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Ballot Vote Sheet

TO: The Commission
Alberta E. Mills, Secretary

THROUGH: Austin C. Schlick, General Counsel
Jason K. Levine, Executive Director

FROM: Daniel R. Vice, Assistant General Counsel,
Regulatory Affairs
David M. DiMatteo, Attorney, Regulatory Affairs

SUBJECT: Draft Direct Final Rule to Revise 16 C.F.R. Part 1216,
Safety Standard for Infant Walkers

DATE: November 9, 2022

BALLOT VOTE DUE: Wednesday, November 16, 2022

In 2010, the Commission issued a Safety Standard for Infant Walkers (16 CFR part 1216) under section 104 of the Consumer Product Safety Improvement Act of 2008 (CPSIA). That mandatory standard incorporated by reference ASTM F977-07, *Standard Consumer Safety Specification for Infant Walkers*, with modifications to make the standard more stringent. In 2013 the Commission updated the mandatory standard by allowing ASTM F977-12, without modifications, to become the mandatory standard.

ASTM recently revised its standard and notified the Commission of the revised standard (ASTM F977-22e1). Under the CPSIA, when ASTM notifies CPSC that it has revised a voluntary standard for a durable infant or toddler product that the Commission has incorporated by reference, the revised standard automatically becomes the mandatory standard, unless the Commission determines that the revised standard "does not improve the safety of the consumer product" and so notifies the voluntary standards organization.

Staff is forwarding to the Commission a briefing memorandum recommending that the Commission allow ASTM F977-22e1 to become the new mandatory standard for infant walkers and issue a direct final rule to update the incorporation by reference into 16 CFR part 1216. Attached for Commission consideration is a draft *Federal Register* notice for that purpose. If approved by the Commission, the Office of the General Counsel will seek approval of the incorporation by reference from the Office of the Federal Register, in accordance with the requirements in 1 CFR part 51, and upon receiving such approval, will send the notice to the *Federal Register* for publication.

Please indicate your vote on the following options:

**U.S. Consumer Product
Safety Commission**
4330 East-West Highway
Bethesda, MD 20814
cpsc.gov

**National Product Testing
& Evaluation Center**
5 Research Place
Rockville, MD 20850



Ballot Vote Sheet

I. Approve publication of the attached notice in the *Federal Register*, as drafted.

(Signature)

(Date)

II. Approve publication of the attached notice in the *Federal Register*, with the following changes.

(Signature)

(Date)

III. Determine that the proposed revision does not improve the safety of infant walkers, and therefore, do not approve publication of the attached notice in the *Federal Register*.

(Signature)

(Date)

IV. Take other action specified below.

(Signature)

(Date)

Attachment: Draft *Federal Register* notice: Safety Standard for Infant Walkers

DRAFT – November 9, 2022

[Billing Code 6355-01-P]

CONSUMER PRODUCT SAFETY COMMISSION**16 CFR Part 1216****[Docket No. CPSC-2009-0066]****Safety Standard for Infant Walkers****AGENCY:** Consumer Product Safety Commission.**ACTION:** Direct final rule.

SUMMARY: In June 2010, the U.S. Consumer Product Safety Commission (CPSC) published a consumer product safety standard for infant walkers under section 104 of the Consumer Product Safety Improvement Act of 2008 (CPSIA), incorporating by reference the 2007 version of ASTM's voluntary standard for infant walkers that was in effect at the time, with modifications approved by the Commission. ASTM updated its standard for infant walkers in 2012, and CPSC accepted the revised voluntary standard, without any modifications, as the mandatory standard for infant walkers. ASTM has notified CPSC of a 2022 update to the infant walkers voluntary standard. This direct final rule updates the mandatory standard for infant walkers to incorporate by reference ASTM's 2022 version of the voluntary standard.

DATES: The rule is effective on February 25, 2023, unless CPSC receives a significant adverse comment by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If CPSC receives such a comment, it will publish a notice in the *Federal Register*, withdrawing this direct final rule before its effective date. The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of February 25, 2023.

DRAFT – November 9, 2022

ADDRESSES: You can submit comments, identified by Docket No. CPSC-2009-0066, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: www.regulations.gov. Follow the instructions for submitting comments. 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. CPSC typically does not accept comments submitted by electronic mail (e-mail), except as described below.

Mail/hand delivery/courier/confidential Written Submissions: CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal. You may, however, 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.

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: www.regulations.gov. 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 e-mail them to: cpsc-os@cpsc.gov.

Docket: For access to the docket to read background documents or comments received, go to: www.regulations.gov, and insert the docket number, CPSC-2009-0066, into the “Search” box, and follow the prompts.

DRAFT – November 9, 2022

FOR FURTHER INFORMATION CONTACT: Keysha Walker, Compliance Officer, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504-6820; e-mail: KWalker@cpsc.gov.

SUPPLEMENTARY INFORMATION:

A. Background

1. Statutory Authority

Section 104(b)(1) of the CPSIA requires the Commission to assess the effectiveness of voluntary standards for durable infant or toddler products and to adopt mandatory standards for these products. 15 U.S.C. 2056a(b)(1). A mandatory standard must be “substantially the same as” the corresponding voluntary standard, or it may be “more stringent than” the voluntary standard, if the Commission determines that more stringent requirements would further reduce the risk of injury associated with the product. *Id.*

Section 104(b)(4)(B) of the CPSIA specifies the process for updating the Commission’s rules when a voluntary standards organization revises a standard that the Commission previously incorporated by reference under section 104(b)(1). 15 U.S.C. 2056a(b)(4)(B). First, the voluntary standards organization must notify the Commission of the revision. Once the Commission receives this notification, the Commission may reject or accept the revised standard. The Commission may reject the revised standard by notifying the voluntary standards organization, within 90 days of receiving notice of the revision, that it has determined that the revised standard does not improve the safety of the consumer product and that it is retaining the existing standard. If the Commission does not take this action to reject the revised standard, then the revised voluntary standard will be considered a consumer product safety standard issued under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058), effective 180 days after

DRAFT – November 9, 2022

the Commission received notification of the revision or on a later date specified by the Commission in the *Federal Register*. 15 U.S.C. 2056a(b)(4)(B).

2. *Safety Standard for Infant Walkers*

Under section 104(b)(1) of the CPSIA, the Commission adopted a mandatory rule for infant walkers, codified in 16 CFR part 1216. The rule incorporated by reference ASTM F977-07, *Standard Consumer Safety Specification for Infant Walkers*, with numerous modifications. 75 FR 35266 (June 21, 2010). ASTM revised the voluntary standard in 2012, to ASTM F977-12. In June 2013, the Commission accepted the revision to the standard as the mandatory standard for infant walkers, without any modifications, and published a direct final rule to incorporate by reference ASTM F977-12 into 16 CFR part 1216. 78 FR 37706 (June 24, 2013). ASTM revised the voluntary standard in 2018 (ASTM F977-18) and 2022 (ASTM F977-22) without notifying CPSC.

On August 29, 2022, ASTM notified CPSC that it has once more revised the voluntary standard for infant walkers, by approving ASTM F977-22e1 on June 1, 2022. On September 9, 2022, the Commission published a notice of availability in the *Federal Register* regarding the revised voluntary standard and sought comments on the effect of the revisions on the safety of the standard for infant walkers. 87 FR 55413 (Sep. 9, 2022). One comment was submitted by the Juvenile Products Manufacturers Association, expressing support for the revised voluntary standard and asserting that the revision improves safety.

As discussed in section **B. Revisions to ASTM F977**, based on CPSC staff's review of ASTM F977-22e1,¹ the Commission will allow the revised voluntary standard to become the

¹ CPSC staff's briefing package regarding ASTM F977-22e1 is available at: [Insert hyperlink].

