EXHIBIT 1

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State of California Secretary of State



I, DEBRA BOWEN, Secretary of State of the State of California, hereby certify:

That the attached transcript of _____ page(s) has been compared with the record on file in this office, of which it purports to be a copy, and that it is full, true and correct.



IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of

APR 1 3 2007

Bowen

DEBRA BOWEN Secretary of State

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ARTICLES OF INCORPORATION

I

ENDORSED - FILED in the office of the Secretary of State of the State of California

A. The name of this corporation is **PUBLIC.RESOURCE.ORG**, INC.

APR 1 3 2007

Π

- A. This corporation is a nonprofit Public BENEFIT CORPORATION and is not organized for the private gain of any person. It is organized under the NonproFIT Public BENEFIT CORPORATION LAW FOR Public AND CHARITABLE PURPOSES.
- B. The specific purpose of this corporation is to create, architect, design, implement, operate and maintain public works projects on the Internet for EDUCATIONAL, CHARITABLE, AND SCIENTIFIC PURPOSES to the benefit of the general public and the public interest; to increase and diffuse knowledge about the Internet in its broadest sense; to promote and facilitate the expansion, development, and growth of the public infrastructure of the Internet by any means consistent with the public interest through other activities, including, but not limited to, publications, meetings, conferences, training, educational seminars, and the issuance of grants and other financial support to educational institutions, foundations and other organizations exclusively for EDUCATIONAL, CHARITABLE, AND SCIENTIFIC PURPOSES.

III

A. The name and address in the State of California of this corporation's initial agent for service of process is:

Carl Malamud Public.Resource.Org, Inc. c/o O'Reilly Media 1005 Gravenstein Highway North Sebastopol, CA 95472

IV

- A. This corporation is organized and operated exclusively for CHARITABLE PURPOSES within the meaning of Section 501(c)(3), Internal Revenue Code.
- B. No SUBSTANTIAL PART OF THE ACTIVITIES of this corporation shall consist of carrying on propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate or intervene in any political campaign (including the publishing or distribution of statements) on behalf of any candidate for public office.

V

A. The property of this corporation is **IRREVOCABLY DEDICATED TO CHARITABLE PURPOSES** and no part of the net income or assets of this corporation shall ever inure to the benefit of any director, officer or member thereof or to the benefit of any private person. Upon the dissolution or winding up of the corporation, its assets remaining after payment, or provision for payment, of all debts and liabilities of this corporation shall be distributed to a nonprofit fund, foundation or corporation which is organized and operated **EXCLUSIVELY FOR CHARITABLE PURPOSES** and which has established its tax exempt status under Section 501(c)(3), Internal Revenue Code.



Carl Malamud, Incorporator

EXHIBIT 2

Public Safety Standards United States (Federal Government)

In order to promote public education and public safety, equal justice for all, a better informed citizenry, the rule of law, world trade and world peace, this legal document is hereby made available on a noncommercial basis, as it is the right of all humans to know and speak the laws that govern them. (See also State and Local codes.)

STANDARD 🍒	YEAR 🔽	ORGANIZATION 🍒	TITLE 🍒	CFR AUTHORITY 🔽
3M 0222	1995	3M Corporation	Organochlorine Pesticides and PCBs in Wastewater Using Empore Disk	40 CFR 136.3(a) Table ID
AA CONSTRUCT	1971	Aluminum Association	Aluminum Construction Manual	24 CFR 200, Subpart S
AA	1967	Aluminum Association	Aluminum Construction Manual	24 CFR 200, Subpart S
AA DATA	1982	Aluminum Association	Aluminum Standards and Data, Seventh Edition	49 CFR 178.65(b)(2)
AAMA 101-IS2	1997	American Architectural Manufacturers Association	Voluntary Specifications for Aluminum, Vinyl (PVC) and Wood Windows and Glass Doors	10 CFR 434.402.2.2.4
AAMA 605	1998	American Architectural Manufacturers Association	Voluntary Specification, Performance Requirements and Test Procedures for High Performance Organic Coatings on Aluminum Extrusions and Panels	40 CFR 59.401
AAMA 1002.10	1993	American Architectural Manufacturers Association	Aluminum Insulating Products for Windows and Sliding Glass Doors	24 CFR 200.938
AAMA 1102.7	1989	American Architectural Manufacturers Association	Voluntary Specifications for Aluminum Storm Doors	10 CFR 440 Appendix A
AAMA 1503.1	1988	American Architectural Manufacturers Association	Voluntary Test Method for Thermal Transmittance and Condensation Resistance of Windows, Doors and Glazed Wall Sections	24 CFR 3280.508(e)
AAMA 1702.2	1995	American Architectural Manufacturers Association	Swinging Exterior Passage Doors Voluntary Standard for Utilization in Manufactured-Housing	24 CFR 3280.405(e)(2)
AAMA 1704	1985	American Architectural Manufacturers Association	Voluntary Standard Egress Window Systems for Utilization in Manufactured-Housing	24 CFR 3280.404(b)
AAMD	1973	American Association on Mental Deficiency	Classification in Mental Retardation	42 CFR 483.102(b)(3)(i)
AAMVA CDLIS.2.0	1998	American Association of Motor Vehicle Administrators	Commercial Driver License Information System (CDLIS) State Procedures	49 CFR 384.231(d)
AASHTO	1973	American Association of State Highway and Transportation Officials	Standard Specifications for Highway Bridges	24 CFR 200, Subpart S
AASHTO	2001	American Association	A Policy on Geometric Design of	23 CFR 625.4

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		of State Highway and Transportation Officials	Highways and Streets	
AASHTO	2005	American Association of State Highway and Transportation Officials	A Guide for Accommodating Utilities Within Highway Right-of-Way	23 CFR 645.211
AATCC 118	1997	American Association of Textile Chemists and Colorists	Oil Repellency: Hydrocarbon Resistance Test	10 CFR 430 Subpart B, App. J1, 2.6.4.5.1
AATCC 124	1996	American Association of Textile Chemists and Colorists	Appearance of Durable Press Fabrics After Repeated Home Laundering	16 CFR 1615.32(a)(1)
ABYC A-01	1993	American Boat and Yacht Council	Marine Liquified Petroleum Gas Systems	46 CFR 184.240(a)
ABYC A-07	1973	American Boat and Yacht Council	Boat Heating Systems	46 CFR 184.200
ABYC A-16	1997	American Boat and Yacht Council	Electric Navigation Lights	46 CFR 25.10-3(a)(2)
ABYC A-22	1993	American Boat and Yacht Council	Marine Compressed Natural Gas Systems	46 CFR 184.240(b)
ABYC E-01	1973	American Boat and Yacht Council	Bonding of Direct Current Systems	46 CFR 28.345(b)
ABYC E-09	1990	American Boat and Yacht Council	Direct Current (DC) Electrical Systems on Boats	46 CFR 183.340(b)(4)
ABYC H-02	1989	American Boat and Yacht Council	Ventilation of Boats Using Gasoline	46 CFR 28.340(c)
ABYC H-22	1986	American Boat and Yacht Council	DC Electric Bilge Pumps Operating Under 50 Volts	46 CFR 182.500(b)
ABYC H-24	1993	American Boat and Yacht Council	Gasoline Fuel Systems	46 CFR 182.455(c)
ABYC H-25	1994	American Boat and Yacht Council	Portable Gasoline Fuel Systems for Flammable Liquids	46 CFR 182.130
ABYC H-32	1987	American Boat and Yacht Council	Ventilation of Boats Using Diesel Fuel	46 CFR 182.470(c)
ABYC H-33	1989	American Boat and Yacht Council	Diesel Fuel Systems	46 CFR 182.130
ABYC P-01	1993	American Boat and Yacht Council	Safe Installation of Exhaust Systems for Propulsion and Auxiliary Engines	46 CFR 182.130
ABYC P-04	1989	American Boat and Yacht Council	Marine Inboard Engines	46 CFR 182.420(b)
ACGIH	1987	American Conference of Governmental Industrial Hygienists	Guidelines for the Selection of Chemical Protective Clothing, Third Edition	46 CFR 153.933(a)
ACGIH	1998	American Conference of Governmental Industrial Hygienists	Industrial Ventilation Manual	40 CFR 63.2984(e)
ACI 318	1995	American Concrete Institute	Building Code Requirements for Reinforced Concrete	30 CFR 250.901(d)(1)
ACI	1980	American Concrete Institute	Manual of Concrete Practice, Part 1	24 CFR 200, Subpart S

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ACRI 210-240	2003	Air Conditioning and Refrigeration Institute	Unitary Air-Conditioning and Air- Source Heat Pump Equipment	10 CFR 431.96
ACRI 310/380	2004	Air-Conditioning, Heating and Refrigeration Institute	Packaged Terminal Air-Conditioners and Heat Pumps	10 CFR 431.96, Table 1
ACRI 320	1998	Air-Conditioning, Heating, and Refrigeration Institute	Water Source Heat Pumps	10 CFR 434.403
ACRI 325	1998	Air-Conditioning, Heating, and Refrigeration Institute	Ground Water-Source Heat Pumps	10 CFR 434.403
ACRI 330	1998	Air-Conditioning, Heating, and Refrigeration Institute	Ground-Source Closed-Loop Heat Pumps	10 CFR 434.403
ACRI 340-360	2004	Air Conditioning and Refrigeration Institute	Commercial and Industrial Unitary Air-Conditioning and Heat Pump Equipment	10 CFR 434.403
ACRI 365	1994	Air Conditioning and Refrigeration Institute	Commercial and Industrial Unitary Air-Conditioning Condensing Units	10 CFR 434.403
ACRI 1200	2006	Air Conditioning and Refrigeration Institute	Performance Rating of Commercial Refrigerated Display Merchandisers and Storage Cabinets	10 CFR 431.66(a)(3)
AERA	1999	American Educational Research Association	Standard for Educational and Psychological Testing	34 CFR 668.148(a)(2) (iv)
AFPA	2001	American Forest and Paper Association	National Design Specification for Wood Construction With Supplemental Design Values for Wood Construction	24 CFR 3280.304(b)(1)
AGA 3.1	1990	American Gas Association	Orifice Metering of Natural Gas and Other Related Hydrocarbon Fluids: Part 1	40 CFR 75, Appendix D
AGA	2001	American Gas Association	Purging Principles and Practices	49 CFR 193.2615
AHA A135.4	1995	American Hardboard Association	Basic Hardboard	24 CFR 3280.304(b)(1)
AHA A135.5	1995	American Hardboard Association	Prefinished Hardboard Paneling	24 CFR 3280.304(b)(1)
AHA A135.6	1998	American Hardboard Association	Hardboard Siding	24 CFR 3280.304(b)(1)
AHAM DW-1	1992	Association of Home Appliance Manufacturers	Household Electric Dishwashers	10 CFR 430 Subpart B
AHAM HLD-1	1974	Association of Home Appliance Manufacturers	Performance Evaluation Procedure for Household Tumble Type Clothes Dryers	10 CFR 430 Subpart B
AHAM HRF-1	1979	Association of Home Appliance Manufacturers	Household Refrigerators, Combination Refrigerator-Freezers, and Household Freezers	10 CFR 430 Subpart B
AHPA	1992	American Herbal Products Association	Herbs of Commerce	21 CFR 101.4(h)
AI MSI-1	1970	Asphalt Institute	Thickness DesignFull Depth	24 CFR 200, Subpart S

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AIHA	1994	American Industrial Hygiene Association	Laboratory Ventilation Workbook	42 CFR 52b.12(c)(10)
AIMM MS41	1996	Association for Information and Image Management	Dimensions of Unitized Microfilm Carriers and Apertures (Aperture, Camera, Copy and Image Cards)	36 CFR 1238.10(a)(1)
AIMM IT2.18	1996	Association for Information and Image Management	PhotographyDensity MeasurementsPart 3: Spectral Conditions	36 CFR 1238.14(d)(2)
AIMM/PIMA IT9.2	1998	Association for Information and Image Management	Photographic Processed Films, Plates, and PapersFiling Enclosures and Storage Containers	36 CFR 1238.10(a)(1)
AIMM/PIMA IT9.11	1998	Association for Information and Image Management	Imaging MaterialsProcessed Safety Photographic FilmStorage	36 CFR 1234.14(b)(1)
AIMM IT9.23	1996	Association for Information and Image Management	Imaging MaterialsPolyester Based Magnetic TapeStorage	36 CFR 1234.14(b)(2)
AIMM/PIMA IT9.25	1998	Association for Information and Image Management	Imaging MaterialsOptical Disc MediaStorage	36 CFR 1234.14(b)(3)
AIMM MS1	1996	Association for Information and Image Management	Recommended Practice for Alphanumeric Computer-Output MicroformsOperational Practices for Inspection and Quality Control	36 CFR 1238.14(c)
AIMM MS5	1992	Association for Information and Image Management	Microfiche	36 CFR 1238.10(b)
AIMM MS14	1996	Association for Information and Image Management	Specifications for 16mm and 35mm Roll Microfilm	36 CFR 1238.10(a)(1)
AIMM MS19	1993	Association for Information and Image Management	Standard Recommended Practice Identification of Microforms	36 CFR 1238.12(c)
AIMM MS23	1998	Association for Information and Image Management	Standard Recommended Practice Production, Inspection, and Quality Assurance of First-Generation, Silver Microforms of Documents	36 CFR 1238.14(d)(2)
AIMM MS32	1996	Association for Information and Image Management	Microrecording of Engineering Source Documents on 35 mm Microfilm	36 CFR 1238.10(a)(1)
AIMM MS43	1998	Association for Information and Image Management	Standard Recommended Practice Operational ProceduresInspection and Quality Control of Microfilms and Documents	36 CFR 1238.14(d)(1)(i)
AIMM MS45	1990	Association for Information and Image Management	Recommended Practice for Inspection of Stored Silver-Gelatin Microforms for Evidence of Deterioration	36 CFR 1238.22(d)(1)
AIMM TR34	1996	Association for Information and Image	Sampling Procedures for Inspection by Attributes of Images in Electronic	36 CFR 1237.28(d)(2)

Public	Safety Standards of the	e United States	01015 TCC Desuma	at 100 1 Filed 10/00/15 Degree 0	of 200
		ase 1:13-cv-	Management	In 122-1 Filed 12/22/15 Page 9 Image Management and Micrographic Systems	01 298
A	ALCIDE 980342EA	1995	Alcide Corporation	Determination of Sodium Chlorite: 50 ppm to 1500 ppm concentration	21 CFR 173.325(g)
A	AMCA 210	1999	Air Movement and Control Association	Laboratory Methods of Testing Fans for Ratings	10 CFR 430 Subpart B, App. M
J	I-STD-102	2011	Alliance for Telecommunications Industry Solutions	Joint ATIS/TIA CMAS Federal Alert Gateway to CMSP Gateway Interface Text Specification	Warning, Alert and Response Network (WARN) Act of 2006
Т	TELCO FAQ	1891	American Telephone and Telegraph	Practical Information for Telephonists	
A	ANSI A10.3	1970	American National Standards Institute	Safety Requirements for Powder Actuated Fastening Systems	29 CFR 1926
A A	ANSI A10.4 (pdf) ANSI A10.4 (html)	1963	American National Standards Institute	Safety Requirements for Workmens Hoists	29 CFR 1926
A A	ANSI A10.5 (pdf) ANSI A10.5 (html)	1969	American National Standards Institute	Safety Requirements for Material Joists	29 CFR 1926
A A A	ANSI A14.1 (pdf) ANSI A14.1 (html) ANSI A14.1 (svg)	1990	American National Standards Institute	LaddersWoodSafety Requirements	29 CFR 1917
A A A	ANSI A14.2 (pdf) ANSI A14.2 (html) ANSI A14.2 (svg)	1990	American National Standards Institute	LaddersPortable MetalSafety	29 CFR 1917
A A	ANSI A92.2 (pdf) ANSI A92.2 (html)	1969	American National Standards Institute	Vehicle Mounted Elevating and Rotating Work Platforms	29 CFR 453
A A	ANSI B7.1 (pdf) ANSI B7.1 (html)	1970	American National Standards Institute	Safety Code for the Use, Care, and Protection of Abrasive Wheels	29 CFR 1926
A A A	ANSI B20.1 (pdf) ANSI B20.1 (html) ANSI B20.1 (svg)	1957	American National Standards Institute	Safety Code for Conveyors, Cableways, and Related Equipment	29 CFR 1926
A A A	ANSI B30.6 (pdf) ANSI B30.6 (html) ANSI B30.6 (svg)	1969	American National Standards Institute	Safety Code for Derricks	29 CFR 1926
A	ANSI B36.19	1979	American National Standards Institute	Welded and Seamless Wrought Steel Pipe	24 CFR 3280.705(b)(1)
A A A	ANSI B56.1 (pdf) ANSI B56.1 (html) ANSI B56.1 (svg)	1969	American National Standards Institute	Safety Standard for Powered Industrial Trucks	29 CFR 1926
A	ANSI N14.1	2001	American National Standards Institute	Packaging of Uranium Hexafluoride for Transport	49 CFR 173.420(a)(1)
A A	ANSI O1.1 (pdf) ANSI O1.1 (html)	1961	American National Standards Institute	Safety Code for Woodworking Machinery	29 CFR 1926
A	ANSI S1.4	1983	American National Standards Institute	Specifications for Sound Level Meters	7 CFR 1755.522(s)(3)(v)
A	ANSI S1.11	2004	American National Standards Institute	Specification for Octave, Half- Octave, and Third Octave Band Filter Sets	49 CFR 227
A	ANSI S1.25	1991	American National Standards Institute	Specification for Personal Noise Dosimeters	49 CFR 227.103(c)(2)(iii)
A	NSI S1.40	1984	American National	Specification for Acoustical	49 CFR 229, Appendix I

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		Standards Institute	Calibrators	
ANSI S1.43	1997	American National Standards Institute	Specifications for Integrating- Averaging Sound Level Meters	49 CFR 227.103(c)(2)(ii)
ANSI S3.22 (pdf) ANSI S3.22 (html)	2003	American National Standards Institute	Specification of Hearing Aid Characteristics	21 CFR 801
ANSI Z35.1 (pdf) ANSI Z35.1 (html) ANSI Z35.1 (svg)	1968	American National Standards Institute	Specifications for Accident Prevention Signs	29 CFR 1926
ANSI Z35.2 (pdf) ANSI Z35.2 (html) ANSI Z35.2 (svg)	1968	American National Standards Institute	Specifications for Accident Prevention Tags	29 CFR 1926
ANSI Z49.1 (pdf) ANSI Z49.1 (html)	1967	American National Standards Institute	Safety in Welding and Cutting	29 CFR 1926
ANSI Z87.1 (pdf) ANSI Z87.1 (html) ANSI Z87.1 (svg)	2003	American National Standards Institute	Practice for Occupational and Educational Eye and Face Protection	29 CFR 1910
ANSI Z88.2 (pdf) ANSI Z88.2 (html) ANSI Z88.2 (svg)	1992	American National Standards Institute	American National Standard for Respiratory Protection	30 CFR 250
ANSI Z89.1 (pdf) ANSI Z89.1 (html)	1969	American National Standards Institute	Safety Requirements for Industrial Head Protection	29 CFR 1926
ANSI Z89.2 (pdf) ANSI Z89.2 (html)	1971	American National Standards Institute	Industrial Protective Helmets for Electrical Workers	29 CFR 1926
ANSI Z90.4 (pdf) ANSI Z90.4 (html)	1984	American National Standards Institute	Protective Headgear for Bicyclists	16 CFR 1203
ANSI Z245.1 (pdf) ANSI Z245.1 (html) ANSI Z245.1 (svg)	1992	American National Standards Institute	Mobile Refuse Collection and CompactionSafety Requirements	40 CFR 243
ANSI Z245.2 (pdf) ANSI Z245.2 (html)	1997	American National Standards Institute	Stationary CompactorsSafety Requirements	40 CFR 243
AOAC	1990	AOAC International	Official Methods of Analysis (Volume 1)	9 CFR 318.19(b)
AOAC	1980	AOAC International	Official Methods of Analysis, 1980	21 CFR 131.150(c)
APA 87-1	2001	American Pyrotechnics Association	Standard for Construction and Approval for Transportation of Fireworks and Novelties	49 CFR 173.56(j)(1)
APHA Method 2120 (pdf) APHA Method 2120 (html)	1992	American Public Health Association	Standard Methods for the Examination of Water and Wastewater	40 CFR 141.121
APHA Method 2130 (pdf) APHA Method 2130 (html)	1992	American Public Health Association	Standard Methods for the Examination of Water and Wastewater	40 CFR 141.121
APHA Method 2320 (pdf) APHA Method 2320 (html)	1992	American Public Health Association	Standard Methods for the Examination of Water and Wastewater	40 CFR 136.3(a)

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APHA Method 2510 (pdf) APHA Method 2510 (html)	1992	American Public Health Association	Standard Methods for the Examination of Water and Wastewater	raye 1.	40 CFR 141.121
APHA Method 2550 (pdf) APHA Method 2550 (html)	1992	American Public Health Association	Standard Methods for the Examination of Water and Wastewater		40 CFR 141.121
APHA Method 2580	1992	American Public Health Association	Standard Methods for the Examination of Water and Wastewater		40 CFR 141.121
APHA Method 3111 (pdf) APHA Method 3111 (html)	1992	American Public Health Association	Standard Methods for the Examination of Water and Wastewater		40 CFR 444.12
APHA Method 3112 (pdf) APHA Method 3112 (html)	1992	American Public Health Association	Standard Methods for the Examination of Water and Wastewater		40 CFR 444.12
APHA Method 3113 (pdf) APHA Method 3113 (html)	1992	American Public Health Association	Standard Methods for the Examination of Water and Wastewater		40 CFR 444.12
APHA Method 3114	1992	American Public Health Association	Standard Methods for the Examination of Water and Wastewater		40 CFR 444.12
APHA Method 3120	1992	American Public Health Association	Standard Methods for the Examination of Water and Wastewater		40 CFR 444.12
APHA Method 3500-AS	1992	American Public Health Association	Standard Methods for the Examination of Water and Wastewater		40 CFR 444.12
APHA Method 3500-CA (pdf) APHA Method 3500-CA (html)	1992	American Public Health Association	Standard Methods for the Examination of Water and Wastewater		40 CFR 136.3(a)
APHA Method 3500-CD (pdf) APHA Method 3500-CD (html)	1992	American Public Health Association	Standard Methods for the Examination of Water and Wastewater		40 CFR 444.12
APHA Method 3500-CR	1992	American Public Health Association	Standard Methods for the Examination of Water and Wastewater		40 CFR 63.404(a)
APHA Method 3500-CU	1992	American Public Health Association	Standard Methods for the Examination of Water and Wastewater		40 CFR 444.12
APHA Method 3500-MG (pdf) APHA Method 3500-MG (html)	1992	American Public Health Association	Standard Methods for the Examination of Water and Wastewater		40 CFR 136.3(a)
APHA Method 3500-PB (pdf) APHA Method	1992	American Public Health Association	Standard Methods for the Examination of Water and Wastewater		40 CFR 444.12

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	3500-PB (html)				
	APHA Method 3500-ZN (pdf) APHA Method 3500-ZN (html)	1992	American Public Health Association	Standard Methods for the Examination of Water and Wastewater	40 CFR 136.3(a)
	APHA Method 4110 (pdf) APHA Method 4110 (html)	1992	American Public Health Association	Standard Methods for the Examination of Water and Wastewater	40 CFR 136.3(a)
	APHA Method 4500-CIO2 (pdf) APHA Method 4500-CIO2 (html)	1992	American Public Health Association	Standard Methods for the Examination of Water and Wastewater	21 CFR 165.110(b)(4)(iii) (l)(7)(ii)
	APHA Method 4500-CL	1992	American Public Health Association	Standard Methods for the Examination of Water and Wastewater	21 CFR 165.110(b)(4)
	APHA Method 4500-CN	1992	American Public Health Association	Standard Methods for the Examination of Water and Wastewater	40 CFR 136.3(a)
	APHA Method 4500-F	1992	American Public Health Association	Standard Methods for the Examination of Water and Wastewater	40 CFR 136.3(a)
	APHA Method 4500-H	1992	American Public Health Association	Standard Methods for the Examination of Water and Wastewater	40 CFR 444.12
	APHA Method 4500-NO2	1992	American Public Health Association	Standard Methods for the Examination of Water and Wastewater	40 CFR 136.3(a)
	APHA Method 4500-NO3	1992	American Public Health Association	Standard Methods for the Examination of Water and Wastewater	40 CFR 136.3(a)
	APHA Method 4500-O3	1992	American Public Health Association	Standard Methods for the Examination of Water and Wastewater	40 CFR 136.3(a)
	APHA Method 4500-P	1992	American Public Health Association	Standard Methods for the Examination of Water and Wastewater	40 CFR 136.3(a)
	APHA Method 4500-S2	1992	American Public Health Association	Standard Methods for the Examination of Water and Wastewater	40 CFR 136.3(a)
	APHA Method 4500-SI	1992	American Public Health Association	Standard Methods for the Examination of Water and Wastewater	40 CFR 141.121
	APHA Method 4500-SO42	1992	American Public Health Association	Standard Methods for the Examination of Water and Wastewater	40 CFR 136.3(a)
	APHA Method 5540	1992	American Public Health Association	Standard Methods for the Examination of Water and Wastewater	40 CFR 141.121
	APHA Method 6651	1992	American Public Health Association	Standard Methods for the Examination of Water and Wastewater	40 CFR 141.121
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APHA Method 9215	ase 1:13-cv- 1992	01215-TSC Documer American Public Health Association	t 122-1 Filed 12/22/15 Page 13 Standard Methods for the Examination of Water and Wastewater	3 of 298 40 CFR 141.121
APHA Method 9221	1992	American Public Health Association	Standard Methods for the Examination of Water and Wastewater	40 CFR 136.3(a)
APHA Method 9222	1992	American Public Health Association	Standard Methods for the Examination of Water and Wastewater	40 CFR 136.3(a)
APHA Method 9223	1992	American Public Health Association	Standard Methods for the Examination of Water and Wastewater	40 CFR 136.3(a)
API 2INT-MET	2007	American Petroleum Institute	Interim Guidance on Hurricane Conditions in the Gulf of Mexico	30 CFR 250.901(a)(6)
API 5L	2004	American Petroleum Institute	Specification for Line Pipe	49 CFR 192.113
API 5L1	2002	American Petroleum Institute	Recommended Practice for Railroad Transportation of Line Pipe	49 CFR 192.65(a)
API 6A	2004	American Petroleum Institute	Specification for Wellhead and Christmas Tree Equipment	30 CFR 250.806(a)(3)
API 6D	2008	American Petroleum Institute	Specification for Pipeline Valves	49 CFR 195.116(d)
API 12F	1994	American Petroleum Institute	Specification for Shop Welded Tanks for Storage of Production Liquids	49 CFR 195.264(b)(1)
API RP 14C	2001	American Petroleum Institute	Recommended Practice for Analysis, Design, Installation, and Testing of Basic Surface Safety Systems for Offshore Production Platforms	30 CFR 250.1628(c)
API RP 14F	2008	American Petroleum Institute	Recommended Practice for Design and Installation of Electrical Systems for Offshore Production Platforms	30 CFR 250.114(c)
API 17J	2008	American Petroleum Institute	Specification for Unbonded Flexible Pipe	30 CFR 250.1002(b)(4)
API 80	2000	American Petroleum Institute	Guidelines for the Definition of Onshore Gas Gathering Lines	49 CFR 192.8(a)
API 510	2006	American Petroleum Institute	Pressure Vessel Inspection Code	30 CFR 250.803(b)(1)
API 620	2002	American Petroleum Institute	Design and Construction of Large Welded Low Pressure Storage Tanks	49 CFR 195.264(e)(3)
API 650	2007	American Petroleum Institute	Welded Steel Tanks for Oil Storage	195.132(b)(3)
API 651	1997	American Petroleum Institute	Cathodic Protection of Aboveground Petroleum Storage Tanks	49 CFR 195.565
API 652	1997	American Petroleum Institute	Lining of Aboveground Petroleum Storage Tank Bottoms	49 CFR 195.579(d)
API 653	2003	American Petroleum	Tank Inspection, Repair, Alteration,	49 CFR 195.432(b)

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API 1104	1999	American Petroleum Institute	Standard for Welding Pipelines and Related Facilities	49 CFR 195.214(a)
API 1130	2002	American Petroleum Institute	Computational Pipeline Monitoring	49 CFR 195.444
API 1162	2003	American Petroleum Institute	Public Awareness Programs for Pipeline Operators	49 CFR 192.616(a)
API 2000	1998	American Petroleum Institute	Venting Atmospheric and Low- Pressure Storage Tanks	49 CFR 195.264(e)(2)
API 2003	1998	American Petroleum Institute	Protection Against Ignitions Arising Out of Static, Lightning, and Stray Currents	49 CFR 195.405(a)
API 2350	2005	American Petroleum Institute	Overfill Protection for Storage Tanks in Petroleum Facilities	49 CFR 195.428(c)
API 2510	2001	American Petroleum Institute	Design and Construction of LPG Installations	49 CFR 195.205(b)(3)
API RP 14G	2007	American Petroleum Institute	Recommended Practice for Fire Prevention and Control on Open Type Offshore Production Platforms	30 CFR 250.803(b)(9)(v)
APLIC	1996	Avian Power Line Interaction Committee	Suggested Practices for Raptor Protection on Power Lines: The State of the Art in 1996	7 CFR 1724.52(a)(1)(i)
APSP 16	2011	Association of Pool and Spa Professionals	Standard Suction Fittings for Use in Swimming Pools, Wading Pools, Spas, and Hot Tubs	16 CFR 1450.3
ARMA	1984	Asphalt Roofing Manufacturers Association	Residential Asphalt Roofing Manual	24 CFR 200, Subpart S
ASHRAE 15	1994	American Society of Heating, Refrigerating and Air Conditioning Engineers	Safety Code for Mechanical Refrigeration	49 CFR 173.306(e)(1)(i)
ASHRAE	1993	American Society of Heating, Refrigerating and Air Conditioning Engineers	Fundamentals	10 CFR 434.402.2.2.5(a)
ASME B16.9	2003	American Society of Mechnical Engineers	Factory Made Wrought Steel Buttwelding Fittings	49 CFR 195.118(a)
ASME B30.2 (pdf) ASME B30.2 (html) ASME B30.2 (svg)	2005	American Society of Mechanical Engineers	Safety Requirements for Overhead and Gantry Cranes	29 CFR 1926
ASME B30.5 (pdf) ASME B30.5 (html)	2004	American Society of Mechanical Engineers	Safety Requirements for Mobile and Locomotive Cranes	29 CFR 1926
ASME B30.7 (pdf) ASME B30.7 (html)	2001	American Society of Mechanical Engineers	Safety Requirements for Base- Mounted Drum Hoists	29 CFR 1926
ASME B30.14 (pdf) ASME B30.14 (html)	2004	American Society of Mechanical Engineers	Safety Requirements for Side Boom Tractors	29 CFR 1926

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ASME B30.14 (svg)				
ASME B31.4	2002	American Society of Mechnical Engineers	Pipeline Transportation Systems for Liquid Hydrocarbons and Other Liquids	49 CFR 195.110(a)
ASME B31.8	2003	American Society of Mechnical Engineers	Gas Transmission and Distribution Piping Systems	49 CFR 192.619(a)(1)(i)
ASME B318S	2004	American Society of Mechanical Engineers	Managing System Integrity of Gas Pipelines	49 CFR 192.903(c)
ASME B31G	1991	American Society of Mechanical Engineers	Manual for Determining the Remaining Strength of Corroded Pipelines	49 CFR 192.485(c)
ASME UPV	1943	American Society of Mechanical Engineers	Code for Unfired Pressure Vessels	49 CFR 173.32(c)(4)
ASQC Q9001	1994	American Society for Quality Control	Quality Assurance in Design, Development, Production, Installation, and Servicing	33 CFR 96.430(a)(2)(ii)
ASQC Q9002	1994	American Society for Quality Control	Quality Systems Model for Quality Assurance in Production, Installation, and Servicing	24 CFR 200.935(d)(4)(ii) (A)(3)
ASQC Q9003	1994	American Society for Quality Control	Quality Systems - Model for Quality Assurance in Final Inspection and Test	24 CFR 200.935(d)(4)(ii) (A)(4)
ASQC Q9004-1	1994	American Society for Quality Control	Quality Management and Quality Systems Elements-Guidelines	24 CFR 200.935(d)(4)(ii) (A)(5)
ASSE 1001	1990	American Society of Sanitary Engineering	Performance Requirements for Pipe Applied Atmospheric Type Vacuum Breakers	24 CFR 3280.604(b)(2)
ASSE 1006 (pdf) ASSE 1006 (html)	1986	American Society of Sanitary Engineering	Plumbing Requirements for Residential Use (Household) Dishwashers	24 CFR 3280.604(b)(2)
ASSE 1007 (pdf) ASSE 1007 (html)	1986	American Society of Sanitary Engineering	Performance Requirements for Home Laundry Equipment	24 CFR 3280.604(b)(2)
ASSE 1008 (pdf) ASSE 1008 (html)	1986	American Society of Sanitary Engineering	Performance Requirements for Household Food Waste Disposer Units	24 CFR 3280.604(b)(2)
ASSE 1016	1988	American Society of Sanitary Engineering	Performance Requirements for Individual Thermostatic Pressure Balancing and Combination Control for Bathing Facilities	24 CFR 3280.604(b)(2)
ASSE 1023 (pdf) ASSE 1023 (html)	1979	American Society of Sanitary Engineering	Hot Water Dispensers, Household Storage Type, Electrical	24 CFR 3280.604(b)(2)
ASSE 1025	1978	American Society of Sanitary Engineering	Diverters for Plumbing Faucets with Hose Spray, Anti-Siphon Type, Residential Applications	24 CFR 3280.604(b)(2)
ASSE 1037 (pdf) ASSE 1037 (html)	1990	American Society of Sanitary Engineering	Performance Requirements for Pressurized Flushing Devices (Flushometers) for Plumbing Fixtures	24 CFR 3280.604(b)(2)
ASCE 7	2002	American Society of Civil Engineers	Minimum Design Loads for Buildings and Other Structures	49 CFR 193.2013

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ASTM A36	1977	American Society for Testing and Materials	Standard Specification for Carbon Structural Steel	24 CFR Part 200
ASTM A36	1997	American Society for Testing and Materials	Standard Specification for Carbon Structural Steel	46 CFR 160.035-3(b)(2)
ASTM A47	1968	American Society for Testing and Materials	Standard Specification for Malleable Iron Castings	29 CFR 1910.111(b)(7) (vi)
ASTM A82	1979	American Society for Testing and Materials	Cold-Drawn Steel Wire for Concrete Reinforcement	24 CFR 200, Subpart S
ASTM A100	1969	American Society for Testing and Materials	Standard Specification for Ferrosilicon	40 CFR 60.261(s)
ASTM A106	2004	American Society for Testing and Materials	Standard Specification for Seamless Carbon Steel Pipe for High- Temperature Service	49 CFR 192.113
ASTM A134	1996	American Society for Testing and Materials	Standard Specification for Pipe, Steel, Electric Fusion (Arc)-Welded (Sizes NPS 16 and Over)	46 CFR 56.60-1(b)
ASTM A179	1990	American Society for Testing and Materials	Standard Specification for Seamless Cold-Drawn Low-Carbon Steel Heat-Exchanger and Condenser Tubes	46 CFR 56.60-1(b)
ASTM A184	1979	American Society for Testing and Materials	Standard Specification for Fabricated Deformed Steel Bar Mats for Concrete Reinforcement	24 CFR 200, Subpart S
ASTM A185	1979	American Society for Testing and Materials	Steel Wire Fabric for Concrete Reinforcement	24 CFR 200, Subpart S
ASTM A203	1997	American Society for Testing and Materials	Standard Specification for Pressure Vessel Plates, Alloy Steel, Nickel	46 CFR 54.05-20(b)
ASTM A214	1996	American Society for Testing and Materials	Standard Specification for Electric- Resistance-Welded Carbon Steel Heat-Exchanger and Condenser Tubes	46 CFR 56.60-1(b)
ASTM A242	1979	American Society for Testing and Materials	Standard Specification for High- Strength Low-Alloy Structural Steel	24 CFR 200, Subpart S
ASTM A285	1978	American Society for Testing and Materials	Standard Specification for Pressure Vessel Plates, Carbon Steel, Low- and Intermediate-Tensile Strength	49 CFR 179.300-7(a)
ASTM A307	1978	American Society for Testing and Materials	Carbon Steel Bolts and Studs, 60,000 PSI Tensile Strength	46 CFR 56.25-20(b)
ASTM A325	1979	American Society for Testing and Materials	High-Strength Bolts for Structural Steel Joists	24 CFR 200, Subpart S
ASTM A333	1994	American Society for Testing and Materials	Standard Specification for Seamless and Welded Steel Pipe for Low- Temperature Service	46 CFR 56.50-105
ASTM A369	1992	American Society for Testing and Materials	Standard Specification for Carbon and Ferritic Alloy Steel Forged and Bored Pipe for High-Temperature Service	46 CFR 56.60-1(b)
ASTM A370	1977	American Society for Testing and Materials	Standard Test Method and Definitions for Mechanical Testing of Steel Products	49 CFR 179.102-1(a)(1)
ASTM A381	1996	American Society for	Standard Specification for Metal-Arc-	49 CFR 192.113

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ASTM A391	1965	American Society for Testing and Materials	Standard Specification for Alloy Steel Chain	29 CFR 1910.184(e)(4)
ASTM A416	1974	American Society for Testing and Materials	Uncoated Seven-Wire Stress- Relieved Strand for Prestressed Concrete	24 CFR 200, Subpart S
ASTM A441	1979	American Society for Testing and Materials	High-Strength Low-Alloy Structural Manganese Vanadium Steel	24 CFR 200, Subpart S
ASTM A449	1978	American Society for Testing and Materials	Quenched and Tempered Steel Bolts and Studs	24 CFR 200, Subpart S
ASTM A475	1978	American Society for Testing and Materials	Standard Specification for Zinc- Coated Steel Wire Strand	7 CFR 1755.370(b)
ASTM A483	1964	American Society for Testing and Materials	Standard Specification for Silicomanganese	40 CFR 60.261(o)
ASTM A490	1979	American Society for Testing and Materials	Quenched and Tempered Alloy Steel Bolts for Structural Steel Joints	24 CFR 200, Subpart S
ASTM A496	1978	American Society for Testing and Materials	Deformed Steel Wire for Concrete Reinforcement	24 CFR 200, Subpart S
ASTM A497	1979	American Society for Testing and Materials	Welded Deformed Steel Wire, Fabric for Concrete Reinforcement	24 CFR 200, Subpart S
ASTM A500	1978	American Society for Testing and Materials	Cold-Formed Welded and Seamless Carbon Steel Structural Tubing in Rounds and Shapes	24 CFR 200, Subpart S
ASTM A501	1976	American Society for Testing and Materials	Hot-Formed Welded and Seamless Carbon Steel Structural Tubing	24 CFR 200, Subpart S
ASTM A502	1976	American Society for Testing and Materials	Steel Structural Rivets	24 CFR 200, Subpart S
ASTM A514	1977	American Society for Testing and Materials	High-Yield Strength, Quenched and Tempered Alloy Steel Plate, Suitable for Welding	24 CFR 200, Subpart S
ASTM A516	1990	American Society for Testing and Materials	Standard Specification for Pressure Vessel Plates, Carbon Steel, for Moderate and Lower-Temperature Service	49 CFR 178.337-2(b)(2) (i)
ASTM A522	1995	American Society for Testing and Materials	Forged or Rolled 8 and 9% Nickel Alloy Steel Flanges, Fittings, Valves, and Parts for Low- Temperature Service	46 CFR 56.50-105
ASTM A529	1972	American Society for Testing and Materials	Structural Steel with 42,000PSI (290 Mpa) Minimum Yield Point (1/2 in (12.7 mm) Maximum Thickness	24 CFR 200, Subpart S
ASTM A529	1975	American Society for Testing and Materials	Structural Steel with 42,000PSI (290 Mpa) Minimum Yield Point (1/2 in (12.7 mm) Maximum Thickness	24 CFR 200, Subpart S
ASTM A539	1990	American Society for Testing and Materials	Standard Specification for Electric- Resistance-Welded Coiled Steel Tubing for Gas and Fuel Oil Lines	24 CFR 3280.705(b)(4)
ASTM A570	1979	American Society for	Hot-Rolled Carbon Steel Sheet and	24 CFR 200, Subpart S

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		Testing and Materials	Strip, Structural Quality	
ASTM A572	1979	American Society for Testing and Materials	High-Strength Low-Alloy Columbium-Vanadium Steels of Structural Quality	24 CFR 200, Subpart S
ASTM A588	1979	American Society for Testing and Materials	High-Strength Low-Alloy Structural Steel with 50 ksi Minimum Yield Point to 4 inches Thick	24 CFR 200, Subpart S
ASTM A611	1972	American Society for Testing and Materials	Steel, Cold-rolled Sheet, Carbon, Structural	24 CFR 200, Subpart S
ASTM A615	1979	American Society for Testing and Materials	Deformed and Plain Billet-Steel Bars for Concrete Reinforcement	24 CFR 200, Subpart S
ASTM A616	1979	American Society for Testing and Materials	Rail-Steel Deformed and Plain Bars for Concrete Reinforcement	24 CFR 200, Subpart S
ASTM A617	1979	American Society for Testing and Materials	Axle-Steel Deformed and Plain Bars for Concrete Reinforcement	24 CFR 200, Subpart S
ASTM A618	1974	American Society for Testing and Materials	Hot-Formed Welded and Seamless High-Strength Low-Alloy Structural Tubing	24 CFR 200, Subpart S
ASTM A633	1979	American Society for Testing and Materials	Standard Specification for Normalized High-Strength Low Alloy Structural Steel	49 CFR 178.338-2(a)
ASTM A671	2004	American Society for Testing and Materials	Standard Specification for Electric- Fusion-Welded Steel Pipe for Atmospheric and Lower Temperatures	49 CFR 192.113
ASTM A672	1996	American Society for Testing and Materials	Standard Specification for Electric- Fusion-Welded Steel Pipe for High- Pressure Service at Moderate Temperatures	49 CFR 192.113
ASTM A691	1998	American Society for Testing and Materials	Standard Specification for Carbon and Alloy Steel Pipe, Electric- Fusion-Welded for High-Pressure Service at High Temperature	49 CFR 192.113
ASTM B16	1985	American Society for Testing and Materials	Standard Specification for Free- Cutting Brass Rod, Bar, and Shapes for Use in Screw Machines	46 CFR 56.60-2
ASTM B16	1992	American Society for Testing and Materials	Standard Specification for Free- Cutting Brass Rod, Bar, and Shapes for Use in Screw Machines	46 CFR 56.60-2
ASTM B21	1983	American Society for Testing and Materials	Standard Specification for Naval Brass Rod, Bar, and Shapes	46 CFR 56.60-2
ASTM B21	1996	American Society for Testing and Materials	Standard Specification for Naval Brass Rod, Bar, and Shapes	46 CFR 56.60-2
ASTM B42	1996	American Society for Testing and Materials	Standard Specification for Seamless Copper Pipe, Standard Sizes	46 CFR 56.60-1(b)
ASTM B68	1995	American Society for Testing and Materials	Standard Specification for Seamless Copper Tube, Bright Annealed	46 CFR 56.60-1(b)
ASTM B75	1997	American Society for Testing and Materials	Standard Specification for Seamless Copper Tube	46 CFR 56.60-1(b)
ASTM B85	1984	American Society for Testing and Materials	Standard Specification for Aluminum-Alloy Die Castings	46 CFR 56.60-2

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ASTM B88	1996	American Society for Testing and Materials	Standard Specification for Seamless Copper Water Tube	46 CFR 56.60-1(b)
ASTM B96	1993	American Society for Testing and Materials	Standard Specification for Copper- Silicon Alloy Plate, Sheet, Strip, and Bolled Bar for General Purposes and Pressure Vessels	46 CFR 119.440
ASTM B111	1995	American Society for Testing and Materials	Copper and Copper-Alloy Seamless Condenser Tubes and Ferrule Stock	46 CFR 56.60-1(b)
ASTM B117	1973	American Society for Testing and Materials	Standard Practice for Operating Salt Spray (Fog) Apparatus	49 CFR 571.209 S5.2(a)
ASTM B122	1995	American Society for Testing and Materials	Standard Specification for Copper- Nickel-Tin Alloy, Copper-Nickel-Zinc Alloy (Nickel Silver), and Copper- Nickel Alloy Plate, Sheet, Strip and Rolled Bar	46 CFR 119.440
ASTM B124	1996	American Society for Testing and Materials	Standard Specification for Copper and Copper-Alloy Forging Rod, Bar, and Shapes	46 CFR 56.60-2
ASTM B152	1997	American Society for Testing and Materials	Standard Specification for Copper, Sheet, Strip, Plate, and Rolled Bar	46 CFR 58.50-5(a)(4)
ASTM B193	1987	American Society for Testing and Materials	Standard Test Method for Resistivity of Electrical Conductor Materials	7 CFR 1755.390(i)(5)(v) (A)
ASTM B209	1996	American Society for Testing and Materials	Standard Specification for Aluminum and Aluminum Alloy Sheet and Plate	46 CFR 58.50-5, Table 58.50-5(a)
ASTM B224	1980	American Society for Testing and Materials	Standard Classification of Coppers	7 CFR 1755.890(i)(5)(vi)
ASTM B227	1970	American Society for Testing and Materials	Hard-Drawn Copper-Clad Steel Wire	24 CFR 200, Subpart S
ASTM B280	1997	American Society for Testing and Materials	Seamless Copper Tube for Air Conditioning and Refrigeration Field Service	46 CFR 56.60-1(b)
ASTM B283	1996	American Society for Testing and Materials	Standard Specification for Copper and Copper-Alloy Die Forgings (Hot-Pressed)	46 CFR 56.60-2
ASTM B315	1993	American Society for Testing and Materials	Seamless Copper Alloy Pipe Tube	46 CFR 56.60-1(b)
ASTM B557	1984	American Society for Testing and Materials	Tension Testing Wrought and Cast Aluminum and Magnesium-Alloy Products	49 CFR 178.46(i)(3)(i)
ASTM B580	1979	American Society for Testing and Materials	Standard Specification for Anodized Oxide Coatings on Aluminum	49 CFR 171.7
ASTM B694	1986	American Society for Testing and Materials	Standard Specification for Copper, Copper Alloy, and Copper-Clad Stainless Steel Sheet and Strip for Electrical Cable Shielding	7 CFR 1755.390(i)(5)(v)
ASTM B858	1995	American Society for Testing and Materials	Standard Test Method for Determination of Susceptibility to Stress Corrosion Cracking in Copper Alloys Using Ammonia Vapor Test	46 CFR 56.60-2

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ASTM C4	1962	American Society for Testing and Materials	Standard Specification for Clay Drain Tile and Perforated Clay Drain Tile	24 CFR 200, Subpart S
ASTM C5	1979	American Society for Testing and Materials	Standard Specification for Quicklime for Structural Purposes	24 CFR 200, Subpart S
ASTM C32	1973	American Society for Testing and Materials	Standard Specification for Sewer and Manhole Brick	24 CFR 200, Subpart S
ASTM C34	1962	American Society for Testing and Materials	Standard Specification for Structural Clay Load-Bearing Wall Tile	24 CFR 200, Subpart S
ASTM C52	1954	American Society for Testing and Materials	Specification for Gypsum Partition Tile or Block	24 CFR 200, Subpart S
ASTM C56	1971	American Society for Testing and Materials	Standard Specification for Structural Clay Nonloadbearing Tile	24 CFR 200, Subpart S
ASTM C64	1972	American Society for Testing and Materials	Specification for Fireclay Brick Refractories for Heavy Duty Stationary Boiler Service	24 CFR 200, Subpart S
ASTM C90	1970	American Society for Testing and Materials	Standard Specification for Hollow Load-Bearing Concrete Masonry Units	49 CFR 223 Appendix A (b)(10)(ii)
ASTM C126	1971	American Society for Testing and Materials	Standard Specification for Ceramic Glazed Structural Clay Facing Tile, Facing Brick, and Solid Masonry Units	24 CFR 200, Subpart S
ASTM C139	1973	American Society for Testing and Materials	Standard Specification for Concrete Masonry Units for Construction of Catch Basins and Manholes	24 CFR 200, Subpart S
ASTM C150	1917	American Society for Testing and Materials	Standard Specification for Portland Cement	49 CFR 571.108
ASTM C150	1999	American Society for Testing and Materials	Standard Specification for Portland Cement	30 CFR 250.198
ASTM C150	2007	American Society for Testing and Materials	Standard Specification for Portland Cement	30 CFR 250.901(d)(9)
ASTM C177	1997	American Society for Testing and Materials	Standard Test Method for Steady- State Heat Flux Measurements and Thermal Transmission Properties by Means of the Guarded Hot-Plate Apparatus	10 CFR 431.102
ASTM C177 (pdf) ASTM C177 (html)	2004	American Society for Testing and Materials	Standard Test Method for Steady- State Heat Flux Measurements and Thermal Transmission Properties by Means of the Guarded Hot-Plate Apparatus	16 CFR 460.5(a)
ASTM C236	1989	American Society for Testing and Materials	Standard Test Method for Steady- State Thermal Performance of Building Assemblies by Means of a Guarded Hot Box	10 CFR 434.402.1.2.1(a)
ASTM C330	1999	American Society for Testing and Materials	Standard Specification for Lightweight Aggregates for Structural Concrete	30 CFR 250.901(a)(18)
ASTM C476	1971	American Society for Testing and Materials	Standard Specification for Grout for Masonry	24 CFR 200, Subpart S

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ASTM C509	1984	Testing and Materials	Elastomeric Cellular Preformed Gasket and Sealing Material	24 CFR 200, Subpart S
ASTM C516	1980	American Society for Testing and Materials	Standard Specification for Vermiculite Loose Fill Thermal Insulation	24 CFR 200, Subpart S
ASTM C518	1991	American Society for Testing and Materials	Standard Test Method for Steady- State Heat Flux Measurements and Thermal Transmission Properties by Means of the Heat Flow Meter Apparatus	46 CFR 160.174-17(f)
ASTM C518	2004	American Society for Testing and Materials	Standard Test Method for Steady- State Heat Flux Measurements and Thermal Transmission Properties by Means of the Heat Flow Meter Apparatus	16 CFR 460.5(a)
ASTM C549	1981	American Society for Testing and Materials	Standard Specification for Perlite Loose Fill Insulation	10 CFR 440 Appendix A
ASTM C564	1970	American Society for Testing and Materials	Standard Specification for Rubber Gaskets for Cast Iron Soil Pipe and Fittings	24 CFR 3280.611(d)(5) (iv)
ASTM C720	1989	American Society for Testing and Materials	Spray Applied Fibrous Insulation for Elevated Temperature	10 CFR 440 Appendix A
ASTM C1045	2001	American Society for Testing and Materials	Standard Practice for Calculating Thermal Transmission Properties from Steady-State Heat Flux Measurements	16 CFR 460.5(a)
ASTM C1114	2000	American Society for Testing and Materials	Standard Test Method for Steady- State Thermal Transmission Properties by Means of the Thin- Heater Apparatus	16 CFR 460.5(a)
ASTM C1149	2002	American Society for Testing and Materials	Standard Specification for Self- Supported Spray Applied Cellulosic Thermal Insulation	16 CFR 460.5(a)(4)
ASTM C1224	2003	American Society for Testing and Materials	Standard Specification for Reflective Insulation for Building Applications	16 CFR 460.5(c)
ASTM C1371	2004	American Society for Testing and Materials	Standard Test Method for Determination of Emittance of Materials Near Room Temperature Using Portable Emissometers	16 CFR 460.5(b)
ASTM C1374	2003	American Society for Testing and Materials	Standard Test Method for Determination of Installed Thickness of Pneumatically Applied Loose-Fill Building Insulation	16 CFR 460.5(a)(5)
ASTM D56	1970	American Society for Testing and Materials	Standard Test Method for Flash Point by Tag Closed Cup Tester	29 CFR 1910.106(a)(14) (i)
ASTM D86	2001	American Society for Testing and Materials	Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure	40 CFR 94.108(a)(1) Table B-5
ASTM D86	2004	American Society for Testing and Materials	Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure	40 CFR 1065.710

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ASTM D86 (pdf) ASTM D86 (html)	2007	American Society for Testing and Materials	Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure	40 CFR 1065.710
ASTM D88	1956	American Society for Testing and Materials	Standard Test Method for Saybolt Viscosity	29 CFR 1910.106(a)(37)
ASTM D93	2002	American Society for Testing and Materials	Standard Test Method for Flash Point by Pensky-Martens Closed Cup Tester	40 CFR 94.108(a)(1) Table B-5
ASTM D129	1964	American Society for Testing and Materials	Standard Test Method for Sulfur in Petroleum Products (General Bomb Method)	40 CFR 60.106(j)(2)
ASTM D129	1995	American Society for Testing and Materials	Standard Test Method for Sulfur in Petroleum Products (General Bomb Method)	40 CFR 60.106(j)(2)
ASTM D129 (pdf) ASTM D129 (html)	2000	American Society for Testing and Materials	Standard Test Method for Sulfur in Petroleum Products (General Bomb Method)	40 CFR 60.335(b)(10)(i)
ASTM D257	1991	American Society for Testing and Materials	Standard Test Method for DC Resistance of Conductance of Insulating Materials	7 CFR 1755.860(e)(5)
ASTM D287	1992	American Society for Testing and Materials	Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method)	40 CFR 94.108(a)(1) Table B-5
ASTM D323	1958	American Society for Testing and Materials	Standard Test Method for Vapor Pressure of Petroleum Products (Reid Method)	29 CFR 1910.106(a)(30)
ASTM D388	1998	American Society for Testing and Materials	Standard Classification of Coals by Rank	40 CFR 60.251(b)
ASTM D396	1998	American Society for Testing and Materials	Standard Specification for Fuel Oils	40 CFR 60.41b
ASTM D396 (pdf) ASTM D396 (html)	2002	American Society for Testing and Materials	Standard Specification for Fuel Oils	40 CFR 63.7575
ASTM D412	1968	American Society for Testing and Materials	Standard Test Methods for Vulcanized Rubber and Thermoplastic Elastomers-Tension	21 CFR 801.410(d)(2)
ASTM D413	1982	American Society for Testing and Materials	Standard Test Method for Rubber PropertyAdhesion to Flexible Substrate	46 CFR 160.055-3 Table 160-055-3(j)
ASTM D445	1965	American Society for Testing and Materials	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids	29 CFR 1910.106(a)(37)
ASTM D445	1972	American Society for Testing and Materials	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids	21 CFR 177.1430(c)(2)
ASTM D512	1989	American Society for Testing and Materials	Standard Test Methods for Chloride Ion In Water	40 CFR 136.3(a)
ASTM D611	1982	American Society for Testing and Materials	Standard Test Method for Aniline Point and Mixed Aniline Point of Petroleum Products and Hydrocarbon Solvents	21 CFR 177.1520(b)

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ASTM D660	1944	American Society for Testing and Materials	Evaluating Degree of Resistant to Checking of Exterior Paints	24 CFR 200, Subpart S
ASTM D665	1998	American Society for Testing and Materials	Standard Test Method for Rust- Preventing Characteristics of Inhibited Mineral Oil in the Presence of Water	46 CFR 61.20-17(a)
ASTM D750	1968	American Society for Testing and Materials	Recommended Practice for Rubber Deterioration in Carbon-Arc or Weathering Apparatus	24 CFR 200, Subpart S
ASTM D756	1956	American Society for Testing and Materials	Standard Practice for Determination of Weight and Shape Changes of Plastics Under Accelerated Service Conditions	49 CFR 571.209 S5.2(b)
ASTM D781	1968	American Society for Testing and Materials	Standard Test Methods for Puncture and Stiffness of Paperboard and Corrugated and Solid Fiberboard	24 CFR 3280.304(b)(1)
ASTM D785	1965	American Society for Testing and Materials	Standard Method of Test for Rockwell Hardness of Plastics and Electrical Insulating Materials	16 CFR 1201.4
ASTM D814	1995	American Society for Testing and Materials	Standard Test Method for Rubber PropertyVapor Transmission of Volatile Liquids	40 CFR 1051.245(e)(1)
ASTM D975	1998	American Society for Testing and Materials	Standard Specification for Diesel Fuel Oils	46 CFR 160.176-13(r)
ASTM D975 (pdf) ASTM D975 (html)	2007	American Society for Testing and Materials	Standard Specification for Diesel Fuel Oils	40 CFR 1065.701
ASTM D976	1991	American Society for Testing and Materials	Standard Test Method for Calculated Cetane Index of Distillate Fuels	40 CFR 92.113
ASTM D1056	1973	American Society for Testing and Materials	Standard Specification for Flexible Cellular Materials Sponge or Expanded Rubber	49 CFR 571.213
ASTM D1060	1965	American Society for Testing and Materials	Standard Method of Core Sampling of Raw Wool Packages for Determination of Percentage of Clean Wool Fiber Present	7 CFR 31.204
ASTM D1067	2002	American Society for Testing and Materials	Standard Test Method for Acidity or Alkalinity of Water	40 CFR 141.21
ASTM D1068	2003	American Society for Testing and Materials	Standard Test Methods for Iron in Water	40 CFR 136.3(a)
ASTM D1072	1990	American Society for Testing and Materials	Standard Test Method for Total Sulfur in Fuel Gases	40 CFR 60.335(b)(10)(ii)
ASTM D1081	1960	American Society for Testing and Materials	Test for Evaluating Rubber Property- -Sealing Pressure	24 CFR 200, Subpart S
ASTM D1126 (pdf) ASTM D1126 (html) ASTM D1126 (svg)	2002	American Society for Testing and Materials	Standard Test Method for Hardness in Water	40 CFR 136
ASTM D1193	1977	American Society for Testing and Materials	Standard Specification for Reagent Water	40 CFR 60, Appendix A- 3

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ASTM D1200	1970	American Society for Testing and Materials	Viscosity of Paints, Varnishes and Lacquers by Ford Viscosity Cup	49 CFR 171.8
ASTM D1217	1993	American Society for Testing and Materials	Standard Test Method for Density and Relative Density (Specific Gravity) of Liquids by Bingham Pycnometer	40 CFR 75, Appendix D
ASTM D1246	1995	American Society for Testing and Materials	Bromide - Titrimetric	40 CFR 136.3(a) Table IB
ASTM D1253	1986	American Society for Testing and Materials	Standard Test Method for Residual Chlorine in Water	21 CFR 165.110(b)(4)(iii) (I)(5)(i)
ASTM D1253 (pdf) ASTM D1253 (html)	2003	American Society for Testing and Materials	Standard Test Method for Residual Chlorine in Water	40 CFR 136.3(a) Table IB
ASTM D1266	1998	American Society for Testing and Materials	Standard Test Method for Sulfur in Petroleum Products (Lamp Method)	40 CFR 60.106(j)(2)
ASTM D1298	1999	American Society for Testing and Materials	Standard Practice for Density, Relative Density (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Products	40 CFR 75, Appendix D, Section 2.2.6
ASTM D1303	1955	American Society for Testing and Materials	Standard Method of Test for Total Chlorine in Vinyl Chloride Polymers and Copolymers	21 CFR 177.1610(a)
ASTM D1319 (pdf) ASTM D1319 (html)	2003	American Society for Testing and Materials	Standard Test Method for Hydrocarbon Types in Liquid Petroleum Products by Fluorescent Indicator Adsorption	40 CFR 80.2(z)
ASTM D1331	1989	American Society for Testing and Materials	Standard Test Methods for Surface and Interfacial Tension of Solutions of Surface Active Agents	40 CFR 63, Appendix A
ASTM D1335	1967	American Society for Testing and Materials	Standard Test Method for Tuft Bind of Pile Floor Coverings	24 CFR 200.945(a)(1)(ii)
ASTM D1412	1993	American Society for Testing and Materials	Standard Test Method for Equilibrium Moisture of Coal at 96 to 97 Percent Relative Humidity and 30 Degrees Celsius	30 CFR 870.19
ASTM D1415	1968	American Society for Testing and Materials	Tentative Method of Test for International Hardness of Vulcanized Natural and Synthetic Rubbers	49 CFR 571.116 S7.4.1(b)
ASTM D1415	1988	American Society for Testing and Materials	Standard Practice for Rubber and Rubber LaticesNomenclature	21 CFR 177.2600(c)(4) (i)
ASTM D1475	1960	American Society for Testing and Materials	Standard Test Method for Density of Paint, Varnish, Lacquer, and Related Products	40 CFR 60, Appendix A- 7
ASTM D1480	1993	American Society for Testing and Materials	Standard Test Method for Density and Relative Density (Specific Gravity) of Viscous Materials by Bingham Pycnometer	40 CFR 75, Appendix D
ASTM D1481	1993	American Society for Testing and Materials	Standard Test Method for Density and Relative Density (Specific Gravity) of Viscous Materials by	40 CFR 136.3(a) Table IC

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			Lipkin Bicapillary Pycnometer	5 01 2 30
ASTM D1505	1968	American Society for Testing and Materials	Standard Test Method for Density of Plastics by the Density-Gradient Technique	21 CFR 177.2480
ASTM D1518	1985	American Society for Testing and Materials	Standard Test Method for Thermal Transmittance of Textile Materials	46 CFR 160.174-17(f)
ASTM D1535	1968	American Society for Testing and Materials	Specifying Color by the Munsell System	16 CFR 1402
ASTM D1535	1968	American Society for Testing and Materials	Specifying Color by the Munsell System	16 CFR 1402.4(a)(1)(i) (E)(2)
ASTM D1535	1989	American Society for Testing and Materials	Specifying Color by the Munsell System	7 CFR 1755.860(c)(3)
ASTM D1552	1995	American Society for Testing and Materials	Standard Test Method for Sulfur in Petroleum Products (High- Temperature Method)	40 CFR 60, Appendix A- 7
ASTM D1564	1971	American Society for Testing and Materials	Standard Method of Testing Flexible Cellular MaterialsSlab Urethane Foam	40 CFR 136.3(a)
ASTM D1687	1992	American Society for Testing and Materials	Standard Test Methods for Chromium in Water	40 CFR 444.12(b)(1)
ASTM D1688	1995	American Society for Testing and Materials	Standard Test Method for Copper in Water	40 CFR 141.23(k)(1)
ASTM D1692	1968	American Society for Testing and Materials	Test for Flammability of Plastic Sheeting and Cellular Plastics	29 CFR 1910.103(c)(1) (v)(D)
ASTM D1785	1986	American Society for Testing and Materials	Standard Specification for Poly (Vinyl Chloride)(PVC) Plastic Pipe, Schedules 40, 80, and 120	46 CFR 56.01-2
ASTM D1835	1997	American Society for Testing and Materials	Standard Specification for Liquefied Petroleum (LP) Gases	49 CFR 180.209(e)
ASTM D1890	1996	American Society for Testing and Materials	Standard Test Method for Beta Particle Radioactivity of Water	40 CFR 136.3(a)
ASTM D1943	1996	American Society for Testing and Materials	Standard Test Method for Alpha Particle Radioactivity of Water	40 CFR 136.3(a)
ASTM D1945	1996	American Society for Testing and Materials	Standard Test Method for Analysis of Natural Gas By Gas Chromatography	40 CFR 60.45(f)(5)(i)
ASTM D1946	1990	American Society for Testing and Materials	Standard Method for Analysis of Reformed Gas by Gas Chromatography	40 CFR 60.614(e)(4)
ASTM D1962	1967	American Society for Testing and Materials	Standard Test Method for Saponification Value of Drying Oils, Fatty Acids, and Polymerized Fatty Acids	21 CFR 178.2010(b)
ASTM D2013	1986	American Society for Testing and Materials	Standard Method of Preparing Coal Samples for Analysis	40 CFR 60, Appendix A- 7
ASTM D2015	1996	American Society for Testing and Materials	Standard Test Method for Gross Calorific Value of Solid Fuel by the Adiabatic Bomb Calorimeter	40 CFR 60.45(f)(5)(ii)
ASTM D2036	1998	American Society for Testing and Materials	Standard Test Method for Cyanides in Water	40 CFR 136.3(a) Table IB
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Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 26 of 298 **ASTM D2099** 2000 Standard Test Method for Dynamic 40 CFR 63.5350(b) American Society for Testing and Materials Water Resistance of Shoe Upper Maeser Water Penetration Tester **ASTM D2156** 1965 American Society for Method of Tests for Smoke Density 10 CFR 430 Subpart B **Testing and Materials** in Flue Gases from Distillate Fuels **ASTM D2161** 1966 American Society for Standard Method of Conversion of 29 CFR 1910.106(a)(37) **Testing and Materials** Kinematic Viscosity to Saybolt Universal Viscosity or to Saybolt Furol Viscositv 40 CFR 86.1313-94(f)(3) **ASTM D2163** 1991 American Society for Standard Test Method for Analysis **Testing and Materials** of Liquefied Petroleum (LP) Gases and Propane Concentrates by Gas Chromatography **ASTM D2216** American Society for Standard Test Method for 1998 40 CFR 258.41(a)(4)(iii) **Testing and Materials** Laboratory Determination of Water (A) (Moisture) Content of Soil and Rock by Mass **ASTM D2234** 1998 American Society for Standard Practice for Collection of a 40 CFR 60, Appendix A-**Testing and Materials** Gross Sample of Coal 7 **ASTM D2236** 1970 American Society for Standard Method of Test for 21 CFR 177.1810(c)(2) **Testing and Materials** Dynamic Mechanical Properties of (i) Plastics by Means of a Torsional Pendulum **ASTM D2247** 1968 American Society for Standard Practice for Testing Water 24 CFR 200, Subpart S **Testing and Materials** Resistance of Coatings in 100 Percent Relative Humidity 40 CFR 61.67(h)(1) **ASTM D2267** 1968 American Society for Standard Test Method for Aromatics **Testing and Materials** in Light Naphthas and Aviation Gasoline by Gas Chromatography **ASTM D2460** 1997 American Society for Standard Test Method for Alpha-40 CFR 136.3(a) Table **Testing and Materials** Particle-Emitting Isotopes of Radium IE in Water **ASTM D2502** 1992 American Society for Standard Test Method for Estimation 40 CFR 75, Appendix G **Testing and Materials** of Molecular Weight (Relative Molecular Mass) of Petroleum Oils from Viscosity Measurements 40 CFR 98.254 **ASTM D2503** 1992 American Society for Standard Method of Test for **Testing and Materials** Molecular Weight of Hydrocarbons by Thermoelectric Measurement of Vapor Pressure **ASTM D2505** 1988 American Society for Standard Test Method for Ethylene, 40 CFR 98.7 **Testing and Materials** Other Hydrocarbons, and Carbon Dioxide in High-Purity Ethylene by Gas Chromatography **ASTM D2515** 1966 Standard Specification for Kinematic 49 CFR 571.116 American Society for **Testing and Materials Glass Viscosity** S6.3.2(a) Standard Practice for Operating **ASTM D2565** 1970 American Society for 16 CFR 1201.4(b)(3)(ii) Xenon Arc-Type Light-Exposure Testing and Materials Apparatus With or Without Water for Exposure of Plastics **ASTM D2597** 1994 American Society for Standard Test Method for Analysis 40 CFR 60.335(b)(9)(i) **Testing and Materials** of Demethanized Hydrocarbon Liquid Mixtures Containing Nitrogen

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			Chromatography	
ASTM D2622	1998	American Society for Testing and Materials	Standard Test Method for Sulfur in Petroleum Products by Wavelength Dispersive X-ray Fluorescence Spectrometry	40 CFR 80.46(a)(1)
ASTM D2724	1987	American Society for Testing and Materials	Standard Test Method for Bonded, Fused, and Laminated Apparel Fabrics	49 CFR 238 Appendix B(a)(1)(ii)
ASTM D2777	1998	American Society for Testing and Materials	Standard Practice for Determination of Precision and Bias of Applicable Test Methods of Committee D-19 on Water	46 CFR 162.050-15(f)(1)
ASTM D2857	1970	American Society for Testing and Materials	Standard Method of Test for Dilute Solution Viscosity of Polymers	21 CFR 177.2210(b)(3)
ASTM D2879	1997	American Society for Testing and Materials	Standard Test Method for Vapor PressureTemperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope	40 CFR 60.116b(e)(3)(ii)
ASTM D2908	1974	American Society for Testing and Materials	Standard Practice for Measuring Volatile Organic Matter in Water by Aqueous-Injection Gas Chromatography	40 CFR 60.564(j)(1)
ASTM D2908	1991	American Society for Testing and Materials	Standard Practice for Measuring Volatile Organic Matter in Water by Aqueous-Injection Gas Chromatography	40 CFR 60.564(j)(1)
ASTM D2986	1995	American Society for Testing and Materials	Standard Method for Evaluation of Air, Assay Media by the Monodisperse DOP (Dioctyl Phthalate) Smoke Test	40 CFR 86.1310-2007(b) (7)(i)(A)
ASTM D3120	1996	American Society for Testing and Materials	Standard Test Method for Trace Quantities of Sulfur in Light Liquid Petroleum Hydrocarbons by Oxidative Microcoulometry	40 CFR 80.46(a)(3)(iii)
ASTM D3168	1973	American Society for Testing and Materials	Standard Recommended Practices for Qualitative Identification of Polymers in Emulsion Paints	21 CFR 200.946
ASTM D3173	1987	American Society for Testing and Materials	Standard Test Method for Moisture in the Analysis Sample of Coal and Coke	40 CFR 60, Appendix A- 7
ASTM D3176	1989	American Society for Testing and Materials	Standard Practice for Ultimate Analysis of Coal and Coke	40 CFR 76.15(a)(1)
ASTM D3177	1989	American Society for Testing and Materials	Standard Test Method for Total Sulfur in the Analysis Sample of Coal and Coke	40 CFR 60, Appendix A- 7
ASTM D3178	1989	American Society for Testing and Materials	Standard Test Method for Carbon and Hydrogen in the Analysis Sample of Coal and Coke	40 CFR 60.45(f)(5)(i)
ASTM D3236	1988	American Society for Testing and Materials	Standard Test Method for Apparent Viscosity of Hot Metal Adhesives and Coating Materials	21 CFR 177.1520(b)

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ASTM D3246	1996	American Society for Testing and Materials	Standard Test Method for Sulfur in Petroleum Gas by Oxidative Microcoulometry	40 CFR 60.335(b)(10)(ii)
ASTM D3286	1996	American Society for Testing and Materials	Standard Test Method for Gross Calorific Value of Coal and Coke by the Isoperibol Bomb Calorimeter	40 CFR 60.17
ASTM D3371	1995	American Society for Testing and Materials	Standard Test Method for Nitriles in Aqueous Solution by Gas-Liquid Chromatography	40 CFR 136.3(a) Table IF
ASTM D3454	1997	American Society for Testing and Materials	Standard Test Method for Radium- 226 in Water	40 CFR 136.3(a) Table IE
ASTM D3559 (pdf) ASTM D3559 (html)	2003	American Society for Testing and Materials	Standard Test Methods for Lead in Water	40 CFR 136
ASTM D3588	1998	American Society for Testing and Materials	Standard Practice for Calculating Heat Value, Compressibility Factor, and Relative Density (Specific Gravity) of Gaseous Fuels	40 CFR 75, Appendix F
ASTM D3695	1995	American Society for Testing and Materials	Standard Test Method for Volatile Alcohols in Water by Direct Aqueous-Injection Gas Chromatography	40 CFR 136.3(a) Table IF
ASTM D3697	1992	American Society for Testing and Materials	Standard Test Method for Antimony in Water	21 CFR 165.110(b)(4)(iii) (E)(1)(iv)
ASTM D4057	1995	American Society for Testing and Materials	Standard Practice for Manual Sampling of Petroleum and Petroleum Products	40 CFR 80.8(a)
ASTM D4084	1994	American Society for Testing and Materials	Standard Test Method for Analysis of Hydrogen Sulfide in Gaseous Fuels (Lead Acetate Reaction Rate Method)	40 CFR 60.334(h)(1)
ASTM D4177	1995	American Society for Testing and Materials	Standard Practice for Automatic Sampling of Petroleum and Petroleum Products	40 CFR 80.330(b)(2)
ASTM D4239	1997	American Society for Testing and Materials	Standard Test Methods for Sulfur in the Analysis Sample of Coal and Coke Using High Temperature Tube Furnace Combustion Methods	40 CFR 60, Appendix A- 7
ASTM D4268	1993	American Society for Testing and Materials	Standard Test Method for Testing Fiber Ropes	33 CFR 164.74(a)(3)(i)
ASTM D4294	1998	American Society for Testing and Materials	Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-Ray Fluorescence Spectrometry	40 CFR 75, Appendix A, Section 2.1.1.1(c)
ASTM D4329	1999	American Society for Testing and Materials	Standard Practice for Fluorescent UV Exposure of Plastics	49 CFR 571.106
ASTM D4420	1994	American Society for Testing and Materials	Standard Test Method for Determination of Aromatics in Finished Gasoline by Gas Chromatography	40 CFR 61.67(h)(1)
ASTM D4442	1992	American Society for	Standard Test Method for Direct	40 CFR 60, Appendix A-

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		Testing and Materials	Moisture Content Measurement of Wood and Wood-Based Materials	8
ASTM D4444	1992	American Society for Testing and Materials	Standard Test Method for Use and Calibration of Hand-Held Moisture Meters	40 CFR 60, Appendix A- 8
ASTM D4763	1988	American Society for Testing and Materials	Standard Practice for Identification of Chemicals in Water by Fluorescence Spectroscopy	40 CFR 136.3(a) Table IF
ASTM D4809	1995	American Society for Testing and Materials	Standard Test Method for Heat of Combustion of Liquid Hydrocarbon Fuels by Bomb Calorimeter (Precision Method)	40 CFR 61.245(e)(3)
ASTM D4891 (pdf) ASTM D4891 (html)	1989	American Society for Testing and Materials	Standard Test Method for Heating Value of Gases in Natural Gas Range by Stolchiometric Combustion	40 CFR 75, Appendix F, Section 5.5.2
ASTM D4986	1998	American Society for Testing and Materials	Standard Test Method for Horizontal Burning Characteristics of Cellular Polymeric Materials	46 CFR 32.57-10(d)(7– a)
ASTM D5257	1997	American Society for Testing and Materials	Standard Test Method for Dissolved Hexavalent Chromium in Water by Ion Chromatography	40 CFR 136.3(a)
ASTM D5373	1993	American Society for Testing and Materials	Standard Methods for Instrumental Determination of Carbon, Hydrogen, and Nitrogen in Laboratory Samples of Coal and Coke	40 CFR 75, Appendix G
ASTM D5392	1993	American Society for Testing and Materials	Standard Test Method for Isolation and Enumeration of Escherichia Coli in Water by the Two-Step Membrane Filter Procedure	40 CFR 136.3(a) Table IH
ASTM D5489	1996	American Society for Testing and Materials	Standard Guide for Care Symbols for Care Instructions on Textile Products	16 CFR 423.8(g)
ASTM D5673	1996	American Society for Testing and Materials	Standard Test Method for Elements in Water by Inductively Coupled Plasma	40 CFR 444.12(b)(1)
ASTM D5865	1998	American Society for Testing and Materials	Standard Test Method for Gross Calorific Value of Coal and Coke	40 CFR 60.45(f)(5)(ii)
ASTM D6216	1998	American Society for Testing and Materials	Standard Practice for Opacity Monitor Manufacturers to Certify Conformance with Design and Performance Specifications	40 CFR 60, Appendix B
ASTM D6228	1998	American Society for Testing and Materials	Standard Test Method for Determination of Sulfur Compounds in Natural Gas and Gaseous Fuels by Gas Chromatography and Flame Photometric Detection	40 CFR 60.334(h)(1)
ASTM D6420	1999	American Society for Testing and Materials	Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry	40 CFR 63.5850(e)(4)
ASTM D6503	1999	American Society for	Standard Test Method for	40 CFR 136.3(a) Table

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ASTM D6522	2000	American Society for Testing and Materials	Standard Test Method for Determination of Nitrogen Oxides, Carbon Monoxide, and Oxygen Concentrations in Emissions from Natural Gas-Fired Reciprocating Engines, Combustion Turbines, Boilers, and Process Heaters Using Portable Analyzers	40 CFR 60.335(a)(2)
ASTM E11	1970	American Society for Testing and Materials	Standard Specification for Wire Cloth and Sieves for Testing Purposes	33 CFR 159.4
ASTM E11	1995	American Society for Testing and Materials	Standard Specification for Wire Cloth and Sieves for Testing Purposes	33 CFR 159.125
ASTM E23	1982	American Society for Testing and Materials	Standard Test Methods for Notched Bar Impact Testing of Metallic Materials	46 CFR 56.50-105(a)(1) (ii)
ASTM E23	1993	American Society for Testing and Materials	Standard Test Method for Notched Bar Impact Testing of Metallic Materials	46 CFR 56.50-105(a)(1) (ii)
ASTM E29	1967	American Society for Testing and Materials	Standard Practice for Using Significant Digits in Test Data to Determine Conformance with Specifications	40 CFR 86.609-98
ASTM E29	1990	American Society for Testing and Materials	Standard Practice for Using Significant Digits in Test Data to Determine Conformance with Specifications	40 CFR 86.000-28(a)(4) (iii)
ASTM E29 (pdf) ASTM E29 (html)	2002	American Society for Testing and Materials	Standard Specification for Diesel Fuel Oils	40 CFR 1065.701 Table 1
ASTM E72	1980	American Society for Testing and Materials	Standard Test Methods of Conducting Strength Tests of Panels for Building Construction	30 CFR 75.333(e)(1)(i)
ASTM E84 (pdf) ASTM E84 (html)	2001	American Society for Testing and Materials	Standard Test Method for Surface Burning Characteristics of Building Materials	24 CFR 3280.203(a)
ASTM E96	1995	American Society for Testing and Materials	Standard Test Methods for Water Vapor Transmission of Materials	24 CFR 3280.504(a)
ASTM E119 (pdf) ASTM E119 (html)	2000	American Society for Testing and Materials	Standard Test Methods for Fire Tests of Building Construction and Materials	49 CFR 238 Appendix B(a)(1)(v)
ASTM E145	1994	American Society for Testing and Materials	Standard Specification for Gravity- Convection and Forced- Ventilation Ovens	40 CFR 63.14
ASTM E145	1994	American Society for Testing and Materials	Standard Specification for Gravity- Convection and Forced- Ventilation Ovens	40 CFR 63.4581
ASTM E154	1968	American Society for Testing and Materials	Materials for Use as Vapor Barriers Under Concrete Slabs and as Ground Cover in Crawl Spaces	24 CFR 200, Subpart S

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			Refuse-Derived Fuel	
ASTM E776	1987	American Society for Testing and Materials	Standard Test Method for Forms of Chlorine in Refuse-Derived Fuel	40 CFR 63, Subpart DDDDD, Table 6
ASTM E885	1988	American Society for Testing and Materials	Standard Test Method for Analyses of Metals in Refuse-Derived Fuel by Atomic Absorption Spectroscopy	40 CFR 63, Subpart DDDDD, Table 6
ASTM E1333	1996	American Society for Testing and Materials	Standard Test Method for Determining Formaldehyde Levels from Wood Products Under Defined Test Conditions Using a Large Chamber	24 CFR 3280.406(b)
ASTM E1337	1990	American Society for Testing and Materials	Standard Test Method for Determining Longitudinal Peak Braking Coefficient of Paved Surfaces Using Standard Reference Test Tire	49 CFR 571.105 S6.9.2(a)
ASTM E1590 (pdf) ASTM E1590 (html)	2001	American Society for Testing and Materials	Standard Test Method for Fire Testing of Mattresses	49 CFR 238 Appendix B(a)(1)(xi)
ASTM E1625	1994	American Society for Testing and Materials	Standard Test Method for Determining Biodegradability of Organic Chemicals in Semi- Continuous Activated Sludge	40 CFR 799.5085
ASTM E1719	1997	American Society for Testing and Materials	Standard Test Method for Vapor Pressure of Liquids by Ebulliometry	40 CFR 799.5085
ASTM F462	1979	American Society for Testing and Materials	Slip-Resistant Bathing Facilities	24 CFR 200, Subpart S
ASTM F476	1984	American Society for Testing and Materials	Standard Test Method for Security of Swinging Door Assemblies	24 CFR 200.949(a)(1) (ix)
ASTM F478	1992	American Society for Testing and Materials	Standard Specification for In-Service Care of Insulating Line Hose and Covers	29 CFR 1910.137(b)(2) (ix)
ASTM F631	1980	American Society for Testing and Materials	Standard Guide for Collecting Skimmer Performance Data in Controlled Environments	33 CFR 156.40
ASTM F631	1993	American Society for Testing and Materials	Standard Guide for Collecting Skimmer Performance Data in Controlled Environments	33 CFR 154 Appendix C
ASTM F682	1982	American Society for Testing and Materials	Standard Specification for Wrought Carbon Steel Sleeve-Type Pipe Couplings	46 CFR 56.01-2

Standard Test Methods for Coated

Fabrics Used for Oil Spill Control

Standard Test Methods for Coated

Fabrics Used for Oil Spill Control

Standard Specification for Welded

Guide for Collecting Skimmer

Joints for Shipboard Piping Systems

Performance Data in Uncontrolled

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33 CFR 154.106

33 CFR 155.140

B, 2.4

33 CFR 155, Appendix

33 CFR 154, Appendix C

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			Environments	
ASTM F808	1983	American Society for Testing and Materials	Guide for Collecting Skimmer Performance Data in Uncontrolled Environments	33 CFR 154, Appendix C, 6.3.1
ASTM F1003	1986	American Society for Testing and Materials	Standard Specification for Searchlights on Motor Lifeboats	46 CFR 199.175(a)(28) (i)
ASTM F1006	1986	American Society for Testing and Materials	Standard Specification for Entrainment Separators for Use in Marine Piping Applications	46 CFR 56.60-1(b)
ASTM F1007	1986	American Society for Testing and Materials	Standard Specification for Pipe-Line Expansion Joints of the Packed Slip Type for Marine Application	46 CFR 56.60-1(b)
ASTM F1014	1992	American Society for Testing and Materials	Standard Specification for Flashlights on Vessels	46 CFR 35.30-20(c)(3)
ASTM F1020	1986	American Society for Testing and Materials	Standard Specification for Line-Blind Valves for Marine Applications	46 CFR 56.60-1(b)
ASTM F1120	1987	American Society for Testing and Materials	Standard Specification for Circular Metallic Bellows Type Expansion Joints for Piping Applications	46 CFR 56.60-1(b)
ASTM F1121	1987	American Society for Testing and Materials	Standard Specification for International Shore Connections for Marine Fire Applications	33 CFR 126.15(a)(5)
ASTM F1122	1987	American Society for Testing and Materials	Standard Specification for Quick Disconnect Couplings	33 CFR 154.500(d)(3)
ASTM F1123	1987	American Society for Testing and Materials	Standard Specification for Non- Metallic Expansion Joints	46 CFR 56.60-1(b)
ASTM F1139	1988	American Society for Testing and Materials	Standard Specification for Steam Traps and Drains	46 CFR 56.60-1(b)
ASTM F1155	1998	American Society for Testing and Materials	Standard Practice for Selection and Application of Piping System Materials	33 CFR 154
ASTM F1172	1988	American Society for Testing and Materials	Fuel Oil Meters of the Volumetric Positive Displacement Type	46 CFR 56.60-1(b)
ASTM F1173	1995	American Society for Testing and Materials	Standard Specification for Thermosetting Resin Fiberglass Pipe and Fittings to be Used for Marine Applications	46 CFR 56.60-1(b)
ASTM F1196	1994	American Society for Testing and Materials	Standard Specification for Sliding Watertight Door Assemblies	46 CFR 170.270(c)(1)
ASTM F1197	1989	American Society for Testing and Materials	Standard Specificatiion for Sliding Watertight Door Control Systems	46 CFR 174.100(e)(2)
ASTM F1199	1988	American Society for Testing and Materials	Cast (All Temperatures and Pressures) and Welded Pipe Line Strainers (150 psig and 150 Degrees F Maximum)	46 CFR 56.60-1(b)
ASTM F1200	1988	American Society for Testing and Materials	Standard Specification for Fabricated (Welded) Pipe Line Strainers (Above 150 psig and 150°F)	46 CFR 56.60-1(b)
ASTM F1201	1988	American Society for Testing and Materials	Standard Specification for Fluid Conditioner Fittings in Piping	46 CFR 56.60-1(b)

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			Applications Above Zero Degrees F	
ASTM F1271	1990	American Society for Testing and Materials	Standard Specification for Spill Valves for Use in Marine Tank Liquid Overpressure Protection Applications	46 CFR 39.20-9(c)(1)
ASTM F1273	1991	American Society for Testing and Materials	Standard Specification for Tank Vent Flame Arresters	46 CFR 32.20-10
ASTM F1292	2004	American Society for Testing and Materials	Standard Specification for Impact Attenuation of Surface Systems Under and Around Playground Equipment	36 CFR 1191, App B, 105.2.3
ASTM F1321	1992	American Society for Testing and Materials	Standard Guide for Conducting a Stability Test (Lightweight Survey and Inclining Experiment) to Determine Light Ship Displacement and Centers of Gravity of a Vessel	46 CFR 28.535(d)
ASTM F1323	1998	American Society for Testing and Materials	Standard Specification for Shipboard Incinerators	46 CFR 63.25-9
ASTM F1471	1993	American Society for Testing and Materials	Standard Test Method for Air Cleaning Performance of a High- Efficiency Particulate Air-Filter System	40 CFR 86.1310-2007(b) (1)(iv)(B)
ASTM F1546	1996	American Society for Testing and Materials	Standard Specification for Firehose Nozzles	46 CFR 162.027-3(a)
ASTM F1548	1994	American Society for Testing and Materials	Performance of Fittings for Use with Gasketed Mechanical Couplings Used in Piping Applications	46 CFR 56.30-35(a)
ASTM F1951	1999	American Society for Testing and Materials	Standard Specification for Determination of Accessibility of Surface Systems Under and Around Playground Equipment	36 CFR 1191, App B, 1008.2.6.1
ASTM F2412 (pdf) ASTM F2412 (html) ASTM F2412 (svg)	2005	American Society for Testing and Materials	Standard Test Methods for Foot Protection	29 CFR 1910
ASTM F2413 (pdf) ASTM F2413 (html)	2005	American Society for Testing and Materials	Performance Requirements for Protective Footware	29 CFR 1910
ASTM G21	1990	American Society for Testing and Materials	Standard Practice for Determining Resistance of Synthetic Polymeric Materials to Fungi	7 CFR 1755.910(d)(5) (iv)
ASTM G23	1969	American Society for Testing and Materials	Standard Practice for Operating Light Exposure Apparatus (Carbon Arc Type) With and Without Water for Exposure of Nonmetallic Materials	49 CFR 571.209 S5.1(e)
ASTM G26	1970	American Society for Testing and Materials	Standard Recommended Practice for Light- and Water-Exposure Apparatus (Xenon-Arc Type) for Exposure of Non-metallic Materials	16 CFR 1201.4(b)(3)(ii)
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C. ASTM G151	ase 1:13-cv- 1997	01215-TSC Documer American Society for Testing and Materials	tt 122-1 Filed 12/22/15 Page 3 Standard Practice for Exposing Nonmetallic Materials in Accelerated Test Devices that Use Laboratory Light Sources	5 of 298 49 CFR 571.106 S12.7(b)
ASTM G154	2000	American Society for Testing and Materials	Standard Practice for Operating Fluorescent Light Apparatus for UV Exposure of Nonmetallic Materials	49 CFR 571.106 S12.7(b)
ATAA 300	1996	Air Transport Association of America	Packaging of Airline Supplies, Revision 19	49 CFR 171.7
AWPA A1	1991	American Wood Preservers Association	Standard Methods for Analysis of Creosote and Oil-Type Preservatives	7 CFR 1728.201(i)(1)(i)
AWPA A2	1991	American Wood Preservers Association	Standard Methods for Analysis of Waterborne Preservatives and Fire- Retardant Formulations	7 CFR 1728.201(i)(1)(iii) (A)
AWPA A3	1991	American Wood Preservers Association	Standard Methods for Determining Penetration of Preservatives and Fire Retardants	7 CFR 1728.201(k)(3)
AWPA A5	1991	American Wood Preservers Association	Standard Methods for Analysis of Oil-Borne Preservatives	7 CFR 1728.202(g)(1)(v) (B)
AWPA A6	1989	American Wood Preservers Association	Method for the Determination of Oil- Type Preservatives and Water in Wood	7 CFR 1728.202(g)(1)(v) (A)
AWPA A7	1975	American Wood Preservers Association	Standard Wet Ashing Procedure for Preparing Wood for Chemical Analysis	7 CFR 1728.202(g)(1)(v) (D)
AWPA A9	1990	American Wood Preservers Association	Standard Method for Analysis of Treated Wood and Treating Solutions by X-ray Spectroscopy	7 CFR 1728.202(g)(1)(v) (C)
AWPA A11	1983	American Wood Preservers Association	Standard Method for Analysis of Treated Wood and Treating Solutions by Atomic Absorption Spectroscopy	7 CFR 1728.201(i)(1)(iii) (B)
AWPA M3	1981	American Wood Preservers Association	Standard Quality Control Procedures for Wood Preserving Plants	7 CFR 1728.202(f)(1)
AWPA P1	1991	American Wood Preservers Association	Standard for Coal Tar Creosote for Land and Fresh Water and Marine (Coastal) Water Use	7 CFR 1728.201(i)(1)(i)
AWPA P5	1991	American Wood Preservers Association	Standard for Waterborne Preservative	7 CFR 1728.201(i)(1)(iii) (A)
AWPA P8	1991	American Wood Preservers Association	Standard for Oil-Borne Preservatives	7 CFR 1728.201(i)(1)(iv)
AWPA P9	1991	American Wood Preservers Association	Standard for Solvents and Formulations for Organic Preservative Systems	7 CFR 1728.201(i)(1)(iv)
AWS B3.0	1977	American Welding Society	Standard Qualification Procedure	49 CFR 178.356-2(e)
AWS D1.1	2000	American Welding Society	Structural Welding CodeSteel	30 CFR 250.901(a)(20)
BHMA A156.10	1999	Builders Hardware Manufacturers	Power Operated Pedestrian Doors	36 CFR 1191, App B, 105.2.1

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BHMA A156.19	2002	Builders Hardware Manufacturers Association	Power Assist and Low Energy Power Operated Doors	36 CFR 1191, App B, 408.3.2.1	
BOCA	1993	Building Officials and Code Administrators International	Mechanical Code	24 CFR 200.925c(a)(1) (i)	
BOCA	1993	Building Officials and Code Administrators International	Plumbing Code	24 CFR 200.925c(a)(1) (i)	
BSI EN-13000 (pdf) BSI EN-13000 (html)	2004	British Standards Institute	CranesSafetyMobile Cranes	29 CFR 1926	
BSI EN-14439 (pdf) BSI EN-14439 (html)	2006	British Standards Institute	CranesSafetyTower Cranes	29 CFR 1926	
CEC Test Method	2004	California Energy Commission	Calculating the Energy Efficiency of Single-Voltage External Ac-Dc and Ac-Ac Power Supplies	10 CFR 430 Subpart B	
CABO	1992	Council of American Building Officials	One and Two Family Dwelling Code	24 CFR 200.926b(c)	
CABO	1993	Council of American Building Officials	One and Two Family Dwelling Code with Errata Package and 1993 Amendments	24 CFR 200.926(d)(1)(ii) ((B)(2)(ii)	
CFTA	1977	Cosmetic, Toiletry, and Fragrance Association	Cosmetic Ingredient Dictionary	21 CFR 701.3(c)(2)(i)	
CGA C-5	1991	Compressed Gas Association	Cylinder Service Life-Seamless Steel High Pressure Cylinders	49 CFR 173.302a(b)(3) (i)(A)	
CGA C-8	1985	Compressed Gas Association	Standard for Requalification of DOT- 3HT Cylinders	49 CFR 180.205(f)(1)	
CGA C-11	2001	Compressed Gas Association	Recommended Practice for Inspection of Compressed Gas Cylinders at Time of Manufacture	49 CFR 178.35(g)	
CGA C-12	1994	Compressed Gas Association	Qualification Procedure for Acetylene Cylinder Design	49 CFR 173.303(a)	
CGA C-13	2000	Compressed Gas Association	Guidelines for Periodic Visual Inspection and Requalification of Acetylene Cylinders	49 CFR 173.303(e)	
CGA G-1	2009	Compressed Gas Association	Acetylene	29 CFR 1910.102(a)	
CGA G-2.2	1985	Compressed Gas Association	Guideline Method for Determining Minimum of 0.2% Water in Anhydrous Ammonia	49 CFR 173.315(l)(5)	
CGA G-4.1	1985	Compressed Gas Association	Cleaning Equipment for Oxygen Service	49 CFR 178.338-15	
CGA P-1	1965	Compressed Gas Association	Safe Handling of Compressed Gases	29 CFR 1910.101(b)	
CGA P-20	2003	Compressed Gas Association	Standard for the Classification of Toxic Gas Mixtures	49 CFR 173.115	
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	CGA S-1.1	2005	Compressed Gas Association	Pressure Relief Device Standards	49 CFR 173.301(c)
	CGA S-1.2	1980	Compressed Gas Association	Safety Release Device Standard Cargo and Portable Tanks for Compressed Gases	49 CFR 178.277(e)(4) (iv)
	CGA S-7 (pdf) CGA S-7 (html)	2005	Compressed Gas Association	Method for Selecting Pressure Relief Devices for Compressed Gas Mixtures in Cylinders	49 CFR 173.301(c)
	CGA TB-2	1980	Compressed Gas Association	Guidelines for Inspection and Repair of MC-330 and MC-331 Cargo Tanks	49 CFR 180.407(g)(3)
	CGA TB-25	2008	Compressed Gas Association	Design Considerations for Tube Trailers	49 CFR 173.301
	CGSB 43.147	2005	Canadian General Standards Board	Construction, Modification, Qualification, Maintenance, and Selection and Use of Means of Containment for the Handling, Offering for Transport, or Transportation of Dangerous Goods by Rail	49 CFR 171.12
	CGSB 43.147	2005	Office des Normes Generales du Canada	Construction, Modification, Qualification, Entretien, Selection Et Utilisation Des Contenants Pour La Manutention, La Demande De Transport Ou La Transport Des Marchandises Dangereuses Par Chemin De Fer	49 CFR 171.12
	CI 57	2009	Chlorine Institute	Emergency Shut-Off Systems for Bulk Transfer of Chlorine	49 CFR 177.840(u)
	CI 101-7	1993	Chlorine Institute	Excess Flow Valve with Removable Seat	49 CFR 178.276(c)(7)(i)
	CI 104-9	2002	Chlorine Institute	Standard Chlorine Angle Valve Assembly	49 CFR 178.337-9(b)(8)
	CI 106-6	1993	Chlorine Institute	Excess Flow Valve with Removable Baskets	49 CFR 178.276(c)(7)(ii)
	CI 166	2002	Chlorine Institute	Angle Valve Guidelines for Chlorine Bulk Transportation	49 CFR 178.337-9(b)(8)
	CI H50155	1996	Chlorine Institute	Pressure Relief Device for Chlorine Service	49 CFR 173.315(i)(13)
	CI H51970	1996	Chlorine Institute	Safety Valve for Chlorine Service	49 CFR 173.315(i)(13)
	CI	2009	Chlorine Institute	Chlorine Institute Emergency Kit A for 100-lb. and 150-lb. Chlorine Cylinders	49 CFR 173.3(e)(1)
	CI	2009	Chlorine Institute	Chlorine Institute Emergency Kit B for Chlorine Ton Containers	49 CFR 173.3(e)(1)
	CIE 15	2004	International Commission on Illumination	Technical Report: Colorimetry, 3rd edition	10 CFR 430 Subpart B, App. R, 4.1.1
	CIE 15A (xls)	2004	International Commission on Illumination	Supplementary Spectra	10 CFR 430 Subpart B, App. R, 4.1.1

CIE 15B (xls)	ase 1:13-cv-0 2004	01215-TSC Documer International Commission on Illumination	t 122-1 Filed 12/22/15 Page 38 Supplementary Tables	3 of 298 10 CFR 430 Subpart B, App. R, 4.1.1
CRA A-20	1986	Corn Refiners Association	Analysis for Starch in Corn	7 CFR 801.7(a)(2)
CSA C390	1993	Canadian Standards Association	Energy Efficiency Test Methods for Three-Phase Induction Motors	10 CFR 431.19(b)(4)
CTIOA R8-103-62	1969	Ceramic Tile Institute of America	Standard Specifications for the Installation of Tile Lined Shower Receptors	24 CFR 200, Subpart S
CSVA	2004	Commercial Vehicle Safety Alliance	North American Standard Out-of- Service Criteria and Level VI Inspection Procedures and Out-of- Service Criteria for Commercial Highway Vehicles	49 CFR 385.415(b)(1)
EI IP-501	2005	Energy Institute	Determination of aluminum, silicon, vanadium, nickel, iron, sodium, calcium, zinc and phosphorus in residual fuel oil	40 CFR 1065.705 Table 1
FGMA	1990	Flat Glass Marketing Association	Glazing Manual	24 CFR 200, Subpart S
GLI METHOD 2	2009	Great Lakes Instruments	Turbidity	40 CFR 141.74(a)(1)
GPA 2261	2000	Gas Producers Association	Analysis of Natural Gas and Similar Gaseous Mixtures by Gas Chromatography	40 CFR 75, Appendix F, Section 5.5.2
GPA 2261	2000	Gas Processors Association	Analysis of Natural Gas and Similar Gaseous Mixtures by Gas Chromatography	40 CFR 75, Appendix F
GPA 2377	1986	Gas Processors Association	Test for Hydrogen Sulfide and Carbon Dioxide in Natural Gas Using Length of Stain Tubes	40 CFR 60.334(h)(1)
GRI 02-0057	2002	Gas Research Institute	Internal Corrosion Direct Assessment of Gas Transmission Pipelines Methodology	49 CFR 192.927(c)(2)
HACH 8000	2007	Hach Chemical Company	Oxygen Demand, Chemical Using Reactor Digestion Method	40 CFR 136.3(a)
HACH 8008	2007	Hach Chemical Company	1, 10Phenanthroline Method Using FerroVer Iron Reagent for Water	40 CFR 136.3(a)
HACH 8009	2007	Hach Chemical Company	Zincon Method for Zinc, Hatch Handbook of Water Analysis	40 CFR 444.12(b)(1)
HACH 8034	2007	Hach Chemical Company	Periodate Oxidation Method for Manganese	40 CFR 136.3(a)
HACH 8507	2007	Hach Chemical Company	Nitrogen NitriteLow Range, Diazotization Method for Water and Wastewater	40 CFR 136.3(a)
HI BTS-2000	2007	Hydronics Institute	Method to Determine Efficiency of Commercial Space Heating Boilers	10 CFR 431.86
HPMA HP-SG-96	1996	Hardwood Plywood Manufacturers Association	Structural Design Guide for Hardwood Plywood Wall Panels	24 CFR 3280.304(b)(1)

