

If you file your comment on paper, write “Regulatory Review for Alternative Fuels Rule, Matter No. R311002” on your comment and on the envelope, and mail it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Mail Stop H-144 (Annex F), Washington, DC 20580.

Because your comment will be placed on the publicly accessible website at www.regulations.gov, you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else’s Social Security number; date of birth; driver’s license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any “trade secret or any commercial or financial information which . . . is privileged or confidential”—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including, in particular, competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, clearly labeled “Confidential,” and comply with FTC Rule 4.9(c), 16 CFR 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and identify the specific portions of the comment to be withheld from the public record. *See id.* Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and public interest. Once your comment has been posted publicly at www.regulations.gov, we cannot redact or remove your comment unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as

appropriate. The Commission will consider all timely and responsive public comments that it receives on or before December 26, 2023. For information on the Commission’s privacy policy, including routine uses permitted by the Privacy Act, see <https://www.ftc.gov/site-information/privacy-policy>.

By direction of the Commission.

Joel Christie,

Acting Secretary.

[FR Doc. 2023–23621 Filed 10–25–23; 8:45 am]

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CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1112, 1130, and 1240

[CPSC Docket No. 0046]

Safety Standard for Infant and Infant/Toddler Rockers

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Danny Keysar Child Product Safety Notification Act, section 104 of the Consumer Product Safety Improvement Act of 2008 (CPSIA), requires the U.S. Consumer Product Safety Commission (Commission or CPSC) to promulgate consumer product safety standards for durable infant or toddler products. These standards are to be substantially the same as applicable voluntary standards, or more stringent than the voluntary standards if the Commission concludes that more stringent requirements would further reduce the risk of injury associated with the product. The Commission is proposing a safety standard for Infant and Infant/Toddler Rockers (rockers). The Commission is also proposing to amend CPSC’s consumer registration requirements to add rockers as identified durable infant or toddler products and to amend CPSC’s list of notice of requirements (NORs) to include rockers.

DATES: Submit comments by December 26, 2023.

ADDRESSES: Comments related to the Paperwork Reduction Act aspects of the marking, labeling, and instructional literature requirements of the proposed rule should be directed to the Office of Information and Regulatory Affairs, the Office of Management and Budget, Attn: CPSC Desk Officer, FAX: 202–395–6974, or emailed to oira_submission@omb.eop.gov.

Other comments, identified by Docket No. CPSC–0046, may be submitted electronically or in writing:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: <https://www.regulations.gov/>. Follow the instructions for submitting comments. CPSC typically does not accept comments submitted by electronic mail (email), except through <https://www.regulations.gov/>. CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Mail/Hand Delivery/Courier/Confidential Written Submissions: Submit comments by mail, hand delivery, or courier to: Office of the Secretary, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; telephone: (301) 504–7479. If you wish to submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public, you may submit such comments by mail, hand delivery, or courier, or you may email them to: cpsc-os@cpsc.gov.

Instructions: All submissions must include the agency name and docket number. CPSC may post all comments without change, including any personal identifiers, contact information, or other personal information provided, to <https://www.regulations.gov/>. Do not submit through this website: Confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If you wish to submit such information, please submit it according to the instructions for mail/hand delivery/courier/confidential written submissions.

Docket: For access to the docket to read background documents or comments received, go to: <https://www.regulations.gov/>, and insert the docket number, CPSC–0046, into the “Search” box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Zachary S. Foster, Project Manager, Division of Human Factors, Directorate for Engineering Sciences, Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850; Telephone 301–987–2034; email: zfoster@cpsc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Section 104(b) of the CPSIA, 15 U.S.C. 2056a(b), requires the Commission to: (1) examine and assess the effectiveness of voluntary consumer product safety standards for durable infant or toddler products in consultation with

representatives of consumer groups, juvenile product manufacturers, and independent child product engineers and experts; and (2) promulgate consumer product safety standards for durable infant or toddler products. Standards issued under section 104 are to be “substantially the same as” the applicable voluntary standards or more stringent than the voluntary standards if the Commission determines that more stringent requirements would further reduce the risk of injury associated with the product. 15 U.S.C. 2056a(b)(1)(B).

Currently, no mandatory safety standard exists for infant rockers or infant/toddler rockers. There is a voluntary standard, however. In July 2014, ASTM International’s (ASTM) Committee F15 on Consumer Products first published a voluntary standard for rockers—ASTM F3084–14, *Standard Consumer Safety Specification for Infant and Infant/Toddler Rockers* (ASTM F3084), to minimize the risk of injury or death associated with children’s use of rockers. The standard addressed hazards associated with product disassembly and collapse, stability, and falls from an elevated surface. Hazard mitigation strategies included performance requirements, warnings, and instructional literature. The ASTM standard has been revised four times since 2014, in 2016, 2018, 2020, and 2022. The most current version of the ASTM standard is ASTM F3084–22, published in May 2022.

Consistent with the consultation requirement in section 104(b)(1) of the CPSIA, CPSC staff has worked with the ASTM F15.18 subcommittee task group since 2013 to update the voluntary standard for rockers.¹ This consultation, including staff’s assessment of hazard patterns and suggested additional performance and labeling requirements, continued through publication and revision of ASTM F3084–22.

Section 104(d) of the CPSIA requires manufacturers of durable infant or toddler products to establish a product registration program and comply with CPSC’s requirements under 16 CFR part 1130. Any product defined as a “durable infant or toddler product” in part 1130 must comply with the product registration requirements, as well as testing and certification requirements for children’s products, as codified in 16 CFR parts 1107 and 1109. Section

104(f)(1) of the CPSIA defines a “durable infant or toddler product” as a “durable product intended for use, or that may be reasonably expected to be used, by children under the age of 5 years.” 15 U.S.C. 2056a(f)(1). Section 104(f)(2) of the CPSIA includes a list of categories of products that are durable infant or toddler products, including products similar to rockers, such as various infant chairs (highchairs, booster chairs, and hook-on chairs) and swings. 15 U.S.C. 2056a(f)(2).

Rockers are not included in the statutory list of durable infant or toddler products. As set forth in section V of the preamble, the statutory product list is not exhaustive. The Commission now proposes to amend part 1130 to include “Infant and Infant/Toddler Rockers” as durable infant or toddler products because they are intended for use, and may be reasonably expected to be used, by children under the age of 5 years; are analogous to other statutory and Commission-defined durable infant products, such as infant bouncers; and are commonly available for resale or “handed down” for use by other children.²

II. The Product Category

A. Products Within the Scope

The scope of this notice of proposed rulemaking (NPR) includes all infant rockers and all infant/toddler rockers within the scope of ASTM F3084–22, including multi-mode products with a rocker mode, with the addition of weight limits for each product and terminology to define “rocking” pursuant to the Commission’s proposed modification to the standard definitions addressed below. The ASTM standard F3084–22 defines an infant rocker as a “freestanding product intended to support an occupant who has not developed the ability to sit up unassisted (approximately 0 to 6 months of age) in a seated, reclined position greater than 10° and to facilitate rocking by the occupant with the aid of the caregiver or by other means.” The ASTM standard defines an infant/toddler rocker as “a freestanding product intended to support an occupant in a seated, reclined position greater than 10° and to facilitate rocking by the occupant with the aid of the caregiver or by other means until the

occupant is approximately 2½ years.” The Commission proposes to modify the ASTM definitions of infant rockers and infant/toddler rockers by specifying a weight limit for each product so as to reflect the manufacturers’ maximum recommended weight listed in the product warning, and thereby clarifying which forward stability test is required for each product.³ The Commission also proposes to add terminology to define “rocking” as forward and backward motion via a nonstationary base. This clarification is intended to differentiate rockers from other infant and toddler seated products and prevent improper product classification. The Commission invites comments on the proposed definition of “rocking.”⁴

Products within scope of the NPR include:

- Infant rockers, marketed for infants up to approximately six months old,
- Infant/toddler rockers, marketed for children up to approximately 2.5 years old,
- Combination rocker/bouncers (bouncers with curved rocker legs),
- Combination swings/rockers (rockers that attach to a stationary swing base), and
- Other combination products, such as rocker/bouncer/stationary chair products.

Most rockers have a metal or plastic frame with a padded fabric seat. A few products, primarily from foreign direct shippers and hand crafters, have a wooden frame. Some products have a motorized rocking function, a vibration function, or sound functions, which are powered by batteries or an electrical cord with a plug. All rockers support a child in an inclined position (greater than 10 degrees from vertical) with certain infant/toddler rockers having adjustable seat backs to facilitate upright sitting as the child grows. Many products also feature an accessory bar with attached toys that are, or once the child has grown larger will be, within the child’s reach. Certain products also have secondary use modes. For example, some products have a kickstand that can be deployed to keep the product stationary, while other products can be converted into a bouncer or swing. Many rockers have three-point crotch restraints consisting of a wide cloth crotch and short adjustable waist straps with plastic

¹ Referred to together as “rockers.” Reference to “Infant Rockers” alone refers to products intended for use by infants up to approximately six months of age. Reference to “Infant/Toddler Rockers” alone refers to products intended for use by children up to approximately 2.5 years of age. See section II of the preamble for the full definitions of Infant Rockers and Infant/Toddler Rockers.

² In a Commission meeting on October 11, 2023, the Commission voted (4–0) to publish this proposed rule as amended by the Commission. Meeting minutes describing the vote and the amendments are available at: https://www.cpsc.gov/s3fs-public/Comm-Mtg-Min-Infant-Rockers-NPR-and-Gas-Furnaces-and-Boilers-NPR.pdf?VersionId=8Ct.NBI7RhSXyozTJBE65q3lCSyU_aMI.

³ See Tab F of Staff’s NPR Briefing Package for additional information on the scope of ASTM F3084–22, and Tab G of Staff’s NPR Briefing Package for the proposed changes to the definition and stability test.

⁴ See Briefing Memo and Tab G of Staff’s NPR Briefing Package for the proposed addition.

buckles. Some infant/toddler rockers also utilize a shoulder restraint.

Some items marketed as “rockers” are subject to the swing mandatory standard, 16 CFR part 1223, rather than the rocker standard, based on how the product moves in relation to a base or stand. Rockers are reclined seated products that move in their entirety, most commonly on curved legs, so as to rock an occupant forward and backward, while swings have a stationary base. Multi-mode items, such as rockers with curved legs that attach to a swing base, are subject to both the swing mandatory standard and the rocker voluntary standard. Some conventional bouncer seats are advertised as “rockers” because they rock up and down, but those products would not meet the definition of a “rocker” in either the ASTM standard or the NPR if the base is stationary. Bouncer seats must meet the bouncer seat mandatory standard in 16 CFR part 1229, while multi-mode items that are both rockers and bouncers are subject to both standards.

Rocking horse toys and similar items are out of scope for this rule because they do not meet the definition of a “rocker” in the ASTM standard or the NPR; such toys do not support the occupant in a seated, reclined position. Similarly, traditional children’s rocking chairs with a straight, non-reclining back are not within the scope of the rule.

B. Market Description

CPSC staff estimates that rocker sales reach 567,500 units per year, although this estimate is uncertain due to the industry practice of grouping rockers and combination products with non-

rocker products into a single survey category. In January 2023, staff found that 25 percent of the bestselling products within the “infant bouncers and rockers” category of a major internet retailer website were rockers or combination rocker/bouncer products within scope of this proposed rule. See Tab F of Staff Briefing Package: Draft Notice of Proposed Rulemaking for Infant and Infant/Toddler Rockers (Sept. 13, 2023) (Staff’s NPR Briefing Package), available at: https://www.cpsc.gov/s3fs-public/Notice-of-Proposed-Rulemaking-Safety-Standard-for-Infant-Rockers-and-Infant-and-Toddler-Rockers.pdf?VersionId=Z3cL72KKD_oN_BG5LcNEAdlDIDXyTrmt.

While new rockers are available from online general retail sites, brick and mortar baby specialty stores, and brick and mortar general retail stores including “big box” stores, used items are widely available on second-hand online sites, as well as in some thrift stores. Rockers range in price from \$35 to \$250 with an average price of about \$110. The less expensive products tend to be smaller products without powered functions, while the more expensive rockers tend to be combination products (e.g., rocker-swings or rocker-bouncers) or products with additional features. Using the estimate of approximately 567,500 units sold each year with the average price of \$110, CPSC estimates a \$62 million market in terms of annual sales. Approximately 80 models of rockers are available for sale on the U.S. market, from roughly 50 entities.

