



UNITED STATES  
CONSUMER PRODUCT SAFETY COMMISSION  
4330 EAST WEST HIGHWAY  
BETHESDA, MD 20814

This document has been electronically  
approved and signed.

**DATE:** September 26, 2018

## BALLOT VOTE SHEET

**TO:** The Commission  
Alberta E. Mills, Secretary

**THROUGH:** Patricia M. Hanz, General Counsel  
Mary T. Boyle, Acting Executive Director

**FROM:** Patricia M. Pollitzer, Assistant General Counsel  
Mary A. House, Attorney, OGC

**SUBJECT:** Notice of Proposed Rulemaking: Amendment to Requirements for Consumer  
Registration of Durable Infant or Toddler Products

BALLOT VOTE DUE Tuesday, October 2, 2018

Staff is forwarding to the Commission a briefing package recommending that the Commission publish in the *Federal Register* the attached draft notice of proposed rulemaking to amend the existing rule, codified at 16 C.F.R. part 1130, *Requirements for Consumer Registration of Durable Infant or Toddler Products*. Pursuant to section 104(d) of the Consumer Product Safety Improvement Act of 2008 (CPSIA), the draft proposed rule would update the definition of “durable infant or toddler products” to:

- State the full statutory definition of “durable infant or toddler product”;
- Specify that the listed product categories are further defined in the applicable mandatory standards;
- List “sling carriers,” “soft infant and toddler carriers,” “handheld infant carriers,” and “frame child carriers” as a subset of infant carriers;
- Clarify that “bedside sleepers” are a subset of bassinets; and
- Revise the term “changing tables” to “baby changing products.”

The Office of the General Counsel is providing the attached draft proposed rule for the Commission’s consideration.

Consumer Hotline and General Information: 1-800-638-2772 ★ CPSC's Web Site: <http://www.cpsc.gov>

Please indicate your vote on the following options:

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

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

- II. Approve publication of the attached document in the *Federal Register*, with the specified changes:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

- III. Do not approve publication of the attached document in the *Federal Register*.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

- IV. Take other action specified below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

Attachment: Draft *Federal Register* Notice: Proposed Rule to Amend Requirements for Consumer Registration of Durable Infant or Toddler Products

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**Billing Code 6355-01-P**

**CONSUMER PRODUCT SAFETY COMMISSION**

**16 CFR Part 1130**

**[CPSC Docket No. XXXX]**

**Amendment to Requirements for Consumer Registration of Durable Infant or Toddler Products**

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In 2009, the Consumer Product Safety Commission (CPSC) fulfilled a statutory requirement in the Consumer Product Safety Improvement Act of 2008 (CPSIA) to issue a rule requiring manufacturers of durable infant or toddler products to establish a consumer registration program. The Commission now proposes to amend the definition of “durable infant or toddler product” in the rule to include the full statutory definition; clarify that the scope of each listed product category is further defined in the applicable mandatory standard; clarify listed product categories using the product name in the applicable mandatory standard; and clarify the scope of the infant carriers and bassinets and cradles product categories.

**DATES:** Submit comments by [INSERT DATE 75 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Comments, identified by Docket No. CPSC- XXXX, may be submitted electronically or in writing:

*Electronic Submissions:* Submit electronic comments to the Federal eRulemaking Portal at: <http://www.regulations.gov>. Follow the instructions for submitting comments. CPSC does not accept comments submitted by electronic mail (e-mail), except through

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www.regulations.gov. CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

*Written Submissions:* Submit written submissions in the following way: Mail/Hand delivery/Courier (for paper, disk, or CD-ROM submissions) to: Division of the Secretariat, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504-7923.

*Instructions:* All submissions received must include the agency name and docket number for this proposed rulemaking. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to: <http://www.regulations.gov>. Do not submit electronically any 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 provide such information, please submit it in writing.

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

**FOR FURTHER INFORMATION CONTACT:** Hope EJ Nesteruk, Project Manager, Children’s Program Manager, Division of Mechanical and Combustion Engineering, Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850; telephone: 301-987-2579; e-mail: HNesteruk@cpsc.gov.

