



UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION
BETHESDA, MD 20814

BALLOT VOTE SHEET

Date: **MAY 11 2009**

TO : The Commission
Todd Stevenson, Secretary

THROUGH: Patricia Semple, Executive Director *PS*

FROM : Cheryl A. Falvey, General Counsel *CAF*
Philip Chao, Assistant General Counsel *PC*
David M. DiMatteo, Attorney *DM*

SUBJECT : Proposed Revision of ASTM F963-07

MAY 13 2009

Ballot Vote Due: _____

Attached is a briefing package from the staff recommending that the Commission accept the proposed revisions submitted in ASTM F963-08 except the revision to section 4.27 regarding toy chests. The General Counsel memorandum is provided under separate cover.

Please indicate your vote on the following options.

I. Accept the staff recommendations and instruct staff to send notification to ASTM to that effect.

Signature Date

II. Reject the staff recommendations and accept the submitted proposed ASTM revisions.

Signature Date

III. Take other action (please specify):

CPSA 6(b)(1) CLEARED for PUBLIC
 NO MFRS/PRVTL BLS OR
PRODUCTS IDENTIFIED

Note: This document has not been reviewed or accepted by the Commission.
Initials *PC* Date *5/11/09*

EXCEPTED BY: PETITION
RULEMAKING ADMIN. PRCDG
WITH PORTIONS REMOVED: _____

Signature

Date

Attachment: Staff Briefing Package, *Proposal to Adopt ASTM F963-08, Standard Consumer Safety Specification for Toy Safety*, memorandum from Jonathan D. Midgett, P.h.D., Program Area Team Coordinator, EXHR, to the Commission, May 2009.



UNITED STATES
 CONSUMER PRODUCT SAFETY COMMISSION
 WASHINGTON, DC 20207

Memorandum

Date: May 11, 2009

TO : The Commission

THROUGH: Todd Stevenson, Secretary *TS*
 Cheryl Falvey, General Counsel *CAF*
 Patricia Semple, Executive Director *PS*

FROM : Robert J. Howell, Assistant Executive Director *RJH*
 Office of Hazard Identification and Reduction
 Jonathan D. Midgett, Ph.D. *JDM*
 Program Area Team Coordinator, EXHR

SUBJECT : Proposal to Adopt ASTM F 963-08, *Standard Consumer Safety Specification for Toy Safety*

Under Section 106(g) of the Consumer Product Safety Improvement Act of 2008 (CPSIA), ASTM International (ASTM) may propose revisions to ASTM F 963-07e1, *Standard Consumer Safety Specification for Toy Safety*, which became mandatory on February 10, 2009. On February 17, 2009, ASTM officially proposed replacing the current consumer product safety rule, F 963-07e1 with F 963-08. This new 2008 version contains revisions to several sections, which are discussed below. The U.S. Consumer Product Safety Commission has 90 days to object or the proposed revision will replace the current version, effective 180 days from the proposal (August 17, 2009). The Office of General Counsel believes that the Commission can object to specific changes without hindering the remaining changes from becoming mandatory.

Summary of Revisions in F 963-08 and CPSC Staff Comments on Revisions

- Magnets
 - Hazardous Magnet Definition (Sections 3.1.33 and 3.1.34) – In F 963-08, “hazardous magnets” and “hazardous magnetic components” are dimensionally defined as fitting inside the small parts cylinder. F 963-07e1 allows magnets and magnetic components with smaller volumes. The proposed increase in size restrictions for intact magnets and magnetic components will reduce the likelihood of ingestion, and CPSC staff believes that this will strengthen the requirements.
 - Age Range for Magnet Requirements (Section 4.38) – F 963-08 increases the relevant product age range for magnetic toy requirements to up to 14 years and prohibits any as-received hazardous magnets or hazardous magnetic components in toys. The current standard allows toys intended for children between 3 and 8 years of age to contain hazardous magnets, if the product has a warning label. CPSC staff believes

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

WITH PORTIONS REMOVED: _____

that this new requirement significantly strengthens the standard. The new version allows hobby, craft, and science kit-type items intended for children over 8 years old to contain hazardous magnets and magnetic components if the product has a warning label. CPSC staff believes that the proposed age range strengthens the standard.

- Magnets Warning (Section 4.39.1) – F 963-07e1 requires a warning label on toys with hazardous magnets or magnetic components intended for children between the ages of 3 and 8 years. F 963-08 does not require a warning label since hazardous magnets and magnetic components that fit within the small parts cylinder are no longer allowed in toys intended for children up to age 14 years.

