

Testimony Summary of Katharine Morgan, ASTM International

ASTM is a non-profit organization devoted to the development of international standards. ASTM utilizes a consensus-based process to develop standards that promote health, safety and improve quality of life. ASTM does not offer testing and accreditation services, nor do we license a certification mark.

The Consumer Product Safety Act establishes a Federal policy directing CPSC to defer to a consensus standard in lieu of promulgating its own provided important criteria can be met through the consensus standard. Other laws direct agencies to use consensus standards and to participate in their development where possible. The U.S. system of standardization is dynamic and significantly reduces or often eliminates the cost to the Federal government of developing its own standards. For consumers, it provides the first deliverable of a broader conformity assessment process. By encouraging technical experts, consumer advocates and regulators to work together, the process often results in new standards or revisions to standards that reflect changing technology or emerging issues in less time than regulatory action.

ASTM F 963, Specification for Toy Safety, establishes safety requirements for toys used by children under 14 years. Federal toy safety regulations in the U.S. CFR are referenced in F 963. In addition, there are more than 100 separate tests, design specifications and other requirements. Drafted in 1971, ASTM F 963 has been updated many times to address new technology and changes in regulation. Section 4.3 addresses lead and other materials that are toxic, corrosive or irritants. The requirements on lead restriction are from 16 CFR 1303 and directly referenced in Section 4.3.5. Earlier this year, CPSC requested that ASTM coordinate the development of a new standard addressing lead in children's vinyl products. This critical activity has begun.

ASTM has agreements with the leading national and provincial standards bodies in China. ASTM provides access to all ASTM standards to these organizations, sponsors joint training programs; and provides participating membership to Chinese representatives on ASTM committees. We will continue efforts to raise global awareness and understanding of ASTM standards and support U.S. government agencies as they engage China on issues involving standards, product safety and international trade.

While we have had success in working cooperatively to develop ASTM standards like F 963, enhanced awareness and adherence throughout the global value chain is critical to meet safety challenges of the future. Long-term solutions include a conformity assessment system that begins with developing the most diligent standard possible followed by testing and compliance processes that cultivate consumer confidence. For ASTM, its efforts will continue to focus on those elements critical to our mission—ensuring an inclusive process that engages the most balanced and complete representation of stakeholders and providing an environment of structure, technology and tools for those stakeholders to develop the standards that are needed.



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Testimony of

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**House Committee on Energy and Commerce
Subcommittee on Commerce, Trade, and Consumer Protection**

Hearing on

Protecting Children from Lead-Tainted Imports

Introduction

Thank you Chairman Rush, Ranking Member Stearns, and Members of the Subcommittee for the opportunity to participate in this important hearing. I am Katharine Morgan, Vice President of Technical Committee Operations with ASTM International.

ASTM International is a leading non-profit organization devoted to the development of international standards. For more than 100 years, ASTM has served society as a leading venue for consumers, industry and regulators to work collaboratively under a balanced and consensus-based process to craft standards that promote health, safety and improve the overall quality of life.

Unlike other standards development organizations, ASTM focuses almost exclusively on standards development. We do not offer testing and accreditation services, nor do we license a certification mark. As a result of our steadfast focus on standards development, ASTM standards are well known and valued for their technical quality and relevance.

The U.S. Voluntary Consensus Standards System

As this committee knows very well, the Consumer Product Safety Act and its subsequent amendments establishes a Federal policy directing the CPSC to defer to a voluntary consumer product safety standard in lieu of promulgating its own requirements if important criteria are likely to be met through the use of the voluntary standard. This criteria includes a CPSC determination as to whether the utilization of a voluntary standard would eliminate or adequately reduce the risk of injury addressed and whether it is likely that there will be substantial compliance to the standard by industry. The CPSC retains the ultimate authority to promulgate mandatory standards in the event such standards are not effective or substantial compliance is not widespread. Other important Federal laws exist such as the National Technology Transfer and Advancement Act (NTTAA) which direct all agencies to use voluntary consensus standards and to participate in their development where it makes sense to do so.

The United States has a very decentralized voluntary consensus standards system that is driven by the needs of stakeholders. The government is a major participant. But the process requires participation and cooperation of all stakeholders and a commitment towards reaching a consensus. To guide the process, ASTM and many standards development organizations are accredited by the American National Standards Institute and adhere to procedures for due process, openness, balance and transparency. If it is suggested that these procedures are not

being met, there are protective actions such as a right of appeal to preserve the integrity of the process.

The U.S. system of standardization is the most dynamic system in the world. It significantly reduces or often eliminates the cost to the Federal government of developing its own standards. For consumers, it provides an important standards foundation which, when used in conjunction with an effective testing and compliance program, can build consumer confidence in the products that are purchased. But most importantly, the system allows stakeholders – technical experts, consumer advocates and regulators to engage directly in the development process. Led by the private sector, new standards and revisions to existing standards can often be made and incorporated into the marketplace much faster than by an agency rulemaking or other regulatory action. This nimbleness of the system allows timely revisions to standards to reflect changing technology and that establish requirements to address changing hazard patterns or emerging issues.

