Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they apply only to Federal agencies and employees.

E.O. 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with E.O. 12866.

List of Subjects in 5 CFR Part 534

Government Employees, Hospitals, Students, and Wages.

Office of Personnel Management.

Linda M. Springer,

Director.

■ Accordingly, OPM is amending part 534 of title 5 of the Code of Federal Regulations as follows:

PART 534—PAY UNDER OTHER SYSTEMS

Subpart D—Pay and Performance Awards Under the Senior Executive Service

■ 1. The authority citation for part 534 continues to read as follows:

Authority: 5 U.S.C. 1104, 3161(d), 5307, 5351, 5352, 5353, 5376, 5382, 5383, 5384, 5385, 5541, 5550a, and sec. 1125 of the National Defense Authorization Act for FY 2004, Public Law 108–136, 117 Stat. 1638 (5 U.S.C. 5304, 5382, 5383, 7302; 18 U.S.C. 207).

■ 2. In § 534.404, redesignate paragraphs (c)(3)(v) and (vi) as (c)(3)(vi) and (vii), respectively, add new paragraph (c)(3)(v), and revise paragraph (e) to read as follows:

§ 534.404 Setting and adjusting pay for senior executives.

* * * * *

(c) 12-month rule. * * *

(3) * * *

(v) A determination to provide an additional pay increase under paragraph (e)(2) of this section when an agency's senior executive performance appraisal system is certified under 5 CFR part 430, subpart D, after the beginning of a calendar year;

* * * * *

(e) *Adjustments in pay after certification of applicable performance appraisal system.*

(1) In the case of an agency that obtains certification of a performance appraisal system for senior executives under 5 CFR part 430, subpart D, an authorized agency official may increase a covered senior executive's rate of basic pay up to the rate for level II of the Executive Schedule, consistent with the limitations in § 534.403(a)(3). The authorized agency official may provide an increase in pay if warranted under the conditions prescribed in paragraph (b) of this section and if the senior executive is otherwise eligible for such an increase (i.e., he or she did not receive a pay adjustment under § 534.404(c) during the previous 12-month period). An adjustment in pay made under this paragraph is considered a pay adjustment for the purpose of applying § 534.404(c).

(2) In the case of an agency that was prevented from establishing or adjusting a rate of basic pay above the rate for level III of the Executive Schedule for an individual upon initial appointment to the SES under § 534.404(a) or for a current SES member using one of the exceptions to the 12-month rule in § 534.404(c)(4)(i), (ii), or (iii) because the agency had not yet obtained certification of its performance appraisal system for senior executives under 5 CFR part 430, subpart D, in the current calendar year, an authorized agency official may increase such a senior executive's rate of basic pay up to the rate for level II of the Executive Schedule upon certification of the agency's senior executive performance appraisal system, consistent with the limitations in § 534.403(a)(3). The authorized agency official may review the previous determination to set or adjust the pay of a senior executive to determine whether, and to what extent, an additional pay increase may be warranted based on the same criteria used for the previous determination. The determination to provide an additional pay increase may not be made effective before the date the agency's senior executive performance appraisal system is certified under 5 CFR part 430, subpart D, or after December 31st of the calendar year for which the agency's system is certified. An adjustment in pay made under this paragraph is not considered a pay adjustment for the purpose of applying § 534.404(c) and does not begin a new 12-month period for that purpose.

[FR Doc. E6–10750 Filed 7–7–06; 8:45 am]

BILLING CODE 6325–39–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1031

Commission Involvement in Voluntary Standards

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Consumer Product Safety Commission (CPSC or Commission) is revising its regulations governing the Commission's involvement in voluntary standards activities. The revisions more accurately reflect current Commission practices and strengthen oversight of staff involvement in standards making activities. The revisions also codify existing procedures for internet disclosure and public comment regarding standards activities in which Commission staff is actively involved.[1]

EFFECTIVE DATE: July 10, 2006.

FOR FURTHER INFORMATION CONTACT: Barbara Parisi, Office of the General Counsel, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, Maryland 20814; telephone (301) 504–7879; *bparisi@cpsc.gov.*

SUPPLEMENTARY INFORMATION: Since this rule relates solely to rules of agency organization, procedure and practice, pursuant to 5 U.S.C. 553(b) notice and other public procedures are not required. The rule is effective immediately upon publication in the **Federal Register**. Further, this action is not a rule as defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612, and, thus, is exempt from the provisions of the Act.