DRAFT – November 9, 2022

mandatory standard because it improves the safety of infant walkers.² Accordingly, by operation of law under section 104(b)(4)(B) of the CPSIA, ASTM F977-22e1 will become the mandatory consumer product safety standard for infant walkers on February 25, 2023. 15 U.S.C. 2056a(b)(4)(B). This direct final rule updates 16 CFR part 1216 to incorporate by reference the revised voluntary standard, ASTM F977-22e1.

B. Revisions to ASTM F977

The ASTM standard for infant walkers includes performance requirements, test methods, and requirements for warning labels and instructional literature, to reduce or prevent death or injuries to children (such as cuts and bruises, burns, and skull fractures). ASTM approved a revised version of ASTM F977 on June 15, 2022 and published that ASTM F977-22 revision. In July 2022, however, ASTM made editorial changes and published ASTM F977-22e1 as another revision.³ ASTM notified CPSC of the ASTM F977-22e1 revision on August 29, 2022.

The Commission concludes that ASTM F977-22e1 improves the safety of infant walkers. Because ASTM did not notify CPSC of changes made to the standard in ASTM F977-18 and ASTM F977-22, the Commission is now evaluating the substantive and non-substantive changes made to ASTM F977-12 in the 2018 and 2022 versions of the standard, as carried through in the 2022e1 version.

1. Background Information on Tipping Tests

The ASTM F977 standard includes several tests to evaluate the safety of infant walkers, including among others, the *Tipping Resistance Against an Immovable Object* test, *Occupant Leaning Over Edge/Occupant Leaning Outward Over Edge of Walker* test, and the *Prevention of*

² The Commission voted TBD-TBD.

³ ASTM F977-22 contained editorial errors that ASTM addressed in ASTM F977-22e1 prior to notification to CPSC.

Falls Down Step(s) test. The following discussion explains how these particular tests are performed, as background for the later discussion of ASTM's changes to the standard.

Tipping Resistance Against an Immovable Object (6.1.1/7.3.1)

This test simulates the walker tipping over while the wheels are stopped against an immovable object. It is conducted by chocking, or preventing the wheels of the walker from moving, and pulling the walker with a horizontal force toward the chocks until it tips over. This test is conducted in both the forward and rearward directions.

Occupant Leaning Over Edge (6.1.2)/Occupant Leaning Outward Over Edge of Walker (7.3.4)

This test simulates a child leaning over the edge of the walker, which may cause the walker to tip. It is conducted with a Federal Aviation Administration Civil Aeronautical Medical Institute (CAMI) dummy in both the forward and sideward directions on the floor. This test is also performed after the *Steps Tests* (described below) with a 17-lb force applied on an aluminum angle affixed on top of the walker with the CAMI dummy removed. This ensures the simulated child cannot cause the walker to fall over at the step edge.

Prevention of Falls Down Step(s) (6.3)/Step(s) Tests (7.6)

This multipart test simulates a child traveling in the walker, reaching the edge of the stairs, and potentially falling down the stairs. It is conducted by placing and centering the infant walker on top of the test platform surface in the forward direction a certain distance, *d*, from the edge of the test platform. With a dummy in the seat of the walker, an 8-lb weight is attached to the walker. When this weight is released, the walker accelerates to the specified speed to the edge of the test platform, or edge of the stairs, potentially falling. This test is performed separately in the forward, rearward, and sideward directions.

DRAFT – November 9, 2022

If the walker is stopped on the edge of the test platform by various methods employed by manufacturers, such as friction pads, it is still possible for the child to lean and cause the walker to fall down the stairs. The *Occupant Leaning Outward Over Edge of Walker* test, explained above, evaluates the product's ability to prevent this, and to perform this test, the dummy must be removed. This test is conducted for both forward and sideward directions.

2. *Comparison and Review of ASTM F977-12 to Revisions Contained in ASTM F977-22e1*

a. Revisions in ASTM F977-18

Substantive changes in ASTM F977-18

ASTM F977-18 made no substantive changes to ASTM F977-12.

Non-substantive changes in ASTM F977-18

The following changes to ASTM F977-18 are strictly editorial and do not affect testing or performance requirements.

- Section 1.6, part of the *Scope*, adds “environmental” to the type of appropriate practices to establish for the health and safety of testers. This section reminds testers that they are responsible for establishing appropriate safety, health, and environmental practices prior to and during testing.
- Section 1.7, part of the *Scope*, adds: “This international standard was developed in accordance with internationally recognized principles on standardization established in the Decision on Principles for the Development of International Standards, Guides and Recommendations issued by the World Trade Organization Technical Barriers to Trade (TBT) Committee.”

DRAFT – November 9, 2022

- Section 7.3.2.1, part of the *Tipping Resistance Against an Immovable Object* test, replaces “manufacturers” with “manufacturer’s.”
- Section 7.6.4.1, part of the *Sideward Facing Step Test*, replaces “most sideward wheel(s)” with “wheel(s) closest,” for the *Prevention of Falls Down Steps* test, clarifying that the distance from the edge of the test platform to the center of the wheels should be measured to the wheels closest to the edge of the test platform. This is not a substantive change, but it improves the rigor of testing to the extent it prevents misapplication.
- Section X1.9, *Rationale*, was added to document the basis for the *Occupant Leaning Outward Over Edge of Walker* test and the mathematical calculations underlying it. There was no change to testing, nor to performance requirements.

b. Revisions in ASTM F977-22

Substantive changes in ASTM F977-22

ASTM F977-22 made the following substantive changes to ASTM F977-18.

Section 7.6.1.8, part of *Test Platform Specifications*, and Section 7.6.3.2, part of the *Forward Facing Step Test*, were revised to require the CAMI Infant Dummy Mark II to be secured to the front of the occupant seating area (tray) during the Forward-Facing Step Test. Prior to this change, the dummy could be unsecured. The original wording of Section 7.6.1.8 stated “may be secured,” and was changed to “shall be secured.” Section 7.6.3.2 was modified to include “Secure the dummy so that the front of the dummy’s torso remains in contact with the front of the occupant seating area during the test.”

The *Forward-Facing Step Test* is conducted to determine whether the infant walker can prevent a child from falling downstairs by stopping itself. The Commission concludes that this change improves the safety of infant walkers because the weight of the CAMI dummy is placed

DRAFT – November 9, 2022

further forward, moving the center of gravity of the dummy closer to the edge of the test platform, creating a more hazardous scenario for the test. This results in a more stringent test, and the change from “may” to “shall” also ensures consistency during testing, by specifying the dummy location for testing.

Section 7.6.4.2, part of the *Sideward Facing Step Test*, was changed to require the CAMI Infant Dummy Mark II to be secured to the side of the occupant seating area during the Sideward Facing Step Test. Prior to this change, securing the dummy was optional. Similar to the Forward-Facing Step Test, the Sideward-Facing Step Test is conducted to determine whether the infant walker can prevent a child from falling downstairs by stopping itself by various methods employed by manufacturers, such as friction pads, but in the sideward direction. The Commission concludes that this change improves the safety of infant walkers because the weight of the CAMI dummy is placed further sideward, moving the center of gravity of the dummy closer to the edge of the test platform, making the walker more likely to tip over when the walker leans over the edge of the test platform. This new test is a worst case scenario than if the CAMI was not secured to the side of the occupant seating area. This results in a more stringent test, and the change from “may” to “shall” also ensures consistency during testing, by specifying the dummy location for testing.

