



# CHOKING HAZARDS

by Adam J. Langino

What do Pokémon, G.I. Joe, and Transformers all have in common? Mediocre movie adaptations? Sure. But, if you are a parent, you may also have noticed something else. Here’s a hint: Small parts have caused choking-related deaths in more than 90 children between 2001 and 2012.<sup>1</sup> The answer? Pokémon, G.I Joe, and Transformers toys often share a similar warning:



**WARNING:**

**CHOKING HAZARD** — Small parts not for children under 3 years or any individuals who have a tendency to place inedible objects in their mouths.

But where did it come from? This article explains the federal regulation relating to choking hazards, discusses whether the regulation is current, highlights the most prominent 2020 choking related recalls, and provides some helpful advice if you encounter a choking infant.

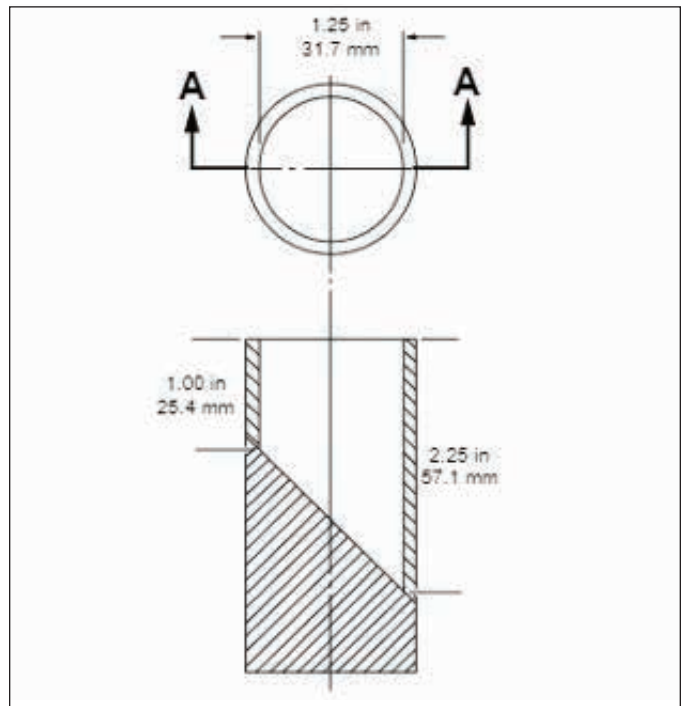
16 C.F.R. 1500.18(a)(9) *Banned toys and other banned articles intended for use by children* bans as hazardous any toy or other article intended for use by children under 3 years of age that presents a choking, aspiration, or ingestion hazard because of small parts. 16 C.F.R Part 1501 *Method for identifying 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* contains the regulations providing the testing method for determining whether a toy or any other 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.<sup>2</sup>

The types of “articles” covered by Part 1501 are wide-ranging, including, but not limited to, squeeze toys; teething rings; crib toys; pull and push toys; blocks and stacking sets; bathtub, pool, and sand toys; chime and musical balls and carousels; stuffed, plush, and flocked animals and other figures; preschool toys, games and puzzles; riding toys; cribs, playpens, baby bouncers, and walkers; strollers and carriages; baby dolls, rag dolls, and bean bag dolls; and toy cars and trucks. However, Part 1501 is not *all encompassing*. In fact, several items are specifically exempt from its requirements, including, “balloons; books; crayons, chalk, pencils, and pens; children’s clothing; rattles; and pacifiers.”<sup>3</sup>

Created in the 1970s, 16 C.F.R. 1501.4 provides the size requirements and test procedures to determine if an article poses a choking hazard.<sup>4</sup> It requires that articles cannot be small enough to fit entirely within a test cylinder (called a “small parts cylinder”) measuring 2.25 inches long by 1.25 inches wide.<sup>5</sup>

To perform the test, a person places the article, without compression, into the cylinder.<sup>6</sup> If the article fits entirely within the cylinder, in any orientation, it fails the test. If it doesn’t, then it must be subject to use and abuse tests prescribed by 16 CFR 1500.51



Section A-A  
Figure 1 - Small Parts Cylinder



and 1500.52. Any pieces that fall off during that testing, must also not fit entirely within the cylinder. If any part does, the article fails.<sup>7</sup> The test was created by the U.S. Consumer Product Safety Commission.<sup>8</sup> Its intent is to measure whether a toy is too large to enter a child's esophagus. If an object fits inside the test cylinder, it is deemed to small and believed to potentially be able to be lodged inside the throat of a child.<sup>9</sup>

However, the 16 CFR 1501.4 test is not without its critics. In *Choking Hazards: Are Current Product Testing Methods for Small Parts Adequate?* several leading child safety researchers examined more than 300 recalled products that presented a choking hazard to infants and you children due to small parts as reported by the U.S. Consumer Product Safety Commission between 2003 and 2014.<sup>10</sup> The researchers found that a notable quantity of articles, about 17 percent, posed a choking hazard even though they passed the cylinder test. The researchers concluded that the current test cylinder size has not completely ruled out choking and related hazards within children's products. It suggested that more research is necessary to determine whether the test cylinder should be enlarged. And noted that a larger test cylinder could theoretically rule out more potential risks and possibilities of choking.<sup>11</sup>

In 2020, choking hazard concerns saw several prominent national children product recalls. Notably, Contigo recalled around 5.7 million kids' water bottles because their silicone spout was detaching.<sup>12</sup> Contigo reported 427 incidents of the spouts detaching, including 27 spouts found in children's mouths.<sup>13</sup>

Target recalled about 122,500 Cat & Jack toddler boots because their elastic lace was detaching.<sup>14</sup> Target received five reports of the elastic laces breaking.

