

(monitored entry) as set forth in Subpart H of Part 296. Instead, it treats entry by such persons in the same manner as all other applicants for entry (free entry) except that the period for which the license is granted is limited to a period of ten years from the effectiveness of the Board's decision in *Long-Haul Motor/Railroad Carrier Air Freight Forwarders Authority Case*, Docket 26907, decided June 27, 1977, Order 77-6-126. This rule implements a part of the Board's decision.

DATES: Effective: August 26, 1977. Adopted: June 27, 1977. Petitions for Reconsideration by July 20, 1977.

ADDRESSES: Petitions for Reconsideration should be sent to Docket 26907, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT:

Gary J. Edles, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428 (202-673-5206).

SUPPLEMENTARY INFORMATION: In *Motor Carrier Air-Freight Forwarder Investigation*, Order 69-4-100, the Board authorized long-haul motor carriers of general commodities to engage in air freight forwarding and international air freight forwarding on a trial basis for a period of five years under a plan of monitored entry designed to assure that their participation would benefit rather than harm air transportation. The program was extended to railroad carriers in *Southern Pacific-Sante Fe Air Freight Forwarder Case*, Order 70-10-100. The provisions establishing the program were incorporated in Part 296 by ER-593 (November 12, 1969, 34 FR 19341) and ER-791 (October 12, 1970, 36 FR 20155). They are codified in 14 CFR 296.80 et seq.

In *Long-Haul Motor/Railroad Carriers Air Freight Forwarder Authority Case*, supra, we undertook a review and appraisal of the efficacy of the experiment we had instituted. In our opinion issued simultaneously herewith (which incorporated and relied upon the initial decision of the administrative law judge) we concluded that the monitored entry program and the special reports called for by the program should be terminated. We concluded further that long-haul motor and railroad carriers should be permitted free entry the same as all other applicants. However, we did determine that the licenses granted to such surface or affiliated carriers either through renewal in the proceeding or through later proceedings would be limited to a period of ten years from the effectiveness of our decision.

For the reasons stated in our decision, and the record upon which it was made, the Board is amending Subpart H of Part 296 in the manner set forth below. The changes made in the regulation were clearly at issue in the proceeding referred to and were fully litigated. This amendment, therefore, will take the

form of a final rule. However, interested persons will be afforded a period of 20 days from the date of publication of this amendment in the *FEDERAL REGISTER* within which to file petitions for reconsideration. The effective date of this amendment shall, like the decision upon which it is based, be 60 days after its adoption.

The Civil Aeronautics Board hereby amends Part 296 of the Economic Regulations (14 CFR Part 296) effective August 26, 1977, as follows:

1. Amend the Table of Contents by revising the description of sections listed under Subpart H to read as follows:

Subpart H—Authorization of Long-Haul Motor Carriers of General Commodities or Railroad Carriers as Air Freight Forwarders and International Air Freight Forwarders

§ 296.82 * * *
§§ 296.83-296.87 [Reserved]
§ 296.88 * * *

2. Amend § 296.80 to read as follows:

§ 296.80 Applicability of subpart.

This subpart sets forth the limited duration of authorizations to long-haul motor carriers, as defined in § 296.1(h), and railroad carriers, as defined in § 296.1(i), to operate in their own names as air freight forwarders or as international air freight forwarders. The regulation does not govern requests of motor carriers and railroad carriers for Board approval of control relationship created when they apply through subsidiaries or other affiliates for authorization as forwarders. Action on such applications for approval of control shall be governed by section 408 of the Act and by § 399.20 of the Board's policy statement in this chapter.

3. Amend § 296.81 to read as follows:

§ 296.81 Applicability of other subparts.

The provisions of subparts A through C and E through G of this Part shall be applicable to the processing of applications of long-haul motor carriers or railroad carriers for authority to operate as air freight forwarders and as international air freight forwarders, and to the conduct of such operations.

4. Amend § 296.82 to read as follows:

§ 296.82 Applicability of policy statement.

The provisions of § 399.20 of the Board's policy statements in this chapter (14 CFR Part 399) shall be applicable to the processing of applications of long-haul motor carriers and railroad carriers and other persons owned or controlled by or owning and controlling such carriers which seek or possess authority to operate as air freight forwarders or international air freight forwarders for approval of such control relationships under section 408 of the Act.

§§ 296.83-296.87 [Reserved]

5. Delete and reserve §§ 296.83, 296.84, 296.85, 296.86, and 296.87.

6. Amend § 296.88 to read as follows:

§ 296.88 Duration.

Unless sooner suspended or revoked, an authorization of a long-haul motor carrier or railroad carrier will continue in effect until it expires by its terms or until this subpart is terminated or revoked: *Provided*, That in no event shall such an authorization pursuant to this subpart extend past August 26, 1987.

7. Amend § 296.89 to read as follows:

§ 296.89 Revocation or suspension.

The Board may institute proceedings to revoke the authorizations of one or more long-haul motor carriers or railroad carriers if it has cause to believe that the continued operations of such carrier or carriers will be inconsistent with the public interest. Pending completion of revocation proceedings, the Board may without hearing suspend or limit the authorization of one or more of such motor carriers or railroad carriers, in accordance with procedures specified by § 296.62.

