

TO: The Commission
Alberta E. Mills, Secretary

DATE: August 30, 2023

THROUGH: Jason Levine, Executive Director
Austin C. Schlick, General Counsel

FROM: Melissa V. Hampshire, Assistant General Counsel, GCFL
Hilda M. Garcia Concepcion, Attorney, GCFL

SUBJECT: Draft Notice of Proposed Rulemaking: Disclosure of Interests
in Commission Proceedings

BALLOT VOTE DUE: Wednesday, September 6th, 2023

The Office of the General Counsel is forwarding to the Commission a draft notice of proposed rulemaking (NPR) to amend 16 CFR parts 1000.5, 1000.8, 1025.17, 1051, 1052 and 1502 to include additional requirements for disclosure of financial interests by parties or participants when presenting oral testimony, requesting rulemaking before the Commission, or participating in an adjudicative proceeding.

Please indicate your vote on the following options:

- I. Approve publication of the attached *Federal Register* notice, "Disclosure of Interests in Commission Proceedings," as drafted.

(Signature)

(Date)

- II. Approve publication of the attached draft *Federal Register* notice, "Disclosure of Interests in Commission Proceedings" with changes (please specify).

(Signature)

(Date)

III. Do not approve publication of the attached draft *Federal Register* notice, "Disclosure of Interests in Commission Proceedings."

(Signature)

(Date)

IV. Take other action (as specified below).

(Signature)

(Date)

Attachment: Draft *Federal Register* notice, "Disclosure of Interests in Commission Proceedings"

Billing Code **6355-01-P**

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1000.5, 1000.8, 1025.17, 1051, 1052, 1502

[CPSC Docket No. CPSC-_____]

Disclosure of Interests in Commission Proceedings

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The United States Consumer Product Safety Commission (“Commission” or “CPSC”) is issuing this notice of proposed rulemaking (“NPR”) to establish disclosure requirements for persons seeking to make certain appearances before the Commission.

Specifically, the proposed requirements provide for disclosure of whether: (1) any person other than the submitter authored, in whole or in part, an oral presentation, adjudicative testimony, or petition for rulemaking submitted to the Commission; (2) any person other than the submitter made or has agreed to make a monetary contribution to fund the oral presentation, adjudicative testimony, or petition for rulemaking; and (3) the submitter of a request to provide oral testimony before the Commission has an existing business relationship by which the submitter expects to receive direct or indirect financial benefit in connection with the oral presentation or the Commission activity that is the subject of the oral presentation. The Commission similarly proposes to require that any person seeking to participate as an intervenor or other participant in any adjudicative proceeding before the Commission shall disclose whether a party in the proceeding or a party’s counsel authored the petition to intervene or request to participate, as well as the identity of each person who has made or has agreed to make a monetary contribution to fund the request to participate or proposed participation. Additionally, the Commission

proposes disclosure of certain corporate affiliations in these contexts. Finally, the Commission proposes technical revisions to its regulations establishing procedures for filing petitions for rulemaking and requests for oral presentation.

DATES: Submit comments by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: You may submit comments, identified by Docket No. CPSC-2023-____, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: www.regulations.gov. Follow the instructions for submitting comments. Do not submit through this website: confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. CPSC typically does not accept comments submitted by electronic mail (e-mail), except as described below.

Mail/hand delivery/courier/confidential Written Submissions: CPSC encourages you to submit electronic comments using the Federal eRulemaking Portal. You may, however, submit comments by mail, hand delivery, or courier to: Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504-7479.

Instructions: All submissions must include the agency name and docket number. CPSC may post all comments without change, including any personal identifiers, contact information, or other personal information provided, to: www.regulations.gov. If you wish to submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public, you may submit such comments by mail, hand delivery, or courier, or you may e-mail them to: cpsc-os@cpsc.gov.

Docket: For access to the docket to read background documents or comments received, go to: www.regulations.gov, and insert the docket number, CPSC-2023-_____, into the “Search” box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Hilda M. Garcia Concepcion, Attorney, Division of Federal Court Litigation, Office of the General Counsel, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: 301-504-7548; e-mail: hgarciaconcepcion@cpsc.gov.

SUPPLEMENTARY INFORMATION: The Commission proposes in this NPR to amend its regulations to require disclosures of interests and sources of funding by those seeking to present oral testimony, request rulemaking before the Commission, or participate in an adjudicative proceeding. These proposed amendments are modeled after Supreme Court Rule 37.6 and Rule 29(a)(4)(e) of the Federal Rules of Appellate Procedure (FRAP). Both of those judicial rules provide that amici curiae (*i.e.*, those filing briefs as “friends of the court”) must state: whether a party’s counsel authored the brief in whole or in part; whether a party or a party’s counsel contributed money that was intended to fund preparing or submitting the brief; and whether any person other than the amicus curiae, its members, or its counsel, funded preparing or submitting the brief, and if so, identifies those persons.

The proposed amendment also includes a requirement for disclosure of certain corporate affiliations that is modeled after FRAP 26.1(a), which provides that any non-governmental corporation that is a party to a proceeding must file a statement identifying any parent corporation and any publicly held corporation that owns 10% or more of its stock or stating that there is no such corporation.

I. Statutory Authority and Background

The Commission seeks to encourage interested stakeholders, including consumers and consumer organizations, among others, to participate actively in the agency's decision-making processes. This includes participation in public hearings before the Commission, adjudicative proceedings, and petitioning for rulemaking, among other opportunities. To that end, 16 CFR part 1025 establishes the Commission's Rules of Practice for Adjudicative Proceedings ("Rules of Practice"), 16 CFR part 1051 establishes the Procedures for Petitioning for Rule Making, and 16 CFR part 1052 establishes the Procedural Regulations for Informal Oral Presentations in Proceedings before the Commission.

A. Adjudicative Proceedings and Evidentiary Public Hearings

The Consumer Product Safety Act (15 U.S.C. 2064(c), (d), (f) & 2076(b)) (CPSA), Federal Hazardous Substances Act (15 U.S.C. 1274) (FHSA), Flammable Fabrics Act (15 U.S.C. 1192, 1194, 1197(b)) (FFA), and Poison Prevention Packaging Act (15 U.S.C. 1473(c)) (PPPA) all authorize the Commission to conduct adjudicative proceedings for mandatory recalls of covered products, or other action to protect the public. Final Decisions and Orders in adjudicative proceedings are decided based on an administrative record after opportunity for a hearing.