Section 7.6.5.2, part of the *Rearward-Facing Step Test*, now requires the CAMI Infant Dummy Mark II to be secured to the back of the occupant seating area during the Rearward-Facing Step Test. Prior to this change, securing the dummy was optional. Similar to the *Forward-Facing Step Test*, the *Rearward-Facing Step Test* is conducted to determine whether the infant walker can prevent a child from falling downstairs by stopping itself by various methods employed by manufacturers, such as friction pads, but in the rearward direction. The

DRAFT – November 9, 2022

Commission concludes that this change improves the safety of infant walkers because the weight of the CAMI dummy is placed more rearward, moving the center of gravity of the dummy closer to the edge of the test platform, making it more likely that the walker tips over when the walker leans over the edge of the test platform. This results in a more stringent test, and the change from “may” to “shall” also ensures consistency during testing, by specifying the dummy location for testing.

Non-substantive changes in ASTM F977-22

Numerous non-substantive changes were made to ASTM F977-22, such as edits for clarity and consistency. These changes do not substantively affect the testing or performance requirements. Examples include:

- Sections 4.4, 4.6.1, 4.6.2, 7.1.1.2, 7.1.1.3, 7.1.2.2, 7.1.2.4, 7.3.4.2, 7.6.5.3, and 7.7.1 all add units of measurement in the proper grammatical form. For instance, 73 ± 9 °F, was rewritten to 73 °F \pm 9 °F.
- Section 7.3.2.1, part of the *Forward Tip-Resistance test*, uncapitalizes “Dummy’s,” replacing it with “dummy’s.”
- Sections 7.3.2.3 – 7.3.3.5 replace wording in the *Forward- and Rearward Tip-Resistance test* with language from ASTM F404-21, *Standard Consumer Specification for High Chairs*. This new language defines “F₁” as the pretensioned force of 3 lb and adds “While maintaining the force, establish the initial location of a reference point some distance away from the force gauge.” This pretensioned force helps the tester identify the reference point at which to start measuring the distance traveled when the horizontal force is applied to tip the walker.

- In Table 1, *Summary of Step(s) Tests*, the significant figures for the specified weight of the CAMI dummy are corrected to specify the actual weight of 17.4 lbs instead of 17 lbs.
- Section 7.6.3.1, part of the *Forward-Facing Step Test*, adds a non-mandatory note: “To position the swivel wheels in the direction of movement, the walker should be positioned approximately 3 in. from the calculated release distance then moved parallel to Plane A until reaching the release point.” This guidance allows for better test consistency and better ensures the wheels are aligned to the direction of travel for the most onerous configuration, as opposed to manually rotating the wheels.

Section 7.6.3.2, part of the *Forward-Facing Step Test*, adds the following notes: “When positioning the dummy in the seat, a length of military rope, as specified in Fig. 10, should be used to pull the front of the dummy’s torso in contact with the front of the occupant seating area. The military rope must not restrain movement of the dummy’s head per 7.6.1.2.” and “To hold the walker stationary, a mechanical device such as an archery bow release may be used to anchor the walker until it is released per 7.6.3.4.” Specifying the rope used for this test results in consistent test results. No instructions for securing the dummy existed prior to the ASTM F977-22 revision because securing the dummy was not required. The second change provides a means to secure the walker while it is being positioned for the test, although other methods could be used.

c. Revisions in ASTM F977-22e1

Substantive changes in ASTM F977-22e1

No substantive changes were made in ASTM F977-22e1.

DRAFT – November 9, 2022

Non-substantive changes in ASTM F977-22e1

The following changes to ASTM F977-22e1 are editorial and do not affect testing or performance requirements.

- Section 7.6.3.2 Note 8 changes the incorrectly referenced section of 7.6.1.2 to section 7.6.1.8.
- Section 7.6.4.2 Note 12 changes the incorrectly referenced section of 7.6.1.2 to section 7.6.1.8.
- Section 7.6.5.2 Note 16 changes the incorrectly referenced section 7.6.1.2 to section 7.6.1.8.
- Section 7.6.5.3 Note 17 changes the incorrectly referenced sections 7.6.3.4 and 7.6.4.4 to section 7.6.5.4.

3. Commission's Assessment of the Revised Standard

The Commission concludes that the revisions to ASTM F977-12 that were made by ASTM F977-18, ASTM F977-22, and ASTM F977-22e1 improve the safety of infant walkers. Pursuant to the statute, the Commission will allow the revised voluntary standard, ASTM F977-22e1, to become the mandatory consumer product safety standard for infant walkers. This rule will update the incorporation by reference in 16 CFR part 1216 to reference ASTM F977-22e1 as the mandatory standard for infant walkers

C. Incorporation by Reference

Section 1216.2 of the direct final rule incorporates by reference ASTM F977-22e1. The Office of the Federal Register (OFR) has regulations regarding incorporation by reference. 16 CFR part 51. Under these regulations, agencies must discuss, in the preamble to a final rule, ways in which the material the agency incorporates by reference is reasonably available to

DRAFT – November 9, 2022

interested parties, and how interested parties can obtain the material. In addition, the preamble to the final rule must summarize the material. 1 CFR 51.5(b).

In accordance with the OFR regulations, section **B. Revisions to ASTM F977** of this preamble summarizes the major provisions of ASTM F977-22e1 that the Commission incorporates by reference into 16 CFR part 1216. The standard is reasonably available to interested parties. Until the direct final rule takes effect, a read-only copy of ASTM F977-22e1 is available for viewing, at no cost, on ASTM's website at: www.astm.org/CPSC.htm. Once the rule takes effect, a read-only copy of the standard will be available for viewing, at no cost, on the ASTM website at: www.astm.org/READINGLIBRARY/. Interested parties can also schedule an appointment to inspect a copy of the standard at CPSC's Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone: (301) 504-7479; e-mail: cpsc-os@cpsc.gov. Interested parties can purchase a copy of ASTM F977-22e1 from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428-2959 USA; telephone: (610) 832-9585; www.astm.org.

D. Certification

Section 14(a) of the Consumer Product Safety Act (CPSA; 15 U.S.C. 2051-2089) requires manufacturers of 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, to certify that the products comply with all applicable CPSC requirements. 15 U.S.C. 2063(a). Such certification must be based on a test of each product, or on a reasonable testing program, or for children's products, on tests of a sufficient number of samples by a third party conformity assessment body accredited by CPSC to test according to the applicable requirements. As noted, standards issued under section 104(b)(1)(B) of the CPSIA are "consumer product safety

DRAFT – November 9, 2022

standards.” Thus, they are subject to the testing and certification requirements of section 14 of the CPSA.

Because infant walkers are children’s products, a CPSC-accepted third party conformity assessment body must test samples of the products. Products subject to part 1216 also must comply with all other applicable CPSC requirements, such as the lead content requirements in section 101 of the CPSIA,⁴ the tracking label requirements in section 14(a)(5) of the CPSA,⁵ and the consumer registration form requirements in section 104(d) of the CPSIA.⁶ ASTM F977-22e1 makes no changes to ASTM F977-12 that would impact any of these existing requirements.

E. Notice of Requirements

In accordance with section 14(a)(3)(B)(vi) of the CPSA, the Commission previously published a notice of requirements (NOR) for accreditation of third party conformity assessment bodies for testing infant walkers. 75 FR 35282 (Jun. 21, 2010). The NOR provided the criteria and process for CPSC to accept accreditation of third party conformity assessment bodies for testing infant walkers to 16 CFR part 1216. The NORs for all mandatory standards for durable infant or toddler products are listed in the Commission’s rule, “Requirements Pertaining to Third Party Conformity Assessment Bodies,” codified in 16 CFR part 1112. *Id.*

CPSC-accepted testing laboratories that have ASTM F977-12 in their scope of accreditation are competent to conduct testing to ASTM F977-22e1. None of the changes to the standard would affect a CPSC-accepted laboratory’s ability to conduct testing to the revised standard.

⁴ 15 U.S.C. 1278a.