III. Incident Data

Rockers are part of a broader group of products (which includes bouncers and

swings) that provide support to infants who are initially unable to sit independently. Compared to other postures, sitting can provide infants an improved ability to explore objects with greater visual access to their environment, as well as increased social attention. While infants are sitting, as compared to other postures, caregivers also demonstrate a wider variety of interactions that allow infants to practice cognitive skills.⁵

However, incident data confirms that some caregivers use rockers for brief or extended infant or toddler sleep, despite warnings that these products should not be used for sleep. As Tab A of Staff’s NPR Briefing Package explains in greater detail, CPSC staff searched the Consumer Product Safety Risk Management System (CPSRMS)⁶ and the National Electronic Injury Surveillance System (NEISS)⁷ for fatalities, incidents, and concerns associated with rockers reported to have occurred between January 1, 2011 and November 7, 2022. Staff identified 1,088 incidents from CPSRMS associated with rockers. Staff found too few emergency department-treated injuries associated with rockers to derive reportable national estimates. Therefore, staff was unable to provide injury estimates based on NEISS data but included NEISS injury cases in the total count of reported incidents.

Table 1 shows the number of incidents reported for each year during the period. Incident reporting is ongoing and the number of incidents—particularly for recent years—may change.

TABLE 1—REPORTED INFANT ROCKER INCIDENTS

Incident year	Total number of reported incidents	Number of reported fatalities	Number of reported nonfatal injuries
2011	164	1	29
2012	200	1	23
2013	158	1	11
2014	97	1	3
2015	82	1	3
2016	137	0	4
2017	86	1	5
2018	67	0	2
2019	42	2	4

⁵ See Tab D of Staff’s NPR Briefing Package for additional information.

⁶ CPSRMS is the epidemiological database that houses all anecdotal reports of incidents received by CPSC, “external cause”-based death certificates purchased by CPSC, all in-depth investigations of these anecdotal reports, as well as investigations of select NEISS injuries. Examples of documents in CPSRMS are: hotline reports, internet reports, news

reports, medical examiner’s reports, death certificates, retailer/manufacture reports, and documents sent by state/local authorities, among others.

⁷ NEISS is a statistically valid surveillance system for collecting injury data. NEISS is based on a nationally representative probability sample of hospitals in the U.S. and its territories. Each participating NEISS hospital reports patient

information for every emergency department visit associated with a consumer product or a poisoning to a child younger than five years of age. The total number of product-related hospital emergency department visits nationwide can be estimated from the sample of cases reported in the NEISS. <https://www.cpsc.gov/Research—Statistics/NEISS-Injury-Data>.

TABLE 1—REPORTED INFANT ROCKER INCIDENTS—Continued

Incident year	Total number of reported incidents	Number of reported fatalities	Number of reported nonfatal injuries
2020	42	1	3
2021 *	8	1	1
2022 *	6	1	0
Total	1,088	11	88

Source: CPSC epidemiological databases CPRMS and NEISS.

Note: * Indicates data collection is ongoing.

Table 2 provides age information for the victims in the 1,088 incidents.

TABLE 2—AGE DISTRIBUTION IN INFANT ROCKER-RELATED INCIDENT REPORTS
[01/01/11–11/07/22]

Age	Total	
	Frequency	Percentage
Unreported *	316	29
0–6 Months	418	38
7 Months–Less Than 1 Year	241	22
1–Less Than 2 Years	81	8
2–4 Years	27	2
5 Years or Older	5	<1
Total	1,088	100

Source: CPSC epidemiological databases CPRMS and NEISS.

Note: Percentages may not sum to 100 due to rounding.

* In this table, age “unreported” implies age was unknown or age was not reported because the incident involved no injury.

Table 3 presents the age distribution of children under five years of age who suffered fatal or nonfatal injuries in the incidents from January 1, 2011 to

November 7, 2022. All 11 fatalities and 70 nonfatal injuries involved victims less than one year old. Eight incidents involved victims less than four months

old, including five of the 11 total fatalities.

TABLE 3—AGE DISTRIBUTION IN INFANT ROCKER-RELATED INCIDENTS REPORTING FATALITIES AND NONFATAL INJURIES AMONG CHILDREN UNDER FIVE YEARS OF AGE
[01/01/11–11/07/22]

Age of child	Total		Fatalities		Injuries	
	Frequency	Percentage	Frequency	Percentage	Frequency	Percentage
Unreported *	12	12	0	0	12	14
0–6 Months	33	33	10	91	23	26
7–Less Than 1 Year	48	48	1	9	47	53
1–Less Than 2 Years	5	5	0	0	5	6
2–4 Years	1	1	0	0	1	1
Total	99	100	11	100	88	100

Source: CPSC epidemiological databases CPRMS and NEISS.

Note: Percentages may not sum to 100 due to rounding.

* In this table, age “unreported” implies age was unknown but victim is described as a child under five years of age.

Of the 11 fatalities during the period, nine involved infants being placed in the rocker for sleeping or napping. The incident reports indicate that in two of these incidents the infants were placed on their side in the rocker, and in one incident the rocker was damaged and was being supported by a shoe box. One

fatality involved an infant being placed in a rocker with the seat back in the “upright/toddler” position for approximately four hours. One fatality involved an infant being placed in a rocker on top of an adult bed without a caregiver present for approximately 20–30 minutes. Six of the 11 fatalities

indicate that the restraints were not used. Six of the 11 fatalities indicate that pillows and/or blankets were placed in the product with the infant over the infant for warmth/comfort, under the infant for comfort/support, or both. In one of these incidents a blanket was found covering the infant’s face.

Summaries of the fatalities are provided in Tab A of Staff's NPR Briefing Package.

Staff identified hazard patterns for all 1,088 reported incidents associated with rockers.

More than 700 of the incidents (64 percent) involved hardware-related problems such as issues related to lock and latch hardware, hinge hardware, seat mounting hardware, or other parts breaking.

Two hundred and seventy-five of the incidents (25 percent) cited rockers wobbling, collapsing, or tipping over. Tipover-related incidents comprised more than 64 percent of all reported injuries. At least 49 of the tipover-related incidents involved a rocker tipping forward. Sixty of the 275 stability-related incidents resulted in head injury. Four of the 275 stability-related incidents resulted in other upper body injuries.

Thirty-seven of the incidents (3 percent) cited rockers having electrical issues, mostly batteries leaking. Thirty-six of the incidents (3 percent), involving 17 injuries, cited issues related to the rocker's design, such as toy bar positioning, slippery fabric seat pads, misaligned screws, pinch points, defective battery compartments, and seat back tubes not staying in sockets.

From January 1, 2011 through August 30, 2023, CPSC issued one recall of two multi-mode products in which four fatalities were reported and one issued warning regarding rockers. Incidents described in the press releases for the multi-mode product recall and the warning involved infants being placed to sleep on their backs and unrestrained in inclined rocking products but found on their stomachs.⁸

IV. Overview of ASTM F3084⁹

A. History of ASTM F3084

The ASTM F15.18 Subcommittee on Cribs, Toddler Beds, Play Yards, Bassinets, Cradles, and Changing Tables first published the voluntary standard for rockers in 2014, as ASTM F3084–14, *Standard Consumer Safety Specification for Infant and Infant/Toddler Rockers*.¹⁰ The first publication addressed issues including seat angles, stability, structural integrity, other design issues, and marking and labeling.

Since 2014, ASTM has revised and updated the voluntary standard four

times to address safety issues. In 2016, ASTM modified the warning requirements for use of shoulder straps provided as part of the restraint system. In 2018, ASTM made miscellaneous changes. In 2020, ASTM added language to the marking, labeling, and instructional literature requirement that addressed battery operated products and removed references to the CPSIA. In May 2022, ASTM modified warning language to state that rockers are not intended for sleep or unsupervised use, and to instruct consumers to move sleeping infants to a firm, flat sleep surface.¹¹

B. Assessment of the ASTM F3084–22 Standard

Based on CPSC staff's Engineering and Human Factors assessments, Tabs C and D of Staff's NPR Briefing Package, respectively, CPSC concludes that several ASTM F3084–22 tests are adequate to address rocker hazards, specifically: (1) the sideward and rearward stability tests for infant and infant/toddler rockers to address product sideward and rearward tipover; (2) the structural integrity test to address hardware failures and collapse hazard; (3) the toy bar integrity test to address toy bars snapping apart; and (4) the restraint system test to ensure the heaviest intended occupant is safely secure. Therefore, the Commission proposes in the NPR to adopt the following ASTM tests:¹²

1. Sideward and Rearward Stability

Section 6.3.2 of ASTM F3084–22 specifies performance requirements for rockers' sideward and rearward stability. In the test procedure, a CAMI Infant Dummy is placed in the rocker, which is then positioned in the most unfavorable sideward or rear position on a test surface inclined at 20 degrees. To pass the test, the rocker must not tip over in this position. CPSC testing indicates this test is adequate to address the risk to occupants from sideways or backwards tip-over of the rocker.

2. Structural Integrity

The ASTM standard includes a dynamic load test (see section 7.6.1), a static load test (see section 7.6.2), and a disassembly/collapse test (see section 6.6). Section 6.5 specifies that rockers shall not break or create a hazardous condition after these tests are applied. CPSC assess that these tests adequately test the structural strength of rockers.

3. Toy Bars

To prevent caregivers from attempting to raise the rocker by the toy bar, section 6.7 of ASTM F3084–22 requires that toy bars must either be strong enough to not detach when used as a handle or must break free from the rocker when a caregiver attempts to use the toy bar as a handle. CPSC considers these requirements—which are identical to the ASTM F2167–22 toy bar attachment test requirements for infant bouncers, codified in 16 CFR part 1229—adequate to address the hazard of toy bars snapping due to use as a handle.

4. Restraints

Section 6.2 of ASTM F3084–22 requires both a waist and crotch restraint to secure a child in a rocker. The test requires that the restraint system anchors shall not separate from the attachment points when subjected to a force of 45 lb. that is maintained for 10 seconds. The force of 45 lb. is approximately 25 percent greater than the 36 lb. weight of a 2.5-year-old male child in the 95th percentile. These requirements are identical to the restraint system test requirements for infant bouncers under 16 CFR part 1229, and adequately ensure the safety of the heaviest intended occupant.

5. Concavity and Firmness

While the foregoing tests in ASTM F3084–22 appear adequate to address rocker hazards, CPSC finds, subject to public comment, that several revisions to the current voluntary standard are necessary to adequately address hazards to infants and toddlers associated with rockers.

First, no provision in ASTM F3084–22 addresses the risk of suffocation in rockers due to concavity or firmness issues. In 2022, CPSC contracted with Boise State University (BSU) to research and analyze the death or injury risks associated with infant seated products and to recommend possible requirements to improve safety. A research team led by Dr. Erin Mannen submitted their report (BSU Report) to CPSC in June 2023. The BSU Report recommends that infant seated products should have a firmness similar to that of a crib mattress, should not envelop the infant's head or face, and should provide sufficient space for the infant's head to rotate without contacting the product side walls.¹³

¹³ Mannen, E.M., Siegel, D., Goldrod, S., Bossart, A., Lujan, T.J., Wilson, C., Whitaker, B., Carrol, J. (2023). *Seated Products Characterization and Testing*. Report available at <https://www.cpsc.gov/content/Report-Boise-State-Universities-Seated->

⁸ See Tab E of Staff's NPR Briefing Package for additional information.

⁹ See Tab C of Staff's NPR Briefing Package for additional information.

¹⁰ The Commission is not aware of any international voluntary standards pertaining to rockers.

¹¹ See Briefing Memo of Staff's NPR Briefing Package for additional detail on ASTM F3084.

¹² See Tabs C and D of Staff NPR Briefing Package for additional details.