While not addressable in the immediate Commission task to reject revisions that do not contribute to the safety of toys, CPSC staff wants to note some concerns about the lack of a warning that addresses magnet hazards. Removing the labeling requirement places a high degree of faith in the ability of the use and abuse tests in Section 8.5-8.10 and in the new section 8.24.4 to discover weaknesses in the containment of magnets in a toy. While the tests were designed to be severe, given the wide array of designs and materials that could be employed to encapsulate hazardous magnets in toys, these tests may fail to adequately mimic the period of normal use expected with some magnetic toys. Coupled with the hidden, unexpected nature of the injuries caused by magnet ingestions, staff believes a warning on magnetic toys provides an important component to the general injury prevention strategy addressing gastrointestinal blockages, perforations, sepsis and death caused by ingested magnets. The ASTM subcommittee has discussed creating an “advisory label” that informs consumers of the hazards associated with magnets, but has not proposed any requirements yet. Staff will continue to work on this issue in the future.

- Magnet Testing (Section 8.24.4) – The test methods in F 963-08 add specific use and abuse testing for toy components containing hazardous magnets. The test protocol includes a series of cyclic fatigue, impact, torque, and tension tests, followed by an additional cyclic fatigue test to ensure that magnets are sufficiently encapsulated in the toy. CPSC staff believes that this test protocol is much stronger than the one in F 963-07e1.
- Folding Mechanisms
 - Folding Mechanisms Examples (4.13.1) – F 963-08 adds a list of examples to clarify the scope of the requirement. Staff believes that this does not change the original intent of the section.
 - Locking Devices (4.13.1.1 and 4.13.1.2) – F 963-08 requires locking devices to automatically engage. To release the locking device, a minimum force of 10 lbs is required, or the locking device must have a double-action release mechanism. Staff believes that these new requirements strengthen the standard.

- Toy Chests (Section 4.27)
 - This section was removed from F 963-08 and incorporated into another voluntary standard for toy chests, F 834. The requirements in F 834 remain the same as those in the current toy standard; however, these requirements (or future changes to these requirements) would no longer be mandatory. Staff believes that the proposed revision would not improve the safety of the consumer products covered by the standard.

- Impaction Hazards (Section 4.33)
 - This section is elaborated in F 963-08 (Section 4.32) to include requirements for nail, screw and bolt shaped toys that pose the risk of impaction to children up to 48 months old. This addresses several fatal incidents, and staff believes that it strengthens the standard.

- Yo-Yo Elastic Tether Toys (Section 4.37)
 - The exemptions to the requirements for yo-yo balls were elaborated to exclude tethered balls commonly used for sports training, like soccer balls on elastic bands and baseballs on strings. This clarifies the original intent of the section.

- Jaw Entrapment (New Section 4.39)
 - This new section in F 963-08 describes a probe that restricts the interior dimensions of handles and steering wheels to prevent children from inserting their lower jaw into a space that their teeth could catch on and entrap their jaw inside the handle or steering wheel. Staff believes that this requirement strengthens the standard.

- Measurements of Impulsive Sounds (Section 8.19.2.4)
 - The requirements and test method in F 963-08 for push/pull toys producing impulsive sounds were slightly modified in order to harmonize with the international toy standard, ISO 8124. The change involves using a different sound pressure weighting scale during measurement of the loudness of a toy. This revision should not affect the safety of toys.

In addition to these revisions, the new version contains some minor editorial changes and some additional information in the Annexes. Information in an ASTM standard Annex is non-binding and presented only for educational reference.

The new version also contains the flammability test methods in Section 4.2 and Annex 4 that were specifically excluded by Congress in the CPSIA. These portions of the new version will remain excluded from mandatory status.

Staff Recommendation

CPSC staff believes that ASTM F 963-08 is an improvement over the current version, ASTM F 963-07e1, and is likely to reduce the number of injuries related to toys. However, staff does not believe the omission of requirements for toy chests should be accepted because the proposed deletion would not improve the safety of these consumer products. Staff believes that the requirements for toy chests in F 963-07e1 should remain as mandatory requirements due to the potentially fatal injuries that can occur if toy chests are manufactured in violation of the current requirements. Staff recommends that the Commission reject the deletion of requirements related to toy chests, as allowed by Section 106(g) of the CPSIA, because the proposed revision would not improve the safety of the consumer product covered by the standard.

NOTE REGARDING ASTM F963-08

ASTM F963-08 was provided to the Commission as part of the briefing package. However, ASTM F 963-08 does not appear here because it is copyrighted material.

ASTM F963-07e1 and ASTM F963-08 can be purchased from the American Society for Testing and Materials International's (ASTM) website here:

<http://www.astm.org/DATABASE.CART/HISTORICAL/F963-07E1.htm>

and here:

<http://www.astm.org/Standards/F963.htm>