

Consumer Product Safety Commission

§ 1605.13

§ 1605.11 Remedies for failure to permit authorized investigations.

In the event of failure to comply with any investigative process authorized by these rules, the Commission may seek appropriate action pursuant to the authority conferred by the Federal Trade Commission Act, including actions for enforcement, forfeitures, penalties, or criminal sanctions.

§ 1605.12 Nonexclusive delegation of power.

No provision contained herein delegating any of the Commission's powers shall be construed as limiting the actual authority of the Commission to exercise the same powers.

Subpart B—Consent Order Agreements

§ 1605.13 Procedures for Consent Order Agreements.

(a) The Consent Order Agreement is a document executed by a person, sole proprietorship, partnership, or corporation (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. A consent order agreement shall contain the following provisions, as appropriate:

(1) An admission of all jurisdictional facts by the consenting parties;

(2) 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;

(3) A statement that the agreement is in settlement of the staff's charges and does not constitute an admission by the Consenting Party that the law has been violated;

(4) A statement that the Commission's order is issued under the provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.), the Flammable Fabrics Act (15 U.S.C. 1191 et seq.), and the Consumer Product Safety Act (15 U.S.C. 2051 et seq.) and that a violation of such an order subjects the Consenting Party to civil penalties under the provisions of the Federal Trade Commission Act;

(5) An acknowledgement that the consent order agreement only becomes effective upon its final acceptance by the Commission and its service upon the Consenting Party;

(6) An acknowledgement that the Commission may disclose terms of the consent order agreement to the public;

(7) A statement that the Consulting Party shall cease and desist from certain acts and practices;

(8) A statement that the Consenting Party shall perform certain acts and practices pursuant to the consent order agreement;

(9) An acknowledgement that the requirements of the order are in addition to, and not to the exclusion of, other remedies such as criminal penalties which may be pursued under section 7 of the Flammable Fabrics Act.

(b) At any time in the course of an investigation, the staff, with the approval of the Commission may propose to the person, sole proprietorship, partnership, or corporation being investigated, that any alleged violation be resolved by an agreement containing a consent order. Additionally, such a proposal may be made to the Commission staff by such person, sole proprietorship, partnership, or corporation.

(c) Upon receiving an executed agreement, the Commission may: (1) Provisionally accept it; (2) reject it and issue its complaint (in which case the matter will be scheduled for hearing in accordance with the Commission's Rules of Practice for Adjudicative Proceedings (16 CFR part 1025, June 21, 1977, or as later revised)); or (3) take such other action as it may deem appropriate.

(d) If the agreement is provisionally accepted, the Commission shall place the agreement on the public record and shall announce provisional acceptance of the agreement in the FEDERAL REGISTER. Any interested person may ask the Commission not to accept the agreement by filing a request in the office of the Secretary. Such request must be received in the Office of the Secretary no later than the close of business of the fifteenth calendar day following the date the announcement is published in the FEDERAL REGISTER.

(e) Unless the Commission orders otherwise, the agreement shall be