in section 20(c) of the CPSA (15 U.S.C. 2069(c)), means the having of actual knowledge or the presumed having of knowledge deemed to be possessed by a reasonable person who acts in the circumstances, including knowledge obtainable upon the exercise of due care to ascertain the truth of representations. A knowing and willful violation of section 19(a), after the violator has received notice of noncompliance, subjects the violator to criminal penalties in accordance with section 21 of the CPSA (15 U.S.C. 2070).

Dated: July 31, 1978.

SHELDON D. BUTTS,
Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 78-21811 Filed 8-4-78; 8:45]

☆ U.S. GOVERNMENT PRINTING OFFICE: 1980 O— 320-725/3867 REGION 3-1

All Regional Offices Involved/Recall Coordinator,
CARM or Compliance Officer, CACA

Home Regional Office

RN or ID Number Recall Classification
Recalled Product
Recalling Firm
Address
Manufacturer (if different from recalling firm)
Address

INITIAL REPORT OR RECALL

1. Reason for Recall (Defect/Hazard or Violation)

2. Type of Program (i.e. voluntary under Section 15; Repurchase per Repurchase Regulations 16 CFR 1500.202).

3. Identifying Product Data Including Price.

4. Corrective Action Plan.

5. Injuries, Deaths, Safety Related Complaints, Legal Actions Against Firm.

6. Number of Products Involved

	Total
a. Warehouse or Factory	_____
b. Distributors	_____
c. Retailers	_____
d. Consumers	_____

7. Dates of Production and Why Limited to this Period.

8. Dates of Distribution.

9. Mode of Distribution Including Number and Type of Consignees.

10. Geographic Distribution (Nationwide or Specific State(s)).

11. Estimated Life of Product in Consumers' Hands.

12. When and How firm Learned of Problem.

13. When and How CPSC Learned of Problem.

14. Samples.

15. Firm's Plan for Disposition of Returned Products.

16. CPSC Plan for Monitoring.

FIGURE 1: AMENDED CONSUMER PRODUCT SAFETY ACT
EXPORT REPORTING REQUIREMENTS
(15 U.S.C. 2067, Aug. 13, 1981)

(b) Not less than thirty days before any person exports to a foreign country any product—

(1) which is not in conformity with an applicable consumer product safety standard in effect under this Act, or

(2) which is declared to be a banned hazardous substance by a rule promulgated under section 9,

such person shall file a statement with the Commission notifying the Commission of such exportation, and the Commission, upon receipt of such statement, shall promptly notify the government of such country of such exportation and the basis for such safety standard or rule. Any statement filed with the Commission under the preceding sentence shall specify the anticipated date of shipment of such product, the country and port of destination of such product, and the quantity of such product that will be exported, and shall contain such other information as the Commission may by regulation require. Upon petition filed with the Commission by any person required to file a statement under this subsection respecting an exportation, the Commission may, for good cause shown, exempt such person from the requirement of this subsection that such a statement be filed no less than thirty days before the date of the exportation, except that in no case shall the Commission permit such a statement to be filed later than the tenth day before such date.

FIGURE 2: AMENDED FEDERAL HAZARDOUS SUBSTANCES ACT EXPORT REPORTING REQUIREMENTS
(15 U.S.C. 2067, Aug. 13, 1981)

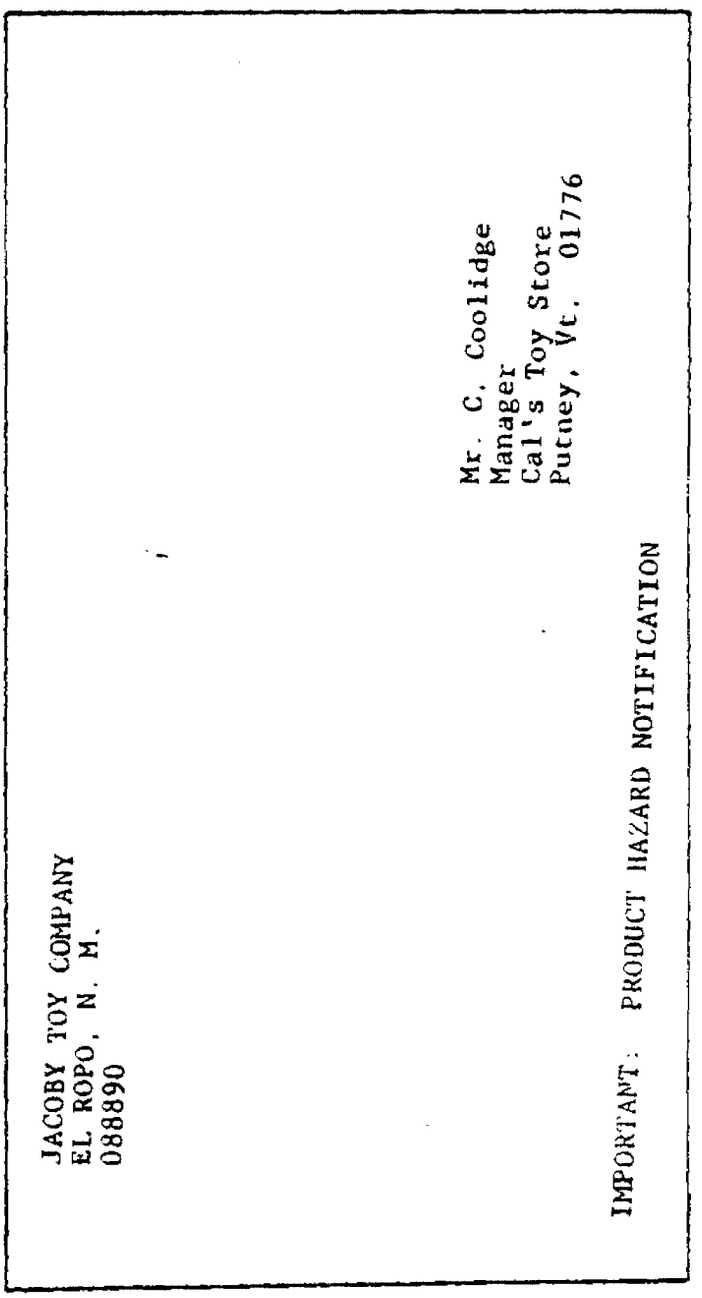
(d) Not less than thirty days before any person exports to a foreign country any misbranded hazardous substance or banned hazardous substance, such person shall file a statement with the Consumer Product Safety Commission (hereinafter in this section referred to as the 'Commission') notifying the Commission of such exportation, and the Commission, upon receipt of such statement, shall promptly notify the government of such country of such exportation and the basis upon which such substance is considered misbranded or has been banned under this Act. Any statement filed with the Commission under the preceding sentence shall specify the anticipated date of shipment of such substance, the country and port of destination of such substance, and the quantity of such substance that will be exported, and shall contain such other information as the Commission may by regulation require. Upon petition filed with the Commission by any person required to file a statement under this subsection respecting an exportation, the Commission may, for good cause shown, exempt such person from the requirement of this subsection that such a statement be filed no less than thirty days before the date of the exportation, except that in no case shall the Commission permit such a statement to be filed later than the tenth day before such date.

FIGURE 3: AMENDED FLAMMABLE FABRICS ACT EXPORT REPORTING REQUIREMENTS

(15 U.S.C. 2067, Aug. 13, 1981)

(c) Not less than thirty days before any person exports to a foreign country and fabric, related material, or product that fails to conform to an applicable flammability standard or regulation in effect under this Act, such person shall file a statement with the Commission notifying the Commission of such exportation, and the Commission, upon receipt of such statement, shall promptly notify the government of such country of such exportation and of the basis for such flammability standard or regulation. Any statement filed with the Commission under the preceding sentence shall specify the anticipated date of shipment of such fabric, related material, or product, the country and port of destination of such fabric, related material, or product, and the quantity of such fabric, related material, or product that will be exported, and shall contain such other information as the Commission may by regulation require. Upon petition filed with the Commission by any person required to file a statement under this subsection respecting an exportation, the Commission may, for good cause shown, exempt such person from the requirement of this subsection that such a statement be filed no less than thirty days before the date of the exportation, except that in no case shall the Commission permit such a statement to be filed later than the tenth day before such date.

APPENDIX 4. EXAMPLE OF "FLAGGED" ENVELOPE



FORMAT FOR LETTER NOTIFYING RECALLING FIRM ABOUT
PERIODIC PROGRESS REPORTS

Dear Sir:

We have been informed that our Corrective Actions Division has opened an identification file in your name, ID (fill in), involving your (product). It is the responsibility of the (fill in) Regional Office to monitor your corrective action plan and to notify you of the need for bi-weekly status reports commencing on (fill in date).

Every two weeks your company should file a report with this office that informs the Commission of the progress of your corrective action plan. Please indicate the number of units that have been corrected and update these figures as new information becomes available.

Enclosed is a sheet that indicates the preferred format for these status reports. When the information is provided to us in this way, we will be able to gauge how successfully your plan is progressing. We understand that this form may not be entirely suitable to the structure of your company's distribution chain. Therefore, feel free to adapt the form to your specific needs. In general, however, your submitted report should conform as nearly as possible to this format.

If you have previously made a confidentiality claim for any of these figures, please note this fact on each biweekly report.

When you reach the conclusion that your corrective action plan is completed, submit your usual report including a summary of your progress to date and an explanation of your reasons for requesting a closeout of the file at that time. Please identify this as your "FINAL REPORT." At that time this office will initiate procedures for the close out of your file.

Thank you for your cooperation. If you have any questions feel free to contact (RO contact person) at (telephone number).

Sincerely,

(Director of RO)

NOTE: This letter is written for submission of progress reports on a biweekly basis. At regional office discretion the reports may be requested on a monthly basis.

BIWEEKLY STATUS REPORT

STATUS REPORT FOR WEEK ENDING _____

RN or ID _____ Company Name _____ Product _____ Defect _____

LOCATION OF PRODUCTS	TOTAL UNITS	UNITS CORRECTED/RECOVERED* TO DATE	% CORRECTED/RECOVERED TO DATE	UNITS CORRECTED/RECOVERED DURING REPORTING PERIOD
Units in plant/ warehouse				
Units in distributors' hands				
Units in retailers' hands				
Units in consumers' hands				
Totals				

Projected Completion Date:

Comments:

* Circle "CORRECTED" or "RECOVERED"

FORMAT FOR PERIODIC PROGRESS REPORT FROM RECALLING FIRM TO HOME REGIONAL OFFICE

9010.34
Appendix G

TO: REPORT DATE:

FROM: CHECK DATE:

RECALL EFFECTIVENESS CHECK

RECALL NUMBER: _____ PRODUCT:

STI NUMBER: _____

RECALLING FIRM: CONSIGNEE:

---

1. Type Consignee: Wholesaler _____ Retailer _____
Manufacturer _____ Distributor _____
Br. Whse. _____ Consumer _____ Other
(Specify) _____

2. Name/Title of Person Interviewed: _____

3. Consignee Notified of Recall: Yes ____ No ____ Date: _____

4. Method of Notification: Letter ____ Phone ____ TWX ____
Mailgram ____ Salesman ____

5. Notification on File: Yes ____ NO ____ N/A ____ Dated: ____

6. Amount of Product: Received _____
On hand at notification _____
Returned from Subconsignees _____
Corrected/Returned/Disposed of _____
On Hand at Inspection _____

7. Did Consignee follow Instructions: Yes ___ No ____ (If no, discuss) _____

8. Disposition of Materials: _____

9. Sub Recall: Yes ____ No ____ (If "Yes", discuss details/mechanism under remarks)

10. Point of Purchase sign posted: Yes ____ No ____ N/A ____
Sign posted for: FHSA Repurchase ____ Sec. 15 CAP ____
Voluntary ____

11. Injuries/Complaints: Yes ____ No ____ (If "Yes", report by separate memo)

12. Sample Number: _____ N/A _____

REMARKS:

_____
Investigator, Area Office

FORMAT FOR MONTHLY REPORT FROM HOME RECIONAL OFFICE TO HEADQUARTERS

TO: Carm or CACA

From: RO

Recall Number: ID or RN #
Firm: _____
City, State _____

Investigator: _____
Date Recall Initiated: _____
Date Effectiveness Checks Assigned: _____
Date Final Report Requested: _____
Date Final Report Received: _____

		Month To date	Month To date	Month To date	Month To date	Month To date
Total Involved: ___	Total Corrected:					
At Plant	At Plant					
Distributors	Distributors					
Dealers	Dealers					
Consumers	Consumers					
DIRECT CONSIGNEES						
1. Effectiveness Checks Assigned						
2. Effectiveness Checks Completed						
SUB-CONSIGNEES						
1. Effectiveness Checks Assigned						
2. Effectiveness Checks Completed						
CONSUMERS						
1. Effectiveness Checks Assigned						
2. Effectiveness Checks Completed						

Discuss any inspections scheduled or conducted with recalling firm or other contacts: _____

PROBLEM AREAS: (EXPLAIN) _____

D. Thorne, FO

CPSC

Order

9010.36

DOMESTIC SAMPLE COLLECTION

April 18, 1984

as amended October 7, 1987

DISTRIBUTION: 1 & 2 INITIATED BY: AEDCA CPSC FORM 101

FOREWORD

1. PURPOSE. This order establishes procedures for collecting samples of consumer products in domestic commerce.

2. SCOPE. The procedures in this order are for the use of Regional Office personnel who collect samples as part of their inspectional-investigational activities. It is written as a manual for their use.

3. CANCELLATION. This Order cancels CPSC Order 9010.36 dated March 21, 1980, Domestic Sample Collection.

4. REFERENCES.

a. References for this directive are:

(1) Consumer Product Safety Act (CPSA).

(2) Flammable Fabrics Act (FFA).

(3) Federal Trade Commission Act (FTC Act).

(4) Federal Hazardous Substances Act (FHSA).

(5) Federal Food, Drug and Cosmetic Act (FD&C Act).

(6) Poison Prevention Packaging Act of 1970 (PPPA).

(7) Refrigerator Safety Act (RSA).

(8) United States Postal Service Regulations (Title 39, Chapter I of the Code of Federal Regulations).

(9) Regulations Relating to Transporation (Title 49, Subtitle B, Chapter I of the CFR).

(10) Federal Aviation Administration Shipping Regulations (Title 14, Chapter I of the CFR).

(11) CPSC Order 9010.100, Report of Results of Sample Analysis.

(12) CPSC Order 9010.37, Sample Accountability and Analysis Records.

Edgar Morgan
Executive Director

TABLE OF CONTENTS

CHAPTER 1. GENERAL

1. RESPONSIBILITY. It is your responsibility to collect samples in accordance with the procedures set out in this order. Keep in mind that you may have to testify in court concerning everything you do. Mistakes such as not maintaining sample integrity and other deficiencies, however trivial they seem, can jeopardize a case. Be objective, accurate and thorough.

2. PURPOSE. CPSC collects samples of consumer products in order to evaluate the compliance of products with existing legal requirements and also to determine the need for new safety standards. In legal cases, a sample serves as evidence to support the charge that a violation of the law exists.

3. DISCUSSION OF TERMS.

a. Sample. A sample consists of one or more items of evidence collected to provide necessary data and information for CPSC operations. In most instances, the articles collected consist of consumer products or components of these products. In some cases (see subsequent discussion of a documentary sample), the items of evidence obtained consist of records, labels, photographs and other documents which prove that a product exists and that the product has moved in or affected interstate commerce.

b. Official Sample. An official sample is one which, if violative, can serve as the basis for legal action. In order for the sample to be official, the following conditions must exist:

(1) CPSC must have jurisdiction over the sampled product. Necessary jurisdiction varies with the act involved and with the type of suspected violation. In most cases, jurisdiction is established when a sample product or its components have moved in interstate commerce or, in the case of a CPSA regulated item, when a product or its components have moved in or affected interstate commerce. Less frequently, jurisdiction is established when a product is covered by a guarantee issued under the FHSA or the Federal Food, Drug & Cosmetic Act, (FD&C Act) (for drug products subject to PPPA requirements), or when a product is subject to a certificate issued under section 14 of the CPSA.

(2) Documentary evidence of CPSC jurisdiction over the sample product must be obtained. This evidence, which generally consists of

shipping records and affidavits, is usually obtained at the time the sample is collected.

(3) Labels and labeling which accompany the sampled product must be obtained.

(4) The sample must be sufficient in size or quantity to permit the proper performance of any required analysis.

(5) The sample must be handled and identified in a manner which maintains its integrity as court evidence.

c. Non-Official Sample. A non-official sample is one which is not intended to be used for legal action. This may be because of circumstances (e.g., the proper sample size is not available) or because a decision has been made to eliminate one of the criteria in a given case (e.g., survey samples collected to provide data about industry practices may not need to be documented).

d. Documentary Sample. In this case, an actual, physical sample of a product is not obtained. The items collected consist of shipping records, affidavits, labels and labeling (originals or copies), diagrams, photographs and other documents, which show that the product exists, may show certain characteristics of the products, and may prove the product moved in or affected interstate commerce. A documentary sample may be official or non-official depending on circumstances.

4. AUTHORITY.

a. Sample Collection. Authority to collect samples is contained in the following references:

(1) Section 27(f) of the CPSA.

(2) Section 5(c) and (d) of the FFA.

(3) Section 11(b) of the FHSA.

(4) Section 704(c) of the FD&C Act. The FD&C Act provides authority for collecting samples of drugs subject to the PPPA.

(5) The authority to collect a sample to determine compliance with the RSA is section 27(f) of the CPSA.

b. Interstate Records. Authority to obtain records, which document the movement of sampled products in interstate commerce, varies with the acts enforced by CPSC.

(1) Section 16(b) of the CPSA authorizes the Commission to establish requirements for maintaining records which would be available for inspection by CPSC. To date, no regulation covering records showing interstate commerce has been issued. However, 16 CFR Part 1118.2(a)(3) of the CPSC regulations does provide for access and copying of any records a firm maintains relative to the production, distribution, sale, transportation, importation, or receipt of a consumer product, if the records are necessary to evaluate compliance with the CPSA.

(2) Section 5(c) of the FFA and section 6 and 9 of the FTC Act provide authority to obtain interstate records involving flammable fabrics. If necessary a subpoena for records can be issued under section 9 of the FTC Act.

(3) Section 12 of the FHSA provides for access to records showing interstate commerce, providing the records are in the possession of either common carriers or persons who have received interstate shipments of hazardous substances.

(4) Authority to examine and obtain records for enforcement of the PPPA with respect to drug products rests in section 703 of the FD&C Act. This section is similar to section 12 of the FHSA. In addition, if the drugs involved are prescription items, records may also be obtained under section 704(a) of the FD&C Act.

(5) There is no authority to obtain records under the RSA. However, authority provided by section 16(b) of the CPSA applies in this case.

5. REPORT OF ANALYSIS.

a. FHSA. Section 11(b) of the FHSA authorizes the collection of hazardous substance samples during an inspection of a factory, warehouse, or establishment where such products are manufactured, packed, held for introduction into interstate commerce, or held for sale after movement in interstate commerce. Section 11(c) requires that a copy of the results of any sample analysis conducted be furnished to the owner, operator or agent in charge of the firm from which any sample is collected. A hazardous substance sample collected from a consumer does not require a report. For additional information, refer to Order 9010.100, FHSA Report of Results of Sample Analysis.

b. Other Acts Enforced by CPSC. None of the other acts administered by CPSC require the issuance of a report of sample analysis.

c. Request for Analysis Results. A request for a sample analysis report from an individual or firm not covered by section 11(c) of the FHSA is handled as a Freedom of Information request.

6. RESERVE SAMPLE.

a. Section 702(b) of the FD&C Act requires that the Commission provide a portion of any drug sample for examination by any person named on the label of the article or the owner of the article. Therefore, it is necessary for the sample size of any drug sample to be sufficient to permit CPSC analysis and also to satisfy the requirement of section 702(b).

b. Although not required under the FHSA, FFA or CPSA, a sample should be sufficient in size or quantity to provide a reserve portion. The reserve may be used for exhibit purposes or for additional analysis if necessary.

c. Reserve samples are to be retained until a final decision is made concerning whether or not any legal action is to be taken in a given case.

CHAPTER 2. DEALER RELATIONS

7. GOOD WILL.

a. The successful completion of a sample collection assignment will often depend on the rapport established with the dealer involved. (In this context, a dealer is any party from whom a sample is collected.) The good will and cooperation of the dealer will make your job much easier. Treat even a hostile individual with courtesy. Employ tact, diplomacy and persuasion. Do not make unreasonable demands. Take the time to explain the purpose of your visit.

b. Product Sampled. Do not say or do anything that belittles the sampled product, its manufacturer or its shipper. Unless the dealer is responsible for the suspected violation, or it is necessary to obtain a voluntary hold on the sampled lot, limit discussion to the fact that the sample is being collected to determine compliance with CPSC regulations. Specific compliance field programs may include instructions that will supersede this guidance.

8. DEALER OBJECTION TO SAMPLING PROCEDURE. If the dealer objects to your proposed sampling procedure, comply with his wishes within reason. Assure him that you will make every effort to restore his stock as nearly as possible to its original state. Where indicated to avoid broken cases, purchase the whole unit.

9. DEALER REFUSALS.

a. Refusal to Permit Sampling.

(1) Although four of the acts enforced by the Commission authorize the collection of samples, in only one instance is it a prohibited act subject to a penalty for a dealer to refuse to permit the collection of samples. In the case of the FHSA, the collection of samples is an integral part of the inspectional authority specified by section 11(b), and refusal to permit an inspection as defined by section 11(b) is prohibited by section 4(e).

(2) If an individual other than a consumer refuses to allow the collection of a sample, explain that you are authorized to obtain samples, and read the appropriate section of the Law to the individual. If the FHSA is involved, state that it is a prohibited act to refuse to permit sample collection. If the individual still refuses, report the

matter to your supervisor, who is responsible for determining the proper course of action to take.

b. Refusal to Permit Access to Records.

(1) Section 19(a) (3) of the CPSA, section 10 of the FTC Act (covers records involving flammable fabrics), section 4(e) of the FHSA and section 301(e) and (f) of the FD&C Act specify that it is a prohibited act subject to penalty to refuse to allow access to and copying of records needed to show interstate movement of sampled products.

(2) In the case of records covered by section 12 of the FHSA or section 703 of the FD&C Act, a refusal is legal unless the request for records is accompanied by a written statement specifying the nature or kind of product to which the request relates. Note that a written request is not routinely issued since evidence obtained in this manner cannot be used in the criminal prosecution of the person from whom the records are obtained.

(3) If an individual, other than a consumer, refuses to provide records which CPSC is authorized to examine, explain that the law requires that the records be furnished, and read the appropriate section of the law to the individual. If you are still refused access to the records, report the matter to your supervisor, who is responsible for determining the proper course or action to take. Never issue a written request for records unless instructed to do so by your supervisor.

10. PAYMENT FOR SAMPLES.

a. Payment for all samples, other than post seizure and import samples, is to be offered regardless of how small the amount. Pay by cash, by voucher or by being billed.

b. Post Seizure Samples. Do not offer payment, nor pay for post seizure samples collected under court order. The reason for this is that after seizure the government owns the goods. If the dealer insists on payment before permitting a sample to be taken, inform him that he is violating a court order. If he still refuses to allow sampling notify your supervisor immediately. He will instruct you to notify the U.S. Attorney or will do so himself.

c. Methods of Payment.

(1) Cash Payment.

(a) Whenever possible, pay cash for samples costing a total of $20 or less. Although other methods of payment are provided, you may pay cash for samples costing in excess of $20.

(b) Note that if you pay cash for samples collected while you are in travel status, you must claim the sample costs on a travel voucher. If you obtain an advance for travel, make sure that the advance includes a sufficient amount to cover anticipated sample costs. To be reimbursed for samples collected while you are in travel status, your travel order must authorize the collection of samples.

(c) If you pay cash for samples collected while you are not in travel status, claim the sample costs on an SF 1164, Claim for Reimbursement for Expenditures on Official Business. If the cost of samples purchased at one time from a vendor is less than $150, your administrative officer will reimburse you from the Imprest Fund. If the cost exceeds $150, your administrative officer will forward the SF 1164 to the Division of the Comptroller (ADCP). You will receive payment in the form of a check.

(d) Regardless of whether you are reimbursed for a cash payment by submitting a travel voucher or an SF 1164, you must furnish a receipt for the purchase from the vendor whenever possible. The receipt may be:

1 A cash register tape.

2 An original or carbon of another type of receipt given by the individual or firm from whom a sample is collected.

3 A copy of CPSC Form 163, Receipt for Samples, on which the individual from whom a sample is obtained has completed item 10. (This is only acceptable if a receipt listed as item 1 or 2 above cannot readily be obtained).

4 In cases where another type of receipt cannot be obtained (e.g. an undercover purchase of fireworks), a copy of a CPSC Form 166, Sample Collection Report, can serve as a receipt.

(2) Payment by Voucher. If you do not pay cash for a sample,

you may use an SF 1034, Public Voucher for Purchases and Services Other than Personal (see Figure 9, Appendix 1), for payment. This form should not be issued for purchases costing less than $20 unless the dealer prefers to bill. The SF 1034 must show the date the samples were purchased and give an itemization of products including unit price and total cost. The dealer is not required to sign the voucher. Note that the voucher is the least frequently used method of payment for samples.

(3) Payment by Billing. The second alternative to cash payment for samples is to have the dealer bill the area office using his own billing system. Again, the dealer must show the date on which the samples were purchased, give an itemization of products including unit price, and list the total cost.

d. Charges to be Billed and Owner Unavailable. When a sample is collected from a public warehouse, determine the identity of the owner or agent and ascertain the value of the goods sampled. Arrange with the owner or agent to bill the Regional Office.

e. Sample Cost Determination.

(1) Advise the dealer that he is entitled to payment regardless of how nominal the amount may be. Explain that the general policy of the Commission is to purchase samples at cost rather than to pay regular sales prices. If the dealer insists that he is entitled to a profit, try to pay no more than ten percent over cost. If you consider the charge for a sample to be unreasonable, consult your supervisor.

(2) The above instructions are intended as guidelines. Use your judgment as to what is reasonable. For example, if you are collecting a sample at a retail level, and the usual sale price is not excessive, you may pay this price and avoid taking the time to determine the dealer's cost.

(3) When purchasing a sample for CPSC, no charges for State or local sales taxes should be made. The Administrative Officer for your office can provide you with a tax exemption number which can be furnished to the dealer.

f. Labor and Equipment Charges for Sampling.

(1) Additional labor, use of a fork lift, or other assistance may be needed to move merchandise, skids, pallets, etc., in order to reach a lot for sampling and restoring the lot to its original condition.

If assistance is necessary, it will usually be available on the premises and arrangements can be made with management. Labor and machinery normally will be needed only for short periods of time in order to unstack the lot, and there should be no need to tie up labor and equipment during the entire sampling process.

(2) When requesting the use of labor or equipment, there is usually no need to bring up the question of payment. If there is any indication that management may expect payment (e.g., hesitancy, complaints about shortage of help, questions such as, "Who is going to pay for this?", etc), find out whether or not any charge is to be made and how much the charge will be. Have a clear understanding with management on this. If you consider a charge too excessive, consult your supervisor.

(3) You may pay for labor and equipment charges by cash, by voucher or by using the dealer's billing system. If the method of payment is by voucher or billing, the dealer must show these charges separately from the sample cost.

g. Samples from Private Individuals.

(1) When collecting a sample from a private individual make certain the individual does not want the item back. Explain and note on the Receipt for Sample, CPSC Form 163, that the item sampled will not be returned. If there is doubt, do not collect the sample, unless you "borrow" it (see the following paragraph).

(2) Borrowing Samples. A consumer, unwilling to permanently part with a product for pay or otherwise, may be willing to let CPSC borrow the product for a specified period of time. If it is important for the Commission to examine a product, it is acceptable to take this step. You may have to check with your supervisor concerning the essential nature of a sample and should check with him to work out a suitable length of time for CPSC to borrow the sample. Be sure to flag the sample in block 2 of the Sample Collection Report, CPSC Form 166: Borrowed for _____ days," or "Borrowed until (date)."

CHAPTER 3. SAMPLE COLLECTION PROCEDURES

11. GENERAL. The following paragraphs contain general sampling procedures. Obviously, instructions cannot be written to cover all situations. Training and experience will enable you to become proficient in most sampling operations. In new or unusual situations, use your imagination and ingenuity to get the job done. If necessary, consult with your supervisor.

12. NOTICE OF INSPECTION. With one exception, issue a Notice of Inspection, CPSC Form 296 (see Figure 1 and 2, Appendix 1), whenever a sample is collected. The exception is that a notice is not issued when a sample is obtained from a consumer. When issued, give the original to the dealer. If you prepare an inspection report, submit the copy with this report. If no inspection report is prepared, attach the copy to the original of the Sample Collection Report, CPSC Form 166.

13. RECEIPT FOR SAMPLES. With the exception of documentary samples, issue a Receipt for Samples, CPSC Form 163 (see Figures 3 and 4, Appendix 1), in all cases in which a sample is collected. This includes occasions when samples are collected from consumers. Give the original to the dealer; attach the copy to the original of the Sample Collection Report, CPSC Form 166. Show the sample number on the copy of the receipt.

14. SAMPLE CHARACTERISTICS.

a. Sample sizes are generally specified in assignments and programs. If no instructions are available, use your judgment and collect what appears to be sufficient for intended testing.

b. Representative Sample. One of the basic objectives of any sample collection is to obtain a sample which is representative of the lot sampled. In some cases (e.g., televisions), you will be instructed to obtain only one unit; in others, a specified sampling plan will be provided. In many other instances you can approach getting a representative sample by taking the required number of units "at random" from the particular lot in question (e.g., taking three dolls at random from a dealer's shelf stock of ten dolls with the same model number).

c. Types of Samples. Assignments and programs usually contain instructions concerning how a sample is to be collected. Keep in mind that the first consideration should be whether to obtain an official or non-official sample. The second consideration is whether a physical or

documentary sample will fulfill requirements of the assignment. If there is any question about the type of sample that needs to be collected, consult your supervisor.

15. LOT RESTORATION.

a. Restore sampled lots to their original condition. Back-fill shipping cases; avoid leaving slack-filled cartons. Reseal opened cases. When collecting a sample from a public warehouse, railcar, etc, do not leave a sampled lot in a condition which would encourage pilferage.

b. Shipping Seals. If it is necessary to break a shipping seal on a rail car or other conveyance, reseal the door with a numbered, self-locking CPSC metal seal. (Note that you are to record any number on a shipping seal which you break, the car or conveyance number, and the CPSC seal number on your Sample Collection Report).

16. PRODUCT EMBARGO.

a. State Embargo. Regional Office personnel should be aware of the embargo authority possessed by State regulatory agencies within the CPSC area. When appropriate, Regional office management should develop cooperative agreements in which State authorities agree to embargo sampled goods upon CPSC request. Agreements with State agencies should specify operational guidelines and procedures. A State embargo should be requested only if the product in question is clearly violative in an important respect. The decision to request a State embargo should be made by your supervisor, who will discuss the case with the Directorate for Compliance and Administrative Litigation and request instructions.

b. Voluntary Dealer Embargo.

(1) When a sampled lot presents a clear and serious violation, and it is not possible to get a State embargo, or when otherwise requested to do so, try to have the dealer voluntarily hold the product in question. Be candid about any suspected violation. Frankly advise the dealer that CPSC possesses no authority to demand an embargo; call the dealer's attention to his responsibility under the law.

(2) Always place a time limit on voluntary embargoes. Determine this time limit in consultation with your supervisor. Consider shipping time, examination time and how long it will take to accomplish seizure.

(3) Your supervisor is responsible for determining when a voluntary embargo should be requested. Do not proceed with such an action unless you have supervisory approval.

17. LABELS AND LABELING.

a. Definitions. The following definitions apply:

(1) Label. A display of written, printed, or graphic matter upon the immediate container of an article.

(2) Labeling. All labels and other written, printed, or graphic matter upon any article, or any of its containers or wrappers, or accompanying the article at any time while such article is in commerce.

(3) Accompanying Labeling. The courts have generally given a broad interpretation to the term. This labeling includes such material as circulars, booklets, placards, displays, window streamers, books, article reprints, etc., in functional proximity to the goods.

b. Obtain Copies. Attach, wherever possible, original labels or copies of original labels to the collection report (photographs or tracings). The goods may be accompanied by labeling which is not affixed to the product. In this case, be certain that you obtain copies of all such labeling. If the relationship of the sampled product to labeling contained in a window or shelf display is significant, provide photographs or diagrams, which show this relationship. You may also use an affidavit to describe this relationship.

c. Copies Required. Obtain at least one copy (get three, if available) of all labeling which is not part of the packaging of the sampled product. Do not collect the actual labeling if only one copy is available. To do so may remove violative labeling, and thus correct the misbranding. In such a case make photographs or other copies.

18. DOCUMENTATION.

a. General.

(1) If CPSC is to take legal action against a violation, there must be evidence to prove the violation exists and demonstrate that the Commission has jurisdiction in the matter. Evidence of the violation is provided by an official sample; evidence of jurisdiction over the sampled product is provided by documentation or "getting the records."

(2) The extent of documentation required depends on the type of legal action contemplated (e.g., seizure, prosecution, injunction) and the type of action which CPSC is trying to provie (e.g., a violative product was introduced into, received in, or affected interstate commerce, a product was misbranded or banned after interstate commerce, a violative item was covered by a false guaranty or certificate). Follow assignment instructions and use your judgement in determining the nature and extent of documentation required.

(3) As a general rule, the minimum set of records and documents ordinarily submitted with a sample consists of a copy of the invoice covering the sale of the sampled product to the dealer, a copy of the transportation record showing interstate commerce, and a statement signed by the dealer, which identifies both the lot sampled and the applicable records.

(4) An in-transit lot is a somewhat unique situation. In this case, the product sampled is being held on a vehicle, conveyance, or a loading/receiving dock or a common carrier. The lot is considered to be in-transit and in interestate commerce (even if the goods are still in the State in which they originated) if a bill of lading for an interstate shipment has been issued, if the shipper or his agent signs an affidavit stating that he has ordered the lot to be shipped interstate, or if the carrier signs a statement stating that he has an order from the shipper to ship the product in interstate commerce. In this situation, an invoice is usually not available. Other shipping records and signed statements must be used to show interstate commerce.

(5) Remember that in the case of a product regulated under the CPSA, Commission jurisdiction can be established by proving that a product moved in interstate commerce or by showing that intrastate trade, commerce or transportation of the product affects interstate commerce. Basically, this means that in cases where actual interstate commerce cannot be documented, a sample from an intrastate shipment and records covering this shipment may be used to build a case.

b. Types of Records. The following paragraphs describe the types of records routinely involved in documenting CPSC jurisdiction over a sampled product.

(1) Invoice. This document shows that the sale of a product has occurred or is intended, and it may show the seller's intent to place an article in interstate commerce. An invoice is not the primary record with which to establish federal jurisdiction; however, it may

provide such information as the value of the goods, carrier, date of shipment, etc. It may also bear a CPSC type guaranty.

(2) Bill of Lading. The bill of lading is made out by the shipper who delivers the goods to the carrier for shipment. It is an order for the carrier to move the goods. When the carrier's agent signs the bill of lading he acknowledges receipt for the shipment. The carrier's office in the city of origin of shipment will maintain a copy of the bill of lading. Information normally included are the name and address of the shipper, the name and address of the consignee, the date of the shipment, the name of the carrier, the railcar number, and a description of the goods.

(3) Freight Bill. This record is made out by the transportation company for the purpose of collecting freight charges. It includes the same information found on the bill of lading, plus some information about the carrier's handling of the shipment and cost involved. Railroads prepare freight bills at their destination offices where copies can be made. Steamships and airlines combine the bill of lading and freight bill into one form. Copies are filed at both the origin and destination offices of these carriers. Truck lines prepare freight bills at the origin office, and both origin and destination offices should have copies. The dealer should have a freight bill if he received the goods directly in interstate commerce and shipping charges were collect. The shipper will usually have the freight bill when these charges are prepaid.

(4) Waybill. The transportation company uses the waybill in its own operations. This record accompanies the shipment during transit. Copies are not given to the shipper or consignee, but can obtained from the carrier. Other transportation records are generally more readily available than waybills. Air freight waybill numbers are so designed that the originating line and point of origin are encoded in the waybill number itself. Each airline has a numerical code description indicated by the first two digits of the number. The three letters which follow indicate the point of origin. For example, waybill no. 01LGA, designates American Airlines (01) as the carrier, and La Guardia Field (LGA) as the point of origin. Most airline offices have a copy of the "Official Air Freight Transmittal Manual" which lists all codes.

(5) United Parcel Service Shipping Record. Records covering UPS shipments are maintained by the UPS office, which originates the shipments. In order to obtain UPS records, get as much of the following information as possible from the dealer (and shipper, if necessary):

Shipper's name and address, Consignee's name and address, date shipped, date delivered, Shipper's account number, number of parcels in the shipment, and weight of the parcels. With this information, the originating UPS office can locate the proper records.

(6) Mail or Parcel Service Wrappings. The original wrappings show the postal cancellation of the post office of origin and the address sticker.

c. Obtaining Records.

(1) Unless otherwise instructed, samples should be fully documented at the time of collection. Be certain the records obtained are those documents which cover the goods sampled.

(2) As a general rule, do not remove the dealer's or shipper's only copy of records. Make copies by whatever means are available (photocopy, photography, or as a last resort-handwritten). You may use copying facilities of the dealer even if a nominal charge is made. Proof reproductions to be sure that all relevant markings show clearly. Make pen and ink changes on your copy if this is necessary to ensure legibility. These changes should be dated and initialed by the dealer.

(3) If the only means available to copy records is to hand copy the documents, and if there are numerous records to copy, you may take the dealer's only copy of the involved records. Go to the area office or a commercial copying facility, make copies of the records, and then return the originals to the dealer.

(4) If you have to take the dealer's only copy of records in order to make copies for CPSC, give the dealer a signed written statement, which describes the records taken and indicates when they will be returned.

19. IDENTIFICATION AT TIME OF SAMPLE COLLECTION. The following identification procedures are to be followed at the time a sample is collected.

a. Sampled Lot. After obtaining the dealer's permission, mark each shipping case or other container from which sample units are taken with CPSC, the date, your initials, and the sample and sub numbers assigned to the sampled units.

b. Copies of Records. Request the dealer to date and initial copies of shipping records which you collect to document a sample.

c. Accompanying Labeling. Request the dealer to date and initial copies of accompanying labeling not affixed to the sampled product.

20. AFFIDAVITS.

a. General.

(1) Affidavits are obtained from dealers and other parties, who have dealt with the sample product and know material facts relating to the movement of the product or to events affecting the condition of the product. Such facts, recorded in writing and signed by a person who can testify in court to those facts, can be used either to establish federal jurisdiction or fix the responsibility for a violation.

(2) Routinely, a statement identifies documents which prove interstate movement of the goods sampled (these are the records you copy), names a person who can testify to the identity of the product sampled, and certifies that the sample collected is from the lot of goods covered by the copied records.

b. Preparation.

(1) An affidavit is prepared on CPSC Form 158, Affidavit (see Figure 5, Appendix 1). There is no prescribed format to be followed in composing the statement. The most manageable composition is a narrative in which the events and circumstances are arranged chronologically. Whatever format is used, the recorded facts must be intelligible to the reader unfamiliar with the transaction.

(2) Ascertain all the facts and record those which are material and relevant, and to which the affiant can affirm. Prepare the text in a narrative form using the words of the affiant, in the first person singular. Do not use stilted terms. Break the statement down into logical paragraphs.

(3) The affiant should be positively identified at the beginning of the statement. It is wise to include the address where he can be reached. Show that the affiant is qualified to make the statement. Set forth all the pertinent facts in the body of the narrative. Have the affiant read the statement and make necessary corrections before he affixes his signature to the affidavit. Mistakes which have

been corrected and initialed by the affiant provide an indication that he has read and understood the statement.

(4) Before the affiant signs the statement, ask the individual, "Do you affirm that this statement is true?" It is not necessary to use a Bible or have the person raise his hand. The signature and address of a witness to the statement placed at the bottom of the affidavit above your signature provides additional confirmation.

c. Special Situations.

(1) If you collect a sample from a lot shipped via privately-owned vehicle, you will probably have to get a separate affidavit from the shipper setting forth the facts of the shipment. In the case of an in-transit lot, you will need an affidavit from the carrier, which identifies the shipment sampled as having been delivered by the shipper on a certain day for delivery to the consignee.

(2) When a mail or parcel service shipment is involved, get an affidavit which covers how the product was shipped and what happened to the shipping wrapper (if possible, collect the wrapper).

(3) When accompanying labeling not affixed to the sampled product is involved, describe in the affidavit each piece of labeling by means of an identifiable quote. Report where the labeling was located, how it is distributed to the public, and whether it was received from the shipper or prepared by the dealer. Describe any promotional instructions provided by the shipper. Include a statement in which the affiant describes how he identified copies of labeling which you obtained.

d. Refusal to Sign. If it is apparent that the dealer will refuse to sign an affidavit setting forth the facts he has revealed, prepare a statement in the usual manner. Either read it to the dealer or have him read it, preferably before a witness. Request the dealer to correct and initial by his own hand any mistakes. Try to elicit from him an acknowledgment that the statement is true and correct. Declare at the bottom of the affidavit that you recorded the facts as the dealer revealed them, that the dealer read the statement, and that the dealer declared the statement to be true. Attempt to have any witness to the statement sign the affidavit with his name and address.

CHAPTER 4. PREPARING, HANDLING, SHIPPING

21. GENERAL. The objective of properly preparing, handling, and shipping a sample is to ensure sample integrity so that, if necessary, you can testify that the sample analyzed by CPSC is the same sample which you collected and documented. It is desirable to have as few people as possible handle the sample since each individual may be required to testify how the sample was handled.

22. IDENTIFICATION AT TIME OF SAMPLE PREPARATION.

a. Records Collected. Mark copies of records collected with the sample number, the date on which the record was obtained and your initials. The sample number is the Sample Collection Report number. Attach records to the original of the Sample Collection Report, CPSC Form 166.

b. Accompanying Literature and Labeling. Identify labeling not affixed to or part of the sampled product or its package in the same manner as you identify records. Attach this labeling to the original of the Sample Collection Report.

c. Sample.

(1) Mark each sub (physical specimen) of the sample with a sub number, the date on which the sample was collected, and your initials. The sub number is a consecutive arabic number (i.e., 1,2,3, etc.).

(2) In the case of flammable fabrics, the actual, physical sample should always be identified. In other cases, the physical sample should be identified if feasible. Obviously, only the container of a liquid hazardous substance can be identified. Likewise, in a children's game consisting of many pieces, only a few, if any, of the components can be identified.

(3) In addition to identifying the actual product, identify the product package and any insert, instruction sheet, circular, etc. After being identified, instruction sheets, circulars and other inserts should be replaced in the product package.

(4) If more than one person is involved in collecting a sample, the person preparing and signing the Sample Collection Report

initials the physical sample and related materials.

23. IDENTIFICATION TECHNIQUES.

The following techniques may be used to identify samples. You are encouraged to develop and use other appropriate methods.

a. Kimloc security tags are to be used to identify flammable fabric specimens. The identification should be placed in a spot not likely to be needed for testing (e. g., corner, collar).

b. Whenever possible, remove cellophane wrappers or other overlaying material to identify parts of the sample. If cellophane cannot be removed, it may be ink marked by first removing the cellophane gloss with alcohol.

c. Diamond or carbide tipped styluses may be used to mark tin, painted metal, etc.

d. Transparent tape such as Scotch Magic Transparent tape accepts ball point ink very well, and may be used on glossy items such as glass, plastic, tin, etc. Glass may also be identified by using a very fine pointed felt or nylon marking pen and covering the identification with an acrylic resin spray or transparent tape to prevent the marking from rubbing off.

24. OFFICIAL SEALS

a. General

(1) With the exception of documentary samples, all samples, whether official or non-official, are sealed with either an Official Seal, CPSC Form 164 (see Figure 7, Appendix 1), or with a CPSC metal seal. The purpose of the seal is to provide a means of proving that the integrity of a sample has been maintained by CPSC.

(2) Ideally, a sample is collected, identified and officially sealed on the same day in which the sample is collected. If you are unable to do this, place the sample under temporary seal or store it in a secure area (See paragraph 25).

b. Preparation. Inscribe the Official Seal with the sample number, the date sealed, your signature, printed name and title. The seal bears only one signature so if more than one person is involved in

collecting the sample, the person preparing and signing the Sample Collection Report, signs the seal.

c. Application.

(1) After the sample has been properly identified, place the sample in an appropriate package. Seal this package with one or more official seals so that it cannot be opened without either breaking the seal or resulting in an opened package which has obviously been tampered with and which cannot be re-closed without clearly showing damage.

(2) Never place more than one sample under the same official seal.

(3) Apply the seal firmly and rub entire surface to assure proper adherence so that the seal cannot be removed without being damaged. If the surface of the sample container is of such a construction or condition that the seal will not adhere place sample into another container which can be sealed.

d. Metal Seals. In situations where it is impossible to use the paper seal, use a numbered self-locking, CPSC metal seal. The metal seal is effective for use on wooden crates, drums, baskets, etc. Record the seal number on the sample collection report.

25. TEMPORARY STORAGE AND TEMPORARY SEALS.

a. When a sample is not officially sealed on the date the sample is collected, the sample must be handled in a manner which ensures its integrity. You can maintain sample integrity by storing the sample in a secure area (e.g., locked desk drawer, locked trunk of your car) or by temporarily sealing the sample. Make sure that storage conditions do not adversely affect the product.

b. Use of Temporary Seals. The second method of maintaining sample integrity prior to placing the product under official seal is to temporarily seal the item. There is no specific temporary seal form. The CPSC Form 164, Official Seal, when used in a temporary manner, becomes a temporary seal. Thus, a temporary seal applied on the date a sample is collected bears this date. The official seal bears the date on which the final seal is applied.

c. Breaking Seals. By the time a sample is submitted for analysis, it may be necessary to break one or more temporary seals. Date

and initial seals when you break them. Retain the broken seals and submit them with the Sample Collection Report, CPSC Form 166, to provide a continuous history of sample integrity.

26. SAMPLE PACKAGE IDENTIFICATION. Place a Sample Package Identification Envelope, CPSC Form 165 (see Figure 8, Appendix 1), next to the official seal on a sample package. For small containers or for surfaces on which the form will not fit or adhere, the CPSC Form 165 may be tied to the sample package. Do not affix the form on the outside of the shipping carton or under or over the official seal. Enclose a copy of the Sample Collection Report and the assignment document in the Sample Package Identification Envelope.

27. SAMPLE HANDLING.

a. Sample and Shipping Packages.

(1) It is your responsibility for ensuring that samples are packaged in such a manner that subsequent handling and shipping will not change the identity of a sample or cast doubt on its integrity. This means that an officially sealed sample package and the outer shipping wrapper or package must be sturdy enough to come through normal handling and shipping operations without damage.

(2) Place fragile containers in cushioning material to prevent in-transit shifting and breakage. Place liquid products in sufficient cushioning and absorbing material to absorb any spillage which might occur.

(3) Observe special precautions when shipping products in pressurized containers to avoid exposure to excessive heat. Air shippers who ship in non-pressurized planes may also have special requirements for this type container to prevent explosion.

(4) Check the Post Office for postal regulations (Title 39, Chapter I of the Code of Federal Regulations) and common carriers for Department of Transportation regulations (Title 49, Subtitle B, Chapter I of the CFR) and Federal Aviation Administration regulations (Title 14, Chapter I of the CFR) pertaining to precautions and restrictions involved in handling and shipping hazardous products (e.g, explosives, toxic materials, flammable items, pressurized containers). Make sure proper warning labels are used on shipping containers.

(5) To facilitate handling and reduce the necessity for breaking seals and resealing samples when reviewing container labels, it

is suggested that samples collected for label examination be officially sealed in clear plastic bags rather than in opaque bags. Samples handled in this manner will permit label review and, if necessary, copying of container labels through the clear plastic bag. This will eliminate the need to break the seal each time the label is examined.

(6) A consumer product suspected of being contaminated with infectious organisms should be officially sealed in a securely fastened clear plastic bag. The bag should be clearly marked in large print "SAMPLE MAY BE CONTAMINATED." The plastic bag(s) should be packaged as stated in paragraphs (1) and (2) above.

28. SAMPLE SHIPMENT.

a. Cannot Personally Deliver. When it is not possible to personally deliver a sample to the examining office or laboratory, ship the sample by means which are the most economically available for the needed speed of handling.

b. Shipper Wrapper or Package. Always place the words "CPSC Sample No. ____" followed by the actual sample number(s) on the outside of the package near the address label. This alerts the receiving mail rooms that the package contains a sample and must go to the sample custodian. Put the requestor's name, if applicable, on the sample wrapper so the sample custodian can notify them once the sample is received.

c. Routing of Samples

(1) Pertinent programs and assignments ordinarily indicate where samples are to be shipped. Do not send samples direct to ESEP unless requested. Section 15 samples are usually screened by CACA who will determine the extent of testing.

(2) When you mail or ship a sample to a headquarters laboratory, address the package to:

Consumer Product Safety Commission
Sample Custodian
11820 Coakley Circle
Rockville, Md. 20852

d. Parcel Post Shipments.

(1) You may ship samples within specified size and weight

limits by prepaid parcel post. The limits are:

a. From a first class post office to a first class post office: Weight - 40 pounds; size - 78 inches (length and girth combined).

b. Mailed at or addressed to a second or lower class post office: Weight - 70 pounds; size 100 inches length and girth combined.

(2) Use a CPSC franked address label inserting a complete consignee address.

e. Certified and First Class Mail Shipments.

(1) You may use certified air mail to send samples when speed is essential and a receipt is desired. You may use first class air mail where speed is a factor, but a receipt is not necessary. These methods of mailing should not be used for routine samples. Large samples should be mailed by these means only in cases of urgent necessity.

(2) Use a CPSC franked address label or envelope.

f. Common Carrier Shipments.

(1) In general, use United Parcel Service to ship samples which exceed parcel post size and weight specifications or when more expeditious handling of samples than that provided by parcel post is required. Your administrative officer should obtain size and weight limits for UPS shipments from the local offices of this agency. If you need to ship a sample which exceeds these limits, it will become necessary to use the services of a motor express company.

(2) Motor express or passenger bus lines should be used only when you know that the schedule and delivery practices of the carrier are satisfactory and reliable. Do not ship samples to Washington by means of passenger bus lines.

(3) Air Express or air freight should be used only for samples requiring extremely rapid handling or where more economical means of shipment are not available or feasible. Air Express offers service at all of the nationwide local offices. UPS ships parcels moving coast-to-coast by means of air freight. Air freight service is also offered by individual air lines. Although air freight service of

air lines is usually not as convenient as Air Express or UPS service, it is much more economical and should generally be used for shipments of about 50 pounds or more.

(4) Use a U.S. Government Shipment Label. Fill out completely and accurately. Strike out the Government Bill of Lading information in the lower left corner of the label if the shipment is being made under the UPS agreements discussed in the next subparagraph.

g. Use of Commercial Forms. The General Services Administration has entered into agreements with United Parcel Service and Purolator Courier Corporation, under which CPSC can send small package shipments on a charge basis without the need for using Government Bills of Lading (GBL's). The agreements authorize the use of commercial forms and procedures only for shipments on which the transportation charges do not exceed $100.00. Administrative Officers should contact local UPS and/or Purolator offices and the involved officials in the Directorate for Administration when preparing blanket Purchase Orders. See Appendix 1, Figure 10 for the GSA agreements.

h. Government Bill of Lading.

