

prior public comment would result in a significant change from the substance contained herein. Therefore, because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

#### List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

#### The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the supplemental type certification basis for Embraer Model ERJ 170–100 SU series airplanes modified by C&D Zodiac, Inc.

1. Except as provided in special condition number 3, below, compliance with heat-release and smoke-emission testing requirements of § 25.853, and Appendix F, parts IV and V, is required for seats that incorporate non-traditional, large, non-metallic panels that may be either a single component or multiple components in a concentrated area in their design.

2. The applicant may designate up to and including 1.5 square feet of non-traditional, non-metallic panel material per seat place that does not have to comply with special condition number 1, above. A triple-seat assembly may have a total of 4.5 square feet excluded on any portion of the assembly (e.g., outboard seat place, 1 square foot; middle, 1 square foot; and inboard, 2.5 square feet).

3. Seats do not have to meet the test requirements of part 25, Appendix F, parts IV and V, when installed in compartments that are not otherwise required to meet these requirements. Examples include:

- a. Airplanes with passenger capacities of 19 or less,
- b. Airplanes that do not have § 25.853, Amendment 25–61 or later, in their certification basis and do not need to comply with the requirements of § 121.312, and
- c. Airplanes exempted from § 25.853, Amendment 25–61 or later.

Issued in Renton, Washington, on August 18, 2010.

**Jeffrey E. Duven,**

*Acting Manager, Transport Airplanes Directorate, Aircraft Certification Service.*

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**BILLING CODE 4910–13–P**

## CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. CPSC–2010–0090]

### 16 CFR Part 1420

#### Third Party Testing for Certain Children's Products; Youth All-Terrain Vehicles: Requirements for Accreditation of Third Party Conformity Assessment Bodies

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Notice of requirements.

**SUMMARY:** The Consumer Product Safety Commission (CPSC or Commission) is issuing a notice of requirements that provides the criteria and process for Commission acceptance of accreditation of third party conformity assessment bodies for testing of all-terrain vehicles (ATVs) designed or intended primarily for children 12 years of age or younger pursuant to 16 CFR part 1420, the CPSC regulations under the Consumer Product Safety Act (CPSA) relating to ATVs. The Commission is issuing this notice of requirements pursuant to section 14(a)(3)(B)(vi) of the CPSA (15 U.S.C. 2063(a)(3)(B)(vi)).

**DATES:** *Effective Date:* The requirements for accreditation of third party conformity assessment bodies to assess conformity with 16 CFR part 1420 are effective August 27, 2010.<sup>1</sup>

Comments in response to this notice of requirements should be submitted by September 27, 2010. Comments on this notice should be captioned “Third Party Testing for Certain Children's Products; All-Terrain Vehicles: Requirements for Accreditation of Third Party Conformity Assessment Bodies.”

**ADDRESSES:** You may submit comments, identified by Docket No. CPSC–2010–00, by any of the following methods:

*Electronic Submissions:* Submit electronic comments in the following way:

*Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

<sup>1</sup> The Commission voted 4–0–1 to publish this notice of requirements. Chairman Inez M. Tenenbaum issued a statement, and the statement can be found at <http://www.cpsc.gov/pr/statements.html>.

To ensure timely processing of comments, the Commission is no longer accepting comments submitted by electronic mail (e-mail) except through <http://www.regulations.gov>.

*Written Submissions:* Submit written submissions in the following way:

*Mail/Hand delivery/Courier (for paper, disk, or CD-ROM submissions) preferably in five copies, to:* Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, Maryland 20814; telephone (301) 504–7923.

*Instructions:* All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change to <http://www.regulations.gov>, including any personal information provided. Do not submit confidential business information, trade secret information, or other sensitive or protected information (such as a Social Security Number) electronically; if furnished at all, such information should be submitted in writing.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>.