(a) Concavity and Conformity

The BSU Report states that the concavity (*i.e.*, curvature of the seat back) and conformity (*i.e.*, the product enveloping the infant due to the infant's weight) of an infant rocker can affect the risk of mouth and nose contact with the sides of the product and poses a suffocation risk. The BSU research team found that rockers with a small pillow or no pillow posed a low risk for suffocation from nose and mouth contact, while products with larger and thicker pillows or inserts were deemed to create a high risk for mouth and nose contact and potential suffocation.

The BSU Report outlines a recommended concavity test. The test consists of calculating the concavity (radius) formed at the intended occupant's head position with a 7.65-pound newborn-sized test device in the seat. With the device in place, the width of the seat is then measured from side to side at the intended infant head position. The depth is also measured from the midline of the infant's head position to the seat back surface. With these measurements, the radius is then calculated to determine the concavity.

The BSU Report states that a seated product with a concavity radius greater than 22 cm (8.66 in.) would protect against mouth and nose contact with sides of the products during a normal head rotation. Therefore, the BSU Report recommends a concavity radius equal to or greater than 22 cm (8.66 in.), which would make it easier for infants to free their mouth and nose from face contact if they roll into a prone position within the product. After conducting testing, CPSC staff similarly found that a concavity radius of less than 22 cm (8.66 in) would increase the risk of an infant's mouth or nose coming into contact with the side of a product. The 22 cm (8.66 in) radius is three times the head radius of a 95th percentile six-month-old male. The minimum 22 cm (8.66 in) radius requirement therefore incorporates a three times safety factor to prevent the infant's face from contacting the side of the rocker. The Commission invites comment on the proposed concavity requirement to address the suffocation hazard by adopting the BSU Report's recommended concavity test for rockers.

(b) Firmness

The BSU Report states that all seated infant products should be sufficiently firm and flat to prevent the infant's mouth and nose from making contact with the product during supine lying

with a normal head rotation. The BSU Report recommends that infant rocker firmness should be equivalent to the crib mattress firmness requirement, confirming that the minimum displacement of 11mm (0.43 in) with a 2.25-pound load would meet the crib mattress firmness requirement. Based on staff's own testing as well as the BSU Report, CPSC staff advises that adopting the BSU Report firmness test for rockers would address a suffocation risk. Staff further found that inserting a foam backing between the fabric of the rocker and the frame would allow the rocker to pass the firmness test, suggesting the feasibility of complying with the BSU Report's firmness recommendation. See Tab C of Staff's NPR Briefing Package for more detail.

The firmness requirement and test method recommended in the BSU Report addresses the hazards of soft surfaces designed into rockers, such as pillows or hammock designs, that can envelope an infant's face in the prone position or with the head turned to the side position. Providing equivalent firmness around the occupant's head will help to ensure that rockers have the same baseline safety as crib mattresses in terms of preventing a child's nose and mouth from being obstructed by the support surface. The Commission proposes to adopt the BSU Report's recommended firmness test to strengthen the rockers standard to address a suffocation hazard that ASTM F3084–22 currently does not address and invites comment on this proposal.

6. Forward Stability

Section 6.3 of ASTM F3084–22 specifies performance requirements for forward stability in infant rockers intended to support an occupant who has not developed the ability to sit up unassisted. The test procedure for forward stability applies a tipping moment to the product in its most upright position to simulate a 21 lb. infant leaning forward in the rocker.¹⁴ A test fixture is then attached to the seat of a product with restraints that have been adjusted for a CAMI Infant Dummy. A 21-lb. vertical static force is applied for 60 seconds to the fixture five inches in front of the crotch post. To pass the test, the infant rocker must not tip over. See Tab A, Appendix, and Tab C of Staff NPR Briefing Package for additional details.

This forward stability requirement for infant rockers is not as stringent as the

forward stability requirements for infant bouncers in 16 CFR part 1229, which provides greater protection for larger infants by applying the test weight one inch further from the crotch post (*i.e.*, six inches away instead of five inches away) and using the manufacturer's maximum recommended weight if greater than the 21-lb. weight application specified. Additionally, the infant rocker standard does not clearly specify a maximum weight limit for infant rockers in the product warnings and does not adequately indicate which forward stability tests are to be applied to each product type, whether it be an infant rocker or an infant/toddler rocker. To strengthen the standard, the Commission proposes modifying the forward stability requirement for infant rockers to match the more stringent test conditions specified in the mandatory standard for infant bouncers, revising the definitions for "infant rocker" and "infant/toddler rocker" to list a maximum weight limit, and revising the forward stability tests to offer additional clarification on which tests apply to which product category.

In addition, it appears the forward stability test for infant/toddler rockers in ASTM F3084–22 does not adequately address occupants larger than six-months-old, as most of the incidents of infant/toddler rockers tipping over involved an occupant that ranged from seven months to 12 months of age. See Tab C of Staff NPR Briefing Package. The Commission requests comments on this concern, and on methods to best test forward stability hazards for occupants older than six months of age.

7. Electrical—Battery Leakage

As noted, 36 of the 1,088 reported rocker incidents within the study period involved leaking batteries. Twelve of the leaking battery incidents reported corroded or rusty battery compartments. See Tab A, Appendix, and Tab C of Staff's NPR Briefing Package for additional information.

ASTM F3084–22 does not specify requirements to address battery or electrical issues associated with rockers. CPSC's bouncer rule, codified at 16 CFR part 1229, does include requirements to address such electrical hazards. Specifically, the bouncer rule's electrical requirements include: (1) each battery compartment or area around the battery compartment is marked to show the correct battery polarity, size, and voltage; (2) each battery compartment provides a means to contain battery leaks; (3) design protection from the possibility of a battery being charged when it is installed in the rocker; (4) the surfaces of any accessible electrical

¹⁴ The 21-lb load is equivalent to the weight of a 95th percentile 6-month-old boy (Centers for Disease Control and Prevention, National Center for Health Statistics. CDC growth charts: United States, 2000. <https://www.cdc.gov/growthcharts/>).

component do not reach temperatures exceeding 160 °F (71°C) at any time while in ordinary use; and (5) the product is only operable via an a/c power source and/or new batteries of the type recommended by the manufacturer. To address the battery-related hazards reflected in the reported incidents, the Commission proposes to add electrical requirements based on requirements in the bouncer rule.

8. Drop Test

The bouncer rule in 16 CFR part 1229 includes a drop test to evaluate the durability of infant bouncers in instances of an inadvertent drop or the product impacting a hard surface. The test drops a bouncer from a height of 36 inches once on each of six different planes (top, bottom, front, rear, left side, and right side). ASTM F3084–22 does not contain a similar test, which reduces the protectiveness of its requirements. See Tab C of Staff's NPR Briefing Package. Accordingly, the Commission proposes to apply the drop test from the bouncer rule to rockers to ensure product durability.

9. Strangulation on Tethered Straps

CPSC staff identified one near-strangulation incident involving a rocker in which an eight-month-old male crawled under the product, at which time his neck became entangled in the tethered straps located behind the rocker. See Tab A, Appendix, and Tab C of Staff's NPR Briefing Package for additional information. Because ASTM F3084–22 does not address a tethered strap strangulation hazard, the Commission proposes to strengthen the rocker standard by adding a test in section 7.11 of the NPR to address tethered strap strangulation hazards.

C. Marking, Warning, and Labeling

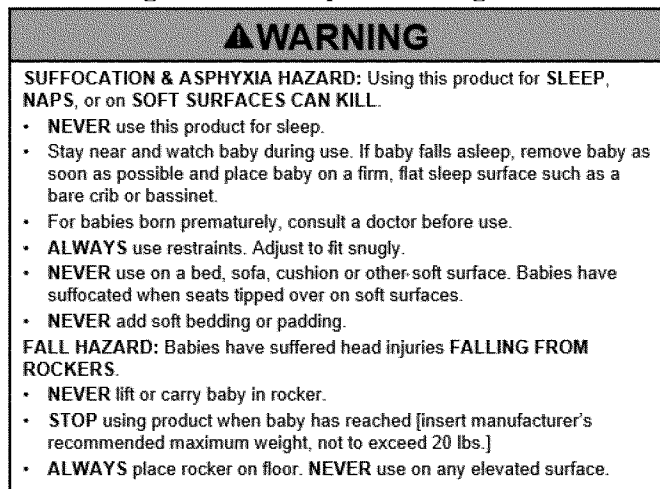
Warning about a hazard is a less effective method of addressing the hazard than either designing the hazard out of a product or guarding consumers from the hazard. Therefore, when a standard relies on warnings to address a hazard, it is particularly important that the warning statements are noticeable, understandable, and motivational. The primary U.S. voluntary consensus standard for

product safety signs and labels, ANSI Z535.4, *American National Standard for Product Safety Signs and Labels*, recommends that on-product warnings include content that addresses the following three elements:

- a description of the hazard;
- information about the consequences of exposure to the hazard; and
- instructions regarding appropriate hazard-avoidance behaviors.

CPSC staff analyzed literature, incident data, and consumer feedback, concluding that the rocker warnings specified in ASTM F3084–22 do not adequately address the identified product hazards because the warning requirements insufficiently address the use of soft bedding in rockers and the use of rockers for sleep, fail to address potential hazards of prematurely born infants using rockers, do not sufficiently outline label visibility and location requirements, and have typographical errors. See Tab D of Staff's NPR Briefing Package. To address these deficiencies, the Commission proposes inclusion of the warnings shown in Figure 1:

Figure 1. Example warning label.



D. Instructional Literature

Adding these warnings to the product literature is also necessary to address adequately the hazards associated with rockers. See Tab D of Staff's NPR Briefing Package. Further, the instructional literature language in the ASTM voluntary standard overbroadly states that instructions shall include the warnings listed in section 8.7, which contains four sets of warning statements with minor differences based on whether the product is an infant rocker or an infant/toddler rocker, and the type of restraint system used. The

Commission proposes that the instructional literature requirements specify that only the applicable warning in section 8.7 needs to be included.

V. Overview of the NPR

A. Performance Requirements

In light of the substantial record of deaths and injuries with infant rockers and infant/toddler rockers, as summarized in section III above, the Commission issues the NPR under section 104 of the CPSIA to propose a mandatory consumer product safety standard for rockers. The Commission

proposes to incorporate by reference ASTM F3084–22, with modifications to make the standard more stringent to further reduce the risk of injury associated with the use of rockers. The objective of this proposed rule is to address the known hazards of infant rockers and infant/toddler rockers, which include positional asphyxia, disassembly and collapse, hardware failures such as screws coming out and parts breaking off, and falls from elevated surfaces. The NPR contains more stringent performance and labeling requirements than the voluntary standard, improving the test

requirements based on CPSC's assessment of incident reports, performance tests from the bouncer rule in 16 CFR part 1229, and the BSU Report. Additionally, the NPR includes requirements for warning content and formatting. Proposed modifications to ASTM F3084–22 in the NPR address:

Suffocation risks posed by soft rocker surfaces and rocker features that can envelop a child's face, by adding firmness and concavity requirements as recommended in the BSU Report discussed in section IV of the preamble;¹⁵

Tipover risk, by modifying the terminology and forward stability requirements for rockers to match the more stringent test conditions listed in ASTM F2167–22, incorporated by reference into CPSC's *Safety Standard for Infant Bouncer Seats*, codified in 16 CFR part 1229, and to more clearly indicate which forward stability tests are to be performed on each product type, *i.e.*, the different testing for an infant rocker versus an infant/toddler rocker;

Battery leakage risk, by adding the more stringent electrical requirements from part 1229, including performance requirements and test methods requiring battery compartments to provide a means of containing battery leakage, preventing access to contained leakage, avoiding hazardous charging of batteries when installed in the product, and limiting the surface temperature of accessible electrical components to 160 °F (71 °C) or less at any time while in ordinary use;

Strangulation risk posed by tethered straps that are exposed below a product, by adding tethered straps accessibility requirements;

Mechanical injury risks associated with product design, by adding drop test requirements from part 1229 to ensure product durability;

Warning and literature requirements to emphasize that rockers are not intended for sleep and that soft bedding is not to be used in rockers, and to ensure that on-product labels are prominently placed and conspicuous to the consumer.

