



**FIGURE 11 -- Guardrail Structural Integrity Test**

Dated: April 14, 2011.

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

[FR Doc. 2011-9421 Filed 4-19-11; 8:45 am]

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## CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. CPSC-2009-0064]

### 16 CFR Part 1217

#### Third Party Testing for Certain Children's Products; Toddler Beds: Requirements for Accreditation of Third Party Conformity Assessment Bodies

**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 the CPSC  
regulation relating to toddler beds. 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 1217 are  
effective April 20, 2011.

**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 [rhoell@cpsc.gov](mailto:rhoell@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 the safety standard for toddler beds, which appears elsewhere in this issue of the **Federal Register**. The standard for toddler beds will be codified at 16 CFR part 1217. The standard contains the test methods that conformity assessment bodies will use to assess toddler beds. The Commission is recognizing limited circumstances in which it will accept certifications based on product testing conducted before the toddler bed 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 regulation identified immediately above.

The CPSC also recognizes that section 14(a)(3)(B)(vi) of the CPSA is captioned: “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 to require a notice of requirements for “all” other children’s product safety rules, rather than as 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 Commission staff is continuing to evaluate which rules, regulations, standards, or bans constitute “children’s product safety rules.” The CPSC intends to issue additional notices of requirements for other rules that 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>.

As stated in part I of this document, the Commission, elsewhere in this issue of the **Federal Register**, is issuing a new standard for toddler beds that will be codified at 16 CFR part 1217. This notice of requirements is effective on April 20, 2011. The final rule announcing the Safety Standard for Toddler Beds is effective on October 20, 2011. The effect of these twin publications is that each manufacturer (including the importer) or private labeler of a product subject to 16 CFR part 1217 must have any such product manufactured on or after October 20, 2011, tested by a third party conformity

assessment body accredited to do so and must issue a certificate of compliance with 16 CFR part 1217 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 toddler beds included in 16 CFR part 1217, Safety Standard for Toddler Beds. 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 toddler beds 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, 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 10 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 determine whether 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. The Commission's order must also find that accrediting the firewalled conformity assessment body would provide equal or greater consumer safety protection than the manufacturer's or private labeler's use of an independent 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 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 Web 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 completed satisfactorily, 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 ultimately may seek acceptance as a firewalled third party conformity assessment body may 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 then will be added to the CPSC's list of accepted 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 then may begin testing of children's products to support certification of compliance with the regulation 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 Toddler Beds Prior to Their Effective Date**

Elsewhere in this issue of the **Federal Register**, the Commission is publishing a new safety standard for toddler beds, which will be codified at 16 CFR part 1217. 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 1217 must have any such product manufactured on or after October 20, 2011, tested by a third party conformity assessment body accredited to do so and must issue a certificate of compliance with 16 CFR part 1217 based on that testing.

To ease the transition to the new standards and avoid a "bottlenecking" of products at conformity assessment bodies at or near the effective date of 16 CFR part 1217, 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:

1. The product<sup>1</sup> was tested by a third party conformity assessment body that was ISO/IEC 17025 accredited by a signatory to the ILAC-MRA at the time of the test. For firewalled conformity assessment bodies, the firewalled conformity assessment body must be one that the Commission has accredited by order at or before the time the

<sup>1</sup> 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.

product was tested, even if the order did not include the test methods specified in this notice. If the third party conformity assessment body has not been accredited as a firewalled conformity assessment body by a Commission order, the Commission will not accept a certificate of compliance based on testing performed by the third party conformity assessment body before it is accredited, by Commission order, as a firewalled conformity assessment body;

2. The third party conformity assessment body's application is accepted by the CPSC by October 20, 2011, as established by the Commission;

3. The test results show compliance with 16 CFR part 1217;

4. The product was tested on or after April 20, 2011 and before October 20, 2011; and

5. The third party conformity assessment body's accreditation remains in effect through the effective date for mandatory third party testing and manufacturer/private labeler certification for the subject product's respective regulation.

Dated: April 14, 2011.

