most stringent receiving water requirements identified in a permit.

Response: NMFS has reassessed its position in the conservation plan. NMFS acknowledges that a lack of sewage treatment in a growing urban area would have negative impacts. Further, NMFS acknowledges that wastewater treatment needs can be tailored to meet a permit's requirements; therefore, this prohibition was removed.

Comment 25: One commenter noted that Type I and II habitat management measures place severe restrictions on any work that would be associated with placing and maintaining undersea electrical cables. The commenter said it is not aware that previous cable circuit installation and subsequent operation have negative impacts on the beluga whale population.

Response: NMFS has no evidence that electrical cable operation or maintenance has had negative impacts on beluga whales. Any cable installation must go through the Corps of Engineers permitting process, as required by law. The goal of the conservation plan is not to restrict development or prohibit maintenance for undersea electrical cables, but rather to protect beluga habitat and allow the population to recover and expand to its historic range. Projects in Type I habitat area (which has been redefined in the conservation plan) should not adversely affect the beluga habitat.

Comment 26: One commenter says that NMFS must continue to study belugas to help future preservation and knowledge efforts, and must not delay actions ensuring the belugas' survival.

Response: With the continued annual decline at 1.5 percent since harvest was regulated in 1999, we agree that conservation actions need to occur immediately. The conservation plan develops a strategy based on: (1) improving our knowledge about the biology of these belugas and the factors that are limiting their population growth; (2) stopping direct losses to the population; (3) protecting valuable habitat; and (4) evaluating the effectiveness of these strategies and the success of the conservations actions in restoring the Cook Inlet stock to its OSP. NMFS pursued a scientifically-based conservation plan while using a precautionary approach to management. As monitoring and studies provide additional scientific information, management can be adjusted accordingly. This section was clarified in the final conservation plan.

Comment 27: One commenter is concerned that NMFS plans to re-assess this stock for possible listing under ESA, and asserts that it is inappropriate for NMFS to abandon the current co-management agreement and conservation measures.

Response: Although NMFS is listing Cook Inlet beluga whales as an endangered species, NMFS will continue to co-manage Cook Inlet belugas with the Cook Inlet hunters and make use of conservation measures under the MMPA while a recovery plan under the ESA is being prepared.

Comment 28: NMFS should not manage or authorize fishing operations that are likely to have an impact on beluga whales. The commenter adds that the draft conservation plan is unclear as to NMFS' role in Federal and State fisheries.

Response: The conservation plan has been clarified to differentiate between managing Federal fisheries and providing input to State fisheries.

Dated: October 16, 2008.

James W. Balsiger,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. E8–25101 Filed 10–17–08; 11:15 am]

BILLING CODE 3510–22–S

CONSUMER PRODUCT SAFETY COMMISSION

Third Party Testing for Certain Children's Products; Notice of Requirements for Accreditation of Third Party Conformity Assessment Bodies To Assess Conformity With Part 1508, Part 1509, and/or Part 1511 of Title 16, Code of Federal Regulations

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of Requirements for Accreditation of Third Party Conformity Assessment Bodies To Assess Conformity With Part 1508, Part 1509, and/or Part 1511 of Title 16, Code of Federal Regulations.

Introduction: The Consumer Product Safety Act (''CPSA''), at section 14(a)(3)(B)(ii) as added by section 102(a)(2) of the Consumer Product Safety Improvement Act of 2008 (''CPSIA''), Public Law 110–314, directs the U.S. Consumer Product Safety Commission (''CPSC'' or ''Commission'') to publish this notice of requirements for accreditation of third party conformity assessment bodies (''third party laboratories'') to test children's products for conformity with the Commission's regulations for full-size baby cribs at 16 CFR part 1508, for non-full-size baby cribs at 16 CFR part 1509, and/or for pacifiers at 16 CFR part 1511.[1] [2] Each manufacturer (including the importer) or private labeler of cribs and/or pacifiers subject to those regulations must have products manufactured more than 90 days after the **Federal Register** publication date of this notice tested by a laboratory accredited to do so and must issue a certificate of compliance with the applicable regulations based on that testing.[3] [4]

The Commission is also recognizing limited circumstances in which testing performed by a laboratory on or after May 16, 2008, 90 days prior to the date of enactment of CPSIA (August 14, 2008), but prior to Commission acceptance of the laboratory's preexisting accreditation, provided that accreditation is accepted not later than December 26, 2008, may form the basis for the certificate of compliance with the crib and/or pacifier regulations required of the manufacturer or private labeler.

