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Consumer Product Safety Commission

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Semiannual Regulatory Agenda

**CONSUMER PRODUCT SAFETY COMMISSION**

**16 CFR Ch. II**

**Semiannual Regulatory Agenda**

**AGENCY:** U.S. Consumer Product Safety Commission.

**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** In this document, the Commission publishes its semiannual regulatory flexibility agenda. In addition, this document includes an agenda of regulatory actions that the Commission expects to be under development or review by the Agency during the next year. This document meets the requirements of the Regulatory Flexibility Act and Executive Order 12866. The Commission welcomes comments on the agenda and on the individual agenda entries.

**DATES:** Comments should be received in the Office of the Secretary on or before December 17, 2018.

**ADDRESSES:** Comments on the regulatory flexibility agenda should be captioned “Regulatory Flexibility Agenda,” and emailed to: *cpsc-os@cpsc.gov*. Comments may also be mailed or delivered to the Division of the Secretariat, U.S. Consumer Product Safety Commission, Room 820, 4330 East-West Highway, Bethesda, MD 20814-4408.

**FOR FURTHER INFORMATION CONTACT:** For further information on the agenda, in general, contact Adrienne Layton, Directorate for Health Sciences, U.S. Consumer Product Safety Commission, 5 Research Place, Rockville MD 20805, email: *alayton@cpsc.gov*. For further information regarding a particular item on the agenda, consult the individual listed in the column headed, “Contact” for that particular item.

**SUPPLEMENTARY INFORMATION:** The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 to 612) contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small businesses, small governmental

organizations, and other small entities. Section 602 of the RFA (5 U.S.C. 602) requires each agency to publish, twice each year, a regulatory flexibility agenda containing a brief description of the subject area of any rule expected to be proposed or promulgated, which is likely to have a “significant economic impact” on a “substantial number” of small entities.

The agency must also provide a summary of the nature of the rule and a schedule for acting on each rule for which the agency has issued a notice of proposed rulemaking.

The regulatory flexibility agenda also is required to contain the name and address of the agency official knowledgeable about the items listed. Furthermore, agencies are required to provide notice of their agendas to small entities and to solicit their comments by direct notification or by inclusion in publications likely to be obtained by such entities.

Additionally, Executive Order 12866 requires each agency to publish, twice each year, a regulatory agenda of regulations under development or review during the next year, and the Executive order states that such an agenda may be combined with the agenda published in accordance with the RFA. The regulatory flexibility agenda lists the regulatory activities expected to be under development or review during the next 12 months. It includes all such activities, whether or not they may have a significant economic impact on a substantial number of small entities. This agenda also includes regulatory activities that appeared in the spring 2018 agenda and have been completed by the Commission prior to publication of this agenda. Although CPSC, as an independent regulatory agency, is not required to comply with Executive Orders, the Commission does follow Executive Order 12866 regarding the publication of its regulatory agenda.

The agenda contains a brief description and summary of each regulatory activity, including the objectives and legal basis for each; an

approximate schedule of target dates, subject to revision, for the development or completion of each activity; and the name and telephone number of a knowledgeable agency official concerning particular items on the agenda.

The internet is the basic means through which the Unified Agenda is disseminated. The complete Unified Agenda will be available online at: *www.reginfo.gov*, in a format that offers users the ability to obtain information from the Agenda database.

Because publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act (5 U.S.C. 602), the Commission’s printed agenda entries include only:

(1) Rules that are in the agency’s regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act because they are likely to have a significant economic impact on a substantial number of small entities; and

(2) Rules that the agency has identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act’s agenda requirements. Additional information on these entries is available in the Unified Agenda published on the internet.

The agenda reflects an assessment of the likelihood that the specified event will occur during the next year; the precise dates for each rulemaking are uncertain. New information, changes of circumstances, or changes in law may alter anticipated timing. In addition, no final determination by staff or the Commission regarding the need for, or the substance of, any rule or regulation should be inferred from this agenda.

Dated: July 25, 2018.