**Todd A. Stevenson,**

*Secretary, Consumer Product Safety Commission.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 100

[Docket No. USCG-2011-0258]

#### National Maritime Week Tugboat Races, Seattle, WA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of enforcement of regulation.

**SUMMARY:** The Coast Guard will enforce the Special Local Regulation for the annual National Maritime Week Tugboat Races in Elliott Bay, WA from 12 p.m. through 4:30 p.m. on May 14, 2011. This action is necessary to ensure the safety of all participants and spectators from the inherent dangers associated with these types of races which includes large wakes. During the enforcement period, no person or vessel may enter or remain in the regulated area except for participants in the event, supporting personnel, vessels registered with the event organizer, and personnel or vessels authorized by the Coast Guard Patrol Commander.

**DATES:** The regulations in 33 CFR 100.1306 will be enforced from 12 p.m. through 4:30 p.m. on May 14, 2011.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this notice, call or e-mail Ensign Anthony P. LaBoy, Sector Puget Sound Waterways Management Division, Coast Guard; telephone 206-217-6323, e-mail [SectorPugetSoundWWM@uscg.mil](mailto:SectorPugetSoundWWM@uscg.mil).

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce the Special Local Regulation for the annual National Maritime Week Tugboat Races, Seattle, WA in 33 CFR 100.1306 on May 14, 2011 from 12:00 p.m. through 4:30 p.m. This regulation can be found in the April 27, 1996 issue of the **Federal Register** (61 FR 16710).

A regulated area is established on that portion of Elliott Bay along the Seattle waterfront in Puget Sound bounded by a line beginning at: 47°37'36" N, 122°22'42" W; thence to 47°37'24.5" N, 122°22'58.5" W; thence to 47°36'08" N, 122°20'53" W; thence to 47°36'21" N, 122°20'31" W; thence returning to the origin. This regulated area resembles a rectangle measuring approximately 3,900 yards along the shoreline between Pier 57 and Pier 89, and extending approximately 650 yards into Elliott Bay. Temporary floating markers will be placed by the race sponsors to delineate the regulated area. [Datum: NAD 1983]

No person or vessel may enter or remain in the regulated area except for participants in the event, supporting personnel, vessels registered with the event organizer, and personnel or vessels authorized by the Coast Guard Patrol Commander.

The Coast Guard will establish a patrol consisting of active and auxiliary Coast Guard vessels and personnel in the regulated area described above. The patrol shall be under the direction of a Coast Guard officer or petty officer designated by the Captain of the Port as the Coast Guard Patrol Commander. The Patrol Commander may forbid and control the movement of vessels in this regulated area.

A succession of sharp, short blasts from whistle or horn from vessels patrolling the area under the direction of the Patrol Commander shall serve as a signal to stop. Vessels signaled shall stop and comply with the orders of the patrol vessel. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation.

This notice is issued under authority of 33 CFR 100.1306 and 5 U.S.C. 552(a).

If the Captain of the Port determines that the regulated area need not be enforced for the full duration stated in this notice, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area.

Dated: April 7, 2011.

**S.J. Ferguson,**

*Captain, U.S. Coast Guard, Captain of the Port, Puget Sound.*

[FR Doc. 2011-9532 Filed 4-19-11; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2011-0263]

**RIN 1625-AAOO**

#### Safety Zone; Red River Safety Zone, Red River, MN

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard Captain of the Port, Marine Safety Unit Duluth, MN is establishing a temporary safety zone on the Red River, MN. This safety zone is being established to ensure the safety of the public. The safety zone will prevent individuals from entering all navigable waters of the Red River in the State of Minnesota north of a line drawn across latitude 46°20'00" N, including those portions of the river in Wilkin, Clay, Norman, Polk, Marshall and Kittson counties, to the United States-Canada international border.

**DATES:** This rule is effective in the CFR from April 20, 2011 until July 15, 2011. This rule is effective with actual notice for purposes of enforcement from April 7, 2011 until 5 p.m. on July 15, 2011.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2011-0263 and are available online by going to <http://www.regulations.gov>, inserting USCG-2011-0263 in the "Keyword" box, and then clicking "Search." They are also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call or e-mail Aaron L. Gross, Chief