The Commission's Rules of Practice at 16 CFR 1025.17, titled "Intervention," allow persons who are not parties to an adjudication to apply for participation as either an intervening party or a non-party. In making a discretionary determination to grant or deny participation, the presiding officer is required to consider, among other things, the extent to which the petitioner's intervention may reasonably be expected to assist in developing a sound record; the extent to which the petitioner's interest will be represented by existing parties; the extent to which the

petitioner's intervention may broaden the issues or delay the proceedings; and the extent to which the person's participation can be expected to assist the presiding officer and the Commission in rendering a fair and equitable resolution of all matters in controversy. If the presiding officer determines that there is a duplication of interest among those seeking to participate, the presiding officer may limit the participation by designating a single representative. 16 CFR 1025.17(f).

In addition to these adjudications, the Commission may hold formal evidentiary public hearings under certain sections of the FHSA and PPA. Part 1502 of the Commission's rules establishes procedures for these formal evidentiary public hearings, including the processes for requesting hearings and filing notices of participation. 16 CFR 1502.5-1502.17.

B. Petitions for Rulemaking

In accordance with the Administrative Procedure Act (5 U.S.C. 553(e)), any person may petition the Commission to issue, amend, or revoke Commission regulations under the Acts the Commission administers. At 16 CFR part 1051, the Commission has established procedures for the submission and disposition of petitions for the issuance, amendment, or revocation of rules under the CPSA or other statutes administered by the Commission.

Section 1051.5(a) establishes the requirements for petitioning for rulemaking, which include that the petition shall be written in English, contain the name and address of the petitioner, indicate the product regulated under the CPSA or other statute administered by the Commission for which rulemaking is sought, set forth facts establishing that the rulemaking is necessary, make an explicit request to the Commission to initiate rulemaking, and set forth a brief description of the substance of the proposed rule, amendment, or revocation. The Commission may grant or deny the petition. 16 CFR 1051.10, 1051.11.

C. Informal Oral Presentations in Proceedings Before the Commission

The CPSA (15 U.S.C. 2058(d)(2) and 2064(c)), FHSA (*id.* 1274), FFA (*id.* 1193(d)), and PPPA (*id.* 1473(c)) all require the Commission to give interested persons an opportunity to make oral presentations of data, views, or arguments, or provide for an opportunity for a hearing regarding rulemaking. The CPSA also authorizes informal hearings or other inquiries, which can be conducted by the Commission or by one or more of its members, or by designated agents in non-rulemaking situations. 15 U.S.C. 2076(a). The CPSA further provides that the Commission shall conduct a public hearing on the annual agenda and priorities for Commission action. 15 U.S.C. 2053(j). Section 1000.8 of the Commission's rules provides that the Commission may conduct hearings as necessary or appropriate to its functions and will afford reasonable opportunity for interested persons to present relevant testimony at such hearings.

Part 1052 of the Commission's rules sets forth the rules of procedure for oral presentation of data, views or arguments in informal rulemakings or investigatory situations. The Chairman of the Commission, or another presiding officer appointed by the Chairman with the concurrence of the Commission, shall have the powers necessary to secure the efficient conduct of the oral proceedings, including the right to require a single representative to present the views of others with similar interests. 16 CFR 1052.4.

II. Reasons for Proposed Revisions

The proposed rule changes are based on the Supreme Court Rules and the FRAP, which establish requirements for amicus curiae briefs written by non-parties to assist the court by providing relevant information not otherwise submitted, and on the FRAP's provisions for disclosure of certain corporate affiliations.

In 1997 the Supreme Court amended its rules to require disclosure of a party's involvement in the drafting or funding of non-governmental amicus briefs. Supreme Court Rule 37.6 provides that "a brief filed under this Rule shall indicate whether counsel for a party authored the brief in whole or in part and whether such counsel or a party made a monetary contribution intended to fund the preparation or submission of the brief, and shall identify every person or entity, other than the *amicus curiae*, its members, or its counsel, who made such a monetary contribution."

Similarly, FRAP 29(a)(4)(E), adopted in 2010 and modeled after Supreme Court Rule 37.6, provides that an amicus filer that is not a federal or state government entity must include a statement in the amicus brief addressing whether "a party's counsel authored the brief in whole or in part;" whether "a party or party's counsel contributed money that was intended to fund preparing or submitting the brief," and whether "a person—other than the *amicus curiae*, its member, or its counsel—contributed money that was intended to fund preparing or submitting the brief and, if so, identifies each such person."

The Supreme Court is understood to have adopted its disclosure rule "in an effort to stop parties in a case from surreptitiously 'buying' what amounts to a second or supplemental merits brief, disguised as an amicus brief, to get around word limits." Supreme Court Rule Crimps Crowd-Funded Amicus Briefs, LAW.COM (Dec. 10, 2018, 2:53PM), available at

https://www.yahoo.com/entertainment/supreme-court-rule-puts-crimp-075351473.html?guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlLmNvbS8&guce_referrer_sig=AQAAADJ2YF4CP_uQ2RVhjKDq6IXyiSRacfhjKhuXKIh9V-bTxca5H7uVdDtnYSHb-TcniJrVwTS9p-jWaoOjsHmckiI0QQiOpbBnFmxvQjHIFKr0OiPoouGbezukzy88VPBIP6I2Ghg8OUcDL-

[2TW0ZZ2UyS4LklU3RQhFqaXmAs4XuW](#), [Supreme Court Rule Crimps Crowd-Funded](#)

[Amicus Briefs | National Law Journal](#). In 2018, the Supreme Court’s Public Information Office further explained that “Rule 37.6 [serves] to preclude an amicus from filing a brief if contributors are anonymous.” LAW.COM, *supra*. The parallel Federal Rule of Appellate Procedure serves efficiency and transparency goals by “deter[ring] counsel from using an *amicus* brief to circumvent page limits” that the FRAP places on parties’ briefs. FRAP 29(c)(5) advisory committee’s note to 2010 amendment.

Like these rules of the U.S. Supreme Court and Federal Court of Appeals, the proposed rules would deter circumvention of Commission procedural requirements, avoid redundant presentations, and improve transparency regarding the motivations of those with an interest in proceedings before the Commission. The disclosure requirement for any contributing party improves the fairness and accuracy of decision-making by providing the Commission relevant information it otherwise lacks. Knowing if a proposed participant is funded or financed by another or has a business relationship by which the proposed participant expects to receive financial benefit in connection with the oral presentation or the Commission activity subject of the oral presentation, assists the Commission in appropriately evaluating the intent of the proposed participation, identifying bias or special interest, and eliminating duplicative presentations. Just as the federal courts’ disclosure requirements provide the decisionmakers, the litigants, and the general public insight into the parties that are framing the appellate proceeding, *see* S. Whitehouse, *A Flood of Judicial Lobbying: Amicus Influence and Funding Transparency*, 131 Yale L.J. F. 141 (Oct. 24, 2021), the proposed rule changes will allow the Commission, the parties to a matter, and the public to know who is seeking to influence the Commission’s decisions on consumer product safety issues. With the proposed disclosure requirements, the

Commission can better identify those seeking to influence its decisions and better maintain the efficiency and integrity of the proceedings. Indeed, particularly in the context of the Commission's adjudicative proceedings, the function of the proposed rule's requirements is precisely the same as the role of the parallel Supreme Court and appellate rules.

