

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

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

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

§ 1501.1 Purpose.

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

§ 1501.2 Scope.

(a) This regulation (§ 1500.18(a)(9) and the criteria described in § 1501.4 below) applies to all toys and other articles intended for use by children under 3 years (36 months) of age that are introduced into interstate commerce after the effective date. Such articles include, but are not limited to: squeeze toys; teethers; crib exercisers; crib gyms; crib mobiles; other toys or articles intended to be affixed to a crib, stroller, playpen, or baby carriage; pull and push toys; pounding toys; blocks and stacking sets; bathtub, wading pool and sand toys; rocking, spring, and stick horses and other figures; chime and musical balls and carousels; jacks-in-the-box; stuffed, plush,

and flocked animals and other figures; preschool toys, games and puzzles intended for use by children under 3; riding toys intended for use by children under 3; infant and juvenile furniture articles which are intended for use by children under 3 such as cribs, playpens, baby bouncers and walkers, strollers and carriages; dolls which are intended for use by children under 3 such as baby dolls, rag dolls, and bean bag dolls; toy cars, trucks, and other vehicles intended for use by children under 3. In addition, such articles include any other toys or articles which are intended, marketed or labeled to be entrusted to or used by children under 3 years of age.

(b) In determining which toys and other articles are intended for use by children under 3 years (36 months) of age, for purposes of this regulation, the following factors are relevant: the manufacturer's stated intent (such as on a label) if it is a reasonable one; the advertising, promotion, and marketing of the article; and whether the article is commonly recognized as being intended for children under 3.

(c) This regulation does not apply to toys or articles which are solely intended for use by children 3 years of age or older. In addition, it does not apply to all articles to which children under 3 years of age might have access simply because of presence in a household. Certain articles which are specifically exempted from this regulation are listed in § 1501.3 below.

§ 1501.3 Exemptions.

The following articles are exempt from this regulation (§§ 1500.18(a)(9) and 1501.4 below):

(a) Balloons;

(b) Books and other articles made of paper;

(c) Writing materials such as crayons, chalk, pencils, and pens;

(d) Children's clothing and accessories, such as shoe lace holders and buttons;

(e) Grooming, feeding, and hygiene products, such as diaper pins and clips, barrettes, toothbrushes, drinking glasses, dishes and eating utensils;

(f) Phonograph records;

(g) Modeling clay and similar products;

(h) Fingerpaints, watercolors, and other paint sets;

(i) Rattles (as defined at 16 CFR 1510.2); and

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

§ 1501.4 Size requirements and test procedure.

(a) No toy or other children's article subject to § 1500.18(a)(9) and to this Part 1501 shall be small enough to fit entirely within a cylinder with the dimensions shown in Figure 1, when tested in accordance with the procedure in paragraph (b) of this section. In testing to ensure compliance with this regulation, the dimensions of the Commission's test cylinder will be no greater than those shown in Figure 1. (In addition, for compliance purposes, the English dimensions shall be used. The metric approximations are included only for convenience.)

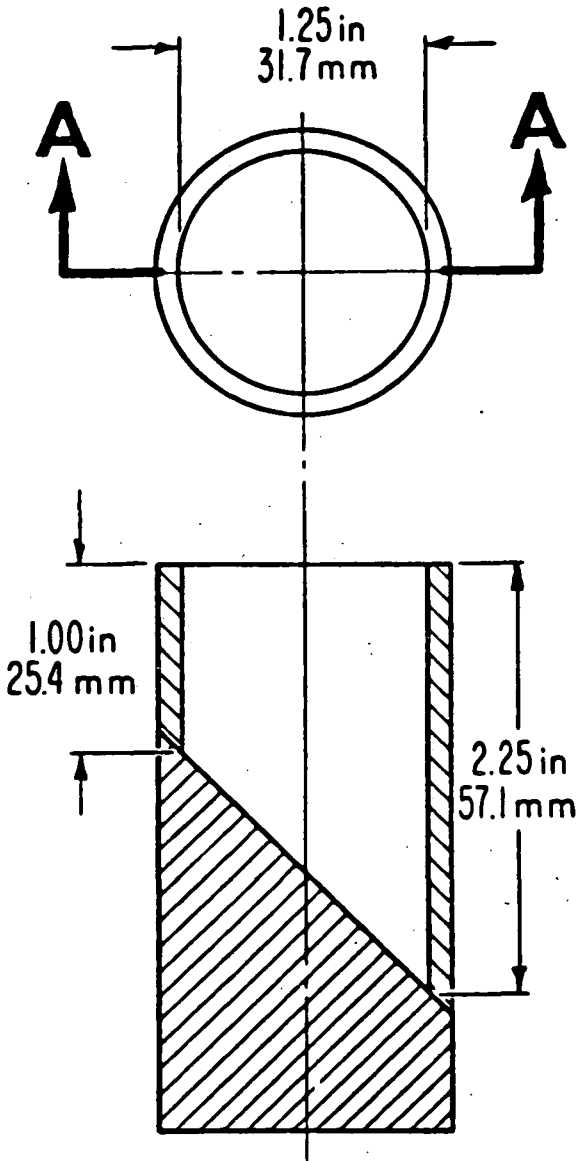
(b)(1) Place the article, without compressing it, into the cylinder. If the article fits entirely within the cylinder, in any orientation, it fails to comply with the test procedure. (Test any detached components of the article the same way.)

(2) If the article does not fit entirely within the cylinder, subject it to the appropriate "use and abuse" tests of 16 CFR 1500.51 and 1500.52 (excluding the bite tests of §§ 1500.51(c) and 1500.52(c)). Any components or pieces (excluding paper, fabric, yarn, fuzz, elastic, and string) which have become

detached from the article as a result of the use and abuse testing shall be placed into the cylinder, one at a time. If any such components or pieces fit entirely within the cylinder, in any orientation and without being compressed, the article fails to comply with the test procedure.

§ 1501.5 Enforcement procedure.

The Commission will enforce this regulation, unless it determines that an emergency situation exists, only in accordance with Chapter 2C—Letters of Advice/Notices of Noncompliance of the CPSC Enforcement Policy and Procedural Guides, issued in May 1979 and available from the CPSC's Office of the Secretary, 1111 18th Street, NW., Washington, D.C. 20207. Under the procedure described in this chapter, firms must be informed by letter that they or their products may be the subject of enforcement action and must be provided ten days within which to submit evidence and arguments that the products are not violative or are not covered by the regulation, prior to the initiation of enforcement action by the Commission or by its delegated staff member. The function of approving such enforcement actions is currently delegated by the Commission to the Associate Executive Director for Compliance and Enforcement (copies of the existing delegation documents are also available from the CPSC's Office of the Secretary).



Section A-A

FIG 1-SMALL PARTS CYLINDER