

## Consumer Product Safety Commission

## § 1025.53

entire record and shall be supported by reliable, probative, and substantial evidence. The Initial Decision shall include:

(1) Findings and conclusions, as well as the reasons or bases for such findings and conclusions, upon the material questions of fact, material issues of law, or discretion presented on the record, and should, where practicable, be accompanied by specific page citations to the record and to legal and other materials relied upon; and

(2) An appropriate order.

(c) *By whom made.* The Initial Decision shall be made and filed by the Presiding Officer who presided over the hearing, unless otherwise ordered by the Commission.

(d) *Reopening of proceedings by Presiding Officer; termination of jurisdiction.*

(1) At any time prior to, or concomitant with, the filing of the Initial Decision, the Presiding Officer may reopen the proceedings for the reception of further evidence.

(2) Except for the correction of clerical errors, or where the proceeding is reopened by an order under paragraph (d)(1) of this section, the jurisdiction of the Presiding Officer is terminated upon the filing of the Initial Decision, unless and until such time as the matter may be remanded to the Presiding Officer by the Commission.

### § 1025.52 Adoption of initial decision.

The Initial Decision and Order shall become the Final Decision and Order of the Commission forty (40) days after issuance unless an appeal is noted and perfected or unless review is ordered by the Commission. Upon the expiration of the fortieth day, the Secretary shall prepare, sign, and enter an order adopting the Initial Decision and Order, unless otherwise directed by the Commission.

### § 1025.53 Appeal from initial decision.

(a) *Who may file notice of intention.* Any party may appeal an Initial Decision to the Commission, provided that within ten (10) days after issuance of the Initial Decision such party files and serves a notice of intention to appeal.

(b) *Appeal brief.* An appeal is perfected by filing a brief within forty (40)

days after service of the Initial Decision. The appeal brief must be served upon all parties. The appeal brief shall contain, in the order indicated, the following:

(1) A subject index of the matters in the brief, with page references, and a table of cases (alphabetically arranged), textbooks, statutes, and other material cited, with page references thereto;

(2) A concise statement of the case;

(3) A statement containing the reasons why the party believes the Initial Decision is incorrect;

(4) The argument, presenting clearly the points of fact and law relied upon to support each reason why the Initial Decision is incorrect, with specific page references to the record and the legal or other material relied upon; and

(5) A proposed form of order for the Commission's consideration in lieu of the order contained in the Initial Decision.

(c) *Answering brief.* Within thirty (30) days after service of the appeal brief upon all parties, any party may file an answering brief which shall contain a subject index, with page references, and a table of cases (alphabetically arranged), textbooks, statutes, and other material cited, with page references thereto. Such brief shall present clearly the points of fact and law relied upon in support of the reasons the party has for each position urged, with specific page references to the record and legal or other materials relied upon.

(d) *Participant's brief.* Within thirty (30) days after service of the appeal brief upon all parties, any participant may file a brief on appeal, presenting clearly the position urged.

(e) *Cross appeal.* If a timely notice of appeal is filed by a party, any other party may file a notice of cross appeal within ten (10) days of the date on which the first notice of appeal was filed. Cross appeals shall be included in the answering brief and shall conform to the requirements for form, content, and filing specified in paragraph (b) of this section for an appeal brief. If an appeal is noticed but not perfected, no cross appeal shall be permitted and the notice of cross appeal shall be deemed void.