In adjudicative proceedings when considering a petition to intervene or request to participate, the presiding officer will consider, among other things, the extent to which the participation will assist the Commission in rendering a fair and equitable resolution of the matters in controversy, the extent to which a petitioner's interest will be represented by an existing party, and the extent to which the participation might delay the proceedings. 16 CFR 1025.17(d) and (e). The presiding officer also has the power to designate a single representative where the petitioner or requester shares "identity of interest" with any other intervenor or participant. 16 CFR 1025.17(f). Similarly, when making determinations regarding objections or requests for a public hearing under 16 CFR part 1502, the Commission may broadly investigate whether a hearing has been justified. *See* 16 CFR 1502.8.

When considering petitions for rulemaking, the Commission considers, among other factors, whether failure to initiate the requested proceeding would unreasonably expose the petitioner or other consumers to a risk of injury. To allocate its limited resources, the Commission treats as an important component of each petition the relative priority of the risk of injury associated with the product. 16 CFR 1051.9. When rulemaking petitions are filed by parties—such as consultants—who do not disclose the identity of their paying clients or others whose interests they represent, the Commission is less able to assess accurately the actual priority of the asserted risk of injury. Therefore, the information afforded by the proposed disclosure requirements better positions the Commission to prioritize the requests it receives.

The Procedural Regulations for Oral Presentations in Proceedings Before the Consumer Product Safety Commission already give the officer presiding over a hearing authority to: (1) apportion the time for presentations; (2) terminate or shorten a presentation that is repetitive or not relevant; and (3) identify groups or persons with the same or similar interests in the proceedings and require a single representative to present the views of participants who have the same or similar interests. To do this, the presiding officer may question those making an oral presentation as to their testimony and any other relevant matter. 16 CFR 1052.4(c).

The pre-hearing disclosure requirements proposed in this NPR likewise serves the public interest by avoiding repetitive, inefficient, and/or misleading testimony that can come as a result of multiple presentations that in fact represent a single interest. It complements the Commission's practice of requiring those seeking to make an oral presentation to provide, as part of their request, the written text of the proposed oral presentation.¹

Importantly, this NPR's proposals do not limit participation in Commission proceedings, but only provide the Commission and the public additional information about potential participants. We agree on this point with the United States Chamber of Commerce, which explained, in discussing FRAP 29(a)(4)(e), that its approach "strikes an appropriate and time-tested balance between the interest in protecting the integrity of the *amicus* process and the protection of associational rights." Letter from Daryl Joseffer, Exec. Vice President & Chief Couns., U.S. Chamber of Commerce Litigation Center., to Honorable Jay S. Bybee (Oct. 6, 2021) (discussing potential amendments to the *amicus* disclosure requirements of FRAP 29),

¹ See, e.g., Commission Agenda and Priorities, Notice of Hearing, 87 FR 15,209 (Mar. 17, 2022); Safety Standard for Clothing Storage Units; Notice of Opportunity for Oral Presentation and Comments, 87 FR 11,366 (Mar. 1, 2022).

available at https://www.uscourts.gov/sites/default/files/21-ap-h_suggestion_from_sen._whitehouse_and_rep._johnson_-_rule_29_0.pdf.

Similarly, the proposed requirements to disclose business interests that may shape an oral presentation do not implicate or burden associational rights. The proposed rules require disclosure of direct or indirect financial benefits that are expected to stem from the Commission's relevant activity, or participation in it. For example, the requester might receive payment specifically for appearing before the Commission or, might expect an indirect financial benefit if a client (such as a client in an ongoing contract for consulting services) will be directly affected by the Commission's activity. The disclosure of these pertinent financial interests does not require the identification of specific business partners, but rather disclosure of the existence of a business relationship by which the requester expects to receive a direct or indirect financial benefit. These disclosure requirements provide information that is useful for the Commission to assess proposed testimony and, if participation is granted, to place it in context.

Other federal and state agencies have similar disclosure requirements, either in their rules or as part of the information that must be provided when making submissions. As an example, the Federal Communications Commission requires that a person seeking to submit a filing in its proceedings must identify the person or entities "whose views the filing represents." Federal Communications Commission, Submit Standard Filing, available at <https://www.fcc.gov/ecfs/filings/standard>. Similarly, Rule 1.4(b)(1) of the Rules of Practice and Procedure of the California Public Utilities Commission requires a person seeking to become a party to a proceeding before that agency to "fully disclose the persons or entities in whose behalf the filing [of the motion to become a party], appearance or motion is made, and the interest of such persons or entities in the proceeding."

The proposed disclosure of interest requirements would not only improve transparency and efficiency as a general matter, but also allow the Commission and its staff, including presiding officers in adjudications, to better identify potential conflicts of interest or other ethical concerns that could arise from the identities or interests of participants in those proceedings.

Relatedly, and similar to the FRAP, the proposed rules require disclosure of certain corporate affiliations. The purpose of the corporate disclosure statement required by the FRAP 26.1 is to assist judges in making a determination of whether they have interests in any of a party's related corporate entities that would disqualify the judge from participating in a judicial appeal. *See* Fed R. App. P. 26.1(a) advisory committee's note to 1998 amendment; Fed R. App. P. 26.1(a) advisory committee's note on Rules-1989. In the same way, the proposed requirements for disclosure of certain corporate affiliations will better enable CPSC Commissioners and staff to identify a potential conflict of interest that might merit recusal from a proceeding. *See* 18 U.S.C. 208(a) (generally barring federal employees from participating personally and substantially in any particular matter in which they know they, or any person whose interest is imputed to them, have a financial interest directly and predictably affected by the matter); 16 CFR 1025.42(e) (disqualification of presiding officers in adjudicative proceedings). Disclosure of underlying corporate interests also may serve efficiency interests by allowing the Commission and its presiding officers to better organize proceedings to reflect commonalities of interest among the participants.

As with the disclosure interest requirements discussed above, corporate disclosure requirements are required by other administrative agencies. For example, the Occupational Safety and Health Review Commission (OSHRC) requires that: "All answers, petitions for modification of abatement period, or other initial pleadings filed under these rules by a

corporation shall be accompanied by a separate declaration listing all parents, subsidiaries, and affiliates of that corporation or stating that the corporation has no parents, subsidiaries, or affiliates, whichever is applicable.” 29 CFR 2200.35.

