

§ 1051.11

16 CFR Ch. II (1–1–10 Edition)

§ 1051.11 Denial of petitions.

(a) If the Commission denies a petition it shall promptly notify the petitioner in writing of its reasons for such denial as required by the Administrative Procedure Act, 5 U.S.C. 555(e).

(b) If the Commission denies a petition, the petitioner (or another party) can refile the petition if the party can demonstrate that new or changed circumstances or additional information justify reconsideration by the Commission.

(c) A Commission denial of a petition shall not preclude the Commission from continuing to consider matters raised in the petition.

PART 1052—PROCEDURAL REGULATIONS FOR INFORMAL ORAL PRESENTATIONS IN PROCEEDINGS BEFORE THE CONSUMER PRODUCT SAFETY COMMISSION

Sec.

1052.1 Scope and purpose.

1052.2 Notice of opportunity for oral presentation.

1052.3 Conduct of oral presentation.

1052.4 Presiding officer; appointment, duties, powers.

AUTHORITY: 15 U.S.C. 1193(d), 15 U.S.C. 2058(d)(2), 15 U.S.C. 2076(a), and 5 U.S.C. 553(c).

SOURCE: 48 FR 57122, Dec. 28, 1983, unless otherwise noted.

§ 1052.1 Scope and purpose.

(a) Section 9(d)(2) of the Consumer Product Safety Act, 15 U.S.C. 2058(d)(2), and section 4(d) of the Flammable Fabrics Act, 15 U.S.C. 1193(d), provide that certain rules under those statutes shall be promulgated pursuant to section 4 of the Administrative Procedure Act, 5 U.S.C. 553, except that the Commission shall give interested persons an opportunity for the oral presentation of data, views or arguments in addition to the opportunity to make written submissions. Several rulemaking provisions of the statutes administered by the Commission are subject only to the rulemaking procedures of the Administrative Procedure Act. Section 4(c) of the Administrative Procedure Act provides that the opportunity for oral

presentations may or may not be granted in rulemaking under that section. In addition, section 27(a) of the Consumer Product Safety Act, 15 U.S.C. 2076(a), authorizes informal proceedings that can be conducted in non-rulemaking investigatory situations.

(b) This part sets forth rules of procedure for the oral presentation of data, views or arguments in the informal rulemaking or investigatory situations described in subsection (a) of this section. In situations where the opportunity for an oral presentation is not required by statute, the Commission will determine whether to provide the opportunity on a case-by-case basis.

§ 1052.2 Notice of opportunity for oral presentation.

The Commission will publish in the FEDERAL REGISTER notice of opportunity for an oral presentation in each instance. The notice shall be sufficiently in advance of the oral presentation to allow interested persons to participate. If the oral presentation involves a proposed rule, the notice of opportunity may be in the notice proposing the rule or in a later, separate FEDERAL REGISTER notice.

§ 1052.3 Conduct of oral presentation.

(a) The purpose of the oral presentation is to afford interested persons an opportunity to participate in person in the Commission's rulemaking or other proceedings and to help inform the Commission of relevant data, views and arguments.

(b) The oral presentation, which shall be taped or transcribed, shall be an informal, non-adversarial legislative-type proceeding at which there will be no formal pleadings or adverse parties.

(c) The proceedings for the oral presentation shall be conducted impartially, thoroughly, and expeditiously to allow interested persons an opportunity for oral presentation of data, views or arguments.

§ 1052.4 Presiding officer; appointment, duties, powers.

(a) For oral presentations, the presiding officer shall either be the Chairman of the Commission or a presiding