



UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION
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approved and signed.

Date: July 18, 2011

TO: The Commission
Todd A. Stevenson, Secretary

THROUGH: Cheryl A. Falvey, General Counsel
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FROM: Jan S. Carlson, General Attorney
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SUBJECT: Modification to F 963 Notice of Requirements Package

The Commission has before it a package titled, "Third Party Testing for Certain Children's Products; Toys: Requirements for Accreditation of Third Party Conformity Assessment Bodies." The package contains a draft notice of requirements that would establish the accreditation requirements for third party conformity assessment bodies to test toys pursuant to ASTM F 963.

In examining the surface-coating solubility standard in section 4.3.5.2 of F 963-08, staff detected the possibility of a testing overlap. Both section 4.3.5.2 of F 963-08 and 16 CFR part 1303, *Ban of Lead-Containing Paint and Certain Consumer Products Bearing Lead Containing Paint*, require no more than 90 parts per million (ppm) of lead in paint or similar surface coatings. The test conducted under section 4.3.5.2 of F 963-08 is a solubility test that measures how much lead is *extracted* from the paint or similar surface coating. The test conducted under 16 CFR part 1303 measures how much lead *content* is present in the paint or similar surface coating. You cannot extract more lead from paint or a similar surface coating than the amount contained in the paint/surface coating; therefore, a product that has satisfied the lead content test conducted under 16 CFR part 1303 will necessarily satisfy the lead solubility test conducted under section 4.3.5.2 of F 963-08. (The reverse is not true. It is possible that no more than 90 ppm of lead may be extracted from paint or a similar surface coating, even though the paint or similar surface coating contains lead in excess of 90 ppm.)

Therefore, staff recommends modifying the draft notice of requirements to include the following footnote, to appear by "Section 4.3.5.2, Surface Coating Materials – Soluble Test for Metals," which is the first item on the list of sections in ASTM F 963-08 for which the agency will accept the accreditation of third party conformity assessment bodies (page six):

Products subject to 16 CFR part 1303, *Ban of Lead-Containing Paint and Certain Consumer Products Bearing Lead Containing Paint*, that have been tested by a

CPSC Hotline: 1-800-638-CPSC (2772) H CPSC's Web Site: <http://www.cpsc.gov>

CPSC-accepted third party conformity assessment body and found not to exceed the lead limit in 16 CFR part 1303, do not need to be tested to the lead solubility standard in section 4.3.5.2 of ASTM F 963-08.