

UNITED STATES GOVERNMENT

U.S. CONSUMER PRODUCT
SAFETY COMMISSION
WASHINGTON, D.C. 20207

MEMORANDUM

RECEIVED-OFFICE
OF THE SECRETARY

MAY 17 1993

TO : The Commission

Through: Sadye E. Dunn, Secretary
Eric C. Peterson, Executive Director

FROM : Jerry G. Thorn, General Counsel
Stephen Lemberg, Asst. General Counsel
Harleigh Ewell, Attorney, GCRA (504-0980) HE

SUBJECT: Proposed Amendments to Clacker Ball Regulations

BALLOT VOTE DUE MAY 24 1993

Attached is a staff briefing package concerning amendments to the Commission's regulations for clacker balls, 16 C.F.R. §§ 1500.18(a)(7), 1500.86(a)(5), pursuant to previous Commission decisions. Tab E of the package contains a draft Federal Register notice, for the Commission's consideration, that would propose the amendments for public comment.

Please indicate your vote on the following options.

I. THE FEDERAL REGISTER NOTICE AT TAB E IS APPROVED AS DRAFTED.

(Signature)

(Date)

II. THE FEDERAL REGISTER NOTICE AT TAB E IS APPROVED WITH CHANGES (please specify).

(Signature)

(Date)

III. OTHER (please specify).

(Signature)

(Date)

Comments/Instructions:

CPSA 6 (b)(1) Cleared

NOTE: This document has not been
reviewed or accepted by the Commission.

8/13/93
No Mfrs/Prvtlbrs or W/TH
Product identified GC memo
Excepted by Pet Prods REMOVED

Initial rh Date 4/13/93

BRIEFING PACKAGE

Proposed Amendments to the Clacker Ball Regulation at
16 CFR Sections 1500.18(a) (7) and 1500.86(a) (5)

For Further Information Contact:

Scott Heh
Directorate for Engineering Sciences
(301) 504-0494

CPSA 6 (b)(1) Cleared

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Excepted by Pet Ludy
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Comments Processed.

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EXECUTIVE SUMMARY

In a petition dated August 7, 1989, William G. Hones, President of Fascinations Toys & Gifts, Inc., requested that the Commission amend the definition of a clacker ball at 16 CFR § 1500.18(a)(7). Mr. Hones' company distributed a clacker ball-type product, known as Newton's Yo-Yo, that failed to comply with three of the exemption requirements for clacker balls at 16 CFR § 1500.86(a)(5). Mr. Hones stated that, if CPSC determined Newton's Yo-Yo to be a clacker ball, it should adjust the pass fail requirements for the tests in the exemption.

After considering the petition and information provided by the staff, the Commission decided that the definition of the term "clacker ball" excluded the product manufactured by the petitioner and similar products. The Commission also directed the staff to prepare, for the Commission's consideration, a draft Federal Register notice that would propose to amend the definition of a clacker ball at § 1500.18(a)(7) to exclude petitioner's and similar products, and to amend § 1500.86(a)(5) to exempt clacker balls meeting maximum ball-weight and cord-length specifications and a minimum safety factor specification.

The Directorate for Engineering Sciences drafted an amended clacker ball definition and performed a technical analysis on a variety of clacker ball-type products to develop revised exemption criteria for smaller, lightweight clacker balls. The revised exemption criteria ensure that smaller, lightweight clacker balls are tested to safety factors comparable to those used to test traditional, heavyweight clacker balls to the currently specified exemption criteria.

The Office of General Counsel, based on the staff's technical evaluation and recommendations, drafted a notice of proposed rulemaking (NPR) amending the clacker ball regulation in accordance with the Commission decision.

The staff recommends that the draft NPR proposing to amend the clacker ball regulation be published in the Federal Register.

UNITED STATES GOVERNMENT
MEMORANDUM

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SAFETY COMMISSION
WASHINGTON, D.C. 20207

APR 13 1993

TO : The Commission

THROUGH : Sadye E. Dunn, Secretary
: Jerry G. Thorn, General Counsel
: Eric C. Peterson, Executive Director
: Bert G. Simson, Assistant Executive Director
: Office of Hazard Identification and Reduction
: William W. Walton, Associate Executive Director, Directorate for Engineering Sciences

FROM : Scott R. Heh, Project Manager, Directorate for Engineering Sciences

SUBJECT : Proposed Rule Amending the Clacker Ball Regulation at 16 CFR § 1500.18(a)(7) and § 1500.86(a)(5)

I. Background

On August 7, 1989, William G. Hones, a distributor of a clacker ball-type product known as Newton's Yo-Yo, submitted a petition to the Commission. Mr. Hones submitted the petition after he was informed in May 1989 by the Office of Compliance and Enforcement (CE) that Newton's Yo-Yo was a banned product. The basis for this decision was that the product met the definition of a clacker ball in the banning regulation at 16 CFR § 1500.18(a)(7) and failed to meet three of the exemption criteria at 16 CFR § 1500.86(a)(5). The petitioner then requested an amendment to the definition of a clacker ball at 16 CFR § 1500.18(a)(7) to exclude his product from the ban.

The clacker ball ban and exemption requirements went into effect in 1971. Clacker balls at that time typically consisted of two polystyrene balls, approximately two inches in diameter, connected together by a flexible cord that sometimes included a holding device (generally a plastic ring) at its mid-point. Injuries were reported when children were struck by pieces broken or chipped from the balls or by the entire ball when the cord broke or the balls disconnected from the cord during use of the toy. Photographs of the type of clacker ball banned in 1971 and of the petitioner's "Newton's Yo-Yo" are presented at Tab A.

On March 25, 1992, the Commission considered this petition and staff's recommendations and requested the staff to prepare additional options for the Commission's consideration. After considering these options, the Commission decided that the definition of the term "clacker ball" excluded the product manufactured by the petitioner and similar products. The

Commission directed the staff to prepare, for the Commission's consideration, a draft Federal Register notice that would propose to amend the definition of clacker balls at § 1500.18(a)(7) to exclude petitioner's and similar products and to amend § 1500.86(a)(5) to exempt clacker balls meeting maximum ball-weight and cord-length specifications and a minimum safety factor specification.

II. Discussion

A. Engineering Analysis

Tab B contains a technical analysis performed by The Directorate for Engineering Sciences (ES) in support of the proposed amendments to the clacker ball regulation. In this report, ES recommends: a proposed amended definition of a clacker ball at § 1500.18(a)(7), revised exemption criteria at § 1500.86(a)(5), and a proposal to convert all units found in the exemption criteria from the inch\pound to the metric system.

Revised Clacker Ball Definition

The ES proposed amendment to the technical definition of a clacker ball at 16 CFR § 1500.18(a)(7) would exempt the petitioner's and similar products that "are constructed such that the connecting members consist of plastic rods integrally molded to the balls and are mounted on a pivot so that movement of the balls is essentially limited to a single plane."

Revised Exemption Criteria

Currently, clacker balls meeting certain requirements located at § 1500.86(a)(5) are exempt from the ban. The Commission decided that certain consideration should be given to lightweight clacker balls with short cord lengths by exempting clacker balls "meeting maximum ball-weight and cord-length specifications and a minimum safety factor specification." To accomplish this, ES determined that those sections located at § 1500.86(a)(5)(i)(B) and § 1500.85(a)(5)(ii)(B), (D), and (E) require revision to address the issues related to testing of lightweight clacker balls. These sections specify the requirements for cord strength, impact resistance, and holding device strength. The revised exemption criteria would apply to products that clearly meet the definition of a clacker ball (i.e. use flexible strings or cords to control the balls) but that, like the petitioner's product, use short cords and lightweight balls.

The approach used for developing revised exemption criteria was to ensure that smaller, lightweight clacker balls are tested to safety factors comparable to those used to test traditional,

heavyweight clacker balls to the current requirements. To accomplish this, laboratory testing was performed to measure clack rates (number of clacks per second) of both lightweight and heavyweight clacker ball-type products. These clack rates were used to calculate the impact energies and cord tensile forces generated by the sample clacker ball units. These calculations confirmed that lightweight units generate significantly less impact energy and cord tensile forces compared to traditional, heavyweight units.

Based on the impact energy and cord tensile force calculations, mathematical formulas were developed to derive adjusted test criteria for cord strength, impact resistance, and holding device strength. These formulas incorporate a safety factor, an individual product's ball mass, and a product's cord pivot length. It is proposed that these formulas be used to test small, lightweight clacker balls that have a single ball mass of less than 12 grams (0.42 oz) and a cord pivot length of less than 180 mm (7.1 inches). The following describes how each applicable section of the current exemption criteria is amended in the draft proposed rule.

Cord Strength Requirements

Section 1500.86(a)(5)(i)(B) currently specifies that clacker ball cord "Is of high tensile strength, synthetic fibers that are braided or woven, having a breaking strength in excess of 100 pounds;..." Section 1500.86(a)(5)(ii)(D) calls for a 100-pound force to be applied to test clacker ball cord strength. ES determined that a 100-pound cord breaking strength provides a safety factor of approximately 35 for traditional, heavyweight clacker balls. That is, 100 pounds is approximately 35 times the tensile force generated by a traditional, heavyweight clacker ball cord in use. This safety factor is maintained in the revised cord strength requirements for small lightweight clacker balls by use of a formula described in the ES report at Tab B. This formula is incorporated into the proposed language revising the cord strength requirements located in the draft NPR at Tab E.

Impact Resistance Requirements

The current clacker ball impact test at Section 1500.86(a)(5)(ii)(B) specifies an individual ball be tested by 10 drops of a 5-pound steel weight from a height of 48 inches. ES determined that this test provides a safety factor of approximately 20 when impact testing traditional, heavyweight clacker balls. This safety factor is maintained in the revised impact requirements for small lightweight clacker balls by using the formula described in the ES report at Tab B and incorporated in the draft NPR at Tab E.