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IAPMO PS-2	1989	International Association of Plumbing and Mechanical Officials	Material and Property Standard for Cast Brass and Tubing P-Traps	24 CFR 3280.604(b)(2)
IAPMO PS-5	1984	International Association of Plumbing and Mechanical Officials	Material and Property Standard for Special Cast Iron Fittings	24 CFR 3280.604(b)(2)
IAPMO PS-9	1984	International Association of Plumbing and Mechanical Officials	Material and Property Standard for Diversion Tees and Twin Waste Elbow	24 CFR 3280.604(b)(2)
IAPMO PS-14	1989	International Association of Plumbing and Mechanical Officials	Material and Property Standard for Flexible Metallic Water Connectors	24 CFR 3280.604(b)(2)
IAPMO PS-23	1989	International Association of Plumbing and Mechanical Officials	Material and Property Standard for Dishwasher Drain Airgaps	24 CFR 3280.604(b)(2)
IAPMO PS-31	1977	International Association of Plumbing and Mechanical Officials	Material and Property Standard for Backflow Prevention Devices	24 CFR 3280.604(b)(2)
ICAO 9284	2011	International Civil Aviation Organization	Technical Instructions for the Safe Transport of Dangerous Goods by Air	49 CFR 171.7
ICAO Annex 2	1990	International Civil Aviation Organization	Convention on International Civil Aviation, Rules of the Air	14 CFR 135.3(a)(2)
ICAO Annex 16	2008	International Civil Aviation Organization	Environmental Protection, Volume II Aircraft Engine Emissions	40 CFR 87.89
ICBO	1991	International Conference of Building Officials	Uniform Building Code (1991)	24 CFR 200.925c(a)(1) (iii)
ICBO	1991	International Conference of Building Officials	Uniform Mechanical Code (1991)	24 CFR 200.925c(c)(3)
ICEA S-87-640	2006	Insulated Cable Engineers Association	Standard for Optical Fiber Outside Plant Communications Cable	7 CFR 901(c)
ICEA S-110-717	2003	Insulated Cable Engineers Association	Standard for Optical Drop Cable	7 CFR 901(c)
ICS	1973	International Chamber of Shipping	Clean Seas Guide for Oil Tankers	33 CFR 157.23(b)
IEEE 45	2002	Institute of Electrical and Electronics Engineers	Recommended Practice for Electrical Installations on Shipboard	46 CFR 110.10-1
IEEE 112	2004	Institute of Electrical and Electronics Engineers	Test Procedure for Polyphase Induction Motors and Generators	10 CFR 431.15
IEEE 114	2010	Institute of Electrical and Electronics Engineers	IEEE Standard Test Procedure for Single-Phase Induction Motors	10 CFR 431
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	IEEE 1202 (pdf) IEEE 1202 (html)	1991	Institute of Electrical and Electronics Engineers	Standard for Flame Testing of Cables	46 CFR 111
	IEEE C2	1997	Institute of Electrical and Electronics Engineers	National Electrical Safety Code	7 CFR 1755.503(d)(1)
	IEEE C2	2007	Institute of Electrical and Electronics Engineers	National Electrical Safety Code (2007)	7 CFR 1755.901(b)
	IEEE C37.14	2002	Institute of Electrical and Electronics Engineers	Standard for Low-Voltage AC Power Circuit Breakers Used in Enclosures	46 CFR 110.10-1
	IEEE P730.1	1989	Institute of Electrical and Electronics Engineers	Standard for Software Quality Assurance Plans	7 CFR 1755.522(n)(2)
	IESNA LM-45	2000	Illuminating Engineering Society of North America	Method for Electrical and Photometric Measurements of General Service Incandescent Filament Lamps	10 CFR 430 Subpart B
	IME 22	2011	Institute of Makers of Explosives	Recommendations for the Safe Transportation of Detonators in a Vehicle with Certain Other Explosive Materials	30 CFR 57.6133(b)
	IME	1940	Institute of Makers of Explosives	Safety in the Handling and Use of Explosives	29 CFR 1910.261(a)(4) (iii)
	IMO IMDG.1	2006	International Maritime Organization	International Maritime Dangerous Goods Code (Volume 1)	49 CFR 172.519(f)
	IMO IMDG.2	2006	International Maritime Organization	International Maritime Dangerous Goods Code (Volume 2)	49 CFR 172.519(f)
	IMO ISPS	2003	International Maritime Organization	International Ship and Port Facility Security Code	33 CFR 101.410(a)
	AG ENG	1965	Interstate Printers and Publishers, Inc.	Agriculture Engineering	29 CFR 570.71(b)
	ISO 535	1991	International Organization for Standardization	Paper and BoardDetermination of Water AbsorptivenessCobb Method	49 CFR 178.516(b)(1)
	ISO 1496-1	1990	International Organization for Standardization	Series 1 Freight Containers Specification and TestingPart 1, General Cargo Containers	49 CFR 173.411(b)(6)(iii)
	ISO 1496-3	1995	International Organization for Standardization	Series 1 Freight Containers Specification and TestingPart 3, Tank containers for Liquids, Gases and Pressurized Dry Bulk	49 CFR 178.74(c)(5)(ii)
	ISO 3807-2	2000	International Organization for Standardization	Cylinders for acetyleneBasic requirementsPart 2: Cylinders with fusible plugs	49 CFR 173.303(f)(1)
	ISO 6406 (pdf) ISO 6406 (html)	2005	International Organization for Standardization	Seamless Steel Gas Cylinders Inspection and Testing	49 CFR 180
	ISO 7225	2005	International Organization for Standardization	Gas CylindersPrecautionary Labels	49 CFR 178.71(r)(2)

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ISO 7866	1999	International Organization for Standardization	Gas CylindersRefillable Seamless Aluminum Alloy Gas Cylinders Design, Construction and Testing	49 CFR 178.71(h)
ISO 8115	1986	International Organization for Standardization	Cotton bales—Dimensions and density	49 CFR 171.7
ISO 9809-1	1999	International Organization for Standardization	Gas CylindersRefillable Seamless Steel Gas CylindersDesign, Construction and TestingPart 1: Quenched and Tempered Steel Cylinders with Tensile Strength less than 1 100 MPa	49 CFR 178.71(g)(1)
ISO 9809-2	2000	International Organization for Standardization	Gas CylindersRefillable Seamless Steel Gas CylindersDesign, Construction and TestingPart 2: Quenched and Tempered Steel Cylinders with Tensile Strength Greater than or Equal to 1 100 MPa	49 CFR 178.71(g)(2)
ISO 9809-3	2000	International Organization for Standardization	Gas CylindersRefillable Seamless Steel Gas CylindersDesign, Construction and TestingPart 3: Normalized Steel Cylinders	49 CFR 178.71(g)(3)
ISO 9978	1992	International Organization for Standardization	Sealed Radioactive SourcesLeak Test Methods	49 CFR 173.469(a)(4)(ii)
ISO 10297	1999	International Organization for Standardization	Gas cylindersRefillable gas cylinder valvesSpecification and type testing	49 CFR 173.301b(c)(1)
ISO 10461 (pdf) ISO 10461 (html)	2005	International Organization for Standardization	Seamless Aluminum Alloy Gas CylindersInspection and Testing	49 CFR 180
ISO 10462 (pdf) ISO 10462 (html)	2005	International Organization for Standardization	Transportable Cylinders for Dissolved Acetylene	49 CFR 180
ISO 11114-1	1997	International Organization for Standardization	Transportable gas cylinders Compatibility of cylinder and valve materials with gas contentsPart 1: Metallic materials	49 CFR 173.301b(a)(2)
ISO 11114-2	2000	International Organization for Standardization	Transportable gas cylinders Compatibility of cylinder and valve materials with gas contentsPart 2: Non- metallic materials	49 CFR 173.301b(a)(2)
ISO 11117	1998	International Organization for Standardization	Gas cylindersValve protection caps and valve guards for industrial and medical gas cylindersDesign, construction and tests	49 CFR 173.301b(c)(2) (ii)
ISO 11118	1999	International Organization for Standardization	Gas cylindersNon-refillable metallic gas cylindersSpecification and test methods	49 CFR 178.71(i)
ISO 11119-1	2002	International Organization for Standardization	Gas cylindersGas cylinders of composite construction Specification and test methodsPart 1: Hoop-wrapped composite gas cylinders	49 CFR 171.7

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ISO 11119-2	2002	International Organization for Standardization	Gas cylinders—Gas cylinders of composite construction— Specification and test methods— Part 2: Fully wrapped fibre reinforced composite gas cylinders with load-sharing metal liners	49 CFR 171.7
ISO 11119-3	2002	International Organization for Standardization	Gas cylinders of composite constructionSpecification and test methodsPart 3: Fully wrapped fibre reinforced composite gas cylinders with non-load-sharing metallic or non-metallic liners	49 CFR 171.7
ISO 11120	1999	International Organization for Standardization	Gas cylindersRefillable seamless steel tubes of water capacity between 150 L and 3000 LDesign, construction and testing	49 CFR 178.71(j)
ISO 11621	1997	International Organization for Standardization	Gas cylindersProcedures for change of gas service	49 CFR 173.301b(a)(2)
ISO 11623 (p ISO 11623 (h	odf) 2002 html)	International Organization for Standardization	Periodic Inspection and Testing of Composite Gas Cylinders	49 CFR 180
ISO 11660-1 ISO 11660-1 (html)	(pdf) 2008	International Organization for Standardization	Cranes: Access, Guards and Restraints: General	29 CFR 1926
ISO 11660-2 ISO 11660-2 (html)	(pdf) 1994	International Organization for Standardization	Cranes: Access, Guards and Restraints: Mobile Cranes	29 CFR 1926
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ISO 14230-4	2000	International Organization for Standardization	Road VehiclesDiagnostic Systems	40 CFR 1048.110(g)(2)
ISO 18902 (p ISO 18902 (h	odf) 2001 html)	International Organization for Standardization	Photographic Processed Films, Plates, and Papers	36 CFR 1237
ISO 18906 (p ISO 18906 (h	odf) 2000 html)	International Organization for Standardization	Photographic FilmsSpecifications for Safety Film	36 CFR 1237
ITU-R M-493	-11 2004	International Telecommunication Union	Digital Selective-calling System for Use in the Maritime Mobile Service, with Annexes 1 and 2	47 CFR 80.1101(c)(2)(ii)
ITU-R M-541	-8 1997	International Telecommunication Union	Operational Procedures for the Use of Digital Selective-Calling Equipment in the Maritime Mobile Service	47 CFR 80.1101(c)(4)(iii)
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ITU-R M-628	-3 1994	International Telecommunication	Technical Characteristics for Search and Rescue Radar Transponders	47 CFR 80.1101(c)(6)(ii)

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ITU-R M-632-3	1997	International Telecommunication Union	Transmission Characteristics of a Satellite Emergency Position Indicating Radio Beacon	47 CFR 80.1101(c)(11) (iii)
ITU-R M-633-3	2004	International Telecommunication Union	Transmission characteristics of a satellite emergency position- indicating radiobeacon system operating through a low polar- orbiting satellite system	47 CFR 80.1101(c)(5)(iii)
ITU-R M-1371-1	2001	International Telecommunication Union	Technical Characteristics for a Universal Shipborne Automatic Identification System Using Time Division Multiple Access	47 CFR 80.1101(c)(12) (i)
ITU-T E.161	2001	International Telecommunication Union	Arrangement of Digits, Letters and Symbols on Telephones and Other Devices that Can Be Used for Gaining Access to a Telephone Network	47 CFR 80.1101(b)(2)
ITU-T E.164.1	2008	International Telecommunication Union	Numbering Plan of the International Telephone Service	47 CFR 80.1101(b)(3)
LACHAT 10-204	2008	Lachat Instruments	Digestion and Distillation of Total Cyanide in Drinking and Wastewaters	40 CFR 136.3(a) Table IB
STEAM	1917	Commonwealth of Massachusetts	District Police Steam Boiler Rules	
MSS SP-44	1996	Manufacturers Standardization Society	Steel Pipe Line Flanges	46 CFR 56.01-2
MSS SP-75	2004	Manufacturers Standardization Society	Specification for High-Test Wrought Butt Welding Fittings	49 CFR 118(a)
NACE RP-0502	2002	National Association of Corrosion Engineers	Pipeline External Corrosion Direct Assessment Methodology	49 CFR 192.925(b)(3)
NACM	2003	National Association of Chain Manufacturers	Welded Steel Chain Specifications	49 CFR 393.104(e)(2)
NAS	1972	National Academy of Sciences	Food Chemicals Codex (1972)	21 CFR 701.3(c)(2)(iv)
NAS	1996	National Academy of Sciences	Food Chemicals Codex (1996)	21 CFR 184
NAS	2011	National Academy of Sciences	Prudent Practices in the Laboratory: Handling and Disposal of Chemicals	42 CFR 52b.12(c)(6)
NCASI 98-01	1998	National Council of the Paper Industry for Air and Stream Improvements	Chilled Impinger Method For Use At Wood Products Mills to Measure Formaldehyde, Methanol, and Phenol	40 CFR 63, Subpart DDDD
NCASII 94-03	2002	National Council of the Paper Industry for Air and Stream Improvements	Methanol in Process Liquids by Gas Chromatography/Flame Ionization Detection	40 CFR 63.457(c)(3)(ii)
NCASI A105	2001	National Council of the Paper Industry for Air	Impinger Source Sampling Method for Selected Aldehydes, Ketones,	40 CFR 63, Subpart DDDD

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		and Stream Improvements	and Polar Compounds	
NCASI 99-02	2002	National Council of the Paper Industry for Air and Stream Improvements	Impinger/Canister Source Sampling Method For Selected HAPs and Other Compounds at Wood Products Facilities	40 CFR 63, Subpart DDDD
NCCA	2011	National Cotton Council of America	Specifications for Cotton Bale Packaging Material	7 CFR 1427.5(b)(10)
UCC	2002	National Conference of Commissioners on Uniform State Laws	2002 Official Text and Comments, Sections 8–102 and 8-103	17 CFR 270.17f-4(c)(1)
UCC	2002	National Conference of Commissioners on Uniform State Laws	2002 Official Text and Comments, Sections 8–501 through 8–511	17 CFR 270.17f-4(c)(1)
NCUTLO	1969	National Committee on Uniform Traffic Laws and Ordinances	Uniform Vehicle Code and Model Ordinance	41 CFR 50-204.75
NFPA 10 (pdf) NFPA 10 (html) NFPA 10 (svg)	2002	National Fire Protection Association	Standard for Portable Fire Extinguishers	29 CFR 1915
NFPA 11 (pdf) NFPA 11 (html)	2005	National Fire Protection Association	Standard for Foam	29 CFR 1915
NFPA 12 (pdf) NFPA 12 (html)	2005	National Fire Protection Association	Standard for Carbon Dioxide Extinguishing Systems	29 CFR 1915
NFPA 13	2002	National Fire Protection Association	Standard for the Installation of Sprinkler Systems	36 CFR 1234.12(i)
NFPA 25 (pdf) NFPA 25 (html)	2002	National Fire Protection Association	Standard for Water-Based Fire Protection Systems	29 CFR 1915
NFPA 30 (pdf) NFPA 30 (html)	2003	National Fire Protection Association	Flammable and Combustible Liquids Code	49 CFR 192
NFPA 54 (pdf) NFPA 54 (html) NFPA 54 (svg)	2002	National Fire Protection Association	National Fuel and Gas Code	24 CFR 3280
NFPA 58 (pdf) NFPA 58 (html)	2001	National Fire Protection Association	Standard for Liquefied Petroleum Gases	49 CFR 173
NFPA 58	2004	National Fire Protection Association	Standard for the Storage and Handling of Liquefied Petroleum Gases	49 CFR 192.11(b)
NFPA 59	2004	National Fire Protection Association	Standard for the Storage and Handling of Liquefied Petroleum Gases at Utility Gas Plants	49 CFR 192.11(b)
NFPA 72 (pdf) NFPA 72 (html) NFPA 72 (svg)	2002	National Fire Protection Association	National Fire Alarm Code	29 CFR 1915
NFPA 99	2005	National Fire Protection Association	Standard for Health Care Facilities	38 CFR 51.200(b)(4)
NFPA 101 (pdf) NFPA 101 (html)	2000	National Fire Protection Association	Life Safety Code	59 CFR 130
NFPA 704	2007	National Fire Protection Association	Standard System for the Identification of the Hazards of Materials for Emergency Response	6 CFR 27.204(a)(2)

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NFPA DUST	1957	National Fire Protection Association	Report of Important Dust Explosions	
NFPA HOST	1953	National Fire Protection Association	Handling Hose and Ladders	
NFPA 70	2005	National Fire Protection Association	National Electrical Code	49 CFR 192.189(c)
NACHA	2005	National Automated Clearing House Association	A Complete Guide to the Rules Governing the ACH Network	45 CFR 162.920
ISS-MCB	2011	International Space Station Multilateral Coordination Board	International Docking Standard	1 Code of Intergalactic Regulations 32
NCRP 33	1968	National Council on Radiation Protection and Measurement	Medical X-ray and Gamma-Ray Protection for Energies Up to 10 MeVEquipment Design and Use	42 CFR 37.43
NCRP 48	1976	National Council on Radiation Protection and Measurement	Medical Radiation Protection for Medical and Allied Health Personnel	42 CFR 37.43
NCRP 49	1976	National Council on Radiation Protection and Measurement	Structural Shielding Design and Evaluation for Medical Use of X- Rays and Gamma-Rays up to 10 MeV	42 CFR 37.43
NEMA MG-1	2009	National Electrical Manufacturers Association	Motors and Generators	10 CFR 431
NSF 61 (pdf) NSF 61 (html)	2001	National Sanitation Foundation	Drinking Water System ComponentsHealth Effects	24 CFR 3280
OECD 404	2002	Organization for Economic Cooperation and Development	Guideline for Testing of Chemicals, Acute Dermal Irritation/Corrosion	49 CFR 173.137
OECD C93	1974	Organization for Economic Cooperation and Development	Green List of Wastes	40 CFR 262.89(e)
OR REG	1975	State of Oregon	Oregon Grade Standards Hazelnuts in Shell	7 CFR 982.45(a)
ORION	1970	ORION Research Incorporated	Residual Chlorine Electrode Model 97-70	40 CFR 136.3(a) Table IB
PCI MNL-121	1977	Precast/Prestressed Concrete Institute	Manual for Structural Design of Architectural Precast Concrete	24 CFR 200, Subpart S
PCI MNL-117-77	1977	Precast/Prestressed Concrete Institute	Manual for Quality Control for Plants and Production of Architectural Precast Concrete Products	24 CFR 200, Subpart S
PCSA 1	1968	Power Crane and Shovel Association	Mobile Crane and Excavator Standards	29 CFR 1926.602(b)(3)
PCSA 2	1968	Power Crane and Shovel Association	Mobile Hydraulic Crane Standards	29 CFR 1926.602(b)(3)
PCSA 3	1969	Power Crane and Shovel Association	Mobile Hydraulic Excavator Standards	29 CFR 1926.602(b)(3)
PPI TR-3	2004	Plastics Pipe Institute	Policies and Procedures for Developing Hydrostatic Design Bases (HDB), Pressure Design	49 CFR 192.121

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RTCM C071	1995	Radio Technical Commission for Maritime Services	Recommended Standards for Marine Radar Equipment Installed on Ships of Less Than 300 Tons Gross Tonnage	33 CFR 164.72(a)(1)(i) (B)
RTCM C191	1993	Radio Technical Commission for Maritime Services	Recommended Standards for Marine Radar Equipment Installed on Ships of 300 Tons Gross Tonnage and Upwards	33 CFR 164.72(a)(1)(iii) (B)
SAE Paper 770141	1977	Society of Automotive Engineers	Optimization of a Flame Ionization Detector for Determination of Hydrocarbon in Diluted Automotive Exhausts	40 CFR 1065.360(c)
SAE J4C	1965	Society of Automotive Engineers	Motor Vehicle Seat Belt Assembly	29 CFR 1928.51(b)(2)(ii)
SAE J30	1998	Society of Automotive Engineers	Fuel and Oil Hoses	40 CFR 1051.501(c)(2)
SAE J166	1971	Society for Automotive Engineering	Minimum Performance Criteria for Brake Systems for Off-Highway Trucks and Wagons	29 CFR 1926.602(a)(4)
SAE J166	1971	Society of Automotive Engineers	Minimum Performance Criteria for Brake Systems for Off-Highway Trucks and Wagons	29 CFR 1926.602(a)(4)
SAE J167	1970	Society for Automotive Engineering	Protective Frame with Overhead Protection	29 CFR 1926.1003(g)
SAE J167	1974	Society of Automotive Engineers	Protective Frame with Overhead Protection	30 CFR 77.403-1(d)(1) (v)
SAE J168	1970	Society for Automotive Engineering	Protective EnclosuresTest Procedures and Performance Requirements	29 CFR 1926.1002(a)(5) (i)
SAE J185	1988	Society of Automotive Engineers	Recommended Practice for Access Systems for Off-Road Machines	29 CFR 1910.266(f)(5)(i)
SAE J186A	1977	Society of Automotive Engineers	Supplemental High Mounted Stop and Rear Turn Signal Lamps	49 CFR 571.108
SAE J211-1 (pdf) SAE J211-1 (html)	1995	Society of Automotive Engineers	Instrumentation for Impact Test	49 CFR 571
SAE J211	1971	Society of Automotive Engineers	Instrumentation for Impact Tests	49 CFR 571.222 S6.6.2
SAE J222	1970	Society of Automotive Engineers	Parking Lamps (Position Lamps)	49 CFR 571.108 S5.1.1.6
SAE J231	1971	Society for Automotive Engineering	Minimum Performance Criteria for Falling Object Protective Structures (FOPS)	30 CFR 77.403(a)
SAE J231	1971	Society of Automotive Engineers	Minimum Performance Criteria for Falling Object Protective Structures (FOPS)	30 CFR 77.403(a)
SAE J231	1981	Society of Automotive Engineers	Minimum Performance Criteria for Falling Object Protective Structures	29 CFR 1910.266(f)(3) (iii)

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SAE J236	1971	Society for Automotive Engineering	Minimum Performance Criteria for Brake Systems for Rubber Tire Self- Propelled Graders	29 CFR 1926.602(a)(4)	
SAE J237	1971	Society for Automotive Engineering	Minimum Performance Criteria for Brake Systems for Off-Highway Rubber-Tired Front End Loaders and Dozers	29 CFR 1926.602(a)(4)	
SAE J244	1983	Society for Automotive Engineering	Recommend Practice for Measurement of Intake Air or Exhaust Gas Flow of Diesel Engines	40 CFR 92.108(a)(3)	
SAE J319	1971	Society of Automotive Engineers	Minimum Performance Criteria for Brake Systems for Off-Highway Rubber-Tired Self-Propelled Scrapers	29 CFR 1926.602(a)(4)	
SAE J320	1972	Society for Automotive Engineering	Minimum Performance Criteria for Roll-Over Protective Structures for Rubber-Tired Self-Propelled Scrapers	29 CFR 1926.1001(h)	
SAE J320A	1969	Society of Automotive Engineers	Minimum Performance Criteria for Roll-Over Protective Structures for Rubber-Tired Self-Propelled Scrapers	30 CFR 77.403-1(d)(1)(i)	
SAE J321	1970	Society of Automotive Engineers	Fenders for Pneumatic-Tired Earthmoving Haulage Equipment	29 CFR 1926.602(a)(5)	
SAE J333	1970	Society for Automotive Engineering	Operation Protection for Wheel-Type Agricultural and Industry Tractors	29 CFR 1926.602(a)(2)	
SAE J334	1968	Society of Automotive Engineers	Protective Frame Test Procedures and Performance Requirements	30 CFR 77.403-1(d)(1) (vi)	
SAE J334	1970	Society for Automotive Engineering	Protective Frame Test Procedures and Performance Requirements	30 CFR 77.403-1(d)(1) (vi)	
SAE J386	1969	Society of Automotive Engineers	Operator Restraint Systems for Off- Road Work Machines	29 CFR 1926.602(a)(2)	
SAE J386	1985	Society for Automotive Engineering	Operator Restraint Systems for Off- Road Work Machines	30 CFR 56.14130(h)	
SAE J386	1993	Society of Automotive Engineers	Operator Restraint Systems for Off- Road Work Machines	30 CFR 56.14130(h)	
SAE J386	1997	Society of Automotive Engineers	Operator Restraint Systems for Off- Road Work Machines	30 CFR 57.14131(c)	
SAE J387 (pdf) SAE J387 (html)	1987	Society of Automotive Engineers	Terminology: Motor Vehicle Lighting	49 CFR 571	
SAE J394	1969	Society of Automotive Engineers	Minimum Performance Criteria for Roll-Over Protective Structures for Rubber-Tired Front End Loaders and Rubber-Tired Dozers	30 CFR 77.403-1(d)(1) (ii)	
SAE J394	1972	Society of Automotive Engineers	Minimum Performance Criteria for Rollover Protective Structures for Wheeled Front-End Loaders and Wheeled Dozers	30 CFR 77.403-1(d)(1) (ii)	
SAE J395	1969	Society of Automotive	Minimum Performance Criteria for	30 CFR 77.403-1(d)(1)	

с. 	ase 1:13-cv-	01215-TSC Documer Engineers	nt 122-1 Filed 12/22/15 Page 44 Roll-Over Protective Structures for Crawler Tractors and Crawler-Type Loaders	8 of 298 (iii)
SAE J396	1972	Society for Automotive Engineering	Minimum Performance Criteria for Roll-Over Protective Structures for Motor Graders	30 CFR 77.403-1(d)(1) (iv)
SAE J397	1969	Society of Automotive Engineers	Deflection Limiting Volume- Protective Structures Laboratory Evaluation	29 CFR 1926.1001(f)(1) (ii)
SAE J397	1988	Society of Automotive Engineers	Deflection Limiting Volume- Protective Structures Laboratory Evaluation	29 CFR 1910.266(f)(3) (iv)
SAE J429	1971	Society for Automotive Engineering	Mechanical and Quality Requirements for Externally Threaded Fasteners	30 CFR 77.403-1(d)(2) (iii)(B)
SAE J429	1983	Society of Automotive Engineers	Mechanical and Quality Requirements for Externally Threaded Fasteners	46 CFR 58.30-15(c)
SAE J429D	1967	Society of Automotive Engineers	Mechanical and Quality Requirements for Externally Threaded Fasteners	30 CFR 77.403-1(d)(2) (iii)(B)
SAE J449a	1963	Society of Automotive Engineers	Surface Texture Control	49 CFR 581.6(b)(1)
SAE J476a	1961	Society of Automotive Engineers	Dryseal Pipe Threads	49 CFR 393.67(c)(3)
SAE J527	1967	Society of Automotive Engineers	Brazed Double Wall Low Carbon Steel Tubing	49 CFR 571.116 S6.13.3(b)
SAE J533	1972	Society of Automotive Engineers	Flares for Tubing	24 CFR 3280.703
SAE J557	1968	Society of Automotive Engineers	High Tension Ignition Cable	33 CFR 183.440(a)
SAE J565	1969	Society of Automotive Engineers	Semi-Automatic Headlamp Beam Switching Devices	49 CFR 571.108 S5.5.1
SAE J566	1960	Society of Automotive Engineers	Headlamp Mountings	49 CFR 571.108
SAE J571	1976	Society of Automotive Engineers	Dimensional Specification for Sealed Beam Headlamp Units	49 CFR 571.108
SAE J573d (pdf) SAE J573d (html)	1968	Society of Automotive Engineers	Requirements for Lamp Bulbs and Sealed Units	49 CFR 571
SAE J575	1970	Society of Automotive Engineers	Test for Motor Vehicle Lighting Devices and Components	49 CFR 571.108 S6.1
SAE J575	1983	Society for Automotive Engineering	Test for Motor Vehicle Lighting Devices and Components	49 CFR 571.131 S6.2.3
SAE J575	1988	Society of Automotive Engineers	Test for Motor Vehicle Lighting Devices and Components	49 CFR 571.108 S7.5.8.3(e)
SAE J576	1970	Society of Automotive Engineers	Plastic Materials for Use in Optical Parts, such as Lenses and Reflectors, of Motor Vehicle Lighting Devices	49 CFR 571.108 S6.2
SAE J576 (pdf)	1991	Society of Automotive	Plastic Materials for Use in Optical	49 CFR 571

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Ca SAE J593C	ase 1:13-cv-	01215-TSC Documer Society of Automotive Engineers	nt 122-1 Filed 12/22/15 Page 50 Back-up Lamps	0 of 298 49 CFR 571.108
SAE J594f (pdf) SAE J594f (html)	1977	Society of Automotive Engineers	Requirements for Reflex Reflectors	49 CFR 571
SAE J599	1997	Society of Automotive Engineers	Lighting Inspection Code	49 CFR 581.5(c)(1)
SAE J602 (pdf) SAE J602 (html)	1980	Society of Automotive Engineers	Mechanically Aimable Sealed Beam Headlamps	49 CFR 571
SAE J743A	1964	Society of Automotive Engineers	Tractor Mounted Side Boom	29 CFR 1926.550(a)(18)
SAE J759 (pdf) SAE J759 (html)	1995	Society of Automotive Engineers	Lighting Identification Code	49 CFR 571
SAE J800C	1973	Society of Automotive Engineers	Recommended Practice, Motor Vehicle Seat Belt Installations	49 CFR 571.209
SAE J826	1962	Society of Automotive Engineers	Devices for Use in Defining and Measuring Vehicle Seating Accommodations	49 CFR 571.3(b)
SAE J826	1980	Society for Automotive Engineering	Devices for Use in Defining and Measuring Vehicle Seating Accommodations	49 CFR 571.214 S12.1.3(b)(1)
SAE J826 (pdf) SAE J826 (html)	1995	Society of Automotive Engineers	Defining and Measuring Vehicle Seating Accommodation	49 CFR 571
SAE J839	1991	Society of Automotive Engineers	Passenger Car Side Door Latch System	49 CFR 571.206
SAE J839B	1965	Society of Automotive Engineers	Passenger Car Side Door Latch System	49 CFR 571.201
SAE J845	1997	Society of Automotive Engineers	Optical Warning Devices for Authorized Emergency, Maintenance and Service Vehicles	49 CFR 393.25(e)
SAE J887	1964	Society of Automotive Engineers	School Bus Red Signal Lamps	49 CFR 571.108
SAE J902A	1967	Society of Automotive Engineers	Passenger Car Windshield Defrosting Systems	49 CFR 571.103
SAE J934	1965	Society of Automotive Engineers	Recommended Practice for Vehicle Passenger Door Hinge Systems	49 CFR 571.206
SAE J942	1965	Society of Automotive Engineers	Passenger Car Windshield Washer System	49 CFR 571.104
SAE J944	1980	Society for Automotive Engineering	Steering Control System-Passenger Car-Laboratory Test Procedure	49 CFR 571.203 S5.1(a)
SAE J945	1966	Society of Automotive Engineers	Vehicular Hazard Warning Signal Flashers	49 CFR 571.108 Table I
SAE J959	1966	Society of Automotive Engineers	Lifting Crane Wire-Rope Strength Factors	29 CFR 1926.550(a)(7) (vi)
SAE J964	1984	Society for Automotive Engineering	Test Procedure for Determining Reflectivity of Rear View Mirrors	49 CFR 571.111
SAE J972	1966	Society of Automotive Engineers	Moving Barrier Collision Test	49 CFR 571.105
SAE J995	1967	Society of Automotive Engineers	Mechanical and Quality Requirements for Steel Nuts	30 CFR 77.403-1(d)(2) (iii)(B)

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SAE J995	1971	Society of Automotive Engineers	Mechanical and Quality Requirements for Steel Nuts	30 CFR 77.403-1(d)(2) (iii)(B)	
SAE J1040	1994	Society of Automotive Engineers	Performance Criteria for Rollover Protective Structures (ROPS) for Construction, Earthmoving, Forestry and Mining Machines	30 CFR 56.14130(b)(1)	
SAE J1063	1993	Society of Automotive Engineers	Cantilevered Boom Crane StructuresMethod of Test	29 CFR 1926.1433(c)	
SAE J1100	1984	Society for Automotive Engineering	Motor Vehicle Dimensions	49 CFR 571.3(b)	
SAE J1100 (pdf) SAE J1100 (html)	2001	Society of Automotive Engineers	Motor Vehicle Dimensions	49 CFR 571	
SAE J1127	1980	Society for Automotive Engineering	Battery Cable	33 CFR 183.430(a)(2)(ii)	
SAE J1128	1975	Society of Automotive Engineers	Low Tension Primary Cable	33 CFR 183.430(a)(2)(ii)	
SAE J1133	1984	Society for Automotive Engineering	School Bus Stop Arm	49 CFR 571.131 S6.2.3	
SAE J1151	1991	Society of Automotive Engineers	Methane Measurement Using Gas Chromatography	40 CFR 86.111-94(b)(3) (vii)	
SAE J1194	1983	Society for Automotive Engineering	Roll-Over Protective Structures for Wheeled Agricultural Tractors	30 CFR 56.14130(h)	
SAE J1194	1994	Society of Automotive Engineers	Roll-Over Protective Structures for Wheeled Agricultural Tractors	30 CFR 56.14130(h)	
SAE J1194	1999	Society of Automotive Engineers	Roll-Over Protective Structures for Wheeled Agricultural Tractors	30 CFR 57.14130(h)	
SAE J1228	1991	Society of Automotive Engineers	Small Craft-Marine Propulsion Engine and Systems-Power Measurements and Declarations	40 CFR 91.115(a)	
SAE J1292	1981	Society of Automotive Engineers	Automobile, Truck, Truck-Tractor, Trailer, and Motor Coach Wiring	49 CFR 393.28	
SAE J1318	1986	Society of Automotive Engineers	Gaseous Discharge Warning Lamp for Authorized Emergency, Maintenance, and Service Vehicles	49 CFR 393.25(e)	
SAE J1383 (pdf) SAE J1383 (html)	1985	Society of Automotive Engineers	Performance Requirements for Motor Vehicle Headlamps	49 CFR 571	
SAE J1395 (pdf) SAE J1395 (html)	1985	Society of Automotive Engineers	Turn Signal Lamps for Use on Motor Vehicles	49 CFR 571	
SAE J1398 (pdf) SAE J1398 (html)	1985	Society of Automotive Engineers	Stop Lamps for Use on Motor Vehicles	49 CFR 571	
SAE J1475	1984	Society for Automotive Engineering	Hydraulic Hose Fittings for Marine Applications	46 CFR 27.211(e)(2)(v) (B)	
SAE J1527	1993	Society of Automotive Engineers	Marine Fuel Hoses	33 CFR 183.540(a)	
SAE J1703	1983	Society for Automotive Engineering	Motor Vehicle Brake Fluid	49 CFR 571.116 S6.5.4.1	
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SAE J1733 (pdf)	1994	Society of Automotive	Sign Convention for Vehicle Crash	49 CFR 572	

SAE J1733 (html) Engineers Testing **SAE J1817** 2001 Society of Automotive Long Stroke Air Brake Actuator 49 CFR 393.47(e) Engineers Marking **SAE J1850** 1995 Society of Automotive Class B Data Communication 40 CFR 86.099-17(h)(1) Network Interface Engineers (i) 2001 Class B Data Communication **SAE J1850** Society of Automotive 40 CFR 86.1806-05(h) Engineers Network Interface (1)(i)**SAE J1877** Society of Automotive Recommended Practice for Bar-40 CFR 86.095-35(h)(2) 1994 Engineers Coded Vehicle Identification Number (i) Label **SAE J1892** 1993 Society of Automotive Recommended Practice for Bar-40 CFR 86.095-35(h)(2) Engineers Coded Vehicle Emission (i) Configuration Label **SAE J1930** Electrical/Electronic Systems 1993 Society of Automotive 40 CFR 1039.135(c)(8) Diagnostic Terms, Definitions, Engineers Abbreviations, and Acronyms **SAE J1930** 2002 Society of Automotive Electrical/Electronic Systems 40 CFR 86.1806-05(h) Engineers Diagnostic Terms, Definitions, (1)(v)Abbreviations, and Acronyms **SAE J1937** 1989 Society of Automotive Recommended Practice for Engine 40 CFR 86.1330-90(b) Engineers Testing with Low Temperature (5) Charge Air Cooler Systems in a Dynamometer Test Cell **SAE J1962** 1995 Society of Automotive Diagnostic Connector Equivalent to 40 CFR 86.094-17(h)(4) ISO/DIS Engineers **SAE J1962** 2002 Society of Automotive Diagnostic Connector Equivalent to 40 CFR 86.1806-05(h) Engineers **ISO/DIS 15031** (1)(iv) 40 CFR 86.1806-05(h) **SAE J1978** 2002 Society of Automotive OBD II Scan Tool Equivalent to ISO/DIS 15031-4 Engineers (1)(vi) **SAE J1979** 2002 Society of Automotive E/E Diagnostic Test Modes 40 CFR 86.1806-05(h) Engineers (1)(ii)1993 Society of Automotive **Discharge Forward Lighting Systems** 49 CFR 571 SAE J2009 (pdf) SAE J2009 (html) Engineers **SAE J2012** 2002 Society of Automotive Diagnostic Trouble Code Definitions 40 CFR 86.1806-04(h) Engineers (1)(iii)**SAE J2040** 2002 Society of Automotive Tail Lamps (Rear Position Lamps) 9 CFR 393.25(c) for Use on Vehicles 2032 mm or Engineers More in Overall Width **SAE J2260** 1996 Society of Automotive Non-metallic Fuel System Tubing 40 CFR 1048.105(a)(2) Engineers with One or More Layers **SAE J2261** 2002 Society of Automotive Stop Lamps and Front- and Rear-49 CFR 393.25(c) Engineers Turn Signal Lamps for Use on Motor Vehicles 2032 mm or More in **Overall Width** Recommended Practice for Pass-40 CFR 86.096-38(g) **SAE J2534** 2002 Society of Automotive Engineers Thru Vehicle Programming (17)(iv) SCTE 26 2010 Society of Cable Home Digital Network Interface 47 CFR 76.640(b)(4)(iii) Specification with Copy Protection Telecommunications Engineers SCTE 28 2007 Host-POD Interface Standard Society of Cable 47 CFR 15.123(b)(4)

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SCTE 40	2011	Society of Cable Telecommunications Engineers	Digital Cable Network Interface Standard (2011)	47 CFR 15.123(b)(2)
SCTE 41	2011	Society of Cable Telecommunications Engineers	POD Copy Protection System	47 CFR 76.640(b)(2)(ii)
SCTE 54	2009	Society of Cable Telecommunications Engineers	Digital Video Service Multiplex and Transport System Standard for Cable Television	47 CFR 15.123(b)(3)
SCTE 65	2008	Society of Cable Telecommunications Engineers	Service Information Delivered Out- of-Band for Digital Cable Television	47 CFR 76.640(b)(1)(ii)
SEAC	1996	Structural Engineers Association of California	Recommended Lateral Force Requirements and Commentary including Errata	42 CFR 52b.12(c)(5)
SJI	1994	Steel Joist Institute	Standard Specification Load Tables and Weight Tables for Steel Joists and Joist Girders	24 CFR 3280.304(b)(1)
SMACCNA HVAC (pdf) SMACCNA HVAC (html) SMACCNA HVAC (svg)	1985	Sheet Metal and Air Conditioning Contractors National Association	SMACNA: HVAC Air Duct Leakage Test Manual	10 CFR 434.403.2.9.3
SMACCNA DUCT (pdf) SMACCNA DUCT (html) SMACCNA DUCT (svg)	1995	Sheet Metal and Air Conditioning Contractors National Association	SMACCNA: HVAC Duct Construction Standards Metal and Flexible (RS-34)	10 CFR 434.403.2.9.3
SMACCNA GLASS (pdf)	1992	Sheet Metal and Air Conditioning Contractors National Association	SMACCNA: Fibrous Glass Duct Construction Standards (RS-36)	10 CFR 434.403.2.9.3
SMACCNA AIR (pdf)	1978	Sheet Metal and Air Conditioning Contractors National Association	SMACCNA: Energy Recovery Equipment and Systems, Air-to-Air	10 CFR 440 Appendix A
NIST Handbook H-28	1942	Department of Commerce	Handbook of Screw-Thread Standards for Federal Service	49 CFR 178.45(f)(5)(ii)
DOD AFTO 11A- 1-47	1988	Department of Defense	Explosive Hazard Classification Procedures	49 CFR 173.56(b)(2)(i)
FedSpec RR-C- 901D	2003	Department of Transportation	Cylinders, Compressed Gas: High Pressure, Steel DOT 3AA, and Aluminum Applications	49 CFR 173.302(b)(3)
RTCA 23-63	1963	Radio Technical Commission for Aeronautics	Standard Adjustment Criteria for Airborne Localizer and Glide Slope Receivers	14 CFR 91 App. A, 3(a) (1)

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SNELL B-90	1998	Snell Memorial Foundation	Standard for Protective Headgear for Use in Bicycling	16 CFR 1203.53(a)(4)
SNELL B-95	1998	Snell Memorial Foundation	Standard for Protective Headgear for Use in Bicycling	16 CFR 1203.53(a)(7)
SRCC OG-300	2008	Solar Rating and Certification Corporation	Operating Guidelines and Minimum Standards for Certifying Solar Water Heating Systems	24 CFR 200.950(a)(1)
TPI	1985	Truss Plate Institute	Design Specifications for Metal Plate Connected Wood Trusses	24 CFR 3280.304(b)(1)
TTMA RP-61	1998	Truck Trailer Manufacturers Association	Performance of Manhole and/or Fill Opening Assemblies	49 CFR 180.405(g)(2)(i)
TTMA RP-81	1997	Truck Trailer Manufacturers Association	Performance of Spring Loaded Pressure Relief Valves	49 CFR 178.345-10(b) (3)(i)
TTMA RP-107	1998	Truck Trailer Manufacturers Association	Procedure for Testing In-Service Unmarked and/or Uncertified MC 306 and Non-ASME MC 312 Type Cargo Tank Manhole	49 CFR 180.405(g)(2)(i)
UL 17	1988	Underwriters Laboratories	Vent or Chimney Connector Dampers for Oil-Fired Appliances	10 CFR 440 Appendix A
UL 38	1993	Underwriters Laboratories	Standard for Manually Actuated Signaling Boxes for Use with Fire- Protective Signaling Systems	46 CFR 161.002-4(b)(1)
UL 44	2002	Underwriters Laboratories	Standard for Thermoset-Insulated Wire and Cable	46 CFR 110.10-1
UL 50	1995	Underwriters Laboratories	Standard for Enclosures for Electrical Equipment	46 CFR 111.81-1(d)
UL 62	1997	Underwriters Laboratories	Standard for Flexible Cord and Fixture Wire	46 CFR 110.10-1
UL 127	1996	Underwriters Laboratories	Factory-Built Fireplaces	24 CFR 3280
UL 142 (pdf) UL 142 (html)	1968	Underwriters Laboratories	Steel Above Ground Tanks for Flammable and Combustible Liquids	49 CFR 1910
UL 174	1989	Underwriters Laboratories	Household Electric Storage Tank Water Heaters	46 CFR 63.25-3(a)
UL 217	1993	Underwriters Laboratories	Single and Multiple Station Smoke Detectors	46 CFR 181.450(a)(1)
UL 486A	1990	Underwriters Laboratories	Wire Connections and Soldering Lugs for Use With Copper Conductors	46 CFR 175.600
UL 521	1993	Underwriters Laboratories	Heat Detectors for Fire Protective Signaling Systems	46 CFR 161.002-4(b)(1)
UL 727	1994	Underwriters Laboratories	Oil-Fired Central Furnaces	10 CFR 431.76(c)(1)
UL 746C	1995	Underwriters Laboratories	Polymeric MaterialUse in Electrical Equipment Evaluations	16 CFR 1211.10(e)(2)
UL 913	1988	Underwriters Laboratories	Intrinsically Safe Apparatus and Associated Apparatus for Use in	46 CFR 111.105-11(a)

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			Hazardous (Classified) Locations	
UL 991	1995	Underwriters Laboratories	Tests for Safety-Related Controls Employing Solid-State Devices	16 CFR 1211.4(c)
UL 1042	1995	Underwriters Laboratories	Electric Baseboard Heating Equipment	24 CFR 3280.703
UL 1072	1995	Underwriters Laboratories	Standard for Medium-Voltage Power Cables	46 CFR 111.60-1(e)
UL 1096	1986	Underwriters Laboratories	Electrical Central Air Heating Equipment	24 CFR 3280.703
UL 1104	1983	Underwriters Laboratories	Standard for Marine Navigation Lights	46 CFR 120.420
UL 1426	1986	Underwriters Laboratories	Cables for Boats	33 CFR 183.435(a)(4)
UL 1570	1995	Underwriters Laboratories	Fluorescent Lighting Fixtures	46 CFR 183.410(d)
UL 1571	1995	Underwriters Laboratories	Incandescent Lighting Fixtures	46 CFR 111.75-20(e)
UL 1572	1995	Underwriters Laboratories	High Intensity Discharge Lighting Fixtures	46 CFR 120.410(d)
UL 1574	1995	Underwriters Laboratories	Track Lighting Systems	46 CFR 111.75-20(e)
UL 1995	1995	Underwriters Laboratories	Heating and Cooling Equipment, Second Edition, with 1999 revisions	24 CFR 3280.4
UN ECE	1996	United Nations Economic Commission of Europe	Uniform Provisions Concerning the Approval of Vehicles with Regard to the Installation of Lighting and Light- Signaling Devices	49 CFR 571.108
UN ESC	2009	United Nations Economic and Social Council	Recommendations on the Transport of Dangerous Goods, Manual of Tests and Criteria	49 CFR 173.128(c)(3)
UN ESC	2005	United Nations Economic and Social Council	Recommendations on the Transport of Dangerous Goods	49 CFR 173.40(d)(2)
FAO 4	1995	UN Food and Agriculture Organization	Requirements for the Establishment of Pest-free Areas	7 CFR 319.56
IAEA Circular 225	1999	International Atomic Energy Agency	Physical Protection of Nuclear Material and Nuclear Facilities	10 CFR 110.44(b)(1)
IAEA TS-R-1	2009	International Atomic Energy Agency	Regulations for the Safe Transport of Radioactive Material	49 CFR 171.23
IMO Resolution A.264	1960	International Maritime Organization	Amendment to Chapter VI of the International Convention for the Safety of Life at Sea	46 CFR 172.015(a)(2)
IMO Resolution A.265	1973	International Maritime Organization	Carriage of Grain	46 CFR 170.135(a)
IMO Resolution A.342	1975	International Maritime Organization	Recommendations on Performance Standards for Automatic Pilots	33 CFR 164.13(d)(1)
IMO Resolution A.414	1979	International Maritime Organization	Code for Construction and Equipment of Mobile Offshore	33 CFR 143.207(c)

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IMO Resolution A.520	1983	International Maritime Organization	Code of Practice for the Evaluation, Testing and Acceptance of Prototype Novel Life-Saving Appliances and Arrangements	46 CFR 108.105(c)(1)
IMO Resolution A.525	1983	International Maritime Organization	Performance Standards for Narrow- band Direct Printing Telegraph Equipment for the Reception of Navigational and Meteorological Warnings	47 CFR 80.1101(c)(1)(i)
IMO Resolution A.601	1987	International Maritime Organization	Provision and Display of Manoeuvering Information on Board Ships	33 CFR 157.450
IMO Resolution A.649	1991	International Maritime Organization	Code for the Construction and Equipment of Mobile Offshore Drilling Units (MODU Code)	46 CFR 108.503
IMO Resolution A.654	1989	International Maritime Organization	Graphical Symbols for Fire Control Plans	46 CFR 109.563(a)(6)
IMO Resolution A.657	1989	International Maritime Organization	Instructions for Action in Survival Craft	46 CFR 160.151-21(v) (3)
IMO Resolution A.658	1989	International Maritime Organization	Use and Fitting of Retro-Reflective Materials on Life-Saving Appliances	46 CFR 108.645(a)(4)
IMO Resolution A.662	1989	International Maritime Organization	Performance Standards for Float- Free Release and Activation Arrangements for Emergency Radio Equipment	47 CFR 80.1101(c)(11) (ii)
IMO Resolution A.664	1989	International Maritime Organization	Performance Standards for Enhanced Group Call Equipment	47 CFR 80.1101(c)(10)
IMO Resolution A.688	1991	International Maritime Organization	Fire Test Procedures for Ignitability of Bedding Components	46 CFR 116.405(j)(2)
IMO Resolution A.689	1996	International Maritime Organization	Recommendation on Testing Life- Saving Appliances	46 CFR 160.151-21(f)
IMO Resolution A.694	1991	International Maritime Organization	General Requirements for Shipborne Radio Equipment Forming Part of the Global Maritime Distress and Safety System and for Electronic Navigational Aids	47 CFR 80.1101(b)(1)
IMO Resolution A.700	1991	International Maritime Organization	Performance Standards for Narrow- band Direct-printing Telegraph Equipment for the Reception of Navigational and Meteorological Warnings and Urgent Information to Ships	47 CFR 80.1101(c)(4)(iv)
IMO Resolution A.739	1993	International Maritime Organization	Guidelines for the Authorization of Organizations Acting on Behalf of the Administration	33 CFR 96.440(a)(12)
IMO Resolution A.741	1993	International Maritime Organization	International Management Code for the Safe Operation of Ships and for Pollution Prevention	33 CFR 96.220(b)
IMO Resolution A.744	1993	International Maritime Organization	Guidelines on the Enhanced Program of Inspections During Surveys of Bulk Carriers and Oil	33 CFR 157.430(a)

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			Tankers	
IMO Resolution A.751	1994	International Maritime Organization	Interim Standards for Ship Manoeuverability	33 CFR 157.445(a)
IMO Resolution A.753	1993	International Maritime Organization	Guidelines for the Application of Plastic Pipe on Ships	46 CFR 56.60-25(a)
IMO Resolution A.760	1993	International Maritime Organization	Symbols Related to Life-Saving Appliances and Arrangements	46 CFR 108.646(a)
IMO Resolution A.788	1995	International Maritime Organization	Guidelines on Implementation of the International Safety Management (ISM) Code by Administrations	33 CFR 96.320(c)(2)
IMO Resolution A.802	1995	International Maritime Organization	Performance Standards for Survival Craft Radar Transponders for Use in Search and Rescue Operations	47 CFR 80.1101(c)(6)(i)
IMO Resolution A.803	1995	International Maritime Organization	Performance Standards for Shipborne VHF Radio Installations Capable of Voice Communication and Digital Selective Calling	47 CFR 80.1101(c)(2)(i)
IMO Resolution A.804	1995	International Maritime Organization	Performance Standards for Shipborne MF Radio Installations Capable of Voice Communication and Digital Selective Calling	47 CFR 80.1101(c)(3)(i)
IMO Resolution A.806	1995	International Maritime Organization	Performance Standards for Shipborne MF/HF Radio Installations Capable of Voice Communication, Narrow-Band Direct Printing and Digital Selective Calling	47 CFR 80.1101(c)(4)(i)
IMO Resolution A.807	1995	International Maritime Organization	Performance Standards for INMARSAT Standard-C Ship Earth Stations Capable of Transmitting and Receiving Direct-Printing Communications	47 CFR 80.1101(c)(9)
IMO Resolution A.808	1995	International Maritime Organization	Performance Standards for Ship Earth Stations Capable of Two-Way Communications	47 CFR 80.1101(c)(8)
IMO Resolution A.809	1995	International Maritime Organization	Performance Standards for Survival Craft Two-Way VHF Radiotelephone Apparatus	47 CFR 80.1101(c)(7)(i)
IMO Resolution A.810	1995	International Maritime Organization	Performance Standards for Float- free Satellite Emergency Position- Indicating Radio Beacons (EPIRBs) Operating on 406 MHz	47 CFR 80.1101(c)(5)(i)
IMO Resolution A.812	1995	International Maritime Organization	Performance Standards for Float- Free Satellite EPIRBs Operating Through the Geostationary INMARSAT Satellite System on 1.6 GHz	47 CFR 80.1101(c)(11) (i)
USEC 651	1995	United States Enrichment Corporation	Good Handling Practices for Uranium Hexafluoride	49 CFR 173.417(a)(3)(i)
USPHS 934	1962	U.S. Public Health Service	Food Service Sanitation Ordinance and Code	29 CFR 1910.142(i)(1)

Ci USPHS 956	ase 1:13-cv-	01215-TSC Documer U.S. Public Health Service	nt 122-1 Filed 12/22/15 Page 58 Drinking Water Standards	3 of 298 46 CFR 160.026-4(a)
USPHS 934	1962	U.S. Public Health Service	Food Service Sanitation Ordinance and Code	29 CFR 1910.142(i)(1)
USPHS 9	2003	U.S. Public Health Service	The Ships Medicine Chest and Medical Aid at Sea	33 CFR 143.405(a)(15)
WCLIB R17	2004	West Coast Lumber Inspection Bureau	Grading Rules for West Coast Lumber	7 CFR 1728.201(f)(1)(i)
WHO	1973	World Health Organization	Laboratory Techniques in Rabies	9 CFR 113.209(d)(3)
WIPO ST.25	2001	World Intellectual Property Organization	Handbook on Industrial Property Information and Documentation	37 CFR 1.821(a)(1)
WQA S-100	1985	Water Quality Association	Water Softeners	24 CFR 200, Subpart S
WQA S-200	1988	Water Quality Association	Water Filters	24 CFR 200, Subpart S
WQA S-300	1984	Water Quality Association	Point-of-Use, Low Pressure Reverse Osmosis Drinking Water Systems	24 CFR 200, Subpart S
WQA S-400	1986	Water Quality Association	Point-of-Use Distillation Drinking Water Systems	24 CFR 200, Subpart S
WSTDA T-1	2005	Web Sling and Tiedown Association	Recommended Standard Specification for Synthetic Web Tiedowns	49 CFR 393.104(e)(3)

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EXHIBIT 3

PREAMBLE-NOT PART OF THE SPECIFICATION

In order to promote public education and public safety, equal justice for all, a better informed citizenry, the rule of law, world trade and world peace, this legal document is hereby made available on a noncommercial basis, as it is the right of all humans to know and speak the laws that govern them.

The reader is advised:

- In this file, Public.Resource.Org has transformed this specification into the Hypertext Markup Language (HTML) for the purpose of informing citizens of their rights and obligations by making these provisions more accessible and more usable.
- This specification has been incorporated by reference into federal law by the Consumer Product Safety Commission as part of the Safety Standard for Toy Safety (<u>15 USC 2056b</u>).
- Public.Resource.Org has made no changes to this specification. Any errors in the transformation of this specification should be reported to <u>Public.Resource.Org.</u>
- All hyperlinks to named standards are to versions that have been incorporated by reference into law and may not be the latest version.
- This file is based on the HTML 5, MathML, SVG, and CSS specifications and may not be compatible with some older browsers.
- Users may wish to modify this file. In particular, the header section calls the <u>MathJax</u> library and users may wish to use native MathML instead. There are also two calls to Google Fonts and one to our own external style sheet.
- Internal IDs have been assigned to each clause and section (e.g., <u>s3.1</u>), figure ("f1"), table ("t1"), and equation ("eq1").
- Public.Resource.org is not affiliated in any way with any of the organizations named herein.

END OF PREAMBLE—NOT PART OF THE SPECIFICATION Designation: F963 - 11 An American National Standard

Standard Consumer Safety Specification for Toy Safety¹

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 61 of 298 This standard is issued under the fixed designation F963; the number immediately following the designation indicates the year of original adoption or, in the case of revision, the year of last revision. A number in parentheses indicates the year of last reapproval. A superscript epsilon (ϵ) indicates an editorial change since the last revision or reapproval.

¹ This consumer safety specification is under the jurisdiction of <u>ASTM</u> <u>Committee F15</u> on Consumer Products and is the direct responsibility of <u>Subcommittee F15.22</u> on Toy Safety.

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INTRODUCTION

The purpose of this consumer safety specification is to establish nationally recognized safety requirements for toys. Although this specification will not eliminate the need for the exercise of parental responsibility in selecting toys appropriate to the age of a child, or parental supervision in situations in which children of various ages may have access to the same toys, its application will minimize accidents in the normal, intended use and reasonably foreseeable abuse of the toys covered by this specification. This specification was developed originally as a Voluntary Product Standard under the auspices of the National Bureau of Standards, Department of Commerce, and published in 1976 (PS 72-76). The present revision is intended to update the safety requirements to include the following by reference: published federal mandatory requirements, relevant voluntary standards, certain new requirements for addressing potential hazards, and several technical revisions based on producer experience with the original standard.

1. Scope

1.1 This specification² relates to possible hazards that may not be recognized readily by the public and that may be encountered in the normal use for which a toy is intended or after reasonably foreseeable abuse. It does not purport to cover every conceivable hazard of a particular toy. This specification does not cover product performance or quality, except as related to safety. Except for the labeling requirements pointing out the functional hazards and age range for which the toy is intended, this specification has no requirements for those aspects of a toy that present an inherent and recognized hazard as part of the function of the toy. Such an example is a sharp point necessary for the function of a needle. The needle is an inherent hazard that is well understood by the purchaser of a toy sewing kit, and this hazard is communicated to the user as part of the normal educational process.

² Toy Industry Association, Inc. (TIA) sometimes provides its interpretations of this specification through its counsel as a service to its members and others. The TIA's interpretations are not reviewed or Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 63 of 298 approved by ASTM and should be viewed as TIA's alone.

1.2 On the other hand, while a riding toy has inherent hazards associated with its use (for example, falling off onto the sidewalk), the possible hazards associated with its construction (sharp edges, exposed mechanisms, etc.) will be minimized by the application of this specification.

1.3 This specification covers requirements and contains test methods for toys intended for use by children under 14 years of age. Different age limits for various requirements will be found in this specification. These limits reflect the nature of the hazards and expected mental or physical ability, or both, of a child to cope with the hazards.

1.4 Articles not covered by this specification are as follows:

- Bicycles
- Tricycles
- Non-Powered Scooters (see Consumer Safety Specification F2264)
- Recreational Powered Scooters and Pocket Bikes (see Consumer Safety Specification F2641)
- Sling shots and sharp-pointed darts
- Playground equipment
- Non-powder guns
- Kites
- Hobby and craft items in which the finished item is not primarily of play value
- Model kits in which the finished item is not primarily of play value
- Crayons, paints, chalks, and other similar art materials in which the material itself or the finished item is not primarily of play value, except that all art materials, whether or not a component of a toy, must comply with LHAMA, in accordance with <u>4.29.1</u>-<u>4.29.3</u>.
- Toy Chests
- Sporting goods, camping goods, athletic equipment, musical instruments, juvenile products, and furniture; however, toys that are their counterparts are covered. (It is recognized that there is often a

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 64 of 298 fine line between, for example, a musical instrument or a sporting item and its toy counterpart. The intention of the producer or distributor, as well as normal use and reasonably foreseeable abuse, determines whether the item is a toy counterpart.)

- Powered models of aircraft, rockets, boats, and land vehicles; however, toys that are their counterparts are covered.
- Constant air inflatables

1.5 General guidelines for age labeling toys and toy packaging are contained in <u>Annex A1</u>.

1.6 Information regarding packaging and shipping is contained in Annex A2.

1.7 This consumer safety specification includes the following sections:

[See <u>Table of Contents</u>]

1.8 The values stated first are to be regarded as the standard. The values given in parentheses are for information only.

1.9 The following precautionary statement pertains only to the test methods portion, <u>Section 8</u>, of this specification: *This standard does not purport to address all of the safety concerns, if any, associated with its use. It is the responsibility of the user of this standard to establish appropriate safety and health practices and determine the applicability of regulatory limitations prior to use.*

2. Referenced Documents

- 2.1 ASTM Standards: ³
 - D374 Test Methods for Thickness of Solid Electrical Insulation
 - D642 Test Method for Determining Compressive Resistance of Shipping Containers, Components, and Unit Loads
 - D880 Test Method for Impact Testing for Shipping Containers and Systems
 - D999 Test Methods for Vibration Testing of Shipping Containers
 - D1193 Specification for Reagent Water
 - D2240 Test Method for Rubber Property–Durometer Hardness

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- D3421 Practice for Extraction and Determination of Plasticizer
 Mixtures from Vinyl Chloride Plastics4
- D4236 Practice for Labeling Art Materials for Chronic Health Hazards
- D5276 Test Method for Drop Test of Loaded Containers by Free Fall
- F404 Consumer Safety Specification for High Chairs
- <u>F406</u> Consumer Safety Specification for Non-Full-Size Baby Cribs/Play Yards
- F834 Consumer Safety Specification for Toy Chests
- F1313 Specification for Volatile *N*-Nitrosamine Levels in Rubber Nipples on Pacifiers
- F1148 Consumer Safety Performance Specification for Home Playground Equipment
- F2264 Consumer Safety Specification for Non-Powered Scooters
- F2641 Consumer Safety Specification for Recreational Powered Scooters and Pocket Bikes
- F2853 Test Method for Determination of Lead in Paint Layers and Similar Coatings or in Substrates and Homogenous Materials by Energy Dispersive X-Ray Fluorescence Spectrometry Using Multiple Monochromatic Excitation Beams
- F2923 Specification for Consumer Product Safety for Children's Jewelry

³ For referenced ASTM standards, visit the ASTM website, <u>www.astm.org</u>, or contact ASTM Customer Service at <u>service@astm.org</u>. For *Annual Book of ASTM Standards* volume information, refer to the standard's Document Summary page on the ASTM website.

Withdrawn. The last approved version of this historical standard is referenced on <u>www.astm.org</u>.

2.2 ANSI Standards:

- C18.1 American National Standard for Dry Cells and Batteries— Specifications
- <u>S1.4</u> Specification for Sound Level Meters

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 66 of 298 Z315.1 Safety Requirements for Tricycles

Electronic copy available from American National Standards Institute website: <u>www.ansi.org</u>; hard copies from Global Engineering Documents, 15 Inverness Way East, Englewood, CO 80112.

2.3 European Standards:

- EN 71-1 Safety of toys Part 1: Mechanical and physical properties
- EN 71-3 Safety of toys Part 3: Migration of certain elements

Available from European Committee for Standardization (CEN), Avenue Marnix 17, B-1000, Brussels, Belgium, <u>http://www.cen.eu</u>.

2.4 Federal Standards:

- <u>15 CFR 1150</u> Marking of Toys, Look-Alike and Imitation Firearms
- <u>16 CFR 1303</u> Ban of Lead-Containing Paint and Certain Consumer Products Bearing Lead Containing Paint
- <u>16 CFR 1500</u> Hazardous Substances Act Regulations, including the following sections:
 - 16 CFR 1500.3 (c) (6) (vi) Definition of "flammable solid"
 - <u>16 CFR 1500.14</u> Products requiring special labeling under section 3(b) of the act
 - <u>16 CFR 1500.18</u> Banned toys and other banned articles intended for use by children
 - <u>16 CFR 1500.19</u> Misbranded toys and other articles intended for use by children
 - <u>16 CFR 1500.44</u> Method for determining extremely flammable and flammable solids
 - <u>16 CFR 1500.47</u> Method for determining the sound pressure level produced by toy caps
 - <u>16 CFR 1500.48</u> Technical requirements for determining a sharp point in toys and other articles intended for use by children under 8 years of age
 - <u>16 CFR 1500.49</u> Technical requirements for determining a sharp metal or glass edge in toys and other articles intended for use

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 67 of 298 by children under 8 years of age

- <u>16 CFR 1500.50</u>-<u>1500.53</u> Test method for simulating use and abuse of toys and other articles intended for use by children
- <u>16 CFR 1500.83</u> Exemptions for small packages, minor hazards, and special circumstances
- <u>16 CFR 1500.85</u> Exemptions from classification as banned hazardous substances
- <u>16 CFR 1500.86</u> Exemptions from classification as a banned toy or other banned article for use by children
- <u>16 CFR 1500.87</u> Children's products containing lead: inaccessible component parts
- <u>16 CFR 1500.88</u> Exemptions from lead limits under section 101 of the <u>Consumer Product Safety Improvement Act</u> for certain electronic devices
- <u>16 CFR 1500.91</u> Determinations regarding lead content for certain materials or products under section 101 of the <u>Consumer Product Safety Improvement Act</u>
- <u>16 CFR 1501</u> Method for Identifying Toys and Other Articles Intended for Use by Children Under 3 Years of Age which Present Choking, Aspiration, or Ingestion Hazards Because of Small Parts
- <u>16 CFR 1505</u> Requirements for Electrically Operated Toys or Other Electrically Operated Articles Intended for Use by Children
- <u>16 CFR 1510</u> Requirements for Rattles
- <u>16 CFR 1511</u> Requirements for Pacifiers
- <u>16 CFR 1610</u> Standard for Flammability of Clothing Textiles
- <u>21 CFR 110</u> Current Good Manufacturing Practice in Manufacturing, Processing, Packaging, or Holding Human Food
- <u>21 CFR 170</u>-<u>189</u> Food for Human Consumption
- 21 CFR 700-740 Requirements for Specific Cosmetic Products
- <u>21 CFR 73</u>, <u>74</u>, <u>81</u>, <u>82</u> Color Additives
- 49 CFR 173.100, 109 Definition of Class C Explosives

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- <u>CPSC-CH-E1001-08.1</u> Standard Operating Procedure for Determining Total Lead (Pb) in Metal Children's Products (including Children's Metal Jewelry)
- <u>CPSC-CH-E1002-08.1</u> Standard Operating Procedure for Determining Total Lead (Pb) in Non-Metal Children's Products
- <u>CPSC-CH-E1003-09</u> Standard Operating Procedure for Determining Lead (Pb) in Paint and Other Similar Surface Coatings
- <u>CPSC-CH-E1004-11</u> Standard Operating Procedure for Determining Cadmium (Cd) Extractability from Children's Metal Jewelry
- <u>SS-T-312B</u> Tile, Floor: Asphalt, Rubber, Vinyl, VinylAsbestos
- Voluntary Product Standard <u>PS 72-76</u> Toy Safety¹⁰

Available from U.S. Consumer Product Safety Commission website: www.cpsc.gov or U.S. Government Printing Office, Superintendent of Documents; P.O. Box 371954, Pittsburgh, PA 15250-7954; website: www.gpo.gov

Available from U.S. Consumer Product Safety Commission (CPSC), 4330 East West Hwy., Bethesda, MD 20814, <u>http://www.cpsc.gov</u>.

Available from U.S. Government Printing Office Superintendent of Documents, 732 N. Capitol St., NW, Mail Stop: SDE, Washington, DC 20401, <u>http://www.access.gpo.gov</u>.

¹⁰ Available from U.S. Government Printing Office Superintendent of Documents, 732 N. Capitol St., NW, Mail Stop: SDE, Washington, DC 20401, <u>http://www.access.gpo.gov</u>.

2.5 ISO and IEC Standards: 11

- ISO 3696 Water for analytical laboratory use Specification and test methods
- ISO 3746:1995 Acoustics—Determination of Sound Power Levels of Noise Sources Using Sound Pressure—Survey Method Using an Enveloping Measurement Surface Over a Reflecting Plane
- ISO 7779 Acoustics-Measurement of Airborne Noise Emitted by Computer and Business Equipment
- <u>ISO 8124-1</u> Safety of toys Part 1: Safety aspects related to mechanical and physical properties

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- ISO 8124-3 Safety of toys Part 3: Migration of certain elements
- ISO 11202 Acoustics—Noise Emitted by Machinery and Equipment— Measurement of Emission Sound Pressure Levels at a Work Station and at Other Specified Positions—Survey Method in situ
- ISO 11204 Acoustics—Noise Emitted by Machinery and Equipment— Measurement of Emission Sound Pressure Levels at a Work Station and at Other Specified Positions—Method Requiring Environmental Corrections
- IEC 60086-2 Primary Batteries: Physical and Electrical Specifications
- <u>IEC 61672-1</u> Electroacoustics—Sound Level Meters—Part 1: Specifications
- <u>IEC 61672-2</u> Electroacoustics—Sound Level Meters—Part 2: Pattern Evaluation Tests

¹¹ Available from International Organization for Standardization (ISO), 1 rue de Varembé, Case postale 56, CH-1211, Geneva 20, Switzerland, <u>http://www.iso.ch</u>.

3. Terminology

3.1 Definitions of Terms Specific to This Standard:

3.1.1 *A-weighted sound pressure level* (L_{pA})— the sound pressure level obtained by using standardized A-weighting.

Figure 1. Accessibility Probes This is an architectural diagram for the probe. It is in the shape of a cylinder with a handle on the right. There are two sets of dimensions. Probe A is for children 0-36 months. Probe B is for children 37-96 months. We start with probe A. The handle is (a) and has a spherical radius of 0.110 inches. The length of the handle is (e) and is 1.731 inches. The handle is marked in 3 equal lengths of .577 inches each marked (d). The Thickness of the handle is .220 inches and is (b). The diameter of the cylinder, the main part of the probe is (c) and is 1.020 inches. The bottom of the cylinder, where the handle connects, is called the collar. The overall length of the cylinder plus the handle is 24 inches typically. 4 inches up from the base of the cylinder (near the handle) is an embedded screw-like device with the label 3/8-16 NC - 2B THD (TYP). The distance from this point to the far end of the cylinder is g and is 18 9/32 inches. For Probe B, the same labels are used but the values are (a) .170 (b) .340 (c) 1.510 (d) .760 (e) 2.280 and (g) 17 25/32. The table of measures has a parameter (f) which is 1

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 70 of 298 for Probe A and 1 1/2 for Probe B, but there is no marking for (f) on the diagram. ~ 24 g d 4 (TYP) d d e c b f EXTENSION 3/8 - 16 NC-2B THD (TYP) (a) SPHERICALRADIUS COLLAR a b c d e f g 2.280 1.731 1 11/2 18 9/32 17 25/32 .577 .760 1.020 1.510 .220 .340 .110 .170 ALL DIMENSIONS IN INCHES PROBE A PROBE B (CHILDREN 0-36 MONTHS INCL) (" 37-96 "")

FIG. 1 Accessibility Probes

3.1.2 *accessible*— (part or component) describing any area of the toy that can be contacted by any portion forward of the collar of the accessibility probe as described in <u>16 CFR 1500.48</u> and <u>16 CFR 1500.49</u>. (See Fig. 1.)

NOTE 1 - D Dimensions are provided in Fig. 1 for two probes corresponding to two age ranges of children.

3.1.3 *alkaline battery*— a non-rechargeable dry cell battery with an alkaline manganese electrochemistry.

3.1.4 *aquatic toy*— an article, whether inflatable or not, intended to bear the mass of a child and used as an instrument of play in shallow water. This does not include bath toys, beach balls, and United States Coast Guard-approved life saving devices.

3.1.5 *art material*— any substance marketed or represented by the producer or repackager as suitable for use in any phase of the creation of any work of visual or graphic art of any medium. This definition includes items that become a component of the work of art such as paint, canvas, inks, crayons, chalk, solder, brazing rods, flux, paper, clay, stone, thread, cloth, and photographic film. It also includes items that are associated closely with the creation of the final work of art such as brushes, brush cleaners, solvents, ceramic kilns, silk screens, molds, mold making material, and photographic developing chemicals.

3.1.6 *ball*— any spherical, ovoid, or ellipsoidal object that is designed or intended to be thrown, hit, kicked, rolled, dropped, or bounced. The term "ball" includes any spherical, ovoid, or ellipsoidal object that is attached to a toy or article by means of string, elastic cord, or similar tether. The term "ball" also includes any multisided object formed by connecting planes into a generally spherical ovoid, or ellipsoidal shape that is designated or intended to be used as a ball. The term "ball" does not include dice, or balls permanently enclosed inside pinball machines, mazes, or similar outer containers. A ball is permanently enclosed if, when tested in accordance with 16 CFR 1500.53, it is not removed from the outer container.

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 71 of 298 3.1.7 *base material*— material upon which coatings may be formed or deposited.

3.1.8 *battery-operated toy*— toy having at least one function dependent on electricity and powered by batteries.

3.1.9 *burr*— a roughness that may be found at an edge or joint of a toy or component if the material is not severed or finished cleanly.

3.1.10 *button cell battery*— a battery having a diameter greater than its height.

3.1.11 *C*-weighted peak sound pressure level (L_{Cpeak})— the peak sound pressure level obtained when using standardized C-weighting.

3.1.12 *close-to-the-ear toy*— a toy that is intended to be used close to the ear, that is, the sound emitting part of such a toy is normally put against the ear of a child (example—toy telephones that emit sounds from the earpiece).

3.1.13 *coating*— all layers of material formed or deposited on the base material or toy and includes paints, varnishes, lacquers, or other substances of a similar nature, whether they contain metallic particles or not, which can be removed by scraping with a sharp blade as defined under <u>16 CFR 1303</u>, et seq.

3.1.14 *collapse*— sudden or unexpected folding of a structure.

3.1.15 *compression spring*— spring which essentially returns to its initial state after compression.

3.1.16 *constant air inflatables*— structure relying on a continuous supply of air pressure supplied from one or more electrical blowers to maintain its shape, typically made of flexible fabric and designed for children's use that may include but not be limited to the following activities: bounce, climb, slide, or interactive play.

3.1.17 *continuous sound*— any steady-state sound or group of variable sounds greater than one second in duration.

3.1.18 *cord*— a length of slender, flexible material including monofilaments, woven and twisted cord, rope, plastic textile tapes, ribbon, and those fibrous materials commonly called string.

3.1.19 *cosmetics*- any article intended or likely to be rubbed, sprinkled, or

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 72 of 298 sprayed on, introduced onto, or otherwise applied to the human body for cleansing, beautifying, promoting or enhancing attractiveness, or for altering appearance.

3.1.20 *crushing*— injury to part of the body resulting from compression between two rigid surfaces.

3.1.21 *curled edge*— an edge in which the portion of the sheet adjacent to the edge is bent into an arc and forms an angle of less than 90° with the base sheet, as shown in Fig. 2.

Figure 2. Curled Edge A line goes from the right to left. On the left, the line curls up and over to the right, forming a non-closed loop. A dotted line goes from the end of the loop down to the line, thus forming an angle, and it marked "Less than 90 degrees." LESS THAN 90°

FIG. 2 Curled Edge

3.1.22 *detection limit of a method*— three times the standard deviation of the blank value.

3.1.23 *discharge mechanism*— an inanimate system for releasing and propelling a projectile.

3.1.24 *driving mechanism*— assembly of linked parts or components (for example, gears, belts, winding mechanisms), at least one of which moves, powered by a source (for example, electrical or mechanical means) independent of the child.

3.1.25 *edge, hazardous*— an accessible edge that presents an unreasonable risk of injury during the normal use and reasonably foreseeable abuse of a toy. Metal and glass edges on toys intended for children under the age of eight years are defined as potentially hazardous if they fail the sharp edge test described in <u>16 CFR 1500.49</u>. Edges other than metal and glass are defined as potentially hazardous if they are sharp to the touch under casual handling conditions.

3.1.26 *elastic*— material that will recover its former size and shape essentially and instantaneously after being elongated at least 10 % at a testing speed of not less than 20 in. (510 mm)/min.

3.1.27 equivalent sound pressure level (L_{Aeq})— the level of a steady-state sound which, in a stated time period and at a stated location, has the same A-weighted sound energy as the time-varying sound.
Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 73 of 298 3.1.28 *explosive action*— the sudden release of energy characterized by the rapid expansion or bursting of a material.

3.1.29 *extension spring*— spring which essentially returns to its initial state after tension.

3.1.30 *fastener*— mechanical device which attaches two or more elements together (for example, screws, rivets, and staples).

3.1.31 *feathering*— the beveling of an edge (or decrease in thickness moving toward the edge) caused during the shearing or cutting of material.

3.1.32 *flash*— excess material that escapes between the mating parts of a mold assembly.

3.1.33 *folding mechanism*— an assembly of hinged, pivoted, folding, or sliding members that can produce a crushing, scissoring, pinching, or shearing action during operation.

3.1.34 *fuzz*— bits of fibrous-type material that can be readily removed from toys with a pile surface.

3.1.35 *hand-held toy*— a toy that is intended to be used or operated while being held in the hand. Examples include toy tools, small electronic games, stuffed animals, dolls, musical toys, and cap-firing toys.

3.1.36 *hazard*— any characteristic of a toy that presents an unreasonable risk of injury or illness during normal use or as a result of reasonably foreseeable abuse.

3.1.37 *hazardous magnet*— a magnet which has a flux index >50 (refer to test method in 8.24.1) and which is a small object (refer to 4.6 and Fig. 3).

Figure 3. Small Parts Cylinder Two perspectives of the hollow cylinder are shown. From the top, there is an inner diameter of 1.25 inches. From the side, there is an angled bottom. On the left side, the open part of cylinder goes down 1 inch. On the right side, it goes down 2.25 inches. 1.00 in25.4 mm 2.25 in57.1 mm 1.25 in31.7 mm A A

FIG. 3 Small Parts Cylinder

3.1.38 *hazardous magnet component*— any part of a toy that is a small object (refer to <u>4.6</u> and <u>Fig. 3</u>) and which contains an attached or imbedded magnet which has a flux index >50 as determined in accordance with the test method in <u>8.24.1</u>.

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 74 of 298 3.1.39 *helical spring*— spring in the form of a coil.

3.1.40 *hemmed edge*— an edge in which the portion of the sheet adjacent to the edge is folded back on the sheet itself through an angle of approximately 180°, so that the portion of the sheet adjacent to the edge is approximately parallel to the main sheet, as shown in Fig. 4.

Figure 4. Hemmed Edge A line goes from left to right. On the left side, it curls in half-circle and then heads back a little ways towards the right. It resembles a hook.

FIG. 4 Hemmed Edge

3.1.41 *hinge-line clearance*— the distance between the stationary portion of a toy and the movable portion along, or adjacent to, a line projected through the axis of rotation, shown as Dimension A in Fig. 5.

Figure 5. Changing Clearance at Hinge Line This diagram shows 3 views of a hinge. The first is the back of a toy, which has a width with label 1. The hinge is narrower than 1, connecting the top to the bottom. The two other diagrams are the hinge mechanism closed and open. The top part of the hinge and the part of the toy that is connected to the top part of the toy are all labelled 2. The bottom part of the hinge and the bottom part of the toy are all labelled 3. Key 1 Hinge line2 Lid3 Box l = Hinge-line clearance 1 2 l l 3

FIG. 5 Changing Clearance at Hinge Line

3.1.42 *impulsive sound*— any sound that is characterized by a brief excursion of sound pressure significantly exceeding the ambient noise, typically less than one second in duration.

3.1.43 *juvenile products*— consumer products designed or intended primarily for use by children which are not used primarily for play. These include, but are not limited to, items such as bassinets/cradles, bath seats, infant bath tubs, carriages and strollers, changing tables, full size cribs, gates and enclosures, handheld infant carriers, high chairs, infant bouncers, infant swings, play yards/non-full size cribs, portable bed rails, portable hook-on chairs, soft infant carriers, stationary activity centers, toddler beds and walkers.

3.1.44 *Iap joint*— a joint in which an edge overlaps a parallel surface but is not necessarily attached to it mechanically at all points along the length, as in the examples shown in Fig. 6.

Figure 6. Typical Lap Joints There are four diagrams of typical lap joints. The first is two lines that are parallel and overlap. The second is two lines that

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 75 of 298 are at an angle and overlap at the end. The third is a square with a line and the two overlap a bit at the top. The third is a loop that overlaps at the ends.

FIG. 6 Typical Lap Joints

3.1.45 *large and bulky toy*— toy that has a projected base area of more than 400 in.² (0.26 m^2) or a volume of more than 3 ft³ (0.08 m^3) calculated without regard to minor appendages.

NOTE 2 — The base area for toys having permanently attached legs is measured by calculating the area enclosed by straight lines connecting the outermost edge of each leg of the perimeter.

3.1.46 *latex balloon*— any toy or decorative item consisting of a latex bag that is designed to be inflated by air or gas. The term does not include inflatable children's toys that are used in aquatic activities such as rafts, water wings, swim rings, or other similar items.

3.1.47 *marble*— a sphere made of a hard material, such as glass, agate, marble, or plastic, that is used in various children's games, generally as a playing piece or marker. The term "marble" does not include a marble permanently enclosed in a toy or game. A marble is permanently enclosed if, when tested in accordance with <u>16 CFR 1500.53</u>, it is not removed from the toy or game.

3.1.48 *materials intended to leave a trace*— graphite material in pencils, liquid in pens, and similar substances.

3.1.49 maximum A-weighted sound pressure level (L_{AFmax})— the maximum sound pressure level obtained when using standardized A-weighting and fast detector response (time-weighting).

3.1.50 *non-replaceable battery*— an electrochemical device that will not require user accessibility or user replacement for the expected life of the product or devices it is intended to power. Such batteries will not be accessible when tested in accordance with the normal use and, where appropriate, reasonably foreseeable abuse tests of <u>8.6</u> through <u>8.10</u>.

3.1.51 *normal use*— play modes that conform to the instructions accompanying the toy, that have been established by tradition or custom, or that are evident from an examination of the toy.

3.1.52 *other materials, whether mass colored or not*— materials such as wood, leather, and other porous substances which may absorb coloring matter without forming a coating.

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3.1.53 *packaging*— material accompanying the toy when purchased, but having no intended play function.

3.1.54 *peak sound pressure level (L_{Cpk})*— the greatest C-weighted instantaneous sound pressure level within the period of observation.

3.1.55 *pinching*— created when two moving or one moving and one fixed surface come together in such a way that they could entrap and compress flesh, usually resulting in a contusion or laceration.

3.1.56 *point*, *hazardous*— an accessible point that presents an unreasonable risk of injury during normal use or reasonably foreseeable abuse. Points on toys intended for children under the age of 8 years are potentially hazardous if they fail the sharp point test described in <u>16 CFR 1500.48</u>.

3.1.57 *pompom*— lengths or strands of fiber, yarns, or threads clamped or secured and tied in the center, and brushed up to form a spherical shape. Also included are sphericalshaped attachments made of stuffed material.

3.1.58 *principal display panel*— the display panel for a retail package or container, bin, or vending machine that is most likely to be displayed, shown, presented, or examined under normal or customary conditions of display for retail sale.

3.1.59 *projectile*— an object propelled by means of a discharge mechanism capable of storing and releasing energy under the control of the operator.

3.1.60 *projection, hazardous*— a projection that, because of its material or configuration, or both, may present a puncture hazard if a child should fall onto it. Excluded from this definition are puncture hazards to the eyes or mouth, or both, because of the impossibility of eliminating puncture hazards to those areas of the body by product design.

3.1.61 *protective cap or cover*— a component that is attached to a potentially hazardous edge or projection to reduce the possibility of injury.

3.1.62 *protective tip*— a component that is attached to the impacting end of a projectile to minimize injury if it should impact on the body, and also to prevent damage to the projectile upon striking a target, provide a means of attaching the projectile to the target as in the case of suction cups, or prevent damage to inanimate objects.

3.1.63 *rattle*- a toy that is clearly designed to emit sound when shaken

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 77 of 298 typically intended for children under 18 months.

3.1.64 *reasonably foreseeable abuse*— conditions to which a child may subject a toy that are not normal use conditions, such as deliberate disassembly, dropping, or using the toy for a purpose for which it was not intended. Simulated use and abuse tests for toys are given in <u>16 CFR 1500.50</u>-<u>16 CFR</u> <u>1500.53</u> (excluding the bite test, Paragraph (c), of each section).

3.1.65 *reference box*— a hypothetical surface which is the smallest rectangular parallelepiped that encloses the toy without regard to minor appendages.

3.1.66 *rigid*— any material having a hardness exceeding 70 Shore A scale durometer, as measured by the latest revision of Test Method D2240.

3.1.67 *rolled edge*— an edge in which the portion of the sheet adjacent to the edge is bent into an arc and forms an angle between 90 and 120° with the main sheet, as shown in Fig. 7.

Figure 7. Rolled Edge A line goes from right to left and at the left curls over to the right and down. A label indicates that the angle is 90 degrees to 120 degrees. 90° - 120°

FIG. 7 Rolled Edge

3.1.68 *scraping*— mechanical removal of coatings down to the base material without damaging the substrate material.

3.1.69 *simulated protective equipment*— toys designed to mimic products that infer some sort of physical protection to the wearer (for example, protective helmets and visors).

3.1.70 *soft-filled toy/stuffed toy*— toy, clothed or unclothed, with soft body surfaces and filled with soft materials, allowing compression of the torso readily with the hand.

3.1.71 *splinter*— sharp pointed fragment.

3.1.72 *spiral spring*— clockwork-type spring.

3.1.73 squeeze toy— a handheld pliable toy, intended for children under the age of 18 months, usually incorporating a noise-making feature activated by forcing air through an opening when flexed or squeezed, and which recovers to its original shape when released.

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 78 of 298 3.1.74 *steady-state sound (noise)*— noise in which there are negligibly small fluctuations of sound pressure level within the period of observation.

3.1.75 *strap*— a piece of flexible material in which the width is significantly greater than the thickness.

3.1.76 *substrate material*— all of the accessible materials present in toys, other than paint or similar surface coatings.

3.1.77 *tabletop*, *floor*, *and crib toy*— toys intended to be played with while attached to or resting on a table top, floor, or crib. Examples of such toys include, but are not limited to, toy vehicles, stacking toys, large and bulky toys, games, and activity toys that attach to crib rails.

3.1.78 *tangle or form a loop*— loops that are formed by reasonably foreseeable manipulation of the cord/strap/elastic. Loops that are formed by excessive or intricate manipulations, or both, of the cord/strap/elastic shall be considered as exempt.

3.1.79 *teether*— toy designed for oral use and intended primarily for symptomatic relief of teething discomfort.

3.1.80 *tool*— screwdriver, coin, or other object which may be used to operate a screw, clip, or similar fixing device.

3.1.81 *toy*— any object designed, manufactured, or marketed as a plaything for children under 14 years of age.

3.1.82 *toy chest*— toy boxes that are designed and marketed as storage containers for toys. The products subject to the requirements are those with a volume of 1.1 ft³ (0.031 m³) or more.

3.1.83 *toy seat*— a stationary toy product with a seat where the amusement of the child is a primary function of the product and the play pattern intends that the child be in a seated position.

3.1.83.1 *Discussion*— Play features may include, but are not limited to, sliding or rotating features, learning toys, manually actuated music etc. with which the seated child may interact. Children's furniture products without any interactive play features such as stools, chairs, patio sets, rocking chairs, picnic tables, storage units etc. are not considered toy seats. In addition, juvenile products such as bouncers, infant seats, stationary activity centers etc. are not considered toy seats.

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Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 79 of 298 3.1.84 *yo yo elastic tether toy*— a toy consisting of an elastic tether that usually contains a loop on one end to wear around the finger, and a flexible object on the other end intended to be thrown and returned to the hand.

4. Safety Requirements

4.1 *Material Quality*— Toys may be made from new or reprocessed materials and shall be visually clean and free from infestation. The materials shall be assessed visually by the unaided eye rather than under magnification. If reprocessed materials are used, they must be refined so that the level of hazardous substances conforms to the requirements of <u>4.3.1</u>.

4.2 *Flammability*— Materials other than textiles (excluding paper) used in toys shall not be flammable, as defined under <u>3 (c) (6) (vi)</u> under the Federal Hazardous Substances Act (FHSA) (see <u>16 CFR 1500</u>). For testing purposes, any textile fabrics used in toys shall comply with <u>16 CFR 1610</u>. A test procedure for testing flammability of toys, which is an interpretation of <u>16 CFR 1500.44</u>, is contained in <u>Annex A5</u>. A procedure for testing the flammability of fabrics is contained in <u>Annex A6</u>.

4.3 Toxicology

4.3.1 *Hazardous Substances*— Toys or materials used in toys shall conform to the FHSA and to the regulations promulgated under that act. Exemptions to this act for certain types of toys are given in <u>16 CFR 1500.85</u>. The regulations define limits for substances that are toxic, corrosive, an irritant, sensitizer or pressure generating, and radioactive, flammable, and combustible materials. Testing references for hazardous substance content are given in <u>8.2</u>. It should be noted that specific states may have hazardous substances regulations that are more restrictive than the Federal regulations.

4.3.2 *Manufacturing and Packaging of Food*— All food products supplied with toys shall be manufactured and packaged in compliance with <u>21 CFR 110</u>, which is concerned with the sanitation practices for the manufacture, processing, packaging, or holding of human food.

4.3.3 *Indirect Food Additives*— Toy components intended to be used in contact with food, such as toy cooking utensils, shall conform to the applicable requirements of the Food, Drug and Cosmetic Act (FDCA), specifically <u>21 CFR 170</u> through <u>189</u>.

4.3.3.1 *Toys in Contact with Food*— Toys comprising components intended to be used in contact with food, such as toy cooking utensils and toy tableware

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 80 of 298 shall meet the requirements of 6.7 for instructional literature.

4.3.3.2 *Ceramicware, Lead, and Cadmium Contamination*— Ceramic toy components intended or likely to hold food, such as a porcelain tea set, shall conform to the applicable requirements of the FDCA, Section 402 (a) (2) (c), and FDA Compliance Policy Guides.

4.3.4 *Cosmetics*— Cosmetics shall conform to the requirements of the Federal FDCA as codified in 21 CFR. The regulations applicable to cosmetics are stated in <u>21 CFR 700</u> through <u>740</u>. The color additive regulations applicable to cosmetics are found in <u>21 CFR 73</u>, <u>74</u>, <u>81</u>, and <u>82</u>.

4.3.4.1 In addition, cosmetics intended for use by children under 8 years of age shall meet all requirements of this specification and the FHSA regulations, notwithstanding the exclusions of <u>16 CFR 1500.81</u> and <u>16 CFR 1500.3 (b) (4) (ii)</u>.

4.3.4.2 The requirements from the Food and Drug Administration (FDA) will therefore be additive to those existing for children's products.

4.3.5 Heavy Elements:

4.3.5.1 *Paint and Similar Surface-Coating Materials*— Paint and other similar surface-coating materials applied to toys shall comply with the lead content provisions of <u>16 CFR 1303</u>, issued under the Consumer Product Safety Act (CPSA), as amended by the <u>Consumer Product Safety Improvement Act of 2008 (CPSIA)</u>.

- This regulation prohibits the use of paints or similar surface-coating materials that contain lead or lead compounds and in which the lead content (calculated as lead metal [Pb]) is in excess of 0.009 % (90 ppm) of the weight of the total nonvolatile content of the paint or the weight of the dried paint film.
- 2. In addition, surface-coating materials shall not contain compounds of antimony, arsenic, barium, cadmium, chromium. lead, mercury. or selenium, of which the metal content of the soluble material is in excess of the levels by weight of the contained solids (including pigments, film solids, and driers) given in <u>Table 1</u>. The analytical results obtained should be adjusted in accordance with the test method in <u>8.3.4.3</u> prior to comparing them to the values in <u>Table 1</u>. To determine conformance, the soluble level shall be determined by dissolving the contained solids (dried film including pigments, film solids, and driers) as specified in <u>8.3.2</u>.

4.3.5.2 *Toy Substrate Materials*— These requirements are designed to reduce children's exposure to heavy elements contained in accessible toy substrate materials. (For requirements for surface coating materials, see <u>4.3.5.1</u>.)

- Scope—This section specifies requirements and test methods for total lead and the migration of antimony, arsenic, lead, barium, cadmium, chromium, mercury and selenium in accessible substrate materials. Accessible glass, metal and ceramic toys or parts of toys, that are small parts (that is, that fit into the test fixture specified at <u>16 CFR</u> <u>1501</u> (see Fig. <u>3</u>), are also subject to this requirement.
 - a. Accessibility of parts shall be determined as defined in 3.1.2 before and after use and abuse testing described in 8.4-8.9.
 - b. Toys and parts of toys which, due to their inaccessibility, size, mass, function, or other characteristics, cannot be sucked, mouthed or ingested are not subject to this requirement.

NOTE 3 —For the purposes of this requirement, the following criteria are considered reasonably appropriate for the classification of toys or parts likely to be sucked, mouthed or ingested: (1) All toy parts intended to be mouthed or contact food or drink, components of toys which are cosmetics, and components of writing instruments categorized as toys; (2) Toys intended for children less than 6 years of age, that is, all accessible parts and components may come into contact with the mouth.

- c. Packaging materials are not subject to these requirements unless they are intended to be retained as part of the toy or are intended to provide play value.
- d. This requirement is not intended to apply to children's jewelry, which is addressed by Specification F2923.
- e. In addition, materials now or in future listed in the most current revision of <u>16 CFR 1500.88</u> or <u>16 CFR 1500.91</u> as exempt from testing and certification requirements are excluded from this requirement for the purposes of determining compliance.
- 2. Requirements:

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 - a. Accessible component parts of children's products (as defined in 3.1.2 and in 16 CFR 1500.87, before and after use and abuse testing described in 8.4-8.9 and in 16 CFR 1500.50-16 CFR 1500.53 and 16 CFR 1500.87) must not contain lead or lead compounds in which the lead content (calculated as lead metal [Pb]) is in excess of 100 ppm (300 ppm for products manufactured or imported prior to August 14, 2011) of the weight of the component, except as provided under 16 CFR 1500.88 and 16 CFR 1500.91.
 - b. The migration of elements from toys and parts of toys as specified in 4.3.5.2(1) shall not exceed the limits specified in Table 1 when tested in accordance with the methods set forth in 8.3. Modeling clays included as part of a toy shall not exceed the limits specified in Table 2 when tested in accordance with the methods set forth in 8.3. Please note that the limits in Table 2 apply only to these materials as a component of a toy; in addition, please also note that if the primary purpose of the material is to create a tangible work of art, it may in addition be subject to the requirements of 16 <u>CFR 1500.14</u>.
 - c. In addition, metallic toys or metallic toy components which are small parts may not exhibit extraction of more than 200 μ g of cadmium when tested per 8.3.5.5(3). Compliance with all of the above requirements may be established by a screen of total element content as specified in 8.3.1.

4.3.6 *Cosmetics, Liquids, Pastes, Putties, Gels, and Powders*— The purpose of this requirement is to minimize the risk associated with the lack of cleanliness, shelf life, and contamination of cosmetics, liquids, pastes, putties, gels, and powders used in toys (excluding art materials). It sets standards for cleanliness and the ability to withstand extended shelf life or contamination, or both, during use without microbiological degradation.

4.3.6.1 Water used in the manufacturing and filling of toys shall be prepared according to the bacteriological standards for USP Purified Water. (Warning —The various methods for producing purified water each present different potentials for contaminating the final product. Purified water produced by distillation is sterile, provided that the production equipment is suitable and sterile. On the other hand, ion-exchange columns and reverse osmosis units require special attention in that they afford sites for microorganisms to foul the system and contaminate the effluent. Frequent monitoring may thus be

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 83 of 298 called for, particularly with the use of these units following periods of shutdown of more than a few hours.)

4.3.6.2 The formulations of these products used in toys shall be such that they are not subject to microbial degradation during shelf life or reasonably foreseeable use.

4.3.6.3 The cleanliness of these products used in toys and their ingredients shall be determined in accordance with <u>8.4.1</u>. Formulations used to prevent microbial degradation shall be evaluated in accordance with <u>8.4.2</u>.

4.3.6.4 Formulations of cosmetics shall be evaluated for potential microbiological degradation in accordance with <u>8.4.2</u>.

4.3.7 *Stuffing Materials*— Loose fillers for stuffed toys shall be free of objectionable matter originating from insect, bird, rodent, or other animal infestation and of contaminants, such as splinters and metal chips to the extent possible in good manufacturing practice. The test methods that shall be used to determine objectionable material are in Chapter 16 of *Official*

*Methods of Analysis of the Association of Official Analytical Chemists.*¹² In addition, fiber filling, whether natural or synthetic, should meet the requirements of <u>Title 34</u>, <u>Chapter 47</u>, <u>Section 47.317</u>, "Tolerances of the Commonwealth of Pennsylvania Regulation for Stuffed Toys."

¹²"Extraneous Materials: Isolation," *Official Methods of Analysis of the Association of Official Analytical Chemists*, 15 ed., Chapter 16, 1990.

 TABLE 1 Maximum Soluble Migrated Element in ppm (mg/kg) for Surface Coatings and Substrates Other Than Modeling Clay

 Included as Part of a Toy

Antimony,	Arsenic,	Barium,	Cadmium,	Chromium,	Lead,	Mercury,	Selenium,
(Sb)	(As)	(Ba)	(Cd)	(Cr)	(Pb)	(Hg)	(Se)
60	25	1000	75	60	90	60	500

Antimony,	Arsenic,	Barium,	Cadmium,	Chromium,	Lead,	Mercury,	Selenium,
(Sb)	(As)	(Ba)	(Cd)	(Cr)	(Pb)	(Hg)	(Se)
60	25	250	50	25	90	25	500

⁹

^{4.3.8} *DEHP (DOP)*— Pacifiers, rattles, and teethers shall not intentionally contain DI (2-ethylhexyl) phthalate (also known as dioctyl phthalate). To prevent trace amounts of DEHP (DOP) from affecting analysis, up to 3 % of total solid content will be accepted in the result, when tested in accordance with Practice D3421.

Standard Consumer Safety Specification for Toy Safety

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 84 of 298 4.4 *Electrical/Thermal Energy*— Toys operating from nominal 120-V branch circuits shall conform to <u>16 CFR 1505</u>, issued under the FHSA.

