§ 1501.2

thereof upon demand of the collector of
customs and containing a provision for
the performance of conditions as may
legally be imposed for the relabeling or
other action necessary to bring the
hazardous substance into compliance
with the act in such manner as is pre-
scribed for such bond in the customs
regulations in force on the date of re-
quest for authorization. The bond shall
be filed with the collector of customs.

(b) The collector of customs may can-
cel the liability for liquidated damages
incurred under the above-mentioned
provisions of such a bond, if he receives
an application for relief therefrom,
upon the payment of a lesser amount
or upon such other terms and condi-
tions as shall be deemed appropriate
under the law and in view of the cir-
cumstances, but the collector shall not
act under this regulation in any case
unless the area office director is in full
agreement with the action.

§ 1500.272 Costs chargeable in connec-
tion with relabeling and recondi-
tioning inadmissible imports.

The cost of supervising the relabeling
or other action necessary in connection
with an import of a hazardous sub-
stance that fails to comply with the
act shall be paid by the owner or con-
signee who files an application request-
ing such action and executes a bond,
pursuant to section 14(b) of the act.
The cost of such supervision shall in-
clude, but not be restricted to, the fol-
lowing:

(a) Travel expenses of the supervising
officer.
(b) Per diem in lieu of subsistence of
the supervising officer when away from
his home station as provided by law.
(c) Services of the supervising officer,
to be calculated at the rate of a GS 11,
step 1 employee, except that such serv-
ices performed by a customs officer and
subject to the provisions of the Act of
February 13, 1911, as amended (sec. 5, 36
Stat. 901 as amended; 19 U.S.C. 267),
shall be calculated as provided in that
Act.
(d) Services of the analyst, to be cal-
culated at the rate of a GS 12, step 1
employee (which shall include the use
of the chemical laboratories and equip-
ment of the Consumer Product Safety
Commission).
(e) The minimum charge for services
of supervising officers and of analysts
shall be not less than the charge for 1
hour, and time after the first hour
shall be computed in multiples of 1
hour, disregarding fractional parts less
than one-half hour.

[38 FR 27012, Sept. 27, 1973, as amended at 57
FR 26665, June 26, 1992]
the effective date. Such articles include, but are not limited to: squeeze toys; teethers; crib exercisers; crib gyms; crib mobiles; other toys or articles intended to be affixed to a crib, stroller, playpen, or baby carriage; pull and push toys; pounding toys; blocks and stacking sets; bathtub, wading pool and sand toys; rocking, spring, and stick horses and other figures; chime and musical balls and carousels; jacks-in-the-box; stuffed, plush, and flocked animals and other figures; preschool toys, games and puzzles intended for use by children under 3; riding toys intended for use by children under 3; infant and juvenile furniture articles which are intended for use by children under 3 such as cribs, playpens, baby bouncers and walkers, strollers and carriages; dolls which are intended for use by children under 3 such as baby dolls, rag dolls, and bean bag dolls; toy cars, trucks, and other vehicles intended for use by children under 3. In addition, such articles include any other toys or articles which are intended, marketed or labeled to be entrusted to or used by children under 3 years of age.

(b) In determining which toys and other articles are intended for use by children under 3 years (36 months) of age, for purposes of this regulation, the following factors are relevant: the manufacturer's stated intent (such as on a label) if it is a reasonable one; the advertising, promotion, and marketing of the article; and whether the article is commonly recognized as being intended for children under 3 years of age.

(c) This regulation does not apply to toys or articles which are solely intended for use by children 3 years of age or older. In addition, it does not apply to all articles to which children under 3 years of age might have access simply because of presence in a household. Certain articles which are specifically exempted from this regulation are listed in §1501.3 below.

§ 1501.3 Exemptions.

The following articles are exempt from this regulation (§§1500.18(a)(9) and 1501.4 below):

(a) Balloons;

(b) Books and other articles made of paper;

(c) Writing materials such as crayons, chalk, pencils, and pens;

(d) Children’s clothing and accessories, such as shoe lace holders and buttons;

(e) Grooming, feeding, and hygiene products, such as diaper pins and clips, barrettes, toothbrushes, drinking glasses, dishes and eating utensils;

(f) Phonograph records;

(g) Modeling clay and similar products;

(h) Fingerpaints, watercolors, and other paint sets;

(i) Rattles (as defined at 16 CFR 1510.2); and

(j) Pacifiers (as defined at 16 CFR 1511.2(a)).

