

# Rules and Regulations

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## FEDERAL TRADE COMMISSION

### 16 CFR Part 4

#### Appearances Before the Commission; Restrictions as to Former Members and Employees

**AGENCY:** Federal Trade Commission (FTC).

**ACTION:** Final rule.

**SUMMARY:** The Commission is amending its rule governing the appearances of former members and employees, Rule 4.1(b), to make it consistent with President Clinton's December 28, 2000 revocation of Executive Order 12834 ("Ethics Commitments by Executive Branch Appointees").

**EFFECTIVE DATE:** These amendments are effective March 7, 2001.

**FOR FURTHER INFORMATION CONTACT:** Ira S. Kaye, 202-326-2426, or Shira Pavis Minton, 202-326-2479, Attorneys, Office of the General Counsel, FTC, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

**SUPPLEMENTARY INFORMATION:** The Commission is deleting the note following section (b)(1)(iv) of Commission Rule 4.1, 16 CFR 4.1, which currently states that former Commissioners and certain other "senior" employees may be subject to Executive Order 12834. That order formerly required that certain Executive Branch officials appointed on or after January 20, 1993, sign a pledge making particular post-employment ethics commitments. This amendment is necessary in order to reflect that, by Executive Order 13184 of December 28, 2000, President Clinton revoked Executive Order 12834.

This rule amendment relates solely to agency practice and, thus, is not subject to the notice and comment requirements of the Administrative Procedure Act, 5 U.S.C. 553(a)(2), or to the requirements

of the Regulatory Flexibility Act, 5 U.S.C. 601(2).

### List of Subjects in 16 CFR part 4

Administrative practice and procedure.

For the reasons set forth in the preamble, the Federal Trade Commission amends Title 16, chapter I, subchapter A, of the Code of Federal Regulations as follows:

## PART 4—MISCELLANEOUS RULES

1. The authority citation for part 4 continues to read as follows:

**Authority:** Sec. 6, 38 Stat. 721; 15 U.S.C. 46.

### § 4.1 [Amended]

2. Section 4.1 is amended by removing the note that follows paragraph (b)(1)(iv).

By direction of the Commission.

**Donald S. Clark,**  
*Secretary.*

[FR Doc. 01-5507 Filed 3-6-01; 8:45 am]

**BILLING CODE 6750-01-M**

## CONSUMER PRODUCT SAFETY COMMISSION

### 16 CFR Part 1500

#### Dive Sticks; Final Rule

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission is issuing a rule to ban certain dive sticks under the authority of the Federal Hazardous Substances Act.<sup>1</sup> Dive sticks are used for underwater activities, such as retrieval games and swimming instruction. They are typically made of rigid plastic and stand upright at the bottom of a swimming pool. Due to these characteristics, if a child jumps onto a dive stick in shallow water he or she may suffer severe injuries.

**DATES:** The rule will become effective on April 6, 2001.

**FOR FURTHER INFORMATION CONTACT:** Renae Rauchschalbe, Office of Compliance, Consumer Product Safety

<sup>1</sup> Commissioner Mary Gall filed a separate statement which is available from the Office of the Secretary, Room 502, 4330 East-West Highway, Bethesda, Maryland.

Commission, Washington, DC 20207; telephone (301) 504-0608, ext. 1362.

### SUPPLEMENTARY INFORMATION:

#### A. Background

As of November 2000, the Commission is aware of nine confirmed impalement incidents involving dive sticks that were submerged and standing vertically. These incidents resulted in injuries to the perineal region of young children. The products were cylindrical batons, approximately 7<sup>7</sup>/<sub>8</sub> to 8<sup>5</sup>/<sub>8</sub> inches long and 7<sup>7</sup>/<sub>8</sub> to one inch in diameter. They were all constructed of rigid plastic.

In early 1999, when the Commission staff first learned of incidents involving dive sticks, the staff worked with product manufacturers to recall hazardous dive sticks. On June 24, 1999, the Commission announced that it had reached agreements with 15 manufacturers and importers to voluntarily recall their dive sticks. The recalls have removed most dive sticks from the market.[1,9]<sup>2</sup> However, because the hazard posed by dive sticks appeared to be inherent to the product and not related to any specific model or manufacturer, the Commission began a proceeding to ban all dive sticks with hazardous characteristics.

On July 16, 1999, the Commission issued an advance notice of proposed rulemaking ("ANPR") announcing the Commission's intent to issue a rule addressing the risk of injury presented by dive sticks. 64 FR 38387 (1999). One alternative discussed in the ANPR was a rule declaring certain dive sticks to be banned hazardous substances.

On July 19, 2000, the Commission published a notice of proposed rulemaking ("NPR") proposing to ban hazardous dive sticks. 65 FR 44703 (2000). The proposed rule stated that it would ban dive sticks that (1) are rigid; (2) submerge to the bottom of a pool of water; and (3) stand upright in water. The Commission proposed a performance test to determine the rigidity of a dive stick. Dive sticks that come to rest underwater at an angle greater than 45 degrees from vertical would be exempt under the proposed rule as would dive sticks that maintain a compressive force of less than 5-lbf under a prescribed performance test. The Commission has determined to

<sup>2</sup> Numbers in brackets refer to documents listed at the end of this notice.