Background

Congress enacted the Consumer Product Safety Act (CPSA) in 1972, codified at 15 U.S.C. 2051, *et seq.*, to protect consumers against unreasonable risks of injury associated with consumer products. In furtherance of that goal, Congress established the Consumer Product Safety Commission (CPSC or Commission) as an independent regulatory agency, and granted it broad authority to promulgate mandatory safety standards for consumer products as a necessary alternative to industry self-regulation. 15 U.S.C. 2056(a)(1)(A). As initially enacted, the CPSA did not contain any language referring to voluntary standards.

In 1978, the Commission issued regulations describing the extent and form of Commission involvement in the development of voluntary standards, 43 FR 19216, 16 CFR part 1032—Commission Involvement in Voluntary Standards Activities. In the Background section, the Commission acknowledged the contribution which voluntary standards had made to reducing hazards associated with consumer products, and stated that it supported an effective

[1] Chairman Hal Stratton filed a statement which is available from the Office of the Secretary or on the Commission's Web site at *http://www.cpsc.gov.*

voluntary standards program. It also stated its belief that a proper combination of voluntary and mandatory standards can have a higher ''payoff'' in increased product safety than either mandatory or voluntary activities alone could have.

In 1981, Congress amended the CPSA, the Federal Hazardous Substances Act, and the Flammable Fabrics Act to mandate that the Commission give preference to voluntary standards over promulgating mandatory standards if it determines that a voluntary standard will eliminate or adequately reduce an injury risk, and that there will be a likelihood of substantial compliance with the standard. 15 U.S.C. 2056(b), 15 U.S.C. 1262(g)(2), 15 U.S.C. 1193(h)(2). The amendments also require the Commission to provide administrative and technical assistance to organizations engaged in voluntary standards development. 15 U.S.C. 2054(a)(3) and (4).

In 1989, the CPSC adopted regulations to reflect the policies set forth by the Congress in the 1981 amendments, Pub. L. 97–35, making several changes in the agency's policies on employee participation in voluntary standards development activities, and combining Part 1031, Employees Membership and Participation in Voluntary Standards Organizations, and Part 1032, Commission Involvement in Voluntary Standards Activities, into a revised Part 1031, Commission Participation and Commission Employee Involvement in Voluntary Standards Activities. 54 FR 6652.

Explanation of Revisions and Additions in Part 1031

1. Revisions to 16 CFR 1031.2 Background and 1031.9(c)(1) Purpose and Scope To More Accurately Reflect the Effect of Executive and Legislative Enactments Pertaining to Voluntary Standards

The existing regulation is inaccurate with respect to the legal effect of OMB Circular No. A–119, as this document does not apply to CPSC rulemaking activities. Additionally, the current regulation needs to be updated to include reference to 1990 Consumer Product Safety Information Act (CPSIA), a statute which provides further Congressional guidance on agency management of voluntary standards.

2. Revisions To Ensure That Voluntary Standards Activities Stem From the Operating Plan, Performance Budget, or Other Official Expressions of Commission Intent

Given the existence of thousands of voluntary standards, the Commission must act judiciously in selecting the appropriate activities in which to engage. The current regulation does not make reference to the existing agency practice of permitting staff to participate only in those activities specifically identified in the operating plan, performance budget, mid-year review, or other official Commission document. Where appropriate, Part 1031 should include language to permit staff involvement in only those standards expressly approved by the Commission.

3. Revisions to 16 CFR 1031.6 To Eliminate Monitoring/Participating Distinction Regarding Degrees of Employee Involvement in Standards Activities

16 CFR 1031.6 sets forth to different levels of staff involvement in voluntary standards activities, monitoring and participation. while this distinction may have initially served some purpose, the agency has over time adopted a more pragmatic approach to oversee staff involvement generally with less focus on the extent of the involvement. To more accurately reflect the current practice of oversight of staff involvement in voluntary standards activities, the regulation requires revision.

4. Revisions to CFR 1031.9 To Clarify Reporting Requirements of Staff to the Voluntary Standards Coordinator

Under § 1031.9(d), staff must obtain management approval prior to participation in voluntary standards activities. Once approved, however, there is no provision to ensure the ongoing oversight of their involvement. To address this deficiency, the regulation should incorporate specific reporting requirements that staff must fulfill for the duration of their involvement with any particular standard. This revision has the added effect of improving internal management practices by placing all staff activities in the voluntary standards arena under the oversight of the Voluntary Standards Coordinator.

5. Addition of Subpart C To Codify Existing Internet Disclosure and Public Comment Procedures

In October, 2004, the CPSC launched a six month pilot program to provide the public with information on voluntary standards and to provide an advance notice on CPSC staff positions for public review and comment for a limited number of voluntary standard activities. The primary goal of the program was to make the staff's activities more transparent and to obtain the benefit of public review and input before finalizing CPSC staff positions. In August, 2005, following the staff's recommendation, the Commission voted unanimously to continue the program and expand it to include links on the CPSC Web site with information pertaining to all of our voluntary standards activities. ''Internet vetting'' of staff involvement in voluntary standards activities represents a significant step to improving transparency of staff activities and is consistent with the agency's mission and goals.