4.5 Sound-Producing Toys— These requirements are intended to minimize the possibility of hearing damage that might be caused by toys that are designed to produce sound. These requirements are applicable before and after testing in accordance with 8.5 through 8.10. These requirements do not apply to: (1) sounds produced by mouth-actuated toys where the sound pressure level is determined by the blowing action of the child; (2) child-actuated sounds such as those produced by xylophones, bells, drums, and squeeze toys where the sound pressure level is determined by the muscular action of the child. The continuous sound pressure requirements do not apply to rattles; however, rattles are covered by impulsive sound pressure requirements; (3) radios, tape players, CD players, and other similar electronic toys and toys where the sound output is dependent on the content of removable media (for example, game cartridge, flash cards, and so forth); (4) toys that are connected to or interfaced with external devices (for example, televisions, computers) where the sound pressure level is determined by the external device; and (5) sound emitted from earphones/headphones.

4.5.1 *Requirements*— When tested in accordance with <u>8.19</u>, toys that are designed to emit sound shall conform to the following requirements:

4.5.1.1 The A-weighted equivalent sound pressure level, L_{Aeq} , of continuous sounds produced by close to the ear toys shall not exceed 65 dB.

4.5.1.2 The A-weighted equivalent sound pressure level, L_{Aeq} , of continuous sounds produced by all other toys except close-to-the-ear toys and push/pull toys shall not exceed 85 dB.

4.5.1.3 The C-weighted peak sound pressure level, L_{Cpeak} , of impulsive sounds produced by close to the ear toys shall not exceed 95 dB.

4.5.1.4 The C-weighted peak sound pressure level, L_{Cpeak} , of impulsive sounds produced by any type of toy excluding toys using explosive action (for example, percussion caps) shall not exceed 115 dB.

4.5.1.5 The C-weighted peak sound pressure level, L_{Cpeak} , of impulsive sounds produced by a toy using percussion caps or other explosive action shall not exceed 125 dB.

4.6 *Small Objects*— These requirements are intended to minimize the hazards from choking, ingestion, or inhalation to children under 36 months of age

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 85 of 298 created by small objects.

4.6.1 Toys that are intended for children under 36 months of age are subject to the requirements of <u>16 CFR 1501</u>. Criteria for determining which toys are subject to these requirements are provided, in part, in <u>16 CFR 1500.50</u> and 1501 and also in <u>Annex A1</u> of this specification. The requirements of <u>16 CFR</u> <u>1501</u> state, in part, that no toy (including removable, liberated components, or fragments of toys) shall be small enough without being compressed to fit entirely within a cylinder of the specified dimensions as shown in <u>Fig. 3</u>. For the purposes of this specification, fragments of toys include, but are not limited to, pieces of flash, slivers of plastics, pieces of foam, or fine bits or shavings. Pieces of paper, fabric, yarn, fuzz, elastic, and string are excluded from this requirement.

4.6.1.1 The requirements are applicable before and after use and abuse testing in accordance with <u>Section 8</u> to determine the accessibility of small objects such as small toys or components of toys including eyes, squeakers, or knobs, or pieces that break off or are removed from toys.

4.6.1.2 The following articles are exempt from the requirements: balloons; books and other paper articles; writing materials (crayons, chalk, pencils, and pens); phonograph records and compact discs (CDs); modeling clay and similar products; and fingerpaints, watercolors, and other paint sets. A listing of exempt articles is provided in <u>16 CFR 1501.3</u>.

4.6.1.3 Toys that are intended to be assembled by an adult and contain potentially hazardous small objects in the unassembled state shall be labeled in accordance with 5.8.

4.6.2 *Mouth-Actuated Toys*— This requirement relates to toys, such as noisemakers, that are intended to be actuated repeatedly by blowing or sucking. Mouth-actuated toys that contain loose objects, such as spheres in a whistle, or inserts, such as reeds in a noisemaker, shall not release an object that will fit within the small parts test cylinder, as shown in Fig. 3, when air is alternately blown and sucked rapidly through the mouthpiece, according to the procedure described in 8.13. The procedure of 8.13 shall also be applied to the outlet if the air outlet is capable of being inserted into or covered by the mouth.

4.6.2.1 Small objects contained in an inflatable toy shall not be liberated during inflation or deflation.

4.6.3 Toys and games that are intended for use by children who are at least

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 86 of 298 three years old (36 months) but less than six years of age (72 months) are subject to the requirements of <u>16 CFR 1500.19</u>. With the exception of products such as paper punch-out games and similar items, any toy or game that is intended for use by children who are at least three years old (36 months) but less than six years of age (72 months) and includes a small part is subject to the labeling requirements in accordance with <u>5.11.2</u>.

4.7 *Accessible Edges*— Toys shall not have accessible, potentially hazardous sharp edges. Toys that are intended to be assembled by an adult, and may contain unprotected potentially hazardous sharp edges in the unassembled state, shall be labeled in accordance with 5.8.

4.7.1 Potentially hazardous sharp metal and glass edges are defined in <u>16 CFR</u> <u>1500.49</u>. Toys intended for use by children under 8 years of age are subject to this requirement before or after use and abuse testing, or both, as specified in <u>8.5-8.10</u>. An illustration of a sharp edge tester is shown in <u>Fig. 8</u>.

Figure 8. Principle of Sharp Edge Test A rectangular block has a sharp handle (a mandrel) and attached to that is a flat device. The block is labelled "Any suitable device, protable or non-portable to apply known force and rotation to mandrel." During test, the mandrel rotates one full revolution. The test edge has a 90 degree plus or minue 0.5 degree relationship to the mandrel and is affixed with a single wrap of TFE tape. The angle can be varied to seek a worst case situation. 1.35 lbps is the max force applied normally to mandrel axis. 1.35 LBS (6.00 N) MAX FORCEAPPLIED NORMAL TO MANDREL AXIS ANY SUITABLE DEVICE, PORTABLE ORNON-PORTABLE TO APPLY KNOWNFORCE & ROTATION TO MANDREL DURING TEST, MANDREL ROTATESONE FULL REVOLUTION SINGLE WRAP OF TFE TAPE $90^{\circ} \pm 5^{\circ}$ (TEST EDGE RELATIONSHIP TO MANDREL) VARY ANGLE TO SEEK"WORST CASE" SITUATION

FIG. 8 Principle of Sharp Edge Test

4.7.2 Toys containing potentially hazardous edges that are a necessary part of the function of a toy shall carry cautionary labeling as specified in <u>5.10</u> if the toy is intended for use by children from 48 to 96 months. Toys intended for children aged less than 48 months shall not have accessible hazardous functional sharp edges.

4.7.3 *Metal Toys*— Accessible metal edges, including holes and slots, shall be free of hazardous burrs and feathering, or shall be hemmed, rolled, or curled, or shall be covered with a permanently affixed device or finish.

NOTE 4 - Regardless of the manner in which edges are finished, they are subject to the sharp edge technical requirements as described in <u>4.7.1</u>. If a device is used to protect an edge, it shall not become

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 87 of 298 detached after being tested in accordance with the appropriate procedures described in <u>8.5</u>-<u>8.10</u>.

4.7.4 *Molded Toys*— Accessible edges, corners, or mold parting areas of molded toys should be free of hazardous edges produced by burrs and flash or so protected that hazardous edges are not exposed.

4.7.5 *Exposed Bolts or Threaded Rods*— If the ends of bolts or threaded rods are accessible, the thread shall be free of exposed, hazardous sharp edges and burrs, or the ends shall be covered by smooth finish caps so that hazardous sharp edges and burrs will not be exposed. Any caps that are used shall be subjected to the compression test noted in 8.10, regardless of whether the cap is accessible to flat-surface contact during the appropriate impact test(s) described in 8.7. Protective caps shall also be subjected to the tension test in 8.9 and the torque test in 8.8.

4.8 *Projections*— This requirement relates to potentially hazardous projections in all toys intended for use by children under 8 years of age. This requirement is intended to minimize possible puncture hazards to the skin that might be caused if a child were to fall on a rigid projection, such as unprotected ends of axles, actuating levers, and decorative features. Due to the extremely sensitive nature of the eyes and interior of the mouth, this requirement will not, nor is it intended to, provide protection to those areas of the body. If a projection appears to present a potential skin puncture hazard, the projection shall be protected by suitable means, such as by turning back the end of a wire or by affixing a smoothly finished protective cap or cover, which effectively increases the surface area for potential contact with the skin. Toys shall meet this requirement both before and after testing in accordance with 8.5-8.10. Toys intended to be repeatedly assembled and taken apart shall have the individual pieces and fully assembled articles, as shown on packaging graphics, instructions or other advertising, evaluated separately. The requirements for the assembled toy do not apply to toys where the assembling makes up a significant part of the play value of the toy. Since this requirement relates to hazards arising from a child falling onto a toy, only vertical or nearly vertical projections are required to be evaluated. The toy shall be tested in its most onerous position. Corners of structures are excluded from this requirement.

4.8.1 *Bath Toy Projections*— Rigid projections on toys designed primarily for use in the bath tub may pose a specific hazard that can result in serious penetration and impalement injuries. Additional design guidelines specifically for bath toy projections are provided in <u>Annex A4</u> of this specification. As there are no objective means for determining conformance with these

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 88 of 298 guidelines, they are not to be used to judge compliance with this specification.

4.9 Accessible Points— Toys shall not have accessible, potentially hazardous sharp points that may occur because of the following: configuration of the toy; assembly devices such as wires, pins, nails, and staples that are fastened poorly; poorly sheared sheet metal; burrs on screws; and splintered wood. Toys that are intended to be assembled by an adult and may contain potentially hazardous sharp points in the unassembled state shall be labeled in accordance with <u>5.8</u>.

4.9.1 Potentially hazardous sharp points are defined by <u>16 CFR 1500.48</u>. Toys intended for use by children under 8 years of age are subject to this requirement before or after use and abuse testing, or both, as specified in <u>8.5-8.10</u>. An illustration of a sharp-point tester is shown in <u>Fig. 9</u>.

Figure 9. Sharp Point Tester The sharp point tester is a cylinder with a test point at the end. There is a gaging slot of 0.40 x 0.45, a set of micrometer divisions and a sensing head, and the device is powered by a AAA dry cell. The device has a gap that is closed upon insertion of a sufficiently sharp point to pass through the gaging slot and depress the sensing head 0.005 inches, thereby completing an electrical circuit and illuminating the indicator test lamp lights. GAP IS CLOSED UPON INSERTIONOF SUFFICIENTLY SHARP POINT TOPASS THRU GAGING SLOT & DEPRESSSENSING HEAD .005. ELECTRICAL CIRCUIT IS THEREBYCOMPLETED & INDICATOR TEST LAMPLIGHTS - SHARP POINT TEST. AAA DRY CELL SECTION A - A AAA DRY CELL TEST POINT GAGINGSLOT(".040x".045) GAGING CAP & MICROMETER LOADING SPRING LOCK RING INDICATOR LAMP ASSYADAPTER-NUT ELECTRICALCONTACTSPRING BARREL CALIBRATION REFERENCE MARK MICROMETER DIVISIONS SENSING HEAD A A

FIG. 9 Sharp Point Tester

4.9.2 Toys in which an accessible, potentially hazardous sharp point is a necessary function of the toy, such as a needle in a sewing kit, shall carry cautionary labeling as specified in 5.10, if the toy is intended for children from 48 to 96 months old. Toys intended for children less than 48 months old shall not have accessible hazardous functional points.

4.9.3 *Wood*— The accessible surfaces and edges of wood used in toys shall be free of splinters, both before and after being tested in accordance with the appropriate procedures described in $\frac{8.5}{8.10}$.

4.10 Wires or Rods- Wires or rods used in the interior of toys shall have their

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Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 89 of 298 ends finished to avoid potentially hazardous points and burrs, shall be turned back, or shall be covered with smoothly finished protective caps or covers, if they can become accessible after use or reasonably foreseeable abuse. Metal wires or other metal materials used for stiffening or for retention of form in toys shall not fracture to produce a hazardous point, edge, or projection hazard when tested in accordance with 8.12, if the component can be bent through a 60° arc by the applicable maximum force. When applied perpendicularly to the major axis of the component at a point 2 ± 0.05 in. (50 ± 1.3 mm) from the intersection of the component with the main body of the toy or at the end of the component if the component is less than 2 in. (50 mm) long, the maximum force shall be as follows (within a tolerance of 60.5 lb (60.02 kg)):

10 lbf (45 N)	toys intended for use by children 18 months of age or less
15 lbf (67 N)	toys intended for use by children over 18 but not over 96 months of age

The ends of spokes on toy umbrellas shall be protected. If the protection is removed when tested according to 8.9 (tension test) the ends of the spokes shall be free from sharp edges and sharp points when tested in accordance with 4.7.1 (sharp edge test) and 4.9.1 (sharp point test). Furthermore, if the protective components are removed by the tension test, the spokes shall have a minimum diameter of 0.08 in. (2 mm) and the ends shall be smooth, rounded, and approximately spherical with no burrs.

4.11 *Nails and Fasteners*— Nails and fasteners shall not present a point, edge, ingestion, or projection hazard. Points of nails or fasteners shall not protrude so as to be accessible. Additional requirements for nails and fasteners used as axles are given in 4.17.

4.12 *Plastic Film*— This requirement is intended to minimize the possibility of asphyxiation hazards that might be caused by thin plastic films. Flexible plastic film bags and flexible plastic sheets used as packaging materials for shelf packages or used with or as part of toys shall be at least 0.00150 in. (0.03810 mm) in average thickness, but the actual thickness of any individual measure shall never be less than 0.00125 in. (0.03175 mm). Alternatively, sheeting with an average thickness of less than 0.00150 in. (0.03810 mm) shall be perforated with defined holes so that a minimum of 1 % of the area has been removed over any area of 1.18 1.18 in. (30 30 mm). The thickness shall be determined using the test method in 8.21. This requirement does not apply to the following:

4.12.1 Shrink film in the form of an over wrap that would normally be destroyed when the package is opened by a consumer.

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4.12.2 Bags or plastic film with a minor dimension of 3.94 in. (100 mm) or less. Bag dimensions shall be measured while in the form of a bag, not cut open into a single thickness sheet.

4.13 *Folding Mechanisms and Hinges*— These requirements are intended to eliminate possible crushing, laceration, or pinching hazards that might occur in folding mechanisms and hinges. Examples are the sudden collapse or unexpected motion of a folding mechanism or hinge that produces a scissor action; and the changing clearances at the hinge line between two hinged portions, such that the gap will admit fingers at any one position of the hinge but not at all positions. These requirements do not relate to the recognized and familiar hazards associated with the changing clearances around the edges of doors or pivoted or hinged sections in toy truck bodies, toy earth moving machinery, and similar toys. Toys shall meet the requirements specified in 4.13.1 and 4.13.2 after they are tested in accordance with 8.5-8.10. Requirements for toy chests are contained in Consumer Safety Specification F834.

4.13.1 *Folding Mechanisms*— Toy furniture and other toys in which a folding mechanism, arm, or bracing is intended or likely to support the weight of a child in normal use shall have a locking device or other means to prevent unexpected or sudden movement or collapse of the product, or have adequate clearance to provide protection for the fingers, hands, and toes from crushing, laceration or pinching hazards in the event of sudden movement or collapse of the products to which these requirements would apply include, but are not limited to, folding mechanisms in toy strollers a child can sit in, toy chairs a child can sit in, or a child sized ironing board. One way to determine if a child can sit in a product is to verify that the seat width would accommodate the hip breadth of a child in the age range for which the product is intended. Examples of products to which these requirements would not apply include, but are not limited to, a doll house sized chair, a doll house sized bed, or an expandable/ collapsible sphere.

4.13.1.1 Locking devices or other means to prevent unexpected or sudden movement or collapse of the product shall engage automatically when the product is placed in the manufacturer's recommended use position. During and upon completion of the testing in <u>8.25.1</u>, the unit shall remain in its recommended use position. The test in <u>8.25.1</u> shall not apply to locking devices or other means where the direction of force of the occupant load opposes the direction of collapse of the mechanism. Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 91 of 298

- 4.13.1.2 Locking devices shall comply with either of the following:
 - Each single action device shall require a minimum force of 10 lbf (45 N) to activate the release mechanism when tested in accordance with <u>8.25.2</u>.
 - 2. Each double action locking device shall require two distinct and separate actions to release. There are no force requirements for double action locking devices.

4.13.2 *Hinge-Line Clearance*— Toys having a gap or clearance along the hinge line between a stationary portion and a moveable portion that weighs more than $\frac{1}{2}$ lb (0.2 kg) shall be so constructed that, if the accessible gap at the hinge line will admit a 3/16-in. (5-mm) diameter rod, it will also admit a $\frac{1}{2}$ -in. (13-mm) diameter rod at all positions of the hinge.

4.14 *Cords, Straps, and Elastics*— These requirements are intended to minimize the potential entanglement and strangulation hazards that might be caused by accessible cords, straps, and elastics. These requirements are applicable before and after use and abuse testing in accordance with 8.5-8.10.

4.14.1 *Cords, Straps, and Elastics in Toys*— Cords or elastics included with or attached to toys intended for children less than 18 months of age (excluding pull toys, see 4.14.3) shall be less than 12 in. (300 mm) long when measured to the maximum length in a free state and under a load of 5 lb (2.25 kg). If cords/straps/elastics or multiple cords/straps/elastics can tangle or form a loop in connection with any part of the toy, including beads or other attachments on the ends of cords/ straps/elastics, the loop shall not permit the passage of the head probe (Fig. 10) when tested in accordance with 8.22. Specifically, the loop shall not allow the head probe to be inserted so deep that it admits the base of the probe. The configuration of the loop shall be determined by using all components that make up the loop. For example, the configuration of the loop for the product illustrated in Fig. 11 is comprised of Cord 1, Cord 2, and the toy part.

Figure 10. Head Probe for Cords and Elastics This is the end view. The probe is shaped like a stadium oval with an outer edge and an inner edge. The outer edge has a length of 5.0 inches and width of 3.9 inches. The rounded ends of the stadium oval have a radius of 1.95 inches to the outer edge and 1.45 inchdes to the inner edge. The flat part of the inner edge is 1.1 inchdes across. 1.95 in. (49.5mm) radius 0.5 in. (13 mm) 3.9 in. (99 mm) 5.0 in. (130 mm) 1.1 in. (28 mm) 1.45 in. (37 mm) radius End View

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Figure 10b. Head Probe for Cords and Elastics (Side View) The side view has a handle, below which is a rectangle, below which is a trapezoid. Per figure 10a, the over length is 5.0 inches. The length of the bottom part of the trapezois is 4.0 inches. The height of the rectangle is 1.0 inches and the overall hieght from the bottom of the trapezoid to the top of the rectangle is 4.0 inches. 1.0 in. (25 mm) 4.0 in. (100 mm) 4.0 in. (100 mm)

Side View

FIG. 10 Head Probe for Cords and Elastics

Figure 11. Loop Example A toy drum has a cord attached to each side. The left cord is Cord 1, the right is Cord 2. The two cords are tied together so the drum may be hung around the child's neck. The width of the drum from one side to the other is labelled Toy Part. Cord 1 Cord 2 Toy Part

FIG. 11 Loop Example

4.14.1.1 *Cords, Straps, and Elastics Containing a Breakaway Feature*— Cords, straps, and elastics on toys that have loops that admit the base of the head probe shall contain a functional breakaway feature that prevents entanglement by releasing at a force less than 5.0 lbf (22.2 N) when tested in accordance with 8.22.3. The free length of the individual released cord, strap, or elastic should not exceed a maximum length of 12 in. (300 mm). The breakaway feature shall be capable of being reattached without altering the characteristics of the attachment.

4.14.2 *Self Retracting Pull Cords*— Accessible cords used in cord-activated mechanisms in toys intended for use by children under 18 months of age, except monofilament-type cords 1/16 in. (2 mm) or less in diameter, shall not retract more than ¹/₄ in. (6 mm) when a weight of 2 lb (0.9 kg) is attached to the fully extended cord with the cord held vertical and the toy held firmly in the most favorable position for retraction. Monofilament cords, 1/16 in. (2 mm) or less in diameter, shall not retract under a load of 1 lb (0.45 kg) when tested in the manner described above.

4.14.3 *Pull Toys*— Cords, straps, and elastics greater than 12 in. (300 mm) long for pull toys intended for children under 36 months of age shall not be provided with beads or other attachments that could tangle to form a loop.

4.14.4 Strings and Lines for Flying Devices— Kite strings and handheld lines over 6 ft (1.8 m) long, attached to flying devices intended for use as playthings, shall have an electric resistance of more than 108 V/cm when tested at a relative humidity of not less than 45 % and a temperature of not greater than 75°F (24°C), when measured by a high-voltage, resistance Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 93 of 298 breakdown meter.

4.14.5 Cords on Toy Bags Intended for Children Up to 18 Months— Toy bags made of impermeable material with an opening perimeter greater than 14 in. (360 mm) shall not have a drawstring or cord as a means of closing.

4.15 Stability and Over-Load Requirements

4.15.1 *Stability of Ride-On Toys and Toy Seats*— These requirements are intended to minimize unexpected hazards that could be caused by a toy that can tip easily. They take into account the use of the child's legs as stabilizing means and recognize that a child learns instinctively to compensate for inclined positions. The requirements listed in <u>4.15.2</u> and <u>4.15.3</u> shall apply to the following classes of toys intended for use by children aged 60 months or less: ride-on toys, with three or more load bearing wheels, such as wagons; ride-on, action-type toys such as hobby horses, rocking toys (for example, horses, cars); and toy seats. Ride-on toys of spherical, cylindrical, or other shape that do not normally have a stable base are not covered by these requirements. The toy shall conform to these requirements after it is tested in accordance with <u>8.5-8.10</u>.

4.15.2 *Sideways Stability Requirements*— These requirements recognize two types of possible stability hazards: those associated with ride-on toys or toy seats in which the feet can provide stabilization, and those situations in which the feet are restricted by an enclosing structure.

4.15.2.1 Sideways Stability, Feet Available for Stabilization— There shall be no sideways stability test for those ride-on toys or toy seats in which the height of the seat from the ground is one third, or less than one third, of the height indicated in <u>Table 3</u> at the lowest age of the age range for which the ride-on toy or toy seat is intended, and in which the legs of the child are unrestricted in their sideways motion and thus are available for stabilization. (The values given in <u>Table 3</u> represent the lower of the following two numbers: (1) the fifth percentile group of boys at each age from 1 up to and including 5 years; and (2) the fifth percentile group of girls at each age from 1 up to and including 5 years.) For those ride-on toys, or toy seats in which the height of the seat from the ground is greater than one third of the height indicated in <u>Table 3</u> at the lowest age of the age range for which the ride-on toy or toy seat is intended, and in which the legs of the child are unrestricted in their sideways motion and thus are available for stabilization, the toy shall not tip when tested in accordance with 8.15. When the lowest age of the intended age range falls between two ages listed in <u>Table 3</u>, the lower of the two shall be chosen.

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 94 of 298 4.15.2.2 *Sideways Stability, Feet Unavailable for Stabilization*— If the sideways motion of the feet or legs, or both, is restricted, such as by the enclosed sides of a toy automobile, the ride-on toy or toy seat shall not tip when tested as specified in 8.15, except that the surface shall be inclined 15° to the horizontal.

4.15.3 Fore and Aft Stability— This requirement relates to the stability of ride-on toys or toy seats in the forward direction with respect to the child's position, where the child cannot easily use his/her legs for stabilization, and in the backward direction with respect to the child regardless of whether his/her legs are available for stabilization. All ride-on toys or toy seats falling within the scope of 4.15 shall not tip forward or backward when the toy, which shall be loaded with a simulated child's weight, is tested both facing down and up the slope using the test method of 8.15, except that the surface shall be inclined 15° to the horizontal. The stability of ride-on toys is to be tested not only with the steering wheels in a forward position, but also at an angle of 45° to the left and to the right of the forward position.

Percentile Children (Values Given for Boys or Girls, Whichever is Lower)			
Age, years	Height, in. (cm)		
1	27 (69.8)		
2	29 (74.4)		
3	33 (85.1)		
4	37 (93.8)		
5	40 (100.5)		

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4.15.4 Stability of Stationary Floor Toys— This requirement is intended to minimize hazards that might be caused by a toy that tips when a door, drawer, or other movable portion is extended to its fullest travel. Stationary floor toys of greater than 30 in. (760 mm) in height and weighing more than 10 lb (4.5 kg) shall not tip when placed on a 10° incline with all movable portions extended to their fullest travel and facing in the direction of the downslope side. The toy shall conform to this requirement after it is tested in accordance with 8.5-8.10.

4.15.5 Overload Requirements for Ride-On Toys and Toy Seats— This requirement is intended to minimize unexpected hazards that could be caused by a toy that is not capable of withstanding an overload. All ride-on toys, toys intended for use as seats, or toys designed to support all or part of the weight of the child shall support a load applied to the seat, or to other

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 95 of 298 such intended load-bearing components, without collapsing to produce a hazardous condition when tested in accordance with <u>8.26</u>. Examples of hazardous conditions if collapse occurs would include the following: exposure of hazardous edges, or points, projections, crushing or pinching hazards, and power-driven mechanisms. The toy shall conform to this requirement after being tested in accordance with <u>8.5</u> through <u>8.10</u>.

4.15.6 *Wheeled Ride-on Toys*— Ride-on toys incorporating wheels intended for movement along the ground shall be tested in accordance with the Dynamic Strength Test for Wheeled Ride-ons in <u>8.20</u>. Wheeled ride-on toys shall be tested after being tested in accordance with <u>8.5-8.10</u>.

4.16 *Confined Spaces*— The purpose of these requirements is to minimize the possible entrapment of children in toys that form enclosures, such as toy refrigerators, and to prevent possible suffocation in head-enclosing toys such as space helmets. Toys shall meet the requirements listed in <u>4.16.1</u>-4.16.3 after the toys are tested in accordance with <u>8.5-8.10</u>. See Consumer Safety Specification F834 for requirements for toy chests.

4.16.1 *Ventilation*— The purpose of these requirements is to minimize the possible entrapment of children in toys that form enclosures, such as toy refrigerators, and to prevent possible suffocation in head-enclosing toys such as space helmets. Any toy made of impermeable material and having a door or lid, which encloses a continuous volume greater than 1.1 ft³ (0.03 m³) and in which all integral dimensions are 6 in. (150 mm) or more, shall provide one of the following unobstructed ventilation areas:

4.16.1.1 A minimum of two openings each having a total area of at least 1 in.² (650 mm²) placed at least 6 in. (150 mm) apart (see Fig. 12(a)).

Figure 12. Openings Figure A shows two ciruclar holes, each of which is ≥ 1.0 in.² and they are separated by a distance of ≥ 6.0 inches. Diagram 12b is two ovals, also ≥ 1.0 in.² and also separated by a distance of ≥ 6.0 inches. ≥ 1.0 in.2(≥ 650 mm2) ≥ 1.0 in.2(≥ 650 mm2) ≥ 6.0 in.(≥ 150 mm) ≥ 1.0 in.2(≥ 650 mm2) ≥ 6.0 in.(≥ 150 mm) ≥ 1.0 in.2(≥ 650 mm2) ≥ 6.0 in.(≥ 150 mm) (a) (b)

FIG. 12

4.16.1.2 One opening that is the equivalent of the two 1.0-in.² (650-mm²) openings expanded to include the separation area provided this leaves opening areas of 1.0 in.² (650 mm) on either side of a 6-in. (150-mm) spacing (see Fig. 12(b)). The ventilation openings shall be unobstructed when the toy is placed on the floor in any position and adjacent to two vertical plane surfaces meeting at a 90° angle, so as to simulate the corner of a room. If a

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 96 of 298 permanent partition or bars (two or more), which effectively limit the continuous space by making the largest internal dimension less than 6 in. are used to subdivide a continuous space, the ventilation area shall not be required.

4.16.2 *Closures*— Closures (such as lids, covers, and doors) to enclosures falling within the scope of <u>4.16.1</u> shall not be fitted with automatic locking devices. Closures shall be of a type that can be opened with a force of 10 lbf (45 N) or less when treated as follows:

4.16.2.1 With the closure in a closed position, apply the force in an outward direction to the inside of the closure perpendicular to the plane of the closure and anywhere within 1 in. (25 mm) from the geometric center of the closure. The force measurement shall be made by means of a force gauge with a calibrated accuracy within 60.3 lb (0.1 kg) when measuring a force of 10 lb (45 N). The dial of the gauge shall be graduated with its finest division not exceeding 0.2 lb (0.9 N), and the full-scale range shall not exceed 30 lb (130 N).

4.16.3 *Toys that Enclose the Head*— Toys that enclose the head, such as space helmets, which are made of impermeable material, shall provide means for breathing by the incorporation of unobstructed ventilation areas. The ventilation areas shall consist of a minimum of two holes, with a total of at least 2 in.² (1300 mm²) of ventilation and at least 6 in. (150 mm) between holes.

4.17 Wheels, Tires, and Axles— These requirements are intended to eliminate the possibility of ingestion hazards (as described in 4.6) that might be caused by small wheels or tires that separate during normal use or reasonably foreseeable abuse, as well as laceration or puncture hazards from projecting axles, either on the toy or on wheel assemblies that may be removed from the toy during abuse. The requirements shall apply to transportation wheels on both preassembled and knocked-down toys intended for children aged 96 months or less, except for ingestion hazards from small wheels and axles, which apply to toys intended for children under 36 months of age, as covered in 4.6. In the case of knocked-down toys, the toy shall be tested in the form that it would be assembled by the purchaser, using simple household tools or special tools provided by the manufacturer, if any, or both. After being subjected to the use and abuse tests of 8.5-8.11, wheels, tires, or axles shall not present a laceration, puncture, or ingestion hazard as defined in 3.1.60 and 4.6.1, respectively.

4.18 Holes, Clearance, and Accessibility of Mechanisms- These requirements

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 97 of 298 are intended to eliminate possible hazards that may be caused by changing clearances. Toys shall meet these requirements after they are tested in accordance with <u>8.5-8.10</u>. The different pinch clearance requirements listed in <u>4.18.1-4.18.6</u> reflect the different modes of entrapment or pinching that may be encountered.

4.18.1 Accessible Clearances for Moveable Segments— This requirement concerns clearances between movable segments on toys intended for children under 96 months only, where the potential for pinching or crushing fingers or other appendages exists. It includes, but is not limited to, wheels and rigid-wheel wells, fenders, or the radial clearance between the wheels and chassis of ride-on toys, or the driven wheels and other parts of toys powered by electrical, spring, or inertial energy. If such accessible clearances admit a 3/16-in. (5-mm) diameter rod, they shall also admit a ½-in. (13-mm) diameter rod in order to prevent the trapping of fingers.

4.18.2 *Circular Holes in Rigid Materials*— This requirement is intended to prevent finger entrapment (which may cut off blood circulation) in accessible holes in sheet metal and other rigid material in toys intended for children aged 60 months or less. (Noncircular holes are believed to present no significant hazard of cutting off blood circulation in entrapped fingers.) If an accessible, circular hole in any rigid material less than 0.062 in. (1.58 mm) in thickness can admit a ¼-in. (6-mm) diameter rod to a depth of $\frac{3}{6}$ in. (10 mm) or greater, it shall also admit a $\frac{1}{2}$ -in. (13-mm) diameter rod.

4.18.3 *Chains and Belts*— These requirements are to prevent finger crushing through entrapment between links of supporting chains or between chains and sprockets or pulleys and belts.

Figure 13. Clearance for Chain Links A single chain link is shown and the inside of the link is labelled possible entrapment point. A mark indicates that the clearance should not admit a 3/16 inchd diameter rod on unshielded chains. Clearance not admit 3/16 - in. (5 mm)diameter rod on unshielded chains Possible EntrapmentPoint

FIG. 13 Clearance for Chain Links

4.18.3.1 Supporting Chains— Chains in toys that support the weight of a child, such as hanging seats or similar indoor devices, intended for children 36 months or less in age, shall be shielded if the chain is accessible and if a 0.19-in. (5-mm) diameter rod can be inserted between two links, as in Fig. 13, with the chain in slack configuration.

4.18.3.2 Chains or Belts for Ride-On Toys- Power transmission chains and

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 98 of 298 belts in ride-on toys shall be shielded.

4.18.4 *Inaccessibility of Mechanisms*— Clockwork, batteryoperated, inertial, or other power-driven mechanisms in toys intended for children aged 60 months or less shall not have any accessible part of the mechanism present a pinch or laceration hazard. (For circular holes, also see the requirement under 4.18.2.)

4.18.5 *Winding Keys*— This requirement is to prevent the pinching or laceration of fingers by entrapment between the key and body of the toy. It applies to toys intended for children under 36 months of age that use winding keys that rotate as the mechanism unwinds. This requirement applies to keys with flat plates attached to the stem and that protrude from a rigid surface; the requirement does not apply to those circular knobs to which the torque is applied. If the clearance between the flukes of the key and body of the toy will admit a 0.25-in. (6-mm) diameter rod, it shall also admit a 0.5-in. (13-mm) diameter rod at all positions of the key. For keys covered by this requirement, there shall be no opening in the flukes of the key that can admit a 0.19-in. (5-mm) diameter rod.

4.18.6 *Coil Springs*— These requirements are intended to prevent the pinching or crushing of fingers or toes by toys containing springs. Coil springs (either compression or extension) that form part of a component that carries the weight of a child shall be shielded so as to prevent access during use or reasonably foreseeable abuse unless either of the following occurs:

4.18.6.1 A 0.12-in. (3-mm) diameter rod cannot be inserted freely; or

4.18.6.2 A 0.25-in. (6-mm) diameter rod can be inserted freely between the adjacent coils at all points in the action cycle when the spring is subjected first to a weight of 3 lb (1.4 kg) and then to a weight of 70 lb (32 kg).

4.19 Simulated Protective Devices (such as helmets, hats, and goggles)— These requirements are intended to minimize hazards that might be caused, for example, by goggles or space helmets if the material from which they are constructed fails; or by toys that simulate protective devices such as football helmets and pads, if the wearer uses the article as a real protective device rather than as a toy. The toy shall conform to the requirements listed in 4.19.1 and 4.19.2 after testing in accordance with 8.7.4 and 8.8 through 8.10.

4.19.1 *Eye Protection*— All rigid toys that cover the face, such as goggles, space helmets, or face shields, shall be constructed of impact-resistant

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 99 of 298 material that will not have sharp edges, sharp points, or loose parts that could enter the eye before or after being tested in accordance with <u>8.5-8.10</u>. This applies to items with cutout eye holes as well as items that cover the eyes.

4.19.2 Toys that simulate safety protective devices (examples include, but are not limited to, construction helmets and sports helmets) and their packages shall be labeled clearly in accordance with 5.9 to warn the purchaser that they are not safety protective devices.

4.20 *Pacifiers*— Infant pacifiers shall conform to the safety requirements as specified in <u>16 CFR 1511</u>. Illustrations of the pacifier test fixture are shown in <u>Fig. 14.</u>

Figure 14. Pacifier Test Fixture The pacifier test fixture is a flat device through the nipple of the pacifier is inserted. Diagram a is a top view and has a width of 76 mm and a length of 102 mm. The center opening is a trapezoid with the top part being wider and a width of 22.3mm and 45 degree angles . Below the trapezoid is a circle with a diameter of 42.7mm. Below that is another trapezoid, with the narrow part on top. The distance from the top of the opening is 3 inches. 22° 30° 1.68"42.7 mm 4"102 mm 45° 3"76 mm 1.5"38.1 mm 3.0"76.2 mm 2 LBSOR8.6 N A A CenterOpening Material:1/4" Polytetrafluoroethylene SectionA-A PACIFIER FORCE 0.3"76 mm Rod (b) (a)

FIG. 14 Pacifier Test Fixture

4.20.1 Pacifiers with rubber nipples shall conform to the nitrosamine levels as specified in Specification F1313. This specification states that a test sample of nipples, drawn from a standard production lot, shall not contain more than 10 ppb in each of three aliquots of any one nitrosamine. In addition, the total nitrosamines of the sample shall not exceed 20 ppb.

4.20.2 Toy pacifiers attached to, or sold with, toys intended for children under 36 months of age shall comply with the requirements outlined in 4.6.1 of this specification (small objects), and either conform to the requirements of 16 CFR 1511 or have a nipple length no longer than 0.63 in. (16 mm). This measurement shall be taken from the nipple side of the shield to the end of the nipple.

4.21 *Projectile Toys*— These requirements relate to certain, but not all, potential, unexpected hazards that might be caused by projectile firing toys and by the firing of improvised projectiles from such toys. Certain well-recognized hazards that are inherent in traditional toys such as slingshots and darts are not covered by these requirements. The discharge mechanism as

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 100 of 298 well as the projectile shall conform to the requirements specified in this section after testing in accordance with the appropriate test methods described in 8.5-8.10 and 8.14.

4.21.1 These requirements apply to toys that are intended to launch projectiles into free flight by means of a discharge mechanism in which the kinetic energy of the projectile is determined by the toy and not by the user.

4.21.1.1 No projectile intended to be fired from a toy shall have any sharp edges, sharp points, or small parts that would fit within the cylinder shown in Fig. 3.

4.21.1.2 No rigid projectile fired from a toy shall have a tip radius less than 0.08 in. (2 mm).

4.21.1.3 Any rigid projectile fired from a toy that has a kinetic energy that exceeds 0.08 J (as determined by <u>8.14.1</u>) shall have an impact surface(s) of a resilient material.

4.21.1.4 Any protective tip shall either (1) not be detached from the projectile when subjected to the torque and tension tests described in <u>8.8</u> and <u>8.9</u>, or (2) if the protective tip does become detached during the test at less than the specified torque or tension, or both, the projectile shall not be able to be launched from the provided launcher. Additionally, the protective tip shall not produce or reveal hazardous points or edges when fired into a solid object, in accordance with the test methods described in <u>8.14.4</u>.

4.21.1.5 The aforementioned requirements shall not apply to any discharge mechanism incapable of storing energy independent of the user, or intended to propel a ground-based vehicular toy along a track or other surface, or when the projectile is inaccessible to a child when it leaves the discharge mechanism, for example, bagatelle or pinball machines.

4.21.2 *Discharge Mechanisms*— Discharge mechanisms shall be unable to discharge potentially hazardous improvised projectiles such as pencils or pebbles without modification by the user.

4.21.3 Any arrow shall have a protective tip that complies with <u>4.21.1.4</u>.

4.22 *Teethers and Teething Toys*— These requirements are intended to address a potential impaction hazard associated with teethers. These requirements are applicable before and after use and abuse testing in accordance with <u>Section 8</u>.

Standard Consumer Safety Specification for Toy Safety

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 101 of 298 4.22.1 Teethers and teething toys shall conform to the dimensional requirements for infant rattles as specified in <u>16 CFR 1510</u>. Illustrations of a rattle test fixture are shown in <u>Fig. 15</u>. A teether shall meet this requirement when tested under the force only of its own weight and in a noncompressed state.

Figure 15. Rattle Test Fixture The fixture is a rectangular block with a stadium oval cavity centered within the fixture. The stadium oval is 1.968 inchdes by 1.378 inches and the circles have a radius of .689 inches. The rectangle around the oval is 2 9/16 inches by 1.968 inches. From the side, the device is 1.181 inches high and 3 1/8 inches long. CAVITY CENTERED WITHIN FIXTURE .689 in (17.5 mm)RADIUS (REF) 2 9/16 in(65 mm) 1.378 in(35 mm) 1.968 in(50 mm) 1.181 in(30 mm) 3 1/8 in(80 mm)

FIG. 15 Rattle Test Fixture

4.22.2 In addition, teethers and teething toys incorporating nearly spherical, hemispherical, or circular flared ends shall be designed so that such ends are not capable of entering and penetrating to the full depth of the cavity in the supplemental test fixture shown in Fig. 16. A teether shall meet this requirement when tested under the force only of its own weight and in a noncompressed state.

Figure 16. Supplemental Test Fixture for Rattles, Squeeze Toys and Teethers. The top diagram is a square of 2.86 inchdes per side with a circle inside of 1.68 inches in diameter. The side view shows the device is 1.18 inchdes high. 2.86 in(72.6 mm) 2.86 in(72.6 mm) 1.68 in(42.7 mm) 1.18 in(30.0 mm)

FIG. 16 Supplemental Test Fixture for Rattles, Squeeze Toys, and Teethers

4.22.3 *Exclusion*— The requirements of <u>4.22.1</u> and <u>4.22.2</u> shall not apply to the following:

- 1. Teething toys that are composed of liquid-filled beads that are attached to form a ring or beads that are threaded on a flexible cord or string.
- 2. Soft-filled (stuffed) teething toys or soft-filled parts or parts of fabric.
- Rigid components having a major dimension equal to or less than 1.2 in. (30 mm) contained within soft-filled teething toys.

4.23 *Rattles*— Infant rattles shall conform to the safety requirements as specified in <u>16 CFR 1510</u>. Illustrations of a rattle test fixture are shown in <u>Fig.</u> <u>15.</u>

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 102 of 298 4.23.1 In addition to meeting the requirements of <u>16 CFR 1510</u>, rigid rattles incorporating nearly spherical, hemispherical, or circular flared ends shall be designed so that such ends are not capable of entering and penetrating to the full depth of the cavity in the supplemental test fixture illustrated in Fig. <u>16</u>. A rattle shall meet this requirement when tested under the force only of its own weight and in a noncompressed state. These requirements are applicable before and after use and abuse testing in accordance with <u>Section 8</u>.

4.23.2 *Exclusion*— The requirements of <u>4.23</u> and <u>4.23.1</u> shall not apply to the following:

- 1. Soft-filled (stuffed) rattles or soft-filled parts or parts of fabric.
- Rigid components having a major dimension equal to or less than 1.2 in. (30 mm) contained within soft-filled rattles.

4.24 *Squeeze Toys*— These requirements are intended to address a potential impaction hazard associated with squeeze toys intended for children under the age of 18 months. These requirements are applicable before and after use and abuse testing in accordance with <u>Section 8</u>.

4.24.1 Squeeze toys shall conform to the dimensional requirements for rattles as specified in <u>16 CFR 1510</u>. Illustrations of a rattle test fixture are presented in <u>Fig. 15.</u> A squeeze toy shall meet these requirements when tested under the force only of its own weight and in a noncompressed state.

4.24.2 In addition, squeeze toys incorporating nearly spherical, hemispherical, or circular flared ends shall be designed so that such ends are not capable of entering and penetrating to the full depth of the cavity in the supplemental test fixture shown in Fig. 16. A squeeze toy shall meet these requirements when tested under the force only of its own weight and in a noncompressed state.

4.24.3 *Exclusion*— The requirements of <u>4.24.1</u> and <u>4.24.2</u> shall not apply to the following:

- 1. Soft-filled (stuffed) squeeze toys or soft-filled parts or parts of fabric.
- Rigid components having a major dimension equal to or less than 1.2 in. (30 mm) contained within soft-filled squeeze toys.

4.25 *Battery-Operated Toys*— These requirements are intended to address potential risks of injury associated with battery usage in toys intended for use by children (for example, battery overheating, leakage, explosion and fire,

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 103 of 298 and choking on or swallowing batteries). Both non-rechargeable and rechargeable batteries are subject to these requirements. Batteryoperated toys shall conform to the requirements specified in this section after testing in accordance with the appropriate test methods described in <u>8.5-8.12</u>. For purposes of ensuring compliance with these requirements, fresh alkaline batteries that meet the dimensional requirements of the latest revision of ANSI C18.1 or the latest revision of IEC 60086-2 shall be selected for test purposes. If another battery chemistry is specifically required for use in the toy by the manufacturer, testing shall be repeated using that type of battery. When rechargeable batteries are specified by the manufacturer, fully recharged batteries shall be used for testing purposes.

4.25.1 The toy shall be marked permanently on the battery compartment or on the area immediately adjacent to the battery compartment to show the correct battery polarity using the polarity symbols "+" and "-". Additional markings located on the toy or in the instructions must indicate the correct battery size and voltage. These markings are not required for nonreplaceable batteries or for rechargeable battery packs that, by design, can only be inserted in the correct orientation. Battery compartments for button cell batteries are not subject to this requirement.

NOTE 5 — The battery compartment door is considered part of the battery compartment.

4.25.1.1 Toys containing non-replaceable batteries shall be labeled in accordance with 5.15.

4.25.2 The maximum allowable direct current potential between any two accessible electrical points is 24 V nominal.

4.25.3 Battery-operated toys shall be designed so that it is not possible to charge any non-rechargeable battery. This can be achieved through physical design of the battery compartment or through the use of an appropriate electrical circuit design. This applies to situations in which a battery may be installed incorrectly (reversed) or in which a battery charger may be applied to a toy containing non-rechargeable batteries, or both. This section does not apply to circuits having one or two non-rechargeable batteries as the only source of power.

4.25.3.1 Toys having a circuit powered only by button cell type batteries are not subject to this requirement.

4.25.4 For toys intended for children less than 3 years old, all batteries shall not be accessible before or after testing in accordance with 8.5-8.10, without

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 104 of 298 the use of a coin, screwdriver, or other common household tool. Testing is performed using the recommended batteries installed.

4.25.5 For all toys, batteries that fit completely within the small parts test cylinder shown in Fig. 3 shall not be accessible, before or after testing in accordance with 8.5-8.10, without the use of a coin, screwdriver, or other common household tool. Testing is performed using the recommended batteries installed.

4.25.6 Batteries of different types or capacities shall not be mixed within any single electrical circuit. In applications requiring more than one type or capacity of battery to provide different functions or in applications requiring the combination of alternating current and non-rechargeable batteries, each circuit shall be isolated electrically to prevent current from flowing between the individual circuits.

4.25.7 The surfaces of the batteries shall not achieve temperatures exceeding 71° C.

4.25.7.1 This requirement is applicable for all batteryoperated toys during normal use conditions. In addition, battery-operated toys intended for children 96 months or less shall meet this requirement after reasonably foreseeable abuse.

4.25.7.2 If external moving parts of the toy that are mechanically linked to the motor can be stalled by the user, test for a stalled motor condition according to the procedures of 8.17 to determine conformance with the temperature limits.

4.25.8 No condition shall occur that would cause the toy to fail the temperature requirements of 4.25.7 or present a combustion hazard as described in 4.25.

4.25.9 Battery-operated toys shall meet the requirements of 6.5 for instructions on safe battery usage. Toys which use non-replaceable batteries as the only source of power are not subject to 6.5.

4.25.10 *Battery-Powered Ride-On Toys*— These requirements cover wheeled ride-on toys, not intended for streets or roadways, using a battery power source that is capable of delivering at least 8 amps into any variable resistor load for at least one minute.

4.25.10.1 The maximum temperature measured on the insulation of any conductor shall not exceed the temperature rating of the material (third

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 105 of 298 party test laboratory rating) when tested in accordance with <u>8.18.2</u>.

4.25.10.2 Battery-powered ride-on toys shall not present a risk of fire when tested in accordance with the stalled motor test of <u>8.18.3</u>.

4.25.10.3 A battery-powered ride-on toy designed with a wiring system that has a user replaceable device (fuse type) for the primary circuit protection or a wiring system with user resetable primary circuit protection (manual reset fuse) shall not actuate (open or trip) when tested in accordance with the nuisance tripping test of <u>8.18.4</u>.

4.25.10.4 Switches used in battery-powered ride-on toys.

- Polymeric materials in switches used in batterypowered ride-on toys that are used to support current-carrying parts shall carry a minimum flame rating of UL-94 V-0 or have a glow wire ignition rating of 750°C. Note: This requirement does not apply to switches used in low-power circuits. A low-power circuit is defined as one using an effective battery power source that is not capable of delivering at least 8 amps into any variable resistor load for at least one minute.
- 2. The switch body shall not result in a short-circuit condition when subjected to the switch endurance test and overload tests of <u>8.18.5</u>.
- 3. The switch shall not fail in a mode that could cause the vehicle to run continuously (switch stuck in the "on" position) when subjected to the endurance test and the overload test in <u>8.18.5</u>.

4.25.10.5 User replaceable circuit protection devices in battery-powered rideon toys.

- 1. User replaceable circuit protection devices used in battery-powered ride-on toys shall be listed, recognized or certified by an independent laboratory.
- 2. All circuit protection devices used in battery-powered ride-on toys intended to be replaced by the user shall be replaceable only with the use of a tool or by a design which does not easily allow tampering such as a design requiring excessive force to open.
- 4.25.10.6 Batteries, as described in <u>4.25.10</u>, and battery chargers.
 - 1. Battery connectors must be constructed of material with a V-0 flame rating or have a glow wire ignition rating of 750°C.

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- 2. The battery charging system shall not present a risk of fire due to a short-circuit condition applied to any point in the length of a charger/battery interconnecting cable when tested in accordance with <u>8.18.7</u>.
- 3. During charging, battery-charging voltages shall not exceed the recommended charging voltages when tested in accordance with <u>8.18.6</u>.
- 4. Battery chargers must be certified to the appropriate current national standard, for example UL, CSA, or equivalent standards body.
- 4.25.10.7 Wiring connected to the main/motor battery shall be short-circuit protected and shall not present the risk of fire when tested in accordance with <u>8.18.7</u>.

4.25.10.8 Strain relief shall be provided to prevent mechanical stress on wires entering a connector block during routine maintenance such as battery charging, and tested in accordance with <u>8.18.8</u>.

4.25.10.9 Battery-powered ride-on toys shall comply with the requirements in 5.15.1 for safety labeling, 6.5.3 for additional instructional literature, and 7.2 for required producer's markings.

4.26 *Toys Intended to be Attached to a Crib or Playpen*— These requirements are intended to minimize entanglement or strangulation hazards that might be caused by toys intended to be attached to a crib or playpen (see also 4.14).

4.26.1 *Protrusions*— Toys attached to a crib or playpen in the manner prescribed by the manufacturer's instructions shall not have hazardous protrusions that could contribute to entanglement injury. This requirement is applicable before and after use and abuse testing in accordance with 8.5-8.10. Design guidelines are provided in Annex A3.

4.26.2 *Crib Mobiles*— Crib mobiles shall comply with the requirements listed in 5.6 for safety labeling and 6.3 for instructional literature.

4.26.3 *Crib Gyms*– Crib gyms, including crib exercisers and similar toys intended to be strung across a crib or playpen, shall comply with the requirements listed in 5.5 for safety labeling and 6.2 for instructional literature.

4.27 Stuffed and Beanbag-Type Toys- Stuffed and beanbagtype toys shall

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 107 of 298 meet the applicable requirements of this specification after being tested in accordance with <u>8.9.1</u>.

4.28 *Stroller and Carriage Toys*— Stroller and carriage toys shall comply with the requirements for safety labeling in <u>5.7</u>.

4.29 *Art Materials*— The purpose of this requirement is to minimize the potential risks associated with the use of art materials that present chronic health hazards.

4.29.1 Toys and components of toys that fall within the definition of art material as found in <u>16 CFR 1500.14 (b) (8)</u> shall meet the requirements for toxicological review by a U.S. board-certified toxicologist. The protocol used to evaluate the art materials must be filed with the Consumer Product Safety Commission (CPSC), and the list of ingredients must also be filed with the commission if the material is or contains a chronically hazardous substance.

4.29.2 Toys and components of toys that are art materials and are determined to contain hazardous materials must have appropriate warnings as defined in the Federal regulations and as noted in 5.13 of this specification. Items that do not contain hazardous materials must also be labeled as to their conformity.

4.29.3 Toys and components of toys that have been determined to pose a chronic health hazard and require warnings are not suitable for use by children who are in pre-kindergarten, or grades one through six.

4.30 *Toy Gun Marking*— This requirement is intended to minimize the potential for a toy gun to be mistaken for a real firearm.

4.30.1 This requirement applies to all toy, look-alike, and imitation firearms which have the general appearance, shape, or configuration, or combination thereof, of a firearm. This includes, but is not limited to, nonfunctional guns, water guns, air soft guns, cap guns, light emitting guns, and guns with an opening to eject any nonmetallic projectile.

4.30.2 This requirement does not apply to the following types of guns:

4.30.2.1 Futuristic toy guns that do not have the general appearance, shape, or configuration, or combination thereof, of any firearm.

4.30.2.2 Nonfiring collector replica antique firearms that look authentic and may be a scale model but are not intended as toys.

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 108 of 298 4.30.2.3 Traditional B-B guns, paint ball guns, or pellet guns that expel a projectile through the force of compressed air, compressed gas, or mechanical spring action, or combination thereof.

4.30.2.4 Decorative, ornamental, and miniature objects having the appearance, shape, or configuration, or combination thereof, of a firearm provided that the objects measure no more than 1.50 in. (38 mm) in height by 2.75 in. (70 mm) in length, with the length measurement excluding any gun stock length measurement. This includes items intended to be displayed on a desk or worn on bracelets, necklaces, key chains, etc.

4.30.3 Items subject to this requirement must be marked or manufactured, or both, in any one of the following ways. The marking must be permanent and must remain in place after being tested in accordance with <u>8.5-8.10</u>. The word "permanent" excludes the use of ordinary paint or labels for the purposes of this section. The "blaze orange" color referred to in <u>4.30.3.1</u> and <u>4.30.3.2</u> is Federal Standard 595a, Color 12199.

4.30.3.1 A blaze orange plug, or brighter orange colored plug, affixed into the muzzle end of the barrel as an integral part of the toy. The plug shall not be recessed more than 0.25 in. (6 mm) from the muzzle end of the barrel.

4.30.3.2 A blaze orange band, or brighter orange colored band, covering the circumference of the muzzle end of the barrel for a distance of at least 0.25 in. (6 mm).

4.30.3.3 Coloration of the entire exterior surface of the toy in white, bright red, bright orange, bright yellow, bright green, bright blue, bright pink, or bright purple, either individually or as the predominant color in combination with any other color in any pattern.

4.31 *Balloons*— Packages containing latex balloons and toys or games containing latex balloons shall comply with the labeling requirements of <u>16</u> <u>CFR 1500.19</u>. Labeling statements for balloons are contained in <u>5.11.5</u> of this specification.

4.32 *Certain Toys with Nearly Spherical Ends*— These requirements are intended to address a potential impaction hazard associated with nearly¹³ spherical, hemispherical, circular flared or dome shaped ends on toys or components of toys.

¹³ The term "nearly" is used here, consistent with the long standing and successful squeeze toy requirement.
Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 109 of 298 4.32.1 Nearly spherical, hemispherical, circular flared, or dome-shaped ends of toys or components of toys must not be capable of penetrating the full depth of the cavity of the supplemental test fixture shown in Fig. 16 when tested under the force only of their own weight and in a noncompressed state. This requirement applies to toys if they meet all the following criteria:

4.32.1.1 The toy is intended for children up to the age of 18 months.

4.32.1.2 The toy or component containing the nearly spherical end weighs less than 1.1 lb (0.5 kg).

4.32.1.3 The nearly spherical, hemispherical, circular flared or dome shaped end adjoins a shaft, handle or support that has a smaller cross section.¹⁴

1. *Exclusion*—The requirement of <u>4.32.1</u> does not apply to softfilled (stuffed) toys or softfilled parts of toys or parts entirely of fabric.

¹⁴ This sentence attempts to clarify that the requirements only apply to the nearly spherical end and not to nonspherical areas of the toy or component. In addition, the term "adjoins" replaces the term "attached" as the handle and spherical end may be all part of the same molded piece.

4.32.2 Nearly spherical, hemispherical, or dome-shaped ends of toy fasteners (for example, nails, bolts, screws, pegs) (see Fig. 17) must not be capable of penetrating the full depth of the cavity of the supplemental test fixture shown in Fig. 16 when tested under the force only of their own weight and in a noncompressed state. This requirement of 4.32.2 applies to toy fasteners if they meet all the following criteria:

4.32.2.1 They are intended for children aged at least 18 months but less than 48 months of age.

4.32.2.2 They have an overall length of 2.25 in. (57.1 mm) or greater.

Figure 17. Domed Ends 3 Domed ends are shown. One is a rod with a sphere on top. The second is a rod with a semi-sphere on top. The third is a rod with a small ring half-way up the rod and top of that is a cap that has a dome on the end.

Domed ends, with and without small flat in the center.

Figure 17b. Hemispherical Ends. Hemispherical ends are shaped like a nail with a slight curve to the top of the nail.

FIG. 17 Examples of Hemispherical and Domed Ends

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4.32.2.3 Their nearly spherical, hemispherical or domed ends have a diameter equal to or greater than 0.6 in. (15 mm).

4.32.2.4 The distance from the apex of the fastener to the undercut is 1.75 in. (44.4 mm) or less as shown in Fig. 18.

- 1. *Exclusions*—The requirement of <u>4.32.2</u> does not apply to the following toy fasteners:
 - a. Softfilled (stuffed) or fabric fasteners,
 - b. Fasteners with nonrigid ends, and
 - c. Fasteners tethered to a toy where the weight of the combined toy/fastener is more than 1.1 lb (0.5 kg) and the length of the tether is less than 12 in. (300 mm).

Figure 18. Undercut and Diameter A rod with with a domed end on top is shown. The domed end is wider than the rod. From one side of the cap (the domed end) is labelled "diameter of spherical or hemispherical or domed end." From the top of the cap to the bottom, where it attaches to the rod, is labelled "distance to undercut section from domed end." Diameter of spherical orhemispherical or domedend Distance to undercut sectionfrom domed end

FIG. 18 Undercut and Diameter

4.32.3 *Preschool Play Figures*— This requirement is intended to address the potential choking/obstruction hazard associated with certain preschool figures intended for children under three years of age. The characteristics that distinguish toy figures falling within the scope of this requirement include: (1) a round, spherical, or hemispherical end with tapered neck attached to a simple cylindrical shape without appendages, and (2) an overall length not exceeding 2.5 in. (64 mm) (see examples in Fig. 19). This includes figures with added or molded features such as hats or hair, which retain the rounded shape of the end.

Figure 19. Examples of Preschool Play Figures The diagram has three examples of playschool figures. One has a baseball cap, one is bald, one has hair.

FIG. 19 Examples of Preschool Play Figures

4.32.3.1 Preschool play figures intended for children under three years of age shall be designed so that their rounded ends are not capable of entering and penetrating to the full depth of the cavity in the supplemental test fixture Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 111 of 298 illustrated in Fig. 16. Test the play figure under the force of its own weight.

4.32.3.2 *Exclusion*— The requirement of <u>4.32.3.1</u> shall not apply to soft play figures made of textiles.

4.33 *Marbles*— Marbles shall comply with the labeling requirements of <u>16 CFR</u> <u>1500.19</u>. Labeling statements for marbles are contained in <u>5.11.4</u> of this specification.

4.33.1 Toys and games intended for children at least 3 years of age but less than 8 years of age that contain a marble shall comply with the labeling requirements <u>16 CFR 1500.19</u>. Applicable labeling statements are contained in <u>5.11.4.1</u> of this specification.

4.34 Balls

4.34.1 Balls intended for children under 36 months of age are subject to the requirements of <u>16 CFR 1500.18 (a) (17)</u>. A loose ball in toys intended for children under 36 months of age shall not, under the influence of its own weight and without compression, pass entirely through the template shown in <u>Fig. 20.</u> A ball which does pass through the template is determined to be a "small ball."

Figure 20. Test Fixture for Small Balls The test fixture is a square of 2.86 inchdes per side with a 1.75 inch diameter circle inside. This is the top view. The size view indicates that the device is 0.25 inchdes high. 2.86 in.(72.6 mm) 2.86 in.(72.6 mm) 0.25 in.(6 mm) 1.75 in.(44.5 mm)

FIG. 20 Test Fixture for Small Balls

4.34.2 Toys intended for children at least 3 years old but less than 8 years of age that contain a loose small ball are subject to the requirements of <u>16 CFR</u> <u>1500.19</u>. Applicable labeling statements are contained in <u>5.11.3</u> of this specification.

4.35 *Pompoms*— These requirements are intended to address choking hazards associated with pompoms on toys intended for children under three years of age that detach during <u>8.16</u>. Pompoms detached during <u>8.16</u> must not pass entirely through the 1.75-in. (44.5-mm) test fixture (see Fig. 20) under their own weight. Any components, pieces, or individual strands of the pompom that are liberated during the torque and tension tests should not be subject to this test. Test the pompoms by putting the free ends of fiber into the gauge.

4.36 Hemispheric-Shaped Objects- These requirements apply to toy cup-,

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 112 of 298 bowl-, or one-half egg-shaped objects having a nearly round, oval, or elliptical opening with the minor and major inner dimensions between 2.5 in. (64 mm) and 4.0 in. (102 mm), a volume of less than 6.0 oz (177 mL), a depth greater than 0.5 in. (13 mm), and intended for children under 3 years of age. The following are exempt from this requirement:

4.36.1 Objects intended for drinking (for example, tea cups).

4.36.2 Objects intended to hold liquids in products appropriate for children at least 2 years old (for example, pots and pans).

4.36.3 Containers that must be airtight so the contents can maintain their functional integrity (for example, modeling clay containers.)

4.36.4 Non-detachable (as determined by testing in accordance with <u>8.6-8.10</u> of this specification) components of larger products (for example, bowl-shaped smoke stack that is permanently attached to a toy train or a swimming pool that is molded into a larger toy playscape).

4.36.5 Containers that are part of the retail package intended to be discarded once the toy is removed from the package.

4.36.6 *Performance Requirements*— Cup/bowl/one-half egg-shaped objects must have, as a minimum, one of the following characteristics (*a*, *b*, *c*, *d*, or *e*). For purposes of these requirements, unless otherwise specified, an opening is defined as a hole of any shape with a minor dimension of 0.080 in. (2 mm). These requirements apply before and after testing in accordance with <u>8.6-8.10</u> of this specification.

- a. Have at least two openings that are a minimum of 0.5 in. (13 mm) from the rim as measured along the outside contour.
 - If the openings are placed in the base of the object, at least two of the openings must be a minimum of 0.5 in. (13 mm) apart. (See Fig. 21.)
 - If the openings are not placed in the base of the object, at least two of the openings must be placed at least 30° but not more than 150° apart. (See Fig. 22.)
- b. The plane of the open end of the cup shape shall be interrupted at the center by some type of divider that extends to 0.25 in. (6 mm) or less from the plane of the open end of the cup. (See Fig. 23 for an example.)

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- c. Have three openings that are at least 100° apart, located between 0.25 in. (6 mm) and 0.5 in. (13 mm) from the rim as measured along the outside contour.
- d. Have a repeating scalloped edge pattern around the entire rim. The maximum distance between center lines of adjacent peaks shall be 1 in. (25 mm) and the minimum depth shall be 0.25 in. (6 mm). (See Fig. 24 for examples of scalloped edge patterns.)
- e. Have an opening with a minor dimension of at least 0.66 in. (17 mm) located anywhere in the base or in the side wall of the object. If the opening is located in the sidewall of the object, the edge of the opening must be at least 0.5 in. (13 mm) from the rim as measured along the outside contour.

Figure 21. Openings in Base of Bowl On the left, a side view of a bowl shows two holes in the bottom. It is labelled "Section A-A". From the top, a circle is shown with the holes in the the bottom. Each hole is labelled A. There must be a minimum distance of 0.5 inchdes between the holes. SECTION A _ A 0 . 5 in. Min.(13 mm) A A

FIG. 21 Openings in Base of Bowl

Figure 22. Opening Placement There are two diagrams. On the left is a cirlce with two small holes. One is on the far right of the bowl near the edge. The other is on the left near the edge but up a bit from the center. Arrows indicate that these wholes are to be 150 degrees maximum and 30 degrees minimum in separation. The right diagram shows a bow and indicates that a hole must be 0.5 inchdes minimum from the top. 150° Max. to 30° Min. 0 . 5 in. Min.(13 mm)

FIG. 22 Opening Placement

Figure 23. Rib Through Cup Center. There are two diagrams. The left is a semi-circle representing a cup with a rib protruding from the botom. The rib must be 0.25 inchdes maximum from the top of the cup. The widest distance from one side to the other is labelled Section A-A. SECTION A - A 0 . 25 in. Max.(6 mm) A A

FIG. 23 Rib Through Cup Center

Figure 24. Scalloped Edge Pattern Three examples of half-spheres with scalloped edges are shown. One is gently undulating edges. The other is a sharp set of scallops. The third is a set of notches.

FIG. 24 Scalloped Edge Pattern

4.37 Yo Yo Elastic Tether Toys- These requirements are intended to address

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 114 of 298 potential strangulation hazards associated with yo yo elastic tether toys intended for children 36 months and over.

4.37.1 Toys with an end mass greater than 0.02 kg (0.044 lb) shall have a tether length less than 50 cm (20 in.) measured when the toy is rotating at any speed up to a maximum speed of 80 r/min. Testing shall be conducted in accordance with 8.23.

4.37.2 Exemptions:

- 1. Paddle balls.
- 2. Sports balls with wrist or ankle straps longer than 70 cm (27.6 in.) intended to be kicked or thrown and returned to the user. The length of the strap shall be measured when the product is placed on a horizontal surface with no load.
- 4.38 *Magnets* This requirement is intended to address ingestion hazards associated with toys intended for children up to 14 years of age that contain a hazardous magnet. This requirement does not apply to magnets used in motors, relays, speakers, electrical components, and similar devices where the magnetic properties are not part of the play pattern of the toy.
- 4.38.1 Toys must not contain a loose as-received hazardous magnet or a loose as-received hazardous magnetic component.

4.38.2 Toys shall not liberate a hazardous magnet or a hazardous magnetic component after being tested in accordance with <u>8.8</u> and <u>8.9</u> and magnet use and abuse testing as specified in <u>8.24</u>.

4.38.3 Hobby, craft, and science kit-type items intended for children over 8 years of age, where the finished product is primarily of play value, that contain a loose as-received hazardous magnet or a loose as-received hazardous magnetic component, or both, are exempt from the requirements of 4.38.1 and 4.38.2 provided they comply with the requirements for safety labeling described in 5.17.

4.39 Jaw Entrapment in Handles and Steering Wheels

4.39.1 These requirements are intended to address potential jaw entrapment in handles and steering wheels that are located such that they are accessible for teething in the following categories of toys intended for children under 18 months of age: activity tables intended to be played with by a standing child, large bulky toys, stationary floor toys, push toys intended to be pushed by a Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 115 of 298 child walking upright, and ride-on toys.

4.39.2 Handles that are connected to the toy with a hinge and handles made from a pliable material (for example, straps and ropes) are exempt from this requirement.

4.39.3 Openings in handles and steering wheels that allow a 0.75 by 0.75 by 1 in. (1.9 by 1.9 cm by 2.5 cm) test fixture to pass completely through must also allow a 1.5 by 2.5 by 1 in. (3.8 by 6.35 by 2.5 cm) test fixture to pass completely through (see Fig. 25). Test fixtures can be made of any rigid material. The test fixture shall be oriented such that the 0.75-in. (1.9-cm) dimension and the 2.5-in. (6.35-cm) dimension is parallel with the major dimension of the handle or steering wheel opening.

Figure 25. Jaw Entrapment A rectangular block with a an arch connected to the top is shown in two views. On the left view, a block that is 2.5×1.5 inches and 1 inch deep is being inserted through the arch. On the second diagram, the block is 0.75×0.75 inches and one inch deep.

FIG. 25 Jaw Entrapment

5. Labeling Requirements

5.1 *Federal Government Requirements*— All toys that fall within the definitions and requirements of the U.S. FHSA shall conform to the labeling requirement of that act. For specific requirements, reference <u>16 CFR 1500.3</u>, <u>1500.14</u>, <u>1500.19</u>, <u>1500.82</u>, <u>1500.83</u>, <u>1500.86</u>, <u>1500.121</u>, <u>1500.122</u>, <u>1500.123</u>, <u>1500.125</u>, <u>1500.126</u>, <u>1500.127</u>, <u>1500.128</u>, <u>1500.130</u>, <u>1505.3</u>, and <u>1511.7</u>. In addition, state labeling requirements may exist.

5.2 Age Grading Labeling— Toys that are subject to any of the requirements of this specification should be labeled to indicate the minimum age for intended use or have such labeling on any retail packaging. If the toy or toy package is not age labeled in a clear and conspicuous manner or, based on such factors as marketing practices and the customary patterns of usage of the toy by children, is inappropriately age labeled, the toy shall be subjected to the most stringent applicable requirements within this specification. (Examples: (1) a tensile force of 15 lbf (67 N) shall be required instead of 10 lbf (45 N) when testing in accordance with 8.9 if no limiting age range is specified; (2) the "highest age of the age range" in 4.15 would be 14 years, the maximum age addressed in the scope of this specification.)

5.2.1 For certain toys, such as costumes and riding toys, it may also be appropriate to label the toy or its package, or both, in terms of height or

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 116 of 298 weight limitations.

5.2.2 Guidelines for determining the appropriate age grade for toys are provided in <u>Annex A1</u> of this specification.

5.3 *Safety Labeling Requirements*— Certain toys, and in some cases their packages, are required to carry safety labeling to comply with this specification.

5.3.1 Required safety labeling shall consist of an alert symbol (an exclamation mark within an equilateral triangle), a signal word (CAUTION or WARNING), and text that describes the hazard that is present. Additionally, safety labeling may contain text about what to do or not to do to avoid injury (for example, "Keep out of baby's reach"). The signal word shall be in all upper case sans serif letters not less than ¹/₈ in. (3.2 mm) in height and shall be center or left aligned. The alert symbol shall directly precede the signal word. The height of the triangle shall be at least the same height as the signal word. The height of the exclamation point shall be at least half the height of the triangle and be centered vertically in the triangle. Text describing the hazard(s) and hazard avoidance behavior(s) shall appear in sans serif lettering and shall be either left aligned or center justified. Capital letters shall be no less than 1/16 in. (1.6 mm). Recognizing space constraints, it is recommended, that where possible, such text begin on the next line below the signal word, and that a new line be used for each subsequent statement or separate thought.

5.3.2 Sections <u>5.4</u>, <u>5.5</u>, <u>5.6</u>, <u>5.7</u>, <u>5.11</u>, and <u>5.15</u> require the signal word WARNING. When no signal word is specified for safety labeling in accordance with <u>5.3</u>, it is recommended that the signal word CAUTION be used to indicate a potentially hazardous situation which could result in minor or moderate injury, and that the signal word WARNING be used to indicate a potentially hazardous situation which could result in death or serious injury.

5.3.3 Sections 5.11 and 5.15 specify required text describing the hazard(s) and hazard avoidance behavior(s). When no required text is specified for safety labeling in accordance with 5.3, the text is left to the discretion of the manufacturer. Sections 5.4, 5.5, 5.6, 5.7, and 5.15.1.1 provide recommended text to describe the hazard(s) and hazard avoidance behavior(s).

5.3.4 The required safety labeling described throughout <u>Section 5</u> shall be on the principal display panel.

5.3.5 For toy items packed as premiums in or on a package containing other

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 117 of 298 items, safety labeling shall be on the toy package, and similar labeling shall appear on the larger package.

5.3.6 All safety labeling shall be conspicuous and legible, shall be separated distinctively from any other wording or designs, and shall appear in the English language at a minimum. Such labeling shall be clearly visible to the intended audience and shall be in a color contrasting with the background on which it appears.

5.3.7 When safety labeling is printed onto the toy itself using a decoration process such as hot stamping, silk screening, or a similar process, it shall remain legible after normal use and reasonably foreseeable abuse when tested in accordance with 8.5-8.10.

5.3.8 When safety labeling is affixed to a toy in the form of an applied label, the label shall be applied so that it adheres firmly to the toy and none of its edges is lifted off the surface of the toy. Such label shall remain legible after normal use and reasonably foreseeable abuse when tested in accordance with 8.5-8.10.

5.4 Aquatic Toys— Aquatic toys and their packages shall carry safety labeling in accordance with 5.3, consisting of the signal word "WARNING" and contain, at a minimum, the following text or equivalent text which clearly conveys the same warning: *This is not a lifesaving device. Do not leave child unattended while device is in use.* In addition, no advertising copy or graphics shall state or imply that the child will be safe with such a toy if left unsupervised.

5.5 *Crib and Playpen Toys*— This requirement is applicable to toys intended to be strung across a crib or playpen by means of string, cord, elastic, or straps (including, but not limited to, crib exercisers, crib gyms, and activity toys).

5.5.1 *Age Grading*— Crib and playpen toys, as well as their packages, shall be labeled with the following text or equivalent information (text or graphic), which clearly conveys the age grade: *from birth to 5 months*.

5.5.2 Safety Labeling— Crib and playpen toys shall carry safety labeling, in accordance with <u>5.3</u>, consisting of the signal word "WARNING" and contain, at a minimum, the following text or equivalent text which clearly conveys the same warning: *Possible entanglement or strangulation. Remove toy when baby begins to push up on hands and knees.*

5.6 *Mobiles*— This section addresses all mobiles intended to be attached to a crib, playpen, wall, or ceiling.

5.6.1 *Age Grading*— Mobiles intended to be attached to a crib or playpen, as well as their packages, shall be labeled with the following text or equivalent information (text or graphic), which clearly conveys the age grade: *from birth to 5 months*.

5.6.2 Safety Labeling:

5.6.2.1 Mobiles intended to be attached to a crib or playpen, and mobiles intended to be attached to a crib or playpen and later moved to a wall or ceiling, as well as their packages, shall carry safety labeling in accordance with 5.3. The labeling shall consist of the signal word "WARNING" and contain, at a minimum, the following text or equivalent text which clearly conveys the same warning: *Possible entanglement injury. Keep out of baby's reach. Remove mobile from crib or playpen when baby begins to push up on hands and knees.*

5.6.2.2 Mobiles intended to be attached only to a wall or ceiling, as well as their packages, shall carry safety labeling in accordance with 5.3. The labeling shall consist of the signal word "WARNING" and contain, at a minimum, the following text or equivalent text which clearly conveys the same warning: *Possible entanglement injury. Keep toy out of baby's reach.*

5.7 Stroller and Carriage Toys— Toys intended exclusively to be strung across strollers or carriages by means of string, cords, elastic, or straps shall carry safety labeling in accordance with 5.3. The labeling shall consist of the signal word "WARNING" and contain, at a minimum, the following text or equivalent text which clearly conveys the same warning: *Possible entanglement or strangulation injury when attached to crib or playpen. Do not attach to crib or playpen.*

5.8 *Toys Intended to be Assembled By an Adult*— Packages of toys that are intended to be assembled by an adult and that in their unassembled state contain potentially hazardous sharp edges or points, or small parts if the toy is intended for children under 3 years of age, shall carry safety labeling in accordance with 5.3 stating that the toy is to be assembled by an adult.

5.9 *Simulated Protective Devices*— Toys that simulate safety protective devices (examples include, but are not limited to, construction helmets and sports helmets), as well as their packages, shall carry safety labeling as defined in <u>5.3</u>, stating that these toys are not safety protective devices.

5.10 Toys with Functional Sharp Edges or Points- Toys that are intended for

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 119 of 298 use by children between the ages of 48 and 96 months, which contain accessible potentially hazardous sharp edges or sharp points that are a necessary part of the function of the toy, shall carry safety labeling on their packages as defined in 5.3, stating that a sharp edge or sharp point, or both, exists.

5.11 Small Objects, Small Balls, Marbles, and Balloons

5.11.1 The packages of small balls, marbles, balloons, and certain toys and games, any descriptive material that accompanies them, and, if unpackaged and unlabeled, any retail display container provided by manufacturers or importers shall carry safety labeling in accordance with <u>16 CFR 1500.19(b)</u>.

5.11.1.1 In accordance with <u>16 CFR 1500.19(d)</u>, all labeling statements required by <u>5.11</u> shall appear at least in the English language on the principal display panel (except under <u>5.11.7</u>) and shall be blocked together within a square or rectangular area, with or without a border. The label design, the use of vignettes, or the proximity of other labeling or lettering shall not obscure or render inconspicuous any labeling statement.

5.11.1.2 The statements required by 5.11 must appear on at least two lines and appear on a solid background and be separated from all other graphic material by a space no smaller than the minimum allowable height of the type size for "other cautionary material" (for example the phrase "Not for children under 3 yrs."). If not separated by that distance, the labeling statements must be surrounded by a border line.

5.11.1.3 All labeling statements required by <u>5.11</u> shall comply with the following type size requirements based on the computed area of the principal display panel. For these purposes, Signal Word means the word "Warning" and the words "Safety Warning"; Statement of Hazard means "Choking Hazard"; Other Material means all other remaining statements.

Area, in. ²	0-2	+2-5	+5- 10	+10- 15	+15- 30	+30- 100	+100- 400	+400
Type Size— Signal Word	3/64 in.	1/16 in.	3/32 in.	7/64 in.	1/8 in.	5/32 in.	1/4 in.	1/2 in.
Type Size— Statement of Hazard	3/64 in.	3/64 in.	1/16 in.	3/32 in.	3/32 in.	7/64 in.	5/32 in.	1/4 in.
Type Size— Other Material	1/32 in.	3/64 in.	1/16 in.	1/16 in.	5/64 in.	3/32 in.	7/64 in.	5/32 in.

5.11.1.4 An equilateral triangle with an exclamation point (shown in 5.11.2)

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 120 of 298 shall precede the signal word. The height of the triangle shall be equal to or exceed the height of the letters of the signal word "WARNING" and separated from it by a distance at least equal to the space occupied by the first letter of the signal word. The height of the exclamation point shall be at least half the height of the triangle, and be centered vertically in the triangle.

5.11.2 For toys and games intended for children at least 3 years old but less than 6 years of age, and which contain as-received small part(s), the labeling shall read:

WARNING: CHOKING HAZARD-Small parts. Not for children under 3 yrs.

5.11.3 For any small ball intended for children 3 years of age or older the labeling shall read:

WARNING: CHOKING HAZARD—Toy contains a small ball. Not for children under 3 yrs.

5.11.3.1 For any toy or game intended for children who are at least 3 years old but less than 8 years of age that contains a small ball the labeling shall read:

WARNING: CHOKING HAZARD—Toy contains a small ball. Not for children under 3 yrs.

5.11.4 For any marble intended for children 3 years of age or older the labeling shall read:

WARNING: CHOKING HAZARD—This toy is a marble. Not for children under 3 yrs.

5.11.4.1 For any toy or game intended for children who are at least 3 years of age but less than 8 years of age that contains a marble the labeling shall read:

WARNING: CHOKING HAZARD—Toy contains a marble. Not for children under 3 yrs.

5.11.5 For any latex balloon or any toy or game that contains a latex balloon, the labeling shall read:

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 121 of 298 WARNING: CHOKING HAZARD-Children under 8 yrs. can choke or suffocate on

uninflated or broken balloons.

Adult supervision required.

Keep uninflated balloons from children. Discard broken balloons at once.

5.11.6 *Combination of Labeling Statements*— The labels of products that contain more than one item subject to the requirements of 5.11 may combine information, if the condensed statement contains all of the information necessary to describe the potential hazard associated with each product. For products that contain a balloon *and* a small ball, small object, or marble, only the signal word and statement of hazard may be combined.

5.11.7 Alternative Labeling Statements for Items Subject to the Requirements of <u>5.11</u>— Labeling statements on small packages of toys or balloons that have a principal display panel of 15 in.² or less and that display cautionary statements in three or more languages may appear on a display panel other than the principal display panel if the principal display panel bears the appropriate statement below and bears an arrow or other indicator pointing toward or directing the purchaser's attention to the display panel on the package where the full labeling statement appears.

5.11.7.1 For a toy or game that is or contains a small object, small ball, or marble:

SAFETY WARNING

5.11.7.2 For a balloon or a toy or game that contains a balloon:

WARNING-Choking Hazard

5.12 *Toy Caps*- Refer to <u>16 CFR 1500.86</u> for required labeling.

5.13 *Art Materials*— Toys and components of toys that fall within the definition of art material as found in <u>16 CFR 1500.14 (b) (8)</u> shall be labeled in accordance with the provisions of that section and Practice D4236.

5.14 *Electric Toys*- Refer to <u>16 CFR 1505.3</u> for required labeling.

5.15 *Battery-Operated Toys*— Toys with non-replaceable batteries that are accessible with the use of a coin, screwdriver, or other common household tool shall bear a statement that the battery is not replaceable. If the manufacturer determines that it is impractical to label the product, this

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 122 of 298 information shall be placed on the packaging or in the instructions.

5.15.1 Battery-Powered Ride-on Toys:

5.15.1.1 Battery powered ride-on toys shall carry safety labeling in accordance with <u>5.3</u>, consisting of the signal word "WARNING" and contain, at a minimum, text which clearly conveys the following:

- a. To reduce the risk of injury, adult supervision is required. Never use in roadways, near motor vehicles, on or near steep inclines or steps, swimming pools or other bodies of water; always wear shoes, and never allow more than _____ rider(s)
- b. RISK OF FIRE. Do not bypass. Replace only with _____. (Note: This warning must be placed at the location of any user replaceable fuse or circuit protection device. Manufacturer should state the part number or equivalent.

5.15.1.2 The packaging or point-of-sale literature of batterypowered ride-on toys shall state the manufacturer's recommended user age or weight limitations for use of the toy, or both.

5.15.1.3 The packaging or point-of-sale literature of batterypowered ride-on toys shall bear the warnings as specified in 5.15.1.

5.16 *Promotional Materials*— Packaging, literature accompanying toys, and point-of-sale presentations shall not use words, statements, or graphics that are inconsistent in any way with the safety labeling instructions for use or assembly or age grading of the toy.

5.17 *Magnets*— The packaging and instructions of hobby and crafts items and science kit-type items for children over 8 years of age which contain a loose as-received hazardous magnet or a loose as-received hazardous magnetic component shall carry safety labeling in accordance with 5.3. The labeling shall consist of the signal word "WARNING" and contain, at a minimum, the following text or equivalent text which clearly conveys the same warning: *"This product contains (a) small magnets(s). Swallowed magnets can stick together across intestines causing serious infections and death. Seek immediate medical attention if magnet(s) are swallowed or inhaled."*

6. Instructional Literature

6.1 Definition and Description- Information and instructions that are provided

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 123 of 298 for the safe use or assembly, or both, of a toy, whether on the package or in leaflet form, shall be easy to read and understand by persons of the age level for whom the instructions and information are intended, including, if appropriate, children for whom the toy is intended. All such literature shall be shown in the English language at a minimum.

6.2 *Crib and Playpen Toys*— Toys intended to be strung across a crib or playpen by means of string, cords, elastic, or straps (including, but not limited to, crib exercisers, crib gyms, and activity toys) shall be provided with instructions for proper assembly, installation, and use to insure that the product does not present an entanglement or strangulation hazard. The instructions shall include at least the following information:

6.2.1 This toy is not intended to be "mouthed" by the baby and should be positioned clearly out of reach of the baby's face and mouth.

6.2.2 On cribs with adjustable mattress levels, the highest position may allow the toy to be too close to the baby. The second or lower position is more appropriate.

6.2.3 The drop side of the crib should never be lowered with the toy in place and the baby left unattended.

6.2.4 Always attach all provided fasteners (strings, straps, clamps, etc.) tightly to a crib or playpen according to the instructions. Check frequently.

6.2.5 Do not add additional strings or straps to attach to a crib or playpen.

6.3 *Mobiles*— Mobiles intended to be mounted on a crib, playpen, or wall or ceiling nearby shall be provided with instructions for proper assembly, installation, and use to insure that the product does not present an entanglement hazard. The instructions shall include at least the following information:

6.3.1 A crib mobile is intended for visual stimulation and is not intended to be grasped by the child.

6.3.2 If attached to the crib or playpen, remove when baby begins to push up on hands and knees. If so designed, mount on wall or ceiling clearly out of a standing baby's reach.

6.3.3 If mounted on a wall or ceiling, install the mobile clearly out of a standing baby's reach.

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 124 of 298 6.3.4 Always attach all provided fasteners (strings, straps, clamps, etc.) tightly to a crib or playpen according to the instructions. Check frequently.

6.3.5 Do not add additional strings or straps to attach to a crib or playpen.

6.4 Toys Intended to be Assembled By an Adult— Assembly instructions that accompany toys that are intended to be assembled by an adult and that in their unassembled state contain potentially hazardous sharp edges or sharp points, or small parts if the toy is intended for children under 3 years of age, shall carry safety labeling as defined in 5.3 and also state that the toy is to be assembled by an adult.

6.5 *Battery-Operated Toys*— For toys that use more than one battery in one circuit, the instructions or the toy shall be marked with the following (or equivalent) information.

6.5.1 Do not mix old and new batteries.

6.5.2 Do not mix alkaline, standard (carbon-zinc), or rechargeable (nickelcadmium) batteries.

6.5.3 Instructions supplied with battery-powered ride-on toys shall contain guidance for safe use and maintenance of the toy. The instructions shall include at least the following:

6.5.3.1 Maximum weight or age limitations, or both, for safe use of the toy,

6.5.3.2 The kinds of surfaces which are appropriate for safe use of the toy,

6.5.3.3 The warning statements contained in <u>5.15.1.1</u>,

6.5.3.4 Only use the battery(ies) specified by the manufacturer, and

6.5.3.5 Only use the charger(s) specified by the manufacturer.

6.6 *Toys in Contact with Food*— The packages or instructions, or both, for toys and their components intended to be used in contact with food shall be labeled to alert caregivers to wash the product thoroughly before use.

7. Producer's Markings

7.1 Either a principal component of a toy or the package of a toy shall be marked with the name and address of the producer or the distributor. In the case of toys sold in bulk, such as jacks or marbles, only the container need be Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 125 of 298 marked. All of these markings shall be legible and so positioned as to be seen easily by the customer and shall resist normal use conditions. Toys may carry a code that will enable the producer to identify model changes except for toys comprising many loose components, in which case the container may be so coded.

7.2 *Battery-Powered Ride-on Toys*— Battery-powered ride-on toys shall bear a permanent label or marking identifying the manufacturer or distributor, place of business, the model numbers, and a date of manufacture or date code that will allow determination of, at a minimum, the month and year of manufacture.

8. Test Methods

8.1 *General*— The inspection and test procedures contained herein are to be used to determine the conformance of products to the requirements of this specification. All types of toys covered by this specification must undergo the normal use and abuse tests in accordance with <u>8.5-8.10</u>. The remaining tests in this section apply to types of toys as specified within the requirements of <u>Section 4</u>. The relevant tests for a type of toy can be performed in any order except where specified. Each test may be conducted on a different toy unless otherwise specified. The tests can be considered as gualification tests and not necessarily as guality control tests. These tests shall also be conducted when there is a design or material change in the toy. Each producer or distributor who represents his products as conforming to this specification may use statistically based sampling plans that are appropriate, but he shall keep such essential records as are necessary to document with a high degree of assurance his claim that all of the requirements of this specification have been met. Any test methods that are made mandatory by the CPSC shall supersede any applicable test methods in this section.

8.2 *Testing for Hazardous Substance Content*— The applicable sections of 16 CFR, issued under the FHSA to be used for determining the presence of hazardous substances, are given in <u>Table 4</u>. The references in <u>Table 4</u> refer to the regulations issued on Sept. 27, 1973.

NOTE 6 — The latest issue of the regulation shall be used to determine compliance of the toy with the requirements of this specification. The requirements of the FHSA are mandatory by law.

TABLE 4 Determination of Hazardous Substance Content

Hazardous Substance	Regulation (Title 16 CFR)

Toxic substance	<u>1500.3(b)5</u> , <u>1500.3(c)2</u> , and <u>1500.40</u>		
Corrosive substance	1500.3(b)7, 1500.3(c)3, and 1500.41		
Irritant substance	<u>1500.3(b)8, 1500.3(c)4, 1500.41</u> , and <u>1500.42</u>		
Strong sensitizer	<u>1500.3(b)9</u> , <u>1500.3(c)5</u> , and <u>1500.13</u>		
Pressure-generating substance	<u>1500.3(c)7</u>		
Radioactive substance	<u>1500.3(b)11</u> and <u>1500.3(c)8</u>		
Flammability	<u>1500.3(b)10</u> , <u>1500.3(c)6</u> , <u>1500.43</u> , and <u>1610</u> .		

8.3 Test Methods for Determination of Heavy Element Content in Toys, Toy Components and Materials

8.3.1 Total Element Content Screening:

8.3.1.1 Toy material under test is to be digested per the appropriate CPSC Method:

- 1. <u>CPSC-CH-E1001-08.1</u> (metal substrates)
- 2. CPSC-CH-E1002-08.1 (non-metal substrates)
- 3. <u>CPSC-CH-E1003-09</u> (paint and similar surface-coating materials)

8.3.1.2 With the following modification: Concentrated HNO digestant is to be replaced with aqua regia (three parts concentrated HCl to one part concentrated HNO). Glass and ceramic components shall be digested using three parts HF to one part HNO . Certain polymeric materials such as PVC and CPVC may require use of three parts concentrated HNO to one part 30 % H O for complete digestion; in all cases, knowledge-based adjustments to the above digestant mixtures on a case-by-case basis may be necessary for products made from certain materials, and are allowable so long as complete digestion is achieved and avoidance of formation of insoluble metal salts is taken into consideration. In all cases, the use of concentrated H SO₄ is to be avoided to reduce the possibility of the formation of insoluble metal sulfates.

8.3.1.3 Resulting digested material is to be filtered and diluted as prescribed, then analyzed by atomic spectroscopy or other appropriate validated method for total content of all eight elements listed in Table 1 and Table 2; if results are below soluble limits for each element as prescribed in the appropriate table, the material can be considered to conform to requirements of 4.3.5 or 4.3.5.2, or both, without further testing. If soluble limits in the appropriate table are exceeded, additional testing per 8.3.2 (for paint and similar surface-coating materials) or 8.3.5 (substrate materials) will be required to confirm compliance. In addition, if the toy or toy component is a metallic small part, it is to be tested per 8.3.5.5(3). Composite samples of up to three

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 127 of 298 like materials (for example, three colors of polystyrene plastic) are acceptable (if performed in accordance with <u>Annex A7</u>) for total element screening, but not for soluble element testing if such is required.

NOTE 7 — With the exception of required total lead content testing (see 4.3.5.1), it may be elected to omit total element screening and perform only soluble element testing per 8.3.2-8.3.6.

8.3.2 *Method to Dissolve Soluble Matter for Surface Coatings*— Soluble elements are extracted from toys under conditions that simulate the situation in which the materials stay 4 h in the alimentary tract after swallowing. The content of soluble elements in the extract is determined.

- 8.3.2.1 *Apparatus* Normal laboratory apparatus and the following:
 - 1. *Metal Sieve*, plain weave wire mesh stainless steel metal sieve with a nominal opening of 0.5 mm and the following specifications: *(a)* Nominal wire diameter: 0.315 μ m; *(b)* Maximum size deviation for an individual opening: $\pm 0.090 \mu$ m; *(c)* Tolerance for average opening: $\pm 0.018 \text{ mm}$; and *(d)* 6 % or fewer of the openings to exceed the nominal plus 0.054 mm.
 - 2. *pH*, a means of measuring pH with a minimum accuracy of 0.2 pH units.
 - 3. *Membrane Filter*, with a pore size of 0.45 µm.
 - 4. *Centrifuge*, capable of centrifuging at 5000 \pm 500 x *g* RCF (*g* = 9.80665 m/s²)
 - 5. A means to constantly agitate the mixture at a temperature of 37 \pm 2°C.
 - 6. Container, of gross volume between 1.6 and 5.0 times that of the volume of HCL extractant.

8.3.2.2 *Reagents*— Use only reagents of recognized analytical grade during the analysis.

- 1. Hydrochloric acid (HCl) solution; concentration = (0.07 ± 0.005) mol/l.
- 2. Hydrochloric acid (HCl) solution; concentration = (0.14 ± 0.010) mol/l.
- Hydrochloric acid (HCl) solution; concentration = approximately 1 mol/l.

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- 4. Hydrochloric acid (HCl) solution; concentration = 2 mol/l.
- Hydrochloric acid (HCl) solution; concentration = approximately 6 mol/l.
- 6. n-heptane, (C H₁₆); 99 %.
- Water, of at least grade 3 purity in accordance with Specification <u>D1193</u> or ISO 3696.

8.3.3 *Preparation of Test Samples*— A laboratory sample for testing shall consist of a toy in the form in which it is marketed, excluding the package and packaging components.

8.3.3.1 The test sample shall be taken from the accessible portions of a single toy sample.

8.3.3.2 Identical materials in the sample may be combined and treated as a single sample. A single sample may not consist of more than one material or color (that is, composite testing is not allowed).

8.3.3.3 The test sample can alternatively be taken from materials in a form such that they are representative of the relevant material specified above.

8.3.3.4 When a toy is intended to be taken apart or can be taken apart without the use of tools, each piece shall be considered separately.

8.3.3.5 For reference purposes, the sample may be taken from the raw material rather than scraped from the sample.

8.3.3.6 Scrape the coating off the test sample, and grind it through the sieve. Obtain a portion of not less than 100 mg of the resulting material.

- Where there is only between 10 and 100 mg of uniformly ground material available, test that quantity and calculate the results as if 100 mg of the sample had been available. The report should note this procedure and the actual sample amount.
- 2. If there is less than 10 mg of sample available, the test is not performed.
- 3. In the case of coatings that by their nature cannot be ground (for example, elastic, rubber, or plastic paint), test the sample as it was removed from the toy.

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 129 of 298 *NOTE 8* — The methods and exclusions given in <u>8.3.3.1</u> do not apply to surface coatings being tested for total lead content as required by <u>16</u> <u>CFR 1303</u>. Total lead determination under CPSC requirements at <u>16 CFR</u> <u>1303</u> applies to any coating that can be scraped off, regardless of the amount, with results calculated based on the actual sample weight.

8.3.4 Test Procedures:

8.3.4.1 Prepare a test portion in accordance with 8.3.3.

8.3.4.2 Mix the test portion so prepared with 50 times its mass of an aqueous solution of 0.07 mol/L hydrochloric acid at $37 \pm 2^{\circ}$ C. In the case of a test portion of less than 100 mg, mix the test portion with 5.0 mL of this solution at the given temperature. Shake for 1 min.

- 1. Check the acidity of the mixture. If the pH is greater than 1.5, add dropwise while shaking an aqueous solution of 2 mol/L (7.3 % m/m) hydrochloric acid until the pH is between 1.0 and 1.5. Protect the mixture from light. Shake the mixture efficiently for 1 h continuously, and then allow the mixture to stand for 1 h at 37 ± 2°C.
- 2. Without delay, separate the solids from the mixture by filtration through a membrane filter with a pore size of 0.45 µm. If necessary, centrifuge at 5000 g for no longer than 10 min. Analyze the solution by atomic spectroscopy or other appropriate validated method to determine the concentration of the elements identified in 4.3.5.1. If it is not possible to examine the sample within one working day, stabilize by the addition of hydrochloric acid so that the resulting solution HCl concentration is approximately 1 mol/L.

NOTE 9 — It has been shown that the extraction of soluble cadmium can reveal a two-fold to five-fold increase when extraction is conducted in the light rather than the dark.

8.3.4.3 The analytical results as determined in 8.3.4.2 shall be adjusted by subtracting the analytical correction factor in the following table using the following method. This is necessary to make statistical correction for interlaboratory error.

Element	Sb	As	Ba	Cd	Cr	Pb	Hg	Se
Analytical correction, %	60	60	30	30	30	30	50	60

Analytical Correction

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 130 of 298 1. Example of Calculations Using the Table:

Example 1—The analytical result for lead is 120 mg/kg; the correction factor from the table is 30 % (0.30). Adjusted analytical results = 120 - (120 0.30) = 120 - 36 = 84 mg/kg.

The result does not exceed the allowed value for lead in the table and is therefore acceptable.

Example 2—The analytical result for chromium is 90 ug/kg: the correction factor from the table is 30 % (0.30). Adjusted analytical results = 90 - (90 0.30) = 90 - 27 = 63 mg/kg.

The result exceeds the allowed value for chromium in the table and is therefore not acceptable.

8.3.5 Soluble Element Test Method for Substrate Materials— Soluble elements are extracted from toy materials under conditions which simulate the material remaining in contact with stomach acid for a period of time after swallowing. The concentrations of the soluble elements are determined quantitatively.

NOTE 10 - 0 ptional, alternate test methods are permitted, as described in <u>8.3.6</u>.

- 8.3.5.1 Apparatus—As described in 8.3.2.1.
- 8.3.5.2 *Reagents* As described in <u>8.3.2.2</u>.

8.3.5.3 Selection of Test Portions:

- 1. A laboratory sample for testing shall consist of a toy either in the form in which it is marketed, or in the form in which it is intended to be marketed. Test portions shall be taken from accessible parts of a single toy sample, that is, identical materials in the toy may be combined and treated as a single test portion but additional toy samples shall not be used. Test portions are only permitted to be composed of more than one material or color where physical separation (for example, dot printing), patterned textiles or mass limitation reasons, precludes the formation of discrete specimens.
- 2. Test portions where less than 10 mg of material available are not tested.

NOTE 11 - The requirement does not preclude that test portions can be taken from materials in a form such that they are representative of the

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8.3.5.4 Polymeric and similar materials including laminates, whether reinforced textile or not, but excluding other textiles.

- 1. Sample Removal/Preparation Procedure:
 - a. Obtain a test portion of not less than 100 mg of the polymeric or similar materials, avoiding heating of the materials, according to the following directions.
 - b. Cut out test portions from the areas having the thinnest material cross section in order to ensure a surface area of the test pieces as large as possible in proportion to their mass.
 Each test piece shall in the uncompressed condition have no dimension greater than 6 mm.
 - c. If the laboratory sample is not uniform in its material, a test portion shall be obtained from each different material present in a mass greater than 10 mg. In the case where there is between 10 and 100 mg of uniform material the mass of the test portion shall be reported in the test report and the quantity of the appropriate elements shall be calculated and reported as if 100 mg of the test portion had been used.
- 2. *Test Procedure*—As described in <u>8.3.4.2</u> and <u>8.3.4.3</u>.

8.3.5.5 Glass/Ceramic/Metallic Materials:

 Sample Removal/Preparation Procedure—Toys and components shall be first subjected to the relevant tests in accordance with Section 8. If any accessible glass, ceramic or metallic materials of the toy fits entirely within the small parts cylinder (see Fig. 3) before or after use and abuse testing, it shall be tested in accordance with 8.3.5.5(2) after removal of any coating in accordance with CPSC method CPSC-CH-E1003-09 ; metallic materials are also to be tested in accordance with 8.3.5.5(3) after removal of any coating in accordance with CPSC method CPSC-CH-E1003-09 .