(1) Prepare an SF 1103, Government Bill of Lading, to cover common carrier shipments not made under the UPS or Purolator agreements. Distribute the GBL as follows: Give the carrier the Original (White), SF 1103; the Shipping Order (Pink), SF 1104; the Freight Waybill Original (White), SF 1105; and the Freight Waybill Carrier's Copy (White), SF 1106. Turn in the remaining copies to your Administrative Officer.

(2) The administrative officers of each area office have been provided with detailed instructions for completing GBL's. Refer to this material if you need more information. The instructions are in the form of a GSA booklet entitled How to Prepare and Process U.S. Government Bills of Lading (Federal Stock Number 7610-682-6740).

i. Payment of Shipping Charges. Do not pay cash for transportation charges. For parcel post and other mail shipments use franked address labels and envelopes. For shipments by common carriers, use the UPS or Purolator agreements or issue GBL's.

CHAPTER 5. SAMPLE COLLECTION REPORT

29. PREPARATION.

a. Sample Collection Report. Complete a Sample Collection Report, CPSC Form 166, (see Figure 6, Appendix 1), for each sample collected. Prepare the report in a legible manner--preferably on a typewriter. The use of easily understood abbreviations is acceptable. Fill in the blocks of the report in the following manner:

(1) Sample Type. Enter the type of sample collected. If the sample is documentary, fill in one of the other two blocks to indicate whether it is official or non-official. See Chapter 1, Section 3.

(2) Flag. Enter any special instructions or information concerning the sample. Examples of items, which should be flagged are:

(a) Embargo. Indicate whether the lot is under voluntary or State embargo; state how long the embargo will be in effect.

(b) Section 15(b). Indicate whether the sampled product may result in or is part of a section 15(b) action.

(c) Sample Borrowed. If you borrowed the sample from a consumer, state this fact, and indicate for how long the product has been borrowed.

(d) Import Sample. Indicate any sample collected while still in import status.

(3) Sample Number. The sample number consists of a letter, a three digit Regional Office code, and a four digit consecutive number (e.g., B-805-0002). To complete the sample number, enter your three digit Regional Office code. These codes are: 805-New York, 810-Atlanta, 815-Chicago, 820-San Francisco, 855-Dallas.

(4) Collecting Office. Enter the name of your Regional Office. Use the appropriate letter code: MWRO, NERO, SERO, SWRO, and WERO.

(5) Home Office. Enter the name of the Regional Office

where the manufacturer or importer of the product is located. Use the letter codes shown in (4).

(6) Assignment Number. Enter the assignment number from the work track task. This will be a field program number, STI number or the word "Initiated". Be sure to use the 9 character WIRK format.

(7) Date of Collection. Enter the date on which the sample was collected.

(8) Product Code. Enter appropriate NEISS product code number.

(9A) Product Name. Enter the most commonly used name for the sampled product. Examples would be "10 speed bicycle," or "Sulfuric Acid Drain Cleaner."

(9B) Model. Enter the model number of the sampled product, if appropriate.

(10A) Manufacturer's or Importer's Name. Enter the name of the manufacturer of the product as the importer of record.

(10B) Identification Number.

(11A) Sent by Org. Enter the code designation for your Regional Office.

(11B) Sent to Org. Enter the code designation for the office or laboratory that will receive the sample.

(11C) Date Sent. Enter the date on which the sample was delivered to the sample custodian, laboratory, post office, common carrier, etc.

(12) Other Product Identification Data. Enter the generic product name. Identify the type or container or package including closure, if appropriate. Quote pertinent portions of the label and labeling such as brand name, style number, model number, serial number, lot number, quantity of contents, name and address of manufacturer or distributor, etc. Quote sufficiently from accompanying labeling and literature to identify. In the case of a documentary sample, sufficiently describe the article to identify what is sampled. When quoting from a label or labeling use exact spelling, capitalization, punctuation,

and arrangement as found on the original label or labeling. Use asterisks (set of three) to indicate omissions.

(13A) Reason for Collection-Suspected Violation. Enter an "X" in the appropriate block showing the statute under which the Commission has jurisdiction.

(13B) Analysis Needed - Doc. ref. Enter the analysis needed. Identify the assignment document which prompted collection of the sample.

(14) Manufacturer. Enter the name and address of the manufacturer.

(15) Shipper. Enter the name and address of the firm which shipped the product to the dealer. Enter "same" if the firm listed in block 14 is the shipper.

(16) Dealer. Enter the name and address of the firm or individual from whom the sample was collected.

(17) Size of Lot Sampled. Give the size of the lot from which the sample was collected.

(18) Est. Val. of Lot After Sampling. Enter the wholesale value of the lot remaining after the sample has been collected.

(19) Cost of Sample. Enter the cost of the sample; estimate, if unknown. Show method of payment by "B" for bill, "V" for voucher, and "C" for cash.

(20) Date Shipped & Doc. Ref. Enter the date the sampled lot was introduced into commerce. If records do not show the date of shipment, give an estimate based on invoice or other information. Indicate the basis of this estimate. Following the date enter the documentary evidence, if any, from which the date was obtained (e.g., F/B, W/B, B/L, Inv., etc.)

(21) Supporting Documents Attached. List all documents and shipping records obtained.

(a) Invoice: Number and Date. List invoice or other billing documents by number and date.

(b) Shipping Records: Number and Date. List shipping documents by type, number and date.

(c) Affidavit: Signer's Name and Title, Date. Give the name and title of the affiant and the date on which the affidavit was signed.

(22) Sample Size, Methods of Collection and Preparation. List the sample size. Describe how the sample was collected (e.g., 2 cans taken from each of 6 previously unopened cases selected at random), and indicate from where the sample was collected (e.g., from retail shelf, dealer's warehouse stock). Note any special sampling techniques used. Describe how the sample was identified (e.g., immediate container, or product and retail carton), wrapped, and officially sealed.

(23) Identification on Sample. Quote the identification you placed on the sample (i.e., sample number, sub numbers, date sample collected, initials).

(24) Identification on Seal. Quote your identification placed on the official seal (i.e., sample number, date sealed, signature).

(25A) Sample Delivered To. Report here to whom you delivered the sample. If delivered under seal to your own laboratory show delivery to your area laboratory or sample custodian. If delivered unsealed to an analyst, report "in Person to Richard R. Doe." If you shipped the sample, enter the name of the carrier to whom the sample was delivered. Enter the Government Bill of Lading number, if used. If shipment is by parcel post, give the location of the post office (e.g., "P.P - Austin, Texas"). All samples sent to laboratories, offices or individuals in headquarters must be shipped to Sample Custodian, Consumer Product Safety Commission, 11820 Coakley Circle, Rockville, Md. 20852.

(25B) Date. Enter date sample delivered.

(26) Original Report/Records To. Enter the name of the CPSC unit to which the original CPSC Form 166 and documentary records are sent.

(27A) Laboratory (1). Enter the name of the laboratory or unit, which will analyze the sample.

(27B) Laboratory (2). If a portion of the sample is being sent to a second laboratory or unit, enter the name.

(28) Remarks. Use this section for continuation of information from any other block on the form or for any other necessary

information. If a firm is entitled to a report of analysis under section 11(c) of the FHSA, enter the name and title of the individual who should receive the report. Identify any CPSC employee who accompanied you during the sample collection operation. If a sample is not officially sealed on the date it is collected, note that the sample was held under temporary seal or held in a secure area (e.g., trunk of car, locked desk drawer) for the period between the date of collection and the date on which the sample is officially sealed. Obtain product formulation information wherever possible and enter it in this section. List all attachments to C/R, including copy of original assignment, photographs, shipping documents, etc. Enter the MIS program and project code and originating office of the assignment.

(29) Related Samples. Enter the sample numbers of other samples from the same shipment or other samples related to possible litigation.

(30A) Collector's Name & Title. Enter your name, title and employee number.

(30B) Collector's Signature & Date. Sign the report and show date completed.

(31A) Reviewer's Name & Title. Enter the name and title of individual reviewing the sample collection report.

(31B) Reviewer's Signature & Date. Sign report and show date review completed.

(32) Time Expanded. Enter time expended in the sample collection process to the nearest half hour as follows:

(a) Line Force - time required to prepare for the assignment, collect the sample, prepare and ship the sample, and complete the collection report.

(b) Management - time required to review the collection report and accompanying documents.

(c) Support - not applicable.

(d) Total - Enter total of (a) and (b).

(e) Transit - Enter travel time associated with the

sample operation. If several operations are completed on the same trip, pro-rate time accordingly.

30. DISTRIBUTION.

a. Routine distribution for a Sample Collection Report is as follows:

(1) Original (White). Attach a copy of any assignment document, documentary records, and accompanying labeling not affixed to the sample to the original of the Sample Collection Report, CPSC Form 166. The original with records goes to the office most likely to initiate legal action. Unless otherwise notified, assume that this office is the home Regional Office. The home office is the CPSC region where the responsible firm is located.

(2) Laboratory Copy (Pink). This copy of the report accompanies the sample to the analyzing laboratory or office. Attach a copy of any assignment document to this copy of the CPSC Form 166 and place in the Sample Identification Package, CPSC Form 165.

(3) Collecting Regional Office (Financial) Copy (Green). Route this copy to the collecting office administrative officer for financial management purposes.

(4) Collecting Regional Office (Central) Copy (Salmon). Route this copy to the collecting Regional Office central files.

(5) Home Regional Office Copy (Blue). Route this copy to the home Regional Office for their central files.

(6) Data Copy (Yellow). Used as a source document for inputting to the work tracking system and may then be discarded or filed at the Regional Office discretion.

CHAPTER 6. UNSOLICITED SAMPLES

31. GENERAL. An unsolicited sample is an unofficial sample (see page 2) submitted by industry, consumers or state/local government officials. This includes all samples handled by the agency except for compliance samples collected in accordance with this Directive. These samples are usually accompanied by a request for examination or analysis to demonstrate a violation or defect. They may also be accompanied by a statement that the sample need not be returned to the sender. The Commission staff may or may not analyze or test an unsolicited sample. Regardless of testing, an unsolicited sample may lead to an in-depth investigation, inspection or collection of an official sample. Unsolicited samples must be accounted for, and eventually disposed of, in a manner similar to any other sample. The Office or Directorate receiving the unsolicited samples will, therefore, prepare a Sample Collection Report, CPSC Form 166 (Appendix 1, Figure 6), a Sample Package Identification Envelope, CPSC Form 165 (Appendix 1, Figure 8) and a Sample Accountability Record, CPSC Form 159 (Appendix 1, Figures 1,2,3,-Order 9010.37). Each of these three forms may be obtained from the Division of Management Services, Administrative Services Branch (492-6666). Unless otherwise notified, the Office or Directorate receiving the unsolicited sample should immediately contact the sender of the sample and determine if the sender wishes to have the sample returned.

32. SAMPLE COLLECTION REPORT. Complete the Sample Collection Report, following the instructions in Chapter 5 of this directive to the degree possible. Much of the information requested, such as that pertaining to size of the lot sampled, cost, invoices, shipping records, affidavits, seals, etc. would not be applicable to an unsolicited sample. In addition, some of the requested information may not be available. The receiving office must decide how much information should be included in the Collection Report. However, include as much information as possible concerning the manufacturer, product name and product identification. Copies of the Report go to the appropriate Regional Center (the Regional Center in which the manufacturer is located) and it is important that the Regional Center

staff know the manufacturer and product involved. It is not necessary to officially seal the sample but it should be identified following instructions in chapter 5. Enter "Unsolicited Sample" in Block #2 of the Sample Collection Report. The Sample Number in block #3 will consist of a letter followed by 7 numbers. The letter represents the Fiscal Year with I representing FY 1987, J representing FY 1988, K representing FY 1989 and so forth. The MIS Organization Code of the receiving Office or Directorate makes up the first 3 numbers. The last 4 numbers are preprinted on the report. In Block 28, include information on your contact with the sender regarding return of the sample. State the date of your contact and whether or not the sample is to be returned.

33. DISTRIBUTION OF SAMPLE COLLECTION REPORT

The office receiving the unsolicited sample should retain the white original copy of the collection report. The pink copy should accompany the sample wherever it goes and the green copy should be sent to the home regional center (regional center in which the manufacturer is located). The salmon colored copy should be sent to the regional center where the firm or person sending the sample is located, if different from the home regional center. This is for the regional center's background information only. The regional center is not responsible for the disposition of a sample received by a headquarters office. The pink copy accompanying the sample should be placed in a Sample Package Identification Envelope (Appendix 1, Figure 8 of this directive) which is completed and attached to the sample.

34. SAMPLE IDENTIFICATION

Identify the sample following the procedures outlined in Chapter 4. The sample (each unit if more than 1), accompanying letter, and any accompanying literature/labeling should be identified with the sample number, date of receipt of the sample and the initials of the individual responsible for the sample. Labeling, literature and incoming letter are to be attached to the pink copy of the collection report and placed in the Sample Package Identification Envelope.

35. SAMPLE ACCOUNTABILITY

In addition to the Sample Collection Report, the headquarters office or division receiving the sample will prepare a Sample Accountability Record, CPSC Form 159. Form 159 is a three-part, inter-leaved carbon snapout form, consisting of a green original card, a pink "compliance" copy and a white "laboratory" copy. Form 159 serves as a record of the receipt, handling, storage and final disposition of samples. The Sample Accountability Record is completed following appropriate instructions in Chapter 1, Paragraph 3, Order 9010.37. If the receiving Office decides, for whatever reason, that the sample can be immediately returned to the sender, can be immediately tested or can be immediately destroyed, the receiving office will send the sample (after testing if appropriate) and pink "compliance" copy to the sample custodian with disposition instructions (e.g., "Destroyed," "Return to sender,"etc.). Otherwise, the green original card is sent to the Sample Custodian at the CPSC Warehouse. The Sample Custodian will keep the original card. The white "laboratory" copy follows the sample. If the receiving office transfers the responsibility for the sample to another office or directorate such as OPM or a laboratory for testing, the Sample Custodian will be requested to move the sample. In this way, the Sample Custodian can track and maintain custody and responsibility for the movement of the sample. If the receiving office or directorate wants to store the sample in the Warehouse the white "laboratory" copy will be forwarded with the sample through the Sample Custodian to the Warehouse. The Sample Custodian will at all times be aware of the location of the sample. When the receiving office decides the sample is no longer needed the pink "compliance" copy is completed by the receiving office and sent to the Sample Custodian with disposition instructions (e.g., "Destroy", "Return To Sender", etc.).

36. HANDLING THE SAMPLE

The Office or Directorate receiving the sample should consult with the Directorate for Compliance and Administrative Litigation in determining the appropriate manner for handling unsolicited samples, if there is any question. If a complaint is received in association with the sample, the Hazard Injury Data Systems Division of the Directorate for Epidemiology should be notified also.

FIGURE 1. CPSC FORM 296, NOTICE OF INSPECTION - FRONT

U.S. CONSUMER PRODUCT SAFETY COMMISSION

NOTICE OF INSPECTION

1. DATE

2. FROM (Area Office and Address)

3. TIME

_____A.M. _____P.M.

4. TO

A. NAME AND TITLE OF INDIVIDUAL

B. FIRM NAME

C. NUMBER AND STREET ADDRESS

D. CITY, STATE AND ZIP CODE

Notice of Inspection is hereby given pursuant to:

- Flammable Fabrics Act (15 U.S.C. 1191 *et seq.*);
- Federal Trade Commission Act (15 U.S.C. 41 *et seq.*);
- Sections 16, 19 and 27 of the Consumer Product Safety Act (15 U.S.C. 2063, 2068 and 2076);
- Section 704(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 374(a)) (Authority for inspections in connection with the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 *et seq.*)) and/or
- Section 11(b) of the Federal Hazardous Substances Act as Amended (15 U.S.C. 1270(b)).

Refer to the back of this form for a discussion of inspection authority and for pertinent statutory language.

5. PURPOSES OF INSPECTION AND NATURE OF INFORMATION TO BE OBTAINED AND/OR COPIED.

The purpose of this inspection is to obtain information; to review and obtain copies of items including but not limited to records, reports, books, documents and labeling; and to obtain samples, in order to enforce or determine compliance with the Acts administered by the Consumer Product Safety Commission.

6. FREEDOM OF INFORMATION REQUIREMENTS

Those from whom information is requested should state whether any of the information submitted is believed to contain or relate to a trade secret or other matter which should be considered by the Commission to be confidential and whether any of the information is believed to be entitled to exemption from disclosure by the Commission under the provisions of the Freedom of Information Act (15 U.S.C. 552). Any statement asserting this claim of confidentiality must be in writing, and any request for exemption of the information from disclosure must be made in accordance with the Commission's Freedom of Information Act regulations, 16 CFR Part 1015.

7. SIGNATURE (Authorized CPSC Official)

CPSC Form 296 (9/79)

FIGURE 2. CPSC FORM 296, NOTICE OF INSPECTION - BACK

[illegible]

STATUTORY PROVISIONS

Section [illegible] of the [illegible] Act (15 U.S.C. [illegible])

[illegible] 15 U.S.C. 1192, 1194, 1195, and [illegible] [illegible]

Section [illegible] of the Federal Trade Commission Act (15 U.S.C. [illegible])

[illegible]

Section 9 of the Federal Trade Commission Act (15 U.S.C. 49)

[illegible]

Sections [illegible] and (b) of the Consumer Product Safety Act (15 U.S.C. [illegible])

[illegible]

Section [illegible] of the Consumer Product Safety Act (15 U.S.C. [illegible])

[illegible]

Section [illegible] of the Consumer Product Safety Act (15 U.S.C. [illegible])

[illegible]

Section 704(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 374(a)), (Authority for inspections in connection with the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.))

[illegible]

Section 11(b) of the Federal Hazardous Substances Act as Amended (15 U.S.C. [illegible])

[illegible]

FIGURE 3. RECEIPT FOR SAMPLES - FRONT

U.S. CONSUMER PRODUCT SAFETY COMMISSION	1. AREA OFFICE ADDRESS	
2. NAME OF INDIVIDUAL	3. TITLE OF INDIVIDUAL	4. DATE
5. FIRM NAME		6. SAMPLE NUMBER
7. NUMBER AND STREET	8. CITY AND STATE (Include Zip Code)	

9. SAMPLES COLLECTED (Describe fully. List lot, serial, model numbers and other positive identification)

The following samples were collected by the Consumer Product Safety Commission pursuant to Section 27(f) of the Consumer Product Safety Act (15 U.S.C. 2076(f)) and/or Section 11(b) of the Federal Hazardous Substances Act (15 U.S.C. 1270(b)) and/or Sections 5(c) and (d) of the Flammable Fabrics Act (15 U.S.C. 1194(c) and (d)) and/or Section 704(c) of the Federal Food Drug and Cosmetic Act (21 U.S.C. 374(c)) [Authority for sample collections made in connection with the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.)], and receipt for said samples is hereby acknowledged. Sections cited are quoted on the reverse side of this form.

10. SAMPLES	11. SAMPLES WERE	12. COLLECTOR
a. AMOUNT RECEIVED FOR SAMPLE $	☐ PURCHASED	a. NAME (Print or type)
b. SIGNATURE (Person from whom samples collected)	☐ BORROWED (To be returned)	b. SIGNATURE

CPSC FORM NO. 143 RECEIPT FOR SAMPLES

FIGURE 4. RECEIPT FOR SAMPLES - BACK

Section 27(f) of the Consumer Product Safety Act (15 U.S.C. 2076(f)) is quoted below:

(f) For purposes of carrying out this Act, the Commission may purchase any consumer product and it may require any manufacturer, distributor, or retailer of a consumer product to sell the product to the Commission at manufacturer's, distributor's, or retailer's cost.

Section 11(b) of the Federal Hazardous Substances Act (15 U.S.C. 1270(b)) is quoted below:

(b) For purposes of enforcement of this Act, officers or employees duly designated by the Secretary, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, are authorized (1) to enter, at reasonable times, any factory, warehouse, or establishment in which hazardous substances are manufactured, processed, packed, or held for introduction into interstate commerce or are held after such introduction, or to enter any vehicle being used to transport or hold such hazardous substances in interstate commerce; (2) to inspect, at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, establishment, or vehicle, and all pertinent equipment, finished and unfinished materials, and labeling therein; and (3) to obtain samples of such materials or packages thereof, or of such labeling. A separate notice shall be given for each such inspection, but a notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness.

NOTE: The term "Secretary" in the Federal Hazardous Substances Act section should be substituted by the term "Consumer Product Safety Commission."

Sections 5(c) and (d) of the Flammable Fabrics Act (15 U.S.C. 1194(c) and (d)) is quoted below:

(c) The Commission is authorized and directed to prescribe such rules and regulations, including provisions for maintenance of records relating to fabrics, related materials, and products, as may be necessary and proper for administration and enforcement of this Act. The violation of such rules and regulations shall be unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice, in commerce, under the Federal Trade Commission Act.

(d) The Commission is authorized to—

(1) cause inspections, analyses, tests, and examinations to be made of any product, fabric, or related material which it has reason to believe falls within the prohibitions of this Act; and

(2) cooperate on matters related to the purposes of this Act with any department or agency of the Government; with any State or territory or with the District of Columbia or the Commonwealth of Puerto Rico; or with any department, agency, or political subdivision thereof; or with any person.

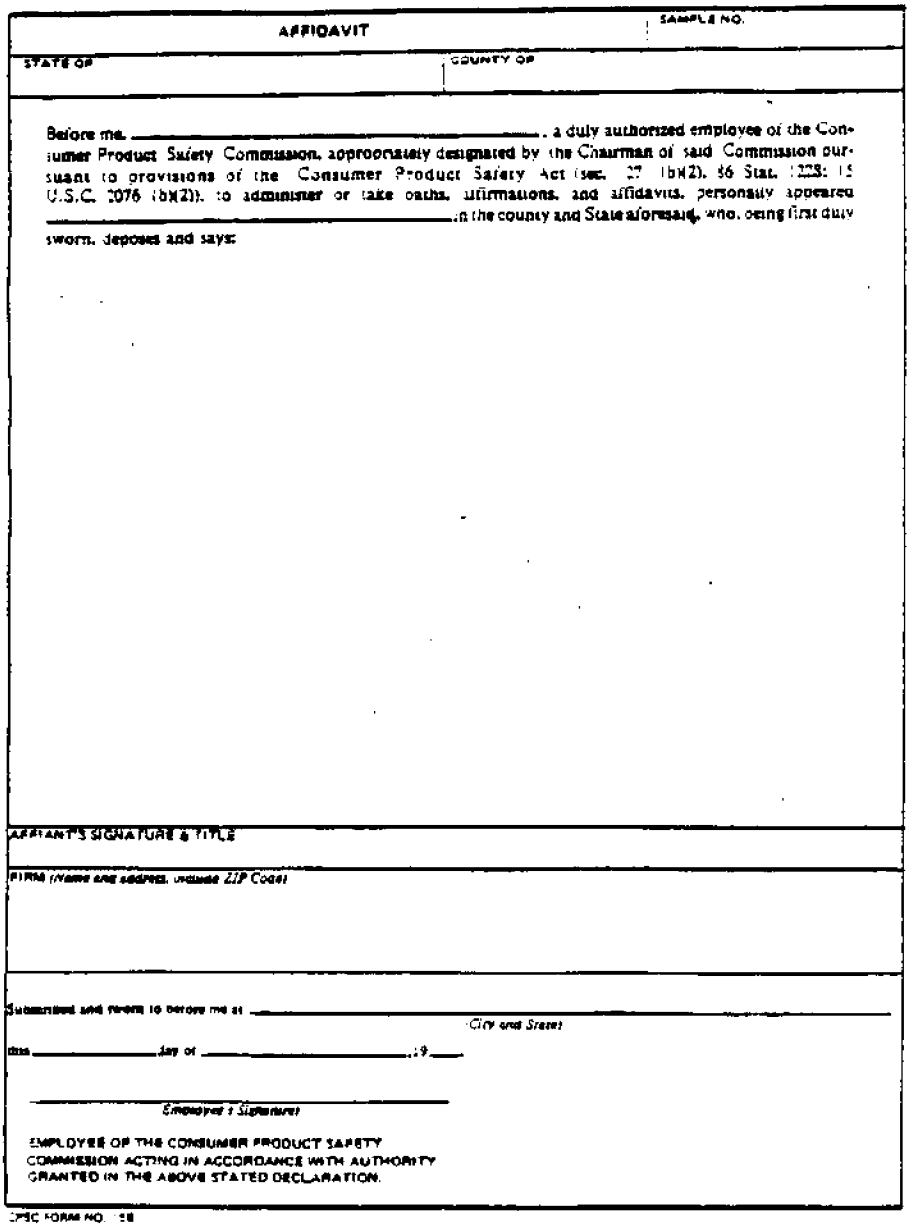
Section 704(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 374(c)), Authority for Sample Collections made in connection with the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.) is quoted below:

(c) If the officer or employee making any such inspection of a factory, warehouse, or other establishment has obtained any sample in the course of the inspection, upon completion of the inspection and prior to leaving the premises he shall give to the owner, operator, or agent in charge a receipt describing the samples obtained.

NOTE: The term "Commission" meaning the "Federal Trade Commission" in the Flammable Fabrics Act section should be substituted by the term "Consumer Product Safety Commission".

U.S. GOVERNMENT PRINTING OFFICE : [illegible]

FIGURE 5. AFFIDAVIT



AFFIDAVIT

SAMPLE NO.

STATE OF

COUNTY OF

Before me, _____, a duly authorized employee of the Consumer Product Safety Commission, appropriately designated by the Chairman of said Commission pursuant to provisions of the Consumer Product Safety Act (sec. 27 (b)(2), 86 Stat. 1223; 15 U.S.C. 2076 (b)(2)), to administer oaths, affirmations, and affidavits, personally appeared _____, in the county and State aforesaid, who, being first duly sworn, deposes and says:

AFFIANT'S SIGNATURE & TITLE

FIRM (Name and address, include ZIP Code)

Subscribed and sworn to before me at _____
(City and State)

this _____ day of _____, 19____

_____
(Employee's Signature)

EMPLOYEE OF THE CONSUMER PRODUCT SAFETY COMMISSION ACTING IN ACCORDANCE WITH AUTHORITY GRANTED IN THE ABOVE STATED DECLARATION.

CPSC FORM NO. 58

FIGURE 6. SAMPLE COLLECTION REPORT

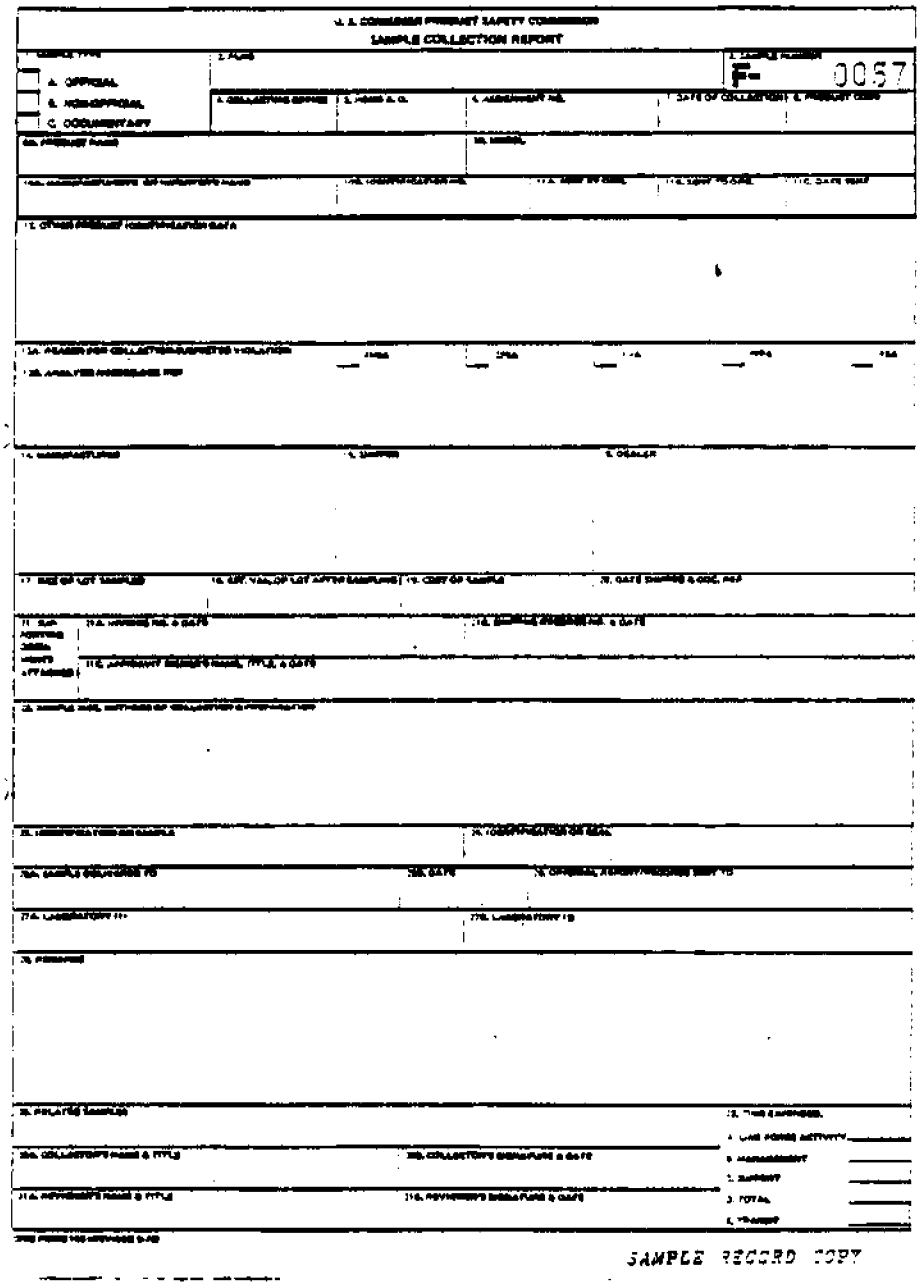
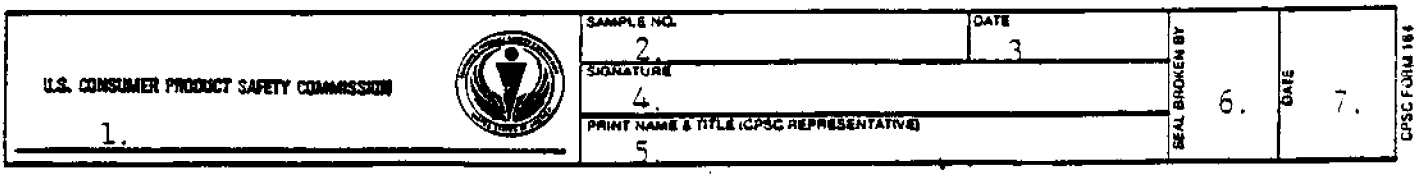


FIGURE 7. OFFICIAL SEAL

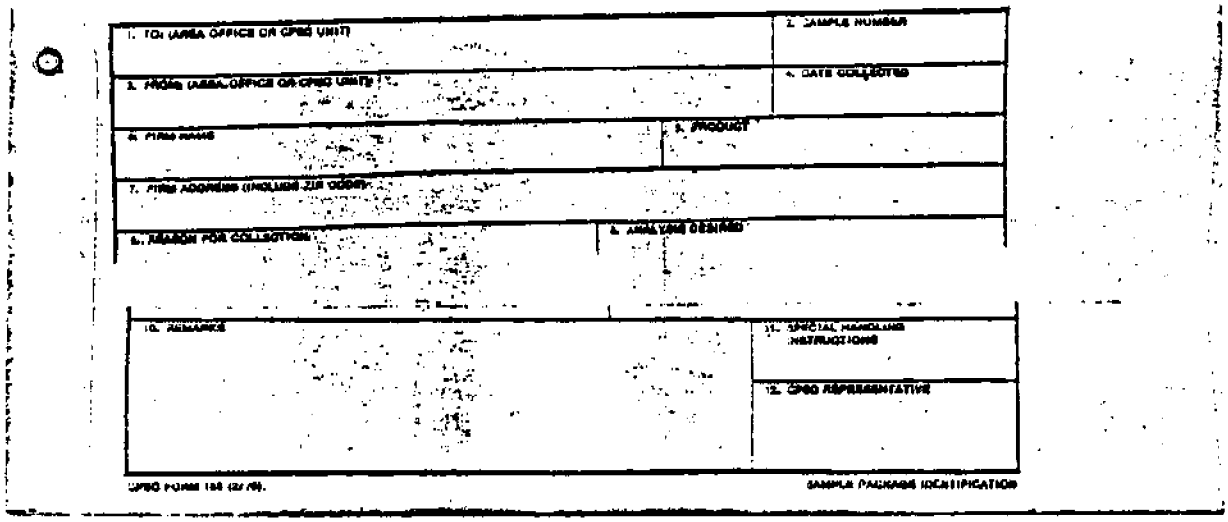
FIGURE 7. OFFICIAL SEAL



1. Print name of your Regional Office.
2. Insert sample number.
3. Insert date on which sample is sealed.
4. Sign your name (individual who seals the sample).
5. Print name and title.
6. When seal is broken for any purpose, place your initials here.
7. When seal is broken, enter the date on which it is broken.

FIGURE 8. SAMPLE PACKAGE IDENTIFICATION ENVELOPE

FIGURE 8. SAMPLE PACKAGE
IDENTIFICATION ENVELOPE
FRONT



INSTRUCTIONS

1. Fill out all blocks completely and accurately.

2. Enclose a copy of the sample collection report and a copy of the assignment document in this envelope.

3. Firmly glue flap closed.

4. Place envelope next to official seal and glue firmly in place. Do not cover any official seal present on the package.

NOTE: If desired, this envelope may be used as a sample package for small items. If so used, place Official Seal across flap and face of this form and glue another envelope "back-to-back to contain the copy of the collection report and copy of the assignment document.

FIGURE 9. PUBLIC VOUCHER FOR PURCHASES AND SERVICES OTHER THAN PERSONAL (SF-1034)

Standard Form 1034
December 1973
Treasury FRM 2000

PUBLIC VOUCHER FOR PURCHASES AND SERVICES OTHER THAN PERSONAL

VOUCHER NO.

U.S. DEPARTMENT, BUREAU, OR ESTABLISHMENT AND LOCATION

DATE VOUCHER PREPARED

SCHEDULE NO.

CONTRACT NUMBER AND DATE

PAID BY

REQUISITION NUMBER AND DATE

PAYEE'S NAME AND ADDRESS

DATE INVOICE RECEIVED

DISCOUNT TERMS

PAYEE'S ACCOUNT NUMBER

SHIPPED FROM | TO | WEIGHT

GOVERNMENT B/L NUMBER

NUMBER AND DATE OF ORDER	DATE OF DELIVERY OR SERVICE	ARTICLES OR SERVICES (Enter description, item number of contract or Federal supply schedule, and other information deemed necessary)	QUANTITY	UNIT PRICE COST	PER	AMOUNT

Use continuation sheet(s) if necessary (Payee must NOT use the space below) TOTAL

PAYMENT:
- COMPLETE
- PARTIAL
- FINAL
- PROGRESS
- ADVANCE

APPROVED FOR = $

EXCHANGE RATE = $1.00

DIFFERENCES

BY [2]

TITLE

Amount verified; correct for

(Signature or initials)

Pursuant to authority vested in me, I certify that this voucher is correct and proper for payment.

(Date) (Authorized Certifying Officer) [2] (Title)

ACCOUNTING CLASSIFICATION

PAID BY

CHECK NUMBER | ON TREASURER OF THE UNITED STATES | CHECK NUMBER | ON (Name of bank)

CASH $ | DATE | PAYEE [3]

[1] When stated in foreign currency, insert name of currency.
[2] If the ability to certify and authority to approve are combined in one person, one signature only is necessary; otherwise the approving officer will sign in the space provided, over his official title.
[3] When a voucher is receipted in the name of a company or corporation, the name of the person writing the company or corporate name, as well as the capacity in which he signs, must appear. For example: "John Doe Company, per John Smith, Secretary", or "Treasurer", as the case may be.

PER

TITLE

FIGURE 10. SHIPPING AGREEMENTS

GENERAL SERVICES ADMINISTRATION
Washington, D. C. 20405

December 12, 1975

GSA BULLETIN FPMR G-120
TRANSPORTATION AND MOTOR VEHICLES

TO: Heads of Federal Agencies

SUBJECT: Use of Commercial Forms and Procedures for Government Shipments

1. Purpose. This bulletin announces an increased dollar limitation for the use of commercial forms for small domestic shipments and sets forth procedures to be followed in connection with the use of commercial forms.

2. Expiration Date. This bulletin contains material of a continuing nature and will remain in effect until canceled.

3. Background

a. The Comptroller General of the United States in letter No. B-163758, dated August 14, 1975, determined that greater efficiencies in procurement practices and procedures and savings in administrative costs can be achieved for both the Government and the carrier industry if the monetary limitation for Government shipments using commercial forms and procedures is increased from $25 to $100 per shipment.

b. FPMR 101-41.304-2, issued by Temporary Regulation G-23, dated October 9, 1975, authorizes the use of commercial forms and procedures in lieu of U.S. Government bills of lading (GBL) and related procedures for small domestic shipments when transportation charges generally do not exceed $100 per shipment and the occasional exception does not exceed that sum by an unreasonable amount. This discretionary authority is directed toward those instances in which it is impractical and cumbersome to issue a GBL at origin and relatively expensive to convert a commercial bill of lading to a GBL at destination.

c. "Domestic shipments" is interpreted to mean shipments from, to, or between points in the United States, including Alaska and Hawaii, its possessions, or the trust territories.

Attachment

GAS Bulletin FPMR G-120 December 12, 1975

4. Limitations and conditions for use of commercial forms and procedures. The use of commercial forms and procedures for small domestic shipments not exceeding $100 is subject to the following limitations and conditions as set forth in FPMR Temporary Regulation G-23, Sec. 101-41.304-2:

a. The carrier or forwarder must agree in writing that the terms and conditions, except as to billing carrier and prepayment as cited in pars. 4, 5, and 7, which are applicable to shipments moving on GBL's will also be applicable to shipments moving on commercial documents. This requirement is satisfied for Federal civilian agencies by agreements between GSA and individual carriers or associations as shown in attachment A.

b. Specific billing and payment procedures using commercial forms rather than Standard Form 1113, Public Voucher for Transportation Charges, must be developed between each carrier and each Government agency. Since the monetary limitation has been raised to $100, as a measure to strengthen accountability for small domestic shipments made under commercial forms and procedures, all charges must hereafter be billed by and paid only to the origin carrier or forwarder and may not be waived to any other carrier.

c. Agencies no longer are required to submit to GSA copies of administrative authorizations defining the circumstances and conditions under which the commercial forms will be used. They need merely to notify the General Services Administration (FZA), Chester A. Arthur Building, Washington, D. C. 20406, of the adoption (and any subsequent cancellation) of these procedures.

d. Commercial forms and procedures shall not be used for international shipments or for van shipments of household goods.

5. Payment of charges for transportation services using commercial forms. Payment of charges for transportation services under commercial forms and procedures may be made in advance of completion of service or upon completion of the service. Payment may be made at either origin or destination when the origin carrier or forwarder presents the usual ticket, receipt, bill of lading, or equivalent document covering the service involved. Payment is subject to later recovery by deduction or otherwise for any service not received as ordered by the Government. The commercial document shall be clearly annotated to show the point at which payment shall be made.

6. Use of imprest funds for payment of freight transportation charges. Payment may be made from imprest funds at the option of the agency,

but only with the agreement of the carrier or forwarder involved. Such cash payments are subject to the provisions cited in par. 5.

7. Agreements covering Government shipments on commercial documents. Attachment A is a facsimile of a typical agreement between an individual carrier and GSA, acting for and on behalf of all civilian Federal agencies. Attachment B is a listing of carriers and associations having agreements with GSA. These agreements eliminate the requirement for each agency to obtain individual written agreements with carriers or associations. Attachment B will be revised as additions or cancellations occur.

8. Processing vouchers for small domestic shipments on commercial forms. Agencies shall process carrier vouchers in accordance with FPMR Temporary Regulation G-23, Sec. 101-41.304-2(e); which is summarized as follows:

a. Disbursing forms and documentation prescribed by the Department of the Treasury shall be used for commercial-type billings.

b. Agencies shall not classify these paid bills as transportation vouchers for post payment audit, but shall retain them in file for site audit.

c. Supplemental claims arising after payment of original bills should be settled direct with the carrier.

d. Each agency should establish adequate procedures and controls to prevent and detect duplicate payments, properly account for expenditures, and require notice from the consignee or receiver when a discrepancy in shipment occurs.

9. Cancellation. GSA Bulletin FPMR A-51, G-50, G-54, G-87, G-93, G-100, G-102, G-110, and G-115 are canceled. However, the agreements announced by these bulletins remain in effect, subject to the provisions described in this bulletin.

/s/
JAY H. BOLTON
Acting Commissioner, Federal Supply Service

December 12, 1975

GSA Bulletin FPMR G-120
Attachment A

(NAME OF CARRIER OR ASSOCIATION) AGREEMENT NO.
COVERING GOVERNMENT SHIPMENTS ON COMMERCIAL DOCUMENTS

1. Applicability. The provisions of this agreement apply to shipments by (name of carrier or association) made by or for civilian agencies of the Federal Government through use of commercial forms and procedures, rather than U.S. Government Bills of Lading, in accordance with the provisions of FPMR Temporary Regulation G-23, Sec. 101-41.304-2.

2. Terms and Conditions. The shipments covered by this agreement are subject to the terms and conditions, except for billing carrier and prepayment, set forth in Standard Form 1103, U.S. Government Bill of Lading, and any other applicable contract or agreement of the carrier for the transportation of shipments for the United States on Government bills of lading.

3. Billing Arrangements. Shipments will be accepted by the carrier under this agreement only after arrangements have been made between the carrier and the Government agency involved for billing and payment of transportation charges, in accordance with the provisions of FPMR Temporary Regulations G-23, Sec. 101-41.304-2(c) and (d).

4. Effective Date. This agreement is effective as of the date of acknowledgement by the Commissioner, Federal Supply Service, General Services Administration, and will remain in effect until canceled by (name of carrier or association). Necessary changes may be made from time to time, as warranted, by supplements to this agreement.

_____
(Name and title of (name of carrier or association) Corporation official)

Acknowledged by:

_____
(_____, Commissioner
Federal Supply Service
General Services Administration)
DATE: _____

December 12, 1975

GSA Bulletin FPMR G-120
Attachment B

CARRIERS AND ASSOCIATIONS THAT HAVE AGREEMENTS
WITH GSA COVERING GOVERNMENT SHIPMENTS
ON COMMERCIAL DOCUMENTS

	Carrier	Effective Date of Agreement
1.	United Parcel Service	June 16, 1970
2.	National Bus Traffic Association, Inc.*	July 15, 1972
3.	Federal Express Corporation	October 29, 1973
4.	Amtrak (National Railroad Passenger Corporation)	March 8, 1974
5.	Emery Air Freight	April 1, 1974
6.	Purolator Carrier Corporation	June 11, 1974
7.	CF Air Freight, Inc.	August 2, 1974
8.	Airborne Freight Corporation	January 8, 1975
9.	Air-Land Frieght Consolidators, Inc.	May 16, 1975
10.	Air Transportation Association of America**	August 1, 1975
11.	Jet Air Freight	August 20, 1975
12.	Earle's Moving & Storage d/b/a/ Earle's Air Freight	August 20, 1975

* See GSA Bulletin FPMR G-74
** See GSA Bulletin FPMR G-61, Supplement 1

CPSC

Order

9010.37

SAMPLE ACCOUNTABILITY AND ANALYSIS RECORDS

April 18, 1984

DISTRIBUTION: 1 and 2

INITIATED BY: AEDCA

CPSC FORM 101

FOREWORD

1. PURPOSE. To provide guidelines covering sample accountability and record maintenance to Regional office personnel.

2. SCOPE. This directive is intended for the use of chemical laboratory personnel and compliance officers.

3. FORMS. Initial distribution of forms discussed in this directive will be made by OEX-F subsequent distribution will be handled by the Directorate for Administration, Technical Services Branch.

4. CANCELLATION. This order cancels CPSC Order 9010.37 dated 8/18/75, Sample Accountability and Analysis Records.

Edgar Morgan
Executive Director

TABLE OF CONTENTS

CHAPTER I. SAMPLE ACCOUNTABILITY

1. POLICY. Records must be kept which show continuity of sample handling and how sample integrity was maintained.

2. RECORDS AGREEMENT. It must be possible to reconcile each record for a sample with others for the same sample. There must be no disagreement among records or between records and sample. When an analyst receives, analyzes, and returns a sample, he must have assured himself that the records are accurate and clear. If he discovers any discrepancies between the sample he receives and the Collection Report or investigator's seals, he must immediately call such discrepancies to the attention of his supervisor.

3. SAMPLE ACCOUNTABILITY RECORD.

a. The CPSC Form 159, Sample Accountability Record (SAR) (see Appendix 1, Figure 1) is a three-part, inter-leaved carbon snapout form, consisting of an original card (Custodian Copy), a Compliance Copy (see Appendix 1, Figure 2), and a Laboratory Copy (see Appendix 1, Figure 3). The SAR serves as an official record of the receipt, handling, storage and final disposition of samples. It may be used as evidence in court actions instead of testimony by the Sample Custodian. The Sample Custodian usually prepares the card and keeps the original card in his possession. As discussed later in the directive, the compliance copy is used by the laboratory supervisor to record progress of a sample through the laboratory. Later, a compliance officer uses the same copy to direct disposition of the sample. The laboratory copy is provided for laboratory use (e.g., to keep track of work assignments for accomplishment data).

b. Sample Custodian's Use of the SAR. The sample custodian completes the original of the SAR in the following manner:

(1) Storage Location. Mark the location where the sample is stored.

(2) Name of Product. Give the common or usual name of the product.

(3) Sample Number. Insert the sample number shown by item 3 of the Collection Report.

(4) Name and Address of Firm. Enter the name and address of the firm considered responsible for any suspected violation. Take this information from item 12 of the Sample Collection Report unless the Collection Report is flagged otherwise.

(5) Date Sample Received. The individual date on which the sample was received.

(6) By Whom Received. The individual receiving the sample enters his name here. In most cases, this person is the sample custodian. In an emergency situation, this may be a laboratory employee.

(7) Date Records Received. Enter the date on which records covering the sample were received. In most cases, the date is the same date on which the sample was received.

(8) Method of Shipment. Indicate in the appropriate space whether the sample was delivered personally by a CPSC investigator or whether the sample was shipped. If delivered personally, have the investigator sign his name in the "Personally From" block. If mailed, give the origin of the shipment, identify the carrier and identify the shipping records covering the sample.

(9) Description of Shipment. Report the number, type and condition of shipping containers and sample packages. Quote the identification placed on the Official Seal and note the condition of the seal (e.g., in-tact, broken).

(10) Sample Delivery. This section is used to show delivery of the sample or portion of the sample from the custodian to a laboratory. Record the date of delivery, and amount delivered. The sample custodian places his initials and organization code in the "From" column. The laboratory employee who accepts delivery places his initials and organization code in the "To" column.

(11) Sample Returned. This section is used to show return of the sample or portion of the sample to the sample custodian from the laboratory. Complete the section in the same manner described

for the previous item. The sample custodian places his initials and organization code in the "To" column; the laboratory employee places his initials and organization code in the "From" column.

(12) Sample Description. Use this section to record sample disposition information (i.e., type of disposition, destruction method if any, amount disposed of, name of individual handling the disposition and date of disposition).

NOTE: The custodian copy of the SAR should be maintained by the sample custodian. The custodian is responsible for providing the compliance and laboratory copies of the SAR to the laboratory supervisor along with the Sample Collection Report and related documents.

c. Laboratory's Use of the SAR

(1) If in an emergency or other unusual situation a sample is delivered directly to a laboratory employee by a CPSC investigator, the laboratory employee must complete the SAR as described above. The original of the SAR must be given to the sample custodian for his files. The compliance and laboratory copies are given to the laboratory supervisor. These copies remain in the laboratory until the sample analysis is completed.

(2) Using the compliance copy of the SAR, the laboratory supervisor and other laboratory personnel show changes of possession and movement of a sample within the laboratory. Laboratory personnel may enter any comments concerning the sample in item 9, Comments.

(3) The third copy of the SAR (laboratory copy) is provided for any use which a laboratory wishes to make of it. Possible uses are to record work accomplishment data or to control assignment of analytical tasks.

d. Compliance Officer's Use of the SAR and Sample Disposition.

(1) When analysis of a sample is completed, the laboratory supervisor forwards the compliance copy of the SAR with laboratory records covering the analysis (Laboratory Report, etc.) to the regional

office which will initiate legal action or determine that no action is indicated. When a case is closed or the sample is determined to be non-actionable, the regional office compliance officer completes the Sample Disposition Instruction section (item 11) of the compliance copy of the SAR. The compliance officer then returns the form to the sample custodian in the office where the sample is being held.

(2) Upon receipt of the compliance copy of the SAR the sample custodian disposes of the sample as instructed and completes the Sample Disposition section (item 12) of the custodian copy of the SAR. Both the compliance and custodian copies of the SAR are then filed for one year after sample disposition. After one year both copies may be destroyed.

4. OFFICIAL SEALS.

a. Types of Seals. The usual official seal is the CPSC Form 164 paper seal. On rare occasions the investigator will submit a bulky sample sealed with a metal seal embossed with "U.S. CPSC" and a number. Subparagraphs b through f describe how an analyst should handle and use seals.

b. Breaking Seals. When you break a paper seal, initial and date it in ink in the space provided. Break it across the section showing sample number, date and signature. When you break the metal seal, scratch your initials and the date on the seal with a sharp metal tool or carbide tip etcher.

c. Removing Seals. Do not, if at all possible, remove a seal from the sample package. If you must do so, submit the broken seal with the Laboratory Report and state under RESERVE SAMPLE that the original seal is attached to the Laboratory Report. Mount the seal on mounting paper and identify the mounting paper with sample number, date and your initials in the upper right corner.

d. Sealing the Sample.

(1) You must return the remaining portion of all samples under seal to the sample storeroom. Use the CPSC Form 164 or CPSC metal seal for sealing your samples. Affix the seal in such a way that it actually seals the sample package and is evidence (provided the sample package is intact) that the sample has not been tampered with. More than one

seal may be required. If possible, use only one paper seal by encircling the sample container with a single strand of tape and placing the seal across the closure and the tape.

(2) Do not deface or hide the original broken seal when you reseal a sample. Leave the broken seal in view. This gives visibility to the continuity chain--investigator sealing the sample and you breaking his seal--if the sample is introduced as a court exhibit.

e. Quoting Seals. When you quote a paper seal, quote verbatim the sample number, date and signature. When you quote a metal seal, quote "U.S. CPSC" and the number on the seal. Put the seal quote in quotation marks.

f. Temporary Seals. When you have a sample in your possession and you are not working on it, you are required to store it under lock. When this is not possible you may use a temporary seal. In such a case, put a completed CPSC Form 164 on the sample or storage space as evidence that the integrity of the sample was maintained. When you break a temporary seal you must initial and date it and submit the broken seal with the Laboratory Report. At the bottom of the "Summary of Analysis" on the Laboratory Report, state that the sample was held under temporary seal (quote seal), in a specific place (give place), for a certain period (give time period) and that the temporary seal is submitted with the Laboratory Report. Mount the seal on mounting paper and identify mount with sample number, date, your initials and title of "temporary seal".