ASTM Standards and Toy Safety

Of particular interest to today's hearing, ASTM standards are widely used to make toys safer for children to play with and to assist manufacturers in testing components and products to determine levels of lead and other declarable substances.

ASTM Committee F15 on Consumer Products has played an important role in consumer product safety standards for over 30 years. The committee has a broad global membership of approximately 900 professionals, including staff of the Consumer Product Safety Commission (CPSC), consumers, safety advocates, retailers, researchers, medical professionals, academics, test laboratories and representatives of the consumer products industry. Committee F15

encompasses 50 standards-writing subcommittees in different product areas and will form new subcommittees as urgent safety issues and new hazards are identified that lend themselves to a standards solution.

One of the most critical areas of focus for Committee F15 is toy safety. With thousands of new toys introduced to the marketplace each year, ASTM plays a vital role in protecting the safety of children. An important contributor to that safety is ASTM F 963, Consumer Safety Specification for Toy Safety, which establishes recognized safety requirements for toys intended for use by children under the age of 14. ASTM F 963 helps to protect children in countless ways as it relates to possible hazards that may not be recognized readily by the public, but that may be encountered in the normal use for which a toy is intended or after reasonably foreseeable abuse.

Federal toy safety regulations in the U.S. Code of Federal Regulations are referenced in ASTM F 963. In addition, there are more than 100 separate tests, design specifications and other requirements included. These tests and specifications include use-and-abuse tests, testing for accessible sharp points and edges, and measuring for small parts, wheel-pull resistance and projectiles. There are also tests for flammability, toxicity, electrical and thermal requirements, and noise. Manufacturers design products to achieve conformance with such requirements.

ASTM F 963 and Lead in Toys

First drafted in 1971 (and later adopted under ASTM), ASTM F 963 has been enhanced over the years to address new product technology and changes in regulation. Section 4.3 of F 963 addresses lead and other materials that are either toxic, corrosive or irritants. The requirements related to lead restriction are from 16 CFR 1303 which is referenced in F 963,

Section 4.3.5. This requirement has been in the standard since mandated. There have not been any revisions to this section in recent years. Accordingly, the existing ASTM standard and Federal regulations address the key issue of lead in paint on toys.

ASTM F 963 and Magnet Ingestion

ASTM standards are required to be reviewed every five years at a minimum. F 963, due to its comprehensive nature and the dynamics of an evolving industry is under constant evaluation to address changing needs from both a product and emerging hazard standpoint. Recent revisions made to ASTM F 963 include the addition of safety requirements and test methods for yo-yo elastic tether toys; the addition of requirements related to cord, straps and elastics; and revisions to sections that address packaging film, age requirements as they pertain to use and abuse testing, and hemispheric shaped objects.

As this subcommittee knows all too well, there have been incidents in recent years of children swallowing small magnets that were built into toys or that were part of a building play set with small parts intended for older children. These incidents of magnet ingestion drove a recent revision to ASTM F 963 requiring that magnets and magnetic components be reliably contained within a toy or carry a warning describing the dangers posed by functional small ingestible magnets. The subcommittee is further developing the magnets section of F963 and is working on a web based training program to educate the industry, retailers, testing laboratories and others on the new requirements.

The revision of ASTM F 963 containing the initial provisions to address magnets was approved March 15, 2007, nine months following the initial establishment of the task group in June 2006. ASTM members involved in this effort recognized the urgency of the need and

diligently worked together to develop the new safety requirements. Nine months of development time, given the complexity of the task in a full consensus environment, is evidence of the high priority that the various interest groups involved placed on finding a solution.

Lead in Children's Vinyl Products

Requests for new activities as well as the development of new or the revision of existing ASTM standards are received from a variety of sources. Earlier this year, CPSC requested that Committee F15 coordinate the development of a new standard for mitigating lead in certain children's vinyl products. Accordingly, a new F15 subcommittee was created last month regarding "Lead in Children's Vinyl Products". The initial activity as approved at the organizational meeting will focus on the identification of accessible lead in vinyl children's products such as baby bibs and lunch boxes. The scope of the activity could be broadened in the future should it be determined based upon hazard data and risk assessments that it is necessary to do so.

Consumer Participation in ASTM F15

Most major manufacturers of toys, juvenile and related consumer products participate in ASTM F15 as do many major retailers. These individuals are classified as "producers" for the purposes of committee operations and standards development work. Representatives of consumer groups, safety advocates, testing laboratories, academics and government agencies are classified as "non-producers" since they represent a consumer, user or general interest. ASTM's regulations require a balance of interests in two ways – first by allowing only one voter per organization and second by ensuring that the number of voting producers never exceeds the

number of voting non-producers. Thus, no single person or entity can control an ASTM standards committee, its agenda or the content of an ASTM standard.