B. Certification

Section 14 of the CPSA establishes requirements for product certification and testing. Products subject to a consumer product safety rule under the

CPSA, or to a similar rule, ban, standard, or regulation under any other act enforced by the Commission, must be certified as complying with all applicable CPSC-enforced requirements. 15 U.S.C. 2063(a). Certification of children's products subject to a children's product safety rule must be based on testing conducted by a CPSC-accepted third party conformity assessment body. 15 U.S.C. 2063(a)(2). The Commission must publish a notice of requirements (NOR) for the accreditation of third-party conformity assessment bodies to assess conformity with a children's product safety rule to which a children's product is subject. 15 U.S.C. 2063(a)(3). The proposed rule for 16 CFR part 1240, *Safety Standard for Infant and Infant/Toddler Rockers*, if issued as a final rule, would be a children's product safety rule that requires the issuance of an NOR.

16 CFR part 1112 establishes requirements for accreditation of third-party conformity assessment bodies to test for conformity with a children's product safety rule in accordance with section 14(a)(2) of the CPSA. Part 1112 also codifies all of the NORs issued previously by the Commission. To meet the requirement that the Commission issue an NOR for the rocker standard, the Commission proposes as part of the NPR to add rockers to the list of children's product safety rules for which CPSC has issued an NOR.

Testing laboratories applying for acceptance as a CPSC-accepted third party conformity assessment body to test to the new standard for rockers would be required to meet the third-party conformity assessment body accreditation requirements in part 1112. When a laboratory meets the requirements as a CPSC-accepted third party conformity assessment body, the laboratory can apply to CPSC to have 16 CFR part 1240, *Safety Standard for Infant and Infant/Toddler Rockers*, included within the laboratory's scope of accreditation of CPSC safety rules listed for the laboratory on the CPSC website at: <https://www.cpsc.gov/cgi-bin/labsearch/>.

C. Product Registration

In addition to requiring the Commission to issue safety standards for durable infant or toddler products, section 104 of the CPSIA directs the Commission to issue a rule requiring that manufacturers of durable infant or toddler products establish a program for consumer registration of those products. 15 U.S.C. 2056a(d).

Section 104(f) of the CPSIA defines the term "durable infant or toddler product" as "a durable product

intended for use, or that may be reasonably expected to be used, by children under the age of 5 years," and lists 12 product categories. 15 U.S.C. 2056a(f). The product categories listed in section 104(f)(2) of the CPSIA—which do not include rockers—represent a non-exhaustive list of durable infant or toddler product categories. 74 FR 68668, 68669 (Dec. 29, 2009).

As the CPSIA directs, CPSC's consumer registration rule at 16 CFR part 1130 requires each manufacturer of a durable infant or toddler product to provide a postage-paid consumer registration form with each product; keep records of consumers who register their products with the manufacturer; and permanently place the manufacturer's name and certain other identifying information on the product. The Commission here proposes to amend part 1130 to include "Infant and Infant/Toddler Rockers," as defined in ASTM F3084–22 with modifications, as durable infant or toddler products because they are: (1) intended for use, and may be reasonably expected to be used, by children under the age of 5 years; (2) similar to the other seated products listed in section 104(f)(2) of the CPSIA, such as swings, booster chairs, and activity centers; and (3) durable, as reflected by the fact that they are commonly available for resale or "handed down" for use by other children.

VI. Incorporation by Reference

The Commission proposes incorporating ASTM F3084–22 by reference, with modifications to further reduce the risk of injury associated with rockers. The Office of the Federal Register (OFR) has regulations concerning incorporation by reference. 16 CFR part 51. For a proposed rule, agencies must discuss in the preamble of the NPR ways that the materials the agency proposes to incorporate by reference are reasonably available to interested persons or how the agency worked to make the materials reasonably available. In addition, the preamble of the proposed rule must summarize the material. 16 CFR 51.5(a).

In accordance with the OFR's requirements, section IV.B of the preamble summarizes the provisions of ASTM F3084–22 that the Commission proposes to incorporate by reference. ASTM F3084–22 is copyrighted. By permission of ASTM, the standard can be viewed as a read-only document during the comment period of the NPR, at: <https://www.astm.org/cpsc.htm>. To download or print the standard, interested persons may purchase a copy

¹⁵ Mannen, E.M., Siegel, D., Goldrod, S., Bossart, A., Lujan, T.J., Wilson, C., Whitaker, B., Carrol, J. (2023). *Seated Products Characterization and Testing*. Report available at <https://www.cpsc.gov/content/Report-Boise-State-Universitys-Seated-Products-Characterization-and-Testing>. (BSU Report).

of ASTM F3084–22 from ASTM, through its website (<https://www.astm.org>), or by mail from ASTM International, 100 Bar Harbor Drive, P.O. Box 0700, West Conshohocken, PA 19428. Alternatively, interested parties may inspect a copy of the standard at CPSC's Office of the Secretary by contacting Alberta E. Mills, Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: 301–504–7479; email: cpsc-os@cpsc.gov.

VII. Effective Date

The Administrative Procedure Act (APA) generally requires that the effective date of a rule be at least 30 days after publication of the final rule. 5 U.S.C. 553(d). The Commission proposes a 180-day effective date for this rule. The rule would apply to all rockers manufactured after the effective date. 15 U.S.C. 2058(g)(1). This amount of time is typical for other CPSIA section 104 rules.¹⁶ Six months is also the period that the Juvenile Products Manufacturers Association (JPMA) typically allows for products in their certification program to shift to a new standard once that new standard is published. Therefore, juvenile product manufacturers are accustomed to adjusting to new standards within this timeframe. Given that the proposed rule largely uses test equipment that is already utilized to test rockers to ASTM F3084–22 for JPMA's program, and that any additional required test equipment is either already utilized for other regulated products (such as infant bouncer seats) or can easily be procured or produced by a testing laboratory, the Commission believes that additional time is unnecessary for the production or procurement of new test equipment. The Commission invites comments, particularly from small businesses, regarding the amount of time needed to come into compliance with a final rule.

VIII. Regulatory Flexibility Act (RFA)

The RFA requires that agencies review a proposed rule for its potential economic impact on small entities, including small businesses. Section 603 of the RFA generally requires that agencies prepare an initial regulatory flexibility analysis (IRFA) and make the analysis available to the public for comment when the agency publishes an NPR. 5 U.S.C. 603. The IRFA must describe the impact of the proposed rule on small entities and identify significant alternatives that accomplish the

statutory objectives and minimize any significant economic impact of the proposed rule on small entities. CPSC staff has addressed these issues in Tab F of Staff's NPR Briefing Package, and they are presented briefly below.

A. Agency Action, NPR Objectives, Product Description, and Market Description

Section I of the preamble explains why CPSC is considering issuing a mandatory rule for rockers and provides a statement of the objectives of, and legal basis for, the proposed rule. Section II of the preamble describes the types of products within the scope of the NPR, the market for rockers, and the use of rockers in the U.S.

The requirements in the NPR are more stringent than the ASTM voluntary standard for rockers. Relatively few rockers for sale in the U.S. are marketed as ASTM-compliant. Only two out of approximately 50 current suppliers to the U.S. market are members of the JPMA certification testing program for rockers, which provides third party testing for compliance with CPSC and ASTM standards. JPMA currently has four member companies that are certified specifically for rockers, two of which do not currently have a rocker for sale in the U.S. See Tab F of Staff's NPR Briefing Package.

B. Small Entities to Which the NPR Would Apply

Of the 13 U.S. manufacturers and importers of rockers that currently supply the U.S. market, four are small U.S. manufacturers and five are small U.S. importers based on Small Business Administration (SBA) size standards, for a total of nine small U.S. entities to which the NPR would apply. The rest of the suppliers, about 37, are foreign-based manufacturers and direct shippers.

The NPR would not mandate any requirements or have direct economic impact on retailers of any size because products manufactured or imported before the effective date of the final rule could still be sold. Indirect impacts on retailers could occur in the longer term if rockers are removed from the market rather than redesigned to meet the requirements of this standard, or if an increased price of compliant rockers reduces demand.

C. Impact of the Proposed Rule on Small Manufacturers and Importers

The NPR could have a significant impact on nine small U.S. importers and manufacturers whose products may not be consistent with the NPR requirements. CPSC considers one

percent of annual revenue from sales to be a potentially "significant" economic impact.

Most rocker products on the market would require redesign to meet the proposed rule and would need new labeling. The extent of the required modifications would depend on whether the products already meet the ASTM standard for rockers or, for multi-mode products, the similar mandatory standards for bouncer chairs or swings. Manufacturers whose products do not meet the performance requirements in the NPR will need to redesign the products at a cost that CPSC staff estimates to be approximately \$80,000 per model or remove the products from the market.

Staff anticipates that most models would require at least some redesign to meet the requirements of the standard. However, some redesigns could be relatively inexpensive, such as changing the seat angle or modifying the restraints. Products that currently meet all physical performance requirements might only need the new warning sticker or a stamped-on label. Combination products that are compliant with the mandatory bouncer chair standard or the swing standard and have no hanging restraint straps may require minimal redesign or none at all.

Staff estimates the total cost of redesign for the 17 models supplied by U.S. small businesses to be \$1.36 million (17 models × \$80,000), though the cost could be less if some models do not require redesign, or only modest redesign. The cost of redesign could also be spread across multiple models because models from the same manufacturer can be similar in structural design and dimensions with different fabrics or toy bars. Similarly, one model from a foreign manufacturer may be sold by multiple direct shippers and small importers under different brand names. The ongoing cost of compliance after the first year that the rule is in effect is expected to be minimal for materials and labor because the redesigned products would likely use the same types of materials and production methods as current products.

Substitutes for rockers are available, so if the costs of compliance were to raise the price of rockers above the price of what parents perceive as reasonable substitutes, such as swings or bouncer seats, there could be a decline in rocker sales as a result of this rule. However, the impact on suppliers of reduced rocker sales could be offset by an increase in sales of these competing products if sold by the same companies.

¹⁶ See, e.g., Safety Standard for Infant Swings, 87 FR 44,307 (July 26, 2022); Safety Standard for Crib Mattresses, 87 FR 8640 (Feb. 15, 2022).

The impact of the redesign cost could also be reduced if suppliers are able to increase the retail price to cover some or all of the cost without significantly impacting overall demand for rockers.

Based on staff's analysis, additional testing costs beyond what suppliers are already spending to comply with other CPSC standards would be less than \$1,000 per year per model. Testing costs would likely vary depending on where the testing takes place and whether volume discounts apply. If products are sold to a global market, those products would require testing to satisfy both U.S. and foreign standards at the same time, for a bundled test price. Multi-mode products that are already required to demonstrate compliance with the bouncer or swing mandatory standard through third-party testing may experience a smaller incremental cost for testing only the rocker mode. Overall, staff estimates the testing costs for the industry as a whole, including foreign and large businesses supplying the U.S. market, to be \$80,000 per year (80 models × \$1,000 per model for testing).

D. Impact on Testing Labs

No adverse impact on testing laboratories should occur as a result of a final rule for rockers. CPSC estimates the required testing instruments and devices to cost in the range of \$500 to \$1,000. The cost will be on the lower end of this range if the laboratory already has devices such as force gauges, which are common. The 22 labs that are currently accredited to test to the mandatory bouncer standard would likely easily meet the accreditation requirements to test rockers given the similarity of the requirements and test methods. Furthermore, most laboratories are not small businesses. Companies in the lab testing industry include companies with hundreds of locations, including Asia and Europe, and thousands of employees.

E. Alternatives Considered To Reduce the Impact on Small Entities

The Commission considered several alternatives to reduce burden on small entities. Exempting small entities from this rule or parts of this rule would not be consistent with the applicable statutes; the CPSA allows CPSC to provide "small batch" exemptions to testing requirements or alternative requirements for some mandatory safety standards, such as the standard for bicycle helmets (16 CFR part 1203), but the CPSIA section 104 requirements for durable infant or toddler products do not provide for such exemptions. Nevertheless, several alternatives to the

NPR could have a different impact on small businesses. The Commission requests comment on these alternatives or other alternatives that could reduce the potential burden on small entities.

1. Not Establishing a Mandatory Standard

While not establishing a safety standard for rockers would minimize the regulatory impact on small businesses, failing to establish a mandatory standard would fail to reduce injuries and deaths from the known hazards. Establishing a mandatory standard satisfies the mandate in section 104 of the CPSIA requiring the Commission to create mandatory safety standards for all durable infant or toddler products.