5. LABORATORY REPORT. The CPSC Form 221, Laboratory Report accounts for the sample from the time it is originally received by an analyst to the time the reserve portion is returned to the sample storeroom or to another analyst. See Chapter 2 for instructions on how to complete the Laboratory Report.

CHAPTER 2. LABORATORY REPORT

6. POLICY. The CPSC Form 221, Laboratory Report (LR) (see Appendix 1, Figure 4) with supporting documents (instrument charts, exhibits, labels, memo of method, etc.) must give the complete and accurate written account of a sample analysis. All sample analytical data must be recorded directly and only on the LR and/or its accompanying instrument records. The LR must show all persons who participated in the analysis and what each did.

7. IMPORTANCE OF THE LABORATORY REPORT (LR).

a. The LR provides the written account of analytical findings which either support regulatory action or serve to classify the sample as non-actionable. In neither case is there room for analytical error or misinterpretation of the written record. The reviewing officer must have all the facts before him on paper in order to make the regulatory decision. He must have no doubts about what was done, how it was done and the accuracy of the work.

b. An analyst may be called upon to testify months or years after the analysis is performed. At that time he must be in the same position as the person or persons who originally reviewed his work--able to reconstruct, from the record, details of his sample handling and analysis.

8. TYPES OF REPORTS. The CPSC Form 221, Laboratory Report, with CPSC Form 222, Laboratory Report Continuation (see Appendix 1, Figure 5) and the CPSC Form 223, Laboratory Data Sheet (see Appendix 1, Figure 6) are the basic laboratory records. Special adaptations of the Laboratory Report may be used which facilitiate the reporting and review of certain types of examinations.

9. PREPARING LABORATORY REPORTS.

a. General Requirements for Analysts.

(1) Write a clear, complete and accurate LR so that a reviewer can visualize the sample you received, follow what you did with it and arrive at the same conclusion you did. If instructions

are inadequate to cope with a given situation, consult your supervisor. After consulting you supervisor, do not, however, neglect details because he knows what has been decided upon and what was done. Always write for reviewers who do not know you and have not observed what you have done.

(2) Write legibly and neatly. Use ink for writing on charts that will be reproduced clearly by current copying systems. Use ink that will not fade or change color over a period of time. When in doubt, use permanent black ink.

(3) You may type the LR and memoranda to accompany the LR if you are proficient in typing and can save time. The Labroatory Director must concur.

(4) Reproduction copies of the LR are sent to Headquarters, other Regional Offices and to those who have gone through the legal process to obtain copies. Recipients must be furnished with copies of worksheets and attachments they can easily read. Special attention must be given to furnishing legible copies of labeling.

(5) Record all sample data directly on the LR. Write down sample information and analytical data as soon as you observe them. Do not use scratch paper, notebooks or logs to record sample data. Sometimes it is necessary to submit only a xerox copy of sample data when original data is being submitted on another LR. Data of this type often includes such items as standard solution preparation, standard curves and charts. When a copy is submitted, the analyst should cite the sample number of the LR with the original data and should date and initial the copy.

(6) Start the LR on receipt of the sample and fill in as many entries as possible at that time.

(7) Do not erase or overwrite. Do not discard data without explanation. Draw a line through an incorrect entry, write in the correct figure or work and initial. Explain briefly any corrections when the reason is not obvious. When you discard analytical data, cross it out, initial and explain. Always give reasons for discard data and submit discarded data, including necessary instrument charts, as part of the record.

(8) Prepare a new LR whenever you break a seal after the original work has been completed and the remaining portion of the sample has been returned to the sample custodian. This might be to perform a check analysis, remove a portion for shipment to another laboratory, obtain a label, etc.

(9) If more than one analyst is involved in the analysis, the LR must clearly show "who broke the seals" and "who did what".

(10) Report data clearly and completely.

(a) State actual method used. Reference methods from official compendia, journals and other publications, and CPSC manuals. If a manual method is used and the method is also official (USP, NF, AOAC), give the official reference.

(b) Give complete references, including page number, or paragraph number for the AOAC. If the method used has not been published, give details about the method on the LR or continuation sheets or attach as a memorandum to accompany the LR. (If a memorandum is attached, indicate under Summary of Analysis on the LR that a memorandum is attached.)

(c) If you modify a referenced method, note that the method was modified on the LR and give details of the modification on the LR Continuation Sheet.

(d) If you develop validation data for a method at the time of analysis show details on the Laboratory Report Data Sheet and summarize on the LR.

(e) Show findings in tabular form, whenever possible.

(f) Use only common abbreviations. Explain any abbreviations not reasonably expected to be known to reviewing officers.

(g) Give the proper unit identification to all figures. Explain factors. Label calculations.

(h) Use only the proper number of significant figures. A larger number than warranted by the sensitivity of the method gives an erroneous impression of the accuracy of the method.

b. Analyst Instructions for Preparing CPSC Form 221, Laboratory Report.

(1) When appropriate, flag the top of the LR with one of the following terms:

(a) Check Analysis	When you are analyzing a sample analyzed by another analyst for the purpose of checking his results.
(b) Additional Analysis	When you are analyzing a sample previously analyzed either by you or another analyst for additional information.
(c) Additional Sample to _____	When you are analyzing a sample which supplements another sample previously analyzed (e.g., additional subs involving the same lot collected under another number). Insert previous sample number.
(d) Split Sample	When one portion of the sample is being analyzed by you and another portion by another laboratory.

(e) Other flags may be used as appropriate (e.g., injury investigation, State contracts sample, import sample, etc.)

(2) Complete the LR in the following manner:

(a) Item 1, Product. See Item 11 of the Sample Collection Report. Insert the common name of the product. Where there is no common or specific name for the product, use a descriptive term.

(b) Item 2, Sample Number. Insert the number assigned to the sample by the investigator.

(c) Item 3, Seals. If the sample is sealed, check the proper box to show if "INTACT" or "BROKEN". If the sample bears no seal, check "NONE". Verify that the seal on the sample is actually identified as shown by the investigator in Item 24 of the Collection Report. Consult your supervisor if the seal is broken when it should be intact.

(d) Item 4, Date Received. Insert the date you received the sample for analysis.

(e) Item 5, Received From. Insert the name of the person who actually handed you the sample. If you obtained the sample from storage yourself, insert the source in this block.

(f) Item 6, Laboratory. Insert the official organization code for your laboratory.

(g) Item 7, Description of Sample. Give a description of the sample received. Give the number and types of package(s) (e.g., labeled shipping carton, cardboard carton, paper bag) and the individual container(s) in the package. Quote verbatim the seal inscription and identification. Give sub-numbers. Describe condition of the sample where some unusual condition exists. If portions of the sample are damaged (e.g., a sub is broken) describe condition and give sub-numbers for damaged units.

(h) Item 8, Labeling. State how product is labeled, where it is labeled, and the number of copies submitted.

(i) Item 9, Lot/Batch/Serial Number. Give type and location of any codes on the product; quote these codes.

(j) Item 10, Net Contents. Report declared net contents or give approximate net contents.

(k) Item 11, Container. Describe fully the immediate container(s). Give type, size, closure, whether labeled, intact, or opened, etc.

(l) Item 12, Product. Give a complete and accurate description of the product including, where applicable, color, odor, taste and general appearance. If the product is one that most people would readily recognize, say what it is (e.g., paint thinner, aspirin tablets, bicycles). Give an objective description using layman's language. You may say that a product "resembles" or "has the appearance of" a very familiar product. However, do not draw conclusions about identity when analysis or expert knowledge is required to determine identity. Some products, such as devices, may be difficult to describe. Supplement written description with drawings or photographs whenever an illustration will enhance product descrption. Refer to the illustrations in your write-up. Drawings and photographs should include a reference scale.

(m) Item 13, Summary of Analysis. See instruction for all LR's (subparagraph a) for details. Summarize the results of your analysis. Give method on LR or as memo to accompany the LR. Give sample preparation when preparation is not contained in the method. Give analytical findings. Tabulate wherever possible. Compare results with label declaration and published tolerances or standards. Give validation data, when required, on LR or in memorandum to accompany the LR. If a multi-coded sample is involved, state which codes were analyzed and what the results were for each code tested.

(n) Item 14, Reserve Sample. Give a clear description of the reserve sample. Quote the seal you have put on the reserve. Give number of subs, quantity in each, how preserved and exhibits, if any. If you do not return the reserve to the Sample Custodian, state how and where the reserve is stored. When possible, submit composites as part of the reserve. It must be possible for the reviewer to reconcile the reserve sample with the amount received and the amount used in analysis.

(o) Items 15 a, b, and c Analyst Signature, Date, and Hours. Sign the worksheet, enter the date on which the report was signed and record the hours required for the sample analysis and report preparation.

(p) Item 16, Sample Type. Report sample type as either "D" for domestic or "I" for import (covering sample of products in import status).

(q) Items 17, a, b, and c - Check Analyst Signature, Date and Hours. The check analyst enters his signature, dates and report and records the hours required for the check analysis.

(r) Item 18, Project. Enter the six digit project number covering the project under which the work was performed.

(s) Items 19, a, b, and c - Report Check By, Date and Hours. The individual checking the report enters his signature, the date signed and the hours required to check the report.

(t) Items 20 a and b, Report Sent to Whom and Date. The Laboratory Supervisor should note which CPSC units are to receive copies of the LR in block 20a. Item 20b shows the date on which the reports were sent.

(u) Item 21, Attachments. Give total number of attachments which do not have page numbers.

(v) Item 22, Page __ of __. Enter page number and total number of numbered pages.

c. Analyst Instructions for Preparing CPSC Form 222, Laboratory Report Continuation Sheet. Use the continuation sheet to complete any of the information entered on the Laboratory Report.

d. Analyst Instructions for Preparing CPSC Form 223, Laboratory Report Data Sheet. The Data Sheet is used for recording date which formerly was recorded on the back of the CPSC Analyst Worksheet. Analysts should observe the following guidelines:

(1) Enter all raw data in logical sequence. Present the information in abbreviated form but well-identified as to what it represents. Observe instructions for all LR's (subparagraph b) some of which are recapped here:

(a) State method used and any modifications. Give reason for modification and your choice of any options in body of the method (e.g., a choice of reagents).

(b) Identify figures with proper units (.e.g, mg., ozs., etc.) and explain factors.

(c) Label calculations.

(d) Use proper number of significant figures.

(e) Draw a line through an incorrect entry, write in the correct entry and initial. Explain briefly any corrections when the reason is not obvious. When you discard data, cross it out, initial and explain reason for discard.

(f) Compare results with label declaration, published tolerances or standards.

(g) Enter raw data for method validation studies run with the sample.

(h) If more than one analyst has worked on the sample, initial your work wherever it appears.

(2) For weighings, show gross, tare and net weights. If no tare is shown state type of balance used.

(3) Give standard source and lot number of standards or laboratory reference number in lieu of lot number.

(4) Show dilutions.

(5) Show controls, calibrations, standardizations, etc., run with the sample and the results of the tests.

(6) If data has been generated for more than one sample (.e.g, standard curve, standardization of solution, TLC plate) and the data is not present on or attached to the particular LR, reference

the sample number that does contain the date and submit copies with the LR.

(7) Give name of instrument used in instrumental methods.

(8) Transfer instrument and chromatography data from attachments and show calculations. This may be in summary form but in sufficient detail and well-identified so that the analysis and conclusions can be followed even though the attachment is separated from the LR.

(9) If you use laboratory sub numbers show correlation between laboratory and investigator's sub-numbers.

e. Attachments to the LR include labeling, instrument charts, computer printouts, chromatograms, spectra, standard curves, photographs, and exhibits.. If the attachment is less than the size of a page or of awkward shape, mount it securely on mounting paper, leaving a one inch left-hand margin. Title each attachment and, in the case of labeling, title each portion as to source (bottle label, carton label, insert, etc.). Identify each attachment directly with the sample number, date and your initials. If mounted, also identify mounting paper with sample number, date and your initials in the upper right-hand corner. Give operational parameters on instrument charts. Use prepared stamps when available and fill in all information required. Be sure to state what constituent is being measured and not just the product. Where you have used more than one procedure, correlate the instrument chart with the corresponding procedure. Annotate the chart with all necessary information, such as maxima read, retention times, wave-lengths scanned, etc. You may make calculations on instrument charts, but you must transfer the information in summary form to the LR Data Sheet in sufficient detail to permit recalculation of results and correlation with method requirements.

CHAPTER 3. LABORATORY/COMPLIANCE SUMMARY

(10) CPSC Form 224, Laboratory/Compliance Summary. The Laboratory/Compliance Summary (see Appendix 1, Figure 7) summarizes analytical data for the use of the Compliance Officer. The upper portion of the form is used by the laboratory supervisor to draw the attention of the compliance officer to pertinent laboratory findings and to provide layman's language for reports required by section 11(c) of the Federal Hazardous Substances Act. The compliance officer uses item 5, Compliance Conclusions and Recommendations, to classify the sample analysis as violative or non-violative and to record any conclusions and recommendations concerning the sample. He/she uses item 6 to indicate to whom section 11(c) reports were sent as required by the FHSA.

FIGURE 1. CPSC FORM 159, SAMPLE ACCOUNTABILITY RECORD
(CUSTODIAN COPY)

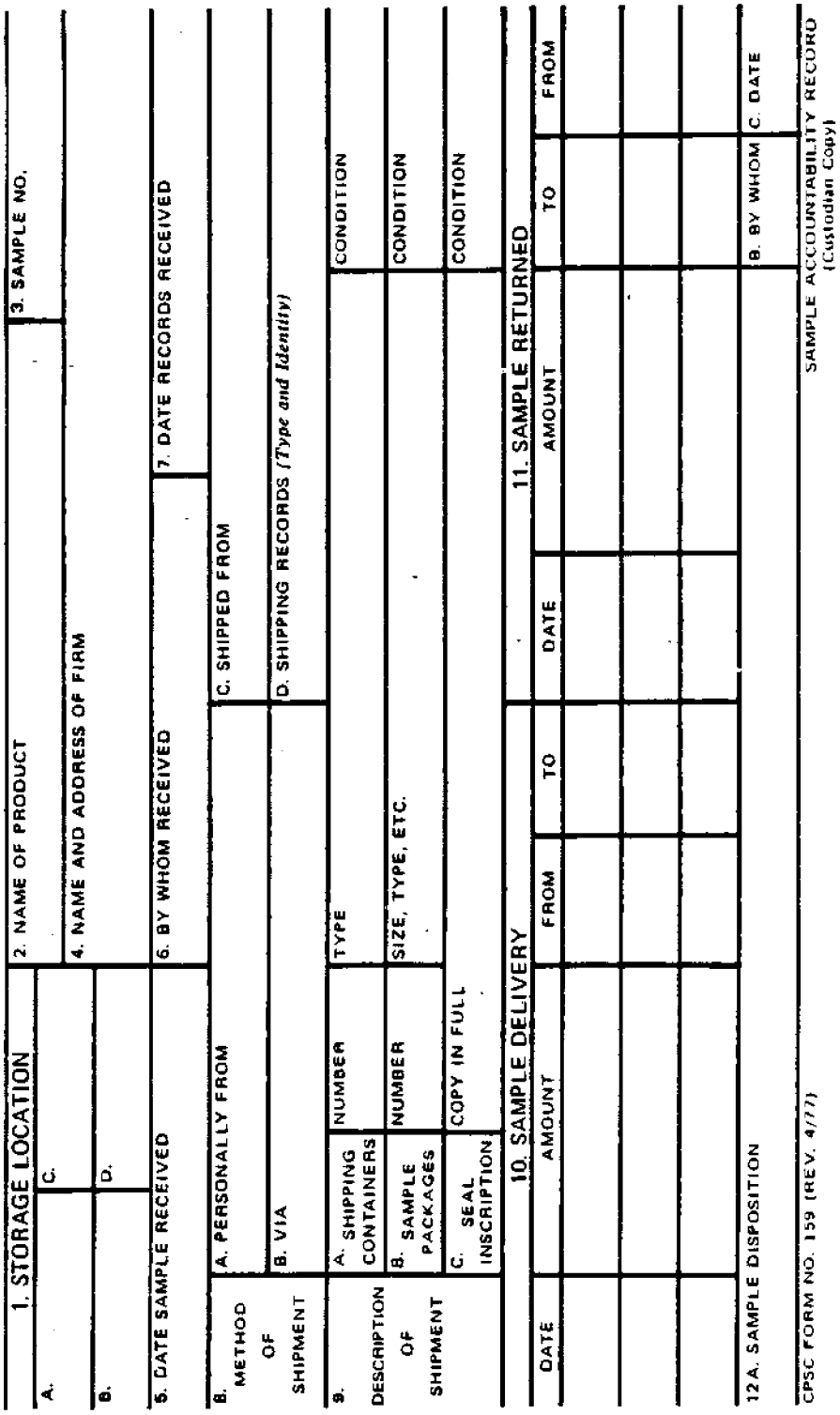
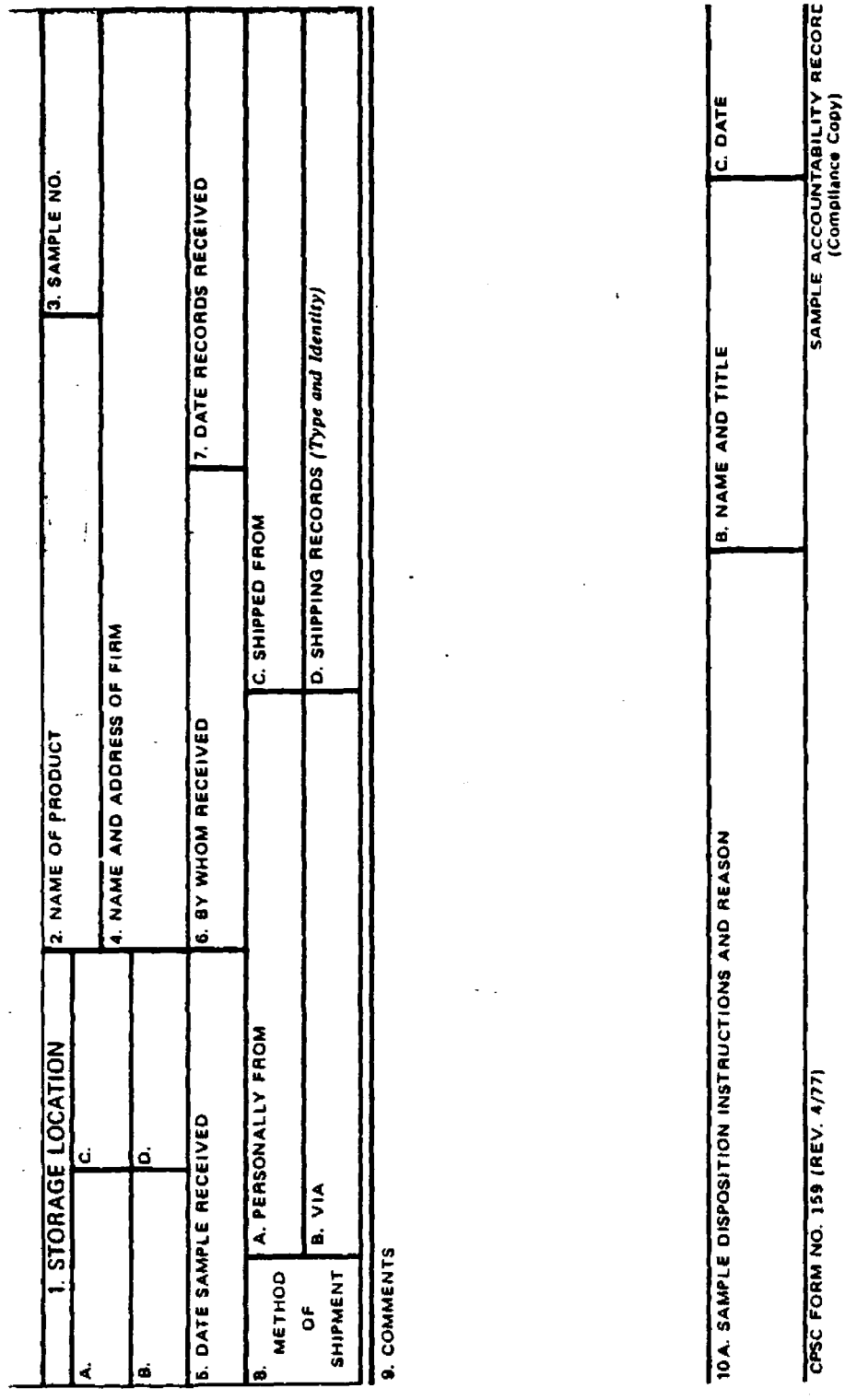


FIGURE 2. CPSC FORM 159, SAMPLE ACCOUNTABILITY RECORD
(COMPLIANCE COPY)

9010.37
Appendix 1



4/18/84

FIGURE 3. CPSC FORM 159, SAMPLE ACCOUNTABILITY RECORD
(LABORATORY COPY)

9010.37
Appendix 1

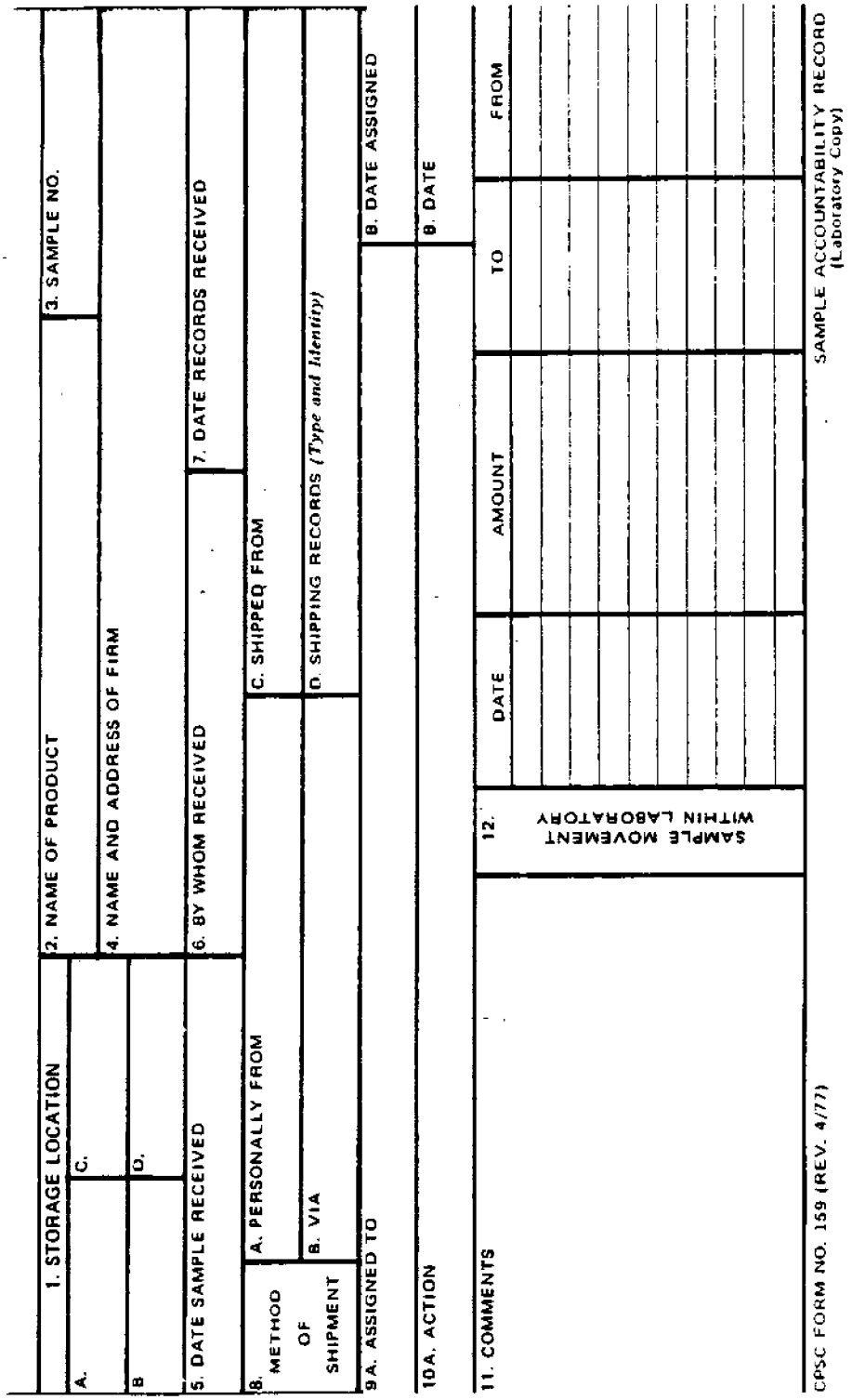


FIGURE 4. CPSC FORM 221, LABORATORY REPORT

9010.37
Appendix 1

LABORATORY REPORT	1. PRODUCT		2. SAMPLE NUMBER
3. SEALS: ___ INTACT ___ BROKEN ___ NONE	4. DATE RECD.	5. RECEIVED FROM	6. LABORATORY
7. DESCRIPTION OF SAMPLE			
8. LABELING			
9. LOT/BATCH/SERIAL NUMBER		10. NET CONTENTS.	
11. CONTAINER			
12. PRODUCT DESCRIPTION			
13. SUMMARY OF ANALYSIS			
14. RESERVE SAMPLE			
15. a. ANALYST SIGNATURE	15b. DATE	15c. HOURS	16. SPL. TYPE
17a. CHECK ANALYST SIGNATURE	17 b. DATE	17c. HOURS	18. PROJECT
19a. REPORT CHECKED BY	19b. DATE	19c. HOURS	
20a. REPORT SENT TO:	20b. DATE	ATTACHMENTS	PAGE ___ OF ___

CPSC FORM 221 3/75

FIGURE 5. CPSC FORM 222, LABORATORY REPORT CONTINUATION SHEET

9010.37
Appendix 1

LABORATORY REPORT CONTINUATION SHEET	1. SAMPLE NUMBER
2. ANALYST SIGNATURE	PAGE ___ OF ___

CPSC FORM NO. 222 3/75

FIGURE 6. CPSC FORM 223, LABORATORY DATA SHEET

9010.37
Appendix 1

LABORATORY REPORT DATA SHEET	1. SAMPLE NUMBER
2. ANALYST SIGNATURE	PAGE ___ OF ___

CPSC FORM NO. 223 3/75

FIGURE 7. CPSC FORM 224, LABORATORY/COMPLIANCE SUMMARY

LABORATORY/COMPLIANCE SUMMARY	1. SAMPLE NUMBER
2. LABORATORY SUMMARY	
3. NAME AND TITLE	4. DATE
5. COMPLIANCE CONCLUSIONS AND RECOMMENDATIONS	
6. FHSA SECTION 11(c) REPORT SENT TO:	
7. NAME AND TITLE	8. DATE

CPSC FORM NO. 224 3/75

UNITED STATES CONSUMER PRODUCT SAFETY COMMISSION	DIRECTIVES SYSTEM	ORDER 9010.40 July 15, 1992

SUBSTANTIAL HAZARDS IN CONSUMER PRODUCTS

COMPLIANCE AND ENFORCEMENT

1. PURPOSE. This order provides guidance to the Regional Offices in carrying out responsibilities of the Consumer Product Safety Commission under Section 15 of the Consumer Product Safety Act. The Regional Office responsibilities defined in this order apply to the period of time which precedes a preliminary determination by the Corrective Actions Division of the Directorate for Compliance and Enforcement as to whether a product contains a defect which presents a substantial product hazard. These procedures should be followed whenever possible. They should, however, be considered flexible enough to accommodate unusual or emergency situations. Regional Office responsibilities (vis a vis substantial product hazards) which apply after a preliminary hazard determination has been made are defined in Order 9010.34, Monitoring Product Corrective Action Programs.

2. SCOPE. The procedures in this order are for the use of Regional Office personnel and personnel in the Directorate for Compliance and Enforcement who are involved in identifying and assessing potential substantial product hazards.

3. REFERENCES.

a. Consumer Product Safety Act, 15 U.S.C. 2051

b. Rules and Regulations under the Consumer Product Safety Act: Interpretation, Policy and Procedures for Substantial Product Hazard Reports 16 C.F.R. 1115

c. Commission Order 9010.30, Inspections.

d. Commission Order 9010.28, Processing Consumer Product Related Complaints.

Eric C. Peterson
Executive Director

CPSC

Order

9010.40

SUBSTANTIAL PRODUCT HAZARDS

JUNE 26, 1984

DISTRIBUTION: Sets 1 & 2

INITIATED BY: CACA

CPSC FORM 101

FOREWORD

1. PURPOSE. This order will serve as guidance to the Regional Offices in carrying out responsibilities of the Consumer Product Safety Commission under Section 15 of the Consumer Product Safety Act. The Regional Office responsibilities defined in this order apply to the period of time which precedes a preliminary determination by the Corrective Actions Division as to whether a product contains a defect which presents a substantial product hazard. The procedures described herein should be followed whenever possible, however, they should be considered flexible enough to accommodate unusual or emergency situations. Regional Office responsibilities (vis a vis substantial product hazards) which apply after a preliminary hazard determination has been made are defined in Order 9010.34, Monitoring Product Corrective Action Programs.

2. SCOPE. The procedures in this order are for the use of Regional Office personnel and personnel in the Directorate for Compliance and Administrative Litigation who are involved in identifying and assessing potential substantial product hazards.

3. CANCELLATION. This order cancels Substantial Hazards in Consumer Products, Order 9010.40, dated August 25, 1980.

4. REFERENCES. References for this directive include:

   a. Consumer Product Safety Act
   b. Rules and Regulations under the Consumer Product Safety Act: Interpretation, Policy and Procedures for Substantial Product Hazard Reports
   c. Order 9010.30, Inspections
   d. Order 9010.28, Processing Consumer Product Related Complaints.

Edgar Morgan
Executive Director

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CHAPTER 1. SUBSTANTIAL PRODUCT HAZARDS

1. SECTION 15 OF THE CPSA.

a. Definition of Substantial Product Hazard. Section 15(a) of the CPSA defines substantial product hazard as either (1) a failure to comply with an applicable consumer product safety rule, which failure creates a substantial risk of injury to the public, or (2) a product defect which (because of the pattern of defect, the number of defective products distributed in commerce, the severity of the risk, or otherwise) creates a substantial risk of injury to the public.

b. Companies Reporting Obligations under Sections 15

(1) Overview.

(a) Background. The original intent of Congress was to encourage widespread reporting of potential hazards by industry to unearth not only substantial product hazards but also risks of injury that the Commission might seek to prevent through educational campaigns, safety labeling, product standards, product bans, or other appropriate action. Although the Commission utilizes other sources of information about product-related accidents or incidents in an attempt to identify substantial product hazards, reporting is invaluable since companies often receive safety-related information long before the Commission does and before injuries have occurred.

(b) Need for Reporting. Reports should be made when information is obtained which reasonably supports the conclusion that a product is noncomplying or contains a defect which could create a substantial product hazard. This means that reports should be made before the company has completed a detailed hazard analysis to definitely establish the existence of a defect which presents a substantial product hazard. There are some mitigating factors to this requirement which are discussed elsewhere in the paragraph entitled "Company Investigation". The previous regulations did not clearly state this interpretation of the law and the obligations it imposes. Companies were often conducting lengthy examinations and investigations prior to making a report pursuant to Section 15. This process, by

its very nature, reduced the amount of information the Commission and the staff had available to consider. Since the Commission and the staff determine on a case-by-case basis whether a defect or noncompliance exists and whether it results in a substantial risk of injury to the public, more vigorous reporting will help reduce injuries by identifying at an earlier stage a greater number of potentially hazardous products.

(2) Defined in CPSA. Section 15(b) of the CPSA requires every manufacturer, importer, distributor or retailer of a consumer product distributed in commerce who obtains information which reasonably supports the conclusion that the product either fails to comply with an applicable consumer product safety rule or contains a defect which could create a substantial product hazard immediately to inform the Commission, unless the manufacturer, importer, distributor or retailer has actual knowledge that the Commission has been adequately informed. It should be understood that the information which should be reported under Section 15(b) of the CPSA does not automatically indicate the presence of a substantial product hazard, since what must be reported are failures to comply with consumer product safety rules and defects that could create a substantial product hazard.

(3) Guidance Given in 16 CFR 1115.

(a) Background. On August 7, 1978, the Commission published at 43 F.R. 34988; regulations setting forth the Commission's interpretation of the reporting requirement in Section 15(b) of the CPSA. These regulations also outline the Commission's policy and procedure regarding remedial action and sanctions relating to the treatment of substantial product hazards and reports under Section 15. This regulation replaced and consolidated the Commission's previously existing policies and procedures for substantial product hazards, and is appended hereto as Appendix #1.

(b) Requirements. Section 1115.10 of the August 7, 1978, regulations basically states that every manufacturer, importer, distributor or retailer of a consumer product that has been distributed in commerce who

obtains information that such consumer product contains a defect which could create a substantial risk of injury to the public shall immediately notify the Corrective Actions Division (CACA). Companies which distribute in commerce consumer products subject to regulation by the Commission under provisions of the FFA, FHSA, PPPA, as well as consumer products subject to regulations under the CPSA and RSA, must comply with these requirements. If the company obtains information that its consumer product fails to comply with an applicable consumer product safety standard or ban issued under the CPSA, it should immediately notify CACA or other such persons as may be designated. A subject firm need not report a failure to comply with a standard or regulation issued under the provisions of the RSA, FFA, FHSA, or PPPA unless it can be reasonably concluded that the failure to comply results in a defect which could create a substantial product hazard. Companies need not inform the Commission under Section 15(b) if the company has actual knowledge that the Commission has been adequately informed of the defect or failure to comply.

(c) Information Which Should Be Reported. As stated previously, the obligation of a firm to report to the Commission arises upon receipt of information from which one could reasonably conclude the existence of a noncompliance or of a defect which could create a substantial product hazard. Therefore, information which indicates that a consumer product fails to comply with an applicable consumer product safety standard or ban issued under the CPSA must be reported. Likewise, information which indicates that a noncompliance or a defect in a consumer product was directly involved in a death or grievous bodily injury (e.g., mutilation, amputation/dismemberment, disfigurement, loss of important bodily functions, debilitating internal disorders, severe burns, severe electrical shocks, and injuries likely to require extended hospitalization) must be reported unless the firm has investigated and determined that the information is not reportable.

(d) Information Which Should Be Studied and Evaluated By The Firm. 16 CFR 1115.12(c) lists some examples of information which a firm should be studying and evaluated in order to determine if a reporting obligation exists. They are as follows:

1 Information about engineering, quality control or production data suggesting the existence of a noncompliance or of a defect which could create a substantial product hazard.

2 Information about safety-related production or design change(s) suggesting the existence of a noncompliance or of a defect which could create a substantial product hazard.

3 Product liability suit(s) suggesting the existence of a noncompliance or of a defect which could create a substantial product hazard.

4 Information from an independent testing laboratory suggesting the existence of a noncompliance or of a defect which could create a substantial product hazard.

5 Complaint(s) from a consumer or consumer group indicating the existence of a noncompliance or of a defect which could create a substantial product hazard.

6 Information received from the Commission or another governmental agency indicating the existence of a noncompliance or of a defect which could create a substantial product hazard.

7 Information received from other firms, including requests to return a product or for replacement or credit, indicating the existence of a noncompliance or of a defect which could create a substantial product hazard. This includes both requests made by distributors and retailers to the manufacturer and requests from the manufacturer that a product be returned.

(e) Time Computations.

1 Imputed Knowledge. A firm is considered to have knowledge of product safety-related information when it is received by an official or employee of the firm capable of appreciating the significance of the information. Under ordinary circumstances, five days is the maximum reasonable time for the information to reach the Chief Executive Officer or the official or employee responsible for complying with the reporting requirements of Section 15(b) of the CPSA. Weekends and holidays are excluded from the computation of time periods.

2 Company Investigation. Immediately (within 24 hours) after a firm has obtained information which reasonably supports the conclusion that its product fails to comply with an applicable consumer product safety rule or contains a defect which could create a substantial risk of injury to the public, the firm should report. Sometimes it may not be clear as to whether the information initially received is reportable. If this is the case, a firm may elect to spend a reasonable amount of time for investigation and evaluation. This investigation and evaluation should not exceed 10 days unless a firm can demonstrate that a longer period is reasonable. The Commission will deem that at the end of 10 days the firm has received and considered all information which would have been available to it had a reasonable, expeditious and diligent investigation been undertaken. If the firm has elected to conduct an investigation, the 24 hour period begins when the firm has information which reasonably supports the conclusion that its product fails to comply with an applicable consumer product safety rule or contains a defect which could create a substantial risk of injury to the public. Thus the firm could report to the Commission before the conclusion of the investigation if the reportable information became known to the company during the course of the investigation. A flow chart which schematically displays the foregoing is appended hereto as Appendix #2.

(f) Initial Report. The initial report to CACA may be made by any means, but if it is not in writing, it should be confirmed in writing within 48 hours of the initial report. The initial report should contain the following:

1 An identification and description of the product;

2 The name and address of the manufacturer or importer, or if the manufacturer or importer is not known, the names and addresses of all known distributors and retailers of the product;

3 The nature and extent of the possible defect or the failure to comply with an applicable consumer product safety rule;

4 The nature and extent of the injury or risk of injury associated with the product;

5 The name and address of the person informing the Commission;

6 To the extent such information is then reasonably available, the data specified in 16 CFR 1115.13 (d) (the full report).

(g) Full Report. Firms which file initial reports are usually required to file full reports. A full report is simply a term for much more detailed information, as specified in 16 CFR 1115.3(d). Retailers and distributors may satisfy their initial reporting requirements either by:

1 Telephoning or writing the Corrective Actions Division;

2 Sending a letter describing the defective or noncomplying product to the manufacturer or importer of the product and copying CACA.

3 Forwarding to CACA reportable information received from another firm. A distributor or retailer who receives reportable information from a manufacturer or importer shall report to the Commission unless the manufacturer or importer informs the distributor or retailer that a report has been made to the Commission.

2. ASSESSING SUBSTANTIAL PRODUCT HAZARDS.

a. Identification of Defect.

(1) General. The first step in determining the existence of a potential substantial product hazard is to determine whether the information available reasonably suggests a defect or a failure to comply. 16 CFR 1115.4 states that a firm may be guided by the criteria the Commission and staff use in determining whether a defect exists. At a minimum, this includes the dictionary or commonly accepted meaning of the word defect, which is a fault, flaw or irregularity that causes weakness, failure or inadequacy in form or function. A defect could be the result of a manufacturing or production error, or it could result from the design or the materials used in the product. A defect can also occur in a product's contents, construction, finish, packaging, warnings, and/or instructions. If the information available to a firm does not reasonably support the conclusion that a defect exists, the firm need not report. However, since a product may be defective even if it is designed, manufactured and marketed exactly as intended by a firm, firms should report if in doubt as to whether a defect exists. If the information does reasonably support the conclusion that a defect exists, the firm must then consider whether that defect could create a substantial product hazard.

(2) Examples of Defects. The Commission has offered examples at 16 CFR 1115.4(a,b,c,d,e) to assist firms in understanding the concept of defect. They are as follows:

(a) An electric appliance presents a shock hazard because, through a manufacturing error, its casing can be electrically charged by full-line voltage. This product contains a defect as a result of manufacturing or production error.

(b) Shoes labeled and marketed for long-distance running are so designed that they might cause or contribute to the causing of muscle or tendon injury if used for long-distance running. The shoes are defective due to the labeling and marketing.

(c) A kite made of electrically conductive material presents a risk of electrocution if it is long enough to become entangled in power lines and be within reach from the ground. The electrically conductive material contributes both to the beauty of the kite and the hazard it presents. The kite contains a design defect.

(d) A power tool is not accompanied by adequate instructions and safety warnings. Reasonably foreseeable consumer use or misuse, based in part on the lack of adequate instructions and safety warnings, could result in injury. Although there are not reports of injury, the product contains a defect because of the inadequate warnings and instructions.

(e) An exhaust fan for home garages is advertised as activating when carbon monoxide fumes reach a dangerous level but does not exhaust when fumes have reached a dangerous level. Although the cause of the failure to exhaust is not known, the exhaust fan is defective because users rely on the fan to remove the fumes and the fan does not do so.

(3) Considerations. It is important to note that not all products which present a risk of injury are defective. The knife is an obvious example. The knife does not contain a defect inso far as the sharpness of the blade is concerned, despite its potential for causing injury, because the risk of injury is outweighed by the usefulness of the product which is made possible by the same aspect which presents

the risk of injury. In determining whether the risk of injury associated with a product is the type of risk which will render the product defective, the Commission and staff consider as appropriate the following:

(a) The utility of the product involved;

(b) The nature of the risk of injury which the product presents;

(c) The necessity for the product;

(d) The population exposed to the product and its risk of injury;

(e) The Commission's own experience and expertise;

(f) The case law in the area of product liability;

(g) Other factors relevant to the determination.

b. Assessment of Substantiality of Risk.

(1) General. As a general rule of thumb, most defects could present a substantial product hazard if the public is exposed to significant numbers of defective products or if the possible injury is serious or is likely to occur. Since the extent of public exposure and/or the likelihood or seriousness of injury are ordinarily not known at the time a defect first manifests itself, firms are urged to report if in doubt as to whether a defect could present a substantial product hazard. The Commission and the staff will determine on a case-by-case basis whether a defect exists and whether that defect presents a substantial product hazard.

(2) Hazard Created by Defect. In deciding whether a defect could create a substantial product hazard, firms may be guided by the criteria the staff and the Commission use to determine whether a substantial product hazard

exists. As far as the substantiality of the risk presented by the defect, Section 15(a)(2) of the CPSA lists the pattern of defect, the number of defective products distributed in commerce, the severity of the risk, and other considerations as factors to be considered. The existence of any one of these factors could create a substantial product hazard.

(a) Pattern of Defect. In analyzing the pattern of defect, consideration is given to whether the defect arises from the design, composition, contents, construction, finish, packaging, warnings, or instructions of the product, and conditions under which the defect manifests itself.

(b) Number of Defective Products Distributed in Commerce. In considering the number of defective products distributed in commerce, it is important to note that even one defective product can present a substantial risk of injury and provide a basis for a substantial product hazard determination if the injury which might occur is serious and/or likely to occur. However, a few defective products with no potential for causing serious injury and little likelihood of injuring even in a minor way will not ordinarily provide a proper basis for a substantial product hazard determination.

(c) Severity of the Risk. In considering the severity of the risk, a risk is severe if the injury which might occur is serious and/or likely to occur. The likelihood of an injury is determined through consideration of the number of injuries reported to have occurred, the intended or reasonably foreseeable use or misuse of the product, and the population group exposed to the product.

(3) Hazard Presented by Noncompliance. As far as hazard presented by noncompliance with an applicable consumer product safety rule, a substantial product hazard exists when the noncompliance creates a substantial risk of injury to the public.

CHAPTER 2. GENERAL RESPONSIBILITIES

3. HEADQUARTERS/REGIONAL OFFICE RESPONSIBILITIES.

a. Compliance and Administrative Litigation. The Directorate for Compliance and Administrative Litigation is responsible for the management of Section 15 activities within the Commission. The primary responsibility for this task lies in the Corrective Actions Division (CACA). The staff of the Corrective Actions Division is responsible for:

(1) The investigation and evaluation of potential substantial product hazards both when information is reported by a firm pursuant to Section 15 of the CPSA and when information from other sources warrants investigation and evaluation. Once the staff begins an investigation, to the extent possible, it attempts to acquire the information set forth at 16 CFR 1115.12(b,c,d,e) and 16 CFR 1115.13(d), and any other information deemed necessary to permit a preliminary hazard determination. This information can come from any source including, but not limited to, the firm, experts within and outside the Commission, consumers, and Regional Office recommendations resulting from evaluation of establishment inspections conducted as follow-ups to indepth investigations. Once information deemed sufficient to permit a preliminary hazard determination is received, it is assessed by the staff.

(2) The Corrective Actions Division staff is responsible for securing corrective action and monitoring corrective action programs after a staff preliminary determination has been made that a product defect presents a substantial risk of injury and hence creates a substantial product hazard.

(3) The first determination made by the staff is whether or not the product contains a defect. Once it has been determined that the product does indeed contain a defect, the staff assesses the substantiality of the risk presented by the defect. The staff makes the following preliminary determinations:

(a) A substantial product hazard exists and remedial action should be undertaken.

(b) A risk of injury exists and remedial action offered by the firm should be monitoried.

(c) The staff should not proceed because;

1 Information presently available does not indicate the existence of a defect.

2 Information presently available does not indicate the existence of a substantial product hazard.

3 Information does not indicate further Commission investigation to be undertaken at this time.

4 Information has been referred to another organization or agency.

5 Other.

b. Regional Office. The Regional Office responsibilities (vis a vis substantial product hazards) listed below apply to the period of time which precedes a preliminary determination by CACA. Regional Office responsibilities (vis a vis substantial product hazards) which apply after a preliminary determination has been made are detailed in Order 9010.34, Monitoring Product Corrective Action Programs.

(1) Review and evaluate all complaints, incident reports and other information received at the Regional Office or forwarded by another Regional Office or Headquarters to identify data which suggests the existence of a defect which could create a substantial product hazard.

(2) Determine whether the data should be transmitted to Headquarters through normal or priority channels, or whether Regional Office-initiated Section 15 indepth investigation should be performed.

(3) Perform Regional Office-initiated or CACA-assigned Section 15 indepth investigations to attempt to identify the existence of a defect which could create a substantial product hazard.

(4) Review and evaluate all indepth investigation reports, either performed by the Regional Office or received from another Regional Office, for suggestions of a defect which could create a substantial product hazard.

(5) Make appropriate recommendations to the Home Regional Office for follow-up inspections at the manufacturer or importer of a product identified in an indepth investigation report.

(6) Conduct follow-up establishment inspections at the manufacturer or importer of a product identified in an indepth investigation report when a potential substantial product hazard is suspected.

(7) Review and evaluate data collected during the establishment inspection and make specific recommendations to the Corrective Actions Division regarding the existence of a product defect, the nature of the associated hazard, and whether a Section 15 case should be opened.

(8) Collect samples of potentially defective products.

CHAPTER 3. OPERATING PROCEDURES

4. INVESTIGATIONS UNDER SECTION 15 OF THE CPSA.

a. Incident Reports.

(1) Sources. Regional Offices may receive incident reports suggesting the existence of a defect which could create a potential substantial product hazard from many sources, including:

(a) Consumer complaints

(b) Trade complaints

(c) Information from product liability attorneys, insurance companies, independent testing laboratories or product servicing facilities

(d) Information from state or local consumer protection or health and safety agencies or officials, or referrals from other federal agencies

(e) Information from the news media

(f) Direct reports by the manufacturer, importer, distributor or retailer of a product.

1 Any Section 15(b) report of a product defect which could create a substantial product hazard, must be made to CACA in order for a firm to fulfill its reporting obligations. Regional Offices are to handle reports which involve violations of specific Commission regulations, rules, standards or bans in accordance with guidance from the Division of Regulatory Management.

2 If a report not dealing with a violation is received by the Regional Office in writing, telecopy the report immediately to CACA. If the Regional Office receives such a report by telephone, obtain the name, address and telephone number of the individual making the report. Inform the party that reporting obligations have not been fulfilled until direct contact has been made with CACA (301) 492-6608. Calls can be made to CACA Monday through Friday from 8:30 am to 5:00 pm EST. The Regional Office then contacts CACA and informs them of the attempted report.

(2) Processing Incident Reports. Except for formal Section

15(b) reports, Regional Offices should review all incident reports that come to their attention to determine if they should be processed as "normal" or "high" priority incident reports.

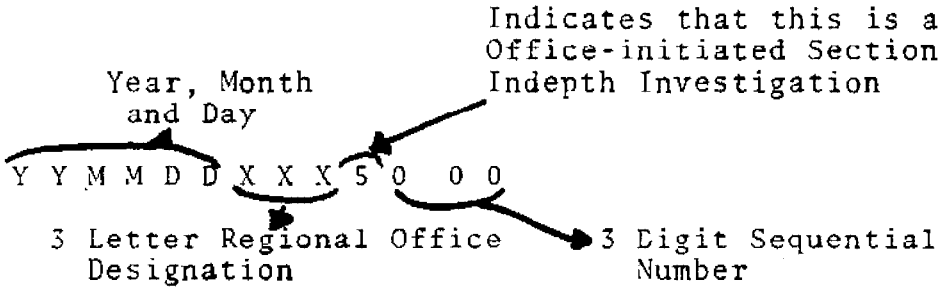
(a) Normal Priority. Normal priority incident reports should be processed pursuant to Order 9010.28, Processing Consumer Related Complaints.

(b) High Priority. High priority incident reports include those which suggest potential product defects or emerging hazards, and those which pertain to products receiving special attention by program managers/analysts. High priority incident reports should be processed pursuant to the appropriate section in Order 9010.28, Processing Consumer Product Related Complaints. The procedures for processing incident reports which suggest the existence of a potential product defect are repeated below:

1 Incident reports which suggest the existence of a potential product defect should be selected for Section 15 screening. Section 15 screening should be used by the Regional Offices to determine whether an indepth investigation of the incident appears warranted. Regional Offices may refer to Chapter 1, 2.a. of this Order for guidance in determining the existence of a defect. Resources expended for Section 15 screening should be reported under the appropriate MIS project code for Section 15 activities.

2 If, after completion of the Section 15 screening process, Regional Offices elect to perform an indepth investigation of a particular incident, the Regional Office may contact CACA. This contact is not to obtain permission to conduct an indepth investigation, but to discuss the matter briefly with CACA so that CACA may offer some guidance, based on previous experience with a similar product and/or defect, as to some specific types of data which should be obtained.

3 Each Regional Office assigns its own unique sequential IDI task number for the investigation. The number will be structured as follows:



Each Regional Office maintains its own log of the task numbers it assigns to Regional Office-initiated Section 15 indepth investigations. The numbers run sequentially through the fiscal year. Resource hours for these investigations are drawn from manhours allotted to each Regional Office for CACA indepth investigations. Each Regional Office is assigned a certain number of manhours per month which it manages for Regional Office-initiated Section 15 indepth investigations. The number of manhours assigned per month varies from office to office, depending upon the total hours allotted to an office for CACA indepth investigations. The resource manhours available to each Regional Office for this purpose are assigned by separate memorandum. Resources expended for these investigations should be reported under the appropriate MIS project code for Section 15 activites.

4 The Regional Office performs the indepth investigations using CPSC Form 182, Indepth Epidemiologic Investigation Report. The substance of Regional Office-initiated Section 15 indepth investigations will not be evaluated by the Injury Data Collection Division (EPDS) and may be discontinued at any time if it becomes apparent to the Regional Office that the situation does not merit continued expenditure of resources. Likewise, indepth investigations assigned by CACA will not be subject to evaluation by EPDS. CACA will perform its own quality control work.

5 The Regional Office will provide EPDS with the following information for entry into the computer tracking system:

a The IDI task number assigned

b The document number

c The product

This information should be provided to EPDS as soon as an IDI task number is assigned.