Holding Device Strength Requirements

Section 1500.86(a)(5)(ii)(E) specifies that the test for holding device strength applies a force of 50 pounds to both cords while the holding device is fixed in a horizontal position. This force is one half the 100-pound force currently specified for the cord strength test. In keeping with this rationale, it is proposed that this section be amended to provide the same degree of safety as afforded traditional clacker balls. The proposed revised holding device strength criteria is described in the ES report at Tab B and incorporated in the draft NPR at Tab E.

The proposed formulas shown in the Executive Summary of the ES report at Tab B allow the test criteria to be adjusted to the mass and pivot length of lightweight clacker balls. This ensures reasonable and equitable tests for impact resistance, cord strength, and holding device strength when testing smaller, lightweight clacker balls. The ES report contains details on the derivation of these proposed revised exemption criteria and example calculations.

Conversion to Metric

All revised test criteria are derived using metric units of measurement. The ES analysis at Tab B contains a proposal to convert all the exemption criteria at § 1500.86(a)(5) from the inch\pound system of units to the metric system. This follows the current Federal policy that units of measurement in a proposed regulation be expressed in metric units. The incentive for the proposed conversion occurred during the engineering evaluation where it was found that mathematical analysis using the inch\pound system tended to be awkward since some units are no longer widely used. Further, inch\pound units are not preferred within the technical community. Although the revised exemption criteria proposed for lightweight clacker balls are only a portion of all exemption criteria at § 1500.86(a)(5), it is important that all exemption criteria use a consistent system of measurement. ES considers the clacker ball regulation a good candidate for metric conversion to serve as an example of the Commission's commitment to the metric system.

B. Incident Data

The Directorate for Epidemiology reviewed incident data files from 1973 through 1992 for information on clacker ball-related injuries and deaths (Tab C). During this period, 10 injuries and 3 deaths were reported. One reported death was a strangulation that occurred when a clacker ball cord wrapped around a child's neck. Two fatalities reported in 1991 involved products that were smaller than, but similar in design to, Newton's Yo-Yo. The deaths occurred when young children (a 6-

month-old and a 5-month-old) asphyxiated when one of the balls became lodged in the child's throat. Asphyxiation and strangulation hazards are not addressed by the current requirements for clacker balls. None of the reported incidents is known to be due to any deficiency in the clacker balls' impact resistance, cord strength, or holding-device strength.

C. Economic Information

The Directorate for Economic Analysis (EC) prepared a Regulatory Flexibility Act Analysis and a Regulatory Analysis (Tab D). The potential cost of the rule is the possibility of future injuries or deaths associated with these products. Based on available epidemiological and engineering information, no potential injuries or deaths are expected to be associated with the amended definition and exemption. Accordingly, no significant costs are expected to be associated with these changes.

EC further reports that the proposed amendments benefit both industry and consumers. Marketers benefit by the continued presence of certain clacker ball products on the market. Marketers also benefit through elimination of any uncertainty about enforcement of the existing regulations by clarification of requirements for future product development. Consumers obtain utility from the use of these products, therefore their continued market presence is of benefit to consumers.

The EC analysis also examines the effects of the proposed rule on small businesses and provides a preliminary environmental assessment of the proposed rule. The analysis concludes that the proposed amendments, if issued, will not have any significant adverse impact on small firms. The analysis also concludes that the proposed rules will have no significant environmental effects.

D. Notice of Proposed Rule

The Office of General Counsel (OGC) utilized the staff's technical evaluation and recommendations to draft a notice of proposed rulemaking (NPR) amending the clacker ball regulation in accordance with the Commission decision (Tab E). The draft NPR contains language amending the clacker ball definition at § 1500.18(a)(7) and revised exemption criteria at § 1500.86(a)(5). The draft NPR also proposes the inch\pound to metric conversion for all exemption criteria.

III. Options

The following options are available to the Commission:

1. Publish the notice of proposed rulemaking as drafted.
2. Publish the draft notice of proposed rulemaking with changes as directed by the Commission.

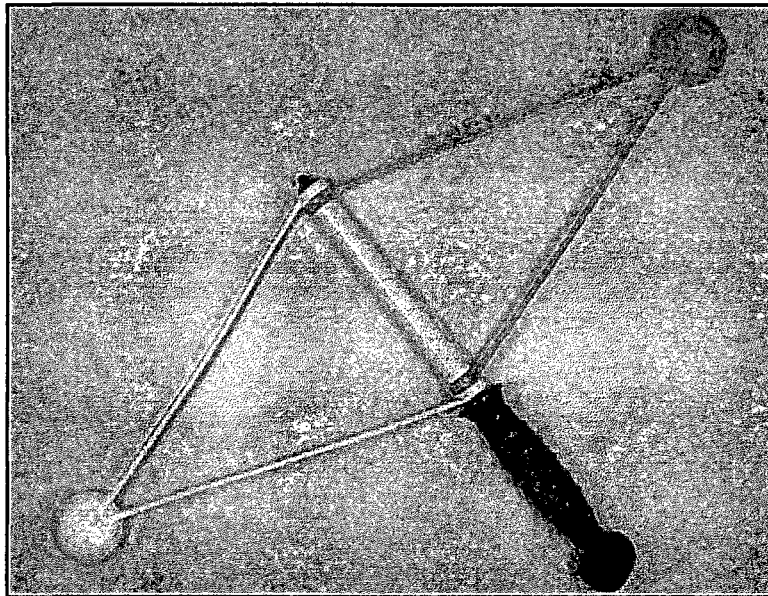
IV. Recommendation

The staff recommends publishing the draft NPR at Tab E amending the clacker ball regulation in the Federal Register. The proposed rule accomplishes three objectives:

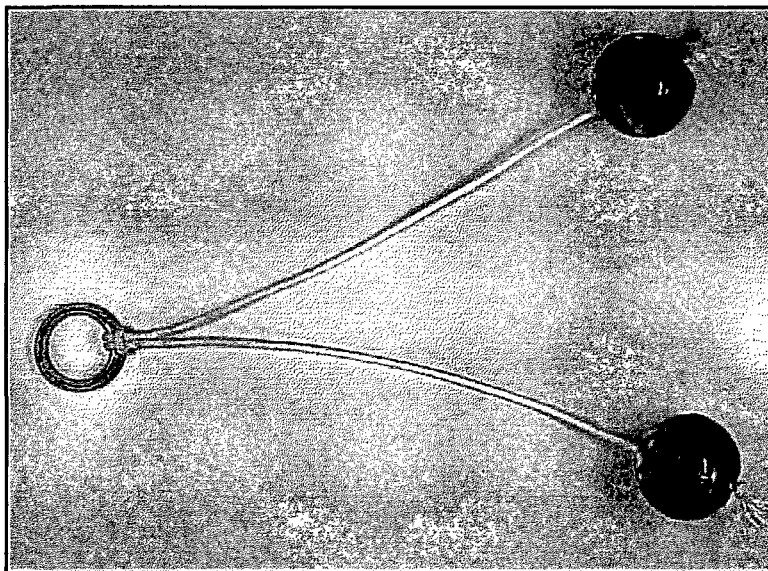
- 1) It will codify the Commission decision exempting from the definition of clacker balls products that are operated similarly to clacker balls but are constructed to limit the motion of the balls to a single plane.
- 2) It will revise exemption criteria to define lightweight clacker balls, and establish requirements for testing them to reasonable safety factors.
- 3) It will convert the regulation from inch\pound to metric units of measurement in accordance with Federal policy.

TAB A

PHOTOGRAPHS OF PRODUCTS



PHOTOGRAPH 1
NEWTON'S YO-YO



PHOTOGRAPH 2
CORD-TYPE CLACKER BALL

TAB B



**ENGINEERING ANALYSIS SUPPORTING PROPOSED
AMENDMENTS TO THE CLACKER BALL REGULATION AT
16 CFR SECTIONS 1500.18(a) (7) AND 1500.86(a) (5)**

Scott R. Heh

**Mechanical Engineering Division
Directorate for Engineering Sciences
U.S. Consumer Product Safety Commission**

December, 1992

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EXECUTIVE SUMMARY

This report documents the detailed engineering testing and analyses that were necessary to develop and support proposed amendments to the clacker ball regulation at 16 CFR § 1500.18(a)(7) and § 1500.86(a)(5). These proposed amendments are responsive to the Commission's June 30, 1992 decisions on the clacker ball petition.

Part I of the report proposes revised language to the definition of a clacker ball at § 1500.18(a)(7). The revised definition excludes products that are "constructed such that the connecting members consist of plastic rods integrally molded to the balls and are mounted on a pivot so that movement of the balls is essentially limited to a single plane."

Part II of the report provides a conversion of the exemption criteria at § 1500.86(a)(5) from inch/pound to metric units of measurement.

Part III of the report describes laboratory testing of a variety of clacker ball products. The results of these tests were used to develop formulas that establish recommended revised requirements for certain exemption criteria at § 1500.86(a)(5). These formulas allow the test criteria to be adjusted to the mass and pivot length of lightweight clacker balls. It is proposed that lightweight clacker balls be defined as those that have an individual ball mass of less than 12 grams and a pivot length of less than 180 mm. The revised exemption criteria for lightweight clacker balls are summarized in the table below.