#### FOR FURTHER INFORMATION CONTACT:

Richard McCallion, Program Area Team Leader, Office of Hazard Identification and Reduction, U.S. Consumer Product Safety Commission, 10901 Darnestown Road, Gaithersburg, MD 20878; e-mail [rmccallion@cpsc.gov](mailto:rmccallion@cpsc.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction

Section 14(a)(3)(B)(vi) of the CPSA, as added by section 102(a)(2) of the Consumer Product Safety Improvement Act of 2008 (CPSIA), Public Law 110–314, directs the CPSC to establish and publish a notice of requirements for accreditation of third party conformity assessment bodies to assess children's products for conformity with “other children's product safety rules.” Section 14(f)(1) of the CPSA defines “children's product safety rule” as “a consumer product safety rule under [the CPSA] or similar rule, regulation, standard, or ban under any other Act enforced by the Commission, including a rule declaring a consumer product to be a banned hazardous product or substance.” Under section 14(a)(3)(A) of the CPSA, each manufacturer (including an importer) or private labeler of products subject to those regulations must have products that are manufactured more than 90 days after the establishment and **Federal Register** publication of a notice of the requirements for accreditation tested by

a third party conformity assessment body accredited to do so, and must issue a certificate of compliance with the applicable regulations based on that testing. The Commission may extend the 90-day period by not more than 60 days if the Commission determines that an insufficient number of third party conformity assessment bodies have been accredited to permit certification for a children's product safety rule. Any requests for an extension should contain detailed facts showing why an extension is necessary.

Section 14(a)(2) of the CPSA, as added by section 102(a)(2) of the CPSIA, requires that certification be based on testing of sufficient samples of the product, or samples that are identical in all material respects to the product. The Commission also emphasizes that, irrespective of certification, the product in question must comply with applicable CPSC requirements (*see, e.g.*, section 14(h) of the CPSA, as added by section 102(b) of the CPSIA).

The Commission also is recognizing limited circumstances in which it will accept certifications based on product testing conducted before the third party conformity assessment body is accepted as accredited by the CPSC. The details regarding those limited circumstances can be found in part IV of this document below.

This notice provides the criteria and process for Commission acceptance of accreditation of third party conformity assessment bodies for testing pursuant to 16 CFR part 1420, *Requirements for All Terrain Vehicles*, which incorporates by reference the applicable provisions of the *American National Standard for Four Wheel All-Terrain Vehicles, ANSI/SVIA 1-2007*. Section 3(a)(2) of the CPSA defines a children's product as "a consumer product designed or intended primarily for children 12 years of age or younger." Although all-terrain vehicles (ATVs) are often for general use (that is, not produced specifically for use by children), some "youth ATVs" are "designed or intended primarily for children 12 years of age or younger." The ANSI/SVIA 1-2007 standard identifies a usage category of Y (Youth Model) ATVs that consists of three subcategories: (a) Category Y-6+, for youth model ATVs intended for use by children age 6 or older; (b) Category Y-10+, for youth model ATVs intended for use by children age 10 or older; and (c) Category Y-12+, for youth model ATVs intended for use by children age 12 or older. For the purposes of this notice of requirements, the term "youth ATVs" at a minimum refers to categories Y-6+ and Y-10+ in ANSI/SVIA 1-2007. In

determining whether a youth ATV is a children's product the Commission will be guided by the statutory factors listed at section 3(a)(2)(A) through (D) of the CPSA. Such a determination will indicate whether a given Category Y-12+ ATV is intended primarily for children age 12 or younger, which would necessitate the third party testing and certification requirements in section 14(a)(2) of the CPSA. (For example, if a manufacturer sells a "Category T" ATV, which is generally intended for use by a 14 year old operator under adult supervision or by an operator age 16 or older, it might impact the age range of the intended primary users of the Category Y-12+ ATV.) Accordingly, in determining whether a particular ATV is a children's product subject to the third party testing and certification requirements of section 14(a)(2) of the CPSA, the Commission will follow the factors set forth in section 3(a)(2) of the CPSA and will not rely solely on a statement by the manufacturer about the ATV's intended use.

The CPSC also recognizes that section 14(a)(3)(B)(vi) of the CPSA is captioned "All Other Children's Product Safety Rules," but the body of the statutory requirement refers only to "other children's product safety rules." Nevertheless, section 14(a)(3)(B)(vi) of the CPSA could be construed as requiring a notice of requirements for "all" other children's product safety rules, rather than a notice of requirements for "some" or "certain" children's product safety rules. However, whether a particular rule represents a "children's product safety rule" may be subject to interpretation, and the Commission staff is continuing to evaluate which rules, regulations, standards, or bans are "children's product safety rules." The CPSC intends to issue additional notices of requirements for other rules which the Commission determines to be "children's product safety rules."