**SUPPLEMENTARY INFORMATION:**

**I. Background and Statutory Authority**

Section 104 of the Consumer Product Safety Improvement Act of 2008 (CPSIA) is the Danny Keysar Child Product Safety Notification Act. Section 104 of the CPSIA requires that for “durable infant or toddler products,” the U.S. Consumer Product Safety Commission (CPSC) must (1) issue a mandatory rule for each product based on the applicable voluntary standard, and (2) issue a rule requiring consumer registration for such products. 15 U.S.C. 2056a(b) and (d).<sup>1</sup> In 2009, the Commission issued a regulation to implement the second requirement, that manufacturers provide a means for consumers to register “durable infant or toddler products,” so that consumers can receive direct notification in the event of a product recall. The rule is codified at 16 CFR part 1130, Requirements for Consumer Registration of Durable Infant or Toddler Products (“part 1130” or the “consumer registration rule”).

The two aspects of section 104, consumer registration and product standards, are both based on the definition of “durable infant or toddler product” set forth in section 104(f) of the CPSIA: “durable products intended for use, or that may be reasonably expected to be used, by children under the age of 5 years.” The statute lists 12 product categories included within the definition, such as cribs, toddler beds, high chairs, strollers, and swings. In a 2009 rulemaking, the Commission explained that the list of products in section 104(f), and codified in the Commission’s consumer registration rule in 16 CFR 1130.2, is not static. At that time, the Commission added six product categories to the 12 listed in the CPSIA. 74 FR 68668, 68669 (Dec. 29, 2009).

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<sup>1</sup> Since 2009, the Commission has issued final rules for 22 durable infant or toddler products, and issued one proposed rule for Inclined Infant Sleep Products that has not yet been finalized. Mandatory standards for durable infant or toddler products are codified in 16 CFR parts 1215 through 1235, and part 1237. Part 1236 is reserved for Inclined Infant Sleep Products.

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The Commission proposes to make the following changes to part 1130 to clarify the products the rule covers:

- State the full statutory definition of “durable infant or toddler product” in section 104(f)(1);
- Specify that the listed product categories are further defined in the applicable mandatory standards;
- List “sling carriers,” “soft infant and toddler carriers,” “handheld infant carriers,” and “frame child carriers” as a subset of infant carriers, to avoid confusion regarding whether they are subject to the consumer registration rule and to reflect each product category using the name of the applicable mandatory standard;
- Clarify that “bedside sleepers” are a subset of bassinets, to avoid confusion regarding whether they are subject to the consumer registration rule and to reflect the product name used in the mandatory standard; and
- Revise the term “changing tables” to “baby changing products,” to reflect the product name used in the mandatory standard.

This proposed rule is based on a briefing package CPSC staff provided to the Commission on [REDACTED], Notice of Proposed Rulemaking: Updates to 16 CFR part 1130, Consumer Registration of Durable Infant or Toddler Products (Staff Briefing Package).<sup>2</sup>

## II. Description of the Proposed Rule

### A. Definition

The Commission proposes to update the definition of “durable infant or toddler product” in 16 CFR 1130.2(a) to state the full statutory definition of “durable infant or toddler product”

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<sup>2</sup> Staff Briefing Package available at: Insert link to Staff's briefing package.

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and to clarify that the scope of the product categories listed can be found in the applicable mandatory standard. 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 states that the definition “includes” 12 categories of products:

- (A) full-size cribs and nonfull-size cribs;
- (B) toddler beds;
- (C) high chairs; booster chairs, and hook-on-chairs;
- (D) bath seats;
- (E) gates and other enclosures for confining a child;
- (F) play yards;
- (G) stationary activity centers;
- (H) infant carriers;
- (I) strollers;
- (J) walkers;
- (K) swings; and
- (L) bassinets and cradles.

When the Commission finalized the consumer registration rule in 2009, the Commission listed the 12 statutory product categories, as well as six additional product categories the Commission determined fell within the scope of a “durable infant or toddler product”: children’s folding chairs, changing tables, infant bouncers, infant bathtubs, bed rails, and infant slings. 74 FR at 68669-70. However, the rule did not repeat the statutory phrase: “a durable product intended for use, or that may be reasonably expected to be used, by children under the age of 5 years.” Thus, currently one must look at both section 104(f) of the CPSIA and 16 CFR 1130.2 of the regulation to understand the full definition of “durable infant or toddler product.”

### *B. Product Categories*

Since 2009, as the Commission has issued mandatory rules for the durable infant or toddler products, occasionally the name of the product category in the defined list does not match the name of the product category covered by a mandatory standard, or the scope of the products

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covered within a product category may be unclear. To clarify the product categories subject to the consumer registration rule, the Commission proposes to list in the rule the name of each product category that aligns with the name of the product category used in the applicable voluntary or mandatory standard.<sup>3</sup> Further, to provide information on the scope of the products covered by a product category, the Commission proposes to state in the rule that the scope of the product category is further defined in the applicable mandatory standard.

