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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.

[65 FR 53167, Sept. 1, 2000]

### § 1000.32 Directorate for Administration.

The Directorate for Administration, which is managed by the Associate Executive Director for Administration, is responsible for formulating general administrative policies supporting the Commission in the areas of financial management, procurement, and general administrative support services including property and space management, physical security, printing, and warehousing. The Directorate is responsible for the payment, accounting, and reporting of all expenditures within the Commission and for operating and maintaining the Commission's accounting system and subsidiary Management Information System which allocates staff work time and costs to programs and projects.

[61 FR 1708, Jan. 23, 1996]

### § 1000.33 Directorate for Field Operations.

(a) The Directorate for Field Operations, which is managed by the Associate Executive Director for Field Operations, has direct line authority over all Commission field operations; develops, issues, approves, or clears proposals and instructions affecting the field activities; and provides a central point within the Commission from which Headquarters officials can obtain field support services. The Directorate provides direction and leadership to the Regional Center Directors and to all field employees and promulgates policies and operational guidelines which form the framework for management of Commission field operations. The Directorate works closely with the other Headquarters functional units, the Regional Centers, and other field offices to assure effective Head-

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quarters-field relationships, proper allocation of resources to support Commission priorities in the field, and effective performance of field tasks. It represents the field and prepares field program documents. It coordinates direct contact procedures between Headquarters offices and Regional Centers. The Directorate is also responsible for liaison with State, local, and other Federal agencies on product safety programs in the field.

(b) Regional Centers are responsible for carrying out investigative, compliance, and consumer information and public affairs activities within their areas. They encourage voluntary industry compliance with the laws and regulations administered by the Commission, identify product related incidents and investigate selected injuries or deaths associated with consumer products, and implement wide-ranging public information and education programs designed to reduce consumer product injuries. They also provide support and maintain liaison with components of the Commission, other Regional Centers, and appropriate Federal, State, and local government offices.

[56 FR 30496, July 3, 1991. Redesignated at 59 FR 66673, Dec. 28, 1994]

## PART 1009—GENERAL STATEMENTS OF POLICY OR INTERPRETATION

Sec.

1009.3 Policy on imported products, importers, and foreign manufacturers.

1009.8 Policy on establishing priorities for Commission action.

1009.9 Policy regarding the granting of emergency exemptions from Commission regulations.

### § 1009.3 Policy on imported products, importers, and foreign manufacturers.

(a) This policy states the Commission's views as to imported products subject to the Consumer Product Safety Act (15 U.S.C. 2051) and the other Acts the Commission administers: The Federal Hazardous Substances Act (15 U.S.C. 1261), the Flammable Fabrics Act (15 U.S.C. 1191), the Poison Prevention Packaging Act (15 U.S.C. 1471), and the Refrigerator Safety Act (15 U.S.C.

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1211). Basically, the Policy states that in order to fully protect the American consumer from hazardous consumer products the Commission will seek to ensure that importers and foreign manufacturers, as well as domestic manufacturers, distributors, and retailers, carry out their obligations and responsibilities under the five Acts. The Commission will also seek to establish, to the maximum extent possible, uniform import procedures for products subject to the Acts the Commission administers.

(b) The Consumer Product Safety Act recognizes the critical position of importers in protecting American consumers from unreasonably hazardous products made abroad and accordingly, under that Act, importers are made subject to the same responsibilities as domestic manufacturers. This is explicitly stated in the definition of "manufacturer" as any person who manufactures or imports a consumer product (Section 3(a)(4); 15 U.S.C. 2052(a)(4)).

(c) The Federal Hazardous Substances Act (15 U.S.C. 1261 *et seq.*), the Flammable Fabrics Act (15 U.S.C. 1191 *et seq.*), the Poison Prevention Packaging Act (15 U.S.C. 1471 *et seq.*), which were transferred to the jurisdiction of the Consumer Product Safety Commission under its enabling act, all assign responsibilities to importers comparable to those of manufacturers and distributors.

(d) Historically, foreign-made products entering the United States were "cleared" by those agencies with particular jurisdiction over them. Products so cleared were limited in number relative to total imports. The Consumer Product Safety Commission has jurisdiction over a far larger number of products entering the United States through over 300 ports of entry. In addition, the total number of imports has dramatically increased over the years and modern technology has brought air transport and containerized freight for rapid handling and distribution of consumer and other products. For the Commission to effectively "clear" such products through ports of entry could seriously impede and delay the transport of consumer products and impose additional costs to both the consumer and the importer.