This notice of requirements applies to all third party conformity assessment bodies as described in section 14(f)(2) of the CPSA that desire to test all-terrain vehicles to the requirements of 16 CFR part 1420 where the test results will be used as the basis for a certification that ATVs comply with CPSC's requirements at 16 CFR 1420. Such third party conformity assessment bodies can be grouped into three general categories: (1) Third party conformity assessment bodies that are not owned, managed, or controlled by a manufacturer or private labeler of a children's product to be tested by the third party conformity assessment body for certification purposes; (2) "firewalled" conformity

assessment bodies (those that are owned, managed, or controlled by a manufacturer or private labeler of a children's product to be tested by the third party conformity assessment body for certification purposes and that seek accreditation under the additional statutory criteria for "firewalled" conformity assessment bodies); and (3) third party conformity assessment bodies owned or controlled, in whole or in part, by a government.

The Commission requires baseline accreditation of each category of third party conformity assessment body to the International Organization for Standardization (ISO)/International Electrotechnical Commission (IEC) Standard 17025:2005, "General Requirements for the Competence of Testing and Calibration Laboratories." The accreditation must be by an accrediting body that is a signatory to the International Laboratory Accreditation Cooperation-Mutual Recognition Arrangement (ILAC-MRA), and the scope of the accreditation must include testing in accordance with the regulations identified earlier in part I of this document for which the third party conformity assessment body seeks to be accredited by the CPSC.

(A description of the history and content of the ILAC-MRA approach and of the requirements of the ISO/IEC 17025:2005 laboratory accreditation standard is provided in the CPSC staff briefing memorandum "Third Party Conformity Assessment Body Accreditation Requirements for Testing Compliance with 16 CFR Part 1501 (Small Parts Regulations)," dated November 2008 and available on the CPSC's Web site at <http://www.cpsc.gov/library/foia/foia09/brief/smallparts.pdf>.)

The Commission has established an electronic accreditation registration and listing system that can be accessed via its Web site at <http://www.cpsc.gov/ABOUT/Cpsia/labaccred.html>.

The Commission stayed the enforcement of certain provisions of section 14(a) of the CPSA in a notice published in the **Federal Register** on February 9, 2009 (74 FR 6396). The stay applied to testing and certification of various products, including ATVs.<sup>2</sup> On December 28, 2009, the Commission published a notice in the **Federal Register** (74 FR 68588) revising the terms of the stay. Section II.G of the December 28, 2009, notice stated "[t]he Commission has not yet issued a notice of accreditation requirements for \* \* \* ATVs so no third-party certificates will

<sup>2</sup> Two mandatory certification requirements relating to ATVs were not stayed. *See* 74 FR at 68592.

be required until 90 days after the Commission issues such [a] notice[ ] of requirements.” As the factor preventing the stay from being lifted in the December 28, 2009 notice with regard to testing and certifications of ATVs was the absence of a notice of requirements, publication of this notice has the effect of lifting the stay with regard to 16 CFR part 1420.

This notice of requirements is effective on August 27, 2010. Further, as the publication of this notice of requirements effectively lifts the stay of enforcement with regard to testing and certifications related to 16 CFR part 1420, each manufacturer of a youth ATV subject to 16 CFR part 1420 must have samples of any such product, or samples that are identical in all material respects to such product, tested by a third party conformity assessment body accredited to do so. Further, for youth ATVs manufactured after November 26, 2010, the manufacturer must issue a certificate of compliance with 16 CFR part 1420 based on that testing. (Under the CPSA, the term “manufacturer” includes anyone who manufactures or imports a product.)

This notice of requirements is exempt from the notice and comment rulemaking requirements of the Administrative Procedure Act, 5 U.S.C. 553 (see section 14(a)(3)(G) of the CPSA, added by section 102(a)(2) of the CPSIA (15 U.S.C. 2063(a)(3)(G)).

## II. Accreditation Requirements

### A. Baseline Third Party Conformity Assessment Body Accreditation Requirements

For a third party conformity assessment body to be accredited to test children’s products for conformity with the test methods in the regulations identified earlier in part I of this document, it must be accredited by an ILAC–MRA signatory accrediting body, and the accreditation must be registered with, and accepted by, the Commission. A listing of ILAC–MRA signatory accrediting bodies is available on the Internet at <http://ilac.org/membersbycategory.html>. The accreditation must be to ISO Standard ISO/IEC 17025:2005, *General Requirements for the Competence of Testing and Calibration Laboratories*, and the scope of the accreditation must expressly include testing to the regulations in 16 CFR part 1420, *Requirements for All Terrain Vehicles*. A true copy, in English, of the accreditation and scope documents demonstrating compliance with the requirements of this notice must be registered with the Commission electronically. The additional

requirements for accreditation of firewalled and governmental conformity assessment bodies are described in parts II.B and II.C of this document below.