⁵ 15 U.S.C. 2063(a)(5).

⁶ 15 U.S.C. 2056a(d).

DRAFT – November 9, 2022

The Commission therefore considers the existing CPSC-accepted laboratories for testing to ASTM F977-12 to be capable of testing to ASTM F977-22e1 as well. Accordingly, the existing NOR for this standard will remain in place, and CPSC-accepted third party conformity assessment bodies are expected to update the scope of the testing laboratories' accreditations to reflect the revised standard in the normal course of renewing their accreditations. Thus, laboratories will begin testing to the new standard when ASTM F977-22e1 goes into effect as the mandatory standard, and the existing accreditations that the Commission has accepted for testing to this standard will cover testing to the revised standard.

F. Direct Final Rule Process

The Commission is issuing this rule as a direct final rule. Although the Administrative Procedure Act (APA; 5 U.S.C. 551-559) generally requires agencies to provide notice of a rule and an opportunity for interested parties to comment on it, section 553 of the APA provides an exception when the agency “for good cause finds” that notice and comment are “impracticable, unnecessary, or contrary to the public interest.” *Id.* 553(b)(B). The Commission concludes that when it updates a reference to an ASTM standard that the Commission incorporated by reference under section 104(b) of the CPSIA, notice and comment are not necessary.

Specifically, under the process set out in section 104(b)(4)(B) of the CPSIA, when ASTM revises a standard that the Commission has previously incorporated by reference under section 104(b)(1)(B) of the CPSIA, that revision will become the new CPSC standard, unless the Commission determines that ASTM's revision does not improve the safety of the product. Thus, unless the Commission makes such a determination, the ASTM revision becomes CPSC's standard by operation of law. The Commission is allowing ASTM F977-22e1 to become CPSC's new standard because its provisions improve product safety. The purpose of this direct

DRAFT – November 9, 2022

final rule is to update the Code of Federal Regulations (CFR) so that it reflects the version of the standard that takes effect by statute. This rule updates the reference in the CFR, but under the terms of the CPSIA, ASTM F977-22e1 takes effect as the new CPSC standard for infant walkers even if the Commission does not issue this rule. Thus, public comments would not alter substantive changes to the standard or the effect of the revised standard as a consumer product safety standard under section 104(b) of the CPSIA. Under these circumstances, notice and comment are unnecessary.

In Recommendation 95-4, the Administrative Conference of the United States (ACUS) endorses direct final rulemaking as an appropriate procedure to expedite rules that are noncontroversial and not expected to generate significant adverse comments. *See* 60 FR 43108 (Aug. 18, 1995). ACUS recommends that agencies use the direct final rule process when they act under the “unnecessary” prong of the good cause exemption in 5 U.S.C. 553(b)(B). Consistent with the ACUS recommendation, the Commission is publishing this rule as a direct final rule, because CPSC does not expect any significant adverse comments.

Unless CPSC receives a significant adverse comment within 30 days of this notification, the rule will become effective on February 25, 2023. In accordance with ACUS’s recommendation, the Commission considers a significant adverse comment to be “one where the commenter explains why the rule would be inappropriate,” including an assertion challenging “the rule’s underlying premise or approach,” or a claim that the rule “would be ineffective or unacceptable without a change.” 60 FR 43108, 43111 (Aug. 18, 1995). As noted, this rule merely updates a reference in the CFR to reflect a change that occurs by statute, and public comments should address this specific action.

DRAFT – November 9, 2022

If the Commission receives a significant adverse comment, the Commission will withdraw this direct final rule. Depending on the comment and other circumstances, the Commission may then incorporate the adverse comment into a subsequent direct final rule or publish a notice of proposed rulemaking, providing an opportunity for public comment.

G. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA; 5 U.S.C. 601-612) generally requires agencies to review proposed and final rules for their potential economic impact on small entities, including small businesses, and prepare regulatory flexibility analyses. 5 U.S.C. 603, 604. The RFA applies to any rule that is subject to notice and comment procedures under section 553 of the APA. *Id.* As discussed in section **F. Direct Final Rule Process** of this preamble, the Commission has determined that notice and the opportunity to comment are unnecessary for this rule. Therefore, the RFA does not apply. CPSC also notes the limited nature of this document, which merely updates the incorporation by reference to reflect the mandatory CPSC standard that takes effect under section 104 of the CPSIA.

H. Paperwork Reduction Act

The current mandatory standard for infant walkers includes requirements for marking, labeling, and instructional literature that constitute a “collection of information,” as defined in the Paperwork Reduction Act (PRA; 44 U.S.C. 3501-3521). The Commission took the steps required by the PRA for information collections when it promulgated 16 CFR part 1216, and the marking, labeling, and instructional literature for infant walkers are currently approved under Office of Management and Budget (OMB) Control Number 3041-0159. The revisions to the voluntary standard made no changes to that section of the standard. Because the information

DRAFT – November 9, 2022

collection burden is unchanged, the revision does not affect the information collection requirements or approval related to the standard.

I. Effective Date

Under the procedure set forth in section 104(b)(4)(B) of the CPSIA, when a voluntary standards organization revises a standard that the Commission adopted as a mandatory standard, the revision becomes the CPSC standard 180 days after notification to the Commission, unless the Commission timely notifies the standards organization that it has determined that the revision does not improve the safety of the product, or the Commission sets a later date in the *Federal Register*. 15 U.S.C. 2056a(b)(4)(B). The Commission is taking neither of those actions with respect to the standard for infant walkers. Therefore, ASTM F977-22e1 will take effect as the new mandatory standard for infant walkers on February 25, 2023, 180 days after August 29, 2022, when the Commission received notice of the revision. All infant walkers manufactured after February 25, 2023, must comply with this revised standard.

J. Preemption

Section 26(a) of the CPSA provides that where 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 requirement dealing with the same risk of injury unless the state requirement is identical to the federal standard. 15 U.S.C. 2075(a). Section 26(c) of the CPSA also provides that states or political subdivisions of states may apply to CPSC for an exemption from this preemption under certain circumstances. Section 104(b) of the CPSIA deems rules issued under that provision “consumer product safety standards.” Therefore, once a rule issued under section 104 of the CPSIA takes effect, it will preempt in accordance with section 26(a) of the CPSA.

DRAFT – November 9, 2022

K. Environmental Considerations

Commission rules are categorically excluded from any requirement to prepare an environmental assessment or an environmental impact statement where they “have little or no potential for affecting the human environment.” 16 CFR 1021.5(c)(2). This rule falls within the categorical exclusion, so no environmental assessment or environmental impact statement is required.

L. Congressional Review Act

The Congressional Review Act (CRA; 5 U.S.C. 801-808) states that before a rule may take effect, the agency issuing the rule must submit the rule, and certain related information, to each House of Congress and the Comptroller General. 5 U.S.C. 801(a)(1). The CRA submission must indicate whether the rule is a “major rule.” The CRA states that the Office of Information and Regulatory Affairs determines whether a rule qualifies as a “major rule.”

Pursuant to the CRA, OMB’s Office of Information and Regulatory Affairs has determined that this rule does not qualify as a “major rule,” as defined in 5 U.S.C. 804(2). To comply with the CRA, CPSC will submit the required information to each House of Congress and the Comptroller General.

List of Subjects in 16 CFR Part 1216

Consumer protection, Imports, Incorporation by reference, Imports, Infants and children, Law enforcement, Safety, Toys.

For the reasons discussed in the preamble, the Commission amends 16 CFR chapter II as follows:

DRAFT – November 9, 2022

PART 1216 – SAFETY STANDARD FOR INFANT WALKERS

1. Revise the authority citation for part 1216 to read as follows:

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

2. Revise § 1216.2 to read as follows:

§ 1216.2 Requirements for Infant Walkers.