(Secs. 101(3), 102, 204(a), and 416 of the Federal Aviation Act of 1958, as amended, 72 Stat. 737, 740, 743, and 771 (49 U.S.C. 1301, 1302, 1324, 1386).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 77-18769 Filed 6-29-77; 8:45 am]

SUBCHAPTER F—POLICY STATEMENTS

[Docket No. 26907 et al.; Reg. PS-74, Amdt. 53]

PART 399—STATEMENTS OF GENERAL POLICY

Processing of Applications of Long-Haul Motor Carriers or Railroad Carriers for Authority as Air Freight Forwarders or International Air Freight Forwarders

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This amendment to § 399.20 of the Board's Statements of General Policy reflects the termination of the special standards and policies previously governing entry of long-haul motor carriers and railroad carriers as air freight forwarders and international air freight forwarders (monitored entry) as previously set forth in § 399.20. Instead, this amendment establishes a policy of treating and processing applications for entry by such persons in the same manner as all other applicants for entry (free entry) pursuant to the provisions of Part 296, as amended simultaneously herewith. In addition, this amendment makes clear that approval of control of an air freight forwarder or an international air freight forwarder by a long-haul motor carrier or railroad carrier will normally be granted, and that changes in the extent of the operating authority of the affiliated surface carriers need not be submitted for approval. This rule implements a part of the Board's deci-

sion in the *Long-Haul Motor/Railroad Carrier Authority Case*, Order 77-6-126.

DATES: Effective August 26, 1977. Adopted: June 27, 1977. Petitions for Reconsideration by July 20, 1977.

ADDRESSES: Petitions for Reconsideration should be sent to Docket 26907, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT:

Gary J. Edles, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428 (202-673-5205).

SUPPLEMENTARY INFORMATION: In the preamble to ER-1003, which amended Part 296 to terminate the monitored entry program, and in the *Long-Haul Motor/Railroad Carrier Authority Case*, Order 77-6-126, both of which were adopted today, we traced briefly the development of the monitored entry program and the reasons for its termination.¹ We shall not repeat that material here. By our present action, for the reasons there stated, we are disclosing the policies we will follow in these proceedings in the future. These statements appear in the Code of Federal Regulations and will facilitate public knowledge of the course that will be followed in a given case and minimize the burdens of the administrative process.

The changes now being made in the statement of policy were at issue in the proceeding referred to and were fully litigated. This amendment, therefore, will take the form of a final rule. However, interested persons will be afforded a period of 20 days from the date of publication of this amendment in the *FEDERAL REGISTER* within which to file petitions for reconsideration. The effective date of this amendment shall, like the decision upon which it is based, be 60 days after its adoption.

The Civil Aeronautics Board hereby amends Part 399 of the Board's Statements of Policy (14 CFR Part 399) effective August 26, 1977, as follows:

Amend § 399.20 by revising paragraphs (a), (c), and (d) and deleting and reserving paragraphs (e) and (f), to read as follows:

§ 399.20 Processing of applications of long-haul motor carriers or railroad carriers for authority as air freight forwarders or international air freight forwarders.

(a) *General.* This policy statement indicates the procedures the Board will use in processing applications of long-haul motor carriers of general commodities

and railroad carriers for authorization as air freight forwarders or international air freight forwarders. It will also apply to such carriers' applications for Board approval of the acquisition of such forwarders.

(c) *Applications for forwarding authority.* Where a long-haul motor carrier or railroad carrier applies for authority as an air freight forwarder or an international air freight forwarder its application will be processed in conformity with Part 296 of this chapter in the same manner as the application of any other person.

(d) *Applications for acquisition of control.* Where a long-haul motor carrier applies for Board approval to acquire control of an air freight forwarder or international air freight forwarder, the Board's policy in ordinary circumstances will be as follows:

(1) * * *

(2) The Board will not deem the size, geographical extent, or general commodity rights of the long-haul motor carrier's surface transport authorization and operations, or the size or geographical extent of the railroad carrier's surface transport authorization and operations, of themselves, as factors indicating that the carrier's control of the air freight forwarder or international air freight forwarder will result in creating a monopoly or monopolies, and thereby restrain competition or jeopardize another air carrier not a party to the consolidation, merger, purchase, lease, operating contract, or acquisition of control, or will otherwise be inconsistent with the public interest, and will normally approve such acquisition.

(3) Changes in the extent of the surface authorization or operations of a long-haul motor or railroad carrier arising from certificate changes, leases, acquisitions or other transactions need not be resubmitted to the Board for approval if the underlying relationship has previously been approved by the Board.

(4) Determinations of applications for acquisitions of control referred to in this section are delegated to the Director, Bureau of Operating Rights, pursuant to § 385.13 of the Board's Organization Regulations.

(e) [Reserved]

(f) [Reserved]

(Secs. 101(3), 102, 204(a), 408, and 416 of the Federal Aviation Act of 1958, as amended, 72 Stat. 737, 740, 743, 767 (as amended), and 771 (49 U.S.C. 1301, 1302, 1324, 1378, and 1386).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 77-18768 Filed 6-29-77; 8:45 am]

Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

SUBCHAPTER C—FEDERAL HAZARDOUS SUBSTANCES ACT REGULATIONS

PART 1500—HAZARDOUS SUBSTANCES AND ARTICLES: ADMINISTRATION AND ENFORCEMENT REGULATIONS

PART 1511—REQUIREMENTS FOR PACIFIERS

Banning of Hazardous Articles and Establishment of Safety Requirements

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Commission issues mandatory safety requirements for pacifiers in the form of a regulation banning from interstate commerce pacifiers not meeting the safety requirements. The regulation is designed to address choking and strangulation hazards associated with pacifiers.

EFFECTIVE DATE: February 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Elaine Besson, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, telephone (301-492-6453).

SUPPLEMENTARY INFORMATION: In the *FEDERAL REGISTER* of October 20, 1976 (41 FR 46347), the Consumer Product Safety Commission (CPSC) proposed for public comment a regulation (16 CFR Part 1511) prescribing safety requirements for pacifiers and a regulation (16 CFR 1500.18(a)(8)) banning from interstate commerce, pacifiers not meeting such safety requirements.