The Commission will maintain on its Web site an up-to-date listing of the third party conformity assessment bodies whose accreditations it has accepted and the scope of each accreditation. Subject to the limited provisions for acceptance of “retrospective” testing noted in part IV below, once the Commission adds a third party conformity assessment body to that list, the third party conformity assessment body may commence testing of children’s products to support the manufacturer’s certification that the product complies with the regulations identified earlier in part I of this document.

### B. Additional Accreditation Requirements for Firewalled Conformity Assessment Bodies

In addition to the baseline accreditation requirements in part II.A of this document above, firewalled conformity assessment bodies seeking accredited status must submit to the Commission copies, in English, of their training documents showing how employees are trained to notify the Commission immediately and confidentially of any attempt by the manufacturer, private labeler, or other interested party to hide or exert undue influence over the third party conformity assessment body’s test results. This additional requirement applies to any third party conformity assessment body in which a manufacturer or private labeler of a children’s product to be tested by the third party conformity assessment body owns an interest of 10 percent or more. While the Commission is not addressing common parentage of a third party conformity assessment body and a children’s product manufacturer at this time, it will be vigilant to see if this issue needs to be addressed in the future.

As required by section 14(f)(2)(D) of the CPSA, the Commission must formally accept, by order, the accreditation application of a third party conformity assessment body before the third party conformity assessment body can become an accredited firewalled conformity assessment body.

### C. Additional Accreditation Requirements for Governmental Conformity Assessment Bodies

In addition to the baseline accreditation requirements of part II.A of this document above, the CPSIA permits accreditation of a third party

conformity assessment body owned or controlled, in whole or in part, by a government if:

- To the extent practicable, manufacturers or private labelers located in any nation are permitted to choose conformity assessment bodies that are not owned or controlled by the government of that nation;
- The third party conformity assessment body’s testing results are not subject to undue influence by any other person, including another governmental entity;
- The third party conformity assessment body is not accorded more favorable treatment than other third party conformity assessment bodies which have been accredited in the same nation;
- The third party conformity assessment body’s testing results are accorded no greater weight by other governmental authorities than those of other accredited third party conformity assessment bodies; and
- The third party conformity assessment body does not exercise undue influence over other governmental authorities on matters affecting its operations or on decisions by other governmental authorities controlling distribution of products based on outcomes of the third party conformity assessment body’s conformity assessments.

The Commission will accept the accreditation of a governmental third party conformity assessment body if it meets the baseline accreditation requirements of part II.A of this document above and meets the additional conditions stated here. To obtain this assurance, CPSC staff will engage the governmental entities relevant to the accreditation request.

## III. How does a third party conformity assessment body apply for acceptance of its accreditation?

The Commission has established an electronic accreditation acceptance and registration system accessed via the Commission’s Internet site at <http://www.cpsc.gov/about/cpsia/labaccred.html>. The applicant provides, in English, basic identifying information concerning its location, the type of accreditation it is seeking, and electronic copies of its ILAC–MRA accreditation certificate and scope statement, and firewalled third party conformity assessment body training document(s), if applicable.

Commission staff will review the submission for accuracy and completeness. In the case of baseline third party conformity assessment bodies and government-owned or

government-controlled conformity assessment bodies, when that review and any necessary discussions with the applicant are satisfactorily completed, the third party conformity assessment body in question is added to the CPSC's list of accredited third party conformity assessment bodies at <http://www.cpsc.gov/about/cpsia/labaccred.html>. In the case of a firewalled conformity assessment body seeking accredited status, when the staff's review is complete, the staff transmits its recommendation on accreditation to the Commission for consideration. (A third party conformity assessment body that may ultimately seek acceptance as a firewalled third party conformity assessment body also can initially request acceptance as a third party conformity assessment body accredited for testing of children's products other than those of its owners.) If the Commission accepts a staff recommendation to accredit a firewalled conformity assessment body, the Commission will issue an order making the required statutory findings and the firewalled conformity assessment body will then be added to the CPSC's list of accredited third party conformity assessment bodies. In each case, the Commission will notify the third party conformity assessment body electronically of acceptance of its accreditation. All information to support an accreditation acceptance request must be provided in the English language.

Subject to the limited provisions for acceptance of "retrospective" testing noted in part IV of this document below, once the Commission adds a third party conformity assessment body to the list, the third party conformity assessment body may begin testing of children's products to support certification of compliance with the regulations identified earlier in part I of this document for which it has been accredited.