Each infant walker must comply with all applicable provisions of ASTM F977-22e1, *Standard Consumer Safety Specification for Infant Walkers*, approved on June 15, 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. A read-only copy of the standard is available for viewing on the ASTM website at www.astm.org/READINGLIBRARY/. You may obtain a copy from ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428-2959; telephone (610) 832-9585; www.astm.org. You may inspect a copy at the Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone (301) 504-7479, e-mail cpsc-os@cpsc.gov, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, e-mail fr.inspection@nara.gov, or go to: www.archives.gov/federal-register/cfr/ibr-locations.html.

Dated: _____

Alberta E. Mills, Secretary
Consumer Product Safety Commission



Memorandum

TO: The Commission
Alberta E. Mills, Secretary

DATE: November 9, 2022

THROUGH: Austin C. Schlick, General Counsel
Jason K. Levine, Executive Director

FROM: Duane E. Boniface, Assistant Executive Director
Office of Hazard Identification and Reduction

Benjamin Mordecai, Project Manager
Division of Mechanical Engineering
Directorate for Laboratory Sciences

SUBJECT: Consumer Product Safety Improvement Act of 2008 (CPSIA), as revised by Pub. L. No. 112-28, Notice of Revision to the Safety Standard for Infant Walkers (16 CFR part 1216)

I. INTRODUCTION

On June 21, 2010, the Consumer Product Safety Commission (the Commission, CPSC) published a final rule issuing a mandatory standard for infant walkers that incorporated by reference ASTM F977-07, *Standard Consumer Safety Specification for Infant Walkers*, with 22 modifications to make the standard more stringent, 75 Fed. Reg. 35266 (June 21, 2010). The final rule is codified in 16 CFR part 1216. The standard minimizes the risk of injury or death associated with children in walkers falling downstairs, tipping over, or accessing hot surfaces or liquids.

On April 10, 2013, ASTM International (ASTM) notified the CPSC that, in 2012, it had published a revised version of ASTM F977 that contained changes that closely matched the modifications included in 16 CFR part 1216. The Commission allowed the revision to become the new mandatory standard without any modifications and updated the incorporation by reference to ASTM F977-12 in a direct final rule (78 FR 37706). ASTM updated the voluntary standard again in August 2018; however, ASTM did not notify the CPSC of the ASTM F977-18 revision.

On August 29, 2022, ASTM notified the CPSC that it had again published a revised version of ASTM F977. The revised standard of which CPSC received notice is ASTM F977-22e1, which

ASTM approved on June 15, 2022, and published July 2022.¹ Unless the Commission specifies a later date in the *Federal Register* or notifies ASTM by November 27, 2022, that CPSC has determined that the revision does not improve safety, the revised standard will take effect as the new mandatory standard on February 25, 2023. See 15 U.S.C. 2056a(b)(4)(B).

Public Comment

On September 9, 2022, the Commission published in the *Federal Register* a Notice of Availability requesting public comments on whether the latest revision to ASTM F977 improves the safety of infant walkers (87 FR 55413). Public comment closed on September 23, 2022. CPSC received one comment from the Juvenile Products Manufacturers Association (JPMA). The comment supported the revised standard and asserts that the revision improves safety.

This memorandum outlines the differences between 16 CFR part 1216, which incorporates ASTM F977-12, and the revisions in ASTM F977-18, ASTM F977-22 and ASTM F977-22e1, as they are collectively reflected in ASTM F977-22e1. Based on staff's evaluation of the revisions to the voluntary standard, staff recommends that the Commission allow ASTM F977-22e1 to be considered the new consumer product safety standard for infant walkers. Additionally, staff recommends that the Commission issue a direct final rule to update the incorporation by reference in part 1216 to reflect that ASTM F977-22e1 will become the new mandatory standard.

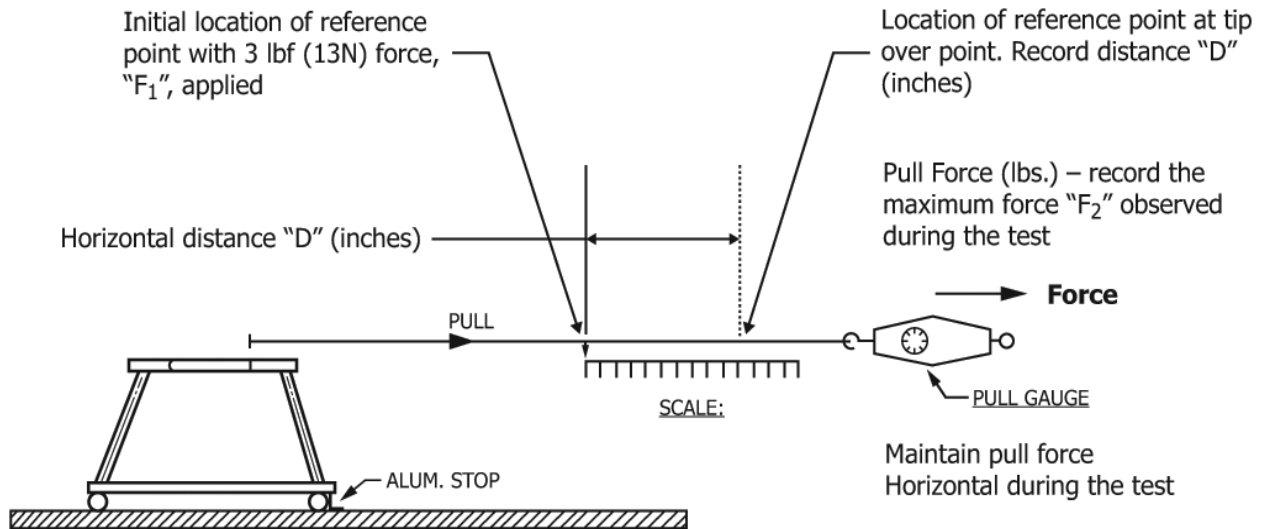
II. DISCUSSION

The ASTM F977 standard includes several performance requirements aimed at reducing or preventing death or injuries to children (such as cuts and bruises, burns, and skull fractures). As compared to 16 CFR part 1216 and ASTM F977-12, the revisions in ASTM F977-18, ASTM F977-22 and ASTM F977-22e1 collectively implicate three of these performance requirements. This section explains how the *Tipping Against an Immovable Object* test, *Occupant Leaning Outward Over Edge of Walker* test, and *Tipping Against an Immovable Object* test are performed, as background for the following discussion of ASTM's changes.

Tipping Resistance Against an Immovable Object (6.1.1/7.3.1)

This test simulates the walker tipping over while the wheels are stopped against an immovable object. It is conducted by chocking, or preventing the wheels of the walker from moving, and pulling the walker with a horizontal force toward the chocks until it tips over. This test is conducted in both the forward and rearward directions, see Figure 1.

¹ ASTM F977-22 was approved on June 15, 2022, and it published in July 2022; however, the revision contained editorial errors that ASTM addressed prior to notification.

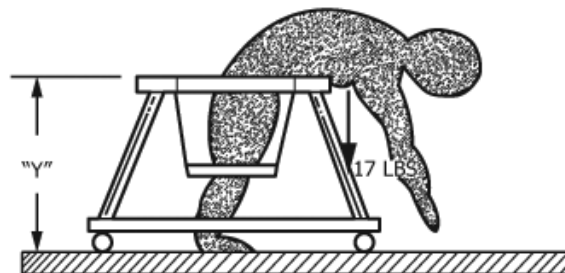


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Figure 1: Tip Resistance Test

Occupant Leaning Over Edge (6.1.2)/Occupant Leaning Outward Over Edge of Walker (7.3.4)

This test simulates a child leaning over the edge of the walker, which may cause the walker to tip (Figure 2). It is conducted in both the forward and sideward directions, on the floor, as well as after the *Steps Tests* (described below) with a 17-lb force applied on an aluminum angle affixed on top of the walker with the CAMI Dummy removed. This ensures the simulated child cannot cause the walker to fall over at the step edge.



