

## § 1500.272

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 prescribed for such bond in the customs regulations in force on the date of request for authorization. The bond shall be filed with the collector of customs.

(b) The collector of customs may cancel 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 conditions as shall be deemed appropriate under the law and in view of the circumstances, 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 connection with relabeling and reconditioning inadmissible imports.

The cost of supervising the relabeling or other action necessary in connection with an import of a hazardous substance that fails to comply with the act shall be paid by the owner or consignee who files an application requesting such action and executes a bond, pursuant to section 14(b) of the act. The cost of such supervision shall include, but not be restricted to, the following:

(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 services 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 calculated at the rate of a GS 12, step 1 employee (which shall include the use of the chemical laboratories and equipment 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 28605, June 26, 1992]

## PART 1501—METHOD FOR IDENTIFYING TOYS AND OTHER ARTICLES INTENDED FOR USE BY CHILDREN UNDER 3 YEARS OF AGE WHICH PRESENT CHOKING, ASPIRATION, OR INGESTION HAZARDS BECAUSE OF SMALL PARTS

Sec.

1501.1 Purpose.

1501.2 Scope.

1501.3 Exemptions.

1501.4 Size requirements and test procedure.

1501.5 Enforcement procedure.

AUTHORITY: Secs. 2(f)(1)(D), (q)(1)(A), (s), 3(e)(1), and 10; 74 Stat. 372, 374, 375 as amended; 80 Stat. 1304-05, 83 Stat. 187-89 (15 U.S.C. 1261, 1262, 1269).

SOURCE: 44 FR 34903, June 15, 1979, unless otherwise noted.

### § 1501.1 Purpose.

Section 1500.18(a)(9) of this chapter classifies as a banned hazardous substance any toy or other article intended for use by children under 3 years of age that presents a choking, aspiration, or ingestion hazard because of small parts. This part 1501 describes certain articles that are subject to § 1500.18(a)(9); lists certain articles that are specifically exempted; and provides a test method for determining whether an article is hazardous to children under 3 because it, or one of its components that can be detached or broken off during normal or reasonable foreseeable use, is too small.

### § 1501.2 Scope.

(a) This regulation (§ 1500.18(a)(9) and the criteria described in § 1501.4 below) applies to all toys and other articles intended for use by children under 3 years (36 months) of age that are introduced into interstate commerce after

## Consumer Product Safety Commission

## § 1501.4

the effective date. Such articles include, but are not limited to: squeeze toys; teething; 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.

(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

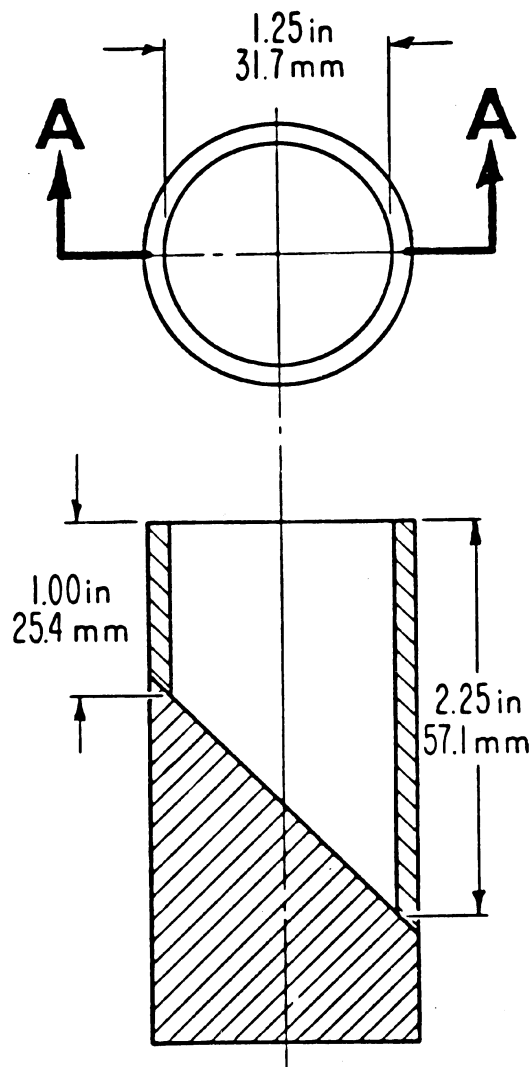
(j) Pacifiers (as defined at 16 CFR 1511.2(a)).

### § 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.



## Section A-A

FIG I-SMALL PARTS CYLINDER

**§ 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/Notices of Noncompliance of the CPSC Enforcement Policy

## Consumer Product Safety Commission

## § 1502.1

and Procedural Guides, issued in January 1990 and available from the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207. Under the procedure described in this chapter, firms must be informed by letter that they or their products may be the subject of enforcement action and must be provided ten days within which to submit evidence and arguments that the products are not violative or are not covered by the regulation, prior to the initiation of enforcement action by the Commission or by its delegated staff member. The function of approving such enforcement actions is currently delegated by the Commission to the Assistant Executive Director for Compliance and Enforcement (copies of the existing delegation documents are also available from the CPSC's Office of the Secretary).

[56 FR 46986, Sept. 17, 1991]

## PART 1502—PROCEDURES FOR FORMAL EVIDENTIARY PUBLIC HEARING

### Subpart A—General Provisions

Sec.

- 1502.1 Scope.
- 1502.2 Computation of time periods.
- 1502.3 Confidential information.
- 1502.4 Office of the Secretary.

### 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 hearing.
- 1502.9 Modification or revocation of regulation or 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.

- 1502.17 Advice on public participation in hearings.

### Subpart D—Presiding Officer

- 1502.18 Presiding officer.
- 1502.19 Commencement of functions.
- 1502.20 Authority of presiding officer.
- 1502.21 Disqualification of presiding officer.
- 1502.22 Unavailability of presiding officer.

### 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(e), 1269(a); 15 U.S.C. 1474(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—