List of Subjects in 16 CFR Part 1031

Business and industry, Consumer protection, Voluntary standards.

■ For the reasons stated in the preamble, 16 CFR part 1031 is revised to read as follows:

PART 1031—COMMISSION PARTICIPATION AND COMMISSION EMPLOYEE INVOLVEMENT IN VOLUNTARY STANDARDS ACTIVITIES

Sec.

Subpart A—General Policies

1031.1 Purpose and scope.
1031.2 Background.
1031.3 Consumer Product Safety Act amendments.
1031.4 Effect of voluntary standards activities on Commission activities.
1031.5 Criteria for Commission involvement in voluntary standards activities.
1031.6 Extent and form of Commission involvement in the development of voluntary standards.
1031.7 Commission support of voluntary standards activities.
1031.8 Voluntary Standards Coordinator.

Subpart B—Employee Involvement

1031.9 Purpose and scope.
1031.10 Definitions.
1031.11 Procedural safeguards.
1031.12 Membership criteria.
1031.13 Criteria for Employee Involvement.
1031.14 Observation criteria.
1031.15 Communication criteria.

Subpart C—Public Participation and Comment

1031.16 Purpose and scope.
1031.17 Background.
1031.18 Method of review and comment.

Authority: 15 U.S.C. 2051–2083; 15 U.S.C. 1261–1276; 15 U.S.C. 1191–1204.

Subpart A—General Policies

§ 1031.1 Purpose and scope.

(a) This part 1031 sets forth the Consumer Product Safety Commission's guidelines and requirements on participating in the activities of voluntary standards bodies. Subpart A sets forth general policies on Commission involvement, and subpart B sets forth policies and guidelines on employee involvement in voluntary standards activities. Subpart C sets forth the criteria governing public review and comment on staff involvement in voluntary standards activities.

(b) For purposes of both subpart A and subpart B of this part 1031, voluntary standards bodies are private sector domestic or multinational organizations or groups, or combinations thereof, such as, but not limited to, all non-profit organizations, industry associations, professional and technical societies, institutes, and test laboratories, that are involved in the planning, development, establishment, revision, review or coordination of voluntary standards. Voluntary standards development bodies are voluntary standards bodies, or their sub-groups, that are devoted to developing or establishing voluntary standards.

§ 1031.2 Background.

(a) Congress enacted the Consumer Product Safety Act in 1972 to protect consumers against unreasonable risks of injury associated with consumer products. In order to achieve that goal, Congress established the Consumer Product Safety Commission as an independent regulatory agency and granted it broad authority to promulgate mandatory safety standards for consumer products as a necessary alternative to industry self regulation.

(b) In 1981, the Congress amended the Consumer Product Safety Act, the Federal Hazardous Substances Act, and the Flammable Fabrics Act, to require the Commission to rely on voluntary standards rather than promulgate a mandatory standard when voluntary standards would eliminate or adequately reduce the risk of injury addressed and it is likely that there will be substantial compliance with the voluntary standards. (15 U.S.C. 2056(b), 15 U.S.C. 1262(g)(2), 15 U.S.C. 1193(h)(2)). The 1981 Amendments also require the Commission, after any notice or advance notice of proposed rulemaking, to provide technical and administrative assistance to persons or groups who propose to develop or modify an appropriate voluntary standard. (15 U.S.C. 2054(a)(3)). Additionally, the amendments encourage the Commission to provide technical and administrative assistance to groups developing product safety standards and test methods, taking into account Commission resources and priorities (15 U.S.C. 2054(a)(4)). Although the Commission is required to provide assistance to such groups, it may determine the level of assistance in accordance with the level of its own administrative and technical resources and in accordance with its assessment of the likelihood that the groups being assisted will successfully develop a voluntary standard that will preclude the need for a mandatory standard.

(c) In 1990, Congress passed the Consumer Product Safety Improvement Act (CPSIA), amending section 15(b) of the CPSA to require that manufacturers, distributors, and retailers notify the Commission about products that fail to comply with an applicable voluntary standard upon which the Commission has relied under section 9 of the CPSA. CPSIA also amended section 9(b)(2) of the CPSA to require that the CPSC afford interested persons the opportunity to comment regarding any voluntary standard prior to CPSC termination and reliance.

§ 1031.3 Consumer Product Safety Act amendments.

The Consumer Product Safety Act, as amended, contains several sections pertaining to the Commission's participation in the development and use of voluntary standards.