This notice provides the criteria and process for Commission acceptance of accreditation of ''third party'' laboratories for testing to the regulations for cribs and/or pacifiers (laboratories that are not owned, managed, or controlled by a manufacturer or private labeler of a children's product to be tested by the laboratory for certification purposes), ''firewalled'' laboratories (those that are owned, managed, or controlled by a manufacturer or private labeler of a children's product to be tested by the laboratory for certification purposes and that seek accreditation under the additional statutory criteria for ''firewalled'' laboratories), and laboratories owned or controlled in whole or in part by a government.

The requirements of this notice are effective upon its publication in the **Federal Register** and are exempted by CPSIA from the notice and comment rulemaking requirements of the Administrative Procedure Act, 5 U.S.C. 553.[5]

[1] Section 102 of CPSIA also required the Commission to publish requirements for accreditation of laboratories for testing to the lead paint ban at 16 CFR part 1303. Those requirements were published in the **Federal Register** on September 22, 2008. 73 *FR* 54564–6.

[2] Children's products are those designed or intended for use primarily by children 12 years old and younger.

[3] Section 14(a)(2) of the CPSA as added by § 102(a)(2) of 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.

[4] Of course, irrespective of certification, the children's product in question must comply with applicable CPSC requirements. See, *e.g.*, CPSA § 14(h) as added by CPSIA § 102(b).

[5] CPSA section 14(a)(3)(G) as added by section 102(a)(2) of CPSIA exempts publication of this

Continued

Baseline accreditation of each category of laboratory to the International Organization for Standardization (''ISO'') Standard ISO/IEC 17025:2005—General Requirements for the Competence of Testing and Calibration Laboratories—is required. 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 compliance with the crib regulations of 16 CFR part 1508 and/or part 1509 and/or the pacifier regulations of part 1511.[6] A laboratory owned or controlled by a manufacturer or private labeler of products to be tested by the laboratory is subject to additional requirements intended to assure that the Commission is immediately and confidentially notified of any attempt by the manufacturer, private labeler or other interested party to hide or exert undue influence over the laboratory's test results. A governmental laboratory may be accredited subject to additional requirements concerning independence of its relationship with the host government and freedom of manufacturers in the host country to elect to use accredited non-government laboratories for certification testing without suffering disadvantage.

The Commission has established an electronic accreditation registration and listing system that can be accessed via its Web site.

Although the accreditation requirements in this notice for testing to the crib and/or pacifier regulations are effective upon their publication in the **Federal Register**, the Commission solicits comments on the accreditation procedures as they apply to that testing and on the accreditation approach in general, since the Commission must publish additional testing laboratory accreditation procedures over the coming months.

DATES: *Effective Date:* The requirements for accreditation of laboratories for testing to the crib and/or pacifier regulations are effective upon publication of this notice in the **Federal Register**, that is October 22, 2008.

Request for Comments: Please provide comments in response to this notice by November 21, 2008. Comments on this notice should be captioned ''Laboratory Accreditation Process for Crib and Pacifier Testing.'' Comments should be submitted to the Office of the Secretary by e-mail at *cpscos@cpsc.gov,* or mailed or delivered, preferably in five copies, to the Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814. Comments may also be filed by facsimile to (301) 504–0127.

FOR FURTHER INFORMATION CONTACT: Robert ''Jay'' Howell, Acting 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*.

I. Accreditation Requirements

A. Baseline Third Party Laboratory Accreditation Requirements

For a third party laboratory to be accredited to test children's products for conformity with the Commission's crib and/or pacifier regulations, 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 regulations of 16 CFR part 1508, 1509, and/or 1511 as applicable to the product(s) to be tested.[7] A true copy 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 laboratories are described below in sections I.B and I.C.

The Commission will maintain on its Web site an up-to-date listing of laboratories whose accreditations it has accepted and the scope of each accreditation. Subject to the limited provisions for acceptance of ''retrospective'' testing performed by other than firewalled laboratories noted in Section III. below, once the Commission adds a laboratory to that list, the laboratory may commence testing of children's products to support certification by the manufacturer or private labeler of compliance with the crib and/or pacifier regulations, as applicable.

B. Additional Accreditation Requirements for Firewalled Laboratories

In addition to the baseline accreditation requirements in section I.A, firewalled laboratories seeking accredited status must submit to the Commission for review copies 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 laboratory's test results. This additional requirement applies to any laboratory in which a manufacturer or private labeler of a children's product to be tested by the laboratory owns a ten percent or more interest. While the Commission is not addressing common parentage of a lab and a children's product manufacturer at this time, it will be vigilant to see if this issue needs to be dealt with in the future.

The Commission must formally accept, by order, the accreditation application of a laboratory before the laboratory can become an accredited firewalled laboratory.