2. Only Including Infant Rockers in the Scope

The incident data for rockers, discussed in section III of the preamble, reflect that all of the fatalities and most of the injuries were to children less than one year old. While CPSC could consider excluding from the scope of the rule those rockers that are marketed for use only by children over one year old, this would not significantly reduce the impact on small businesses, as there are very few rockers on the market solely for toddlers. Such limitation in scope also would not effectively address the hazards because rockers marketed for older children foreseeably could still be used for infants. Further, the incident data reflects some non-fatal injuries to children over one year old.

3. Incorporating ASTM F3084–22 Without Modifications

The Commission considered proposing to incorporate by reference ASTM F3084–22, without any modifications. While this would reduce the impact on two U.S. small businesses that claim to be compliant with the ASTM standard, the overall impact on U.S. small businesses, as compared to the Commission's proposed rule, would not be significant. Further, as discussed above, ASTM F3084–22 does not adequately address the suffocation and fall hazards rockers present.

4. A Different Effective Date of the Requirements

An effective date earlier than 180 days after publication could provide the benefits of the NPR more quickly but would increase the burden on small businesses by requiring them to more quickly redesign and test products. An earlier effective date could result in temporary shortages of rockers because the testing labs would need to receive

accreditation before they could test for compliance to the new performance requirements. A later effective date could reduce impact on small businesses but would delay addressing the known hazards, including life-threatening risks.

IX. Environmental Consideration

The Commission's regulations address whether the agency is required to prepare an environmental assessment or an environmental impact statement. Under these regulations, certain categories of CPSC actions normally have "little or no potential for affecting the human environment," and therefore do not require an environmental assessment or an environmental impact statement. Safety standards providing requirements for products come under this categorical exclusion. 16 CFR 1021.5(c)(1). The NPR falls within the categorical exclusion.

X. Paperwork Reduction Act

This proposed rule for infant rockers contains information collection requirements that are subject to public comment and review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). In this document, pursuant to 44 U.S.C. 3507(a)(1)(D), we set forth:

- a title for the collection of information;
- a summary of the collection of information;
- a brief description of the need for the information and the proposed use of the information;
- a description of the likely respondents and proposed frequency of response to the collection of information;
- an estimate of the burden that shall result from the collection of information; and
- notice that comments may be submitted to the OMB.

Title: Safety Standard for Infant and Infant/Toddler Rockers.

Description: The proposed rule would require each rocker within the scope of the rule to comply with ASTM F3084–22, *Standard Consumer Safety Specification for Infant and Infant/Toddler Rockers*, modified by the proposed additional requirements summarized in the preamble. Sections 8 and 9 of ASTM F3084–22 contain requirements for marking, labeling, and instructional literature. These requirements fall within the definition of "collection of information," as defined in 44 U.S.C. 3502(3).

Description of Respondents: Persons who manufacture or import rockers.

Estimated Burden: We estimate the burden of this collection of information as follows:

TABLE 4—ESTIMATED ANNUAL REPORTING BURDEN

16 CFR section	Number of respondents	Frequency of responses	Total annual responses	Hours per response	Total burden hours
1240	50	1.6	80	1	80

Our estimate is based on the following:

ASTM F3084–22 requires that the name and the place of business (city, state, and mailing address, including zip code) or telephone number of the manufacturer, distributor, or seller be marked clearly and legibly on each product and its retail package. It also requires a code mark or other means that identifies the date (month and year, as a minimum) of manufacture.

An estimated 13 U.S. firms supply rockers to the domestic market, as well as seven foreign manufacturers and about 30 foreign direct shippers, for a total of about 50 suppliers. We estimate the time required to respond to the collection is about one hour per model. Approximately 80 models of rockers were available for sale on the U.S. market as of March 2023. Therefore, each supplier is estimated to respond 1.6 times (80 models/50 suppliers = 1.6 responses). The estimated annual burden associated with the collection is 50 respondents × 1.6 responses × 1 hour per response = 80 hours.

CPSC estimates that the hourly compensation for the time required to respond to the collection is \$37.41 (U.S. Bureau of Labor Statistics, “Employer Costs for Employee Compensation,” March 2023, total compensation for all sales and office workers in goods-producing private industries: https://www.bls.gov/news.release/archives/ecec_06162023.pdf). The estimated annual cost to industry associated with the collection accordingly is \$2,993 (\$37.41 per hour × 80 hours = \$2,992.80). No operating, maintenance, or capital costs are associated with the collection.

The NPR requires instructions to be supplied with rockers. Under the OMB’s regulations (5 CFR 1320.3(b)(2)), the time, effort, and financial resources necessary to comply with a collection of information that would be incurred by persons in the “normal course of their activities” are excluded from a burden estimate, where an agency demonstrates that the disclosure activities required to comply are “usual and customary.” Firms that supply rockers to the U.S. market typically provide instructional

literature to consumers. Therefore, we tentatively estimate that no burden hours are associated with supplying instructional literature because any burden associated with supplying instructions would be “usual and customary” and not within the definition of “burden” under the OMB’s regulations.

Based on this analysis, the proposed standard for rockers would impose a burden to industry of 80 hours at a cost of \$2,993 annually.

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), CPSC has submitted the information collection requirements of this rule to the OMB for review. Interested persons are requested to submit comments (see the **ADDRESSES** section at the beginning of this document).

Pursuant to 44 U.S.C. 3506(c)(2)(A), we invite comments on:

- whether the collection of information is necessary for the proper performance of CPSC’s functions, including whether the information will have practical utility;
- the accuracy of CPSC’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- ways to enhance the quality, utility, and clarity of the information to be collected;
- ways to reduce the burden of the collection of information on respondents, including the use of automated collection techniques, when appropriate, and other forms of information technology; and
- the estimated burden hours associated with label modification, including any alternative estimates.

XI. Preemption

Section 26(a) of the CPSA, 15 U.S.C. 2075(a), states that when a consumer product safety standard is in effect and applies to a product, no state or political subdivision of a state may either establish or continue in effect a standard or regulation that prescribes requirements for the performance, composition, contents, design, finish, construction, packaging, or labeling of

such product dealing with the same risk of injury unless the state requirement is identical to the federal standard. Section 26(c) of the CPSA also provides that states or political subdivisions of states may apply to the Commission for an exemption from this preemption under certain circumstances. Section 104(b) of the CPSIA refers to the rules to be issued under that section as “consumer product safety rules.” Therefore, the preemption provision of section 26(a) of the CPSA would apply to a rule issued under section 104.

XII. Request for Comments

The Commission proposes a rule under section 104(b) of the CPSIA to issue a consumer product safety standard for Infant and Infant/Toddler Rockers, to amend part 1112 to add Infant and Infant/Toddler Rockers to the list of children’s product safety rules for which CPSC has issued an NOR, and to amend part 1130 to identify Infant and Infant/Toddler Rockers as a durable infant or toddler product subject to CPSC consumer registration requirements. The Commission requests comments on any aspect of these proposals, including the proposed effective date and the costs of compliance with, and testing to, the proposed *Safety Standard for Infant and Infant/Toddler Rockers*. During the comment period, the ASTM F3084–22, *Standard Consumer Safety Specification for Infant and Infant/Toddler Rockers*, is available as a read-only document at: <https://www.astm.org/cpsc.htm>.

In addition to the areas identified above, the Commission seeks comment on the following matters:

A. What physical design characteristics, not already addressed in this package, would best signal to adults that rockers are unsafe for infant sleep? Should any such characteristics be required for rockers?

B. What benefits, if any, do younger infants (under 4 months) derive from rockers in terms of motor development and visual stimulation? Do the benefits change and/or increase as an infant progresses from early infancy?

C. Should rockers be allowed to be marketed, intended, or designed to accommodate babies that are too young to gain any physical developmental benefit from using them?

D. Would any additional warnings be useful? If so, what messages should be included?

E. The Commission invites comments on staff's recommendation that the warning label specifically address premature infants: "For babies born prematurely, consult a doctor before use." (See discussion at OS-125, page 68 in Tab B of Staff's NPR Briefing Package). Is a warning appropriate for any other groups of infants, for instance, infants under four months of age?

F. Should soothing features, like vibration or calming sounds, be permitted on rockers?

G. Whether the NPR has identified the appropriate firmness test points, or whether any other test points should be included, for example, a third firmness test point in an area of the head space of the product that is most likely to fail the test, comparable to the additional test points proposed in the recent NPR for nursing pillows at 88 FR 65865, 65883 (Sept. 26, 2023)?

H. Whether an anti-stockpiling provision should be included and, if so, whether the Commission should include an anti-stockpiling provision comparable to the one proposed in the recent SNPR for portable generators at 88 FR 24346, 24372 (Apr. 20, 2023)?

I. Should torso angle restrictions be included? If so:

1. Should those restrictions set a maximum angle, under which sleep is appropriately safe?;

2. Should those restrictions set a minimum angle, above which a baby is sitting upright and unlikely to sleep?; or

3. Should those restrictions do both of the above (i.e., should products be permitted to be below X degrees or above Y degrees, but not any of the angles in between X and Y)?

J. The Commission requests comment on whether any rocker (with an incline "greater than 10 degrees") in which infants are likely to fall asleep is safe for infants under 5 months, or for infants under 6 months. And, if such products are not safe, what modifications to the proposed rule—such as, for example, age grading—should be made to ensure that those products are not available for children in that age range?

K. The Commission invites comments on the proposed definitions of infant rocker and infant/toddler rocker.

1. In addition to the staff's recommendations that the definitions include a weight limit, should a minimum age be specified?

2. With respect to product angle, is the specification of "greater than 10 degrees" in the proposed definition adequate to address positional asphyxia risks?

L. According to the June 2023 report from Boise State University, *Seated Products Characterization and Testing*, "Future studies should focus more on the biomechanical differences between younger and older infants within infant products." (p. 173) The Commission requests comments on the biomechanical differences that impact the risks of injury and death associated with infant and infant/toddler rockers, particularly for premature infants and infants under 4 months.

Submit comments in accordance with the instructions in the ADDRESSES section at the beginning of this document.

List of Subjects

16 CFR Part 1112

Administrative practice and procedure, Audit, Consumer protection, Reporting and recordkeeping requirements, Third party conformity assessment body.

16 CFR Part 1130

Administrative practice and procedure, Business and industry, Consumer protection, Reporting and recordkeeping requirements.

16 CFR Part 1240

Consumer protection, Incorporation by reference, Infants and children, Labeling, Law enforcement, Seats, Toys.

For the reasons discussed in the preamble, the Commission proposes to amend Title 16 of the Code of Federal Regulations as follows:

PART 1112—REQUIREMENTS PERTAINING TO THIRD PARTY CONFORMITY ASSESSMENT BODIES

■ 1. The authority citation for part 1112 continues to read as follows:

Authority: Pub. L. 110-314, section 3, 122 Stat. 3016, 3017 (2008); 15 U.S.C. 2063.

■ 2. Amend § 1112.15 by adding paragraph (b)(51) to read as follows:

§ 1112.15 When can a third party conformity assessment body apply for CPSC acceptance for a particular CPSC rule and/or test method?

* * * * * (b) * * *

(51) 16 CFR part 1240, Safety Standard for Infant and Infant/Toddler Rockers.

* * * * *

■ 3. The authority citation for part 1130 continues to read as follows:

Authority: 15 U.S.C. 2056a, 2065(b).

■ 4. Amend § 1130.2 by adding paragraph (a)(20) to read as follows:

PART 1130—REQUIREMENTS FOR CONSUMER REGISTRATION OF DURABLE INFANT OR TODDLER PRODUCTS

§ 1130.2 Definitions.

* * * * *

(a) * * *

(20) Infant and Infant/Toddler Rockers.

* * * * *

■ 5. Add part 1240 to read as follows:

PART 1240—SAFETY STANDARD FOR INFANT AND INFANT/TODDLER ROCKERS

Sec.

1240.1 Scope.

1240.2 Requirements for infant and infant/toddler rockers.

Authority: 15 U.S.C. 2056a.

§ 1240.1 Scope.