(a) Section 7(b) provides that the Commission shall rely on voluntary consumer product safety standards prescribing requirements described in subsection (a) whenever compliance with such voluntary standards would eliminate or adequately reduce the risk of injury addressed and it is likely that there will be substantial compliance with such voluntary standards. (15 U.S.C. 2056(b)).

(b) Section 5(a)(3) provides that the Commission shall, following publication of an advance notice of proposed rulemaking or a notice of proposed rulemaking for a product safety rule under any rulemaking authority administered by the Commission, assist public and private organizations or groups of manufacturers, administratively and technically, in the development of safety standards addressing the risk of injury identified in such notice. (15 U.S.C. 2054(a)(3)).

(c) Section 5(a)(4) provides that the Commission shall, to the extent practicable and appropriate (taking into account the resources and priorities of the Commission), assist public and private organizations or groups of manufacturers, administratively and technically, in the development of product safety standards and test methods. (15 U.S.C. 2054(a)(4)).

§ 1031.4 Effect of voluntary standards activities on Commission activities.

(a)(1) The Commission, in determining whether to begin proceedings to develop mandatory standards under the acts it administers, considers whether mandatory regulation is necessary or whether there is an existing voluntary standard that adequately addresses the problem and the extent to which that voluntary standard is complied with by the affected industry.

(2) The Commission acknowledges that there are situations in which adequate voluntary standards, in combination with appropriate certification programs, may be appropriate to support a conclusion that a mandatory standard is not necessary. The Commission may find that a mandatory standard is not necessary where compliance with an existing voluntary standard would eliminate or adequately reduce the risk of injury associated with the product, contains requirements and test methods that have been evaluated and found acceptable by the Commission, and it is likely that there will be substantial and timely compliance with the voluntary standard. Under such circumstances, the Commission may agree to encourage industry compliance with the voluntary standard and subsequently evaluate the effectiveness of the standard in terms of accident and injury reduction for products produced in compliance with the standard.

(3) In evaluating voluntary standards, the Commission will relate the requirements of the standard to the identified risks of injury and evaluate the requirements in terms of their effectiveness in eliminating or reducing the risks of injury. The evaluation of voluntary standards will be conducted by Commission staff members, including representatives of legal, economics, engineering, epidemiological, health sciences, human factors, other appropriate interests, and the Voluntary Standards Coordinator. The staff evaluation will be conducted in a manner similar to evaluations of standards being considered for promulgation as mandatory standards.

(4) In the event that the Commission has evaluated an existing voluntary standard and found it to be adequate in all but a few areas, the Commission may defer the initiation of a mandatory

rulemaking proceeding and request the voluntary standards organization to revise the standard to address the identified inadequacies expeditiously.

(b) In the event the Commission determines that there is no existing voluntary standard that will eliminate or adequately reduce a risk of injury the Commission may commence a proceeding for the development of a consumer product safety rule or a regulation in accordance with section 9 of the Consumer Product Safety Act, 15 U.S.C. 2058, section 3(f) of the Federal Hazardous Substances Act, 15 U.S.C. 1262(f), or section 4(a) of the Flammable Fabrics Act, 15 U.S.C. 1193(g), as may be applicable. In commencing such a proceeding, the Commission will publish an advance notice of proposed rulemaking which shall, among other things, invite any person to submit to the Commission an existing standard or portion of an existing standard, or to submit a statement of intention to modify or develop, within a reasonable period of time, a voluntary standard to address the risk of injury.

(c) The Commission will consider those provisions of a voluntary standard that have been reviewed, evaluated, and deemed to be adequate in addressing the specified risks of injury when initiating a mandatory consumer product safety rule or regulation under the Consumer Product Safety Act, the Federal Hazardous Substances Act, or the Flammable Fabrics Act, as may be applicable. Comments will be requested in the advance notice of proposed rulemaking on the adequacy of such voluntary standard provisions.

§ 1031.5 Criteria for Commission involvement in voluntary standards activities.

The Commission will consider the extent to which the following criteria are met in considering Commission involvement in the development of voluntary safety standards for consumer products:

(a) The likelihood the voluntary standard will eliminate or adequately reduce the risk of injury addressed and that there will be substantial and timely compliance with the voluntary standard.

(b) The likelihood that the voluntary standard will be developed within a reasonable period of time.

(c) Exclusion, to the maximum extent possible, from the voluntary standard being developed, of requirements which will create anticompetitive effects or promote restraint of trade.

(d) Provisions for periodic and timely review of the standard, including review for anticompetitive effects, and revision or amendment as the need arises.

(e) Performance-oriented and not design-restrictive requirements, to the maximum practical extent, in any standard developed.