C. Additional Accreditation Requirements for Governmental Laboratories

In addition to the baseline accreditation requirements of section I.A, CPSIA permits accreditation of a laboratory 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 laboratories that are not owned or controlled by the government of that nation;
- The laboratory's testing results are not subject to undue influence by any other person, including another governmental entity;
- The laboratory is not accorded more favorable treatment than other laboratories in the same nation who have been accredited;
- The laboratory's testing results are accorded no greater weight by other

notice from the rulemaking requirements of the Administrative Procedure Act, 5 U.S.C. 553, and from the Regulatory Flexibility Act, 5 U.S.C. 601–612.

[6] A description of the history and content of the ILAC–MRA approach and of the requirements of the ISO 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 1508, Part 1509, and Part 1511 (Cribs and Pacifiers) as Required by the Consumer Product Safety Improvement Act of 2008, October 2008,* available on the CPSC Web site at *http://cpsc.gov/library/foia/foia09/brief/tpacp.pdf.*

[7] A laboratory may seek Commission acceptance of accreditation to test only full-size cribs, only non-full-size cribs, or only pacifiers, or some combination thereof. However, required manufacturer certifications may only be based on testing by a laboratory accredited to test the specific product in question.

governmental authorities than those of other accredited laboratories; and

• The laboratory 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 laboratory's conformity assessments.

The Commission will accept the accreditation of a governmental laboratory if it meets the baseline accreditation requirements of section I.A and meets the conditions stated here. To obtain this assurance, CPSC staff will engage the governmental entities relevant to the accreditation request.

II. How Does a Laboratory 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/businfo/labaccred.html.* The applicant provides 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 laboratory training document(s), if relevant. Commission staff reviews that submission for accuracy and completeness. In the case of baseline third party laboratory accreditation and accreditation of governmental laboratories, when that review and any necessary discussions with the applicant are satisfactorily completed, the laboratory in question is added to the CPSC listing of accredited laboratories at *http://www.cpsc.gov/businfo/labaccred.html.* In the case of a firewalled laboratory seeking accredited status, when the review is complete, the staff transmits its recommendation on accreditation to the Commission for consideration.[8] If the Commission accepts a staff recommendation to accredit a firewalled laboratory, that laboratory will then be added to the CPSC list of accredited laboratories. In each case, the Commission will electronically notify the laboratory of acceptance of its accreditation.

Subject to the limited provisions for acceptance of ''retrospective'' testing performed by other than accredited firewalled laboratories noted in Section III. below, once the Commission adds a laboratory to the list, the laboratory may then commence testing of children's products to support certification of compliance with the crib and/or pacifier regulations, as applicable, by the manufacturer or private labeler.

III. Limited Acceptance of Children's Product Certifications Based on Third Party Laboratory Testing Prior to Commission Acceptance of Accreditation

The Commission will accept a certificate of compliance with the crib and/or pacifier requirements based on testing performed by an accredited third party or governmental laboratory on or after May 16, 2008 (90 days prior to August 14, 2008, the date on which CPSIA was enacted) and thus prior to the Commission's acceptance of the laboratory's accreditation if:

• The laboratory was ISO/IEC 17025 accredited by an ILAC–MRA member at the time of the test;

• The accreditation scope in effect for the laboratory at that time expressly included testing to 16 CFR part 1508, or part 1509, or part 1511, as applicable;

• The laboratory's accreditation application is accepted by the Commission under the procedures of this notice not later than December 26, 2008; and

• The laboratory's accreditation and inclusion of the crib and/or pacifier requirements in its scope remains in effect through the effective date for mandatory third party testing and manufacturer/private labeler certification for cribs and pacifiers.

Testing performed by a firewalled laboratory prior to Commission acceptance of its accreditation cannot be used as the basis for certification by a manufacturer or private labeler with a 10 percent or greater ownership interest in the laboratory pursuant to CPSA section 14(a)(3)(B)(ii) of compliance with the crib and/or pacifier regulations.

Dated: October 15, 2008.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. E8–25096 Filed 10–21–08; 8:45 am]

BILLING CODE 6355–01–P

[8] A laboratory that may ultimately seek acceptance as a firewalled laboratory could initially request acceptance as a third party laboratory accredited for testing of children's products other than those of its owners.

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before November 21, 2008.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, *Attention:* Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, Washington, DC 20503. Commenters are encouraged to submit responses electronically by e-mail to *oira_submission@omb.eop.gov* or via fax to (202) 395–6974. Commenters should include the following subject line in their response ''Comment: [insert OMB number], [insert abbreviated collection name, e.g., ''Upward Bound Evaluation'']. Persons submitting comments electronically should not submit paper copies.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: October 16, 2008.

Sheila Carey,

Acting Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Office of Special Education and Rehabilitative Services

Type of Review: Revision.

Title: IDEA Part B State Performance Plan (SPP) and Annual Performance Report (APR).

Frequency: Annually.