**Alberta E. Mills,**

*Secretary, Consumer Product Safety Commission.*

**CONSUMER PRODUCT SAFETY COMMISSION—FINAL RULE STAGE**

Sequence No.	Title	Regulation Identifier No.
435 .....	Flammability Standard for Upholstered Furniture .....	3041-AB35
436 .....	Regulatory Options for Table Saws ( <b>Reg Plan Seq No. 173</b> ) .....	3041-AC31
437 .....	Portable Generators ( <b>Reg Plan Seq No. 174</b> ) .....	3041-AC36

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

CONSUMER PRODUCT SAFETY COMMISSION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
438	Recreational Off-Road Vehicles	3041-AC78

CONSUMER PRODUCT SAFETY COMMISSION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
439	Standard for High Chairs	3041-AD33
440	Standard for Baby Changing Products	3041-AD48
441	Standard for Booster Seats	3041-AD58
442	Determinations Regarding Third Party Testing of Manufactured Wood	3041-AD63

**CONSUMER PRODUCT SAFETY COMMISSION (CPSC)**

Final Rule Stage

**435. Flammability Standard for Upholstered Furniture**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 1193; 5 U.S.C. 801

*Abstract:* In October 2003, the Commission issued an advance notice of proposed rulemaking (ANPRM) to address the risk of fire associated with cigarette and small open-flame ignitions of upholstered furniture. The Commission published a notice of proposed rulemaking (NPRM) in March 2008, and received public comments. The Commission's proposed rule would require that upholstered furniture have cigarette-resistant fabrics or cigarette and open flame-resistant barriers. The proposed rule would not require flame-resistant chemicals in fabrics or fillings. Since the Commission published the NPRM, CPSC staff has conducted testing of upholstered furniture, using both full-scale furniture and bench-scale models, as proposed in the NPRM. In FY 2016, staff was directed to prepare a briefing package summarizing the feasibility of adopting California's Technical Bulletin 117-2013 (TB 117-2013) as a mandatory standard. Staff submitted this briefing package to the Commission in September 2016 with staff suggestions to continue developing the ASTM and NFPA voluntary standards. In the FY 2017 Operating Plan, the Commission directed staff to work with the California Bureau of Electronic and Appliance Repair, Home Furnishings and Thermal Insulation (BEARHFTI), as well as voluntary standards development organizations, to improve upon and further refine the technical aspects of TB 117-2013.

Currently, staff is working with voluntary standards organizations, both ASTM and NFPA, and BEARHFTI to

evaluate new provisions and improve the existing consensus standards related to upholstered furniture flammability. Depending upon progress of the various standards, in FY 2019, staff plans to prepare a status report on recent activities.

*Timetable:*

Action	Date	FR Cite
ANPRM	06/15/94	59 FR 30735
Commission Hearing May 5 & 6, 1998 on Possible Toxicity of Flame-Retardant Chemicals.	03/17/98	63 FR 13017
Meeting Notice	03/20/02	67 FR 12916
Notice of Public Meeting.	08/27/03	68 FR 51564
Public Meeting	09/24/03	68 FR 60629
ANPRM	10/23/03	
ANPRM Comment Period End.	12/22/03	
Staff Held Public Meeting.	10/28/04	
Staff Held Public Meeting.	05/18/05	
Staff Sent Status Report to Commission.	01/31/06	
Staff Sent Status Report to Commission.	11/03/06	
Staff Sent Status Report to Commission.	12/28/06	
Staff Sent Options Package to Commission.	12/22/07	
Commission Decision to Direct Staff to Prepare Draft NPRM.	12/27/07	
Staff Sent Draft NPRM to Commission.	01/22/08	
Commission Decision to Publish NPRM.	02/01/08	
NPRM	03/04/08	73 FR 11702
NPRM Comment Period End.	05/19/08	

Action	Date	FR Cite
Staff Published NIST Report on Standard Test Cigarettes.	05/19/09	
Staff Publishes NIST Report on Standard Research Foam.	09/14/12	
Notice of April 25 Public Meeting and Request for Comments.	03/20/13	78 FR 17140
Staff Holds Upholstered Furniture Fire Safety Technology Meeting.	04/25/13	
Comment Period End.	07/01/13	
Staff Sends Briefing Package to Commission on California's TB 117-2013.	09/08/16	
Staff Sends Status Briefing Package to the Commission.	09/00/19	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Andrew Lock, Project Manager, Directorate for Laboratory Sciences, Consumer Product Safety Commission, National Product Testing and Evaluation Center, 5 Research Place, Rockville, MD 20850, Phone: 301 987-2099, Email: alock@cpsc.gov.

RIN: 3041-AB35

**436. Regulatory Options for Table Saws**

*Regulatory Plan:* This entry is Seq. No. 173 in part II of this issue of the **Federal Register**.

RIN: 3041-AC31

**437. Portable Generators**

*Regulatory Plan:* This entry is Seq. No. 174 in part II of this issue of the **Federal Register**.