(f) Industry arrangements for achieving substantial and timely industry compliance with the voluntary standard once it is issued, and the means of ascertaining such compliance based on overall market share of product production.

(g) Provisions in the standard for marking products conforming to the standard so that future Commission investigation can indicate the involvement of such products in accidents and patterns of injury.

(h) Provisions for insuring that products identified as conforming to such standards will be subjected to a testing and certification (including self-certification) procedure, which will provide assurance that the products comply with the standard.

(i) The openness to all interested parties, and the establishment of procedures which will provide for meaningful participation in the development of such standards by representatives of producers, suppliers, distributors, retailers, consumers, small business, public interests and other individuals having knowledge or expertise in the areas under consideration, and procedures for affording other due process considerations.

§ 1031.6 Extent and form of Commission involvement in the development of voluntary standards.

(a) The extent of Commission involvement will be dependent upon the Commission's interest in the particular standards development activity and the Commission's priorities and resources.

(b) The Commission's interest in a specific voluntary standards activity will be based in part on the frequency and severity of injuries associated with the product, the involvement of the product in accidents, the susceptibility of the hazard to correction through standards, and the overall resources and priorities of the Commission. Commission involvement in voluntary standards activities generally will be guided by the Commission's operating plan and performance budget.

(c) Commission involvement in voluntary standards activities varies.

(1) The Commission staff may maintain an awareness of the voluntary standards development process through oral or written inquiries, receiving and reviewing minutes of meetings and copies of draft standards, or attending meetings for the purpose of observing and commenting during the standards development process in accordance with subpart B of this part. For example, Commission staff may respond to requests from voluntary standards organizations, standards development committees, trade associations and consumer organizations; by providing information concerning the risks of injury associated with particular products, National Electronic Injury Surveillance System (NEISS) data, death, injury, and incident data, summaries and analyses of in-depth investigation reports; discussing Commission goals and objectives with regard to voluntary standards and improved consumer product safety; responding to requests for information concerning Commission programs; and initiating contacts with voluntary standards organizations to discuss cooperative voluntary standards activities.

(2) Employee involvement may include membership as defined in § 1031.10(a). Commission staff may regularly attend meetings of a standard development committee or group and take an active part in the discussions of the committee and in developing the standard, in accordance with subpart B of this part. The Commission may contribute to the deliberations of the committee by expending resources to provide technical assistance (e.g., research, engineering support, and information and education programs) and administrative assistance (e.g., travel costs, hosting meetings, and secretarial functions) in support of the development and implementation of those voluntary standards referenced in the Commission's operating plan, performance budget, mid-year review, or other official Commission document. The Commission may also support voluntary standards activities as described in § 1031.7. Employee involvement may include observation as defined in § 1031.10(c).

(d) Normally, the total amount of Commission support given to a voluntary standards activity shall be no greater than that of all non-Federal participants in that activity, except where it is in the public interest to do so.

(e) In the event of duplication of effort by two or more groups (either inside or outside the Commission) in developing a voluntary standard for the same product or class of products, the Commission shall encourage the several groups to cooperate in the development of a single voluntary standard.

§ 1031.7 Commission support of voluntary standards activities.

(a) The Commission's support of voluntary safety standards development activities may include any one or a combination of the following actions:

(1) Providing epidemiological and health science information and explanations of hazards for consumer products.

(2) Encouraging the initiation of the development of voluntary standards for specific consumer products.

(3) Identifying specific risks of injury to be addressed in a voluntary standard.

(4) Performing or subsidizing technical assistance, including research, health science data, and engineering support, in the development of a voluntary standard activity in which the Commission staff is participating.

(5) Providing assistance on methods of disseminating information and education about the voluntary standard or its use.

(6) Performing a staff evaluation of a voluntary standard to determine its adequacy and efficacy in reducing the risks of injury that have been identified by the Commission as being associated with the use of the product.

(7) Encouraging state and local governments to reference or incorporate the provisions of a voluntary standard in their regulations or ordinances and to participate in government or industrial model code development activities, so as to develop uniformity and minimize conflicting State and local regulations.

(8) Monitoring the number and market share of products conforming to a voluntary safety standard.

(9) Providing for the involvement of agency personnel in voluntary standards activities as described in subpart B of this part.

(10) Providing administrative assistance, such as hosting meetings and secretarial assistance.

(11) Providing funding support for voluntary standards development, as permitted by the operating plan, performance budget, mid-year review, or other official Commission document.

(12) Taking other actions that the Commission believes appropriate in a particular situation.

(b) [Reserved]

§ 1031.8 Voluntary Standards Coordinator.