The Commission proposed banning and safety requirements for hazardous pacifiers pursuant to section 2(f)(1)(D) of the Federal Hazardous Substances Act (FHSA) (15 U.S.C. 1261). Section 2(f)(1)(D) provides for the classification of any toy or other article intended for use by children as a hazardous substance upon a determination by regulation, in accordance with section 3(e)(1) of the FHSA (15 U.S.C. 1262), that it presents a mechanical hazard. In addition, section 2(q)(1)(A) of FHSA provides that such toy or article be termed a banned hazardous substance.

The need for this regulation was demonstrated by injury data and death reports. Eight deaths, and seven choking incidents which did not result in death, associated with pacifiers were reported between 1970 and 1975. They were mentioned in the October 20, 1976, proposal. Two of the deaths were due to choking and six to strangulation. Since that time, it has been determined that there were two additional choking deaths that occurred in 1966 and 1971, which were not indicated in the October 1976 proposal.

The regulation has five parts. The first part requires a guard or shield on the

¹ Our opinion in the cited case incorporates the 100-page opinion of an administrative law judge which was based in turn on a lengthy record of an evidentiary hearing.

pacifier of sufficient size so that the pacifier cannot be drawn through a test fixture with dimensions similar to a baby's mouth. In addition, the guard or shield is required to have at least two ventilation holes. These holes are intended to provide an emergency oxygen supply as well as a rapid means of removing the pacifier from the child's throat. The second part prescribes a protrusion limitation requirement designed to address the hazard pattern of a child falling forward or rolling over with the pacifier in his/her mouth. The regulation also has a test for the structural integrity of the pacifier and its component parts. Any components or fragments of the pacifier released when subjected to the structural integrity tests are then subject to a small parts test. The last two sections of the regulation address the strangulation hazard that results from tying a pacifier around a child's neck with ribbons, string, or similar attachments. A required warning label would alert parents and others to this hazard. A prohibition against selling pacifiers with ribbons, string, cords, and similar items also addresses this hazard.

The test procedures in the regulation describe the tests which the Commission will perform on pacifiers for compliance and enforcement purposes. Manufacturers, of course, are free to test their own products by more stringent procedures than those prescribed in the standard.

DISCUSSION OF MAJOR COMMENTS

The proposal of October 20, 1976, invited interested persons to submit comments on or before November 19, 1976. A total of 10 comments were received: seven from manufacturers (6 domestic and one foreign), one from a retailer, one from a domestic manufacturer's association and one from a foreign Trade Commission.

The major criticisms concerned the definition of a pacifier, the guard or shield requirements, particularly the requirement for ventilation holes, and the cautionary labeling statement.

The principal issues and criticisms raised in the comments and the Commission's response to these points are as follows:

A. Section 1511.2 Definitions. One commentator suggested that the definition of a pacifier be reworded to exclude products that have a nipple but do not have a guard or shield. The Commission does not agree to make the change because the change might allow the sale of products such as hybrid teether/pacifiers that can present the hazards the pacifier regulations is designed to prevent. Ordinary teething rings, however, are excluded by definition from the regulation. Orthodontic pacifiers are included.

The Commission did not intend that regulation to include nipples intended for dispensing liquids from bottles. Therefore, the Commission has changed the definition of pacifier at section 1511.2(a) to make this clear.

B. Section 1511.3 Guard or shield requirements. The proposal provided for

an attempt to pull the pacifier through a 43 mm. (1.70 in.) circular fixture with two pounds of force. The placement of the pacifier in the fixture was required to be in the most adverse orientation, i.e., that which would result in the lowest force to cause the pacifier to be drawn through the aperture. Several commentators criticized these proposed requirements for guards or shields. The commentators stated (1) that the diameter of the opening (43 mm.) in the test fixture in figure 1(a) is too large, (2) that the regulations should define the minimum area measurements and widths of shields, since large oval or elliptical shields could slide through the circular fixture, and (3) that the testing of pacifiers in the most adverse orientation is excessively rigorous.

Commentators recommended reducing the diameter of the opening to various sizes. The Commission finds that the fixture opening diameter is not excessively large since its size is based on sample measurements of children's mouths taken by the Maryland State Department of Health and Mental Hygiene. The Commission believes that a reduction in the dimensional requirements to those recommended by the commentators may not be adequate in preventing entry of the pacifier into a child's mouth and would not reduce or eliminate the risk of injury or death by asphyxiation.

However, the Commission agrees that the requirement that the pacifier be placed in the fixture in the most adverse orientation may be unnecessarily stringent. Tests of pacifiers performed by the Commission's staff showed that many pacifiers with non-circular shields of a generous size such as some orthodontic pacifiers could not comply with the proposed requirement. These same pacifiers, when centered on the opening of the fixture, would comply. Lack of inquiry data on these pacifiers indicates that presently they may not present an unreasonable risk of injury.

Therefore, the regulation has been changed so that the nipple of the pacifier is centered in the circular opening of the fixture and there are slots on either side of the opening. The purpose of the slots is to ensure that pacifiers which have a simple bar at right angles to the nipple axis do not meet the regulations. In the opinion of the Commission such a bar would not be an effective substitute for a guard or shield.

The fixture for testing guard or shield performance, shown in figure 1(a) of the regulation below, is similar to an existing requirement in a Canadian regulation for pacifiers. (P.C. 1974-1102). To relieve manufacturers and distributors from the burden of complying with two regulations with essentially similar requirements, the Commission has reduced the diameter of the circular opening from 1.70 inches (43 mm.) to 1.68 inches (42.7 mm.). The Commission believes the reduction is insignificant and will provide adequate protection. In addition, since the dimensions in the two regulations will be the same, the Commission be-

lieves that compliance efforts in the U.S. and Canada could mutually support each other.