This part establishes a consumer product safety standard for Infant and Infant/Toddler Rockers.

§ 1240.2 Requirements for infant and infant/toddler rockers.

(a) Except as provided in paragraph (b) of this section, each infant and infant/toddler rocker must comply with all applicable provisions of ASTM F3084-22, Standard Consumer Safety Specification for Infant and Infant/Toddler Rockers (approved May 1, 2022). The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. This material is available for inspection at the U.S. Consumer Product Safety Commission and at the National Archives and Records Administration (NARA). Contact the U.S. Consumer Product Safety Commission at: the Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, telephone (301) 504-7479, email: cppsc@cppsc.gov. For information on the availability of this material at NARA, email fr.inspection@nara.gov, or go to: www.archives.gov/federal-register/cfr/ibr-locations.html. A free, read-only copy of the standard is available for viewing on the ASTM website at https://www.astm.org/READINGLIBRARY/. You may also obtain a copy from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428-2959; phone: (610) 832-9585; www.astm.org.

(b) Comply with the ASTM F3084–22 standard with the following additions or exclusions:

(1) Instead of complying with section 3.1.6 and 3.1.7 of ASTM F3084–22, comply with the following:

(i) 3.1.6 *infant rocker, n*—a freestanding product intended to support an occupant who has not developed the ability to sit up unassisted, up to 20 lb. (approximately 0 through 6 months of age), in a seated, reclined position greater than 10° and to facilitate rocking by the occupant with the aid of the caregiver or by other means.

(ii) 3.1.7 *infant/toddler rocker, n*—a freestanding product intended to support an occupant in a seated, reclined position greater than 10° and to facilitate rocking by the occupant with the aid of the caregiver or by other means until the occupant is approximately age 2.5 years, up to 40 lb.

(2) In addition to complying with sections 3.1.1 through 3.1.17 of ASTM F3084–22, comply with the following:

(i) 3.1.18 *tethered strap, n*—an exposed strap underneath or behind the occupant support surface with both ends secured to the product (see 6.8).

(ii) 3.1.18.1 *Discussion*—This specifically excludes straps that are loose or hanging from a product that are not intended to be attached to another component according to the manufacturer's instructions.

(iii) 3.1.18.2 *Discussion*—The strap may consist of monofilaments, rope, woven and twisted cord, plastic and textile tapes, or ribbon.

(3) Add section 3.1.19 to ASTM F3084–22:

3.1.19 *rocking, v*—forward and backward motion via a nonstationary base.

(4) Instead of complying with sections 6.3.1 and 6.3.1.1 of ASTM F3084–22, comply with the following:

(i) 6.3.1 *Forward Stability*—The rocker shall not tip over when tested in accordance with 7.4.1. This shall be for all infant rockers and infant/toddler rockers in the infant rocker use, mode, or position.

(ii) 6.3.1.1 *Forward Stability Infant/Toddler Rockers*—If the product is intended for use after the occupant can sit upright unassisted with a manufacturer's recommended weight above 20 lb., the rocker shall not tip over when tested in accordance with 7.4.2.

(5) Add sections 6.8, 6.8.1, and 6.8.2 to ASTM F3084–22:

(i) 6.8 *Tethered Strap Accessibility for Non-Occupants*—Any products that have a tethered strap (see 3.1.18) shall

meet either 6.8.1 or 6.8.2 when tested in accordance with 7.11.

(ii) 6.8.1 A bounded opening formed by tethered strap(s), alone or in conjunction with the product, shall not allow the passage of the small head probe (Figure 2 to paragraph (b)(9)(ix)) when tested in accordance with 7.11.

(iii) 6.8.2 A bounded opening formed by tethered strap(s), alone or in conjunction with the product, shall allow the passage of the large head probe (Figure 3 to Paragraph (b)(9)(xii)), and the tethered strap portion of the bounded opening shall not be greater than 7.4 in. (188 mm) long when tested in accordance with 7.11.

(6) Add section 6.9 to ASTM F3084–22:

6.9 *Drop Test*—The rocker shall not create a hazardous condition as defined in section 5 when tested in accordance with 7.12.

(7) Add sections 6.10, 6.11, and 6.12 to ASTM F3084–22:

(i) 6.10 *Battery Compartments (remote control devices are exempt from these requirements)*:

(ii) 6.10.1 Each battery compartment shall provide a means to contain the electrolytic material in the event of a battery leakage. This containment means shall not be accessible to the occupant.

(iii) 6.10.2 Positive protection from the possibility of charging any primary (non-rechargeable) battery shall be achieved either through physical design of the battery compartment or through the use of appropriate electrical circuit design. This applies to situations in which a battery may be installed incorrectly (reversed), and in which a battery charger may be applied to a product containing primary batteries. This section does not apply to a circuit having one or two batteries as the only source of power.

(iv) 6.10.3 The surfaces of any accessible electrical component, including batteries, shall not achieve temperatures exceeding 160 °F (71 °C) when tested in accordance with 7.13. At the conclusion of the test, there shall be no battery leakage or, explosion or a fire to any electrical component. This test shall be performed prior to conducting any other testing within the performance requirements section.

(v) 6.11 *Firmness*—The surface of the rocker that supports the infants head shall displace less than 11mm (0.43 in.) for a 10N (2.25 lb.) force when tested in accordance with 7.14.

(vi) 6.12 *Concavity*—The radius of surface of the rocker that supports the infant's head shall be greater than 22 cm (8.66 in.) when tested in accordance with 7.15.

(8) Instead of complying with section 7.4.1.6 of ASTM F3084–22, comply with the following:

7.4.1.6 Apply a static load of 21 lbf. (93 N) vertically downward on the stability test fixture in the location designated in Figure 15 to paragraph (b)(17) (6-in. (152.4-mm) in front of the crotch post) within a period of 5 s and maintain for an additional 60 s (Figure 9 to section 7 of ASTM F3084–22). If the stability test fixture touches the test surface and prevents the product from tipping over, retest the product near the edge of an elevated test surface to allow the product to tip.

(9) Add section 7.11 to ASTM F3084–22:

(i) 7.11 *Tethered Strap Accessibility Testing*:

(ii) 7.11.1 Assemble the product in one of the manufacturer's recommended use positions.

(iii) 7.11.2 Adjust any strap underneath or behind the occupant support surface to its full-length configuration. This includes adjusting any sliding buckle and/or other hardware.

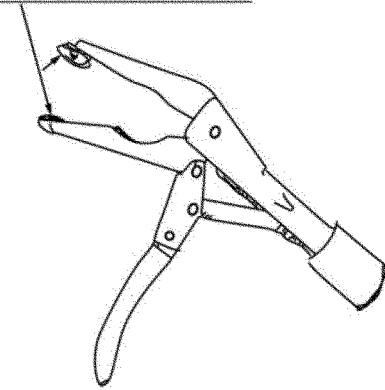
(iv) 7.11.3 For straps that are part of the restraint system, unbuckle the restraint system to allow for the maximum strap length underneath or behind the occupant support surface.

(v) 7.11.4 Where applicable, orient any fasteners, buckles, clips, or other hardware in the position most likely to prevent them from being pulled through any opening.

(vi) 7.11.5 Using a 3/4 in. (19 mm) diameter clamping surface (Figure 1 to paragraph (b)(9)(vi)), gradually pull on the tethered strap from underneath or behind the occupant support surface in the most onerous direction most likely to release the strap through the opening with a force of 5 lbf. (22 N). Apply the force over a period of 5 s and maintain for an additional 10 s or until the strap releases, whichever comes first.

Figure 1 to Paragraph (b)(9)(vi)—A 3/4-in. (19-mm) Diameter Clamp

BRAZE 3/4 in. Dia. PLAIN STL WASHER TO JAW TIPS



Note 1 to Figure 1 to paragraph (b)(9)(vi): Reprinted, with permission, from ASTM F406–22 Standard Consumer Safety Specification for Non-Full-Size Cribs/Play Yards, copyright ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428. A copy of the complete standard may be obtained from ASTM International, www.astm.org.

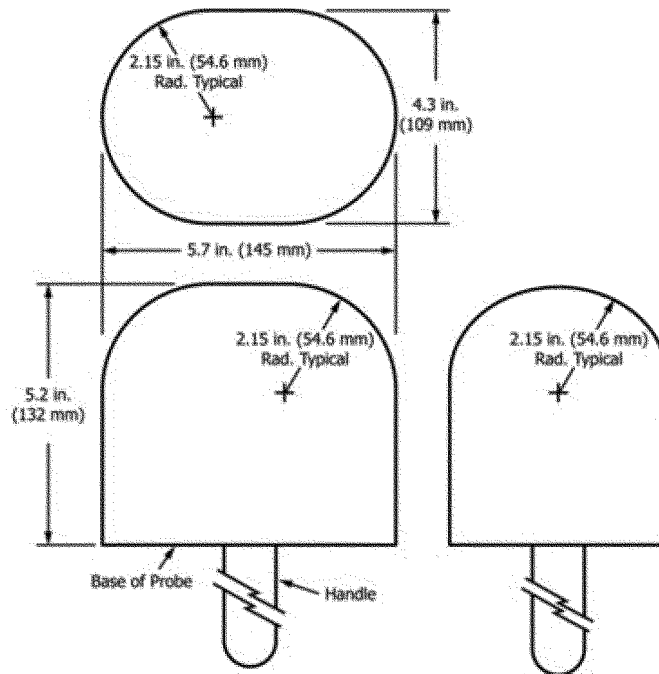
(vii) 7.11.5.1 If during the test procedure in 7.11.5, the strap remains does not release at a force of 5 lbf. (22 N) or less, proceed to 7.11.6.

(viii) 7.11.5.2 If during the test procedure in 7.11.5, the tethered strap releases, replace the strap through the opening into its original test position described in 7.11.3 and 7.11.4. Repeat the force application in 7.11.5 four more times for a total of five times. If the strap

releases during every one of the five individual tests, this strap is exempt from 7.11.6, 7.11.7, and 7.11.8. If the strap remains attached during any of the five force applications, proceed to 7.11.6.

(ix) 7.11.6 Rotate the small head probe (Figure 2 to paragraph (b)(9)(ix)) to the orientation most likely to fail and gradually apply a force of 25 lb. (111 N) in the bounded opening. Apply the force perpendicular to the base of the probe in the direction most likely to fail within a period of 5 s and maintain it for an additional 10 s.

Figure 2 to Paragraph (b)(9)(ix)—Small Head Test Probe



Dimensions are based on a 5th percentile 6-month-old child.

Note 2 to Figure 2 to paragraph (b)(9)(ix): Reprinted, with permission, from ASTM F406–22 Standard Consumer Safety Specification for Non-Full-Size Cribs/Play Yards, copyright ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428. A copy of the complete standard may be obtained from ASTM International, www.astm.org.

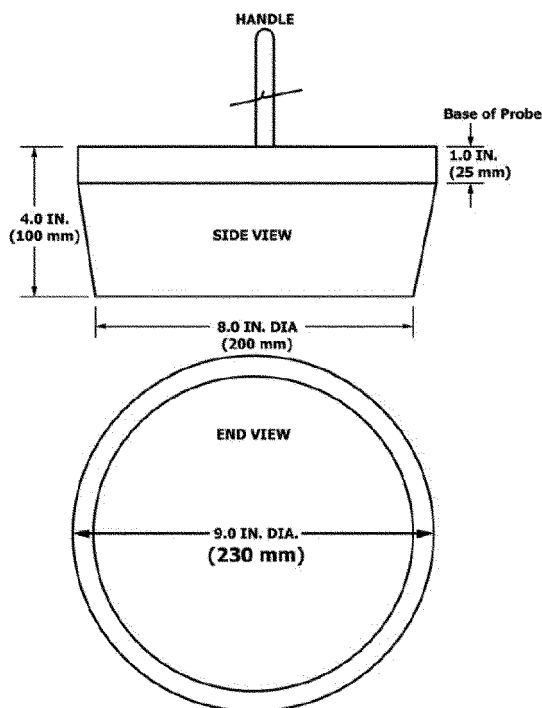
(x) 7.11.6.1 If the small head probe (Figure 2 to paragraph (b)(9)(ix)) cannot pass entirely through the opening in any orientation, this bounded opening passes 6.8.1.

