

Third-Party Testing and Firewalled Laboratories

As required by the Consumer Product Safety Improvement Act (CPSIA), toy makers must ensure products are tested to meet Consumer Product Safety Commission (CPSC) standards. Generally, testing must be conducted by an accredited third-party conformity assessment body commonly known as an “accredited testing laboratory.” The law permits a laboratory that is owned, managed, or controlled by a manufacturer or a private labeler, to apply for CPSC approval if it puts extra safeguards in place. These labs, known as “firewalled labs,” may only be accredited by order of the Commission.

The following is a compilation of questions and answers dealing with the requirements and approval process for certifying third-party testing and firewalled laboratories.

Q. What are the requirements for third-party testing established by the Consumer Product Safety Improvement Act of 2008?

A. The Consumer Product Safety Improvement Act of 2008 (CPSIA or the Act) requires that the Commission establish requirements for accreditation of third-party conformity assessment bodies (commonly known as third-party testing laboratories). The Act further requires manufacturers and importers to use third-party laboratories that have been recognized as accredited under CPSC requirements to test children’s products for compliance with certain Commission product safety rules.

Q. What is the difference between a third-party testing laboratory and a firewalled laboratory?

A. The Act defines a third-party testing laboratory as one that is not owned, managed, or controlled by the manufacturer or private labeler of a product assessed by such testing laboratory.

The CPSIA provides that a laboratory that is owned, managed, or controlled by the manufacturer or private labeler may under certain specified conditions be recognized as accredited as a third-party testing laboratory

by the Commission. The Act calls such laboratories that comply with these conditions firewalled conformity assessment bodies (or firewalled laboratories).

Q. Are children’s products manufacturers that have their own laboratories exempt from testing their products at third-party laboratories?

A. All children’s products manufacturers or importers must comply with the CPSIA’s third-party testing requirements. A manufacturer that owns its own laboratory may test products at that laboratory to support certifications of compliance with safety rules only if the Commission, by order, accredits the lab as a firewalled third-party testing laboratory. These firewalled laboratories owned by the manufacturer must meet the high standards set for accreditation that are in place for regular third-party laboratories and additional requirements in place to protect against undue influence as described below.

Q. What are the CPSC requirements for third-party testing laboratories and third-party firewalled testing laboratories?

A. Third-party testing laboratories:

To be accepted by the Commission, third-party testing laboratories must be independently accredited to ISO/IEC 17025:2005--General Requirements for the Competence of Testing and Calibration Laboratories. The accreditation must be conducted by a full member of the International Laboratory Accreditation Cooperation--Mutual Recognition Arrangement ("ILAC-MRA").

ISO 17025 accreditation of a laboratory includes an assessment to confirm the technical competence of the laboratory for certain testing methods and also includes an assessment of a laboratory’s management and organization to ensure safeguards against undue influence. The laboratory must have arrangements to ensure that its management and personnel are free from any undue internal and external commercial, financial and other pressures and influences that may adversely affect the quality of their work.

A. Firewalled third-party testing laboratories:

The Commission may accredit a laboratory under the Act's firewalled provision if the Commission finds by order that:

1.) accreditation of the laboratory would provide equal or greater consumer safety protection than the manufacturer's or private labeler's use of an independent third-party conformity assessment body; and

2.) the laboratory has established procedures to ensure that –

a) its test results are protected from undue influence by the manufacturer, private labeler or other interested party;

b) the Commission is notified immediately of any attempt by the manufacturer, private labeler or other interested party to hide or exert undue influence over test results; and

c) allegations of undue influence may be reported confidentially to the Commission.

To meet these criteria, firewalled third-party testing laboratories must first meet the same ISO/IEC 17025 accreditation requirements as independent third-party testing laboratories, including requirements for technical competence, standards for management and organization, and safeguards against undue influence.

In addition, an applicant firewalled laboratory must submit materials to the Commission that explain its safeguards against undue influence, including employee training on the process and means by which allegations of any attempt by the manufacturer or other interested party to hide or exert undue influence over test results can be immediately and confidentially reported to the Commission. Firewalled laboratory applications are subjected to a vetting process involving agency career technical staff.