(a) The Executive Director shall appoint a Voluntary Standards Coordinator to coordinate agency participation in voluntary standards bodies so that:

(1) The most effective use is made of agency personnel and resources, and

(2) The views expressed by such personnel are in the public interest and, at a minimum, do not conflict with the interests and established views of the agency.

(b) The Voluntary Standards Coordinator is responsible for managing the Commission's voluntary standards program, as well as preparing and submitting to the Commission a semiannual summary of staff's voluntary standards activities. The summary shall set forth, among other things, the goals of each voluntary standard under development, the extent of CPSC staff activity, the current status of standards development and implementation, and, if any, recommendations for additional Commission action. The Voluntary Standards Coordinator shall also compile information on the Commission's voluntary standards activities for the Commission's annual report.

Subpart B—Employee Involvement

§ 1031.9 Purpose and scope.

(a) This subpart sets forth the Consumer Product Safety Commission's criteria and requirements governing membership and involvement by Commission officials and employees in the activities of voluntary standards development bodies.

(b) The Commission realizes there are advantages and benefits afforded by greater involvement of Commission personnel in the standards activities of domestic and international voluntary standards organizations. However, such involvement might present an appearance or possibility of the Commission giving preferential treatment to an organization or group or of the Commission losing its independence or impartiality. Also, such involvement may present real or apparent conflict of interest situations.

(c) The purpose of this subpart is to further the objectives and programs of the Commission and to do so in a manner that ensures that such involvement:

(1) Is consistent with the intent of the Consumer Product Safety Act and the other acts administered by the Commission;

(2) Is not contrary to the public interest;

(3) Presents no real or apparent conflict of interest, and does not result in or create the appearance of the Commission giving preferential treatment to an organization or group or the Commission compromising its independence or impartiality; and

(4) Takes into account Commission resources and priorities.

(d) Commission employees must obtain approval from their supervisor and the Office of the Executive Director to be involved in voluntary standards activities. They must regularly report to the Voluntary Standards Coordinator regarding their involvement in standards activities, and provide copies of all official correspondence and other communications between the CPSC and the standards developing entities.

(e) All Commission employees involved in voluntary standards activities are subject to any restrictions for avoiding conflicts of interest and for avoiding situations that would present an appearance of bias.

§ 1031.10 Definitions.

For purposes of describing the level of involvement in voluntary standards activities for which Commission employees may be authorized, the following definitions apply:

(a) *Membership.* Membership is the status of an employee who joins a voluntary standards development or advisory organization or subgroup and is listed as a member. It includes all oral and written communications which are incidental to such membership.

(b) *Employee involvement.* Employee involvement may include the active, ongoing involvement of an official or employee in the development of a new or revised voluntary standard pertaining to a particular consumer product or to a group of products that is the subject of a Commission voluntary standards project. These projects should be those that are approved by the Commission, either by virtue of the agency's annual budget or operating plan, or by other specific agency authorization or decision, and are in accord with subpart A. Employee involvement may include regularly attending meetings of a standards development committee or group, taking an active part in discussions and technical debates, expressing opinions and expending other resources in support of a voluntary standard development activity. It includes all oral and written communications which are part of the process. Employee involvement may also involve maintaining an awareness related to general voluntary standards projects set forth in the agency's annual budget or operating plan or otherwise approved by the agency.

(c) *Observation.* Observation is the attendance by an official or employee at a meeting of a voluntary standards development group for the purpose of observing and gathering information.

§ 1031.11 Procedural safeguards.

(a) Subject to the provisions of this subpart and budgetary and time constraints, Commission employees may be involved in voluntary standards activities that will further the objectives and programs of the Commission, are consistent with ongoing and anticipated Commission regulatory programs as set forth in the agency's operating plan, and are in accord with the Commission's policy statement on involvement in voluntary standards activities set forth in subpart A of this part.

(b) Commission employees who are involved in the development of a voluntary standard and who later participate in an official evaluation of that standard for the Commission shall describe in any information, oral or written, presented to the Commission, the extent of their involvement in the development of the standard. Any evaluation or recommendation for Commission actions by such employee shall strive to be as objective as possible and be reviewed by higher-level Commission officials or employees prior to submission to the Commission.

(c) Involvement of a Commission official or employee in a voluntary standards committee shall be predicated on an understanding by the voluntary standards group that such involvement by Commission officials and employees is on a non-voting basis.

(d) In no case shall Commission employees or officials vote or otherwise formally indicate approval or disapproval of a voluntary standard during the course of a voluntary standard development process.

(e) Commission employees and officials who are involved in the development of voluntary standards may not accept voluntary standards committee leadership positions, e.g., committee chairman or secretary. Subject to prior approval by the Executive Director, the Voluntary Standards Coordinator may accept leadership positions with the governing bodies of standards making entities.