NOTE 12 - Toys and components that have no accessible glass, ceramic or metallic materials are not tested according to 8.3.5.5. If a toy or component that is subject to testing per 8.3.5.5 consists of a combination of metallic and non-metallic materials (for example, a steel nut with a nylon locking insert), the non-

- Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 132 of 298 metallic material is to be mechanically separated from the metallic material prior to the test, and only the metallic component is subjected to testing per <u>8.3.5.5</u>; the non-metallic component is to be tested per the section of this standard applicable to the material type.
- 2. Test Procedure Standard Soluble Elements:
 - a. Place the toy or component in a 50 mL glass container with nominal dimensions: height 60 mm, diameter 40 mm. Add a sufficient volume of an aqueous solution of 0.07 M HCl at 37 \pm 2°C to just cover the toy or component. Cover the container, protect the contents from light and allow the contents to stand for 2 h at 37 \pm 2°C.

NOTE 13 - This type of container will accommodate all components/ toys that fit inside the small parts cylinder.

- b. Without delay, efficiently separate the solids from the solution, firstly by decantation followed by filtration using a membrane filter, and if necessary, by centrifuging at up to 5000 g.
- c. Separation shall be completed as soon as possible after the completion of the standing time; centrifuging shall take no longer than 10 min and shall be reported in the test report. If the resulting solutions are to kept for more than 24 h prior to analysis they shall be stabilized by addition of hydrochloric acid so that the HCl concentration of the stored solution is approximately 1.0 M.
- d. Analyze the solution for element content using atomic spectroscopy or other validated test methods.
- 3. Test Procedure-Special Soluble Cadmium (apply to metallic small parts only):
 - a. Metal toys and toy components which, either before or after use-and-abuse testing per Section 8, fit entirely within the small parts cylinder (see Fig. 3) shall be tested per CPSC test method CPSC-CH-E1004-11. At the conclusion of the prescribed 24-h extraction test, efficiently separate, without delay, the solids from the solution, firstly by decantation followed by filtration using a membrane filter, and if necessary, by centrifuging at up to 5000 g. Separation shall be

- Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 133 of 298 completed as soon as possible after the completion of the extraction time; centrifuging shall take no longer than 10 min and shall be reported in the test report. If the resulting solutions are to be kept for more than 24 h prior to analysis they shall be stabilized by addition of hydrochloric acid so that the HCl concentration of the stored solution is approximately 1.0 M. Stored solutions shall be protected from light to the extent practicable.
 - b. Analyze the solution for cadmium content using atomic spectroscopy or other validated test methods.

8.3.5.6 Other Materials, Whether Mass Colored or Not:

- 1. Sample Removal/Preparation Procedures:
 - a. Obtain a test portion of not less than 100 mg of the material according to <u>8.3.5.3</u> or <u>8.3.5.4</u>, whichever is more appropriate.
 - b. If the laboratory sample is not uniform in its material, a test portion shall be obtained from each different material present in a mass greater than 10 mg. Where there is between 10 and 100 mg of uniform material, the mass of the test portion shall be reported in the test report, and the quantity of the appropriate elements shall be calculated and reported as if 100 mg of the test portion had been used.
 - c. If the material to be tested is coated with paint, varnish, lacquer, printing ink or similar material, remove this material per in accordance with CPSC method <u>CPSC-CH-E1003-09</u> prior to testing per <u>8.3.5.6(2)</u>.
- 2. *Test Procedures*—The materials shall be tested by the most appropriate method under <u>8.3</u>. The method used shall be reported in the test report.

8.3.5.7 Materials Intended to Leave a Trace:

- 1. Sample Removal/Preparation Procedure for Materials in Solid Form:
 - a. Obtain a test portion of not less than 100 mg of the material by cutting into test pieces, which in the uncompressed condition shall have no dimensions greater than 6 mm.
 - b. A test portion shall be obtained from each different material

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 134 of 298 intended to leave a trace, present in the laboratory sample in a mass greater than 10 mg. Where there is between 10 and 100 mg of material, the mass of the test portion shall be reported in the test report and the quantity of the appropriate elements shall be calculated and reported as if 100 mg of the test portion had been used. If the material contains any grease, oil, wax or similar material, the test portion shall be enclosed in hardened filter-paper and these ingredients shall be removed with n-heptane using solvent extraction.

- 2. Sample Removal/Preparation Procedure for Materials in Liquid Form:
 - a. Obtain a test portion of not less than 100 mg of the material from the laboratory sample. The use of an appropriate solvent to facilitate the obtaining of a test portion is permitted.
 - b. A test portion shall be obtained from each different material intended to leave a trace, present in the laboratory sample in a mass greater than 10 mg. Where there is between 10 and 100 mg of material, the mass of the test portion shall be reported in the test report and the quantity of the appropriate elements shall be calculated and reported as if 100 mg of the test portion had been used. If the material is intended to solidify in normal use and contains grease, oil, wax or similar material, the test portion shall be allowed to solidify under normal use conditions and the resulting material shall be enclosed in hardened filter-paper and the grease, oil, wax or similar material shall be removed with n-heptane by using solvent extraction.
- 3. Test Procedure for Samples not Containing Grease, Oil, Wax or Similar Material:
 - a. Using the appropriately sized container, mix the test portion so prepared with 50 times its mass of an aqueous solution at $37 \pm 2^{\circ}$ C of 0.07 M HCl (see <u>8.3.2.2</u>). For a test portion mass of between 10 and 100 mg, mix the test portion with 5.0 mL of this solution at $37 \pm 2^{\circ}$ C. Shake for 1 min. Check the acidity of the mixture.
 - b. If the ph of the resulting solution is greater than 1.5, adjust the pH to between 1.0 and 1.5. If the pH is 2.5 or less, add dropwise, while shaking the mixture, 2 M HCl until the pH is between 1.0 and 1.5; if the pH is greater than 2.5, add dropwise, while shaking the mixture, 6M HCl until the pH is

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 - c. Protect the mixture from light. Agitate the mixture at $37 \pm 2^{\circ}C$ (see 8.3.4.2) for 1 h continuously and then allow to stand for 1 h at $37 \pm 2^{\circ}C$.
 - d. Without delay, efficiently separate the solids from the solution, firstly by filtration using a membrane filter and, if necessary, by centrifuging at up to 5000 g. Separation shall be completed as soon as possible after the completion of the standing time; centrifuging shall take no longer than 10 min and shall be noted in the test report.
 - e. If the resulting solutions are to be kept for more than the working day prior to analysis they shall be stabilized by addition of hydrochloric acid so that the concentration of the stored solution is approximately 1.0M HCl.
 - f. Analyze the solution for element content using atomic spectroscopy or other validated test methods.
 - 4. Test Procedure for Samples Containing Grease, Oil, Waxor Similar Material:
 - a. With the test portion remaining in the hardened filterpaper, macerate the test portion so prepared with 25 times the mass of the original material with water at $37 \pm 2^{\circ}$ C so that the resulting mixture is homogeneous. Quantitatively transfer the mixture to the appropriate sized container. Add to the mixture an aqueous solution of 0.14 M HCl at $37 \pm 2^{\circ}$ C in the proportion of 25 times the mass of the original test portion. In the case of a test portion mass between 10 and 100 mg macerate the test portion with 2.5 mL of water. Quantitatively transfer the mixture to the appropriate sized container. Add 2.5 ml of 0.14 M HCl at $37 \pm 2^{\circ}$ C to the mixture. Shake for 1 min.
 - b. Check the acidity of the mixture. The amount of hydrochloric acid used in relation to the amount of solution shall be reported in the test report. Protect the mixture from light. Agitate the mixture at $37 \pm 2^{\circ}$ C for 1 h continuously and then allow to stand for 1 h at $37 \pm 2^{\circ}$ C.

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 136 of 298 *NOTE 14* — The volume of the solution 0.07 M HCl or 0.14 M HCl, as the case may be, is calculated based on the mass of the test portion prior to de-waxing.

- c. Without delay, efficiently separate the solids from the solution, firstly by filtration using a membrane filter and, if necessary, by centrifuging at up to 5000 g. Separation shall be completed as soon as possible after the completion of the standing time; centrifuging shall take no longer than 10 min and shall be noted in the test report.
- d. If the resulting solutions are to be kept for more than the working day prior to analysis they shall be stabilized by addition of hydrochloric acid so that the concentration of the stored solution is approximately 1.0 M HCl.
- e. Analyze the solution for element content using atomic spectroscopy or other validated test methods.

8.3.6 Alternative Methods— For purposes of determining compliance with the requirements contained in 4.3.5, "reasonable and representative tests" shall be used. Reasonable and representative tests could be either the tests contained in 8.3.1, 8.3.2, or 8.3.3, or alternate tests which utilize apparatus or procedures, or both, other than those in 8.3. The following paragraphs set forth the conditions under which alternate tests with apparatus or procedures other than those described in 8.3, inclusive, will be considered reasonable and representative.

8.3.6.1 Persons and firms determining the compliance of materials subject to the requirements contained in 4.3.5 may base those determinations on any alternate test utilizing apparatus or procedures other than those in 8.3, inclusive, if such alternate test is as stringent as, or more stringent than, the tests in 8.3, inclusive. An alternate test is considered to be "as stringent as, or more stringent than" a test in 8.3 if, when testing identical specimens, the alternate test yields failing results as often as, or more often than, the test in 8.3, inclusive. Any person using such an alternate test must have data or information to demonstrate that the alternate test is as stringent as, or more stringent than, the test in 8.3, inclusive. For example XRF screening in accordance with Test Method F2853 protocol could be used if determined to be a more stringent test method to the extent applicable for the material tested.

8.3.6.2 The data or information required by paragraph 8.3.6.1 to demonstrate

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 137 of 298 equivalent or greater stringency of any alternate test using apparatus or procedures other than those in 8.3, inclusive, must be in the possession of the person or firm desiring to use such alternate test before the alternate test may be used to support a determination of compliance against the requirements contained in 4.3.5.

8.3.6.3 The data or information required by paragraph <u>8.3.6.1</u> to demonstrate equivalent or greater stringency of any alternate test using apparatus or procedures other than those in <u>8.3</u>, inclusive, must be retained for as long as that alternate test is used to support determinations of compliance against the requirements contained in <u>4.3.5</u>, and for one year thereafter.

1. Alternate method acceptability requires rigorous statistical analysis of limits of acceptability to show consistency of results of alternate methods to prescribed method results. This analysis must be performed separately for each substrate type and heavy element (for example, results for cadmium in metal may not be automatically assumed to apply to barium in plastic, etc.). Alternate methods, once validated, should be submitted to ASTM for inclusion in the standard to avoid inconsistency of results.

8.4 Tests for Cleanliness and Preservative Effectiveness

8.4.1 *Cleanliness of Materials*— The cleanliness of cosmetics, liquids, pastes, putties, gels, and powders used in toys (excluding art materials) shall be determined using the methods in USP 24 <61> Microbial Limits Tests or the most current edition of the U.S. Pharmacopeia.¹⁵ Another method may be substituted provided it has been properly validated as giving equivalent or better results, as specified in USP 24 <61> or the most current edition of the U.S. Pharmacopeia. In conjunction with the chosen test method, the limits for determining the cleanliness of materials will consist of the most current guidelines for cosmetics set forth by the Cosmetic, Toiletry, and Fragrance Association (CTFA).

¹⁵ Reagent Chemicals, American Chemical Society Specifications, American Chemical Society, Washington, DC. For Suggestions on the testing of reagents not listed by the American Chemical Society, see *Analar Standards for Laboratory Chemicals*, BDH Ltd., Poole, Dorset, U.K., and the *United States Pharmacopeia and National Formulary*, U.S. Pharmacopeial Convention, Inc. (USPC), Rockville, MD.

8.4.2 *Preservative Effectiveness*— The formulations of cosmetics used in toys shall be evaluated for the potential microbiological degradation, or they shall be tested for microbial control and preservative effectiveness using the

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Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 138 of 298 methods and limits in USP 24 <51> Antimicrobial Effectiveness Testing or the most current edition of the U.S. Pharmacopeia.

8.5 Normal Use Testing— These tests are intended to simulate normal use conditions so as to ensure that hazards are not generated through normal wear and deterioration. The object of these tests shall be to simulate the normal play mode of the toy, and the tests are therefore unrelated to the reasonably foreseeable abuse tests of <u>8.6</u>-<u>8.13</u>. The tests are intended to uncover hazards rather than to demonstrate the reliability of the toy. The fact that a mechanism or material of a toy fails during testing is relevant only if the failure creates a potential hazard. Toys shall be subject to appropriate tests to simulate the expected mode of use of the particular toy. For example, levers, wheels, catches, triggers, strings, wires, chains, and so on, that are intended to be actuated by a child shall be operated repeatedly. Spring or power-operated devices shall be tested similarly. The tests shall be conducted in an expected use environment. For example, toys intended for use in the bathtub shall be tested in soapy water, and toys intended for use in the sandbox shall be exposed to sand during testing. It is recognized that no specific requirements are defined here; it would not be possible in view of the wide range of toys covered by this specification. However, the manufacturer or distributor must do enough testing to satisfy himself that normal use during the estimated lifetime of the toy is being simulated. The toy shall be inspected after such tests, and hazards such as points, sharp edges, and release of small parts shall be evaluated in accordance with the relevant requirements listed in <u>Section 4</u>.

8.5.1 *Washable Toys*— Toys described as machine washable on the toy, package, or instructions shall be subjected to six machine washing and tumble drying cycles, as described in <u>8.5.1.1</u>, unless a different drying method is specified by the toy manufacturer by means of a permanent label. They shall then be inspected for compliance with this specification.

8.5.1.1 Conditions for Machine Washing and Tumble Drying— Any commercially available top-loading washer, dryer, or laundry detergent intended for use in the home may be used for this test. The weight of each toy is determined prior to the beginning of the test. The toys, plus a dummy load of clothes sufficient to bring the total dry weight to a minimum 4 lb (1.8 kg), are washed in an automatic washing machine using the warm water setting and a 12-min wash cycle at the normal setting. The toys and dummy load shall then be tumble dried in an automatic clothes dryer using the warm setting, or air dried, until the load is dried. The toy shall be deemed dry when the final weight does not exceed the original dry weight by more than 10 %.

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8.6 Abuse Testing— The tests described in 8.7-8.13 are to simulate the exposure of a toy to mechanical damage through dropping, throwing, and other actions likely to be performed by a child, which are characterized as reasonably foreseeable abuse. After testing, the toy shall be examined for mechanical hazards, such as hazardous sharp edges and points, and ingestion hazards, such as small liberated components, chips, or fragments. The severity of the abuse tests described in 8.7, 8.8, 8.9, 8.10, and 8.12 shall be determined according to the age group for which the toy is intended. If the toy is intended for an age group that spans more than one age group according to <u>Table 5</u>, the toy shall be subjected to the most severe test. Unless otherwise specified, none of the abuse testing described in 8.7-8.12 applies to toys intended for children over 96 months of age. Toys reasonably intended to be assembled by an adult, and not intended to be taken apart by a child, shall be tested only in the assembled state if the shelf package and assembly instructions indicate prominently that the article is to be assembled by an adult. Individual parts of toys that are intended to be assembled by children shall be tested as well as the fully assembled toy; however, the assembled toy shall be made of components that have not been subjected to the abuse testing.

8.7 *Impact Tests*— These tests are intended to simulate situations in which possible damage can occur to a toy by reason of its falling from a crib, table, or counter top, or other impact situations that may occur as a result of reasonably foreseeable abuse. After undergoing the appropriate test, the toy shall be examined for possible hazards, such as points, edges, or ingestible objects, in accordance with the relevant requirement of <u>Section 4</u>.

8.7.1 *Drop Test*— Except for toys covered in 8.7.2, toys falling below the weight limit given below shall be dropped onto a specified impact area. The number of times the toy will be dropped, and the height from which it is dropped, is to be determined from Table 5. The toy shall be dropped in random orientation. The test sample shall be allowed to come to rest after each drop and shall be examined and evaluated before continuing. The impact medium shall consist of a $\frac{1}{8}$ -in. (3-mm) nominal thickness of Type IV vinyl composition tile, composition 1-asbestos free, as specified in Federal Specification <u>SS-T-312B</u> over at least a 2.5-in. (64-mm) thickness of concrete. The impact area shall be at least 3 ft² (0.3 m²). The recommended batteries shall be in place during the drop test for battery-operated toys. If no specific type of battery is recommended, the heaviest battery that is generally available shall be used.

	Weight Criteria, lb
Age Group	(kg)
	-

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18 months or less	less than 3 ± 0.01 (1.4)		
over 18 months, not over 36 months	less than 4 ± 0.01 (1.8)		
over 36 months, not over 96 months	less than 10 ± 0.01 (4.5)		

8.7.2 *Tipover Test for Large, Bulky Toys*— Large, bulky toys shall not be subjected to the drop test of 8.7.1, but they shall be tipped over according to the following procedure:

		Numerical Value		
Test	Age Category of Intended User, months	Stated by the Voluntary Standard	Recommended for Toy Manufacturers	
	0 to 18	10	4 ft, 6.5 in. (1.38 m)	
Drop test	over 18 to 36	4 3.0 ft ± 0.5 in. (91 cm)	3 ft, 0.5 in. (0.93 m)	
	over 36 to 96	4 3.0 ft ± 0.5 in. (91 cm)	3 ft, 0.5 in. (0.93 m)	
	0 to 18	2 ± 0.2 in.·lbf (0.23 N·m)	2.2 in.·lbf (0.25 N·m)	
Torque test	over 18 to 36	3 ± 0.2 in.·lbf (0.34 N·m)	3.2 in. · lbf (0.36 N·m)	
	over 36 to 96	4 ± 0.2 in.·lbf (0.45 N·m)	4.2 in.·lbf (0.47 N·m)	
	0 to 18	10 ± 0.5 lbf (44.5 N)	10.5 lbf (46.7 N)	
Tension test	over 18 to 36	15 ± 0.5 lbf (66.8 N)	15.5 lbf (69.0 N)	
	over 36 to 96	15 ± 0.5 lbf (66.8 N)	15.5 lbf (69.0 N)	
	0 to 18	20 ± 0.5 lbf (89.0 N)	20.5 lbf (91.2 N)	
Compression test	over 18 to 36	25 ± 0.5 lbf (111.3 N)	25.5 lbf (113.5 N)	
	over 36 to 96	30 ± 0.5 lbf (133.5 N)	30.5 lbf (135.7 N)	
	0 to 18	10 ± 0.5 lbf (44.5 N)	10.5 lbf (46.7 N)	
Flexure test	over 18 to 36	15 ± 0.5 lbf (66.8 N)	15.5 lbf (69.0 N)	
	over 36 to 96	15 ± 0.5 lbf (66.8 N)	15.5 lbf (69.0 N)	

TABLE 5 Test Parameters for Use and Abuse Tests

8.7.2.1 *Tipover Test for Large, Bulky Toys*— Large, bulky toys shall be tested for impact by tipping over three times, one of which is in the worst attitude by pushing the sample slowly past its center of balance onto the impact medium described in <u>8.7.1</u>.

8.7.3 *Tumble Test for Wheeled Toys*— Wheeled toys weighing more than 3 lb (1.4 kg) but not more than 10 lb (4.5 kg) shall be tumbled down a flight of six steps with risers not less than 7 in. (180 mm) high (see Fig. 26). The treads may be wood, cement, or metal. The toy, including accessories, where applicable, shall be caused to fall down the steps two times in each of four attitudes: tumbling forwardly end-over-end and tumbling rearwardly end-over-end from each side. The toy shall be pushed slowly over the edge of the top step in the appropriate attitude and released as soon as it begins to fall

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 141 of 298 of its own weight. The test shall be considered complete for an attitude even if the toy does not reach the bottom of the flight of steps.

Figure 26. Illustration of Step Construction. This is a diagram of a set of steps. The width of the steps is A and shall be not less than 3 feet. The riser, the elevation of the step, is B and shall be not less than 7 inchdes. The step itself is C and shall be not more than 9 inches. A PLATFORM C B RISER

Dimensions "A" shall be not less than 3 ft (914 mm) "B" shall be not less than 7 in. (180 mm) "C" shall be not more than 9 in. (230 mm)

FIG. 26 Illustration of Step Construction

8.7.4 Impact Test for Toys that Cover the Face— The toy shall be held firmly in a suitable clamp with that portion that covers or surrounds the eyes (in the case of cutout eye holes) in a horizontal plane. Drop a $\frac{1}{2}$ -in. (16-mm) diameter steel ball weighing 0.56 oz. (15.8 g) (with a tolerance of +0.03 (0.8 g, -0 oz) from a height of 50 in. (1.3 m) upon the horizontal upper surface of the toy in the area that would cover the eyes in normal use. In the case of toys with cutout eye holes, impact the area that would be directly adjacent to the eyes in normal use. The ball may be guided, but not restricted, in its fall by being dropped through a perforated tube extending to within approximately 4 in. (100 mm) of the toy.

8.8 *Torque Tests for Removal of Components*— Any toy with a projection, part, or assembly that a child can grasp with at least the thumb and forefinger or the teeth shall be subject to this test. The amount of torque shall be determined from <u>Table 5</u>, according to the age group for which the toy is intended. The loading device used in the test shall be a torque gauge, torque wrench, or other appropriate device having an accuracy of 60.2 in. lbf (60.02 N·m). A clamp capable of holding the test component firmly and transmitting a torsional force shall be used. The clamp is fastened to the test object or component with the toy fastened rigidly in any reasonable test position. The torque shall be applied evenly within a period of 5 s in a clockwise direction until either (1) a rotation of 180° from the original position has been attained, or (2) the required torque is exceeded. The maximum rotation or required torgue shall be maintained for an additional 10 s. The torgue shall then be removed and the test component permitted to return to a relaxed condition. This procedure shall then be repeated in a counterclockwise direction. Projections, parts, or assemblies that are mounted rigidly on an accessible rod or shaft designed to rotate along with the projections, parts, or assemblies shall be tested with the rod or shaft

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 142 of 298 clamped to prevent rotation. If a component that is attached by a screw thread that has been assembled by the manufacturer, or that has been assembled to the manufacturer's instructions, becomes loosened during application of the required torque, continue to apply the torque until either (1) the required torque is exceeded, or (2) the part disassembles. The test should be terminated if it becomes obvious that the part under test will continue to rotate at less than the required torque limit and will not disassemble.

8.8.1 If the part disassembles, evaluate it for compliance with the appropriate requirements. If the disassembly exposes an accessible component that can be grasped as noted above, repeat the torque test on that component.

8.9 Tension Test for Removal of Components— Any projection of a toy that a child can grasp with at least the thumb and forefinger or the teeth shall be subjected to this test. The tension test shall be performed on the same components of the toy subjected to the torque test described in <u>8.8</u>. The amount of force used shall be determined from <u>Table 5</u>, according to the age group for which the toy is intended. A clamp capable of applying a tension load to the test component shall be applied in a manner that will not affect the structural integrity of the attachment between the component and the toy. The loading device shall be a self-indicating gauge or other appropriate means having an accuracy of 60.5 lb (62 N). With the test sample fastened in a convenient position, an appropriate clamp shall be attached to the test object or component. The required tensile force shall be applied evenly, within a period of 5 s, parallel to the major axis of the test component, and maintained for an additional 10 s. The tension clamp shall then be removed, and a second clamp suitable for applying a tension load perpendicularly to the major axis of the test component shall be attached to the test object component. The required tensile force shall be applied evenly, within a period of 5 s, perpendicularly to the major axis of the test component and maintained for an additional 10 s.

8.9.1 Tension Test for Seams in Stuffed Toys and Beanbag-Type Toys— A stuffed toy or beanbag constructed of pliable material having seams (including, but not limited to, seams that are stitched, glued, heat sealed, or ultrasonic welded) shall have the seams subjected to a separate tension test in any direction using the forces specified in 8.9 and determined from Table 5 according to the age group for which the toy is intended.

8.9.1.1 The clamps used to grip the material on either side of the seam to be tested shall have jaws to which are attached ³/₄-in. (19-mm) diameter washers (see Fig. 27). The clamps shall be attached to the cover material of a

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 143 of 298 completely assembled stuffed toy in a manner such that the outside diameter of the $\frac{3}{4}$ -in. (19-mm) washers at a point nearest the seam shall be close to, but no closer than, $\frac{1}{2}$ in. (13 mm) from the edge of the seam stitching thread. This seam test shall not be performed if the material adjacent to the seam cannot be grasped between the thumb and forefinger of the test personnel sufficient for full clamping by the $\frac{3}{4}$ -in. (19-mm) diameter washer jaws. If such is the case, a torque and tension test shall be performed on an arm, leg, or other appendage of the toy instead of the seam test.

Figure 27. Seam Clamp The diagram shows a set of pliers. The pliers are labelled Lever Wrench, Mod L-B Leverage Tools, Inc., Glenvil, Nebraska, 66941. To the inside jaws of the pliers at the tips are attached Braze 3/4 inch diameter plain steel washers. BRAZE 3/4 Dia PLAIN S11 WASHERTO JAW TIPS LEVER WRENCH Mod L-8LEVERAGE TOOLS, Inc.GLENVIL, NEB - 66941

FIG. 27 Seam Clamp

8.9.1.2 In performing a seam test, the force appropriate for the age category into which the toy falls (see <u>Table 5</u>) shall be applied evenly within 5 s and maintained for an additional 10 s.

8.10 *Compression Test*— Any area on the surface of a toy that is accessible to a child and inaccessible to flat surface contact during the impact test shall be subject to this test. The compression force shall be determined from <u>Table 5</u> according to the age group for which the toy is intended.

8.10.1 The loading device shall be a rigid metal disk 1.125 ± 0.015 in. (0.380 mm) in diameter and 0.375 in. (9.52 mm) in thickness. The perimeter of the disk shall be rounded to a radius of 1/32 in. (0.8 mm) to eliminate irregular edge. The disk shall be attached to an appropriate compression scale having an accuracy of 60.5 lb (2 N). The disk shall be positioned so that the flat contact surface is parallel to the surface under test. The required force shall be applied evenly within 5 s through the disk. This load shall be maintained for an additional 10 s. The toy is to rest on a flat, hard surface in any convenient position during the test.

8.11 *Tests for Tire Removal and Snap-in Wheel and Axle Assembly Removal*— These tests relate to the requirements of <u>4.17</u>.

8.11.1 *Removal of Tires*— The toy shall be clamped so that the wheel axle is vertical. A wire hook shaped as shown in Fig. 28 shall be positioned on the lower tire and attached to a dead weight of 10 ± 0.5 lb (4.5 kg) if the tire is on a toy intended for children aged 18 months or less, or to a dead weight of 15 ± 0.5 lb (6.8 kg) if the tire is on a toy intended for children 18

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 144 of 298 months but not over 36 months. The load shall be applied gradually over a period of 5 s and maintained for 10 s.

Figure 28. Hook for Tire Removal A hook with a wire diameter of 1/16 inches (10-pound lead) or 1/18 inches (15-pound lead) and a 75 degree included angle is laying on top of a tire, which is in turn connected to a hube and axle. INCLUDED ANGLE 75° WIRE DIAMETER 1/16 in. [10-pound load]1/8 in. [15-pound load] TO LOAD TIRE HUB LENGTH TO BE ADJUSTED TO TIRE SIZE

FIG. 28 Hook for Tire Removal

8.11.2 Toys Assembled With Snap-in Axles— A15 \pm 0.5-lb (6.8-kg) dead weight shall be applied perpendicularly to the axle and in the least favorable direction, adjacent to a bearing (but between the two bearings), for 10 s, using a hook and string for attachment to the toy. The toy shall be held horizontally in a test-convenient fixture, and the load shall be applied gradually over a 5-s period and then shall be maintained for 10 s. The toy shall be held horizontally if the axle cannot be hooked as described above, and a 10 \pm 0.5-lb (4.5-kg) dead weight shall be attached to one wheel by means of a hook or clamp that acts perpendicular to the axle in the least favorable direction. The load shall be applied gradually over a 5-s period and then be maintained for 10 s.

8.11.3 Compression Test for Snap-in Wheel and Axle Assemblies— This test is for determining compliance with 4.17 if the axle and wheel are removed by the procedure described in 8.11.2. The wheel and axle assembly shall be positioned with the axle vertical over a hole in a rigid plate, as shown in Fig. 29. The hole shall be large enough in diameter to permit the axle to pass through. A load of 20 \pm 0.5 lb (89 N) is applied to the upper wheel, using a suitable circular adaptor to prevent interference with the axle. The load shall be applied gradually over a 5-s period and then shall be maintained for 10 s. When applying the load, the upper wheel shall be guided, if necessary, in order to maintain the axle in a vertical position, but it shall not be restrained from moving downward. The axle shall not form a hazardous point or projection in those cases in which it is forced through either wheel.

Figure 29. Compression Test for Wheel Assemblies A board with a gap is shown. A wheel and axle assembly is lying on the board, with the wheel straddling the gap of the board and the end of the axle in the gap. A load is applied to a circular adaptor placed on the top wheel with the force pointing down. LOAD APPLIED TO ACIRCULAR ADAPTOR WHEEL AND AXLEASSEMBLY RIGID PLATE

FIG. 29 Compression Test for Wheel Assemblies
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Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 145 of 298 8.12 *Flexure Test*— This test is for determining compliance with 4.10, for wires or rods used as flexible skeletons. The toy shall be secured in a vise equipped with vise shields that are fabricated from 13-gauge thick cold-rolled steel or other similar material and that have a 0.375-in. (9.5-mm) inside radius as shown in Fig. 30. The component shall then be bent through a 60° arc by a force applied perpendicularly to the major axis of the component at a point 2 \pm 0.05 in. (50 mm) from the intersection of the component with the main body of the toy or applied at the end of the component if the component is less than 2 in. (50 mm) long. The force shall be determined from Table 5. The component shall then be bent in the reverse direction through a 120° arc. This process shall be repeated for 30 cycles at a rate of 1 cycle/2 s, with a 60-s rest period occurring after each 10 cycles. Two 120° arc bends shall constitute one cycle.

Figure 30. Fixture Tester The diagram is a set of jaws, which are constructed of 12 gauage 0.0897 CR steel and each jaw is 60 degrees off from vertical, making the total angle 120 degrees. The rounded ends of the jaws have a radius of 0.375 inches. 120° 60° JAWS 13 Gauge 0.0897 in.(2.278 mm) C.R. Steel 0.375 in. Rad(9.52 mm)

FIG. 30 Flexure Tester

8.13 *Test for Mouth-Actuated Toys*— A piston pump capable of discharging and taking in more than 18 in³ (295 cm³) of air in less than 3 s shall be connected to the mouthpiece of the toy. A relief valve shall be so arranged that the pump will not generate a positive or negative pressure of more than 2 psig. The toy shall be subjected to 10 alternating blowing-andsucking cycles of at least 18 in³ (295 cm³) of air, including that volume that may be discharged through the relief valve. Any objects released as a result of this test shall be inspected for conformance with 4.6. The above procedure shall also be applied to the outlet if the air outlet of the toy is accessible as described in 4.6.2.

8.14 Projectiles

8.14.1 *Kinetic Energy Determination*— The kinetic energy of a projectile as defined in 3.1.51 shall be determined from the following equation:

kinetic energy = $1/2 \text{ mv}^2$

(1)

where:

m = mass of projectile, kg, and

v = velocity of the projectile, m/s.

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 146 of 298 8.14.2 The mass of a projectile, *m*, shall be determined by weighing a sample on a laboratory balance. The velocity of a projectile, *v*, shall be determined by firing a sample from the discharge mechanism of the toy across ballistic screens placed a known distance apart (*s*, metres) and recording the time (*t*, seconds) to travel that distance. The velocity of the projectile shall be calculated from the expression v = s/t m/s.

8.14.3 When performing the test to measure the velocity of a projectile, the second screen shall be placed a distance no more than 1 ft (300 mm) plus one projectile length from the point at which the entire projectile enters free flight (see Fig. 31). Due to the flight characteristics of certain projectiles and other factors that may influence the accuracy of the measurement of projectile velocity, the value of ν in the equation for kinetic energy shall be the average of five measurements.

Figure 31. Diagram of Layout to Determine Projectile Velocity A launcher on the left has a projectile connected to it on the right edge. The projectile has a label that says Length of Projectile. From the end of the projectile going right towards a vertical line is an indicator of 12 inchdes. The line on the right is labelled 2nd ballistic screen. 2nd Ballistic Screen 12" Length ofProjectile Projectile Launcher End ofLauncher

NOTE 1 - First ballistic screen to be located between end of launcher and second screen.

FIG. 31 Diagram of Layout to Determine Projectile Velocity

8.14.4 *Impact Test for Projectiles*— Projectiles, as defined in <u>3.1.59</u>, shall be propelled by their discharge mechanism three times into a concrete block wall (or equivalent surface) located at a distance 1 ft (300 mm) plus the length of the projectile from the front end of the launcher. The discharge mechanism shall be aimed perpendicular to the wall.

8.15 *Test for Stability of Ride-On Toys or Toy Seats*— These tests relate to the requirements of <u>4.15</u>.

8.15.1 Place the ride-on toy or toy seat across the slope of a smooth surface inclined 10° to the horizontal plane. (Some tests require a 15° slope; refer to 4.15.2.2 and 4.15.3.)

8.15.2 Turn the steering mechanism, if any, to a position at which the ride-on toy or toy seat is most likely to tip.

8.15.3 Chock any wheels to restrict rolling, but allow casters to assume their natural position before chocks are applied.

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8.15.4 Apply to the seat a static load equal to the weight indicated in <u>Table 6</u> at the highest age of the age range for which the ride-on toy or toy seat is intended, but not exceeding 60 months. When the highest age of the intended age range falls between two ages listed in <u>Table 6</u>, the higher of the two shall be chosen.

8.15.5 The load shall be applied so that the major axis is perpendicular to the true horizontal while the ride-on toy or toy seat is on the incline specified.

8.15.6 The load shall be designed so that the height of its center of gravity is 8.7 ± 0.5 in. (220 ± 13 mm).

8.15.7 The center of gravity of the load for the sideways stability test shall be secured to the geometric center of the designated seating area.

NOTE 15 - Separate tests for each side.

8.15.8 If there is no designated seating area or if there is no designated sideways orientation, the load shall be placed 1.7 in. (43 mm) inward towards the geometric center of the ride-on toy or toy seat from the least favorable position that it is reasonable to anticipate that the child will choose to sit (note separate tests for each side).

TABLE 6 Weight of 95th Percentile Children (Values Given for Boys or Girls, Whichever is Higher)

-	-
<u>_</u>	0
- 5	~
-	U

Age, years	Weight, lb (kg)		
1	28 (12.6)		
2	29 (13.2)		
3	42 (18.9)		
4	43 (19.7)		
5	50 (22.6)		
6	59 (26.6)		
7	69 (31.2)		
8	81 (37.0)		
9	89 (40.4)		
10	105 (47.9)		
11	121 (55.0)		
12	120 (54.7)		
13	140 (63.6)		

ooumoni	
14	153
	(69.6)

NOTE 16 - Separate tests for each side.

8.15.9 The center of gravity of the load for the fore and aft stability test shall be secured both 1.7 in. (43 mm) rearward of the front-most portion of the designated seating area and 1.7 in. (43 mm) forward of the rear-most portion of the designated seating area.

NOTE 17 — Two separate tests.

8.15.10 If there is no designated seating area or if there is no designated fore and aft orientation, the load shall be placed 1.7 in. (43 mm) inward towards the geometric center of the ride-on toy or toy seat from the least favorable position that it is reasonable to anticipate that the child will choose to sit.

NOTE 18 — Two separate tests.

8.16 Pompoms are subjected to the torque test as described in 8.8 and 8.8.1 and the tension test as described herein. The clamps used to grip the material to be tested shall have jaws to which $\frac{3}{4}$ -in. (19-mm) diameter washers are attached (see Fig. 27). One clamp shall be attached to the pompom and a second clamp used to grip the base material. A force of 15 lbf (67 N) shall be applied evenly within 5 s and maintained for an additional 10 s.

8.17 Stalled Motor Test for Battery-Operated Toys

8.17.1 The test shall be conducted using a new toy. Each motor shall be tested separately using fresh alkaline batteries. If another battery chemistry is specifically recommended for use in the toy by the manufacturer, repeat the test using the batteries specified by the manufacturer. If the toy will not operate using alkaline batteries, test with the type of battery recommended by the manufacturer at the specified voltage. The test is to be carried out in a draft-free location at an ambient temperature of $20 \pm 5^{\circ}$ C.

8.17.2 Operate the toy with moving parts that are mechanically linked to a motor locked in a fixed position. Only lock moving parts which can be stalled external to the toy. Do not disable any mechanical or electrical protective device such as clutches or fuses. Monitor the temperatures with the toy fully assembled. If normal use allows the motor to run unattended or if the toy has a non-recessed switch allowing it to be kept in the "on" position, operate the toy continuously and record the maximum temperatures. The test may be discontinued 60 min after the peak temperature of each component being

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 149 of 298 tested is recorded. If the toy shuts off automatically or must be kept "on" by hand or foot, monitor temperatures for 30 s, resetting the toy as many times as necessary to complete the 30 s of operation. If the toy shuts off automatically after an operating time of greater than 30 s, continue the test until the toy shuts off. At the conclusion of the test, the stalled motor condition shall not cause temperatures to exceed the limits of <u>4.25.7</u>, or cause battery leakage, an explosion, or a fire.

8.18 Tests for Battery-Powered Ride-on Toys

8.18.1 Components tested in accordance with the following sections are to be installed and operated in the toy, as they would be during normal use unless otherwise specified. Testing is to be conducted using fully charged batteries.¹⁶

¹⁶ Testing is to be conducted while the vehicle is operated on a hard level surface covered with 3M #610 General Purpose Safety Walk tape or equivalent surface with a coefficient of friction between 1.27 and 1.32 when measured in accordance with MIL-D-17951. Cheesecloth referenced in the following tests is #60 cotton gauze with a thread count of 32 by 28 threads per inch.

8.18.2 Maximum Temperature Test:

8.18.2.1 Mechanically precondition all electrical pressure connections used for charging or discharging the battery(ies). If a main harness connector is provided, the main harness connection must be connected and disconnected 600 times before the Maximum Temperature Test is performed. If a user replaceable fuse is provided, remove and insert the fuse 25 times before the Maximum Temperature test is performed.

8.18.2.2 Power the test sample using a fully charged battery as specified by the manufacturer. Operate the vehicle in the mode that results in the maximum continuous current draw. Determine the maximum continuous current draw by testing the vehicle on any intended surface as specified by the manufacturer, and by adjusting the weight, up to the manufacturer specified maximum. Several trials on different surfaces and with different weights may be necessary to determine the maximum continuous current draw.

8.18.2.3 Physically load the vehicle in any way necessary to obtain the maximum continuous current draw. Operate the vehicle continuously until the battery is exhausted or until thermal equilibrium is reached. If thermal

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 150 of 298 equilibrium is not reached, replace the battery with a fully charged battery and continue the test.

8.18.3 *Stalled Motor Test for Battery-Powered Ride-on Toys*— Mechanically lock any accessible motor driven parts. For toys having more than one motor, each motor shall be tested individually. For toys having more than one operating mode, a different toy shall be tested in each mode. The toy shall be entirely draped with a double layer of cheesecloth during the test. For motors or other electrical components that are accessible, the cheesecloth shall also be draped over the component.

8.18.3.1 Operate the toy, under the stalled condition, until a circuit protection device interrupts the current or until the battery is depleted.

8.18.3.2 If the circuit protection device interrupts the circuit, immediately reset the circuit protection device or replace it in the case of a fuse and repeat the test three more times. If the circuit protection device automatically resets, continue the stalled motor test until the battery is exhausted.

8.18.3.3 The test shall not result in ignition of the cheesecloth.

8.18.4 *Nuisance Tripping Test*— Conduct the tests on a level surface as specified in <u>8.18.1</u>, loading the vehicle with the maximum weight specified by the manufacturer.

8.18.4.1 *Start/Stop Condition*— Start and stop the toy in 1-s cycles for 30 repetitions (0.5 s start followed by 0.5 s stop) in the mode that draws the greatest current.

8.18.4.2 *Forward/Reverse*— If the toy has a reverse direction feature, cycle the toy in the forward and reverse directions in 1-s cycles for 30 repetitions (0.5 s forward followed by 0.5 s reverse) in the mode that draws the greatest current.

8.18.5 *Switch Endurance and Overload Tests*— Precondition switches at 95 % relative humidity between 20°C and 32°C for 48 h. Conduct the Switch Endurance and Overload Tests at 40°C. A switch is to be operated by means of its actuating member either manually or by mechanical means making and breaking the test current. If a fuse or protective device operates (opens or trips) the device must be replaced or reset as many times as necessary to complete the required number of cycles. The test may be concluded at less than the prescribed number of cycles if the switch fails safe (switch stuck in the "off" position and no short-circuit condition results). Test 3 samples. All

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 151 of 298 samples must pass.

8.18.5.1 *Switch Endurance Test*— If a switch is relied upon for starting and stopping of the vehicle, conduct the endurance test for 100 000 cycles. Cycle (minimum 1 s on time and at least 6 cycles per minute) a switch in the toy using the maximum continuous current load as determined in the Maximum Temperature Test or in an equivalent simulated motor load circuit including the inrush and inductive characteristics. All other switches are to be subjected to 6000 cycles of endurance testing. Cycle (minimum 1 s on time and at least 6 cycles per minute) a switch in the toy using the maximum continuous current load as determined in the Maximum 1 s on time and at least 6 cycles per minute) a switch in the toy using the maximum continuous current load as determined in the Maximum Temperature Test or in an equivalent simulated motor load circuit including the inrush and inductive characteristics.

8.18.5.2 *Switch Overload Test*— The overload test is to be conducted on a switch that is relied upon for starting and stopping of the vehicle. Stall the motor(s) of the toy. Operate the switch for 50 cycles of operation at a rate of 6 cycles per minute with 1 s on and 9 s off.

8.18.6 *Battery Overcharge Test*— Each battery shall be charged with its intended charger continuously for 336 h. The test shall not result in the release of electrolyte, or cause explosion or fire.

8.18.6.1 If the battery can be charged in the vehicle, place the battery in the vehicle and connect it to the charging circuit. Drape the charger, cable, and battery with a double layer of cheesecloth. The test shall not result in ignition of the cheesecloth or in the release of electrolyte.

8.18.7 *Short-Circuit Protection Test*— Entirely drape the toy with a double layer of cheesecloth. Short-circuit parts of opposite polarity. Any possible short-circuit condition shall not result in ignition of the cheesecloth.

8.18.8 *Strain Relief Test*— The electrical connections of the cord or harness are to be disconnected. Apply a 20 lbf (90 N) to the cord so that the strain relief will be stressed from any angle permitted by the construction of the toy. Maintain the specified force for 1 min. There shall be no movement of the cord to indicate stress on the connections.

8.19 Tests for Toys Which Produce Noise

8.19.1 Installation and Mounting Conditions:

8.19.1.1 *General*— Carry out the measurements on a new toy not already

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 152 of 298 subjected to testing. Test battery toys using new primary batteries or fully charged secondary batteries. External power supplies should not be used as they will, in many cases, affect the performance of the toy.

8.19.1.2 *Test Environment*— Any environment that meets the qualification requirements of ISO 3746, Annex A.

NOTE 19 - In practice, this means that most normally furnished rooms with a volume exceeding 30 m³ will qualify at measurement distances of 50 cm provided that the largest dimension of the toy does not exceed 50 cm.

8.19.1.3 *Mounting*— Test rigs used for the mounting of toys and/or the operator of the toy shall not affect the sound emission of the toy under test nor cause sound reflections which will increase the sound pressure levels at the measuring points.

- 1. Mount close to the ear toys and hand-held toys in a proper test rig at least 100 cm above the reflecting plane or have them operated by an adult operator with the arm outstretched.
- 2. Place stationary table top, floor, and crib toys on a standard test table as described in ISO 11202. A table with a wooden top with a thickness of 4 cm or larger and leg construction providing a stable test surface is considered sufficient. The table top should be large enough such that, with the toy resting on and fully over the table top, the side of the measurement box from which the measurement is being made is also above the table top (see 8.19.2.3(5)).
- 3. Mount self propelled table top and floor toys on the standard test table described above in a test rig so that they can be operated with full power, but preventing them from moving around.
- 4. Place pull and push toys on the reflecting plane (for example, concrete, tile, or other hard surface) and fix them in a test rig which enables them to be moved with varying speed along a direct line which passes the measuring microphones ("passing by" test). Make sure that the friction of the reflecting plane prevents wheels from skidding.
- 5. Place hand-actuated wind-up toys, with the wind-up spring fully loaded, on the reflecting plane (for example, concrete, tile, or other hard surface) so that the front of the toy is 40 ± 1 cm along the *x*-axis from the microphones of the "passing by" test (see Fig. 32).

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6. Mount other types of toys in the most appropriate way using the principles described in previous paragraphs.

Figure 32. Microphone Positions for Measurements of Pull and Push Toys and for Hand-Actuated Spring-Propelled Toys ("Pass-by" Test) A square platform is shown. The toy is on the top of the platform. Going forward is direction x, going sideways is direction y, going up is direction z. The microphone begins at 40 (no units are mentioned in the diagram, but they are centimeters) in direction x, and then 40 plus width of toy (w) divided by 2 to the left of direction y. It has a height of 30. The microphone moves 20 in direction x away from the toy. z y 1 1 2 x 40+w/2 40+w/2 40 30 30 20 NOTE— Key: 2—End of measurement 1—Microphone w—width of toy

NOTE — Key: 1—Microphone 2—End of measurement *w*—width of toy

FIG. 32 Microphone Positions for Measurements of Pull and Push Toys and for Hand-Actuated Spring-Propelled Toys ("Pass-by" Test)

8.19.1.4 *Operating Conditions*— Operate the toy under test in that mode of its intended or foreseeable use that produces the highest sound pressure level to the microphone position, where the maximum noise level is observed. In particular:

- 1. Operate a hand-actuated toy manually, excluding pull and push toys, by applying the force at the point and direction of its intended or foreseeable use giving the maximum sound pressure level. For a toy intended to be shaken, shake at a rate of three times per second. One cycle shall consist of an initial 15 cm stroke followed by a return to the starting point.
- 2. Operate a rattle by grasping it where it is meant to be held or, if in doubt, where the longest lever between the hand and the sound emitting part of the rattle can be obtained. Make sure that the radiated sound is not affected by the grip of the hand. Strike downwards ten times with hard lashes in a slow tempo. Use the wrist and keep the forearm essentially horizontal. Endeavour to achieve the highest possible sound level. Stand side-face with the microphone and keep the rattle at the same height as the microphone at a distance of 50 cm.
- 3. Operate a pull and push toy at a speed that yields the maximum sound

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 154 of 298 pressure level. Do not exceed 2 m/s.

4. Operate a cap-firing toy using percussion caps recommended by the manufacturer and which are available on the market.

8.19.2 Measurement Procedure:

8.19.2.1 *Basic International Standards to be Used*— The minimum requirement is to determine sound pressure levels at the specified positions around the toy in accordance with ISO 11202 or ISO 11204.

Figure 33. Microphone Positions for Measurement of Sound Pressure Levels of Cap Firing Toys A toy is suspended in space inside of two circles, each at a 90 degree angle from the other. There are thus two points of intersection. The microphone positions are two points of intersection, plus the points 90 degrees away from those points on each circle. In other words, there are four points marked on each circle, and since the circles intersect, two of those points are in common, so there are 6 microphone positions. Each microphone is 50 cm from the center of the toy. z y x 1 1 1 1 1 1 50 50 50 50 50 50 NOTE-Key: 1-Microphone

FIG. 33 Microphone Positions for Measurement of Sound Pressure Levels of Cap Firing Toys

8.19.2.2 *Instrumentation*— The instrumentation system, including the microphone and cable, shall meet the requirements of a class 1 or class 2 instrument specified in IEC 61672-1 and IEC 61672-2. When measuring high peak sound pressure levels, for example, from toys using percussion caps, the microphone and the entire instrumentation system shall have the capability of handling linear peak levels exceeding the C-weighted peak levels by at least 10 dB.

8.19.2.3 *Microphone Positions— General—*Several microphone positions shall be used. In practice, this often means that one microphone is moved from position to position. Whenever it is practicable, it is always an alternative to rotate the test object instead. Attention must be paid to maintaining the correct measuring distance.

1. Close-to-the-Ear Toys—To measure continuous sounds, face the earpiece of the toy at the microphone with the microphone 50 ± 0.5 cm from the earpiece. To measure continuous sounds on toys without earpieces, locate the microphone 50 ± 0.5 cm from the surface of the toy where the main sound source exists such that the sound pressure level at the microphone is maximized. To measure impulsive sounds, locate the microphone 50 ± 0.5 cm from the surface of the toy where

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- Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 155 of 298 the main sound source exists such that the sound pressure level at the microphone is maximized.
- 2. *Cap-Firing Toys*—Use six microphone positions around the toy. Place the main sound emitting part of the toy at the origin of the measuring coordinate system in its normal operating orientation in such a way that the main axes of the toy coincide with the axes of the measuring coordinate system (see Fig. 33). If the length of the toy exceeds 50 cm, rotate the toy in the *xy*-plane 45° around the *z*-axis without changing the microphone positions. Select two microphone positions along each axis at a distance of 50 ± 1 cm to both directions from the origin as shown in Fig. 33.
- 3. *Rattles*—Mount the microphone 1.2 m above the floor and at a distance of 0.5 m from the sound source.
- 4. Other Hand-Held Toys—Select six microphone positions on a boxshaped measurement surface at the measuring distance of 50 cm from the reference box of the toy, as defined in ISO 3746, as specified in Fig. 34. The positions are at the centers of the sides of the measurement surface at the distance 50 cm from the reference box.
- 5. Stationary and Self-Propelled Table-Top, Floor, and Crib Toys—Select five, or if the length or width of the toy is larger than 100 cm, nine microphone positions on a box-shaped measurement surface at the measuring distance of 50 cm from the reference box of the toy as specified in Fig. 35. The sides of the measurement box with height *H* are always 50 cm from the sides of the reference box, except for the bottom of the boxes, which lie in the same plane. All microphone positions are on the measurement box.
- 6. Pull and Push Toys and Hand-Activated Spring-Propelled Toys—For toys with a width (w) of 25 cm or less, use two microphones at distances (d) 50 cm from the x-axis of the measuring coordinate system as shown in Fig. 32. For toys with a width (w) of more than 25 cm, use two microphone at distances (d) 40 cm plus half the width of the toy from the x-axis (40 + w/2) as shown in Fig. 32. Place the toy on a test rig or on the reflecting plane in its normal operating orientation in such a way that movement of the toy is possible along the x-axis passing the microphone positions.

Figure 34. Microphone Positions for All Other Hand-Held Toys A toy in the shape of a cube (the reference box) is inside a large cube, the measurement box. The clearance between the edges of the boxes is 50 centimeters. One

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 156 of 298 microphone is placed on a point in the center of each of the facets of the measurement box, so there are six points of measurement. 50 cm 1 2 NOTE-Key: 1-Measurement box 2-Reference box

FIG. 34 Microphone Positions for All Other Hand-Held Toys

Figure 35. Microphone Positions for Measurement of Stationary and Self-Propelled Table-Top, Floor, and Crib Toys This diagram is identical to Figure 34, however, in this case the inner box is labelled H/2 and the outer measurement box is labelled H. 1 2 H/2 H NOTE— Key: 1—Measurement box 2 —Reference box

FIG. 35 Microphone Positions for Measurement of Stationary and Self-Propelled Table-Top, Floor, and Crib Toys

8.19.2.4 Measurements:

- 1. *General*—Normal operating mode(s) shall be reached before the tests are performed.
- 2. *Measurements of Continuous Sounds*—If the toy under test has a clearly defined operating cycle, measure the equivalent sound pressure level in each microphone position during at least one whole cycle. Quiet periods longer than 15 s shall be excluded from the measurement period. Perform a total of three measurements. If the toy under test does not have a clearly defined operating cycle, measure the equivalent sound pressure level in each microphone position for at least 15 s during the operational mode where the noise level is highest. Perform a total of three measurements.
- 3. *Measurements of Impulsive Sounds*—Measure the C-weighted peak sound pressure level, *L_{Cpeak}*, of impulsive sounds in each microphone position. Perform a total of three measurements. For pass-by tests, measure the C-weighted peak sound pressure level. Measure twice on each side.
- 4. *Measurement for Rattles* Measure the C-weighted peak sound pressure level, *L_{Cpeak}*, for ten cycles. Perform a total of three measurements.
- Measurement Results—Sound measurement results shall be given as:
 (a) A-weighted equivalent sound pressure level at the specified position, L_{Aeq}, in decibels; (b) C-weighted peak sound pressure level at the specified position, L_{Cpeak}, in decibels.

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6. The highest value of the applicable measurements (L_{Aeq} and L_{Cpeak}) at any of the microphone positions is the measurement result.

8.20 Dynamic Strength Test for Wheeled Ride-on Toys— Load the toy for 5 min in the most onerous position with the appropriate mass in accordance with Table 6 on its standing or sitting surface. Secure the load to the toy in a position corresponding to the normal use of the toy. Drive the toy three times at a speed of 6.6 ft/s $(2 \text{ m/s}) \pm 0.7 \text{ ft/s} (0.2 \text{ m/s})$ into a nonresilient step with a height of 2 in. (50 mm). If the toy is intended to bear the mass of more than one child at a time, test each sitting or standing area simultaneously. Determine whether the toy continues to conform to the relevant requirements of this specification.

8.21 *Plastic Film Thickness*— Use a measuring device (dialtype thickness gauge or equivalent) capable of measuring thickness to an accuracy of 4 μ m. Measurements shall be taken at 10 equidistant points across the diagonal of any 3.94 by 3.94-in. (100 by 100-mm) area. For plastic bags, prepare by cutting the sides, without stretching, into two single sheets.

8.22 Test for Loops and Cords

8.22.1 Anchor or secure the toy. Place the head probe (Fig. 10) in the loop/opening formed by the cord/s, tapered end first, with the plane of its base parallel to the plane of the opening. Rotate the probe to any orientation about its own axis while keeping its base parallel to the plane of the opening; apply 10 lbf (45 N) while attempting to push the probe through the opening.

8.22.2 Elastic materials or loops that are smaller than the tapered diameter of the head probe shall be stretched before applying the head probe test fixture using the hook test fixture illustrated in Fig. <u>36</u>. To begin the evaluation, the elastic material is first looped around the left bottom hook, then hooking the elastic material with the hook attachment of the force gauge, pull the elastic material to the right bottom hook without exceeding a force of 5.0 lbf (22.2 N). The elastic material is then pulled to the left upper hook without exceeding a force of 5.0 lbf (22.2 N). Pull the elastic material to the right side so that the hook of the force gauge is adjacent to the left upper hook and parallel to the right bottom hook without exceeding a force of 5.0 lbf (22.2 N). The hook of the force gauge should remain in this position during testing. If the elastic material cannot be stretched and held in this position or if the force needed to stretch the elastic material exceeds 5.0 lbf (22.2 N), the elastic material complies with this requirement. The testing sequence is illustrated in Fig. 36 (a) through (e). If the body of the toy forms part of the loop, position the body of the toy so that it is on the open, right-hand side of

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Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 158 of 298 the hook test fixture. Apply the head probe in accordance with <u>8.22.1</u>.

Figure 36. Hook Test Fixture for Cords and Loops There are 3 views, labeled top, front, and side. The scale is 1/1 inch and tere is a notation that the base is any suitable material and the height of all hooks shall be equal. From the top view, a rectangle with rounded corders is shown, there is a hook embeded with the base on the left of the rectangle and the hook protruding in. From the side view, there is a rounded rectangle with a hook screwed into the bottom. From the front view, two blocks form a 90 degree angle, with the vertical block on the left. There is one hook protruding out of that block a distance x. There are two hooks on the bottom block. The left-hook is at a distance of X from the left edge. The distance from the top of that hook to the hook embedded in the vertical block is 3. The distance between the two bottom hooks is 4.3. The hooks are not labelled but are used in subsequent diagrams, so we assign A as the hook on the vertical part, B as the leftmost bottom hook and C as the rightmost bottom hook. SCALE: 1/1 in. HEIGHT OF ALL HOOKS SHALL BE EQUAL BASE - ANY SUITABLE MATERIAL TOP VIEW FRONT VIEW SIDE VIEW 3.0 4.3 X X

FIG. 36 Hook Test Fixture for Cords and Loops

Figure 36a. Test Procedure for Cords and Loops, Step 1 (continued) A force gauge is connected to elastic material in the form of a loop. The loop is attached to the bottom hook on the left (B) of the fixture. FORCEGAUGE FRONT VIEW ELASTIC MATERIAL FORCE GAUGE KEY

FIG. 36 (a) Test Procedure for Cords and Loops, Step 1 (continued)

Figure 36b Test Procedure for Cords and Loops, Step 2 (continued) A force gauge is connected to elastic material in the form of a loop. The loop is hooked to both of the bottom hooks (B and C). The force gauge is pulling towards the right, away from C. FORCEGAUGE FRONT VIEW ELASTIC MATERIAL FORCE GAUGE KEY

FIG. 36 (b) Test Procedure for Cords and Loops, Step 2 (continued)

Figure 36c. Test Procedure for Cords and Loops, Step 3 (continued) A force gauge is connected to elastic material in the form of a loop. The loop is hooked to both of the bottom hooks (B and C) as well as the top hook (A). The force gauge is positioned above hook A, pulling up. FORCEGAUGE FRONT VIEW ELASTIC MATERIAL FORCE GAUGE KEY

FIG. 36 (c) Test Procedure for Cords and Loops, Step 3 (continued)

Figure 36d. Test Procedure for Cords and Loops, Step 4 (continued) A force gauge is connected to elastic material in the form of a loop. The loop is hooked to both of the bottom hooks (B and C) as well as the top hook (A). The force gauge is positioned to the right of hook A and directly above Hook

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 159 of 298 C, forming a rectangle, and the gauge is pulling the rectangle out. FORCEGAUGE FRONT VIEW ELASTIC MATERIAL FORCE GAUGE KEY

FIG. 36 (d) Test Procedure for Cords and Loops, Step 4 (continued)

Figure 36e. Test Procedure for Cords and Loops, Step 5 (continued) This diagram is identical to Figure 36d, with the elastic material in the form of rectangle. Inside this rectangle is a notation that says Insert Probe Here. FORCEGAUGE FRONT VIEW ELASTIC MATERIAL FORCE GAUGE KEY INSERT PROBEHERE

FIG. 36 (e) Test Procedure for Cords and Loops, Step 5 (continued)

8.22.3 For cords, straps, and elastics that form loops and have a perimeter larger than the base diameter of the head probe and contain a breakaway feature, the following test is applied to determine release force. With the cord secured in a vertical fashion so that the breakaway feature is essentially in the center of the two clamping devices, apply a downward force and determine if the breakaway feature releases at a force less than 5.0 lbf (22.2 N).

8.23 Yo Yo Elastic Tether Toy Test Methods

8.23.1 The yo yo elastic tether toy is tested in its most onerous foreseeable use configuration. Hold the yo yo elastic tether toy by whatever holding means is supplied, typically a small loop. Rotate the toy in a horizontal or near-horizontal plane using any convenient means to achieve a constant rotational speed of 80 r/min or the maximum achievable speed up to 80 r/min.

NOTE 20 — The plane of rotation may not be horizontal given the physical characteristics of the toy, for example the size and mass of the object at the end of the tether.

NOTE 21 — Where a tether has no distinct holding means, such as a finger loop, the unloaded length of the tether that is held should be the minimal length required to prevent release of the tether during rotation.

8.23.1.1 A variable speed drill is one method of achieving a constant rotational speed. If such a drill is used, attach the holding means to a rigid cam as shown in Fig. 37. Use a cam of 3 cm (1.18 in.) in length as measured from the center of rotation to the edge of the clamping mechanism furthest from the center of rotation (see Fig. 38). If necessary, manually start the product rotating. A typical test set up is shown in Fig. 37.

Figure 37. Example of a Typical Setup This figure is two photographs. On the

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 160 of 298 left is a device that resembles a power drill affixed to a test set-up. To the right is a cluttered scene of a workshop with no labels or descriptions.

FIG. 37 Example of Typical Test Set-Up

Figure 38. Close-Up of Clamp This photograph shows the end of what is presumably a power drill. At the end is a notation that says Center of Rotation. Connected to this end is a verticalbar that has a clamping mechanism affixed to it. A label says Edge of Clamping Mechanism.

FIG. 38 Close-Up of Clamp

8.23.2 Measure the length of the tether when the tether is fully extended during rotation. There is no requirement to measure the exact length of a tether if its fully extended length during rotation is well below or well beyond 50 cm (20 in.) (for example, less than 40 cm (16 in.) or greater than 60 cm (24 in.)). The tether length does not include the length of the mass at the end, the holding means (if present), or the cam (if used).

8.23.2.1 To facilitate length measurement of the tether during rotation, if helpful, mark two points along its length when it is under no load: (1) the point where it joins the mass at the end and (2) the point where it joins the holding means, as shown in <u>Fig. 39</u>.

Figure 39. Marking Unloaded Tether A ball is connected to a chord. At the other end of the cord is a circle with a hole in it. The point where the ball meets the cord is labelled 2.

FIG. 39 Marking Unloaded Tether

8.24 Magnet Test Methods

8.24.1 Flux Density Measurement.:

8.24.1.1 *Test Equipment*— dc field gauss meter with a resolution of 5 gauss (G) and an axial type probe.

- 1. An active area diameter of 0.76 ± 0.13 mm.
- 2. A distance between the active area and probe tip of 0.38 ± 0.13 mm.

8.24.1.2 Test Method:

 Place the probe's tip in contact with the pole surface of the magnet. For a magnetic component (where the magnet is fully or partially imbedded in part of the toy), place the probe's tip in contact with the surface of the component. Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 161 of 298

- 2. Keep the gauss meter's probe perpendicular to the surface.
- 3. Move the probe across the surface to locate the maximum absolute flux density.
- 4. Record the maximum absolute flux density measurement.

8.24.2 Area Measurement of the Pole Surface:

8.24.2.1 Test Equipment—

Calipers or similar device with a resolution of 0.1 mm.

8.24.2.2 *Test Method*— If the magnet is imbedded/attached as part of a magnetic component, extract the magnet from the component. If the pole surface of the magnet is flat, calculate the area using the appropriate geometric formula. If the pole is not flat (for example, hemispherical), the pole surface area is the maximum cross section of the magnet perpendicular to an axis through the magnet poles (see Fig. 40).

NOTE 22 — On multi-pole magnets use the area of the largest single pole, which can be determined using magnetic field viewing film or equivalent.

Figure 40. Illustration of Pole Surface on a Magnet with Rounded Ends A cylinder with rounded ends is shown. A circle indicates the maximum cross-section perpendicular to axis. A line that is perpendicular through the center of that cross section is labelled axis through magnet poles. Maximumcross-sectionperpendicular to axis Axis throughmagnet poles

FIG. 40 Illustration of Pole Surface on a Magnet with Rounded Ends

8.24.3 *Calculation*— The flux index $(kG^2 mm^2)$ is calculated by multiplying the area of the pole surface (mm^2) of the magnet by the square of the maximum flux density (kG^2) .

8.24.4 *Magnet Use and Abuse Testing*— Each unique component shall be tested per this section. A new toy shall be used that has not been subjected to other use and abuse testing. All the testing in this section must be performed in series on each unique component (that is, testing must follow 8.24.4.1-8.24.4.5 in sequential order).

8.24.4.1 *Cycling as Received*— One thousand (1000) cycles of intended use shall be performed on the as-received magnetic parts or magnetic

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Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 162 of 298 assemblies. The magnetic parts shall be brought together to a distance that initiates magnetic attraction, released, and then pulled apart to the distance where magnetic attraction ceases. Each attachment and detachment shall count as 1 cycle. If no other magnets or magnetic parts are provided with the toy, then the mating metal part or surface, according to the toy's intended play pattern, should be used for cycling purposes. The testing may be automated or performed manually.

8.24.4.2 *Impact Test*— Place the magnetic part or magnetic component in an orientation that is most likely to result in breakage on a plane horizontal steel surface and drop a metallic weight with a mass of 2.2 lb (1.0 kg) distributed over an area with a diameter of 3.1 in. (78.7 mm) through a distance of 4.0 in. (101.6 mm) on to it. Determine if a hazardous magnetic ra hazardous magnetic component is generated.

8.24.4.3 *Torque Test* – Test according to 8.8.

8.24.4.4 *Tension Test* – Test according to 8.9.

8.24.4.5 *Cycling - After Abuse Test*- Repeat the testing described in <u>8.24.4.1</u>.

8.25 Test Methods for Locking Mechanisms or Other Means

8.25.1 Locking Mechanisms or Other Means:

8.25.1.1 Erect the product in accordance with the manufacturer's instructions.

8.25.1.2 Secure the product so that the normal folding motion is not impeded.

8.25.1.3 Apply a force of 45 lbf (200 N) to the product, but not to the mechanism itself, in the direction normally associated with folding. Apply the force gradually over a 5 s period and maintain for an additional 10 s before releasing the force.

8.25.1.4 Perform this procedure five times within a 2 min period.

8.25.2 *Locking Test Method*— With the product in the manufacturer's recommended use position, gradually apply a force of 10 lbf (45 N) to the locking mechanism in the direction tending to unlock it. The locking mechanism shall not unlock until a minimum force of 10 lbf (45 N) has been achieved.

8.26 Test for Overload of Ride-On Toys and Toy Seats

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8.26.1 Place the toy on a horizontal plane.

8.26.2 The test load(s) shall be three times the weight indicated in Table 6 at the highest age of the age range for which the toy is intended. The test for overload requirements shall be conducted so that it will be consistent with the advertised weight capacity if that figure is higher than the minimum weight capacity in accordance with Table 6. When the highest age of the intended age range falls between two ages listed in Table 6, the higher of the two shall be chosen.

8.26.3 Where the toy is intended to bear the weight of more than one child at a time, test each sitting or standing area (33 the weight tested separately in each location).

8.26.4 Apply a static load(s) that is equal to the weight as determined by the criteria above. The load(s) shall be applied so that it is as close as possible to the geometric center of the designated seating or standing area(s). If there is no designated seating or standing area(s), the load shall be placed at the least favorable position that it is reasonable to anticipate that the child will choose to sit or stand.

8.26.5 Observe whether the toy collapses within 1 min after application of the static load(s).

9. Identification

9.1 So that purchasers may identify products conforming to all of the requirements of this specification on toy safety, producers, importers, and distributors may include a statement of compliance in conjunction with their name and address on product labels, invoices, and sales literature.

9.1.1 The following statements are suggested:

- 1. Conforms to the requirements of ASTM Standard Consumer Safety Specification on Toy Safety, F963 (name and address of producer, importer, or distributor).
- 2. Conforms to the safety requirements of Specification F963 (name and address of producer, importer, or distributor).

10. Keywords

battery-operated toys; children; safety labeling; safety testing; toy safety

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ANNEXES (Mandatory Information)

A1. AGE GRADING GUIDELINES +

A1.1 Purpose and Scope

A1.1.1 Good age-grading practices are important to ensure that a toy is appropriate and safe at particular stages of physical and mental development.

A1.1.2 Age labeling is intended to provide point-of-sale guidance to consumers for the selection of appropriate toys for children with respect to average abilities, interests of various age groups, and safety aspects of the toys themselves.

A1.1.3 This guideline is intended to provide thoughts and considerations necessary to establish meaningful age recommendations for toy products.

A1.1.4 <u>"Guidelines for Relating Children's Ages to Toy Characteristics (1985)"</u> is available from the Consumer Product Safety Commission, Washington, DC 20207.

A1.2 Criteria for Establishing Age Grades

A1.2.1 The following criteria should be considered when establishing age grading for a toy. While all of these should be considered in total, each one may be weighted individually to arrive at the appropriate age grading.

A1.2.1.1 The physical ability of a child to manipulate and play with the specific features of a toy. This necessitates an understanding of the physical coordination, fine and gross motor capabilities, size, and strength generally available at a given age.

A1.2.1.2 The mental ability of a child to understand how to use the toy (that is, understand instructions, sequences of operations, objective of the toy). Consideration of the mental skills at a given age is important in order to provide a concept that will challenge abilities and stimulate further development, yet not frustrate. Accomplishment should be neither too easy nor too difficult to be satisfying to the child.

A1.2.1.3 The toy must meet play needs and interests at different levels of development. Understanding developmental levels and identifying play

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 165 of 298 materials and play environments to enhance each developmental stage is important for assigning appropriate age grades. Play interests and toy preferences change rapidly; there should be careful attention to a child's preference or aversion to specific toy subjects at certain stages. In order for a toy to enhance play, it obviously must be appealing to its user. In short, it must be fun.

A1.3 Tools

A1.3.1 Use of the following tools can help guide the establishment of meaningful age grading for a toy. These tools are not arranged in a particular order of importance; all of them should be considered during the age grading process.

A1.3.1.1 Prior experience with the toy or a similar toy in the marketplace indicating suitability for a specific age group.

A1.3.1.2 Reference materials on comparative body measurements and human factors elements.

A1.3.1.3 Reference resources on child development norms to establish developmental mileposts.

A1.3.1.4 Identification of developmental features to be enhanced/stimulated within certain age spans.

A1.3.1.5 Expertise of outside consultants, child development specialists, physicians, and psychologists.

A1.3.1.6 Testing of models or prototypes with children.

A1.3.1.7 Observing skill levels in children at play.

A1.3.1.8 Seeking opinions of parents.

A1.3.1.9 Interacting with children and asking questions.

A1.4 Safety Considerations of Age Grading

A1.4.1 The toy must be safe for the intended user. Once the skill level has been determined, the design must be tailored to satisfy the requirements of this specification associated with that age level.

A1.4.2 Age grades are indicators of average development, which does not

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 166 of 298 necessarily reflect suitability for the exceptional child. A parent remains the best judge of whether the child is at the appropriate development stage for safe play with a particular toy.

A1.4.3 A primary consideration should be potential choking and aspiration hazards associated with small parts. Children under the age of three are more prone to placing objects in their mouths. However, the propensity to put nonfood objects in the mouth does not disappear at the chronological age of three years. The following toys are appropriate for children under three years of age and are cited specifically as subject to the safety requirements of <u>16</u> <u>CFR 1501</u> for small parts regulations:

A1.4.3.1 Squeeze toys, teethers, crib exercisers, crib gyms, crib mobiles, toys intended to be affixed to a crib, stroller, playpen, or baby carriage, pull and push toys, pounding toys, blocks and stacking sets, bathtub, wading pool and sand toys, rocking, spring, and stick horses and other figures, chime and musical balls and carousels, jack-in-the-boxes, stuffed, plush, and flocked animals and other figures, and those preschool toys, games and puzzles, riding toys, dolls and animal figures, cars, trucks, and other vehicles that are intended for use by children under the age of three years.

A1.4.4 Some of the characteristics of toys that describe those preschool toys that are appropriate for children under the age of three years are listed below by class of toy:

A1.4.4.1 *Dolls*— Soft-bodied baby dolls or character dolls that are for holding or cuddling, stuffed or "bean bag" dolls, rag or cloth dolls with simple features (including accessories), and lightweight plastic dolls with simple features and limited articulation at the limb joints.

A1.4.4.2 *Infant Toys*— Toys intended to be used in a crib or playpen, to be held easily by small hands, shaken, grasped, rattled, or cuddled.

A1.4.4.3 *Toy Vehicles*— Cars, trucks, boats, and trains of simple chunky shape, decorated in primary colors without extensive descriptive detail or representation of a particular make or model of vehicle and that require simple actions such as rolling, dumping, pushing, and releasing.

A1.4.4.4 *Action Toys*— Simple action toys for the identification of sounds or pictures and surprise action toys.

A1.4.4.5 *Early Learning Toys*— Toys, books, and puzzles for learning basics such as letters or numbers or shapes, and simple physical motions such as turning wheels or knobs, pulling and letting go, or sorting by size, etc.

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A1.4.4.6 *Blocks and Stacking Toys*— Toys that do not require finger dexterity or fitting together of small intricate pieces.

A1.4.4.7 *Soft Balls and Similar Items*— Soft, lightweight balls or other shapes for squeezing, shaking, rolling, or tossing.

A1.4.5 Toys that should not be considered appropriate for very young children, and therefore not be age labeled as such, have the following characteristics:

A1.4.5.1 Toys that require intricate finger movements or controlled adjustments, fitting intricate pieces together.

A1.4.5.2 Toys, for example, games that require or incorporate elements of reading ability beyond the ABCs or 123s.

A1.4.5.3 Toys that simulate adult figures or characters and their associated accessories.

A1.4.5.4 Collecting sets (for example, figures and vehicles).

A1.4.5.5 Projectile-type toys, launched vehicles, planes, etc.

A1.4.5.6 Makeup sets.

A1.4.6 Another major development cutoff has been cited at approximately eight years of age, at which time reading ability has progressed so that a child can, on his own, read, understand, and heed instructions, caution statements, etc. Because the instructions and caution statements are necessary for the safe use of the product in some cases, those products should be labeled for use by children over the age of eight. Products that fall into this category include the following:

A1.4.6.1 Science and environmental kits or sets containing breakable glass components and complex instructions.

A1.4.6.2 Complex model and craft sets requiring precision assembly and finger dexterity or incorporating sharp tools or components.

A1.4.6.3 Electrically operated toys incorporating heating elements.

A1.4.6.4 Certain chemistry sets, fueled model vehicles, and rockets, etc. that contain chemicals that may be hazardous, cannot generally be handled safely by children unable to read and understand instructions and cautionary

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 168 of 298 statements. The minimum age for which any such product should be recommended is eight years and then *only* with adult supervision.

A1.5 Descriptive Age Labeling

A1.5.1 Manufacturers can assist parents and other purchasers in the appropriate selection of toys by incorporating descriptive labeling to identify potential safety concerns if the toy is accessible to children outside the recommended age group.

A1.5.2 For example, if a toy contains small play pieces and is labeled for older children, such as an action figure set, the manufacturer should consider including a statement on the retail packaging that the toy contains small pieces.

A1.5.3 Factors to consider would include the appeal of the toy to young children, market experience, the design or construction of the toy, and whether the packaging provides visual indication of any small play pieces. In addition, a manufacturer should consider the probability that a purchaser may overestimate a child's physical or mental abilities and the child's understanding of a potential hazard related to the toy.

A2. PACKAGING AND SHIPPING

A2.1 Packaging

A2.1.1 Packages that are intended to be opened by adult purchasers should be constructed as to avoid hazards during the opening process from metal fasteners, particularly staples, and should not contain common pins used to position the toy within the package.

A2.2 Shipping

A2.2.1 Packaged and unpackaged toys can be subjected to a wide variety of tests designed to test the ability of toys to withstand the destructive forces encountered in the distribution cycle. The tests used most widely include drop, vibration, compression, and incline impact. Limited testing may be sufficient for many toys, especially those that are of light weight and constructed of resilient materials, such as dolls and stuffed toys. Others, however, such as large plastic or heavy metal toys, may be damaged during shipment and should be subjected to appropriate tests. Guidance for useful tests can be obtained from the following ASTM sources: Test Methods D642, D5276, D880, and D999.

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A3. DESIGN GUIDELINES FOR TOYS ATTACHED TO CRIBS OR PLAYPENS

A3.1 Purpose and Scope

A3.1.1 This annex provides guidance for design practices intended to encourage the careful examination of product characteristics and configurations with respect to safety. As there are no objective means for determining conformance with these design guidelines, they are not to be used to judge compliance with this specification.

A3.2 Guidelines

A3.2.1 Designs for all products intended to be attached to cribs or playpens should be accomplished in a manner that minimizes the potential for strings, ribbons, elastic, or parts of clothing to become caught on the product, such that an infant is placed in a dangerous predicament in which possible strangulation could occur.

A3.2.2 Examples of the implementation of good design practices for crib and playpen environments include the following:

- 1. Rounded corners with the use of generous radii wherever possible.
- 2. Smooth contours that minimize abrupt changes in shape that could easily become a catch point for strings, ribbons, elastic, or loose clothing.
- 3. Isolation of fastening hardware using recesses, counterbores, or other similar methods.
- 4. Reduction of the potential for any mismatch of surfaces where a catch point could develop.

A4. DESIGN GUIDELINES FOR BATH TOY PROJECTIONS

A4.1 Purpose and Scope

A4.1.1 This annex provides guidance for design practices intended to result in bath toy projection characteristics and configurations that will minimize the risk of injury to the genital and anorectal area if a child were to sit or fall onto the bath toy projection while in an unclothed or minimally clothed state. Some examples of these potentially hazardous projections include but are not limited to rigid fins of fish, rigid hulls, funnels, and masts of boats. Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 170 of 298 A4.2 Guidelines

A4.2.1 It is important that the design of a bath toy be developed with consideration of the shapes, dimensions and materials of any projections on the toy such that penetration and impalement hazards are minimized.

A4.2.2 Examples of good design practices include:

A4.2.2.1 *Non-Vertical Projections*— It is preferable to have projections designed such that they are always non-vertical when the toy is evaluated in all stable positions including consideration of the potential positions the toy can rest on the bottom of a bath tub, with or without water present in the bath tub, to produce a vertical or nearly vertical projection.

A4.2.2.2 *Stability*— If a toy topples over when force is applied to the end of the vertical projection, both when the bath toy is empty and filled with water, then the vertical projection is unlikely to be hazardous.

A4.2.2.3 *Accessibility*— Vertical projections can be protected by suitable means to minimize possible injury. A protected projection is one that has adequate adjacent structure (ribs, housings, or other permanent components) to render the projection unlikely to cause penetration or impalement hazards.

A4.2.2.4 *Flexibility*— Vertical projections can be designed to be flexible to minimize possible injury. This can be done through the choice of materials, a design which bends or compresses or the dimensions of the projection.

A4.2.2.5 *Diameter*— The diameter (or cross-sectional projected area) of a vertical projection can be sized large enough to minimize possible injury.

A5. FLAMMABILITY TESTING PROCEDURE FOR SOLIDS AND SOFT TOYS

A5.1 Purpose

A5.1.1 This annex establishes the protocol and general criteria for flammability testing of solids, and soft toys in conformance with the requirements of <u>16 CFR 1500.3(c)(6)(vi)</u>.

A5.2 Definitions

A5.2.1 *major axis*— a straight line through the longest dimension of the product connecting the most distant parts or ends of the product. A product

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Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 171 of 298 can have more than one major axis (see Fig. A5.1), but they must be equal in length. For toys that pose or transform, position the product so that its major axis is the longest possible dimension.

Figure A5.1. Illustration for Determining Major Axis Two diagrams are shown. Each has 3 lines that intersect. Two of the lines are long and intersect at an angle. A vertical line which is shorter intersects at the same point. In one diagram the point of intersection is in the middle of the lines, in another, it is much higher up. Lines A-A and B-B are the long ones, C-C is the shorter one. A A C C B B A A C C B B

NOTE — Lines A-A and B-B are both major axes. Line C-C is *not* a major axis.

FIG. A5.1 Illustration for Determining Major Axis

A5.2.2 *soft toy*— any stuffed or plush toy, that may or may not be parts or components of other toys.

A5.2.3 *solids*— toys or toy parts constructed of rigid, flexible, or pliable solids.

A5.2.4 *accessories*— an item intended to be removed to enhance the play pattern.

A5.2.5 *strings*— long slender flexible material usually consisting of several strands (as of thread or yarn) woven or twisted together, usually used to bind, fasten, tether, or tie. This does not include string when used, for example, for hair on a doll.

A5.2.6 *paper*— a thin, flat, single layer of material produced by the compression of fibers. The fibers are usually composed of cellulose. Examples of paper products are traditional playing cards, newspaper, magazines, and construction paper. Examples of products that are not paper are cardboard, and paperboard (multiple layers of paper bonded together).

A5.3 Exemptions

A5.3.1 Strings, paper, and ping-pong balls. A5.3.2 Accessible components having a major dimension of 1 in. (25 mm) or less.

A5.3.3 Textile fabrics intended to be removed shall be tested separately and meet the requirements of <u>A6.1</u>. Fabrics not intended to be removed shall become subject to the test to the extent that it becomes a part of the test surface.

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 172 of 298 A5.3.4 Sleeping bags.

A5.3.5 Packaging materials intended to be discarded by the consumer. Components of packaging that are likely to be incorporated into the play pattern of the toy are not exempt.

A5.4 Sample Preparation for Solids and Soft Toys

A5.4.1 Test product completely assembled as per manufacturer's instructions. If disassembly is required for storage purposes only, test when fully assembled as per manufacturer's instructions. If assembly or disassembly, or both, is part of the play pattern (that is, accessories, puzzles, construction toys, etc.) test each component separately.

A5.4.2 Remove all string or paper from the product as deemed necessary.

A5.5 Procedure for Solids and Soft Toys

A5.5.1 Place the prepared sample in a draft-free area that can be ventilated and cleared after each test. The temperature of the sample at the time of testing shall be between 68 and 86° F (20 and 30°C) at a relative humidity of 20 to 70 %.

A5.5.2 The test fixture shall be corrected to a clean condition prior to the start of each test.

A5.5.3 Measure the dimensions of the sample, and support it by means of the test fixture (see Fig. A5.2) or equivalent, so that the ends of the major axis are oriented horizontally. Placing a scale along the major axis is a sufficient means for gauging the burn distance.

Figure A5.2. Suggested Flammability Test Fixture This is a square board which is 10 inches on each side. Nails are 1.25 inches apart in a grid, with the nails on the outside perimeter 0.62 inches in with the edge, thus 64 places. Number 10-32 tap screws are placed 0.31 inchdes in from each corner and in the middle of the board (thus 4.69 inches between the outer screws and the one in the middle of each edge. The nails protrude 2.4 inchdes out. The screws are item 1, the nailes are item 2, the board is item 3 and is made of stainless steel, the board underneath it is labelled 4 and is also stainles steel. .13 4.69 TYP .31 TYP .10 REF. 2.40 REF. .25 4.69 TYP .31 1.25 TYP .62 TYP 10.00 # 10-32 TAPTYP. 18) PLCS. Ø . 109 REF ...002 S.F.FOR NAILS TYP (64) PLCS. .62 TYP 1.25 TYP .10.00 2 3 4 1

NOTE 1 — Tolerances (unless otherwise specified): 3 Place DIMS \pm 0.005

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 173 of 298 2 Place DIMS ± 0.015

Angles ± 1°

NOTE 2 — Break all sharp edges and screw to suit unless otherwise specified.

FIG. A5.2 Suggested Flammability Test Fixture

A5.5.3.1 Orientation and Locations for Ignition of Specimens— When orienting specimens, provide support over the entire length of the major axis without sagging, making sure the supporting device does not retard the spread of flame materially. Optional: for samples with long hair, it may be necessary to add fine wire (24 AWG or higher) between some nails to provide sufficient support for the hair. The addition of support for hair is not necessary unless the hair hangs down vertically while lying on the test fixture.

NOTE A5.1— The CPSC does not test hair separately but rather tests hair as a normal part of the toy. The toy might be tested in a face-down position, with the hair in a horizontal position on top of the toy. The toy could also be tested lying on its back, with the hair lying beneath the toy. Hair that hangs vertically would not be used to calculate the burn rate.

- 1. A sample that is so large that it becomes impractical to support its entire length must be arranged in such a manner that support at the end of a major axis is provided by the test fixture.
- 2. One or more specimens shall be ignited at one end of the major axis, and when practical, one or more specimens shall be ignited at the opposite end of the major axis. Specimens shall be positioned in the worst case position, as dictated by experience.

A5.5.4 Trim the candle and wick as necessary to maintain a flame height of $\frac{1}{2}$ to 1 in. (16 to 25 mm).

A5.5.4.1 Hold a burning paraffin candle whose diameter is at least 1 in. (25 mm) so that the flame is a minimum of $\frac{5}{8}$ in. (16 mm) high, with the tip of the inner cone of the flame in contact with the surface of the sample at the end of the major axis for 5 s. Maintain contact of the candle with the sample for 5 s or until ignition occurs. If the sample melts away from the flame, move the candle and maintain contact for the full 5 s or until the sample ignites. If the ignition occurs immediately, hold the candle steady and allow the ignited flame to move away.



Item	Required	Description	Material
1	9	# 10-32 0.38 LG.	S.H.C.S.
2	64	# 8d 2.50 LG.	Common Nail
3	1	0.13 10.00 10.00 LG.	Stainless Steel
4	1	0.25 10.00 10.00 LG.	Stainless Steel

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A5.5.5 Remove the candle and allow the sample to burn for an additional 55 s (total burn time including ignition time is 60 s) or until the flames reach the opposite end of the major axis. Determine the time of combustion by means of a stop watch. Do not allow the total test time to exceed 60 s with a self-sustaining flame.

A5.5.6 Extinguish the flame with a CO or similar nondestructive extinguisher, if necessary, after the 60 s. The experienced application of water is an acceptable method for extinguishing the flame.

NOTE A5.2— Extinguishing the flame must be accomplished in a manner that preserves the accuracy of the burned distance.

A5.5.7 Measure the length of the burned area, and calculate the rate of burning along the major axis of the sample.

A5.5.8 Products that do not ignite are considered acceptable. No burn rate is calculated for these samples. The burn rate for products that self-extinguish in less than 60 s shall be computed by using the actual burning time as the denominator when calculating the burn rate. For example, ignited product burns 3 in. (76 mm) in 20 s and self-extinguishes. The burn rate is calculated as follows:

$$\frac{3in.}{20s.} = 0.15in./s$$
 (A5.1)

A5.5.8.1 Burn-rate calculations for a product that selfextinguishes must be approached cautiously to avoid the introduction of measurement error since small measurement errors can become a significant portion of final calculations when the burn distance is short.

NOTE A5.3— It is unlikely that the CPSC would pursue an enforcement action that includes a burn rate calculation higher than 0.10 in. per second and yet consistently self-extinguishes during the test. However, the CPSC reserves the right to proceed with an action if such a burn rate may result in the product's causing substantial personal injury or substantial illness.

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1. When the product does not self-extinguish, the flame shall be allowed to continue for a total time of 60 s. Calculate the rate of burning using the actual distance of flame spread during the full 60 s. For example, the product ignites and burns 9 in. (229 mm) in 60 s. The burn rate is calculated as follows:

 $\frac{9in.}{60s.} = 0.15in./s(a \text{ flammable solid})$ (A5.2)

NOTE A5.4— While testing, samples shall not be extinguished prematurely if such action will affect the burn rate. For example, if a stuffed rabbit is ignited at the tip of one ear and the flame is extinguished when the flame reaches the base of the ear, this may produce an inflated burn rate if the ear material burns at a faster rate than the rest of the product. Therefore, allow the sample to burn the full 60 s taking into account both the ear and the rest of the product.

2. There may be scenarios where the flame may need to be extinguished prematurely prior to reaching the full 60 s. For example, the major axis of a product is 6 in. in length. The product ignites and burns the total length of the major axis (6 in.) in 40 s but continues to flame. Once the flame travels the full length of the major axis, extinguish the flame immediately regardless of whether or not the full 60 s has been reached. The burn rate is calculated as follows:

$$\frac{6in.}{40s.} = 0.15in./s$$
 (A5.3)

A5.6 Requirements

A5.6.1 A toy shall be considered a flammable solid if it ignites and burns with a self-sustaining flame at a rate greater than 0.1 in./s (2.5 mm/s) along its major axis.

A5.6.2 If the burn rate of a composite product (that is, solid/fabric combined) exceeds 0.10 in./s in part due to the presence of a permanently attached fabric, then a secondary test shall be performed to determine compliance. The secondary test shall consist of removing the permanently attached fabric from the solid and retesting the solid component separately. When sold as part of a toy such that the permanently attached fabric (that is, fabric covered without causing damage to the toy and the fabric (that is, fabric covered book, stuffed dolls/animals, etc.) or if the toy is an enclosure that a child can enter, the fabric shall become subject to the solids test to the extent that it becomes a part of the major axis.

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 176 of 298 *NOTE A5.5*— The permanently attached fabric that was removed from the sample must now be subject to meeting the requirements of <u>Annex</u> <u>A6</u>.

A5.6.3 Criteria for Acceptance:

A5.6.3.1 Sample size = four, whenever practical.

A5.6.3.2 A burn rate is not calculated for samples that do not ignite.

A5.6.3.3 Calculate the burn rate to two significant figures (to the nearest hundredth using conventional rounding rules, that is, for 5 or higher, round up).

A5.6.3.4 Round the burn rate to the nearest tenth (that is, round 0.15 up to 0.2).

A5.6.3.5 Level of acceptance = 0.1 in./s (2.5 mm/s), maximum, along the major axis.

A5.6.3.6 Additional Guidance for Manufacturers— Manufacturers' decisions on the performance of an item should be based on a minimum of four samples. This provides a reasonable opportunity for detecting undesirable variations in the product. Proceed as follows:

- 1. If the burn rate of all samples is less than 0.1 in./s (2.5 mm/s), accept.
- If the burn rate of all samples is greater than 0.1 in./s (2.5 mm/s) but less than 0.15 in./s (3.75 mm/s), accept and consider further investigation for action to improve performance.
- 3. If the burn rate of one of the samples is 0.15 in./s (3.75 mm/s) or greater, reject and repeat the test with four additional samples (one time only). If the burn rate of any of the retested samples is 0.15 in./s. or greater, reject.
- If the burn rate of more than one of the initial 4 samples is 0.15 in./s (3.75 mm/s) or greater, reject.

NOTE A5.6— CPSC makes its decision on whether a product is a flammable solid based on the burn rate of each individual sample. It then determines whether the product may cause substantial personal injury or substantial illness during or as a proximate result of any customary or

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 177 of 298 reasonably foreseeable handling or use. CPSC has no objection to other laboratories rounding off to the nearest 0.1 in./s. It will calculate burn rates to two decimal places but does not envision enforcement action where the burn rate is greater than 0.10 in./s and less than 0.15 in./s. However, CPSC reserves the right to proceed if such burn rate may result in the product's causing substantial personal injury or substantial illness.

A6. FLAMMABILITY TESTING PROCEDURE FOR FABRICS

A6.1 Purpose

A6.1.1 This annex establishes the protocol and general criteria for flammability testing of fabrics in conformance with the requirements of <u>16</u> <u>CFR 1500.3(c)(6)(vi)</u>.

A6.2 Definitions

A6.2.1 *fabric*— any coated or uncoated material (except film and fabrics having a nitro-cellulose fiber, finish or coating) that is woven, knitted, felted, or otherwise produced from any natural or manmade fiber, or substitute therefore, or combination thereof.

A6.2.2 *plain surface fabric*— any textile fabric which does not have an intentionally raised fiber or yarn surface such as pile, nap, or tuft, but shall include those fabrics having fancy woven, knitted or flock printed surfaces.

A6.2.3 *raised surface fabric*— any textile fabric which has an intentionally raised fiber or yarn surface such as a pile, nap or tufting.

A6.3 Exemptions

A6.3.1 Fabrics where a contiguous 2 by 6 in. piece cannot be extracted.

NOTE A6.1— If a contiguous 2 by 6 in. piece of fabric cannot be obtained, but due to the existence of other fabrics adjacent to it a composite 2 by 6 in. sample can be obtained, and the fabrics in question are permanently attached to a common substrate, then it shall be tested. An example of this would be a doll's hula skirt made of thin strips of fabric 6 in. in length. Each individual strip is joined at the top by a common substrate (that is, plastic waistband) and when combined with the other strips immediately adjacent to it, a 2 by 6 in. sample can be extracted.

A6.3.2 Fabrics that are permanently attached to a solid must initially be

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 178 of 298 tested with the solid per Annex A5.

A6.4 Sample Preparation

A6.4.1 Precondition all fabrics in a horizontal position for a minimum of 30 min at a temperature of 221 \pm 10°F.

A6.4.2 Fabrics intended to be washed shall be subjected to AATCC <u>Home</u> <u>Laundering Fabrics Prior to Flammability Testing to Differentiate Between</u> <u>Durable and Non-Durable Finishes</u> - 2007.

A6.4.3 A total of 5 samples, whenever practical, shall be cut for each location. Samples may be obtained from more than one toy.

A6.4.4 Samples shall be tested in the manner in which they appear on the toy (that is, exposed side face-up).

A6.4.5 Use the most onerous orientation (for example, warp or fill).

A6.4.6 If it is necessary to use a sample that consists of more than one type of fabric, then take the sample from the most onerous location.

A6.4.7 If fabric is layered and the layers are permanently secured to one another (for example, stitched together) at any point, cut through as many materials necessary to obtain the sample and include all layers in a single sample. Orient layers in the sample holder in the same manner they appear on the toy. (See Fig. A6.1.)

Figure A6.1. Layered Fabric Sample This is a poor drawing of a doll with lots of hair and dress consisting of several layers.

FIG. A6.1 Layered Fabric Sample

A6.4.8 For fabrics with finished ends made of a different material (that is, lace, ribbons, etc.) test the finished ends separately.

A6.4.9 If the finished ends consist of the same material as the sample being tested (that is, hemmed, folded, etc.) then attempt to exclude this from the 2 by 6 sample. In addition, if the fabric contains any seams or stitching, attempt to exclude them from the sample. If a sample cannot be extracted by excluding the finished ends or seams/stitching, then include them in the sample during testing, however, orient the sample in the fixture so that the finished ends or seams/stitching are at the top or side of the fixture to minimize any effect it may have on the burn rate.

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 179 of 298 A6.4.10 If the fabric requires support in order to be held in the fixture, then the use of thin gauge wire (24 AWG or higher) strung across the plate opening at equidistant points from each other is acceptable. (See Fig. A6.2.)

Figure A6.2. Fabric Requiring Support A rectangle is shown with a weave pattern and a set of diagonal lines that are thicker, which are presumably the support.

FIG. A6.2 Fabric Requiring Support

A6.4.11 Regardless of sample size, if the fabric has nonfabric components permanently attached to it (that is, buttons, sequins, beads, etc.) remove these components only if removal will not cause permanent damage to the fabric or to the non-fabric component. Then test each component separately as applicable. If permanent damage cannot be avoided during removal, then test with non-fabric components attached.

A6.5 Test Procedure

A6.5.1 Test fabrics per the test method specified in <u>16 CFR 1610.4(g)</u>.

A6.5.2 Use the equipment as specified in <u>16 CFR 1610.4(b)</u>.

A6.6 Requirements

A6.6.1 Plain Surface Fabrics:

A6.6.1.1 Specimens are acceptable if:

- 1. All specimens either did not ignite, ignited but selfextinguished, or any combination thereof.
- 2. Average burn time is 3.5 s or greater.

A6.6.1.2 If only 1 of 5 specimens ignites and burns the stop cord with a time of 3.5 s or more, samples are acceptable.

A6.6.1.3 If only 1 of 5 specimens ignites and burns the stop cord in less than 3.5 seconds, test another set of 5 specimens. Compute the average time of flame spread for all 10 specimens. If 2 or more of these specimens ignite and burn the stop cord, average the results from those specimens. If only 1 of the 10 specimens ignites and burns the stop cord, samples are acceptable.

A6.6.2 Raised Surface Fabrics:

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 180 of 298 A6.6.2.1 Specimens are acceptable if:

- 1. All specimens either did not ignite, ignited but selfextinguished, or any combination thereof.
- 2. Average burn time is 4 s or greater.
- 3. Average burn time is less than 4 s and all specimens burn with a surface flash where the intensity of the surface flame is insufficient to ignite, char, or melt the base fabric.
- 4. Only 1 of 5 specimens ignites and burns in less than 4 s and the base fabric does not ignite or fuse, the sample is acceptable.
- 5. Only 1 of 5 specimens ignites or burns in more than 4 s, regardless of whether the base fabric ignites or fuses, the sample is acceptable.

A6.6.2.2 To compute the average time of flame spread for each set of 5 specimens, at least 2 of the specimens must ignite and burn the stop cord.

A6.6.2.3 If only 1 of 5 specimens ignites and burns in less than 4 s where the base fabric ignites or fuses, test another set of 5 specimens. Compute the average time of flame spread for all 10 specimens. If 2 or more of the 10 specimens ignite and burn the stop cord, average the results from those specimens. If only 1 of the 10 specimens ignites and burns the stop cord, samples are acceptable.

A7. COMPOSITING PROCEDURE FOR TOTAL HEAVY METAL ANALYSIS

A7.1 Purpose

A7.1.1 Composite testing for a total digestion analysis may be conducted to potentially reduce the number of tests conducted. Combining different but like materials into a composite analysis must be done with adequate care and understanding of the limitations and potential propagations of error in measurement or the test may fail to detect excessive metals in one of the individual materials.

A7.2 Definitions

A7.2.1 *Composite Testing - Different Materials*— Combining different but similar materials to reduce the number of digestions and instrumental metal analyses performed.

A7.2.2 *Similar or Like Materials*— Materials that have similar characteristics
Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 181 of 298 may be combined into one composite sample. Glass may be composited together; and plastics composited together; however glass and plastic may not be composited together as they require different digestant mixtures to achieve complete digestion. Coatings on metal substrates should not be composited with coatings on non-metal substrates.

A7.3 Exclusions

A7.3.1 Metal substrates with different compositions should not be composited together as one may interfere in the digestion process and cause reprecipitation or incomplete digestion, therefore affecting the actual result.

A7.4 Sample Preparation

A7.4.1 Each individual component must be weighed individually with sufficient precision and sufficient safety factors to assure that no false negatives are reported.

A7.4.2 Sufficient materials must be used for each of the components giving proper consideration for the weighing capabilities of the balance used and the detection limits and necessary dilution for the subsequent instrumental analysis.

A7.4.3 The combined materials are digested according to the appropriate procedure, depending on the material, before analysis by atomic spectroscopy or other appropriate validated method.

A7.4.4 Appropriate weights of each of the individual materials composited depend on final dilution volumes, weighing accuracy, and detection limits.

A7.4.5 Equal weights (to the extent achievable by good laboratory practice) of each of the similar or like materials must be used in the composite sample.

