

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

deemed finally accepted by the Commission on the 20th calendar day after the date of announcement in the FEDERAL REGISTER. The Commission shall 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 these rules. The Consenting Party shall thereafter be bound by and take immediate action in accordance with such final order.

(f) If the Commission does not accept the 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 may then issue its complaint, may order further investigation, or may take such other action it considers appropriate.

PART 1608—GENERAL RULES AND REGULATIONS UNDER THE FLAMMABLE FABRICS ACT

Sec.

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AUTHORITY: Sec. 5, 67 Stat. 112, as amended, 81 Stat. 570, 15 U.S.C. 1194.

SOURCE: 40 FR 59887, Dec. 30, 1975, unless otherwise noted.

§ 1608.0 Scope.

The rules and regulations in this part are applicable to all standards issued under the Flammable Fabrics Act.

§ 1608.1 Terms defined.

As used in the rules and regulations in this subchapter D, unless the context otherwise specifically requires:

(a) The term *act* means the Flammable Fabrics Act, sec. 1 et seq., 67 Stat. 111-115, as amended, 68 Stat. 770, 81 Stat. 568-74 (15 U.S.C. 1191-1204, note under 1191).

(b) The terms *rule, rules, regulations, and rules and regulations*, mean the rules and regulations prescribed by the Commission pursuant to section 5(c) of the act.

(c) The term *United States* means, the several States, the District of Columbia, the Commonwealth of Puerto Rico and the Territories and Possessions of the United States.

(d) The terms *marketing or handling* means the transactions referred to in section 3 of the act.

(e) The definition of terms contained in section 2 of the act shall be applicable also to such terms when used in rules promulgated under the act.

§ 1608.2 Form of separate guaranty.

The forms which follow are suggested forms of separate guaranties under section 8 of the act for use by guarantors residing in the United States. Representations contained in these suggested forms of separate guaranties with respect to reasonable and representative tests may be based upon a guaranty received and relied upon in good faith by the guarantor, tests performed by or for a guarantor, or class tests, where permitted under these rules. Where the forms are used as part of an invoice or other paper relating to the marketing or handling of products, fabrics, or related materials subject to the act, wording may be varied to limit the guaranty to specific items in such invoice or other paper. The name, address of the guarantor, and date on the invoice or other paper will suffice to meet the signature, address, and date requirements indicated on the forms.

(a) *General form.*

The undersigned hereby guarantees that reasonable and representative tests, made in accordance with procedures prescribed and applicable standards or regulations issued, amended, or continued in effect under the Flammable Fabrics Act, as amended, show that the product, fabric, or related material covered and identified by, and in the form delivered under this document conforms to the applicable standard or regulation issued, amended, or continued in effect.

Date: _____
Name _____
Address _____

(b) *Form for guaranty based on guaranty.*

Based upon a guaranty received, the undersigned hereby guarantees that reasonable