(f) Attendance of Commission personnel at voluntary standards meetings shall be noted in the public calendar and meeting summaries shall be submitted to the Office of the Secretary as required by the Commission's meetings policy, 16 CFR part 1012.

§ 1031.12 Membership criteria.

(a) The Commissioners, their special assistants, and Commission officials and employees holding the positions listed below, may not become members of a voluntary standards group because they either have the responsibility for making final decisions, or advise those who make final decisions, on whether to rely on a voluntary standard, promulgate a consumer product safety standard, or to take other action to prevent or reduce an unreasonable risk of injury associated with a product.

(1) The Commissioners;

(2) The Commissioners' Special Assistants;

(3) The General Counsel and General Counsel Staff;

(4) The Executive Director, the Deputy Executive Director, and Special Assistants to the Executive Director;

(5) The Associate Executive Directors and Office Directors;

(6) The Assistant Executive Director of the Office of Hazard Identification and Reduction, the Deputy Assistant Executive Director of the Office of Hazard Identification and Reduction and any Special Assistants to the Assistant Executive Director of that office.

(b) All other officials and employees not covered under § 1031.12(a) may be advisory, non-voting members of voluntary standards development and advisory groups with the advance approval of the Executive Director. In particular, the Commission's Voluntary Standards Coordinator may accept such membership.

(c) Commission employees or officials who have the approval of the Executive Director to accept membership in a voluntary standards organization or group pursuant to paragraph (b) of this section shall apprise the General Counsel and the Voluntary Standards Coordinator prior to their acceptance.

(d) Commission officials or employees who desire to become a member of a voluntary standards body or group in their individual capacity must obtain prior approval of the Commission's Ethics Counselor for an outside activity pursuant to the Commission's Employee Standards of Conduct, 16 CFR part 1030.

§ 1031.13 Criteria for Employee Involvement.

(a) Commission officials, other than those positions listed in § 1031.12(a), may be involved in the development of voluntary safety standards for consumer products, but only in their official capacity as employees of the Commission and if permitted to do so by their supervisor and any other person designated by agency management procedures. Such involvement shall be in accordance with Commission procedures.

(b) Employees in positions listed in § 1031.12(a)(4), (5), and (6) may be involved, on a case-by-case basis, in the development of a voluntary standard provided that they have the specific advance approval of the Commission.

(c) Except in extraordinary circumstances and when approved in advance by the Executive Director in accordance with the provisions of the Commission's meetings policy, 16 CFR part 1012, Commission personnel shall not become involved in meetings concerning the development of voluntary standards that are not open to the public for attendance and observation. Attendance of Commission personnel at a voluntary standard meeting shall be noted in the public calendar and meeting logs filed with the Office of the Secretary in accordance with the Commission's meetings policy.

(d) Generally, Commission employees may become involved in the development of voluntary standards only if they are made available for comment by all interested parties prior to their use or adoption.

(e) Involvement by Commission officials and employees in voluntary standards bodies or standards-developing groups does not, of itself, connote Commission agreement with, or endorsement of, decisions reached, approved or published by such bodies or groups.

§ 1031.14 Observation criteria.

A Commission official or employee may, on occasion, attend voluntary standards meetings for the sole purpose of observation, with the advance approval of his or her supervisor and any other person designated by agency management procedures. Commission officials and employees shall notify the Voluntary Standard Coordinator, for information purposes, prior to observing a voluntary standards meeting.

§ 1031.15 Communication criteria.

(a) Commission officials and employees, who are not in the positions listed in § 1031.12(a), or who are not already authorized to communicate with a voluntary standards group or representative incidental to their approved membership in a voluntary standard organization or group or as part of a voluntary standard, may:

(1) Communicate, within the scope of their duties, with a voluntary standard group, representative, or other committee member, on voluntary standards matters which are substantive in nature, i.e., matters that pertain to the formulation of the technical aspects of a specific voluntary standard or the course of conduct for developing the standard, only with the specific advance approval from the person or persons to whom they apply to obtain approval for

involvement pursuant to § 1031.13. The approval may indicate the duration of the approval and any other conditions.

(2) Communicate, within the scope of their duties, with a voluntary standard group, representative, or other committee member, concerning voluntary standards activities which are not substantive in nature.

(b) Commission employees may communicate with voluntary standards organizations only in accordance with Commission procedures.

(c) Commissioners can engage in substantive and non-substantive written communications with voluntary standards bodies or representatives, provided a disclaimer in such communications indicates that any substantive views expressed are only their individual views and are not necessarily those of the Commission. Where a previous official Commission vote has taken place, that vote should also be noted in any such communication. Copies of such communications shall thereafter be provided to the other Commissioners, the Office of the Secretary, and the Voluntary Standards Coordinator.

