

## § 1117.7

Commission's rules interpreting this provision are set forth at 16 CFR part 1115. The requirements of section 102 of the CPSA and this part are in addition to, but not to the exclusion of, the requirements in section 15(b) and part 1115. To comply with section 15(b), subject firms must continue to evaluate safety information they obtain about their products. Subject firms may have an obligation to report under section 15(b) of the CPSA whether or not they obtain information about choking incidents. Firms must also comply with the lawsuit-reporting provisions of section 37 of the CPSA, interpreted at 16 CFR part 1116.

### § 1117.7 Confidentiality of reports.

The confidentiality provisions of section 6 of the CPSA, 15 U.S.C. 2055, apply to reports submitted under this part. The Commission shall afford information submitted under this part the protection afforded to information submitted under section 15(b), in accordance with section 6(b)(5) of the CPSA and subpart G of part 1101 of title 16 of the CFR.

### § 1117.8 Effect of reports on liability.

A report by a manufacturer, distributor, retailer, or importer under this part shall not be interpreted, for any purpose, as an admission of liability or of the truth of the information contained in the report.

### § 1117.9 Prohibited acts and sanctions.

(a) Whoever knowingly and willfully falsifies or conceals a material fact in a report submitted under this part is subject to criminal penalties under 18 U.S.C. 1001.

(b) A failure to report to the Commission in a timely fashion as required by this part is a prohibited act under section 19(a)(3) of the CPSA, 15 U.S.C. 2068(a)(3).

(c) A subject firm that knowingly fails to report is subject to civil penalties under section 20 of the CPSA, 15 U.S.C. 2069. *Knowing* means the having of actual knowledge or the presumed having of knowledge deemed to be possessed by a reasonable person who acts in the circumstances, including knowledge obtainable upon the exercise of due care to ascertain the truth of rep-

## 16 CFR Ch. II (1–1–02 Edition)

resentations. Section 20(d) of the CPSA, 15 U.S.C. 2069(d).

(d) Any person who knowingly and willfully violates section 19 of this Act after having received notice of non-compliance from the Commission may be subject to criminal penalties under section 21 of the CPSA, 15 U.S.C. 2070.

## PART 1118—INVESTIGATIONS, INSPECTIONS AND INQUIRIES UNDER THE CONSUMER PRODUCT SAFETY ACT

### Subpart A—Procedures for Investigations, Inspections, and Inquiries

#### Sec.

- 1118.1 Definitions, initiation of investigations, inspections, and inquiries and delegations.
- 1118.2 Conduct and scope of inspections.
- 1118.3 Compulsory processes and service.
- 1118.4 Subpoenas.
- 1118.5 Investigational hearings.
- 1118.6 Depositions.
- 1118.7 Rights of witnesses at investigational hearings and of deponents at depositions.
- 1118.8 General or special orders seeking information.
- 1118.9 Motions to limit or quash subpoenas and general or special orders and delegation to modify terms for compliance.
- 1118.10 Remedies for failure to permit authorized investigations.
- 1118.11 Nonexclusive delegation of power.

### Subpart B—Consent Order Agreements

- 1118.20 Procedures for consent order agreements.

AUTHORITY: Sec. 16, Pub. L. 92–573, 86 Stat. 1222 (15 U.S.C. 2065); sec. 19, Pub. L. 92–573, 86 Stat. 1224 (15 U.S.C. 2068); sec. 27, Pub. L. 92–573, 86 Stat. 1227 (15 U.S.C. 2076); as amended by Pub. L. 94–284, 90 Stat. 509.

SOURCE: 44 FR 34929, June 18, 1979, unless otherwise noted.

### Subpart A—Procedures for Investigations, Inspections, and Inquiries

#### § 1118.1 Definitions, initiation of investigations, inspections, and inquiries and delegations.

(a) *Definitions.* For the purpose of these rules, the following definitions apply:

(1) *Act* means the Consumer Product Safety Act (15 U.S.C. 2051, et seq.).

## Consumer Product Safety Commission

## § 1118.2

(2) *Commission* means the Consumer Product Safety Commission.

(3) *Firm* means a manufacturer, private labeler, distributor, or retailer of a consumer product, except as otherwise provided by section 16(b) of the Act.

(4) *Investigation* is an undertaking by the Commission to obtain information for implementing, enforcing, or determining compliance with the Consumer Product Safety Act and the regulations, rules, and orders issued under the Act. The term investigation includes, but is not limited to, inspections (§1118.2), investigational hearings (§1118.5), and inquiries; employing subpoenas (§1118.4), depositions (§1118.6), and general or special orders (§1118.9).

(5) The definition of the terms set forth in section 3 of the Consumer Product Safety Act (15 U.S.C. 2052) shall apply to this part 1118.

(b) *Initiation of Investigations and Inquiries.* Investigations and inquiries will be initiated by the Commission in any manner authorized by law.

(c) *Initiation of Inspections.* An inspection as described in §1118.2 is initiated when the Commission or its delegate authorizes the issuance of a written notice of inspection, described in §1118.2(c).

(d) *Delegations of Authority.* The Commission hereby delegates to the Associate Executive Director for Compliance and Enforcement; the Solicitor, the Directors of the Divisions of Enforcement; the Solicitor, the Directors of the Divisions of Enforcement, Product Defect Correction, and Regulatory Management; and the directors of area offices, the power to initiate inspections in the same manner as the Commission.

### § 1118.2 Conduct and scope of inspections.

(a) After an inspection is initiated as set forth in §1118.1, an officer or employee duly designated by the Commission shall issue the notice of inspection (hereinafter: notice). Upon presenting the notice, along with appropriate credentials, to the person or agent in charge of the firm to be inspected, the Commission officer or employee is authorized for the purposes set forth in §1118.1(a):

(1) To enter, at reasonable times, any factory, warehouse, or establishment in which consumer products are manufactured or held, in connection with distribution in commerce, or any conveyance being used to transport consumer products in connection with distribution in commerce; and

(2) To inspect, at reasonable times and in a reasonable manner, any conveyance or those areas of the factory, warehouse, or establishment where consumer products are manufactured, held, or transported and which may relate to the safety of those products; and

(3) To have access to and to copy all relevant records, books, documents, papers, packaging or labeling which:

(i) Are required by the Commission to be established, made or maintained, or

(ii) Show or relate to the production, inventory, testing, distribution, sale, transportation, importation, or receipt of any consumer product, or that are otherwise relevant to determining whether any person or firm has acted or is acting in compliance with the Act and regulations, rules and orders promulgated under the Act, and

(4) To obtain:

(i) Information, both oral and written, concerning the production, inventory, testing, distribution, sale, transportation, importation, or receipt of any consumer product, and the organization, business, conduct, practices, and management of any person or firm being inspected and its relation to any other person or firm;

(ii) Samples of items, materials, substances, products, containers, packages and packaging, and labels and labeling, or any component at manufacturer's, distributor's or retailer's cost unless voluntarily provided; and

(iii) Information, both oral and written, concerning any matter referred to in the Act and these rules.

(b) A separate notice shall be given for each inspection, but a notice is not required for each entry made during the course of the same inspection. Each inspection shall be commenced at and completed within a reasonable period of time.