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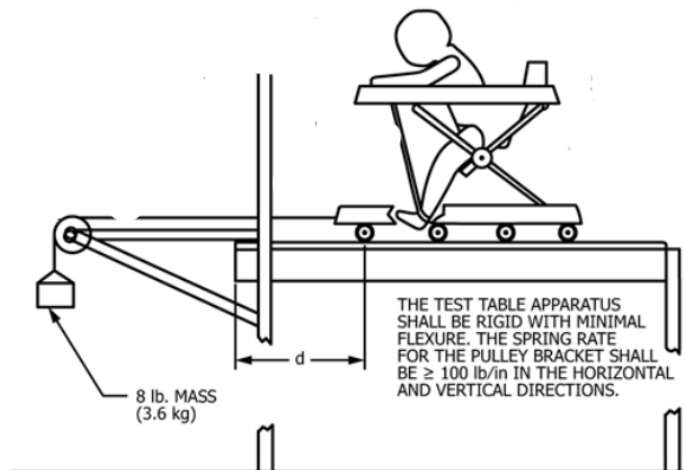
Figure 2: Occupant Leaning Outward Over Edge of Walker

Prevention of Falls Down Step(s) (6.3)/Step(s) Tests (7.6)

This test simulates a child traveling in the walker, reaching the edge of the stairs, and potentially falling down the stairs. It is conducted by placing and centering the infant walker on top of the test platform surface in the forward direction a certain distance, d, from the edge of the test

platform, Figure 3. With a dummy in the seat of the walker, an 8-lb weight is attached to the walker. When this weight is released, the walker accelerates to the specified speed to the edge of the test platform, or edge of the stairs, potentially falling. This test is performed in the forward, rearward, and sideward directions.

If the walker is stopped on the edge of the test platform by various methods employed by manufacturers, such as friction pads, it is still possible for the child to lean and cause the walker to fall down the stairs. The *Occupant Leaning Outward Over Edge of Walker* test, explained above, evaluates the product's ability to prevent this, and to perform this test, the dummy must be removed. This test is conducted for both forward and sideward directions.



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Figure 3: Step Tests

Comparison and Review of ASTM F977-12 to ASTM F977-22e1

On June 15, 2022, ASTM approved a revised version of ASTM F977 and published F977-22e1 in July 2022. The F977-22 revision contains substantive changes to improve consistency, non-substantive changes to improve clarity, and editorial changes. The F977-22e1 revision contains editorial changes only. Below is a detailed discussion of the substantive and non-substantive changes made to ASTM F977-12 in the 2018, 2022 and 2022e1 versions of the standard.

Substantive changes in ASTM F977-18

No substantive changes were made in the 2018 revision.

Non-substantive changes in ASTM F977-18

- 1) Section 1.6, part of the *Scope*, adds “environmental” to the type of appropriate practices to establish for the health and safety of testers.

This section reminds testers that they are responsible for establishing appropriate safety, health, and environmental practices prior to and during testing. Adding “environmental” to the types of practices for testers to establish does not affect testing, nor does it affect performance requirements.

- 2) Section 1.7, part of the *Scope*, adds: “This international standard was developed in accordance with internationally recognized principles on standardization established in the Decision on Principles for the Development of International Standards, Guides and Recommendations issued by the World Trade Organization Technical Barriers to Trade (TBT) Committee.”

This change is strictly editorial and does not affect testing, nor does it affect performance requirements.

- 3) Section 7.3.2.1, part of the *Tipping Resistance Against an Immovable Object* test, replaces “manufacturers” with “manufacturer’s.”

This change is strictly editorial and does not affect testing, nor does it affect performance requirements.

- 4) Section 7.6.4.1, part of the *Sideward Facing Step Test*, replaces “most sideward wheel(s)” with “wheel(s) closest,” for the *Prevention of Falls Down Steps* test, clarifying that the distance from the edge of the test platform to the center of the wheels should be measured to the wheels closest to the edge of the test platform.

This section defines the equation to calculate distance, d , shown above in Figure 3, which is the distance measured from the edge of the platform to the center of the wheels closest to the edge. “Most sideward wheel(s)” refers to the same wheels; however, this was found to be confusing to readers. This change clarifies that the distance “ d ” should be calculated to the wheels closest to the edge, allowing for better test consistency. This is not a substantive change, but it improves the rigor of testing to the extent it prevents misapplication.

Section X1.9, *Rationale*, was added to the rationale section of the standard referring to the *Occupant Leaning Outward Over Edge of Walker*, stating that the old version, F977-86, did not consider the weight of a child’s legs and lower torso. Calculations were also added to strengthen the rationale. The rationale is provided to explain why the weight of a child’s legs and torso do not need to be considered for this test. This addition documents the basis for the *Occupant Leaning Outward Over Edge of Walker*. The weight of a child’s legs and lower torso would resist the effect of the child leaning outward and was later, in the 2018 revision, considered when evaluating a walker. The mathematical calculations ultimately explain that the effect of the child’s legs and lower torso have no effect and no modifications to the test are required. Thus, this does not change testing, nor does it affect performance requirements.

Substantive changes in ASTM F977-22

ASTM F977-22 made the following substantive changes to ASTM F977-18:

- 1) Section 7.6.1.8, part of *Test Platform Specifications*, and Section 7.6.3.2, part of the *Forward Facing Step Test*, now require the CAMI Infant Dummy Mark II to be secured to the front of the occupant seating area (tray) during the Forward-Facing Step Test. Prior to this change, securing the dummy was optional. The original verbiage of Section 7.6.1.8 stated “may be secured,” and was changed to “shall be secured.” Section 7.6.3.2 was modified to include “Secure the dummy so that the front of the dummy’s torso remains in contact with the front of the occupant seating area during the test.”

The *Forward-Facing Step Test* is conducted to determine whether the infant walker can prevent a child from falling downstairs by stopping itself. Staff concludes that this change improves the safety of infant walkers because the weight of the CAMI dummy is placed further forward, moving the center of gravity of the dummy closer to the edge of the test platform, creating a more hazardous scenario for the test. This results in a more stringent test, and the change from “may” to “shall” also ensures consistency during testing by specifying the dummy location for testing.

- 2) Section 7.6.4.2, part of the *Sideward Facing Step Test*, now requires the CAMI Infant Dummy Mark II be secured to the side of the occupant seating area during the Sideward Facing Step Test. Prior to this change, securing the dummy was optional.

Similar to the Forward-Facing Step Test, the Sideward Facing Step Test is conducted to determine whether the infant walker can prevent a child from falling down stairs by stopping itself by various methods employed by manufacturers, such as friction pads, but in the sideward direction. Staff concludes that this change improves the safety of infant walkers because the weight of the CAMI dummy is placed further sideward, moving the center of gravity of the dummy closer to the edge of the test platform, having more of an effect on tipping over when the walker leans over the edge of the test platform. This new test scenario is a worse case than if the CAMI was not secured to the side of the occupant seating area. This results in a more stringent test, and the change from “may” to “shall” also ensures consistency during testing by specifying the dummy location for testing.

- 3) Section 7.6.5.2, part of the *Rearward Facing Step Test*, now requires the CAMI Infant Dummy Mark II to be secured to the back of the occupant seating area during the Rearward Facing Step Test. Prior to this change, securing the dummy was optional.