(xi) 7.11.6.2 If the small head probe (Figure 2 to paragraph (b)(9)(ix)) can

pass entirely through the opening in any orientation, proceed to 7.11.7.

(xii) 7.11.7 Determine if the large head probe (Figure 3 to paragraph (b)(9)(xii)) can be freely inserted through the bounded opening.

Figure 3 to Paragraph (b)(9)(xii)—Large Head Test Probe



The 9.0 in. diameter is based on the back-of-head to tip-of-chin dimension for a 97th percentile 3-year-old.

Note 3 to Figure 3 to paragraph (b)(9)(xii): Reprinted, with permission, from ASTM F406–22 Standard Consumer Safety Specification for Non-Full-Size Cribs/Play Yards, copyright ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428. A copy of the complete standard may be obtained from ASTM International, www.astm.org.

(xiii) 7.11.7.1 If the large head probe (Figure 3 to paragraph (b)(9)(xii)) cannot pass entirely through the opening in any orientation, this bounded opening fails 6.8.2.

(xiv) 7.11.7.2 If the large head probe (Figure 3 to paragraph (b)(9)(xii)) can pass entirely through the opening in any orientation, proceed to 7.11.8.

(xv) 7.11.8 Measure the available length of the tethered strap from its two attachment points on the product under a load of 5 lb. (2.27 kg).

(xvi) 7.11.8.1 If the tethered strap is greater than 7.4 in. (188 mm), this tethered strap fails 6.8.2.

(xvii) 7.11.8.2 If the tethered strap is less than or equal to 7.4 in. (188 mm), this tethered strap passes 6.8.2.

(xviii) 7.11.9 Repeat for each bounded opening formed with tethered strap(s), in all manufacturer's recommended use positions.

(10) Add section 7.12 through 7.16 to ASTM F3084–22:

(i) 7.12 *Drop Test:*

(ii) 7.12.1 The rocker shall be dropped from a height of 36 in. (910 mm).

(iii) 7.12.1.1 If the rocker does not fold, drop the rocker once on each of six different planes (top, bottom, front, rear, left side, and right side).

(iv) 7.12.1.2 If the rocker does fold, drop the rocker once on each of six different planes, both in the folded and erect configurations.

(v) 7.13 *Battery Compartment Test*

(vi) 7.13.1 The battery compartment shall be tested using fresh alkaline batteries or an a/c power source. If the function powered by the compartment can be operated using both, then both batteries and a/c power must be tested separately. If another battery chemistry is specifically recommended for use in the rocker by the manufacturer, repeat the test using the batteries specified by the manufacturer. If the rocker will not operate using alkaline batteries, then 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 68 ± 9 °F (20 ± 5 °C).

(vii) 7.13.1.1 Operate the function powered by the battery compartment at the maximum speed or highest intensity. Do not disable any

mechanical or electrical protective device, such as clutches or fuses.

Operate the function powered by the battery compartment continuously, and record peak temperature. The test shall be discontinued 60 min after the peak temperature is recorded. If the function shuts off automatically or must be kept “on” by hand or foot, monitor temperatures for 30 s, resetting the function as many times as necessary to complete the 30 s of operation. If the function shuts off automatically after an operating time of greater than 30 s, continue the test until the function shuts off.

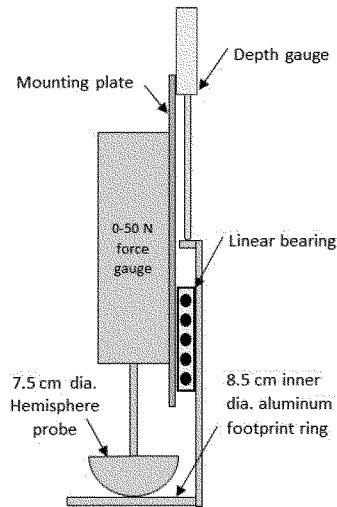
(viii) 7.14 *Firmness Test*

(ix) 7.14.1 *Hand-Held Firmness Test Device:*

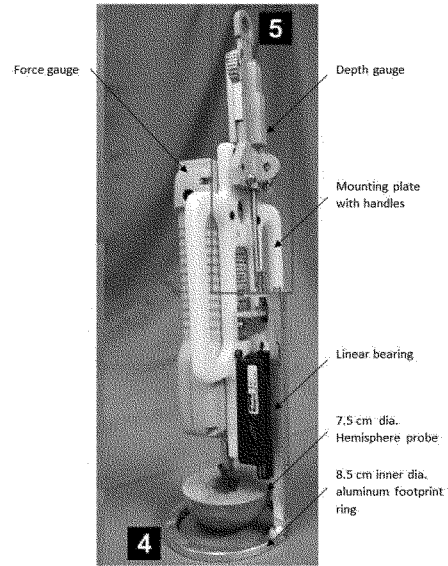
(x) 7.14.1.1 The test device (Figure 4 to paragraph (b)(10)(x)) shall consist of a 7.5 cm (2.95 in.) diameter hemisphere (made of a rigid material such as wood, metal, or plastic) attached to a compression force gauge with a range of 0 to 50 N; $\pm 0.2\%$ accuracy and a depth gauge with sufficient travel to measure displacement of the hemisphere relative to the footprint ring.

BILLING CODE 6355–01–P

Figure 4 to Paragraph (b)(10)(x)—Hand-Held Firmness Test Device



Schematic of the firmness test device



Example of test device using a commercially available force gauge, depth gauge and linear bearing. The hemisphere probe, mounting plate and aluminum footprint ring are fabricated to accommodate gauges.

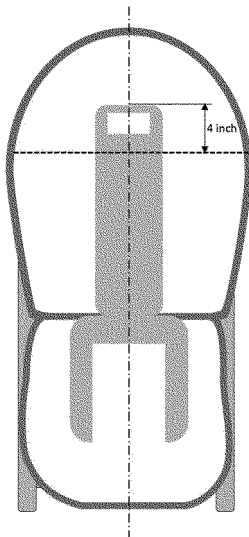
(Fabrication drawings in Appendix B, Handheld Firmness Tester Details in *Seated Product Characterization and Testing report*).

(xi) 7.14.2 *Test Point Location.*

(xii) 7.14.2.1 Place the Hinged Weight Gauge-Infant in the rocker with the hinged edge into the seat bight.

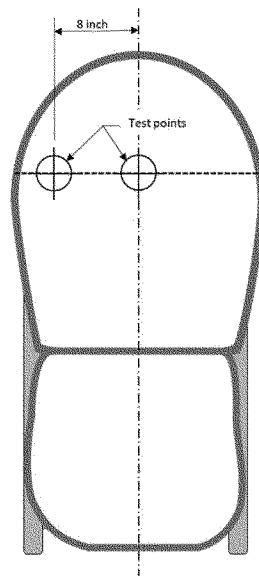
(xiii) 7.14.2.2 Mark a line on the seat back 4 in. (10.2 cm) from the top of the gauge (Figure 5 to paragraph (b)(10)(xiii)).

Figure 5 to Paragraph (b)(10)(xiii)—Location of Head Support Line



(xiv) 7.14.2.3 Remove the hinged weight gauge and mark the test points at the center line and 8 in. (20.3 cm) to the either side of the center line (Figure 6 to paragraph (b)(10)(xiv)).

Figure 6 to Paragraph (b)(10)(xiv)—Test Point Location



(xv) 7.14.3 Position the Hand-Held Test Device (Figure 4 to paragraph

(b)(10)(x) on a test location, with the footprint ring of the fixture centered on the location.

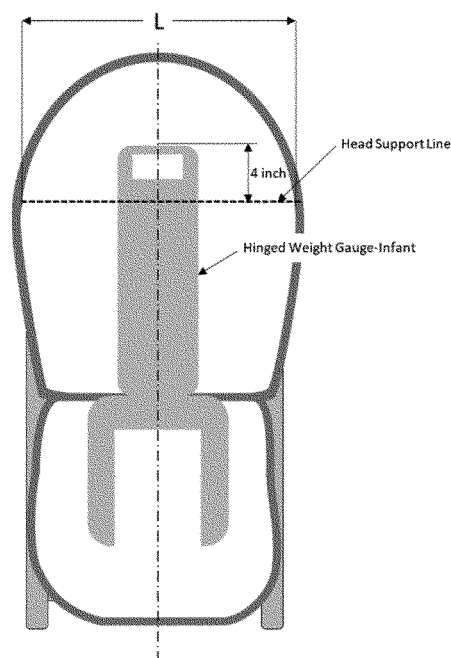
(xvi) 7.14.4 Apply a 10N (2.25 lb.) force for at least 30 seconds and record the peak deflection. The product meets the requirements if the deflection is less than 11 mm (0.43 in.).

(xvii) 7.14.5 Repeat the test on the remaining location.

(xviii) 7.15 Concavity Measurement

(xiv) 7.15.1 Configure the rocker with the Hinged Weight Gauge-Infant installed and locate the head support line as shown in Figure 7 to paragraph (b)(10)(xiv).

**Figure 7 to Paragraph (b)(10)(xiv)—
Width L Measurement**



(xx) 17.15.2 Measure the width L, along the head support line and the interior of the side supports as shown in Figure 7 to paragraph (b)(10)(xiv).

(xxi) 7.15.3 Place a rigid bar between the side support and over the head support line. Measure the maximum vertical distance d, from the bottom of the bar to the hinged weight gauge (Figure 8 to paragraph (b)(10)(xxi)). Calculate the depth D by adding the thickness of the Hinged Weight Gauge-Infant to the vertical distance from the bottom of the bar to the top of the Hinged Weight Gauge-Infant.

**Figure 8 to Paragraph (b)(10)(xxi)—
Depth D = d + Thickness of the Gauge**



(xxii) 7.15.4 Using the equation shown in Figure 9 to this paragraph (b)(10)(xxii), calculate the concavity r by inputting the width L and depth D into the equation below. r values greater than 22 cm (8.66 in.) meet the concavity requirement.

**Figure 9 to Paragraph (b)(10)(xxii)—
Concavity Equation**

$$r = \frac{D}{2} + \frac{L^2}{8D}$$

(The larger the radius, the flatter the product, and vice versa).

(xxiii) 7.16 *Warning Label Visibility Test:*

(xxiv) 7.16.1 Place rocker on the floor.

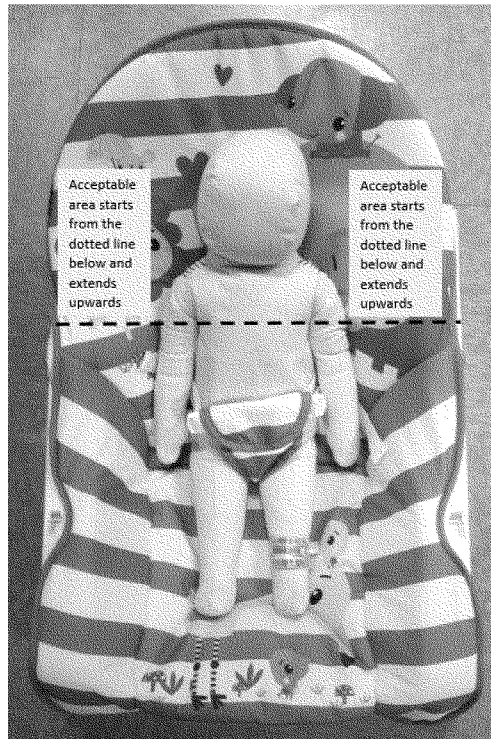
(xxv) 7.16.2 Place and secure the Newborn CAMI dummy (Figure 2 to section 2 of ASTM F3084–22) in the rocker.

(xxvi) 7.16.3 *Visibility Tests with and Without Accessories and Toy Bars:*

(xxvii) 7.16.3.1 *Visibility with CAMI Dummy Restrained in Seat*—Place the CAMI Newborn Dummy in the product with the restraint system engaged according to the manufacturer's instructions. While standing in front of

the product with the Newborn CAMI dummy installed, verify that the required warnings are visible and placed above an imaginary horizontal line that crosses through the junctions of under arm and side of the torso armpits on both left and right sides and not obscured by any part of the dummy (Figure 10 to paragraph (b)(10)(xxvii)).