Staff of the CPSC is actively engaged in the work of ASTM F15, particularly in key subcommittees on toys and related juvenile products. While CPSC attends meetings and actively participates in the standards development process, a Commission policy requires that staff maintain non-official voting status. However, CPSC staff regularly returns abstention ballots with technical comments that are very significant to F15 deliberations.

Consumers and safety advocates continue to play an important role in F15 and other ASTM technical committees by raising awareness of issues, providing valuable input regarding consumer behavior and preferences and recommending entire new subject areas for standardization. These individuals share their experiences and knowledge to create better standards and, ultimately, better products. One of the greatest barriers to participation by consumers has been a lack of financial resources. Recognizing the need to assure that the interests of the public are protected and represented in our standards activities, ASTM provides a level of travel and participation assistance for consumers to attend subcommittee meetings and Committee F15 has a policy of waiving the annual administrative membership fee to encourage a broader participation of consumers. ASTM has also reduced barriers to participation with a full range of electronic initiatives that allow individuals to participate in the standards development process from their computer desktop without ever having to physically attend meetings.

While taking steps to encourage more active consumer participation, Committee F15 is proud of the fact that many leading consumer organizations – including, among others, Kids In Danger, the Consumer Federation of America, Safe Kids, the American Academy of Pediatrics,

Consumers Union, Good Housekeeping, and Keeping Babies Safe – are engaged and are making a difference. Individuals and organizations that do participate in standards development should be applauded for their contributions of time, talent and resources. I wish to thank them for their important efforts and numerous contributions to the development of ASTM safety standards.

ASTM Outreach to China

Much of the focus of today's hearing is on toys imported from China. ASTM has cooperated with the standards bodies in China on numerous initiatives. Major activities include the signing of a cooperation agreement with the Standardization Administration of the People's Republic of China (SAC) and similar agreements with other prominent standards organizations including the Chinese National Institute of Standardization (CNIS) and the Shanghai Institute of Standardization (SIS).

Through our relationships with China's leading standards bodies, ASTM provides our partners in China with access to the full volume of 12,000 ASTM standards; jointly sponsor standards and training programs; provide participating membership to Chinese representatives on ASTM technical committees; and sponsor a professional exchange program encouraging Chinese standards experts to visit ASTM International's Global Headquarters in Pennsylvania for extended study of ASTM and the U.S standards development process.

In return, the Chinese standards bodies promote the acceptance and use of ASTM standards in China; utilize the resources of ASTM to develop Chinese National Standards and reference ASTM standards where applicable in Chinese National Standards (China currently uses over 450 ASTM standards as the basis of their national standards); and to facilitate

connections between Chinese technical experts and ASTM technical committees to ensure that ASTM standards reflect the specific needs of Chinese industry.

ASTM is one of four U.S.-based international standards development organizations that have jointly established the Consortium for Standards and Conformity Assessment (CSCA) in China. Located in Beijing, the CSCA office helps to build cooperative and enduring relationships with Chinese governmental and industry standards associations. It also promotes the understanding and use of ASTM standards and of other U.S.-domiciled SDOs in China. The other members of the consortium are the American Petroleum Institute, ASME International, and CSA America. In addition, ASTM officially opened an office in Beijing earlier this year. The ASTM International Board of Directors met last October in Beijing and also sponsored a day of outreach visits with Chinese industry and government organizations. Follow-up from that event continues.

Through our offices in China, we look forward to working with representatives of Chinese government and industry to raise a greater awareness and understanding of ASTM standards, including F 963. ASTM also looks forward to assisting CPSC and other U.S. government agencies as it engages China on issues involving standards, product safety and international trade.

Conclusion

Consensus standards such as ASTM F 963 exist to address toy safety issues and reduce threats to children from acute mechanical and chronic hazards involving lead and other toxic substances. While we have had great success in working cooperatively with representatives from

the CPSC, industry, consumer groups and other interested stakeholders to develop ASTM standards, enhanced awareness, understanding, and adherence through out all aspects of the global supply chain will be critical in meeting emerging safety challenges of the future. Long term solutions include a conformity assessment system that begins with the development of the most diligent technical standard possible and then is followed by a testing and compliance process that affords consumers the ability to purchase products with a confidence that those products meet the applicable technical and safety standards. For ASTM International, where standards development is the core competency, our efforts will continue to focus on those critical elements needed for responsive and effective standards development – ensuring an inclusive process that engages the most balanced and complete representation of stakeholders and providing the structure, technology and tools needed for those stakeholders to efficiently work and develop the standards that are needed.

I thank you for the opportunity to participate in today's hearing and I look forward to answering your questions.