(d) The Voluntary Standards Coordinator shall be furnished a copy of each written communication of a substantive nature and a report of each oral communication of a substantive nature between a Commission official or employee and a voluntary standards organization or representative which pertains to a voluntary standards activity. The information shall be provided to the Voluntary Standards Coordinator as soon as practicable after the communication has taken place.

Subpart C—Public Participation and Comment

§ 1031.16 Purpose and scope.

(a) This subpart sets forth the Consumer Product Safety Commission's criteria and requirements governing public review and comment on staff involvement in the activities of voluntary standards development bodies.

(b) The Commission realizes there are advantages and benefits afforded by greater public awareness of staff involvement in standards development activities. Furthermore, the Commission recognizes public comment and input as an important part of the voluntary standards development process.

(c) The purpose of this subpart is to further the objectives and programs of the Commission and to do so in a manner that ensures openness and transparency.

§ 1031.17 Background.

(a) In a **Federal Register** Notice (Vol. 69, No. 200) dated October 18, 2004, the CPSC announced that it was launching a pilot program to open CPSC staff activities for public review and comment. The pilot program covered information on CPSC staff participation with respect to a cross-section of voluntary standards, including advance notice of proposed staff positions on issues to be considered by voluntary standards organizations. The program was based on the premise that increased public awareness and participation would enhance the quality and conclusions of the proposed recommendations made by CPSC staff.

(b) The pilot program ended on April 18, 2005, after a 6-month period. CPSC invited general comments on whether to continue the programs beyond the pilot period and solicited suggestions for improving the program.

(c) On July 28, 2005, the CPSC staff submitted to the Commission an assessment of the pilot program's results, including data that indicated the voluntary standards site ranked among the top 20 directories visited on the CPSC Web site. Further, the report included the staff's recommendation that the voluntary standards Web site be expanded to include information on all standards activities.

(d) On August 4, 2005, in accordance with the staff's recommendation, the Commission voted unanimously to continue the voluntary standards program and expand it to include all voluntary standards activities.

§ 1031.18 Method of review and comment.

(a) Each of the voluntary standards activities in which Commission staff is involved shall have a unique Web link on the Commission Web site with relevant information regarding CPSC activity, including:

(1) The name(s) of CPSC staff working on the activity; and

(2) The e-mail and mailing addresses of the CPSC Office of the Secretary, to which any interested party may communicate their particular interest.

(b) E-mail and written comments on voluntary standards from the public to the CPSC shall be managed by the Office of the Secretary. Such communication shall be forwarded to appropriate staff for consideration and/or response.

(c) On the voluntary standards Web site, consumers shall have the opportunity to register for periodic e-mail notices from the Commission with respect to their standard of interest. Such notices shall be issued by the CPSC each time a voluntary standard site has been updated and no less than once every calendar year.

Dated: June 30, 2006.

Alberta E. Mills,

Acting Secretary, Consumer Product Safety Commission.

[FR Doc. E6–10572 Filed 7–7–06; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[DoD–2006–OS–0065]

32 CFR Parts 43 and 50

RIN 0790–AH87

Personal Commercial Solicitation on DoD Installations

AGENCY: Department of Defense, Office of the Secretary of Defense.

ACTION: Final rule.

SUMMARY: This rule amends and removes the Department regulations relating to policy and procedures on personal commercial solicitation on DoD installations. It incorporates current policy letters that were issued since the last publication of the regulations in February 1986. They include policy on use of on-base financial institutions and non-profit, tax exempt, private organizations to provide financial education; limits on the use of commercial sponsorship to obtain personal contact information for solicitation; and required reporting of solicitation policy violations to higher headquarters. The revision also includes a new solicitation evaluation form to help installations detect solicitation policy violations.

DATES: *Effective Date:* July 10, 2006.

FOR FURTHER INFORMATION CONTACT: Colonel Michael A. Pachuta or Mr. James M. Ellis at (703) 602–4994 or (703) 602–5009 respectively, or main (703) 602–5001.

SUPPLEMENTARY INFORMATION: On Tuesday, April 19, 2005 (70 FR 20316), the Department of Defense published a proposed rule. The following is a summary of substantive comments, whether or not they were accepted or rejected, and the rationale.

Comment 1: DepSecDef Memo, DoD Instructions Review—Phase II directed, where feasible, to change Directives not requiring the SECDEF or DEPSEC signature to Instructions.

Decision: Accepted. 1344.7 does not meet the DepSecDef's criteria to remain a DoD Directive and will be reissued as a DoD Instruction.