



U.S. CONSUMER PRODUCT SAFETY COMMISSION

WASHINGTON, D.C. 20207

MINUTES OF COMMISSION MEETING

January 5, 1983

Third Floor Hearing Room
1111-18th Street, N.W.
Washington, D.C.

The January 5, 1983, meeting of the U.S. Consumer Product Safety Commission was convened in open session by Vice Chairman Edith Barksdale Sloan, with Commissioners Stuart Statler and Sam Zagoria present. Chairman Nancy Harvey Steorts joined the meeting in progress.

The staff briefed the Commission on a draft advance notice of proposed rulemaking (ANPR) that would solicit suggestions and comments on possible ways to make the special packaging requirements of the Poison Prevention Packaging Act more effective and efficient. The draft notice discusses and asks for comments on specific suggested revisions to the child and adult test procedures and requests other ideas for improvements to the requirements that might result in making child-resistant packaging easier for adults to use, particularly older adults, as well as reducing testing time and costs, without impairing the objective of effective child-resistance.

Following discussion, the Commission stated its desire to expedite consideration of this matter and decided to vote on the ANPR by ballot rather than at the next Commission meeting. The Commission also stated its desire to provide an opportunity for oral presentation of views by the public on this matter and directed staff to include in the ANPR a public hearing to be scheduled during the comment period.

Ballot Vote Decisions. Chairman Steorts then read into the record the following decisions made by ballot vote of the Commissioners.

1. Notice Revising Financial Reporting Requirements

The Commission by unanimous vote (4-0) approved publication of a Federal Register notice revising its regulation pertaining to the submission of Confidential Statements of Employment and Financial Interests by updating the list of positions whose incumbents are required to submit statements, and clarifying the requirements for annual reporting.

2. Notice Confirming the Effective Date of UFFI Ban

The Commission unanimously approved (4-0) a Federal Register notice confirming that the effective date of the ban on

urea-formaldehyde foam insulation (UFFI) was August 10, 1982, as estimated when the ban was originally promulgated.

3. Notice to Propose Transfer of Regulation to CPSA

The Commission by unanimous vote (4-0) approved publication of a Federal Register notice to propose transferring regulation of risks of choking and/or suffocation which may be presented by certain squeeze toys from the FHSA to the CPSA.

4. Petition CP 82-4 from Flymo, Inc. on Lawn Mowers

The Commission, by a vote of 3-1, with Commissioner Statler dissenting, affirmed its decision to deny the petition from Flymo, Inc., and approved a draft letter concerning the decision. Commissioner Statler voted to reconsider the petition, to defer final action on the petition, and to direct staff to draft documents that could provide the petitioner with some interim relief.

Closed Session

Meeting then in closed session, the staff briefed the Commission on a special compliance report.

There being no further business on the agenda, Chairman Steorts adjourned the meeting.

For the Commission

February 22, 1983
Date

Sadye E. Dunn
Sadye E. Dunn
Secretary

Avenue, Bethesda, Maryland 20207, telephone (301) 492-6800.

FOR FURTHER INFORMATION CONTACT: Paul Galvydis, Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, D.C. 20207, telephone (301) 492-6400.

SUPPLEMENTARY INFORMATION: On April 2, 1982, the Commission published in the Federal Register a rule banning urea-formaldehyde foam insulation installed in schools and residences after August 10, 1982 (47 FR 14366). The ban was issued because the Commission concluded that there was an unreasonable risk of injury from irritation, sensitization, and cancer from the release of formaldehyde gas from the product after it is installed and because no feasible standard, including labeling or information disclosure, would adequately protect the public from these risks of injury. A detailed explanation of the Commission's reason for issuing the ban is contained in the preamble of the Federal Register notice that issued the ban.

However, during the 90 calendar day period of continuous session following promulgation of the ban, Congress could have exercised its right to disapprove the ban pursuant to section 36 of the Consumer Product Safety Act, 15 U.S.C. 2083. Therefore, the ban was made effective August 10, 1982, or the day after the expiration of the time provided for Congress to consider its right to disapprove the rule, whichever is later. The August 10, 1982, date was selected because the Commission estimated that the time for consideration of the congressional veto provision would have expired by that time. However, since there was some possibility that changes in the congressional schedule would extend the 90 calendar days of continuous session past the August 10 date, the Commission indicated that it would publish a document at a later time confirming the effective date of the ban. In fact, the 90 calendar days of continuous session expired prior to August 10, 1982, and the installation of urea-formaldehyde foam insulation in residences and schools has been prohibited, beginning on August 11, 1982.