One commentator asked that the test force of 2 pounds on the pacifier nipple in the guard or shield performance requirements be reduced to 1 pound because children are not as strong as adults and cannot develop the suction which adults attain. Although the suction of adults was initially used in determining this force, a report of a fatality led the Commission to consider the force that could develop if a child should fall or roll over with a pacifier in it's mouth. The weight of the child's head resting partially on the pacifier can reasonably be expected to develop a force of 2 pounds. Therefore, the Commission finds that a 2 pound force is necessary to allow for a margin of safety.

Two commentators said that the 43 mm dimensional requirement would force pacifier guards or shields to be so large that they could cover a child's nostrils and impair breathing. The Commission is aware of pacifiers currently on the market that meet the dimensional requirements of the proposed guard or shield test and is not aware of any complaints or reports of injuries as a result of the large size of guards or shields on these pacifiers. In addition, the Commission believes the 42.7 mm size is appropriate based on limited data it has obtained from the Maryland Chief Medical Examiner which pertain to the size of infants' mouths. Based on a sample of 25 subjects up to four months of age, the sizes were found to be between 22 mm and 40 mm. Thus, the size requirement of 42.7 mm seems reasonable and the Commission has not substantially changed the dimensional requirement.

One commentator felt that there is an inconsistency between the guard or shield requirements and the small parts test in section 1511.5(d) because a guard of a certain size would pass the small parts test, and yet fail the 43 mm requirement. The Commission points out that the two tests are designed to address separate hazards. The guard or shield requirement is designed to prevent impaction of the entire pacifier in the child's mouth. The use of the small parts test is intended to insure that if a pacifier should break, the parts would not be readily aspirated, ingested or cause choking. Therefore, the Commission sees no inconsistency in the two provisions.

C. Section 1511.3(b) Ventilation holes. The proposed regulation required the pacifier shield or guard to contain at least two holes, symmetrically located, at least 0.20 inches in minor dimension. No hole is to be closer than 0.20 inches to the perimeter of the pacifier shield or guard. Commentators on this proposed requirement said that (1) it is ineffective, (2) it is unhygienic because the holes are "dirt traps", (3) it will prevent sucking and thus would destroy the utility of the pacifier, (4) it will weaken the shield thereby increasing the potential of the shield entering the mouth, and (5) it will provide holes by which to attach strings

to fasten the pacifier around a child's neck thereby increasing the hazard rather than reducing it. One commentator recommended that other means of providing air flow, like "V" or "U" notches, be permitted instead of ventilation holes; and another suggested that if there had to be holes, 4 holes would assure alignment with a child's breathing passages.

The Commission's medical staff states that the purpose of the ventilation holes are to (1) provide an auxiliary pathway for air to the lungs to reduce the possibility of anoxia, resulting in death, if a pacifier shield occludes the airway; (2) provide a partial airway through which oxygen can be administered enroute to a medical facility; and (3) provide a means to remove a pacifier impacted in the throat.

The Commission believes the requirement for at least two ventilation holes could reduce the chance for a tragic suffocation death. If one hole is closed by throat tissue, the second hole could still be open to provide an auxiliary air passage or to facilitate removal of the pacifier. If both holes are blocked, oxygen could be administered by inserting a nasal catheter.

Dirt and bacteria trapped in the holes should prove no more harmful than dirt and bacteria found on the pacifier surface or in junctions, as between the nipple and shield of a multipiece pacifier. This dirt and bacteria should be removed regardless of where it is on the pacifier: surface, junctions, or ventilation holes. Therefore, the Commission believes the holes are not "unhygienic."

As for the comment that the ventilation holes would prevent sucking, the Commission points out that the child sucks the nipple and not the shield. If the child should be able to get a substantial portion of the shield into its mouth, the Commission's Office of the Medical Director believes the holes will assist in preventing the child from sucking the pacifier into the oral pharynx, since negative pressure would not be generated.

Some commentators stated the holes will weaken the shield or guard. The Commission's Engineering Science laboratory punched or drilled ventilation holes in several shields to see if they would weaken the shield and found that the strength of the shield was not measurably affected.

The Commission believes the cautionary labeling required on pacifiers by § 1511.7 will adequately address the possible danger of adults tying strings through ventilation holes to fasten the pacifier around the child's neck. The labeling warns of the strangulation hazard from such action.

As for the suggestion that the Commission permit the use of notches instead of ventilation holes, the Commission medical staff believes it does not have the data at this time to develop performance requirements. In addition, since the ventilation holes could serve as a method for removing the pacifier in an emergency, it may be helpful to emergency personnel to know there is

a standardized opening for which they are searching. Therefore, the Commission does not make the change suggested.

In regard to the suggestion for 4 holes to assure alignment with breathing passages, the Commission believes that 2 holes will adequately accomplish the intended purpose. The regulation at § 1511.3(b) states that the guard or shield shall contain at least two holes, and therefore four holes could be used if they are symmetrically located.

D. Section 1511.4 Protrusion test. The proposed regulation required that no protrusion from the face of the guard or shield opposite the nipple greater than .63 inches (16 mm) be permitted when measured by applying 2 pounds of force to the protrusion. The comments on this requirement were that it is: (1) unnecessary, (2) unclear, and (3) that the allowed protrusion dimension be increased from 16 to 18 millimeters. One commentator felt that this requirement is necessary. The Commission believes this requirement is necessary to prevent pacifiers from being forcibly pushed into a child's throat by a child rolling face down on a firm surface, while sucking on a pacifier. Therefore, the Commission finds that increasing the permissible protrusion from 16 to 18 mm would only decrease the margin of safety. However, the Commission finds that the wording of the test procedure in this requirement of the proposal may be unclear. Accordingly, § 1511.4 below has been changed to read that during the test, flexible or hinged handles are allowed to buckle or freely rotate during the application of the plane surface. A further change has been made to clarify the distance to be measured when testing a pacifier with a curved shield. The provision now reads: "Measure the distance from the plane surface to the guard or shield at the base of the nipple."