A7.5 Calculation

A7.5.1 As an example, results for the Arsenic (As) content are calculated and reported as follows:

where:

c = concentration of arsenic detected (µg/ml)

d = dilution volume (mL)

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W = weight of aliquot digested (mg)

A7.5.1.1 One example of composite testing of different plastics would be as follows, and considers the case of weighing to the nearest 0.01 mg, digesting in acid, diluting to a final volume of 10 or 20 mL, and testing on an ICP-OES with an MDL of 0.04 μ g/mL. A sample comprising red, green, and orange plastics is tested as a composite using 15.0 mg of red plastic, 16.0 mg of green plastic, and 17.0 mg of orange plastic. The resulting 48.0 mg of composite plastic from this example is digested in acid and diluted to 10 ml, and then the diluted digest is found to contain 0.0008 % arsenic. The combined 3 aliquots of plastic would have contributed to a total of 0.40 μ g of arsenic for the composite sample. Although the average concentration in this case would be 8 ppm, the individual contributions are not known, and one must calculate the arsenic concentration of each plastic as if all of the arsenic originated from it. Thus, the red plastic could contain up to 0.4 μ g / 0.0015 g = 27 ppm (μ g/g), with similarly calculated results of 25 ppm and 24 ppm for the green and orange plastics. See <u>Table A7.1</u>.

A7.5.2 As another similar example, results for the arsenic (As) content are calculated and reported in Table A7.2. All of individual plastics (11 ppm, 11 ppm, 12 ppm) in the above composite do not exceed 0.0020 % (20 ppm) for arsenic (80 % of 0.0025 % arsenic limit). The composite passes and so do the individual plastics. Therefore the plastics do not need to be tested individually.

A7.5.3 Composite analysis by ICP-MS or another validated method of equivalent sensitivity or the use of a larger sample weight may be necessary when an element has a low regulatory limit and high detection limit (reporting limit), such as with arsenic.

A7.6 Rationale

A7.6.1 Composite heavy element testing of several samples of slightly differing but essentially similar materials (for example, several colors of polyethylene plastic) is desirable to reduce testing cost if this can be accomplished without compromising in any way the achievement of the same attribute (that is, pass/fail) result which would have been reached had the samples been tested individually. Annex A7 outlines detailed procedures for accomplishing this end by specifying the conditions under which compositing is allowable, when a composite result may be relied upon without further testing, and when testing of individual samples must subsequently be performed. Composite testing has been limited to total digestion (vis-a-vis soluble) analyses primarily in order to align with the European Union

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 183 of 298 harmonized standard EN 71-3, which specifically forbids compositing for its required (soluble) analyses.

ltem	(c) Analytical Results As (μg/ml)	(d) Dilution Volume (ml)	Total As (μg)	(w) Sample wt (mg)	Potential As (%) per Component	As (%) Composite
Red Plastic	0.04A	10	0.4A	15.0	0.0027	
Green Plastic	0.04A	10	0.4A	16.0	0.0025	
Orange Plastic	0.04A	10	0.4A	17.0	0.0024	
Total Composite	0.04A	10	0.4A	48.0		0.0008B

^A In a composite of different plastics, the analytical result for the total composite would be applied to each component part as if all the arsenic was in that component plastic.

^B In this example, the arsenic concentration of the combined plastics is 0.0008 %, which is below the 0.002 % arsenic acceptable limit (80 % of the 0.0025 % arsenic limit), however any individual component having a result based on it's sample weight that is greater than 80 % of the heavy metal limit should be retested individually. For example, all of individual plastics in the above composite exceed 0.0020 % for arsenic (80 % of 0.0025 % arsenic limit) so all of the plastics should be tested individually. This calculation and data interpretation would be applied to the remaining heavy metals.

A8. RATIONALE FOR 2007 REVISIONS

A8.1 Definitions¹⁷

¹⁷ This rationale pertains only to those changes made in the 2007 edition of Consumer Safety Specification F963. Rationales for previous editions may be obtained from ASTM International Headquarters by requesting Research Report RR:F15-1000.

A8.1.1 <u>Section 3</u>— New definitions for terms used in this version of Consumer Safety Specification F963:

- hazardous magnet
- hazardous magnetic component

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- impulsive sound
- maximum A-weighted sound pressure level
- rattle
- reference
- strap
- tangle or form a loop
- yo-yo elastic tether toy

A8.2 Sound Producing Toys

A8.2.1 Sections <u>4.5</u> and <u>8.19</u>— These sections have been totally replace by a new set of requirements and a new test procedure.

A8.2.1.1 These requirements have been developed after extensive review of known research on noise-related injury to hearing and existing published recommendations for noise limits. They are intended to reduce the risk of damage to hearing due to high continuous and impulse noise levels. They apply only to toys that are designed to emit sound, i.e., toys that have sound producing features such as electric or electronic devices, percussion caps, rattling components, etc.

A8.2.1.2 The requirements in <u>4.5.1.1</u> and <u>4.5.1.2</u> are intended to address those hazards presented by continuous sounds (e.g., speech, music). These hazards are chronic and typically manifest themselves after years of exposure. The Occupational Safety and Health Administration (OSHA) has set acceptable limits at 85 dB(A) for 8 h of exposure. An independent audiologist consulted by the ASTM work group recommended a similar exposure level. His recommendations for an 8 h exposure level, Leq, 8h, were 85 dB(A) for continuous sound, and 82 dB(A) for the continuous sound emitted from toys that produce both continuous and impulsive sound.

A8.2.1.3 Exposure to noise from toys is intermittent and integrated with other daily noises. It is unlikely that a toy would present 8 h continuous exposure to sound. These assumptions are consistent with the findings of European research conducted by ISVR Consultancy Services in Southampton U.K. and published as <u>"Noise from Toys and its Effect on Hearing."</u> Based on that study, the probable duration of play with a sound producing toy was determined by the ISVR to be 1.5 h per day.

A8.2.1.4 Using the recommended exposure levels from the audiologist, the

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 185 of 298 ISVR study's conclusion on the duration of play, and a 3 dB exchange rate, the equivalent recommended values are 92.3 dB(A) and 89.3 dB(A), respectively. Rounding each value to the nearest 5 dB(A) yields 90 dB(A) for both. The ISVR study referenced above also concluded that 25 cm was an average use distance for toys. However, a 50 cm distance is superior for measurement purposes. Therefore, the 25 cm, 90 dB(A) requirement was converted to its 50 cm equivalent. The 50 cm free-field equivalent of 90 dB(A) at 25 cm is 84 dB(A). This was rounded to 85 dB(A) to arrive at the final requirement.

A8.2.1.5 The ISVR study uses a distance for close-to-theear toys of 2.5 cm. Using the same reasoning applied above, the 50 cm free-field equivalent of 2.5 cm, 90 dB(A) is 64 dB(A). This was rounded to 65 dB(A) to arrive at the final close-to-the-ear-toy requirement.

A8.2.1.6 The requirements in <u>4.5.1.3</u>-<u>4.5.1.5</u> are intended to address those hazards presented by impulsive sounds (e.g., percussion caps), which can be especially hazardous. Permanent damage to hearing may occur after only one exposure to high impulsive sound levels.

A8.2.1.7 A technically accurate impulsive sound requirement would involve a combination of decibel levels and number of repetitions per day of the sound and also determining the potential for misuse (actuating close to the ear). This alternative would result in some subjective determinations regarding repetitions/day and the likelihood for actuating close to the ear. Therefore, a conservative approach was adopted that limits impulsive sounds to 120 dB (C-weighted peak). This requirement protects against misuse and allows up to 10 000 repetitions per day according to OHSA guidelines. The 50 cm free-field equivalent of 25 cm, 120 dB(C) is 114 dB(C). This was rounded to 115 dB(C) to arrive at the final requirement. This requirement only applies to impulsive sounds created by non-explosive means (e.g., two masses colliding).

A8.2.1.8 Impulsive sound level requirements for toys that produce sound from explosion (e.g., caps) have been treated separately. A higher decibel level (125 dB(C)) is allowed for these types of toys because of the human ear's inability to respond to waveforms with such rapid rise-times such as these.

ltem	(c) Analytical Results As (μg/ml)	(d) Dilution Volume (ml)	Total As (μg)	(w) Sample wt (mg)	Potential As (%) per Component	As (%) Composite
Red Plastic	0.04	20	0.8	72.0	0.0011	

TABLE A7.2 Total Arsenic (As) Analysis - Composite Testing

Case 1.1	3-01-01-21-3-1	SC DUCUII			ZZ/IJ Faye I	00 01 290
Green Plastic	0.04	20	0.8	70.0	0.0011	
Orange Plastic	0.04	20	0.8	66.0	0.0012	
Total Composite	0.04	20	0.8	208.0		0.0004

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A8.3 Yo Yo Elastic Tether Toys

A8.3.1 Sections <u>4.37</u> and <u>8.23</u>— The task group concluded that the mass on the end of the tether was significant in creating the strangulation potential of a yo yo elastic tether toy. That is why these yo yo products have been associated with near strangulations, and similar products with little mass on the end such as a "sticky" hand have no similar data. The mass was determined by weighing product known to be associated with wrapping around neck. Yo yo elastic tether samples evaluated weighed 0.1 kg (0.2 lb), 0.07 kg (.15 lb), and 0.07 kg (0.15 lb). Estimated weight of sticky hand (hand portion only) is 0.0045 kg (0.01 lb). The appropriate value for the mass at the end of the tether was chosen to be between these two values, 0.02 kg (0.04 lb).

A8.3.1.1 The cord length is based on two times the neck circumference of a 5th-percentile 3-year-old from Childata, or 2 24.0 cm = 48 cm (18.9 in.). The age of 3 years was chosen based on the age of children involved in the incident data.

A8.3.1.2 The rotational speed of 80 RPM was determined by testing adults and determining the maximum RPM they can achieve rotating a product above their heads. The range of adult speed was 80 - 108 RPM, the average was 90 RPM and the standard deviation was 7 based on a sample size of 14. This was reduced to 80 RPM as an estimate for the speed children 3 to 6 years old can achieve. The incident data indicated that children 3 to 6 years old are most often involved in yo yo elastic tether incidents.

A8.4 Magnets in Toys

A8.4.1 Section <u>4.38</u>— These requirements address the recent incidents of magnet ingestion resulting in serious injury or death by identifying magnets or magnetic components that can be readily swallowed. It requires these hazardous magnets and hazardous magnetic components to be reliably contained in a product, or carry a warning. Hazardous magnets and hazardous magnetic strength of concern, along with a size and shape that can be swallowed.

A8.4.1.1 The following areas were considered:

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- a. Data indicate that powerful magnets have been involved in all known ingestion incidents to date. The data also suggest that magnet ingestion was not a problem in toys until powerful magnets (such as NIB magnets) became cost effective and commonplace several years ago. Ceramic, rubberized, and ferrite magnets have substantially lower attractive forces and therefore must be made larger to provide sufficient magnetism, which makes them less likely to be swallowed.
- b. The magnets/magnetic components involved in the ingestion incidents were small objects (see <u>4.6</u> and <u>Fig. 3</u>). Therefore, the requirements have indicated that hazardous magnets or hazardous magnetic components must not be small objects.
- c. The exemptions represent magnets which are used in applications that are not obvious to the consumer. These are very common magnet uses and there are no data associated with these magnets.
- d. Products intended for children under three are already subject to the small parts requirement which would include these magnets or magnetic components.

A8.4.2 Section <u>5.17</u>— The warning specifically explains the hazard as "sticking across intestines." Studies of warnings show that when the audience can "picture it," even when there is no picture, then compliance with the warning increases. In the final analysis, the "intestines" statement makes this warning more effective than it would be without it.

A8.4.3 Section <u>8.24</u>— If the play pattern of the toy includes repeated attaching and detaching of the magnet(s), the magnet(s) shall be subjected to repeated attachment and detachment that is expected over the life of the toy. Furthermore, if it is likely that other components included in the toy can attach to the magnet(s), then the magnet(s) and the other components shall be dropped/impacted together during use/abuse testing.

A8.5 Hemispheric Shaped Objects

A8.5.1 Section <u>4.36</u>— Data analysis of the "cupped" shaped objects involved in the fatal and non-fatal incidents, indicated that the wall thickness of the objects involved in the incidents ranged from approximately 0.04 in. (1 mm) to 0.12 in. (3 mm). Based on this data, it was believed that wall thickness was not a concern. It is also important to note that, wall thickness is not a relevant factor for objects with diameters at the upper end of the requirements as these sized objects may fit around/under the chin.

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 188 of 298 A8.5.1.1 However, since publication of this requirement, questions have been raised in the United States and Europe regarding objects with "thick" walls or rims—what is the appropriate measurement for these objects, inner or outer diameter? The work group has discussed the intent of the requirement and has concluded that the inner diameter measurement is the critical element in determining whether or not a "cupped" shaped object has the potential to fit a child's face and create a vacuum. Therefore, a change from outer diameter to inner diameter is recommended.

A8.5.2 Section <u>4.36.6(e)</u>— The new option for a single large opening in the base includes the area that is defined by the original two small opening minimum dimensions (0.080 in./2 mm) and the minimum space in between these openings (0.5 in./13 mm). The 0.66 in./17 mm dimension is calculated as 0.080/2 mm + 0.080/2 mm + 0.5/13 mm. This approach is consistent with the option for ventilation in <u>4.16.1.1</u>. Similarly, placement of this opening at least 0.5 in. (13 mm) from the rim of the object should ensure that facial features such as the nose or chin, or flesh, will not completely block the opening.

A8.6 Miscellaneous Technical Issues

A8.6.1 Section <u>4.12</u>— The purpose of this section is to minimize the potential of asphyxiation hazards that may be caused by thin packaging film, including sheets and bags. Plastic sheeting/bags may adhere to a child's mouth and nose making it impossible to breathe. Since the most frequent pattern of death is the covering of the face, the exemption is based on the size of the face and not whether the plastic is a bag or a sheet. CPSC anthropometry data for the face of a 4 to 6-month-old indicates a minimum head height of 125 mm (4.9 in.) and minimum face width of 85 mm (3.3 in.). This is the basis for the exemption, which is a minor dimension of <3.9 in. (100 mm). Plastic sheets or bags with a minor dimension less than 3.9 in. (100 mm) will not entirely cover the face of a 4 to 6-month-old infant.

A8.6.1.1 Both ISO 8124 and <u>EN 71</u> allow for perforations of the sheeting if it does not meet the thickness requirements. There is no injury data from the EU to indicate that perforated film presents a hazard. The 1 % area for perforations is considered to be sufficient to sustain an air flow and prevent the adhering of the film to the face.

A8.6.2 Section <u>4.14</u>:

A8.6.2.1 Section <u>3.1.75</u>— Definition of strap added to clarify and expound test method verbiage in <u>4.14</u>. Children under the age of 18 months have

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 189 of 298 developed certain gross motor skills (e.g., can grasp and pick up objects). However, they lack fine motor skills such as those required to insert the end of cords/straps/elastics though a small opening or to wrap a cord/elastic multiple times around a wheel.

A8.6.2.2 Section <u>4.14.1.1</u>— Details requirements for breakaway features on cords, straps, and elastics.

A8.6.2.3 *Section <u>4.14.2</u>*— Clarifies scope of test method by adding "strap" as an additional type of cord/elastic covered by the requirement.

A8.6.2.4 Section <u>8.22.2</u>— This section provides an additional testing method and supplemental diagrams (with details for additional equipment) that should be used for materials that have a loop perimeter smaller than the tapered end of the head probe.

A8.6.2.5 *Section <u>8.22.3</u>*— Details testing method for determining the release force required for breakaway features on cords, straps, and elastics.

A8.7 Miscellaneous Editorial Changes

A8.7.1 Section <u>4.6</u>— The word "choking" has been added to the test to be consistent with the language of <u>16 CFR 1501</u>.

A8.7.2 Section <u>4.15.6</u>— This section references the dynamic strength test in <u>8.20</u>. This reference had been omitted in the previous version of Consumer Safety Specification F963.

A8.7.3 Section <u>4.17</u>— Reference to the wrong definition has been corrected to <u>3.1.60</u>.

A8.7.4 Section <u>4.25</u>— Abuse testing in <u>8.6-8.10</u> of the standard is not applied to toys intended for children over 96 months (this is laid out in <u>Table 5</u>). Therefore, it is redundant and unnecessary to break down the age group in this way in the requirement section.

A8.7.4.1 Section <u>4.25.10.6(2)</u>— Corrected reference to test procedure to <u>8.18.7</u>.

A8.7.5 Section <u>8.6</u>— Explicitly states the age requirements as they pertain to abuse testing (for clarification). Also, the word "test" has been corrected to "toy" in the third sentence.

A8.7.6 Section <u>8.18.6.1</u>— The text has been changed to correct errors in the

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 190 of 298 procedure contained in the previous version of this section.

A9. RATIONALE FOR 2008 REVISIONS

A9.1 Jaw Entrapment

A9.1.1 Section 4.39— There have been product recalls in past years to address incidents of jaw entrapment. There have been additional incidents of jaw entrapment in toy products that did not rise to the level of a recall. All but one incident involved entrapment in a handle or steering wheel. When a child's jaw becomes entrapped in a product, there is potential for damage to teeth and gums, long term orthodontic consequences and impairment of normal speech development. Most cases of jaw entrapment involve children less than 18 months of age. (See Fig. A9.1 and Table A9.1, and Table A9.2.) There is no incident data indicating handles that are connected to the toy with a hinge and handles made from a pliable material (for example, straps and ropes) pose a risk of jaw entrapment.

Figure A9.1. Facial Measurements (Figure 1) A man's face is shown from the side profile. Distances A, H, G, F, E, and R are marked. A is from eyebrow to back of head. E is nasion to base of nose. R is the depth of the nose. F is nasion to samion. G is nasion to depression in chin. H is nasion to bottom of chin. A H G F E R

Figure 1 (of A9.1). Locations of head and face measurements established by anatomical landmarks (side view).

Figure A9.1b. Facial Measurements (Figure 2) Distances B, I, J, K, L, M, N, D, and C are shown on this front view of a male head.B is the length across of the head (not counting ears). I is from the inner points of each eye. J and K are unmarked but are points on each side of the nose. L is the length across from the nose and is longer than J and K. M is the normal lip length, N is the extended lip length. D is not labelled but appears to be the length from the outside of each eye. C is the distance from the edge of the face where the ear is across to the other inner part of the ear. D C B I J K L M N Figure 1 (of A9.1). Locations of head and face measurements established by

anatomical landmarks (front view).

NOTE -

F. Nasion-Stomion Distance: The distance between the nasal root depression and the point of upper and lower lip intersection.
H: Nasion-Menton: This measurement, taken from the nasal root depression to the lower point on the chin, defines total face height.
M: Lip length, normal: A bilateral measurement (bichelion diameter) of distance between the external corners of the mouth. This measurement

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 191 of 298 is taken with all facial muscles relaxed.

N: Lip length, extended: A bilateral measurement (bichelion diameter) of maximum distance between the corners of the mouth in a condition of voluntary extension using muscles of facial expression.

FIG. A9.1 Facial Measurements

A9.1.2 *Anthropometric Data*— The April 1966 study titled "Selected Facial Measurements of Children for Oxygen-Mask Design"¹⁸ provides very useful anthropometric data.

¹⁸ Young, J. W., <u>"Selected facial measurements of children for oxygen-mask design,"</u> AM 66-9, AM Rep., 1966, Apr: 1-11.

A9.1.2.1 To provide protection for children up to the age of 18 months:

Width—Using the maximum estimated stomion-menton dimension and rounding up, indicates the gauge should be 3.8 cm (1.5 inches) in width.

Length—The 95th percentile mouth breadth for 2 to 3.5 year olds (the youngest age available) is 3.8 cm (1.5 inches) from Childata (see Table A9.3 and Table A9.4). One inch was added resulting in the 2.5 inch length. A safety factor of 2.54 cm (1 inch) was used for mouth breath since the anthropometric data is based on a mouth at rest, and a mouth can be expected to stretch significantly from this position. Alternately, the lip length dimensions above can be used to arrive at the same estimate, rounding up, of 6.35 cm (2.5 inches).

A9.1.2.2 To provide protection against the youngest user becoming entrapped:

Width—A gauge width of 1.9 cm (0.75 inches) was chosen based on the minimum stomion menton distance for a 1 month old.

Length—The small jaw breadth of 1.9 cm (0.75 inches) is based on the 5th percentile 2 year old mouth breadth which is 2.54 cm (1.0 inch), so to be conservative 75 % of that was used.

A9.1.2.3 The task group considered adding a requirement as suggested at the meeting that the scope only cover handles and steering wheels that are able to be placed in the mouth, or would be teethable. The task group considered this suggestion and determined that this modification would not be made since incident data demonstrated that some products created jaw entrapment without the need for the child to place the product in his/her mouth (for example, the child's jaw was entrapped without the need for the

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Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 192 of 298 child to introduce the handle end of the push toy into the mouth).

1	i	1	1	i	i		1	1
Age	# children ^A	Mean Nasion- menton distance ^B	Range Nasion- menton distance	Mean Nasion- stomion istance ^C	Range Nasion- stomion distance	Estimated mean stomion- menton distance	Estimated minimum stomion- menton distance	Estimated maximum stomion- menton distance
1 mo	20	2.36	2.28-2.72	1.58	1.46-1.69	0.78	0.82	1.03
6 mo	20	2.77	2.56-2.95	1.61	1.54-1.73	1.16	1.02	1.22
1 yr	20	2.85	2.68-3.03	1.76	1.69-2.13	1.09	0.99	0.90
2 yr	20	3.14	3.03-3.27	1.98	1.81-2.17	1.16	1.22	1.10
3 yr	20	3.37	3.15-3.66	2.05	1.89-2.20	1.32	1.26	1.46
4 yr	20	3.41	3.19-3.58	2.08	1.57-2.20	1.33	1.62	1.38
5 yr	31	3.49	3.23-3.78	2.16	2.05-2.40	1.33	1.18	1.38
6 yr	91	3.6	3.11-3.98	2.23	2.01-2.56	1.37	1.10	1.42

TABLE A9.1 Facial Measurements (in Inches)

^A Per the author, sex distribution was reasonably constant across age groups; no sex distinction was made in groups 1 month through 4 years.

^B From nasal root depression to the lower point on the chin (a measure of face height).

^C From nasal root depression to the intersection of the lips.

A9.1.2.4 The task group considered adding simulated teeth to the gauge. The task group concluded that the addition of teeth was not advisable because the incidents being addressed involved entrapment of the child's jaw. The teeth of the child may have influenced the resulting entrapment, however, the proposed requirement accounts for the presence of the teeth. Also, for a very young child the dimensions of the teeth are variable, since the teeth are just erupting.

A9.1.2.5 The task group added a depth of greater than 1.3 cm ($\frac{1}{2}$ inch) to both gauges to clarify that this is a three dimensional test. The depth of 1.3 cm ($\frac{1}{2}$ inch) was chosen based on dimensions of products known to be associated with jaw entrapment and the need for only a small portion of the child's jaw to be introduced into the space of the incident products.

	#	Lip Len	gth, Normal	Lip Length, Extended, extrapolated base on percentage increase in lip length for older children, or 50 % increase over largest normal lip length
Age	children ^A	Mean	Range	Maximum
1 mo	20	1.08	0.98- 1.26	1.89

TABLE A9.2 Lip Length, in Inches

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6 mo	20	1.09	0.95- 1.34	2.01
1 yr	20	1.28	1.14-1.5	2.25
2 yr	20	1.18	0.98-1.5	2.25
3 yr	20	1.38	1.22- 1.57	2.35
4 yr	20	1.49	1.26- 1.69	2.54

^A Per the author, sex distribution was reasonably constant across age groups; no sex distinction was made in groups 1 month through 4 years.

TABLE A9.3 Mouth Breadth^A

Age	Sex	N	Mean (cm)	Sd	5th%ile cm (inch)	95th%ile cm (inch)
2-3.5	Mf	75	3.30	.40	2.70 (1.0)	3.80 (1.5)
3.5-4.5		71	3.40	.40	2.80 (1.1)	3.90 (1.5)

^A From Appendix B, Childata, The Handbook of Child Measurements and Capabilities Data for Design Safety Department of Trade and Industry.

TABLE A9.4 Mouth Opening^A

Age	Sex	N	Mean (mm)	Sd	Min	max
3	Μ	49	36.0	5.39	22	47
4	м	67	37.3	5.47	22	52
5	Μ	56	39.9	4.02	27	47

^A From Appendix B, Childata, The Handbook of Child Measurements and Capabilities Data for Design Safety Department of Trade and Industry.

A9.2 Folding Mechanisms and Hinges

A9.2.1 Section 4.13— The scope of this section has been modified such that the requirement is not limited to toys intended to support the weight of a child. Hinges can present potential pinch hazards regardless of whether the toy is intended to support the weight of a child. Examples and exclusions were reinstated from the previous version of this standard.

A9.3 Locking Mechanisms

A9.3.1 Sections <u>8.25.1</u> and <u>8.25.2</u>— The requirements for single- or doubleaction locking mechanisms are based on Consumer Safety Specification F406. This requirement is intended to ensure that children will not be able to unlock a locking device on their own-a caregiver will be required to unlock

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 194 of 298 the locking device. The requirement for a 45-lbf test on the locking mechanism is based on Consumer Safety Specification F404. An exemption for the 45-lbf test was added for products where the direction of the sitting load works against the direction of collapse of the folding mechanism. The requirement has also been modified to require that locking mechanisms or other means engage automatically to protect children who set up the product on their own. Reference to safety stops has been deleted because safety stop was not defined.

A9.4 Yo Yo Elastic Tether Toys

A9.4.1 Section <u>4.37.2</u>— Sports balls are exempt from the Yo Yo Ball requirements, since these requirements were not intended to address this type of product. The work group agreed it will clarify the standard if we specifically exempt them.

A9.5 Impaction Hazards

A9.5.1 Section <u>4.32.2</u>:

A9.5.1.1 This section has been developed to address products intended for children under 48 months of age that meet specific dimension criteria such that they produce a fall-on impaction hazard. This revision is based on incident data provided by the CPSC involving objects that are long enough to be pushed into the mouth, probably past the uvula in a fall-on incident, and large enough to prevent or inhibit removal, even by an adult caregiver. Products less than 2.25 in. (the length of the small parts cylinder) in length are excluded as are products less than 15 mm in diameter. These exemptions are based on the dimensions of products in the incident data. Flexible items are exempt because the flexible end assures they will not create a fall-on impaction hazard.

A9.5.1.2 The impaction hazard addressed by <u>4.32.2</u> is different from the hazard associated with preschool play figures addressed in <u>4.32.3</u>. The preschool play figures were associated with seven deaths by choking and one incident resulting in serious injury. The incidents involved children under the age of 2 with one exception which involved a developmentally delayed child. In addition there were other choking incidents with the preschool play figures that did not result in significant injury.

A9.5.1.3 The distance to the undercut is based on the dimensions of the small ball test fixture.

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 195 of 298 A9.5.1.4 The age grade of the product associated with the 2 most recent fatalities was 3+, so this requirement applies to products intended for children under 48 months of age to address the known incident data (ages of victims: 7 mo., 9 mo., 13 mo., 13 mo., 19 mo., 22 mo., 2 yr., 2 yr., 4 yr with severe developmental delay).

A9.5.1.5 There is no force associated with this test because the test is not intended to simulate an actual impaction incident. Rather, it is designed to identify the size and shape of products associated with these incidents.

A9.5.1.6 The supplemental gauge is used to identify the size and shape of objects associated with incident data and is not related to the size of the child for these incidents. Similarly, the 1.1 lb exemption is related to the weight of objects associated with this type of hazard, not the strength capabilities of children.

A9.6 Sound Producing Toys

A9.6.1 Section <u>4.5.1.2</u>— This section contains acoustic requirements that are being interpreted by some laboratories is such a way to fail safe push/pull toys. The requirement needs to be changed for the following reasons:

- 1. The standard states in 4.5 that the requirements apply to "toys that are designed to produce sound." Further to this, the intent of the section is to apply the sound pressure level requirements to those features of the toy designed to produce sound. During the pass-by test for push/pull toys, the contact between the wheels of the product and the test surface will produce a continuous sound that will significantly contribute to the overall sound pressure measurement. The tester will be unable to distinguish between the contributions to the overall sound level made by the wheels versus those made by the mechanism designed to produce sound. Therefore, a true measurement of the intended continuous sound producing mechanism cannot be achieved by the methodology given in the standard.
- 2. Among other factors, the levels in the standard are based a use distance of 25 cm (do not confuse this with the measurement distances specified in the standard). The distance from the noise producing mechanism to the ear of the child on the push/pull toys discussed here would be much greater than 25 cm. Because the relationship between sound pressure level and distance follows the inverse square law, an increase in the distance from the sound mechanism to the ear of the child would reduce the sound pressure

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 196 of 298 level at the ear of the child dramatically. The risk of hearing loss would be reduced to such an extent as to make it insignificant.

3. It is implausible that a child could sustain the maximum speed at which the push/pull toy is tested (2 m/s). The speed represents a "worst-case" condition that would only be achievable momentarily at best. This supports regulating against immediate, acute hazards such as impulsive sounds versus chronic hazards that are presented by exposure to long-term, excessively loud continuous sounds.

A9.6.2 In addition, the proposed change would further harmonization between this standard and the European toy standard EN 71-1.

A9.7 Magnets

A9.7.1 Sections <u>4.38</u>, <u>5.17</u>, and <u>8.24</u>— These sections were revised to account for the incidents (ingestions) due to magnetic components that were small parts and to reflect the age of the children involved with the incidents. It also introduces the special use and abuse requirements to avoid magnets from detaching from magnetic components during play.

A9.8 Toy Chests

A9.8.1 *Deletion of Sections 4.27, 6.2, 7.2, and 8.14*— Toy chests are considered as children's furniture and have their own set of safety requirements that are already covered in Consumer Safety Specification F834.

NOTE A9.1— The section numbers above refer to the previous version of the standard; the subsequent sections have been renumbered in the current version.

A10. RATIONALE FOR 2011 REVISIONS

A10.1 Certain Toys with Nearly Spherical Ends

A10.1.1 Section <u>4.32</u>:

A10.1.1.1 The requirements of <u>4.32.2</u> do not apply to tethered components as specified in the exclusions because it is highly unlikely a child will have an impaction injury associated with such a tethered component given the weight of the product and the length of the tether. Also, there is no incident data associated with the tethered components being excluded.

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 197 of 298 A10.1.1.2 Following are examples provided and suggested interpretation as to whether these shapes fall within the scope of 4.32.2 of Consumer Safety Specification F963. These interpretations assume that the dimensions of the part and age grade of the product are such that it falls within the scope of 4.32.2.

Figure p65a. Domed Pegs This is a photograph of domed pegs, some in a pile and some in a peg board.

Requirements of 4.32.2 apply to this domed peg, even if the very center of the head is flat or has a through hole.

Figure p65b. Drum This is a photograph of a a mallet is hitting a drum.

Requirements of <u>4.32.2</u> do not apply to this mallet since it is not a nail, screw, peg, or bolt.

Figure p65c. A peg. A photograph of a peg with a domed cap.

The requirements of 4.32.2 do apply to this item because the end is domed.

Figure p65d Three photographs of plastic screws. One is apparently a torx, one has a slotted end, the third is perhaps a Phillips.

Requirements of 4.32.2 do not apply to these toy fasteners because the end is not spherical, hemispherical or domed. The end is flat across the top.

Figure p66 This is a diagram of two toy bolts with domed caps.

The requirements of <u>4.32.2</u> do apply. These are toy bolts with domed tops.

A10.2 Test for Stability of Ride-On Toys or Toy Seats

A10.2.1 Subsection 8.15.4 – To distinguish between the load placement for fore and aft stability and sideways stability. With the current test methodology, some laboratories and auditors have mistakenly taken the requirements in this subsection to mean both fore and aft stability and also sideways stability. Subsection 8.15.4 states, "The center of gravity of the load for all ride-ons shall be secured both 1.7 in. (43 mm) rearward of the front-most portion of the designated seating area and 1.7 in. (43 mm) forward of the rearmost portion of the designated seating area (note: two separate tests). If there is no designated seating area, the load shall be placed at the least favorable position that it is reasonable to anticipate that the child will choose to sit."

A10.2.1.1 As you can see, <u>8.15.4</u> only addresses fore and aft stability. Additional rationale can be found in the original test methods from the Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 198 of 298 Voluntary Product Standard PS 72-76. In Section 4.15.1.1 (d) it states, "The load shall be applied so that its center of gravity lies in a true vertical 6 inches above the center of the seat." In Section 4.15.2 it states, "The load shall be applied in the least favorable position on the seat for each direction."

A10.3 Abuse Testing

A10.3.1 <u>Table 5</u>— <u>Table 5</u> is specifically written to address the drop test, which is a subsection of impact testing. <u>Table 5</u> is written to address the drop test. This is a technical correction to the table.

A10.4 Test for Overload of Ride-On Toys and Toy Seats

A10.4.1 *Section <u>8.26</u>*— There is no test method currently specified for overload therefore this test method is being proposed and it is consistent with the way independent test labs have been performing the test.

A10.5 Stability and Over-Load Requirements

A10.5.1 Section <u>4.15</u>—Wherever "seat" appears in this section, it has been changed to "toy seat" and a definition for toy seats has been developed. The issue is that furniture is exempt from Consumer Safety Specification F963, however, toys that are their counterparts are covered. It can be difficult to discern between a toy seat and a piece of children's furniture. Therefore, these changes are proposed to clarify that the scope of this standard only applies to toy counterparts of furniture and juvenile products.

A10.6 Plastic Film

A10.6.1 Section <u>4.12</u>— This section applies to "flexible plastic film bags and flexible plastic sheets used as packaging materials for shelf packages or used with toys." The title refers to packaging film but the requirement refers to plastic film used with toys. The wording was changed to clarify the scope of the requirement. Also deleted part of the test method section, which is already covered by the requirement section.

A10.7 Teethers and Teething Toys, Rattles, and Squeeze Toys

A10.7.1 Sections <u>4.22</u>, <u>4.23</u>, and <u>4.24</u>— The change to exempt soft-filled (stuffed) toys from the rattles, squeeze toys and teethers sections is being made to be consistent with exemptions found in: <u>16 CFR 1510</u>, Rattles; <u>EN-71</u>, <u>Clause 5.8</u>, Shape and Size of Certain Toys; and with Consumer Safety Specification F963, Section <u>4.32</u>, Certain Toys with Nearly Spherical Ends.

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 199 of 298 However, if a stuffed toy contains an internal rigid component (rigid is defined in Consumer Safety Specification F963 as material with a hardness >70 Shore A scale durometer) then the gauges would be applied. If the rigid internal component does not penetrate the full depth of the gauge(s), the toy would PASS. If the rigid internal component does penetrate the full depth of the gauge(s) the toy would FAIL if the major dimension of the rigid component is >1.2 in. (30 mm) or would PASS if the major dimension of the rigid component is <1.2 in. (30 mm). The rigid internal component requirements harmonize with the requirements of <u>EN-71, Clause 5.8</u>.

A10.8 Jaw Entrapment in Handles and Steering Wheels

A10.8.1 Section <u>4.39</u>— There have been product recalls in past years to address incidents of jaw entrapment. There have been additional incidents of jaw entrapment in toy products that did not rise to the level of a recall. All but one incident involved entrapment in a handle or steering wheel. When a child's jaw becomes entrapped in a product, there is potential for damage to teeth and gums, long term orthodontic consequences and impairment of normal speech development. Most cases of jaw entrapment involve children less than 18 months of age. (See Fig. A9.1, Table A9.1, and Table A9.2.) There is no incident data indicating handles that are connected to the toy with a hinge and handles made from a pliable material (for example, straps and ropes) pose a risk of jaw entrapment.

A10.8.2 Anthropometric Data— The April 1966 study titled <u>"Selected Facial</u> <u>Measurements of Children for Oxygen-Mask Design</u>"¹⁸ provides very useful anthropometric data.

A10.8.2.1 To provide protection for children up to the age of 18 months:

Width—Using the maximum estimated stomion-menton dimension and rounding up, indicates the gauge should be 3.8 cm (1.5 in.) in width.

Length—The 95th percentile mouth breadth for 2 to 3.5 year olds (the youngest age available) is 3.8 cm (1.5 in.) from Childata (see <u>Table A9.3</u> and <u>Table A9.4</u>). One inch was added resulting in the 2.5 in. length. A safety factor of 2.54 cm (1 in.) was used for mouth breath since the anthropometric data is based on a mouth at rest, and a mouth can be expected to stretch significantly from this position. Alternately, the lip length dimensions above can be used to arrive at the same estimate, rounding up, of 6.35 cm (2.5 in.).

A10.8.2.2 To provide protection against the youngest user becoming entrapped:

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 200 of 298 *Width*—A gauge width of 1.9 cm (0.75 in.) was chosen based on the minimum stomion menton distance for a 1 month old.

Length—The small jaw breadth of 1.9 cm (0.75 in.) is based on the 5th percentile 2 year old mouth breadth which is 2.54 cm (1.0 in.), so to be conservative 75 % of that was used.

A10.8.2.3 The task group considered adding a requirement as suggested at the meeting that the scope only cover handles and steering wheels that are able to be placed in the mouth, or would be teethable. The task group considered this suggestion and determined that this modification would not be made since incident data demonstrated that some products created jaw entrapment without the need for the child to place the product in his/her mouth (for example, the child's jaw was entrapped without the need for the child to introduce the handle end of the push toy into the mouth).

A10.8.2.4 The task group considered adding simulated teeth to the gauge. The task group concluded that the addition of teeth was not advisable because the incidents being addressed involved entrapment of the child's jaw. The teeth of the child may have influenced the resulting entrapment, however, the proposed requirement accounts for the presence of the teeth. Also, for a very young child the dimensions of the teeth are variable, since the teeth are just erupting.

A10.8.2.5 The requirement was modified to clarify the gauges must pass completely through the opening. The gauge depth was modified from the original requirement of greater than $\frac{1}{2}$ in. to the present requirement of 1 in. When passing the gauge through the opening, a depth must be specified to assure the test results are consistent.

A10.9 Strings and Lines for Flying Devices

- A10.9.1 Subsection 4.14.4 EN 71-1 (Clause 4.13) and ISO 8124-1 (Clause
- 4.11.7) both use "resistance" instead of "resistivity." Resistance = resistivity length/area, therefore, this change is being made for consistency. Also,

the units have been corrected to ohms per centimetre (V/cm).

A10.10 Heavy Elements

A10.10.1 Subsections 4.3.5 and 8.3:

A10.10.1.1 The soluble approach for determination of heavy elements in toys and toy components has been selected over total element limits as this has been demonstrated to be more closely correlated with the amount of Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 201 of 298 element which is bioavailable, and therefore with risk of toxicity. These requirements (and test methods) and this rationale have been based on requirements from European toy safety requirements found in EN 71-3 (and ISO 8124-3).

A10.10.1.2 The scope is intended to indicate an approach to the decision of what toys, or toy components are excluded from the standard because of characteristics that render them unlikely to present a risk of injury by the ingestion of materials containing the toxic elements.

A10.10.1.3 Toys and toy components that are accessible to the child during play are subject to these requirements unless otherwise indicated. Some materials such as metal, glass, and ceramic are exempted if they are not small parts.

A10.10.1.4 Unless included in a toy, modeling clays, which are covered in the EN 71-3 requirements for heavy metals are not covered in these heavy metals requirements because they are already exempt from Consumer Safety Specification F963 as indicated in 1.4 and subject to the federal requirements of LHAMA.

A10.10.1.5 The list of excluded materials is based on the regulatory exclusions provided by the U.S. Consumer Product Safety Commission (CPSC), specified at <u>16 CFR 1500.91</u>, in implementation of the requirements for lead and lead paint under Section 101 of the <u>Consumer Product Safety Improvement Act</u> (CPSIA) of 2008. While <u>EN 71-3</u> includes test methods for Paper and paperboard and Textiles (natural and synthetic), given the exemption for these products test methods for them have not been included here.

A10.10.1.6 Sections <u>8.3.2</u>-<u>8.3.6</u> provide a test procedure and manner of interpretation of results for solubility testing.

A10.10.1.7 As in <u>EN 71</u>, solubility testing is called for in the proposed ASTM standard. However, note that as described in <u>8.3.6</u>, an alternative approach may be used if validated per specified requirements.

A10.10.1.8 Component parts and materials may be separately tested and certified.

A10.11 Yo Yo Elastic Tether Toys

A10.11.1 Sections <u>4.37</u> and <u>8.23</u>— The task group concluded that the mass on the end of the tether was significant in creating the strangulation potential of a yo yo elastic tether toy. The risk of strangulation appears much lower for

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 202 of 298 products with very light ends compared to the yo-yo type balls as seen on the market in 2003 with end weights of 65 to 85 g (0.14 to 0.19 lb). The lightweight end results in very slow rotational speed when swung overhead and there is much less recoil capacity of the tether due to significantly lower loading during rotation. Additionally, the lightweight "sticky hand" variety of yo-yo elastic tether toy had market presence, prior to 2003, with no reports of near-miss strangulation or other similar incident. The mass was determined by weighing product known to be associated with wrapping around the neck incidents. Yo yo elastic tether toy samples evaluated weighed 0.10 kg (0.2 lb), 0.07 kg (0.15 lb), and 0.07 kg (0.15 lb). The weight of four "sticky hand" variety of yo-yo elastic tether toys (hand portion only) was 0.005 kg (0.01 lb) 0.008 kg (0.02 lb), 0.009 kg (0.02 lb) and 0.012 kg (0.03 lb). The appropriate value for the mass at the end of the tether was chosen to be between these values, 0.02 kg (0.04 lb).

A10.11.1.1 The cord length is based on two times the neck circumference of a 5th-percentile 3-year-old from Childata, or 2 24.0 cm = 48 cm (18.9 in.). The age of 36 months and over was chosen based on the age of children involved in the incident data.

A10.11.1.2 The rotational speed of 80 RPM was determined by testing adults and determining the maximum RPM they can achieve rotating a product above their heads. The range of adult speed was 80 - 108 RPM, the average was 90 RPM and the standard deviation was 7 based on a sample size of 14. This was reduced to 80 RPM as an estimate for the speed children 36 months and over but under 72 months of age can achieve. The incident data indicated that children 36 months and over but under 72 months of age are most often involved in yo yo elastic tether toy incidents.

A10.11.1.3 The use of a cam with a variable speed drill assists in spinning the toy in the air. Specification of a cam length is required in order to achieve consistent results across laboratories, given that the length affects the load on the tether during rotation. The objective was to employ as short a length as possible, but one that would facilitate clamping and rotation of the toy. A 3 cm (1.18 in.) cam length was identified as one that adequately met both objectives.

A10.12 Miscellaneous

A10.12.1 Sections <u>1.4</u> and <u>3</u>—For clarification, juvenile products, constant air inflatables, powered and no-powered scooters have been added to the list of products which are not covered by the toy standard. Definitions for juvenile products and constant air inflatables have been added to the terminology

Case 1:13-cv-01215-TSC Document 122-1 Filed 12/22/15 Page 203 of 298 section.

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EXHIBIT 4 (FILED UNDER SEAL)

EXHIBIT 5

1	IN THE UNITED STATES DISTRICT COURT
2	FOR THE DISTRICT OF COLUMBIA
3	
4	AMERICAN SOCIETY FOR TESTING
5	AND MATERIALS d/b/a ASTM
6	INTERNATIONAL; NATIONAL FIRE
7	PROTECTION ASSOCIATION, INC.,;
8	and AMERICAN SOCIETY OF HEATING,
9	REFRIGERATING, AND AIR-CONDITIONING
10	ENGINEERS, INC.
11	Plaintiffs, CIVIL ACTION FILE
12	vs. NO. 1:13-CV-01215-EGS
13	PUBLIC.RESOURCE.ORG, INC.,
14	Defendant.
15	
16	30(b)(6) VIDEOTAPED DEPOSITION OF
17	STEVEN COMSTOCK
18	March 5, 2015
19	10:20 a.m.
20	1075 Peachtree Street
21	Suite 3625
22	Atlanta, Georgia 30309
23	Lee Ann Barnes, CCR-1852, RPR, CRR
24	
25	PAGES 1 - 199
	Dage 1
	Fage 1

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1	A Yesh shout 12 years and I had one taken	1	multip appage to some of its standards?
1	A. Tean, about 12 years ago I had one taken.		public access to some of its standards?
2	Q. Is that the only deposition?	2	A. we were actually noping to increase our
3	A. I hat's the only one.	3	sales of those standards. It would be to the to
4	Q. what kind of case did that involve?	4	allow somebody to view those standards, but not be
5	A. That was a personnel matter for our	5	able to download those standards or print those
6	organization.	0	standards. So that would drive demand for those
/	Q. Did you testify at trial?		for those standards.
8	A. No, I did not.	8	Q. What was ASHRAE's experience in that
9	Q. Did you have a chance to meet with	9	regard?
10	Mr. Lewis or other counsel before this deposition to	10	A. It was our experience was that it was
11	prepare for the deposition?	11	relatively flat. It didn't have seem to have much
12	A. Yes, I did.	12	of a positive impact, nor in in that case did it
13	Q. TII ask you to look at Exhibit 10/6	13	seem to have a negative impact.
14	(Defendant's Exhibit 10/6 was marked for	14	Q. Does ASHRAE have information about how many
15	identification.)	15	persons have accessed the standards in its reading
16	Q. (By Mr. Bridges) which is Defendant's	16	room?
17	Notice of 30(b)(6) deposition of ASHRAE. Please take	17	A. We did. We changed the the the
18	a look at it, Mr. Comstock.	18	software platform from which they were made available
19	Do you understand that you are here today	19	for viewing. We originally used we originally
20	testifying as a representative of ASHRAE on Topics 4,	20	used a RealRead vendor-supplied system and then we
21	5, 7, 8, 9, 10, 12, 13, 14, 18, 23, 24, 30, and 31?	21	went they went out of business, I believe, and
22	A. Yes, that's my understanding.	22	then we switched to iWrapper.
23	Q. When did ASHRAE start providing a reading	23	But I I know for certain when we were
24	room for public access to ASHRAE's standards?	24	with RealRead, we would track the views. There was
25	A. We made selected standards available for	25	no registration so we wouldn't know who those people
	Page 10		Page 12
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1 2	read-only access, and I believe that was about 15 years ago. I don't have the exact date. It was in	1 2	were, but we did track views. I think we do so with iWrapper, as well,
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4 (Pages 10 - 13)

1 2	there's a relationship between sales or licenses of a standard and incorporation of that standard into	1 2	standard before the revision has been on the reading room strike that.
3	law	3	Is "reading room" a term that you use at
4	MR. LEWIS: Objection.	4	ASHRAE?
5	O. (By Mr. Bridges) or regulation?	5	A. We do not.
6	A. No. We don't that's that's not a	6	O. What do you use what term do you use for
7	metric that we use at all. I mean. I imagine, you	7	the facility by which the public can view ASHRAE
8	know, perhaps you you look at where sales are	8	standards for free?
9	from, but we don't do that. That's not part of our	9	A. I believe we call it free viewing.
10	business.	10	O. Free viewing?
11	And I would think that the there's	11	A. Free viewing
12	people who do work in our industry do work across	12	O. When ASHRAE revises a standard and the
13	states, across municipalities, but that's not a	13	standard before that revision has been available for
14	metric that we we keep as part of our business	14	free viewing, does ASHRAE replace the older version
15	operation.	15	of the standard with the newer version of the
16	O. Apart from keeping a metric, do you have	16	standard for free viewing as soon as ASHRAE issues
17	any let's say anecdotal experience observing that	17	the standard?
18	incorporation of a particular ASHRAE standard leads	18	A Yes we do
19	to a jump in sales of that standard?	19	Ω And does ASHRAE then take the older version
20	MR LEWIS: Objection	20	of the standard out of the free viewing facility when
21	THE WITNESS: Really no I have I	21	that happens?
21	mean there'll be times when somebody will say	21	A Yes we do
23	to me "Steve how do I find an older version of	22	Ω Is there a reason why ASHRAF removes the
23	a standard in our bookstore "because we're	23	older standard from the free viewing?
25	we we have to put on education training	25	A That's been our process going back to when
20	Page 18	20	Page 20
1	related to that standard.	1	we first started the free viewing, which is the 15
1 2	related to that standard. So I have anecdotal questions that are	1 2	we first started the free viewing, which is the 15 years ago or so.
1 2 3	related to that standard. So I have anecdotal questions that are asked or comments that are made to me along	1 2 3	we first started the free viewing, which is the 15 years ago or so. And the the the reason for that is
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1	Washington.	1	MR. LEWIS: Objection.
2	Q. Who is ASHRAE's principal contact there?	2	THE WITNESS: Yes.
3	A. Riaz Ahmed.	3	Q. (By Mr. Bridges) And what would the
4	Q. R-I-A-Z A-H-M-E-D?	4	earlier versions be?
5	A. Yes. That's the first name and last name.	5	A. PDFs.
6	Q. Who at ASHRAE supervises the relationship	6	MR. LEWIS: Objection.
7	with iENGINEERING?	7	Q. (By Mr. Bridges) PDF.
8	A. Well, at the approving the payment of	8	And if one wanted to trace the evolution
9	invoices and approving the initiation of work, it is	9	across four versions to produce one document with
10	me, and and then there's a a gentleman in my	10	annotations showing, for example, when each provision
11	group who actually then works on a day-to-day basis	11	entered into the standard and when various provisions
12	with vendor relationships. David Soltis is his name.	12	disappeared from the standard, would the person need
13	Q. How do you spell Soltis?	13	to get permissions to reuse each of the four
14	A. S-O-L-T-I-S.	14	versions, according to ASHRAE's practices?
15	Q. If a member of the public wanted to write	15	A. If they were doing this for their personal
16	an article about the evolution of the 90.1 standard	16	use, then no, because that would be allowed for in
17	over the last 20 years by showing a comparison	17	their purchase of the standards.
18	through, let's say, a redline, an electronic	18	The permission would require would be
19	comparison let me back up.	19	required for the extent to which that person would
20	Do you understand what a redline is?	20	want to make information available more widely other
21	A. I do.	21	than for personal use, and then there would be
22	Q. If a member of the public wanted to write	22	considerations that would be given for amount of
23	an article about the evolution of the 90.1 standard	23	content, so on.
24	over the last 20 years by providing a redline of the	24	Q. Well, what what if somebody wanted to
25	various changes from version to version, is there	25	write an article criticizing the evolution and saying
	Page 42		Page 44
1	a what would the I'm going to start the	1	that it had gotten off track and wanting to
1 2	a what would the I'm going to start the question again. Let me strike that.	1 2	that it had gotten off track and wanting to illustrate the arguments by quoting substantial bits,
1 2 3	a what would the I'm going to start the question again. Let me strike that. If a member of the public wanted to write	1 2 3	that it had gotten off track and wanting to illustrate the arguments by quoting substantial bits, let's say two pages at a time for five different
1 2 3 4	a what would the I'm going to start the question again. Let me strike that. If a member of the public wanted to write an article about the evolution of the 90.1 standard	1 2 3 4	that it had gotten off track and wanting to illustrate the arguments by quoting substantial bits, let's say two pages at a time for five different instances.
1 2 3 4 5	a what would the I'm going to start the question again. Let me strike that. If a member of the public wanted to write an article about the evolution of the 90.1 standard over the last 20 years by providing a redline of	1 2 3 4 5	that it had gotten off track and wanting to illustrate the arguments by quoting substantial bits, let's say two pages at a time for five different instances. According to ASHRAE's practices, what would
1 2 3 4 5 6	a what would the I'm going to start the question again. Let me strike that. If a member of the public wanted to write an article about the evolution of the 90.1 standard over the last 20 years by providing a redline of various changes from version to version, what steps	1 2 3 4 5 6	that it had gotten off track and wanting to illustrate the arguments by quoting substantial bits, let's say two pages at a time for five different instances. According to ASHRAE's practices, what would be required for the person for that person to be
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	So they would have to specify the amount of content that they wish to use, what content, and how and what that use would be. Q. (By Mr. Bridges) Would ASHRAE give that permission without charge? A. We always use a balance in in in how we approach reprint requests. If I do not feel there's going to be a negative impact on the sales of of a standard, typically I will grant reprint permission use, because I think it also promotes awareness of a standard. I should say that we also have an on-line system that we use, as well, RightsLink. You can go to our website and you can see that. But that hasn't worked very well. That was my attempt at trying to remove a little bit of the care and hand- re well	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	the proceedings.) VIDEOGRAPHER: This is the beginning of Video 2. We are going on the record at 11:46 a.m. Q. (By Mr. Bridges) Do you know roughly what percentage of publications income comes from government sources for ASHRAE? A. I do not. Q. Do you know what government support ASHRAE gets in the development or revision of standard standards? A. I am not aware of any funding received by ASHRAE for development or the revision of of standards. Q. You're aware that government employees participate in the standard development process? A. I do. And well L what Lam aware of
18	the time that has to go in with processing requests	18	is that there there may be individuals with the
19	In in that system, it was a cookie	19	government who purchase copies of of standards.
20	cutter, a certain amount of money for a certain	20	I'm not exactly sure of their role on project
21	for a certain number of figures and so on. But	21	committees, but but they are would be included
22	that's really not a very practical system and it's	22	in the the customer base for standards.
23	just about we I think we still have the link	23	Q. And you're aware that does the U.S.
24	there, but it's really doesn't have very good	24	government enter into any contracts with ASHRAE for
25	functionality.	25	the sale or availability of standards?
	rage 40		Page 40
1	Q. And it sounds to me as though the reason		A. We have had in in recent this is
1 2	Q. And it sounds to me as though the reason for that is that it wasn't flexible enough to	1 2	A. We have had in in recent this is in recent years, we've had three contracts I've been
1 2 3	Q. And it sounds to me as though the reason for that is that it wasn't flexible enough to accommodate different use cases?	1 2 3	A. We have had in in recent this is in recent years, we've had three contracts I've been engaged with related to the distribution of
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13 (Pages 46 - 49)

1 2	Q. I'd like to go back to the beginning of your answer, because I I didn't quite understand	1 2	A. So that was how we did the knew when it ended.
3	it.	3	Q. How could you distinguish, let's say,
4	The first contract was for making the 2010	4	between a download and a simple view of the document
5	version of the standard available in some fashion and	5	from ASHRAE's website?
6	I think first you said available to ASHRAE members	6	A. There was no viewing associated with this
7	and then I think you said available from the ASHRAE	7	particular functionality. You just clicked on a box
8	website for free download.	8	that said "Download."
9	Is did you mean available not	9	Q. Got it.
10	specifically to ASHRAE members, but available from	10	With what government agency was the
11	the ASHRAE website for download?	11	contract?
12	MR. LEWIS: Objection.	12	A. Our contract was with PNL, Pacific
13	THE WITNESS: I meant to say was available	13	Northwest Laboratory, which is a laboratory of the
14	for free download from the ASHRAE website.	14	U.S. Department of Energy.
15	Q. (By Mr. Bridges) Who and under that	15	Q. Did ASHRAE ever come to have an
16	contract, who had access to the free downloads?	16	understanding as to why Pacific Northwest Laboratory
17	A. Anyone who logged into our website and	17	wished to have that facility available?
18	clicked on the option to complete that download.	18	A. This was part of the the time frame is
19	Q. Oh, any person	19	2011, and I believe this was part of the the
20	A. Anybody could	20	Recovery Acts, the National Recovery Acts that were
21	Q any person, country?	21	in place at that time.
22	A. That's correct. Actually, in the world.	22	And I was approached by somebody from PNL
23	Q. In the world.	23	as a to do that. I do not know what their
24	A. That's my as I say that, that's my	24	their motivations were except to make the standard
25	recollection, is it was not rest I know it was	25	available.
	Page 50		Page 52
1	not restricted to members I misspoke at first	1	Q. Do you know how many downloads occurred
1 2	not restricted to members I misspoke at first and I think it was open to to anyone.	1 2	Q. Do you know how many downloads occurred under that contract?
1 2 3	not restricted to members I misspoke at first and I think it was open to to anyone. Q. And that's what I was trying to figure out.	1 2 3	Q. Do you know how many downloads occurred under that contract?A. I do not, but if if it was the 15 per
1 2 3 4	not restricted to members I misspoke at first and I think it was open to to anyone. Q. And that's what I was trying to figure out. A. Yeah.	1 2 3 4	Q. Do you know how many downloads occurred under that contract?A. I do not, but if if it was the 15 per download and the contract was \$322,000, it would be
1 2 3 4 5	 not restricted to members I misspoke at first and I think it was open to to anyone. Q. And that's what I was trying to figure out. A. Yeah. Q. Okay. So the first contract just to 	1 2 3 4 5	Q. Do you know how many downloads occurred under that contract?A. I do not, but if if it was the 15 per download and the contract was \$322,000, it would be that division.
1 2 3 4 5 6	not restricted to members I misspoke at first and I think it was open to to anyone. Q. And that's what I was trying to figure out. A. Yeah. Q. Okay. So the first contract just to summarize again, the first contract was for ASHRAE to	1 2 3 4 5 6	 Q. Do you know how many downloads occurred under that contract? A. I do not, but if if it was the 15 per download and the contract was \$322,000, it would be that division. (Defendant's Exhibit 1077 was marked for
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14 (Pages 50 - 53)

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1	PNL, to my to my knowledge.	1	Now, the first agreement I believe was
2	Q. The just the format, it's in response to	2	\$188,000, in that neighborhood. The second agreement
3	an RFP or request for proposals.	3	was \$230,000. The the but the second
4	Do you know what the RFP No. 140008	4	agreement, I think so the first one, it would be
5	specified?	5	dividing the 45,000 into that \$45 into that total
6	A. I I do not.	6	amount. The second agreement actually included two
7	Q. The proposal envisioned that ASHRAE would	7	versions of 90.1, if I recall, and two different
8	promote the free download program through targeted	8	versions of the IECC, so it could have been that cost
9	e-mails to members of ASHRAE; correct? I'm looking	9	was \$90 total in \$90 per unit into that \$230,000
10	rough just above the midpoint in that exhibit.	10	number.
11	A. Correct.	11	Q. And just to clarify one thing.
12	Q. Do you know to what extent ASHRAE promoted	12	In the last couple of answers, you referred
13	the free download program to the broader public,	13	to the first contract and the second contract. If we
14	apart from members of ASHRAE?	14	put them in the context of the other contract, that
15	A. I we put notices on our website to is	15	would make these the second and third contracts?
16	my recollection. I believe we did news releases, but	16	A. That's correct.
17	I am that's an assumption on my part.	17	O. Okay. In your answer just now, when you
18	O. And then you said there were two other	18	were saving first and second, in the broader scope.
19	contracts: is that correct?	19	you were referring to the second and third contracts:
20	A. That's correct. Both of those also	20	is that correct?
21	involved versions of Standard 90.1 and then also	21	A. That is correct.
22	included a document, the the IECC that I	22	O. As a result of these contracts, did ASHRAE
23	referenced.	23	observe any effect on its other sales or licenses of
24	O. Were they on roughly the same terms as the	24	the 90.1 standard?
25	terms in Exhibit 1077?	25	A. These these three contracts all involve
	Page 54		Page 56
	e		Ū į
1	A No. That that was a a different	1	distribution of not the current version of the ASHRAF
1	A. No. That that was a a different	1	distribution of not the current version of the ASHRAE standard but the previous version
1 2 3	A. No. That that was a a different arrangement. For that process, the documents were sent in hard copy form to recipients who were	1 2 3	distribution of not the current version of the ASHRAE standard, but the previous version.
1 2 3 4	A. No. That that was a a different arrangement. For that process, the documents were sent in hard copy form to recipients who were provided to us from the from PNI And the	1 2 3 4	distribution of not the current version of the ASHRAE standard, but the previous version. Did we see any noticeable change in the distribution or the sales of the the current
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1 2 3 4 5 6 7	A. No. That that was a a different arrangement. For that process, the documents were sent in hard copy form to recipients who were provided to us from the from PNL. And the distribution was made by ICC, which is the publisher of the IECC. ICC is International Code Council.	1 2 3 4 5 6 7	distribution of not the current version of the ASHRAE standard, but the previous version. Did we see any noticeable change in the distribution or the sales of the the current version? Nothing seemed to jump out. Q. Did ASHRAE observe any noticeable effect on the distribution even of the earlier versions apart
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$ \begin{array}{c} 1 \\ 2 \\ 3 \\ 4 \\ 5 \\ 6 \\ 7 \\ 8 \\ 9 \\ 10 \\ 11 \\ 12 \\ 13 \\ 14 \\ 15 \\ 16 \\ 17 \\ 18 \\ 19 \\ 20 \\ 21 \\ 22 \\ 21 \\ 22 \\ 22 \\ 22 \\ 22 \\ 22$	 A. No. That that was a a different arrangement. For that process, the documents were sent in hard copy form to recipients who were provided to us from the from PNL. And the distribution was made by ICC, which is the publisher of the IECC. ICC is International Code Council. Q. Were the second and third contracts contracts between PNL and ICC? A. No. I believe they were contracts between PNL and ASHRAE and then ICC was engaged to fulfill the agreement. Q. Do you recall the expected audience, recipients, of the hard-copy publications in the second and third contracts? A. I believe the targeted audience for that was code officials at state and municipalities. Q. Do you recall quantities and financial terms for the second and third contracts? A. The the the purchase price for the 90.1 inclusion was the same as this, \$15, if I recall, and then there was a I believe ICC charge for distribution of the IECC was also \$15 and then 	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	distribution of not the current version of the ASHRAE standard, but the previous version. Did we see any noticeable change in the distribution or the sales of the the current version? Nothing seemed to jump out. Q. Did ASHRAE observe any noticeable effect on the distribution, even of the earlier versions, apart from from these contracts? A. Intuitively, I would think there would have been some impact, but I can't say we didn't monitor that, so I have no evidence one way or the other. Q. So you don't know one way or the other whether these contracts cannibalized other types of sales of the same versions? A. Yeah, I have no no evidence one way or the other. Q. Has ASHRAE entered into any other agreements for public access or distribu public access to or distribution of its strike that. Has ASHRAE en entered into any other
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$ \begin{array}{c} 1 \\ 2 \\ 3 \\ 4 \\ 5 \\ 6 \\ 7 \\ 8 \\ 9 \\ 10 \\ 11 \\ 12 \\ 13 \\ 14 \\ 15 \\ 16 \\ 17 \\ 18 \\ 19 \\ 20 \\ 21 \\ 22 \\ 23 \\ 24 \\ \end{array} $	 A. No. That that was a a different arrangement. For that process, the documents were sent in hard copy form to recipients who were provided to us from the from PNL. And the distribution was made by ICC, which is the publisher of the IECC. ICC is International Code Council. Q. Were the second and third contracts contracts between PNL and ICC? A. No. I believe they were contracts between PNL and ASHRAE and then ICC was engaged to fulfill the agreement. Q. Do you recall the expected audience, recipients, of the hard-copy publications in the second and third contracts? A. I believe the targeted audience for that was code officials at state and municipalities. Q. Do you recall quantities and financial terms for the second and third contracts? A. The the the purchase price for the 90.1 inclusion was the same as this, \$15, if I recall, and then there was a I believe ICC charge for distribution of the IECC was also \$15 and then there was a \$15 charge by ICC for printing, mailing, inventory distribution. 	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	distribution of not the current version of the ASHRAE standard, but the previous version. Did we see any noticeable change in the distribution or the sales of the the current version? Nothing seemed to jump out. Q. Did ASHRAE observe any noticeable effect on the distribution, even of the earlier versions, apart from from these contracts? A. Intuitively, I would think there would have been some impact, but I can't say we didn't monitor that, so I have no evidence one way or the other. Q. So you don't know one way or the other whether these contracts cannibalized other types of sales of the same versions? A. Yeah, I have no no evidence one way or the other. Q. Has ASHRAE entered into any other agreements for public access or distribu public access to or distribution of its strike that. Has ASHRAE en entered into any other agreements for broad public access to or distribution of its standards, either for free or for reduced mine?
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	 A. No. That that was a a different arrangement. For that process, the documents were sent in hard copy form to recipients who were provided to us from the from PNL. And the distribution was made by ICC, which is the publisher of the IECC. ICC is International Code Council. Q. Were the second and third contracts contracts between PNL and ICC? A. No. I believe they were contracts between PNL and ASHRAE and then ICC was engaged to fulfill the agreement. Q. Do you recall the expected audience, recipients, of the hard-copy publications in the second and third contracts? A. I believe the targeted audience for that was code officials at state and municipalities. Q. Do you recall quantities and financial terms for the second and third contracts? A. The the the purchase price for the 90.1 inclusion was the same as this, \$15, if I recall, and then there was a I believe ICC charge for distribution of the IECC was also \$15 and then there was a \$15 charge by ICC for printing, mailing, inventory, distribution. So that was a total per unit that L recall. 	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	distribution of not the current version of the ASHRAE standard, but the previous version. Did we see any noticeable change in the distribution or the sales of the the current version? Nothing seemed to jump out. Q. Did ASHRAE observe any noticeable effect on the distribution, even of the earlier versions, apart from from these contracts? A. Intuitively, I would think there would have been some impact, but I can't say we didn't monitor that, so I have no evidence one way or the other. Q. So you don't know one way or the other whether these contracts cannibalized other types of sales of the same versions? A. Yeah, I have no no evidence one way or the other. Q. Has ASHRAE entered into any other agreements for public access or distribu public access to or distribution of its strike that. Has ASHRAE en entered into any other agreements for broad public access to or distribution of its standards, either for free or for reduced price? MP. LEWIS: Objection
$ \begin{array}{c} 1\\2\\3\\4\\5\\6\\7\\8\\9\\10\\11\\12\\13\\14\\15\\16\\17\\18\\19\\20\\21\\22\\23\\24\\25\end{array} $	 A. No. That that was a a different arrangement. For that process, the documents were sent in hard copy form to recipients who were provided to us from the from PNL. And the distribution was made by ICC, which is the publisher of the IECC. ICC is International Code Council. Q. Were the second and third contracts contracts between PNL and ICC? A. No. I believe they were contracts between PNL and ASHRAE and then ICC was engaged to fulfill the agreement. Q. Do you recall the expected audience, recipients, of the hard-copy publications in the second and third contracts? A. I believe the targeted audience for that was code officials at state and municipalities. Q. Do you recall quantities and financial terms for the second and third contracts? A. The the the purchase price for the 90.1 inclusion was the same as this, \$15, if I recall, and then there was a I believe ICC charge for distribution of the IECC was also \$15 and then there was a \$15 charge by ICC for printing, mailing, inventory, distribution. So that was a total per unit, that I recall, of \$45. 	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	distribution of not the current version of the ASHRAE standard, but the previous version. Did we see any noticeable change in the distribution or the sales of the the current version? Nothing seemed to jump out. Q. Did ASHRAE observe any noticeable effect on the distribution, even of the earlier versions, apart from from these contracts? A. Intuitively, I would think there would have been some impact, but I can't say we didn't monitor that, so I have no evidence one way or the other. Q. So you don't know one way or the other whether these contracts cannibalized other types of sales of the same versions? A. Yeah, I have no no evidence one way or the other. Q. Has ASHRAE entered into any other agreements for public access or distribu public access to or distribution of its strike that. Has ASHRAE en entered into any other agreements for broad public access to or distribution of its standards, either for free or for reduced price? MR. LEWIS: Objection.

15 (Pages 54 - 57)

1	THE WITNESS: Was your question by	1	there would be books. And I believe that that
2	repeat the question, please?	2	that covers it.
3	Q. (By Mr. Bridges) Sure.	3	Q. Roughly what percentage of ASHRAE's
4	Has ASHRAE entered into any other	4	expenses pertain to the organization and supervision
5	agreements to provide broad public access to or	5	of the standards development process and the costs of
6	distribution of its standards either for free or for	6	publication and the costs of administering the
7	a reduced price?	7	permissions and distributions and the like?
8	A. At at times over the past not for	8	MR. LEWIS: Objection.
9	90.1, but for some other standards, a company may pay	9	THE WITNESS: I can speak to the side of
10	a license fee to make a standard available if it	10	that process that deals with the the the
11	relates specifically to their products. That would	11	publications part. I do not know what the
12	be a license agreement.	12	the costs would be to support the development of
13	And that's very rare. I mean, it's	13	the product. My role begins when we push that
14	it's perhaps one standard every three to five	14	standard out to the to to the marketplace.
15	vears would would be the case. But nothing with	15	What would be I I'd probably say
16	government like was done here	16	there are staff salaries that would be
17	O Okay What proportion of ASHRAE's yearly	17	attributable to standards activities from the
18	revenues comes from the monetization of its	18	publication side of things production so on
10	publications? Do you understand that term?	10	If you add portions of people's time together
20	A When you say "publications " do you include	20	we're probably speaking of four people from the
20	neriodicals?	20	publications side
21	O Good point so I'm going to withdraw my	21	And then the cost of the
22	Q. Good point, so thi going to withdraw my	22	infrastructure for the book for the
23	Question.	23	hockstore, the on line process, and worshowing
24	But I just want to make sure I think you	24	and finally the the the work that may be
25	understand my my word monetization in this Page 58	23	and finally the the the work that may be Page 60
	1 uge 50		1 uge 00
	C C		
1	context. You nodded, but the court reporter can't	1	involved in in in managing that on-line
1 2	context. You nodded, but the court reporter can't take nods down.	1 2	involved in in in managing that on-line bookstore.
1 2 3	context. You nodded, but the court reporter can't take nods down. Do you understand, broadly speaking,	1 2 3	involved in in in managing that on-line bookstore. Q. (By Mr. Bridges) Are you able to estimate
1 2 3 4	context. You nodded, but the court reporter can't take nods down. Do you understand, broadly speaking, monetization of publications through revenue sources	1 2 3 4	involved in in in managing that on-linebookstore.Q. (By Mr. Bridges) Are you able to estimatea percentage of ASHRAE's expenses involved in what
1 2 3 4 5	context. You nodded, but the court reporter can't take nods down. Do you understand, broadly speaking, monetization of publications through revenue sources like purchasing and licensing and the like?	1 2 3 4 5	involved in in in managing that on-line bookstore.Q. (By Mr. Bridges) Are you able to estimate a percentage of ASHRAE's expenses involved in what you've just described?
1 2 3 4 5 6	context. You nodded, but the court reporter can't take nods down. Do you understand, broadly speaking, monetization of publications through revenue sources like purchasing and licensing and the like? A. Yes.	1 2 3 4 5 6	 involved in in in managing that on-line bookstore. Q. (By Mr. Bridges) Are you able to estimate a percentage of ASHRAE's expenses involved in what you've just described? A. Boy, and I and I I left the
1 2 3 4 5 6 7	context. You nodded, but the court reporter can't take nods down. Do you understand, broadly speaking, monetization of publications through revenue sources like purchasing and licensing and the like? A. Yes. Q. And royalties?	1 2 3 4 5 6 7	 involved in in in managing that on-line bookstore. Q. (By Mr. Bridges) Are you able to estimate a percentage of ASHRAE's expenses involved in what you've just described? A. Boy, and I and I I left the easiest numbers, the printing costs, I just left out.
1 2 3 4 5 6 7 8	context. You nodded, but the court reporter can't take nods down. Do you understand, broadly speaking, monetization of publications through revenue sources like purchasing and licensing and the like? A. Yes. Q. And royalties? A. Yes.	1 2 3 4 5 6 7 8	 involved in in in managing that on-line bookstore. Q. (By Mr. Bridges) Are you able to estimate a percentage of ASHRAE's expenses involved in what you've just described? A. Boy, and I and I I left the easiest numbers, the printing costs, I just left out. Q. Right.
1 2 3 4 5 6 7 8 9	context. You nodded, but the court reporter can't take nods down. Do you understand, broadly speaking, monetization of publications through revenue sources like purchasing and licensing and the like? A. Yes. Q. And royalties? A. Yes. Q. What proportion of ASHRAE's yearly revenues	1 2 3 4 5 6 7 8 9	 involved in in in managing that on-line bookstore. Q. (By Mr. Bridges) Are you able to estimate a percentage of ASHRAE's expenses involved in what you've just described? A. Boy, and I and I I left the easiest numbers, the printing costs, I just left out. Q. Right. A. The cost to print
1 2 3 4 5 6 7 8 9 10	context. You nodded, but the court reporter can't take nods down. Do you understand, broadly speaking, monetization of publications through revenue sources like purchasing and licensing and the like? A. Yes. Q. And royalties? A. Yes. Q. What proportion of ASHRAE's yearly revenues comes from the monetization of its standards as	1 2 3 4 5 6 7 8 9 10	 involved in in in managing that on-line bookstore. Q. (By Mr. Bridges) Are you able to estimate a percentage of ASHRAE's expenses involved in what you've just described? A. Boy, and I and I I left the easiest numbers, the printing costs, I just left out. Q. Right. A. The cost to print Q. Right.
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1 2 3 4 5 6 7 8 9 10 11 12 13	 context. You nodded, but the court reporter can't take nods down. Do you understand, broadly speaking, monetization of publications through revenue sources like purchasing and licensing and the like? A. Yes. Q. And royalties? A. Yes. Q. What proportion of ASHRAE's yearly revenues comes from the monetization of its standards as publications? A. I'm making sure I'm doing the math right. Q. That's fair. That's fair. 	1 2 3 4 5 6 7 8 9 10 11 12 13	 involved in in in managing that on-line bookstore. Q. (By Mr. Bridges) Are you able to estimate a percentage of ASHRAE's expenses involved in what you've just described? A. Boy, and I and I I left the easiest numbers, the printing costs, I just left out. Q. Right. A. The cost to print Q. Right. A a unit would be included. You know, if if we have a hundred I'm just guessing now. If you have a I said those
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1	staff count plus about 200,000 in expenses?	1	Q. Is that David Hollman?
2	A. That's correct, for the portion of the	2	A. It was somebody with Carrier, Carrier
3	standards work that is involved in what we do, which	3	Corporation.
4	is the distribution of those to the to the	4	Q. Carrier UTC?
5	marketplace.	5	A. Yes. Yeah, yeah.
6	I probably in terms of context, our	6	Q. Does the name David Hollman ring a bell to
7	bookstore is actually we do that in partnership	7	you?
8	with an outside group, so that is a we pay fees	8	A. I I think so.
9	associated with any time orders are taken through	9	Q. Do you know whether he's an ASHRAE member?
10	our bookstore. So there are are costs that we	10	A. I do not know. Carrier's there are many
11	have through the through the vendor for operation	11	employees with with from of Carrier who are
12	of our bookstore.	12	members of ASHRAE.
13	Q. And just to be clear, I think you either	13	Q. Do you recall any other information ASHRAE
14	said this or started to say it. I think I didn't	14	has regarding any potential monetary loss as a
15	hear it completely.	15	consequence of defendant's conduct?
16	The expenses you just described were from	16	A. I have no firsthand knowledge of of
17	that point in the process where your part of the	17	that.
18	organization takes over and pushes the standards out	18	Q. Do you have any other information that you
19	to the public. These numbers did not include the	19	might have acquired secondhand?
20	costs and expenses and staffing that ASHRAE invests	20	A. With regard to
21	in the creation and revision of the standards	21	Q. Monetary losses.
22	themselves; correct?	22	A this this in this case?
23	MR. LEWIS: Objection.	23	Q. Caused by defendants, yes.
24	THE WITNESS: That is correct.	24	A. No, I do not have any any other
25	Q. (By Mr. Bridges) Has do you understand	25	knowledge of that.
	Page 62		Page 64
1	what a subvention is of a publication?	1	Q. Are you aware of any persons being misled
1 2	what a subvention is of a publication? A. I do not.	1 2	Q. Are you aware of any persons being misled as to a relationship between the defendants and
1 2 3	what a subvention is of a publication?A. I do not.Q. Has ASHRAE ever received any grants to	1 2 3	Q. Are you aware of any persons being misled as to a relationship between the defendants and ASHRAE?
1 2 3 4	what a subvention is of a publication?A. I do not.Q. Has ASHRAE ever received any grants to support the publication of any particular standards?	1 2 3 4	Q. Are you aware of any persons being misled as to a relationship between the defendants and ASHRAE?A. I'm not aware of that.
1 2 3 4 5	what a subvention is of a publication?A. I do not.Q. Has ASHRAE ever received any grants to support the publication of any particular standards?A. I have no knowledge of ASHRAE receiving	1 2 3 4 5	Q. Are you aware of any persons being misled as to a relationship between the defendants and ASHRAE?A. I'm not aware of that.Q. Are you aware of anybody being confused in
1 2 3 4 5 6	what a subvention is of a publication?A. I do not.Q. Has ASHRAE ever received any grants to support the publication of any particular standards?A. I have no knowledge of ASHRAE receiving funds for that.	1 2 3 4 5 6	 Q. Are you aware of any persons being misled as to a relationship between the defendants and ASHRAE? A. I'm not aware of that. Q. Are you aware of anybody being confused in any way as a consequence strike that.
1 2 3 4 5 6 7	 what a subvention is of a publication? A. I do not. Q. Has ASHRAE ever received any grants to support the publication of any particular standards? A. I have no knowledge of ASHRAE receiving funds for that. Q. Is ASHRAE aware of any monetary losses that 	1 2 3 4 5 6 t 7	 Q. Are you aware of any persons being misled as to a relationship between the defendants and ASHRAE? A. I'm not aware of that. Q. Are you aware of anybody being confused in any way as a consequence strike that. Are you aware of anyone being deceived in
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17 (Pages 62 - 65)

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1	ASHRAE.	1	five a total of five days of training, which is
2	Q. What newspaper were you working for?	2	a an intensive HVAC design training program, and
3	A. Bergen News.	3	much of that content deals with Standard 90.1
4	Q. Bergen County, New Jersey?	4	content, Standard 62.1 content.
5	A. Bergen County, New Jersey, yes.	5	Q. What other revenue-generating activities
6	Q. And you mentioned you graduated from a	6	does ASHRAE engage in, apart from the publication
7	school that had a very strong engineering program.	7	sales and licensing and the education offerings you
8	Which one was that?	8	just mentioned?
9	A. Lehigh University in Bethlehem,	9	A. Do you mean with a direct or indirect tie
10	Pennsylvania.	10	to standards, for example?
11	Q. So you had come to you came to ASHRAE	11	Q. Yes.
12	from a publishing and from a publishing background	12	A. The the magazine will our our
13	with a technology slant in the publishing?	13	principal magazine, which is a a trade
14	A. With a familiarity, to some degree, of	14	publication, B-to-B publication, ASHRAE journal
15	engineering, but it was mainly with an editorial	15	will will have will be quite often articles
16	background.	16	about ASHRAE standards there.
17	Q. To what extent strike that.	17	So that that is always when we have
18	Earlier today when we were talking about	18	topics related to standards, those are often articles
19	revenues, I think you were distinguishing between	19	that we will promote to our to our advertising
20	revenues that ASHRAE receives directly from the sale	20	base.
21	or licensing of publications and other revenues that	21	Q. What other activities does strike that.
22	may in some way involve the publications, such as	22	What other revenue-generating activities
23	training programs where a copy of a standard would be	23	does ASHRAE engage in relating to
24	furnished.	24	A. We have
25	Do you recall that?	25	Q standards?
	Page 70		Page 72
1	MR. LEWIS: Objection.	1	A. We have some electronic products, for
1 2	MR. LEWIS: Objection. THE WITNESS: Yes, I do.	1 2	A. We have some electronic products, for example, that are based on ASHRAE standards that
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19 (Pages 70 - 73)

2 3 4 5 6 7 8 9	 Q. What other rev revenue-generating activities does ASHRAE engage in pertaining to standards? A. We've covered royalties. We've covered the sales of the documents. We've covered the articles that would impact the advertising, the courses, the ancillary support documents. I could imagine at one at some extension of that could be either sessions that are presented at our conferences that would deal with 	1 2 3 4 5 6 7 8 9	that are are are deemed by peers to have been successful. They're developed by people who are recognized by their peer peers as being knowledgeable in their respective fields. So it provides standards. And especially the the ASHRAE handbook really provide they provide solutions. They they they incorporate new technology that's available in products and equipment and assist designers as to what new design options may be available because of new products in
11	90.1, for which for which there would be	11	the marketplace.
12	attendance interests that would be generated for	12	Q. You use terminology that I hear frequently.
13	that.	13	I often push back at it a little bit wherever I hear
14	I believe that I believe that would	14	it, so don't take this personally.
15	cover the the the potential for for revenue.	15	But I've never quite understood what
16	Q. Does the sale of strike that.	16	"solutions" means, because it's often a very vague
17	Does the sale and licensing of standards	17	term. Sometimes it's a liquid in a bottle; okay?
18	subsidize other ASHRAE activities apart from	18	That's not what you meant here.
19	standards development	19	How else would you describe what you're
20	MR. LEWIS: Objection.	20	referring to as solutions here?
21	Q. (By Mr. Bridges) and publication?	21	MR. LEWIS: Objection.
22	A. All of the revenue flows into a single	22	THE WITNESS: One of the things that I ve
23	are very low-selling standards so there are so it	23	is that there's so many different technologies
24	would be fair to say that some if a standard	24	that can be provided that are available to
25	Page 74	25	Page 76
1	concretes more revenue, that halve support these	1	maintain air in a huilding whathar it ha
2	activities that don't have revenue streams that would	1 2	conditioned air at a particular temperature or
2	cover them	2	air that's free of contaminants. There's many
5			an that's nee of containmants. There's many,
4	() There's no requirement that each activity	4	many different methods of applying technology
4 5	Q. There's no requirement that each activity fully self-support itself?	4	many different methods of applying technology, different types of technology, to provide a
4 5 6	Q. There's no requirement that each activity fully self-support itself? MR. LEWIS: Objection.	4 5 6	many different methods of applying technology, different types of technology, to provide a an air-conditioning HVAC system in a building
4 5 6 7	Q. There's no requirement that each activity fully self-support itself? MR. LEWIS: Objection. THE WITNESS: Our our obligation's to	4 5 6 7	many different methods of applying technology, different types of technology, to provide a an air-conditioning HVAC system in a building or a refrigeration system.
4 5 6 7 8	Q. There's no requirement that each activity fully self-support itself? MR. LEWIS: Objection. THE WITNESS: Our our obligation's to advance the technology. We we there are	4 5 6 7 8	many different methods of applying technology, different types of technology, to provide a an air-conditioning HVAC system in a building or a refrigeration system. And so designers have more choices
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^{20 (}Pages 74 - 77)
1	CERTIFICATE	
2		
3		
4	STATE OF GEORGIA:	
4	COUNTY OF FULTON.	
5		
6		
	I hereby certify that the foregoing transcript was	
7	taken down, as stated in the caption, and the	
	questions and answers thereto were reduced to	
8	typewriting under my direction; that the foregoing	
9	transcript of the evidence given upon said hearing	
	and I further certify that I am not of kin or counsel	
10	to the parties in the case; am not in the regular	
	employ of counsel for any of said parties; nor am I	
11	in anywise interested in the result of said case.	
12		
13		
15	Lee and Baines	
16	LEE AININ BAKINES, CCR B-1852, RPR, CRR	
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EXHIBIT 6

1	UNITED STATES DISTRICT COURT
2	FOR THE DISTRICT OF COLUMBIA
3	
	AMERICAN SOCIETY FOR)
4	TESTING AND MATERIALS,)
5	d/b/a ASTM INTERNATIONAL;) Civil Action No.
6	NATIONAL FIRE PROTECTION) 1:13-cv-01215-TSC
7	ASSOCIATION, INC.; and)
	AMERICAN SOCIETY OF)
8	HEATING, REFRIGERATION AND)
9	AIR CONDITIONING ENGINEERS,)
	Plaintiffs and)
10	Counter-Defendants,)
11	vs.)
12	<pre>PUBLIC.RESOURCE.ORG,INC.,)</pre>
13	Defendant and)
14	Counter-Plaintiff.
15	
16	VIDEOTAPED 30(b)(6) DEPOSITION OF NATIONAL
17	FIRE PROTECTION ASSOCIATION, INC., BY
18	CHRISTIAN DUBAY, before Jeanette N. Maracas,
19	Registered Professional Reporter and Notary
20	Public in and for the Commonwealth of
21	Massachusetts, at 42 Chauncy Street, Boston,
22	Massachusetts, on Wednesday, April 1, 2015,
23	commencing at 10:00 a.m.
24	
25	PAGES 1 - 250
	Page 1

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1	Q. In what forums do you speak as NFPA's primary 10:09:00	1	committee volunteers. 10:13:04
2	technical spokesman? 10:09:12	2	O. Is it the technical committee of volunteers 10:13:15
3	A. One example is media interviews. 10:09:15	3	who determine what constitutes the best 10:13:22
4	Q. How else? 10:09:25	4	minimum level of safety? 10:13:24
5	A. Another example is public forums around our 10:09:26	5	MR. REHN: Objection as to form. 10:13:26
6	technical topics of expertise, our standards. 10:09:32	6	A. It's a combination of our technical 10:13:29
7	Q. What type of public forums do you mean? 10:09:36	7	committee members determine the final 10:13:32
8	A. One example is speaking at the conferences 10:09:40	8	technical requirements, however, that's 10:13:34
9	and training seminars and such. 10:09:47	9	balanced with extensive public review and 10:13:37
10	Q. What types of conferences do you speak at 10:09:49	10	comment. 10:13:39
11	for NFPA? 10:09:52	11	Q. I'll come back to that in a minute. How else 10:13:49
12	A. In my current role primarily, I guess that's 10:09:52	12	do you in what other forums do you speak 10:14:14
13	a standards role, technically it could 10:09:57	13	as primary technical spokesman for NFPA? You 10:14:17
14	involve the topic at hand. It could be a 10:09:59	14	mentioned media interviews, certain public 10:14:24
15	trade event or an association of, say, an 10:10:01	15	forums. You mentioned conferences and 10:14:27
16	association of manufacturers or constituents 10:10:08	16	training seminars. Are there any other ways 10:14:29
17	or government, like fire marshals. 10:10:11	17	in which you serve as the primary technical 10:14:32
18	Q. On what topics do you typically speak at 10:10:18	18	spokesman for NFPA? 10:14:34
19	those conferences? 10:10:23	19	A. I often give presentations relating to 10:14:35
20	A. As broad as our scope of NFPA. 10:10:25	20	awareness of our process and awareness of how 10:14:39
21	Q. And how broad is that scope? 10:10:34	21	to get involved and how to be part of this 10:14:42
22	A. We our mission is based upon safety and 10:10:36	22	public codes and standards process. 10:14:46
23	improving safety and reducing loss. And that 10:10:42	23	Q. To whom do you make those presentations? 10:14:51
24	covers approximately 300 codes and standards 10:10:44	24	A. Various affected parties. Again, really 10:14:55
25	on a multitude of topics. 10:10:49	25	depends on the breadth of topics. So it 10:14:59
	Page 14		Page 16
1	Q. How do codes and standards improve safety 10:11:01	1	varies. 10:15:04
1 2	Q. How do codes and standards improve safety 10:11:01 and reduce loss? 10:11:03	1 2	varies. 10:15:04 Q. What are some examples of groups to which you 10:15:04
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1	montings are open to any one who wishes to $10.20.44$	1	nortion of their job is to ottend the 10:22:22
	meetings are open to anyone who wisnes to 10:30:44		technicel committee meetings 10:33:35
2			technical committee meetings. 10:33:36
3	Q. Anything else? 10:30:46	3	Q. What do the liaisons do at those meetings 10:33:39
4	A. No. I think that covers it. 10:30:49	4	when they attend them? 10:33:45
5	Q. What do you mean by call the meeting, NFPA 10:30:55	5	MR. REHN: Object to the form. 10:33:45
6	calls the meeting? 10:31:06	6	A. Their primary responsibility is to capture 10:33:46
7	A. We provide advance public notice when we call 10:31:08	7	all of the technical changes that the 10:33:51
8	the meeting, including on our website, social 10:31:12	8	committee is making to the document they're 10:33:54
9	media announcements to the committee members 10:31:16	9	working on or standard they're working on. 10:33:57
10	to make not only the committee but the public 10:31:20	10	Q. What do you mean by technical changes in that 10:34:02
11	aware of the next meeting date, location, 10:31:22	11	context? 10:34:24
12	et cetera. 10:31:26	12	A. Our technical committees are responsible for 10:34:27
13	Q. How does NFPA book the meeting? 10:31:29	13	developing changes to our codes and 10:34:31
14	A. We have a meetings department whose 10:31:34	14	standards. And one of the primary 10:34:34
15	responsibility is to book all of our 10:31:38	15	responsibilities of the technical staff 10:34:37
16	meetings. 10:31:41	16	liaison is to capture those changes. 10:34:39
17	Q. Does that mean to arrange the logistics, like 10:31:42	17	Q. In what respect are those changes technical 10:34:46
18	the hotels and conferences rooms and things 10:31:47	18	changes? 10:34:50
19	like that? 10:31:50	19	A. Those changes are specific, technical being 10:34:53
20	A. The meetings department is responsible 10:31:52	20	scientific or wording changes to our codes 10:34:57
21	MR. REHN: Objection to form. 10:31:51	21	and standards which are technical documents. 10:35:01
22	A. The meetings department is responsible for 10:31:56	22	Q. How do you distinguish between scientific 10:35:08
23	taking care of finding a proper hotel, large 10:32:02	23	changes and wording changes to the technical 10:35:11
24	enough meeting rooms, things like that. 10:32:04	24	documents? 10:35:17
25	Whatever the size of the logistics, they 10:32:07	25	MR. REHN: Object to the form. 10:35:18
	Page 26		Page 28
1	handle all the logistics around that meeting 10.22:00	1	Lacks foundation Mischarastarizes the 10.25:10
1	handle all the logistics around that meeting 10:32:09	1	Lacks foundation. Mischaracterizes the 10:35:19
1 2 2	handle all the logistics around that meeting 10:32:09 space and any required hotels. 10:32:12	1 2 2	Lacks foundation. Mischaracterizes the 10:35:19 testimony. 10:35:22
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8 (Pages 26 - 29)

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1	O. Is there anything about the development of 11:16:19	1	A. There are, I believe, nine interest 11:20:27
2	standards that the regulations do not cover? 11:16:21	2	categories including one example is 11:20:31
3	A. Our regulations cover the specific accredited 11:16:27	3	research and testing is an example. Another 11:20:37
4	rules and hence, its regulations. We also 11:16:33	4	example is enforcer, which includes 11:20:40
5	have our committee officers guide which 11:16:35	5	government officials both sometimes federal 11:20:44
6	provides guidance to our technical committee 11:16:37	6	but state and local jurisdictions as well as 11:20:48
7	members as well as our chairs and our manual 11:16:41	7	special expert which is consultants as an 11:20:52
8	style 11:16:46	8	example 11:20:56
9	O What other documents govern or regulate the 11:16:46	9	Users installer maintainers which 11:20:56
10	development of standards within NFPA? 11:17:44	10	are those who install the systems consumers 11:20:00
11	A Off the top of my head L cap't think of 11:17:56	11	and that's all I can think of I'm not sure 11:21:13
12	anything else 11.17.59	12	if I said it but consumer is another one 11:21:30
12	$0 \text{Who participates in } \text{ strike that} \qquad 11.18.09$	12	that can represent a special $-$ have a $11.21.30$
14	Who are the members generally 11:18:17	11/	specific slot Oh I'm sorry one other slot 11:21:35
15	speaking the category of NEPA's technical 11:18:20	15	is labor is another slot 11:21:35
15	committees? 11:18:26	15	O Thank you Are all NEPA amployees members of 11:21:51
17	A Just for clarification the representation or 11:18:20	10	the technical committees? 11:22:16
19	A. Just for claim cation, the representation of 11.18.29	17	MP_PEUN: Objection of to form 11:22:20
10	ate they members of NFFA? we have 11.18.30	10	A NEDA amplevees are not connot be members 11:22:23
20	our committee members 11:18:43	20	A. NFFA employees are not cannot be members 11.22.23
20	O When what persons are aptitled to be 11:18:43	20	stated provide it's important there's 11:22:20
21	Q. who what persons are entitled to be 11:16:45	21	an important role that NEDA staff plays in 11:22:30
22	MP_DEUN: Objection as to form 11:18:51	22	an important fore that NFFA start plays in 11:22:52
23	A Appendix construction as to form. 11.18.51	23	the estivities and maxiding their technical 11:22:33
24	A. Anyone can apply to be a memoer of an NFPA 11:18:55	24	avportise, especially technical staff lision 11:22:37
23	Page 50	23	Page 52
1	expertise and their background, they're 11:19:01	1	into this committee process. But they do not 11:22:43
1 2	expertise and their background, they're 11:19:01 evaluated through a process that ultimately 11:19:04	1 2	into this committee process. But they do not 11:22:43 have they're not members of the committee, 11:22:46
1 2 3	expertise and their background, they're 11:19:01 evaluated through a process that ultimately 11:19:04 involves standards council appointing them 11:19:07	1 2 3	into this committee process. But they do not 11:22:43 have they're not members of the committee, 11:22:46 and they do not carry a vote in the decisions 11:22:48
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1	How are persons chosen to serve on 11:24:06	1	It's ambiguous. 11:26:54
2	the standards council? 11:24:08	2	A. The final decision is accomplished through 11:26:56
3	MR. REHN: Object to the form. 11:24:12	3	that ballot of the technical committee, but 11:26:58
4	A. Because the standards council is the 11:24:15	4	the wording itself is that combination of the 11:27:01
5	overarching body over our entire standards 11:24:18	5	technical staff and the committee working to 11:27:05
6	development process, they are appointed 11:24:21	6	capture the requirement and get it worded 11:27:07
7	through a process that involves the NFPA 11:24:24	7	properly in the right context, in the right 11:27:09
8	president making recommendations to the NFPA 11:24:27	8	order within a document so that when the 11:27:12
9	board of directors. Ultimately the standards 11:24:29	9	final specific words are balloted, the 11:27:14
10	council members are appointed by our board of 11:24:33	10	committee has it in context of the whole 11:27:18
11	directors. 11:24:35	11	standards and they can make that decision, 11:27:20
12	Q. Are any NFPA employees members of the 11:24:40	12	seeing it within the body of the standard. 11:27:22
13	standards council? 11:24:43	13	Q. When the text is balloted, is there any 11:27:24
14	MR. REHN: Objection as to form. 11:24:45	14	indication to the members of the committee 11:27:27
15	A. Specifically, no. However, similar to the 11:24:49	15	what variations have occurred as a 11:27:32
16	technical committees, there is staff assigned 11:24:51	16	consequence of staff input from the text that 11:27:38
17	to support the standards council, their 11:24:55	17	the committee itself was proposing? 11:27:43
18	activities and their decisions. 11:24:58	18	MR. REHN: Objection as to form. 11:27:47
19	Q. I'd like to go back for a moment to the 11:25:11	19	Vague. Lacks foundation. Assumes facts not 11:27:48
20	process after the technical committee has 11:25:19	20	in evidence. 11:27:51
21	decided on changes to a standard. 11:25:26	21	A. There are really two types of changes the 11:27:53
22	And you say that a staff 11:25:31	22	committee is balloted on. One is the a 11:27:57
23	representative, NFPA staff representative 11:25:38	23	plain first revision or second revision, 11:28:01
24	will capture those changes from the technical 11:25:41	24	which may have been edited to comply with our 11:28:04
25	committee, correct? 11:25:44	25	manual style, get the wording right. That is 11:28:07
	Page 54		Page 56
1	MR. REHN: Object to the form. 11:25:48	1	connected directly to the work of the 11:28:09
1	MR. REHN: Object to the form. 11:25:48 A. The NFPA technical staff that serves as, the 11:25:50	$\begin{vmatrix} 1 \\ 2 \end{vmatrix}$	connected directly to the work of the 11:28:09 committee. The second is a revision that's 11:28:11
1 2 3	MR. REHN: Object to the form. 11:25:48 A. The NFPA technical staff that serves as, the 11:25:50 term we use is a staff liaison to a technical 11:25:54	1 2 3	connected directly to the work of the 11:28:09 committee. The second is a revision that's 11:28:11 tied to a pure editorial change. 11:28:15
1 2 3 4	MR. REHN: Object to the form. 11:25:48 A. The NFPA technical staff that serves as, the 11:25:50 term we use is a staff liaison to a technical 11:25:54 committee they do more than just capture the 11:25:56	1 2 3 4	connected directly to the work of the11:28:09committee. The second is a revision that's11:28:11tied to a pure editorial change.11:28:15O. Do either of these sets of revisions get11:28:19
1 2 3 4 5	MR. REHN: Object to the form. 11:25:48 A. The NFPA technical staff that serves as, the 11:25:50 term we use is a staff liaison to a technical 11:25:54 committee, they do more than just capture the 11:25:56 specific wordings 11:26:00	1 2 3 4 5	connected directly to the work of the 11:28:09 committee. The second is a revision that's 11:28:11 tied to a pure editorial change. 11:28:15 Q. Do either of these sets of revisions get 11:28:19 identified to technical committee members so 11:28:24
1 2 3 4 5 6	MR. REHN: Object to the form. 11:25:48 A. The NFPA technical staff that serves as, the 11:25:50 term we use is a staff liaison to a technical 11:25:54 committee, they do more than just capture the 11:25:56 specific wordings. 11:26:00 What they do is they are each 11:26:01	1 2 3 4 5 6	connected directly to the work of the 11:28:09 committee. The second is a revision that's 11:28:11 tied to a pure editorial change. 11:28:15 Q. Do either of these sets of revisions get 11:28:19 identified to technical committee members so 11:28:24 that they can understand what input or 11:28:28
1 2 3 4 5 6 7	MR. REHN: Object to the form. 11:25:48 A. The NFPA technical staff that serves as, the 11:25:50 term we use is a staff liaison to a technical 11:25:54 committee, they do more than just capture the 11:25:56 specific wordings. 11:26:00 What they do is they are each 11:26:01 technical experts in their field and they not 11:26:03	1 2 3 4 5 6 7	connected directly to the work of the11:28:09committee. The second is a revision that's11:28:11tied to a pure editorial change.11:28:15Q. Do either of these sets of revisions get11:28:19identified to technical committee members so11:28:24that they can understand what input or11:28:28changes if any the technical committee11:28:31
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	MR. REHN: Object to the form. 11:25:48 A. The NFPA technical staff that serves as, the 11:25:50 term we use is a staff liaison to a technical 11:25:54 committee, they do more than just capture the 11:25:56 specific wordings. 11:26:00 What they do is they are each 11:26:01 technical experts in their field and they not 11:26:03 only capture or record those changes, but 11:26:06 they provide their expertise to the 11:26:09 committee, their field experience, what they 11:26:11 have, the information that they're bringing 11:26:14 in through questions on the standards and 11:26:16 such. 11:26:18 And they provide that technical 11:26:19 expertise to the committee so the committee 11:26:21 can utilize that, a complete combination with 11:26:24 all the public input or comments, to land on 11:26:27 a final set of proposed language. In 11:26:37 They're not really recording secretaries, per 11:26:39	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 connected directly to the work of the 11:28:09 committee. The second is a revision that's 11:28:11 tied to a pure editorial change. 11:28:15 Q. Do either of these sets of revisions get 11:28:19 identified to technical committee members so 11:28:24 that they can understand what input or 11:28:28 changes, if any, the technical committee 11:28:31 staff contributed? 11:28:35 MR. REHN: Objection as to form. 11:28:44 to the technical committees for balloting. 11:28:48 And if there is, in the sense of an editorial 11:28:50 revision, it's indicated that this was 11:28:54 identified by staff as a potential editorial 11:28:57 revision. The committee can then, in their 11:29:01 voting, decide whether that change moves 11:29:10 Q. Where in the records of the development of 11:29:12 of those changes? 11:29:17
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 MR. REHN: Object to the form. 11:25:48 A. The NFPA technical staff that serves as, the 11:25:50 term we use is a staff liaison to a technical 11:25:54 committee, they do more than just capture the 11:25:56 specific wordings. 11:26:00 What they do is they are each 11:26:01 technical experts in their field and they not 11:26:03 only capture or record those changes, but 11:26:06 they provide their expertise to the 11:26:09 committee, their field experience, what they 11:26:11 have, the information that they're bringing 11:26:14 in through questions on the standards and 11:26:16 such. 11:26:18 And they provide that technical 11:26:21 can utilize that, a complete combination with 11:26:21 a final set of proposed language. In 11:26:37 They're not really recording secretaries, per 11:26:39 se. 11:26:43 Q. But who ultimately determines the language of 11:26:47 	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	connected directly to the work of the 11:28:09 committee. The second is a revision that's 11:28:11 tied to a pure editorial change. 11:28:15 Q. Do either of these sets of revisions get 11:28:19 identified to technical committee members so 11:28:24 that they can understand what input or 11:28:28 changes, if any, the technical committee 11:28:31 staff contributed? 11:28:35 MR. REHN: Objection as to form. 11:28:41 A. Yes, they all do. All changes are indicated 11:28:44 to the technical committees for balloting. 11:28:48 And if there is, in the sense of an editorial 11:28:50 revision, it's indicated that this was 11:28:54 identified by staff as a potential editorial 11:28:57 revision. The committee can then, in their 11:29:01 voting, decide whether that change moves 11:29:05 forward or not. 11:29:10 Q. Where in the records of the development of 11:29:10 each standard does one find the indications 11:29:12 of those changes? 11:29:17 MR. REHN: Objection to the form. 11:29:21 A. They are part of the first draft report or, 11:29:29
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 2	 MR. REHN: Object to the form. 11:25:48 A. The NFPA technical staff that serves as, the 11:25:50 term we use is a staff liaison to a technical 11:25:54 committee, they do more than just capture the 11:25:56 specific wordings. 11:26:00 What they do is they are each 11:26:01 technical experts in their field and they not 11:26:03 only capture or record those changes, but 11:26:06 they provide their expertise to the 11:26:09 committee, their field experience, what they 11:26:11 have, the information that they're bringing 11:26:14 in through questions on the standards and 11:26:16 such. 11:26:18 And they provide that technical 11:26:19 expertise to the committee so the committee 11:26:21 can utilize that, a complete combination with 11:26:24 all the public input or comments, to land on 11:26:37 They're not really recording secretaries, per 11:26:39 se. 11:26:43 Q. But who ultimately determines the language of 11:26:43 the technical committee's proposed changes to 11:26:47 a code or standard? 11:26:51 	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	connected directly to the work of the 11:28:09 committee. The second is a revision that's 11:28:11 tied to a pure editorial change. 11:28:15 Q. Do either of these sets of revisions get 11:28:19 identified to technical committee members so 11:28:24 that they can understand what input or 11:28:28 changes, if any, the technical committee 11:28:31 staff contributed? 11:28:35 MR. REHN: Objection as to form. 11:28:41 A. Yes, they all do. All changes are indicated 11:28:44 to the technical committees for balloting. 11:28:48 And if there is, in the sense of an editorial 11:28:50 revision, it's indicated that this was 11:28:54 identified by staff as a potential editorial 11:28:57 revision. The committee can then, in their 11:29:01 voting, decide whether that change moves 11:29:05 forward or not. 11:29:10 Q. Where in the records of the development of 11:29:10 each standard does one find the indications 11:29:12 of those changes? 11:29:17 MR. REHN: Objection to the form. 11:29:21 A. They are part of the first draft report or, 11:29:29 Both those reports consolidate the whole 11:29:33
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	MR. REHN: Object to the form. 11:25:48 A. The NFPA technical staff that serves as, the 11:25:50 term we use is a staff liaison to a technical 11:25:54 committee, they do more than just capture the 11:25:56 specific wordings. 11:26:00 What they do is they are each 11:26:01 technical experts in their field and they not 11:26:03 only capture or record those changes, but 11:26:06 they provide their expertise to the 11:26:09 committee, their field experience, what they 11:26:11 have, the information that they're bringing 11:26:14 in through questions on the standards and 11:26:16 such. 11:26:18 And they provide that technical 11:26:19 expertise to the committee so the committee 11:26:21 can utilize that, a complete combination with 11:26:24 all the public input or comments, to land on 11:26:27 a final set of proposed language. In 11:26:37 They're not really recording secretaries, per 11:26:39 se. 11:26:43 Q. But who ultimately determines the language of 11:26:43 the technical committee's proposed changes to 11:26:47 a code or standard? 11:26:51 MR. REHN: Objection as to form. 11:26:53	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	connected directly to the work of the 11:28:09 committee. The second is a revision that's 11:28:11 tied to a pure editorial change. 11:28:15 Q. Do either of these sets of revisions get 11:28:19 identified to technical committee members so 11:28:24 that they can understand what input or 11:28:28 changes, if any, the technical committee 11:28:31 staff contributed? 11:28:35 MR. REHN: Objection as to form. 11:28:41 A. Yes, they all do. All changes are indicated 11:28:44 to the technical committees for balloting. 11:28:50 revision, it's indicated that this was 11:28:54 identified by staff as a potential editorial 11:28:57 revision. The committee can then, in their 11:29:01 voting, decide whether that change moves 11:29:05 forward or not. 11:29:10 Q. Where in the records of the development of 11:29:10 each standard does one find the indications 11:29:12 of those changes? 11:29:17 MR. REHN: Objection to the form. 11:29:21 A. They are part of the first draft report or, 11:29:25 and/or, depending, the second draft report. 11:29:33 record. 11:29:35