6 EPDS will enter this data into the computer and teletype the assignment confirmation message to the Regional Office. The computer allocates a predetermined number of hours to the performance of the particular task and deducts those hours from the total hours available to that Regional Office for IDIs.

7 The Regional Office will acknowledge receipt of the task number by teletype.

8 The Regional Office sends the original purged copy of the investigation to EPDS and then follows the review and evaluation procedures described in Chapter 3, 5.a.b. and c. of this Order.

9 CACA will provide feedback to the Regional Office whenever necessary to assist the Regional Office in obtaining the kind of data required for CACA's purposes.

b. Section 15 Indepth Investigations. Section 15 indepth investigations may be assigned to a Regional Office by CACA or may be initiated by a Regional Office after review and evaluation of incident reports. Section 15 indepth investigations should be thought of as not simply fact-finding operations but as tools which can be used to uncover potential substantial product hazards. Investigators should attempt to fulfill, to the extent possible, the information requirements of CPSC Form 182, Indepth Epidemiologic Investigation Report. Investigators should also keep in mind the following groups of questions to direct and expand their inquiries:

(1) Can the product be adequately identified (brand name, manufacturer, model number, serial number, production date code, lot number, batch number, UL number, etc.) so that you know the specific product in question and who manufactured or imported it?

(2) What was the behavior of the user at the time of the accident and/or injury? What was he or she doing with the product? Was it a rational and/or reasonably foreseeable use, misuse or action?

(3) What was the direct casual association of the product in the injury-producing accident situation? How could the product have produced an injury if none occurred? What is the defect? Does the defect appear to be one which might be present in other units of this particular product?

(4) When someone makes a complaint and states, for example, that "My coffeemaker could have burned my house down," can the investigator define the injury or accident potential? What is it about the product (the coffeemaker in this example) that leads the complainant to that conclusion?

(5) Can the investigator define the hazard? Is it mechanical, thermal, electrical, or chemical? What kind of injury resulted from this accident? What kind of injury would be expected to result from a recurrence of this type of accident? Is the injury or potential injury serious?

(6) Who is the actual victim (age, sex, height, weight)? Who is the potential accident victim? Who else in the population might reasonably be expected to be using this product and be exposed to the injury potential of the product?

(7) What was the environment of use (e.g., lawnmower used on a wet, slippery slope)? Was the environment linked in any way to the accident or injury (i.e., contributory or non-contributory)?

(8) Are there any other sources of information (e.g., place of purchase, repair shop, etc.)?

5. REVIEW AND EVALUATION OF INDEPTH INVESTIGATION REPORTS FOR POTENTIAL SUBSTANTIAL PRODUCT HAZARDS.

a. General. The data contained in indepth investigation reports may at times strongly suggest the existence of a defect which could create a substantial product hazard. In these instances, the expenditure of additional investigatory

resources (usually in the form of an establishment inspection) is necessary to obtain sufficient data to permit an informed hazard evaluation. The Regional Offices are responsible for reviewing and evaluating all indepth investigation reports for suggestions of a defect which could create a substantial product hazard, performing follow-up establishment inspections where indicated and making specific recommendations to CACA regarding the existence of a product defect and the nature of the associated hazard. Regional Office recommendations generated through this process are sent to CACA for consideration as to whether remedial action is warranted.

b. Definitions.

(1) Investigating Regional Office. This term refers to a Regional Office which either performs an indepth investigation or receives an indepth investigation from one of the contract investigators it is monitoring.

(2) Home Regional Office. This term refers to the Regional Office within whose jurisdiction a particular company is located.

(3) IDIR. Indepth investigation.

(4) EIR. Establishment inspection report.

c. Procedures. The following sets forth the procedures for the review and evaluation process. A flow chart which displays this process scematically is appended hereto as Appendix 4. Regional Offices may refer to Chapter 1, 2. Assessing Substantial Product Hazards, for an explanation of the criteria to be considered in evaluating the existence of a defect and the nature of any associated hazard.

(1) Investigating Regional Office.

(a) The Investigating Regional Office reviews and evaluates the IDIR and sends an unpurged copy to the appropriate Home Regional Office under an Inspection-Investigation Coversheet (CPSC Form 167). The endorsement section of the coversheet should contain the follow-up recommendation (i.e., "follow-up recommended" or "no follow-up recommended") and a brief rationale for that recommendation, or should

state something to the effect that it was impossible to decide with a reasonable level of confidence whether follow-up should be recommended.

(b) If the decision is to recommend no follow-up, the Regional Office should send an unpurged copy of that IDIR to CACA.

(c) If the decision is to recommend follow-up the Investigating Regional Office should also send an unpurged copy of the IDIR and its accompanying coversheet to CACA. CACA will review the IDIR and await the decision of the Home Regional Office.

(2) Investigating Regional Office is Also The Home Regional Office.

(a) If the Investigating Regional Office is also the Home Regional Office, and the decision is to conduct a follow-up inspection, the Regional Office should send an unpurged copy of the IDIR to CACA under a coversheet and proceed as in (3) 1, 2, and 3, below. The Office should also submit a Section 15 Status Sheet as described below.

(b) If the Regional Office does not feel confident in deciding whether to initiate follow-up investigation, it may defer that decision to CACA. In that event, the Regional Office should send an unpurged copy of the IDIR to CACA under an Inspection Investigation Coversheet. The endorsement section of the coversheet should state something to the effect that the decision is being deferred to CACA because it was impossible to decide with a reasonable level of confidence whether follow-up investigations should be conducted. Telephone consultations with CACA are encouraged.

(3) Home Regional Office.

(a) The Home Regional Office receives, reviews and evaluates IDIRs and recommendations received from Investigating Regional Offices, and decides whether or not follow-up is indicated by the data currently available.

(b) If, after review and evaluation of an IDIR for which the Investigating Regional Office has recommended

follow-up, the Home Regional Office decides that no follow-up is necessary, the IDIR number, the decision ("no follow-up recommended") and a brief rationale for that decision should be recorded on the Section 15 Status Sheet (appended hereto as Appendix 3) to be submitted to CACA. See below for instructions on completing the Status Sheet.

(c) If, after review and evaluation of an IDIR for which the Investigating Regional Office has recommended follow-up, the Home Regional Office decides to conduct a follow-up investigation, the IDIR number, the decision ("follow-up investigations are being conducted") and a brief rationale for that decision should be recorded on the status sheet. The Regional Office then:

1 Conducts an establishment inspection of the firm being sure to gather information to assess the firm's compliance with the reporting requirements under Section 15(b) of the CPSA. (Refer to Chapter 1, 1.b. Reporting Obligations as well as Order 9010.34 dated July 30, 1979 for additional guidance on timeliness investigations). NOTE: Prior to conducting the establishment inspection, the Regional Office should contact CACA. It is stressed that this contact is requested not to obtain permission to conduct an establishment inspection, but to discuss the matter briefly with CACA so that CACA may offer some guidance, based on previous experience with a similar product and/or defect, as to some specific types of data which should be obtained.

2 Reviews and evaluates the additional data contained in the EIR. Performs any additional investigations such as IDI's which may be needed.

3 Sends a copy of the EIR along with a Summary and Recommendation memorandum regarding the existence of a product defect, the nature of the associated hazard, and whether a case should be opened to CACA. This should be transmitted to CACA within 30 days for a high priority and 60 days for a routine priority investigation. These time frames begin from the date of the initial review of the IDIR by the investigating Regional Office. An example of a completed Summary and Recommendation memorandum is included as Appendix 5. The "Subject" of the memorandum should, of

course, reflect the fact that this is a recommendation from a Regional Office rather than CACA.

(d) If, after review and evaluation of an IDIR for which the Investigating Regional Office has recommended follow-up, the Home Regional Office cannot decide with a reasonable level of confidence whether follow-up investigations should be conducted, the Home Regional Office should notify CACA of this situation by telephone. CACA will already have in its possession a copy of the IDIR, and will take whatever steps are necessary to assess the matter. The IDIR number for an indepth which is referred to CACA for assessment should not appear on the monthly report.

(e) If, after review and evaluation of an IDIR for which the Investigating Regional Office has recommended no follow-up, the Home Regional Office decides to conduct a follow-up investigation, the Home Regional Office should send an unpurged copy of the IDIR and its original coversheet under a new coversheet to CACA and proceed as in 1 2 and 3 above. The endorsement section of the coversheet should contain the decision ("follow-up investigations are being conducted") and a brief rationale for that decision.

(f) If, after review and evaluation of an IDIR for which the Investigating Regional Office has recommended no follow-up, the Home Regional Office cannot decide with a reasonable level of confidence whether follow-up investigations should be conducted, it may defer that decision to CACA. In that event, the Regional Office should send an unpurged copy of the IDIR to CACA under an Inspection-Investigation Coversheet. The endorsement section of the coversheet should state something to the effect that the follow-up decision is being deferred to CACA because it was impossible to decide with a reasonable level of confidence whether follow-up investigations should be conducted.

(4) Home Regional Office Not Readily Discernible.

(a) In some instances a Home Regional Office is not readily discernible. A foreign manufacturer, for example, may have several major distributors or distribution areas in the United States. When such is the case, the

Regional Office should contact one of the distributors in an effort to ascertain the location of the company's United States Headquarters and thus determine the Home Regional Office. The Regional Office should then proceed as appropriate.

(b) If it is impossible to determine the Home Regional Office, the responsibility for determining follow-up reverts to CACA. The Regional Office should send an unpurged copy of the IDIR to CACA under an Inspection Investigation Coversheet which states in the endorsement section the Regional Office's recommendation concerning follow-up, a brief rationale for that recommendation and the fact that a Home Regional Office could not be ascertained. CACA may designate a Regional Office to serve as the Home Regional Office as appropriate.

d. Reporting System for Field Section 15 Investigations. When the Home Regional Office determines that follow-up to an IDI or other lead is warranted, it will formally open a Section 15 investigation. The central feature of this investigation is generally an establishment inspection of the manufacturer or importer of the product involved.

As soon as a decision is made to open a follow-up investigation the Regional Office will open a Regional Office file and prepare and submit to CACA a "Section 15 Investigation Status Sheet" (See Appendix 3). On this form the Regional Office lists the steps the office will take to investigate the problem. The anticipated completion date of each step is also given.

If the strategy or scope of an investigation changes, or if the anticipated completion dates are not met, the Regional Office will submit another status sheet giving the changes. Under "COMMENTS" note that this is a revision of the original status sheet and also give a brief explanation of the reasons for the revision.

The status sheet is to be prepared as follows:

(1) The Investigation Number: This number will be assigned by the Regional Office. The Regional Office will assign the numbers as follows:

Western Regional Office	84W001-84W999
Southwestern Regional Office	84S001-84S999
Midwestern Regional Office	84M001-84M999
Northeastern Regional Office	84N001-84N999
Southeastern Regional Office	84E001-84E999

As is apparent, these numbers reflect the year, the Regional Office, and 3 digit sequential numbers.

(2) Priority. Give the priority of the investigation as "High" or "Routine". High priority is for those situations involving a fatality or grievous injury incident or potential product defect presenting severe hazards.

(3) IDI# - Other Lead. Give the IDI number and date of the IDI if the investigation is made as a follow-up to an IDI. If there was no IDI, state the type of lead being followed up (and the date, if appropriate, that the lead was received). Leads or sources may include the following:

(a) Consumer or trade complaints which provide all information necessary for the follow-up.

(b) Complaints involving multiple incidents or an extremely serious hazard.

(c) Reports from various Federal, State or local agencies.

(d) Similar problems occuring with other firms' products.

(e) An observed pattern or accumulation of IDI's, complaints or reports.

(f) STI from CACA.

(4) Firm and Product. Give the name and address of the firm, the type of firm (i.e., manufacturer, private labeler or importer) and the brand name, type, and model of product. Be as specific as possible when describing the product.

(5) Problem. A brief statement of the alleged defect and how it could possibly lead to injuries.

(6) No Follow-Up - Rationale. This is to be used when an investigating office recommends follow-up but the home office decides a follow-up is not warranted. Simply give a brief explanation as to why the decision was made. CACA will review the status sheet and, if agreeing with the decision, will simply retire its copy of the IDI with a copy of the status sheet to incidate no follow-up is planned. If CACA disagrees with the Regional Office decision CACA will contact the Regional Office by telephone and resolve the matter.

(7) Regional Office Plan for Follow-Up Investigations. This is self explanatory - Simply enter the type of investigation(s) and the date planned. If CACA does not agree with your strategy, decision or timetable we will contact your office by telephone and resolve any differences. Note that there is a space to identify any samples which have been collected or which will be collected.

(8) Date Regional Office Summary and Recommendation Will be Submitted to CACA. This is also self explanatory. If the Summary and Recommendations planned deadline is not met and a revised status sheet has not been submitted, CACA will contact the appropriate individual in the Regional Office to determine the cause.

We are aware of at least some of the problems associated with work planning, lack of travel in certain areas, and other restrictions on travel. This is why the Regional Office establishes its own time frames. Nevertheless, for a high priority the Regional Office should generally make every attempt to initiate the inspection within 2 weeks of receipt of the IDIR and the S&R should be completed within 2 weeks of the inspection. When a high priority is not involved, the inspection should be initiated within 30 days of receipt of the IDIR and the S&R within 4 weeks of the inspection. If the completion dates on the status sheet is outside these time frames the status sheet should include a brief explanation under "Comments".

(9) Assistance Needed from CACA. CACA will provide any needed assistance to the Regional Office. CACA will arrange for testing of any sample collected and will arrange for the test results to be sent to the appropriate Regional Office. CACA will also arrange for any other technical or legal support which is needed by the Regional Office. The information provided on the status sheet will enable CACA to provide support needed.

(10) Sign-Off. The status sheet will be signed by the Regional Office Compliance Officer responsible for monitoring the Section 15 investigation. This will be the person CACA will contact if there are any problems.

6. ESTABLISHMENT INSPECTIONS AND SAMPLE COLLECTION.

a. Establishment Inspections. Establishment inspections conducted as follow-ups to the review and evaluation of indepth investigation reports should be conducted in accordance with the guidelines set forth in Order 9010.30, Inspections. In addition, the Regional Office should attempt to obtain the following information:

(1) The firm's knowledge of the reporting requirements under Section 15 of the Consumer Product Safety Act.

(2) Complete product identification.

(3) Actual copies of consumer complaints, lawsuits and other reports of injury or product failure.

(4) All technical information bearing a direct relationship to the suspected problem, including:

(a) Engineering drawings

(b) Test data

(c) Instruction sheets and repair and/or owners manuals

(d) A..y engineering changes, redesign or termaniations made in the suspect product line.

(e) Any technical evaluations of the product or suspected product defect which have been performed by the firm. The Regional Office should review the technical evaluation and reconcile in the establishment inspection report any apparent inconsistencies with inspectional findings.

(5) Any efforts taken by the firm to correct the suspect defect, including:

(a) Recalls

(b) Modifications or repair kits

(c) Stop sale or shipment orders

(d) Destruction of Product inventory

(6) Unsatisfactory notices or reports from independent testing laboratories such as UL or Factory Mutual.

(7) Distribution of the product, including:

(a) Total number of suspect units produced

(b) Number of units in factory inventory

(c) Number of units at distributor level

(d) Number of units at retailer level

(e) Number of units in consumers' hands

(8) Firm's evaluation of expected useful life of product

(9) Firm's evaluation of product's expected end-of-life failure mode.

b. Sample Collection.

(1) General. Samples may be necessary as a basis for any legal actions and when testing is necessary to evaluate the hazard. Engineering or medical evaluation of

the actual unit involved in an incident or injury may be useful, both when the casual link between the product and an injury is obvious and when it is not. CACA should be consulted if possible whenever the investigator is uncertain as to whether a sample should be collected during an inspection or investigation. When sample collection is not specifically requested by CACA in an STI or other form of a communication, the Regional Office may use the following criteria to assist in determining whether a sample should be collected;

(a) Travel time and distance, cost and additional expenditure of resources to collect the sample at a later date.

(b) General availability of the product in commerce.

(c) Cost of the sample (Contact CACA if the cost will exceed $100.00).

(d) Regional Office familiarity with the nature and size of a useful sample of the product.

(e) Regional Office evaluation of the likelihood of a future need for a sample.

2) Procedures.

(a) All samples, including samples from consumers, collected without a request from CACA should be held at the Regional Office pending notification of the sample collection to CACA as appropriate.

(b) Prior to collecting a sample from a consumer, the Investigator should attempt to:

1 Coordinate the collection with the appropriate CACA Project Officer to ensure that timely and proper non-destructive testing and/or handling is possible.

2 Determine if the consumer is planning any legal action and wants the sample returned and whether

the consumer wants the sample returned intact and/or undisturbed. If return is not necessary, indicate that on CPSC Form No. 163 (Receipt for Sample) and have the consumer countersign the form. If return is necessary, and/or if any other special considerations apply, mark each unit to clearly indicate that fact. These samples should be handled with care to maintain the integrity.

(c) Documentation of product distribution in interstate commerce is required in all cases. In those instances where a physical sample is not collected, obtain a documentary sample including affidavits, invoices, shipping records or other appropriate evidence.

(d) Samples are to be sent to the Sample Custodian clearly marked "To the attention of the Corrective Actions Division, and specify the Project Officer to whom the sample should be assigned if known. Mark the collection report, the CPSC Form No. 165 and the sample package to indicate delivery to CACA. CACA will deliver the sample to the appropriate testing facility.

SUBSTANTIAL PRODUCT HAZARD REPORTS: POLICIES AND PROCEDURES REGARDING SUBSTANTIAL PRODUCT HAZARDS (16 CFR 1115)

Subpart A—General Interpretation

Subpart B—Remedial Actions and Sanctions.

AUTHORITY: Secs. 12, 15, 16, 17(a), 19, 20, 21, 22, 24, 27, 30 of Pub. L. 92-573, as amended by Pub. L. 94-284; 86 Stat. 1218, 1221-1227, 1231, as amended, 90 Stat. 508-510 (15 U.S.C. 2061, 2064, 2065, 2066(a), 2068, 2069, 2070, 2071, 2073, 2076, 2079), unless otherwise noted.

Subpart A—General Interpretation

§ 1115.1 Purpose.

The purpose of this part 1115 is to set forth the Consumer Product Safety Commission's (Commission's) interpretation of the reporting requirements imposed on manufacturers (including importers), distributors, and retailers by section 15(b) of the Consumer Product Safety Act, as amended (CPSA) (15 U.S.C. 2064(b)) and to indicate the actions and sanctions which the Commission may require or impose to protect the public from substantial product hazards, as that term is defined in section 15(a) of the CPSA.

§ 1115.2 Scope and finding.

(a) Section 15(a) of the CPSA (15 U.S.C. 2064(a)) defines "substantial product hazard" as either (1) a failure to comply with an applicable consumer product safety rule, which failure creates a substantial risk of injury to the public, or (2) a product defect which (because of the pattern of defect, the number of defective products distributed in commerce, the severity of the risk, or otherwise) creates a substantial risk of injury to the public.

(b) Section 15(b) of the CPSA requires every manufacturer (including an importer), distributor, or retailer of a consumer product distributed in commerce who obtains information which reasonably supports the conclusion that the product either fails to comply with an applicable consumer product safety rule or contains a defect which could create a substantial product hazard immediately to inform the Commission, unless the manufacturer (including an importer), distributor, or retailer has actual knowledge that the Commission has been adequately informed. This provision indicates that a broad spectrum of safety-related information should be reported under section 15(b) of the CPSA.

(c) Sections 15(c) and 15(d) of the CPSA (15 U.S.C. 2064 (c) and (d)) empower the Commission to order a manufacturer (including an importer), distributor, or retailer of a consumer product distributed in commerce that presents a substantial product hazard to give various forms of notice to the public of the defect or the failure to comply and/or to order the subject firm to elect either to repair, to replace, or to refund the purchase price of such product. However, information which should be reported under section 15(b) of the CPSA does not automatically indicate the presence of a substantial product hazard since what must be reported are failures to comply with consumer product safety rules and defects that could create a substantial product hazard. (See § 1115.12.)

(d) The provisions of this part 1115 deal with all consumer products (including imports) subject to regulation under the Consumer Product Safety Act, as amended (15 U.S.C. 2051-2081) (CPSA), and the Refrigerator Safety Act (15 U.S.C. 1211-1214) (RSA). In

addition, the Commission has found that risks of injury to the public from consumer products subject to regulation under the Flammable Fabrics Act (15 U.S.C. 1191-1204) (FFA), the Federal Hazardous Substances Act (15 U.S.C. 1261-127-) (FHSA), and the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471-1476) (PPPA) cannot be eliminated or reduced to a sufficient extent in a timely fashion under those acts. Therefore, pursuant to section 30(d) of the CPSA (15 U.S.C. 2079(d)), manufacturers (including importers), distributors, and retailers of consumer products which are subject to regulation under provisions of the FFA, FHSA, and PPPA must comply with the reporting requirements of section 15(b).

§ 1115.3 Definitions.

In addition to the definitions given in section 3 of the CPSA (15 U.S.C. 2052), the following definitions apply:

(a) "Adequately informed" under section 15(b) of the CPSA means that the Commission staff has received the information requested under §§ 1115.12 and/or 1115.13 of this part insofar as it is reasonably available and applicable or that the staff has informed the subject firm that the staff is adequately informed.

(b) "Commission meeting" means the joint deliberations of at least a majority of the Commission where such deliberations determine or result in the conduct or disposition of official Commission business. This term is synonymous with "Commission meeting" as defined in the Commission's regulation issued under the Government in the Sunshine Act, 16 CFR 1012.

(c) "Noncompliance" means the failure of a consumer product to comply with an applicable consumer product safety rule issued under the CPSA.

(d) A "person" means a corporation, company, association, firm, partnership, society, joint stock company, or individual.

(e) "Staff" means the staff of the Consumer Product Safety Commission unless otherwise stated.

(f) "Subject firm" means any manufacturer (including an importer), distributor, or retailer of a consumer product.

§ 1115.4 Defect.

Section 15(b)(2) of the CPSA requires every manufacturer (including an importer), distributor, and retailer of a consumer product who obtains information which reasonably supports the conclusion that the product contains a defect which could create a substantial product hazard to inform the Commission of such defect. Thus, whether the information available reasonably suggests a defect is the first determination which a subject firm must make in deciding whether it has obtained information which must be reported to the Commission. In determining whether it has obtained information which reasonably supports the conclusion that its consumer product contains a defect, a subject firm may be guided by the criteria the Commission and staff use in determining whether a defect exists. At a minimum, defect includes the dictionary or commonly accepted meaning of the word. Thus, a defect is a fault, flaw, or irregularity that causes weakness, failure, or inadequacy in form or function. A defect, for example, may be the result of a manufacturing or production error; that is, the consumer product as manufactured is not in the form intended by, or fails to perform in accordance with, its design. In addition, the design of and the materials used in a consumer product may also result in a defect. Thus, a product may contain a defect even if the product is manufactured exactly in accordance with its design and specifications, if the design presents a risk of injury to the public. A design defect may also be present if the risk of injury occurs as a result of the operation or use of the product or the failure of the product to operate as intended. A defect can also occur in a product's contents, construction, finish, packaging, warnings, and/or instructions. With respect to instructions, a consumer product may contain a defect if the instructions for assembly or use could allow the product, otherwise safely designed and manufactured, to present a risk of injury. To assist subject firms in understanding the concept of defect as used in the CPSA, the following examples are offered:

(a) An electric appliance presents a shock hazard because, through a manufacturing error, its casing can be electrically charged by full-line voltage. This product contains a defect as a result of manufacturing or production error.

(b) Shoes labeled and marketed for long-distance running are so designed that they might cause or contribute to the causing of muscle or tendon injury if used for long-distance running. The shoes are defective due to the labeling and marketing.

(c) A kite made of electrically conductive material presents a risk of electrocution if it is long enough to become entangled in power lines and be within reach from the ground. The electrically conductive material contributes both to the beauty of the kite and the hazard it presents. The kite contains a design defect.

(d) A power tool is not accompanied by adequate instructions and safety warnings. Reasonably foreseeable consumer use or misuse, based in part on the lack of adequate instructions and safety warnings, could result in injury. Although there are no reports of injury, the product contains a defect because of the inadequate warnings and instructions.

(e) An exhaust fan for home garages is advertised as activating when carbon monoxide fumes reach a dangerous level but does not exhaust when fumes have reached the dangerous level. Although the cause of the failure to exhaust is not known, the exhaust fan is defective because users rely on the fan to remove the fumes and the fan does not do so.

However, not all products which present a risk of injury are defective. For example, a knife has a sharp blade and is capable of seriously injuring someone. This very sharpness, however, is necessary if the knife is to function adequately. The knife does not contain a defect insofar as the sharpness of its blade is concerned, despite its potential for causing injury, because the risk of injury is outweighed by the usefulness of the product which is made possible by the same aspect which presents the risk of injury. In determining whether the risk of injury associated with a product is the type of risk which will render the product defective, the Commission and staff will consider, as appropriate: The utility of the product involved; the nature of the risk of injury which the product presents; the necessity for the product; the population exposed to the product and its risk of injury; the Commission's own experience and expertise; the case law interpreting Federal and State public health and safety statutes; the case law in the area of products liability; and other factors relevant to the determination. If the information available to a subject firm does not reasonably support the conclusion that a defect exists, the subject firm need not report. However, if the information does reasonably support the conclusion that a defect exists, the subject firm must then consider whether that defect could create a substantial product hazard. (See § 1115.12(f) for factors to be assessed in determining whether a substantial product hazard could exist.) If the subject firm determines that the defect could create a substantial product hazard, the subject firm must report to the Commission. Most defects could present a substantial product hazard if the public is exposed to significant numbers of defective products or if the possible injury is serious or is likely to occur. Since the extent of public exposure and/or the likelihood or seriousness of injury are ordinarily not known at the time a defect first manifests itself, subject firms are urged to report if in doubt as to whether a defect could present a substantial product hazard. On a case-by-case basis the Commission and the staff will determine whether a defect within the meaning of section 15 of the CPSA does, in fact, exist and whether that defect presents a substantial product hazard. Since a consumer product may be defective even if it is designed, manufactured, and marketed exactly as intended by a subject firm, subject firms should report if in doubt as to whether a defect exists. Defect, as discussed in this section and as used by the Commission and staff, pertains only to interpreting and enforcing the Consumer Product Safety Act. The criteria and discussion in this section are not intended to apply to any other area of the law.

§§ 1115.5–1115.9 [Reserved]

§ 1115.10 Persons who must report and where to report.

(a) Every manufacturer (including importer), distributor, or retailer of a consumer product that has been distributed in commerce who obtains information that such consumer product contains a defect which could create a substantial risk of injury to the public shall immediately notify the Product Defect Correction Division, Consumer Product Safety Commission, Washington, D.C. 20207 (telephone: 301–492–6608), or such other persons as may be designated. Manufacturers (including importers), distributors, and retailers of consumer products subject to regulation by the Commission under provisions of the FFA, FHSA, PPPA, as well as consumer products subject to regulation under the CPSA and RSA, must comply with this requirement.

(b) Every manufacturer (including importer), distributor, or retailer of a consumer product that has been distributed in commerce who obtains information that such consumer product fails to comply with an applicable consumer product safety standard or ban issued under the CPSA shall immediately notify the Commission's Product Defect Correction Division or such other persons as may be designated. A subject firm need not report a failure to comply with a standard or regulation issued under the provisions of the RSA, FFA, FHSA, or PPPA unless it can be reasonably concluded that the failure to comply results in a defect which could create a substantial product hazard. (See § 1115.10(a).)

(c) A distributor or retailer of a consumer product (who is neither a manufacturer nor an importer of that product) is subject to the reporting requirements of section 15(b) of the CPSA but may satisfy them by following the procedure detailed in § 1115.13(b).

(d) A manufacturer (including an importer), distributor, or retailer need not inform the Commission under section 15(b) of the CPSA if that person has actual knowledge that the Commission has been adequately informed of the defect or failure to comply. (See section 15(b) of the CPSA.)

§ 1115.11 Imputed knowledge.

(a) In evaluating whether or when a subject firm should have reported, the Commission will deem a subject firm to have obtained reportable information when the information has been received by an official or employee who may reasonably be expected to be capable of appreciating the significance of the information. (See § 1115.14(b).)

(b) In evaluating whether or when a subject firm should have reported, the Commission will deem a subject firm to know what a reasonable person acting in the circumstances in which the firm finds itself would know. Thus, the subject firm shall be deemed to know what it would have known if it had exercised due care to ascertain the truth of complaints or other representations. This includes the knowledge a firm would have if it conducted a reasonably expeditious investigation in order to evaluate the reportability of a death or grievous bodily injury or other information. (See § 1115.14.)

§ 1115.12 Information which should be reported: evaluating substantial product hazard.

(a) *General.* Subject firms should not delay reporting in order to determine to a certainty the existence of a noncompliance or a defect and the substantiality of a possible hazard. The obligation to report arises upon receipt of information from which one could reasonably conclude the existence of a noncompliance or of a defect which could create a substantial product hazard. Thus an obligation to report may arise when a subject firm receives the first information regarding a potential hazard or noncompliance. (See § 1115.14(c).) A subject firm in its report to the Commission need not admit or may specifically deny that the information it submits reasonably supports the conclusion that its consumer product is noncomplying or contains a defect which could create a substantial product hazard within the meaning of section 15(b) of the CPSA. After receiving the report, the staff will preliminarily determine whether the noncompliance or defect presents a substantial product hazard. This determination can be based on information supplied by a subject firm or from any other source. If the matter is adjudicated, the Commission will ultimately make the decision as to

substantial product hazard or will seek to have a court make the decision as to imminent product hazard.

(b) *Failure to comply.* Information indicating that a consumer product fails to comply with an applicable consumer product safety standard or ban issued under the CPSA must be reported.

(c) *Death or grievous bodily injury.* Information indicating that a noncompliance or a defect in a consumer product has caused, may have caused, or contributed to the causing, or could cause or contribute to the causing of a death or grievous bodily injury (e.g., mutilation, amputation/dismemberment, disfigurement, loss of important bodily functions, debilitating internal disorders, severe burns, severe electrical shocks, and injuries likely to require extended hospitalization) must be reported, unless the subject firm has investigated and determined that the information is not reportable.

(d) *Other information indicating a defect or noncompliance.* Even if there are no reports of a potential for or an actual death or grievous bodily injury, other information may indicate a reportable defect or noncompliance. In evaluating whether or when a subject firm should have reported, the Commission will deem a subject firm to know what a reasonable and prudent manufacturer (including an importer), distributor, or retailer would know. (See § 1115.11.)

(e) *Information which should be studied and evaluated.* The following are examples of information which a subject firm should study and evaluate in order to determine whether it is obligated to report under section 15(b) of the CPSA:

(1) Information about engineering, quality control, or production data suggesting the existence of a noncompliance or of a defect which could create a substantial product hazard.

(2) Information about safety-related production or design change(s) suggesting the existence of a noncompliance or of a defect which could create a substantial product hazard.

(3) Product liability suit(s) suggesting the existence of a noncompliance or of a defect which could create a substantial product hazard.

(4) Information from an independent testing laboratory suggesting the existence of a noncompliance or of a defect which could create a substantial product hazard.

(5) Complaint(s) from a consumer or consumer group indicating the existence of a noncompliance or of a defect which could create a substantial product hazard.

(6) Information received from the Commission or another governmental agency indicating the existence of a noncompliance or of a defect which could create a substantial product hazard.

(7) Information received from other firms, including requests to return a product or for replacement or credit, indicating the existence of a noncompliance or of a defect which could create a substantial product hazard. This includes both requests made by distributors and retailers to the manufacturer and requests from the manufacturer that products be returned.

(f) *Evaluating substantial risk of injury.* Information which should be or has been reported under section 15(b) of the CPSA does not automatically indicate the presence of a substantial product hazard. On a case-by-case basis the Commission and the staff will determine whether a defect or noncompliance exists and whether it results in a substantial risk of injury to the public. In deciding whether to report, subject firms may be guided by the following criteria the staff and the Commission use in determining whether a substantial product hazard exists:

(1) *Hazard created by defect.* Section 15(a)(2) of the CPSA lists factors to be considered in determining whether a defect creates a substantial risk of injury. These factors are set forth in the disjunctive. Therefore, the existence of any one of the factors could create a substantial product hazard. The Commission and the staff will consider some or all of the following factors, as appropriate, in determining the substantiality of a hazard created by a product defect:

(i) *Pattern of defect.* The Commission and the staff will consider whether the defect arises from the design, composition, contents, construction, finish, packaging, warnings, or instructions of the product or from some other cause and will consider the conditions under which the defect manifests itself.

(ii) *Number of defective products distributed in commerce.* Even one defective product can present a substantial risk of injury and provide a basis for a substantial product hazard determination under section 15 of the CPSA if the injury which might occur is serious and/or if the injury is likely to occur. However, a few defective products with no potential for causing serious injury and little likelihood of injuring even in a minor way will not ordinarily provide a proper basis for a substantial product hazard determination.

(iii) *Severity of the risk.* A risk is severe if the injury which might occur is serious and/or if the injury is likely to occur. In considering the likelihood of any injury the Commission and the staff will consider the number of injuries reported to have occurred, the intended or reasonably foreseeable use or misuse of the product, and the population group exposed to the product (e.g., children, elderly, handicapped).

(iv) *Other considerations.* The Commission and the staff will consider all other relevant factors.

(2) *Hazard presented by noncompliance.* Section 15(a)(1) of the CPSA states that a substantial product hazard exists when a failure to comply with an applicable consumer product safety rule creates a substantial risk of injury to the public. Therefore, the Commission and staff will consider whether the noncompliance is likely to result in injury when determining whether the noncompliance creates a substantial product hazard. As appropriate, the Commission and staff may consider some or all of the factors set forth in § 1115.12(f)(1) in reaching the substantial product hazard determination.

§ 1115.13 Content and form of reports; delegations of authority.

(a) *Written reports.* The chief executive officer of the subject firm should sign any written reports to the Commission under section 15(b) of the CPSA unless this responsibility has been delegated by filing a written delegation of authority with the Commission's Product Defect Correction Division. Delegations of authority filed with the Commission under section 1115.9 of the previous regulations interpreting section 15 of the CPSA will remain in effect until revoked by the chief executive officer of the subject firm. The delegation may be in the following form:

DELEGATION OF AUTHORITY

(Name of company) — ————————.

I ———————— hereby certify that I am Chief Executive Officer of the above-named company and that as such I am authorized to sign documents and to certify on behalf of said company the accuracy and completeness of information in such documents.

Pursuant to the power vested in me, I hereby delegate all or, to the extent indicated below, a portion of that authority to the person listed below.

This delegation is effective until revoked in writing. Authority delegated to:

(Name)————————————————

(Address) ————————————————

(Title) ————————————————

Extent of authority: ————————

————————————————————

————————————————————

Signed:

(Name)————————————————

(Address) ————————————————

(Title) ————————————————

(b) *Distributors and retailers.* A distributor or retailer of a possibly defective or noncomplying consumer product (who is neither a manufacturer nor an importer of that product) satisfies the initial reporting requirements either by telephoning or writing the Product Defect Correction Division, Consumer Product Safety Commission, Washington, D.C. 20207; by sending a letter describing the defective or noncomplying product to the manufacturer (or importer) of the product and sending a copy of the letter to the Commission's Product Defect Correction Division; or by forwarding to the Commission's Product Defect Correction Division reportable information received from another firm. A distributor or retailer who receives reportable information from a manufacturer (or importer) shall report to the Commission unless the manufacturer (or im-

porter) informs the distributor or retailer that a report has been made to the Commission. A report under this subsection should contain the information detailed in § 1115.13(c) insofar as it is known to the distributor or retailer. Unless further information is requested by the staff, this action will constitute a sufficient report insofar as the distributor or retailer is concerned.

(c) *Initial report.* Immediately after a subject firm has obtained information which reasonably supports the conclusion that a product fails to comply with an applicable consumer product safety rule or contains a defect which could create a substantial risk of injury to the public, the subject firm should provide the Product Defect Correction Division, Consumer Product Safety Commission, Washington, D.C. 20207 (telephone: 301-492-6608), with an initial report containing the information listed below. This initial report may be made by any means; but if it is not in writing, it should be confirmed in writing within 48 hours of the initial report. (See § 1115.14 for time computations.) The initial report should contain, insofar as is reasonably available and/or applicable:

(1) An identification and description of the product.

(2) The name and address of the manufacturer (or importer) or, if the manufacturer or importer is not known, the names and addresses of all known distributors and retailers of the product.

(3) The nature and extent of the possible defect or the failure to comply with an applicable consumer product safety rule.

(4) The nature and extent of the injury or risk of injury associated with the product.

(5) The name and address of the person informing the Commission.

(6) To the extent such information is then reasonably available, the data specified in § 1115.13(d).

(d) *Full report.* Subject firms which file initial reports are required to file full reports in accordance with this subsection. Retailers and distributors may satisfy their reporting obligations in accordance with 1115.13(b). At any time after an initial report, the staff may modify the requirements detailed in this section with respect to any subject firm. If the staff preliminarily determines that there is no substantial product hazard, it may inform the firm that its reporting obligation has been fulfilled. However, a subject firm would be required to report if it later became aware of new information indicating a reportable defect or noncompliance, whether the new information related to the same or another consumer product. Unless modified by staff action, the following information, to the extent that it is reasonably available and/or applicable, constitutes a "full report," must be submitted to the staff, and must be supplemented or corrected as new or different information becomes known:

(1) The name, address, and title of the person submitting the "full report" to the Commission.

(2) The name and address of the manufacturer (or importer) of the product and the addresses of the manufacturing plants for that product.

(3) An identification and description of the product(s). Give retail prices, model numbers, serial numbers, and date codes. Describe any identifying marks and their location on the product. Provide a picture or a sample of the product.

(4) A description of the nature of the defect or failure to comply with an applicable consumer product safety rule. If technical drawings, test results, schematics, diagrams, blueprints, or other graphic depictions are available, attach copies.

(5) The nature of the injury or the possible injury associated with the product defect or failure to comply with an applicable consumer product safety rule.

(6) The manner in which and the date when the information about the defect or noncompliance (e.g., complaints, reported injuries, quality control testing) was obtained. If any complaints related to the safety of the product or any allegations or reports of injuries associated with the product have been received, copies of such complaints or reports (or a summary thereof) shall be attached. Give a chronological account of facts or

events leading to the report under section 15(b) of the CPSA, beginning with receipt of the first information which ultimately led to the report. Also included may be an analysis of these facts or events.

(7) The total number of products and units involved.

(8) The dates when products and units were manufactured, imported, distributed, and sold at retail.

(9) The number of products and units in each of the following: in the possession of the manufacturer or importer, in the possession of private labelers, in the possession of distributors, in the possession of retailers, and in the possession of consumers.

(10) An explanation of any changes (e.g., designs, adjustments, additional parts, quality control, testing) that have been or will be effected to correct the defect or failure to comply and of the steps that have been or will be taken to prevent similar occurrences in the future together with the timetable for implementing such changes and steps.

(11) Information that has been or will be given to purchasers, including consumers, about the defect or noncompliance with a description of how this information has been or will be communicated. This shall include copies or drafts of any letters, press releases, warning labels, or other written information that has been or will be given to purchasers, including consumers.

(12) The details of and schedule for any contemplated refund, replacement, or repair actions, including plans for disposing of returned products (e.g., repair, destroy, return to foreign manufacturer).

(13) A detailed explanation and description of the marketing and distribution of the product from the manufacturer (including importer) to the consumer (e.g., use of sales representatives, independent contractors, and/or jobbers; installation of the product, if any, and by whom).

(14) Upon request, the names and addresses of all distributors, retailers, and purchasers, including consumers.

(15) Such further information necessary or appropriate to the functions of the Commission as is requested by the staff.

§ 1115.14 Time computations.

(a) *General.* Weekends and holidays are excluded from the computation of the time periods in this part.

(b) *Imputing knowledge.* In evaluating whether or when a firm should have reported, the Commission shall impute to the subject firm knowledge of product safety related information received by an official or employee of a subject firm capable of appreciating the significance of the information. Under ordinary circumstances, 5 days should be the maximum reasonable time for information to reach the Chief Executive Officer or the official or employee responsible for complying with the reporting requirements of section 15(b) of the CPSA. The Commission will impute knowledge possessed by the Chief Executive Officer or by the official or employee responsible for complying with the reporting requirements of section 15(b) of the CPSA simultaneously to the subject firm.

(c) *Time when obligation to report arises.* The obligation to report under section 15(b) of CPSA may arise upon receipt by a subject firm of the first information regarding a noncompliance or a potential hazard presented by a product defect. Information giving rise to a reporting obligation may include, but is not limited to, complaints, injury reports, quality control and engineering data. A subject firm should not await complete or accurate risk estimates before reporting under section 15(b) of CPSA. However, if information is not clearly reportable, a subject firm may spend a reasonable time for investigation and evaluation. (See § 1115.14(d).)

(d) *Time for investigation and evaluation.* A subject firm may conduct a reasonably expeditious investigation in order to evaluate the reportability of a death or grievous bodily injury or other information. This investigation and evaluation should not exceed 10 days unless a firm can demonstrate that a longer period is reasonable. The Commission will deem that, at the end of 10 days, a subject firm has received and considered all information which would have been available to it had a reasonable, expeditious, and diligent investigation been undertaken.

(e) *Time to report.* Immediately, that is, within 24 hours, after a subject firm has obtained information which reasonably supports the conclusion that its consumer product fails to comply with an applicable consumer product safety rule or contains a defect which could create a substantial risk of injury to the public, the firm should report. (See § 1115.13.) If a firm elects to conduct an investigation in order to evaluate the existence of reportable information, the 24-hour period begins when the subject firm has information which reasonably supports the conclusion that its consumer product fails to comply with an applicable consumer product safety rule or contains a defect which could create a substantial product hazard. Thus, a firm could report to the Commission before the conclusion of a reasonably expeditious investigation and evaluation if the reportable information becomes known during the course of the investigation. In lieu of conducting an investigation, the firm may report the information immediately.

§ 1115.15 Confidentiality and disclosure of data.

(a) *General.* The Commission does not routinely make reports available to the public until the staff has made a preliminary hazard determination. Copies of reports will not be available to the public in the Commission's public reading room, and information contained in reports will not ordinarily be disclosed to the public in the absence of a formal request.

(b) *Freedom of Information Act.* Any person who submits information to the Commission who believes that any portion of the information is entitled to exemption from public disclosure under the provisions of the Freedom of Information Act, as amended (15 U.S.C. 552(b)), of the CPSA, as amended, or of another Federal statute must accompany the submission with a written request that the information be considered exempt from disclosure or indicate that a written request will be submitted within 10 working days of the submission. The request shall (1) identify the portions of the information for which exemption is claimed, which may include the identity of the reporting firm and the fact that it is making a report, and (2) state the facts and reasons which support the claimed exemption. After the staff has made its preliminary hazard determination, and regardless of whether or not the staff preliminarily determines that a product presents a substantial product hazard, the Commission will no longer honor requests for exempt status for the identity of the reporting firm, the identity of the consumer product, and the nature of the reported alleged defect or noncompliance. This information, together with the staff's preliminary hazard determination, will be made available to the public in the Commission's public reading room. Information for which exempt status is claimed (such as alleged trade secrets, confidential commercial or financial information, or information the disclosure of which would constitute an unwarranted invasion of personal privacy) shall not be released to the public except in accordance with the applicable statute or the Commission's Freedom of Information Act regulations (16 CFR 1015).

(c) *Section 6(b) of the CPSA.* The Commission believes that the first two sentences in section 6(b)(1) of the CPSA (15 U.S.C. 2055(b)(1)) apply to affirmative dissemination of information by the Commission (such as press releases or fact sheets distributed to the public) from which the public may ascertain readily the identity of the product's manufacturer and/or private labeler. Manufacturers and private labelers will ordinarily be given 30 days' notice before the Commission makes such affirmative disseminations. However, this 30-day notice will not apply if the Commission finds that a lesser notice period is required in the interest of public health and safety.

§§ 1115.16-1115.19 [Reserved]

Subpart B—Remedial Actions and Sanctions

§ 1115.20 Voluntary remedial actions.

As appropriate, the Commission will attempt to protect the public from substantial product hazards by seeking one or more of the following voluntary remedies:

(a) *Corrective action plans.* A corrective action plan is a document, signed by a subject firm, which sets forth the remedial action which the firm will voluntarily undertake to protect the public, but which has no legally binding effect. The Commission reserves the right to seek broader corrective action if it becomes aware of new facts or if the corrective action plan does not sufficiently protect the public.

(1) Corrective action plans shall include, as appropriate:

(i) A statement of the nature of the alleged hazard associated with the product, including the nature of the alleged defect or noncompliance and type(s) of injury or potential injury presented.

(ii) A detailed statement of the means to be employed to notify the public of the alleged product hazard (e.g., letter, press release, advertising), including an identification of the classes of persons who will receive such notice and a copy or copies of the notice or notices to be used.

(iii) A specification of model number and/or other appropriate descriptions of the product.

(iv) Any necessary instructions regarding use or handling of the product pending correction.

(v) An explanation of the specific cause of the alleged substantial product hazard, if known.

(vi) A statement of the corrective action which will be or has been taken to eliminate the alleged substantial product hazard. The firm should indicate whether it is repairing or replacing the product or refunding its purchase price. If products are to be returned to a subject firm, the corrective action plan should indicate their disposition (e.g., reworked, destroyed, returned to foreign manufacturer). Samples of replacement products and relevant drawings and test data for repairs or replacements should be available.

(vii) A statement of the steps that will be, or have been, taken to reasonably prevent recurrence of the alleged substantial product hazard in the future.

(viii) A statement of the action which will be undertaken to correct product units in the distribution chain, including a timetable and specific information about the number and location of such units.

(ix) The signatures of representatives of the subject firm.

(x) An acknowledgment by the subject firm that the Commission may monitor the corrective action and that the firm will furnish necessary information, including customer lists.

(xi) An agreement that the Commission may publicize the terms of the plan to the extent necessary to inform the public of the nature and extent of the alleged substantial product hazard and of the actions being undertaken to correct the alleged hazard presented.

(xii) Additional points of agreement, as appropriate.

(xiii) If desired by the subject firm, the following statement or its equivalent: "The submission of this corrective action plan does not constitute an admission by (the subject firm) that either reportable information or a substantial product hazard exists."

(xiv) An acknowledgment that the corrective action plan becomes effective only upon its final acceptance by the Commission.

(2) In determining whether to recommend to the Commission acceptance of a corrective action plan, the staff shall consider favorably both the promptness of the subject firm's reporting and any remedial actions taken by the subject firm in the interest of public safety. The staff also shall consider, insofar as possible, prior involvement by the subject firm in corrective action plans and Commission orders if such involvement bears on the likelihood that the firm will comply fully with the terms of the corrective action plan.

(3) Upon receipt of a corrective action plan and staff recommendation, the Commission may: (i) approve the plan; (ii) reject the plan and issue a complaint (in which case an administrative and/or judicial proceeding will be commenced); or (iii) take any other

action necessary to insure that the plan is adequate.

(4) When time permits and where practicable in the interest of protecting the public, a summary of the plan shall be published in the Commission's Public Calendar. Those portions of the plan that are not restricted will be made available to the public in the Commission's public reading room as much in advance of the Commission meeting as practicable. Any interested person wishing to comment on the plan must file a Notice of Intent to Comment at least forty-eight (48) hours prior to the commencement of the Commission meeting during which the plan will be discussed. If no notices of intent are received, the Commission may take final action on the plan. If such notice is received within the time limits detailed above, the plan will, if practicable, be docketed for the following week's agenda. All comments must be in writing, and final written comments must be submitted at least forty-eight (48) hours before that session.

(b) *Consent Order Agreements Under Section 15 of CPSA.* The consent order agreement (agreement) is a document executed by a subject firm (Consenting Party) and a Commission staff representative which incorporates both a proposed complaint setting forth the staff's charges and a proposed order by which such charges are resolved.

(1) Consent order agreements shall include, as appropriate:

(i) An admission of all jurisdictional facts by the Consenting Party.

(ii) A waiver of any rights to an administrative or judicial hearing and of any other procedural steps, including any rights to seek judicial review or otherwise challenge or contest the validity of the Commission's Order.

(iii) A statement that the agreement is in settlement of the staff's charges.

(iv) A statement that the Commission's Order is issued under section 15 of the CPSA (15 U.S.C. 2064) and that a violation is a prohibited act within the meaning of section 19(a)(5) of the CPSA (15 U.S.C. 2068(a)(5)) and may subject a violator to civil and/or criminal penalties under sections 20 and 21 of the CPSA (15 U.S.C. 2069 and 2070).

(v) An acknowledgment that the Commission reserves its right to seek sanctions for any violations of the reporting obligations of section 15(b) of CPSA (15 U.S.C. 2064(b)) and its right to take other appropriate legal action.

(vi) An acknowledgment that the agreement becomes effective only upon its final acceptance by the Commission and its service upon the Consenting Party.

(vii) An acknowledgment that the Commission may disclose terms of the consent order agreement to the public.

(viii) A listing of the acts or practices from which the Consenting Party will refrain.

(ix) A statement that the Consenting Party shall perform certain acts and practices pursuant to the agreement.

(x) An acknowledgment that any interested person may bring an action pursuant to section 24 of the CPSA (15 U.S.C. 2073) in any U.S. district court for the district in which the Consenting Party is found or transacts business to enforce the order and to obtain appropriate injunctive relief.

(xi) A description of the alleged substantial product hazard.

(xii) If desired by the Consenting Party, the following statement or its equivalent: "The signing of this consent order agreement does not constitute an admission by (the Consenting Party) that either reportable information or a substantial product hazard exists."

(xiii) The elements of a corrective action plan as set forth in § 1115.20(a).

(2) At any time in the course of an investigation, the staff may propose to a subject firm which is being investigated that some or all of the allegations be resolved by a consent order agreement. Additionally, such a proposal may be made to the staff by a subject firm.

(3) Upon receiving an executed agreement, the Commission may: (i) provisionally accept it; (ii) reject it and issue a complaint (in which case an administrative and/or judicial proceeding will be commenced); or (iii) take such other action as it may deem appropriate.

(4) If the consent order agreement is provisionally accepted, the Commission shall place the agreement on the public record and shall announce provisional acceptance of the agreement in the Commission's public calendar and in the FEDERAL REGISTER. Any in-

terested person may request the Commission not to accept the agreement by filing a written request in the Office of the Secretary. Such written request must be received in the Office of the Secretary no later than the close of business of the fifteenth (15th) calendar day following the date of announcement in the FEDERAL REGISTER.

(5) If the Commission does not receive any requests not to accept the agreement within the time period specified above, the consent order agreement shall be deemed finally accepted by the Commission on the twentieth (20th) calendar day after the date of announcement in the FEDERAL REGISTER, unless the Commission determines otherwise. However, if the Commission does receive a request not to accept the consent order agreement, then it will consider such request and vote on the acceptability of such agreement or the desirability of further action. After the consent order agreement is finally accepted, the Commission may then issue its complaint and order in such form as the circumstances may require. The order is a final order in disposition of the proceeding and is effective immediately upon its service upon the Consenting Party pursuant to the Commission's Rules of Practice for Adjudicative Proceedings (16 CFR 1025). The Consenting Party shall thereafter be bound by and take immediate action in accordance with such final order.