One commentator said that a nipple length of no longer than 30 mm should be required. The Commission has no hazard information or medical information at this time to require that the nipple length be no longer than 30 mm.

E. Section 1511.6 Ribbons, strings, cords or other attachments. The proposed regulation stated that no pacifier could be sold or distributed which featured a ribbon, string, cord or other means of attachment which could fit around a child's neck. The Commission's staff noted that the wording of this requirement is ambiguous. It could be read as qualifying the length of the ribbon, string or cord when its intention is to prohibit entirely such attachments to a pacifier. Therefore, the Commission has changed the wording of this section for clarity.

F. Section 1511.5 Structural integrity tests. The proposed regulation included structural integrity tests in which the nipples and handles or rings are pulled within 10 pounds of force before and after boiling them. Any pacifier components or fragments released as a result of the structural integrity tests are then required to undergo a small parts test

designed to determine whether they could be lodged in a child's throat.

The boiling procedure involves six boiling and cooling cycles of 5 minutes each. One commentator said that the boiling test time of the structural integrity test should be no less than 5 minutes, and another said it should be reduced to 3 minutes. A third commentator said he was in agreement with the proposed test requirements. The boiling test time of 5 minutes is based on common sterilizing techniques used by parents and institutions. Accordingly, the Commission has not changed the time for boiling in the heat cycle deterioration test.

The Commission draws attention to the change in the Small Parts Gage shown in figure 2 of the regulation below. The gage in the proposed regulation had included tolerance ranges for gage dimensions and had specified an angle dimension for the cylinder. The Commission has determined to drop the tolerance ranges and delete the angle dimension in the final regulation in order to make the gage dimensions consistent with the previous dimensions of the same cylinder as they appear in the proposed small parts regulation (38 FR 2180, January 23, 1973), a voluntary standard for toys, and a foreign standard for pacifiers. The Commission points out that the dimensions of the gage used for compliance testing shall be no greater than those shown in figure 2.

As a result of federal energy conservation guidelines, published subsequent to the date of the proposal, the Commission believes it is desirable to change the 68° to 78° F temperature range specified in the proposal for room temperature in the heat cycle deterioration test. The Commission has therefore changed the temperature range to 60° to 80° F (16° to 27° C) to allow testing in a typical laboratory, winter or summer, without violating federal energy conservation guidelines.

G. Section 1511.7 Labeling. The proposed regulation required pacifiers to be labeled with the following statement: Warning: Strangulation Danger—Do Not Tie Pacifier Around Child's Neck With Ribbon or String. Some commentators stated that this requirement was not necessary or that it should be worded differently. Several different warning statements were suggested. The Commission believes a warning label is important to alert parents and others caring for children of the hazard. Of the warning statements suggested by commentators, the Commission agrees that the wording: Warning—Do Not Tie Pacifier Around Child's Neck As It Presents A Strangulation Danger is a more appropriate label than that previously proposed since it is the tying of the pacifier that creates the strangulation danger and not the pacifier itself. Accordingly, section 1511.7 has been changed to adopt this suggested labeling requirement.

A retailer suggested that the warning statement on the individually packaged pacifiers should be required to be on the

front panel in at least 3/16-inch type. The Commission believes that the requirement that the warning be conspicuous is sufficient to address the hazard, and therefore does not make the suggested change.

H. Section 1500.18(a)(8) Effective date. The proposed effective date was 180 days following the date of publication in the *FEDERAL REGISTER* of the final form of the regulation. One commentator requested a full year to comply. Other commentators suggested that domestic manufacturers could comply with the proposed regulation within six months.

The Commission recognizes that domestic manufacturers can make the changes necessary to comply with the proposed regulation within 6 months but notes that it would take importers 1 or 2 months longer than domestic manufacturers to comply because of the added time for transoceanic shipping. The Commission therefore believes that the effective date of the regulation should be 240 days after publication, to ensure foreign manufacturers are not at an unfair competitive disadvantage.

ENVIRONMENTAL EFFECTS

The Commission has concluded that the Pacifier Regulation will have no significant effects on the environment and that no environmental impact statement is necessary. The factors leading to this determination are set forth in an environmental assessment of the regulation which is on file with and available from the Commission's Office of the Secretary.

ECONOMIC IMPACT ANALYSIS

The Commission estimates that some 15 million pacifiers are sold annually in the U.S. Most if not all new production will have to be modified to meet the regulation.

Substantial retooling costs may be incurred by some manufacturers to comply with the guard and ventilation hole requirements. These costs are primarily those associated with modification or replacement of injection molding equipment.

The Commission estimates that retail prices of some pacifier models may rise from 2 to 10 cents each. For other models, retail prices will probably not show any increase. Some models of pacifiers may be discontinued, or replaced with other models which can more easily meet the regulation. One manufacturer has indicated that, should major mold changes be required, it may discontinue all pacifier production. It also appears that some wholesale and retail buyers intend to delay buying pacifiers until the regulation is published and complying merchandise is available.

METRIC CONVERSION

Domestic pacifier manufacturers generally produce other children's products. For consistency with previous CPSC regulations for children's products which acknowledge the current measurement practice of the industry, compliance tests prescribed by the regulation below shall be conducted by the Commission

staff using the English units of measurement. The metric approximations are provided in the regulation for convenience and information only.