There may be material interests that would not be revealed even under this NPR’s proposals. In Section IX below, we seek comment whether other amendments to the Commission’s rules should be adopted to promote the purposes of this NPR in circumstances that are not covered by the specific rules proposed here.

III. Description of the Proposed Revisions

This section describes the changes proposed in this NPR in the order in which they will appear in the Commission’s rules.

A. Table of Contents

The NPR proposes conforming changes to the Tables of Contents for 16 CFR parts 1025 and 1052.

B. Part 1000—Commission Organization and Functions

1. Proposed Changes to § 1000.5 (Petitions)

In conjunction with the proposed changes regarding requirements for testimony and participation in Commission proceedings, the NPR proposes a technical change that directs petitioners to follow the procedure for submitting petitions found in 16 CFR part 1051.

2. Proposed Changes to § 1000.8 (Meetings and hearings; public notice.)

To conform to the proposed changes implementing disclosure of interest requirements for testimony and participation in Commission proceedings, the NPR proposes to add a new

subsection (e) stating: “Any person requesting the opportunity to present oral testimony before the Commission shall satisfy the requirements in § 1052.3.”

C. Part 1025—Subpart B—Pleadings, Form, Execution, Service of Documents

The NPR proposes to adopt disclosure of interest requirements for any person seeking to provide testimony or participate in an adjudicative proceeding before the Commission. The proposed changes would align CPSC’s Rules of Procedure with the amicus funding disclosure requirements in Supreme Court Rule 37.6 and FRAP 29(a)(4)(e). The disclosure of interest requirements will improve transparency and lessen the likelihood of delay or repetition in adjudicative proceedings by giving the presiding officer information necessary to determine the identity of interest of those seeking to participate. For Part 1025-Subpart B, the NPR proposes to replace the heading of section 1025.17 “Intervention” with “Participation.” This is a non-substantive change to better align the heading of the section with its content.

The NPR also proposes to add a new paragraph (3) to section 1025.17(a), “Participation as an intervenor,” adding a new requirement for a petition to intervene in an adjudicative proceeding. The proposed paragraph (a)(3) reads as follows:

(3) Unless a petition to intervene is made by the United States or a State, local or foreign government, or by an agency thereof, or an Indian Tribe, city, county, town or similar entity when submitted by its law officer, the petition shall include a statement that indicates whether:

(i) a party or a party’s counsel authored the petition to intervene in whole or in part, and, if so, identifies such party;

(ii) a party or a party's counsel has made or has agreed to make a monetary contribution to the petitioner intended to fund the petition or proposed participation and, if so, identifies such party; and

(iii) a person other than the petitioner, its members, or its counsel has made or has agreed to make a monetary contribution intended to fund the petition or proposed participation and, if so, identifies each such person;

(iv) if no such authorship or contributions were or will be provided, the statement should affirmatively indicate that no assistance that is reportable under this Rule has been provided or promised.

New paragraph 1025.17(a)(4) would require a corporate disclosure statement for corporations that seek to participate as intervenors.

Current paragraph (3) of section 1025.17(a) would be redesignated as paragraph (5), with no other changes.

The NPR also proposes to add similar disclosure of interest requirements and corporate disclosure requirements for persons who request to participate in an adjudicative proceeding without gaining the party status of an intervenor.

D. Part 1051-Procedure for Petitioning for Rulemaking

1. Proposed Changes to § 1051.1 (Scope)

Section 1051.1(b) states the requirements and recommendations to be followed by those seeking to file a petition for rulemaking. The NPR proposes to clarify this provision by replacing "Persons filing petitions for rulemaking shall follow as closely as possible the requirements and are encouraged to follow as closely as possible the recommendations for filing petitions under § 1051.5" with "Persons filing petitions for rulemaking shall satisfy the

requirements in § 1051.5(a) and are encouraged to follow as closely as possible the recommendations for filing petitions under § 1051.5(b).”

To conform with these changes, the NPR also proposes a change to section 1051.1(c). The NPR proposes to replace the last sentence of section 1051.1(c), which currently reads “In addition, however, persons filing such petitions shall follow the requirements and are encouraged to follow the recommendations for filing petitions as set forth in § 1051.5,” with “In addition, persons filing such petitions shall satisfy the requirements in § 1051.5(a) and are encouraged to follow the recommendations for filing petitions in § 1051.5(b).”

2. Proposed Changes to § 1051.3 (Place of filing)

To improve efficiency and reflect current technologies, the NPR proposes to provide that petitions for rulemaking may be filed by electronic submission, in addition to mail or hand delivery.

3. Proposed Changes to § 1051.4 (Time of filing)

To conform to the change proposed in section 1051.3 to include electronic submission as a permitted method of filing petitions for rulemaking, the NPR proposes clarification to the time of filing. The proposed revised section reads as follows:

A petition shall be considered filed by electronic submission (*i.e.*, emailed) when it is received in the Office of the Secretary. If the electronic submission is received outside of business hours, or on a weekend or holiday, the date of receipt shall be the next business day. A petition shall be considered filed by mail or in person when time-date stamped as received in the Office of the Secretary.

4. Proposed Changes to § 1051.5 (Requirement and recommendations for petitions)

The NPR proposes to add the disclosure of interest and corporate disclosure requirements as new paragraphs “(3)” and “(4)” of section 1051.5(a), which read as follows:

(3) Unless the petition is made by the United States or a State, local or foreign government or by an agency thereof, or an Indian Tribe, city, county, town or similar entity when submitted by its law officer, the petition shall include a statement that indicates whether:

(i) a person, other than the petitioner, its members, or its counsel authored the petition in whole or in part and, if so, identifies each such person; and

(ii) a person other than the petitioner, its members, or its counsel has made or has agreed to make a monetary contribution intended to fund the petition and, if so, identifies each such person;

(iii) if no such authorship or contributions were or will be provided, the statement should affirmatively indicate that no assistance that is reportable under this Rule has been provided or promised.

(4) In the case of a corporation, contain a statement that identifies any parent corporation and any publicly held corporation that owns 10% or more of its stock, or state that there is no such corporation.

To conform with these proposed additions, former requirements “(3), (4) and (5)” would become, respectively, requirements “(5), (6) and (7).”

