

## CONSUMER PRODUCT SAFETY COMMISSION

### 16 CFR Part 1216

[CPSC Docket No. CPSC–2009–0065]

#### Safety Standard for Infant Walkers

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** Section 104(b) of the Consumer Product Safety Improvement Act of 2008 (“CPSIA”) requires the United States Consumer Product Safety Commission (“CPSC” or “Commission”) to promulgate consumer product safety standards for durable infant or toddler products. These standards are to be “substantially the same as” applicable voluntary standards or more stringent than the voluntary standard if the Commission concludes that more stringent requirements would further reduce the risk of injury associated with the product. The Commission is proposing a safety standard for infant walkers in response to the direction under section 104(b) of the CPSIA.

**DATES:** Written comments must be received by November 17, 2009.

**ADDRESSES:** You may submit comments, identified by Docket No. CPSC–2009–0065, by any of the following methods:

#### Electronic Submissions

Submit electronic comments in the following way:

*Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments. To ensure timely processing of comments, the Commission is no longer accepting comments submitted by electronic mail (e-mail) except through <http://www.regulations.gov>.

#### Written Submissions

Submit written submissions in the following way:

Mail/Hand delivery/Courier (for paper, disk, or CD-ROM submissions), preferably in five copies, to: Office of the Secretary, Consumer Product Safety Commission, Room 502, 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 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 confidential business information, trade secret information, or other sensitive or protected information

electronically. Such information should be submitted in writing.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>.

#### FOR FURTHER INFORMATION CONTACT:

Patricia Edwards, Project Manager, Directorate for Engineering Sciences, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7577; [pedwards@cpsc.gov](mailto:pedwards@cpsc.gov).

#### SUPPLEMENTARY INFORMATION:

##### A. Background and Statutory Authority

###### 1. *The Consumer Product Safety Improvement Act*

The Consumer Product Safety Improvement Act of 2008 (“CPSIA”, Pub. L. 110–314) was enacted on August 14, 2008. Section 104(b) of the CPSIA requires the Commission to promulgate consumer product safety standards for durable infant or toddler products. These standards are to be “substantially the same as” applicable voluntary standards or more stringent than the voluntary standard if the Commission concludes that more stringent requirements would further reduce the risk of injury associated with the product. Section 104(b)(2) of the CPSIA directs the Commission to begin rulemaking for two standards by August 14, 2009. In this document, the Commission proposes a safety standard for infant walkers. The proposed standard is substantially the same as a voluntary standard developed by the American Society for Testing and Materials, ASTM F 977–07 *Standard Consumer Safety Specification for Infant Walkers*, but with several modifications that strengthen the standard.

###### 2. *Existing Mandatory Regulations for Walkers*

The Commission currently has regulations for infant walkers, originally issued in 1971 by the Food and Drug Administration, at 16 CFR 1500.18(a)(6) and 16 CFR 1500.86(a)(4). These regulations apply to items known as baby bouncers, walker-jumpers, and baby walkers. The regulations declare as a banned hazardous substance such an item “which because of its design has any exposed parts capable of causing amputation, crushing, lacerations, fractures, hematomas, bruises, or other injuries to fingers, toes, or other parts of the anatomy of young children.” 16 CFR 1500.18(a)(6). The regulations set out mechanical, labeling, and recordkeeping requirements with which such items must comply in order to be exempt from

the ban. 16 CFR 1500.86(a)(4). These specifically address such hazards as scissoring, shearing or pinching; exposed coil springs in which a child could become caught; holes in plates or tubes; and accidental collapse of the item.

These regulations do not address hazards associated with falls down stairs, structural integrity, occupant retention, or loading/stability issues. The ASTM F 977–07 standard contains provisions that the mandatory regulations lack or requirements that are more stringent than the mandatory standard.

Elsewhere in this issue of the **Federal Register**, the Commission is proposing to revoke the existing CPSC regulations for walkers. As explained in the proposed revocation notice, the existing regulations are based on incomplete and outdated anthropometric data. Revoking the existing regulations will also avoid confusion about what requirements apply to infant walkers. The Commission is concerned, however, that the existing mandatory regulations may cover products not covered by the ASTM F 977–07 standard (or other voluntary standards) and that revocation of the mandatory requirements may leave a gap in regulation. The Commission’s proposal to revoke the existing CPSC regulations for walkers invites comments on this issue.

###### 3. *Previous Rulemaking Concerning Stair Fall Hazard*

In August 1994, the Commission published an advance notice of proposed rulemaking (“ANPR”) in the **Federal Register** (59 FR 39306) initiating a rulemaking proceeding on infant walkers under the Federal Hazardous Substances Act (“FHSA”). The Commission stated at that time that it had reason to believe that walkers presented an unreasonable risk of injury due to the hazard of walkers falling down steps or stairs. After the ANPR was published, CPSC staff worked with ASTM to develop new requirements that could be added to the existing voluntary standard to address the stair-fall hazard. A revised ASTM standard including such provisions was published in early 1997 as ASTM F 977–07. In May 2002, the Commission voted to terminate the FHSA walker rulemaking because it could not make the findings necessary to issue a mandatory rule in light of the revised voluntary standard. 67 FR 31165 (May 9, 2002).

##### B. The Product

Infant walkers are used to support very young children before they are

walking (usually 6 to 15 months old). ASTM F 977-07 defines “walker” as “a mobile unit that enables a child to move on a horizontal surface when propelled by the child sitting or standing within the walker, and that is in the manufacturer’s recommended use position.” Children may use walkers to sit, recline, bounce, jump, and use their feet to move around. Walkers typically consist of fabric seats attached to rigid trays. The trays are fastened to bases that have wheels or casters to make them mobile.

Currently, there are at least seven manufacturers or importers supplying walkers to the United States market (four domestic manufacturers, two foreign manufacturers with divisions in the United States, and one domestic importer).

All known suppliers of infant walkers are members of the Juvenile Products Manufacturers Association (JPMA), the major United States trade association that represents juvenile product manufacturers and importers. Each supplies a variety of children’s products, of which walkers are only a small proportion. Infant walkers are available in many countries besides the United States, including China, the United Kingdom, and Australia. Therefore, any foreign manufacturer is a potential supplier to the United States market, either directly or indirectly through an importer.

Infant walkers made by all of the domestic manufacturers supplying baby walkers to the United States market are JPMA certified as compliant with the current ASTM voluntary standard. Based on limited CPSC staff testing, CPSC staff does not believe that the two foreign manufacturers and the domestic importer are making walkers that are compliant with the current voluntary standard.