EFFECTIVE DATE AND APPLICABILITY

The effective date will be February 28, 1977. The regulation applies to (1) those pacifiers manufactured outside of the United States that are first brought within a U.S. port of entry after the effective date and (2) those pacifiers manufactured in the U.S. that are first sold interstate after the effective date or are first sold intrastate, if one or more components and/or raw materials were received interstate, after the effective date.

Accordingly, pursuant to provisions of the Federal Hazardous Substances Act (secs. 2(f)(1)(D), (q)(1)(A), (s), 3(e)(1), 74 Stat. 372, 374, 375, as amended 80 Stat. 1304-05, 83 Stat. 187-89; 15 U.S.C. 1261, 1262) and under authority vested in the Commission by the Consumer Product Safety Act (sec. 30(a); 86 Stat. 1231; 15 U.S.C. 2079(a)), a new paragraph (a)(8) is added to section 1500.18 and a new Part 1511 is added to Title 16, Chapter II, as follows:

§ 1500.18 Banned toys and other banned articles intended for use by children.

(a) *Toys and other children's articles presenting mechanical hazards.* Under the authority of section 2(f)(1)(D) of the act and pursuant to provisions of section 3(e) of the act, the Commission has determined that the following types of toys or other articles intended for use by children present a mechanical hazard within the meaning of section 2(s) of the act because in normal use, or when subjected to reasonably foreseeable damage or abuse, the design or manufacture presents an unreasonable risk of personal injury or illness:

(8) Any pacifier that does not meet the requirements of 16 CFR Part 1511 and that is introduced into interstate commerce after February 28, 1978.

PART 1511—REQUIREMENTS FOR PACIFIERS

- Sec.
- 1511.1 Scope of Part 1511.
- 1511.2 Definitions.
- 1511.3 Guard or shield requirements.
- 1511.4 Protrusions.
- 1511.5 Structural integrity tests.
- 1511.6 Ribbons, strings, cords, or other attachments.
- 1511.7 Labeling.
- 1511.8 Metric references.

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

§ 1511.1 Scope of Part 1511.

This Part 1511 sets forth the requirements whereby pacifiers (as defined in section 1511.2(a)) are not banned articles under section 1500.18(a)(8) of this chapter.

§ 1511.2 Definitions.

(a) A "pacifier" is an article consisting of a nipple that is intended for a young

child to suck upon, but is not designed to facilitate a baby's obtaining fluid, and usually includes a guard or shield and a handle or ring.

(b) "Guard or shield" means the structure located at the base of the nipple used to prevent the pacifier from being completely drawn into the child's mouth.

(c) "Handle or ring" means the structure usually located adjacent to the guard or shield used for holding or grasping the pacifier. A hinged handle or ring is one that is free to pivot about an axis parallel to the plane of the guard or shield.

§ 1511.3 Guard or shield requirements.

(a) *Performance requirements.* Place the pacifier in the opening of the fixture illustrated in Figure 1(a) of this part so that the nipple of the pacifier is centered in the opening and protrudes through the back of the fixture as shown in Figure 1(b). For pacifiers with non-circular guards or shields, align the major axis of the guard or shield with the major axis of the opening in the fixture. Apply a tensile force to the pacifier nipple in the direction shown. The force shall be applied gradually attaining but not exceeding 2.0 pounds (8.9 newtons) within a period of 5 seconds and maintained at 2.0 pounds for an additional 10 seconds. Any pacifier which can be completely drawn through an opening with dimensions no greater than those of Figure 1(a) by such a force shall fail the test in this part.

(b) *Ventilation holes.* The pacifier guard or shield shall contain at least two holes symmetrically located and each being at least 0.20 inches (5 millimeters) in minor dimension. The edge of any hole shall be no closer than 0.20 inches (5 millimeters) to the perimeter of the pacifier guard or shield.

§ 1511.4 Protrusions.

(a) *Protrusion limitation.* No protrusion from the face of the guard or shield opposite from the nipple shall exceed 0.63 inches (16mm) when measured in accordance with the procedure specified in paragraph (b) of this section.

(b) *Protrusion test.* Secure the pacifier by clamping the nipple with its axis horizontal. For pacifiers with hinged handles or rings the orientation of the hinge axis shall be horizontal. A plane surface shall be applied to any protrusion from the guard or shield with a force gradually attaining but not exceeding 2.0 pounds (8.9 newtons) applied in a direction along the axis of the nipple. The normal of the plane surface shall be maintained parallel to the axis of the nipple. Any protrusion shall be allowed to flex or rotate about its hinge as the plane surface is applied to it. Measure the distance from the plane surface to the guard or shield at the base of the nipple.

§ 1511.5 Structural integrity tests.

(a) *Nipple.* Hold the pacifier by the shield or guard, grasp the nipple end of the pacifier and gradually apply a tensile

force to the pacifier nipple in any possible direction. The force shall be applied gradually, attaining but not exceeding 10.0 pounds (44.5 newtons) within a period of 5 seconds and maintained at 10.0 pounds for an additional 10 seconds.

(b) *Handle or ring.* Hold the pacifier by the shield or guard or base of the nipple, and push or pull on the handle or ring in any possible direction. The force shall be applied gradually attaining but not exceeding 10.0 pounds (44.5 newtons) within a period of 5 seconds and maintained at 10.0 pounds for an additional 10 seconds.

(c) *Heat cycle deterioration.* After the testing prescribed in paragraphs (a) and (b) of this section, all pacifiers shall be subject to the following: Submerge the pacifier in boiling water for 5 minutes and then remove the pacifier and allow it to cool for 5 minutes in room temperature air, 60° to 80° F. (16° to 27° C). After the cooling period, resubmerge the pacifier in the boiling water for 5 minutes. The process shall be repeated for a total of 6 boiling/cooling cycles. After the sixth cycle, the pacifier shall again be subjected to the structural tests in paragraphs (a) and (b) of this section and section 1511.3.

