

§ 1031.5

and deemed to be adequate in addressing the specified risks of injury when initiating a mandatory consumer product safety rule or regulation under the Consumer Product Safety Act, the Federal Hazardous Substances Act, or the Flammable Fabrics Act, as may be applicable. Comments will be requested in the advance notice of proposed rule-making on the adequacy of such voluntary standard provisions.

§ 1031.5 Criteria for Commission participation in voluntary standards activities.

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

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

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

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

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

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

(f) Industry arrangements for achieving substantial and timely industry compliance with the voluntary standard once it is issued, and the means of ascertaining such compliance based on overall market share of product production.

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

16 CFR Ch. II (1-1-04 Edition)

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

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

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

(a) The Commission shall approve agency "participation", as defined below, in the development and support of voluntary safety standards for consumer products. The Executive Director shall approve Commission activities that are defined below as "monitoring." The extent of Commission involvement will be dependent upon the Commission's interest in the particular standards development activity and the commission's priorities and resources.

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

(c) There are two levels of Commission involvement in voluntary standards activities, each of which reflects a different level of Commission involvement as set forth below:

(1) *Monitoring.* Monitoring involves maintaining an awareness of the voluntary standards development process

Consumer Product Safety Commission

§ 1031.7

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

(2) *Participating.* Participating involves regularly attending meetings of a standard development committee or group and taking an active part in the discussions of the committee and in developing the standard, in accordance with subpart B of this part. Under certain conditions, the Commission will contribute to the deliberations of the committee by expending resources to provide technical assistance (e.g., research, engineering support, and information and education programs) and administrative assistance (e.g., travel costs, hosting meetings, and secretarial functions) which would support the development and implementation of voluntary standards. Participating may also include Commission support of voluntary standards activities as described in §1031.7.

(d) Normally, the total amount of Commission support given to a voluntary standards activity shall be no greater than that of all non-Federal participants in that activity, except where it is in the public interest to do so.

(e) In the event of duplication of effort by two or more groups (either inside or outside the Commission) in developing a voluntary standard for the same product or class of products, the Commission shall encourage the sev-

eral groups to cooperate in the development of a single voluntary standard.

§1031.7 Commission support of voluntary standards activities.

(a) The Commission's support of voluntary safety standards development activities may include any one or a combination of the following actions:

(1) Providing epidemiological and health science information and explanations of hazards for consumer products.

(2) Encouraging the initiation of the development of voluntary standards for specific consumer products.

(3) Identifying specific risks of injury to be addressed in a voluntary standard.

(4) Performing or subsidizing technical assistance, including research, health science data, and engineering support, in the development of a voluntary standard activity in which the Commission is participating.

(5) Providing assistance on methods of disseminating information and education about the voluntary standard or its use.

(6) Performing a staff evaluation of a voluntary standard to determine its adequacy and efficacy in reducing the risks of injury that have been identified by the Commission as being associated with the use of the product.

(7) Encouraging state and local governments to reference or incorporate the provisions of a voluntary standard in their regulations or ordinances and to participate in government or industrial model code development activities, so as to develop uniformity and minimize conflicting State and local regulations.

(8) Monitoring the number and market share of products conforming to a voluntary safety standard.

(9) Providing for the involvement of agency personnel in voluntary standards activities as described in subpart B of this part.

(10) Providing administrative assistance, such as hosting meetings and secretarial assistance.

(11) Providing funding support for voluntary standards development, as permitted by the agency budget.