(e) The Consumer Product Safety Act provides alternative means to both assure the consumer safe products and facilitate the free movement of consumer products in commerce. For example, it requires certification by manufacturers (foreign and domestic), importers and private labelers of products that are subject to a consumer product safety standard. Such certification must be based on a test of each product or upon a reasonable testing program. The other acts enforced by the Commission do not specifically require certificates; however, both the Flammable Fabrics Act and the Federal Hazardous Substances Act encourage guarantees of compliance by protecting from criminal prosecution persons who have in good faith received such guarantees (15 U.S.C. 1197(a); 16 CFR 302.11; 15 U.S.C. 1264(b)).

(f) In the interest of giving the American consumer the full measure of protection from hazardous products anticipated by the Congress, it is the Commission's policy to assure that importers and foreign manufacturers carry out their responsibilities under all laws administered by this Commission. Specifically:

(1) Importers have responsibilities and obligations comparable to those of domestic manufacturers. Rules and regulations promulgated by the Commission will reflect these responsibilities and obligations.

(2) In promulgating its rules and regulations, the Commission encourages the participation and comments of the import community, including importers and foreign manufacturers.

(3) All imported products under the jurisdiction of the Consumer Product Safety Commission shall, to the maximum extent possible, be subject to uniform import procedures. The Commission recognizes the need to establish and implement procedures that minimize delay and expense involved in inspecting cargo at a port of entry. The Commission encourages cooperation between importers, foreign manufacturers and foreign governments, which increases the safety of the consumer and facilitates the free movement of goods between countries.

(4) When enforcement actions are appropriate, they will be directed toward

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the responsible officials of any import organization and will not be restricted to action solely against the product.

(5) Legal actions sought by the Commission will usually be primarily directed toward the owner or consignee of imported goods rather than against the customs broker even though his or her name may appear as the importer of record. However, the Commissioner believes it will not serve the public interest to impede the Commission's rights of investigation and enforcement by exempting a customs broker from the coverage of the law merely because of his or her title or usual form of business. It may be relevant that a customs broker, who does not have an ownership interest in the goods but who is acting as an agent for the actual owner or consignee, signs the entry documents as importer of record. What effect and possible need for inclusion this will have in a particular case can be judged by the Commission on a case-by-case basis.

(6) Commission procedures on imports shall be developed in the context of the overall responsibilities, authorities, priorities, resources, and compliance philosophy of this Commission. Any existing procedures which have been inherited from predecessor agencies will be reviewed and revised, if necessary, to be consistent with the authority and philosophy of this Commission.

(g) The Commission recognizes that the importer may not be the only person to be held responsible for protecting American Consumers from unreasonably hazardous products made abroad, but the importer is, at least, in a strategic position to guarantee the safety of imported products.

(h) Whenever, in the application of this policy, it appears that barriers to free trade may arise, the Commission may consider exceptions to this policy insofar as it can be done without compromising the Commission's responsibilities to assure safe products to the consumer.

(i) Whenever, in the application of this policy, it appears that administrative or procedural aspects of the Commission's regulations are unduly burdening the free flow of goods, the Commission may consider modifications

which alleviate such burdens. However, the Commission cannot consider any modifications which do not assure the consumer the same protection from unsafe foreign goods as from unsafe domestic goods.

(Sec. 9, 15 U.S.C. 1198, 67 Stat. 114; Sec. 14, 15 U.S.C. 1273, 74 Stat. 379; 80 Stat. 1304, 1305; Sec. 17, 15 U.S.C. 2066, 86 Stat. 1223)

[40 FR 47486, Oct. 9, 1975, as amended at 41 FR 47915, Nov. 1, 1976]

### **§ 1009.8 Policy on establishing priorities for Commission action.**

(a) This document states the Consumer Product Safety Commission's policy on establishing priorities for action under the five acts the Commission administers. The policy is issued pursuant to sections 4(f)(2) and 4(f)(3) of the Consumer Product Safety Act, as amended, and in further implementation of the Commission's statement of policy dated September 21, 1973.

(b) It is the general policy of the Commission that priorities for Commission action will be established by a majority vote of its members. The policy will be reflected by votes on all requests for appropriations, an annual operating plan, and any revisions thereof. Recognizing that these documents are the result of a lengthy planning process, during which many decisions are made that substantially determine the content of the final documents, the Chairman shall continually keep the Commission apprised of, and seek its guidance concerning, significant problems, policy questions and alternative solutions throughout the planning cycle leading to the development of budget requests and operating plans.

(1) *Requests for appropriations.* Requests for appropriations are submitted concurrently to the President or the Office of Management and Budget and to the Congress pursuant to section 27(k)(1) of the Consumer Product Safety Act.

(2) *Annual operating plan.* The operating plan shall be as specific as possible with regard to products, groups of products, or generic hazards to be addressed. It shall be submitted to the Commission for approval at least 30 days prior to the beginning of the fiscal year.