Similar to the *Forward-Facing Step Test*, the *Rearward-Facing Step Test* is conducted to determine whether the infant walker can prevent a child from falling downstairs by stopping itself by various methods employed by manufacturers, such as friction pads, but in the rearward direction. Staff concludes that this change improves the safety of infant walkers because the weight of the CAMI dummy is placed more rearward, moving the center of gravity of the dummy closer to the edge of the test platform, having more of an effect on tipping over when the walker leans over the edge of the test platform. This

results in a more stringent test, and the change from “may” to “shall” also ensures consistency during testing by specifying the dummy location for testing.

Non-substantive changes in ASTM F977-22

ASTM F977-22 made the following non-substantive changes to ASTM F977-12:

- 1) Sections 4.4, 4.6.1, 4.6.2, 7.1.1.2, 7.1.1.3, 7.1.2.2, 7.1.2.4, 7.3.4.2, 7.6.5.3, and 7.7.1 all add units of measurement in the proper grammatical form. For instance, 73 ± 9 °F, was rewritten to 73 °F \pm 9 °F, which is more grammatically correct.

This change is strictly editorial and does not affect testing, nor does it affect performance requirements.

- 2) Section 7.3.2.1, part of the *Forward Tip Resistance test*, uncapitalizes “Dummy’s,” replacing it with “dummy’s”

This change is strictly editorial and does not affect testing, nor does it affect performance requirements.

- 3) Sections 7.3.2.3 – 7.3.3.5 replace the current verbiage for the *Forward and Rearward Tip Resistance* test with language from ASTM F404-21, *Standard Consumer Specification for High Chairs*.

This new language defines F_1 as the pretensioned force of 3 lb and adds “While maintaining the force, establish the initial location of a reference point some distance away from the force gauge” as shown in Figure 1 above. This pretensioned force helps identify the reference point at which to start measuring the distance traveled when the horizontal force is applied to tip the walker over. If the reference point is identified prior to the pretensioned force, then the distance traveled while pulling the walker to tip over would be inaccurate and not repeatable. Section 7.3.2.4 was added, instructing the reader to “increase the horizontal force” to “continue to pull the walker forward until the walker reaches the point that it becomes unstable.” F_2 is defined as the final force required to reach the unstable point, and the stability index is defined as F_2 plus the total distance traveled to reach that point. The stability index is the performance metric the walker is evaluated to during testing.

This change allows for a better understanding of the test procedure because it is clearer to follow. The test procedure itself does not change, nor are the performance requirements affected.

- 4) Section 7.3.4.2, part of the *Occupant Leaning Outward Over Edge of Walker* test, replaces “front and rear horizontal frame members of the walker,” with “part of the frame forward of the occupant seating area.” Additionally, “aluminum angle shall be parallel to the floor when all wheels have contact to the floor,” was added.

This section refers to the *Occupant Leaning Outward Over Edge of Walker* test, which ensures a child cannot tip over the walker while leaning explained in the discussion section above. To perform this test, the dummy must be removed, and a 17-lb force is

applied on an aluminum angle affixed to the top surface of the seating area. This is a clarifying change for better readability and understanding.

- 5) Table 1, *Summary of Step(s) Tests*, the significant figures for the specified weight of the CAMI dummy are corrected to specify a weight of 17.4 lbs instead of 17 lbs.

The CAMI Infant Dummy Mark II weight specification has always listed 17.4 lbs. The “0.4” was left off and fixed editorially.

- 6) Section 7.6.1, *Test Platform Specifications*, pulled all the language from Figure 10 of the standard into the text body.

Figure 10 of the standard contains platform specifications, such as platform surface area, surface type, and pulley dimensions that must be adhered to for standardization. This change makes it easier to find and read those specifications instead of trying to locate them in the figure.

- 7) Section 7.6.3.1, part of the *Forward Facing Step Test*, adds the following note: “To position the swivel wheels in the direction of movement, the walker should be positioned approximately 3 in. from the calculated release distance then moved parallel to Plane A until reaching the release point.”

This change ensures the wheels are aligned to the direction of travel for the *Prevention of Falls Down Steps* tests. In this test, Plane A and B are imaginary vertical planes used to aligning the walker correctly. This change also allows for better test consistency, as opposed to manually rotating the wheels in the direction of travel, which may not be the most onerous position or position most likely to fail. As with any note, positioning the swivel wheels is not required, but suggested. This note simply provides the tester with a means to position the swivel wheels.

- 8) Section 7.6.3.2, part of the *Forward Facing Step Test*, adds the following notes: “When positioning the dummy in the seat, a length of military rope, as specified in Fig. 10, should be used to pull the front of the dummy’s torso in contact with the front of the occupant seating area. The military rope must not restrain movement of the dummy’s head per 7.6.1.2.” and “To hold the walker stationary, a mechanical device such as an archery bow release may be used to anchor the walker until it is released per 7.6.3.4.”

This test simulates a child traveling in the walker at full speed reaching the edge of the stairs. Per the standard, the walker should prevent the child and walker from falling down the stairs. This is tested by tying an 8-lb weight through a pulley, attached to the walker and releasing the weight (Figure 2). The walker will travel to the edge of the platform and should stop. The rope used for this test is a 7-strand military rope, referred to as parachute cord or paracord, with a 550-lb tensile strength. Specifying the rope used for this test ensures consistent test results. This first change instructs the tester how to secure the dummy for the substantive change listed Section 7.6.3.2. No instructions for securing the dummy existed prior because securing the dummy was not required. The second change provides a means to secure the walker while it is being positioned for the test. An archery bow release (a mechanical device to hold and release a bow string) is just one option, but other options such as a second person, or clamps could be used.

- 9) Section 7.6.3.5, part of the *Forward Facing Step Test*, adds the following note: “When removing the CAMI dummy, the walker should be restricted from moving by manually or mechanically being held in place until the dummy is removed.”

This change only reminds the tester to secure the walker before it is tested to the *Occupant Leaning Outward Over Edge of Walker Test*. Securing the walker is not required, but suggested as the walker may move when removing the dummy for the test, leading to an inaccurate test because the walker may move from the stopped location.

- 10) Section 7.6.4.1, part of the *Sideward Facing Step Test*, adds the following note: “To position the swivel wheels in the direction of movement, the walker should be positioned approximately 3 in. from the calculated release distance then moved parallel to Plane A until reaching the release point.”

This change ensures the wheels are aligned to the direction of travel for the *Prevention of Falls Down Steps* tests. In this test, Plane A and B are imaginary vertical planes used to aligning the walker correctly. This change also allows for better test consistency as opposed to manually rotating the wheels in the direction of travel, which may not be the most onerous position or position most likely to fail. As with any note, positioning the swivel wheels is not required, but suggested. This note simply provides the tester with a means to position the swivel wheels.

- 11) Section 7.6.4.2, part of the *Sideward Facing Step Test*, adds the following note: “When positioning the dummy in the seat, a length of military rope, as specified in Fig. 10, should be used to pull the side of the dummy’s torso in contact with the side of the occupant seating area in the direction of travel. The military rope must not restrain movement of the dummy’s head per 7.6.1.2.”

The rope used for this test is a 7-strand military rope, referred to as parachute cord or paracord, with a 550 lb tensile strength. Specifying the rope used for this test ensures consistent test results. This change instructs the tester how to secure the dummy for the substantive change listed in Section 7.6.4.2. No instructions for securing the dummy existed prior because securing the dummy was not a requirement.

- 12) Section 7.6.4.3, part of the *Sideward Facing Step Test*, adds the following note: “To hold the walker stationary, a mechanical device such as an archery bow release may be used to anchor the walker until it is released per 7.6.4.4.”

This change provides a means to secure the walker before it is tested. An archery bow release (a mechanical device to hold and release a bow string) is just one option, but other options such as a secondary person, or clamps could be used.