Proposed Revised Exemption Criteria for Lightweight Clacker Balls

Section 1500.86(a)(5)	Application	Current Criteria	Revised Criteria for Lightweight Clacker Balls
(i)(B)	cord breaking strength	100 pounds	Adjusted Strength in Newtons = $0.1382(m_b)(R_p)$
(ii)(B)	drop height for impact test	48 inches	Adjusted height in mm = $179 \times 10^{-5}(m_b)(R_p)^2$
(ii)(D)	cord strength test	100 pound	Adjusted Force in Newtons = $0.1382(m_b)(R_p)$
(ii)(E)	holding device test	50 pound	Adjusted force in Newtons = one half the adjusted cord strength test force or $0.0691(m_b)(R_p)$
			Notes: 1. m_b = single ball mass in grams R_p = pivot length in mm 2. Revised criteria expressed in metric units

**PROPOSED AMENDMENTS TO 16 CFR SECTIONS
1500.18(a)(7) and 1500.86(a)(5)**

REVISING THE CLACKER BALL DEFINITION AND EXEMPTION CRITERIA

BACKGROUND

On August 7, 1989, a distributor of a clacker ball type product petitioned the Commission to amend the definition of a clacker ball in the banning regulation at 16 CFR Section 1500.18(a)(7) or amend the requirements for exemption from the ban at 1500.86(a)(5). The petitioner maintained that his product did not pose the hazards associated with earlier-style clacker balls originally addressed by the regulation.

A FY 93 project was initiated to implement the Commission decision of June 30, 1992, on this petition. The staff will prepare a briefing package containing a proposed NPR for Commission consideration to amend the definition of a clacker ball at 1500.18(a)(7) to exclude the petitioner's and similar products that have suspending members that are plastic rods integrally molded to the balls and amend the exemption at 1500.86(a)(5) to exempt clacker balls meeting certain ball weight and cord length specifications and a safety factor specification.

Part I of this report proposes language for amending the definition of a clacker ball at 1500.18(a)(7). The proposed definition addresses the petitioner's contention that his product is not a clacker ball because of its connecting member configuration. Each ball of the petitioner's product has two connecting arms that consist of thin, somewhat flexible, plastic rods configured in a "V" frame in which the apex of the "V" is at the connection of the rods to the ball. At the end opposite to the connection to the ball, each rod has a molded loop that fits over a shaft connected to a handle. The balls and their suspending rods are free to rotate independently about the shaft. The "V" configuration of the two rods supporting each ball confines the motion of the balls to rotation in a single plane that is perpendicular to the axis of the shaft and handle. This differs from the traditional clacker balls originally addressed by the regulation, in which each ball was connected by a single flexible line or cord that attached at a single pivot point. The June 30, 1992, Commission decision determined that the petitioner's and similar products are not clacker balls because of the difference in the configuration of the connecting members.

Part II of this report provides a conversion of the exemption criteria currently specified at 1500.86(a)(5) from inch\pound to metric units of measurement. This follows the current federal policy that units of measurement in a proposed

regulation be expressed in metric units. Although the revised exemption criteria proposed in this report only affect a portion of the exemption criteria in 1500.86(a)(5), it is important that all the exemption criteria in the regulation use a consistent system for measurement.

Part III of this report describes laboratory testing of a variety of clacker ball products. The results of these tests are then used to establish recommended revised exemption criteria for 1500.86(a)(5)(ii)(B), (D), and (E). The impetus of the modified exemption criteria was the petitioner's convincing argument that impact energies and cord tensile forces generated by his and similar products under normal use are significantly less than those generated by the traditional high-mass, cord-type clacker balls that were originally addressed by the regulation. As a result, low mass clacker balls would have to meet unreasonably high safety factors in order to meet the test criteria for impact and cord strength currently specified in the regulation. The June 30, 1992 Commission decision accepted this rationale in essence and directed the staff to develop the specification based on ball weight, cord length, and a safety factor presented in Part III of this report.

PART I

Section 1500.18(a)(7) - Definition of a clacker ball

Current Language: 1500.18(a)(7)

Toys usually known as clacker balls and consisting of two balls of plastic or another material connected by a length of line or cord or similar connector (referred to as a "cord" in § 1500.86(a)(5)), intended to be operated in a rhythmic manner by an upward and downward motion of the hand so that the two balls will meet forcefully at the top and bottom of two semicircles thus causing a "clacking" sound, which toys present a mechanical hazard because their design or manufacture presents an unreasonable risk of personal injury from fracture, fragmentations, or disassembly of the toy and from propulsion of the toy or its part(s). (But see § 1500.86(a)(5)).

Proposed Revision:

Add the following sentence to the current language:

Excluded from this ban are products that are similarly operated and are constructed such that the connecting members consist of plastic rods integrally molded to the balls and are mounted on a pivot so that movement of the balls is essentially limited to a single plane.

PART II

Converting Exemption Criteria at Section 1500.86(a) (5) to Metric

The following table shows the applicable sections for unit conversion at 1500.86(a) (5) and the proposed metric conversions. An exact conversion from inch\pound to metric units would result in measurements that are unwieldy for standard purposes. For example, a 100 lbf test translates to 444.82 Newtons. A test force of 445 Newtons is a more manageable value and represents better standard practice. The equivalent inch\pound units are shown in the last column of the table. The revised standard could indicate the equivalent inch\pound units in parentheses immediately after the metric value.

METRIC CONVERSION TABLE

Section 1500.86(a) (5)	Application	Current Inch\Pound Units	Proposed Metric Units	Equivalent Inch\Pound Units
(i) (B)	cord breaking strength	100 lbf	445 Newtons	100.04 lbf
(ii) (B)	impact rod weight	5 pound	2.25 kg	4.96 pound
	impact rod diameter	2 1/4 inch	57 mm	2.24 inches
	drop height	48 inches	1220 mm	48.03 inches
	drop test tube inside diameter	2 3/4 inch	60 mm	2.36 inches
(ii) (D)	cord test	100 pound	445 Newtons	100.04 lbf
(ii) (E)	holding device test	50 pound	222 Newtons	49.91 lbf
(iv) (C)	main panel warning statement letter height	one-quarter inch	6 mm	0.24 inches
(iv) (C)	literature warning statement letter height	one-eighth inch	3 mm	0.12 inches

PART III

Amending Exemption Criteria at Section 1500.86(a) (5)

The recommended revised exemption criteria would apply to low mass, low impact energy clacker balls of the traditional cord-type variety. The goal of the revised criteria is to test low-mass, low impact-energy clacker balls to significantly more reasonable tests than those currently specified in the regulation for impact, cord tensile strength, and holding device strength (Sections 1500.86(a) (5) (ii) Parts (B), (D), and (E)). Although less stringent, the revised tests should provide conservative safety factors comparable to those provided when traditional high-mass, cord-type clacker balls are tested to the impact, cord strength, and holding device strength requirements currently specified in the regulation.

Sample Collection

In order to formulate revised exemption criteria, it was necessary to perform testing on both traditional, high-mass, cord-type clacker balls and low mass clacker ball units. Two samples of early model, cord-type clacker balls like those originally addressed by the regulation were available for high-mass product testing. CPSC Eastern and Western regional offices searched for low mass, cord-type clacker balls from various sources but were unable to locate any of these products. These products appear to be extremely rare or nonexistent in today's market. However, this does not mean that they may not exist in the future.

The regional offices were able to collect a number of low mass, dual connecting-rod products similar to the product distributed by the petitioner. Tests were performed on these low mass, dual rod type products with the assumption that impact energies and cord tensile forces (adjusted for a single cord) would be analogous to energy and tensile force characteristics of low-mass, low impact-energy, cord-type clacker balls.

Testing

Testing was performed to measure the "clack rate" (number of clacks per second) for the sample clacker ball units. This was accomplished by recording the clacking sound of units in use on a Nicolet Oscilloscope by means of a microphone. The clacking sounds could be viewed as a waveform on the oscilloscope screen on which each clack showed up as a voltage signal peak. Time was then measured between each peak to establish clack rates. Average clack rates were calculated by dividing the number of clacks of a waveform by the total time elapsed for that waveform.

Maximum clack rates were measured during short "bursts" of clacks by determining the shortest time frame recorded between any two peaks. Generally, clack rates increased with smaller arm pivot lengths. Average clack rates ranged from 10.1 to 14.3 clacks per second. Maximum clack rates ranged from 11.1 to 16.7 clacks per second.

Clack rates were measured for two to three people operating the same unit to determine clack rate variability among individuals. It was found that maximum clack rates among individual operators differed within a range between 6 and 22 percent.

Determining Revised Exemption Criteria

The first step in determining revised exemption criteria was to calculate impact energy and cord tensile forces in a traditional high-mass, cord-type clacker ball of the type originally addressed by the regulation. The individual ball mass of one of the traditional high-mass units was 48.3 grams. This is very near the maximum ball mass of 50 grams allowed in the regulation. This high ball-mass allowed for a good approximation for calculating maximum impact energies and cord tensile forces of clacker balls originally addressed by the regulation.

Next, safety factors were determined by comparing the impact energies and tensile forces generated by the traditional clacker ball unit in use with the impact and cord strength tests currently specified in the regulation.

The next step in determining revised exemption criteria was to calculate in-use impact energies and cord tensile forces of low-mass, low impact-energy, clacker ball type products.

Revised exemption criteria were then formulated by multiplying the in-use impact energy and cord tensile force of a low-mass, low impact-energy clacker ball by the applicable safety factors.

The following sections describe the application of the above steps for formulating revised exemption criteria for impact energy, cord strength test force, and holding device test force.