### 1. Infant Carriers

Section 104(f)(H) of the CPSIA lists “infant carriers” as a product category included in the term “durable infant or toddler products.” However, ASTM international has four separate voluntary standards for infant carriers, and the Commission has now issued four separate mandatory standards, one for each subtype of infant carrier:

- 16 CFR 1225, Hand-Held Infant Carriers
- 16 CFR 1226, Soft Infant and Toddler Carriers
- 16 CFR 1228, Sling Carriers
- 16 CFR 1230, Frame Child Carriers

Although the Commission added “Infant Slings” to the list of products in 16 CFR 1130.2(a) when finalizing the 2009 consumer registration rule, the registration rule does not list the other sub-categories of infant carriers. To clarify that all four types of infant carriers are subject to the consumer registration requirement, the Commission proposes to list each type of infant carrier in § 1130.2(a)(8) as a subset of the infant carrier category, using the name in the applicable mandatory standard.

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<sup>3</sup> Some products may be listed in part 1130 before the Commission issues the corresponding mandatory standard. In those cases, the Commission will list the product category as defined in the current voluntary standard, which typically provides specificity about the scope of the product category.

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Accordingly, the Commission proposes to revise § 1130.2(a)(8), which currently states “Infant carriers,” to state: “Infant carriers, including soft infant and toddler carriers, hand-held infant carriers, sling carriers, and frame child carriers.” The Commission also proposes to delete “infant slings” as a separate product category in § 1130.2(a)(18), and to change the product name from “infant slings” to “sling carriers” in the revised § 1130.2(a)(8), to align with the name of the mandatory rule in part 1228. Thus, the proposed language retains the statutorily-defined category of “infant carrier” while clarifying the four types of infant carriers subject to part 1130.

### 2. Bedside Sleepers

Currently, the product “bedside sleepers”<sup>4</sup> is not listed in part 1130. However, when the Commission issued a mandatory rule pursuant to section 104(b) of the CPSIA (codified at 16 CFR part 1222) for bedside sleepers, the Commission considered bedside sleepers to be a subset of “bassinets and cradles.” In fact, the bedside sleeper voluntary standard, ASTM F2906, requires testing to ASTM F2194, *Standard Consumer Safety Specification for Bassinets and Cradles*, as the fundamental safety requirement for bedside sleepers. 79 FR 2581, 2583 (Jan. 15, 2014).

Many bedside sleepers on the market are multi-use products that also function as play yards or stand-alone bassinets; such multi-use products are required to provide a consumer registration for their play yard or bassinet mode. However, because bedside sleepers are not specifically listed in part 1130, it may be unclear whether a stand-alone bedside sleeper, *i.e.*, without a secondary use mode, is subject to the consumer registration rule. To resolve any confusion, the Commission proposes to list “bedside sleepers” as a type of bassinet.

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<sup>4</sup> A bedside sleeper is a bassinet-type product, intended to provide a sleeping environment for an infant up to approximately 5 months of age, or when a child begins to push up on his or her hands and knees, whichever comes first. These products are designed to be secured to an adult bed, for the purpose of having a baby sleep in close proximity to an adult.

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Accordingly, the Commission proposes to revise § 1130.2(a)(12), which currently states: “Bassinets and cradles,” to state: “Bassinets and cradles, including bedside sleepers.”

### 3. Changing Tables

Currently, “changing tables” is listed as a durable infant or toddler product in 16 CFR 1130.2(14). However, the Commission’s standard for these products is called “Safety Standard for Baby Changing Products,” codified at 16 CFR part 1235.<sup>5</sup> CPSC’s standard covers products that are included in the scope of the voluntary standard on which it is based, ASTM F2388 – 18, *Standard Consumer Safety Specification for Baby Changing Products for Domestic Use*.

Accordingly, CPSC’s standard includes changing tables, changing table accessories, contoured changing pads, and add-on changing units. Changing table accessories attach to another product to allow it to function as a changing table, and are typically included with the purchase of another product (*e.g.*, crib or play yard) that currently requires product registration. Contoured changing pads and add-on changing units are typically sold independently of other products requiring registration. The Commission proposes revising § 1130.2(a)(14) to change the term “changing tables” to “baby changing products” to be consistent with the Commission’s mandatory standard.

### III. Effective Date

The Administrative Procedure Act generally requires that the effective date of a rule be at least 30 days after publication of the final rule. This proposed rule clarifies existing product

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<sup>5</sup> The final rule for baby changing products was published June 26, 2018, and will become effective 12 months later.