RIN: 3041-AC36

**CONSUMER PRODUCT SAFETY COMMISSION (CPSC)**

Long-Term Actions

**438. Recreational Off-Road Vehicles**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* 15 U.S.C. 2056; 15 U.S.C. 2058

*Abstract:* The Commission is considering whether recreational off-road vehicles (ROVs) present an unreasonable risk of injury that should be regulated. ROVs are motorized vehicles having four or more low-pressure tires designed for off-road use and intended by the manufacturer primarily for recreational use by one or more persons. The salient characteristics of an ROV include a steering wheel for steering control, foot controls for throttle and braking, bench or bucket seats, a roll-over protective structure, and a maximum speed greater than 30 mph. On October 21, 2009, the Commission voted to publish an advance notice of proposed rulemaking (ANPRM) in the **Federal Register**. The ANPRM was published in the **Federal Register** on October 28, 2009, and the comment period ended December 28, 2009. The Commission received two letters requesting an extension of the comment period. The Commission extended the comment period until March 15, 2010. Staff conducted testing and evaluation programs to develop performance requirements addressing vehicle stability, vehicle handling, and occupant protection. On October 29, 2014, the Commission voted to publish an NPRM proposing standards addressing vehicle stability, vehicle handling, and occupant protection. The NPRM was published in the **Federal Register** on November 19, 2014. On January 23, 2015, the Commission published a notice of extension of the comment period for the NPRM, extending the comment period to April 8, 2015. Congress directed in fiscal year 2016 and reaffirmed in subsequent fiscal year appropriations, that none of the amounts made available by the Appropriations Bill may be used to finalize or implement the Safety Standard for Recreational Off-Highway Vehicles published by the CPSC in the **Federal Register** on November 19, 2014 (79 FR 68964) (ROV NPRM) until after the National Academy of Sciences completes a study to determine specific information as set forth in the Appropriations Bill. Staff ceased work on a Final Rule briefing package in FY 2015 and instead engaged the Recreational Off-Highway Vehicle Association (ROHVA) and Outdoor

Power Equipment Institute (OPEI) in the development of voluntary standards for ROVs. Staff conducted dynamic and static tests on ROVs, shared test results with ROHVA and OPEI, and participated in the development of revised voluntary standards to address staff's concerns with vehicle stability, vehicle handling, and occupant protection. The voluntary standards for ROVs were revised and published in 2016 (ANSI/ROHVA 1–2016 and ANSI/OPEI B71.9–2016). Staff assessed the new voluntary standard requirements and prepared a termination of rulemaking briefing package that was submitted to the Commission on November 22, 2016. The Commission voted not to terminate the rulemaking associated with ROVs. Staff continues to monitor and participate in voluntary standards activity related to ROVs.

*Timetable:*

Action	Date	FR Cite
Staff Sends ANPRM Briefing Package to Commission.	10/07/09	
Commission Decision.	10/21/09	
ANPRM .....	10/28/09	74 FR 55495
ANPRM Comment Period Extended.	12/22/09	74 FR 67987
Extended Comment Period End.	03/15/10	
Staff Sends NPRM Briefing Package to Commission.	09/24/14	
Staff Sends Supplemental Information on ROVs to Commission.	10/17/14	
Commission Decision.	10/29/14	
NPRM Published in <b>Federal Register</b> .	11/19/14	79 FR 68964
NPRM Comment Period Extended.	01/23/15	80 FR 3535
Extended Comment Period End.	04/08/15	
Staff Sends Briefing Package Assessing Voluntary Standards to Commission.	11/22/16	
Commission Decision Not to Terminate.	01/25/17	
Staff is Evaluating Voluntary Standards.	To Be Determined	

*Regulatory Flexibility Analysis Required:* Yes.

*Agency Contact:* Caroleene Paul, Project Manager, Directorate for Engineering Sciences, Consumer Product Safety Commission, National Product Testing and Evaluation Center, 5 Research Place, Rockville, MD 20850, Phone: 301 987–2225, Email: cpaul@cpsc.gov.  
RIN: 3041–AC78