(6) If the Commission does not accept the consent order agreement on a final basis, it shall so notify the Consenting Party. Such notification constitutes withdrawal of the Commission's provisional acceptance unless the Commission orders otherwise. The Commission then may: (i) Issue a complaint, in which case an administrative and/or judicial proceeding will be commenced; (ii) order further investigation; or (iii) take such other action as it may deem appropriate.

§ 1115.21 Compulsory remedial actions.

As appropriate, the Commission will attempt to protect the public from hazards presented by consumer products by seeking one or more of the following:

(a) *Adjudicated Commission Order.* An adjudicated Commission Order under section 15 (c) or (d) of the CPSA may be issued after parties and interested persons have had an opportunity for a hearing in accordance with section 554 of title 5, United States Code, and with section 15(f) of the CPSA. This hearing is governed by the Commission's Rules of Practice for Adjudicative Proceedings (16 CFR 1025).

(b) *Injunctive relief.* The Commission may apply to a U.S. district court in accordance with the provisions of section 15(g) of the CPSA for a preliminary injunction to restrain the distribution in commerce of a product it has reason to believe presents a substantial product hazard. The Commission may seek enforcement of its orders issued under sections 15 (c) and (d) of the CPSA in accordance with provisions of sections 22 and 27(b)(7) of the CPSA (15 U.S.C. 2071 and 2076(b)(7)).

(c) *Judicial determination of imminent hazard.* The Commission may file a complaint in a U.S. district court in accordance with the provisions of section 12 of the CPSA (15 U.S.C. 2061).

(d) *Orders of the Secretary of the Treasury.* The Commission staff may inform the Secretary of the Treasury that a consumer product offered for importation into the customs territory of the United States fails to comply with an applicable consumer product safety rule and/or has a product defect which constitutes a substantial product hazard. The Commission may request the Secretary of the Treasury under section 17 of the CPSA (15 U.S.C. 2066) to refuse admission to any such consumer product.

§ 1115.22 Prohibited acts and sanctions.

(a) *Statements generally.* Whoever knowingly and willfully falsifies, or conceals a material fact in a report under the CPSA and rules thereunder, is subject to criminal penalties under 18 U.S.C. 1001.

(b) *Timeliness and adequacy of reporting.* A failure to inform the Commission immediately and adequately, as required by section 15(b) of the CPSA, is a prohibited act within section 19(a)(4) of the CPSA (15 U.S.C. 2068(a)(4)).

(c) *Failure to make reports.* The failure or refusal to make reports or provide information as required under the CPSA is a prohibited act within the meaning of section 19(a)(3) of the CPSA (15 U.S.C. 2068(a)(3)).

(d) *Noncomplying products.* The manufacture for sale, offering for sale, distribution in commerce, and/or importation into the United States of a consumer product which is not in conformity with an applicable consumer product safety rule under CPSA is a prohibited act within the meaning of sections 19 (a)(1) and (a)(2) of the CPSA (15 U.S.C. 2068 (a)(1) and (a)(2)).

(e) *Orders issued under section 15 (c) and/or (d).* The failure to comply with an order issued under section 15 (c) and/or (d) of the CPSA is a prohibited act within the meaning of section 19(a)(5) of the CPSA (15 U.S.C. 2068(a)(5)).

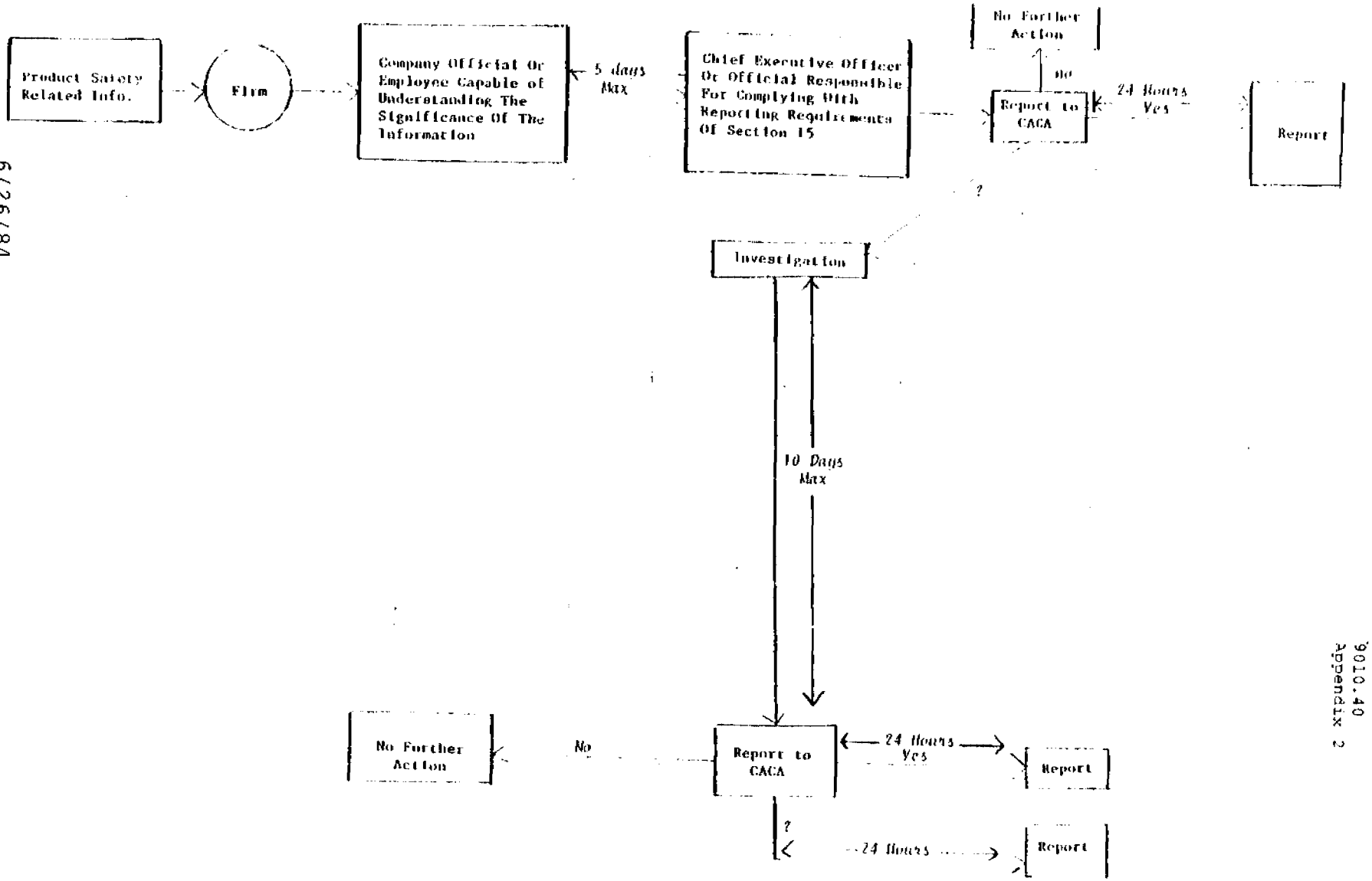
(f) *Consequences of engaging in prohibited acts.* A knowing violation of section 19(a) of the CPSA subjects the violator to a civil penalty in accordance with section 20 of the CPSA (15 U.S.C. 2069). "Knowing," as defined in section 20(c) of the CPSA (15 U.S.C. 2069(c)), means the having of actual knowledge or the presumed having of knowledge deemed to be possessed by a reasonable person who acts in the circumstances, including knowledge obtainable upon the exercise of due care to ascertain the truth of representations. A knowing and willful violation of section 19(a), after the violator has received notice of noncompliance, subjects the violator to criminal penalties in accordance with section 21 of the CPSA (15 U.S.C. 2070).

Dated: July 31, 1978.

SHELDON D. BUTTS,
Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 78-21811 Filed 8-4-78; 8:45]

Published in
Federal Register
August 7, 1978



FLOW CHART FOR TIME COMPUTATIONS FOR INITIAL REPORT

SECTION 15 INVESTIGATION STATUS SHEET

Investigation #_____

Priority_____

TO: Corrective Actions Division

FROM: _____Regional Office

DATE: _____

IDI#: _____ Other Lead: _____

FIRM AND PRODUCT:

PROBLEM:

NO FOLLOW-UP ☐ RATIONALE:

REGIONAL OFFICE PLANS FOR FOLLOW-UP INVESTIGATION

TIMETABLE

ESTABLISHMENT INSPECTION ☐ DATE: _____

OTHER INVESTIGATION

OTHER IDIs ☐

SAMPLE ANALYSIS ☐

OTHER. EXPLAIN ☐

DATE REGIONAL OFFICE SUMMARY AND RECOMMENDATION WILL BE SUBMITTED_____

ASSISTANCE NEEDED FROM CACA/COMMENTS:

FLOW CHART FOR REGIONAL OFFICE REVIEW AND EVALUATION PROCESS

APPENDIX 5: SUMMARY AND RECOMMENDATION FORMAT

UNITED STATES GOVERNMENT

Memorandum

U.S. CONSUMER PRODUCT SAFETY COMMISSION

TO: Corrective Actions Division
(Attention: Compliance Officer, if known)
Through: Regional Office Director

DATE:

FROM: Compliance Officer

SUBJECT: Summary and Recommendation
Firm Name
Firm Address
Product Identification

I. Recommendation (In one or two sentences, state what the Regional Office recommends as follow-up and why.)

II. Summary of Investigation

A. Injuries, Complaints and Lawsuits (Give the number and nature of severity of injuries. Reference IDIs and attach copies. Summarize consumer complaints, claims, lawsuits, and other incident data.)

B. Results of Inspection or Other Contacts with Firm (What is the firm's explanation of the problem, quality control, testing, redesign, product changes, silent recalls. Attach a copy of the EIR and its exhibits.)

C. Technical Assessment (Optional. In many cases this may not yet be available to the Regional Office.)

D. Other Information

III. Assessment (What is the potential defect which causes the product to be hazardous, the pattern of the defect, the number of defective products, the likelihood and severity of the injury.)

IV. Timeliness (When firm learned of the problem and how it was learned. Avoid making conclusions of a legal nature such as "The product is obviously not a substantial product hazard" or "No timeliness violation was found." State the facts and your recommendation based upon the facts. For example, "The XYZ Regional Office recommends no further investigation at this time because . . . " and "Officials of the firm state that they first learned of the problem when the XYZ investigator informed them of the injury report during the inspection of 12/20/81."

7. Further Actions (Recommendations for further investigation, further actions already being undertaken, or referrals to another Regional Office should be discussed.)

Attachments (Attachments should be listed at the bottom of the memorandum. Attachments could include IDIs, Establishment Inspection reports, any other information gathered during the field investigation such as depositions, information from private attorneys, information from state governments, etc. All of the above should be attached to the memorandum unless you have spoken with the appropriate CACA person and have reached a mutual agreement not to attach the copies.)

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(Attention: Compliance Officer, if known)
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UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION

DIRECTIVES SYSTEM **ORDER NO. 9010.72 December 15, 2003**

FIELD CONSUMER INFORMATION PROGRAM

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1. **PURPOSE.** This directive establishes policies and procedures and assigns responsibilities for planning, implementation, and assessment of the Field Consumer Information Program.

2. **SCOPE.** This directive applies primarily to the operational relationships between public affairs personnel in headquarters and the field. The Field Consumer Information Program is a component of the Commission Consumer Information Program and does not include the entire range of public, media, or technical information dissemination activities or responsibilities of the Office of Information and Public Affairs (EXPA), the field, or other organizational units.

3. **OFFICE RESPONSBLE FOR THIS DIRECTIVE.** The Directorate for Field Operations (EXFO) is responsible for this directive.

4. **CANCELLATION.** This issuance cancels Order 9010.72, Information and Education Program, dated February 29, 1998.

5. **REFERENCE.** Commission Order 1450.2, Clearance Procedures For Providing Information To The Public.

6. **PROGRAM GOALS AND DESCRIPTION.**

   a. **Program Goals.** The goals of the Field Consumer Information Program are to provide information at the field office level which will increase consumer awareness of the risks associated with consumer products, promote safe-use practices and assist consumers in evaluating the comparative safety of consumer products.

   b. **Program Description.**

      (1) The Commission annually conducts both ongoing information campaigns and special information campaigns. Ongoing seasonal campaigns cover safety topics such as Toy/Holiday Safety, Poison

Prevention, Pool Safety, Fire Safety, Child Safety, National Consumer's Week, Halloween Safety and Fireworks. Special campaigns address consumer product safety issues which follow-up on Commission regulatory activities. These campaigns include Electrical Safety, Nursery Equipment/Baby Safety, and Safety for Older Consumers. The Commission develops and distributes publications and responds to consumer and media requests for information. Commission field personnel work collaboratively with local offices of federal, state, and county governments, Regional, State and local health and safety organizations, educational institutions, industry, and consumer groups to provide consumer product safety information to their constituents and communication networks. The Commission staff participates in special events including conferences, workshops and consumer information exhibits.

(2) The Field Consumer Information Program disseminates consumer product safety information through the news media; develops and distributes publications; encourages the media, business, industry, State and local governments, and consumer-oriented organizations to undertake product safety information efforts; and encourages education systems to incorporate consumer product safety content in their curricula.

7. RESPONSIBILITIES.

a. The Office of Information and Public Affairs (EXPA).

(1) EXPA is responsible for the development and evaluation of a comprehensive national Consumer Information Program designed to promote consumer product safety. This includes the development of informational materials and provides oversight for an Annual Consumer Information Program Field Plan. The Annual Consumer Information Program Field Plan will consist of a series of ongoing/seasonal information campaigns and special events, and reporting requirements for each campaign. EXPA will develop and maintain Consumer Information Campaign Guidelines to assist field staff in the implementation of Consumer Information Programs. These Guidelines will include strategies, methods and techniques for planning and implementing information campaigns, exhibits and special events.

(2) EXPA Public Affairs Specialists, in consultation with headquarters technical staff, develop public information activities. Certain of these activities are components of individual hazard program projects.

(3) Public Affairs Specialists in EXPA will assist field personnel with the development of publications, speeches and other information materials, comprehensive data, guidelines and consultation in the planning and implementation of local campaigns and special events such as exhibits and workshops.

b. **The Directorate for Field Operations (EXFO).**

(1) EXFO is responsible for directing the Field Consumer Information Program and collaborating with other CPSC Headquarters' Offices and Directorates on consumer information initiatives. EXFO approves all program proposals for the field and works closely with EXPA to assure effective headquarters-field relationships and the proper allocation of resources to support the Commission's consumer information program priorities in the field. It approves the Annual Consumer Information Program Field Plan, establishes additional reporting requirements and evaluates performance.

(2) EXFO will develop and evaluate field Consumer Outreach Programs. Consumer Information Officers are responsible for the implementation of these programs, as well as local information campaigns and activities consistent with the broader Consumer Information Program Field Plan developed by the Office of Information and Public Affairs. Implementation at the Regional, State, and local level include the following tasks:

(a) Development of Campaign Implementation Plans;

(b) Contacts with Federal, State and local organizations;

(c) Contacts with local media sources;

(d) Dissemination of materials and encouraging reprinting of CPSC publications by non-CPSC organizations;

(e) Conduct of Regional, State, and local information campaigns and special events;

(f) Assessment of individual campaigns;

(g) Preparation and submission of reports on designated Field Consumer Information Program activities; and

(h) Congressional visits.

8. **PROGRAM PLANNING.**

a. **Budget and Operating Plans.**

(1) Field staff resources are allocated to the Consumer Information Program as part of the deliberative process involved in developing the Commission's annual budget and operating plans. The Commission's budget planning begins with the selection of hazard program projects that present the most serious risks of injury to consumers. Certain projects include resources to fund a consumer information component of the project.

(2) In addition, resources are devoted annually to ongoing/seasonal consumer information campaigns. Such campaigns include: Toy/Holiday Safety; National Poison Prevention Week; Pool Safety; Child Safety; National Consumers Week; Halloween Safety; Fire Prevention Week; Fireworks and Other Fire Safety Information; Infant Safety; and Electrical Safety. In addition, resources are devoted to special events such as staffing exhibits and presenting speeches and participating in meetings and conferences with industry, consumer groups, voluntary organizations and local organizations. These resources are found under EXPA's budget.

b. **Annual Consumer Information Program Field Plan.** The Office of Information and Public Affairs will develop an Annual Consumer Information Program Field Plan for each fiscal year based on the resources and projects included in the annual operating plan. The Annual Field Plan will be completed prior to the beginning of the fiscal year and include overall guidance to the field concerning program goals, specific campaigns planned with time-frames, and general guidance regarding new campaigns and materials that will be developed and made available. Prior to each campaign included in the Annual Consumer Information Program Field Plan, specific instructions and guidance will be provided at least 45 days in advance to permit field staff to develop detailed Campaign Implementation Plans tailored to local audiences.

c. **Campaign Implementation Plans**. The Supervisory Consumer Information Officer will supervise the development of Campaign Implementation Plans for campaigns included in the Annual Consumer Information Program Field Plan. Implementation plans will concentrate on working with the media, consumer organizations, businesses and industries, schools, and other State and local organizations that will carry forth the product safety message to diversified groups. Leveraging efforts will be pursued to enable the Commission to reach the maximum number of people with the limited consumer information resources available. In addition, special groups of consumers will be targeted such as low-income, elderly, new parents, and non-English speaking.

(1) Campaign Implementation Plans will include, at a minimum, the following information:

(a) Name of the campaign;

(b) Identification of the target audience(s);

(c) Means of dissemination (e.g., type of media - newspapers, publications, radio-TV; public education systems; State and local governments or other organizations);

(d) Names and/or types of organizations to be contacted and what they will be requested to do;

(e) Materials to be disseminated;

(f) Schedule of major events/milestones; and

(g) Description of objectives, leveraging efforts, etc.

d. **Campaign Implementation Plan Approval.** Individual Campaign Plans will be approved by the Regional Center Director. Copies of all Plans will be forwarded to EXPA who will clear them with technical directorates and through the Associate Executive Director for Field Operations specified in Directive No. 1450.2.

9. CAMPAIGN REPORTING.

a. Following the completion of each Campaign, the Supervisory Consumer Information Officer will coordinate the submission of Campaign Reports, copies of which will be forwarded to EXPA through Regional Office Directors and the Associate Executive Director for Field Operations. Campaign Reports shall, at a minimum, include the following:

(1) Name of the campaign;

(2) Starting and completion dates;

(3) Names of organizations contacted;

(4) Materials disseminated including numbers of copies;

(5) An estimate of leveraging effects; and

(6) A narrative assessment of accomplishments including the adequacy of Headquarters support, quality of materials provided, problems or unusual challenges encountered, lessons learned that may be useful to other Public Affairs Specialists both in Headquarters and the field, and recommendations for future campaigns.

b. Copies of all Reports will be forwarded to the Associate Executive Director for Field Operations and the Office of Information and Public Affairs. These Offices will periodically review Campaign Plans and Reports to ascertain the overall effectiveness of planning and implementation and to assure a nationally balanced Program.

/s/	12-15-03
Patricia Semple	**Date**
Executive Director	

Order

9010.80

12/23/83

USE OF VOLUNTEERS IN COMMISSION ACTIVITIES
(CONSUMER DEPUTY PROGRAMS)

1. PURPOSE. Provide guidelines for the use of volunteers in Commission activities (Consumer Deputy Programs).

2. SCOPE. This CPSC Order applies to all employees who use volunteers in Commission activities (Consumer Deputy Programs).

3. CANCELLATION. This Order cancels CPSC Order 9010.80, dated July 31, 1974.

4. REFERENCE. CPSC Order 0100.1, Organization - Statement of Policy, Para. 6, Policy on Public Involvement.

5. INTRODUCTION. The public interest is well served by the participation of interested, organized and resporsible volunteer members of the public serving to increase the surveillance and outreach capability of the Commission through selected and appropriate Consumer Deputy Programs.

This determination is based upon the considered results of past Consumer Deputy Programs where it was shown that volunteer surveillance was feasible and resulted in an efficient extension of the Commission's resources.

6. GUIDELINES.

The following statements will apply to all future use of volunteers in CPSC programs.

A. The selection of appropriate programs will be guided by the following requirements:

(1) that the volunteer program serve as a meaningful and complementary effort concurrent with a planned CPSC surveillance or outreach effort;

(2) that inspection activities assigned for the volunteer concentrate primarily on those applications where:

- criteria for determining compliance are clear-cut, objective, and capable of being carried out with a high degree of consistency and,

- the mechanical or technical requirements necessary for conducting the inspections are minimal, preferably limited to the simplest, readily available household tools or graphic aids provided by the Commission.

Recommendations for appropriate programs will be approved by the Executive Director before planning program-specific details.

B. Volunteers will be selected by Regional Offices without discriminating against any organization or individual. It is preferable that Consumer Deputy Groups represent more than one single organization in each region.

C. Each participating volunteer must receive adequate training prior to participation in a Consumer Deputy Program. Each program will require training that is specific to the applicable hazard or standard involved. Volunteers must receive training prior to each participation; i.e., training for one program will not qualify a volunteer for a subsequent program involving a different product or hazard.

7. RESPONSIBILITIES.

A. Regional Directors are responsible for soliciting, selecting, and training volunteers; and managing each Consumer Deputy Program initiated from CPSC Headquarters. Delegation of authority may be made only to subordinates whose ability, interest, and motivation will ensure successful participation by volunteers.

B. Regional Directors if necessary will follow up on potential violative conditions discovered through volunteer surveillance programs.

C. Regional planning input and budget estimates will be coordinated by the Office of the Executive Director and reflect sufficient recommended resources to fund Regional costs and reimburse allowable expenses to volunteers. Regional Offices may resort to

contract sources to provide assistance in training, transporting, or other administrative support. Headquarters and field procurement and reimbursement policies and guidelines will be applicable to volunteer programs.

D. An evaluation of each program will be conducted by the Office of the Executive Director.

EDGAR MORGAN
Executive Director

Order

9010.90

5/25/84

CPSC/STATE WORK-SHARING AGREEMENTS

1. PURPOSE. This guideline sets forth the authority, policy, and responsibilities for the establishment and conduct of work-sharing agreements with State and local agencies which do not involve a transfer of funds or of personal or real property.

2. AUTHORITY FOR FEDERAL/STATE COOPERATION.

a. Section 29 of the Consumer Product Safety Act (CPSA) requires the Commission to establish a program to promote Federal/ State cooperation for purposes of carrying out the Consumer Product Safety Act. Section 29(a)(1) states that the Commission may " accept from any State or local authorities engaged in activities relating to health, safety, or consumer protection assistance in such functions as injury data collection, investigation, and educational programs, as well as other assistance in the administration and enforcement of this Act which such States or localities may be able and willing to provide..."

b. Section 27(b)(6) of the CPSA states, "The Commission shall also have the power . . . to accept gifts and voluntary and uncompensated services, notwithstanding the provisions of Section 3679 of the revised Statutes (31 U.S.C. 665 (b)).

2.1. CANCELLATION. This order cancels CPSC Order 9010.90, dated 3/18/80, CPSC State Work-Sharing Agreements.

3. POLICY. It is the policy of the Consumer Product Safety Commission to initiate and enter into work-sharing programs with agencies of State or local governments whenever such cooperation creates a partnership which extends overall consumer protection through more effective utilization of the collective resources.

4. DEFINITIONS.

Work-Sharing. This term describes any arrangement between CPSC and State or local agencies wherein both parties agree to assume a portion of the activities necessary to fulfill common responsibilities. These arrangements are usually with agencies having regulatory responsibilities that are similar to CPSC's.

Proprietary and Other Confidential Information. This term describes confidential commercial information, the release of which would cause substantial competitive injury.

Commissioning. This term described in Section 29(a)(2) of the CPSA grants the Commission specific authority to commission (delegation of legal authority) qualified State and local officials to perform specific functions pursuant to Consumer Product Safety Commission responsibilities.

5. HANDLING OF PROPRIETARY AND OTHER CONFIDENTIAL INFORMATION.

a. Proprietary and Other Confidential Information. The Commission may provide copies of inspection and investigation reports to the State and local agencies, upon request, provided that the provisions of Section 29(e) of the Consumer Product Safety Act, as amended, are complied with.

Proprietary or confidential data, as defined in Section 6(a)(2) of the Consumer Product Safety Act, as amended, may be furnished to State and local agencies upon request but only to employees who are commissioned as CPSC employees (hereinafter "commissioned employees"). Proprietary or confidential information furnished to commissioned employees of State and local agencies shall be stored in a secure file which is accessible only by commissioned employees. Such data shall not be copied or incorporated into any report which is or could be accessible to any non-commissioned employee or person. Proprietary or confidential data will be provided to commissioned employees of State and local agencies for the limited purpose of the request and shall be returned to CPSC immediately after its use. In the event there is a question concerning whether data is proprietary or confidential, the Regional Office shall seek counsel from the CPSC Office of the General Counsel.

Proprietary or confidential information obtained by State and local agencies in the course of an inspection or investigation made solely pursuant to the authority of a Federal statute shall be deemed to be Commission-collected information subject to Section 6(a)(2) of the Consumer Product Safety Act. Such information may be made available only to CPSC employees and employees commissioned as CPSC employees.

b. Any accident or investigation report furnished by the Commission to a State or local agency may be made public but only in a manner which will not identify any injured person or any person treating him/her without the consent of the person so identified in accordance with Section 29(e).

Section 6(b) of the CPSA requires the Commission, not less than 30 days prior to disclosing information obtained under this Act to the public about a consumer product from which the identity of the manufacturer or private labeler of the product can be readily ascertained, to provide the manufacturer or private labeler with a summary of the information to be disclosed and an opportunity to submit comments on the information to the Commission. In addition, the Commission must take reasonable steps prior to its public disclosure to assure that such information is accurate, that disclosure is fair in circumstances, and that disclosure is reasonably related to effectuating the purposes of the Acts the Commission administers.

Accident or investigation reports are subject to the advance notice and analysis provisions of Section 6(b) of the CPSA. The CPSC is authorized, however, to share this information with other State and local agencies under Section 29 of the CPSA. (15 U.S.C. 2078) In accordance with that section, however, no State or local agency to whom such information is provided may disclose it to the public until the CPSC has complied with the advance notice and analysis provisions of Section 6 (b), 15 U.S.C. 2055(c).

The Commission will take steps to comply with Section 6(b) only if the State or local agency wishes to make the information public.

6. CONSIDERATION OF AGREEMENTS. Prior to the implementation of a work-sharing memorandum, consideration must be given to the objectives of work-sharing partnerships and how these relate to the specific program(s) under consideration. Any resultant agreement must represent a meaningful and operational partnership, and not set forth goals that are beyond the collective capabilities of both parties.

a. Capability. Both parties should be able to perform the tasks in the agreement. If one party needs additional assistance, a program of training should be included as a part of the program.

b. Priorities. While the resource allocations give a good indication of the priorities of each party, they should still be discussed to preclude any possibility of misunderstanding. In conjunction with this, philosophies and procedures should be considered and incorporated into a written agreement.

c. Authority. Each party should specify the legislative authority it currently has that enables it to enter a work-sharing agreement.

7. AREAS OF AGREEMENT. The subjects to be included under the program will be negotiated by the participants. The work-sharing policy recognizes that neither CPSC nor a State or local agency can abdicate under law its responsibilities to the consuming public or to the various legislative bodies. Consequently, the work-sharing policy requires that both partners retain for independent accomplishment some portion of the work in all areas covered by an agreement.

8. SIGNATORIES OF THE AGREEMENT. CPSC Regional Office Directors have the authority to negotiate work-sharing agreements. A copy of the draft agreement is to be forwarded to the Executive Director for concurrence prior to finalizing. The agreement is to be signed by the Regional Office Director and the Director of the State or local agency.

9. REPORTING REQUIREMENTS.

a. CPSC's original signed copy of an agreement will be maintained in the Regional Office. A copy of the signed agreement, together with any attachments, must be forwarded to the Executive Director. Also any changes made in an agreement should be recorded and a copy forwarded to the Executive Director.

b. An annual report assuring the mutual quality of the work-sharing program is required and should be forwarded to the Executive Director by the Regional Office Director.

10. AGREEMENT FORMAT AND CONTENTS. Based on the above considerations, and on discussion between the parties, the specifics of the partnership program should be reduced to writing. To insure that there is a relatively uniform national approach to the implementation of agreements, a basic format should be used. The captions to be used, and points to be included under them are listed below.

a. Purpose. Summarize the general objectives of the agreement in this section.

b. Authority. Cite both State and Federal authority which enables the State and Consumer Product Safety Commission to enter into the work-sharing agreement.

c. Work-Sharing Program. This section is the substance of the agreement and should clearly delineate the responsibilities, commitments, goals of the agreements, and the contributions of each party. Whenever possible, these should be quantified rather than just listed in general terms.

If the agreement involves inspectional and followup coverage, it should include the industry(ies) involved, planned frequency of coverage, division of responsibilities, and manpower commitments. For example, PPPA inspections within a State might be annually divided on a firm-by-firm basis, with each firm planned for annual inspection, and the State inspecting 75 percent of the firms and CPSC covering 25 percent of the firms. If work-scheduling is to be done on a periodic basis, e.g., bi-monthly, this should be specified.

d. General Provisions. This section should detail the areas of agreement that are either supportive to the main work-sharing provisions or are procedural in nature. The following provisions are suggested.

(1) Information Exchange. The types of information involved, format used, and the details of the exchange mechanism should be specified. Ideally, each party should receive sufficient information on the activities of the other to be as fully apprised of the situation as they would have been if they had done the job themselves. For example, sufficient facts should be obtained to enable either party to make a judgment on the compliance status of a firm from the inspection report. Other types of information to be exchanged may include consumer complaints, data printouts on activities for planning or other purposes, routine compilation or results of samples, etc. While exchange of information to this degree of detail is not a prerequisite for an agreement, it should be worked toward as an ultimate objective.

In addition to receiving information on State activities under an agreement, CPSC must ensure that similar information is supplied to the State in a timely manner.

Each work-sharing agreement must contain:

(a) Provisions for limiting access to trade secret and other confidential information to commissioned employees;

(b) Provisions to insure that information which identifies a manufacturer or private labeler of a consumer product is not released without prior Commission consent; and

(c) Provisions to insure that accident or investigation reports will be made public only in a manner which will not identify any injured party or any person treating him/her without the prior consent of the person so identified.

Execution of the Confidentiality Agreement at Attachment A must be completed by any commissioned employee prior to receiving trade secret or confidential data.

(2) Compliance Followup. If applicable, the agreement should cover this topic and specify the method of handling compliance problems. If any regulatory action is contemplated on the basis of the other's work, it should be detailed here.

(3) Program Review. Provisions should be made for at least one review of the agreement every year to discuss and evaluate the program and its accomplishments toward the stated goals, to make any adjustments which might be needed, and to plan for the future of cooperative programs.

(4) Training. All training or agreed to joint inspections should be covered here.

(5) Performance Evaluation. If possible, there should be some quality assurance mechanism built into each work-sharing program. The agreement should state the form of evaluation to be used by participating parties to determine the quality of each other's performance. This type of evaluation is in addition to the periodic reviews of the agreements to determine quantitative progress toward the goals of the agreement (as in 3 above).

Where the agreement covers inspections of firms, one or combinations of the following quality assurance techniques could be used:

(a) Joint inspections;

(b) Independent inspections of firms recently covered by other party(ies);

(c) Rotation of coverage of firms to enable coverage of firms previously inspected by the other party(ies);

(d) Review of reports.

If analysis of samples is shared, evaluation could include joint analysis, split samples, surveys, or review of work sheets.

The results of these evaluations should be made available to the other party to enable correction of any weaknesses. The method of exchange should be agreed to by the parties and should be specified, e.g., by memorandum, by discussions during program review, or by planning conferences, etc.

(6) Other. Additional specific sections may be added or various other provisions included under the General Provisions section. Any exceptions to the above provisions may be included here. Also, areas where one party will exercise exclusive control may be listed.

(7) Term of Agreement.

(a) The agreement should be for a specified period. However, Regional Office Directors may use their own discretion in determining the period of agreement.

(b) This section must include provisions for mutually desirable revisions or modifications during the term of the agreement proposed either by the Commission or the State or local agency, or for termination by either party upon written notice. This may be accomplished by an addendum or recorded by a memorandum which becomes a part of the agreement. It is essential that these provisions appear in all agreements.

11. AVAILABILITY TO STATE OFFICIALS. Copies of this guide may be furnished to State and local officials.

Nancy Harvey Steorts

NANCY HARVEY STEORTS
CHAIRMAN

ATTACHMENT A

CONFIDENTIALITY AGREEMENT FOR PERSONS
COMMISSIONED AS CPSC EMPLOYEES

I understand that I will have access to certain proprietary and other confidential information. This access has been granted in accordance with my official duties as a commissioned CPSC employee.

I understand that proprietary and other confidential information may only be disclosed to officers or employees of the CPSC including commissioned employees. I understand that the unauthorized disclosure of this information may subject me to civil and criminal penalties.

I agree that I will treat any proprietary or confidential material furnished to me as confidential.

I am aware that I may be subject to criminal penalties under 18 U.S.C. 1001 if I have made any statement of material facts knowing that such statement is false or if I willfully conceal any material fact.

_____ _____

Signature Date

_____

Name

CPSC

Order

9020.1

REFRIGERATOR SAFETY ACT

JUNE 7, 1974

DISTRIBUTION: CCM GHO GFO

INITIATED BY: OFFICE OF FIELD COORDINATION

CPSC FORM 101

FOREWORD

1. PURPOSE. This order provides information and guidelines for the enforcement of the Refrigerator Safety Act.

2. SCOPE. The procedures in this order are for the use of area office personnel, who perform inspections and investigations and supervise these operations.

3. REFERENCES. The following materials are references for this order.

a. Act of August 2, 1956 (15 U.S.C. 1211 et seq.) commonly known as the Refrigerator Safety Act.

b. Refrigerator Door Standards (16 CFR 1750).

CHARLES H. BOEHNE
Director
Office of Field Coordination

1. BACKGROUND.

a. Enactment. On August 2, 1956, Congress enacted a law commonly known as the Refrigerator Safety Act (See Appendix 1). Basically, the Act requires that household refrigerators be equipped with a device to permit easy opening from the inside so that children will not become entrapped and suffocate in the units. Administration of the RSA was transferred from the Department of Commerce to the Consumer Product Safety Commission under provisions of the Consumer Product Safety Act. The RSA makes it unlawful for any person to introduce into interstate commerce refrigerators manufactured after October 30, 1958, which are not equipped with a safety device which meets a prescribed standard. The standard, originally developed by the Department of Commerce, was revised and reissued by the Commission in the Federal Register on December 18, 1973 (38 F.R. 34729). In the 1974 edition of the Code of Federal Regulations, the standard appears at 16 CFR 1750 (See Appendix 2).

b. Basic Requirements.

(1) The standard defines household refrigerators as units designed for the storage of food above 32°F; and therefore, freezers are not subject to the regulation. Nevertheless, the appliance industry has voluntarily agreed to produce freezers, which meet the standard. Finally, requirements of the standard apply only to refrigerators in their normal operating position. In other words, the safety device does not have to be functional on a unit not in an upright position.

(2) Refrigerators may meet safety requirements by being equipped with a device which permits the door to be opened either by the application of an outwardly directed force to the inside of the door or by the rotation of a knob similar to a conventional doorknob. The release mechanism must be accessible from all spaces which have a minimum dimension of 8 inches and a volume of 2 cubic feet or more. The safety device must permit the refrigerator door to be opened on the application of a force equivalent to one which, if directed perpendicularly to the plane of the door and applied anywhere along the latch edge of the inside of the closed door, may not exceed 15 pounds, or allow the door to be opened on the application of clockwise or counterclockwise turning of not more than 5 inch-pounds to a knob on the door through an angle of rotation of 45° (±15°) in either direction.

(3) The safety device must remain functional after 300,000 cycles of operation of the refrigerator door and must not be adversely affected by spillage, cleaning, defrosting or condensation. Components of the safety device must not break, crack, permanently deform or show other visible damage when subjected

to the tests required by the standard. Tests covering door releasing force, knob torque, strength of device components and use simulation are specified by the standard.

2. INSPECTIONS.

a. Compliance. Verify compliance with the Refrigerator Safety Act (mandatory for refrigerators; voluntary for freezers) during routine inspections of appliance manufacturers. In addition, promptly investigate all reports (consumer complaints, trade complaints, etc.) involving refrigerators and freezers, which allegedly have a defective safety device or lack such a device.

b. Documentation. Evaluate sampling plans, equipment and procedures used by firms to assure that they are meeting the standard. Document suspected violations, and obtain a list of interstate shipments of suspect products.

3. INVESTIGATIONS. Conduct in-depth investigations in all cases involving refrigerators and freezers in which a death or serious injury occurred or could have occurred. Collect a documentary sample including photographs of the refrigerator actually involved in the accident.

4. SAMPLE COLLECTION. Collect a physical sample only after Headquarters request or approval.

5. SAMPLE ANALYSIS. Sample assignments will specify where refrigerators are to be tested.

6. IMPORTS. Imported refrigerators must comply in the same manner as domestic products. Initiate coverage on an "as needed" basis. Area offices should make Customs officials aware of CPSC interest in this area.

7. FOLLOW-UP.

a. Regulatory Action. In line with the CPSC enforcement policy that the laws administered by the Commission are to be strictly enforced, prompt regulatory action is to be initiated in all cases involving refrigerators, which do not comply with the law. A violation of the Refrigerator Safety Act is punishable by imprisonment for not more than one year, or a fine of not more than $1,000, or both. Coordinate regulatory action with the Division of Inspection and Enforcement, Bureau of Compliance.

b. Freezers. In cases involving freezers which do not meet the standard, follow-up action consists of a continuing review of reports to determine the need to issue an RSA type standard under the CPSA to cover such products.

8. REPORTING.

a. Submit all recommendations for legal action and questions of a legal nature to the Inspection and Enforcement Division, Bureau of Compliance. Such recommendations are to be accompanied by related inspection, sample collection and sample analysis reports.

b. Injury Investigation Reports. Report all investigations involving injuries or accident situations in which injuries could have resulted on Accidental Injury Investigation Reports (FD 2374a or b). In every case, submit a copy of the report to the Division of Injury Investigation, Bureau of Epidemiology. Also submit a copy to any other appropriate headquarters unit or area office. The area office in which a manufacturer, distributor, or importer of a product involved in an injury investigation is located should routinely receive a copy of the investigation report.

APPENDIX 1. REFRIGERATOR SAFETY ACT

Act of August 2, 1956, Chap. 890, Secs. 1-5, 70 Stat. 953, 15 U.S.C. Secs. 1211-1215.

An Act to require certain safety devices on household refrigerators shipped in interstate commerce.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

INTERSTATE SHIPMENT

Section 1. That it shall be unlawful for any person to introduce or deliver for introduction into interstate commerce any household refrigerator manufactured on or after the date this section takes effect unless it is equipped with a device, enabling the door thereof to be opened from the inside, which conforms with standards prescribed pursuant to section 3.

VIOLATIONS

Sec. 2. Any person who violates the first section of this Act shall be guilty of a misdemeanor and shall, upon conviction thereof, be subject to imprisonment for not more than one year, or a fine of not more than $1,000, or both.

SAFETY STANDARDS

Sec. 3. The Secretary of Commerce shall prescribe and publish in the Federal Register commercial standards for devices which, when used in or on household refrigerators, will enable the doors thereof to be opened easily from the inside; and the standards first established under this section shall be so prescribed and published not later than one year after the date of the enactment of this Act.

INTERSTATE COMMERCE

Sec. 4. As used in this Act, the term "interstate commerce" includes commerce between one State, Territory, possession, the District of Columbia, or the Commonwealth of Puerto Rico and another State, Territory, possession, the District of Columbia, or the Commonwealth of Puerto Rico.

EFFECTIVE DATE

Sec. 5. This Act shall take effect on the date of its enactment, except that the first section of this Act shall take effect one year and 90 days after the date of publication of commercial standards first established under section 3 of this Act. In the event of a change in said commercial standards first established, a like period shall be allowed for compliance with said change in commercial standards.

APPENDIX 2. REFRIGERATOR DOOR STANDARDS (16 CFR 1750)

15. U.S.C. 1211–14), enacted ...
1966, ... as well.
... Commission" means the ... Product Safety Commission ... established by the Consumer Product ... Act (Pub. L. 92–573, sec. 4, 86 Stat. ... 15 U.S.C. 2053).
... "Device" means the mechanism ... the means provided for enabling ... opening of household refrigerators ... opened from the inside.
... which all ... factured ... introduction into interstate commerce must ... This ... a ... de- ... the storage of food at tem- ... peratures above 0° C. (32° F.) ... a ... refrigeration, and intended for ... household use.
... opened" as applied to ... means to ... mechanism ... could have to ... effort in order ... shelving" ... drawer, or bas ... removed from ... the use of tools.
Transfer of fu...
... e May 14, 1973, ... nsumer Product ... 1; 15 U.S.C. 207... functions under the ... ct from the Secreta... d the Federal Trad... he Consumer Prod... on.
Scope and applications. ... standard shall apply to ... with household refri... ured and introduced ... for introduction into inters... after the effective date ... which enable such ref... ened from the inside ... ns of this standard sh... old refrigerators in ... ting position only. The ... ing feature(s) of the device shall be accessible from all spaces which (a) are bounded by interior walls or shelving, (b) are difficultly accessible when the exterior hinged door(s) is (are) opened, and (c) have a minimum dimension of 20.3 centimeters (8 inches) or more and a volume of 56.6 cubic decimeters (2 cubic feet) or ... or as the result of the normal rearrangement of any or all of the shelving.

§ 1750.4 General requirements.
... be ... directed force to the inside of the door or by the rotation of a knob ... conventional doorknob. The device shall ... render the refrigerator ... for the preservation ... and ... by or all normal conditions of ...
Detailed requirements. ...
Releasing forces. As determined ... tests prescribed by § ... the ... shall permit the refrigerator door ... to be opened on the application of a force ... equivalent to one which, if directed perpendicularly to the plane of the door and applied anywhere along the latch side of the inside of the closed door, shall not exceed 66.7 newtons (15 pounds);
... shall permit the refrigerator door to be ... on the application of ... meter (5 inch-pounds) to a knob on the ... of 45° ... to permit the ... force of 66.7 newtons (15 pounds) or less applied as described in paragraph ... section whenever space ... is (are) created with dimensions ... volumes exceeding the dimensions ... volumes imposed by § 1750.3.
Description and location. ... The knob(s) shall resemble a conventional doorknob in shape and ... and shall be mounted near the latch side ... or extending into the ... millimeters (¼ inch) ... door surface within ... (6-inch) radius of the ... The knob(s) shall be mounted in a manner that there is a minimum of 19.0 millimeter (¾-inch) clearance between the inner periphery of the ... and adjacent inner ... The knob(s) shall be located ... the accessibility ...
... *ear.* The device shall ... with the requirements of paragraph ... of this section after 300,000 ... operation of the door as determined by the tests prescribed by § 1750.6.
(d) *Protection against adverse effects from spillage, cleaning, defrosting, and condensation.* Devices shall be designed so that spillage of foods or beverages, cleaning or defrosting in accordance with ... recommendations, or ... and food ... versely affect the operation of the device as to result in its ...

[illegible] of this section as determined by the [illegible] prescribed in [illegible] [illegible] to be [illegible] as a result of [illegible] moments applied to movable com[illegible] the refrigerator. Those [illegible] a device upon which [illegible] of the device depend [illegible] rack, permanently de[illegible] other visible damage w[illegible] forces and moments [illegible] tests under § 1750.6(c). [illegible] nts of paragraph (a) o[illegible] ll be satisfied after t[illegible] n subjected to the te[illegible] c).

[illegible] wer supply. The device [illegible] accordance with the [illegible] this standard with th[illegible] other fuel supply eith[illegible]

[illegible] Tests.

[illegible] he intent of this stand[illegible] sts are not specified, th[illegible] tailed requirements [illegible] by inspection, simple [illegible] nd by consideration of [illegible] commercial practic[illegible] with the requirements o[illegible] (d), and (e) shall be [illegible] aid of the following te[illegible] [illegible] or. Th[illegible] made by [illegible] cali- br[illegible] newtons ([illegible] force of [illegible] of the [illegible] est di[illegible] (0.2 pound) [illegible] not [illegible] 133.4 newtons (30 [illegible]). [illegible] ents shall be made [illegible] point[illegible] the door near the ins[illegible] ed[illegible] point near the top o[illegible] ce created by remov[illegible] one point near the bot[illegible] midway between th[illegible] [illegible] the requirements of § 1[illegible] [illegible] be satisfied.

[illegible] for knob torque. The [illegible] the turning moment [illegible] the knob release shall [illegible] rque gage adapted for [illegible] the knob or knob shaft. [illegible] a calibrated accuracy [illegible] ±[illegible] newton-meter (0.10 inch-[illegible]) [illegible] measuring a moment of 0.5[illegible] [illegible] meter (5 inch-pounds). [illegible] est [illegible] ations on the dial of the [illegible] shall [illegible] respond to a moment incr[illegible] not [illegible] ter than 0.011 newton-[illegible] (0.10 [illegible]-pound) and the full-[illegible] range shall not exceed 1.13 new[illegible] meters (10 inch-pounds) in each [illegible] tion from the null reading. The turning mom[illegible] the [illegible] full [illegible] for release [illegible] and a coun- tercl[illegible] the angle of rota- tion required for release shall be checked by [illegible] to m[illegible] the lo[illegible] The ga[illegible] racy wi[illegible] of [illegible] and the finest divisions shall not exceed 1°. The requirements of § 1750.5(a)(2) shall be [illegible]

(c) [illegible] sts for strength of dev[illegible] [illegible] which affect the safety [illegible] [illegible] evice. (1) The tests pr[illegible] [illegible] raph (c)(2) of this sec[illegible] [illegible] ly to devices which perm[illegible] [illegible] be opened as a result [illegible] [illegible] g moments applied to [illegible] [illegible] nts inside the refrigera[illegible]

[illegible] urning moment of 2.26 [illegible] (20 inch-pounds) shall be [illegible] ccessive operations in a clock- [illegible] ction, followed by 50 s[illegible] [illegible] perations in a counter[illegible] [illegible] to components des[illegible] [illegible] he door to be opened as a result [illegible] plication of a turning [illegible] The turning moment [illegible] to the outer periphery of the [illegible] t provided. The gage [illegible] [illegible] g the moment applied shall [illegible] librated accuracy within [illegible] meter (±0.4 inch-pound) when [illegible] g a moment of 2.26 newton-me- [illegible] inch-pounds). The finest [illegible] on the dial of the gage shall cor- [illegible] to a moment increment not greater than 0.044 newton-meter (0.4 inch-pound) and the full-scale range of the gage shall not exceed 4.52 newton-meters (40 inch-pounds) in each direction from the null reading. The turning mo[illegible] on shall be [illegible] ufficient for [illegible] st after co[illegible] ent for which designed. A pushing force of 89.0 [illegible] shall be applied for 5[illegible] [illegible] [illegible] lt of the application of [illegible] to [illegible] Areas which may be, in [illegible] [illegible] to pushing or pullin[illegible] [illegible] create maximum stresses (for ex- [illegible] points on the outer peri[illegible] [illegible] nts designed to transmi[illegible] [illegible] ent, or unsupported por[illegible] [illegible] or areas designed for tr[illegible] [illegible] rce) shall be subjected [illegible] [illegible] used for registering the [illegible] shall have a calibrated [illegible] within ±1.8 newtons (±0.4 pound) [illegible] measuring a force of 89.0 newt[illegible] [illegible] The finest graduations on the dial [illegible] the gage shall correspond [illegible] [illegible] t in excess of 1.8 newtons [illegible] [illegible] and the full-scale range shall not exceed [illegible] 77.9 newtons (40 pounds).

(3) Upon being subjected to the [illegible] prescribed [illegible] (c)(2) [illegible] section, [illegible] device component [illegible] which the safety features of the device depend shall [illegible]

or show other visible damage. The device [illegible]s of § 175[illegible] the tests [illegible]

(d) [illegible] shall be conducted on the completely assembled [illegible]ator in its normal operat[illegible] [illegible] termine that the releas[illegible] with the requirem[illegible] [illegible] during and after the [illegible] door operation and [illegible] to spillage of foods an[illegible] cleaning and defrosting [illegible] with the manufactur[illegible] [illegible]tions, and to condensa[illegible] [illegible]t provided for opera[illegible] [illegible]l open the door suffic[illegible] [illegible]e to assure a complete [illegible] for the latch mechan[illegible]

[illegible] Provision for change [illegible] [illegible]dard.

[illegible]ction 5 of the act pro[illegible] [illegible]bility of changes in [illegible] standard first establis[illegible] section 3 of the act a[illegible] of 1 year and 90 days fo[illegible] [illegible]h such changes after [illegible]d.

[illegible]ny person wishing to [illegible] [illegible]n this standard shall [illegible] [illegible]etary, Consumer Produ[illegible] [illegible]sion, Washington, D.C. [illegible] proposed change. Before a change [illegible]ded, the Consumer [illegible] Safety Commission shall secure advice and consultation from public or private sources including particularly the household [illegible] [illegible] appropriate.

CPSC

Order

9020.5

HAZARDOUS HOUSEHOLD SUBSTANCES

April 13, 1984

DISTRIBUTION: 1 & 2 INITIATED BY: AEDCA CPSC FORM 101

FOREWORD

1. PURPOSE. This order provides general operational guidelines for performing field operations involving products (other than children's articles) which are subject to the Federal Hazardous Substances Act. The material provided is general in nature. When new regulations become effective and as unique problems arise, separate field programs will be issued to provide more specific instructional materials.

2. SCOPE. The procedures in this order are for the use of Regional Office personnel who perform inspections, conduct investigations and collect samples and for those personnel who supervise these operations.

3. CANCELLATION. This Order cancels CPSC Order 9020.5 dated June 1, 1980, Hazardous Household Substances.

4. REFERENCES. The following items are reference materials for this Order:

a. Federal Hazardous Substances Act, as amended

b. Poison Prevention Packaging Act of 1970

c. Consumer Product Safety Act

d. Federal Hazardous Substances Act FHSA Regulations, 16 CFR 1500

e. Poison Prevention Packaging Act PPPA Regulations, 16 CFR 1700

f. Postal Service Mailing Regulations (Title 39, Chapter 1 of the CFR)

g. Department of Transportation Shipping Regulations (Title 49, Subtitle B, Chapter 1 of the CFR)

h. Federal Aviation Administration Shipping Regulations (Title 14, Chapter I of the CFR)

i. Order 9010.30, Inspections

j. Order 9010.36, Domestic Sample Collection

k. Order 9010.24, NEISS Injury Investigations

l. Order 9020.50, Special Packaging of Household Substances

m. Order 9010.125, Hazardous Substances Labeling Guide

n. Paint Industry Labeling Guide, National Paint and Coating Association

o. The Merck Index, 9th Ed., Merck and Co., Inc., Rahway, N. J., 1968

p. Clinical Toxicology of Commercial Products, 3rd Ed., The Williams and Wilkins Co., Baltimore, Md., 1969

q. Complete Pocket Digest Hazardous Materials Commodity List, Labelmaster, 6001 N. Clark Street, Chicago, Illinois 60660, 1973

r. Mallinckrodt Laboratory Safety Handbook, Mallinckrodt Chemical Works, P. O. Box 5439, St. Louis Mo. 63160

s. Guide to Precautionary Labeling of Hazardous Chemicals, Manufacturing Chemists Assn., 1825 Connecticut Ave., N.W., Washington, D.C. 20009

t. Dangerous Properties of Industrial Materials, 4th Edition, by Irving Sax, Reinhold Book Corporation, New York, New York

Edgar Morgan
Executive Director

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CHAPTER 1. BACKGROUND

1. GENERAL

a. Federal Hazardous Substances Labeling Act. With the passage of the FHSLA in 1960 it became mandatory for packages or containers of certain household products to bear precautionary labeling. The act automatically required labeling of any product intended for household use which was toxic, corrosive, flammable, combustible, an irritant, a sensitizer, or a generator of pressure through decomposition, heat or other means. In addition, the Secretary of Health, Education and Welfare (HEW) was authorized to promulgate regulations declaring products to be hazardous substances when he determined such action would promote the objectives of the act by avoiding or resolving uncertainty as to its application.

b. Federal Hazardous Substances Act. The FHSLA was amended by the Child Protection Act of 1966. Changes brought about by the amendment included:

(1) The title of the act became the Federal Hazardous Substances Act (FHSA).