Impact Energy

Table 1 shows the impact energies of the sample low-mass units and the single high-mass, cord-type clacker ball. Maximum clack rates ranged from 11 to approximately 17 clacks per second. The last column shows that the impact test requirement of the

TABLE 1 - IMPACT ENERGY

REGULATION IMPACT ENERGY 27.12 J (5 pound weight dropped 4 feet)
20.00 foot-pounds

	MASS single ball	MASS single ball	LENGTH pivot	CLACK RATE	VELOCITY		KE (in use)	SAFETY FACTOR
					m/sec			
METRIC	grams	kg	mm	clacks/ second			Joules	
INCH/POUND		(slugs)	(inches)		(ft/sec)		(ft-pounds)	
SAMPLE NUMBER								
P-867-8581, 6	6.60	0.00660	135.0	11.96	5.07		0.0849	319.4
		(0.00045)	(5.31)	11.96	(16.64)		(0.0626)	319.4
P-867-8581, 7	10.80	0.01080	161.0	11.06	5.59		0.1690	160.5
		(0.00074)	(6.34)	11.06	(18.35)		(0.1246)	160.5
P-800-3173, 4	4.20	0.00420	80.0	16.72	4.20		0.0371	731.3
		(0.00029)	(3.15)	16.72	(13.79)		(0.0274)	731.2
P-800-3175, 3	1.20	0.00120	49.0	15.58	2.40		0.0035	7857.4
		(0.00008)	(1.93)	15.58	(7.87)		(0.0025)	7857.0
P-800-3172, 4	11.80	0.01180	156.0	12.14	5.95		0.2089	129.8
		(0.00081)	(6.14)	12.14	(19.52)		(0.1540)	129.8
High Mass Unit	48.30	0.04830	222.0	11.24	7.84		1.4841	18.3
		(0.00331)	(8.74)	11.24	(25.72)		(1.0946)	18.3

current regulation (a 5-pound steel cylindrical weight dropped onto a single ball from a height of 48 inches) provides safety factors for the low-mass units ranging from 129 to 7857. The safety factor for the higher mass, cord-type product is a more reasonable value of 18.3 or approximately 20.

It was found that clacker ball type products currently on the market have a low ball-mass (at least one quarter the maximum ball-mass allowed by the regulation) and have a cord pivot length of less than 180 mm (7.1 inches). The pivot length is defined as the length from the center of the balls to the pivot point of the cords or connecting members. In the case of dual-rod products, this distance was measured perpendicularly from the center of the balls to the pivot axis. The in-use impact energies of the low-mass products were calculated to be at least one seventh the in-use energy of the high-mass, traditional style clacker ball. From these data, it is proposed that a low mass, low impact energy clacker ball is one that has a ball mass of less than 12 grams and a cord pivot length of less than 180 mm (7.1 inches).

The proposed impact test for low mass, low impact energy clacker balls applies a safety factor of 20 by adjusting the drop height of a 2.25 kg (4.96 pound) steel cylinder specified in the regulation. A 20 safety factor is believed to be reasonable and appropriate considering the materials and production methods used in producing products of this type and considering the users at risk.

(a) To determine the adjusted drop height:

Assume a clack rate of 20 clacks per second. This assures a conservative estimate of the impact energy since the maximum clack rate achieved for any unit during testing was 17 clacks per second.

(1) Determine the average tangential velocity of a ball (V_b). The distance travelled by a single ball can be approximated by a semicircular path.

$$V_b = \frac{20 \text{ clacks}}{\text{second}} \times \frac{1 \text{ circular path}}{2 \text{ clacks}} \times \frac{2\pi R_p \text{ meters}}{\text{circular path}}$$

$$V_b = 20\pi R_p \text{ m/sec}$$

where R_p is the cord length pivot radius to the center of the ball measured in meters.

- (2) Calculate the kinetic energy (KE) of a single ball.

$$KE = \frac{1}{2} m_b V_b^2 \quad (\text{units of Joules})$$

where m_b = mass of a single ball in kg

V_b = velocity in m/sec (from step 1)

- (3) Multiply KE from step (a) (2) by a safety factor of 20 to determine the Adjusted Kinetic Energy (AKE) for the drop test.

$$AKE = KE[\text{step (a) (2)}] \times 20$$

- (4) Determine the adjusted drop height for the 2.25 kg (4.96 pound) steel cylinder by setting the adjusted kinetic energy calculated in step (a) (3) equal to the potential energy (PE) of the steel cylinder raised to a height h.

$$PE(\text{steel cylinder}) = mgh \quad (\text{units of Joules})$$

where m = mass of steel cylinder in kg

g = acceleration of gravity = 9.81 m/sec²

h = drop height of steel cylinder in meters

therefore,

$$h = PE/mg = AKE/mg$$

$$h \text{ (mm)} = \frac{\text{AKE in step 3 (Joules)}}{(2.25 \text{ kg})(9.81 \text{ m/sec}^2)} \times \frac{1000 \text{ mm}}{\text{m}}$$

(Note: Round off to the nearest mm.)

Simplified Calculation

The above method for calculating adjusted drop height can be condensed into a conservative single formula:

$$h \text{ (mm)} = 179 \times 10^{-5} (m_b) (R_p)^2$$

where m_b = mass of a single ball in grams

R_p = pivot length of the unit in mm

Example impact height calculation of a low mass clacker ball unit with a single-ball mass of 8.0 grams and a center ball pivot length of 150 mm (5.9 inches).

- (1) Determine tangential velocity (V_b)

$$R_p = 150 \text{ mm} = 0.150 \text{ meters}$$

$$\frac{20 \text{ clacks}}{\text{second}} \times \frac{1 \text{ circular path}}{2 \text{ clacks}} \times \frac{2\pi(0.150 \text{ m})}{\text{circular path}} = 9.42 \text{ m/sec}$$

- (2) $KE = \frac{1}{2}mv^2$

$$m_b = 8 \text{ grams} = 0.008 \text{ kg}$$

$$KE = 0.5(0.008 \text{ kg})(9.42 \text{ m/sec})^2$$

$$KE = 0.3549 \text{ Joules}$$

- (3) Adjusted Kinetic Energy (AKE) = 20×0.3549
 $= 7.098 \text{ Joules}$

- (4) $AKE = PE(\text{steel cylinder})$

$$7.098 \text{ Joules} = mgh$$

$$7.098 \text{ Joules} = (2.25 \text{ kg})(9.81 \text{ m/sec}^2)h$$

$$h = 0.3216 \text{ meters} = 321.6 \text{ mm}$$

$$\therefore \text{adjusted drop height} = 322 \text{ mm (12.7 inches)}$$

Simplified Calculation

$$h = 179 \times 10^{-5} (m_b) (R_p)^2 \quad (\text{gives height in mm})$$

$$h = 179 \times 10^{-5} (8.0 \text{ g}) (150 \text{ mm})^2$$

$$h = 322.2 \text{ mm}$$

$$\therefore \text{adjusted drop height} = 322 \text{ mm (12.7 in)}$$

Cord Strength Test Force

Table 2 shows the centrifugal tensile forces generated by the sample low-mass units and the traditional, high-mass, cord-type clacker ball. The last column shows that the cord strength requirement of the current regulation (a 100 pound force applied vertically downwards on one ball while securing the second ball directly above) provides safety factors ranging from 166 to 3158 for the newer, low-mass products. The safety factor for the traditional, higher-mass, cord-type product is a more reasonable value of approximately 33.

The proposed cord strength test force, for low-mass, low-impact-energy clacker balls applies a safety factor of 35 by adjusting the cord strength test to 35 times the centrifugal tensile forces subjected to the cord during use at a conservatively high clack rate of 20 clacks per second. A 35 safety factor is believed to be reasonable and appropriate considering the materials and production methods used in producing products of this type and considering the users at risk.

(b) To determine the revised cord strength test force:

(1) Calculate centrifugal force F_c .

$$F_c = m_b a = m_b V_b^2 / R_p \quad \{\text{units of Newtons (N)}\}$$

where m_b = mass of a single ball in kg
 V_b = velocity in meters/sec (calculated in step (a) (1) of impact energy determination)
 R_p = pivot length in meters

(2) Multiply F_c (from step (b) (1)) by a safety factor of 35 to determine the Adjusted Cord Strength Test Force.

$$\text{Adjusted Cord Strength Test Force} = F_c \times 35 \quad (\text{N})$$

(Note: Round the Adjusted Cord Strength Test Force value to the nearest Newton)

Simplified Calculation

The above method for calculating the Adjusted Cord Strength Test Force can be condensed into a conservative single formula:

$$\text{Adjusted Cord Strength Test Force} = 0.1382 (m_b) (R_p)$$

where m_b = mass of a single ball in grams
 R_p = pivot length of the unit in mm

TABLE 2 - CENTRIFUGAL CORD TENSION FORCES

REGULATION TENSION 444.80 N = 100 lbf
TEST

	MASS		MASS	LENGTH	CLACK	VELOCITY	TENSILE		SAFETY
	single ball	single ball					FORCES	centrifugal in use	
METRIC	grams	kg	single ball	mm	clacks/ second	m/sec	Newtons		
INCH/POUND		(slugs)		(inches)		(ft/sec)	(lbf)		
SAMPLE NUMBER									
P-867-8581, 6	6.60	0.00660		135.0	11.96	5.07	1.258		353.6
		(0.00045)		(5.31)	11.96	(16.64)	(0.283)		353.6
P-867-8581, 7	10.80	0.01080		161.0	11.06	5.59	2.099		211.9
		(0.00074)		(6.34)	11.06	(18.35)	(0.472)		211.9
P-800-3173, 4	4.20	0.00420		80.0	16.72	4.20	0.927		479.8
		(0.00029)		(3.15)	16.72	(13.79)	(0.208)		479.8
P-800-3175, 3	1.20	0.00120		49.0	15.58	2.40	0.141		3157.6
		(0.00008)		(1.93)	15.58	(7.87)	(0.032)		3157.7
P-800-3172, 4	11.80	0.01180		156.0	12.14	5.95	2.678		166.1
		(0.00081)		(6.14)	12.14	(19.52)	(0.602)		166.1
High Mass Unit	48.30	0.04830		222.0	11.24	7.84	13.370		33.3
		(0.00331)		(8.74)	11.24	(25.72)	(3.006)		33.3

Example calculation for Adjusted Cord Strength Test Force using the same low mass clacker ball unit with a single ball mass of 8.0 grams and a pivot length of 150 mm (5.9 inches).

