§ 1061.3 Statutory considerations.

(a) The Commission's statutory pre-emption provisions provide, generally, that whenever consumer products are subject to certain Commission statutes, standards, or regulations, a State or local requirement applicable to the same product is preempted, i.e., superseded and made unenforceable, if both are designed to protect against the same risk of injury or illness, unless the State or local requirement is identical to the Commission's statutory requirement, standard, or regulation. A State or local requirement is not preempted if the product it is applicable to is for the State or local government's own use and the requirement provides a higher degree of protection than the Commission's statutory requirement, standard, or regulation.

(b) The Commission's statutory pre-emption provisions provide, generally, that if a State or local government wants to enforce its own requirement that is preempted, the State or local government must seek an exemption from the Commission before any such enforcement. The Commission may, by regulation, exempt a State or local requirement from preemption if it finds that the State or local requirement affords a significantly higher degree of protection than the Commission's statutory statute, standard, or regulation.

(b) State and local governments may contact the Commission’s Office of the General Counsel to obtain informal advice on whether a State or local requirement meets the threshold requirements of paragraph (a) of this section.

§ 1061.5 Form of applications for exemption.

An application for exemption shall:

(a) Be written in the English language.

(b) Clearly indicate that it is an application for an exemption from pre-emption by a Commission statute, standard, or regulation.

(c) Identify the State or local requirement that is the subject of the application and give the date it was enacted or issued in final form.

(d) Identify the specific Commission statute, standard, or regulation that is believed to preempt the State or local requirement.