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1	go strike that 11:40:50	1	that the text of the technical committee is 11:43:16
2	If you needed to identify the 11:40:53	2	halloted? 11:43:19
3	language that NFPA employees contributed to 11:40:55	3	MR REHN: Objection as to form 11:43:20
4	NEPA codes and standards how would you 11:41:05	4	Ambiguous Compound 11:43:22
5	determine that language? 11:41:07	5	A The text can evolve and by evolve you mean 11:43:25
6	MR REHN: Objection as to form 11:41:10	6	created and included? Is that what you're 11:43:28
7	It's vague and compound 11:41:11	7	saving? 11:43:31
8	A What we could determine is the language the 11:41:15	8	0 I think so 11.43.32
9	technical committee at the end of the day 11:41:19	9	A So in a few ways. One is it can be submitted 11:43:33
10	approved Into each individual word and 11:41:21	10	through a proposal form or public input form 11:43:37
11	such would be difficult if not impossible 11:41:25	11	or a public comment form. The language can 11:43:45
12	because of ultimately the technical staff 11:41:30	12	come from that It can come from the 11:43:49
12	provides that content to the committee which 11:41:33	12	evpertise of the technical committee members 11:43:53
14	then approves these words 11:41:35	13	who are sitting on the committee or it can 11:43:55
14	Q. You said the technical staff provides the 11:41:37	14	acma from technical staff providing that to 11:42:59
15	Q. Fou said the technical start provides the 11:41:37	15	the committee as their work programs along 11:44:01
10	content to the committee? The technical 11:41:44	10	Ultimately that evolution is the 11:44:01
1/	stari doesn't drait the standards, correct? 11:41:47	1/	Clumately that evolution is the 11:44:06
18	MR. REHN: Objection as to form. 11:41:51	18	staff liaison synthesizes all that with the 11:44:08
19	Mischaracterizes. 11:41:53	19	direction of the committee to land on the 11:44:13
20	A. In many cases the technical start in the room 11:41:59	20	final technical language that is balloted. 11:44:15
21	is drafting the text. 11:42:02	21	Q. With the direction of the committee, meaning 11:44:18
22	Q. Is proposing new text? 11:42:04	22	with the approval of the committee members? 11:44:29
23	A. In some cases yes, to accomplish what the 11:42:10	23	MR. REHN: Objection as to form. 11:44:31
24	committee is trying to accomplish. The 11:42:13	24	Mischaracterizes the testimony. 11:44:34
25	technical staff of NFPA are experts in their 11:42:15	25	Q. What do you mean by with the direction of the 11:44:36 Page 68
1	field, and the committee may want to 11:42:20	1	committee? 11:44:38
1 2	field, and the committee may want to11:42:20establish a requirement for X and the11:42:23	1 2	committee? 11:44:38 A. So a committee could want to establish a 11:44:40
1 2 3	field, and the committee may want to11:42:20establish a requirement for X and the11:42:23technical staff is there saying, well, we can11:42:24	1 2 3	committee?11:44:38A. So a committee could want to establish a requirement again for X for something and11:44:4011:44:45
1 2 3 4	field, and the committee may want to 11:42:20 establish a requirement for X and the 11:42:23 technical staff is there saying, well, we can 11:42:24 word it this way and that way, does this meet 11:42:27	1 2 3 4	committee? 11:44:38 A. So a committee could want to establish a 11:44:40 requirement again for X for something and 11:44:45 they may say, we want the requirement to read 11:44:48
1 2 3 4 5	field, and the committee may want to11:42:20establish a requirement for X and the11:42:23technical staff is there saying, well, we can11:42:24word it this way and that way, does this meet11:42:27your intent, how about we do this, I can11:42:29	1 2 3 4 5	committee?11:44:38A. So a committee could want to establish a11:44:40requirement again for X for something and11:44:45they may say, we want the requirement to read11:44:4812 and the staff liaison would have to put11:44:51
1 2 3 4 5 6	field, and the committee may want to11:42:20establish a requirement for X and the11:42:23technical staff is there saying, well, we can11:42:24word it this way and that way, does this meet11:42:27your intent, how about we do this, I can11:42:29research some information, get back to you at11:42:30	1 2 3 4 5 6	committee?11:44:38A. So a committee could want to establish a11:44:40requirement again for X for something and11:44:45they may say, we want the requirement to read11:44:4812 and the staff liaison would have to put11:44:51text around that to get it to read in context11:44:55
1 2 3 4 5 6 7	field, and the committee may want to11:42:20establish a requirement for X and the11:42:23technical staff is there saying, well, we can11:42:24word it this way and that way, does this meet11:42:27your intent, how about we do this, I can11:42:29research some information, get back to you at11:42:30the next meeting.11:42:32	1 2 3 4 5 6 7	committee? 11:44:38 A. So a committee could want to establish a 11:44:40 requirement again for X for something and 11:44:45 they may say, we want the requirement to read 11:44:48 12 and the staff liaison would have to put 11:44:51 text around that to get it to read in context 11:44:55 of the document. Or they may say we want to 11:44:57
1 2 3 4 5 6 7 8	field, and the committee may want to11:42:20establish a requirement for X and the11:42:23technical staff is there saying, well, we can11:42:24word it this way and that way, does this meet11:42:27your intent, how about we do this, I can11:42:29research some information, get back to you at11:42:30the next meeting.11:42:32The technical staff provides a vital11:42:33	1 2 3 4 5 6 7 8	committee? 11:44:38 A. So a committee could want to establish a 11:44:40 requirement again for X for something and 11:44:45 they may say, we want the requirement to read 11:44:48 12 and the staff liaison would have to put 11:44:51 text around that to get it to read in context 11:44:55 of the document. Or they may say we want to 11:44:57 have a draft chapter on something, technical 11:45:00
1 2 3 4 5 6 7 8 9	field, and the committee may want to11:42:20establish a requirement for X and the11:42:23technical staff is there saying, well, we can11:42:24word it this way and that way, does this meet11:42:27your intent, how about we do this, I can11:42:29research some information, get back to you at11:42:30the next meeting.11:42:32The technical staff provides a vital11:42:33role in helping the technical committee11:42:35	1 2 3 4 5 6 7 8 9	committee? 11:44:38 A. So a committee could want to establish a 11:44:40 requirement again for X for something and 11:44:45 they may say, we want the requirement to read 11:44:48 12 and the staff liaison would have to put 11:44:51 text around that to get it to read in context 11:44:55 of the document. Or they may say we want to 11:44:57 have a draft chapter on something, technical 11:45:00 staff can you do research, pull together 11:45:03
1 2 3 4 5 6 7 8 9 10	field, and the committee may want to 11:42:20 establish a requirement for X and the 11:42:23 technical staff is there saying, well, we can 11:42:24 word it this way and that way, does this meet 11:42:27 your intent, how about we do this, I can 11:42:29 research some information, get back to you at 11:42:30 the next meeting. 11:42:32 The technical staff provides a vital 11:42:33 role in helping the technical committee 11:42:35 accomplish their mission of developing those 11:42:38	1 2 3 4 5 6 7 8 9 10	committee?11:44:38A. So a committee could want to establish a11:44:40requirement again for X for something and11:44:45they may say, we want the requirement to read11:44:4812 and the staff liaison would have to put11:44:51text around that to get it to read in context11:44:55of the document. Or they may say we want to11:44:57have a draft chapter on something, technical11:45:00staff can you do research, pull together11:45:03drafting of documents to present to the11:45:12
1 2 3 4 5 6 7 8 9 10 11	field, and the committee may want to 11:42:20 establish a requirement for X and the 11:42:23 technical staff is there saying, well, we can 11:42:24 word it this way and that way, does this meet 11:42:27 your intent, how about we do this, I can 11:42:29 research some information, get back to you at 11:42:30 the next meeting. 11:42:32 The technical staff provides a vital 11:42:33 role in helping the technical committee 11:42:35 accomplish their mission of developing those 11:42:38 words that become ultimately the final words 11:42:40	1 2 3 4 5 6 7 8 9 10 11	committee? 11:44:38 A. So a committee could want to establish a 11:44:40 requirement again for X for something and 11:44:45 they may say, we want the requirement to read 11:44:48 12 and the staff liaison would have to put 11:44:51 text around that to get it to read in context 11:44:55 of the document. Or they may say we want to 11:44:57 have a draft chapter on something, technical 11:45:00 staff can you do research, pull together 11:45:12 committee to consider. 11:45:14
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15	field, and the committee may want to 11:42:20 establish a requirement for X and the 11:42:23 technical staff is there saying, well, we can 11:42:24 word it this way and that way, does this meet 11:42:27 your intent, how about we do this, I can 11:42:29 research some information, get back to you at 11:42:30 the next meeting. 11:42:32 The technical staff provides a vital 11:42:33 role in helping the technical committee 11:42:35 accomplish their mission of developing those 11:42:38 words that become ultimately the final words 11:42:40 of the standard. 11:42:43 Q. Who makes the decision about the words in a 11:42:44 standard? 11:42:46 MR. REHN: Objection as to form. 11:42:46	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15	committee? 11:44:38 A. So a committee could want to establish a 11:44:40 requirement again for X for something and 11:44:45 they may say, we want the requirement to read 11:44:48 12 and the staff liaison would have to put 11:44:51 text around that to get it to read in context 11:44:55 of the document. Or they may say we want to 11:44:57 have a draft chapter on something, technical 11:45:00 staff can you do research, pull together 11:45:12 committee to consider. 11:45:14 In the end the committee will agree 11:45:16 through a meeting vote what text is going to 11:45:19 move forward towards ballot. Then the 11:45:24
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	field, and the committee may want to 11:42:20 establish a requirement for X and the 11:42:23 technical staff is there saying, well, we can 11:42:24 word it this way and that way, does this meet 11:42:27 your intent, how about we do this, I can 11:42:29 research some information, get back to you at 11:42:30 the next meeting. 11:42:32 The technical staff provides a vital 11:42:33 role in helping the technical committee 11:42:35 accomplish their mission of developing those 11:42:38 words that become ultimately the final words 11:42:40 of the standard. 11:42:43 Q. Who makes the decision about the words in a 11:42:44 standard? 11:42:43 A. The final decision is and to summarize, 11:42:49	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	committee?11:44:38A. So a committee could want to establish a11:44:40requirement again for X for something and11:44:45they may say, we want the requirement to read11:44:4812 and the staff liaison would have to put11:44:51text around that to get it to read in context11:44:55of the document. Or they may say we want to11:44:57have a draft chapter on something, technical11:45:00staff can you do research, pull together11:45:12committee to consider.11:45:14In the end the committee will agree11:45:16through a meeting vote what text is going to11:45:21staff's job is to turn that into a ballot and11:45:28ballot with the technical committee on the11:45:28
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	field, and the committee may want to 11:42:20 establish a requirement for X and the 11:42:23 technical staff is there saying, well, we can 11:42:24 word it this way and that way, does this meet 11:42:27 your intent, how about we do this, I can 11:42:29 research some information, get back to you at 11:42:30 the next meeting. 11:42:32 The technical staff provides a vital 11:42:33 role in helping the technical committee 11:42:35 accomplish their mission of developing those 11:42:38 words that become ultimately the final words 11:42:40 of the standard. 11:42:43 Q. Who makes the decision about the words in a 11:42:44 standard? 11:42:46 MR. REHN: Objection as to form. 11:42:46 Ambiguous. 11:42:48 A. The final decision is and to summarize, 11:42:54	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	committee? 11:44:38 A. So a committee could want to establish a 11:44:40 requirement again for X for something and 11:44:45 they may say, we want the requirement to read 11:44:48 12 and the staff liaison would have to put 11:44:51 text around that to get it to read in context 11:44:55 of the document. Or they may say we want to 11:44:57 have a draft chapter on something, technical 11:45:00 staff can you do research, pull together 11:45:12 committee to consider. 11:45:14 In the end the committee will agree 11:45:16 through a meeting vote what text is going to 11:45:19 move forward towards ballot. Then the 11:45:21 staff's job is to turn that into a ballot and 11:45:28 ballot with the technical committee on the 11:45:28 final language. 11:45:31
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	field, and the committee may want to 11:42:20 establish a requirement for X and the 11:42:23 technical staff is there saying, well, we can 11:42:24 word it this way and that way, does this meet 11:42:27 your intent, how about we do this, I can 11:42:29 research some information, get back to you at 11:42:30 the next meeting. 11:42:32 The technical staff provides a vital 11:42:33 role in helping the technical committee 11:42:35 accomplish their mission of developing those 11:42:38 words that become ultimately the final words 11:42:40 of the standard. 11:42:43 Q. Who makes the decision about the words in a 11:42:44 standard? 11:42:46 MR. REHN: Objection as to form. 11:42:46 Ambiguous. 11:42:48 A. The final decision is and to summarize, 11:42:54 ballots on it, the ballot's on the final 11:42:55	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	committee?11:44:38A. So a committee could want to establish a11:44:40requirement again for X for something and11:44:45they may say, we want the requirement to read11:44:4812 and the staff liaison would have to put11:44:51text around that to get it to read in context11:44:55of the document. Or they may say we want to11:44:57have a draft chapter on something, technical11:45:00staff can you do research, pull together11:45:12committee to consider.11:45:14In the end the committee will agree11:45:16through a meeting vote what text is going to11:45:21staff's job is to turn that into a ballot and11:45:28ballot with the technical committee on the11:45:28final language.11:45:31Q. What criteria do technical committees use11:45:31
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	field, and the committee may want to 11:42:20 establish a requirement for X and the 11:42:23 technical staff is there saying, well, we can 11:42:24 word it this way and that way, does this meet 11:42:27 your intent, how about we do this, I can 11:42:29 research some information, get back to you at 11:42:30 the next meeting. 11:42:32 The technical staff provides a vital 11:42:33 role in helping the technical committee 11:42:35 accomplish their mission of developing those 11:42:38 words that become ultimately the final words 11:42:40 of the standard. 11:42:43 Q. Who makes the decision about the words in a 11:42:44 standard? 11:42:46 MR. REHN: Objection as to form. 11:42:46 Ambiguous. 11:42:48 A. The final decision is and to summarize, 11:42:49 it's a two-part decision. A committee 11:42:54 ballots on it, the ballot's on the final 11:42:55 word, the committee approves it. At the 11:42:58	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	committee?11:44:38A. So a committee could want to establish a11:44:40requirement again for X for something and11:44:45they may say, we want the requirement to read11:44:4512 and the staff liaison would have to put11:44:51text around that to get it to read in context11:44:55of the document. Or they may say we want to11:44:57have a draft chapter on something, technical11:45:00staff can you do research, pull together11:45:12committee to consider.11:45:14In the end the committee will agree11:45:21staff's job is to turn that into a ballot and11:45:24make sure it fits to our manual style and11:45:28ballot with the technical committees use11:45:31Q. What criteria do technical committees use11:45:31to determine what text moves forward to a11:45:34
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	field, and the committee may want to 11:42:20 establish a requirement for X and the 11:42:23 technical staff is there saying, well, we can 11:42:24 word it this way and that way, does this meet 11:42:27 your intent, how about we do this, I can 11:42:29 research some information, get back to you at 11:42:30 the next meeting. 11:42:32 The technical staff provides a vital 11:42:33 role in helping the technical committee 11:42:35 accomplish their mission of developing those 11:42:38 words that become ultimately the final words 11:42:40 of the standard. 11:42:43 Q. Who makes the decision about the words in a 11:42:44 standard? 11:42:43 A. The final decision is and to summarize, 11:42:49 it's a two-part decision. A committee 11:42:55 word, the committee approves it. At the 11:42:58 end of the day our standards council issues 11:43:00	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	committee?11:44:38A. So a committee could want to establish a11:44:40requirement again for X for something and11:44:45they may say, we want the requirement to read11:44:4812 and the staff liaison would have to put11:44:51text around that to get it to read in context11:44:55of the document. Or they may say we want to11:44:57have a draft chapter on something, technical11:45:00staff can you do research, pull together11:45:12committee to consider.11:45:14In the end the committee will agree11:45:16through a meeting vote what text is going to11:45:21staff's job is to turn that into a ballot and11:45:28ballot with the technical committee on the11:45:28final language.11:45:31Q. What criteria do technical committees use11:45:34ballot?11:45:37
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	field, and the committee may want to 11:42:20 establish a requirement for X and the 11:42:23 technical staff is there saying, well, we can 11:42:24 word it this way and that way, does this meet 11:42:27 your intent, how about we do this, I can 11:42:29 research some information, get back to you at 11:42:30 the next meeting. 11:42:32 The technical staff provides a vital 11:42:33 role in helping the technical committee 11:42:35 accomplish their mission of developing those 11:42:38 words that become ultimately the final words 11:42:40 of the standard. 11:42:43 Q. Who makes the decision about the words in a 11:42:44 standard? 11:42:48 A. The final decision is and to summarize, 11:42:49 it's a two-part decision. A committee 11:42:55 word, the committee approves it. At the 11:42:58 end of the day our standards council issues 11:43:00 that document, but the committee ballot 11:43:03 establishes the position of the type of 11:43:07 Q. And how does the text evolve up to the point 11:43:07	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	committee?11:44:38A. So a committee could want to establish a11:44:40requirement again for X for something and11:44:45they may say, we want the requirement to read11:44:4512 and the staff liaison would have to put11:44:51text around that to get it to read in context11:44:55of the document. Or they may say we want to11:44:57have a draft chapter on something, technical11:45:00staff can you do research, pull together11:45:12committee to consider.11:45:14In the end the committee will agree11:45:16through a meeting vote what text is going to11:45:21staff's job is to turn that into a ballot and11:45:28ballot with the technical committee on the11:45:31Q. What criteria do technical committees use11:45:34ballot?11:45:37MR. REHN: Objection as to form.11:45:38A. It's their expertise. It's their11:45:46through a meeting vote of what they believe11:45:45

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1	will move forward. There's motions we 11:45:50	1	cheaper, easier to accomplish things, 11:48:04
2	follow, Robert's Rules of Order, and when 11:45:53	2	accomplishes a higher level of safety. Those 11:48:07
3	there's a motion and it carries by a meeting 11:45:55	3	are a few examples. 11:48:10
4	vote, which is 50 percent plus one, that 11:45:57	4	Q. Please give me more examples of criteria that 11:48:12
5	proposed change is then approved to move 11:46:00	5	technical committee members would use in 11:48:16
6	forward to ballot, to letter ballot, excuse 11:46:02	6	deciding what text to move forward to ballot. 11:48:18
7	me. 11:46:08	7	MR. REHN: Same objection. 11:48:20
8	Q. Your answer focused on the process. I'm 11:46:08	8	A. Other the examples could include research, 11:48:23
9	asking what criteria the technical committee 11:46:10	9	data. Such things another example could 11:48:30
10	members use to decide what text to move 11:46:15	10	be loss reports. For example, there's been a 11:48:37
11	forward to a ballot. 11:46:18	11	large fire somewhere, a large chemical hazard 11:48:41
12	MR. REHN: Objection as to form. 11:46:20	12	or something. There's often an investigative 11:48:43
13	A. I would think the criteria would depend on 11:46:24	13	report that NTSB or CSB or local fire marshal 11:48:45
14	each individual member of the technical 11:46:26	14	has done. And the committee would look at 11:48:50
15	committee and their expertise and what bar 11:46:28	15	that and say we may have a safety issue that 11:48:52
16	they believe needs to be crossed or what 11:46:31	16	needs to be addressed. 11:48:54
17	things they need to have answered 11:46:32	17	Q. So you've mentioned information that they 11:48:56
18	professionally to make a decision to modify 11:46:34	18	may that may motivate them, but I think 11:48:59
19	the standard. 11:46:36	19	your answers are focusing less on what 11:49:06
20	Q. What criteria in your role as the person in 11:46:36	20	criteria they apply to determining what text 11:49:09
21	charge of standards development at NFPA 11:46:42	21	would move forward. 11:49:11
22	strike that. 11:46:46	22	I'd like for you to tell me the 11:49:12
23	In your role as the person in charge 11:46:46	23	different criteria that technical committee 11:49:14
24	of standards development at NFPA, what do you 11:46:49	24	members apply, to your knowledge, in deciding 11:49:17
25	understand the most typical criteria to be by 11:46:52	25	what text to move forward to a ballot. 11:49:20
	Page 70		Page 72
1	which technical committees determine what 11:46:59	1	MR. REHN: Same objection. 11:49:23
1 2	which technical committees determine what 11:46:59 text to move forward to a ballot? 11:47:02	1 2	MR. REHN: Same objection. 11:49:23 A. Again, I think it would be difficult, without 11:49:25
1 2 3	which technical committees determine what 11:46:59 text to move forward to a ballot? 11:47:02 MR. REHN: Objection as to form. 11:47:04	1 2 3	MR. REHN: Same objection. 11:49:23 A. Again, I think it would be difficult, without 11:49:25 speculating, I'm not sure what each person 11:49:29
1 2 3 4	which technical committees determine what 11:46:59 text to move forward to a ballot? 11:47:02 MR. REHN: Objection as to form. 11:47:04 It's vague. 11:47:06	1 2 3 4	MR. REHN: Same objection. 11:49:23 A. Again, I think it would be difficult, without 11:49:25 speculating, I'm not sure what each person 11:49:29 would use for criteria, and that's why my 11:49:31
1 2 3 4 5	which technical committees determine what 11:46:59 text to move forward to a ballot? 11:47:02 MR. REHN: Objection as to form. 11:47:04 It's vague. 11:47:06 A. I don't think there's a single answer to 11:47:09	1 2 3 4 5	MR. REHN: Same objection.11:49:23A. Again, I think it would be difficult, without11:49:25speculating, I'm not sure what each person11:49:29would use for criteria, and that's why my11:49:31answer previously focused on having a11:49:34
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1 2 3 4 5 6 7	 which technical committees determine what 11:46:59 text to move forward to a ballot? 11:47:02 MR. REHN: Objection as to form. 11:47:04 It's vague. 11:47:06 A. I don't think there's a single answer to 11:47:09 that, and that's why we rely on a consensus 11:47:11 ballot that requires two-thirds of our 11:47:15 	1 2 3 4 5 6 7	MR. REHN: Same objection.11:49:23A. Again, I think it would be difficult, without11:49:25speculating, I'm not sure what each person11:49:29would use for criteria, and that's why my11:49:31answer previously focused on having a11:49:34balanced committee of different experts,11:49:36topical experts in that area, will each bring11:49:39
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1	Q. Let me rephrase it differently because I'm 11:50:27	1	we call them enforcers, to attend our 11:53:46
2	not sure you're responding to my question 11:50:29	2	committee meetings. 11:53:48
3	about criteria. What are the different 11:50:31	3	Q. Do any does NFPA pay any persons for their 11:53:50
4	reasons, not what background information are 11:50:34	4	time in participation in the technical 11:53:57
5	they acting on, but what are the different 11:50:38	5	committee work? 11:54:02
6	goals that, to your knowledge, technical 11:50:40	6	A. NFPA does not pay for time, but what we do 11:54:06
7	committee members have in deciding whether to 11:50:45	7	for public sector officials who we classify 11:54:09
8	progress certain text to a ballot? 11:50:49	8	as enforcers, we have an enforcer fund which 11:54:12
9	MR. REHN: Objection as to form. 11:50:54	9	we pay 80 percent of their associated travel 11:54:15
10	A. I think the biggest overarching goal is the 11:50:55	10	to a committee meeting, including hotel, 11:54:15
11	accomplishment of the NFPA mission. They 11:51:03	11	airfare, et cetera. 11:54:20
12	want to ultimately reduce life loss, injury, 11:51:04	12	Q. What is the motivation of persons, as you 11:54:20
13	property loss, economic loss due to fire and 11:51:09	13	understand it, to participate in technical 11:54:23
14	other related hazards. 11:51:11	14	committees? 11:54:28
15	Q. How do decisions regarding progressing 11:51:13	15	MR. REHN: Object to the form. 11:54:29
16	certain text to a ballot touch upon that 11:51:17	16	A. I think there's lots of motivations. I think 11:54:32
17	mission? 11:51:24	17	overwhelmingly the number one motivation, in 11:54:35
18	MR. REHN: Objection as to form. 11:51:26	18	my opinion and my years of service, is the 11:54:37
19	A. Fundamentally does it progress towards 11:51:30	19	overarching mission of NFPA. Our mission of 11:54:40
20	accomplishing that mission? Does the 11:51:33	20	safety is very attractive to many people. 11:54:44
21	institution of a new technology or a new 11:51:37	21	Many of our volunteers not only 11:54:47
22	requirement or modifying an existing 11:51:39	22	volunteer to participate in the NFPA process 11:54:49
23	requirement lead to better life safety, 11:51:42	23	but also volunteer their time to do so, and 11:54:51
24	better fire protection, better electrical 11:51:46	24	that's a strong indication to me that that's 11:54:54
25	safety, better protection of our nation's 11:51:48	25	the primary motivation. 11:54:56
	Page 74		Page 76
1	first responders? Does it accomplish the 11:51:51	1	Q. Are you aware of any person whose primary 11:55:02
1 2	first responders? Does it accomplish the 11:51:51 mission? So that's the best way. 11:51:53	1 2	Q. Are you aware of any person whose primary 11:55:02 motivation is to receive some financial 11:55:05
1 2 3	first responders? Does it accomplish the11:51:51mission? So that's the best way.11:51:53Q. Does it would you say that a general11:51:59	1 2 3	Q. Are you aware of any person whose primary11:55:02motivation is to receive some financial11:55:05reward for participation in the technical11:55:10
1 2 3 4	first responders? Does it accomplish the11:51:51mission? So that's the best way.11:51:53Q. Does it would you say that a general11:51:59question that technical committees address in11:52:05	1 2 3 4	Q. Are you aware of any person whose primary 11:55:02 motivation is to receive some financial 11:55:05 reward for participation in the technical 11:55:10 committee process? 11:55:13
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1	electrical style manual, which applies to our 02:50:24	1	Q. Another example is changing the word appendix 02:53:17
2	electrical documents. 02:50:27	2	to annex, correct? 02:53:20
3	Q. Do the terms "annex" and "appendix" coexist 02:50:37	3	A. To the best of my recollection, that's an 02:53:22
4	in NFPA's forms today? 02:50:45	4	example that I could think of why we shifted 02:53:25
5	MR. REHN: Object to the form. 02:50:48	5	there, but the best example I can give you is 02:53:28
6	Lacks foundation. 02:50:54	6	a single chapter where all the definitions 02:53:30
7	A. We updated our manual style in, I believe it 02:50:56	7	are included. 02:53:33
8	was year 2000, and we changed the term 02:51:02	8	Q. Then you mentioned that there were updates to 02:53:36
9	"appendix" to "annex" at that time to be 02:51:05	9	disclaimers and copyright releases; is that 02:53:40
10	consistent with other standards developers 02:51:09	10	correct? 02:53:47
11	terminology. 02:51:12	11	A. That is correct. Over my 20 years, I'm aware 02:53:48
12	And so it's my opinion that most, if 02:51:14	12	that updates were added to the forms or just 02:53:51
13	not all, of our documents, many of our 02:51:17	13	to the forms on a not on a specific basis, 02:53:57
14	documents have gone through the process of a 02:51:21	14	but as needed. 02:54:00
15	full revision where that is changed from 02:51:23	15	Q. What updates were needed to the disclaimers 02:54:02
16	appendix to annex. 02:51:26	16	and copyright releases? 02:54:06
17	Q. You said NFPA made the change to be 02:51:29	17	MR. REHN: Object to the form. May 02:54:08
18	consistent with other standards development 02:51:33	18	call for a legal opinion. Ambiguous with 02:54:10
19	organizations' terminology; is that correct? 02:51:35	19	respect to the terms used in the question. 02:54:14
20	A. That's correct. 02:51:39	20	A. From my perspective, my team's perspective, 02:54:17
21	Q. Is there a general style manual for standards 02:51:41	21	we never got into the details of those. It 02:54:22
22	developers terminology? 02:51:46	22	was often our legal team would ask us to 02:54:24
23	A. Not that I'm aware of. 02:51:53	23	update our forms, and we would accomplish 02:54:27
24	Q. Do the different standards developers tend to 02:51:55	24	that through our process. 02:54:29
25	converge around using words in similar 02:51:58	25	Q. What were some of the changes to the forms 02:54:31
	Page 138		Page 140
1	fashion? 02:52:01	1	that you recall as part of those undates? $02.54.35$
1	fashion? 02:52:01 MR_REHN: Object to the form 02:52:03	1	that you recall as part of those updates? 02:54:35
1 2 3	fashion? 02:52:01 MR. REHN: Object to the form. 02:52:03	1 2 3	that you recall as part of those updates? 02:54:35 MR. REHN: Objection. Documents 02:54:38 speak for themselves 02:54:40
1 2 3	fashion? 02:52:01 MR. REHN: Object to the form. 02:52:03 A. In my opinion I would say standard developers 02:52:08	1 2 3	that you recall as part of those updates? 02:54:35 MR. REHN: Objection. Documents 02:54:38 speak for themselves. 02:54:40 A Lthink same of the major changes are 02:54:42
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1	Electrical Code; is that correct? 03:04:18	1	Exhibit 1250. 03:10:40
2	MR. REHN: Objection as to form. 03:04:21	2	Q. Do you know Mr. Belke, James C. Belke? 03:10:41
3	A. It appears based on Line Item 1A that the 03:04:26	3	A. No, sir. 03:10:46
4	document the person was submitting it on was 03:04:29	4	Q. Do you know whether he's a member of any 03:10:46
5	to the National Electrical Code. 03:04:32	5	technical committee? 03:10:50
6	Q. There was normally didn't you say there 03:04:34	6	A. Not off the top of my head. 03:10:55
7	was normally a different type of form for 03:04:36	7	Q. Do you know what the annotations in 03:10:56
8	submissions for the National Electrical Code? 03:04:39	8	handwriting various places in the form 03:11:05
9	A. If we look at some of the forms you've 03:04:45	9	indicate? There's a checkmark in several 03:11:14
10	submitted to me, some of them had the title. 03:04:47	10	different places. There's some asterisks, 03:11:21
11	The title was different, said form for the X 03:04:49	11	there's a pound sign A, pound sign B, pound 03:11:32
12	edition of the National Electrical Code, and 03:04:51	12	sign C. 03:11:36
13	so we didn't prohibit you from using any 03:04:53	13	MR. REHN: Is that the question? 03:11:46
14	standard form. 03:04:57	14	MR. BRIDGES: Yes. 03:11:48
15	(Exhibit 1248 marked for 03:05:30	15	MR. REHN: Objection that it's 03:11:49
16	identification.) 03:06:03	16	compound. 03:11:50
17	(Pause) 03:06:05	17	A. So let me first answer the first part and we 03:11:57
18	Q. Do you recognize Exhibit 1248 as a form for 03:06:05	18	can follow up if we need to. Each change 03:12:00
19	proposal that NFPA has maintained in the 03:06:44	19	that came in was processed, again, by 03:12:03
20	ordinary course of business as part of its 03:06:47	20	full-time staff to verify signatures and 03:12:06
21	standards development process? 03:06:50	21	copyright concerns. And if you notice on 03:12:09
22	A. Yes, Exhibit 1248 does look typical. 03:06:53	22	the first page under Proposals, not original 03:12:11
23	(Exhibit 1249 marked for 03:07:33	23	material, there's supporting material which 03:12:15
24	identification.) 03:07:41	24	has an attached CSB report. 03:12:16
25	Q. Do you recognize Exhibit 1249 as a form for 03:07:41	25	And it appears that someone wrote 03:12:26
	Page 146		Page 148
-		-	
1	proposal that NFPA has maintained in the 03:07:53	1	down that it was not being submitted as 03:12:29
1 2	proposal that NFPA has maintained in the 03:07:53 ordinary course of business in its standards 03:07:58	1 2	down that it was not being submitted as03:12:29change but as supporting material to support03:12:31
1 2 3	proposal that NFPA has maintained in the03:07:53ordinary course of business in its standards03:07:58development process?03:08:04	1 2 3	down that it was not being submitted as03:12:29change but as supporting material to support03:12:31a change.03:12:35
1 2 3 4	proposal that NFPA has maintained in the03:07:53ordinary course of business in its standards03:07:58development process?03:08:04A. Yes, Exhibit 1249 does look typical.03:08:13	1 2 3 4	down that it was not being submitted as03:12:29change but as supporting material to support03:12:31a change.03:12:35Q. Go ahead.03:12:41
1 2 3 4 5	proposal that NFPA has maintained in the03:07:53ordinary course of business in its standards03:07:58development process?03:08:04A. Yes, Exhibit 1249 does look typical.03:08:13Q. And some persons might suggest proposals with03:08:21	1 2 3 4 5	down that it was not being submitted as03:12:29change but as supporting material to support03:12:31a change.03:12:35Q. Go ahead.03:12:41A. The checkmarks, each of these changes had to03:12:42
1 2 3 4 5 6	proposal that NFPA has maintained in the 03:07:53 ordinary course of business in its standards 03:07:58 development process? 03:08:04 A. Yes, Exhibit 1249 does look typical. 03:08:13 Q. And some persons might suggest proposals with 03:08:21 attachments where they can't fit the text of 03:08:27	1 2 3 4 5 6	down that it was not being submitted as03:12:29change but as supporting material to support03:12:31a change.03:12:35Q. Go ahead.03:12:41A. The checkmarks, each of these changes had to03:12:42be keyed manually by the staff who verified03:12:45
1 2 3 4 5 6 7	proposal that NFPA has maintained in the ordinary course of business in its standards03:07:53ordinary course of business in its standards03:07:58development process?03:08:04A. Yes, Exhibit 1249 does look typical.03:08:13Q. And some persons might suggest proposals with03:08:21attachments where they can't fit the text of the proposal in the lines on the form. And03:08:33	1 2 3 4 5 6 7	down that it was not being submitted as03:12:29change but as supporting material to support03:12:31a change.03:12:35Q. Go ahead.03:12:41A. The checkmarks, each of these changes had to03:12:42be keyed manually by the staff who verified03:12:45all the text, editorial and production staff,03:12:47
1 2 3 4 5 6 7 8	proposal that NFPA has maintained in the03:07:53ordinary course of business in its standards03:07:58development process?03:08:04A. Yes, Exhibit 1249 does look typical.03:08:13Q. And some persons might suggest proposals with03:08:21attachments where they can't fit the text of03:08:27the proposal in the lines on the form. And03:08:33this exhibit reflects an attachment on the03:08:36	1 2 3 4 5 6 7 8	down that it was not being submitted as03:12:29change but as supporting material to support03:12:31a change.03:12:35Q. Go ahead.03:12:41A. The checkmarks, each of these changes had to03:12:42be keyed manually by the staff who verified03:12:45all the text, editorial and production staff,03:12:47and oftentimes they would check the forms as03:12:51
1 2 3 4 5 6 7 8 9	proposal that NFPA has maintained in the03:07:53ordinary course of business in its standards03:07:58development process?03:08:04A. Yes, Exhibit 1249 does look typical.03:08:13Q. And some persons might suggest proposals with03:08:21attachments where they can't fit the text of03:08:27the proposal in the lines on the form. And03:08:33this exhibit reflects an attachment on the03:08:36reverse page of Exhibit 1249; is that03:08:42	1 2 3 4 5 6 7 8 9	down that it was not being submitted as03:12:29change but as supporting material to support03:12:31a change.03:12:35Q. Go ahead.03:12:41A. The checkmarks, each of these changes had to03:12:42be keyed manually by the staff who verified03:12:45all the text, editorial and production staff,03:12:47and oftentimes they would check the forms as03:12:51they worked through them to ensure they had03:12:53
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1 2 3 4 5 6 7 8 9 10 11	proposal that NFPA has maintained in the 03:07:53 ordinary course of business in its standards 03:07:58 development process? 03:08:04 A. Yes, Exhibit 1249 does look typical. 03:08:13 Q. And some persons might suggest proposals with 03:08:21 attachments where they can't fit the text of 03:08:27 the proposal in the lines on the form. And 03:08:33 this exhibit reflects an attachment on the 03:08:36 reverse page of Exhibit 1249; is that 03:08:42 correct? 03:08:45 A. Based upon my review of the statement of 03:08:47	1 2 3 4 5 6 7 8 9 10 11	down that it was not being submitted as03:12:29change but as supporting material to support03:12:31a change.03:12:35Q. Go ahead.03:12:41A. The checkmarks, each of these changes had to03:12:42be keyed manually by the staff who verified03:12:45all the text, editorial and production staff,03:12:47and oftentimes they would check the forms as03:12:51they worked through them to ensure they had03:12:53captured everything. That in this case it03:12:57
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1	MR DEUN. Object to the form 06:01:45	1	\mathbf{O} Vou con't give any estimate at all \mathbf{O} \mathbf{O} \mathbf{O}
	MR. REHN. Object to the form. 00:01:45		Q. Fou can't give any estimate at an? 06.05.44
2	Argumentative. Question has been asked and 00:01:40		A. No. $00:00:40$
3	And museum in the same that Learly 00:01:50	5	Q. were you ever aware of now much time they 00:05:40
4	A. And my response remains the same that I can't 00:01:50	4	A L'm aware of the full time recourses that it 06.02.57
5	detail of their day to day tooka		A. This aware of the full-time resources that it 00:05:57
	Q You can appendite as to appendix detail shout 06:01:54		ave technicel committees
0	Q. Fou can spectrate as to spectric detail about 00:01:57		O But according an array of here much time there are 00:04:08
8	MD_DELIN: Objection 06:02:00	8	Q. But you're unaware o'r now much time tney 06:04:08
10	MR. REHN: Objection. 06:02:02	9	spend carrying out the policy that you 06:04:10
10	Argumentarive. Mischaracterizes the 06:02:03	10	described? 00:04:14
11	06:02:05	11	MR. REHN: Objection. 06:04:14
12	Q. why are you not answering the question I ve 06:02:05	12	Argumentative. 06:04:14
13	asked, which is, what's your best estimate of 06:02:07	15	A. I beneve i ve answered your question. 06:04:17
14	the time, of the percentage of time those 06:02:10	14	Q. what verification strike that. $06:04:19$
15	persons spent on checking for signatures and 06:02:12	15	What efforts did NFPA make to obtain 06:04:34
10	Copyright information in the submissions? 06:02:17	10	assignments from the companies that employed 06:04:38
1/	MR. REHN: Objection. 06:02:20	1/	individuals who submitted proposals or 06:04:48
18	Argumentative. Asked and answered. 06:02:21	18	comments for NFPA's codes and standards? 06:04:53
19	A. I can speculate on their total workload, 06:02:24	19	MR. REHN: Object to the form. It's 06:04:58
20	their tasks they took 06:02:27	20	ambiguous. It assumes facts. There's some 06:05:00
21	Q. That wasn't my question. My question is, 06:02:29	21	embedded legal conclusions. 06:05:04
22	what percentage applied to checking for 06:02:30	22	A. NFPA verifies through our policy the 06:05:07
23	signatures and copyright information? That's 06:02:33	23	submission from the individual. We do not go 06:05:11
24	my question. Is it clear? 06:02:37	24	to their companies to verify authority of 06:05:16
25	MR. REHN: Objection. 06:02:39 Page 218	25	their signature. 06:05:18 Page 220
1	Argumentative. 06:02:39	1	Q. And how does NFPA verify submissions from the 06:05:20
1 2	Argumentative.06:02:39Q. Is the question clear?06:02:41	1 2	Q. And how does NFPA verify submissions from the 06:05:20 individuals? 06:05:30
1 2 3	Argumentative. 06:02:39 Q. Is the question clear? 06:02:41 A. No. 06:02:43	1 2 3	Q. And how does NFPA verify submissions from the 06:05:20 individuals? 06:05:30 MR. REHN: Objection. I think this 06:05:36
1 2 3 4	Argumentative.06:02:39Q. Is the question clear?06:02:41A. No.06:02:43Q. What's unclear about it?Do you understand06:02:44	1 2 3 4	Q. And how does NFPA verify submissions from the 06:05:20 individuals? 06:05:30 MR. REHN: Objection. I think this 06:05:36 topic has been extensively asked and answered 06:05:38
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1	Q. Yes. 06:51:42	1	correlation across the entire standard 06:54:56
2	A. Top left-hand paragraph below the bold 06:51:52	2	itself. 06:54:59
3	discusses what we used to indicate changes 06:51:57	3	Q. And these pages identify various code-making 06:55:05
4	including shaded or bulleting, like a dot. 06:51:59	4	panels and then they indicate which portions 06:55:12
5	Q. It says, "Changes other than editorial are 06:52:07	5	of the National Electrical Code they were 06:55:16
6	highlighted with gray shading." Do you see 06:52:13	6	responsible for; is that correct? 06:55:18
7	that? 06:52:15	7	MR. REHN: Object to the form of the 06:55:25
8	A. Yes. 06:52:15	8	question. 06:55:26
9	O What's an example of some editorial changes 06:52:16	9	A That is my understanding 06:55:27
10	that would have occurred between editions of 06:52:10	10	$\mathbf{O} \text{And it indicates the } = \text{and this list} \qquad \mathbf{O} \text{6} \text{55} \text{529}$
11	the NEC? 06:52:12	11	indicates both the names and the affiliations. 06:55:24
11	$\frac{1}{10000000000000000000000000000000000$	11	of these percent rates and the antihilations 00.55.54
12	A. Sample could be a spelling error. 06:52:25	12	of those persons who participated in the work 06:55:41
13	Q. Anything else? 06:52:34	13	that's reflected in this edition; is that 06:55:45
14	A. The only thing I can think of is occasionally 06:52:36	14	correct? 06:55:50
15	documents, paragraphs roll into each other, 06:52:46	15	MR. REHN: Object to the form. 06:55:50
16	so spacing, things like that. 06:52:50	16	A. Our committee lists indicate the name of the 06:55:51
17	Q. The document contains lists of persons 06:52:52	17	individual who holds the seat, whether 06:55:56
18	starting at Page 17547 up through Page 17558, 06:53:07	18	they're a principal or alternate, what 06:55:59
19	correct? 06:53:18	19	company they work for and, if any, 06:56:01
20	MR. FEE: Could you repeat that. 06:53:25	20	representation if they do have a 06:56:03
21	What was the question? 06:53:30	21	representation. 06:56:05
22	Q. The document contains lists of persons 06:53:31	22	Q. So let's say in the case of Page 17551 06:56:08
23	starting at Page 17547 up through Page 17558, 06:53:34	23	A. 551. 06:56:20
24	correct? 06:53:39	24	O. There's a reference to John Ray of Duke 06:56:22
25	A. Just to make sure I understand your question. 06:53:41	25	Energy Corporation and it says, "Rep. 06:56:28
	Page 238		Page 240
-			
1		1	
1	you just indicated there is a list of 06:53:49	1	Electric Light and Power Group." What does 06:56:29
1 2	you just indicated there is a list of 06:53:49 persons? 06:53:50	1 2	Electric Light and Power Group." What does06:56:29that mean?06:56:33
1 2 3	you just indicated there is a list of 06:53:49 persons? 06:53:50 Q. Right. 06:53:51	1 2 3	Electric Light and Power Group." What does06:56:29that mean?06:56:33A. Before I answer the question, I'm just having06:56:38
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	you just indicated there is a list of 06:53:49 persons? 06:53:50 Q. Right. 06:53:51 A. Those pages appear to contain lists of 06:53:54 technical committee members as well as NFPA 06:53:57 staff, where appropriate. 06:54:00 Q. And I think you testified earlier but just 06:54:02 for the sake of clarification, committees 06:54:04 that are called technical committees for 06:54:09 other codes and standards are called 06:54:11 code-making panels when it comes to the 06:54:13 National Electrical Code; is that correct? 06:54:15 A. That is partially correct. There are two 06:54:18 ways we address the National Electrical Code. 06:54:21 There are code-making panels and their work 06:54:24 is overseen by a technical correlating 06:54:30 Q. What is the work of the technical correlating 06:54:31	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	 Electric Light and Power Group." What does 06:56:29 that mean? 06:56:33 A. Before I answer the question, I'm just having 06:56:38 trouble finding John's name. Is he on the 06:56:41 one on Code-Making Panel 7? 06:56:43 Q. Panel 7, left column, four from the bottom. 06:56:46 A. So in that case it appears Mr. Ray, the 06:56:55 company he works for is Duke Engineering 06:57:00 Corporation. He represents a utility, and 06:57:02 his representation of the committee is 06:57:04 Electrical Light and Power Group, EEI. 06:57:06 Q. And the letters in brackets after the names, 06:57:13 employers and states indicate the what do 06:57:23 you call it? Not the interest group. The 06:57:32 A. It's the interest category. 06:57:34 Q. The interest category. So the letters within 06:57:37 brackets at the end of the line on which the 06:57:39
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	you just indicated there is a list of 06:53:49 persons? 06:53:50 Q. Right. 06:53:51 A. Those pages appear to contain lists of 06:53:54 technical committee members as well as NFPA 06:53:57 staff, where appropriate. 06:54:00 Q. And I think you testified earlier but just 06:54:02 for the sake of clarification, committees 06:54:04 that are called technical committees for 06:54:09 other codes and standards are called 06:54:11 code-making panels when it comes to the 06:54:13 National Electrical Code; is that correct? 06:54:13 National Electrical Code; is that correct? 06:54:14 ways we address the National Electrical Code. 06:54:21 There are code-making panels and their work 06:54:24 is overseen by a technical correlating 06:54:26 committee. 06:54:30 Q. What is the work of the technical correlating 06:54:31 committee? 06:54:35	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	 Electric Light and Power Group." What does 06:56:29 that mean? 06:56:33 A. Before I answer the question, I'm just having 06:56:38 trouble finding John's name. Is he on the 06:56:41 one on Code-Making Panel 7? 06:56:43 Q. Panel 7, left column, four from the bottom. 06:56:46 A. So in that case it appears Mr. Ray, the 06:56:55 company he works for is Duke Engineering 06:57:00 Corporation. He represents a utility, and 06:57:02 his representation of the committee is 06:57:04 Electrical Light and Power Group, EEI. 06:57:06 Q. And the letters in brackets after the names, 06:57:13 employers and states indicate the what do 06:57:23 you call it? Not the interest group. The 06:57:32 A. It's the interest category. 06:57:34 Q. The interest category. So the letters within 06:57:37 brackets at the end of the line on which the 06:57:39 names of the individuals are found is a code 06:57:42
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 you just indicated there is a list of 06:53:49 persons? 06:53:50 Q. Right. 06:53:51 A. Those pages appear to contain lists of 06:53:54 technical committee members as well as NFPA 06:53:57 staff, where appropriate. 06:54:00 Q. And I think you testified earlier but just 06:54:02 for the sake of clarification, committees 06:54:04 that are called technical committees for 06:54:09 other codes and standards are called 06:54:11 code-making panels when it comes to the 06:54:13 National Electrical Code; is that correct? 06:54:15 A. That is partially correct. There are two 06:54:21 There are code-making panels and their work 06:54:24 is overseen by a technical correlating 06:54:24 is overseen by a technical correlating 06:54:31 committee? 06:54:30 Q. What is the work of the technical correlating 06:54:31 committee? 06:54:35 A. The technical correlating committee is 06:54:37 responsible for correlation across the entire 06:54:42 	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 Electric Light and Power Group." What does 06:56:29 that mean? 06:56:33 A. Before I answer the question, I'm just having 06:56:38 trouble finding John's name. Is he on the 06:56:41 one on Code-Making Panel 7? 06:56:43 Q. Panel 7, left column, four from the bottom. 06:56:46 A. So in that case it appears Mr. Ray, the 06:56:55 company he works for is Duke Engineering 06:57:00 Corporation. He represents a utility, and 06:57:02 his representation of the committee is 06:57:04 Electrical Light and Power Group, EEI. 06:57:06 Q. And the letters in brackets after the names, 06:57:13 employers and states indicate the what do 06:57:23 you call it? Not the interest group. The 06:57:32 A. It's the interest category. 06:57:34 Q. The interest category. So the letters within 06:57:37 brackets at the end of the line on which the 06:57:39 names of the individuals are found is a code 06:57:43 for the interest category; is that correct? 06:57:45 A. That is correct. 06:57:47
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	you just indicated there is a list of persons?06:53:50Q. Right.06:53:51A. Those pages appear to contain lists of technical committee members as well as NFPA technical committee members as well as NFPA (06:54:00)06:53:57Q. And I think you testified earlier but just for the sake of clarification, committees that are called technical committees for other codes and standards are called (06:54:11) code-making panels when it comes to the that is partially correct. There are two there are code-making panels and their work (06:54:24) tis overseen by a technical correlating tis overseen by a technical correlating (06:54:30)06:54:24 (06:54:24)Q. What is the work of the technical correlating committee?06:54:37 (06:54:37)A. The technical correlating committee is soverseen by a technical correlating committee?06:54:37 (06:54:35)A. The technical correlating committee is any technical correlating committee?06:54:42 (06:54:37)A. The technical correlating committee is any technical correlating committee?06:54:45 (06:54:45)A. The technical correlating committee is any technical correlating committee?06:54:37 (06:54:37)A. The technical correlating committee is anels are aware of potential conflicting (06:54:49)06:54:45 (06:54:45)	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	 Electric Light and Power Group." What does 06:56:29 that mean? 06:56:33 A. Before I answer the question, I'm just having 06:56:38 trouble finding John's name. Is he on the 06:56:41 one on Code-Making Panel 7? 06:56:43 Q. Panel 7, left column, four from the bottom. 06:56:46 A. So in that case it appears Mr. Ray, the 06:56:55 company he works for is Duke Engineering 06:57:00 Corporation. He represents a utility, and 06:57:02 his representation of the committee is 06:57:04 Electrical Light and Power Group, EEI. 06:57:06 Q. And the letters in brackets after the names, 06:57:13 employers and states indicate the what do 06:57:23 you call it? Not the interest group. The 06:57:32 A. It's the interest category. 06:57:34 Q. The interest category. So the letters within 06:57:37 brackets at the end of the line on which the 06:57:43 for the interest category; is that correct? 06:57:45 A. That is correct. 06:57:47 Q. M is manufacturer? 06:58:00
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	you just indicated there is a list of persons?06:53:50Q. Right.06:53:51A. Those pages appear to contain lists of technical committee members as well as NFPA 06:53:5706:53:54staff, where appropriate.06:54:00Q. And I think you testified earlier but just for the sake of clarification, committees other codes and standards are called other codes and standards are called 06:54:11 code-making panels when it comes to the of:54:13 National Electrical Code; is that correct? 06:54:1506:54:13 06:54:13 06:54:14A. That is partially correct. There are two soverseen by a technical correlating correlating 06:54:2006:54:21 06:54:21 06:54:21 06:54:21 06:54:31 06:54:32Q. What is the work of the technical correlating committee?06:54:37 06:54:35A. The technical correlating committee is committee?06:54:42 06:54:34A. The technical correlating committee is panels are aware of potential conflicting 06:54:49 panels are aware of potential conflicting 06:54:5406:54:49 06:54:52	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	 Electric Light and Power Group." What does 06:56:29 that mean? 06:56:33 A. Before I answer the question, I'm just having 06:56:38 trouble finding John's name. Is he on the 06:56:41 one on Code-Making Panel 7? 06:56:43 Q. Panel 7, left column, four from the bottom. 06:56:46 A. So in that case it appears Mr. Ray, the 06:56:55 company he works for is Duke Engineering 06:57:00 Corporation. He represents a utility, and 06:57:02 his representation of the committee is 06:57:04 Electrical Light and Power Group, EEI. 06:57:06 Q. And the letters in brackets after the names, 06:57:13 employers and states indicate the what do 06:57:23 you call it? Not the interest group. The 06:57:32 A. It's the interest category. 06:57:34 Q. The interest category. So the letters within 06:57:37 brackets at the end of the line on which the 06:57:39 names of the individuals are found is a code 06:57:43 for the interest category; is that correct? 06:57:45 A. That is correct. 06:57:47 Q. M is manufacturer; is that right? M stands 06:57:48 for manufacturer? 06:58:00
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	you just indicated there is a list of 06:53:49 persons? 06:53:50 Q. Right. 06:53:51 A. Those pages appear to contain lists of 06:53:54 technical committee members as well as NFPA 06:53:57 staff, where appropriate. 06:54:00 Q. And I think you testified earlier but just 06:54:02 for the sake of clarification, committees 06:54:04 that are called technical committees for 06:54:09 other codes and standards are called 06:54:11 code-making panels when it comes to the 06:54:13 National Electrical Code; is that correct? 06:54:13 National Electrical Code; is that correct? 06:54:21 There are code-making panels and their work 06:54:24 is overseen by a technical correlating 06:54:30 Q. What is the work of the technical correlating 06:54:31 committee? 06:54:30 Q. What is the work of the technical correlating 06:54:42 document to ensure that the code-making 06:54:42 panels are aware of potential conflicting 06:54:49 requirements between their portions of the 06:54:52 document and also consistency. It's 06:54:53	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	 Electric Light and Power Group." What does 06:56:29 that mean? 06:56:33 A. Before I answer the question, I'm just having 06:56:38 trouble finding John's name. Is he on the 06:56:41 one on Code-Making Panel 7? 06:56:43 Q. Panel 7, left column, four from the bottom. 06:56:46 A. So in that case it appears Mr. Ray, the 06:56:55 company he works for is Duke Engineering 06:57:00 Corporation. He represents a utility, and 06:57:02 his representation of the committee is 06:57:04 Electrical Light and Power Group, EEI. 06:57:06 Q. And the letters in brackets after the names, 06:57:13 employers and states indicate the what do 06:57:29 interest section? 06:57:32 A. It's the interest category. 06:57:34 Q. The interest category. So the letters within 06:57:37 brackets at the end of the line on which the 06:57:39 names of the individuals are found is a code 06:57:43 for the interest category; is that correct? 06:57:45 A. That is correct. 06:57:47 Q. M is manufacturer; is that right? M stands 06:57:48 for manufacturer? 06:58:00 A. Yes, M is for manufacturer. 06:58:00 Q. E stands for enforcer; is that correct? 06:58:02

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1	A. Correct. The Es could represent federal 06:58:05	1	Vague and ambiguous. 07:01:33
2	government, state and local government as 06:58:14	2	A. Yes. We had a major rewrite of our 07:01:36
3	well as state fire officials, local fire 06:58:17	3	regulations in approximately 2007, 2008 time 07:01:40
4	officials. 06:58:20	4	frame we started that process. 07:01:48
5	Q. I notice on the front page of this there's a 06:58:21	5	Q. Has there been any significant change 07:01:50
6	section near the bottom right of the page 06:58:42	6	since strike that. 07:01:53
7	that says "Order redline PDF." Do you see 06:58:45	7	You said that's when the process 07:01:54
8	that? 06:58:48	8	started. When did that process end? 07:01:56
9	A. Yes. 06:58:48	9	A. The rewrite to our regulations ended, to the 07:01:57
10	Q. That redline PDF is a different document. 06:58:49	10	best of my knowledge, in approximately 2009, 07:02:06
11	This is not the redline, correct? 06:58:52	11	2010. 07:02:09
12	A. Based upon my review here, it appears to be 06:58:5	712	Q. Have there been any other, in your mind, 07:02:13
13	the, quote, unquote, normal version with the 06:59:01	13	significant changes to the standards 07:02:16
14	shading to track changes and not a full track 06:59:04	14	development process since 2010? 07:02:18
15	changes redline version. 06:59:07	15	A. No. 07:02:22
16	Q. And if one orders the redline PDF, does that 06:59:08	16	Q. Do you, in preparing and overseeing the 07:02:22
17	show the text that was deleted which might 06:59:11	17	development of codes and standards, strive to 07:02:48
18	not appear in this version? 06:59:14	18	make them suitable for governments to adopt 07:02:53
19	A. That is my understanding, but I have not seen 06:59:1	719	for purposes of enforcement? 07:02:59
20	the redline version of this document. 06:59:21	20	MR. REHN: Object to the form. It's 07:03:05
21	Q. Let me ask you to turn to Page 17538. 06:59:23	21	vague. May call for a legal opinion. 07:03:07
22	A. 17538. 06:59:53	22	A. Part of our committee officers guide is a 07:03:15
23	O. Does the language on that page appear 06:59:57	23	guidance document that is to address 07:03:19
24	correct, to your knowledge? 07:00:02	24	usability, adoptability and enforceability. 07:03:22
25	MR. REHN: You're referring to the 07:00:11	25	It's guidance to our committees to 07:03:27
	Page 242		Page 244
1	whole language on the page? 07:00:13	1	ensure that they write clear and not vague 07:03:29
1 2	whole language on the page? 07:00:13 MR. BRIDGES: Right. 07:00:15	1 2	ensure that they write clear and not vague 07:03:29 requirements that are understandable and 07:03:31
1 2 3	whole language on the page? 07:00:13 MR. BRIDGES: Right. 07:00:15 MR. REHN: Objection as to form. 07:00:15	1 2 3	ensure that they write clear and not vague07:03:29requirements that are understandable and07:03:31concise.07:03:33
1 2 3 4	whole language on the page?07:00:13MR. BRIDGES: Right.07:00:15MR. REHN: Objection as to form.07:00:15A. To the best of my knowledge, it appears like07:00:21	1 2 3 4	ensure that they write clear and not vague07:03:29requirements that are understandable and07:03:31concise.07:03:33Q. You said usability, adoptability and07:03:34
1 2 3 4 5	whole language on the page?07:00:13MR. BRIDGES: Right.07:00:15MR. REHN: Objection as to form.07:00:15A. To the best of my knowledge, it appears like07:00:21our opening issuing statement, our history07:00:23	1 2 3 4 5	ensure that they write clear and not vague07:03:29requirements that are understandable and07:03:31concise.07:03:33Q. You said usability, adoptability and07:03:34enforceability; is that right?07:03:38
1 2 3 4 5 6	whole language on the page?07:00:13MR. BRIDGES: Right.07:00:15MR. REHN: Objection as to form.07:00:15A. To the best of my knowledge, it appears like07:00:21our opening issuing statement, our history07:00:23and development of the National Electrical07:00:27	1 2 3 4 5 6	ensure that they write clear and not vague 07:03:29 requirements that are understandable and 07:03:31 concise. 07:03:33 Q. You said usability, adoptability and 07:03:34 enforceability; is that right? 07:03:38 A. Yes. 07:03:40
1 2 3 4 5 6 7	whole language on the page?07:00:13MR. BRIDGES: Right.07:00:15MR. REHN: Objection as to form.07:00:15A. To the best of my knowledge, it appears like07:00:21our opening issuing statement, our history07:00:23and development of the National Electrical07:00:27Code as well as our copyright statements, to07:00:29	1 2 3 4 5 6 7	ensure that they write clear and not vague 07:03:29 requirements that are understandable and 07:03:31 concise. 07:03:33 Q. You said usability, adoptability and 07:03:34 enforceability; is that right? 07:03:38 A. Yes. 07:03:40 Q. Does adoptability include within that concept 07:03:41
1 2 3 4 5 6 7 8	whole language on the page?07:00:13MR. BRIDGES: Right.07:00:15MR. REHN: Objection as to form.07:00:15A. To the best of my knowledge, it appears like07:00:21our opening issuing statement, our history07:00:23and development of the National Electrical07:00:27Code as well as our copyright statements, to07:00:29the best of my knowledge.07:00:34	1 2 3 4 5 6 7 8	ensure that they write clear and not vague 07:03:29 requirements that are understandable and 07:03:31 concise. 07:03:33 Q. You said usability, adoptability and 07:03:34 enforceability; is that right? 07:03:38 A. Yes. 07:03:40 Q. Does adoptability include within that concept 07:03:41 the ease of adoption by governments of codes 07:03:50
1 2 3 4 5 6 7 8 9	whole language on the page?07:00:13MR. BRIDGES: Right.07:00:15MR. REHN: Objection as to form.07:00:15A. To the best of my knowledge, it appears like07:00:21our opening issuing statement, our history07:00:23and development of the National Electrical07:00:27Code as well as our copyright statements, to07:00:29the best of my knowledge.07:00:34Q. So it's correct, to the best of your07:00:34	1 2 3 4 5 6 7 8 9	ensure that they write clear and not vague 07:03:29 requirements that are understandable and 07:03:31 concise. 07:03:33 Q. You said usability, adoptability and 07:03:34 enforceability; is that right? 07:03:38 A. Yes. 07:03:40 Q. Does adoptability include within that concept 07:03:41 the ease of adoption by governments of codes 07:03:50 as enforceable law? 07:04:01
1 2 3 4 5 6 7 8 9 10	whole language on the page?07:00:13MR. BRIDGES: Right.07:00:15MR. REHN: Objection as to form.07:00:15A. To the best of my knowledge, it appears like07:00:21our opening issuing statement, our history07:00:23and development of the National Electrical07:00:27Code as well as our copyright statements, to07:00:29the best of my knowledge.07:00:34Q. So it's correct, to the best of your07:00:34knowledge?07:00:37	1 2 3 4 5 6 7 8 9 10	ensure that they write clear and not vague 07:03:29 requirements that are understandable and 07:03:31 concise. 07:03:33 Q. You said usability, adoptability and 07:03:34 enforceability; is that right? 07:03:38 A. Yes. 07:03:40 Q. Does adoptability include within that concept 07:03:41 the ease of adoption by governments of codes 07:03:50 as enforceable law? 07:04:01 MR. REHN: Object to the form. May 07:04:03
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1	utilize them in their facilities and 07:04:54	1	This is the end of Tape No. 4 as well as	07:06:35
2	applications. 07:04:57	2	the deposition, and we are now off the	07:06:37
3	VIDEOGRAPHER: We've reached the 07:04:59	3	record. 07:06:39	
4	seven hours. 07:05:01	4	(Whereupon the deposition was	07:06:39
5	MR. BRIDGES: Thank you very much. 07:05:01	5	concluded at 7:06 p.m.)	
6	CROSS EXAMINATION 07:05:01	6	• 2	
7	BY MR_REHN: 07:05:01	7		
8	O Mr. Dubay Lhave a couple of questions for $07:05:05$	8		
0	vou just to clear up some issues that arose 07:05:07	Q		
10	artice I think in response to my own perhaps. 07:05:10	10		
10	earner Funnik in response to my own perhaps 07.05.10	10		
	confusing instruction. 07:05:14	11		
12	Do you recall being asked whether 0/:05:17	12		
13	you reviewed any documents in preparation for 07:05:18	13		
14	this deposition? 07:05:20	14		
15	A. Yes. 07:05:21	15		
16	Q. Do you recall that before you answered 07:05:21	16		
17	that question, I instructed you to answer to 07:05:24	17		
18	the extent you remembered any specific 07:05:26	18		
19	documents? 07:05:27	19		
20	A. Yes. 07:05:29	20		
21	Q. And do you recall that your answer to that 07:05:29	21		
22	question was "no" after I've given you that 07:05:31	22		
23	instruction? 07:05:35	23		
24	A Yes 07:05:35	24		
25	O So I'd like to just ask that question again $07:05:35$	25		
20	Page 246			Page 248
1	In preparation for this deposition, did 07:05:38	1	I declare under penalty of perjury	
1 2	In preparation for this deposition, did07:05:38you review any documents, excluding07:05:40	1 2	I declare under penalty of perjury under the laws that the foregoing is	
1 2 3	In preparation for this deposition, did07:05:38you review any documents, excluding07:05:40identifying any specific documents, but07:05:43	1 2 3	I declare under penalty of perjury under the laws that the foregoing is true and correct.	
1 2 3 4	In preparation for this deposition, did07:05:38you review any documents, excluding07:05:40identifying any specific documents, but07:05:43did you review any documents in preparation07:05:45	1 2 3 4	I declare under penalty of perjury under the laws that the foregoing is true and correct.	
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63 (Pages 246 - 249)

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2	SUFFOLK, SS.)	
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	L Jaanatta Maracas Pagistarad	
	1, Scalette Malacas, Registered	
5	Professional Reporter and Notary Public in	
	and for the Commonwealth of Massachusetts, do	
6	hereby certify that there came before me on	
ľ	the let day of Amil 2015 at 10:00 am	
_	the 1st day of April, 2015, at 10.00 a.m.,	
7	the person hereinbefore named, who was by me	
	duly sworn to testify to the truth and	
8	nothing but the truth of his knowledge	
ľ	touching out the dath of his knowledge	
	touching and concerning the matters in	
9	controversy in this cause; that he was	
	thereupon examined upon his oath, and his	
10	examination reduced to typewriting under my	
10	directions and that the denosition is a true	
	unection, and that the deposition is a fide	
11	record of the testimony given by the witness.	
12		
	I further certify that I am neither	
12	attempt on councel for non-related to on	
15	automey of counsel for, nor related to of	
	employed by, any attorney or counsel employed	
14	by the parties hereto or financially	
	interested in the action.	
15		
10	In mitness where of I have have to	
10	in witness whereor, I have hereunto	
	set my hand this 8th day of April, 2015.	
17		
18		
10		
19		
20		
21	Notary Public	
	$M_{\rm V}$ commission expires $8/14/20$	
0	wy commission expires 6/14/20	
22		
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1	Page 250	
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EXHIBIT 7

Case 1:13-cv-01215-TSC <u>Document 122-1</u> Filed 12/22/15 Page 235 of 298 American Society for Testing and Materials, et al. v. Public Resources 07-31-2015

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA AMERICAN SOCIETY FOR TESTING AND MATERIALS, d/b/a ASTM INTERNATIONAL; NATIONAL FIRE PROTECTION ASSOCIATION, INC.; and AMERICAN SOCIETY OF HEATING, REFRIGERATION AND AIR CONDITIONING ENGINEERS, Plaintiffs and Counter-Defendants, v. Civil Action No. 1:13-cv-01215-TSC PUBLIC.RESOURCE.ORG, INC., Defendant and Counter-Plaintiff. PAGES 1 - 264 Videotaped Deposition of: JAMES FRUCHTERMAN Friday, July 31, 2015 DATE: TIME: 9:34 a.m. Morgan, Lewis & Brockius, LLP LOCATION: Two Palo Alto Square, Suite 700 Palo Alto, California REPORTED BY: Kelli Combs Certified Shorthand Reporter License 7705. CONFIDENTIAL - PURSUANT TO PROTECTIVE ORDER

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Case 1:13-cv-01215-TSC <u>Document 122-1</u> Filed 12/22/15 Page 236 of 298 American Society for Testing and Materials, et al. v. Public Resources 07-31-2015

	42			44
1	THE WITNESS: Yes.	1	MR. KAPLAN: Objection; vague.	
2	BY MS. RUBEL:	2	THE WITNESS: In my opinion, I think it's	
3	Q Have there been issues with technology	3	not a I don't think it's in their interests.	
4	providers disabling access to eBooks for people with	4	BY MS. RUBEL:	
5	print disabilities?	5	Q You don't think what is in their	
6	MR. KAPLAN: Objection; vague, calls for	6	interests?	
7	speculation.	7	A I think that the technical protection	
8	THE WITNESS: There have been issues with	8	mechanisms make their product less attractive to	
9	technology providers providing the ability to	9	consumers.	
10	disable access and that capability being utilized.	10	Q Well, let me take a step back.	
11	Yes.	11	A Uh-huh.	
12	BY MS. RUBEL:	12	Q My question was: Do you think it's a	
13	Q What's your understanding of why the	13	valid concern for publishers to be worried that	
14	technology providers were making it possible to	14	consumers may make copies to give away to other	
15	disable access to the eBooks for people with print	15	people? So I want to understand how your response	
16	disabilities?	16	is responsive to my question.	
17	A Public statements by different	17	MR. KAPLAN: Is there a question, Counsel?	
18	stakeholders have mentioned concerns over rights.	18	BY MS. RUBEL:	
19	Did they have the right to provide that, piracy, as	19	Q Do you think it's a valid concern for	
20	it's labeled by some, making of unauthorized copies?	20	publishers that to want to prevent consumers from	
21	Probably the top two issues that I've heard	21	making copies to give away?	
22	discussed.	22	MR. KAPLAN: Objection; vague.	
23	Q Who do you mean by the "making of	23	THE WITNESS: I think that the way that	
24	unauthorized copies"?	24	publishers try to prevent making of copies is not in	
25	A I guess that's kind of a legal conclusion	25	their interest; so no, I don't think it's a valid	
		-		
	43			45
1	whether it's authorized or not, but the Authors	1	concern because I think they their interests	
2	Guild, for example, or authors would like to get	2	would be better served if they didn't use those	
3	control of the making of copies. That's, I think,	3	technologies.	
4	my understanding of what copyright is; the ability	4	BY MS. RUBEL:	
5	to control who makes copies.	5	O Why do you think the use of those	
6	Q So was there some concern that providing		< will do you mink the use of those	
		6	technology technological mechanisms is not in	
7	access to eBooks for people with print disabilities	6 7	technology technological mechanisms is not in their interests?	
7 8	access to eBooks for people with print disabilities was somehow letting go of control over who was going	6 7 8	technology technological mechanisms is not in their interests? MR. KAPLAN: Objection; vague.	
7 8 9	access to eBooks for people with print disabilities was somehow letting go of control over who was going to be able to make copies of the material?	6 7 8 9	technology technological mechanisms is not in their interests? MR. KAPLAN: Objection; vague. THE WITNESS: To pick one particular	
7 8 9 10	access to eBooks for people with print disabilities was somehow letting go of control over who was going to be able to make copies of the material? MR. KAPLAN: Objection; vague, lacks	6 7 8 9 10	technology technological mechanisms is not in their interests? MR. KAPLAN: Objection; vague. THE WITNESS: To pick one particular example, publishers who have taken off technical	
7 8 9 10 11	access to eBooks for people with print disabilities was somehow letting go of control over who was going to be able to make copies of the material? MR. KAPLAN: Objection; vague, lacks foundation and calls for speculation, argumentative.	6 7 8 9 10 11	technology technological mechanisms is not in their interests? MR. KAPLAN: Objection; vague. THE WITNESS: To pick one particular example, publishers who have taken off technical protection mechanisms on titles sold more copies of	
7 8 9 10 11 12	access to eBooks for people with print disabilities was somehow letting go of control over who was going to be able to make copies of the material? MR. KAPLAN: Objection; vague, lacks foundation and calls for speculation, argumentative. THE WITNESS: I would say that the	6 7 8 9 10 11 12	technology technological mechanisms is not in their interests? MR. KAPLAN: Objection; vague. THE WITNESS: To pick one particular example, publishers who have taken off technical protection mechanisms on titles sold more copies of the books that didn't have those mechanisms on them	
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1	BY MS. RUBEL:	1	MR. KAPLAN: Objection; vague.	
2	Q I'll give you an opportunity to take a	2	THE WITNESS: Not in practice.	
3	look at this and see if that refreshes your	3	BY MS. RUBEL:	
4	recollection of how many total standards you	4	Q Can you explain what you mean by that?	
5	reviewed in the process of drafting your report.	5	A I could imagine a blind person trying to	
6	A NFPA 101-2000, ASHRAE 90.1-2010, five	6	take a picture of the screen, uploading that picture	
7	other ASHRAE standards as outlined on page 12 of my	7	into an OCR device and trying to see the text they	
8	expert report, ASTM standard B57-84e1 of that	8	can't see on the screen. That's really difficult to	
9	standard, as in Edward 1, ASTM A20, like Apple, 20A,	9	do, but it's imaginable.	
10	like Apple, 20M, like Mary, -93a, like Apple. And I	10	Q So theoretically it could be possible for	
11	also	11	a copyright owner to protect the text against	
12	MR. KAPLAN: I believe, for the court	12	copying while also making it possible for someone	
13	reporter, the ASTM standard is B557, not B57.	13	with a print disability to review the material; is	
14	THE WITNESS: Correct. I misread the	14	that what you were explaining?	
15	number. In addition, I accessed the 2012 version of	15	MR. KAPLAN: Objection; misstates the	
16	the NPFA standards or NFPA standards. It's NFPA,	16	testimony, incomplete hypothetical, vague,	
17	right?	17	argumentative.	
18	MR. REHN: NFPA.	18	THE WITNESS: I believe that technology	
19	THE WITNESS: Yeah. So there's an error	19	that makes it impossible to access text as text but	
20	where I flipped the letters there. Now I'm	20	instead presents a picture of the text is, for all	
21	cross-referenced whether the ASHRAE standard is the	21	intents and purposes, inaccessible to a blind	
22	same one that I looked at here. Let's see. Yeah,	22	person.	
23	that looks like the same one. So I wasn't keeping a	23	BY MS. RUBEL:	
24	running count, but I think that's the complete list.	24	Q Is there another way, other than	
25	So it's in three, plus five, plus one, plus	25	presenting the material as a picture, that a	
	99			101
1	99 another version of the same thing, so on the order	1	convright owner could provide could protect their	101
1	99 another version of the same thing, so on the order of 10	1	copyright owner could provide could protect their work against copying but at the same time still make	101
1 2 3	99 another version of the same thing, so on the order of 10. BY MS_RUBEL:	1 2 3	copyright owner could provide could protect their work against copying but at the same time still make it available to be accessed by people with print	101
1 2 3 4	99another version of the same thing, so on the orderof 10.BY MS. RUBEL:O Do you know how many standards the	1 2 3 4	copyright owner could provide could protect their work against copying but at the same time still make it available to be accessed by people with print disabilities?	101
1 2 3 4 5	99 another version of the same thing, so on the order of 10. BY MS. RUBEL: Q Do you know how many standards the Plaintiffs have alleged that Public Resource has	1 2 3 4 5	copyright owner could provide could protect their work against copying but at the same time still make it available to be accessed by people with print disabilities? MR KAPLAN: Objection: incomplete	101
1 2 3 4 5 6	99 another version of the same thing, so on the order of 10. BY MS. RUBEL: Q Do you know how many standards the Plaintiffs have alleged that Public Resource has infringed in this litigation?	1 2 3 4 5 6	copyright owner could provide could protect their work against copying but at the same time still make it available to be accessed by people with print disabilities? MR. KAPLAN: Objection; incomplete hypothetical vague argumentative and calls for a	101
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$\begin{array}{c}1\\2\\3\\4\\5\\6\\7\\8\\9\\10\\11\\12\\13\\14\\15\\16\\17\\18\\19\\20\\21\\22\\23\\24\\25\end{array}$	 to certify the people and then represent that to us. And so if a physician looks at someone's disability and says, "I think they meet the standards of the Chafee Amendment," we take that. BY MS. RUBEL: Q You focus in your report on whether the standards that you considered were accessible specifically through use of a screen reader; is that right? A Yes. That was the primary mechanism I used. Q Why did you select that as the primary mechanism? A Because I outlined in my report, I looked at the disability challenges of a blind person as the most difficult to solve, and a screen reader is the number one technology a blind person uses to access online content, content on their personal computer. Q What other types of tools do they use? MR. KAPLAN: Objection; vague. THE WITNESS: Common tools used by blind people around accessibility include Braille displays, as I mentioned before, screen readers, screen enlargers for people with low vision, eBook 	$\begin{array}{c}1\\2\\3\\4\\5\\6\\7\\8\\9\\10\\11\\12\\13\\14\\15\\16\\17\\18\\19\\20\\21\\22\\23\\24\\25\end{array}$	 both talk what's on the screen as well as send it to a Braille display so you can feel the same characters. And so the Braille display requires, for online content, to have a screen reader or a book reading program, but kind of most roads lead through a screen reader unless you're handed the digital file in an accessible format or someone converts it for you. BY MS. RUBEL: Q What about a screen enlarger; did you consider whether any of the Plaintiffs' standards that you reviewed, whether a person would be able to use a screen enlarger on those standards? A I did not consider the use of a screen enlarger. Q We'll talk a little more about your the conclusions that you drew about screen readers, but is it correct to summarize your opinion that the versions of the Plaintiffs' standards on the free on the free access sections of their websites were not accessible by screen readers? MR. KAPLAN: Objection; misstates testimony, vague. THE WITNESS: Yes. 	
1 2 3 4 5	111 readers, audio cassette tape players, apps that operate on tablets and smartphones. I think most other software applications that take inaccessible material or digital material and make it talk or larger or tactile. Those are pretty much the ways	1 2 3 4 5	BY MS. RUBEL: Q Would it be possible for a blind person who wanted access to those standards to have someone read those standards aloud to them? MR. KAPLAN: Objection; incomplete	113
6 7 8 9 10 11 12 13 14 15	people do it. BY MS. RUBEL: Q And did you consider for the purpose of this of your report whether the Plaintiffs' standards were accessible by blind people using any of those other tools, other than the screen reader? MR. KAPLAN: Objection; vague. THE WITNESS: I believe that the problems that they would run into with a screen reader were similar to those that they would run into with other	6 7 8 9 10 11 12 13 14 15	hypothetical. THE WITNESS: Yes. BY MS. RUBEL: Q So there's some way that a blind person would be able to know the content of those standards, correct? MR. KAPLAN: Objection; incomplete hypothetical, vague, argumentative. THE WITNESS: Yes. As I mentioned earlier, if they had someone else help them, they	

16 technologies, if they could get the material. I

17 think that's an accurate answer.

18 BY MS. RUBEL:

19 Q So it's your belief that if they wouldn't

20 be able to access it through a screen reader, they

21 also wouldn't be able to access it through a Braille

22 display?

23 MR. KAPLAN: Objection; misstates the 24 testimony.

25 THE WITNESS: Yes. A screen reader can

16 could -- they could access the standards through a

17 variety of mechanisms.

18 BY MS. RUBEL:

19 Q How else would having somebody else's

20 assistance -- sorry. Strike that.

21 You mentioned that it would be possible if

22 the person was handed a digital copy to access the

23 content of the standards. In what other ways, if

24 they had assistance, would a blind person be able to

25 access copies of the Plaintiffs' standards?

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1	usage, only their accessibility.	1	professions.	
2	O Do you know of any person who has ever	2	Q Do any of the standards from Plaintiffs	
3	used any of the 10 standards that you reviewed?	3	that you reviewed relate to computer software	
4	MR. KAPLAN: Objection; vague.	4	engineering?	
5	THE WITNESS: I don't personally know of a	5	A No.	
6	person who has shared with me that they've used	6	Q Has anyone ever informed you that they	
7	these standards.	7	wanted to be able to access a standard that was	
8	BY MS. RUBEL:	8	available on one of Plaintiffs' websites, but they	
9	Q What percentage of people in the United	9	were unable to do so because of a print disability?	
10	States are completely blind?	10	A Nobody has personally asked me about the	
11	A Less than 1 percent.	11	accessibility of a document on one of the	
12	Q What percentage of the population in the	12	Plaintiffs' sites.	
13	United States has print disability?	13	Q Are you aware that anyone with a print	
14	A We do not have a precise number, but our	14	disability has asked anyone else about the ability	
15	estimate is in the 2 to 3 percent range that would	15	to access a standard from one of the Plaintiffs'	
10	meet our qualifications.	10	websites?	
1/	Q And that's including the 1 percent that's	1/	A Yes.	
10	A Vesh All people with print dissbilities	10	THE WITNESS: Sorry	
20	are in that range	$\frac{19}{20}$	MR KAPI AN: It's obay	
$\frac{20}{21}$	O Are you excuse me	$\frac{20}{21}$	BY MS_RUBEL:	
$\frac{21}{22}$	Are you aware of any individual who works	$\frac{21}{22}$	0 How many people are you aware of who have	
23	in the field of fire protection who's blind?	23	indicated that they were unable to access a standard	
24	MR. KAPLAN: Objection; vague.	24	from one of the Plaintiffs' websites because of a	
25	THE WITNESS: No.	25	print disability?	
		-		
	123			125
1	123 BY MS_RUBEL:	1	MR KARLAN: Objection: misstates	125
1	123 BY MS. RUBEL:	1	MR. KAPLAN: Objection; misstates	125
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	130			132
1	priority based on our funding structure of which	1	could have called the Plaintiffs for example and	102
$\begin{vmatrix} 1\\2 \end{vmatrix}$	titles we will do. If it's for an educational	$\begin{vmatrix} 1 \\ 2 \end{vmatrix}$	asked for an electronic conv of the standard that	
	purpose by an American student we're funded by the		they would have been able to use to make it print	
4	Department Of Education to produce those	4	accessible to someone with a print disability?	
	If someone didn't have a school reason we	5	MR KAPLAN: Objection: incomplete	
6	could put it on a what we call a wish list and	6	hypothetical vague	
	volunteers could produce the book or the person with	7	THE WITNESS: Outside the scope of my	
8	disability could cause it to be created themselves	8	expert engagement.	
9	and submit it to us to add to our library.	9	BY MS. RUBEL:	
10	BY MS. RUBEL:	10	O My question is: Did you ever investigate	
11	O Other than those several NFPA standards on	11	it? So the answer may be "no"	
12	the Bookshare collection, are you aware of any other	12	A Okav. No.	
13	standards of the Plaintiffs that anyone with a print	13	O Okay.	
14	disability has indicated they were not able to	14	I'm just going to ask another short series	
15	access because of their print disability?	15	of questions, and then we can take another break.	
16	MR. KAPLAN: Objection; vague.	16	A Okay. Sounds good.	
17	THE WITNESS: I have no knowledge of that.	17	Q On page 7 of your report	
18	BY MS. RUBEL:	18	A Yes.	
19	Q The 10 specific standards that you	19	Q it's the first full the first	
20	reviewed, are you aware of any person with a print	20	complete sentence on page 7, you indicated that it's	
21	disability who attempted to access those standards	21	your opinion that people with other print	
22	on the Plaintiffs' websites and was unable to do so?	22	disabilities, such as vision impairment, dyslexia,	
23	MR. KAPLAN: Objection; vague.	23	brain injury and physical disabilities, would find	
24	THE WITNESS: No. Sorry, I thought you	24	the standards accessible with screen readers on	
25	were finished.	25	Public Resource's website but that the standards on	
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	131			133
	131 MR. KAPLAN: Yeah. No. No.	1	the free reading portions of the Plaintiffs'	133
1 2	131 MR. KAPLAN: Yeah. No. No. BY MS. RUBEL:	1 2	the free reading portions of the Plaintiffs' websites would not be accessible to the great	133
1 2 3	131 MR. KAPLAN: Yeah. No. No. BY MS. RUBEL: Q Do you have any reason to believe that if	1 2 3	the free reading portions of the Plaintiffs' websites would not be accessible to the great majority of people with these types of disabilities;	133
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1	A I think we focused on the website that	1	audelines?	
$\begin{vmatrix} 1 \\ 2 \end{vmatrix}$	didn't have an accessible sign-up process, and I'm	2	A They're the primary Web accessibility	
	happy to find out which one of the three standards	2	standard promulgated by the World Wide Web	
	happy to find out which one of the three standards		Consortium which is the main standards body in Web	
4	to that	4	technology	
			O Deer Brastech participate in the World	
	Q Sure.		Q Does Benetech participate in the world	
	A So I'm looking at my expert report. So we		wide web Consortium's standards development process?	
8	focused our efforts on NFPA when we did our	8	MR. KAPLAN: Objection; vague.	
9	in-person evaluation.	9	THE WITNESS: Benetech staff have	
10	Q Is Rob Turner blind?	10	participated in W3C standards efforts.	
	A Yes.		BY MS. RUBEL:	
12	Q What is his background?	12	Q In what capacity?	
13	MR. KAPLAN: Objection; vague.	13	A As a stakeholder with technical expertise	
14	THE WITNESS: He's a blind engineer for my	14	in the area. So our focus is on accessibility	
15	nonprofit organization.	15	aspects of W3C standards.	
16	BY MS. RUBEL:	16	Q During what time period did Benetech	
17	Q What what is his role	17	participate in the standards development process for	
18	Is he employed by Benetech?	18	this organization?	
19	A Yes, he's employed by Benetech as a as	19	A In one form or another, we have	
20	a Quality Assurance Engineer.	20	participated in the W3C standards process for	
21	Q So what does he do in that role?	21	roughly 20 years.	
22	A He tests the quality of our products,	22	Q And does Benetech currently participate in	
23	including our websites, evaluates accessibility, but	23	the standards development process?	
24	his focus is on our products.	24	A I'm not aware of a current process that	
25	Q Why did you seek Rob Turner's assistance?	25	we're actively involved with today, but we might	
	143			145
1	143 A He's one of our blind employees who	1	be we've been involved in the last couple of	145
1 2	A He's one of our blind employees who happens to be in the office regularly as opposed to	1 2	be we've been involved in the last couple of years on an issue that may still be open.	145
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	162			164
1	right?	1	is that right?	
2	A Yes.	2	MR. KAPLAN: Objection; asked and	
3	Q Was this the entire screen that you saw or	3	answered, argumentative, vague.	
4	just a portion of the screen?	4	THE WITNESS: Though I don't recall ASTM	
5	A A portion, but I'd say that, you know, you	5	particularly, a zoom function is quite common in an	
6	can see the scroll bar, that there are multiple	6	image viewer, so I probably just assumed it was	
7	scroll bars that I could access to scan down and see	7	there even though I didn't specifically look for it.	
8	more of it or to go forward.	8	BY MS. RUBEL:	
9	Q So you were able to scroll down to see	9	Q If you look at the screenshot on page 14	
10	what was the entire page 1 on the screen of the	10	in the top right-hand corner of where the of the	
11	ASTM's Reading Room?	11	window in which the standard is shown, do you see	
12	A As a sighted person, I believe that I	12	the icon that's all the way to the right?	
13	could see all of page 1, yes.	13	A The plus icon.	
14	Q And you could click through and the	14	Q Yes. What what does that indicate to	
15	arrows, using the arrows to see page 2; is that	15	you?	
16	correct?	16	A It's probably the zoom function that I	
17	A As a sighted person, yes. I believe I can.	17	iust referred to.	
18	O And all the way through up to page 11: is	18	O And do you recall pushing that button	
19	that right?	19	and	
20	A I believe that I doubt that I actually	20	Do you recall pushing that button?	
21	went nage by nage all the way to nage 11.	21	A Usually when these windows first come up.	
22	O Was there an option on the ASTM's Reading	22	the standards are illegible so yeah usually I	
23	Room to make the text larger?	23	probably push the magnification button to make it	
24	A I didn't look for that feature.	24	readable. So it's quite typical in an image-based	
25	O Did you believe that was relevant: that an	25	window to have a zoom function, especially because	
	163			165
1	163 option to make the text larger would be relevant to	1	you have no idea how big a screen the person is	165
1 2	163 option to make the text larger would be relevant to evaluating whether the standard is accessible to	1 2	you have no idea how big a screen the person is viewing this on.	165
1 2 3	163 option to make the text larger would be relevant to evaluating whether the standard is accessible to people with print disabilities?	1 2 3	you have no idea how big a screen the person is viewing this on. O Do you know how much zoom capability the	165
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1	text searching function that's because it isn't	1	didn't have to sign up for anything	
2	there unless it's well hidden. Also the page looks	2	BY MS_RUBEL:	
3	like a picture of a standards page as opposed to a	3	O So Public Resource is not providing access	
4	text version. So the fact that it was a picture of	4	to Plaintiffs' standards exclusively to people with	
5	the page, generally that means that text searching	5	print disabilities, correct?	
6	tends to be unavailable unless they've done	6	MR. KAPLAN: Objection; vague, calls for a	
7	something extra.	7	legal conclusion.	
8	Q In addition to ASTM standard B557, you	8	THE WITNESS: Yes.	
9	also evaluated one other ASTM standard. What	9	BY MS. RUBEL:	
10	standard was that?	10	Q Does the material that Public Resource	
11	A ASTM A20/A20M, like Mary, -93a, like	11	posted on its website bear any notice that further	
12	Apple.	12	reproduction of the material could be an	
13	Q Why did you evaluate that standard? Why	13	infringement?	
14	did you choose that standard?	14	MR. KAPLAN: Objection; vague, lacks	
15	A Because it was the first one listed, and I	15	foundation.	
16	just wanted to see, gee, the other standard's	16	THE WITNESS: No. At least it's been long	
17	presenting the same image-based interface. Yes,	17	enough that let me reread the question.	
18	looks like it, and I think I had tested five of them	18	MR. KAPLAN: Can you restate the question.	
19	on another standards website, and so after you've	19	(Record read as follows:	
20	tested them, you got to say, "Well, gee, looks like	20	"Q Does the material that	
21	they're all presenting this image-based interface,"	21	Public Resource posted on its	
22	but obviously I did not comprehensively go through	22	website bear any notice that	
23	every standard to confirm that they all presented	23	further reproduction of the	
24	the same inaccessible interface.	24	material could be an	
25	Q Do you know if ASTM standard A20 is at	25	infringement?")	
	167			169
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1 2	167 issue in this litigation? A No, I do not.	1 2	MR. KAPLAN: And I'll make the same objections.	169
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 documents, which is a different Adobe product that yes. Q Are you aware that NFPA sells PDF versions of its standards on its website? A Let's see if it has a Buy Now button on my screenshot. I see a cart on there, so I assume that you guys sell things. I I probably didn't check to see whether you sell PDF versions of the standard. Q Did anybody ask you to check whether any of the Plaintiffs in this case sold PDF standards? MR. KAPLAN: Objection; calls for privileged communications. You can answer to the extent that you don't divulge privileged communications. THE WITNESS: No. BY MR. REHN: Q When you were asked to render an opinion about the accessibility of Plaintiffs' standards, did it occur to you to check whether those standards were available in a PDF version or any other electronic version? MR. KAPLAN: Objection; misleading, misstates testimony, vague, argumentative. THE WITNESS: Privileged conversation. 	 A Yes. Q When you were retained to evaluate the accessibility of content available on the websites of the Plaintiffs, did you consider whether you should check to see if there were PDF versions available from the Plaintiffs? MR. KAPLAN: You can go ahead and answer. THE WITNESS: No. BY MR. REHN: Q You just didn't think That didn't occur to you that that might be a possibility? MR. KAPLAN: Objection; asked and answered, argumentative. THE WITNESS: I'll just go back to my expert report and that sentence. I was asked to evaluate the accessibility of certain online content. BY MR. REHN: Q Now, if I can ask you to turn to page 5 of your report, where you say it says "Overview and Summary of Opinions." A Uh-huh. Q If you could just read the first sentence there, the first full sentence under that heading.
 21 BY MR. REHN: 2 Q I'm asking what occurred to you, outside 3 of conversations you had with attorneys about this 4 project. 5 Did it ever occur to you that that was 6 something that might be necessary to check? 7 MR. KAPLAN: Objection; vague. 8 THE WITNESS: Go ahead. I I I think 9 I stated my opinion. I was asked to evaluate the 10 accessibility 11 MR. KAPLAN: Let's not get into privileged 12 communications. 13 THE WITNESS: Okay. All right. 14 BY MR. REHN: 15 Q If you would turn to page 1 of your expert 16 report 17 A Yes. 18 Q it says: 19 "I have been retained by 20 Public.Resource.Org to evaluate the 21 accessibility of certain online 22 content available on the websites 23 of the Plaintiffs and the Defendant 24 in this case." 25 Is that correct? 	1 A (Reading): 2 "Having reviewed the 3 accessibility of the same standards 4 content rendered by 5 Public.Resource.Org and those of 6 the free access options provided by 7 the NFPA, ASHRAE and ASTM, it is my 8 opinion that Public.Resource.Org 9 currently provides the only 10 accessible option for 11 people/citizens with print 12 disabilities to access these 13 standards." 14 Q 15 the standards that were available on 16 Public.Resource.Org's website with the free access 17 options provided by Plaintiffs in forming that 18 opinion; is that correct? 19 A Correct. 20 Q Did you evaluate any PDFs being sold by 21 NFPA in forming that opinion? 22 A No. 23 Q Did you evaluate any PDFs being sold by 24 ASHRAE in forming that opinion? 25 A No.