$$(1) \quad m_b = 8 \text{ grams} = 0.008 \text{ kg}$$

$$R_p = 150 \text{ mm} = 0.150 \text{ m}$$

$$V_b = 9.42 \text{ m/sec} \text{ (from step (a) (1))}$$

$$F_c = m_b V_b^2 / R_p$$

$$F_c = (0.008 \text{ kg}) (9.42 \text{ m/sec})^2 / 0.150 \text{ m}$$

$$F_c = 4.73 \text{ Newtons}$$

$$(2) \quad \text{Adjusted Cord Strength Test Force} = F_c \times 35$$

$$= 4.73 \times 35$$

$$= 165.55 \text{ N}$$

$$\therefore \text{Adjusted Cord Strength Test Force} = 166.0 \text{ N} \\ = (37.3 \text{ lbf})$$

Simplified Calculation

$$\text{Adjusted Cord Strength Test Force} = 0.1382 (m_b) (R_p)$$

$$= 138200 (8.0 \text{ g}) (150 \text{ mm})$$

$$= 165.84 \text{ N}$$

$$\therefore \text{Adjusted Cord Strength Test Force} = 166 \text{ N} \\ = (37.3 \text{ lbf})$$

Holding Device Test Force

The current regulation calls for testing any holding device by applying a 50-pound test force to both cords while the holding device is fixed securely in a horizontal position. This 50 pound test force is one half of the current single-cord test force of 100 pounds. In order to remain consistent with the current regulation, the proposed holding device test load for low-mass, low-impact-energy clacker balls should be one half of the calculated Adjusted Cord Strength Test Force.

(c) To determine the Adjusted Holding Device Test Force:

$$(1) \quad \begin{array}{l} \text{Adjusted Holding} \\ \text{Device Test Force} \end{array} = 0.5 \times \begin{array}{l} \text{Adjusted Cord Strength Test} \\ \text{Force \{from step (b) (2)\}} \end{array}$$

(Note: Round off to the nearest Newton)

Example calculation for Adjusted Holding Device Test Force using the same low-mass clacker ball unit with a single ball mass of 8.0 grams and a pivot length of 150 mm.

$$\begin{array}{l} \text{-(1) Adjusted Holding} \\ \text{Device Test Force} \end{array} = 0.50 \times \begin{array}{l} \text{Adjusted Cord Strength} \\ \text{Test Force} \\ \text{\{from step (b) (2)\}} \end{array}$$

$$\begin{array}{l} \text{Adjusted Holding} \\ \text{Device Test Force} \end{array} = 0.50(166 \text{ N})$$

$$= 83 \text{ N} \quad (18.7 \text{ lbf})$$

Discussion of Cord Tensile Forces

There are three different components that contribute to tensile forces in a clacker ball cord; (1) centrifugal force, (2) ball weight, and (3) hand acceleration forces. The most significant of these three components is the centrifugal force. The ball weight component is practically insignificant in comparison to the centrifugal force. Although hand acceleration forces can be somewhat larger than ball weight, a precise measurement would be difficult and is unnecessary. For purposes of establishing a straightforward method of calculating adjusted test criteria while maintaining an appropriate level of safety, it is acceptable to apply the safety factor only to the centrifugal force. The safety factor of 35 and conservatively high clack rate of 20 clacks per second serve to ensure that the two smaller elements contributing to cord tensile forces will be accounted for in the adjusted cord strength test.

Higher Clack Rates

As stated previously, the maximum clack rate achieved on any of the sample units was 17 clacks per second. Based on this data, a conservative rate of 20 clacks per second is considered appropriate for calculating impact energies and cord tensile forces. Tables 3 and 4 show the theoretical calculations for energy and centrifugal tensile force with clack rates of 20, 25, 30, 35, and 40 clacks per second. Clack rates above 20 clacks per second are considered abnormally high based on test data of clacker ball type products, both current styles and the older, traditional models. The table shows that a clack rate of 40 clacks per second (more than twice the maximum rate recorded during testing) results in safety factors of approximately 5 for impact energy and approximately 9 for cord strength. This shows that even for seemingly impossibly high clack rates, the proposed test method subjects the product to at least five times the impact and nine times the centrifugal cord tensile force that it would generate in actual use.

APPROVED:

James I. Price

DATE: December 14, 1992

James I. Price
Director, Division of Mechanical Engineering
Directorate for Engineering Sciences

APPROVED:

William W. Walton

DATE: December 17, 1992

William W. Walton
Associate Executive Director
Directorate for Engineering Sciences

TABLE 3 - EFFECT OF INCREASING CLACK RATES ON IMPACT SAFETY FACTOR

	MASS single ball	MASS single ball	LENGTH pivot	CLACK RATE	VELOCITY		KE		SAFETY FACTOR
							in use	20 X 20 CLACK RATE	
							Joules (ft-pounds)	Joules (ft-pounds)	
METRIC	grams	kg (slugs)	mm (inches)	clacks/ second	m/sec (ft/sec)				
SAMPLE NUMBER									
P-800-3172, 4	11.80	0.01180	156.00	20.00	9.80		0.567	11.3368	20.0
		(0.00081)	(6.14)	20.00	(32.15)		(0.418)	(8.3616)	20.0
P-800-3172, 4	11.80	0.01180	156.00	25.00	12.25		0.886	11.3368	12.8
		(0.00081)	(6.14)	25.00	(40.19)		(0.653)	(8.3616)	12.8
P-800-3172, 4	11.80	0.01180	156.00	30.00	14.70		1.275	11.3368	8.9
		(0.00081)	(6.14)	30.00	(48.23)		(0.940)	(8.3616)	8.9
P-800-3172, 4	11.80	0.01180	156.00	35.00	17.15		1.736	11.3368	6.5
		(0.00081)	(6.14)	35.00	(56.27)		(1.280)	(8.3616)	6.5
P-800-3172, 4	11.80	0.01180	156.00	40.00	19.60		2.267	11.3368	5.0
		(0.00081)	(6.14)	40.00	(64.32)		(1.672)	(8.3616)	5.0

Note: Sample P-800-3172 chosen arbitrarily. Identical safety factors result when calculated for other samples.

TABLE 4 - EFFECT OF INCREASING CLACK RATES ON CORD STRENGTH SAFETY FACTOR

METRIC INCH/POUND	MASS		LENGTH pivot	CLACK RATE	VELOCITY	TENSILE FORCES		TENSILE FORCE	SAFETY FACTOR
	single ball	single ball				centrifugal	in use		
	grams	kg (slugs)	mm (inches)			m/sec (ft/sec)	Newton (lbf)	35 X 20 Clack Rate Newtons (lbf)	
SAMPLE NUMBER									
P-800-3172, 4	11.80	0.01180	156.00	20.00	9.80	7.267		254.352	35.0
		(0.00081)	(6.14)	20.00	(32.15)	(1.634)		(57.180)	35.0
P-800-3172, 4	11.80	0.01180	156.00	25.00	12.25	11.355		254.352	22.4
		(0.00081)	(6.14)	25.00	(40.19)	(2.553)		(57.180)	22.4
P-800-3172, 4	11.80	0.01180	156.00	30.00	14.70	16.351		254.352	15.6
		(0.00081)	(6.14)	30.00	(48.23)	(3.676)		(57.180)	15.6
P-800-3172, 4	11.80	0.01180	156.00	35.00	17.15	22.256		254.352	11.4
		(0.00081)	(6.14)	35.00	(56.27)	(5.003)		(57.180)	11.4
P-800-3172, 4	11.80	0.01180	156.00	40.00	19.60	29.069		254.352	8.8
		(0.00081)	(6.14)	40.00	(64.32)	(6.535)		(57.180)	8.8

Note: Sample P-800-3172 chosen arbitrarily. Identical safety factors result when calculated for other samples.

TAB C

UNITED STATES GOVERNMENT

MEMORANDUM

U.S. CONSUMER PRODUCT
SAFETY COMMISSION
WASHINGTON, D.C. 20207

FEB 1 1993

TO : Scott R. Heh, Project Manager, ESME

Through: *for* Dr. Robert D. Verhalen, Associate Executive Director
Directorate for Epidemiology *re*
Robert E. Frye, Director, EPHA *MS for RS*

FROM : Suzanne P. Cassidy, EPHA (504-0470) *SPC*

SUBJECT: Injuries and Deaths Associated with Clacker Balls

This memorandum provides information on the three deaths and 10 injuries related to clacker balls that were reported to the Commission from 1973 through 1992.

One strangulation death occurred in 1982 when a 23-month-old child got the string from the clacker balls around her neck. Two deaths in 1991 involved products that had balls attached by rigid plastic rods. In both cases the victims choked when a ball obstructed their airway, and asphyxia was reported as the cause of death. One infant was five months of age and the other was six months old. Such strangulation and asphyxiation hazards are not addressed by the current requirements for clacker balls.

Of the 10 injuries involving clacker ball-type toys since 1973, victims were reportedly struck by clacker balls in four incidents, including two children and an adult male who were struck in the eye. One child ingested a piece of a broken clacker ball. Two laceration injuries occurred when children fell from beds onto clacker balls. The remaining three injuries involved clacker balls that made a cracking sound and emitted smoke when the balls struck each other. One of these victims received a burn injury, and in the other incident, two young children became ill after sucking on the balls.

This information was obtained from a review of the Commission's files of death certificates, consumer complaints, in-depth investigations, and the National Electronic Injury Surveillance System (NEISS). The numbers do not represent a sample of known probability of selection nor a complete count of all clacker ball-related injuries and deaths which may have occurred during the 1973 through 1992 period.

TAB D

Introduction

The Commission is considering a rule to amend the definition of a clacker ball at 16 CFR section 1500.18 (a) (7) to exclude the petitioner's and similar products that have suspended members that are plastic rods integrally molded to the balls. The rule would also amend the exemption at 1500.86 (a) (5) to exempt clacker balls meeting certain ball weight and cord length specifications and a safety factor specification. In 1989, Fascination Toys and Gifts, Inc. petitioned the Consumer Product Safety Commission (CPSC) to amend the definition of a clacker ball in the aforementioned regulation. The petition was granted in June 1992, and the staff was instructed to prepare a Notice of Proposed Rulemaking (NPR) to amend the regulation.

Under the Federal Hazardous Substances Act (FHSA), the Commission is required to develop a preliminary analysis containing a discussion of various factors including: a description of the preliminary benefits and potential costs of the proposed regulation, including any benefits and costs that cannot be quantified in monetary terms, and an identification of those likely to receive the benefits and bear the costs. The Regulatory Flexibility Act requires a regulatory flexibility analysis describing the impact on small businesses and other small entities.

The National Environmental Policy Act requires a preliminary environmental assessment of the proposed rule. The assessment is included at the end of this analysis.

Requirements of the Proposed Rule

The proposed rule would amend the definition of a clacker ball to exclude products that have suspended members that are plastic rods integrally molded to the balls. Additionally, the proposed revised exemption criteria would apply to low mass, low impact energy clacker balls of the traditional, cord type variety.

Potential Costs

The potential cost of the rule is the possibility of future injury or death associated with these products. Over the period from 1973 through 1992, the Commission is aware of 13 incidents associated with clacker ball type products. Two asphyxiation deaths were reported involving products similar to those mentioned in the petition. Asphyxiation hazards are not addressed by the current requirement for clacker balls.

UNITED STATES GOVERNMENT

MEMORANDUM

U.S. CONSUMER PRODUCT
SAFETY COMMISSION
WASHINGTON, D.C. 20207

TO : Scott R. Heh, ESME

10 DEC 1992

Through: William W. Walton, AED, ES *W³*

Through: Warren J. Prunella, AED, EC *W/P*

FROM : Anthony C. Homan, ECPA *act*

SUBJECT: Regulatory Flexibility and Regulatory Analyses
Economic and Environmental Assessments:
Proposed Amendments to the Clacker Ball Regulation

Attachment

Based on available epidemiological and engineering information, potential injuries or deaths associated with the amended definition and exemption are expected to be nil. The potential costs are also expected to be nil.

Potential Benefits

The proposed amended definition and exemption would provide benefits to marketers of the product by allowing its continued presence in the toy and novelty market. Marketers would also benefit through an elimination of any uncertainty about enforcement of the existing regulations, and clarification of effects on future product development. The proposed amended definition would also provide benefits to marketers through an avoidance of any cost increases associated with compliance.

Consumers obtain utility from the use of these products. Sales of products similar to the petitioner's being considered in the rule were estimated at 10-12 million units, valued at \$25-30 million in 1990. However, 1991 sales declined to about one million units and 1992 unit sales were around two million. Sales of lightweight, cord-type clacker balls also being considered in the rule are thought to be insignificant compared to products like the petitioner's. However, available information was insufficient to make an accurate estimate. The loss of this product on the market would represent a loss to consumers, thus the continued market presence of these products is of benefit to consumers.

Effective Date

The selection of an effective date to occur as early as 30 days after publication of the final rule in the Federal Register would have little or no effect on quantifiable costs and benefits associated with the rule. Thus, the timing of the effective date is not likely to affect marketers or consumers of these products.

Small Firm Effects

It is not expected that the rule will have any significant adverse impact on small firms. The rule is expected to have a positive impact since all the known firms currently marketing the product are small firms.

Environmental Impact

Pursuant to the National Environmental Policy Act, and in accordance with Council on Environmental Quality regulations and CPSC procedures for environmental review, a preliminary assessment of the environmental impact was performed.

The proposed rules are not expected to affect preexisting packaging, molds, plastic stocks, or other materials of

construction. Thus, there would be no destruction or discarding of existing materials. Existing inventories of finished products, including those at retail, would not be rendered unusable through the implementation of the rules. Further, inventories would not require retrofit in order to comply with the exemption.

The requirements of the rules are not expected to have a significant effect on the materials used in the production or packaging of the products subject to the amended definition and exemption, or on the amount of or types of materials discarded after the rules. Therefore, no significant environmental effects will result from the proposed rules.

TAB E

2/10/93

CONSUMER PRODUCT SAFETY COMMISSION**16 CFR Part 1500****Requirements for Clacker Balls; Proposed Amendments****AGENCY:** Consumer Product Safety Commission.**ACTION:** Proposed amendment to rule.

SUMMARY: The Commission proposes to amend its existing regulation, under the Federal Hazardous Substances Act, that bans clacker balls that do not meet specified requirements. The amendments include revising the definition of clacker ball to exclude those devices where the balls are suspended by plastic rods that are integrally molded to the balls and are mounted on a pivot so that movement of the balls is essentially limited to a single plane. The amendments would also exempt from the ban those clacker balls that meet specified maximum ball-weight and cord-length specifications and a minimum safety factor specification.

DATE: Comments on the proposal should be submitted not later than [insert date 75 days after date of publication in the **FEDERAL REGISTER**].

ADDRESSES: Comments should be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207-0001, or delivered to the Office of the Secretary, Consumer Product Safety Commission, room 420, 5401 Westbard Avenue, Bethesda, Maryland, telephone (301) 504-0800.

FOR FURTHER INFORMATION CONTACT: Scott Heh, Project Manager, Directorate for Engineering Sciences, Consumer Product Safety Commission, Washington, DC 20207; telephone (301)504-0494.

SUPPLEMENTARY INFORMATION:

A. Background

The Commission's regulations, issued under the Federal Hazardous Substances Act ("FHSA"), 15 U.S.C. 1261-1277, ban clacker balls (defined in 16 CFR 1500.18(a)(7)), unless the clacker balls meet the requirements in 16 CFR 1500.86(a)(5). The regulations define clacker balls as:

"consisting of two balls of plastic or another material connected by a length of line or cord or similar connector . . . intended to be operated in a rhythmic manner by an upward and downward motion of the hand so that the two balls will meet forcefully at the top and bottom of two semicircles thus causing a 'clacking' sound, which toys present a mechanical hazard because their design or manufacture presents an unreasonable risk of personal injury from fracture, fragmentations, or disassembly of the toy and from propulsion of the toy or its part(s). (But see § 1500.86(a)(5))"

These requirements were issued in 1971 by the Food and Drug Administration, which administered the FHSA at that time.

The criteria in § 1500.86(a)(5) were designed to ensure the safety of the type of clacker ball that was on the market before the regulation was issued in 1971. This type of clacker ball used balls that were relatively large and heavy, and the balls were mounted on flexible cords. The criteria include an impact test for the balls and strength tests for the cords and attachment points.

In August of 1989, Mr. William Hones of Fascinations Toys and Gifts, Inc., petitioned the Commission to amend its requirements for clacker balls to exclude products that (1) mechanically restrict the motion of the balls to a plane perpendicular to a supporting shaft and (2) withstand impact and centrifugal stresses at least 10 times those produced in normal use. [1, Tab A]¹ The

¹Numbers in brackets represent the number of a relevant document in Appendix 1 (List of Relevant Documents)

petitioner marketed a product similar to a clacker ball but that operated in the manner that would be excluded by the requested amendment.

The device marketed by the petitioner mounted the balls by integrally molding them onto the apex of a V-shaped plastic member mounted so that the arms of the V pivot on a shaft. This mounting limits the movement of the balls to a single plane that is perpendicular to the axis of the shaft. Compared to the pre-1972 type of clacker balls, the petitioner's product had lighter balls and a shorter length of the mounting arms. Because of this, the petitioner's product did not generate the impact or centrifugal forces that the earlier clacker balls did. The Commission's staff agreed that the criteria of § 1500.18(a)(5) vastly exceeded the stresses generated by petitioner's device and by various other brands and types of clacker balls that were on the market.

After considering the petition, the Commission decided that the term "clacker ball" did not encompass the product marketed by the petitioner and similar products.² The Commission (3-0) also directed the staff to prepare, for the Commission's consideration, a draft **FEDERAL REGISTER** notice that would propose to amend the definition of clacker ball to explicitly exclude petitioner's and similar products and to amend § 1500.86(a)(5) to exempt clacker balls meeting maximum ball-weight and cord-length specifications and a minimum safety factor specification.

B. Procedure

A regulation such as the Commission's clacker ball regulation is issued under section 3(e) of the FHSA, 15 U.S.C. 1262(e), which applies to determinations that a toy or other article intended for use by children presents a mechanical, electrical, or thermal hazard and is thus a hazardous substance pursuant to section 2(f)(1)(D), 15 U.S.C. 1261(f)(1)(D). The original issuance of such a regulation would be governed by the procedure in section 3(f) of the FHSA, 15 U.S.C. 1262(f), which specifies a three-stage rulemaking procedure that is initiated by the publication of an advance notice of proposed rulemaking ("ANPR"). The action proposed below, however, has the effect

²The Commission's vote on this interpretation was 2-1, with Commissioners Carol G. Dawson and Mary Gall voting for the interpretation; Chairman Jacqueline Jones-Smith did not vote for the interpretation.

of eliminating from the scope of the rule those products which do not present the mechanical risk that the regulation originally intended to cover. Accordingly, sections 3(e) and (f) do not apply. In addition, the provisions of section 3(f) governing the required content of the ANPR show that the ANPR is intended to apply only to cases where new requirements are being imposed and not to the case where previously covered products are being exempted or otherwise released from coverage. Therefore the two-stage rulemaking procedures of the Administrative Procedure Act, 5 U.S.C. 553, apply.