Sales of infant walkers peaked in the early 1990s at less than 2 million annually. By 2005, however, annual walker sales had fallen to around 600,000. Following a similar pattern, walkers in use (the number of walkers estimated to still be in use, regardless of when sold) peaked in the mid-1990s, but have since fallen sharply as well (by 55 percent between 1996 and 2005). As of 2005, the estimated number of walkers in use was probably less than 2 million.

### C. Incident Data

#### 1. Injury Estimates

There were an estimated total of 14,900 (an annual average of 3,000) infant walker-related injuries among children under the age of 15 months

that were treated in hospital emergency departments in the United States over the five-year period 2004–2008.<sup>1</sup> (This estimate has been adjusted to exclude jumpers from the walker code.) No deaths were reported through NEISS. There was no statistically significant increase or decrease observed in the estimated injuries from one year to the next, nor was there any statistically significant trend observed over the 2004–2008 period. For the emergency department-treated injuries related to infant walkers, the following characteristics occurred most frequently based on an annual average:

- Hazard—falls either out of the walker or down stairs/to a lower level while in the walker (62%)
- Injured body part—head (45%) and face (27%)
- Injury type—contusions/abrasions (37%) and internal organ injury (28%)
- Disposition—treated and released (90%) and hospitalized (5%).

For approximately 72 percent of the injuries reported, the walker was directly involved in the incident (such as the walker falling down stairs, tipping over, collapsing). However, many (nearly 20 percent) of the emergency department-treated injuries were not necessarily caused by failures of the walkers.

The stair-fall protection provisions in the ASTM standard have dramatically affected walker-related incidents. From 1994 to 2008 there has been an 88% decrease in estimated walker-related incidents treated in emergency rooms (from 24,000 to 2,800). Nevertheless, the stair fall hazard is the most prevalent hazard in walker-related incidents. Some of these incidents involve non-compliant walkers, damaged or worn walkers, or children who are strong enough to lift the walker and defeat the stair-fall protection.

#### 2. Fatalities

CPSC staff has reports of eight fatal incidents involving an infant in a walker during the five year period 2004 to 2008.<sup>2</sup> One of these appears to involve a stair fall incident. The walker involved did not conform to the ASTM walker standard’s stair fall performance requirements and had been under recall at the time of the death (due to the lack

<sup>1</sup> The source of injury estimates is the National Electronic Injury Surveillance System (“NEISS”), a statistically valid injury surveillance system based on data gathered from emergency departments of hospitals selected as a probability sample of all the United States hospitals with emergency departments.

<sup>2</sup> The reported fatalities and non-fatalities are neither a complete count of all incidents that occurred during the period nor a sample of known probability of selection.

of stair fall protection). There were three deaths that resulted from accidental drowning when the child moved in a walker into a residential pool or spa. Two of these three deaths involved walkers that were certified to the JPMA standard, though pictures showed that one of the walkers was missing a wheel. The physical condition of the other walker is unknown. The circumstances of the remaining four deaths varied and involved non-fall related circumstances (*i.e.*, a slow cooker overturned on an infant in a walker who pulled the cord of the cooker, an infant pulled a heavy dining chair on himself, an infant rolled down a driveway and struck a moving vehicle, and an infant aspirated a screw while seated in a walker).

#### 3. Non-Fatal Injuries

A total of 78 non-fatal injuries were reported to have occurred between 2004 and 2008. All of these injuries occurred when the infant was seated in a walker. The leading cause of injury (about 42% of the injuries) was falls down the stairs or to a lower level. The next major cause of injury was product failure, either structural or mechanical failure of the walker, and these accounted for another 37% of the incidents. The attached toys, toy bars, or toy trays on the walker caused another 17% of the injuries, such as lacerations, abrasions, pinching, etc. Three percent of the non-fatal reported injuries were serious burn injuries resulting from infants pulling cords of small cooking appliances and spilling hot liquids onto themselves. Finally, one percent of the reported incidents did not specify the injury.

#### D. ASTM Voluntary Standard

ASTM F 977 *Standard Consumer Safety Specification for Infant Walkers* was first published in 1986. As mentioned above in part A.3 of the preamble, it was revised in 1997 to address the stair-fall hazard.

JPMA provides certification programs for juvenile products, including walkers. Manufacturers submit their products to an independent test laboratory to test the product for conformance to the ASTM standard. Currently walkers from five manufacturers are JPMA certified as being in compliance with the ASTM standard.

The current ASTM standard includes performance requirements specific to walkers, general performance requirements, and labeling requirements. The key provisions of the current ASTM walker standard include the following:

- Prevention of falls down stairs—intended to ensure that a walker will

not fall over when facing front, back, and sideways.

- Tipping resistance—intended to ensure that walkers are stable and do not tip over when on a flat surface; includes tests for forward and rear tip resistance, as well as for the occupant leaning over the front.

- Dynamic and static load testing on seating area—intended to ensure that the child remains fully supported while stationary and while bouncing/jumping.

- Occupant retention—intended to prevent entrapment by setting requirements for leg openings.

The current ASTM standard also includes: (1) Torque and tension tests to assure that components cannot be removed; (2) requirements for several walker features to prevent entrapment and cuts (minimum and maximum opening size, accessible coil springs, leg openings, and edges that can scissor, shear, or pinch); (3) latching/locking mechanism requirements to assure that walkers do not accidentally fold while in use; (4) requirements for the permanency and adhesion of labels; and (5) requirements for instructional literature.

The Commission believes that the ASTM standard's performance tests for evaluating the stability and structural integrity of infant walkers are adequate. However, the Commission believes that changes to the stair fall requirement are needed to better control testing variability and consistency. As discussed below, the Commission also is proposing to add a 30° incline plane test and a parking brake test from the European standard for walkers (EN 1273:2005), and making editorial text changes to ASTM F 977-07 to clarify several provisions.

#### **E. Assessment of Voluntary Standard ASTM F 977-07**

##### *1. Section 104(b) of the CPSIA: Consultation and CPSC Staff Review*

Section 104(b) of the CPSIA requires the Commission to assess the effectiveness of the voluntary standard in consultation with representatives of consumer groups, juvenile product manufacturers, and other experts. This consultation process began in October 2008 during the ASTM subcommittee meeting regarding the ASTM infant walker voluntary standard. Consultations between Commission staff and members of this subcommittee have continued and are still ongoing.

To evaluate the ASTM infant walker standard and develop recommendations for changes to it, CPSC staff conducted testing on JPMA-certified walkers. The testing focused on the stair fall test in

the current ASTM standard, a stability performance requirement, and a parking brake requirement (the latter two both taken from a European standard on walkers, EN 1273:2005).