(2) The Secretary of HHS was authorized to ban any hazardous household substances from the market if he determined that the product hazard was of such a nature that cautionary labeling was not an adequate safeguard for the protection of consumers.

(3) All toys and other articles intended for use by children which were, bore or contained hazardous substances were defined as banned hazardous substances. Concurrently, the Secretary of HHS was required to exempt from the automatic banning provision any article containing a hazardous substance (e.g., a chemistry set) which was intended for children capable of reading and understanding label warnings and instructions for use. Also, the exemption authority extended to common fireworks insofar as they could be adequately labeled.

(4) Finally, the coverage of the FHSA was extended to include unpackaged, as well as packaged, retail products which were in themselves or contained hazardous substances.

c. Child Protection and Toy Safety Act of 1969. The FHSA was subsequently amended by the Child Protection and Toy Safety Act of 1969.

The amendment provided for the banning of toys and other children's articles containing mechanical, electrical or thermal hazards. Information concerning CPSC enforcement of the FHSA in relation to children's products is contained in separate orders of the CPSC Directive Systems and CPSC's Policy and Procedures Enforcement Guidelines Manual.

d. Poison Prevention Packaging Act of 1970. With enactment of the PPPA, the Secretary of HHS was authorized to promulgate regulations establishing special packaging standards for certain household substances in order to protect children from serious injury or illness resulting from their handling, using or ingesting such products. Products subject to the PPPA are hazardous substances as defined in the FHSA: foods, drugs and cosmetics as defined in the Federal Food, Drug, and Cosmetic Act, (FD&C); and fuels stored in portable containers which are used in the heating, cooking or refrigeration system of a house. The PPPA amended the FHSA so that hazardous substances, which do not meet applicable special packaging requirements, are misbranded hazardous substances. The PPPA similarly amended the FD&C Act. Information concerning CPSC enforcement of the PPPA is contained in separate Orders.

e. Consumer Product Safety Act. Effective May 14, 1973, Section 30(a) of the CPSA transferred the functions of the Secretary of HHS under the FHSA to the Consumer Product Safety Commission.

f. Code of Federal Regulations. Under authority of the FHSA and the PPPA, the Commission promulgates regulations covering the administration and enforcement of these acts. The regulations are initially published in the FEDERAL REGISTER (FR) which is a daily publication, and are then published in the Code of Federal Regulations (CFR) which is revised on a yearly basis. Regulations issued under the FHSA are located in Title 16, Chapter II, Part 1500 of the CFR. The regulations provide definitions, list banned hazardous substances, define exemptions, describe test procedures, and specify certain labeling requirements. Regulations issued under the PPPA are located in Title 16, Chapter II, Part 1700 of the CFR.

These regulations define products which are subject to special packaging standards, and give the test procedures for evaluating child resistant packaging.

g. Notice and Repair, Replacement, or Refund (Sec. 15). On August 13, 1981, the Consumer Product Safety Amendments of 1981 replaced the requirements of Section 15 for repurchase of any article

which is a banned hazardous substance with provisions similar to those of Section 15 of the Consumer Product Safety Act (15 U.S.C. 2064), which authorizes the Commission to order notification and correction of the hazard presented by a banned hazardous substance after affording all interested persons and groups opportunity for a hearing. The amendments allow the Commission to require a manufacturer, distributor, or retailer to repair or modify the product so that it is no longer banned; or to replace it with another product which is not banned; or to refund the purchase price of the product.

CHAPTER 2. OPERATIONS

SECTION 1. INSPECTIONS

2. REFERENCE MATERIALS.

a. Order 9010.30, Inspections, contains basic guidelines for conducting inspections in general. You are responsible for ensuring to the extent possible as directed by your supervisor that inspections involving hazardous household substances are conducted in accordance with procedures specified in this order.

b. Be familiar with the FHSA, the PPPA and the regulations promulgated under both of these acts. Pay particular attention to the various exemption and labeling regulations found in 16 CFR 1500. Be familiar with the firm to be inspected, its products and its compliance history. Utilize available reference materials (refer to the Foreword of this Order) to make your job easier.

c. Order 9010.125, Labeling Guide, contains basic guidelines for hazardous substance labeling.

3. PRODUCT COVERAGE.

a. Give priority attention to products which are banned hazardous substances (16 CFR 1500.17), new products (including reformulations of old products), substances which have a history of being or which you determine to be violative, and products which require special packaging (16 CFR 1700.14). Other products subject to the FHSA should be given routine coverage. Be certain to determine the compliance status of all products which were not in compliance during previous inspections. In the event that a firm produces large numbers of products subject to FHSA so that coverage of all products during one inspection is not practicable, the investigator should limit coverage to those products presenting the most significant hazards. Subsequent reinspections may include other of the firm's products.

b. Do not inspect products which are excluded from the definition of hazardous substance (see Section 2(f)(2) of the FHSA). These products include:

(1) Foods, drugs and cosmetics subject to the FD&C Act. Note that medical devices such as flammable eyeglass frames are not excluded from coverage under the FHSA.

(2) Substances intended for use as fuels when stored in containers which are intended to be, or are installed as part of the heating, cooking or refrigeration system of a house. Note the clarification provided by 16 CFR 1500.81(b).

(3) Source material, special nuclear material, or by-product material as defined in the Atomic Energy Act of 1954, as amended, and regulations issued pursuant to this act by the Nuclear Regulatory Commission.

(4) Economic poisons subject to the FIFRA. Products subject to this act can usually be identified by an Environmental Protection Agency registration number on the product label or by label claims that a product inhibits or eliminates undesirable forms of life, such as bleaches that are labeled as disinfectants, drain openers that are intended for killing tree roots, and marine paints which include a label claim for inhibiting growth of marine life.

c. Hazardous substances not intended, or packaged in a form suitable, for use in a household are not covered by the FHSA insofar as they are not subject to the misbranding or banning sections of the act (see Sections 2(p) and (q) of the FHSA). 16 CFR 1500.3(c)(10)(i) gives a detailed discussion of this subject. As stated in the regulation, the test of whether or not a product is intended or packaged in a form suitable for household use is whether or not the substance may be found in or around a dwelling under any reasonably foreseeable condition of purchase, storage or use. If you determine that it is not reasonable to assume that a product may be found in or around a dwelling, document the basis for your conclusion and discontinue coverage of the product.

4. RAW MATERIALS

a. Review product labels, test records, specification sheets, shipping records and any other available documents to determine the chemical names, composition, physicial characteristics, hazardous properties, and sources of components used to produce hazardous household substances. Remember that trade or brand names without chemical names or product composition information are very often not useful. Determine whether the firm or an outside laboratory conducts any pharmacological or toxicological studies on raw materials. Obtain test results.

b. Manufacturers sometimes do not know the formulas of the ingredients which they use to produce finished products. In such a case, inform management that it is their responsibility to properly label their products, and that this requires at least some knowledge of the

composition of ingredients. Obtain as much information as possible: your supervisor may decide that it is necessary to contact component suppliers to obtain information.

5. FINISHED PRODUCT FORMULAS AND SPECIFICATIONS.

a. Obtain complete qualitative and quantitative formulas for products being inspected. If the firm refuses to provide this information, develop this data, to the extent possible, by observing the products in production, components on hand and production records being used. If a product has recently been reformulated, obtain the formula in use both before and after the change, and determine if there is a means of distinguishing retail units of the product produced before and after the change (e.g., revised labels, product codes). Chemical names of ingredients (not brand names) are needed for proper evaluation.

b. Determine finished product characteristics such as viscosity, flashpoint, toxicity, physical state, etc. Ascertain how the firm obtains product data (e.g., inhouse testing, testing by an outside laboratory, reference sources, suppliers' data). Determine whether liquid products which may separate on standing are tested to define properties (e.g., flashpoint, viscosity) of the separated fractions. Obtain test results.

6. MANUFACTURING PROCESSES.

a. Usually obtaining a brief description of the equipment and manufacturing process is sufficient. However, if any critical steps; such as weighing, measuring, or mixing might significantly affect a product's hazard, cover these steps in detail.

b. If possible, determine whether any chemical changes occur during or after the production process which might affect the composition of the finished product. This is a difficult task; in most instances, your only recourse is to question the firm concerning this subject. The point to remember is that in some cases combining two relatively hazardous ingredients may result in a relatively non-hazardous material. The opposite is also true.

7. PACKAGING.

a. PPPA Requirements. If the firm is producing or handling any product subject to a special packaging regulation, evaluate compliance with PPPA requirements. Obtain copies of test reports and other records, which demonstrate that product containers comply with the specified

standards. For an inspection involving the PPPA refer to Order 9020.50, Special Packaging of Household Substances.

b. Food, Drug or Cosmetic Containers. If you believe that any container used for a hazardous substance is a reused food, drug or cosmetic container or has an established identity as a food, drug or cosmetic container, determine the source and document the use of the suspect container. Note that this is a prohibited act under Section 4(f) of the FHSA.

8. PRODUCT LABELING.

a. Label Review.

(1) Make a preliminary review of product labeling and formulas to evaluate compliance with the requirements of Section 2(p) of the FHSA and appropriate sections of 16 CFR 1500. Note especially 16 CFR 1500.14 which deals with products requiring special labeling, 16 CFR 1500.121 which discusses placement, conspicuousness and contrast of required labeling, and 16 CFR 1500.129 which covers labeling required for products named in the Federal Caustic Poison Act. (This act, which was passed in 1927, required that retail packages of certain caustic substances defined in the act bear labeling which included the word "Poison" and directions for treatment in case of personal injury from those products. When the FHSLA was enacted, it took the place of the FCPA except for foods, drugs and cosmetics. 16 CFR 1500.129 defines special labeling for hazardous substances previously covered by the FCPA). Other sections which discuss labeling are 16 CFR 1500.15, 1500.82 through 1500.85, 1500.122 through 1500.128, and 1500.130 through 1500.133.

(2) For those labels that are clearly violative, inform management and determine the inventory and the rate of use of labels. In addition, collect labels for a detailed review. If a firm has no more than 20 or 30 products falling under the jurisdiction of the Consumer Product Safety Commission, collect 3 original labels of all products for evaluation for compliance with appropriate regulations. When the firm has more than 30 products, collect 3 original labels (and any instruction sheets, booklets, and accompanying literature) of 20 or 30 of their products, choosing any obviously violative labels, as well as labels for the most hazardous products and products with the largest volume of sales. In special circumstances, such as large lithograph cans, or when the label has been applied directly to a glass or plastic container, collect one original container and, when back in the office, make 3 clear copies of photographs.

b. Comments on Firm's Labels. Restrict your comments to management concerning product labels to a general discussion of points which are clearly violative or clearly in compliance. However, an indepth review of labels should be included in the inspection report. If the firm makes a request for technical label comments, refer management to 16 CFR 1500.128 and tell them to submit the required data to the Regional Office. If necessary the Regional Office may consult with CARM for assistance in developing a label comment.

c. Labeling Agreements. Determine whether the firm completely labels all of its products with required information on the premises being inspected. Occasionally, you may find a company which packages a product at one location and then has the product labeled at another spot. If a product does not have all required labeling when it is shipped from the firm being inspected, find out if complete labeling will be placed on the product at another establishment operated by the same firm. If not, find out if the firm has a labeling agreement with the final labeler which specifies that the product will be labeled to comply with all legal requirements before it is offered for sale. Obtain copies of any agreements. Refer to 16 CFR 1500.84 for further discussion concerning this subject.

9. PRODUCT GUARANTEES. Determine whether the firm gives or receives any FHSA guarantees (see 16 CFR 1500.212). Obtain copies. Note that it is a prohibited act under Section 4(d) to issue a false guarantee. In addition, note that CPSC can take action in a case involving a false guarantee even if the only commerce of the involved product is intrastate in nature.

10. SECTION 4(b) VIOLATIONS.

a. Prohibited Act. Section 4(b) specifies that it is a prohibited act to alter product labeling or to do any other act with respect to a hazardous substance if such is done while the substance is in interstate commerce or held for sale after interstate commerce and results in the product being a misbranded or banned hazardous substance. This means that a retailer commits a prohibited act if he removes precautionary labeling from a hazardous substance which has moved in interstate commerce. It also means that a manufacturer acts in violation of the FHSA if he uses ingredients which have moved in interstate commerce to produce a violative finished product, and a repacker is in violation if he repacks a bulk hazardous substance into retail packages with violative labeling.

b. To document a Section 4(b) violation, obtain a sample of the finished product and a photo or tracing of the label of each raw material especially the hazardous substance raw material, that has moved in interstate commerce. Obtain copies of shipping records which show the interstate movement of ingredients, and obtain copies of any available records which show the use of the ingredients to produce the finished product. Get an affidavit from a responsible individual which links copied records with the samples collected, shows that the finished product is being held for sale, and documents how the violation occurred.

SECTION 2. INJURY INVESTIGATIONS

11. NEISS INITIATED INVESTIGATIONS. Injury investigations involving hazardous substances which are initiated by the NEISS system are to be performed according to procedures specified in Order 9010.24, In-Depth Investigations.

12. NON-NEISS INITIATED INVESTIGATIONS. Regional offices receive reports of injuries and deaths involving hazardous household products from sources other than the NEISS system (e.g., newspapers, consumer complaints). Supervisory personnel are responsible for determining which reports should be investigated and the depth of investigation required. Basically the same procedures should be followed regardless of whether an investigation is NEISS initiated or generated from another source.

13. DISCLOSURE OF MEDICAL RECORDS.

a. Need to Obtain.

(1) Employees who are familiar with NEISS injury investigations are aware that, in most cases, all of the injury data is obtained directly from a private individual (victim or relative of the victim). Hospitals involved release previously agreed upon information, and physicians are not generally contacted. Thus, there is no need to obtain any authorization for disclosure of medical records.

(2) If at any time it becomes necessary to interview a physician, review and copy medical records, obtain information from a non-NEISS hospital, or obtain more information from a NEISS hospital than what is normally released, obtain a CPSC Form 170, Authorization for Medical Records Disclosure, from the victim or a responsible individual acting for the victim (parent, legal guardian, spouse). It is advisable to obtain several copies since physicians and hospital personnel may want copies and copying facilities may not be available.

SECTION 3. SAMPLE COLLECTION

14. GENERAL PROCEDURES. Samples are to be collected in accordance with the guidelines contained in Order 9010.36, Domestic Sample Collection.

15. DURING AND AFTER INSPECTIONS. Based upon your experience and/or conversation with your supervisor, collect an official sample whenever a household product is, or is suspected to be, in violation of the FHSA. An official sample may be collected from a shipment which has moved in interstate commerce, it may be collected from a lot of finished product produced from ingredients which have moved in interstate commerce, or it may be collected from a lot which is covered by an FHSA guarantee (interstate commerce is not necessary).

16. DURING AND AFTER INVESTIGATIONS. Follow instructions in Order 9010.24 concerning the collection of samples from private individuals during investigations involving hazardous household substances. Do not sample opened, used or altered substances from a consumer unless specifically instructed to do so. Collect a sample from a retailer, wholesaler, manufacturer or distributor when it appears that a product involved in an injury or potential injury situation is in violation of the FHSA or when a sample analysis is needed to provide necessary information. If possible, collect the sample from the parent lot (same lot from which the consumer purchased the involved product). As a second choice, sample a lot bearing similar product codes.

17. SAMPLE SIZE.

a. Reserve Sample. Although not required under the FHSA, a hazardous substance sample should be sufficient in quantity to provide a reserve portion. The reserve portion may be used for exhibit purposes or for additional analysis if needed.

b. Minimum Sample Size. In most cases, using the schedule shown by Figure 1, Appendix 1 will provide a sufficient sample size to permit required analysis and provide a reserve portion. When complicated mixtures or multiple hazards are involved, the sample size may need to be increased. If you have a question concerning sample size which your supervisor cannot answer, contact the laboratory which will be analyzing the sample. Note that samples which require only a label review should consist of three retail units.

18. MAILING AND SHIPPING SAMPLES.

a. Mailing.

(1) Postal regulations prohibit the mailing of any article or material which may kill or injure a person or injure the mail or other property. This includes explosives, flammable materials, oxidizing materials, caustic poisons, and fireworks. Examples of hazardous substance samples which may be mailed include toys, non-flammable furniture polish, water-based paints, and non-flammable oil and gasoline additives.

(2) Before mailing a hazardous substance sample, take steps to ensure that the mailing of the product is not prohibited. Consider the above examples. Check with the U.S. Postal Service concerning postal regulations (Title 39, Chapter I of the Code of Federal Regulations). As a general rule, if you are in doubt concerning whether a product may be mailed, ship the sample by common carrier.

b. Shipping.

(1) Check Carriers. Prior to shipping a sample of a hazardous substance, check with the carrier for Department of Transportation regulations (49 CFR 100-199) or Federal Aviation Administration regulations (14 CFR 103). Products which may require special packaging and labeling include explosives, poisons, irritating materials, corrosive materials, flammable and non-flammable compressed gases, flammable liquids and solids, and oxidizing materials. These terms are defined in 49 CFR 173.

(2) Know DOT Regulations. Regional office personnel should become familiar with 49 CFR 172 and 173. 49 CFR 172.4 gives the DOT classifications of hazardous materials and 49 CFR 172.5 lists in alphabetical order many of the hazardous products which may be shipped by CPSC. The list specifies the DOT hazard classification, reference material in Part 173 which deals with packing and labeling requirements and with exemptions from these requirements, and identifies required warning labels for each product.

(3) Part 173 defines the various DOT hazard classifications, gives labeling and packaging requirements for these classes of products in general and also for some specific products, and discusses certain exceptions from these requirements.

(4) Examples of exemptions from packaging and labeling requirements defined in Part 173 are:

(a) Flammable liquids in metal containers not over 1 quart capacity each, packed in strong outside containers, or flammable liquids in containers not over one pint or 16 ounces by weight each, packed in strong outside containers (49 CFR 173.118).

(b) Flammable solids and oxidizing materials in inside containers not over one pound net weight each and packed in outside containers not over 25 pounds each (49 CFR 173.153).

(c) Corrosive liquids in inside bottles having a capacity not over one pound or 16 ounces by volume each enclosed in a metal can in the outside container. Corrosive solids in inside earthenware, glass, plastic or paper receptacles of not more than five pounds capacity each or in inside metal, rigid fiber or composition cans or cartons or rigid plastic receptacles of not more than ten pounds capacity each or fiberboard outside containers not exceeding 25 pounds each (49 CFR 173.244).

(d) Other exemptions include compressed gases (49 CFR 173.306), class B poisonous liquids (49 CFR 173.345), and class B poisonous solids (49 CFR 173.364). In all of the above cases, the exemption does not apply if the product in question is listed as having "No exemption" in 49 CFR 172.5. Note that if a hazardous substance sample exceeds the weight or volume specifications of any of the exempting sections, it does not mean that the sample may not be shipped. However, it will become necessary to meet specified packing and labeling requirements.

(5) Fireworks.

(a) Samples of explosives including fireworks must be packed in well-secured metal cans, rubber containers, or compatible plastic containers not subject to static generation by contained products, or in strong waterproof paper of cardboard packages. Each sample must consist of not more than one-half pound of explosive, and the interior package must be placed in a sawdust or similar cushioning material at least two inches thick in a wooden box. Not more than 20 one-half pound samples of explosives may be packed in one outside package.

(b) The net weight of the explosive must be plainly marked on the outside of each box offered for transportation. Each package must be marked with the words "Sample for Laboratory Examination" and must be labeled with the proper warning label, such as Class B or C Explosive.

(c) The above requirements appear in 49 CFR 173.86. This section specifically deals with explosive samples for laboratory examination. If it is necessary to ship fireworks samples which exceed the weight limits of this section, the samples must be packed and labeled to meet the requirements for a class B or C explosive (see 49 CFR 173.88, 173.91, 173.100, and 173.108).

(6) Marking and Labeling Packages of Hazardous Materials. Unless exempted as previously discussed, packages must bear the proper warning label and the proper shipping name of the product as shown in 49 CFR 172.5. 49 CFR 173.400 through 422 gives detailed information concerning labeling requirements.

(7) Shipping Records. Information on shipping records (GBL or waybill) covering a hazardous material must include the shipping name prescribed by 49 CFR 172.5 and the hazard classification specified by 49 CFR 172.4. The total quantity of product being shipped must be shown by weight, volume or as otherwise appropriate. In the case of a product which meets one of the packing and labeling exemptions defined in 49 CFR 173 and discussed previously in this section, the exemption must be indicated by the words "No Label Required" immediately following the description of the product on the shipping paper. Information on shipping records appears at 49 CFR 173.427.

(8) Shipments by Air. Regulations covering the shipment of hazardous substances by air are located at 14 CFR 103. The regulations are based on the DOT regulations in Title 49. One of the basic differences is that the exemptions of 49 CFR 173 do not apply for air shipments. For additional information contact the air carrier and review 14 CFR 103.

(9) Sources of Information. Carriers such as UPS often can provide necessary information for shipping hazardous substances samples. Carriers also have supplies of proper warning labels. In addition, the CPSC laboratory to which the sample is being sent may know the proper packing and labeling methods for the particular product.

SECTION 4. SAMPLE ANALYSIS

19. LABEL REVIEW. Unless otherwise instructed, submit samples which require only a label review to the Regional Office which requested the sample collection.

20. CHEMICAL AND PHYSICAL ANALYSIS. Submit samples requiring chemical and physical analysis via the Sample Custodian to the Division of Health Science Laboratory (HSHL).

21. BIOLOGICAL TESTING. Submit samples requiring biological testing via the headquarters sample custodian to the Division of Health Science Laboratory (HSHL). Sample for biological testing only after consulting with your supervisor.

22. ASBESTOS GARMENTS. Samples of garments containing asbestos are tested by HSHL.

SECTION 5. IMPORTS

23. CONTACT WITH CUSTOMS. Maintain contact with local Customs officials to assure that they are aware of CPSC's interest in imported hazardous substances.

24. GENERAL PROCEDURES. The import procedures in the FHSA regulations (16 CFR 1500.265-272) will not be used to routinely sample and hold imported goods for surveillance purposes (16 CFR 1009.3). When violative imported hazardous substances are encountered, the follow-up should be similar to that with domestic production. A visit or contact should be made with the importer or distributor to determine the scope of the problem (other lots, similar products, other importers, etc.) and obtain appropriate corrective action. Importers or distributors of violative imported hazardous substances should be alerted to the exporting requirements of Section 14(d) of the FHSA which requires exporters to notify the AEDCA of their intent to export products which are banned or fail to comply with an applicable safety standard, regulation, or statute (Title 16 CFR 1019).

SECTION 6. FOLLOW-UP

25. COORDINATION. Coordinate all regulatory action with the Compliance Directorate where necessary.

SECTION 7. REPORT SUBMISSION

26. REGULATORY ACTION. For all legal actions, case closing, and violations where cases are not opened, follow instructions outlined in

in the appropriate guideline in the Enforcement Policy and Procedural Guides Manual.

27. INJURY INVESTIGATION REPORTS. Report all investigations involving injuries or situations in which injuries could have resulted on Investigation Reports Form CPSC 182. In every case, submit a copy of the report to the Division of Hazard and Injury Data System (EPDS). Also submit a copy to any other appropriate headquarters unit or Regional Office.

FIGURE 1. SAMPLE SIZES FOR HAZARDOUS SUBSTANCES (INCLUDES RESERVE PORTION)

Hazard or Product	Minimum Total Quantity	Minimum Number of Retail Units
1. Highly toxic	16 oz.	3
2. Toxic, corrosive, irritant, strong sensitizer	4 pts. or 4 lbs	2
3. Flammability and other hazards		
a. Liquids	2 qts.	2
b. Rigid Solids	24/1 x 6 inch strips	4 pieces, preferably 12 to 15 inches square. Each piece sufficient to provide 6/1 x 6 inch test strips. Sufficient number of smaller pieces to furnish the same number of strips
c. Powders	2 pts.	4
4. Products which generate pressure	--	12 units of smallest able size (preferably not not smaller than 4 oz.)
5. Fireworks	--	Smallest commercially packaged and labeled unit (because of transportation restrictions try not to collect more than 72 pieces) or 10 pieces if sold as individual items

Hazard or Product	Minimum Total Quantity	Minimum Number of Retail Units
6. Products containing soluble cyanide salt	9 oz.	3
7. Charcoal briquettes	--	3
8. Detergents	48 oz.	4
9. Asbestos containing garments	--	One intact garment minimum of 12 square inches of fabric

	Minimum	Minimum Number of

CPSC

Order

9020.50

SPECIAL PACKAGING OF HOUSEHOLD SUBSTANCES

April 13, 1984

DISTRIBUTION: 1 & 2 INITIATED BY: AEDCA CPSC FORM 101

FOREWORD

1. PURPOSE. This order provides basic guidelines for performing field operations involving products subject to special packaging requirements under the Poison Prevention Packaging Act of 1970.

2. SCOPE. The procedures in this order are for the use of area office personnel who perform inspections, conduct investigations and collect samples and for those who supervise these operations.

3. CANCELLATION. This order cancels CPSC order 9020.50 dated July 18, 1980, Special Packaging of Household Substances.

4. REFERENCES. The following items are reference material for this order:

a. Poison Prevention Packaging Act of 1970

b. Federal Hazardous Substances Act

c. Federal Insecticide, Fungicide, and Rodenticide Act

d. Federal Food, Drug, and Cosmetic Act

e. Consumer Product Safety Act

f. PPPA Regulations, 16 CFR 1700

g. EPA Special Packaging Regulations, 40 CFR 162

i. EPA/CPSC Memorandum of Understanding dated 1/23/76

Edgar Morgan
Executive Director

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CHAPTER 1. BACKGROUND

1. GENERAL.

a. During 1981, approximately 73,300 cases of accidental ingestions of household products and other substances by children under the age of five years were reported to the National Clearinghouse for Poison Control Centers. The National Center for Health Statistics tabulated for 1979 (the last year for which complete data are available) a total of 78 deaths of children under five years of age due to the accidental ingestion of household products and other substances. Many of these products carried cautionary information warning against ingestion, inhalation, etc. In 1970, Congress acted to reduce the number of these accidental injuries and deaths by enacting the "Poison Prevention Packaging Act of 1970" (PPPA). The basic concept of this legislation is to require "special packaging" of any "household substance" found to have the potential for producing serious illness or injury among children, because of the way the substance is packaged.

b. Household substance is defined by the PPPA as any substance customarily produced or distributed for sale for consumption or use, or customarily stored by individuals in or about the household, and which is a hazardous substance as defined in the Federal Hazardous Substances Act, a food, drug, or cosmetic as defined in the Federal Food, Drug, and Cosmetic Act or a substance intended for use in the heating, cooking, or refrigeration system of a house.

c. Special packaging is defined as packaging that is designed or constructed to be significantly difficult for children under five years of age to open or obtain a toxic or harmful amount of the substance contained therein within a reasonable length of time, and not difficult for normal adults to use properly. Special packaging does not mean packaging which all such children cannot open or obtain a toxic or harmful amount of the substance contained therein within a reasonable length of time. Note that CPSC does not approve special packaging.

d. Special Packaging Test Procedures.

(1) The capacity of a product package to meet the special packaging definition of the PPPA is determined by testing the packaging according to the procedure specified by 16 CFR 1700.20. The child testing protocol calls for the use of 200 normal and healthy children between the ages of 42 and 51 months inclusive, evenly divided by age

and sex. Children are allowed up to five minutes with no instructions to open the package and then, if necessary, are given a single visual demonstration without verbal explanation and then allowed another five minutes to open the package. During this period, the child is told that he may use his teeth, if he has not already done so. A test failure is any child who gains access to the contents of the package. In the case of unit dose packaging, a single test failure occurs when a child gains access to more than eight units or a toxic amount of the product packaged in the units, whichever is less.

(2) The adult-use effectiveness is determined by using 100 adults, age 18 to 45 years inclusive, with no overt physical or mental handicaps, and of whom 70% are female. They are given five minutes to open the package. The instructions provided to the adults are those that appear on the label of the container when marketed. For adult-use effectiveness, the number of adults tested who successfully open the special packaging and then properly resecure the special packaging (if resecuring is appropriate) is the percent of adult-use effectiveness of the special packaging. Accurate records are to be kept of each test to verify the unit's child resistance and adult-use effectiveness as specified in the standards.

(3) When tested as described above, a package type covered by current standards qualifies as special packaging if child-resistant effectiveness is not less than 85 percent without a demonstration and not less than 80 percent after a demonstration. In the case of unit packaging child-resistant effectiveness may not be less than 80% after the full ten minute test. Adult-use effectiveness may not be less than 90% (see 16 CFR 1700.15(b)). The level of effectiveness of a child-resistant package is determined on a substance-by-substance basis; to date, the above levels have been found to be appropriate for all substances currently covered by regulation.

(4) The Commission has concluded that a single-use container of any product subject to a packaging standard which requires a tool for entry is to be considered special packaging if it meets the effectiveness specifications of the standard when tested by the procedure prescribed by 16 CFR 1700.20. When testing such a container it is not necessary to provide the children with such tools unless the tools accompany the container when offered for sale to the consumer. If the entire package contents are intended for use in a single application and the package is so labeled, it is not subject to the resecuring provisions of the adult testing portion of the test procedure.

e. CPSC Authority.

(1) The PPPA authorizes the Commission to establish by regulation standards for the special packaging of any household substance, if it finds that:

(a) The degree or nature of the hazard in the availability of such substance by reason of its packaging is such that special packaging is required to protect children from serious personal injury or serious illness resulting from handling, using or ingesting such substances; and

(b) the special packaging to be required by such standards is technically feasible, practicable, and appropriate for such substance.

(2) The Commission is not authorized to prescribe specific packaging designs, product content, package quantity or labeling (other than the labeling required by section 4(a)(2) of the PPPA). However, CPSC may prohibit the packaging of a household substance requiring special packaging in packages which are unnecessarily attractive to children.

f. Noncomplying Package. Section 4 of the PPPA makes it possible to distribute or dispense a household substance subject to a special packaging regulation in a noncomplying package for the benefit of elderly or handicapped persons unable to use special packaging, providing the following requirements are met.

(1) A manufacturer or packer may package such substances (any household substance subject to a special packaging regulation except those dispensed pursuant to the order of a licensed medical practitioner) in a noncomplying package for household use providing:

(a) It is made available only in a "single package size" as selected by the manufacturer; and

(b) the substance is also supplied in popular size packages (Section 4(a)(1)) which are child-resistant; and

(c) the package bears conspicuous labeling in accordance with 16 CFR 1700.5. This regulation covers any product that is packaged in noncomplying packaging on or after 7/30/75. Noncomplying packages packaged prior to that date must be labeled "This package for households without young children".

(2) A pharmacist or other individual authorized to dispense drugs may dispense drugs subject to packaging standards in a noncomplying package for direct consumer use if:

(a) Directed to do so upon the order of a physician, dentist, or other licensed medical practitioner; or

(b) if requested to do so by the purchaser. (Note that there is no provision in the act to require a consumer to sign a release or other authorization to obtain a noncomplying package.)

g. Misbranded Product. If a product is not packaged or labeled as required by a regulation issued under the PPPA, it becomes a misbranded product under the FHSA, or FD&C Act, and it is subject to the legal remedies specified by the appropriate act.

h. Consumer Product Safety Act. Prior to the enactment of the CPSA, the Secretary of the Department of Health and Human Services was charged with the responsibility to administer the provisions of the PPPA. This responsibility was carried out by the Food and Drug Administration. Section 30 (a) of the CPSA transferred the functions of the Secretary of HEW under the PPPA to the Commission effective May 14, 1973.

i. Pesticides. On May 11, 1976, the PPPA was amended by the CPS Improvements Act of 1976, deleting pesticides from the definitions of household substances subject to PPPA. As of that time the Commission no longer has jurisdiction over the special packaging of pesticides. EPA does have jurisdiction and is promulgating standards. The Commission, on June 7, 1978, withdrew the PPPA standard for pesticides proposed on September 14, 1972. An interagency Memorandum of Understanding (between CPSC and EPA) regarding the special packaging of pesticides went into effect on July 9, 1979. This MOU provides mechanisms by which EPA and CPSC can work in concert regarding the packaging of household products in child-resistant packages.

j. PPPA Regulations. Regulations promulgated under the PPPA are located at 16 CFR 1700, and exemption procedures are located at 16 CFR 1702. 16 CFR 1700.14 specifies products which require special packaging and 16 CFR 1700.15 defines the packaging standards which a special package may be required to meet. Note that these standards include general requirements, effectiveness specifications, a non-reuse requirement applicable to prescription drug dispensing, and a restricted flow

specification currently applicable only to furniture polish. 16 CFR 1700.20 details the special packaging test procedure previously discussed.

k. Effective Dates of Standards. 16 CFR 1700.4 specifies that a special packaging standard shall become effective not sooner than 180 days or later than one year from the date it is promulgated in the FEDERAL REGISTER unless the Commission determines an earlier effective date is in the interest of public safety. Once it becomes effective, a child protection packaging standard applies only to the household substances packaged on or after the effective date (See 16 CFR 1700.4 and Section 9 of the PPPA).

2. PRODUCTS SUBJECT TO THE STANDARDS. The following products are currently subject to special packaging standards.

a. Aspirin Products (16 CRF 1700.14(a)(1)). (Effective date 8/14/72). Any aspirin-containing preparation for human use in a dosage form intended for oral administration shall be packaged in accordance with the provisions of 1700.15(a), (b), and (c), except the following:

(i) Effervescent tablets containing aspirin, other than those intended for pediatric use, provided the dry tablet contains less than 10 percent of aspirin, the tablet has an oral LD50 in rats of greater than 5 grams per kilogram of body weight, and the tablet placed in water releases at least 85 milliliters of carbon dioxide per grain of aspirin in the dry tablet when measured stoichiometrically at standard conditions (0°C. 760 mm. g.) (Effective date 2/6/73).

(2) Unflavored aspirin-containing preparations in powder form (other than those intended for pediatric use) that are packaged in unit doses providing not more than 13 grains of aspirin per unit dose and that contain no other substance subject to the provisions of this section. (Effective date 12/28/72).

b. Furniture Polish (16 CFR 1700.14(a)(2)).

(1) Polishes subject to special packaging requirements are non-emulsion type liquid furniture polishes containing 10 percent or more of mineral seal oil and/or other petroleum distillates and having a viscosity of less than 100 Saybolt Universal Seconds at 100°F., other than those packaged in pressurized spray containers.

(2) The effective date of the packaging requirements was September 13, 1972. (Note that cleaners and preservatives for wood

paneling which are labeled as such are not subject to the standard. Also note that 16 CFR 1700.14(a)(2) specifies that furniture polishes must be packaged in containers which restrict the flow of liquid from the container in addition to complying with the general requirements and effectiveness specifications of 16 CFR 1700.15(a) and (b).)

c. Methyl Salicylate (16 CFR 1700.14(a)(3)). Products subject to special packaging standards are liquid preparations containing more than five percent by weight of methyl salicylate, other than those packaged in pressurized spray containers. The effective date of the methyl salicylate regulation was January 10, 1973.

d. Controlled Drugs (16 CFR 17.00.14(a)(4)). Any preparation for human use that consists in whole or in part of any substance subject to control under the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 801 et seq.) and that is in a dosage form intended for oral administration must meet special packaging requirements. The effective date was January 10, 1973, for non-prescription drugs and January 22, 1973, for prescription drugs.

e. Sodium and/or Potassium Hydroxide (16 CFR 1700.14(a)(5)).

(1) Sodium and/or potassium hydroxide in dry forms such as granules, powder, and flakes, containing 10 percent or more by weight of free or chemically unneutralized sodium and/or potassium hydroxide, and all other household substances containing 2% or more by weight of free or chemically unneutralized sodium and/or potassium hydroxide, must be packaged in accordance with packaging standards. The effective date of the standards for aerosols and paste oven cleaners was July 10, 1973. For all other products, the effective date was April 11, 1973.

(2) 16 CFR 1500.17(a)(4) specifies that a liquid drain cleaner containing more than 10 percent or more by weight of sodium and/or potassium hydroxide is a banned hazardous substance unless the product is packaged in accordance with a special packaging standard. Therefore, a single sized noncomplying package of such a product is not legally permissible.

f. Turpentine (16 CFR 1700.14(a)(6))

(1) Household substances in liquid form containing 10 percent or more by weight of turpentine must meet special packaging requirements.

(2) The effective date of the regulation was July 1, 1973.

g. Kindling and/or Illuminating Preparations (16 CFR 1700.14(a)(7)).

(1) Prepackaged liquid kindling and/or illuminating preparations such as cigarette lighter fuel, charcoal lighter fuel, camping equipment fuel, torch fuel, and fuel for decorative or functional lanterns, which contain 10 percent or more by weight of petroleum distillates and have a viscosity of less than 100 Saybolt Universal Seconds at 100°F., must be packaged in child resistant packaging.

(2) The effective date of the standard for cigarette lighter fuel in spout-type dispensers was January 30, 1974. For all other products, the effective date was October 29, 1973.

h. Methyl Alcohol (16 CFR 1700.14(a)(8)).

(1) Household substances in liquid form containing four percent or more by weight of methyl alcohol (methanol), other than those packaged in pressurized spray containers, shall be packaged in accordance with PPPA requirements.

(2) The effective date of the regulation was July 1, 1973.

i. Sulfuric Acid (16 CFR 1700.14(a)(9)). Household substances containing 10% or more by weight of sulfuric acid, except such substance in wet cell storage batteries, must be packaged in accordance with special packaging requirements. The effective date of the regulation was August 14, 1973.

j. Prescription Drugs (16 CFR 1700.14(a)(10)).

(1) Any drug for human use that is in a dosage form intended for oral administration and that is required by Federal law to be dispensed only by or upon an oral or written prescription of a practitioner licensed by law to administer such drug must be packaged in accordance with the child resistant packaging standards with the following exceptions:

(A) Sublingual dosage forms of nitroglycerin (effective date April 16, 1974).

(B) Sublingual and chewable forms of isosorbide dinitrate in dosage units containing isosorbide dinitrate in strengths of ten milligrams or less.

(C) Sodium fluoride drug preparations, including liquid and tablet forms, containing no more than 264 milligrams of sodium fluoride per package and containing no other substances subject to 16 CFR 1700.14(a)(10) (effective date January 1, 1978).

(D) Erythromycin ethylsuccinate granules for oral suspension and oral suspensions in packages containing not more than eight grams of erythromycin ethylsuccinate (effective date January 31, 1979).

(E) Erythromycin ethylsuccinate tablets in packages containing not more than sixteen grams of erythromycin ethylsuccinate (effective date September 29, 1979).

(F) Anhydrous Cholestyramine (chloride salt of a basic anion-exchange resin) in powder form (effective date April 11, 1979).

(G) All unit dose forms of potassium supplements, including individually packaged effervescent tablets, unit dose vials of liquid potassium, and powdered potassium in unit dose packets, containing not more than 50 milliequivalents of potassium (effective date 3/10/82).

(H) Betamethasone (Celestone) tablets where each package contains no more than 12.6 milligrams betamethasone and contains no other substance subject to the provisions of this regulation. This drug is used in an anti-inflammatory agent (effective date March 21, 1979).

(I) Mebendazole tablets, containing no more than 600 milligrams (effective date March 9, 1979).

(J) Methylprednisolone tablets in packages containing no more than 84 mg./package (proposed October 17, 1978).

(K) Pancrelipase preparations in tablet, capsule, or powder form and containing no other substances subject to the PPPA standards (effective date 5/12/81).

(L) Prednisone in tablet form, when dispensed in packages containing no more than 105 mg. of the drug and containing no other substances subject to the PPPA standards (effective date 9/14/82).

(M) Colestipol in powder form in packages containing no more than 5 gm/package (effective date 10/9/79).

(N) Cyclical oral contraceptives: Proposed 2/11/74, but not yet finalized -- exempt during interim.

k. Ethylene Glycol (16 CFR 1700.14(a)(11)). Household products in liquid form containing 10 percent or more by weight of ethylene glycol packaged on or after June 1, 1974, must meet special packaging standards. Ethylene glycol products exempted by 16 CFR 1500.83 from labeling or other FHSA requirements are not subject to the PPPA standards.

l. Iron-Containing Drugs (16 CFR 1700.14(a)(12)). With the exception of animal feeds used as vehicles for the administration of drugs, non-injectable animal and human drugs providing iron for therapeutic or prophylactic purposes, and containing a total amount of elemental iron, from any source, in a single package, equivalent to 250 mg. or more elemental iron in a concentration of 0.025 percent or more on a weight to volume basis for liquids and 0.05 percent or more on a weight to weight basis for non-liquids (e.g., powders, granules, tablets, capsules, wafers, gels, viscous products such as pastes and ointments, etc.) shall be packaged in accordance with the provisions of 1700.15(a), (b), and (c) (effective date October 17, 1978).

m. Dietary Supplements Containing Iron (16 CFR 1700.14(a)(13)). With the exception of those preparations in which iron is present solely as a colorant, dietary supplements, as defined in 1700.1(a)(3), that contain an equivalent of 250 mg. or more of elemental iron, from any source, in a single package in concentrations of 0.025 percent or more on a weight to volume basis of liquids, and 0.05 percent or more on a weight to weight basis for non-liquids (e.g., powders, granules, tablets, capsules, wafers, gels, viscous products such as pastes and ointments, etc.) shall be packaged in accordance with the provisions of Section 1700.15(a), (b), and (c) (effective date October 17, 1978).

n. Solvents for Paint or Other Similar Surface Coating Material (16 CFR 1700.14(a)(15)). Prepackaged liquid solvents (such as removers, thinners, brush cleaners, etc.) for paints or other similar surface-coating materials (such as varnishes and lacquers), that contain 10 percent or more by weight of benzene (also known as benzol), toluene (also known as toluol), xylene (also known as xylol), petroleum distillates (such as gasoline, kerosene, mineral seal oil, mineral spirits, naphtha, and Stoddard solvent, etc.) or combinations thereof, and that have a viscosity of less than 100 Saybolt Universal Seconds at 100°F, shall be packaged in accordance with the provisions of 1700.15(a) and (b) (effective date April 23, 1977).

o. Acetaminophen (16 CFR 1700.14(a)(16)). Preparations for human use in a dosage form intended for oral administration and containing in a single package a total of more than one gram acetaminophen shall be packaged in accordance with the provisions of Section 1700.15(a), (b), and (c), (effective 2/27/80), except the following:

(1) effervescent tablets or granules containing acetaminophen, provided the dry tablet or granules contain less than 10 percent acetaminophen, the tablet or granules have an oral LD-50 of greater than 5 grams per kilogram of body weight, and the measured dosage of the product, when placed in water, releases at least 85 milliliters of carbon dioxide per grain of acetaminophen in the dry form when measured stoichiometrically at standard conditions (0°C, 760 mm mercury) and that contain no other substance subject to the provisions of this section.

(2) Unflavored acetaminophen containing preparations in powder form (other than those intended for pediatric use) that are packaged in unit doses providing not more than 13 grains of acetaminophen per unit dose and that contain no other substance subject to the provisions of this section.

3. SAMPLE PACKAGES (16 CFR 1700.14(b)). The manufacturer or packager of any of the substances previously listed under "2. Products Subject to the Standards", shall provide the Commission with a sample of each type of special packaging, as well as the labeling for each size product that will be packaged in special packaging, as well as in any noncomplying package. Samples should be submitted without contents when such contents are unnecessary for demonstrating the effectiveness of the packaging. Those packages sent with contents must be sent by registered mail.

CHAPTER 2. OPERATIONS

4. INSPECTIONS.

a. Manufacturers and Repackers. During inspections of firms which manufacture or repack products subject to special packaging standards, cover the following points:

(1) Firm's awareness and understanding of special packaging regulations, effective dates, scope of coverage, etc.

(2) Complete quantitative and qualitative formulas and the physical characteristics (e.g. solid, liquid, viscosity) for each product subject to a special packaging standard.

(3) Type, design, specifications, and supplier of any special packaging material used for the firm's products. This includes specifications for the bottle on which a safety closure is used.

(4) Results of any testing performed on the packaging material by the firm or on their behalf, or other method utilized by the firm (guarantee) to determine and assure child resistance of the unit for the number of openings and closings required by its size and contents. Determine if the testing or guaranty covers all package configurations being used by the firm (cap sizes, bottle construction, cap liners, etc.).

(5) Any in-process or finished product testing to assure proper assembly of finished units.

(6) Any records or reports concerning the failure of special packaging to be child-resistant.

(7) Labeling and packaging specifications for all sizes and forms in which each product is packaged, including the single size noncomplying package.

(8) Annual volume of each size, including expected volume of the noncomplying package.

(9) Evidence that the noncomplying package was packaged after the effective date of the standard involved.

(10) In accordance with the EPA/CPSC Memorandum of Under-

standing any suspected violation of EPA special packaging regulations should be referred to that agency. EPA Regulation 162.16(d)(2) specifies standards identical to those of CPSC. Section 162.16(d)(3) refers to CPSC's testing procedures in 16 CFR 17200.20 as being the acceptable EPA test method.

b. Manufacturers of Special Packaging. The inspection of the firm should be complete in all aspects, with special attention directed to the quality control program. You should be alert to fully document any problem in the QC program which could result in defective on noncomplying packaging reaching the marketplace. Obtain copies of any written procedures and examples of testing records and test procedures.

(1) Raw Materials

(A) Does the firm have written specifications for the components used in producing packaging?

(B) How do they assure themselves that each incoming batch or shipment of components comply with the specifications? What records are maintained of these tests or examination? What is the disposition of any materials which are rejected or fail to meet the specifications?

(C) What records are maintained to identify which batches or production lots are produced from a given batch or shipment of a component?

(D) Does the firm maintain an inventory or accountability of raw materials which can be reconciled against finished product yield? Is this record keyed to the suppliers lot number or a batch number assigned by the firm?

(E) Who are the personnel in charge of handling raw materials? What are their background qualifications based on experience, training, and education? To whom do they report?

(2) Production

(A) Does the firm maintain a master production and control record which sets forth all aspects of how an individual product will be produced?

(B) Does this master record designate complete manufacturing and control instructions, sampling and testing procedures,

specifications, special notations, and precautions to be followed?

(C) Do they maintain individual production batch or lot records?

(D) Are individual production batches coded? What is the key to the coding system?

(E) What is the firm's in-line production sampling and testing procedure? How long are samples maintained?

(F) Do they do physical measurements of in-line samples to determine if specifications are being met?

(G) What are the tolerances for acceptance or rejection of production?

(H) What procedure is followed when a reject situation occurs?

(I) What is the disposition of reject packages? What records are maintained?

(J) What is the firm's testing program to assure that products will continue to function properly for their intended useful life? What records are maintained?

(K) Who is in charge of production quality control? What are their background qualifications based on experience, training, and education? To whom do they report?

(3) Production Equipment

(A) What steps are taken by the firm before new or replacement equipment is put into production?

(B) Are protocol tests for child-resistance effectiveness and adult use effectiveness conducted before new or replacement equipment is placed in production? If not how does the firm assure themselves that production from new equipment would pass the protocol tests?

(C) Is the finished product identified as to the equipment used in its production such as mold and cavity marks?

(D) What steps are taken to assure that production from each piece of equipment is compatible with other pieces of equipment? An example of this would be cross checking caps from each mold cavity to assure that they are compatible with the neck finish from each vial mold cavity.

(E) Who are the personnel responsible for releasing new or replacement equipment for production? What are their backgrounds and to whom do they report?

(4) Distribution

(A) What steps does the firm take to assure that defective or noncomplying production does not get into their distribution system?

(B) Does finished production automatically go into the distribution system or is it subject to a release system?

(C) If there is a release system, how is unreleased production segregated from released?

(D) Who is responsible for the release of production, and what criteria is used in determining the release?

(E) How is rejected production segregated from released production and what is its disposition?

(F) Are the firm's distribution records identified with a batch or lot code?

(G) Can the firm, from its distribution records, identify specific production batches or lots and the raw materials used in the production?

(H) How does the firm maintain its distribution records? by customer? by batch? chronologically? in a computer? etc.

(I) Does the firm have a recall plan? If so, get the details.

(J) How does the firm handle returned production?

(K) If returned goods are placed back in the distribution system, how do they assure they are not defective?

(L) Who is responsible for the disposition of returned goods?

(5) Complaint Files

(A) What is the system for handling consumer or trade complaints?

(B) How are these files maintained and for how long?

(C) Who is responsible for reviewing complaints? To whom are they responsible?

(D) Do their records reflect the disposition of complaints?

(E) Does the firm have product liability insurance? If so, by whom is it carried?

(F) What liability claims have they had?

(G) What was their disposition?

c. Pharmacies

(1) As a follow-up to a complaint or for other reasons, you may be assigned to inspect a pharmacy to determine its compliance with the PPPA. Before initiating the inspection, clearly understand the following points. A pharmacist may dispense a drug subject to special packaging standards in a noncomplying package for direct consumer use if directed to do so upon the order of a physician, dentist, or other licensed medical practitioner or if requested to do so by a purchaser. There is no requirement that these requests be made in writing. "Dispense" means to repack or label a drug product.

(2) During an inspection, if it is found that drugs are being dispensed in violation of the PPPA, make every effort to document the violation.

(#) When assigned by your supervisor, obtain a prescription from a local physician. Identify yourself to the physician as a CPSC employee and request his cooperation in investigating the pharmacy.

Do not disclose the identity of the pharmacy. Be certain that the physician makes no reference to special packaging on the prescription.

(4) Visit the pharmacy and present the prescription posing as a regular customer. After receiving the prescription, identify yourself to the pharmacist and issue a Notice of Inspection. If the drug is packaged in a child-resistant container terminate the inspection. If it does not appear to be in a child-resistant container, document the filled prescription as an official sample. Determine whether the prescription was repackaged or if it was the manufacturer's bottle with the label stripped. Obtain an additional sample manufacturer's bottle without the label stripped or obtain an additional sample from the pharmacist's shelf stock. Be certain to obtain the sample from the same lot, or from the same stock bottle. (Also see #6. SAMPLE COLLECTIONS).

5. ACCIDENT INVESTIGATIONS. Conduct accident investigations involving products subject to special packaging standards in accordance with procedures specified in Order 9010.24.