C. The Proposed Amendments

Amended § 1500.18(a)(7). As explained above, the device marketed by the petitioner was mounted on plastic rods so that the balls move only in a single plane. This prevents off-center hits of the balls, and the limitation to “plastic” material should greatly reduce any likelihood of loose particles caused by flaking or fragmentation of the balls. Therefore, the proposal would add language specifically stating that the definition of clacker ball “does not include products that are constructed such that the connecting members consist of plastic rods integrally molded to the balls and are mounted on a pivot so that movement of the balls is essentially limited to a single plane.”

Amended § 1500.86(a)(5). As discussed above, the Commission’s staff concluded that the criteria in the current exemption in § 1500.86 (a)(5) are too stringent for the lighter and smaller clacker balls that are currently on the market, which have balls with masses of less than 12 grams each and pivot lengths of less than 180 mm (7.1 inches). Accordingly, the staff examined how the exemption criteria might be changed so that they would be more appropriate for these lighter and smaller clacker balls. The criteria that would need to be changed in order to do this are (1) the cord-strength requirement of § 1500.86(a)(5)(i)(B), (2) the ball-impact test in § 1500.86(a)(5)(ii)(B), the cord-strength test of § 1500.86(a)(5)(ii)(D), and (4) the holding-device strength test of § 1500.86(a)(5)(ii)(E). These criteria are discussed separately below. How the formulae for adjusting these factors were derived is explained in detail in the report “Engineering

Analysis Supporting Proposed Amendments to the Clacker Ball Regulation at 16 CFR Sections 1500.18(a)(7) and 1500.86(a)(5),” Scott R. Heh, CPSC Directorate for Engineering Sciences, December 1992 [6, Tab B]. For clacker balls with masses of 12 grams or more, or with pivot lengths of 180 mm or more, the current provisions of the regulation will continue to apply.

Cord-strength test. The staff calculated the safety factor that the current regulation applied to the large and heavy clacker balls that the regulation was intended to address and determined that it provides a cord-strength safety factor, for those clacker balls, of approximately 35. Therefore, this safety factor was also applied to the reduced forces proposed to be allowed when testing the cord strength of smaller and lighter clacker balls.

The tensile forces applied to the cord of a clacker ball during use are mainly due to the centrifugal forces generated by the motion of the balls. The centrifugal force of an object is equal to the mass of the object times its acceleration, which in turn is a function of the velocity of the object and the radius of the curve being traveled by the object. The velocity of the ball is established by specifying a maximum “clack” rate of 20 clacks per second. (As specified in the definition of clacker ball at § 1500.18(a)(7), a clack is produced when the two balls collide at the top and bottom of their semicircular paths. The highest clack rate that the Commission’s staff was able to achieve in testing was 17 clacks per second.)

Applying the safety factor of 35, the adjusted cord strength value in Newtons can be calculated by $0.1382(m_b)(R_p)$, where m_b is the mass of a single ball in grams and R_p is the radius of the arc described by the ball (pivot length) in mm. Accordingly, the Commission proposes below to allow this adjusted cord strength value to be one of the criteria for exempting the smaller and lighter clacker balls described above.

Ball-impact test. The current regulation provides that a clacker ball shall be tested by 10 drops of a 5-lb steel weight from a height of 48 inches. The Commission’s staff determined that this provides a safety factor of about 20 for the large and heavy clacker balls for which the test was designed.

The clacker ball experiences an impact related to the magnitude of the kinetic energy it achieves in use, which is a function of the mass of the clacker ball times its velocity. The velocity can be calculated from the “clack rate,” which, as described above, is assumed to be 20 clacks per second. Accordingly, the height from which a 5-lb weight must be dropped in order to achieve an impact equal to what the clacker ball can generate, times the safety factor of 20, can be calculated as $179 \times 10^{-5}(m_b)(R_p^2)$, where m_b is the mass of a single ball in grams and R_p is the radius of the arc described by the ball (pivot length) in mm. Accordingly, the Commission proposes below to allow this adjusted drop height value to be one of the criteria for exempting the smaller and lighter clacker balls described above.

Holding device test force. Present § 1500.86(a)(5)(ii)(E) provides that the device for holding the cords together shall be tested by applying a force of 50 lb to each cord separately, while the holding device is clamped in position. Since this is half the force provided by the current regulation for the cord-strength test, the Commission proposes below to allow an adjusted holding device test force of half the adjusted cord-strength test force for exempting the smaller and lighter clacker balls described above.

D. Metric Units

Current Federal policy encourages the use of metric units in regulations. Exec. Order No. 12,770, 3 CFR 343 (1992). Accordingly, wherever current § 1500.86(a)(5) uses inch/pound units that can be specified instead in metric units, the amendments proposed below give the corresponding metric units as the primary criteria, with the inch/pound equivalent in parentheses.

E. Effective Date

This proposal grants an exemption. A delayed effective date of 30 days from the date a final rule is issued should be sufficient for parties to test their products to determine whether the products comply with the amended regulation. [-] Accordingly, the Commission proposes that the exemption become effective 30 days after any final rule is issued.

F. Correction

The exemptions at § 1500.86(a)(5) have a typographical error in the table in § 1500.86(a)(5)(vi). The word “rental” in the heading of the first column should be “retail.” Accordingly, the final rule will correct this discrepancy.

G. Regulatory Flexibility Act Certification

When an agency undertakes a rulemaking proceeding, the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 et seq.) generally requires the agency to prepare proposed and final regulatory flexibility analyses describing the impact of the rule on small businesses and other small entities. The purpose of the Regulatory Flexibility Act, as stated in section 2(b) (5 U.S.C. 602 note), is to require agencies, consistent with their objectives, to fit the requirements of regulations to the scale of the businesses, organizations, and governmental jurisdictions subject to the regulations. Section 605 of the Act provides that an agency is not required to prepare a regulatory flexibility analysis if the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The Commission’s Directorate for Economics prepared an Initial Regulatory Flexibility Act Analysis to examine the effect of the proposed rule on small entities. [6, Tab D] The findings of that analysis are repeated below.

The potential cost of the rule includes the possibility of future injury or death associated with these products, if that were due to less safe clacker balls being on the market because the exemption criteria of the regulation were made less stringent. The Commission has no information that would support a conclusion that this will occur.

The Commission is aware of 13 incidents from January 1, 1973, through 1992 that were associated with clacker balls. [6, Tab C] Three of these incidents involved fatalities. In one of these fatal incidents, a child strangled when she got the cord of a clacker ball around her neck. In the two others, infants were asphyxiated when clacker balls obstructed their airways. Such

strangulation and asphyxiation hazards are not addressed by the current requirements for clacker balls.

The remaining 10 incidents involved injuries incurred when users were hit with clacker balls (4), fell on clacker balls (2), or ingested a piece of broken clacker ball (1), or involved a burn (1) or poisonings (2) associated with clacker balls that made a cracking sound and emitted smoke when the balls struck each other. None of these incidents is known to be due to any deficiency in the clacker balls' impact resistance, cord strength, or holding-device strength.

Based on the available epidemiological and engineering information, no potential injuries or deaths are expected to be associated with the amended definition and exemption. Accordingly, no significant costs are expected to be associated with these changes.

The proposed amended definition and exemption would provide benefits to marketers of the product by allowing the continued marketing of these products as toys and novelties. Marketers would also benefit through an elimination of any uncertainty about enforcement of the existing regulations, and the regulation's effects on future product development would be clarified. The marketers would also benefit by avoiding any cost increases that would be caused by having to come into compliance with the present regulation.

Consumers obtain utility from the use of these products. Sales in 1990 of products similar to the petitioner's are estimated at 10-12 million units, which were valued at \$25-30 million. Sales in 1991 declined to about one million units, and 1992 sales were around two million units. Sales of lightweight, short-cord clacker balls are thought to be insignificant compared to the number of products like the petitioner's that are marketed. However, the available information is not sufficient to enable an accurate estimate. To the extent that consumers enjoy the use of these products, their continued availability is a benefit, and the loss of this product on the market would be a loss to consumers.

All the firms known to be currently marketing these products are small firms. The rule is expected to have a positive impact on these firms.

For the reasons given above, the Commission concludes that the proposal to amend the Commission's regulations for clacker balls, if issued, will not have any significant economic effect on a substantial number of small entities.

F. Environmental Considerations

Pursuant to the National Environmental Policy Act, and in accordance with the Council on Environmental Quality regulations and CPSC procedures for environmental review, the Commission preliminarily assessed the possible environmental effects associated with the proposed amendments to the clacker ball regulations. [6, Tab D]

The proposed amendments are not expected to affect preexisting packaging, molds, plastic stocks, or other materials of construction. Thus, there would be no destruction or discarding of existing materials. Existing inventories of finished products, including those at retail, would not be rendered unusable through the implementation of the rules. Further, inventories would not have to be retrofitted in order to comply with the exemption.

The amendments are not expected to have a significant effect on the materials used in the production or packaging of the products subject to the amended definition or exemption, or on the amount or types of materials discarded after the rules. Therefore, the Commission concludes that the proposed rules will have no significant environmental effects. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 16 CFR Part 1500

Consumer protection, Hazardous materials, Hazardous substances, Imports, Infants and children, Labeling, Law enforcement, Toys.

G. Conclusion

For the reasons given above, the Commission proposes to amend 16 CFR Part 1500 as follows:

Part 1500—[AMENDED]

1. The authority citation for Part 1500 is amended to read as follows:

Authority: 15 U.S.C. 1261-1277.

2. Section 1500.18(a)(7) is amended by changing the part of the section after the first sentence to read as follows:

(7) * * * This does not include products that are constructed so that the connecting members consist of plastic rods integrally molded to the balls and are mounted on a pivot so that movement of the balls is essentially limited to a single plane. (But see § 1500.86(a)(5).)

