



U.S. CONSUMER PRODUCT SAFETY COMMISSION

4330 EAST WEST HIGHWAY
BETHESDA, MARYLAND 20814-4408

Record of Commission Action
Commissioners Voting by Ballot*

Commissioners Voting: Chairman Inez M. Tenenbaum
Commissioner Thomas H. Moore
Commissioner Nancy A. Nord

ITEM:

Federal Register (FR) Notice: Notice of Consultation Pursuant to Section 106 of the Consumer Product Safety Improvement Act (CPSIA)

DECISION:

The Commission voted unanimously (3-0) publish the *FR* Notice as drafted, which facilitates the consultation process with interested stakeholders for the examination and assessment of the ASTM F-963 or its successor standard.

Commissioner Nord submitted the attached statement with her vote.

For the Commission:

A handwritten signature in black ink, appearing to read "Todd A. Stevenson".

Todd A. Stevenson
Secretary

* Ballot vote due July 10, 2009



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BETHESDA, MD 20814

**STATEMENT OF COMMISSIONER NANCY NORD
ON SECTION 106 OF THE CONSUMER PRODUCT SAFETY IMPROVEMENT ACT
REGARDING THE EFFECTIVENESS OF ASTM F-963
July 10, 2009**

The Federal Register notice being approved today is a part of an ongoing process to assess, in consultation with interested stakeholders, the adequacy of the ASTM F963 Toy Safety Standard. This process of consultation, examination and assessment is mandated by Section 106 of the Consumer Product Safety Improvements Act ("CPSIA"), which also made the ASTM standard mandatory in February, 2009.

The staff has been engaged in a rigorous process to review the adequacy of the standard and has sought input from consumer and industry representatives, primarily through the ASTM voluntary standards F963 committee meetings and other activities. The notice approved today is yet another effort to seek input into this process. Information from all sources will be carefully reviewed by staff as we assess the adequacy of the standard, as required by the law.

One important issue the staff has been grappling with is the question of duplicative jurisdiction with the Food and Drug Administration. The ASTM standard is very complex and incorporates a number of FDA regulations. Since Congress has legislated the ASTM standard to be a mandatory consumer product safety standard, presumably, then, both CPSC and FDA have authority to enforce those FDA regulations. Obviously, this takes the CPSC into an area where it has no experience and could well lead to regulatory confusion. At a minimum, FDA and CPSC will need to update the existing Memorandum of Understanding between the two agencies to clarify responsibilities. However state attorneys general are not bound by such federal understandings. The issue of duplicative jurisdiction is another issue that Congress may well want to address in clarifying amendments to the CPSIA.