- 13) Section 7.6.4.5, part of the *Sideward Facing Step Test*, adds the following note: “When removing the CAMI dummy, the walker should be restricted from moving by manually or mechanically being held in place until the dummy is removed.”

This change only reminds the tester that they could secure the walker before it is tested to the *Occupant Leaning Outward Over Edge of Walker* test. Securing the walker is not required, but suggested as the walker may move when removing the dummy for the test,

leading to an inaccurate test because the walker may move from the stopped location, which could require the tester to have to redo the test.

- 14) Section 7.6.5.1, part of the *Rearward Facing Step Test*, adds the following note: “To position the swivel wheels in the direction of movement, the walker should be positioned approximately 3 in. from the calculated release distance then moved parallel to Plane A until reaching the release point.”

This change ensures the wheels are aligned to the direction of travel for the *Prevention of Falls Down Steps* tests. In this test, Plane A and B are imaginary vertical planes used to aligning the walker correctly. This change also allows for better test consistency as opposed to manually rotating the wheels in the direction of travel, which may not be the most onerous position or position most likely to fail. As with any note, positioning the swivel wheels is not required, but suggested. This note simply provides the tester with a means to position the swivel wheels.

- 15) Section 7.6.5.2, part of the *Rearward Facing Step Test*, adds the following note: “When positioning the dummy in the seat, a length of military rope, as specified in Fig. 10, should be used to pull the back of the dummy’s torso in contact with the back of the occupant seating area. The military rope must not restrain movement of the dummy’s head per 7.6.1.2.”

This test simulates a child traveling in the walker reaching the edge of the stairs, but in the rearward direction. Per the standard, the walker should prevent the child and walker from falling down the stairs. This is tested by securing an 8 lb weight through a pulley, attached to the walker and releasing the weight (Figure 2). The walker will travel to the edge of the platform backwards and should stop by various methods employed by manufacturers such as friction pads. The rope used for this test is a 7-strand military rope, referred to as parachute cord or paracord, with a 550-lb tensile strength. Specifying the rope used for this test ensures consistent test results. This change instructs the tester how to secure the dummy for the substantive change listed in this section (7.6.5.2). No instructions for securing the dummy existed prior because securing the dummy was not a requirement. This change only instructs the tester how to secure the dummy for the substantive change, listed in this section (7.6.5.2).

- 16) Section 7.6.5.3, part of the *Rearward Facing Step Test*, adds the following note: “To hold the walker stationary, a mechanical device such as an archery bow release may be used to anchor the walker until it is released per 7.6.3.4, 7.6.4.4, and 7.6.5.4.”

This change provides a means to secure the walker before it is tested. It is just one option, but other options such as a second person, or clamps could be used for more accurate and consistent testing so the walker’s position on the test surface does not change.

- 17) Sections 7.7.2, 7.7.4.2, 7.7.5.2, 7.7.6.1, 7.7.6.2, all uncapitalize “Test Mass.”

This change is strictly editorial and does not affect testing nor does it affect performance requirements.

Substantive changes in ASTM F977-22e1

No substantive changes were made in the 2022e1 revision.

Non-substantive changes in ASTM F977-22e1

- 1) Section 7.6.3.2 Note 8 changes the incorrect referenced section of 7.6.1.2 to section 7.6.1.8.

This change is strictly editorial and does not affect testing, nor does it affect performance requirements.

- 2) Section 7.6.4.2 Note 12 changes the incorrect referenced section of 7.6.1.2 to section 7.6.1.8.

This change is strictly editorial and does not affect testing, nor does it affect performance requirements.

- 3) Section 7.6.5.2 Note 16 changes the incorrect referenced section 7.6.1.2 to section 7.6.1.8.

This change is strictly editorial and does not affect testing, nor does it affect performance requirements.

- 4) Section 7.6.5.3 Note 17 changes the incorrect referenced sections 7.6.3.4 and 7.6.4.4 to section 7.6.5.4.

This change is strictly editorial and does not affect testing, nor does it affect performance requirements.

Staff's Assessment of the Revised Standard

Under CPSIA section 104(b)(4)(B), unless the Commission determines that the ASTM's revision to a voluntary standard that is referenced in a mandatory standard "does not improve the safety of the consumer product covered by the standard," the revised voluntary standard becomes the new mandatory standard.

Staff concludes that the revisions to ASTM F977-18, ASTM F977-22, and ASTM F977-22e1 improve the safety of infant walkers. The revisions provide for more stringent testing to require the dummy to be secured to the seat area closest to the edge of the test platform as well as notes to provide a means to do so. They also provide better readability due to grammatical corrections and references adjustments. Pursuant to the statute, staff recommends that the Commission allow the revised voluntary standard, ASTM F977-22e1, to become the mandatory consumer product safety standard for infant walkers.

Staff also recommends that the Commission publish a draft direct final rule to revise the incorporation by reference in 16 CFR part 1216 to ASTM F977-22e1.

Effect of the Changes to the Voluntary Standard on Third-Party Testing

The notice of requirements (NOR), as set forth in the final rule for infant walkers, provides the criteria and process for the Commission's acceptance of accreditation of third-party conformity assessment bodies for testing to the requirements of infant walkers in 16 CFR part 1216 (which incorporated ASTM F977-12). The NORs are listed in the Commission's rule, "Requirements Pertaining to Third Party Conformity Assessment Bodies" at 16 CFR part 1112.

The CPSC-accepted testing laboratories that have ASTM F977-12 in their scope of accreditation are competent to conduct testing to the ASTM F977-22e1. Therefore, none of the changes to the standard would impede a CPSC-accepted laboratory from being able to conduct testing to the revised standard. Staff recommends that the Commission consider the existing accreditations that CPSC accepted for testing to the mandatory standard for infant walkers to cover testing to the revised standard.

If the Commission accepts this recommendation, the existing NOR for this standard would remain in place, and CPSC-accepted third-party conformity assessment bodies for infant walkers would be expected to update the scope of the testing laboratories' accreditation to reflect the revised standard in the normal course of renewing their accreditation. If the Commission approves the draft direct final rule, CPSC staff will notify all CPSC-accepted laboratories by e-mail and will provide links to the *Federal Register* notice to explain the changes to the standard and the effective date.

Effective Date

Section 104(b)(4) of the CPSIA provides that the revised standard will become effective 180 days after the date on which an organization notifies the Commission of the revision (August 29, 2022), unless the Commission notifies an organization that it determined the proposed revision does not improve the safety of a consumer product covered by the standard (or the Commission specifies another date). Under this time frame, ASTM F977-22e1 will become effective on February 25, 2023, unless the Commission specifies a later date. Staff does not believe that a longer effective date is necessary. JPMA typically allows 6 months for products in their certification program to shift to a new voluntary standard once that new voluntary standard is published. Therefore, juvenile product manufacturers are accustomed to adjusting to new voluntary standards within this time frame. ASTM F977-22e1 was approved on June 15, 2022, and published on July 2022, and manufacturers should be able to make compliant products that meet this standard by February 25, 2023.

III. RECOMMENDATION

Staff recommends that the Commission allow ASTM F977-22e1 to become the mandatory consumer product safety standard for infant walkers. Staff also recommends that the Commission publish a direct final rule to revise the incorporation by reference in 16 CFR part 1216 to reflect the revised standard. Under section 104(b)(4)(B) of the CPSIA, unless the

Commission notifies an organization that it has determined that a proposed revision does not improve the safety of a consumer product covered by the standard, and that the Commission is retaining the existing standard, the revised standard will become effective 180 days after the date on which an organization notifies the Commission of the revision. Staff recommends allowing ASTM F977-22e1 to become the new mandatory standard for infant walkers effective on February 25, 2023. CPSC staff will also continue to work with ASTM to improve safety of infant walkers.