(d) *Small parts.* Any components or fragments which are released as a result of the tests specified in (a), (b) and (c) shall be placed in the truncated cylinder shown in Figure 2, such that the component or fragment is in the lowest position in the cylinder. If the uppermost edge of the component or fragment is below the plane of the top of the cylinder, the pacifier shall fail the test in this section.

§ 1511.6 Ribbons, strings, cords, or other attachments.

A pacifier shall not be sold or distributed with any ribbon, string, cord, chain, twine, leather, yarn or similar attachments.

§ 1511.7 Labeling.

(a) As required by (b) and (c) below, pacifiers shall be labeled with the statement: "Warning—Do not Tie Pacifier Around Child's Neck as it Presents a Strangulation Danger."

(b) The labeling statement required by paragraph (a) of this section shall appear legibly and conspicuously on any retail display carton containing two or more pacifiers.

(c) Each individually packaged pacifier shall bear the labeling statement required in paragraph (a) of this section on the package legibly and conspicuously.

§ 1511.8 Metric references.

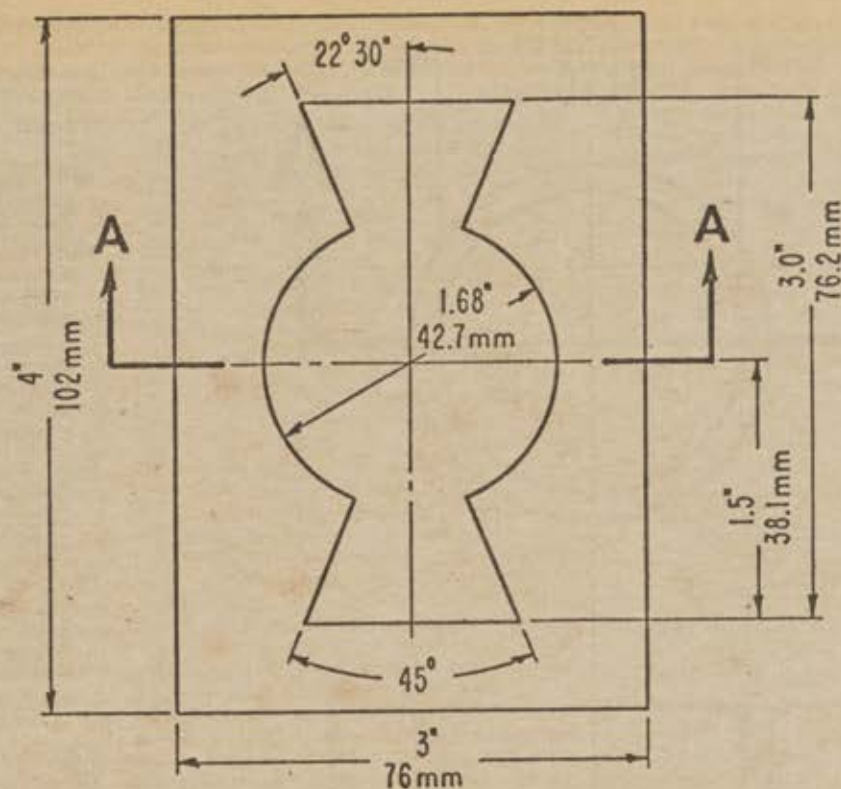
For purposes of compliance with the test procedure prescribed by this section 1500.46, the English figures shall be used. The metric approximations are provided in parentheses for convenience and information only.

Dated: June 27, 1977.

RICHARD E. RAPP, Jr.
Secretary, Consumer Product
Safety Commission.

Center
Cutout

(a)



Material:
1/4" Polytetrafluoroethylene

(b)