**Figure 10 to Paragraph (b)(10)(xxvii)—
Allowable Area for Warning Label
Placement Starts From the Dotted Line
That Crosses the Junctions of Underarm
and Both Sides of the Torso**



Note 4 to Figure 10 to paragraph (b)(10)(xxvii): The placement of the warnings is only applicable to the English language portions of the warning label.

(xxviii) 7.16.3.2 *Visibility with Accessories (Excluding Toy Bars)*—Rockers that include any accessory(ies) that could potentially obscure the warnings shall comply with visibility requirements of 7.16 both with such accessory(ies) in place (in all configurations and combinations) and with the accessory(ies) removed.

(xxix) 7.16.3.3 *Visibility with Toy Bar*—If any part of the required

warnings is obscured by a toy bar or its attached toys but is visible with a shift of the observer's head position, then this is considered acceptable.

(11) Remove section 8.6.7, with Figure 14 and Figure 15 in ASTM F3084–22, from ASTM F3084–22.

(12) Add section 8.6.8 to ASTM F3084–22:

8.6.8 *Warning Location*—The applicable warnings as specified in 8.7 shall be on the front surface of the rocker seat back so as to comply with the visibility requirements in 7.16.

(13) Instead of complying with section 8.7.1 of ASTM F3084–22, comply with the following:

Warning Statements—Each product shall have warning statements. The text must address the warnings as shown in Figure 11 to paragraph (b)(13).

Note 5 to paragraphs 13, 14, and 15: “Address” means that verbiage other than what is shown can be used as long as the meaning is the same or information that is product-specific is presented.

Figure 11 to Paragraph (b)(13)

▲ WARNING
<p>SUFFOCATION & ASPHYXIA HAZARD: Using this product for SLEEP, NAPS, or on SOFT SURFACES CAN KILL.</p> <ul style="list-style-type: none"> • NEVER use this product for sleep. • Stay near and watch baby during use. If baby falls asleep, remove baby as soon as possible and place baby on a firm, flat sleep surface such as a bare crib or bassinet. • For babies born prematurely, consult a doctor before use. • ALWAYS use restraints. Adjust to fit snugly. • NEVER use on a bed, sofa, cushion or other soft surface. Babies have suffocated when seats tipped over on soft surfaces. • NEVER add soft bedding or padding. <p>FALL HAZARD: Babies have suffered head injuries FALLING FROM ROCKERS.</p> <ul style="list-style-type: none"> • NEVER lift or carry baby in rocker. [Rockers with a handle(s) intended for use to lift and carry a child are exempt from including this warning statement.] • STOP using product when baby starts trying to sit up or has reached [insert manufacturer's recommended maximum weight, not to exceed 20 lb], whichever comes first. • ALWAYS place rocker on floor. NEVER use on any elevated surface.

(14) Instead of complying with section 8.7.2 of ASTM F3084–22, comply with the following:

Warning Statements—Each product shall have warning statements. The text

must address the warnings as shown in Figure 12 to paragraph (b)(14):

Figure 12 to Paragraph (b)(14)

▲ WARNING
<p>SUFFOCATION & ASPHYXIA HAZARD: Using this product for SLEEP, NAPS, or on SOFT SURFACES CAN KILL.</p> <ul style="list-style-type: none"> • NEVER use this product for sleep. • Stay near and watch baby during use. If baby falls asleep, remove baby as soon as possible and place baby on a firm, flat sleep surface such as a bare crib or bassinet. • For babies born prematurely, consult a doctor before use. • ALWAYS use restraints until child is able to climb in and out of product unassisted. Adjust to fit snugly. • NEVER use on a bed, sofa, cushion or other soft surface. Babies have suffocated when seats tipped over on soft surfaces. • NEVER add soft bedding or padding. <p>FALL HAZARD: Babies have suffered head injuries FALLING FROM ROCKERS.</p> <ul style="list-style-type: none"> • NEVER lift or carry baby in rocker. [Rockers with a handle(s) intended for use to lift and carry a child are exempt from including this warning statement.] • STOP using product when baby has reached [insert manufacturer's recommended maximum weight, not to exceed 40 lb]. • The upright position is only for children who have developed enough upper body control to sit up without tipping forward. • ALWAYS place rocker on floor. NEVER use on any elevated surface.

(15) Instead of complying with section 8.7.3 of ASTM F3084–22, comply with the following:

(i) *Warning Statements*—Each product shall have warning statements.

The text must address the warnings as shown in Figure 13 to paragraph (b)(15)(ii) or Figure 14 to paragraph (b)(15)(ii):

(ii) 8.7.3 *Infant/toddler Rockers with Shoulder Straps as Part of the Restraint System* may use either 8.7.3.1 or 8.7.3.2.

Figure 13 to Paragraph (b)(15)(ii)

▲ WARNING
<p>SUFFOCATION & ASPHYXIA HAZARD: Using this product for SLEEP, NAPS, or on SOFT SURFACES CAN KILL.</p> <ul style="list-style-type: none"> • NEVER use this product for sleep. • Stay near and watch baby during use. If baby falls asleep, remove baby as soon as possible and place baby on a firm, flat sleep surface such as a bare crib or bassinet. • For babies born prematurely, consult a doctor before use. • ALWAYS use restraints. Adjust to fit snugly. • NEVER use on a bed, sofa, cushion or other soft surface. Babies have suffocated when seats tipped over on soft surfaces. • NEVER add soft bedding or padding. <p>FALL HAZARD: Babies have suffered head injuries FALLING FROM ROCKERS.</p> <ul style="list-style-type: none"> • NEVER lift or carry baby in rocker. [Rockers with a handle(s) intended for use to lift and carry a child are exempt from including this warning statement.] • STOP using product when baby has reached [insert manufacturer's recommended maximum weight, not to exceed 40 lb]. • The upright position is only for children who have developed enough upper body control to sit up without tipping forward. • ALWAYS place rocker on floor. NEVER use on any elevated surface.

Figure 14 to Paragraph (b)(15)(ii)

▲ WARNING

SUFFOCATION & ASPHYXIA HAZARD: Using this product for **SLEEP, NAPS,** or on **SOFT SURFACES CAN KILL.**

- **NEVER** use this product for sleep.
- Stay near and watch baby during use. If baby falls asleep, remove baby as soon as possible and place baby on a firm, flat sleep surface such as a bare crib or bassinet.
- For babies born prematurely, consult a doctor before use.
- **ALWAYS** use restraints until child is able to climb in and out of the product unassisted. Adjust to fit snugly.
- **NEVER** use on a bed, sofa, cushion or other soft surface. Babies have suffocated when seats tipped over on soft surfaces.
- **NEVER** add soft bedding or padding.

FALL HAZARD: Babies have suffered head injuries **FALLING FROM ROCKERS.**

- **NEVER** lift or carry baby in rocker. [Rockers with a handle(s) intended for use to lift and carry a child are exempt from including this warning statement.]
- **STOP** using product when baby has reached [insert manufacturer's recommended maximum weight, not to exceed 40 lb].
- The upright position is only for children who have developed enough upper body control to sit up without tipping forward.
- **ALWAYS** place rocker on floor. **NEVER** use on any elevated surface.

(16) In addition to complying with section 8.8 of ASTM F3084–22, comply with the following:

8.8 Manufacturers may present the SUFFOCATION & ASPHYXIA HAZARD and FALL HAZARD warning information on separate labels. If presented separately, both labels shall

still meet the requirements set forth in sections 7.16 and 8.6.

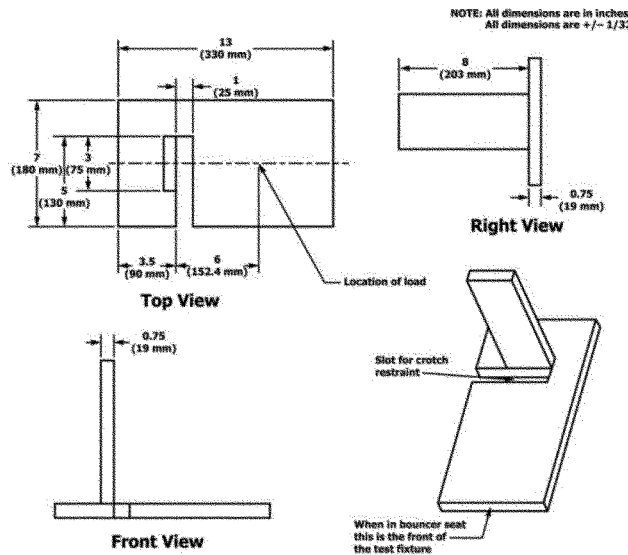
(17) Instead of complying with section X1.2 of ASTM F3084–22, comply with the following:

X1.2 Subsection 6.3.1.1—The forward stability test is required if the rocker is to be used after a child can sit up

unassisted due to incident data showing injuries because of occupants leaning forward between the ages of 6 and 9 months.

(18) Replace Figure 8 in ASTM F3084–22 with the following:

Figure 15 to Paragraph (b)(18)—Forward Stability Test Fixture



Note 6 to Figure 15 to paragraph (b)(18): Reprinted, with permission, from ASTM F2167–22 Standard Consumer Safety Specification for Infant Bouncer Seats, copyright ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428. A copy of the complete standard may be obtained from ASTM International, www.astm.org.

Sarah Bock,

Paralegal Specialist, Consumer Product Safety Commission.

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BILLING CODE 6355–01–C

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2023–0069; FRL–10579–09–OCSPP]

Receipt of a Pesticide Petition Filed for Residues of Pesticide Chemicals in or on Various Commodities; September 2023

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of filing of petition and request for comment.

SUMMARY: This document announces the Agency's receipt of an initial filing of a pesticide petition requesting the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

DATES: Comments must be received on or before November 27, 2023.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2023–0069, through the *Federal eRulemaking Portal* at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting and visiting the docket, along with more information about dockets generally, is available at <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: Charles Smith, Registration Division (RD) (7505T), main telephone number: (202) 566–2427, email address: RDfRNNotices@epa.gov. The mailing address for each contact person is Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is

listed at the end of each application summary.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit CBI to EPA through <https://www.regulations.gov> or email. If you wish to include CBI in your comment, please follow the applicable instructions at <https://www.epa.gov/dockets/commenting-epa-dockets#rules> and clearly mark the part or all of the information that you claim to be CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at <https://www.epa.gov/dockets/comments.html>.

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides

discussed in this document, compared to the general population.

II. What action is the Agency taking?

EPA is announcing receipt of a pesticide petition filed under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, requesting the establishment or modification of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. The Agency is taking public comment on the request before responding to the petitioner. EPA is not proposing any particular action at this time. EPA has determined that the pesticide petition described in this document contains data or information prescribed in FFDCA section 408(d)(2), 21 U.S.C. 346a(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the pesticide petition. After considering the public comments, EPA intends to evaluate whether and what action may be warranted. Additional data may be needed before EPA can make a final determination on this pesticide petition.

Pursuant to 40 CFR 180.7(f), a summary of the petition that is the subject of this document, prepared by the petitioner, is included in a docket EPA has created for this rulemaking. The docket for this petition is available at <https://www.regulations.gov>.

As specified in FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), EPA is publishing notice of the petition so that the public has an opportunity to comment on this request for the establishment or modification of regulations for residues of pesticides in or on food commodities. Further information on the petition may be obtained through the petition summary referenced in this unit.

A. Amended Tolerances for Non-Inerts

1. *PP 3E9061.* EPA–HQ–OPP–2023–0258. Interregional Research Project Number 4 (IR–4), IR–4 Project Headquarters, North Carolina State University, 1730 Varsity Drive, Venture IV, Suite 210, Raleigh, NC 27606, requests to amend 40 CFR 180.629, upon the approval of the requested tolerances, by removing the established tolerances for residues of the fungicide flutriafol, including its metabolites and degradates in or on the following commodities: Brassica, head and stem (subgroup 5A) at 1.5 parts per million (ppm); brassica, leafy greens (subgroup 5B) at 7.0 ppm; cotton, undelinted seed at 0.50 ppm; fruit, pome group 11–09 at 0.40 ppm; fruit stone, group 12–10 at 1.5 ppm; and vegetable, leafy, except