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categories and expands one product category. Accordingly, the Commission proposes two effective dates.

### *A. Thirty-Day Effective Date*

Most of the changes in this proposed rule are clarifications to the definition of “durable infant or toddler product” to state the full statutory definition, and to more clearly identify product categories that already are subject to the consumer registration rule (*i.e.*, the statutory definition, infant carrier list, and bedside sleepers). Because these revisions clarify the text of the rule, and do not impose new burden on any manufacturer, the Commission proposes a 30-day effective date for the addition of the statutory language in § 1130.2(a), as well as the clarifications to product categories in sections 1130.2(a)(8), (a)(11), and (a)(12).

### *B. Twelve-Month Effective Date*

A thirty day effective date is likely insufficient for products that have not previously been required to establish a consumer registration program. In the 2009 registration rulemaking the Commission provided a 12-month effective date for the six product categories the Commission added and six months for the other aspects of the rule. The Commission’s decision to allow a 12-month effective date for added product categories was based on three comments expressing concern that 6 months would be insufficient to establish a consumer registration program, and requesting a one year effective date instead.

Contoured changing pads have not previously been subject to the registration requirement. Although some manufacturers and importers of contoured changing pads likely distribute other durable infant and toddler products and would, therefore, have an established consumer registration program, the staff briefing package for the final rule for baby changing products identified 25 firms that supply only contoured changing pads to the market and no other

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changing products.<sup>6</sup> At least 13 of these firms are not otherwise in the durable infant and toddler product market; therefore, they are unlikely to have an existing consumer registration program. Accordingly, the Commission proposes a 12-month effective date for contoured changing pads. The other types of “baby changing products,” (changing tables, changing table accessories, and add-on changing units) have all been required to be in compliance with part 1130 since December 29, 2010 under the previously listed category “changing tables.” 74 FR at 68669. Therefore, the 12-month effective date would only apply to contoured changing pads.

#### IV. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612, when a notice of proposed rulemaking is required, agencies must review the proposed rule for the rule’s 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 it available to the public for comment when the NPR is published, unless the head of the agency certifies that the rule will not have a significant economic impact on a substantial number small entities. However, pursuant to section 104(d)(1) of the CPSIA, the provision that establishes the requirement for a consumer registration rule, the RFA does not apply when promulgating a rule under this provision. Consequently, the Commission has not prepared an IRFA and no certification is necessary. We note that the amendment mostly provides clarifications that would not have any economic impact. Providing a 12 month effective date for the one product that has not been subject to the registration rule, contoured changing pads, should reduce the economic impact on manufacturers of those products.

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<sup>6</sup> <https://www.cpsc.gov/s3fs-public/Final%20Rule%20-%20Safety%20Standard%20for%20Baby%20Changing%20Products%20-%20June%2013%202018.pdf>

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### **V. Environmental Considerations**

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, they do not require an environmental assessment or an environmental impact statement. 16 CFR 1021.5. This proposed rule falls within the categorical exclusion to prepare an environmental impact statement.

### **VI. Paperwork Reduction Act**

Section 104(d)(1) of the CPSIA excludes this rulemaking from the requirements of the Paperwork Reduction Act, 44 U.S.C. sections 3501 through 3520. Consequently, no Paperwork Reduction Act analysis is necessary.

### **VII. Preemption**

Section 26(a) of the CPSA, 15 U.S.C. 2075(a), provides 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. The Commission's authority to issue this consumer registration rule is section 16(b) of the CPSA, 15 U.S.C. 2065(b). Accordingly, this rule is not a consumer product safety standard, and the preemption provision of section 26(a) of the CPSA does not apply to any final rule issued by the Commission.

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**List of Subjects**

**16 CFR Part 1130**

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

For the reasons discussed in the preamble, the Commission proposes to amend Part 1130 of Title 16 of the Code of Federal Regulations as follows:

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

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

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

2. Amend § 1130.1 by removing the last sentence in paragraph (c)(1) and adding in its place the following:

**§ 1130.1 Purpose, scope, and effective date.**

\* \* \* \* \*

(c) \* \* \* Compliance with this part 1130 shall be required on [insert date that is 12 months after publication of the final rule in the *Federal Register*] for contoured changing pads (a type of baby changing product). The rule shall apply to durable infant or toddler products, as defined in § 1130.2(a), that are manufactured on or after those dates.