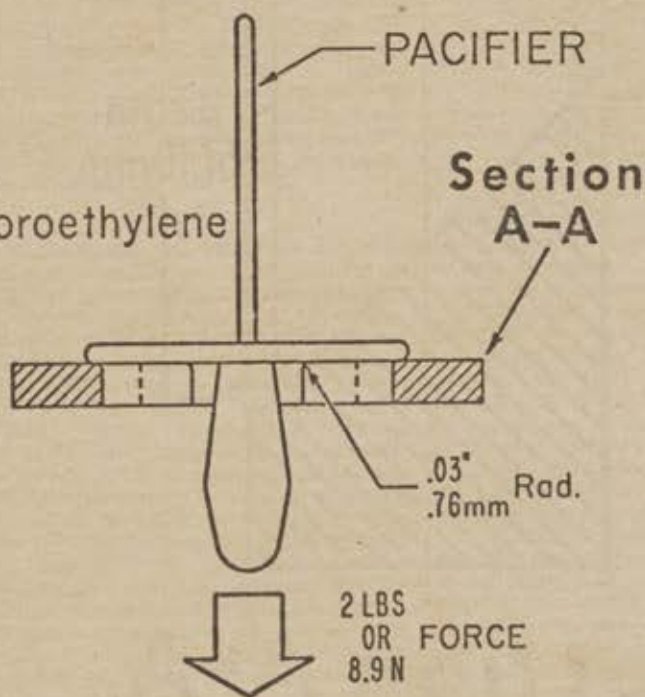
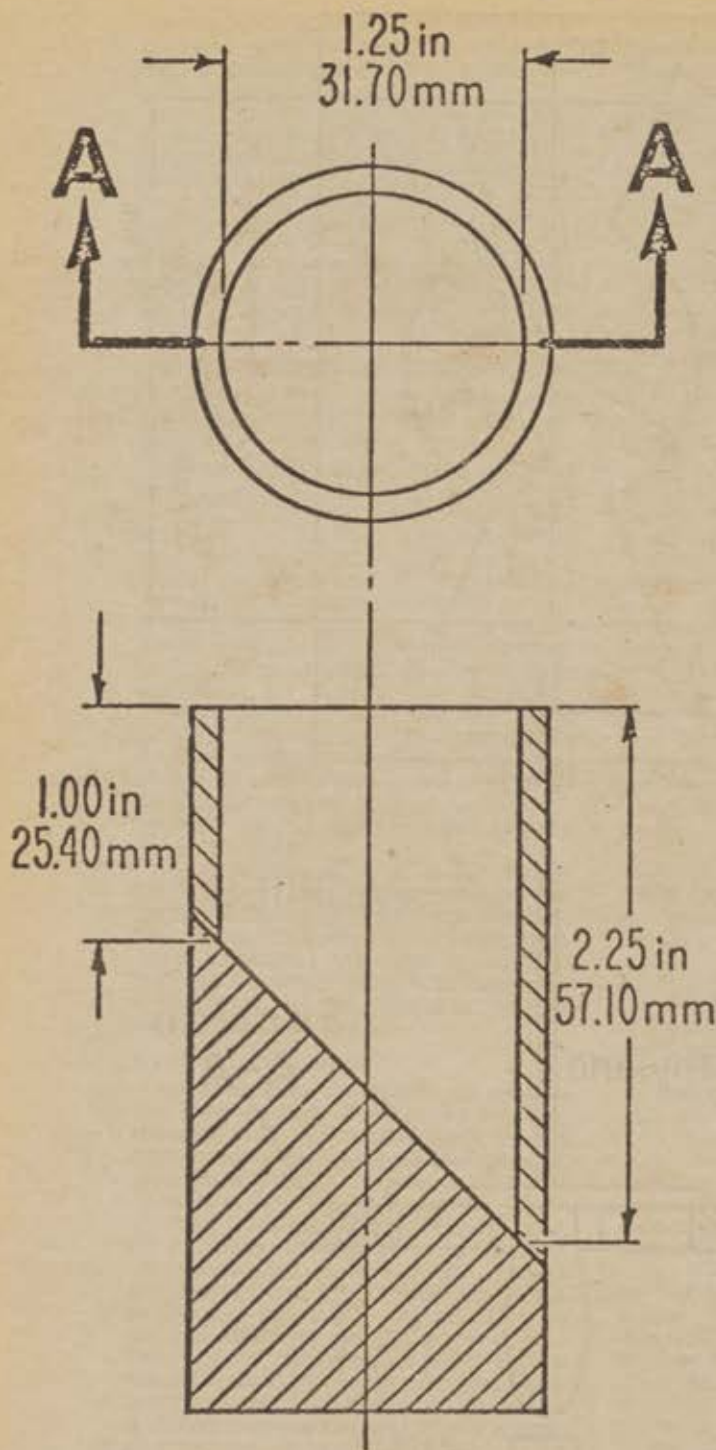


FIG 1-PACIFIER TEST FIXTURE



Section A-A

FIG 2-SMALL PARTS GAGE

[FR Doc. 77-18778 Filed 6-29-77; 8:45 am]

Title 17—Commodity and Securities
Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-5835, 34-13630, 35-20077,
IC-9817, AS-220]

PART 211—INTERPRETATIVE RELEASES
RELATING TO ACCOUNTING MATTERS
(ACCOUNTING SERIES RELEASES)

PART 231—INTERPRETATIVE RELEASES
RELATING TO THE SECURITIES ACT OF
1933 AND GENERAL RULES AND REGU-
LATIONS THEREUNDER

PART 241—INTERPRETATIVE RELEASES
RELATING TO THE SECURITIES EX-
CHANGE ACT OF 1934 AND GENERAL
RULES AND REGULATIONS THERE-
UNDER

PART 251—INTERPRETATIVE RELEASES
RELATING TO THE PUBLIC UTILITY
HOLDING COMPANY ACT OF 1935 AND
GENERAL RULES AND REGULATIONS
THEREUNDER

PART 271—INTERPRETATIVE RELEASES
RELATING TO THE INVESTMENT COM-
PANY ACT OF 1940 AND GENERAL
RULES AND REGULATIONS THERE-
UNDER

Rescission of Certain Accounting Series Releases

AGENCY: Securities and Exchange
Commission.

ACTION: Rescission of accounting series
releases.

SUMMARY: Thirty-six releases in the
accounting series and a related Secur-
ties Act release which preceded the in-
stitution of that series are being rescin-
ded on the basis of a review and determi-
nation that the pronouncements and
policies stated in the releases have no
current application or have been super-
seded by other pronouncements, rules or
standards and are no longer necessary
in the administration of the Commis-
sion's current rules and regulations. This
action will eliminate the need for regis-
trants and other users to retain the re-
leases for reference purposes and will
enable the Commission to cease to main-
tain the releases in its records as well
as to omit them from a new compilation
of releases in the accounting series cur-
rently being prepared.

EFFECTIVE DATE: June 30, 1977.

FOR FURTHER INFORMATION CON-
TACT:

Robert R. Love, Office of the Chief
Accountant, 500 North Capitol Street,
Washington, D.C. 20549 (202) 755-
1773.

SUPPLEMENTAL INFORMATION: The
new compilation of the releases in the
accounting series, which will include all
of the releases through No. 195 which re-
main in effect, is expected to be pub-
lished in the near future by the United
States Government Printing Office. The
publication must be ordered from and re-
mittance made payable to: