

(i) A conspicuous card containing the information described in paragraphs (a)(1) and (a)(2) of this section, and a line for the signature of the depositor; and

(ii) Accompanying materials requesting the depositor to sign the card, and return the signed card to the institution.

(c) *Depositors obtained on or before October 13, 2006.* Any depository institution lacking federal deposit insurance may receive any deposit after October 13, 2006, for the account of a depositor who was a depositor on or before that date only if:

(1) The depositor has signed a written acknowledgement described in paragraph (a) of this section; or

(2) The institution has transmitted to the depositor:

(i) A conspicuous card containing the information described in paragraphs (a)(1) and (a)(2) of this section, and a line for the signature of the depositor; and

(ii) Accompanying materials requesting that the depositor sign the card, and return the signed card to the institution.

**NOTE TO PARAGRAPH (C):** The institution must have made the transmission described in paragraph (c)(2) of this section via mail not later than three months after October 13, 2006. The institution must have made a second identical transmission via mail not less than 30 days, and not more than three months, after the first transmission to the depositor in accordance with paragraph (c)(2) of this section, if the institution has not, by the date of such mailing, received from the depositor a card referred to in paragraph (c)(1) of this section which has been signed by the depositor.

(d) *Format and type size.* The disclosures required by this section must be clear and conspicuous and presented in a simple and easy to understand format, type size, and manner.

#### **§ 320.6 Exception for certain depository institutions.**

The requirements of this part do not apply to any depository institution lacking federal deposit insurance and located within the United States that does not receive initial deposits of less than an amount equal to the standard maximum deposit insurance amount from individuals who are citizens or residents of the United States, other than money received in connection with any draft or similar instrument issued to transmit money.

#### **§ 320.7 Enforcement.**

Compliance with the requirements of this part shall be enforced under the Federal Trade Commission Act, 15 U.S.C. 41 *et seq.*

By direction of the Commission.

**Donald S. Clark**

*Secretary*

[FR Doc. 2010-13085 Filed 6-3-10; 10:48 am]

[Billing Code: 6750-0-1-S]

## **CONSUMER PRODUCT SAFETY COMMISSION**

[CPSC Docket No. CPSC-2009-0064]

### **16 CFR Part 1215**

#### **Third Party Testing for Certain Children's Products; Infant Bath Seats: Requirements for Accreditation of Third Party Conformity**

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Notice of Requirements.

**SUMMARY:** The Consumer Product Safety Commission (CPSC or Commission) is issuing a notice of requirements that provides the criteria and process for Commission acceptance of accreditation of third party conformity assessment bodies for testing pursuant to specific CPSC regulations relating to infant bath seats. The Commission is issuing this notice of requirements pursuant to section 14(a)(3)(B)(vi) of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2063(a)(3)(B)(vi)).

**DATES:** *Effective Date:* The requirements for accreditation of third party conformity assessment bodies to assess conformity with 16 CFR part 1215 are effective upon publication of this notice in the **Federal Register**.

Comments in response to this notice of requirements should be submitted by July 6, 2010. Comments on this notice should be captioned "Notice of Requirements for Accreditation of Third Party Conformity Assessment Bodies to Assess Conformity with Part 1215 of Title 16, Code of Federal Regulations."

**ADDRESSES:** You may submit comments, identified by Docket No. CPSC-2009-0064 by any of the following methods:

*Electronic Submissions:* Submit electronic comments in the following way:

*Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments. To ensure timely processing of comments, the Commission is no longer accepting comments submitted by electronic mail (e-mail) except through <http://www.regulations.gov>.

*Written Submissions:* Submit written submissions in the following ways:

Mail/Hand delivery/Courier (for paper, disk, or CD-ROM submissions) preferably in five copies, to: Office of the Secretary, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504-7923.

*Instructions:* All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change to <http://www.regulations.gov>, including any personal information provided. Do not submit confidential business information, trade secret information, or other sensitive or protected information (such as a Social Security Number) electronically; if furnished at all, such information should be submitted in writing.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>.

#### **FOR FURTHER INFORMATION CONTACT:**

Robert "Jay" Howell, Assistant Executive Director for Hazard Identification and Reduction, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814; e-mail [rhowell@cpsc.gov](mailto:rhowell@cpsc.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Introduction**

Section 14(a)(3)(B)(vi) of the CPSA, as added by section 102(a)(2) of the Consumer Product Safety Improvement Act of 2008 (CPSIA), Public Law 110-314, directs the CPSC to publish a notice of requirements for accreditation of third party conformity assessment bodies to assess children's products for conformity with "other children's product safety rules." Section 14(f)(1) of the CPSA defines "children's product safety rule" as "a consumer product safety rule under [the CPSA] or similar rule, regulation, standard, or ban under any other Act enforced by the Commission, including a rule declaring a consumer product to be a banned hazardous product or substance." Under section 14(a)(3)(A) of the CPSA, each manufacturer (including the importer) or private labeler of products subject to those regulations must have products that are manufactured more than 90 days after the **Federal Register** publication date of a notice of the requirements for accreditation, tested by a third party conformity assessment body accredited to do so, and must issue a certificate of compliance with the applicable regulations based on that testing. Section 14(a)(2) of the CPSA, as

added by section 102(a)(2) of the CPSIA, requires that certification be based on testing of sufficient samples of the product, or samples that are identical in all material respects to the product. The Commission also emphasizes that, irrespective of certification, the product in question must comply with applicable CPSC requirements (see, e.g., section 14(h) of the CPSA, as added by section 102(b) of the CPSIA).

This notice provides the criteria and process for Commission acceptance of accreditation of third party conformity assessment bodies for testing pursuant to safety standard for infant bath seats which appears elsewhere in this issue of the **Federal Register**. The standard for infant bath seats will be codified at 16 CFR part 1215. The standard contains the testing methods that conformity assessment bodies will use to assess infant bath seats. The Commission is recognizing limited circumstances in which it will accept certifications based on product testing conducted before the infant bath seat standard becomes effective in six months. The details regarding those limited circumstances can be found in part IV of this document below.

Although section 14(a)(3)(B)(vi) of the CPSA directs the CPSC to publish a notice of requirements for accreditation of third party conformity assessment bodies to assess conformity with "all other children's product safety rules," this notice of requirements is limited to the test methods identified immediately above.

The CPSC also recognizes that section 14(a)(3)(B)(vi) of the CPSA is captioned as "All Other Children's Product Safety Rules," but the body of the statutory requirement refers only to "other children's product safety rules." Nevertheless, section 14(a)(3)(B)(vi) of the CPSA could be construed as requiring a notice of requirements for "all" other children's product safety rules, rather than a notice of requirements for "some" or "certain" children's product safety rules. However, whether a particular rule represents a "children's product safety rule" may be subject to interpretation, and the Commission staff is continuing to evaluate which rules, regulations, standards, or bans are "children's product safety rules." The CPSC intends to issue additional notices of requirements for other rules which the Commission determines to be "children's product safety rules."

This notice of requirements applies to all third party conformity assessment bodies as described in section 14(f)(2) of the CPSA. Generally speaking, such third party conformity assessment

bodies are: (1) Third party conformity assessment bodies that are not owned, managed, or controlled by a manufacturer or private labeler of a children's product to be tested by the third party conformity assessment body for certification purposes; (2) "firewalled" conformity assessment bodies (those that are owned, managed, or controlled by a manufacturer or private labeler of a children's product to be tested by the third party conformity assessment body for certification purposes and that seek accreditation under the additional statutory criteria for "firewalled" conformity assessment bodies); and (3) third party conformity assessment bodies owned or controlled, in whole or in part, by a government.

The Commission requires baseline accreditation of each category of third party conformity assessment body to the International Organization for Standardization (ISO)/International Electrotechnical Commission (IEC) Standard 17025:2005, "General Requirements for the Competence of Testing and Calibration Laboratories." The accreditation must be by an accreditation body that is a signatory to the International Laboratory Accreditation Cooperation-Mutual Recognition Arrangement (ILAC-MRA), and the scope of the accreditation must include testing for any of the test methods identified earlier in part I of this document for which the third party conformity assessment body seeks to be accredited.

(A description of the history and content of the ILAC-MRA approach and of the requirements of the ISO/IEC 17025:2005 laboratory accreditation standard is provided in the CPSC staff briefing memorandum "Third Party Conformity Assessment Body Accreditation Requirements for Testing Compliance With 16 CFR Part 1501 (Small Parts Regulations)," dated November 2008 and available on the CPSC's Web site at <http://www.cpsc.gov/library/foia/foia09/brief/smallparts.pdf>.)

The Commission has established an electronic accreditation registration and listing system that can be accessed via its Web site at <http://www.cpsc.gov/about/cpsia/labaccred.html>.

The Commission stayed the enforcement of certain provisions of section 14(a) of the CPSA in a notice published in the **Federal Register** on February 9, 2009 (74 FR 6396); the stay applied to testing and certification of various products, including infant bath seats. On December 28, 2009, the Commission published a notice in the **Federal Register** (74 FR 68588) revising the terms of the stay. One section of the December 28, 2009, notice addressed

"Consumer Products or Children's Products Where the Commission Is Continuing the Stay of Enforcement Until Further Notice," due to factors such as pending rulemaking proceedings affecting the product or the absence of a notice of requirements. The infant bath seats testing and certification requirements were included in that section of the December 28, 2009, notice. As the factors preventing the stay from being lifted in the December 28, 2009, notice with regard to testing and certifications of infant bath seats were the absence of approved standards and a notice of requirements, publication of this notice along with today's Safety Standard for Infant Bath Seats; Final Rule, have the effect of lifting the stay with regard to these CPSC regulations.

This notice of requirements is effective on June 4, 2010. The final rule announcing the Safety Standard for Infant Bath Seats is effective December 1, 2010. The effect of these twin publications is that each manufacturer (including the importer) or private labeler of a product subject to 16 CFR part 1215 must have any such product manufactured on or after December 2, 2010, tested by a third party conformity assessment body accredited to do so and must issue a certificate of compliance with 16 CFR part 1215 based on that testing.

This notice of requirements is exempt from the notice and comment rulemaking requirements of the Administrative Procedure Act, 5 U.S.C. 553 (see section 14(a)(3)(G) of the CPSA, as added by section 102(a)(2) of the CPSIA (15 U.S.C. 2063(a)(3)(G))).

## II. Accreditation Requirements

### A. Baseline Third Party Conformity Assessment Body Accreditation Requirements

For a third party conformity assessment body to be accredited to test children's products for conformity with the test methods identified earlier in part I of this document, it must be accredited by an ILAC-MRA signatory accrediting body, and the accreditation must be registered with, and accepted by, the Commission. A listing of ILAC-MRA signatory accrediting bodies is available on the Internet at <http://ilac.org/membersbycategory.html>. The accreditation must be to ISO Standard ISO/IEC 17025:2005, "General Requirements for the Competence of Testing and Calibration Laboratories," and the scope of the accreditation must expressly include testing to the test method for infant bath seats included in 16 CFR part 1215, *Safety Standard for*

*Infant Bath Seats.* A true copy, in English, of the accreditation and scope documents demonstrating compliance with these requirements must be registered with the Commission electronically. The additional requirements for accreditation of firewalled and governmental conformity assessment bodies are described in parts II.B and II.C of this document below.

The Commission will maintain on its Web site an up-to-date listing of third party conformity assessment bodies whose accreditations it has accepted and the scope of each accreditation. Once the Commission adds a third party conformity assessment body to that list, the third party conformity assessment body may commence testing of infant bath seats to support certification by the manufacturer or private labeler of compliance with the test methods identified earlier in part I of this document.

#### *B. Additional Accreditation Requirements for Firewalled Conformity Assessment Bodies*

In addition to the baseline accreditation requirements in part II.A of this document above, firewalled conformity assessment bodies seeking accredited status must submit to the Commission copies, in English, of their training documents showing how employees are trained to notify the Commission immediately and confidentially of any attempt by the manufacturer, private labeler, or other interested party to hide or exert undue influence over the third party conformity assessment body's test results. This additional requirement applies to any third party conformity assessment body in which a manufacturer or private labeler of a children's product to be tested by the third party conformity assessment body owns an interest of ten percent or more. While the Commission is not addressing common parentage of a third party conformity assessment body and a children's product manufacturer at this time, it will be vigilant to see if this issue needs to be addressed in the future.

As required by section 14(f)(2)(D) of the CPSA, the Commission must formally accept, by order, the accreditation application of a third party conformity assessment body before the third party conformity assessment body can become an accredited firewalled conformity assessment body.

#### *C. Additional Accreditation Requirements for Governmental Conformity Assessment Bodies*

In addition to the baseline accreditation requirements of part II.A of this document above, the CPSIA permits accreditation of a third party conformity assessment body owned or controlled, in whole or in part, by a government if:

- To the extent practicable, manufacturers or private labelers located in any nation are permitted to choose conformity assessment bodies that are not owned or controlled by the government of that nation;
- The third party conformity assessment body's testing results are not subject to undue influence by any other person, including another governmental entity;
- The third party conformity assessment body is not accorded more favorable treatment than other third party conformity assessment bodies in the same nation who have been accredited;
- The third party conformity assessment body's testing results are accorded no greater weight by other governmental authorities than those of other accredited third party conformity assessment bodies; and
- The third party conformity assessment body does not exercise undue influence over other governmental authorities on matters affecting its operations or on decisions by other governmental authorities controlling distribution of products based on outcomes of the third party conformity assessment body's conformity assessments.

The Commission will accept the accreditation of a governmental third party conformity assessment body if it meets the baseline accreditation requirements of part II.A of this document above and meets the additional conditions stated here. To obtain this assurance, CPSC staff will engage the governmental entities relevant to the accreditation request.

#### **III. How Does a Third Party Conformity Assessment Body Apply for Acceptance of Its Accreditation?**

The Commission has established an electronic accreditation acceptance and registration system accessed via the Commission's Internet site at <http://www.cpsc.gov/about/cpsia/labaccred.html>. The applicant provides, in English, basic identifying information concerning its location, the type of accreditation it is seeking, and electronic copies of its ILAC-MRA accreditation certificate and scope

statement, and firewalled third party conformity assessment body training document(s), if relevant.

Commission staff will review the submission for accuracy and completeness. In the case of baseline third party conformity assessment bodies and government-owned or government-operated conformity assessment bodies, when that review and any necessary discussions with the applicant are satisfactorily completed, the third party conformity assessment body in question is added to the CPSC's list of accredited third party conformity assessment bodies at <http://www.cpsc.gov/about/cpsia/labaccred.html>. In the case of a firewalled conformity assessment body seeking accredited status, when the staff's review is complete, the staff transmits its recommendation on accreditation to the Commission for consideration. (A third party conformity assessment body that may ultimately seek acceptance as a firewalled third party conformity assessment body also can initially request acceptance as a third party conformity assessment body accredited for testing of children's products other than those of its owners.) If the Commission accepts a staff recommendation to accredit a firewalled conformity assessment body, the firewalled conformity assessment body will then be added to the CPSC's list of accredited third party conformity assessment bodies. In each case, the Commission will notify the third party conformity assessment body electronically of acceptance of its accreditation. All information to support an accreditation acceptance request must be provided in the English language.

Once the Commission adds a third party conformity assessment body to the list, the third party conformity assessment body may then begin testing of children's products to support certification of compliance with the regulations identified earlier in part I of this document for which it has been accredited.

#### **IV. Acceptance of Children's Product Certifications Based on Third Party Conformity Assessment Body Testing to the New Safety Standard for Infant Bath Seats Prior to Their Effective Date**

Elsewhere in this issue of the **Federal Register**, the Commission is publishing a new safety standard for infant bath seats, which will be codified at 16 CFR part 1215. The effect of this notice of requirements and the final rule is that each manufacturer (including the importer) or private labeler of a product subject to 16 CFR part 1215 must have

any such product manufactured on or after December 1, 2010 tested by a third party conformity assessment body accredited to do so and must issue a certificate of compliance with 16 CFR part 1215 based on that testing.

To ease the transition to the new standard and avoid a “bottlenecking” of products at conformity assessment bodies at or near the effective date of 16 CFR 1215, the Commission will accept certifications based on testing that occurred prior to the effective date of the new standard in certain prescribed circumstances. However, any such testing must comport with all CPSC requirements, including:

- At the time of product testing, the product was tested by a third party conformity assessment body that was ISO/IEC 17025 accredited by an ILAC-MRA member, and had been accepted by the Commission, at the time of the test.
- The accreditation scope in effect for the third party conformity assessment body at the time of testing expressly included testing to the test method(s) included in 16 CFR part 1215; and
- The test results show compliance with the test methods in the new regulation (16 CFR part 1215).

Dated: May 25, 2010.

**Todd A. Stevenson,**  
Secretary, Consumer Product Safety Commission.

[FR Doc. 2010-13080 Filed 6-3-10; 8:45 am]

BILLING CODE 6355-01-P

## CONSUMER PRODUCT SAFETY COMMISSION

### 16 CFR Part 1215

[CPSC Docket No. CPSC-2009-0064]

#### Safety Standard for Infant Bath Seats: Final Rule

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Final rule.