3. Amend § 1130.2 by:

- a. Revising paragraph (a) introductory text;
- b. Revising paragraphs (a)(8), (a)(11), (a)(12), (a)(14), and (a)(17); and
- c. Removing paragraph (a)(18).

The revision reads as follows:

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(a) DEFINITION OF DURABLE INFANT OR TODDLER PRODUCT means the following products intended for use, or that may be reasonably expected to be used, by children under the age of 5 years. The listed product categories are further defined in the applicable standards that the Commission issues under section 104(b) of the Consumer Product Safety Improvement Act of 2008, and include products that are combinations of the following product categories:

\* \* \* \* \*

(8) Infant carrier, including soft infant and toddler carriers, hand-held infant carriers, sling carriers, and frame child carriers;

\* \* \* \* \*

(11) Swings;

(12) Bassinets and cradles, including bedside sleepers;

\* \* \* \* \*

(14) Baby changing products;

\* \* \* \* \*

(17) Bed rails.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Alberta E. Mills  
Secretary, Consumer Product Safety Commission



**UNITED STATES  
CONSUMER PRODUCT SAFETY COMMISSION  
4330 EAST WEST HIGHWAY  
BETHESDA, MARYLAND 20814**

This document has been electronically approved and signed.

Memorandum

Date: September 26, 2018

**TO:** The Commission  
Alberta E. Mills, Secretary

**THROUGH:** Patricia M. Hanz, General Counsel  
Mary T. Boyle, Acting Executive Director  
DeWane Ray, Deputy Executive Director for Safety Operations

**FROM:** George A. Borlase, Assistant Executive Director  
Office of Hazard Identification and Reduction

Hope E J. Nesteruk, Children's Program Manager  
General Engineer, Directorate for Engineering Sciences

**SUBJECT:** Notice of Proposed Rulemaking: Updates to 16 CFR part 1130, Consumer Registration of Durable Infant or Toddler Products.

## **I. INTRODUCTION**

The Danny Keysar Child Product Safety Notification Act, *i.e.*, section 104 of the Consumer Product Safety Improvement Act of 2008 (CPSIA), requires the U.S. Consumer Product Safety Commission (CPSC) to: (1) issue a mandatory rule for “durable infant or toddler products,” based on the applicable voluntary standard,<sup>1</sup> and (2) issue a rule requiring consumer registration for such products. Section 104(f) of the CPSIA defines “durable infant or toddler products” as “durable products intended for use, or that may be reasonably expected to be used, by children under the age of 5 years,” and lists product categories included within the definition.

The Commission's regulation implementing consumer registration is codified at 16 CFR part 1130, *Requirements for Consumer Registration of Durable Infant or Toddler Products* (“part 1130” or the “consumer registration rule”). Part 1130 includes a list of the statutorily defined “durable infant or toddler products,” as well as additional products the Commission has

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<sup>1</sup> With regard to rulemaking for each product, section 104(b) of the CPSIA requires the Commission to: (1) examine and assess voluntary safety standards for certain durable infant or toddler products, and (2) promulgate mandatory consumer product safety standards that are substantially the same as the voluntary standards or more stringent than the voluntary standards, if the Commission determines that more stringent standards would further reduce the risk of injury associated with these products.

determined are “durable infant or toddler products” that are subject to the consumer registration requirement and are, or will be, subject to a mandatory rule under Section 104 of the CPSIA.

After reviewing part 1130 and receiving several external stakeholder questions seeking clarity regarding product categories that meet part 1130, staff recommends amending the rule to clarify the products the rule covers. Staff recommends listing products in part 1130 based on the name of the product used in the applicable voluntary standard or mandatory standard that covers such products. Additionally, staff recommends that the rule be updated to state that each product category is further defined in the applicable mandatory standard. Specifically, staff recommends:

- Modifying “changing tables” to “baby changing products,” the name of the product category used in the title of the mandatory standard;
- Specifying the product category “bedside sleepers” as a subset of bassinets; and
- Categorizing “sling carriers,” “soft infant and toddler carriers,” “hand-held infant carriers,” and “frame child carriers” as a subset of infant carriers.

Staff also recommends editorial changes to the definition of “durable infant or toddler product” in 16 CFR § 1130.2 so that the regulation will include the full statutory definition stated in section 104(f) of the CPSIA.

## **II. BACKGROUND**

### ***A. Consumer Registration Rule History***

The statutory definition of “durable infant or toddler product” in section 104(f) applies to all of section 104 of the CPSIA. In addition to requiring the Commission to issue safety standards for durable infant or toddler products, section 104 of the CPSIA also directed the Commission to issue a rule requiring that manufacturers of durable infant or toddler products establish a program for consumer registration of those products.