E. Part 1052—Procedural Regulations for Informal Oral Presentations in Proceedings Before the Consumer Product Safety Commission

1. Proposed Changes to § 1052.1 (Scope and Purpose)

Section 1052.1 states the Scope and Purpose for informal oral presentations in proceedings before the Commission. For clarity and uniformity, and in order to ensure the disclosure of interest requirements apply generally throughout CPSC's proceedings, the NPR proposes to reference in section 1052.1(a) the following statutory provisions: Section 15(c) and (d) of the Consumer Product Safety Act, 15 U.S.C. 2064(c) and (d), section 15 of the Federal Hazardous Substances Act, 15 U.S.C. 1274, section 4(j) of the Consumer Product Safety Act, 15 U.S.C. 2053(j), and 16 CFR 1000.8, all of which provide that the Commission shall give interested persons an opportunity for oral presentations or an opportunity for a hearing before the Commission. Reflecting this new specificity and to avoid confusion, the NPR also proposes to eliminate from this subsection (a) the following, less specific language: "Several rulemaking provisions of the statutes administered by the Commission are subject only to the rulemaking procedures of the Administrative Procedure Act. Section 4(c) of the Administrative Procedure Act provides that the opportunity for oral presentations may or may not be granted in rulemaking under that section."

The NPR further proposes minor changes to section 1052.2(b) with the same purpose of achieving clarity and uniformity throughout its regulations and statutes.

2. Proposed Changes to § 1052.3 (Conduct of oral presentation)

The NPR proposes to add a new section 1052.3 for informal oral presentations in proceedings before the Commission, to be titled "Requesting Opportunity for Oral Presentations." The proposed section reads:

§ 1052.3 Requesting opportunity for oral presentations.

(a) Unless otherwise stated in the Federal Register notice referenced in § 1052.2, any person who seeks to make an oral presentation shall make an

electronic submission of the request to the Office of the Secretary, Consumer Product Safety Commission at cpsc-os@cpsc.gov, not later than five business days before the scheduled opportunity.

(b) Unless otherwise stated in the Federal Register notice referenced in § 1052.2, the request to make an oral presentation shall:

- (1) Be written in the English language;
- (2) Contain the name and address of the requester, and its counsel, if any;
- (3) Contain the name and address of any person on whose behalf the requested oral presentation is to be made;
- (4) Unless the request to make an oral presentation is made by the United States or a State, local or foreign government, or by an agency thereof, or an Indian Tribe, city, county, town or similar entity when submitted by its law officer, the request shall include a statement that indicates whether:
 - (i) a person other than the requester, its members, or its counsel authored the request in whole or in part and, if so, identifies such person;
 - (ii) a person other than the requester, its members, or its counsel has made or has agreed to make a monetary contribution intended to fund the oral presentation and, if so, identifies each such person;
 - (iii) the requester has an existing business relationship by which the requester expects to receive direct or indirect financial benefit in connection with the oral presentation or the Commission activity that is the subject of the oral presentation and, if so, describes the nature of that business relationship;

(iv) if no such authorship or contributions were or will be provided, and no such business relationship exists, the statement should affirmatively indicate that no assistance that is reportable under this Rule has been provided or promised and no business relationship that is reportable under this Rule exists.

(5) If the requester is a corporation, contain a statement that identifies any parent corporation and any publicly held corporation that owns 10% or more of its stock, or state that there is no such corporation.

(6) Contain the written text of the proposed oral presentation.

3. Proposed Changes to New § 1052.4 (Conduct of oral presentation.)

Given the addition of new 16 CFR 1052.3 “Requesting Opportunity for oral presentations,” the NPR proposes to renumber former section 1052.3 “Conduct of oral presentation” as section 1052.4. For clarity, the NPR also proposes to make a technical change and to eliminate “legislative type” from subsection (b). The proposed section 1052.4(b) would read: “(b) The oral presentation, which shall be taped or transcribed, shall be an informal, non-adversarial proceeding at which there will be no formal pleadings or adverse parties.”

4. Proposed Changes to New § 1052.5

Also, as a conforming change, the NPR proposes to renumber section 1052.4 “Presiding Officer; appointment, duties and powers” as section 1052.5, with no other changes.

F. Part 1502—Procedures for Formal Evidentiary Public Hearing

1. Proposed Changes to Subpart B—Initiation of Proceedings—§ 1502.5 (Initiation of a hearing involving the issuance, amendment, or revocation of a regulation)

Consistent with the other proposed changes requiring disclosure of interests and corporate affiliations for testimony and participation in Commission proceedings, the NPR

proposes to add a new subsection (c) to section 1502.5, stating: “Any person requesting the opportunity for a public hearing under this part shall satisfy the disclosure requirements of § 1025.17(b)(3) and (4), in addition to all requirements in this part.”

2. *Proposed Changes to Subpart C—Notice of Participation—§ 1502.16 (Notice of participation)*

In conjunction with the changes proposed above, the NPR proposes to require disclosure of interests and corporate disclosure within the notice of participation to be filed under 16 CFR 1502.16(a).

IV. Environmental Considerations

The Commission’s regulations address whether the agency must prepare an environmental assessment or an environmental impact statement. Under these regulations, certain categories of CPSC actions that have “little or no potential for affecting the human environment” do not require an environmental assessment or an environmental impact statement. 16 CFR 1021.5 (c). The proposed changes to the rules fall within the categorical exclusion and therefore, no environmental assessment or environmental impact statement is required.

V. Regulatory Flexibility Analysis

Under section 603 of the Regulatory Flexibility Act (RFA), when the Administrative Procedure Act (APA) requires an agency to publish a general notice of proposed rulemaking, the agency must prepare an initial regulatory flexibility analysis (IRFA), assessing the economic impact of the proposed rule on small entities. 5 U.S.C. 603(a). Although the Commission has chosen to propose this disclosure rule through notice and comment procedures, the APA does not require a proposed rule when an agency issues rules of agency procedure and practice. 5 U.S.C. 553(b). Therefore, the CPSC is not required to prepare an IRFA under the RFA. *See* 79 FR

10721 (discussing IRFA requirement). Moreover, the NPR does not propose to establish mandatory requirements for, and would not impose any significant obligations on, small entities (or any other entity or party).

VI. Paperwork Reduction Act

The Paperwork Reduction Act (PRA) establishes certain requirements when an agency conducts or sponsors a “collection of information.” 44 U.S.C. 3501–3520. The NPR would amend the Commission’s rules for testimony and participation in proceedings before the Commission. The existing rules and the proposed revisions do not require or request information from the public, but rather, establish procedures for voluntary testimony and other participation in proceedings before the Commission. Further, the PRA does not apply to collections of information during the conduct of an administrative action or investigation involving an agency against specific individual or entities (44 U.S.C. 3518; *see* 5 CFR 1320.4(a)(2)), or to facts or opinions submitted in response to general solicitations of comments from the public (5 CFR 1320.3(h)(4)) or obtained or solicited at or in connection with public hearings or meetings (*id.* 1320.3(h)(4)). For these reasons, the proposed rule does not implicate the PRA.

VII. Executive Order 12988 (Preemption)

According to Executive Order 12988 (Feb. 5, 1996), agencies must state in clear language the preemptive effect, if any, of new regulations. This NPR proposes procedural provisions that are uniquely applicable to the Commission, and not enforced by state or local governments. Preemption therefore is not relevant.

