that is generally conspicuous. This approach will permit packages containing labeling that may not meet some of the more technical aspects of the rule, but are in substantial compliance with the requirements of the law, to be exhausted. It will also save the unnecessary expense associated with destroying such packaging, without compromising safety.

C. Impact on Small Businesses

In accordance with section 3(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Commission certifies that this regulation will not have a significant economic impact upon a substantial number of small entities. Any obligations imposed upon such entities arise under the express provisions of section 24 of the FHSA. This regulation simply clarifies the obligations imposed by that law on certain toys, games, balloons, marbles, and balls. The regulation itself, therefore, will have no significant economic impact on small businesses, either beneficial or negative, beyond that which results from the statutory provisions.

D. Environmental Considerations

The proposed rule falls within the provisions of 16 C.F.R. 1021.5(c) which designates categories of actions conducted by the Consumer Product Safety Commission that normally have little or no potential for affecting the human environment. The Commission does not believe that the rule contains any unusual aspects which may produce effects on the human environment, nor can the Commission foresee any circumstance in which the rule proposed below may produce such effects. For this reason, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 16 CFR Part 1500

Business and industry, Consumer protection, Hazardous materials, Infants and children, Labeling, Packaging and containers.

E. Conclusion

Therefore, pursuant to the authority of the Child Safety Protection Act of 1994 (Pub. L. 103–267), sections 10(a) and 24(c) of the Federal Hazardous Substances Act, (15 U.S.C. 1269(a) and 1278(c)), and 5 U.S.C. 553, the Consumer Product Safety Commission amends Title 16 of the Code of Federal Regulations, Chapter II, Subchapter C, Part 1500 as set forth below.

Part 1500—HAZARDOUS SUBSTANCES AND ARTICLES; ADMINISTRATION AND ENFORCEMENT REGULATIONS

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

Authority: 15 U.S.C. 1261-1278, 2079.

2. Section 1500.18 is amended by revising paragraph (a) introductory text and adding paragraph (a)(17) to read as follows:

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

(a) Toys and other articles presenting mechanical hazards. Under the authority of sections 2(f)(1)(D) and 24 of the act and pursuant to the 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:

(17) Any ball intended for children under three years of age that, under the influence of its own weight, passes, in any orientation, entirely through a circular hole with a diameter of 1.75 inches (44.4 mm.) in a rigid template ½ inches (6 mm.) thick. In testing to evaluate compliance with this paragraph, the diameter of opening in the Commission's test template shall be

no greater than 1.75 inches (44.4 mm.).

(i) For the purposes of this paragraph, the term "ball" includes any spherical, ovoid, or ellipsoidal object that is designed or intended to be thrown, hit, kicked, rolled, dropped, or bounced. The term "ball" includes any spherical, ovoid, or ellipsoidal object that is attached to a toy or article by means of a string, elastic cord, or similar tether. The term "ball" also includes any multisided object formed by connecting planes into a generally spherical, ovoid, or ellipsoidal shape that is designated or intended to be used as a ball, and any novelty item of a generally spherical, ovoid, or ellipsoidal shape that is designated or intended to be used as a hall.

(ii) The term "ball" does not include dice, or balls permanently enclosed inside pinball machines, mazes, or similar outer containers. A ball is permanently enclosed if, when tested in accordance with 16 CFR 1500.52, the ball is not removed from the outer container.

- (iii) In determining whether such a ball is intended for use by children under three years of age, the criteria specified in 16 CFR 1501.2(b) and the enforcement procedure established by 16 CFR 1501.5 shall apply.
- 3. A new section 1500.19 is added, to read as follows:

§ 1500.19 Misbranded toys and other articles intended for use by children.

(a) *Definitions*. For the purposes of this section, the following definitions

shall apply.

(1) Ball means a spherical, ovoid, or ellipsoidal object that is designed or intended to be thrown, hit, kicked, rolled, dropped, or bounced. The term "ball" includes any spherical, ovoid, or ellipsoidal object that is attached to a toy or article by means of a string, elastic cord, or similar tether. The term "ball" also includes any multi-sided object formed by connecting planes into a generally, spherical, ovoid, or ellipsoidal shape that is designated or intended to be used as a ball, and any novelty item of a generally spherical, ovoid, or ellipsoidal shape that is designated or intended to be used as a ball. The term "ball" does not include dice, or balls permanently enclosed inside pinball machines, mazes, or similar outer containers. A ball is permanently enclosed if, when tested in accordance with 16 CFR 1500.53, it is not removed from the outer container.

(2) Small ball means a ball that, under the influence of its own weight, passes, in any orientation, entirely through a circular hole with a diameter of 1.75 inches (44.4 mm.) in a rigid template ½ inches (6 mm.) thick. In testing to evaluate compliance with this regulation, the diameter of opening in the Commission's test template shall be no greater than 1.75 inches (44.4 mm.).

(3) Latex balloon means a toy or decorative item consisting of a latex bag that is designed to be inflated by air or gas. The term does not include inflatable children's toys that are used in aquatic activities such as rafts, water wings, swim rings, or other similar items.

(4) Marble means a ball made of a hard material, such as glass, agate, marble or plastic, that is used in various children's games, generally as a playing piece or marker. The term "marble" does not include a marble permanently enclosed in a toy or game. A marble is permanently enclosed if, when tested in accordance with 16 CFR 1500.53, it is not removed from the toy or game.

(5) *Small part* means any object which, when tested in accordance with the procedures contained in 16 CFR