

reducing the number of required sites from five to four.

Another commenter suggested that the definition of site be changed from a location to a group of panelists at a specific location under a group name. The commenter stated that test results could differ dramatically between different groups of people based on the characteristics of a group and not the actual location of the group. This comment would allow testing at only one geographic site if a sufficient number of different groups were tested.

Defining a site as a group of people would limit testing to defined groups, such as a bridge club or a senior citizens meeting on a particular day. This would eliminate sampling from a mall or other area where people are not congregated for a central purpose. There is no information on how this change would affect test results. The Commission concludes that by selecting a variety of geographic sites there is a likelihood that senior adults will be selected with diverse interests and backgrounds.

Another commenter requested that central location testing be permitted as long as adults were not drawn from the same geographic area. This commenter submitted data indicating that selecting senior adults from large central locations, such as shopping malls, can result in geographic diversity, as measured using residential zip codes. CPSC staff agrees that large central locations can provide geographic diversity in the selection of subjects, and that this type of diversity is desirable. However, there is no information on whether the use of large central locations has an effect on actual test data. Factors other than geographic diversity may be important. By selecting a variety of sites, there is a likelihood that senior adults are selected with diverse interests and diverse backgrounds. Therefore, the Commission concludes that senior testing should continue with the requirement of a minimum of five test sites. However, the Commission's consent forms are being amended to collect information about participant's residential zip code, so this suggestion can be evaluated in the future.

Sequential Test

Several comments were received about the proposed sequential test and about its alleged effects on the standards for passing the senior test. Several commenters complained that the CPSC increased the stringency of the test since, with the sequential adult test, a SAUE of 0.951 would have been required to pass after testing the first panel of 100 seniors. The proposed

sequential test would not have increased the test's stringency, however, since the pass/fail criterion would have remained 0.900.

The main advantage of a sequential test would be to increase the probability of making the correct pass/fail decision for those packages that perform in the "borderline" (near 0.900) range. This is accomplished by increasing the number of people tested for borderline packages. Thus, the sequential test would have required testing more adults for packages that perform near the 0.900 pass/fail criterion.

However, borderline packages are not the hardest-to-open packages that are of the greatest concern to the Commission. The Commission believes that the hardest packages to use will be eliminated by a panel of 50–70 year-olds, even without a sequential test.

Therefore, the Commission believes that it can use nonsequential testing, which may reduce the burden on industry, without compromising the safety benefits of the rule. Accordingly, both the senior- and younger-adult tests will use a single 100-member panel.

Senior Consent Forms

Several commenters requested that the actual language of the adult consent form be included in the rule to further standardize the test. It was also requested that different forms be used for reclosable and non-reclosable packages, that participants be told about the time limits of the test, and that participants be informed that they may be asked to open other types of packages (i.e., those used for screening purposes).

The Commission agrees that the consent form should be standardized; the consent forms used in Commission testing are now included in the rule as a recommended example. In current testing, separate forms are used for reclosable and non-reclosable packages. In addition, language about the potential to be asked to test screening packages has been added to the consent form.

However, the Commission disagrees that participants should be advised of the time limits of the test (e.g., "you have 1 minute"). Time pressure is a potentially influential factor, and emphasizing a time limit may induce anxiety unnecessarily among participants.

Instructions

Comments were received that the sample preparation sections of the child test and the senior test were not consistent. The Commission agrees and has modified § 1700.20(a)(3)(iv)(A) of the senior test.

Several requests for further standardization of the instructions were received. Commenters requested standardization of the commands to participants in the screening test to reflect what is said in the regular test. Some commenters also indicated that standardized language should be added to the procedure to help confirm whether a participant has given up. The Commission agrees with these changes and has amended the test procedure in § 1700.20 to include additional standardized language.

E. Effectiveness of the Senior Protocol—Safety v. Convenience

A number of commenters attacked the basic premise of the revisions, that easier-to-open packages will result in increased proper use of CRP by adults and that this will increase the safety of children. Some commenters cast this argument as follows: If (as the commenters contended) the rule does not increase safety, it performs addresses only convenience and is not a proper subject for a Commission regulation.¹² However, the information in the record indicates that the senior-friendly adult test will have significant safety benefits and will not compromise child-resistance.

The Rule Will Cause Beneficial Changes in Adult Behavior

Large numbers of adults are currently relegated to using non-CRP packages because of the difficulty in using traditional CR packages. For example, CPSC test results show that up to 44% of 61–75 year old adults could not open CR packages that pass the current protocol. [37] However, under the revised protocol, these adults will be able to use CR packaging and thereby reduce the risk of accidental poisonings.

The likelihood that people will defeat a safety measure through error, misuse, or avoidance increases with the degree of actual or perceived effort and inconvenience required to use the measure. [234, 287] This is evidenced by the current problems with CRP, i.e., difficult-to-use containers often are used improperly or not at all. Conversely, research findings indicate that when the degree of effort or inconvenience associated with safe behavior is reduced, the likelihood of compliance increases. [287]

The protocol revisions directly address the capability of the general population to use a given type of CR package by requiring that at least 90%

¹² Given that the Coalition for Responsible Packaging, which represents the proponents of this argument, now endorses the rule as adopted [299], it appears that these claims no longer apply.