And Bonnsu recalled about 32,300 of its small silicone teether spoons because they were breaking.<sup>15</sup> Bonnsu received one report

of an infant who bit through the silicone teething spoon, resulting in a piece separating inside the infant's mouth.<sup>16</sup>

The National Safety Council (NSC), U.S. nonprofit safety organization focusing on eliminating preventable deaths and injuries<sup>17</sup>, says that infants who are choking require a different rescue procedure than adults. To help a choking infant, the NSC says to clear the airway first. Then, only if the infant cannot cry, cough, or breathe, do the following:<sup>18</sup>

- Support the infant face down by holding the head in one hand with the torso on your forearm against your thigh
- Give up to five back slaps between the shoulder blades with the heel of your other hand
- If the object is not expelled, roll the infant face up, supporting the back of the infant's head with your hand
- Place two fingers on the breastbone just below the nipple line
- Give five chest thrusts about one per second about 1 ½ inches deep
- Continue cycles of five back slaps and five chest thrusts until the object is expelled or the infant becomes unresponsive
- If the infant becomes unresponsive or is found unresponsive, begin CPR.

Birthdays and holidays see many children getting new toys. All of them may not be safe. While the federal standard is a good start, it is the minimum standard, over 40 years old, and research suggests it requires expanding.<sup>19</sup>



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<sup>1</sup> Athena Neofostistos, *Choking Hazards: Are Current Product Testing Methods for Small Parts Adequate*, International Journal of Pediatrics, May 28, 2017, [www.hindawi.com/journals/ijpedi/2017/4705618](http://www.hindawi.com/journals/ijpedi/2017/4705618)

<sup>2</sup> 16 C.F.R. § 1501.1 (2020)

<sup>3</sup> 16 C.F.R. § 1501.3 (2020)

<sup>4</sup> 16 C.F.R. § 1501.4 (2020)

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> 16 C.F.R. § 1501.4 (2020).

<sup>8</sup> Athena Neofostistos, *Choking Hazards: Are Current Product Testing Methods for Small Parts Adequate*, International Journal of Pediatrics (May 28, 2017), [www.hindawi.com/journals/ijpedi/2017/4705618](http://www.hindawi.com/journals/ijpedi/2017/4705618)

<sup>9</sup> *Id.*

<sup>10</sup> Athena Neofostistos, *Choking Hazards: Are Current Product Testing Methods for Small Parts Adequate*, International Journal of Pediatrics (May 28, 2017), [www.hindawi.com/journals/ijpedi/2017/4705618/](http://www.hindawi.com/journals/ijpedi/2017/4705618/) at 2.

<sup>11</sup> *Id.*

<sup>12</sup> Recalls, U.S. Consumer Prod. Safety Comm'n, *Contigo Reannounces Recall of 5.7 Million Kids Water Bottles Due to Choking Hazard; Additional Incidents with Replacement Lids Provided in Previous Recall*, No. 20-074 (2020), [www.cpsc.gov/Recalls/2020/contigo-reannounces-recall-of-5-7-million-kids-water-bottles-due-to-choking-hazard](http://www.cpsc.gov/Recalls/2020/contigo-reannounces-recall-of-5-7-million-kids-water-bottles-due-to-choking-hazard)

<sup>13</sup> *Id.*

<sup>14</sup> Recalls, U.S. Consumer Prod. Safety Comm'n, *Target Recalls Toddler Boots Due to Choking Hazard*, No. 21-021 (2020), [www.cpsc.gov/Recalls/2021/Target-Recalls-Toddler-Boots-Due-to-Choking-Hazard](http://www.cpsc.gov/Recalls/2021/Target-Recalls-Toddler-Boots-Due-to-Choking-Hazard)

<sup>15</sup> Recalls, U.S. Consumer Prod. Safety Comm'n, *Bonnsu Recalls Miniware Teething Spoons Due to Choking Hazard*, No. 20-135 (2020), [www.cpsc.gov/Recalls/2020/Bonnsu-Recalls-Miniware-Teething-Spoons-Due-to-Choking-Hazard](http://www.cpsc.gov/Recalls/2020/Bonnsu-Recalls-Miniware-Teething-Spoons-Due-to-Choking-Hazard)

<sup>16</sup> *Id.*

<sup>17</sup> National Safety Council, *About The National Safety Council* (2020), [www.nsc.org/company](http://www.nsc.org/company)

<sup>18</sup> Safety Topics, National Safety Council, *Choking Prevention and Rescue Tips* (2020), [www.nsc.org/home-safety/safety-topics/choking-and-suffocation](http://www.nsc.org/home-safety/safety-topics/choking-and-suffocation)