VIII. Proposed Effective Date

Consistent with the APA's general requirement that the effective date of a rule be at least 30 days after publication of the final rule, the Commission proposes that the effective date of the rule will be 30 days after the date of the publication in the Federal Register. *See* 5 U.S.C. 553(d).

IX. Request for Comments

The Commission requests comments on all aspects of the NPR. The Commission also invites public comment on whether the same goals of transparency, fairness, efficiency, and improved decision-making should be advanced through disclosure provisions beyond those included in the NPR, for instance additional rule revisions that more fully enable the Commission to identify alignments of financial interest between different persons or entities requesting participation in the same CPSC hearing or public meeting. Comments must be submitted in accordance with the instructions in the ADDRESSES section of the preamble. Comments must be received no later than [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

List of Subjects in 16 CFR Parts 1000, 1025, 1051, 1052, and 1502

Administrative practice and procedure; Consumer protection; requirement; statement; participation; oral testimony; petition.

For the reasons set forth in the Preamble, the Commission proposes to revise 16 CFR parts 1000, 1025, 1051, 1052 and 1502 as follows:

Subchapter A General

Part 1000 Commission Organization and Functions

§ 1000.5 Petitions.

§ 1000.8 Meetings and hearings; public notice.

Part 1025 Rules of Practice for Adjudicative Proceedings

Subpart B Pleadings, Form, Execution, Service of Documents

§ 1025.17 Participation.

Part 1051 Procedure for Petitioning for Rulemaking

§ 1051.1 Scope.

§ 1051.2 General.

§ 1051.3 Place of filing.

§ 1051.4 Time of filing.

§ 1051.5 Requirements and recommendations for petitions.

Part 1052 Procedural Regulations for Informal Oral Presentations in Proceedings Before the Consumer Product Safety Commission

§ 1052.1 Scope and Purpose.

§ 1052.2 Notice of opportunity for oral presentations.

§ 1052.3 Requesting opportunity for oral presentation.

§ 1052.4 Conduct of oral presentation.

§ 1052.5 Presiding officer; appointment, duties, powers.

Part 1502 Procedures for Formal Evidentiary Public Hearing

Subpart B Initiation of Proceedings

§ 1502.5 Initiation of a hearing involving the issuance, amendment, or revocation of a regulation.

Subpart C Appearance and Participation

§ 1502.16 Notice of participation.

PART 1000—COMMISSION ORGANIZATION AND FUNCTIONS

§ 1000.5 Petitions

Any interested person may petition the Commission to issue, amend, or revoke a rule or regulation by submitting a written request to the Office of the Secretary, Consumer Product Safety Commission. Petitions must comply with the Commission's procedure for petitioning for rulemaking at 16 CFR part 1051.

§ 1000.8 Meetings and hearings; public notice.

(a) The Commission may meet and exercise all its powers in any place.

(b) Meetings of the Commission are held as ordered by the Commission and, unless otherwise ordered, are held at the principal office of the Commission at 4330 East West Highway, Bethesda, Maryland. Meetings of the Commission for the purpose of jointly conducting the formal business of the agency, including the rendering of official decisions, are generally announced in advance and open to the public, as provided by the Government in the Sunshine Act (5 U.S.C. 552b) and the Commission's Meetings Policy (16 CFR part 1012).

(c) The Commission may conduct any hearing or other inquiry necessary or appropriate to its functions anywhere in the United States. It will publish a notice of any proposed hearing in the FEDERAL REGISTER and will afford a reasonable opportunity for interested persons to present relevant testimony and data.

(d) Notices of Commission meetings, Commission hearings, and other Commission activities are published in a Public Calendar, as provided in the Commission's Meetings Policy (16 CFR part 1012). The Public Calendar is available on the Commission Web site at <http://www.cpsc.gov>.

(e) Any person requesting the opportunity to present oral testimony before the Commission shall satisfy the requirements in § 1052.3.

PART 1025—RULES OF PRACTICE FOR ADJUDICATIVE PROCEEDINGS

§ 1025.17 Participation

(a) *Participation as an intervenor.* Any person who desires to participate as a party in any proceedings subject to these rules shall file a written petition for leave to intervene with the Secretary and shall serve a copy of the petition on each party.

(1) A petition shall ordinarily be filed not later than the convening of the first prehearing conference. A petition filed after that time will not be granted unless the Presiding Officer determines that the petitioner has made a substantial showing of good cause for failure to file on time.

(2) A petition shall:

(i) Identify the specific aspect or aspects of the proceedings as to which the petitioner wishes to intervene,

(ii) Set forth the interest of the petitioner in the proceedings,

(iii) State how the petitioner's interest may be affected by the results of the proceedings, and

(iv) State any other reasons why the petitioner should be permitted to intervene as a party, with particular reference to the factors set forth in paragraph (d) of this section. Any petition relating only to matters outside the jurisdiction of the Commission shall be denied.

(3) Unless a petition to intervene is made by the United States or a State, local or foreign government, or by an agency thereof, or Indian Tribe, city, county, town or similar entity when submitted by its law officer, the petition shall include a statement that indicates whether:

(i) a party or a party's counsel authored the petition to intervene in whole or in part, and, if so, identifies such party;

(ii) a party or a party's counsel has made or has agreed to make a monetary contribution to the petitioner intended to fund the petition or proposed participation and, if so, identifies such party;
and

(iii) a person other than the petitioner, its members, or its counsel has made or has agreed to make a monetary contribution intended to fund the petition or proposed participation and, if so, identifies each such person;

(iv) if no such authorship or contributions were or will be provided, the statement should affirmatively indicate that no assistance that is reportable under this Rule has been provided or promised.

(4) If the petitioner is a corporation the petition shall include a statement that identifies any parent corporation and any publicly held corporation that owns 10% or more of its stock or state that there is no such corporation.

(5) Any person whose petition for leave to intervene is granted by the Presiding Officer shall be known as an “intervenor” and as such shall have the full range of litigating rights afforded to any other party.

(b) ***Participation by a person not an intervenor.*** Any person who desires to participate in the proceedings as a non-party shall file with the Secretary a request to participate in the proceedings and shall serve a copy of such request on each party to the proceedings.

(1) A request shall ordinarily be filed not later than the commencement of the hearing. A petition filed after that time will not be granted unless the Presiding Officer determines that the person making the request has made a substantial showing of good cause for failure to file on time.

(2) A request shall set forth the nature and extent of the person’s alleged interest in the proceedings. Any request relating only to matters outside the jurisdiction of the Commission shall be denied.