6. SAMPLE COLLECTION.

a. Accident Investigations. Collect samples during accident investigations using the guidelines specified in Order 9010.24.

b. During and After Inspections. Collect an official sample when a product is subject to a special packaging regulation, and was packaged after the effective date of the regulation in violation of that regulation. Document by affidavit that both samples came from the same lot or stock bottle. Include the lot number, control number and any other data to tie the drug invoices and shipping records for interstate documentation. The second sample collected from shelf stock helps in demonstrating interstate commerce and provides a reserve. It is not, however, the evidence upon which the case is based. The noncomplying package dispensed, and the drug contained therein, comprise the sample to be analyzed. It could be argued that the second sample was the same drug as that dispensed but a stronger "cleaner" case is made when the actual evidence is analyzed. Therefore, regardless of whether the drug is analyzed in the Food and Drug Administration's labroatory or CPSC laboratories, the drug analyzed shall be from the noncomplying container dispensed. In major cases, when close-out inspections are conducted after a series of undercover buys, trial exhibits such as extra vials, photographs of the stock bottles, and closure supplies may also be obtained, in addition to affidavits and records.

c. Sample Size. For products subject to the FHSA, collect two intact units for package evaluation and sufficient additional intact units, minimum of two, to provide at least 32 oz. of the product for analysis by the appropriate Area Office Laboratory. For foods, drugs, and cosmetics, collect two units, minimum of two, as determined upon consultation with the analyzing laboratory. Note that food, drug, and cosmetic samples which are collected under the authority of the Federal Food, Drug, and Cosmetic Act must be sufficient in size to provide a duplicate portion of any sample for examination by any person named on the label of the article or the owner of the article (refer to Section 702(b) of the FD&C Act).

7. SAMPLE ANALYSIS.

A. Split Samples. Split each sample which does not meet the condictions specified in paragraph 6(b) of this directive in the following manner. Submit two intact units via the Sample Custodian to the Division of Safety Packaging and Scientific Coordination (HSPS) for package evaluation. Submit the other units to the Division of Health Science Laboratory for chemical or physical analysis needed to confirm that the product is subject to a special packaging regulation.

b. Package Evaluation by Regional Office. A package evaluation by HSPS is no longer necessary when the following conditions are met:

(1) The closures are clearly recognizable as the conventional, single piece metal and/or plastic threaded screw type which are being used on metal, plastic, and glass containers; provided

(2) Such closures are of a diameter of 58 mm or less when used on glass and plastic containers or of a diameter of 1-1/4 inches or less when used on metal containers. The diameters are measured across the outside of the threads or the inside of the closure to the nearest mm; except

(3) For those furniture polish samples, where there is an obvious attempt to restrict the flow of polish from the opened container as required by 16 CFR 1700.15(d), in which case the evaluation will be accomplished by HSPS regardless of the type of closure involved.

If the units of a sample meet the above conditions, (1) and (2), submit the entire sample to the Division of Health Sciences Laboratory for both chemical analysis and package evaluation.

c. Initiating Seizure Action Without Analysis. A seizure may be initiated against a lot of goods subject to a PPPA standard without analysis if the following conditions are met:

(1) A responsible officer of the responsible firm signs an affidavit that the product is subject to the regulation and that it is not packaged in child-resistant packaging; or

(2) the product label clearly states the product is subject to the regulation, such as "contains 10% methyl salicylate". Seizure could be initiated without chemical analysis, although confirmation that the package does not comply would still be needed. This may be accomplished either by an affidavit from the responsible individual or by laboratory examination. In either situation described above a sample should still be collected even though analysis may not be necessary.

8. IMPORTS.

a. The Regional Office should stay in contact with local Customs officials to assure that Customs is aware of all special packaging regulations. In a cooperative effort request Customs and the Food and Drug Administration to alert the Regional Office to any suspect goods which are being imported. Do not use the procedures for sampling, detention and refusal currently in the regulations at 16 CFR 1500.265-272 and 21 CFR 1.83-1.99 for the surveillance of imported products. When violative or suspect products are encountered follow-up should be made at the importer or distributor much the same as for domestically manufactured products in line with the Commission policy on imported products (16 CFR 1009.3). This follow-up should include determining the scope of the problem (other lots, other importers, similar products, etc.) arranging for necessary corrective action and taking legal action as appropriate. The importer or distributor should be alerted to the Commission's policy of prohibiting the export of most violative products which have been held for sale in the United States. While PPPA violations do not require notification of CPSC prior to exportation the importer or distributor should be alerted to the reporting requirements of Section 14(d) of the Federal Hazardous Substances Act for any other violations of the FHSA.

b. Import samples should be collected and submitted for analysis in the same manner as domestic samples. Flag collection reports as import samples to expedite analysis. Arrange to have sampled lots held but do not detain pending receipt of the results of sample analysis. Grant removal from the pier if requested so that demurrage charges can be avoided.

9. FOLLOW-UP. Coordinate all regulatory actions with CARM.

10. REPORTING.

a. Handle all legal action recommendations and case dispositions in accordance with the current case authority delegation directive.

b. Injury Investigation Reports. Report all investigations involving injuries or accidents in which injuries could have resulted on NEISS Investigation Reports. In every case, send a copy of the report to the Division of Hazard and Injury Analysis (EPDS).

CPSC

Order

9020.70

FLAMMABLE FABRICS ACT

March 27, 1984

DISTRIBUTION: Sets 1 & 2

INITIATED BY: AEDCA

CPSC FORM 101

Addressee

9020.70

TRANSMITTAL	DATE 3/27/84

1. PURPOSE. This order provides operational guidelines for field activities involving the Flammable Fabrics Act.

PAGE CONTROL CHART

REMOVE	DATED	INSERT	DATED
Contents 9020	12/23/83	Content 9020	3/27/84
9020.70	12/5/77	9020.70	3/27/84

2. FILING INSTRUCTIONS. File this order and destroy this transmittal.

FOREWORD

1. PURPOSE. This order provides operational guidelines for field activities involving the Flammable Fabrics Act.

2. SCOPE. This directive is intended for the use of Regional Office personnel who are involved in the enforcement of the Flammable Fabrics Act.

3. CANCELLATION. This order cancels CPSC Order 9020.70, dated December 5, 1977, Flammable Fabrics Act.

4. REFERENCES. Reference materials for this order include:

a. Flammable Fabrics Act.

b. Federal Trade Commission Act.

c. Consumer Product Safety Act.

d. CPSC Order 9010.24, In-Depth Investigations.

e. CPSC Order 9010.30, Inspections.

f. CPSC Order 9010.36, Domestic Sample Collection.

g. Flammable Fabrics Regulations, 16 CFR Part 1602 et seq.

Edgar Morgan
Executive Director

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CHAPTER 1. BACKGROUND

SECTION 1. LAWS, REGULATIONS AND GUARANTIES

1. Flammable Fabrics Act.

a. Original Act. As originally enacted in 1953, the Flammable Fabrics Act (FFA) (16 CFR 1609) prohibited the manufacture for sale, importation or offering for sale of any article of wearing apparel or of any fabric intended or sold for use in wearing apparel which was so highly flammable as to be dangerous when worn by individuals. The Act incorporated by reference flammability standards for textiles and vinyl plastic film. The procedures for testing products to determine compliance with the standards are set out in the standards. Under the original Act the Federal Trade Commission (FTC) was responsible for enforcing the FFA.

b. 1967 Revision and Amendments to FFA. As revised and amended by Congress in 1967, the scope of the FFA was extended to cover wearing apparel, interior furnishings, and fabrics and related materials which can reasonably be expected to be used in wearing apparel or interior furnishings. The basic enforcement of the FFA remained an FTC function. The Department of Commerce was charged with the responsibility of developing new or amended flammability standards for products whenever investigations or research indicated that a standard was necessary to protect the public against an unreasonable risk of the occurrence of fire resulting in death, injury or significant property damage. The Department assigned its responsibility to the National Bureau of Standards for research and preparation of draft standards. The Department of Health, Education and Welfare was required to investigate deaths, injuries, and economic losses resulting from the accidental burning of products, fabrics or related materials and to submit an annual report of these investigations to Congress. This last function was handled by the Food and Drug Administration (FDA).

c. The Enactment of the Consumer Product Safety Act. When the CPSA became effective on May 14, 1973, the functions of the FTC, the Department of Commerce and the FDA under the 1967 FFA were transferred to the newly established Consumer Product Safety Commission (CPSC). Thus, all standard setting, investigative, and enforcement activities relative to flammable fabrics became consolidated in one federal agency, the Consumer Product Safety Commission. On December 30, 1975 (40 FR 59884), the CPSC codified and transferred the flammability standards and enforcement regulations and the statements of interpretation and policy

under the Flammable Fabrics Act from Title 16 CFR Part 302 to Subchapter D of 16 CFR Chapter II.

d. Subsequent Minor Amendments to the FFA. In 1976, the CPSC Improvements Act (Public Law 94-284) added the preemption provisions of Section 16 (15 U.S.C. 1203). When a flammability standard or regulation is issued under the FFA, no state or local jurisdiction may establish or continue in effect a flammability standard or regulation intended to protect against the same risk of the occurrence of fire. In 1978, the Consumer Product Safety Act Authorization Act (Public Law 95-631) added the export reporting provisions of Section 15 (15 U.S.C. 2020(c)). Any person exporting noncomplying goods must notify the Commission at least 30 days in advance. Finally, the Consumer Product Safety Amendment of 1981 (Public Law 97-35) revised the Section 4 (15 U.S.C. 1193) procedures involving the promulgation of a mandatory standard. An advance notice of proposed rulemaking shall be published to initiate a rulemaking proceeding (16 U.S.C. 1193(g)) and the Commission must first consider any existing or proposed voluntary standards (15 U.S.C. 1193 (h)).

e. Legal Remedies and Penalties. Under provisions of the FFA, an individual or firm can be enjoined by a court (injunction) from performing a prohibited act or compelled to perform tests to maintain required records, etc., and violative goods can be seized in a legal proceeding. Any person who willfully violates Section 3 of the FFA relating to the marketing of products in violation of the Act or Section 8(b) relating to guaranties under the FFA is guilty of a criminal offense and is subject to a maximum of $5,000 fine and/or imprisonment for up to one year. Under provisions of the FTC Act the Commission can issue an administrative order to cease and desist to prevent the recurrence of a violative act. This order can be issued either after an administrative proceeding or as a result of a consent agreement. In the consent agreement the parties involved do not admit they violated the act but agree not to violate the act in the future.

Any person or firm who violates a cease and desist order is subject to a civil penalty of up to $10,000 for each violation (as opposed to a $5,000 fine for a criminal violation). Before a criminal proceeding or suit for civil penalty can be initiated the case is developed and prepared by the CPSC staff.

f. Recall. Although not expressly set forth in the FFA, the Commission interpreted the FFA to provide inherent authority under the FFA and the FTCA to order relief in the form of a recall from the

ultimate purchaser of items that violate a FFA standard. This interpretation was not upheld by the Court of Appeals in the Fourth and Ninth Circuits. In Congoleum Industries, Inc. v. CPSC, 602 F2d 220 (9th Cir. 1979), the Ninth Circuit decided that the Commission does not have authority under the FFA to order notification or recall of violative products. The Fourth Circuit agreed with this decision in Barrett Carpet Mills, Inc. v. CPSC, No. 78-1699 (4th Cir. 1980). The courts did suggest, however, that, if sufficient hazard exists recall under Section 15 of the CPSA might be appropriate.

g. Export Policy. In the July 6, 1983 Commission Order in Imperial Carpet Mills, Inc. v. CPSC (CPSC Docket No. 80-2), the Commission determined that the export of noncomplying goods that have moved in domestic commerce is permissible, providing the requirements of section 15(c) of the FFA have been met. Section 15(c) of the FFA (15 U.S.C. 1202(c)), provides that not less than 30 days before any person exports to a foreign country any fabric, related material, or product that fails to conform to an applicable flammability standard or regulation in effect under the FFA, such person shall file a statement with the Commission notifying the Commission of such exportation, and the Commission, upon receipt of such statement, shall promptly notify the government of such country of such exportation and of the basis for such flammability standard or regulation. The Commission's procedures for handling these reports are provided at 16 CFR 1019.

The Commission's statement in the Imperial Carpet Mills order allowing exportation of goods which fail to comply with an applicable flammability standard without regard to whether the goods have been distributed in domestic commerce reverses an earlier policy statement on the same topic, which is codified at 16 CFR 1602.2.. In January, 1984, the Commission denied a request from four public interest groups to reconsider the export policy statement in the Imperial Carpet Mills case.

h. Current Issues.

(1) In the Federal Register of December 30, 1983 (48 F.R. 57302), the Commission published a proposal to amend the Standard for the Flammability of Mattresses (and Mattress Pads) (16 CFR Part 1632). The proposed amendment included provisions to: (1) eliminate existing requirements for production testing of mattresses and mattress pads, (2) establish a procedure for substitution of ticking materials without additional prototype testing under specified conditions, and (3) make other changes to improve the clarity and precision of the standard. If

the proposed amendments are issued on a final basis, the mattress standard will continue to require prototype testing of mattresses to demonstrate resistance to ignition from lighted cigarettes.

(2) On March 29, 1972, the FTC issued an enforcement policy setting forth the factors that would be considered when determining whether a particular garment is an item of children's sleepwear subject to the 0-6X standard. The enforcement policy with minor modifications was reissued by the Consumer Product Safety Commission on November 6, 1980. The policy was extended at that time to include the children's sleepwear standard for sizes 7 through 14. These policy statements which are codified at 1615.64 and 1616.65 were set aside by the Court of Appeals for the Fourth Circuit. The enforcement policy was revised to eliminate the parts that were of concern to the Fourth Circuit. The new enforcement policy was proposed on February 11, 1983. It is anticipated that the enforcement policy will be finalized in 1984 and will become effective 30 days thereafter. The basic guidelines provided in the original FTC enforcement policy have remained unchanged since 1972 and have been used continuously by the staff to determine whether particular garments are items of children's sleepwear as defined by the 0-6X and 7-14 standards.

(3) In August 1982, the Commission proposed amendments to the Standard for the Flammability of Clothing Textiles (16 CFR 1610). These amendments would (1) eliminate the need to conduct reasonable and representative tests for purposes of issuing a FFA guaranty for certain categories of fabrics (acrylic, modacrylic, nylon, olefin, polyester and combinations of these), and (2) allow the manufacturer or importer to establish its own reasonable and representative test program to support the issuance of a FFA guaranty for the remaining types of fabric subject to the standard. It is anticipated that these amendments will be finalized in 1984 and will become effective in 1985.

1. Code of Federal Regulations.

a. Codification of FFA Standards, Rules and Policy Statements. The flammability standards, regulation and policy statements issued under the Flammable Fabrics Act appear in the Code of Federal Regulations at 16 CFR, Chapter II, Subpart D.

b. Arrangement. In the revised and recodified material the rules and regulations are arranged in juxtaposition to the specific standard to which they relate. The regulations define terms, and set out specific requirements with respect to labeling and recordkeeping in connection

with the particular standard to which the rules and regulations apply. CPSC policy statements are also set out in conjunction with the standard to which they relate.

3. Guaranties.

a. Purpose. Section 8 of the FFA provides that no person shall be subject to criminal prosecution under Section 7 of the FFA if such person establishes a guaranty received in good faith signed by and containing the name and address of the person by whom the product subject to a flammability standard was manufactured or from whom it was received. Such a guaranty must indicate that reasonable and representative tests made in accordance with the appropriate standard show that the involved product complies with the standard. If the flammability standard incorporates a sampling plan, the testing conducted for the sampling constitutes reasonable and representative testing for guaranty purposes. Note that reliance on a guaranty is not a bar to civil actions such as a proceeding before an Administrative Law Judge to obtain a cease and desist order, a seizure, or an injunction. It is only a bar to criminal proceedings.

b. Types of Guaranties

(1) Two types of guaranties that may be issued under the Act and Regulations: (a) a separate guaranty, and (b) a continuing guaranty. A separate guaranty covers a specific sale to a specific customer; a continuing guaranty may be from a seller to his customer or it may be one filed with the Commission to cover all sales to all customers of the guarantor. Continuing guaranties, filed with CPSC, may be referred to by the seller/guarantor on invoices or other papers. A continuing guaranty, whether furnished an individual or filed with the Commission, expires after three years. Therefore, if the seller elects to continue the guaranty in effect, he must renew it every three years (see 16 CFR 1608.3). The continuing guaranties may be limited to certain products in which case any representation with respect to the guaranty must clearly set out its limitations.

(2) Guaranties must be based on either reasonable and representative tests made in accordance with FFA standards and regulations or on guaranties received in good faith from the suppliers. The guaranties may be made applicable to any or all products handled by the guarantor, depending upon what is specified in the guaranty.

c. Regulations Concerning Guaranties. Regulations concerning guaranties appear at 16 CFR 1608.2, 1608.3, 1608.4, 1610.37, 1610.38, 1611.37, 1611.38. 1615.31(f), 1616.31(e), 1630.31, 1631.31, 1631.32, and 1632.31(f). Section 1608.2 and 1608.3 give details concerning the format for separate and continuing guaranties. Section 1608.4 specifies that a guaranty furnished by a person who is not a resident of the United States may not be relied upon as a bar to prosecution. Section 1610.37 discusses reasonable and representative tests required for guaranty purposes for various textile products covered by the Standard for the Flammability of Clothing Textiles (CS 191-53), now codified as 16 CFR 1610 Subpart A. Section 16 CFR 1610.38 covers records that must be maintained by firms which give guaranties which indicate products comply with the clothing textile standard. Section 1611.37(c) discusses reasonable and representative tests required for guaranty purposes for vinyl plastic film products covered by the Standard for the Flammability of Vinyl Plastic Film (CS 192-53), now codified as 16 CFR 1611. Section 16 CFR 1611.38 covers records that must be maintained by firms which give guaranties which indicate products comply with the vinyl plastic film standard. Section 16 CFR 1615.31(f) provides that in the case of 0-6X sleepwear standard (16 CFR 1615, FF 3-71) reasonable and representative tests for guaranty purposes shall be those tests performed pursuant to an authorized sampling plan. Section 16 CFR 1616.31(e) contains a comparable provision for 7-14 sleepwear standard (16 CFR 1616, FF 5-74). Sections 1630.31, 1631.31 and 1631.32 set out the requirements for carpet and rug guaranties and Section 1632.31 provides that in the case of products subject to the mattress standard (16 CFR 1632, FF 4-72) the tests made in accordance with an authorized sampling plan constitute reasonable and representative tests for guaranty purposes.

SECTION 2. FLAMMABILITY STANDARDS

4. Flammability of Clothing Textiles, 16 CFR 1610 (Formerly Commercial Standard 191-53).

a. Wearing Apparel and Fabrics. The Standard for the Flammability of Clothing Textiles, 16 CFR 1610 Subpart A (formerly CS 191-53) and the Standard for the Flammability of Vinyl Plastic Film, 16 CFR 1611 Subpart A (formerly CS 192-53) discussed later in this directive are the two standards which were specified and incorported by reference in the FFA in 1953. These standards remain in effect because of a "savings clause" in the 1967 amendments of the FFA. 16 CFR 1610 Subpart A (CS 191-53) is the standard under which the Commission currently regulates most articles of wearing apparel other than children's sleepwear. If a material of fabric yields Class 3 results, "rapid and intense burning," when tested

in accordance with 16 CFR 1610, Subpart A, its sale for use as wearing apparel violates the FFA.

(1) Time for Flame Spread.

(a) Section 1610.3(a)(1)(i) (paragraph 3.1.1.1 of CS 191-53) specifies that a plain surface fabric shall be classified as Class 1, normal flammability, if the time of flame spread is 3.5 seconds or more. Section 1610.3(a)(1) (paragraph 3.1.3.1 of CS 191-53) specifies that a plain surface fabric shall be classified as Class 3, rapid and intense burning, when the time of flame spread is less than 3.5 seconds. Rapid and intense burning (Class 3) is a failure under 16 CFR 1610 (CS 191-53).

In a 1954 amendment to Section 4(c) of the original FFA (now published at 16 CFR 1609) the minimum passing time of flame spread for plain surface fabrics was changed from 4 seconds to 3.5 seconds. This change is noted in a footnote to the standard (16 CFR 1610.3).

(b) Section 1610.3(a)(3)(ii) (paragraph 3.1.3.2 of CS 191-53) specifies that the flame spread time for classifying raised surface fabrics as dangerously flammable (Class 3) when worn by individuals is less than 4 seconds (rapid and intense burning).

(2) Use of an Alternate Test Apparatus. On May 12, 1983, the Commission issued a final regulation that allows a manufacturer or importer to use an alternate test apparatus and/or procedure under the Standard for the Flammability of Clothing Textiles (16 CFR 1610.40), so long as the firm has data to demonstrate that use of the alternate apparatus or procedure results in a test that is at least as stringent as the one required by the standard.

(3) Points to Remember. Both the 1953 Act as amended in 1954 and the 1967 amended and revised Act should be used when interpreting the FFA. Pursuant to the savings clause in the 1967 amendment of the FFA, the requirements and definitions in the earlier Act as to CS 191-53 and CS 192-53 (16 CFR 1610 Subpart A and 16 CFR 1611 Subpart A) remain in effect under the new Act until the Commission changes or revokes them.

(4) Clarifying Interpretations. On November 13, 1973, CPSC published a statement to clarify three points with respect to testing procedures under CS 191-53 (16[illegible]. These points which appear at 16[illegible] relate to (1) the positioning of the stop cord; (2) the use of the

brushing device; and (3) the criterion for failure of a specimen based on the source of the base burn of fabrics with a raised fiber surface.

b. Hats, Gloves and Footwear. The FFA as originally enacted in 1953 was not applicable to hats (unless they covered the face, neck or shoulders); to gloves (unless they were more than 14 inches in length and not affixed to or do not form an integral part of another garment); or to footwear (unless it was hosiery or an integral part of another garment). The savings clause in the 1967 amendment continues the exclusions until a new Standard applicable to hats, gloves and/or footwear is promulgated.

c. Interlining Fabrics. Section 1610.36(a) specifies that interlining fabrics or other covered or unexposed surfaces of wearing apparel are not subject to the standard.

d. Uncovered or Exposed Surfaces. Only the uncovered or exposed surface of wearing apparel is covered by CS 191-53 and CS 192-53. However, it should be noted that this includes the outer surface of undergarments. Also, a court decision has held that the lining of a cardigan jacket is an uncovered or exposed surface and thus must meet the requirements of the appropriate flammability standard.

e. Narrow Fabrics and Products Made of Narrow Fabrics. Because of mechanical limitations in the Standard for the Flammability of Clothing Textiles (16 CFR 1610 Subpart A) the test procedure used to determine compliance under the standard must be modified to test narrow fabrics or items made of narrow fabrics such as hula skirts, ribbons, leis, fringes, loose feathers and feather boas (scarbes). Such modification is not legally acceptable. Accordingly, even though the above items are subject to the standard it is not advisable to proceed against such items for failure to comply with the standard. In view of this, samples of hula skirts, ribbons, leis, fringes, loose feathers and boas should not be submitted for determining compliance with the FFA.

f. Disposable Diapers. On February 24, 1982, the Commission issued a final regulation that exempts the plastic film or plastic-coated fabric used, or intended for use, as the outer layer of disposable diapers, provided that a full thickness of the assembled article passes the test in the standard otherwise applicable to the outer fabric or film when the flame is applied to the exposed or uncovered surface (16 CFR 1610.36(f)(3) and 16 CFR 1611.36(f)(e).

g. Suspect Products. The following is a list of "suspect" types of articles and fabrics under Section 1610 Subpart A (CS 191-53) which should be obtained for testing when checking for compliance with that standard.

(1) Fabrics with the following characteristics:

(a) Sheer silk.

(b) Sheer rayon.

(c) Sheer rayon/acetate blends.

(d) Dotted or flocked swiss on sheer rayon base (it is the very sheer base which fails).

(e) Sheer cotton.

(f) Laces and organzas. As a rule the sheer cotton, rayon or cotton/rayon blends net is not likely to fail; therefore, if made predominantly of net it is suspect. In the very fine and expensive silk laces, be very selective. If it is not heavily embroidered, it should be considered suspect.

(g) Flannels and flannelettes, cotton, rayon and cotton and rayon blends, not treated with fire retardant. The light weight flannelettes and those with the most nap (the fluffiest) are the most suspect.

(h) Fake furs with rayon pile/fiber.

Note: Do not submit heavyweight fabrics such as denim or double knits.

(2) Garments of the following types:

(a) Wearing apparel made of sheer rayons (also gypsy or Asian type costumes).

(b) Windbreakers with fluffy cotton or acrylic lining.

(c) Sweatshirts, cotton, rayon or cotton and rayon blends that are very fluffy inside.

(d) Men's flannel work shirt, very fuzzy and made of cotton, rayon or cotton acetate acrylic.

(e) Any cotton/chenille garment (all cotton base with all cotton tufting or cotton/rayon blend tufting).

(f) Fake fur garments with a rayon fiber surface.

(3) Scarves which consist of:

(a) Sheer silk.

(b) Rayon or metallic thread on nylon base.

(c) Sheer nylon base with rayon design.

(d) Sheer nylon with rayon flocking.

(e) Sheer rayon and/or acetate.

Note: It is not necessary to sample 100% nylon scarves no matter how sheer, because they will meet the standard if no decoration has been applied.

(4) Ornamental millinery veils or veilings, or other types of lace with large areas of exposed netting when made of cotton, rayon or silk. Nylon veiling or lace is not a problem.

(5) Disposable items of apparel, designed for one time use, made primarily of paper, such as ladies panties and hospital gowns.

5. General Purpose Vinyl Plastic Film, 16 CFR 1611 (Formerly Commercial Standard 192-53). This standard applies to all non-rigid unsupported plastic film ten mils or less in thickness. However, experience has shown that most film which fails to meet the standard is less than one mil in thickness, and such film is rarely found on the market today. However, when inspecting products under this standard, follow the same basic procedures used for products subject to Part 1610 Subpart A.

6. Carpet and Rug Standards.

a. The Standard for the Surface Flammability of Carpets and Rugs, 16 CFR 1630 Subpart A (FF 1-70). This standard defines the term carpet as any type of finished product made in whole or in part of fabric or related material which is intended or which may reasonably be expected to be used as a floor covering (carpet underpads are not

subject to the standard). The definition section of 16 CFR 1630 Subpart A (FF 1-70) further specifies that the standard applies to carpets with one dimension greater than 6 feet and a surface area greater than 24 square feet. Mats, hides and similar products are subject to the standard; resilient floor coverings such as linoleum, asphalt tile and vinyl tile are not. Products such as carpet squares which do not have a dimension of greater than 6 feet and an area greater than 24 square feet are covered by this standard if they are intended to be assembled into a unit which falls within the size specifications of the standard. The term rug is interchangeable with the term carpet.

b. The Standard for the Surface Flammability of Small Carpets and Rugs, 16 CFR 1631 Subpart A (FF 2-70). The term "small carpet" is defined as any type of finished product made in whole or in part of fabric or related material which is intended for use or which may reasonably be expected to be used as a floor covering which has no dimension greater than 6 feet and an area no greater than 24 square feet. The term "small rug" is equivalent to the term small carpet. The test procedures for the two carpet flammability standards are identical. However, non-complying small carpets and rugs may be marketed if they have a permanent warning label affixed which states "Flammable (Fails U.S. Standard FF 2-70): Should not be used near source of ignition." 16 CFR 1630 (FF 1-70) which is applicable to large carpets and rugs does not provide for marketing noncomplying carpets; all carpets subject to that standard must comply with that standard.

c. Test Procedure. The test procedure for evaluating the flammability of carpet involves igniting a methenamine tablet in the center of each of eight 9-inch square specimens. A failure occurs if more than one specimen burns to within an inch of the frame used to hold it. The test procedure is performed in a draft-free chamber on an oven dried specimen.

d. Washing Procedures. Except as noted hereinafter, both the carpet standards require that carpets which have had a fire retardant treatment must undergo a prescribed washing procedure before the flammability test is conducted. Refer to the standards for a detailed description of the washing procedures (see Sections 1630.4(b)(1)(ii) and 1631.4(b)(1)(ii)).

(1) Hide Carpets. Producers and distributors of shearling and hide rugs, consisting of natural wool or hair attached to the hide with no synthetic fibers, petitioned for an alternative washing procedure. As a result of the petition an alternative laundering procedure

(see Sections 1630.61 and 1631.61) for such carpets and rugs was authorized provided the hide carpets and rugs for which such alternative laundering procedure is utilized are prominently, conspicuously and permanently labeled with laundering instructions as provided in Section 1630.61(c) and 1631.61(c).

(2) Wool Flokati Carpets. As a result of a similar petition, an alternative laundering procedure was approved for use on wool flokati rugs (see Section 1630.32) that are prominently, conspicuously and permanently labeled as provided in Section 1630.62(c) and 1631.62(c).

(3) Alumina Trihydrate. The washing requirement for carpets subject to 16 CFR 1630 Subpart A (FF 1-70) which contain alumina trihydrate in the backing has been suspended pending a review of the need for an alternative washing procedure for such products. The suspension does not apply to small carpets subject to 16 CFR 1631 Subpart A (FF 2-70).

e. Carpet Fringe. The carpet standards require that the most flammable area of carpets be subjected to the flammability test. However, although carpet fringe is often the most flammable area of the carpet, the procedures for testing carpets and rugs are inappropriate to test the fringe without modifying the test methods and this cannot be done without amending the standard. Accordingly, carpet fringe is no longer being tested to determine compliance with the FFA.

f. Suspect Carpets. The types of carpet which are most likely to fail the flammability testing include:

(1) Flokati, 100% wool with and without flame retardant treatment;

(2) All wool shags in any color;

(3) Rya 100% wool rugs without flame retardant treatment (not labeled with a T);

(4) Rya 100% wool rugs even if treated with flame retardant if multicolored;

(5) Cheap shags regardless of fiber content;

(6) Rubber latex backed cheap carpet regardless of fiber content (mostly shag);

(7) 12 inch square carpet tiles in shag and felted finishes;

(8) Felted carpeting without backing, like indoor-outdoor carpeting;

(9) Cheap fake grass carpet;

(10) Rugs with cotton, rayon or cotton/rayon blend fiber larger than 4 feet by 6 feet; or 4 feet by 6 feet or less and not bearing a warning label. Many of these are bathroom type rugs.

Note: Foam backed carpets usually fail more often than the same carpet with a jute back.

7. Standard for the Flammability of Mattresses 16 CFR 1632 Subpart A (FF 4-72), As Amended.

a. The Standard.

(1) On June 8, 1973, the Consumer Product Safety Commission published in the Federal Register an amended flammability standard for mattresses and mattress pads which became effective on June 22, 1973. The standard applies to all domestic and imported mattresses manufactured for sale on or after June 22, 1973. Items in inventory or with the trade as of the effective date of the standard, June 22, 1973, are exempt. In addition, noncomplying mattresses manufactured during a six-month period following the effective date of the standard could be marketed provided the cautionary labeling requirements were met.

(2) The procedure for evaluating flammability of mattresses involves the exposure of a mattress surface to lighted cigarettes and then observing the ignition resistance of the mattress. Eighteen cigarettes must be place on each mattress surface. Nine of the cigarettes are required to be placed on the bare surface and nine between two cotton sheets. A minimum of three cigarettes is placed at each location type (i.e. smooth surface, tape edge, tuft, quilt, etc.) on the bare mattress and between two sheets. A cigarette location passes the test if the char length is not greater than 2.0 inches in any direction from the nearest point of the cigarette.

(3) Mattress pads, which are included in the definition of mattress in the standard, must be laundered ten times before testing if they contain a fire retardant treatment.

b. Sampling Plan.

(1) The sampling plan incorporated into the mattress standard requires pre-market testing of mattresses to establish with a specified statistical assurance that the mattresses comply with the standard. The standard requires the manufacturer to perform prototype qualifying tests before beginning production. Once a product is qualified in prototype, the manufacturer is required to conduct continual tests during production pursuant to a random sampling plan as provided by the standard. If the manufacturer has a failure during his production testing, he is required to reprototype all products in that production unit. In the event of a failure during production testing, the unit is rejected and the mattresses in the unit may not be disposed of without reworking.

(2) The manufacturer (or other person required to perform tests under the standard) is required to keep records of his testing and distribution. These records must be adequate to establish that the sampling plan has been complied with; to show passing test results; and to relate products distributed to production units tested. In the case of a standard which incorporates a sampling plan, failure to test and/or maintain the required records in accordance with the sampling plan is a violation.

(3) In order to qualify as an acceptable random sampling, the selection of items for testing should be made in such a way as to assure that all the items in the entire production unit are subject to selection. Items from which selection is made should not be exclusively the product of one operator or one machine. If production tests are performed on seconds or irregulars selected at random (per the above) the flaw or defect in the item selected for testing should not be of such nature as to affect test results.

c. Definitions.

(1) "Mattress" is defined in the standard as "a ticking filled with resilient material used alone or in combination with other products and intended or promoted for sleeping upon." The definition as set out in the standard specifically includes such items as mattress pads, mattresses of all sizes, and mattresses used in sofa, day and roll-away beds. The definition in the standard specifically excludes sleeping bags, pillows, mattress foundations such as box springs, liquid and gaseous filled tickings such as water beds and air mattresses. It also excludes items of upholstered furniture which do not contain or constitute a mattress. Although such items of upholstered furniture

could be used for sleeping, this is considered to be a separate class of interior furnishings that will be considered in the development of a flammability standard for upholstered furniture. The glossary at the end of the standard (Section 1632.6) defines and illustrates many of the items referred to in the definition of mattress in the standard.

(2) "Mattress prototype" means mattresses of a particular design, sharing all materials and methods of assembly, but excluding differences in mattress size and shape. If it has been shown as a result of prototype qualification testing that a material has not influenced the ignition resistance of the mattress prototype, substitution of another material for such material is not deemed a difference in materials for purposes of prototype definition. If it is determined or suspected that a material has influenced the ignition resistance of the mattress prototype, a dimensional or other change in that material is deemed a difference in materials for purposes of prototype definition unless it is previously shown to the satisfaction of the Consumer Product Safety Commission that such dimensional or other change will not reduce the ignition resistance of the mattress prototype (Section 1632.1(b)). See also Section 1632.61.

(3) "Mattress type" means mattresses sharing a method of assembly, such as tufted, multineedle continuous quilt, deep panel quilt, and smooth top, and all materials affecting cigarette ignition, but excluding differences in mattress size and shape. More than one mattress prototype may be included in a single type of production testing, provided each prototype has the same method of assembly. Thus, for example, a prototype of a deep panel quilt mattress made of ABC components may be the same type mattress as one made of DEF components and although a separate prototype qualifying test must be conducted on each of the mattresses, they are the same type of mattresses and thus may be included in the same production unit. In addition to the different mattress types specifically listed in Section 1632.1(a) mattresses with vinyl ticking are a separate mattress type. Also, mattresses with different types of cover on its surface are a separate type of mattress.

(4) "Production unit" means a quantity of mattresses of one mattress type. This quantity is predetermined by the mattress manufacturer subject to the maximum number specified in the applicable parts of Section 1632.4(b), "Specimen and Sampling".

d. Testing.

(1) General Requirements.

(a) The standard requires the manufacturer to conduct two types of tests on his mattresses. The first is a prototype qualifying test performed on mattress prototypes prior to production. The second type of testing, production testing, is conducted on samples randomly selected from production units during production, and is designed to serve as a continuing safety check on the firm's production.

(b) Originally, the standard required the two-sheet portion of the flammability tests to be performed using 100 percent combed cotton percale sheets (Section 1632.4(b)(7)). However, this has been modified to also permit the use of untreated white, 100 percent cotton sheets with 120-210 thread count (see Section 1632.62).

(2) Prototype Qualification.

(a) The prototype qualification test requires that 6 mattress surfaces intended for sleeping (usually 3 mattresses) be tested with acceptable results before the production actually begins. Mattress prototypes must all share the same method of assembly although they may differ in size and shape or in components which do not affect cigarette ignition. Prototype tests must be performed on mattresses that have been conditioned for 48 hours prior to testing (1632.4(c)).

(b) Independent manufacturers may group together to conduct prototype testing in common rather than each manufacturer conducting individual prototype tests. However, the individual manufacturers who pool their mattress prototype tests must also test two surfaces of their own product in addition to the pool tests before production begins (see 16 CFR 1632.4(b)(2)(i)(A)(5)).

(3) Production Testing.

(a) After the mattresses have been qualified in prototype they must be tested during production. Production testing involves the testing of 2 surfaces (usually 1 mattress) selected at random from a production unit. The basic production unit is defined in the standard as not more than 500 mattresses of the same type (sharing the same method of assembly) or the quantity of the same type produced in 3 consecutive calendar months (whichever is smaller). The unit size may be increased to the total quantity produced in 3 calendar months if it

can be documented that each material contributing to cigarette ignition in all of the mattresses in the unit are from a single manufacturing lot of such material or 30 consecutive production units have been accepted. Provision is also made whereby the basic sampling plan may be reduced providing 15 consecutive units have been accepted during normal sampling (Section 1632.4(b)(2)(i)(B)(2)). The mattresses are not required to be conditioned prior to production testing.

(b) For purposes of production testing, mattresses may be grouped together into mattress types as long as they share the same method of assembly. Thus, more than one mattress prototype may be included in a single mattress type.

(4) Batch Sampling Plan. Batch sampling is intended primarily to cover situations where it is expected that a particular mattress type or style will be produced only one time.

(a). A manufacturer may elect to use the batch sampling plan for a production unit that consists of not more than 250 mattresses or the quantity produced in one period of 30 consecutive calendar days, whichever is smaller.

(b) Where the manufacturer elects to utilize the batch testing plan, he must test 4 surfaces of mattresses from the batch unit that have been pre-conditioned before testing. No further production testing is required when the manufacturer utilizes the batch sampling plan.

e. Renovated Mattresses. Mattresses which are rebuilt (renovated) for a customer where the ownership of the mattress does not change are exempt from the standard. However, mattresses that are renovated for sale are considered by the Commission to be manufactured for sale and therefore subject to the requirements of the mattress standard (1632.63).

f. Substitution of Materials at Tape Edge. On November 30, 1973, the Commission authorized a procedure for the verification of materials announcing it would regard a showing "to the satisfaction of the Consumer Product Safety Commission" to have been made with respect to materials substitution of items such as flange materials and tapes at the tape edge under the following circumstances:

(1) The mattress prototype has previously been qualified under Section 1632 (FF 4-72); and

(2) A substitution of materials involving only tape edge construction is contemplated; and

(3) One prototype mattress incorporating the substitute materials has been tested with 36 cigarettes (18 per surface) placed at tape edge locations with no ignitions occurring; and

(4) Records are maintained setting forth the details of the materials substitution and showing the test results referred to above (see 1632.61).

g. Exemption for Physician Prescribed Mattresses. "One of a kind" mattresses manufactured in accordance with a physician's written prescription or other comparable written therapeutic specifications for use in treatment of a named individual are exempt from testing under the standard provided such mattress bears a permanent and conspicuous warning label. In lieu of records otherwise required, the manufacturer is required to keep a copy of the prescription or comparable document (see Section 1631.31(i)).

h. Alternate Sampling Plans. The flammability standard states that in addition to the sampling plans discussed in the standard (normal, reduced, and batch), alternate sampling plans which have been approved by CPSC may be used by mattress manufacturers. There are currently five alternate sampling plans approved for use. They are:

(1) Alternate Sampling Plan Number 1 (16 CFR 1632.11). The plan, available for use by mattress and mattress pad manufacturers, permits the selection of samples from an initial portion of a production run rather than requiring the selection of samples from a complete product unit.

(2) Alternate Sampling Plan Number 2 (16 CFR 1632.12). This plan is designed for use by mattress pad manufacturers.

(3) Alternate Sampling Plan Number 4 (16 CFR 1632.13). This sampling plan involves the selection of "ticking" samples, and is available for use by ticking, mattress, and mattress pad manufacturers and also by mattress ticking distributors. Ticking is defined in the standard as "the outermost layer of fabric or related material" in a mattress. Criteria for interchanging tickings are specified in Section 1632.13. That provision provides that a mattress prototype shall be deemed to have been accepted in prototype qualification if (1) another mattress prototype identical except for ticking has been accepted in

prototype qualification; (2) both ticking prototypes are of the same ticking category as specified in Alternate Sampling Plan Number 4; and (3) both ticking prototypes have met the ticking prototype qualification requirements.

(4) Alternate Sampling Plan Number 5 (16 CFR 1632.14). This plan is available for use by mattress and mattress pad manufacturers.

(5) Alternate Sampling Plan Number 6 (16 CFR 1632.15). This plan is also intended for use by mattress and mattress pad manufacturers.

i. Mattresses Used in Motor Vehicles. The mattress standard indicates that mattresses subject to Motor Vehicle Safety Standard No. 302 are excluded from coverage by the CPSC standard. However, the staff of the Department of Transportation advises that the current Motor Vehicle Safety Standard 302 (MVSS 302) does not apply to mattresses. Therefore, mattresses manufactured for use in motor vehicles (motor homes, trucks, etc.) are not excluded from coverage under the standard for the Flammability of Mattresses administered by CPSC. Dual purpose cushions covered by upholstery fabric which are used in house trailers, boats, etc. for sleeping and sitting are not subject to the mattress standard since this type of dual purpose item is excluded in the definition of "mattress" (see 16 CFR 1632.1(a)). If dual purpose cushions have one side covered with ticking for sleeping, that side of the cushion is subject to the standard.

j. Summary and Diagram. A summary of the mattress standard and alternate sampling plans is provided in attached Appendix 1. A schematic diagram of a typical mattress is also provided in attachment Appendix 2.

8. Standard for the Flammability of Children's Sleepwear: Sizes 0 Through 6X, 16 CFR 1615, (F 3-71) and Sizes 7 Through 14, 16 CFR 1616 (FF 3-74). The two sleepwear standards are very similar, and except where noted the following discussion is applicable to both standards.

a. Flammability Standard for 0-6X Sleepwear. The flammability standard for children's sleepwear up to and including size 6X was originally promulgated on July 29, 1971 with an effective date of July 29, 1972. The standard was subsequently amended to include a sampling plan. The standard as amended was published on July 21, 1972 (16 CFR 1615). Under the 0-6X sleepwear standard there are three categories of products. These categories are:

(1) Products manufactured prior to July 29, 1972 which are exempt from the standard. No warning labels are required.

(2) Noncomplying products manufactured on or after July 29, 1972 and before July 29, 1973 which may be marketed if they bear permanently and prominently placed labels reading: "Flammable (Does Not Meet U.S. Standard FF 3-71). Should Not Be Worn Near Source of Fire" (Section 1615.31(b)(3)). If the cautionary labeling is not readily visible in a retail package, the package must also be prominently, conspicuously, and legibly labeled (Section 1615.31(b)(5)).

(3) All 0-6X sleepwear manufactured on or after July 29, 1973 is required to comply with the flammability standard. Such products as well as complying products manufactured prior to July 29, 1973 may or may not be labeled to indicate conformance to the standard. In the case of 0-6X sleepwear, affirmative labeling is neither required nor prohibited.

b. Flammability Standard for 7-14 Sleepwear. The standard for the flammability of children's sleepwear, sizes 7-14 (16 CFR 1616 Subpart A) was published in the Federal Register on May 1, 1974 and became effective on May 1, 1975.

(1) Affirmative label. An amendment to the 7-14 sleepwear standard, published on March 21, 1975 (16 CFR 1616.6) provided that all items of children's sleepwear in sizes 7 through 14 which comply with FF 5-74 and which are manufactured on or after May 1, 1975 through May 1, 1978 shall be labeled "Flame-Resistant, U.S. Standard FF 5-74". (See also 1616.31(b)(8)). Items of children's sleepwear in sizes 7 through 14 which comply with FF 5-74 and were manufactured after May 1, 1978 may or may not be labeled to indicate conformance with the standard.

(2) A policy statement issued in connection with the 7-14 standard (16 CFR 1616.61) provides that for purposes of the standard a product is considered to be manufactured when the item is completely assembled and all functional materials and permanent labels are affixed. The policy statement also provides that all foreign made items of 7-14 sleepwear entered into the United States on or after May 1, 1975 are subject to the standard.

c. Definitions for the Children's Sleepwear Standards.

(1) "Children's sleepwear" means any product of wearing apparel up to and including size 14, such as nightgowns, pajamas, or

similar or related items, such as robes, intended to be worn primarily for sleepwear or activities related to sleeping. Diapers and underwear are excluded from this definition.

Enforcement policy statements codified at 1615.64 and 1616.65 provide additional information. As provided by the policy statements, whether an article of wearing apparel is "intended to be worn primarily for sleeping or activities related to sleeping" depends on the facts and circumstances present in each case. Relevant factors include (a) the nature of the product and its suitability for use by children for sleeping or activities related to sleeping; (b) the manner in which the product is distributed and promoted; and (c) the likelihood that the product will be used by children for sleeping or activities related to sleeping in a substantial number of cases. The factors which are guidelines, not necessary elements of the definition, are weighed one against the other. If the weight of the factors indicate that a garment is an item of children's sleepwear, the garment is considered to be sleepwear. With this in mind, the investigator should be aware that if the garment is suitable for use as sleepwear and is likely to be used as children's sleepwear, a disclaimer statement by the manufacturer, importer or seller does not obviate the requirement that the product comply with the standard. Appendix 3 illustrates four types of garments believed by the Commission staff to be items of children's sleepwear in most instances. The type of fabric used in making the garment is, however, a factor that must be considered, since in certain instances it can cause the garment style not to be considered an item of children's sleepwear (see more complete discussion under Subpart J, Suspect Sleepwear Items). Questionable garments should be submitted to the Directorate for Compliance and Administrative Litigation for examination.

(2) "Item" means any product of children's sleepwear, or any fabric or related material intended or promoted for use in children's sleepwear.

The enforcement policy statements codified at 1615.64 and 1616.65 also provide additional information regarding fabric or related materials. As provided by the policy statements, whether fabric or related material is "intended or promoted" for use in children's sleepwear depends on the facts and circumstances present in each case. Relevant factors include (a) the nature of the fabric and its suitability for use in children's sleepwear, (b) the extent to which the fabric has been sold to manufacturers of children's sleepwear for use in the manufacture of children's sleepwear garments, and (c) the likelihood that the fabric will be used for children's sleepwear.

(3) "Trim" means decorative materials such as ribbons, laces, embroidery, or ornaments. This definition does not include individual pieces less than 2 inches in their longest dimension, provided that such pieces do not constitute or cover an aggregate or total of more than 20 square inches of the item. The definition of trim also excludes functional materials (findings) such as zippers, buttons or elastic bands used in the construction of garments. The Commission also considers labels, collars (skin tight and not exceeding one inch in width), cuffs (arm and leg, skin tight), and vinyl type materials used on the bottom of the foot to prevent slipping and falling to be functional. To be considered a functional material it must be used exclusively for functional purposes. Trim is subject to prototype testing but not production testing. Functional materials are not required to be tested. Note: A multicolor screen print decoration printed on a plain color fabric is trim which must be qualified in prototype by the garment manufacturer.

A backing that is used as support for trim or decoration on a children's sleepwear garment is not considered a functional material or finding of the type intended to be excluded from testing under the sleepwear standards. In preparing trim or decoration for prototype testing, the trim should be attached to the fabric in the same manner it is attached to the garment when the garment is in the form intended for the ultimate consumer. Therefore, if backing is included as part of the trim, the backing should be included when the trim is tested in prototype.

(4) Fabric Production Unit (FPU). A fabric production unit means any quantity of finished fabric (up to 5,000 linear yards for normal sampling or 10,000 yards for reduced sampling) which has a specific identity that remains unchanged throughout the unit except for color or print pattern. Different colors or print patterns may be included in a single fabric production unit provided tests of at least 5 samples from each color and print pattern demonstrate char lengths that are not significantly different from each other.

(5) Garment Product Unit (GPU). A garment production unit comprises up to 500 dozen garments which have a specific identity that remains unchanged except for size, trim, and findings. Different colors or print patterns of the same fabric may be included in a single garment production unit provided tests of at least 5 samples from each color and print pattern demonstrate char lengths that are not significantly different from each other. These comparison tests may be performed by the fabric supplier. In such cases the garment manufacturer must have

evidence in his records by appropriate guaranty or otherwise which show that the fabric supplier has performed such test. The GPU or comparable identification labeling requirement will be discussed in a subsequent section devoted to labeling.

(6) Test Criteria. In both FF 3-71 and FF 5-74 an individual sample (consisting of 15 specimens) passes the test required by the standard if the average char length of the sample does not exceed 7 inches and no char length of any individual specimen is 10 inches or more.

(7) Acceptance Criteria. A production unit is either accepted or rejected depending upon whether the tested samples meet the applicable production testing criteria.

d. Sampling Plans.

(1) The 0-6X sleepwear standard was the first standard to incorporate a sampling plan. The sampling plans, which are applicable to both fabric and garments subject to the 0-6X and 7-14 sleepwear standards, require pre-market flammability testing to establish with specified statistical assurance that sleepwear items comply with the standard. The standard requires the manufacturer to do certain prototype qualifying tests before beginning production. Once a product is qualified in prototype, the manufacturer is required to conduct continual tests during production pursuant to a random sampling plan as provided by the standards. If the manufacturer has a failure during his production testing, he is required to reject the unit, and requalify the prototype.

A rejected unit may not be used until the items in the unit have been reworked and retested so that they meet the standard.

(2) The manufacturer (or other person required to perform these tests) is required to keep records of his testing and distribution. These records must be adequate to establish that the sampling plan has been complied with; to show passing test results; and to relate products distributed to production units tested. In the case of a standard that incorporates a sampling plan, failure to test and/or maintain records in accordance with a sampling plan is a violation.

(3) The basic testing required by the sampling plans under the sleepwear standards are (a) production testing of fabric by the fabric supplier; (b) prototype tests of garment (seams) by the garment

manufacturer; (c) prototype tests of trim by the garment manufacturer; and (d) production tests for garments (seams) by the garment manufacturer.

(4) Laundering

(a) The fabric production tests require the fabric to be tested both before and after 50 launderings as described in the standard at 16 CFR 1615.4(g)(4) except where fabric flammability characteristics are not dependent on chemicals. In such cases an initial test before and after laundering demonstrates acceptability (16 CFR 1615.4(b)(4)).

(b) Garment production tests (seams) are required to be performed after 50 launderings unless the fabric has been shown to meet laundering requirements of 16 CFR 1615.4(b)(4) and (5); 16 CFR 1615.4 (g)(4); 16 CFR 1616.4(a)(4) and (5); and 16 CFR 1616.5(c)(4)).

(c) Garment prototype tests on trim are only required to be performed on the trim in its original (unwashed) state. The garment prototype test on seams is required to be performed on the seams in their original state and also after being laundered as provided in 1616.4(g)(4). The laundering requirement for the seam is waived however if all of the fabrics used in making the garments have been guaranteed by the fabric producer to be acceptable when tested in accordance with the testing requirements of the standard.

e. Test Procedures.

(1) The sleepwear standards provide for fabric testing by the mill (fabric manufacturer) or the garment manufacturer. The standard provides for testing the fabric on the basis of a normal sampling plan; a reduced sampling plan which may be used after 15 consecutive units have been accepted when tested in accordance with the normal sampling plan; and a tightened sampling plan which requires additional testing where there has been a rejection under the normal sampling plan.