Another reason for confirming the effective date of the ban at this time is that several actions challenging the Commission's ban are now pending in the United States Court of Appeals for the Fifth Circuit, and the court could

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1306

Ban of Urea-Formaldehyde Foam Insulation; Confirmation of Effective Date

AGENCY: Consumer Product Safety Commission.

ACTION: Confirmation of effective date of final rule.

SUMMARY: The Commission confirms that the effective date of the ban of new installations of urea-formaldehyde foam insulation in schools and residences was August 10, 1982, as estimated when the ban was originally promulgated. This announcement is made at this time since at the time of the original announcement of the effective date, the Commission stated that the ban would not go into effect until the day after the expiration of the period provided by law for consideration of a congressional veto if that date was later than August 10, 1982. Also, the effective date could have been stayed by a court pending judicial review of the ban. Since neither of these events occurred, the ban went into effect as originally scheduled.

DATE: The ban applies to all urea-formaldehyde foam insulation installed after August 10, 1982, in residences or schools.

ADDRESSES: All materials relevant to this proceeding may be seen in, or copies obtained from, the Office of the Secretary, Consumer Product Safety Commission, Third Floor, 5401 Westbard

*Case numbers 82-4135, 82-4136, 82-4216 and 82-4311.

have ordered that the effective date of the ban be stayed pending the judicial review of the Commission's ban. However, the court denied the requests for a stay that were made in some of those cases, and the ban is currently in effect.

List of Subjects in 16 CFR Part 1306

Cancer, Consumer protection, Educational facilities, Housing standards, Insulation, School construction.

Dated: December 21, 1982.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FN Doc 82-35044 Filed 12-23-82; 8:45 am]

BILLING CODE 6355-01-M

**CONSUMER PRODUCT SAFETY
COMMISSION****16 CFR Part 1145****Proposed Rule To Regulate Under the
Consumer Product Safety Act (CPSA)
a Risk of Injury That May Be Presented
by Certain Squeeze Toys****AGENCY:** Consumer Product Safety
Commission.**ACTION:** Proposed rule.**SUMMARY:** The Commission is investigating the possibility that certain squeeze toys made from compressible material may present a potential choking and/or suffocation hazard if they become lodged in the throat. The

Commission proposes, should regulatory action become necessary regarding the possible risk of choking and/or suffocation injury from lodging in the throat which may be associated with such products, to use the procedures of the Consumer Product Safety Act rather than those of the Federal Hazardous Substances Act. The Commission preliminarily determines that this transfer is in the public interest because, in the event the Commission finds that a risk of choking and/or suffocation injury is associated with those products if they lodge in the throat, public notification and remedial action can be accomplished more expeditiously under the CPSA than under the FHSA.

The risk of injury which the Commission proposes to transfer to the Consumer Product Safety Act does not include the risk of choking, aspiration, or ingestion of the entire toy or small parts which may become detached from, or broken off any such toy. That risk of injury remains subject to regulations issued under the Federal Hazardous Substances Act.

DATE: Comments concerning this proposal must be received in the Office of the Secretary by February 2, 1983.

ADDRESS: Comments should be sent to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, (301) 492-6800.

FOR FURTHER INFORMATION CONTACT: Lynn Lichtenstein, Trial Attorney, Division of Administrative Litigation, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492-6626.

SUPPLEMENTARY INFORMATION: By this notice, the Commission proposes to regulate under the Consumer Product Safety Act (CPSA, 15 U.S.C. 2051 *et seq.*) rather than under the Federal Hazardous Substances Act (15 U.S.C. 1261 *et seq.*) a possible risk of choking and/or suffocation injury from lodging in the throat that may be associated with certain squeeze toys which are described in detail below.