(3) Unless the request to participate is made by the United States or a State, local or foreign government, or by an agency thereof, Indian Tribe, city, county, town or similar entity when submitted by its law officer, the request shall include a statement that indicates whether:

(i) a party or a party's counsel authored the request to participate in whole or in part, and if so, identifies such party;

(ii) a party or a party's counsel has made or has agreed to make a monetary contribution to the requester intended to fund the request or proposed participation and, if so, identifies such party; and

(iii) a person other than the requester, its members, or its counsel has made or has agreed to make a monetary contribution intended to fund the request or proposed participation and, if so, identifies each such person;

(iv) if no such authorship or contributions were or will be provided, the statement should affirmatively indicate that no assistance that is reportable under this Rule has been provided or promised.

(4) If the requester is a corporation, the request to participate shall include a statement that identifies any parent corporation and any publicly held corporation that owns 10% or more of its stock or state that there is no such corporation.

(5) Any person who files a request to participate in the proceedings as a non-party and whose request is granted by the Presiding Officer shall be known as a "Participant" and shall have the right to participate in the proceedings to the extent of making a written or oral statement of position, filing proposed findings of fact, conclusions of law and a post hearing brief with the Presiding Officer, and filing an appellate brief before the Commission if an appeal is taken by a

party or review is ordered by the Commission in accordance with § 1025.53 or § 1025.54, as applicable, of these rules.

PART 1051—PROCEDURE FOR PETITIONING FOR RULEMAKING

§ 1051.1 Scope

(a) This part establishes procedures for the submission and disposition of petitions for the issuance, amendment or revocation of rules under the Consumer Product Safety Act (CPSA) (15 U.S.C. 2051 *et seq.*) or other statutes administered by the Consumer Product Safety Commission.

(b) Persons filing petitions for rulemaking shall satisfy the requirements in § 1051.5(a) and are encouraged to follow as closely as possible the recommendations for filing petitions under § 1051.5(b).

(c) Petitions regarding products regulated under the Federal Hazardous Substances Act (FHSA) (15 U.S.C. 1261 *et seq.*) are governed by existing Commission procedures at 16 CFR 1500.82. Petitions regarding the exemption of products regulated under the Poison Prevention Packaging Act of 1970 (PPPA) (15 U.S.C. 1471 *et seq.*) are governed by existing Commission procedures at 16 CFR part 1702. In addition, persons filing such petitions shall satisfy the requirements in § 1051.5(a) and are encouraged to follow the recommendations for filing petitions as in § 1051.5(b).

§ 1051.3 Place of filing.

A petition shall be filed in any of the following ways:

(1) *By electronic submission.* A petition shall be emailed to: Office of the Secretary, Consumer Product Safety Commission at cpsc-os@cpsc.gov.

(2) *Mail/hand delivery/courier.* A petition shall be mailed or hand delivered to the Office of the Secretary, Consumer Product Safety Commission, at 4330 East West Highway, Bethesda, MD 20814.

§ 1051.4 Time of filing.

A petition shall be considered filed by electronic submission when it is received in the Office of the Secretary. If the electronic submission is received outside of business hours, or on a weekend or holiday, the date of receipt shall be the next business day. A petition shall be considered filed by mail or in person when time-date stamped as received in the Office of the Secretary.

§ 1051.5 Requirements and recommendations for petitions.

(a) ***Requirements.*** To be considered a petition under this part, any request to issue, amend or revoke a rule shall meet the requirements of this paragraph (a). A petition shall:

(1) Be written in the English language;

(2) Contain the name and address of the petitioner.

(3) Unless the petition is made by the United States or a State, local or foreign government or by an agency thereof, or Indian Tribe, city, county, town or similar entity when submitted by its law officer, include a statement that indicates whether:

(i) a person, other than the petitioner, its members, or its counsel authored the petition in whole or in part and, if so, identifies each such person; and

(ii) a person other than the petitioner, its members, or its counsel has made or has agreed to make a monetary contribution intended to fund the petition and, if so, identifies each such person;

(iii) if no such authorship or contributions were or will be provided, the statement should affirmatively indicate that no assistance that is reportable under this Rule has been provided or promised.

(4) If the petitioner is a corporation, include a statement that identifies any parent corporation and any publicly held corporation that owns 10% or more of its stock or state that there is no such corporation.

(5) Indicate the product (or products) regulated under the Consumer Product Safety Act or other statute the Commission administers for which a rule is sought or for which there is an existing rule sought to be modified or revoked. (If the petition regards a procedural or other rule not involving a specific product, the type of rule involved must be indicated.)

(6) Set forth facts which establish the claim that the issuance, amendment, or revocation of the rule is necessary (for example, such facts may include personal experience; medical, engineering or injury data; or a research study); and

(7) Contain an explicit request to initiate Commission rulemaking and set forth a brief description of the substance of the proposed rule or amendment or revocation thereof which it is

claimed should be issued by the Commission. (A general request for regulatory action which does not reasonably specify the type of action requested shall not be sufficient for purposes of this subsection.)

PART 1052—PROCEDURAL REGULATIONS FOR INFORMAL ORAL PRESENTATIONS IN PROCEEDINGS BEFORE THE CONSUMER PRODUCT SAFETY COMMISSION

§ 1052.1 Scope and purpose.

(a) Section 9(d)(2) of the Consumer Product Safety Act, 15 U.S.C. 2058(d)(2), and section 4(d) of the Flammable Fabrics Act, 15 U.S.C. 1193(d), provide that certain rules under those statutes shall be promulgated pursuant to section 4 of the Administrative Procedure Act, 5 U.S.C. 553, except that the Commission shall give interested persons an opportunity for the oral presentation of data, views or arguments in addition to the opportunity to make written submissions. Section 15(c) and (d) of the Consumer Product Safety Act, 15 U.S.C. 2064(c) and (d), and section 15 of the Federal Hazardous Substances Act, 15 U.S.C. 1274, provide that the Commission will afford interested persons, including consumers and consumer organizations, an opportunity for a hearing. In addition, section 27(a) of the Consumer Product Safety Act, 15 U.S.C. 2076(a), authorizes informal proceedings that can be conducted in non-rulemaking investigatory situations; section 4(j) of the Consumer Product Safety Act, 15 U.S.C. 2053(j), provides that the Commission shall conduct a public hearing on the annual agenda and priorities for Commission action; and as set forth in § 1000.8 of the Commission's rules, the Commission

may conduct any hearings necessary to its functions and afford reasonable opportunity for interested persons to present relevant testimony.

(b) This part sets forth rules of procedure for the oral presentation of data, views or arguments in the informal rulemaking or investigatory situations or hearings described in subsection (a) of this section or under any other laws administered by the Commission. In situations where the opportunity for an oral presentation is not required by statute, the Commission will determine whether to provide the opportunity on a case-by-case basis.

§ 1052.3 Requesting opportunity for oral presentations.