##### *2. Current Stair Fall Requirement in ASTM F 977-07*

The stair fall requirement is the key provision in the ASTM standard. For this test, a walker with a Civil Aeromedical Institute infant dummy (Mark II) (subsequently referred to as "CAMI dummy") is placed in the walker's seat which is propelled with a horizontal dynamic force by means of a pulley, rope, and a falling 8 lb weight on a hardwood floor surface. The walker passes the test if it stays on the hardwood floor table surface. It fails the test if the walker completely falls off the table surface.

The current ASTM standard is based on the assumption that an average walker weighs 8 pounds. However, the average weight of recent model walkers is greater than 8 pounds, the typical weight of earlier models. CPSC staff weighed five 2008 to 2009 model walkers. The weight values ranged from 11 to 14 pounds. Computing the launching distance *d* as described in section 7.6 of ASTM F 977-07 depends on the weight of the walker, the weight of the CAMI dummy, the weight of the CAMI vest, the coefficient of friction between the walker wheels and the test table surface, and the maximum velocity at the edge of the test table platform (4 ft/sec or 2 ft/sec). According to section 7.6 of ASTM F 977-07, the *d* value for the forward and rearward directions with only the CAMI dummy seated in the walker is 14.6 inches. The *d* value for the forward and rearward directions with the CAMI dummy fitted with the 11-pound vest seated in the walker is 21.2 inches. The values of 14.6 inches and 21.2 inches were based on the assumption that the walker weight is 8 pounds.

In the current ASTM standard, most of the hardware and test apparatus components are not specified. Variability in the type and size of the pulley, rope type, test table flexure etc. can lead to different test results. Two different labs could test the same model walker and obtain different results.

CPSC staff participated in various round robin tests and conducted its own tests to evaluate the effects of test apparatus components and test conditions related to the stair fall test requirement. As a result of this testing, the Commission is proposing changes to the current ASTM test procedure to reduce test variability. These proposed

changes are discussed in part F of this preamble.

CPSC staff also performed a modified version of the stair fall performance test on the decking of various residential pools to assess if any changes to the ASTM standard were necessary to address the two fatal incidents involving children using JPMA-certified walkers that fell into residential pools. The test results indicated that JPMA-certified walkers passed (*i.e.*, did not fall in the pool) when tested to the same conditions as the ASTM standard (terminal velocity of 4 ft/sec, CAMI dummy fitted with the 11 pound vest seated in the walker). CPSC staff did not recommend any changes to the ASTM standard as a result of this testing at pools, and the Commission is not proposing any.

##### *3. European Standard EN 1273:2005*

CPSC staff evaluated another existing standard related to infant walkers to determine if any aspects of that standard should be considered for the future CPSC safety standard. The EN 1273:2005 European Standard contains two performance tests that are currently not in the ASTM F 977-07: the 30° incline plane stability test and the parking devices test.

The 30° incline plane test is a standard stability test which is common in several EN children's product safety standards. The walker, occupied by a 26.4 lb (12 kg) test mass is placed on a sloping platform inclined at 30° to the horizontal with a stop on the lower edge of the slope. The walker must not tip over.

The parking device test is only applicable to walkers that are equipped with a parking brake. It essentially requires conducting a semi-static version of the stair fall test, but with the parking device engaged. The walker must not move more than 1.97 inches (50 mm) in order to pass.

Available incident data does not clearly demonstrate whether inclusion of these two performance tests would improve the safety of walkers. CPSC staff tested selected walkers that currently pass the ASTM standard to these additional tests. The walkers also passed these tests. As discussed further in part F of this preamble, however, based on our sound engineering judgment, inclusion of these provisions may provide some additional safety.

#### **F. Description of Proposed Changes to ASTM F 977-07**

As discussed at part E.2 of this preamble, CPSC staff conducted tests and evaluations of infant walkers to determine any modification that might

be needed to the ASTM standard. Based on this assessment and consultations with others, the Commission proposes as a consumer product safety standard for infant walkers the ASTM F 977-07 standard with the following modifications.

To best understand the proposed standard it is helpful to view the current ASTM F 977-07 standard for walkers at the same time as the Commission's proposed modifications. The ASTM standard is available for viewing for this purpose during the comment period through this link: <http://www.astm.org/cpsc.htm>.

### 1. Changes to the Stair Step Fall Test

*Specification of equipment and procedures.* Currently, the ASTM stair fall test lacks numerous details. This allows for variability in testing that could result in different test results. The Commission is proposing to specify the equipment and procedure needed for the test (e.g., type of rope and pulley to be used, orientation of wood grain in the floor).

Additionally, the Commission proposes to modify the test procedure language in several provisions, such as specifying a tolerance for the term "horizontal" ( $0^\circ \pm 0.5^\circ$ ). These modifications would make the proposed standard more stringent than the ASTM

standard if, due to the lack of clarity in the ASTM standard, some test laboratories are currently passing some walkers that do not in fact comply with the standard. In addition, minimizing friction in the test apparatus and flexure in the test table would maximize the transfer of dynamic energy to the walker and CAMI dummy, hence creating more stringent performance requirements.

*Calculation of launching distance.* The Commission is also proposing a change in the calculation of the launching distance used in the stair fall test. The Commission proposes weighing the walker and computing the appropriate launching distances using the equations below.

$$d_{CAMI} = \frac{(V_f^2 - V_o^2) * (W_{CAMI} + W_{walker} + W_{drop\ weight})}{2_g (W_{drop\ weight} - \mu_k N_{CAMI})}$$

$$d_{CAMI\ w/vest} = \frac{(V_f^2 - V_o^2) * (W_{CAMI\ w/vest} + W_{walker} + W_{drop\ weight})}{2_g (W_{drop\ weight} - \mu_k N_{CAMI\ w/vest})}$$

Where:

$V_f$  = Maximum velocity of walker at edge of platform = 4 ft/sec (for forward and rearward directions); 2 ft/sec (for sideward direction)

$V_o$  = Initial velocity = 0

$W_{CAMI}$  = Weight of CAMI dummy = 17 lb

$W_{CAMI\ w/vest}$  = Weight of CAMI dummy with 11 lb vest = 28 lbs

$W_{walker}$  = Weight of the walker

$W_{drop\ weight}$  = 8 lb

$\mu_k$  = Dynamic coefficient of friction = 0.05

$N_{CAMI}$  = Normal force (for CAMI dummy scenario) = weight of CAMI dummy and walker

$N_{CAMI\ w/vest}$  = Normal force (for CAMI dummy fitted with 11 lb vest scenario) = weight of CAMI dummy + vest + walker

$g$  = Acceleration of gravity = 32.2 ft/sec<sup>2</sup>

The launching distances may vary depending on the weight of the walker and the maximum velocity of the walker at the edge of the platform (4 ft/sec or 2 ft/sec). The appropriate launching distances need to be computed for each walker model, in each direction, with and without the 11 pound vest. CPSC staff believes that if the walker weight is not appropriately accounted for, then it is possible the target maximum velocity cannot be achieved. For example, if the scenario involved computing distance  $d$  where the walker is tested in the forward direction with the CAMI dummy and the walker weight is 14 pounds, distance  $d$  would equal 18.0 inches (instead of 14.6 inches if the walker weight value is 8 pounds).

The longer distance is needed to achieve the target velocity of 4 ft/sec. If a 14-pound walker is launched from 14.6 inches, the walker may not achieve the maximum velocity of 4 ft/sec. The proposed change will mean that each walker will be subjected to the same target maximum velocity even if the weight of the walkers varies. This proposed change may create more stringent performance requirements.

### 2. Addition of 30° Incline Plane Test and Parking Brake Test

As discussed above in part E.3 of this preamble, the Commission is proposing to add to the ASTM standard two provisions currently in the European Standard EN 1273:2005 for walkers.

*The 30° incline plane test.* Under this test, as explained above, a walker with a 26.4 pound (12 kg) test mass is placed on a sloping platform that is inclined at 30 degrees to the horizontal with a stop on the lower edge of the slope. In order to pass, the walker must not tip over. The current ASTM standard contains a provision to address children leaning out over the edge of the walker. The ASTM provision concerning leaning over the edge of the walker requires a cantilevered 17-pound force with approximately a 6 to 7 inch moment arm on a level surface. The 30° test uses a 26.4-pound test mass seated on a (up to) 14-pound walker on an incline

plane. In certain scenarios, the 30° test may be more stringent.

*The parking brake test.* The parking brake test would apply to walkers that have parking brakes. It would not require walkers to have parking brakes. Under this test, the walker is set up to run a quasi-static version of the stair fall performance test, but with the parking device activated. If the walker moves a distance greater than 1.97 inches (50 mm), the walker fails the requirement. The parking brake test will ensure that, if a walker has a parking brake, it will work effectively. This could affect safety because, if a parking brake is present, caregivers may rely on it to temporarily stop the walker.

### 3. Summary of Proposed Changes to ASTM F 977-07

The more substantive proposed modifications to the ASTM standard for walkers have been discussed above in parts F.1 and F.2 of this preamble. A summary of these proposed changes and the other, more editorial/technical changes the Commission is proposing follows:

- Update the illustration of types of models of walkers in Figure 1 of the ASTM standard to include an open back design (proposed § 1216.2(b)(1)).
- Revise equipment specifications in section 4.6 of ASTM standard to eliminate brand and model of force gauge and provide performance

specification instead (proposed § 1216.2(b)(2) through (5)).

- Revise Figure 10 of the ASTM standard to show specific rope, other equipment and procedures for stair step test (proposed § 1216.2(b)(17)).

- In stair step test procedures, add a calculation (discussed above) to determine launching distance rather than assuming an 8-pound walker. (proposed § 1216.2(b)(7), (8), (11), (13), (15), (18), (20)).

- In stair step test procedures, specify the position for walker wheels (proposed § 1216.2(b)(7), (13), (18)).

- In stair step test procedures, specify the position for CAMI dummy. (proposed § 1216.2(b)(9)).

- In stair step test procedures, specify rope type, pulley type, and force to be applied. (proposed § 1216.2(b)(6), (10), (14), (19)).

- In stair step test procedures, require each aspect of test (forward, sideward, and rearward) three times to make it consistent with the European Standard EN 1273:2005 and allow more confidence in the test results. (proposed § 1216.2(b)(12), (16), (21)).

- Add the following warning concerning the parking brake if a walker has a parking brake: "WARNING: Parking brake use does not totally prevent walker movement. Always keep child in view when in the walker, even when using the parking brakes." (proposed § 1216.2(b)(22)).

- Revise the stair hazard warning to state: "Block stairs/steps securely before using walker, even when using parking brake." (proposed § 1216.2(b)(23)).

- Add 30° incline plane test (proposed § 1216.2(c)).

- Add parking device test (proposed § 1216.2(d)).

### G. Request for Comments

This NPR begins a rulemaking proceeding under section 104(b) of the CPSIA to issue a consumer product safety standard for walkers. All interested persons are invited to submit their comments to the Commission on any aspect of the proposed rule. Comments should be submitted in accordance with the instructions in the **ADDRESSES** section at the beginning of this notice.

### H. Effective Date

The Administrative Procedure Act ("APA") generally requires that the effective date of a rule be at least 30 days after publication of the final rule. *Id.* 553(d). To allow time for infant walkers to come into compliance the Commission proposes that the standard would become effective 6 months after publication of a final rule.

### I. Paperwork Reduction Act

The Commission is not proposing any collections of information in this regulation. Therefore, the Paperwork Reduction Act, 44 U.S.C. 3501–3520, does not apply.

### J. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA") generally requires that agencies review proposed rules for their potential economic impact on small entities, including small businesses. 5 U.S.C. 603.

#### 1. The Market

As mentioned above, there are currently at least seven manufacturers or importers supplying infant walkers to the U.S. market (four domestic manufacturers, two foreign manufacturers with divisions in the United States, and one domestic importer). Under Small Business Administration (SBA) guidelines, a manufacturer of infant walkers is small if it has 500 or fewer employees and an importer is considered small if it has 100 or fewer employees. Two domestic manufacturers (a third small manufacturer also sells baby walkers, but based on their current product list is no longer manufacturing them) and one domestic importer known to be supplying the United States market qualify as small businesses under these guidelines. However, CPSC staff believes that there are probably other unknown small importers operating in the United States market as well.

As noted above, all domestic manufacturers supplying infant walkers to the United States market certify their products as compliant with the current ASTM voluntary standard through the JPMA certification program. Based on limited CPSC staff testing, the two foreign manufacturers and the domestic importer are not believed to be complying with the current voluntary standard.

#### 2. Impact of the Proposal

As stated above, the proposed changes to the existing stair fall test requirements would reduce variability across manufacturers. Also, because the specific test modifications have been selected to minimize the friction associated with the test procedure, they may effectively add stringency to the tests. It is unknown the extent (if any) to which the proposed modification in the existing stair fall requirements of the voluntary standard will affect walkers that now comply with the current voluntary standard. However, initial testing shows that the proposed requirements impact the test results of

a few walkers. Therefore, it is possible that some manufacturers might need to make walker modifications to comply. Based on staff estimates of the costs of complying with the 1997 stair fall requirements, this cost is unlikely to exceed more than several dollars per unit.

Infant walkers are not currently required to have parking brakes, nor would they be required to have them under the proposed standard. However, the Commission proposes including a test of parking brakes if a walker has them to assure that they work properly. Initial testing finds that existing walkers have no difficulty in passing this requirement. Therefore, the Commission does not expect it to represent a burden to current manufacturers. However, its inclusion would minimize the risk of walkers with ineffective brakes entering the United States market in the future.

The 30° incline plane test that the Commission proposes adding to the ASTM standard is comparable to, and may be duplicative of, the "Occupant Leaning Outward Over Edge Test" in the current voluntary standard. Like the existing requirement, it tests walker vulnerability to tip-over. The safety impact of this inclusion is unclear, but may provide additional safety to walkers over and above the existing requirement. Based on limited testing, it appears that several walkers would pass these added tests without modifications.

As noted before, of the seven firms currently known to be marketing infant walkers in the United States, three are small firms—two small domestic manufacturers and a small domestic importer. Below is a discussion of the possible impact of the proposal on these entities.

*Small manufacturers.* The two small domestic manufacturers (which are JPMA certified as compliant with the voluntary standard) may not need to make product modifications. If they do, it will most likely be due to changes needed to comply with the proposed modifications to the stair fall requirements. The costs to these manufacturers are not likely to be substantial, but may increase by as much as several dollars per unit.

*Small importers.* The only known small domestic importer is not believed to be compliant with the current voluntary standard; therefore, at least some product modifications would be necessary. The impact of the proposed infant walker requirements on this importer is unclear, because little is known about the walkers sold by this company. However, the impact is unlikely to be large. Even if the company responded to the rule by

discontinuing the import of its non-complying walkers, either replacing them with a complying product or another juvenile product, deciding to import an alternative product would be a reasonable and realistic way to offset any lost revenue from walker sales.

There also may be importers of walkers that we have been unable to identify. However, the impacts of the proposed rule on these firms, if any, are unknown.

### 3. Alternatives

Under section 104 of the CPSIA, the primary alternative that would reduce the impact on small entities is to make the voluntary standard mandatory with no modifications. Because the two small domestic manufacturers already meet the requirements of the voluntary standard, adopting the standard without modifications may reduce their costs, but only marginally. Similarly, limiting the requirements of the standard to those already contained in the voluntary standard would probably have little beneficial impact on small importers that do not currently meet the requirements of the voluntary standard. This is because, to these firms, most of the infant walker cost increases would be associated with meeting the requirements of the current voluntary standard, rather than the minor add-ons associated with the proposed standard.

### 4. Conclusion of initial regulatory flexibility analysis

It is not expected that the proposed standard will have a substantial effect on a large number of small firms. In some cases, small firms may not need to

make any product modifications to achieve compliance. Even if modifications were necessary, and the cost of developing a compliant product proved to be a barrier for individual firms, the loss of infant walkers as a product category is expected to be minor and would likely be mitigated by increased sales of competing products, such as activity centers, or entirely different juvenile products.

### K. Environmental Considerations

The Commission's regulations provide a categorical exemption for the Commission's rules from any requirement to prepare an environmental assessment or an environmental impact statement as they "have little or no potential for affecting the human environment." 16 CFR 1021.5(c)(2). This proposed rule falls within the categorical exemption.

### List of Subjects in 16 CFR Part 1216

Consumer protection, Imports, infants and children, Labeling, Law enforcement, and Toys.

Therefore, the Commission proposes to amend Title 16 of the Code of Federal Regulations by adding part 1216 to read as follows:

### PART 1216—SAFETY STANDARD FOR INFANT WALKERS

Sec.

1216.1 Scope, application and effective date.

1216.2 Requirements for infant walkers.

**Authority:** The Consumer Product Safety Improvement Act of 2008, Pub. L. 110-314, 104, 122 Stat. 3016 (August 14, 2008).

### § 1216.1 Scope, application and effective date.

This part 1216 establishes a consumer product safety standard for infant walkers manufactured or imported on or after March 3, 2010.

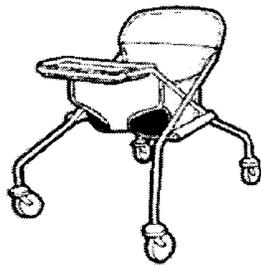
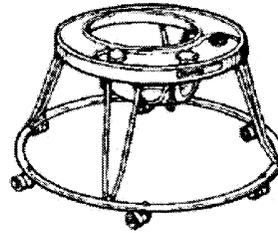
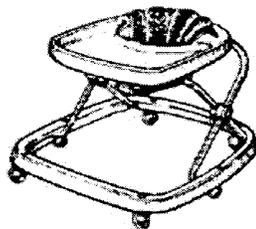
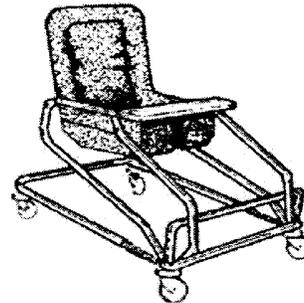
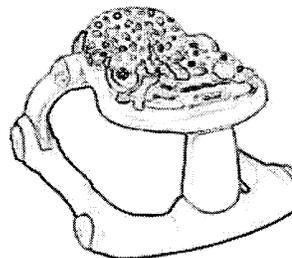
### § 1216.2 Requirements for infant walkers.

(a) Except as provided in paragraphs (b), (c) and (d) of this section, each infant walker shall comply with all applicable provisions of ASTM F 977-07, Standard Consumer Safety Specification for Infant Walkers, approved April 1, 2007. 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. You may obtain a copy from ASTM International, 100 Bar Harbor Drive, PO Box 0700, West Conshohocken, PA 19428; <http://www.astm.org>. You may inspect a copy at the Office of the Secretary, U.S. Consumer Product Safety Commission, Room 502, 4330 East West Highway, Bethesda, MD 20814, telephone 301-504-7923, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

(b) The following provisions replace, or are added to, the indicated sections of the ASTM F 977-07 standard.

(1) Instead of Figure 1:

**BILLING CODE 6355-01-P**

X-FrameCircularAdjustable HeightBouncer-WalkerOpen Back**Figure 1 Illustration of Types of Infant Walkers****BILLING CODE 6355-01-C**

(2) Instead of section 4.6.1:

“Equipment—Force gauge with a range of 0 to 25 lbf (110 N), tolerance of  $\pm 1$  Div., and a calibration interval of 1 year.”

(3) Delete sections 4.6.2 through 4.6.4.

(4) Instead of section 4.6.5:

“Equipment—Force gauge with a range

0 to 100 lbf (500 N) tolerance of  $\pm 1$  Div., and a calibration interval of 1 year.”

(5) Delete sections 4.6.6 through 4.6.8.