**SUMMARY:** Section 104(b) of the Consumer Product Safety Improvement Act of 2008 (“CPSIA”) requires the United States Consumer Product Safety Commission (“Commission,” “CPSC,” “we”) to promulgate consumer product safety standards for durable infant or toddler products. These standards are to be “substantially the same as” applicable voluntary standards or more stringent than the voluntary standard if the Commission concludes that more stringent requirements would further reduce the risk of injury associated with the product. We are issuing a safety standard for infant bath seats in

response to the direction under section 104(b) of the CPSIA.

**DATES:** The rule will become effective on December 6, 2010 and apply to products manufactured or imported on or after that date. The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of December 6, 2010.

**FOR FURTHER INFORMATION CONTACT:** Carolyn Manley, Office of Compliance and Field Operations, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504-7607; [cmanley@cpsc.gov](mailto:cmanley@cpsc.gov).

#### SUPPLEMENTARY INFORMATION:

##### A. Background and Statutory Authority

Section 104(b) of the Consumer Product Safety Improvement Act of 2008 (“CPSIA,” Public Law 110-314) requires the Commission to promulgate consumer product safety standards for durable infant or toddler products. Section 104 includes infant bath seats among these products. *See* CPSIA, section 104(f). The standards developed under section 104 of the CPSIA are to be “substantially the same as” applicable voluntary standards or more stringent than the voluntary standard if the Commission concludes that more stringent requirements would further reduce the risk of injury associated with the product. Section 104(b)(2) of the CPSIA directs the Commission to begin rulemaking for two standards by August 14, 2009. Under this provision, the Commission published a notice of proposed rulemaking (“NPR”) in the **Federal Register** of September 3, 2009 (74 FR 45719) proposing a safety standard for bath seats. The proposed standard was substantially the same as a voluntary standard developed by ASTM International (formerly known as the American Society for Testing and Materials), ASTM F 1967-08a, “Standard Consumer Safety Specification for Infant Bath Seats,” with some modifications to strengthen the standard in order to reduce the risk of injury associated with bath seats. The Commission is now issuing a final standard for infant bath seats that is almost the same as the proposed standard it published in September 2009.

##### B. The Product

Infant bath seats are used in a tub or sink to support a seated infant while he or she is being bathed. They are marketed for use with infants between the age of approximately 5 months (the time at which infants can sit up

unassisted) to the age of approximately 10 months (the time at which infants begin pulling themselves up to a standing position). Currently, there are two manufacturers and one importer of bath seats active in the United States (one fewer than at the time the Commission published its proposed rule). All are members of the Juvenile Products Manufacturers Association (“JPMA”), which is the major United States trade association representing juvenile product manufacturers and importers. All produce a variety of children’s products in addition to bath seats.

The exact number of bath seats currently sold or in use is not known. Data from a 2005 survey by the American Baby Group (*2006 Baby Products Tracking Study*), in conjunction with Centers for Disease Control (“CDC”) birth data, indicated annual sales of bath seats of about 1.5 million and about 1.8 million bath seats in use. In 2000, JPMA estimated annual sales of bath seats at about one million and estimated up to 2 million bath seats in use for infants under one year of age.

##### C. ASTM Voluntary Standard

ASTM F 1967, “*Standard Consumer Safety Specification for Infant Bath Seats*,” was first published in 1999. Between 2003 and 2007, the ASTM standard was subsequently revised several times to exclude tub-like products and to include requirements that the Commission had proposed in a notice of proposed rulemaking it issued in 2003, 68 FR 74878 (December 29, 2003).

In response to changes in the ASTM standard, the design of bath seats changed significantly. The new designs use an arm that clamps onto the side of the bath tub rather than relying on suction cups for stability. In its proposed rule, the Commission referenced ASTM F 1967-08a, which was published in December 2008, and contains the same labeling, stability and leg opening requirements as the 2007 version. In April 2010, ASTM published a new version of ASTM F 1967. The differences between the 2008 and 2010 standards are insubstantial (one word in section 8.1.1). The 2010 version adopted none of the changes the Commission proposed. Thus, the final standard continues to reference ASTM F 1967-08a.

JPMA provides certification programs for juvenile products, including bath seats. Manufacturers submit their products to an independent testing laboratory to test the product for conformance to the ASTM standard.