(2) The sleepwear standards also require prototype and production tests of garments.

(a) The garment prototype (pre-production) test involves the testing of 3 samples (each sample comprising 5 specimens for a total of 15 specimens per test) of the longest seam type as well as 3 samples (15 specimens) of every other seam 10 inches or longer included in the garment. In addition, each type of trim to be included in the garment must be qualified in prototype testing for use in the sleepwear. The

trim is prepared for testing by affixing it to a swatch of the same type fabric in the same way it is affixed to the garment. The trim prototype is accepted or rejected on the same basis as the seam design.

(b) The garment production tests required by the standards require similar testing of seams cut from garments randomly selected from garment production units (see definition of garment production unit (GPU) which appears in paragraph c. (5) of this part). There is no requirement that production tests be conducted on trim.

(c) If the fabric supplier guaranties the fabric to be acceptable under the sleepwear standard, the garments produced from that fabric are not required to be laundered (see paragraph e. (4) above).

f. Use of an Alternate Test Apparatus. On May 12, 1983, the Commission issued final regulations that allow a manufacturer or importer to use an alternate test apparatus and/or procedure under the Standards for the Flammability of Children's Sleepwear, Sizes 0-6X (16 CFR 1615.35 and 16 CFR 1615.36) and Sizes 7-14 (16 CFR 1616.35 and 16 CFR 1616.36), so long as the firm has data to demonstrate that use of the alternate apparatus or procedure results in a test that is at least as stringent as the one required by the standards.

g. Labeling of Fabric and Garments. All required label information must be clear, conspicuous and legible. Non-required information shall not interfere with or minimize required information. Where an item is packaged for retail sale in some cases the required information must appear on the outside of the package as well as on a label affixed to the product (see 16 CFR 1615.31(b)(5) and (8) and Section 1616.31 (b)(4)). Except as noted, the same labeling requirements are applicable to 0-6X and 7-14 sleepwear. The specific provisions with respect to labeling requirements are found in Section 1615.31(f) and 1616.31(b). A summary of the labeling requirements appears below. The letter (P) indicates the label is required to be permanent.

(1) Care labels - To preserve flame retardancy from deterioration (P). The care label need only be affixed to one piece of a two-piece garment which is packaged and/or marketed as a single item.

(2) Wash before wearing (P).

(3) Temporary warning label for 0-6X sleepwear.

(4) Fabric intended for use in sleepwear. Bolt or roll, etc.

must be labeled and retail customer who purchases piece goods must be furnished label with care data and other required information.

(5) Samples used to promote sales must have required labels attached to samples or on promotional material. Alternatively, samples may have special label: "Flammable. Sample only. Not for use or resale. Does not meet Standard for the Flammability of Children's Sleepwear Sizes 7-14 (FF 5-74)".

(6) Garment Production Unit (GPU) identification must be permanently affixed to the garment (P). Also, the GPU or a style designation (that may be used for recall purposes) must be readily visible to prospective purchases.

(7) Fabric Production Unit Identification (may appear on invoice in lieu of label).

(8) Affirmative label indicating compliance with 7-14 sleepwear manufactured from May 1, 1975 to May 1, 1978 (16 CFR 1616.31(b)(8)).

h. Retail Display Signs. When noncomplying sleepwear items manufactured prior to the effective date of the standard are sold to the general public, the seller must identify and segregate complying products manufactured after the effective date of the standard from non-complying products manufactured prior to the effective date of the standard (see Section 1615.31(c) and Section 1616.31(c)).

i. Suspect Sleepwear Items. Includes those items made of cotton, flame retardant cotton, cotton flannel, cotton and synthetic fibers, blends, rayon, acetate, and any combination of rayon, acetate and cotton. Garments constructed with a significant amount of decoration or trim and/or embroidered over 2 inches with any backing (non-woven paperlike material) are suspect. Any garment labeled as playwear that appears to be sleepwear is suspect.

Appendix 3 illustrates four types of garments believed by the Commission staff to be items of children's sleepwear in most instances. The type of fabric used in making the garment is, however, a critical factor. A one-piece garment with attached feet and front opening made of a rib knit or stretch terry fabric is considered to be an item of children's sleepwear. The same garment made with a velour or a woven fabric is not considered to be an item of children's sleepwear. Velour is a dressy type of fabric that has not been traditionally used in sleeping garments. Woven fabrics do not give and stretch with body

movement and have not been traditionally used in this type of sleeping garment due to a concern that the garment/fabric combination does not provide the comfort desired for a sleeping garment. The two-piece coordinated garment, bottoms with attached feet are considered to be items of children's sleepwear if made in matching rib knit or stretch terry fabrics. Similar garments in larger sizes with and without attached feet are also considered to be items of children's sleepwear, unless the garment is an item of underwear. Underwear garments are exempted from the standard by definition (16 CFR 1615.1(a) and 16 CFR 1616.2(a)). All gowns with a draw-string bottom and most gowns with an open bottom are considered by the staff to be items of children's sleepwear. The garments are frequently made of rib knit fabrics, stretch terry, fleece and a variety of woven fabrics. Gowns made with any of these fabrics are considered to be items of children's sleepwear with one exception. The exception is a highly decorative open bottom infant gown intended for special occasions.

j. Written Records. All persons initially introducing or offering for sale into commerce products subject to a sleepwear standard are required to maintain written and physical records as specified in 1615.31(e) and Section 1616.31(d). In general the written records must describe the sampling plan used, identify the production unit, the tests, specifications, etc. as well as the basis for including different color and print patterns in the same production unit. The written records should also be such as will enable the manufacturer to establish a line of continuity through the process of manufacture of each production unit to sale and delivery of finished items and from the specific finished items back to the manufacturing records. Records must also be maintained to demonstrate equivalency if a firm is using an alternate test apparatus or procedure.

k. Physical Records. The physical records required to be maintained by persons initially introducing sleepwear into commerce include (i) sufficient samples to repeat the prototype tests for all fabrics, seams, threads, stitches and trim; (ii) a complete untested garment from each style or type of garment marketed or handled; and (iii) remains of all physical specimens from prototype testing. The remains of the production test specimens are not required to be maintained.

CHAPTER 2. OPERATIONS

SECTION 1. INSPECTIONS

9. Basic Inspection Procedures. The basic procedures for conducting inspections are found in Order 9010.30, Inspections. (Note that the Notice of Inspection form specifically for FFA inspections should be used.) The basic requirements of that Order must be met. In addition, in conducting routine inspections under the FFA, be sure you are familiar with the provisions of the Act, the Regulations, and the several flammability standards. Make sure you are familiar with the compliance history of the firm you are inspecting. Unique points relative to the Act and specific standards are re-stated as reminders in the following paragraphs:

a. Knowledge of FFA. Determine the firm's awareness of the FFA and applicable flammability standards. If necessary, provide the firm with copies of the FFA and appropriate standards.

b. Responsibility. When inspecting at the manufacturing level, determine whether the firm is operating independently or is under contract and producing goods for another firm. Document individual and firm responsibility. Remember that a person is not subject to criminal penalties under the FFA unless CPSC can prove that he willfully violated the law. For example, if you can obtain copies of records showing test failures and distribution after the failures, this is a good indication of a willful violation.

c. Guaranties.

(1) Determine whether the firm gives or receives guaranties on products subject to the FFA. If the firm furnishes guaranties to its customers, find out if the guaranties are based on guaranties received or on reasonable and representative tests as required by the applicable standard and regulations. See Section 1(5) of this Directive for a description of the types of guaranties that may be given in connection with products subject to the FFA.

(2) If the firm represents itself as having a continuing guaranty on file with the CPSC, check headquarters to determine whether they do in fact have a current guaranty on file and whether there are any limitations noted on the guaranty.

(3) Review records of tests performed or guaranties received and used as a basis for the issuance of a guaranty.

(4) A guaranty can be relied on only if it is received in "good faith". Thoroughly document any situation in which a party is relying on a guaranty in bad faith (e.g., knowing that reasonable and representative tests have not been conducted).

d. Records. Review manufacturing, testing and distribution records maintained by the firm. Obtain appropriate copies of records to illustrate the firm's manufacturing flow and distribution system. If test records show that violative goods have been shipped, this is evidence of a willful violation. Thoroughly document such a case. (In all cases involving possible violations, obtain copies of records which show the movement or offering for sale, etc., or receipt in interstate commerce of suspect products or of their components. While CPSC will take regulatory action when the only interstate commerce present is the movement of component parts of a product, CPSC has a better case if there is evidence that a finished product has been sold or offered for sale or shipped in interstate commerce. Where a firm has furnished a guaranty based on tests it has performed, obtain representative copies of test records. Describe the procedure that enables the firm to relate finished products to the appropriate test report. Where the standard does not incorporate a sampling plan, there is no requirement that the products be tested unless the firm elects to furnish a guaranty. In that case the guaranty must be based on reasonable and representative tests or upon guaranties received. On the other hand, where a firm manufactures products subject to a standard that incorporates a sampling plan, the firm is required to maintain records which incorporate test reports for all of the prototype and production tests performed pursuant to the sampling plan regardless of whether a guaranty is furnished. If the firm is using an alternate test apparatus or procedure under the clothing textile standard or the children's sleepwear standards, obtain copies of the records established and maintained by the firm to demonstrate that the alternate apparatus and/or procedure is at least as stringent as the apparatus and procedure required by the standards. Affidavits should be used to document failure to maintain appropriate records.

e. Sales, Inventory and Distribution Data. Determine the annual production and the total dollar value (to the firm) of items subject to the FFA that are produced by the firm. Also estimate the production and value of violative merchandise if different from the total production of the the firm.

f. Labeling and Codes. Determine the types of labels used by the firm. Obtain an explanation of any product coding in use at the time of the inspection.

g. Orders. Prior to the inspection, determine if the firm is subject to any existing Cease and Desist Order or other final order. If an order does exist, determine compliance with the Order per appropriate CPSC Enforcement Guideline.

10. Inspections Involving the Standard for the Flammability of Clothing Textiles (16 CFR 1610).

a. Products Subject to the Standard. Articles of wearing apparel and fabrics which are intended or which may reasonably be expected to be used in wearing apparel are subject to the Standard for the Flammability of Clothing Textiles, 16 CFR 1610 Subpart A (Formerly CS 191-53). The standard applies only to the exposed or outer surface of wearing apparel. This includes articles of wearing apparel with a raised fiber surface which is intended to be covered or unexposed but which in actual use is likely to be exposed such as sweat shirts with a raised fiber inner side (Section 1610.36(c)). In addition, the Standard applies to the outer surface of underwear and to lining in a cardigan type garment where the lining might be exposed during normal wear. At the present time the standard does not apply to hats, gloves and footwear except in those cases where the hat covers part of the neck, face and shoulders, where the gloves are more than 14 inches long or are part of another garment or where the footwear is hosiery or part of another garment. During an inspection, establish insofar as possible the ultimate end use of the fabric by reviewing cutting orders and distribution records.

b. Guaranties. Many general wearing apparel manufacturers that are not manufacturing products required to be tested in accordance with a sampling plan may not perform flammability tests since such tests are not required unless a guaranty is furnished. If a guaranty is furnished it must be based on reasonable and representative tests or on guaranties received from their suppliers. Any guaranty must cover the fabric or product after final processing when it is in the form or in a condition ready for use in wearing apparel. If the fabric is subject to further treatment which may affect its flammability before it is in the condition to be used in wearing apparel, the guaranty of such fabric would be invalid. For example, tests of yarns which cannot be tested under the standard for tests or fabrics in the greige (unbleached, undyed or otherwise unfinished state) do not constitute reasonable and representative tests for textile fabrics manufactured from such yarn or fabric. Note that any person furnishing a guaranty under the FFA who refuses to maintain and preserve records required by the regulation shall be deemed to have furnished a false guaranty.

c. Washing and/or Dry Cleaning.

(1) Products which are not intended to be washed or dry cleaned but which would become dangerously flammable if so processed should be checked for warning label. If the product would fail the standard when washed or dry cleaned, it must be labeled "Fabric will be dangerously flammable if dry cleaned or washed" (Section 1610.35(a)).

(2) Where, in the preliminary tests, the test specimens (i) do not ignite, (ii) are very slow burning, or (iii) have a flame retarding finish, test specimens must also be tested after dry cleaning and washing in accordance with Section 1610.4(a)(4).

d. Sample Collection. During an inspection of products subject to Section 1610 collect samples of products listed as being suspect in the background chapter of this Directive. Each sample should consist of a minimum of one square yard of material. If possible collect samples of the fabric rather than the finished garment. If fabric samples are collected, obtain specimens of the labels (showing manufacturer's identification number, fiber content and care instructions) which would have been used if the fabric had been made into a garment. If it is necessary to sample a garment, collect one unit for an adult use item, two units of an item for a child, and three units of a garment for a preschooler. The laboratory would like a piece two feet square without seams. Do not wrinkle the samples to be tested.

11. Inspections Involving the Standards for the Flammability of Carpets (16 CFR 1630 and 16 CFR 1631).

a. Types and Characteristics of Products.

(1) During the initial stages of the inspection, determine the types (styles, colors, backings, etc.) of products handled by the firm. Identify the kinds of primary backing and the types and weights of secondary backings used for each style. Ascertain the fiber content and weight per square yard of the pile.

(2) In general, when selecting samples for testing keep in mind that the fewer tufts per inch in the carpet pile, the more likely the carpet will be flammable; frequently carpet with foam backing will be more flammable than the same carpeting with jute backing; shag rugs tend to be more flammable than non-shag rugs; flammability may be affected by the dyes; and inexpensive cotton and rayon pile carpets are suspect.

b. Carpet Guaranties. Section 1630.31 and Section 1631.31 explain in detail the reasonable and representative tests and record-keeping requirements relating to carpet guaranties. Evaluate compliance with these sections, find out where tests are performed and review available records. However, remember that in the case of carpets testing is not required unless a guaranty is furnished.

c. Fire-Retardant Treatment. Both of the carpet standards specify that carpets which have had a fire retardant treatment or which are made of fibers which have had a fire retardant treatment must be labeled with the letter "T". The purpose of the "T" is to provide notice as to whether the carpet should be laundered before it is tested. In this connection it should be noted that although alumina trihydrate is a flame retardant treatment, the laundering procedures for carpeting with alumina trihydrate are temporarily suspended (Section 1630.63). Sections 1630.32 and 1631.33 describe the labeling requirements. Check the firm's products for fire retardant treatment, especially treatments other than alumina trihydrate.

d. Small Carpets Not Meeting Acceptance Criterion. Small carpets which do not meet the acceptance criterion may be sold and distributed if they have a legible, conspicuous and permanent label affixed which states "FLAMMABLE (Fails Flammability Standard FF 2-70). SHOULD NOT BE USED NEAR SOURCE OF IGNITION". Section 1631.34 sets out additional labeling requirements. Determine how the firm handles any small carpets which do not pass the flammability test.

e. Sample Collection.

(1) During a carpet inspection, select products for sampling based primarily on the density of the pile and the content of the pile and secondary backing as described above. Also obtain samples of different colors of carpeting if available.

(2) For carpets subject to Flammability Standard FF 1-70, select the particular roll from which the sample is to be cut. Obtain a sample consisting of a 1 foot by 12 feet (15 feet if the carpet roll is 15 feet wide) cut from the end of a roll.

(3) For small carpets subject to Flammability Standard FF 2-70, a sample of 12 square feet or equivalent smaller pieces is sufficient unless the rug has been treated with a flame retardant other than alumina trihydrate. In that case, collect a 24 square feet specimen or equivalent smaller pieces which will permit testing both before and after washing.

(4) The sample collection report should show the following:

(a) Style name and number.

(b) Color name and number.

(c) Pile content.

(d) Pile weight.

(e) Primary backing and weight.

(f) Secondary backing.

(g) Flame retardant treatment, if added (see fiber content label affixed to each roll).

(h) Description of product (i.e., scroll pattern, multicolor shag, splush, etc.).

12. Inspections Involving the Standards for the Flammability of Children's Sleepwear, Sizes 0-6X (16 CFR 1615) and Sizes 7-14 (16 CFR 1616).

a. Product Coverage. At the beginning of each inspection, obtain a sales catalogue and identify those products you consider to be covered by the standard. Note items sold as playwear which you consider sleepwear. In retail establishments determine whether the product is marketed with sleepwear or in another department. In retail establishments also check invoices to see how questionable items are described.

b. Labeling and Advertising Requirements (Section 1615.31(b) and Section 1616.31(b)).

(1) Care labels necessary to preserve flame retardancy should be permanent and conspicuous.

(2) If firm tests products after one washing and drying, products should have permanent and conspicuous label instructions to "Wash before wearing".

(3) Evaluate piece goods intended or promoted for sale to consumers for use as sleepwear. Each item of piece goods intended or promoted for use in sleepwear must have a label with required information

which must be furnished to each consumer purchaser (Section 1615.31 (b)(4)).

(4) Products sold in package must have required label information on package (as well as product).

(5) Samples must be appropriately labeled or required label must be on accompanying promotional material or warning label may be placed on sample (Section 1615.31(b)(6)).

(6) Production unit identification is required to be placed on products by person initially introducing products into commerce. Garments must have a minimum size, permanent and conspicuous unit identification label. If marketed in a package at retail the unit identification or style designation (all or part of one or more units) must appear on the package. If a style designation is used and recall is necessary, the recall may be limited or expanded, depending upon the manufacturer's ability to identify products that are questionable. Fabric must be identified by a fabric production unit identification (FPU) which must appear on the fabric or, where packaged, on the package where it can be readily seen by the prospective purchaser. The fabric production unit may be placed on an invoice used in lieu of a label where the fabric is delivered in form not intended for the ultimate consumer, as for example where the fabric is sold to garment manufacturers. See Sections 1615.31(b)(8) and 1616.31(b)(7).

(7) An affirmative label as to compliance with the 7-14 sleepwear standard is required on sleepwear manufactured between May 1, 1975 and May 1, 1978. The label is not required to be permanent.

c. Segregation of Complying and Non-Complying Sleepwear By Retailer. Complying sleepwear items and non-complying sleepwear items manufactured before the effective date of the standard must be displayed separately and each must be identified with a sign.

d. Testing. Confirm garment testing and location of testing facility. Both prototype and production testing should be checked.

(1) Fabric. The procedures for selecting samples and testing fabric are described in section 1615.4(c) for sizes 0-6X sleepwear and in section 1616.4(b) for sizes 7-14 sleepwear. These procedures provide in general for normal sampling, reduced sampling and tightened sampling (after unit rejection) of fabric intended for use in children's sleepwear. A fabric production unit (FPU) means any quantity up to 5,000

linear yards for normal sampling or up to 10,000 yards for reduced sampling. The unit must have a specific identity that remains unchanged except for color or print pattern. Different colors and different print patterns may be combined in the same fabric production unit provided at least three samples from each color or print pattern demonstrate char lengths that are not significantly different.

(2) Garment Prototypes (Pre-Production) Tests. The purpose of the prototype test is to assure that the design characteristics of the garments are acceptable. The following summarizes the steps necessary to qualify a garment in prototype.

(a) Conduct tests on the longest seam and each other seam that is 10 inches or longer. Prototype specimens are required to be conditioned before testing.

(b) Conduct prototype tests on trim which is attached to the same type fabric as that used in the garment. The trim should be attached to the fabric for the test in the same manner as it is attached to the garment.

(c) Although edge finishes such as hems, findings, and seams attaching findings are excluded from prototype qualifying tests, if trim is used on the edge of the garment, the trim edge must be qualified in prototype.

(3) Garment Production Tests. A garment production unit (GPU) is up to 500 dozen finished garments which have a specific identity that remains unchanged except for size, trim, findings, color, and print patterns. Tests are required to be performed on each production unit. The following summarizes the steps involved in conducting production tests:

(a) Only the longest seam is required to be tested.

(b) Samples for production testing are required to be selected at random. The firm is required to have a written random sampling plan or other evidence to show that the samples were selected at random for testing.

(c) Where different colors or different print patterns are used in the same garment production unit, the test records or certification from the fabric supplier should be checked to assure that tests conducted on the different colors or print patterns show that they

have the same flammability characteristics. If the fabric supplier did not furnish such a certification, the garment manufacturer must perform the comparison tests before he can combine different colors and/or print patterns in the same garment production unit.

(d) If the product was tested after one washing and drying, it should be labeled "Wash Before Wearing".

(e) Unless the fabric is certified by the fabric producer, the garment manufacturer must test if after laundering. Determine how the fabric supplier identified the fabric as appropriate for use in children's sleepwear.

(f) Determine disposition of rejected units. If there is evidence of a failure during production testing a determination must be made as to whether the products were reworked and if not what disposition was made of the unit. Determine whether the cause of the failure was identified and if necessary, whether the firm reprototyped the failing product before resuming production.

e. Recordkeeping. Written and physical records are required to be kept by the manufacturer to enable him to establish a line of continuity through the process of manufacture of each production unit of children's sleepwear to the sale and delivery of the finished items, and from specific finished items back to the manufacturing records. The records must also include complete data with regard to prototype, copies of prototype and production tests, unit identification specimens, as well as the physical specimens described in section 1615.31(c) and 1616.31(d). The records are required to be maintained for three years except for prototype test records which are required to be maintained for as long as they are relied upon and for three years thereafter.

(1) Garment Prototype Records. A summary of the records required for garment prototypes follows:

(a) Manufacturing and component specifications for each prototype.

(b) A complete untested garment from each style or type marketed.

(c) Remains of all physical specimens tested in accordance with the required prototype testing.

(d) When inspecting remains, be sure to note that multi-layer fabrics are tested with a one inch hem.

(2) Garment Production Records. Every manufacturer introducing items subject to the standards into commerce must assign to each item a production unit identification (number, letter, date, or combination thereof) sufficient to identify and relate to the garment production unit of which the item is a part. In addition, the records of garment production must contain the following:

(a) Details, description and identification of sampling plan used (normal, reduced, tightened).

(b) Source and fabric production unit (FPU) identification of all fabrics used in each garment production unit.

(c) Test results with appropriate information tying in the production unit and prototype(s).

(d) Identification of prototype records and tests relating to each production unit.

(e) Data and test results relied on as a basis for reduced laundering as well as details of the laundering procedures utilized.

(f) Any guaranty or certification from fabric supplier.

(g) Flame retardant treatment.

(h) Disposition of all failing or rejected items.

(i) Test results relied on as a basis for inclusion of different colors or different print patterns in a single fabric or garment production unit.

f. Sample Collection.

(1) In the event it is determined to obtain a sample of garments from a firm, at least 6 garments representative of a particular production unit should be obtained. Always attempt to get the larger sizes so that 5 specimens (10" seams) can be obtained for each garment. If it appears that 5 specimens cannot be cut from a single garment, obtain twice the normal number of garments needed for a test. Not more

than five specimens may be cut from a single garment. Therefore, we must have a minimum of 6 garments to make up a total of 30 specimens for testing (15 specimens before washing and 15 specimens after washing). Each specimen must be 3 1/2 inches by 10 inches. When garments are only available in sizes up to three, always obtain a minimum of 10 for testing.

(2) When garment samples are unavailable from the sleepwear manufacturer, his warehouse, etc., garment samples should be obtained from the nearest distributor or retail outlet.

13. Inspections Involving the Standard for the Flammability of Mattresses (16 CFR 1632)

a. Coverage. In addition to mattresses clearly covered by the standard, determine whether the firm renovates mattresses for sale since such mattresses are subject to the standard. Also, mattresses manufactured for use in recreational vehicles, etc. are subject to the mattress standard since at the present time the Department of Transportation does not have a flammability standard for mattresses.

b. Prototype Testing. In checking the firm's procedure for prototype testing, the following points should be observed.

(1) How many prototypes does the firm have?

(2) Are the mattresses pre-conditioned?

(3) Who (name and title of individual) is responsible for the testing? Who actually performs the tests?

(4) Are the prototypes pooled? If they are pooled, do all of the firms in the pool test two surfaces from their own production after successful prototype testing.

(5) Does the firm use the appropriate cotton sheeting for its tests?

c. Production Testing. In checking the firm's production testing the following should be noted:

(1) Does the firm use a random sampling plan? Can the method of random sampling be determined from the records?

(2) How large are the firm's production units?

(3) Is the firm eligible for reduced sampling?

(4) Is an appropriate sampling plan being used?

d. Substitution of Materials. If the firm is substituting materials such as flange materials or tape edge, is it complying with 1632.61 which provides for materials substitution of items such as flange materials and tapes at the tape edge only under the following circumstances:

(1) The mattress prototype has been qualified previously under the provisions of FF 4-72; and

(2) A substitution of materials involving only tape edge construction is contemplated; and

(3) One prototype mattress incorporating the substitute materials has been tested with 36 cigarettes (18 per surface) at tape edge locations with no ignitions occurring; and

(4) Records are maintained setting forth the details of the materials substitution and which show the results of the testing.

e. Ticking - (Alternate Sampling Plan No. 4). Where the mattress manufacturer interchanges ticking without reprototyping the mattress, it is necessary to assure that all of the tickings being interchanged are in the same ticking category. A "Ticking Category" is defined in Alternate Sampling Plan No. 4 as a group of ticking types similar in method of manufacture and, if composed in whole or in part of nonfiber layers or coatings, identical in composition and nominal weight per unit of nonfiber components. To assure that the tickings being interchanged are in the same ticking category, the manufacturer must have records of documentation from his ticking suppliers showing that the tickings interchanged are in the same ticking category. For example, if you find that a mattress manufacturer is freely interchanging tickings without conducting additional mattress prototype tests, ask the manufacturer if the tickings fall into the same category. If the manufacturer cannot give you an answer based on his records he may not freely interchange tickings -- he must conduct a mattress test for each ticking. If the manufacturer indicates the tickings are in the same category, make sure this can be proved by documentation in the manufacturer's records (such records are required to be kept pursuant to 16 CFR 1632.31(c)). If there is no such documentation in the mattress manufacturer's records then, at a minimum, there is a recordkeeping violation. The lack of

records could also lead us to conclude that there was incomplete prototype testing. Do not take the burden of categorizing ticking upon yourself. It is the mattress manufacturer's obligation to acquire ticking specifications from his ticking supplier.

f. Recordkeeping. In order to comply with the recordkeeping provisions the following records must be maintained: Does the firm have the following records:

(1) Written test reports of prototype and production tests;

(2) Photographic evidence of test results;

(3) The records must be such that a line of continuity is established through the process of manufacture of each mattress and from the finished item to the manufacturing records to the raw materials;

(4) A written description of the sampling plan;

(5) Manufacturing specifications;

(6) Distribution data; and

(7) Identity of person who actually performs flammability testing.

g. Labeling. Do all products contain a production unit identification label?

h. Rejects. Find out how the firm handles mattresses which fail flammability testing. Have they stopped production? Have they recalled? Have they prototyped?

i. Sample Collection. Unless otherwise instructed a sample should consist of one unit. To minimize shipping difficulties collect the smallest mattress available. When possible, coordinate sample collections with CARM and the Directorate for Engineering Sciences to ensure that the testing facilities will be available when needed. Note that the integrity of a mattress sample must be maintained in the same fashion as any other sample. If it is necessary to ship a mattress sample directly from the firm where the sample is collected, the sample must be properly identified with the Kim-Loc tag, must be officially sealed, and must be shipped by the CPSC investigator.

SECTION 2. SAMPLES

14. Collection and Identification of Samples.

a. General Requirements.

(1) Samples must be collected and handled in accordance with the procedures specified in Order 9010.36, Domestic Samples Collection.

(2) Use Kim-Loc tags to identify all samples; officially seal all samples.

(3) Generally, collect no more than ten samples during an inspection (collect only one mattress sample). See "Sample Collection" section in connection with specific standard regarding size of samples to be collected.

(4) When collecting samples at the manufacturer level, try to obtain shipping records which show interstate distribution of items of the same lot from which you collected samples. Document as many as 10 to 15 interstate shipments of the sampled product. If interstate distribution of finished products cannot be shown, try to demonstrate the interstate movement of product components.

(5) Do not tamper with or attempt to test any samples.

b. Shipment for Sample Analysis. Mail or ship all samples for testing of flammability as specified in the appropriate field program. For those samples to be tested at headquarters, indicate in block 27A on the Collection Report that the samples are to be tested by the Engineering Sciences Laboratory, and forward the samples to: Consumer Product Safety Commission, Sample Custodian, 11820 Oakley Circle, Rockville, Maryland 20852 as specified in block 11b on the D series collection reports.

SECTION 3. FOLLOW-UP

15. Directorate for Compliance and Administrative Litigation.

a. Coordination and Management. Coordinate all regulatory action with the Associate Executive Director for Compliance and Administrative Litigation (AEDCA). Follow instructions issued by this Directorate.

b. Test Failure. When a Regional Office is notified that a product has failed flammability testing, the Regional Office should review the applicable Policy and Procedures Enforcement Guide. If necessary, the Regional Office should consult with CARM. Possible steps include:

(1) Revisit the firm to advise management of the test failure, to advise them to stop sale of the questionable goods and to determine the firm's intentions regarding merchandise already in commerce.

(2) Collect additional samples at random of products similar in style to the product which failed the test.

(3) Obtain a customer list, production records and distribution history of the style involved in the failure.

(4) If not done during the initial inspection, determine whether or not the firm has conducted any test on the style in question and ask whether or not failures have been encountered.

(5) While the follow-up inspection is underway, the Regional Office should obtain official samples of the suspect product based on shipping records obtained during the initial inspection of the firm. Should laboratory analysis of the samples show continued failures, seizures of the shipments may be recommended.

(6) Based on the recommendations and evidence obtained from the Regional Office, the AEDCA will determine the appropriate follow-up action to be taken.

c. Instructions to Violative Firms. In those situations where the inspection covers products that are subject to a flammability standard that incorporates a sampling plan, a manufacturer or importer is violating the standard by failing to do prototype and/or production testing or failing to maintain records required by the standards. Enforcement Policy and Procedural Guides have been developed to cover these types of violations (See Chapter 7). Review these guidelines prior to conducting an inspection so appropriate notice and instructions may be given to the firm at the close of an inspection, if a violation of this nature has been documented. A prompt follow-up notice in writing should also be provided. The inspection report should clearly reflect this notice and the firm's response.

d. Recall. As ruled by the U.S. Courts of Appeals in the Fourth and Ninth Circuits, the Commission does not have authority under the FFA to order notification or recall of violative products. The rulings did suggest, however, that if sufficient hazard exists, recall under Section 15 of the CPSA might be appropriate.

The Regional Office will continue to seek voluntary recall from firms in FFA cases where the violation presents significant risks of injury to the public and the product involved is clearly understood to be subject to the applicable standard. In most instances, the Directorate for Compliance and Administrative Litigation (CA) believes that failure to comply with the flammability performance requirements of the applicable FFA standard presents a significant risk of injury to the public and warrants a request for a voluntary recall. However, marginal failures such as two out of eight carpet failures and children's sleepwear trim failures are examples of failures that may not present a significant risk of injury to the public and may not warrant a request for a voluntary recall. In the absence of a clear understanding that a product is subject to a particular standard, the firm is given the benefit of the doubt. Continued sale is prohibited, but recall is not pursued. Recordkeeping and guaranty violations alone do not warrant a request for a voluntary recall.

Review the Enforcement Policy and Procedural Guide covering failure of the product in question to comply with the applicable standard and discuss the matter with CARM prior to making the final decision that a request for a voluntary recall is appropriate. A voluntary recall will not generally be requested unless CA and/or OGC are willing to pursue available legal alternatives if the firm declines. Legal alternatives include multiple seizures under the FFA or a CPSC Order to notify, repair, replace or refund.

16. Enforcement Options.

a. Cease and Desist Order, Injunction, Seizure. The Regional Office Compliance Officer should consider recommending a Cease and Desist Order against a firm found to be in violation of the FFA. In addition, the Compliance Officer may wish to consider recommending mandatory injunction and/or request seizure of failing products distributed in commerce in the event the manufacturer declines to stop production and distribution or to initiate a voluntary recall if requested. In some cases, even though an inspected firm has corrected its violative practices it may be appropriate to consider issuing a cease and desist order.

b. Prosecution. A criminal prosecution under the FFA can be initiated only where there is evidence of a willful violation. Therefore, before recommending criminal prosecution, it will be necessary to obtain proof of willfulness.

17. Letters of Advice. In the event an inspection discloses failure to comply with the various labeling or other requirements of the standard, the Regional Office Compliance Officer shall issue a Letter of Advice informing the firm of the violations observed during the inspection and of the Commission's policy as to recall. This may necessitate a subsequent inspection or the submission of additional material to enable us to ascertain whether the firm has taken the steps necessary to bring it into compliance. This data should generally be taken into consideration in determining the appropriate disposition of the matter (case).

SECTION 4. REPORTING

18. Report Submission.

a. Recommendation for Legal Action. Follow instructions in Chapter 2 of the Enforcement Guides. Questions of a legal nature should be submitted to Associate Executive Director for Compliance and Administrative Litigation. Recommendations should be accompanied by inspection, sample collection, and test result reports.

SECTION 5. IMPORTS

19. General Procedures. Pursuant to the Commission's import policy (16 CFR 1009.3) surveillance of imported products will commence at the offices of the importer, customs broker, or whomever is named as the importer of record. Continue, however, to maintain contact with local Customs officials to assure that they are aware of CPSC's interest in products subject to the FFA and to request, as appropriate, notice concerning the importation of designated products under investigation. Inspect importers in the same manner as domestic manufacturers using the same inspection and sample collection forms.

SECTION 6. ACCIDENT/INJURY INVESTIGATIONS

20. NEISS Initiated Investigations. Injury investigations involving flammable fabrics which are initiated by the NEISS system are to be performed according to procedures specified in Order 9010.24, In-Depth Investigations.

21. Non-NEISS Initiated Investigations. Regional Offices receive reports of injuries and deaths involving flammable fabrics from sources other than the NEISS system (e.g., newspapers, consumer complaints). Supervisory personnel are responsible for determining which reports should be investigated and the depth of investigation required. Basically the same procedures should be followed regardless of whether an investigation is NEISS initiated or generated from another source.

22. Sample Collections. If it appears from an accident/injury investigation that a product subject to a flammability standard under the FFA may be violative of such a standard and the product is currently being offered for sale, samples of such products should be collected and submitted to headquarters for testing.

APPENDIX 1. SUMMARY OF MATTRESS STANDARD AND ALTERNATE SAMPLING PLANS

SUMMARY OF MATTRESS STANDARD

The mattress standard (FF-4-72) consists of two basic parts, 1) Test Procedure and 2) Sampling Plan. The test procedure specifies that the mattress shall be tested using a specified cigarette as the ignition source. The test includes both a bare mattress and a two-sheet test. A minimum of three cigarettes is placed at each location type (i.e., smooth surface, tape edge, tuft and guilt) on the bare mattress and between two sheets. Mattress pads are included in the standard and must be laundered ten times if they contain a fire retardant treatment. Preconditioning requirements are specified for prototype and batch testing, and laundering requirements are specified for fire retardant treated mattress pads.

The sampling plan defines a production unit and specifies that each mattress prototype must be accepted in prototype qualification testing prior to producing any mattresses in production. The sampling plan specifies production testing and allows both normal and reduced sampling. A batch plan is allowed for special production units at the discretion of the manufacturer.

A cigarette location passes the test if the char length is not greater than 2.0 inches in any direction from the nearest point of the cigarette. Records of test results, production units and disposition of rejected units must be maintained by the manufacturer. Alternate sampling plans may be submitted for approval by CPSC.

SUMMARY OF SAMPLING PLANS

I. BASIC SAMPLING PLAN

A. Production Unit

1. 500 mattresses of a mattress type, or

2. Quantity produced in 3 consecutive calendar months, whichever is smaller, or

3. Quantity produced in 3 consecutive calendar months, provided:

   a. materials contributing to cigarette ignition characteristics are from same manufacturing lot (documented) or

   b. 50 consecutive production units (20,000 mattresses) accepted in production testing

B. Prototype Qualification (Preconditioned for 48 hours)

1. Test six surfaces of each mattress prototype (three mattresses if both sides can be tested or six mattresses if only one side can be tested). Accept if no failures.

2. If more than one company or manufacturing facility, each shall test one additional mattress (two surfaces) from own production. Accept if no failures.

C. Production Testing (Random Selection)

1. Normal Sampling

   a. Select 2 surfaces

   b. Accept - 0 failures

   c. Reject - 2 failures

   d. Retest - 1 failure

   e. Select 4 additional surfaces

   f. Accept - 0 failures

2. Reduced Sampling (after acceptance of 15 units (300 mattresses) using normal sampling)

a. Select 2 surfaces (from 2 production units)

b. Accept - 1 failure

c. Reject - 2 failures

D. Optional - Batch Sampling (Preconditioned for 48 hours)

1. Production unit - 250 mattresses of a mattress prototype or quantity produced in 30 consecutive calendar days whichever is smaller

2. Test four surfaces from initial production

3. Accept - 0 failures

E. Laundering - Flame retardant treated mattress pads shall be washed and dried 10 times. Applicable to all plans.

II. ALTERNATE SAMPLING PLAN NUMBER I
(Mattresses and mattress pads)

A. Production Unit

1. 250 mattresses (normal sampling), 500 mattresses (reduced sampling) or

2. Quantity produced in 1 1/2 consecutive calendar months, whichever is smaller, or

3. Quantity produced in 1 1/2 consecutive calendar months, provided:

a. all materials contributing to cigarette ignition of all mattresses in the unit and the preceding or following unit came from same manufacturing lot, or

B. 50 consecutive production units (20,000 mattresses) accepted in production testing.

Test from random selection of initial prodtion.

4. Unit size not to exceed limits imposed by following options:

Quantity Limit

	Normal*	Reduced*
Option 1	(1/30) x 450	450
Option 2	(1/20) x 550	1,050
Option 3	(1/10) x 1,050	1,700
Option 4	(1/5) x 7,500	7,500

*Numbers listed are applicable if above underlined provision is met.

B. Prototype Qualification (Pre-conditioned for 48 hours) (Same as basic plan)

C. Production Testing (initial production random selection)

1. Normal Sampling

a. Select 2 surfaces

b. Accept - 0 failures

c. Reject - 1 failure

2. Reduced sampling (after acceptance of 15 consecutive units (500 mattresses) in normal sampling

a. Select 2 surfaces (from production unit as defined in 4(b)(2)(i)

b. Accept - 0 failures

c. Reject - 2 failures

d. Retest - 1 failure

e. Select 2 additional surfaces

f. Accept - 0 failures

D. Optional - Batch sampling
(Same as basic plan)

III. ALTERNATE SAMPLING PLAN 2
(Mattress pads)

A. Production Unit 1 - Same as alternate sampling plan no. 1
2 - Same as alternate sampling plan no. 1
3 - Same as alternate sampling plan no. 1
4 - Test from random selection of initial production - 1/60 of production unit

B. Prototype Qualification (Pre-conditioned for 48 hours) (Same as basic plan)

C. Production Testing (initial production random selection)

1. Normal Sampling

a. Select 8 surfaces

b. Accept - 0 failures

c. Reject - 2 failures

d. Retest - 1 failure

e. Select 16 additional surfaces

f. Accept - 0 failures

2. Reduced Sampling (after acceptance of 15 consecutive units (500 mattress pads) in normal sampling)

a. Select 8 surfaces from production unit as defined in 4(b)(2)(i)

b. Accept - 1 failure

c. Reject - 2 failures

D. Optional - Batch sampling
(Same as basic)

IV. ALTERNATE SAMPLING PLAN 4
(Mattress ticking and mattress pad ticking)

A. Production Unit

1. Mattresses (same as basic plan)

2. Ticking - 25,000 linear yards of one ticking type

B. Prototype Qualification

1. Mattresses (Pre-conditioned for 48 hours)
(Same as basic plan)

2. Ticking (Single prototype) (Pre-conditioned for 8 hours)

a. Select 4 samples (3 specimens per sample) from no fewer than 2 pieces of a single-ticking production unit (pilot or on-going production)

b. Accept - all char lengths $\leq$0.5 in.

c. Reject - two char lengths >1.0 in.
or one char length >1.7 in.

d. Retest

(1) any char length >0.5 in. and

(2) all char lengths $\leq$1.7 in. and

(3) only one char length >1.0 in.

e. Select 4 samples

f. Accept - char length on all 8 samples $\leq$1.0

g. Reject - two char lengths >1.0 in.

h. Retest - only one char length among 8 samples >1.0 and ≤1.7 in.

i. Select 8 additional samples

j. Accept - all char lengths ≤1.0 in.

k. Reject - any char length >1.0 in.

l. If rejection occurs after 16 samples are tested and failure due to one char length> 1.7 in., sequence above may be repeated once

C. Production Testing

1. Mattresses
(Same as basic plan)

2. Ticking (Pre-conditioned for 8 hours)

a. Select one sample from a single production unit

b. Accept - all char lengths ≤0.5 in.

c. Reject

(1) one char length >1.7 in.

(2) two char lengths >1.0 in.

d. Retest

(1) any char length >0.5 in. and

(2) all char lengths ≤1.7 in. and

(3) only one char length >1.0 in.

e. Select one additional sample

f. Accept - all char lengths on both samples ≤1.0 in.

g. Reject - (1) two char lengths on both samples >1.0 in.

(2) any char length >1.7 in.

h. Retest only one char length on both samples >1.0 in. or ≤1.7 in.

i. Select two additional samples

j. Accept

(1) all char lengths on all 4 samples ≤1.0

(2) only one char length on all 4 samples> 1.0 and ≤1.7 in.

k. Reject

(1) any char length on all 4 samples >1.7 in.

(2) two char lengths on all 4 samples >1.0 in.

l. If rejection occurs after 4 samples are tested and failure due to one char length >1.7 in., sequence above may be repeated once

m. Rejected units may be subdivided after failing piece is removed and retested under provisions of 4(b)(11)

n. Ticking in inventory prior to the effective date of the standard may be tested under provisions of 4(b)(m) for qualification of a ticking type.

D. Optional - Batch sampling
(Same as basic plan - mattresses only)

V. ALTERNATE SAMPLING PLAN 5
(Mattresses and mattress pads)

A. Production Unit 1 - Same as alternate sampling plan No. 1
2 - Same as alternate sampling plan No. 1

3 - Same as alternate sampling plan No. 1
4 - Test from random selection of initial production using following options. Unit size not to exceed limits in options:

	Normal*	Reduced*
Option 1	(1/30) x 250	1700
Option 2	(1/20) x 275	2000
Option 3	(1/10) x 275	4650
Option 4	(1/5) x 550	7500

*Numbers listed are applicable if underlined provisions in Alternate Sampling Plan No. 1 are met.

B. Prototype Qualification (Pre-conditioned for 48 hours) (Same as basic plan)

C. Production Testing (initial production random selection)

1. Normal Sampling

a. Select 2 surfaces

b. Accept - 0 failures

c. Reject - 2 failures

d. Retest - 1 failure

e. Select 6 additional surfaces

f. Accept - 0 failures

g. Reject - 1 failure

2. Reduced Sampling (after acceptance of 15 consecutive units (500 mattresses) in normal sampling)

a. Select 4 surfaces from production unit as defined in .4(b)(2)(i)

b. Accept - 1 failure

c. Reject - 2 failures

D. Optional - Batch sampling
(Same as basic plan)

VI. ALTERNATE SAMPLING PLAN 6
(Mattresses and mattress pads)

A. Production Unit 1 - Same as alternate sampling plan No. 1
2 - Same as alternate sampling plan No. 1
3 - Same as alternate sampling plan No. 1
4 - Test from random selection of initial production using following options: Unit size not to exceed limits in options.

Quantity Limit

		Normal*	Reduced*
Option 1 (1/30)	Mattress x	800	1,700
	Pads x	5,500	11,000
Option 2 (1/20)	Mattress x	950	2,000
	Pads x	6,600	13,000
Option 3 (1/10)	Mattress x	2,000	4,650
	Pads x	13,450	.4(b)(2)(i)
Option 4 (1/5)		.4(b)(2)(i)	.4(b)(2)(i)

*Numbers listed are applicable if underlined provisions in Alternate Sampling Plan No. 1 are met.

B. Prototype Qualification
(Same as basic plan)

C. Production Testing (initial production random selection)

1. Normal Sampling

   a. Select 4 surfaces

   b. Accept - 0 failures

   c. Reject - 2 failures

   d. Retest - 1 failure

   e. Select 8 additional surfaces

   f. Accept - 0 failures

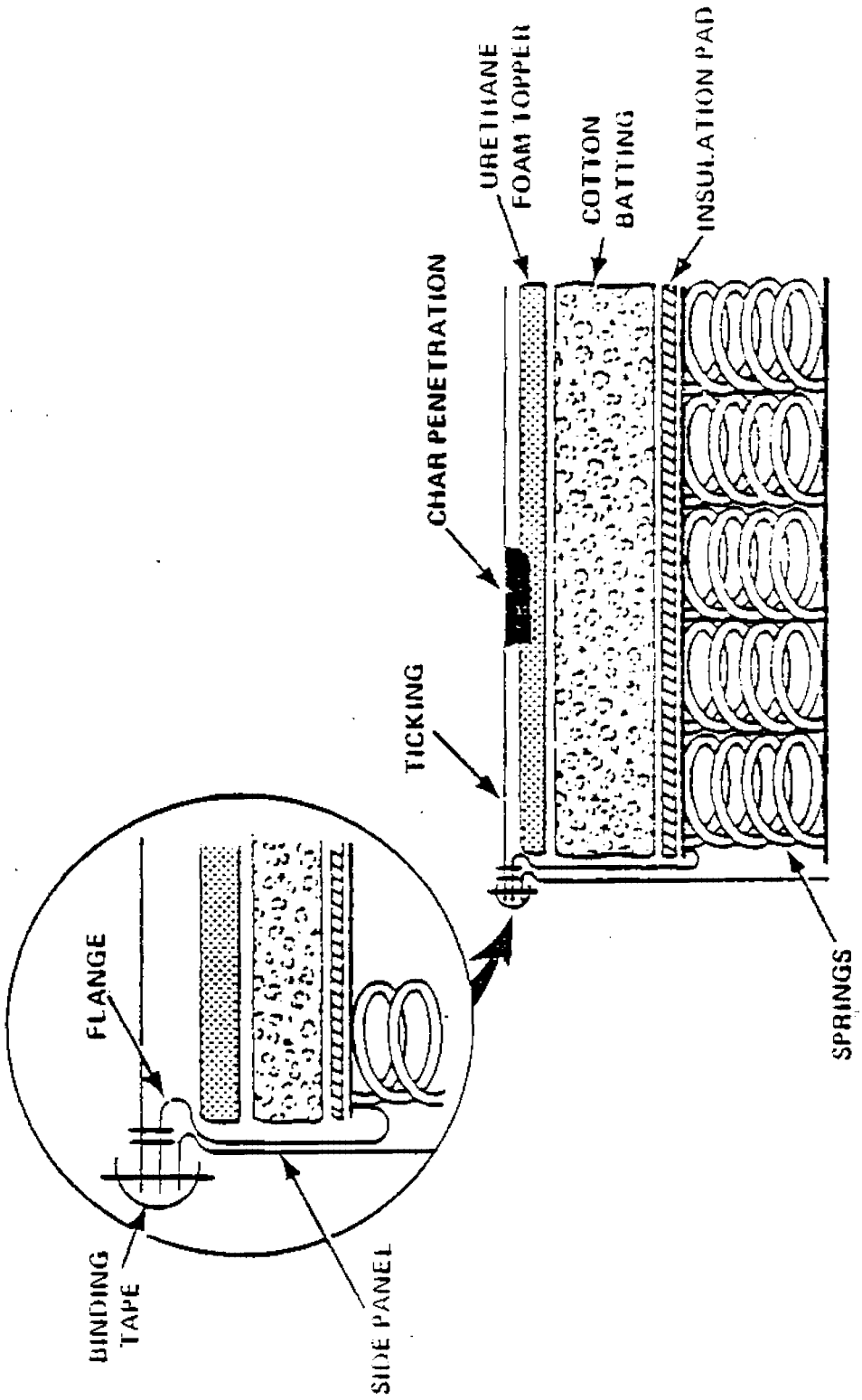
   g. Reject - 1 failure

2. Reduced Sampling (after acceptance of 15 consecutive units (500 mattresses) in normal sampling)

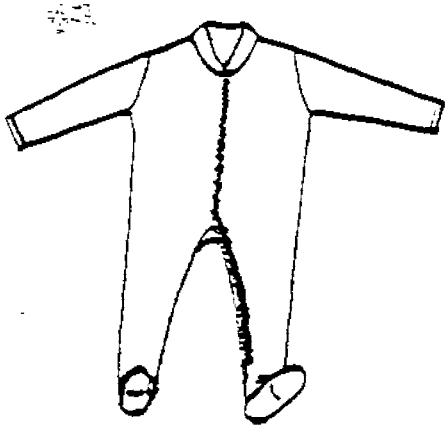
   (Same as Alternate Sampling Plan No. 5)

D. Optional - Batch sampling
(Same as basic plan)

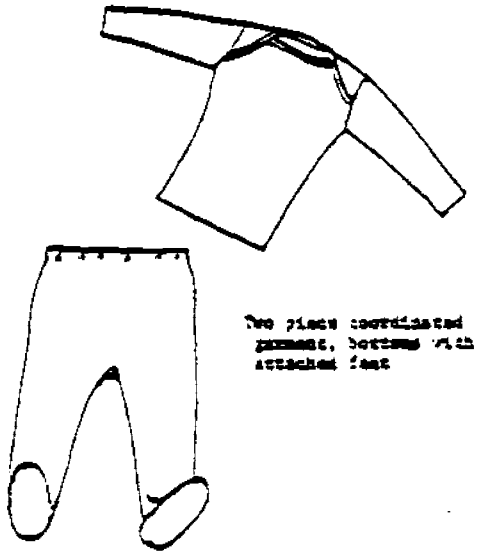
APPENDIX 2. SCHEMATIC DIAGRAM OF TYPICAL MATTRESS



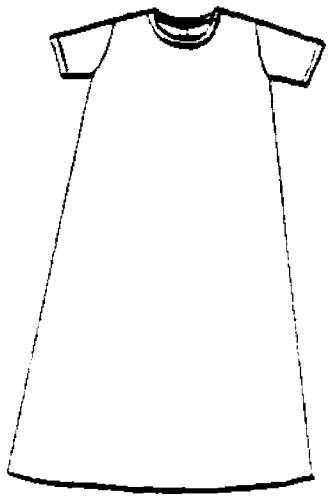
ILLUSTRATIONS OF SUSPECT SLEEPWEAR GARMENTS



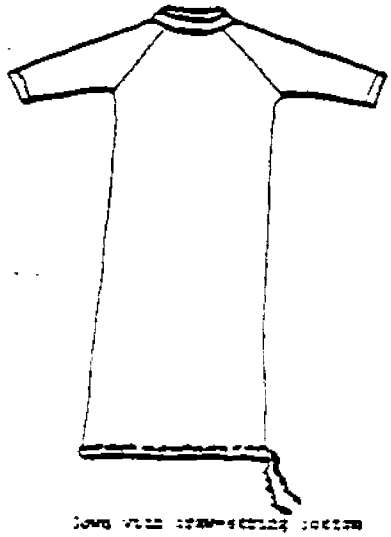
One-piece garment with attached feet and front opening



Two piece coordinated garment, bottoms with attached feet



Gown with open bottom



Gown with drawstring bottom