§ 1501.4 Size requirements and test procedure.

(a) No toy or other children’s article subject to §1500.18(a)(9) and to this part 1501 shall be small enough to fit entirely within a cylinder with the dimensions shown in Figure 1, when tested in accordance with the procedure in paragraph (b) of this section. In testing to ensure compliance with this regulation, the dimensions of the Commission’s test cylinder will be no greater than those shown in Figure 1. (In addition, for compliance purposes, the English dimensions shall be used. The metric approximations are included only for convenience.)

(b)(1) Place the article, without compressing it, into the cylinder. If the article fits entirely within the cylinder, in any orientation, it fails to comply with the test procedure. (Test any detached components of the article the same way.)

(2) If the article does not fit entirely within the cylinder, subject it to the appropriate “use and abuse” tests of 16 CFR 1500.51 and 1500.52 (excluding the bite tests of §§1500.51(c) and 1500.52(c)). Any components or pieces (excluding paper, fabric, yarn, fuzz, elastic, and string) which have become detached from the article as a result of the use and abuse testing shall be placed into the cylinder, one at a time. If any such components or pieces fit entirely within the cylinder, in any orientation and without being compressed, the article fails to comply with the test procedure.
§ 1501.5 Enforcement procedure.

The Commission will enforce this regulation, unless it determines that an emergency situation exists, only in accordance with Chapter 2, Guide 2.05—Letter of Advice/Notice of Noncompliance of the CPSC Enforcement Policy.
Subpart A—General Provisions

§ 1502.1 Scope.

The procedures in this part apply when—

Subpart B—Initiation of Proceedings

1502.5 Initiation of a hearing involving the issuance, amendment, or revocation of a regulation.
1502.6 Filing objections and requests for a hearing on a regulation.
1502.7 Notice of filing of objections.
1502.8 Ruling on objections and requests for a hearing.
1502.9 Modification or revocation of regulation order.
1502.10 Denial of hearing in whole or in part.
1502.11 Judicial review after waiver of hearing on a regulation.
1502.12 Request for alternative form of hearing.
1502.13 Notice of hearing; stay of action.
1502.14 Effective date of a regulation when no objections are filed.

Subpart C—Appearance and Participation

1502.15 Appearance.
1502.16 Notice of participation.

Subpart D—Presiding Officer

1502.17 Advice on public participation in hearings.

Subpart E—Hearing Procedures

1502.23 Filing and service of submissions.
1502.24 Petition to participate in forma pauperis.
1502.25 Disclosure of data and information to be relied on by the participants.
1502.26 Purpose; oral and written testimony; burden of proof.
1502.27 Participation of nonparties.
1502.28 Conduct at oral hearings or conferences.
1502.29 Time and place of prehearing conference.
1502.30 Prehearing conference procedure.
1502.31 Summary decisions.
1502.32 Receipt of evidence.
1502.33 Official notice.
1502.34 Briefs and arguments.
1502.35 Interlocutory appeal from ruling of presiding officer.
1502.36 Official transcript.
1502.37 Motions.

Subpart F—Administrative Record

1502.38 Administrative record of a hearing.
1502.39 Examination of record.

Subpart G—Initial and Final Decision

1502.40 Initial decision.
1502.41 Appeal from or review of initial decision.
1502.42 Decision by Commission on appeal or review of initial decision.
1502.43 Reconsideration and stay of Commission’s action.

Subpart H—Judicial Review

1502.44 Review by the courts.
1502.45 Copies of petitions for judicial review.

AUTHORITY: 15 U.S.C. 1261(q)(1)(B), 1262(a), 1262(c), 1269(a); 15 U.S.C. 146(a); 21 U.S.C. 371(e)–(g).

SOURCE: 56 FR 9278, Mar. 6, 1991, unless otherwise noted.

Subpart A—General Provisions

§ 1502.1 Scope.

The procedures in this part apply when—