§ 1983.102 Obligations and prohibited acts.

(a) No manufacturer, private labeler, distributor, or retailer may discharge or otherwise retaliate against, including, but not limited to, intimidating, threatening, restraining, coercing, blacklisting or disciplining, any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because the employee, whether at the employee's initiative or in the ordinary course of the employee's duties (or any person acting pursuant to a request of the employee), engaged in any of the activities specified in paragraphs (b)(1) through (4) of this section.

(b) Manufacturer means any person who manufactures or imports a consumer product. A product is manufactured if it is manufactured, produced, or assembled.

(c) OSHA means the Occupational Safety and Health Administration of the United States Department of Labor.

(d) Private labeler means an owner of a brand or trademark on the label of a consumer product which bears a private label. A consumer product bears a private label if:

(i) The product (or its container) is labeled with the brand or trademark of a person other than a manufacturer of the product.

(ii) The person with whose brand or trademark the product (or container) is labeled has authorized or caused the product to be so labeled, and

(iii) The brand or trademark of a manufacturer of such product does not appear on such label.

(e) Retailer means a person to whom a consumer product is delivered or sold for purposes of sale or distribution by such person to a consumer.

(f) Respondent means the employer named in the complaint who is alleged to have violated the Act.

(g) Secretary means the Secretary of Labor or person to whom authority under CPSIA has been delegated.

(h) Any future statutory amendments that affect the definition of a term or terms listed in this section will apply in lieu of the definition stated herein.

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(o) Any future statutory amendments that affect the definition of a term or terms listed in this section will apply in lieu of the definition stated herein.
Occupational Safety and Health Admin., Labor § 1983.104

(b) An employee is protected against retaliation (as described in paragraph (a) of this section) by a manufacturer, private labeler, distributor, or retailer because he or she:

(1) Provided, caused to be provided, or is about to provide or cause to be provided to the employer, the Federal Government or the attorney general of a State, information relating to any violation of, or any act or omission the employee reasonably believes to be a violation of any provision of the Consumer Product Safety Act, as amended by CPSIA, or any other Act enforced by the Commission, or any order, rule, regulation, standard, or ban under any such Acts;

(2) Testified, or is about to testify, in a proceeding concerning such violation;

(3) Assisted or participated, or is about to assist or participate, in such a proceeding; or

(4) Objected to, or refused to participate in, any activity, policy, practice, or assigned task that the employee (or other such person) reasonably believed to be in violation of any provision of the Consumer Product Safety Act, as amended by CPSIA, or any other Act enforced by the Commission, or any order, rule, regulation, standard, or ban under any such Acts.

(c) This part shall have no application with respect to an employee of a manufacturer, private labeler, distributor, or retailer who, acting without direction from such manufacturer, private labeler, distributor, or retailer (or such person’s agent), deliberately causes a violation of any requirement relating to any violation or alleged violation of any order, regulation, or consumer product safety standard under the Consumer Product Safety Act, as amended by CPSIA, or any other law enforced by the Commission.

§ 1983.103 Filing of retaliation complaints.

(a) Who may file. An employee who believes that he or she has been retaliated against by a manufacturer, private labeler, distributor, or retailer in violation of CPSIA may file, or have filed by any person on the employee’s behalf, a complaint alleging such retaliation.

(b) Nature of filing. No particular form of complaint is required. A complaint may be filed orally or in writing. Oral complaints will be reduced to writing by OSHA. If the complainant is unable to file the complaint in English, OSHA will accept the complaint in any language.

(c) Place of filing. The complaint should be filed with the OSHA Area Director responsible for enforcement activities in the geographical area where the employee resides or was employed, but may be filed with any OSHA officer or employee. Addresses and telephone numbers for these officials are set forth in local directories and at the following Internet address: http://www.osha.gov.

(d) Time for filing. Within 180 days after an alleged violation of CPSIA occurs, any employee who believes that he or she has been retaliated against in violation of the Act may file, or have filed by any person on the employee’s behalf, a complaint alleging such retaliation. The date of the postmark, facsimile transmittal, e-mail communication, telephone call, hand-delivery, delivery to a third-party commercial carrier, or in-person filing at an OSHA office will be considered the date of filing.

§ 1983.104 Investigation.

(a) Upon receipt of a complaint in the investigating office, the Assistant Secretary will notify the respondent of the filing of the complaint by providing a copy of the complaint, redacted, if necessary, in accordance with the Privacy Act of 1974, 5 U.S.C. 552a, et seq., and other applicable confidentiality laws, and will also notify the respondent of its rights under paragraphs (b) and (f) of this section. The Assistant Secretary will provide a copy of the unredacted complaint to the complainant (or complainant’s legal counsel, if complainant is represented by counsel) and to the Consumer Product Safety Commission.

(b) Within 20 days of receipt of the notice of the filing of the complaint provided under paragraph (a) of this section, the respondent may submit to the Assistant Secretary a written statement and any affidavits or documents substantiating its position.