The risk of injury which the Commission proposes to transfer to the CPSA does not include any risk of choking, aspiration, or ingestion of the entire toy or small parts which may become detached from, or break off any such toy. That risk of injury remains subject to regulations issued under the FHSA and published at 16 CFR 1500.18(a)(9) and Part 1501.

Section 30(d) of the CPSA (15 U.S.C. 2079(d)) governs this proposed rule. That section provides that a risk of injury which is associated with a consumer product and which could be eliminated

or reduced to a sufficient extent by action under the Federal Hazardous Substances Act may be regulated under the CPSA only if the Commission by rule finds that it is in the public interest to regulate such risk of injury under this Act.

The Commission has examined the applicable statutes and has considered the facts regarding the possible risk of choking and/or suffocation injury from lodging in the throat that may be presented by certain squeeze toys made of compressible materials. The Commission has preliminarily determined that it is in the public interest to regulate under the CPSA rather than the FHSA the possible risk of choking and/or suffocation injury (other than a risk of choking, aspiration, or ingestion of the entire toy or small parts of any such toy), which may be associated with the toys which are the subject of this notice if they become lodged in the throat.

SUPPLEMENTARY INFORMATION:

A. Background

In December of 1981 and January of 1982, the Commission staff received information concerning the deaths by choking and suffocation of two infants which resulted after the handles of squeeze toys had lodged in the children's throats. The toys involved in these deaths were made from compressible materials, and had handles with a smooth, cylindrical configuration and a flared or bulbous end. The Commission also as reports of two other suffocation deaths in 1975 and 1976, and a consumer complaint of a nonfatal choking incident, all of which involved squeeze toys with similar characteristics.

Information available to the Commission staff suggests that the handles of these toys appeal to infants as objects for sucking because of their smooth, cylindrical shape. That information also indicates that when an infant sucks on the handle of such a toy, it can move toward the back of the mouth and into the upper part of the throat. Once in the throat, it can prevent passage of air to the lungs.

The two fatalities reported in 1981 and 1982 were both associated with toys imported by the same firm. After receiving information about these two deaths, the Commission staff negotiated with the importer of the toys involved in these incidents to obtain a satisfactory plan for notification to the public of the hazard presented by these toys and for recall of all toys in the same line of products as the toys associated with the

two infant deaths. That notification and recall program is now in progress.

At the same time, the Commission's field staff began inspections of manufacturers, importers, and retailers of toys to determine if other squeeze toys are being marketed with physical characteristics similar to the products involved in the incidents described above.

During this investigation, the staff discovered that other firms were importing and distributing several different models of squeeze toys made from compressible materials, some of which were similar in size and configuration to the toys involved in the incidents discussed above.

B. Regulation Under FHSA

At this time, the toys described above are subject to regulation by the Consumer Product Safety Commission under provisions of the Federal Hazardous Substances Act (FHSA, 15 U.S.C. 1261 *et seq.*) as toys or articles intended for use by children. In accordance with provisions of section 3(e) through (i) of the FHSA (15 U.S.C. 1262(e), (f), (g), (h), (i)), the Commission could begin a proceeding for the issuance of a rule to declare that these toys present a mechanical hazard. If issued on a final basis, such a rule would have the effect of classifying the toys as "banned hazardous substances" as that term is used in section 2(q)(1)(A) of the FHSA (15 U.S.C. 1261(q)(1)(A)), and would prohibit the importation of the toys into the United States, as well as the distribution or sale of the toys in this country. If a toy or children's article presents an "imminent hazard," provisions of section 3(e)(2) of the FHSA (15 U.S.C. 1262(e)(2)) authorize the Commission to issue an immediate order declaring the product to be a banned hazardous substance pending completion of a proceeding to issue a banning rule.

A final rule issued under provisions of section 3(e) through (i) of the FHSA would also make the toys in question subject to provisions of section 15 of the FHSA (15 U.S.C. 1274). That section authorizes the Commission to determine, after affording all interested persons opportunity for a hearing, that notification to the public of the hazard presented by a product which is a "banned hazardous substance" is necessary in order to adequately protect the public. That section also authorizes the Commission, after affording all interested persons opportunity for a hearing, (which could be combined with a hearing regarding the need for public notification), to require the manufacturer, distributor or dealer of a

product which is a banned hazardous substance to elect to repair or replace the product, or to refund the purchase price of the product.

