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3. Do not publish the draft Federal Register notice.

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Attachment: Staff Briefing Memorandum: *Request for Federal Register Notice Seeking Public Comments on ASTM F963-08 as Required by Consumer Product Safety Improvement Act (CPSIA) Section 106.*



UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, DC 20207

Memorandum

June 8, 2009

TO : Robert J. Howell *RJH*
Assistant Executive Director
Office of Hazard Identification and Reduction (EXHR)

FROM : Jonathan Midgett, Ph.D. *JM*
Program Area Team Coordinator, EXHR

SUBJECT : Request for Federal Register Notice Seeking Public Comments on ASTM F963-08 as Required by Consumer Product Safety Improvement Act (CPSIA) Section 106

On August 14, 2008, the Consumer Product Safety Improvement Act (CPSIA) of 2008 was signed into law. Beginning 180 days after the date of enactment, CPSIA Section 106 mandates the provisions of ASTM International Standard F963-07e1 Consumer Safety Specifications for Toy Safety (ASTM F963), as it exists on the date of enactment (except for section 4.2 and Annex 4 or any provision that restates or incorporates an existing mandatory standard or ban promulgated by the Commission or by statute) shall be considered to be consumer product safety standards issued by the Commission under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058).

On February 17, 2009, ASTM proposed a successor standard, F963-08 for the Commission's consideration. On May 13, 2009, the Commission voted to reject the revisions in ASTM F963-08 that omitted toy chests from the standard, but the rest of the revisions in F963-08 will become mandatory on August 17, 2009.

Section 106(B)(1) of the CPSIA requires the Commission, in consultation with representatives of consumer groups, juvenile product manufacturers, and independent child product engineers and experts, to examine and assess the effectiveness of ASTM F963 or its successor standard (except for section 4.2 and Annex 4), as it relates to safety requirements, safety labeling requirements, and test methods related to —

- (1) internal harm or injury hazards caused by the ingestion or inhalation of magnets in children's products;
- (2) toxic substances;
- (3) toys with spherical ends;
- (4) hemispheric-shaped objects;
- (5) cords, straps, and elastics; and
- (6) battery-operated toys.

Section 106(B)(2) of the CPSIA requires the Commission to promulgate consumer product safety standards that take into account other children's product safety rules and are more stringent than such standards if the Commission determines that more stringent standards would further reduce the risk of injury associated with such products.

CPSA 6(b)(1) CLEARED for PUBLIC
 NO MFRS/PRVT LBLRS OR
PRODUCTS IDENTIFIED *7/2/09*

EXCEPTED BY: PETITION
RULEMAKING ADMIN. PRCDG

WITH PORTIONS REMOVED: _____

To comply with Section 106 of the CPSIA, CPSC staff recommends placing a notice in the Federal Register seeking public comments concerning the effectiveness of ASTM F963-08 in the following areas:

1. Hazardous Magnets – The requirements for toys with magnets address recent incidents involving small high-attraction-force magnets. Ingestion of these magnets can lead to perforations of the gut wall, causing infection, sepsis, or even death, as the magnets attract to each other through different sections of the intestines. To minimize the likelihood of children swallowing hazardous magnets, ASTM F963-08:
 - a. Defines hazardous magnets and hazardous magnetic components as those being small parts and containing a magnet with a Flux Index of 50 or greater.
 - b. Specifies a method for determining a magnet's Flux Index using a gauss meter.
 - c. Prohibits magnetic toys for children up to age 14 from containing hazardous magnets or magnetic components.
 - d. Specifies use and abuse test methods for magnetic toys that are not small parts, but have embedded hazardous magnets, to ensure that hazardous magnets will not liberate from the toy during normal usage. This test method includes cyclic and impact testing.
 - e. Allows hazardous magnets and hazardous magnetic components in hobby, craft and science kits for children over 8 years of age, provided that they contain a hazardous magnet warning.
 - f. Does not require a hazardous magnet warning on magnetic toys that are not small parts, but have embedded hazardous magnets, provided that they pass the specified use and abuse test methods.
2. Toxic Substances – The requirements address the following areas:
 - a. Identification of federally prohibited hazardous substances per the Federal Hazardous Substances Act (FHSA).
 - b. Identification of exemptions to FHSA for certain toys per 16 Code of Federal Regulations (CFR) 1500.85
 - c. Test methods for determining hazardous substance content in accordance with 16 CFR 1500.3.
 - d. Sanitation practices for the manufacture, processing, packaging, or holding of human food in accordance with 21 CFR 110.
 - e. Requirements for toy components intended to be used in contact with Food in accordance with the Food, Drug and Cosmetic Act (FDCA) 21 CFR 170 through 189.
 - f. Requirements for labeling of toy intended to be used in contact with food.
 - g. Requirements for ceramic ware intended to hold food to meet lead and cadmium contamination requirements of FDCA, Section 402 (a) (2) (c), and FDA Compliance Policy Guides.
 - h. Requirements for cosmetics to meet FDCA 21 CFR and additional requirements for cosmetics intended for children under 8 of the FHSA.
 - i. Requirements for paint and similar coatings to meet the lead requirements of the Consumer Product Safety Act (CPSA) 16 CFR 1303.
 - j. Requirements for surface coating content of antimony, arsenic, barium, cadmium, chromium, lead, mercury, or selenium.
 - k. Requirements for cleanliness of cosmetics, liquids, pastes, putties, gels and powders.
 - l. Requirements for the content of stuffing materials for stuffed toys.
 - m. Requirements for content of DEHP (DOP) in pacifiers, rattles and teethers.
3. Toys with spherical ends – The requirements address potential impaction hazards for children up to 48 months with certain toys containing spherical ends. To minimize the likelihood of impaction hazards, ASTM F963-08:

- a. Requires toys weighing less than 1.1-pounds for children up to 18 months that incorporate spherical, hemispherical, or flared ends and are attached to a shaft, handle or support that has a smaller cross section to meet the specified dimensional requirements.
 - b. Requires toys weighing less than 1.1-pounds for children 18 to 48 months having nail, screw or bolt shapes with spherical or hemispherical ends attached to a shaft or handle to meet the specified dimensional requirements.
 - c. Requires preschool play figures for children less than 3 years of age with a round, spherical, or hemispherical end and tapered neck attached to a cylindrical shape and an overall length of 2.5-inches or less to meet the specified dimensional requirements.
4. Hemispheric-shaped objects – The requirements address potential asphyxiation hazards with “cupped” shaped objects that have the potential to fit on a child’s face and allow a vacuum to be formed. To minimize the likelihood of these types of hazards, ASTM F963-08;
- a. Requires certain toy cup, bowl or half-egg shaped objects to meet the specified dimensional and opening requirements.
5. Cords, straps and elastics – The requirements address potential entanglement and strangulation hazards associated with cords, straps and elastics. To minimize the likelihood of these types of hazards, ASTM F963-08:
- a. Requires toys for children less than 18 months with straps or elastics attached or included to be less than 12-inches in the free-state and under a 5 pound load.
 - b. Requires cords, straps and elastics that can form a loop to not permit a head probe when tested under the specified conditions.
 - c. Requires cords, straps and elastics that admit the base of the head probe to contain breakaway features that release at less than 5-pounds when tested in accordance with the specified conditions.
 - d. Requires certain toys with self-retracting pull cords for children less than 18 months of age to not retract under load in accordance with the specified conditions.
 - e. Requires cords, straps and elastics greater than 12-inches long for children less than 36 months of age to not contain beads or other attachments that could tangle to form a loop.
 - f. Requires toy bags for children up to 18 months of age that have a perimeter opening greater than 14-inches to not have a drawstring or cord as a means of closing.
6. Battery-Operated Toys – The requirements address potential risks of injury associated with battery usage in toys intended for use by children. To minimize the likelihood of these types of hazards, ASTM F963-08 requirements address:
- a. Battery overheating.
 - b. Battery Leakage.
 - c. Battery Explosion and fire.
 - d. Potential for choking on or swallowing of batteries.
7. Comments may also be submitted on any other section of ASTM F963-08. Please note that all comments should be restricted to children’s toy safety.