Section 104(f) of the CPSIA defines the term “durable infant or toddler product” and lists examples of such products:

(f) DEFINITION OF DURABLE INFANT OR TODDLER PRODUCT. As used in this section, the term “durable infant or toddler product” –

- (1) means a durable product intended for use, or that may be reasonably expected to be used, by children under the age of 5 years; and
- (2) includes –
  - (A) full-size cribs and nonfull-size cribs;
  - (B) toddler beds;
  - (C) high chairs; booster chairs, and hook-on-chairs;
  - (D) bath seats;

- (E) gates and other enclosures for confining a child;
- (F) play yards;
- (G) stationary activity centers;
- (H) infant carriers;
- (I) strollers;
- (J) walkers;
- (K) swings; and
- (L) bassinets and cradles.

In 2009, the Commission issued 16 CFR part 1130 to implement the consumer registration requirement. As the CPSIA directs, the consumer registration rule 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. When the Commission issued the consumer registration rule, the Commission identified six additional products as "durable infant or toddler products":

- children's folding chairs
- changing tables;
- infant bouncers;
- infant bathtubs;
- bed rails; and
- infant slings.

The Commission stated that the specified statutory categories were not exclusive, but that the Commission should explicitly identify the product categories that are covered. The preamble to the 2009 final consumer registration rule states: "Because the statute has a broad definition of a durable infant or toddler product but also includes 12 specific product categories, additional items can and should be included in the definition, but should also be specifically listed in the rule." 74 *Fed. Reg.* 68,668, 68,669 (Dec. 29, 2009).

In 2012, the Commission updated the consumer registration rule to clarify certain sections of the final rule to provide additional guidance requested by testing laboratories, manufacturers, and consumer groups.

In 2017, the Commission proposed to amend the consumer registration rule to include infant inclined sleep products as part of the notice of proposed rulemaking (NPR) under section 104 of the CPSIA for a standard for infant inclined sleep products (82 *Fed. Reg.* 16,963, 16,969-70). Staff expects to recommend finalizing that revision to part 1130 when staff provides the Commission with a draft final rule for a standard on infant inclined sleep products.

## ***B. Potential Later Actions***

The [Fiscal Year 2018 Operating Plan](#) indicated a planned NPR for “Consumer Registration Requirement for Crib Bumpers/Crib Mattresses (include Supplemental and Aftermarket).” To prepare that briefing package, staff reviewed part 1130 and identified changes that could be made to the definition section (§ 1130.2) that would clarify the products the rule covers. Staff recommends that the Commission wait to add crib bumpers and crib mattresses to part 1130 when the Commission issues standards for these products, similar to the rulemaking for infant inclined sleep products. Proposing to update part 1130 when the Commission proposes a standard under section 104 provides time to ensure the scope and definitions in the voluntary standards appropriately identify the products. Staff recommends that the Commission propose the revisions described below now.

## **III. DISCUSSION**

### ***A. Definition***

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 includes . . . [12 categories of products].” When the Commission issued the consumer registration rule in 2009, the rule listed the 12 statutory product categories and six additional product categories. The Commission stated that the specified product categories were not exclusive and that the Commission would update the rule to identify any new product categories through notice and comment (74 *Fed. Reg.* 68,668, 68,669 (Dec. 29, 2009)). The rule listed the 18 product categories subject to the registration requirement, but did not restate the first part of the statutory definition. Currently, stakeholders must look at Section 104(f) of the CPSIA and § 1130.2 of the regulation to understand the full definition of “durable infant or toddler product.” Staff recommends updating the definition in § 1130.2(a) to include the full statutory definition of “durable infant or toddler product.”

In addition, as the Commission issued standards for the durable infant and toddler products listed in § 1130.2, occasionally the product defined in the rule differed slightly from the product category name listed in § 1130.2 of the Commission’s rule. Examples of these minor differences are detailed below in section III. B. To provide clarity, staff recommends specifying in § 1130.2(a) that the scope of each named product category can be found in the applicable Section 104 standard.

### ***B. Alignment with Product Names in Standards***

To reduce possible confusion regarding what products are subject to registration requirements in part 1130, staff recommends that the definition of “durable infant or toddler product” in § 1130.2 list each product using the name specified in the corresponding applicable mandatory standard. Staff also recommends clarifying that for definitions of particular product categories, one should

look to the definition of the product in the section 104 standard (or the relevant voluntary standard if no section 104 standard is yet in place). Below, staff discusses its recommendations concerning particular product categories.

*i. Infant Carriers*

Section 104(f)(H) of the CPSIA includes “infant carriers” as “durable infant or toddler products.” However, ASTM International has four separate voluntary standards for infant carriers, and the Commission promulgated four separate mandatory standards, one for each subtype of infant carrier:

- 16 CFR part 1225, Hand-Held Infant Carriers
- 16 CFR part 1226, Soft Infant and Toddler Carriers
- 16 CFR part 1228, Sling Carriers
- 16 CFR part 1230, Frame Child Carriers

Although the Commission specifically added “Infant Slings” to the list of products in § 1130.2 when promulgating the 2009 consumer registration rule (74 *Fed. Reg.* 68,668, 68,669 (Dec. 29, 2009)), the names of the other types of infant carriers were not added at that time or during the rulemaking for each product. Instead, each infant carrier was considered a type of “infant carrier” that was already listed in § 1130.2.

Therefore, to clarify that all four types of infant carriers are subject to the consumer registration requirement, staff recommends specifying each type of infant carrier by name, using the product name in the applicable mandatory standard, in § 1130.2(1)(8), as a subset of the infant carrier class of products.

*ii. Bedside sleepers*

When developing the standard for bedside sleepers, bedside sleepers<sup>2</sup> were considered “very similar” to bassinets. In addition, the bedside sleeper voluntary standard, ASTM F2906, requires testing to ASTM F2194, *Standard Consumer Safety Specification for Bassinets and Cradles*, as the fundamental safety requirements for bedside sleepers. 79 *Fed. Reg.* 2,581, 2,583 (Jan. 15, 2014).

Many bedside sleepers on the market are multi-use products that also function as play yards or standalone bassinets; therefore, they already would be required to provide consumer registration for their play yard or bassinet mode. However, because bedside sleepers are not specifically

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<sup>2</sup> A bedside sleeper is a bassinet-type product, intended to provide a sleeping environment for an infant up to approximately 5 months of age, or when a child begins to push up on his or her hands and knees, whichever comes first. These products are designed to be secured to an adult bed, for the purpose of having a baby sleep in close proximity to an adult.

listed in part 1130, stakeholders could be uncertain whether a standalone bedside sleeper, *i.e.*, without a secondary use mode, is subject to the consumer registration requirements. Staff considers these products to be a type of bassinet, a category listed in both the statutory and regulatory definitions of “durable infant or toddler product.” However, to resolve any confusion, staff recommends explicitly listing “bedside sleepers” as a type of bassinet in § 1130.2(a)(12).

### *iii. Changing Tables*

Currently, “changing tables” are included as a durable infant or toddler product in § 1130.2. However, the Commission’s final rule for these products is called “Safety Standard for Baby Changing Products,” codified at 16 CFR part 1235.<sup>3</sup> The Commission’s final rule for changing products harmonized the product name “changing products” and the scope of the products covered in the rule, with the voluntary standard on which it is based, ASTM F2388 – 18. Accordingly, the final rule on baby changing products includes changing tables, changing table accessories, contoured changing pads, and add-on changing units.<sup>4</sup> Staff recommends changing § 1130.2(a)(14) from “changing tables” to “baby changing products” to accurately reflect the scope of the products covered and the name of the corresponding mandatory standard in 16 CFR part 1235.

### *C. Effective Date*

The Administrative Procedure Act generally requires that the effective date of a rule be at least 30 days after publication of the final rule. The notice of proposed rulemaking for the 2009 consumer registration rule proposed a 6-month effective date for the rule. *74 Fed. Reg.* 30,983, 30,990 (June 29, 2009). However, the Commission received three comments expressing concern that this 6-month period would be too short and requesting 1 year instead. The final rule retained the 6-month (180 days) effective date for the products specifically listed in the statutory definition, but allowed a 12-month effective date for the six products the Commission added. The 2012 consumer registration rule amendment also allowed a 12-month effective date; however, the amendment clarified and corrected certain aspects of the rule, primarily with the registration form, and was not related to safety. *77 Fed. Reg.* 9522, 9527 (February 17, 2012).

Because most of the changes staff recommends are clarifications to identify more clearly products already subject to the consumer registration rule, staff recommends a 30-day effective date for the clarification changes (*i.e.*, the statutory definition, infant carrier list, and bedside

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<sup>3</sup> The final rule for baby changing products was published on June 26, 2018, and will become effective 12 months later.