However, the provisions of section 15 of the FHSA concerning public notification and corrective action would be applicable to the toys which are the subject of this notice only if the Commission had first issued a rule under provisions of sections 3 (e) through (i) of the FHSA to announce the Commission's determination that the products present a mechanical hazard. A proceeding to issue such a rule is complex and time-consuming.

Such a proceeding is initiated by publication of an advance notice of proposed rulemaking in the Federal Register to invite comments from all interested persons about the risk of injury associated with the product which is the subject of the proceeding and possible means of addressing that risk of injury including voluntary standards now in existence or which might be developed. If, after consideration of all information received in response to the advance notice of proposed rulemaking the Commission decides to continue the proceeding, publication of a second notice in the Federal Register is required to propose the rule and invite written comments on the proposal. The Commission must then analyze all comments received in response to the proposal and publish a third notice in the Federal Register to issue the rule on a final basis.

C. Regulation Under CPSA

The CPSA has provisions for requiring public notification of substantial hazards which may be presented by the toys and for ordering corrective action to be taken with regard to those products without the necessity of first completing a rulemaking proceeding.

Additionally, the CPSA has provisions which authorize the Commission in certain cases to obtain a court order for public notification of the hazard presented by a product and for repair, or replacement of the product, or refund of the purchase price of the product without any necessity of first completing a rulemaking proceeding. The FHSA has no corresponding provisions.

Section 15 of the CPSA (15 U.S.C. 2064) confers upon the Commission the authority to order public notification of the hazard presented by a product if the Commission determines, after affording all interested persons opportunity for a hearing, that the product presents a "substantial product hazard," and that notification is required in order to adequately protect the public from that

substantial product hazard. Additionally, section 15 of the CPSA authorizes the Commission to order any manufacturer, importer, distributor, or retailer of a product to elect to repair or replace the product, or to refund the purchase price of the product, if the Commission determines, after affording all interested persons opportunity for a hearing, that the product presents a "substantial product hazard," and that issuance of such an order is in the public interest.

If the toys described in this notice were subject to regulation under the CPSA, no requirement for rulemaking would exist in order to invoke the provisions of section 15 of that act.

Additionally, provisions of section 12 of the CPSA (15 U.S.C. 2081) authorize the Commission to file an action in a United States district court against a manufacturer, importer, distributor, or retailer of a consumer product which presents an imminent and unreasonable risk of death or severe personal injury. The court has the authority to order the recall of the product, its repair or replacement, or refund of the purchase price. The court also has authority to order a firm to undertake extensive notification efforts to advise purchasers and the general public of the nature of the risk and of the firm's obligation for remedial action. The Commission may file an action under section 12 of the CPSA without any requirement for having first undertaken a rulemaking proceeding. As noted above, no corresponding provisions exist in the FHSA.

Because notification to the public of any hazard which may be presented by the toys described in this notice and remedial action with regard to those toys could be accomplished more expeditiously under the CPSA than under the FHSA, the Commission has preliminarily determined that it would be in the public interest to regulate under the CPSA rather than the FHSA any risk of choking and/or suffocation injury which may be associated with those toys if they become lodged in the throat.

As noted above, the FHSA has provisions for issuance of an immediate order to declare a toy or children's article to be a banned hazardous substance if it presents an "imminent hazard." However, some products may present a "substantial product hazard" warranting issuance of an order for public notification and corrective action, without amounting to an "imminent hazard" as that term is used in section 3(e)(2) of the FHSA.

In making the preliminary determination set forth above, the

Commission has decided that notwithstanding provisions of section 3(e)(2) of the FHSA, use of the procedures of the CPSA may lead to more expeditious notification and corrective action than might be obtained by following the procedures of the FHSA.

If the Commission issues the rule proposed below on a final basis, and thereafter determines that a standard or regulation may be needed to address any risk of choking and/or suffocation injury which these toys may present if they become lodged in the throat, the CPSA would also authorize the Commission to issue a standard or banning rule. Procedures for issuance of a standard are set forth in sections 7 and 9 of the CPSA (15 U.S.C. 2056, 2058); procedures for issuance of a banning rule are in sections 8 and 9 of the CPSA (15 U.S.C. 2057, 2058).