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 BY MR. REHN: Q Did you make any image-based PDFs of documents from any of Plaintiffs' websites? A I didn't make any documents from Plaintiffs' websites. I downloaded whatever document no, I downloaded I viewed the document, yes. So, no. Q After you sent him a document, it would have been one from Public Resource's website? A That's correct. Thank you. Q And if I could direct you to the last sentence of the first paragraph of his e-mail, would you read that sentence, please? A The one "I don't think"? Q Yes. A Yes. T "I don't think this type of document can be considered to be accessible." Q So based on your prior testimony, is it your understanding that he is saying that the image-based PDF from Public Resource's website that you sent to Mr. Turner, in his opinion, cannot be Considered to be accessible? MR. KAPLAN: Objection; misleading, 	10 10 11 11 11 11 11 11 11 11 11 11 11 1	1 THE VIDEOGRAPHER: This concludes today's 2 deposition. We're going off the record at 7:09. 3 (Time noted: 7:09 p.m.) 4 (Signature waived.) 5 6 7 8 9 0 1 2 3 4 5	
 argumentative, vague. THE WITNESS: I think Rob Turner doesn't believe it meets our accessibility standards, which is what his job is to primarily work on our library for the blind. We would not post an image-based PDF and call it accessible. BY MR. REHN: Q And do you agree with Mr. Turner's assessment that this type of document cannot be considered to be accessible? A I think it's less accessible than many of the other documents and more than others, as I wrote in my expert report. I can probably quote from the report. Q There's no question pending. So A Okay. I would direct you to my last sentence of my report MR. KAPLAN: Jim, there's no question pending. THE WITNESS: All right. MR. REHN: I have no further questions. And I believe that concludes Plaintiffs' questioning of this witness. MR. KAPLAN: I have no questions at this 	259 259 10 11 11 12 14 14 15 16 17 17 20 20 20 20 20 20 20 20 20 20 20 20 20	1 CERTIFICATION OF DEPOSITION OFFICER 2 I, the undersigned, a Certified Shorthand 3 Reporter of the State of California, do hereby certify: 4 That the foregoing proceedings were taken 5 before me at the time and place herein set forth; that 6 any witnesses in the foregoing proceedings, prior to 7 testifying, were administered an oath; that a record of 8 the proceedings was made by me using machine shorthand 9 which was thereafter transcribed under my direction; 0 that the foregoing transcript is a true record of the 1 testimony given. 2 Further, that the foregoing pertains to the 3 original transcript of a deposition in a Federal Case, 4 before completion of the proceedings, a review of the 5 transcript [] was [X] was not requested. 6 I further certify I am neither financially 7 interested in the action nor a relative or employee of 8 any attorney or any party to this action. 9 KELLI COMBS 2 CSR No. 7705	261

EXHIBIT 8

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1 UNITED STATES DISTRICT COURT 2 FOR THE DISTRICT OF COLUMBIA 3 AMERICAN SOCIETY FOR TESTING AND) Case No. 4 MATERIALS d/b/a ASTM INTERNATIONAL;) 1:13-cv-01215-EGS) 5 NATIONAL FIRE PROTECTION) ASSOCIATION, INC.; and) б) AMERICAN SOCIETY OF HEATING, 7 REFRIGERATING, AND) AIR-CONDITIONING ENGINEERS, INC.,) 8) Plaintiffs,) 9 vs.) 10 PUBLIC.RESOURCE.ORG, INC.,) 11 Defendant.) -----) 12 AND RELATED COUNTERCLAIMS. -----) 13 14 15 RULE 30(B)(6) VIDEOTAPED DEPOSITION OF AMERICAN 16 STANDARDS SOCIETY FOR TESTING AND MATERIALS, BY AND 17 THROUGH ITS DESIGNEE, 18 JEFFREY GROVE 19 WASHINGTON, D.C. 20 WEDNESDAY, MARCH 4, 2015 21 22 Reported by: 23 NANCY J. MARTIN, CSR No. 9504, RMR Job No. 2010158 24 PAGES 1 - 284 25 Page 1

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1	Nancy Martin, please swear in the witness, and we can 09:22:25	1 THE WITNESS: I don't have any criteria. 09:24:56
2	begin. 09:22:27	2 Just I thought it would be a good idea to review 09:24:58
3	JEFFREY GROVE, 09:22:36	3 annual reports and that type of publicly available 09:25:02
4	having been first duly sworn, 09:22:40	4 information about ASTM. 09:25:04
5	and testified as follows: 09:22:40	5 BY MR. BRIDGES: 09:25:08
6	09:22:40	6 Q. What else did you review among the documents? 09:25:08
7	EXAMINATION 09:22:40	7 MR. FEE: Objection. Are you asking about 09:25:11
8	BY MR. BRIDGES: 09:22:40	8 the ones he selected on his own or the ones 09:25:12
9	Q. Good morning, Mr. Grove. 09:22:40	9 MR. BRIDGES: No 09:25:14
10	A. Good morning. 09:22:41	10 MR. FEE: Well, I'm going to instruct you not 09:25:14
11	Q. Have you ever been deposed before? 09:22:45	11 to disclose the documents that you reviewed at the 09:25:16
12	A. I have not. 09:22:46	12 request or direction of counsel. You can disclose any 09:25:18
13	Q. Have you had a chance to meet with ASTM 09:22:49	13 other documents you reviewed. 09:25:21
14	attorneys to prepare you for this deposition? 09:22:51	14 MR. BRIDGES: I think I'm entitled to know 09:25:22
15	A. I did. 09:22:57	15 what documents he reviewed to prepare for the 09:25:23
16	Q. When did you meet with them? 09:22:57	16 deposition. It might reveal attorney work product if 09:25:27
17	A. I met with our attorneys over a period of 09:22:58	17 he told us what documents were discussed with counsel, 09:25:31
18	three days. The last two days, and once in December. 09:23:01	18 but I'm entitled to know which documents he reviewed 09:25:36
19	A total of 15 hours. 09:23:06	19 in general. 09:25:39
20	Q. With whom did you meet? 09:23:12	20 MR. FEE: I disagree. 09:25:41
21	A. I met with Kevin Fee and with Jordana Rubel, 09:23:13	21You should follow my instruction.09:25:43
22	and with our corporate attorney, Tom O'Brien. 09:23:19	22 THE WITNESS: I have no other documents that 09:25:44
23	Q. You understand that you are testifying today 09:23:32	23 I can recall to disclose. 09:25:46
24	as a representative of ASTM? 09:23:34	24 BY MR. BRIDGES: 09:25:47
25	A. Yes. 09:23:38	25 Q. So you're saying that all the documents of 09:25:47
	1 ago 14	
1	Q. And you understand that you are testifying as 09:23:40	1 all the documents you reviewed, only annual reports 09:25:52
1 2	Q. And you understand that you are testifying as 09:23:40 a representative of ASTM with respect to certain 09:23:46	1 all the documents you reviewed, only annual reports09:25:522 are those that you thought to review on your own?09:25:55
1 2 3	Q. And you understand that you are testifying as 09:23:40 a representative of ASTM with respect to certain 09:23:46 subject matters? 09:23:48	1 all the documents you reviewed, only annual reports09:25:522 are those that you thought to review on your own?09:25:553A. Right. I think the exception to that would09:25:56
1 2 3 4	Q. And you understand that you are testifying as09:23:40a representative of ASTM with respect to certain09:23:46subject matters?09:23:48A. Yes.09:23:49	1 all the documents you reviewed, only annual reports09:25:522 are those that you thought to review on your own?09:25:553 A. Right. I think the exception to that would09:25:564 be standardization news. I contributed some articles09:26:01
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5 (Pages 14 - 17)

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1	THE VIDEOGRAPHER: We're now going off the 09:27:05	1 Q. Did you attach any significance to that 09:41:21
2	record at 9:26. 09:27:05	2 figure? 09:41:23
3	(A recess was taken from 9:26 a.m. 09:34:30	3 MR. FEE: Objection. Vague. 09:41:25
4	to 9:37 a.m.) 09:38:32	4 THE WITNESS: No. 09:41:28
5	THE VIDEOGRAPHER: And we're back on the 09:38:33	5 BY MR. BRIDGES: 09:41:30
6	record at 9:37. 09:38:34	6 Q. Did it strike you as unusual or unexpected in 09:41:30
7	BY MR. BRIDGES: 09:38:48	7 any 09:41:33
8	Q. Do you recall any other documents that you 09:38:48	8 MR. FEE: Objection. Vague and compound. 09:41:34
9	reviewed on your own initiative apart from annual 09:38:50	9 THE WITNESS: It did not. 09:41:40
10	reports and standardization news? 09:38:53	10 BY MR. BRIDGES: 09:41:43
11	A. I do not. 09:38:59	11 Q. Did those figures he gave you accord with 09:41:43
12	Q. Apart from conversations specifically with 09:39:01	12 your expectations? 09:41:45
13	attorneys, did you discuss the topics of today's 09:39:06	13 A. Generally, yes. 09:41:51
14	conversation of today's deposition with anyone else 09:39:12	14 Q. Did that revenue trend strike that. 09:41:56
15	in preparation for your deposition today? 09:39:18	15Was that revenue trend consistent with09:42:03
16	A. I made a phone call to our vice president of 09:39:21	16 revenue trends over previous years?09:42:05
17	sales and publications. 09:39:24	17 MR. FEE: Objection. Vague. 09:42:09
18	Q. Who is that? 09:39:28	18THE WITNESS: I don't know.09:42:14
19	A. John Pace. 09:39:31	19 BY MR. BRIDGES: 09:42:15
20	Q. What did you discuss with him? 09:39:31	20 Q. Do you know anything about revenue trends 09:42:15
21	A. Wanted to review ASTM's financials and 09:39:38	21 before three years ago? 09:42:17
22	revenues so I was prepared. 09:39:42	22 MR. FEE: Same objection. 09:42:19
23	Q. What did you learn from him? 09:39:46	23 THE WITNESS: Not that I can produce or 09:42:26
24	A. Not much. To be honest, I think I have a 09:39:47	24 recall. 09:42:27
25	good understanding. 09:39:52	25 BY MR. BRIDGES: 09:42:32
	1450-10	1 450 20
1	Q. What did you ask him about? 09:39:55	1 Q. What else did you discuss with Mr. Pace? 09:42:32
1 2	Q. What did you ask him about? 09:39:55A. I wanted to review with him what I knew about 09:39:59	1Q. What else did you discuss with Mr. Pace?09:42:322A. That's all I recall.09:42:39
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	something that I would speak about. 12:06:06	1	when they're looking at participating in standards 12:08:53
2	BY MR. BRIDGES: 12:06:08	2	development activities and utilizing voluntary 12:08:57
3	Q. So what factors should government agencies 12:06:08	3	consensus standards in support of their agency's 12:09:01
4	take into consideration when examining industry 12:06:08	4	mission. 12:09:03
5	standards for regulatory purposes? 12:06:10	5	BY MR. BRIDGES: 12:09:11
6	A. Well, one of the most important factors that 12:06:13	6	Q. So my question is what are the regulatory 12:09:11
7	we believe is important to maintain the robust, viable 12:06:15	7	purposes that in your interactions with government on 12:09:16
8	system of standardization that we have in the U.S. is 12:06:24	8	behalf of ASTM, you believe government agencies have 12:09:20
9	looking to see if standards development organizations 12:06:26	9	when they examine industry standards? So I'm asking 12:09:25
10	meet the world trade organizations, technical barriers 12:06:28	10	what do you think the regulatory purposes are. 12:09:29
11	to trade agreement principles for international 12:06:31	11	MR. FEE: Same objections, plus compound. 12:09:31
12	standardization. It's a message that we believe 12:06:34	12	THE WITNESS: Yeah. And I don't believe 12:09:33
13	strongly in at ASTM, we've invested heavily in, and we 12:06:37	13	there's any one answer to that. Each agency that 12:09:34
14	promote it as widely as possible. 12:06:41	14	we're aware of that we interact with or that 12:09:38
15	Q. What regulatory purposes do you anticipate 12:06:49	15	participate in our committees have different needs and 12:09:40
16	government agencies have that causes them to examine 12:06:54	4 16	different expectations and different motivations for 12:09:42
17	industry standards? 12:07:01	17	participating in our process. 12:09:46
18	MR. FEE: Read that back, please. 12:07:03	18	BY MR. BRIDGES: 12:09:48
19	(Record read.) 12:07:13	19	Q. So beyond that, you can't give your testimony 12:09:48
20	MR. FEE: Objection. Calls for speculation. 12:07:14	20	as to what you think the government regulatory 12:09:51
21	It's beyond the scope of his designation. 12:07:15	21	purposes are on a general basis? 12:09:54
22	THE WITNESS: I don't have an answer for 12:07:23	22	MR. FEE: Same objections. 12:09:57
23	that. I think you could assume that government 12:07:24	23	BY MR. BRIDGES: 12:10:00
24	participants in the standardization process bring 12:07:30	24	Q. In using or in examining ASTM's standards. 12:10:00
25	knowledge of regulatory agendas and regulatory needs 12:07:32	25	MR. FEE: Same objections. 12:10:05
	Page 94		Page 96
1	of agencies to the voluntary consensus standards 12:07:37	1	THE WITNESS: Yeah. I think we discussed 12:10:09
2	community of which ASTM is one member amongst 225 12:07:40	2	earlier federal agencies do incorporate, by reference, 12:10:11
3	others. 12:07:45	3	standards from voluntary consensus standards bodies 12:10:16
	BY MR_BRIDGES: 12:07:50		
4	DT MR. DRIDGES. 12.07.50	4	like ASTM. So that could be one potential one 12:10:19
4 5	Q. This agenda item referred to government 12:07:50	4	like ASTM. So that could be one potential one 12:10:19 potential factor. 12:10:24
4 5 6	Q. This agenda item referred to government 12:07:50 agencies examining industry standards for regulatory 12:07:52	4 5 6	like ASTM. So that could be one potential one 12:10:19 potential factor. 12:10:24 BY MR. BRIDGES: 12:10:28
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4 5 6 7 8	Q. This agenda item referred to government 12:07:50 agencies examining industry standards for regulatory 12:07:52 purposes. 12:07:56 MR. FEE: Objection. Vague. What agenda 12:07:57	4 5 6 7 8	like ASTM. So that could be one potential one 12:10:19 potential factor. 12:10:24 BY MR. BRIDGES: 12:10:28 Q. Do you understand what regulatory purposes 12:10:28 federal agencies may have in incorporating ASTM 12:10:33
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1	employees have in the standards development process at 12:11:30	1 Q. Have you seen Exhibit 1038 before? 12:14:55
2	ASTM? 12:11:36	2 (The witness reviewed Exhibit 1038.) 12:15:20
3	MR. FEE: Objection. Vague. 12:11:37	3 THE WITNESS: Yes, I have. 12:15:20
4	THE WITNESS: In my experience, federal 12:11:43	4 BY MR. BRIDGES: 12:15:21
5	government participation in standards development 12:11:45	5 Q. Is this an organizational chart as of 12:15:22
6	helps to make a more effective public/private 12:11:47	6 July 21, 2014? 12:15:23
7	collaboration in our process. 12:11:50	7 A. I believe it is, yes. 12:15:25
8	BY MR. BRIDGES: 12:11:51	8 Q. Have you seen a more recent organizational 12:15:27
9	Q. How does it help in the drafting of 12:11:52	9 chart of ASTM? 12:15:29
10	standards? 12:11:53	10 A. I have not, but I believe that this is just 12:15:31
11	MR. FEE: Objection. Lack of foundation. 12:11:54	11 slightly out of date. 12:15:35
12	THE WITNESS: In the area of drafting 12:11:58	12 Q. What changes are necessary to make it 12:15:36
13	standards, I wouldn't have specific knowledge. 12:11:59	13 current? 12:15:40
14	BY MR. BRIDGES: 12:12:03	14 A. Under the direct line from Jim Thomas, that 12:15:46
15	Q. Who would? 12:12:03	15 would be a new box that would say, "Kathie Morgan, 12:15:5
16	MR. FEE: Objection. Calls for speculation. 12:12:04	16 Executive Vice President," and then a number of 12:15:57
17	THE WITNESS: Right. We have 140 different 12:12:07	17 departments would be reporting up through Kathie. 12:16:01
18	technical committees and over 1,000 individual 12:12:09	18 This is as of just a few weeks ago. 12:16:04
19	subcommittees. So each agency's participation and 12:12:12	19 Q. I see that she is almost directly under 12:16:10
20	what role they play in the drafting of standards, I 12:12:15	20 Mr. Thomas in what looks like a direct report as vice 12:16:11
21	believe was your term, that would vary significantly. 12:12:20	21 president of Technical Committee Operations. Would 12:16:1
22	BY MR. BRIDGES: 12:12:23	22 that be simply changing the title in that box? 12:16:18
23	Q. Who are two or three people at ASTM you think 12:12:23	23 A. It would be expanding her responsibilities. 12:16:23
24	would be in a best position to answer the question of 12:12:25	24 For instance, now I report to Kathie Morgan, as does 12:16:25
25	what effect the presence of government employees has 12:12:32 Page 98	25 Phil Lively, as does Teresa Cendrowska, as does Tim Page 100
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1	in the creation of standards? 12:12:38	1 Brooke, and a new box would need to be created or 12:16:38
1 2	in the creation of standards? 12:12:38 MR. FEE: Objection. Calls for speculation. 12:12:43	1 Brooke, and a new box would need to be created or12:16:382 in the old box that said Kathie Morgan, I would put12:16:48
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19 A. Well, as much as possible we read the federal 12:51:14 19 standards we rarely take positions on, and I can't 12:54:08 20 register. I'd like to think we read it on a regular 12:51:17 20 give you a specific example of a time that we have 12:54:14 21 basis, but sometimes it's more infrequent than that. 12:51:20 21 taken an example on taken a position on. 12:54:17 22 So we will search key terms in the federal register to 12:51:24 22 BY MR. BRIDGES: 12:54:23 23 see if it's mentioning ASTM and if there's a rule that 12:51:30 23 Q. Do any state governments or municipal 12:54:23 24 has resulted in the publication of standards. And 12:51:34 24 governments incorporate ASTM standards by reference? 12:54:26 25 sometimes we're ahead of it because ASTM has a policy 12:51:38 Page 123 Page 123	18 incorporations of ASTM standards by reference? 12:51:08	18 whether or not to utilize and reference those 12:54:07
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22 So we will search key terms in the rederat register to 12:51:24 22 BY MR. BRIDGES: 12:54:23 23 see if it's mentioning ASTM and if there's a rule that 12:51:30 23 Q. Do any state governments or municipal 12:54:23 24 has resulted in the publication of standards. And 12:51:34 24 governments incorporate ASTM standards by reference? 12:54:26 25 sometimes we're ahead of it because ASTM has a policy 12:51:38 25 MR. FEE: Objection to form. 12:54:30 Page 123	21 basis, but sometimes it's more infrequent than that. 12:51:20	20 give you a specific example of a time that we have 12:54:14
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1 won't disclose privileged communications. 14:24:48	1 of Mr. Thomas' statement in that sentence? 14:28:32
2 THE WITNESS: I mean, once again, I'm not in 14:24:52	2 MR. FEE: Objection. Calls for speculation. 14:28:35
3 this communication chain between Jim and the executive 14:24:52	3 THE WITNESS: I understand that there's been 14:28:37
4 committee, and it's not a government relations issue 14:24:56	4 an impact and a drag on ASTM's revenues due to 14:28:39
5 I'm working on. 14:24:59	5 confusion in business execution issues due to the fact 14:28:44
6 BY MR. BRIDGES: 14:25:00	6 that some of our standards are now available outside 14:28:49
7 Q. So you did not interpret the ASTM strategy 14:25:00	7 of our licensed distributors and outside of being 14:28:53
8 that's mentioned in that E-mail to be a government 14:25:03	8 directly available from ASTM. 14:28:58
9 relations strategy? 14:25:06	9 Q. So Mr. Thomas was lying in that statement? 14:29:02
10 MR. FEE: Objection. Calls for speculation. 14:25:08	10 MR. FEE: Objection. Mischaracterizes his 14:29:07
11 THE WITNESS: I don't. 14:25:10	11 testimony. 14:29:07
12 (Deposition Exhibit 1046 was marked for 14:25:58	12 MR. BRIDGES: I'll withdraw it. 14:29:08
13 identification) 14:25:58	13 O You didn't answer my question Mr. Grove 14:29:08
14 MR BRIDGES: I'll show you Exhibit 1046 14:25:59	14 A Okay 14.29.10
15 O Have you seen this document before? 14:25:03	15 0 My question is what do you understand to have $14.29.10$
16 (The witness reviewed Exhibit 1046) 14:26:25	16 been the basis of Mr. Thomas' statement in that 14:20:14
17 THE WITNESS: So the world justice project 14:26:25	17 contoneo? 14:20:17
17 THE WITNESS: So the world justice project, 14:20:25	17 sentence? 14:29:17
18 the origination of the E-mail, which I received, yes, 14:20:27	18 MR. FEE: Objection. Calls for speculation. 14:29:17
19 I believe I reviewed that document. But from beyond 14:20:30	19 THE WITNESS: I wouldn't be able to answer 14:29:20
20 that point in the E-mail chain, I do not have 14:26:35	20 that. I apologize. 14:29:20
21 recollection of being involved in this. 14:26:38	21 BY MR. BRIDGES: 14:29:24
22 BY MR. BRIDGES: 14:26:41	22 Q. When did ASTM first notice a measurable 14:29:24
23 Q. Did you review this document in preparation 14:26:41	23 impact on its finances from the activities of 14:29:27
24 to testify today? 14:26:44	24 Mr. Malamud and Public Resource? 14:29:30
25 A. I did not. 14:26:50	25 MR. FEE: Objection. Vague. 14:29:32
rage 142	rage 144
1 Q. Who at ASTM would have the most knowledge 14:26:53	1 THE WITNESS: Again, I don't have direct 14:29:39
1 Q. Who at ASTM would have the most knowledge 14:26:55 2 about the content on the front page of Exhibit 1046? 14:26:56	1 THE WITNESS: Again, I don't have direct 14:29:39 2 knowledge of such impact. 14:29:42
1 Q. Who at ASTM would have the most knowledge 14:26:55 2 about the content on the front page of Exhibit 1046? 14:26:56 3 MR. FEE: Objection. Vague. Calls for 14:27:01	1 THE WITNESS: Again, I don't have direct 14:29:39 2 knowledge of such impact. 14:29:42 3 BY MR. BRIDGES: 14:29:48
1 Q. Who at ASTM would have the most knowledge 14:26:55 2 about the content on the front page of Exhibit 1046? 14:26:56 3 MR. FEE: Objection. Vague. Calls for 14:27:01 4 speculation. 14:27:04	1 THE WITNESS: Again, I don't have direct 14:29:39 2 knowledge of such impact. 14:29:42 3 BY MR. BRIDGES: 14:29:48 4 O. What other knowledge do you have other than 14:29:48
1 Q. Who at ASTM would have the most knowledge 14:26:55 2 about the content on the front page of Exhibit 1046? 14:26:56 3 MR. FEE: Objection. Vague. Calls for 14:27:01 4 speculation. 14:27:04 5 THE WITNESS: Well, my understanding is that 14:27:13	1 THE WITNESS: Again, I don't have direct 14:29:39 2 knowledge of such impact. 14:29:42 3 BY MR. BRIDGES: 14:29:48 4 Q. What other knowledge do you have other than 14:29:48 5 direct knowledge? 14:29:51
1 Q. Who at ASTM would have the most knowledge 14:26:55 2 about the content on the front page of Exhibit 1046? 14:26:56 3 MR. FEE: Objection. Vague. Calls for 14:27:01 4 speculation. 14:27:04 5 THE WITNESS: Well, my understanding is that 14:27:13 6 this mentions litigation and copyright. I would think 14:27:15	1 THE WITNESS: Again, I don't have direct 14:29:39 2 knowledge of such impact. 14:29:42 3 BY MR. BRIDGES: 14:29:48 4 Q. What other knowledge do you have other than 14:29:48 5 direct knowledge? 14:29:51 6 MR. FEE: Same objection. 14:29:52
1 Q. Who at ASTM would have the most knowledge 14:26:55 2 about the content on the front page of Exhibit 1046? 14:26:56 3 MR. FEE: Objection. Vague. Calls for 14:27:01 4 speculation. 14:27:04 5 THE WITNESS: Well, my understanding is that 14:27:13 6 this mentions litigation and copyright. I would think 14:27:15 7 it would be legal counsel. Tom O'Brien. 14:27:19	1 THE WITNESS: Again, I don't have direct 14:29:39 2 knowledge of such impact. 14:29:42 3 BY MR. BRIDGES: 14:29:48 4 Q. What other knowledge do you have other than 14:29:48 5 direct knowledge? 14:29:51 6 MR. FEE: Same objection. 14:29:52 7 THE WITNESS: So to date. I'm aware, based on 14:29:53
Page 1421Q. Who at ASTM would have the most knowledge14:26:552about the content on the front page of Exhibit 1046?14:26:563MR. FEE: Objection. Vague. Calls for14:27:014speculation.14:27:045THE WITNESS: Well, my understanding is that14:27:136this mentions litigation and copyright. I would think14:27:157it would be legal counsel, Tom O'Brien.14:27:198BY MR. BRIDGES:14:27:26	1 THE WITNESS: Again, I don't have direct 14:29:39 2 knowledge of such impact. 14:29:42 3 BY MR. BRIDGES: 14:29:48 4 Q. What other knowledge do you have other than 14:29:48 5 direct knowledge? 14:29:51 6 MR. FEE: Same objection. 14:29:52 7 THE WITNESS: So to date, I'm aware, based on 14:29:53 8 conversations with our vice president for sales and 14:29:57
1 Q. Who at ASTM would have the most knowledge 14:26:55 2 about the content on the front page of Exhibit 1046? 14:26:56 3 MR. FEE: Objection. Vague. Calls for 14:27:01 4 speculation. 14:27:04 5 THE WITNESS: Well, my understanding is that 14:27:13 6 this mentions litigation and copyright. I would think 14:27:15 7 it would be legal counsel, Tom O'Brien. 14:27:19 8 BY MR. BRIDGES: 14:27:26 9 Q. Who is the Steele Stee-e-lee that the 14:27:26	1 THE WITNESS: Again, I don't have direct 14:29:39 2 knowledge of such impact. 14:29:42 3 BY MR. BRIDGES: 14:29:48 4 Q. What other knowledge do you have other than 14:29:48 5 direct knowledge? 14:29:51 6 MR. FEE: Same objection. 14:29:52 7 THE WITNESS: So to date, I'm aware, based on 14:29:53 8 conversations with our vice president for sales and 14:29:57 9 publications that the act of putting our standards 14:29:59
Page 1421Q. Who at ASTM would have the most knowledge14:26:532about the content on the front page of Exhibit 1046?14:26:563MR. FEE: Objection. Vague. Calls for14:27:014speculation.14:27:045THE WITNESS: Well, my understanding is that14:27:136this mentions litigation and copyright. I would think14:27:157it would be legal counsel, Tom O'Brien.14:27:198BY MR. BRIDGES:14:27:269Q. Who is the Steele, S-t-e-e-l-e, that the14:27:2610first line refers to?14:27:30	1 THE WITNESS: Again, I don't have direct 14:29:39 2 knowledge of such impact. 14:29:42 3 BY MR. BRIDGES: 14:29:48 4 Q. What other knowledge do you have other than 14:29:48 5 direct knowledge? 14:29:51 6 MR. FEE: Same objection. 14:29:52 7 THE WITNESS: So to date, I'm aware, based on 14:29:53 8 conversations with our vice president for sales and 14:29:57 9 publications, that the act of putting our standards 14:29:59 10 into the public domain has caused a drag on revenue. 14:30:04
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I THE WITNESS: I don't have anything 14:30:35	1 failed to perform the way that they expected them to. 14:39:04
2 additional. 14:36:35	2 BY MR. BRIDGES: 14:39:12
3 BY MR. BRIDGES: 14:36:36	3 Q. What other harms? 14:39:12
4 Q. And you're here as a corporate representative 14:36:36	4 MR. FEE: Same objections. 14:39:15
5 of ASTM to provide the information available to ASTM 14:36:3	5 THE WITNESS: Well, I would be concerned I 14:39:19
6 on that topic; correct? 14:36:37	6 know the important role our standards play in health, 14:39:21
7 MR. FEE: Objection. He's here to provide 14:36:39	7 life, and safety. I would certainly be concerned if 14:39:23
8 testimony regarding all the topics we identified 14:36:42	8 some of these documents that contain factual and other 14:39:25
9 earlier today. Of course, we'll have expert testimony 14:36:42	9 errors contributed in any way to property damage, 14:39:30
10 on this subject as well. 14:36:45	10 injury or loss of life because of the sensitive, 14:39:33
11 You can answer. 14:36:47	11 important role that our standards play in protecting 14:39:37
12 THE WITNESS: Yes. 14:36:50	12 people in society. 14:39:40
13 BY MR. BRIDGES: 14:36:55	13 BY MR. BRIDGES: 14:39:45
14 Q. So I need to know every other fact you're 14:36:55	14 O. What other harms to ASTM? 14:39:45
15 aware of that pertains to harms that ASTM has suffered 14:36:57	15 MR. FEE: Same objections. 14:39:47
16 from the defendants. So, please, I'll take as much 14:37:06	16 THE WITNESS: I can't think of additional 14:39:58
17 time as we need. Tell me every other fact that you're 14:37:08	17 harms at this time. 14:40:00
18 aware of that pertains to the harm that ASTM has 14:37:11	18 BY MR. BRIDGES: 14:40:05
19 suffered as a consequence of the defendants. 14:37:15	19 Q. Has ASTM heard from any customers that said, 14:40:05
20 MR. FEE: Objection to form. Objection. 14:37:18	20 "I didn't buy the standard I was planning to buy 14:40:08
21 Calls for expert testimony. Objection to the extent 14:37:19	21 because I could find it for free on the Internet from 14:40:10
22 it calls for a narrative. Objection as to vague. 14:37:21	22 Public Resource or the Internet archive"? 14:40:13
23 Now, we're talking about harms as opposed to financial 14:37:28	23 MR. FEE: Objection to form. 14:40:16
24 harms? That's how I understand the question. 14:37:30	24 THE WITNESS: I don't have knowledge of that. 14:40:20
25 Can you read that back just to make sure I 14:37:34	25 BY MR. BRIDGES: 14:40:22
Page 150	Page 152
1 don't miss anything? 14:37:34	1 Q. Does anybody at ASTM have knowledge of that 14:40:22
1 don't miss anything? 14:37:34 2 (Record read.) 14:37:34	1Q. Does anybody at ASTM have knowledge of that14:40:222type of communication?14:40:24
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1	deposition, does ASTM have any estimate of the dollar 14:41:37	1 MR. FEE: Same objections. 14:44:04
2	amount of lost revenues to it as a consequence of the 14:41:42	2 THE WITNESS: I'm not sure. 14:44:08
3	defendants' actions? 14:41:45	3 MR. FEE: It's beyond the scope his 14:44:08
4	MR. FEE: Objection. Calls for expert 14:41:46	4 designation as well. 14:44:10
5	testimony. Let me see if that's really a topic that 14:41:48	5 Go ahead. 14:44:11
6	he's been designated on. 14:41:52	6 THE WITNESS: I'm not sure, no. 14:44:12
7	MR BRIDGES: He may answer. 14:41:59	7 BY MR BRIDGES: 14:44:13
8	MR FFF: Hold on I'm waiting to see if 14:42:00	8 O Was it more than three years $ago?$ $14.44.13$
9	that's actually a tonic he's been designated on 14.42:01	0 MP EEE: Some chinations 14:44:16
10	MD_DRIDCES: Make the chiesting and if 14.42.09	9 MR. FEE: Same objections. 14.44.10
10	MR. BRIDGES: Make the objections, and fi 14:42:08	10 THE WITNESS: TH not sure. 14:44:17
11	It's superfluous and ne hash t been designated on. 14:42:11	11 BY MR. BRIDGES: 14:44:18
12	I'd like to go ahead and get an answer. 14:42:11	12 Q. Was it more than two weeks ago? 14:44:18
13	MR. FEE: No. If you want to take off the 14:42:12	13 MR. FEE: Same objection. 14:44:21
14	prelude to your question there, then I'm happy to have 14:42:14	14 THE WITNESS: I'm not sure. 14:44:22
15	his answer without the prelude, but if you're going to 14:42:16	15 BY MR. BRIDGES: 14:44:23
16	have 14:42:16	16 Q. Do you know whether ASTM had any knowledge of 14:44:23
17	MR. BRIDGES: Okay. Sure. 14:42:16	17 errors in connection with defendants posting of ASTM 14:44:26
18	Q. Does ASTM have any estimate of the dollar 14:42:17	18 standards more than a week ago? 14:44:31
19	amount of lost revenues to it as a consequence of 14:42:20	19 MR. FEE: Same objection objections, I 14:44:35
20	defendants' actions? 14:42:23	20 should say. 14:44:36
21	MR. FEE: Objection. Calls for expert 14:42:25	21 THE WITNESS: More than a week ago, I believe 14:44:38
22	testimony. 14:42:26	22 so, yes. 14:44:39
23	THE WITNESS: Not to my knowledge. 14:42:27	23 BY MR. BRIDGES: 14:44:40
24	BY MR. BRIDGES: 14:42:30	24 O. When did you first learn of any errors in 14:44:40
25	O. Does ASTM have any facts in its possession 14:42:30	25 defendants' posting of ASTM standards? 14:44:46
	Page 154	Page 156
1	that suggest to ASTM that it has lost money as a $14.42.30$	1 A I first learned of it by hearing of it in the 14:44:51
1	that suggest to ASTM that it has lost money as a 14:42:39	1 A. I first learned of it by hearing of it in the 14:44:51
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1 more than one error in the ASTM standards? 14:50:24	1 THE WITNESS: I'm not familiar with the term 14:53:06
2 MR. FEE: Same objections. 14:50:28	2 "errata." 14:53:07
3 THE WITNESS: I'd be speculating. 14:50:31	3 BY MR. BRIDGES: 14:53:08
4 BY MR. BRIDGES: 14:50:34	4 Q. Does ASTM ever issue corrigenda to its 14:53:08
5 Q. Well, you have testified as to what would 14:50:34	5 standards? 14:53:13
6 surprise you. I'd like to know what would surprise 14:50:34	6 MR. FEE: Objection. Vague. Beyond the 14:53:14
7 you. 14:50:35	7 scope of his designation. 14:53:15
8 MR. FEE: Same objections. 14:50:37	8 THE WITNESS: I'm not certain. 14:53:20
9 THE WITNESS: I'm aware of ASTM's rigorous 14:50:37	9 BY MR. BRIDGES: 14:53:21
10 quality control process and the value of bringing 14:50:40	10 Q. Does ASTM ever issue a notice of errors in 14:53:21
11 people together under an open, transparent process and 14:50:42	11 any of its standards? 14:53:28
12 the important role that ASTM staff plays in helping to 14:50:47	12 MR. FEE: Same objections. 14:53:31
13 ensure the quality of our documents. And I would be 14:50:49	13THE WITNESS: I'm not certain.14:53:32
14 skeptical that that could be replicated if any steps 14:50:54	14 BY MR. BRIDGES: 14:53:34
15 were bypassed. So 14:50:59	15 Q. What happens if ASTM publishes and 14:53:34
16 BY MR. BRIDGES: 14:51:03	16 distributes a standard that's widely held by persons 14:53:37
17 Q. Would it surprise you for an ASTM standard to 14:51:03	17 and then discovers that there is a mistake in the 14:53:40
18 have three or more errors in it? 14:51:05	18 standard? How does ASTM notify the public?14:53:42
19MR. FEE: Same objections.14:51:08	19 MR. FEE: Objection. Calls for speculation. 14:53:45
20 THE WITNESS: Would it surprise me? Yes. 14:51:13	20 It's beyond the scope of his designation, and 14:53:47
21 BY MR. BRIDGES: 14:51:16	21 compound. 14:53:50
22 Q. Are you aware of any ASTM standards with 14:51:16	22 THE WITNESS: I'm not able to explain that 14:53:52
23 three or more errors? 14:51:19	23 process. 14:53:53
24 MR. FEE: Same objections. Just give me a 14:51:21	24 BY MR. BRIDGES: 14:53:55
25 second to object. 14:51:25 Page 162	25 Q. would it narm ASTM's reputation to issue a 14:55:55 Page 164
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1 THE WITNESS: I'm not personally, no. 14:51:25	1 standard with mistakas? 14:52:59
1 THE WITNESS: I'm not personally, no. 14:51:25 2 BV MP_BRIDGES: 14:51:27	1 standard with mistakes? 14:53:58
1 THE WITNESS: I'm not personally, no. 14:51:25 2 BY MR. BRIDGES: 14:51:27 3 Q. Are you aware of how ASTM standards are 14:51:27	1 standard with mistakes? 14:53:58 2 MR. FEE: Objection. Calls for expert 14:53:59 3 testimony. It's beyond the scope of his designation 14:54:01
1 THE WITNESS: I'm not personally, no. 14:51:25 2 BY MR. BRIDGES: 14:51:27 3 Q. Are you aware of how ASTM standards are 14:51:27 4 proofread? 14:51:44	1 standard with mistakes? 14:53:58 2 MR. FEE: Objection. Calls for expert 14:53:59 3 testimony. It's beyond the scope of his designation. 14:54:01 4 THE WITNESS: I'm not certain 14:54:07
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1THE WITNESS: I'm not personally, no.14:51:252BY MR. BRIDGES:14:51:273Q. Are you aware of how ASTM standards are14:51:274proofread?14:51:445MR. FEE: Objection. Vague.14:51:476THE WITNESS: Yes, generally.14:51:517BY MR. BRIDGES:14:51:538Q. How?14:51:539A. There's a rigorous process under which at14:51:5410every point in the standards development process14:51:5811there's peer review of the standard and of the14:52:0012document, and as it goes through the process, as it14:52:0513works through the ASTM process, which involves many14:52:13	1standard with mistakes?14:53:582MR. FEE: Objection. Calls for expert14:53:593testimony. It's beyond the scope of his designation.14:54:014THE WITNESS: I'm not certain.14:54:075BY MR. BRIDGES:14:54:096Q. How has ASTM's reputation suffered from the14:54:097activities of the defendants?14:54:158MR. FEE: Objection. Calls for expert14:54:249testimony.14:54:2510THE WITNESS: I'm not certain.14:54:2811BY MR. BRIDGES:14:54:2912Q. Have you noticed an effect on ASTM's14:54:3214activities?14:54:35
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1	by reference? 15:01:47	1 than the dated issue. 15:04:36
2	MR. FEE: Objection. Vague as to whether or 15:01:48	2 BY MR. BRIDGES: 15:04:38
3	not that older version is authentic. 15:01:51	3 Q. The authenticity of the standard didn't come 15:04:38
4	THE WITNESS: Yeah. I'm sorry. Could you 15:01:54	4 into your answer until you heard counsel's objection. 15:04:41
5	just repeat that? 15:01:55	5 MR. FEE: That's absolutely false. You 15:04:41
6	BY MR. BRIDGES: 15:01:57	6 should read the transcript when you get done with 15:04:43
7	Q. Is it misleading, in your view, to have the 15:01:57	7 this. 15:04:47
8	ASTM logo on an older version of an ASTM standard 15:02:01	1 8 BY MR. BRIDGES: 15:04:49
9	where the older version has been incorporated by 15:02:07	9 Q. Would it harm ASTM less if defendant took the 15:04:49
10	reference? 15:02:09	10 ASTM logo off the standards that it sorry, that it 15:04:53
11	MR. FEE: Same objection as to the vagueness. 15:02:11	11 posts? 15:04:58
12	THE WITNESS: My concern would be that to get 15:02:16	MR. FEE: Objection. Calls for speculation, 15:04:59
13	the most recent version of any document, you more than 15:02:19	13 and a hypothetical. 15:05:01
14	likely need to come to ASTM or one of our licensed 15:02:27	14 MR. BRIDGES: I'd like to know what ASTM 15:05:05
15	distributors. 15:02:31	15 MR. FEE: Calls for an expert opinion, 15:05:08
16	BY MR. BRIDGES: 15:02:32	16 perhaps, as well. 15:05:09
17	Q. But if somebody is interested in, let's say, 15:02:32	17 THE WITNESS: I'm not able to answer that 15:05:10
18	a 2008 standard because the 2008 standard has been 15:02:39	18 question. 15:05:12
19	incorporated by reference but a more recent standard 15:02:42	19 BY MR. BRIDGES: 15:05:14
20	has not been, what is the harm to ASTM from the 15:02:44	20 O. Would ASTM well, would you find it 15:05:14
21	inclusion of the ASTM logo on that 2008 standard 15:02:49	21 problematic I'm just curious. Which would you find 15:05:18
22	posted by Public Resource? 15:02:55	22 to be more of a problem to ASTM, for Public Resource 15:05:21
23	MR. FEE: Objection. Calls for speculation. 15:02:58	23 to public strike that. 15:05:27
24	THE WITNESS: Since I'm not an attorney and 15:03:01	24 What would ASTM, in your view, find to be 15:05:37
25	I'm not familiar with the regulatory the connection 15:03:04	25 more of a problem, for Public Resource to post the 15:05:41
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1	between regulations and law, I will share my 15:03:09	1 ASTM standards it posts with the ASTM logo or for 15:05:49
1 2	between regulations and law, I will share my 15:03:09 observation 15:03:12	1 ASTM standards it posts with the ASTM logo or for 15:05:49 2 Public Resource to publish them without the ASTM logo? 15:05:56
1 2 3	between regulations and law, I will share my 15:03:09 observation 15:03:12 BY MR. BRIDGES: 15:03:14	1 ASTM standards it posts with the ASTM logo or for 15:05:49 2 Public Resource to publish them without the ASTM logo? 15:05:56 3 MR. FEE: Objection. To the extent that 15:06:02
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1	THE WITNESS: It's a little out of context 16:32:42	1 O What were you suggesting in addition to a $16.36.38$
2	BY MR BRIDGES: 16:32:45	2 reading room? 16:36:40
3	O What would be necessary to add to that 16:32:45	3 A I see that I was recommending that we 16:36:41
	statement in order to supply the context? 16:32:50	4 consider beefing up excuse me making our 16:36:42
5	MR FEE: Same objections 16:32:55	5 summaries which the abstracts which we provide to our 16:36:42
6	THE WITNESS: Looking at standards on an 16:33:12	6 standards, considering whether those abstracts could 16:36:53
7	individual basis devalues the real value that ASTM 16:33:14	7 be converted to something that's more of a summary 16:36:57
8	standards have as a collection of a whole 16:33:14	8 O Was that in addition to doing a reading room 16:37:08
9	BY MR_BRIDGES: 16:33:17	9 or instead of doing a reading room? 16:37:10
10	O What is the real value that ASTM standards 16:33:17	10 A Obviously John was thinking I was suggesting 16:37:20
11	have as a collection? 16:33:19	11 it as an addition, and I'm not sure if I was or not. 16:37:21
12	A. Customers in the public benefit from getting 16:33:25	12 I was explaining I'm not the IT guy. So I didn't know 16:37:40
13	a collection of standards at a very affordable price 16:33:27	13 how difficult this task would be. 16:37:45
14	point, which allows them to access numerous standards 16:33:32	14 O. Did vou have in mind providing summaries as 16:37:48
15	rather than looking at them as individual standards 16:33:39	15 opposed to the standards themselves in the reading 16:37:53
16	purchased separately. 16:33:42	16 room? 16:37:55
17	O. Is there anything else about the context 16:33:48	17 MR. FEE: Objection. Are you asking him his 16:37:56
18	sorry. Anything else necessary to supply an 16:33:52	18 personal opinion in this question? 16:37:59
19	appropriate context for that statement? 16:33:54	19 MR. BRIDGES: I'm asking him what his state 16:38:02
20	MR. FEE: Objection. Lack of foundation. 16:33:56	20 of mind was at the time. 16:38:03
21	Calls for speculation. It's beyond the scope of his 16:33:59	21 MR. FEE: It's beyond the scope of his 16:38:04
22	designation. 16:34:01	22 designation. 16:38:06
23	THE WITNESS: No. 16:34:14	23 But you can answer. 16:38:07
24	(Deposition Exhibit 1056 was marked for 16:34:40	24 THE WITNESS: In our efforts to strike the 16:38:08
25	identification.) 16:34:40	25 right balance between providing the public with public 16:38:10
	Page 210	Page 21
1	BY MR. BRIDGES: 16:34:41	1 access to standards incorporated by reference and 16:38:12
1 2	BY MR. BRIDGES: 16:34:41 Q. Exhibit 1056 consists of a series of E-mails 16:34:41	1 access to standards incorporated by reference and16:38:122 maintaining our viability of our standards development16:38:14
1 2 3	BY MR. BRIDGES:16:34:41Q. Exhibit 1056 consists of a series of E-mails16:34:41in which you and John Pace were either authors or16:34:54	 access to standards incorporated by reference and 16:38:12 maintaining our viability of our standards development 16:38:14 enterprise, I was recommending that we review a lot of 16:38:18
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1 that they must be they have to be referred to as 17:24:32	1 stakeholders because the government is a very 17:29:07
2 "musts," and this would have the voluntary consensus 17:24:35	2 important member. 17:29:09
3 standards process. This isn't the intention when 17:24:39	3 BY MR. BRIDGES: 17:29:11
4 people come together to work in a voluntary consensus 17:24:43	4 Q. So is the answer to my question "yes"? 17:29:11
5 standard environment. They want the words to mean 17:24:47	5 MR. FEE: Objection. 17:29:13
6 what they carefully craft them to mean in the process, 17:24:49	6 You can answer it however you'd like. 17:29:14
7 and when so I believe that's what I was referring 17:24:52	7 MR. BRIDGES: He already has. 17:29:17
8 to in this. 17:24:55	8 Q. I'm now asking him is the answer to my 17:29:18
9 BY MR. BRIDGES: 17:25:00	9 question "yes." 17:29:20
10 Q. Well, Mr. Miller was not saying that the 17:25:00	10 MR. FEE: Same objection. Asked and 17:29:21
11 government was changing the standard. The government 17:25:02	11 answered. 17:29:22
12 was proposing to change the law; correct? 17:25:07	12 THE WITNESS: Speaking for Jeff Grove, yes. 17:29:23
13 MR. FEE: Objection. The document speaks for 17:25:11	13 BY MR. BRIDGES: 17:29:26
14 itself. Calls for speculation. 17:25:13	14 Q. What about speaking for ASTM? 17:29:26
15 THE WITNESS: I guess I would be speculating, 17:25:22	15 MR. FEE: Objection. Asked and answered. 17:29:28
16 but that was my interpretation of what this means. 17:25:24	16 THE WITNESS: I don't believe ASTM would have 17:29:29
17 BY MR. BRIDGES: 17:25:29	17 an official position. 17:29:31
18 Q. That the government would be changing the law 17:25:29	18 BY MR. BRIDGES: 17:29:35
19 as the law interprets the standard? 17:25:31	19 Q. You don't think that ASTM has a view as to 17:29:35
20 MR. FEE: Same objections. And vague. 17:25:36	20 whether it is pleased when governments incorporate its 17:29:39
21 THE WITNESS: Yeah. That the government was 17:25:41	21 standards by reference? 17:29:43
22 interpreting a standard in a way that the voluntary 17:25:43	22 MR. FEE: Objection. Vague and asked and 17:29:44
23 consensus standard group didn't necessarily intend it 17:25:46	23 answered. 17:29:46
24 to without coming back to the organization and working 17:25:50	24 THE WITNESS: It's never been a performance 17:29:49
25 with them. 17:25:57	25 metric for me. So no. 17:29:50
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1 BY MR. BRIDGES: 17:27:38	1 BY MR. BRIDGES: 17:29:58
1 BY MR. BRIDGES: 17:27:38 2 Q. Mr. Grove, does ASTM encourage any 17:27:38	1 BY MR. BRIDGES:17:29:582 Q. Does ASTM have views about things that are17:29:58
1 BY MR. BRIDGES: 17:27:38 2 Q. Mr. Grove, does ASTM encourage any 17:27:38 3 governments to incorporate its standards by reference? 17:27:46	1 BY MR. BRIDGES:17:29:582 Q. Does ASTM have views about things that are17:29:583 not performance metrics?17:30:01
1BY MR. BRIDGES:17:27:382Q. Mr. Grove, does ASTM encourage any17:27:383governments to incorporate its standards by reference?17:27:464MR. FEE: Objection. Vague.17:27:49	1BY MR. BRIDGES:17:29:582Q. Does ASTM have views about things that are17:29:583not performance metrics?17:30:014MR. FEE:Objection. Beyond the scope of his17:30:05
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60 (Pages 234 - 237)

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1	A Kathe Hooper is responsible for permissions 18:16:38	1	legislation that causes an incorporation by reference? 18:20:11
2	at ASTM 18:16:47	2	MR FEE: Can you read that back to me 18:20:19
3	O Who is Joe Koury? 18:16:49	3	please 18:20:20
4	A Joe Koury is a staff manager that works with 18:16:51	4	(Record read) 18:20:38
5	technical committees. 18:16:53	5	MR. FEE: Objection to form. Beyond the 18:20:39
6	(Deposition Exhibit 1070 was marked for 18:17:06	6	scope of his designation. Calls for speculation. 18:20:40
7	identification.) 18:17:06	7	BY MR. BRIDGES: 18:20:48
8	MR. BRIDGES: I'm showing you Exhibit 1070. 18:17:06	8	0. You may answer. 18:20:48
9	O. This is an E-mail from Ms. Hooper responding 18:17:12	9	MR. FEE: Hold on. 18:20:49
10	to a permission request: is that correct? 18:17:17	10	Lack of foundation 18:20:53
11	(The witness reviewed Exhibit 1070.) 18:17:58	11	Go ahead 18:20:55
12	THE WITNESS: Yes. 18:17:59	12	THE WITNESS: Yeah. So I think we think 18:20:55
13	(Deposition Exhibit 1071 was marked for 18:18:11	13	we want to make sure that Congress is aware of the 18:20:59
14	identification.) 18:18:11	14	fact there may be a more recent version because 18:21:02
15	BY MR. BRIDGES: 18:18:12	15	oftentimes it may be unintended that they're not using 18:21:05
16	O. Exhibit 1071 is an E-mail from Sarah Petre to 18:18:12	16	the most recent version. 18:21:08
17	you and others: is that correct? 18:18:16	17	BY MR. BRIDGES: 18:21:12
18	(The witness reviewed Exhibit 1071.) 18:18:26	18	O. Ms. Petre asked you whether ASTM should 18:21:12
19	MR. FEE: Objection. Lack of foundation 18:18:26	19	request that Congress use the language. Does ASTM 18:21:17
20	strike that. No objection. 18:18:27	20	ever request Congress to use particular language 18:21:21
21	THE WITNESS: So it's an E-mail between ASTM 18:18:42	2 21	regarding ASTM standards? 18:21:25
22	and Congressional staff and then ASTM staff, correct. 18:18:44	22	MR. FEE: Objection. Beyond the scope of his 18:21:32
23	BY MR. BRIDGES: 18:18:48	23	designation. 18:21:36
24	Q. And within the ASTM 18:18:48	24	You can answer. 18:21:36
25	A. Correct. 18:18:51	25	THE WITNESS: Okay. I can think of instances 18:21:38
	Page 258		Page 260
1	Q. And it's discussing Congressional 18:18:51	1	like this where Congress what's happening here is 18:21:40
1 2	Q. And it's discussing Congressional 18:18:51 legislation; is that correct? 18:18:54	1 2	like this where Congress what's happening here is 18:21:40 this is incorporation by reference by Congress and not 18:21:45
1 2 3	Q. And it's discussing Congressional18:18:51legislation; is that correct?18:18:54MR. FEE: Objection. The document speaks for18:18:56	1 2 3	like this where Congress what's happening here is 18:21:40 this is incorporation by reference by Congress and not 18:21:45 by an agency, and the concern that's expressed at 18:21:48
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1 Congress or a federal agency not to incorporate any of 18:23:00	1 don't think it happens very often, but I believe it 18:25:33
2 its standards by reference? 18:23:04	2 has happened in the last 10 years since I've been at 18:25:35
3 MR. FEE: Objection. Beyond the scope of his 18:23:07	3 ASTM. 18:25:38
4 designation. 18:23:09	4 BY MR. BRIDGES: 18:25:40
5 THE WITNESS: To my knowledge, no. I believe 18:23:15	5 Q. Are you saying that there has to be a 18:25:40
6 it's possible that there's been reasons why committees 18:23:21	6 consensus process in order to cooperate with a federal 18:25:42
7 haven't wanted to see standards incorporated by 18:23:24	7 government in incorporating standards by reference? 18:25:46
8 reference, but I can't recall an instance. 18:23:26	8 MR. FEE: Objection. Mischaracterizes his 18:25:52
9 BY MR. BRIDGES: 18:23:31	9 testimony. Vague. 18:25:54
10 Q. Has ASTM ever imposed conditions on whether 18:23:31	10 You can answer. 18:25:58
11 the federal government may incorporate its standards 18:23:37	11 THE WITNESS: No, that's not what I'm saying. 18:26:00
12 by reference? 18:23:42	12 BY MR. BRIDGES: 18:26:14
13 MR. FEE: Same objection. Vague as well. 18:23:44	13 Q. Do you know whether any federal official has 18:26:14
14 THE WITNESS: I don't have direct knowledge. 18:23:52	14 taken advantage of the reading room that ASTM provides 18:26:17
15 It was before my time at ASTM, but I understand at one 18:23:54	15 the public? 18:26:22
16 point in time there was a concern that Congress was 18:23:58	16 MR. FEE: Objection. Vague. 18:26:23
17 perhaps taking ASTM taking key content from an ASTM 18:24:03	17 THE WITNESS: I don't know specifically 18:26:30
18 standard and placing it in a piece of legislation and 18:24:09	18 whether they have. I do know I've received accolades 18:26:31
19 that ASTM would be concerned about that. 18:24:13	19 from federal agencies, the fact that it exists. So I 18:26:34
20 BY MR. BRIDGES: 18:24:16	20 would presume that they have. 18:26:40
21 Q. Why would ASTM be concerned about that? 18:24:16	21 BY MR. BRIDGES: 18:26:44
22 MR. FEE: Objection. Beyond the scope of his 18:24:20	22 Q. How much money has ASTM received from the 18:26:44
23 designation. Calls for speculation. Lack of 18:24:22	23 federal government in each of the last five years? 18:26:49
24 foundation. 18:24:24	24 MR. FEE: Objection. Vague. 18:26:58
25 THE WITNESS: It would be taking the standard 18:24:26	25 THE WITNESS: Well, I believe we've received 18:27:00
Page 262	Page 264
1 out of context from what the voluntary consensus 18:24:27	1 anywhere from \$650,000 to \$900,000 per year over the 18:27:04
1 out of context from what the voluntary consensus 18:24:27 2 process encompassed in ASTM standards development 18:24:31	1 anywhere from \$650,000 to \$900,000 per year over the18:27:042 last five years from the federal government.18:27:11
1 out of context from what the voluntary consensus 18:24:27 2 process encompassed in ASTM standards development 18:24:31 3 enterprises wanted to see represented in the standard. 18:24:35	1 anywhere from \$650,000 to \$900,000 per year over the18:27:042 last five years from the federal government.18:27:113 BY MR. BRIDGES:18:27:17
1 out of context from what the voluntary consensus 18:24:27 2 process encompassed in ASTM standards development 18:24:31 3 enterprises wanted to see represented in the standard. 18:24:35 4 BY MR. BRIDGES: 18:24:43	1anywhere from \$650,000 to \$900,000 per year over the18:27:042last five years from the federal government.18:27:113BY MR. BRIDGES:18:27:174Q. Were some of that money provided by the18:27:17
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1	amployage that participate in ASTM as full voting 19:29:06	1	on addite to any variant of ACTM standards where the 19,21,12
	members. So they would pay a \$75 per year foo to be a 18:28:00		or early version of ASTM standards where the 18.51:15
	members. So they would pay a \$75-per-year fee to be a 18.28.09		current ASTM standards have been incorporated by 18:31:25
3	member of ASTM. 18:28:14	3	reference? 18:31:33 ND EFE 01:11 14 10:21:24
4	Q. And you re counting that in the figures that 18:28:16		MR. FEE: Objection. It's beyond the scope 18:31:34
	A Vec 18:28:10	5	of his designation. Compound. Vague. 18:51:55
	A. Yes. 18:28:19	6	THE WITNESS: Because of the openness and 18:31:45
	Q. What other sources of funds from the federal 18:28:20	7	transparency and iterative innovative process that 18:31:49
8	government have there been for ASTM? 18:28:23	8	ASTM encapsulates, I wouldn't know how to answer that 18:31:53
9	A. Right. That's all I'm aware of. That's all 18:28:27	9	question, give you a number. 18:31:56
10	I'm aware of. We also have certification and training 18:28:33	10	MR. BRIDGES: There's one more exhibit I want 18:32:08
	programs, which I don't believe the federal government 18:28:41	11	to find. 18:32:10
12	is too involved in, but we receive a small stipend 18:28:44	12	(Deposition Exhibit 1072 was marked for 18:32:35
13	from the U.S. Department of Agriculture to assist them 18:28:49	13	identification.) 18:32:35
14	in running a the U.S. bio preferred program. 18:28:53	14	MR. BRIDGES: Mr. Grove, I've handed you 18:32:35
15	Q. Anything else? 18:29:00	15	Exhibit 1072. 18:32:37
16	A. We run a proficiency testing program, which 18:29:06	16	Q. What is this document? 18:32:39
17	the U.S. Department of Defense participates in. So 18:29:08	17	A. It appears as if this is the ASTM form and 18:32:53
18	it's not related to standards, but it's another source 18:29:14	18	style book for how ASTM standards are displayed. 18:32:57
19	of revenue from the federal government. 18:29:18	19	Q. Does that create standards that persons must 18:33:07
20	Q. Does ASTM have any means of identifying who 18:29:22	20	follow in participating in the drafting and revision 18:33:15
21	the originator was of any particular language in its 18:29:26	21	process of ASTM standards? 18:33:18
22	standards? 18:29:33	22	MR. FEE: Objection. Vague. Compound. 18:33:22
23	MR. FEE: Objection. Vague. Compound. To 18:29:34	23	THE WITNESS: No. 18:33:31
24	the extent it calls for a legal conclusion, I'd also 18:29:43	24	BY MR. BRIDGES: 18:33:34
25	object on that basis. 18:29:46	25	Q. Does that provide rules that persons must 18:33:34
	Page 266		Page 268
			6
1	Go ahead. 18:29:47	1	follow in participating in the drafting and revision 18:33:38
1 2	Go ahead. 18:29:47 THE WITNESS: To the extent those are legal 18:29:51	1 2	follow in participating in the drafting and revision 18:33:38 process of ASTM standards? 18:33:40
1 2 3	Go ahead.18:29:47THE WITNESS: To the extent those are legal18:29:51terms, I'm aware of an ASTM standards development18:29:52	1 2 3	follow in participating in the drafting and revision 18:33:38 process of ASTM standards? 18:33:40 MR. FEE: Objection. Vague. 18:33:42
1 2 3 4	Go ahead.18:29:47THE WITNESS: To the extent those are legal18:29:51terms, I'm aware of an ASTM standards development18:29:52process. I'm not aware of a way to trace origins back18:29:56	1 2 3 4	follow in participating in the drafting and revision 18:33:38 process of ASTM standards? 18:33:40 MR. FEE: Objection. Vague. 18:33:42 THE WITNESS: Generally, yes. 18:33:44
1 2 3 4 5	Go ahead.18:29:47THE WITNESS: To the extent those are legal18:29:51terms, I'm aware of an ASTM standards development18:29:52process. I'm not aware of a way to trace origins back18:29:56to a specific individual.18:30:02	1 2 3 4 5	follow in participating in the drafting and revision 18:33:38 process of ASTM standards? 18:33:40 MR. FEE: Objection. Vague. 18:33:42 THE WITNESS: Generally, yes. 18:33:44 MR. BRIDGES: Where are we on time? 18:34:06
1 2 3 4 5 6	Go ahead.18:29:47THE WITNESS: To the extent those are legal18:29:51terms, I'm aware of an ASTM standards development18:29:52process. I'm not aware of a way to trace origins back18:29:56to a specific individual.18:30:02BY MR. BRIDGES:18:30:06	1 2 3 4 5 6	follow in participating in the drafting and revision 18:33:38 process of ASTM standards? 18:33:40 MR. FEE: Objection. Vague. 18:33:42 THE WITNESS: Generally, yes. 18:33:44 MR. BRIDGES: Where are we on time? 18:34:06 THE VIDEOGRAPHER: 18 minutes left. 18:34:10
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1 2 3 4 5 6 7 8 9	Go ahead.18:29:47THE WITNESS: To the extent those are legal18:29:51terms, I'm aware of an ASTM standards development18:29:52process. I'm not aware of a way to trace origins back18:29:56to a specific individual.18:30:02BY MR. BRIDGES:18:30:06Q. Is there any strike that.18:30:06How many individuals provide language or18:30:11edits to the ASTM standards that have been18:30:19	1 2 3 4 5 6 7 8 9	follow in participating in the drafting and revision 18:33:38 process of ASTM standards? 18:33:40 MR. FEE: Objection. Vague. 18:33:42 THE WITNESS: Generally, yes. 18:33:44 MR. BRIDGES: Where are we on time? 18:34:06 THE VIDEOGRAPHER: 18 minutes left. 18:34:10 MR. BRIDGES: 18 minutes left. 18:34:13 (Deposition Exhibit 1073 was marked for 18:35:00 identification.) 18:35:00
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1	general workshop. That's reflected on the first page 18:35:56	1	MR_BRIDGES: I will check but if we don't 18:41:09
	And then there's a listing of Scott Cooper Then 18:36:00	1 2 h	have them we expect to get them 18:41:10
	thera's your name, and then what follows in the 18:36:03	3	0 Can you please explain to me what the purpose 18:41:16
	white is a presentation colorly by you and not by 18,26,02	3 4 u	Q. Can you please explain to me what the purpose 18:41:10
-	Mr. Coopen is that correct?	4 vi 5 vi	was of what you understood to be the purpose of the 18.41.20
	A That would be my modellaction of events use 18.26.12	5 p	MP EEE: Objection It's beyond the scope 18:41:23
	A. That would be my reconnection of events, yes. 18:36:15	7 0	of the designation Calls for an availation 18:41:24
	Q. And then does that remaining portion starting 18:50:17	0	THE WITNESS. This represents a project that 19,41,20
	after your name reflect the views of ASTM at the time 18:30:20	0	STM staff is undertaking throughout the source of 18:41:42
10	ND FEE Objection Colla for accordance 18:26:24	9 P	ASTIVISiant is undertaking infoughout the course of 18.41.42
10	MR. FEE: Objection. Calls for spectration. 18:36:24	10 2	the items that are contained in the project 18:41:52
11	Beyond the scope of his designation. Compound as 18:50:20	11 U	NAME REPLICES. 18:41:55
12	Well. 18:30:29	12 D	O Has the project been emproved? 19:41:59
13	You should read the whole thing if he's 18:50:58	13	Q. Has the project been approved? 18:41:58
14	(The pritrate providence of ASTM. 18:30:39	14	MR. FEE. Objection. Vague. Beyond the 18:41:39
15	(The witness reviewed Exhibit 10/5.) 18:57:01	15 8	THE WITNESS. Project been enproved?
10	THE WITNESS: Yes. I believe this, to the 18:37:01	10	MB_DDDCES: Strike that 19.42.08
1/	ACTING ALL AND	17	MR. BRIDGES: Strike that. 18:42:08
18	AS I M would have on this issue at the time of this 18:37:07	10	MD EEE Object underway? 18:42:09
19	presentation. 18:37:09	19	MR. FEE. Objection. Beyond the scope of his 18:42:11
20	(Deposition Exhibit 10/4 was marked for 18:38:01	20 d	THE WITNESS. So once of these optimities may 18:42:16
21	identification.) 18:38:01	21	THE WITNESS: So some of these activities may 18:42:16
22	BY MR. BRIDGES: 18:38:01	22 0	18:42:18
23	Q. Mr. Grove, Exhibit $10/4$ is a series of $18:38:01$	25 p	Sursuing all of them. 18:42:21 Structure 18:42:22
24	E-mails among you and Katherine Morgan, Len Morrissey 18:38:0/	24 B	O Which open is ASTM not estivaly pyroving? 18:42:26
25	Page 270	23	Q. which ones is ASTM not actively pursuing? 18.42.20 Page 272
<u> </u>			
1	A Vac it is 18.39.26	1	MP EEE: Same objection 18:42:31
1	A. Yes, it is. 18:38:26 MP EEE: While I'm thinking of it. I'm going 18:30:08	1	MR. FEE: Same objection. 18:42:31
1 2 3	A. Yes, it is. 18:38:26 MR. FEE: While I'm thinking of it, I'm going 18:39:08 to reserve the right to read and sign 18:30:12	1 2 3 ii	MR. FEE: Same objection. 18:42:31 THE WITNESS: Well, we're taking an 18:42:38 puentery. We don't have great information about the 18:42:40
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69 (Pages 270 - 273)

1	THE VIDEOGRAPHER: This is the end of the	18:53:06 3:08	1 ACKNOWLEDGMENT OF DEPO	NENT
3	record at 18:52 18:53:13	5.08	2 3 I IEEEREY GROVE do hereby certify	v that I
4	(Witness excused) 18:53:16		4 have read the foregoing pages to	y that I
5	(Deposition concluded at 6:52 p.m.) 18:53:16	5	5 and that the same is a correct transcription of	f the
6	(- ·F		6 answers given by me to the questions therein	1
7			7 propounded, except for the corrections or cha	anges in
8			8 form or substance, if any, noted in the attach	ed
9			9 Errata Sheet.	
10			0	
11			1	
12			2 DATE SIGNATURE	
13			3	
14			4	
15			5	
16			6	
17			7	
18			8	
19			9	
20			0	
21			1	
22			2	
23			3	
24			4	
25	г		5	
				Page 284
1	r CEDTIELOATE	age 282		Page 284
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	CERTIFICATE I do hereby certify that the aforesaid testimony was taken before me, pursuant to notice, at the time and place indicated; that said deponent was by me duly sworn to tell the truth, the whole truth, and nothing but the truth; that the testimony of said deponent was correctly recorded in machine shorthand by me and thereafter transcribed under my supervision with computer-aided transcription; that the deposition is a true and correct record of the testimony given by the witness; and that I am neither of counsel nor kin to any party in said action, nor interested in the outcome thereof.	'age 282		Page 284
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EXHIBIT 9

1	UNITED STATES	DISTRICT COURT	
2	FOR THE DISTRI	CT OF COLUMBIA	
3			
	AMERICAN SOCIETY FOR	: NO.	
4	TESTING AND MATERIALS	: 1:13-cv-01215-TSC-	
5	d/b/a ASTM	: DAR	
6	INTERNATIONAL;	:	
7	NATIONAL FIRE	:	
	PROTECTION	:	
8	ASSOCIATION, INC.;	:	
9	and AMERICAN SOCIETY	:	
10	OF HEATING,	:	
11	REFRIGERATION, AND	:	
12	AIR CONDITIONING	:	
13	ENGINEERS,	:	
	Plaintiffs	:	
14	vs.	:	
	PUBLIC.RESOURCE.ORG,	:	
15	INC.,	:	
16	Defendant	:	
17			
	Videotaped depos	ition of JOHN C.	
18	JAROSZ taken at the law	offices of Veritext	
19	Legal Solutions, 1250 I	Street NW,	
20	Washington, DC, commence	ing at 10:09 a.m.	
21	THURSDAY, AUGUST 27, 20	15, before Debbie	
22	Leonard, Registered Dip	olomate Reporter,	
23	Certified Realtime Repo	orter.	
24			
25	PAGES 1 - 260		
			Page 1

1	consulting career.	1	standards development organization that
2	BY MR. BRIDGES:	2	vou've worked on?
3	O. In what context?	3	A. Again. I'd have to go back and
4	A. There have been several matters	4	look at my records. I can't right now recite
5	I've had, litigations, that have involved	5	any, but there very well could be one or
6	standard setting organizations and the	6	more.
7	outputs from those organizations.	7	Q. Did you review any of your work
8	Q. What organizations?	8	in from earlier copyright cases involving
9	A. Well, some that come to mind	9	standards development organizations in
10	are ETSI, IEEE, the Blu-ray Association,	10	connection with your work in this case?
11	MPEG, MPEG L.A., the Philips 6C and Philips	11	A. Not to the best of my memory,
12	3C organizations. Those are among the ones	12	no.
13	that come to mind.	13	Q. What background do you have in
14	Q. And what types of litigation	14	the creation of standards by standard
15	did your work relating to those standard	15	development organizations?
16	setting organizations involve?	16	MR. FEE: Objection to form.
17	MR. FEE: Objection to form.	17	THE WITNESS: In the context of
18	THE WITNESS: It was almost all	18	some of my consulting assignments, I
19	intellectual property litigation, with	19	have examined processes undertaken by
20	probably the bulk of the analyses	20	SDOs.
21	undertaken with regard to patent	21	BY MR. BRIDGES:
22	rights.	22	Q. Anything else?
23	BY MR. BRIDGES:	23	A. Nothing else comes to mind.
24	Q. Do you recall	24	I've certainly looked at the output
25	A. I guess I should there were	25	associated with those processes, but there's
	Page 26		Page 28
	· · · · · ·		
1	probably some breach of contract matters as	1	nothing else that comes to mind.
1 2	probably some breach of contract matters as well.	1 2	nothing else that comes to mind. Q. What processes undertaken by
1 2 3	probably some breach of contract matters as well. Q. Did you work on any matters	1 2 3	nothing else that comes to mind. Q. What processes undertaken by standards development organizations did you
1 2 3 4	probably some breach of contract matters as well. Q. Did you work on any matters involving copyright law where you became	1 2 3 4	nothing else that comes to mind. Q. What processes undertaken by standards development organizations did you examine?
1 2 3 4 5	probably some breach of contract matters as well. Q. Did you work on any matters involving copyright law where you became familiar with the work and outputs of	1 2 3 4 5	nothing else that comes to mind. Q. What processes undertaken by standards development organizations did you examine? MR. FEE: Objection. Are you
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8 (Pages 26 - 29)

1	A. It sounds like the same	1	manufacturers only. Others include a wider
2	question to me.	2	array of companies.
3	Q. Specifically, what processes	3	In all instances, though, the
4	did you examine?	4	companies are trying to the standards
5	A. That still sounds like the same	5	setting organizations are trying to develop
6	question, but let me try to answer it by	6	at least some form of consensus sometimes
7	saying I've looked, for instance, at the	7	it's very broad consensus; sometimes it's
8	mechanisms that ETSI undertook in developing	8	more narrow consensus about what would be
9	standards. So I am familiar generally with	9	good for that standards setting organization.
10	the processes that it follows. Similarly	10	Sometimes the SSOs are
11	with regard to other standard setting	11	interested in what's best for the
12	organizations.	12	manufacturers and the ability for them to
13	Q. What other standard setting	13	supply in an interoperable environment. In
14	organizations?	14	some cases, the SSOs are very alert to the
15	A. Well, I think I identified	15	needs of consumers and users of products and
16	those a few moments ago. Do you want me to	16	services that comply with standards.
17	repeat those?	17	Q. You've distinguished between
18	Q. Well, if are you saying	18	standards setting organizations and standard
19	that, for all of those organizations, you	19	development organizations. What is the
20	examined their processes?	20	distinction that you that you identify
21	A. In some dimension, probably for	21	between the two?
22	most of the organizations, I had at least	22	A. I think I said I didn't know if
23	some knowledge of the process. I can't say	23	there is for sure a distinction, but I think
24	that I investigated in depth all of the	24	an SSO is perhaps a broader concept than an
25	processes for all of the organizations that	25	SDO, but I might be wrong on that.
	Page 30		Page 52
1	have been involved in my consulting	1	I know the companies I
1 2	have been involved in my consulting assignments that are standards oriented.	1 2	I know the companies I the plaintiffs here are SDOs. The
1 2 3	have been involved in my consulting assignments that are standards oriented. Q. What do you recall about your	1 2 3	I know the companies I the plaintiffs here are SDOs. The associations are, among other things, in the
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9 (Pages 30 - 33)

1	any harms that the plaintiffs have actually	1	you just said, quote, "I am not sure that the
2	suffered to date as a consequence of the	2	impact from the past would be close to the
3	defendant's activities?	3	impact that will occur in the future if the
4	MR. FEE: Objection to form.	4	Court finds that there has been no copyright
5	THE WITNESS: To the extent I	5	or trademark infringement."
6	have, it's embodied in my report.	6	A. It's everything laid out in my
7	You'll see there's a little bit of	7	report. I it's really the at the heart
8	evidence of actual tangible harm to	8	of what I did.
9	date, and there's certainly more	9	O. And please summarize for me
10	discussion of harm. The tangible	10	what data you base that statement on.
11	evidence I have is reflected in my	11	A. That's identified in my report.
12	report.	12	O. Okay. Show me, please, in the
13	BY MR. BRIDGES:	13	report.
14	O. And what do you understand that	14	A. It's all of what's in
15	evidence to be?	15	Exhibit 1.
16	A. I believe the number of	16	O. No. I want I want the basis
17	downloads from the Public Resource	17	for your statement that the impact from
18	dissemination have been fairly substantial.	18	conduct to date strike that that you're
19	L believe that the purchase of publications	19	not sure that the impact from the conduct to
20	has declined some at the plaintiffs at the	$\frac{1}{20}$	date would be close to the impact that will
21	various plaintiffs It certainly has not	$\frac{20}{21}$	occur in the future if the Court find
$\frac{21}{22}$	risen. Those are among the things that come	$\frac{21}{22}$	makes a certain finding right?
$\frac{22}{23}$	to mind	$\frac{22}{23}$	A Correct
$\frac{23}{24}$	I think I discuss the tonic in	$\frac{23}{24}$	0 So please identify for me
25	more denth in paragraph among other thing	25	something specific that forms the basis of
20	Page 62	25	Page 64
1	among other places, in paragraph 133 of my	1	that statement.
1 2	among other places, in paragraph 133 of my report.	1 2	that statement. MR. FEE: Objection. Asked and
1 2 3	among other places, in paragraph 133 of my report. O. Have you been able to quantify	1 2 3	that statement. MR. FEE: Objection. Asked and answered.
1 2 3 4	among other places, in paragraph 133 of my report. Q. Have you been able to quantify any financial losses to plaintiffs as a	1 2 3 4	that statement. MR. FEE: Objection. Asked and answered. THE WITNESS: Among other
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1	that I've cited, and some of those	1	THE WITNESS: point to
2	talk about the standard development	2	MR. FEE: form.
3	process and why participants are	3	THE WITNESS: any particular
4	active in the process. So in that	4	instances as I sit here now.
5	regard, I've considered incentives.	5	BY MR. BRIDGES:
6	BY MR. BRIDGES:	6	Q. Can you think of any other
7	Q. What do you understand the	7	motivations that the participants in the
8	incentives to be?	8	standards writing process have?
9	A. Well, for the supply side	9	A. I'm sorry. Other than what?
10	constituents, they're interested in effective	10	Q. Other than the incentives you
11	manufacturing and selling of products that	11	referred to earlier of the supply-side
12	will and services that will be well	12	constituents and the demand-side
13	received in the marketplace; and on the	13	constituents.
14	demand side, the constituents are interested	14	A. Nothing else comes to mind,
15	in products and services that address certain	15	although I'm certainly open to the fact that
16	quality and compatibility issues or problems	16	I haven't thought of or expressed all the
17	and help resolve those.	17	incentives.
18	Q. Do you know who actually	18	Q. Well, what other incentives can
19	creates the text of the standards?	19	you think of as you sit here?
20	MR. FEE: Objection to form.	20	A. As I just said, nothing else
21	THE WITNESS: Are you talking	21	comes to mind.
22	about who actually types in the words?	22	Q. What incentives do you
23	BY MR. BRIDGES:	23	understand the plaintiffs to have in
24	Q. No.	24	developing standards?
25	A. Because I don't know what you	25	MR. FEE: Objection to form.
	Page 82		Page 84
	0		
1	mean by "creates the text."	1	THE WITNESS: I think,
1 2	mean by "creates the text." O. Who actually suggests the	1 2	THE WITNESS: I think, generally, they want consensus among
1 2 3	mean by "creates the text." Q. Who actually suggests the words?	1 2 3	THE WITNESS: I think, generally, they want consensus among interested parties in how to address a
1 2 3 4	mean by "creates the text." Q. Who actually suggests the words? A. I think a number of	1 2 3 4	THE WITNESS: I think, generally, they want consensus among interested parties in how to address a particular issue or problem that those
1 2 3 4 5	mean by "creates the text." Q. Who actually suggests the words? A. I think a number of constituents do, typically.	1 2 3 4 5	THE WITNESS: I think, generally, they want consensus among interested parties in how to address a particular issue or problem that those constituents face.
1 2 3 4 5 6	mean by "creates the text." Q. Who actually suggests the words? A. I think a number of constituents do, typically. Q. What types of constituents	1 2 3 4 5 6	THE WITNESS: I think, generally, they want consensus among interested parties in how to address a particular issue or problem that those constituents face. They are each non-profit
1 2 3 4 5 6 7	mean by "creates the text." Q. Who actually suggests the words? A. I think a number of constituents do, typically. Q. What types of constituents suggest the words of the standards?	1 2 3 4 5 6 7	THE WITNESS: I think, generally, they want consensus among interested parties in how to address a particular issue or problem that those constituents face. They are each non-profit organizations, so they're not
1 2 3 4 5 6 7 8	mean by "creates the text." Q. Who actually suggests the words? A. I think a number of constituents do, typically. Q. What types of constituents suggest the words of the standards? MR. FEE: Objection to form.	1 2 3 4 5 6 7 8	THE WITNESS: I think, generally, they want consensus among interested parties in how to address a particular issue or problem that those constituents face. They are each non-profit organizations, so they're not intending to profit off their
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1	Web sites we gathered ourselves, and I think	1	Q. What did you hear about
2	the reports and articles, with the exception	2	overseas litigation involving Public
3	of the Bremer articles, we gathered	3	Resource?
4	ourselves.	4	A. I think I heard that there was
5	Q. Do you know why you got no	5	a German or a suit in Germany, but I'm not
6	documents from NFPA, no Bates range documents	6	sure that I learned much more than that. I
7	from NFPA?	7	don't recall what status that suit what
8	MR. REHN: Object to form	8	the status of that suit is.
9	THE WITNESS: I don't know why	9	Q. Do you recall anyone disclosing
10	we did not receive Bates documents	10	to you litigation involving NFPA in the
11	THE REPORTER: Wait.	11	United States that pertained to standards and
12	MR. REHN: Sorry. Object to	12	copyright?
13	the form. Lacks foundation.	13	A. It's possible, but I don't
14	THE WITNESS: I don't know for	14	recall any, sitting here right now.
15	sure that we didn't receive	15	Q. Do you recall inquiring about
16	Bates-stamped documents, but I believe	16	public statements of fact that NFPA has made
17	some of the documents we received were	17	regarding copyright and standards in
18	NFPA documents.	18	litigation other than this litigation in the
19	BY MR. BRIDGES:	19	United States?
20	Q. Do you recall seeing any NFPA	20	MR. FEE: Objection to form.
21	documents that in which NFPA personnel	21	THE WITNESS: I do not.
22	stated that they could not show any harm from	22	BY MR. BRIDGES:
23	the defendant's activities?	23	Q. Are you familiar with a case
24	A. Received any documents that	24	called Veeck, V-E-E-C-K?
25	said that?	25	A. I'm familiar with an opinion in
	Page 122		Page 124
1	Q. Uh-huh.	1	the Veeck case.
1 2	Q. Uh-huh.A. Perhaps you would have	1 2	the Veeck case. Q. What do you know about that
1 2 3	Q. Uh-huh.A. Perhaps you would havesomething that would refresh my memory. I	1 2 3	the Veeck case. Q. What do you know about that opinion?
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32 (Pages 122 - 125)

1	answered	1	A Not sitting here right now I
2	THE WITNESS: Again, I read the	2	don't.
3	case. I didn't do any analysis beyond	3	0. Do you know whether ASHRAE took
4	that of that particular case.	4	over development of what became standard 90.1
5	BY MR. BRIDGES:	5	from any other group or entity?
6	O. What steps did you take to	6	A. No. I do not.
7	ascertain what public harms flowed from the	7	O. Have you ever quantified the
8	Court's decision in the Veeck case?	8	value of the contributions made by the
9	A. Other than reading the case,	9	volunteers of the various organizations to
10	the opinion in the case, I didn't do anything	10	the standards at issue in this case?
11	beyond that to understand the implications of	11	MR. FEE: Objection to form.
12	that holding.	12	THE WITNESS: Not other than
13	Q. You didn't do any investigation	13	having some sense of hours or a
14	as to the economic consequences to any	14	limited sense of dollars, but not
15	entity, industry, or person as a consequence	15	beyond that, no.
16	of the decision in the Veeck case, correct?	16	BY MR. BRIDGES:
17	MR. FEE: Objection to form.	17	Q. Can you put a rough dollar
18	THE WITNESS: I think that's	18	value on the time and expenses of the
19	correct, yes.	19	volunteers with respect to any of the
20	BY MR. BRIDGES:	20	standards in this case?
21	Q. How has the process of	21	MR. FEE: Objection to form.
22	standards development changed in the last 100	22	THE WITNESS: Not sitting here
23	years, to your knowledge?	23	right now. That would entail a little
24	A. I don't know the specifics, and	24	bit of a study. I have not done that.
25	I don't know that there is one standards	25	BY MR. BRIDGES:
	Page 130		Page 132
1	development process. I think there are a	1	Q. What what would be required?
2	variety of processes pursued by a number of	2	A. To understand basically the
3	SSOs or SDOs. I'm sure that there have been	3	out-of-pocket expenses incurred and the
			1 1
4	changes on the margin. There may have been	4	opportunity costs incurred. So among other
4 5	changes on the margin. There may have been larger changes. I just don't know. I have	4 5	opportunity costs incurred. So among other things, one would want to look at time
4 5 6	changes on the margin. There may have been larger changes. I just don't know. I have not studied the trend in the standard	4 5 6	opportunity costs incurred. So among other things, one would want to look at time records, have an understanding of
4 5 6 7	changes on the margin. There may have been larger changes. I just don't know. I have not studied the trend in the standard development process over time.	4 5 6 7	opportunity costs incurred. So among other things, one would want to look at time records, have an understanding of compensation, have an understanding of the
4 5 6 7 8	changes on the margin. There may have been larger changes. I just don't know. I have not studied the trend in the standard development process over time. Q. What changes are you aware of	4 5 6 7 8	opportunity costs incurred. So among other things, one would want to look at time records, have an understanding of compensation, have an understanding of the activities of those individuals. Those
4 5 7 8 9	changes on the margin. There may have been larger changes. I just don't know. I have not studied the trend in the standard development process over time. Q. What changes are you aware of in the standards development process of NFPA	4 5 6 7 8 9	opportunity costs incurred. So among other things, one would want to look at time records, have an understanding of compensation, have an understanding of the activities of those individuals. Those are would be among the inputs.
4 5 6 7 8 9 10	changes on the margin. There may have been larger changes. I just don't know. I have not studied the trend in the standard development process over time. Q. What changes are you aware of in the standards development process of NFPA over the past 100 years?	4 5 6 7 8 9 10	opportunity costs incurred. So among other things, one would want to look at time records, have an understanding of compensation, have an understanding of the activities of those individuals. Those are would be among the inputs. Q. What changes are you aware of
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34 (Pages 130 - 133)

1	are much another to dow then they were	1	the right to reproduce conv. or
	are much greater today than they were		the right to reproduce, copy, or
2	in 1915, but I don't know that the	2	disseminate those standards but can
3	general methods of I don't know how	3	look at them online.
	the general methods of distribution	4	BY MR. BRIDGES:
5	have changed.	5	Q. Have you used the reading rooms
6	BY MR. BRIDGES:	6	of any of the plaintiffs?
7	Q. What changes are you aware of	7	A. No, I have not.
8	in sales trends over the past 20 years?	8	Q. Have you reviewed the interface
9	MR. FEE: Objection to form.	9	that the have you reviewed the interfaces
10	THE WITNESS: I don't have data	10	that the plaintiffs offer to persons wishing
11	going back as far as 20 years ago. I	11	to view materials for free online?
12	have some information on publication	12	A. No, I don't think so.
13	sales, for instance, in tabs 3, 4, and	13	Q. Do you know what effect, if
14	5. They only that information only	14	any, the presence of those free materials on
15	goes back a few years, however.	15	the plaintiffs' Web sites has had on the
16	BY MR. BRIDGES:	16	plaintiffs' revenues?
17	Q. Did you review any information	17	MR. FEE: Objection to form.
18	earlier than the dates shown in the documents	18	THE WITNESS: No, I don't.
19	at tabs 3, 4, and 5?	19	BY MR. BRIDGES:
20	MR. FEE: Objection. Vague.	20	O. Have you have you
21	THE WITNESS: It's possible	21	investigated that?
22	that some of the source documents had	22	MR. FEE: Same objection.
23	earlier information, but I don't	23	THE WITNESS: I've been
24	recall that. I would need to look at	24	opening I've been open to learning
25	those source documents.	25	about that, but I haven't learned that
	Page 134		Page 136
1	PV MP RPIDGES:	1	there's a direct or indirect offect
1	BY MR. BRIDGES:	1	there's a direct or indirect effect.
1 2	BY MR. BRIDGES: Q. And those source documents would be within the Pates ranges identified	1 2 3	there's a direct or indirect effect. There might be, but I haven't seen avidence of that
1 2 3	BY MR. BRIDGES: Q. And those source documents would be within the Bates ranges identified in tob 2 of your report?	1 2 3	there's a direct or indirect effect. There might be, but I haven't seen evidence of that.
1 2 3 4 5	BY MR. BRIDGES: Q. And those source documents would be within the Bates ranges identified in tab 2 of your report?	1 2 3 4 5	there's a direct or indirect effect. There might be, but I haven't seen evidence of that. BY MR. BRIDGES:
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35 (Pages 134 - 137)

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1	counsel. And then we finalized the report,	1	Q. Have you analyzed any
2	submitting it to counsel on June 5th, 2015.	2	differences in sales trends between those of
3	Q. Do you know how many standards	3	plaintiffs' standards that have been
4	of each plaintiff are at issue in this case?	4	incorporated into law and those of
5	A. How many I'm sorry	5	plaintiffs' standards that have not been
6	standards are at issue?	6	incorporated into law?
7	Q. Yes.	7	A. I don't think so. I don't
8	A. I have that number written	8	think I have those data, and I'm not sure
9	down. It's in the hundreds, and I forget, as	9	that each plaintiff knows precisely how many
10	I sit here right now, precisely the number.	10	have been incorporated into law.
11	I will look it up. And I was giving you an	11	Q. Did you ask for any data
12	answer that was a cumulation across the three	12	regarding the distinction between standards
13	plaintiffs.	13	incorporated by reference and standards not
14	I am not seeing that number	14	incorporated by reference in the law?
15	right now. I'll keep looking.	15	A. I don't
16	Q. Do you know what	16	MR. FEE: Objection to form.
17	A. You may be able to point me	17	THE WITNESS: I'm sorry. I
18	quicker than I recall where it was.	18	don't recall.
19	Q. Do you do you know what	19	BY MR. BRIDGES:
20	proportion of plaintiffs of each	20	Q. You made observations about
21	plaintiffs' standards is at issue in this	21	sales trends earlier in your deposition. I
22	case?	22	think you said that there's been a reduction
23	A. Are you asking me the ratio of	23	in sales of certain of plaintiffs' standards;
24	the standards at issue versus the total	24	is that correct?
25	standards developed by the organizations?	25	A. I'm not quite sure what the
	Page 154		Page 156
1	Q. Yes.	1	earlier testimony was, but I think I was
1 2	Q. Yes.A. I think it's less than a	1 2	earlier testimony was, but I think I was pointing you to paragraph 133 with regard to
1 2 3	Q. Yes.A. I think it's less than a majority for each organization. I'm fairly	1 2 3	earlier testimony was, but I think I was pointing you to paragraph 133 with regard to downloads of and other measures of
1 2 3 4	 Q. Yes. A. I think it's less than a majority for each organization. I'm fairly certain of that with regard to ASTM. I think 	1 2 3 4	earlier testimony was, but I think I was pointing you to paragraph 133 with regard to downloads of and other measures of activity, as I had at my disposal.
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40 (Pages 154 - 157)

1 plaintiffs? 1 of certain of the standards. I've 2 2 MR. FEE: Same objection. presented that. 3 THE WITNESS: It's reflected in 3 I don't have direct evidence of the precise impact historically of paragraph 133 and in the tabs, 4 4 particularly 3, 4, and 5. But the 5 defendant's activities on plaintiffs' 5 tabs are not at the granular level 6 financials. 6 that I think are of interest to you. 7 7 BY MR. BRIDGES: BY MR. BRIDGES: Q. What evidence of any kind do 8 8 Q. What do you mean by the you have of any kind of impact historically 9 9 10 "granular level" that would be of interest to of the defendant's activities on plaintiffs' 10 me? financials? 11 11 12 A. I don't think it breaks out 12 MR. FEE: Objection to form. THE WITNESS: That which is 13 publications by standard, for instance. 13 Q. Does it break out publications reported in paragraph 133, that of 14 14 15 by whether a standard has been incorporated which is contained in deposition 15 testimony, and that of which I 16 by reference or not? 16 17 A. I don't think so. 17 summarized in other parts of the 18 Does it break out by whether a report. О. 18 19 standard has been publicly made available by 19 BY MR. BRIDGES: 20 defendant or not? Q. So when you're referring to 20 21 deposition testimony, you're referring to the 21 A. I don't think so. Not in citations to the footnotes in paragraph 133? 22 tabs 3, 4, and 5. 22 Q. How do you establish causation A. No, I don't think it's just 23 23 24 between defendant's activities and any of the 24 limited to that. I think there's some other 25 data that you provide in section -- in 25 deposition transcripts that talk about the Page 158 Page 160 1 impact or potential impact of defendant's paragraph 133? 1 activities on each one of the plaintiffs. 2 MR. FEE: Objection. Calls for 2 Q. Did you make any independent 3 a legal conclusion. Form. 3 assessment of causation of any financial THE WITNESS: One can and 4 4 should look at all evidence available, effects on plaintiffs by the defendant's 5 5 including circumstantial evidence. I activities? 6 6 7 don't have direct information about 7 MR. FEE: Objection to form. the precise impact of defendant's Calls for a legal conclusion. 8 8 9 activities, but I have important 9 THE WITNESS: What do you mean by the term of "independent assessment 10 information that bears on that issue, 10 of causation"? 11 including information that's in 11 deposition transcripts. BY MR. BRIDGES: 12 12 13 BY MR. BRIDGES: Q. You, as an expert, not relying 13 Q. So my question is, how do just on what other people have said or 14 14 15 you -- do you -- strike that. speculated or thought. 15 Are your conclusion -- are you MR. FEE: Same objections. 16 16 17 making conclusions in paragraph 133 about the 17 Plus compound. 18 cause of changes in sales of the plaintiffs' THE WITNESS: We experts rely 18 products? 19 on other information to draw the 19 20 MR. FEE: Objection to form. 20 conclusions that we do, and then we 21 THE WITNESS: Not definitively. 21 bring our training to it. So our observations shouldn't be in a vacuum. 22 I have observations about the 22 23 magnitude and trend of the downloads 23 BY MR. BRIDGES: of -- through defendant's sites. I But they should be objective, 24 24 Q. have some information on the downloads 25 correct? 25 Page 159 Page 161

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1	A. Yes.	1	A. I took all the data
2	Q. And that means perhaps not	2	MR. FEE: Objection. Form.
3	relying upon the views of the parties to the	3	Objection to form.
4	lawsuit alone, but doing independent analysis	4	THE WITNESS: I took all this
5	and research, correct?	5	data into account. That's why I
6	MR. FEE: Objection to form.	6	reported it here.
7	THE WITNESS: I think one can	7	BY MR. BRIDGES:
8	and should evaluate and consider the	8	Q. And the data that you
9	views of the parties, but not limited	9	identified in the footnotes in
10	investigation to that.	10	paragraph 134 sorry 133?
11	BY MR. BRIDGES:	11	A. Yes, I considered that
12	Q. So what independent analysis	12	information.
13	and research did you do other than reviewing	13	Q. Do you know in what year the
14	the views and statements of the parties in	14	defendant posted the 2008 version of the
15	this case?	15	National Electrical Code on its Web site?
16	MR. FEE: Objection. Vague.	16	A. I don't know with absolute
17	THE WITNESS: I reviewed and	17	certainty. I do know a number of the alleged
18	summarized the data, as you see in	18	activities occurred in late 2012. I don't
19	133, that I had at my disposal. I	19	know if it's specific to that code or not.
20	reviewed writings about the impacts.	20	Q. Does it matter to your analysis
21	And I took important	21	exactly when the defendant posted the 2008
22	information from the fact that the	22	National Electrical Code on its Web site or
23	plaintiffs have brought this lawsuit.	23	to Internet Archive?
24	The plaintiffs don't want this	24	A. I would
25	activity to continue. That is	25	MR. FEE: Objection to form.
	Page 162		Page 164
1	revealed preference information that's	1	THE WITNESS: I would consider
1 2	revealed preference information that's quite important.	1 2	THE WITNESS: I would consider that information if I had it, but I
1 2 3	revealed preference information that's quite important. BY MR. BRIDGES:	1 2 3	THE WITNESS: I would consider that information if I had it, but I don't have any reason to think that it
1 2 3 4	revealed preference information that's quite important. BY MR. BRIDGES: Q. Tell me about what you mean by	1 2 3 4	THE WITNESS: I would consider that information if I had it, but I don't have any reason to think that it would change any of the conclusions
1 2 3 4 5	revealed preference information that's quite important. BY MR. BRIDGES: Q. Tell me about what you mean by repealed sorry. Strike that.	1 2 3 4 5	THE WITNESS: I would consider that information if I had it, but I don't have any reason to think that it would change any of the conclusions that I drew.
1 2 3 4 5 6	revealed preference information that's quite important. BY MR. BRIDGES: Q. Tell me about what you mean by repealed sorry. Strike that. Tell me what you mean by	1 2 3 4 5 6	THE WITNESS: I would consider that information if I had it, but I don't have any reason to think that it would change any of the conclusions that I drew. BY MR. BRIDGES:
1 2 3 4 5 6 7	revealed preference information that's quite important. BY MR. BRIDGES: Q. Tell me about what you mean by repealed sorry. Strike that. Tell me what you mean by "revealed preference."	1 2 3 4 5 6 7	THE WITNESS: I would consider that information if I had it, but I don't have any reason to think that it would change any of the conclusions that I drew. BY MR. BRIDGES: Q. The timing of when the
1 2 3 4 5 6 7 8	revealed preference information that's quite important. BY MR. BRIDGES: Q. Tell me about what you mean by repealed sorry. Strike that. Tell me what you mean by "revealed preference." A. What people do often provides	1 2 3 4 5 6 7 8	THE WITNESS: I would consider that information if I had it, but I don't have any reason to think that it would change any of the conclusions that I drew. BY MR. BRIDGES: Q. The timing of when the defendant posted certain matters wouldn't
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42 (Pages 162 - 165)

1	A. I can't be any more specific	1	just on this information.
2	than that.	2	Q. What else would you need?
3	Q. What aspect of your training	3	A. I don't know, because I think
4	regarding aspects of industrial organization	4	it's probably a very easy factual question to
5	have you brought to bear on this case?	5	determine when the downloading first
6	A. I can't be any more specific	6	occurred, so I don't know why one would need
7	than that.	7	to back into it.
8	O. But you did bring the theory of	8	O. Well, when would one be able
9	reveal revealed preferences to bear on	9	to use sales trends as a way of identifying
10	this case correct?	10	likely effects of a posting of each standard
11	A Yes	11	by the defendant?
12	0 What other aconomic theories do	12	MR EEE: Objection Vague
12	vou recell bringing to beer on this case?	12	Compound
13	you recall dringing to deal on this case?	13	Compound. THE WITNESS: Mayber maybe not
14	MR. FEE: Objection. Asked and	14	THE WITNESS: Maybe, maybe not.
15	answered.	15	BY MR. BRIDGES:
16	THE WITNESS: Everything that	16	Q. Why do you say "maybe; maybe
17	I've	17	not"?
18	MR. FEE: And vague.	18	A. I just wouldn't think to do it
19	Go ahead.	19	that way, so I don't know what you exactly
20	THE WITNESS: I've learned	20	have in mind.
21	in my training, both educational	21	Q. Do you associate the posting of
22	training and career training.	22	standards by defendant with changes in sales
23	BY MR. BRIDGES:	23	volume of the standards that the defendant
24	O. Can you be more specific than	24	has posted?
25	that?	25	MR FEE: Objection to form
20	Page 174		Page 176
1		1	
1	A. No.	1	THE WITNESS: I don't know what
1 2	A. No.	1 2	THE WITNESS: I don't know what you mean by that question.
1 2 3	A. No. * * * (Jarosz Exhibit 4 marked for	1 2 3	THE WITNESS: I don't know what you mean by that question. BY MR. BRIDGES:
1 2 3 4	A. No. * * * (Jarosz Exhibit 4 marked for identification.)	1 2 3 4	THE WITNESS: I don't know what you mean by that question. BY MR. BRIDGES: Q. You don't understand the
1 2 3 4 5	A. No. * * * (Jarosz Exhibit 4 marked for identification.) * * *	1 2 3 4 5	THE WITNESS: I don't know what you mean by that question. BY MR. BRIDGES: Q. You don't understand the question?
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1 2 3 4 5 6 7	A. No. *** (Jarosz Exhibit 4 marked for identification.) *** BY MR. BRIDGES: Q. Mr. Jarosz, do you recognize	1 2 3 4 5 6 7	THE WITNESS: I don't know what you mean by that question. BY MR. BRIDGES: Q. You don't understand the question? A. I do not. Q. Can you correlate the posting
1 2 3 4 5 6 7 8	 A. No. * * * (Jarosz Exhibit 4 marked for identification.) * * * BY MR. BRIDGES: Q. Mr. Jarosz, do you recognize Exhibit 4 as a document that you produced in 	1 2 3 4 5 6 7 8	THE WITNESS: I don't know what you mean by that question. BY MR. BRIDGES: Q. You don't understand the question? A. I do not. Q. Can you correlate the posting of standards by defendant with any changes in
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$ \begin{array}{c} 1\\2\\3\\4\\5\\6\\7\\8\\9\\10\\11\\12\\13\\14\\15\\16\\17\\18\\19\\20\\21\\22\\23\\24\end{array} $	 A. No. * * * (Jarosz Exhibit 4 marked for identification.) * * * BY MR. BRIDGES: Q. Mr. Jarosz, do you recognize Exhibit 4 as a document that you produced in response to a subpoena in this case? A. Yes. Q. What is this document? A. It appears to be a summary over the years 2009 through 2013 of dollars and quantity of NFPA standards that were sold in the marketplace. Q. Based upon the trends that you see in this exhibit, can you estimate when you believe it is most likely that the defendant first published strike that. Based upon the trends that you see in this Exhibit 4, can you estimate when you believe it is most likely that the defendant first posted each of the standards identified here? 	$ \begin{array}{c} 1\\2\\3\\4\\5\\6\\7\\8\\9\\10\\11\\12\\13\\14\\15\\16\\17\\18\\19\\20\\21\\22\\23\\24\end{array} $	THE WITNESS: I don't know what you mean by that question. BY MR. BRIDGES: Q. You don't understand the question? A. I do not. Q. Can you correlate the posting of standards by defendant with any changes in sales volumes of the standards that the defendant has posted? MR. FEE: Objection to form. THE WITNESS: I don't think I've attempted to compute the correlation coefficient here associated with postings. BY MR. BRIDGES: Q. I'm not asking for a specific correlation coefficient. I'm just asking, generally, can you correlate the posting of standards by defendant with any changes in sales volumes of the standards that defendants has that the defendant has posted with reference to Exhibit 4? A. I don't know
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45 (Pages 174 - 177)