**CONSUMER PRODUCT SAFETY COMMISSION (CPSC)**

Completed Actions

**439. Standard for High Chairs**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* Pub. L. 110–314, sec. 104

*Abstract:* Section 104 of the Consumer Product Safety Improvement Act of 2008 (CPSIA) requires the Commission to issue consumer product safety standards for durable infant or toddler products. The Commission is directed to assess the effectiveness of applicable voluntary standards and, in accordance with the Administrative Procedure Act, promulgate consumer product safety standards that are substantially the same as the voluntary standard or more stringent than the voluntary standard if the Commission determines that more stringent standards would further reduce the risk of injury associated with the product. The CPSIA requires that not later than August 14, 2009, the Commission begin rulemaking for at least two categories of durable infant or toddler products and promulgate two such standards every six months thereafter. On October 7, 2015, CPSC sent a notice of proposed rulemaking (NPRM) briefing package for high chairs to the Commission for consideration, as part of this series of standards for durable infant and toddler products. The proposed standard was based on ASTM F404–15, *Standard Consumer Safety Specification for High Chairs*, with additions. On October 30, 2015, the Commission voted to approve publication of the NPRM in the **Federal Register**. The Commission published the NPRM in the **Federal Register** on November 9, 2015. On January 21, 2016, the Commission published a correction to the NPRM, correcting an error in the proposed regulatory text. The comment period closed on January 25, 2016.

Staff reviewed the comments received and on May 30, 2018, sent a draft final rule briefing package for high chairs to the Commission for consideration. The draft incorporated by reference ASTM

F404–18, *Standard Consumer Safety Specifications for High Chairs*, as the mandatory federal safety standard for high chairs, with no modifications. The updated standard included the changes the Commission proposed in the NPRM. On June 8, 2018, the Commission voted unanimously to approve publication of the final rule in the **Federal Register**. The Commission published the final rule in the **Federal Register** on June 19, 2018. The rule will take effect on June 19, 2019.

*Timetable:*

Action	Date	FR Cite
Staff Sends NPRM Briefing Package to Commission.	10/07/15	
Commission Decision.	10/30/15	
NPRM .....	11/09/15	80 FR 69144
NPRM Correction	01/21/16	81 FR 3354
NPRM Comment Period End.	01/25/16	
Staff Sends Final Rule Briefing Package to Commission.	05/30/18	
Commission Decision.	06/08/18	
Final Rule .....	06/19/18	83 FR 29358
Final Rule Effective.	06/19/19	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Stefanie Marques, Project Manager, Division of Pharmacology and Physiology Assessment, Consumer Product Safety Commission, National Product Testing and Evaluation Center, 5 Research Place, Rockville, MD 20850, *Phone:* 301 987–2581, *Email:* smarques@cpsc.gov. *RIN:* 3041–AD33

**440. Standard for Baby Changing Products**

*E.O. 13771 Designation:* Independent agency  
*Legal Authority:* Pub. L. 110–314, sec. 104

*Abstract:* Section 104 of the Consumer Product Safety Improvement Act of 2008 (CPSIA) requires the Commission to issue consumer product safety standards for durable infant or toddler products. The Commission is directed to assess the effectiveness of applicable voluntary standards, and in accordance with the Administrative Procedure Act, promulgate consumer product safety standards that are substantially the same as the voluntary standard or more stringent than the voluntary standard if the Commission determines that more stringent standards would further reduce the risk of injury associated with

the product. The CPSIA requires that no later than August 14, 2009, the Commission begin rulemaking for at least two categories of durable infant or toddler products and promulgate two such standards every six months thereafter. On August 17, 2016, CPSC staff sent a notice of proposed rulemaking (NPRM) briefing package for baby changing products to the Commission for consideration as part of this series of standards for durable infant or toddler products. The proposed standard was based on ASTM F2388–16, *Standard Consumer Safety Specification for Baby Changing Tables for Domestic Use*, with additions. On September 14, 2016, the Commission held a public decisional meeting to consider the NPRM briefing package, at which the Commission voted to approve publication of the NPRM in the **Federal Register**. The Commission published the NPRM in the **Federal Register** on September 29, 2016. The comment period ended on December 13, 2016. After reviewing comments, staff sent a draft final rule briefing package to the Commission on June 13, 2018. The draft final rule incorporated by reference ASTM F2388–18, *Standard Consumer Safety Specification for Baby Changing Products for Domestic Use*, without changes. The updated standard included the changes the Commission proposed in the NPRM. On June 19, 2018, the Commission voted unanimously to approve publication of the final rule in the **Federal Register**. The Commission published the final rule in the **Federal Register** on June 26, 2018. The final rule will take effect on June 26, 2019.

*Timetable:*

Action	Date	FR Cite
Staff Sends NPRM Briefing Package to Commission.	08/17/16	
Commission Decision.	09/14/16	
NPRM .....	09/29/16	81 FR 66881
NPRM Comment Period End.	12/13/16	
Staff Sends Final Rule Briefing Package to Commission.	06/13/18	
Commission Decision.	06/19/18	
Final Rule .....	06/26/18	83 FR 29672
Final Rule Effective.	06/26/19	

*Regulatory Flexibility Analysis*

*Required:* Yes.

*Agency Contact:* Mark Kumagai, Project Manager, Directorate for

Engineering Sciences, Consumer Product Safety Commission, National Product Testing and Evaluation Center, 5 Research Place, Rockville, MD 20850, *Phone:* 301 987–2234, *Email:* mkumagai@cpsc.gov.

*RIN:* 3041–AD48

**441. Standard for Booster Seats**

*E.O. 13771 Designation:* Independent agency.

*Legal Authority:* Pub. L. 110–314, sec. 104

*Abstract:* Section 104 of the Consumer Product Safety Improvement Act of 2008 (CPSIA) requires the Commission to issue consumer product safety standards for durable infant or toddler products. The Commission is directed to assess the effectiveness of applicable voluntary standards, and in accordance with the Administrative Procedure Act, promulgate consumer product safety standards that are substantially the same as the voluntary standard or more stringent than the voluntary standard if the Commission determines that more stringent standards would further reduce the risk of injury associated with the product. The CPSIA requires that no later than August 14, 2009, the Commission begin rulemaking for at least two categories of durable infant or toddler products and promulgate two such standards every six months thereafter. The Commission proposed a consumer product safety standard for booster seats as part of this series of standards for durable infant and toddler products that was published in the **Federal Register** on May 19, 2017. The comment period closed on August 2, 2017. Staff prepared a final rule briefing package for Commission consideration. On June 26, 2018, The Commission voted to approve the final rule. The Commission published the final rule in the **Federal Register** on July 2, 2018. The final rule will take effect on January 2, 2020.

*Timetable:*

Action	Date	FR Cite
Staff Sends NPRM Briefing Package to Commission.	05/03/17	
Commission Decision.	05/09/17	
NPRM .....	05/19/17	82 FR 22925
NPRM Comment Period End.	08/02/17	
Staff Sends Final Rule Briefing Package to Commission.	06/20/18	
Commission Decision.	06/26/18	
Final Rule .....	07/02/18	83 FR 30849

Action	Date	FR Cite
Final Rule Effective.	01/02/20	

*Regulatory Flexibility Analysis Required: Yes.*  
*Agency Contact:* Celestine Kish, Project Manager, Directorate for Engineering Sciences, Consumer Product Safety Commission, National Product Testing and Evaluation Center, 5 Research Place, Rockville, MD 20850, Phone: 301 987-2547, Email: ckish@cpsc.gov.  
 RIN: 3041-AD58

**442. Determinations Regarding Third Party Testing of Manufactured Wood**

*E.O. 13771 Designation:* Independent agency.  
*Legal Authority:* Sec. 3, Pub. L. 110-314; 122 Stat. 3016; 15 U.S.C. 2063(d)(3)(B)  
*Abstract:* Section 14(i)(3) of the Consumer Product Safety Act requires the Commission to seek opportunities to

reduce the cost of third party testing requirements consistent with assuring compliance with any applicable children’s product safety rule. Staff prepared a briefing package for Commission consideration with a draft notice of proposed rulemaking (NPRM) regarding third party testing of certain manufactured wood/engineered wood products for lead, the ASTM F963 elements, and the specified phthalates. The comment period ended on December 27, 2017. On June 6, 2018, staff sent a final rule briefing package to the Commission. On June 15, 2018, the Commission voted to approve publication of the final rule in the **Federal Register**, which published on June 22, 2018.

*Timetable:*

Action	Date	FR Cite
Staff Sends NPRM to Commission.	09/27/17	
NPRM .....	10/13/17	82 FR 47645

Action	Date	FR Cite
NPRM Comment Period End.	12/27/17	
Staff Sends NPRM Briefing Package to Commission.	06/06/18	
Commission Decision.	06/15/18	
Final Rule .....	06/22/18	83 FR 28983
Final Rule Effective.	07/23/18	

*Regulatory Flexibility Analysis Required: Yes.*  
*Agency Contact:* Jacqueline Campbell, Project Manager, Directorate for Engineering Sciences, Consumer Product Safety Commission, National Product Testing and Evaluation Center, 5 Research Place, Rockville, MD 20850, Phone: 301 987-2024, Email: jcampbell@cpsc.gov.  
 RIN: 3041-AD63

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