D. Impact on Small Businesses

Section 603 of the Regulatory Flexibility Act (RFA, 5 U.S.C. 603) requires agencies to prepare and make available for public comment an initial regulatory flexibility analysis of the impact of any proposed rule on small entities, including small businesses. Section 605(b) of the RFA provides that an agency is not required to prepare a regulatory flexibility analysis if the agency certifies that the rule, if issued on a final basis, will not have a significant economic impact on a substantial number of small entities.

The regulation proposed below, if issued on a final basis, will not by itself impose any legal or other obligation on any person or firm. The rule would simply express the Commission's determination that any action taken to eliminate or reduce the risk of injury with which it is concerned will be taken following the procedures set forth in the CPSA rather than the FHSA.

If the Commission issues a final rule based on the proposal published below, and then determines that it should act to eliminate or reduce the risk of injury which is the subject of the rule, the Commission will be required to initiate and follow through to completion appropriate judicial or administrative proceedings under one or more sections of the CPSA before it can impose any obligation on any person or firm.

Since a final rule based on the proposal imposes no obligation on any person or firm, the Commission hereby certifies that it will not have a significant economic impact on a substantial number of small businesses.

E. Environmental Considerations

The regulation proposed below falls within the categories of Commission actions described in 16 CFR 1021.5(c) that have little or no potential for affecting the human environment. For this reason, neither an environmental assessment nor an environmental impact statement is required.

F. Conclusion and Proposal

After consideration of the information set forth above, and provisions of the FHSA and the CPSA, the Commission hereby proposes to regulate under the CPSA rather than the FHSA the possible risk of choking and/or suffocation injury which may be associated with the products described if they become lodged in the throat.

As stated above, the risk of injury which the Commission proposes to transfer does not include any risk of choking, aspiration, or ingestion of the entire toy or small parts which may become detached from, or break off any such toy. That risk of injury remains subject to FHSA regulations published at 16 CFR 1500.18(a)(9) and Part 1501.

Additionally, any risk of injury which may be associated with these toys, other than that of choking or suffocation from lodging in the throat, will remain subject to regulation under provisions of the FHSA if the rule proposed below is issued on a final basis. Until issuance of any final regulation under section 30(d) of the CPSA, the Commission has authority to regulate under the FHSA any risk of choking and/or suffocation injury which these toys may present if they become lodged in the throat.

List of Subjects in 16 CFR Part 1145

Administrative practice and procedure, Consumer protection, Infants and children, Toys.

PART 1145—REGULATION OF PRODUCTS SUBJECT TO OTHER ACTS UNDER THE CONSUMER PRODUCT SAFETY ACT

Therefore, under provisions of the Consumer Product Safety Act (section 30(d), Pub. L. 92573, 86 Stat. 1231, as amended Pub. L. 94284, 90 Stat. 3472, Pub. L. 9735, 95 Stat. 703; 15 U.S.C. 2079(d)), the Commission proposes to amend the Code of Federal Regulations, Title 16, Chapter II, Subchapter B, Part 1145, by adding a new § 1145.10, as follows:

§ 1145.10 Certain squeeze toys; risk of choking and/or suffocation injury from lodging in the throat.

(a) The Commission finds that it is in the public interest to regulate under the

Consumer Product Safety Act, rather than under the Federal Hazardous Substances Act, the possible risk of choking and/or suffocation injury from lodging in the throat that may be associated with squeeze toys made of compressible material, other than the risk of choking, aspiration, or ingestion of the entire toy or small parts which may become detached from or break off any such toy, which is the subject of regulations published at 16 CFR 1500.18(a)(9) and Part 1501.

(b) Therefore, if the Commission finds regulation to be necessary, the possible risk of choking and/or suffocation injury from lodging in the throat which may be associated with the toys described in § 1145.10(a), above, shall be regulated only under one or more provisions of the Consumer Product Safety Act. Any risk of injury which may be associated with those toys other than the possible risk described in § 1145.10(a), above, shall remain subject to regulation only under one or more provisions of the Federal Hazardous Substances Act.

