

§ 1501.3

jacks-in-the-box; stuffed, plush, and flocked animals and other figures; pre-school 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;

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(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.