(a) Unless otherwise stated in the Federal Register notice referenced in § 1052.2, any person who seeks to make an oral presentation shall make an electronic submission of the request to the Office of the Secretary, Consumer Product Safety Commission at cpsc-os@cpsc.gov, not later than five business days before the scheduled opportunity.

(b) Unless otherwise stated in the Federal Register notice referenced in § 1052.2, the request to make an oral presentation shall:

- (1) Be written in the English language;
- (2) Contain the name and address of the requester, and its counsel, if any;
- (3) Contain the name and address of any person on whose behalf the requested oral presentation is to be made;
- (4) Unless the request to make an oral presentation is made by the United States or a State,

local or foreign government, or by an agency thereof, or Indian Tribe, city, county, town or similar entity when submitted by its law officer, the request shall include a statement that indicates, whether or not:

(i) a person other than the requester, its members, or its counsel authored the request in whole or in part and, if so, identifies such person;

(ii) a person other than the requester, its members, or its counsel has made or has agreed to make a monetary contribution intended to fund the oral presentation and, if so, identifies each such person;

(iii) the requester has an existing business relationship by which the requester expects to receive direct or indirect financial benefit in connection with the oral presentation or the Commission activity that is the subject of the oral presentation and, if so, describes the nature of that business relationship;

(iv) if no such authorship or contributions were or will be provided, and no such business relationship exists, the statement should affirmatively indicate that no assistance that is reportable under this Rule has been provided or promised and no business relationship that is reportable under this Rule exists.

(5) If the requester is a corporation, contain a statement that identifies any parent corporation and any publicly held corporation that owns 10% or more of its stock, or state that there is no such corporation.

(6) Contain the written text of the proposed oral presentation.

§ 1052.4 Conduct of oral presentation

(a) The purpose of the oral presentation is to afford interested persons an opportunity to participate in person in the Commission's rulemaking or other proceedings and to help inform the Commission of relevant data, views and arguments.

(b) The oral presentation, which shall be taped or transcribed, shall be an informal, non-adversarial proceeding at which there will be no formal pleadings or adverse parties.

(c) The proceedings for the oral presentation shall be conducted impartially, thoroughly, and expeditiously to allow interested persons an opportunity for oral presentation of data, views or arguments.

§ 1052.5 Presiding officer; appointment, duties, powers.

(a) For oral presentations, the presiding officer shall either be the Chairman of the Commission or a presiding officer shall be appointed by the Chairman with the concurrence of the Commission.

(b) The presiding officer shall chair the proceedings, shall make appropriate provision for testimony, comments and questions, and shall be responsible for the orderly conduct of the proceedings. The presiding officer shall have all the powers necessary or appropriate to contribute to the equitable and efficient conduct of the oral proceedings including the following:

(1) The right to apportion the time of persons making presentations in an equitable manner in order to complete the presentations within the time period allotted for the proceedings.

(2) The right to terminate or shorten the presentation of any party when, in the view of the presiding officer, such presentation is repetitive or is not relevant to the purpose of the proceedings.

(3) The right to confine the presentations to the issues specified in the notice of oral proceeding or, where no issues are specified, to matters pertinent to the proposed rule or other proceeding.

(4) The right to require a single representative to present the views of two or more persons or groups who have the same or similar interests. The presiding officer shall have the authority to identify groups or persons with the same or similar interests in the proceedings.

(c) The presiding officer and Commission representatives shall have the right to question persons making an oral presentation as to their testimony and any other relevant matter.

PART 1502—PROCEDURES FOR FORMAL EVIDENTIARY PUBLIC HEARING

§ 1502.5 Initiation of a hearing involving the issuance, amendment, or revocation of a regulation.

(a) The Federal Register notice promulgating the final regulation will describe how to submit objections and requests for hearing.

(b) On or before the 30th day after the date of publication of a final regulation in the Federal Register, a person may file written objections, with or without a request for a hearing, with the Commission. The 30-day period may not be extended, except that additional information

supporting an objection may be received after 30 days upon a showing of inadvertent omission or for other good cause shown, if consideration of the additional information will not delay review of the objection and request for hearing.

(c) Any person requesting the opportunity for a public hearing under this part shall satisfy the disclosure requirements of § 1025.17(b)(3) and (4), in addition to all requirements in this part.

§ 1502.16(a) Notice of participation.

(a) Within 30 days after publication of the notice of hearing under § 1502.13, a person desiring to participate in a hearing is to file with the Office of the Secretary a notice of participation in the following form:

(Date)

Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East West Highway, Bethesda, MD. Mailing address: Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

Notice of Participation

(Title of Regulation)

Docket No.

Please enter the participation of:

(Name)

(Street address)

(City, State, and Zip Code)

(Telephone number)

Service on the above will be accepted by:

(Name)

(City, State, and Zip Code)

(Telephone number)

The following statements are made as part of this notice of participation:

A. *Specific interests.* (A statement of the specific interest of the person in the proceeding, including the specific issues of fact concerning which the person desires to be heard. This part need not be completed by a party to the proceeding.)

B. *Commitment to participate.* (A statement that the person will present documentary evidence or testimony at the hearing and will comply with the requirements of [§ 1502.25](#) of these procedures.)

C. *Disclosure of interest.* (Unless the notice of participation is made by the United States or a State, local or foreign government, or by an agency thereof, or Indian Tribe, city, county, town or similar entity when submitted by its law officer, a statement that indicates whether:

(i) a party or a party's counsel authored the notice of participation in whole or in part, and, if so, identifies such party;

(ii) a party or a party's counsel has made or has agreed to make a monetary contribution intended to fund the proposed participation and, if so, identifies such party; and

(iii) a person other than the one filing the notice of participation, its members, or its counsel has made or has agreed to make a monetary contribution intended to fund the proposed participation and, if so, identifies each such person.

(iv) If no such authorship or contributions were or will be provided, the statement should affirmatively indicate that no assistance that is reportable under this Rule has been provided or promised.)

D. *Corporate disclosure.* (If the proposed participant is a corporation the notice shall include a statement that identifies any parent corporation and any publicly held corporation that owns 10% or more of its stock or state that there is no such corporation.)

(Signed)

(b) Any amendment to a notice of participation should be filed with the Office of the Secretary and served on all participants.

(c) No person may participate in a hearing who has not filed a written notice of participation or whose participation has been stricken under paragraph (e) of this section.

(d) The presiding officer may permit the late filing of a notice of participation upon a showing of good cause.

(e) The presiding officer may strike the participation of a person for nonparticipation in the hearing or for failure to comply with any requirement of this subpart, e.g., disclosure of information as required by § 1502.25 or the prehearing order issued under § 1502.30. Any person

whose participation is stricken may petition the Commission for interlocutory review of that decision.