Interested persons are invited to submit written comments by February 2, 1983. Comments may be accompanied by written data, views, and arguments and should be addressed by the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

Received comments may be seen in the Office of the Secretary, eighth floor, 1111 18th Street, NW., Washington, D.C. between 8:30 a.m. and 5:00 p.m., Monday through Friday. (Sec. 30(d), Pub. L. 92-573, 86 Stat. 1231, as amended Pub. L. 94-284, 90 Stat. 3472, Pub. L. 97-35, 95 Stat. 703; 15 U.S.C. 2079(d)).

Dated: December 23, 1982.

Sadye E. Dunn,

*Secretary, Consumer Product Safety
Commission.*

[FR Doc. 82-35325 Filed 12-26-82; 8:46 am]

BILLING CODE 4355-01-M

**CONSUMER PRODUCT SAFETY
COMMISSION**

16 CFR Part 1030

**Revisions to Financial Interest
Reporting Requirements**

AGENCY Consumer Product Safety
Commission

ACTION Final rule

SUMMARY: The Consumer Product Safety Commission is revising its regulations pertaining to the submission of Confidential Statements of Employment and Financial Interests by updating the list of positions whose incumbents are required to submit statements and clarifying the requirement for annual reporting. This is being done to reflect recent changes in the Commission's organizational structure and to include certain data processing and contract personnel.

EFFECTIVE DATE: January 3 1983

FOR FURTHER INFORMATION CONTACT:
Joseph F Rosenthal, Office of General
Counsel Consumer Product Safety
Commission Washington, D C 20207
Telephone (301) 492-6980

SUPPLEMENTARY INFORMATION. Subpart F of Part 1030 of Title 16 of the Code of Federal Regulations contains the Commission's regulations regarding the submission of Confidential Statement of Employment and Financial Interests (CPSC Form 219). The statements are used to ascertain possible employee conflicts of interest. Submission of these forms by employees in positions such that their individual decisions could have an economic impact on private enterprises is mandated by Executive Order 11222 and regulations promulgated by the Office of Personnel Management. The actual list of such positions has been located in an Appendix at the end of Part 1030, printed several pages from Subpart F in the Code of Federal Regulations.

The list of positions required to submit Confidential Statements of Employment and Financial Interests has been revised to reflect recent changes in the Commission's organizational

structure and has been made a section of Subpart F itself so that it will be physically contiguous to the applicable regulations. Only minor substantive changes have been made in the grades required to report, but the list has been simplified by omitting position classification schedule numbers and by defining the reporting positions in certain organizations as Merit Pay positions. Merit Pay employees are those in grades 13-15 with managerial or supervisory authority.

The list has also been revised in two other respects. All contract specialists at grade 7 and above in the Directorate for Administration are now required to report because their role in supervising contracts and selecting contractors makes them susceptible to conflicts of interest. Also, certain data processing positions at grade 7 and above which are sufficiently sensitive under Office of Personnel Management regulations to require background checks have been added to the list because they have the opportunity to manipulate critical data which underlies the Commission's decision making processes.

Section 1031.602 has been revised to give the Ethics Counselor the primary responsibility for determining which positions should be subject to the reporting requirement. Previously the Executive Director had this responsibility.

Section 1030.604 has been revised to indicate that senior employees subject to the financial reporting requirements of the Ethics in Government Act are not also subject to the reporting requirements of Subpart F.

Sections 1030.605 and 1060.606 have been simplified and combined to specifically indicate when submissions are due and to inform employees that they may be subject to disciplinary action for failing to report as required.

Since this rule relates solely to internal agency management pursuant to 5 U.S.C. 553 the Commission finds that notice and other public procedures with respect to this rule are impractical and contrary to the public interest and good cause is found for making this rule effective less than 30 days after 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 that act.

List of Subjects in 16 CFR Part 1030

Government employees and conflict of interest

PART 1030—[AMENDED]

Accordingly Part 1030 of Title 16 of the Code of Federal Regulations is amended as shown.