#### IV. Limited Acceptance of Children's Product Certifications Based on Third Party Conformity Assessment Body Testing Prior to the Commission's Acceptance of Accreditation

The Commission will accept a certificate of compliance with 16 CFR part 1420, *Requirements for All Terrain Vehicles*, based on testing performed by an accredited third party conformity assessment body (including a government-owned or government-controlled conformity assessment body, or a firewalled conformity assessment body) prior to the Commission's acceptance of its accreditation if all the following conditions are met:

- When the product was tested, the testing was done by a third party conformity assessment body that at that time was ISO/IEC 17025 accredited by an ILAC-MRA signatory. For firewalled conformity assessment bodies, the Commission will not accept a certificate of compliance based on testing performed by the third party conformity assessment body unless the firewalled conformity assessment body was accredited by order as a firewalled conformity assessment body before the product was tested, even though the order will not have included the test methods in the regulations specified in this notice.

- The third party conformity assessment body's application for testing using the test methods in the regulations identified in this notice is accepted by the CPSC on or before October 26, 2010.

- The product was tested on or after November 4, 2008 (the date that 16 CFR part 1420 was published), with respect to the regulations identified in this notice;

- The accreditation scope in effect for the third party conformity assessment body at the time of testing expressly included testing to the regulations identified earlier in part I of this document.

- The test results show compliance with the applicable current standards and/or regulations; and

- The third party conformity assessment body's accreditation, including inclusion in its scope the standards described in part I of this notice, remains in effect through the effective date for mandatory third party testing and manufacturer certification for conformity with 16 CFR part 1611.

Dated: August 20, 2010.

**Todd A. Stevenson,**

*Secretary, Consumer Product Safety Commission.*

[FR Doc. 2010-21199 Filed 8-26-10; 8:45 am]

BILLING CODE 6355-01-P

## SOCIAL SECURITY ADMINISTRATION

### 20 CFR Part 404

[Docket No. SSA-2006-0154]

RIN 0960-AF78

### Entitlement and Termination Requirements for Stepchildren

**AGENCY:** Social Security Administration.

**ACTION:** Final rule.

**SUMMARY:** We are revising our regulations to reflect changes made in the Contract with America

Advancement Act of 1996 (CAAA) to the entitlement and termination requirements for Social Security child's benefits to stepchildren. Under the CAAA, we consider a stepchild as dependent on a stepparent to receive child's benefits based on the stepparent's earnings only if the stepchild receives at least one-half support from the stepparent. Also, we terminate a stepchild's benefits that are based on the stepparent's earnings if the stepchild's parent or adoptive parent and the stepparent divorce, unless the stepparent adopted the stepchild and the stepchild can qualify for benefits as the stepparent's adopted child.

**DATES:** This final rule will be effective September 27, 2010.

**FOR FURTHER INFORMATION CONTACT:**

Peter White, Office of Income Security Programs, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401, (410) 594-2041. For information on eligibility or filing for benefits, call our national toll-free number, 1-800-772-1213 or TTY 1-800-325-0778, or visit our Internet site, Social Security Online, at <http://www.socialsecurity.gov>.

**SUPPLEMENTARY INFORMATION:**

#### Electronic Version

The electronic file of this document is available on the date of publication in the **Federal Register** at <http://www.gpoaccess.gov/fr/index.html>.

#### Determining Stepchild Dependency

A stepchild may be entitled to receive Social Security child's benefits based on a stepparent's Social Security earnings record if the stepchild is dependent on a stepparent and the stepparent is entitled to Social Security benefits because he or she is disabled, retires, or dies.<sup>1</sup> In those situations, the stepchild's benefits help replace the lost support from the stepparent. Prior to the CAAA,<sup>2</sup> we considered a stepchild to be dependent on a stepparent if the stepchild was either "living with" or receiving at least one-half support from the stepparent. The CAAA revised the Social Security Act (Act) so that a stepchild's living with a stepparent is not a basis for determining that a stepchild is dependent on the stepparent.<sup>3</sup> Now, we consider a stepchild to be dependent on a stepparent only if the stepchild is receiving at least one-half support from the stepparent.<sup>4</sup>

<sup>1</sup> 42 U.S.C. 402(d)(1)(C).

<sup>2</sup> Public Law 104-121.

<sup>3</sup> Section 104(a) of the CAAA.

<sup>4</sup> 42 U.S.C. 402(d)(4).