<sup>4</sup> Changing table accessories attach to another product to allow the other product to function as a changing table, and these accessories are typically included with the purchase of another product (*e.g.*, crib or play yard) that currently requires product registration. Contoured changing pads and add-on changing units are typically sold independently of other products requiring registration.

sleepers). However, for contoured changing pads, staff recommends a 12-month effective date so that firms that do not have an established product registration program have sufficient time to develop a program. Although some manufacturers and importers of contoured changing pads likely distribute other durable infant and toddler products, and therefore, would have an established consumer registration program, staff notes that the staff briefing package for the final rule for baby changing products identified 25 firms that supply only contoured changing pads and no other changing products to the market.<sup>5</sup> At least 13 of these firms are not otherwise in the durable infant and toddler product market; therefore, they are unlikely to have an existing consumer registration program.

Because the Commission has previously allowed a 12-month effective date for products that are added to the consumer registration rule, staff recommends a 12-month effective date for baby changing products.<sup>6</sup> Staff notes that this 12-month effective date for changing products practically applies only to contoured changing pads, and is not applicable to changing tables, changing table accessories, or add-on changing units, because these products have been required to be in compliance with part 1130 since December 29, 2010. *74 Fed. Reg.* 68,668, 68,669 (Dec. 29, 2009). Staff recommends a 30-day effective date for the remaining minor clarifications to align the definition of “durable infant or toddler product” with the statutory language, and to clarify product categories in § 1130.2(a).

#### **IV. STAFF RECOMMENDATION**

Staff recommends the Commission issue an NPR to amend the definition of “durable infant or toddler product” in the consumer registration rule to:

- State the full statutory definition of “durable infant or toddler product” in section 104(f)(1);
- Specify that the product categories are further defined in the applicable mandatory standards;
- List “sling carriers,” “soft infant and toddler carriers,” “hand-held infant carriers,” and “frame child carriers” as a subset of infant carriers, to avoid confusion regarding whether they are subject to the consumer registration rule and to reflect each product category using the name of the mandatory standard.
- Clarify that “bedside sleepers” are a subset of bassinets, to avoid confusion regarding whether they are subject to the consumer registration rule and to reflect the product name used in the mandatory standard; and

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<sup>5</sup> <https://www.cpsc.gov/s3fs-public/Final%20Rule%20-%20Safety%20Standard%20for%20Baby%20Changing%20Products%20-%20June%2013%202018.pdf>.

<sup>6</sup> *i.e.*, contoured changing pad, because all other changing products are otherwise covered.

- Revise the term “changing tables” to “baby changing products,” to reflect the product name used in the mandatory standard.

Staff recommends a 30-day effective date for the addition of the statutory language in §1130.2(a), as well as the clarifications to product categories in §§1130.2(a)(8), (a)(12), and (a)(14). Staff recommends a 12-month effective date for the expansion of the baby changing products category in § 1130.2 (a)(14) to include contoured changing pads. As stated, staff recommends that the 12-month effective date for baby changing products be applicable only to contoured changing pads, and not applicable to changing tables, changing table accessories, or add-on changing units, all of which have been required to be in compliance with part 1130 since December 29, 2010. 74 *Fed. Reg.* 68,668, 68,669 (Dec. 29, 2009).

To effectuate the changes discussed, staff recommends proposing to amend § 1130.2 (a), as follows (~~strikethrough~~ represents text to remove; underline represents text to add):

(a) DEFINITION OF DURABLE INFANT OR TODDLER PRODUCT means the following products intended for use, or that may be reasonably expected to be used, by children under the age of 5 years. The listed product categories are further defined in the applicable standards that the Commission issues under section 104(b) of the Consumer Product Safety Improvement Act of 2008, and include products that are combinations of the following product categories: ~~including combinations thereof:~~

- (1) Full-size cribs and nonfull-size cribs;
- (2) Toddler beds;
- (3) High chairs; booster chairs, and hook-on-chairs;
- (4) Bath seats;
- (5) Gates and other enclosures for confining a child;
- (6) Play yards;
- (7) Stationary activity centers;
- (8) Infant carriers, including soft infant and toddler carriers, hand-held infant carriers, sling carriers, and frame child carriers;
- (9) Strollers;
- (10) Walkers;
- (11) Swings; ~~and~~
- (12) Bassinets and cradles, including bedside sleepers;
- (13) Children’s folding chairs and stools;
- (14) Baby changing tables products;
- (15) Infant bouncers;
- (16) Infant bathtubs;
- (17) Bed rails;
- (18) ~~Infant slings.~~