3. Section 1500.86(a)(5)(i)(B) is amended by:

- a. replacing “100 pounds” with “445 Newtons (100 pounds)” and
- b. by adding the following at the end of the section:

(B) * * * Clacker balls where the mass of each ball is less than 12 grams (0.42 oz.) and the distance between the center of the pivot and the center of the ball cannot exceed 180 mm (7.1 inches) may have a minimum cord breaking strength of less than 445 Newtons (100 pounds), as computed by the following formula:

Adjusted Cord Breaking Strength in Newtons = $0.1382(m_b)(R_p)$

where m_b = mass of a single ball in grams and

R_p = pivot length in mm

4. Section 1500.86(a)(5)(ii)(B) is amended by:

- a. replacing “5-pound” by “2.25 kg (5-pound)”
- b. replacing “2¼-inch” with “57-mm (2¼-inch)”
- c. replacing “48 inches” with “1220 mm (48 inches)”
- d. replacing “2⅜-inch” with “60-mm (2⅜-inch)” and
- e. by adding the following after the first sentence and before the last sentence:

(B) * * * Clacker balls where the mass of each ball is less than 12 grams (0.42 oz.) and the distance between the center of the pivot and the center of the ball cannot exceed 180 mm

(7.1 inches) may be tested by dropping the impact weight from a height of less than 1220 mm (48 in.), where the height is computed as follows:

Adjusted drop height in mm =

$$179 \times 10^{-5}(m_b)(R_p)^2$$

where m_b = mass of a single ball in grams and

R_p = pivot length in mm * * *

5. Section 1500.86(a)(5)(ii)(D) is amended by

- a. replacing “100-pound” with “445-Newton (100-pound)” and
- b. adding the following before the last sentence:

(D) * * * Clacker balls where the mass of each ball is less than 12 grams (0.42 oz.) and the distance between the center of the pivot and the center of the ball cannot exceed 180 mm (7.1 inches) may be tested with a force of under 445 Newtons (100 pounds). The test force for these clacker balls shall be the same as the cord breaking strength calculated in § 1500.86(a)(5)(i)(B). * * *

6. Section 1500.86(a)(5)(ii)(E) is amended by:

- a. replacing “50-pound” with “222-Newton (50-pound)” and
- b. adding the following after the first sentence and before the last sentence:

(E) * * * Clacker balls where the mass of each ball is less than 12 grams (0.42 oz.) and the distance between the center of the pivot and the center of the ball cannot exceed 180 mm (7.1 inches) may have their holding device tested with a force of less than 222 Newtons (50 pounds). The holding device test force for these clacker balls shall be half of the cord breaking strength calculated in § 1500.86(a)(5)(i)(B). * * *

7. Section 1500.86(a)(5)(iv)(C) is amended by:

- a. replacing “one-quarter inch” by “6 mm (1/4 inch)” and
- b. replacing “one-eighth inch” by “3 mm (1/8 inch).



8. Section 1500.86(a)(5) is amended by replacing “rental” in the heading of the first column of the table with “retail”.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 93-????? Filed ??-??-??;8:45 am]

BILLING CODE 6335-01-F

Appendix 1 — List of Relevant Documents (This list will not be printed in the Code of Federal Regulations.)

1. Briefing Package — Petition HP 90-2 — Clacker Balls: Executive Summary and briefing memorandum “Petition HP 90-2: Clacker Balls,” John D. Preston, Project Manager, CPSC Directorate for Engineering Sciences, dated Jan. 27, 1992, with Tabs A, C, and F-J.

TAB A - Petition.

TAB C - Photograph of petitioner’s clacker ball.

TAB F - Memorandum from Debbie Tinsworth, CPSC/EPHA, to John Preston, CPSC/ESME, “Clacker Ball Incident Data,” April 18, 1991.

TAB G - Memorandum from Terrance R. Karels, CPSC/ECPA to John Preston, Project Manager, “Clacker Ball Petition, HP 90-2,” July 23, 1991.

TAB H - Memorandum from John Preston, CPSC/ESME, “Petition HP 90-2, Clacker Balls,” October 4, 1991.

TAB I - Memorandum from Bob Poth, CPSC/CERM, to John Preston, Project Manager, CPSC/ESME, “Background of CE Action on ‘Newton’s Yo-Yo’,” Sept. 18, 1991.

TAB J - Proposed Enforcement Policy.

2. Tape recording of Commission briefing on March 25, 1992.

3. Memorandum from John Preston, Project Manager, to the Commission, "Response to Commission Request for Options and Resource Estimates to Respond to the Clacker Ball Petition." June 5, 1992, with revised vote sheet.

4. Commissioners' ballot vote sheets, signed June 29-30, 1992.

5. Letter from the Commission's Secretary to Mr. William G. Hones, President of Fascinations Toys and Gifts, Inc., dated Sept. 23, 1992.

6. Briefing package "Proposed Amendments to the Clacker Ball Regulation at 16 CFR Sections 1500.18(a)(7) and 1500.86(a)(5)," consisting of Executive Summary, briefing memorandum, and Tabs A-E.

Briefing Memorandum, "Proposed Rule Amending the Clacker Ball Regulation at 16 CFR § 1500.18(a)(7) and § 1500.86(a)(5)," Feb. ??, 1993.

TAB A - Photographs of products.

TAB B - Engineering report from Scott Heh, ESME, "Engineering Analysis Supporting Proposed Amendments to the Clacker Ball Regulation at 16 CFR Sections 1500.18(a)(7) and 1500.86(a)(5)," December 17, 1992.

TAB C - Memorandum from Suzanne P. Cassidy, EPHA, "Injuries and Deaths Associated with Clacker Balls," Feb. 1, 1993.

TAB D - Memorandum from A. Homan, ECPA, to Scott R. Heh, ESME, "Regulatory Flexibility and Regulatory Analyses, Economic and Environmental Assessments: Proposed Amendments to the Clacker Ball Regulations," December 10, 1992.

TAB E - Draft **FEDERAL REGISTER** notice.

UNITED STATES GOVERNMENT
MEMORANDUMU.S. CONSUMER PRODUCT
SAFETY COMMISSION
WASHINGTON, D.C. 20207RECEIVED- OFFICE
OF THE SECRETARY

MAY 17 1993

TO : The Commission

Through: Sadye E. Dunn, Secretary
Eric C. Peterson, Executive Director

FROM : Jerry G. Thorn, General Counsel
Stephen Lemberg, Asst. General Counsel
Harleigh Ewell, Attorney, GCRA (504-0980) HE

SUBJECT: Proposed Amendments to Clacker Ball Regulations

BALLOT VOTE DUE MAY 24 1993

Attached is a staff briefing package concerning amendments to the Commission's regulations for clacker balls, 16 C.F.R. §§ 1500.18(a)(7), 1500.86(a)(5), pursuant to previous Commission decisions. Tab E of the package contains a draft Federal Register notice, for the Commission's consideration, that would propose the amendments for public comment.

Please indicate your vote on the following options.

I. THE FEDERAL REGISTER NOTICE AT TAB E IS APPROVED AS DRAFTED.

Carol G. Danson
(Signature)

5-21-93
(Date)

II. THE FEDERAL REGISTER NOTICE AT TAB E IS APPROVED WITH CHANGES (please specify).

(Signature)

(Date)

III. OTHER (please specify).

(Signature)

(Date)

Comments/Instructions:

CPSA 6 (b)(1) Cleared

4/13/93
No Mfrs/Prvblrs or With
Product identified GC memo
Accepted by Pet Ando REMOVED

NOTE: This document has not been
reviewed or accepted by the Commission.

Initial RL Date 4/13/93

UNITED STATES GOVERNMENT

MEMORANDUM

U.S. CONSUMER PRODUCT
SAFETY COMMISSION
WASHINGTON, D.C. 20207

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Please indicate your vote on the following options.

I. THE FEDERAL REGISTER NOTICE AT TAB E IS APPROVED AS DRAFTED.

Mary Sheila Gall
(Signature)

05/25/93
(Date)

II. THE FEDERAL REGISTER NOTICE AT TAB E IS APPROVED WITH CHANGES (please specify).

(Signature)

(Date)

III. OTHER (please specify).

(Signature)

(Date)

Comments/Instructions:

CPSA 6 (b)(1) Cleared

4/13/93
No Mfrs/Prvls bldrs or with
Products identified GC MEMO
Exempted by Peterson REMOVED

NOTE: This document has not been
reviewed or accepted by the Commission.

Initial RLH Date 4/13/93

JJS-1
OS# 5409

UNITED STATES GOVERNMENT
MEMORANDUM

U.S. CONSUMER PRODUCT
SAFETY COMMISSION
WASHINGTON, D.C. 20207

RECEIVED- OFFICE
OF THE SECRETARY

MAY 17 1993

TO : The Commission

Through: Sadye E. Dunn, Secretary
Eric C. Peterson, Executive Director

FROM : Jerry G. Thorn, General Counsel
Stephen Lemberg, Asst. General Counsel
Harleigh Ewell, Attorney, GCRA (504-0980) HE

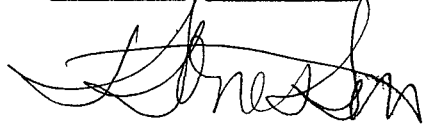
SUBJECT: Proposed Amendments to Clacker Ball Regulations

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Please indicate your vote on the following options.

I. THE FEDERAL REGISTER NOTICE AT TAB E IS APPROVED AS DRAFTED.


(Signature)

5/19/93
(Date)

II. THE FEDERAL REGISTER NOTICE AT TAB E IS APPROVED WITH CHANGES (please specify).

(Signature)

(Date)

III. OTHER (please specify).

(Signature)

(Date)

Comments/Instructions:

CPSA 6 (b)(1) Cleared

4/13/93
No Mfrs/Prvblbrs or WITH
Product identified GC memo
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NOTE: This document has not been reviewed or accepted by the Commission.

Initial RL Date 4/13/93