1	THE WITNESS. I don't recall	1	0 Have you determined in any way
1 2	attempting to do that And I wouldn't	2	the dates at which defendant posted various
2	necessarily think that the historical	2	standards to its Web site or to the Internet
1	impact would is the end of the		Archive?
+ 5	story as to the harm hare	5	A I don't recell doing a congrete
5	BV MD BDIDGES.	5	A. I don't recail doing a separate
7	DI MR. DRIDOES.		Ω How did you learn about the
/ 0	Q. Is instorical impact part of	0	Q. How did you learn about the
0	A Neg	0	dates at which defendant posted various
10	A. Yes.	9	standards to its web site or to internet
10	Q. What what can you say by	10	Archive?
11	looking at Exhibit 4 about the historical	11	A. I had conversations with
12	impact of the posting of the defendant of	12	counsel on that topic, and I may have seen
13	the plaintiffs' standards by the defendant?	13	that information contained in certain
14	A. I don't know that I can say	14	documents like the Complaint, but I don't
15	much, because I believe the postings largely	15	recall.
16	occurred in late 2012, and I only have one	16	Q. Did you rely upon information
17	period after that.	17	regarding those dates from conversations with
18	Q. If it turns out that	18	counsel?
19	defendant's postings were well before 2012,	19	MR. FEE: In arriving at his
20	would that affect your analysis of the trends	20	opinions, you're asking?
21	in sales data of the plaintiffs'	21	MR. BRIDGES: Arriving at his
22	publications?	22	understanding of the facts.
23	MR. FEE: Objection to form.	23	THE WITNESS: I don't know that
24	Compound. Vague.	24	I did, because I don't recall
25	THE WITNESS: Maybe. I would	25	reporting those specific dates
	Page 178		Page 180
			-
1	consider that information in	1	anywhere in my report.
1 2	consider that information in conjunction with these data if you	1 2	anywhere in my report. BY MR. BRIDGES:
1 2 3	consider that information in conjunction with these data if you wanted me to.	1 2 3	anywhere in my report. BY MR. BRIDGES: Q. Do you recall taking specific
1 2 3 4	consider that information in conjunction with these data if you wanted me to. BY MR. BRIDGES:	1 2 3 4	anywhere in my report. BY MR. BRIDGES: Q. Do you recall taking specific dates into account in analyzing the effect of
1 2 3 4 5	consider that information in conjunction with these data if you wanted me to. BY MR. BRIDGES: Q. How what what would	1 2 3 4 5	anywhere in my report. BY MR. BRIDGES: Q. Do you recall taking specific dates into account in analyzing the effect of defendant's actions?
1 2 3 4 5 6	consider that information in conjunction with these data if you wanted me to. BY MR. BRIDGES: Q. How what what would change?	1 2 3 4 5 6	anywhere in my report. BY MR. BRIDGES: Q. Do you recall taking specific dates into account in analyzing the effect of defendant's actions? MR. FEE: Objection to form.
1 2 3 4 5 6 7	consider that information in conjunction with these data if you wanted me to. BY MR. BRIDGES: Q. How what what would change? A. I don't know. I haven't done	1 2 3 4 5 6 7	anywhere in my report. BY MR. BRIDGES: Q. Do you recall taking specific dates into account in analyzing the effect of defendant's actions? MR. FEE: Objection to form. Vague.
1 2 3 4 5 6 7 8	consider that information in conjunction with these data if you wanted me to. BY MR. BRIDGES: Q. How what what would change? A. I don't know. I haven't done that analysis.	1 2 3 4 5 6 7 8	anywhere in my report. BY MR. BRIDGES: Q. Do you recall taking specific dates into account in analyzing the effect of defendant's actions? MR. FEE: Objection to form. Vague. THE WITNESS: I don't recall
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$ \begin{array}{c} 1\\2\\3\\4\\5\\6\\7\\8\\9\\10\\11\\12\\13\\14\\15\\16\\17\\18\\19\\20\\21\\22\\23\end{array} $	consider that information in conjunction with these data if you wanted me to. BY MR. BRIDGES: Q. How what what would change? A. I don't know. I haven't done that analysis. Q. Have you verified the dates on which plaintiffs strike that. Have you verified the dates at which defendant posted the various standards to its Web site or to Internet Archive? A. I don't MR. FEE: Objection. Vague. THE WITNESS: I don't recall verifying it. And are you asking did I separately go out and determine what that date is and see if that was the same as what was represented in the Complaint, for instance? BY MR. BRIDGES:	$ \begin{array}{c} 1 \\ 2 \\ 3 \\ 4 \\ 5 \\ 6 \\ 7 \\ 8 \\ 9 \\ 10 \\ 11 \\ 12 \\ 13 \\ 14 \\ 15 \\ 16 \\ 17 \\ 18 \\ 19 \\ 20 \\ 21 \\ 22 \\ 23 \\ \end{array} $	anywhere in my report. BY MR. BRIDGES: Q. Do you recall taking specific dates into account in analyzing the effect of defendant's actions? MR. FEE: Objection to form. Vague. THE WITNESS: I don't recall one way or the other. BY MR. BRIDGES: Q. Do you know how strike that. Do you know how much revenue each plaintiff derives from the standards at issue in this case? A. I don't think I know that precise number. Q. Did you did you ever know that number? A. I don't think so. Q. Did you ever know how much revenue each plaintiff derives from standards that have been incorporated into law? A. As opposed to those that have
$ \begin{array}{c} 1\\2\\3\\4\\5\\6\\7\\8\\9\\10\\11\\12\\13\\14\\15\\16\\17\\18\\19\\20\\21\\22\\23\\24\end{array} $	consider that information in conjunction with these data if you wanted me to. BY MR. BRIDGES: Q. How what what would change? A. I don't know. I haven't done that analysis. Q. Have you verified the dates on which plaintiffs strike that. Have you verified the dates at which defendant posted the various standards to its Web site or to Internet Archive? A. I don't MR. FEE: Objection. Vague. THE WITNESS: I don't recall verifying it. And are you asking did I separately go out and determine what that date is and see if that was the same as what was represented in the Complaint, for instance? BY MR. BRIDGES: O. Yes.	$ \begin{array}{c} 1 \\ 2 \\ 3 \\ 4 \\ 5 \\ 6 \\ 7 \\ 8 \\ 9 \\ 10 \\ 11 \\ 12 \\ 13 \\ 14 \\ 15 \\ 16 \\ 17 \\ 18 \\ 19 \\ 20 \\ 21 \\ 22 \\ 23 \\ 24 \\ \end{array} $	anywhere in my report. BY MR. BRIDGES: Q. Do you recall taking specific dates into account in analyzing the effect of defendant's actions? MR. FEE: Objection to form. Vague. THE WITNESS: I don't recall one way or the other. BY MR. BRIDGES: Q. Do you know how strike that. Do you know how much revenue each plaintiff derives from the standards at issue in this case? A. I don't think I know that precise number. Q. Did you did you ever know that number? A. I don't think so. Q. Did you ever know how much revenue each plaintiff derives from standards that have been incorporated into law? A. As opposed to those that have not been incorporated? Is that
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				1
1	those standards that have been incorporated	1	something just north of 50 percent for	
2	in the law. I'm asking if you know how much	2	ASHRAE.	
3	revenue each plaintiffs derives each	3	BY MR. BRIDGES:	
4	plaintiff derives from those standards.	4	Q. What do you mean by "if you add	
5	A. I don't	5	in memberships"?	
6	MR. FEE: Objection. Form.	6	A. I'm not I'm not quite sure	
7	THE WITNESS: think I know	7	what you're asking me to define.	
8	that number, and I'm not sure the	8	Q. I'm asking you to explain the	
9	plaintiffs know that number.	9	phrase that you just used, "if you add in	
10	BY MR. BRIDGES:	10	memberships." What did that mean?	
11	Q. Do you know the percentage of	11	A. I talked about that in my	
12	revenue that each plaintiff derives from	12	report. Membership fees are a fairly good	
13	standards that have been incorporated into	13	recollect a fairly good reflection of	
14	law?	14	amount that would have been paid for	
15	MR. FEE: Objection to form.	15	publications. In other words, publication	
16	THE WITNESS: I don't think I	16	fees it let me start this over again.	
17	do, and I don't believe the plaintiffs	17	It makes about as much sense to	
18	do.	18	become a member of ASHRAE as it is to buy	
19	BY MR. BRIDGES:	19	some of the individual publications. As a	
20	Q. Are you aware of any difference	20	result, many people choose to become members	
21	in profitability to plaintiffs between those	21	rather than just buying the publication, as I	
22	standards that have been incorporated into	22	understand it.	
23	law and those standards that have not been	23	Q. How did you learn that?	
24	incorporated into law?	24	A. Having knowledge of the of	
25	MR. FEE: Objection to form.	25	the price difference and through discussions	
	Page 182		Page 184	
1	THE WITNESS: I don't believe	1	with people at ASHRAE.	
1 2	THE WITNESS: I don't believe so.	1 2	with people at ASHRAE. Q. How did you learn about the	
1 2 3	THE WITNESS: I don't believe so. BY MR. BRIDGES:	1 2 3	with people at ASHRAE. Q. How did you learn about the price difference?	
1 2 3 4	THE WITNESS: I don't believe so. BY MR. BRIDGES: Q. Do you know strike that.	1 2 3 4	with people at ASHRAE. Q. How did you learn about the price difference? A. I don't recall how I learned	
1 2 3 4 5	THE WITNESS: I don't believe so. BY MR. BRIDGES: Q. Do you know strike that. Are you aware of any difference	1 2 3 4 5	with people at ASHRAE.Q. How did you learn about the price difference?A. I don't recall how I learned it, but I report it in my report based on	
1 2 3 4 5 6	THE WITNESS: I don't believe so. BY MR. BRIDGES: Q. Do you know strike that. Are you aware of any difference in profitability to plaintiffs between those	1 2 3 4 5 6	 with people at ASHRAE. Q. How did you learn about the price difference? A. I don't recall how I learned it, but I report it in my report based on certain documents I've seen. Perhaps I 	
1 2 3 4 5 6 7	THE WITNESS: I don't believe so. BY MR. BRIDGES: Q. Do you know strike that. Are you aware of any difference in profitability to plaintiffs between those standards that defendant has posted to the	1 2 3 4 5 6 7	 with people at ASHRAE. Q. How did you learn about the price difference? A. I don't recall how I learned it, but I report it in my report based on certain documents I've seen. Perhaps I learned it from their Web site. 	
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$ \begin{array}{c} 1\\2\\3\\4\\5\\6\\7\\8\\9\\10\\11\\12\\13\\14\\15\\16\\17\\18\\19\end{array} $	THE WITNESS: I don't believe so. BY MR. BRIDGES: Q. Do you know strike that. Are you aware of any difference in profitability to plaintiffs between those standards that defendant has posted to the Internet and those standards that defendant has not posted to the Internet? MR. FEE: Objection to form. THE WITNESS: I don't believe so. And as with the previous question, I don't think the plaintiffs have that information at their disposal. BY MR. BRIDGES: Q. For each plaintiff, what do you understand to be the percentage of gross revenue from the sale of standards?	$ \begin{array}{c} 1\\2\\3\\4\\5\\6\\7\\8\\9\\10\\11\\12\\13\\14\\15\\16\\17\\18\\19\end{array} $	 with people at ASHRAE. Q. How did you learn about the price difference? A. I don't recall how I learned it, but I report it in my report based on certain documents I've seen. Perhaps I learned it from their Web site. Q. Did you do any surveys of ASHRAE members to validate that assumption? Q. About purchase of a membership instead of buying the publication. A. I'm not sure that there's an assumption in there. My understanding is that ASHRAE people are of the belief that many people buy membership rather than individual publications. Q. And in your work, did you 	?
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$\begin{array}{c}1\\2\\3\\4\\5\\6\\7\\8\\9\\10\\11\\12\\13\\14\\15\\16\\17\\18\\19\\20\\21\\22\\23\\24\\25\end{array}$	THE WITNESS: I don't believe so. BY MR. BRIDGES: Q. Do you know strike that. Are you aware of any difference in profitability to plaintiffs between those standards that defendant has posted to the Internet and those standards that defendant has not posted to the Internet? MR. FEE: Objection to form. THE WITNESS: I don't believe so. And as with the previous question, I don't think the plaintiffs have that information at their disposal. BY MR. BRIDGES: Q. For each plaintiff, what do you understand to be the percentage of gross revenue from the sale of standards? MR. FEE: Objection to form. THE WITNESS: I I've reported that in my report. My memory is that it's something on the order of 66 percent for ASTM and for NFPA. And if you add in memberships, it's	$ \begin{array}{c} 1\\2\\3\\4\\5\\6\\7\\8\\9\\10\\11\\12\\13\\14\\15\\16\\17\\18\\19\\20\\21\\22\\23\\24\\25\end{array} $	 with people at ASHRAE. Q. How did you learn about the price difference? A. I don't recall how I learned it, but I report it in my report based on certain documents I've seen. Perhaps I learned it from their Web site. Q. Did you do any surveys of ASHRAE members to validate that assumption? Q. About purchase of a membership instead of buying the publication. A. I'm not sure that there's an assumption in there. My understanding is that ASHRAE people are of the belief that many people buy membership rather than individual publications. Q. And in your work, did you assume that? A. I didn't assume that. I worked on that under that understanding, but not an assumption? A. Yes. 	}

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1 A. I don't think I know that 1 Have you ever had access to any Q. 2 2 number. information that I've asked in the last 3 What percentage of plaintiffs' 3 several questions? О. operating expenses do you associate with the MR. FEE: Objection to form. 4 4 plaintiffs' development of standards 5 THE WITNESS: I don't believe 5 generally? 6 6 so. 7 A. I don't think I know that 7 BY MR. BRIDGES: 8 Q. Do you know whether plaintiffs number. 8 prepare standards through joint sponsorship 9 Do you have any estimates of О. 9 with any other organizations? 10 any of those numbers that you just said you 10 don't think you know? MR. FEE: Objection. Vague. 11 11 MR. FEE: Objection to form. THE WITNESS: I think I may 12 12 THE WITNESS: Not sitting here have seen a reference to that. I 13 13 14 14 right now. don't know the extent to which it 15 BY MR. BRIDGES: 15 occurs, but I wouldn't be surprised to Q. Did you at one point ever 16 be reminded that it does occur. 16 determine those numbers? 17 BY MR. BRIDGES: 17 18 A. Not that I recall. 18 0. Are you aware of any, as you 19 0. Do you know what percentage of 19 sit here? 20 the staff or employees of each plaintiff has 20 A. Not as I sit here right now, worked on the development of standards at 21 but I think I'm aware that it has occurred. 21 22 issue in this case? 22 Do you know whether plaintiffs О. receive grants, revenue, or stipends from 23 MR. FEE: Objection to form. 23 24 THE WITNESS: I don't think I governments that use, reference, or adopt 24 25 know that number. 25 their standards? Page 190 Page 192 BY MR. BRIDGES: 1 MR. FEE: Objection to form. 1 2 Do you know what percentage --2 THE WITNESS: There are grant О. 3 do you have an estimate? 3 monies that go to NFPA. I don't know the source of those grants. I don't 4 4 A. No. 5 5 see a line for grant revenues for the MR. FEE: Objection to form. 6 THE WITNESS: Not as I sit 6 other two organizations. 7 7 BY MR. BRIDGES: here, no. 8 Q. Did you ask any of the 8 BY MR. BRIDGES: Q. Do you know what percentage of plaintiffs about the revenues or expenses 9 9 the staff or employees of each plaintiff has they have specifically attributable to the 10 10 worked on the development of standards standards that defendant has posted to the 11 11 incorporated into law? 12 Internet? 12 MR. FEE: Objection to form. 13 13 MR. FEE: Objection to form. 14 THE WITNESS: Not as I sit here THE WITNESS: We generally 14 talked about that topic with each 15 right now. 15 plaintiff, and I don't think the 16 BY MR. BRIDGES: 16 Q. Do you have an estimate? plaintiffs know that amount. They 17 17 18 Not as I sit here right now. 18 undertake activities that are A. Do you know what percentage of standards oriented. They don't know 19 19 О. 20 the staff or employees of each plaintiff has 20 which of those standards will be 21 worked on the development of standards in 21 incorporated by reference. general? 22 BY MR. BRIDGES: 22 23 A. Not as I sit here right now. 23 Q. Did you --Do you have an estimate? Or which have been. I don't 24 24 A. Q. Not as I sit here right now. 25 think they systematically track those. 25 A. Page 191 Page 193

49 (Pages 190 - 193)

$\begin{vmatrix} 1 \\ 2 \end{vmatrix}$	foundation.	1	change in membership sales by ASHRAE over the
2	THE WITNESS. I would like to understand the facts that you're	2	past ten years?
	positing right now		A. I don't unit I have data that
5	PV MD PDIDCES.	4	information on A SUBAE membership revenue back
5	O Well we're not going to take	5	to 2012. That's summarized in tab 5
	time to go look at a Web site right now so		0 And that membership figure has
	I'm asking you based on what you know	0	Q. And that membership figure has
0	Do you have an explanation as	0	A Veg Slightly each year it
10	to why the resource cited in footnote 05	10	A. Tes. Slightly each year, it
11	actually shows that 44 state the 44 states	10	De ven drev en conclusione
12	adopted the International Energy Conservation	11	Q. Do you draw any conclusions with respect to this case from that trend?
12	Codo?	12	A L don't think so
13	MR FEE: Objection Lack of	13	A. I don't tillik so.
14	foundation	14	Q. Have you calculated the
15	THE WITNESS: I don't know if	15	plaintiffs of the incorporation into law of
10	vour factual representation is	10	their standards?
10	your factual representation is	10	MD EEE Objection to form
10	investigating that particular issue	10	MR. FEE. Objection to form.
20	RV MD RDIDCES.	20	I've independently I don't think
$\frac{20}{21}$	D I MIK. DRIDUES.	20	I've separately done that
21	determine what resources were expended	21	I ve separately done that.
22	incurred or contributed by partice other	22	D I MR. DRIDUES.
$\frac{23}{24}$	than A SHRAE in the development of standard	23	Q. All you aware of any data
24	an 12	24	plaintiffs of the incorporation into law of
25	90.12 Page 206	25	Page 208
1	MD FFF Oliver's state from	1	the sine store devide 9
$\begin{vmatrix} 1 \\ 2 \end{vmatrix}$	MR. FEE: Objection to form.	1	their standards?
$\begin{vmatrix} 1\\ 2\\ 2 \end{vmatrix}$	MR. FEE: Objection to form. THE WITNESS: I generally	1 2 2	their standards? MR. FEE: Same objection.
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1	Q. What other benefits do	1	a particular period.
2	plaintiffs gain from incorporation by	2	Q. And then you do the same for
3	reference of their standards?	3	NFPA documents, correct?
4	A. I think that generally covers	4	A. Yes.
5	it. I may be forgetting things that are laid	5	Q. What do you calculate as the
6	out in my report, but that's what covers it,	6	dollar value of harm to the to ASTM from
7	to the best of my memory right now.	7	the accesses and downloads that you refer to
8	Are we at a good point for a	8	in paragraph 133?
9	break?	9	A. I haven't calculated that harm.
10	Q. If you want. Sure.	10	Q. Why not?
11	A. Thanks.	11	A. I'm not sure if I can at this
12	THE VIDEOGRAPHER: Off the	12	stage. One estimate would be those number of
13	record at 3:12. This is the end of	13	downloads times the well, actually, no.
14	media unit number 2.	14	let me take that back. I just don't know how
15	* * *	15	to do it
16	(Recess from 3.12 n m to	16	O Can you be certain that these
17	3:41 p.m.)	17	accesses or down and downloads referred to
18	* * *	18	in paragraph 133 in fact resulted in
19	THE VIDEOGRAPHER On the	19	economic loss to ASTM?
20	record at 3:41 This is the beginning	20	MR FEE: Objection to form
$\frac{20}{21}$	of media unit number 3 in the	$\frac{20}{21}$	THE WITNESS: Not with absolute
$\frac{21}{22}$	deposition of John Jarosz	$\frac{21}{22}$	certainty but with reasonable
$\frac{22}{23}$	* * *	$\frac{22}{23}$	certainty I can say some in some
$\frac{23}{24}$	(Jarosz Exhibit 5 marked for	$\frac{23}{24}$	number of these instances it's likely
27	identification)	25	the case that the that the
25	Page 210	25	Page 212
	6		e
1	* * *	1	information would have been obtained
1	* * * BV MP BPIDCES:	1	information would have been obtained from ASHRAE in or ASTM rather
1 2 3	* * * BY MR. BRIDGES:	1 2 3	information would have been obtained from ASHRAE in or ASTM, rather, in through legal means
1 2 3	* * * BY MR. BRIDGES: Q. Mr. Jarosz, I've handed you Exhibit 5. This is an article that you cited	1 2 3	information would have been obtained from ASHRAE in or ASTM, rather, in through legal means.
1 2 3 4 5	* * * BY MR. BRIDGES: Q. Mr. Jarosz, I've handed you Exhibit 5. This is an article that you cited in your report, correct?	1 2 3 4 5	information would have been obtained from ASHRAE in or ASTM, rather, in through legal means. BY MR. BRIDGES:
1 2 3 4 5 6	 * * * BY MR. BRIDGES: Q. Mr. Jarosz, I've handed you Exhibit 5. This is an article that you cited in your report, correct? 	1 2 3 4 5 6	information would have been obtained from ASHRAE in or ASTM, rather, in through legal means. BY MR. BRIDGES: Q. Would that in those instances where you say that the information
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1 2 3 4 5 6 7 8	 * * * BY MR. BRIDGES: Q. Mr. Jarosz, I've handed you Exhibit 5. This is an article that you cited in your report, correct? A. Yes, I believe so. Q. Do you recall how this article 	1 2 3 4 5 6 7 8	 information would have been obtained from ASHRAE in or ASTM, rather, in through legal means. BY MR. BRIDGES: Q. Would that in those instances where you say that the information would have been obtained from ASTM through logal means, can you put a dollar value on
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1 2 3 4 5 6 7 8 9 10 11 12 12	 * * * BY MR. BRIDGES: Q. Mr. Jarosz, I've handed you Exhibit 5. This is an article that you cited in your report, correct? A. Yes, I believe so. Q. Do you recall how this article came to your attention? A. I do not. Q. Is this an article that you understand to have been published by plaintiff ASHRAE in its journal? 	1 2 3 4 5 6 7 8 9 10 11 12 12	 information would have been obtained from ASHRAE in or ASTM, rather, in through legal means. BY MR. BRIDGES: Q. Would that in those instances where you say that the information would have been obtained from ASTM through legal means, can you put a dollar value on or even an estimate of the increased revenue that ASTM would have gotten from those instances where people obtained the information from ASHRAE sorry from
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$ \begin{array}{c} 1\\2\\3\\4\\5\\6\\7\\8\\9\\10\\11\\12\\13\\14\\15\\16\end{array} $	 * * * BY MR. BRIDGES: Q. Mr. Jarosz, I've handed you Exhibit 5. This is an article that you cited in your report, correct? A. Yes, I believe so. Q. Do you recall how this article came to your attention? A. I do not. Q. Is this an article that you understand to have been published by plaintiff ASHRAE in its journal? A. Yes, that's my understanding. Q. And this is an article you relied upon with respect to the development of standard 90, which became standard 90.1, when the standard sta	$ \begin{array}{c} 1 \\ 2 \\ 3 \\ 4 \\ 5 \\ 6 \\ 7 \\ 8 \\ 9 \\ 10 \\ 11 \\ 12 \\ 13 \\ 14 \\ 15 \\ 16 \\ 17 \\ 17 \\ 17 \\ 17 \\ 17 \\ 17 \\ 17 \\ 17$	information would have been obtained from ASHRAE in or ASTM, rather, in through legal means. BY MR. BRIDGES: Q. Would that in those instances where you say that the information would have been obtained from ASTM through legal means, can you put a dollar value on or even an estimate of the increased revenue that ASTM would have gotten from those instances where people obtained the information from ASHRAE sorry from AST MR. FEE: Object BY MR. BRIDGES: Q from ASTM?
$ \begin{array}{c} 1\\2\\3\\4\\5\\6\\7\\8\\9\\10\\11\\12\\13\\14\\15\\16\\17\\18\end{array} $	 * * * BY MR. BRIDGES: Q. Mr. Jarosz, I've handed you Exhibit 5. This is an article that you cited in your report, correct? A. Yes, I believe so. Q. Do you recall how this article came to your attention? A. I do not. Q. Is this an article that you understand to have been published by plaintiff ASHRAE in its journal? A. Yes, that's my understanding. Q. And this is an article you relied upon with respect to the development of standard 90, which became standard 90.1, correct? 	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	<pre>information would have been obtained from ASHRAE in or ASTM, rather, in through legal means. BY MR. BRIDGES: Q. Would that in those instances where you say that the information would have been obtained from ASTM through legal means, can you put a dollar value on or even an estimate of the increased revenue that ASTM would have gotten from those instances where people obtained the information from ASHRAE sorry from AST MR. FEE: Object BY MR. BRIDGES: Q from ASTM? MR. FEE: Objection to form. TUE WITNESS: No ent here d on</pre>
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	 * * * BY MR. BRIDGES: Q. Mr. Jarosz, I've handed you Exhibit 5. This is an article that you cited in your report, correct? A. Yes, I believe so. Q. Do you recall how this article came to your attention? A. I do not. Q. Is this an article that you understand to have been published by plaintiff ASHRAE in its journal? A. Yes, that's my understanding. Q. And this is an article you relied upon with respect to the development of standard 90, which became standard 90.1, correct? A. Yes. A. Yes. 	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	information would have been obtained from ASHRAE in or ASTM, rather, in through legal means. BY MR. BRIDGES: Q. Would that in those instances where you say that the information would have been obtained from ASTM through legal means, can you put a dollar value on or even an estimate of the increased revenue that ASTM would have gotten from those instances where people obtained the information from ASHRAE sorry from AST MR. FEE: Object BY MR. BRIDGES: Q from ASTM? MR. FEE: Objection to form. THE WITNESS: No, not based on
$ \begin{array}{c} 1 \\ 2 \\ 3 \\ 4 \\ 5 \\ 6 \\ 7 \\ 8 \\ 9 \\ 10 \\ 11 \\ 12 \\ 13 \\ 14 \\ 15 \\ 16 \\ 17 \\ 18 \\ 19 \\ 20 \\ 19 \\ 20 \\ 10 \\ 10 \\ 10 \\ 10 \\ 10 \\ 10 \\ 10 \\ 1$	 * * * BY MR. BRIDGES: Q. Mr. Jarosz, I've handed you Exhibit 5. This is an article that you cited in your report, correct? A. Yes, I believe so. Q. Do you recall how this article came to your attention? A. I do not. Q. Is this an article that you understand to have been published by plaintiff ASHRAE in its journal? A. Yes, that's my understanding. Q. And this is an article you relied upon with respect to the development of standard 90, which became standard 90.1, correct? A. Yes. Q. In paragraph 133 of your 	$ \begin{array}{c} 1 \\ 2 \\ 3 \\ 4 \\ 5 \\ 6 \\ 7 \\ 8 \\ 9 \\ 10 \\ 11 \\ 12 \\ 13 \\ 14 \\ 15 \\ 16 \\ 17 \\ 18 \\ 19 \\ 20 \\ 19 \\ 20 \\ 10 \\ 10 \\ 10 \\ 10 \\ 10 \\ 10 \\ 10 \\ 1$	<pre>information would have been obtained from ASHRAE in or ASTM, rather, in through legal means. BY MR. BRIDGES: Q. Would that in those instances where you say that the information would have been obtained from ASTM through legal means, can you put a dollar value on or even an estimate of the increased revenue that ASTM would have gotten from those instances where people obtained the information from ASHRAE sorry from AST MR. FEE: Object BY MR. BRIDGES: Q from ASTM? MR. FEE: Objection to form. THE WITNESS: No, not based on the information I have. I don't think</pre>
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$ \begin{array}{c} 1\\2\\3\\4\\5\\6\\7\\8\\9\\10\\11\\12\\13\\14\\15\\16\\17\\18\\19\\20\\21\\22\end{array} $	 * * * BY MR. BRIDGES: Q. Mr. Jarosz, I've handed you Exhibit 5. This is an article that you cited in your report, correct? A. Yes, I believe so. Q. Do you recall how this article came to your attention? A. I do not. Q. Is this an article that you understand to have been published by plaintiff ASHRAE in its journal? A. Yes, that's my understanding. Q. And this is an article you relied upon with respect to the development of standard 90, which became standard 90.1, correct? A. Yes. Q. In paragraph 133 of your report, you talk about a number of downloads strike that you talk about a 	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	information would have been obtained from ASHRAE in or ASTM, rather, in through legal means. BY MR. BRIDGES: Q. Would that in those instances where you say that the information would have been obtained from ASTM through legal means, can you put a dollar value on or even an estimate of the increased revenue that ASTM would have gotten from those instances where people obtained the information from ASHRAE sorry from AST MR. FEE: Object BY MR. BRIDGES: Q from ASTM? MR. FEE: Objection to form. THE WITNESS: No, not based on the information I have. I don't think I have any indication of who was doing the downloading and why.
$ \begin{array}{c} 1\\2\\3\\4\\5\\6\\7\\8\\9\\10\\11\\12\\13\\14\\15\\16\\17\\18\\19\\20\\21\\22\\22\\22\\22\\22\end{array} $	 * * * BY MR. BRIDGES: Q. Mr. Jarosz, I've handed you Exhibit 5. This is an article that you cited in your report, correct? A. Yes, I believe so. Q. Do you recall how this article came to your attention? A. I do not. Q. Is this an article that you understand to have been published by plaintiff ASHRAE in its journal? A. Yes, that's my understanding. Q. And this is an article you relied upon with respect to the development of standard 90, which became standard 90.1, correct? A. Yes. Q. In paragraph 133 of your report, you talk about a number of documents accessed through Public 	$ \begin{array}{c} 1\\2\\3\\4\\5\\6\\7\\8\\9\\10\\11\\12\\13\\14\\15\\16\\17\\18\\19\\20\\21\\22\\22\\22\\22\end{array} $	information would have been obtained from ASHRAE in or ASTM, rather, in through legal means. BY MR. BRIDGES: Q. Would that in those instances where you say that the information would have been obtained from ASTM through legal means, can you put a dollar value on or even an estimate of the increased revenue that ASTM would have gotten from those instances where people obtained the information from ASHRAE sorry from AST MR. FEE: Object BY MR. BRIDGES: Q from ASTM? MR. FEE: Objection to form. THE WITNESS: No, not based on the information I have. I don't think I have any indication of who was doing the downloading and why. BY MR. BRIDGES:
$ \begin{array}{c} 1 \\ 2 \\ 3 \\ 4 \\ 5 \\ 6 \\ 7 \\ 8 \\ 9 \\ 10 \\ 11 \\ 12 \\ 13 \\ 14 \\ 15 \\ 16 \\ 17 \\ 18 \\ 19 \\ 20 \\ 21 \\ 22 \\ 23 \\ 23 \\ 23 \\ 24 \\ 23 \\ 24 \\ 24 \\ 24 \\ 24 \\ 24 \\ 24 \\ 24 \\ 24$	 * * * BY MR. BRIDGES: Q. Mr. Jarosz, I've handed you Exhibit 5. This is an article that you cited in your report, correct? A. Yes, I believe so. Q. Do you recall how this article came to your attention? A. I do not. Q. Is this an article that you understand to have been published by plaintiff ASHRAE in its journal? A. Yes, that's my understanding. Q. And this is an article you relied upon with respect to the development of standard 90, which became standard 90.1, correct? A. Yes. Q. In paragraph 133 of your report, you talk about a number of documents accessed through Public Resource's Web site. Do you see that? 	$ \begin{array}{c} 1 \\ 2 \\ 3 \\ 4 \\ 5 \\ 6 \\ 7 \\ 8 \\ 9 \\ 10 \\ 11 \\ 12 \\ 13 \\ 14 \\ 15 \\ 16 \\ 17 \\ 18 \\ 19 \\ 20 \\ 21 \\ 22 \\ 23 \\ 23 \\ 23 \\ 24 \\ 23 \\ 24 \\ 24 \\ 24 \\ 24 \\ 24 \\ 24 \\ 24 \\ 24$	information would have been obtained from ASHRAE in or ASTM, rather, in through legal means. BY MR. BRIDGES: Q. Would that in those instances where you say that the information would have been obtained from ASTM through legal means, can you put a dollar value on or even an estimate of the increased revenue that ASTM would have gotten from those instances where people obtained the information from ASHRAE sorry from AST MR. FEE: Object BY MR. BRIDGES: Q from ASTM? MR. FEE: Objection to form. THE WITNESS: No, not based on the information I have. I don't think I have any indication of who was doing the downloading and why. BY MR. BRIDGES: Q. And do you know what
$ \begin{array}{c} 1\\2\\3\\4\\5\\6\\7\\8\\9\\10\\11\\12\\13\\14\\15\\16\\17\\18\\19\\20\\21\\22\\23\\24\\25\end{array} $	 * * * BY MR. BRIDGES: Q. Mr. Jarosz, I've handed you Exhibit 5. This is an article that you cited in your report, correct? A. Yes, I believe so. Q. Do you recall how this article came to your attention? A. I do not. Q. Is this an article that you understand to have been published by plaintiff ASHRAE in its journal? A. Yes, that's my understanding. Q. And this is an article you relied upon with respect to the development of standard 90, which became standard 90.1, correct? A. Yes. Q. In paragraph 133 of your report, you talk about a number of documents accessed through Public Resource's Web site. Do you see that? A. I talk about the number of ASTM documents accessed the public acce	$ \begin{array}{c} 1\\2\\3\\4\\5\\6\\7\\8\\9\\10\\11\\12\\13\\14\\15\\16\\17\\18\\19\\20\\21\\22\\23\\24\\25\end{array} $	information would have been obtained from ASHRAE in or ASTM, rather, in through legal means. BY MR. BRIDGES: Q. Would that in those instances where you say that the information would have been obtained from ASTM through legal means, can you put a dollar value on or even an estimate of the increased revenue that ASTM would have gotten from those instances where people obtained the information from ASHRAE sorry from AST MR. FEE: Object BY MR. BRIDGES: Q from ASTM? MR. FEE: Object of form. THE WITNESS: No, not based on the information I have. I don't think I have any indication of who was doing the downloading and why. BY MR. BRIDGES: Q. And do you know what alternatives persons who were doing the downloading mean had for obtaining and
$ \begin{array}{c} 1\\2\\3\\4\\5\\6\\7\\8\\9\\10\\11\\12\\13\\14\\15\\16\\17\\18\\19\\20\\21\\22\\23\\24\\25\end{array} $	 * * * BY MR. BRIDGES: Q. Mr. Jarosz, I've handed you Exhibit 5. This is an article that you cited in your report, correct? A. Yes, I believe so. Q. Do you recall how this article came to your attention? A. I do not. Q. Is this an article that you understand to have been published by plaintiff ASHRAE in its journal? A. Yes, that's my understanding. Q. And this is an article you relied upon with respect to the development of standard 90, which became standard 90.1, correct? A. Yes. Q. In paragraph 133 of your report, you talk about a number of documents accessed through Public Resource's Web site. Do you see that? A. I talk about the number of ASTM documents that are that were accessed over 	$ \begin{array}{c} 1\\2\\3\\4\\5\\6\\7\\8\\9\\10\\11\\12\\13\\14\\15\\16\\17\\18\\19\\20\\21\\22\\23\\24\\25\end{array} $	information would have been obtained from ASHRAE in or ASTM, rather, in through legal means. BY MR. BRIDGES: Q. Would that in those instances where you say that the information would have been obtained from ASTM through legal means, can you put a dollar value on or even an estimate of the increased revenue that ASTM would have gotten from those instances where people obtained the information from ASHRAE sorry from AST MR. FEE: Object BY MR. BRIDGES: Q from ASTM? MR. FEE: Objection to form. THE WITNESS: No, not based on the information I have. I don't think I have any indication of who was doing the downloading and why. BY MR. BRIDGES: Q. And do you know what alternatives persons who were doing the downloading may have had for obtaining the Page 213

54 (Pages 210 - 213)

1 ir	nformation?	1	more extended use of that document.
2	A. Not with certainty, because I	2	Q. Do you have any evidence about
3 d	on't know who those persons were, but I	3	wide distribution of plaintiffs' standards as
4 w	vould expect one alternative would be to	4	a consequence of defendant's actions?
5 o	btain it properly, directly from ASTM.	5	A. I do not.
6	Q. Would that have resulted in	6	Q. Have you reviewed any studies
7 m	nore revenue to ASTM?	7	that would allow you to establish any
8	A. It may have. If they're	8	connection between the number of accesses or
9 m	naterials that were taken improperly that	9	downloads that Public Resource made possible
10 w	vould have been paid for, then that would	10	and any financial harms to the plaintiffs?
11 re	epresent a loss of revenue to ASTM.	11	MR. FEE: Objection to form.
12	Q. Do you know whether any of the	12	THE WITNESS: I don't think
13 p	ersons who obtained this information from	13	I've seen any study on that, no.
14 d	efendant would have paid for the information	14	BY MR. BRIDGES:
15 fr	rom ASTM?	15	Q. Have you conducted any studies
16	A. No, not with certainty, because	16	that would have allowed you to establish any
17 I	don't know the identity of the downloaders	17	connection between the number of accesses or
18 o	r the reasons for their downloading.	18	downloads that Public Resource made possible
19	Q. Moreover, those persons might	19	and any financial harms to the plaintiffs?
20 h	ave accessed the standards from ASTM's	20	MR. FEE: Objection to form.
21 re	eading room for free and with no revenue to	21	THE WITNESS: Not other than
22 A	ASTM, correct?	22	what's contained in my report.
23	A. You mean in a but-for world?	23	BY MR. BRIDGES:
24 H	Iad they not done what they actually did,	24	Q. Please turn to page 45,
25 al	Iternatively they could have gone to the	25	paragraph 107, which spills into page 108.
	rage 214		rage 210
1 fr	ree reading room?	1	MR. FEE: Page 108?
2	Q. Right.	2	THE WITNESS: I'm sorry.
3	A. That's a possibility, yes.	- 3	Page 108 or paragraph?
			ruge 100 of purugruph.
4	Q. Do you have an understanding as	4	BY MR. BRIDGES:
4 5 to	Q. Do you have an understanding as o why persons would want to download a file	4 5	BY MR. BRIDGES: Q. I'm sorry. Paragraph strike
4 5 to 6 o	Q. Do you have an understanding as o why persons would want to download a file of a standard instead of viewing it at one of	4 5 6	BY MR. BRIDGES: Q. I'm sorry. Paragraph strike that.
4 5 to 6 of 7 th	Q. Do you have an understanding as o why persons would want to download a file of a standard instead of viewing it at one of the plaintiffs' reading rooms?	4 5 6 7	BY MR. BRIDGES: Q. I'm sorry. Paragraph strike that. Let me ask you to turn
4 5 to 6 o 7 th 8	Q. Do you have an understanding asb why persons would want to download a file of a standard instead of viewing it at one ofhe plaintiffs' reading rooms?A. Not with absolute certainty,	4 5 6 7 8	BY MR. BRIDGES: Q. I'm sorry. Paragraph strike that. Let me ask you to turn paragraph 107 on pages 45 to 46.
4 5 to 6 of 7 th 8 9 b	 Q. Do you have an understanding as b why persons would want to download a file of a standard instead of viewing it at one of the plaintiffs' reading rooms? A. Not with absolute certainty, but I would imagine downloading would allow 	4 5 6 7 8 9	BY MR. BRIDGES: Q. I'm sorry. Paragraph strike that. Let me ask you to turn paragraph 107 on pages 45 to 46. A. Okay. I'm there.
4 5 to 6 or 7 th 8 9 b 10 m	 Q. Do you have an understanding as b why persons would want to download a file of a standard instead of viewing it at one of he plaintiffs' reading rooms? A. Not with absolute certainty, but I would imagine downloading would allow hore flexibility in referring to the standard 	4 5 6 7 8 9 10	BY MR. BRIDGES: Q. I'm sorry. Paragraph strike that. Let me ask you to turn paragraph 107 on pages 45 to 46. A. Okay. I'm there. Q. I just want to make sure I
4 5 to 6 or 7 th 8 9 b 10 m 11 an	 Q. Do you have an understanding as b why persons would want to download a file of a standard instead of viewing it at one of the plaintiffs' reading rooms? A. Not with absolute certainty, but I would imagine downloading would allow more flexibility in referring to the standard nd using it and sharing that information 	4 5 6 7 8 9 10 11	BY MR. BRIDGES: Q. I'm sorry. Paragraph strike that. Let me ask you to turn paragraph 107 on pages 45 to 46. A. Okay. I'm there. Q. I just want to make sure I understand your language correctly at the hottom of mage 45 and the top of mage 46
4 5 tc 6 o 7 tf 8 9 b 10 m 11 an 12 w	 Q. Do you have an understanding as b why persons would want to download a file of a standard instead of viewing it at one of the plaintiffs' reading rooms? A. Not with absolute certainty, but I would imagine downloading would allow more flexibility in referring to the standard nd using it and sharing that information with others, whereas reading it in through a latemat site is compared by the standard latematical sta	4 5 6 7 8 9 10 11 12 12	BY MR. BRIDGES: Q. I'm sorry. Paragraph strike that. Let me ask you to turn paragraph 107 on pages 45 to 46. A. Okay. I'm there. Q. I just want to make sure I understand your language correctly at the bottom of page 45 and the top of page 46. La it your origina that the
4 5 to 6 o 7 th 8 9 b 10 m 11 au 12 w 13 au	 Q. Do you have an understanding as b why persons would want to download a file of a standard instead of viewing it at one of the plaintiffs' reading rooms? A. Not with absolute certainty, but I would imagine downloading would allow more flexibility in referring to the standard nd using it and sharing that information with others, whereas reading it in through n Internet site is somewhat less flexible, provides large flexibility for the use of that 	4 5 6 7 8 9 10 11 12 13	BY MR. BRIDGES: Q. I'm sorry. Paragraph strike that. Let me ask you to turn paragraph 107 on pages 45 to 46. A. Okay. I'm there. Q. I just want to make sure I understand your language correctly at the bottom of page 45 and the top of page 46. Is it your opinion that the
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4 5 to 6 o 7 th 8 9 b 10 m 11 an 12 w 13 an 14 p 15 in 16 17 u 18 fl 19 an 20 ro 21 22 ty 23 fo 24 d 25 d	 Q. Do you have an understanding as b why persons would want to download a file of a standard instead of viewing it at one of he plaintiffs' reading rooms? A. Not with absolute certainty, but I would imagine downloading would allow nore flexibility in referring to the standard nd using it and sharing that information with others, whereas reading it in through n Internet site is somewhat less flexible, provides less flexibility for the use of that nformation. Q. What did what do you nderstand to be the difference in lexibility between possession of a download nd access to a standard through a reading poom? A. Well, I think that a download ypically has a document that's in hard-copy porm. Copies can made be made of that and listributed. Reading things just online 	4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	BY MR. BRIDGES: Q. I'm sorry. Paragraph strike that. Let me ask you to turn paragraph 107 on pages 45 to 46. A. Okay. I'm there. Q. I just want to make sure I understand your language correctly at the bottom of page 45 and the top of page 46. Is it your opinion that the copyright that the plaintiffs assert in their standards drives sales of other publications other than the standards themselves? MR. FEE: Objection. Form. Vague. THE WITNESS: I think they're important for driving sales of publications that embody those standards. I don't know that I've drawn a conclusion that it drives the sale of other products, but that makes some sense.

55 (Pages 214 - 217)

1	BY MR. BRIDGES:	1	whether plaintiffs have copyright in
2	Q. Well, doesn't that sentence at	2	rights in their value-added publications?
3	the bottom of 45 and going on to 46 say that	3	MR. FEE: Objection. Vague.
4	copyright on plaintiffs' standards drive	4	THE WITNESS: I would be
5	sales of "handbooks that provide commentary	5	curious to know that, but I'm not sure
6	on the standards by referring to them"?	6	of the significance. I don't think it
7	A. You haven't read	7	would change my conclusions, but I
8	MR. FEE: Objection.	8	would be curious to know that.
9	Mischaracterizes the document.	9	BY MR. BRIDGES:
10	THE WITNESS: You haven't read	10	Q. Do you know whether
11	the whole sentence. I see that	11	incorporation into law drives strike that.
12	sentence to which you refer.	12	Do you know whether
13	BY MR. BRIDGES:	13	incorporation into law of plaintiffs'
14	O. Right. I know I haven't read	14	standards drives sales of plaintiffs'
15	the whole sentence, but didn't I fairly	15	standards?
16	capture one part of it, which is the sales	16	MR. FEE: Objection to form.
17	of strike that that copyright on	17	Vague
18	plaintiffs' standards drives sales of among	18	THE WITNESS I don't know with
19	other things "handbooks that provide	19	absolute certainty but it would make
20	commentary on standards by referring to	$\frac{1}{20}$	some sense to me
21	them"?	$\frac{20}{21}$	BY MR_BRIDGES:
$\frac{21}{22}$	MR FFE: Same objection	$\frac{21}{22}$	O Is it your understanding that
22	THE WITNESS: I think you have	$\frac{22}{23}$	it does?
$\frac{23}{24}$	generally paraphrased it accurately	$\frac{23}{24}$	MR_EEE: Same objection
24 25	generally paraphrased it accurately,	24	THE WITNESS: It would make
23	yes. Page 218	25	Page 220
	•		•
1	BY MR. BRIDGES:	1	some sense to me, yes.
1 2	BY MR. BRIDGES: Q. And that plaintiffs' copyright	1 2	some sense to me, yes. BY MR. BRIDGES:
1 2 3	BY MR. BRIDGES: Q. And that plaintiffs' copyright protection this is the top of strike	1 2 3	some sense to me, yes. BY MR. BRIDGES: Q. Are you aware that, in some
1 2 3 4	BY MR. BRIDGES: Q. And that plaintiffs' copyright protection this is the top of strike that.	1 2 3 4	some sense to me, yes. BY MR. BRIDGES: Q. Are you aware that, in some instances, at least one plaintiff uses the
1 2 3 4 5	BY MR. BRIDGES: Q. And that plaintiffs' copyright protection this is the top of strike that. And turning to the top of	1 2 3 4 5	some sense to me, yes. BY MR. BRIDGES: Q. Are you aware that, in some instances, at least one plaintiff uses the legal status of its code to promote the sale
1 2 3 4 5 6	BY MR. BRIDGES: Q. And that plaintiffs' copyright protection this is the top of strike that. And turning to the top of page 46, plaintiffs' copyright protection on	1 2 3 4 5 6	some sense to me, yes. BY MR. BRIDGES: Q. Are you aware that, in some instances, at least one plaintiff uses the legal status of its code to promote the sale of handbooks?
1 2 3 4 5 6 7	BY MR. BRIDGES: Q. And that plaintiffs' copyright protection this is the top of strike that. And turning to the top of page 46, plaintiffs' copyright protection on their standards provides plaintiff with a	1 2 3 4 5 6 7	some sense to me, yes. BY MR. BRIDGES: Q. Are you aware that, in some instances, at least one plaintiff uses the legal status of its code to promote the sale of handbooks? MR. FEE: Objection to form.
1 2 3 4 5 6 7 8	BY MR. BRIDGES: Q. And that plaintiffs' copyright protection this is the top of strike that. And turning to the top of page 46, plaintiffs' copyright protection on their standards provides plaintiff with a competitive advantage with respect to what	1 2 3 4 5 6 7 8	some sense to me, yes. BY MR. BRIDGES: Q. Are you aware that, in some instances, at least one plaintiff uses the legal status of its code to promote the sale of handbooks? MR. FEE: Objection to form. THE WITNESS: I don't know one
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$ \begin{array}{c} 1 \\ 2 \\ 3 \\ 4 \\ 5 \\ 6 \\ 7 \\ 8 \\ 9 \\ 10 \\ 11 \\ 12 \\ 13 \\ 14 \\ 15 \\ 16 \\ \end{array} $	BY MR. BRIDGES: Q. And that plaintiffs' copyright protection this is the top of strike that. And turning to the top of page 46, plaintiffs' copyright protection on their standards provides plaintiff with a competitive advantage with respect to what you call value-added publications, correct? A. You've read part of a sentence, but I do see that sentence, yes. Q. And I've fairly paraphrased it correctly, correct? MR. FEE: Objection to form. THE WITNESS: I think, generally, yes.	$ \begin{array}{c} 1 \\ 2 \\ 3 \\ 4 \\ 5 \\ 6 \\ 7 \\ 8 \\ 9 \\ 10 \\ 11 \\ 12 \\ 13 \\ 14 \\ 15 \\ 16 \\ \end{array} $	some sense to me, yes. BY MR. BRIDGES: Q. Are you aware that, in some instances, at least one plaintiff uses the legal status of its code to promote the sale of handbooks? MR. FEE: Objection to form. THE WITNESS: I don't know one way or the other. I don't have reason to dispute it, but there's not a particular instance that comes to mind right now. Maybe you have something to refresh my memory. BY MR. BRIDGES: Q. Can you provide a dollar value benefit that plaintiffs receive economically
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56 (Pages 218 - 221)

1	Can you provide a can you	1	Q. What else?
2	put a dollar value, even an estimate, on the	2	A. That's what comes to mind.
3	economic benefit that plaintiffs receive from	3	O. Anything else?
4	incorporation of their standards into law?	4	A. Not this moment, no. I guess,
5	MR. FEE: Objection to form.	5	potentially, when I think some more about it.
6	THE WITNESS: I have not. And	6	training and seminars, for instance.
7	I'm not sure how one would do that.	7	O. Providers of training and
8	subject to thinking more about it.	8	seminars?
9	BY MR. BRIDGES:	9	A. Yes. So that's broader than
10	O. At the top of page 46, you say.	10	value-added publications, but there are
11	"The Plaintiffs' copyright protection on	11	potentially alternative providers of training
12	their privately-developed standards provides	12	and seminars.
13	a competitive advantage with regard to the	13	O. In paragraph 109, you say, "In
14	sale of these value-added publications as the	14	addition to direct sales of copyrighted
15	convright protection limits the ability of	15	materials the Plaintiffs' materials
16	others to sell those publications unless they	16	associated with their privately-developed
17	are unwilling [sic] to compensate the	17	standards provide a competitive advantage
18	Plaintiffs for such use "	18	with regard to the sale of downstream
19	MR FEE: Objection	19	ancillary/complementary services and
20	Mischaracterizes the statement	20	products "
21	BY MR_BRIDGES.	$\frac{20}{21}$	Do you see that?
22	O Is there something unfair about	22	A Yes That's what I had in
23	my characterization of that statement?	23	mind
24	A I think you read it wrong You	$\frac{23}{24}$	O And who are the competitors you
25	read "willing" to read "unwilling" for some	25	have in mind in paragraph 109?
	read whiling to read an whiling for bonne		nave in innia in paragraph 1091
	Page 222		Page 224
1	Page 222	1	Page 224 A I don't know particular names
1	reason.	1	A. I don't know particular names,
1 2 3	Page 222 reason. Q. Oh, I'm sorry. Thank you.	1 2 3	A. I don't know particular names, but at least I don't recall any sitting right now sitting here right now but I
1 2 3 4	Page 222 reason. Q. Oh, I'm sorry. Thank you. I'll restate the sentence.	1 2 3 4	A. I don't know particular names, but at least I don't recall any sitting right now sitting here right now, but I think there are other providers of these
1 2 3 4 5	Page 222 reason. Q. Oh, I'm sorry. Thank you. I'll restate the sentence. "In particular, the Plaintiffs' copyright protection on their	1 2 3 4 5	A. I don't know particular names, but at least I don't recall any sitting right now sitting here right now, but I think there are other providers of these downstream services and products
1 2 3 4 5 6	Page 222 reason. Q. Oh, I'm sorry. Thank you. I'll restate the sentence. "In particular, the Plaintiffs' copyright protection on their privately-developed standards provides a	1 2 3 4 5 6	A. I don't know particular names, but at least I don't recall any sitting right now sitting here right now, but I think there are other providers of these downstream services and products.
1 2 3 4 5 6 7	Page 222 reason. Q. Oh, I'm sorry. Thank you. I'll restate the sentence. "In particular, the Plaintiffs' copyright protection on their privately-developed standards provides a competitive advantage with regard to the sale.	1 2 3 4 5 6 7	A. I don't know particular names, but at least I don't recall any sitting right now sitting here right now, but I think there are other providers of these downstream services and products. Q. And please give me examples of what you're calling "downstream services and
1 2 3 4 5 6 7 8	Page 222 reason. Q. Oh, I'm sorry. Thank you. I'll restate the sentence. "In particular, the Plaintiffs' copyright protection on their privately-developed standards provides a competitive advantage with regard to the sale of these value-added publications as the	1 2 3 4 5 6 7 8	A. I don't know particular names, but at least I don't recall any sitting right now sitting here right now, but I think there are other providers of these downstream services and products. Q. And please give me examples of what you're calling "downstream services and products "
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57 (Pages 222 - 225)

1	guidance on that standard "	1	0 You're just parroting what
1 2	E E E E E E E E E E	1 7	V. Toure just partoning what
2	Do you see that?		independent view?
	A. 1 do, yes.		A No. I beend what he said and
4	Q. what do you understand what	4	A. No, I heard what he said, and
2	did you mean by "unauthorized instructors"?	5	it made sense to me.
6	A. People that have provided or	6	Q. So you put it in your report?
/	trying to provide services to the marketplace		A. Yes.
8	that have not been explicitly approved by,	8	Q. What independent thought or
9	for instance, ASHRAE.	9	investigation did you do before you put that
10	Q. What do you understand the	10	in your report?
11	the nature of strike that.	11	MR. FEE: Objection. Vague.
12	You called them "instructors,"	12	Compound.
13	correct?	13	THE WITNESS: I can't point to
14	A. Yes.	14	anything in particular.
15	Q. Does that mean that you	15	BY MR. BRIDGES:
16	envision that these persons are providing	16	Q. Would a law-school course on
17	some kind of instruction?	17	the law and regulation of building
18	A. Yes.	18	construction provide instruction to law
19	Q. What instruction do you	19	students?
20	understand what instruction did you have	20	MR. FEE: Objection. Vague.
21	in mind when you referred to "unauthorized	21	Calls for speculation.
22	instructors"?	22	THE WITNESS: I guess it could.
23	A. Generally, how best to	23	I have a hard time imagining there
24	implement standards or provisions of certain	24	would be much demand for such a
25	standards.	25	course, but I'm in general agreement
	Page 226		Page 228
1	0 What else?	1	that that in concept could occur
$\frac{1}{2}$	Q. What else? A Nothing else comes to mind	$\frac{1}{2}$	that that, in concept, could occur. BY MR BRIDGES:
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1 likely? 1 Do you consider \$100,000 to be Q. 2 material as an adverse effect on plaintiffs' 2 I haven't quantified that, but A. 3 I would expect that it's -- more than 3 revenues? 4 5 percent would be a reasonable definition of MR. FEE: Objection to form. 4 5 5 "expected." Compound. Q. 6 THE WITNESS: I haven't More than 10 percent? 6 A. I don't know. I've not 7 7 considered that question. I don't quantified that number. 8 know the answer to it. 8 9 Q. And what amount of an effect on BY MR. BRIDGES: 9 plaintiffs' revenues have you identified as 10 10 Q. Have you considered whether "material"? 50,000 is a material amount as an adverse 11 11 12 A. I haven't -effect on plaintiffs' revenues? 12 MR. FEE: Same objections. 13 MR. FEE: Objection to form. 13 THE WITNESS: Same answer. THE WITNESS: -- been able to 14 14 quantify the specific effects, so I 15 15 BY MR. BRIDGES: 16 don't know the amount. 16 Q. Starting at page -- sorry. 17 BY MR. BRIDGES: Strike that. 17 Well, what -- I'm not asking Starting at paragraph 139, you 18 0. 18 make several references to Mr. Malamud's 19 for your quantification of a specific effect, 19 20 but how large would an effect have to be for 20 theory. 21 to you consider it "a material adverse effect 21 I'm sorry. To -- I missed a A. 22 on Plaintiffs' remedies"? 22 word that you said. References to his what? MR. FEE: Objection to form. To Mr. Malamud's theory --23 23 О. 24 THE WITNESS: I don't know that 24 A. Okay. 25 I have a particular quantitative 25 -- T-H-E-O-R-Y. You refer to Q. Page 242 Page 244 1 it in paragraph 139; 140; 144, with the word guideline in mind. 1 "theorized"; 145, "theory"; 146, "theory." 2 BY MR. BRIDGES: 2 3 Q. Have you ever -- are you 3 What facts do you have that 4 have disproved the theory in paragraph 139? familiar with audit inquiry letters regarding 4 A. Perhaps most important is the 5 litigation? 5 revealed preference information. If the A. Generally, yes. 6 6 plaintiffs believed they were better off by 7 0. And you're familiar with the 7 fact that auditors will often specify to lack of copyright protection, they would have 8 8 those they send the letters to what amounts pursued such a model. 9 9 10 would be material for purposes of the audit They don't believe they're 10 11 better off. Moreover, they're expending 11 response? 12 A. Yes. 12 tremendous resources in bringing and pursuing So you understand the concept 13 this litigation to halt the activity at 13 О. 14 of certain amounts being material to certain 14 issue. 15 companies or entities? 15 Q. What other facts, if any, do 16 you have that have disproved Mr. Malamud's 16 A. Yes, for certain purposes. So I'd like to know what amount theory in paragraph 139? 17 0. 17 18 you have identified as being material as an That's what comes to mind right 18 A. adverse effect on plaintiffs' revenues for 19 19 now. 20 each of the three plaintiffs, please. 20 What facts do you have or are Q. MR. FEE: Objection. Compound. 21 21 you aware of that have disproved Asked and answered. 22 Mr. Malamud's theory as you refer to it in 22 23 THE WITNESS: I have not 23 paragraph 140? 24 considered a particular amount. 24 A. That's the same theory that's 25 BY MR. BRIDGES: 25 being referenced in 139, so there's nothing Page 243 Page 245

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1	new in terms of a theory.	1	rest of that paragraph?
2	O Do you have the same answer	2	MR FEE: Objection Vague
3	with respect to strike that.	3	THE WITNESS: I looked at the
4	What facts do you have	4	financial information, and I talked to
5	strike that.	5	people at the various plaintiffs.
6	What facts are you aware of to	6	BY MR. BRIDGES:
7	disprove to disprove Mr. Malamud's theory	7	O. You talked to people at the
8	that you refer to in paragraph 144?	8	various plaintiffs?
9	A. Again, it's the same theory	9	A. Yes.
10	that's being referenced, but there's	10	O. What did you do to verify the
11	additional facts; and that is, the downstream	11	truth and accuracy of the things that various
12	products and services aren't particularly	12	plaintiffs said to you in their
13	substantial to these plaintiffs and don't	13	conversations?
14	appear to be enhanced by a lack of copyright	14	MR. FEE: Objection to form.
15	protection; that is, the plaintiffs have had	15	THE WITNESS: I looked at the
16	copyright protection and have said had	16	financial information, and I kept my
17	some downstream products and services. It's	17	eyes and mind open to the information
18	hard to imagine that elimination of that	18	in the rest of the record to determine
19	copyright protection will enhance that	19	if it conflicted with what I learned
20	business.	20	from the company personnel.
21	Q. It's hard to imagine, but are	21	BY MR. BRIDGES:
22	you aware of any studies to disprove	22	Q. Whose financial information did
23	Mr. Malamud's theory?	23	you look at?
24	A. No.	24	A. All three of the plaintiffs.
25	MR. FEE: Objection. Vague.	25	It's summarized in tabs 3, 4, and 5.
	Page 246		Page 248
1	THE WITNESS: I'm sorry.	1	Q. Did you look at the financial
1 2	THE WITNESS: I'm sorry. BY MR. BRIDGES:	1 2	Q. Did you look at the financial information of any entities other than the
1 2 3	THE WITNESS: I'm sorry. BY MR. BRIDGES: Q. Have you conducted any studies	1 2 3	Q. Did you look at the financial information of any entities other than the plaintiffs?
1 2 3 4	THE WITNESS: I'm sorry. BY MR. BRIDGES: Q. Have you conducted any studies to disprove Mr. Malamud's theory?	1 2 3 4	Q. Did you look at the financial information of any entities other than the plaintiffs?A. I looked at Public Resource
1 2 3 4 5	THE WITNESS: I'm sorry. BY MR. BRIDGES: Q. Have you conducted any studies to disprove Mr. Malamud's theory? MR. FEE: Same objection.	1 2 3 4 5	Q. Did you look at the financial information of any entities other than the plaintiffs?A. I looked at Public Resource financial information.
1 2 3 4 5 6	THE WITNESS: I'm sorry. BY MR. BRIDGES: Q. Have you conducted any studies to disprove Mr. Malamud's theory? MR. FEE: Same objection. THE WITNESS: Not other than	1 2 3 4 5 6	 Q. Did you look at the financial information of any entities other than the plaintiffs? A. I looked at Public Resource financial information. Q. Apart from Public Resource and
1 2 3 4 5 6 7	THE WITNESS: I'm sorry. BY MR. BRIDGES: Q. Have you conducted any studies to disprove Mr. Malamud's theory? MR. FEE: Same objection. THE WITNESS: Not other than what's reflected here in Exhibit 1.	1 2 3 4 5 6 7	 Q. Did you look at the financial information of any entities other than the plaintiffs? A. I looked at Public Resource financial information. Q. Apart from Public Resource and the plaintiffs, did you look at the financial
1 2 3 4 5 6 7 8	THE WITNESS: I'm sorry. BY MR. BRIDGES: Q. Have you conducted any studies to disprove Mr. Malamud's theory? MR. FEE: Same objection. THE WITNESS: Not other than what's reflected here in Exhibit 1. BY MR. BRIDGES:	1 2 3 4 5 6 7 8	 Q. Did you look at the financial information of any entities other than the plaintiffs? A. I looked at Public Resource financial information. Q. Apart from Public Resource and the plaintiffs, did you look at the financial information of any other entities in making
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63 (Pages 246 - 249)
1	A. Yes. It's a different entity	1	MR. FEE: Objection. Lack of
2	than the SDOs here: but for its purposes, it	2	foundation. Vague.
3	would appear that it's of the belief that	3	THE WITNESS: I'm not I'm
4	that's the optimal path to follow.	4	not sure that I understand the concept
5	MR. BRIDGES: I think I	5	of a standard being out of print, so
6	think we may pause things now and	6	maybe you could help me with that.
7	reserve the remainder of our time.	7	BY MR. BRIDGES:
8	Just a second. Oh. ves.	8	O. Do you know the term "out of
9	BY MR. BRIDGES:	9	print"?
10	O. Do you believe that the	10	A. Generally, I do, yes.
11	plaintiffs are harmed when the defendant	11	O. What do you understand it to
12	posts a standard that has been incorporated	12	mean?
13	by reference let me strike that.	13	A. That it's no longer provided in
14	Do you believe that plaintiffs	14	print form.
15	suffer harm from defendant posting a standard	15	Q. All right. So what harm do you
16	that is not the latest version of the	16	understand plaintiffs would suffer if
17	standard?	17	defendants posted a standard that is out of
18	MR. FEE: Objection. Form.	18	print?
19	Compound.	19	MR. FEE: Objection to form.
20	THE WITNESS: Potentially, it	20	THE WITNESS: Potentially, it
21	could cause confusion in the	21	could be the harm similar to outdated
22	marketplace as to what's the latest	22	standards.
23	standard, and there may be some	23	BY MR. BRIDGES:
24	entities out there that are interested	24	Q. In other words, confusion in
25	in obtaining an earlier standard that	25	the marketplace?
	Page 254		Page 256
1	would be obtaining it free rather than	1	A. Potential confusion in the
1 2	would be obtaining it free rather than through the legal routes established	1 2	A. Potential confusion in the marketplace and potentially providing yes,
1 2 3	would be obtaining it free rather than through the legal routes established by the plaintiffs.	1 2 3	A. Potential confusion in the marketplace and potentially providing yes, that that would be one form of it.
1 2 3 4	would be obtaining it free rather than through the legal routes established by the plaintiffs. BY MR. BRIDGES:	1 2 3 4	 A. Potential confusion in the marketplace and potentially providing yes, that that would be one form of it. Q. What other harms do would
1 2 3 4 5	would be obtaining it free rather than through the legal routes established by the plaintiffs.BY MR. BRIDGES:Q. Have you done any studies to	1 2 3 4 5	 A. Potential confusion in the marketplace and potentially providing yes, that that would be one form of it. Q. What other harms do would you identify from the defendants posting a
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1 2 3 4 5 6 7	would be obtaining it free rather than through the legal routes established by the plaintiffs.BY MR. BRIDGES:Q. Have you done any studies to determine what confusion may be likely in the marketplace in that regard?	1 2 3 4 5 6 7	 A. Potential confusion in the marketplace and potentially providing yes, that that would be one form of it. Q. What other harms do would you identify from the defendants posting a standard that is out of print? A. Nothing else comes to mind this
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$\begin{array}{c}1\\2\\3\\4\\5\\6\\7\\8\\9\\10\\11\\12\\13\\14\\15\\16\\17\\18\\19\\20\\21\\22\\23\\24\\25\end{array}$	 would be obtaining it free rather than through the legal routes established by the plaintiffs. BY MR. BRIDGES: Q. Have you done any studies to determine what confusion may be likely in the marketplace in that regard? MR. FEE: Objection to form. THE WITNESS: I have not done a likelihood of confusion study, no. BY MR. BRIDGES: Q. What research have you done as to whether strike that. What information do you have about what market there is for earlier versions of standards when there is a newer version in the market? MR. FEE: Objection to form. THE WITNESS: I don't recall undertaking specific research on that topic. BY MR. BRIDGES: Q. What harm do you understand plaintiffs would suffer if defendants post a standard that is out of print? 	$ \begin{array}{c} 1\\2\\3\\4\\5\\6\\7\\8\\9\\10\\11\\12\\13\\14\\15\\16\\17\\18\\19\\20\\21\\22\\23\\24\\25\end{array} $	 A. Potential confusion in the marketplace and potentially providing yes, that that would be one form of it. Q. What other harms do would you identify from the defendants posting a standard that is out of print? A. Nothing else comes to mind this moment, but there could be other things that that I'm not thinking of right now. Q. What harms do you understand plaintiffs would suffer if a condition of a standard being incorporated into law is that plaintiffs could not forbid other entities from making that law available widely and freely to the public? MR. FEE: Objection to form. Incomplete hypothetical. Compound. Calls for speculation. THE WITNESS: I don't know. I've not undertaken that assignment. I've not given that particular question any thought. It seems economically to be quite similar to the actions that have occurred here, but I don't know. I've

65 (Pages 254 - 257)

$ \begin{array}{c} 1\\2\\3\\4\\5\\6\\7\\8\\9\\10\\11\\12\\13\\14\\15\\16\\17\\18\\19\\20\\21\\22\\23\\24\\25\end{array} $	not thought about that particular topic. MR. BRIDGES: Okay. I think we'll pause here and reserve the rest of the time for a later visit with you, Mr. Jarosz. Kevin, this is in reliance on an exchange of correspondence between Matt and you, I believe. If, for some reason well, no. I think that's all. Anything else? MR. FEE: Well, I don't have any questions. Do you guys have any questions? MR. REHN: Not at this time. MR. CUNNINGHAM: No. MR. BRIDGES: Great. Thank you. THE WITNESS: Thank you. THE VIDEOGRAPHER: All right. Off the record at 4:31. This ends media unit number 3 and ends testimony for August 27th, 2015. * * *	Ido hereby certify that I am a Notary Public in good standing, that the aforesaid testimony was taken before me, pursuant to notice, at the time and place indicated; that said deponent was by me duly sworn to tell the truth, the whole truth, and nothing but the truth; that the testimony of said deponent was correctly recorded in machine shorthand by me and thereafter transcribed under my supervision with computer-aided transcription; that the deposition is a true and correct record of the testimony given by the witness; and that I am neither of counsel nor kin to any party in said action, nor interested in the outcome thereof. WITNESS my hand and official seal this 111th day of September, 2015. said scoore Econation, RDR, CRR Notary Public Notary Public Page 260
$ \begin{array}{c} 1\\2\\3\\4\\5\\6\\7\\8\\9\\10\\11\\12\\13\\14\\15\\16\\17\\18\\19\\20\\21\\22\\23\\24\\25\end{array} $	(Witness excused.) *** (Off the record at 4:31 p.m.) ***	

EXHIBIT 10

Case 1:13-cv-01215-TSC Decument 122-1, Filed 12/22/15 Page 292 of 298 Malamud, Rebecca 11-13-2014

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA -----: AMERICAN SOCIETY FOR TESTING : AND MATERIALS dba ASTM INTERNATIONAL, NATIONAL FIRE PROTECTION ASSOCIATION, INC., and AMERICAN SOCIETY OF HEATING, : REFRIGERATING AND AIR CONDITIONING ENGINEERS, Plaintiffs/ Counter-Defendants, : No. 1:13-cv-01215-EGS v. PUBLIC.RESOURCE.ORG, Defendant/ Counter-Plaintiff. : -----• Coos Bay, Oregon Thursday, November 13, 2014 39(b)(6) DEPOSITION OF: REBECCA MALAMUD, PUBLIC.RESOURCE.ORG, taken pursuant to notice, by counsel for Plaintiffs/ Counter-Defendants at Red Lion Inn, 1313 North Bayshore Drive, Coos Bay, Oregon, before Jan R. Duiven, CSR, FCRR, CCP, Certified Shorthand Reporter in and for the State of Oregon, beginning at 9:00 a.m., when were present on behalf of the respective parties:

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Case 1:13-cv-01215-TSC Pocument 122-1 Filed 12/22/15 Page 293 of 298 Malamud, Rebecca 11-13-2014

	62			64
1	of any other entities that employ Carl Malamud?	1	images for Public Resources. Correct?	
2	A. No.	2	A. Yes.	
3	Q. Besides Public.Resource, are you aware	3	Q. Now, in your answer with regard to the	
4	of any entities on which Mr. Malamud sits on the	4	ASTM images, you said you made exact copies to the	
5	board?	5	best of your ability. What do you mean by "to the	
6	A. No.	6	best of your ability"?	
7	Q. Besides Public.Resource, are you aware	7	A. When as we create the diagrams, we	
8	of any other entities from whom Mr. Malamud has	8	have a proofreading you know, quality control	
9	received any compensation in the last three years?	9	work flow, and I try to catch every mistake, so	
10	A. No.	10	Q. Would you describe to me how the	
11	Q. Are you on the board of directors of	11	process actually worked starting with how you	
12	Public.Resource?	12	received any images from Public.Resource and then	
13	A. No.	13	ending with how you delivered your work product to	
14	Q. Are you on the board of directors of	14	Public.Resource?	
15	any entity?	15	A. Well, the standards documents are	
16	A. I don't want to be. No.	16	posted on Public.Resource.org as triple-keyed HTML	
17	Q. All right. So I want to talk to you	17	and CSS with low-resolution JPEGs.	
18	now a little bit about the instructions that you	18	And once it's decided what document is	
19	received from Mr. Malamud regarding the work that	19	set to work on, it's I download those to my	
20	was done for Public.Resource. Okay?	20	computer. And then I separate them into MathML	
21	A. (Nods.)	21	and images that need to be coded in MathML and	
22	Q. With respect to the work you did for	22	images that need to be vectorized we call it.	
23	Public.Resource, you knew that Public.Resource	23	And also on the diagram side,	
24	that it provided to Point D Studiog. Correct?	24	especially for purposes of learning, I sort them	
25	that it provided to Point B Studios. Correct?	25	another level as to areas of difficulty, or fi	
	63			65
1	63 A. Correct	1	there's a lot of repetition in an image that would	65
1 2	63A. Correct.O. And Mr. Malamud himself asked you to	1 2	there's a lot of repetition in an image that would facilitate creating another graphic quickly. I do	65
1 2 3	63A. Correct.Q. And Mr. Malamud himself asked you to make exact copies of all the images that he	1 2 3	there's a lot of repetition in an image that would facilitate creating another graphic quickly, I do that so it you know, it helps with the	65
1 2 3 4	63A. Correct.Q. And Mr. Malamud himself asked you to make exact copies of all the images that he provided to you. Right?	1 2 3 4	there's a lot of repetition in an image that would facilitate creating another graphic quickly, I do that so it you know, it helps with the production of the work flow.	65
1 2 3 4 5	A. Correct.Q. And Mr. Malamud himself asked you to make exact copies of all the images that he provided to you. Right?A. Yes.	1 2 3 4 5	there's a lot of repetition in an image that would facilitate creating another graphic quickly, I do that so it you know, it helps with the production of the work flow. And then the MathML images are coded	65
1 2 3 4 5 6	 A. Correct. Q. And Mr. Malamud himself asked you to make exact copies of all the images that he provided to you. Right? A. Yes. Q. Did Mr. Malamud ever explain to you 	1 2 3 4 5 6	there's a lot of repetition in an image that would facilitate creating another graphic quickly, I do that so it you know, it helps with the production of the work flow. And then the MathML images are coded in MathML, mathematical markup language, and at	65
1 2 3 4 5 6 7	 A. Correct. Q. And Mr. Malamud himself asked you to make exact copies of all the images that he provided to you. Right? A. Yes. Q. Did Mr. Malamud ever explain to you why he wanted exact copies made of all the images 	1 2 3 4 5 6 7	there's a lot of repetition in an image that would facilitate creating another graphic quickly, I do that so it you know, it helps with the production of the work flow. And then the MathML images are coded in MathML, mathematical markup language, and at that point do you want me to go on?	65
1 2 3 4 5 6 7 8	 A. Correct. Q. And Mr. Malamud himself asked you to make exact copies of all the images that he provided to you. Right? A. Yes. Q. Did Mr. Malamud ever explain to you why he wanted exact copies made of all the images that were provided to you? 	1 2 3 4 5 6 7 8	there's a lot of repetition in an image that would facilitate creating another graphic quickly, I do that so it you know, it helps with the production of the work flow. And then the MathML images are coded in MathML, mathematical markup language, and at that point do you want me to go on? Q. Yes, please.	65
1 2 3 4 5 6 7 8 9	 A. Correct. Q. And Mr. Malamud himself asked you to make exact copies of all the images that he provided to you. Right? A. Yes. Q. Did Mr. Malamud ever explain to you why he wanted exact copies made of all the images that were provided to you? A. To release it in the public domain. 	1 2 3 4 5 6 7 8 9	there's a lot of repetition in an image that would facilitate creating another graphic quickly, I do that so it you know, it helps with the production of the work flow. And then the MathML images are coded in MathML, mathematical markup language, and at that point do you want me to go on? Q. Yes, please. A. It gets pretty technical. Okay. At	65
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	 A. Correct. Q. And Mr. Malamud himself asked you to make exact copies of all the images that he provided to you. Right? A. Yes. Q. Did Mr. Malamud ever explain to you why he wanted exact copies made of all the images that were provided to you? A. To release it in the public domain. Q. Did he ever tell you anything else about the importance of making the exact copies? A. He emphasized to be accurate. Q. And he told you to make exact copies of every image that was provided to you. Correct? A. Correct. Q. And that includes making exact copies of ASTM images. Correct? 	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	 there's a lot of repetition in an image that would facilitate creating another graphic quickly, I do that so it you know, it helps with the production of the work flow. And then the MathML images are coded in MathML, mathematical markup language, and at that point do you want me to go on? Q. Yes, please. A. It gets pretty technical. Okay. At that point we use an open source tool called Amaya. Q. Can you spell that, please? A. A-M-A-Y-A. And so the image they're coded. And then we have we have to convert them using an open-source tool called SVG/Math. This is how we get it into the graphic form. And it was a program by Jacques Distler out 	65
1 2 3 4 5 6 7 7 8 9 10 11 12 13 14 15 16 17 18	 A. Correct. Q. And Mr. Malamud himself asked you to make exact copies of all the images that he provided to you. Right? A. Yes. Q. Did Mr. Malamud ever explain to you why he wanted exact copies made of all the images that were provided to you? A. To release it in the public domain. Q. Did he ever tell you anything else about the importance of making the exact copies? A. He emphasized to be accurate. Q. And he told you to make exact copies of every image that was provided to you. Correct? A. Correct. Q. And that includes making exact copies of ASTM images. Correct? A. Yes. 	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	 there's a lot of repetition in an image that would facilitate creating another graphic quickly, I do that so it you know, it helps with the production of the work flow. And then the MathML images are coded in MathML, mathematical markup language, and at that point do you want me to go on? Q. Yes, please. A. It gets pretty technical. Okay. At that point we use an open source tool called Amaya. Q. Can you spell that, please? A. A-M-A-Y-A. And so the image they're coded. And then we have we have to convert them using an open-source tool called SVG/Math. This is how we get it into the graphic form. And it was a program by Jacques Distler out of University of Texas. And we use that program. 	65
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 A. Correct. Q. And Mr. Malamud himself asked you to make exact copies of all the images that he provided to you. Right? A. Yes. Q. Did Mr. Malamud ever explain to you why he wanted exact copies made of all the images that were provided to you? A. To release it in the public domain. Q. Did he ever tell you anything else about the importance of making the exact copies? A. He emphasized to be accurate. Q. And he told you to make exact copies of every image that was provided to you. Correct? A. Correct. Q. And that includes making exact copies of ASTM images. Correct? A. Yes. Q. And Mr. Malamud also instructed you to make exact copies of NFPA images. Right? 	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	 there's a lot of repetition in an image that would facilitate creating another graphic quickly, I do that so it you know, it helps with the production of the work flow. And then the MathML images are coded in MathML, mathematical markup language, and at that point do you want me to go on? Q. Yes, please. A. It gets pretty technical. Okay. At that point we use an open source tool called Amaya. Q. Can you spell that, please? A. A-M-A-Y-A. And so the image they're coded. And then we have we have to convert them using an open-source tool called SVG/Math. This is how we get it into the graphic form. And it was a program by Jacques Distler out of University of Texas. And we use that program. It can interpret the MathML and produce a scaleable vector graphic. 	65
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 A. Correct. Q. And Mr. Malamud himself asked you to make exact copies of all the images that he provided to you. Right? A. Yes. Q. Did Mr. Malamud ever explain to you why he wanted exact copies made of all the images that were provided to you? A. To release it in the public domain. Q. Did he ever tell you anything else about the importance of making the exact copies? A. He emphasized to be accurate. Q. And he told you to make exact copies of every image that was provided to you. Correct? A. Correct. Q. And that includes making exact copies of ASTM images. Correct? A. Yes. Q. And Mr. Malamud also instructed you to make exact copies of NFPA images. Right? A. Yes. A. Yes. 	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	 there's a lot of repetition in an image that would facilitate creating another graphic quickly, I do that so it you know, it helps with the production of the work flow. And then the MathML images are coded in MathML, mathematical markup language, and at that point do you want me to go on? Q. Yes, please. A. It gets pretty technical. Okay. At that point we use an open source tool called Amaya. Q. Can you spell that, please? A. A-M-A-Y-A. And so the image they're coded. And then we have we have to convert them using an open-source tool called SVG/Math. This is how we get it into the graphic form. And it was a program by Jacques Distler out of University of Texas. And we use that program. It can interpret the MathML and produce a scaleable vector graphic. 	65
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	94			96
1	object. Asked and answered. Counsel, can we move	1	A. Yes.	
2	on?	2	Q without purchasing them from the	
3	BY MR. FEE:	3	authors. Correct?	
4	Q. No. Answer the question. Do you have	4	A. Correct.	
5	anything else?	5	Q. Have you ever had any discussions with	
6	A. No.	$\begin{bmatrix} 6 \\ 7 \end{bmatrix}$	Mr. Malamud regarding this lawsuit?	
/	Q. Okay. So it was your intention to		A. Not no.	
	files that the general public could use and make		Q. Have you even had any written	
10	copies of at their leisure. Correct?	10	lawsuit?	
11	A. Correct.		A. Ouite possible.	
12	O. And did Mr. Malamud tell you that he	12	O. Do vou recall any written	
13	intended to make these files available so anybody	13	communications with Mr. Malamud regarding this	
14	could copy them whenever they wanted to?	14	lawsuit?	
15	A. He published them on the Internet.	15	A. I don't recall any particular	
16	Q. In a way that was easily copyable.	16	conversation.	
17	Correct?	17	MR. FEE: Would it be all right if	
18	A. Yes.	18	we take a quick break?	
19	Q. And his intention was to make it	19	MR. STOLTZ: It would.	
20	available for free so people wouldn't have to	20	THE VIDEOGRAPHER: Okay. Going off	
21	purchase them?	$ ^{21}_{22}$	the record 11:18 a.m. $(B_{abs}, 11, 18, a.m. t_{a}, 11, 26, a.m.)$	
22	MR. STOLIZ. Objection. The	22	(Recess. 11.18 a.m. to 11.20 a.m.) THE VIDEOGP APHEP: We're going back	
$\begin{vmatrix} 23 \\ 24 \end{vmatrix}$	know	$\begin{vmatrix} 2.5 \\ 2.4 \end{vmatrix}$	on the record. The time is 11:26 a m. Beginning	
25	BY MR. FEE:	25	disc 3.	
		-		
	0.5			07
	95			97
1	95 Q. Let me re-ask that question. Did he	1	(Deposition Exhibit No. 19	97
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1 2 3	95 Q. Let me re-ask that question. Did he ever tell you that one of the benefits of his project was that people will be able to get copies	1 2 3	(Deposition Exhibit No. 19 marked for identification.) BY MR. FEE:	97
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	230	232
 A. No. Q. Do you know who made the decision not to do any work on ASHRAE standards? A. I just it just didn't happen. There was no formal decision. Q. Was there ever any discussion between yourself and Mr. Malamud regarding work on ASHRAE standards? A. References in email, but other than that, no. Q. Did Public.Resource ever provide any instructions regarding ASHRAE PDF for standard? A. No. Q. If you could, Mrs. Malamud, take a look at what's been marked as Exhibit 31. A. Okay. Q. This is an email from Carl Malamud to yourself dated January 4th, 2014, 2:30 p.m. Do you see that? A. Correct. Q. And the first line of that email says, "Thinking about it, why don't you focus on ASTM and ASHRAE standards for your next big batch." A. Correct. 	 Q. Are you aware of Point B ever receiving any permission from ASHRAE to make copies of its standards? A. No. Q. And did Public.Resource ever inform you that it had permission from ASHRAE to work on its standards? A. No. MR. ZEE: Thank you. That's all I have. MR. STOLTZ: I have a few questions, but, first, I think we need to take a break. THE VIDEOGRAPHER: Okay. Going off the record. 4:20 p.m. (Recess: 4:20 p.m. to 4:33 p.m.) THE VIDEOGRAPHER: We're going back on the record. The time is 4:33 p.m. EXAMINATION BY MR. STOLTZ: Q. Okay. Thanks, Ms. Malamud, for your for coming today. I just have a few questions. How often do you talk to Mr. Malamud on the phone, say, in the past three years? A. Never. 	
 Q. Do you know why Mr. Malamud is asking you to focus on ASHRAE standards if A. Because it was we were going to work on it and we worked on ASTM, but did not get into the ASHRAE standards. Q. Why did you not get into the ASHRAE standards? A. For for me because the files weren't there, the JPEG, the document hadn't been converted to this point. Q. What was that? A. The document the PDF hadn't been converted to the point where I I can begin work. Q. So was the decision not to work on the ASHRAE PDF your decision? MR. STOLTZ: Objection. Asked and answered. A. In the natural in the work flow, it just didn't happen so BY MR. ZEE: Q. Are you aware of Point B ever asking for permission from ASHRAE to make copies of its standards? 	 231 1 Q. Would you say that most of your 2 communication is by email? 3 A. Yes. 4 Q. You've testified earlier about the 5 steps that you went through to do quality 6 assurance on SVG images. 7 A. Correct. 8 Q. If, in the process of reviewing an SVG 9 image you happened to find a mistake, what would 10 you do? 11 A. I would correct it. 12 Q. And is that true for every SU SVG 13 image that you reviewed as part of the codes 14 project? 15 A. Yes. 16 Q. Can text to speech software read 17 MathML files? 18 A. Yes. 19 Q. Can text to speech software read JPEG 20 files? 21 A. No. There there is an ALT tag in 22 every image in an HTML document and the text is 23 put into this ALT tag, it could read that. But 24 it's generally very minimal. 25 Q. So would you say that MathML files are 	233

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1 easier to use than JPEG files for people with 2 disabilities? 3 MR. FEE: Objection. Lack of 4 foundation. Leading. 5 BY MR. STOLTZ: 6 Q. You can answer. 7 A. Yes. 8 Q. You can answer. 7 A. Yes. 8 Q. You testified about text that would 9 appear in diagrams in standards documents. 10 Typically how much test appeared in the diagrams 11 in the standards documents that Point B worked on? 12 MR. FEE: Objection. Vague. 13 A. Usually it would be numbers and 14 captions, call-outs on the graphic, but sometimes 15 thet were in those notes? 19 A. I would say it's anywhere from 100 to 20 Sou testified that some older diagrams 22 contained flourishes? 24 A. In the – usually it has hand-lettered 25 text. 21 Q. So was it your practice to where 2 hand-lettered text appeared in an original image, 1 that file at Point B?
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3 MR. FEE: Objection. Lack of 4 foundation. Leading. 3 the product, what did you do when you encountered 4 logos in the documents? 5 BY MR. STOLTZ: 6 Q. You can answer. 7 A. Yes. 5 A. I would leave in the original JPEG 6 can. 8 Q. You can answer. 7 Q. If I could direct your attention to 8 the documents? 9 appear in diagrams in standards documents 10 Typically how much text appeared in the diagrams 11 in the standards documents that Point B worked on? 12 MR. FEE: Objection. Vague. 10 Bats number PRO24984. At the very bottom of that 11 page, do you see the line that says, page 00201, 12 12 SVG logo, Wikimedia Commons? 13 A. Yes. 14 Q. Do you know what the word logo refers 15 15 16 BY MR. STOLTZ: 16 A. I would say it's anywhere from 100 to 20 500 characters. That's just a ballpark figure. 11 11 Q. Wu testified that some older diagrams 22 21 EXAMINATION 23 W Mr. FEE: 24 Q. That file that you were just 25 237 1 Q. So was it your practice to where 2 1 that file at Point B? 2 A. I may. 1 Q. Now, in response to the testimony you 4
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12 MR, FEE: Objection. Vague. 12 SVG logo, Wikimedia Commons? 13 A. Usually it would be numbers and 13 A. Yes. 14 captions, call-outs on the graphic, but sometimes 13 A. Yes. 15 there would be notes underneath the graphic. 14 Q. Do you know what the word logo refers 15 there would be notes underneath the graphic. 16 A. I when I first saw it I thought it 17 Q. What's the most number of characters 16 A. I when I first saw it I thought it 18 that were in those notes? 16 A. I when I first saw it I thought it 19 A. I would say it's anywhere from 100 to 19 MR. STOLTZ: Thank you. I have no 20 500 characters. That's just a ballpark figure. 20 more questions. 21 Q. You testified that some older diagrams 21 22 contained flourishes? 21 24 A. In the usually it has hand-lettered 23 25 text. 235 235 237 1 Q. So was it your practice to where 1 2 hand-lettered text appeared in an original image,
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14 captions, call-outs on the graphic, but sometimes 14 Q. Do you know what the word logo refers 15 there would be notes underneath the graphic. 15 to? 16 BY MR. STOLTZ: 16 A. I when I first saw it I thought it 17 Q. What's the most number of characters 16 18 that were in those notes? 16 A. I would say it's anywhere from 100 to 20 500 characters. That's just a ballpark figure. 17 MR. STOLTZ: Thank you. I have no 21 Q. You testified that some older diagrams 20 22 contained flourishes? 21 23 Were those flourishes? 23 24 A. In the usually it has hand-lettered 23 25 text. 235 23 PY MR. FEE: 24 A. In the usually it has hand-lettered 23 25 referencing, page 0020.SVG-logo, do you still have 237 1 that file at Point B? 2 A. I may. 3 3 that Point B would replace that text with text 3 4 rendered in a font? 5 5 MR FEE: Objection Form 5
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16 A. 17 When STOLTZ. 17 Q. What's the most number of characters 18 that were in those notes? 17 might be a logo, but it could be a symbol. 19 A. I would say it's anywhere from 100 to 18 Without seeing the picture, I don't know. 19 A. I would say it's anywhere from 100 to 18 Without seeing the picture, I don't know. 20 500 characters. That's just a ballpark figure. 20 more questions. 21 21 Q. You testified that some older diagrams 21 22 EXAMINATION 23 were those flourishes? 23 BY MR. FEE: 24 Q. That file that you were just 25 text. 25 referencing, page 0020.SVG-logo, do you still have 235 237 1 that foile at Point B? 2 A. I may. 3 that Point B would replace that text with text 4 qave to your counsel regarding your practice with 5 lorgo after some initial period your 1 think
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19 A. I would say it's anywhere from 100 to 20 500 characters. That's just a ballpark figure. 21 Q. You testified that some older diagrams 22 contained flourishes. In what part of the diagram 23 were those flourishes? 24 A. In the usually it has hand-lettered 25 text. 21 Q. So was it your practice to where 2 hand-lettered text appeared in an original image, 3 that Point B would replace that text with text 4 rendered in a font? 5 MR EFE: Objection Form
10 11 120 500 characters. That's just a ballpark figure. 20 500 characters. That's just a ballpark figure. 20 more questions. 21 Q. You testified that some older diagrams 20 more questions. 22 contained flourishes. In what part of the diagram 21 22 EXAMINATION 23 were those flourishes? 23 BY MR. FEE: 24 Q. That file that you were just 25 text. 25 referencing, page 0020.SVG-logo, do you still have 235 237 1 Q. So was it your practice to where 1 that file at Point B? 2 A. I may. 3 Q. Now, in response to the testimony you 4 rendered in a font? 4 gave to your counsel regarding your practice with 5 MR FEE: Objection Form 5 loggs after some initial period you. I think
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 22 contained flourishes. In what part of the diagram 23 were those flourishes? 24 A. In the usually it has hand-lettered 25 text. 26 23 BY MR. FEE: 27 24 Q. That file that you were just 28 25 referencing, page 0020.SVG-logo, do you still have 29 235 20 237 21 Q. So was it your practice to where 21 2 EXAMINATION 23 BY MR. FEE: 24 Q. That file that you were just 25 referencing, page 0020.SVG-logo, do you still have 23 BY MR. FEE: 24 Q. That file at Point B? 23 BY MR. FEE: 24 Q. That file at Point B? 23 BY MR. FEE: 24 Q. That file at Point B? 25 and lettered in an original image, 3 that Point B would replace that text with text 4 rendered in a font? 5 MR FEE: Objection Form
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24 A. In the usually it has hand-lettered 24 Q. That file that you were just 25 text. 25 referencing, page 0020.SVG-logo, do you still have 235 237 1 Q. So was it your practice to where 2 2 hand-lettered text appeared in an original image, 3 3 that Point B would replace that text with text 3 4 rendered in a font? 3 5 MR_FEE: Objection_Form 5
25 text. 25 referencing, page 0020.SVG-logo, do you still have 235 237 1 Q. So was it your practice to where 2 hand-lettered text appeared in an original image, 3 that Point B would replace that text with text 4 rendered in a font? 5 MR_FEE: Objection_Form
1 Q. So was it your practice to where 2 hand-lettered text appeared in an original image, 3 that Point B would replace that text with text 4 rendered in a font? 5 MR_FEE: Objection_Form
2352371Q. So was it your practice to where1 that file at Point B?2 hand-lettered text appeared in an original image,2 A. I may.3 that Point B would replace that text with text3 Q. Now, in response to the testimony you4 rendered in a font?4 gave to your counsel regarding your practice with5MR_FEE: Objection_Form
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3 that Point B would replace that text with text 3 Q. Now, in response to the testimony you 4 rendered in a font? 4 gave to your counsel regarding your practice with 5 MR_FEE: Objection_Form 5 logos after some initial period you. I think
4 rendered in a font? 5 MR FEE: Objection Form 5 Logos after some initial period, you, I think
L 5 MR FEE: Objection Form L 5 logos after some initial period you I think
b and the solution of the solu
6 A. Correct. 6 testified that you would leave the original JPEG
/ BY MR. STOLIZ: / scan in the HTML file. Is that right?
8 Q. You testified that some images would 8 A. Coffect.
10 what did Point B do with the image?
10 what did Font D do with the inlage: 11 A I would file it in a folder called 11 provider Correct?
12. "bad art" while we were working on the diagrams or 12. MR_STOLTZ: Objection to form
13 sometimes label them in red. That came later 13 Foundation.
14 because by filing them in a folder called bad art 14 A. Correct.
15 I would have to remove them in order that they 15 BY MR. FEE:
16 were still in the standard document. 16 Q. So the files that were created by
16were still in the standard document.16Q.So the files that were created by17Q.So if you had placed a file in the17Public.Resource or the files that were created
16were still in the standard document.16Q.So the files that were created by17Q.So if you had placed a file in the17Public.Resource or the files that were created18folder labeled bad art or you had marked that file18by Point B bore logos of ASTM and NFPA even though
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 24 1 beyond the scope of the redirect. A. It's not exactly my words. 3 BY MR. FEE: Q. Okay. What were your exact words, can 5 you say you remember? MR. STOLTZ: Objection. Asked and 7 answered. 8 BY MR. FEE: Q. How is my description wrong? A. Broader access to public safety 11 standards. Q. Are you aware that at least ASTM's 13 standards are available for free on the Internet 14 to the extent that they've been incorporated by 15 reference by any federal regulation? MR. STOLTZ: Objection. Still 17 beyond the scope of the redirect. 18 A. I am not a lawyer and it's outside a 19 bit of the scope of my expertise, but eventually 20 it's it's not free. 21 BY MR. FEE: 22 Q. The ASTM standards in its reading room 23 are not free. Is that your testimony? 24 MR. STOLTZ: Same objection. 	 2 2 State of Oregon)) ss. 2 County of Lane) 3 4 I, Jan R. Duiven, CSR, FCRR, CCP, a 5 Certified Shorthand Reporter for the State of Oregon, 6 certify that the witness was sworn and the transcript 7 is a true record of the testimony given by the witness; 8 that at said time and place I reported all testimony and 9 other oral proceedings in the matter; that the foregoing 10 transcript consisting of 243 pages, contains a full, 11 true and correct transcript of the proceedings reported 12 by me to the best of my ability on said date. 13 If any of the parties or the witness 14 requested review of the transcript at the time of the 15 proceedings, correction pages have been inserted. 16 IN WITNESS WHEREOF, I have set my hand and 17 CSR seal this 24th day of November, 2014, in the City 18 of Eugene, County of Lane, State of Oregon. 19 20 21 Jan R. Duiven, CSR, FCRR, CCP 22 23 CSR No. 96-0327 24 Expiration Date: September 14, 2017 25
24 1 room. 2 MR. FEE: I have no other questions. 3 MR. REHN: Nothing for me. 4 THE VIDEOGRAPHER: Anything further? 5 Anything further on the phone? 6 MR. ZEE: Nothing further. 7 THE VIDEOGRAPHER: Okay. We're 8 going off the record. 9 (The deposition concluded at 10 4:50 p.m.) 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	3 245 1 A C K N O W L E D G E M E N T O F D E P O N E N T 2 3 I, REBECCA MALAMUD, do hereby acknowledge I 4 have read and examined the foregoing pages of 5 5 testimony, and the same is a true, correct and complete 6 transcription of the testimony given by me, and any 7 changes or corrections, if any, appear in the attached 8 errata sheet signed by me. 9 10 11 12 13 14 15 16 16 17 18 Date REBECCA MALAMUD 19 20 21 22 23 24 24 25

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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	MR. MITCH STOLTZ ELECTRONIC FRONTIER FOUNDATION 815 Eddy Street San Francisco, California 94109 415/436-9333 In Re: ASTM International. v. Public.Resource.Org Dear Mr. Stoltz, Enclosed please find your copy of the deposition of REBECCA MALAMUD, along with the original signature page. As agreed, you will be responsible for contacting the witness regarding signature. Within 30 days of December 1, 2014, please forward errata sheet and original signed signature page to counsel present. If you have any questions, please do not hesitate to call. Thank you. Yours, Jan R. Duiven, CSR, FCRR, CCP Reporter/Notary cc: Original transcript All Counsel			
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1 2 3 4 5 6 7 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	Capital Reporting Company 1821 Jefferson Place, Northwest Third Floor Washington, D.C. 20036 (202)857-3376 ERRATA SHEET Case Name: ASTM International. v. Public.Resource.Org Witness Name: REBECCA MALAMUD Deposition Date: November 13, 2014 Page No. Line No. Change/Reason for Change	7		