(6) Instead of section 7.6.1.2: “The dummy may be secured to the tray to maintain contact during the test. Raise the dummy’s legs just enough so its feet do not touch the platform during the

performance of the test and position using the rope specified in Figure 10.”

(7) Instead of section 7.6.3.1: “Center the walker on the test platform facing forward so that Plane A is perpendicular to the front edge of the platform and the walker is distance  $d$  from the center of the most forward wheel(s) to the edge of the test platform,

$$d_{CAMI} = \frac{(V_f^2 - V_o^2) * (W_{CAMI} + W_{walker} + W_{drop\ weight})}{2_g (W_{drop\ weight} - \mu_k N_{CAMI})}$$

Where:

$V_f$  = Maximum velocity of walker at edge of platform = 4 ft/sec  
 $V_o$  = Initial velocity = 0  
 $W_{CAMI}$  = Weight of CAMI dummy = 17 lb  
 $W_{walker}$  = Weight of the walker

$W_{drop\ weight}$  = Drop weight = 8 lb  
 $\mu_k$  = Dynamic coefficient of friction = 0.05  
 $N_{CAMI}$  = Normal force (for CAMI dummy scenario) = weight of CAMI dummy and walker  
 $g$  = acceleration of gravity = 32.2 ft/sec<sup>2</sup>

Position the swivel wheels in such a way that the walker moves forward in a straight line parallel to Plane A.”

(8) Instead of Table 1 Summary of Step(s) Tests:

TABLE 1—SUMMARY OF STEP(S) TESTS

Section No.	Facing direction of walker	Weight of CAMI dummy, lb	Simulated speed, ft/s	Apply tipover test
7.6.3	forward	17	4	yes.
7.6.3.6	forward	28 (vest)	4	yes.
7.6.4	sideward	17	2	yes.
7.6.4.6	sideward	28 (vest)	2	yes.
7.6.5	rearward	17	4	no.
7.6.5.5	rearward	28 (vest)	4	no.

(9) Instead of section 7.6.3.2: “Place a CAMI infant dummy Mark II in the walker and position it as shown in Fig. 11 with the torso contacting the front of the occupant seating area and arms placed on the walker tray.”

(10) Instead of section 7.6.3.3: “While holding the walker stationary, attach an

8 lb (3.6 kg) weight to the front of the walker base at Plane A by means of a 7-strand military rope with 550 lb tensile strength (e.g., paracord 550) and a stainless steel ball bearing pulley with an outside diameter of 1.25 in (32mm) and adjust the pulley so that the force

is applied horizontally (0 ± 0.5° with respect to the table surface).”

(11) Instead of section 7.6.3.6: “Repeat 7.6.3.1–7.6.3.5 using the CAMI dummy with the weighted vest (see Fig. 12) and with distance  $d$ , computed using the following equation:

$$d_{CAMI\ w/vest} = \frac{(V_f^2 - V_o^2) * (W_{CAMI\ w/vest} + W_{walker} + W_{drop\ weight})}{2_g (W_{drop\ weight} - \mu_k N_{CAMI\ w/vest})}$$

Where:

$V_f$  = Maximum velocity of walker at edge of platform = 4 ft/sec  
 $V_o$  = Initial velocity = 0  
 $W_{CAMI\ w/vest}$  = Weight of CAMI dummy with 11 lb vest = 28 lbs  
 $W_{walker}$  = Weight of the walker  
 $W_{drop\ weight}$  = Drop weight = 8 lb  
 $\mu_k$  = Dynamic coefficient of friction = 0.05

$N_{CAMI\ w/vest}$  = Normal force (for CAMI dummy fitted with 11 lb vest scenario) = weight of CAMI dummy + vest weight + walker weight  
 $g$  = acceleration of gravity = 32.2 ft/sec<sup>2</sup>

section 7.6.3.5, and section 7.6.3.6 two additional times.”

(13) Instead of 7.6.4.1: “Center the walker on the test platform facing sideways so that Plane B is perpendicular to the front edge of the platform and the walker is distance  $d$  from the center of the most sideward wheel(s) to the edge of the test platform,

(12) After section 7.6.3.6, add a new section 7.6.3.7: “Repeat tests in the following sequence: section 7.6.3.4,

$$d_{CAMI} = \frac{(V_f^2 - V_o^2) * (W_{CAMI} + W_{walker} + W_{drop\ weight})}{2_g (W_{drop\ weight} - \mu_k N_{CAMI})}$$

Where:

$V_f$  = Maximum velocity of walker at edge of platform = 2 ft/sec  
 $V_o$  = Initial velocity = 0  
 $W_{CAMI}$  = Weight of CAMI dummy = 17 lb  
 $W_{walker}$  = Weight of the walker  
 $W_{drop\ weight}$  = Drop weight = 8 lb  
 $\mu_k$  = Dynamic coefficient of friction = 0.05  
 $N_{CAMI}$  = Normal force (for CAMI dummy scenario) = weight of CAMI dummy and walker

$g$  = acceleration of gravity = 32.2 ft/sec<sup>2</sup>

Position the swivel wheels in such a way that the walker moves sideward in a straight line parallel to Plane A.”

(14) Instead of section 7.6.4.3: “While holding the walker stationary, attach an 8 lb (3.6 kg) weight to the side of the walker base at Plane B by means of a rope (as specified in 7.6.3.3) and a

pulley (as specified in 7.6.3.3) and adjust the pulley so that the force is applied horizontally (0 ± 0.5° with respect to the table surface).”

(15) Instead of section 7.6.4.6: “Repeat 7.6.4.1 through 7.6.4.5 using the CAMI dummy with the weighted vest (see Fig. 12) and with distance  $d$ , computed using the following equation:

$$d_{CAMI} = \frac{(V_f^2 - V_o^2) * (W_{CAMI} + W_{walker} + W_{drop\ weight})}{2g (W_{drop\ weight} - \mu_k N_{CAMI})}$$

Where:

$V_f$  = Maximum velocity of walker at edge of platform = 2 ft/sec

$V_o$  = Initial velocity = 0

$W_{CAMI\ w/vest}$  = Weight of CAMI dummy with 11 lb vest = 28 lbs

$W_{walker}$  = Weight of the walker

$W_{drop\ weight}$  = Drop weight = 8 lb

$\mu_k$  = Dynamic coefficient of friction = 0.05

$N_{CAMI\ w/vest}$  = Normal force (for CAMI dummy fitted with 11 lb vest scenario) = weight of CAMI dummy + vest weight + walker weight

$g$  = acceleration of gravity = 32.2 ft/sec<sup>2</sup>

(16) After section 7.6.4.6, add a new section 7.6.4.7: "Repeat tests in the following sequence: section 7.6.4.4, section 7.6.4.5, and section 7.6.4.6 two additional times."

(17) Instead of Figure 10:

BILLING CODE 6355-01-P

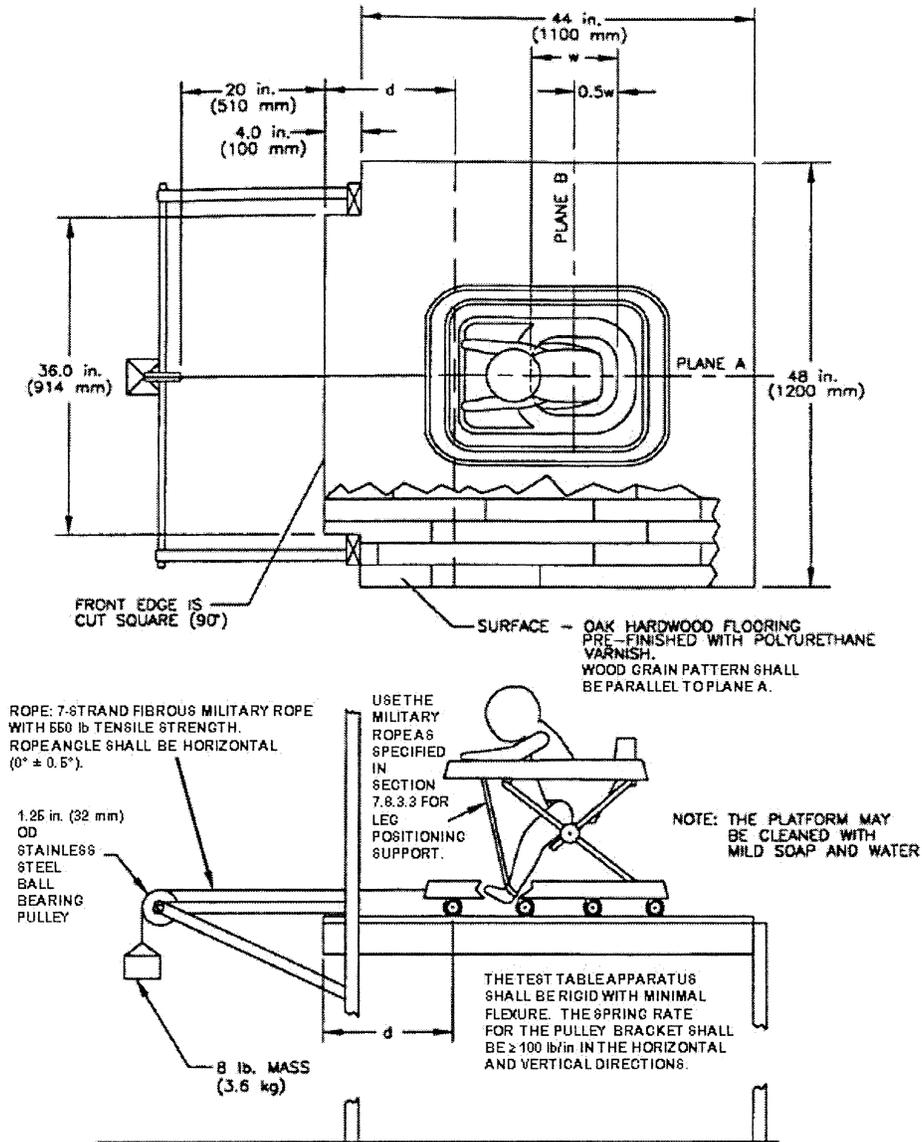


Figure 10 Test Platform Specifications

## BILLING CODE 6355-01-C

(18) Instead of section 7.6.5.1: “Center the walker on the test platform facing

rearward so that Plane A is perpendicular to the front edge of the platform and the walker is distance  $d$

from the center of the most rearward wheel(s) to the edge of the test platform,

$$d_{CAMI} = \frac{(V_f^2 - V_o^2) * (W_{CAMI} + W_{walker} + W_{drop\ weight})}{2_g (W_{drop\ weight} - \mu_k N_{CAMI})}$$

Where:

$V_f$  = Maximum velocity of walker at edge of platform = 4 ft/sec

$V_o$  = Initial velocity = 0

$W_{CAMI}$  = Weight of CAMI dummy = 17 lb

$W_{walker}$  = Weight of the walker

$W_{drop\ weight}$  = Drop weight = 8 lb

$\mu_k$  = Dynamic coefficient of friction = 0.05

$N_{CAMI}$  = Normal force (for CAMI dummy scenario) = weight of CAMI dummy and walker

$g$  = acceleration of gravity = 32.2 ft/sec<sup>2</sup>

Position the swivel wheels in such a way that the walker moves rearward in a straight line parallel to Plane A. If the walker has an open back design, attach the 1 in aluminum angle used in 7.3.4 to span the back frame.”

(19) Instead of section 7.6.5.3: “While holding the walker stationary, attach an 8 lb (3.6 kg) weight to the rear of the walker base at Plane A by means of a

rope (as specified in 7.6.3.3) and a pulley (as specified in 7.6.3.3) and adjust the pulley so that the force is applied horizontally ( $0 \pm 0.5^\circ$  with respect to the table surface).”

(20) Instead of section 7.6.5.5: “Repeat 7.6.5.1 through 7.6.5.4 using the CAMI dummy with the weighted vest (see Fig. 12) and with distance  $d$ , computed using the following equation:

$$d_{CAMI\ w/vest} = \frac{(V_f^2 - V_o^2) * (W_{CAMI\ w/vest} + W_{walker} + W_{drop\ weight})}{2_g (W_{drop\ weight} - \mu_k N_{CAMI\ w/vest})}$$

Where:

$V_f$  = Maximum velocity of walker at edge of platform = 4 ft/sec

$V_o$  = Initial velocity = 0

$W_{CAMI\ w/vest}$  = Weight of CAMI dummy with 11 lb vest = 28 lbs

$W_{walker}$  = Weight of the walker

$W_{drop\ weight}$  = Drop weight = 8 lb

$\mu_k$  = Dynamic coefficient of friction = 0.05

$N_{CAMI\ w/vest}$  = Normal force (for CAMI dummy fitted with 11 lb vest scenario) = weight

of CAMI dummy + vest weight + walker weight

$g$  = acceleration of gravity = 32.2 ft/sec<sup>2</sup>

(21) After section 7.6.5.5, add a new section 7.6.5.6: “Repeat tests in the following sequence: section 7.6.5.3, and section 7.6.5.5 two additional times.”

(22) Between section 8.2.3.2 and section 8.2.4, add a new section 8.2.3.3: “A warning statement shall address the

following: *Warning:* Parking brake use does not totally prevent walker movement. Always keep child in view when in the walker, even when using the parking brakes.”

(23) Instead of section 8.2.4.2: “The stairs warning shall be stated exactly as follows:

### **▲ WARNING - STAIR HAZARD**

**Avoid serious injury or death**

**Block stairs/steps securely before using walker, even when using parking brake.”**

(c) *Static stability 30° incline plane test*—

(1) *Requirement.* When tested to the procedure described in paragraph (c)(3) of this section, the infant walker shall not overturn.

(2) *Test equipment.* (i) A sloping platform inclined at 30° to the horizontal with a stop fitted to the lower edge of the slope. The height of the stop shall be 3.94 in (100 mm). See Figure 15.

(ii) Test Mass A: A rigid cylinder 6.30 in  $\pm$  0.04 in (160 mm  $\pm$  1 mm) in diameter, 11.02 in  $\pm$  0.04 in (280 mm  $\pm$  1 mm) in height with a mass of 26.4 lb (12 kg), with its center of gravity in the center of the cylinder. All edges shall have a radius of 0.79 in  $\pm$  0.04 in (20 mm  $\pm$  1mm).

(iii) Test Mass B: A rigid cylinder 6.30 in  $\pm$  0.04 in (160 mm  $\pm$  1 mm) in diameter, 11.02 in  $\pm$  0.04 in (280 mm  $\pm$  1 mm) in height with a mass of 16.8 lb

(7.65 kg), with its center of gravity in the center of the cylinder.

(3) *Test method.* (i) Adjustable seats shall be adjusted to their highest position. Place Test Mass A vertically in the center of the walker seat. To restrict movement of the test mass, packing of negligible mass may be used. Position the castors or wheels in their most onerous position. Place the walker on the slope against the stop. Carry out the test in the forward, sideward, and rearward directions.

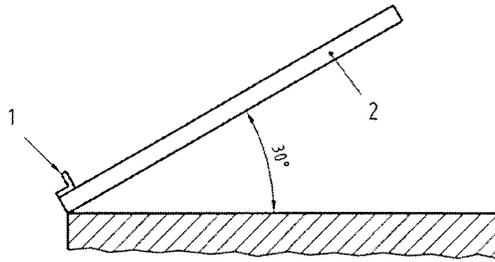


FIGURE 15

(d) *Parking device test (applicable to walkers equipped with parking brakes)*—

(1) Requirement. When tested to the procedures in paragraph (d) of this section, the infant walker shall have a maximum displacement of 1.97 inches (50 mm) for each test in each direction (forward, rearward, and sideward).

(2) *Test equipment.* (i) A test platform as specified in Figure 10 with a hardwood floor pre-finished with polyurethane.

(ii) Test Mass A and Test Mass B as specified in paragraph (c)(2)(ii) and (iii) of this section.

(3) *Test method.* (i) *Preparation and procedure.*

(A) Adjust the walker seat to the highest position (if applicable). Place Test Mass A vertically in the walker seat. Set any manual speed control to the fastest position (if applicable). Establish a vertical plane A that passes through the center of the seating area and is parallel to the direction the child faces. Establish a vertical plane B that is perpendicular to plane A and passes through the center of the seating area.

(B) Perform the parking device test in the forward, sideward, and rearward directions.

(ii) *Forward facing test of parking devices.*

(A) Position the walker including Test Mass B facing forward so that plane A is perpendicular to the front edge of the platform and passes through the center of the pulley. Engage all parking devices in accordance with the manufacturer's instructions.

(B) Within one minute of placing the walker with Test Mass B on the platform, attach an 8 lb weight gradually within 5 seconds to the walker frame base at plane A by means of a rope and a pulley per the test apparatus specifications in the step test procedure, adjusted so that the force is applied horizontally (rope angle shall be  $0 \pm 0.5^\circ$ ). Remove the 8 lb weight after 1 minute. Measure the displacement.

(iii) *Sideward facing test of parking devices.*

(A) Position the walker including Test Mass B facing sideward so that plane B is perpendicular to the front edge of the platform and passes through the center of the pulley. Engage all parking devices in accordance with the manufacturer's instructions.

(B) Within one minute of placing the walker with Test Mass B on the platform, attach an 8 lb weight gradually within 5 seconds to the walker frame base at plane B by means of a rope and a pulley per the test apparatus specifications in the step test procedure, adjusted so that the force is applied horizontally (rope angle shall be  $0 \pm 0.5^\circ$ ). Remove the 8 lb weight after 1 minute. Measure the displacement.

(iv) *Rearward facing test of parking devices.*

(A) Position the walker including Test Mass B facing rearward so that plane A is perpendicular to the front edge of the platform and passes through the center of the pulley. Engage all parking devices in accordance with the manufacturers' instructions.

(B) Within one minute of placing the walker with Test Mass B on the platform, attach an 8 lb weight gradually within 5 seconds to the walker frame base at plane A by means of a rope and a pulley per the test apparatus specifications in the step test procedure, adjusted so that the force is applied horizontally (rope angle shall be  $0 \pm 0.5^\circ$ ). Remove the 8 lb weight after 1 minute. Measure the displacement.

Dated: August 25, 2009.

**Todd Stevenson,**

*Secretary, U.S. Consumer Product Safety Commission.*

[FR Doc. E9-20946 Filed 9-2-09; 8:45 am]

**BILLING CODE 6355-01-P**

## CONSUMER PRODUCT SAFETY COMMISSION

### 16 CFR Part 1500

[CPSC Docket No. CPSC-2009-0066]

### Revocation of Regulation Banning Certain Baby-Walkers, Walker-Jumpers, and Similar Products

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Consumer Product Safety Commission ("CPSC" or "Commission") is proposing to revoke certain regulations pertaining to baby-bouncers, walker-jumpers, baby-walkers, and similar products. CPSC is taking this action because the regulations, which originally were issued in 1971, are outdated and do not provide the degree of safety that is provided by currently manufactured baby-walkers that comply with a more effective voluntary standard. This action also will eliminate confusion about whether manufacturers should certify that their products comply with these regulations or with a new mandatory safety standard for baby-walkers proposed elsewhere in this issue of the **Federal Register**.

**DATES:** Submit comments by November 2, 2009.

**ADDRESSES:** To ensure timely processing of comments, the Commission is no longer directly accepting comments submitted by electronic mail (e-mail). The Commission encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described below in paragraph 1, "Electronic Submissions."

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

1. Electronic Submissions.

Submit electronic comments to the Federal eRulemaking Portal: <http://frwebgate.access.gpo.gov/cgi-bin/leaving.cgi?from=leavingFR.html&log=linklog&to=http://www.regulations.gov>.