1 The authority citation for Part 1030 is as follows

Authority E O 11222, 30 FR 6469 3 CFR 1964-1965 Comp., p 306 5 CFR Part 735 Pub L. 95-521 92 Stat 1824 as amended by Pub L. 98-19, 93 Stat 37 (5 U S C. App)

§ 1030 601 [Amended]

2 Section 1030 601 is amended by removing the words Appendix E and inserting in their place § 1030 611

3 Section 1030 602 is revised to read as follows

§ 1030 602 Inclusion or removal of positions.

The Ethics Counselor shall in accordance with the criteria in § 1030 601 and after consultation with the Executive Director identify positions to be added to or removed from the listing in § 1030 611

4 Section 1030 604 is revised to read as follows

§ 1030 604 Employees not required to submit statements.

(a) Employees in positions that meet the criteria of § 1030 601 as listed in § 1030 611 may be excluded from the reporting requirement when the Ethics Counselor determines that

(1) The duties of a position are at such a level of responsibility that the submission of a statement of employment and financial interests by the incumbent is not necessary because of the degree of supervision and review over the incumbent or

(2) The duties of a position are such that the likelihood of the incumbent's involvement in a conflict of interest situation is remote

(b) Exclusions under this provision must be documented in writing and retained by the Ethics Counselor

(c) Employees subject to the more detailed financial reporting requirements of Title II of the Ethics in Government Act of 1978 (Pub L. 95-521 5 U S C Appendix) are excluded from the reporting requirements of this subpart

5 Section 1030 605 is revised to read as follows

§ 1030 605 Submission of statements

(a) An employee required to submit a statement of employment and financial interests under this Subpart shall submit that statement to the Ethics Counselor not later than

(1) Thirty days after appointment or assignment to a position covered by section 1030 611 and

(2) By June 30 of each succeeding year

(b) Employees failing to submit a statement in accordance with this section may be subject to disciplinary action.

(c) Notwithstanding the filing of the statements required by this section each employee shall at all times avoid acquiring a financial interest that could result or taking an action that would result, in a violation of the conflict of interest provisions of 18 U S C. 208 or this part.

§ 1030 606 [Removed]

6 Section 1030 606 is removed

7 A new § 1030 611 is added to read as follows

§ 1030 611 Positions requiring submission of statement of employment and financial interests.

(a) *Commissioners' staffs* All positions grade 13 and above

(b) *Office of the General Counsel* All positions grade 11 and above

(c) *Office of Congressional Relations* All positions grade 15 and above

(d) *Office of Public Affairs* All positions grade 14 and above

(e) *Office of the Secretary* All positions grade 13 and above

(f) *Office of Internal Audit* All positions grade 14 and above

(g) *Office of Equal Employment Opportunity and Minority Enterprise*

All positions grade 15 and above

(h) *Office of the Executive Director* All Merit Pay positions

(i) *Office of Program Management* All Merit Pay positions

(j) *Office of Budget Program Planning and Evaluation* All positions grade 15 and above

(k) *Office of Outreach Coordination* All positions grade 13 and above

(l) *Directorate for Epidemiology* All Merit Pay positions and all Physiologists grade 11 and above all Engineering Psychologists grade 11 and above all Statisticians grade 11 and above and all Program Analysts grade 12 and above

(m) *Directorate for Economics* All positions grade 12 and above

(n) *Directorate for Engineering Sciences* All Merit Pay positions

(o) *Directorate for Health Sciences* All positions grade 11 and above

(p) *Directorate for Compliance and Administrative Litigation* All positions grade 11 and above

(q) *Directorate for Administration* All Merit Pay positions and all Contract Specialists grade 7 and above

(r) *Regional Offices* All investigative positions grade 5 and above all other positions grade 13 and above

(s) *Computer related positions* All CPSC computer related positions grade

9 and above classifiable as ADP-I or ADP-II under Chapter 732 of the Federal Personnel Manual regardless of organizational unit.

Appendix E—[Removed]

8. Appendix E is removed

Dated December 23 1982

Sadye E. Dunn,

Secretary Consumer Product Safety Commission

[FR Doc. 82-35324 Filed 12-30-82; 8 45 am]

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